



**CAPITAL REGION NORTHEAST WATER SERVICES COMMISSION
PROCUREMENT POLICY 2022-006**

POLICY:

This policy is to ensure the Capital Regional Northeast Water Services Commission (the "Commission") is committed to the acquisition of Goods and/or Services of the appropriate quality and at the best value for the Commission while treating all Vendors equitably. The Commission is committed to creating and maintaining a high level of confidence in its Procurements of Goods and/or Services, by ensuring integrity, transparency, accountability, efficiency, and consistency in its Procurement process, and acting within its authority under the federal and provincial legislation, regulations and agreements governing municipal Procurement.

It is important that in the expenditure of public funds the Commission maximizes the benefit to the Commission and therefore the public. All Employees shall pursue Procurement Activities which promote the principles of economy, efficiency, effectiveness, and equity.

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1.0 PURPOSE

1.1 To provide direction and guiding principles for all Procurement of Goods and/or Services.

1.2 To ensure Procurement of Goods and/or Services is in compliance with:

- (a) the *Municipal Government Act*;
- (b) the *Canadian Free Trade Agreement (CFTA)*;
- (c) the *New West Partnership Trade Agreement (NWPTA)*;
- (d) any subsequent federal or provincial legislation, regulations, or agreements governing municipal Procurement; and
- (e) all Commission bylaws, policies and procedures governing Employee standards of conduct.

2.0 DEFINITIONS

2.1 “**Alternate Goods and/or Services**” means a choice between two Goods and/or Services. The same Evaluation Criteria must be used to assess each Good or Service.

2.2 “**Bid**” means for the purposes of this document only, a Tender, Proposal, Quotation, an offer, or submission received from a Vendor in respect of an Invitation to Tender, Request for Proposal, Request for Quotation, or other form of solicitation.

2.3 “**Board**” means the Board of Directors of the Commission.

2.4 “**Chief Administrative Officer**” means the Commission Manager of the Commission.

2.5 “**Conflict of Interest**” means a situation where the independence or impartiality of an employee’s decisions or actions are impaired or may reasonably be expected to be impaired because of outside employment, political, business, family, or other personal interests.

2.6 “**Construction**” means a construction, reconstruction, demolition, repair or renovation of a building, structure or other civil engineering or architectural work and includes site preparation, excavation, drilling, seismic investigation, the supply of products and materials, the supply of equipment and machinery if they are included in and incidental to the construction, and the installation and repair of fixtures of a building, structure or other civil engineering or architectural work, but does not include professional consulting services related to the construction contract unless they are included in the Procurement.

2.7 “**Contract**” means a formal legal agreement between two or more parties, usually written, with binding legal and moral implications; usually exchanging Goods and/or Services for money or other considerations.

- 2.8 **"Commission"** means the Capital Region Northeast Water Services Commission, in the Province of Alberta.
- 2.9 **"Emergency"** means an unforeseeable situation of urgency and the Goods and/or Services cannot be obtained in time by means of an open Procurement process.
- 2.10 **"Employee"** means an employee of the Commission.
- 2.11 **"Equivalent Goods and/or Services"** means having the same quality, the same performance or providing the same benefit. The same Evaluation Criteria must be used to assess each Good or Service.
- 2.12 **"Evaluation Criteria"** means criteria set out in the Procurement documents which are to be used to evaluate a Bid.
- 2.13 **"Expression of Interest"** means a request by the Commission to determine the interest of potential Vendors to provide Goods and/or Services.
- 2.14 **"Formal Competition"** means the acquisition of Goods and/or Services governed by competitive bidding law utilizing an Invitation to Tender, a Request for Proposal, an Expression of Interest, etc.
- 2.15 **"Goods"** means moveable property (including the cost of installing, operating, maintaining, or manufacturing such moveable property) and includes supplies, materials, raw materials, products, equipment and other physical objects of every kind and description whether in solid, liquid, gaseous or electronic form.
- 2.16 **"Informal Competition"** means the acquisition of Goods and/or Services which requires a minimum of three quotes from Vendors, without formal advertising.
- 2.17 **"Invitation to Tender"** means an invitation to submit a tender.
- 2.18 **"Prequalification"** means the process of short-listing potential Vendors.
- 2.19 **"Procurement"** means the acquisition by any means, including by purchase, rental, lease or conditional sale, of Goods and/or Services, but does not include:
- (a) any form of government assistance such as grants, loans, equity infusion, guarantee or fiscal incentives; or
 - (b) government provisions of Goods and/or Services to persons or other government organization.
- 2.20 **"Procurement Activity"** includes any activity, process, or procedure initiated or undertaken as part of Procurement, including but not limited to drafting specifications; completing any Procurement forms; receiving and evaluating Bids; issuing the Purchase Order or Contract (as applicable); and forwarding documents to records for filing.
- 2.21 **"Procurement Value"** means the estimated total financial commitment resulting from a Procurement (G.S.T. excluded) taking into account all forms of remuneration including premiums, fees, commissions and interest any the total values of options if the Procurement provides for the possibility of options.

- 2.22 **“Purchase Order”** means a legal document which is the Commission's commitment to the Vendor for the purchase of Goods and/or Services at an agreed upon price, terms, conditions, and delivery date. This definition shall also include change orders. It is also the Vendor's authority to ship and charge for Goods and/or Services specified in the Purchase Order.
- 2.23 **“Purchasing Card”** means a charge card approved by the Commission that can be used by authorized Employees to acquire low dollar value items as outlined in the applicable policies and procedures for the purchasing card.
- 2.24 **“Quotation”** means a vendor’s submission in response to a Request for Quotation.
- 2.25 **"Policy"** means this Procurement Policy.
- 2.26 **“Request for Information”** means a request issued by the Commission wherein further information regarding Vendors, Goods and/or Services is requested for Prequalification assessment.
- 2.27 **“Request for Proposal”** means a request issued by the Commission wherein a vendor’s submission of a proposal is sought.
- 2.28 **“Request for Qualifications”** means a request issued by the Commission wherein the qualifications, experience and background of a Vendor is sought for the purpose of a Prequalification, in order to screen and short list potential Vendors.
- 2.29 **“Request for Quotation”** means a request issued by the Commission wherein a vendor’s submission of a quotation is sought.
- 2.30 **"Services"** means all services to be supplied, including Construction and consulting.
- 2.31 **“Single Sourcing”** means awarding a Procurement opportunity to a Vendor without competition for reasons specific to the situation (i.e., an Emergency), although competitive bids may be available.
- 2.32 **“Sole Sourcing”** means awarding a Procurement opportunity to a Vendor without competition because that Vendor is predetermined to be the only source capable of providing the Goods and/or Services.
- 2.33 **“Tender”** means an offer in writing to provide specified Goods and/or Services at a certain price, in response to an Invitation to Tender.
- 2.34 **"Vendor"** includes, but is not limited to, an individual, firm, partnership or proprietorship, supplier, contractor, architect, consultant, bidder or proponent.

3.0 GUIDING PRINCIPLES

- 3.1 These Guiding Principles apply to all Procurement Activities and all Employees involved with Procurement Activities.
- 3.2 Procurement is a complex process involving a number of persons therefore it is difficult to outline a prescriptive guideline for use for all circumstances. The Guiding Principles in this Policy should be used to guide Employees involved in Procurement Activities where the Policy may be silent, ambiguous, or unclear.

Open and Fair Competition

- 3.3 The objective of this Policy is to ensure that all Procurement Activities are conducted in a manner that is fair, open, transparent, and competitive to uniformly balance the interests of the Commission's members and its customers with the fair and equitable treatment of Vendors.
- 3.4 All Procurement Activities shall be conducted in a manner that promotes and maintains the integrity of the process and protects the Commission, Board, Commission's members, Employees and Vendors involved in the process, by providing clear direction and accountability.
- 3.5 All Procurement Activities by the Commission shall be fair and impartial with no impropriety or appearance of impropriety, ensuring that all qualified Vendors have access to the Commission's business, that no source is arbitrarily or capriciously excluded, and that there is competition for the Commission's business ensuring that the Commission receives best value in all of its Procurement Activities.
- 3.6 All Procurement Activities shall be open, transparent, and accessible and the Commission will fairly and equitably address Vendor complaints, provide unsuccessful Vendors with feedback upon request, and maintain records on Vendors' performance under contracts.

Ethically Bound

- 3.7 The Commission is committed to acting ethically in all its Procurement Activities.
- 3.8 It is the responsibility of Employees involved in Procurement Activities to establish a relationship of mutual confidence between the Commission and its Vendors, within the confines of applicable policy and law. Employees shall:
- (a) ensure that specifications are clear;
 - (b) maintain consistent buying practices; and
 - (c) remain free of any obligation to any Vendor or potential Vendor.
- 3.9 Employees are to exercise caution when dealing with Vendors or potential Vendors where there is the possibility or perception of a Conflict of Interest, either through a direct or indirect relationship of any kind and must declare any actual or potential Conflicts of Interest that may arise at any time in the Procurement process to their supervisor.
- 3.10 Employees will not use their public role to influence or seek to influence a Commission

Procurement decision which could further a personal and/or business interest of the Employee or Employee's family.

- 3.11** Procurement documents will require Vendors to declare that there are no Conflicts of Interest or provide details of any actual or potential perception of Conflicts of Interest with Employees or elected officials. Vendors will not necessarily be disqualified due to the existence of a Conflict of Interest provided that it is identified, recorded and acknowledged at the outset and proper precautions are exercised to limit any such Conflict of Interest.

Vendors Acting in Good Faith

- 3.12** The Commission may refuse to do business with Vendors who do not act in good faith towards the Commission, whether by failing to live up to the terms and conditions of their agreement or contracts, or by entering litigation with the Commission without valid justification.

Privacy and Confidentiality

- 3.13** Pursuant to the Commission's obligations and duties under the *Freedom of Information and Protection of Privacy Act*, as amended or repealed and replaced from time to time, the Commission commits to protect confidential information from unauthorized access or disclosure, especially information of a confidential nature that is clearly marked as such.
- 3.14** Subject to the *Freedom of Information and Protection of Privacy Act*, information regarding budget and cost estimates and any other information which may create an unfair advantage shall remain confidential and shall not be released to the public or a single potential Vendor. Further, the Commission is committed to ensuring that:
- (a) subject to the requirement for a public opening as set out in this Policy, any and all information provided by a potential Vendor during either the Informal or Formal Competitive Bidding Process shall remain confidential pending Bid analysis and award;
 - (b) pricing and costs of competing Vendors and the names of Vendors shall not be released prior to award, or prior to public opening;
 - (c) information made available to potential Vendors shall be limited to the list of potential Vendors and total Contract price; and
 - (d) information made available to a potential Vendor must be made available to all potential Vendors.

4.0 ROLES AND RESPONSIBILITIES

- 4.1 Commission departments and Employees exercising Procurement authority are responsible to ensure that all Procurement Activities are carried out in accordance with this Policy and all other applicable policies, procedures, guidelines, and legal requirements. Specifically, this includes, but is not limited to:
- (a) ensuring efficient, effective, economic, and prudent use of public funds in Procurement Activities;
 - (b) identifying specific needs for Goods and/or Services;
 - (c) planning appropriately for the Procurement of budgeted Goods and/or Services;
 - (d) defining requirements and drafting clear specifications for Procurement opportunities;
 - (e) maximizing competition in Procurement Activities;
 - (f) completing the Procurement cycle (i.e. attending the public tender opening, completing the evaluation, awarding the contract, issuing the Purchase Order or Contract, justifying the award, managing the contract); and
 - (g) ensuring all Procurement Activities are appropriately and completely documented for records retention purposes.

5.0 PROCUREMENT AUTHORITY

- 5.1 Unless otherwise approved by Board, all Procurement of Goods and/or Services must be approved in the annual budget. Formal approval of the budget constitutes approval for Commission administration to proceed with the Procurement Activity.
- 5.2 Board hereby delegates Procurement authority to Employees as follows:
- | | |
|------------------------------|------------------------------------|
| Chief Administrative Officer | Expenditures as approved in Budget |
|------------------------------|------------------------------------|
- 5.3 An Employee who has been delegated Procurement authority may sign any Procurement document, Purchase Order or Contract, within the limits of their delegated Procurement authority, necessary to complete the Procurement and must ensure that the expenditure is within the approved budget, or a spending resolution approved by Board.
- 5.4 The Chief Administrative Officer will maintain an effective system of written procedures and controls, including monitoring and reporting, to ensure that all Procurement authority is being properly executed.
- 5.5 All purchasing transactions must be approved by Employees charged with the delegated authority for the Commission.

6.0 **PROCUREMENT PROCESSES**

- 6.1 Procurement Activities, regardless of the nature or value of the Goods and/or Services being acquired, create legally binding relationships between the Commission and Vendors. Employee must ensure appropriate documentation is created to reflect the nature and substance of the relationship being established.
- 6.2 Procurement methods reflect the relative value of the Goods and/or Services being acquired. Procurements are to be conducted in accordance with the following processes:

Procurement Value	Procurement Process
\$20,000 or less	Direct Purchase, low value incidental purchases.
Up to \$75,000 for Goods and/or Services (excluding Construction) Up to \$200,000 for Construction	Informal Competition
\$75,000 or greater for Goods and/or Services (excluding Construction) \$200,000 or greater for Construction	Formal Competition

- 6.3 No Procurement is to be divided in order to avoid the requirements of this Policy or the Commission's obligations pursuant to the *Canadian Free Trade Agreement (CFTA)* or *New West Partnership Trade Agreement (NWPTA)*.
- 6.4 Where Goods and/or Services of a similar type are to be supplied on a repetitive basis from one or more Vendors either over a period of time, in a calendar year or over the course of a season, those Goods and/or Services shall be procured in accordance with the Procurement process applicable to Goods and/or Services having a Procurement Value equal to the total estimated cost of all such similar Goods and/or Services to be supplied in the term of contract, whole calendar year or during the course of the entire season as the case may be. The appropriate procedure above will be utilized according to the total dollar value.

Direct Purchase

- 6.5 Direct Purchase is reserved for low value/incidental purchases and is intended to expedite the acquisition of Goods and/or Services and reduce administrative costs.
- 6.6 Direct Purchases may be made using a Purchasing Card or properly authorized Purchase Order.
- 6.7 Employees using Direct Purchase must be able to demonstrate that fair market value was achieved in the Procurement.
- 6.8 Cardholders are responsible for reconciling their Purchasing Card.
- 6.9 Employees issuing Purchase Orders are responsible for forwarding all completed Purchase Orders, packing slips, and other documentation to accounts payable for processing.

Informal Competition

- 6.10** Informal Competition is a competitive process intended for low to medium dollar value Procurements in which invited Vendors are given a reasonable and equal opportunity to provide the Commission with Goods and/or Services in response to identifiable needs.
- 6.11** Quotes may be received by documented telephone call, facsimile, email or written proposal in response to a Request for Quotation depending on the nature and complexity of the Procurement opportunity.
- 6.12** All information provided to Vendors is to be identical.
- 6.13** The initiating Employee may, in consultation with the Chief Administrative Officer, elect to follow the Formal Competition process if deemed appropriate.
- 6.14** The initiating Employee shall be responsible for conducting all necessary Procurement Activities.
- 6.15** If the initiating Employee requires assistance with Procurement Activities, the Employee may consult with the Chief Administrative Officer who may, in turn, obtain legal or other professional advice as required.

Formal Competition

- 6.16** Formal Competition is a competitive process in which the relative value of the Procurement opportunity is such that all interested Vendors must be given equal opportunity to provide the Commission with Goods and/or Services in response to an identified need.
- 6.17** Opportunities shall be posted electronically to the Alberta Purchasing Connection (APC), or if the Procurement opportunity is Construction, to CoolNet, by the initiating Employee.
- 6.18** The selection of the appropriate method of Procurement (i.e., Pre-Qualification, Request for Quotation, Request for Proposal, Invitation to Tender, etc.) is to be determined on a case-by-case basis by the initiating Employee, based on the nature of the Procurement opportunity and level of risk exposure.
- 6.19** The initiating Employee shall be responsible for conducting all necessary Procurement Activities.
- 6.20** If the initiating Employee requires assistance with Procurement Activities, the Employee may consult with the Chief Administrative Officer who may, in turn, obtain legal or other professional advice as required.

Methods of Procurement: Formal Competition

6.21 When selecting the appropriate method for Formal Competition Procurement in a given case, the initiating Employee shall take into account the following characteristics of each method:

(a) Request for Quotation

- Appropriate for low and medium value Procurements for known Goods and/or Services;
- Requirements and technical specifications are detailed and provided in the document;
- Unless otherwise specifically stated in the Procurement documents, it is a legally binding document between the Commission and all potential Vendors, in accordance with the terms and conditions attached to the Procurement documents and which forms the awarded Contract; and
- Lowest priced response that best meets the specifications will be accepted unless Evaluation Criteria are used in which case the highest ranked Bid will be accepted.

(b) Invitation to Tender

- Commonly used for major Construction projects and other high value Procurements;
- Used when the Commission knows what to do and how to do it;
- Used primarily when price or cost is the sole award factor; however, it may also be used when criteria other than price are the deciding factor;
- Contains very detailed requirements and technical specifications;
- Terms and conditions are considered mandatory requirements that must be met;
- It is a legally binding document between the Commission and all potential Vendors, in accordance with the terms and conditions attached to the Procurement documents and which forms the awarded Contract;
- It is intended to accept the lowest priced, compliant Bid without negotiations;
- It should be used when a tight market requires security from the potential Vendors.

(c) Request for Proposal

- Appropriate where a need is identified, but how it will be achieved is unknown at the outset;
- Allows Vendors to propose solutions or methods to arrive at an end product or solution;
- Provides Vendors with an opportunity to bid on Goods and/or Services using

their unique skills;

- Specifications are general in nature;
- Vendor selection is based on Evaluation Criteria other than only price;
- The Commission may negotiate specific terms and conditions of the Contract with the selected Vendor following the closing of Bids;
- Used when the Commission wants to take advantage of the flexibility that the Request for Proposals offers with negotiation options;
- Is not legally binding on either party until the Contract is executed.

Prequalification

6.22 Prequalification reduces legal risks, as qualification takes place without worrying about possible contract lawsuits from disqualified Vendors. It cuts the workload by reducing the number of Vendors at an early stage. At the same time, it enforces the CFTA and NWPTA requirements for open and fair competition, having it available to all Vendors.

6.23 Prequalification is recommended when the complexity of the Procurement requires better knowledge about the potential Vendors that may compete;

(a) a large number of responses are expected, and the Commission's intention is to short-list and approach only short-listed Vendors; and

(b) the Commission does not have sufficient information about the Vendors' market.

6.24 Prequalification can take the form of an Expression of Interest, Request for Information or Request for Qualification. If the Commission intends to proceed with the Procurement opportunity, Prequalification must be followed by either the Informal Competition or Formal Competition process, as applicable.

7.0 SPECIFICATIONS

7.1 Preparation of the requirements, technical specifications or scope of work for the Goods and/or Services is the responsibility of the initiating Employee.

7.2 Employees must fully consider the "purpose" of the Goods and/or Services when developing the requirements for the Goods and/or Services.

7.3 Technical specifications should be set out in terms of performance and function rather than design or descriptive characteristics and be based on standards, if applicable.

7.4 Employees should avoid using technical specifications that require or refer to a particular brand name, trademark, trade name, or manufacturer. Such references may only be used for the purpose of indicating quality, character and compatibility and must not denote preference. Specifications should include, but not be limited to: quality, performance, availability of parts or service and any other characteristics as necessary.

7.5 Specifications shall contain:

(a) clear, accurate and complete requirements of the Goods and/or Services;

- (b) minimum standards expected of potential Vendors;
- (c) requirements that will permit fair and equitable evaluation to select the successful Vendor;
- (d) legal requirements that will protect the Commission by ensuring suitability and acceptability of potential and actual offerings of potential Vendors including financial security and insurance requirements;
- (e) all mandatory standards that are required of the Goods and/or Services; and
- (f) desirable technical standards that are preferred of the Goods and/or Services.

7.6 The acceptability of Alternate or Equivalent Goods and/or Services should be identified where possible. It must be very clear to all Vendors that the specifications establish minimum requirements only. If substitutions or equivalencies are not acceptable, a statement to this effect must be included in the specifications.

8.0 ADVERTISING AND NOTIFYING POTENTIAL VENDORS

8.1 Every effort must be made to ensure the Commission's requirements are known to the broadest market possible and to all potential Vendors in the acquisition of Goods and/or Services. The Commission is committed to the following practices:

- (a) All Procurement opportunities over the applicable threshold for Formal Competition shall be posted on the Alberta Purchasing Connection or COOLNet for Construction or any successor Government of Alberta Procurement advertising websites;
- (b) If required by the initiating Employee, other advertising options may include: the Commission website, regional newspapers, professional associations.

9.0 BID OPENING: FORMAL COMPETITION

- 9.1 All Bids received in an Invitation to Tender shall be subject to public opening.
- 9.2 The time, location and conditions of the public opening shall be made known in advance and shall be contained in the Procurement documents provided to potential Vendors.
- 9.3 Only the name of the Vendor and the total cost or price in the Bid is to be released during a public opening.
- 9.4 All Vendors are to be instructed that there will be no award at the public opening and all Bids will be subject to further review and analysis prior to award.
- 9.5 All other aspects of the Bids are to remain confidential prior to award.
- 9.6 The chief Administrative Officer is required to attend all public openings for the purpose of reading aloud the Bids received and recording the results.

10.0 ACCEPTANCE OR REJECTION OF IRREGULAR BIDS: FORMAL COMPETITION

10.1 The Commission, in exercising its discretion to waive a minor or non-substantial irregularity in a Bid, shall follow the guidelines provided below:

	IRREGULARITY	RESPONSE
1	Late Bids (submitted after (e.g. 2:00:00 pm local time on the tender closing day))	Automatic rejection, do not open the Bid
2	Unsealed Bids	Automatic rejection, do not open the Bid
3	Bid not completed in non-erasable medium and not signed in ink	Automatic rejection
4	Incomplete Bids - partial Bids - all items not bid upon	Automatic rejection except where the Tender form clearly states that an award may be made for individual items or where the irregularity is trivial or insignificant
5	Qualified Bids (condition or restriction on the Bid)	Automatic rejection except where the change is requested by the Commission, or where the change is trivial or insignificant
6	Financial security not submitted or insufficient (Bid Bond, Surety or other)	Automatic rejection
7	Bid not properly executed (signature or seal)	Automatic rejection
8	Mathematical errors	May be accepted if corrected in the checking/review procedure. Unit prices shall be used to correct extensions.
9	Corporate seal or signature of authorized agents of bonding company missing	Automatic rejection
10	Bids received on documents other than those provided in the Tender	Automatic rejection unless the matter is trivial or insignificant
11	Erasures, overwriting, corrections, or strikeouts not initialed:	
a)	Changes which are minor (i.e. address, clerical error)	May be accepted, time limit given to initial change

b)	Unit prices have been changed but not initialed and the Bid totals are consistent with the price as amended	May be accepted, time limit given to initial change
c)	Unit prices have been changed but not initialed and the Bid totals are not consistent with the prices as amended	Automatic rejection
12	Minor clerical errors	May be accepted, time limit given to correct and initial
13	Other minor irregularities	The Chief Administrative Officer shall have the authority to waive irregularities deemed to be minor and immaterial, using a consistent approach to fair practices.

11.0 BEST VALUE CONSIDERATIONS

- 11.1 Purchases shall be at the best value to the Commission. The Commission encourages the consideration of overall cost in the Procurement of Goods and/or Services and will consider and evaluate the relevant price and non-price factors prior to commencing the competitive process.
- 11.2 All factors need to be fully considered in determining best value. These include, but are not limited to:
- (a) life cycle costs, i.e., the total cost from the time of acquisition of the goods through disposal (including, but not limited to, price, acquisition costs, operating costs, salvage value);
 - (b) availability;
 - (c) quality and serviceability;
 - (d) warranties;
 - (e) delivery (manner and timing of deliver, and delivery/freight cost); and
 - (f) method of purchase/payment; with the intent that the most appropriate method be used for the value of the Procurement to reduce internal processing across all Commission departments;
- 11.3 Payment terms on large dollar purchases or Contracts may be aggressively negotiated for additional discounts or payment installments/terms.
- 11.4 Delivery of Goods directly to the job site or workplace should be encouraged to reduce internal handling, warehouse, and inventory.
- 11.5 Applicable taxes shall not be included in cost comparisons.

11.6 Purchases outside of Canada are subject to duty, customs/brokerage charges, freight and exchange on the dollar, all of which are required to be included in cost comparisons.

12.0 AWARD CONSIDERATIONS

12.1 For Procurements that do not have Evaluation Criteria established, the lowest Bid meeting specifications will normally be accepted subject to the specific wording in the Procurement documents. If other than the low Bid is recommended by the initiating employee, written justification must be submitted to the Chief Administrative Officer prior to award. Normally, the only reasons acceptable for selecting other than the lowest Bid are where:

- (a) the lowest Bid does not meet specifications materially;
- (b) the Vendor submitting the lowest Bid cannot deliver within the time required; or
- (c) acceptance of the lowest Bid would result in a higher overall or end cost.

12.2 Where the recommended Vendor is other than the lowest acceptable Vendor, the award for the Procurement must be approved by the Chief Administrative Officer. When price is not the sole awarding factor, evaluation and Vendor selection shall be based on Evaluation Criteria which must be identified and included in the Procurement documents provided to potential Vendors. The Evaluation Criteria shall be assigned weighting for analysis of Bids.

12.3 The Evaluation Criteria may include, but is not limited to:

- (a) Project Understanding: the degree of response to the published terms of reference will be of major importance in scoring this criterion. Vendors showing creativity and innovative approaches will score higher;
- (b) Project Experience: previous experience on similar projects is an important selection criterion;
- (c) Staff Allocation: experience of staff allocated and the assignment to specific project components will form the basis of this criterion;
- (d) Estimated Time Required for Project: the importance of this criterion will vary with the particular project;
- (e) Litigation: is the Vendor currently in litigation with the Commission;
- (f) Amount of Work Completed for the Commission in the Past: the Commission strives to provide for more or less of an equitable distribution of available Commission business among qualified Vendors; and
- (g) Past Performance of Commission Contracts: The quality and performance of previous Contracts, Goods and/or Services.

13.0 NOTIFICATION OF SUCCESSFUL VENDOR

The successful Vendor shall be notified by the initiating Department as soon as possible after evaluation and selection. A Contract or Purchase Order must be issued to confirm the award.

14.0 UNSUCCESSFUL VENDOR NOTIFICATION/DEBRIEFING

- 14.1 Upon completion and award of all Procurements where a Request for Quotation, Request for Proposal or Invitation to Tender has been used, the unsuccessful Vendors in the competition are to be notified that a successful Vendor has been selected. Copies of submitted Bids will not be provided.
- 14.2 An unsuccessful Vendor may file a complaint with the Commission for any alleged wrongdoing in the Informal or Formal Competition process or recommendation of award. All Vendor complaints are to be referred to the Chief Administrative Officer for review and determination, in consultation with the Commission's legal advisors.

15.0 EMERGENCIES AND OTHER EXCEPTIONS TO COMPETITION (SINGLE/SOLE SOURCING)

The Commission requires that Procurement be done on a competitive basis and must strictly comply with the CFTA and the NWPTA. However, a competitive Procurement process is not required or even possible in all Procurements. Procurement without competition may only occur if one or more of the following conditions apply and a process of negotiation is undertaken to obtain the best value in the circumstances for the Commission:

- (a) Low value/incidental Procurements subject to Direct Purchase;
- (b) Emergency: 'Emergency' purchases should not be the result of poor planning or incorrect allocation of resources. However, Single Sourcing an acquisition is appropriate where the lack of immediate action could jeopardize Commission operations or the safety or health of the Commission's people or property. The Chief Administrative Officer shall be notified immediately of any Emergency Procurements and a written report detailing the circumstances shall be provided to the Chief Administrative Officer, with a report to Board if required.
- (c) Sole Sourcing an acquisition where Goods and/or Services are only available from one Vendor by reason of:
 - (i) a statutory or market-based monopoly;
 - (ii) scarcity of supply in the market;
 - (iii) existence of exclusive rights (i.e., patent, copyright, or license); or
 - (iv) need to avoid violating warranties or guarantees.

Sole Source acquisitions are not permitted because there is a preference for a particular brand or Vendor. The Chief Administrative Officer shall be notified immediately of any intended Sole Source Procurements and a written report detailing the circumstances shall be provided to the Chief Administrative Officer, with a report to Board if required.

(d) Exempt Procurements:

- (i) from philanthropic institutions, prison labour or persons with disabilities;
- (ii) from a public body or a non-profit organization;

- (iii) of goods purchased for representational or promotional purposes, and services or construction purchased for representational or promotional purposes outside the territory of the Commission;
- (iv) of health services and social services;
- (v) of services provided by lawyers and notaries;
- (vi) of goods intended for resale to the public;
- (vii) when the Procurement is of a confidential or privileged nature and disclosure through an open bidding process could reasonably be expected to compromise confidentiality, cause economic disruption or be contrary to the public interest;
or
- (viii) in the absence of a receipt of any bids in response to the Formal Competition process.

16.0 General

This Policy defines roles, levels of responsibility, accountability, and general processes to govern Procurement activities of the Commission. This Policy is not, however, an exhaustive, step-by-step procedure guide for every Procurement activity. All Employees with delegated Procurement authority are accountable for ensuring that their Procurement Activities are following this Policy and all other applicable policies, procedures, guidelines, and legal requirements. Employees are expected to keep up to date with proper Procurement practices and ensure the integrity of the Commission's Procurement process.

Date Approved: January 24, 2022

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