

# Administrative Procedure

## Conflict of Interest of Employees Participating in City Procurements

This procedure falls under Procurement Directive, A1465B

**Date of Approval:** January 16, 2019

**Next Scheduled Review:** January 16, 2022

### **Purpose**

The purpose of this procedure is to outline the mechanisms to reduce the risk and potential conflict that may arise if an employee participates in a City procurement and is engaged in the evaluation of a proposal from or in the decision to award a contract to a proponent with whom the employee has or had a personal relationship, a financial or controlling interest, or a former employment relationship.

The City is committed to increase the transparency in the procurement process and positively impact the accountability of employees with regard to procurement by ensuring that City resources are not exploited for personal gain and that awarding of contracts is carried out without any unfair competitive advantage or favouritism.

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### **Definitions**

All definitions contained in the Procurement Administrative Directive apply to this procedure.

- **“former employment relationship”** refers to the situation where an employee was employed by the proponent, including as an employee, contractor, or subcontractor, within the previous 12 months.

### **Processes**

#### *Principles*

An employee who had a personal relationship, financial or controlling interest, or a former employment relationship with a proponent that is participating in the City procurement process must not participate in the procurement evaluation or the decision to award a contract, unless the relationship or interest is disclosed and addressed in accordance with this procedure.

If it is determined by the City that the involvement of an employee in a City procurement process may result in a real or perceived conflict of interest, then the Branch Manager, Corporate Procurement and Supply Services will determine if the employee can participate, in whole or in part, in the procurement process.

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### 1. *Disclosure Procedures*

- 1.1. All members of a City Evaluation Committee must complete the Evaluation Committee Member Obligations Acknowledgement Form in accordance with the terms that are required by Corporate Procurement and Supply Services prior to the closing of the RFx.
- 1.2. If an evaluation committee member has or had a personal relationship, a financial or controlling interest, or a former employment relationship with a proponent whose proposal is under evaluation, the employee must notify their supervisor and CPSS staff responsible for procurement and must not participate in the evaluation process, unless otherwise permitted by the City.
- 1.3. Supervisors who become aware of an evaluation committee member who has or had a personal relationship, a financial or controlling interest, or a former employment relationship with a proponent whose proposal is under evaluation must notify the Branch Manager, Corporate Procurement and Supply Services.
- 1.4. If the Branch Manager, Corporate Procurement and Supply Services, becomes aware that an employee has or had a personal relationship, a financial or controlling interest, or a former employment relationship with the proponent, either during the procurement process or after a contract is awarded, the Branch Manager will review the situation and may refer the matter to the Procurement Conflict of Interest Advisory Group for review.

### 2. *Evaluating Potential Conflicts of Interest*

- 2.1. Upon receipt of a matter referred to it by the Branch Manager, Corporate Procurement and Supply Services, the Procurement Conflict of Interest Advisory Group will review and provide recommendations as to whether a conflict of interest or an unfair competitive advantage exists.
- 2.2. When providing recommendations, the Procurement and Conflict of Interest Advisory Group will consider the principles as may be provided in applicable City policies, directives, procedures and guidelines, as well as the following:
  - the employee's interest, role or relationship with the proponent;
  - the nature and frequency of the employee's communication and interactions with the proponent or members of the proponent's team, if any, while the employee is in possession of or has access to relevant, material and confidential information in relation to the procurement in question;
  - the employee's perspective regarding their involvement in the planning, preparation, evaluation or execution of the procurement process and documents, including whether there are any potential concerns about their ability to carry out their role and responsibilities with objectivity during the procurement process.
- 2.3. If the Procurement Conflict of Interest Advisory Group determines that a conflict of interest or unfair competitive advantage exists with regard to the involvement of the employee in the procurement process, the Procurement Conflict of Interest Advisory Group will provide recommendations as to whether the conflict of interest can be mitigated or managed.

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2.4. The Procurement Conflict of Interest Advisory Group will provide written reasons in support of its recommendations, which record will be retained by the Branch Manager, Corporate Procurement and Supply Services in accordance with the applicable City records retention schedule.

### 3. *Addressing Conflicts of Interest*

3.1. The Branch Manager, Corporate Procurement and Supply Services will:

- a) decide that no conflict of interest or an unfair competitive advantage exists;
- b) if a conflict of interest exists or an unfair competitive advantage, implement mitigation strategies to address the conflict or the unfair competitive advantage;
- c) if a conflict of interest or an unfair competitive advantage exists, recuse the City employee from the evaluation of the competitive procurement opportunity, disqualify the applicable proponent from the City procurement, or take steps to terminate the applicable contract; or
- d) if a conflict of interest or an unfair competitive advantage exists, take any other measures as may be appropriate.