

Administrative Procedure

Review of Unsolicited Proposals

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 prescribe the process to respond to unsolicited proposals in a manner that ensures transparency, fairness and best value for the City, and to provide guidance to suppliers on the submission of unsolicited proposals to the City.

Definitions

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

- **evaluation committee** - means the committee of individuals, which may include both employees and non-employees, established to evaluate unsolicited proposals.
- **unsolicited proposal** - means a written proposal that is submitted to the City by a third party proposing to provide goods, services, construction or intellectual property rights to the City that is not in response to a formal or informal request or solicitation by the City.

Principles

Contracts with the City generally result from competitive, non-competitive, self-service or invitational procurement processes. Should the City enter into a contractual relationship as a result of a unsolicited proposal, employees involved with the procurement shall adhere to the Procurement Administrative Directive.

The City generally welcomes thoughtful, innovative, value-added ideas in the form of unsolicited proposals; however:

- The City is under no obligation to perform a comprehensive, or any evaluation of any unsolicited proposal;
- The City reserves its unilateral right to proceed, at any point, with an open competition;
- The City reserves the right to consider or reject any unsolicited proposal in whole or in part in the City's sole and unfettered discretion;
- If it is determined that the unsolicited proposal is principally for the procurement of routine goods and services, the City's Procurement Directive and the other Procedures thereunder will apply and no further evaluation will be performed;

Review of Unsolicited Proposals

- All costs associated with submitting a unsolicited proposal, including any subsequent demonstrations, presentations, and negotiations are the sole responsibility of the supplier submitting the unsolicited proposal;
- The submission of a unsolicited proposal is done entirely at the supplier's risk and confers upon the City no contractual obligations whatsoever;
- A favourable initial review by any staff of the City in no way implies that a contractual relationship between the supplier and the City exists or will at any point in the future be formed;
- The City is under no obligation to return a unsolicited proposal to the supplier that submitted the proposal;
- The City will take reasonable measures to keep any proprietary information contained in an unsolicited proposal confidential, subject to the City's statutory obligations under the Freedom of Information and Protection of Privacy Act;

Unsolicited proposals must contain the following information in order to be considered by the City of Edmonton:

- The supplier's name, address and contact information;
- A concise title and abstract of the proposal;
- Proposed scope, technical specifications and implementation approach for the proposal;
- A clear statement of how the supplier is uniquely qualified to offer the goods, services, construction or intellectual property rights;
- Relevant experience of the supplier in the delivery of the proposed goods, services, construction or intellectual property rights;
- Benefits that will be derived by the City should it pursue the proposal or how the proposal addresses the City's current or future needs;
- The City department(s) envisioned as benefactors of the proposal (if known);
- The names of any City staff with whom the supplier may have discussed the proposal or its subject matter;
- A clear statement of the sustainable aspects of the proposal including environmental, social and economic benefits to the City and other communities and how the proposal will advance the City's objectives related to the City's Sustainable Purchasing Policy (C556);
- Proposed price the City would have to pay or the amount of revenue the City could expect to receive should the proposal be accepted;
- Proposed contract term, including any potential optional terms;
- Type of support needed from the City, e.g., facilities, equipment, personnel resources, etc. for the supplier to fulfill the proposal;
- The supplier's previous experience with similar initiatives and contact names and telephone numbers for references;
- Acknowledgement that the City is under no obligation to accept the proposal, that all costs incurred by the supplier in relation to the proposal are incurred at the supplier's own risk

Review of Unsolicited Proposals

- and expense and that the City shall not be liable for any costs or damages in connection with the rejection or non-acceptance of the proposal,
- An indemnification by the supplier in favour of the City from and against any claims related to any infringement of copyright, trademark, industrial design or any other intellectual property right, and
 - Identification of any known potential conflicts of interest existing with relation to supplier or City staff, including but not limited to conflicts of interest described in the following administrative procedures:
 - Conflict of Interest After City Employment;
 - Conflict of Interest of Employees Participating in City Procurements; or
 - Conflict of Interest Related to Members of Civic Agencies.

If the unsolicited proposal does not conflict with any of the principles above and the business area is willing to consider the proposal, the following process applies to all suppliers and unsolicited proposals:

Note: At any stage, the City reserves the right to cease its review or consideration of any unsolicited proposal. As well, this Procedure only applies to procurements with a value of \$25,000 or more.

1. Stage 1 - Receipt of Unsolicited Proposal

- 1.1. Upon receipt of an unsolicited proposal:
 - by a business area, the business area may review the proposal to determine if further investigation is warranted; or
 - By Corporate Procurement and Supply Services (CPSS), the CPSS team responsible for the relevant business area may consult with the corresponding business area based on information received in the proposal to determine if further investigation into or evaluation of the proposal is warranted.
- 1.2. During the initial review of a proposal pursuant to paragraph 1.1 above, the City may take into account any of the following as well as these and other appropriate considerations:
 - The uniqueness or innovation of the proposal;
 - Functional or technical merits;
 - The City's needs;
 - Availability of funding;
 - Costs versus benefits;
 - Qualifications and experience of the supplier;
 - Sustainable aspects as defined above; and
 - Determination if any contract entered into pursuant to the proposal would be exempt from the applicable trade agreement(s).

Review of Unsolicited Proposals

- 1.3. If it is determined by the delegated authority that the proposal warrants further review, the business area will inform a CPSS Buyer of its receipt and may assign business area staff to investigate the opportunity further;
- 1.4. If a proposal is reviewed favourably, the following will occur:
 - If a contract pursuant to the unsolicited proposal falls under the thresholds of or is otherwise exempt from all applicable trade agreement(s), the CPSS Buyer will prepare the appropriate documentation and receive the necessary approvals to enter into contract, as required by the Non-Competitive Procurement Procedure.
 - If a contract pursuant to the unsolicited proposal falls above the threshold of and is not otherwise exempt from all applicable trade agreement(s), the CPSS Buyer will create and post an Advanced Contract Award Notice (ACAN) on the appropriate public procurement portal.

2. *Evaluating Unsolicited Proposals*

- 2.1. Should the business area determine that further evaluation of the proposal is warranted prior to entering into a contract, the business area will, with CPSS support, convene an evaluation committee with appropriate representation across the City considering technical, strategic and other corporate factors. The supplier may be asked to submit additional information in advance of this review.
- 2.2. The evaluation committee will follow the City's evaluation processes in determining the following:
 - Evaluation of the supplier's technical, commercial, managerial and financial capability to determine whether the supplier's capabilities are adequate for undertaking the work;
 - Weigh, as relevant, the technical, commercial, managerial and financial aspects of the proposal and determine if the scale and scope of the work is in line with the requirements, the funding ability, and the interests of the City; and
 - Engage additional City resources, as appropriate, to determine whether the sharing of risks as proposed in the proposal is acceptable to the City and if the work is in conformity with long term objectives of the City.

The City may require the supplier to submit additional information during the evaluation process. The City may also confer with third parties to gather additional information to be used for evaluation or other appropriate purposes.

Review of Unsolicited Proposals

- 2.3. Based on the evaluation, the evaluation committee may decide to reject the proposal, to request amendments to the proposal, or to continue with the process. If the evaluation committee recommends any modification in the functional, technical, scale, scope and risk sharing of the proposal, the supplier will be allowed to consider the recommendations and, if the supplier wishes, resubmit its proposal within a given time period determined by the evaluation committee.
- 2.4. If the evaluation committee concludes that the unsolicited proposal is acceptable, the Non-Competitive Procurement Procedure must be followed.

Additional Resources

The Branch Manager, Corporate Procurement and Supply Services may, after review by the City Solicitor, approve standards to support or provide further detail to the above processes; however, any amendments to the processes contained in this procedure must be approved by the City Manager.