

Non-Competitive Procurement

This procedure falls under the Procurement Administrative Directive, A1465A.

Date of Approval: May 7, 2018

Next Scheduled Review: May 7, 2021

Purpose

The purpose of this procedure is to prescribe non-competitive procurement processes available to business area purchasers in lieu of a competitive procurement process.

Definitions

All definitions contained in the [Procurement Administrative Directive](#) apply to this procedure. In addition:

- **“Advance Contract Award Notice” or “(ACAN)”** means a notice to potential suppliers of the City’s intention to non-competitively award a contract where it is believed that no other source exists in the market;
- **“single source”** means a non-competitive procurement process in which suppliers do not compete for the option to enter into a contract with the City due to a business decision to use a single source of supply when other sources exist within the market for the desired good, service, construction, or intellectual property right; and
- **“sole source”** means a non-competitive procurement process in which suppliers do not compete for the option to enter into a contract with the City because there is only one source of supply for the good, service, construction, or intellectual property right available to the City within the market.

Processes

The non-competitive procurement processes prescribed in this procedure may only be used for procurements valued:

- Under \$25,000 for restricted items on the Restricted and Controlled Items List;
- Between \$25,000 and \$75,000 for goods, services and intellectual property rights (or between \$25,000 and \$200,000 for construction) where Corporate Procurement and Supply Services (CPSS) concurs;
- Between \$75,001 and \$500,000 for goods, services and intellectual property rights (or between \$200,001 and \$500,000 for construction) where a trade agreement exception applies and CPSS concurs with the trade agreement exception;
- Between \$75,001 and \$500,000 for goods, services, and intellectual property rights (or between \$200,001 and \$500,000 for construction) where no trade agreement exception applies, CPSS concurs, and the City Manager approves the procurement; or
- Over \$500,000 where contracting approval from City Council or a Committee of Council is obtained.

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Principles of Non-Competitive Procurement

Non-competitive procurement processes should not be used in lieu of a competitive procurement process unless a valid justification exists. Single source non-competitive procurement processes should be used only in situations where there are substantial business reasons that outweigh the use of either an invitational procurement process or competitive procurement process. Sole source non-competitive procurement processes should be accompanied by sufficient documentation to establish that only one supplier can meet the requirements of the procurement.

Employees may conduct market research including viewing product demonstrations or supplier presentations, but may not conduct internal product or supplier evaluations or assessments that will result in a recommendation to use a non-competitive procurement process in lieu of a competitive procurement process.

The City Manager (under \$500,000 only), City Council or Committee of Council, may approve the use of a non-competitive procurement process for any procurement. CPSS concurrence is required for a procurement prior to its initial presentation to City Council or Committee of Council.

1. Non-Competitive Procurements under \$25,000 (Restricted Items Only)

- 1.1. The Business Area Purchaser must determine the contract scope for the procurement.
- 1.2. If the procurement is for Consulting Services (as defined in the Restricted and Controlled Items List), the Business Area Purchaser must complete the Procurement and Contract Risk Assessment to determine if the procurement is high-risk or low-risk.
- 1.3. The Business Area Purchaser will identify a proposed supplier and request a quotation and any required contract documentation, such as terms and conditions, from the proposed supplier.
- 1.4. If the Restricted and Controlled Items List indicates that legal review is required for the procurement, the Business Area Purchaser will arrange with Law Branch for a legal review of all contract documents.
- 1.5. The Business Area Purchaser must obtain all necessary approvals for the non-competitive procurement by completing the Procurement Initiation Form (PIF). These approvals include, but may not be limited to:
 - 1.5.1. Concurrence for the procurement from Corporate Procurement and Supply Services (CPSS);
 - 1.5.2. Approval from the appropriate Expenditure Officer and, if required, the Accounting Officer for the procurement as per the [Expenditure Accountability Framework](#); and
 - 1.5.3. Approval from the appropriate Delegated Authority for the procurement as per the Delegation of Authority Order.
- 1.6. Once all business area approvals have been obtained and legal review completed (if applicable), the Business Area Purchaser must create a purchase requisition and issue it,

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along with all required procurement and contract documentation, to the appropriate CPSS Buyer.

- 1.7. The CPSS Buyer must complete the procurement and issue any required purchase order(s) to the supplier, the value of which must not exceed the amount approved by the Expenditure Officer in Section 1.5.
 - 1.8. The Business Area Purchaser must ensure that all contract documents are signed and executed in accordance with the Signing Contracts Guideline.
2. *Non-Competitive Procurements \$25,000 - \$500,000*
- 2.1. The Business Area Purchaser must determine the contract scope for the procurement.
 - 2.2. The Business Area Purchaser must estimate the total cost of the procurement and complete the Procurement and Contract Risk Assessment to determine if the procurement is high-risk or low-risk.
 - 2.3. The Business Area Purchaser, in coordination with the CPSS Buyer, must determine if the procurement falls under a trade agreement exception for any procurements that will exceed the applicable trade agreement thresholds. For greater clarity, the applicable trade agreements include; [New West Partnership Trade Agreement \(NWPTA\)](#) (Part V: Exceptions) for applicable trade agreement exceptions; the [Canadian Free Trade Agreement](#) (CFTA) (Chapter 5 - Government Procurement) for applicable trade agreement exceptions; the [Canada-European Union Comprehensive Economic and Trade Agreement \(CETA\)](#) as well as any other trade agreement in which the City is required to follow.

For procurements that do not have an applicable trade agreement exception, the Business Area Purchaser will consult with their CPSS Buyer for advice on a procurement strategy.

- 2.4. The Business Area Purchaser must obtain all necessary approvals for the non-competitive procurement by completing the Procurement Initiation Form (PIF). These approvals include, but may not be limited to:
 - 2.4.1. Concurrence for the procurement from Corporate Procurement and Supply Services (CPSS);
 - 2.4.2. Approval from the appropriate Expenditure Officer and, if required, the Accounting Officer for the procurement as per the [Expenditure Accountability Framework](#); and
 - 2.4.3. Approval from the appropriate Delegated Authority for the procurement.
- 2.5. Prior to providing concurrence, CPSS may issue an Advance Contract Award Notice (ACAN) and publically post the ACAN for a minimum of 10 business days according to the following standards:
 - 2.5.1. The ACAN must contain a brief description of the contract scope and provide pertinent information that will assist suppliers to determine their interest in fulfilling

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the requirement and their ability to successfully meet any key conditions and requirements of the City;

- 2.5.2. If the ACAN results in a response from a potential supplier(s), CPSS and the Business Area Purchaser will review the response(s) and determine if a competitive or invitational procurement procedure should be used for the procurement rather than a non-competitive procurement procedure; and
- 2.5.3. CPSS will provide the City's decision as to the procurement process that will be used, with reasons, to all suppliers that submitted a response. If CPSS concurs with the proposed non-competitive procurement, CPSS will advise the Business Area Purchaser.

- 2.7. If CPSS does not concur with the proposed non-competitive procurement, CPSS will notify the Business Area Purchaser and return the PIF form, which may be revised and re-submitted for concurrence based on the recommended action noted on the form. Nothing in this procedure limits the authority of the City Manager, Council or Committee of Council to approve the use of a non-competitive procurement process.
- 2.8. Once any required approval(s) and concurrence(s) for the non-competitive procurement has been provided, the Business Area Purchaser must identify a proposed supplier and request a quotation and any required contract documentation from the proposed supplier.
- 2.9. The Business Area Purchaser must review the quotation and proposed contract documentation and arrange for legal review of any required contract documents in accordance with the [Review and Execution of Agreements Directive \(A1459\)](#).
- 2.10. If the non-competitive procurement is being managed by the business area, the Business Area Purchaser must complete the Due Diligence Checklist. If the non-competitive procurement is being managed by CPSS, then CPSS will complete the checklist.
- 2.11. The Business Area Purchaser must create a purchase requisition and issue it to the appropriate CPSS Buyer.
- 2.12. The CPSS Buyer must issue any required purchase orders to the supplier, the value of which must not exceed the amount approved by the Expenditure Officer in Section 2.4, and will complete any required CPSS internal documentation.
- 2.13. The Business Area Purchaser must ensure that all contract documents are signed and executed in accordance with the Signing Contracts Guideline.

3. *Non-Competitive Procurements Over \$500,000*

- 3.1. The Business Area Purchaser must determine the contract scope for the procurement.
- 3.2. The Business Area Purchaser must estimate the total cost of the procurement and complete the Procurement and Contract Risk Assessment to determine if the procurement is high-risk or low-risk.
- 3.3. The CPSS Buyer must determine if the procurement falls under a trade agreement exception. Reference the [New West Partnership Trade Agreement \(NWPTA\)](#) (Part V: Exceptions), the

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[Canadian Free Trade Agreement \(CFTA\)](#) (Chapter 5 - Government Procurement) and the [Canada-European Union Comprehensive Economic and Trade Agreement \(CETA\)](#) for applicable trade agreement exceptions.

- 3.4. If required, the Business Area Purchaser will arrange for legal review of all contract documents in accordance with the [Review and Execution of Agreements Directive \(A1459\)](#).
 - 3.5. The Business Area Purchaser must obtain all necessary departmental approvals for the non-competitive procurement process by completing the Procurement Initiation Form (PIF). These approvals include, but may not be limited to:
 - 3.5.1. Concurrence for the procurement from Corporate Procurement and Supply Services (CPSS);
 - 3.5.2. Approval from the appropriate Expenditure Officer and, if required, the Accounting Officer for the procurement as per the [Expenditure Accountability Framework](#); and
 - 3.5.3. Approval from the appropriate Delegated Authority for the procurement.
 - 3.6. Using the existing reporting processes for Committees of Council, the Business Area Purchaser must submit a report requesting contracting approval for the non-competitive procurement. The Business Area Purchaser must consult with Law Branch and CPSS in preparing the report.
 - 3.7. The Business Area Purchaser must create a purchase requisition and issue the supplier's quotation and all contract documents to the appropriate CPSS Buyer.
 - 3.8. The CPSS Buyer must complete the procurement and issue any required purchase order(s) to the supplier, the value of which must not exceed the amount approved by the Committee of Council.
 - 3.9. The Business Area Purchaser must ensure that all contract documents are signed and executed in accordance with the Signing Contracts Guideline.
4. *Compliance and Monitoring*
- 4.1. The Branch Manager, Corporate Procurement and Supply Services, will monitor the use of non-competitive procurements and provide quarterly reports to the relevant Deputy City Manager of any procurements that do not comply with this procedure.

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.