



Procurement Standard

The City of Edmonton

Program Impacted: Financial Management:
The City of Edmonton's resilient financial position enables both current and long-term service delivery and growth.

Approved by: Deputy City Manager,
Financial and Corporate Services

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The City of Edmonton spends approximately \$1 billion annually on a wide range of goods, services, construction, and intellectual property rights. The City conducts procurements in an open, fair and transparent manner that achieves the best value for the City and in support of Council's objectives. The City has the responsibility to all stakeholders, including suppliers and the public, and ensures the efficiency and effectiveness of the procurement process. Procurement processes protect the interests of the City and the public.

As a municipal government in the Province of Alberta, the City of Edmonton is bound by provincial and federal trade agreements which outline requirements for how the City is to procure goods, services, and construction.

This Standard replaces the Procurement Administrative Policy (A1465) and all of its associated procedures.

1. Purpose

The purpose of this standard is to:

- Ensure the City acquires goods, services, construction and intellectual property in an open, fair and transparent manner and abiding by all applicable Trade Agreements;
- Outline the minimum requirements by which the City conducts procurement activities; and
- Implement a consistent approach to procure to pay processes across the City.

2. Application

This standard applies to any person who reports to the City Manager or City Auditor and provides services to the City of Edmonton under a contract of employment, contract for the provision of personal services, or in the capacity of agent, student or volunteer. This Procurement Standard applies to Procurement Agreements only (excludes other agreements such as funding agreements, revenue agreements, or land-related agreements).

3. Guiding Principles

In carrying out their duties under this Standard, or when acting in situations not explicitly addressed here, employees will be guided by the following principles:

- 3.1. Fairness, openness and transparency, ensuring that the City's practices and processes are easily accessible and understandable;
- 3.2. Achievement of best value for the City, while actively supporting the [City's Sustainable Procurement Policy](#);

- 3.3. Compliance with all relevant City policies, directives, procedures, and standards, including the [Code of Conduct](#) and the [Supplier Code of Conduct](#);
- 3.4. Compliance with all applicable trade agreements;
- 3.5. Use of competitive procurement processes as the preferred method, which should be used wherever possible and appropriate;
- 3.6. Appropriately justifying all non-competitive procurement processes, which are available to use in specific situations;
- 3.7. Leveraging buying power through corporate contracts or strategic sourcing;
- 3.8. Thoroughly assessing risks, supplier qualifications, supplier performance, and full life cycle costs; and
- 3.9. Integrity and ethics in all procurement activities.

4. **Accountability**

When procuring goods, services, construction or intellectual property rights on behalf of the City, a business area purchaser must determine if an active contract exists for the goods, services, construction, or intellectual property rights. If an active contract exists, and the scope of proposed purchase falls within scope of that contract, the business area purchaser should work with the contract manager to issue a purchase order using that contract.

If no active contract exists, or the contracted supplier is unable to provide the required goods or services, the business area purchaser must conduct the procurement using the [competitive procurement](#) method, unless the procurement meets the necessary conditions to use [non-competitive procurement](#) methods.

4.1. **CPSS is responsible for:**

- 4.1.1. Providing guidance to business area purchasers regarding the appropriate procedure for procurement;
- 4.1.2. Supporting business area purchasers in case of questions and/or additional support throughout the process; and
- 4.1.3. Partnering with the business areas to ensure a satisfactory and value-added solution is considered.

4.2. **The Branch Manager, CPSS, is accountable for:**

- 4.2.1. Monitoring the use of competitive and non-competitive, procurements, and the use of purchase orders and corporate credit cards;

- 4.2.2. Providing quarterly or yearly activity and compliance reports to the City Branch Managers, Directors, and Executive Leadership Team of any procurements that do not comply with this Standard; and
- 4.2.3. Ensure that public and potential suppliers can obtain information on the City's competitive procurement opportunities and contract award results (to the extent permitted by privacy legislation).

Note: The City publishes competitive procurement opportunities and award results on [Alberta Purchasing Connection \(APC\)](#) and [SAP Business Network Discovery](#).

CPSS may conduct reviews, audits or checks at any time without notice to ensure compliance with this Standard and the accompanying business processes.

Failure to comply with this Standard and associated business processes could lead to appropriate corrective action, which may include discipline up to and including termination of employment.

4.3. CPSS Concurrence Authority

For the purposes of the Common Authority Chart in the City of Edmonton Delegation of Authority Order, the positions authorized to provide CPSS concurrence for the procurement method(s) are listed in [Appendix 1](#), with the applicable amount(s).

CPSS has the authority to provide CPSS concurrence of any value in situations where no trade agreement exceptions exist, and there are substantial business reasons that outweigh the use of a competitive procurement process.

5. Sustainable Procurement

The City of Edmonton recognizes that every purchase can be leveraged to create economic, environmental and social impacts. The [Sustainable Procurement Policy](#) provides a framework for City of Edmonton purchasing activities in order to create intentional positive environmental, social and economic impacts while maintaining open, fair and transparent procurement processes.

The City will integrate economic, quality, environmental, and social value considerations into the contract scope, to the extent permitted by trade agreement obligations and where applicable depending on the scopes of work.

6. Local Procurement

The City of Edmonton supports the supplier community and encourages growth and strengthening of business throughout Edmonton. The City recognizes that local spending

helps in achieving positive community value outcomes such as social, economic, environmental, and cultural benefits to the Edmonton region.

For under threshold low value purchases, the City will prioritize buying local, where possible (see section 7 for how to determine if your procurement is under threshold). For purchases that are below trade agreement thresholds (\$75,000 for goods and services and \$200,000 for construction), the City encourages obtaining quotes from local businesses, Indigenous businesses, and diverse-owned businesses where possible.

7. Value of the Procurement

When calculating the value of procurement, the business area purchasers must include all estimated amounts to be paid by the City over the term of the procurement, including optional terms and applicable taxes. If a procurement will be awarded to more than one supplier, the business area purchaser must include all contracts under the procurement in the calculation.

- 7.1. The City must not structure procurements to avoid trade agreements, such as:
 - 7.1.1. Dividing required quantities of goods or services into more than one procurement,
 - 7.1.2. Diverting funds to entities not covered by the trade agreements, and
 - 7.1.3. Entering into a contract for an amount below the applicable trade agreement threshold with the intention to later increase the value through an amendment or change order.
- 7.2. The City must not structure purchases in order to avoid a process or higher level internal approvals required for a purchase requisition or a purchaser order.
- 7.3. If the estimated value of a procurement exceeds any applicable trade agreement value thresholds, the procurement will be required to comply with the [competitive procurement](#) process, unless there is a valid exception from each applicable trade agreement.
- 7.4. When awarding to multiple suppliers, use the estimated combined value of all contracts to be awarded for the purposes of determining whether the trade agreements apply.
- 7.5. When a business area purchaser intends to make more than one under threshold purchase of a particular good or service over a 12 month period, to determine the value of the procurement, the business area purchaser should calculate the combined purchase amount estimated for the next 12-month period, even when using separate purchase orders or contracts. This is the value used for determining whether the trade agreements apply.

- 7.6.** There are some procurements where the City is not directly paying the supplier for the goods or services provided. In these situations, include only the amount being directly paid to the supplier by the City (this may be zero) to determine whether the procurement exceeds trade agreement thresholds. The business area purchasers are encouraged to contact a CPSS buyer to determine the best procurement method.
- 7.7.** If the City and another entity are participating in a joint procurement, the business area purchaser should only include the amount to be paid by the City, when determining whether the procurement is under or over trade agreement threshold.

8. Controlled Items List

In addition to the requirements of this Standard and the accompanying detailed business processes, certain types of goods, services, construction, and intellectual property rights have particular risks or requirements which must be addressed through additional processes. CPSS maintains a list of these items in controlled and prohibited categories.

Controlled items may be purchased by City staff through one of the applicable procurement methods described in this Standard. These items are subject to and must follow additional process steps in order to address risks specific to what is being purchased. These additional steps are listed in the controlled items list.

Items covered by current contracts are not considered controlled; however, business area purchasers are required to use the existing contracts rather than entering into new contracts, unless it would be unreasonable to do so in a given situation.

In addition to controlled items, there are certain items that are prohibited items. Prohibited items must not be purchased using City funds. The prohibited items are listed in the controlled items list separately.

9. Procure to Pay process

The City follows a procure to pay process that is the sequential process of completing sourcing, contract management, buying, & invoicing activities, which include:

1. Identifying a need to procure materials or services;
2. Selecting a supplier following appropriate [procurement method](#);
3. Negotiating, awarding and managing a contract;
4. Consuming the contract by creating a purchase order;
5. Receiving materials or services;
6. Processing supplier invoices;
7. Making payments; and
8. Closing all purchase orders and the contract once they are fulfilled.

10. Procurement Methods

The City conducts procurement activities in an open, fair and transparent manner. The City takes accountability for ensuring the efficiency and effectiveness of the procurement process and its responsibilities to all stakeholders, including suppliers and the public. Procurement processes protect the interests of the City, public, and participating suppliers.

The City uses competitive and non-competitive procurement methods. Competitive procurement is the preferred method, however, non-competitive procurement methods are also available for use in specific situations. The determination of the most appropriate procurement method depends on:

1. The value of the procurement;
2. Applicable trade agreements and available trade agreement exceptions;
3. Whether an active contract exists or not;
4. Number of Suppliers who can fulfil City's requirements;
5. Whether the items to be purchased are controlled.

Note: Contact a CPSS buyer to determine if a trade agreement exemption applies.

The table below shows the available procurement methods based on value of procurement and the requirement or condition:

Value	Requirement or Condition	Procurement Method / Process	Next steps
<p>STEP 1: Check Controlled Items List and follow directions.</p> <p>Step 2: Complete Procurement and Contract Risk Assessment (PACRA) for \$25,000 and above or as directed by Controlled Items List.</p> <p>STEP 3: Determine and follow procurement method, subject to Directions in Controlled Items List and PACRA.</p>			
Under \$25,000	If value is \$5,000 or less	Corporate Credit Card (CCC)	Business area completes purchase
	If value above \$5,000	Low Value Purchase Order (PO)	Business area completes purchase

Value	Requirement or Condition	Procurement Method / Process	Next steps
\$25,000 to \$75,000 Procurement and Contract Risk Assessment must be completed for \$25,000 and above	If low risk	Low Value Purchase Order (PO)	Business area completes purchase
	If high risk	Non-competitive - Single or Sole Source	Submit Contract Request
\$75,000 and above Procurement and Contract Risk Assessment must be completed for \$75,000 and above	If Trade Agreement Exception applies and more than one supplier available	Invitational	Obtain CPSS Concurrence
	Have a business reason that outweighs competitive procurement	Advanced Contract Award Notice (ACAN) , results determine if: <ul style="list-style-type: none"> ● Non-competitive - Single or Sole Source, or ● Competitive 	
	If only one supplier available	Non-competitive - Sole Source	Work with CPSS buyer to complete the purchase
	If no Trade Agreement Exception applies and more than one supplier available	Competitive	

10.1. Competitive Procurement

The City uses a competitive procurement process as its preferred method for procurements \$75k or over for goods, services or intellectual property and \$200k and over for construction. The principles of open, fair and transparent public sector procurement are embedded within this process. The competitive procurement process ensures that all suppliers who are interested, have an opportunity to compete to enter into or be pre-qualified to compete to enter into a procurement agreement with the City.

Over threshold procurements using the competitive procurement process must comply with trade agreement obligations, except to the extent that a procurement is exempt from trade agreement requirements.

The outcome of a competitive procurement is to award contract(s) to a single or multiple suppliers or pre-qualify suppliers to fulfil the City's current or future needs. These contracts may be in the form of the City's standard contract, which may include standing arrangements or a supplier form of contract.

10.1.1. Standing Arrangements

The City may use standing arrangement methodology in a contract between the City and one or more suppliers, under which the City may acquire the performance of work from the suppliers over the term of the contract on an if, as and when required basis using a predetermined mechanism to select the supplier(s) to perform the work at that time.

10.2. Non-Competitive Procurement

The City uses non-competitive procurement when:

- The item to be procured is under trade agreement thresholds;
- The item to be procured has a valid trade agreement exception from each applicable trade agreement;
- There is no active contract; or
- There are substantial business reasons that outweigh the use of a competitive procurement process.

The business area purchaser must obtain CPSS concurrence at the onset of the non-competitive procurement process for procurements \$75k and over for goods, services or intellectual property and \$200k and over for construction.

The non-competitive procurement method includes invitational, non-competitive single or sole source, low value purchase orders and corporate credit card.

The outcome of a non-competitive procurement may be in the form of a contract, low value purchase order or direct buy using a corporate credit card.

10.2.1. Invitational Procurement

The City may use the invitational procurement process for procurements \$75k and over for goods, services or intellectual property and \$200k and over for construction where there are valid trade agreement exceptions

from each applicable trade agreement, when there is no active contract for these items, and more than one supplier is available.

The business area purchaser must provide justification when using the invitational procurement process. The justification must highlight why the business area purchaser has selected the invitational procurement method vs competitive procurement method, not the need to buy or the business impact of not completing the procurement.

Invitational procurements \$75k and over for goods, services or intellectual property and \$200k and over for construction where no trade agreement exception applies must be considered non-competitive procurements. Business area purchasers must contact the CPSS buyer for these procurements.

10.2.2. Non-Competitive Single or Sole Source Procurement

The non-competitive procurement processes should not be used in lieu of competitive procurement processes.

10.2.2.1. For purchases **over trade agreement thresholds**, the competitive procurement processes should be used except in situations where there is a valid trade agreement exception(s) for each applicable trade agreement, and either:

10.2.2.1.1. substantial business reasons that outweigh the use of a competitive procurement process or invitational procurement process; or

10.2.2.1.2. there is only one source of supply to meet the City's requirements.

10.2.2.2. For **sole source procurement of \$75k and over**, the business area purchaser must request a quote and supporting documentation to establish that only one supplier can meet the requirements of the procurement.

10.2.2.3. For **single source procurement of \$75k and over**, the business area purchaser must identify a minimum of three suppliers, preferably including at least one local supplier, and request a quotation from each.

The business area purchaser must provide justification and documented support for the justification when using the non-competitive procurement method. The justification must highlight why the business area purchaser has selected the non-competitive procurement method vs competitive procurement

method, not the need to buy or the business impact of not completing the procurement. The justification should be based on the trade agreement exception(s) being claimed **and** either scenarios 10.2.2.1.1 or 10.2.2.1.2 described above.

The business area purchaser must obtain the necessary concurrence for the procurement from CPSS and, if required, Open City and Technology (OCT) or Employee Services (ES).

Prior to providing concurrence, CPSS buyers may issue an Advance Contract Award Notice (ACAN) and publicly post the ACAN for a minimum of 10 business days to confirm that the pre-identified supplier is the sole provider of the goods, services or intellectual property rights being procured. The ACAN process ends either with other suppliers identified or a confirmation that there are no other suppliers able to provide the required goods, services or intellectual property rights.

- 10.2.2.4.** If the value of the **procurement is over \$1 Million**, the business area purchaser must submit a council report requesting contracting approval for the non-competitive procurement (using the existing reporting processes for Committees of Council).

The business area purchaser must consult with the Legal Services Branch and CPSS in preparing the report.

The appropriate Committees of Council must approve the contract in order for the business area purchaser to proceed with the procurement.

The business area purchasers 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 (see section 14 for details about performing market research). The business area purchasers are encouraged to contact a CPSS buyer in regards to the market research.

10.2.3. Low Value Purchase Order for under \$75k

The business area purchaser may use the low value purchase order process for low risk, one time purchases with a value under \$75k and the item to be procured is not a controlled or prohibited item. When a business area purchaser intends to make more than one under threshold purchase of a particular good or service over a 12 month period, refer to Value of Procurement.

The business area purchaser should refer to the Sustainable Low Value Purchase Guide for instructions on how to incorporate sustainability into the purchase or to find a supplier using the list of supplier directories.

To reduce the City's non contract spend, before creating a low value purchase order, the business area purchaser must determine if an active contract exists for the goods, services, construction, or intellectual property rights. If an active contract exists, and the scope of proposed purchase falls within scope of that contract, the business area purchaser should work with the contract manager of the existing contract to issue a purchase order using that contract.

10.2.4. Corporate Credit Card for up to and including \$5k

The business area purchaser may use a corporate credit card if:

- 10.2.4.1.** The value of the purchase is \$5k or less;
- 10.2.4.2.** There is no existing contract with the supplier and the proposed purchase does not fall within the scope of the existing contract;
- 10.2.4.3.** The item to be purchased is not a controlled or prohibited item; and
- 10.2.4.4.** The transaction is eligible as per corporate credit card handbook and the corporate credit card business process.
- 10.2.4.5.** The business area purchaser should refer to the Sustainable Low Value Purchase Guide for instructions on how to incorporate sustainability into the purchase or to find a supplier using the list of supplier directories.

11. Request for Information and Request for Expression of Interest

A Request for Information (RFI) is a Sourcing Event type that is used to collect written information about the capabilities of various bidders or to perform market research. The RFI does not result in a Contract award.

A Request for Expression of Interest (RFEOI) is a Sourcing Event type that is used when seeking an indication of interest from participants in undertaking specific work; the RFEOI does not result in a Contract award.

The business area purchaser may use the RFI & RFEOI business process. RFIs and RFEOIs are posted publicly by CPSS Buyer to SAP Business Network Discovery with a notification posted to Alberta Purchasing Connection (APC).

12. Provision of References for Suppliers

12.1. Endorsements and Testimonials

The City does not provide endorsements or testimonials for suppliers to use in their marketing materials, on their websites or other publications.

12.2. Reference Letters

12.2.1. Employees should not provide reference letters for suppliers.

12.2.2. If a supplier requests a reference letter from an employee, the employee should decline to provide the reference letter, but may provide the employee's name and business contact information in order to act as a reference without providing a formal reference letter.

12.3. References Generally

12.3.1. Employees may provide their names and business contact information to a supplier for use as a reference by that supplier.

12.3.2. If contacted by anyone to whom the supplier provides the employee's reference contact information, and the person contacting the employee requests a reference, the employee should provide honest, accurate answers to all appropriate questions asked.

12.3.3. If the employee is asked a question that the employee feels is inappropriate, the employee may decline to answer. In cases where the employee is unsure about whether a question is appropriate, the employee may contact their Legal Services Branch solicitor for advice. Examples of questions that may be inappropriate include those regarding competitors, pricing, proprietary information, etc.

12.3.4. The employee should be able to substantiate their comments, whether positive or negative, by referring to documentation relating to relevant contracts with the City. Feedback should have already been communicated to the supplier as part of contract management and Supplier Performance Management processes.

12.4. References for City Procurements

12.4.1. If the employee is listed as a reference for a supplier whose reference is being checked for a City procurement, in addition to complying with section 12.2 above, the employee should ensure that he or she does not have a conflict of

interest with the supplier. Providing a reference for a supplier in a City procurement can be considered part of the evaluation of the supplier by the City, regardless of whether the employee also sits on the evaluation committee for the procurement. See the Conflict of Interest of Employees Participating in City Procurements Procedure for more information on what constitutes a conflict of interest.

- 12.4.2.** If a bid lists a member of the evaluation committee as a reference, the CPSS buyer must refer the matter to the Branch Manager of Corporate Procurement and Supply Services. Conflict of Interest of Employees Participating in City Procurements section sets out the process that will be used to determine if there is a conflict of interest or unfair competitive advantage, as well as the actions that may be taken by the Branch Manager of CPSS following the receipt of recommendations from the Procurement Conflict of Interest Advisory Group.

13. Unsolicited Proposals

Contracts with the City generally result from competitive, non-competitive, low value or invitational procurement processes. The City believes that the private sector provides opportunities for both innovation and capacity to meet public needs. The City is interested in facilitating ways for private sector entities to contribute to the City's policies, plans and objectives.

The unsolicited proposal process aims to harness private-sector investment, while protecting the public interest and policy objectives, encouraging innovation, and ensuring transparency and accountability.

Entities may submit unsolicited proposals that either:

- Identify new needs in Edmonton that align with the City's stated policies, plans or objectives; or
- Propose innovative solutions to the needs identified by the City in its policies, plans or objectives.

The City is committed to a timely, fair, and transparent process to support initiatives with public benefit identified through this process. The City will, in its sole discretion and subject to its trade agreement obligations, review and consider proposals according to public interest, proposal subject matter feasibility, suitability, affordability and other considerations.

If the unsolicited proposal does not conflict with this Section 13 and the City is willing to consider the proposal, the process outlined in [Appendix 2](#) applies to all unsolicited

proposals.

14. Other Considerations

In addition to the value of the procurement, and whether items fall on the controlled items list, business area purchasers and CPSS must also take into account additional factors in making contracting decisions. These include whether [conflicts of interest](#) exist and whether the supplier is on probation or is found on the [list of suspended suppliers](#), due to the [Supplier Performance Management Program](#) or the [supplier's dispute history](#) with the City.

Employees should exercise caution when performing market research, due to the City's trade agreement obligations. Where a procurement is valued at or above trade agreement thresholds, restrictions on market research apply (even in many cases where the procurement is exempt from having to go through a competitive process). When doing market research, consider these questions:

- Is the City seeking or accepting advice (including where unsolicited by the City) that may be used in preparing technical specifications for a procurement?
- Does the supplier or person providing that advice have a commercial interest in the procurement? For example, are they a potential bidder, or a potential subcontractor or supplier to a bidder?
- Will the advice reduce competition? For example, are you including a requirement in the specification that can only be met by a single supplier (such as the supplier who provided the advice)?

If the answer to all of these questions is "yes", then the type of market research you are doing may be non-compliant with the trade agreements. Seek advice from CPSS or Legal Services if you have questions.

15. Contracting with Parties in Dispute

It is in the City's best interests to enter into contracts with suppliers with a history that suggests they work collaboratively with the City to resolve disputes in a reasonable, timely and cost effective manner. It is not in the City's best interest to enter into contracts with suppliers where there is a likelihood of the City incurring significant increased financial, operational, or legal cost based on the supplier's history of disputes with the City.

For clarity, this section of the Standard does not apply if the supplier is already on the list of suppliers that are currently suspended under the Contract Management Administrative Policy. This section does not apply to servicing agreements or contracts relating to the provision of utilities. The detailed process of contracting with parties in dispute is outlined in [Appendix 3](#).

16. Conflict of Interest

An employee that becomes aware of any of the following conflicts of interest must immediately disclose that information in accordance with the following:

16.1. Conflict of Interest after City Employment

A former employee must not have any financial or controlling interest, either directly or indirectly, in a bidder that is participating in a City procurement process, unless the interest is disclosed and addressed in accordance with this section.

All former employees who are no longer employed by the City for any reason are prohibited, unless approval is obtained, from participating in a competitive procurement for a period of not less than twelve months from the last date they were employed by the City. Participating in a procurement may include, but is not limited to, the following roles:

- As a supplier;
- As a resource on City project work for a supplier; or
- As a resource on City project work for a supplier that has been subcontracted by another supplier.

If the involvement of a former employee in a City procurement results in a conflict of interest or unfair competitive advantage that cannot be mitigated, the bidder may be disqualified from the City procurement process.

The detailed process for conflict of interest after City employment is outlined in [Appendix 4](#).

16.2. Conflict of Interest of Employees Participating in City Procurements

An employee who has or had (within the last 12 months) a personal relationship, financial or controlling interest, or a former employment relationship with a bidder 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 section.

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, CPSS will determine if the employee can participate, in whole or in part, in the procurement process.

The detailed process of conflict of interest of employees participating in City Procurements is outlined in [Appendix 5](#).

16.3. Conflict of Interest Related to Members of Civic Agencies

A member of a Civic Agency or an Administrative Advisory Committee must not have a financial or controlling interest, either directly or indirectly, in a bidder or a member of the bidder's proposed team that is participating in a City procurement process, unless the interest is disclosed and addressed in accordance with this section.

A member of a Civic Agency or an Administrative Advisory Committee is prohibited from participating in a procurement process as a bidder or a member of the bidder's proposed team, for a period equivalent to twelve months following the conclusion of their membership, unless the interest is disclosed and addressed in accordance with this section.

If a member of a Civic Agency or an Administrative Advisory Committee participates in a procurement process as a bidder or a member of the bidder's proposed team and it results in a conflict of interest or unfair competitive advantage that cannot be mitigated, the bidder may be disqualified from the City's procurement process.

The detailed process of conflict of interest related to members of Civic Agencies is outlined in [Appendix 6](#).

17. Retainer of Lawyers and Experts for Legal Purposes

Due to a need for special expertise, the City may need to retain external lawyers or other experts for assistance with legal matters.

Procurements of lawyers and experts for assistance with legal matters are generally the subject of special confidentiality rules and protections, called "privilege." To protect the privilege, care needs to be taken to ensure that the confidentiality of these procurements is protected and only those who absolutely need to know about the procurement should be informed. Because of this, a special process must be followed to hire external lawyers as well as experts required for legal purposes.

The Legal Services Branch will lead any procurements to retain external lawyers for City legal work. Only the City Solicitor (Branch Manager of the Legal Services Branch) or the City Manager may approve retention of lawyers in accordance with the City Administration Bylaw (16620) and the City of Edmonton Delegation of Authority Order. Procurement of lawyers is exempt from the requirement to publicly tender.

For best practices, the Legal Services Branch should lead the procurement of experts for

legal purposes, including potential or ongoing litigation. Failure to use this process is not intended nor deemed to be a waiver of the City's right to privilege, and privilege may still attach to procurements of experts through other procurement processes. Retainers of experts for legal purposes are generally exempt under trade agreements, although some may have a certain dollar amount over which a competitive procurement process (in compliance with this Standard) is required (unless another exception applies).

Where a competitive process is used, the Legal Services Branch will work with CPSS to procure the applicable services.

Payments by the City under the retainer contract may be made by payment requisition process which will be reimbursed by Electronic Funds Transfer (EFT).

The detailed process of retainer of Lawyers and Experts for legal purposes is outlined in [Appendix 7](#).

18. Authority to approve and update Procurement Standard and Business Processes

Additional business processes and other documents may be created and updated to supplement this Standard, as approved in accordance with the table below.

Document	Authority to approve updates
Procurement Standard	Deputy City Manager, Financial and Corporate Services
CPSS Concurrence Authority	Branch Manager, Corporate Procurement and Supply Services Branch
Business Processes - Procurement and other documents - except for Retainer of Lawyers and Experts for Legal Purposes and Contracting with Parties in Dispute	Director, Procurement, Corporate Procurement and Supply Services Branch
Business Processes - Procurement and other documents - Retainer of Lawyers and Experts for Legal Purposes and Contracting with Parties in Dispute only	City Solicitor, Legal Services Branch
Business Processes - Contract Management and other documents	Director, Corporate Contract Management & Business Sustainment, Corporate Procurement and Supply Services Branch
Controlled Items List	Director, Procurement, Corporate Procurement and Supply Services Branch

19. Definitions

Unless otherwise specified, words used in this Standard and the accompanying business processes have the same meaning as defined in the [City Administration Bylaw 16620](#).

- **Administrative Advisory Committee** The boards, committees and task forces to which City Administration appoints citizens-at-large or representatives of external organizations affiliated with the City;
- **Advance Contract Award Notice or ACAN** 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. Completion of an ACAN may be used as evidence to support the trade agreement exception that there is only one source for the procurement in the market, but does not fulfill the trade agreement obligations in itself and the resulting procurement is still considered non-competitive;
- **Alberta Purchasing Connection** An online tool that allows public and private sector users to manage, advertise, distribute, and download public purchasing opportunities for goods, services, and construction in Alberta. The City uses APC as a tool to post notifications of procurement opportunities, as its sourcing event documents are posted on SAP Business Network Discovery.
- **Bidder** A supplier who submits a bid to be considered by the City in response to a sourcing event;
- **Business Area Purchaser** An employee responsible for completing a purchase on behalf of the City;
- **Business Area Receiver** An employee responsible for receiving, inspecting and confirming receipts of goods or services at a City's facility;
- **Corporate Credit Card** An authorized City of Edmonton credit card, issued by a financial institution that may be used by a cardholder for the purchase and payment of goods or services required by the City, as may be further described in the Corporate Credit Card Handbook;
- **Civic Agency or Civic Agencies** The agencies, boards, committees, commissions, and task forces to which City Council makes an appointment of citizens-at-large, council members, or representatives of external organizations. A list of civic agencies can be found at the following link: https://www.edmonton.ca/city_government/city_organization/list-of-agencies-boards-commissions.aspx;
- **Compliance** Indicates the procurement is in alignment with all applicable trade agreements, this Standard and other applicable City policies and procedures;
- **Concurrence** Indicates that CPSS supports the procurement approach proposed or

to be followed;

- **Contract** A document executed between the City and a Supplier that has the intention to create legally binding obligations and has the same meaning as “procurement agreement” in the [City Administration Bylaw 16620](#);
- **Contract Manager** Has the same meaning as defined in the Contract Management Directive, A1205. An individual who manages a contract throughout the contract's lifecycle, and who manages the technical and administrative aspects of the contract including amendments and renewals; the contract manager is responsible from contract award until contract completion;
- **Contract Request** The SAP Ariba request that is created when a procurement need is identified that will be fulfilled using a non-competitive procurement process;
- **Controlled Item** Certain types of goods, services, construction and intellectual property rights which are subject to and must follow additional process steps in order to address risks specific to what is being purchased;
- **CPSS** Corporate Procurement and Supply Services Branch;
- **CPSS Buyer** The individual(s) from the Corporate Procurement and Supply Services Branch that assist business areas in completing a procurement process, including providing expert advice on procurement methods, activities and applicable trade agreements;
- **Delegated Authority** An employee to whom the appropriate power, duty, or function has been delegated to them by the City Manager through the City's Delegation of Authority Order. Individuals signing City Contracts require sufficient delegated authority;
- **Dispute** Is a dispute between the City and a supplier, adverse in interest, which is, has, or may become the subject of a formal dispute process;
- **Enabled Supplier** A supplier who is onboarded to SAP Ariba to interact and transact with the City in an effective manner using SAP Ariba capabilities. These transactions through SAP Ariba include submitting Service Entry Sheets, order confirmations and invoices;
- **Evaluation** The process of reviewing and scoring bids to determine the ranking of bidder(s);
- **Evaluation Committee** A committee of individuals, which may include both employees and non-employees, established to evaluate bidder submissions in a competitive or invitational procurement process;

- **Evaluation Plan** A document that specifies all evaluation criteria, evaluation committee members, the respective weighting and importance factors, the method that will be used to determine which bid(s) meet the requirements and the scoring scales definitions against which the evaluation criteria will be scored to rank bidder(s);
- **Expenditure Officer** The employee who is authorized to approve an expenditure pursuant to the expenditure accountability framework procedure and corporate accountability framework matrix;
- **Formal Dispute Process** A dispute between the city and supplier(s) that has become the subject of litigation or an alternative dispute resolution process, including a process set out in the contract between the City and the supplier;
- **Former Employee** A person previously employed by the City;
- **Former Employment Relationship** A City employee's former role as an employee, a contractor, or subcontractor with a bidder;
- **Over Threshold** That the total value of proposed procurement is at or above \$75,000 for goods, services and intellectual property and \$200,000 for construction;
- **Preferred Bidder** The company, firm, partnership, consortium, team or other legal entity selected by the City during the sourcing event for the purpose of attempting to negotiate the contract;
- **Procurement** The acquisition of goods, services, construction, or intellectual property rights from a supplier, but does not include the acquisition or disposition of interests in land;
- **Procurement Agreements** An agreement to acquire goods, services, construction, or intellectual property rights but does not include agreements for the acquisition or disposition of interests in land;
- **Prohibited Items** Certain types of goods or services that are not permitted to be procured using City funds;
- **Procurement Conflict of Interest Advisory Group** Is a group of individuals formed on as required basis by the Branch Manager, CPSS, responsible for reviewing and advising on conflict of interest matters that may arise in the City's procurement processes;
- **Purchase Order** A contractual record that summarizes the details of a contract and facilitates payment to a supplier;
- **SAP Business Network Discovery** A network internet site where suppliers can find, view and respond to the City's procurement opportunities;

- **Scope** The description of the goods, services, construction, or intellectual property rights the City is acquiring from a supplier through a procurement, including any City requirements relating thereto. The City uses scope of work, special provisions, specification, description of work, and requirements documents templates to capture contract scope;
- **Single Source** A non-competitive procurement process in which more than one supplier is available in the market for the desired good, service, or construction and the City deems appropriate to enter into a contract without doing an open competition. There must be a justifiable business case for these instances and CPSS provides annual reports to council on use of the single source procurement method. Some of the justifications may include an urgent or emergent need, or when there is a legitimate commercial, strategic, or operational reason. It is also a pathway to protect the City against an imminent risk to its property, personnel, reputation, or operations;
- **Sole Source** A non-competitive procurement process in which there is no alternative supplier that can respond to our needs. There is only one supplier for a particular good, service, or construction and the City does not have an option to choose from (i.e. suppliers own infrastructure or particular expertise, technology, or have exclusivity or proprietary rights over a good or service). There must be a justifiable business case for these instances and CPSS provides annual reports to council on use of sole source procurement method;
- **Sourcing Event** The electronic document in SAP Ariba used to obtain bids from bidders; the sourcing event enables the communication of procurement needs, issuance of addenda, receipt of information and bids, and electronic evaluation scoring, when required;
- **Sourcing Request** The SAP Ariba request that is created when a procurement need is identified that will be sourced using a competitive or invitational procurement process;
- **Supplier** A provider of goods, services, construction, or intellectual property rights by purchase, rental, lease, conditional sale, or any other means, also includes associates and affiliates of the supplier as defined in the *Business Corporations Act, RSA 2000, c. B-9*, and includes the terms vendor, consultant, contractor, design-builder, construction manager, construction consultant, and lessor;
- **Supplier Enablement** A process through which an active supplier with the City is successfully onboarded to the SAP Ariba production environment through a series of onboarding steps. This process also focuses on ensuring that suppliers continue to work with the City in an effective manner using the capabilities available through Ariba once fully enabled;
- **Trade Agreement(s)** An intergovernmental agreement approved by the federal or

provincial government that contains provisions relating to trade that are applicable to the City including, but not limited to, the Canadian Free Trade Agreement (CFTA), the Comprehensive Economic and Trade Agreement (CETA) and the New West Partnership Trade Agreement (NWPTA). The City is required to comply with the Trade Agreements;

- **Under Threshold** Total value of proposed procurement is below the thresholds of all applicable trade agreements;
- **Unsolicited Proposal** A written proposal not requested by the City that is submitted by a supplier proposing to provide goods, services, construction or intellectual property rights to the City; and
- **Unsolicited Proposal Evaluation Committee** The committee of individuals established to evaluate unsolicited proposals which may include both employees and non-employees.

Appendix 1

CPSS Concurrence Authority

Position/Classification	CPSS Concurrence Authority, concurrence with:
Branch Manager, CPSS	<ul style="list-style-type: none"> ● Non-competitive procurement agreements (over \$1,000,000) ● Competitive procurement agreements
Director, Procurement	<ul style="list-style-type: none"> ● Non-competitive procurement agreements (up to \$1,000,000) ● Competitive procurement agreements
Procurement Manager	<ul style="list-style-type: none"> ● Non-competitive procurement agreements (trade agreement exception applies; up to \$1,000,000) ● Non-competitive procurement agreements (no trade agreement exception applies; up to \$75,000) ● Competitive procurement agreements
Senior Buyer	<ul style="list-style-type: none"> ● Non-competitive procurement agreements (trade agreement exception applies; up to \$250,000) ● Non-competitive procurement agreements (no trade agreement exception applies; up to \$75,000) ● Competitive procurement agreements (up to \$1,000,000)
Buyer	<ul style="list-style-type: none"> ● Competitive procurement agreements (up to \$75,000)

Appendix 2

1. Overview and General Considerations of Unsolicited Proposal

An “unsolicited proposal” is a proposal submitted to the City by one or more entities without an explicit request by the City. The City will assess an unsolicited proposal against the criteria identified in this Appendix and may engage with other public entities or stakeholders for evaluation and analysis.

Entities may submit thoughtful, innovative, value-added unsolicited proposals; however:

- 1.1. The City is not obligated to perform a comprehensive, or any, evaluation of unsolicited proposals;
- 1.2. The City may, at any time, decide unilaterally to proceed with procuring the subject matter of the unsolicited proposal through another process, including a competitive, invitational, or non-competitive procurement process, in which the City may choose another supplier;
- 1.3. The City’s decision as to whether to consider or reject all or part of an unsolicited proposal is in the City’s sole discretion;
- 1.4. The supplier submitting the unsolicited proposal is fully responsible to bear all costs associated with submitting an unsolicited proposal, including preparation of and attendance at any demonstrations, presentations, interviews, and negotiations;
- 1.5. The supplier bears all risks associated with submitting an unsolicited proposal.
- 1.6. The City has no obligations to or relationship with the supplier, contractual or otherwise, except if and to the extent that the City signs a written contract with the supplier;
- 1.7. Favourable comments from City staff do not, on their own, represent the City’s acceptance of an unsolicited proposal;
- 1.8. The City is not required to return an unsolicited proposal to the supplier, regardless of whether the City accepts or rejects the proposal;
- 1.9. The City will take reasonable measures to keep any proprietary information in an unsolicited proposal confidential, subject to the City’s obligations under the *Access to Information Act*, SA 2024, c A-1.4 (“ATIA”) and *Protection of Privacy Act*, SA 2024, c P-28.5 (“POPA”). The supplier must indicate in its unsolicited proposal which information it considers sensitive and proprietary. The City cannot guarantee that information will be kept confidential under the ATIA and POPA;

- 1.10. The supplier must include in its unsolicited proposal, only information and materials that it is entitled to use and disclose. The supplier must indemnify and defend the City from and against any loss, harm, actions, or claims from any third party resulting from the supplier's use or disclosure of the information or materials as part of its unsolicited proposal or any further disclosure of the information or materials pursuant to law, including under the ATIA or POPA, or this unsolicited proposals process;
- 1.11. The City makes no commitments with respect to timelines for review or any part of this unsolicited proposals process; and
- 1.12. The City must comply with all applicable trade agreements as well as City policies, directives, and procedures.

2. Scope of Unsolicited Proposals

To be eligible for City review, an unsolicited proposal must align with the City's needs and reasonably demonstrate commercial, financial, and technical viability. An unsolicited proposal is not eligible if it is solely for the purpose of seeking grants, loans, or funding from the City.

The City is particularly interested in unsolicited proposals that leverage innovative concepts which address various public needs coupled with strong public benefit.

3. Submission Requirements

Suppliers may submit unsolicited proposals to the City by emailing unsolicitedproposals@edmonton.ca and as detailed below.

3.1. Initial Submission:

A supplier's initial submission should include high-level information regarding their unsolicited proposal. The submission should include enough information to enable the City of Edmonton to form a preliminary view of whether the proposal warrants further consideration. At minimum, the initial submission should contain the following information in order to be considered by the City:

- The supplier's name, address and contact information; and
- A concise title and abstract or executive summary of the proposal, which should not exceed 5 pages. The abstract or executive summary should summarize the proposal's general, public interest, feasibility, suitability and affordability requirements, as further detailed in section 3.2.

The City will assess the initial submission with reference to the criteria set out in section 3.2. The City may request that the supplier provide additional details on their initial

submission or make themselves available for a meeting to discuss the initial submission, with the purpose of gaining greater clarity and understanding of the initial submission. Requests for additional information or to meet are at the City's sole discretion.

The City will advise the Supplier once the assessment of the Initial Submission is complete. Should the City be interested in receiving a more detailed submission, the Supplier will be invited to submit a detailed unsolicited proposal submission as per section 3.2.

3.2. Detailed Unsolicited Proposal Submission

Following an invitation from the City, a supplier may choose to submit a detailed unsolicited proposal, which should contain the following information in order to be considered by the City:

3.2.1. General Requirements

- 3.2.1.1.** The supplier's name, address and contact information;
- 3.2.1.2.** A concise title and abstract of the proposal;
- 3.2.1.3.** A description of the proposal, including conceptual designs, technical specifications and implementation approach;
- 3.2.1.4.** A clear statement of how the supplier is uniquely qualified to offer the goods, services, construction or intellectual property rights;
- 3.2.1.5.** Relevant experience of the supplier in the delivery of the proposed goods, services, construction or intellectual property rights;
- 3.2.1.6.** The City department(s) envisioned as benefiting from the proposal (if known);
- 3.2.1.7.** The names of any City staff with whom the supplier has communicated about the proposal or its subject matter;
- 3.2.1.8.** Acknowledgement that the City is not obligated to accept the proposal, the supplier is at its own risk bearing all costs related to the proposal, and that the City is not liable for any costs or damages relating to the City's possible rejection of the proposal;
- 3.2.1.9.** A legally binding commitment from the supplier to indemnify and defend the City from and against any claims related to the submission of the proposal, including but not limited to any infringement of

copyright, trademark, industrial design or any other intellectual property right;

3.2.1.10. Identification of any known potential conflicts of interest existing with relation to the supplier, City staff or others, including but not limited to conflicts of interest described in the following sections of this Standard:

3.2.1.10.1. [Conflict of Interest After City Employment](#);

3.2.1.10.2. [Conflict of Interest of Employees Participating in City Procurements](#); or

3.2.1.10.3. [Conflict of Interest Related to Members of Civic Agencies](#); and

3.2.1.11. The unsolicited proposal must not relate to:

3.2.1.11.1. Situations where the City is already developing or undergoing a similar procurement;

3.2.1.11.2. Situations where the City has already made or is in the process of making a decision with regard to similar subject matter to that of the unsolicited proposal; or

3.2.1.11.3. Situations where similar subject matter to that of the unsolicited proposal has already been approved in the City budget; or

3.2.1.11.4. Conventional goods, services, construction or intellectual property.

3.2.2. Public-Interest Requirements

3.2.2.1. A preliminary assessment of the public need for the proposal subject matter, including a description of the benefits to Edmonton and how it is aligned with the City's policies, plans and objectives;

3.2.2.2. A clear statement of the proposal's sustainable aspects, including environmental, social and economic benefits to the City and other communities and how the proposal will advance the City's objectives in the [City's Sustainable Procurement Policy](#);

3.2.2.3. A preliminary assessment of economic feasibility or a cost benefit analysis.

3.2.3. Feasibility Requirements

- 3.2.3.1.** A preliminary technical description, including the delivery approach, high level schedule and requirements for connections to existing assets/infrastructure or services (if applicable);
- 3.2.3.2.** A preliminary assessment of financial feasibility, including a detailed financial model with costs and revenues, and a preliminary funding and financing plan, particularly addressing anticipated City funding, inclusive of all funding requirements including but not limited to development costs, land acquisition costs, construction costs, and long term operating costs, as applicable;
- 3.2.3.3.** A preliminary service and operating plan; and
- 3.2.3.4.** Identification of any municipal, provincial or federal statutory, regulatory, or bylaw changes or approvals that might be required to develop the proposal subject matter and, in the case of changes, a preliminary analysis of the wider impacts of the proposed changes.

3.2.4. Suitability Requirements

- 3.2.4.1.** A preliminary assessment of associated risks and proposed risk allocation between all parties involved in the proposal subject matter, including but not limited to the supplier, the City, and any third parties; and
- 3.2.4.2.** A preliminary assessment of any landowners, Indigenous groups, and other third parties likely to be impacted by the proposal subject matter.

3.2.5. Affordability Requirements

- 3.2.5.1.1.** Detailed explanation of the proposed cost the City would have to pay, or the amount of revenue the City could expect to receive, should the City accept the proposal.
- 3.2.5.1.2.** Detailed disclosure of all proposed sources of funding for the proposal subject matter, including but not limited to all public funding sources (e.g., Federal grants, tax credits, subsidies, funding from outside Canada, etc.).
- 3.2.5.1.3.** Proposed contract term, including any potential optional terms;

- 3.2.5.1.4.** Type of support needed from the City, e.g., facilities, equipment, personnel resources, etc. for the supplier to fulfil the proposal;

Note: The City may, at any time or for any reason, cease reviewing or considering an unsolicited proposal.

4. Review of Unsolicited Proposals

4.1. Submission Completeness Check

After receiving a proposal, CPSS will review the proposal for completeness. CPSS may consider further reviewing a proposal if it meets the following minimum requirements:

- a) The unsolicited proposal meets the definition and requirements in appendix 2 section 1; and
- b) The unsolicited proposal includes all applicable information and meets all applicable requirements listed under appendix 2 section 3.

If a proposal is not an unsolicited proposal as per section 1, or the proposal appears to address the delivery of City services without significant innovation or differentiation from the City's current delivery model, the City will cease its review and notify the supplier in writing.

The City may contact the supplier with requests for clarification or additional information, including any missing information required by appendix 2 section 3. The City, at its discretion, may also request the supplier submit financial statements showing the supplier is in good financial standing. The City and the supplier will communicate in writing.

The City may decide to not review an unsolicited proposal that does not include all applicable information listed under appendix 2 section 3. If the City stops reviewing an unsolicited proposal for this reason, it will notify the supplier in writing.

If the unsolicited proposal does include all applicable information listed under appendix 2 section 3, the City will notify the supplier in writing that the unsolicited proposal is proceeding to the preliminary evaluation stage. This notice does not mean that the submitted information is sufficient for the unsolicited proposal to clear the preliminary evaluation stage and does not create any obligation for the City to further advance the unsolicited proposal, nor enter into any contract with the supplier.

4.2. Preliminary Evaluation

As part of the preliminary evaluation, the City will determine if use of the unsolicited proposal process is appropriate in the situation, and the City may make this determination at any point during the preliminary evaluation stage.

At this stage, the City may require the supplier to enter into agreements related to non-disclosure and/or intellectual property rights.

During the preliminary evaluation of a proposal, CPSS, in consultation with the relevant business area(s), will assess the proposal subject matter using the following criteria and sub-criteria:

4.2.1. Public and City Interest Criteria

- Confirming that the proposal subject matter aligns with the City's stated needs, policy objectives and priorities; and
- Evaluating the public need for the proposal subject matter. The City may require the supplier to provide needs based or options analysis to confirm the benefit to Edmonton, if not provided with the initial proposal.

4.2.2. Proposal Feasibility Criteria

- Confirming the technical feasibility of the proposal subject matter at a preliminary level; and
- Evaluating the expected social and environmental impact and/or the economic feasibility of the proposal subject matter.

4.2.3. Suitability Criteria

- Confirming that the proposal includes a robust assessment and alignment of the risks between the public and private entities; and
- Evaluating the advantages and disadvantages of the proposal subject matter in general.

4.2.4. Affordability Criteria

- Evaluating expected direct and contingent liabilities for the City, or
- Confirming that the proposal subject matter is affordable to the end user, if a user-pay model is being proposed.

4.3. Conclusion of the Preliminary Evaluation Stage

The preliminary evaluation stage ends when the City decides to:

- Advance the proposal to the proposal development stage, or
- Cease considering the proposal.

4.4. Proposal Development

4.4.1. Proposal Development Activities

The proposal development stage will consist of the activities necessary to enable the City to undertake further, in-depth analysis of the unsolicited proposal in order to be able to make a final decision on the proposal. As part of proposal development activities, the City reserves the right, subject to its obligations under the ATIA and POPA, to disclose the high level subject matter of the unsolicited proposal publicly to ensure transparency and public accountability or to seek input and gauge interest from other vendors.

The feasibility studies and other evaluations undertaken during this stage are expected to be significantly more detailed than the preliminary feasibility studies the supplier developed as part of its unsolicited proposal submission. The City may, in its sole discretion, require the supplier to provide, at its cost, full, robust, and in-depth technical, financial, environmental, and other specific professional assessments.

The City's and supplier's roles and responsibilities for this stage are determined by the City's chosen proposal development approach. The two proposal development approaches are detailed below.

4.4.2. Approach 1 – Proposal Development by the City

The City will oversee the proposal development process and may limit the supplier's role. This approach helps establish competitive procurement opportunities for the proposal subject matter. The City may determine that the supplier's formal role in the unsolicited proposal review process has ended.

The City will conduct a more in depth evaluation of the unsolicited proposal against the criteria listed in appendix 2 section 4.2 and determine whether the City should consider a public procurement for the proposal subject matter. Under this approach:

- The City, in consultation with relevant stakeholders and external advisors (if required), will undertake proposal development.
- The City, in consultation with relevant stakeholders, may contact the supplier with requests for clarification or additional information. The City and the supplier will communicate in writing.

If the City decides to conduct a public procurement process, the unsolicited proposal process ends.

4.4.3. Approach 2 – Proposal Development by the Supplier

Under this approach:

- The supplier must undertake specific proposal development activities requested by the City.
- The City may require the supplier to enter into a Proposal Development Agreement (“PDA”) with the City, which will govern the proposal development process and its requirements.
- The City and external advisors (if required) will oversee any studies the supplier develops. The City may directly or jointly (with or without the supplier) hire external advisors to independently assess the studies developed by the supplier.
- Subject to the terms of a PDA and/or any cost sharing arrangements for third party services, the City will not compensate the supplier for any costs it incurs or resources it expends during this stage.

4.4.3.1. Proposal Development Agreement with the Supplier

If the City requires the supplier to enter into a PDA, it will, at minimum, outline:

- Proposal subject matter and PDA objectives;
- The City’s and supplier’s respective responsibilities and obligations;
- How the City and supplier will coordinate and communicate with respect to proposal development;
- Development timelines;
- Provisions for termination of the PDA;
- Ownership of intellectual property rights, copyrights and moral rights;

- Any legal or regulatory obligations; and
- Provisions related to transparency, accountability, confidentiality, and conflicts of interest.

The PDA is intended to cover further development of the proposal subject matter, and is not intended to be the development of public procurement documents or a project agreement, and is not intended to provide the supplier with any exclusive rights or specific advantage with respect to any procurement for the proposal subject matter.

4.4.3.2. Proposal Development Activities by the Supplier

The supplier may be required to perform the following activities, as the City requires:

- Collaborate with the City on developing a mutually agreed upon PDA. The City will lead drafting and preparation of the PDA;
- Develop a detailed functional and geographical scope and schedule, any land (and land acquisition) requirements, as well as a description of its alignment with City priorities;
- Develop a technical feasibility study, including a detailed technical design and technical requirements;
- Develop a financial feasibility study, including a detailed risk assessment, complete with proposed risk allocation;
- Develop a legal feasibility study, including an assessment of regulatory and statutory requirements and necessary approvals from all applicable authorities, levels of government, and third parties;
- Develop a social and environmental impact assessment;
- Develop an economic feasibility study or cost-benefit analysis;
- Develop a fiscal impact assessment or affordability assessment;
- Develop a partnership suitability assessment;
- Develop a delivery strategy, if applicable;
- Develop the commercial terms of a potential contract with the supplier; and

- Perform stakeholder outreach and develop engagement strategies to ensure support for the proposal subject matter.

4.4.4. Proposal Development - Final Evaluation and Next Steps

During the proposal development stage, the City determines whether the proposal subject matter is feasible; whether it is likely to generate value for the City; and whether entering into a proposal development agreement is in the City's best interests, and how it should be structured to achieve these objectives.

In making its final decision on whether to advance the proposal to the proposal implementation stage, CPSS, in consultation with the relevant business area(s), will assess the proposal subject matter using similar criteria to that noted in appendix 2 section 4.2, Preliminary Evaluation.

In determining next steps, the City will be guided by City policies, standards, directives, and trade agreement obligations and will consider pursuing options such as going to market through an open and competitive public procurement, engaging in an alternative procurement model (e.g. Swiss challenge), or moving forward with a non-competitive award.

4.4.5. Conclusion of Proposal Development Stage

The proposal development stage ends when the City decides to:

- Advance the proposal to the proposal implementation stage, or
- Cease considering the proposal.

At the end of the proposal development stage, the City may publish the outcome of this stage, with updated proposal information and next steps, in accordance with appendix 2 sections 1.9 and 1.10.

4.5. Proposal Implementation Stage

If the City advances the proposal to the proposal implementation stage, the City implements the proposal subject matter in compliance with City policies, standards, directives, and trade agreement obligations, and with any adjustments the City determines necessary. An effective implementation process ensures that the result demonstrates and achieves value for Edmontonians, incorporates clear and sustainable risk allocation, and furthers the public interest. A transparent and accountable implementation process also ensures stakeholder support and minimises the potential for loss or legal challenge.

In the proposal implementation stage, the City, in its discretion, may enter into one or more agreements that allow the supplier a role in delivering the proposal subject matter, procure the proposal subject matter through a competitive procurement process or alternative procurement methods, or abandon the proposal. The City will need to balance considerations of fairness to other potential bidders should the City conduct a competitive procurement in determining whether the supplier will be permitted to submit a bid.

Appendix 3

Contracting with Parties in Dispute Process

1. Recommendation to review dispute history

The Legal Services Branch will recommend to the Branch Manager of the area overseeing the most recently executed or current contract with the supplier and the Director of Contract Management (the "Reviewers") that a supplier be reviewed for suspension under this Procedure.

The Legal Services Branch will make the recommendation for review on the basis that one or more recent contract(s) with the supplier involved disputes requiring the City to incur significant increased financial, operational, or legal cost due to disputes.

2. Evaluating dispute history

Upon receipt of the recommendation to review a supplier's dispute history, Legal Services will supply the Reviewers with any of the following information that is applicable to make a decision as to whether or not to suspend the supplier:

- 2.1. Prior suspensions of the supplier including the length and when they occurred;
- 2.2. Number of disputes that have arisen under the contract(s);
- 2.3. Nature of the disputes that arose under the contract(s), especially relating to quality concerns, failure to perform, or warranty issues;
- 2.4. Whether the disputes required a formal dispute process to resolve including:
 - the number of disputes in total
 - the number of disputes that went to a formal dispute process, and
 - the type of process
- 2.5. Total amount paid for experts relating to the disputes;
- 2.6. Total amount paid for external legal counsel to handle the disputes;
- 2.7. Total amount paid to third parties to render decisions in the dispute process (e.g. mediator, referee, arbitrator);
- 2.8. Number and cost of operational resources required to process and deal with the disputes;

- 2.9. For those disputes for which a third party decision has been received (e.g. judge, referee, arbitrator) that involved a monetary claim by the supplier, % of amount claimed by supplier compared to amount awarded ($\geq 50\%$);
- 2.10. For those disputes for which a third party decision has been received (e.g. judge, referee, arbitrator) that did or do not involve a monetary claim by the supplier, % primarily in favour of the City, % primarily in favour of the supplier, and % with mixed results;
- 2.11. Any further information deemed relevant to the decision.

3. Decision to suspend a supplier

After reviewing the dispute history of the supplier, the Reviewers will decide whether to suspend the supplier on the grounds that the City will be at risk of significantly increased financial, operational or legal costs in administering a subsequent contract with the supplier. The decision will include details as to whether the suspension relates to specific types of contracts or all contracts.

The length of the suspension to be applied will be at the sole discretion of the Reviewers based on the significance of the dispute history and extent of increased financial, operational, or legal cost. However, as a guideline only, the Reviewers may, in the alternative, give the following length of suspensions:

1st suspension = 1 year

2nd suspension = 2 years

3rd suspension = 5 years

4. Appeal procedure

A supplier who has been suspended under this process may appeal the decision to the Supplier Management Appeal Committee.

The City's decision may be provided to the supplier by either registered mail to the registered corporate office or as provided in the notice provisions of the most recent contract with the supplier and is deemed received within seven (7) calendar days.

The same definitions and standards as provided pursuant to the Manage Supplier Performance Procedure under the Contract Management Administrative Policy A1205 will apply.

The decision of the Contract Management Appeal Committee is final and binding. There is no further right to appeal within the City or the courts.

Appendix 4

Conflict of Interest after City Employment Process

1. Disclosure of Involvement

- 1.1. If an employee becomes aware of a former employee's involvement in a City procurement, that employee must notify their supervisor.
- 1.2. Supervisors who become aware of a former employee's involvement in a City procurement must:
 - 1.2.1. Determine if the procurement is related to the work the former employee performed for the City; and
 - 1.2.2. If the work is related, notify the Branch Manager, CPSS of the former employee's involvement.
- 1.3. If the Branch Manager, CPSS, becomes aware of the involvement of a former employee in a City procurement, either during the procurement phase 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. The Branch Manager, CPSS will review and evaluate the description of the perceived conflict of interest and determine if the matter is referred to the Procurement Conflict of Interest Advisory Group.
- 2.2. Upon receipt of a matter referred, the Procurement Conflict of Interest Advisory Group will review and provide recommendations as to whether a conflict of interest or unfair competitive advantage exists.
- 2.3. When providing recommendations, the Procurement Conflict of Interest Advisory Group will consider any principles provided in applicable City policies, directives, procedures and guidelines, as well as the following:
 - 2.3.1. The former employee's previous roles and position with the City;
 - 2.3.2. The former employee's direct involvement with the relevant or similar goods, services, construction, or intellectual property rights being procured by the City, or the planning or execution of the procurement process and documents while an employee of the City; and

- 2.3.3.** The former employee's relationship with departments, branches, and their employees or agents that are associated with the contract being procured by the City.
- 2.4.** 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 former employee, the Procurement Conflict of Interest Advisory Group will provide recommendations to the Branch Manager, CPSS, as to whether the conflict of interest or unfair competitive advantage can be mitigated or managed with the bidder.
- 2.5.** The Procurement Conflict of Interest Advisory Group will, along with its recommendations, provide written reasons in support of all recommendations made, the record of which will be retained by the Branch Manager, CPSS in accordance with the applicable City records retention schedule.

3. Addressing Conflicts of Interest

- 3.1.** The Branch Manager, CPSS will:
 - 3.1.1.** Decide that no conflict of interest or unfair competitive advantage exists;
 - 3.1.2.** If a conflict of interest or unfair competitive advantage exists, implement mitigation strategies to address the conflict or unfair competitive advantage;
 - 3.1.3.** If a conflict of interest or unfair competitive advantage exists, disqualify the applicable bidder from the City procurement, or take steps to terminate the applicable contract; or
 - 3.1.4.** If a conflict of interest or unfair competitive advantage exists, take any other measures as may be appropriate.

Appendix 5

Conflict of Interest of Employees Participating in City Procurements Process

1. Disclosure Procedure

- 1.1. All members of a City evaluation committee must acknowledge or sign the Evaluation Committee Member Obligations Acknowledgement form prior to the closing of the sourcing event.
- 1.2. If an evaluation committee member has or had (within the last 12 months) a personal relationship, a financial or controlling interest, or a former employment relationship with a bidder whose bid is under evaluation, the employee must notify their supervisor and CPSS staff responsible for the procurement and must not participate in the evaluation process, until reviewed and deemed permitted by the Branch Manager, CPSS.
- 1.3. Supervisors who become aware of an evaluation committee member who has or had (within the last 12 months) a personal relationship, a financial or controlling interest, or a former employment relationship with a bidder whose bid is under evaluation must notify the Branch Manager, CPSS.
- 1.4. If the Branch Manager, CPSS, becomes aware that an employee has or had (within the last 12 months) a personal relationship, a financial or controlling interest, or a former employment relationship with the bidder, 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. The Branch Manager, CPSS will review and evaluate the description of the perceived conflict of interest and determine if the matter is referred to the Procurement Conflict of Interest Advisory Group.
- 2.2. Upon receipt of a matter referred, 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.
- 2.3. When providing recommendations, the Procurement Conflict of Interest Advisory Group will consider any principles provided in applicable City policies, directives, procedures and guidelines, as well as the following:
 - 2.3.1. The employee's interest in, or role or relationship with the bidder;

- 2.3.2.** The nature and frequency of the employee's communication and interactions with the bidder or members of the bidder's team, if any, while the employee is in possession of, or has access to, relevant materials and/or confidential information in relation to the procurement in question; and
- 2.3.3.** The employee's perspective regarding their involvement in the planning, preparation, evaluation and 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.
- 2.4.** 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 to the Branch Manager, CPSS, as to whether the conflict of interest can be mitigated or managed.
- 2.5.** The Procurement Conflict of Interest Advisory Group will, along with its recommendations, provide written reasons in support of its recommendations, the record of which will be retained by the Branch Manager, CPSS in accordance with the applicable City records retention schedule.

3. Addressing Conflicts of Interest

- 3.1.** The Branch Manager, CPSS will:
 - 3.1.1.** Decide that no conflict of interest or unfair competitive advantage exists;
 - 3.1.2.** If a conflict of interest or unfair competitive advantage exists, implement mitigation strategies to address the conflict or unfair competitive advantage;
 - 3.1.3.** If a conflict of interest or unfair competitive advantage exists, recuse the City employee from the evaluation of the competitive procurement opportunity, disqualify the applicable bidder from the City procurement, or take steps to terminate the applicable contract; or
 - 3.1.4.** If a conflict of interest or unfair competitive advantage exists, take any other measures as may be appropriate.

Appendix 6

Conflict of Interest Related to Members of Civic Agencies Process

1. Disclosure of Involvement

- 1.1. If an employee becomes aware of a member of a Civic Agency or an Administrative Advisory Committee's involvement in a City procurement, that employee must notify their supervisor.
- 1.2. Supervisors who are aware of a member of a Civic Agency or an Administrative Advisory Committee participating in a procurement process as a bidder or a member of the bidder's proposed team must:
 - 1.2.1. Determine if the member of the board, agency or committee is in possession of, or has access to, relevant materials and/or confidential information that would provide an unfair competitive advantage to the bidder; and
 - 1.2.2. Determine if the procurement is related to the work the member of the Civic Agency or Administrative Advisory Committee has performed or is currently performing for the Civic Agency or Administrative Advisory Committee.
- 1.3. If the member has access to such relevant materials and/or confidential information or is performing related work for the Civic Agency or Administrative Advisory Committee, the Supervisor must notify the Branch Manager, CPSS immediately.
- 1.4. If the Branch Manager, CPSS, becomes aware of a member of a Civic Agency or an Administrative Advisory Committee who participates in a procurement process as a bidder or a member of the bidder's proposed team and it may result in a conflict of interest or unfair competitive advantage that cannot be mitigated, 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. The Branch Manager, CPSS will review and evaluate the description of the perceived conflict of interest and determine if the matter is referred to the Procurement Conflict of Interest Advisory Group.

- 2.2.** Upon receipt of a matter referred, the Procurement Conflict of Interest Advisory Group will review and provide recommendations as to whether a conflict of interest or unfair competitive advantage exists.
- 2.3.** When providing recommendations, the Procurement Conflict of Interest Advisory Group will consider any principles provided in applicable City policies, directives, procedures and guidelines, as well as the following:
 - 2.3.1.** The member's interest, roles or relationship with the bidder;
 - 2.3.2.** The member's direct involvement with the relevant or similar goods, services, construction or intellectual property rights being procured by the City, and the planning, preparation or execution of the procurement process and documents;
 - 2.3.3.** If the member is in possession of, or has access to, relevant materials and/or confidential information in relation to the procurement in question; and
 - 2.3.4.** The member's relationship with departments, branches, and their employees or agents that are associated with the contract being procured by the City.
- 2.4.** If the Procurement Conflict of Interest Advisory Group determines that a conflict of interest or unfair competitive advantage exists with regard to the member of a Civic Agency or an Administrative Advisory Committee in the evaluation of the bidder's submission, the Procurement Conflict of Interest Advisory Group will provide recommendations to the Branch Manager, CPSS, as to whether the conflict of interest or unfair competitive advantage can be mitigated or managed with respect to the procurement.
- 2.5.** The Procurement Conflict of Interest Advisory Group will, along with its recommendations, provide written reasons in support of all recommendations made, the record of which will be retained by the Branch Manager, CPSS in accordance with the applicable City records retention schedule.

3. Addressing Conflicts of Interest

- 3.1.** The Branch Manager, CPSS will:
 - 3.1.1.** Decide that no conflict of interest or unfair competitive advantage exists;
 - 3.1.2.** If a conflict of interest or unfair competitive advantage exists, implement mitigation strategies to address the conflict or unfair competitive advantage;

- 3.1.3.** If a conflict of interest or unfair competitive advantage exists, disqualify the applicable bidder from the City procurement, or take steps to terminate the applicable contract; or
- 3.1.4.** If a conflict of interest or unfair competitive advantage exists, take any other measures as may be appropriate.

Appendix 7

Retainer of Lawyers and Experts for Legal Purposes Process

1. Preparing and Negotiating the Contract

- 1.1. A Legal Services Branch lawyer or adjuster must develop a contract scope for the procurement. The contract scope consists of the work the City requires the supplier to perform and will be incorporated into the appropriate contract or retainer later in this process.
- 1.2. The Legal Services Branch lawyer or adjuster will identify a proposed supplier to provide the services outlined in the contract scope.
- 1.3. The Legal Services Branch lawyer or adjuster will request a quotation from the proposed supplier.
- 1.4. The Legal Services Branch lawyer or adjuster will complete the Retainer of Lawyers and Experts for Legal Purposes Approval Form and have the required delegated authority sign it.

For retainers where the business area is paying the contract fees and uninsured claims, the Legal Services Branch lawyer or adjuster must also get the approval of the appropriate business area expenditure officer.

- 1.5. In cases where the City is retaining a lawyer, the City and the supplier will agree upon the form of retainer to be used.
- 1.6. In cases where the City is retaining an expert, the Legal Services Branch lawyer or adjuster will provide the proposed supplier with the appropriate City standard retainer contract for signature. There are three City standard retainer contracts for hiring experts for legal purposes:
 - 1.6.1. Simple expert retainer (primarily for non-commercial entities or small retainers where a simple form agreement is appropriate, e.g., medical doctors);
 - 1.6.2. Intermediate expert retainer (primarily for commercial entities or modest retainers where a modest form of agreement is appropriate, e.g., small businesses); and
 - 1.6.3. Complex expert retainer (primarily for sophisticated commercial entities or larger retainers, e.g., national accounting firms).
- 1.7. In cases where the City is retaining an expert, if the proposed supplier proposes amendments to the City standard retainer contract, or proposes an alternative

retainer contract, a Legal Services Branch lawyer must review the proposed amendments or alternative retainer contract prior to any acceptance of any such proposed amendments or alternative retainer contract.

- 1.8.** Notwithstanding the Manage, Monitor, and Ensure Contract Compliance Procedure, prior to the execution of the retainer contract, the Legal Services Branch lawyer or adjuster must, when a retainer is valued at \$25,000 or greater, complete a contract management plan using the Retainer of Lawyers and Experts for Legal Purposes Contract Management Plan Template.

The contract management plan must be approved by the City Solicitor or a Legal Services Branch Director.

While not required for retainer contracts below \$25,000, Legal Services Branch lawyers and adjusters are encouraged to complete a contract management plan. Contract management plans for retainer contracts below \$25,000 do not need to be approved by the City Solicitor or a Legal Services Branch Director.

2. Execution of the Contract

- 2.1.** After the City and the proposed supplier have concluded any necessary negotiations, and any necessary legal review, the Legal Services Branch lawyer or adjuster will ensure that the proposed supplier and the City delegated authority sign the retainer contract.
- 2.2.** The Legal Services Branch lawyer or adjuster will forward a copy of the signed retainer contract to the Office of the City Clerk to be sealed and kept for safekeeping unless highly confidential or sensitive.

The Legal Services Branch lawyer or adjuster must ensure that the copy of the signed retainer contract sent to the Office of the City Clerk is accompanied by a memorandum indicating that the signed retainer contract is privileged.

- 2.3.** The Legal Services Branch lawyer or adjuster will manage the contract in accordance with the approved contract management plan, if applicable.

3. Amendments to the Contract

- 3.1.** For greater certainty, the Contract Amendments Procedure does not apply to retainers procured under the Retainer of Lawyers and Experts for Legal Purposes section, which will instead be amended in accordance with the following:
 - 3.1.1.** Retainers may be amended by entering into an amending agreement signed by the delegated authority and the supplier.

- 3.1.2.** Prior to executing the amending agreement, the Legal Services Branch lawyer or adjuster must complete the Retainer of Lawyers and Experts for Legal Purposes Approval Form and have the required delegated authority sign it.

For retainers where the business area is paying the contract fees and uninsured claims, the Legal Services Branch lawyer or adjuster must also get the approval of the appropriate business area expenditure officer. The contract management plan should be updated, if applicable, but the updated version does not need to be approved.