

EDMONTON

ADMINISTRATIVE PROCEDURE



TITLE

CONTRACTING WITH PARTIES WHO HAVE A DISPUTE WITH THE CITY

NUMBER

A1428A

DEPARTMENT

CORPORATE SERVICES DEPARTMENT

DELEGATED AUTHORITY

CITY SOLICITOR, LAW BRANCH

CONTACT

**ADMINISTRATIVE SERVICES CO-ORDINATOR
496-7252**

DEFINITIONS

DATE

AUGUST 1, 2006

Associate or Affiliate - Shall have the same meaning as defined in the *Business Corporations Act*, R.S.A. 2000, c. B-9.

Contract - Is any contract or purchase order for the provision or acquisition of goods, services or construction that an employee is contemplating making on behalf of the City, except for servicing agreements and contracts relating to the provision of utilities.

Dispute - Is a dispute involving the City and a Party, who is adverse in interest, which dispute is or may become the subject of litigation, or other dispute resolution proceeding.

Dispute Check - Is an inquiry to determine whether a Party is in a Dispute with the City.

Dispute List - Is a list of Parties with whom the City has a Dispute which is maintained by Law Branch. The Dispute List may also contain Associates and Affiliates of Parties if appropriate.

Party - Is any person, firm or corporation seeking to enter into a Contract with the City.

GUIDELINES

Prior to making a Contract with a Party, advice shall be sought from Law Branch as to whether the City has a Dispute with the Party or an Associate or Affiliate of the Party.

Contracts with Parties may be made if the Law Branch advises that:

1. The City does not have a Dispute with the Party or an Associate or Affiliate of the Party; or
2. The City has a Dispute with the Party or an Associate or Affiliate of the Party but making the Contract would not adversely affect the City's interest with respect to the Dispute; or
3. The City has a Dispute with the Party or an Associate or Affiliate of the Party and making the Contract would assist with resolving the Dispute.

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The approval of the City Manager or Committee of Council is required prior to making a Contract with a Party if the Law Branch advises that:

- The City has a Dispute with the Party or an Associate or Affiliate of the Party and entering into the Contract may adversely affect the City's interest with respect to the Dispute; or
- The City has a Dispute with the Party or an Associate or Affiliate of the Party and not making the Contract would assist in resolving the Dispute.

PROCEDURES

The Law Branch shall prepare and maintain a Dispute List.

Prior to making a Contract, a Dispute Check must be conducted by reviewing the Dispute List to determine whether the City has a Dispute with the Party or an Affiliate or Associate of the Party.

If the Party or an Affiliate or Associate of the Party is noted on the dispute List, then advice as to the nature of the Dispute shall be requested from Law Branch by providing the following information to the Administrative Co-ordinator of Law Branch:

- Name of the Party and any known Associates or Affiliates
- Term of the Contract (start and end date if known)
- Nature of the Contract (services, construction, products supply, etc)
- Nature of how the Contract was awarded (Tender, RFP or Sole Source)

The Law Branch will provide the following in reply:

- A brief summary of the circumstances of the Dispute between the City and the Party (or Affiliate or Associate); and
- Advice that:
 - (a) Making the Contract with the Party may adversely affect the City's interest with respect to the Dispute; or
 - (b) Making the Contract with the Party would not adversely affect the City's interest with respect to the Dispute; or
 - (c) Not making the Contract with the Party at this time will assist in resolving the Dispute with the Party; or
 - (d) Making the Contract with the Party at this time will assist in resolving the Dispute with the Party.

The Contract may be made without further approval if the advice provided by Law Branch is either of the following:

- (a) Making the Contract with the Party would not adversely affect the City's interest with respect to the Dispute; or
- (b) Making the Contract with the Party at this time will assist in resolving the Dispute with the Party.

The Contract must be approved by the City Manager or Committee of Council prior to the City making the Contract if the advice of the Law Branch is either:

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- (a) Making the Contract with the Party may adversely affect the City's interest with respect to the Dispute; or
- (b) Not Making the Contract with the Party at this time will assist in resolving the Dispute with the Party.

The City Manager may refer a Contract to Committee of Council for approval if the City Manager deems that the Dispute is of such a nature as to be of interest to Committee of Council.

In seeking the approval of the City Manager or Committee of Council, the advice provided by Law Branch must be provided.