

**F-017 Procurement**

<b>Manual:</b>	CLH DSS Policies	<b>Section:</b>	General/Finance
<b>Original Date:</b>	June 01, 2019	<b>Next Review Date:</b>	June 01, 2022
<b>Approver:</b>	Dean Johnson	<b>Reviewer:</b>	Denise Henderson
<b>Title:</b>	Chief Executive Officer	<b>Title:</b>	Director of Finance

**POLICY:**

To ensure that publicly funded goods and services, including construction, consulting services and information technology are acquired through a process that is open, fair and transparent and seeks to achieve the best value for the funds expended.

**PURPOSE:**

To outline responsibilities through each stage of the procurement process.

**SCOPE:**

All employees, independent contractors, consultants, students, volunteers (hereafter referred to as Party).

**PROCEDURE:****PLANNING:**

CLH will undertake a planning process as follows related to the acquisition process. The following planning requirements will be addressed and documented for all procurement activities:

- Early identification of needs;
- Clear definition of requirements;
- Justification for the acquisition;
- Availability of necessary human, financial, technical and accommodation resources;
- Consideration of alternative ways to satisfy the needs and selection of the most appropriate procurement option;
- An estimate undertaken of the procurement value, and;
- Necessary authorization to proceed in accordance with the agency's delegation of authority.

**CONFLICT OF INTEREST:**

CLH will include in the procurement documents provisions that:

- Define conflict of interest to include situations or circumstances that could (a) give a vendor an unfair advantage during a procurement process; or (b) compromise the ability of a vendor to perform its contractual obligations
- Reserves the right of the agency to determine whether any situation or circumstance constitutes a conflict of interest;
- Requires prospective vendors to participate in a procurement process to declare any actual or potential conflict of interest;
- Reserves the right to disqualify prospective vendors from a procurement process due to conflict of interest;
- Requires vendors to avoid any conflict of interest during the performance of their contractual obligations;
- Requires vendors to disclose any actual or potential conflict of interest arising during the performance of a contract;
- Reserves the right to prescribe the manner in which a vendor should resolve a conflict of interest;
- Allows the termination of a contract where a vendor fails to disclose any actual or potential conflict of interest or fails to resolve its conflict of interest as directed by the agency, and;
- Allows the termination of a contract where a conflict of interest cannot be resolved.

**AUTHORITY SCHEDULES & THRESEHOLDS:**

The authority schedules and thresholds below are approved by the Board of Directors

**AUTHORITY SCHEDULE – CONSULTING SERVICES**

Procurement Method	Procurement Value	Authority
Invitational Competitive	\$0 up to but not including \$100,000	CEO
Open Competitive	Any Value	CEO
Non – Competitive*	\$0 up to but not including \$1,000,000	CEO
	\$1,000,000 or more	Board of Directors

\*Exemption – based only

**AUTHORITY SCHEDULE - GOODS, NON- CONSULTING SERVICES & CONSTRUCTION**

TOTAL PROCUREMENT VALUE	MEANS OF PROCUREMENT	Authority
\$0 - \$50	Petty cash –see FD026	Supervisor
\$0 - \$500	P-card if available otherwise Purchase Order(P.O)	Supervisor
\$500- \$2,500 To \$1200 To \$50,000	P card and P.O P.O P.O.	Manager Office Coordinators Facilities Manager/Directors
\$10,000 up to but not including \$100,000	Invitational competitive (min of three suppliers)	CEO
\$100,000 or more	Open competitive process	Board of Directors

When determining the value of procurement for purposes as outlined in this directive do not take into consideration applicable sales taxes.

**GUIDELINES FOR RECEIVING QUOTES AND/OR TENDER BIDS:**

1. For goods and services up to \$10,000 – 2 telephone quotes
2. \$10,000 - \$24,999 – three telephone quotes
3. \$25,000 - \$99,000 – minimum three (3) written quotes
4. over \$100,000 – open competitive tender process

**CONTRACTS UNDER \$100,000 -INFORMAL PROCESS**

- Whenever the financial costs or benefits from a contract are less than (\$100,000) or, when the contract does not obligate CLH for a period greater than five (5) years the contract is reviewed and approved by the CEO. Anything greater must be approved by the Board of Directors.
- The original signed contract is kept in a secure place at CLH's business office.
- Some months prior to the completion of the contract, the CEO or designate reviews and plans for the renewal

or tendering of the contract following the above procedure.

Prior to the commencement of any contract CLH ensures:

- Contracts are entered into when there is an advantage to CLH by doing so.
- A full range of potential arrangements is investigated before entering into an exclusive contract. See Tender/Quotation Request Form
- Legal assistance or advice is obtained if necessary for any non-standard clauses.
- All contracts entered into by CLH are reviewed and approved by the CEO or designate. Special authorization is required if the amount of the contract is over a certain limit or an unbudgeted expense. Only individuals with the appropriate level of authority can approve and sign a contract. See Contract Agreement
- As best practice, contractor must provide proof of liability insurance and WSIB coverage where appropriate.
- Each contract is witnessed, dated and embossed with CLH's corporate seal if required.
- CLH also ensures that a completed copy of the final contract is made available to all other signatories.
- The original signed contract is kept in a secure place at CLH's Finance department.
- All Purchase of Service contracts must meet CLH conflict of interest policy. CEO or designate reviews and plans for the renewal or tendering of the contract following the above procedure.
- At the minimum, each Purchase of Service contract entered into by CLH, shall provide the following information:
  - the nature of the service
  - the financial obligations agreed to
  - the period of time that the contract covers
  - the invoicing procedure, or a payment schedule
  - a termination clause
  - a table of contents regarding the negotiated work plan
  - authorization by CEO, Facilities Manager or Director of Finance on behalf of CLH

#### INFORMATION GATHERING:

Where results of informal supplier or product research are insufficient, formal processes such as a Request for Information (RFI) or Request for Expression of Interest (RFEI) may be used if warranted, taking into consideration the time and effort required to conduct them. See attached Tender/Quotation Request.

A response to RFI or RFEI must not be used to pre-qualify a potential supplier and must not influence the chances of the participating suppliers from becoming the successful proponent in any subsequent opportunity.

#### SUPPLIER PRE-QUALIFICATION:

Request for Supplier Qualification (RFSQ) enables information about the suppliers' capabilities and qualifications to be gathered in order to pre-qualify a supplier for an immediate product or service need or to identify qualified candidates in advance of expected future competitions.

#### POSTING COMPETITIVE PROCUREMENT DOCUMENTS

##### POST

Calls for open competitive procurements must be made through an electronic tendering system or website that is readily accessible by all Canadian suppliers.

#### TIMELINES FOR POSTING COMPETITIVE PROCUREMENTS:

Suppliers must be provided a minimum response time of 15 calendar days for procurement of goods and services valued at \$100,000 or more. For procurements of high complexity, risk and /or dollar value allow a minimum response time of 30 calendar days.

#### BID RECEIPT

Bid submission date and closing time must be clearly stated in competitive procurement documents. The closing date must be on a normal working day (Monday to Friday, excluding provincial and national holidays). Submissions that are delivered after the closing time must be returned unopened.

#### EVALUATION CRITERIA:

- Evaluation criteria is developed, reviewed and approved by the appropriate authority prior to commencement of the competitive procurement process.
- Competitive procurement documents clearly outline mandatory, rated and other criteria that will be used to evaluate submissions, including weight of each criterion.
- Mandatory criteria (e.g. Technical standards should be kept to a minimum to ensure that no bid is unnecessarily disqualified).
- Maximum justifiable weighting must be allocated to the price/cost component of the evaluation criteria.
- CLH will not discriminate or exercise preferential treatment in awarding a contract to a supplier as a result of a competitive procurement process.
- The evaluation criteria are to be altered only by means of addendum to the competitive procurement documents.
- CLH may request suppliers to provide alternative strategies or solutions as a part of their submission. Criteria to evaluate alternative strategies or solutions must be established prior to the commencement of the competitive procurement process. Alternative strategies or solutions must not be considered unless they are explicitly requested in the competitive procurement documents.

#### EVALUATION PROCESS DISCLOSURE:

- Competitive procurement documents must fully disclose the evaluation methodology and process to be used in assessing submissions, including the method of resolving tie score.
- Competitive procurement documents must state that submissions that do not meet the mandatory criteria will be disqualified.

#### EVALUATION TEAM:

- Competitive procurement processes require an evaluation team responsible for reviewing and rating the compliant bids.
- Evaluation team members are aware of the restrictions related to utilization and distribution of confidential and commercially sensitive information collected through the competitive procurement process and refrain from engaging in activities that may create or appear to create conflict of interest.
- Evaluation team members must sign a conflict-of-interest declaration and non-disclosure of confidential information agreement.

#### EVALUATION MATRIX:

- Each evaluation team member must complete an evaluation matrix, rating each of the submissions. Records of evaluation scores must be retained for audit purposes. See sample Evaluation Matrix.
- Evaluators must ensure that everything they say or write about submissions is fair, factual, and fully defensible.

#### WINNING BID:

The submission that receives the highest evaluation score and meets all mandatory requirements set out in the competitive procurement document must be declared the winning bid

#### BID DISPUTE RESOLUTION:

Competitive procurement documents must outline bid dispute resolution procedures to ensure that any dispute is handled in an ethical, fair, reasonable, and timely fashion. Bid dispute resolution procedures must comply with bid protest or dispute resolution procedures set out in the applicable trade agreements.

#### EXECUTING THE CONTRACT:

The agreement with the successful supplier must be formally defined in a signed written contract before the provision of supplying goods and services commences.

Where an immediate need exists for goods or services, and the contract cannot be finalized as described, an interim purchase order may be used. The justification of such decision must be documented and approved by the CEO. As well

a General Safety Work Permit must be signed. Please see attached.

#### ESTABLISHING THE CONTRACT:

The contract must be finalized using the form of agreement that was released with the procurement documents. In circumstances where an alternative procurement strategy has been used (i.e. form of agreement was not released with the procurement document), the agreement with the successful supplier must be defined formally in a signed written contract before the provision of supplying goods or services commences.

#### TERMINATION CLAUSES:

All contracts must include appropriate cancellation or termination clauses

When conducting complex procurements, consider whether use of contract clauses that permit cancellation or termination at critical project life-cycle stages.

#### TERM OF AGREEMENT MODIFICATIONS:

The term of the agreement and any options to extend the agreement must be set out in the competitive procurement documents. Approval by an appropriate authority must be obtained before executing any modifications to the term of the agreement.

Extending the term of agreement beyond that set out in the competitive procurement document amounts to non-competitive procurement where the extension affects the value and/or stated deliverables of procurement

#### CONTRACT AWARD NOTIFICATION:

For procurements valued at \$100,000 or more, post, in the same manner the procurement documents were posted, contract award notification. The notification must be posted after the agreement with the successful supplier is executed. Contract award notification must list the name of the successful supplier, agreement start and end dates, and any extension options.

#### SUPPLIER DEBRIEFING:

For procurements valued at \$100,000 or more all unsuccessful suppliers must be informed about their entitlement to a debriefing.

Unsuccessful suppliers have up to 60 calendar days following the date of the contract award notification to request a debriefing.

#### CONTRACT MANAGEMENT

- Payments are made in accordance with the provisions of the contract.
- All invoices contain detailed information( see payment processing policy)
- Overpayments must be recovered in a timely manner.
- Assignments must be properly documented.
- Supplier performance must be managed and documented; any performance issues must be addressed.
- Include a dispute resolution process in contracts.
- For services establish clear terms of reference for the assignment, The terms should include objectives, background, scope, constraints, staff responsibilities, tangible deliverables, timing, progress reporting, requirements and knowledge transfer requirements.
- Expense claims and reimbursement follow Broader Public Sector Expenses Directive.
- Ensure that expenses are claimed and reimbursed only where the contract explicitly provides for reimbursement of expenses.

#### DOCUMENTATION REQUIREMENTS:

All procurement and contract management documentation must be compiled by the Property Manager and retained for a minimum of seven years from the end of a contract as follows:-

- Copy of the procurement justification or business case;
- Information regarding all vendor consultations, including any requests for information, undertaken in the development of the procurement justification or business case or request for qualifications, quotations, proposals or tenders.
- Documentation that all required were obtained by the appropriate delegation of authority;
- Copies of all requests for qualifications, quotations, proposals or tenders used to qualify and select the vendor;

- For the successful vendor(s), conflict of interest declaration in accordance with this best practice;
- Information regarding any issues that arose during the procurement process, and how the issues were resolved;
- Information regarding all vendor debriefings;
- Copies of all contract award notifications;
- Copies of purchase order which outlines the scope of work including details such as make and model numbers, dimensions, drawings, materials and other descriptions.
- Copies of all approved contracts including which goods, services, or consulting services are to be provided and paid;
- Information and by the appropriate delegation of authority regarding all uses of any exceptions to the service provider's policy pertaining to the procurement of goods, services and consulting services;
- Justification for the use of any exception, the recipient of the contract, the date of award and the total contract value;
- Information regarding all changes to the terms and conditions of a contract, including any changes that resulted in an increase in the contract price;
- Information regarding the management of the vendor, including how the vendor's performance was monitored and managed and, where applicable, mechanisms used to transfer knowledge from the vendor to service provider staff;
- Information regarding all disputes or vendor complaints regarding the procurement and the resolution of the disputes or vendor complaints;
- Evidence of receipt of deliverables; and
- Detailed invoices that allow the assessment of the appropriateness and reasonableness of amounts billed.

#### EXCEPTIONS FROM COMPETITIVE PROCUREMENT

A competitive procurement process should be used to achieve optimum value for money. However, it is recognized that special circumstances may require use of a non-competitive procurement. Prior to commencement of non-competitive procurement, supporting documentation must be completed and approved by the CEO to ensure it is not being done to avoid competition between suppliers or to discriminate against suppliers.

A non-competitive procurement may be used in situations outlined in the exemption, exception, or non-application clauses of the Agreement on Internal Trade, or other trade agreement.

A non-competitive procurement may also be used where only one supplier is able to meet the requirements of a procurement – known as sole-source situations. Some examples of these situations would be for product compatibility, procurement of real property, for work to be performed on a leased building where work must be done by lessor, for the purchase of original works of art.

There are also exceptions known as single-source situations. One circumstance considered a single-source situation would be where an unforeseeable situation of urgency exists and goods or services cannot be obtained in time by means of open procurement – note, failure to plan and allow sufficient time for a competitive procurement process does not constitute an unforeseeable situation of urgency.

#### *Procurement Records Retention*

*For reporting and auditing purposes, all procurement documentation, as well as other pertinent information must be retained in a recoverable form for a period of seven years.*

#### **RESPONSIBILITIES:**

Management will ensure that the procurement policies and guidelines are followed.

#### **COMMUNICATION:**

This policy is to be communicated with all CLH staff and posted on the CLH website.

**EVALUATION:**

Facilities Manager along with the Procurement Coordinator will ensure that this policy is updated and aligned with current agency practices annually

**REFERENCE:**

Broader Public Sector Accountability Act, 2010 – Broader Public Sector Procurement Directive April 1, 2011 –see directive for application & scope

Contract law,

Law of competitive processes,

Privacy legislation,

Accessibility legislation and Agreement on Internal Trade.

Purchase Cards and PCard Policy.