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**Subject:       Tendering and Procurement Policy**

**Policy:         1010**

**Covers:        Bidders, City Council, and all City of Brandon Employees**

**Effective:     July 19, 2016**

**Revised:      February 3, 2020**

**Purpose:**

1. To promote the most cost effective and efficient use of City funds and resources by acquiring Goods, Services, or Construction at the optimum quality, quantity, price, delivery, and performance.
2. To procure Goods, Services, or Construction only as approved in budgets unless otherwise authorized by Council, in the case of an Emergency Purchase, or if required by law.
3. To encourage a Competitive Bid Process on all Procurements and Disposals where practical.
4. To ensure compliance with *The Municipal Act (Manitoba)* and other relevant legislation (including legislation adopting trade agreements), municipal by-laws and resolutions.
5. To consider Environmental Factors, Fair Trade, and Ethical Procurement where practical.

*\*Where there is any conflict or inconsistency between the policies and procedures adopted by the City of Brandon and the terms of a Collective Agreement entered into and adopted by the City of Brandon, and/or the provisions contained within a statute or regulation of the Government of Canada and/or the Province of Manitoba and/or a by-law of the City of Brandon, the Collective Agreement or the Federal or Provincial statute or regulation or by-law of the City of Brandon shall supersede such policies or procedures adopted by the City of Brandon.*

## DEFINITIONS

**Addenda:** Written correspondence issued by Procurement Services in order to provide notification of a proposed change or explanation.

**Authorized Personnel:** A City employee who has been delegated signing authority or oversees a Procurement project, or an individual/firm under Contract who has been designated as the Contract Administrator.

**Best Evaluated Bid:** The Bid meeting Specifications that is evaluated as offering the best value (rated the highest) in accordance with the Evaluation Criteria for Request for Proposals or Request for Expression of Interest.

**Best Value:** The overall cost which is expected to provide the maximum benefit to the City. The optimal balance of performance and cost determined in accordance with the Evaluation Criteria.

**Bidder:** Includes but is not limited to vendor, supplier, firm, contractor, architect, consultant, proponent, or tenderer.

**Bid Form:** Standard form that may be included in a Bid Opportunity in order for Bidders to submit pricing and contact details required for a Bid Submission.

**Bid Opportunity:** A formal request issued for the acquisition of Goods, Services, or Construction.

**Bid Security:** Surety bond or other financial instrument submitted by a Bidder to the City, upon request, which obligates the Bidder to honour their submitted Bid or forfeit the Bid Security value which shall be a minimum of 10% of the total value of the Bid or a fixed dollar amount as determined by the Procurement Manager.

**Bid Solicitation:** A formal request for Bids that may be in the form of an Invitation to Tender, Request for Quotation, Request for Proposal, Price Request, Firm Price List, Sole Source, For Sale by Tender/Disposal, Request for Information, Request for Expression of Interest, or any other form determined appropriate by the Procurement Manager.

**Bid/Bid Submission:** An offer from a Bidder in response to a Bid Solicitation.

**Bidder Pre-Qualification:** The screening of potential Bidders on factors such as, but not limited to, experience, ability, past performance, and financial capability in order to develop a list of qualified Bidders who will receive the Bid Solicitation.

**Bonding:** Requirement for various types of security such as bid bond, performance bond, labour and materials bond, or other financial security that may be required as a means of ensuring the successful Bidder executes the Contract providing financial security for the City.

**City:** The Municipal Corporation of the City of Brandon.

**Closing Time:** The date and time set forth within the Bid Solicitation for the receipt of Bids.

**Competitive Bid Process:** A formal process whereby Procurement Services solicits Bids to facilitate the acquisition of Goods, Services, or Construction in response to a department's need or the User Department issues an Invitational Bid Opportunity.

**Compliant Bid:** A Bid that meets all terms and conditions imposed within all documents applicable to a Bid Opportunity.

**Conflict of Interest:** A situation in which a person is in a position, whether perceived or real, to derive personal benefit from actions or decisions made in their official capacity.

**Construction:** Construction, re-construction, demolition, or repair, of a building, structure, or civil engineering work, which may include site preparation, drilling, and the supply and installation of products/materials.

**Contract:** Any formal agreement for the supply of Goods, Services, or Construction including a Contract arising out of a Bid Opportunity.

**Contract Administrator:** The individual who administers or oversees Contracts to acquire Goods, Services, or Construction. Only Authorized Personnel can be named as a Contract Administrator. May also be referred to as Project Manager.

**Council:** The Council of the City of Brandon.

**Director of Finance:** The City employee holding the title of Director of Finance or designate.

**Disposal:** Disposal of City assets (excluding real estate or other interests in land) that are no longer of use to the City.

**Emergency Purchase:** A situation where immediate acquisition of Goods, Services, or Construction is required to protect the environment, the life, safety, health and/or welfare of the general public, or property of the residents of the City, or to prevent serious damage, disruption of work, or to restore or to maintain essential service to a minimum level.

**Environmental Factors:** Those aspects or features of a Procurement which could reasonably be anticipated to have an impact, positive or negative, on human health or the integrity of natural ecosystems.

**Ethical Procurement:** Promotion of good labour and environmental standards in supply chain.

**Evaluation Committee:** A representative committee pre-selected to evaluate and rate Bid Submissions based on Evaluation Criteria.

**Evaluation Criteria:** Specific and measurable pre-determined matrix with weightings created in order to evaluate Bid Submissions.

**Fair Trade:** When producers in developing countries obtain a fair price for their products so as to reduce poverty, support the ethical treatment of workers and farmers, and promote ethically sustainable practices.

**Goods:** Materials, equipment, fixtures, and structures to be delivered, installed, or constructed.

**Instructions to Bidders:** A component of the bidding requirements that sets forth specific instructions to the Bidders on procedures, explanations, disclaimers, and other necessary information in the preparation of a Bid Submission.

**Invitational Bid Opportunity:** Bid Solicitation (price request) issued by a User Department for an item with a budget between \$1,000.00 up to and including \$5,000.00.

**Lowest Evaluated Bid:** The low Bid meeting Specifications in accordance with the Evaluation Criteria for Tenders, Quotations, or Price Requests.

**Open Competition:** Publically advertised Bid Opportunity where Bidders are able to provide a Bid Submission.

**Procurement:** The acquisition of Goods, Services, or Construction, including rentals and leases.

**Procurement Manager:** The City employee holding the title of Procurement Manager or designate.

**Procurement Services:** The Procurement Services section of the Finance Department for the City.

**Purchase Order (P.O.):** A document that confirms the terms and conditions of a contractual relationship and obligations between a vendor and the City.

**Services:** Any type of service provided, including but not limited to, labour, Construction, maintenance, professional, engineering, architectural, and consulting.

**Sole Source:** A Procurement decision whereby the acquisition of Goods, Services, or Construction are directed to the only source available that meets the requirements of the City.

**Specification:** A clear, complete, and precise description of the characteristics of the Goods, Services, or Construction required.

**Supplemental Conditions:** Provisions in a Bid Opportunity to establish specific requirements relevant only to that opportunity.

**Terms of Reference/Conditions:** The objectives, scope and/or deliverables of a Bid Opportunity.

**Total Bid Price:** Price listed on the Bid Form specifying the total cost for the Bid Opportunity including but not limited to shipping, taxes, and other extenuating costs. Also known as total tender amount.

**Two-Envelope Process:** A process whereby each proponent must submit qualitative and technical information in a sealed envelope (envelope one) and the pricing information in a second sealed envelope (envelope two).

**User Department:** City department initiating the acquisition.

## POLICY

### 1. Process Integrity

In order to maintain the integrity of the Procurement process and to protect the interests of the City, the public, and persons participating in the Procurement process, the following shall be adhered to:

- a. **Open Process:** The needs of the User Department are clearly communicated in the Bid Opportunity. The method of evaluating the Bid and the Evaluation Criteria are provided to Bidders at the outset of the Bid Solicitation process. The method and format of submitting Bids is addressed in the Bid Solicitation document.
- b. **Fairness:** Utilize standard documents (Instructions to Bidders, Terms of Reference/Conditions, Supplemental Conditions and Bid Forms) to ensure consistency of content and format within documents issued by the City. Specify clearly all details regarding the Closing Time of all Bid Solicitation processes and apply the rules of Bid acceptance consistently. Treat all Bidders and Bid Submissions equally and without bias or favouritism at all times.
- c. **Open Competition:** Develop Specifications and Terms of Reference that whenever possible are not restrictive and allow for Open Competition. Advertise the competitive Bid Opportunities electronically where practicable to further promote competition.
- d. **Accountability:** Ensure that all Bids are kept secure prior to the Closing Time, during the evaluation period, and following Contract award. Handle all proprietary information and Bids submitted in confidence in accordance with the Freedom of Information and Protection of Privacy Act (FIPPA). Ensure that Requests for Proposals (RFP's) are evaluated by an Evaluation Committee to allow for various perspectives and opinions when reviewing and evaluating proposals prior to Contract award. Ensure that all Bids, final rating results, and related supporting documentation are kept on file in accordance with *The Municipal Act's* Retention Requirements for future reference, audit, or examination. Ensure that Procurement policies and procedures are reviewed on a regular basis.
- e. **Conflict of Interest:** No elected official or employee of the City shall knowingly cause or permit anything to be done or communicated to anyone which could cause any potential Bidder to have an unfair advantage or disadvantage in obtaining a Contract for supply of Goods, Services, or Construction to the City.
- f. **Local Preference:** In accordance with Federal Trade Agreements, there will be no local preference for the acquisition of Goods, Services, or Construction. The City believes in a fair, open, and transparent Procurement process. All Bidders, regardless of their location, are permitted to compete solely on the basis of their ability to provide Best Value.
- g. **Obligations and Duties:** To comply with public sector Procurement rules, the City must abide by the following duties which create specific obligations that must be adhered to:
  - i. Duty of disclosure;
  - ii. Duty to award as tendered;
  - iii. Duty to reject non-compliant bids; and
  - iv. Duty of fairness.

## 2. **Bid Solicitation Methods**

### a. **Invitation to Tender (ITT)**

- i. Solicitation issued by Procurement Services used to acquire complex Goods, Services, or Construction with a budget exceeding \$10,000 or when requirements/Specifications are well-defined and the terms of the Contract are clear;
- ii. Deviations from any Specifications are not allowed without amending through Addenda;
- iii. Associated risks may result in a requirement for the provision of Bid Security;
- iv. Closing Time for receipt of Bid Submissions is 2:00:00 p.m. local Brandon time with a public opening held after that time in the Council Chambers; and
- v. Basis for the award is to the Lowest Evaluated Bid.

### b. **Request for Quotation (RFQ)**

- i. Solicitation issued by Procurement Services used to procure simple/smaller Goods, Services, or Construction valued with a budget between \$1,000 up to and including \$50,000;
- ii. Typically, low dollar value, low complexity, and low risk to the City;
- iii. Deviations from mandatory Specifications are not allowed without amending through Addenda;
- iv. Deviations from preferred Specifications may be allowed;
- v. Closing Time for receipt of Bid Submissions is 5:00:00 p.m. local Brandon time. Bids are opened privately in the presence of a minimum of two (2) City employees; and
- vi. Basis for award is to the Lowest Evaluated Bid.

### c. **Request for Proposal (RFP)**

- i. Solicitation issued by Procurement Services used to procure complex Goods, Services, or Construction where Bidders are assessed on Evaluation Criteria;
- ii. Dollar limits do not apply;
- iii. Used when Specifications may not be known and City is seeking solutions from Bidders;
- iv. Closing Time for receipt of Bid Submissions is 5:00:00 p.m. local Brandon time. Bids are opened privately in the presence of a minimum of two (2) City employees;
- v. Price may not be the primary award criteria;
- vi. The City may elect to use the Two-Envelope Process for Bid Submissions;
- vii. The City reserves the right to establish selection criteria which may include a short-listing process, qualifying or minimum scores, required presentations or demonstrations, interviews or references, and their weighting and impact on the eligibility or ranking of Bidders;
- viii. The Evaluation Committee will achieve consensus scoring and will recommend the proponent offering the Best Value; and
- ix. Basis for award is to the Best Evaluated Bid.

### d. **Price Request**

- i. Solicitation issued by Procurement Services or a User Department to obtain pricing for low dollar value acquisitions with a budget between \$1,000 up to and including \$5,000;
- ii. Typically, are not publically advertised. An Invitational Bid Opportunity is sent to a minimum of three (3) Bidders;
- iii. Closing Time for receipt of Bid Submissions is 5:00:00 p.m. local Brandon time. Bids opened privately by Procurement Services or the User Department; and
- iv. Basis for award is to the Lowest Evaluated Bid.

**e. Firm Price List**

- i. Request issued by Procurement Services to obtain rates for Goods, Services, or Construction to be used on a short term basis only;
- ii. Pricing may be submitted for hourly, weekly, or monthly rates;
- iii. Closing Time for receipt of Bid Submissions is 5:00:00 p.m. local Brandon time. Bid Submissions are opened privately in the presence of a minimum of two (2) City employees;
- iv. No award is made. A list of Bidders' pricing is provided internally for use on an "as required" basis; and
- v. Firm price list may be made available for viewing by a Bidder for a specified project upon written request to Procurement Services.

**f. Sole Source**

- i. Applied in circumstances where sources of supply are restricted to the extent that there is not effective price competition, or consideration of substitutes is precluded due to any of the following:
  1. One available supplier that meets the requirements;
  2. Where there is a patent, copyright, or exclusive license or distributor;
  3. Components or replacement parts for which there is no substitute;
  4. Standardization/compatibility with existing product, facility, or service is required and has been determined to be operationally and economically beneficial to the City; or
  5. Emergency Purchase required due to the immediate need and time constraints whereby normal procurement methods cannot be followed;
- ii. No price limit is in effect; and
- iii. An Invitational Bid Opportunity may be issued to confirm pricing and acquisition details.

**g. For Sale by Tender/Disposal**

- i. Solicitation issued by Procurement Services to dispose of surplus/obsolete vehicles, furniture, and equipment;
- ii. Detailed information on the item/units will be listed in the Bid Solicitation;
- iii. Closing Time for receipt of Bid Submissions is 5:00:00 p.m. local Brandon time. Bids are opened privately in the presence of a minimum of two (2) City employees;
- iv. The City may set a reserve Bid for the item/unit;
- v. Basis of award is to the highest Bidder(s);
- vi. Payment is accepted by guaranteed funds (cash, debit, certified cheque, or money order);
- vii. Successful Bidder(s) will be provided with a bill of sale outlining their acquisition; and
- viii. Successful Bidder(s) will be required to sign a release of responsibility prior to the item(s) being released.

**h. Request for Information (RFI)**

- i. Publically advertised request issued by Procurement Services as a general market research tool to determine what Goods, Services, or Construction are available to meet operational needs and identify acquisition strategies from potential Bidders;
- ii. Not a Bid Solicitation or Bidder Pre-Qualification tool;
- iii. Intent is to source technical data, budget information, and options for execution of a follow-up Bid Opportunity; and
- iv. Closing Time for receipt of Bid Submissions is 5:00:00 p.m. local Brandon time. Bid

Submissions are opened privately in the presence of a minimum of two (2) City employees.

i. **Request for Expression of Interest (REOI)**

- i. Publically advertised request issued by Procurement Services to determine interest from potential Bidders;
- ii. May be used as a pre-condition to submitting a Bid or as a Bidder Pre-Qualification process;
- iii. Intent is to create a short-list of Bidders who will receive a subsequent private Bid Opportunity; and
- iv. Closing Time for receipt of Bid Submissions is 5:00:00 p.m. local Brandon time. Bid Submissions are opened privately in the presence of a minimum of two (2) City employees.

j. **Unsolicited Bid**

- i. The City may receive correspondence from individuals wishing to acquire surplus or obsolete items that have not been advertised as for sale; and
- ii. Unsolicited Bids will be reviewed by the User Department and Procurement Services to determine if it is in the City's best interest to accept the offer;
- iii. The Bidder will be provided with a bill of sale outlining their acquisition; and
- iv. The Bidder will be required to sign a release of responsibility prior to the item(s) being released.

**3. Post Award Required Documentation**

a. **Insurance and Risk Management**

The Contract Administrator shall request from Bidders and/or contractors providing Goods, Services, or Construction to the City a Certificate of Insurance. The certificate shall be in a form satisfactory to Risk Management prior to the commencement of any work being performed, for no less than the minimum amounts stated in the Bid Opportunity and in force for the entire Contract period and subsequent warranty period.

The Contract Administrator must ensure that all documentation has been received prior to contacting the contractor to commence the work and that the Certificate has been sent to the City's Records Department to be filed electronically in the Procurement File.

The City of Brandon shall be:

- i. Added as an "Additional Insured";
- ii. Indemnified from any and all claims, demands, losses, costs or damages resulting from the performance of a Bidder's obligation under Contract.

All Bid Solicitation documents shall clearly indicate insurance requirements to be provided by the successful Bidder/contractor.

The minimum insurance required by the City of Brandon, as applicable to the specific Bid Opportunity, shall be:

iii. **Commercial General Liability Insurance**

Broad form Commercial General Liability policy for a limit of not less than \$2,000,000 per occurrence basis with respect to third party liability claims for bodily injury,

property damage, and personal injury. This policy may be required to include such endorsements as: Premises and Operation Liability, Blanket Contractual Liability, Products and Completed Operations, Tenant's Legal Liability, Non Owned Automobile Liability, Owner's and Contractor's Protective Liability, Contingent Employers' Liability, Breach of Conditions clause, Aircraft and Watercraft, Property and Boiler and Machinery.

- iv. **Owned Automobile Liability Insurance**  
The contractor shall obtain and keep in force Owned Automobile Insurance with a liability limit of not less than \$2,000,000 on forms meeting statutory requirements covering all licensed vehicles owned or leased by the contractor used in any manner in connection with the performance of the terms of this Contract.
  - v. **Contractor's Equipment Insurance**  
"All risks" Contractor's Equipment Insurance covering owned and non-owned machinery and equipment used by the contractor in the performance of the work for the replacement value of any such machinery and equipment.
- b. **Workers Compensation**  
Prior to the commencement of work, the successful bidder shall deliver to the Contract Administrator a Certificate of Clearance from the Workers Compensation Board of Manitoba (WCB) stating that they are in good standing with the WCB as of the current date and every sixty (60) days thereafter ensuring ongoing good standing with the WCB.
- c. **Occupational Health and Safety**
- i. Where applicable, unless specifically stated otherwise by written Contract, the successful Bidder is and shall be the prime contractor and shall serve as, and have the duties of the prime contractor in accordance with *The Workplace Safety and Health Act*, C.C.S.M. c.W210.
  - ii. The successful Bidder may be bound by further Workplace Safety and Health requirements specific to a particular project as expressly outlined in the Bid Opportunity.
  - iii. The designated prime contractor is required to provide insurance and this shall be applicable to any and all sub-contractors.
- d. **Business License**  
All successful Bidders of Construction or Service work, whether Brandon based or otherwise, must obtain a City of Brandon Business License, in accordance with Business Licensing By-law No. 6009.

#### 4. **Bonding**

##### **Guarantees of Contract Execution and Performance**

The Procurement Manager may require the provision of Bid Security. Any required Bid Security shall be included in the envelope containing the Bid Submission.

Prior to the commencement of the work, the successful Bidder may be required to provide one or more of the following in addition to the Bid Security as indicated in the Bid Opportunity:

- a. A performance bond to guarantee the performance of the Contract;
- b. A labour and materials bond to guarantee the payment for labour and materials to be supplied in connection with a Contract;

- c. An irrevocable letter of credit.

Within the discretion of the Procurement Manager, the appropriate means to guarantee execution and performance of the Contract, by means such as but not limited to certified cheque, money order, bank draft, irrevocable letter of credit, and where appropriate Bid bond issued by an approved guarantee company properly licensed in the Province of Manitoba, will be specified within the Instructions to Bidders.

## **5. Advertising Bid Opportunities**

Publically advertised Bid opportunities will be posted on the City's Procurement Services website <https://purchasing.brandon.ca/>. If the budgeted amount of the project is equal to or greater than \$50,000 the item will be advertised on MERX [www.merx.com](http://www.merx.com) in accordance with the Canadian Free Trade Agreement (CFTA) Article 504 – 3(b) and the New West Partnership Agreement (NWPTA) Article 14 (c). Budgeted items less than \$50,000 may also be advertised on MERX at the discretion of the Procurement Manager.

## **6. Addenda Process**

- a. All changes to the Bid Opportunity document and all communications to Bidders changing or clarifying items after issuance of a Bid Opportunity must be conducted/communicated through Addenda. Responses to Bidder questions/inquiries/clarifications shall be issued through Addendum. All Addenda must be issued in the same manner as the Bid Opportunity.
- b. It is essential that all contact during the Bid process be through the single, designated contact person as disclosed in the Bid Opportunity.
- c. All questions received from Bidders will be collected and reviewed by the designated contact person to ensure each enquiry is addressed.
- d. If an Addendum containing significant new information is released within three (3) business days of the Bid Submission Closing Time, it will be at the Procurement Manager's discretion whether an extension is required in order to allow Bidders sufficient time to review and incorporate the changes.
- e. Receipt of Addenda shall be acknowledged by the Bidder on the Bid Form or as otherwise specified.

## **7. Receipt of Bids**

- a. All Bids must be received centrally at Procurement Services located within the Finance Department (main floor, City Hall, 410-9th Street), except in instances where the User Department is managing its own Invitational Bid Opportunity, in which case, Bids can be received directly by the User Department.
- b. Closing Time for each Bid Solicitation is listed in Section 2 Bid Solicitation Methods.
- c. Physically submitted Bids must be date/time stamped by the clock displayed in the Finance Department which is linked to the National Institute of Standards & Technology (NIST) time service, even if received after the Bid Submission Closing Time.

- d. In situations where Bids are accepted via facsimile, they are considered to be received as of the time set forth in the City's fax transmission report.
- e. Faxed submissions must be followed up with the original documents within three (3) business days.

## **8. Withdrawal of Bid Submission**

- a. A Bidder who has submitted a Bid may request the Bid be withdrawn prior to the Closing Time.
- b. The withdrawal request must be submitted in writing to the Procurement Manager, and the person making the withdrawal request must match the name of the person that submitted the Bid. If this information matches, the Bid will be considered by the City as withdrawn and returned to the Bidder.
- c. A withdrawal request made by a Bidder and received by the City after the Bid Submission Closing Time will not be accepted by the City, and any such Bidder shall be responsible for, and liable to the City for, damages which, at a minimum, will involve an administration charge (the amount to be determined by the City, within the discretion of the City) and include any and all other legal and equitable remedies available to the City, such as but not limited to compensation for the quantifiable losses incurred by the City due to the Bidder withdrawing the Bid after the Closing Time.

## **9. Bid Irregularities**

The following non-exhaustive list is a summary of certain Bid irregularities and the resulting actions:

| <b>Irregularity</b>                                                                                                                            | <b>Action</b>                                                                         |
|------------------------------------------------------------------------------------------------------------------------------------------------|---------------------------------------------------------------------------------------|
| Late Bid                                                                                                                                       | Automatic rejection; Bid returned unopened to the Bidder with letter advising of such |
| Insufficient Financial Security (Bid Security, agreement to bond, or consent of surety)                                                        | Automatic rejection                                                                   |
| Bid containing minor, obvious clerical errors (unit price, addition, or tax calculation)                                                       | Clarification sought in writing by the Procurement Manager                            |
| Bid which is incomplete, conditional, obscure, or which contain additions not called for, erasures, alterations, or irregularities of any kind | Automatic rejection                                                                   |
| Bid which does not meet mandatory requirements                                                                                                 | Automatic rejection                                                                   |
| Bid not completed in non-erasable medium or signed in ink                                                                                      | Automatic rejection                                                                   |
| Bid not submitted in sealed envelope                                                                                                           | Automatic rejection                                                                   |
| Failure to attend mandatory site visit                                                                                                         | Automatic rejection                                                                   |
| Failure to submit documentation in accordance with the Bid Solicitation                                                                        | Automatic rejection                                                                   |
| Erasures, overwriting, or strikeouts not initialed                                                                                             | Automatic rejection                                                                   |
| Bid Form, pricing, or signature page missing                                                                                                   | Automatic rejection                                                                   |
| Form(s) not completed or submitted in their entirety                                                                                           | Automatic rejection                                                                   |
| Bid Form not witnessed                                                                                                                         | Automatic rejection                                                                   |
| Any other irregularities                                                                                                                       | The Procurement Manager shall have the discretion and authority to waive other        |

|  |                                                                                                                    |
|--|--------------------------------------------------------------------------------------------------------------------|
|  | irregularities or minor non-compliance where determined by the Procurement Manager to be trivial or insignificant. |
|--|--------------------------------------------------------------------------------------------------------------------|

## **10. Evaluation Process**

- a. Bids are first reviewed for compliance with the mandatory requirements (pass/fail).
- b. Compliant Bids are then reviewed/evaluated by the User Department/Evaluation Committee in accordance with the Evaluation Criteria set out in the Bid Opportunity.
- c. The Evaluation Committee prepares a recommendation for review and authorization by the Finance Department.

## **11. Award Considerations**

The items that will be considered in determining whether or not to award a Bid Opportunity will include, but not be limited to:

- a. Ability, capacity, and skill of the Bidder to provide the requested Goods, Services, or Construction;
- b. Ability of the Bidder to perform the Contract or provide the Good, Services, or Construction promptly or at the time specified without delay or interference;
- c. The character, integrity, reputation, judgement, experience, and efficiency of the Bidder;
- d. The quality and performance of previous Goods, Services, or Construction;
- e. The sufficiency of the financial resources and ability of the Bidder to perform the Contract or provide the Goods, Services, or Construction;
- f. The quality, availability, and adaptability of the Goods, Services, or Construction to the particular use required;
- g. The ability of the Bidder to provide future maintenance and service for the items required;
- h. The number and scope of conditions imposed by the Bidder that are attached to the Bid.

## **12. Role of Council**

- a. In accordance with best practices in municipal procurement, Council recognizes the need for clear separation of political and administrative functions in relation to the procurement process. It is the role of Council to establish policy and approve expenditures through the City's budget approval process. Through this policy, Council delegates to administration the authority to incur expenditures in accordance with the current year's Financial Plan through the processes set out in this Policy;
- b. To avoid the potential appearance of bias or political influence in the procurement process and procurement decisions, members of Council will not be involved in Bid Solicitations from the time a project has been initiated through the evaluation process until a project has been

awarded, except where Council is required to approve the award in accordance with Section 13 of this policy.

**13. Council Approvals**

- a. Council approval is required when:
  - i. The contract value cannot be accommodated within the current year's Financial Plan;
  - ii. The expenditure is equal to or greater than \$50,000 and not identified in the current year's Financial Plan;
  - iii. The project is eligible for funding from a senior level of government and requires a Council resolution of approval;
  - iv. The User Department is not recommending the Lowest Evaluated Bid for Tenders or Quotations;
  - v. The City Manager, Director of Finance, or Procurement Manager deems it in the City's best interest to obtain Council approval;
  - vi. Council requests that the project come before Council for approval.
- b. In all such instances a recommendation will be made by the Department Head and Director of Finance with a report sent to Council.

**14. Reporting**

- a. On a monthly basis, Council will be provided with a report summarizing project awards for items contained in the annual capital budget. The report will contain at a minimum the following information:
  - i. Bid Opportunity
  - ii. Award date
  - iii. Number of bids received
  - iv. Successful bidder
  - v. Award value
  - vi. Estimated project cost
  - vii. Approved budget

**15. Award/Cancellation**

- a. **Award**
  - i. **Award Approval**

The award recommendation will be reviewed by the Procurement Manager or Director of Finance to determine if they are in agreement and to review the financial details. If Council approval is required, the Council report must be signed by the Director of Finance.
  - ii. **Letter of Notification**

A letter of notification will be prepared by Procurement Services and sent to all Bidders that submitted a Bid. The letter will indicate the successful Bidder's name, Total Bid Price and any other pertinent information (Contract term, options acquired, etc.). The letter of notification will indicate whether a Contract or a Purchase Order will be initiated. The Procurement Manager may elect not to issue a letter for price requests.

b. **Cancellation**

The Procurement Manager shall have the authority to cancel a Bid Opportunity at any time during the Procurement process. Cancellation is warranted when:

- i. The Total Bid Price exceeds the funding approval;
- ii. A change in scope of work or Specifications is required and therefore a new Bid Opportunity is warranted;
- iii. All Bids received are non-compliant or do not meet Specifications; or
- iv. In the opinion of the Procurement Manager, the integrity of the process has been compromised.

**16. Post Award**

a. **Notification of Award**

Procurement Services is responsible for posting the results of the Bid Opportunity on the City's electronic tendering site <https://purchasing.brandon.ca/>.

b. **Bidder Debrief**

Bidders (successful or unsuccessful) may request a debrief on their Bid Submission. Debriefs must be scheduled with and conducted by the Procurement Manager. The Procurement Manager may request that members of the Evaluation Committee be in attendance or provide details prior to the scheduled time. The content of the debriefing shall be limited to the requesting Bidder's submission and any information related to other Bidders' submissions or scores will not be disclosed.

c. **Bid Protest Procedure**

An unsuccessful Bidder may contest the outcome of the Bid Opportunity or process. The Bidder must first request and receive a Bidder debrief. If the Bidder still wishes to challenge the outcome of the Bid Opportunity or process the Bidder must protest the outcome, in writing, to the attention of the Procurement Manager. The Procurement Manager shall review the written protest and promptly advise the Bidder, in writing, of the outcome of the review. The Procurement Manager's decision is final.

**17. Record Keeping**

**Confidentiality**

The City ensures that in accordance with applicable laws, all Bid information submitted in confidence is adequately protected.

**18. Responsible Procurement**

a. **Environmental (Green) Procurement**

The acquisition of environmentally responsible Goods, Services, or Construction may be given preference during the evaluation stage of a Bid Submission when the Bid Opportunity documents either directly call for "green products" or where "green products" are requested as an option. These Goods, Services, or Construction are defined as those having lesser or reduced effect on human health and the environment when compared to other Goods, Services, or Construction that serve the same purpose. Specifications will include, unless otherwise justified, environmentally responsible Goods, Services, or Construction that:

- i. Use recycled materials;
- ii. Are durable, reusable, or designed to be recycled;
- iii. Consume fewer resources in their manufacture and/or their use; and

- iv. Use environmentally responsible practices.
- b. **Fair Trade**  
In support of maintaining status as a Fair Trade Town, the City commits to acquiring only Fair Trade certified coffee and sugar for all meetings and in its offices.
- c. **Ethical Procurement** includes, but is not limited to, the following considerations with respect to labour practices:
  - i. Contractors declare that in Bidding for the work and in entering into the Contract, they and their subcontractors conduct their respective business in accordance with established international codes as they relate to child and forced labour embodied in United Nations (UN) and International Labour Organization (ILO) conventions as ratified by Canada. The contractor shall forfeit all claims under the Contract as well as refund to the City any monies paid, beyond actual proven expenses for work done, if this declaration is shown to be false and the contractor engages in unfair labour practices;
  - ii. The City requests disclosure of the sources (by company and country) of the raw materials used in apparel and a description of the manufacturing environment (labour unions, minimum wages, etc.); and
  - iii. The Bidder shall supply a statement of confirmation that the labour standards of Canada have been adhered to in their processes irrespective of special status granted to a company, worksite, or geographical area that permits the organization to compromise applicable standards.

#### **Attachments**

- None

#### **Related Items**

- *The Municipal Act, C.C.S.M. c. M225*
- *Freedom of Information and Protection of Privacy Act, C.C.S.M. c. F175*
- *The Workplace Safety and Health Act, C.C.S.M. c.W210*
- Canadian Free Trade Agreement (CFTA) – Article 504 – 3.(b)
- New West Partnership Trade Agreement (NWPTA) – Article 14 (c)
- Business Licensing By-law No. 6009

**Motion #: 637.1**  
**July 18, 2016**

**Authorized By:** Heather Ewasink  
**Heather Ewasink**  
**City Clerk on behalf of City Council**

**Revision Date:**  
**February 3, 2020**

**Authorized By:** Val Rochelle  
**Val Rochelle**  
**Director of Finance**