



DEPARTMENT OF SERVICE NOVA SCOTIA AND INTERNAL SERVICES (SNS-IS)

# PROCUREMENT MANUAL

A series of protocols to provide detailed guidance to procurement processes.

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# 1 PROCUREMENT PROJECT PLANNING PROTOCOL

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## 1.1 PURPOSE

The purpose of this protocol is to give an overview of the requirements for a Procurement Project Plan.

## 1.2 INTERPRETATION

This protocol should be read in conjunction with the Nova Scotia Sustainable Procurement Policy. Terms used in this protocol are as defined in the Nova Scotia Sustainable Procurement Policy.

## 1.3 SOURCING REQUEST

A sourcing request must be completed by Public Sector Entities. The sourcing request is completed in SAP Ariba and includes the Procurement Project Plan.

A sourcing request is used as a starting point for discussions with Procurement. Public Sector Entities must complete a sourcing request, along with including the Procurement Project Plan to obtain initial approval from Procurement to proceed with a Procurement Project.

The sourcing request is the first step to initiate a procurement request.

A Procurement Project Plan includes the following minimum information:

- Mapping statement
- Project reason
- Estimated procurement value
- Funding source
- Internal approvals

### 1.3.1 Mapping Statement

Describe in clear, concise detail, the required Goods, Services or Construction.

### 1.3.2 Project Reason

Explain what is giving rise to the need for the procurement. Confirm that existing internal resources do not meet the need; for example, check surplus Goods or fully explore the job descriptions and capacities of employees.

### 1.3.3 Estimated Procurement Value

Estimate the procurement value accurately. Make sure it aligns with the project budget and available funds.

To select the best execution strategy, you need an accurate value. Account for all project costs including acquisition, maintenance, replacement, disposal, training, delivery, installation and extension options.

Subdividing projects or splitting contracts to reduce the value of a project is never permitted. If a good or service is required on a regular or ongoing basis, consider establishing a Standing Offer.

### 1.3.4 Funding Source

Confirm approved funding source has been obtained. Multiyear projects must have an approved funding source for current and future year(s) estimates.

### 1.3.5 Internal Approvals

Confirm all internal approvals needed to proceed have been obtained.

## 1.4 MAJOR PROJECTS

Procurement Project Plan for Major Projects must also consider:

- Retaining **external advisors** if there are insufficient internal resources to assist in developing specifications or business requirements
- Appointing an internal **project lead** to coordinate input from multiple stakeholders
- Involving **key stakeholders** early to ensure all legal and risk considerations are appropriately addressed
- Engaging a **fairness consultant** for cases that are high-profile, controversial, or involve a particularly complex Supplier selection process.

## 1.5 SOURCING REQUEST APPROVAL

All sourcing requests must be approved by Procurement. Early involvement of all stakeholders during the development of the Procurement Project Plan is encouraged to avoid unnecessary delay in the review and approval process.

## 1.6 SOURCING PROJECT

The sourcing project is created in SAP Ariba once a sourcing request has been approved and is completed in collaboration with the requesting Public Sector Entity. Procurement must complete the sourcing project, unless authority is delegated to a Public Sector Entity through mutual agreement.

A sourcing project includes (when applicable):

- Execution strategy
- Requirements and specifications
- Pricing structure
- Evaluation methodology and criteria
- Solicitation Document format
- ALTP Justification

### 1.6.1 Execution Strategy

The Province works within three execution strategies for Procurement Projects, determined by established circumstances as shown in Table 1.

Table 1

EXECUTION STRATEGY	CIRCUMSTANCES
<b>OPEN COMPETITION</b>	<ul style="list-style-type: none"><li>• Procurement of Goods for \$10,000 or more for Departments</li><li>• Procurement of Goods for \$25,000 or more for other Public Sector Entities</li><li>• Procurement of Services for \$50,000 or more</li><li>• Procurement of Construction for \$100,000 or more</li><li>• Establishment of a Standing Offer for any Goods, Services or Construction</li></ul>
<b>NON-COMPETITIVE PROCUREMENT</b>	<ul style="list-style-type: none"><li>• The use of Alternative Procurement Practices is justified in accordance with the Alternative Procurement Practices Protocol and circumstances preclude the use of a Competitive Process.</li></ul>
<b>LIMITED COMPETITION</b>	

- The use of Alternative Procurement Practices is justified in accordance with the Alternative Procurement Practices Protocol and circumstances preclude the use of an Open Competition but do not preclude the solicitation of Bids through an Invitational Competition.

#### 1.6.2 Requirements and Specifications

Ensure clear, detailed requirements and specifications that encourage open, fair and transparent competition. These may include any or all of the following:

- Physical characteristics
- Functional or performance characteristics
- Quality characteristics defined by recognized, third-party standards
- Intended use descriptors such as consumer grade, industrial grade, medical or laboratory grade, or suitable for use under extreme conditions
- Sustainability considerations such as third-party certification standards, performance requirements, service delivery requirements, and using apprentices

See the Document Drafting Protocol for more guidance on developing requirements and specifications.

#### 1.6.3 Pricing Structure (Competitive Process Only)

It is essential that each Solicitation Document includes a clear pricing structure since the pricing structure will form the basis for the contract with the successful Bidder. The pricing structure must be considered in the sourcing project to ensure it will be clearly set out in the Solicitation Document, so that Bidders know exactly how to submit pricing, and pricing can be evaluated fairly and defensibly.

See the Document Drafting Protocol for more guidance on developing pricing structures.

#### 1.6.4 Evaluation Methodology and Criteria (Competitive Process only)

In open, fair, and transparent competitive procurement, the evaluation methodology and criteria must be considered in the sourcing project.

See the Document Drafting Protocol for more guidance on evaluating price and non-price criteria.

#### 1.6.5 Solicitation Document Format Selection (Competitive Process only)

Selecting the best Solicitation Document depends on procurement value, complexity, if Bid security is needed and if discussion or negotiation with the Bidders is needed.

See the Format Selection Protocol for a list of templates and checklists for selecting the most appropriate.

#### 1.6.6 ALTP Justification (Non-Competitive Procurement or Limited Competition only)

Alternative Procurement Practices must never be used to avoid competition or to discriminate against specific Suppliers.

See the Alternative Procurement Practices Protocol for the circumstances in which ALTPs may be used.

## 2 FORMAT SELECTION PROTOCOL

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### 2.1 PURPOSE

The purpose of this protocol is to assist in selecting the most appropriate Solicitation Document.

### 2.2 INTERPRETATION

This protocol should be read in conjunction with the Nova Scotia Sustainable Procurement Policy. Terms used in this protocol are as defined in the Nova Scotia Sustainable Procurement Policy.

### 2.3 FORMS OF TEMPLATE SOLICITATION DOCUMENTS

Procurement maintains a series of Solicitation Document templates. Forms of Solicitation Documents include the following:

#### 2.3.1 Request for Quotations (RFQ)

Used to procure Goods or Construction where specifications or requirements are well-defined, contract terms are clear, and Bidder ranking is often based on lowest price. RFQ is recommended for Invitational Competitions where quotes are solicited from a limited number of Suppliers, and for Open Competitions where the specifications and submission requirements are simple and straightforward. Two separate versions are maintained:

- 1) Invitational Competitions
- 2) Open Competitions

#### 2.3.2 No-Negotiation Request for Proposals (RFP)

Used to procure Goods, Services or Construction where specifications or requirements are well-defined, contract terms are clear and Bidder ranking is based on highest score.

#### 2.3.3 Negotiated Request for Proposals (NRFP)

Used to procure more complex Goods or Services where Bidder responses may help inform the final specifications or performance terms, and Bidder ranking is based on highest score. The template allows for contract negotiation with the selected Bidder. It is recommended for Open Competitions for complex Services, and may be considered for Open Competitions for complex Goods. There are two versions of the NRFP template:

- 1) Consecutive Negotiations
- 2) Best and Final Offer (BAFO)



### 2.3.4 Request for Supplier Qualifications (RFSQ)

There are two versions of the RFSQ template:

- 1) To prequalify Suppliers in the first stage of a two-stage Open Competition. Bidders who meet the requirements of the RFSQ are eligible to participate in the second stage and are invited to respond to a subsequent Solicitation Document such as an RFQ or RFP
  
- 2) To establish Standing Offers for the provision of Goods, Services or Construction as required over a period of time.

### 2.3.5 Request for Information (RFI)

Used to conduct structured and transparent market research where Supplier expertise is needed to define requirements or ascertain the availability of specific Goods or Services. RFI seeks types of information such as comparative costing of environmentally certified products; innovations in the marketplace; and alternative technologies, solutions and approaches. It may also be used to solicit expressions of interest from Suppliers. RFI is not intended to directly result in the procurement of Goods or Services, but rather it is intended to inform future procurement.

## 2.4 CONTRACT A AND CONTRACT B

Certain templates require Bidders to submit irrevocable Bids and give rise to the legally binding procurement Contract A. Bidders are bound to their Bid prices, and Bids remain open for acceptance for a fixed period of time. In addition, all terms of purchase contract (“Contract B”) must be included in the Solicitation Document and cannot be negotiated or amended after the submission deadline. The following table provides a breakdown of which templates give rise to legally binding procurement Contract A and which do not:

<b>Template</b>	<b>Contract A</b>	<b>Non-Contract A</b>
Invitational RFQ		✓
RFQ	✓	
RFP	✓	
NRFP – Consecutive		✓
NRFP – Concurrent (BAFO)		✓
RFSQ – Prequalification		✓
RFSQ – Standing Offer / Roster		✓
RFI		✓

## 2.5 SELECTION CONSIDERATIONS

Selecting the best Solicitation Document depends on:

- Value and complexity
- Bid security
- If final specifications or performance terms may be better informed by Bidder responses
- If the final contract needs to be negotiated

## 2.6 SELECTION CHECKLISTS

### 2.6.1 RFQ

- You are buying simple Goods, Services or Construction.
- There are valid business reasons for requiring legally binding irrevocable Bids, with or without Bid security.
- You have straightforward eligibility requirements that can be determined on a pass/fail basis and will select the Bidder that meets the requirements and submits the lowest price.
- All of the business requirements and technical specifications can be clearly defined and incorporated in the Solicitation Document.
- All of the contract requirements and performance terms and conditions can be clearly defined and incorporated in the Solicitation Document to permit the finalization of the contract with the successful Bidder without negotiations.

### 2.6.2 RFP (No Negotiation)

- You are buying Goods, Services or Construction.
- There are valid business reasons for requiring legally binding irrevocable Bids, with or without Bid security.
- You will evaluate both price and non-price factors and will select the highest scoring Bidder.
- All of the business requirements and technical specifications can be clearly defined and incorporated in the Solicitation Document.
- All of the contract requirements and performance terms and conditions can be clearly defined and incorporated in the Solicitation Document to permit the finalization of the contract with the successful Bidder without negotiations.

### 2.6.3 NRFP

- You are buying complex Goods or Services.
- Irrevocable Bids are not required.
- Detailed proposals are desired.

- All of the business requirements and technical specifications cannot be clearly defined.
- Both price and non-price factors will be evaluated and scored, and the highest-scoring Bidder will be invited to negotiate the final contract.  
All of the contract requirements and performance terms and conditions cannot be clearly defined and incorporated in the Solicitation Document.

#### 2.6.4 RFSQ

- You intend to develop a roster of qualified Suppliers under a Standing Offer.
- You intend to pre-qualify Suppliers based on non-price factors as the first stage to a two-stage Open Competition.

#### 2.6.5 RFI

- You want to conduct market research about Goods, Services or Construction to inform a future Competitive Process.
- You have insufficient knowledge about a certain market or have uncertainty about the availability of required Goods or Services.
- You do not intend to procure any Good, Service or Construction as a direct result of this process.

## 3 DOCUMENT DRAFTING PROTOCOL

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### 3.1 PURPOSE

The purpose of this protocol is to provide assistance, direction and suggestions for preparing Solicitation Documents, including guidelines for developing specifications and selecting the appropriate evaluation methodology and pricing structure.

### 3.2 INTERPRETATION

This protocol should be read in conjunction with the Nova Scotia Sustainable Procurement Policy. Terms used in this protocol are as defined in the Nova Scotia Sustainable Procurement Policy.

### 3.3 DRAFTING PRINCIPLES

Solicitation Documents are drafted in accordance with the following principles:

- Use **clear, plain language**. Avoid technical jargon and vague terms.
- Where **technical terms or specifications** are required, set them out in a **separate section or schedule**.
- Avoid creating too many **defined terms**. Defined terms are created only if (a) the meaning is unclear and (b) the term is used throughout the document. Use defined terms consistently throughout the document. Do not capitalize terms that are not defined.
- Avoid **repeating** the same **information in different sections** of the document. If repetition is unavoidable, use the same language and terminology to prevent inconsistencies and contradictions.
- **Avoid** using **acronyms** that may not be understood by everyone. If an acronym is unavoidable, spell it out in full the first time it's used in the document.
- Include **contract performance** and other **contractual terms** in the form of agreement. **Do not bury them** in the specifications or evaluation sections.
- **Minimize** the number of times that the document **refers** the reader **to another part of the document**.
- Make sure the document is carefully **proofread**, preferably by someone other than the drafter. Inconsistent terminology, vague wording, grammar mistakes, misspellings, and typos create uncertainty in the meaning and interpretation of terms and conditions in the document.

### 3.4 VERSION CONTROL

When a Solicitation Document needs to be reviewed and edited by multiple stakeholders, the editing process must be well coordinated in order to maintain proper version control. Unless revisions are carefully tracked and integrated through an organized process, the final document is

likely to include gaps and inconsistencies that can undermine the certainty of terms and create legal risk.

Version control requires one designated gatekeeper who:

- Makes sure stakeholders are clear on which sections of the document they are responsible for reviewing
- Takes sole responsibility for incorporating comments and revisions into the draft document and preparing the final version
- Allows no one else to assign new version names to the document. (e.g. RFP v. 2.0)
- Enforces electronic naming conventions to track who edited what when (e.g. RFP v. 2.0 – changes by AB Jan 14)
- Retains copies of all stakeholder comments and mark-ups in the Procurement Project file

### 3.5 DOCUMENT SECTIONS

All components of the Solicitation Document need to work together properly. This requires integration throughout the document. The evaluation criteria and pricing structure must align with the requirements, and the legal agreement must be properly tailored to the requirements and align with the pricing structure.

### 3.6 REQUIREMENTS AND SPECIFICATIONS

It is essential that requirements and specifications in a Solicitation Document be complete and clear as they represent the blueprint that Bidders will use to develop proposals and pricing. Specifications must not unduly restrict Suppliers from bidding and should encourage open, fair and transparent competition. Unless established through a formal, standard-setting exercise as prescribed by Procurement, all specifications with the exception of third-party certifications, must be generic and non-branded. If there is no other way to describe a specification, trademarks or brands may be employed by way of reference, but should not be used as the specification itself.

Specifications may include any or all of the following:

- Physical characteristics
- Functional or performance characteristics
- Quality characteristics defined by recognized third-party standard bodies
- Intended use descriptors such as consumer grade, industrial grade, medical or laboratory grade or suitable for use under extreme conditions
- Sustainability considerations such as third-party certification standards, performance requirements, service delivery requirements, using apprentices, etc...

The format (type of Solicitation Document) will dictate the level of specificity that is required for requirements and specifications:

- If price is the only factor being evaluated, then the specifications and all requirements that inform price must be fully disclosed in detail
- If the requirements cannot be clearly defined before the Solicitation Document is issued (i.e. proponents will be proposing creative solutions or proponent specifications will be evaluated during the Competitive Process), and the selected format contemplates negotiation of the final contract, then the specifications can be drafted with less specificity

### 3.7 MATERIAL DISCLOSURES

Bidders need to know all material information relating to the Procurement Project to be able to prepare fair and competitive pricing.

Subject area experts are responsible for developing the material disclosures section in Solicitation Documents. Failure to disclose all material information exposes the Province to legal, financial and reputational risk.

Material disclosures include, but are not limited to:

- Engineering, consulting, environmental or site reports relating to the Procurement Project
- Unusual conditions that may affect price (e.g. soil conditions, delivery restrictions, timing requirements or restrictions)
- Contract performance terms
- Indemnity, performance security or insurance requirements
- Processes or procedures expected of the successful Bidder that are outside standard industry practice

### 3.8 SUSTAINABLE PROCUREMENT

All Procurement Projects must consider sustainability criteria, such as environmental attributes, performance requirements related to energy or water use, social benefit criteria or economic requirements. If sustainability criteria has been established through a formal, standard-setting exercise as prescribed by Procurement, all purchases, no matter the value, must meet or exceed this criteria.

Procurement often uses the following two sustainability assessments, but other tools may be considered.

- **Proponent Assessment:** A sustainability assessment that addresses a Bidder's sustainability practices, found here:

<http://www.novascotia.ca/tenders/media/14572/sustainabilitytemplate.pdf>

- **Purchase-Specific Sustainability Assessment:** A customized assessment that addresses relevant and specific sustainability requirements, credentials, experience or special considerations necessary for individual project success. Bidders must identify how they will meet the requirements along with any other sustainability practices or green products and technologies they will use to provide the contract deliverables.

### 3.8.1 Third-Party Certifications

Third-party environmental certifications are provided by independent certifying organizations that establish environmental and social standards and certify products and services that meet them. Third-party certification programs (e.g. EPEAT, Energy Star, Ecologo, etc.) are useful for identifying Goods, Services and Construction with sustainability attributes.

Use third-party certification standards to develop specifications whenever possible. Certifications should take into account multiple attributes and life-cycle considerations and should have sufficient market penetration to ensure a Competitive Process while representing specific and meaningful leadership criteria for that product or service category. If requiring a certification severely limits the number of qualified Suppliers, individual criteria from the certification can instead be included in the Solicitation Document.

### 3.8.2 Using Apprentices

Increasing employment opportunities for apprentices and youth is a priority for the Province. For Procurement Projects involving work within the designated trades, Public Sector Entities are encouraged to consider ways to support the use of apprentices.

Visit the Nova Scotia Apprenticeship Agency website for a list of the trades designated in Nova Scotia: <http://nsapprenticeship.ca/trades>

### 3.8.3 Social Enterprises

Government plays an important role in creating an enabling environment for social enterprises. Social enterprises are businesses owned by nonprofit organizations that are directly involved in producing or selling Goods and Services for the blended purpose of generating income and achieving social, cultural or environmental aims. All profits and surpluses are reinvested to support community needs. The mission and use of profits and surpluses are distinct characteristics of social enterprises.

Increasing employment opportunities for social enterprises is a priority for the Province.

Contact Procurement for more information on how Alternative Procurement Practices encourage innovative approaches to give opportunity to these organizations.

### 3.8.4 Preferences

Nova Scotia is committed to seeing its Supplier community continue to grow, be competitive, and receive fair treatment in other provinces. The Province is party to several trade agreements developed to ensure reciprocal non-discrimination and geographic neutrality. However in certain circumstances, Procurement may be able to facilitate preferential treatment to a Bidder from Nova Scotia, Atlantic Canada, or Canada. Some of these circumstances include the procurement of:

- health and social services
- goods purchased for representational or promotional purposes
- services or construction purchased for representational or promotional purposes
- advertising and public relation services

Many factors drive the decision to apply preferential treatment such as dollar thresholds and exclusions found within trade agreements. To apply a preference, the Solicitation Document must clearly state the application of a preference. When a preference is used, the method to be used to determine the preference must be set out the Solicitation Documents. In all situations where a preference is applied, Procurement must be consulted.

## 3.9 EVALUATION METHODOLOGY

In open, fair and transparent competitions, the evaluation methodology and criteria used to determine the successful Bidder must be fully disclosed. Failure to disclose the evaluation methodology and all factors to be considered in determining the successful Bidder can constitute hidden criteria and exposes the Province to legal, financial and reputational risk.

All eligibility criteria (mandatory requirements) must be fully disclosed and be capable of review upon submission of a Bid. Mandatory requirements should be kept to a minimum and should only be used for those eligibility requirements that are absolutely essential to the Procurement Project. Some examples of mandatory requirements include but are not limited to:

- Licensing and certification
- Minimum performance characteristics of equipment (e.g. post 1990 models of tractors)
- Requirements for delivery dates
- Staff experience and expertise (Chartered Accountants with minimum five years' experience)

If a requirement is something that the successful Supplier must do if awarded the contract, then this requirement should be included as a performance term in the requirements for deliverables section and should not be used as a mandatory requirement.

Nova Scotia uses two basic evaluation methodologies:



- Lowest Price
- Weighted Criteria

### 3.9.1 Lowest Price

Solicitation Documents must clearly disclose that Bids are being evaluated on lowest price only. No other criteria may be used to determine the successful Bidder. If a Public Sector Entity wants to select the preferred Bidder based on lowest price, but also consider other qualitative factors, consideration should be given about using a different format, or issuing an RFSQ to prequalify Bidders.

The method for determining the low price must be disclosed. Where the pricing structure is lump sum, the lowest price may be obvious, but if multiple unit prices are being solicited, then the formula for determining the low price for the purposes of evaluation must be set out in the Solicitation Document.

### 3.9.2 Weighted Criteria

Solicitation Documents must clearly disclose that Bids are being evaluated on weighted criteria and clearly identify the relative weighting for every criterion used to determine the successful Bidder.

Weighted criteria evaluations take on varying structures depending on how complex or unique the required good, service or Construction. Criteria are often grouped into categories such as price, quality, experience, delivery time, interview, presentation, etc. The relative weight and a detailed description of each criterion or sub-criterion for every category must be set out in the Solicitation Document. For example, how the full weight of a vendor interview is calculated from individually weighted questions must be clear.

A number of formulas may be used to factor price into a weighted criteria evaluation, such as:

- **Ratio:** Dividing the lowest price submitted into the price(s) submitted by each Bidder during the Competitive Process and then multiplying that value by the weighting allocated to price.
- **Price per Point:**  $(\text{Bid price}) \div (\text{total points awarded to Bid})$ 
  - The proposal with the lowest price per point represents the Best Value and is the successful Bidder
- **Multi Stage Process:**
  - **Stage 1:** All qualitative factors are scored to get a total rated criteria score. Those Bidders who obtain a score above the disclosed threshold are advanced to the second stage

- **Stage 2:** Price is evaluated based on the process in the Solicitation Document.

### 3.9.3 Weighted Criteria in RFSQ

When using an RFSQ as part of a two-stage competition, only qualitative factors should be evaluated at the RFSQ stage. The Solicitation Document must disclose on which basis the successful Bidders become eligible to participate in Stage 2.

Eligibility could be determined by:

- **Threshold:** Bids with a score equal to or greater than the specified threshold are prequalified (e.g. 75% or greater)
- **Rank:** Bids ranking within the specified number of top-scoring Bids are prequalified (e.g. top five Bids)

### 3.10 PRICING

It is essential that each Solicitation Document includes a clear pricing structure since the pricing structure will form the basis for the contract with the successful Bidder. The pricing structure must be clearly set out in the Solicitation Document so Bidders know exactly how to submit pricing, and pricing can be evaluated fairly and defensibly.

The right pricing structure depends on what is being procured. If applicable, the structure should align with industry standards.

Regardless of the pricing structure employed, the Solicitation Document must also clearly set out

- if pricing includes or excludes tax
- if pricing is all-in or excludes additional charges such as delivery
- the payment structure
  - Lump sum at the end of contract
  - Invoice at regular intervals
  - Invoice upon completion of phases
  - Retain a holdback on payments

### 3.11 PRICING STRUCTURE

The following list of standard pricing structures covers most Procurement Projects, but particular projects may require a different pricing structure.

### 3.11.1 Lump Sum

Lump sum is a total price to provide the deliverables with no adjustment after the contract is awarded.

Lump sum is used where all specifications are known in advance, all conditions affecting the price are known, and all contract terms are clearly disclosed in the Solicitation Document. It may also be referred to as “flat fee,” “firm price” or “total price.”

### 3.11.2 Unit Prices

Per item prices are multiplied by their respective per item quantities with no adjustments after the contract is awarded.

Similar to lump sum, unit prices are used where all specifications are known in advance, all conditions affecting the price are known, and all contract terms are clearly disclosed in the Solicitation Document. To get the most competitive Bids and meet disclosure obligations, the Solicitation Document must include accurately estimated volumes, exact specifications, and clear pricing metrics such as price per hour, price per each or price per kilogram.

### 3.11.3 Lump sum or unit prices in conjunction with a predetermined price adjustment(s).

Lump sum or unit prices in conjunction with a predetermined price adjustment(s) after the contract is awarded are another option.

Where an industry is subject to potential increases in pricing for products or labour, but a firm estimate on pricing is required, a lump sum or unit price model can be used in conjunction with predetermined price adjustments. To be defensible, adjustments should be tied to objective criteria in the marketplace or subject to an objective, predetermined formula.

### 3.11.4 License Fees

Common in the software industry, license fees are tied to specific rights of use such as number of users or number of computers on which software can be installed.

### 3.11.5 Time and Materials

The time and materials method is used when it cannot be estimated in advance how much time or materials will be required to complete a project. The Solicitation Document must include clear deliverables and clear metrics for time and individual materials, such as price per hour, price per diem and price per required material. Careful project management is required to ensure efficient use of resources.

The time and materials method is also used if a service is required long term on an as-needed basis. The Solicitation Document must include the contract term and options to extend with any price increases. To be defensible, price increases should be clearly set out or subject to an agreed-upon formula, such as indexed to inflation.

#### 3.11.6 Budget-Based Bidding

A set budget is disclosed, and Bidders compete to provide the most deliverables.

Less common, budget-based bidding discloses the total budget up front in the Solicitation Document and Bidders compete to provide the most deliverables within the set budget.

#### 3.11.7 Life Cycle Costing (LCC)

Life Cycle Costing (LCC) looks beyond initial purchase price to also consider total cost of ownership, such as installation and set up costs; on-going costs for consumable supplies, fuel/energy use, scheduled maintenance, warranty, repairs and parts; and product disposal, trade-in or recycling at the end of its useful life. LCC is recommended if ongoing operational costs such as fuel, consumable supplies, maintenance, etc. are substantial compared to initial purchase price. The specific information that Bidders must submit and how this information is used to calculate LCC must be clearly set out in the Solicitation Document.

LCC can be used in both lowest price and weighted criteria evaluations by substituting the calculated LCC for price.

- *Lowest Price*: calculated LCC is substituted for price for the purpose of evaluation
  - Lowest calculated LCC determines the successful Bidder
- *Weighted Criteria*: calculated LCC is substituted for price and the appropriate formula, ratio or price per point, is applied
  - Best Value determines the successful Bidder

LCC can also be used as a separate weighted criteria category. LCC is scored alongside the other non-price criteria, and the appropriate formula, ratio or price per point is applied to factor in price as usual.

## 4 INVITATIONAL COMPETITION PROTOCOL (CONDUCTED BY ISD PROCUREMENT FOR GOVERNMENT DEPARTMENTS)

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### 4.1 PURPOSE

The purpose of this protocol is to set out the steps and identify roles and responsibilities for conducting an invitational Competition.

### 4.2 INTERPRETATION

This protocol should be read in conjunction with the Nova Scotia Sustainable Procurement Policy. Terms used in this protocol are as defined in the Nova Scotia Sustainable Procurement Policy.

### 4.3 RESPONSIBILITY FOR CONDUCTING INVITATIONAL COMPETITIONS

Public Sector Entities are responsible for conducting their own Invitational Competitions in accordance with this protocol (**Initially, ISD Procurement will conduct these competition on behalf of government departments**). Public Sector Entities may ask Procurement to conduct an Invitational Competition on their behalf by initiating a sourcing request through Ariba.

Procurement is responsible for conducting Invitational Competitions when part of Limited Competition process.

Procurement is responsible for releasing all purchase orders over \$10,000.

### 4.4 ISSUING THE SOLICITATION DOCUMENT

The Solicitation Document is issued to a minimum of three Suppliers, if possible. If it is issued to fewer than three Suppliers, justification is required. An explanation is also required as to how and why the particular Suppliers were chosen to participate. Where possible, Invitational Competitions are restricted to Suppliers located in Nova Scotia.

### 4.5 TIME PERIOD FOR BID SUBMISSION

Suppliers must be given a reasonable period of time to prepare and submit a Bid. A minimum of 10 calendar days is recommended, but a shorter or longer response time may in some circumstances be needed.

### 4.6 COMMUNICATION WITH POTENTIAL BIDDERS AND ADDENDA PROCESS

All communication with potential Bidders after the Solicitation Document has been issued must be made in writing through a single contact person designated in the Solicitation Document. Other

individuals who receive inquiries from potential Bidders must direct those Bidders to the designated contact person without discussing the procurement activity in question.

Instances arise in which Suppliers with existing contracts are also potential Bidders. In these instances, employees continue their relationship with the Suppliers with respect to existing contracts. But, employees do not discuss upcoming procurement activities, and they do not discuss active projects on which they are not the designated contact.

All Bidder questions must be submitted in writing to the designated contact person. Bidder questions and any corresponding answers that materially impact the Solicitation Documents are consolidated into a Q&A document issued as a written addendum to all potential Bidders in the same manner as the Solicitation Document. The Q&A should not identify which Bidder asked which question. Questions that are duplications may be consolidated, so long as all legitimate Bidder questions and concerns are addressed. The standard addendum template available on the Nova Scotia Procurement Web Portal should be used.

All changes to the Solicitation Document including changes to the scope, evaluation criteria and schedule must be communicated to all Bidders through a written addendum issued in the same manner as the Solicitation Document. The standard addendum template available on the Nova Scotia Procurement Web Portal should be used.

If an addendum containing significant new information is issued close to the submission deadline, consideration must be given to extending the submission deadline to allow Bidders a reasonable period of time to review and respond to the addendum.

#### **4.7 RECEIPT OF BIDS**

Bids must be received in the manner set out in the Solicitation Document by the submission deadline set out in the Solicitation Document. Bids received prior to the submission deadline must be kept confidential until the submission deadline has passed.

#### **4.8 EVALUATION OF BIDS**

Evaluations must be fair, defensible and transparent in accordance with the evaluation process disclosed in the Solicitation Document. Bids must be reviewed and evaluated by at least two representatives.

#### **4.9 SELECTION OF PREFERRED BIDDER(S)**

The preferred Bidder is selected based on the results of the evaluation in accordance with the Solicitation Document. Once the preferred Bidder is selected, the contract is finalized in accordance with the Nova Scotia Sustainable Procurement Policy.

#### 4.10 CANCELLATION OF INVITATIONAL COMPETITION

Where the deadline for submission of Bids has passed and Bids have been received, an Invitational Competition must not be canceled without approval of Procurement.

## 5 OPEN COMPETITION PROTOCOL

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### 5.1 PURPOSE

The purpose of this protocol is to set out the steps and identify roles and responsibilities for conducting an open competitive procurement process.

### 5.2 INTERPRETATION

This protocol should be read in conjunction with the Nova Scotia Sustainable Procurement Policy. Terms used in this protocol are as defined in the Nova Scotia Sustainable Procurement Policy.

### 5.3 RESPONSIBILITY FOR CONDUCTING OPEN COMPETITIONS

Procurement conducts Open Competitions in accordance with this protocol. A Procurement Project Plan must be completed in accordance with the Procurement Project Planning Protocol for every Open Competition.

### 5.4 ISSUING THE SOLICITATION DOCUMENT

Procurement is responsible for publishing the Solicitation Document on the Nova Scotia Procurement Web Portal.

### 5.5 TIME PERIOD FOR BID SUBMISSION

Suppliers must be given a reasonable period of time to prepare and submit a Bid. A minimum of 15 calendar days is recommended. A longer response time is recommended for procurements of high complexity, risk, or dollar value. For procurements subject to international trade agreements, the Solicitation Document may be required to be publicly posted for a minimum of 40 calendar days.

### 5.6 COMMUNICATION WITH POTENTIAL BIDDERS AND ADDENDA PROCESS

All communications with potential Bidders after the solicitation document has been issued must be made in writing through a single contact person designated in the Solicitation Document. The designated contact must be a representative of Procurement. Any others who receive inquiries from Bidders must direct those Bidders to the designated contact without discussing the Procurement Project.

Instances arise in which Suppliers with existing contracts are also potential Bidders. In these instances, employees continue their relationship with the Suppliers with respect to existing



contracts. But, employees do not discuss upcoming Procurement Projects, and they do not discuss active projects on which they are not the designated contact.

All Bidder questions must be submitted in writing to the designated contact person at Procurement. The contact then forwards questions of a technical nature to the subject matter experts. These experts then provide the answers back to the Procurement contact who consolidates all Bidder questions and any corresponding answers that materially impact the Solicitation Document into a Q&A in a written addendum. The Q&A document does not identify which Bidder asked which question. Duplicate questions may be consolidated as long as all legitimate Bidder questions and concerns are addressed. The standard addendum template available on the Nova Scotia Procurement Web Portal should be used.

All changes to a Solicitation Document including changes to scope, evaluation criteria and schedule must be communicated to all Bidders through a written addendum. Procurement will prepare the addendum and will issue the addendum in the manner set out in the Solicitation Document.

If an addendum containing significant new information is released close to the submission deadline, Procurement must consider extending the submission deadline to allow Bidders a reasonable period of time to review and respond to the addendum. For Construction tenders, refer to Construction Contract Guidelines for additional guidance.

## 5.7 RECEIPT OF BIDS

Bids must be received by Procurement in accordance with the Solicitation Document. Physically submitted Bids must be time and date stamped upon receipt, even if received after the submission deadline. Bids received prior to the submission deadline must be kept confidential until the submission deadline has passed.

Procurement is responsible for opening the Bids in accordance with the Solicitation Document. All Bid documents must be retained, including proof of the date and time stamped envelope.

Bids received after the submission deadline will be disqualified.

## 5.8 EVALUATION OF BIDS

Evaluations must be fair, defensible and transparent in accordance with the evaluation process disclosed in the Solicitation Document. The evaluation team must be chosen and the evaluation conducted in accordance with this protocol.

## 5.9 EVALUATION GUIDE

For projects of high complexity, risk, or dollar value, consideration should be given to developing an evaluation guide setting out further details on the evaluation process for use by the evaluation team, which may include governance and negotiation protocols and must be consistent with the evaluation and selection process set out in the Solicitation Document. The evaluation guide must be developed and reviewed by Procurement prior to the Bid submission deadline.

### 5.9.1 Review of Mandatory Submission Requirements

Procurement opens and reviews the Bids to determine if all mandatory submission requirements have been met in accordance with the Solicitation Document.

If the Solicitation Document does not provide for a rectification period, Bids failing to meet the mandatory submission requirements are disqualified and must not be evaluated further. Bids satisfying the mandatory submission requirements are provided to the evaluation team for further evaluation.

If, and only if, the Solicitation Document provides for a rectification period, Procurement notifies the Bidders whose Bid(s) failed to meet all the mandatory submission requirements that there is a second opportunity to meet the mandatory submission requirements within the rectification period. Once the rectification period deadline passes, Bids still failing to meet the mandatory submission requirements are disqualified and must not be evaluated further. All Bids satisfying the mandatory submission requirements are then passed along to the evaluation team for further evaluation.

Note that “rectification period” is not provided for in a legally binding, “Contract A” bidding process.

### 5.9.2 Assessment of Mandatory Technical Requirements

The evaluation team assesses whether Bids satisfy the mandatory technical requirements set out in the Solicitation Document. Bids that do not satisfy the mandatory technical requirements will be disqualified and must not be evaluated further.

If there is uncertainty whether a Bid satisfies a mandatory technical requirement, the evaluation team must consult with Procurement to determine the appropriate course of action.

If it is clear that a Bid does not satisfy all mandatory technical requirements, the evaluation team must disqualify the Bid and notify Procurement. Under no circumstances may any member of the evaluation team communicate directly with any Bidder about the evaluation process.

### 5.9.3 Lowest Price

In a lowest price evaluation, the contract is awarded to the Bidder that submitted a compliant Bid with the lowest price. Once the mandatory requirements have been reviewed, the evaluation team reviews the compliant Bids to determine the lowest submitted price. Procurement then reviews the final decision with at least one representative from the evaluation team.

### 5.9.4 Weighted Criteria

In a weighted criteria evaluation, the contract is awarded to the Bidder that submitted a compliant Bid with the highest score.

The evaluation team must be selected, and approved by Procurement, before the submission deadline. A minimum of three evaluators must participate in the evaluation process. More than three evaluators may be required depending on the risk, complexity or dollar value of the Procurement Project. One evaluator acts as the evaluation team lead. The team lead works closely with Procurement to ensure the criteria set out in the Solicitation Document is evaluated in accordance with the Solicitation Document and scoring of the proposals is defensible.

Evaluation team members must sign individual conflict of interest declarations stating they have no conflict of interest with respect to the procurement process, as well as individual non-disclosure agreements to keep the content of Bids and the evaluation confidential.

Once the mandatory requirements have been reviewed, the evaluation team should evaluate the compliant Bids in accordance with the following steps:

- **Each individual evaluator should review each Bid individually.** Bids should **not be compared** to one another during the evaluation process, but each should be **evaluated on its own merits**. During this preliminary evaluation process, **individual evaluators should make notes**, including their scores and any comments supporting their scores based on the established evaluation criteria. Evaluators need to be aware that the Province is subject to the Freedom of Information and Protection of Privacy Act. As such, evaluators must remember **that all evaluation notes are potentially subject to public release under access to information legislation** and therefore all written comments must be fair, defensible and transparent. Evaluators must evaluate using the **pre-established evaluation criteria and weightings** as set out in the Solicitation Document.
- If an evaluator believes clarification is needed in respect of information contained in a bid, they should contact the evaluation team lead. **Under no circumstances should an evaluator attempt to contact or communicate directly with a Bidder.**
- If the **evaluation team lead wishes to seek clarification from a Bidder** in respect of information contained in its Bid, the evaluation team lead must consult with Procurement. The evaluation team lead should prepare a draft of the clarification

questions he/she proposes to ask the Bidder for review by Procurement. If determined to be appropriate, Procurement will send the clarification request to the Bidder. The Bidder's response is provided to Procurement. Procurement will review the response from the Bidder and, if determined to be appropriate, will provide it to the evaluation team.

- Once all evaluators have conducted their individual evaluations, the entire **evaluation team should meet to finalize their scores**. In the case of Major Projects, or upon request, an additional representative of Procurement may serve as an observer and advisor to the evaluation team.
- During the meeting for the finalization of scores, **any discrepancies in scoring between the individual evaluators should be discussed**. Evaluators should explain how they arrived at the particular score they assigned and point out the relevant information in the Bid that supports the score. **Evaluators may adjust their scores based on these discussions, but should not feel compelled to do so if they feel the score they have assigned is fair** and supported by the content of the Bid. The Bidder's score for each of the criteria should be determined by taking the average or median of the final scores assigned by each individual evaluator.
- Once the evaluation of non-price factors has been completed and the scores for the non-price factors have been totaled, the evaluation team should factor in the evaluation of price in accordance with the method set out in the Solicitation Document.

#### 5.9.5 Interviews and Presentations

If expressly set out in the Solicitation Document, the evaluation process may include interviews and presentations. Interviews and presentations are scheduled in advance, and all Bidders are given the same amount of time and level of review to prepare. Evaluations of interviews and presentations must be done in accordance with the Solicitation Document. They are not an opportunity to repair a Bid.

#### 5.9.6 Best and Final Offer Process (BAFO)

Where expressly set out in the Solicitation Document, the evaluation may include a process for engaging in negotiations or discussions with a short-list of Bidders followed by the submission of best and final offers. In such cases, the evaluation team evaluates the original Bid submissions and creates a shortlist of Bidders in accordance with this protocol and the process set out in the Solicitation Document. The shortlisted Bidders are then invited to engage in discussions and negotiation of their bids before submitting a best and final offer. The best and final offers must then be evaluated in accordance with this protocol and the process set out in the Solicitation Document. An evaluation and negotiation guide must be developed for best and final offer projects.

## 5.10 SELECTION OF PREFERRED BIDDER(S)

The preferred Bidder(s) is selected based on the results of the evaluation process in accordance with the Solicitation Document.

Where the competition is intended to result in the award of a contract to the selected Bidder, the evaluation team is responsible for submitting a recommendation to award the contract to the preferred Bidder to Procurement for approval, and must obtain such approval prior to proceeding with the finalization of the contract in accordance with the Nova Scotia Sustainable Procurement Policy. All individual evaluator score sheets, the summary score sheet and any applicable notes in support of the scores must accompany the recommendation to award.

Where the competition is intended to result in the prequalification of Bidders that will be eligible to participate in a second stage Competitive Process, the evaluation team is responsible for submitting a recommendation to prequalify the preferred Bidders to Procurement for approval, and must obtain such approval prior to notifying the Bidders of the outcome of the pre-qualification process and proceeding with the second stage of the Competitive Process.

Where the competition is intended to result in a Standing Offer, Procurement is responsible for finalizing any Standing Offer with the successful Bidders. Once finalized, the Public Sector Entity must follow the Standing Offer Protocol in order to procure Goods, Services or Construction through the Standing Offer.

## 5.11 NEGOTIATION OF CONTRACT PROCESS

If the Solicitation Document provides for contract negotiations with the preferred Bidder, Procurement is responsible for conducting the negotiations in consultation with, where appropriate, Legal Services. The exception to this is if a Public Sector Entity has been delegated the authority to conduct negotiations through mutual agreement.

## 5.12 CANCELLATION OF COMPETITIVE PROCESS

If the Bid submission deadline has passed and Bids have been received, an Open Competition must not be canceled without the approval of Procurement.

## 6 ALTERNATIVE PROCUREMENT PRACTICES PROTOCOL

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### 6.1 PURPOSE

The purpose of this protocol is to set out the circumstances in which Alternative Procurement Practices may be used.

### 6.2 INTERPRETATION

This protocol should be read in conjunction with the Nova Scotia Sustainable Procurement Policy. Terms used in this protocol are as defined in the Nova Scotia Sustainable Procurement Policy.

### 6.3 AUTHORIZATION AND APPROVAL

Alternative Procurement Practices must not be used to avoid competition between Suppliers or to discriminate against specific individual or groups of Suppliers.

#### **High Value**

A Procurement Project Plan must be completed and provided to the Chief Procurement Officer or designate prior to engaging in an Alternative Procurement Practice. The use of Alternative Procurement Practices must be authorized by the Senior Administrative Officer of the Public Sector Entity. The Senior Administrative Officer may delegate signing authority to an acting or assistant Senior Administrative Officer. The rationale permitting the Alternative procurement practice will be documented on the appropriate form and will provide substantiation for the actions taken. This form must also indicate whether or not the circumstance is supported by Procurement.

Any disagreement between Procurement and the Public Sector Entity with respect to the approval of a Procurement Project Plan involving an Alternative Procurement Practice should be resolved by the Chief Procurement Officer and the Senior Administrative Officer of the Public Sector Entity. Senior Administrative Officers are responsible and accountable for any decision to authorize or proceed with a procurement process or transaction that does not have the approval of Procurement.

#### **Low Value**

Public Sector Entities will be required to complete a low value ALTP form which must be signed by the person making the purchase as well as the person's supervisor or the person with signing authority for the given business area. In all cases, forms require two signatures and must be kept on file by the Public Sector Entity for audit purposes.

An emergency procurement is exempt from obtaining approval to use an Alternative Procurement Practice.

## 6.4 LIMITED COMPETITION

A Limited Competition involves the use of an Invitational Competition instead of an Open Competition where the value of the procurement exceeds the Open Competition Thresholds. A Limited Competition should be used where the circumstances surrounding the procurement do not allow for an Open Competition in accordance with one or more of the ALTP justifications set out below, but the circumstances could allow for an Invitational Competition.

A Limited Competition is approved through the Procurement Project Plan, is conducted in accordance with the Invitational Competition Protocol, and the contract is finalized in accordance with the Nova Scotia Sustainable Procurement Policy.

## 6.5 NON-COMPETITIVE PROCUREMENT

For a Non-Competitive Procurement that has been approved through a Procurement Project Plan, Procurement is responsible for negotiating and finalizing the contract in accordance with the Nova Scotia Sustainable Procurement Policy.

## 6.6 AWARD NOTIFICATION

After a contract has been entered into for a Limited Competitions or high value Non-Competitive procurement, Procurement will post the name of the successful Supplier and the value awarded on the Nova Scotia Procurement Web Portal as is required under applicable trade agreements.

## 6.7 UNSOLICITED PROPOSALS

Any unsolicited proposals received should be forwarded to Procurement to assess the merit of the proposal, and will only be considered in the context of ALTP Justifications found in section 6.8.

## 6.8 ALTP JUSTIFICATIONS

Alternative Procurement Practices may be used if:

1. insofar as is strictly necessary where, for reasons of urgency brought about by events unforeseeable by the public sector entity, the goods, services or construction could not be obtained in time using an open competition
2. where goods or consulting services regarding matters of a confidential or privileged nature are to be purchased and the disclosure of those matters through an open tendering process could reasonably be expected to compromise government confidentiality, result in the waiver of privilege, cause economic disruption, or otherwise be contrary to public interest

3. to ensure compatibility with existing products, or to maintain specialized products that must be maintained by the manufacturer or its representative
4. to ensure the protection of patents, copyrights, or other exclusive rights
5. due to an absence of competition for technical reasons
6. for the procurement of goods or services the supply of which is controlled by a supplier that is a monopoly
7. for goods purchased on a commodity market
8. for work to be performed on or about a leased building or portions thereof that may be performed only by the lessor
9. for work to be performed on a property by a contractor according to provisions of a warranty or guarantee held in respect of the property or the original work
10. where a procuring entity procures a prototype or a first good or service that is developed in the course of, and for a particular contract for research, experiment, study or original development. Original development of a first good or service may include limited production or supply in order to incorporate the results of field testing and to demonstrate that the good or service is suitable for production or supply in quantity to acceptable quality standards, but does not include quantity production or supply to establish commercial viability or to recover research and development costs.
11. for purchases made under exceptionally advantageous conditions that only arise in the very short term in the case of unusual disposals such as those arising from liquidation, receivership, or bankruptcy, but not for routine purchase from regular suppliers.
12. the requirement is for a work of art
13. where a contract is awarded to a winner of a design contest provided the contest has been organized in a manner consistent with the principles of this policy, in particular related to the publication of tender notices; and the participants are judged by an independent jury with a view to a design contract being awarded to a winner.
14. for the procurement of subscriptions to newspapers, magazines, or other periodicals
15. for additional deliveries by the original supplier of goods, or services that were not included in the initial procurement where a change of supplier for such additional goods, services or construction cannot be made for economic or technical reasons such as requirements of interchangeability or interoperability with existing equipment, software, services or installations



procured under the initial procurement, and would cause significant inconvenience or substantial duplication of costs for the public sector entity

16. no bids were submitted or no suppliers requested participation; no bids that conform to the essential requirements of the solicitation documentation were submitted; no suppliers satisfied the conditions for participation

17. for the procurement or acquisition of fiscal agency or depository services, liquidation, and management services for regulated financial institutions or services related to the sale, redemption, and distribution of public debt, including loans and government bonds, notes and other securities

18. for the procurement of goods and services for commercial sale or resale, or for use in the production or supply of goods or services for commercial sale or resale

19. for the procurement of goods and services financed primarily from donations that are subject to conditions that are inconsistent with this Policy

20. procurement of goods or services from another government body

21. procurement from philanthropic institutions, non-profit organizations, prison labor, or persons with disabilities

22. compliance with the competitive process requirements would interfere with the Province's ability to maintain security or order or to protect human, animal, or plant life or health

23. the procurement supports a measure adopted with respect to Aboriginal people

## 7 BIDDER DEBRIEFING PROTOCOL

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### 7.1 PURPOSE

The purpose of this protocol is to provide assistance and direction for conducting debriefings requested by Bidders who have submitted a compliant Bid.

### 7.2 INTERPRETATION

This protocol should be read in conjunction with the Nova Scotia Sustainable Procurement Policy. Terms used in this protocol are as defined in the Nova Scotia Sustainable Procurement Policy.

Where terms conflict between this protocol and the Public Sector Entity's Procurement policy, the Public Sector Entity's Procurement policy shall supersede.

### 7.3 PURPOSE OF A BIDDER DEBRIEFING

The purpose of a debriefing is to provide a Bidder with constructive feedback about their evaluated Bid. The debriefing process is not a complaint process and should not be treated as such.

Information about Bids submitted by other Bidders must not be discussed or disclosed by the Province and other Public Sector Entities in the debriefing.

Debriefings are an important part of a Competitive Process. They provide an opportunity to:

- Recognize the efforts Bidders make in responding to Solicitation Documents issued by the Province.
- Provide constructive feedback and suggestions for improvements so that unsuccessful Bidders are better prepared for future opportunities, giving the Province and other Public Sector Entities, in turn, access to more qualified Bidders that are better able to compete.

### 7.4 RESPONSIBILITY FOR CONDUCTING DEBRIEFING

Best practice requires that debriefs for Open and Invitational Competition, where Procurement is involved, be conducted with representatives of both Procurement and at least one member of the evaluation team responsible for the Procurement Project.

In situations where it is impractical to have both a Procurement and evaluation team member representatives at the debrief (i.e. time limitations, low-value award, low complexity), the debrief may be held by the Procurement representative only. The Bidder should be advised ahead of time and should be given the option to reschedule to a time when an evaluation team member can be included, where practical. Following the debrief with the Procurement representative only, should additional clarification be required for the debrief that can only be provided through a member of the evaluation team, a subsequent session may be scheduled with additional attendees or that information may be provided through an alternative method.

The evaluation team representative should be knowledgeable in all aspects of the Bid and the evaluation process. If the Procurement Project involves more than one Public Sector Entity, additional representatives may attend.

For an Invitational Competition where there was no Procurement involvement, debriefs should be conducted by two representatives familiar with all aspects of the Bid and the evaluation process.

## 7.5 INITIATION AND SCHEDULING OF A DEBRIEFING

Debriefings are only initiated at the request of a Bidder. Requests for a debriefing are directed as identified in the Solicitation Document. Bidders are expected to make their request within thirty (30) days of the notification of the outcome of the procurement process unless otherwise specified in the solicitation document. Requests for a debriefing made after this time period may be rejected but are considered on a case by case basis.

Following receipt of a request for a debriefing from a Bidder, the Province or the Public Sector Entity will endeavor to:

- Provide an appointment date for the debriefing within thirty (30) days.
- Complete the debriefing no later than ninety (90) days from the request for debriefing.

Debriefs are generally scheduled for no more than thirty (30) minutes.

When scheduling the debriefing, the Province or the Public Sector Entity will address the following matters with the Bidder's representative:

- Explain the purpose of the debriefing;
- Explain that the debriefing is intended to be an informal meeting without the presence of legal counsel; and
- Confirm attendees.

## 7.6 INTERNAL PREPARATION FOR THE DEBRIEFING

Prior to the debrief the Procurement representative shall meet with the lead evaluation team representative in attendance (if required), to review the Debriefing Protocol, debrief summary (if applicable), and evaluation notes to ensure the roles and responsibilities are understood.

## 7.7 CONDUCTING THE DEBRIEFING

The following is a suggested structure for conducting a debriefing:

- Introductions and reiteration of the purpose of the debriefing;
- Summary of the evaluation;
- Overview of the Bidder's Bid;
- Discussion of suggestions on how the Bidder could improve future Bids;
- Questions and answers related to the Bidder's Bid; and
- Feedback from the Bidder on procurement processes and practices

The following may be discussed in a debriefing:

- A general overview of the evaluation process.
- Name and aggregate pricing of the successful Bidder if the information is available or known. No unit pricing will be provided.
- Specific evaluation information related to the criteria used to evaluate the Bids.
- Bidder's evaluation score and strengths and weaknesses of the Bidder's Bid in relation to the evaluation criteria.
- Suggestions on how the Bidder could improve future responses.
- Bidder's overall evaluation ranking (e.g., 3rd out of 5).
- Specific questions and issues raised by the Bidder as it relates to their Bid.
- Any information that was shared publicly as part of the Competitive Process or in accordance with the Procurement Release of Information Protocol.

The following is **not** permitted in a debriefing:

- Bidder's legal representation is not permitted to attend.
- Recording devices are not allowed; however, parties may take notes if they wish.
- Provision of scores of individual evaluators; only the final consensus score assigned by the evaluation committee as a whole will be provided to the Bidder.

- Disclosure of scores and/or ranking of other Bidders
- Comparisons to any other Bids.
- Provision of information concerning other Bidders and/or Bids by the Province or Public Sector Entity. This must not be provided to a Bidder during a debriefing as it may relate to confidential, third-party proprietary information that is subject to general common law confidentiality duties and protection under access to information legislation.
- Discussion of issues unrelated to the evaluation criteria or the Competitive Process in question.
- Disrespecting or intimidating the Procurement or evaluation team representative. Should this occur, the debrief will be called to an immediate conclusion.

## 7.8 DEBRIEFING FOLLOW-UP

Following the conclusion of a debriefing, a note is placed in the project file indicating a debriefing took place, the date it was conducted, who was in attendance and any relevant information.

## 8 PROCUREMENT COMPLAINT PROTOCOL

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### 8.1 PURPOSE

The purpose of this protocol is to set out the process for Bidders to file a complaint about a procurement activity.

### 8.2 INTERPRETATION

This protocol should be read in conjunction with the Nova Scotia Sustainable Procurement Policy. Terms used in this protocol are as defined in the Nova Scotia Sustainable Procurement Policy.

### 8.3 SCOPE OF THE PROCUREMENT COMPLAINT PROCESS

A Bidder that is not satisfied with the results of a bidder debriefing may file a complaint. The Bidder must request and attend a debriefing prior to engaging in the procurement complaint process.

The procurement complaint process set out in this protocol is meant to provide an opportunity for Bidders to voice complaints and to assist the Province in identifying any gaps or shortcomings in its procurement policies and practices. The process is intended to help resolve issues that involve no significant factual or interpretive disagreement between the parties. It is not intended to resolve fundamental disputes over facts or legal rights and obligations or to establish a mechanism to adjudicate such disputes.

The procurement complaint process will under no circumstances result in any contract award being set aside by the Province.

The procurement complaint process set out in this protocol shall not be used to challenge a procurement process in respect of which the Bidder has commenced legal proceedings against the Province.

### 8.4 PROCUREMENT COMPLAINT PROCESS

A Bidder that wishes to file a complaint must do so by submitting a request in writing to Procurement within sixty days from notification of award of contract. The request must include:

- A clear statement as to which procurement the Bidder wishes to file a complaint

- A clear explanation of the Bidder's concerns with the procurement, including specifics as to why they disagree with the procurement process or its outcome
- The Bidder's contact detail including name, phone number and email address.

Procurement, in cooperation with any involved Public Sector Entity (when applicable), then:

- reviews the complaint
- within ten business days of receipt of the Bidder's complaint, sends the Bidder written notification that:
  1. acknowledges receipt of the complaint
  2. a date has been set by which the Bidder will be contacted with a response (date must be within twenty-five days of receipt of the Bidder's complaint)

The Bidder's request for review and the notification must then be submitted to a Procurement Review Committee (PRC). The PRC is comprised of three representatives that were not involved in the procurement process in question from Procurement and the relevant Public Sector Entities.

Members of the PRC must:

- Sign individual conflict of interest declarations.
- Convene a meeting and, as a group, review the complaint outlining the Bidder's concerns, and seek clarification when necessary

Upon review of the complaint, the PRC has two options:

- If the PRC is satisfied that the Bidder's rationale for requesting a review is without merit, the PRC instructs Procurement to notify the Bidder in writing that the PRC has reviewed its concerns and that the PRC is of the opinion that the complaint is without merit
- If the PRC finds that the Bidder's complaint may have some merit, an appropriate response will be prepared and submitted to the Bidder from Procurement. Any response provided to a Bidder in accordance with this protocol is to be provided on a "without prejudice" basis, unless otherwise agreed by Procurement.

## 9 STANDING OFFER PROTOCOL

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### 9.1 PURPOSE

The purpose of this protocol is to provide procedures and guidance for establishing and managing Standing Offers.

### 9.2 INTERPRETATION

This protocol should be read in conjunction with the Nova Scotia Sustainable Procurement Policy. Terms used in this protocol are as defined in the Nova Scotia Sustainable Procurement Policy.

### 9.3 ESTABLISHING A STANDING OFFER

Standing Offers may be established for Public Sector Entities to purchase standardized Goods and Services if:

- The requirements are recurring and predictable over an extended period of time
- The requirements are standard and clearly defined at the time the Standing Offer is established
- It is possible to fix pricing for the duration of the Standing Offer

To establish a Standing Offer, Procurement, in cooperation with Public Sector Entities:

- Publically issues a Solicitation Document
- Evaluates the Supplier responses in accordance with the criteria and process set out in the Solicitation Document
- Establishes a single Standing Offer, or, if there is a risk that a single Supplier cannot meet the demand, establishes multiple Standing Offers

Procurement ensures the core list of Standing Offers contains sustainable Goods and Services to the greatest extent possible.

A Standing Offer defines the general terms and conditions of the relationship between the parties; the unit prices of available items; and applicable pricing terms such as discounts and rebates, delivery charges, applicable surcharges, installation Services and warranty.

A Standing Offer does not create contractual commitment from either party to a defined volume of business.



## 9.4 PURCHASING FROM A STANDING OFFER

The commitment to purchase against a Standing Offer forms at the time of the actual requirement and is realized through the issuance of a purchase order(s) to the Supplier. The purchase order refers to the Standing Offer details and reflects the pre-negotiated prices, terms and conditions. The process for drawing down from a Standing Offer will be developed on a case by case basis. Procurement is responsible for releasing all purchase orders over \$10,000.

## 9.5 MANDATORY USE OF STANDING OFFERS

Public Sector Entities are responsible for checking if a Standing Offer is already established before making a purchase. Existing Standing Offers are published on the internal site of the Nova Scotia Procurement Web Portal, accessible to all employees of Public Sector Entities.

The use of existing Standing Offers is mandatory for all Public Sector Entities.

In exceptional cases, a Public Sector Entity may purchase Goods, Services and Construction outside an established Standing Offer. If the requirement is not satisfied by the standard specifications available on the Standing Offer, a Public Sector Entity must obtain the approval of Procurement to proceed with a purchase outside of the Standing Offer.

## 9.6 ADDING SUPPLIERS TO THE ROSTER

The process for allowing vendors to be added to the roster may differ depending on the Standing Offer. Some Standing Offers may be open for vendors to be included at any time while others will only be available at predetermined intervals. Public Sector Entities can consult with Procurement for the appropriate approach to adding suppliers to the Standing Offer. The initial solicitation documents will indicate the method that will be used for adding suppliers to the roster of that particular Standing Offer.

For Standing Offers where vendors can be added at any time, a Supplier already included on the Standing Offer will remain on the roster and will not need to resubmit a response. The same qualification requirements, evaluation process and Framework Agreement should be included in each subsequent RFSQ issued for the purpose of qualifying new suppliers for inclusion on the Roster.

## 10 CONTRACT MANAGEMENT PROTOCOL

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COMING SOON

# 11 SUPPLIER PERFORMANCE EVALUATION PROTOCOL

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COMING SOON

## 12 SUPPLIER DISQUALIFICATION PROTOCOL

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COMING SOON