



# Council Procurement Training

We'll be with you in a moment....



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# Procurement Training

Municipality of Brockton Council  
March 25 2021, 10AM-12PM



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# AGENDA FOR TODAY

AGENDA (10AM-12PM)		
1	Introduction / Interacting with Zoom	5 min
2	Project Update	5 min
3	Public Procurement Fundamentals	60 min
4	Brockton's Procurement Policy	25 min
5	Procurement Procedures (Sneak Peek)	10 min
6	Questions	15 min

# Introduction

LouAnn Birkett, CSCMP, FSCMP  
LXM LAW

- Procurement Professional
- Decades of Municipal Procurement
- Instructor, Supply Chain Canada





# Interacting with Zoom





A dark, atmospheric photograph of a city skyline at night. Several tall buildings are visible, some with lights on. In the foreground, there are blurred light trails from vehicles, including a prominent red one. The overall tone is dark and moody.

# Project update

# Project Update

Date	Deliverable	Status
January 2021	<ul style="list-style-type: none"> <li>✓ Council Report</li> <li>✓ Procurement Policy</li> </ul>	Completed
February 2021	<ul style="list-style-type: none"> <li>✓ Rfx Templates (RFP, RFT, RFQ)</li> <li>✓ Staff Training on Templates</li> </ul>	Completed
March 2021	❖ Council Training	March 25
	❖ Procedures Manual	Issued in draft, pending review
April 2021	❖ Procedures Manual	To be finalized week of April 15
	❖ Staff training on procedures	April 20

A city skyline at night, featuring several tall buildings with lit windows. The scene is overlaid with red lines that crisscross the frame, suggesting a network or infrastructure. Light trails from vehicles are visible in the foreground, and a street lamp is on the left. The overall tone is dark and urban.

# Why a new policy?



# Why New Policy?

## Objectives:

- Consistency
- Probity
- Efficiency

## Expected outcomes:

- Supplier and public trust
- Risk management
- Legal compliance
- Improved RFX documents



# Establishes a compliance framework

## Policy, procurement, templates, training

- Best substitute for onsite procurement expert
- Codifies requirements of trade agreements
- Reflects procurement best practices
- Ensures consistency
- Assigns accountability

# Why Compliance Matters

## LEVY: TCHC consulting contract 28% higher than estimate

Sue Ann Levy  
Nov 28, 2018 • 4 minute read • Join the conversation



Toronto Community Housing headquarters on Yonge St. in Toronto, Ont. on Sunday March 5, 2017. PHOTO BY ERNEST DOROSZUK/TORONTO SUN/POSTMEDIA NETWORK

A \$1.3-million "change management" consultant selected by Toronto Community Housing Corporation (TCHC) through a public RFP submitted a bid that was 28% higher than the housing authority's own estimates, says a confidential report obtained by the Toronto Sun.

PROJECTS

## Ottawa council's sole source decision

admin January 28, 2014

In its 2011 judgment in *Friends of Lansdowne Inc. v. Ottawa (City)*, upheld on appeal in 2012, the Ontario Superior Court of Justice rejected an

CanLII

municipality and tender

Case name, document title, file number, author or c

Noteup/Discussion: cited case names, legislation t

All CanLII (12,366)

Cases (10,321)

legislation (

All jurisdictions

All courts and tribunals

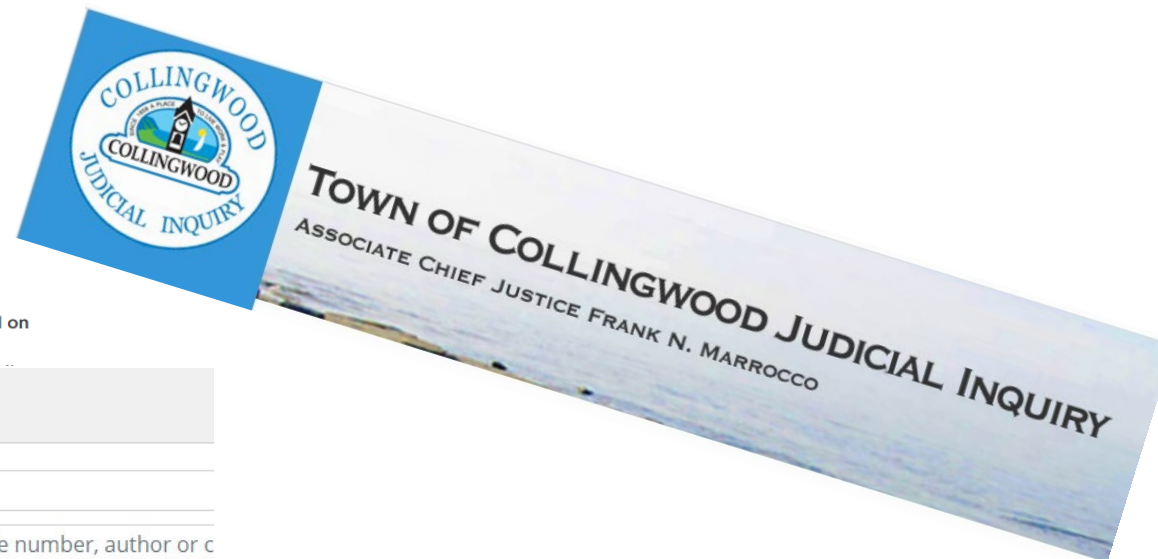
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Set up

1. [Sound Contracting v. City of Nanaimo](#), 200  
Supreme Court of British Columbia — Brit



Toronto

## EHealth scandal a \$1B waste: auditor



CBC News - Posted: Oct 07, 2009 10:34 AM ET | Last Updated: October 7, 2009



# Other Benefits

- Staff know what to do
- Suppliers know what to expect
- Council's role is clear
- CAO accountable
- Better value for money
  - vague solicitation documents -> price premiums
- Better planning
- Less time wasted by everyone!

A dark, atmospheric photograph of a city skyline at night. Several tall buildings are visible, some with lights on. In the foreground, there are blurred light trails from vehicles, suggesting motion. The overall tone is dark and moody, with a blueish-grey color palette.

# Procurement fundamentals



# Public Procurement Fundamentals

## Open

- Advertised (bids and tenders)
- Must limit any conditions for supplier participation

## Fair

- Treat all bidders fairly
- Same information, same time
- No bias in evaluation (optics also matter)

## Transparent

- Disclose objective evaluation process
- Disclose all relevant information



# Competitive Process Fundamentals

- RFP, RFT and RFQ process is a binding contract
- Bidder submits compliant bid = Contract A/Process Contract
- The process picks the winner, not management or Council
- To cancel process or bypass winning bidder, must be a good faith, out of Municipality's control reason e.g. public interest, bidder ethical issues, etc..
- Council can only intervene in an award by:
  - cancelling the process or
  - disqualifying successful bidder from the process.

# Non-Competitive Contracting

- Directed contract
- No competition
- Can attract negative media / public attention
- Can impair trust in municipality
- No assurance of lowest price

➡ Trade agreements and Brockton policy require publishing a notice of directly awarded contracts > \$100,000

A dark, atmospheric photograph of a city skyline at night. Several tall buildings are visible, some with lights on. In the foreground, there are blurred red light trails from traffic, suggesting a busy street. The overall tone is dark and moody.

# Procurement policy



# Policy Overview - Accountabilities

- CAO accountable for compliance
- Council has an oversight and approval role
- CFO accountable for implementing procedures
- Department Heads must comply with policy / procedures





# Council Role

- Oversee policy compliance by management
  - Obtain CAO assurance that policy and procedures were followed
  - Should be no need to double-check staff's work
- Fulfil Council approval role
- Respect the outcome of the RFX process
- Intervene only in exceptional circumstances, e.g. for public interest considerations (cancel process / disqualify bidder)



# Council Role

- Keep politics out of procurement decisions
- Council members should not intervene in any ongoing procurement process



Could invalidate a contract award and cause significant loss of public trust

# Council - Contract Approvals

Threshold-based Council Involvement	Role
Approve competitive bidding contracts > \$75,000	Approval
Approve non-competitive contracts >\$25,000	Approval
At each meeting, receive reports of all procurements > \$25,000	Monitor

# Council - Special Approvals

Special Circumstances	Role
Approved Funding Insufficient for Contract Award (value not relevant)	Approval
Award to successful bidder not recommended by staff	Approval
Council approval mandated by statute	Approval
CAO recommends Council involvement/approval	Approval
Contract term > 5 years	Approval

# What about local preference?

- Local Preference: Favoring local company for award of contract
- Making decisions based on geographical discrimination prohibited by the trade agreements and potentially by the Ontario Discriminatory Business Practices Act.



# Policy - Local Considerations

## Article 13 Local Considerations:



- Department Heads are encouraged, where possible, to include one or more qualified suppliers that are residents of, or operate out of, the Municipality **when selecting suppliers to submit Bids as part of an Invitational Competitive Process.**
- This effort is not intended to give preference in making an award but is to provide Municipality suppliers a chance to participate in the Municipality's procurement opportunities.

# New Purchase Order

- New Requirement
- PO = expenditure commitment
- PO Legal Terms online  
@Brockton.ca
- Supplier invoice should reference  
PO




# Permitted Procurement Methods

- Under 10k (no change)
- 10k-25k - RFQ informal
-  25k-75k - RFQ formal
-  >75k - RFP or RFT

Contract Value (incl. potential renewals)	Procurement Strategy	Permitted Procurement Vehicle
Up to \$10,000	Non-Competitive Purchase  Optional: Invitational Competitive Process (minimum 2 quotes)	Procurement Card Purchase Order Petty Cash RFQ-I  Optional: RFQ-F
Over \$10,000 to \$25,000	Invitational Competitive Process (minimum 2 quotes)	RFQ-I (recommended)  Optional: RFQ-F, RFP, RFT
Over \$25,000 to \$75,000	Invitational Competitive Process (minimum 3 quotes)  Optional: Advertised Competitive Process	RFQ-F (recommended)  Optional: RFP, RFT
Over \$75,000	Advertised Competitive Process	RFP, RFT

# Under \$10k - No Quotes

- Petty Cash
-  Credit card / purchasing card
- Optional: PO document or PO number
- Streamlined process / low risk



## \$10k-25k - Minimum 2 Quotes

- 2 Quotes obtained by phone or by email
- Keep a record of the quotes
- Issue PO to confirm purchase commitment





# \$25k-75k RFQ-F - Minimum 3 quotes



25k-75K new template RFQ-F

- Award based on lowest price



General Terms and Conditions online at [Brockton.ca](http://Brockton.ca)

- Right of termination

## > \$75K - RFP and RFT


 75K+

- RFP / RFT New Templates
- must advertise on bidsandtenders

# Non-Competitive Procurement

Non-competitive > \$10,000  
Must be justified in writing  
And requires  
special approvals

NON-COMPETITIVE PROCUREMENT APPROVALS (EXEMPTIONS)



Contract Value (incl. potential renewals)	Approval Authority (Approval to proceed with Non-Competitive Purchase)	Council Approval
Up to \$10,000	Department Head	No
Over \$10,000 up to 25,000	CAO subject to receipt of written justification from Department Head	No
Over \$25,000	Council subject to receipt of written justification and joint recommendation of CAO and Department Head	Yes Council approval required, except for an Emergency in which case an information report to be made as soon as possible.

- (e) **Information Report to Council for > \$25,000 Procurements.** At each regular Council meeting, for information purposes, the CFO shall submit a status report to Council on all procurements valued at \$25,000 or higher undertaken or awarded since the previous Council meeting, as noted on the above table.
- (f) **Special Council Approvals.** Regardless of the Contract Value, Council approvals are required where:
- the approved funding is insufficient for the Contract award;
  - staff does not recommend awarding the contract to the lowest compliant or highest ranked Bid that has met the requirements of the RFx;
  - Council approval is mandated by statute;
  - the CAO recommends Council approval; or
  - the term of the Contract exceeds 5 years.

# Non-Competitive Procurement

**Non-competitive procurement must be justified in writing based on one of these:**

- a) no compliant bids received
- b) only one supplier can supply good/service
- c) additional delivery goods where a competitive process not possible due to economic/technical constraints
- d) commodity type purchase e.g. hydro
- e) prototypes
- f) exceptionally advantageous conditions – usual disposals
- g) winner of design contest
- h) confidential or privileged goods or services
- i) Emergency
- j) Schedule A – excluded contacts

# Ethics and Conflict of Interest - Employees

- Person involved in procurement must not have pecuniary or other personal interest in a Contract
- Apparent, potential or actual conflict of interest requires disclosure
  - In ethics and conflicts, optics matter
- Exclude the conflicted person from the procurement
- Employees must not accept gifts or hospitality from suppliers

# Ethics and Conflict of Interest - Council

## Council members:

- Must remain at arm's length from staff/suppliers in the procurement process
- Must not receive or review procurement materials during the process
- Must reject offers of gifts or hospitality from suppliers or potential suppliers, regardless of value - pre-procurement or during process

A dark, atmospheric photograph of a city skyline at night. Several tall buildings are visible, some with lights on. In the foreground, there are blurred light trails from cars, suggesting motion. The overall tone is dark and moody.

# Procedures manual



# Procedures Manual

- Draft submitted to management March 13
- Review meeting April 6
- Manual to be finalized by week of April 15

# Sneak Peek!

DISCUSSION DRAFT



## PROCUREMENT PROCEDURES MANUAL

EFFECTIVE AS OF: **[INSERT DATE]**

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# Sneak Peek!

## Procedures

P010. Petty Cash/Procurement Card Procedure  
P020. Purchase Order Procedure  
P030. Contract Preparation Procedure  
P040. Contract Negotiation Procedure  
P050. Invitational Competitive Procedure  
P060. Advertised Competitive Bid Procedure  
P070. Managing Bidder Inquiries  
P080. RFP Bid Evaluation Procedure  
P090. Bidder Debriefing Procedure  
P100. Record Retention Procedure  
P110. Invoice Processing Procedure  
P120. Contract Amendment Renewal or Termination Procedure

## Guidelines

G010. Selecting the Competitive Procurement Vehicle Guidelines  
G020. Bid Irregularities Guidelines  
G030. RFQ-F Preparation Guidelines  
G040. RFT Preparation Guidelines  
G050. RFP Preparation Guidelines  
    G051. Scope of Work Preparation Guidelines  
    G052. Financial Bid Form Preparation Guidelines  
    G053. Evaluation Grid Preparation Guidelines  
    G054. Bid and Contract Security Guidelines  
    G055. Contractor Insurance Guidelines  
G060. RFx Cancellation Guidelines  
G070. Bidder Disqualification Guidelines  
G080. Contractor Performance Management Guidelines

## Tools

T010. Master Procurement Checklist  
T020. Non-Competitive Procurement Justification Form  
T030. RFx Cancellation Notice Template  
T040. Contract Award Notice – Successful Bidder Template  
T050. Contract Award Notice – Unsuccessful Bidder Template  
T060. Contract Award Notice – Disqualified Bidder Template  
T070. Contract Award Notice – Bids&Tenders Template  
T080. Evaluator Conflict of Interest and NDA Declaration  
T090. Contract Amendment Template

# Questions?



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