

J.17 – Procurement Policy

Version 2.0 | December 10, 2019

1. Guiding Principles

The procurement of goods and services by Council to meet operational and regulatory responsibilities is based on the following principles:

Fairness	Council’s procurements are to be free of bias, personal interest, and any actual, perceived or potential conflicts of interest.
Openness and transparency	Council’s procurement opportunities are to be competitive and transparent in the way business is conducted. Tender notices will be made accessible to all eligible suppliers on BC Bid.
Fiscal responsibility	Council’s procurement decisions and actions take into consideration efficiency, economy, and effectiveness to obtain the maximum benefits with the resources available as a not-for-profit regulatory body. Council is to receive the best value for money for all its procurement contracts.
Accountability	Council is accountable for the results of its procurement decisions and appropriateness of the processes followed.

2. Application

1. Council will not extend a preference for local or domestic goods, services, or suppliers by:
 - imposing conditions on the invitation to tender, registration requirements, or qualification procedures that are based on the location of a supplier's place of business;

- using a technical specification or conformity assessment procedure with the purpose or effect of creating unnecessary obstacles to trade;
 - the timing of events in the tender process so as to prevent suppliers from submitting bids;
 - the specification of quantities or schedules that may reasonably be judged as deliberately designed to prevent suppliers from meeting the requirements of the procurement;
 - using price discounts or preferential margins in order to favour particular suppliers;
 - applying fees or other costs to particular suppliers, except to the extent that any difference can be justified by an actual cost-of-service differential;
 - limiting participation in a procurement only to suppliers that have previously been awarded one or more contracts by a procuring entity;
 - requiring prior experience where not essential to meet the requirements of the procurement; and
 - providing information so as to give one supplier an advantage over other suppliers.
2. Council will divulge information equally and at the same time among all eligible suppliers in an open, fair, and timely manner.
 3. Council will provide eligible suppliers with a reasonable period of time to submit a tender, taking into account:
 - the nature and the complexity of the procurement; and
 - the extent of subcontracting anticipated.
 4. All eligible suppliers that meet the essential requirements and characteristics for a specific procurement will be given the opportunity to submit a tender.

5. In evaluating bids, Council may evaluate bids using several criteria, provided that such factors have been specified in the tender notice or tender documentation:
- quality;
 - quantity;
 - price and other cost factors;
 - technical merit;
 - the equivalency of goods or services proposed by an eligible supplier as being “equivalent” to the stated technical requirements;
 - terms of delivery;
 - servicing and warranty;
 - transitioning implications;
 - the capacity of the supplier to meet the requirements of the procurement within the required timeframe;
 - professional experience and capabilities, managerial ability, corporate stability, and business integrity;
 - past performance on similar projects with similar characteristics, including the quality, innovation, and life-cycle value of the outcomes;
 - the calibre, experience, and availability of the supplier’s staff proposed;
 - ability to meet site, climatic, public safety, code, design, permitting, and other project related requirements;
 - corporate and social responsibility; and
 - any other factor related to the procurement provided it is not used by Council to avoid competition, discriminate between suppliers, or protect local suppliers.

6. Council will provide an opportunity to all non-successful suppliers to receive a debrief in respect to their proposal and provide the opportunity for the supplier to ask any questions.
7. Council staff are to conduct themselves with integrity, ethics, honesty, and diligence in performing their duties.
8. Council staff are required to support and advance the interests of Council and avoid placing themselves in situations where their personal interest actually, is perceived to, or potentially conflict(s) with the interests of Council.
9. Council will provide promptly any information necessary to determine whether a procurement was conducted fairly, impartially, and in accordance with the applicable obligations.
10. Council will make its procurement policy available on its website.

3. Approval Thresholds and Authority

Approval limits for Council staff to engage Council into a contract with a supplier are provided by Council's Executive Director based on the annual budget.

Council staff with procurement approval authority are responsible to ensure that:

- the purchase is necessary, proper, and adequate budget exists within their area of authority prior to committing to any purchase, and the expenditure must fall within Council's approved budget;
- adequate time is allocated to follow the policy to procure goods and services;
- there is no violation of Council's policies or other legal and/or statutory requirements; and
- any extraordinary purchase not planned for in Council's budget requires approval by Council.

4. Exceptions

Provided that procurement procedures are not used by the procuring party to avoid competition, discriminate between suppliers, or protect its supplier, this policy does not apply to the procurement of goods or services where provided by:

- lawyers;
- notaries;
- not-for-profit organizations or public bodies;
- suppliers for the purpose of consumer protection;
- suppliers for less than \$25,000 for goods;
- suppliers for less than \$100,000 for services;
- suppliers for the protection of the health, safety, and well-being of Council members and staff;
- suppliers where an unforeseeable situation of urgency exists and the goods or services cannot be obtained in time by means of open procurement;
- suppliers where it can be strictly proven that no other supplier can provide the required goods or service;
- suppliers to ensure capability with existing products, to recognize exclusive rights (such as exclusive licences, copyright and patent rights), or to maintain specialized products that must be maintained by the manufacturer or its representative; or
- another government organization.

The policy also does not apply if the procurement is of a confidential or privileged nature and disclosure through an open bidding process could reasonably be expected to compromise Council's or government's confidentiality, cause economic disruption, or be contrary to the public interest.

5. Vendor Complaint Review Process

Complaints concerning Council's procurement process or a pending or awarded contract may be submitted by a complainant to Council's Chair (the "Chair") at any time during the procurement process.

6. Registering a Complaint

A complaint must be submitted in writing to the Chair by mail or email at the following address:

Insurance Council of British Columbia

Suite 300 - 1040 West Georgia Street

P.O. Box 7

Vancouver, British Columbia

V6E 4H1

info@insurancecouncilofbc.com

7. Complaint Format and Information Requirements

The complaint must include:

- name, title, company name, address, e-mail address, and telephone numbers of the complainant;
- the signature of the complainant (where an email complaint has been received, it will be deemed to have been signed by the originator of the email);
- competition or contract number as applicable;
- request for a review of the complaint;
- a detailed description of the complaint, the background leading to the complaint, including relevant dates, and actions of involved parties;
- copies of relevant documents;

- actions/remedies being requested;
- information establishing that the person submitting the complaint is a valid complainant, and
- any other additional information necessary to review the complaint.

8. Processing the Complaint

The Chair will review all competition/procurement documents and information related to the complaint.

The Chair will consider the merits of the complaint and may, at their discretion, dismiss the complaint on grounds that:

- the complainant does not have sufficient interest in the subject matter of the complaint;
- the complaint is not substantiated; or
- at the same time as the complaint is received, the complainant has initiated legal action, has submitted a complaint to the government procurement complaint contact (“Procurement Contact”), or has engaged in another review process pertaining to the complaint.

In reviewing a complaint, the Chair will consider all the circumstances relevant to the complaint including the seriousness of any deficiency in the procurement process and whether the parties acted in good faith.

Where the Chair dismisses a complaint, written notice will be provided to the complainant which will state the reasons for refusing to undertake a review. A copy of the written notice will be provided by the Chair to the Procurement Contact.

If the complaint has been determined to have merit, possible outcomes include but are not limited to the Chair:

- recommending to Council that it acknowledge the validity of the complaint and to undertake a renewed commitment to policy and procedure;

- advising Council to initiate enhanced training for staff who have procurement responsibilities;
- recommending that Council initiate a review of staff's authority to undertake procurement activity and to adjust as necessary;
- recommending changes to the procurement procedure; and/or
- recommending cancellation/amendment of the procurement competition at issue where a serious flaw has been identified.

9. Reporting – Complaint Review

Within 15 business days of receipt of a complaint, the Chair will prepare a preliminary report and recommendations regarding outcomes and provide the report to the complainant and the Procurement Contact.

The complainant is afforded 10 business days following receipt of the Chair's preliminary report to provide the Chair with a written reply to the report.

Within 30 business days of issuing the preliminary report, the Chair will issue a final report to the complainant and the Procurement Contact with directed outcomes, except where the Chair notifies the complainant and the Procurement Contact in writing that additional time is required to prepare a final report. In providing notice of the additional time required, the Chair must specify when the final report will be issued.

All records related to the complaint will be maintained by Council for examination as required and will be accessible in accordance with the *Freedom of Information and Protection of Privacy Act*.