

**PROCUREMENT OF GOODS AND SERVICES
POLICY:
Open and Effective Competition**



**Valley Region Solid Waste-Resource
Management Authority**



Approved by Authority April 17, 2013
To Replace Purchasing of Goods and Services Policy approved by the Authority January 30, 2008

1. PURPOSE OF THIS POLICY

The purpose of this Policy is to

- (a) provide for the procurement of goods, services, construction and facilities by Valley Region Solid Waste-Resource Management Authority (the “Authority”) in a fair, open, consistent and transparent manner resulting in best value;
- (b) encourage competition, innovative ideas and solutions while respecting trade agreement obligations;
- (c) promote sustainable procurement in procurement decisions including identifying and exploring opportunities to work with and support social enterprises and businesses that are owned by and who employ under-represented populations;
- (d) ensure that qualified suppliers have equal opportunity to bid on the Authority’s procurement activity;
- (e) be accountable for procurement decisions.

2. DEFINITIONS

“**Alternative Procurement Practices**” means approved exceptions to the procurement standards and practices that will normally be required of the Authority to adhere to for both Low Value and High Value procurements.

“**Atlantic Procurement Agreement**” means the agreement governing provincial government procurement entered into by the four Atlantic Provinces.

“**Atlantic Standard Terms & Conditions**” means standard instructions that support public tenders issued by the four Atlantic Provinces for goods and services. Supplements may be added if and when required.

“**Authority**” means the local public entity registered in the Registry of Joint Stock Companies as the Valley Region Solid Waste-Resource Management Authority.

“**Best Value**” means evaluating bids not only on purchase price and life cycle cost considerations, but also taking into account items such as environmental and social considerations, delivery, servicing, and the capacity of the supplier to meet other criteria as stated in the tender documents.

“**Bid**” means a supplier response to a public tender notice to provide goods, services, construction or facilities.

“**Construction**” means the construction, reconstruction, demolition, repair, or renovation of a building, structure, road or other engineering or architectural work, excluding the professional consulting services related to the construction contract unless they are included in the procurement.

“Construction Contract Guidelines” means standard instructions developed in consultation with the Construction Association of Nova Scotia that support construction tenders.

“Facilities” means all building lease requirements covering the conveyance of the right to use tangible building property for a specified period of time in return for rent.

“General Manager” means the most senior employee of the Authority who is responsible for managing all the day to day operational activities of the Authority and who reports directly to the Authority.

“Goods” means material, furniture, merchandise, equipment, stationery, and other supplies required by the Authority for the transaction of its business and affairs and include services that are incidental to the provision of such supplies.

“High Value Procurement” means procurements of goods, services, facilities or construction in circumstances where the value exceeds the threshold values for which a public tender is required.

“Inter-Municipal Services Agreement” means the agreement amongst the participating municipalities who are the owners and beneficiaries of the services provided by the Authority.

“Low Value Procurement” means procurements of goods, services, facilities or construction in circumstances where the value falls below the threshold values for which a public tender is required.

“Procurement Advisory Group” means the advisory group established by the *Public Procurement Act* to provide advice and recommendations to advance the outcomes of the *Act*.

“Procurement Activity or Activities” means the acquisition of all goods, services, construction, or facilities procured by purchase, contract, lease, or long-term rental.

“Procurement Governance Secretariat” means the office established by section 11 of the *Public Procurement Act* and reporting to the Chief Procurement Officer to support public sector procurement activities as described in the *Act*.

“Procurement Value” means the value of the total contract excluding taxes, but including all options whether exercised or not. For Facilities this value is determined by the monthly lease/rent times the term of the contract.

“Procurement Web Portal” means the public website maintained by the Province where all public tender notices are posted.

“Public Advertisement” means advertising a public tender notice on the Procurement Web Portal.

“Public Procurement Act or PPA” means the *Act* outlining the rules related to the procurement activity of all public sector entities in the Province of Nova Scotia.

“Public Tender” means procurement for goods, services, construction, or facilities obtained through public advertisement including tools such as Tenders, Request for Proposal (RFP), Request for Construction (RFC), Request for Quotation (RFQ), Request for Standing Offer (RSO), or Request for Expression of Interest (REI).

“Public Tender Notice” means notice of intended procurement for goods, services, construction or facilities obtained through Public Advertisement.

“Services” means services required by the Authority for the transaction of its business and affairs, excluding services provided by an employee through a personal services contract.

“Standing Offer” means a contractual arrangement with a supplier to provide certain goods or services on an “as required” basis, during a particular period of time, at a predetermined price or discount, generally within a predefined dollar limit.

“Supplier Complaint Process” means the supplier complaint process as provided and defined in the *Public Procurement Act*.

“Sustainable Procurement” means taking a holistic approach to obtain best value which involves integrating environmental, economic and social considerations into public procurement decision making.

3. APPLICATION

This policy applies to all Procurement Activity of the Authority effective April 17, 2013.

All procurement of goods, services, facilities and construction on behalf of the Authority must first be authorized by the Authority. Generally, that authorization is found in the Authority’s annual budget, as ratified and approved by the Authority’s participating member councils pursuant to the Inter-Municipal Services Agreement. Procurement of goods, services, construction or facilities not approved through the budget process shall be approved as supplementary budget estimates as provided in section 24(1) of the Intermunicipal Agreement.

As outlined in the “Valley Waste-Resource Management Authority Policy Statement Concerning the Authority and Responsibilities of the General Manager”, section 4h, this Policy establishes the parameters within which the Authority’s General Manager shall carry out the duly approved procurement of goods, services, facilities and construction on behalf of the Authority. The General Manager may designate other staff to carry out procurement activities to facilitate the smooth operations of the Authority within the parameters of the annual budget.

4. OPEN AND EFFECTIVE COMPETITION

The Authority is committed to:

- (a) conduct all public procurement activity for goods, services, construction and facilities in accordance with the applicable regional, national and international trade agreements by public advertisement on the Province of Nova Scotia's Procurement Web Portal (the "Portal");
- (b) post on the Portal the name of the successful bidder and the contract amount awarded;
- (c) maintain a copy of this Policy on its public website;
- (d) abide by the acceptable Alternative Procurement Practices and exemptions set out herein and/or in the regulations to the *Public Procurement Act (the "PPA")* ;
- (e) participate in supplier and public sector entity outreach programs conducted by the Procurement Governance Secretariat;
- (f) participate in professional development programs conducted by the Procurement Governance Secretariat;
- (g) incorporate into the Authority's procurement processes, contract and risk management guidelines, including preparation and signing of written contracts with successful suppliers before supply or delivery of goods and services commences; and other strategies recommended from time to time by the Procurement Governance Secretariat.

5. PROBITY AND ACCOUNTABILITY

Suppliers and the community must be confident that the commercial dealings of the Authority observe the highest standards of probity and accountability.

The General Manager shall identify and manage circumstances arising in the course of procurement that either cause in reality, or create the perception of:

- theft, fraud and corruption;
- conflict of interest;
- improper use of public money;
- misapplication of public property;
- waste and abuses of Authority resources; or
- other actions which breach the public trust.

The General Manager shall ensure probity and accountability within the procurement process. Staff and board members of the Authority directly involved in procurement must be accountable for their actions and decisions.

5.1 The Authority's Commitment

The Authority is committed to:

- (a) be accountable for its procurement decisions;
- (b) ensure its procurement employees abide by the standards set out in this Policy, the *PPA* and any regulations promulgated thereunder;
- (c) respect all supplier standards, rights and responsibilities as established by regulation pursuant to section 16 of the *PPA*;
- (d) provide an annual report, no later than thirty days after the fiscal year end, to the Chief Procurement Officer in the form prescribed by the *PPA*
- (e) become familiar with Competition Bureau of Canada bid rigging awareness and prevention guidelines and adopt applicable practices; and
- (f) ensure that this Policy is fully in accordance with the new *PPA*

5.2 Procurement Discretion

- (a) The Authority may choose to use public procurement of goods, services, construction and facilities for amounts that are lower than the thresholds set out in the applicable trade agreements (as displayed in section 11 of this policy), when it is determined that public procurement is in the best interests of the Authority.
- (b) The Authority may apply a preference for goods valued up to the threshold of the Atlantic Procurement Agreement, which are manufactured or produced in Nova Scotia.
- (c) For goods valued up to the threshold in (b) above, the Authority may obtain quotes and choose to award to or source directly for products manufactured or produced in Nova Scotia.
- (d) The Authority retains the right to accept or reject, consider and evaluate bids from other jurisdictions on the same basis that the purchasing authorities in those jurisdictions would treat a bid from a Nova Scotia supplier.
- (e) In accepting a bid from a non reciprocating jurisdiction, the Authority may consider best overall value as the determining factor.

5.3 The Authority Employees' Commitment

The Authority's employees are committed to:

- (a) ensure their Procurement Activities are conducted in accordance with this Policy, provincial and federal legislation, trade agreements and ethical business practices;
- (b) encourage and support collaborative procurements amongst other public sector entities where possible and appropriate;
- (c) follow leading procurement practices;
- (d) in good faith, conduct business with current and prospective suppliers and be fair in all business dealings;
- (e) strive to obtain the Best Value for each expenditure;
- (f) require suppliers to provide accurate representations of goods, services, construction and facilities;
- (g) encourage suppliers to consider sustainability in their product or service offerings;
- (h) encourage the negotiation of an equitable and mutually acceptable settlement when a dispute arises;
- (i) request removal from a procurement process when a personal conflict of interest is perceived, and;
- (j) ensure the procurement process, including all decisions, is fully documented to ensure that accountability requirements have been met.

6. CONFIDENTIALITY

The Authority and General Manager shall ensure that the confidentiality of commercially sensitive material is maintained, subject to any legal requirements regarding disclosure.

7. DE BRIEFING

At the request of a supplier who submits a bid, the General Manager will conduct for that supplier a de-briefing session to provide feedback on the evaluation of the public tender.

The de-briefing session will provide reasons for disqualification or in the case where evaluation scoring was used provide an overview of the supplier's score in each category along with the evaluation committee's decision.

The de-briefing session will provide information to the supplier on how to improve future submissions without disclosing any information regarding other bidders or their submissions.

8. SUPPLIER COMPLAINTS

When a supplier is not satisfied with the information provided in a supplier debriefing, the supplier may file a complaint in accordance with the Supplier Complaint Process (the “SCP”) as provided for in the *PPA*. The SCP is not a dispute resolution process, but rather is intended to handle supplier complaints and to improve faulty or misleading procurement processes. The SCP is an integral part of a fair and open procurement policy. The Authority shall ensure that appropriate processes are in place to respond to supplier complaints in regard to all Authority Procurement Activity.

9. BEST VALUE FOR MONEY

The Authority shall ensure that the Best Value for money outcome in the procurement of goods, services, facilities and construction is achieved.

Best Value, for the purposes of this Policy, means evaluating bids not only on purchase price and life cycle cost considerations, but also taking into account items such as environmental and social considerations, delivery, servicing and the capacity of the supplier to meet other criteria as stated in the procurement documents.

In determining Best Value, evaluation panels shall consider a range of factors such as the following.

Non-cost factors

- Fitness for purpose
- Technical and financial issues, such as technical performance, reliability, economic life
- Supplier capability
- Risk exposures
- Occupational Health and Safety
- Availability of maintenance and support
- Compliance with specifications
- Past Performance

Cost factors

- Whole-of-life costs - Elements of whole-of-life-costing assessment that should be considered, where applicable, are:
 - acquisition costs such as price, freight, legal fees, warehousing and training costs;
 - operating costs such as fuel, safety, performance monitoring and cleaning costs;
 - maintenance costs such as consumables, spare parts, repair labour, loss of productivity or revenue during maintenance;
 - alterations/refurbishment costs such as upgrade, modification and re-training costs;
 - support costs – insurance, rates and taxes, management fees;

- disposal – asset residual valuation and disposal method costs.
- Transaction costs - Transaction costs that should be considered include all costs internal to the Authority arising from the procurement process.

10 SUSTAINABLE PROCUREMENT

Sustainable Procurement means taking a holistic approach to obtain Best Value which involves integrating environmental, economic and social considerations into public procurement decision making.

During the procurement process, Authority personnel must be prepared to demonstrate that they have considered environmental sustainability, economic/financial factors, and social considerations:

- when preparing procurement plans;
- in the selection of the preferred procurement process and the design of selection criteria;
- in the inclusion of specifications that reflect environmental standards, codes or legislation;
- when determining methods of verification of a preferred supplier's claims made regarding sustainability;
- in evaluation reports; and
- as a measure of a supplier's contract performance against agreed commitments.

Promoting Sustainable Procurement in the procurement decision making process also includes identifying and exploring opportunities to work with and support social enterprises and businesses that are owned by and who employ under-represented populations.

11 PROCUREMENT METHOD

The following table sets out the minimum requirements for the procurement method which the Authority must use for the procurement of goods, services, facilities or construction depending on which monetary threshold the total estimated price of that procurement falls into. The General Manager shall ensure that clear records and authorizations are in place for all procurement and may designate staff signing officers to execute those authorizations. All stated values are exclusive of taxes. The total estimated value of a planned procurement over the full expected contract period shall be used when determining whether it exceeds threshold values.

Procurement Thresholds

| Category | Value | Threshold | Minimum Requirements |
|--------------|-------|------------------|--|
| Goods | Low | \$ 1-2,000 | Direct purchase from pre-approved supplier, with Purchase Order |
| | | \$2,001-5,000 | Verbally request at least three competitive quotes (documented) |
| | | \$5,001-25,000 | Written request for written quotes from at least three suppliers |
| | High | > \$25,000 | Public Tender |
| Services | Low | \$1-2,000 | Direct purchase from pre-approved supplier, with Purchase Order |
| | | \$2,001-5,000 | Verbally request at least three competitive quotes (documented) |
| | | \$5,001-50,000 | Written request for written quotes from at least three suppliers |
| | High | >\$50,000 | Public Tender |
| Facilities | Low | \$ 1-2,000 | Direct purchase from pre-approved supplier, with Purchase Order |
| | | \$2,001-5,000 | Verbally request at least three competitive quotes (documented) |
| | | \$5,001-50,000 | Written request for written quotes from at least three suppliers |
| | High | >\$50,000 | Public Tender |
| Construction | Low | \$ 1-2,000 | Direct purchase from pre-approved supplier, with Purchase Order |
| | | \$2,001-50,000 | Verbally request at least three competitive quotes (documented) |
| | | \$50,001-100,000 | Written request for written quotes from at least three suppliers |
| | High | >\$100,000 | Public Tender |

11.1 Alternative Procurement Practices

Alternative Procurement practices are approved exceptions to the procurement standards and practices outlined below.

11.1.1 Low Value Alternative Procurement

The Authority may delegate signing authority for Low Value Alternative Procurement transactions to the General Manager. No further approvals will be necessary. The Authority will ensure persons with delegated authority will be held accountable for their actions and that all procurement activities by Authority personnel are properly documented and filed for follow up

and audit. The General Manager shall remain accountable for the proper use of alternative procurement transactions.

11.1.2 High Value Alternative Procurement

Authority personnel wishing to employ High Value Alternative Procurement practices (with the exception of an emergency) must consult with the General Manager to obtain approval and identify the most appropriate means to satisfy the requirement. If in agreement, the General Manager may direct staff to proceed with the procurement. The General Manager may wish to confer with the provincial government procurement officials for discussion, validation, and or alternative options.

11.1.3 Alternative Procurement Circumstances – Low Value Procurement

In the following circumstances, authorized Authority personnel may use Alternative Procurement Practices to complete Low Value Procurements of goods, services, facilities or construction:

1. Where an unforeseeable situation of urgency exists and the goods, services, facilities or construction cannot be obtained in time by means of open procurement procedures. The General Manager shall ensure inadequate planning does not lead to inappropriate use of this exception.
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 public procurement process could reasonably be expected to compromise government confidentiality, cause economic disruption, or otherwise be contrary to the public interest.
3. Where compliance with the open public procurement provisions set out in this policy would interfere with the Authority's ability to maintain security or order, or to protect human, animal, or plant life or health.
4. In the absence of bids in response to a public procurement process, or when the bids submitted have been collusive, or not in conformity with the essential requirements of the procurement process.
5. To ensure compatibility with existing products, to recognize exclusive rights, such as exclusive licenses, copyright, and patent rights, or to maintain specialized products that must be maintained by the manufacturer or its representative.
6. Where there is an absence of competition for technical reasons and the goods or services can be supplied only by a particular supplier and no alternative or substitute exists.
7. For procurement of goods or services the supply of which is controlled by a supplier that is a statutory monopoly.
8. For the purchase of goods on a commodity market.
9. For work to be performed on or about a leased building or portions thereof that may be performed only by the lessor.
10. For work to be performed on property by a contractor according to provisions of a warranty or guarantee held in respect of the property or the original work.
11. For procurement of a prototype or a first good or service to be developed in the course of and for a particular contract for research, experiment, study or original development, but not for any subsequent purchases.

12. For the purchase of goods under exceptionally advantageous circumstances such as bankruptcy or receivership, but not for routine purchases.
13. For procurement of original works of art.
14. For procurement of subscriptions to newspapers, magazines, or other periodicals.
15. For procurement of real property.
16. For procurement of goods intended for re-sale to the public.
17. For procurement from philanthropic institutions, prison labour, persons with disabilities, sheltered workshop programs, or through employment equity programs.
18. For procurement from a public body or a non-profit organization.
19. For procurement of services of expert witnesses, specifically in anticipation of litigation or for the purposes of conducting litigation.
20. Where a contract has been awarded for the same requirement through a competitive process within the previous six months.

11.1.4 Alternative Procurement Circumstances – High Value Procurement

In the following circumstances, authorized Authority personnel may use Alternative Procurement Practices to complete High Value Procurements of goods, services, facilities or construction:

1. For the procurement of goods or services for the purpose of evaluating or piloting new or innovative technology with demonstrated environmental, economic, or social benefits when compared to conventional technology, but not for any subsequent purchases.
2. For procurement that fosters the development of minority businesses.

11.2 Emergency Situations

Notwithstanding any other provision of this Policy, in the event of an emergency situation where the expenditure of funds is required to effectively respond to the matter, the public tender process may be suspended by the General Manager who may authorize the procurement after urgent consultation with the Authority Chair or, in his absence, the Authority Vice-Chair, and where practicable the rest of the Authority through an emergency meeting or a poll. Subsequently, the General Manager must make a full report on the matter to the Authority at the earliest opportunity.

11.3 Splitting of Quotes

No public procurement process shall permit or allow a public tender for the provision of goods, services, construction or facilities to be split or varied for a particular procurement need in order to circumvent the monetary threshold requirements.

11.4 Procurement Documents

The General Manager shall ensure that the appropriate documents and templates, as approved from time to time by the Authority, are used for the procurement of goods, services, construction

or facilities. In the case of all High Value Procurements, the General Manager shall determine which public procurement process or processes would be most appropriate given the circumstances of the procurement. The General Manager may elect to use recognized public procurement processes such as a Request for Quotes, a Request for Proposals, a Request for Expressions of Interest, a Supplier Pre-Qualification, a Request for Standing Offers, or other recognized processes singly or in combination as appropriate in the circumstances.

11.5 Avoiding Bias

The General Manager shall ensure that public procurement specifications promote open and fair competition by:

- focusing on expected outcomes;
- clearly defining functional and performance requirements;
- being appropriately open and generic; and
- avoiding bias in favour of a particular supplier and branded product.

Adequate and consistent information must be provided to all potential suppliers. Where naming a proprietary product is unavoidable, the General Manager must approve the naming.

11.6 Quality Requirements

Where a quality requirement is specified in the Procurement document, that requirement must be a factor used in the evaluation of submissions.

11.7 Contract Term

Unless otherwise approved by the Authority, a contract for goods or services procurement for a fixed term, including all extension options, must not exceed 5 years. Public procurement documents must be consistent with this timeframe.

11.8 Advertising and Posting Public Tenders

Notice of all public tender processes shall be posted on the Provincial Government's Procurement Web Portal and on the Authority's website. In addition, Authority staff may choose to advertise procurements in one or more newspapers in broad circulation in the Valley Region. The posting or advertising period must be for a minimum of ten (10) working days. For urgent requirements the General Manager may approve a reduction of this period.

Every public tender notice must include or have attached the terms and conditions that govern the purchase of goods, services, constructions and facilities. Such terms and conditions must be consistent with the Atlantic Standard Terms and Conditions for the procurement of goods and services and Construction Contract Guidelines developed in collaboration with the Construction Association of Nova Scotia for the procurement of construction.

12. BID OPENING, EVALUATION and AWARD

12.1 Bid Opening

All sealed bids and proposals must be held in a secure tender box until the specified time of opening. Bids are accepted in accordance with the closing time, date and place stipulated in the request documents. Members of the public may receive the list of bidders electronically after the bid opening.

12.2 Bid Evaluation

All bids are subject to evaluation after opening and before award of contract. The bid request documents shall clearly identify the requirements of the procurement, the evaluation method, evaluation criteria based on the purpose and objectives of this policy, and the weights to be assigned to each criterion.

When evaluation of bids or proposals is based on qualitative criteria, an evaluation panel must be established. The evaluation panel must include senior staff members with a mix of skills and experience relevant to the nature of the purchase.

- for Low Value Procurements the panel must contain a minimum of two members; and
- for High Value Procurements, the panel must contain a minimum of three members, at least one of whom must be the Chair of the Authority or another Authority member designated by the Chair.

12.3 Bid Award

The winning bidder and contract award amount for all High Value Procurement activity must be posted on the Province of Nova Scotia's Procurement Web Portal. After contracts have been awarded, routine access to information at the vendor's request shall be provided in the following areas:

- Bidders List
- Name of winning bidder
- Award price, excluding taxes, of the winning bidder

Access to tender documents or other proprietary information is subject to the provisions of the *Freedom of Information and Protection of Privacy Act*.

12.4 Notification to Unsuccessful Bidders/Proponents

Unsuccessful bidders or proponents will be notified in writing in a timely manner that their submission was not successful. Notification to unsuccessful bidders or proponents must not occur until the successful supplier has been notified. Commercial-in-confidence information of any supplier must not be provided to other suppliers.

12.5 Reports to the Authority

The General Manager shall report to the Authority on the results of all High Value Procurements. The General Manager's report may include:

- The names of all bidders or proponents
- A summary of their respective bids or proposals
- The names and titles of those on the selection panel
- A summary of the criteria used to evaluate the bids/proposals
- The names of all qualified bidders or proponents
- The ranking of the qualified bidders after evaluation.

13. OTHER CONSIDERATIONS

13.1 Cooperative Procurement

The Authority's personnel are encouraged to look for opportunities to collaborate with other government agencies when the arrangement may result in overall cost savings or other substantial advantages. For example, joint procurement may be appropriate to procure commonly used goods, services, fuel, oil, natural gas, telecommunications, etc.

13.2 Standing Offers

Should the General Manager or authorized staff wish to make use of the savings opportunities, they may access all Province of Nova Scotia standing offers, as well as any standing offer established through the Procurement Advisory Group for the Province. Standing offers can be used up to \$25,000 per project for goods, or \$100,000 per project for facilities. For consulting services, Authority staff should prepare a Statement of Work and obtain three (3) quotes from vendors on the standing offer.