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Procurement Policy

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Preamble

The Niagara Parks Commission (NPC) is a self-funded agency of the Government of Ontario under the Ministry of Tourism, Culture & Sport and as such is governed as an “Other Included Entity” by the Ontario Public Service (OPS) Procurement Directive (December 2014) issued by Management Board of Cabinet (MBC) This NPC procurement policy incorporates the mandatory requirements of the MBC Procurement Directive. Conflict of interest rules are reflected in Section 3.0 and Section 9.2 (i).

Any subsequent modifications to this policy must ensure that they do not conflict with the mandatory requirements of the MBC Procurement Directive. It is the responsibility of NPC’s Manager, Corporate Procurement to ensure that this policy remains in conformity with mandatory Ontario Provincial requirements.

This policy consolidates and replaces the following NPC policies:

- GPM-01-03 – Procurement Governance
- GPM-01-15 – Revenue Generating Opportunities
- GPM-01-16 – Procurement Credit Card
- GPM-01-17 – Travel Credit Card
- CPM-11-02 – Goods for Resale

Definitions and acronyms associated with this policy are located in Section 14.0.

1.0 Purpose

The purpose of this consolidated procurement policy is to:

- simplify and clarify NPC’s procurement related policies based on sound procurement practice;
- ensure compliance with the mandatory elements of the Ontario Provincial Procurement Directive;
- ensure that goods and services (including construction, consulting services and information technology) procured by NPC are acquired through a process that is fair, open, transparent, geographically neutral and accessible to qualified vendors;
- specify the responsibilities of individuals and organizations in each stage of the procurement process;
- contribute to a reduction in purchasing costs; and
- ensure consistency in the management of procurement related processes and decisions.
2.0 Application and Scope

This Policy applies to the procurement of all goods and services including but not limited to consulting services, capital/infrastructure projects, communications services, advertising, public relations, and information technology required to meet NPC’s needs.

Retail goods purchased for resale are also included within the scope of this Procurement Policy. Specific procurement requirements for the purchase of Retail Goods for Resale are provided in Section 4.3 of this policy. Retail Goods for Resale refers to goods with minimal or no preparation or value added activity, and that are not for the direct use of the NPC. The approach of retail goods for resale is also committed to openness, transparency and fairness and recognizes the unique nature of retail merchandising.

This policy also applies to the requirement for a competitive process for any Revenue Generating Opportunity (RGO’s). A RGO is any activity that generates revenue from business activities including but not limited to visitor experience activities, vending opportunities, retail activities, food services, rental of facilities, property and equipment, tour opportunities, and visitor programs. The policy establishes a protocol for considering new and/or revised RGO’s. Requirements for the procurement of RGO’s are specified in Section 4.4.

Adherence to this Policy is mandatory: these principles and requirements must be applied to all procurements. Exemptions from this Policy require Board approval and, if the exemption relates to a mandatory requirement of the Provincial Directive, prior MBC approval is required.

3.0 Principles

3.1 Value for Money

The overall objective of this Policy is to ensure that NPC acquires the goods and services required to meet its needs in the most economical and efficient manner. Goods and services must be procured only after consideration of NPC business requirements, alternatives, timing, supply strategy, and procurement method.

3.2 Vendor Access, Transparency, and Fairness

Access for qualified vendors to compete for NPC business must be open and the procurement process must be conducted in a fair and transparent manner, providing equal treatment to vendors.

Conflicts of interest, both real and perceived, must be avoided during the procurement process and the ensuing Contract. Relationships that result in continuous reliance on a particular vendor for a particular kind of work must not be created. Commissioners and employees must adhere to the NPC’s Code of Conduct, Supplier Code of Conduct and By-Law No. 2 on Fiduciary Responsibility and Conflict of Interest.
3.3 Responsible Management, Personal Integrity and Professionalism

The procurement of goods and services must be responsibly and effectively managed through appropriate organizational structures, systems, policies, processes, and procedures. All individuals involved with purchasing or other supply chain-related activities must act, and be seen to act, with integrity and professionalism. Honesty, care and due diligence must be integral to all supply chain activities within and between NPC, suppliers and other stakeholders. Respect must be demonstrated for each other and for the environment. Confidential information must be safeguarded. All participants must not engage in any activity that may create, or appear to create, a conflict of interest, such as accepting gifts or favours, providing preferential treatment, or publicly endorsing suppliers or products.

3.4 Geographic Neutrality and Reciprocal Non-Discrimination

NPC is subject to Ontario’s Trade Agreements, including the World Trade Organization Agreement (WTO-GPA) and must also ensure that access for vendors to compete for government business is geographically neutral with respect to other jurisdictions that practice reciprocal non-discrimination with Ontario.

3.5 Ethical Procurement

Where NPC procures products manufactured outside the boundaries of Canada, the vendor shall comply with all the laws of the jurisdiction in which the product is manufactured including those related to export of the product from the jurisdiction and import into Canada. Where NPC procures directly from overseas markets, items shall be sourced from manufacturers who have received appropriate certification of product testing and social compliance.

3.6 Sustainable Procurement

NPC will ensure operating decisions are made with consideration to sustainability.

Green procurement is rooted in the principle of pollution prevention, which strives to eliminate or to reduce risks to human health and the environment. It means evaluating purchases based on a variety of criteria, ranging from the necessity of the purchase in the first place to the options available for its eventual disposal.

When the procurement of goods and services is a necessity, NPC commits to working with our partners to leverage our combined influence to minimize the environmental footprint of the hospitality industry in Niagara and globally. When all things are equal, NPC will favour vendors who demonstrate an environmental philosophy that mirrors our own. NPC staff will consider incorporation of sustainable procurement evaluation criteria in the procurement document and assign an appropriate weighting.
4.0 Procurement Planning

Procurement planning is an integral part of the procurement process in identifying the potential supply source, the procurement method as well as what and when approvals are needed to ensure that sufficient time is allowed to complete the procurement process.

A procurement activity report shall be submitted to Finance & Audit Committee quarterly. The report shall summarize active and planned procurements and special procurement projects, performance indicators, such as procurement savings, and any unusual procurement issues.

The Procurement Division will work with NPC Departments in assessing the following procurement planning considerations:

- early identification of business needs;
- clear definition of specifications and evaluation requirements;
- compatibility of procurement needs with policy, program, and/or legislative and regulatory requirements;
- adequate timelines for procurement approval, tender period and evaluation;
- vendor capacity to deliver requirements in the proposed timelines;
- accessibility requirements;
- deliverables from the successful vendor;
- reporting relationships and accountability mechanisms that will apply to the successful vendor(s);
- privacy, security and confidentiality requirements;
- ownership of deliverables and intellectual property rights;
- business continuity requirements;
- performance standards and service levels;
- performance management including remedies for non-performance;
- vendor compensation and payment;
- knowledge transfer and training;
- risk allocation and liability;
- dispute resolution;
- early termination provisions;
- alternative procurement methods – i.e. joint procurement, limited contract negotiation framework, as appropriate; and
- other requirements deemed necessary.
For Information Technology (IT) Procurements, NPC must also consider, as appropriate:

- delivery, testing and acceptance requirements;
- any applicable technical architecture;
- design requirements and standards; and
- interface requirements.

For all Procurements, NPC must also consider, as appropriate:

- accessibility requirements in accordance with AODA (see section 10.4);
- privacy, security and confidentiality requirements in accordance with FIPPA (see sections 10.2 and 10.3).

### 4.1 Procurement Planning for Services

When planning for the procurement of services, it is important to distinguish a service as to whether it fits the Provincial definition of “consulting” or is otherwise a non-consulting service.

#### 4.1.1 Services that are defined as “Consulting” Services

It is a mandatory requirement of the MBC Provincial Procurement Directive and NPC’s procurement policy that, subject to the allowable exceptions described in Section 7.0, all consulting services must be acquired through competitive procurement, irrespective of the value of the procurement (i.e. from $0.00 and up). In order to ensure timely access to consulting services, the Procurement Division will maintain various Vendors of Record (VOR) who have been engaged by NPC through a competitive process either directly, through joint procurement with other public partners, or through the Provincial VOR process. This process is further described in Section 6.0. Departments are encouraged to provide adequate notice to the Procurement Division, to ensure a VOR arrangement is in place for the consulting services they anticipate requiring in the upcoming year. In the event there is no VOR, procurement will proceed with a consulting procurement through a competitive process, as set out in Section 5.

A consulting service means the provision of expertise or strategic advice that is presented for consideration and decision-making.

Consulting Services include:

- management consulting (e.g., helping management improve their performance, primarily through the analysis of existing problems and development of plans for improvement.)
This includes organizational change management assistance and strategy development;

- Information Technology consulting (e.g., advisory services that help assess different technology strategies, including aligning their technology strategy with their business or process strategy);
- technical consulting (e.g., activities related to actuarial science, appraisal, community planning, health sciences, interior design, realty, social sciences);
- research and development (e.g., investigative study for the purpose of increasing the available store of knowledge and/or information on a particular subject);
- policy consulting (e.g., advisory services to provide policy options, analysis and evaluation); and
- communication consulting (e.g., the provision of strategy and advice in conveying information through various channels and media).

4.1.2 Terms of Reference for Consulting Services

Clear terms of reference for the consulting assignment should be established. Consulting service agreements should include, where applicable:

- objectives,
- background,
- scope,
- constraints,
- staff responsibilities,
- tangible deliverables/results,
- timing,
- progress reporting,
- approval requirements, and
- knowledge transfer requirements.

Consultants must not prepare or access government confidential information without appropriate non-disclosure/confidentiality agreements being in place.

NPC staff shall co-ordinate, monitor and control the combined efforts of internal and external resources to ensure satisfactory completion of consulting assignments on schedule and within budget. When applicable, a transfer of knowledge must occur from consultant to staff to avoid a continuous reliance on consultants.
A competitive process must be used for all consulting services:

- The MERX or Biddingo application, which is NPC’s electronic bidding tool shall be used for all assignments $100,000 and greater (either invitational or open);
- An invitational quotation (RFQ) process consisting of a minimum of three written quotations may be used for assignments less than $100,000; and
- Open competitive procurement must be used for assignments $100,000 or greater.

NPC may only utilize the allowable exceptions for non-competitive procurement processes for Consulting Services as defined in 7.0, subject to approval as outlined in Section 5.0.

4.1.3 Establishing Ceiling Price Limits for Consulting Assignments

For Consulting Services Agreements, a ceiling price must be established in the agreement with a successful vendor(s). The Agreement Ceiling Price must reflect the total value of the Agreement. The Agreement Ceiling Price cannot exceed the Procurement Value identified in the procurement approval. Once established, NPC is not permitted to make changes to the Agreement Ceiling Price unless allowed by contractual provisions. While Agreement Ceiling Price increases may be required over the term of an Agreement, NPC is encouraged to avoid such increases through appropriate procurement planning. Where NPC has established that an Agreement Ceiling Price increase is required, they must seek prior written approval from the appropriate delegated authority.

4.1.4 Services that are not defined as ‘Consulting’ (i.e. Non-consulting)

Consulting Services do not include:

- services in which the physical component of an activity would predominate: for example, services for the operation and maintenance of a facility or plant; water-testing services; exploratory drilling services;
- surveying;
- temporary help services;
- training/education instructors;
- employee/placement; and
- any licensed professional services provided by medical doctors, dentists, nurses, pharmacists, veterinarians, engineers, land surveyors, architects, chartered accountants, lawyers and notaries in their regulated capacities.

For services not defined as consulting, and equal to or greater than $5,000, a competitive process is required for procurements, in accordance with the authority delegated by the Board. Refer to the Chart in Section 5.0 for procedures and limits and to Section 6.0 for the use of pre-established vendors (VOR) for services.
4.1.5 Procurement Planning for Food Purchases

For food, beverage and/or food related Procurements with a Procurement Value under $25,000, NPC must consider Local Food, as available. This requirement does not apply to food Procurements undertaken using a Vendor of Record (VOR) arrangement or employee travel meals.

NPC may also choose to consider Local Food, as available, from amongst the products on the VOR arrangement(s).

4.2 Procurement Planning for Construction Projects

The undertaking of large construction projects is normally a multi-year process. Prior to completing procurement documents for large construction projects, NPC staff will complete a needs analysis/business case and establish proof of concept approved by the General Manager.

When undertaking Procurements related to large construction projects, Departments must also ensure that a procurement plan is developed and implemented. The procurement plan for large projects must be appropriate to, and aligned with the key business objectives of the project and provide sufficient detail of all required Procurements to successfully meet the key business objectives.

NPC may consider sub-dividing a project-related Procurement(s) into several smaller Procurements for the purposes of complexity, size, uncertainty, or improved management control but not to circumvent approval authorities.

To maximize alignment with the business objectives, the Procurement(s) should be conducted by project team members responsible for both project delivery and contract management and supported by procurement experts. In this regard, the procurement experts should play an advisory role to the project team.

NPC may consider the use of a Fairness Consultant on complex projects or those with a value of $1 million or greater, to provide oversight of procurement processes. Where NPC uses a Fairness Consultant, they must be engaged throughout the entire procurement process.

4.2.1 Separation of Design and Build in the Procurement Process

For Procurements that involve design and build phases, staff should separate these phases in the procurement process. This can be accomplished by conducting a single Procurement with the build phase being subject to the successful completion of the design phase, or by conducting separate Procurements.

Where staff determines that it is appropriate to conduct a single Procurement, whereby the same vendor would provide both design and build services, staff must validate the satisfactory completion of the design phase before proceeding with the build phase. Staff must also ensure
that the procurement documents, especially the Agreement, clearly outline the criteria by which satisfactory completion will be measured. Staff will consult with, and provide direction to, NPC’s legal counsel as required, regarding the appropriate completion and approval criteria for the Procurement.

Staff must ensure that appropriate design review and approval by the project governance structure occurs prior to proceeding to the build stage.

Where NPC conducts separate Procurements for the design phase and the build phase of a project, staff must determine whether or not the successful vendor(s) at the design phase will be permitted to participate in the build stage, and clearly indicate this in the design phase procurement documents. As appropriate, NPC encourages that the successful design vendor(s) be invited to bid on the build phase.

NPC must provide full disclosure of the design and the design vendor(s) in the build phase procurement documents including whether or not the successful design vendor(s) are permitted to bid. NPC must also ensure that all interested vendors have access to the same information made available to the successful design vendor(s) either through the procurement documents or other mechanisms such as a reading room accessible to all vendors interested in responding to the Procurement.

4.3 Procurement Planning – Retail Goods for Resale

Acquisition of goods for resale is specialized and may involve products unique to a particular vendor. Goods procured for resale in retail operations are segregated into two distinct categories:

Generic goods are:

- distinguished by the absence of a prominent, well-known brand name; and/or
- products initiated, developed and designed exclusively by NPC where the finished good may be available from multiple vendors; and/or
- products that do not infringe upon exclusive vendor patents, designs, brands, proprietary or distribution rights.
- included in the following examples:
  - raw materials used in the primary production or manufacturing of a finished good including such items as blank shirts, blank mugs, etc.;
  - products developed in-house where NPC provides the specifications, artwork, and/or custom designs; and
  - staple items with broad customer appeal that may be available through multiple vendors.
Generic goods for resale are sourced competitively. The approval thresholds and procurement methods are identified in Section 5 of this policy.

Specialty goods are:

- products with brand identification or unique characteristics; and/or
- selected specifically to respond to customer demands and preferences; and/or
- available through one vendor due to exclusive brands, patents, licenses, proprietary rights, artwork / photography or vendor distribution rights.
- included in the following examples:
  - brand name items such as Disney, Roots, etc.;
  - fashion / trendy goods with a short product life cycle;
  - finished goods where artwork has been provided by the vendor; and
  - Canadian made products.

Specialty goods which meet the allowable exceptions identified in Section 7.1 may be sourced non-competitively. The approval thresholds and procurement methods are identified in Section 5 of this policy. Generally speaking, specialty goods that fall into this category include those where the product sought can only be acquired by one supplier due to exclusive brands, patents, licenses, artwork, photography or vendor proprietary or distribution rights, or where compatibility with existing products is required to ensure product breadth and depth. The specific exception and rationale are to be documented on Form C.

The procurement of Specialty Goods for Resale that do not meet the allowable exceptions criteria must utilize one of the following procurement methods as an alternative to open competitive procurement through an electronic bidding process:

- comparative sourcing
- retail business strategy requirements to support profitable retail operations
- criteria for product and vendor selection
- appropriate profitability and performance targets and measures

These methods are also subject to the approvals and values set out in the table in Section 5.0 and more fully described below in Section 4.3.1.

4.3.1 Comparative Sourcing of Specialty Goods – Form A (Retail)

Comparative sourcing of specialty goods for resale in NPC retail outlets is undertaken by NPC buyers responsible for vendor selection and negotiation, product development, product selection, merchandising, implementation and execution of the retail strategy and financial performance target achievements.

Comparative Sourcing of Specialty Goods may use the following methods:
• trade shows – an exhibition featuring industry vendors where new retail products are showcased
• trade magazines – publications specifically marketed to the retail industry
• open houses – held quarterly on NPC property providing all interested vendors the opportunity to showcase their products.
• internet – provides a diverse spectrum of insight and information to research new products
• competitive market research – an assessment of competitor’s product mix, pricing merchandising etc. to identify threats and opportunities from local competition
• written quotations from three or more vendors
• direct import channels – large volume staple products are sourced directly from overseas suppliers and through International Trade Shows, avoiding a distributor and additional costs.

Specialty goods by their nature are similar, but not identical. Buyers will list the comparative criteria used in evaluating vendor and product selection. Such criteria might include:

• pre-ticketing and barcoding
• packaging
• delivery time
• availability

Buyers are required to document the details regarding the method and alternative vendors/products they have researched and the rationale for selection. (Form A - Retail)

4.3.2 Retail Business and Merchandising Strategy

In support of comparative sourcing of specialty retail goods for resale, on an annual basis, Retail Management will present to the General Manager the retail business and merchandise plan accompanied with the department’s sales and operating budget. At a minimum, the plan submission will include:

• internal Strengths and Weaknesses analysis
• external threats and Opportunities analysis
• objectives, strategy and tactics for the upcoming year
• product mix strategy (by store and department)
• profitability and performance indicators
• consultation with front line retail managers
• competitive analysis
• annual strategy on clearance and obsolete merchandise including the strategy to deplete
dead stock inventory
• a preliminary listing of vendors for specialty good purchases greater than $100,000 on
an annual basis

4.3.3 Retail Vendor and Product Selection – Establishing Criteria

Retail Vendors are selected based on product mix needs to satisfy the objectives and support
the strategy outlined in the retail business and merchandising plan. Recognizing vendor selection
has a critical impact on the success and profitability of a retail business, the following criteria
represent the minimum mandatory vendor requirements:
• adherence to Corporate Policies and Contractual Agreements (including but not limited
to such items as Code of Conduct, Health and Safety standards, and Standard Retail
Vendor Agreement);
• selection of product(s) or product lines relevant and complimentary to a venue’s store
concept and site specific theme;
• supply and accurate replenishment of goods on specified delivery dates;
• proven business sustainability and financial stability;
• competitive wholesale pricing of goods for resale;
• customer service;
• references and testimonials, and

4.3.4 Ethical Apparel Procurement Requirements

For all Apparel Procurements estimated at or above $5,000, NPC must require that vendors
provide Responsible Manufacturers Information (RMI), including the name and address of
all factories and production facilities used in the manufacture and assembly of the product,
prior to signing of the Agreement.

When submitting RMI, the vendor will also confirm that, to the best of their knowledge, the
manufacturer and any subcontractors for the item(s) offered comply with All Local Laws
Governing Labour and Working Conditions, and will continue to do so throughout the
duration of any resulting Contract(s).

NPC Manager of Corporate Procurement shall provide Supply Chain Ontario (SCO) with
the vendor supplied RMI details, which will then be made available for public disclosure
by SCO.
4.3.5 Retail Vendor Performance Evaluation

Retail Vendors are reviewed on an ongoing basis, using the following methods:

- Annual Vendor Agreement
- Retail Price Comparison Form
- Vendor Evaluation Form
- Open House Vendor Criteria Checklist
- Reports generated through Retail software (percentage fill and margin analysis)

4.3.6 Profitability and Performance Measure Indicators

The following profitability measures and performance indicators will be incorporated into the annual Retail Business and Merchandising Strategy:

- gross sales by venue
- turnover
- gross profit margin analysis
- average Transaction Value, by venue

4.4 Revenue Generating Opportunities (RGO) – Form D

A RGO is any activity that generates revenue from business activities including but not limited to visitor experience activities, vending opportunities, retail activities, food services, exclusive rental of facilities, property and equipment, tour opportunities, and visitor programs.

RGO’s must be subject to a competitive process which is a fair, open and transparent process. Where unsolicited proposals for RGO’s are received, they must also follow the process outlined in Section 4.5 of this policy.

4.4.1 RGO Plan

New RGO’s that are being contemplated, and RGO’s which are coming up for renewal shall be identified in NPC’s Three Year Business Plan which is approved by the Board and submitted annually to the Ministry.

Once included in the Business Plan, individual business cases are to be prepared for each Revenue Generating Activity with the minimum content outlined in this section, documented on Form D and approved through the Finance & Audit Committee. Specific approval must be provided for each business case before the competitive process commences.
Once an RGO has completed the competitive process, the General Manager has authority to award RGO's with a value of less than $500,000, and the Board Chair shall approve RGO's with a value of $500,000 or greater.

For an RGO delivered through an external organization, the total value of a service or opportunity is not only the value that is recognized as revenue in NPC's financial report but is the total value implicit in the contract. For example: If a vendor will earn $600,000 in revenues from an RGO and pay the NPC $80,000 for the RGO, the imputed value of the contract for procurement purposes is $600,000, even though only $80,000 is recorded as revenue to NPC.

The procurement value of a RGO delivered directly by the NPC will be based upon the total resources associated with the activity or the revenue generated by the opportunity, whichever is greater. For example: The NPC will require $350,000 salary and non-salary, and overhead funds in terms of total resources in order to generate $500,000 in revenue. In this example the procurement value will be $500,000.

An RGO delivered in partnership with a private or public sector organization will be based upon the total of the imputed value and the NPC’s total resources associated with the activity.

4.4.2 Key Principles in the Evaluation of RGO's

The following are required as component elements when reviewing revisions to existing and proposed RGO’s:

- RGO’s must be assessed based upon NPC’s core Mission, Mandate, Vision and desired brand
- Review of RGO’s will be based upon operational efficiencies, effectiveness, and financial return and compared to industry standards and benchmarks - where applicable
- Existing and proposed RGO’s must enhance visitor experience and have a customer focus and provide a financial return to NPC
- The review of RGO’s will not be based upon a pre-determined decision to outsource operations, but instead recognizes that there is value in our work force and its ability to provide a quality visitor experience
- A business plan is a prerequisite to embarking upon any new Revenue Generating Activity.
- As a minimum, the following elements must be documented on Form D:
  a. Compliance with NPC’s Mission, Mandate and Vision.
  b. Financial evaluation of life cycle costs/revenues, including review by NPC’s Finance staff
c. Market assessment based upon anticipated demand for the recommended option including a sensitivity analysis outlining high/low and expected demand specifically identifying any "break even" threshold.

d. Capital/infrastructure investment assessment including any recurring maintenance costs associated with the recommended option.

e. Impact to staffing plans where new revenue generating programs affect job descriptions or organizational structure.

f. Evaluation of the “make” or “buy” alternative. i.e. whether the RGO is to be operated directly by NPC or to offer all or a part of the RGO to the private sector through a competitive process. The make or buy decision is based upon resource requirements, technical competency, business acumen, return-on-investment, operational capacity and support.

g. In the event of any Information Technology (IT) requirements, the RGO must include an assessment of the IT operational and financial costs associated. Due consideration must be given to integration with NPC’s existing systems and maintenance/support resource demands.

h. A risk assessment that at a minimum identifies any risks and prioritizes these risks based upon impact and potential to occur. Appropriate mitigation strategies must be identified for each risk based upon the potential of occurrence and if the risk were to occur, the degree of impact.

4.5 Unsolicited Proposals

Unsolicited Proposal means a proposal received by NPC from a party that;

a. is independently originated and developed by the party;

b. is prepared without NPC supervision, endorsement, direction or involvement;

c. involves the use of NPC rights or property

d. presents an innovative or unique idea that would not otherwise be eligible under a competitive procurement process;

e. is compliant with NPC's mandate and will aid in the delivery of goods, efficient services, reduce cost/debt, provide desirable events and programs, attractions, generate revenue, increase visitor participation and interest, or contribute to the general economic well-being of NPC and its visitors’ experience.

Scope

This section does not apply to unsolicited events or to the disposition of land as these are governed by separate NPC policies.
The primary purpose of this section is to permit NPC to receive and consider Unsolicited Proposals from parties/organizations, which may offer goods and/or services that would generate revenue to NPC and/or would offer improved services, reduced cost, cost avoidance, or provide other benefits in a manner that eliminates the perception of bias, and ensures transparency, fairness, and best value for the NPC.

It should be noted that budget allocations are not set aside for the funding of Unsolicited Proposals and that, to succeed, Unsolicited Proposals must compete with other NPC priorities. For this reason, parties are cautioned to expect that, notwithstanding the acknowledged utility and potential associated with their proposal, it is entirely possible that projects will not proceed due to budgetary considerations.

When the proposal is in the best interest of the NPC and complies with all other established criteria in this policy, the NPC may consider the proposal/opportunity.

In most instances, proposals that are submitted to NPC as an Unsolicited Proposals will actually be subject to a competitive process. A non-competitive process can only be considered in circumstances where the proposal meets one of the allowable exceptions outlined in Section 7.

4.5.1 Submission Requirements for Unsolicited Proposals

In order for an unsolicited proposal to be considered by NPC, a signed waiver document, in the form attached as Schedule 1 to this policy, is required. The waiver acknowledges that the proponent is submitting the proposal for NPC’s evaluation and accepting the conditions under which that evaluation will occur.

The waiver also requires the proponent to disclose to the NPC any actual or potential conflict of interest with NPC employees or Board members and the proponent shall also disclose whether it is aware of any NPC employee or Board member having a personal or financial interest in the Proponent and the nature of that interest that might exist in connection with the Proposal. Proposals that are received without an authorized, signed waiver will be returned to the proponent and no further action taken.

The unsolicited proposal must be submitted to the Manager, Corporate Procurement. The proposal shall be accompanied by a waiver document, in a separate envelope clearly marked as “waiver”, and the waiver shall be signed by an authorized officer legally authorized to represent the proponent.

The following information is to be included in the submission:

a. Basic information
   i. Party's name and address
   ii. Type of organization (e.g. profit, non-profit)
   iii. Contact information
b. The project's title and a summary that describes the initiative, key objectives, methods, intended outcomes

c. A profile, highlighting the technical, commercial, managerial and financial capacity and capabilities of the party, identifying all key team members, including members of a consortium, if relevant

d. An overview of the goods or services to be provided, the potential revenues and or deliverable to be achieved, or the improvement to be made to an existing undertaking

e. A clear definition of the proposed benefit to be realized by the NPC

f. The business principles used in developing the proposal, including the proposed financial relationship and responsibilities of both the NPC and the party, as well as the respective risk sharing allocations

g. A description of how the Unsolicited Proposal meets one or more of the allowable exceptions identified in Section 7 of this Policy

h. Confirmation that the proposal is in compliance with the Niagara Parks Act, Legislated or Regulatory requirements and NPC's Mission and Vision Statements

i. Duration of the initiative

j. Funding sources (if applicable) and/or any NPC financial investment if required

k. Preliminary pricing, cost estimates and pro forma financial forecasts

l. Other supporting documentation (i.e. biographical information of key personnel, relevant past experience, references, etc.)

m. Bid Price in the form of cost or revenues to The Niagara Parks Commission

4.5.2 Preliminary Review of Unsolicited Proposals

Unsolicited proposals shall not circumvent this policy. If, in the opinion of the Manager of Corporate Procurement, the proposal is similar in scope/nature to a current or upcoming competitive procurement that has been issued, or is planned to be issued, the proposal shall be rejected and the proponent advised to resubmit through NPC’s electronic tendering system, MERX or Biddingo, when the procurement is formally issued by NPC.

The Manager of Corporate Procurement will determine the eligibility of the Unsolicited Proposal under this policy taking into account whether the goods and/or services are readily available from other sources in a competitive marketplace.

If NPC believes that it may decide to issue an open tender for an idea based on an Unsolicited Proposal, the procurement needs to be fair, open and transparent. Thus, the proponent should be informed that:

- NPC would not be awarding a contract to the proponent based on the proposal
• NPC may be reviewing other Unsolicited Proposals that may be similar to the one proposed by the proponent, and

• NPC may use the information from the Unsolicited Proposal in a potential open, competitive procurement.

NPC should conduct its own independent market research and develop its evaluation criteria based on NPC’s business requirements that are neutral and do not give the proponent who submitted the proposal an unfair advantage. This approach minimizes the perception (or the reality) that the proponent who submitted the unsolicited proposal has either unduly influenced the procurement requirements or has had access to NPC that other proponents in the marketplace have not.

If the Unsolicited Proposal is, in the opinion of the Procurement Manager, not something that can be competitively procured, and meets one or more of the allowable exceptions identified in Section 7 of this Policy, the proposal will be referred to the General Manager. The General Manager will consult with NPC staff as appropriate, to determine the estimated NPC resources and key considerations required to further evaluate the proposal.

If the General Manager determines that it is not in the best interests of the NPC to proceed with further evaluation of the proposal, the proponent shall be so notified by the Manager, Corporate Procurement. The General Manager shall advise the Board, through the confidential Operational Highlights Report, of any rejected Unsolicited Proposals received since the last quarter.

If the General Manager determines that it is in the best interests of the NPC to commit NPC resources to further evaluate the proposal, the General Manager shall forward a report of the preliminary proposal concept to the Finance & Audit Committee, recommending that a staff review team be assembled to review the concept in more detail.

Where Finance & Audit Committee approve of further exploration of the concept, the Procurement Manager shall respond to the proponent that the proposal will be undergoing further evaluation by NPC, and request the proponent to provide any additional information identified as necessary in the preliminary investigation.

4.5.3 Evaluation Process for Unsolicited Proposals

Upon approval of the concept by the Finance & Audit Committee, the General Manager shall appoint an evaluation team to lead a more detailed evaluation process. The evaluation team will include a Procurement Department Representative who will expedite the review and provide oversight to ensure the integrity of the evaluation process. The evaluation team will:

a. evaluate the party’s product(s), technical, commercial, managerial and financial experience/capacity to determine whether the proponent’s capabilities are adequate for undertaking the project
b. weigh the various aspects and merits of the Unsolicited Proposal and the business and contract principles to determine if the scale and scope of the project adds value to the NPC, with respect to return on investment, alternative service delivery models, life-cycle cost implications, transfer of risk, and accelerating the timely achievement of NPC objectives

c. determine whether the sharing of risk as proposed in the Unsolicited Proposal is acceptable to the NPC

d. consider both the level of effort required of the NPC’s staff in relation to any proposed benefit, and the degree to which the project conforms to the long term objectives of the NPC

e. determine if the Unsolicited Proposal is in compliance with the Niagara Parks Act, legislated or regulatory requirements, and NPC’s Mission and Vision Statements

f. determine if the duration (term) of the initiative is reasonable within the context of the investment and return or if it introduces unreasonable restrictions on the NPC

Based upon the outcome of this detailed evaluation, a staff report will be forwarded to the Finance & Audit Committee, advising acceptance, amendment or rejection of the Proposal.

The Board report shall include business case information required in Section 7.2 of this policy.

Where Board approval to proceed with the Proposal is received, the party will be notified by the Manager of Corporate Procurement that the NPC intends to proceed with their Unsolicited Proposal which will necessitate that a Form of Agreement be entered into between the party and NPC.

The Proposal will move to the preparation of the Form of Agreement, with the assistance of the NPC solicitor. In the event that the Party requires substantive changes to the Form of Agreement, for example, return on investment or commitment of NPC resources, the Board must approve the amendments. In the event that the Party’s required amendments or substantive changes to the Form of Agreement are not approved by the Board, the proponent will be advised that the NPC will not be proceeding with the proposal.

4.5.4 Responsibilities for Processing Unsolicited Proposals

The Manager of Corporate Procurement is responsible for receiving all Unsolicited Proposals, for communication with the proponent throughout the procurement process and for determining whether a proposal qualifies for exemption from competitive procurement.

The General Manager is responsible for providing a preliminary report to the Finance & Audit Committee, regarding NPC resources required to evaluate the proposal, alignment with NPC’s mandate and current business plan, and for recommending to the Board whether proceeding with further evaluation of an unsolicited proposal is in the best interests of the NPC, for assigning appropriate staff resources to the evaluation team and for finalizing agreements for Unsolicited Proposals which are approved by the Board.
4.5.5 Reporting of Unsolicited Proposals

Unsolicited Proposals that meet the allowable exceptions criteria and have submitted the required documentation, and are not being recommended for further evaluation by the General Manager are reported by the General Manager to the Board through the Operational Highlights Report. Unsolicited Proposals that, in the opinion of the Manager, Corporate Procurement, do not meet the allowable exceptions criteria, are not required to be reported to the Board.

Unsolicited Proposals that are being recommended for further review are reported by the General Manager, to the Board, as they occur.

5.0 Summary of Procurement Methods and Approval Limits

Where a Vendor of Record (VOR) arrangement has not been pre-established (see Section 6), the chart below summarizes the procurement method, applicable forms and approval thresholds to be used in proceeding with the acquisition of goods and services. For non-competitive procurements, refer to Section 7 of this policy.

In the case where a Procurement entails mixed goods and services, then the approval limits and all other requirements for goods must be applied.
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**Goods (including Generic Retail Goods for Resale)**

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**Specialty Retail Goods for Resale**

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**Non-consulting Services**

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**Consulting Services**

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**Revenue Generating Opportunities**

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<td>Open</td>
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<td>NPC Chair</td>
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* Based on total purchase amount defined as the total sum of purchases from one (1) vendor over a twelve (12) month period.

* Open competitive method is permitted at any dollar value.
5.1 Purchases Less Than $5,000

Purchases must not be broken down to smaller dollar values to avoid competitive procurement. While competitive pricing is always encouraged, goods and non-consulting services less than $5,000, where a VOR arrangement is not in place, may be acquired without a competitive process and do not require a purchase order. Where departments require a tracking number for small purchases, the tracking requisition form should be used.

If a VOR arrangement is in place, the purchase will be through the pre-selected vendor. Approval to access Joint Procurement and VOR arrangements that have been pre-established is documented on Form “VOR Requisition”.

5.2 Consulting Services

All consulting services ($0 and up) must be acquired through a pre-established VOR or competitive process. Consulting services are defined in Section 4.1.1.

Consulting Services assignments must have a start and end date. Any change to a Consulting Services Agreement, including the end date of the Agreement, may affect the Procurement Value. NPC must ensure that they have prior appropriate approval authority in this regard.

5.3 Invitational Competitive Procurement (Form A)

An invitational competitive Procurement is achieved by requesting a minimum of three (3) qualified vendors to submit a written proposal in response to NPC’s requirements. The written proposals attached to Form A must be submitted to the Procurement Division. A purchase order will be issued by the Procurement Division upon approval of the completed Form A.

5.4 Open Competitive Procurement (Form B)

An open competitive Procurement is achieved by issuing procurement documents using NPC’s designated electronic tendering system – MERX or Biddingo. The Daily Commercial News may also be used for construction-related Procurements.

5.5 Types of Open Competitive Procurements

Several open competitive procurement processes are available to select or short list vendors for goods and services, and they are listed below:

“Request for Information” (RFI) means a market research procurement document that is used to elicit industry information on particular products and/or services from the vendor community.

“Request for Proposal” (RFP) means a procurement document that requests vendors to supply solutions for the delivery of complex products or services or to provide alternative options or solutions. The RFP process uses predefined evaluation criteria where price is not the only factor.
“Request for Qualifications” (RFQ) means a procurement document used to request technical information and evidence of financial stability and product or service suitability from potential vendors in order to pre-qualify or short list vendors to bid on specific categories of work or provide specific types of goods or services, or to respond to a particular request for proposals or tenders.

“Request for Services” (RFSe) means the document used during the second-stage selection process to request submissions from one or more vendors listed on a services Vendor of Record Arrangement.

“Request for Solution” (RFSo) means the document used during the second-stage selection process to request submissions from one or more vendors listed on a software or hardware Vendor of Record Arrangement.

“Request for Tender” (RFT) means a procurement document that requests a vendor response to supply goods or services based on stated delivery requirements, performance specifications, terms, and conditions. The RFT process usually focuses the evaluation criteria predominantly on price and delivery requirements.

Competitive procurements, both open and invitational must include the following:

- Sufficient time to allow for competitive bids.
- Clear explanation of bidding and evaluation process including scope, deliverables and criteria and communications protocol.

All competitive procurements must include the following components:

- Freedom of Information and Protection of Privacy Act, R.S.O. 1990, cF.31 provisions
- NPC’s Mission and Vision Statements
- Declaration of any unfair advantage or Conflict of Interest
- Non-exclusivity with respect to the good or service being sought
- NPC’s Commitment to Environmental sensitivity
- NPC’s Supplier’s Code of Conduct
- Procurement Principles of NPC
- Insurance and Indemnification requirements
- Exclusion of rights sponsorship, promotion or advertising their association with NPC as a result of being selected as the successful supplier
- Health and Safety – Contractor’s Checklist for (maintenance and capital infrastructure projects only)
- A pro forma copy of the legal agreement
6.0 Creating a Pre-Established VOR

A VOR arrangement means a procurement arrangement that authorizes one or more qualified vendors to provide goods or services for a defined time period on terms and conditions, including pricing, as set out in the particular VOR Agreement.

VOR arrangements are pre-established through a competitive process in order to provide efficient access to goods and services that are frequently required by several departments and agencies.

NPC may use VOR arrangements negotiated by NPC directly, or through Joint Procurement with other entities in the Public Sector, as provided in this section.

In order to maximize value of the VOR arrangement through volume discounts, and to reduce administrative effort in the procurement process, NPC staff shall use VOR arrangements whenever possible.

The Procurement Division will maintain a current listing of Vendor of Record arrangements in its public file directory.

6.1 VOR through Joint Procurement with other entities in the Public Sector

A joint procurement means Procurement for a VOR by multiple organizations from the public sector. In order to achieve efficiencies and economies of scale, they leverage their joint purchasing requirements and activities.

NPC has authorized participation in Joint Procurement with the following agencies:

- Province of Ontario (Ministry of Government Services)
- OECM (Ontario Education Collaborative Marketplace)
- NPPC (Niagara Public Purchasing Committee)
- PCPG (Police Cooperative Purchasing Group)
- Region and Area Municipalities in Niagara

From time to time, other public agencies may be considered for joint procurement projects upon approval of the Board, and this policy shall so be amended to incorporate these agencies.

For VOR arrangements through Ministry of Government Services/OPS, the procedures are stipulated in Section 6.2 below. All other VOR arrangements through joint procurement with public agencies will be documented with an agreement recommended by NPC Manager, Corporate Procurement, reviewed by NPC Solicitor as necessary, and signed by NPC General Manager.

In order for NPC to be able to participate in any of the VOR’s that have been established by other entities’ the Procurement Division must advise the entity that is negotiating the VOR that NPC wishes to participate in the VOR agreement (in most cases NPC has agreed to be a part
of the VOR by giving estimated yearly requirements). NPC is responsible for working out its own arrangements with the VOR and would issue their own contract to the VOR using the pricing and terms that have been negotiated for the lead agency.

6.2 VOR through Ministry of Government Services (MGS)

VOR arrangements have been established by MGS to reduce procurement costs by providing NPC and Agencies with access to one or more contracted vendors of goods and services common to more than one ministry or agency.

NPC will refer to the VOR User Guide, which is on the MGS Procurement Portal website to confirm NPC’s mandatory use requirements and form of agreement. The term of agreement cannot exceed six months past the expiry date of the MGS VOR arrangement.

For VOR arrangements with MGS where there are multiple vendors, and the procurement is $25,000 or greater, a further second-stage selection process is required to ensure NPC is receiving the best value for money. NPC must not take any actions to reduce the value of a Procurement to avoid second stage-selection process requirements.

6.2.1 Second Stage Selection Process for MGS VOR’s

If NPC is involved in a second-stage selection process for a particular procurement, the procurement request is to be documented on Form B.

Form B must include appropriate selection criteria, an evaluation process and any other applicable VOR arrangement instructions and include the form of Agreement to be signed.

The procurement document must be sent to the required number of vendors as follows:
<table>
<thead>
<tr>
<th>Procurement Value</th>
<th>Minimum Second-Stage Requirement</th>
</tr>
</thead>
<tbody>
<tr>
<td>Less than $25,000</td>
<td>NPC may invite only 1 vendor unless otherwise specified by the VOR User Guide</td>
</tr>
<tr>
<td>$25,000 up to but not including $250,000</td>
<td>NPC must invite 3 or more eligible vendors</td>
</tr>
<tr>
<td>$250,000 up to but not including $600,000</td>
<td>NPC must invite 5 or more eligible vendors</td>
</tr>
<tr>
<td>$600,000 and above if no ceiling Price</td>
<td>NPC must invite all eligible vendors</td>
</tr>
<tr>
<td>$600,000 up to VOR ceiling Price (where applicable)</td>
<td>NPC must invite all eligible vendors</td>
</tr>
<tr>
<td>Above VOR ceiling Price (where applicable)</td>
<td>NPC must use an open competitive procurement process or seek an exemption from this Policy</td>
</tr>
</tbody>
</table>

Where there are fewer vendors on a VOR arrangement than the above-noted requirements, NPC must invite all listed vendors.

If the estimated Procurement Value exceeds the approved VOR Ceiling Price, the NPC must conduct an open competitive Procurement or seek appropriate approval to exceed the ceiling price. As VOR ceiling prices can vary, NPC should verify the ceiling price in the VOR User Guide.

### 6.3 NPC VOR Arrangements

In order for NPC Procurement to establish a VOR for service a competitive process for the service is conducted using Form B.

The procurement document must include appropriate deliverables/specifications, selection criteria, an evaluation process and any other applicable VOR arrangement instructions. The responses are evaluated and ranked accordingly and would include agreed upon hourly labour rates and a percentage amount over list price for any parts. The proponents would be ranked according to the best price (lowest to highest) and placed in a first, second and third place ranking and a blanket purchase order may be issued to all three.

When there is a requirement for the particular service the client will go to the first place vendor and issue an order. If the first place vendor is unable to fulfil the request, NPC staff will contact the second place vendor and place the order. Written evidence that the first place proponent is unable to supply the service must accompany the order. In the event that the second place proponent cannot provide the services and/or goods NPC staff will go to the third place ranked
proponent and place the order, attaching evidence that the second place proponent also cannot provide the goods or service.

For larger project related services involving more than hourly rates and parts NPC staff should go to a minimum of three of the NPC VOR’s for that service, and get a competitive bid that would encompass the whole project. In this instance the lowest priced bidder who can provide the deliverables for the project will get the order.

7.0 Non-Competitive Procurements-Allowable Exceptions (Form C)

Non-competitive Procurements include Single Source and Sole Source procurement processes. Certain allowable exceptions exist whereby NPC staff, subject to appropriate procurement approval authority, can use a non-competitive procurement process. These allowable exceptions, which are set out below, adhere to the Ontario Procurement Directive as well as Ontario’s Trade Commitments and must be documented on Form C which includes appropriate approvals.

In addition, non-competitive Procurements conducted under the allowable exception noted in Section 7.1 g (i) only, below, where the contract value is $548,700 or more, or $7.7 million or more for construction must follow the Advance Contract Award Notice (ACAN) prescribed in Ontario Provincial Procurement Directive Section 4.4.4.1 and this notice must be posted 15 days prior to the proposed contract award on the MERX or Biddingo tendering system.

Except for unforeseen situations of urgency that cannot wait for appropriate procurement approvals, NPC staff must complete Form C and secure the appropriate procurement approvals, in writing and prior to conducting a non-competitive Procurement. In unforeseen situations of urgency, NPC staff must comply with Section 7.3 and Form C must be completed as soon as practically possible.

Where approval is being sought for a non-competitive Procurement to extend a Contract with an existing vendor, NPC staff must seek appropriate approvals prior to the contract end date and in sufficient time to permit an alternative procurement method.

7.1 Allowable Exceptions for Non-competitive Procurement

Non-competitive Procurement of goods, consulting and non-consulting services are only allowed in the following circumstances, subject to appropriate procurement approvals:

- Where an unforeseen situation of urgency exists and the goods, consulting services, non-consulting services or construction cannot be obtained by means of competitive procurement.
- Where goods, consulting or non-consulting services regarding matters of a confidential or privileged nature are to be purchased and the disclosure of those matters through a competitive procurement process could reasonably be expected to compromise NPC confidentiality, cause economic disruption or otherwise be contrary to the public interest.
c. Where a competitive process could interfere with the NPC's ability to maintain security or order or to protect human, animal or plant life or health.

d. Where there is an absence of any bids in response to a competitive procurement process that has been conducted in compliance with this Policy.

e. Where the Procurement is in support of Aboriginal peoples.

f. Where the Procurement is with a public body. (see also Section 10.7 for Agreements with Colleges and Universities)

g. Where only one supplier is able to meet the requirements of a Procurement in the following circumstances:
   i. To ensure compatibility with existing products. Compatibility with existing products may not be allowable if the reason for compatibility is the result of one or more previous non-competitive Procurements.
   
   ii. 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 representatives.

   iii. For the Procurement of goods and services the supply of which is controlled by a supplier that has a statutory monopoly.

The following additional circumstances in which non-competitive Procurements are allowed only apply to goods and non-consulting services, subject to appropriate procurement approvals.

h. Where an award is made under a co-operation agreement that is financed, in whole or in part, by an international organization only to the extent that the agreement includes different rules for awarding Contracts.

i. Where construction materials are to be purchased and it can be demonstrated that transportation costs or technical considerations impose geographic limits on the available supply base, specifically in the case of sand, stone, gravel, asphalt compound and pre-mixed concrete for use in the construction or repair of roads.

j. Where only one supplier is able to meet the requirements of a Procurement in the following circumstances:

   i. For the purchase of goods on a commodity market.

   ii. For work to be performed on or about a leased building or portions thereof that may be performed only by the lessor.

   iii. For work to be performed on property by a Contractor according to provisions of a warranty or guarantee held in respect to the property or original work.

   iv. For a Contract to be awarded to the winner of a design contest.
v. For the Procurement of a prototype or a first good/service to be developed in the course of research, experiment, study, or original development but not for any subsequent purchases.

vi. For the purchase of goods under exceptionally advantageous circumstances such as bankruptcy or receivership, but not for routine purchases.

vii. For the Procurement of original works of art.

viii. For the Procurement of subscriptions to newspapers, magazines or other periodicals.

ix. For the purchase of real property.

7.2 Non-Competitive Procurements Business Case Requirements

Written documentation for non-competitive Procurements, on Form C must include:

a. A description of the business requirements.

b. A description of the proposed non-competitive procurement process including the approximate value and the estimated Agreement start and end dates.

c. The allowable exception from the list in Section 7.1 which has been identified to support the non-competitive Procurement. For allowable exceptions where only one vendor is able to meet the requirements, document the evidence supporting this exception.

d. The results of the ACAN process described above (applicable for non-competitive procurements allowable exception 7.1 g (i), where the contract value is $548,700 or more, or $7.7 million or more for construction).

e. Where no allowable exception exists, it must be noted in the business case that the Procurement is an exemption from the Directive and the business case must identify the requirement(s) from which it seeks to be exempted. Provincial approval will be required.

f. The rationale for using a non-competitive procurement process including the circumstances that prevent the use of a competitive procurement process. The rationale must support the allowable exception or exemption being requested.

g. Identifying if the selected vendor has previously been awarded a Contract with the NPC within the past five years for the same or closely related requirements, and the type of procurement process (es) used.

h. A description of the potential pool of vendors that might have responded to a competitive Procurement, where appropriate, and an assessment of all potential vendor complaints and how the NPC would respond and manage these complaints.

i. A description of how the NPC will ensure it will comply with the principles of this Policy, particularly value for money.
j. Any alternatives considered.

k. The impact on the business requirements if the non-competitive Procurement is not approved.

l. If appropriate, a description of how the NPC will meet these business requirements, in the future, using a competitive procurement process.

m. Any other matters considered relevant.

7.3 Non-Competitive Procurements for Unforeseen Situations of Urgency

Where a non-competitive Procurement is required due to an unforeseeable situation of urgency, staff may conduct the Procurement prior to obtaining the appropriate approvals (see Section 7.1 (a)). Once the situation of unforeseen urgency is under control, Staff must promptly notify the approval authority (General Manager or Board Chair, depending on the amount, as per Section 5.0) of the circumstances and justification of the urgency, complete a Form C for the non-competitive procurement, and obtain approval in writing on Form C.

An unforeseen situation of urgency does not occur where NPC staff have failed to allow sufficient time to conduct a competitive process.

8.0 Procurement Value

NPC will determine the Procurement Value in order to determine the appropriate procurement approval authority and procurement method. To determine the Procurement Value all costs and benefits associated with entering a contractual relationship with a third party will be considered.

Costs and benefits may include, but are not limited to:

- price/cost of the goods and/or services;
- one-time costs such as site preparation, delivery, installation and documentation;
- ongoing operating costs including training, accommodation, support and maintenance;
- applicable duties;
- disposition costs;
- premiums, fees, commissions, and interest;
- options to renew;
- direct payments by NPC to the successful vendor(s);
- indirect payments by third parties to the successful vendor(s); and
- any conferred value by NPC to the successful vendor(s).

Procurement Value for the purpose of approvals in Section 5.0 does not include sales taxes.
Examples of conferred value include, but are not limited to, the exchange of goods and/or services in return for other goods and/or services, revenue generating opportunities and partnership agreements.

Where a project involves multiple related procurements, the project’s Procurement Value would be determined by the cumulative value of all related procurements. Actions to reduce the Procurement Value to avoid any requirements of this Policy are not permitted. Such actions could include subdividing projects, procurements, or Contracts and awarding multiple consecutive Contracts to the same vendor. The award of multiple consecutive Contracts to the same vendor may only be made where each assignment is unique.

8.1 Procurement Value Increases (Change Orders)

When the Procurement Value increases, NPC will ensure that there is approval from the appropriate approval authority and the appropriate procurement method for the higher Procurement Value is used. This is especially important when the Procurement Value Increase causes the Procurement Value to exceed the approval threshold of the original approver. Approval for Procurement Value Increases must be sought prior to proceeding with or continuing the Procurement. Procurement Value increases may be caused by, but not limited to, price increases, volume uptake, or other unforeseen circumstances.

Value increases for the foregoing reasons must be approved by the required authority associated with the Revised Procurement Value:

\[
\text{Original Award Value} + \text{Value Increase} = \text{Revised Procurement Value}
\]

Value increases which exceed original threshold approval must receive approval in advance from the level possessing threshold approval.

It may be determined that certain commodities, such as fuel and food, require contractual provisions for price increases. NPC will anticipate such increases and ensure that the appropriate procurement approval authority provides the approval. NPC will also ensure that the procurement documents, including the Agreement, identify the framework under which price increases will be permitted, including, but not limited to:

- the frequency of price increases;
- the allowable amount of increase; and
- any benchmarks that will be used to confirm the price increase.

9.0 Procurement Process

9.1 Research and Consultation

NPC may decide to engage in a vendor consultation process, informally or through issuing a Request for Information (RFI), or draft Request for Proposal (RFP), prior to initiating a
competitive procurement process. The consultation process must be conducted solely for the purpose of gathering information or to market test a proposed procurement scope, approach and process. NPC must not make vendor participation in the research and consultation process a mandatory condition for future bidding and must not solicit or accept formal submissions from vendors during the consultation process.

9.2 Procurement Documents

To enable fair comparison of vendor submissions, procurement documents must be in writing and include sufficient details concerning the submission requirements.

NPC must include the following information in all procurement documents:

a. A description of the required goods or services in generic and/or functional terms specific to the business needs that the good or service will serve, as well as any optional components that are being priced separately. When the use of non-generic and/or non-functional terms is appropriate, the specifications must deal with performance requirements and exclude all features that could unfairly confer an advantage to certain vendors. Where the quantity of the goods or services is unknown, the estimated quantity should be included.

Where technical standards are used to define specifications, except for those required by law, NPC must ensure that they do not create an unnecessary barrier to trade and note that they will consider any equivalency proposals submitted by vendors for solutions that meet performance requirements but are based on standards other than those expressed in the procurement document.

For food, beverage and/or food related procurements (e.g., event service catering) with a Procurement Value under $25,000; if NPC has chosen a Local Food option, then NPC should include the Local Food specification(s), as appropriate (see Section 4.1.5). For Apparel Procurements at or above $5,000, NPC must include Ethical Apparel Procurement Requirements where appropriate (see Section 4.3.4)

b. Full disclosure of the evaluation criteria and process to be used in assessing submissions. NPC must pay particular attention to apply the maximum justifiable weighting to price/cost as part of the evaluation process but may also consider other criteria directly related to the Procurement including quality, quantity, delivery, servicing, experience, financial capacity of the vendor, and any other criteria directly related to the Procurement. Other considerations may be taken into account as part of the evaluation criteria as appropriate. For IT Procurements, NPC must assess conversion costs, if appropriate. In establishing the evaluation criteria and weighting of conversion costs, NPC must not unduly favour an incumbent vendor or unduly disadvantage non-incumbent vendors.
c. The name, telephone number and location of the person to contact for additional information on the procurement documents.

d. Conditions that must be met before obtaining procurement documents such as confidentiality agreements, if appropriate.

e. The address, date and time limit for submitting responses to procurement documents. Responses received after the closing date and time must be returned unopened.

f. The time and place of the opening of the responses in the event of a public opening.

g. Declaration that the vendor has not given, directly or indirectly, a benefit of any kind to anyone employed by, or otherwise connected with, NPC for the purpose of receiving favourable treatment or otherwise obtaining an advantage in connection with a Ministry procurement activity;

h. Notice that any confidential information supplied to NPC may be disclosed by NPC where it is obliged to do so under the Freedom of Information and Protection of Privacy Act (FIPPA), by an order of a court or tribunal or otherwise by law.

i. Conflict of interest provisions that:

- define conflict of interest to include:
  - situations or circumstances that could give a vendor an unfair advantage during a procurement process or compromise the ability of a vendor to perform its obligations under the Agreement;
  - the offer or giving of a benefit of any kind, by or on behalf of a vendor to anyone employed by, or otherwise connected with the NPC;

- reserve the right to solely determine whether any situation or circumstance constitutes a conflict of interest;

- reserve the right to disqualify prospective vendors from a procurement process due to conflict of interest;

- require prospective vendors participating in a procurement process to declare any actual or potential conflicts of interest;

- require vendors to avoid any conflict of interest during the performance of their contractual obligations for NPC;

- require vendors to disclose any actual or potential conflict of interest arising during the performance of a Contract;

- reserve the right to prescribe the manner in which a vendor should resolve a conflict of interest;

- allow NPC to terminate a Contract where a vendor fails to disclose any actual or potential conflict of interest or fails to resolve its conflict of interest as directed by NPC; and
• allow the Contract to be terminated where a conflict of interest cannot be resolved.

j. The form of Agreement the successful vendor(s) is expected to sign. Appropriate termination clauses must be included in Agreements. The agreement/contract with vendors will specify that, where there are performance issues, and notification in writing has been given to the vendor, and no improvement has been made, NPC may exercise the right to terminate the contract. Further, the documents will note that NPC may reject bids, including a low bid, if a vendor:

i. has commenced or is engaged in legal claims or litigation against the NPC at any time in the preceding three (3) years;

ii. previously provided goods or services to the NPC in an unsatisfactory manner, as documented through the vendor performance process described above;

iii. has failed to satisfy an outstanding debt to the NPC;

iv. has a history of illegitimate, frivolous, unreasonable or invalid claims;

v. provides incomplete, unrepresentative or unsatisfactory references; or

vi. has engaged in conduct that leads the NPC to determine that it would not be in NPC’s best interests to continue doing business with the vendor;

vii. is in contravention of the Supplier’s Code of Conduct

As appropriate, mechanisms for amending the Agreement from time to time should also be included. Where available, Standardized Terms and Conditions must be used. Deviations from the Standardized Terms and Conditions must be identified in separate schedule(s) in the procurement document for transparency for vendors.

k. For goods valued at $25,000 or more and services valued at $100,000 or more, a statement that the Procurement is subject to the Agreement on Internal Trade and the Ontario-Quebec Co-operation Agreement.

l. For goods and services valued at $548,700 or more and construction services valued at $7,700,000 or more, an additional statement that the Procurement is subject to the World Trade Organization’s Agreement on Government Procurement.

m. The ability of NPC to reject bids based on previous performance issues related to same vendor (See Section 9.13)
9.3 **Electronic Tendering**

NPC will use electronic tendering through MERX or Biddingo for open competitive Procurement with a Procurement Value at or above $25,000 for goods and encouraged, where practical, for services. If not practical for services, NPC will use electronic tendering through MERX or Biddingo for open competitive Procurement with a value at or above $100,000.

Where a Procurement involves both goods and services, the posting requirements for goods must be followed.

In addition to the electronic tendering system, NPC may advertise on the NPC website, in a national newspaper accessible to all Canadian suppliers or the Daily Commercial News for construction-related Procurements.

9.4 **Bid Response Time**

NPC must provide sufficient time for vendors to prepare and submit bid responses in view of all relevant factors such as, but not limited to, time needed by the vendor to properly disseminate the information, complexity, risk, seasonality, and best practices within the relevant industry.

For all procurements with a Procurement Value less than $100,000, NPC must provide vendors with sufficient time but no less than five (5) calendar days.

For all Procurements with a Procurement Value to $548,699, NPC must allow at least fifteen (15) calendar days.

For all Procurements with a Procurement Value of $548,700 or more, NPC should consider allowing at least thirty (30) calendar days.

9.5 **Additional Information - Addendums**

Any additional information, clarification or modification of the procurement documents must be provided in the same manner as the procurement document via an amendment or addendum and must be released in sufficient time prior to the submission deadline to allow bidders sufficient time to submit a responsive bid. The submission deadline may be extended to ensure sufficient time is provided to bidders.

9.6 **Evaluation Process**

NPC must evaluate the bid responses received consistently and in accordance with the evaluation criteria, rating and methodology set out in the procurement document.

NPC must require individuals participating in the evaluation of bid responses to immediately declare any potential conflict of interest and immediately address any declarations.

Typically, an evaluation process is composed of three components: mandatory requirements, rated requirements and price/cost.
Where a vendor is disqualified for non-compliance with a mandatory requirement or fails to meet a minimum rated requirements score, as identified in the procurement document, no further evaluation of that vendor’s submission may take place.

The evaluation of price/cost must be undertaken after the completion of the evaluation of the mandatory requirements and any other rated criteria.

Following the evaluation process, NPC may select only the highest ranked submission(s) that have met all mandatory requirements set out in the related procurement document.

9.7 Evaluation Methodology

The evaluation process to be used in assessing a vendor’s submission must be fully disclosed in the procurement document. A full disclosure of the evaluation methodology and process includes, but is not limited, to:

- a clear articulation of all mandatory requirements, which must indicate if the mandatory requirements will be assessed on a pass/fail basis and if so, indicate how vendors achieve a passing grade;
- all weights, including sub-weights, for rated requirements;
- description of any short-listing processes, including any minimum rated score requirements;
- the role and weighting, if applicable, of reference checks, oral interviews, demonstrations and site visits; and
- a description of the price/cost evaluation methodology including the use of scenarios in the evaluation process, to determine costs for specific volumes and/or service levels.

Where procurement documents state that NPC will consider any equivalency proposals submitted by vendors for solutions that meet performance requirements but are based on standards other than those expressed in the procurement document, the assessment process must be undertaken in the evaluation process.

In responding to procurement documents, vendors may sometimes propose alternative strategies or solutions to the business needs or apply conditions to their responses. Unless expressly stated in the procurement documents, alternative strategies or solutions proposed by a vendor must not be considered. NPC must clearly state in the procurement document if they will consider alternative strategies, where appropriate.

Where NPC support alternative strategies or solutions, the procurement document must expressly request alternative solutions and describe how alternatives will be considered in the evaluation process.
9.8 **Bid Irregularities**

A bid irregularity is a deviation between the requirements (terms, conditions, specifications, special instructions) of a bid request and the information provided in a bid response.

A "major irregularity" is a deviation from the bid request that affects the price, quality, quantity or delivery, and is material to the award. If the deviation is permitted, the Proponent could gain an unfair advantage over competitors. Procurement staff shall reject any bid, which contains a major irregularity.

A "minor irregularity" is a deviation from the bid request, which affects form, rather than substance. The effect on the price, quality, quantity or delivery is not material to the award. If the deviation is permitted or corrected, the Proponent would not gain an unfair advantage over competitors. Procurement staff in consultation with the Director may permit the Proponent two (2) Business Days to correct any irregularity determined to be a minor irregularity. This decision shall be determined at the sole discretion of the NPC.

For all competitive procurements, the list below identifies how each irregularity will be considered, based on the type of irregularity, including whether the bid/proposal is rejected. The list below is not exhaustive and may be updated from time to time, at NPC’s sole discretion.

In the event that the vendor withdraws its bid due to the identification of a major irregularity, The NPC may disqualify such vendor from participating in NPC quotations/tenders/requests for proposals for a period of up to one year.
<table>
<thead>
<tr>
<th>Irregularity</th>
<th>Response</th>
</tr>
</thead>
<tbody>
<tr>
<td>1  Late Bids.</td>
<td>Automatic rejection.</td>
</tr>
<tr>
<td>2  Insufficient financial security (No deposit or bid bond or insufficient deposit or bid bond).</td>
<td>Automatic rejection.</td>
</tr>
<tr>
<td>3  Incomplete Bids (Part bids - all items not bid).</td>
<td>Automatic rejection if complete bid on all items was a mandatory requirement, unless otherwise deemed as a “minor irregularity” (e.g. incomplete nature is trivial or insignificant or complete bid on all items not required)</td>
</tr>
<tr>
<td>4  Exceptions to the Bid.</td>
<td>Automatic rejection, unless otherwise deemed as a “minor irregularity”</td>
</tr>
<tr>
<td>5  Bids received on documents other than those provided by the NPC.</td>
<td>Automatic rejection, unless otherwise deemed as a “minor irregularity”.</td>
</tr>
<tr>
<td>6  Bids containing errors.</td>
<td>Automatic rejection, unless otherwise deemed as a “minor irregularity” (e.g. minor obvious clerical errors that do not result in any ambiguity regarding submission).</td>
</tr>
<tr>
<td>7  Failure to sign Agreement to bond, bid bond, bid document (i.e. Form of Tender/Proposal).</td>
<td>Automatic rejection.</td>
</tr>
<tr>
<td>8  Erasures, overwriting, strike-outs, or failure to initial changes made on bid.</td>
<td>Automatic rejection, unless otherwise deemed as a “minor irregularity”</td>
</tr>
<tr>
<td>9  Discrepancies between the written price and the numerical price</td>
<td>Automatic rejection.</td>
</tr>
<tr>
<td>10 Failure to acknowledge in the bid that all addenda form part of the submission in the bid.</td>
<td>Automatic rejection</td>
</tr>
<tr>
<td>11 Failure to provide optional pricing.</td>
<td>Automatic rejection, if optional pricing required to be submitted as a mandatory requirement. If optional pricing is not a mandatory requirement, failure to provide optional pricing may be deemed a “minor irregularity”.</td>
</tr>
<tr>
<td>12 Requested submission requirements not included in the bid, in whole or in part.</td>
<td>Automatic rejection if information was a mandatory requirement. If information was not mandatory, any missing information must be assessed at the sole discretion of the NPC to determine whether the</td>
</tr>
</tbody>
</table>
9.9 **Vendor Debriefings**

For all Procurements with a Procurement Value of $25,000 or more, NPC must ensure that all unsuccessful vendors who participated in the Procurement are offered an opportunity for a debriefing. Vendors have a right to a debriefing only after the legal Agreement between the successful vendor(s) and the NPC has been signed.

**Scheduling Vendor Debriefing Meetings**

In scheduling vendor debriefings, NPC must:

- confirm the right to a debriefing, in writing, and allow vendors sixty (60) calendar days following the date of the written communication to respond;
- confirm the date and time of the debriefing session in writing;
- conduct vendor debriefings individually;
- ensure that the same participant(s) participate in every debriefing conducted (if NPC have used a Fairness Consultant in the procurement process they may be invited to participate in the debriefing but must not conduct the debriefings); and
- retain all correspondence and documentation relevant to the debriefing session as part of the procurement documentation (Section 9.12).

<p>| | |</p>
<table>
<thead>
<tr>
<th></th>
<th></th>
</tr>
</thead>
<tbody>
<tr>
<td><strong>13</strong></td>
<td>Failure of a bidder to identify itself on the bid.</td>
</tr>
<tr>
<td></td>
<td>Automatic rejection.</td>
</tr>
<tr>
<td><strong>14</strong></td>
<td>Mathematical errors.</td>
</tr>
<tr>
<td></td>
<td>Automatic rejection, unless otherwise deemed as a “minor irregularity”.</td>
</tr>
<tr>
<td><strong>15</strong></td>
<td>Agreement to bond not signed by both the contractor / company and the surety; or Agreement to provide irrevocable letter of credit not signed by the financial institution.</td>
</tr>
<tr>
<td></td>
<td>Automatic rejection.</td>
</tr>
<tr>
<td><strong>16</strong></td>
<td>Failure to attend mandatory site visit (if stated in bid)</td>
</tr>
<tr>
<td></td>
<td>Automatic rejection.</td>
</tr>
</tbody>
</table>
Conducting Vendor Debriefings

In conducting vendor debriefing meetings, NPC must:

- provide a general overview of the evaluation process set out in the procurement document;
- provide the name, address, and total bid price, where applicable, of the successful vendor as well as the award notice information (Section 9.11);
- discuss the strengths and weaknesses of the vendor’s submission in relation to the specific evaluation criteria and the vendor’s evaluated score. If more than price is evaluated, NPC may provide the vendor’s evaluation scores and their ranking relative to other vendors;
- provide suggestions on how the vendor may improve future submissions;
- receive feedback from the vendor on current procurement processes/practices;
- address specific questions and issues raised by the vendor in relation to their submission; and
- where a complaint has been filed regarding the award decision and the vendor is not satisfied with the outcome of the debriefing session, inform the vendor of the steps to proceed with a formal bid dispute of the complaint (See Sec 9.14).

In addition, NPC may also provide the name(s) of all vendors who participated in the Procurement including qualified and disqualified proponents/bidders as well as those who submitted “no bid.”

In conducting vendor debriefings, NPC must not disclose information concerning other vendors, other than as specified above, as it may contain confidential Third Party proprietary information subject to the mandatory Third Party exemption under the Freedom of Information and Protection of Privacy Act (FIPPA). If a vendor makes such a request, they must be advised that a formal Freedom of Information (FOI) request can be submitted to NPC’s Freedom of Information and Privacy Office. Questions unrelated to the procurement process must not be responded to during the debriefing and must be noted as out of scope based on the debriefing process agreed to in the procurement documents.

9.10 Development and Management of Contracts and Issuance of Purchase Orders

The Procurement of goods and services, and the resulting purchase orders and contracts, must be responsibly and effectively managed. Following the procurement process, the responsibilities of both NPC and the successful vendor are formally defined through

- a signed purchase order for all purchases $5,000 or greater, and
- a written contract when
9.10.1 Authority to Issue Purchase Orders

Purchase orders for Retail Goods for Resale are issued by NPC Buyers, who have been delegated authority in writing by the General Manager. Purchase Orders for all other goods and services are issued by Procurement staff who have been delegated authority in writing by the General Manager. Purchases less than $5,000 shall be by direct invoice or credit card, without the requirement of a purchase order, unless required by a vendor.

A Blanket Purchase Order may be used where:

i. one or more Departments repetitively order the same Goods, Services or Construction that have been competitively procured; or

ii. a need is anticipated for a range of Goods, Services or Construction for a specific purpose and for which convenience and location are major factors but the actual demand is not known at the outset.

9.10.2 Contracts/Agreements

All Contracts must include appropriate cancellation or termination clauses and appropriate legal advice should be sought on the development of these clauses. Particularly for goods and services procured as part of an IT project, the use of Contract clauses that permit cancellation or termination at critical project lifecycle stages must be considered.

The term of the Contract and any options to extend the Contract must be set out in the form of Agreement included in the procurement document. All contracts must have a start and end date. As changes to the term of the Contract may change the Procurement Value, prior written approval by the appropriate approval authority is necessary before changing Contract start and end dates. Extensions to the term of the Contract beyond what is set out in the procurement document are considered non-competitive Procurements and appropriate approval authority must be obtained prior to proceeding.
All substantive changes to standard clauses in Bid Solicitations and Contracts shall be reviewed and approved by the Manager, Corporate Procurement and NPC Solicitor.

In managing procurement Contracts, particular attention should be paid to the following:

- all payments must be in accordance with the provisions of the Agreement;
- all payments for applicable expenses must be in accordance with the Travel, Meal and Hospitality Expenses Directive;
- vendor performance must be managed and documented, and any performance issues must be addressed;
- all required approvals must be obtained for any Procurement Value Increases and Agreement Ceiling Price increases or other changes in terms and conditions of the Agreement; and,
- knowledge transfer to NPC staff must take place, where applicable.

9.11 Post Contract Award Notification

NPC must inform all participating vendors of award decisions, and when requested to do so, in writing.

Where NPC have used a competitive procurement process for goods valued at $25,000 or more and services valued at $100,000 or more, NPC must post contract award notification within 72 days of the award decision.

Where NPC have used a non-competitive procurement process for goods/services valued at $548,700 or more and construction valued at $7.7M or more and where an ACAN was issued, NPC must post contract award notification within 72 days of the award decision.

NPC must post the following information on MERX or Biddingo Tendering System:

- the name(s) of the successful vendor(s);
- the name(s) and addresses of the procuring entity and of the successful vendor(s);
- the procurement method used;
- the Contract start and end dates, including any options for extension;
- the total Contract Value upon completion of the evaluation process and after execution of the Contract with the successful vendor(s);
- a description of the goods or services procured; and
- where an open competitive procurement method was not used, a justification for the method selected must be included for construction Procurements valued over $7.7M and all other Procurements valued over $548,700.
The requirement to post Contract award information does not apply to the second-stage selection process when using a Vendor of Record (VOR) Arrangement.

9.12 Documentation and Record Retention

NPC must ensure that all Procurement decisions and decision-making processes are recorded to account for and support the reconstruction of facts related to a Procurement. NPC must manage procurement Contracts and documentation to ensure that NPC is able to respond to any requests for information, vendor inquiries, debriefing requests, audits and/or legal challenges in a relevant, reliable, comprehensive and timely fashion.

Procurement process documentation includes, but is not limited to, the following:

a. a copy of the procurement justification or business case;
b. information regarding all vendor consultations, including any requests for information, undertaken in the development of the procurement business case and/or procurement documents;
c. evidence that all required approvals were obtained;
d. copies of all procurement documents used to qualify and select the vendor;
e. where the Procurement was conducted through a Vendor of Record (VOR) Arrangement, information regarding the second-stage selection process used to select the successful vendor(s);
f. copies of all advertisements of procurement documents;
g. information relating to compliance with the Ontarians with Disabilities Act, 2001 and the Accessibility for Ontarians with Disabilities Act, 2005 where applicable;
h. copies of all responses, submissions, proposals and bids received in response to procurement documents including the conflict of interest declaration, the tax compliance declaration and Ministry of Revenue tax compliance verification;
i. information regarding any issues that arose during the procurement process, including all correspondence related to a bid dispute;
j. information regarding all evaluations of submissions, proposals and bids received in response to procurement documents;
k. information regarding all vendor debriefings including written documentation of the offer of vendor debriefing, where applicable;
l. copies of all award letters, notices, and posted announcements;
m. copies of the Agreement(s);
n. information regarding all changes to the terms and conditions of the Agreement, including any changes that resulted in an increase in the Contract price;
o. information regarding the management of the vendor, including how the vendor’s performance was monitored and managed and, where applicable, mechanisms used to transfer knowledge from the vendor to staff;

p. risk assessment information and recommendations, where applicable;

q. contractor security screening decisions, where applicable;

r. information regarding all disputes or vendor complaints regarding the Procurement, including any Contract disputes;

s. evidence of receipt of deliverables; and

t) For food, beverage and /or food related procurements with a Procurement Value under $25,000, any written vendor documentation or confirmation of Local Food received during the Procurement process.

u) any other documentation as identified.

9.13 Vendor Performance

The NPC Department lead responsible for the procurement shall monitor the performance of all contracts and shall document evidence related to same and shall advise the Department Director and Manager, Corporate Procurement in writing where the performance of a supplier has been unsatisfactory.

The agreement/contract with vendors will specify that, where there are performance issues, and notification in writing has been given to the vendor, and no improvement has been made, NPC may exercise the right to terminate the contract.

Further, NPC may reject bids, including a low bid, if a vendor:

   i. has commenced or is engaged in legal claims or litigation against the NPC at any time in the preceding three (3) years;

   ii. previously provided goods or services to the NPC in an unsatisfactory manner, as documented through the vendor performance process described above;

   iii. has failed to satisfy an outstanding debt to the NPC;

   iv. has a history of illegitimate, frivolous, unreasonable or invalid claims;

   v. provides incomplete, unrepresentative or unsatisfactory references; or

   vi. has engaged in conduct that leads the NPC to determine that it would not be in NPC’s best interests to continue doing business with the vendor;

   vii. is in contravention of the Supplier’s Code of Conduct
9.14 Bid Dispute Process

A proponent has the opportunity to raise their concerns through the question and answer period of the procurement process or through a debriefing meeting after the contract award. Before initiating the bid dispute process, proponents are strongly encouraged to raise their concerns with the designated procurement staff contact.

Where the proponent is not satisfied with the outcome of the debriefing meeting, and wishes to make a complaint, the proponent may follow these steps to proceed with a formal bid dispute (within 30 days of completion of debriefing meeting).

This bid dispute process ensures that procurement complaints are addressed and resolved quickly and efficiently. All complaints will receive a formal review and all proponents will be provided with a formal response.

To make a complaint pursuant to the bid dispute process, proponents are advised to:

- complete the complaint form (available on NPC Website)
- attach a detailed description of the complaint; and
- provide any additional relevant background information.

All documentation must be addressed to the Director, Procurement – Niagara Parks Commission and sent to:

- 7400 Portage Road, Niagara Falls, ON L2E 6T2

Once a complaint has been received from a proponent, the Director will initiate a review of the complaint. The proponent will receive a written response once the review is complete.

Filing a complaint does not affect a proponent’s ability to participate in ongoing or future procurement opportunities with NPC.

10.0 Other Related Policies

10.1 Ontario Trade Commitments

Ontario has made commitments to certain trade agreements. NPC must conduct its procurements in a manner that adheres to these agreements. Where requirements in the Trade Commitments differ from the Provincial Directive, NPC must comply with the Directive.
10.2 Protection of Personal and Sensitive Information

Prior to undertaking any Procurement of goods and/or services that may result in the release of personal or sensitive information, NPC must conduct a risk assessment that includes a Privacy Impact Assessment (PIA) and a Threat Risk Assessment (TRA). Any information that is to be released must comply with applicable privacy legislation. Staff should consult with NPC’s FIPPA Coordinator for more details on these requirements.

10.3 Storage of Personal Information or Program Data

Personal information or program data that is considered medium-sensitive, highly-sensitive, or confidential and essential to the operation of programs must be stored and processed in accordance with privacy legislation. Staff should consult with NPC’s FIPPA Coordinator for more details on these requirements.

10.4 Accessibility Obligations

NPC must comply with the Accessibility for Ontarians with Disabilities Act, 2005 (AODA) and the standards mandated by it through enacted regulation. The AODA, 2005 outlines new, mandatory accessibility standards in many areas. The Integrated Accessibility Standards Regulation under the AODA, 2005 came into force July 1, 2011. Effective January 1, 2012 the Government of Ontario must incorporate accessibility criteria and features into its procurement processes so that goods, services, and facilities are more accessible to persons with disabilities, except where it is not practicable to do so. Where applicable, procurement documents should specify the desired accessibility standards to be met and provide guidelines for the evaluation of proposals with respect to those standards.

10.5 Environmental Considerations

NPC should consider environmental reduction, re-use, and recycling measures in the development of commodity specifications, terms and conditions, and award decisions. Where applicable, NPC requires vendors to submit a waste management plan for Procurements involving products with designated waste materials under the Waste Diversion Act or high levels of residual waste. Designated materials include blue box waste (packaging and printed paper waste), used tires, hazardous waste and e-waste.

Where applicable, NPC should consider environmentally responsible alternatives such as, but not limited to, bio-based or Recycled Content alternatives, energy, fuel or water efficient alternatives, or reduced toxin alternatives.

Environmental considerations must also be given to paper and printed materials. All virgin paper purchased for office use must be certified by one of the Forest Stewardship Council (FSC), Sustainable Forestry Initiative (SFI) or the Canadian Standards Association (CSA) with a minimum of 30% being FSC certified.
NPC should also establish processes that minimize the need to procure paper through fax, scanning and e-mail of documents that might otherwise be printed. When printing or copying is necessary, NPC must ensure that double-sided, black-and-white printing and copying is the standard.

10.6 Innovative Procurement

The Ministry of Government Services and the Ministry of Economic Development and Innovation have established GreenFIT to assess innovative green technologies for Procurement by Ministries. NPC may procure products and non-consulting services from unsolicited proposals that have received positive evaluations from GreenFIT. These can be found in the GreenFIT directory on the MyOPS Procurement intranet site and may be procured as a prototype or a first good/service for a pilot if the following parameters are met:

- a. Use for a planned activity (e.g., a pilot or demonstration project) and not for wide-scale Procurement;
- b. Planned for the purpose of trying a new or innovative solution;
- c. The planned activity will be followed by an evaluation on its effectiveness and suitability for continued/expanded use that will be shared with MGS Supply Chain Management Division; and
- d. All required approvals (Section 5) have been obtained.

10.7 Agreements with Universities and Colleges

For research and development projects involving universities, colleges or their staff, Contracts must be made with, or with the written concurrence of, the university/college administration. Payments must be made to the administration or to another party only with the written agreement of the administration. In addition, the terms of these Contracts must cover the full cost of the research, including appropriate allowances for indirect and overhead costs.

11.0 Corporate Card Program

11.1 Purchasing Card Program

The Purchasing Card is a mechanism for acquiring and paying for low dollar value goods and services. Use of the Purchasing Card reduces the administrative costs of payables associated with low dollar value purchases; improves cash flow and accounts receivable status for vendors; reduces petty cash and accountable advance usage and simplifies the purchase process for employees.

The NPC procurement card is a departmental card belonging to the NPC. Only employees who have been delegated authority to purchase are eligible to request procurement cards as a payment alternative and all employees are required to have a completed, signed and authorized
approval form, prior to being given custody of a procurement card. Issuance of a procurement card requires written approval by the General Manager.

Key Principles

The following are key principles of the NPC procurement card program:

- The NPC procurement card is to be utilized for appropriate and reasonable expenditures as specified in NPC procurement policies and administrative procedures
- Appropriate accounting procedures, reporting mechanisms and approvals must be in place to ensure purchase card expenditures are in compliance with NPC established policies and procedures
- The responsibility for maintaining appropriate security of the departmental card and appropriate documentation for expenditures rests with the NPC Department Director and cardholder
- Cardholders must not use a procurement card in the following circumstances:
  - For travel, meals and hospitality. These transactions require use of the travel card.
  - For personal, or non-NPC use under any circumstances.
  - For alcohol, with the exception of culinary services staff specifically charged with procurement responsibilities for alcohol to be resold in NPC restaurants.
  - For cash advances.
- When procurement cards are to be used to pay for training and workshop registrations, membership renewals expenditures for the benefit of a staff member who is also the cardholder, counter signature on the invoice is required by the cardholder’s immediate supervisor, prior to payment authorization
- Cardholders are responsible for compliance with the Purchasing Card Use Agreement and the “Program and Usage Guidelines, Corporate Purchasing Card”

11.2 Travel Card Program

The Corporate Travel Card is a charge card that enables eligible NPC staff to pay for expenses incurred while travelling on approved business.

Employees are required to have a completed, signed and authorized approval form, and receive training on the Procurement and Travel Meals & Hospitality Policies prior to being given custody of a travel card. Issuance of a travel card and credit limit requires written approval by the General Manager. A written acknowledgement of personal responsibility for expense charges to the travel card is required from all employees prior to card issuance.
Completed, reconciled statements of travel card holders, including attached receipts are to be reviewed and signed by the Senior Director for Departmental staff and by the General Manager, for cards held by the Senior Directors.

The travel card is issued in the name of the employee. Cardholders are fully liable for all charges, interest, fees, cash advances or adjustments levied against their card account and are responsible for ensuring the statement is paid in full prior to the payment due date. Cardholders are also responsible for compliance with all terms and conditions as set out in the Cardholder Agreement and the Travel Card Use Agreement.

Cardholders must also be compliant with the *Travel, Meal and Hospitality Expenses Directive* and the NPC’s Management Guidelines, Corporate Travel Card”. The Guidelines provide the Travel Card program usage information and outline the responsibilities of cardholders.

The following are key principles of the NPC travel card program:

- The NPC travel card is to be utilized for appropriate and reasonable travel expenditures of individual employees as specified in NPC policies, administrative procedures, and the Travel Meals & Hospitality (TMH) Directive.
- Appropriate accounting procedures, reporting mechanisms and approvals must be in place to ensure travel card expenditures are in compliance with NPC established policies and procedures and applicable Provincial Directives.
- The responsibility for maintaining appropriate security of the travel card and appropriate documentation for expenditures rests with the cardholder.
- The travel card must be used in accordance with the limits as established in the TMH Directive and NPC policies and procedures.
- Cardholders must not use a travel card in the following circumstances:
  - For procurement expenditures. These transactions require use of the procurement card.
  - For personal, or non-NPC use under any circumstances.
  - For alcohol.
  - For cash advances.
  - For any other purchases which are prohibited in NPC policies and procedures and applicable Provincial directives.
- Use of the travel card for employees other than the cardholder are discouraged, but maybe permitted in unusual circumstances, as approved by the General Manager.

Corporate Services will exclude inappropriate transactions (i.e. non-travel related) by arranging with the credit card vendor to have inappropriate transactions excluded from the valid list of items that may be purchased on the card.
12.0 Roles and Responsibilities

Board:

- Exercise the Board’s authority to approve this policy under the Niagara Parks Act;
- Provide effective oversight and due diligence in reviewing reports and approving procurements not delegated to the General Manager;
- Recommending approval from the Deputy Minister, Minister, Treasury Board/Management Board of Cabinet where prescribed in this policy; and
- Receive and consider approval of amendments to this policy as required.

General Manager:

- Ensure operational policies are developed that fulfill the requirements of this policy and meet the business requirements of NPC;
- Seek approvals from the Board with respect to the Procurement policy, when required;
- Further delegate authorities, where permitted and consistent with the Delegation of Authority policy;
- Identify and incorporate, in NPC’s operating budget, adequate staffing and resource requirements to fulfill this policy;
- Identify and recommend amendments to this policy to the Board, as required; and
- Table reports as specified in this policy.

13.0 Reporting

The following reports, as a minimum, will be provided to the Board and/or Board Committees:

<table>
<thead>
<tr>
<th>Report</th>
<th>Frequency</th>
</tr>
</thead>
<tbody>
<tr>
<td>Procurement Planning and Activity Report</td>
<td>Quarterly Report to Finance and Audit Committee</td>
</tr>
<tr>
<td>Annual RGO Plan</td>
<td>Annually to the Board through the Business Plan</td>
</tr>
<tr>
<td>Individual (pre) RGO Business Cases</td>
<td>To the Finance &amp; Audit Committee as occurs</td>
</tr>
<tr>
<td>Internal audit review of Procurement and Travel Credit Cards</td>
<td>As per internal audit workplan</td>
</tr>
</tbody>
</table>
14.0 Definitions and Acronyms

For the purposes of this Policy the following definitions and acronyms apply:

“Agreement” means the formal written document that will be entered into at the end of the procurement process.

“ACAN” means Advance Contract Award Notice.

“Agreement Ceiling Price” means the total cost for specified goods and/or services as established in a contractual relationship with a third party.

“All Local Laws Governing Labour and Working Conditions” means local, regional and national laws, by-laws, regulations and employment and safety standards (e.g. wages, benefits and hours of work) that apply in the location of manufacture and assembly.

“Allowable Exception” means specific situations where the use of a non-competitive procurement process is allowable for the acquisition of goods or services, provided that prior approval is received from the prescribed approval authority.

“AODA” means the Accessibility for Ontarians with Disabilities Act, 2005.

“Apparel” means clothing, including personal attire, uniforms, outerwear and footwear.

“Consulting Service” means the provision of expertise or strategic advice that is presented for consideration and decision-making.

“Contract” means the aggregate of (a) the form of Agreement including any schedules; (b) the procurement document, including any addenda; (c) the Proposal; and (d) any amendments executed in accordance with the terms of the Contract.


“DOA” means Delegation of Authority as defined by NPC’s Delegation of Authority Policy.

“Electronic Tendering System” means a computer-based system that provides vendors with access to information related to open competitive procurements.

“Exemption” means an approval for a non-competitive procurement process for the acquisition of goods or services at a specific value or to be excluded from a specific mandatory requirement as prescribed in the Ontario Procurement Directive, October, 2012.
“Fairness Consultant” means an independent and impartial third party who observes and monitors the procurement process.

“FIPPA” means the Freedom of Information and Protection of Privacy Act.

“Information Technology” (IT) means the equipment, software, services and processes used to create, store, process, communicate and manage information.

“Invitational Tenders” means a method of inviting at least three (3) vendors to respond to a request for supply of goods or services based on stated delivery requirements, performance specifications, terms, and conditions.

“Joint Procurement” means a procurement process undertaken by multiple public sector organizations, who in order to achieve efficiencies and economies of scale, leverage their joint purchasing requirements and activities.

“Local Food” means (a) food produced or harvested in Ontario, including forest or freshwater food, and (b) subject to any limitations in the regulations, food and beverages made in Ontario if they include ingredients produced or harvested in Ontario.

“MBC” means the Management Board of Cabinet.

“MGS” means the Ministry of Government Services.

“Other Included Entities” means all Crown Foundation, Trust, Operational Service and Operational Enterprise agencies, as classified under the Agencies and Appointments Directive, and non-classified entities where the Chair and/or Chief Executive Officer is directly or indirectly appointed by Ontario. To be considered an Other Included Entity, entities must not be required by a Memorandum of Understanding to comply with the MBC Procurement Directive or its predecessors in its entirety unless MBC approval has been received for the entity to be treated as an Other Included Entity.

“Printed Materials” means any materials that are printed by commercial and in-house print shops.

“Procurement” means any contractual or commercial arrangement involving the acquisition of a good or service through purchase, rental, lease or conditional sale; or where a value or benefit has been conferred by NPC to a successful vendor in exchange for good(s) or service(s) or revenue to the NPC. For the purposes of this Policy, procurement does not include any grant, entitlement agreement or shared cost agreement entered into by NPC for a public benefit or purpose.

“Procurement Value” means all costs and conferred value associated with a contractual relationship with a third party. Where a project involves multiple related procurements, the project’s Procurement Value would be determined by cumulative value of each related procurement.
“Procurement Value Increase” means that the costs and conferred value associated with a procurement initiative have increased following the procurement approval.

“Recycled Content” means the amount of recovered waste materials in a new product.

“Request for Information” (RFI) means a market research procurement document that is used to elicit industry information on particular products and/or services from the vendor community.

“Request for Proposal” (RFP) means a procurement document that requests vendors to supply solutions for the delivery of complex products or services or to provide alternative options or solutions. The RFP process uses predefined evaluation criteria where price is not the only factor.

“Request for Qualifications” (RFQ) means a procurement document used to request technical information and evidence of financial stability and product or service suitability from potential vendors in order to pre-qualify or short list vendors to bid on specific categories of work or provide specific types of goods or services, or to respond to a particular request for proposals or tenders.

“Request for Services” (RFSel) means the document used during the second-stage selection process to request submissions from one or more vendors listed on a services Vendor of Record Arrangement.

“Request for Solution” (RFSo) means the document used during the second-stage selection process to request submissions from one or more vendors listed on a software or hardware Vendor of Record Arrangement.

“Request for Tender” (RFT) means a procurement document that requests a vendor response to supply goods or services based on stated delivery requirements, performance specifications, terms, and conditions. The RFT process usually focuses the evaluation criteria predominantly on price and delivery requirements.

“Single Source” means the use of a non-competitive procurement process to acquire goods or services from a specific supplier even though there may be more than one supplier capable of delivering the same goods or services.

“Sole Source” means the use of a non-competitive procurement process to acquire goods or services from a specific supplier because there are no other suppliers available or able to provide the required goods or services.

“Standardized Terms and Conditions” means contractual terms established as mandatory terms for a prescribed type of Contract.

“TB/MBC” means Treasury Board/Management Board of Cabinet.

“Trade Commitments” means any applicable trade agreement to which Ontario is a signatory or pursuant to which Ontario has accepted obligations.
“Vendor of Record (VOR) Arrangement” and “VOR Arrangement” both mean a procurement arrangement that authorizes one or more qualified vendors to provide goods or services for a defined time period on terms and conditions, including pricing, as set out in the particular VOR Agreement. VOR Arrangements are categorized as enterprise-wide, multi-ministry, or ministry-specific.

“Virgin Paper” means paper that is manufactured using new wood fibre harvested from forests and does not contain any recycled content.

“VOR Ceiling Price” means the maximum value per assignment, or per multiple project-related assignments, under which NPC may use the VOR Arrangement.

15.0 Associated Policies

- Delegation of Authority
- Fiduciary Responsibility and Conflict of Interest
- Ethical Conduct
- Code of Conduct
- Supplier’s Code of Conduct
- Sponsorships
- Release of Information, NPC Privacy Policy

Schedule 1– Waiver to Accompany All Unsolicited Proposal Submissions

ACKNOWLEDGEMENT, DECLARATION AND AGREEMENT

THIS ACKNOWLEDGEMENT, DECLARATION and AGREEMENT is given to The Niagara Parks Commission (the "NPC") as of the __________ day of _________________________ ____________, 20_____ by ____________________________ ____________________________ (the "Party").

The Party has elected to submit an Unsolicited Proposal (the “Proposal”) to the NPC in accordance with the NPC’s Procurement Policy, and in consideration of the NPC’s consideration of the Proposal, and for other good and valuable consideration, the receipt and
sufficiency of which is hereby acknowledged, the Party acknowledges, declares and agrees as follows:

1. Incurred Costs

The NPC shall not be liable for, nor reimburse, the Party for any costs, expenses or loss incurred in the preparation, submission or presentation of the Proposal, for interviews or any other activity that may be requested as part of the evaluation process or the process for the negotiation or execution of any agreement with the NPC.

The rejection or non-acceptance of the Proposal shall not render the NPC liable for any costs, expenses, loss or damages incurred by the Party either indirectly or directly as a result of the rejection or non-acceptance of the Proposal.

2. Prohibition against Gratuities

The Party and its employees, agents or representatives shall not offer or give any gratuity in the form of entertainment, participation in social events, gifts or otherwise to any officer, director, agent, appointee or employee of the NPC in connection with this process, whether for the purpose of securing an agreement or seeking favourable treatment in respect to the award of an agreement or expressing appreciation, or providing compensation, for the award of an agreement or for conferring favours or being lenient, or in any other purpose whatsoever. If the NPC determines that this article has been breached by or with respect to the Party, the NPC may discontinue all consideration of the Proposal, or if an agreement has already been entered into, may terminate the agreement without incurring any liability for any costs, expenses, loss or damages incurred by the Party either directly or indirectly as a result.

3. Conflicts of Interest

The Party declares that the Proposal was prepared, and submitted, without NPC supervision, endorsement, direction or involvement. In its Proposal, the Party shall disclose to the NPC any actual or potential conflict of interest that might exist in connection with the Proposal, including relating to the submission of the Proposal. If the NPC determines in its sole discretion that such a conflict of interest does exist, the NPC may, at its sole discretion, refuse to consider the Proposal. The Party shall also disclose whether it is aware of any NPC employee or Board member having a personal or financial interest in the Party or the Proposal and the nature of that interest. If such an interest exists or arises during the evaluation process or the negotiation of an agreement, the NPC may, at its sole discretion, refuse to consider the Proposal or withhold the awarding of any agreement to the Party until the matter is resolved to the NPC's sole satisfaction. If the NPC at any time discovers that the Party has failed to disclose all actual or potential conflicts of interest, the NPC may discontinue any consideration of the Proposal, or if an agreement has already been entered into, may terminate such agreement without incurring any liability for any costs, expenses, loss or damages incurred by the Party either directly or indirectly as a result.
4. Ownership and Disclosure of Proposal Documentation

The documentation comprising the Proposal submitted to the NPC, along with all correspondence, documentation and information provided to the NPC by the Party in connection with the Proposal, once received by the NPC:

a. shall become the property of the NPC; and,
b. shall be subject to the Freedom of Information and Protection of Privacy Act ("FIPPA"), and may be disclosed, pursuant to that Act.

5. Treatment of the Proposal

The NPC shall treat the Proposal submitted to the NPC as non-confidential and non-proprietary. The Proposal shall not be subject to any obligation of confidence on the part of the NPC, and the NPC shall not be liable for any costs, expenses, loss or damages incurred by the Party either directly or indirectly as a result of any use or disclosure of the Proposal, including but not limited to indirect damages for lost profits or lost opportunity.

6. Use of the Proposal

The NPC may use the Proposal without restriction for any purpose whatsoever as determined by the NPC in its sole discretion, including, without limitation, reproduction, disclosure, transmission, publication. The NPC shall have and is hereby irrevocably granted the unlimited and royalty-free right, but not the obligation, to reproduce, modify, adapt, publish, license, sell, translate, incorporate, create derivative works from, exploit, distribute and otherwise use the Proposal in any and all media, now known or hereafter devised, throughout the world, in perpetuity, without having to accord to the Party any compensation or credit of any kind whatsoever. The Intellectual Property arising from any modification, improvement, development or adaptation of the Proposal by the NPC shall vest solely in the NPC.

7. Release

The Party hereby irrevocably waives, releases and gives up any claim that any use, reproduction, alteration or disclosure of its Proposal by the NPC violates any of the Party’s rights, including, without limitation, copyrights, moral rights, patent rights, trademarks, privacy rights, proprietary or other property rights, publicity rights, or rights to credit or compensation for the material or ideas contained within the Proposal.

8. Intellectual Property Representations and Warranties and Indemnities

The Party represents and warrants that the material and information contained in the Proposal:

a. is an original work of the Party; and
b. does not infringe any intellectual property right or right of privacy of any third party.

The Party shall indemnify and save harmless the NPC, its directors, officers, employees and consultants, if any, against all manner of claims, actions, suits and proceedings, brought by any person or entity in respect of the infringement or alleged infringement of any patent, copyright, trademark, or other intellectual property right and/or rights of privacy in connection with the
NPC's possession, use, disclosure or publication of the Proposal and/or this Acknowledgement, Declaration and Agreement, and all damages, loss, costs and expenses (including legal expenses) resulting from or relating thereto.

9. Party Not to Communicate With Media
The Party agrees not to directly or indirectly communicate with the media at any time in relation to the submission of the Proposal to the NPC without first obtaining the written permission of the NPC, which may be withheld by the NPC in its sole discretion.

10. Information Provided by NPC is Confidential
In the course of the consideration of the Proposal by the NPC, the Party may be provided with information confidential to the NPC. All information provided by or obtained from the NPC in any form in connection with the Proposal:

   (a) is the sole property of the NPC and must be treated as strictly confidential;

   (b) is not to be used for any purpose other than communicating with the NPC with respect to the consideration of the Proposal and the performance of any subsequent agreement;

   (c) shall not be disclosed without prior written authorization of the NPC, which may be withheld by the NPC in its sole discretion; and,

   (d) shall be returned by the Party to the NPC immediately upon the request of the NPC.

11. Relationship
The Party hereby acknowledges and agrees that its relationship with the NPC is not a confidential, fiduciary, or other special relationship, and that the Party's decision to submit any material to the NPC does not place the NPC in a position that is any different from the position held by members of the general public with regard to the Proposal submitted.

12. The NPC's Code of Conduct

ON BEHALF OF THE PARTY, I HAVE READ THIS ENTIRE ACKNOWLEDGEMENT, DECLARATION AND AGREEMENT AND UNDERSTAND AND AGREE TO ITS TERMS AND CONDITIONS. I UNDERSTAND THAT BY SIGNING BELOW I AM WAIVING CERTAIN LEGAL RIGHTS AND I AM SIGNING IT FREELY AND VOLUNTARILY AND HAVE FULL LEGAL AUTHORITY TO BIND THE PARTY.

IN WITNESS WHEREOF the Party executes this Acknowledgement, Declaration and Agreement

ON BEHALF OF
(Full Legal Name of the Party)

Signature: ____________________  ____________________

Name: ____________________

Position/Title: ____________________

Signature: ____________________  ____________________

Name: ____________________

Position/Title: ____________________

I/We have authority to bind the Corporation