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NOTE: The first appearance of terms in bold in the body of this document (except titles) are defined terms – please refer to the Definitions section.

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This Procedure is to be used in conjunction with the AHS *Corporate Contracts* Policy. This Procedure only applies to **corporate contracts** overseen by Capital Management for design and construction related **procurement** and contracting.

OBJECTIVES

- To set out the process and conditions for Capital Management-managed design and construction **contracts**.
- To ensure that AHS' capital management bidding and contracting process:
 - promotes sound financial stewardship practices; and
 - establishes and maintains fair, equitable, and open processes in the context of transparency and efficiency for commercial business transactions in accordance with relevant laws and trade agreements.

APPLICABILITY

Compliance with this document is required by all Alberta Health Services employees, members of the medical and midwifery staffs, students, volunteers, and other persons acting on behalf of Alberta Health Services (including contracted service providers as necessary).

ELEMENTS

1. Guiding Principles

- 1.1 No procurement is to proceed without there being the corresponding budget in place prior to seeking submissions from third party **vendors**.

1.2 Engagement of vendors shall follow the Trade Agreements for procurement thresholds equal or greater than the value below noted as a **competitive procurement**. For procurements valued under threshold, refer to the AHS *Capital Management Design and Construction Non-Competitive Procurement Procedure* for procurement options.

1.3 Procurement thresholds are as follows:

Procurement Type	Under Threshold		Competitive Procurement
	Single Vendor	Multiple vendors	Public Posting
Good	\$24,999	\$25,000 to \$74,999	\$75,000 and up
Services	\$24,999	\$25,000 to \$74,999	\$75,000 and up
Construction	\$24,999	\$25,000 to \$199,999	\$200,000 and up
Multi-use Prequalification	\$24,999	Opportunity is to be issued to all vendors within the specific category and class	

1.4 The thresholds for the Capital Management design and construction opportunities are based on the estimated final value of the work which includes the initial submission price plus all contingency associated with this portion of work for each vendor within a project, including overall value of all phases in a phased engagement.

1.5 Under no circumstances shall a corporate contract or procurement be divided into multiple contracts or procurements, or be reduced in term or scope with the intent or unintended result of altering the commitment level or the positions which have authority to sign the corporate contract or to avoid competitive procurement.

1.6 For multi-vendor procurements under threshold, the objective is to receive a minimum of three (3) bona fide submissions. Refer to the *Capital Management Design and Construction Non-Competitive Procurement Procedure* for procurement process for multiple vendors.

1.7 For competitive and under threshold procurements, if three submissions are not received, the following choices are available:

- a) Refer to the AHS *Capital Management Design and Construction Non-Competitive Procurement Procedure* if no submissions are received;
- b) Do not seek additional submissions once the tendering process has closed; or
- c) Options if only one (1) or two (2) submission(s) received include:
 - (i) do not open submissions and return sealed packages to senders and reissue the opportunity as either previously developed or revised as the situation may require;

- (ii) accept the number of submissions, perform bid evaluations, and award in alignment with the prescribed selection process outline in the procurement documents; or
 - (iii) in the case of option (ii) when the opportunity was an under threshold multiple vendor invitation, retain record of the vendors invited. Provided the correct number were invited as outlined in the under threshold procurement requirements, an APE is not required prior to awarding.
- 1.8 If the submissions received are not deemed fair and reasonable or acceptable, or are not able to meet the scope of work defined, or no submissions are received, then seek an APE or sole source, or cancel the opportunity in its entirety and reissue at a more favourable time to the market, but no sooner than 30 business days after the bid validity timeline.
- 1.9 Only contracts developed for AHS by AHS Legal and Privacy are to be used for Capital Management design and construction projects. Contracts submitted by vendors shall not be signed by Capital Management staff. Signing levels must follow the *Contract Signing Authority Matrix*.
- 1.10 Capital Management has two avenues for completing design and construction projects. The first is for single trade, single invoice construction projects and the second is for multi-vendor, multi-payment design and construction projects.
- 1.11 All projects undertaken as part of the Capital Management Project Management portfolio and/or multi-vendor, multi-payment projects must utilize the Capital Management e-Facilities Projects Module and follow the Standard Operating Procedures and Processes outlined by the Capital Management Project Management Portfolio.
- 1.12 For Projects completed in e-Facilities, Capital Management Design and Construction Standard Forms of Agreements are to be used for all engagements over \$5,000 unless prior approval to use a **purchase order (PO)** as the form of engagement is approved by the Capital Management Project Management Zone Director. Only engagements under \$5,000 or are for project insurance are permitted to use the PO as the form of engagement.
- 1.13 When a Capital Management Design and Construction Standard Form of Agreement is used, the commitment shall be entered into the Oracle Financial system utilizing the PO. However, in these cases, the PO is a financial tracking number and not an order to purchase. Fully executed Agreements and any associated **amendments** are attached to the PO in Oracle outlining the contract terms and conditions.
- 1.14 All procurements shall be initiated in the Capital Management e-Facilities Projects Module before the opportunity is issued to the market to confirm budget availability and procurement strategies. For single trade, single invoice

construction projects, the projects shall be set up in Oracle with confirmed budgets in place before the opportunity is issued to the market.

- 1.15 Results and recommendation to award shall be signed off by the Capital Management Project Management Zone Director before the agreement is issued to the vendor for signature or before the PO is issued.
- 1.16 AHS is the last signature on all agreements and Change Orders/Design Change Orders. Signatures are according to the *Contract Signing Matrix* signing levels and in accordance with the AHS *Electronic Signatures* Policy.
- 1.17 For single trade, single payment construction projects, the form of engagement shall be a PO following the approval authorities set up for Capital Management in the purchasing system. A Purchase Order Requisition is submitted, including the Request for Quote, the names of the vendors invited to submit a bid, and the results of this opportunity, and any special terms and conditions to be added to the existing PO terms (see Section 1.7 above if not all invited vendors submit a bid).
- 1.18 Payment associated with Capital Management design and construction contracts are signed paper Payment Requisitions as per the AHS *Electronic Signatures* Policy. Payment Requisitions prepared and produced within the Capital Management e-Facilities Projects Module are signed according to the AHS *Delegation of Approval Authority* Policy and e-Facilities associated Project invoice signing levels. Payment Requisitions for projects not managed in e-Facilities are signed according to the AHS *Delegation of Approval Authority* Policy and Project managed outside e-Facilities invoice signing levels.
- 1.19 If the work is an emergency, follow the AHS *Capital Management Emergency Building Infrastructure Project* Procedure.
- 1.20 Project insurance must be in place before work commences and maintained through the duration of the work.

2. Trade Agreements

- 2.1 As directed by the Government of Alberta, AHS must comply with the procurement provisions of the:
 - a) Canadian Free Trade Agreement (CFTA), being an agreement between the governments of all provinces, territories, and the federal government;
 - b) New West Partnership Trade Agreement (NWPTA), being an agreement between the governments of Alberta, British Columbia, and Saskatchewan; and
 - c) Trade, Investment, and Labour Mobility Agreement (TILMA), being an agreement between the governments of Alberta and British Columbia.

3. Note of Guidance

- 3.1 It is important to recognize and differentiate the procurement (being the process by which Alberta Health Services (AHS) acquires products or services) from the resulting form of agreement (being a legally enforceable agreement between AHS and another party, the contract). The procurement methodology along with the associated approvals (as contemplated under the AHS *Corporate Contracts* Policy and procedure documents) is a separate matter than the approval of a resulting contract document (which is governed by the *Delegation of Approval Authority Contract Signing Matrix*).

4. Bid Processes

- 4.1 All AHS bidding processes shall be conducted through:
- a) **Contracting, Procurement & Supply Management (CPSM)** for equipment and for all Request for Proposals; and
 - b) Capital Management for design and construction contracts.

5. Types of Processes

- 5.1 The labels below are generalized descriptions of bid documents. A competition may draw upon elements of one or more of these generic descriptions. The bid processes for design and construction are managed by Capital Management Design and Construction in consultation with Legal & Privacy, where required, including the determination of whether the process is binding or non-binding and evaluated or non-evaluated.
- a) Request for Information, being a request for information regarding a vendor's capability, operations, supply, and pricing (both industry pricing and potential discount packages likely available to AHS).
 - b) Request for Expression of Interest, being a request regarding a vendor's interest and ability for providing goods and/or services.
 - c) Request for Quotations, being a request for pricing, time or other measurable criteria.
 - d) Pre-Qualification Processes, being a competition resulting in the pre-qualification of vendors to provide goods or services or construction to AHS, which may or may not be followed by a further competitive process among the pre-qualified vendors.
 - e) Request for Proposals, being a process where a number of factors are evaluated, which may or may not include price (CPSM managed).

6. Posting and Advertising Bid Opportunity Processes

- 6.1 All bid opportunities over the thresholds noted in Section 1.3 above shall be posted on APC and BuildWorks Canada:
- a) When utilizing the Capital Management Consultant and/or Construction multi-use pre-qualification vendors or similar process;
 - b) for reasons of confidentiality; or
 - c) for other legitimate business reasons as determined by Capital Management Position Approval Level.
- 6.2 The posting of the opportunity on BuildWorks Canada and APC shall contain at least the following information:
- a) a brief description of the procurement contemplated;
 - b) the place where a person may obtain information and competition documents;
 - c) the conditions for obtaining the competition documents;
 - d) the place and person to whom the bid is to be sent;
 - e) the date and time limit for submitting bids/proposals;
 - f) a statement that the procurement is subject the CFTA; and
 - g) when design and construction contracts are posted on BuildWorks Canada, a notification directing proponents accordingly to is to be posted on APC.
- 6.3 AHS shall not send notice of any opportunity directly to a prospective vendor unless one of the two following circumstances apply:
- a) The competition is intended to be sent to all possible vendors. The opportunity may or may not also be posted publicly. In this circumstance, the opportunity may only be sent directly to the prospective vendors when:
 - (i) it is reasonably determined that the goods or services, including construction are of a type where the appropriate vendor community may not be exposed to conventional posting or advertising;
 - (ii) research is conducted to ensure that all likely vendors will receive notice of the competition;

- (iii) in competitions where procurement is of a value greater than \$25,000 for goods, services and/or construction, written approval must be obtained as per the AHS *Capital Management Design and Construction Non-Competitive Procurement Procedure*; or
 - (iv) opportunity is being issued to the Capital Management's multi-use pre-qualified consultants or contractors.
- b) Where the procurement opportunity is of a confidential or privileged nature and having a competition could reasonably be expected to compromise government confidentiality, cause economic disruption, or be contrary to the public interest. In this circumstance, the competition may be sent directly to a pre-screened group of vendors. In competitions where procurement is of a value greater than \$25,000 for goods and/or services or \$25,000 for construction, written approval must be obtained as per the AHS *Capital Management Design and Construction Non-Competitive Procurement Procedure*.

7. Contents of Bid Documents

- 7.1 Bid documents should be designed to minimize risks by including clear and detailed information such as the specifications and desired service levels that enable vendors to make a clear and accurate bid to AHS.
- 7.2 Bid documents, depending on the type of process selected above, may include but are not limited to:
- a) detailed scope of work, product/service descriptions (including content for what is specifically out of scope);
 - b) service level requirements, technical requirements, and clinical requirements;
 - c) product specifications, requirements, and desired performance features;
 - d) mandatory requirements which if not met would disqualify the vendor;
 - e) resulting contract term, including amendment provisions;
 - f) volume commitments;
 - g) standard format for presenting vendor pricing information to allow comparison between proposals;
 - h) proposal evaluation criteria which should be established during the planning stage, and finalized prior to the release of the bid;
 - i) clear instructions on proposal submission;
 - j) deadlines for submissions;

- k) Capital Management representative contact name and contact information;
- l) vendor references to determine past performance, organizational stability, etc.;
- m) contract management, proposed governance model and frequency of meetings, reporting requirements, and accountability framework which govern roles and responsibilities of all parties to the contract;
- n) process to monitor performance, including Safety, Milestone Targets and Key Performance Indicators;
- o) declaration of any real, potential, or perceived conflict of interest by the vendor;
- p) declaration from the vendor with respect to proposal validity; and
- q) a draft copy of the agreement the vendor will be required to enter into, if successful.

8. Evaluation of Bids

- 8.1 In evaluating bids, Capital Management is limited to criteria that is measurable and not subjective. These may include, but is not limited to:
- a) price including but not limited to lump sum, unit prices, hourly rates;
 - b) schedule;
 - c) insurance loss history;
 - d) **total cost of ownership**;
 - e) conflicts of interest (both internally and externally); and
 - f) any other criteria directly related to the procurement that are consistent with non-discriminatory principles contained in trade agreements (e.g., for covered (over threshold) competitive procurements AHS cannot favour local vendors, local content or other economic benefits). The bid documents shall clearly identify the requirements of the procurement, the criteria that will be used in the evaluation of bids and the methods of weighting, and evaluating the criteria or other requirement used to establish the successful proponent (e.g. price, time or other measurable submission requirement).
- 8.2 Award only if the lowest compliant submission is fair, reasonable, and acceptable for the scope of work defined in the opportunity.

- 8.3 If qualification based or other value based evaluations are required to better select the most appropriate vendor to deliver the goods or service, then the opportunity should be issued through CPSM as a Request for Proposal.
- 8.4 The steps, actions, and decisions taken in connection with any procurement must be formally documented.

9. Responsibilities for the Development of Bid Documents & Overall Process

- 9.1 For corporate contracts managed by CPSM and for Request for Proposal procurement strategies, refer to the *Competitive Bid Processes Procedure*.
- 9.2 For Capital Management Design and Construction managed procurement, Capital Management is responsible for:
- a) all decisions related to the procurement process including sourcing decisions, and ensuring that all matters related to the implementation and execution of a sourcing strategy and the procurement process itself are operated in a fair and equitable manner;
 - b) ensuring, in consultation with Legal & Privacy, that all AHS policies relevant to procurement and corporate contracts complies with all laws and relevant trade agreements;
 - c) developing a sourcing strategy for the requirements;
 - d) preparing and facilitating the procurement process; and
 - e) following the processes outlined in the pertinent Capital Management Project Management Portfolio Standard Operating Procedures and e-Facilities guides for multi-vendor, multi-invoice projects.
- 9.3 For Capital Management Design and Construction managed procurement, Legal & Privacy is responsible for:
- a) developing procurement and contract templates; and
 - b) providing advice on all Legal & Privacy matters related to the sourcing strategy, procurement process, and the contract.

DEFINITIONS

Amendment means any change to the terms, conditions, scope, and/or value of a contract.

Competitive procurement means the procurement by AHS of goods, equipment, construction and/or services reflected in a corporate contract which is created or arises by means of a competitive process that complies with applicable trade agreements.

Contract means a legally enforceable agreement made between AHS and one or more parties. For the purposes of this Procedure, a contract shall include, but not be limited to, agreements

such as a binding memorandum of understanding, letter of intent, early start letter, information sharing/management/data sharing agreement, confidentiality/non-disclosure agreement, and purchase orders used to effect a procurement.

Contracting, Procurement & Supply Management means the combined portfolios of Strategic & Clinical Contracts and Zone Operations, Sourcing & Supply Management. Consequently, the approval role of the Chief Program Officer (CPO) for CPSM is delegated to the Senior Program Officer Strategic & Clinical Contracts.

Corporate contracts means all contracts except:

- Human Resources contracts (contracts relating to human resources functions which govern AHS employees, students and volunteers, and which do not pertain to goods, services or equipment);
- Research contracts (contracts relating to research ethics board approved research, including agreements relating to clinical trials, and observational/retrospective research, including but not limited to clinical trial agreements and research-related confidential disclosure, biological material transfer, and data transfer agreements); and
- Self-Managed Care contracts (contracts with AHS clients/patients to provide them with funds to pay for their own home care services with a 3rd party provider).

Procurement means the acquisition by any means, including by purchase, rental, lease or conditional sale, of goods, services, equipment or construction, but does not include:

- any form of assistance that AHS or its procuring entities provides, including cooperative agreements, grants, loans, equity infusion, guarantees or fiscal incentives; or
- provision by AHS of goods and services to persons or other government organizations, including government entities.

Purchase order (PO) means an order to purchase goods, services, construction or equipment from a contracting party subject to the terms and conditions on that order. A PO may or may not be used to purchase items that are subject to a pre-existing corporate contract. In the case of construction contracts, the PO may be a financial tracking number and not an order to purchase.

Total cost of ownership means the cost of a good and/or service taking into account all life-cycle costs associated with the good and/or service such as cost of training, accessory charges, freight, lifetime maintenance costs, administrative costs, contract management costs, implementation costs, conversion costs, and contract conclusion costs.

Vendor means an individual or company that supplies, or seeks to provide, goods and/or services including construction to AHS.

REFERENCES

- Alberta Health Services Governance Documents:
 - *Capital Management Design and Construction Change Management Procedure* (#1152-07)
 - *Capital Management Design and Construction Non-Competitive Procurement Procedure* (# 1152-08)
 - *Capital Management Emergency Building Infrastructure Project Procedure* (#1152-09)
 - *Conflict of Interest Bylaw*
 - *Corporate Contracts Policy* (#1152)
 - *Delegation of Approval Authority Policy* (#1168)
 - *Electronic Signatures Policy* (#1190)
 - *Real Estate and Leasing Procedure* (#TBC)
- Non-Alberta Health Services Documents:
 - Alberta Purchasing Connection
 - BuildWorks Canada
 - *Canadian Free Trade Agreement*
 - *New West Partnership Trade Agreement*
 - *Trade, Investment, and Labour Mobility Agreement*

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