

TITLE

RENEWALS AND EXTENSIONS TO CONTRACTSSCOPE

Provincial

DOCUMENT

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APPROVAL LEVEL

Alberta Health Services Executive Leadership Team

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Corporate Contracting Policy

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.

If you have any questions or comments regarding the information in this procedure, please contact the Policy & Forms Department at policy@albertahealthservices.ca. The Policy & Forms website is the official source of current approved policies, procedures, directives, and practice support documents.

This procedure is to be used in conjunction with the *Corporate Contracting Policy*.

OBJECTIVE

- To set out the procurement requirements for managing **contract renewals** and **extensions**.

APPLICABILITY

Compliance with this procedure 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).

This procedure only applies to **corporate contracts**.

ELEMENTS**1. Renewals and Extensions to Contracts**

- 1.1 A renewal to a contract occurs where an option contained in the contract is exercised to extend the contractual term.
- 1.2 An extension to a contract occurs where there are no extension rights contained in the contract, or extension rights have been exhausted, and the parties mutually agree to extend the term of the contract.

2. Note of Guidance

- 2.1 As a contextual note for guidance, 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 *Corporate Contracting Policy 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*).

3. Renewals

- 3.1 As renewal options are only to be included in contracts that are the result of an open, public competitive procurement process and the inclusion of renewal options must not exceed maximum term contemplated in the competitive procurement process (see *Corporate Contracting Policy*), all renewals to a contract are in and of themselves, not a **sole source** or **Approved Procurement Exception (APE)**. As a consequence, no sole source or APE approval is required. In the event AHS wishes to add to the duration of the contract for a period of time greater than contemplated as part of the terms and conditions of a contract, the contract is considered an extension and Section 4 below applies.

4. Extension Classifications

All extensions to a contract are classified as follows:

- 4.1 Contract Extension to a previous **Approved Procurement Exception (APE)**:
- a) If the contract was an APE due to the use of an exemption to the requirement to conduct a competitive process, the procurement approval for a contract extension is determined as set out in Section 5 below. This review is required to ensure the rationale for the original APE remains valid at the time of extension.
 - b) Example: A product, due to there being no alternative suppliers, was non-competitively sourced to a **vendor** for a term of three (3) years. Upon the completion of the original three (3) year term, AHS wishes to extend the contract for an additional year. The extension will be reviewed to ensure that no alternative suppliers have entered the market over the three (3) year period.
- 4.2 Contract Extension that Exceeds Trade Agreement Threshold Level:
- a) If the contract was exempt from the requirement to conduct a competitive procurement as a result of being below threshold value (see Section 7.2 of the *Non-Competitive Procurement Procedure*), and as a consequence of the extension, the value of the original contract plus the value of the extension brings the total value of the contract above the threshold (i.e.,

normally mandating a competitive process), the threshold exemption cannot be used (i.e., for the procurement to qualify as an APE another justifiable exemption is required; otherwise, the procurement shall be subject to a competitive process, or considered a sole source). Where it is assessed that the contract extension qualifies as an APE (i.e., for reasons other than being below threshold value), the approvals will be determined as set out in Section 5 below.

- b) Example: A product was non-competitively sourced from a vendor for a term of one (1) year with a total procurement value of \$50,000. Upon the completion of the original one (1) year term, AHS wishes to extend the contract for an additional year. The value of the extended year is an additional \$50,000, resulting in a total procurement value of \$100,000. The threshold exemption cannot be used.

4.3 Contract Extension with a Term up to that of the Original Procurement:

- a) If the contract was competitively sourced (via request for proposal [RFP] or otherwise) and the term of the extension is equal to or less than the term contemplated to the market in the competitive process document, however renewal options were not written into the terms and conditions of the contract, for AHS internal purposes, the renewal options cannot be added to the contract through an amendment to the contract at a later time without additional procurement approval. For AHS internal purposes, the additional term length is to be treated as an extension (not a renewal) and the procurement approval for a contract extension is determined as set out in Section 5 below.
- b) Example: A product was sourced pursuant to a request for proposal. The request for proposal stated that AHS was offering a contract for an initial term of four (4) years with one (1) renewal of one (1) year. AHS entered into a contract with a vendor for a term of four (4) years, which did not include a renewal option for one (1) year (note that this is a rare occurrence as it is typically desirable to come to an agreement with a vendor for the entire duration of the term contemplated in the RFP document). In the event that an additional period of one (1) year is desired to be added to the contract (e.g., making the total term duration five (5) years) the procurement approval required for the contract amendment is the same approval level as an APE.

4.4 Contract Extension with a Term Greater than Original Procurement:

- a) If the contract was competitively sourced (via RFP or otherwise) and the term of the extension is greater than the term contemplated to the market in the competitive process document, procurement approval for such contract extensions are determined as set out in Section 5 below.

- b) Example: A product was sourced pursuant to a request for proposal. The request for proposal stated that AHS was offering a contract for an initial term of three (3) years with two (2) renewals of one (1) year each. AHS entered into a contract with a vendor for the full term of three (3) years and two (2) renewals of one (1) year each. Upon the expiry of the initial term and both renewal terms, AHS wishes to lengthen the contract term for an additional one (1) year. As that additional year was not contemplated in the request for proposals, the procurement is considered a **non-competitive procurement** and the procurement will be subject to review to determine if non-competitive procurement rationale is appropriate.

4.5 Contract Extension to a Previous Sole Source:

- a) If the contract was originally approved as a sole source, all procurement approvals for such contract extensions are determined as set out in Section 5 below. This review is required to ensure that the rationale for the original sole source remains valid at the time of extension.
- b) Example: A product, due to extraordinary circumstances, was sole sourced from a vendor for a term of one (1) year. Upon the completion of the original one (1) year term, AHS wishes to extend the contract for an additional year. The extension will be reviewed to ensure that the extraordinary circumstances still apply to justify the sole source.

5. Contract Extension Non-Competitive Procurement Approval Levels

5.1 Where an extension requires non-competitive procurement approval (see Section 4 above), procurement approval shall adhere to the following rules:

- a) In respect of contract extensions referenced in Sections 4.1, 4.2, 4.3 and 4.4, approval for extensions shall be determined in accordance with the approval levels for APE (see Section 3 of the *Non-Competitive Procurement Procedure*). The approval level shall be based on the value of extension being sought (i.e., the value of estimated future expenditures only, not expenditures associated with the preceding or elapsed term). Under no circumstances may extensions be reduced to a lesser term than required with the intent of lowering the approval levels provided for APE (see Section 3 of the *Non-Competitive Procurement Procedure*).
- b) In respect of contract extensions referenced in Section 4.5, approval for extensions shall be determined in accordance with the approval levels for sole sources (see Section 4 of the *Non-Competitive Procurement Procedure*). The approval level shall be based on the value of the contract and all renewals and extensions including the extension being sought (i.e., the value of all past and future estimated expenditures).

- 5.2 The approval level and requirements with respect to a renewal or extension to a consulting contract requiring sole source approval are described in Section 5.3 of the *Non-Competitive Procurement Procedure*.

6. Documentation and Valuation for Renewals and Extensions

- 6.1 In preparing internal documentation in support of the approval process (e.g., supporting documents such as a contract approval record), the approval value is to reflect the estimated financial commitment for the term being contemplated, subject to Sections 3, 4 and 5 above (note that exceptions apply, specifically, more rigorous approval requirements are in effect for sole sourced consulting contracts and sole sources). Examples for how to document the approval value include as follows:
- a) For a new procurement, this value would be the term of the resulting agreement being entered into, but not including the estimated value of any contemplated renewals.
 - b) For a renewal of an existing agreement, this value would be the value of the renewal period only (i.e., estimated future expenditures only for the renewal, but not expenditures associated with the preceding or elapsed term).
 - c) For an extension of an existing agreement, excluding Sections 5.1(b) (i.e., **sole sources**) and 5.2 (i.e., consulting **contracts**), this value would be the value of the extension period and expenditures associated with the preceding or elapsed term), and may, depending on the classification of the extension, require a sole source approval.
 - d) For an extension of an existing agreement, under Sections 5.1(b) and 5.2, this value would be the value of the contract and all renewals and extensions including the extension being sought (i.e., the value of all past and future estimated expenditures).

DEFINITIONS

Approved Procurement Exception (APE) means the acquisition of goods/services:

- a) without the vendor being selected as a result of an open competition; and
- b) where the procurement is exempt from the requirement to hold a fair and equitable competition in the applicable trade agreements.

Contract means a legally enforceable agreement made between AHS and one or more parties. For the purposes of this policy, a contract shall include such agreements as a memorandum of understanding, letter of intent and early start letter.

Corporate Contracts means all contracts, except for:

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- (i) Medical Services contracts (contracts with non-employee physicians and/or clinicians for medical services),
- (ii) Human Resource contracts (contracts relating to human resources functions which govern AHS employees, students and volunteers, and which do not pertain to goods, services or equipment),
- (iii) Capital Management contracts (contracts for building construction & renovation projects including planning, design, construction, leasing and real estate),
- (iv) Research contracts (contracts relating to research and innovation, including clinical trials, research-related confidential disclosure, biological material transfers, and data sharing),
- (v) Self-Managed Care contracts are contracts with AHS clients/patients to provide them with funds to pay for their own home care services with a 3rd party provider, and
- (vi) Purchase Orders (PO).

Extension means an extension to the term of a corporate contract where there are no renewal options or rights contained in the corporate contract (or any existing renewal rights have been fully exercised) and the parties mutually agree to extend the term of the corporate contract.

Non-Competitive Procurements means the procurement by AHS of goods, equipment and/or services reflected in a corporate contract which is created or arises by means of a non-competitive process. See Appendix A of the *Corporate Contracting Policy* for details on allowable non-competitive procurements.

Renewal means a renewal to the term of a corporate contract, thereby extending the contract's expiry date, by exercising an existing option or right contained in the corporate contract.

Sole source means the acquisition of goods/services:

- a) without the vendor being selected as a result of an open competition; and
- b) where the procurement is not exempt from the requirement to hold a fair and equitable competition in the applicable trade agreements.

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

REFERENCES

- Alberta Health Services Governance Documents
 - *Basic Procurement Process and Competitive Bid Thresholds Procedure* (#1152-02)
 - *Code of Conduct*
 - *Conflict of Interest Bylaw*
 - *Corporate Contracting Policy* (#1152)
 - *Delegation of Approval Authority Policy* (#1168)
 - *Non-Competitive Procurement Procedure* (#1152-04)
- Non-Alberta Health Services Documents
 - *Agreement on Internal Trade*
 - *New West Partnership Trade Agreement*
 - *Trade, Investment, and Labour Mobility Agreement*

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