



## 1.0 PURPOSE

The purpose of this Policy is to establish how the Municipality of the District of East Hants (“East Hants”) will procure goods, services, and construction.

## 2.0 SCOPE

This Policy applies to all purchases for goods, services, or construction that the Municipality may make, regardless of the way in which the purchase is to be paid, subject to the noted exceptions.

East Hants is committed to:

- a) The procurement of goods, services, and construction in a fair, open, consistent and transparent manner, resulting in best value for the Municipality;
- b) Managing Contractual Risk;
- c) Identifying and using Suppliers who can be expected to provide satisfactory performance and best overall value to the Municipality;
- d) Continued operation of critical infrastructure and services;
- e) Continually improve the procurement process; and
- f) Promoting sustainable procurement.

East Hants will:

- a) Comply, to the best of our understanding, with all applicable regional, national, and international trade agreements;
- b) Comply with the *Public Procurement Act*, SNS. 2024, c 12 and regulations made pursuant to the *Public Procurement Act*;
- c) Be accountable for our procurement decisions; and
- d) Avoid dishonesty, corruption, and favoritism in the procurement of goods, services, and construction.

This Policy applies to the procurement by East Hants of all goods, services and construction, but does not apply to the following:

- a) Purchase or lease of real property (land and buildings);
- b) Disposal of real property and fully depreciated assets;
- c) Permanent Exemptions in accordance with this Policy;
- d) Work funded by insurance where the subject of insurance is:
  - being repaired, reinstated, or replaced, or
  - where the insurer has directed the use of specific suppliers.
- e) Situations where a construction project is managed by a third party on behalf of East Hants, in which case the procurement for the project must be in accordance with the contract between East Hants and the third party; and



- f) Procurements made by a third party where East Hants is providing grants or other funding which pays for or contributes to payment for the procurement. East Hants may, however, make such funding contingent on meeting certain requirements with respect to procurement which are consistent with this Policy or other industry standard acceptable to East Hants.

The Chief Administrative Officer (CAO) of East Hants is responsible for ensuring compliance with this Policy.

All Municipal personnel who have responsibility for the procurement of goods, services, or construction must adhere to this Policy. Failure to follow this Policy may result in a temporary or permanent loss of procurement privileges or, in more extreme cases, may result in disciplinary action and/or dismissal.

### 3.0 DEFINITIONS

For the purposes of this Policy, the following definitions are provided:

TERM	DEFINITION
Alternative Procurement Practice	Alternative Procurement Practices are the specialized or exceptional procurement processes used where the value or nature of the goods, services, or construction do not permit the Policy requirements to be met. This could include a non-competitive procurement in the place of a competitive process, and a limited competition in the place of an open competition.
Best Value	Best Value is determined by evaluating all of the factors which may affect the value to East Hants for the goods, services, or construction being procured. In some cases, Best Value will be limited to simple cost considerations; in other cases, East Hants will evaluate a number of pre-defined criteria which they will publish in the competition. Such criteria will often be looking to verify the capacity and capability of the supplier to deliver the goods, services, or construction, but may also consider life-cycle costs, environmental considerations, social considerations, sustainability, delivery, quality, and other factors specific the procurement. Best Value may also include consideration of the efficiency or continued operation of a service.
Bid	Bid means a supplier response to a competition document. This term is synonymous with the term's proposal, response, tender submission, quotation, or offer.
Bidder	Bidder means a person, firm, or corporation who submits a Bid. This term is synonymous with proponent, respondent, tenderer, and similar terms used in the context of a response to a competition.
Competition	Competition is a general term referring to the various methods of procuring goods, services, and construction. Generally, this term will encompass each of the various RFx types and is synonymous with the term solicitation
Competition Document	Also known as a solicitation document, this is the document used to solicit Bids from Bidders.
Construction	Construction means the construction, reconstruction, demolition, repair, or renovation of a building, structure, road, or other engineering or architectural work, excluding professional consulting services related to the construction contract.



TERM	DEFINITION
Entrenched Incumbent	Entrenched Incumbents are suppliers whose goods or services are integral to the operation of East Hants and where change to or removal of the supplier would result in severe disruption to Municipal activities. To qualify, the potential change of supplier would not be advisable for economic or technical reasons AND would cause significant inconvenience or substantial duplication of costs to East Hants.
Goods	Goods means materials, furniture, merchandise, equipment, stationery, and other supplies required by East Hants for the transaction of its business and affairs and includes services that are incidental to the provision of such supplies such as delivery.
High Value Threshold	The threshold at or above which procurement of goods, services, and construction must be procured using an Open Competition or to which Alternative procurement Practices may apply. This threshold applies to procurements valued at or above the dollar value limit set out in the Canada Free Trade Agreement (CFTA) as it affects a Municipality.
Invitational Competition	Invitational Competition is a competitive process in which an invitation to submit bids is issued to at least three suppliers.
Limited Competition	Limited Competition is an Alternative Procurement Practice where goods, services, or construction are procured through an Invitational Competition when an Open Competition would otherwise be required or where fewer than three suppliers can be identified.
Multi-Use Lists	Multi-Use Lists are a type of Standing Offer where specific suppliers of certain goods and services are pre-qualified and added to a List. The suppliers may then be contacted to provide the goods or services in accordance with the terms established in the Standing Offer document. PSEs may use certain provincial and federal Standing Offers
Non-Competitive Procurement	The procurement of goods, services, or construction from a supplier without using a competitive process. This may include direct award, change orders, contract extensions, or Alternative procurement Practices (when over the High Value Threshold)
Open Competition	Open Competition is the solicitation of bids through a publicly posted competition document which is open to all suppliers.
Open Competition Thresholds	Open Competition Thresholds are the monetary values set out in the Procurement of goods, services, and construction section of this Policy above which goods, services, or construction are to be procured through an Open Competition. Applies to all procurements above the High Value Threshold.
Piggyback	The purchase of goods, services, or construction from a supplier using a terms and conditions, including pricing, negotiated by third party for their use, but which have been extended for use to the broader Public Sector. This is different from a Standing Offer where an entity is to be listed as a participant during the competition; with a piggyback, any entity can leverage the terms of the agreement regardless whether they participated or not.



TERM	DEFINITION
Procurement Advisory Group	Procurement Advisory Group (PAG) means the advisory group established under the Public Procurement Act of Nova Scotia to provide advice and recommendations to advance the outcomes of the Act.
Procurement Governance Secretariat	Procurement Governance Secretariat is a secretariat established under Section 11(1) of the Public Procurement Act.
Procurement Plan	Procurement Plan is a comprehensive plan that must be completed for every major procurement defining the procurement activities necessary to achieve the outcomes the plan specifies.
Procurement Value	Procurement Value is the value of the total contract excluding taxes but including all options whether exercised or not. In service contracts this value is determined by the maximum fees payable over the term of the contract (monthly rate times the total number of months in the term, including option years, for example).
Procurement Web Portal	Procurement Web Portal means the public website where all public tender notices are posted. Such Public Web Portals includes the Nova Scotia Procurement Web Portal which is maintained by the province of Nova Scotia and on which East Hants will advertise every Open Competition.
Protocol	Specialty document used to supplement a Policy to ensure a specific requirement of the Policy is clearly understood and administered openly and fairly. This Policy will include several public-facing Protocols addressing various complex procurement topics raised by this Policy.
Public Sector Entity (“PSE”)	Municipalities, Academic Institutions, School Boards, and Hospitals. Formerly known as the MASH Sector.
Services	<i>Services</i> means those services required by the Municipality of East Hants for the transaction of its business and affairs, excluding services provided by an employee through a contract of employment/service, as per Canada Revenue Agency guidelines.
Single Source	<i>A Single Source Procurement</i> is an Alternative Procurement Practice in which two or more suppliers can supply the goods and/or perform the services required by East Hants, but where East Hants selects one supplier over the others for reasons and <u>not</u> through a competitive process. See <i>Alternative Procurement Practices</i> .
Social Considerations	<i>Social Considerations</i> are factors associated with the purchase or manufacture of a product or asset that relate to the rights or interests of the workers involved, such as working conditions, fair wages, and compliance with human rights legislation and conventions



TERM	DEFINITION
Sole Source Procurement	<p>A <i>Sole Source Procurement</i> is an Alternative Procurement Practice in which it is evident that <u>only one Supplier</u> can supply the goods and/or perform the services required by East Hants and an award is made to that Supplier. See <i>Alternative Procurement Practices</i>.</p>
Standing Offer	<p>A <i>Standing Offer</i> is a continuous offer of rates from a pre-approved Supplier to supply goods and/or services, as requested through the use of a call-up process during a particular period of time, at a predetermined price or discount, generally within a pre- defined dollar limit. Most common types of Standing Offer is a <i>Multi-Use List</i>.</p> <p>East Hants may establish their own Standing Offers through an Open Competition or leverage Standing Offers established by other levels of government.</p>
Supplier	<p>A person carrying on the business of providing goods, services, or construction. Synonymous with Contractor, Consultant, Vendor, and similar words when used in context.</p>
Sustainable Procurement	<p>A holistic approach to government procurement that considers the environmental, economic and social factors related to the goods, services, and construction that are procured.</p>



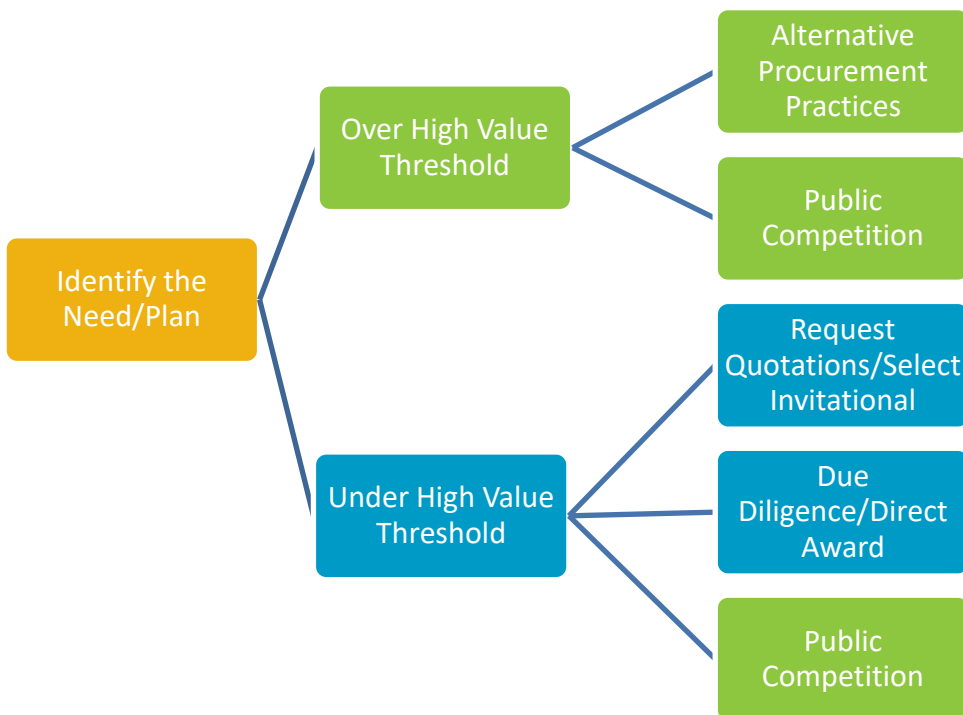
## POLICY

### 4.0 PROCUREMENT OF GOODS, SERVICES, AND CONSTRUCTION

East Hants must procure goods, services, and construction which are over the High Value Threshold using **Public Competition**. Where Public Competition is not possible, a department may, with the explicit written approval of the CAO, engage in **Alternative Procurement Practices**.

When the maximum value of the procurement will be below the High Value Threshold, procurement must be completed in a manner consistent with East Hants’ core values and in accordance with direction from the CAO.

Staff must consider using competitive methods whenever practical to do so. When not practical or where there is urgency, technical or quality constraint, supplier scarcity, or other reasonable, in the opinion of the CAO, constraint which prevents competition staff may use Select Invitational methods (inviting two or more suppliers to bid) or non-competitive methods (direct award), subject to due diligence. Public Competition may be used at any threshold and is encouraged.



Breaking up procurement activity to reduce or keep the procurement value below certain thresholds is not permitted.

Canada Free Trade Agreement (“CFTA”) thresholds are subject to adjustment and the actual threshold as of the date of the procurement will apply. The High Value Threshold for goods and services is \$133,800 (plus HST) and \$334,400 (plus HST) for construction. This Policy will be updated as soon as practical if those thresholds should change.

The value of the Procurement relative to the Threshold **does not** relieve Staff from the obligation to manage risk when

forming contracts.

## 4.1 Procurement Below High Value Threshold

The Director may procure goods, services, and construction within their purchasing authority in a manner which ensures Best Value for the Municipality, subject to direction from the CAO. Where possible, competitive methods will be used.

When the value of the procurement is over the purchasing authority of the Director, they must obtain permission from the CAO to use non-competitive methods.

## 4.2 Open Competition

If the value of the goods, services, or construction is above the **High Value thresholds**, staff must work with the Procurement Officer to conduct a public competitive process. Open Competitions are posted on the Nova Scotia Procurement Web Portal.

All Open Competitions must be conducted in accordance with the requirements of this Policy. In all circumstances, the Procurement Officer (or the Director of Corporate Services) must review and approve the final Competition Document before an Open Competition is initiated.

If an Invitational Competition is issued and the results demonstrate that the cost from the lowest bidder or highest-rated respondent is above the High Value threshold, the CAO may, at their discretion:

- Cancel the competition and not award;
- Accept the result and award. The resulting award is a Non-Competitive Alternative Procurement Practice; or
- Reject the result and require that the Competition be re-issued as an Open Competition.

Open Competitions will be conducted publicly using methods and templates appropriate to manage risk, comply with the requirements of this Policy and to ensure best value, in accordance with the Procurement Plan.

## 4.3 Alternative Procurement Practices

Alternative Procurement Practices (“ATLP”) provide relief from the requirements of the Procurement Policy in the rare instances when compliance would cause risk to the Municipality. Therefore, ALTPs should be used **only** when absolutely necessary and in strict compliance with the circumstances described in the applicable procurement Protocol. ALTPs may not be used to avoid a competition or to discriminate against specific Suppliers.

“**Procurement Protocol #1: Alternative Procurement Practices**” describes which Alternative are acceptable and the circumstances in which they are permitted to be used.

## 4.4 Standing Offers

East Hants may use a procurement instrument of another level of government to make a purchase **at any Threshold**, provided that level of government performs an Open Competition and where East Hants has publicly declared their participation in that Competition. In such circumstances, East Hants may consider their obligations under the Procurement Policy fulfilled. Examples include:

- Standing Offers issued by Canadian Collaborative Procurement Initiative, Procurement Assistance Canada, Public services and Procurement Canada (“Federal Standing Offers”), provided there is a valid Memorandum of Understanding with the provincial government to participate in these Standing Offers.



- Standing Offers issued by the province of Nova Scotia which are open to the broader public sector and which the Municipality of East Hants has been listed as a participant.
- Cooperative procurement groups like Kinetic GPO who perform trade agreement-compliant Open Competitions. East Hants must post their intent to participate in specific procurements from these groups on the Nova Scotia tendering portal.

East Hants may use Piggybacks for purchases **below** the High Value Threshold provided:

- The competition on which East Hants wishes to Piggyback was competed by Open Competition;
- The entity on which East Hants wishes to Piggyback has used specific language to allow for the Piggyback in their public solicitation; and
- Staff use due diligence to determine if there is value to East Hants to do so.

Selection of a contractor from a Multi-use Lists Standing Offer requires the use of either a rotational method whereby contractors are selected from the list sequentially (if available) or through use of a secondary competitive element whereby contractors submit quotations and the selection is determined by Best Value, usually price, schedule, or some combination of the two.

## 4.5 Unsolicited Proposals

Where an unsolicited proposal is received by the Municipality as is deemed to warrant further investigation, the proposal may, at the discretion of the CAO, be evaluated. Adoption of an unsolicited proposal whose value is above the High Value Threshold would be considered as an Alternative Procurement Practice.

## 4.6 Permanent Exemptions

Individual Municipal Departments may apply to the CAO for a Permanent Exemption from the Procurement Policy for goods or services where the provisions of this Policy cannot be applied or where it can be demonstrated that each instance of procurement for those goods or services will only be possible using Alternative Procurement Practices.

The process for applying for this exemption are outlined in on the [Permanent Exemption](#) page of the internal website. The list, if any, of permanent exemptions will be made available to Council on an annual basis and will be available through routine access to information.

The list of Permanent Exemptions must be reviewed by the CAO every five years to ensure the reasons for the exemption are still valid; if the reasons are found to be invalid, the Department responsible for the goods of services must plan to procure such goods and services as per this Policy in the next instance they are required.

## 4.7 Emergency Situations

In an emergency situation, the CAO is authorized to make reasonable and informed procurement decisions which they determine to be necessary to protect the legal interests or to satisfy the legal obligations of East Hants, or which involve a situation where failure to act could reasonably be expected to compromise Municipal confidentiality, cause economic disruption, or would otherwise be contrary to the public interest.

Activation of the Emergency Coordination Centre (“ECC”) is an example of a clear emergency situation. The CAO may delegate some or all of their procurement authority to the ECC Commander, or Alternate ECC Commander, when they may not be able to perform those duties themselves.



Emergency situations will be reported to Council.

## 5.0 PROCUREMENT PROCESSES

### 5.1 Competitions

Open Competitions are to be completed in an open, fair, and transparent manner, in accordance with the applicable process documents. For the purposes of Policy, Open Competitions must:

- Be advertised on the Nova Scotia Tendering website;
- Contain Terms and Conditions which apply to the competition process including submission instructions, response requirements, privilege, process deadlines, etc.;
- Describe the requirements and provide reasonable time for the marketplace to respond. East Hants may, in an urgent situation, reduce the advertising time of an Open Competition in the marketplace;
- Describe how East Hants will make their decision, including publishing evaluation criteria. Such criteria may reflect the complexity of the Competition and may include “Best Value” when the components of Best Value are reasonably described;
- Contain a sample contract or Terms and Conditions which will apply if a contract is awarded;
- Not contain language which excludes products or suppliers which are meant solely to limit competition. East Hants, however, will not be prevented from issuing specifications which have operational constraints, product requirements, delivery requirements, or other limitations which they deem are necessary to meet their needs.

Invitational Competitions are to be completed in an efficient manner which obtains Best Value for East Hants and which manages the risks that the subject of the procurement may incur. While such Invitational Competitions are often decided on criteria such as cost or schedule, capability, capacity, and quality should be considered where applicable. Such Competitions will:

- Reflect the complexity of the subject of the procurement;
- Contain Terms and Conditions which apply to the competition process including submission instructions, response requirements, privilege, process deadlines, etc., including reference to Terms and Conditions on East Hants’ public website;
- Describe the requirements and provide reasonable time for the supplier to respond. East Hants may, in an urgent situation, reduce the amount of time a supplier has to respond;
- Describe how East Hants will make their decision. This may include more complex evaluation strategies including several published criteria or discretionary criteria such as “Best Value”; and
- Typically include Terms and Conditions which will apply to the award, including reference to Terms and Conditions on East Hants’ public website.

### 5.2 Contract & Risk Management

Planning is essential to ensuring effective results and limiting risk; Directors are responsible to develop an appropriate Procurement Plan for each procurement activity. The Procurement Plan will be informed by budget, overall project plan, and objectives which the subject of the procurement are meant to fulfil.



Most activities which are the subject of procurement have obligations which have to be met by East Hants or the Supplier, and therefore are subject to risk if those obligations are not met. While larger value contracts typically have more risk, low value contracts may still have significant risk which must be managed appropriately. Project and Contract Managers must:

- Assess the risks associated with the project or the subject matter of the Contract;
- Work with the Procurement Officer to analyze those risks and determine applicable transfers or mitigations for these risks;
- Manage the Project or the Contract using the applicable transfers or mitigations; and
- Keep records of Project or Contract performance, including instances when the Supplier fails to meet (or exceeds in a notable way) their obligations.

### 5.3 Supplier Debriefing

When publicly advertised, Open Competitions must be publicly awarded, subject to “**Protocol #2: Publication of Award**”. With an Open Competition, a Supplier has the right, under the *Public Procurement Act*, to request a debriefing once the Competition is awarded, provided such request is made within a reasonable time after they are notified of their status in the Competition.

East Hants will provide a debrief if the request is made less than 30 days after notification of their status in the Competition. When requested, debriefings must be scheduled and conducted in accordance with East Hants’ debriefing process.

Invitational Competitions are not subject to the requirements of debrief but East Hants may, at their discretion, provide information to a participant in an Invitational Competition to help improve future responses, provided that such information would not put another Bidder at a competitive disadvantage.

### 5.4 Supplier Complaint Process (SCP)

The availability of a Supplier Complaint Process is an integral part of a fair and open Procurement Policy. When a Supplier is not satisfied with the methods of procurement used by the Municipality, the Supplier may file a formal complaint with the Municipal Clerk who shall commence an internal review of the process. The Municipal SCP is outlined in “**Protocol # 3: Supplier Complaint Policy**”.

### 5.5 Legal services

The CAO has the authority with respect to routine legal issues to determine when specialized advice is required and to obtain such services. The procurement of such services is dependent on the need and skill set of the providers to which East Hants has access and therefore will not be competitively obtained.

### 5.6 Supplier Disqualification

Suppliers may be disqualified from participating in future procurement opportunities if it can be reasonably documented to the satisfaction of the CAO that the use of the Supplier’s services or goods would pose a risk to the Municipality of East Hants in accordance with “**Procurement Protocol # 4: Supplier Disqualification**”



## 6.0 LOCAL PREFERENCE

### 6.1 Nova Scotian Goods and Services

Section 14 of the *Public Procurement Act* allows for preference to be given to Nova Scotia suppliers when the value of the procurement is below the High Value Threshold.

Therefore, below the High Value Threshold, Municipal personnel (with the authorization of the CAO) may:

- Choose to apply a Nova Scotia preference, in accordance with the *Public Procurement Act*, including when considering evaluative criteria;
- Restrict the receipt of Invitational Competitions to Nova Scotia suppliers; and
- Accept, reject, consider, and evaluate Bids from other jurisdictions on the same basis that the purchasing authority's jurisdiction would treat a Bid from a Nova Scotia Supplier.

Such preference must be disclosed at the beginning of the procurement process and must be explicitly stated in the procurement documents.

### 6.2 Community

Where practical, East Hants' preference is to support businesses within East Hants. Such support can be shown by making discretionary spend through businesses within the borders of East Hants, and including Bidders who contribute to the economy of East Hants' in Invitational Competitions.

## 7.0 SUSTAINABLE PROCUREMENT

Sustainable Procurement involves taking a holistic approach to obtain best value for the Municipality. Where possible and where it is in the best interest of the Municipality to do so, Municipal personnel may integrate the following considerations in the procurement process:

1. Environmental considerations: e.g. Green House Gas Reduction, Waste Reduction, Toxic Use Reduction
2. Economic considerations: e.g. Life Cycle Cost, Fiscal Responsibility, Support for the Local Economy
3. Social considerations: e.g. Employee Health and Safety, Inclusiveness and Fair Wage, Health Promotion

All Open Competition documents must list criteria with respect to sustainability if they are being applied to that competition.

## 8.0 CONDUCT

Municipal personnel and Councilors must ensure their conduct in relation to procurement activity is consistent with the duties of public sector employees. This includes a request for removal from a procurement activity when a personal conflict of interest exists or may be perceived to exist. They must:

1. ensure their procurement activities are conducted according to policies, provincial and federal legislation, trade agreements, and ethical business practices;
2. encourage and support collaborative procurement amongst public sector entities;



3. follow leading procurement practices;
4. conduct business in good faith and be fair in all business dealings;
5. strive to obtain the best value for each expenditure;
6. require Suppliers provide accurate representations of goods, services, and construction;
7. encourage Suppliers to consider sustainability in their product or service offerings;
8. encourage the negotiation of an equitable and mutually acceptable settlement when a dispute arises; and
9. request removal from a procurement process when a personal conflict of interest is perceived.

## 9.0 POSTING THIS POLICY

A copy of the Procurement Policy must be posted on the Municipality of East Hants public website.

## 10.0 REGULATIONS, PROTOCOLS, AND GUIDELINES

The CAO will ensure procurement practices remain consistent with any regulations that are adopted under the *Public Procurement Act*.

The CAO will ensure a full set of administrative policies, protocols, and procurement guidelines are in place to guide municipal staff in procuring goods, services, and construction in compliance with the *Public Procurement Act* and related regulations, this Policy, and with industry standards.

## 11.0 REPORTING

East Hants will submit any applicable legislated reports to the provincial government with respect to procurement policies and activity that may be required by regulation, in particular an annual report, should it be required, in compliance with section 19(1)(f) of The *Public Procurement Act*.

It is the responsibility of the CAO to ensure any reporting to Council under this Policy is done in a timely manner. Reports for information will be posted to the Council web site and presented to Council upon request by Council.

## 12.0 AMENDMENTS

This Policy may be amended from time to time with the approval of Municipality of East Hants' Council. Such amendments will be communicated to the public on the East Hants website.

## 13.0 COMPLIANCE

All staff and Councilors must act in good faith to comply with this Policy, but failure to comply with the Policy does not invalidate any procurement decision or act of the Municipality, nor is East Hants liable to any supplier or perspective supplier for failing to comply with the Policy.



## ROLES AND RESPONSIBILITIES

Title/Role	Responsibilities
Policy Owner	The policy owner (see Version Log Section) is responsible for ensuring that the policy is implemented and being followed. In addition, the policy owner is responsible for reviewing the policy on a yearly basis for relevancy and potential updates.
Municipality of East Hants Staff	All personnel that fall within the scope of this policy (see Scope Section) must follow the policy statements within this document and must follow the governing authority of the policy owner.
Procurement Officer	<ul style="list-style-type: none"> <li>• Facilitate the implementation of the Policy, including the Open and Invitational procurement processes</li> <li>• Support procurement at all thresholds</li> <li>• Develop and provide procurement templates and tools</li> <li>• Periodically review procurement practices in the province and other jurisdictions to ensure:               <ul style="list-style-type: none"> <li>○ Alternative Procurement Practices and related circumstances remain compliant and in accordance with the applicable provincial regulation and trade treaty obligations</li> <li>○ Review the use of ALTP Practices in High Value procurement situations for impact to obligations under trade agreements</li> <li>○ Facilitate review of Competition Documents, when required, by provincial or third-party subject matter experts (legal, insurance, trade specialists).</li> </ul> </li> </ul>

## VERSION LOG

Version Number	Amendment Description	Amendment/Policy Owner	Approved By	Approval Date
1.0	Creation of Procurement Policy in compliance with the Public Procurement Act. Split old policy between a Procurement Policy and the Budget Management Policy.	Chief Administrative Officer	Council	September 26 <sup>th</sup> , 2012
1.1	Document # added; add Bidder names policy statement; add legal services policy statement; add WCB Policy statement; clarification around sole and single source approval requirements.	Procurement Officer	CAO; Council	September 2014



Version Number	Amendment Description	Amendment/Policy Owner	Approved By	Approval Date
2.0	To update address in the document and correct hyperlinks which are unavailable or have changed	Chief Administrative Officer	Council	July 4, 2018
3.0	Updated to align with current Nova Scotia Procurement Policy and to account for changes in trade agreements that apply to Municipal entities. Most sections are affected; major changes are to thresholds where Low Value maximum for services and construction increased to \$49,999, Alternative Procurement Practices, and Supplier Complaints Process.	Procurement Officer	Council	December 19, 2018 to be effective on February 1, 2019
4.0	Changed pre-amble to Appendix A from the following as per Council approval December 22, 2021: “When the Procurement Value is below the High Value Threshold, the CAO may approve the use of Alternative Procurement Practices as follows. When the Procurement Value exceeds the High Value Threshold, approval to use the following Alternative Procurement Practices must be obtained from Council. Such Alternative procurement Practices may not be used when they conflict with trade agreement obligations.”	Procurement Officer	Council	December 22, 2021
5.0	Increase the threshold between where Quotations are required and an invitational Competition is required from \$5,000 to \$10,000	Procurement Officer	Council	January 29, 2025
6.0	Complete restatement of the Policy to align with the 2024 revisions to the <i>Public Procurement Act</i> . Format revised to move specific Policy sections out to administrative Protocols.	Procurement Officer	Council	July 23, 2025 for September 1, 2025

## CERTIFICATION

I, Kim Ramsay, Municipal Clerk of the Municipality of East Hants, hereby certify that this policy was duly approved.



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Kim Ramsay  
Municipal Clerk

## PROCUREMENT PROTOCOL #1: ALTERNATIVE PROCUREMENT PRACTICES

### PURPOSE

The purpose of this protocol is to define the types of Alternative procurement Practices, when they may be applied, and circumstances in which their use is valid.

### INTERPRETATION

This protocol is written to supplement the East Hants Procurement Policy and the Procurement Administrative Policy.

### DEFINITIONS

The Definitions of the Procurement Policy will apply to this protocol.

### WHEN TO USE

Alternative Procurement Practices (“ALTPs”) may only be used when approved by the CAO in accordance with the Procurement Policy. ALTPs must not be used to avoid competition between Suppliers or to discriminate against specific individual or groups of Suppliers.

The use of Alternative Procurement Practices must be authorized by the CAO **prior** to the Department engaging in an Alternative Procurement Practice. The Department wishing to use ALTP must complete a report documenting the rationale for using the Alternative procurement practice; this report must demonstrate justification for use of the ALTP to the satisfaction of the CAO and must reference one of the ALTP Circumstances listed in the protocol. The report must be accompanied by a properly completed Procurement Verification Form (the “Form”).

In the case of Low Value procurement where ALTPs are considered, the Procurement Verification Form, in the CAO's sole discretion, may contain sufficient information to eliminate the need for an additional report.

Improper or excessive use of ALTPs could result in the following:

- Complaints from a jurisdiction which was not given the opportunity to bid, resulting in trade sanctions against Nova Scotia;
- Provincial oversight, rebuke, or sanction;
- Loss of Reputation and Suppliers losing the willingness to bid on East Hants' work; and
- Reliance on one or few Suppliers, reducing East Hants' ability to get work done.

## ALTERNATIVE PRACTICES

There are two basic Alternative Procurement Practices, Limited Competition and non-competitive procurement (sole or single source).

### LIMITED COMPETITION

A Limited Competition involves the use of an Invitational Competition instead of an Open Competition where the value of the procurement exceeds the High Value Thresholds. A Limited Competition should be used where the circumstances surrounding the procurement do not allow for an Open Competition in accordance with one of the ALTP Circumstances set out below, but where those same circumstances could allow for an Invitational Competition.

### NON-COMPETITIVE PROCUREMENT

Sole Source and Single Source procurements are examples of a Non-Competitive Procurement. The justification for use of a Non-Competitive Procurement must be made clear by the Department recommending the Alternative Procurement Practice. As such use gives significant advantage to the Supplier, a proper negotiation strategy must be considered prior to award.

### PUBLICATION

If ALTP Circumstances 1 and 3 through 16 inclusive are used and if the award value is equal to or exceeds the High Value Threshold, the award must be published on the Nova Scotia Tendering ALTP page of the Nova Scotia Procurement Web Portal in accordance with the Nova Scotia Procurement Release of Information Protocol.

### UNSOLICITED PROPOSALS

Any unsolicited proposals received will only be considered in the context of ALTP Justifications found in the following section.

### ALTP CIRCUMSTANCES

The CAO may authorize Alternative Procurement Practices in the Circumstances described below (1 through 23) for the procurement of Goods, Services, or Construction at any threshold. The Department wishing to use an ALTP circumstance as their justification for non-compliance with the Procurement Policy must review the ALTP Circumstance Guide and be prepared to respond to the Justification Questions in that Guide.

1. **EMERGENCY:** If strictly necessary, an urgent, serious, unexpected, and dangerous situation requiring immediate attention. One time only.





2. **ABILITY TO MAINTAIN SECURITY/LIFE/HEALTH:** Compliance with the competitive process requirements would interfere with East Hants' ability to maintain security or order or to protect human, animal, or plant life or health. Non-urgent emergency.
3. **ABSENCE OF COMPETITION:**
  - a. Technical - Due to an absence of competition for technical reasons;
  - b. Monopoly - For the procurement of goods or services where the supply is controlled by a supplier that is a monopoly;
  - c. Prototype - For a prototype or first good or service that is developed in the course of, and for a particular contract for research, experiment, study or original development;
  - d. Advantageous Circumstances - Purchases made under exceptionally advantageous conditions that only arise in short term cases of unusual disposals;
  - e. Additional Deliveries by the original supplier of goods or services that were not included in the initial procurement where a change of supplier for such additional goods or services cannot be made for economic or technical reasons;
  - f. Prior open competitive processes (by the Municipality or other organizations in the public sector) have clearly pointed to one or a few suppliers and the CAO is confident that the issuance of an Open Competition would return similar results.
4. **COMPATABILITY:** To ensure compatibility with existing products, or to ensure the protection of patents, copyrights, warranties or other exclusive rights.
5. **CONFIDENTIALITY:** Where goods or services regarding confidential matters are to be purchased and the disclosure through an open tendering process could be expected to compromise government confidentiality, cause economic disruption, or be contrary to public interest.
6. **NO SUPPLIERS SATISFIED THE CONDITIONS:** No bids were submitted or no suppliers requested participation; no bids that conform to requirements of solicitation were submitted; no suppliers satisfied the conditions for participation.
7. **SUSTAINABILITY:** To support businesses owned by members of underrepresented and underserved communities, including: Mi'kmaq and persons of Indigenous descent, African Nova Scotians and persons of African descent, persons of colour/racialized persons; newcomers (immigrants and refugees), 2SLGBTQIA+, persons with disabilities, minority faith-based groups and persons who are neurodivergent.
8. **NOT USED**
9. **PROCUREMENT FINANCED BY DONATIONS:** For the procurement of goods and services financed primarily from donations that are subject to conditions that are inconsistent with this Policy.
10. **NOT IN ACCORDANCE WITH PROCUREMENT POLICY:** Procurement processes not in accordance with Procurement Policy include unauthorized purchases, skipping required procedures, lacking documentation, attempting to justify invoices retroactively, or accepting terms that legally bind East Hants without necessary approvals.

When the Procurement Value is below the High Value Threshold, the CAO may approve the use of the following Alternative Procurement Practices (11 and 12). If the value of the procurement exceeds, or may potentially exceed, the High Value Threshold, approval must be obtained from the CAO and from Council before the Alternative procurement Practice is used.

11. **NO TAXPAYER VALUE:** Where the cost (administrative, consulting, etc.) of an Open Competition is felt to outweigh any cost savings that may be enjoyed as a result of the process (this will be in large part measured by the amount of



work necessary to ensure the document specifications are accurate and complete so as to validate the Open Competition). This includes the extension of contracts to Entrenched Incumbents.

- 12. LIMITED COMPETITION:** Where the number of potential Suppliers who could reasonably provide the Goods, Services, or Construction are limited such that it is more efficient to selectively invite quotations/proposals rather than issue an Open Competition.

When the procurement exceeds the High Value Threshold, procurements using the ALTP Circumstances 1, 3, 4, or 6 must be posted to the Nova Scotia tendering website “ALTP” page.

Procurement Practices 11 and 12 should not be used when they create significant risk of conflict with trade agreement obligations. Review by the Procurement Officer is required prior to use.



**PROCUREMENT PROTOCOL #2: PUBLICATION OF AWARD**

**PURPOSE**

The purpose of this protocol is to describe the routine publication of procurement-related documents.

**INTERPRETATION**

This protocol is written to supplement the East Hants Procurement Policy and the Procurement Administrative Policy. Supplemental guidance is available from the Nova Scotia Procurement Release of Information Protocol.

**DEFINITIONS**

The Definitions of the Procurement Policy will apply to this protocol.

**ROUTINE PUBLICATIONS**

The Municipality of East Hants will, to the extend reasonable in the circumstances, disclose information related to procurement in accordance with the Nova Scotia Procurement Release of Information Protocol, subject to the following table. The general principle is that if East Hants competes publicly, they will award publicly. However, there are circumstances where the full disclosure of an award, such as a unit rate contract, where disclosure of such information would cause competitive disadvantage to a Supplier.

The CAO may authorize additional disclosure of information provided East Hants is able to obtain the permission of any affected Suppliers to do so or if such disclosure was specified in the contract with the Supplier or in the solicitation document to which a Supplier responded. Disclosure may be deferred if the solicitation document included such a provision or if the interests of East Hants, in their sole discretion, may be jeopardized by the disclosure.

Competition Type (Publicly competed only)	Posting	Comments
Request for Quotation	Supplier Name and Total Price	When price only features Unit Rate(s) and not a Total or Estimated Contract Price, no Price will be published or released.
Request for Proposals; Tenders	Supplier Name and Total Price	Total price will not be broken down
Request for Standing Offer: Multi- use Lists	Supplier Name(s) Only	RFSOs do not guarantee how much, if any, work may be contracted, no pricing information will be published
Request for Construction (Tender)	Successful Bidder Name and Total Price	Total Price will not be broken down
Requests for Expressions of Interest	Successful Supplier(s)	Only if a shortlist is created as a result



Competition Type (Publicly competed only)	Posting	Comments
Requests for Qualification	Qualified Bidders	Only the names of those Qualified
Request for Information	None	No criteria are weighed and there is no expectation of award
Awards under Alternative Procurement Practices	If required by statute or policy: Date, Supplier Name, Circumstance, and Total Price	Any additional information required as part of our trade treaty obligations, to the extent East Hants are able

East Hants may, at their sole discretion, archive public procurements for reference purposes. Such archive may be available through East Hants' Online Procurement Application accessible through East Hants' public website.



## PROCUREMENT PROTOCOL #3 SUPPLIER COMPLAINT PROCESS

### PURPOSE

The Supplier Complaint Process is a method to address supplier complaints and to improve East Hants's procurement process; it is an integral part of a fair and open procurement policy. The intent of this protocol is to assist East Hants in meeting these objectives, allowing the Municipality to handle complaints in an organized, consistent manner, and to carry out the analysis and reporting requirements in order to improve upon the procurement process.

### INTERPRETATION

This protocol is written to supplement the East Hants Procurement Policy.

### DEFINITIONS

The Definitions of the Procurement Policy will apply to this protocol.

### PROCESS OVERVIEW

A Complaint means a written objection submitted by a participant in a competitive process for Goods, Services or Construction. A participant is limited to a Supplier who actually submitted a response to the Competition process to which the Complaint applies; non-participants may still submit comments; however, such comments are not applicable to this process.

Supplier concerns or questions with respect to a specific Competition are to be submitted to the East Hants representative identified in the Competition Documents prior to the close of the Competition and, where applicable, prior to the last date and time for questions. Failure to identify an issue with a Competition Document prior to the close of the Competition does not prevent a Supplier from filing a Complaint, but it does severely limit East Hants' ability to address or rectify the issue that is subject to the Complaint.

East Hants may, when confronted with concerns with respect to an on-going Competition, either respond by addendum to rectify the issue or to clarify our intent, or East Hants may cancel the Competition to correct the issue in a more fulsome way.

The following are best addressed during the Competition:

- Specifications that are seen as vague or incomplete
- Bid preparation time too short to properly reply
- Specifications perceived as unfair, predetermined, or arbitrary
- Procurement process unclear or perceived as discriminatory
- Apparent violation of an applicable trade agreement

A Supplier must request and participate in a debriefing prior to engaging in the Supplier Complaint Process. A Supplier that is not satisfied with the results of a debriefing may file a Complaint.

Suppliers may make Complaints about procurement matters to which they are not a party only in the following circumstances:

- i. In the event of a Non-Competitive Award or award decided by Selective Invitation where they are a Supplier who would have been capable of responding but was not given the opportunity



- ii. In the event of an apparent conflict with a trade treaty or Policy which could only be discovered after award and where the conflict, had it been apparent, would have resulted in a Supplier submitting a bid.

East Hants recognizes that Complaints with respect to trade compliance may require additional processes which are not covered in this Supplier Complaint Process. East Hants will update their process as necessary to comply with their trade obligations as part of the Public Sector and will otherwise comply with jurisdictions having authority in responding Complaints with respect to trade treaties.

The Supplier Complaint Process is meant to provide an opportunity for Suppliers to voice Complaints and to assist East Hants in identifying any gaps or shortcomings in its procurement policies and practices. The process is intended to help resolve issues that involve no significant factual or interpretive disagreement between the parties. It is not intended to resolve fundamental disputes over facts or legal rights and obligations or to establish a mechanism to adjudicate such disputes.

The Supplier Complaint Process will not, under any circumstances, result in any contract award being set aside by East Hants.

#### PROCESS

A Supplier who wishes to file a Complaint must do so by submitting their Complaint, in writing, to the Municipal Clerk, to the following address, within ten days from notification of award of a contract.

Municipality of East Hants Box  
230, Suite 170  
15 Commerce Court  
Elmsdale, NS B2S 3K5

Attention: Municipal Clerk - Supplier Complaints

The request must include:

- iii. A clear statement as to which procurement the Supplier wishes to file a complaint. This must include the Competition number beginning with RF (Ex: RFC50001).
- iv. A clear explanation of the Supplier's concerns with the procurement, including specifics as to why they disagree with the procurement process or its outcome
- v. The Supplier's contact information including name, phone number and email address.
- vi. A description of the actions the Supplier would like East Hants to take

The Municipal Clerk will:

- vii. Review the complaint
- viii. Within ten business days of receipt of a Complaint provide the Supplier with a confirmation that the Complaint has been received

- ix. Within 25 business days of the acknowledged receipt of the Complaint, provide a written response to the Supplier with respect to the Complaint

Upon receipt of a Complaint, the Municipal Clerk shall review the Complaint to determine if further action is appropriate. A Complaint may be dismissed without further consideration, where in the opinion of the Municipal Clerk, the Complaint:

- x. On its face is frivolous or invalid
- xi. The complainant is not a participant in the competitive process (i.e. did not submit a bid)
- xii. Is made more than 10 working days after a notice of a contract award, or
- xiii. is otherwise inappropriate for consideration.

If the Complaint is not dismissed, the Municipal Clerk will contact the Procurement Officer to determine if the Complaint has already been addressed. If not, the Municipal Clerk will perform an investigation into the Complaint. The Municipal Clerk may delegate the investigation of a Complaint to the Deputy CAO or undertake the investigation themselves.

## INVESTIGATION

The investigation may include conducting interviews with Procurement Officer and applicable department staff and may include, if the Municipal Clerk deems necessary, a meeting with the complaining party. The Municipal Clerk will review the results of the investigation and determine if, in their opinion, there is merit in the complaint and may, if they are satisfied there is no merit, may prepare a written response to the Complaint to be sent to the Supplier. The written response may include consideration of the merit of the Complaint, but must include a list of actions taken by East Hants, if any, as a result of the review.

If the Municipal Clerk deems it necessary, legal counsel may be sought prior to responding to the Complaint in writing.

## INTERNAL REVIEW COMMITTEE

In the event that the results of the investigation suggest that the Complaint may have merit, the Municipal Clerk may convene an Internal Review Committee (“IRC”) to review the Complaint and the results of the investigation prior to providing a formal response to the Supplier.

Members of the IRC must:

- xiv. Not have been part of the original procurement which resulted in the Complaint
- xv. Must identify any conflict of interest in the matter
- xvi. Must review the results of the investigation impartially, as a group, and seek clarification when necessary

Upon review of the Complaint, the IRC has two options:

- xvii. If the IRC is satisfied that the Supplier’s rationale for requesting a review is without merit, the IRC advises the Municipal Clerk of their opinion. The Municipal Clerk will confirm to the Supplier, in writing, that the IRC has reviewed its concerns and that the IRC is of the opinion that the complaint is without merit



- xviii. If the IRC finds that the Supplier’s complaint may have some merit, an appropriate response will be prepared and submitted by the IRC to the Municipal Clerk who will incorporate their findings in their response.
- xix. The IRC may include recommendations in their response as to changes to the procurement process, they feel are necessary to prevent a reoccurrence of the Complaint, regardless of whether the specific Complaint has merit or not.

The Municipal Clerk will make every effort to respond in writing to a Complaint no later than 25 working days after the Complaint has been received. If the investigation extends longer than expected or if circumstances prevent the completion of an investigation in the given time period, the Municipal Clerk must advise the Supplier of the delay, in writing, and provide a revised date for the formal response.

## REPORTS

The Municipal Clerk, Procurement Officer and department Directors shall ensure that complete documentation and records, including records of all communications with Suppliers, are maintained. This will allow later verification by participants, auditors or senior officials to show that the procurement process was carried out in accordance with the Municipal Procurement Policy and that the Complaint was handled in a timely fashion.

A record of the resolution of the Complaint will be retained by Municipal Clerk, for subsequent reporting to the Council.





## PROCUREMENT PROTOCOL #4: SUPPLIER DISQUALIFICATION

### PURPOSE

The purpose of this protocol is to define reasons for which a Supplier might be disqualified, the process for disqualifying a Supplier, factors relating to the appeal of a disqualification, the disqualification list, and information required when completing a report requesting the disqualification of a Supplier.

### INTERPRETATION

This protocol is written to supplement the East Hants Procurement Policy and the Procurement Administrative Policy.

### DEFINITIONS

The Definitions of the Procurement Policy will apply to this protocol.

### DISQUALIFICATION

East Hants believes in being fair, open, and transparent in dealing with Suppliers. When a Supplier's actions subject East Hants taxpayers to risk, the only fair method of mitigating that risk may be the disqualification of a Supplier from competing on future contracts.

In order to ensure that East Hants is receiving quality Goods and Services and value for public money, East Hants may disqualify Suppliers from eligibility to compete for or be awarded contracts, for prescribed time periods, for the following reasons:

- Supplier has failed to honour a bid, whether or not East Hants has called a bond
- Supplier has failed to disclose a conflict of interest
- Supplier has demonstrated unethical bidding practices which can be documented
- Supplier has been convicted of bid rigging, price fixing, or collusion
- Supplier has had a contract terminated by East Hants prior to the end of the term a result of a performance or quality issue
- Supplier did not provide acceptable Goods or Services during the term of the contract and despite East Hants' documented efforts to obtain improved performance, the Supplier continued not to perform.

A decision to disqualify a Supplier from submitting proposals or from being eligible for contract award must be exercised cautiously. The decision must be:

- Applied fairly, supported by evidence,
- Exercised in accordance with the factors set out in this Policy, and
- Appropriately approved.

While a decision to place a Supplier on the disqualification list is discretionary, such a decision must be exercised consistently and fairly. East Hants may, in their sole discretion, disqualify Suppliers who have been disqualified in other jurisdictions (municipal, provincial or federal) where the CAO believes it is in the interests of East Hants to do so.

Supplier disqualification may not be used to limit competition or to punish Suppliers who a project manager may not like; the intent is to protect East Hants and their taxpayers from contracts with Suppliers who cannot or will not perform, or Suppliers for whom, pursuant to this Policy, disqualification is warranted.

## REASONS FOR DISQUALIFICATION

East Hants may disqualify a Supplier for one of the following six categories of reasons:

### **Supplier has failed to honour a bid:**

If a Supplier submits a bid, proposal, or submission in response to a procurement opportunity and that Supplier subsequently refuses to honour its submission or the pricing included in that submission, East Hants may consider disqualifying that Supplier from participating in future procurement opportunities with East Hants. However, a Supplier should not be disqualified if its failure to honour a bid, proposal, or submission was a legitimate withdrawal of that submission. Accordingly, the reason why a Supplier did not honour its submission must be analyzed and considered in making a decision to disqualify that Supplier. Factors that East Hants may consider in such analysis include, but should not be limited to, the following:

- If East Hants and the highest-ranked Supplier in a procurement opportunity attempted to negotiate an agreement and for valid business reasons are unable to come to an agreement, that Supplier should not be disqualified.
- If a Supplier fails to honour its submitted pricing because of a change in market conditions, East Hants should consider whether pricing fluctuations are common in the industry. If price increases are common, East Hants may consider whether the Supplier should have factored this into their submitted pricing. For example, could the market conditions have been reasonably predicted within the industry?
- If a Supplier does not honour its submission because it is too busy on other contracts at the time of award and the procurement opportunity was awarded according to the published timetable, East Hants may consider disqualifying that Supplier because Suppliers should only submit proposals if they are capable of delivering the services.
- Other reasons for a Supplier's failure to honour a submission or pricing should be reviewed contextually and fairly.

### **Failure to disclose a conflict of interest:**

If a Supplier fails to disclose a conflict of interest during a procurement opportunity or during the performance of a contract with East Hants and East Hants subsequently discovers that such a conflict of interest exists, East Hants may disqualify that Supplier from participating in future procurement opportunities after conducting an analysis based on the following factors:

- Whether the disclosure of a conflict of interest was required as a condition of submitting the bid, proposal, or submission where disclosure of the conflict may have disqualified the bid or where disclosure would have allowed East Hants to mitigate or avoid the conflict of interest.
- Whether the disclosure of the conflict of interest was a requirement of the contract and failure to disclose was a material breach of that contract;
- The nature of the conflict of interest, including whether it is a perceived or an actual conflict of interest and the materiality of the advantage that such a conflict may have given the Supplier.
- Whether the Supplier knowingly failed to disclose such a conflict of interest.



- The impact the failure to disclose the conflict of interest had or may have on East Hants, its reputation, or its obligation to conduct a fair competitive procurement process.

### **Supplier has been convicted of bid rigging, price fixing or collusion:**

If a Supplier is convicted of bid-rigging, price-fixing, collusion, or other behaviours or practices sanctioned by federal or provincial statutes in connection with procurement, East Hants may disqualify that Supplier for a period of five (5) years from the date of conviction. The Supplier may appeal their disqualification no sooner than three (3) years from the date of conviction.

If East Hants has reason to suspect that a Supplier or Suppliers are engaged in bid-rigging, price-fixing, bribery, collusion, or other behaviours or practices sanctioned by federal or provincial statutes, including the *Criminal Code* or the *Competition Act*, East Hants should contact the appropriate authorities and provide such assistance as is required to support a subsequent investigation and, if applicable, prosecution.

### **Unethical bidding practices:**

A Supplier may engage in unethical bidding practices that do not amount to a criminal or statutory offense, but such practices may still warrant disqualification from bidding on East Hants' procurement opportunities. Examples of such unethical bidding practices include inappropriate offers of gifts to employees from potential Suppliers; misrepresentations in proposals; providing falsified or misleading documents in support of a proposal; and inappropriate in-process lobbying or communications with anyone involved in the procurement process or approval thereof. East Hants must conduct a full review of the unethical practice in question and perform a contextual analysis to determine whether the Supplier or Suppliers in question should be disqualified, including consideration as to the impact the unethical bidding practice had on East Hants' ability to run a fair procurement process.

East Hants has a zero tolerance for falsified documents; receipt of a document from a Supplier which was falsified will result in a disqualification of five (5) years.

### **Contract Terminated for Poor Performance:**

If a Supplier performs poorly on a contract with East Hants and the contract was terminated prior to expiry as a result, East Hants may consider disqualifying that Supplier from work of a similar nature. East Hants may choose to allow other divisions of the Supplier to bid on work not related to the matter for which the Supplier was disqualified, if:

- Different staff are involved in the performance and oversight of the other work.
- There was no litigation or other issues with respect to the termination which might affect the Suppliers' performance of the different work.
- The benefit to East Hants outweighs the risk of a partial disqualification.

If the nature of the poor performance is related to safety, East Hants may disqualify a Bidder pending confirmation they have made changes to their safety protocols sufficient, in East Hants' opinion acting reasonably, to mitigate future risk of poor safety performance. Award may be conditional on demonstrated safety performance.

### **Supplier did not provide acceptable Goods or Services during the Term of the Contract:**

Poor Performance which has been documented over the life of a Contract may result in a disqualification of a Supplier from future contracts. Such disqualifications must be supported by documented efforts to improve performance, after which performance did not improve. Part of the performance management must have included informing the Supplier that disqualification was a possible outcome of continued non-performance.

The extent of the non-performance shall be the prime determinant of the duration of such disqualification. East Hants may also consider the critical nature of the goods and services to their operations, the risk of harm to East Hants' reputation, safety issues, and East Hants' contractual obligations to tenants and staff.

## PROCESS FOR DISQUALIFICATION

The procurement Officer will develop a process for disqualification. Such process will address the following:

- Documenting the reasons for the disqualification;
- Review process;
- Approval process;
- Guidelines for the duration of disqualification based on the reason for the disqualification;
- Appeals process and related timelines; and
- Information related to managing the disqualification list.

The following will form the basis of this process:

- The length of the disqualification period should be proportional to the reasons for disqualification and the five-year disqualification period should only be applied in the most serious of circumstances.
- A disqualification can either be a blanket disqualification for all procurement opportunities or a disqualification to provide specific Goods or Services, on a case-by-case basis.
- All decisions to disqualify a Supplier must be approved by the Chief Administrative Officer (CAO).
- The Supplier must be notified if they are disqualified from participating in the procurement opportunities for the prescribed time period. The notification letter must contain:
  - Reason for disqualification, with summary of evidence supporting the decision
  - Term of disqualification
  - Appeal date

It is important to allow Suppliers to appeal their disqualification after a reasonable period; however, they must demonstrate that they have made significant changes to their organization to resolve the issues which resulted in their initial disqualification. Acceptance of an appeal will be at the sole discretion of East Hants.