

PROCUREMENT BYLAW 2021-103

Non-Standard Procurements Protocol

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PROCUREMENT OFFICE



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1. PURPOSE

The purpose of this Protocol is to set out the process and requirements for acquiring deliverables through a non-standard procurements process as provided for under the Region's [Procurement Bylaw 2021-103](#) ("the Bylaw").

A non-standard procurement applies to both emergency and non-emergency circumstances, permitting the purchase of deliverables through procurement methods other than those normally applicable for the type and value of deliverables, as per the Standard Procurements Protocol. These procurement methods can also be used for the purchase of goods and/or services that are Corporate Standards or Schedule 1 - Exclusions, applicable Council or PRC approvals).

This Protocol should be read in conjunction with the Region's Bylaw, as amended from time to time, the Standard Procurements Protocol, the Project Review Committee (PRC) Protocol, Schedule 1- Exclusions Protocol, the Purchase Order (PO) Extensions and Increases User Guide (for internal use only) and the Purchase Order Activities Playbook and Appendix (for internal use only).

2. DEFINED TERMS

Commonly used procurement terms in this Protocol are defined in the [Glossary and Commonly Used Procurement Terms](#) document.

3. APPLICATION

This Protocol is applicable to all non-standard procurements, regardless of whether the procurement was facilitated through the Procurement Office or not. In all instances where deliverables, are procured through a non-standard procurement, the Procuring Department must provide appropriate justification by referencing the applicable type of non-standard procurement defined in section 5 of this Protocol.

As per the Bylaw, Section 14.3, **under no circumstances** shall a non-standard procurement be used for the purpose of avoiding competition among suppliers or in a manner that discriminates against or gives an unfair advantage to suppliers based on any grounds identified in the trade agreements.

4. ALIGNMENT TO REGIONAL PROCESSES AND PROTOCOLS

Despite their non-standard nature, all non-standard procurements should follow the best practices outlined in the Region's 5Ps Procurement Lifecycle Framework starting with planning, preparation of business requirements, and determining an appropriate procurement solicitation method to support each respective non-standard procurement.

All non-standard procurements must also adhere to Purchase Order (PO) Requirements Protocol, to determine the appropriate payment mechanism for the type and dollar value of the procurement.

5. TYPES OF NON-STANDARD PROCUREMENTS REQUEST FOR APPROVAL OF NON-STANDARD PROCUREMENTS

Non-standard procurements are permitted only under one or more of the following specific circumstances listed in Table 1. This table also identifies a description of each non-standard procurement stream, the applicable Bylaw section, approval requirements, and a short process overview.

All required consultations and approvals, as defined in Table 1 below must be obtained prior to obtaining quotes, acquiring any deliverables, or engaging in any contract negotiations with a supplier.

For non-standard procurement awards, the Procuring Department is responsible for:

- Preparing the Contract Award Package and administering the award process, following the requirements detailed in the Purchase Order Activities Playbook and Appendix
- Requesting assistance from Legal Services, where required, in drafting any contracts or agreements resulting in a contract between the Region and Supplier
- Obtaining budget/contract award approval from the appropriate level of Signing Authority within the Procuring Department before selecting the Supplier
- Preparing and executing the contract award documents and collecting any pre-conditions of award (i.e. WSIB, Insurance, safety certifications, etc.)

Unless approved by Council, non-standard procurements for term contracts are limited to a maximum contract term of 5-years, per Section 18.1 (c) of the Bylaw.

Table 1: Non-Standard Procurements Overview

Type	Bylaw Section	Description and Applicability
5.1 Emergency Purchases UP TO and OVER \$133.8K	13 17	<p>Emergency Purchase, where an event or circumstance which requires the immediate purchase of deliverables to prevent or alleviate at least one of the following circumstances:</p> <ul style="list-style-type: none"> a. A serious delay in service delivery that could not have been foreseen; or b. A threat to the health, safety, or welfare of any person; or c. The disruption of essential services; or d. Damage to public or private property, and includes, but is not limited to, an emergency declared under the Emergency Management and Civil Protection Act.
5.2 Direct Purchases UP TO \$133.8K	13	<p>Although direct purchases up to \$133.8K are not subject to trade treaties thresholds, the Region has defined the following as the prescribed reasonings for applicability.</p> <p>Direct Purchase, where the Procuring Department would like to acquire the deliverables directly from a supplier of choice without conducting a competitive process, where the circumstances do not allow for any form of invitational or competitive process to be conducted, and include at least one of the following circumstances:</p> <ul style="list-style-type: none"> a. The compatibility of a purchase with existing equipment and/or service is the paramount consideration and for that reason the required deliverables can only be procured directly from a single specific supplier. b. There is only one entity reasonably capable of providing the required deliverables and as such can only be procured from a single supplier has

Type	Bylaw Section	Description and Applicability
		<p>exclusive rights in respect of the deliverables, where no reasonable alternative exists.</p> <p>c. The deliverables are required for research and development purposes, including:</p> <ul style="list-style-type: none"> i. A prototype or a pilot (first good or service) to be developed for a particular contract for the purpose of research, experiment, study, or original development. Any subsequent purchases resulting from a prototype or pilot should be procured separately. ii. A prototype or a pilot does not include original development of a prototype or pilot including limited production or provision of results of field testing, where the purpose of original development is to demonstrate that the prototype or pilot can be scaled to the required quantity and quality standards, but does not include quantity production or supply to establish commercial viability or to recover research and development costs.
5.3 Direct Purchases OVER \$133.8K and UP to \$500K	16	<p>Any circumstances under the applicable trade treaties allowing for deliverables to be directly purchased, without competition or, allowing for limited competition through an invitational call for bids to select suppliers.</p> <p>As per Section 3.3 of the Bylaw, the provisions of any applicable Trade Treaties will supersede any absent or contradictory provisions within the Bylaw, as determined by the Procurement Review Committee.</p>
5.4 Direct Purchases OVER \$500K	18	Any circumstances under the applicable trade treaties allowing for deliverables to be directly purchased, without competition or, allowing for limited competition through an invitational call for bids to select suppliers.
5.5 Non-standard procurements authorized by Council	18	Consideration must be given to applicable trade treaties allowing for deliverables to be directly purchased, without competition or, allowing for limited competition through an invitational call for bids to select suppliers.
5.6 Limited Competitions OVER \$133.8K	14	Limited Competitions , where bids are solicited through invitation from select suppliers, where an open competition would normally be required, however, unique circumstances necessitate limited solicitation.

6. REPORTING OF PURCHASES AUTHORIZED AS NON-STANDARD PROCUREMENTS

All contracts awarded through a non-standard procurement, over \$133.8K , must be reported to Council, as per Section 16.3 of the Bylaw. This includes the value and description of the deliverables procured and a statement indicating the circumstances and conditions that justified the use of a non-standard procurement.

7. EXTENSIONS AND INCREASES OF AWARDED CONTRACTS/PURCHASE ORDERS

For guidelines to administer standard and non-standard extensions and increases, refer to the Purchase Order (PO) Extensions and Increases User Guide.

APPROVALS

This Protocol has been approved by the Director, Procurement Office, and where applicable, by Legal Services.