

## Indigenous Procurement Protocol and Specifications

### Indigenous Procurement Protocol

#### 1. Purpose

The purpose of this protocol is to provide guidelines and set out the roles and responsibilities to support Indigenous Procurement. This protocol should be read in conjunction with the City's Purchasing Policy.

#### 2. Interpretation

Defined terms used in this protocol have the meaning assigned in the Policy. For ease of reference, the following defined terms are repeated here:

**“Diverse Supplier”** means any business or enterprise that is more than 50% owned, managed and controlled by persons belonging to a group that experiences discrimination or barriers to equal opportunity including women, Indigenous people, persons with disabilities, new immigrants, LGBTQ+ people, visible minorities, and other groups the City identifies as historically under-represented.

**“Economic Sustainability”** means providing and enhancing the Services, infrastructure and conditions that sustain a healthy, diverse and resilient local economy in which businesses of all sizes, and their employees, can flourish.

**“Social Sustainability”** means cultivating and sustaining vibrant, creative, safe, affordable and caring communities for the wide diversity of individuals and families who live in, work in and visit the City.

#### 3. Background

In 2015, the Truth & Reconciliation Commission (TRC) released its report with 94 recommendations. The TRC engaged Indigenous and non-Indigenous Canadians to redress the legacy of residential schools and advance the process of Canadian reconciliation. The report released in 2015 made a 'Call to Action' to specific audiences.

#### **Truth & Reconciliation Commission: Call to Action #92**

#### **Business and Reconciliation**

“We call upon the corporate sector in Canada to adopt the United Nations Declaration on the Rights of Indigenous Peoples as a reconciliation framework and to apply its principles, norms, and standards to corporate policy and core operational activities involving Indigenous peoples and their lands and resources. This would include, but not be limited to, the following:

- i. Commit to meaningful consultation, building respectful relationships, and obtaining the free, prior, and informed consent of Indigenous peoples before proceeding with economic development projects.
- ii. Ensure that Aboriginal peoples have equitable access to jobs, training, and education opportunities in the corporate sector, and that Aboriginal communities gain long-term sustainable benefits from economic development projects.
- iii. Provide education for management and staff on the history of Aboriginal peoples, including the history and legacy of residential schools, the United Nations Declaration on the Rights of Indigenous Peoples, Treaties and Aboriginal rights, Indigenous law, and Aboriginal–Crown relations. This will require skills based training in intercultural competency, conflict resolution, human rights, and anti-racism.”

#### **4. General Principles**

The City will procure Goods and Services, and promote and participate in viable Procurement opportunities with Indigenous Suppliers. Divisions should consider the role of Indigenous Suppliers within Saskatchewan when conducting Procurement activities.

It is intended that, where appropriate, the use of Indigenous Participation evaluation criteria will reward vendors for actions that add social value, and encourage vendors to look for new ways to increase their social value to improve their ability to compete for future procurement opportunities that may include Indigenous Participation evaluation criteria. The principles are intended to:

- support positive outcomes through thoughtful planning, consultation and an understanding of cultural and community practices;
- encourage innovation in procurement, recognizing that every procurement is unique;
- invest more time and involve Indigenous communities in planning, where appropriate, to benefit program and service-delivery outcomes; and
- be a living document, where the real value lies in the ongoing consultation and communication with the Indigenous communities and positive economic outcomes.

The principles operate within the established procurement policy and applicable Trade Treaties.

#### **5. Indigenous Participation Evaluation Criteria**

The guidelines are not mandatory; however, they do support City Council’s priority areas of Reconciliation, Diversity and Inclusion and City staff engaging in procurement. It is recommend that:

- Indigenous procurement criteria are properly applied as desirable, and not mandatory criteria;
- specific outcomes and goals should be reviewed and considered on a project-to-project basis and in consultation with relevant stakeholders; and
- It is recommended that a minimum of 5% and no more than 10% of the total points be awarded to Indigenous Participation, to ensure that quality and price remain the most important criteria.

The following table is an example of rated criteria and weighting (points) to support Indigenous Participation within the rated criteria of the RFP. **Note:** RFP criteria and points are illustrative only, specific points should be reviewed and considered on a project-to-project basis and in consultation with relevant stakeholders.

Rated Criteria Category		Weighting (Points)
1	Pricing	60
2	Experience/References	10
3	Capability	10
4	Schedule/Delivery	15
5	Indigenous Participation	5
<b>Total Points</b>		100

The following should be included in the rated criteria section of the RFP.

### **Indigenous Participation Rated Criteria**

The City is committed to working with Indigenous peoples, communities and businesses throughout Saskatchewan to promote the procurement of goods and services from Indigenous individuals and businesses. To this end, the following will be evaluated:

- Indigenous Person Hours included in proponent's proposal (3 points); or
- Indigenous Ownership (1 point); or
- the extent of Indigenous persons training and development, including scholarships, apprenticeships, or skills training (1 point).

A proponent wishing to be evaluated and awarded scores for Indigenous participation (Indigenous Person Hours, Indigenous Ownership, or Indigenous Engagement) should provide the City with a completed Indigenous Participation Form. The City may request such proponents to provide additional information in its sole and absolute discretion.

The City reserves the right to not award any scores to any proponent in respect of Indigenous participation, including where a proponent does not provide sufficient information, as required by the City, to establish Indigenous participation as contemplated in the Indigenous Participation Specifications.

## **6. Monitor and Measure**

Evaluators should keep detailed records of all evaluation scoring, including Indigenous Participation criteria, and be prepared to provide explanations for their rationale should they be required to conduct a debriefing. Records should be filed in the procurement file with all other documents.

Performance monitoring of all contracts is required by the City's Purchasing Policy and Supplier Performance Evaluation Protocol. Monitoring Indigenous Participation obligations is important to ensure that in addition to the satisfaction of deliverables generally, the Indigenous Participation deliverables are also being met. It is recommended that in addition to information provided in proposals, contractors provide a final report that outlines the Indigenous Participation content realized through the term of the contract.

## **7. Document Retention and Reporting**

Documentation should be up-to-date and organized in a way that clearly allows for tracking of the receipt of the expected social or economic commitments under the Contract.

Contract Administrators and Supply Chain Management must ensure the City retains originals or copies of the following documents and records:

- A written monthly report which outlines information (in detail reasonably satisfactory to the City) establishing the contractor's compliance with its obligations;
- Written communications, Performance Evaluation Reports completed in accordance with the Supplier Performance Evaluation Protocol and notices to and from the Supplier;
- Notes or minutes of any face-to-face and/or site meetings;
- Records of any dispute resolution performance issues and actions taken; and
- Any other relevant communications or documents related to the Contract and/or the Supplier's performance under the Contract.

## **8. Roles and Responsibilities**

### **a) Role of Supply Chain Management**

Supply Chain Management should be advised of serious performance issues or Contract disputes that may result in early termination of a Contract and must be provided with copies of all Performance Evaluation Reports in accordance with the Supplier Performance Evaluation Protocol.

It is the role and responsibility of Supply Chain Management to:

- monitor and measure Indigenous participation, formally evaluate the Protocols effectiveness;
- maintain detailed documentation of all communications related to Supplier performance;
- retain copies of all Performance Evaluation Reports, in accordance with the Supplier Performance Evaluation Protocol; and
- provide assistance to Divisions and the City Solicitor, or designate, as necessary, with respect to compliance issues and Contract disputes.

**b) Role of Indigenous Initiatives, Strategy & Transformation Department**

It is the role and responsibility of the Director or designate to:

- provide assistance to Divisions and Supply Chain Management, or designate, in connection with Indigenous Procurement;
- provide consultation and an understanding of cultural and community practices; and
- facilitate and maintain a professional working relationship with Indigenous Suppliers.

**c) Role of Directors and their Designates**

It is the role and responsibility of the Director or designate to:

- ensure that all Contract Administrators in the Division are appropriately trained, have knowledge and understanding of applicable policies and protocols and are able to fulfill the role of Contract Administrators as set out in this protocol; and
- monitor and ensure compliance with this protocol and the Supplier Performance Evaluation Protocol.

**d) Role of Contract Administrator**

It is the role and responsibility of the Contract Administrator to:

- monitor and ensure compliance with this protocol and the Supplier Performance Evaluation Protocol;
- formally evaluate the Supplier's performance in accordance with the Supplier Performance Evaluation Protocol;
- document all communications related to the Supplier's performance of the Contract; and

- seek advice from the City Solicitor, or designate, as necessary, with respect to compliance issues and Contract disputes.

**e) Role of the City Solicitor**

It is the role and responsibility of the City Solicitor, or designate, to:

- respond to requests for assistance from Supply Chain Management or the Contract Administrator with respect to:
  - inadequate Supplier performance, non-compliance with Contract terms and conditions or Contract disputes that may have a negative impact and/or potentially lead to legal action;
  - Contract amendments or requests from the Supplier for the assignment of a Contract; and
  - interpretation of terms and conditions under the Contract and the remedies for breach of Contract provided for in the Contract and/or at law;
- provide advice in a timely manner once advised that a Supplier has initiated or threatened legal action against the City at any time throughout the life of the Contract; and
- provide advice in a timely manner once advised that the Supplier may be, or is about to be, declared bankrupt or insolvent.

## Indigenous Participation Specifications

The Indigenous Participation Specifications will form part of the contract with the successful proponent when Indigenous Participation is included for Indigenous Person Hours in Appendix D - F. Rated Criteria – Indigenous Participation Form.

### 1. Definitions

In these Indigenous Participation Specifications:

“Indigenous Person” means an individual who resides in Saskatchewan who is a status Indian under the Indian Act (Canada), a Métis Person or an Inuit;

“Indigenous Person Hours” is the number of Person Hours performed by Indigenous Persons;

“Person Hour” means the amount of directly employed work performed by the average worker in one hour.

“Indigenous Supplier” means a business that is:

- (a) a limited, non-profit, or professional corporation with at least 50% of its shares beneficially owned by Indigenous Persons;
- (b) a sole proprietorship conducted by an Indigenous Person;
- (c) a partnership in which at least 50% beneficial interest belongs to Indigenous Persons;
- (d) a cooperative in which Indigenous Persons have at least 50% of the beneficial interest of the cooperative;
- (e) a Band as defined in the *Indian Act* (Canada) located in Saskatchewan; or
- (f) a joint venture of entities described in subclauses (a) through (e), or of a non-Indigenous business and at least one of the entities described in subclauses (a) through (e), as long as Indigenous Persons have at least 50% of the beneficial interest in the joint venture.

“Inuit” means an individual who:

- (a) self-identifies as a Inuit person; and
- (b) are the Indigenous people of Arctic Canada -- (Labrador); Nunavik (Quebec); Nunavut; and the Inuvialuit Settlement Region of the Northwest Territories; and

“Métis Person” means an individual who:

- (a) self-identifies as a Métis person;
- (b) has an ancestral connection to an historic Métis community of distinctive peoples of mixed ancestry with their own customs, practices, traditions and recognizable group identities separate from their Indian, Inuit and European ancestors that has existed continuously since Europeans established effective control of the area in which the community is located; and
- (c) is accepted as a member of the Métis community.

## **2. Engagement of Indigenous Persons**

- 2.1 The contractor shall ensure that the percentage of Indigenous Person Hours engaged in the performance of the Services as employees of the contractor at any time during the term of this Contract is not less than ***[insert percentage outlined in Indigenous Participation Form]***% of the total Person Hour(s) that are engaged in the Services.
- 2.2 During the performance of the Services, the contractor shall provide the City with a written monthly report which outlines information (in detail reasonably satisfactory to the City) establishing the contractor’s compliance with its obligations under subsection 2.1.

## **3. Records Retention**

For a period of two (2) years from the completion of the Services, the contractor shall keep and, subject to applicable confidentiality provisions of this Contract, provide to the City, in such form, and at such times, as the City may reasonably require, records and information relevant to establishing the contractor’s compliance with its obligations under subsection 2.1 of these Indigenous Participation Specifications, and the extent and cost of any materials, goods or services which have been performed or supplied by Indigenous Suppliers.

## **4. Compliance and Future Procurements**

Without prejudice to any of its rights or remedies under the Contract or at law or equity, if the City is of the opinion that the contractor is not complying, or has not complied, with any of its covenants and obligations in respect of Section 2 [Engagement of Indigenous Persons], Section 3 [Records Retention], the City may undertake to assess a negative evaluation to the Indigenous Participation component of any future proposal from the contractor received in respect of any other City procurement initiative, all in the City’s sole discretion.



## INDIGENOUS PARTICIPATION FORM

### 1. Indigenous Ownership

The proponent meets the criteria for Indigenous Ownership as defined in the City of Saskatoon's Indigenous Participation Specifications: Yes  No

### 2. Indigenous Person Hours, in this section:

"Indigenous Person Hours" is the number of Person Hours performed by Indigenous Persons; and

"Person Hour" means the amount of directly employed work performed by the average worker in one hour.

The proponent is to complete the table below using their best available estimates:

Item #	Description	Amount of Hours
1	Total Person Hours (Indigenous and non-Indigenous) performing the Services as set out in this proposal	
2	Total Person Hours by Indigenous Persons performing the Services as set out in this proposal	
3	% of Indigenous Person Hours (amount of hours listed in Item #2 divided by the amount of hours listed in Item #1 x 100)	

### 3. Indigenous Engagement, in this section:

"Indigenous Engagement" includes: Indigenous Awareness training for staff, the amplification of social/economic benefits to Indigenous communities, and the training and development of Indigenous Persons, including scholarships, apprenticeships, or skills training.

a) Does your company have a program to provide staff Indigenous Awareness Training?

- Yes  No
- If no, are you interested in participating in a workshop or roundtable discussion lead by the City of Saskatoon? Yes  No

b) Does your company provide training and development opportunities for Indigenous Persons?

- Yes  No
- If yes, please provide the program details and specifics with your submission.

**Note:** If the proponent is awarded the agreement for the Services, the agreement shall include the Indigenous Participation Specifications which will contain contractual obligations to maintain Indigenous Person Hours and to regularly report on Indigenous Person Hours and Indigenous Engagement Strategies.