

# PROCUREMENT

# BYLAW 2021-103

## Procurement Review Committee (PRC) Protocol

### **EXTERNAL VERSION**

Version: 2

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PROCUREMENT OFFICE



## 1. PURPOSE AND INTERPRETATION

The Procurement Review Committee Protocol sets out the guidelines under which the Procurement Review Committee (PRC) shall operate. This Protocol should be read in conjunction with the Region's Procurement Bylaw 2021-103 or its successor, the Bid Debriefing Protocol, the Bid Dispute Protocol, and the Supplier Suspension Protocol, where applicable.

The PRC is an enhanced governing structure which replaces the Bid Review Committee (BRC) and carries out the objectives specified in Section 7.1 of the Procurement Bylaw. The PRC shall comply with any additional requirements and processes prescribed by the above Protocols. In its operation, the PRC will offer oversight and risk management that is centralized, coordinated, and auditable.

## 2. DEFINED TERMS

Capitalized terms used in this Protocol are defined in the Glossary of Commonly Used Procurement Terms document.

## 3. APPLICATION

The PRC Protocol is applicable whenever the PRC is required to consider an issue or make a determination under the Procurement Bylaw and any applicable Protocols in relation to a Regional procurement process.

The PRC Protocol applies to all Regional procurements, regardless of whether the procurement was facilitated through the Procurement Office, or not.

Meetings in relation to bid irregularities will follow the process outlined in Appendix A – Bid Irregularity Review (BIR) Process and can fall within either the authority of Director of the Procurement Office or the PRC.

## 4. MANDATE AND OBJECTIVES

- a. The mandate of the PRC is comprised of the following objectives, as defined in Section 7.1 of the Procurement Bylaw:
  - (i) make determinations with respect to **bid irregularities**, as detailed in Appendix A;
  - (ii) make determinations with respect to perceived, potential, or actual Conflicts of Interest;
  - (iii) make determinations in relation to the purchase of an additional deliverable/Scope Change under an existing Contract where the total value of the additional deliverable/scope change exceeds one million dollars (\$1,000,000);
  - (iv) make determinations under the Bid Dispute Protocol; and
  - (v) make determinations under the Supplier Suspension Protocol.

- b. In addition, when requested by the Director of the Procurement Office, the PRC may be required to:
  - (i) make determinations with respect to whether a proposed purchase falls within the Schedule 1 - Exclusions under the Procurement Bylaw
  - (ii) make determinations under the Non-Standard Procurements Protocol where the total cost of the Deliverables exceeds one hundred thousand dollars (\$100,000);
  - (iii) establish new exclusions under the Procurement Bylaw.

## 5. PRC COMPOSITION

The PRC shall be composed of the following Regional staff:

Voting Members	Non-Voting Members
<ul style="list-style-type: none"> <li>• The Director of the Procurement Office or their management level designate</li> <li>• A Lawyer from Legal Services</li> <li>• A Management Representative of the Department (manager or director)</li> <li>• The Deputy Regional Solicitor for matters relating to the Supplier Suspension Protocol</li> </ul>	<ul style="list-style-type: none"> <li>• Purchasing Representative</li> <li>• Risk Representative</li> <li>• Project Lead (optional)</li> <li>• Subject matter experts (optional)</li> <li>• Other Regional staff (optional)</li> </ul>

The PRC may call upon other non-voting Regional staff and subject matter experts to attend PRC meetings as required, to assist in making determinations. Participation of additional members in the PRC meetings may also be required.

## 6. PRC PROCESS

### 6.1 PRC Request Triage

- a. If your request relates to a Bid Irregularity – refer to [Appendix A](#)
- b. If your request relates to any other issue under **Section 4** of the PRC’s Mandate – follow the steps in Section 6.2.

### 6.2 Request for PRC Meeting

- a. A PRC meeting may be requested by any Department, the Procurement Office, or Legal Services.
- b. A PRC meeting shall be requested by completing the PRC Review - Request Form.
- c. The Procurement Office will schedule the PRC meeting to review the issue **within seven (7) Business Days** of receipt of the PRC Request Form.
- d. The following supporting documents and information must be included with the PRC Request Form:
  - (i) detailed description of the issue(s) to be reviewed by the PRC;
  - (ii) copies of all applicable Calls for Bids;
  - (iii) copies of all relevant Bids;
  - (iv) any other relevant documents that may assist the PRC in making its determination; and

- (v) any additional documents that may be required under the Supplier Suspension Protocol, Bid Dispute Protocol, and [Appendix A](#).
- e. The requestor must ensure that the PRC Review - Request Form and supporting documents are distributed to all PRC attendees a **minimum of two (2) Business Days** prior to the meeting.
- f. Detailed steps can be found in the PRC Review - Process Guide.

### **6.3 PRC Review and Determination**

- a. At the outset of the PRC meeting, the PRC will determine whether the issue referred to the PRC falls within its mandate under Section 7.1 of the Procurement Bylaw and, if so, the PRC will review the submissions and make its determination.
- b. The voting members of the PRC must unanimously agree on the determination, otherwise the matter shall be referred to Council pursuant to Section 7.4 of the Procurement Bylaw.

### **6.4 PRC Decisions**

- a. All PRC determinations shall be documented in a **PRC Decision Report**.
- b. The PRC Decision Report should be:
  - (i) prepared by the lawyer who attended the PRC meeting;
  - (ii) saved in a centralized location in the Region's document management system: **L/34/DRCL/PRC/20xx**;
  - (iii) issued to all PRC meeting attendees within ten (10) Days after the PRC meeting;
  - (iv) stored by the Procurement Office in a centralized PRC Decision Inventory

# Appendix A – Bid Irregularity Review (BIR) Process

Bid irregularity reviews will be conducted as follows:

## **Step 1 - Triage Bid Irregularities**

After a Call for Bids has closed, the Purchasing Representative (if Call for Bids was issued by the Procurement Office) or the Project Lead (if Call for Bids was issued by the Department) will review the Bids for compliance.

Should a Bid be found to contain an informality or irregularity, a **Bid Irregularity Review (BIR)** should be requested.

The BIR request will be triaged to determine whether the bid irregularity falls within the Director of the Procurement Office's mandate for making a determination or requires the determination to be made by the PRC.

### **1.1 Director of the Procurement Office's Authority**

The following are the types of Bid irregularities that the Director of the Procurement Office is authorized to make decisions on without obtaining the PRC's determination:

- a. Bid received after the closing time specified in the Call for Bids;
- b. Specified Bid Deposit was not provided;
- c. Cloud Security Assessment Questionnaire was not provided, if required;
- d. Bid contains mathematical errors (the extensions and totals do not match) and the bid document allows the Region to correct errors in extensions or totals;
- e. Specified performance security, including undertaking to bond, was not provided;
- f. Statement of insurability was not provided, if required;
- g. Bid received from a Supplier who has not obtained COR™ certification, a Letter of COR™ Equivalency issued by the IHSA, or a Letter of Reciprocity issued by the IHSA, if required;
- h. Bid received from a Supplier on the Suspended Suppliers List;
- i. Discrepancies in a Supplier's legal name (in consultation with Legal Services); and
- j. Modified statement of insurability (in consultation with the Controllershship Office)

### **1.2 PRC Authority**

For any other bid irregularities not falling within the Director of the Procurement Office's authority listed above, follow the steps in Section 6.2 - Request for PRC Meeting, in this Protocol.

## **Step 2 - Review Bid Irregularity and Make a Determination**

### **2.1 Bid Irregularities within Director of the Procurement Office's Authority**

Should a bid be found to contain an informality or irregularity that falls within the Director of the Procurement Office's authority for making an independent determination, the Project Lead (for procurements facilitated through RFQ or Direct Purchase) or Purchasing Representative (for procurements facilitated competitively, including RFP, RFPQ, RFT, or RFQ) must submit a BIR within Procurement Office Authority - Request Form.

Detailed steps can be found in the BIR within Procurement Office Authority - Process Guide.

### **2.2 Bid Irregularities within PRC Authority**

Should a bid be found to contain an informality or irregularity that falls outside of the Director of the Procurement Office's authority for making an independent determination, the Project Lead or Purchasing Representative must submit a PRC Review - Request Form. Detailed steps can be found in the PRC Review - Process Guide.

Following their respective processes, the Director of the Procurement Office or the PRC will determine whether the bid complies with the submission requirements set out in the Call for Bids and be accepted or rejected.

## **Step 3 - Bid Rejection Communication following a Bid Irregularity Determination by BIR or PRC**

### **3.1 Bid Rejection Email based on BIR Decision**

If the Director of the Procurement Office or the PRC determines a Bid should be rejected, the Procurement Office will communicate that decision to the Supplier via a Bid Rejection Email.

The communication must be sent out at the following timelines:

### **3.2 Bid Rejection Email based on PRC Decision**

If the PRC determines a bid should be rejected, it will advise the Director of the Procurement Office to communicate that decision to the Supplier via a PRC Rejection Email.

### **3.3 The Bid Rejection Email will include the following information:**

- Bid number and name;
- The irregularity that was reviewed;
- Reference to the procurement document; and
- The finding/outcome of the review.

### **3.4 The timelines for Bid Rejection Email to be sent to Supplier will be as follows:**

- (i) after receipt of the BIR/PRC decision → for RFT;
- (ii) after posting of the outcome notice → for RFP/RFPQ/RFSQ.

## APPROVALS

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