**Non-Competitive Procurement Approval Form**

**- Goods and Non-Consulting Services $5,000 and Over -**

*Per the Fleming College Purchasing Policy, Section 3, all purchases of goods and/or non-consulting services $5,000.00 and over (before taxes, over the maximum life of the contract including extensions) must be supported by at least three (3) formal quotes.*

*In situations where it is not possible to adhere to the Purchasing Policy a Non-Competitive Approval Form must be* ***fully approved prior to*** *the purchase of the goods or non-consulting services.*

*Non-Competitive procurements can only be utilized in the exceptional situations outlined in the Sole Source, Single Source or Non-Application codes outlined on the last page of this document, from the Agreement on Internal Trade (Non-Competitive Procurement Approval Form – Exception Codes). Requirements which do not meet the standard set by those codes will be rejected, and formal quotes that meet the Purchasing Policy will be required.*

To help ensure a smooth review and approval process please ensure that this document is complete and has been signed by Department Vice President, Department Head or Dean, before sending this to Purchasing.

A properly completed form should satisfy the following:

* Be addressed to and approved by the Department Vice President, Department Head or Dean
* Accurately name the recommended supplier; the total length of term (service) being considered including all possible extensions; total procurement value across that term (and all extensions)
* The Background Statement should provide the reader with a clear understanding of what is being purchased and what has created the non-competitive requirement
* The Justification section should identify the Exception Code(s) that has/have been selected.
* The Justification Statement must be a direct link to, and must provide support for the Exception Code that has been selected.
* The Required Timing should provide a reasonable amount of time to have the Non-Competitive Procurement Approval Form approved as well as provide sufficient time to properly engage the Supplier. **The Form must be fully approved before the Supplier has been engaged.**

**Briefing Note**

**To:** Jane Doe, Facilities Director

**From:** John Smith, Facilities Supervisor

**Date:** November 11, 2014

1. **Background**
2. Name of Recommended Supplier: ABC Company
3. Has the Recommended Supplier previously received a non-competitive award? [ ]  Yes [x]  No
4. Has the requesting department previously asked for a non-competitive award? [x]  Yes [ ]  No
5. Length of Contract/Agreement including any extensions:

(example: single occurrence, 1 year, 2 years, etc) 3 yrs (2 yr term + 1 yr option

1. Total Procurement Value (include values in all extension years): $6,000.00 ($4k + $2k for

option year

1. What are you procuring:

[x]  Goods

 Is the Recommended Supplier the manufacturer?  [ ]  Yes  [x]  No [ ]  N/A

Does the manufacturer sell the item(s) through distributors? [ ]  Yes [x]  No [ ]  N/A

[ ]  Non-Consulting Services

 Services: Is there a ceiling on the contract value?  [ ]  Yes  [ ]  No

**Background Statement:**

|  |  |
| --- | --- |
| * *Explanation of the good or service (what it is, how it is used, where it is used, why it is needed, who made the request)*
* *How it fits with organizational objectives.*
* *Describe the circumstances that have created this situation.*
* *Describe any risks or implications*
 | Note: This is only an example. The company name and all related information has been fabricated.Dock #8, the dock that supports the main building, has experienced several failures to the dock leveler over the past few months. These failures have caused several issues for the shipping/receiving department, including difficulty loading and unloading shipments, longer than expected wait times for couriers, a need to load and unload deliveries and shipments by hand instead of using a pallet truck. This represents a potential safety issue for the staff and couriers, as well as an inefficient use of resources. It is felt that a proper preventative maintenance program would have prevented these failures.  |

1. **Justification (see attached Exception Codes. These are the only codes allowable as per Ministry Directive)**
2. Identify non-competitive procurement type:

[x]  Sole Sourcing [ ]  Single Sourcing [ ]  Non-Application

1. Specify the Exception Code: A & B

(see Non-Competitive Procurement Approval Form – Exception Codes – last page)

|  |  |
| --- | --- |
| 1. Exception Code Description:
 | a)To ensure compatibility with existing products, to recognize exclusive rights, such as exclusive licenses, copyright and patent rights, or to maintain specialized products that must be maintained by the manufacturer or its representativeb) Where there is an absence of competition for technical reasons and the goods or services can be supplied only by a particular supplier and no alternative or substitute exists |

***Justification Statement:***

|  |  |
| --- | --- |
| * *The justification must provide the appropriate support for the exception code listed above and is the basis for approval of the non-competitive request.*
* *Clearly explain why bypassing the competitive process is necessary and justify how this Exception meets the code*
 | A competitive quote is not possible in this situation as ABC Company has the exclusive territorial rights to service this equipment in Ontario, and the manufacturer (XYZ Company) has not made an allowance for other companies to provide service in this territory. There are no equivalent services offered by other firms as an alternative, as the manufacture will only make replacement parts available to service companies it has authorized and who hold proper technical qualifications it has determined are necessary. ABC Company is the only company with this authorization for the Ontario territory.See accompanying letter from the manufacturer to support these statements. |

1. **Actions Taken**

|  |  |
| --- | --- |
| *Provide details on what due diligence was performed to confirm the situation.* | The manufacturer of the dock leveler (XYZ Company) was contacted to provide a list of authorized preventative service companies. Their letter confirms there is only one company to support all of Ontario. |

1. **Required Timing**

|  |  |
| --- | --- |
| *State when the good or service is required (helps to ensure sign-offs completed in time). This document must be fully approved prior to the purchase of goods or non-consulting services occurring.* | The preventative maintenance agreement is required ASAP to avoid future failures. It is requested this non-competitive form be approved by November 18, 2014. A preventative maintenance contract will be negotiated after approval, with a start date targeted for December 1, 2014. |

1. **Acknowledgement & Approvals**

**ACKNOWLEDGEMENT**

I am aware of the Organization’s competitive procurement process and criteria for approving non-competitive sourcing. I am comfortable the necessary due diligence has been conducted to support the recommendation. I have fairly and clearly outlined the background, justification, actions taken and required timing of this purchase in the briefing note.

This non-competitive procurement approval request is being submitted prior to the purchase of the goods or non-consulting services occurring.

I confirm that to the best of my knowledge and belief no actual or potential conflict of interest exists with respect to this procurement.

Briefing note prepared by:

Name:

Title: Dept.:

Signature: Date:

***First Sign-Off: Department Vice President, Department Head or Dean***

Name: Signature: Date:

The Broader Public Sector Procurement Directive requires that the Non-Competitive Procurement Form be completed and approved prior to commencement of the non-competitive procurement. If this non-competitive form is being submitted after the purchase of the goods or non-consulting services has occurred, provide an explanation as to why approval wasn’t obtained beforehand, and also explain what corrective measures will be taken to ensure that future requests are approved prior to the purchase occurring.

**APPROVAL SIGNATURES**

***Second Sign-Off: Procurement***

Name: Signature: Date:

***Final Sign-Off: Vice President Finance & Administration***

Name: Signature: Date:

**Non-Competitive Procurement Approval Form – Exception Codes**

|  |  |  |
| --- | --- | --- |
| **Sole Source** | **Single Source** | **Non-Application** |
| 1. To ensure compatibility with existing products, to recognize exclusive rights, such as exclusive licences, copyright and patent rights, or to maintain specialized products that must be maintained by the manufacturer or its representative;
2. Where there is an absence of competition for technical reasons and the goods or services can be supplied only by a particular supplier and no alternative or substitute exists;
3. For the procurement of goods or services the supply of which is controlled by a supplier that is a statutory monopoly;
4. For the purchase of goods on a commodity market;
5. For work to be performed on or about a leased building or portions thereof that may be performed only by the lessor;
6. For work to be performed on property by a contractor according to provisions of a warranty or guarantee held in respect of the property or the original work;
7. For a contract to be awarded to the winner of a design contest;
8. For the procurement of a prototype of a first good or service to be developed in the course of and for a particular contract for research, experiment, study or original development, but not for any subsequent purchases;
9. For the purchase of goods under exceptionally advantageous circumstances such as bankruptcy or receivership, but not for routine purchases;
10. For the procurement of original works of art;
11. For the procurement of subscriptions to newspapers, magazines or other periodicals; and
12. For the procurement of real property.
 | 1. Where an unforeseeable situation of urgency exists and the goods or services cannot be obtained in time by means of open procurement procedures;

 Failure to plan and allow sufficient time for a competitive procurement process does not constitute an unforeseeable situation of urgency.1. Where goods or services regarding matters of a confidential or privileged nature are to be purchased and the disclosure of those matters through an open tendering process could reasonably be expected to compromise government confidentiality, cause economic disruption or otherwise be contrary to the public interest;
2. Where a contract is to be awarded under a cooperation agreement that is financed, in whole or in part, by an international cooperation organization, only to the extent that the agreement between the entity and the organization includes rules for awarding contracts that differ from the obligations set out in the Directive;
3. Where construction materials are to be purchased and it can be demonstrated that transportation costs or technical considerations impose geographic limits on the available supply base, specifically in the case of sand, stone, gravel, asphalt, compound and pre-mixed concrete for use in the construction or repair of roads;
4. Where compliance with the open tendering provisions set out in the Directive would interfere with the entities’ ability to maintain security or order or to protect human, animal or plant life or health; and
5. In the absence of a receipt of any bids in response to a call for proposals or tenders made in accordance with the Directive.
 | 1. Procurement of goods intended for resale to the public;
2. Contracts with a public body or a non-profit organization;
3. Procurement of goods and services purchased on behalf of an entity that is out of scope of the Directive;
4. Procurement from philanthropic institutions, prison labour or persons with disabilities;
5. Procurement of any goods the inter-provincial movement of which is restricted by laws not inconsistent with the trade agreements;
6. Procurement of goods and services that is financed primarily from donations that are subject to conditions that are inconsistent with the Directive;
7. Procurement of goods and services related to cultural or artistic fields and computer software for educational purposes;
8. Procurement of services that in Ontario may, by legislation or regulation, be provided only by any of the following licensed professionals: medical doctors, dentists, nurses, pharmacists, veterinarians, engineers, land surveyors, architects, accountants, lawyers and notaries;
9. Procurement of services of financial analysts or the management of investments by organizations who have such functions as a primary purpose;
10. Procurement of financial services respecting the management of financial assets and liabilities (i.e., treasury operations), including ancillary advisory and information services, whether or not delivered by a financial institution;
11. Procurement of goods and services for use outside Canada as well as construction work done outside Canada; and
12. Health services and social services.
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