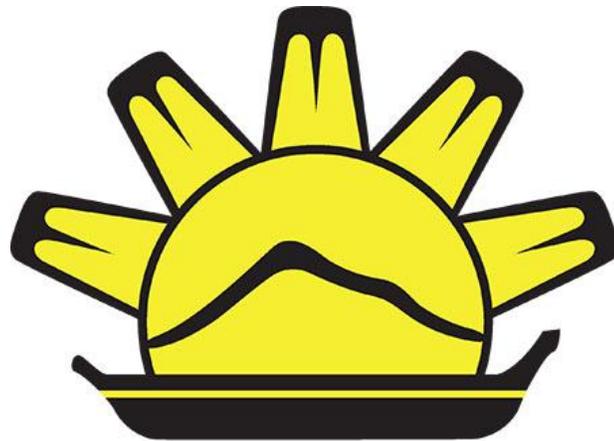


Statement of Policy and Procedure	
BCR #	2017-084
File Reference #	FAL-030
Issue/Effective Date	March 2, 2017

Malahat Nation

Procurement Policy

Approved by Council on March 2, 2017



Malahat

1. Policy

The procurement of goods, services and assets will be conducted with sufficient due diligence to demonstrate transparency, fairness, quality, competitiveness and value for money in meeting the Malahat Nation's requirements.

2. Purpose

The purpose of this policy is to provide guidance to the Malahat Nation on how purchases will be planned, managed, approved and paid.

3. Scope

This policy applies to the Council, Chief Executive Officer, Director of Finance and any other Malahat Nation employees involved in purchasing goods, services and assets on behalf of the Malahat Nation.

4. Definitions

"Assets" include tangible capital assets such as equipment, buildings and land that have been purchased or constructed by the Malahat Nation.

"Best Value" refers to the optimal combinations of First Nation collaboration, experience, knowledge, expertise, geographic location, performance, quality, time, initial costs, operation and maintenance, cost, life cycle costs, service, performance characteristics, spare parts availability, warranties and guarantees etc.

"Community membership" is considered the Malahat Nation membership

"Contractor" a person who is hired to perform work or to provide goods at a certain price or within a certain time

"Fairness" refers to giving qualified firms and individuals an equal opportunity to compete for the contract work; and to evaluating tenders and proposals in accordance with accepted practices.

"Invited tender" refers to a tender that is distributed to a certain number of contractors who are invited to bid on a specific project. Industry standards indicate that at least three contractors should be invited to ensure that the process is fair and there is sufficient competition.

"Open or public tender" is the process by which tenders are advertised publicly. Open tenders should allow any qualified potential bidders the opportunity to bid on a project.

"Requisition" refers to a purchase order used by the Malahat Nation when documenting expenditures.

"RFP" stands for Request for Proposal, which is the process generally followed before awarding a major service contract. RFPs identify the need and leave it up to the prospective contractors to make a proposal that is appropriate.

“Sole Source” means a person or company whom the Malahat Nation has determined is the sole proponent able to provide the good and/or service.

“Subcontractor” a business or person that carries out work for a company as part of a larger project

“Supplier” a party that supplies goods or services. A supplier may be distinguished from a contractor or subcontractor, who commonly adds specialized input to deliverables. Also called vendor.

“Tender process” refers to the process where documents outlining the requirements and specifications of a project are put in the hands of prospective contractors or suppliers interested in submitting bids.

“Pre-Qualified Supplier” consist of companies which have undergone prior assessment and are consequently deemed suitable to work with organization.

5. Responsibilities

(1) The Council is responsible for:

- (a) Ensuring effective control of procurement of goods, services and assets through documented policies and procedures.

(2) The Chief Executive Officer is responsible for:

- (a) Communicating the policies and procedures to all parties who are affected.

(3) The Director of Finance is responsible for:

- (a) Developing, documenting and maintaining policies and procedures relating to the procurement process for goods, services, and assets;
- (b) Assisting in the selection, evaluation, and monitoring of contractors and suppliers;
- (c) Managing and monitoring expenditures and identifying and reporting on budget variances;

6. Procedures

Procurement of low value items goods and services

(1) Goods and services under the ‘low’ value threshold can be procured by the individuals or delegate noted in Appendix A for each threshold of value.

Procurement of moderate value goods and services

(1) The responsible employee or delegate noted in Appendix A will perform a documented analysis of the costs and benefits to procure the good or service.

(2) When appropriate, the Malahat Nation will promote the use of community membership in the procurement of goods and services in accordance with Appendix C.

Procurement of high value goods and services

- (1) Goods and services classified as high value according to Appendix A will be procured using a competitive tendering process.
- (2) When appropriate, the Malahat Nation will promote the use of community membership in the procurement of goods and services in accordance with Appendix C.
- (3) For each tendering process a RFP (request for proposals) will be issued and will include the following components:
 - (a) Date by which proposals are due;
 - (b) Background to the requirement (e.g., context, challenges);
 - (c) Specific requirements of the proposal including any requirements set out in Council policy for the management of capital projects (e.g. course of construction insurance, performance guarantees and bonding, subcontractor involvement)
 - (d) Criteria and weighting (if applicable) by which proposals will be assessed;
 - (e) Experience working with First Nations, positive working relationship with Malahat Nation, First Nation Employment;
 - (f) Planned contract award date;
 - (g) Process for entertaining questions regarding the RFP and sharing responses with other potential suppliers;
 - (h) A condition providing the Malahat Nation with the right to pick any proposal or none;
 - (i) A checklist of other special terms and conditions (e.g., delivery dates or constraints) that would be critical for an organization to build into their response to meet the needs of Malahat Nation.
- (4) The Chief Executive Officer, a representative from Council, and any required staff possessing relevant expertise or delegates, will form a review panel and review the proposals received against the pre-determined selection criteria for the RFP. The review panel will provide Council with a recommended course of action.
- (5) To maintain consistency in the procurement process, each contractor/supplier will be evaluated using the criteria outlined in the applicable RFP.
- (6) Requirements will be added to the RFP as deemed necessary by the Chief Executive Officer.
- (7) Normally an RFP process as described above will be followed to procure goods and services. Exceptions to this process (i.e. granting a sole source contract, non-competitive contract award) will be rare and limited to the following situations:

- (a) If there were no bids received during the tender call or RFP process;
 - (b) When the good or service is available only through a Sole Source;
 - (c) In an emergency situation where a delay in procuring the good or service would result in severe loss or damage to the Malahat Nation, as per the Emergency Policy.
- (8) Any exceptions to the procurement process will be documented to demonstrate the rationale and approval of a non-standard procurement process.
- (9) In general, the more complex and or expensive the purchase the greater the rigor of process will, be applied.

Approval, initiation and monitoring

- (1) Pre-qualified suppliers may be chosen for a given project dependent on time constraints of funding hindering the competitive tendering process with approval of the Chief Executive Officer. All pre-qualified suppliers must still undergo prior assessment to ascertain their suitability to engage in commercial relationships with Malahat Nation. Preference may be given to suppliers based on experience working with First Nation, positive working relationship with Malahat Nation and First Nation employment.
- (2) The Director of Finance or delegate will review the status of procurement encumbrances, noting and investigating any over budget commitments. Procurement activities over budget, as per Appendix A, will be reported to the Chief Executive Officer.

Documentation requirements

- (1) All procurement documents (including but not limited to requisitions, invoices, purchase orders, request for proposals or tender calls) will clearly indicate the details of the goods and services requested.
- (2) Approvals, budget appropriations and accounts from which certain goods or services may or must be purchased will be documented on relevant internal procurement documentation

Monitoring of Contractors/Suppliers

- (1) On an ongoing basis, the Chief Executive Officer or delegate will monitor the quality of the work and the working relationship with the contractor/supplier. Any issues noted will be documented in the contractor/supplier file and resolved by the Chief Executive Officer or delegate.
- (2) Performance evaluation should be tailored to job size and complexity. A review of both the project quality and the service quality should be conducted using a standard set of criteria and applying weight factors established at the time of award. Any adjustments to the criteria weighting should not be made without the contractor/supplier being notified.

Encouraging new contractors/suppliers

- (1) Contracts will be reviewed on an annual basis (or other timeframe as deemed appropriate by the Chief Executive Officer, or delegate, for the nature and complexity of the goods/services in question) and a request for other contractors/suppliers initiated.

Change requests

- (1) All changes to existing Purchase Orders or RFP's are handled through the Finance Department. Each change request must be:
 - Clearly described
 - Refer to the original Purchase Order or RFP
 - Authorized in accordance with the Authorization and Delegation Table

Policy Provisions

- (1) Acquisition of goods, services and construction through purchase, lease or rental are to be undertaken in a fair open and competitive manner.
- (2) The majority of transactions relating to procurement activities are of a confidential nature. Information regarding one suppliers products, services or pricing shall not be passed on to another supplier.
- (3) Commitments or indications of preference to third party supplies are not to be made by departments.
- (4) Departments will refrain from entering into reciprocal agreements that restrain competition.

7. References and Related Authorities

- (1) FMB's Financial Management System Standards
 - (a) Standard 18.6 Procurement
 - (b) Standard 18.7 Procurement of suppliers
 - (c) Standard 24.5 Contract and tendering requirements
- (2) FMB's Financial Administration Law Standards
 - (a) Standard 8.3 Policies, Procedures and Directions
 - (b) Standard 16.2.1 Expenditure Controls
 - (c) Standard 22.5 Contracts and tendering provisions

8. Attachments

Appendix A – Malahat Purchasing Approval Limits

Appendix B –Community Membership

Appendix A – Malahat Purchasing Approval Limits

Purchase Values		Process to be followed:	Who is responsible:	Over Budget Reporting:
Greater than \$1	Less than or equal to \$1,000	Low Value ¹	Director of Finance	10 %
Greater than \$1,000	Less than or equal to \$10,000	Low Value ¹	Director of Finance	10 %
Greater than \$10,000	Less than or equal to \$25,000	Moderate value: Informal Quotation ²	Chief Executive Officer	10 %
Greater than \$25,000	Less than \$50,000	Moderate value: Informal Quotation ³	Chief & Council	10 %
Greater than \$50,000		Tender Call/Request for Proposal	Chief & Council	Over \$5,000

1. Low Value = Contractual arrangement for low value procurement process: in this, employees with appropriate authority as set out in this policy may sign an invoice indicating that the goods or services have been received and the contractor/supplier may be paid.

2. Informal Quotation = requesting a minimum of 3 informal quotes where practicable through advertisements, direct solicitations to contractors/suppliers and other methods in effort to compare best value.

3. Informal Quotation = requesting of 4 informal quotes where practicable through advertisements, direct solicitations to contractors/suppliers and other methods in effort to compare best value.

4. RFP = obtaining multiple proposals, following standards dictated in this policy, through advertisements, direct solicitations to contractors/suppliers and other methods in effort to compare best value.

Appendix B – Community Content

The Malahat Nation should promote the use of community membership when appropriate in the procurement of goods and services. For construction contracts on reserve lands, the Malahat Nation may include a clause that requires the contractor to employ community labour and resources. Another option is to add a training component to the contract that requires the contractor to train community labourers. Where applicable, the tender package should also require bidders to stipulate the extent to which they will use local materials, local equipment, and provide a formal training program for local labour employed by the contractor.

Pre-tender Considerations for Community Membership

Before developing the tender documents, the Malahat Nation should establish:

- The extent of labour and trades available locally
- Quantities and firm prices of locally available materials
- Local equipment available and firm rental rates
- Training requirements and trade apprenticeships

Once the contract has been awarded, special clauses reflecting the agreed upon community membership requirements will be incorporated in the contract with the successful vendor.