

# Ethics in Procurement

**Presentation & Discussion with the City of Long Beach Ethics Commission**  
February 2022

## **1. BACKGROUND**

Procurement-related recommendations from the City of Long Beach  
Ethics Program Performance Audit

## **2. PRESENTATION**

Procurement in Long Beach and existing ethics-related internal controls

## **3. DISCUSSION**

## Relevant recommendations from the City of Long Beach Ethics Program Performance Audit

#	Recommendation
16	Direct the Financial Management Department to <b>amend its contract boilerplate language to include mandatory provisions that contractors must state that they will comply with the City's Ethics Code to prevent conflicts of interest with City officials and employees</b> , and that they and their company employees do not have financial or family relationships with City officials or employees involved in their contract selection or contract administration processes, with such documentation maintained in bidder files.
17	Direct the Financial Management Department to establish procedures to <b>periodically conduct independent reviews of its own staff buyers' activities to ensure that they are not engaged in ethical misconduct pertaining to selecting vendors and contractors</b> .
18	Direct the Financial Management Department to establish procedures to implement the State requirement that <b>consultants submit financial disclosures in cases when their consulting engagements put them in decision-making positions</b> .

# Long Beach's procurement processes are informed by public procurement law and industry best practice



## National Procurement Institute Excellence in Procurement Award\*

*Received by Long Beach in 2020 and 2021*

## General Principles

- Controlled by legislative statutes and ethical standards.
- Guided by fiduciary responsibility to protect, conserve and be good stewards of the public's resources, and maintain the public's trust.
- Informed by best practices from:
  - American Bar Association (ABA)
  - California Association of Public Procurement Officials (CAPPO)
  - Institute for Public Procurement (NIGP)
  - Harvard Kennedy School - Government Performance Lab (GPL)
  - National Procurement Institute (NPI)

\*Awarded categories: procurement innovation, leadership, ethics, technology, and customer service




## Long Beach Code of Ethics

Every City Employee shall pledge to follow these principles while acting in their official capacity:

- To place the best interests of the City above all other interests.
- To **uphold all laws**, regulations and policies.
- To **take no action for the purpose of benefiting the official** or employee personally.
- To make every effort to **avoid a conflict of interest**.
- To exercise prudence and good judgment at all times.
- To **be fair, impartial and unbiased** in the decision-making process.
- To treat each other and the public with respect.



# Contextualizing ethics within the Extreme Procurement Makeover

- Over the last several years, procurement in Long Beach has undergone extensive evaluation and updates in response to City Council, City Leadership, and City Auditor requests
- Extreme Procurement Makeover: Top-to-bottom renovation of procurement policy, process, and practice:
  -  Increase **equitable access** to business opportunities for vendors.
  -  Enable better and more equitable **outcomes** from contracted programs, services, and products.
  -  Faster, **more efficient**, strategic procurement processes.
- Most recently, we completed a vendor survey to better understand how we can improve from the vendor perspective, including lowering barriers to doing business

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# City of Long Beach Procurement Thresholds

	Approval Required <sup>1</sup>	\$ Value of Purchase (Annual)	Available Procurement Methods
<i>Departments define process</i>	Department Director	\$1-\$2,500	<b>MICRO PURCHASE</b>
		\$2,501 - \$25,000	<b>SMALL PURCHASE</b>
<i>Purchasing Division defines process</i>	Purchasing Agent	\$25,000 - \$100,000	<b>FORMAL PURCHASE</b> <ul style="list-style-type: none"> <li>• <b>Competitive Solicitations:</b> <ul style="list-style-type: none"> <li>• Invitation to Bid (<b>ITB</b>)</li> <li>• Request for Proposals (<b>RFP</b>)</li> <li>• Request for Qualifications (<b>RFQ</b>)</li> </ul> </li> <li>• <b>Other:</b> <ul style="list-style-type: none"> <li>• <b>Cooperative, emergency, or exception to policy</b> detailed and justified on CSRF</li> </ul> </li> </ul>
	City Manager <sup>2</sup>	\$100,001 - \$200,000	
	City Council	>\$200,000	

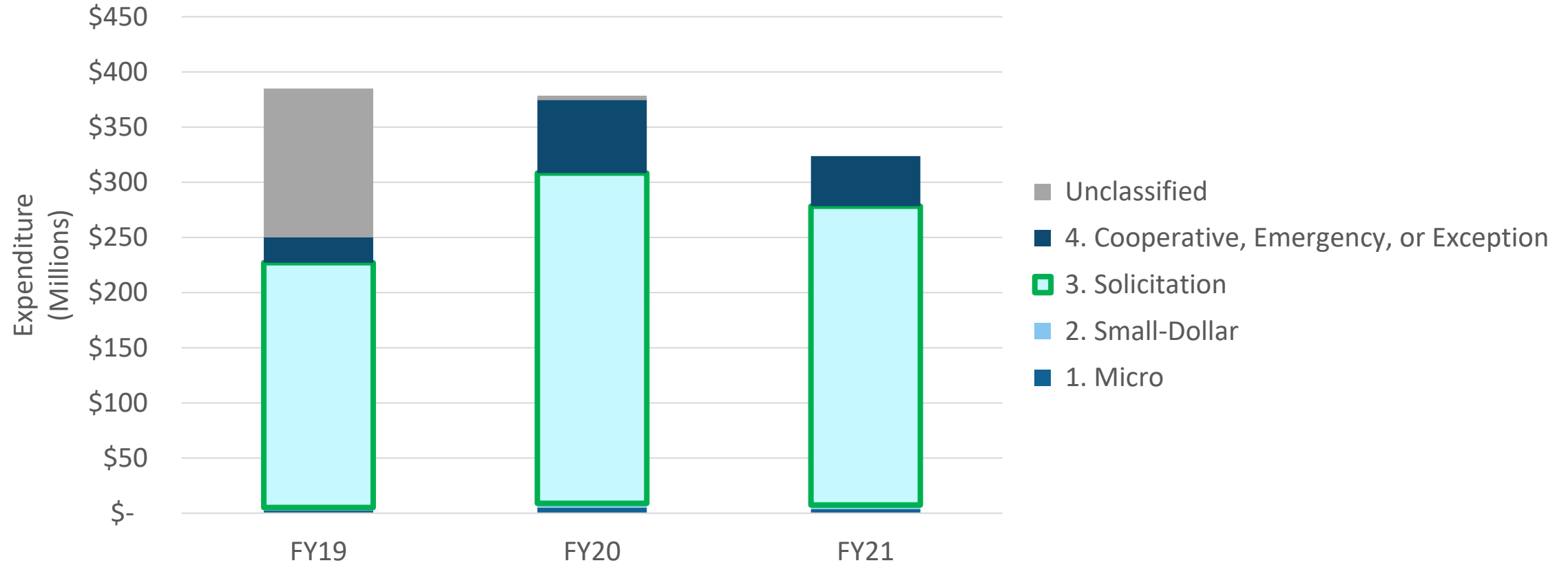
1. Certain circumstances may require additional approvals. City Council approval is required for conformed contracts.

2. City Council approval may be required, depending upon the number of responses and protests received.





# Over 80% of expenditure for goods and services is procured through solicitations (ITB or RFP)

Goods & Services Expenditure by Procurement Method  
(City Manager Departments)



# Methods of solicitation for formal purchases >\$25,000

Procurement Method	Reason to Use It	Examples
Invitation to Bid (ITB)	<i>Vendor will be selected based on <b>the lowest price technically acceptable bid.</b></i>	 Most goods
Request for Proposals (RFP)	<i>Vendor will be selected based on <b>price and proposal content.</b></i>	 Most services

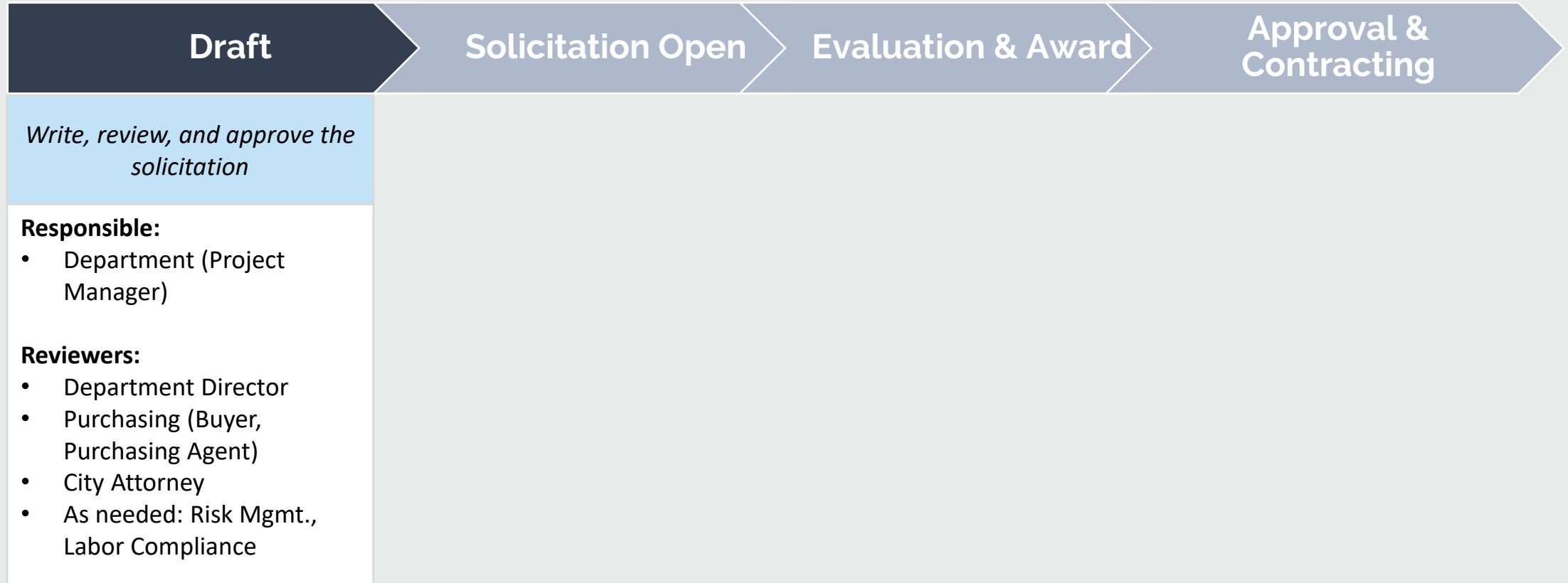
# Internal controls are an industry standard to uphold ethics throughout the procurement process

## Core principles for internal controls

- Segregate incompatible duties
  - No one person responsible for the entire process
  - Separate who initiates, approves, and pays
- Require effective approvals
  - Include a review and approval process at varying levels
  - Approvers pay close attention to the details, read the document completely and ask questions
  - No rubber stamp approvals
- Prevent *and* detect
- Limit exceptions to the policy
- Document, document, document

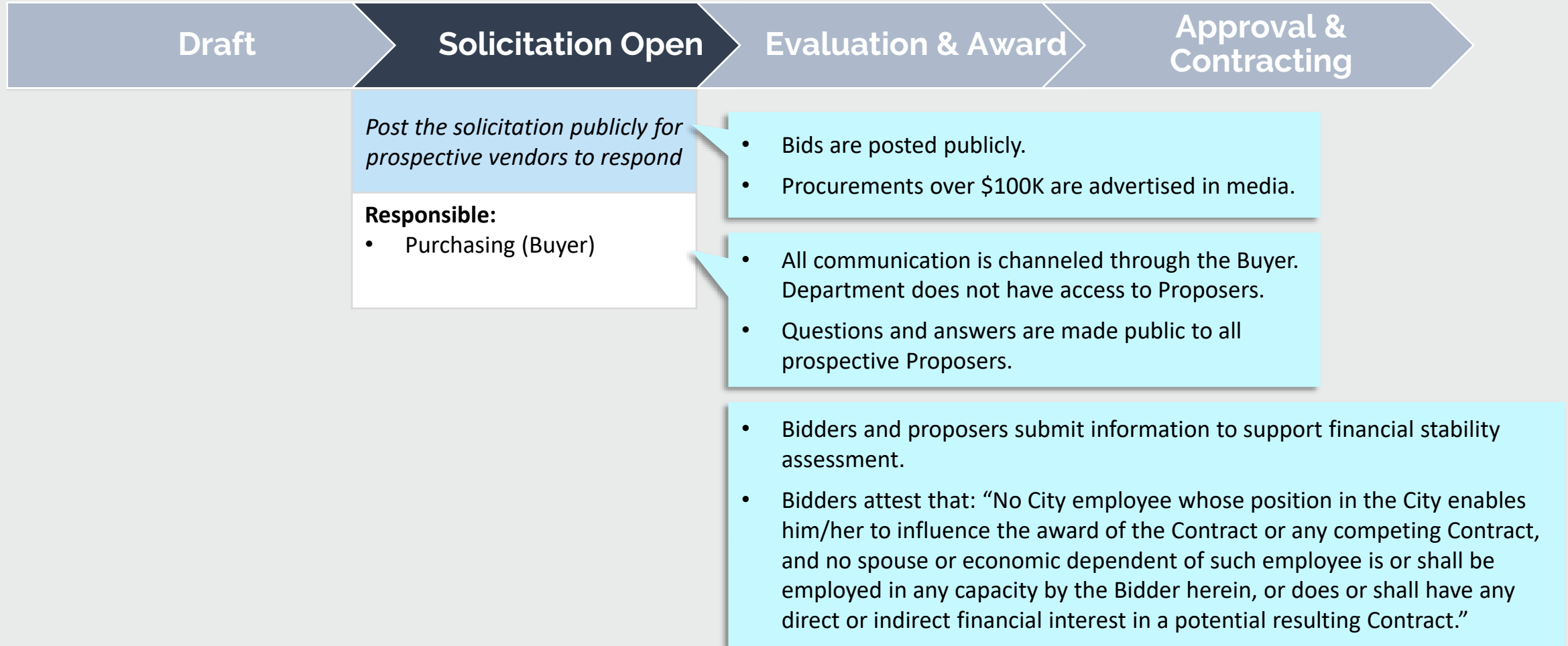
# Internal controls to promote open, competitive, fair, and transparent procurements are built into each stage of the solicitation process

## Solicitation Process



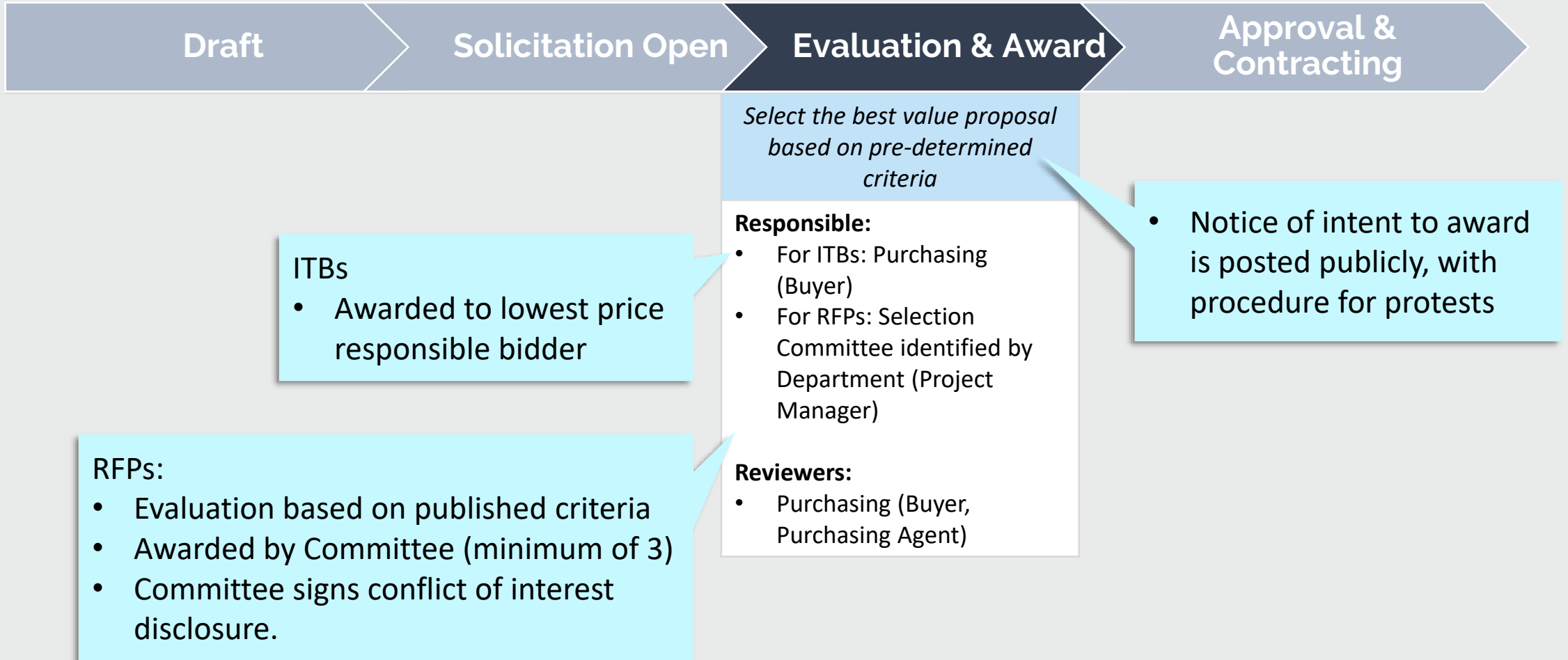
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## Solicitation Process



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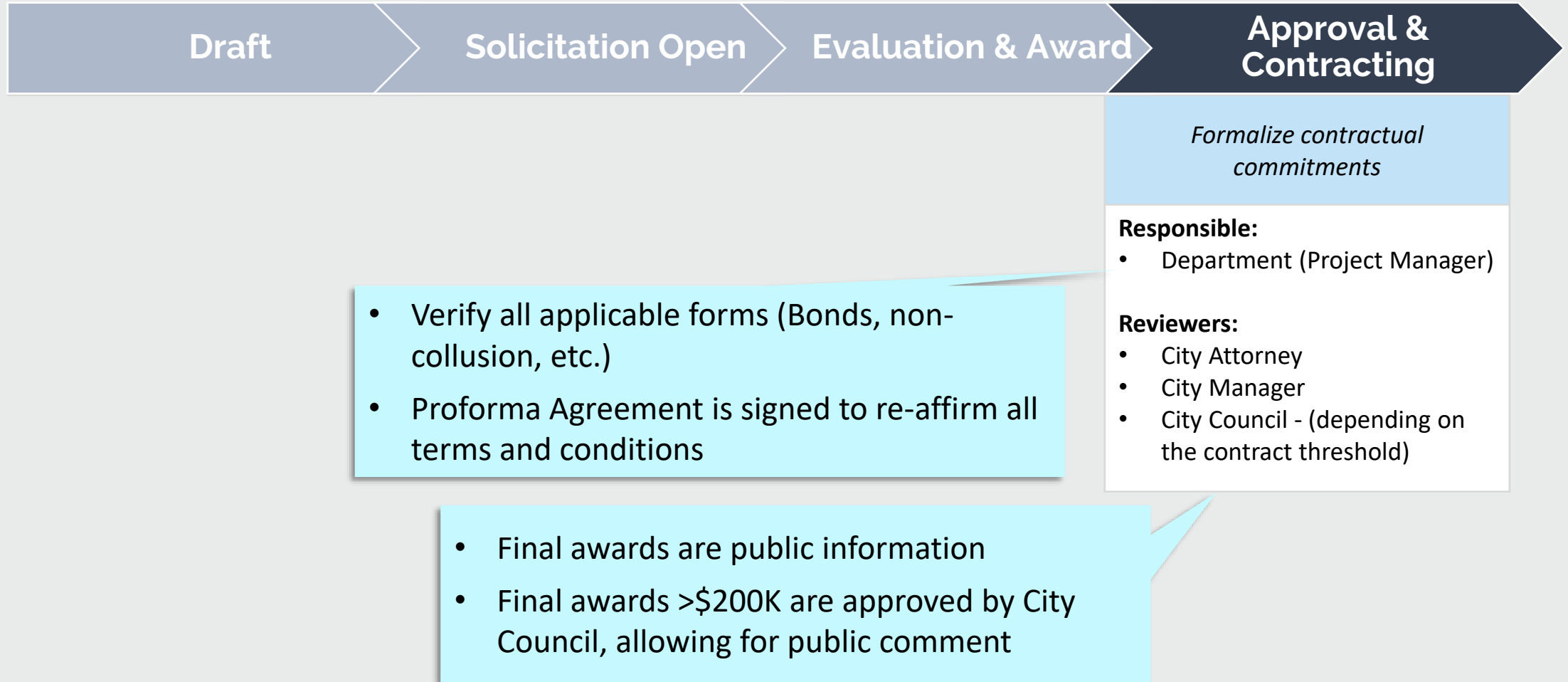
## Solicitation Process





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# Discussion | Recommendation 16

16

Direct the Financial Management Department to **amend its contract boilerplate language to include mandatory provisions that contractors must state that they will comply with the City's Ethics Code to prevent conflicts of interest with City officials and employees**, and that they and their company employees do not have financial or family relationships with City officials or employees involved in their contract selection or contract administration processes, with such documentation maintained in bidder files.

- **Current Status:**

- RFP and ITB templates have non-collusion disclosures.
- Actively working with City Attorney to expand scope of ethics disclosures in line with this recommendation.

- **Staff Recommendation:**

- Staff to share draft language to update RFP and ITB templates for Ethics Commission input in 180 days.

# Discussion | Recommendation 17

17

Direct the Financial Management Department to establish procedures to **periodically conduct independent reviews of its own staff buyers' activities to ensure that they are not engaged in ethical misconduct pertaining to selecting vendors and contractors.**

- In our current process:
  - Buyers (Procurement Specialists) do not make discretionary purchasing decisions
  - All staff agree to an ethics code requiring they do not engage in conflicts of interest
  - All City staff sign Form 700 when operating with financial decision-making capacity
  - Staff making discretionary purchasing decisions in RFPs sign conflict of interest declarations
- However, there are opportunities to strengthen oversight for consultants with decision-making authority.
  - Staff recommendation: see Recommendation 18

# Discussion | Recommendation 18

18

Direct the Financial Management Department to establish procedures to implement the State requirement that **consultants submit financial disclosures in cases when their consulting engagements put them in decision-making positions.**

## State Requirements

- The Cal Code Reg Section 18700 states that any public official may not participate in decision making or influencing position, when the official has a disqualifying financial interest.
- Political Reform Act requires a form 700 (Financial Disclosure) for Staff and Consultants in decision-making positions. This applies directly to the individual not the business entity.
- Consultants are defined in Regulation 18701(a)(2) as the following : "an individual who, pursuant to a contract with a state or local government agency that makes governmental decisions or acts in a staff capacity consistently (Not a one-time project)."

## City Process

- The City currently requires any contracted Consultant submit a Form 700 when operating in a decision-making capacity.

## Recommendation

- In collaboration with City Attorney, update Conflict of Interest Declaration Form to (1) reference form 700, (2) address pre-existing and/or organizational conflict of interest, and (3) define implications for enforceability.



**Thank you**

**Ahmed Ali  
James Vazquez  
Michelle Wilson**