

**DRAFT ONLY**

Resources for Authors &amp; Reviewers:

[Instructions](#)[Annotated Policy Template](#)**Policy Title: Procuring Performers for City-Produced Public Events****Policy Number: 05-03-05****Section: Property and Facilities****Effective Date: July 4, 2018****Approved by:****Council****Subsection: Civic Centre****Last Review Date: March, 2023****Owner Division/Contact:****Recreation and Culture Division****Policy Statement**

Procuring Performers for Public Events presents unique procurement challenges and requires flexibility with respect to responsibly sole sourcing while protecting the City's interests.

**Purpose**

This policy outlines processes, signing authorities and staff responsibilities with respect to procuring Performers for Public Events at City facilities.

**Scope**

This policy applies to the procurement of Performers for Public Events organized in whole or in part by the City.

**Legislative Considerations**

This policy is written in compliance with the Procuring Performers By-law 0073-2013 as amended, which authorizes the execution of Performance Agreements.

**Related Policies**

Corporate Policy and Procedure – 08-05-02 – Musician Fair Pay

**Definitions**

For the purposes of this policy:

“City” means the Corporation of the City of Mississauga.

“Commissioner” means the Commissioner of the Community Services Department or designate, in writing.

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“Offer” means an invitation to a Performer setting out business terms related to a proposed performance. Offers may be presented using the ticketed event offer form or the Offer page of the Offer and Performance Agreement.

“Performance Agreement” means an agreement, approved as to form by Legal Services, which sets out all of the terms and conditions governing the City’s engagement of a Performer for one or more Public Events. The Offer forms part of the Performance Agreement.

“Performer” means an entertainer (e.g. a professional singer, comedian, dancer, etc.) or group thereof who performs for an audience. When referencing (i) the party with whom the City is entering into the Performance Agreement; and/or (ii) the party to whom payment is made/sent, “Performer” includes the Performer’s representative or agent who has the authority to carry out the obligations contained in the Performance Agreement on behalf of itself and the Performer.

“Public Event” means an event (whether ticketed or non-ticketed) that the general public may attend.

“Settlement” means the calculation of payment due to a Performer following a performance based on the terms and conditions of the applicable Performance Agreement. (Note that not all Performance Agreements require Settlement).

## **Accountability**

### **Commissioner**

The Commissioner is responsible for signing Performance Agreements and approving Settlements, as applicable, in accordance with the signing authority limits outlined in this policy.

### **Director, Recreation and Culture**

The Director, Recreation and Culture is responsible for:

- Ensuring all applicable City staff are aware of this policy and of any subsequent revisions, and
- Signing Performance Agreements and approving Settlements, as applicable, in accordance with the signing authority limits outlined in this policy

### **Manager, Culture and Events**

The Manager, Culture and Events is responsible for signing Performance Agreements and approving Settlements, as applicable, in accordance with the signing authority limits outlined in this policy.

### **Manager, Event Development**

The Manager, Event Development is responsible for signing Performance Agreements and approving Settlements, as applicable, in accordance with the signing authority limits outlined in this policy.

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**Supervisors/Managers with Cost Centre Authority**

Supervisors/managers with Cost Centre Authority are responsible for:

- Ensuring applicable staff are aware of and compliant with this policy
- Consulting with the Supervisor, Event Programming for assistance with requirements related to Offers and Performance Agreements for Performer procurements valued between \$5,000 and \$25,000, and
- Signing Performance Agreements, as applicable, in accordance with the signing authority limits outlined in this policy

**Supervisor, Event Programming**

The Supervisor, Event Programming is responsible for:

- Ensuring applicable City staff are trained on this policy and any related procedures, as well as any subsequent revisions, with respect to their specific job function
- Signing Performance Agreements and approving Settlements, as applicable, in accordance with the signing authority limits outlined in this policy
- Collaborating with Legal Services to develop and implement standard Performance Agreement templates, as required, and
- Providing guidance and assistance to City staff engaged in the procurement of Performers for Public Events at City facilities, as required/appropriate

**Staff Responsible for Procuring Performers**

City staff procuring Performers are responsible for:

- Selecting Performers and securing appropriate approvals in accordance with prescribed processes
- Presenting Offers and Agreements and negotiating bookings
- Obtaining all relevant documents from Performers in accordance with the Performance Agreement, including insurance certificates
- Ensuring the accuracy of all Performance Agreements and any related documents, including the Offer
- Consulting with Legal Services for revisions to Offers and Performance Agreements, as required
- Preparing Settlements, as applicable, and
- Processing payments for deposits/final payment to Performers in accordance with the Performance Agreement

**Legal Services**

Legal Services is responsible for:

- Providing interpretation and advice on contract terms and conditions
- Reviewing requests for changes to standard Performance Agreement terms and conditions, and

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- Supporting the development and revision of the City's standard Offer and Performance Agreement and its abbreviated version

## Procuring Performers

### Offers and Performance Agreements

City staff are required to use the City's standard Offer and Performance Agreement (or its abbreviated version) when procuring Performers for Public Events except in the two circumstances detailed below.

Offers are conveyed to Performers or their agent by email and include the business terms.

### Exception for Procurement of Performers Valued at less than \$5,000

The procurement of Performers for Public Events valued at less than \$5,000 can be accomplished using the low value acquisition (LVA) process set out in the Procurement By-law. However, City staff are encouraged to use the City's standard Offer and Performance Agreement (or its abbreviated version), where practical. City staff requiring assistance can consult with the Supervisor, Event Programming.

### Exception Permitting Negotiations Outside of the City's Standard Performance Agreement

Negotiating terms and conditions outside of the City's standard Performance Agreement may be permissible, upon advance approval of the Manager of Event Development, if:

1. The Performer is an internationally recognized artist for which there is both a demonstrable public demand as well as an anticipated enhancement to the image of the City for them performing, and
2. The Performer (or their agent) requires modified terms and conditions or execution of a third-party agreement

Whenever modified terms and conditions and/or use of a third-party agreement are proposed, Legal Services must be engaged to ensure that the City's interests are appropriately protected.

### Offer Negotiation

Staff responsible for procuring Performers may negotiate the following business terms without consultation with Legal Services:

- A. Performer and type of performance
- B. Offer and agreement effective dates and expiry dates
- C. Fees and payment terms
- D. Performance date/duration
- E. Production hospitality (except for the prohibition against alcohol on City property)
- F. Equipment and crew
- G. Form and content of marketing materials
- H. Exclusivity of location of performance/radius clause, and

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- I. For ticketed events only, the event deal structure (flat guarantee, plus, versus, co-production) and merchandise deal

If an agreement is reached, a copy of the fully executed Performance Agreement is sent to the Performer.

### **Offer Acceptance**

If a Performer accepts an Offer before it expires, a signed Performance Agreement must be returned to the City by the date specified. Deadline extensions may be granted with approval from the appropriate signing authority, if it is in the City's interest.

### **Proof of Insurance**

Proof of insurance is required prior to the performance. Exceptions require consultation with Insurance and Risk Management staff and must be approved by the Manager, Culture and Events. In certain circumstances, at the City's sole discretion, the City may elect to purchase event insurance rather than requiring a Performer to be insured.

### **Signing Authority**

Authority to sign Performance Agreements follows the limits set out in the Procuring Performers Bylaw 0073-2013, as amended, as summarized below:

<b>Title</b>	<b>Contract Value</b>
Commissioner of Community Services (Signing authority can be delegated, in writing).	Above \$500,000
Director of Recreation and Culture (Signing authority can be delegated, in writing).	Above \$125,000 up to and including \$500,000
Manager of Culture and Events (Signing authority cannot be delegated. In the absence of the Manager of Culture and Events, the Director of Recreation and Culture has authority).	Above \$50,000 up to and including \$125,000
Manager of Event Development (Signing authority cannot be delegated. In the absence of the Manager of Event Development, the Manager of Culture and Events has authority).	Above \$25,000 up to and including \$50,000
A Supervisor with Cost Centre Authority (Signing authority cannot be delegated. In the absence of a Supervisor, the Manager with Cost Centre Authority has authority).	\$25,000 or less

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## Records

A copy of all Offers and Performance Agreements (both accepted and declined) and all supporting documentation are retained in accordance with the Records Retention By-law 0097-2017, as amended. Where applicable, copies are provided to Legal Services.

## Revision History

Reference	Description
GC-0195-2013 - 2013 04 10	
GC-0428-2018 – 2018 07 04	Policy expanded to all Culture Division events where Performers are procured by City staff.
March 15, 2023	Scheduled review. Revised to align signing authority with the Procurement By-law.
June 25, 2024	Housekeeping updates to align with corporate organizational structure; signing authority revised to align with amendments to By-law 0073-2013.
	Substantial revision to amend the scope (including the policy title from Procuring Performers for City Produced Culture Events) and signing authorities and to clarify processes and exceptions.