

## **7.2 PROCUREMENT POLICIES AND PROCEDURES (MANDATORY REQUIREMENTS)**

Organizations must comply with the requirements set forth in this Directive.

### **7.2.1 Mandatory Requirement #1: Segregation of Duties**

Organizations must segregate at least three of the five functional procurement roles: Requisition, Budgeting, Commitment, Receipt and Payment. Responsibilities for these roles must lie with different departments or, at a minimum, with different individuals.

Where it is not feasible to segregate these roles, i.e., for smaller Organizations, adequate compensating controls approved by an external auditor must be put in place.

### **7.2.2 Mandatory Requirement #2: Approval Authority**

#### **7.2.2.1 Goods and non-consulting services**

Organizations must establish an approval authority schedule (AAS) for procurement of goods and non-consulting services. The AAS must identify, for each of the functional procurement roles identified in Section 7.2.1, authorities that are allowed to approve procurements for different dollar thresholds. The AAS must be approved by the board of directors of the Organization or its equivalent.

Prior to commencement, any procurement of goods and non-consulting services must be approved by an appropriate authority in accordance with the AAS of the Organization.

Prior to commencement, any non-competitive procurement of goods or non-consulting services must be approved by an authority one level higher than the AAS requirements for competitive procurement.

#### **7.2.2.2 Consulting services**

Prior to commencement, any procurement of consulting services must be approved in accordance with the Procurement Approval Authority Schedule for Consulting Services below.

<b>Procurement Approval Authority Schedule (AAS) for Consulting Services</b>		
<b>Procurement Method</b>	<b>Procurement Value</b>	<b>Approval Authority</b>
Invitational Competitive	\$0 up to but not including \$100,000	Organization's AAS for goods and non-consulting services
Open Competitive	Any value	Organization's AAS for goods and non-consulting services
Non-competitive*	\$0 up to but not including \$1,000,000	President, CEO or equivalent
	\$1,000,000 or more	Board of Directors or equivalent

\*Exemption-based only

### **7.2.2.2 Consulting services (Continued)**

Organizations must not reduce the overall value of procurement (e.g., dividing a single procurement into multiple procurements) in order to circumvent the approval requirements of the organizational AAS or the Procurement AAS for Consulting Services.

### **7.2.3 Mandatory Requirement #3: Competitive Procurement Thresholds**

Organizations must conduct an open competitive procurement process where the estimated value of procurement of goods or services is \$100,000 or more. The exemptions must be in accordance with the applicable trade agreements.

Organizations must competitively procure consulting services irrespective of value. The exemptions must be in accordance with the applicable trade agreements.

<b>Goods, Non-Consulting Services and Construction</b>		
<b>Total Procurement Value</b>	<b>Means of Procurement</b>	<b>Recommended/Required</b>
\$0 up to but not including \$100	Petty cash	Recommended
\$100 up to but not including \$3,000	Procurement card (P-card)	Recommended
\$3,000 up to but not including \$10,000	Purchase order	Recommended
\$10,000 up to but not including \$100,000	Invitational competitive procurement (minimum of three suppliers are invited to submit a bid)	Recommended
\$100,000 or more	Open competitive process	Required
<b>Consulting Services</b>		
<b>Total Procurement Value</b>	<b>Means of Procurement</b>	<b>Recommended/Required</b>
\$0 up to but not including \$100,000	Invitational or open competitive process	Required
\$100,000 or more	Open competitive process	Required

Organizations must not reduce the overall value of procurement (e.g., dividing a single procurement into multiple procurements) in order to circumvent competitive procurement thresholds.

### **7.2.4 Mandatory Requirement #4: Information Gathering**

Where results of informal supplier or product research are insufficient, formal processes such as a Request for Information (RFI) or Request for Expression of Interest (RFEI) may be used if warranted, taking into consideration the time and effort required to conduct them.

A response to RFI or RFEI must not be used to pre-qualify a potential supplier and must not influence the chances of the participating suppliers from becoming the successful proponent in any subsequent opportunity.

### **7.2.5 Mandatory Requirement #5: Supplier Pre-Qualification**

The Request for Supplier Qualification (RFSQ) enables Organizations to gather information about supplier capabilities and qualifications in order to pre-qualify suppliers for an immediate product or service need or to identify qualified candidates in advance of expected future competitions.

Terms and conditions of the RFSQ document must contain language that disclaims any obligation of the Organization to call on any supplier to provide goods or services as a result of pre-qualification.

### **7.2.6 Mandatory Requirement #6: Posting Competitive Procurement Documents**

Calls for open competitive procurements must be made through an electronic tendering system that is readily accessible by all Canadian suppliers.

### **7.2.7 Mandatory Requirement #7: Timelines for Posting Competitive Procurements**

Organizations must provide suppliers a minimum response time of 15 calendar days for procurement of goods and services valued at \$100,000 or more.

Organizations must consider providing suppliers a minimum response time of 30 calendar days for procurements of high complexity, risk, and/or dollar value.

### **7.2.8 Mandatory Requirement #8: Bid Receipt**

Bid submission date and closing time must be clearly stated in competitive procurement documents. Organizations must set the closing date of a competitive procurement process on a normal working day (Monday to Friday, excluding provincial and national holidays).

Submissions that are delivered after the closing time must be returned unopened.

### **7.2.9 Mandatory Requirement #9: Evaluation Criteria**

Evaluation criteria must be developed, reviewed and approved by an appropriate authority prior to commencement of the competitive procurement process.

Competitive procurement documents must clearly outline mandatory, rated, and other criteria that will be used to evaluate submissions, including weight of each criterion.

Mandatory criteria (e.g., technical standards) should be kept to a minimum to ensure that no bid is unnecessarily disqualified.

Maximum justifiable weighting must be allocated to the price/cost component of the evaluation criteria.

All criteria must comply with [Section 7.2.14](#), Non-discrimination, of the Directive.

The evaluation criteria are to be altered only by means of addendum to the competitive procurement documents.

### **7.2.9 Mandatory Requirement #9: Evaluation Criteria (continued)**

Organizations may request suppliers to provide alternative strategies or solutions as a part of their submission. Organizations must establish criteria to evaluate alternative strategies or solutions prior to commencement of the competitive procurement process. Alternative strategies or solutions must not be considered unless they are explicitly requested in the competitive procurement documents.

### **7.2.10 Mandatory Requirement #10: Evaluation Process Disclosure**

Competitive procurement documents must fully disclose the evaluation methodology and process to be used in assessing submissions, including the method of resolving tie score.

Competitive procurement documents must state that submissions that do not meet the mandatory criteria will be disqualified.

### **7.2.11 Mandatory Requirement #11: Evaluation Team**

Competitive procurement processes require an evaluation team responsible for reviewing and rating the compliant bids.

Evaluation team members must be made aware of the restrictions related to utilization and distribution of confidential and commercially sensitive information collected through the competitive procurement process and refrain from engaging in activities that may create or appear to create a conflict of interest.

Evaluation team members must sign a conflict-of-interest declaration and non-disclosure of confidential information agreement.

### **7.2.12 Mandatory Requirement #12: Evaluation Matrix**

Each evaluation team member must complete an evaluation matrix, rating each of the submissions. Records of evaluation scores must be retained for audit purposes.

Evaluators must ensure that everything they say or write about submissions is fair, factual, and fully defensible.

### **7.2.13 Mandatory Requirement #13: Winning Bid**

The submission that receives the highest evaluation score and meets all mandatory requirements set out in the competitive procurement document must be declared the winning bid.

### **7.2.14 Mandatory Requirement #14: Non-Discrimination**

Organizations must not discriminate or exercise preferential treatment in awarding a contract to a supplier as a result of a competitive procurement process.

### **7.2.15 Mandatory Requirement #15: Executing the Contract**

The agreement between the Organization and the successful supplier must be formally defined in a signed written contract before the provision of supplying goods or services commences.

Where an immediate need exists for goods or services, and the Organization and the supplier are unable to finalize the contract as described above, an interim purchase order may be used. The justification of such decision must be documented and approved by the appropriate authority.

### **7.2.16 Mandatory Requirement #16: Establishing the Contract**

The contract must be finalized using the form of agreement that was released with the procurement documents.

In circumstances where an alternative procurement strategy has been used (i.e., a form of agreement was not released with the procurement document), the agreement between the Organization and the successful supplier must be defined formally in a signed written contract before the provision of supplying goods or services commences.

### **7.2.17 Mandatory Requirement #17: Termination Clauses**

All contracts must include appropriate cancellation or termination clauses. Organizations should seek legal advice on the development of such clauses.

When conducting complex procurements, organizations should consider, as appropriate, the use of contract clauses that permit cancellation or termination at critical project life-cycle stages.

### **7.2.18 Mandatory Requirement #18: Term of Agreement Modifications**

The term of the agreement and any options to extend the agreement must be set out in the competitive procurement documents. An approval by an appropriate authority must be obtained before executing any modifications to the term of agreement.

Extending the term of agreement beyond that set out in the competitive procurement document amounts to non-competitive procurement where the extension affects the value and/or stated deliverables of procurement.

### **7.2.19 Mandatory Requirement #19: Contract Award Notification**

For procurements valued at \$100,000 or more, Organizations must post, in the same manner as the procurement documents were posted, contract award notification. The notification must be posted after the agreement between the successful supplier and the Organization was executed. Contract award notification must list the name of the successful supplier, agreement start and end dates, and any extension options.

### **7.2.20 Mandatory Requirement #20: Supplier Debriefing**

For procurements valued at \$100,000 or more, Organizations must inform all unsuccessful suppliers about their entitlement to a debriefing.

Organizations must allow unsuccessful suppliers 60 calendar days following the date of the contract award notification to request a debriefing.

### **7.2.21 Mandatory Requirement #21: Non-Competitive Procurement**

- i. Organizations should employ a competitive procurement process to achieve optimum value for money. It is recognized, however, that special circumstances may require Organizations to use non-competitive procurement.

Organization may utilize non-competitive procurement only in situations outlined in the exemption, exception, or non-application clauses of the AIT or other trade agreements.

Prior to commencement of non-competitive procurement, supporting documentation must be completed and approved by an appropriate authority within the Organization.

- ii. School boards may utilize a non-competitive procurement process for the procurement of student home to school transportation services for the period July 1, 2011 to December 31, 2011.

### **7.2.22 Mandatory Requirement #22: Contract Management**

Procurements and the resulting contracts must be managed responsibly and effectively.

Payments must be made in accordance with provisions of the contract. All invoices must contain detailed information sufficient to warrant payment. Any overpayments must be recovered in a timely manner.

Assignments must be properly documented. Supplier performance must be managed and documented, and any performance issues must be addressed.

To manage disputes with suppliers throughout the life of the contract, Organizations should include a dispute resolution process in their contracts.

For services, organizations must:

- Establish clear terms of reference for the assignment. The terms should include objectives, background, scope, constraints, staff responsibilities, tangible deliverables, timing, progress reporting, approval requirements, and knowledge transfer requirements.
- Establish expense claim and reimbursement rules compliant with the Broader Public Sector Expenses Directive<sup>1</sup> and ensure all expenses are claimed and reimbursed in accordance with these rules.
- Ensure that expenses are claimed and reimbursed only where the contract explicitly provides for reimbursement of expenses.

### **7.2.23 Mandatory Requirement #23: Procurement Records Retention**

For reporting and auditing purposes, all procurement documentation, as well as any other pertinent information must be retained in a recoverable form for a period of seven years.

Organizations must have a written policy for handling, storing and maintaining the suppliers' confidential and commercially sensitive information.

### **7.2.24 Mandatory Requirement #24: Conflict of Interest**

Organizations must monitor any conflict of interest that may arise as a result of the Members' of the Organization, advisors', external consultants', or suppliers' involvement with the Supply Chain Activities. Individuals involved with the Supply Chain Activities must declare actual or potential conflicts of interest. Where a conflict of interest arises, it must be evaluated and an appropriate mitigating action must be taken.

### **7.2.25 Mandatory Requirement #25: Bid Dispute Resolution**

Competitive procurement documents must outline bid dispute resolution procedures to ensure that any dispute is handled in an ethical, fair, reasonable, and timely fashion. Bid dispute resolution procedures must comply with bid protest or dispute resolution procedures set out in the applicable trade agreements.

---

#### **REFERENCE:**

[Ministry of Finance, Broader Public Sector Procurement Directive](#), Effective July 01, 2011

---