



POLICY:	Ontario Broader Public Sector (BPS) Procurement		
APPROVED BY:	Senior Leadership	APPROVED ON:	March 29, 2022
LAST REVIEW:		REVISED ON:	

PURPOSE

The purpose of this policy is to ensure that Niagara Support Services (NSS) complies with the Broader Public Sector (BPS) Procurement Directive, issued in accordance with the Broader Public Sector Accountability Act, 2010.

The purpose of this directive is to:

- Ensure that NSS’s publicly funded goods and services, including construction, consulting services, and information technology, are acquired by NSS through a process that is open, fair and transparent;
- Outline NSS’s responsibilities throughout each stage of the procurement process;
- Ensure that procurement processes are managed consistently.

SCOPE

This policy applies to all employees, volunteers/students, Board of Directors and NSS members.

PRINCIPLES

The BPS Procurement Directive is based on the five key principles that allow NSS to achieve value for money while following a procurement process that is fair and transparent to all stakeholders.

1. **Accountability:** NSS must be accountable for the results of their procurement decisions and the appropriateness of the processes.
2. **Transparency:** NSS must be transparent to all stakeholders. Wherever possible, stakeholders must have equal access to information on procurement opportunities, processes and results.
3. **Value for Money:** NSS must maximize the value they receive from the use of public funds. A value-for-money approach aims to deliver goods and services at the optimum total lifecycle cost.
4. **Quality Service Delivery:** Frontline services provided by NSS must receive the right product, at the right time, in the right place.
5. **Process Standardization:** Standardized processes remove inefficiencies and create a level playing field.

SUPPLY CHAIN CODE OF ETHICS

To ensure an ethical, professional and accountable BPS supply chain, NSS will adhere to the following Code of Ethics.

Personal Integrity and Professionalism

- Individuals involved with supply chain activities must act, and be seen to act, with integrity and professionalism.
- Honesty, care and due diligence must be integral to all supply chain activities within and between BPS organizations, suppliers, and other stakeholders.
- Respect must be demonstrated for each other and for the environment.



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- Confidential information must be safeguarded.
- Participants must not engage in any activity that may create, or appear to create, a conflict of interest, such as accepting gifts or favours, providing preferential treatment, or publicly endorsing suppliers or products.

Accountability and Transparency

- Supply chain activities must be open and accountable.
- In particular, contracting and purchasing activities must be fair, transparent, and conducted with a view to obtaining the best value for public money.
- All participants must ensure that public sector resources are used in a responsible, efficient and effective manner.

Compliance and Continuous Improvement

- Individuals involved with purchasing or other supply chain activities must comply with this Code of Ethics and the laws of Canada and Ontario.
- Individuals should continuously work to improve supply chain policies and procedures, to improve their supply chain knowledge and skill levels, and to share leading practices.

PROCEDURES

NSS will ensure that all contracts entered by, or in the name of NSS, will follow the requirements set forth in the Broader Public Sector (BPS) Procurement Directive.

APPROVAL AUTHORITY LEVELS

Segregation of Duties

- Segregation of duties prevents any one person from controlling the entire procurement process.
- The five typical functional procurement roles that require approval are:
 - Requisition
 - Budgeting
 - Commitment
 - Receipt
 - Payment
- At least three of the five procurement roles must be segregated.

Approval Authority

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



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Goods, Non-Consulting Services and Construction

- A total procurement value of \$100,000 or more requires an open competitive process.

Consulting Services

- A total procurement value less than \$100,000 requires an invitational or open competitive process.
- A total procurement value of \$100,000 or more requires an open competitive process.

COMPETITIVE PROCUREMENT THRESHOLDS

All Procurements

The overall value of the procurement must not be reduced by dividing it into multiple procurements in order to circumvent the approval requirements.

Invitational Competitive Procurement

Invitational competitive procurement is the contractual acquisition (purchase or lease) of any goods or service, which enables some but not all suppliers to compete in a fair and open environment.

Open Competitive Procurement

- Open competitive procurement is the contractual acquisition (purchase or lease) of any goods or services, which enables all suppliers to compete in a fair and open environment.
- NSS will utilize an open competitive procurement process, as required by the Broader Public Sector (BPS) Procurement Directive, when the estimated value of procurement of goods or services is \$100,000 or more.
- An open competitive procurement process is required for consulting services irrespective of value.

COMPETITIVE PROCUREMENT

Information Gathering

- Where results of informal supplier of product research are insufficient, formal processes such as *Request of Information (RFI)* [used to collect written information about the capabilities of various suppliers or for comparative purposes]; or *Request for Expression of Interest (RFEI)* [used to inform potential proponents of a business opportunity and to solicit proposals] may be used if warranted, taking into consideration the time and effort required to conduct them.
- A response to a 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.

Supplier Pre-Qualification

- The *Request for Supplier Qualifications (RFSQ)* enables NSS to gather information about supplier capabilities and qualifications in order to pre-qualify suppliers for an immediate product or service need, or to identify



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qualified candidates in advance of expected future competitions.

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

PURCHASING

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.

Timeline for Posting Competitive Procurements

A minimum response time of 15 calendar days must be provided to suppliers for procurement of goods and services valued at \$100,000 or more.

EVALUATION

Bid Receipt

- Bid submission date and closing time must be clearly stated in competitive procurement documents.
- NSS 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.

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 the weight of each criterion.
- Mandatory criteria 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.
- The evaluation criteria outlined in the competitive procurement documents must be used when selecting the winning submission.
- Suppliers should not be asked to provide information that will not be evaluated; as such, information may affect the outcome of the evaluation process.

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



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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.

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.

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.

Non-Discrimination

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

CONTRACT AWARD

Executing the Contract

- The agreement between NSS 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 NSS 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.

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

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Termination Clauses

- All contracts must include appropriate cancellation or termination clauses.
- Contract clauses that permit cancellation or termination at critical project lifecycle stages should be considered when conducting complex procurements.

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.

Contract Award Notification

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

Supplier Debriefing

- For procurements valued at \$100,000 or more, NSS must inform all unsuccessful suppliers about their entitlement to a debriefing.
- Unsuccessful suppliers must be provided 60 calendar days following the date of the contract award notification to request a debriefing.

NON-COMPETITIVE PROCUREMENT

Non-Competitive Procurement

A non-competitive procurement process can be employed under special circumstances identified in the *Broader Public Sector Procurement Implementation Guidebook*. The special circumstances include:

- Non-application clauses under the Agreement on Internal Trade (AIT) or other trade agreement
- Single-source situations - multiple suppliers exist, but only one can meet the requirements
- Sole-source situations - only one supplier exists that meets the requirements

Prior to commencement of non-competitive procurement, supporting documentation must be completed and approved by the appropriate authority (one level higher than the requirement for competitive procurement).



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PROCUREMENT DOCUMENTS AND RECORDS RETENTION

Contract Management

- 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.
- A dispute resolution process should be included in the contract for services:
 - The terms for the assignment should include objectives, background, scope, constraints, staff responsibilities, tangible deliveries, timing, progress reporting, approval requirements and knowledge transfer requirements.
 - Expense claims and reimbursement rules compliant with the Broader Public Sector Expenses Directive.
 - Expenses are claimed and reimbursed only where the contract explicitly provides for reimbursement of expenses.

Procurement Records Retention

For reporting and auditing purposes, all procurement documentation must be retained in a recoverable form for a period of seven years.

CONFLICT OF INTEREST

Conflict of Interest

- Individuals involved with the supply chain activities, including NSS employees, suppliers and consultants must declare any actual or potential conflicts of interest.
- Where a conflict of interest arises, it must be evaluated and an appropriate mitigating action must be taken.

DISPUTE RESOLUTION PROCESS

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.

SUPPORTING MATERIALS

Value-Added Incentives

- A value-added incentive is an offer by a supplier over and above the primary goods and services being purchased, with the intent to increase the total value received by the customer.
- To maintain transparency, value-added incentives must not be considered unless they are explicitly requested in the competitive procurement documents.