

Classification: Administration – Finance	Invitational Open and Non Competitive Procurement Processes (BPS)
Policy #: C195	Effective Date: June 2015
Revised Date: June 2015	Review Date:

Policy

The Broader Public Sector Accountability Act, 2010 includes requirements for all agency Procurement activities.

There are three types of procurement processes covered by this policy:

Invitational Competitive Procurement – means any form of requesting a minimum of 3 qualified suppliers to submit a written proposal in response to the defined requirements outlined by Community Living Guelph Wellington. This process will be required for goods, non-consulting services and construction projects between \$10,000 - \$99,999, unless the procurement involves a Vendor of Record (C175 Community Living Guelph Wellington Procurement Policy) and all consulting services up to \$99,999.

Open Competitive Procurement – means a set of procedures for developing procurement contract through an open bidding or proposal process. The intent is to solicit fair, impartial, competitive bids. This process will be required for goods, consulting services, non-consulting services and construction projects costing \$100,000 or more.

For competitive procurement processes outlined above, an evaluation team is responsible for reviewing and rating the compliant bids. The core evaluation team will include the Finance Manager (or designate), the Director of Operations, the requesting Service Manager, and one other person. Other team members may be added from time to time.

Non-Competitive Procurement – means that due to an exemption, exception or non-application clause in the Agreement on Internal Trade (AIT), Community Living Guelph Wellington is not required to complete a Competitive procurement process (see attached Appendix A for list of possible exceptions). This type of procurement is an exception; the requesting staff person must formally establish applicability of the related exception clause in the AIT and receive endorsement for the request from his/her manager. For all non-competitive (single/sole sourcing/non-application) procurement activities the Executive Director must approve the purchase/arrangement prior to negotiation with the vendor. A business case must be provided to the Executive Director in writing outlining the rationale for the exception and confirmation that it meets all requirements for non-competitive procurement. Non-competitive procurement approval cannot be delegated to a lower organizational level.

Agreement on Internal Trade (AIT) and Ontario-Quebec Trade and Cooperation Agreement (O-QA)

The AIT regulates trade between provinces in order to ensure that all Canadian suppliers have equal access to public-sector procurement. Under the AIT and O-QA, organizations must post all procurement opportunities for Goods, Services and Construction that meet or exceed \$100,000 on an electronic tendering system readily accessible by all suppliers across Canada.

ASSOCIATED DOCUMENTS

- C190 Purchasing/Authorization Limits – Operating Funds Approval Authorization Schedule
- C175 - Procurement Policy
- C170 Corporate Expense Policy
- C510 Acquisition of property
- C515 Planned Building Renovations
- C160 Purchasing - Capital
- Agreement on Internal Trade

Procedure

1. Supervisors/Managers will approve requests to purchase and payment for operational expenses to the expressed authorization limits. All expenses must be processed showing the supervisor/manager's initials, plus the account and department the expense is to be coded to.
2. Supervisors may authorize purchases to a maximum of \$3,000.
3. Managers may authorize expenditures to a maximum of \$5,000.
4. Directors may authorize up to \$10,000.
5. Any operational expenditures over \$10,000 must have the prior approval of the Executive Director.
6. This includes authorization for purchases, cheque requests, payment of bills, travel expenses, VISA charges, personal needs requests, etc.
7. If requests for payment of expenses arrive at the Finance Department for processing without the proper authorizations, they will be returned to the person responsible for making the request.

Invitational and Open Competitive Procurement Required Steps procurement in excess of \$10,000:

1. Purchase need identified:

This step involves the completion of the Procurement Business Case Form by the requesting manager. Once completed, this form is to be forwarded to the appropriate Director for approval to move to next step.

2. Planning:

This step involves the development of the Evaluation Committee – core members are Director of Operations, Finance Manager (or designate), the requesting Service Manager, and one other person. The Lead for this process will: confirm and document members, ensure that the Supply Chain Conflict of Interest, Supply Chain Code of Ethics and Confidentiality/Non-Disclosure documents are reviewed and signed by all members, ensure all members review the completed Business Case Form (from Step 1).

3. Requirements:

This step confirms what the specific requirements are for this procurement activity and will assist with the next step in the process:

- Conduct key stakeholder consultations
- Summarize results of stakeholder consultations
- Develop business specifications
- Develop technical specifications using subject matter experts
- Create final procurement specifications
- Sign-off on procurement specifications

**** Please note from step 4 on the BPS Directive Mandatory Requirements are bolded within each step****

4. Competitive Document:

This step involves the Evaluation Committee developing a competitive document which is sent out to specific suppliers for an Invitational Competitive process, or posted on a public site (e.g. MERC'S) for an Open Competitive process.

The three major types of competitive procurement documents are described below.

- Request For Proposal (RFP). The purpose of an RFP is to request suppliers to provide solutions for the delivery of complex goods or services, or, where explicitly required, to provide alternative options or solutions. This process uses multiple predetermined evaluation criteria, including price.
- Request for Tender (RFT). The purpose of an RFT is to request suppliers to submit bids to provide goods or services based on stated delivery requirements, performance specifications, terms, and conditions. An RFT focuses the evaluation criteria predominantly on the price and delivery requirements.
- Request for Quotation (RFQ). An RFQ is a document similar to an RFT. In an RFQ, Organizations describe exactly the goods and services to be provided; the proposal evaluation is based solely on price.

There are a number of important things to include in the required document as follows:

- Determine and Specify:
 - Clear description of required goods or services. Goods or services must be described in generic and/or functional terms specific to business needs.
 - **Bid response time** (require 15 days for routine procurements in excess of \$100,000; 16-30 days for procurements of high complexity, risk and/or dollar value).
 - **Date and time responses need to be received (must be a normal working day, so Monday to Friday, excluding holidays)**
 - Name, contact information and location of contact person, i.e., Bid Administrator-as identified by Evaluation Committee (add a statement that suppliers who bypass this contact person may be disqualified)
 - Submission rules, bid receipt information (for example, pricing information in a separate envelop) and process for bid opening
 - **Expense claims and reimbursement rules (include statement that Community Living Guelph Wellington complies as per Broader Public Sector Expenses Directive)**
 - **Contract terms & conditions, contract base term & extension, date when contract extension needs to be invoked**
 - **Conditions that must be met: mandatory requirements, including technical standards (include statement: submissions that do not meet the mandatory criteria will be disqualified)**
 - Evaluation criteria and process (must be approved by Procurement Lead prior to commencement of the competitive process)

- price/cost (maximum justifiable weighting must be allocated to this component)
- resolving a tie score
- rated requirements
- minimum required rating
- role of sub teams
- shortlist process
- role and rating of Supplementary Evaluation
- alternative strategies or solutions
- **Bid dispute resolution process and procedure**
 - Offer opportunity for supplier to request a vendor debriefing
 - Consider form of agreement with a ceiling on the contract value (for example, a cap on the contract value or contract length; applies to services)
 - Consider contract clauses that permit cancellation or termination at critical project life-cycle stages
 - Consider statement for cancellation of competition if received bids exceed allocated budget, do not meet requirements or do not represent fair market value
 - Request for a list of any subcontractors that will be used
 - Add notice that any confidential information supplied to the organization may be disclosed by the organization where it is obliged to do so under FIPPA, by an order of a court or tribunal or otherwise required at law
 - Ensure agreement/approval of competitive document before issuing
 - Post or email competitive document, or designate a pick-up time for interested suppliers to collect competitive document

5. Internal compliance:

This step confirms procurement processes comply with the Broader Public Sector Procurement Directive, and to Community Living Guelph Wellington policies and procedures. This is an internal reporting tool that can be used to communicate to the Senior Leadership Team and the Board of Directors.

6. Blackout period and Bid Receipt:

This step ensures a fair blackout period and bid opening process. It also confirms how communication and information will be shared during the blackout period. Please note the following:

Blackout period

- Make sure to follow the process outlined in the competitive document
- All communications are through contact identified in the competitive document (i.e., Bid Administrator)

- **Ensure Evaluation Team members do not communicate or provide information to bidders during blackout period**
- Ensure employees or other members of the organization do not communicate or provide information to bidders during blackout period
- Manage changes to competitive documents via:
 - Modifications via Addenda in the same manner as the competitive document (e.g., email or pick-up). Addenda are prepared where the posted documents need to be modified due to errors, omissions or conflicts in the documents.
 - Clarifications through Question-and-Answer (Q&A) in the same manner as the competitive document (e.g., email or pick-up). Q&A responses are prepared where the posted documents require clarification only; no changes to the actual documents are required
- All modifications issued a few days prior to submission deadline

Bid Receipt (performed by Bid Administrator)

- Make sure to follow the process outlined in the competitive document
- Stamp/log each bid as it arrives (date, time, location, company name, contact information)
- **Do not open bids received after submission deadline, return un-opened**
- Open bids after submission deadline has passed
- Ensure there is at least one witness

7. Evaluation:

This step includes the evaluation and notification of the contract award to the highest ranking submission meeting all mandatory requirements:

- **Follow the evaluation process outlined in the competitive document**
- Determine in-house process for managing changes to individual evaluation matrix (where individual misunderstood or misinterpreted)
- Perform mandatory compliance review (pass/fail)
- **Score rated requirements using an evaluation matrix (minimum required rating can only be used if declared in RFP/RFQ or equivalent)**
- Reject submissions failing mandatory compliance review or not meeting minimum required rating
- Consolidate all evaluation matrices to determine the overall ranking score
- If shortlist declared in RFP/RFQ or equivalent, evaluate shortlist
- Is a Supplementary Evaluation required? (i.e., technical or clinical product evaluation, site visit, supplier presentation, reference checks)
 - No
 - Score price/cost (have bid administrator open pricing envelop)

- Invoke method identified in competitive document in the event of a tie
- Choose the highest ranking submission meeting all mandatory requirements
- Issue contract award letter to highest ranking submission
- Yes
 - If shortlist declared in RFP/RFQ or equivalent, evaluate shortlist
 - If no shortlist declared in RFP/RFQ or equivalent, then evaluate all proponents
 - Select additional evaluation team members to conduct technical or clinical product evaluation (as necessary)
 - Finalize criteria for Supplementary Evaluation (if applicable and declared in RFP/RFQ or equivalent)
 - Complete Supplementary Evaluation
 - Score price/cost (have bid administrator open pricing envelop)
 - Invoke method identified in competitive document in the event of a tie
 - Choose the highest ranking submission meeting all mandatory requirements
 - Issue contract award letter to highest ranking submission
- Records of evaluation scores must be auditable
- Everything said or documented must be fair, factual, fully defensible, non-discriminatory and may be subject to public scrutiny
- Evaluations must not discriminate or exercise preferential treatment

8. Agreement:

This step involves entering into an agreement with the successful supplier. Please note the following requirements:

- Contract must be finalized using the terms released with the competitive document as applicable (e.g. scope, objectives, constraints, tangible deliverables, staff responsibilities, approval requirements, knowledge transfer requirements, invoicing requirements, dispute resolution process)
- Contract must include appropriate cancellation and/or termination clauses
- Contract must specify the term (start and end date) and any options for extensions
- Consider contract clauses that permit cancellation or termination at critical project life-cycle stages (this could include loss of ministry funding events as well)
- Signed contract must be in place before the provision of the goods or services commences
 - In situations where an immediate need exists and a contract signed by both parties is not yet available, an interim purchase order may be used

- Verify appropriate individual from both parties signed the contract (dollar value and contract signing authority as outlined in C190 Purchasing and Authorization limits)

9. Award Notification:

This step involves: confirming the contract is signed by both parties and notifying suppliers who were not successful. For procurements valued at \$100,000 or more, Community Living Guelph Wellington will post, in the same manner as the procurement documents were posted, contract award notification (after the agreement has been signed by both parties). The notification must include the name of the successful supplier, agreement start and end dates, and any extension options.

This is also a chance for the Evaluation Committee to review the process followed, including any lessons learned.

10. Vendor Debriefing (*Required for Open Competitive Process only >\$100,000*)

This step ensures a successful and fair debriefing with suppliers who requested a vendor debriefing session:

- Allow up to 60 calendar days following the date of contract award notification for supplier to request debriefing
- Conduct separate debriefings with each supplier
- Confirm date and timing of debriefing session in writing
- Ensure the same participants attend every debriefing session (at least one person should be present at all debriefings)
- Retain all debriefing documentation

When conducting the debriefing:

- Provide general overview of evaluation process set out in the competitive document
- Discuss strengths and weakness of the supplier's submission in relation to the evaluation criteria (do not provide any details of any other bidders)
- Provide suggestions on how the supplier could improve on future submissions
- Be open to feedback from the supplier on current procurement processes and practices
- Address specific issues and questions raised by the supplier regarding their submission
- Once debriefing session completed, escalate any issues or risks to senior leadership team as necessary

11. Documentation Retention:

This step ensures that all procurement documentation, information and communication is maintained in recoverable form for a minimum of seven years:

- **All documents, information and communication related to the procurement processes needs to be maintained in recoverable form for minimum of seven years** (including but not limited to):
 - Procurement business case
 - Evidence of approvals

- Non-Competitive documentation
- Competitive document (RFP/RFQ or equivalent)
- All RFP/RFQ or equivalent submissions
- Modifications/Clarifications
- Evaluation records (includes individual evaluation matrix & notes AND summary matrix & notes)
- Award notice
- Contract (originally signed as well as any changes)
- All vendor debriefing documents
- Bid dispute and resolution
- Supplier performance information

Non-Competitive Procurement (Single/Sole Source or non-application):

This process is to be used only in exceptional situations for the procurement of goods or services. Specific circumstances must be documented, authorized and in accordance with an exception, exemption or non-application clause from an applicable trade agreement (see attached Appendix A). The following steps are required:

1. Purchase need identified:

This step involves the completion of the Procurement Business Case Form by the requesting staff person. Once completed, this form is to be forwarded to the authorizing staff person as outlined in policy C190 Purchasing and Authorization limits for approval. The completed document is then forwarded to the Executive Director for review and approval as an exception to the regular competitive procurement process. The Executive Director is required to complete the Non-Competitive Procurement Approval Form-this is required to move to the next step.

2. Planning:

This step involves the Procurement Lead (ie Director of Operations) ensuring that: the Supply Chain Conflict of Interest, Supply Chain Code of Ethics and Confidentiality/Non-Disclosure documents are reviewed and signed by those involved in the specific procurement activity; the completed Business Case Form and Non-Competitive Procurement Approval Form (from Step 1) is received.

3. Requirements: Please follow Step 3 from Invitational and Open Competitive Procurement Required Steps above.

4. Internal Compliance: Please follow Step 5 from Invitational and Open Competitive Procurement Required Steps above.

5. Quote: This step involves obtaining a quote and other required details. At or before the time of purchase, the quote needs to be documented.

6. Agreement: Please follow Step 8 from Invitational and Open Competitive Procurement Required Steps above.

7. Award Notification:

This step involves: confirming the contract is signed by both parties; sending email notification to Senior Leadership team to advise of the completion of the Non-Competitive procurement process. This is also a chance to review if there are any lessons learned from this process.

8. Document Retention: Please follow Step 11 from Invitational and Open Competitive Procurement Required Steps above.

Appendix A

Non-Competitive Procurement Approval Form – Exception Codes

Sole Source

- a. To ensure compatibility with existing products, to recognize exclusive rights, such as exclusive licences, copyright and patent rights, or to maintain specialized products that must be maintained by the manufacturer or its representative;
- b. Where there is an absence of competition for technical reasons and the goods or services can be supplied only by a particular supplier and no alternative or substitute exists;
- c. For the procurement of goods or services the supply of which is controlled by a supplier that is a statutory monopoly;
- d. For the purchase of goods on a commodity market;
- e. For work to be performed on or about a leased building or portions thereof that may be performed only by the lessor;
- f. For work to be performed on property by a contractor according to provisions of a warranty or guarantee held in respect of the property or the original work;
- g. For a contract to be awarded to the winner of a design contest;
- h. For the procurement of a prototype of a first good or service to be developed in the course of and for a particular contract for research, experiment, study or original development, but not for any subsequent purchases;
- i. For the purchase of goods under exceptionally advantageous circumstances such as bankruptcy or receivership, but not for routine purchases;
- j. For the procurement of original works of art;
- k. For the procurement of subscriptions to newspapers, magazines or other periodicals; and
- l. For the procurement of real property.

Single Source

- a. Where an unforeseeable situation of urgency exists and the goods or services cannot be obtained in time by means of open procurement procedures;
Failure to plan and allow sufficient time for a competitive procurement process does not constitute an unforeseeable situation of urgency.
- b. Where goods or services regarding matters of a confidential or privileged nature are to be purchased and the disclosure of those matters through an open tendering process could reasonably be expected to compromise government confidentiality, cause economic disruption or otherwise be contrary to the public interest;
- c. Where a contract is to be awarded under a cooperation agreement that is financed, in whole or in part, by an international cooperation organization, only to the extent that the agreement between the entity and the organization includes rules for awarding contracts that differ from the obligations set out in the Directive;
- d. Where construction materials are to be purchased and it can be demonstrated that transportation costs or technical considerations impose geographic limits on the available supply base, specifically in the case of sand, stone, gravel, asphalt, compound and pre-mixed concrete for use in the construction or repair of roads;
- e. Where compliance with the open tendering provisions set out in the Directive would interfere with the entities' ability to maintain security or order or to protect human, animal or plant life or health; and
- f. In the absence of a receipt of any bids in response to a call for proposals or tenders made in accordance with the Directive.

Non-Application

- a. Procurement of goods intended for resale to the public;
- b. Contracts with a public body or a non-profit organization;
- c. Procurement of goods and services purchased on behalf of an entity that is out of scope of the Directive;
- d. Procurement from philanthropic institutions, prison labour or persons with disabilities;
- e. Procurement of any goods the inter-provincial movement of which is restricted by laws not inconsistent with the trade agreements;
- f. Procurement of goods and services that is financed primarily from donations that are subject to conditions that are inconsistent with the Directive;
- g. Procurement of goods and services related to cultural or artistic fields and computer software for educational purposes;
- h. Procurement of services that in Ontario may, by legislation or regulation, be provided only by any of the following licensed professionals: medical doctors, dentists, nurses, pharmacists, veterinarians, engineers, land surveyors, architects, accountants, lawyers and notaries;
- i. Procurement of services of financial analysts or the management of investments by organizations who have such functions as a primary purpose;
- j. Procurement of financial services respecting the management of financial assets and liabilities (i.e., treasury operations), including ancillary advisory and information services, whether or not delivered by a financial institution;
- k. Procurement of goods and services for use outside Canada as well as construction work done outside Canada; and
- l. Health services and social services.