

Procurement Guideline

for Publicly Funded Organizations
in Ontario

Table of Contents

Introduction	1
Guiding Principles behind Procurement Best Practices	2
Responsible management	2
Value for money.....	2
Vendor access, transparency and fairness	2
Quality service delivery	2
Upholding Ontario’s trade agreements.....	2
Supply Chain Code of Ethics.....	3
Personal integrity and professionalism	3
Accountability and transparency	3
Compliance and continuous improvement	3
Procurement Best Practices.....	4
1. Establish internal controls	4
2. Plan before purchasing	6
3. Develop criteria.....	7
4. Canvass the market.....	8
5. Purchase.....	9
6. Document the transaction	11
7. Keep records	12
8. Manage contracts responsibly.....	12
9. Review and improve	13
Non-competitive procurement.....	13
Definitions	14
For additional information.....	17
Contact information.....	17

Introduction

The *Procurement Guideline for Publicly Funded Organizations in Ontario* is a summary of best practices in the procurement of goods and services for organizations funded by the Ontario government and not designated under the [Broader Public Sector Accountability Act, 2010](#). It is a tool that may be used voluntarily as a reference on best practices in the procurement of goods and services using public funds or a resource for organizations seeking more cost-effective and consistent purchasing practices.

The proclamation of the Broader Public Sector Accountability Act, 2010 established new rules for procurement in the [Broader Public Sector Procurement Directive](#). Organizations designated under the act include hospitals, school boards, colleges, universities, community care access centres, children's aid societies and organizations that receive more than \$10 million in funding from the Ontario government. Designated organizations are required to comply with the Broader Public Sector Procurement Directive.

Those organizations that receive funding from the Ontario government and that are not designated by the act are not required to comply with the Broader Public Sector Procurement Directive. They are encouraged, however, to use the Procurement Guideline to improve openness, fairness and transparency during the procurement process.

It is meant for voluntary use by the thousands of publicly funded organizations in Ontario. These are primarily charities and incorporated not-for-profit groups. All of the organizations are integral to the local population's well-being and day-to-day activities. They have representation in areas such as settlement, arts, sports, health, education, accessibility and child care, and serve every region and demographic in the province.

Guiding Principles behind Procurement Best Practices

It is up to the individual organizations to determine the best use of public funds when deciding on a purchase. It is good practice, however, to observe certain procurement best practices or guidelines to ensure the process is open, fair and transparent.

Responsible management

No matter how small the organization or the procurement, there should be an adequate organizational structure, policies and procedures to be able to manage procurement contracts fairly and effectively.

Value for money

Buyers should consider factors such as the requirements of the business, alternatives, timing, supply strategy and total life cycle costs of the good or service when evaluating vendors' submissions.

Vendor access, transparency and fairness

Publicly funded organizations should provide all qualified vendors with fair access to the purchase of goods and services. Buyers should avoid conflict of interest, both real and perceived, and choose the successful vendor in a fair and non-discriminatory process.

Quality service delivery

Procurement activities should result in the delivery of the required product or service at the right time and place to organizations. This is especially critical for those organizations involved in healthcare, education and social services.

Upholding Ontario's trade agreements

Organizations should recognize and respect Ontario's trade agreements with other jurisdictions that open access to publicly funded procurement where they apply.

Supply Chain Code of Ethics

A [supply chain code of ethics](#) should govern the conduct of buyers, vendors and all others involved in supply chain activities.

It defines acceptable behaviour for ethical, professional and accountable supply chain activities. If your organization already has a code of ethics, it may be augmented to include specific supply chain clauses.

Personal integrity and professionalism

The public expects their taxpayers' money to be used with honesty, due diligence and care. Individuals involved with supply chain activities are expected to conduct themselves with integrity and professionalism, show respect for each other and the environment, and safeguard confidential information. Organizations should not engage in any activity that creates, or appears to create, a conflict of interest.

Accountability and transparency

All activities involved in the purchase of goods and services using public funds should be fair and transparent, and for the purpose of acquiring the best value for money.

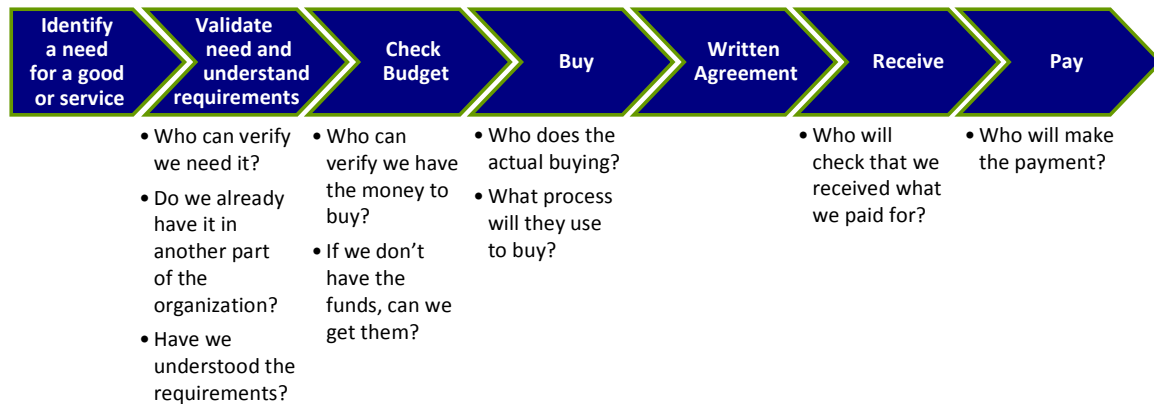
Compliance and continuous improvement

Organizations should establish and regularly review their own policies and procedures around supply chain management. They should make improvements as necessary, acquire additional supply chain knowledge and skills, and share best practices.

Procurement Best Practices

Every organization, regardless of size, should have procurement policies and procedures in place. The following sections set out best practices that can be implemented as part of an organization's procurement policies and procedures. Staff should be made aware of these policies and procedures and how they should be carried out to establish a point of reference for effective decision-making.

Below is a simple process flow that will help guide the organization when deciding on a purchase.



1. Establish internal controls

Internal controls are mechanisms in the procurement process that help reduce exposure to inappropriate, unauthorized or unlawful expenditures. Internal controls help ensure that purchases have been authorized, that goods or services have actually been received, and that funds exist to meet the expenditure.

Assigning responsibilities and establishing an approval authority schedule are essential internal controls that promote the integrity of the procurement process. Internal controls may be influenced by the size and complexity of the organization. In larger publicly funded organizations, for example, procurement responsibilities may be centralized and/or reside in different departments or with different individuals.

In smaller organizations where different departments or individuals may not be involved in procurement, and where it may not be feasible to separate specific roles, adequate controls approved by an external auditor should be put in place. If an organization conducts a Review Engagement, the Review Engagement may be a good time to see if adequate controls are in place.

Organizations should establish an Approval Authority Schedule. An Approval Authority Schedule defines who within the organization has responsibility for the procurement of goods and services at different dollar thresholds.

The table below provides some examples of different dollar thresholds and purchasing authority levels for small, medium and large organizations. Each organization should determine their own dollar thresholds that balance the need for controls with the need to operate effectively on a day to day basis.

Sample Dollar Thresholds					
Example 1: Small		Example 2: Medium		Example 3: Large	
Up to \$100	Supervisor	Up to \$1,000	Supervisor	Up to \$5,000	Supervisor
Up to \$300	Program Director	Up to \$3,500	Program Director	Up to \$10,000	Program Director
Up to \$5,000	Executive Director/CEO	Up to \$10,000	ED/CEO	Up to \$50,000	ED/CEO
Over \$5,000	Board of Directors	Over \$10,000	Board of Directors	Over \$50,000	Board of Directors

In addition to procurement, internal controls for expenses are useful for smaller, publicly funded organizations. The controls should apply to everyone, staff and volunteers alike, without exception, preferably with a written policy in place for payment of expenses.

The Ministry of Government Services has developed the [BPS Expenses Directive](#). The purpose of this directive is to set out the requirement for designated BPS organizations to establish expense rules where expenses are reimbursed from public funds. The directive serves as a guideline to all other non-designated, publicly funded organizations. It is useful for reviewing or developing an organization's expense policies and practices.

2. Plan before purchasing

Organizations should plan adequately for all purchases, whether they are recurring or one-time purchases.

Identify:

- what product or service the organization requires, or if the requirement can be filled using existing resources
- market availability
- an estimate of the total cost of the procurement, including any possibilities for extension or costs that are beyond the initial purchase price. Examples of cost beyond the initial purchase price include:
 - taxes or duties
 - shipping, handling, delivery
 - installation
 - insurance or warranty
 - maintenance and service
 - disposal
 - consulting or training
 - changes required to existing products or services based on the new product or service.
- the procurement method (informal, invitational, open competitive or non-competitive), that is commensurate to the total cost of the procurement and market availability
- internal approvals and timeline to complete the purchase
- the duration of the contract, with consideration for total services to be provided, optimum value for money and most favourable terms of the agreement
- how the organization's values, such as diversity, aligns with its internal procurement policies and business and legal requirements.

There may also be contracts available that have been negotiated in advance by a lead organization. When assessing a possible procurement, the organization can look up [regional buying groups and shared service organizations](#). These organizations have group purchasing contracts that are already in place and may benefit the buyer through better pricing and volume discounts.

3. Develop criteria

Organizations should have a process in place to review bids before the competitive process begins. This includes:

- specifying what criteria prospective vendors have to meet in order to qualify for a contract award for goods or services. A set list of expectations that is clear to the organization as well as to the vendors will help in evaluating bids. The organization should determine the importance of each criterion and assign a weighting, i.e., “number of points” for each item. The organization should also determine if there are any mandatory criteria that must be met for a bid to be considered, for example, if the supplier has proper insurance to perform the work. To maintain fairness and transparency, the criteria and weighting should be set prior to the start of the procurement. For simple purchases, there may be a single criterion, which could be price or delivery.

For more complex purchases, there may be multiple criteria that factor into the award decision:

- total cost of ownership, including price of product or service, taxes, other expenses
 - quality
 - quantity
 - transition costs
 - delivery
 - servicing
 - environmental considerations
 - experience
 - expertise
 - financial capacity of supplier to meet procurement requirements.
- an evaluation team that has signed non-disclosure and confidentiality agreements, and a conflict of interest form
 - a description of how the winning bid will be selected, for example, the winning bid will be the one that receives the highest evaluation score and meets mandatory criteria.

The criteria will help determine the type of procurement document to be used.

The three most common types of documents that support these processes are:

[Request for Tender, Request for Quotation and Request for Proposal](#). A Request for Tender and Request for Quotation are used when the evaluation criteria are based primarily on price or price and delivery. A Request for Proposal is a document used to outline evaluation criteria for a good or service that will be selected on factors other than price or delivery alone.

4. *Canvass the market*

Gather information about potential vendors prior to procuring goods or services in order to ensure that the organization is as well-informed as possible. Information about vendors, pricing, local community and general trends can help organizations make better choices.

Some examples of informal ways to gather information about vendors include:

- networking with organizations with a similar business need
- internet searches
- checking references
- checking with Better Business Bureau and electronic supplier websites.

Some formal ways of collecting information include using a [Request for Information or Request for Expressions of Interest](#). These methods may be used when the information collected informally is not sufficient. The more formal methods of gathering information may require more work by both the organization and vendors. For this reason, formal methods are preferable for high dollar or high risk purchases when the organization is not sure of what is available in the market. For example, an organization that wants to introduce an automated system would need information about what is available in the market and the vendors' capabilities. A Request for Information may also include a request to provide advice for an innovative technological solution.

A Request for Expressions of Interest gives the organization an opportunity to learn about vendor interest and the community's ability to provide the necessary services or solutions.

To maintain fairness and transparency, a Request for Information and Request for Expressions of Interest should not:

- be used to evaluate or compare the collected information
- result in the award of work
- be used to pre-qualify potential vendors
- result in a legal contract with a vendor
- require vendors to provide proprietary information without a non-disclosure agreement.

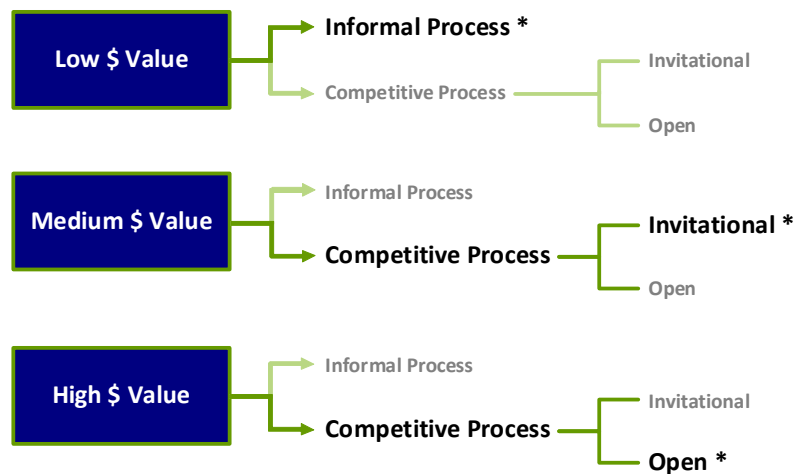
5. Purchase

The organization should “right size” the procurement method to the procurement’s value and risk. For example, it would be impractical for an organization to seek Board of Directors’ approval for each low dollar, routine purchase. Conversely, procurements of medium to high dollar value should be managed utilizing the appropriate procurement strategy to ensure value for money.

An example of a high-risk procurement could be one where a vendor dispute already exists, or when an organization is procuring a good or service on which it has little expertise.

Making high-risk procurements more open gives the organization greater transparency in their process and provides them with a wider selection of vendors and solutions.

Guide To Procurement Method



* Recommended Procurement Method in BOLD.

For low-dollar and low-risk or routine purchases, it may be appropriate to use an informal procurement process. An example of informal procurement would be to order from a supplier catalogue or to simply buy retail. For frequent, low-dollar-value purchases, there is still opportunity to maximize value for money. For example, if the organization routinely purchases groceries, it could look at how much is spent over the entire year, rather than individual purchases, to ensure the procurement strategy continues to be effective.

When dealing with medium- to high-dollar procurements, it may be appropriate to use a competitive procurement process. There are two types of competitive procurement processes: [invitational competitive](#) and [open competitive](#):

Competitive Procurement: Invitational

An invitational competitive process involves requesting a minimum of three qualified suppliers to submit a written proposal based on the requirements outlined by an individual or organization. The request may take the form of email, phone call or other methods the organization uses to solicit bids.

Competitive Procurement: Open

An open competitive process enables all suppliers to compete in a fair and open environment related to the contractual purchase or lease of any good or service by an organization. Selecting bids from the widest possible range of vendors may provide greater insight regarding market opportunities. There are electronic tendering sites that are accessible to a wide range of vendors. These sites may be available free for the buyer to post opportunities.

This will attract a higher level of vendor response and help maintain open, fair and transparent procurement standards.

When soliciting bids, organizations should consider:

- giving vendors a minimum response time of 15 calendar days for goods and services. For more complex and higher-priced goods or services, organizations should consider a longer response time, such as 30 days or more.
- including a “blackout” period. During the blackout period, vendors must conduct all communications about the procurement only with the contact person named in the procurement document. The blackout period begins when the procurement documents are issued and ends when the agreement is signed by the organization and the winning vendor.
- ensuring any addendum to the procurement documents and question-and-answer are available to all bidders.
- ensuring the submission and closing dates for bids are stated clearly in the procurement documents. Bids that are received after the closing date should be returned to the vendor unopened.
- ensuring vendors submit accurate bids as much as possible and including technical information to tender documents, where applicable.

For open competitive procurements, organizations should consider posting the name of the successful vendor, the start and end dates of the agreement, and any extension options. This information can be posted where the original procurement opportunity was advertised. It is good practice to notify all other bidders that a contract has been awarded and that the selection process is complete. To maintain cordial vendor relationships, vendors should also be informed that they are entitled to a [debriefing](#). The Broader Public Sector Procurement Directive Implementation Guidebook contains additional information of the types of information that can be shared with vendors in a debriefing.

Vendor of Record Agreements

For frequent purchases of a particular good or service, a Vendor of Record agreement can help improve procurement efficiency. An organization may create its own Vendor of Record or, with a group of organizations, jointly establish Vendor of Record agreements for common and frequently-used goods or services.

A Vendor of Record Agreement consists of two steps:

- an open competitive procurement to pre-qualify suppliers
- an invitation to vendors from the pre-qualified list to bid on an identified procurement for goods or services.

The Broader Public Sector Procurement Directive Implementation Guidebook contains additional information on how to develop [Vendor of Record agreements](#).

6. Document the transaction

At the end of the selection process, a contract between the organization and the successful supplier should be drawn up. A contract is the formal agreement between the two parties that includes the product details or the service to be provided, and the payment schedule.

Organizations should consider including the following elements in a contract:

For products

- price
- product specifications
- terms and conditions such as contract dates, warranty and performance.

For services

- terms of reference such as objectives, background, scope, constraints, staff responsibilities, tangible deliverables, timing, progress report, approvals and knowledge transfer requirements
- dispute resolution process
- expense claims and reimbursements in accordance with the organization's expense claim policy.

In both cases, in order to mitigate risk of vendor non-performance, terms of payment and requirement for various types of vendor insurance should be clearly stated.

7. Keep records

Publicly funded organizations should keep records of procurement, as well as any other pertinent information, for reporting and auditing purposes. The suggested retention period is seven years. There should also be a written policy for handling, storing and maintaining vendors' confidential and commercially sensitive information.

Some examples of records that should be retained include:

- the approvals obtained
- copies of procurement documents used to qualify and select vendors
- copies of award letters, notices and posted announcements
- copies of agreements
- changes to the terms and conditions of the agreement, especially changes in the agreement price
- supplier performance, such as performance monitoring and management, and knowledge transfer
- receipt of deliverables
- any other documentation related to procurement.

8. Manage contracts responsibly

The agreement between the organization and the successful vendor should be formally set out in a contract signed by the parties. The contract should include items specified in the procurement documents, such as cancellation and termination clauses, any options to extend the agreement and a bid dispute mechanism. The organization should monitor the vendor's performance and verify all invoices and payments against the terms of the contract.

9. Review and improve

- Develop a time frame, for example, once a year, to review procurement policies to make sure they still apply to the organization's present business and operational needs.
- Monitor procurement expenditures, such as invoices, regularly, based on budget allocation or business plan.
- Monitor contracts, vendor performance and satisfaction with the procurement process regularly, and introduce improvements as necessary.

Non-competitive procurement

Organizations should use competitive procurement processes to get maximum value for money. There may be situations, however, when organizations are unable to conduct competitive procurement or get maximum value under competitive procurement. When using non-competitive procurement, it is good practice to document the reasoning for using this method and to obtain proper approvals.

Definitions

Agreement means the formal written document that will be entered into at the end of the procurement process.

Bid dispute resolution means a provision in the competitive procurement documents that outlines procedures to ensure that any protest to a bid 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.

Contract means an obligation, such as an accepted offer, between competent parties upon a legal consideration, to do or abstain from doing some act. It is essential to the creation of a contract that the parties intend that their agreement shall have legal consequences and be legally enforceable. The essential elements of a contract are an offer and an acceptance of that offer; the capacity of the parties to contract; consideration to support the contract; a mutual identity of consent or consensus ad idem; legality of purpose; and sufficient certainty of terms.

Competitive Procurement means a set of procedures for developing a procurement contract through a bidding or proposal process. The intent is to solicit fair, impartial competitive bids.

Designated broader public sector organization means an organization to which section 12 of the Broader Public Sector Accountability Act, 2010 applies. This means:

- a. every hospital
- b. every school board
- c. every university in Ontario and every college of applied arts and technology and post-secondary institution in Ontario whether or not affiliated with a university, the enrolments of which are counted for purposes of calculating annual operating grants and entitlements
- d. every approved agency designated as a children's aid society under subsection 15 (2) of Part I of the Child and Family Services Act
- e. every community care access corporation
- f. every corporation controlled by one or more designated broader public sector organizations that exists solely or primarily for the purpose of purchasing goods or services for the designated broader public sector organization or organizations
- g. every publicly funded organization that received public funds of \$10 million or more in the previous fiscal year of the Government of Ontario, and
- h. every organization that is prescribed for the purposes of this definition.

Electronic Tendering System means a computer-based system that provides vendors with access to information related to open competitive procurements. Two examples of electronic tendering systems are biddingo.com and merx.com.

Evaluation Criteria means a benchmark, standard or yardstick against which accomplishment, conformance, performance and suitability of an individual, alternative, activity, product or plan is measured to select the best supplier through a competitive process. Criteria may be qualitative or quantitative in nature.

Invitational competitive procurement means any form of requesting a minimum of three qualified suppliers to submit a written proposal in response to the defined requirements outlined by an individual/ organization.

Open competitive procurement means the contractual acquisition (purchase or lease) by an organization of any good or service, which enables all suppliers to compete in a fair and open environment. In order to reach a large population of potential suppliers, organizations should use common electronic tendering methods for posting competitive documents.

Procurement means the acquisition by any means, including by purchase, rental, lease or conditional sale, of goods, services or construction.

Procurement Value means the estimated total financial commitment resulting from procurement, taking into account optional extensions.

Publicly funded organizations means every authority, board, commission, committee, corporation, council, foundation or organization that received public funds in the previous fiscal year of the Government of Ontario, but does not include:

- a. the Office of the Lieutenant Governor
- b. the Office of the Assembly or the office of an officer of the Assembly
- c. a ministry of the Government of Ontario
- d. an agency of the Government of Ontario
- e. a municipality
- f. subject to the regulations, a local board as defined in section 1 of the Municipal Act, 2001 and section 3 of the City of Toronto Act, 2006
- g. a board of health under the Health Protection and Promotion Act
- h. subject to the regulations, an organization that undertakes its activities to the purpose of profit to its shareholders
- i. a long-term care home, or
- j. any organization excluded under the regulations.

Request for Proposal means a procurement document that requests vendors to supply solutions for the delivery of complex products or services or to provide alternative options or solutions. It is a process that uses predefined evaluation criteria in which price is not the only factor.

Request for Supplier Qualifications means a document used to gather information on supplier capabilities and qualifications with the intention of creating a list of pre-qualified suppliers. This mechanism may be used either to identify qualified candidates in advance of expected future competitions or to narrow the field for an immediate need. Organizations must ensure that the terms and conditions built into the RFSQ contain specific language that disclaims any obligation on the part of the organization to call on any supplier to provide goods or services as a result of the pre-qualification.

Request for Tender means a document used to request vendor responses to supply goods or services based on stated delivery requirements, performance specifications, terms and conditions. A Request for Tender usually focuses the evaluation criteria predominantly on price and delivery requirements.

Request for Quotation means a document similar to a Request for Tender where an organization describes exactly what needs to be purchased and the evaluation is based solely on price.

Trade Agreements means any applicable trade agreement to which Ontario is a signatory, for example, Agreement on Internal Trade and Ontario-Quebec Trade and Cooperation Agreement.

Vendor of Record Arrangement authorizes organizations to select a supplier from pre-qualified supplier(s) through a formal second-stage process, for a defined period, on terms and conditions set out in the Vendor of Record arrangement.

For additional information

The BPS Supply Chain Secretariat maintains a website with links to the Broader Public Sector Procurement Directive. The website also has a section on the Broader Public Sector Procurement Directive Implementation Guidebook and Frequently Asked Questions.

<http://www.fin.gov.on.ca/en/bpssupplychain/index.html>

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Disclaimer

The Ministry of Finance has developed this guide to help publicly funded organizations in Ontario with procurement using public funds. This guide summarizes and deals with complex matters. It is not comprehensive, and does not take into account specific facts and circumstances. The guide also refers to, or reflects laws and practices which may change from time to time. For these reasons the guide, as well as any links or information from other sources referred to, should not be relied upon for any reason, nor should it be considered to be a substitute for specialized legal or professional advice in connection with any particular matter. The Ministry is not responsible for its contents or for any consequences, including direct or indirect liability, arising from its use.

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