

Procurement

01:05:10

Effective Date: 16 October 2024

CCAS OPERATIONAL POLICY

1. Policy Overview

- a. Society's procurement activities are governed by the Broader Public Sector Accountability Act, 2010, the latest ministerial Broader Public Sector Procurement Directive, the Building Ontario Business Initiative Act, 2022, and other ministerial policy directives as applicable. As such, the Society has established a procurement policy that is consistent with legislation and ministerial directives with the purpose of establishing an open, fair and transparent procurement process.
- b. This policy sets out the requirements which Society's procurement activities are required to comply with. The value amounts quoted in this policy are up to date as of the effective date of this policy and may be subject to change afterwards. The legislation allows exceptions and exemptions to methods of procurement in prescribed circumstances as set out in the Canada Free Trade Agreement (CFTA), however, all other requirements including documentation, contract management, supplier management, etc. continue to apply in these circumstances. Please refer to the attachment of this policy for details of exceptions and exemptions. Where the Society has relied on an exception or exemption to this policy, the rationale for the exception or exemption must be formally documented.
- c. All agency's employees can access this procurement policy through agency's information systems and it is also accessible to the public through the agency's website.

2. Policy Approval Authority

- a. The Department of Finance, Administration and IT is responsible for the development, review, and revision of this policy.
- b. The Director of Administration, IT and CFO is responsible for the approval of this policy.

REQUIREMENTS

3. Code of Ethics

- a. In addition to the Society's code of ethics policies, the Society has adopted the "**Supply Chain Code of Ethics**" under the Broader Public Sector Procurement Directive, which sets out supply chain-specific standards of practice and must be made available and visible to everyone involved with procurement activities, including suppliers and other stakeholders.
- b. "Supply Chain Code of Ethics" refer to:
 - i. **Personal Integrity and Professionalism**

Individuals involved in procurement activities must act, and be seen to act, with integrity and professionalism. Honesty, care, and due diligence must be integral to all procurement activities. Respect must be demonstrated for each other and for the environment. 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. No purchase of goods and services will be made by for the personal use of employees, foster parents, volunteers or members of the Board of Directors and Committees.

ii. **Accountability and Transparency**

Procurement activities must be open, accountable, fair, transparent, and conducted with a view to obtaining the best value for public money. Public sector resources are used in a responsible, efficient, and effective manner.

iii. **Compliance and Continuous Improvement**

Individuals involved in procurement activities must comply with this code of ethics and the laws of Canada and Ontario. Individuals should continuously work to improve procurement policies and procedures, to improve their supply chain knowledge and skill levels, and to share leading practices.

4. **Segregation of Duties (Directive Mandatory Requirement #1)**

At least three of the five functional procurement roles within the Society are segregated where the responsibilities for these roles lie with different departments or with different individuals as follows:

- a. **Budgeting:** Referring to the inclusion of the expenditure in the approved annual Society's Integrated Operating Plan and operating budget. The budget owner of the department is responsible for identifying the resource needs for the initiative which is ultimately approved by the Board. The budget process is overseen by the Director of Administration, IT and CFO.
- b. **Commitment:** Referring to approval of the commitment authority to proceed with the procurement initiative following Society's policies on spending and signing authority and authorization levels. This could be the project sponsor, manager, or director.
- c. **Requisitioning:** Referring to the carrying out of the procurement activity. The individual requisitioning can be from the procurement and administrative support.
- d. **Receipt:** Referring to the receipt of goods received and/or services rendered, the individual confirming receipt can be the administrative or property team staff or service recipients, however not the same individual that is requisitioning or approving the goods or services.
- e. **Payment:** The payment made to the vendor is the responsibility of the supervisor of Accounts Payable. The supervisor of Accounts Payable does not also have the signing authority to approve the commitment.

5. **Approval Authority (Directive Mandatory Requirement #2)**

a. **Competitive Procurement* of Goods & Non-Consulting Services**

Competitive procurement must be approved by the appropriate authority in accordance with the Society's policy on spending authority levels, where the Board approves the Chief Executive Officer's (CEO) level of authority, and the CEO approves the spending authority of management and staff.

b. **Non-competitive procurement of Goods and Non-Consulting Services**

For any non-competitive procurement of goods and non-consulting services, the level of approval authority shifts one level higher than the level for competitive procurement noted above in the Society's spending authority levels. Non-competitive procurements for goods, and services for cumulative values in excess of \$1,000,000 requires approval of the Board.

c. **Consulting* Services**

Procurement of consulting services follows the same spending authority levels as goods and non-consulting services with the following exceptions:

- i. Non-competitive procurement (exemption-based only) up to \$1,000,000 must be approved by the Board President or the CEO; and
- ii. Non-competitive procurement (exemption-based only) over \$1,000,000 requires Board of Directors approval.

For (b) and (c), please also refer to para.12 below about non-competitive procurement.

6. Competitive Procurement Thresholds (Directive Mandatory Requirement #3)

- a. Methods of procurement of **goods, non-consulting services and construction** is based on the total procurement value as follows. The Society must conduct an open competitive procurement process where the estimated value of procurement of goods or services is \$121,200 or more before applicable taxes. Any exemptions must be in accordance with the applicable trade agreements.

Total Procurement Value = **\$0 - \$99.99**

- Means of Procurement: Petty Cash
- Required or Recommended: Recommended
- Alternate Means: Invitational*, Open*

Total Procurement Value = **\$100 - \$2,999.99**

- Means of Procurement: Procurement card (p-card)
- Required or Recommended: Recommended
- Alternate Means: Invitational, Open

Total Procurement Value = **\$3,000 - \$9,999.99**

- Means of Procurement: Purchase order
- Required or Recommended: Recommended
- Alternate Means: Invitational, Open

Total Procurement Value = **\$10,000 - \$121,199.99**

- Means of Procurement: Invitational competitive (minimum three suppliers invited to bid)
- Required or Recommended: Recommended
- Alternate Means: Open Competitive

Total Procurement Value = **\$121,200 or more**

- Means of Procurement: Open competitive
- Recommended or Required: Required
- Alternate Means: None

- b. All **consulting services** must be competitively procured, regardless of value as follows:

Total Procurement Value = **\$0 - \$121,199.99**

- Means of Procurement: Invitational or open competitive
- Required or Recommended: Required
- Alternate Means: N/A

Total Procurement Value = **\$121,200 or more**

- Means of Procurement: Open competitive
- Required or Recommended: Required
- Alternate Means: N/A

- c. The **total value of procurement** includes cost of freight, installation, etc. but before applicable taxes. The overall value of procurement must not be reduced in order to bypass

competitive procurement approval thresholds. For multi-year procurements, the total projected value refers the cost for the entire period of the anticipated agreement including optional renewals; multiple purchases may not be used to circumvent competitive procurements.

7. **Information Gathering** (Directive Mandatory Requirement #4)

The Society may engage in informal information gathering to support decision making and planning prior to the commencement of a procurement. Where the results of informal information gathering are not sufficient, the Society may choose to use a formal process such as “Request for Information” (RFI) or “Request for Expression of Interest” (RFEI) under the following conditions:

- a. Where the time and effort required conducting such processes is seen as warranted;
- b. An RFI and RFEI must not be used to prequalify suppliers;
- c. An RFI or RFEI may not alter or influence the opportunity for a participating supplier to become the successful bidder in any subsequent opportunity; and
- d. Information gathered during an RFI and RFEI process is meeting the documentation management requirements of this policy.

8. **Supplier Pre-qualification** (Directive Mandatory Requirement #5)

- a. The Society may choose to gather information about suppliers’ capabilities and qualification using the “Request for Supplier Qualification” (RFSQ) in order to pre-qualify suppliers for an immediate product or service need or to identify qualified candidates in advance of expected future competitions.
- b. The RFSQ must include language to ensure there is no obligation to purchase goods or services as the result of pre-qualification.

9. **Competitive Bid Documents** (Directive Mandatory Requirement #6 to #8, #25)

- a. **Posting** of competitive bid documents must be made available through an electronic tendering system that is readily accessible by all Canadian suppliers.
- b. **Response time** for suppliers to bid must be a minimum of fifteen (15) days for procurements valued at \$121,200 and up to \$353,300. For procurements with a higher degree of complexity, risk or value, a minimum response time of thirty (30) days is required.
- c. Competitive procurement documents must clearly identify a **bid submission date and closing time** which falls on a regular working day (Monday to Friday, excluding provincial and national holidays). Submissions received after the closing time must be returned unopened.
- d. Competitive procurement documents must include **bid dispute resolution procedures** to ensure that any bid disputes are handled in fair, ethical, reasonable and timely fashion. The Society must ensure that such resolution procedures comply with similar procedures set out in applicable trade agreements.

10. **Evaluation of Bids** (Directive Mandatory Requirements #9 to #14)

- a. **Evaluation criteria** must be developed, reviewed, and approved according to the Society’s spending authority levels prior to commencement of procurement. Competitive procurement documents must:
 - i. Disclose evaluation criteria where:
 - 1) Mandatory, rated and other criteria that will be used in evaluation of submissions are clearly outlined, including the weight of each criterion;
 - 2) Maximum justifiable weight is allocated to the cost or price component of the evaluation; weighted criteria must comprise a minimum of 25% and a maximum of 40% of the total number of points for the procurement evaluation;

- 3) Criteria may not be structured to discriminate or provide preferential treatment to any supplier with the exception of (4);
 - 4) Preference be given to Ontario businesses in procurement of goods and services below threshold amount of \$121,200 in accordance with the Building Ontario Business Initiative Act (2022);
 - 5) Mandatory criteria must be kept to a minimum to ensure that no bid is unnecessarily disqualified; and
 - 6) Changes to evaluation criteria are only allowed by means of addendum to the competitive procurement documents;
- ii. Clearly state that bids not meeting mandatory requirements will be disqualified;
 - iii. Disclose the methodology to be used to evaluate bids, including the method of resolving a tie score;
 - iv. Clearly state that alternative strategies or solutions provided by suppliers will not be considered unless they are specifically requested in the procurement documents. If such a request is included, the procurement documents must disclose the criterion to be used to evaluate alternative strategies and solutions; and
 - v. Include any options to extend the terms of agreement or contract.

b. Evaluation Process

The Society convenes an evaluation team for the purpose of evaluating competitive bids.

The evaluation team must:

- i. Be aware of restrictions related to use of confidential and commercially sensitive information collected through the procurement process;
- ii. Refrain from engaging in activities that create or appear to create a conflict of interest;
- iii. Individually sign a conflict of interest declaration and non-disclosure agreement;
- iv. Individually and independently complete an evaluation matrix to rate each submission;
- v. Ensure that all commentary or ratings are fair, factual and defensible;
- vi. Not discriminate or exercise preferential treatment in awarding contracts as the result of the competitive procurement process;
- vii. Complete evaluation of all non-monetary factors prior to opening and considering the price or cost factors;
- viii. Retain records of evaluation scored for audit purposes; and
- ix. Declare the winning bid according to the supplier that receives the highest evaluation score and meets all the mandatory requirements set out in the procurement documents.

11. Establishing and Awarding Contracts (Directive Mandatory Requirements #15 to #20)

a. Entering into a contract

- i. The agreement between the Society and the successful supplier must be formally defined in a signed written contract before the provision or supplying of goods or services commences as follows:
 - 1) Where the procurement documents included a form of agreement, that form is to be used to finalize the agreement; or
 - 2) Where an alternative procurement strategy has been used without a form of agreement included in the procurement documents, the agreement between the Society and the supplier is defined formally in a signed contract before delivery of the goods or services.
- ii. Where there is an immediate need for goods or services, and the Society and supplier are unable to finalize the contract as described in para.11(a) above, an interim purchase order may be used. The justification of such decision must be documented and approved by the appropriate signing authority.

b. Elements of a contract

A procurement contract must:

- i. Include appropriate cancellation or termination clauses;

- ii. Include dispute resolution clauses as per procurement documentation; and
- iii. For complex procurements including provision of professional services, Society should consider inclusion of assessment, cancellation or termination clauses at specific life cycle stages of the procurement.

Contracts for services, in addition to (i) to (iii), must also include:

- iv. Clear terms of reference including objectives, background, scope, constraints, staff responsibilities, tangible deliverables, timing, progress reporting, approval requirements and knowledge transfer requirements; and
- v. Rules for expense claim and reimbursement rules which are compliant with the Broader Public Sector Expense Directive.

c. Modifications

Modifications to the terms of agreement in a contract may only be made where:

- i. The terms of agreements and options to extend the agreement have been set out in the original procurement documents. Extensions of agreement beyond those set out in the procurement documents where the extension affects the value and/or stated deliverables of the procurement is a non-competitive procurement; and
- ii. Modifications must be approved by the appropriate authority according to the Society's spending authority levels before executing any modifications to the term of agreement.

d. Notification

- i. Contract awards must be publicly posted for procurements valued at \$121,200 or more in the same manner as the procurement documents were posted. This award notification will:
 - 1) Be posted after the agreement for delivery of goods/services has been finalized;
 - 2) Include the name of the successful supplier;
 - 3) Include the start and end dates of the agreement; and
 - 4) Include information on extension options.
- ii. For procurements in excess of \$121,200, the Society must inform all unsuccessful suppliers concerning their entitlement to a supplier debriefing. The Society must allow unsuccessful suppliers sixty (60) calendar days following the contract award notification date to request a briefing.

12. Non-Competitive Procurement (Directive Mandatory Requirement #21)

- a. The Society may engage in non-competitive procurements only under the circumstances outlined in the exceptions and non-applicable clauses under the applicable trade agreements (see attachment).
- b. Non-competitive procurements require approval at a minimum one level higher on the Society's spending authority levels than a competitive procurement of the same value. Supporting documentation must be completed and approved prior to commencement of non-competitive procurement.
- c. For non-competitive procurements, the Society must:
 - i. Demonstrate the rationale for selection of the particular supplier or over available suppliers;
 - ii. Demonstrate fees charged are commensurate with services being procured; and
 - iii. Complete forms for audit tracking.

13. Contract Management and Documentation (Directive Mandatory Requirement #22 to #23)

The Society ensures that:

- a. All procurements and the resulting contracts are managed responsibly and effectively;
- b. Payments are made in accordance with the terms of the contract, invoices must contain detailed information sufficient to warrant payment, and any overpayments are recovered in a timely manner;

- c. Assignments must be properly documented. Supplier performance must be managed and documented, and any performance issues must be addressed;
- d. Disputes are managed with suppliers throughout the life of the contract; a dispute resolution process is included in the contract;
- e. For services, these additional requirements exist: clear terms of reference for the assignment are necessary. The terms should include objectives, background, scope, constraints, staff responsibilities, tangible deliverables, timing, progress reporting, approval requirements, and knowledge transfer requirements. Expense claim and reimbursement rules should comply with the Broader Public Sector Expenses Directive and reimbursed in accordance with these rules. Expenses are claimed and reimbursed only where the contract explicitly provides for reimbursement of expenses;
- f. The following procurement documentation and other pertinent information is retained in a recoverable format for seven (7) years:
 - Procurement justification or business case;
 - Records of approvals;
 - Evidence of receipt of deliverables;
 - Where purchase was via a Supplier of Record, information concerning the process used to select the supplier;
 - Advertisements, RFI, supplier pre-qualification;
 - All responses and submissions;
 - Supplier consultations;
 - Evaluations;
 - Awards;
 - Contracts; and
 - Payments; and
- g. Staff safeguard, retain and dispose supplier confidential and commercially sensitive information in accordance with the Society's information resources management policies.

14. **Conflict of Interest** (Directive Mandatory Requirement #24)

The Society monitors any conflict of interest that may arise as a result of any employee or other organization member, advisor, supplier or other stakeholder's involvement with procurement activities. Individuals involved with procurement activities are required to declare actual or potential conflicts of interest. Where a conflict arises, it must be evaluated and appropriate mitigating action taken.

15. **Implementation and Review of Policies and Procedures**

The Director of IT, Administration & CFO has the responsibility of ensuring that:

- a. This policy is reviewed every two (2) years;
- b. Appropriate operational policies and procedures are developed for effective day-to-day management and compliance of the Society; and
- c. Approval of exceptions to this policy.

* Notes:

- **Consulting services** refers to the provision of expertise or strategic advice that is presented for consideration and decision-making for the purpose of procurement; it does not include services like training, psychological consultation services.
- **Competitive procurement** refers to proposal/quotations/bids being sought from vendors for the selection of vendors delivering goods and services.
- **Open procurement** refers to an inclusive process where proposals will be received from any interested bidders.

- **Closed or invitational procurement** refers to procurements where a specific list of suppliers/vendors are invited to bid.

Cross-References

Broader Public Sector Accountability Act, 2010

Building Ontario Businesses Initiative Act, 2022

Broader Public Sector Procurement Directive (April 1, 2024)

Canada Free Trade Agreement

Attachments

Exceptions & Exemptions: Limited Tendering & Non-Application Exemption Codes under the Canada Free Trade Act (CFTA)

Attachment: 01:05:10 Procurement

Exceptions & Exemptions: Limited Tendering & Non-Application Exemption Codes under the [Canada Free Trade Agreement \(CFTA\)](#)

CFTA, Article 513.1 Limited Tendering

1. Subject to paragraphs 2 and 3, and provided that it does not use this provision for the purpose of avoiding competition among suppliers or in a manner that discriminates against suppliers of any other Party or protects its own suppliers, a procuring entity may use limited tendering in the following circumstances:
 - a. if:
 - i. no tenders were submitted or no suppliers requested participation;
 - ii. no tenders that conform to the essential requirements of the tender documentation were submitted;
 - iii. no suppliers satisfied the conditions for participation; or
 - iv. the submitted tenders were collusive, provided that the requirements of the tender documentation are not substantially modified;
 - b. if the goods or services can be supplied only by a particular supplier and no reasonable alternative or substitute goods or services exist for any of the following reasons:
 - i. the requirement is for a work of art;
 - ii. the protection of patents, copyrights, or other exclusive rights;
 - iii. due to an absence of competition for technical reasons;
 - iv. the supply of goods or services is controlled by a supplier that is a statutory monopoly;
 - v. to ensure compatibility with existing goods, or to maintain specialized goods that must be maintained by the manufacturer of those goods or its representative;
 - vi. work is 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;
 - vii. work is to be performed on a leased building or related property, or portions thereof, that may be performed only by the lessor; or
 - viii. the procurement is for subscriptions to newspapers, magazines, or other periodicals;
 - c. for additional deliveries by the original supplier of goods or services that were not included in the initial procurement, if a change of supplier for such additional goods or services:
 - i. cannot be made for economic or technical reasons such as requirements of interchangeability or interoperability with existing equipment, software, services, or installations procured under the initial procurement; and
 - ii. would cause significant inconvenience or substantial duplication of costs for the procuring entity;
 - d. if strictly necessary, and for reasons of urgency brought about by events unforeseeable by the procuring entity, the goods or services could not be obtained in time using open tendering;
 - e. for goods purchased on a commodity market;
 - f. if a procuring entity procures a prototype or a first good or service that is developed in the course of, and for, a particular contract for research, experiment, study, or original development. Original development of a first good or service may include limited production or supply in order to incorporate the results of field testing and to demonstrate that the good or service is suitable for production or supply in quantity to acceptable quality standards, but does not include quantity production or supply to establish commercial viability or to recover research and development costs;

- g. for purchases made under exceptionally advantageous conditions that only arise in the very short term in the case of unusual disposals such as those arising from liquidation, receivership, or bankruptcy, but not for routine purchases from regular suppliers;
 - h. if a contract is awarded to a winner of a design contest provided that:
 - i. the contest has been organized in a manner that is consistent with the principles of this Chapter, in particular relating to the publication of a tender notice; and
 - ii. the participants are judged by an independent jury with a view to a design contract being awarded to a winner; or
 - i. if goods or consulting 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, result in the waiver of privilege, cause economic disruption, or otherwise be contrary to the public interest.
2. A procuring entity may, in its use of limited tendering under paragraphs 1(a) through 1(i), choose not to apply Articles 504.5 through 504.10, Article 506, Article 507, Article 508.5, Article 508.6, Article 509.7, Article 509.8, Articles 510 through 512, Article 514 and Article 515.
 3. A procuring entity may, in its use of limited tendering under paragraph 1(i), also choose not to apply Article 516.

CFTA, Article 504 Scope and Coverage, s.11 Non-Application

11. This Chapter does not apply to:
 - a. public employment contracts;
 - b. non-legally binding agreements;
 - c. any form of assistance, such as grants, loans, equity infusions, guarantees, and fiscal incentives;
 - d. a contract awarded under a cooperation agreement between a Party and an international cooperation organization if the procurement is financed, in whole or in part, by the organization, only to the extent that the agreement includes rules for awarding contracts that differ from the obligations of this Chapter;
 - e. acquisition or rental of land, existing buildings, or other immovable property, or the rights thereon;
 - f. measures necessary to protect intellectual property, provided that the measures are not applied in a manner that would constitute a means of arbitrary or unjustifiable discrimination between Parties where the same conditions prevail or are a disguised restriction on trade;
 - g. procurement or acquisition of:
 - i. fiscal agency or depository services;
 - ii. liquidation and management services for regulated financial institutions; or
 - iii. services related to the sale, redemption, and distribution of public debt, including loans and government bonds, notes, and other securities;
 - h. procurement of:
 - i. financial services respecting the management of government financial assets and liabilities (i.e. treasury operations), including ancillary advisory and information services, whether or not delivered by a financial institution;
 - ii. health services or social services;
 - iii. services that may, under applicable law, only be provided by licensed lawyers or notaries; or
 - iv. services of expert witnesses or factual witnesses used in court or legal proceedings; or
 - i. procurement of goods or services:

- i. financed primarily from donations that require the procurement to be conducted in a manner inconsistent with this Chapter;
- ii. by a procuring entity on behalf of an entity not covered by this Chapter;
- iii. between enterprises that are controlled by or affiliated with the same enterprise, or between one government body or enterprise and another government body or enterprise;
- iv. by non-governmental bodies that exercise governmental authority delegated to them;
- v. from philanthropic institutions, non-profit organizations, prison labour, or natural persons with disabilities;
- vi. under a commercial agreement between a procuring entity which operates sporting or convention facilities and an entity not covered by this Chapter that contains provisions inconsistent with this Chapter;
- vii. conducted for the specific purpose of providing international assistance, including development aid, provided that the procuring entity does not discriminate on the basis of origin or location within Canada of goods, services, or suppliers; or
- viii. conducted:
 - A. under the particular procedure or condition of an international agreement relating to the stationing of troops or relating to the joint implementation by the signatory countries of a project; or
 - B. under the particular procedure or condition of an international organization, or funded by international grants, loans, or other assistance, if the procedure or condition would be inconsistent with this Chapter.