

OACAS Procurement Policy

PURPOSE

The purpose of this policy is to ensure that all goods and services acquired by OACAS are done through a process that is open, fair, and transparent.

The procurement principles and processes in this policy are consistent with the Broader Public Sector (BPS) Procurement Directive, which can be found at [Broader Public Sector Procurement Directive \(ontario.ca\)](https://linkprotect.cudasvc.com/url?a=https://files.ontario.ca/tbs-bpspd-en-2023-05-05.pdf&c=E,1,myEmG7s79Fd1_1eBlh7VBZrAtEzbJM53h7tufFeN5vJ_yx5Eo6H5-_zd8sPzPUxOS43rpBBZaHTaloTpL5GJLnbUSEt-fuYSu2Zd8zNnweBeJZGN&typo=1)

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APPLICATION AND SCOPE

1. This policy applies to all OACAS Departments/Projects/Programs; and
2. Is applicable for the procurement of all goods and services by OACAS, including, but not limited to construction, consulting services and information technology.

PROCUREMENT CODE OF ETHICS

The BPS Procurement Directive requires BPS organizations to formally adopt a Supply Chain Code of Ethics in accordance with governance processes that establish the conduct of all members of an organization involved with supply chain activities. The conduct of everyone involved with procurement activities at OACAS must be in accordance with the "Code". The Directive also prescribes that the code be made available and visible to everyone involved with procurement activities, including suppliers and other stakeholders.

Ontario Broader Public Sector (BPS) Supply Chain Code of Ethics

Goal: To ensure an ethical, professional, and accountable BPS supply chain.

I. 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 vendors. 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.

II. Accountability and Transparency

Supply chain activities must be open and accountable. In particular, purchasing and contracting 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.

III. 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.

OACAS has taken the following action to ensure the key elements of the Code have been adopted:

The code has been:

- formally endorsed by OACAS Board Finance Committee and OACAS Board of Directors
- distributed to all OACAS staff involved directly in procurement activities and communicated to all individuals who are involved with purchasing and other supply chain-related activities, such as requisitioning or supplier or product evaluation
- posted on the OACAS Intranet and Internet sites

PROCUREMENT CYCLE

A. Procurement Planning and Approval

Procurement planning is an integral part of the procurement process in identifying the potential supply source, the procurement method, as well as what type of approvals and when approvals are needed to ensure that sufficient time is allowed to complete the procurement process. Key steps during procurement planning include:

- a) Determine the procurement need.

- b) Confirm alignment with approved project/program budget. Non-budgeted items should be supported by a business case (template provided).
- c) Establish the procurement value and procurement method (petty cash, Ccard, competitive or non-competitive).
- d) Seek appropriate procurement approval based on procurement value and procurement method.

B. Procurement Process

- a) Review BPS Vendor of Record (VOR) agreements for procurement of goods or services greater than \$25,000, prior to proceeding with a competitive procurement.
- b) Develop Request for Proposals (RFP) or Request for Quotation (RFQ) (templates provided)
- c) For open competitive procurements, post RFP/RFQ.
- d) Review proposals and award contract to successful vendor.
- e) Notify unsuccessful vendors.

C. Contract Management

- a) Contract management, monitoring and payment.
- b) Reconcile and close out contract.

PROCUREMENT VALUE

The procurement value is required to determine who needs to (the level of approval) approve the procurement and the procurement method that will be used. To determine the procurement value all costs and benefits associated with acquiring the goods/services must be included.

When determining the value of procurement for approval purposes, applicable sales taxes *should not* be taken into consideration.

Procurement Value Increases

Price increases, volume increases or other unforeseen circumstances can result in the increase in procurement value. Contract Leads must ensure that they obtain the appropriate approvals for procurement value increases when the increase causes the procurement value to exceed the approval threshold of the original approver.

Follow-On Agreements

A Follow-On Agreement is one that follows and is related to an already completed Agreement. The procurement approval authority would be based on the total value of the work in the original Agreement and the Follow-On Agreements.

Contract Splitting and Procurement Planning

Persons with financial authority for procurement approvals must not reduce the Procurement Value to avoid Approval Authority Levels by contract splitting and/or improper procurement planning. This includes acquiring several of the same good/service from a single vendor or

subdividing projects, procurements, or contracts and awarding multiple consecutive contracts or requisitions (under \$500) to the same vendor.

MANDATORY REQUIREMENTS

The following 25 mandatory requirements set out how OACAS is required to conduct sourcing, contracting and purchasing activities. These requirements are compliant with Section 7 of the Broader Public Sector Directive. Refer to the Directive ([link below](#)) for specific information on each of these requirements.

[Broader Public Sector Procurement Directive \(ontario.ca\)](#)

Mandatory Requirement #1: Segregation of Duties

Segregation of duties prevents any one person from controlling the entire procurement process. The following functional procurement roles at OACAS have been segregated to ensure integrity of the procurement process.

Procurement Roles	Description of Role	OACAS Responsibility
Budgeting	Develop annual procurement plan and budget.	Department Directors/CEO
Requisition and Commitment	Authorize the placement of an order for the good/service	Contract Lead
Receipt	Certify that the good/service was received	Contract Lead/ Delegate
Payment	Payment to the supplier	Manager, Finance & Accounting

Mandatory Requirement #2: Approval Authority

Prior to commencement, all procurement must be approved by the appropriate authority, in accordance with the OACAS Approval Authority Schedule (AAS). OACAS has established the following Approval Authority Schedule (AAS) for all procurement.

Note: Procurement Value must not be reduced, through contract splitting or subdividing projects, procurements, or contracts and awarding multiple consecutive contracts to the same vendor, to avoid Approval Authority Levels.

Note: The Forms referenced below are for approval of spend and procurement method. They are PRF - Purchase Requisition Form and GLF – Green Light Form.

Approval Authority Schedules (AAS):

OACAS Approval Authority Schedule for Goods and Non-Consulting Services			
Total Procurement Amount¹	Form	Procurement Method	Delegated Purchasing Authority Level
Up to \$999	N/A	Manager approval email	Department Manager
\$1,000 up to \$4,999	PRF	3 Quotes must be documented	Department Manager and Manager, Finance & Accounting
\$5,000 up to \$49,999	GLF	Invitational competitive or Non-Competitive (Allowable Exceptions)	Department Director/Senior Manager, and Director, Finance & IT
\$50,000 to \$121,199	GLF	Invitational Competitive or Non-Competitive (Allowable Exceptions)	Chief Executive Officer
\$121,200 to \$999,999	GLF	Open Competitive or Non-Competitive (Allowable Exceptions)	Chief Executive Officer
\$1,000,000 or more	GLF	Open Competitive or Non-Competitive (Allowable Exceptions)	Finance Committee/ Board of Directors

OACAS Approval Authority Schedule for Consulting Services			
Total Procurement Amount¹	Form	Procurement Method	Delegated Purchasing Authority Level
\$0 – \$4,999	PRF	Invitational Competitive	Department Director/Senior Manager
\$5,000 – \$24,999	GLF	Invitational Competitive	Department Director/Senior Manager
\$25,000 to \$499,999	GLF	Open Competitive	Chief Executive Officer
\$500,000 or more	GLF	Open Competitive	Finance Committee/ Board of Directors
\$0 to \$199,999	GLF	Non-Competitive	Chief Executive Officer

¹ To determine the Total Procurement Amount, you must consider the life of the contract including option years or the useful life of good or service.

\$200,000 or more	GLF	Non-Competitive	Finance Committee/Board of Directors
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Information Technology

All information technology procurement greater than \$999 must be reviewed and approved by the IT team, prior to commencing procurement.

Information technology includes all equipment, software, services and processes used to create, store, process, communicate and manage information.

Annual Bulk Approval for Services:

A department or departments can request annual bulk approval for goods and services (see examples below) based on their approved budget for the fiscal year:

1. Translation
2. Office supplies
3. Training
4. Printing
5. Education materials (books, periodicals, other publications).

The bulk procurement must follow the mandatory procurement requirements established in this policy. An annual contract can be signed with suppliers. The contract must include agreed unit rates for goods and/or services and invoiced amounts cannot exceed the agreed unit rate. Note: A lower price can and should be negotiated if it is determined that a lower rate is more competitive based on existing market prices.

Consulting Services

Consulting services include:

Management Consulting (e.g., helping management improve their performance, primarily through the analysis of existing problems and development of plans for improvement. This includes organizational change management assistance and strategy development.

- Information Technology consulting (e.g., advisory services that help clients assess different technology strategies, including aligning their technology strategy with their business or process strategy);
- Technical Consulting (e.g., activities related to actuarial science, appraisal, community planning, health sciences, interior design, realty, social sciences);
- Research and Development (e.g., investigative study for the purpose of increasing the available store of knowledge and/or information on a particular subject);

- Policy Consulting (e.g., advisory services to provide policy options, analysis and evaluation); and
- Communication Consulting (e.g., the provision of strategy and advice in conveying information through various channels and media).

Consulting Services do not include services in which the physical component of an activity would predominate. For example, services for the operation and maintenance of a facility or plant; water-testing services; exploratory drilling services; surveying; temporary help services; training/education instructors; employee placement; auditing services; and aerial photography.

Consulting Services do not include any licensed professional services provided by medical doctors, dentists, nurses, pharmacists, veterinarians, engineers, land surveyors, architects, accountants, lawyers and notaries in their regulated capacities.

Procurement Methods

Open Competitive

Open competitive procurement is 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. Open competitive procurement ensures the highest level of fairness, impartiality, and transparency; it maximizes suitability and the value for money of the obtained goods or services.

Invitational Competitive

Invitational competitive procurement is the contractual acquisition (purchase or lease) of any good or service, which enables some but not all suppliers to compete in a fair and open environment. Three or more qualified suppliers must submit written proposals or quotes to supply goods or services. In instances where three suppliers cannot be obtained, approval of the CEO must be received to proceed with the procurement.

Non-Competitive Procurement

Non-competitive procurement is when a good or service is procured from a “selected” supplier without a competitive process. “Sole source” and “single-source” procurements are non-competitive procurements. Non-competitive procurement can only be used in situations outlined in the exemption, exception, or non-application clauses of the CFTA or other trade agreements. See appendix A for Non-Application clauses and sole and single source requirements. Prior to commencement of non-competitive procurement, a business case must be completed and approved by an appropriate authority specified in the Approval Authority Schedule (AAS).

Corporate Credit Card

The Corporate Credit Card is a mechanism for acquiring and paying for low dollar value goods and services. Use of the Corporate Credit Card reduces the administrative costs of payables associated with low dollar value purchases and reduces petty cash usage. Refer to the

Corporate Credit Card policy for appropriate use of the corporate card.

Three Quotes (Telephone or Written)

Three quotes (telephone or written) should be obtained for procurement of goods and services under \$5,000. A written record of the quotes, including vendor name, person contacted, contact information and unit price/amount must be kept on file.

Mandatory Requirement #3:Competitive Procurement Thresholds

An open competitive procurement process must be conducted where the estimated value of goods or services is \$121,200 or more, not including applicable taxes. The exemptions must be in accordance with the applicable trade agreements.

All consulting services must be competitively procured, regardless of value.

The overall value of procurement must not be reduced (e.g. dividing a single procurement into multiple procurements) in order to bypass competitive procurement approval thresholds.

Mandatory Requirement #4:Information gathering

OACAS can engage in a vendor consultation process prior to initiating a competitive procurement process. The information gathering process must be conducted solely for the purpose of gathering information or to market test a proposed procurement scope, approach and process.

- OACAS may use formal processes such as Request for Information (RFI) or Request for Expression of Interest (RFEI) where results of informal information gathering are insufficient. (templates provided)
- An RFI for RFEI will not be used to prequalify a potential supplier and must not influence the chances of the participating suppliers from becoming the successful bidder in any subsequent opportunity
- Information gathered during an RFI or RFEI must be adequately documented

Mandatory Requirement #5:Supplier pre-qualifications

OACAS may choose to gather information about supplier capabilities and qualifications [Request for Supplier Qualification (RFSQ)] (Template provided) in order to pre-qualify suppliers for an immediate product or service need or to identify qualified candidates in advance of expected future competitions.

Terms and conditions of the RFSQ document must contain a disclaimer stating that there is no obligation by OACAS to purchase goods or services as the result of pre-qualification. Note: A Vendor of Record can be created based on a RFSQ.

Ministry of Public and Business Service Delivery of Ontario (MPBSD) BPS Vendor of Record Arrangements (VOR)

VOR arrangements with suppliers are established to increase procurement process efficiency and obtain consistent competitive prices for the identified goods and services.

The Ministry of Public and Business Service Delivery of Ontario (MPBSD) has established VOR arrangements that are available to BPS Organizations. OACAS may utilize VOR arrangements established by MPBSD to streamline the procurement process. A list of MPBSD-established VOR arrangements is published at: <https://www.ontario.ca/page/doing-business-government-ontario>. To view VOR-related information, OACAS is registered as a buyer on the website. Contact Finance Department for access to MPBSD BPS VORs. When utilizing an MPBSD-established VOR arrangement, BPS organizations must follow the corresponding VOR User Guide provided by MPBSD.

Contract Leads are required to review the BPS VORs before proceeding with a competitive procurement greater than \$25,000

Development of Competitive Procurement Documents

A Contract Lead will need to be identified for all competitive procurement. The Contract Lead will be responsible for developing all procurement documents.

The three major types of competitive procurement documents are:

- Request for Proposal (RFP). The purpose of an RFP is to request suppliers to provide solutions for the delivery of 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 a 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). A RFQ is a document similar to a RFT. In a RFQ, organizations describe exactly the goods and services to be provided. The proposal evaluation is based solely on price.

The competitive procurement documents should include:

- Name, telephone number and location of the person to contact for information about the procurement documents. Suppliers should be cautioned that contacting any other person from OACAS regarding the competition may lead to their disqualification.
- Individuals within the Organization should also be cautioned against providing any information related to the procurement to a third party.
- Clear description of required goods or services. Goods or services must be described in generic and/or functional terms specific to the business needs. Where it is necessary to provide specifications in non-generic and/or non-functional terms, the specifications must set out the performance requirements in a manner that would not unfairly favour certain suppliers.
- Conditions that suppliers must meet before obtaining procurement documents, such as

conflict-of-interest declarations, confidentiality agreements and non-disclosure agreements.

- Submission rules and other competitive procurement clauses to follow in order for a bid to be compliant. These may include bid format, language, number of copies to be submitted, attendance at a bidder's conference, etc.
- Process and time deadline for the submission of questions regarding the procurement documents, including a description of how the answers will be provided.
- Address and time deadline for bid submissions, including a caution that submissions received after the deadline will be returned unopened.
- Time, place and method of bid opening.
- Mandatory criteria (e.g., technical standards) that must be met. Competitive documents must clearly outline that submissions that do not meet the mandatory criteria will be disqualified.
- Criteria to support BOBI (Building Ontario Business Initiative).
- Full disclosure of the evaluation criteria (including weights), process and methodology to be used to assess submissions
- Request for a list of subcontractors to be used to complete the procurement, where applicable. To ensure that the full responsibility for completing the contract rests with the primary supplier, OACAS may specify that the request is for information purposes only.
- Period of bid irrevocability (typically 120 days from closure of the competitive process)
- A statement that the procurement is subject to the CFTA
- Notice that any confidential information supplied to OACAS may be disclosed where OACAS is obliged to do so under FIPPA and/or PHIPPA, by an order of a court or tribunal, or otherwise required by law
- A draft form of agreement to be signed in the event of procurement award

Mandatory Requirement #6: Posting Open Competitive Procurement Documents

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

Mandatory Requirement #7: Timelines for Posting Competitive Procurement Documents

OACAS will provide suppliers a minimum response time of 15 calendar days for procurement of goods and services valued at \$121,200 or more. For procurements of high complexity, risk and/or dollar value, OACAS may provide a minimum response time of 30 calendar days.

Mandatory Requirement #8: Bid Receipt

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

The process for opening bids submitted in a hard-copy format should be as follows:

- Stamp each bid, as it arrives, with the date, time, location, company name and contact information
- Open the bids only after the closing time specified in the competitive documents has lapsed
- Ensure there is at least one witness to view the bid openings
- When opening the bids, follow the process outlined in the competitive documents

Mandatory Requirement #9:Evaluation Criteria

The evaluation criteria requirements for competitive procurement are:

- Evaluation criteria must be developed, reviewed and approved prior to commencement of the competitive procurement process
- Competitive procurement documents must clearly outline mandatory, rated and other criteria that will be used to evaluate submissions, including weight of each criterion
- Mandatory criteria (e.g. technical standards) should be kept to a minimum to ensure that no bid is unnecessarily disqualified
- Maximum justifiable weighting must be allocated to the price/cost component of the evaluation criteria
- Evaluation criteria is to be altered only by means of an addendum to the competitive procurement documents
- OACAS may request suppliers to provide alternative strategies or solutions as part of their submission. Criteria must be established to evaluate alternative strategies or solutions prior to commencement of the competitive procurement process and alternative strategies or solutions must not be considered unless they are explicitly requested in the competitive procurement documents.
- OACAS must procure goods and services from Ontario or Canadian businesses, wherever feasible.
- Apply weighted domestic criteria (e.g. vendors to demonstrate how they meet Ontario's environmental and labour standards)
- All criteria must comply with Section 7.2 14, Non-Discrimination, of the BPS Directive

Mandatory Requirement #10:Evaluation process disclosure

Competitive procurement documents must fully disclose the evaluation methodology and process to be used in assessing submissions, including the method of resolving a tie score. Documents must state that submissions that do not meet the mandatory criteria will be disqualified.

Description of the evaluation methodology and process must include:

- Clear articulation of all mandatory requirements that will be assessed on a pass/fail basis, outline how suppliers can achieve a passing grade, and state that where a

submission is found not to comply with a mandatory requirement, no further evaluation of this submission will take place

- All weights, including sub-weights, for the rated criteria (where applicable)
- Description of short-listing processes, including any minimum-rated score requirements
- The role and weight of other criteria, including reference checks, oral interviews and demonstrations
- Descriptions of the price/cost of ownership evaluation methodology, including scenarios of the evaluation process (where appropriate), to determine costs for specific volumes and/or service levels. This evaluation should take place after evaluation of the mandatory requirements and rated criteria for all bids.

The evaluation process should begin with the assessment of submission compliance with mandatory requirements. Where a submission substantially complies, certain clarifications may be sought to confirm compliance. Submissions that do not comply with one or more mandatory requirements must be rejected. Once all compliant submissions are identified, the balance of the evaluation process should proceed.

Mandatory Requirement #11:Evaluation Team

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

- Be made aware of restrictions related to use and distribution of confidential and commercially sensitive information collected through the procurement process
- Refrain from engaging in activities that create or appear to create a conflict of interest
- Sign a conflict of interest statement and confidentiality agreement (if not in HR employee file)

Mandatory Requirement #12:Evaluation Matrix

Each evaluation team member must complete an evaluation matrix, rating each of the submissions. Records of scores must be retained for seven years for audit purposes. Evaluators must ensure that all commentary or ratings are fair, factual and defensible.

Mandatory Requirement #13:Winning Bid

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

Mandatory Requirement #14:Non-Discrimination

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

Mandatory Requirement #15:Executing The Contract

The agreement between OACAS 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 OACAS and the supplier are unable to finalize the contract, an interim document may be used. The justification of such decision must be documented and approved by the appropriate authority.

Mandatory Requirement #16: Establishing The Contract

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

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

Mandatory Requirement #17: Termination Clauses

All contracts must include appropriate cancellation or termination clauses. When conducting complex procurements, OACAS will use contract clauses that permit cancellation or termination at critical project life-cycle stages.

Mandatory Requirement #18: Term of Agreement Modifications

The term of the agreement and any options to extend the agreement must be set out in the competitive procurement documents. Approval must be obtained before executing any modifications to the term of agreement. Extending the term of the 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.

Mandatory Requirement #19: Contract Award Notification

For procurements valued at \$121,200 or more, OACAS will post contract award notifications in the same manner as the procurement documents were posted. The notification must be posted after the agreement between the successful supplier and OACAS was executed. Contract award notification must list the name of the successful supplier, agreement start and end dates, and any other extension options.

Mandatory Requirement #20: Supplier Debriefing

For procurements valued at \$121,200 or more, OACAS will inform all unsuccessful suppliers about their entitlement to debriefing. OACAS will allow unsuccessful suppliers 60 calendar days following the date of the contract award notification to request a debriefing.

The details of supplier debriefings must be provided in the competitive documents, including the process of requesting a debriefing upon the conclusion of the competitive process.

When conducting supplier debriefings, Contract Leads must:

- confirm with each supplier the date, time and location of the debriefing session in writing
- conduct separate debriefings with each supplier

- conduct debriefing sessions in a consistent manner. Ideally, the same participants from an Organization would participate in all debriefings related to a competitive process. If a Fairness Commissioner is used in a competitive process, the Fairness Commissioner may participate in the debriefing but must not conduct the debriefing.
- not disclose information concerning other suppliers, other than the names and addresses of suppliers who participated in the competitive process. Information about other suppliers may be confidential, commercially sensitive or proprietary information that Organizations are not authorized to disclose.
- not answer questions unrelated to the competitive process
- retain all correspondence and documentation related to supplier debriefing sessions

Contract Leads can/should also:

- provide a general overview of the evaluation process set out in the procurement document
- discuss strengths and weaknesses of a supplier's submission in relation to the specific evaluation criteria. Where the price is not the only evaluation criterion, Organizations may provide supplier's evaluation scores and ranking (e.g., third of five).
- provide suggestions on how the supplier may improve future submissions
- be open to feedback from the supplier on existing procurement processes and practices
- address questions and issues raised by the supplier in relation to their submission
- where a supplier threatens to take legal action, record details and notify the appropriate authority within the Organization.

Suppliers can request additional information regarding the competitive procurement process, which may include information provided by other suppliers, through a request made to the Organization. Exemptions from disclosing information about other suppliers may be available under applicable privacy laws.

Mandatory Requirement #21:Non-competitive procurement

A competitive procurement process will be employed to achieve optimum value for money. OACAS recognizes that special circumstances may require the use of non-competitive procurement, but non-competitive procurement may only be utilized in situations outlined in the ***Exemptions, Exceptions, and non-applications under trade agreements***. Where an exception clause exists under the CANADIAN FREE TRADE AGREEMENT (CFTA) or other trade agreement, it may be used as the basis for conducting non-competitive procurement. Non-competitive Procurements include Single Source and Sole Source procurement processes. Refer to appendix A for the exemptions and exceptions and requirements for single and sole sourcing.

Mandatory Requirement #22:Contract Management

Contract Leads must ensure that a signed written contract between OACAS and the supplier is in place before the provision for supplying goods or services commences, and that the contract includes appropriate cancellation or termination clauses. The appropriate OACAS contract template must be used.

Key requirements

- Procurement and the resulting contracts must be managed responsibly and effectively
- Payments are to be made in accordance with the provisions of the contract. All invoices must contain detailed information sufficient to warrant payment. Any overpayments must be recovered in a timely manner.
- Assignments must be properly documented
- Supplier performance must be managed and documented, and any performance issues must be addressed
- To manage disputes with suppliers throughout the life of the contract, a dispute resolution process should be included in the contract
- For services, contracts must:
 - Establish clear terms of reference for the assignment. The terms should include objectives, background, scope, constraints, staff responsibilities, tangible deliverables, timing, progress reporting, approval requirements and knowledge transfer requirements
 - Follow expense claim and reimbursement rules that are compliant with the Broader Public Sector Expenses Directive (refer to OACAS's Expenses Policy)
 - Ensure that expenses are claimed and reimbursed only where the contract explicitly provides for reimbursement of expenses

Mandatory Requirement #23:Procurement Records Retention

For reporting and audit purposes, all procurement documentation must be retained in a recoverable form for 7 years. A file for the procurement should be created and maintained on OACAS' SharePoint site. See **Appendix B** for the types of documentation that should be retained in the file.

Mandatory Requirement #24:Conflict of Interest

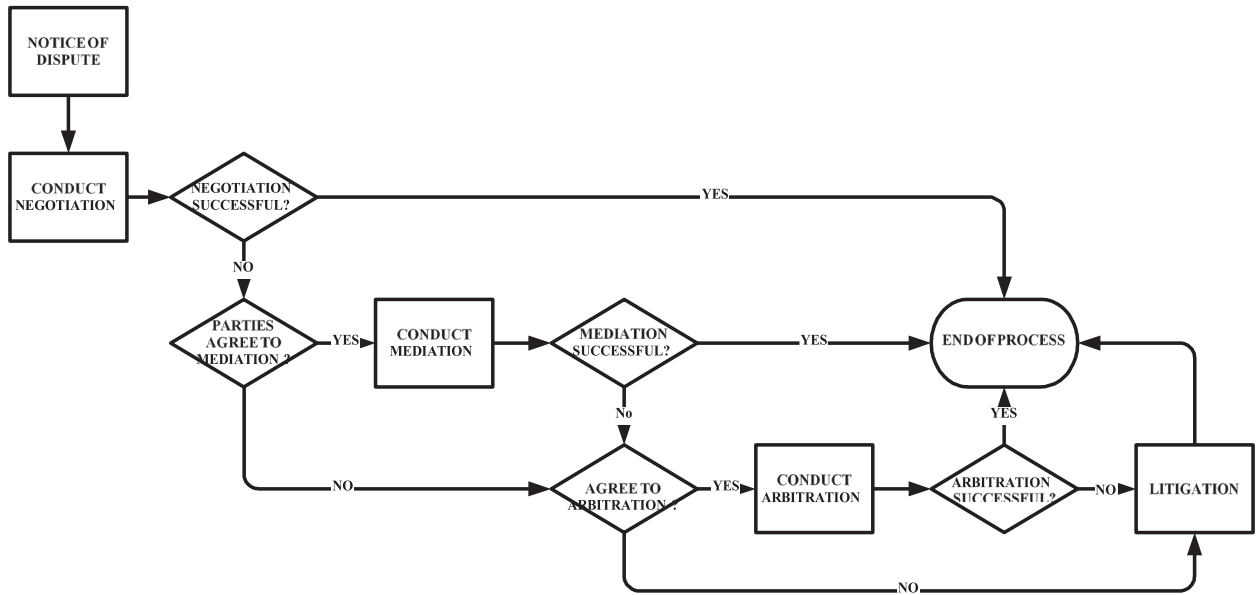
OACAS will monitor any conflict of interest that may arise as a result of anyone's involvement with the procurement activities. Individuals involved must declare actual or potential conflicts of interest and where a conflict of interest arises, it must be evaluated and appropriate mitigating action must be taken.

Refer to OACAS's Conflict of Interest Policy for details.

Mandatory Requirement #25:Dispute Resolution

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

OACAS' dispute resolution process will include: Negotiation, Mediation and Arbitration. There are a number of approaches that Organizations can use to resolve bid disputes. The following Dispute Resolution Process will be used:



RESPONSIBILITIES

Board of Directors

- Approve non-competitive procurements valued at \$200,000 or more for Consulting Services
- Approve open competitive procurements valued at \$500,000 or more for Consulting Services.
- Approve open competitive procurements valued at \$1.0M or more for goods and non-consulting services for Ministries.
- Approve OACAS annual operating budget.

Board Finance Committee

- Review and present non-competitive Procurements valued at \$200,000 or more for Consulting Services to the Board for approval.
- Review and present open competitive Procurements valued at \$500,000 or more for Consulting Services to the Board for approval.
- Review and present open competitive Procurements valued at \$1.0M or more for goods and non-consulting services to the Board for approval.
- Review and present OACAS annual operating budget to the Board for approval.

Chief Executive Officer

- Approve in writing, the use of all non-competitive Consulting Services Procurement valued \$0 to \$199,999.
- Approve in writing, the use of all non-competitive Goods and Non-Consulting Services Procurement valued \$50,000 to \$999,999.
- Approve in writing, the use of all invitational competitive goods and Non-Consulting services Procurement valued \$50,000 to \$121,199.
- Approve in writing, the use of all open-competitive goods and Non-Consulting services Procurement valued \$121,200 to \$999,999.
- Ensure appropriate organizational structures, systems, policies, processes, procedures, including regular staff training, are established to enable the responsible and effective management of the Procurement of goods and services.

- Ensure bid disputes arising from procurement obligations are investigated and responded to in a timely manner.

Department Directors

- Approve in writing, the use of all invitational competitive goods and services Procurement valued \$5,000 to \$49,999.
- Approve in writing, the use of all invitational competitive consulting services Procurement valued \$0 to \$24,999.

Contract Leads'

- Prepare all required documentation related to procurement.
- Ensure that the appropriate method is used.
- Ensure appropriate approvals are obtained at the various stages of procurement.
- Ensure that a signed written contract (using the approved template) between OACAS and the supplier is in place before the provision for supplying goods or services commences.
- Manage the bid dispute process.
- Create and maintain a file for each procurement on the OACAS SharePoint site and ensure that all required documentation is kept on file.
- Ensure that competitive procurement for goods and services valued at more than \$121,200 are posted on an electronic tendering system that is readily accessible by all vendors.
- Ensure that all mandatory requirements specified in the policy are complied with.
- Certify that the good/service was received.
- Authorize the placement of an order for a good/service.
- Approve invoices for payment.
- Keep track of deliverables.

Finance Department

- Ensure compliance with the requirements of this policy.
- Provide training to OACAS staff on the procurement policy.
- Provide support to staff, including Directors and Contract Leads, during the procurement cycle.
- Conduct regular reviews of procurements to ensure compliance with the policy.
- Develop appropriate forms and tools required by the policy.
- Establish the appropriate controls and checks required for the integrity of the Ccard process.
- Maintain and enforce the procurement policy and controllership standards and guidelines for effective application of the policy.

Appendix A - Exemptions

The following goods and services are not prescribed for the purposes of the BUILDING ONTARIO BUSINESSES INITIATIVE ACT, 2022, so BOBI questions do not need to be included in the RFP questions:

1. A good or service required for an emergency.
2. A good or service procured pursuant to a standing offer, vendor of record arrangement or a multi-use list.
3. A good or service procured for commercial sale or resale or for use in the production of a good or service intended for commercial sale or resale.
4. The services of a lawyer, paralegal or notary public.
5. The services of an expert witness to be used in a court or legal proceeding.
6. A good or service that is not available from an Ontario business.

NON-COMPETITIVE PROCUREMENT

Non-competitive procurement is defined as a good or service that is procured from “selected” suppliers without a competitive process. Non-competitive procurement can be used under the following circumstances:

1. Where a non-application clause exists under the CANADIAN FREE TRADE AGREEMENT (CFTA) or other trade agreement
2. Where an approved single-source situation exists
3. Where an approved sole-source situation exists

Non-Application of Trade Agreements

Where a non-application clause exists under the CANADIAN FREE TRADE AGREEMENT (CFTA) or other trade agreement, OACAS may apply this clause as the basis for conducting non-competitive procurement.

OACAS must formally establish applicability of this clause and assert that procurement is subject to a non-application clause under a trade agreement.

Organizations are required to comply with any amendments to the trade agreements approved after the release of the BPS Procurement Directive. As of February 23, 2024, the non-application clauses of the CFTA are:

- (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; 38
 - (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.

Single Sourcing

Single-source is defined as the use of a non-competitive procurement process to acquire goods or services from a specific supplier even though there may be more than one supplier capable of delivering the same goods or services. In the following circumstances, single-source procurement can be used, provided that it is not done for the purposes of avoiding competition between suppliers, or to discriminate against suppliers:

- Where an unforeseeable situation of urgency exists and the goods or services cannot be obtained in time by means of open procurement procedures. Note: Failure to plan and allow sufficient time for a competitive procurement process does not constitute an unforeseeable situation of urgency.
- 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 confidentiality, cause economic disruption or otherwise be contrary to public interest.
- 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 policy.
- 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.
- Where compliance with the open tendering provisions set out in the policy would interfere with the entities' ability to maintain security or order or to protect human, animal or plant life or health.
- In the absence of a receipt of any bids in response to a call for proposals or tenders made in accordance with the procurement policy.

Sole Sourcing

Sole Source" is defined as the use of a non-competitive procurement process to acquire goods or services from a specific supplier because there are no other suppliers available or able to provide the required goods or services. Where only one supplier is able to meet the requirements of a procurement a non-competitive procurement may be conducted in the circumstances listed below provided that the procurement is not done for the purposes of avoiding competition between suppliers or to discriminate against suppliers:

- To ensure compatibility with existing products, to recognize exclusive rights, such as exclusive licenses, copyright and patent rights, or to maintain specialized products that must be maintained by the manufacturer or its representative
- 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
- For the procurement of goods or services the supply of which is controlled by a supplier that is a statutory monopoly
- For the purchase of goods on a commodity market
- For work to be performed on or about a leased building or portions thereof that may be performed only by the lessor
- 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
- For a contract to be awarded to the winner of a design contest
- 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
- For the purchase of goods under exceptionally advantageous circumstances such as bankruptcy or receivership, but not for routine purchases
- For the procurement of original works of art
- For the procurement of subscriptions to newspapers, magazines or other periodicals
- For the procurement of real property

Appendix B - Types of Documentation to be retained in Procurement File

The following types of documentation will be retained and kept in the contract file:

- A copy of the procurement justification or business case
- Information about supplier consultations, including requests for information, undertaken in the process of development of the procurement documents
- Evidence that all required approvals were obtained
- Copies of all procurement documents used to qualify and select suppliers
- Attestation of vendor being an Ontario or Canadian business
- Where procurement was conducted using a non-competitive method, justification, applicable exemptions and associated approvals
- Copies of all advertisements of procurement documents
- Copies of all successful and unsuccessful submissions, including conflict-of-interest declarations and other attached forms
- Information regarding any procurement process issues
- Information regarding evaluation of all submissions
- Information regarding all supplier debriefings, including written documentation of the offer of supplier debriefing
- Copies of all award letters, notices and posted announcements
- Copies of all agreements
- Information regarding all changes to the terms and conditions of the agreement, including any changes that resulted in an increase in the agreement price
- Information regarding supplier performance after agreement execution, including performance monitoring and management, as well as the knowledge transfer mechanisms
- Information regarding risk assessments and contingency plans
- Contractor security screening decisions
- Information regarding procurement-related protests, disputes or supplier complaints, including any agreement disputes
- Evidence of receipt of the deliverables
- Any other documentation related to procurement

Glossary of Terms

Approval Authority	The authority delegated to a person designated to occupy a position to approve one or more procurement functions up to specified dollar limits.
Approval Level	Dollar levels that define which approvals are needed for various business transactions. Limits are set on the size and nature of the business transactions and are assigned to the individual or job role authorized to execute based on the appropriate level of responsibility.
Award	The notification to a proponent of acceptance of a proposal, quotation or tender.
Bid	A proposal, quotation or tender submitted in response to a solicitation from a contracting authority. A bid covers the response to any of the three principal methods of soliciting bids, i.e., Request For Proposal, Request For Tender and Request For Quotation.
Bid Protest	A dispute raised against the methods employed or decisions made by a contracting authority in the administration of a proposal, tender or quotation process.
BPS Procurement Directive	Broader Public Sector Procurement Directive, effective January 1, 2024.
Broader Public Sector (BPS)	As defined in the Broader Public Sector Accountability Act, 2010 .
Canadian business	A commercial enterprise that is incorporated pursuant to the laws of Canada and which has ongoing business activities in Canada.

CANADIAN FREE TRADE AGREEMENT (CFTA)	<p>The Canadian Free Trade Agreement is an agreement that governs trade between the Canadian provinces and territories that took effect on July 1st 2017, replacing its predecessor, the 22-year old Agreement on Internal Trade.</p> <p>https://www.cfta-alec.ca/canadian-free-trade-agreement/</p>
Ceiling Price of VOR Arrangement	Dollar value of an individual procurement under the VOR arrangement above which Organizations must conduct procurement using an open competitive process instead of utilizing the VOR arrangement.
Competitive Procurement	A set of procedures for developing a procurement contract through a bidding or proposal process. The intent is to solicit fair, impartial competitive bids.
Conflict of Interest	A situation in which financial or other personal considerations have the potential to compromise or bias professional judgment and objectivity. An apparent conflict of interest is one in which a reasonable person would think that the professional's judgment is likely to be compromised.
Construction	Construction, reconstruction, demolition, repair or renovation of a building, structure or other civil engineering or architectural work and includes site preparation, excavation, drilling, seismic investigation, the supply of products and materials, the supply of equipment and machinery if they are included in and incidental to the construction, and the installation and repair of fixtures of a building, structure or other civil engineering or architectural work, but does not include professional consulting services related to the construction contract unless they are included in the procurement.
Consultant	A person or entity that under an agreement, other than an employment agreement, provides expert or strategic advice and related services for consideration and decision- making.
Consulting Services	The provision of expertise or strategic advice that is presented for consideration and decision-making.
Contract	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 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.

Electronic Tendering	A computer-based system that provides suppliers with access to information related to open competitive procurements.
Equipment	All capital equipment, supplies, operational and service documents to be delivered, including all parts provided during the warranty period, and further includes all work necessary to deliver and install the equipment.
Evaluation Criteria	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.
Evaluation Matrix	A tool allowing the evaluation team to rate supplier proposals based on multiple pre- defined evaluation criteria.
Evaluation Team	A group of individuals designated/responsible to make an award recommendation. The evaluation team would typically include representatives from the purchasing organization and subject-matter expert(s). Each member participates to provide business, legal, technical and financial input.
Evaluation Team Lead	The individual responsible for coordinating the evaluation process
Fair Market Value	The price that would be agreed to in an open and unrestricted market between knowledgeable and willing parties dealing at arm's length who are fully informed and not under any compulsion to transact.
Goods	Moveable property (including the costs of installing, operating, maintaining or manufacturing such moveable property) including raw materials, products, equipment and other physical objects of every kind and description whether in solid, liquid, gaseous or electronic form, unless they are procured as part of a general construction contract.
Goods and Services, Goods or Services	All goods and/or services including construction, consulting services and information technology.
Information Technology	The equipment, software, services and processes used to create, store, process, communicate and manage information.

Invitational Competitive Procurement	Any form of requesting a minimum of three (3) qualified suppliers to submit a written proposal in response to the defined requirements outlined by an individual/ organization.
Non-Discrimination	Fairness in treating suppliers and awarding contracts without prejudice, discrimination or preferred treatment.
Offer	A promise or a proposal made by one party to another, intending the same to create a legal relationship upon the acceptance of the offer by the other party.
Ontario business	1. The business is a supplier, manufacturer or distributor of any business structure that conducts its activities on a permanent basis in Ontario. 2. The business either, i. has its headquarters or main office in Ontario, or ii. has at least 250 full-time employees in Ontario at the time of the applicable procurement process.
Procurement	Acquisition by any means, including by purchase, rental, lease or conditional sale of goods or services.
Procurement /Contract Lead	An individual assigned to each procurement to ensure that it is conducted in an ethical, lawful, effective and accountable manner.
Procurement Policies and Procedures	A framework and mandatory requirements to govern how Organizations conduct sourcing, contracting and purchasing activities, including approval segregation and limits, competitive and non-competitive procurement, conflict of interest and contract awarding.
Procurement Value	The estimated total financial commitment resulting from procurement, taking into account optional extensions.
Purchase Order	A written offer made by a purchaser to a supplier formally stating the terms and conditions of a proposed transaction.
Request For Expressions of Interest (RFEI)	A document used to gather information about supplier interest in an opportunity or information about supplier capabilities/qualifications. This mechanism may be used when a BPS organization wishes to gain a better understanding of the capacity of the supplier community to provide the services or solutions needed. A response to a RFEI must not pre-qualify a potential supplier and must not influence their chances of being the successful proponent on any subsequent opportunity.

Request For Information (RFI)	A document issued to potential suppliers to gather general supplier, service or product information. It is a procurement procedure whereby suppliers are provided with a general or preliminary description of a problem or need and are requested to provide information or advice on how to better define the problem or need, or alternative solutions. A response to an RFI must not pre-qualify a potential supplier and must not influence their chances of being the successful proponent on any subsequent opportunity.
Request For Proposal (RFP)	A document used to request suppliers 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 Quotation (RFQ)	A document similar to an RFT where an Organization describes exactly what needs to be purchased and the evaluation is based solely on price.