

**Ontario Public Service  
Procurement Directive**

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## **PREAMBLE**

This Directive replaces the Management Board of Cabinet (MBC) Procurement Directive, February 2014.

The Ontario Public Service (OPS) Procurement Directive retains the content and requirements of the MBC Procurement Directive.

This Directive refers to numerous acronyms and terms. Readers may find it useful to first read through the list of acronyms and terms listed in Section 10 – Definitions and Acronyms.

Ministries should refer to the MyOPS Procurement intranet site to ensure they are using the most up to date Directive and for associated bulletins relating to any new or revised policies approved after the release of the Directive. Current versions of Procurement tools and templates are also available on the MyOPS Procurement intranet site.

### **1. PURPOSE**

To ensure that goods and services (including construction, Consulting Services, and Information Technology) are acquired through a process that is fair, open, transparent, geographically neutral and accessible to qualified vendors.

To specify the responsibilities of individuals and organizations at each stage of the procurement process.

To contribute to a reduction in purchasing costs.

To ensure consistency in the management of procurement-related processes and decisions.

### **2. APPLICATION AND SCOPE**

This Directive applies to all Ministries for the Procurement of all goods and services (including construction, Consulting Services, and Information Technology) required to meet government needs, except those related to advertising, public relations, media relations or creative services and acquisition of real property. For the acquisition of advertising, public relations, media relations or creative services Ministries should consult with the Advertising Review Board, or its successor, and refer to the *Procurement Directive on Advertising, Public and Media Relations and Creative Communications Services*. For acquisition, management and disposition of realty (including real property), Ministries and classified agencies must comply with the *MBC Realty Directive* and the *Ministry of Infrastructure (MOI) Realty Policy*, as applicable.

The retention of outside legal services is a mandatory Central Common Service. Otherwise, this Directive does not apply to the retention of outside legal counsel.

This Directive is mandatory and applies in its entirety to Ministries as defined in Section 10 – Definitions and Acronyms. The principles and requirements must be applied to all Procurements including the acquisition of Central Common Services and the establishment of Vendor of Record (VOR) Arrangements.

Ministries seeking an Exemption from any part of this Directive must refer to the approval authorities outlined in Section 4.5.

In applying this Directive, Ministries should also refer to the MBC Directives on *Agency Establishment and Accountability*, and *Management and Use of Information & Information Technology (I&IT)*, as well as their Ministry's Financial Delegations of Authority Framework (FDOA). Ministries must adhere to applicable conflict of interest rules prescribed by the *Public Service of Ontario Act 2006*, in Regulation 381/07 and to any conflict of interest rules approved and published by the Conflict of Interest Commissioner.

This Directive also applies, in part, to Other Included Entities as defined in Section 10 – Definitions and Acronyms. Section 3 and Section 8 of this Directive outline the requirements for Other Included Entities.

### **3. PRINCIPLES**

The overall objective of this Directive is to ensure that Ministries and Other Included Entities acquire the goods and services required to meet government needs in the most economical and efficient manner, through procurement processes that conform to the following principles:

#### **Value for Money**

Goods and services must be procured only after consideration of ministry business requirements, alternatives, timing, supply strategy, and procurement method.

#### **Vendor Access, Transparency, and Fairness**

Access for qualified vendors to compete for government business must be open and the procurement process must be conducted in a fair and transparent manner, providing equal treatment to vendors.

Conflicts of interest, both real and perceived, must be avoided during the procurement process and the ensuing Contract. Relationships that result in continuous reliance on a particular vendor for a particular kind of work must not be created.

## **Responsible Management**

The Procurement of goods and services must be responsibly and effectively managed through appropriate organizational structures, systems, policies, processes, and procedures.

## **Geographic Neutrality and Reciprocal Non-Discrimination**

Ministries and Other Included Entities that are subject to Ontario's Trade Agreements must also ensure that access for vendors to compete for government business is geographically neutral with respect to other jurisdictions that practice reciprocal non-discrimination with Ontario.

# **4. PROCUREMENT PLANNING AND APPROVALS**

## **4.1 Procurement Planning**

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

Ministries are encouraged to develop an annual procurement plan, as appropriate, that lists all known Procurements to be conducted to support current, ongoing, and future business requirements, including goods and services being procured under existing Contracts. An annual procurement plan may help Ministries identify opportunities to aggregate Procurement spend in their Ministry as well as streamline the procurement process.

Ministries that prepare an annual procurement plan are encouraged to seek procurement approvals through a single annual omnibus submission that can be submitted to Supply Chain Leadership Council (SCLC) and/or TB/MBC, as appropriate at a time best suited to meet Ministry business needs. For each Procurement submitted in an annual omnibus submission, Ministries must include the same information requirements as in-year submissions.

Ministries must assess the following planning considerations:

- early identification of business needs;
- justification for the acquisition taking into consideration supply source requirements;
- clear definition of specifications and evaluation requirements;
- compatibility of Procurement needs with policy, program, and/or legislative and regulatory requirements;
- adequate timelines for procurement approval, tender period and evaluation;
- vendor capacity to deliver requirements in the proposed timelines;
- accessibility requirements;

- potential of the Procurement to be eligible for GreenFIT, the consideration of Local Food options, Ethical Apparel Procurement Requirements or any other government initiative;
- roles and responsibilities of the successful vendor(s) and any other public sector participants;
- reporting relationships and accountability mechanisms that will apply to the successful vendor(s);
- privacy, security and confidentiality requirements;
- ownership of deliverables and intellectual property rights including the obligation to ensure that the government does not inadvertently infringe on rights belonging to Third Parties;
- business continuity requirements;
- performance standards and service levels;
- performance management including remedies for non-performance;
- vendor compensation and payment;
- knowledge transfer and training;
- risk allocation and liability;
- dispute resolution;
- early termination provisions;
- alternative Procurement methods (e.g., Joint Procurement, Best and Final Offer, Limited Contract Negotiation Framework), as appropriate; and
- other requirements deemed necessary.

Ministries are also encouraged to refer to Section 7.1 - Ontario Trade Commitments for more information.

For Information Technology (IT) Procurements, Ministries must also consider, as appropriate:

- delivery, testing and acceptance requirements;
- any applicable technical architecture;
- design requirements and standards; and
- interface requirements.

Additional information about Procurement planning can be found on the MyOPS Procurement intranet site.

#### **4.1.1 Procurement Planning for Consulting Services**

The following planning considerations apply when Ministries acquire 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.

#### **4.1.1.1 Terms of Reference**

Clear terms of reference for the consulting assignment must be established, including: objectives, background, scope, constraints, staff responsibilities, tangible deliverables/results, timing, progress reporting, approval requirements, and where applicable, knowledge transfer requirements.

#### **4.1.1.2 Assignment Substantiation**

External Consulting Services must not be procured when existing internal Ontario Public Service (OPS) resources are available for the assignment. Ministries must document their prior consideration of using internal ministry resources as part of the Procurement documentation if a decision is made to use external Consulting Services. For long-term and/or ongoing needs, Ministries must substantiate the use of external Consulting Services over recruitment of internal resources.

Consultants must not perform functions normally assumed by management including supervising and hiring staff and other consultants. In addition, consultants must not prepare or access government confidential information without appropriate non-disclosure/confidentiality agreements being in place. Where Cabinet records or solicitor client privileged records are at issue, Ministry legal counsel should be consulted.

Ministries shall co-ordinate, monitor and control the combined efforts of internal and external resources to ensure satisfactory completion of consulting assignments on schedule and within budget. When applicable, a transfer of knowledge must occur from consultant to staff to avoid a continuous reliance on consultants.

#### **4.1.1.3 Ceiling Price Increases**

For Consulting Services Agreements, a ceiling price must be established in the Agreement with a successful vendor(s). The Agreement Ceiling Price must reflect the total value of the Agreement, including potential Follow-On Agreements. The Agreement Ceiling Price cannot exceed the Procurement Value identified in the procurement approval. Once established, Ministries are not permitted to make changes to the Agreement Ceiling Price unless allowed by contractual provisions.

While Agreement Ceiling Price increases may be required over the term of an Agreement, Ministries are encouraged to avoid such increases through appropriate procurement planning.

Where Ministries have established that an Agreement Ceiling Price increase is required, they must seek prior written approval from the appropriate delegated authority.

In seeking written approval, Ministries must identify the framework used to confirm that the increased vendor costs are justified and that the government continues to obtain value for money. Prior to implementing a Ceiling Price increase, Ministries must determine whether the increase causes the total Procurement Value to exceed the original procurement approval. If so, changes to the Agreement Ceiling Price must not be made until the Ministry has sought new procurement approval authority as appropriate.

Ministries must consult legal counsel in this regard to identify required changes to the Agreement terms and conditions related to the Agreement Ceiling Price increase.

For approval purposes, Ministries should anticipate future needs and include potential Follow-On Agreements as part of the Procurement Value. Ministries must refer to Section 4.2.2 for requirements specific to Follow-On Agreements.

#### **4.1.1.4 Unsolicited Research Proposals**

Ministries may accept unsolicited research proposals that conform to other elements of administrative policy in cases where the government's interests would not be better served by calling for competitive proposals for the project. Deputy Head approval must be obtained in writing before entering into an Agreement, and all such Agreements must be documented. Subsequent purchases of these services must be through an appropriate competitive process in accordance with the provisions of this Directive.

#### **4.1.2 Procurement Planning for Large Projects**

When undertaking Procurements related to Large Projects, Ministries must ensure that a procurement plan is developed and implemented. The procurement plan for Large Projects must be appropriate to, and aligned with the key business objectives of the project and provide sufficient detail of all required Procurements to successfully meet the key business objectives.

Ministries must consider the separation of Procurement activities related to each project stage when undertaking procurement planning related to projects involving the significant transformation of ministry business processes and operations. For IT projects, Ministries should refer to the *Policy on the I&IT Project Gateway Process*.

Ministries may consider sub-dividing a project-related Procurement(s) into several smaller Procurements for the purposes of complexity, size, uncertainty, or improved management control but not to circumvent approval authorities.

To maximize alignment with the business objectives, the Procurement(s) should be conducted by project team members responsible for both project delivery and contract management and supported by procurement experts. In this regard, the Procurement experts should play an advisory role to the project team. Ministries must also consider the use of a Fairness Commissioner to ensure the consistent application of the procurement process. Where Ministries use a Fairness Commissioner, they must be engaged throughout the entire procurement process.

When developing the project procurement plan, Ministries must ensure that all of the requirements of this Directive are addressed.

Ministries may also refer to MyOPS InsideIT intranet site for more information on managing Large Projects in the OPS.

#### **4.1.3 Separation of Design and Build in Procurement Process**

For Procurements that involve design and build phases, Ministries must separate these phases in the procurement process. This can be accomplished by conducting a single Procurement with the build phase being subject to the

successful completion of the design phase, or by conducting separate Procurements.

Where Ministries determine it is appropriate to conduct a single Procurement, whereby the same vendor would provide both design and build services, Ministries must validate the satisfactory completion of the design phase before proceeding with the build phase. Ministries must also ensure that the procurement documents, especially the Agreement, clearly outline the criteria by which satisfactory completion will be measured. Ministries must consult with, and provide direction to, ministry legal counsel regarding the appropriate completion and approval criteria for the Procurement.

Ministries must ensure that appropriate design review and approval by the project governance structure occurs prior to proceeding to the build stage.

Where Ministries conduct separate Procurements for the design phase and the build phase of a project, Ministries must determine whether or not the successful vendor(s) at the design phase will be permitted to participate in the build stage, and clearly indicate this in the design phase procurement documents. As appropriate, Ministries are encouraged to allow the successful design vendor(s) to bid on the build phase.

Ministries must provide full disclosure of the design and the design vendor(s) in the build phase procurement documents including whether or not the successful design vendor(s) are permitted to bid. Ministries must also ensure that all interested vendors have access to the same information made available to the successful design vendor(s) either through the procurement documents or other mechanisms such as a reading room accessible to all vendors interested in responding to the Procurement.

#### **4.1.4 Alternative Procurement Planning Considerations**

In developing their procurement plans, Ministries may consider using alternative procurement methods.

##### **4.1.4.1 Joint Procurement**

A Joint Procurement means a Procurement by multiple organizations from the public sector, who in order to achieve efficiencies and economies of scale, leverage their joint purchasing requirements and activities.

Ministries participating in Joint Procurement must seek legal advice early on in the procurement planning stage and before the Joint Procurement arrangement is signed.

Ministries must obtain prior approval to proceed or participate in a Joint Procurement. The justifications provided must include considerations of the

planning requirements as specified in Section 4.1 Procurement Planning – Ministries.

When a ministry is undertaking the procurement process jointly with other partnering organizations, it must:

- comply with Ontario’s Trade Commitments;
- consult with Risk Management and Insurance Services, Ministry of Government and Consumer Services on insurance, indemnity and other risk management issues;
- consult with the Ministry of Finance on tax compliance and related issues;
- reference the *Contractor Security Screening Operating Policy* and/or consult with the Negotiations and Security Branch, Ministry of Government and Consumer Services;
- reference the *Business Continuity Planning / Continuity of Operations Planning Operating Policy* and, if necessary, seek assistance from the ministry’s Business Continuity Co-ordinators;
- reference the *Information Security and Privacy Classification Policy* on requirements to protect and store confidential personal and program information;
- consider environmental sustainability in the Procurement;
- for IT projects, reference the *Policy on the I&IT Project Gateway Process*; and
- reference the Guidelines for Ownership of Intellectual Property in Custom Software Development and the *Management and Use of Information & Information Technology (I&IT) Directive*.

#### **4.1.4.2 Best and Final Offer (BAFO)**

Ministries may consider using Best and Final Offer (BAFO) in the Procurement of goods. Those who wish to use BAFO must include the following information in their procurement business case:

- the rationale for using BAFO;
- the benchmark on current pricing and the anticipated savings;
- the strategy to ensure open, fair and transparent process; and
- the circumstances under which BAFO will be triggered.

In the procurement document, Ministries must clearly specify in detail the evaluation process, rules and all scenarios under BAFO.

Ministries should refer to the MyOPS Procurement intranet site for information on using BAFO.

#### **4.1.4.3 Limited Contract Negotiation Framework**

Ministries may consider using limited contract negotiations for projects that involve significant business transformation. Ministries may also consider using limited contract negotiations where previous Procurements for the same goods or services were unsuccessful. Ministries may negotiate specific topics as part of the procurement process, providing the following conditions are met:

- Ministries must indicate in their submission their intent to use the limited contract negotiation framework. The procurement strategy document must include an outline of the specific topics that will be subject to negotiation, the reasons for including negotiation in the procurement process, and any anticipated benefit(s) to the Crown, including possible reduction in prices or rates.
- The procurement document must clearly indicate the specific topics that will be subject to negotiation, and the framework and rules which will apply to the negotiation process;
- Negotiation must be limited to those topics which have been listed as subject to negotiation in the procurement document;
- During the negotiation process, Ministries must ensure compliance with the rules and framework as set out in the procurement document;
- Where there is a single-vendor contract, Ministries may only enter into negotiation with a proponent which has obtained the highest ranking in the evaluation process. Where a negotiation has been terminated, however, in accordance with the rules set out in the procurement document, a Ministry may commence negotiation with the next highest ranked proponent;
- Where there is a multi-vendor award, Ministries may only enter into negotiation with the proponents in accordance with the evaluation process set up in the procurement document.

Ministries should refer to the MyOPS Procurement intranet site for information on using Limited Contract Negotiation Framework.

#### **4.1.5 Procurement Planning for Food Purchases**

For food, beverage and/or food related Procurements (e.g., event service catering) with a Procurement Value under \$25,000, Ministries must consider Local Food, as available. This requirement does not apply to food Procurements undertaken using a Vendor of Record (VOR) arrangement or employee travel meals.

Ministries may also choose to consider Local Food, as available, from amongst

the products on the VOR Arrangement(s).

## **4.2 Procurement Value**

Ministries must determine the Procurement Value in order to determine the appropriate procurement approval authority and procurement method. To determine the Procurement Value, Ministries must consider all costs and benefits associated with entering into a contractual relationship with a Third Party.

Costs and benefits may include, but are not limited to:

- price/cost of the goods and/or services;
- one-time costs such as site preparation, delivery, installation and documentation;
- ongoing operating costs including training, accommodation, support and maintenance;
- sale taxes and applicable duties;
- disposition costs;
- premiums, fees, commissions, and interest;
- options to renew;
- direct payments by the Crown to the successful vendor(s);
- indirect payments by Third Parties to the successful vendor(s); and
- any conferred value by the Crown to the successful vendor(s).

For approval purposes only, Procurement Value does not include sales taxes. For other purposes, such as determining the appropriate procurement method, the Procurement Value includes sales taxes.

Examples of conferred value include, but are not limited to, the exchange of goods and/or services in return for other goods and/or services, revenue generating opportunities and partnership agreements with non-profit organizations.

Where a project involves multiple related Procurements, the project's Procurement Value would be determined by the cumulative value of all related Procurements.

For approval purposes, Ministries must anticipate future needs and include potential Follow-on Agreements as part of the Procurement Value. Ministries should refer to Section 4.2.2 for requirements specific to Follow-on Agreements.

Ministries must not take any actions to reduce the Procurement Value to avoid any requirements of this Directive. Such actions could include subdividing projects, Procurements, or Contracts and awarding multiple consecutive Contracts to the same vendor. The award of multiple consecutive Contracts to the same vendor may only be made where each assignment is unique or where prior approval of a Follow-On Agreement has been received.

#### **4.2.1 Procurement Value Increases**

When the Procurement Value increases, Ministries must ensure they have the appropriate procurement approval authority, and have used the appropriate procurement methods, in order to process or continue with the procurement process. Procurement Value increases may be caused by, but are not limited to, price increases, volume uptake, or other unforeseen circumstances. Approval is especially important when the Procurement Value increase causes the Procurement Value to exceed the approval threshold of the original approver.

It may be determined that certain commodities, such as fuel and food, require contractual provisions for price increases. In these instances, Ministries should anticipate such increases and ensure that they seek approval from the appropriate procurement approval authority. Ministries must also ensure that the procurement documents, including the Agreement, identify the framework under which price increases will be permitted, including, but not limited to:

- the frequency of price increases;
- the allowable amount of increase; and
- any benchmarks that will be used to confirm the price increase.

#### **4.2.2 Follow-On Agreements**

A Follow-On Agreement is one that follows and is related to an already completed Agreement. Follow-On Agreements allow a Ministry to structure a Procurement into several smaller portions for reasons of complexity, size, uncertainty or improved management control.

Follow-On Agreements are permitted only where an open competitive Procurement or VOR Arrangement has been used to select a vendor. The total value of the Agreements, where under a VOR Arrangement is used, must not exceed the value of the VOR ceiling limit, where it exists.

Prior to entering into a Follow-On Agreement, the following activities must have taken place:

- appropriate approval has been obtained in writing prior to entering the original Agreement;
- procurement approval authority has been based on the total value of the work in the original Agreement and the Follow-On Agreements;
- the terms of the original Contract were fulfilled and vendor performance was satisfactory;
- the appropriate procurement method was used for the original Contract such as a VOR Arrangement or an open competitive Procurement;
- the procurement documents for the original work disclosed the total potential scope of work to be completed.

### **4.3 Supply Source**

Prior to conducting a Procurement, Ministries must validate that there is a compelling need for the acquisition and determine the appropriate supply source for the required goods and/or services. Ministries must first consider the availability of internal resources, including the government's Surplus Assets Management Services. Where internal resources are not available, Ministries must use the following supply sources for goods and services, in the order indicated below:

- Mandatory Central Common Services
- VOR Arrangements
  - Enterprise-wide VOR Arrangements
  - Multi-ministry VOR Arrangements
  - Ministry-specific VOR Arrangements
- Optional Central Common Services
- Competitive procurement process

When procuring Commercial-Off-The Shelf (COTS) software, Ministries must comply with the supply source requirements below. However, prior to conducting an open competitive process, Ministries must first determine if a Ministry-specific Licensing Agreement is available or Volume Licensing Agreement is available and appropriate in the context of the business use and this Directive. In this regard, the supply source requirements for COTS are as follows:

- VOR Arrangement
- Ministry-specific Licensing Agreement
- Volume Licensing Agreement (VLA)
  - Resellers
  - Direct sellers
- Open competitive Procurement

Ministry-specific Licensing Agreements are established through a prior competitive process or have been approved by MBC or an enterprise body that has been delegated this authority.

#### **4.3.1 Volume Licensing Agreements**

Volume Licencing Agreements (VLAs) have been established with certain COTS product vendors to enable Ministries and, where appropriate, Other Included Entities and Broader Public Sector (BPS) entities, to take advantage of discounts and the opportunity to license COTS products under common negotiated terms.

VLAs may include COTS products that have been previously selected in accordance with Section 6.2. Where a COTS product is identified as a corporate Information Technology standard that has been established in accordance with Section 6.5, Ministries must consider the use of VLAs.

#### **4.3.1.1 Using a Volume Licensing Agreement**

Prior to using a VLA, Ministries must review the VLA User Guide to determine specific processes that Ministries must follow including the requirement for further competition to obtain best value for money or additional procurement approval authority requirements.

Ministries must also comply with all VLA terms and conditions including, but not limited to, reporting and audit requirements.

Ministries must note that since VLAs have not been established using an open competition process, they are not considered a substitute for competition. Ministries will be required to seek non-competitive approvals, as appropriate, for Procurements of COTS software and related services, using a VLA.

#### **4.3.2 Central Common Services**

Central Common Services are services provided by one Ministry or agency to all other Ministries to reduce costs, achieve effective and efficient use of limited resources within the OPS and/or standardize government practices. Appendix A lists all of the mandatory and optional Central Common Services.

Establishment of a new Central Common Service and the discontinuance of or significant change in the operation of an existing one must have prior MBC approval.

Central Common Services are established to streamline internal service delivery and are not established through any competitive process. When establishing a Central Common Service, the ministry must:

- Explain the rationale, benefits and risks for its establishment;
- Demonstrate how it meets the government agenda and priorities;
- Demonstrate how savings, efficiencies and effectiveness are achieved and monitored;
- Define the governance structure including roles and responsibilities, and controllership;
- Identify whether its use by Ministries is mandatory or optional;
- Define the costing model, including how inter-ministry charges will be determined. For mandatory Central Common Services, Ministries must demonstrate how this maximizes value for money for users;
- For optional service, explain how direct competition with the private sector is minimized to avoid creating barriers especially to small and medium sized enterprises; and
- Create a user guide for the use of the Central Common Service.

Except where MBC has directed that the services are to be provided without charge, the inter-ministry charges for optional Central Common Services must recover the full costs required by the service ministry to deliver the goods and

services to client Ministries. Ministries must refer to the Ministry of Finance *OPS Costing and Pricing Policy and Guidelines* for more information.

Ministries must use Central Common Services that have been identified as mandatory. For optional Central Common Services, Ministries must consider all benefits and total costs, including operating and overhead costs, before acquiring the service from the private sector.

#### **4.3.3 Vendor of Record (VOR) Arrangements**

Enterprise-wide VOR Arrangements are established to reduce Procurement costs by providing Ministries with access to one or more contracted vendors of goods and services common to more than one ministry. Enterprise-wide VOR Arrangements may only be established by the Ministry of Government and Consumer Services (MGCS).

Multi-ministry VOR Arrangements may be established where there is an identified need for a particular good or service among one or more Ministries and authorized agencies but where there is insufficient demand for an enterprise-wide VOR Arrangement.

Ministry-specific VOR Arrangements may be established for the supply of a particular required good or service unique to that Ministry.

Typically, enterprise-wide VOR Arrangements are mandatory use where the estimated Procurement Value is \$25,000 or more or where MBC has approved mandatory use at any value. Some enterprise-wide VOR Arrangements may also have a ceiling price. Ministries should refer to the VOR User Guide, available on the MyOPS Procurement intranet site, to confirm mandatory use requirements.

Ministries seeking to acquire goods and services available through enterprise VOR Arrangements using another Procurement means are required to seek appropriate approval of an exemption from this Directive.

Ministries must secure appropriate procurement approval authority prior to using a VOR Arrangement. The procurement approval authority requirement is based on the total estimated Procurement Value including potential Follow-On Agreements. For projects that involve multiple related Procurements under one or more VOR Arrangements, the procurement approval authority is based on the Procurement Value of all of the related Procurements.

For VOR Arrangements where there are multiple vendors, a further second-stage selection process is required to ensure buyers obtain the best value for money (see Section 4.3.3.2).

Ministries must enter into a written Agreement with the successful vendor(s) selected through a VOR Arrangement. Prior to using a VOR Arrangement,

Ministries must also refer to the VOR User Guide to identify and comply with any user requirements of that VOR Arrangement.

New VOR Arrangements are established on a regular basis. A list of available VOR Arrangements is available on the MyOPS Procurement intranet site.

#### **4.3.3.1 Establishing VOR Arrangements**

When establishing VOR Arrangements, Ministries must:

- use an appropriate procurement process to establish the VOR Arrangement;
- seek appropriate procurement approval authority based on the procurement method and total estimated value of spending expected to occur over the life of the VOR Arrangement;
- establish a VOR Ceiling Price, where appropriate;
- identify at what value the VOR Arrangement is to be made mandatory for goods and/or services;
- determine insurance coverage requirements related to the goods and/or services being procured and confirm when proof of insurance must be presented, noting that where insurance is a requirement, proof of insurance must occur at the second-stage process unless identified by the ministry in their procurement approval document as being required when the VOR Arrangement is initially established;
- determine and clearly identify in the Master Agreement if the VOR Arrangement will be available for use by the following:
  - Other Included Entities;
  - The Legislative Assembly;
  - Municipalities, Colleges, Universities, Hospitals, Community Care Access Centres, School Boards, Children's Aid Societies, and any other entity designated by the Crown; and
  - All other eligible Transfer Payment recipients;
- create a VOR User Guide that provides users with information about the VOR Arrangement such as vendor contact information and pricing, specific user requirements such as insurance requirements, as well as any other information identified by the ministry.

For multi-ministry VOR Arrangements, a single lead ministry must be established. In addition to the above-noted requirements for the establishment of VOR Arrangements, the lead ministry must also:

- consult with Supply Chain Ontario, Ontario Shared Services, to verify that an enterprise-wide VOR Arrangement is not possible;
- secure the appropriate procurement approvals;
- identify all other user Ministries;
- manage the procurement process; and
- manage the resulting VOR Arrangement.

Only those Ministries, or successor Ministries, identified at the time the multi-ministry VOR Arrangement is established are entitled to use that VOR Arrangement. The lead Ministry must also identify if the multi-Ministry VOR Arrangement is available for use by other public sector entities for which the Ministries have oversight.

Ministry-specific VOR Arrangements are for the exclusive use of that Ministry and may not be utilized by any other ministry. Where opportunities are identified to expand existing VOR Arrangements from multi-Ministry to enterprise-wide or Ministry-specific to multi-Ministry, Ministries must consult with Supply Chain Ontario, Ontario Shared Services, prior to seeking approval.

#### **4.3.3.2 Conducting a Second-Stage Selection Process**

Ministries conducting a second-stage selection process must issue a written procurement document, such as a Request for Solutions (RFSO) or Request for Services (RFS), as part of the second-stage selection process. The required second-stage selection process is determined by the Procurement Value of all Procurements being conducted under a VOR Arrangement. Where Ministries are using multiple VOR Arrangements, the second-stage selection process is determined by the Procurement Value of all Procurements being conducted under each VOR Arrangement. Ministries must not take any actions to reduce the value of Procurements to avoid second stage-selection process requirements.

The procurement document must include appropriate selection criteria, an evaluation process and any other applicable VOR Arrangement instructions and include the form of Agreement to be signed.

The procurement document must be sent to the required number of vendors as follows:

<b>Procurement Value</b>	<b>Minimum Second-Stage Requirement</b>
Less than \$25,000	Ministries may invite 1 or more vendor(s) unless otherwise specified by the VOR User Guide
\$25,000 up to but not including \$250,000	Ministries must invite 3 or more eligible vendors
\$250,000 up to but not including \$600,000	Ministries must invite 5 or more eligible vendors
\$600,000 and above if no ceiling Price	Ministries must invite all eligible vendors
\$600,000 up to VOR ceiling Price (where applicable)	Ministries must invite all eligible vendors
Above VOR ceiling Price (where applicable)	Ministries must use an open competitive procurement process or seek an exemption from this Directive

Where there are fewer vendors on a VOR Arrangement than the above-noted requirements, Ministries must invite all listed vendors.

If the estimated Procurement Value exceeds the approved VOR Ceiling Price, the ministry must conduct an open competitive Procurement or seek appropriate approval to exceed the ceiling price. As VOR ceiling prices can vary, Ministries should verify the ceiling price in the VOR User Guide, available on MyOPS Procurement.

Ministries should refer to the VOR User Guide for other procurement process requirements when undertaking a second-stage selection procurement.

#### **4.4 Procurement Methods**

Ministries must select and use the appropriate procurement method, dependent on the type and value of the Procurement. Ministries must note that:

- certain VOR Arrangements have been approved for mandatory use irrespective of the value of the Procurement;
- an invitational competitive Procurement is achieved by requesting a minimum of three (3) qualified vendors to submit a written proposal in response to the Ministry's requirements;
- an open competitive Procurement is achieved at a minimum, by issuing procurement documents using Ontario's designated electronic tendering system. The Daily Commercial News may also be used for construction-related Procurements; and
- a non-competitive procurement process must be supported by a business case that aligns with an Allowable Exception (as noted in Section 4.4.4.2), or seeks approval for an Exemption to the Directive where no Allowable Exception exists.

##### **4.4.1 Consulting Services Procurements**

A competitive procurement process must be used for all Consulting Services, irrespective of the value of the Procurement.

Ministries must refer to Section 4.1.1 when planning for Consulting Services Procurements.

Ministries may use an invitational competitive procurement process for Consulting Services valued up to \$100,000 and must use an open competitive procurement process for Consulting Services valued at \$100,000 or more.

Consulting Services assignments must have a start and end date. Any change to a Consulting Services Agreement, including the end date of the Agreement, may affect the Procurement Value. Ministries must ensure that they have prior appropriate approval authority in this regard.

#### **4.4.1.1 Approval of Vendor Selection**

For Consulting Services Agreements valued at or above \$100,000, Ministries must seek prior written approval from their Deputy Head of the selected vendor and the proposed Agreement before the proposed Agreement is signed.

For Consulting Services Agreements valued at or above \$100,000 and up to \$750,000, Deputy Heads may delegate this authority, in writing, to an appropriate official of the ministry.

For Consulting Services valued at or above \$750,000, only Deputy Heads can provide this written approval.

#### **4.4.2 Goods Procurements**

Ministries are encouraged to use an open competitive procurement process for goods with an estimated value of up to \$25,000 but may conduct these Procurements using their own policies, processes, and procedures provided that they are in accordance with the principles of this Directive.

Ministries must use an open competitive procurement process for goods valued at \$25,000 or more.

#### **4.4.3 Non-Consulting Services Procurements**

Ministries are encouraged to use an open competitive procurement process for non-consulting services with an estimated value of up to \$25,000 but may conduct these Procurements using their own policies, processes and procedures provided that they are in accordance with the principles of this Directive.

A competitive procurement process must be used for all non-consulting services Procurements with a Procurement Value of \$25,000 or more.

Ministry may use an invitational competitive procurement process for non-consulting services Procurements with a Procurement Value up to, but not including, \$100,000.

Ministries must use an open competitive procurement process for all non-consulting services Procurements with a Procurement Value of \$100,000 or more.

#### **4.4.4 Non-Competitive Procurements**

Non-competitive Procurements include Single Source and Sole Source procurement processes. All non-competitive Procurements are subject to

appropriate approvals as set out in Section 4.5.1 and some may require an Advance Contract Award Notice (ACAN) as set out in Section 4.4.4.1.

Certain allowable exceptions exist whereby Ministries, subject to appropriate procurement approval authority, can use a non-competitive procurement process. These allowable exceptions, (as noted in Section 4.4.4.2), adhere to Ontario's Trade Commitments and require appropriate approval as set out in Section 4.5.1. Non-competitive Procurements without allowable exceptions also require Ministries to seek appropriate approval.

Except for unforeseen situations of urgency that cannot wait for appropriate procurement approvals (see Section 4.4.6), Ministries must develop a business case and secure the appropriate procurement approvals, in writing and prior to conducting a non-competitive Procurement. Ministries must identify whether the non-competitive Procurement is an allowable exception or an exemption. Where approval is being sought for a non-competitive Procurement to extend a Contract with an existing vendor, Ministries must seek appropriate approvals prior to the contract end date and in sufficient time to permit an alternative procurement method.

#### **4.4.4.1 Advance Contract Award Notice (ACAN)**

Certain non-competitive Procurements require Ministries to post an Advance Contract Award Notice (ACAN).

Ministries must post an ACAN for all non-competitive Procurements conducted under the allowable exception noted in Section 4.4.4.2 (g) (i) where the contract value is \$548,700 or more for goods/services or \$7,700,000 or more for construction.

Ministries do not have to post an ACAN for any other non-competitive Procurements conducted under any other allowable exceptions or which are valued at less than \$548,700 for goods/services or \$7,700,000 for construction.

For non-competitive Procurements where there is no allowable exception, Ministries should contact Supply Chain Ontario, Ontario Shared Services, to determine if an ACAN is required.

The ACAN must contain the following information:

- non-competitive procurement strategy detailing the goods/services being acquired;
- the rationale for not conducting a competitive bid;
- vendor name and address; and
- request for Statements of Capabilities.

ACANs must be posted for a minimum period of 15 days prior to the proposed contract award on Ontario's designated electronic tendering system.

Ministries must review and accept or reject all Statements of Capabilities received in response to the ACAN.

Where no Statement of Capabilities has been submitted, Ministries may then proceed with the non-competitive Procurement in accordance with Section 4.4.5 – Non-Competitive Procurement Business Case Requirements, and include the ACAN results when seeking the appropriate approvals.

Where a Ministry accepts a Statement of Capabilities, they must then conduct a competitive Procurement process. Where a Ministry rejects a Statement of Capabilities, they must then advise the submitting vendor, in writing, prior to contract award, of the decision to reject their Statement of Capabilities and include a rationale for that decision. Ministries must also offer debriefings to vendors whose Statements of Capabilities are not accepted.

Where a Ministry rejects a Statement of Capabilities that has demonstrated more than one vendor could provide the goods/services needed by a Ministry, Ministries must seek an exemption to the Directive clearly identifying in their business case the ACAN results and any procurement, legal and trade agreement risks.

#### **4.4.4.2 Allowable Exceptions**

Non-competitive Procurement of goods, consulting and non-consulting services are only allowed in the following circumstances, subject to appropriate procurement approvals:

- a) Where an unforeseen situation of urgency exists and the goods, consulting services, services or construction cannot be obtained by means of a competitive procurement process. An unforeseen situation of urgency does not occur where Ministries have failed to allow sufficient time to conduct a competitive procurement process.

Ministries must also see Section 4.4.6 where an unforeseen situation of urgency exists that prevents the ministry from seeking appropriate procurements approvals.

- b) Where goods, consulting or non-consulting services regarding matters of a confidential or privileged nature are to be purchased and the disclosure of those matters through a competitive procurement process could reasonably be expected to compromise government confidentiality, cause economic disruption or otherwise be contrary to the public interest.

- c) Where a competitive process could interfere with the government's ability to maintain security or order or to protect human, animal or plant life or health.
- d) Where there is an absence of any qualified bids in response to a competitive procurement process that has been conducted in compliance with this Directive.
- e) Where the Procurement is in support of Aboriginal peoples.
- f) Where the Procurement is with a public body.
- g) Where only one supplier is able to meet the requirements of a Procurement in the following circumstances:
  - i. To ensure compatibility with existing products and services. Compatibility with existing products or services may not be allowable if the reason for compatibility is the result of one or more previous non-competitive Procurements.
  - ii. 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 representatives.
  - iii. For the Procurement of goods and services the supply of which is controlled by a supplier that has a statutory monopoly.

The following additional circumstances in which non-competitive Procurements are allowed only apply to goods and non-consulting services, subject to appropriate procurement approvals:

- h) Where an award is made under a co-operation agreement that is financed, in whole or in part, by an international organization only to the extent that the agreement includes different rules for awarding Contracts.
- i) 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.
- j) Where only one supplier is able to meet the requirements of a Procurement in the following circumstances:
  - i. For the purchase of goods on a commodity market.

- ii. For work to be performed on or about a leased building or portions thereof that may be performed only by the lessor.
- iii. For work to be performed on property by a Contractor according to provisions of a warranty or guarantee held in respect to the property or original work.
- iv. For a Contract to be awarded to the winner of a design contest.
- v. For the Procurement of a prototype or a first good/service to be developed in the course of research, experiment, study, or original development but not for any subsequent purchases.
- vi. For the purchase of goods under exceptionally advantageous circumstances such as bankruptcy or receivership, but not for routine purchases.
- vii. For the Procurement of original works of art.
- viii. For the Procurement of subscriptions to newspapers, magazines or other periodicals.
- ix. For the purchase of real property.

#### **4.4.5 Non-Competitive Procurement Business Case Requirements**

Written documentation for non-competitive Procurements must include:

- a) A description of the business requirements.
- b) A description of the proposed non-competitive procurement process including the approximate value and the estimated Agreement start and end dates.
- c) The allowable exception which has been identified to support the non-competitive Procurement. For allowable exceptions where only one vendor is able to meet the requirements, Ministries must include documentary evidence supporting this exception.
- d) The results of the ACAN process where applicable.
- e) Where no allowable exception exists, it must be noted in the business case that the Procurement is an exemption from the Directive and the business case must identify the requirement(s) from which it seeks to be exempted.

- f) The rationale for using a non-competitive procurement process including the circumstances that prevent the use of a competitive procurement process. The rationale must support the allowable exception or exemption being requested.
- g) Identifying if the selected vendor has previously been awarded a Contract with the Ministry within the past five years for the same or closely related requirements, and the type of procurement process(es) used.
- h) A description of the potential pool of vendors that might have responded to a competitive Procurement, where appropriate, and an assessment of all potential vendor complaints and how the ministry would respond and manage these complaints.
- i) A description of how the Ministry will ensure it will comply with the principles of this Directive, particularly value for money.
- j) Any alternatives considered.
- k) The impact on the business requirements if the non-competitive Procurement is not approved.
- l) If appropriate, a description of how the Ministry will meet these business requirements, in the future, using a competitive procurement process.
- m) Any other matters considered relevant.

#### **4.4.6 Non-Competitive Procurements for Unforeseen Situations of Urgency**

Where a non-competitive Procurement is required due to an unforeseeable situation of urgency, Ministries may conduct the Procurement prior to obtaining the appropriate approvals (see Section 4.5).

Where the Procurement is within SCLC or MBC approvals, Ministries must promptly notify the Chair of SCLC or the Secretary of MBC respectively.

Once the situation of unforeseen urgency is under control, Ministries must report back to SCLC or MBC respectively on the circumstances and situation of urgency, including a description of the selection process and results.

An unforeseen situation of urgency does not occur where Ministries have failed to allow sufficient time to conduct a competitive procurement process.

## 4.5 Procurement Approvals

### 4.5.1 Approval Authority

Except in unforeseen urgent situations as identified in Section 4.4.6, Ministries must seek the necessary approval authority prior to conducting all Procurements, including those establishing or using a VOR Arrangement(s). Requests for procurement approvals, and any necessary subsequent approvals (e.g., for Procurement Value Increases), must be in writing.

Procurement approvals may be required from within a Ministry in accordance with the Ministry's Financial Delegations of Authority (FDOA), SCLC or TB/MBC. All Unfunded Ministry Procurements valued at \$1M or more require TB/MBC approval.

Ministries must not take any actions to reduce the Procurement Value to avoid approval authority requirements. Such actions could include subdividing projects, Procurements, or Contracts and awarding multiple consecutive Contracts to the same vendor.

#### 4.5.1.1 Procurement Approvals - Consulting Services

Funded Ministry procurement approval requirements for **Consulting Services** are as follows:

Procurement Method	Procurement Value	Submission Approval	Approval Authority
Invitational Competitive	\$0 up to but not including \$100,000	Ministry DOA	Ministry DOA
Open Competitive	\$25,000 up to but not including \$1M	Ministry DOA	Ministry DOA
	\$1M up to but not including \$2M	Ministry DOA	Deputy Head (cannot be delegated)
	\$2M up to but not including \$20M	Deputy Head	SCLC
	\$20M or more	Minister	TB/MBC
Non-Competitive (Allowable Exceptions and Exemptions)	\$0 up to but not including \$500,000	Ministry DOA	Deputy Head Minister
	\$500,000 up to but not including \$1M	Deputy Head Minister	SCLC
	\$1M or more	Minister	TB/MBC
VOR Arrangement	Procurement value exceeds VOR Arrangement ceiling price	Minister	TB/MBC

#### 4.5.1.2 Procurement Approvals - Goods

Funded Ministry procurement approval requirements for **goods** are as follows:

Procurement Method	Procurement Value	Submission Approval	Approval Authority
Ministry Process	Up to \$25,000	Ministry DOA	Ministry DOA
Open Competitive	\$25,000 up to but not including \$1M	Ministry DOA	Ministry DOA
	\$1M up to but not including \$2M	Ministry DOA	Deputy Head (cannot be delegated)
	\$2M up to but not including \$20M	Deputy Head	SCLC
	\$20M or more	Minister	TB/MBC
Non-Competitive (Allowable Exceptions)	\$0 up to but not including \$1M	Ministry DOA	Ministry DOA
	\$1M up to but not including \$2M	Ministry DOA	Deputy Head (cannot be delegated)
	\$2M up to but not including \$20M	Deputy Head	SCLC
	\$20M or more	Minister	TB/MBC
Non-Competitive (Exemptions)	\$0 up to but not including \$1M	Ministry DOA	Ministry DOA
	\$1M up to but not including \$2M	Ministry DOA	Deputy Head (cannot be delegated)
	\$2M up to but not including \$10M	Minister	SCLC
	\$10M or more	Minister	TB/MBC
VOR Arrangement	Procurement value exceeds VOR Arrangement ceiling price	Minister	TB/MBC

#### 4.5.1.3 Procurement Approvals - Non-Consulting Services

Funded Ministry procurement approval requirements for **non-consulting services** are as follows:

Procurement Method	Procurement Value	Submission Approval	Approval Authority
Ministry Process	Up to \$25,000	Ministry DOA	Ministry DOA
Invitational Competitive	\$25,000 up to but not including \$100,000	Ministry DOA	Ministry DOA

<b>Procurement Method</b>	<b>Procurement Value</b>	<b>Submission Approval</b>	<b>Approval Authority</b>
Open Competitive	\$25,000 up to but not including \$1M	Ministry DOA	Ministry DOA
	\$1M up to but not including \$2M	Ministry DOA	Deputy Head (cannot be delegated)
	\$2M up to but not including \$20M	Deputy Head	SCLC
	\$20M or more	Minister	TB/MBC
Non-Competitive (Allowable Exceptions)	\$0 up to but not including \$1M	Ministry DOA	Ministry DOA
	\$1M up to but not including \$2M	Ministry DOA	Deputy Head (cannot be delegated)
	\$2M up to but not including \$20M	Deputy Head	SCLC
	\$20M or more	Minister	TB/MBC
Non-Competitive (Exemptions)	\$0 up to but not including \$1M	Ministry DOA	Ministry DOA
	\$1M up to but not including \$2M	Ministry DOA	Deputy Head (cannot be delegated)
	\$2M up to but not including \$10M	Minister	SCLC
	\$10M or more	Minister	TB/MBC
VOR Arrangement	Procurement value exceeds VOR Arrangement ceiling price	Minister	TB/MBC

#### **4.5.2 Ministry Approval Authority**

For Procurements where the approval authority is within the Ministry's approval threshold, Ministries must refer to their own Financial Delegations of Authorities and processes.

Deputy Heads may delegate authority to an appropriate Ministry official(s) for Procurements valued up to \$1M within Ministry approval authority except for non-competitive Consulting Services.

#### **4.5.3 Supply Chain Leadership Council (SCLC) Approval Authority**

For Procurements where approval authority is within the Supply Chain Leadership Council's approval threshold, Ministries must submit a written business case.

SCLC business cases must be signed as set out in Section 4.5.1.1, Section 4.5.1.2 and Section 4.5.1.3 (submission approval). Submission approval authorities must not be delegated.

For IT-related Procurements, business cases must also be signed by the appropriate Cluster Chief Information Officer (CIO) prior to the Deputy Head.

Additional information on SCLC, the requirements for the business case and the Procurement Information Template are available on the MyOPS Procurement intranet site.

#### **4.5.4 TB/MBC Approval Authority**

For any Procurement that does not meet the criteria for approval under delegated authority, Ministries must submit a business case for TB/MBC review. Ministries must refer to the Ministry of Finance, Office of the Budget and Treasury Board intranet portal for more information on TB/MBC submissions.

For non-competitive Consulting Services Procurements that require TB/MBC approval, business cases from Other Included Entities must be signed by the Deputy Minister and Minister of the oversight ministry as set out in Section 8.6 Other Included Entities – Procurement Approvals.

For Procurements that require TB/MBC approval, Ministries do not have to submit a separate SCLC business case. However, Ministries must include in their TB/MBC submission the same information that would have otherwise been included in the SCLC business case. Submissions to TB/MBC must be signed by the Minister.

#### **4.5.5 Information Technology Approvals**

In addition to the required procurement approvals noted above, IT projects that contain a Procurement component may also require approvals from the Cluster CIO, the Office of the Corporate Chief Information Officer (OCCIO), and/or the Information and Information Technology Project Approval Committee (ITPAC). Ministries should refer to the *Management and Use of Information & Information Technology (I&IT) Directive* and *Policy on the I&IT Project Gateway Process* to determine appropriate IT-related approvals.

## **5. PROCUREMENT PROCESS**

### **5.1 Research and Consultation**

Ministries may decide to engage in a vendor consultation process, such as issuing a Request for Information (RFI) or draft Request for Proposal (RFP), prior to initiating a competitive procurement process. The consultation process must be conducted solely for the purpose of gathering information or to market test a proposed procurement scope, approach and process. Ministries must not make vendor participation in the research and consultation process a mandatory

condition for future bidding and must not solicit or accept formal submissions from vendors during the consultation process.

## **5.2 Procurement Documents**

To enable fair comparison of vendor submissions, procurement documents must be in writing and include sufficient details concerning the submission requirements.

Ministries must include the following information in all procurement documents:

- a) A description of the required goods or services in generic and/or functional terms specific to the business needs that the good or service will serve, as well as any optional components that are being priced separately. When the use of non-generic and/or non-functional terms is appropriate, the specifications must deal with performance requirements and exclude all features that could unfairly confer an advantage to certain vendors. Where the quantity of the goods or services is unknown, the estimated quantity should be included.

Where technical standards are used to define specifications, except for those required by law, Ministries must ensure that they do not create an unnecessary barrier to trade and note that they will consider any equivalency proposals submitted by vendors for solutions that meet performance requirements but are based on standards other than those expressed in the procurement document.

For IT Procurements, Ministries may express requirements in terms of corporate or ministry Information Technology standards as an alternative to functional terms. Such standards must have been established through a prior competitive process or otherwise approved by the Management Board of Cabinet (MBC) or an enterprise body that has been delegated this authority.

For food, beverage and/or food related procurements (e.g., event service catering) with a Procurement Value under \$25,000; if the Ministry has chosen a Local Food option, then the Ministry should include the Local Food specification(s), as appropriate (see Section 4.1.5).

For Apparel Procurements at or above \$5,000, Ministries must include Ethical Apparel Procurement Requirements where appropriate (see Section 7.15).

- b) Full disclosure of the evaluation criteria and process to be used in assessing submissions. Ministries must pay particular attention to apply the maximum justifiable weighting to price/cost as part of the evaluation process but may also consider other criteria directly related to the

Procurement including quality, quantity, delivery, servicing, experience, financial capacity of the vendor, and any other criteria directly related to the Procurement. Other considerations may be taken into account as part of the evaluation criteria as appropriate.

For IT Procurements, Ministries must assess conversion costs, if appropriate. In establishing the evaluation criteria and weighting of conversion costs, Ministries must not unduly favour an incumbent vendor or unduly disadvantage non-incumbent vendors.

- c) The name, telephone number and location of the person to contact for additional information on the procurement documents.
- d) Conditions that must be met before obtaining procurement documents such as confidentiality agreements, if appropriate.
- e) The method, address, date and time limit and system access, encryption or other delivery instructions required for submitting responses to procurement documents. Responses received after the closing date and time must be returned unopened.
- f) The time and place of the opening of the responses in the event of a public opening.
- g) Declaration that the vendor has not given, directly or indirectly, a benefit of any kind to anyone employed by, or otherwise connected with, the Ministry for the purpose of receiving favourable treatment or otherwise obtaining an advantage in connection with a Ministry procurement activity.
- h) Tax compliance declaration that the vendor's Ontario taxes are or will be in good standing prior to signing an Agreement. The tax compliance declaration form and related guidelines are available on the MyOPS Procurement intranet site.
- i) Notice that any confidential information supplied to the Ministry may be disclosed by the Ministry where it is obliged to do so under the *Freedom of Information and Protection of Privacy Act (FIPPA)*, by an order of a court or tribunal or otherwise by law.
- j) Conflict of interest provisions that:
  - define conflict of interest to include:
    - situations or circumstances that could give a vendor an unfair advantage during a procurement process or compromise the ability of a vendor to perform its obligations under the Agreement;

- the offer or giving of a benefit of any kind, by or on behalf of a vendor to anyone employed by, or otherwise connected with, the Ministry;
  - reserve the right to solely determine whether any situation or circumstance constitutes a conflict of interest;
  - reserve the right to disqualify prospective vendors from a procurement process due to conflict of interest;
  - require prospective vendors participating in a procurement process to declare any actual or potential conflict of interest;
  - require vendors to avoid any conflict of interest during the performance of their contractual obligations for the ministry;
  - require vendors to disclose any actual or potential conflict of interest arising during the performance of a Contract;
  - reserve the right to prescribe the manner in which a vendor should resolve a conflict of interest;
  - allow the Ministry to terminate a Contract where a vendor fails to disclose any actual or potential conflict of interest or fails to resolve its conflict of interest as directed by the ministry; and
  - allow the Contract to be terminated where a conflict of interest cannot be resolved.
- k) The form of Agreement the successful vendor(s) is expected to sign. Appropriate termination clauses must be included in Agreements. As appropriate, mechanisms for amending the Agreement from time to time should also be included. Where available, Standardized Terms and Conditions must be used. Deviations from the Standardized Terms and Conditions must be identified in separate schedule(s) in the procurement document for transparency for vendors.
- l) For goods valued at \$25,000 or more and services valued at \$100,000 or more, a statement that the Procurement is subject to the Agreement on Internal Trade and the Ontario-Quebec Trade and Co-operation Agreement.

For goods and services valued at \$548,700 or more and construction services valued at \$7,700,000 or more, an additional statement that the Procurement is subject to the World Trade Organization's Agreement on Government Procurement.

m) Notice that information about the Province's bid dispute process is available at [www.doingbusiness.mgs.gov.on.ca](http://www.doingbusiness.mgs.gov.on.ca)

n) Other mandatory policy requirements or information as appropriate.

Ministries must consult with legal counsel regarding their procurement documents, including the implementation and application of updated Agreement terms and conditions.

For IT Procurements, Ministries must refer to the MyOPS Procurement intranet site to access available Standardized Terms and Conditions. Where available, Standardized Terms and Conditions must be used and any deviations from the standardized forms of Agreements are to be identified in separate schedule(s) in RFPs for transparency for vendors.

### **5.3 Electronic Tendering**

Ministries and Other Included Entities must use electronic tendering for open competitive Procurement with a Procurement Value at or above \$25,000 for goods and at or above \$100,000 for services.

Ministries must use Ontario's designated electronic tendering system as established by the Ministry of Government and Consumer Services. Posting requirements are available on the MyOPS Procurement intranet site.

In addition to the electronic tendering system, Ministries may also advertise in a national newspaper accessible to all Canadian suppliers or the Daily Commercial News for construction-related Procurements.

Ministries must include a French language summary of the Procurement as part of the procurement notice.

Other Included Entities are encouraged to use Ontario's designated electronic system but may establish their own method of electronic tendering.

### **5.4 Bid Response Time**

Ministries must provide sufficient time for vendors to prepare and submit bid responses in view of all relevant factors such as, but not limited to, time needed by the vendor to properly disseminate the information, complexity, risk, seasonality, and best practices within the relevant industry.

For all Procurements with a Procurement Value less than \$100,000, Ministries must provide vendors with sufficient time as described above.

For all Procurements with a Procurement Value of \$100,000 up to \$548,699 Ministries must allow at least fifteen (15) calendar days.

For all Procurements with a Procurement Value of \$548,700 or more, Ministries must allow at least thirty (30) calendar days.

For Procurements valued at \$548,700 or more, Ministries may reduce the posting period to twenty (20) calendar days if they issue a notice of Procurement more than forty (40) days in advance of the planned Procurement. A notice of Procurement could include, but is not limited to, a draft RFP or pre-release notice issued on the designated electronic tendering system.

## **5.5 Additional Information**

Any additional information, clarification or modification of the procurement documents must be provided in the same manner as the procurement document via an amendment or addendum and must be released in sufficient time prior to the submission deadline to allow bidders sufficient time to submit a responsive bid. The submission deadline may be extended to ensure sufficient time is provided to bidders.

## **5.6 Evaluation Process**

Ministries must evaluate the bid responses received consistently and in accordance with the evaluation criteria, rating and methodology set out in the procurement document.

Ministries must require individuals participating in the evaluation of bid responses to immediately declare any potential conflict of interest and immediately address any declarations.

Typically, an evaluation process is composed of three components: mandatory requirements, rated requirements and price/cost.

Ministries must pay particular attention to apply the maximum justifiable weighting to price/cost but can also take into account quality, quantity, delivery, servicing, experience, financial capacity of the vendor, and any other criteria directly related to the Procurement.

Where a vendor is disqualified for non-compliance with a mandatory requirement or fails to meet a minimum rated requirements score, as identified in the procurement document, no further evaluation of that vendor's submission may take place.

The evaluation of price/cost must be undertaken after the completion of the evaluation of the mandatory requirements and any other rated criteria.

Following the evaluation process, Ministries may select only the highest ranked submission(s) that have met all mandatory requirements set out in the related procurement document.

### **5.6.1 Evaluation Methodology**

The evaluation process to be used in assessing a vendor's submission must be fully disclosed in the procurement document. A full disclosure of the evaluation methodology and process includes, but is not limited, to:

- a clear articulation of all mandatory requirements, which must indicate if the mandatory requirements will be assessed on a pass/fail basis and if so, indicate how vendors achieve a passing grade;
- all weights, including sub-weights, for rated requirements;
- description of any short-listing processes, including any minimum rated score requirements;
- the role and weighting, if applicable, of reference checks, oral interviews, demonstrations and site visits; and
- a description of the price/cost evaluation methodology including the use of scenarios in the evaluation process, to determine costs for specific volumes and/or service levels.

Where procurement documents state that Ministries will consider any equivalency proposals submitted by vendors for solutions that meet performance requirements but are based on standards other than those expressed in the procurement document, the assessment process must be undertaken in the manner outlined in the procurement document and documented as part of the evaluation process.

In responding to procurement documents, vendors may sometimes propose alternative strategies or solutions to the business needs or apply conditions to their responses. Unless expressly stated in the procurement documents, alternative strategies or solutions proposed by a vendor must not be considered. Ministries must clearly state in the procurement document if they will consider alternative strategies, where appropriate.

Where Ministries support alternative strategies or solutions, the procurement document must expressly request alternative solutions and describe how alternatives will be considered in the evaluation process.

### **5.7 Vendor Debriefings**

For all Procurements with a Procurement Value of \$25,000 or more, Ministries must ensure that all unsuccessful vendors who participated in the Procurement are offered an opportunity for a debriefing. Vendors have a right to a debriefing only after the legal Agreement between the successful vendor(s) and the Ontario Government has been signed.

### **5.7.1 Scheduling Vendor Debriefing Meetings**

In scheduling vendor debriefings, Ministries must:

- confirm the right to a debriefing, in writing, and allow vendors sixty (60) calendar days following the date of the written communication to respond;
- confirm the date and time of the debriefing session in writing;
- conduct vendor debriefings individually;
- ensure that the same participants from a Ministry participate in every debriefing conducted (if Ministries have used a Fairness Commissioner in the procurement process they may be invited to participate in the debriefing but must not conduct the debriefings); and
- retain all correspondence and documentation relevant to the debriefing session as part of the procurement documentation (Section 5.11).

### **5.7.2 Conducting Vendor Debriefings**

In conducting vendor debriefing meetings, Ministries must:

- provide a general overview of the evaluation process set out in the procurement document;
- provide the name, address, and total bid price, where applicable, of the successful vendor as well as the award notice information (Section 5.9);
- discuss the strengths and weaknesses of the vendor's submission in relation to the specific evaluation criteria and the vendor's evaluated score. If more than price is evaluated, Ministries may provide the vendor's evaluation scores and their ranking relative to other vendors;
- provide suggestions on how the vendor may improve future submissions;
- receive feedback from the vendor on current procurement processes/practices;
- address specific questions and issues raised by the vendor in relation to their submission; and
- where a complaint has been filed regarding the award decision and the vendor is not satisfied with the outcome of the debriefing session, inform the vendor of the steps to proceed with a formal bid dispute of the complaint.

In addition, Ministries may also provide the name(s) and address(es) of all vendors who participated in the Procurement including qualified and disqualified proponents/bidders as well as those who submitted “no bid.”

In conducting vendor debriefings, Ministries must not disclose information concerning other vendors, other than as specified above, as it may contain confidential Third Party proprietary information subject to the mandatory Third Party exemption under the *Freedom of Information and Protection of Privacy Act (FIPPA)*. If a vendor makes such a request, they must be advised that a formal Freedom of Information (FOI) request can be submitted to the ministry’s Freedom of Information and Privacy Office. Questions unrelated to the procurement process must not be responded to during the debriefing and must be noted as out of scope based on the debriefing process agreed to in the procurement documents.

## **5.8 Contract Development and Management**

The Procurement of goods and services, and the resulting Contracts, must be responsibly and effectively managed. Following the procurement process, the responsibilities of both the Ministry and the successful vendor must be formally defined in a signed written Contract before the provision of the goods or services commences.

The Contract must be finalized using the form of Agreement that was released with the procurement document (e.g., Request for Proposal).

When executing the Contract, the Ministry must obtain the vendor’s signature before obtaining the designated Ministry’s signature.

All Contracts must include appropriate cancellation or termination clauses and appropriate legal advice should be sought on the development of these clauses. Particularly for goods and services procured as part of an I&IT project, the use of Contract clauses that permit cancellation or termination at critical project lifecycle stages must be considered.

The term of the Contract and any options to extend the Contract must be set out in the form of Agreement included in the procurement document. For any change to the term of the Contract that changes the Procurement Value, prior written approval by the appropriate approval authority is required before changing the Contract end date. Extensions to the term of the Contract beyond what is set out in the procurement document are considered non-competitive Procurements and appropriate approval authority must be obtained prior to proceeding.

In managing Procurement Contracts, particular attention should be paid to the following:

- all payments must be in accordance with the provisions of the Agreement;

- all payments for applicable expenses must be in accordance with the *Travel, Meal and Hospitality Expenses Directive* and *General Expenses Directive*;
- any overpayment must be recovered;
- all assignments must be properly documented;
- vendor performance must be managed and documented, and any performance issues must be addressed;
- all required approvals must be obtained for any Procurement Value Increases and Agreement Ceiling Price increases or other changes in terms and conditions of the Agreement; and
- knowledge transfer to ministry staff must take place, where applicable.

### **5.9 Post Contract Award Notification**

Ministries must inform all participating vendors of award decisions, and when requested to do so, in writing.

Where Ministries have used a competitive procurement process for goods valued at \$25,000 or more and services valued at \$100,000 or more, Ministries must post contract award notification within 72 days of the award decision.

Where ministries have used a non-competitive procurement process for goods/services valued at \$548,700 or more and construction valued at \$7.7M or more and where an ACAN was issued, Ministries must post contract award notification within 72 days of the award decision.

Ministries must post the following information on Ontario's designated Electronic Tendering System:

- the name(s) of the successful vendor(s);
- the name(s) and address(es) of the procuring entity and of the successful vendor(s);
- the procurement method used;
- the Contract start and end dates, including any options for extension;
- the total Contract Value upon completion of the evaluation process and after execution of the Contract with the successful vendor(s);
- a description of the goods or services procured; and
- where an open competitive procurement method was not used, a justification for the method selected must be included for construction Procurements valued at or over \$7.7M and all other Procurements valued at or over \$548,700.

The requirement to post Contract award information does not apply to the second-stage selection process when using a Vendor of Record (VOR) Arrangement.

## **5.10 Bid Dispute**

Ministries are required to respond to vendor concerns and seek to resolve bid disputes.

For bid disputes that cannot be resolved at the Ministry level, the Director, Procurement Policy Branch, Supply Chain Ontario, Ministry of Government and Consumer Services, has been identified as the central vendor contact.

Supply Chain Ontario has the authority to make recommendations to Ministries regarding vendor bid disputes.

Ministries must provide information requested by the Director in a timely manner, including a written response specifying the details of the Procurement that are relevant to the complaint and actions that are or will be taken to rectify the situation, where appropriate.

Further information about the Bid Dispute Process is available on the MyOPS Procurement intranet site.

## **5.11 Documentation and Record Retention**

Ministries must ensure that all Procurement decisions and decision-making processes are recorded to account for and support the reconstruction of facts related to a Procurement. Ministries must:

- establish a file naming convention that will permit related procurement documents to be associated with each other;
- retain procurement records in compliance with the Government of Ontario Common Schedule for Administrative Records; and
- manage procurement Contracts and documentation to ensure that Ministries are able to respond to any requests for information, vendor inquiries, debriefing requests, audits and/or legal challenges in a relevant, reliable, comprehensive and timely fashion.

Procurement process documentation includes, but is not limited to, the following:

- a) a copy of the procurement justification or business case;
- b) information regarding all vendor consultations, including any requests for information, undertaken in the development of the procurement business case and/or procurement documents;
- c) evidence that all required approvals were obtained;
- d) copies of all procurement documents used to qualify and select the vendor;

- e) where the Procurement was conducted through a Vendor of Record (VOR) Arrangement, information regarding the second-stage selection process used to select the successful vendor(s);
- f) copies of all advertisements of procurement documents;
- g) information relating to compliance with the *Ontarians with Disabilities Act, 2001* and the *Accessibility for Ontarians with Disabilities Act, 2005*, where applicable;
- h) copies of all responses, submissions, proposals and bids received in response to procurement documents including the conflict of interest declaration, the tax compliance declaration and Ministry of Finance tax compliance verification;
- i) information regarding any issues that arose during the procurement process, including all correspondence related to a bid dispute;
- j) information regarding all evaluations of submissions, proposals and bids received in response to procurement documents;
- k) information regarding all vendor debriefings including written documentation of the offer of vendor debriefing, where applicable;
- l) copies of all award letters, notices, and posted announcements;
- m) copies of the Agreement(s);
- n) information regarding all changes to the terms and conditions of the Agreement, including any changes that resulted in an increase in the Contract price;
- o) information regarding the management of the vendor, including how the vendor's performance was monitored and managed and, where applicable, mechanisms used to transfer knowledge from the vendor to staff;
- p) risk assessment information and recommendations, where applicable;
- q) contractor security screening decisions, where applicable;
- r) information regarding all disputes or vendor complaints regarding the Procurement, including any Contract disputes;
- s) evidence of receipt of deliverables;

- t) for food, beverage and /or food related procurements (e.g., event service catering) with a Procurement Value under \$25,000, any written vendor documentation or confirmation of Local Food received during the Procurement process; and
- u) any other documentation as identified.

## 5.12 Annual Reporting

Ministries will receive a written request from the Ministry of Government and Consumer Services for annual reports related to Consulting Services and Ontario's Trade Commitments. Ministries must refer to this written communication to confirm the information to be reported and the due date of each report.

## 6. INFORMATION TECHNOLOGY

Further to Section 4 – Procurement Planning and Approvals and Section 5 – Procurement Process of this Directive, this section sets out additional requirements that Ministries must apply to the acquisition of Information Technology (IT) by any means, including purchasing, licensing, renting or leasing, as appropriate.

All ministry acquisitions of IT shall conform to applicable corporate and ministry policies, architectures and standards unless specifically exempt. Ministries must refer to the *Management and Use of Information & Information Technology (I&IT) Directive* and related policies, prior to acquiring IT and determining exemption status.

### 6.1 Equipment

For the purposes of this section, IT does not include the following specialized single-purpose equipment such as:

- electronic equipment used exclusively to process or communicate information (e.g., audio visual equipment);
- computerized equipment used exclusively for:
  - medical and scientific research;
  - laboratory instrument monitoring systems;
  - sensing devices (e.g., thermostats);
  - diagnostic tools (e.g., engine analysers);
  - process-control systems (e.g., traffic lights); and
  - general Information Technology supplies (e.g., removable disks).

## **6.2. Commercial-Off-The-Shelf (COTS) Software and Related Services**

In determining the appropriate procurement method and approvals, Ministries must consider the value of the COTS product(s) and all related services including licensing, maintenance and support over the estimated useful life of the COTS products as the Procurement Value.

Where Volume Licensing Agreements or Ministry-specific Licensing Agreements for COTS products and related services are available, Ministries will be required to use these in accordance with supply source requirements of Section 4.3 of this Directive. Ministry-specific Licensing Agreements must have been established through a prior competitive process or otherwise have been approved by the MBC.

### **6.2.2 Custom Software**

Ownership of intellectual property rights in custom software developed by the supplier in the course of a Crown procurement contract shall be in accordance with the Guidelines for Ownership of Intellectual Property in Custom Software Development, as amended from time to time.

### **6.2.3 Open Source Software**

Open source software solutions and proprietary software solutions that contain open source software elements must be acquired in a manner that is consistent with this Directive, the *Management and Use of Information & Information Technology (I&IT) Directive* and the *I & IT Policy on Open Source Software*.

## **6.3 Maintenance and Support**

For procurement approval purposes, Ministries must include the acquisition of maintenance and/or support over the estimated useful life of the IT installation as part of the Procurement Value. Ministries must ensure that IT contracts include appropriate contractual provisions for maintenance and support services for the estimated useful life of the IT installation.

For already installed software or hardware, where maintenance and/or support was not included in the procurement approval or where maintenance and/or support services will expire, Ministries must seek the appropriate procurement approvals for the balance of the intended installation period or next anniversary of the installation when maintenance and/or support will be required. Splitting or sub-dividing of maintenance and support services for the purposes of avoiding the requirements of this Directive is not allowed.

## **6.4 Standardized Terms and Conditions**

Ministries must consistently apply all applicable Standardized Terms and Conditions. These are updated periodically to align with changes to government policy. Ministries must refer to the MyOPS Procurement intranet site to access available Standardized Terms and Conditions. In addition, any deviations from

the Standardized Terms and Conditions are to be identified in separate schedule(s) in procurement documents to support transparency for vendors.

## **6.5 Information Technology Standards**

Ministries may establish IT product standards through a competitive process. Ministry Procurements using enterprise-wide corporate IT standards or ministry IT standards must ensure compliance with the requirement of Section 5.2 (a) of this Directive.

Ministries should consult with the OCCIO on the process for establishing ministry IT standards and the appropriateness of setting a ministry IT standard in their particular situation.

## **7. OTHER RELATED POLICIES**

### **7.1 Ontario Trade Commitments**

Ontario has made commitments pursuant to certain trade agreements. Ontario must conduct its Procurements in a prescribed manner in order to adhere to these agreements.

Where requirements in the Trade Commitments differ from this Directive, Ministries must comply with this Directive. Ministries engaging in Procurements to which the Trade Agreements do not apply must note that they are still required to conduct the Procurement in accordance with the requirements of this Directive and should consult with Supply Chain Ontario.

### **7.2 Tax Compliance**

For all Procurements with a Procurement Value of \$25,000 or more, Ministries must only enter into Contracts with vendors whose Ontario tax obligations are in good standing.

Ministries can refer to the MyOPS Procurement intranet site for additional information on Tax Compliance.

### **7.3 Contractor Security Screening**

Contractor security clearance may be required for vendors selected to provide goods and services to the Ontario Public Service. At the start of any procurement process Ministries must complete a Contractor Security Risk Assessment (CSRA) tool to assess the nature of contract risks involved and determine the need, if any, and level of contractor security screening involved. Ministries must refer to the *Contractor Security Screening Operating Policy* prior to conducting a Procurement.

Where contractor security clearance is required, it is the obligation of the procuring Ministry to ensure that clearance is received prior to signing an Agreement with a successful vendor.

#### **7.4 Business Continuity Planning**

When procuring goods and services, Ministries must consider how the Procurement(s) will affect their obligations under the *Business Continuity Planning / Continuity of Operations Planning Operating Policy* and take appropriate measures to ensure that in a state of urgency, their supply chain is not disrupted in a manner that will prevent the delivery of time-critical functions and services. Ministries are encouraged to contact their Business Continuity Coordinators to determine if their Procurement supports time-critical functions and services.

Where appropriate, Ministries must determine the requirement for business continuity assurances from vendor(s) and how this requirement will be assessed as part of the selection process. The need for such assurance must be in the original procurement documents, including the form of Agreement. Ministries must ensure they communicate these requirements when seeking assistance from legal counsel.

#### **7.5 Protection of Personal and Sensitive Information**

Prior to undertaking any Procurement of goods and/or services that may result in the release of personal or sensitive information, Ministries must conduct a risk assessment that includes a Privacy Impact Assessment (PIA) and a Threat Risk Assessment (TRA). Any information that is to be released must comply with applicable privacy legislation.

Ministries should refer to the *Information Security and Privacy Classification Policy* for more details on these requirements.

#### **7.6 Storage of Personal Information or Program Data**

Personal information or program data that is considered medium-sensitive, highly-sensitive, or confidential and essential to the operation of programs must be stored and processed in accordance with the *Information Security and Privacy Classification Policy*.

#### **7.7 Public Opinion Polls and Market Research Studies**

Ministries must obtain approval from the Cabinet Office prior to commissioning any public opinion polls or market research studies and before adding any questions to a non-commissioned poll.

#### **7.8 Accessibility Obligations**

Ministries must comply with the *Ontarians with Disabilities Act, 2001* when acquiring goods and services. The *Ontarians with Disabilities Act, 2001* requires that “in deciding to purchase goods or services through the procurement process for the use of itself, its employees or the public, the Government of Ontario shall have regard to the accessibility for persons with disabilities to the goods or services.”

Ministries must also comply with the *Accessibility for Ontarians with Disabilities Act, 2005* (AODA) and the standards mandated by it through enacted regulation. The *AODA, 2005* outlines new, mandatory accessibility standards in many areas. The Integrated Accessibility Standards Regulation under the *AODA, 2005* came into force July 1, 2011. Effective January 1, 2012 the Government of Ontario must incorporate accessibility criteria and features into its procurement processes so that goods, services, and facilities are more accessible to persons with disabilities, except where it is not practicable to do so.

Where applicable, procurement documents should specify the desired accessibility standards to be met and provide guidelines for the evaluation of proposals with respect to those standards.

Further information on meeting Accessibility Obligations in Procurement is available on the MyOPS Procurement intranet site.

## **7.9 Environmental Considerations**

Ministries conducting Procurements must consider environmental reduction, re-use, and recycling measures in the development of commodity specifications, terms and conditions, and award decisions. For goods Procurements, Ministries must also consider the government's Surplus Assets Management Services, a mandatory Central Common Service prior to conducting the Procurement.

Ministries must use the EcoLogo® Program standards or equivalents when acquiring goods and services valued at or over \$10,000. The EcoLogo® Program is characterized by the Ecologo® certification mark (three doves entwined to form a maple leaf). This program provides assurance that the products bearing the EcoLogo® certification mark meet stringent environmental criteria. The EcoLogo® Program includes thousands of certified products. Ministries must refer to [www.ecologo.org](http://www.ecologo.org) for more information on the EcoLogo® Program including the list of certified products and related certification standards.

Where applicable, Ministries must require vendors to submit a waste management plan for Procurements involving products with designated waste materials under the *Waste Diversion Act* or high levels of residual waste. Designated materials include blue box waste (packaging and printed paper waste), used tires, municipal hazardous waste and e-waste.

Where applicable, Ministries should consider environmentally responsible alternatives such as, but not limited to, bio-based or Recycled Content alternatives, energy, fuel or water efficient alternatives, or reduced toxin alternatives.

Environmental considerations must also be given to paper and printed materials. All virgin paper purchased for office use must be certified by one of the Forest

Stewardship Council (FSC), Sustainable Forestry Initiative (SFI) or the Canadian Standards Association (CSA) with a minimum of 30% being FSC certified.

Ministries must also establish processes that minimize the need to procure paper through fax, scanning and e-mail of documents that might otherwise be printed. When printing or copying is necessary, ministries must ensure that double-sided, black-and-white printing and copying is the standard.

### **7.10 Innovative Procurement**

The Ministry of Government and Consumer Services and the Ministry of Economic Development, Employment and Infrastructure/Ministry of Research and Innovation have established GreenFIT to assess innovative green technologies for Procurement by Ministries. Ministries may procure products and non-consulting services from unsolicited proposals that have received positive evaluations from GreenFIT. These can be found in the GreenFIT directory on the MyOPS Procurement intranet site and may be procured as a prototype or a first good/service for a pilot if the following parameters are met:

- Use for a planned activity (e.g., a pilot or demonstration project) and not for wide-scale Procurement;
- Planned for the purpose of trying a new or innovative solution;
- The planned activity will be followed by an evaluation on its effectiveness and suitability for continued/expanded use that will be shared with Supply Chain Ontario; and
- All required approvals have been obtained.

### **7.11 Agreements with Universities and Colleges**

For research and development projects involving universities, colleges or their staff, Contracts must be made with, or with the written concurrence of, the university/college administration. Payments must be made to the administration or to another party only with the written agreement of the administration. In addition, the terms of these Contracts must cover the full cost of the research, including appropriate allowances for indirect and overhead costs.

### **7.12 Corporate Card Program**

#### **7.12.1 Purchasing Card Program**

The Purchasing Card is a mechanism for acquiring and paying for low dollar value goods and services. Use of the Purchasing Card reduces the administrative costs of payables associated with low dollar value purchases; improves cash flow and accounts receivable status for vendors; reduces petty cash and accountable advance usage and simplifies the purchase process for employees.

The Purchasing Card must be used for low dollar value purchases. Employees using the purchasing card must not circumvent government or Ministry

procurement policies and are required to agree to the terms and conditions of purchasing card use.

Ministries must follow the Delegation of Authority (DOA) framework for their ministry to determine which employees will be approved for a purchasing card.

Although purchasing cards are issued in the name of the employee, the Crown is liable for all charges.

Ministries must ensure that Cardholders are responsible for compliance with the Purchasing Card Use Agreement and the *Program and Usage Guidelines, Corporate Purchasing Card*. The Guidelines provide Purchasing Card program usage information and outline the responsibilities of cardholders and ministries.

### **7.12.2 Travel Card Program**

The Corporate Travel Card is a charge card that enables eligible public servants as well as employees and appointees of agencies classified under the *Agency Establishment and Accountability Directive*, to pay for expenses incurred while travelling on approved business.

Ministries must follow the Delegation of Authority (DOA) framework for their ministry to determine which employees will be approved for a travel card.

The travel card is issued in the name of the employee. Cardholders are fully liable for all charges, interest, fees, cash advances or adjustments levied against their card account and are responsible for ensuring the statement is paid in full prior to the payment due date. Cardholders are also responsible for compliance with all terms and conditions as set out in the Cardholder Agreement and the Travel Card Use Agreement.

Ministries must ensure that Cardholders must also be compliant with the *Travel, Meal and Hospitality Expenses Directive* and the *Program and Usage Guidelines, Corporate Travel Card*. The Guidelines provide the Travel Card program usage information and outline the responsibilities of cardholders and ministries.

### **7.13 Asset Management**

Ministries must establish and maintain appropriate systems to enable the effective management and security of assets procured by government. This includes the periodic physical verification and reconciliation of moveable assets at least once every four years and consumable supplies at least once every two years.

### **7.14 Disposition of Assets**

The Ministry of Government and Consumer Services (MGCS) is designated as the mandatory Central Common Service provider and has sole responsibility for arranging the disposal of government-owned computers and all other assets and

consumable supplies except motor vehicles. Disposal of government-owned motor vehicles is the responsibility of the Ministry of Transportation. Appendix A lists all the mandatory and optional Central Common Services.

All surplus, obsolete or unusable movable assets, except motor vehicles, must be identified and disposed of through MGCS unless being transferred to another ministry or held for trade-in against the purchase of new assets. All arrangements for the disposal of goods by sale must be equitable to potential buyers, avoid conflict of interest concerns by excluding government employees as buyers, and optimize the revenue to the government.

Ministries must remove all confidential, personal and sensitive data from IT equipment prior to disposing of the equipment.

Arrangements for the disposal of hazardous materials must comply with the regulations and requirements of the *Occupational Health and Safety Act*, the *Transportation of Dangerous Goods Act*, the *Environmental Protection Act* and any other applicable rules and regulations.

#### **7.15 Ethical Apparel Procurement Requirements**

For all Apparel Procurements estimated at or above \$5,000, Ministries must require that vendors provide Responsible Manufacturers Information (RMI), including the name and address of all factories and production facilities used in the manufacture and assembly of the product, prior to signing of the Agreement.

When submitting RMI, the vendor will also confirm that, to the best of their knowledge, the manufacturer and any subcontractors for the item(s) offered comply with All Local Laws Governing Labour and Working Conditions, and will continue to do so throughout the duration of any resulting Contract(s).

Ministries must report their procurement activities under these new requirements to Supply Chain Ontario. Supply Chain Ontario will coordinate corporate reporting to the public. Ministries must refer to the MyOPS Procurement intranet site for additional information on the Ethical Apparel Procurement Requirements.

### **8. OTHER INCLUDED ENTITIES**

Other Included Entities must establish and follow their own procurement policy and related processes and procedures provided that they do not conflict with the above mandatory sections. These policies must include appropriate conflict of interest rules that reflect the spirit of Regulation 381/07 of the *Public Service of Ontario Act, 2006*.

Other Included Entities seeking exemptions from the mandatory sections of this Directive that apply to them must receive prior MBC approval. Any such exemptions must then be reflected in their Memorandum of Understanding.

Other Included Entities may also be subject to the *Broader Public Sector Procurement Directive*. In the event of any discrepancy between the *Broader Public Sector Procurement Directive* and this Directive, those Other Included Entities will follow this Directive.

Other Included Entities may be required by their Memorandum of Understanding to comply with other provisions of the OPS Procurement Directive. Other Included Entities must ensure that they are aware of and comply with these additional requirements, where applicable.

### **8.1 Principles**

Other Included Entities must adhere to the principles outlined in Section 3 of this Directive.

### **8.2 Procurement Planning**

Other Included Entities must ensure that procurement planning is an integral part of their procurement policy, as necessary, to support their business requirements and ensure that sufficient time is allowed to complete the procurement process.

Other Included Entities (OIE) are encouraged to adopt the spirit of the Local Food procurement policy in their food purchases valued under \$25,000.

Other Included Entities are encouraged to adopt the Ethical Apparel Procurement Requirements noted in Section 7.15 as appropriate.

Other Included Entities seeking to acquire goods or services available through a Central Common Service should contact the appropriate Central Common Service directly to determine any mandatory requirements and eligibility.

### **8.3 Procurement Value**

Other Included Entities must determine the Procurement Value in order to determine the appropriate procurement approval authority and procurement method. To determine the Procurement Value, Other Included Entities must consider all costs and benefits associated with entering a contractual relationship with a Third Party.

Costs and benefits may include, but are not limited to:

- price/cost of the goods and/or services;
- one-time costs such as site preparation, delivery, installation and documentation;
- ongoing operating costs including training, accommodation, support and maintenance;
- sale taxes and applicable duties;
- disposition costs;

- premiums, fees, commissions, and interest;
- options to renew;
- direct payments by the Crown to the successful vendor(s);
- indirect payments by Third Parties to the successful vendor(s); and
- any conferred value by the Crown to the successful vendor(s).

When determining the appropriate approval authority required for a Procurement, the Procurement Value does not include sales taxes.

Examples of conferred value include, but are not limited to, the exchange of goods and/or services in return for other goods and/or services, revenue generating opportunities and partnership agreements with non-profit organizations.

Where a project involves multiple related Procurements, the project's Procurement Value would be determined by the cumulative value of all related Procurements.

Other Included Entities must not take any actions to reduce the Procurement Value to avoid any requirements of this Directive. Such actions could include subdividing projects, Procurements, or Contracts and awarding multiple consecutive Contracts to the same vendor. The award of multiple consecutive Contracts to the same vendor may only be made where each assignment is unique or where prior approval of a Follow-On Agreement has been received.

### **8.3.1 Procurement Value Increases**

When the Procurement Value increases, Other Included Entities must ensure they have the appropriate procurement approval authority and have used the appropriate procurement method. This is especially important when the Procurement Value Increase causes the Procurement Value to exceed the approval threshold of the original approver. Approval for Procurement Value Increases must be sought prior to proceeding with or continuing the Procurement. Procurement Value Increases may be caused by, but not limited to, price increases, volume uptake, or other unforeseen circumstances.

It may be determined that certain commodities, such as fuel and food, require contractual provisions for price increases. In these instances, Other Included Entities should anticipate such increases and ensure that they seek approval from the appropriate procurement approval authority. Other Included Entities must also ensure that the procurement documents, including the Agreement, identify the framework under which price increases will be permitted, including, but not limited to:

- the frequency of price increases;
- the allowable amount of increase; and
- any benchmarks that will be used to confirm the price increase.

## **8.4 Conducting a Second-Stage Selection Process**

Other Included Entities must comply with the VOR Arrangement terms of use prior to accessing VOR Arrangements. Other Included Entities must refer to VOR Arrangements User Guides.

## **8.5 Procurement Methods**

### **8.5.1 Consulting Services Procurements**

A competitive Procurement process must be used for all Consulting Services, irrespective of the value of the Procurement.

Other Included Entities may use an invitational competitive procurement process for Consulting Services valued up to \$100,000. An invitational competitive Procurement is achieved by requesting a minimum of three (3) qualified vendors to submit a written proposal in response to the Procurement requirements.

Other Included Entities must use an open competitive procurement process for Consulting Services valued at \$100,000 or more.

Other Included Entities may utilize the allowable exceptions for non-competitive procurement processes for Consulting Services as defined in Section 4.4.4.2, subject to approval as outlined in Section 8.6.

Where a non-competitive procurement process is required, Other Included Entities must seek prior approval from the appropriate approval authority as determined by their procurement policy and subject to approval as defined in Section 8.6.

### **8.5.2 Goods and Non-Consulting Services Procurements**

Other Included Entities are encouraged to conduct an open competitive Procurement for all goods and non-consulting services but may conduct these Procurements using their own policies, processes, and procedures provided that they are in accordance with the principles of this Directive.

## **8.6 Procurement Approvals**

Other Included Entities must include a procurement approval authority framework in their procurement policy.

For goods and non-consulting services, the procurement approval authority framework must reflect the procurement method and procurement value and assign authority to the most appropriate accountable authority in the agency as determined by the Board of Directors.

For Consulting Services, the procurement approval authorities of Other Included Entities are as follows:

<b>Procurement Method</b>	<b>Procurement Value</b>	<b>Submission Approval</b>	<b>Approval Authority</b>
Invitational Competitive	\$0 up to but not including \$100,000	Agency DOA	Agency DOA
Open Competitive	Any Value	Agency DOA	Agency DOA
Non-Competitive	\$0 up to but not including \$100,000	Agency DOA	Agency DOA
	\$100,000 up to but not including \$1M	Agency DOA	Deputy Minister Minister
	\$1M or more	Deputy Minister Minister	TB/MBC

For non-competitive Consulting Services Procurements valued at \$1M or more, Other Included Entities' business case to TB/MBC must be submitted by the oversight Ministry.

Other Included Entities must not take any actions to reduce the value of Procurements to avoid approval authority requirements. Such actions could include subdividing projects, Procurements, or Contracts and awarding multiple consecutive Contracts to the same vendor.

### **8.7 Procurement Documents**

Other Included Entities are encouraged to adopt the information requirements for procurement documents noted in Section 5.2 as appropriate.

### **8.8 Electronic Tendering**

Other Included Entities must use electronic tendering for open competitive Procurement with a Procurement Value at or above \$25,000 for goods and at or above \$100,000 for services.

Other Included Entities are encouraged to use Ontario's designated electronic system but may establish their own method of electronic tendering.

### **8.9 Bid Response Time**

Other Included Entities are encouraged to use at least the minimum bid response times recommended for Ministries as noted in Section 5.4.

### **8.10 Evaluation Process**

Other Included Entities must evaluate the bid responses received consistently and in accordance with the evaluation criteria, rating and methodology set out in the procurement document.

Other Included Entities must require individuals participating in the evaluation of bid responses to immediately declare any potential conflict of interest and immediately address any declarations.

Following the evaluation process, Other Included Entities may select only the highest ranked submission(s) that have met all mandatory requirements set out in the related procurement document.

### **8.11 Approval of Vendor Selection**

Other Included Entities are required to obtain appropriate approvals in accordance with their MBC approved governance structure for procurement controllership.

### **8.12 Ontario Trade Commitments**

Other Included Entities may be subject to Ontario's Trade Commitments, including requirements for contracting rules, buying groups, exclusions and dispute resolution. Other Included Entities that are subject to Ontario's Trade Commitments must ensure that their procurement policy reflects the requirements of the Trade Commitments, as appropriate.

### **8.13 Accessibility Obligations**

Other Included Entities must comply with the *Accessibility for Ontarians with Disabilities Act, 2005* (AODA) and the standards mandated by it through enacted regulation. The *AODA, 2005* outlines new, mandatory accessibility standards in many areas. The Integrated Accessibility Standards Regulation under the *AODA, 2005* came into force July 1, 2011.

### **8.14 Protection of Personal and Sensitive Information**

Prior to undertaking any Procurement of goods and/or services that may result in the release of personal or sensitive information, Other Included Entities must conduct a risk assessment that includes a Privacy Impact Assessment (PIA) and a Threat Risk Assessment (TRA). Any information that is to be released must comply with applicable privacy legislation.

## **9. RESPONSIBILITIES**

### **Management Board of Cabinet**

- i. Periodically review this Directive to ensure it continues to serve the government's procurement strategy.
- ii. Approve all Unfunded Procurements valued at \$1M or more for Ministries.
- iii. Approve open competitive Procurements valued at \$20M or more for Consulting Services for Ministries.
- iv. Approve open competitive Procurements valued at \$20M or more for goods and non-consulting services for Ministries.

- v. Approve all non-competitive Consulting Services Procurements valued at \$1M or more for Ministries and Other Included Entities.
- vi. Approve non-competitive Procurements using an Allowable Exception valued at \$20M or more for goods and non-consulting services for Ministries.
- vii. Approve non-competitive Procurement Exemptions contained in this Directive for goods and non-consulting services valued at \$10M or more for Ministries.
- viii. Approve the use of VOR Arrangements where the Procurement Value exceeds the VOR Arrangement Ceiling Price for Ministries.
- ix. Approve the establishment and the discontinuance of or major change to the operation of a Central Common Service.

### **Minister of Government and Consumer Services**

- i. Administer Ontario's Trade Agreements.
- ii. Periodically make recommendations to MBC on updating this Directive.
- iii. Approve changes to the threshold values of Advance Contract Award Notice (ACAN), Bid Response Time, Post Contract Award Notification, and Procurement Documents as per the World Trade Organization (WTO) Agreement on Government Procurement.

### **Ministers**

- i. Approve in writing any submissions to SCLC or to TB/MBC as contained in this Directive.
- ii. Approve in writing, in conjunction with the Deputy Head, all non-competitive Procurement processes for Consulting Services valued up to but not including \$500,000 for Ministries.
- iii. Approve in writing, in conjunction with the Deputy Head, all non-competitive Procurement processes for Consulting Services valued \$100,000 and up to but not including \$1M for Other Included Entities.
- iv. Approve in writing, in conjunction with the Deputy Head, submissions to SCLC for non-competitive Consulting Services valued at \$500,000 and up to but not including \$1M for Ministries.

- v. Approve in writing, in conjunction with the Deputy Head, Agreement Ceiling Price increases for Consulting Services that would cause the total Agreement value to reach \$500,000.

### **Deputy Minister of Government and Consumer Services**

- i. Support the Minister of Government and Consumer Services in the administration of Ontario's Trade Agreements including making recommendations on threshold value changes and receiving and directing complaints relating to Ontario's Trade Agreements to the appropriate Ministry or Ministries for response and resolution as appropriate and the implementation of bid dispute processes.
- ii. Receive, consolidate and transmit procurement reports as required by Ontario's Trade Agreements.
- iii. Maintain appropriate procurement mechanisms including electronic tendering systems as Central Common Services to Ministries.
- iv. Provide, on request, assistance to Ministries in the development of the appropriate organization structures and processes to facilitate the planning, acquisition and management of goods and services.
- v. Sponsor and co-ordinate government-wide initiatives to achieve improvements in the planning, acquisition and management of goods and services.
- vi. Publish and disseminate to Ministries policies and guidelines to enable the government to achieve its objectives in the area of environmental Procurement.
- vii. Administer the disposal of all government-owned movable assets and consumable supplies except assets transferred between Ministries, consumable supplies returned for credit or where specific legislation to the contrary exists.
- viii. Evaluate the effectiveness of this Directive and make recommendations to Management Board of Cabinet on required changes to this Directive.
- ix. Negotiate, establish and maintain the corporate Contract for general purpose charge/credit and travel cards on behalf of the government.
- x. Administer and oversee the GreenFIT Strategy in partnership with the Deputy Ministers of Economic Development, Employment and Infrastructure and Research and Innovation or successors.

### **Deputy Minister of Finance**

- i. Maintain and enforce the controllership standards and guidelines for general purpose charge/credit and travel cards on behalf of the government.
- ii. Establish an appropriate organizational structure/process to verify, prior to Contract award and annually for multi-year Contracts, the accuracy of declarations from bidders made in accordance with Section 7.2 that their Ontario taxes are in good standing.
- iii. Apply any unpaid Contract proceeds to outstanding tax liabilities if a vendor becomes non-compliant with the Ontario tax statutes during the term of a Contract.
- iv. Designate a point of contact within the Ministry of Finance for bidders to query their tax status with the Ontario government and for dealing with any vendor complaints arising from application of the process.

### **Deputy Minister of Economic Development, Employment and Infrastructure/Deputy Minister of Research and Innovation or successors**

- i. Administer and oversee the GreenFIT Strategy in partnership with the Deputy Minister of Government and Consumer Services.

### **Secretary of Management Board of Cabinet**

- i. Provide advice to the Management Board of Cabinet on ministry requests for any required approval or exemption from the requirements of this Directive.
- ii. Receive Ministries' notification to conduct non-competitive Procurements due to an Unforeseen Situation of Urgency, prior to reporting back to Management Board of Cabinet.
- iii. Provide advice to the Management Board of Cabinet on ministry requests to establish, discontinue or significantly alter approved Central Common Services.

### **Deputy Heads**

- i. Ensure compliance with the requirements of this Directive.
- ii. Approve in writing, in conjunction with the Minister, any submissions to SCLC or TB/MBC as contained in this Directive.

- iii. Formally delegate the authority and responsibility for approvals concerning this Directive and the Purchasing Card to appropriate levels of management within the ministry. This authority may not be delegated for non-competitive Consulting Services Procurements irrespective of value and for all goods and non-consulting service Procurements valued at \$1M and up to but not including \$2M for Ministries.
- iv. Approve in writing, in conjunction with the Minister, the use of all non-competitive Consulting Services Procurement processes irrespective of value for Ministries.
- v. Approve in writing, in conjunction with the Minister, the use of all non-competitive Consulting Services Procurement processes valued at \$100,000 and up to but not including \$1M for Other Included Entities.
- vi. Delegate authority to an appropriate ministry official to approve the selected vendor and proposed Agreement for Consulting Services valued at or above \$100,000 and up to but not including \$750,000.
- vii. Approve in writing the selected vendor and proposed Agreement for Consulting Services valued at or above \$750,000.
- viii. Approve in writing, in conjunction with the Minister, Agreement Ceiling Price increases for Consulting Services that would cause the Agreement Value to reach \$500,000.
- ix. Establish appropriate ministry organization structures, systems, policies, processes, procedures, including regular staff training, to enable the responsible and effective management of the Procurement of goods and services.
- x. Ensure ministry participation on the Supply Chain Leadership Council, as requested by the Deputy Minister of Government and Consumer Services.
- xi. As appropriate, provide approved mandatory Central Common Services to Ministries and administer, publish and disseminate policies and guidelines for the management of any Central Common Service which has been delegated to that Deputy Head.
- xii. Make employees aware of post-service restrictions regarding conflict of interest.
- xiii. Establish the appropriate controls and checks required for the integrity of the Purchase Card process including appointing a Ministry Purchasing Card Coordinator to act as liaison between employees, the Purchasing Card Service Provider and the Ministry of Government and Consumer Services.

- xiv. Investigate and respond to bid disputes arising from procurement obligations in a timely manner.
- xv. As appropriate, be responsible for costs associated with the bid dispute process.
- xvi. Comply with all applicable enterprise-wide corporate Information Technology (IT) standards approved by the Management Board of Cabinet.
- xvii. Approve the Consulting Services and Trade Agreement Reports prior to submission to the Ministry of Government and Consumer Services.
- xviii. Ensure all benefits and total costs, including operating and overhead costs, of using optional common central service before acquiring the service from private sector.

### **Supply Chain Leadership Council**

- i. Approve all funded open competitive Procurements valued at \$2M and up to but not including \$20M for Ministries.
- ii. Approve non-competitive Consulting Services Procurements valued between \$500,000 and up to but not including \$1M for Ministries.
- iii. Approve non-competitive Procurements with Allowable Exceptions valued at \$2M and up to but not including \$20M for goods and non-consulting services for Ministries.
- iv. Approve non-competitive Procurements with Exemptions valued at \$2M and up to but not including \$10M for goods and non-consulting services for Ministries.
- v. The Chair of Supply Chain Leadership Council to receive Ministries' notifications to conduct non-competitive Procurements due to Unforeseen Situations of Urgency, prior to reporting back to the Supply Chain Leadership Council.
- vi. Provide advice to TB/MBC on Ministry requests for all Unfunded Procurements valued at \$1M or more.
- vii. Provide advice to TB/MBC for open competitive Procurements valued at \$20M or more for Ministries.
- viii. Provide advice to TB/MBC for all non-competitive Procurements valued at \$1M or more for Consulting Services.

- ix. Provide advice to TB/MBC for non-competitive Procurements with Allowable Exceptions valued at \$20M or more for goods and non-consulting services for Ministries.
- x. Provide advice to TB/MBC for non-competitive Procurements with Exemptions valued at \$10M or more for goods and non-consulting services for Ministries.
- xi. Provide advice on the appropriate resolution of vendor bid disputes, as requested.

### **Cabinet Office**

- i. Approve the commissioning of all public opinion polls and market research studies and all questions added on by a ministry to non-commissioned polls.

## **10. DEFINITIONS AND ACRONYMS**

For the purposes of this Directive the following definitions and acronyms apply:

“ACAN” means Advance Contract Award Notice.

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

“Agreement Ceiling Price” means the total cost for specified goods and/or services as established in a contractual relationship with a third party.

“All Local Laws Governing Labour and Working Conditions” means local, regional and national laws, by-laws, regulations and employment and safety standards (e.g. wages, benefits and hours of work) that apply in the location of manufacture and assembly.

“Allowable Exception” means specific situations outlined in Section 4.4.4.2 of this document where the use of a non-competitive procurement process is allowable for the acquisition of goods or services, provided that prior approval is received from the prescribed approval authority.

“AODA” means the *Accessibility for Ontarians with Disabilities Act, 2005*.

“Apparel” means clothing, including personal attire, uniforms, outerwear and footwear.

“Best and Final Offer” (BAFO) means a procurement process in which the short listed proponents are invited to resubmit their bids for the purpose of seeking

clarifications or requesting improvement on the original submission such as better (lower) pricing. BAFO cannot be requested by a vendor.

“BPS” means broader public sector organization as defined by the *Broader Public Sector Accountability Act, 2010*.

“Central Common Services” means those services available to be provided by one ministry or agency to all other ministries and agencies that have been designated by the Ministry of Government and Consumer Services as Central Common Services.

“Cluster” means Information and Information Technology clusters as defined by the Information and Information Technology Strategy 1998.

“Cluster CIO” means the Cluster Chief Information Officer.

“Consulting Service” means the provision of expertise and strategic advice that is presented for consideration and decision-making.

“Contract” means the aggregate of (a) the form of Agreement including any schedules; (b) the procurement document, including any addenda; (c) the Proposal; and (d) any amendments executed in accordance with the terms of the Contract.

“Commercial-Off-The-Shelf (COTS) software” means a software product that is made available to the general public by a commercial supplier from existing stock or supplies, that is not designed or made to order, and that is licensed for commercial gain or advantage.

“Commercial-Off-The-Shelf software and related services” means COTS and related services, including but not limited to, maintenance, technical support, installation, training, configuration and implementation, but excluding consulting series equipment and hardware.

“Crown” means Her Majesty the Queen in right of Ontario.

“Deputy Head” means the Deputy Minister of a ministry or Chief Executive Officer of an agency that must comply with this Directive in its entirety.

“Directive” means this Ontario Public Service (OPS) Procurement Directive as issued by the Management Board of Cabinet (MBC).

“DOA” means Delegation of Authority as defined by the *Delegation of Authority Key Directive, 2000*.

“Electronic Tendering System” means a computer-based system that provides

vendors with access to information related to open competitive procurements.

“Exemption” means a non-competitive procurement process where no allowable exception exists, or an exclusion from a specific mandatory requirement prescribed in the OPS Procurement Directive.

“Fairness Commissioner” means an independent and impartial third party who observes and monitors the procurement process.

“FIPPA” means the *Freedom of Information and Protection of Privacy Act*.

“Follow-On Agreement” means an Agreement that follows and is related to an already completed Contract.

“GreenFIT” means the Green Focus on Innovation and Technology strategy managed by the Ministry of Government and Consumer Services, the Ministry of Economic Development, Employment and Infrastructure, and the Ministry of Research and Innovation.

“Local Food” means (a) food produced or harvested in Ontario, including forest or freshwater food, and (b) subject to any limitations in the regulations, food and beverages made in Ontario if they include ingredients produced or harvested in Ontario.

“Information Technology” (IT) means the equipment, software, services and processes used to create, store, process, communicate and manage information.

“Information Technology Standards” means technical standards adopted by the Government of Ontario but developed by recognized standards development organizations and widely used throughout industry and other government jurisdictions, to support seamless interoperability in the delivery of e-government services.

“Invitational Tenders” means a method of inviting at least three (3) vendors to respond to a request for supply of goods or services based on stated delivery requirements, performance specifications, terms, and conditions.

“ITPAC” means the Information and Information Technology Project Approval Committee.

“Joint Procurement” means a procurement process undertaken by multiple public sector organizations, who in order to achieve efficiencies and economies of scale, leverage their joint purchasing requirements and activities. Joint Procurement may include Procurements conducted in partnership with other organizations, by joining a buying group or accessing contracts that have been established by other organizations.

“Large Projects” means procurement(s) related to complex projects involving either Information Technology and/or significant transformation of ministry business processes and operations.

“MASH sector entities” means municipalities, municipal organizations, school boards and publicly-funded academic, health and social service entities.

“MBC” means the Management Board of Cabinet.

“MGCS” means the Ministry of Government and Consumer Services.

“Ministries” means all ministries, Clusters, advisory, adjudicative and regulatory agencies and any other agency, as classified under the *Agency Establishment and Accountability Directive*, that is required by a Memorandum of Understanding to comply with the OPS Procurement Directive or its predecessors in its entirety.

“OCCIO” means the Office of the Corporate Chief Information Officer.

“ODA” means the *Ontarians with Disabilities Act, 2001*.

“Other Included Entities” means all Crown Foundation, Trust, Operational Service and Operational Enterprise agencies, as classified under the *Agency Establishment and Accountability Directive*, and non-classified entities where the Chair and/or Chief Executive Officer is directly or indirectly appointed by Ontario. To be considered an Other Included Entity, entities must not be required by a Memorandum of Understanding to comply with the OPS Procurement Directive or its predecessors in its entirety unless MBC approval has been received for the entity to be treated as an Other Included Entity.

“Printed Materials” means any materials that are printed by commercial and in-house print shops.

“Procurement” means any contractual or commercial arrangement involving the acquisition of a good or service through purchase, rental, lease or conditional sale; or where a value or benefit has been conferred by the Crown to a successful vendor in exchange for good(s) or service(s) or revenue to the Crown. For the purposes of this Directive, procurement does not include any grant, entitlement agreement or shared cost agreement entered into by the Crown for a public benefit or purpose.

“Procurement Value” means all costs and conferred value associated with a contractual relationship with a third party. Where a project involves multiple related procurements, the project’s Procurement Value would be determined by cumulative value of each related procurement.

“Procurement Value Increase” means that the costs and conferred value associated with a procurement initiative have increased following the procurement approval.

“Recycled Content” means the amount of recovered waste materials in a new product.

“Request for Information” (RFI) means a market research procurement document that is used to elicit industry information on particular products and/or services from the vendor community.

“Request for Proposal” (RFP) 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. The RFP process uses predefined evaluation criteria in which price is not the only factor.

“Request for Qualifications” (RFQ) means a procurement document used to request technical information and evidence of financial stability and product or service suitability from potential vendors in order to pre-qualify or short list vendors to bid on specific categories of work or provide specific types of goods or services, or to respond to a particular request for proposals or tenders.

“Request for Services” (RFSe) means the document used during the second-stage selection process to request submissions from one or more vendors listed on a services Vendor of Record Arrangement.

“Request for Solution” (RFS<sub>o</sub>) means the document used during the second-stage selection process to request submissions from one or more vendors listed on a software or hardware Vendor of Record Arrangement.

“Request for Tender” (RFT) means a procurement document that requests a vendor response to supply goods or services based on stated delivery requirements, performance specifications, terms, and conditions. The RFT process usually focuses the evaluation criteria predominantly on price and delivery requirements.

“SCLC” means the Supply Chain Leadership Council.

“Single Source” means 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.

“Sole Source” means 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.

“Standardized Terms and Conditions” means contractual terms established as mandatory terms for a prescribed type of Contract. Standardized Terms and Conditions can be found at the MyOPS Procurement intranet site.

“Statement of Capabilities” means a statement from a vendor indicating that they believe they have the capability and capacity to provide the good, service or construction requirement.

“Supply Chain Ontario” means Supply Chain Ontario, Ontario Shared Services, Ministry of Government and Consumer Services.

“TB/MBC” means Treasury Board/Management Board of Cabinet.

“Temporary Help Services” means the transactional, task-oriented work usually provided through private sector temporary-help agencies or organizations staffed by non-OPS employees.

“Trade Commitments” means any applicable trade agreement to which Ontario is a signatory or pursuant to which Ontario has accepted obligations.

“Unfunded Procurement” means a procurement for which funding has not been allocated. To secure procurement approval, a funding request should be made together with the procurement approval request. Procurement approval will be contingent on funding approval.

“Vendor of Record (VOR) Arrangement” and “VOR Arrangement” both mean a procurement arrangement that authorizes one or more qualified vendors to provide goods or services for a defined time period on terms and conditions, including pricing, as set out in the particular VOR Agreement. VOR Arrangements are categorized as enterprise-wide, multi-ministry, or ministry-specific.

“Virgin Paper” means paper that is manufactured using new wood fibre harvested from forests and does not contain any recycled content.

“Volume Licensing Agreement (VLA)” means a software licensing program that software publishers provide to large customers, offering significant price discounts and common business and legal terms and conditions. VLAs are not VOR Arrangements and have not been established competitively.

“VOR Arrangement Ceiling Price” means the maximum value per assignment, or per multiple project-related assignments, under which a ministry may use the VOR Arrangement.

## Appendix A - Central Common Services

<b>Mandatory Service</b>	<b>Description (if applicable)</b>	<b>Supplier Ministry</b>	<b>Division/Branch (if applicable)</b>
Advertising	Includes advertising, public and media relations and creative communication services but not recruitment advertising	Government and Consumer Services	Advertising Review Board
Air Transportation	Provision/arrangement of non-scheduled air transportation or specialty air transportation for authorized travel on government business	Natural Resources	Aviation and Forest Fire Management
Asset Disposal	Disposal of movable assets (except vehicles), including government-owned computers	Government and Consumer Services	Ontario Shared Services General Administrative Services
Common Applications and Services	Enabling Software Services, Enterprise Common Application Services, and Components, Utilities and Tools Services	Government and Consumer Services	Office of the Corporate Chief Infrastructure Technology Services, OCCIO
Computer Services	Network, help desk, data centre, and server management	Government and Consumer Services	Office of the Corporate Chief Infrastructure Technology Services, OCCIO
Drugs and Related Medical Supplies for Human Use	Provision of drugs and related medical supplies for use in the diagnosis, treatment, mitigation or prevention of any disease, disorder, abnormal physical state, or symptoms thereof in humans and for restoring, correcting or modifying any human organic function	Health and Long-term Care	Ontario Government Pharmaceutical and Medical Supply Services
Financial Services	As outlined in the OPC Financial Policies	Government and Consumer Services	Ontario Shared Services Financial Transaction Services

<b>Mandatory Service</b>	<b>Description (if applicable)</b>	<b>Supplier Ministry</b>	<b>Division/Branch (if applicable)</b>
Government Contributions to Employee Benefit Plans		Government and Consumer Services	Ontario Shared Services Business Support Services
Government Motor and Passenger Vehicles Acquisition and Disposal Services	Acquisition, disposal and management	Transportation	Fleet Management Centre
Government Telephone Directory	Production of government telephone directory	Government and Consumer Services	ServiceOntario Access and Inquiry Services
IT Source	Centralized procurement for Fee For Service (FFS) consultants through the corporate IT Task Based Services Vendor of Record Arrangement for all roles, across the OPS. I&IT professionals who are regular OPS employees and are available for deployment across the OPS, as required, for determinate periods to supplement existing project resources. IT Source deployable resources include positions within the Architect; Project Management; Systems Analyst; Business Analyst and Solutions Designer job families	Government and Consumer Services	Enterprise Services Cluster
Legal Services	Acquisition of external legal services	Attorney General	Legal Services
Media	Purchase of space and time in the domestic media	Government and Consumer Services	Advertising Review Board
Non-Commissioned Opinion Polls	Non-commissioned polls are quantitative public opinion surveys conducted independently of the Ontario Government by private organizations.	Government and Consumer Services	Communication Services

<b>Mandatory Service</b>	<b>Description (if applicable)</b>	<b>Supplier Ministry</b>	<b>Division/Branch (if applicable)</b>
	The results of such surveys, with or without questions added by another party, might be obtainable by a ministry or agency		
Payroll Services	Provision of CORPAY system	Government and Consumer Services	Ontario Shared Services Business Support Services
Print and Form Management Services	Providing controllership, contract management and quality assurance roles over print and forms management services in the OPS, promoting best practices on green print design, development, distribution and warehousing of forms	Government and Consumer Services	Ontario Shared Services, General Administrative Services Delivery Branch
Realty Services for MOI Realty  [As per MOI Realty Policy and its Schedule(s)]	This applies to all realty advice and services relating to or affecting MOI Realty, such as land development, property and land management; accommodation services; and transactions, including leasing and licensing of realty	Ontario Infrastructure and Lands Corporation or its successor	
Recruitment Advertising	Provision of recruitment advertising	Government and Consumer Services	Centre for Leadership and Human Resources Management
Risk Management and Insurance Services		Government and Consumer Services	Ontario Shared Services General Administrative Services
Statistics Canada Prescribed Data	As prescribed by Agreement, memorandum of understanding, or Sections 10 and 11 of the <i>Statistics Act</i>	Finance	Economic and Revenue Forecasting and Analysis
Translation Services (1)	Provincial statutes, regulations, and	Attorney General	Legislative Counsel

<b>Mandatory Service</b>	<b>Description (if applicable)</b>	<b>Supplier Ministry</b>	<b>Division/Branch (if applicable)</b>
	French language wills that affect interests in land		
Translation Services (2)	Setting, maintaining, and distributing French official government terminology and providing guidelines on preferred usage in French	Government and Consumer Services	Ontario Shared Services General Administrative Services
Travel Services	Management of corporate Agreements for travel services including ticketed transportation, accommodation and car rental requirements	Government and Consumer Services	Ontario Shared Services Supply Chain Ontario
Voice Telecommunication equipment and services	Includes telephone (Centrex, PBX, electronic key), voice processing (voicemail, audiotex, auto attendant, interactive voice response), long distance (inbound, outbound, calling card) and other miscellaneous services (audio conferencing, T-1)	Government and Consumer Services	Office of the Corporate Chief Infrastructure Technology Services, OCCIO
Workforce Information Network	Provision of Workforce Information Network	Government and Consumer Services	Ontario Shared Services Pay and Benefits Division

<b>Optional Service</b>	<b>Description (if applicable)</b>	<b>Supplier Ministry</b>	<b>Division/Branch (if applicable)</b>
Actuarial Services		Government and Consumer Services	Human Resources Division
Mass Mailing Services		Government and Consumer Services	Ontario Shared Services General Administrative Services
Records Storage		Government and Consumer Services	Archives of Ontario