

# Broader Public Sector Procurement Directive

## **Notice: Procurement Restriction Policy**

Direction on procurement from U.S business is in the Procurement Restriction Policy and applies to all ministries, all provincial agencies, the Ontario Power Generation, the Independent Electricity System Operator and all designated Broader Public Sector organizations.

Where there are differences between the Policy and the rules in this Directive, the Policy prevails to the extent of the difference.

**Issued By**  
**Management Board of Cabinet**  
**Effective April 1, 2024**

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## **Preamble**

This Broader Public Sector (BPS) Procurement Directive (Directive) is effective on April 1, 2024 and replaces previous versions of the Directive.

### **1. Purpose**

The purpose of the Directive is:

- To ensure that publicly funded goods and services, including construction, consulting services, and information technology are acquired by BPS organizations through a process that is open, fair, and transparent;
- To outline responsibilities of BPS organizations throughout each stage of the procurement process; and
- To ensure that procurement processes are managed consistently throughout the BPS.

### **2. Application and Scope**

This Directive applies to all designated broader public sector organizations as set out in section 1(1) of the [\*Broader Public Sector Accountability Act, 2010\*](#).

### **3. Principles**

This Directive is based on the five key principles that allow organizations to achieve value for money while following a procurement process that is fair and transparent to all vendors:

- **Accountability**

Organizations must be accountable for the results of their procurement decisions and the appropriateness of the processes.

- **Transparency**

Organizations must be transparent to all vendors. Wherever possible, vendors must have equal access to information on procurement opportunities, processes, and results.

- **Value for Money**

Organizations must maximize the value they receive from the use of public funds. A value-for-money approach aims to deliver goods and services at the optimum total lifecycle cost.

- **Quality Service Delivery**

Front-line services provided by organizations, such as teaching and patient care, must receive the right product, at the right time, in the right place.

- **Process Standardization**

Standardized processes remove inefficiencies and create a level playing field.

#### **4. Key Definitions**

In this Directive,

“Goods and services” means any goods, construction, and services, including but not limited to IT and consulting services;

“Members of an Organization” means all trustees, members of the board of directors, senior executives, and employees of the organization, or their equivalent;

“Organization” means every organization that is in scope for the purposes of this Directive;

“Supply Chain Activities” means all activities directly or indirectly related to the organization’s planning, sourcing, procurement, moving, and payment processes.

#### **5. Exemptions, Exceptions, and non-applications under trade agreements**

Where an exemption, exception, or non-application clause exists under applicable trade agreements, organizations may apply this clause when conducting procurement.

An organization asserting that procurement is subject to an exemption, exception, or non-application clause under a trade agreement must formally establish applicability of this clause.

#### **6. Value of Procurement**

When determining the value of procurement for approval purposes as outlined in this Directive, organizations should not take into consideration applicable sales taxes.

#### **7. Mandatory requirements**

##### **7.1 Supply Chain Code of Ethics (CODE)**

The Code does not supersede codes of ethics that organizations have in place, but supplements such codes with supply chain-specific standards of practice.

Organizations must formally adopt the Code in accordance with their governance processes. The policy intent is to establish that the conduct of all members of an organization involved with supply chain activities must be in accordance with the Code.

The Code must be made available and visible to all members of the organization, as well as vendors involved with supply chain activities.

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

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

#### **I. Personal Integrity and Professionalism**

Individuals involved with supply chain activities must act, and be seen to act, with integrity and professionalism. Honesty, care, and due diligence must be integral to all supply chain activities within and between BPS organizations, suppliers and vendors. Respect must be demonstrated for each other and for the environment. Confidential information must be safeguarded. Participants must not engage in any activity that may create, or appear to create, a conflict of interest, such as accepting gifts or favours, providing preferential treatment, or publicly endorsing suppliers or products.

#### **II. Accountability and Transparency**

Supply chain activities must be open and accountable. In particular, purchasing and contracting activities must be fair, transparent and conducted with a view to obtaining the best value for public money. All participants must ensure that public sector resources are used in a responsible, efficient, and effective manner.

#### **III. Compliance and Continuous Improvement**

Individuals involved with purchasing or other Supply Chain Activities must comply with this Code of Ethics and the laws of Canada and Ontario. Individuals should continuously work to improve supply chain policies and procedures, to improve their supply chain knowledge and skill levels, and to share leading practices.

## **7.2 Procurement policies and procedures (mandatory requirements)**

Organizations must comply with the requirements set forth in this Directive.

### **7.2.1 Mandatory Requirement #1: Segregation of Duties**

Organizations must segregate at least three of the five functional procurement roles: Requisition, Budgeting, Commitment, Receipt and Payment. Responsibilities for these roles must lie with different departments or, at a minimum, with different individuals.

Where it is not feasible to segregate these roles, i.e., for smaller Organizations, adequate compensating controls approved by an external auditor must be put in place.

## 7.2.2 Mandatory Requirement #2: Approval Authority

### 7.2.2.1 Goods and non-consulting services

Organizations must establish an approval authority schedule (AAS) for procurement of goods and non-consulting services. The AAS must identify, for each of the functional procurement roles identified in Section 7.2.1, authorities that are allowed to approve procurements for different dollar thresholds. The AAS must be approved by the board of directors of the Organization or its equivalent.

Prior to commencement, any procurement of goods and non-consulting services must be approved by an appropriate authority in accordance with the AAS of the Organization.

Prior to commencement, any non-competitive procurement of goods or non-consulting services must be approved by an authority one level higher than the AAS requirements for competitive procurement.

### 7.2.2.2 Consulting services

Prior to commencement, any procurement of consulting services must be approved in accordance with the Procurement Approval Authority Schedule for Consulting Services below.

#### Procurement Approval Authority Schedule (AAS) for Consulting Services

Procurement Method	Procurement Value	Approval Authority
Invitational Competitive	\$0 up to but not including \$121,200	Organization's AAS for goods and non-consulting services
Open Competitive	Any value	Organization's AAS for goods and non-consulting services
Non-competitive*	\$0 up to but not including \$1,000,000	President, CEO or equivalent
Non-competitive*	\$1,000,000 or more	Board of Directors or equivalent

\*Exemption-based only

Organizations must not reduce the overall value of procurement (e.g., dividing a single procurement into multiple procurements) in order to circumvent the approval requirements of the organizational AAS or the Procurement AAS for Consulting Services.

### **7.2.3 Mandatory Requirement #3: Competitive Procurement Thresholds**

Organizations must conduct an open competitive procurement process where the estimated value of procurement of goods or services is \$121,200 or more. The exemptions must be in accordance with the applicable trade agreements.

Organizations must competitively procure consulting services irrespective of value. The exemptions must be in accordance with the applicable trade agreements.

## Goods, Non-Consulting Services and Construction

Total Procurement Value	Means of Procurement	Recommended/Required
\$0 up to but not including \$100	Petty cash	Recommended
\$100 up to but not including \$3,000	Procurement card (P-card)	Recommended
\$3,000 up to but not including \$10,000	Purchase order	Recommended
\$10,000 up to but not including \$121,200	Invitational competitive procurement (minimum of three suppliers are invited to submit a bid)	Recommended
\$121,200 or more	Open competitive process	Required

## Consulting Services

Total Procurement Value	Means of Procurement	Recommended/Required
\$0 up to but not including \$121,200	Invitational or open competitive process	Required
\$121,200 or more	Open competitive process	Required

Organizations must not reduce the overall value of procurement (e.g., dividing a single procurement into multiple procurements) in order to circumvent competitive procurement thresholds.

### 7.2.4 Mandatory Requirement #4: Information Gathering

Where results of informal supplier or product research are insufficient, formal processes such as a Request for Information (RFI) or Request for Expression of Interest (RFEI) may be used if warranted, taking into consideration the time and effort required to conduct them.

A response to RFI or RFEI must not be used to pre-qualify a potential supplier and must not influence the chances of the participating suppliers from becoming the successful proponent in any subsequent opportunity.

### 7.2.5 Mandatory Requirement #5: Supplier Pre-Qualification

The Request for Supplier Qualification (RFSQ) enables Organizations to gather information about supplier capabilities and qualifications in order to pre-qualify suppliers for an immediate product or service need or to identify qualified candidates in advance of expected future competitions.

Terms and conditions of the RFSQ document must contain language that disclaims any obligation of the Organization to call on any supplier to provide goods or services as a result of pre-qualification.

#### **7.2.6 Mandatory Requirement #6: Posting Competitive Procurement Documents**

Calls for open competitive procurements must be made through an electronic tendering system that is readily accessible by all vendors.

#### **7.2.7 Mandatory Requirement #7: Timelines for Posting Competitive Procurements**

Organizations must provide suppliers a minimum response time of 15 calendar days for procurement of goods and services valued at \$121,200 and up to \$353,300.

Organizations must consider providing suppliers a minimum response time of 30 calendar days for procurements of high complexity, risk, and/or dollar value, and subject to applicable trade agreements.

#### **7.2.8 Mandatory Requirement #8: Bid Receipt**

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

Submissions that are delivered after the closing time must be returned unopened.

#### **7.2.9 Mandatory Requirement #9: Evaluation Criteria**

Evaluation criteria must be developed, reviewed and approved by an appropriate authority prior to commencement of the competitive procurement process.

Competitive procurement documents must clearly outline mandatory, rated, and other criteria that will be used to evaluate submissions, including weight of each criterion.

Mandatory criteria (e.g., technical standards) should be kept to a minimum to ensure that no bid is unnecessarily disqualified.

Maximum justifiable weighting must be allocated to the price/cost component of the evaluation criteria.

All criteria must comply with Section 7.2.14, Non-discrimination, of the Directive.

The evaluation criteria are to be altered only by means of addendum to the competitive procurement documents.

Organizations may request suppliers to provide alternative strategies or solutions as a part of their submission. Organizations must establish criteria to evaluate alternative strategies or solutions prior to commencement of the competitive procurement process. Alternative strategies or solutions must not be considered unless they are explicitly requested in the competitive procurement documents.

#### **7.2.10 Mandatory Requirement #10: Evaluation Process Disclosure**

Competitive procurement documents must fully disclose the evaluation methodology and process to be used in assessing submissions, including the method of resolving tie score.

Competitive procurement documents must state that submissions that do not meet the mandatory criteria will be disqualified.

#### **7.2.11 Mandatory Requirement #11: Evaluation Team**

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

Evaluation team members must be made aware of the restrictions related to utilization and distribution of confidential and commercially sensitive information collected through the competitive procurement process and refrain from engaging in activities that may create or appear to create a conflict of interest.

Evaluation team members must sign a conflict-of-interest declaration and non-disclosure of confidential information agreement.

#### **7.2.12 Mandatory Requirement #12: Evaluation Matrix**

Each evaluation team member must complete an evaluation matrix, rating each of the submissions. Records of evaluation scores must be retained for audit purposes.

Evaluators must ensure that everything they say or write about submissions is fair, factual, and fully defensible.

### **7.2.13 Mandatory Requirement #13: Winning Bid**

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

### **7.2.14 Mandatory Requirement #14: Non-Discrimination**

Organizations must not discriminate or exercise preferential treatment in awarding a contract to a supplier as a result of a competitive procurement process.

### **7.2.15 Mandatory Requirement #15: Executing the Contract**

The agreement between the Organization and the successful supplier must be formally defined in a signed written contract before the provision of supplying goods or services commences.

Where an immediate need exists for goods or services, and the Organization and the supplier are unable to finalize the contract as described above, an interim purchase order may be used. The justification of such decision must be documented and approved by the appropriate authority.

### **7.2.16 Mandatory Requirement #16: Establishing the Contract**

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

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

### **7.2.17 Mandatory Requirement #17: Termination Clauses**

All contracts must include appropriate cancellation or termination clauses. Organizations should seek legal advice on the development of such clauses.

When conducting complex procurements, organizations should consider, as appropriate, the use of contract clauses that permit cancellation or termination at critical project life-cycle stages.

### **7.2.18 Mandatory Requirement #18: Term of Agreement Modifications**

The term of the agreement and any options to extend the agreement must be set out in the competitive procurement documents. An approval by an appropriate authority must be obtained before executing any modifications to the term of agreement.

Extending the term of agreement beyond that set out in the competitive procurement document amounts to non-competitive procurement where the extension affects the value and/or stated deliverables of procurement.

#### **7.2.19 Mandatory Requirement #19: Contract Award Notification**

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

#### **7.2.20 Mandatory Requirement #20: Supplier Debriefing**

For procurements valued at \$121,200 or more, Organizations must inform all unsuccessful suppliers about their entitlement to a debriefing.

Organizations must allow unsuccessful suppliers 60 calendar days following the date of the contract award notification to request a debriefing.

#### **7.2.21 Mandatory Requirement #21: Non-Competitive Procurement**

Organizations should employ a competitive procurement process to achieve optimum value for money. It is recognized, however, that special circumstances may require Organizations to use non-competitive procurement.

Organizations may utilize non-competitive procurement only in situations outlined in the exemption, exception, or non-application clauses of applicable trade agreements.

Prior to commencement of non-competitive procurement, supporting documentation must be completed and approved by an appropriate authority within the Organization.

#### **7.2.22 Mandatory Requirement #22: Contract Management**

Procurements and the resulting contracts must be managed responsibly and effectively.

Payments must be made in accordance with provisions of the contract. All invoices must contain detailed information sufficient to warrant payment. Any overpayments must be recovered in a timely manner.

Assignments must be properly documented. Supplier performance must be managed and documented, and any performance issues must be addressed.

To manage disputes with suppliers throughout the life of the contract, Organizations should include a dispute resolution process in their contracts.

For services, organizations must:

- Establish clear terms of reference for the assignment. The terms should include objectives, background, scope, constraints, staff responsibilities, tangible deliverables, timing, progress reporting, approval requirements, and knowledge transfer requirements.
- Establish expense claim and reimbursement rules compliant with the [Broader Public Sector Expenses Directive](#)<sup>1</sup> and ensure all expenses are claimed and reimbursed in accordance with these rules.
- Ensure that expenses are claimed and reimbursed only where the contract explicitly provides for reimbursement of expenses.

### **7.2.23 Mandatory Requirement #23: Procurement Records Retention**

For reporting and auditing purposes, all procurement documentation, as well as any other pertinent information must be retained in a recoverable form for a period of seven years.

Organizations must have a written policy for handling, storing and maintaining the suppliers' confidential and commercially sensitive information.

### **7.2.24 Mandatory Requirement #24: Conflict of Interest**

Organizations must monitor any conflict of interest that may arise as a result of the members' of the organization, advisors', external consultants', or suppliers' involvement with the supply chain activities. Individuals involved with the supply chain activities must declare actual or potential conflicts of interest. Where a conflict of interest arises, it must be evaluated and an appropriate mitigating action must be taken.

### **7.2.25 Mandatory Requirement #25: Bid Dispute Resolution**

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

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<sup>1</sup>As set out in the [Broader Public Sector Accountability Act, 2010](#) (s.10)

## **8. Other related policies**

Organizations must conduct procurement activities according to the law in Ontario, including contract law, the law of competitive processes, privacy legislation, accessibility legislation and any other legislation as may be applicable.

Organizations may also be subject to various trade agreements, including but not limited to the Canadian Free Trade Agreement (CFTA), Canada-European Union Comprehensive Economic and Trade Agreement (CETA) and the Ontario–Quebec Trade and Cooperation Agreement (Ontario–Quebec Agreement).

## **9. Definitions**

“Accountability” means the obligation of an employee, agent or other person to answer for or be accountable for, work, action or failure to act following delegated authority.

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

“Approval Authority” means the authority delegated by the Organization to a person designated to occupy a position to approve on its behalf one or more procurement functions within the plan-to-pay cycle up to specified dollar limits subject to the applicable legislation, regulations and procedures in effect at such time.

“Award” means the notification to a proponent of acceptance of a proposal, quotation or tender that brings a contract into existence.

“Bid” means a proposal, quotation or tender submitted in response to a solicitation from a contracting authority. A bid covers the response to any of the three principal methods of soliciting bids, i.e., Request for Proposal, Request for Tender and Request for Quotation.

“Bid Protest” means a dispute raised against the methods employed or decisions made by a contracting authority in the administration of a proposal, tender, or quotation process.

“Chief Executive Officer” means the head of operations at Organizations.

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

“Conflict of Interest” means a situation in which financial or other personal considerations have the potential to compromise or bias professional judgment and objectivity. An apparent conflict of interest is one in which a reasonable person would think that the professional’s judgment is likely to be compromised.

“Construction” means construction, reconstruction, demolition, repair or renovation of a building, structure or other civil engineering or architectural work and includes site preparation, excavation, drilling, seismic investigation, the supply of products and materials, the supply of equipment and machinery if they are included in and incidental to the construction, and the installation and repair of fixtures of a building, structure or other civil engineering or architectural work, but does not include professional consulting services related to the construction contract unless they are included in the procurement.

“Consultant” means a person or entity that under an agreement, other than an employment agreement, provides expert or strategic advice and related services for consideration and decision-making.

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

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

“Designated broader public sector organization” means an Organization to which section 12 of the *Broader Public Sector Accountability Act, 2010* applies.

“Electronic Tendering System” means a computer-based system that provides suppliers with access to information related to open competitive procurements.

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

“Evaluation Matrix” means a tool allowing the evaluation team to rate supplier proposals based on multiple pre-defined evaluation criteria.

“Evaluation Team” means a group of individuals designated/responsible to make award recommendation. The evaluation team would typically include representatives from the Organization and subject matter expert(s). Each member participates to provide business, legal, technical and financial input.

“Goods” means moveable property (including the costs of installing, operating, maintaining or manufacturing such moveable property) including raw materials, products, equipment and other physical objects of every kind and description whether in

solid, liquid, gaseous or electronic form, unless they are procured as part of a general construction contract.

“Goods and Services/Goods or Services” means all goods and/or services including construction, consulting services and information technology.

“Organizations” means all organizations listed in Application and Scope, Section 2.

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

“Invitational Competitive Procurement” means any form of requesting a minimum of three (3) qualified suppliers to submit a written proposal in response to the defined requirements outlined by an individual/organization.

“Non-discrimination” means fairness in treating suppliers and awarding contracts without prejudice, discrimination or preferred treatment.

“Offer” means a promise or a proposal made by one party to another, intending the same to create a legal relationship upon the acceptance of the offer by the other party.

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

“Procurement Card (P-Card)” means an organizational credit card program primarily used for low-cost, non-inventory, non-capital items, such as office supplies. The card allows procurement or field employees to obtain goods and services without going through the requisition and authorization procedure. P-cards may be set up to restrict use to specific purchases with predefined suppliers or stores and offer central billings.

“Procurement Policies and Procedures (PPP)” means a framework and mandatory requirements to govern how Organizations conduct sourcing, contracting and purchasing activities, including approval segregation and limits, competitive and non-competitive procurement, conflict of interest and contract awarding.

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

“Purchase Order (PO)” means a written offer made by a purchaser to a supplier formally stating the terms and conditions of a proposed transaction.

“Request for Expressions of Interest (RFEI)” means a document used to gather information on supplier interest in an opportunity or information on supplier capabilities/qualifications. This mechanism may be used when a BPS organization wishes to gain a better understanding of the capacity of the supplier community to provide the services or solutions needed. A response to a RFEI must not pre-qualify a

potential supplier and must not influence their chances of being the successful proponent on any subsequent opportunity.

“Request for Information (RFI)” means a document issued to potential suppliers to gather general supplier, service or product information. It is a procurement procedure whereby suppliers are provided with a general or preliminary description of a problem or need and are requested to provide information or advice about how to better define the problem or need, or alternative solutions. A response to an RFI must not pre-qualify a potential supplier and must not influence their chances of being the successful proponent on any subsequent opportunity.

“Request for Proposal (RFP)” means a document used to request suppliers to supply solutions for the delivery of complex products or services or to provide alternative options or solutions. It is a process that uses predefined evaluation criteria in which price is not the only factor.

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

“Requisition” means a formal request to obtain goods or services made within an Organization, generally from the end-user to the procurement department.

“Segregation of Duties” means a method of process control to manage conflict of interest, the appearance of conflict of interest, and errors or fraud. It restricts the amount of power held by any one individual. It puts a barrier in place to prevent errors or fraud that may be perpetrated by one individual.

“Services” means intangible products that do not have a physical presence. No transfer of possession or ownership takes place when services are sold, and they (1) cannot be stored or transported, (2) are instantly perishable, and (3) come into existence at the time they are bought and consumed.

“Supplier/Vendor” means any person or organization that, based on an assessment of that person’s or organization’s financial, technical and commercial capacity, is capable of fulfilling the requirements of procurement.

“Supply Chain Activities” means all activities whether directly or indirectly related to organizational plan, source, procure, move, and pay processes.

“Trade Agreements” means any applicable trade agreement to which Ontario is a signatory. “Supplier Debriefing” means a practice of informing a supplier why their bid was not selected upon completion of the contract award process.

“Written” means a document or information in either electronic or hardcopy format

## **Appendix: Centralization and Building Ontario Businesses Initiative**

### **1. Purpose**

This appendix to the BPS Procurement Directive (Directive) supports a modern procurement and supply chain system and provides direction to enable the Building Ontario Businesses Initiative (BOBI).

There are two main sections in this appendix:

- Section A – Interim Measures – rules to support supply chain modernization and
- Section B – rules to leverage Ontario’s purchasing power to support economic growth (BOBI)

### **2. Application and Scope**

The Centralization and Building Ontario Businesses Initiative appendix applies to all designated broader public sector organizations as set out in section 1(1) [the \*Broader Public Sector Accountability Act, 2010\*](#), unless otherwise noted.

For the purpose of this appendix, the term “BPS entities” is used to refer to all the organizations covered under this appendix.

For clarity, the BPS Procurement Directive continues to apply. In the event of a conflict between this appendix and the Directive, this appendix prevails. Unless otherwise stated, there are no exemptions from the rules in this appendix.

### **3. Operational Direction and Ongoing Support**

- Operational direction and support are available at:
  - [Doing business with the Government of Ontario](#) internet site
  - If there are questions on the direction in this appendix, please contact: [doingbusiness@supplyontario.ca](mailto:doingbusiness@supplyontario.ca)

### **4. Documentation**

BPS entities must document all procurement decisions, including decisions relating to choices about the process for procurements.

## SECTION A: Interim Measures

### 5. Application

This section applies to the following organizations<sup>i</sup>

- Hospitals;
- School boards;
- Universities;
- Colleges of applied arts and technology and post-secondary institutions;
- Children's aid societies; and
- Shared Services Organizations / Group Purchasing Organizations.

For clarity, the BPS Procurement Directive continues to apply to these organizations. In the event of a conflict between this appendix and the Directive, this appendix prevails.

### In-Scope

Section A applies to:

- New procurements of goods and services (consulting and non-consulting) valued at \$121,200 or higher.

### Out-of-Scope

Section A does not apply:

- Where procurement is related to construction<sup>ii</sup> work. This includes any consulting services that are included in the procurement of construction work.
- Where goods or services are procured for commercial sale or resale or for use in production of a good or service intended for commercial sale or resale.

**Mandatory compliance** with the BPS Interim Measures is required where there is existing legislative authority for the funding ministry to provide direction to the BPS organization.

**Voluntary compliance** with the BPS Interim Measures is appropriate where there is no legislative authority available. In these cases, the BPS organizations are encouraged to comply voluntarily.

Funding ministries will inform the BPS organizations of the nature of the compliance (mandatory or voluntary). The ministry that maintains the primary funding relationship with the BPS organization is considered the funding ministry.

### 6. Procurements

- a) VOR Arrangements

BPS organizations must use existing VOR arrangements whenever possible and appropriate, regardless of the value of the procurement.

A Vendor of Record arrangement could be an Enterprise Vendor of Record arrangement managed by Supply Ontario, or any other arrangement available to the organization.

b) Contract Term

Any new contract, including any extensions, must not exceed two years.

c) Operational Flexibility

In limited and exceptional circumstances, BPS organizations may find that it is not possible or appropriate to:

- Use a VOR arrangement that is available to the organization; and/or
- Restrict contract duration to two years.

In these situations, BPS organizations must complete a Procurement Rationale Report and submit it to the funding ministry at least 45 calendar days before the procurement is released to the vendor community.

Note that submission of the form does not change the authority of the organization to proceed with the procurement. For clarity, once the report is submitted, the organization can proceed with the procurement.

### **Procurement Rationale Report**

In the limited and exceptional circumstances as set out in the Operational Flexibility section above, BPS organizations must complete a Procurement Rationale Report and submit it to the funding ministry.

The report must be submitted at least 45 days before the procurement is released to the vendor community.

The Procurement Rationale Report can also be submitted as part of the planned procurement report or activity update report, as long as the 45-day requirement is met.

The submission of the Procurement Rationale Report does not change the authority of the organization to proceed with the procurement as planned. For clarity, once the report is submitted, the procurement can proceed.

## **7. Data and Reporting**

BPS entities must prepare and provide information and data as requested related to the provisions in this section, including procurement data and other information.

## **SECTION B: Building Ontario Businesses Initiative (BOBI)**

### **8. Application**

- The Building Ontario Businesses Initiative applies to all designated broader public sector organizations as set out in section 1(1)<sup>iii</sup> of the [Broader Public Sector Accountability Act, 2010](#). Note that this is the same application as for the body of the BPS Procurement Directive. For clarity, it is broader than the application of Section A, as it includes publicly funded organizations that received public funds of \$10 million or more in the previous fiscal year.

Unless otherwise stated, section B applies to all goods and services (consulting and non-consulting).

If there is a conflict between Section B of this appendix and legislation, the legislation prevails. <sup>1</sup>

For procurements under this section, BPS entities must reference the Building Ontario Businesses Initiative – A Guide for Buyers.

#### **Definition of Ontario Business**

For the purposes of this Appendix, “Ontario business” means:

A supplier, manufacturer, or distributor of any business structure that conducts its activities on a permanent basis in Ontario and meets one of the following criteria:

- I. has its headquarters or main office in Ontario; or
- II. has at least 250 full-time employees in Ontario at the time of the applicable procurement process.

Government entities must refer to the BOBI Guide for direction on the application of the definitions to the provisions in this appendix.

### **9. Procurements**

See the [Doing Business with the Government of Ontario](#) internet site for support and guidance on the requirements in this section.

#### **Procurements BELOW monetary thresholds in domestic trade agreements**

For procurements below the procurement value of \$121,200, BPS entities must give preference to Ontario businesses, wherever feasible.

This section applies to all procurements of goods and services except as follows:

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<sup>1</sup> Please refer to the [Building Ontario Businesses Initiative Act, 2022](#) for reference to applicable regulations.

- Emergency procurements
- Procurements from any vendor of record arrangements (second stage)
- Goods or services procured for commercial sale or resale or for use in production of a good or service intended for commercial sale or resale
- Services of a lawyer, paralegal or notary public
- Services of an expert witness to be used in a court or legal proceeding
- A good or service that is not available from an Ontario business

For details on the process for procuring below thresholds in domestic trade agreements, see the BOBI Guide.

For procurements that include both goods and services, if the value of either the goods component or services component exceeds the threshold of \$121,200, there is no obligation to give preference to Ontario businesses.

### **Procurements below monetary thresholds in applicable international trade agreements (and above the threshold of \$121,200)**

- BPS entities must give preference Canadian businesses, wherever feasible

### **For procurements above monetary thresholds in applicable international trade agreements**

- BPS entities must use the following strategies, wherever feasible
  - Give preference to Canadian businesses and businesses of Ontario's trading partners,
  - Apply weighted domestic criteria in procurement evaluations (e.g., vendors to demonstrate how they meet Ontario's environmental and labour standards), and
  - For procurements with an estimated value of \$50 million or more, include an Industrial Regional and Technology Benefit (IRTB) requirement for vendors. The IRTB requires vendors bidding on large procurements to detail how their proposals would provide local economic benefits for the province.

For guidance and direction on procuring above thresholds, see the BOBI Guide. BPS entities seeking information regarding purchasing fleet vehicles can access [information on Vendors of Record](#), and search for arrangements related to fleet vehicles – note that BPS entities will need to [register](#) for access to this information if they have not already done so.

## **10. Data and Reporting**

BPS entities must prepare and provide information and data as requested, related to the provisions in this section.

## End Notes

<sup>i</sup> The BPS organizations covered by Section A of the Appendix are defined in the [Broader Public Sector Accountability Act, 2010](#) section 1(1)

- a) every hospital  
“hospital” means,
  - i. a public hospital (a hospital within the meaning of the [Public Hospitals Act](#); (“hôpital public”))
  - ii. a private hospital that received public funds in the previous fiscal year of the Government of Ontario, and
  - iii. the University of Ottawa Heart Institute/Institut de cardiologie de l’Université d’Ottawa (“hôpital”)
- b) every school board (a board as defined in the [Education Act](#) (“conseil scolaire”))
- c) every university in Ontario and every college of applied arts and technology and post-secondary institution in Ontario whether or not affiliated with a university, the enrolments of which are counted for purposes of calculating annual operating grants and entitlements
- d) every agency designated as a children’s aid society under subsection 34 (1) of Part III of the [Child, Youth and Family Services Act, 2017](#)

every corporation controlled by one or more designated broader public sector organizations that exists solely or primarily for the purpose of purchasing goods or services for the designated broader public sector organization or organizations.

<sup>ii</sup> “Construction” means construction, reconstruction, demolition, repair or renovation of a building, structure or other civil engineering or architectural work and includes site preparation, excavation, drilling, seismic investigation, the supply of products and materials, the supply of equipment and machinery if they are included in and incidental to the construction, and the installation and repair of fixtures of a building, structure or other civil engineering or architectural work, but does not include professional consulting services related to the construction contract unless they are included in the procurement. (This wording is the definition in the BPS Procurement Directive)

<sup>iii</sup> The BPS organizations covered by Section B of the Appendix include all organizations to which Section A applies, plus every publicly funded organization that received public funds of 10 million dollars or more in the previous fiscal year of the Government of Ontario. (section 1(1) of [the Broader Public Sector Accountability Act, 2010](#))