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PURPOSE

OTN is a Broader Public Sector (BPS) organization and is bound by the BPS Procurement Directive (Directive) issued by the Management Board of Cabinet effective January 1, 2012. The mandatory requirements within Section 7 of the Directive set out how BPS organizations are required to conduct sourcing, contracting and purchasing activities. There are 25 mandatory requirements, in addition to the BPS Supply Chain Code of Ethics to which OTN is required to adhere.

As per the BPS, OTN is also subject to the various trade agreements that Ontario is a party to, including, but not limited to, the Canadian Free Trade Agreement (CFTA) and the Canada-European Union Comprehensive Economic and Trade Agreement (CETA)

The purpose of this policy is:

- To ensure publicly funded goods and services are acquired through a process that is open, fair and transparent;
- To ensure the OTN procurement processes are compliant with the Directive and Trade Agreements; and,
- To provide internal controls over purchasing of goods and services.

SCOPE

This policy applies to the planning, acquisition and management of all goods and services (including consulting) regardless of dollar value, with the exception of the following as noted below. Please provide the RFA and all back-up documents (including any items further detailed below) to Procurement.

Non-competitive memo required (only for amounts > \$24,999) for non-competitive activities as defined in the Directives and trade agreements relating to exception codes for Limited Tendering and Non-Application.

The following items are subject to OTN's expense policies. The following can be submitted as employee expenses by using OTN's expense claims form and gathering the appropriate expense claim approvals. No procurement process is required.

- Membership in professional associations;
- Attending seminars;
- Attending trade shows;
- Event/conferences;
- Catering for internal events;
- Meeting room rentals for OTN employee offsite meetings;
- Employee travel

OTN's Continuing Professional Development policy:

- Educational courses and programs

Others:

- Office supplies for office staff; via Receptionist centralized ordering
- Office supplies for home office based staff: via online office supplies ordering system

POLICY

The procurement process is administered by the Procurement department in a manner consistent with all corporate policies and procedures in place at the time, including the:

- Procurement Approval Authority Schedule (AAS)
- Non-competitive procurement approval form - exception codes
- Confidentiality Policy
- Conflict of interest policy
- Travel policy (12.50.P) for meal and hospitality expenses guidelines
- Employee responsibilities and code of conduct
- Checklist - RFX file
- Records Retention Policy (15.090.PP)

The following principles reflect the BPS Supply Chain Code of Ethics that OTN is required to adhere to and shall be taken into account in the procurement of any goods or services at OTN. The Supply Chain Code of Ethics is also posted on the OTN internet website for visibility to suppliers and key stakeholders.

1. 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 other stakeholders. 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.

2. ACCOUNTABILITY AND TRANSPARENCY

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

3. 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 supply chain knowledge and skill levels, and to share leading practices.

CONFLICT OF INTEREST

OTN must monitor any conflict of interest that may arise with the procurement activities. Individuals such as OTN staff, suppliers, and external consultants; who are involved in the procurement process must declare actual or potential conflicts of interest.

The conflict of interest declaration can be found in the following procurement documents:

1. Request for proposal template document (used by suppliers and consultants)
2. Service Agreement template (used by suppliers and consultants)
3. Internal confidentiality and conflict of interest form (used by OTN staff)

PROCEDURE

There are six (6) phases to the procurement process:

1. Procurement Planning
2. Securing approvals through a Request for Acquisition (RFA)
3. Executing a procurement
4. Evaluation process
5. Issuance of a Purchase Order and Contract (if applicable)
6. Contract management and document retention

1. PROCUREMENT PLANNING

Procurement planning is an integral part of the procurement process in identifying the scope of the procurement, 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.

Planning clarifies what is needed and when it is needed (short term, long term) and it is essential for the development of the procurement strategy and the most appropriate means of procurement such as RFQ, RFP, RFI, RFEI, RFSQ RFT (referred to as a group as RFX) as defined below.

2. SECURING APPROVALS THROUGH A REQUEST FOR ACQUISITION (RFA)

The requisitioning department must complete an RFA and obtain appropriate levels of approval in accordance with the OTN Procurement Approval Authority Schedule (AAS) before the Procurement Department solicits vendors to respond to any RFX tenders. For competitive procurements, the RFA is normally routed for approval via the Remedy workflow tool. For non-competitive procurements, the Non-Competitive Procurement Form (also referred to as the Briefing Note on Non-Competitive Procurement) acts as the RFA.

When determining the procurement value, all costs and value associated with entering into a contractual relationship with a third party must be considered. Value would be determined by the cumulative value of all related procurements, including potential renewals and follow-on work. It is not acceptable to sub-divide or split the projects to reduce the procurement value in order to circumvent the appropriate approval process.

In situations where OTN has established a Vendor of Record (VOR) arrangement available for multiple participants, and OTN is undertaking multiple second stage procurements, each second stage procurement is considered separate and distinct for purposes of determining procurement value.

For competitive procurements in US Dollars, the RFA value is converted into Canadian dollars by Procurement to route for appropriate levels of approvals using the prevalent exchange rate as provided on a quarterly basis by the Financial Controller and adjusted as deemed necessary.

3. EXECUTING A PROCUREMENT

OTN should competitively procure any goods or services where possible. Procurement of goods or services must be administered by the Procurement department.

The acceptable procurement methods are as follows:

- Invitational competitive procurement
- Open competitive procurement
- Procurement for Piloting Transformative Innovation Projects
- Vendor of Record (VOR) arrangements
- Non- competitive procurement

The procurement method selected will depend on the type and value of the Procurement as set out in the AAS.

The requisitioning department must complete an RFA and obtain appropriate levels of approval in accordance with the AAS before the Procurement Department solicits vendors to respond to any RFX tenders.

Sufficient time should be given to vendors to prepare and submit bid responses.

- a) A minimum response time of 15 calendar days is required for procurements conducted through a VOR arrangement and is valued at less than \$100,000.
- b) A minimum response time of 30 calendar days is required for all procurements valued at \$100,000 or more irrespective of whether they are conducted through a VOR arrangement or not.

OTN should consider the use of external Fairness Monitors/Commissioners for procurements in circumstances defined such as extremely high value, high complexity and/or the likelihood of intense scrutiny (e.g. for high profile projects).

3.1 Competitive Procurement

A procurement is competitive as long as OTN conducts an open, competitive procurement process in accordance with this policy. The procurement must be based on a written request to qualified suppliers and the suppliers must submit formally their written responses. Reference the AAS for minimum competitive procurement method required per procurement value threshold.

3.2 Consulting Services Procurement

Consulting services should be procured competitively regardless of value. Reference the AAS for minimum competitive procurement method required per procurement value threshold.

3.2.1 Consulting Expenses

In compliance with the BPS Procurement Directive and Expenses Directive, OTN will not pay consultants for any hospitality, food or incidental expenses including but not limited to the following:

- Meals, snacks and beverages
- Gratuities
- Laundry, dry cleaning and valet services
- Dependent care
- Personal phone calls

Expenses related to flights, car travel and hotel rooms required prior approval from OTN. Upon receipt of prior approval, these expenses will be reimbursed according to OTN's Travel Policy. Hand-held phones should not be provided to consultants at the expense of OTN.

3.3 Non-Consulting Services and Goods Procurement

All non-consulting services, materials and goods totaling \$25,000 or over must be procured on a competitive basis unless a non-competitive procurement falls within the exception codes listed under the Non-competitive Procurement Approval Form – Exception Codes document and is approved by the appropriate signing authority in accordance with the AAS.

3.4 Procurement for Piloting Transformative Innovation Projects

In September 2015, OTN's Board of Directors approved a motion to grant OTN Management the approval to undertake individual transformative pilot projects with an identified vendor for procurement value less than \$100,000 as a perpetual exception to its normal competitive procurement process.

The following mandatory conditions would need to be in place for management to exercise this exception:

- a) A completed checklist to validate the proposed innovation project meets the definition of a pilot.
- b) A Non-Disclosure Agreement is signed with the identified vendor before beginning discussions around any details of the pilot project.
- c) A newly created 'Innovation Pilot Procurement Exception Form (\$<\$100K)' is completed by the business owner to document the subjective due diligence performed in selecting the preferred vendor. The form will need to be approved at a minimum by both the VP Finance & Administration and the CEO. The Chair of the Audit and Finance Committee will review the exceptions on a quarterly basis consistent with the current process for non-competitive procurements.
- d) The pilot agreement with the identified vendor clearly outlines:
 - (1) the purpose of the pilot,
 - (2) the fixed term of the project (i.e. no extensions except if granted by OTN because the expected result of the pilot has been unexpectedly delayed but without incurring additional expense by OTN that reaches the \$100K threshold or 10% overage of the original budget, whichever is less),
 - (3) the maximum contract value,
 - (4) the key success criteria,
 - (5) the intent of OTN may, upon a successful pilot, scale through an open competitive RFP process and that OTN can utilize the learnings from the pilot to build the specifications for the RFP without restriction (note the vendor would not be prohibited from bidding),
 - (6) OTN's standard terms and conditions,
 - (7) There is no conflict of interest in procuring the Pilot from the identified vendor

3.5 Vendors of Record (VOR) arrangement

- An open competitive RFSQ procurement process must be used to obtain vendors of record (VOR).
- Requisitioning departments must obtain an approved RFA based on the total estimated value of the spending expected to occur over the life of the VOR arrangement.
- OTN must enter into a written vendor of record agreement with the successful vendor(s). OTN has the option to utilize the Ministry of Government and Consumer Services VOR where applicable.
- Each time a requisitioning department wishes to procure a specific service, the requisitioning department shall provide the specification and Procurement shall conduct a shorter, second-stage selection process among the vendors on the established VOR.
- Reference the AAS for minimum second stage procurement method required per VOR value threshold.
- VOR's that have a term agreement that is longer than three (3) years must be opened annually to allow for additional vendors to be added to the VOR list.

3.6 Non-Competitive Procurement

Goods and Services up to \$100,000 may be procured non-competitively provided they are supported by a Non-Competitive Procurement Form and with approval from the CEO. This includes Limited Tendering and Non-Application based procurement. For non-competitive purchases greater than \$100,000 additional approval from the Board of Directors is required. Reference the AAS for the non-competitive procurement approvals required by procurement value.

3.7 Non-Compliant Procurement

In the event the Procurement department becomes aware of any purchase that does not adhere to the policies and procedures in place, the employee who has made such purchase will be required to: (i) create, and have acknowledged by procurement, a non-compliant procurement briefing note that provides a detailed explanation of why the policies and procedures were not followed (the "Briefing Note") (ii) provide a fully-approved RFA for the full value of the purchase and ensure that the Briefing Note is attached and, as applicable, (ii) for RFA amounts \$24,999 or under have an acknowledgement of non-compliance by their Manager, respective Senior Leadership Team member and the Vice-President of Finance & Administration. (iii) for RFA amounts \$25,000 or more have an acknowledgement of non-compliance by their Manager, respective Senior Leadership Team member, the Vice-President of Finance & Administration and the CEO.

4. EVALUATION PROCESS

- 4.1 Responses must be evaluated in accordance with the evaluation process, criteria, rating and methodology set out in the procurement document.
- 4.2 Mandatory criteria should be kept to a minimum to ensure that no bid is unnecessarily disqualified.
- 4.3 Maximum justifiable weighting must be allocated to the price/cost component of the evaluation criteria.
- 4.4 It is recommended that the evaluation team is comprised of cross-functional representatives where this is feasible and appropriate. For hardware/software purchases over \$50,000, IT representation is required in the evaluation process.
- 4.5 Individuals participating in the evaluation of responses must declare any potential conflict of interest by signing the Confidentiality and Conflict of Interest form.
- 4.6 The evaluation of price should be undertaken after the completion of the evaluation of the mandatory requirements and the rated criteria. For clarity, only responses that meet mandatory criteria will reach this evaluation phase.
- 4.7 Unless otherwise stated in RFX tenders, OTN will evaluate and compute a final overall score for vendor proposals to two decimal places. For clarity, in this situation, a score is deemed as a tie score only when scores are exactly equal to two decimal places.
- 4.8 The highest rank response will be the successful proponent of that procurement and may be awarded the tender/contract at OTN's sole discretion.

5. ISSUE OF A PURCHASE ORDER AND CONTRACT (IF APPLICABLE)

The issuance of purchase order is managed by the Finance Department. The following must be provided before a Purchase Order can be issued:

- An approved RFA.
- Evaluation summary confirming the completion of the procurement process (for Request for Quotes) or
- An executed contract (for Request for Proposals)

6. CONTRACT MANAGEMENT AND DOCUMENT RETENTION

- 6.1 All contracts must be signed before the provision of goods and services commences. For clarity, OTN can engage with a Vendor when the agreement is fully executed (i.e. signed by both parties)
- 6.2 The term of the contract (including any extension options) and the ceiling price must be set out in the contract.
- 6.3 All contracts must include appropriate cancellation or termination clauses.

- 6.4 All executed contracts and procurement (RFx) files are being retained by Procurement for a period of seven (7) years in accordance to the Records Retention Policy (15.90.PP.v3). The RFx files are filed in accordance to the RFx file checklist.
- 6.5 All procurement documentation including supplier proposals are confidential in nature. The documents are being treated in accordance to OTN Confidentiality Policy (18.5.PP.v2).
- 6.6 The contract can be amended providing (1) the spirit and the intent of the contract maintain intact and (2) the approval from the Procurement team. If the amendment requires an increase in contract value, the requisitioning department is required to obtain a new approved RFA before initiating the amendment request. If an existing purchase order requires any changes such as modifications, additional work or cost variations, the requisitioning department will notify Finance to immediately close the existing Purchase Order and obtain a new approved Request for Acquisition to initiate a new procurement.

7. COLLECTION AND REPORTING OF STATISTICS

- 7.1 On an annual basis, the number and aggregate value of procurements covered under CFTA and CETA must be presented to the Secretariat broken down by procuring entity type, including whether it was through a competitive or non-competitive procurement
- 7.2 Each award notice is to be posted in the same manner as the procurement documents. For procurements above \$100,000 the notice must include
 - 7.2.1 A description of the goods or services procured
 - 7.2.2 The name and address of the procuring entity
 - 7.2.3 The name and address of the successful supplier
 - 7.2.4 The value of the successful tender
 - 7.2.5 The date of award
 - 7.2.6 If limited tendering was used, the conditions and circumstances described in Article 513 that justified its use

8. DISPUTES

- 8.1 In the event of a supplier complaint, OTN must seek to resolve a supplier's complaint through consultations. The procuring entity must be impartial and timely in responding to the complaints, so as not to prejudice the suppliers participating in any ongoing or future procurements, or its right to seek corrective measures under the administrative or judicial review procedure.
 - 8.1.1 The Government of Ontario will be providing an alternative service delivery method for bid dispute that OTN may use to meet the obligations of Section 8.1

DEFINITIONS

"BPS" has the meaning as defined in the Broader Public Sector Accountability Act, 2010.

"Consulting services" means the provision of expertise or strategic advice that is presented to OTN for consideration and decision-making.

"Goods and services" means any goods, construction and services, including but not limited to IT and consulting services.

"Limited Tendering" means a procurement method whereby the procuring entity contacts a supplier or suppliers of its choice.

"Non-Competitive Procurement Form" refers to the Briefing Note on Non-Competitive Procurement which includes a justification for using the non-competitive process, the specific non-competitive exception code being utilized and appropriate approvals. This form also includes the total procurement value and acts as the RFA for the appropriate signing authority per the AAS. For non-

competitive procurements requiring Board of Directors approval, a briefing note or memo addressed to the Board with an approved motion replaces this form.

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

“Purchase Order” means a written offer made by OTN to a supplier of a proposed transaction.

“Request for Approval (RFA)” is an internal OTN document the requestor uses to obtain prior approvals before the purchase of any goods and services.

“Request for Expression of Interest (RFEI)” means a document used to gather information about supplier interest in an opportunity or information about supplier capabilities/qualifications. This mechanism may be used when a BPS organization wishes to gain a better understanding of the capacity of the supplier community to provide the services or solutions needed. A response to a RFEI must not re-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 on how to better define the problem or need or alternate 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 Quotation (RFQ)” means a document issued to potential suppliers where OTN describes exactly what needs to be purchased and the evaluation is based solely on price.

“Request for Supplier Qualification (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. OTN must ensure that the terms and conditions built into the RFSQ contain specific language that disclaims any obligation on the part of OTN to call on any supplier to provide goods or services as a result of the pre-qualification.

“Request for Tender (RFT)” means a document used to request supplier responses to supply goods or services based on stated delivery requirements, performance specifications, terms and conditions. An RFT usually focuses the evaluation criteria predominantly on price and delivery requirements.

“Selective Tendering” means a procurement method whereby only qualified suppliers are invited by the procuring entity to submit a tender

“Single Sourcing” is a non-competitive method of procurement of goods or services from a supplier in situations where there is or may be another supplier or suppliers capable of delivering these goods or services.

“Sole Source” is a non-competitive procurement process to acquire goods or services where there is only one available supplier for the source of the goods or services.

“Vendor of Record (VOR)” or “Multi-Use List” means a procurement arrangement that authorizes OTN to select a supplier from pre-qualified supplier(s) through a formal second-stage process, for a defined period, on terms and conditions set out in the VOR arrangement.