

## **Procurement Policy**

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### **Policy Statement:**

Kinark is committed to ensuring that publicly funded goods and services are acquired through a process that is open, fair and transparent by following the *Broader Public Sector Procurement Directive (BPS)*.

### **Purpose Statement:**

- To maximize value for money in the acquisition of goods and services through a process that is open, fair, and transparent
- To ensure compliance with the BPS requirements and guiding principles of accountability, transparency, value for money, quality service delivery, and process standardization given Kinark is a recipient of Ontario government funding

### **SUPPLY CHAIN CODE OF ETHICS**

Kinark has formally adopted the Ontario Broader Public Sector Supply Chain Code of Ethics.

#### **Ontario Broader Public Sector**

#### **Supply Chain Code of Ethics**

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

#### **1. Personal Integrity and Professionalism**

All individuals involved with purchasing or other supply chain-related 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. All participants must not engage in any activity that may create, or appear to create, a conflict of interest, such as accepting gifts or favors, 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 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.

### **3. Compliance and Continuous Improvement**

All individuals involved in purchasing or other supply chain-related activities must comply with this Code of Ethics and the laws of Canada and Ontario. All 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.

#### **Guiding Principles**

In purchasing goods and services, Kinark will abide by the following principles as outlined in the BPS:

- **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 stakeholders. Wherever possible, stakeholders 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

#### **Scope**

These procedures meet the requirements of the Broader Public Sector Procurement Directive (issued by the Ontario Management Board of Cabinet), which establish rules for acquiring publicly funded goods and services through an open, fair, and transparent process. It applies to all goods, construction, and services, including but not limited to Information Technology (IT) and consulting services acquired by Kinark.

#### *Exceptions & Exemptions*

Licensed Professional and Specific Services for Kinark clients are exempt from this policy and procedure (Refer to Appendix "A" for more details). Where Kinark has relied on an exception or exemption to this policy, the rationale for the exception or exemption must be formally documented. Kinark must demonstrate:

- The rationale for selection of the particular supplier over available suppliers
- How fees charged are commensurate with services being procured

Exemptions and exceptions relate to the procurement of the goods/or services only. All other requirements of the policy/procedures apply, including documentation, contract management, supplier management, etc.

### **Conflict of Interest**

Consistent with the Supply Chain Code of Ethics, the Procurement Officer, Business, and Functional Managers will not engage in any activity that may create, or appear to create, a conflict of interest. During the procurement process, all direct relationships between participating individuals and supplier organizations must be fully disclosed.

Kinark will monitor any conflicts of interests that may arise as a result of Personnel, advisors, external consultants, or supplier's involvement with the Supply Chain of Activities. Kinark Personnel who are involved with Supply Chain Activities must declare actual or potential conflicts of interest. When a conflict of interest arises, it must be evaluated and an appropriate mitigating action must be taken.

The Procurement Officer, Business, and Functional Managers will take the following steps to monitor any conflict of interest may arise during the procurement process:

- Be aware of situations or circumstances that may create a conflict of interest
- Actual or potential conflicts of interest must be declared
- The Procurement Officer, Business, and Functional Managers reserves the right to disqualify prospective suppliers or terminate an agreement due to failure to disclose or resolve a conflict of interest
- The Procurement Officer, Business, and Functional Managers requires suppliers to avoid any conflict of interest during the performance of the contract
- Evaluation team members must sign the conflict of interest declaration and non-disclosure agreement before each evaluation
- When a conflict of interest arises, the Procurement Officer, Business, and Functional Managers will evaluate the situation and take appropriate mitigating action

Situations that may result in a conflict of interest:

- Accepting gifts or favours from suppliers or consultants or providing preferential treatment to suppliers or consultants
- Staff relationships that may affect, or may be perceived as affecting, objectivity in the procurement process
- Providing assistance or advice to a supplier during the competitive process, thereby creating an unfair advantage

- Having an ownership, investment interest or compensation arrangement with any entity participating in the competitive process
- Having access to confidential information that may affect or be perceived as affecting objectivity or judgment

The terms of agreement must preclude any consultant retained to develop the competitive procurement documents from participating in the competition.

### Segregation of Duties

The Procurement Officer, Business, and Functional Managers will segregate at least three of the five procurement roles: budgeting, commitment, requisitioning, receipt, and payment. Responsibilities for these functions lie with different departments or at a minimum with different individuals:

<b>Roles</b>	<b>Explanation</b>	<b>Who</b>
Requisition	Authorization to place an order	Business/ Functional Managers/ Supervisors (end user) requesting the product or service
Budget	Authorize that funding is available to cover the cost of the order	Program or Functional Director, Executive Team member, President and CEO - Departmental budget holder
Commitment	Authorize release of the order to the supplier under agreed-upon contract terms	Procurement Officer - Purchasing role in the procurement department
Receipt	Authorize that the order was physically received, correct and complete	Supervisors/ Business /Functional Managers - Individual receiving the goods
Payment	Authorize release of payment to the supplier	Accounts Payable

## **Signing Authority**

Prior to commencement, any procurement of goods and non-consulting services must be approved by an appropriate authority.

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

Prior to commencement, any procurement of consulting services must be approved in accordance with BPS principles.

## **Thresholds and Procurement Requirements: Consulting and Goods/Non-Consulting Services Approval Authority**

The method used to procure goods and non-consulting services is determined by the procurement value (procurement value does not include taxes).

Kinark will establish an Approval Authority Matrix for procurement of goods and non-consulting services. The AAS must identify authorities that are allowed to approve procurements for different dollar thresholds (*See Appendix A: Approval Authority Matrix*).

The Board of Directors must approve the AAS. Prior to commencement, any procurement of goods and non-consulting services must be approved by an appropriate authority in accordance with the AAS. Prior to commencement, an authority one level high than the AAS requirements for competitive procurement must approve any non-competitive procurement of goods or non-consulting service.

## **Procurement Requirements: Consulting Services**

Consulting services must be obtained through a competitive procurement process; irrespective of value. The Procurement Officer, Business, and Functional Managers may use either invitational or open procurement for consulting services valued at less than \$100,000. Consulting services more than \$100,000 must be obtained through the open competitive process. In circumstances where consulting services cannot be obtained through competitive procurement, supporting documentation must be completed and approved. See [Exemptions and Exceptions from Competitive Procurements Requirements](#) below for additional detail.

## **Procurement Planning**

Whenever possible, the Procurement Officer, Business, and Functional Managers will plan ahead for annual procurement requirements as well as individual procurement activities. When the Procurement Officer, Business, and Functional Managers have incomplete information about the required goods or services or where they lack

information about the ability of the market to deliver goods or services, they may enter into a formal information gathering process. Information collected during this process allows staff to clearly define procurement requirements and plan a cost-effective and fair procurement process. This section identifies the methods that can be used to identify the presence of qualified and /or interested suppliers.

### **Request for Information (RFI)/ Request for Expression of Interest (RFEI)**

The purpose of an RFI is to gather general supplier, or product information. This mechanism may be used when the Procurement Officer is researching a contemplated procurement and has not yet determined what characteristics the ideal solution would need.

Responses to RFI questions normally contribute to the final version of a subsequent RFP and may include targeted questions about leading practices, recommendations, expertise, risks and additional questions from suppliers

An RFEI focuses on supplier interest in the opportunity or information about supplier capabilities or qualifications. The RFEI may be used to clarify the ability of the supplier community to provide the necessary services or solutions.

An RFI be used for information gathering purposes only. In order to reach the largest number of potential suppliers, the Procurement Officer will post any RFI/ RFEI through common electronic tendering methods.

An RFI /RFEI must not:

- Contain means of evaluating or comparing the collected information
- Influence the awarding of work
- Be used to pre-qualify potential suppliers
- Require supplies to provide proprietary information

RFI and RFEI do not pre-qualify potential suppliers and must not influence their chances of being a successful supplier on any subsequent opportunity.

Any resulting competitive procurement process will be issued in accordance with this procedure.

### **Request for Supplier Qualifications (RFSQ)**

The purpose of an RFSQ is to gather information on supplier capabilities and qualifications, with the intention of creating a list of pre-qualified suppliers.

An RFSQ can be used for the purpose of a single procurement. This creates a two-step procurement process:

- Pre-qualify suppliers through an RFSQ
- Invite only qualified supplier to respond to an RFP/RFT or RFQ

This can make the evaluation process more manageable by reducing the number of responses to the RFP.

An RFSQ can also be used to pre-qualify suppliers who are interested in supplying goods or services in the future – if, as and when requested. A Vendor of Record (VOR) arrangement is usually created as a result.

An RFSQ document should specify:

- The type and specification of goods or services
- Upper limits to the value of future awards (for VOR arrangement – the ceiling price)
- The time duration the list is to be valid, the method(s) by which qualified suppliers can be placed on the list, and at what specific intervals opportunities for qualification will arise
- That suppliers who do not participate in the pre-qualification or do not appear on the list may be excluded from opportunities

The RFSQ must contain specific language to disclaim any obligation to actually call on any supplier as a result of the pre-qualification to supply such goods or services.

## **Vendors of Record**

The Procurement Officer may use the VOR arrangements established by the Ontario Ministry of Government Services (MGS) or establish their own VOR arrangements.

A list of MGS-established VOR arrangements is published at [www.doingbusiness.mgs.gov.on.ca](http://www.doingbusiness.mgs.gov.on.ca). Kinark must register on the MGS website as a buyer and follow the VOR User Guide when using the MGS list.

The Procurement Officer may also establish VOR arrangements for the supply of a certain category of goods, services or construction. Other organizations cannot use the VOR arrangements established by Kinark. If necessary, Kinark may participate in multi-organizational VOR arrangements that may be established where there is an identified need for a common category of goods or services.

A VOR arrangement may be established only through an open and competitive procurement process and requires appropriate approval authority.

A VOR arrangement requires a second-stage selection process. Given that an open competition has already occurred to establish all VOR arrangements, the second-stage selection process represents the invitational competitive procurement process. Given

that suppliers have been pre-qualified on the ability to deliver the goods and services, the selection process is concerned only with the particular goods or services to be procured, including the specific needs and issues for a particular assignment or project, such as contract price, the resources to be assigned, availability and timelines to complete the assignment or project.

The number of suppliers to be invited to submit bids based on the dollar value of procurement is noted in the chart below.

Procurement Value	Minimum number of suppliers to be invited to the second-stage selection
\$0 up to but not including \$25,000	1
\$25,000 up to but not including \$100,000	3
\$100,000 up to but not including \$250,000	5
\$250,000 up to VOR ceiling price	7
More than the VOR ceiling price	Open competitive procurement

Where the second stage of the selection process warrants invitation of only one supplier to submit a proposal, the Procurement Officer will evenly distribute individual procurement opportunities over time between the suppliers, whenever feasible.

### **Exemptions and Exceptions from Competitive Procurements Requirements**

Kinark will employ a competitive procurement process to achieve optimum value for money. It is recognized however that certain circumstances and activities may require Kinark to use non-competitive procurement. The circumstances and activities that will be excluded from the competitive procurement requirements of this policy are noted below. These exceptions are generally consistent with the *Agreement on Internal Trade (AIT)* or other trade agreements.

The exception is for a non-competitive procurement of the good or service that falls within the categories listed, and is not an exemption with respect to the administration, documentation, contract management, or other requirement of this policy and procedure.



### *Licensed Professional and Specific Services for Kinark Clients*

The procurement of services from licensed professionals including medical doctors, dentists, pharmacists, nurses, psychologists, lawyers, accountants, and architects are exempted from competitive procurement requirements.

### *Non-Application of Trade Agreements*

As of April 1, 2011, the following non-application clauses of the AIT exempt Kinark from using the competitive procurement process. Kinark is required to comply with any amendments to the AIT.

- Procurement of goods intended for resale to the public
- Contracts with a public body or a non-profit organization
- Procurement of goods and services purchased on behalf of an entity that is out of scope of the BPS Procurement Directive
- Procurement from philanthropic institutions, prison labour, or persons with disabilities
- Procurement of any goods the inter-provincial movement of which is restricted by laws not inconsistent with the trade agreements
- Procurement of goods and services that is financed primarily from donations that are subject to conditions that are inconsistent with the BPS Procurement Directive
- Procurement of goods and services related to cultural or artistic fields and computer software for educational purposes
- Procurement of services that in Ontario may, by legislation or regulation, be provided only by any of the following licensed professionals: medical doctors, dentists, nurses, pharmacists, veterinarians, engineers, land surveyors, architects, accountants, lawyers, and notaries
- Procurement of services of financial analysts or the management of investments by organizations who have such functions as a primary purpose
- Procurement of financial services respecting the management of financial assets and liabilities (i.e., treasury operations), including ancillary advisory and information services, whether or not delivered by a financial institution
- Procurement of goods and services for use outside Canada as well as construction work done outside Canada
- Health services and social services

In addition, the Procurement Officer may go directly to one supplier to meet the requirements of the procurement if the circumstances meet the conditions of a single source or sole source situation. Before beginning any non-competitive procurement or sole or single sourcing arrangement, supporting documentation must be completed and approved by an appropriate authority.

### *Single Sourcing*

Single sourcing is considered an acceptable procurement method in the following circumstances:

- Where an unforeseen situation of urgency exists and the goods or services cannot be obtained in time by means of open procurement procedures. Failure to plan and allow sufficient time for a competitive process is not considered an unforeseeable situation of urgency
- Where goods or consulting services regarding matters of confidential or privileged nature are to be purchased and the disclosure of those matters through an open competitive process could reasonably be expected to compromise confidentiality, cause economic disruption or otherwise be contrary to the public interest
- Where a contract is awarded under a cooperation 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
- Where an open competitive process could interfere with Kinark's ability to maintain security or order or to protect human, animal or plant life or health
- Where there is an absence of any bids in response to an open competitive process that has been conducted in compliance with this Procurement document

### *Sole Sourcing*

Where only one supplier is able to meet the requirements of procurement, the Procurement Officer may use the sole source justification procurement procedures in the following circumstances:

- To ensure compatibility with existing products, to recognize exclusive rights, such as exclusive licenses, copyright and patent rights, or to maintain specialized products that must be maintained by the manufacturer or its representative
- Where there is an absence of competition for technical reasons and the goods or services can only be supplied by a particular supplier and no alternative or substitute exists
- For the procurement of goods or services, the supply of which is controlled by a supplier that is a statutory monopoly
- For work to be performed on or about a leased building or portions thereof that may be performed only by the leaser
- For work to be performed on the behalf of Kinark through a building lease agreement where the lessor will invoice costs back to the lessee
- For work to be performed on property by a contractor according to provisions of a warranty or guarantee held in respect of the property or the original work
- For a contract to be awarded to the winner of a design contest
- For the procurement of a prototype or a first good or service to be developed in the course of and for a particular contract for research, experiment, study or original development, but not for any subsequent purchases

- For the purchase of goods under exceptionally advantageous circumstances such as bankruptcy or receivership, but not for routine purchases
- For the procurement of original works of art
- For the procurement of subscriptions to newspapers, magazines or other periodicals
- For the procurement of real property

### *Emergency Situations*

For the purpose of this procedure, an “Emergency” refers to a situation where the immediate purchase of goods and services is essential to prevent serious delays in service delivery or to prevent or remedy damage to agency property or to restore an essential service.

An “Emergency” includes an imminent or actual danger to the life, health or safety of a Kinark Personnel, or client while acting on the agency’s behalf (e.g., emergency boiler repairs or replacement), an imminent or actual danger of injury to or destruction of real property belonging to the agency.

Under emergency circumstances, the President and CEO has the authority to take the necessary steps to address the emergency and will subsequently inform the Board of Directors of the actions taken setting out the details of any purchases made pursuant to this authority and the circumstances justifying the action taken.

### **Competitive Procurement Process**

In most cases, the Procurement Officer will be assigned as the procurement lead and ensure that procurement is conducted in an ethical, lawful, effective, and accountable manner.

### *Competitive Procurement Documents*

Competitive procurement documents must be developed and provided to potential proponents.

There are three main types of competitive documents:

- Request for Proposal (RFP): The purpose of this document is to request suppliers to provide solutions for the delivery of complex goods or services or to provide alternative options or solutions. This process uses predefined evaluation a criterion in which price is not the only factor.
- Request for Tender (RFT): The purpose of this document is to request suppliers to submit bids to provide goods or services based on stated delivery requirements, performance specifications, terms, and conditions. The RFT focuses the evaluation criteria predominately on price and delivery requirements

- Request for Quotation (RFQ): The RFQ is a document similar to the RFT. The RFQ describes exactly the goods and services to be provided and the proposal evaluation is based solely on price

The documents must include:

- The name, telephone number, mailing address, and email address of the person to contact for information on the procurement documents and a statement that suppliers who go outside of this contact person may be disqualified
- Clear description of required goods or services. Good or services must be described in generic and/or function terms specific to the business needs. Where it is necessary to provide specification in non-generic and /or non-functional terms, the specification must set out the performance requirements in a manner that would not unfairly favour certain suppliers
- Conditions that must be met before obtaining procurement documents such as conflict of interest declarations, confidentiality agreements and non-disclosure agreements; adherence to Kinark's Code of Conduct
- The submission rules and competitive clauses to be followed in order for a bid to be compliant. These may include bid format, language, number of copies required, attendance at a bidders' conference, etc.
- The process, date, and time limit for the submission of questions on the procurement documents, including a description of how the answers will be provided
- The address, date, and time limit for submitting bids. Bids received after the closing date and time must be returned unopened
- The time, place, and method of the opening of the bids
- Mandatory criteria (e.g., technical standards) that must be met. Competitive documents must clearly outline that submission that do not meet the mandatory criteria will be disqualified
- Full disclosure of the evaluation criteria, (including weights), process, and methodology to be used in assessing submissions and the bid dispute resolution process
- A request for a list of any subcontractors to be used to complete the procurement
- The period of irrevocability of bids where bids cannot be withdrawn (typically 120 days from the closure of the competitive process)
- For goods, services and construction valued at \$100,000 or more, a statement that the procurement is subject to Ontario's trade agreements
- Notice that any confidential information supplied to the organization may be disclosed by the organization 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 required at law
- A draft copy of the contract to be signed in the event of an award of the procurement

### *Posting Competitive Procurement Documents*

The posting practices during a competitive process must use accepted media to uphold the principles of fair, open, and transparent dealings; to encourage maximum competitive response; and to ensure that suppliers have a positive experience in dealing with the organization. In accordance with the Agreement on Internal Trade, calls for competitive procurements shall be made through an electronic tendering system that is equally accessible to all Canadian suppliers.

If Kinark uses an outside service to manage the posting, the Procurement Officer is responsible for managing the posting process through the third party vendor.

### *Timelines for Posting Competitive Procurement*

All publicly advertised bids must provide suppliers a minimum response time of 15 calendar days for procurements valued at \$100,000 or more.

For products or services that are more complex, consideration must be given to providing response times longer than 15 days to ensure that suppliers have a reasonable period of time to submit a bid. The timeline should also take into account the complexity of the procurement and the time needed by the organization to properly disseminate the information.

### *Communications during Competition*

The competition process begins when the competitive procurement documents are issued (Start Date) and ends on the when the Kinark signs an agreement with a supplier (End Date). All communication with suppliers involved in the process must occur formally through the contact person identified in the competitive documents. From the Start Date to the deadline for submitting bids (Closing Date), the competitive sourcing documents may be clarified or modified through the use of one of two types of responses:

- An addendum response
- A question and answer (Q&A) response

Addenda and Q&A's are posted in the same manner as the competitive documents were advertised to the market and therefore will be made available to all potential suppliers.

### *Addendum Response*

An addendum is prepared if modifications to the competitive sourcing documents are necessary (e.g., amending, adding or deleting information due to errors, conflicts, or deficiencies in the documents). An addendum allows modifications of the documents through:

- Insertion of new or omitted provisions or drawings
- Revision or deletion of provisions or drawings

All addenda must be issued at least seven calendar days prior to the closing date. If an addendum is issued within seven days of the closing date, the date may be extended accordingly.

#### *Question and Answer Responses*

A Q&A response is prepared if clarification of the documents is required without the need to modify the posted competitive procurement documents. Any answer that results in a change to any aspect of the competitive procurement documents must be addressed by making corresponding modifications to the documents by an addendum. Generally, questions are requested to be submitted no less than seven days prior to the closing date, although questions may be considered after that and, if warranted, consideration may be given to extending the closing date.

The objective is to ensure that all suppliers receive as much relevant information as possible to respond to the bid.

#### *Communications during Proposal Evaluation*

During the evaluation period (Closing Date to the End Date), the Procurement Officer, Business, and Functional Managers must not communicate with supplier on matters related to the competitive procurement process unless it is to seek clarification of a bid or notify the successful supplier. All competitive process-related communication must be documented.

#### *Communications after Proposal Evaluation*

After the evaluation process is completed and an agreement is signed, the Procurement Officer, Business, and Functional Managers may discuss the competition with the participants. Where the procurement value is \$100,000 or more, the Procurement Officer must inform the unsuccessful supplier about the outcome of the competition. Where the procurement value is \$100,000 or more the Procurement Officer must offer suppliers a debriefing.

#### *Bidders' Conferences*

Bidders conferences are optional, and may be held if the Procurement Lead believes there is information that potential suppliers will better understand if the information is presented to them in person (e.g., asking contractors to outfit a building with electricity is easier to respond to after being given a site tour).

Bidders' conferences are identified in the bid documents and usually held shortly after the posting of the competitive documents. The competitive documents must contain information about the conference, including but not limited to:

- Time and location
- Items to be covered

- If attendance is mandatory, the Procurement Officer must specify in the competitive documents, that bids of proponents who do not attend the conference will be returned unopened

At the bidders' conference, only the procurement in question can be discussed and any questions and answers discussed need to be documented. When attendance is not mandatory, documentation will be provided to suppliers, whether or not they were in attendance. When attendance is mandatory documentation will only be provided to suppliers that were in attendance.

### *Evaluation*

#### *Bid Receipt*

Competitive sourcing documents must clearly state the date, time, and location for submission.

The closing date is set on a normal working day (Monday to Friday, excluding provincial and national holidays), and submissions that are delivered after the closing time must not be considered.

For bids where paper copies are required, it is important to identify bid opening information in the competitive documents.

The process for opening paper bids is as follows:

- Stamp each bid as it arrives with the date, time, location, company name, and contact information
- Do not open any bids until after the competitive process has closed
- Ensure there is at least one witness to view the bid openings
- Open the bids following the same process that was documented in the posted competitive documents

#### *Evaluation Criteria*

Evaluation criteria and weightings must be developed, reviewed, and approved by an appropriate authority before the competitive process begins.

These criteria must be included in the competitive documents. The competitive documents must also identify those criteria that are considered mandatory and any technical standards that need to be met. The evaluation criteria cannot be changed or altered once the competitive process has begun.

The Procurement Officer, Business, and Functional Managers may utilize price, quality, quantity, transition costs, delivery, servicing, environmental considerations, the capacity of the supplier to meet requirements of procurement, experience, financial capacity of the

supplier as well as any other factor directly related to the procurement as evaluation criteria. The Procurement Officer, Business, and Functional Managers must ensure that the price/cost criteria have the maximum justifiable weighting.

Bid documents must not request information from suppliers that will not be evaluated or that might affect the evaluation process. It is recommended that the bid evaluation team ensures the criteria and weighting will deliver the result that best meets the requirements.

#### *Evaluation Process*

The Bid documents must fully disclose the evaluation methodology and process to be used in assessing a supplier's submission.

A full disclosure of the evaluation methodology and process must include the following:

- A clear articulation of all mandatory requirements. The document must indicate if the mandatory requirements will be assessed on a pass/fail basis and indicate how suppliers achieve a passing grade. Where a supplier is disqualified for non-compliance with a mandatory requirement, no further evaluation should take place
- All weights, including sub-weights, for the rated criteria
- Description of any short-listing processes, including any minimum rated score requirements
- The role and weighting, if applicable, of reference checks, oral interviews and demonstrations
- Descriptions of the price/cost evaluation methodology, including the use of examples in the evaluation process, to determine costs for specific volumes and/or service levels. The evaluation of price/cost must be undertaken only after completion of the evaluation of the mandatory requirements and any other rated criteria for all bids
- The method of resolving a tie score

The first step in the evaluation process is to determine if submissions are compliant. Submissions may be considered to be materially compliant, but certain clarifications may be sought. Materially non-compliant submissions should be rejected. Once the compliant submissions have been identified, the Procurement Officer should proceed with the balance of the evaluation process.

#### *Evaluation Team*

Every competitive process requires an evaluation team that will be responsible for reviewing all the compliant bids and scoring each of those bids.

The following should be considered:



- Evaluation team members should be selected and their participation confirmed before the competitive documents have been posted and the evaluation team members should be included in the development of the evaluation criteria and weighting. Team members may include end users, educators, supply chain experts, subject matter experts, financial experts and representatives of the sourcing or purchasing function, as appropriate. Evaluation teams should be comprised of appropriate members to ensure that a proper evaluation is conducted
- Typically the Procurement Officer will assume the evaluation team lead responsible for the evaluation process. If the Procurement Officer cannot fulfill this role then an alternate will be appointed
- It is recommended that the Procurement Officer, at minimum, participate in the oversight of the process, but it is preferred that they act as the “team lead”
- The Evaluation team members must be aware of the restrictions related to confidential information shared through the competitive process and refrain from engaging in activities that may create or appear to create a conflict of interest. The Procurement Officer must require team members to sign a conflict-of-interest declaration and non-disclosure agreement

#### *Selection Process*

The Procurement Officer must ensure that each member of the evaluation team has completed an evaluation matrix rating each of the suppliers.

Records of evaluation scores must be auditable. Evaluators should be aware that everything they say or document must be fair, factual, fully defensible, and may be subject to public scrutiny.

The evaluation team must select only the highest ranked submission(s) that have met all mandatory requirements set out in the related procurement document.

Unless expressly requested in the purchasing documents, organizations must not consider alternative strategies or solutions proposed by a supplier.

Additional considerations during the selection process include:

- The Procurement Officer, Business, and Functional Managers are entitled to ask suppliers for clarification on their bid as long as it does not change their bid in any way
- A revised solicitation can be issued when bids are received in response to a solicitation but exceed Kinark’s budget, are not responsive to the requirement or do not represent fair market value, in an effort to obtain an acceptable bid

Any supplier whose submission is rejected during the evaluation process will be notified of the rejection in writing as soon as possible after completion of the evaluation. With the

exception of any pricing that was made publicly available at the time of a public opening, all submission evaluation details must be kept confidential

## **Non-Discrimination**

Kinark must refrain from any discrimination or preferential treatment in awarding a contract to the qualified supplier from the competitive process (keeping in compliance with the Agreement on Internal Trade (AIT)). Decisions based on discrimination may be subject to bid protests or disputes from suppliers who believe the process may have been unfair or biased.

Discriminatory procurement practices include, but are not limited to, the following:

- Registration requirements and restrictions on calls for bids based upon the location of a supplier and its subcontractors, or the place where the goods or services are produced and, generally, qualification procedures that discriminate between suppliers by province of origin
- The biasing of specifications in favour of, or against, a particular good or service for the purpose of circumventing the Broader Public Service Procurement Directive
- The timing of bid opening and closing dates so as to prevent qualified suppliers from submitting bids
- The specification of quantities and delivery schedules of a scale and frequency that may reasonably be judged as deliberately designed to prevent qualified suppliers from meeting the requirements of the procurement
- The division of required quantities or the diversion of budgetary funds to subsidiary organizations in a manner designed to circumvent the Broader Public Service Procurement Directive
- The consideration, in evaluating bids, of provincial or local content or economic benefits that favour a supplier or good
- The giving of preference to selected bids after bids have been submitted and without any mention of the intended preference in the competitive procurement documents
- The use of price discounts or preferential margins to favour certain supplier
- The unjustifiable exclusion of a qualified supplier from bidding
- The requirement that a construction contractor or subcontractor use workers, materials or suppliers of materials originating from the Province where the work is being carried out

Exemptions from discriminatory procurement practices are allowed if Kinark can demonstrate that:

- The purpose of the measure is to achieve a legitimate objective
- The measure does not operate to impair unduly the access of persons, goods, services or investments of a Province that meet that legitimate objective

- The measure is not more trade restrictive than necessary to achieve that legitimate objective
- “Legitimate objective” means one of the following objectives:
  - Public security and safety
  - Public order
  - Protection of human, animal, or plant life or health
  - Protection of the environment
  - Consumer protection
  - Protection of the health, safety, and well-being of workers
  - Affirmative action programs for disadvantaged groups

## **Contract Award**

### *Executing the Contract*

Following the procurement process, a signed written contract must be established. In situations where an immediate need exists for goods or services and the Procurement Officer, Business, and Functional Managers and the supplier are unable to finalize a contract, an interim purchase order may be used. The justification of such decisions must be documents and approved by the appropriate authority.

The contract must be finalized using the form of agreement that was released with the procurement documents. Where the form of the agreement was not released with the procurement document, the agreement between Kinark and the successful supplier must be defined formally in a signed written contract before the provision of supplying goods or services commences.

The term of the agreement and any options to extend the agreement must be set out in the procurement document. Changes to the term of the agreement may change the procurement value. Prior written approval by the appropriate authority is necessary before changing contract start and end dates. Extensions to the term of agreement beyond what is set out in the procurement document are considered non-competitive procurements and therefore the Procurement Officer, Business, and Functional Managers must seek appropriate single-source approval authority prior to proceeding.

All contracts must contain the following:

- Dispute resolution process
- Appropriate cancellation or termination clauses

Contracts for services must contain the following:

- Clear terms of reference for the assignment. The terms should include objectives, background, scope, constraints, staff responsibilities, tangible deliverables, timing, process reporting, approval requirements, and knowledge transfer requirements

### *Managing the Contract*

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

For services, any expenses claimed and reimbursed must be compliant with the Broader Public Sector Expenses Directive and Kinark's Travel, Meals, Accommodations and Hospitality policy and procedures. [http://www.fin.gov.on.ca/en/bpssupplychain/documents/bps\\_expenses\\_directive.html](http://www.fin.gov.on.ca/en/bpssupplychain/documents/bps_expenses_directive.html)

The Business and Functional Managers will forward a complete copy of the contract to the Finance Department. Upon receipt of invoices, they will review the invoices to ensure they contain sufficient detail to warrant payment and that invoiced amounts are consistent with contract terms. If in compliance, invoices are approved and forwarded to the Finance Department.

Prior to processing payment, the Finance Department will review approved invoices against the terms of the contract. Only compliant invoices will be processed for payment. All others will be returned to the Business and Functional Managers for clarification and/or revision.

Throughout the engagement, supplier performance must be managed and documented by Business and Functional Managers to ensure satisfactory completion of assignments on schedule and within budget. Any performance issues must be addressed.

### *Award Notification*

Once the qualified supplier has been selected and the contract has been awarded and signed, the Procurement Officer must notify all suppliers that a contract has been signed and the competitive process is complete.

For purchases valued at \$100,000 or greater, the Procurement Officer must post, in the same manner as the procurement documents were posted, the name(s) of the successful supplier(s). Contract award notification must occur only after the agreement between the successful supplier and Kinark has been executed. The contract award notification must include the agreement start and end dates, including any options for extension. The award notification must be posted electronically within 40 calendar days of the award.

### *Supplier Debriefing*

For purchases valued at \$100,000 or greater, the Procurement Officer must inform all suppliers who participated in the procurement process of their entitlement to a debriefing.

The details of the supplier debrief should be included in the competitive documents, including the process for booking debrief sessions at the conclusion of the procurement process. Kinark must allow suppliers 60 calendar days following the date of the contract award notification to respond.

In conducting supplier debriefing meetings, the Procurement Officer must:

- Confirm the date and time of the debriefing session to the supplier in writing;
- Conduct separate debriefings with each supplier
- Ensure that the same participant(s) from Kinark participate in every debriefing conducted.
- Not disclose information concerning other suppliers, other than the names and addresses of suppliers who participated in the competitive process
- Not respond to questions unrelated to the competitive process
- Retain all correspondence and documentation related to debriefing sessions
- Provide a general overview of the evaluation process set out in the procurement document
- Discuss the strengths and weaknesses of the supplier's submission in relation to the specific evaluation criteria and the supplier's evaluated score. If more than price is evaluated, the organization may provide the supplier's evaluation scores and their evaluation ranking (e.g., third of five)
- Provide suggestions on how the supplier may improve future submissions
- Be open to feedback from the supplier on current procurement processes and practices
- Address specific questions and issues raised by the supplier in relation to their submission
- Where a supplier threatens to take legal action, record details and notify the Chief Administrative Officer

#### *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. Vendor bid disputes requires that an independent third party be appointed for resolution. The cost of the independent third party is paid by the vendor. A vendor may seek financial compensation as a result of the bid dispute.

#### *Records Management*

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

Types of documentation to be retained include:

- A copy of the procurement justification or business case

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

Refer to Finance Records Management policy and procedures for information about handling, storing, and maintaining procurement records.

<p><b>Definitions:</b></p>	<p><u>Agreement on Internal Trade (AIT):</u> A national agreement that regulates trade between the provinces to ensure equal access to public sector procurement for all Canadian suppliers. The Agreement aims to reduce barriers to the movement of persons, goods, services and investments within Canada. Refer to <a href="http://www.ic.gc.ca/eic/site/ait-aci.nsf/eng/home">http://www.ic.gc.ca/eic/site/ait-aci.nsf/eng/home</a> for more information.</p> <p><u>Approval Level:</u> Criteria, often dollar levels, which define which approvals are needed for various business transactions. Limits are set on the size and nature of the business transactions and are assigned to the individual or job role authorized to execute based on the appropriate level of responsibility.</p>
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Bidders' Conference: A meeting chaired by the soliciting organization to discuss with potential proponents, technical, operational and performance specifications, and/or the full extent of financial, security and other contractual obligations related to a bid solicitation.

Bid Protest: A dispute raised against the methods employed or decisions made by a contracting authority in the administration of a process, leading to the award of a contract.

Bid Repair: The improper alteration or modification of a bid either by the bidder or by the procuring entity after the deadline for the receipt of bids has passed.

Ceiling Price of VOR Arrangement: Dollar value of an individual procurement under the VOR arrangement above which organizations must conduct procurement using an open competitive process instead of utilizing the VOR arrangement.

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

Consulting Services: The provision of expertise or strategic advice that is presented for consideration and decision-making.

Electronic Tendering: A computer-based system that provides suppliers with access to information related to open competitive procurements.

Equipment: All capital equipment, supplies, operational and service documents to be delivered including all parts provided during the warranty period, and further includes all work necessary to deliver and install the equipment.

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

Evaluation Matrix: A tool allowing the evaluation team to rate supplier proposals based on multiple pre-defined evaluation criteria.

Evaluation Team: A group of individuals designated/responsible to make an award recommendation. The evaluation team would typically include

representatives from the purchasing organization and subject matter expert(s). Each member participates to provide business, legal, technical and financial input.

Evaluation Team Lead: The individual selected by the evaluation team to be responsible for coordinating the evaluation process.

Fair Market Value: The price that would be agreed to in an open and unrestricted market between knowledgeable and willing parties dealing at arm's length who are fully informed and not under any compulsion to transact.

Goods and Services: All goods and services including construction, consulting services and information technology.

Information Technology: The equipment, software, services and processes used to create, store, process, communicate and manage information.

Invitational Competitive Procurement: Any form of requesting a minimum of three (3) qualified supplies to submit a written proposal in response to the defined requirements outlined by an individual/organization.

Kinark Personnel: All Kinark employees, students, volunteers and 3<sup>rd</sup> party contracted personnel.

Non-Discrimination: Fairness in treating suppliers and awarding contracts without prejudice, discrimination or preferred treatment.

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

Procurement Card (P-Card): 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 pre-defined suppliers or stores, and offer central billings.

Procurement: Acquisition by any means, including by purchase, rental, lease or conditional sale, of goods, services or construction.



Procurement Value: The estimated total financial commitment resulting from procurement, taking into account optional extensions.

Purchase Order: A written offer made by a purchaser to a supplier formally stating all terms and conditions of a proposed transaction.

Request for Expressions of Interest (RFEI): A document used to gather information on supplier interest in an opportunity or information on supplier capabilities/qualifications. This mechanism may be used when an organization wishes to gain a better understanding of the capacity of the supplier community to provide the services or solutions needed. A response to a RFEI must not pre-qualify a potential supplier and must not influence their chances of being the successful proponent on any subsequent opportunity.

Request for Information (RFI): A document issued to potential suppliers to gather general supplier, service or product information. It is a procurement procedure whereby suppliers are provided with a general or preliminary description of a problem or need and are requested to provide information or advice 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): A document used to request suppliers to supply solutions for the delivery of complex products or services or to provide alternative options or solutions. It is a process that uses predefined evaluation criteria in which price is not the only factor.

Request for Quotation (RFQ): A document similar to an RFT where an organization describes exactly what needs to be purchased and the evaluation is based solely on price.

Request for Supplier Qualifications (RFSQ): 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.

Request for Tender (RFT): 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.

Requisition: A formal request to obtain goods or services made within an organization, generally from the end-user to the procurement department.

Segregation of Duties: 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.

Service: An intangible product that does 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.

Single Sourcing: 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, services or construction.

Sole Sourcing: The use of a non-competitive procurement process to acquire goods or services where there is only one available supplier for the source of the goods or service.

Supplier/Vendor: 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 Management: The full range of processes that manage the flow of goods and services, information, and funds between suppliers and end-users, as well as the supporting infrastructure required to enable these processes.

Supply Chain-Related Activities: Any activities, whether directly or indirectly related to the organization's plan, source, procure, move and pay processes.

	<p><u>Total Cost of Ownership</u>: Total costs of ownership includes items such as the purchase prices, implementation fees, upgrades, maintenance contracts, support contracts, license fees and disposal costs.</p> <p><u>Total life-cycle Cost</u>: The total cost of using goods, equipment or services over the entire time of use or service including initial, operating and maintenance costs.</p> <p><u>Trade Agreements</u>: Any applicable trade agreement to which Ontario is a signatory (e.g. Agreement on Internal Trade and Ontario-Quebec Trade and Cooperation Agreement).</p> <p><u>Value for Money / Best Value</u>: A value-for-money approach aims to deliver products and services with a lower total life-cycle cost while maintaining a high standard.</p> <p><u>Vendors-of-Record (VOR) Arrangement</u>: A procurement arrangement that authorizes organizations to select 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.</p>
<p><b>References:</b></p>	<p><i>Broader Public Sector Procurement Directive</i></p> <p><u>Financial Records Management</u></p> <p><u>Travel, Meals, Accommodations and Hospitality</u></p>
<p><b>Appendices:</b></p>	<p><i>Appendix A: Approval Authority Matrix</i></p> <p><i>Appendix B: Single/Sole Source template</i></p>