

## Corporate Policy

### Procurement

#### Policy Purpose:

The purpose of this policy is to outline the requirements for all hospital employees who procure Goods, Services, Equipment and Construction to ensure compliance with legislative requirements and relevant Trade Agreements, including the Comprehensive Economic Trade Agreement (CETA) and Canadian Free Trade Agreement (CFTA).

The Ottawa Hospital (TOH) will conduct its Contracting and Procurement based on the five key principles of the Ontario Broader Public Sector Procurement Directive (BPSPD). The five key principles are:

**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.

In an effort to meet these requirements, TOH operates a centralized Contracting and Procurement Service. TOH is also the Procurement agent for the following affiliated entities: University of Ottawa Heart Institute (UOHI), Ottawa Hospital Research Institute (OHRI), Eastern Ontario Regional Laboratory Association (EORLA) and other affiliated entities as approved by TOH Senior Management.

TOH uses public funds to procure Goods, Services, Equipment and Construction required for the provision and support of patient care. TOH shall act in accordance with any and all legislative requirements that govern hospital Procurement practices in the Province of Ontario. These include and are not limited to the *Broader Public-Sector Accountability Act (BPSAA)* and the BPSPD, the *Accessibility for Ontarians Disability Act* and all other common law Contract requirements.

There are twenty-five mandatory requirements of the BPSPD that apply to hospitals in Ontario – see **Appendix A**.

The mandatory requirements ensure that TOH conducts Procurement-related Supply Chain Activities in an open, fair and transparent manner.

TOH has adopted the BPSPD Supply Chain Code of Ethics:

## 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 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.

### II. 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.

### 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.

#### **Acceptance of Gifts or Favours**

For full details reference should be made to the TOH Corporate Gift Policy. No employee shall accept a gift which could influence their decision on any hospital business including procurement.

In keeping with the principles of the Supply Chain Code of Ethics, TOH employees should decline the acceptance of gifts or favours to avoid any perceived or real Conflict of Interest. This applies to any person responsible for procuring, or who may be involved in decision making pertaining to a Procurement.

Suppliers may offer sponsorships for educational sessions, training, conferences, dinners and other gifts. All such gifts must be declared to the Chief Procurement Officer (CPO) prior to being accepted. The CPO will confirm and advise the individual whether there are any open competitive Procurements that may result in a perceived, potential or actual Conflict of Interest.

**Scope:** This policy applies to all TOH employees for any acquisitions where public monies are used, equal to or greater than \$100.00 (excluding tax). Purchases below \$100.00 (excluding tax) must comply with TOH's Cheque Request or Petty Cash policies.

Each person who wishes to procure Goods, Services, Equipment and Construction on behalf of TOH must comply with this policy and any related requirements set forth in legislation applicable to hospitals in Ontario. The following roles and responsibilities apply as follows:

### Chief Procurement Officer (CPO)

The CPO's role is to act as a steward of hospital assets and ensure effective internal controls are in place to protect such assets. To that end, the CPO will evaluate compliance with policy regularly to ensure risks are mitigated and identify areas of concern to the CFO.

### Contracting and Procurement Services (CPS) Staff and Management

The CPS departmental staff and management are responsible for complying with this Policy and ensuring this Policy and all protocols are applied consistently. CPS staff must clearly understand and comply with their obligations and responsibilities and should consult with the CPO in respect of any questions regarding the application or interpretation of this policy.

### Customer/End User

It is the role of the Customer/end user to determine requirements for Goods, Equipment and Services are in compliance with this policy. The Customer should clearly understand and comply with their obligations and responsibilities under this Policy and should consult CPS staff or management in respect of any questions regarding the application or interpretation of this Policy.

## **Emergency Procurement**

The requirements of this policy may only be waived to the extent necessary to facilitate the Procurement of Goods, Equipment or Services in an expedited manner when there is an immediate risk to the safety or health of a patient or staff member or to protect hospital physical assets related to a disaster or emergency preparedness response.

Whenever possible, the Procurement must be authorized by the CPO and all approval authorities identified in the Signing Authority Policy #00217 **Appendix A: Approval Authority Schedule (AAS)**. If it is not possible to obtain their authorization in advance, the individual(s) involved in the emergency Procurement must report the Procurement to the CPO and applicable approval authorities as soon as reasonably possible and no later than the first business day after the date of the emergency occurrence.

## **Definitions:**

**Advance Contract Award Notification (ACAN):** A notice of intended Procurement indicating to the Supplier community that a public-sector organization (such as TOH) intends to award a Contract for Goods or Services to a pre-identified Supplier, thereby allowing other Suppliers to signal their interest in bidding, by submitting a statement of capabilities. If no Supplier submits a Statement of Capabilities that meets the requirements set out in the ACAN, on or before the closing date stated in the ACAN, the organization may then proceed with the award to the pre-identified Supplier.

**Approval Authority Schedule (AAS):** The documented authority delegated by the Organization to a person/s 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.

**Bid Submission:** the receipt of a Supplier's proposal in response to an invitational or open competitive solicitation.

**Bidder or Proponent:** A Supplier that submits a response to a solicitation.

**Broader Public Sector Accountability Act and Procurement Directive (BPSAA) and (BPSPD):** legislation enacted in the Province of Ontario that sets forth the rules that govern hospitals and other publicly funded organizations related to reporting and Procurement. The BPSPD includes twenty-five specific mandatory requirements that outline how Procurement should be conducted to ensure a fair way to improve accountability and transparency for Procurement decisions and processes and to maximize the value that BPS organizations

receive from the use of public funds.

**Canadian Free Trade Agreement (CFTA):** an intergovernmental agreement between the federal government and the provinces and territories to reduce and eliminate barriers to free movement of people, Goods, Services and investments within Canada. Under the Agreement, these governments have agreed to apply the principles of non-discrimination, transparency, openness and accessibility with respect to their Procurement opportunities and those of their municipalities and municipal organizations, school boards and publicly funded academic, health and social Services entities. The Agreement covers only those tenders where the Procurement value exceeds a specified amount.

**Champlain Health Supply Services (CHSS):** a shared Service organization for the Champlain Local Health Integration Network that acts as a Contracting agent on behalf of hospitals located in the Champlain region to leverage group buying power.

**Change Order:** A change order is work that is added to or deleted from the original scope of work of a Contract, which alters the original Contract amount and/or completion date.

**Customer or End User:** employees of TOH, UOHI, OHRI, EORLA or any other affiliated entities.

**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. The Procurement document outlines the scope, specifications and terms and conditions of the proposed Contract as well as any criteria that will be used to evaluate the bids. Competitive Procurement may be achieved through:

Invitational Competitive Procurement – means any form of requesting a minimum of three qualified Suppliers to submit a written proposal in response to the defined requirements outlined by TOH.

Open Competitive Procurement – means an open call to Suppliers made through an electronic tendering system readily accessible by all Suppliers.

**Comprehensive Economic and Trade Agreement (CETA):** is a free Trade Agreement between Canada, the European Union and its member states. The agreement covers government Procurement at the federal, provincial and municipal levels, which helps Procurement processes be carried out in an open and transparent manner to ensure that taxpayers get the best value for their money. CETA applies only to high-value Procurement Contracts.

**Conflict of Interest:** A situation in which financial or other personal considerations have the potential to compromise or bias professional judgment and objectivity. An apparent Conflict of Interest is one in which a reasonable person would think that the professional's judgment is likely to be compromised.

**Consultants:** 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.

**Contract:** a commitment by the purchaser for the Procurement of Goods, Equipment, Services or construction from a Supplier, which may be evidenced by a written agreement executed by TOH persons with Contract Binding Authority and the Supplier that outlines terms and conditions of the purchase.

**Contract Binding Authority:** a person(s) who has the authority to legally bind TOH by way of Contract as defined in the TOH Signing Authority Policy.

**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. Medical Equipment is further defined as Equipment for the use in patient care.

**Goods:** Moveable property (including the costs of installing, operating, maintaining or manufacturing such

moveable property) including raw materials, Products, Equipment and other physical objects of every kind and description whether in solid, liquid, gaseous or electronic form, unless they are procured as part of a general construction Contract.

**Limited Tendering:** A Procurement method whereby a Supplier or Suppliers of choice are Contracted i.e. Non-Competitive Procurement.

**MERX:** a single point of access tendering system that provides Suppliers with access to information related to open competitive Procurements and allows TOH to publicly post its solicitations.

**Non-Competitive Procurement Form:** a form that is completed to document and justify the reason why a Procurement was not competitively bid.

**Non-Competitive Procurement:** the acquisition of Goods, Services, Equipment or construction without a solicitation for a submission of bids from multiple Suppliers. The application of Non-Competitive Procurement will be consistent with relevant Trade Agreements requirements related to Limited Tendering.

**Procurement:** the acquisition of Goods, Equipment, Services or construction by purchasing, renting or leasing from a Supplier.

**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 billing.

**Procurement Requisition:** an electronic document (often referred to as i-Procurement within TOH) that is used as a means for an end user to order Goods, Services, Equipment and construction Services. The document must be approved by the appropriate level of authority as per the TOH Signing Authority Policy.

**Procurement Value:** The estimated maximum total value of the Procurement over its entire duration, whether awarded to one or more Suppliers, taking into account any options and optional extension terms. If the Contract is for an indefinite period, the estimated monthly instalment multiplied by 48.

**Product:** refers to any medical device as defined by the Food and Drugs Act, instrument, item, good or consumable used by the hospital.

**Product Evaluation and Standardization Committee (PESC):** The committee consists of interdisciplinary members from across the organization whose role is to ensure that the Procurement of new medical/surgical Products is aligned with hospital wide policies, legislative requirements, supports the mitigation of risk and enhances cost effectiveness by enabling the efficient use of resources, common processes and Products, reducing the opportunity for error and supporting optimal patient outcomes.

**Purchase Order (PO):** refers to a commercial document that is issued by a purchaser to a seller/Supplier indicating types, quantities, and agreed prices for Goods, Services, Equipment and construction that the seller will provide to the purchaser. A PO to a seller/Supplier constitutes a legal offer to buy Goods and/or Services.

**Quotation (Quote):** a formal statement of promise (submitted usually in response to a Request for Quotation) by a potential Supplier to supply the Goods or Services required, at specified prices and terms, and within a specified period. Quotations should only be sought when price is the only determining factor.

**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 to be part of a Vendor of Record Arrangement or a Standing Offer. 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.

**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 or consumed.

**Signing Authority:** the ability to take certain actions to approve types or aspects of financial or Contractual obligations or undertakings on behalf of TOH, combined with the responsibility of conducting appropriate due diligence prior to giving such approval. As set out in the TOH Signing Authority Policy No. 00217, authority can be divided into the following types: Accounting Authority; Budget Authority; Contract Binding Authority; and Payment Authority. In the event there is a conflict between this Contracting and Procurement policy and the Signing Authority Policy in effect at the time of the transaction, the authorities outlined in the Signing Authority policy take priority.

**Social Enterprise:** a business (not-for-profit and for-profit) driven by a social or environmental purpose. Their profits are not just used to ensure their financial viability but are re-invested in the business and/or community to achieve, sustain and further the organization's social or environmental purpose.

**Strategic Procurement Advisory Group:** a category specific committee of departmental management and CPS leads established for the purpose of supporting the best value Procurement of high-quality Goods and Services at less cost through collaborative category management and strategic sourcing planning.

**Standing Offer:** a Procurement method whereby a list of pre-qualified Suppliers has been established further to a competitive Procurement process, for a period not to exceed three years, on terms and conditions set out in the RFSQ which will result in call-ups being issued against the Standing Offer to the Supplier selected based on the conditions set forth in the RFSQ. No second stage competitive Procurement process required.

**Supplier:** vendor or 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.

**Total Cost of Ownership (TCO):** Total Cost of Ownership includes items such as the purchase price, implementation fees, upgrades, maintenance Contracts, support Contracts, license fees, cost of conversion and disposal costs.

**Trade Agreements:** any applicable Trade Agreement to which Ontario is a signatory (e.g., Canadian Free Trade Agreement, Ontario-Quebec Trade and Cooperation Agreement, Comprehensive Economic Trade Agreement between Canada and the European Union).

**Vendor-of Record (VOR) Arrangement:** A supply arrangement that authorizes organizations to select a Supplier from pre-qualified Supplier(s) through a formal second-stage competitive process, for a defined period, on terms and conditions set out in the RFSQ and VOR arrangement.

## **Policy Statements:**

### **Administration and Oversight of Purchases**

The CPS department has sole responsibility for administering PO's. The issuance of a PO can only be completed by Procurement staff with some delegated responsibility provided to Central Processing and Biomedical Engineering for the placement of orders.

The CPS department monitors compliance with hospital Procurement policies and maintains control of the acquisition of Goods, Services, Equipment and construction on behalf of TOH.

All Goods, Services, Equipment and construction for TOH must be procured through the appropriate mechanism using TOH's electronic Procurement requisitioning system (Oracle i-Procurement). For requisitions related to new vendors the Supplier Addition Request Form must be completed and is subject to internal process reviews.

All requisitions must be approved by the appropriate level of authority as per the TOH Signing Authority Policy.

A Contract for Goods, Equipment, Services or construction shall not be considered legally binding on TOH unless it has been signed by one of the Contract Binding Authorities, or their authorized delegate as defined in the Signing Authority Policy,

From time to time, TOH may elect to participate in regional (CHSS) and national group purchasing (HealthPRO) Procurements where the aforementioned groups act as the Contracting agent on behalf of TOH. TOH CPS would provide the necessary written approvals to CHSS and/or HealthPRO when such circumstances are determined to be beneficial to TOH. TOH will annually publish on MERX its participation with CHSS and HealthPRO.

An agreement between TOH and the Supplier must be formally defined in a signed written Contract before the provision of Goods, Services, Equipment or construction. Where a signed written Contract is not in place, the terms and conditions of the PO will act as the agreement. Where an immediate need exists for Goods or Services, and TOH and the Supplier are unable to finalize the Contract as described above, an interim Purchase Order may be used.

Goods, Services, Equipment or construction may not be acquired without the issuance of a PO. The PO will be created and issued by CPS upon receipt of an appropriately completed and approved Procurement Requisition.

TOH and its affiliated entities are independent corporations, each with their own Senior Administration and Board of Governors. Each corporation understands that they must comply with the current legislative requirements as it applies to their respective operations and mandates. Each affiliated entity is solely responsible and accountable for their legal and financial obligations including their own operating expenses, capital expenditures, accumulated deficits and debt. TOH CPS will adhere to each affiliated entities' Approval Authority Schedule and policies (if applicable)

When conducting Procurement that is funded by private donations or non-public monies TOH will adhere to this policy and TOH standard Contracting and Procurement procedures.

TOH recognizes the value of corporate responsibility and social value and may elect to procure from Social Enterprises or incorporate criteria into the evaluation of a competitive Procurement process, as long as it complies with this policy.

All negotiations of terms and conditions for the Procurement of Goods and Services must be led or facilitated by a representative of CPS.

Value add incentives such as rebates, research funding and fellowships will not be included in the Procurement process.

### **Changes and Amendments to Purchase Orders (POs)**

Increases in the overall value to a PO made through a subsequent amending Procurement requisition must follow the dollar thresholds outlined in the Signing Authority Policy. If the overall value of the PO is increased by the change and it exceeds the original approver's Signing Authority threshold, then the next higher level of authority in the direct line of reporting will need to approve the Procurement Requisition prior to an amendment being made to the PO.

Any change orders for construction where a permit is necessary will require 3<sup>rd</sup> party validation by an Architect or Engineering firm. In these instances, where no permit is necessary, the TOH Project Manager must obtain sign off from the appropriate level of authority within Planning and Facilities per the Signing Authority Policy.

Amendments to PO value that increases the value of the project to greater than the original authorized Procurement Value must be reviewed and approved using the Non-Competitive Procurement approval process prior to authorizing the amendment to the PO value.

Non-financial changes to a PO do not require an accompanying Procurement Requisition and can only be made by Procurement. Such changes may include special notes, instructions, and catalogue number updates but no change in the value of the PO or the Supplier.

### **Non-Compliant Orders**

Goods and Equipment arriving at the hospital before a PO has been issued will be considered non-compliant and may be returned to the Supplier. This includes Goods and Equipment for the purpose of a trial.

Services or Construction rendered to TOH or its affiliates prior to a PO being issued will be considered non-compliant.

Any Goods purchased, or Services rendered as a result of an emergency situation shall have the appropriate documentation and approvals sent to CPS as soon as possible but no later than the first business day after the date of the emergency occurrence.

TOH assumes no responsibility or liability for any order that is acquired through a non-compliant Procurement process and reserves the right to return the Goods and not issue payment to the Supplier.

All Procurement Requisitions for the purposes of issuing a PO for Goods, Services, Equipment and construction that arrive at TOH or where Services and construction have already been rendered without proper approval will be reported to the CPO who will follow up with the responsible individual.

Requests for the issuance of a non-emergency PO after the order is placed by the end user and the Goods have arrived or the Services rendered will require the respective Vice President (VP) or Executive Vice-President (EVP) approval for the Procurement Requisition. The PO will not be issued unless the VP/EVP of the program or department has authorized the requisition.

### **Competitive Procurement Requirements**

All Goods, Services, Equipment and construction valued at \$10,000 or over must be ascertained through a competitive process. Different requirements apply based on the cumulative Procurement Value and the type of Goods and Services being procured.



The cumulative Procurement Value of any given Contract is determined by the annual dollar spend for specific Goods, Equipment, Services or construction multiplied by the number of years the Contract will be in place (including any optional extension years). The threshold of \$100,000 used to determine if a Procurement initiative must be publicly posted, is based on this cumulative Procurement Value.

It is the cumulative Procurement Value of the specific Goods, Equipment, Services or construction for a specified period of time that determines the type of Procurement to be used and not the annual dollar spend with a specific Supplier. It is possible for TOH to have multiple Contracts for different Goods, Services, Equipment or construction with one Supplier and such Contracts may have been established through varying types of competitive Procurement processes such as, but not limited, to publicly posted Requests for Proposals (RFP), or invitational Requests for Quotations (RFQ), among others.

The strategic sourcing strategy and type of Procurement to be undertaken will be determined by CPS in collaboration with End User management, Strategic Procurement Advisory Groups and/or TOH Senior Management, depending on the strategic impact and complexity of the desired outcome.

All persons selected to be an Evaluation Committee member for a particular competitive Procurement must sign a non-disclosure and Conflict of Interest form thereby agreeing to comply with all the requirements and obligations outlined in the form.

In an effort to maintain the integrity of the RFP process a proposed Evaluation Committee Member may be asked not to participate if it is determined that there is a conflict or a perceived Conflict of Interest.

When a Vendor of Record (VOR) Arrangement is established through an RFSQ process it must not exceed a term of three years. The RFSQ must clearly specify:

- The type and specifications of Goods or Services to be provided with a necessary level of detail;
- Upper limits of the value of future awards (for VOR arrangements — the ceiling price);
- Time duration the pre-qualified Supplier list or VOR arrangement will be valid;
- The method(s) and time intervals by which additional Suppliers can be placed on the list (for VOR arrangements); and
- That any Supplier who does not participate in the pre-qualification or does not appear on the list may be excluded from opportunities.

**Procurement Thresholds and Limits for Competitive Procurement**

**Goods, Non-Consulting Services, Equipment And Construction**

<b>Total Cumulative Value (excluding tax)</b>	<b>Means of Procurement</b>
\$0 - \$60	Petty Cash – no Purchase Order or pricing Quotes required
\$60 - \$99.99	Cheque Request – no Purchase Order or pricing Quotes required
\$100 to less than \$10,000	One written pricing Quote
\$10,000 to less than \$100,000	Invitational Competitive Process – three written pricing Quotes (informal) or written Bid Submissions (formal) or Open Competitive Process (posted publicly)
\$100,000 and higher	Open Competitive Process (posted publicly)

## Consulting Services

### Total Cumulative Value

### Means of Procurement

	Invitational Competitive Process – three written bids submissions
\$0 and less than \$100,000	or
\$100,000 and higher	Open Competitive Process (posted publicly) Open Competitive Process (posted publicly)

### Non-Competitive Procurement (NCP)

TOH should employ competitive Procurement processes to achieve optimum value for money. It is recognized, however, that special circumstances may require the use of Non-Competitive Procurement. TOH may utilize Non-Competitive Procurement only in a situation outlined in the exemption, exception or non-application clauses of the relevant Trade Agreement/s, including the Canadian Free Trade Agreement (CFTA) and Comprehensive Economic and Trade Agreement (CETA) or other Trade Agreement, provided that it does not use this provision for the purpose of avoiding competition among Suppliers or in a manner that discriminates against Suppliers or protects certain Suppliers.

Prior to commencement of Non-Competitive Procurements supporting documentation must be completed and approved by the appropriate authority within TOH. When a competitive Procurement is not undertaken (as required by this policy) the requester must complete a Non-Competitive Procurement (NCP) Form.

Where an exemption, exception or non-application clause is asserted, the Purchaser must formally document the applicability of the non-application of the Trade Agreement. This may be accomplished through the completion of a Non-Competitive Procurement Form, by the Client and approved by the appropriate hospital authorities which must be one level of authority higher than the approval authority for a competitive Procurement. CPS must include a copy of any such non-application documentation in the Contract file.

The application of Non-Competitive Procurement will be consistent with applicable Trade Agreements and related permissible clauses and justification are listed in **Appendix B**

CPS shall prepare an annual report in writing on each Contract awarded through the use of Limited Tendering. The report shall include the name of the procuring entity, the value and kind of Goods or Services procured and a statement indicating the circumstances and conditions described in the relevant Trade Agreement that justified the use of Limited Tendering.

Extending the term of an 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. Such extensions to the term of agreement must be approved using the Non-Competitive Procurement Form and process and will be reported annually as part of the TOH attestation process.

Every Procurement must follow the Approval Authority Schedule (AAS) in the TOH Signing Authority Policy. The NCP form must be approved by a Signing Authority one level higher than required for the regular Procurement process.

A NCP form may be valid for a maximum initial period of no more than 5 years or the duration of the Contract. At least 6 months before the end of the 5-year term or the Contract expiry, CPS shall review the circumstances

with the End User and determine whether an extension or new Contract is required. A new NCP form will require approval if justification for Non-Competitive Procurement continues to be valid.

CPS may issue an Advance Contract Award Notification (ACAN) for requirements where the Procurement Value is anticipated to be over \$100,000 to determine whether the Goods, Services or Equipment may be procured competitively or not. The application of an ACAN will be consistent with applicable Trade Agreements related to Limited Tendering.

### **Additional Requirements for Equipment and New Products Prior to Purchase**

The Procurement of Goods used within TOH for patient use or other use must meet Health Canada standards and regulations as well as any other applicable legislative requirements including but not limited to the Accessibility for Ontarians with Disability Act. In addition, and for further clarification TOH will not pay for medical devices that have not been licensed for use in Canada by Health Canada.

Any new Products (non-Equipment) introduced into the hospital for patient use may only be purchased after they have been reviewed and approved by the Product Evaluation and Standardization Committee (PESC) and Corporate Operations Committee, in compliance with this policy. PESC will not approve medical devices that have not been licensed for use in Canada by Health Canada.

The introduction of new Products or new Product technology within the hospital must go through the PESC process prior to use within the hospital to ensure the safety of patients and staff and reduce the likelihood of any other related risks associated with the integrity of the Procurement process and established standards.

The purchase of Equipment is also subject to the Equipment Acquisition Standard Operating Procedure.

Equipment trials may not be undertaken without the authorization of CPS.

All Equipment trials occurring on TOH premises must have a "No charge PO issued by CPS and must be accompanied by the appropriate regulatory documents to ensure all legislative requirements have been met.

Medical Equipment trials must be coordinated through the Biomedical Engineering department following authorization from CPS to proceed.

Infection Prevention and Control (IPC) must be consulted prior to the purchase of new Equipment. Documentation of IPC approval is required prior to a PO being issued for said Equipment.

CPS will ensure that all competitive Procurements undertaken on behalf of the end user for medical Equipment will include a consultation with IPC prior to the release of the solicitation documents to ensure appropriate specifications have been included to ensure compliance with IPC standards.

### **Compliance**

Compliance with this Procurement Policy will be monitored through CPS and will be reported annually as part of the BPSAA attestation process. Non-compliance and suspected fraud will be reported to the CFO. Non-compliance with the policy could result in disciplinary action up to and including termination.

### **Appendices:**

**A** – BPSPD Mandatory Requirements (as amended by CFTA & CETA)

**B** – Competitive Procurement Exceptions

### **Related Documents:**

- Signing Authority

- Equipment Acquisition
- Cheque Request
- Petty Cash
- Gifts
- Retention and Destruction of Corporate Records

### **Related Legislation or Regulatory Requirements:**

- [Accessibility for Ontarians with Disabilities Act](#)
  - [www.aoda.ca/](http://www.aoda.ca/)
- [Broader Public Sector Accountability Act, 2010, S.O. 2010, c. 25](#) (BPSAA)
  - (includes Expense Directive, Procurement Directive and Annual Reporting requirements)
- [Broader Public Sector Procurement Directive \(BPSPD\)](#)
- [Canadian Free Trade Agreement](#)
- [Canada-European Union: Comprehensive Economic and Trade Agreement Implementation Act \(CETA\)](#)
- [Freedom of Information and Protection of Privacy Act, R.S.O. 1990, c. F.31](#)

### **References:**

- [BPSPD Implementation Guidebook](#)
- Chapter 5, Canadian Free Trade Agreement (CFTA)
- Chapter 19, Comprehensive Economic and Trade Agreement (CETA)

## Appendix A

### **BPSPD Mandatory Requirements (as amended by CFTA & CETA)**

#### **1. Mandatory Requirement #1 Segregation of Duties**

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

#### **2. Mandatory Requirement #2 Approval Authority**

Goods and Non-Consulting Services – 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, 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.

Consulting Services – Prior to commencement, any Procurement of consulting Services must be approved in accordance with the Procurement AAS for Consulting Services.

All Procurements – TOH 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 TOH's AAS for Goods and non-consulting Services or the AAS for Consulting Services, as stated in the TOH Signing Authority Policy.

The acceptable format for approval is as follows:

- Procurements must be authorized by the appropriate Signing Authority using TOH's electronic purchase requisition (Oracle i-Procurement),
- Where access to i-Procurement is not possible approval may be granted by the appropriate Signing Authority via email. Where approvals have been granted via email the email approval must accompany the purchase requisition prior to a PO being issued by Procurement.

#### **3. Mandatory Requirement #3 Competitive Procurement Thresholds**

TOH must conduct an open competitive Procurement process where the estimated value of Goods, Services, Equipment and construction is \$100,000 or more (i.e. must be posted publicly). The exemptions must be in accordance with the relevant Trade Agreements.

TOH must competitively procure consulting Services irrespective of value. The exemptions must be in accordance with the relevant Trade Agreements.

#### **4. Mandatory Requirement #4 Information Gathering**

Where results of informal Supplier or Product research are insufficient, formal processes such as 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 an RFI or RFEI cannot 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.

Request for Information – a tool to assess market capabilities as it allows gathering of general information. An RFI may be used when TOH is contemplating Procurement and needs to determine the characteristics of the ideal good or Service.

Request for Expressions of Interest – allows TOH to gather information about Supplier interest in an opportunity or information about Supplier capabilities/qualifications. An RFEI may be used to clarify the

ability of the Supplier community to provide the necessary Services or solutions.

**5. Mandatory Requirement #5 Supplier Pre-Qualification**

The Request for Supplier Pre-qualification enables TOH to gather information about Supplier capabilities and qualifications in order to pre-qualify Supplier 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 TOH to call on any Supplier to provide Goods or Services as a result of pre-qualifications.

**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 Canadian Suppliers. TOH uses MERX. For purposes of construction Procurements additional advertisements may be placed with the Ontario Construction Associated and/or newspapers to provide further awareness of the Procurement opportunity.

**7. Mandatory Requirement #7 Timelines for Posting Competitive Procurements**

TOH must provide Suppliers a minimum response time of 40 calendar days for Procurement of Goods, Services, Equipment or construction valued at \$100,000 or more. TOH may reduce the time-period for tendering established by five days for each one of the following circumstances:

- a. the notice of intended Procurement is published by electronic means;
- b. all the tender documentation is made available by electronic means from the date of the publication of the notice of intended Procurement; and
- c. the entity accepts tenders by electronic means.

CPS will determine which time frame is most appropriate for posting such competitive Procurements taking into consideration complexity, risk and dollar value.

**8. Mandatory Requirement #8 Bid Receipt**

Bid Submission dates and closing time must be clearly stated in competitive Procurement documents. TOH 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 if in hard copy. If the submission is electronic, the tendering system will not permit the submission to be uploaded. TOH will not penalize any Supplier whose submission is received after the final date and time specified for receiving submissions if the delay is due solely to mishandling on the part of TOH.

**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. For TOH this means that technical or clinical specifications will be developed in collaboration with the relevant stakeholders within the hospital or entities participating in the Procurement. 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 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 for the Procurement opportunity. In all cases the Client will be consulted and will work collaboratively with CPS to determine the point allocations or weighting however the final authority rests with CPS.

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. TOH may request Suppliers to provide alternative strategies or solutions as part of their submission. TOH 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.

The three major types of competitive Procurement documents are described below.

- Request for Proposal (RFP). The purpose of an RFP is to request Suppliers to provide solutions for the delivery of complex Goods or Services, or, where explicitly required, to provide alternative options or solutions. This process uses multiple predetermined evaluation criteria, including price.
- Request for Tender (RFT). The purpose of an RFT is to request Suppliers to submit bids to provide Goods or Services based on stated delivery requirements, performance specifications, terms and conditions. An RFT focuses the evaluation criteria predominantly on the price and delivery requirements.
- Request for Quotation (RFQ). An RFQ is a document similar to an RFT. In an RFQ, TOH describes exactly the Goods, Services to be provided; the proposal evaluation is based solely on price.

#### **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.

#### **11. Mandatory Requirement #11 Evaluation Team**

Competitive Procurement processes require an evaluation team responsible for reviewing and rating the compliant bids. CPS will review the mandatory criteria to determine eligibility to move forward in the competitive process and where the mandatory criteria are technical or clinical in nature CPS will involve either the Evaluation Committee Chair or members of the evaluation team to determine whether the Bidder meets the mandatory criteria and is permitted to advance to the next stage of the Procurement.

Evaluation team members must be made aware of the restrictions 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 and familiarize themselves with the obligations associated with being an evaluation committee member.

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

TOH currently uses an electronic software for the compilation of individual evaluation committee member ratings. There may be circumstances from time to time where an electronic method is not practical and therefore written documentation with individual scores are kept and the average score is entered into the software. For audit and traceability purposes the individual written scores are maintained in the Procurement file in accordance with the hospital's record retention policy.

#### **13. Mandatory Requirement #13 Winning Bid**

The submission that receives the highest evaluation score (not necessarily the lowest cost) based on the evaluation criteria and meets all mandatory requirements set out in the competitive Procurement document must be declared the most advantageous bid.

#### **14. Mandatory Requirement #14 Non-Discrimination**

TOH must not discriminate or exercise preferential treatment in awarding a Contract to a Supplier as a result of a competitive Procurement process. TOH practices related to Non-Discrimination will be consistent with relevant Trade Agreements requirements related to Conditions for Participation.

#### **15. Mandatory Requirement #15 Executing the Contract**

The agreement between TOH 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 TOH 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.

**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 TOH and the successful Supplier must be defined formally in a signed written Contract before the provision of supplying Goods or Services commences.

**17. Mandatory Requirement #17 Termination Clauses**

All Contracts must include appropriate cancellation or termination clauses. When conducting complex Procurements, TOH may consider, as appropriate, the use of Contract clauses that permits cancellation or termination at critical project life-cycle stages.

**18. Mandatory Requirement #18 Term of Agreement Modification**

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.

**19. Mandatory Requirement #19 Contract Award Notification**

For Procurements valued at \$100,000 or more, TOH must post in the same manner as the Procurement documents were posted, Contract award notification no later than 72 days after the award of each Contract. The notification must be posted after the agreement between the successful Supplier and TOH has been executed. Contract award notification must list the name of the successful Supplier, agreement start and end dates and any extension options.

**20. Mandatory Requirement #20 Supplier Debriefing**

For Procurements value at \$100,000 or more, TOH must inform all unsuccessful Suppliers about their entitlement to a debriefing. TOH must allow unsuccessful Suppliers 60 calendar days following the date of the Contract award notification to request a debriefing.

**21. Mandatory Requirement #21 Non-Competitive Procurement**

TOH must employ a competitive Procurement process to achieve optimum value for money. It is recognized however that special circumstances may require TOH to use Non-Competitive Procurement. See section 7.0 Non-Competitive Procurement.

TOH may utilize Non-Competitive Procurement only in situation outlined in the exemption, exception or non-application clauses of the Canadian Free Trade Agreement (CFTA) or other Trade Agreements. Prior to commencement of Non-Competitive Procurements supporting documentation must be completed and approved by the appropriate authority within TOH.

**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 Supplier throughout the life of the Contract, TOH should include a dispute resolution process in their Contracts.



For Services, TOH 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 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.

### **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. Procurement records and Suppliers' information will be retained and destroyed in compliance with the TOH Retention and Destruction of Corporate Records Policy # 00204.

TOH must have a written policy for handling, storing and maintaining the Suppliers' confidential and commercially sensitive information. Except as provided otherwise, or as may be required by Applicable Laws, TOH shall treat the Suppliers' information as confidential, and shall neither disclose nor divulge such information (except to its employees or advisors who require access to the information for the purposes of Procurement and Contracting and who are subject to binding confidentiality obligations) without the express written permission and consent of the Supplier; provided that such obligation shall not include any information that is or becomes generally available to the public other than as a result of disclosure by TOH.

### **24. Mandatory Requirement #24 Conflict of Interest**

TOH 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.

All Conflict of Interests and Non-disclosure completed agreements for each Procurement opportunity shall be filed electronically in accordance with the electronic Contract file held in the CPS. Any actions taken as a result of a declared conflict shall also be documented and kept in the Contract file for audit purposes.

### **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 relevant Trade Agreements. The dispute resolution procedures will include the following stages;

- a. consultation process stage and
- b. alternative dispute resolution stage

Each competitive Procurement document will include such clauses so that TOH and potential Bidders have a clear process for resolution that is documented both in the initial Procurement document as well as the resulting Contract/agreement.

## Appendix B

### Competitive Procurement Exceptions

Provided the following provisions are not used for the purpose of avoiding competition among Suppliers or in a manner that discriminates against Suppliers, TOH may use Non-Competitive Procurement in the following circumstances:

- no tenders were submitted or no Suppliers requested participation
- no tenders that conform to the essential requirements of the tender documentation were submitted
- no Suppliers satisfied the conditions for participation
- the submitted tenders were collusive
- the requirement is for a work of art
- the protection of patents, copyrights, or other exclusive rights
- due to an absence of competition for technical reasons
- the supply of Goods or Services is controlled by a Supplier that is a statutory monopoly
- to ensure compatibility with existing Goods, or to maintain specialized Goods that must be maintained by the manufacturer of those Goods or its representative
- work is 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
- work is to be performed on a leased building or related property, or portions thereof, that may be performed only by the lessor
- the Procurement is for subscriptions to newspapers, magazines, or other periodicals
- for additional deliveries by the original Supplier of Goods or Services that were not included in the initial Procurement, if a change of Supplier for such additional Goods or Services:
  - cannot be made for economic or technical reasons such as requirements of interchangeability or interoperability with existing Equipment, software, Services, or installations procured under the initial Procurement  
AND
  - would cause significant inconvenience or substantial duplication of costs for TOH.
- if strictly necessary, and for reasons of urgency brought about by events unforeseeable by TOH, the Goods or Services could not be obtained in time using open tendering;
- for Goods purchased on a commodity market;
- for a prototype or a first good or Service that is developed in the course of, and for, a particular Contract for research, experiment, study, or original development.
- for purchases made under exceptionally advantageous conditions that only arise in the very short term in the case of unusual disposals such as those arising from liquidation, receivership, or bankruptcy, but not for routine purchases from regular Supplier
- if a Contract is awarded to a winner of a design contest provided that:
  - the contest has been organized in a manner that is consistent with the principles of the CFTA, in particular relating to the publication of a tender notice; and
  - the participants are judged by an independent jury with a view to a design Contract being awarded to a winner;
- if Goods or consulting Services regarding matters of a confidential or privileged nature are to be purchased and the disclosure of those matters through an open tendering process could reasonably be expected to compromise government confidentiality, result in the waiver of privilege, cause economic disruption, or otherwise be contrary to the public interest.

### Non-Application

**Trade Agreement Government Procurement rules do not apply in the following circumstances:**

- public employment Contracts;

- non-legally binding agreements;
- any form of assistance, such as grants, loans, equity infusions, guarantees, and fiscal incentives;
- a Contract awarded under a cooperation agreement between a Party and an international cooperation organization if the Procurement is financed, in whole or in part, by the organization, only to the extent that the agreement includes rules for awarding Contracts that differ from the obligations of this Chapter;
- acquisition or rental of land, existing buildings, or other immovable property, or the rights thereon;
- measures necessary to protect intellectual property, provided that the measures are not applied in a manner that would constitute a means of arbitrary or unjustifiable discrimination between Parties where the same conditions prevail or are a disguised restriction on trade;

Procurement or Acquisition of:

- fiscal agency or depository Services;
- liquidation and management Services for regulated financial institutions; or
- Services related to the sale, redemption, and distribution of public debt, including loans and government bonds, notes, and other securities;
- financial Services respecting the management of government financial assets and liabilities (i.e. treasury operations), including ancillary advisory and information Services, whether or not delivered by a financial institution;
- health Services or social Services;
- Services that may, under applicable law, only be provided by licensed lawyers or notaries;
- Services of expert witnesses or factual witnesses used in court or legal proceedings;

Procurement of Goods and Services:

- financed primarily from donations that require the Procurement to be conducted in a manner inconsistent with the CFTA;
- on behalf of an entity not covered by the CFTA;
- between enterprises that are controlled by or affiliated with the same enterprise, or between one government body or enterprise and another government body or enterprise;
- Procurement by non-governmental bodies that exercise governmental authority delegated to them;
- Procurement from philanthropic institutions, non-profit organizations, prison labour, or natural persons with disabilities;
- under a commercial agreement between a procuring entity which operates sporting or convention facilities and an entity not covered by the CFTA that contains provisions inconsistent with the CFTA;
- conducted for the specific purpose of providing international assistance, including development aid, provided that the procuring entity does not discriminate on the basis of origin or location within Canada of Goods, Services, or Suppliers;
- under the particular procedure or condition of an international agreement relating to the stationing of troops or relating to the joint implementation by the signatory countries of a project;
- under the particular procedure or condition of an international organization, or funded by international grants, loans, or other assistance, if the procedure or condition would be inconsistent with the CFTA.
- Procurement by a small business set-aside program provided that the program is fair, open, transparent, and does not discriminate on the basis of origin or location within Canada of Goods, Services, or Suppliers.

**References:**

- *Chapter 5, Canadian Free Trade Agreement (CFTA)*
- *Chapter 19, Comprehensive Economic and Trade Agreement (CETA)*

NOTE: There are some variations in the Trade Agreements, where CFTA is specified, the same rules may not apply under CETA, therefore the CETA thresholds will apply. For example, Procurement of Goods or Services from non-profit organizations does apply under CETA and if the value exceeds \$340,600, must be procured through an open, competitive process.