

POLICY TITLE: Procurement Policy

POLICY STATEMENT: All purchasing shall be authorized in accordance with this policy prior to the commencement of the engagement.

PURPOSE / OBJECTIVE:

- To provide for the procurement of goods, services, construction and facilities in a fair, open, consistent, and transparent manner resulting in best value;
- To encourage competition, innovative ideas and solutions, while respecting all Legislative and Trade Agreement obligations;
- To promote sustainable procurement in procurement decisions, including identifying and exploring opportunities to work with and support social enterprises and businesses that are owned by and who employ under-represented populations;
- To ensure that qualified suppliers have equal opportunity to bid on NSBI's procurement activity; and
- To be accountable for procurement decisions.

DEFINITIONS:

Approval Authority – means a position within NSBI duly recorded as having authority to approve an expense for a specific Business Unit or cost centre and having knowledge of the appropriate funding allocation affected by the expenditure.

Atlantic Standard Terms and Conditions – means the standard instructions that support public tenders issued by the four Atlantic Provinces for goods and services. Supplements may be added if and when required.

Best Value – means evaluating bids not only on purchase price and life cycle cost considerations, but also by taking into account items such as environmental and social considerations, delivery, servicing, and the capacity of the supplier to meet other criteria as stated in the tender documents.

Bid – means a supplier response to a public tender notice to provide goods, services, construction or facilities.

Budget Manager – means a function within NSBI responsible for managing the expenditures of an assigned cost centre. A Budget Manager may or may not be a Unit Head.

Construction – means the construction, reconstruction, demolition, repair, or renovation of a building, structure, road or other engineering or architectural work, excluding the professional consulting services related to the construction contract unless they are included in the procurement.

Construction Contract Guidelines – means the standard instructions developed in consultation with the Construction Association of Nova Scotia that support construction tenders.

Employee – means a permanent, casual, or term employee, a co-op student, a student placement or intern, or a person under a professional services contract or temporary work assignment with NSBI.

Executive Team – means the President & CEO (CEO), the Chief Operating Officer (COO), and the Vice Presidents (VPs) of NSBI.

External Supplier – means a supplier that does not already have an active Standing Offer with NSBI.

Facilities (also referred to as Building Leases) – means all building lease requirements covering the conveyance of the right to use tangible building property for a specified period of time in return for rent.

Goods – means materials, furniture, merchandise, equipment, stationery, and other supplies required by NSBI for the transaction of its business and affairs, and include the services that are incidental to the provision of such supplies.

High Value Procurement – means a procurement value which the public tender process is a mandatory requirement.

Low Value Procurement – means a procurement value amount up to the threshold value that requires a mandatory public tendering process.

Procurement Activity – means the acquisition of all goods, services, construction, or facilities procured by purchase, contract, lease, or long-term rental.

Procurement Value – means the value of the total contract excluding taxes but including all options whether exercised or not.

For Facilities this value is determined by the monthly lease/rent times the term of the contract.

Procurement Web Portal – means the public website maintained by the Province where all public tender notices are posted.

Public Advertisement – means advertising a public tender notice on the procurement web portal.

Public Procurement Act (PPA) – means an Act outlining the rules related to the procurement activity of all public sector entities in the Province of Nova Scotia.

Public Tender – means procurement for goods, services, construction, or facilities obtained through public advertisement. (See appendix 2 for an outline of the various tools that can be used for public tender.)

Public Tender Notice – means notice of intended procurement for goods, services, construction, or facilities obtained through public advertisement.

Services – means services required by NSBI for the transaction of its business and affairs, excluding services provided by an employee through a personal services contract.

Services Proposal – means a response for services required to a statement of work where the price alone may not be the deciding factor.

Standing Offer – means a contractual arrangement with a supplier to provide certain goods or services on an 'as required' basis, during a particular period of time, at a predetermined price or discount, generally within a predefined dollar limit.

Sustainable Procurement – means taking a holistic approach to obtain best value. This will be done by integrating environmental, economic, and social considerations in the procurement process.

Unit Head – means a management position within NSBI responsible for the operations of his/her respective business unit. A Unit Head may or may not be a Budget Manager.

APPLICATION:

The NSBI Procurement Policy (this Policy) applies to all employees and to all procurement activities of NSBI.

Failure by an employee to adhere to this Policy may result in a temporary or permanent loss of procurement privileges and the employee may also be subject to disciplinary action up to and including termination.

POLICY DIRECTIVES:

1. Approval to Procure

- 1.1. Prior to moving forward with a procurement, employees are to first obtain written approval from the appropriate Approval Authority for the potential expenditure.

2. Procurement Thresholds (excluding taxes)

2.1. Goods:

- a) Under \$1,000: Supplier of choice.
- b) \$1,000 to less than \$10,000: Supplier of choice from NSBI standing offers list. If no supplier on standing offer list, request a quote from three suitable External Suppliers.
- c) \$10,000 to less than \$50,000: Choose from quotes from 3 suppliers in the specific category on standing offers list. If there are less than 3 suppliers in the specific category, you may request quote from the actual number of suppliers. If there are more than 3 suppliers in the specific category, you may request a quote from more than 3 if desirable to provide a greater selection for that particular purchase. If no supplier on the standing offers list, request a quote from three suitable External Suppliers.
- d) \$50,000 or Greater: Public tender process.

2.2. Services:

- a) Under \$1,000: Supplier of choice.
- b) \$1,000 to less than \$10,000: Supplier of choice from NSBI standing offers list. If no supplier on standing offer list, request a services proposal to a statement of work from three suitable External Suppliers.
- c) \$10,000 to less than \$50,000: Request a services proposal to a statement of work from 3 suppliers in the specific category on the NSBI standing offers list. If there are less than 3 suppliers in the specific category, you may request a services proposal from the actual number of suppliers. If more than 3 suppliers in the specific category, you may request a services proposal from more than 3 if desirable to provide a greater selection for that particular statement of work. If no suppliers on the standing offers list, go to public tender.
- d) \$50,000 or Greater: Public tender process.

2.3. Facilities

- a) Under \$1,000: Supplier of choice.

- b) 1,000 to less than \$10,000: Supplier of choice from NSBI standing offers list. If no supplier on standing offer list, request a quote from three suitable External Suppliers.
- c) \$10,000 to less than \$50,000: Request a quote to a statement of work from 3 suppliers in the specific category on the NSBI standing offers list. If there are less than 3 suppliers in the specific category, you may request a quote to a statement of work from the actual number of suppliers. If there are more than 3 suppliers in the specific category, you may request a quote to a statement of work from more than 3 if desirable to provide a greater selection for that particular statement of work. If no suppliers on the standing offers list, go to public tender.
- d) \$50,000 or Greater: Public tender process.

2.4. Construction:

- a) Under \$1,000: Supplier of choice.
- b) 1,000 to less than \$10,000: Supplier of choice from NSBI standing offers list. If no supplier on standing offer list, request a quote from three suitable External Suppliers.
- c) \$10,000 to less than \$100,000: Request a quote to a statement of work from 3 suppliers in the specific category on the NSBI standing offers list. If there are less than 3 suppliers in the specific category, you may request a quote to a statement of work from the actual number of suppliers. If there are more than 3 suppliers in the specific category, you may request a quote to a statement of work from more than 3 if desirable to provide a greater selection for that particular statement of work. If no suppliers on the standing offers list, go to public tender.
- d) \$100,000 or Greater: Public tender process.

2.5. For further clarity of 2.1 to 2.4, when procuring employees must use the NSBI Standing Offers list to obtain a supplier, thereafter they can proceed with an External Supplier. However, if employees need to obtain the services of an External Supplier, NSBI employees must demonstrate in writing at the time they are seeking approval to undertake a procurement that there is no suitable supplier on the NSBI Standing Offers list. It is noted that in the absence of a supplier on the NSBI Standing Offers list, and when there is a suitable supplier on the Province's or another provincial entity's standing offers list, employees can use that supplier instead of an External Supplier provided that the terms of that supplier's standing offer with the Province of Nova Scotia (or the provincial entity, as the case may be) includes extension to other provincial entities.

2.6. For further clarity of 2.1 to 2.4, the thresholds that require mandatory Public Tender process are the trade agreement thresholds as set out in the Atlantic Procurement Agreement (APA). As such, they are fixed thresholds. The only

exception is when NSBI employees are using Alternative Procurement Practices as outlined in Section 10 of this Policy.

2.7 When selecting the list of suppliers to be provided the opportunity to quote, NSBI employees will make every effort to ensure a fair and open process is followed. While NSBI employees are expected to invite only qualified suppliers, they are not to consistently invite bids or quotes from only one or a select group of suppliers. Invitations and bidding opportunities are to be equitably distributed among all potential suppliers, and all interested and qualified suppliers are to be evaluated on a consistent and equitable basis. Where increased competition is appropriate, NSBI employees may choose, at any threshold, to publicly tender for goods, services, construction or facilities. See Appendix 2 of this Policy for an outline of some of the various tools that can be used for public tender.

3. Standard Terms and Conditions

Every public tender notice must include or have attached the terms and conditions that govern the purchase of goods, services, construction, or facilities. The terms and conditions of every public tender notice must be consistent with the Atlantic Standard Terms and Conditions for the procurement of goods, services, or facilities and the Construction Contract Guidelines developed in collaboration with the Construction Association of Nova Scotia for the procurement of construction.

4. Posting Tender Notices

All procurement subject to a public tender must be advertised on the Province of Nova Scotia Procurement Web Portal. A link to this web portal is to be available on the NSBI website. Tenders must be posted for a minimum number of business days deemed reasonable to permit sufficient assessment and response by potential bidders. NSBI employees may, where appropriate, also advertise in local, provincial, or national media; however, there is no obligation to do so. In addition, a notice of tender opportunity may be sent to selected suppliers where required to ensure an adequate degree of competition.

5. Bid Opening

Bids are accepted in accordance with the closing time, date, and place stipulated in the bid request documents. Members of the public may receive the list of bidders electronically, upon request, after bid opening.

6. Bid Evaluation

All bids are subject to evaluation after opening and before award of contract. The bid request documents must clearly identify the requirements of the procurement, the evaluation method, evaluation criteria based on the purpose and objectives of this policy, and the weights assigned to each criterion.

7. Bid Award

The winning bidder and contract award amount for all public tender activity must be posted on the Province of Nova Scotia's Procurement Web Portal. Routine access to information upon request shall be provided in the following areas:

- Bidders list
- Name of winning bidder

- Award price excluding taxes of the winning bidder, or other such appropriate comment as permitted by the PPA

Access to tender documents or other proprietary information is subject to the provisions of the *Freedom of Information and Protection of Privacy Act*.

8. Supplier Debriefing

At the request of a supplier who submitted a bid, NSBI employees will conduct a supplier debriefing session to provide feedback on the evaluation of the public tender. Suppliers can find out how their proposal scored against published criteria, obtain comments on their bid, and gather information on how future bids may be improved. Supplier's bids are not compared to other bids, nor will information on other bids be provided.

9. Supplier Complaint Process (SCP)

When a supplier is not satisfied with the information provided in a supplier debriefing, the supplier may file a complaint in accordance with the Supplier Complaint Process as defined in the *Public Procurement Act*. The SCP is not a dispute resolution process, but rather is intended to handle supplier complaints and to improve faulty or misleading procurement processes. The SCP is an integral part of a fair and open procurement policy.

10. Alternative Procurement Practices

In order to balance the need for open, competitive process with the demands of urgent or specialized circumstances, NSBI utilizes the Alternative Procurement Circumstances as developed by the Province of Nova Scotia. These circumstances must be used only for the purposes intended and not to avoid competition or used to discriminate against specific suppliers. To ensure appropriate use, each circumstance must be documented by NSBI employees stating the rationale for the Alternative Procurement Circumstances, and approved by the President & CEO. All documents must be filed and maintained for audit purposes. See Appendix 1 for a list of the Alternative Procurement Circumstances.

11. Unsolicited Proposals

NSBI is open to receipt of unsolicited proposals. NSBI uses the Province's document *Procurement Process: Submission & Evaluation of Unsolicited Proposals* as its governing Policy Directive for unsolicited proposals. Reference to "the Province" is interpreted to mean "NSBI", and references to approval by "the Deputy Head" and "Chief Procurement Officer" are interpreted to mean "the President & CEO of NSBI, or his/her designate".

12. Fair Treatment for Nova Scotia Suppliers

Based on the principle of best value for NSBI, employees may apply a preference for goods valued up to and including \$10,000 that are manufactured or produced in Nova Scotia. The final decision to apply a preference to a Nova Scotia supplier shall be approved by the President & CEO.

Employees may also choose to apply a Nova Scotia preference or restrict the receipt of quotations at or below the low value procurement thresholds to Nova

Scotia suppliers. Any decision made by NSBI employees should be based on budget considerations, and shall be approved by the President & CEO.

13. Cooperative Procurement

Employees are encouraged to look for opportunities to collaborate with government agencies when the arrangement may result in overall cost savings or other substantial advantages.

14. Obligations under the *Public Procurement Act*

In addition to the areas already covered by this Policy, the following are additional obligations of the *Public Procurement Act* that NSBI employees are required to adhere to with their procurement activity.

Code of Ethics: NSBI employees must ensure their conduct in relation to procurement activity is consistent with the “Duties of public sector entity employees” in the *Public Procurement Act*. This includes a request for removal from a procurement activity when a personal conflict of interest is perceived.

Policy Posting: This policy must be posted on the NSBI website.

Supplier Development Activities: NSBI employees will make every attempt where appropriate to participate in supplier outreach activities as requested by the Procurement Governance Secretariat.

Regulations: NSBI employees will make sure that procurement practices remain consistent with any regulations that are adopted under the *Public Procurement Act*.

15. Other

This Policy can be supplemented by the *Public Procurement Act* for matters not specifically addressed by this Policy.

ACCOUNTABILITIES:

President & CEO – is the authority for approval of this Policy, including its amendment or rescindment and for any exceptions to this Policy.

Executive Team – is responsible for:

- promoting this Policy.

Unit Heads – are responsible for:

- implementing this Policy; and
- ensuring employees in their business unit are aware of this Policy.

Budget Managers – are responsible for:

- managing expenses within their funding allocation and ensuring expenditures are approved in accordance with this Policy.

Director, Corporate Services & Compliance – is responsible for:

- acting as a resource for anyone requiring guidance on this Policy.

Employees – are responsible for:

- adhering to this Policy

EXCEPTIONS:

Exceptions to this Policy may be approved by the President & CEO and are to be appropriately recorded in accordance with NSBI policy management requirements.

MONITORING:

Periodically, compliance with this Policy will be reviewed and the results reported to the Executive Team and the Audit Committee of the Board of Directors of NSBI.

All activities are subject to audit by the Auditor General or his/her designate.

The Director, Corporate Services & Compliance is responsible for monitoring implementation of this Policy and for its scheduled review.

This Policy shall be reviewed three years from its effective date.

REFERENCES:

- *Public Procurement Act*
- Government of Nova Scotia Sustainable Procurement Policy
- Government of Nova Scotia guide: “Procurement Process: Submission & Evaluation of Unsolicited Proposals”
- The Atlantic Procurement Agreement

APPENDICES:

Appendix 1: Alternative Procurement Circumstances
Appendix 2: Public Tender Options

ENQUIRIES:

For more information about this Policy, employees may contact their supervisor or the Director, Corporate Services & Compliance.

For more information about this Policy, the public may contact:

Director, Corporate Services & Compliance
Nova Scotia Business Inc.
PO Box 2374
Halifax, NS B3J 3E4
Tel: (902) 424-6650
Toll free in Nova Scotia: 1-877-297-2124
Toll free in North America: 1-800-260-NOVA (6682)
E-mail: info@nsbi.ca and identify "For the attention of the
Director, Corporate Services & Compliance"

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| APPROVED BY: | President & CEO |
| APPROVAL DATE: | June 1, 2016 |
| EFFECTIVE DATE: | June 1, 2016 |
| REPLACES: | FA 3.0 Procurement Policy, August 1, 2009 |
| NEXT REVIEW DATE: | June 1, 2019 |

Approved:

Laurel Broten, President & CEO

Appendix 1:

Alternative Procurement Circumstances

NSBI employees may use Alternative Procurement Practices for the procurement of goods, services, construction or facilities under the following circumstances and subject to approval from the President & CEO:

1. Where an unforeseeable situation of urgency exists and the goods, services, or construction cannot be obtained in time by means of open procurement procedures. Employees must ensure inadequate planning does not lead to inappropriate use of this exemption.
2. Where 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, cause economic disruption, or otherwise be contrary to the public interest.
3. Where compliance with the open tendering provisions set out in this Policy would interfere with the ability to maintain security or order, or to protect human, animal, or plant life or health.
4. In the absence of tenders in response to an open or selective tender, or when the tenders submitted have been collusive, or not in conformity with the essential requirements in the tender.
5. 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.
6. Where there is an absence of competition for technical reasons and the goods or services can be supplied only by a particular supplier and no alternative or substitute exists.
7. For the procurement of goods or services the supply of which is controlled by a supplier that is a statutory monopoly.
8. For the purchase of goods on a commodity market.
9. For work to be performed on or about a leased building or portions thereof that may be performed only by the lessor.
10. 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.

11. 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.
12. For the purchase of goods under exceptionally advantageous circumstances such as bankruptcy or receivership, but not for routine purchases.
13. For the procurement of original works of art.
14. For the procurement of subscriptions to newspapers, magazines, or other periodicals.
15. For the procurement of real property.
16. For the procurement of goods intended for resale to the public.
17. For the procurement from philanthropic institutions, prison labour, persons with disabilities, sheltered workshop programs, or through employment equity programs.
18. For the procurement from a public body or a non-profit organization.
19. For the procurement of services of expert witnesses, specifically in anticipation of litigation or for the purpose of conducting litigation.

Appendix 2: Public Tender Options

Below is an outline of some of the various tools available for use when issuing a public tender:

Request for Proposal (RFP)

Used when a supplier is invited to propose a solution to a problem, requirement, or objective. Suppliers are requested to submit detailed proposals (bids) in accordance with predefined evaluation criteria. The selection of the successful proposal is based on the effectiveness, value, and price of the proposed solution. Negotiations with suppliers may be required to finalize any aspect of the requirement.

Request for Construction (RFC)

Used to publicly tender for a construction, reconstruction, demolition, remediation, repair, or renovation of a building, structure, road, bridge, or other engineering or architectural work. When a supplier is invited to bid on a construction project the tender documents usually contain a set of terms and conditions and separate bid form that apply to that specific project. Suppliers are requested to submit a response (bid) in accordance with predefined criteria. The selection of the successful proposal is based on a number of factors as described in the tender documents. A request for construction usually does not include professional consulting services related to the construction contract, unless they are included in the specifications.

Request for Quotation (RFQ)

Used for a request for quotation on goods or products with a minimum specification. Award is usually made based on the lowest price meeting the specification. An RFQ can also be used for obtaining quotes for services and would be issued in conjunction with a Statement of Work (SOW). An RFQ does not normally but may sometimes include evaluation criteria. The criteria would need to be detailed in the SOW. It should be noted that an RFQ under the public tender process is not the same as requesting a quote from standing offers under low value procurement activity.

Request for Standing Offer (RSO)

A public tender to provide commonly used goods or services. The term of the standing offer can vary in duration but will be clearly defined in the tender documents. RSO's may include evaluation criteria depending on the requirement.

Request for Expression of Interest (REI)

The Request for the Expression of Interest is similar to the Request for Proposal and is sometimes referred to as a Pre-Qualification, where suppliers are invited to propose a solution to a problem. The REI, however, is only the first stage in the procurement process. Bidders responding to the REI will be short listed according to their scoring in the evaluation process. The short listed firms will then be invited to respond to a subsequent Request for Proposal. A REI does not normally include pricing as price is a key evaluation criteria used in the second stage RFP process.