**1** **POLICY**

1.01 The following policy, practices and procedures have been established by Community Living Chatham-Kent to govern the provision of its services in accordance with the Broader Public Sector Procurement Directive (BPS) issued by the Management Board of Cabinet effective April 1, 2011 and the governing bylaws of Community Living Chatham-Kent.

1.02 To ensure that publicly funded goods and services, including construction, consulting services, purchasing and information technology are acquired by Community Living Chatham-Kent through a process that is open, fair, and transparent.

1. **PURPOSE**
   1. To outline responsibilities throughout each stage of the procurement process to conform to the Broader Public Sector Procurement Directive.
   2. To ensure that procurement processes are managed consistently and are standardized.
   3. To maximize the value received from the use of public funds.
   4. To outline accountability for the result of the procurement decisions and the appropriateness of the processes.

**3 SCOPE**

3.01 This policy applies to the acquisition of products and services, whether by purchase, rental or lease, regardless of the ultimate source of funding, unless specifically indicated otherwise by the funding source. Where funding regulations are more restrictive than the Organization’s regulations, the funding regulations shall take precedence. For current exemptions, refer to the Broader Public Sector Procurement (BPS) Directive.

This Statement of Policy and Procedure applies to the Board of Directors, Executive Director, Directors and Managers or designates relating to Ministry funds only.

**4 RESPONSIBLITY**

4.01 It is the responsibility of the Board of Directors, Executive Director, Directors and Managers or designates to understand and comply with the policy.

4.02 **VENDOR OF RECORD**

The term VOR describes a vendor(s) with whom the Organization has established a contract(s) following a rigorous tendering process (directly/indirectly), which is compliant with the BPS Procurement Directive. Proposals representing the best quality, range of products, level of customer service, delivery and potential cost savings must be selected to become the Organization’s preferred vendor(s).

The preferred vendor(s) must be selected from a BPS compliant buying consortium. The following is a partial listing:

Ministry of Government Services

Group Purchasing Organizations (i.e. HealthPRO, Medbuy, etc.)

Shared Services Organizations (i.e. Ontario Education Collaborative Marketplace – OECM)

If the preferred vendor cannot be established from an existing BPS compliant buying consortium, an independent BPS compliant RFP must be initiated by the Organization.

Preferred vendors must be used whenever possible for the procurement of goods and/or services. It is recognized that the preferred vendors may not always fully meet the needs of the Organization and alternative vendors may be used. The use of non preferred vendors must be validated using a Single/Sole Source Approval Form.

**5 DEFINITIONS**

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

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

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

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

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

“Competitive Procurement Procedure” (CPP) means the procedure that is followed based on the BPS Procurement Directive Decision Tree.

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

“Consultant” means a person or entity that under an agreement, other than an employment agreement, provides expert or strategic advice and related services for consideration and decision-making that does not culminate in the consultant executing on his or her rendered advice.

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

“Contractor/Professional Service” is a person or entity retained under a fee-for-service arrangement, which is not an employment agreement, to perform specific tasks under the organization’s direction for a limited period of time.

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

“Direct tendering process” is when the Organization itself establishes a Vendor of Preference (VOP) via a tendering process compliant to the BPS Procurement Directive.

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

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

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

“Indirect tendering process” is when the Organization commits to a contract that has been established by a third party who has tendered using BPS compliant tendering processes.

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

“Operating lease” is a lease whose term is short compared to the useful life of the asset or piece of equipment (an airliner, a ship, etc.) being leased. An operating lease is commonly used to acquire equipment on a relatively short-term basis. Thus, for example, an aircraft which has an economic life of 25 years may be leased to an airline for 5 years on an operating lease.

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

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

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

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

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

“Single/Sole Source Approval Form” is used to document procurement exceptions from the BPS Procurement Directive.

“Single Source” is when the organization due to time restraints or other special circumstances must use specific suppliers to complete the procurement.

“Sole Source” is when there is only one supplier able to meet the requirements of the procurement.

"Supplier Debriefing" means a practice of informing a supplier why their bid was not selected upon completion of the contract award process.

"Trade Agreements" means any applicable trade agreement to which Ontario is a signatory.

“VOP” refers to vendor of preference which is a vendor selected by the organization through a tendering process compliant with the BPS Procurement Directive.

“VOR” refers to Vendor of Record which is a list of prequalified vendor(s) resulting from a competitive procurement process.

**6 REFERENCES AND RELATED STATEMENTS OF POLICY AND PROCEDURE**

Agency Credit Cards

Expense Advances and Allowances

Expense Authorization

Payment for Purchased Goods

Petty Cash

Purchase Requisitions/Orders

BPS Procurement Directive

http://www.doingbusiness.mgs.gov.on.ca/mbs/psb/psb.nsf/EN/bps-procurementdirective

BPS Procurement Directive Decision Tree

**7 PROCEDURES (Mandatory Requirements)**

7.01 All employees are to comply with the existing financial policies and procedures of Community Living Chatham-Kent.

7.02 Consulting Services

As per BPS Procurement Directive, a purchase order must be issued for consulting services regardless of value.

|  |  |  |
| --- | --- | --- |
| **PROCUREMENT APPROVAL AUTHORITY SCHEDULE FOR CONSULTING SERVICES** | | |
| **Procurement Method** | **Procurement Value** | **Approval Authority** |
| Invitational Competitive | $0 up to $2,499  $0 up to $9,999  $2,500 to $29,999  $30,000 to $99,999  $100,000 and above | Facilities Manager  Directors  Director of Corporate Services  Executive Director  Board of Directors |
| Open Competitive | $0 up to $2,499  $0 up to $9,999  $2,500 to $29,999  $30,000 to $99,999  $100,000 and above | Facilities Manager  Directors  Director of Corporate Services  Executive Director  Board of Directors |
| Non-Competitive | $0 up to $2,499  $0 up to $9,999  $2,500 to $29,999  $30,000 to $99,999  $100,000 and above | Facilities Manager  Directors  Director of Corporate Services  Executive Director  Board of Directors |

|  |  |
| --- | --- |
| **Procurement Value per commitment** | **Procurement Requirements** |
| $0 - $99,999 | As per BPS Procurement Directive, three written quotes are required. While the Issuance of a Request for Proposal (RFP) is optional it is considered best practice. |
| $100,000 or more | As per BPS Procurement Directive a formal public process is required by issuance of a Request for Proposal (RFP) and posting it on a public tendering website. (MERX, etc.) |

Notes: Facilities Manager may authorize approvals provided they are included in the approved yearly budget, not withstanding 7.02 – 7.05.

Directors may authorize approvals provided they are included in the approved yearly budget, not withstanding 7.02 – 7.05.

The overall value of procurement must not be reduced (e.g., dividing a single procurement into multiple procurements) in order to circumvent the approval requirements of the Procurement Approval Authority Schedule for Consulting Services.

7.03 Procurement Thresholds and Requirements

Purchase Orders must be issued for goods, services, construction and non-consulting services exceeding $1,000 as per procurement value of commitments set out in the table below.

|  |  |  |
| --- | --- | --- |
| **GOODS, NON-CONSULTING SERVICES AND CONSTRUCTION** | | |
| **Procurement Value per commitment** | **Means of Procurement** | **Approval Authority** |
| $0 - $75 | Petty Cash, Credit Card | Managers |
| $0 - $2,500 | Purchase Requisition, Purchase Order, Credit Card | Designated Managers |
| $0 - $4,999 | Purchase Requisition,  Purchase Order, Credit Card | Facilities Manager |
| $0 - $9,999 | Purchase Requisition,  Purchase Order, Credit Card | Directors |
| $5,000 –$49,999 | Purchase Order, Credit Card, Invitational competitive | Director of Corporate Services, |
| $50,000 - $99,999 | Purchase Requisition, Purchase Order, Invitational Competitive or Open Competitive Process | Executive Director |
| $100,000 or more | Purchase Requisition, Purchase Order, or Open Competitive Process | Board of Directors |

Notes: Facilities Manager may authorize approvals provided they are included in the approved yearly budget, not withstanding 7.02 – 7.05.

Directors may authorize approvals provided they are included in the approved yearly budget, not withstanding 7.02 – 7.05.

|  |  |
| --- | --- |
| **Procurement Value per commitment** | **Procurement Requirements** |
| $1,000 - $4,999 | As best practice, it is recommended that three verbal quotes be obtained. |
| $5,000 – $9,999 | As best practice, it is recommended that three written quotes be obtained |
| $10,000 - $49,999 | As per BPS Procurement Directive, three written quotes are required. Issuance of a Request for Proposal (RFP) is optional and is considered best practice |
| $50,000 - $99,999 | As per BPS Procurement Directive, three written quotes are required. Issuance of a Request for Proposal (RFP) is optional and is considered best practice |
| $100,000 or more | As per BPS Procurement Directive a formal public process is required by issuance of a Request for Proposal (RFP) and posting it on a public tendering website. (Merx, etc.) |

The overall value of procurement must not be reduced (e.g., dividing a single procurement into multiple procurements) in order to circumvent the approval requirements of the Procurement Approval Authority Schedule for Goods, Non-Consulting Services and Construction.

7.04 Procurement of Operational Contracts

For competitive award of contracts / leases for operations such as insurance, benefit contracts, vehicles, photocopiers, computers, vehicles, fire safety inspections, heating and cooling, etc. Approval of the purchase order is required as outlined in the table below.

|  |  |  |
| --- | --- | --- |
| **COMPETITIVE OPERATIONAL CONTRACTS** | | |
| **Procurement Value per commitment (excl. HST)** | **Term of Contract** | **Approval Authority** |
| $0 – $2,499 | Less than and up to 1 year | Facilities Manager |
| $0 - $9,999 | 1 year to 5 years | Directors |
| $2,500 - $29,999 | 1 year to 5 years | Director of Corporate Services, |
| $30,000 - $99,999 | 1 year to 5 years | Executive Director |
| $100,000 or more | Greater than 5 years | Board of Directors |

7.05 Procurement of Operational Contracts

For non-competitive award of contracts / leases for operations such as insurance, benefit contracts, vehicles, photocopiers, computers, vehicles, fire safety inspections, heating and cooling, etc. Approval of the purchase order is required as outlined in the table below.

|  |  |  |
| --- | --- | --- |
| **NON-COMPETITIVE OPERATIONAL CONTRACTS** | | |
| **Procurement Value per commitment (excl. HST)** | **Term of Contract** | **Approval Authority** |
| $0 – $2,499 | Less than and up to 1 year | Facilities Manager |
| $0 - $9,999 | 1 year to 5 years | Directors |
| $1,000 – $29,999 | 1 year to 5 years | Director of Corporate Services |
| $30,000 - $99,999 | 1 year to 5 years | Executive Director |
| $100,000 or more | Greater than 5 years | Board of Directors |

7.06 Where results of informal supplier or product research are insufficient, the Agency may use a Request for Information (RFI) or Request for Expression of Interest (RFEI) if warranted. Consideration must be given for the time and effort required to conduct them.

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

7.07 Supplier Pre-Qualification

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

7.08 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.

7.09 Timelines for Posting Competitive Procurements

Suppliers shall be provided a minimum response time of 15 calendar days for procurement of goods and services valued at $100,000 or more.

The Agency must consider providing suppliers a minimum response time of 30 calendar days for procurements of high complexity, risk, and/or dollar value.

7.10 Bid Receipt

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

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

7.11 Evaluation Criteria

Evaluation criteria shall be developed, reviewed and approved by the Executive Director, Facilities Manager, Consultant and others that maybe appointed from time to time prior to commencement of the competitive procurement process.

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

Mandatory criteria (e.g., technical standards) should not be over stated to ensure that no bid is unnecessarily disqualified.

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

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

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

7.12 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 a tie score.

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

7.13 Evaluation Team

Competitive procurement processes require the identification of an appropriate evaluation team responsible for reviewing and rating the compliant bids. See 7.11 for those that shall comprise this team.

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

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

7.14 Evaluation Matrix

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

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

7.15 Winning Bid

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

7.16 Non-Discrimination

Discrimination or exercising preferential treatment in awarding a contract to a supplier as a result of a competitive procurement process is prohibited.

7.17 Executing the Contract

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

Where an immediate need exists for goods or services, and the Agency 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 Executive Director.

7.18 Establishing the Contract

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

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

7.19 Termination Clauses

All contracts must include appropriate cancellation or termination clauses. Legal advice is to be sought on the development of such clauses.

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

7.20 Term of Agreement Modifications

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

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

7.21 Contract Award Notification

For procurements valued at $100,000 or more, the Agency must post, in the same manner as the procurement documents were posted, contract award notification. The notification must be posted after the agreement between the successful supplier and the Agency was executed. Contract award notification must list the name of the successful supplier, agreement start and end dates, and any extension options.

7.22 Supplier Debriefing

For procurements valued at $50,000 or more, the Agency must inform all unsuccessful suppliers about their entitlement to a debriefing.

Unsuccessful suppliers shall be given 60 calendar days following the date of the contract award notification to request a debriefing.

7.23 Contract Management

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

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

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

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

For services, The Agency shall:

* 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.
* Ensure that expenses are claimed and reimbursed only where the contract explicitly provides for reimbursement of expenses.

7.24 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.

7.25 Conflict of Interest

The Agency must be aware of potential conflicts of interest that may arise. Employees involved with the tendering process must declare actual or potential conflicts of interest. Where a conflict arises it must be evaluated and appropriate mitigating action must be taken based on Community Living Chatham-Kent Policies.

7.26 Bid Dispute Resolution

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

7.27 Other Laws

Procurement activities shall be conducted according to the law in Ontario, including contract law, the law of competitive processes, privacy legislation, accessibility legislation and any other legislation as may be applicable.

The Agency may also be subject to various trade agreements, including but not limited to the Agreement on Internal Trade (AIT) and the Ontario-Quebec Trade and Cooperation Agreement (Ontario-Quebec Agreement).

7.28 This policy is to be reviewed every three years.

**8 SINGLE/SOLE SOURCING (NON-COMPETITIVE PROCUREMENT)**

The Organization shall employ a competitive process when required and whenever possible to increase the likelihood of obtaining the best possible procurement solution and maximizes value for money. However, in some specific situations as described below, competitive procurement processes may not be warranted.

8.01 Non-Competitive Goods, Construction and Non-Consulting

As per the BPS Procurement Directive, in the event that the Organization employs a non-competitive procurement process for goods, construction, or non-consulting services, formal documentation must be completed on a Single/Sole Source Approval Form (see Appendix B).

8.02 Prior to commencement of a non-competitive procurement over $100,000, supporting documentation must be completed and approved by the Executive Director and Board of Directors and a copy forwarded to the Ministry of Children, Community and Social Services.

**9 ATTACHMENTS**

Single/Sole Source Approval Forms – Appendix A

Ontario Broader Public Sector (BPS) Supply Chain Code of Ethics – Appendix B