

	Section: 15 Finance	Pages: 10	Policy Number: 15-7-2
	Subject: Procurement Procedure		

PURPOSE OF THE PROCEDURE

The purpose of this procedure is to assist in the interpretation and application of Banyan’s Procurement and Purchasing Policy, set out the processes for the purchase of Goods, Services, and Consulting Services by the Organization, and establish the requirements for purchasing approval thresholds. The procurement principles and processes in this procedure are consistent with the Broader Public Sector (BPS) Procurement Directive.

A. DEFINITIONS:

- **Binding:** contracts, agreements, or any other instruments or documents requiring the signature of the Corporation. Such contracts are denoted by stating, “I / We have authority to bind the corporation” at the signature block.
- **Broader Public Sector Accountability Act (BPSAA):** This Act establishes requirements in the area of procurement and is designed to improve accountability and transparency across the broader public sector (BPS). The BPS Procurement Directive applies to publicly funded organizations that received public funds of 10 million dollars or more in the previous fiscal year.
- **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.
- **Consultant:** BPS defines this as 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.
- **Informal Procuring:** Used in the procurement of goods or non-consulting services under the value of \$5,000. Executed through petty cash, corporate credit cards, cheque, EFT (Electronic Funds Transfer) and PAP (Pre- Authorized Payments).
- **Invitational Competitive Procurement:** is the contractual acquisition (purchase or lease) of any good or service, which enables some but not all suppliers to compete in a fair and open environment.
- **Open competitive procurement:** is the contractual acquisition (purchase or lease) by Banyan of any good or service, which enables all suppliers to compete in a fair and open environment.
- **Procurement Value:** means the total cost of the contract, from the date of first supply through to the expiry date of the contract, in Canadian dollars, excluding applicable taxes and including all applicable charges such as cost of freight and installation, extension options, warranties, maintenance, training, and currency exchange. The overall value of procurement must not be reduced by dividing it into multiple procurements in order to circumvent the approval requirements.
- **Request for Proposal (RFP):** means a document used to request suppliers to supply solutions for the delivery of complex products or services or to provide alternative options or solutions. It is a process that uses predefined evaluation criteria in which price is not the only factor.
- **Trade Agreements:** means any applicable trade agreement to which Ontario is a signatory.

B. PROCEDURES:

1. Segregation of Duties

1.1. To prevent any one person from controlling the entire procurement process. Banyan commits to segregating at least three of the five functional procurement roles: Budgeting, Commitment, Requisitioning, Receipt, and Payment (refer to Table 1)

Functional Role	Responsibility	Accountable Party
Request	Authorize the procurement department to place an order	Employee requesting the product or service
Budgeting	Authorize that funding is available to cover the cost of the order	Manager- Departmental budget holder
Commitment	Authorize release of the order to the supplier under agreed contract terms	Purchasing role in the Corporate department
Receipt	Authorize that the order was physically received, correct and complete	Individual receiving the goods
Payment	Authorize release of payment to the supplier	Accounts payable role within the Corporate department

Table 1: Segregation of Duties

2. Competitive Procurement Thresholds

2.1. Goods and Non-Consulting Services:

- Informal Procuring: Procurement of goods or non-consulting services under the value of \$5,000 can be executed through petty cash, corporate credit cards, cheque, EFT (Electronic Funds Transfer) and PAP (Pre- Authorized Payments).
- Invitational Competitive Procurement: A minimum of three bids is required for Goods and Non-Consulting Services, where the estimated procurement value of goods or services is between \$5,000 up to but not including \$100,000.
- Open competitive procurement process: Banyan must conduct an open competitive procurement process for Goods and Non-Consulting Services where the estimated procurement value of goods or services is \$100,000 or more¹.

2.2. Consulting: Banyan will conduct an open competitive procurement process for consulting services irrespective of value except in situations where individuals are providing consulting services that do not provide expert or strategic advice for consideration and decision-making, but rather deliver a more tangible product/service. In these cases, Banyan must conduct the procurement activities consistent with their procurement requirements for goods and non-consulting services.

¹ Any exemptions will be in accordance with the applicable trade agreements.

3. Non-Competitive Procurement

- 3.1. Banyan should employ a competitive procurement process to achieve optimum value for money. It is recognized, however, that special circumstances may require Banyan to use non-competitive procurement.
- 3.2. Banyan may utilize non-competitive procurement only in certain situations outlined in Appendix 1, or because of non-application clauses of the Agreement on Internal Trade (AIT) or other trade agreements.
- 3.3. Prior to commencement of non-competitive procurement, supporting documentation must be completed and approved by an appropriate authority within the Organization.

4. Approval Authority Schedule (AAS)

4.1. Goods and non-consulting services:

- Banyan has established an approval authority schedule (AAS) for procurement of goods and non-consulting services (**see Table 2**), which identifies the authorities that are allowed to approve procurements for different dollar thresholds.
- Prior to commencement, any procurement of goods and non-consulting services must be approved by an appropriate authority in accordance with Banyan’s AAS.
- For deviations from the AAS procedures for procurement of goods and non-consulting services, supporting documentation must be completed and approved by the appropriate authority (one level higher than the level as stated for competitive procurement in the AAS).

4.2. Consulting services:

- Prior to commencement, any procurement of consulting services (Refer to Appendix 2- for definition of consulting services) must be approved in accordance with the Procurement Approval Authority Schedule for Consulting Services (**see Table 2**) below. Procurement approvals for consulting services cannot be delegated to a lower organizational level.
- Deviations from the AAS for procurement of consulting services must be approved as follows:
 - Non-competitive procurement of consulting services up to \$100,000 must be approved by the CEO
 - Non-competitive procurement of consulting services of \$100,000 or more requires Board of Director

Commitment Approval Authority Schedule for Goods and Non-Consulting Services				
Total Procurement Value	Means of Procurement			Delegated Approval Authority Level
	Informal Procurement²	Invitational Competitive	Open Competitive	
\$0 to \$499	✓			Admin or Program Staff and Supervisor
\$500 to \$999	✓			Associate/Supervisor and Manager

² Purchases that fall within the program or department budget. Methods include petty cash, corporate credit cards, employee expenses.

Commitment Approval Authority Schedule for Goods and Non-Consulting Services				
Total Procurement Value	Means of Procurement			Delegated Approval Authority Level
	Informal Procurement	Invitational Competitive	Open Competitive	
\$1,000 to \$4,999	✓			Manager and Director
\$5,000 to \$9,999		3 Quotes preferred		Manager and Director
\$10,000 to \$49,999		3 Quotes required		Directors and CEO or delegate
\$50,000 up to but not including \$100,000		3 Quotes required		Director and CEO or delegate
Over \$100,000			✓	Board motion for approval signed by two of Chair or Vice-Chair and CEO
Commitment Approval Authority Schedule for Consulting Services				
Total Procurement Value	Means of Procurement			Delegated Approval Authority Level
	Informal Procurement ³	Invitational Competitive	Open Competitive	
\$0 up to but not including \$100,000		✓		Director and CEO or delegate
\$100,000 or more			✓	Board of Directors

Table 2: Commitment Approval Authority Schedule

5. Determining Preliminary Information

To determine the correct procurement processes to use for the purchase of Goods, Services and/or Consulting on behalf of the Organization, the prospective Purchaser must first determine:

5.1. What is being purchased:

- Identify the category(ies) that the purchase falls under (Goods; Services or Consulting Services.
- Identify the requirements and specifications for the purchase.

5.2. The Procurement Value:

- Estimate the value of the Goods, Services and/or Consulting Services being purchased.
- Before making a purchase, the Purchaser must confirm there is sufficient budget available.

5.3. Existing contract or Vendor of Record:

- Before making a purchase, confirm whether there is a VOR arrangement in place for the particular Good, Service and/or Consulting Service being procured.
- All efforts are to be made to select a Preferred Vendor unless items or services are not available by a preferred vendor.

6. **Obtaining Competitive Bids**

6.1. **Invitational Competitive Procurement**

- Banyan will conduct invitational competitive procurement by inviting three or more qualified suppliers to submit written proposals to supply goods or services as specified by the Organization.
- Requests for Bids must require that each Bid include: price, description of Goods, Services and/or Professional Services (Consulting and Non-consulting) offered, and Payment Terms. Any other evaluation criteria, which is relevant to the Bid should be identified to the Supplier prior to requesting Bids.
- All Bids received must be attached to the Purchase Requisition.
- In the event the Purchaser is unsuccessful in obtaining Bids from at least three Suppliers, they may still proceed with a Purchase Requisition by furnishing documentation that demonstrates that at least three Suppliers were invited to Bid.
- The Supplier with the lowest priced Bid who meets all the evaluation criteria should be awarded the contract.
- A business rationale with the Purchase Requisition must be included when recommending an award to a higher cost Bid.
- Unsuccessful Suppliers must be advised that they were not selected for the contract award.
- Negotiate a contract for the purchase of the Goods, Services and/or Professional Services (Consulting and Non-consulting) with the successful Supplier.

6.2. **Open Competitive Procurement**

- Request for Proposal (RFPs) must be made available through an electronic tendering system that is readily accessible by all Canadian suppliers, such as MERX or Ontario Public Buyers Association.
- Response times for vendors to bid must be a minimum of 15 calendar days for procurements valued at \$100,000 or more. For procurements with a higher degree of complexity, risk or value, a minimum response time of 30 days is required.
- Evaluation criteria:
 - To ensure fairness within the competitive procurement process Banyan will develop, review and approve, at the Director level, the evaluation criteria, including the weighting, prior to commencement of the competitive procurement process
 - Criteria may not be structured to discriminate or provide preferential treatment to any supplier
 - Mandatory criteria must be kept to a minimum to ensure that no bid is unnecessarily disqualified
- Competitive procurement documents must:
 - Disclose evaluation criteria
 - Include mandatory, rated, and other criteria that will be used in evaluation of submissions, including the weight of each criterion Maximum justifiable weight must be allocated to the cost/price component of the evaluation
 - Clearly state that bids not meeting mandatory requirements will be disqualified
 - Disclose the methodology and process that will be used to evaluate bids, including the method of resolving a tie score
 - Clearly identify a bid submission date and time which falls on a regular working day (Monday to Friday, excluding holidays). Submissions received after the closing time must be returned unopened.

- Include bid dispute resolution procedures to ensure that any bid disputes are handled in a fair, ethical, reasonable, and timely fashion. Banyan must ensure that such resolution procedures comply with similar procedures set out in the Agreements on Internal Trade.
- Clearly state that alternative strategies or solutions will not be considered unless specifically requested in the procurement documents
- Include any options to extend the agreement

7. Evaluation Team

7.1. Banyan will create evaluation teams for the purpose of evaluating competitive bids. The evaluation team must:

- Refrain from engaging in activities that create or appear to create a conflict of interest.
- Individually sign a conflict of interest declaration and non-disclosure agreement.
- Individually and independently complete an evaluation matrix to rate each submission.
- Ensure that everything they say or write about submissions is fair, factual, and fully defensible.
- Not discriminate or exercise preferential treatment in awarding contracts as the result of the competitive procurement process.
- Declare the winning bid according to the supplier that receives the highest evaluation score and meets all the mandatory requirements set out in the procurement documents

7.2. Records of evaluation scores must be retained for audit purposes.

8. Establishing and Awarding Contracts

8.1. The agreement between Banyan and the successful supplier from the competitive procurement process must be formally defined in a signed written contract before the provision or supplying of goods or services commences.

8.2. Where an immediate need exists for goods or services, and Banyan 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 (see Approval Authority Schedule).

8.3. Where the competitive procurement documents included a form of agreement, that form is to be used to finalize the agreement.

8.4. Contracts must include:

- Appropriate cancellation or termination clauses
- Dispute resolution clauses as per procurement documentation
- For complex procurements, including provision of professional services, Banyan should consider inclusion of assessment, cancellation or termination clauses at specific life cycle stages of the procurement

8.5. Contracts for Services must include:

- Clear terms of reference including objectives, background, scope, constraints, staff responsibilities, tangible deliverables, timing, progress reporting, approval requirements and knowledge transfer requirements
- Rules for expense claim and reimbursement rules which are compliant with the Broader Public Sector Expense Directive

8.6. Contracts Term of Agreement Modifications

- Modifications may only be made when the terms of agreements and options to extend the agreement have been set out in the original procurement documents

- Should the contract require modification at a later date the CEO must approve the modification for contracts under \$100, 000
- Contracts over \$100,000 can only be modified by the Board of Directors
- Should the price/cost change then the evaluation team is required to review and ensure it does not warrant a new competitive process

8.7. Contract Signing

- All contracts (binding and non-binding) must be signed by the authority outlined in **15-2 Signing Authority**

8.8. Posting contracts: Contract awards must be publicly posted for procurements valued at \$100,000 or more. In the same manner as the procurement documents. This award notification will:

- Be posted after the agreement for delivery of goods/services has been finalized
- Include the name of the successful supplier
- Include the start and end dates of the agreement
- Include information on extension options

9. Contract Management

9.1. Banyan shall ensure that:

- All procurements and the resulting contracts are managed responsibly and effectively
- Payments are made in accordance with the terms of the contract; invoices must contain detailed information sufficient to warrant payment; and any overpayments are recovered in a timely manner
- Payment process will follow the specific Accounting Procedures found in Policy **15-1-2 Accounts Payable Procedures** and signed as per Policy **15-2 Signing Authority**
- Contracts for services include terms as outlined in this policy and that expense claims:
 - Are compliant with contract terms and with Broader Public Sector Expenses Directive
 - Are claimed only as explicitly permitted by the contract

10. Debrief

10.1. A debrief may be requested by any Supplier that submitted a Bid within 60 days of the procurement process at issue.

10.2. The purpose of a debrief is to give Banyan an opportunity to provide feedback to Suppliers on their Bid and its evaluation following the completion of a procurement process.

11. Bid Dispute Resolution Process

11.1. Where a Supplier wishes to dispute the award of a contract or its own evaluation under a procurement process, it must send a written letter outlining its complaint to corporateservices@banyancs.org with the following information:

- Subject of Email: "Bid Dispute", procurement number and title
- Name and address of the Supplier; and
- Detailed statement of the grounds of the dispute and any supporting documentation.

11.2. This email will be monitored by the Corporate Services Administrator.

11.3. The Director (Corporate Services) will provide a response to the Supplier within a reasonable timeframe.

11.4. If the competitive process was found to be unfair, Banyan may cancel the competition or compensate the proponent with the cost of preparing for the proposal.

12. Performance Management

12.1. All contracts, including external professional services, shall be reviewed by a Program Manager or Director at least once every three years. Any performance issues must be addressed

C. REFERENCE SOURCES:

- Broader Public Sector Accountability Act, 2010
- Broader Public Sector Procurement Directive Implementation Guidebook April 2011

D. CROSS REFERENCES:

- Bylaw 12.2 Execution of Documents, Board of Directors
- 01-31 Corporate Records Management
- 15-1 Accounting Practices
- 15-1-2 Accounts Payable Procedures
- 15-7-1 Preferred Vendors
- 15-2 Signing Authority
- 15-3 Cash Handling
- 15-4 Corporate Credit Cards
- 15-5 Employee Expense Statement
- 15-7 Procurement and Purchases

E. REVIEW CYCLE: This procedure is to be reviewed at the same time as 15-7 Procurement and Purchasing.

Approved By:	Senior Management Team
Effective Date:	March 2024
Revised Date:	
Reviewed Date:	

Appendix 1: Exceptions from Competitive Procurements

1. Single Sourcing

1.1. Organizations may conduct non-competitive procurement in the circumstances listed below (also known as single-source situations); provided that they do not do so for the purposes of avoiding competition between suppliers or to discriminate against suppliers:

- Where an unforeseeable situation of urgency exists and the goods or services cannot be obtained in time by means of open procurement procedures. Failure to plan and allow sufficient time for a competitive procurement process does not constitute an unforeseeable situation of urgency.
- Where goods or 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;
- Where construction materials are to be purchased and it can be demonstrated that transportation costs or technical considerations impose geographic limits on the available supply base, specifically in the case of sand, stone, gravel, asphalt, compound and pre-mixed concrete for use in the construction or repair of roads;
- Where compliance with the open tendering provisions set out in the Directive would interfere with the entities' ability to maintain security or order or to protect human, animal or plant life or health; and
- In the absence of a receipt of any bids in response to a call for proposals or tenders made in accordance with the Directive.

2. Sole Sourcing

2.2. Where only one supplier is able to meet the requirements of a procurement, Organizations may conduct non-competitive procurement in the circumstances listed below (also known as sole-source situations) provided that they do not do so for the purposes of avoiding competition between suppliers or to discriminate against suppliers:

- To ensure compatibility with existing products, to recognize exclusive rights, such as exclusive licences, copyright and patent rights, or to maintain specialized products that must be maintained by the manufacturer or its representative;
- Where there is an absence of competition for technical reasons and the goods or services can be supplied only by a particular supplier and no alternative or substitute exists;
- For the procurement of goods or services the supply of which is controlled by a supplier that is a statutory monopoly;
- For work to be performed on or about a leased building or portions thereof that may be performed only by the lessor;
- For work to be performed on property by a contractor according to provisions of a warranty or guarantee held in respect of the property or the original work;

- For a contract to be awarded to the winner of a design contest;
- For the procurement of a prototype of a first good or service to be developed in the course of and for a particular contract for research, experiment, study or original development, but not for any subsequent purchases;
- For the purchase of goods under exceptionally advantageous circumstances such as bankruptcy or receivership, but not for routine purchases;
- For the procurement of subscriptions to newspapers, magazines or other periodicals; and
- For the procurement of real property