



PROCUREMENT POLICY

Updated February 2023

1. PURPOSE

The purpose of this policy is to provide guidance and assistance regarding purchase of goods and services by and for the Motor Vehicle Dealers Compensation Fund (“MVDCF”), consistent with the spirit and intent of the current Ontario Public Service (OPS) Procurement Directive (the “Directive”).

The purposes of this policy are:

- To ensure that goods and services including construction, consulting services, and information technology are acquired through a process that is open, fair and transparent;
- To outline responsibilities throughout each stage of the procurement process and;
- To ensure consistency in the management of procurement related processes and decisions.

2. APPLICATION AND SCOPE

The policy applies to all employees of MVDCF and the procurement of all goods and services.

3. PRINCIPLES

MVDCF will follow the following key principles:

Transparency

MVDCF must be transparent to all stakeholders. Wherever possible, stakeholders must have equal access to information on procurement opportunities, processes and results.

Responsible Management

The Procurement of goods and services must be responsibly and effectively managed through appropriate organizational structures, systems, policies, processes, and procedures.

Value for Money

Goods and services must be procured only after consideration of MVDCF business requirements, alternatives, timing, supply strategy, and procurement method. A value for money approach aims to deliver goods and services at the optimum total lifecycle cost.

Vendor Access and Fairness

Access for qualified vendors to compete for MVDCF business must be open and the procurement process must be open, and the procurement process must be conducted in a fair manner, providing equal treatment to vendors.

Conflict of Interest



Conflicts of interest, both real and perceived, must be avoided during the procurement process and the ensuing Contract. Relationships that result in continuous reliance on a particular vendor for a particular kind of work must not be created.

MVDCF must monitor any conflict of interest that may arise as a result of the members' of MVDCF, advisors', external consultants', or suppliers' involvement with the procurement activities. Individuals involved with the procurement activities must declare real and perceived conflicts of interest. Where a conflict of interest arises, it must be evaluated and an appropriate mitigating action must be taken.

Conflict of Interest provisions will be included in procurement documents to vendors, which will outline the situations and circumstances that may give a vendor an unfair advantage during the procurement process and allow for MVDCF to terminate any agreements that do not disclose a conflict of interest.

4. DEFINITIONS

"Agreement" means the formal written document that will be entered into at the end of the procurement process.

"Contract" means the aggregate of (a) the Form of Agreement including any schedules; (b) the procurement document, including any addenda; (c) the Proposal; and (d) any amendments executed in accordance with the terms of the Agreement.

"Consulting Service" means the provision of expertise or strategic advice that is presented for consideration and decision-making (consulting services are further defined in the policy)

"Goods and services" means any goods, construction, and services, including but not limited to IT and consulting services

"Information Technology" means the equipment, software, services and processes used to create, store, process, communicate and manage information.

"Invitational tenders" means a method of inviting at least three (3) vendors to respond to a request for supply of goods or services based on stated delivery requirements, performance specifications, terms, and conditions.

"Procurement Value" means all costs and benefits associated with a contractual relationship with a Third Party.

"Request for Proposal (RFP)" means a procurement document that requests vendors 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.

5. POLICY - PROCUREMENT OF GOODS AND SERVICES

PROCUREMENT VALUE

MVDCF must determine Procurement Value in order to determine approval authority and procurement method. When determining the value of procurement for approval purposes as outlined in this policy, the procurement value does not include sales taxes.



Costs and benefits may include, but are not limited to:

- price/cost of the goods and/or services;
- one-time costs such as site preparation, delivery, installation and documentation;
- ongoing operating costs including training, accommodation, support and maintenance;
- sale taxes and applicable duties;
- disposition costs;
- premiums, fees, commissions, and interest;
- options to renew
- direct payments by MVDCF to the successful vendor(s);
- indirect payments by Third Parties to the successful vendor(s); and
- any conferred value by MVDCF to the successful vendor(s).

Where a project involves multiple related Procurements, the project's Procurement Value would be determined by the cumulative value of all related Procurements.

The MVDCF must not take any actions to reduce the Procurement Value to avoid any requirements of this policy. Such actions could include subdividing projects, Procurements, or Contracts and awarding multiple consecutive Contracts to the same vendor. The award of multiple consecutive Contracts to the same vendor may only be made where each assignment is unique or where prior approval of a follow-on agreement has been received.

PROCUREMENT VALUE INCREASES

When the Procurement Value increases, the MVDCF must ensure they have the appropriate procurement approval authority and have used the appropriate procurement method. This is especially important when the Procurement Value Increase causes the Procurement Value to exceed the approval threshold of the original approver. Approval for Procurement Value Increases must be sought prior to proceeding with or continuing the Procurement. Procurement Value Increases may be caused by, but not limited to, price increases, volume uptake, or other unforeseen circumstances.

It may be determined that certain commodities, such as fuel and food, require contractual provisions for price increases. In these instances, MVDCF should anticipate such increases and ensure that they seek approval from the appropriate procurement approval authority. MVDCF must also ensure that the procurement documents, including the Agreement, identify the framework under which price increases will be permitted, including, but not limited to:

- the frequency of price increases;
- the allowable amount of increase; and
- any benchmarks that will be used to confirm the price increase.

PROCUREMENT METHODS

Consulting Services Procurements

A competitive Procurement process must be used for all Consulting Services, irrespective of the value of the Procurement. MVDCF may use an invitational competitive procurement process for Consulting Services valued up to \$100,000. An invitational competitive Procurement is achieved by requesting a minimum of three (3) qualified vendors to submit a written proposal in response to the Procurement



requirements. MVDCF must use an open competitive procurement process for Consulting Services valued at \$100,000 or more.

Value	Process to be followed - consulting	Approval Authority
\$2,000 and under	Invitational competitive	Director, MVDCF
\$5,000 and under	Invitational competitive	CFO
\$5,001 to \$100,000	Invitational competitive	CEO or CAO & CFO
\$100,001 to \$200,000	Open competitive	Management Committee
Over \$200,000	Open competitive	Board of Trustees

MVDCF may utilize the allowable exceptions for non-competitive procurement processes (single source) for Consulting Services as defined in Allowable Exceptions, subject to Procurement Approvals for Consulting Services table below.

Where a non-competitive procurement process is required, MVDCF must seek prior approval from the appropriate approval authority as determined by this policy and subject to Procurement Approvals for Consulting Services table below.

Value	Process to be followed – under Allowable Exceptions procurement	Approval Authority
\$2,000 and under	Non-competitive (single source)	Director, MVDCF
\$5,000 and under	Non-competitive (single source)	CFO
\$5,001 to \$100,000	Non-competitive (single source)	CEO or CAO & CFO
\$100,001 to \$200,000	Non-competitive (single source)	Management Committee/Deputy Minister
\$200,001 to \$1M	Non-competitive (single source)	Board of Trustees/Deputy Ministry
Over \$1M	Non-competitive (single source)	Minister

Goods and Non-Consulting Services Procurements

MVDCF is encouraged to conduct an open competitive Procurement for all goods and non-consulting services but may conduct these Procurements using the following guidelines; along with the approval authority for Goods and Non-Consulting services as follows:



The procurement of all Goods and Non-Consulting services are to be carried out in accordance with the following chart of approval authority. This, coupled with MVDCF's requirement of 2 approvers for payments allows for segregation of duties.

Value	Process to be followed – goods and non-consulting services	Approval Authority
\$2,000 and under	No formal bidding necessary	Director, MVDCF
\$5,000 and under	No formal bidding necessary	CFO
\$5,001 to \$30,000	Invitational competitive or Single source procurement	CEO or CAO & CFO
\$30,001 to \$100,000	Invitational competitive	CEO or CAO & CFO
\$100,001 to \$200,000	Invitational competitive	Management Committee
Over \$200,000	Open competitive	Board of Trustees

ALLOWABLE EXCEPTIONS

Non-competitive Procurement of goods, consulting and non-consulting services are only allowed in the following circumstances, subject to appropriate procurement approvals:

- a) Where an unforeseen situation of urgency exists and the goods, consulting services, services or construction cannot be obtained by means of a competitive procurement process. An unforeseen situation of urgency does not occur where MVDCF has failed to allow sufficient time to conduct a competitive procurement process.
- b) Where goods, consulting or non-consulting services regarding matters of a confidential or privileged nature are to be purchased and the disclosure of those matters through a competitive procurement process could reasonably be expected to compromise confidentiality, cause economic disruption or otherwise be contrary to the public interest.
- c) Where a competitive process could interfere with MVDCF's ability to maintain security or order or to protect human life or health.
- d) Where there is an absence of any qualified bids in response to a competitive procurement process that has been conducted in compliance with this policy.
- e) Where the Procurement is with a public body.
- f) Where only one supplier is able to meet the requirements of a Procurement in the following circumstances:



- i. To ensure compatibility with existing products and services. Compatibility with existing products or services may not be allowable if the reason for compatibility is the result of one or more previous non-competitive Procurements.
- ii. 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 representatives.
- iii. For the Procurement of goods and services the supply of which is controlled by a supplier that has a statutory monopoly.

The following additional circumstances in which non-competitive Procurements are allowed only apply to goods and non-consulting services, subject to appropriate procurement approvals:

g) Where only one supplier is able to meet the requirements of a Procurement in the following circumstances:

- i. For work to be performed on or about a leased building or portions thereof that may be performed only by the lessor.
- ii. For work to be performed on property by a Contractor according to provisions of a warranty or guarantee held in respect to the property or original work.
- iii. For the Procurement of subscriptions to newspapers, magazines or other periodicals.
- iv. For the purchase of real property.

CONSULTANT EXPENSES

Providers of Consulting Services may be reimbursed for reasonable expenses, in accordance with the following chart:

Allowable Expenses	Disallowed Expenses
Travel by air, rail or car; hotel accommodations and meals	Hospitality, incidental or food expenses, including but not limited to: meals, snacks, beverages, gratuities, laundry, dry cleaning, valet services, dependent care or personal telephone calls

- All payments must be in accordance with the provisions of the Agreement;
- In addition, all payments for applicable expenses must be in accordance with the *Travel and Meal Expense Reimbursement Policy*.

CONSULTING SERVICES – DEFINED

Consulting Service refers to the provision of expertise or strategic advice that is presented for consideration and decision-making such as:



- Management consulting (i.e. helping MVDCF improve its performance, primarily through the analysis of existing problems and development of plans for improvement. This includes organizational change, management assistance and strategy development.);
- Information technology consulting (i.e. advisory services that help MVDCF assess different technology strategies, including aligning technology strategy with business or process strategy);
- Technical consulting (i.e. Activities related to actuarial science, appraisal, employment/placement, engineering, interior design, realty, social sciences);
- Research and development (i.e. Investigative study for the purpose of increasing the available store of knowledge and/or information on a particular subject);
- Policy consulting (i.e. advisory services to provide policy options, analysis and evaluation); and
- Communication consulting (i.e. the provision of strategy and advice in conveying information through various channels and media).

Consulting Services assignments must have a start and end date. Any change to a Consulting Services Agreement, including the end date of the Agreement, may affect the Procurement Value. MVDCF must ensure they have prior appropriate approval authority in this regard.

Consulting agreements must also have MVDCF's standard confidentiality clause.

Consulting Services do not include services in which the physical component of an activity would predominate for example, temporary help services; training/education instructors; employee placement; auditing services; and aerial photography.

Consulting Services do not include any licensed professional services provided by engineers, land surveyors, architects, accountants, lawyers and notaries in their regulated capacities.

COMPETITIVE PROCUREMENT

Timelines for Posting Competitive Procurements

MVDCF must provide suppliers a minimum response time of 15 calendar days for procurement of goods and services valued at \$100,000 or more. MVDCF must consider providing suppliers a minimum response time of 30 calendar days for procurements of high complexity, risk, and/or dollar value.

Bid Receipt

Bid submission date and closing time must be clearly stated in competitive procurement documents. MVDCF 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 are disqualified.

Evaluation Criteria

Evaluation criteria must be developed, reviewed and approved by an appropriate authority prior to commencement of the competitive procurement process. 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 (e.g., technical standards) 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. All criteria must comply with the Non-Discrimination section of this policy. The evaluation criteria are to be altered only by means of addendum to the competitive procurement documents. MVDCF may request suppliers to provide alternative strategies or solutions as a part of their submission. MVDCF 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.

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.

Evaluation Team

Competitive procurement processes require an evaluation team responsible for reviewing and rating the compliant bids. 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.

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.

Winning Bid

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

Non-Discrimination

MVDCF must not discriminate or exercise preferential treatment in awarding a contract to a supplier as a result of a competitive procurement process.

Executing the Contract

The agreement between MVDCF 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 MVDCF and the supplier are unable to finalize the contract as described above, an interim approval may be used (e.g. e-approval). The justification of such decision must be documented and approved by the appropriate authority.

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

Termination Clauses

All contracts must include appropriate cancellation or termination clauses. MVDCF should seek legal advice on the development of such clauses. When conducting complex procurements, MVDCF should consider, as appropriate, the use of contract clauses that permit cancellation or termination at critical project life-cycle stages.

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 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.

Contract Award Notification

For procurements valued at \$100,000 or more, MVDCF 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 MVDCF was executed. Contract award notification must list the name of the successful supplier, agreement start and end dates, and any extension options.

Supplier Debriefing

For procurements valued at \$100,000 or more, the MVDCF must inform all unsuccessful suppliers about their entitlement to a debriefing. MVDCF must allow unsuccessful suppliers 60 calendar days following the date of the contract award notification to request a debriefing.

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 MVDCF should include a dispute resolution process in their contracts. For services, the MVDCF 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 Travel and Meals Expense Reimbursement Policy 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.

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. MVDCF must have a written policy for handling, storing and maintaining the suppliers' confidential and commercially sensitive information.

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.

Electronic Tendering

MVDCF must use electronic tendering for open competitive Procurement with a Procurement Value at or above \$25,000 for goods and at or above \$100,000 for services.

MVDCF is encouraged to use Ontario's designated electronic system but may utilize other preferred systems such as Merx.

Accessibility Obligations

The MVDCF must comply with the Accessibility for Ontarians with Disabilities Act, 2005 (AODA) and the standards mandated by it through enacted regulation. The AODA, 2005 outlines new, mandatory accessibility standards in many areas. The Integrated Accessibility Standards Regulation under the AODA, 2005 came into force July 1, 2011.



Protection of Personal and Sensitive Information

Prior to undertaking any Procurement of goods and/or services that may result in the release of personal or sensitive information, the MVDCF must conduct a risk assessment that includes a Privacy Impact Assessment (PIA) and a Threat Risk Assessment (TRA). Any information that is to be released must comply with applicable privacy legislation.

OTHER

The MVDCF must conduct procurement activities 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.