



DIVERT NS

# PROCUREMENT POLICY

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Divert NS is a registered business name of the Resource Recovery Fund Board, Inc.



[divertNS.ca](http://divertNS.ca)





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# 1.0 PURPOSE AND OBJECTIVES

In keeping in line with the mission and mandates of Divert NS, the purpose of this policy is to ensure that Procurement Activity by Divert NS is carried out in such a manner so as to improve the environment, economy and quality of life by reducing, reusing, recycling and recovering resources.

In doing so, Divert NS is committed to:

- Providing for the procurement of Goods, Services, Construction and Facilities in a fair, open, consistent and transparent manner resulting in Best Value
- Encouraging competition, innovative ideas and solutions, while respecting all Legislative and Trade Agreement obligations
- Promoting Sustainable Procurement in all 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
- Ensuring that qualified suppliers have equal opportunity to bid on Divert NS's Procurement Activity
- Being accountable for procurement decisions

# 2.0 DEFINITIONS

For the purposes of this policy, the following definitions are provided:

## **Atlantic Standard Terms & Conditions**

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**

Evaluating bids not only on purchase price and life cycle cost considerations, but also taking into account items such as environment and social considerations, delivery, servicing and the capacity of the supplier to meet other criteria as stated in the tender documents

## **Bid**

A supplier response to a Public Tender notice to provides Goods, Services, Construction or Facilities

## **Chief Executive Officer (CEO)**

The Chief Executive Officer or Acting Chief Executive Officer as appointed by the Divert NS Board of Directors

## **Construction**

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**

Standard instructions developed in consultation with the Construction Association of Nova Scotia that support Construction tenders

### **Goods**

Materials, furniture, merchandise, equipment, stationery and other supplier required by Divert NS for the transaction of its business and affairs and includes services that are incidental to the provision of such supplies

### **Facilities (also referred to as Building Leases)**

All building lease requirement covering the conveyance of the right to use tangible building property for a specified period of time in return for rent

### **Procurement Activity**

The acquisition of all Goods, Services, Construction, or Facilities procured by purchase, contract, lease, or long-term rental

### **Procurement Value**

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**

The public website maintained by the Province where all Public Tender notices are posted

### **Public Advertisement**

Advertising a Public Tender notice on the procurement web portal

### **Public Procurement Act (PPA)**

An Act outlining the rules related to the Procurement Activity of all public sector entities in the Province of Nova Scotia

### **Public Tender**

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**

Notice of intended procurement for Goods, Services, Construction or Facilities obtained through Public Advertisement

### **Resource Recovery Fund Board Inc. (operating as Divert NS)**

A not-for-profit corporation working in partnership with Nova Scotians to improve the province's environment, economy and quality of life by reducing, reusing, recycling and recovering resources

### **Services**

Services required by Divert NS for the transaction of its business and affairs, excluding services provided by an employee through a personal services contract

## The Board

Divert NS Board of Directors including the Chair

## Sustainable Procurement

Sustainable Procurement involves taking a holistic approach to obtain Best Value. This will be done by integrating the following considerations in the procurement process:

- Environmental considerations: e.g. Green House Gas Reduction, Waste Reduction, Toxic Use Reduction
- Economic considerations: e.g. Life Cycle Cost, Fiscal Responsibility, Support for the Local Economy
- Social considerations: e.g. Employee Health and Safety, Inclusiveness and Fair Wage, Health Promotion

## 3.0 APPLICATION

This policy applies to all Procurement Activity of Divert NS effective April 1, 2012.

The CEO of Divert NS is responsible for ensuring compliance with this policy.

All Divert NS personnel who have responsibility for Procurement Activity must adhere to this policy.

## 4.0 DIRECTIVES

### 4.1 Low Value Procurement

For Goods, Services or, Construction valued \$2,500 or below, excluding taxes, quotes are not required.

- |                |                     |           |
|----------------|---------------------|-----------|
| • Goods        | up to and including | \$ 25,000 |
| • Services     | up to and including | \$ 50,000 |
| • Facilities   | up to and including | \$ 50,000 |
| • Construction | up to and including | \$100,000 |

For all low value Procurement Activity with a Procurement Value as outlined above, Divert NS is expected to, as far as practicable, attempt to obtain at least three quotes and award to the supplier offering Best Value. When selecting the list of suppliers to be provided the opportunity to quote, Divert NS personnel will make every effort to ensure a fair and open process is followed. While Divert NS personnel are expected to invite only qualified suppliers, they are not to consistently invite bids from only one or a select group of suppliers. Invitations and bidding opportunities are to be equitably distributed among all potential bidders in an area, and all interested and qualified suppliers are to be evaluated on a consistent and equitable basis. Where increased competition is appropriate, Divert NS personnel may choose to publicly tender for Goods, Services, Construction or Facilities that fall within the above thresholds.

## 4.2 High Value Procurement:

- Goods over \$ 25,000
- Services over \$ 50,000
- Facilities over \$ 50,000
- Construction over \$100,000

All Procurement Activity with a Procurement Value over the thresholds outlined above must be obtained through a Public Tender that includes tools such as a Request for Proposal, Negotiated Request for Proposal, Request for Construction, Request for Quotation, Request for Standing Offer and Request for Expression of Interest. See appendix 2 of this policy for an outline of the various tools that can be used for Public Tender. All Public Tender opportunities must be posted on the Province of Nova Scotia Procurement Web Portal. Divert NS personnel may wish where appropriate, to 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.

For the acquisition of Facilities, the geographic boundaries for a Public Tender shall be established to meet operational requirements but shall not be so limited so as to preclude or unnecessarily reduce the likelihood of receiving competitive bids. The term of the lease should be clearly indicated in the Public Tender documents including any options to renew. It is not unusual to have facilities lease extend for a period of five years with additional five year options. Options to renew should be at the discretion of Divert NS personnel and be approved by Divert NS Board. Divert NS personnel are authorized to establish a geographical footprint and class of space required and present a business case supporting their request to the Board for approval. Board approval must be received prior to issuing a call for space tender.

## 5.0 ALTERNATIVE PROCUREMENT PRACTICES

In order to balance the need for open, competitive process with the demands of urgent or specialized circumstances, alternative procurement circumstances have been developed. These circumstances must be used only for the purposes intended and not to avoid competition or used to discriminate against specific suppliers. To ensure that they are used appropriately, each circumstance must be documented by Divert NS personnel stating the rationale permitting the alternative procurement circumstance, and signed by the CEO or his or her designate. All documents must be filed and maintained for audit purposes. See Appendix 1 for a list of the Alternative Procurement circumstances, as well as further requirements on documentation.

## 6.0 BID OPENING, EVALUATION, AND AWARD

### 6.1 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 after bid opening.

## 6.2 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.

## 6.3 Award

The winning bidder and contract award amount for all high value Procurement Activity must be posted on the Province of Nova Scotia's Procurement Web Portal. After contracts have been awarded, routine access to information at the vendors request shall be provided in the following areas:

- Bidders list
- Name of winning bidder
- Award price excluding taxes of the winning bidder

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

## 6.4 Supplier Debriefing

At the request of a supplier who submitted a bid, Divert NS 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 bid be provided.

## 6.5 Supplier Complaint Process (SCP)

When a supplier is not satisfied with the information provided in a supplier debrief, 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.

# 7.0 FAIR TREATMENT FOR NOVA SCOTIA SUPPLIERS

Based on the principle of Best Value for Divert NS and when deemed to be in its best interest, Divert NS may apply a preference for goods valued up to and including \$10,000 which are manufactured or produced in Nova Scotia. The final decision to apply a preference to a Nova Scotia supplier shall be approved by the CEO or his or her delegate.

Divert NS personnel 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 Divert NS personnel should be based on budget considerations, and shall be approved by the CEO or his or her delegate.

## 8.0 OTHER CONSIDERATIONS

### 8.1 Cooperative Procurement

Divert NS personnel are encouraged to look for opportunities to collaborate with government agencies when the arrangement may result in overall cost savings or other substantial advantages. Examples of joint procurement may be for commonly used goods, services, fuel oil, natural gas, telecommunications, etc

### 8.2 Standing Offers

Divert NS personnel may access all Province of Nova Scotia standing offers, should they wish to make use of the savings opportunities.

## 9.0 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 Divert NS is required to adhere to with their Procurement practices.

### 9.1 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.

### 9.2 Posting Tender Notices and Awards

All opportunities subject to a Public Tender must be advertised on the Province of Nova Scotia Procurement Web Portal. Divert NS must also post on the Procurement Web Portal the name of the successful bidder for the Public Tender and the contract amount awarded.

### 9.3 Code of Ethics

Divert NS personnel and board members 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.

### 9.4 Other

#### *Policy Posting*

Divert NS personnel will ensure this policy is posted on the Divert NS web site.

#### *Supplier Development Activities*

Divert NS personnel will make every attempt where appropriate to participate in vendor outreach activities as requested by the Procurement Governance Secretariat.

## *Regulations*

Divert NS personnel will make sure that procurement practices remain consistent with any regulations that are adopted under the Public Procurement Act.

## 10.0 AMENDMENTS

This policy may be amended from time to time with the approval of the Board. Such amendments will be communicated to the public on the Divert NS website.

## APPENDIX 1

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### **Alternative Procurement Approval, Consultation and Reporting Process**

#### *Low Value*

The CEO may delegate signing authority for low value alternative procurement transactions to the Director of a given business area. No further approvals will be necessary. The CEO will ensure persons with delegated signing authority will be held accountable for their actions and that all procurement activities by Divert NS personnel are properly documented and filed for follow up and audit. The CEO shall remain accountable for the proper use of alternative procurement transactions.

#### *High Value*

Divert NS personnel wishing to make use of a high value alternative procurement practice (with the exception of an emergency), must consult with the CEO to obtain his or her approval and identify the most appropriate means by which to proceed with the satisfaction of the requirement. If in agreement, the CEO may direct Divert NS personnel to proceed with the procurement. The CEO may wish to confer with provincial government procurement officials for discussion, validation and or alternative options.

The CEO may delegate signing authority for high value alternative procurement transactions to an Acting CEO in his or her absence. A letter delegating signing authority for high value alternative procurements must be approved by the Board. All appropriate documentation will be maintained on file for audit purposes. The CEO will ensure persons with delegated signing authority will be held accountable for their actions. The CEO shall remain accountable for the proper use of alternative procurement transactions.

### **Alternative Procurement Circumstances**

#### *No Threshold Restrictions*

Divert NS may use the following Alternative Procurement circumstances as described below for the procurement of Goods, Services, Construction or Facilities, with no threshold restrictions:

- Where an unforeseeable situation of urgency exists and the Goods, Services or Construction cannot be obtained in time by means of open procurement procedures. Entities must ensure inadequate planning does not lead to inappropriate use of this exemption
- 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
- Where compliance with the open tendering provisions set out in this Chapter would interfere with a Party's ability to maintain security or order or to protect human, animal or plant life or health
- 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
- 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
- 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 the purchase of goods on a commodity market
- 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 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
- For the purchase of goods under exceptionally advantageous circumstances such as bankruptcy or receivership, but not for routine purchases
- For the procurement of original works of art
- For the procurement of subscriptions to newspapers, magazines or other periodicals

- For the procurement of real property
- For the procurement of goods intended for resale to the public
- For the procurement from philanthropic institutions, prison labor, persons with disabilities, sheltered workshop programs or through employment equity programs
- For the procurement from a public body or a non-profit organization
- For the procurement of services of expert witnesses, specifically in anticipation of litigation or for the purpose of conducting litigation

#### *Threshold Restrictions*

Divert NS may use the following Alternative Procurement circumstances as described below, up to the high value thresholds of this policy.

- For the procurement of goods or services for the purpose of evaluating or piloting new or innovative technology with demonstrated environmental, economic or social benefits when compared to conventional technology, but not for any subsequent purchases
- For procurement that fosters the development of minority businesses

## Appendix 2

Below is an outline 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.

### **Negotiated Request for Proposal (NRFP)**

Used to procure more complex Goods or Services where Proponent responses may help inform the final specifications or performance terms, and Proponent ranking is based on highest score. The NRFP will allow for contract negotiation with the preferred or selected Proponent(s).

### **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)**

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 does not normally but may sometimes include evaluation criteria.

#### **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.