



DIVERT NS

PROCUREMENT POLICY

November 26, 2020

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



divertNS.ca



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1.0 PURPOSE AND OBJECTIVES

The purpose of this policy is to ensure that all Divert NS Procurement Activity aligns with, and is carried out in a manner consistent with:

- the [Mission Statement](#) of Divert NS;
- the [Mandates](#) of Divert NS; and
- the obligations of Divert NS as a [Public Sector Entity](#) under the [Public Procurement Act](#).

In doing so, Divert NS is committed to:

- Procuring Goods, Services, Facilities and Construction in a manner that is open, fair, transparent and consistent, while respecting all legislative and trade agreement obligations;
- Encouraging competition among equally qualified and capable vendors and ensuring they are given equal opportunity to bid on Divert NS Procurement Activity;
- 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/or who employ under-represented populations;
- Encouraging innovative procurement ideas and solutions;
- Procuring environmentally friendly/preferable products and services to the greatest extent practical;
- Achieving Best Value in all procurement decisions resulting from pursuit of the above objectives; and
- Being accountable for all procurement decisions.

2.0 DEFINITIONS

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

Alternative Procurement Practices

Specialized or exceptional practices that allow for deviation from the procurement processes that the value or nature of the Goods, Services, Facilities or Construction would normally require. This could include a non-competitive procurement in the place of a competitive process, and a limited competition in the place of an open competition.

[Atlantic Provinces Standard Terms and Conditions](#)

Standard instructions that support Public Tenders issued by the four Atlantic provinces for goods and services, as may be amended from time to time.

Best Value

Best value is achieved by evaluating bids not only on purchase price, but also assessing the value of environmental, economic and social considerations (i.e. Sustainable Procurement), as well as delivery, servicing and the capacity of the supplier to meet other criteria as stated in the tender documents.

Bid

A submission in response to a solicited procurement opportunity to provide Goods, Services, Facilities or Construction.

Board of Directors (the “Board”)

The appointed and elected members, including the Chair, of the Divert NS Board of Directors.

Chief Executive Officer (CEO)

The Chief Executive Officer as appointed by the Board, or Acting Chief Executive Officer as appointed by the Board or CEO.

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 agreement/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.

Divert NS

The registered operating name of Resource Recovery Fund Board Incorporated.

Environmentally Friendly/Preferable Products

Goods and/or materials that have a less adverse impact on human health and the environment when compared with competing goods and/or materials. Such determinations are typically made by comparing available manufacturer’s information which may, and ideally would, include a life-cycle assessment of the good or material, which gives consideration to impacting factors such as raw materials acquisition, production, manufacturing, packaging, distribution, reuse, operation, maintenance, and/or waste management of the good or material. See **Appendices 3 and 4** for more details.

Environmentally Friendly/Preferable Services

Services that have a more beneficial or less adverse impact on human health and the environment when compared with competing services. See **Appendices 3 and 4** for more details.

Facilities

All buildings and/or other properties, including land, which Divert NS either owns or may acquire through a sale-purchase agreement or by way of lease or rental agreement/contract for the purpose of carrying out its business or which, in the case of Divert NS-owned buildings and/or properties, including land, may be leased/rented to a tenant for the purpose of carrying out the tenant's business.

Goods

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

Practical

The environmentally friendly or preferred products and services are able to perform the intended function with sufficient performance.

Procurement Activity

The acquisition of all Goods, Services, Facilities or Construction procured by purchase outright or by way of agreement/contract, including lease or rental. See [Appendix 2](#) for an outline of the various solicitation tools that can be used to facilitate acquisition.

Procurement Personnel

Those Divert NS employees responsible for initiating and managing Procurement Activity for the organization.

Procurement Value

The value of the Goods, Services, Facilities or Construction acquired, excluding taxes. Where an agreement/contract is required, this value includes all options whether exercised or not. For Facilities this value is typically the purchase price identified in a sale-purchase agreement or is determined by the monthly lease/rental amount multiplied by the number of months in the term of the lease/rental agreement.

Procurement Value Thresholds

May mean either "Low-Value" thresholds where maximum dollar amounts are set under this policy for Procurement Activity not normally requiring a Public Tender, or "High-Value" thresholds where minimum dollar amounts are set under this policy for Procurement Activity normally requiring a Public Tender.

Procurement Web Portal(s)

May mean either the Divert NS website where all of its procurement opportunities are posted (currently [bids&tenders](#)), or the [Nova Scotia Procurement Services website](#) where all Divert NS "High-Value" procurement opportunities are also posted.

Proponent

The person/business entity responding to a solicited procurement opportunity and may also be referred to as a bidder, respondent, (potential) supplier, (potential) service provider or vendor.

Public Advertisement

Advertisement of a Public Tender Notice on the Procurement Web Portal(s) and, only if/where deemed appropriate, also via local, provincial and/or national media platforms.

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, Facilities or Construction obtained through Public Advertisement.

Public Tender Notice

Notice of intent to procure Goods, Services, Facilities or Construction via Public Tender.

Reasonable Cost

The environmentally friendly or preferred products and services are available for purchase at a price point which is no more than twenty percent (20%) higher than that of non-environmentally friendly or preferred products and services.

Resource Recovery Fund Board Incorporated

A not-for-profit corporation established under the [Nova Scotia Solid Waste-Resource Management Regulations](#) and the legal registered corporate name under which Divert NS operates.

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.

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; and
- Social considerations, e.g. Employee Health and Safety, Inclusiveness and Fair Wage, Health Promotion.

3.0 EFFECTIVE DATE AND APPLICATION

This latest version of the Divert NS Procurement Policy is effective as of the date first written on this document. Any subsequent revision(s) or amendment(s) to this Policy shall be considered effective as of the date such revision(s) or amendment(s) is/are approved by the Board.

This policy applies to all Procurement Activity of Divert NS and must be adhered to by all Procurement Personnel having responsibility for such Procurement Activity.

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

4.0 DIRECTIVES

4.1 Low-Value Procurement

For Goods, Services, Facilities or Construction valued at \$2,500 or less, 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 not exceeding thresholds outlined above, Procurement Personnel are expected to, as far as practicable, attempt to obtain at least three quotes and award to the proponent offering Best Value. While Procurement Personnel are expected to invite only suitably qualified proponents, they are not to consistently invite bids from only one or a select group of proponents. To this end, quote submissions will be solicited in a fair and open manner and accessing, where/if available, vendor lists generated by previous similar Procurement Activity on the [Divert NS Procurement Web Portal](#). All submissions will be evaluated on a consistent and equitable basis. Where increased competition is appropriate, Procurement Personnel may choose to publicly tender for Goods, Services, Facilities or Construction 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 High-Value Procurement Activity with a Procurement Value exceeding thresholds outlined above must be obtained through a Public Tender process. See [Appendix 2](#) for an outline of the various solicitation tools that can be used for Public Tender. All Public Tender opportunities will be posted on both the Divert NS and Province of Nova Scotia Procurement Web Portals. If/where appropriate, a Public Tender may also be advertised via local, provincial or national media platforms, however there is no obligation to do so. Additionally, if/where appropriate, a Public Tender Notice may be sent to selected proponents 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, including any renewal term option(s). It is not unusual to have a facilities lease extend for a period of five years with additional five-year options. Options to renew should be at the discretion of Procurement Personnel and be approved by the Divert NS Board. Procurement 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 such Public Tender.

4.3 Sustainable Procurement

Procurement Personnel shall maintain current knowledge of product and service standards; codes and certifications; changing market conditions; new green products; innovative technologies; and best practices in sustainable procurement. This knowledge is used to identify and implement strategies for maximizing the economic, environmental, and social value of purchases.

Procurement Personnel are responsible for ensuring that any core list of repeat procurement opportunities for Goods and Services contain sustainable criteria to the greatest extent possible, and that sustainable options are identified and promoted in such Procurement Activity. Additionally, Procurement Personnel will develop standard clauses and guidelines for individual procurement projects as needed for environmental attributes; performance requirements related to waste, hazardous chemicals, energy or water use; and social benefits and economic requirements.

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 Procurement Personnel stating the rationale permitting the alternative procurement circumstance, and signed by the CEO or his/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 date, time and place stipulated in the bid request documents.

6.2 Bid Evaluation

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

6.3 Award

The name of the successful proponent and the (contract) award amount (exclusive of taxes) for all High-Value Procurement Activity shall be posted on both the Divert NS and Province of Nova Scotia Procurement Web Portals. Access to any proprietary information related to the solicitation documents or competing bid submissions 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 constructive feedback from the evaluation. Suppliers can find out how their proposal scored against published criteria, obtain comments on their bid, and gather information on how future bids may be improved. Supplier's bids are not compared to other bids, nor will information on other bids be provided.

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

Divert NS may apply a Nova Scotia preference for required Goods subject to the following conditions/limitations:

- the Goods are readily available and manufactured/produced by a Nova Scotia Supplier; and
- the value of the Goods does not exceed \$10,000.

Divert NS may also restrict certain Low-Value Procurement Opportunities solely to Nova Scotia Suppliers.

Any decision to apply a preference for Nova Scotia Goods, or restrict certain Low-Value Procurement Opportunities solely to Nova Scotia Suppliers shall:

- ✓ be guided by the principles of Best Value and Reasonable Cost as defined in this Policy;
- ✓ respect approved/available budget amounts for such Procurement Opportunities;
- ✓ be approved by the CEO or his/her designate; and
- ✓ be clearly stated in any documentation issued for such Procurement Opportunities.

8.0 OTHER CONSIDERATIONS

8.1 Cooperative (Joint) Procurement

Procurement Personnel are encouraged to look for opportunities to collaborate with government and/or peer 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

Procurement 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 its 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, Facilities or Construction. 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 consistent with the Construction Contract Guidelines for the procurement of Construction.

9.2 Posting Tender Notices and Awards

All procurement 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 site, the name of the successful proponent and the (contract) award amount (exclusive of taxes).

9.3 Code of Ethics

Procurement 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

Procurement Personnel will ensure a current version of this policy is posted on the [Divert NS website](#).

Supplier Development Activities

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

Regulations

Procurement 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 shall be communicated to the public on the Divert NS website.

APPENDIX 1

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 Procurement 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

Procurement 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 Procurement 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, Facilities or Construction, with no threshold restrictions:

- Where an unforeseeable situation of urgency exists and the Goods, Services, Facilities 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 solicitation tools that can be used to facilitate acquisition of Goods, Services, Facilities or Construction.

Request for Proposal (RFP)

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

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 the construction, reconstruction, demolition, remediation, repair or renovation of a building, structure, road, bridge or other engineering or architectural work. When a Proponent 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. Proponents are requested to submit a response (bid) in accordance with predefined criteria. The selection of the successful proposal is based on a number of factors as described in the tender documents. A Request for Construction usually does not include professional consulting services related to the Construction contract, unless they are included in the specifications.

Request for Quotation (RFQ)

Used primarily to procure Goods, and in certain instances Services, with a minimum specification. Award is usually made based on the lowest price meeting the specification. An RFQ does not normally, but sometimes may, include evaluation criteria.

Request for Standing Offer (RSO)

Used to procure commonly used Goods or Services via Public Tender. The term of the standing offer can vary in duration but will be clearly defined in the tender documents. RSOs may include evaluation criteria depending on the requirement.

Request for Expression of Interest (REI)

Used, and sometimes referred to, as a Pre-Qualification where Proponents are invited to propose a solution to a problem. Similar to, but less complex than, an RFP, the REI is a first stage in the procurement process. Responses will typically be evaluated and Proponents short-listed according to their scoring. Short-listed Proponents will secure an invitation to respond to a second-stage RFP. The REI does not normally require pricing and does not prohibit Proponents that are not short-listed from participating in the subsequent RFP process.

APPENDIX 3

Products and/or services that are environmentally friendly/preferable refers to their ability to:

1. **Conserve resources** – which means
 - (a) evaluating and reducing the need to purchase goods, materials and services
 - (b) purchasing goods, materials and services that use recycled products
 - (c) purchasing goods and materials with structures that require less material to manufacture
 - (d) purchasing goods and materials that require less packaging
 - (e) reusing, recycling and recovering goods and materials.
2. **Conserving energy** – which means
 - (a) purchasing goods, materials and services where the consumption of energy (electricity and fossil fuels) during production, transportation, usage and/or delivery is minimized
 - (b) purchasing goods, materials and services where renewable forms of energy are substituted during production, transportation, usage and/or delivery for non-renewable forms of energy
 - (c) purchasing and using goods, materials and services that have or use a structure that facilitate energy efficiency and resource conservation
3. **Promoting pollution prevention, waste reduction and diversion** – which means
 - (a) purchasing goods and materials that are easy to recycle
 - (b) purchasing goods and materials with structures that facilitates disassembly for processing, recycling and waste management
 - (c) purchasing goods and materials packed with recycled materials or materials that are recyclable
 - (d) purchasing goods and materials with a manufacturing process that minimizes the creation of waste and pollutants at source

- (e) purchasing goods and materials that are used or remanufactured
 - (f) purchasing services that minimize adverse environmental impacts
 - (g) purchasing goods and materials that have greater durability and longer lifespan
 - (h) using goods and materials in a manner that minimizes adverse environmental impacts
4. **Protecting Human Health and Well-being-** which means
- (a) Purchasing goods and services that have ethical standards in their manufacturing processes
 - (b) where practicable, requiring the purchase of substitute or alternative goods, materials or services in place of goods or materials that may pose an elevated risk to human health, safety and the environment.

APPENDIX 4

Examples of environmentally friendly/preferable products and/or services may include, but are not necessarily limited to:

- Paper and paper products;
- Office supplies;
- Computer and other electronic equipment and supplies;
- Office and other furniture (including major appliances);
- Vehicles and other transportation equipment;
- Food services and catering;
- Consulting services;
- Use of hotels;
- Promotional materials; and
- Official publications

Such products and/or services shall be purchased to the greatest extent practical and provided that they do not exceed the threshold of Reasonable Cost as defined in this policy.