

PROCUREMENT AND CONTRACTS

Background:

The purpose of this Administrative Procedure is to ensure procurement of goods and services provides the best value to the Division and taxpayers and is undertaken in an open, fair, consistent, efficient, ethical and competitive manner while remaining in full compliance with legislation.

Definitions:

Alberta Purchasing Connection (APC):

is an online tool created by the Alberta government that lets public- and private-sector users manage, advertise, distribute and download public purchasing opportunities for goods, services and construction in Alberta. With APC, purchasers advertise opportunities for tender, and vendors find opportunities to sell their products or services.

Construction Services:

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

Consultant:

is a person who, or an organization that, provides services or expert advice in a particular area, such as construction, engineering, auditing, research, or banking, and is not typically considered an employee.

Contract:

is a legally enforceable business agreement between two or more parties with mutual obligations. A contract may: define procurement of goods and services; define funds (revenue or grants) to be received from a third party; include memoranda of understanding (MOU) or letters of understanding (LOU); and/or have a zero, or null, dollar value. A contract is intended to define responsibilities (actions) or deliverables between the parties.

Employment Personal Services Contract:

is a legal agreement, in which the skills or talents of an individual are material, such as professional services, between an individual employee and an employer that clarifies the terms and conditions of employment. Payments to the individual are handled through Payroll and are typically not included in the [Classified Handbook](#) or [Teachers' Collective Agreement](#).

Goods:

are tangible items generally sold or offered for sale in the commercial marketplace.

Preferred Vendor:

is a vendor that has been qualified through an open, fair and transparent process and is deemed to represent the best value to the Division and taxpayers. A thorough bid process or negotiation is conducted, and proposals are solicited from numerous vendors.

Procurement:

is the act of finding, acquiring and/or buying goods, services or works from an external source, often via a tendering or competitive bidding process. The process is used to ensure the Division receives goods, services or works for the best possible price when aspects such as quality, quantity, time and location are compared. The Division has defined processes intended to promote fair and open competition while minimizing risk, such as exposure to fraud and collusion.

Purchase Order:

is a buyer-generated document that authorizes a purchase transaction.

Request for Proposal (RFP):

is an official tender process where documents with a statement of work are posted on Alberta Purchasing Connection (APC).

Services:

are activities provided by other people.

Single Source:

occurs when a contract for supplies, equipment, services and consulting services is awarded without competition. This may occur when competition for procurement is not feasible because of the nature of a commodity, a particular specification or urgency.

Sole Source:

occurs when there is only one person or company that can provide the contractual services needed, so any attempt to obtain bids would only result in that person or company bidding on it.

Procedures:

1. This Administrative Procedure applies to all individuals who are involved in the procurement process.
2. Individuals who are involved in the procurement process shall be aware of and refer to all relevant Division administrative procedures and processes as well as external legislative requirements.

3. This Administrative Procedure applies to the procurement of all goods and services acquired with any Division-administered funds—operating, capital or school generated.
4. Items purchased in the name of a school or the Board shall become the property of the Division.
5. Notwithstanding this Administrative Procedure, staff shall bring any procurement to the attention of the Secretary-Treasurer if that matter has an unusually high-risk factor, exposure to liability, impact on public profile or future operations, if it brings the activities of the Division under scrutiny or disrepute, or if it involves controversial matters.

Authority and Accountability

6. Procurement guidelines are established by the Secretary-Treasurer.
7. Procurement authority and limits are delegated to staff as per [Administrative Procedure 514: Signing Authority](#).
8. The Division shall abide by provincial and federal legislation, including the New West Partnership Trade Agreement.
9. Where the Division uses a third party to conduct procurements on its behalf, the third party shall ensure such procurements are conducted in accordance with provincial and federal legislation, including the New West Partnership Trade Agreement.

Procurement Principles

10. Procurement shall be conducted with the objective of obtaining the best value for the Division and taxpayers taking into consideration such criteria as price, total cost of ownership, product or service quality, bid compliance, supplier qualifications, experience and reputation.
11. Procurement shall be conducted in an open, fair, non-discriminatory and transparent manner, and where legislation, Division policy or procedure dictate, follow a competitive procurement process.
12. Individuals participating in procurements on behalf of the Division shall conduct themselves in an ethical manner, ensuring compliance with Division administrative procedures, in particular, [Administrative Procedure 511: Public Sector Purchasing Code of Ethics](#).
13. Division staff cannot sell products, equipment or services—other than by employment contract—to the Division either as an individual, in a partnership or as a corporation without approval from the Superintendent or designate.

Procurement Process

14. The nature and dollar value of the procurement drive different procurement methodologies and competition requirements. All procurement will be conducted as per the Procurement Methodology and Competition Matrix (Appendix 515-A). Detailed procedures for procuring goods, services and construction services are set by the Director of Financial Services.
15. In applying the limits outlined in the [Signing Authority Matrix](#) (Appendix 514-A), the total value is calculated based on the value of the purchase—over the term of the contract, excluding extensions—after taxes and freight, and valued in Canadian dollars.

16. Division staff shall not reduce the overall value of procurement by dividing a single procurement into multiple procurements to circumvent competitive procurement thresholds.

Procurement Exceptions

17. All building operations and maintenance for the Division are the responsibility of the Director of Facility Services. Procurements for operation and maintenance services shall be in accordance with the requirements of [Administrative Procedure 542: Facility Services - Services Provided](#).
18. The Division requires that **all** equipment procured for use in schools or departments requiring lines for gas, water, drains or special electrical connections be approved by the Director of Facility Services prior to procurement. Procurements that may have an impact on the building or health and safety shall comply with [Administrative Procedure 548: Purchase/Connection of Equipment](#).
19. Information technology equipment procurements are the responsibility of the Division Information and Security Officer. Procurements of information technology shall be in accordance with [Administrative Procedure 140: Responsible Use and Security of Information Technologies](#) and [Administrative Procedure 570: Purchase, Control and Disposition of Information Technology Assets](#).
20. Software procurements are the responsibility of the Division Information and Security Officer. Procurements of software shall be in accordance with [Administrative Procedure 191: Computer Software](#) and [Administrative Procedure 570: Purchase, Control and Disposition of Information Technology Assets](#).
21. The Associate Superintendent of Human Resources shall provide guidance in determining whether a contract is considered a consultant services contract or an employment personal services contract. Employment personal services contracts are outside the scope of this Administrative Procedure.

Vendors

22. In selecting vendors, consideration shall be given to:
 - 22.1. reputation and experience;
 - 22.2. the ability to deliver or perform within the time specified in a safe and healthy manner;
 - 22.3. the ability to provide after-sales maintenance and service; and
 - 22.4. past experience on previous orders.
23. In considering qualifications of vendors, the following criteria shall be met, where applicable:
 - 23.1. current business license;
 - 23.2. minimum of \$2-million liability insurance;
 - 23.3. ability to obtain wrap-up insurance; and
 - 23.4. WCB coverage.
24. There is an expectation that, where practical, the Division takes advantage of using established [preferred vendors](#) for their purchases.

Sole or Single Source

25. The Division will employ an open, competitive process when required, and whenever possible, to increase the chances of achieving the greatest value for money. However, certain purchases may qualify for single-source or sole-source procurement. These purchases are treated as an exception to the competitive procurement requirements of this policy.
26. In the event the Division does not employ a competitive procurement process, a signed [Sole Source Justification and Approval Form](#) (Form 515-2) must be completed by the requester, stipulating the reason for the single-source or sole-source procurement.
27. Exceptions to competitive bidding requirements shall not be for the purpose of avoiding competition or in order to discriminate against or favour specific suppliers. The Division requires competitive bidding of all purchases where practical and advantageous, however the following sets out when a sole- or single-source purchase can be made:
 - 27.1. original manufacturer or provider (no other local distributors exist);
 - 27.2. parts or equipment are not interchangeable with similar parts of another manufacturer;
 - 27.3. only local distributor for the original manufacturer or provider;
 - 27.4. only known item or services matching the requested needs or performing the intended task;
 - 27.5. only one firm is capable and available to do the work;
 - 27.6. sole provider of a licensed or patented good or service;
 - 27.7. sole provider of items compatible with existing equipment, inventory, systems, programs or services;
 - 27.8. sole provider of goods or services established as standard;
 - 27.9. sole provider of factory-authorized warranty service;
 - 27.10. used item representing good value and advantage;
 - 27.11. due to safety concerns;
 - 27.12. where an unforeseeable situation of urgency exists;
 - 27.13. due to the nature of the work, it is not in the public interest to discuss requirements with another vendor; and
 - 27.14. the contract or purchase order is less than \$20,000.

Co-operative Procurements

28. Where appropriate, the Division may leverage working collaboratively with other boards and, where applicable, other public sector agencies, to develop co-operatives and shared services in order to aggregate demand to achieve economies of scale.
29. Where the Division is involved in such activities, procurements are to be made according to the procedures of the co-operative group, which may not be identical to that of the Division but shall be consistent with this Administrative Procedure.
30. Where appropriate, the Division may also leverage its internal buying power by aggregating similar purchases across various departments, schools, etc. in order to achieve economies of scale and create contracts offering greater benefits accessible to the entire Division.

Personal Purchases

31. Division procurement resources shall not be used for any personal or non-Division business-related acquisition of goods or services.
32. Suppliers may elect to extend pricing options to Division staff for their personal purchases of certain goods and services. While staff may take advantage of this option, they shall not use any Division resources for these purchases or support.

Contracts

33. Contracts shall be executed under the legal name of The Board of Trustees of Elk Island Public Schools. A site reference may be added, if required.
34. No person shall enter into any contract unless:
 - 34.1. The contract has been negotiated, reviewed and approved in accordance with this Administrative Procedure.
 - 34.2. The individual has contract signing authority in accordance with [Administrative Procedure 514: Signing Authority](#).
35. Prior to entering into any contractual arrangements, signing authorities shall ensure all of the following criteria have been met:
 - 35.1. The contract is in the best interests of the Division.
 - 35.2. The contract has been reviewed from both a financial and a resource perspective.
 - 35.3. The contract is operationally feasible.
 - 35.4. The appropriate reviews of the contract have occurred.
 - 35.5. The contract is in accordance with any legislative or regulatory requirements, such as policies, guidelines, collective agreements or other obligations of the Division.
 - 35.6. Appropriate consultation has occurred with Division departments or schools that have an interest in the contract.
 - 35.7. Provision has been made for adequate indemnity, insurance and risk management plans, and other appropriate protections.
36. Contractual obligations shall not commence until the contract has been reviewed, approved and signed by the appropriate signing authority(ies), and all pre-commencement obligations have been satisfied.
37. Contracts shall be issued under the appropriate standard Division contract, where they exist.
 - 37.1. Terms and conditions on the standard Division contract forms may not be modified without express agreement of the Manager of Purchasing and Contracts who may consult with legal, if required.
 - 37.2. Where vendors require use of their contracts or where a standard Division contract does not exist, a different form of contract, approved by the Manager of Purchasing and Contracts, may be used.
38. The following contracts, regardless of value, shall be reviewed by the Manager of Purchasing and Contracts:
 - 38.1. contracts containing activities that could result in significant direct or indirect physical harm or other injury to a person, property or environment, or impact negatively on the Division's reputation;
 - 38.2. consultant contracts;
 - 38.3. contracts in a form other than the standard Division contract; or

- 38.4. contracts with terms longer than three years.
39. All contracts shall be summarized using the [Contract Summary](#) (Form 515-1), including a brief description of the contract and signature indicating the appropriate reviews have been completed. The [Contract Summary](#) (Form 515-1) shall be presented to the signatory authority for execution.
40. All contracts shall be signed by the appropriate authority as outlined in [Administrative Procedure 514: Signing Authority](#) and include the printed name of the contract signing authority as well as the date signed.
41. Once a contract has been approved and appropriately signed, Division staff administering the contractual arrangement shall ensure the Division and other contracting parties meet their respective obligations under the contract.
42. All changes to a contract shall be in writing and signed by the appropriate authority as outlined in [Administrative Procedure 514: Signing Authority](#).
43. All executed original copies of contracts and the associated [Contract Summary](#) (Form 515-1), regardless of dollar value, shall be sent to the Manager of Purchasing and Contracts for filing in the contract depository.

Reference:

Section 52, 53, 68, 85, 197, 222, 229 *Education Act*
Freedom of Information and Protection of Privacy Act
School Buildings and Tendering Regulation 383/88
Trade, Investment, and Labour Mobility Agreement
New West Partnership Trade Agreement

[Appendix 515-A: Procurement Methodology and Competition Matrix \(PMCM\)](#)