

BPS PRIMER ON INNOVATION PROCUREMENT INTERIM



Ontario

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WARNINGS and DISCLAIMER:

This primer is intended to help broader public sector (BPS) organizations in Ontario with planning, designing, and implementing innovation procurement. It outlines the complex issues and considerations that organizations should be aware of as they pursue procurement planning.

BPS organizations are encouraged to exercise due diligence and make informed decisions using the materials in this primer, taking into account their organization's procurement policies.

Notwithstanding the content of this primer, designated BPS organizations must meet any/all legal obligations established by the *Broader Public Sector Accountability Act, 2010*, and the Broader Public Sector Procurement Directive. Those BPS organizations subject to Canadian and international trade agreements must also meet the procurement-related requirements of those agreements.

Information in this primer does not constitute legal advice. Procuring organizations should consult their own legal and professional advisors in the planning and implementation of innovation procurement.

EXECUTIVE SUMMARY

The importance of public procurement as a driver of innovation has been recognized internationally as a means to enhance the efficiency, quality, and safety of public services while at the same time, helping to grow economies and create jobs. For broader public sector (BPS) leaders, embracing innovation will be key to meeting the current and future needs of service users while ensuring value for money.

As part of the Innovation Procurement Initiative announced in the 2014 Budget, the Ministry of Government and Consumer Services (MGCS) has developed this primer to support BPS organizations in Ontario in planning and implementing innovation procurement to encourage innovation in Ontario's BPS within the existing procurement policy context. This includes any applicable procurement directive, Canadian and international trade agreements, and privacy, accessibility, contract and other applicable laws.

This primer contains seven early market engagement strategies and six procurement models that have been developed based on expert opinion and practices from other jurisdictions.¹ They are not mandatory requirements or step-by-step guide. The strategies and models presented in this primer represent some approaches to innovation procurement and there are others or different variations that can be employed.

What is innovation procurement?

Innovation procurement is defined as the purchase of solutions that do not exist in the market, or need to be adapted or improved to meet specified needs and create value for users and the procuring organization.

What are the benefits of innovation procurement?

Innovation procurement has many benefits:

For procuring organizations: using innovation procurement allows an organization to potentially identify a new solution that better meets user needs and ultimately leads to increased end-user satisfaction and quality service delivery.

For suppliers: innovation procurement can provide early visibility into the user needs and help them to better anticipate demand for new products.

For society: innovation procurement can lead to economic benefits like the development of more effective services and new markets, and tackle environmental and social challenges through new and innovative practices.

¹ We wish to acknowledge Deloitte report (2014), "Procurement of Innovation Models for the Broader Public Sector Scenario Alignment to Procurement Models" which served as the basis for this guide.

When is innovation procurement appropriate?

The following are circumstances in which innovation procurement may be preferred to traditional procurement practices:

1. When there is no existing solution in the market
2. When needs cannot be met without significant modifications to existing solutions
3. When looking for alternative approaches
4. When the solution is complex and involves multiple stakeholders
5. When the value of procurement is high enough to justify the time and resources
6. When collaboration and partnership with suppliers in solution development may be required
7. When the solution cannot be objectively defined
8. When the technical specifications cannot be established with sufficient precision

Innovation procurement can be time and resource intensive, as it often requires extensive planning, research and stakeholder engagement. It may involve many phases, including research, design, development, prototyping, and/or testing of a proof of concept (development phases), before procuring the solution (production phase).

Given the characteristics of innovation procurement, it may be more appropriate to use traditional procurement practices such as Request for Quotation, Request for Tender to procure everyday goods and service, where the evaluation criteria are predominantly based largely or solely on price.

What are the key success factors?

- **Championing innovation procurement and leading change**
Systemic barriers such as a risk-adverse culture and a lack of knowledge can stifle the application of innovation procurement processes across Ontario. To promote and sustain innovation procurement, it is essential to have executive leaders that act as champions to lead innovation procurement within their own organization.
- **Identifying the needs**
Sufficient time should be spent on identifying needs and analyzing the market. A solid understanding of the organization's needs and the clear articulation of the desired outcomes are critical to a successful innovation procurement implementation process.
- **Planning an innovation process**
There are many considerations linked with the procurement of innovation that need to be thought through during the procurement planning phase, including whether to use a single contract, a phased contract or multiple contracts, the drafting of outcome-based specifications, the use of value-based evaluation criteria, and the ownership of intellectual property rights. To effectively address these considerations, it is essential to involve legal professionals, key stakeholders, and users throughout the process.
- **Managing Risk**
Successful innovation procurement is highly dependent on the ability of the procuring organization to identify and assess the risks involved at each stage of the procurement process and develop strategies to mitigate those risks. A robust change management strategy can help to mitigate the risk that changing circumstances may render the identified need obsolete or require it to be redefined.

Using early market engagement strategies to support innovation procurement

Early market engagement strategies are processes that can improve the fit between the end user's requirements and the market capabilities, resulting in more relevant and competitive proposals.

Engaging suppliers in dialogue through early market engagement strategies can help procuring organizations learn whether available products can satisfy their need or if a new solution should be developed. Feedback received from suppliers through early market engagement initiatives can also help to refine the user's requirements and confirm market interest in addressing the need. Using this information, the procuring organization can select the most suitable procurement process to address the identified need.

Early market engagement strategies are also helpful for suppliers, as they get an early indication and understanding of the future needs of the procuring organization. A certain level of predictability regarding future demand may incentivize suppliers to develop innovative solutions to meet this need.

This primer presents seven early market engagement strategies that may be used by BPS organizations. Depending on the characteristics of the procurement, these early market engagement strategies can be used alone or in combination.

- Strategy #1: **Market Sounding** is the use of a defined consultation process to assess the reaction of the market to a need.
- Strategy #2: **Market Creation** is a process intended to generate interest in the supplier community by communicating to suppliers the scale and scope of the future procurement opportunities and the intended procurement process. The market creation process uses the feedback collected from suppliers to create the market conditions needed to deliver the best solutions.
- Strategy #3: **Reverse Trade Shows** are events driven by BPS organizations to encourage new and existing suppliers to consider doing business with them.
- Strategy #4: **Request for Expression of Interest (RFEI)** is a document that enables BPS organizations to gather information about supplier capabilities, qualifications, and interest in a specific procurement opportunity.
- Strategy #5: **Forward Procurement Plan (FPP)** is the process of giving suppliers advance notice about the BPS organization's upcoming procurement opportunities.
- Strategy #6: **Trade Shows** are events that allow suppliers in a specific industry to showcase and demonstrate their latest products, market trends, and opportunities that might be relevant to BPS organization's needs.
- Strategy #7: **Unsolicited Proposals** are proposals submitted by suppliers to address a BPS organization's current or future needs that may or may not have been identified by that organization. BPS organization should establish policies and/or procedures for the receipt, assessment and use of unsolicited proposals.

Early engagement is not intended either to create a shortlist of qualified proponents or result in an award of a contract. Furthermore, the early market engagement process must not influence the chances of the participating suppliers from becoming the successful proponent in any subsequent procurement opportunity. The purpose of any early engagement process should be made clear to all potential participants in advance.

Innovation Procurement Models

There are many ways to structure an innovation procurement process. BPS organizations should design a process that best fits their needs. When seeking an innovative solution, the BPS organization should carefully consider its own circumstances, taking into consideration the complexity of the need, the nature of the marketplace, and whether the solution is to be scaled up for wider application.

This primer outlines six procurement models involving the competitive selection of suppliers that may be employed at various stages of the innovative product lifecycle.

- Model #1: **R&D Procurement** is a process of purchasing research and development (R&D) of products, up to the prototyping or first test production phases. It does not include the purchase of the resulting end-solutions beyond prototyping.
- Model #2: **Innovation Partnership** is a process of entering into a partnership with selected supplier(s) to research/develop and purchase of an innovative solution to meet an identified need.
- Model #3: **Design Contest** is a process in which participants submit a design proposal and/or product prototypes to compete for an award. As a procurement model, it usually results in a contract with the winner of the design contest for prototyping of the winning design and/or the production and purchase of a product.
- Model #4: **Competitive Dialogue** is a process that allows the BPS organization to thoroughly discuss each aspect of the procurement with suppliers prior to both specifying the requirements and an invitation to submit full and final proposals to meet the identified need(s).
- Model #5: **Competitive Procedure with Negotiation** is a process that may be used to meet complex needs in cases in which innovative solutions already exist in the market and there is some flexibility in requirements that allow for negotiations between the buyer and seller to meet the identified need(s).
- Model #6: **Innovation-Friendly Competitive Process** refers broadly to outcome-based models/processes that are carried out in such a way that allows innovative solutions to be considered or are not excluded or treated unfairly by overly rigid product specifications. Accepting alternative proposals is one way of making a competitive process innovation friendly.

INTRODUCTION

The importance of public procurement as a driver of innovation has been recognized internationally as a means to enhance the efficiency, quality, safety, and productivity of public services while, at the same time, growing economies and creating jobs. A number of countries have succeeded in developing new legislation, policy, directives, and guidance in support of innovation procurement.

Ontario is poised to foster innovation development and adoption: “There is no shortage of breakthrough ideas and research coming out of our institutions.”² “But for innovation to flourish there needs to be strong leadership to create the right incentives and clear away the barriers to adoption and diffusion.”³

In the 2014 Budget, the Government of Ontario committed a total of \$20 million over a period of four years to develop an Innovation Procurement Initiative to support increased acquisition of innovative solutions. The initiative will identify barriers to innovation and provide guidance for BPS organizations on early market engagement strategies and innovation procurement models to further accelerate the development and adoption of new technology.⁴

As part of the initiative, the Ministry of Government and Consumer Services (MGCS) developed this primer to guide Ontario’s BPS organizations in the process of planning and implementing innovation procurement to support innovation in Ontario’s BPS sector within the existing procurement policy context, leveraging a report developed by Deloitte’s consulting services.⁵ This includes any applicable procurement directive, Canadian and international trade agreements, and privacy, accessibility, contract and other applicable laws.

The primer contains seven early market engagement strategies and six procurement models that have been identified based on expert opinion and practices from other jurisdictions. It also includes suggested principles to help guide you through the innovation landscape. The materials in the primer, however, are advisory only and intended to stimulate innovation procurement in Ontario and help to transform public service delivery, while supporting job creation and boosting the competitiveness of Canadian industry.

Although this primer contains information about when, why and how innovation procurement can proceed, it is not intended to be a step-by-step guide. Instead, it highlights some key considerations in contemplating, planning, and implementing innovation procurement processes.

² Ontario Centres of Excellence. OCE Blog.

³ A quote by Miles Ayling, Director of Innovation, NHS England, taken from the Ontario Health Innovation Council Report titled “The Catalyst: Towards an Ontario Health Innovation Strategy”

⁴ Ontario Budget 2014.

⁵ We wish to acknowledge the Deloitte report, “Procurement of Innovation Models for the Broader Public Sector Scenario Alignment to Procurement Models”, which served as the basis for this current document.

Innovation procurement is highly complex. It may involve a lengthy implementation period and a long period of time before its outcomes are realized. It requires the involvement of a mature procurement organization and buyers with specialized skills and the competencies required to work within complex procurement processes.⁶ Innovation procurement can also require participants to take significant risks.

As with all types of procurement, the innovation procurement process could be subject to legal challenge. Procuring organizations should always seek legal advice on their procurement processes and associated implications on their contractual obligations.

Definitions⁷

Innovation procurement is defined as the purchase of solutions that do not exist in the market or need to be adapted or improved to meet specified needs and create value for users and the procuring organization.

It often involves a new or significantly improved product (i.e., good and/or service), method, business practices or processes, to be purchased using an innovative procurement model or approach.

Traditional procurement is defined as the purchase of known solutions to meet the needs of an organization. It often involves off-the-shelf products where requirements can be specified with high level of precision, to be purchased using a price-driven process, such as Request for Quotation (RFQ) or Request for Tender (RFT).

Benefits of Innovation Procurement

Innovation procurement can provide early visibility in the market, helping suppliers to better anticipate demand for new products and shorten the time it takes to bring them to market. It allows for greater flexibility to the procuring organization in terms of identifying solutions that meet its needs, which could bring incremental improvement or disruptive changes, depending on the nature of the solution. When a BPS organization procures innovation, it benefits the BPS, the supplier, and society as a whole.

⁶ There are resources available for procurement specialist on innovation procurement in Ontario. For example, the Health Care Supply Chain Network has developed an innovation procurement toolkit and the Conference Board of Canada has also some online resources on innovation procurement.

⁷ There are no agreed upon definitions for innovation procurement and traditional procurement. The definitions are developed for the purpose of this primer to enhance readers' understanding of innovation procurement.

Figure 1: Benefits of Innovation Procurement by the BPS

BPS Organization	Market/Supplier	Society
<ul style="list-style-type: none"> • Meet needs with innovative solutions • Introduce organizations to new suppliers • Provide better services for less money • Create value to its customers • Increase end-user satisfaction • Set foundation for more flexibility 	<ul style="list-style-type: none"> • Establish access to valuable BPS clients • Understand BPS challenges and priorities • Apply research and commercialize ideas to meet an identified need • Reap commercial benefits • Provide a pathway for innovation development for small and medium-sized enterprises 	<ul style="list-style-type: none"> • Better public services and infrastructure • Tackle environmental and social challenges • Support small and medium-sized enterprises • Develop new markets, both domestic and international • Foster a healthier and more productive workforce • Improve quality of life • Become a more competitive and innovative economy • Create jobs and foster economic growth

When to use Innovation Procurement

The following are circumstances in which innovation procurement may be preferred to traditional procurement:

1. When there is no existing solution in the market
2. When needs cannot be met without significant modifications to existing solutions
3. When looking for alternative approaches
4. When the solution is complex and involves multiple stakeholders
5. When the value of procurement is high enough to justify time and resources
6. When collaboration and partnership with suppliers in solution development may be required
7. When the solution cannot be objectively defined
8. When the technical specifications cannot be established with sufficient precision

Innovation procurement may involve a collaborative approach between suppliers and the public sector. Innovation procurement is less appropriate in situations where existing solutions meet the need to a large degree or the benefit of getting to the solution faster and with less investment of resources outweighs the potential benefits of a completely new solution. Given the characteristics of innovation procurement, it is often easier and more appropriate to use traditional procurement practices to procure everyday goods and services.

Assumptions

The follow table details the preconditions required for a successful innovation procurement process:

Area	Assumption
User Readiness for Innovation	Procuring organizations have both the right skills and experience to handle and evaluate complex procurement processes and advanced skills in project and contract management.
Need Identification and Development	Procuring organizations and/or end users are capable of defining functional requirements (i.e., describing the desired outcome without prescribing it).
Supporting Tools	Procuring organizations have the right tools to effectively engage the market and facilitate the procurement process.
Risk Management	Procuring organizations have policies, procedures, and supporting tools in place to identify and manage risk throughout the procurement process.
Monitoring and Tracking	Procuring organizations have key performance indicators in place to measure success, track results, and document lessons learned from using the innovation procurement models.

Innovation Procurement in the BPS

Similar to any other public procurement, innovation procurement must be conducted in accordance with the laws of the Province of Ontario and the federal laws of Canada, including the law of competitive processes, contract, privacy, and accessibility laws, and any other applicable legislation.

Innovation procurement must also be conducted in accordance with all applicable trade agreements including, but not limited to, the Agreement on Internal Trade (AIT), the Ontario–Quebec Trade and Cooperation Agreement (Ontario–Quebec Agreement), and international trade agreements.

BPS Procurement Directive

All procurement, including procurement of innovative solutions, must be conducted following a process that is fair, transparent, and accountable to all stakeholders.

The Broader Public Sector Procurement Directive establishes the rules that all designated BPS organizations must follow in conducting procurement. The Directive is principles-based, and includes a Code of Ethics and 25 mandatory requirements that designated BPS organizations must incorporate into their procurement policies and procedures.

Contract Law and the Law of Competitive Processes

Innovation procurement activities, like any other procurement activities, are subject to Canadian contract law and the law of competitive processes.

Contract law applies to all contractual agreements between a procuring organization and a supplier.

Depending on the intent and the terms of an agreement between a procuring organization and a supplier, the law of competitive processes may apply.

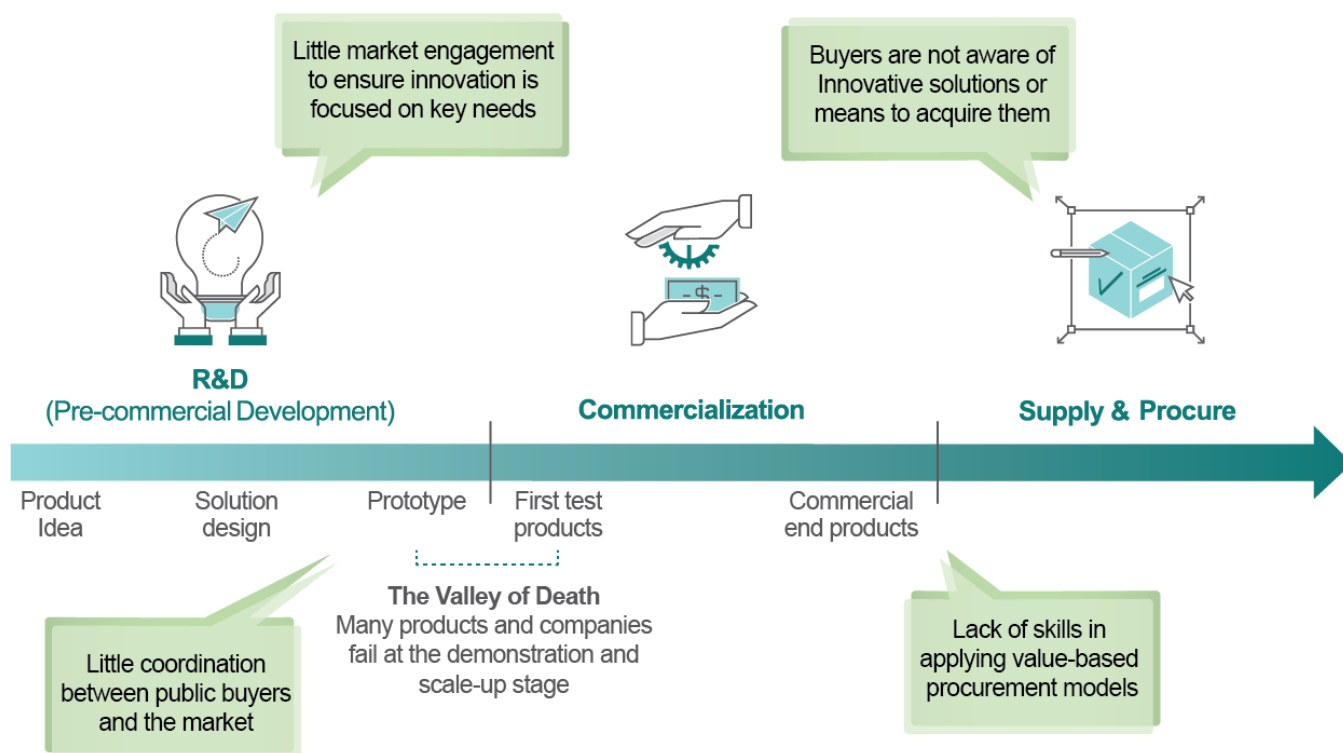
INNOVATION PROCUREMENT IN A NUTSHELL

The Product Lifecycle

A typical innovative product development cycle begins with an innovative idea, followed by solution design, prototyping, first product development, and then commercialization.⁸

Although innovative solutions may be procured at different stages of the product lifecycle, conventionally this is done at the early adoption stage of development and commercialization or changing an existing solution to solve new problems.

Figure 2: Gaps in Product Development Lifecycle



⁸ Johan Asphjell Bjørnaas, Norwegian University of Science and Technology. Barriers to public procurement for innovation, 2013.

Barriers to Development and Adoption

Systemic barriers to innovation — such as a lack of knowledge and aversion to risk — prevent many organizations from a wider adoption of innovation to meet their needs.

Ontario's existing procurement rules in the BPS Procurement Directive do not restrict innovation procurement, provided that it is conducted through a process that is fair, open, transparent and accountable to all stakeholders, based on the principles of accountability, supplier access, transparency and fairness, and value for money. Organizations can take advantage of the flexibility of the rules in their pursuit of innovation procurement.

From Supply-Push to Demand-Pull Procurement Strategy

Innovators face challenges in moving their innovative ideas from pre-commercialization phase to full-scale commercialization phase. As highlighted in the report by the Ontario Health Innovation Council, “innovators often face major challenges in connecting with the right people and resources to advance their ideas to market, and in navigating a fragmented and price-driven procurement system.”

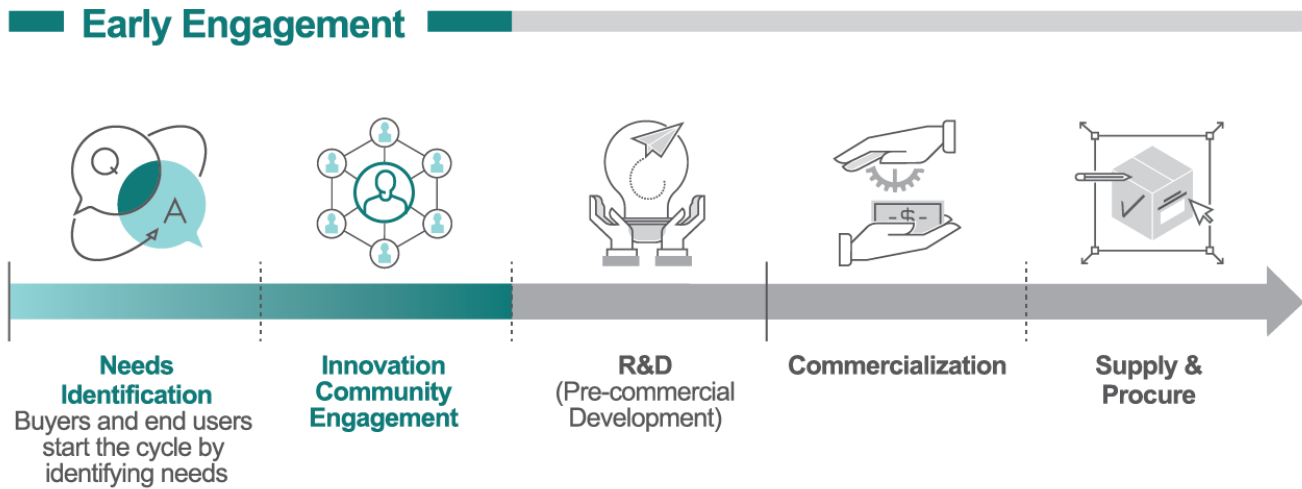
Traditionally, BPS organizations with needs will look to products that are available in the market for solutions, while industry will “push” its existing commercialized and newly developed products into the market.

This type of procurement strategy, which is focused on existing market solutions, is called the supply-push procurement strategy. This strategy is not always optimal because it may lead to a mismatch between the need of the buyer with the market solutions. For BPS organizations, a lack of awareness of new solutions does not equip the organization to prepare to benefit from or respond to innovation. For suppliers or innovators, a lack of understanding of the needs of those who may be impacted may lead to misallocation of resources to develop ideas that are not viable or not a priority for the broader public sector.

To provide optimal solutions, innovators must have knowledge of specific system priorities and population needs that can be addressed with innovative technologies. This can be accomplished by employing a demand-pull strategy, which involves a procuring organization using early market engagement or other procurement methods to conduct a search for innovative solutions to meet its needs.

Through a demand-pull procurement strategy, buyers and suppliers can bridge the knowledge gap by beginning to work together earlier on in the innovation product development cycle. This information sharing helps to determine the desirability of pursuing innovation procurement.

Figure 3: Demand-pull Procurement Strategy



The Innovation Procurement Process

Innovation procurement typically involves many phases, which may include research, design, development, prototyping, and/or testing of a proof of concept (development phases) before procurement of the solution (production phase).

There are many ways to structure the innovation procurement process. The procurement of solutions that do not exist is a complex undertaking which may involve research, design, development, prototyping, and/or testing of a proof of concept solution. This undertaking becomes even more complex if the procurement encompasses the production and purchase of the new solutions. BPS organizations must therefore develop highly customized procurement documents when procuring innovation. Accordingly, the materials contained in this primer are intended to inform the thinking of the procurement professionals and BPS organizations and are not intended to be employed “off-the-shelf” without careful consideration.

The choice of procurement process should be based on the solution(s) to be procured and the circumstances involved. Whichever method is chosen, the resulting contracts must be in alignment with the process described in the procurement document.

Single contract, phased contract or multiple contracts

A procuring organization may choose to procure an innovative product through a single contract, a phased contract, or through multiple contracts.

A single contract is used for a low-collaboration process where the procuring organization is only buying the solution.

Where the procuring organization plans to work collaboratively with the supplier(s) through multiple phases, a phased contract or multiple contracts may be more appropriate.

A phased contract includes two or more distinct phases, such as research and development, design, prototyping, and prototype testing (the development phases), and the production phase. A phased contract may be terminated without fault at the conclusion of each phase, provided that this process is communicated clearly to suppliers in the procurement document. The contract must specify the conditions under which the next phase will proceed, including the process for determining the number of potential suppliers and the criteria for selection.

Alternatively, a procuring organization may choose to separate the development phases from the production phase or even procure each development phase separately through multiple contracts, with a separate procurement process for each phase or group of phases.

In cases of multiple contracts, procuring organizations must determine and communicate whether or not the successful supplier(s) at the earlier phase will be permitted to participate in the later phase(s), and ensure that the result from an earlier phase does not provide an unfair advantage in a subsequent procurement.

Separating the development phases from the production phase may result in a longer procurement process. Nevertheless, selection of this method may be justified if the concept is complex and costly, and there is the potential for added value.

Irrespective of the choice of procurement process, the procuring organization must anticipate the terms of the production phase to mitigate and allocate risk. One of the key terms of innovation procurement is intellectual property (IP) rights. The procuring organization should decide whether it will want to have access to intellectual property (IP) rights of the innovative solution, which will enable it to contract with other suppliers for the production phase.

Key Stages

A well-executed procurement process typically includes several stages, including:

- Need or problem identification
- Market research/engagement to see if potential solutions are available in the market
- Procurement of the innovative solution
- Contract award
- Contract management.



When conducting innovation procurement, procuring organizations should spend sufficient time identifying their needs and analyzing the market. Forming a solid understanding of the organization’s needs and clearly articulating the desired outcomes are critical steps to be completed before proceeding with the procurement process.

Engaging suppliers in dialogue through early market engagement strategies may help procuring organizations understand whether available products can satisfy their need or if a new solution should be developed. Feedback received from suppliers through early market engagement initiatives will help the organization refine its requirements and confirm market interest in addressing the identified need.

The procurement stages should take into account the following key points:

Identify need

- Identify a need or an opportunity for a new or improved outcome (e.g., improve performance, provide a new service, better outcome, etc.).
- Conduct preliminary market research to understand what solutions already exist in the market to meet the specified (or similar) needs.
- Survey other organizations to identify available solutions or other organizations that might have the same need.
- Secure key stakeholders' support.

Analyze the market

- Engage the market to obtain information for analysis and confirm research findings.
- If appropriate, clearly communicate the need and desired outcomes to the market.
- Refine requirements based on market response.
- Assess market response and determine whether innovation procurement is the optimal procurement strategy.

Procure Solution

- Obtain internal approval before issuing any procurement documents.
- Choose an innovation procurement model based on product maturity, degree of competition, complexity of requirements, and organization capacities.
- Complete a risk assessment and develop mitigation and change management strategies.
- Use a procurement document (e.g., RFP) to invite proposals and include the intended terms of the contract(s).
- Follow all applicable rules for the competitive procurement process.

Award Contract

- Consider deliberately the terms of a contract at the planning stage, including the key performance indicators, incentives and penalties, IP rights, insurance and indemnities, and termination and renewal clauses.
- Seek legal advice and ensure that the terms of the award contract are precise and clear.
- Include terms that are specific to innovation procurement, e.g., intellectual property; standard terms and conditions will not suffice.
- Communicate clearly the conditions that must be met to be awarded the following phases if a phased contract is being used.
- Seek legal advice when developing procurement documents and contracts to ensure they are applicable to the particular procurement scenario.
- Consider creating flexibility in complex multi-phase procurement contracts to limit or extend the specific scope of work through subsequent statements of work.

Manage Contract

- Define a contract management strategy and associated accountability for inclusion in the procurement document.
- Ensure that committed outcomes, value, and quality are measured properly and delivered.
- Ensure the organization has the proper tools and resources to effectively manage the contract and procurement risk.
- Implement change management for a successful transition to innovation adoption.

Important Considerations

Although many of the following considerations are true for any public procurement, the complexity of innovation procurement makes it particularly important to ensure that the process is robust. Key considerations for procuring organizations to apply when procuring innovation include:

1. Plan for a competitive, open, fair, and transparent procurement process

- Define the statement of need and the process early on in the procurement process to update/adjust it as required.
- Define the need of the organization(s) and/or end users in terms of function rather than technical requirements.
- Conduct a robust market analysis, including an evaluation of the capacity of existing vendors to meet the need.
- Ensure that issues that may arise later in the procurement process have been considered before starting the first stage, including: IP ownership and licensing, setting proper expectations for the supplier community, and planning for future procurement in compliance with the applicable procurement directives and trade agreements.
- Ensure that organizational resources are capable of handling complex procurement processes with a robust risk assessment process.
- Ensure that all of the necessary skills and supporting tools are available to the procurement team throughout the process (e.g., cost and benefit analysis, value-based evaluation, dialogue, and negotiation).

2. Involve key stakeholders

- Secure the full endorsement/approval of senior management, as appropriate/required.
- Select internal champions to advance the procurement process.
- Identify key stakeholders that will be part of the process (e.g., BPS buyers, contract managers, end users, and/or technical specialists) and ensure their participation in the development of evaluation criteria.
- Secure the involvement of key stakeholders, including industry associations, communities of practice, and end users.
- Complete a stakeholder needs-assessment to build outcome-based specifications and help to measure the success of project.

- Seek legal advice at every stage of the process, especially during the development of any legal documents including contracts, requests for expression of interest (RFEIs), requests for supplier qualifications (RFSQ), requests for proposal (RFPs), etc.
- Work with the users/stakeholders to ensure that all procurement documents are clear, deliberate, and written to reflect intention.

3. Consult the market

- Conduct comprehensive market research to maximize understanding about market capabilities, especially where the solutions are yet to be clearly defined.
- Identify potential innovative solutions already available in the market.
- Outline the information to be shared with the market and be clear on the organization's need.
- Develop a communications plan that outlines the engagement process with suppliers.
- Establish appropriate formal communication channels and keep suppliers informed throughout the consultation process.
- Ensure that all suppliers have access to the same level of information and that the consultation process is open, fair, and transparent to all parties involved.
- Clearly communicate the status/nature of the opportunity (e.g., the project has been given financial approval, or it is only in the early stages of formation).
- Sign reciprocal non-disclosure agreements with suppliers concerning existing IP rights, commercially sensitive information, and confidential information.

4. Develop an innovation procurement strategy

- Define the process in a way that allows flexibility for new ideas or alternative solutions.
- Be willing to consider a range of commercial/contractual options (e.g., multiple suppliers/consortia, and geographical split).
- Decide whether to use phased contracts or procure each phase separately.
- Establish an evaluation team before the procurement documents have been posted. The team will comprise of technical experts from industry as well as internal key stakeholders (e.g., end users, practitioners, and BPS buyers) to review and rate proposals, who must declare any actual or perceived conflicts of interests.
- Determine and document resource requirements for stakeholders to support consistent participation from stakeholders throughout the process.

5. Follow a competitive process in accordance with the BPS Procurement Directive

6. Select binding or non-binding procurement documents (Law of Competitive Processes)

- Use appropriate procurement models that do not contradict the requirements of the laws of the Province of Ontario and the applicable federal laws of Canada, and are in compliance with applicable trade agreements.
- When adopting an alternative procurement strategy, consult with procurement advisors and legal experts to ensure compliance with applicable directives.

- Seek legal advice on the procurement documents and their contractual obligations.
- Design and conduct the procurement processes with deliberate intent, including whether to form a binding bid contract (also called Contract A) or not, depending on the individual circumstances.
- Understand the pros and cons of issuing non-binding procurement documents, such as the possibility of respondents withdrawing their proposals during the procurement process and build strategies to mitigate risks and manage changes.
- Respect any contractual obligations established by the procurement documents developed for each procurement stage when seeking information, soliciting proposals or solutions, or inviting tenders from suppliers.
- Be mindful of the fact that the solicitation and receipt of tenders or proposals may result in the formation of a Contract A that governs how the buyer awards the procurement contract (also called Contract B) to supplier.⁹
- Bargain in good faith and exercise a duty of fairness in any bidding process whether or not a Contract A/Contract B model is used.

7. Develop flexible, outcome-based specifications (OBS)

- Develop flexible OBS requirements to enable consideration of different approaches which are critical to the successful implementation of innovative solutions.
- Determine appropriate OBS that focus on what is to be achieved: the functions or performance that the procurement must fulfil for the end user.
- Write OBS in performance terms that describe what is to be achieved rather than how it should be done.
- Craft OBS that are specific, measurable, achievable, realistic and time-based (SMART) and clearly communicate the need in terms of functional and other outcomes, including the social, economic, and environmental requirements of the solution, if so desired.
- Key stakeholders should be involved in developing and validating the OBS requirements.

8. Develop value-based evaluation criteria

- Develop criteria that enable the procuring organization to objectively determine which proposal offers the most suitable and best-value innovative solution.
- Develop criteria that balance the goals of the best fit-for-purpose solution with the lowest total cost of ownership (TCO).
- Consider not only price but also other measures of value, such as reduced process time and improved outcomes to provide BPS buyers the flexibility to assess all submitted proposals and solutions against established OBS specifications.
- Engage a variety of experts (e.g., BPS buyers, end users, technical specialists) in the development of evaluation criteria and their weighting.

⁹ The solicitation and the receipt of tenders or proposals may result in the formation of a binding bid contract (also called Contract A) that governs how the buyer awards the procurement contract (also called Contract B) to supplier. Not all procurement strategies will result in a binding agreement under the Contract A/Contract B model. Binding competitive procurement documents are, typically, prescriptive in nature and include a well-structured evaluation and award process. They serve the procuring organizations well for traditional procurement and less complex projects when the needs are clear.

- Carefully consider the weighting of each criterion to select an innovative solution that will meet the identified need while maximizing the value of the solution.
- Clearly disclose in the procurement documents all criteria to be used to evaluate and award contracts throughout the process.

9. Select an IP rights strategy

- Develop an IP rights strategy that takes into account the likely future applications of the product or service being procured.
- Clearly state the organization's intentions with respect to ownership, licensing, and future commercialization of any new IP or deliverables in the procurement documents.
- Incorporate IP clauses into the contract.
- Seek qualified legal advice on all IP rights issues.

10. Develop risk mitigation strategies

- Identify the risks involved at each stage of the procurement process.
- Carefully assess potential impacts and develop risk mitigation strategies, including change management.
- Document risk considerations during the procurement process.
- Commit sufficient time and resources to risk management to address the higher degree of uncertainty related to the procurement outcomes of innovation procurement.

EARLY MARKET ENGAGEMENT STRATEGIES

Engaging the market is a key step in a well-planned procurement process that allows suppliers to learn about the needs that procuring organizations are planning to address. It is especially useful in the case of innovation procurement, where an increased level of certainty of demand can encourage the development of innovative solutions in the market.

Early market engagement strategies are processes that can improve the fit between the end user's requirements and the market capabilities, resulting in more relevant and competitive proposals. The figure below summarizes how an effective early market engagement strategy can be used by both BPS organization and suppliers.

Figure 4 – Uses of Early Market Engagement

BPS Organization	Market/Supplier
<ul style="list-style-type: none">• Explore the available solutions in the market• Gather current knowledge about market capabilities in designing new solutions to meet public sector needs• Provide vendors with the opportunity to network and partner with other vendors• Discuss the BPS organization's needs and get feedback on specifications and requirements• Help define the need and develop realistic evaluation criteria• Create interest in the market to think about solutions beyond what the market is currently able to provide• Identify potential risks	<ul style="list-style-type: none">• Better understand the BPS organization's needs• Demonstrate potential solutions or ideas that are not available in the market yet• Discuss developing or refining solutions that will meet the BPS organization's needs• Plan and prepare to respond to a future procurement opportunity and be ready to meet the demand• Obtain information needed for creating alliances/partnerships to fully leverage the potential for an anticipated opportunity

Early engagement is not intended to create a shortlist of qualified proponents, nor would it result in an award of contract. Participation in the early market engagement process must not influence the chances of the participating suppliers becoming the successful proponent in any subsequent opportunity. This should be made clear to potential participants.

Early market engagement can be initiated by either the buyer or the supplier. A total of seven early market engagement strategies have been identified through research, jurisdictional scans, and expert interviews. The first five strategies are initiated by the procuring organization and the last two strategies — trade show and unsolicited proposal — are commonly used by suppliers to market their products to procuring organizations.

Depending on the circumstance, these early market engagement strategies can be used alone or in combination.

Figure 5 - Summary of Early Market Engagement Strategies

ID	Strategy	Initiator	Purpose	Outcome	Dialogue
1	Market sounding	BPS organization	Assess market reaction and review/adjust solution requirements	Achievable requirements Increased supplier readiness to respond to procuring needs	BPS organization ↔ Supplier/Industry Bodies
2	Market creation	BPS organization	Understand the industry and scope/define the need to incent suppliers to participate	New supplier offerings Increased market competition	BPS organization ↔ Supplier/Industry Bodies
3	Reverse trade shows	BPS organization	Present procuring organization needs	Stimulated new interest to consider doing business with the BPS	BPS organization ↔ Supplier
4	Request for Expression of Interest (RFEI)	BPS organization	Request supplier qualifications and test market interest	Understanding of market capacity and interest	BPS organization ↔ Supplier
5	Forward procurement plan (FPP)	BPS organization	Inform businesses of potential supply opportunities, with indicative timeframes	Increased supplier readiness to respond to BPS needs	BPS organization → Supplier
6	Trade shows	Supplier/ Industry	Understand market capacities; stay up-to-date on new technologies and market trends	Understanding of the innovative market offerings	BPS organization ↔ Supplier
7	Unsolicited proposals	Supplier	Consider new innovative solutions	Reframed need for future procurement opportunities	BPS organization ↔ Supplier

Strategy #1 – Market Sounding

Definition

Market sounding is a defined consultation process to assess the reaction of the market to a need. It allows buyers to gain supplier perspectives at an early stage of business case preparation. The range of questions posed to the suppliers in market sounding is usually broader than in a traditional Request for Information (RFI). Market sounding may solicit suppliers' opinions on the feasibility of the proposed outcomes, and/or may be used to assess whether the projected business model will be financially viable for the parties involved. Thus, market sounding involves a dialogue between the buyers and the market intended to refine the user's requirements.

Market sounding can be conducted with industry associations and subject matter experts. Associations can provide insight into how the market works, and identify and understand the possible solutions. They can also identify contacts with relevant suppliers that may be engaged in subsequent dialogue.

Market sounding does not involve supplier selection, pre-qualification or any commitment to a future contract on the part of any party.

When to use

- to signal an upcoming procurement opportunity to potential suppliers and provide information about BPS needs;
- to identify potential suppliers and establish key contacts;
- to validate needs, project objectives, and the business case;
- to gather information to help define/refine needs in terms of feasibility and financial viability;
- to assess the market's capacity and maturity to address BPS needs;
- to assess the feasibility of the business model;
- to assess project complexity and develop realistic timeframes; and
- to accurately estimate the required budget for a particular contract.

How to use

Define the scope of consultation

Choose format and plan

Consult and capture information

Step	Process	Considerations
Define the scope of consultation	<ul style="list-style-type: none"> • Prepare the statement of needs including project background, description and scope (e.g., size of potential opportunity of suppliers). • Define the market sounding objectives and processes. • Determine the target audience to be invited (e.g., direct suppliers, industry bodies, subcontractors or other organizations). • Define a market sounding questionnaire that allows testing of project feasibility, market capacity and further procurement opportunities. 	<ul style="list-style-type: none"> • Confirm the need for market sounding.
Choose format and plan	<ul style="list-style-type: none"> • Determine how best to engage the market based on the complexity of BPS needs and suppliers' confidentiality requirements (e.g., one-on-one meetings, open discussions, workshops, seminars, presentations). • Define process timelines identify BPS representatives participating in the engagement process. • Define communication guidelines and set clear rules of engagement and BPS/suppliers expectations in terms of the level of content to be shared during the market sounding session(s). • Prepare the market sounding document including the process, objective(s), desired outcomes, and statement of needs. • Set suppliers' expectations of the information that will be shared and advise suppliers to note confidential information. • Define the strategy/approach to protect suppliers' commercially sensitive information (e.g., using non-disclosure agreements). 	<ul style="list-style-type: none"> • Consider the engagement method based on the complexity of the BPS need (e.g., individual consultations with suppliers for highly complex projects, or group meetings for less challenging issues). • Consider cross-functional resources allocation during market engagement (e.g., BPS buyers, clinicians, practitioners, administrators, and/or end users). • Consider suppliers' costs when participating in a market engagement process. • Consider discussing what commercial and contractual terms would be reasonable to expect (e.g., service levels, payment conditions, delivery conditions, education, and training). • Consider the type of information that will be shared, the objectives and intended audiences of the engagement sessions. • Consider a systematic approach to tracking and documenting information shared between suppliers and procuring organizations. • Ensure the market sounding document clearly indicates that it is neither a procurement process nor a pre-qualification process.

Step	Process	Considerations
Consult and capture information	<ul style="list-style-type: none"> • Publish the market sounding document on relevant industry and BPS communication channels (e.g., BPS websites, industry communication sources, and/or public tendering sites). • Conduct market consultation sessions leveraging the market sounding questionnaire and document findings. • Close the market sounding process and notify suppliers about next steps (e.g., initiating procurement process, additional market engagement exercise(s), or opportunity rejection). • Prepare a final report indicating the results of the market sounding process and key considerations for procurement. 	<ul style="list-style-type: none"> • Consider how to disseminate the market sounding document to best engage the market based on the complexity of needs and confidentiality requirements. • Ensure expectations with respect to the potential opportunity (e.g., the project has been given financial approval, or it is only at the early stages of formation). • Ensure suppliers will have enough time to confirm participation. • Ensure the same information is shared during each session and that all views are fairly represented in the market engagement report and in future procurement documents, if that is the next step. • Ensure that a response to market sounding process does not affect the potential for participants to become the successful proponent of any subsequent procurement opportunity. • Consider the results of the market engagement process and the next steps.

Strategy #2 – Market Creation

Definition

Market creation is the process intended to generate interest in the supplier community to compete for future procurement opportunities. A decision to undertake this process may be prompted by a lack of interest from vendors in responding to new opportunities or requests for proposals, due to the scale and scope of the requirements and perceived problems in the commercial viability of the resulting contract(s). It can also be taken after a market sounding through which it was determined that there is insufficient market interest in an upcoming opportunity.

In a successful market creation process, the procuring organization communicates to suppliers the scale and scope of the future requirements and the intended procurement processes and uses the feedback collected from suppliers and create the market conditions needed to deliver the best solution.

Market creation can also be conducted with industry associations. In cases in which an industry that is new to the organization or sector, procuring organization may engage with their representatives and market the benefits of working in a new sector with the industry that is new to the organization or sector. In return, the industry representatives can explain how their market works and provide contacts for relevant suppliers to engage in further dialogue. Securing support of the industry group may stimulate the interest of the supplier community in future dialogue with the procuring organization.

Market creation does not involve supplier selection, pre-qualification or contract commitment.

When to use

- to assess market interest to satisfy and address BPS needs;
- to stimulate an interest for suppliers to enter into new markets;
- to assess feasibility of identified needs;
- to identify potential suppliers and establish key contacts;
- to address large and complex projects; and
- to address highly specialized requirements.

How to use



Step	Process	Considerations
Define the business case	<ul style="list-style-type: none"> • Prepare the statement of needs including project background, description, and scope (e.g., size of potential opportunity for suppliers). • Define the market creation objectives and processes. • Validate with key stakeholders (e.g., BPS buyers, practitioners, administrators, and/or end users) the need for an innovative solution and the scale of requirement that would create an interest in the market to respond. 	<ul style="list-style-type: none"> • Consider developing a statement of needs that allows the widest possible appeal to the marketplace. • Consider engaging with multiple BPS organizations that might have identified the same need, in order to help develop a more compelling statement of needs and business case • Consider different approaches to define the business case to identify the best approach to developing a solution for the identified need, including the commercial viability of the opportunity. • Consider different options to create the right procurement value to encourage more suppliers to take an interest in particular areas of supply.
Understand the market	<ul style="list-style-type: none"> • Identify key players that can take part of the market creation activities. • Analyze the market structure and determine the number and size of suppliers that might be interested in addressing the identified BPS need. • Identify potential suppliers and determine the target audience (e.g., direct suppliers, industry bodies, subcontractors, or other organizations). 	<ul style="list-style-type: none"> • Ensure market analysis skills are available to the procuring organization in order to properly engage the market. • Recognize both the marketplace in which the BPS need is operating and the commercial drivers of suppliers. • Recognize the suppliers' business structures and service offerings.

Step	Process	Considerations
<p>Choose format and plan</p>	<ul style="list-style-type: none"> • Determine how best to engage the market based on the complexity of BPS needs and suppliers' confidentiality requirements (e.g., one-on-one meetings, open discussions, workshops, seminars, presentations). • Define process timelines and BPS representatives participating in the engagement process. • Define communication guidelines and set clear rules of engagement and BPS/suppliers' expectations in terms of the level of content to be shared during the market creation session(s). • Prepare the market engagement document including the process, objective(s), desired outcomes, and statement of needs. • Prepare a consultation questionnaire with key stakeholders (e.g., BPS buyers, practitioners, administrators, and/or end users) to ensure consistent questions for all participants. • Set suppliers' expectations in terms of the information that will be shared and advise suppliers to note confidential information. • Define the approach and strategy to protect suppliers' commercially sensitive information (e.g., using non-disclosure agreements). 	<ul style="list-style-type: none"> • Consider cross-functional resource allocation during market engagement (e.g., BPS buyers, practitioners, administrators, and/or end users). • Consider suppliers' costs involved when participating in a market engagement process. • Consider discussing what commercial and contractual terms would be reasonable to expect (e.g., service levels, payment conditions, delivery conditions, education, and training). • Consider the type of information that will be shared and the objectives of the engagement sessions. • Consider a systematic approach to track and document information shared between suppliers and procuring organizations. • Ensure the market engagement document clearly indicates that it is neither a procurement process, nor a pre-qualification process.

Step	Process	Considerations
Consult and capture information	<ul style="list-style-type: none"> • Publish the market engagement document on relevant industry and BPS communication channels (e.g., BPS websites, industry communication sources, and/or public tendering sites). • Conduct the market consultation sessions leveraging the responses from consultation questionnaire. • Prepare a final report indicating the results of the market creation process (e.g., interest in BPS opportunities, project feasibility, and possible timelines for completion). • Close the market engagement process and notify suppliers about next steps (e.g., initiating procurement process, additional market engagement exercise, or opportunity rejection). • Prepare a final report indicating the results of the market sounding process and key considerations for procurement. 	<ul style="list-style-type: none"> • Consider how to disseminate the market engagement document to best engage the market based on the complexity of needs and confidentiality requirements. • Consider seeking the suppliers' point of view regarding different commercial and contractual approaches. • Consider highlighting the suppliers' capacity gaps to help them to pursue potential partnerships to respond to future procurement opportunities. • Ensure expectations are clear in terms of the status of the BPS organization procurement opportunity (e.g., the project has been given financial approval, or it is only at the early stages of formation). • Ensure suppliers will have enough time to confirm participation. • Ensure the same information is shared during each session and that all views are fairly represented in the market engagement report and in future procurement documents, if that is the next step. • Ensure that a response to the market engagement process does not influence chances of the participants to become the successful proponent of any subsequent opportunity. • Consider the results of the market engagement process and the next steps.

Strategy #3 – Reverse Trade Shows

Definition

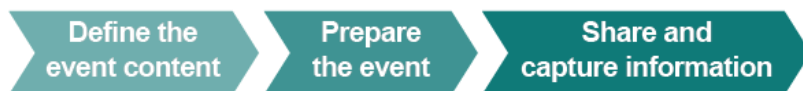
Reverse trade shows (or “selling-to” events) are events driven by BPS organizations to encourage new and existing suppliers to consider doing business with the BPS. Reverse trade shows are typically medium to large-scale events that are periodically hosted to provide an opportunity for BPS representatives and suppliers to network and exchange information. This gives the BPS organizations an opportunity to gain a better understanding of the marketplace and identify any potential capacity issues; while suppliers gain insights and knowledge of the BPS needs and future contracting opportunities.

Reverse trade shows may include elements of market sounding when suppliers are asked to give their views on the BPS organization’s requirements, including whether or not they are feasible and what implementation risks must be considered. There are no contracting commitments on either side.

When to use

- to provide suppliers with information about future BPS needs and challenges;
- to gather feedback regarding identified BPS needs;
- to create communication channels between the BPS organizations and suppliers;
- to educate suppliers on how to do business with the BPS organizations;
- to generate interest in the market for potential future needs; and
- to identify potential suppliers and establish key contacts.

How to use



Step	Process	Considerations
Define the content of reverse trade show	<ul style="list-style-type: none">• Analyze the market structure and determine the targeted audience for the reverse trade show.• Prepare the statements of needs that allow suppliers to clearly understand the BPS challenges, including description and scope (e.g., size of potential opportunity for suppliers).• Determine the target audience to be invited (e.g., direct suppliers, industry bodies, subcontractors, or other organizations).• Prepare materials on how to do business with BPS organizations, for distribution at the event.	<ul style="list-style-type: none">• Confirm the need for hosting reverse trade show.

Step	Process	Considerations
Prepare the event	<ul style="list-style-type: none"> • Select the location and date where the reverse trade show will take place. • Prepare an agenda that includes the show sessions, BPS exhibitors' information, and potential opportunities to discuss. • Prepare the invitation document including logistics information, BPS exhibitors, and potential needs that will be shared during event. • Establish clear rules of engagement and BPS/suppliers expectations in terms of the level of content to be shared during the reverse trade show. 	<ul style="list-style-type: none"> • Consider the number of exhibitors (i.e., BPS organizations) for the reverse trade show. • Consider the location and date that will attract a maximum number and variety of suppliers. • Consider delivering a workshop to prepare BPS representatives for suppliers' questions.
Share and capture information	<ul style="list-style-type: none"> • Publish the invitation document on relevant industry and BPS communication channels (e.g., BPS websites, industry communication sources, and/or public tendering sites). • Confirm the number of suppliers attending the reverse trade show. • Document key findings (e.g., suppliers' feedback regarding BPS needs, feasibility, supplier capability, and capacity). 	<ul style="list-style-type: none"> • Consider having key stakeholders attending the reverse trade show in order to discuss needs with potential suppliers (e.g., BPS buyers, practitioners, administrators, and/or end users). • Ensure the same level of information is shared with all interested suppliers. • Consider the results of the market engagement process and the next steps. • Ensure that any future related procurement process shares the same BPS information as was shared during trade shows, if still relevant.

Strategy #4 – Request for Expression of Interest (RFEI)

Definition

An RFEI is a document which allows BPS organizations to gather information about supplier capabilities, qualifications, and interest in a specific procurement opportunity.¹⁰ It may be used to gain a better understanding of the ability and interest of the supplier community to provide necessary solutions.

An RFEI may be considered for highly specialised needs or new markets where organizations may not be able to identify potential suppliers.

A response to RFEI must not pre-qualify a potential supplier and must not influence their chances of being the successful proponent on any subsequent opportunity.

When to use

- to solicit useful information from interested parties;
- to assess market interest; and
- to assess market capacity to satisfy the requirements.

How to use



Step	Process	Considerations
Define scope of consultation	<ul style="list-style-type: none">• Prepare the statement of needs, including background, description, objectives, and scope.• Determine the target audience (e.g., direct suppliers, industry bodies, subcontractors, or other organizations).	<ul style="list-style-type: none">• Consider similar needs in other areas of the BPS.• Consider whether the procurement is complex, large and/or of significant value to justify the time and resource commitment of an RFEI (i.e., a capability and qualifications information is needed).• Ensure the information request is specific and necessary to minimize the cost and time required and encourage more and diverse participation.• Ensure the RFEI process does not include technical specifications.

¹⁰ Ontario Canada. *BPS Procurement Directive*, 2011.

Step	Process	Considerations
Develop RFEI	<ul style="list-style-type: none"> • Prepare RFEI document, including scope and objective of the RFEI, rules of engagement and communication guidelines, a questionnaire for suppliers, and timelines for suppliers' inquiries and final submissions. • Prepare a questionnaire that allows the BPS organization to gather suppliers' information with input from key stakeholders (e.g., BPS buyers, practitioners, administrators, and/or end users). • Publish RFEI on electronic tendering sites (e.g., MERX, Biddingo, or Bravo Solution). 	<ul style="list-style-type: none"> • Ensure the RFEI clearly explains what is required and how the RFEI process will be managed, including rules of engagement and managing expectations. • Ensure suppliers will have enough time to respond (e.g., allow 30 calendar days for more complex needs). • Ensure RFEI does not contain means of evaluating or comparing the collected information.
Analyze RFEI responses	<ul style="list-style-type: none"> • Review suppliers' responses. • Determine with suppliers which part(s) of their responses should be treated as confidential, and those that are permissible to share (e.g., non-disclosure agreements). • Prepare a report summarizing the findings. • Close the RFEI process and notify suppliers about next steps (e.g., procurement process or an additional market engagement process). 	<ul style="list-style-type: none"> • Consider gathering a cross-functional team to review the different components of suppliers' responses (including procurement and technical expertise). • Ensure that a response to the RFEI does not pre-qualify a potential supplier. • Ensure that a response to the RFEI does not influence chances of the participants to become the successful proponent on any subsequent opportunity. • Consider the results of the market engagement process and the next steps.

Strategy #5 – Forward Procurement Plan (FPP)

Definition

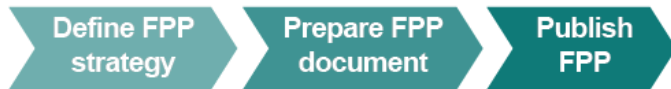
FPP is the process of giving suppliers advance notice about the BPS organization’s upcoming procurement opportunities. It provides suppliers enough lead time to adequately plan and prepare to submit good quality responses. FPP is not a dialogue between the BPS organizations and the market; it is aimed to inform the market community only. It includes no element of supplier feedback, selection, or bid evaluation.

The process may be applied to announce overall demand and cover multiple procurement opportunities, but also could be applied to a standalone need. FPP does not include any kind of procurement commitments on either side.

When to use

- to provide suppliers with information about future procurement needs;
- to provide the scale of business to attract new suppliers;
- to allow suppliers to prepare ahead of time, especially for highly complex procurements; and
- to manage the risk around lack of interest and supplier participation.

How to use



Step	Process	Considerations
Define FPP Strategy	<ul style="list-style-type: none">• Consolidate upcoming opportunities for procurement and develop the FPP.• Develop a FPP strategy, which is reviewed and updated as required, up to the actual procurement(s).	<ul style="list-style-type: none">• Consider engaging with multiple BPS organizations that might have identified the same need, in order to help develop a more compelling statement of needs and business case.• Consider establishing procedures for preparing, updating, and publishing the FPP.• Consider frequency of reviews of FPP, taking into consideration the occurrence of major initiatives, the extent of change likely to occur, and the available resources.• Consider designating a FPP coordinator for collecting information, drafting the FPP, managing reviews, and updates throughout the year.

Step	Process	Considerations
Prepare FPP document	<ul style="list-style-type: none"> • Prepare the FPP document, including a detailed listing of planned procurement initiatives, the project names and categories, solutions to be procured, the anticipated procurement timeframes, and sub-contracting opportunities where they exist, including the type of opportunities available (where known). 	<ul style="list-style-type: none"> • Consider a short procurement outlook in the FPP, including information of each planned procurement activity. • Ensure the FPP provides potential suppliers with useful information about the BPS and the environment in which it conducts procurement. • Consider the level of information that will be included in the FPP to add value and encourage competition while maintaining the integrity of information.
Publish FPP	<ul style="list-style-type: none"> • Publish the FPP on BPS communication channels (e.g., BPS and public tendering websites). • Establishing a channel for communication and questions. • Post Qs&As generated by suppliers and update regularly to ensure the same level of information is available to all suppliers. • Update the FPP as planned, including removing “cancelled” procurement items from the list. 	<ul style="list-style-type: none"> • Consider the most appropriate communication channel that will draw in suppliers’ attention to potential procurement opportunities. • Ensure the stated planned timing is as specific as possible by listing the month of the planned approach to the market. • Ensure a disclaimer is included to state that plans are not guaranteed and that the timing of procurements could change over time.

Strategy #6 – Trade Shows

Definition

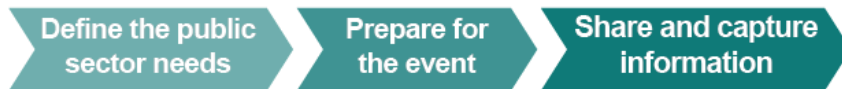
Trade shows are (trade fair or exhibition) events that allow suppliers in a specific industry to showcase and demonstrate their latest products, market trends, and opportunities that might be relevant to BPS organization’s needs. BPS organizations are encouraged to attend trade shows to gain a better understanding of the marketplace, new developments, and identify any potential market capacity issues.

Trade shows are industry-driven events. When attending trade shows, BPS organizations should clearly indicate to the suppliers that their attendance should not be interpreted as commitment to procure or an interest in a specific solution or technology.

When to use

- to understand market trends, capabilities, size, and new developments;
- to identify potential suppliers; and
- to use the trade show as a channel to communicate BPS needs.

How to use



Step	Process	Considerations
Define BPS needs	<ul style="list-style-type: none"> • Confirm BPS organization’s interest to attend trade shows. • Prepare a list of future procurement needs, including description and expected scope (e.g., size of business). 	<ul style="list-style-type: none"> • Ensure BPS buyers can convey the needs of various stakeholders (e.g., BPS buyers, practitioners, administrators, and/or end users) to allow suppliers to clearly understand BPS challenges.
Prepare for the event	<ul style="list-style-type: none"> • Research available trade shows through industry associations. • Select and plan which trade show(s) to attend based on BPS needs. • Select BPS representatives to attend the trade show(s). • Develop a strategic approach to gather suppliers’ information in a way that can be used in further market engagement strategies or procurement processes. • Prepare materials on how to do business with BPS organizations to be shared during trade shows. • Define clear rules of engagement and the level of content to be shared during the trade show. 	<ul style="list-style-type: none"> • Consider the cost to attend the trade show and the number of BPS representatives attending. • Consider having key stakeholders (e.g., end users and/or BPS buyers) attending the trade show in order to discuss needs with potential suppliers and gather their feedback regarding the potential innovation solutions discovered during the trade show. • Consider delivering a workshop to representatives to discuss trade show objectives, rules of engagement, and prepare for suppliers’ questions.

Step	Process	Considerations
Share and capture information	<ul style="list-style-type: none"> • Share information about upcoming opportunities. • Document findings and discussions from all BPS representatives. • Prepare final report indicating the results of the trade show (e.g., new innovations, suppliers' feedback regarding BPS needs, feasibility, supplier capability, and capacity). 	<ul style="list-style-type: none"> • Ensure the same level of information is shared with all interested suppliers. • Consider using a systematic approach to document discussions with suppliers to ensure fair treatment and consistent disclosure of information.

Strategy #7 – Unsolicited Proposals

Definition

Unsolicited proposals are proposals submitted by suppliers to address a BPS organization’s current or future needs that may or may not have been identified by the organization.

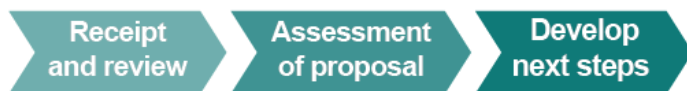
BPS organizations should establish procedures for controlling the receipt, evaluation, and timely disposition of unsolicited proposals. The procedures should address how to avoid creating or appearing to create conflicts of interest (e.g., not allowing proposals to be accepted during blackout periods or assigning a resource to receive the proposals who is separate from the procurement process). The procedures should also include controls on the reproduction and disposition of proposal material, particularly parts identified by the supplier that should be treated as confidential.

Unsolicited proposals should generate ideas and interest in innovative solutions for a BPS need, but should not bias BPS organizations towards a particular solution. The acceptance of an unsolicited proposal should not be perceived as establishing any commitment to procure the solution.

When to use

- to be open to suppliers who approach the BPS organizations directly to generate demand;
- to encourage businesses to put forward innovative solutions; and
- to have visibility on solutions that might address unmet BPS needs.

How to use



Step	Process	Considerations
Receipt and review	<ul style="list-style-type: none">• Develop a process for receiving, distributing, and reviewing unsolicited proposals, including appropriate approval authority.• Obtain approval to review unsolicited proposal.• Review unsolicited proposal to gather information that could inform future procurements, such as:<ul style="list-style-type: none">• Need(s) being addressed;• Capability of the proposal;• Potential cost of the solution; and• Potential benefits of the proposal, including how the proposal is in the public interest.	<ul style="list-style-type: none">• Consider establishing a lead who coordinates the receipt and handling of unsolicited proposals. In case the procuring organization is purchasing on behalf of public organizations, the entry point should be established at the procuring organization, but a communication channel should be created to inform end users or BPS organizations about the unsolicited proposal received.• Ensure IP and trade secrets have been identified and are respected.

Step	Process	Considerations
Assessment of proposal	<ul style="list-style-type: none"> • Validate with end users interest and potential benefits of the innovative solution, and determine if it is of sufficient interest to justify a full assessment. • Request senior leadership approval to fully assess the proposal. • Establish a working group comprising representatives with expertise and knowledge to properly assess the proposal. • Confirm that solution addresses a significant BPS need and is consistent with BPS objectives and in the public interest. 	<ul style="list-style-type: none"> • Consider the proposal with respect to its financially, economically and socially feasibility and the capability of being delivered. • Consider if similar offerings or proposals have been considered as part of current BPS processes (e.g., involve end users).
Develop next steps	<ul style="list-style-type: none"> • Decide whether further market exploration is needed or whether to proceed to a competitive procurement process. 	<ul style="list-style-type: none"> • If proceeding to a competitive process: <ul style="list-style-type: none"> • Ensure that the requirements in the RFP are not biased towards any particular supplier. • Ensure the supplier's IP is protected in any future information gathering or procurement processes.

INNOVATION PROCUREMENT MODELS

Six procurement models are identified below based on experience from other countries. They are not set or mandatory processes to follow. Procuring organizations can use these models to design their own process(es).

1. Research & Development (R&D) procurement
2. Innovation partnership
3. Design contest
4. Competitive dialogue
5. Competitive procedure with negotiation
6. Innovation friendly competitive process

When seeking an innovative solution, the procuring organization should carefully consider its own circumstances, taking into consideration the complexity of the need, the nature of the marketplace, and whether the solution is to be scaled up for wider application.

As a best practice, the procuring organization may start by consulting stakeholders so that its needs can be clearly defined.

A few high level questions may be used to guide the adoption of all or part of the models identified:

1. Are the high-level needs well-defined?
2. Is the needed solution available in the market?
3. Is the procuring organization's intention to procure the solution?
4. Are the requirements well-defined?
5. Are the requirements flexible?
6. To what degree is the procuring organization looking to partner or collaborate with the supplier throughout the process?

Below is a summary of the circumstances in which these models can best be applied.

Figure 6: Select Innovation Procurement Models

Procurement Model	High-level needs well-defined	Needed solution in the Market	Intention to procure beyond prototyping or first good	Requirements well-defined	Requirements flexible	Degree of buyer/supplier collaboration
R&D Procurement	Yes	No	No	No	N/A	High
Innovation Partnership	Yes	Maybe but needs modification	Yes	Maybe	Maybe	High
Design Contest	Yes	No	Maybe	Maybe	Yes	Low
Competitive Dialogue	Yes	Maybe but needs modification	Yes	No	N/A	Medium
Competitive Procedure with Negotiation	Yes	Yes	Yes	Yes	Yes but limited	Medium
Innovation Friendly Competitive Process	Yes	Yes	Yes	Yes	Yes	Low

In the following sections, each model is described in greater detail. It should be noted that innovation procurement models often involve multiple stages of evaluation and selection to identify, develop and procure a complex creative solution. Successful implementation of any of these models depends on the ability to translate the procuring organization’s needs or problems into functional requirements and assess the value of proposed new solutions.

For any model, the procuring organization can issue an RSFQ prior to issuing the RFP to identify qualified suppliers and/or for clarifying and reaching agreement on the specifications and requirements. This helps to make the selection process more manageable.

R&D Procurement

Overview

R&D procurement is the process of purchasing research and development (R&D) of new and sometimes radically different solutions. It may include acquisition of limited prototypes and/or the first test products developed. However, it does not include the purchase of resulting end-solutions on a commercial scale.

R&D procurement can be implemented in the form of a phased contract, which can be terminated without fault at the conclusion of any of the distinct phases for exploring, designing, prototyping, or prototype testing. The contract should specify the conditions under which the next phase will proceed. Alternatively, the process can be implemented with separate procurement processes and contracts for each phase.

Irrespective of the type of contract being chosen, it is best practice for the procuring organization to begin the process with an open invitation in the form of Request for Proposal (RFP). All subsequent procedures should be clearly defined in the RFP.

To ensure fairness, the procuring organization should remain open to different ideas and solutions throughout the process and not develop a bias towards one supplier's methodologies or approaches.

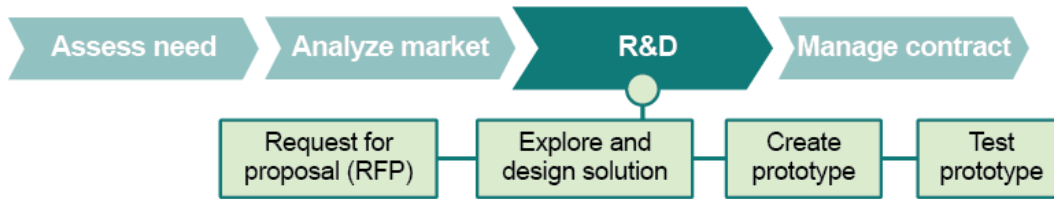
A procuring organization needs to determine the process prior to issuing the RFP and include all process information in the procurement document, including treatment of IP. The procuring organization should set out its intentions about the ownership, licensing, and future commercialization of any new IP that will be developed in the course of the contract(s).

Benefits

- Develops a range of innovative ideas by working with one or more supplier(s) separately at the pre-commercial development phases for innovative products to solve challenges or to meet a complex need;
- Proves innovative solutions through exploring and prototyping in real-life setting; and
- Supports the uptake of innovation in the market by requiring procuring organizations to work with supplier(s) to develop new solutions, even if there is no commitment to procure.

How to use

R&D procurement may contain the following phases as set out below:



Step	Process	Considerations
Request for proposal	<ul style="list-style-type: none"> • Prepare an RFP with the explicit intent to award contract(s) to one or more suppliers to explore and design solution(s), create prototype(s) and test first products(s). • Prepare a statement of needs and the objectives of the RFP (e.g., outcome-based functional requirements and estimated procurement value). • Develop mandatory requirements and outcome and value-based evaluation criteria for each phase. • Indicate clearly the organization's intentions with respect to ownership, licensing and future commercialization of any new IP or deliverables. • Indicate clearly what conditions must be satisfied for the supplier(s) to move from one phase to the next and under what circumstances the process can be terminated without fault at the conclusion of any of those phases. • Develop outcome-based functional requirements and value-based evaluation criteria and their associated weightings with input from end users and experts. • Publish RFP on electronic tendering sites (e.g., MERX, Biddingo, or BravoSolution). 	<ul style="list-style-type: none"> • Consider whether the procurement process will be implemented in the form of a phased contract or whether each phase will be procured separately. • Ensure the RFP clearly explains how the process will be run. • Define R&D phases, start and end points for each phase, and how (and how many) suppliers will be selected in each phase. • Consider the number of suppliers to be invited to participate in each phase, and ensure it is sufficient to create competition. • Consider the way to proceed if there are insufficient responses to create competition, including stating the option to cancel the process. • Ensure that final criteria will allow the team to assess the solution based on overall value instead of price. • Ensure that the evaluation team is comprised of technical experts from industry and internal key stakeholders (e.g., end users, practitioners, and BPS buyers). • Ensure that the timelines for each phase are realistic. Consider that the longer the period, the greater the risk of reducing competition as bidding costs can be prohibitive to some suppliers. • Ensure that the RFP states that the buyer has the right to terminate the process at any time. • Ensure that terms and conditions cover the services to be carried out in each phase, including payment and IP rights and licencing. • Ensure that suppliers have enough time to prepare a quality response.

Step	Process	Considerations
Explore and design solution	<ul style="list-style-type: none"> • Ensure that each member of the evaluation teams signs confidentiality agreements before getting access to suppliers' commercially sensitive information. • Evaluate proposals against mandatory requirements and value-based evaluation criteria. • Select supplier(s) to participate in exploration phase. • Award contract(s) for exploration phase or phased contract(s) for the entire innovation lifecycle. • Notify unsuccessful supplier(s). • Commence exploration work. • Document findings and insights of the exploration phase. • Pay supplier(s) for exploration phase and close out contract(s), if applicable. • Decide whether to proceed to the prototype phase. 	<ul style="list-style-type: none"> • Ensure that the selection process is fair and in accordance with the selection criteria in the RFP. • Ensure equal treatment, non-discrimination and the protection of suppliers' existing IP and commercially confidential information. • Ensure that suppliers identify which part(s) of their responses should be treated as confidential and those that are permissible to share (e.g., include in confidentiality agreements). • Ensure that the exploration process is clearly defined, including timelines for reporting and submissions of deliverables
Create prototype	<ul style="list-style-type: none"> • Select supplier(s) to participate in prototyping phase based on outcome and value-based evaluation criteria identified in the RFP. • Award contract(s) for prototyping phase, if applicable. • Notify unsuccessful supplier(s) • Commence production of prototype(s) and evaluation of results. • Document findings and high level requirements identified in the prototyping phase. • Pay supplier(s) for prototyping phase and close out contract(s), if applicable. • Decide whether to proceed to prototype test phase. 	<ul style="list-style-type: none"> • Ensure that the selection process is fair and in accordance with the selection criteria outlined in the RFP. • Ensure that the prototyping creation process is clearly defined, including timelines for reporting and submissions of deliverables.

Step	Process	Considerations
Test prototype	<ul style="list-style-type: none"> • Select supplier(s) to participate in prototype testing phase based on outcome and value-based evaluation criteria identified in the RFP. • Award contract(s) for prototype testing phase, if applicable. • Notify unsuccessful supplier(s). • Commence limited production of newly developed product(s) for proof of concepts in a real-life context. • Assess test series to ensure it meets the desired end state, as well as industry, and safety standards. • Publish testing results, if required. • Prepare a final report that includes and documents the results (performance) of the prototype(s), including strengths and weaknesses. • Pay supplier(s) for prototype testing phase. 	<ul style="list-style-type: none"> • Ensure that the selection process is fair and in accordance with the selection criteria in the RFP. • Ensure the prototype testing process is clearly defined, including timelines for reporting and submissions of deliverables.

Innovation Partnership

Overview

Innovation partnership is the process of entering into a partnership with selected supplier(s) to research, develop and purchase an innovative solution(s) to meet an identified need. It may also be used to modify and apply existing solutions to new problems, typically beginning with designing the solution.

By entering into an innovation partnership, the procuring organization is establishing a long-term collaborative relationship with the selected supplier(s) to proceed from exploration, design, development, or adaptation through prototyping to production of the innovative solution. It allows the sharing of risks and rewards of innovative solutions between suppliers and the buyers.

An innovation partnership is resource intensive on the part of the procuring organization and the supplier(s) as it is based on a fully collaborative approach to solve complex needs where there is no existing solution in the market.

A procuring organization needs to make upfront decisions on the process prior to issuing the RFP, such as whether or not it is procured through phased contract or multiple contracts, and include this information in the procurement document.

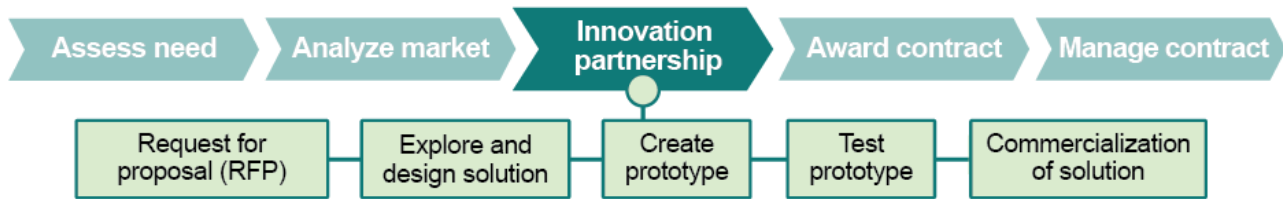
Innovation partnership may result in a new solution of commercial value. The procuring organization should clearly communicate intentions about the ownership, licensing, and future commercialization of any new IP that will be developed in the course of the contract(s) and include that in the procurement documents.

Benefits

- Supports the uptake of innovation in the market by working together with suppliers in developing new products;
- Stimulates competition and market development by awarding multiple contracts through the R&D phases to commercialization and adoption phases; and
- Delivers an optimal solution that is developed in conjunction with the procuring organization to address a specific challenge.

How to use

Innovation partnership may contain the following phases as set out below:



Step	Process	Considerations
Request for proposal	<ul style="list-style-type: none"> • Prepare an RFP with an explicit intent to award contract(s) to one or more suppliers to explore and design solution(s), create prototype(s), test first product(s) and/or commercialize. • Prepare a statement of needs and the objectives of the RFP (e.g., outcome-based functional requirements and estimated procurement value). • Develop mandatory requirements and value-based evaluation criteria for each phase. • Indicate clearly the organization's intentions with respect to ownership, licensing and future commercialization of any new IP or deliverables. • Indicate clearly what conditions must be satisfied for the supplier(s) to move from one phase to the next and under what circumstances the process can be terminated without fault at the conclusion of any of those phases. • Develop outcome-based functional requirements and value-based evaluation criteria and their associated weightings with input from end users and experts. • Publish RFP on electronic tendering sites (e.g. MERX, Biddingo, or BravoSolution). 	<ul style="list-style-type: none"> • Consider whether the procurement process will be implemented in the form of a phased contract or whether each phase will be procured separately. • Ensure the RFP clearly explains how the process will be run. • Define R&D phases, commercialization and adoption procedures, start and end points for each phase, and how (and how many) suppliers will be selected in each phase. • Consider the number of suppliers to be invited to participate in each phase, and ensure it is sufficient to create competition. • Consider the way to proceed if there are insufficient responses to create competition, including stating the option to cancel the process. • Ensure that final criteria will allow the team to assess the solution based on overall value instead of price. • Ensure that the evaluation team is comprised of technical experts from industry and internal key stakeholders (e.g. end users, practitioners, and BPS buyers). • Ensure that the timelines for each phase are realistic. Consider that the longer the period, the greater the risk of reducing competition as bidding costs can be prohibitive to some suppliers. • Ensure that the RFP states that the buyer has the right to terminate the process at any time, and a production contract may not be awarded.

Step	Process	Considerations
		<ul style="list-style-type: none"> • Ensure that terms and conditions cover the services to be carried out in each phase, and sale of the solution in the commercialization phase, including payment and IP rights and licencing. • Ensure that suppliers have enough time to prepare a quality response.
Explore and design solution	<ul style="list-style-type: none"> • Ensure that each member of evaluation teams agree and sign confidentiality agreements before getting access to suppliers' commercially sensitive information. • Evaluate proposals against mandatory requirements and value-based evaluation criteria. • Select supplier(s) to participate in exploration phase. • Award phased contract(s) for the entire innovation lifecycle. • Notify unsuccessful supplier(s). • Commence exploration work. • Document findings and insights of the exploration phase. • Pay suppliers for exploration phase. • Decide whether to proceed to the prototype phase. 	<ul style="list-style-type: none"> • Ensure that the selection process is fair and in accordance with the selection criteria in the RFP. • Ensure equal treatment, non-discrimination and the protection of suppliers' existing IP and commercially confidential information. • Ensure suppliers identify which part(s) of their responses should be treated as confidential and those that are permissible to share (e.g., include in confidentiality agreements). • Ensure the exploration process is clearly defined, including timelines for reporting and submissions of deliverables. • Ensure resources are aligned for exploration of solution, as it can be resource intensive on the procuring organization. • Consider awarding multiple innovation partnership contracts to stimulate market competition, if resources permit.
Create prototype	<ul style="list-style-type: none"> • Select supplier(s) to participate in prototyping phase based on value-based evaluation criteria identified in the RFP. • Award contract to the solution that receive the highest evaluation score and meets all mandatory requirement. • Notify unsuccessful supplier(s) and terminate respective contract(s). • Commence production of prototype and evaluation of results. • Document findings and high-level requirements identified in the prototyping phase. • Pay supplier(s) for prototyping phase. • Decide whether to proceed to prototype testing phase. 	<ul style="list-style-type: none"> • Ensure that the selection process is fair and in accordance with the selection criteria in the RFP. • Ensure the prototyping creation process is clearly defined, including timelines for reporting and submissions of deliverables.

Step	Process	Considerations
Test prototype	<ul style="list-style-type: none"> ● Select supplier(s) to participate in prototype testing phase based on outcome and value-based evaluation criteria identified in the RFP. ● Notify unsuccessful supplier(s) and terminate respective contract(s). ● Commence limited production of newly developed product(s) for proof of concepts in a real-life context. ● Assess test series to ensure it meets the desired end state, as well as industry and safety standards, and publicize assessment results, if required. ● Prepare a final report that includes and documents each supplier score and a summary of strengths and weaknesses. ● Pay supplier(s) for prototype testing phase. 	<ul style="list-style-type: none"> ● Ensure that the selection process is fair and in accordance with the selection criteria in the RFP. ● Ensure the prototype testing process is clearly defined, including timelines for reporting and submissions of deliverables. ● Consider the total cost of ownership when analyzing the financial component of the supplier bid.
Commercialization of solution	<ul style="list-style-type: none"> ● Procure the solution(s) from the supplier(s) on a commercial scale according to the RFP. ● Agree on performance level and price. ● Confirm all terms and conditions for the commercialization of the solution. 	<ul style="list-style-type: none"> ● Ensure that the selection process is fair and in accordance with the selection criteria in the RFP.

Design Contest

Overview

Design contest is a process in which participants submit design proposals and/or product prototypes to compete for an award. It allows an organization to seek new and innovative approaches to specified needs through an open competitive process. The submissions from participants are evaluated by a panel, which selects the contest winner(s) based on the stated criteria.

Procuring organization may choose to pay for each supplier to participate in a design contest, in exchange for rights or licencing of all solutions or may conduct the contest to identify one (or more than one) winning solution, which will be purchased, according to the terms of the design contest. A design contest should not be used to avoid paying full market value for new ideas and/or solutions.

Procuring organizations may also choose to enter into a contract with the contest winner(s) for further exploration and prototyping of the winning design(s) and purchase the solution(s), or conduct procurement through a separate competition, as long as the intention is stated clearly in the procurement document.

Design contest can be run as a single-stage procurement process with an open RFP or a two-stage process, with an open RFSQ to identify qualified suppliers prior to issuing an RFP to the shortlisted suppliers for the design contest. The process should be fully defined and outlined in the first competitive document, which is open and fair.

The process outlined below is the two-stage process, which can be used where there is a need to pre-qualify the suppliers to grant access to sensitive information or to limit the number of responses.

A procuring organization needs to make an upfront decision on the procurement process prior to issuing the RFSQ/RFP and include this information in the procurement document, including structure of the process, treatment of suppliers' IP and new IP developed during the design contest. Procuring organizations should set out intentions about the ownership, licensing and future commercialization of any new IP in the procurement documents.

Benefits

- Stimulates innovative ideas and the design of innovative solutions from multiple participants;
- Demonstrates proponents' understanding of opportunity and assess their capacity to deliver;
- Accelerates the development of new markets and competition; and
- Delivers an innovative solution to address a procuring organization's complex need.

How to use

Design contest may contain the following phases as set out below:



Step	Process	Considerations
Request for supplier qualifications (RFSQ)	<ul style="list-style-type: none"> • Prepare an RFSQ to gather information about supplier capabilities and their interest in participating in a design contest for a solution(s) that is able to meet the needs of the procuring organization. • Select a panel of key stakeholders and experts to evaluate the RFSQ and solutions. • Prepare a statement of needs and the objectives of the RFSQ (e.g., outcome-based functional requirements and estimated procurement value). • Develop mandatory requirements and outcome and value-based evaluation criteria for the RFSQ and the design contest. • Develop outcome-based functional requirements and value-based evaluation criteria and their associated weightings with input from end users and experts. • Indicate clearly the organization's intentions with respect to ownership, licensing and future commercialization of any new IP or deliverables. • Publish RFSQ on electronic tendering sites (e.g., MERX, Biddingo, BravoSolution). 	<ul style="list-style-type: none"> • Ensure the RFSQ clearly explains how the process will be run and the procuring organization's intentions (e.g., to enter into contract with the design contest winner(s) in exploration and prototyping of the solution(s), and/or commercialization and purchase). • Consider the number of suppliers to be invited for design contest and prototyping to create sufficient competition without overburdening the process. • Consider if all participants will be financially compensated or only the winner. • Consider the way to proceed if there are insufficient responses to create competition, including stating the option to cancel the process. • Ensure that the selection panel is comprised of technical experts from industry and internal key stakeholders (e.g. end users, practitioners, and BPS buyers). • Ensure that the timelines to run the competition are realistic. • Ensure the RFSQ states that the panel has the right to terminate the process at any time, and a production contract may not be awarded. • Consider whether to include a production phase and whether the same supplier will be retained for both the design and the production phase; ensure appropriate language is included in the RFSQ. • Consider allowing partnerships and consortia between participants. • Ensure terms and conditions cover the process and final procurement (if applicable), including payment and IP rights and licensing.

Step	Process	Considerations
Select and invite suppliers to participate in design contest	<ul style="list-style-type: none"> Evaluate responses to RFSQ against mandatory requirement and outcome and value-based evaluation criteria (panel). Select supplier(s) to engage in design contest, and if required, to submit a design proposal. 	<ul style="list-style-type: none"> Ensure that the selection process is fair and in accordance with the outcome and value-based evaluation criteria in the RFSQ.
Evaluate design solution	<ul style="list-style-type: none"> Evaluate solution and/or design proposals from selected supplier(s). Document strengths and weaknesses of each design solution. Select participants, if required, to participate in the prototyping phase according to stated value-based criteria in RFP. 	<ul style="list-style-type: none"> Ensure that the selection process is fair and in accordance with the selection criteria in the RFSQ. Ensure equal treatment, non-discrimination and the protection of participants' existing IP and commercially confidential information. Ensure participants understand the procurement process for prototyping, if applicable.
Create prototype	<ul style="list-style-type: none"> Test prototype(s) from selected participants. Evaluate prototype(s) against outcome and value-based evaluation criteria (panel). Declare the design that receives the highest evaluation score and meets all mandatory requirements as the winner. Publish final results of the design contest on the same platform(s) that the RFSQ was posted. If prototypes are successful and address BPS needs, the procuring organization can proceed to procurement of the solution for implementation, in accordance with the process defined in the RFSQ. 	

Competitive Dialogue

Overview

Competitive dialogue is a procurement process that allows the procuring organization to thoroughly discuss each aspect of the procurement with suppliers prior to specifying the requirements and prior to an invitation to submit their full and final proposals. It is often used for large or complex projects when technical specifications cannot be defined with sufficient precision.

Competitive dialogue begins with an open competitive RFSQ to shortlist suppliers to participate in dialogue process, before issuing an RFP. The number of suppliers to be invited to the dialogue should be sufficient to ensure adequate competition. However, it may not be practical to conduct detailed dialogue sessions with too many suppliers. A minimum of three suppliers is recommended.

The dialogue process must be clear and structured often involving submission of potential solutions which are progressively refined. If outlined in the RFSQ, the procuring organization may choose to reduce the number of suppliers participating in successive dialogue rounds using predefined criteria.

The procuring organization may discuss any and all aspects of the contract with the suppliers during the dialogue sessions, including commercial requirements and technical terms. The dialogue continues until the procuring organization has identified the solution(s) which are capable of meeting its needs. The procuring organization then formally closes the dialogue and finalizes the functional requirements and outcome-based specifications and invites the suppliers to bid on the resulting contract opportunity using an RFP.

The RFP can be an invitational process where only the suppliers remaining at the end of the dialogue stage are invited to submit a proposal or an open competitive process, whichever is stated upfront in the RFSQ.

Equality of treatment and the confidentiality of solutions are paramount to the competitive dialogue process. The process must also be properly documented for auditing and dispute resolution purposes.

Competitive dialogue can be time consuming and resource intensive on both the suppliers and the procuring organization. It is important to ensure that the dialogue process will not be too long or cost-prohibitive to small suppliers.

Competitive dialogue must be carefully planned and managed. Poor planning can lead to longer timelines and greater risk.

A procuring organization needs to make upfront decisions on the process prior to issuing the RFSQ and include this information in the procurement document, including treatment of suppliers' IP and new IP developed during dialogue sessions and the development of the solution(s).

When issuing the RFSQ, the procuring organization is not required to specify functional requirements, but should include the high-level needs to be fulfilled, an estimated value of the solution it is seeking, high-level evaluation criteria, and an indicative timeframe of the dialogue. It should also set out intentions about the ownership, licensing and future commercialization of any new IP in the procurement documents.

Benefits

- Encourages competition among shortlisted suppliers to put together the best solution(s);
- Provides a range of innovative ideas by working separately with each shortlisted supplier; and
- Delivers a solution that best addresses the BPS need.

How to use

Competitive dialogue may contain the following phases as set out below:



Step	Process	Considerations
Request for supplier qualification (RFSQ)	<ul style="list-style-type: none"> • Prepare a RFSQ to gather information about supplier capabilities and their interest in participating in a competitive dialogue for a solution(s) that is able to meet the needs of the procuring organization. • Prepare statement of needs and the objectives of the RFSQ (e.g., high-level needs and estimated procurement value). • Prepare mandatory requirements and qualifying evaluation criteria for shortlisting suppliers. • Develop mandatory requirements and value-based evaluation criteria to be used for the second stage RFP and include it in the RFSQ for full disclosure. • Indicate clearly the organization's intentions with respect to ownership, licensing and future commercialization of any new IP or deliverables. • Publish RFSQ on electronic tendering sites (e.g., MERX, Biddingo, BravoSolution). 	<ul style="list-style-type: none"> • Ensure the RFSQ clearly explains how the process will be run (e.g., a two-stage process, with the first stage to select suppliers to participate in competitive dialogue followed by a request for proposal based on the solutions developed during the dialogue). • Consider using qualifying evaluation criteria based on the supplier's demonstrated understanding of the opportunity and its capability to implement an innovative solution, with input from end users and experts. • Ensure the RFSQ states whether the second stage of the selection process will be open or an invitational process restricted to those who participated in competitive dialogue process. • Consider whether to pay suppliers for their commitment to the dialogue phase. • Consider the number of suppliers to be invited to the dialogue to create sufficient competition without overburdening the process. • Consider the way to proceed if there are insufficient responses to create competition, including stating the option to cancel the process. • Consider whether to use stages of dialogue to reduce the number of bidders or solutions. • Ensure the RFSQ states that the buyer has the right to terminate the process at any time. • Ensure terms and conditions cover the services to be carried out in each phase, including payment and IP rights and licensing.

Step	Process	Considerations
Select suppliers to engage in dialogue	<ul style="list-style-type: none"> Evaluate responses to RFSQ against mandatory requirement and value-based evaluation criteria. Select supplier(s) to engage in competitive dialogue. 	<ul style="list-style-type: none"> Ensure that the selection process is fair and in accordance with the value-based evaluation criteria in the RFSQ.
Invite pre-qualified suppliers to dialogue	<ul style="list-style-type: none"> Issue invitation to shortlisted suppliers. The invitation document will normally restate the information/process outlined in the RFSQ, including: <ul style="list-style-type: none"> the objective of the dialogue and the topics that will be subject to detailed dialogue; the meeting settings (e.g., in-person, conference call, video call); rules of engagement and communication guidelines; the timelines, phases, and potential number of sessions to be conducted; and the number of shortlisted suppliers. 	<ul style="list-style-type: none"> Ensure suppliers are fully aware of the procurement process. Structure the dialogue into different phases if there is a need to reduce the number of solutions to be discussed by applying the criteria in the invitational document. Ensure the dialogue stage timelines are realistic. Consider that the longer the period, the greater the risk of reducing competition as bidding costs can be prohibitive to some suppliers. Consider if it is necessary for suppliers to provide submissions during, as well as at the end of, the dialogue stage. Prepare for topics that might come up during the dialogues.
Meet with selected suppliers	<ul style="list-style-type: none"> Conduct individual sessions with each supplier to develop requirements for the new solution. Document findings and high-level requirements developed through the dialogue sessions. Close all dialogues and finalize the requirements to be included in the request for proposal. 	<ul style="list-style-type: none"> Ensure adequate resources are available to support the competitive dialogue, include representatives from multiple departments (e.g., end user practitioner, and BPS buyer). Make the best effort to ensure the same team participates in each dialogue for consistency, efficiency and fairness. Ensure open dialogue is maintained. Ensure timelines are managed in accordance with those stated in the invitational document; some suppliers may withdraw if the timelines are increased. Ensure equal treatment and non-discrimination. Maintain confidentiality of solutions unless agreed otherwise. Ensure suppliers identify which part(s) of their solutions are specific to them and should be treated as confidential, and those that are generic in nature and therefore permissible to share with other suppliers. Consider discussing all aspects of the contract with the suppliers during the dialogue session(s) to ensure contractual terms are factored into the proposed solutions.

Step	Process	Considerations
Close the dialogue and issue RFP	<ul style="list-style-type: none"> • Declare close of dialogue to all remaining suppliers. • Prepare RFP document based on the process defined in the RFSQ and the outcome-based functional requirements developed during the dialogue sessions. • Use the mandatory requirements and value-based evaluation criteria pre-stated in the RFSQ. • Invite suppliers to bid on the resulting contracting opportunity, following the process stated in the RFSQ. 	<ul style="list-style-type: none"> • Ensure the required solution or solutions have been identified before the procuring organization declares the dialogue to be concluded. • Ensure that the RFP requirements are not biased towards a single supplier. • Consider selecting a cross-functional team to evaluate the different components of suppliers' proposal (e.g., BPS buyers, practitioners, administrators, and/or end users). • Ensure the RFP states that the procuring organizations might ask suppliers to clarify, specify, or fine-tune a proposal, but such clarification, or additional information shall not involve changes to the essential aspects of the RFP that would distort competition. • Consider providing suppliers sufficient time to respond taking into account the complexity of the need and/or dollar value.
Evaluate proposals	<ul style="list-style-type: none"> • Evaluate RFP responses against award criteria. • Prepare RFP evaluation scorecard. • Prepare a final report that includes and documents each supplier score and a summary of strengths and weaknesses. • Select supplier(s) with the highest evaluation score and meets all mandatory requirements for contract award. 	<ul style="list-style-type: none"> • Ensure that the selection process is fair and in accordance with the selection criteria in the RFP.

Competitive Procedure with Negotiation

Overview

Competitive procedure with negotiation is a process to solve complex needs when there are existing innovative solutions in the market and there is some flexibility on the requirements that allow for negotiations between the buyer and seller. Unlike competitive dialogue, it requires that the procuring organization be able to specify the desired characteristics of the goods or services in advance of the competition. Subject to the requirements of contract law, parties can negotiate the terms of their agreement to suit their innovation needs.

Procuring organizations should clearly indicate in the procurement document the intention, scope and content of the negotiation. The scope of negotiations may include requests for the supplier to verify, clarify, or supplement the information provided and modifying commercial terms with the intention of establishing a mutually beneficial contract. As an innovation procurement model, the negotiation should involve discussions on increasing the value proposition with innovative ideas and enhancements.

Negotiations can be conducted sequentially or concurrently with the shortlisted suppliers. Procuring organization must state upfront in the RFP the structure of the negotiation process and the rules.

The shortlisting of suppliers to participate in negotiations should be carried out in accordance with the stated process and using the value-based evaluation criteria set out in the RFP. For an efficient negotiation process, procuring organizations should conclude negotiations within a specified timeframe, such as thirty days.

A procuring organization needs to make upfront decisions on the process prior to issuing the RFP and include this information in the procurement document, including treatment of existing suppliers' IP and new IP developed during the entire process. The procuring organization should set out intentions about the ownership, licensing, and future commercialization of any new IP in the procurement documents.

Benefits

- Allows process flexibility by including negotiation of commercial terms, based on clear specification of needs and requirements; and
- Encourages communication between procuring organizations and suppliers to generate enhancement opportunities.

How to use

Competitive procedure with negotiation may contain the following phases as set out below:



Step	Process	Considerations
Request for proposal (with negotiations)	<ul style="list-style-type: none"> Prepare an RFP to invite suppliers to submit initial tenders which are subject to negotiation. Prepare a statement of needs and the objectives of the RFP (e.g., outcome-based functional requirements and estimated procurement value). Define how the process will be run in terms of selection of suppliers for negotiations — include clear and structured negotiation process rules. Prepare mandatory requirements and value-based evaluation criteria. Indicate clearly the organization's intentions with respect to ownership, licensing and future commercialization of any new IP or deliverables. Publish RFP on electronic tendering sites (e.g., MERX, Biddingo, and BravoSolution). 	<ul style="list-style-type: none"> Ensure the RFP clearly states the intention to negotiate proposals as part of the procurement process and the scope and specific topics open for negotiation. Consider the negotiation strategy and the timeframe allotted for negotiation, respecting the desire to negotiate in an expeditious fashion. Consider soliciting input from end users and experts for the value-based evaluation criteria and ensure that final criteria will allow team to shortlist suppliers for negotiation. Consider selecting a cross-functional team to evaluate the different components of suppliers' proposal (e.g., BPS buyers, practitioners, administrators, and/or end users). Consider providing suppliers sufficient time to respond taking into account the complexity of the need and/or dollar value.
Evaluate proposals	<ul style="list-style-type: none"> Evaluate RFP responses against mandatory requirements and value-based evaluation criteria. Prepare evaluation scorecard. Prepare a final report that includes and documents each supplier score and a summary of strengths and weaknesses. Select highest ranked supplier(s) to participate in negotiation. 	<ul style="list-style-type: none"> Ensure that the selection process is fair and in accordance with the evaluation criteria in the RFP. Consider inviting a minimum of three suppliers to negotiate to ensure competition. Ensure equal treatment, non-discrimination and the protection of suppliers' existing IP and commercially confidential information.

Step	Process	Considerations
Execute negotiation	<ul style="list-style-type: none"> • Invite shortlisted supplier(s) to negotiate. • Conduct separate negotiations with each shortlisted supplier. • Use successive rounds of negotiation, depending on the need. • Discuss the suppliers' proposals in detail and use this opportunity to validate understanding of BPS needs. • Document negotiation outcomes using a systematic approach to document the information discussed during negotiations and ensure information is shared consistently. 	<ul style="list-style-type: none"> • Consider giving shortlisted suppliers enough time to prepare for the negotiation session. • Ensure that suppliers understand the objectives of the negotiations and properly manage their expectations. • Ensure the negotiation process included in the RFP is followed. • Ensure the negotiation focuses mainly on terms of the contract, not pricing and that the process is based on a value-based approach, not lowest cost. • Ensure that all communication, whether clarification or negotiation, is meticulously recorded and, above all, that proceedings are conducted in a manner which is not only fair, but which is seen to be fair by the relevant parties.
Invitation to submit final proposals	<ul style="list-style-type: none"> • Invite suppliers to submit final proposal after completion of each successive round of negotiations. 	<ul style="list-style-type: none"> • Ensure equal treatment of suppliers with all suppliers being informed of changes to the procurement, if any. • Ensure suppliers have adequate time to modify their proposals.
Evaluate final proposals	<ul style="list-style-type: none"> • Evaluate final proposals from suppliers. • Update evaluation scorecard. • Prepare a final report that includes and documents each supplier score and a summary of strengths and weaknesses. • Select supplier(s) with the highest evaluation score and meets all mandatory requirements for contract award. 	<ul style="list-style-type: none"> • Endeavour to use the same evaluation criteria and evaluation team to evaluate final proposals.

Innovation Friendly Competitive Process

Overview

Innovation friendly competitive process refers broadly to outcome-based models that are used in such a way that innovative solutions are not excluded or treated unfairly during a competitive procurement process. Procuring organizations use value-based evaluation criteria to select the best valued solution to meet the given need.

Using outcome based specifications and functional requirements, innovation friendly competitive processes encourage suppliers to offer innovative solutions for an identified BPS need.

Procuring organizations must exercise great care in establishing evaluation criteria that permit all proposals to be evaluated and assessed using the same set of evaluation criteria. The evaluation will not be based on price only and so a value proposition will have to be developed to enable a value-based comparison.

Benefits

- Incentivizes the market by allowing suppliers to propose innovative solutions;
- Provides greater value by allowing flexibility in the requirements;
- Provides an opportunity to consider all solutions that are able to deliver specified outcomes; and
- Provides visibility on new solutions that have not been identified by the procuring organizations.

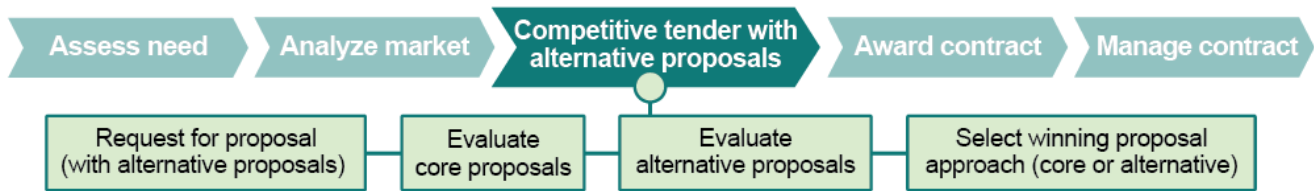
An example: Call for alternative proposals

- Call for alternative proposals is an example of innovation friendly competitive procurement process, where the solution requirements are defined at the beginning of the open competitive procurement process, but flexibility is allowed in terms of accepting different solutions to address a specific need.

Procuring organizations should specify the requirements of the solution and the scope of work and must state upfront the intention to consider alternative solution. The procurement document should state whether suppliers are invited to submit a core proposal, as well as an alternative solution or if they are permitted to submit an alternative solution without a core proposal. In either case, the alternative solution must be able to fulfil the requirements outlined in the procurement document including the mandatory requirements.

How to use

Alternative proposals may contain the following phases as set out below:



Step	Process	Considerations
Request for proposal (with alternative proposals)	<ul style="list-style-type: none"> • Prepare an RFP with explicit intent to consider alternative proposals. • Prepare statement of needs and objectives of the RFP (e.g., outcome-based functional requirements and estimated procurement value). • Prepare mandatory requirements and value-based evaluation criteria to evaluate both core and alternative proposals. • Indicate clearly the organization's intentions with respect to ownership, licensing and future commercialization of any new IP or deliverables. • Request suppliers to submit a core proposal and an alternative proposal as an option. • Request suppliers to specify how their alternative proposal meets the objectives of the RFP and demonstrate how better value for money can be obtained through the alternative. • Publish RFP on electronic tendering sites (e.g., MERX, Biddingo, or BravoSolution). 	<ul style="list-style-type: none"> • Ensure the RFP clearly states the intention to evaluate alternative proposals that offer an alternative solution to fulfilling the requirement than what was outlined in the RFP, but that only proposals that fulfil the mandatory requirements will be considered. • Consider minimizing mandatory requirements to encourage more innovative solutions. • Ensure the RFP clearly explains that alternative proposals will be evaluated against the same objectives and criteria as core proposals. • Considering selecting a cross-functional team to evaluate the different components of suppliers' proposals (e.g., public buyers, practitioners, administrators, and/or end users). • Consider providing suppliers with sufficient time to respond taking into account the complexity of the need and/or dollar value.
Evaluate core proposal	<ul style="list-style-type: none"> • Evaluate suppliers' core proposals against mandatory requirements and value-based evaluation criteria. • Prepare evaluation scorecard. • Prepare a final report that includes and documents each supplier score and a summary of strengths and weaknesses. 	<ul style="list-style-type: none"> • Ensure that the selection process is fair and in accordance with the evaluation criteria in the RFP. • Ensure equal treatment, non-discrimination and the protection of suppliers' existing IP and commercially confidential information.

Step	Process	Considerations
Evaluate alternative proposal	<ul style="list-style-type: none"> Assess suppliers' alternative proposal against mandatory requirements and value-based evaluation criteria. Prepare evaluation scorecard. Prepare a final report that includes and documents each supplier's score and a summary of strengths and weaknesses. 	<ul style="list-style-type: none"> Ensure that the selection process is fair and in accordance with the evaluation criteria in the RFP. Ensure equal treatment, non-discrimination and the protection of suppliers' existing IP and commercially confidential information.
Select winning proposal approach (core or alternative)	<ul style="list-style-type: none"> Assess overall suppliers' proposals and score. Prepare overall score summary and select supplier as per evaluation criteria. Notify suppliers(s) and proceed to contract award. 	

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APPENDIX 1

Key considerations for ownership of intellectual property rights

IP rights are important considerations in innovation procurement since the process often involves an exchange of ideas and joint development of a product that maybe marketable. An IP strategy is critical in setting how the parties will be able to use the IP developed as part of the services during and after the term of the contract.

Ownership of IP rights may reside with the buyer, with the supplier, or with both. Each ownership approach comes with a different risk profile. Procuring organizations should understand the implications of each approach and develop a strategy most appropriate for the circumstances of the specific procurement.

In deciding the ownership of IP rights, the procuring organization should consider its needs and capabilities in terms of risk management. Instead of owning the IP, the procuring organization could consider a licensing agreement with the supplier that gives the procuring organization the right to use the IP for free or in return for the payment of royalties. Depending on the terms and conditions of the licensing agreement, the procuring organization can enjoy the benefits of ownership rights, save with respect to those resulting from commercialization.

Supplier Owned IP

For supplier owned IP, procuring organization may consider a licensing agreement with the supplier that gives it the right to use the IP for free or in return for the payment of royalties.

Overall benefits to suppliers for owning the IP:

- Promotes a healthy and diversified supplier community
- Attracts bids from large suppliers as well as SMEs.
- Provides financial incentives to supplier to continue to invest in Research & Development (R&D) because of the opportunity to fully commercialize the innovative solution.
- Results in shorter time to market and lower cost for wide-spread adoption.
- Leads to more favourable front-end procurement pricing.

IP Licensing Agreement

A licencing agreement with the supplier-owned IP has the following benefits:

- Protects the public interest and provides the procuring organization with continued access to the innovative solution, subject to the terms and conditions of the licence.
- Maintains the organization's right to use the IP in an prescribed manner
- Provides the procuring organization with the freedom to pursue an open and competitive procurement process for follow-on work.

An IP licensing agreement should establish what IP is being licensed, how it is being licensed, for how long and where it may be used.

Procuring organization Owned IP

The following are circumstances in which the procuring organization may want to consider ownership of the IP:

- When the procuring organization has the desire, knowledge, and capacity to commercialize the IP.
- When public health and safety may be impacted.
- When laws/prior obligations of the procuring organization to third-party(s) preclude supplier ownership.
- When the supplier does not wish to own the IP.
- When there is risk of supplier bankruptcy/insolvency.

APPENDIX 2

Risk Mitigation Strategies for Innovation procurement

Step	Sample Risks	Sample Mitigation Strategies
Identify needs	<ul style="list-style-type: none"> ● Not able to clearly describe the need ● Under- or overestimating the scale of the need and the value of the innovative solution to the system ● Overlooking important requirements of key stakeholders (e.g., end users, BPS buyers) ● Change of circumstances during the procurement process that could render the identified need obsolete or require it to be refined (i.e., the longer the process, the higher the risk) 	<ul style="list-style-type: none"> ● Dedicate sufficient time to need identification. ● Include stages/dialogue in the process. ● Use lessons learned from similar procurements previously executed. ● Engage key stakeholders to validate the business case. ● Consider building in process flexibility that facilitates change management. ● Pursue an efficient procurement process appropriate to a fast-paced environment.
Engage the Market	<ul style="list-style-type: none"> ● Lack of interest from the market ● Market engagement does not yield useful results ● Suppliers expect the engagement to lead to a procurement contract ● Perception of unfair advantage or disadvantage to one supplier ● Disclosing confidential information of one supplier to others 	<ul style="list-style-type: none"> ● Conduct sufficient background research before engaging in dialogue with suppliers and others. ● Refresh the process if needed to allow new suppliers to join if it does not threaten to delay the process significantly and is clearly provided for in the procurement document. ● Develop and execute a market engagement work plan. ● Use a collaborative approach to stimulate creative innovative solutions. ● Clearly state upfront that market engagement will not result in the award of work or pre-qualify potential suppliers. ● Clearly communicate the process to all suppliers, setting and managing expectations. ● Estimate future demand for the solution and disclose the estimates openly in the procurement documents, while emphasizing that no procurement commitment will be made. ● Always act responsibly and with integrity – be fair, open and transparent and remain impartial ● Share the same information with all suppliers and publish the consultations summary, whenever appropriate.

Step	Sample Risks	Sample Mitigation Strategies
		<ul style="list-style-type: none"> • Ensure all confidential information is clearly identified • Sign and follow confidentiality agreements. • Keep clear and organized records of all communications.
Procure Innovation – requirement development	<ul style="list-style-type: none"> • Biasing the requirements and the evaluation criteria towards a particular supplier • Failing to protect a supplier’s IP rights or commercially sensitive information 	<ul style="list-style-type: none"> • Be open to new players, new ideas and new solutions. • Avoid getting “sold” on one solution before the selection process begins. • Develop OBS and value-based evaluation criteria. • Ensure that the evaluation team includes independent reviewers who did not participate in any R&D or prototype development/trials. • Identify a strategy for IP rights and commercially sensitive information. • Consult the suppliers prior to disclosing potentially commercially sensitive information. • Consider obtaining written consent from the supplier to disclose the information obtained through early market engagement.
Procure Innovation – evaluation process	<ul style="list-style-type: none"> • Little or no response to the procurement document is received from the supplier community • Difficulty in comparing the solutions due to complexity of the requirements • Difficulty in evaluating the cost of the proposals due to high degree of uncertainty of the outcome • Small- or medium-sized enterprises (SME) choose not to participate in the competition due to the uncertainty of the outcome and/or the scale of the requirements 	<ul style="list-style-type: none"> • Employ early market engagement strategies until reasonably certain of supplier interest and capabilities. • Focus the evaluation on the clarity of the proposal and the value outcome of the solution, rather than detailed requirements. • Consider awarding contract to more than one supplier for development phases to find the best solution to mitigate risk of failure in subsequent phases. • Consider phased contract awards to give SMEs an opportunity to participation in the development phases and thereby gradually develop the required capacity to meet the need, provided that this is not done so for the purposes of avoiding competition and trade/policy requirements.
Procure Innovation - prototyping	<ul style="list-style-type: none"> • Prototype does not match the needs of the procuring organization • Development activities require more time and money than expected • Evaluation results do not support large-scale production or adoption 	<ul style="list-style-type: none"> • Ensure that the description of the problem and desired outcome is clear in the procurement document. • Engage multiple suppliers in the development phases, if circumstances permit.

Step	Sample Risks	Sample Mitigation Strategies
		<ul style="list-style-type: none"> Consider separating the research and design work from the production phase to procure each stage separately. Establish contract termination clauses that are tied to solutions and supplier performance.
Award contract	<ul style="list-style-type: none"> Process or result of procurement process is being disputed The contract awarded does not represent the best value for money and is not in the interests of the procuring organization 	<ul style="list-style-type: none"> Seek legal advice in drafting the procurement document and the contract. Ensure that the evaluation process is defensible, transparent, conducted with integrity and documented Consider an independent, unbiased review of the process before awarding the contract. Establish selection criteria with stakeholder and expert inputs to help to identify the solution that represents the best value for money.
Manage contract	<ul style="list-style-type: none"> The supplier is not able to deliver agreed outcomes and value included in the contract Contract delay and cost overrun 	<ul style="list-style-type: none"> Ensure clear terms in the contract including, but not limited to, objectives, background, scope, constraints, staff responsibilities, tangible deliverables, timing, phasing, progress reporting, approval requirements and knowledge transfer requirements. Ensure sufficient resources are available to monitor the supplier's performance and contract compliance. Ensure proper tools are in place for contract and change management. Develop and implement change management strategy: <ul style="list-style-type: none"> For existing vendors: continue to build effective relationships For new vendors: looking at how to transition and manage the impact to current vendors. For users: ensure adequate training of all users of the solution and what was expected of them for smooth transition. Manage the risk and invoke contract remedies, including holding payments and contract termination, as required. Include incentives and penalties in the contract. Establish formal procedures for contract amendment.

APPENDIX 3

Glossary of Terms

Term	Definition
Accountability	The obligation of an employee, agent or other person to be accountable for work, action, or failure to act following delegated authority.
Advance Contract Award Notice (ACAN)	It is a public notice indicating to the supplier community that a department or agency intends to award a good, service or construction contract to a pre-identified supplier, believed to be the only one capable of performing the work, thereby allowing other suppliers to signal their interest in bidding by submitting a statement of capabilities. If no other supplier submits a statement of capabilities that meets the requirements set out in the ACAN, the contracting officer may then proceed with awarding the contract to the pre-identified supplier. It is important to note that an ACAN is not a "competitive" process and does not constitute a "competitive" process for the purposes of the trade agreements. For the purposes of contract approval authorities only, a contract awarded after posting an ACAN for which no valid statement of capabilities is submitted within the notice period is a competitive (electronic) contract.
Agreement on Internal Trade (AIT)	A national agreement that regulates trade between the provinces. The agreement is intended to reduce barriers to the movement of persons, goods, services, and investments within Canada and to ensure equal access to public-sector procurement for all Canadian suppliers.
Award	The notification to a proponent of acceptance of a proposal, quotation, or tender that brings a contract into existence.
Bid	A proposal, quotation, or tender submitted in response to a solicitation from a contracting authority. A bid covers the response to any of the three principal methods of soliciting bids (i.e., request for proposal (RFP), request for tender (RFT), and request for quotation (RFQ)).
BPS Accountability Act	It means the Broader Public Sector Accountability Act, 2010.
BPS Procurement Directive	BPS Procurement Directive, released under the Broader Public Sector Accountability Act, 2010

Term	Definition
BPS Organization	It means a designated broader public sector organization as defined by the Broader Public Sector Accountability Act, 2010.
Competitive Procurement	A set of procedures for developing a procurement contract through a bidding or proposal process. The intent is to solicit fair, impartial competitive bids.
Contract	An obligation, such as an accepted offer, between competent parties upon a legal consideration, to do or abstain from doing some act. It is essential to the creation of a contract that the parties intend that their agreement shall have legal consequences and be legally enforceable. The essential elements of a contract are an offer and an acceptance of that offer; the capacity of the parties to contract; consideration to support the contract; a mutual identity of consent or consensus ad idem; legality of purpose; and sufficient certainty of terms.
Contract A	<p>Contract A is a contract that may arise between an organization and a supplier after the supplier submits a response to an RFP, RFQ, or RFSQ and sets the terms for awarding Contract B to a supplier.</p> <p>Contract A is a binding agreement on both the organization and a supplier who submits a bid response. It sets out the selection process, evaluation criteria, and any other terms that the parties must follow during the competitive procurement process.</p> <p>Whether Contract A is formed will depend on the intent of the parties to enter into contract and can be determined by the terms of the competitive procurement documents. Terms that tend to indicate the intent include: 1) irrevocability of a bid; and 2) a non-refundable deposit.</p>
Contract B	<p>Contract B is a contract between the organization and the supplier that was selected pursuant to the competitive procurement process for the supply of goods or services.</p> <p>Contract B sets out the terms of the work project such as price, timeframe, and any other terms that the parties must follow for the duration of the project.</p>
Electronic Tendering	A computer-based system that provides suppliers with access to information related to open competitive procurements.
Evaluation Criteria	A benchmark, standard, or yardstick against which accomplishment, conformance, performance, and suitability of an individual, alternative, activity, product, or plan is measured to select the best supplier through a competitive process. Criteria may be qualitative or quantitative in nature.
Evaluation Team	A group of individuals designated/responsible to make an award recommendation. The evaluation team would typically include representatives from the purchasing organization and subject-matter expert(s). Each member participates to provide business, legal, technical, and financial input.

Term	Definition
Innovation	Innovation is the process through which economic and social value is extracted from knowledge through the generation, development, and implementation of ideas to produce new or improved strategies, capabilities, products, services, or processes. ¹¹
Intellectual Property (IP) Rights	According to the World Trade Organization (WTO), IP is a term generally given to knowledge and created works where ownership or a right to use may be legally protected. It includes proprietary information and knowledge, such as trade secrets, confidential information, scientific and technical discoveries, inventions, literary and artistic works, designs, symbols, names, and images. Common forms of IP protection include: trade secrets, patents, copyright, trademarks, industrial design, and plant breeder rights. They enable owners of innovations to earn recognition or financial benefit. The intention of protecting IP system aims is to foster an environment in which creativity and innovation can flourish. Public procurement of innovation often involves exchange of proprietary information, trade secrets, and discoveries of scientific and technical knowledge that could potentially lead to commercial development of new methods, procedures, or products. It is important for procuring organizations to consider early on in the procurement process and make an informed decision on the approach to IP assets that will arise under the procurement contract.
Invitational Competitive Procurement	Any form of requesting a minimum of three (3) qualified suppliers to submit a written proposal in response to the requirements outlined by an individual/organization.
Key Performance Indicators (KPIs)	A set of measures used to assess performance against agreed expectations. KPIs may relate to any aspect of a contract and may be associated with points or other systems under which incentives and/or penalties are allocated.
Non-Discrimination	Fairness in treating suppliers and awarding contracts without prejudice, discrimination or preferred treatment.
Outcome-based Specifications (OBS)	Also known as performance-based or functional specifications. This is an approach to specifying requirements in procurement which focuses on the results which need to be achieved, rather than the detailed inputs. For example, instead of specifying that a building needs to have a certain type of insulation or lighting, a performance-based specification could state that it must achieve a minimum energy-rating.

¹¹ Definition by the Conference Board of Canada
<http://www.conferenceboard.ca/cbi/innovation.aspx>

Term	Definition
Phased Contract	A contract which provides for two or more distinct phases and which can be terminated without fault at the conclusion of any of those phases. The phases may relate to distinct activities such as research and development, prototyping, the production of a test series, or commercialization. The contract should specify the conditions under which the next phase will proceed.
Procurement	Acquisition by any means, including by purchase, rental, lease, or conditional sale of goods or services.
Procurement Document	A document used to request potential suppliers to offer a quotation, bid, or proposal to provide the required goods, services, or works (e.g., RFP).
Procuring Organization	Refers broadly to the organization that will be conducting the procurement process to meet the need of a BPS organization. This may be a BPS organization or an organization undertaking a competitive procurement activity on behalf of the BPS organization, e.g., a shared service organization (SSO).
Product	Refers broadly to goods and/or services.
Request For Proposal (RFP)	A document used to request suppliers to supply solutions for the delivery of complex products or services or to provide alternative options or solutions. It is a process that uses predefined evaluation criteria in which price is not the only factor.
Request For Expression of Interest (RFEI)	A document used to gather information on supplier interest in an opportunity or information on supplier capabilities/qualifications. It is a pre-procurement procedure that may be used when a procuring organization wishes to gain a better understanding of the capacity and interest of the supplier community to provide the services or solutions needed.
Request for Supplier Qualifications (RFSQ)	A document used to gather information on supplier capabilities and qualifications with the intention of creating a list of pre-qualified suppliers. This mechanism may be used either to identify qualified candidates in advance of expected future competitions or to narrow the field for an immediate need. Organizations must ensure that the terms and conditions built into the RFSQ contain specific language that disclaims any obligation on the part of the Organization to call on any supplier to provide goods or services as a result of the pre-qualification.
Request for Quotation (RFQ)	A document where a procuring organization describes exactly what needs to be purchased and the evaluation is based solely on price.

Term	Definition
Request for Tender (RFT)	A document used to request supplier responses to supply goods or services based on stated delivery requirements, terms and conditions. An RFT usually focuses the evaluation criteria predominantly on price and delivery requirements.
Supplier	Any person or organization that — based on an assessment of that person's or organization's financial, technical, and commercial capacity — is capable of fulfilling the requirements of procurement.
Supplier Lock-in	A situation where the procuring organization is dependent on a single supplier for the IP for subsequent procurement stages without the opportunity to invite other suppliers to provide the desired product. It can grant the vendor some extent of monopoly power and can thus be much more profitable than would be the absence of such dependency.
Total Cost of Ownership (TCO)	Total cost of ownership, also known as total life-cycle costs includes items such as the purchase price, implementation fees, upgrades, maintenance contracts, support contracts, licence fees, and disposal costs that an organization may incur during the life of the solution. It includes the purchase price and all of the other costs an organization may incur during the life of the solution, less any benefits received. ¹²
Trade Agreements	Any applicable trade agreement to which Ontario is a signatory (e.g., Agreement on Internal Trade and Ontario-Quebec Trade and Cooperation Agreement).
Value for Money/Best Value	A value-for-money approach aims to deliver products and services with a lower total life-cycle cost while maintaining a high standard. ¹³
Value-based Evaluation Criteria	Criteria that enable the buyer to objectively determine which proposal offers the most suitable and best-value innovative solution. Value-based evaluation criteria balance the goals of the best fit-for-purpose solution with the lowest total cost of ownership (TCO).

¹² Healthcare Supply Chain Network. "Innovation Procurement Guide No.3: Guide to Evaluating Total Cost of Ownership." Nov. 2014

¹³ BPS Procurement Directive Implementation Guidebook definition

