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**Buying Group****PROCEDURE**

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**Responsible Division:** Purchasing & Materials Management  
**Responsible Official:** Manager, Corporate Purchasing Policy & Quality Assurance

**Effective Date:** February 26, 2020  
**Last Review:** February 26, 2020

**Description**

This procedure describes the ability to leverage procurements conducted by a Buying Group, and should be read as a companion to the Cooperative Purchasing Procedure.

A Buying Group is a Public Body or a legal entity whose membership includes Public Bodies, where the procurements of the Buying Group is done in compliance with applicable provisions of the Canadian Free Trade Agreement (CFTA), Comprehensive Economic and Trade Agreement (CETA) and any other applicable trade agreements. A Buying Group may be considered by definition of Chapter 195 a “Public Body”, which allows the City to “piggyback” from any resulting agreements initiated by the Buying Group where the Chief Purchasing Officer determined that the Buying Group followed a competitive method consistent with Toronto Municipal Code, Chapter 195 and the following additional conditions exist:

- The resulting contract between the Buying Group and the vendor stipulates that the same goods and/or services be made available to other Public Bodies and in the case of a Buying Group located in another country, includes the ability for Canadian Public Bodies to access the contract at the same or better price provided by the supplier to Buying Group;
- The purchase of goods and/or services by the City has funding approval; and
- The supplier is not ineligible, suspended or otherwise in contravention of Chapter 195.

The City is a member of the following Buying Groups:

- Sourcewell: <https://www.sourcewell-mn.gov/>

The City is also able to access the Province of Ontario's Vendors of Record and the Federal Government's Cooperative Procurements. See the Cooperative Purchasing Process for how to access those types of cooperative procurements.

## Related Bylaws, and Policies

**Toronto Municipal Code Chapter 195-Purchasing** adopted as amended, by City of Toronto Council on July 12, 13, 14 and 15, 2016.

<http://www.toronto.ca/legdocs/bylaws/2016/law0960.pdf>

**Procurement Processes Policy** – Adopted by Council July 12, 13, 14 and 15, 2016

<http://insideto.toronto.ca/purchasing/pdf/procurement-processes-policy.pdf>

## Definitions

**BUYING GROUP** - A group of two or more members that combines the purchasing requirements and activities of the members of the group into one joint procurement process.

**PUBLIC BODY** - Any government or government agency, municipality or local board, commission or non-profit corporation carrying out a public function, and includes any corporation of which the City is a shareholder.

**CO-OPERATIVE PURCHASING** - A competitive procurement process that is conducted by one public body or buying group on behalf of one or more public bodies in order to obtain the benefits of volume purchases and administrative efficiency.

## Procedure

The procedure outlines the steps involved when exercising the use of Buying Group Contract(s).

### Public Notice

1. PMMD shall publish a notice of its participation in the Buying Group at least annually on one of the procurement websites or systems designated by the City. The notice shall direct potential suppliers to the website of the Buying Group if it is different than its designated website or system.

### Review of Buying Group Procurement Opportunities

2. The Buyer or the Division can review the list of procurement opportunities the Buying Group has available for consideration.
3. Once an opportunity has been identified, the buyer requests from the Buying Group the solicitation document, solicitation number, any resulting addenda, completed bid response, completed price form, a copy of the agreement, and any other applicable documents.
4. Once the buyer receives all applicable documentation from Buying Group the buyer confirms that the procurement process used by the Buying Group is consistent with that described in the Purchasing By-law, Chapter 195. The buyer will confirm:

- a. That a Notice of Intended Procurement (NOIP) was publically advertised for the appropriate amount of time to meet trade agreement thresholds, such as CETA;
  - b. That the NOIP listed the City of Toronto as a participating member, and outlined the potential for other members to participate in the procurement after the contract has been executed between the Buying Group and the vendor;
  - c. Whether the procurement was issued competitively or non-competitively;
  - d. That the resulting contract between the Buying Group and the successful supplier stipulates that the same goods and/or services be made available to other Public Bodies including Canadian Entities at the same price or better provided by the supplier to Buying Group;
  - e. That the procurement contemplated that when Canadian public bodies are going to use the contract, that the contract will be governed by Canadian Law;
  - f. That the Term of contract is clearly defined;
  - g. That the Price Forms is complete, and the currency of the price form is clearly defined;
  - h. That the procurement disclosed the evaluation criteria used to determine the award;
  - i. That the evaluation criteria and any requirements were not designed to be restrictive or discriminatory.
5. If the buyer's review determines that all of the conditions set out in section 4 are met, then subject to the analysis set out in section 8, the opportunity can be considered a piggyback situation under Chapter 195, section 195-6.6.
6. If the buyer's review determines either:
- a. that the Buying Group's opportunity did not include a publication of a NOIP or the NOIP does not meet the CFTA or CETA requirements;
  - b. the resulting contract does not stipulate that the goods and/or services are to be made available to other Public Bodies including Canadian Entities;  
or
  - c. that the procurement was done non-competitively,

then the opportunity cannot be considered a piggyback situation under chapter 195-6.6, but may still be considered as a non-competitive opportunity under Chapter 195, section 195-7, if the analysis set out in section 8 is favourable.

7. The Division, in consultation with the buyer determines whether or not the solicitation is suitable in meeting the requirements of the Division(s) by reviewing the following (as applicable):
  - a. Technical specifications;
  - b. Warranty provisions;
  - c. Delivery terms, including whether the delivery cost is included in the price of the goods or services and is FOB destination;
  - d. Price;
  - e. And any other relevant document.
  
8. Once the buyer and the Division have determined that the requirements set out in the solicitation meets the divisional requirements, the Division is required to prepare and submit to the buyer an analysis outlining why using the Buying Group contract is more appropriate and best value than issuing a City solicitation. The analysis should include the following:
  - a. Comparison between the scope of work and specifications set out in the Buying Group solicitation vs the previously issued city's solicitations;
  - b. Comparison between the agreement terms and conditions from both a business perspective and from a legal perspective (which requires Legal to review the terms and conditions) vs the City's agreement terms and conditions;
  - c. Comparing deliverables and outcomes;
  - d. Consider administrative time it would take the City to pursue its own solicitation vs "piggybacking" on the Buying Group Contract(s);
  - e. Comparing all in costs i.e. confirm if delivery is included or is delivery extra;
  - f. Determining if there is any added value initiatives;
  - g. Determining the benefits of extended warranty, if applicable;
  - h. If the pricing is not in Canadian, the division will need to consider the exchange rate as part of the price evaluation to determine if it's still best value for the City;

- i. Comparing against prices in previously awarded contracts for the same good or service, taking into consideration any appropriate escalation factors; and
  - j. Other comparisons not identified but may be deemed appropriate.
9. If both the Division and PMMD agree that the analysis is favorable, the Division is required to work with Legal and the Buying Group's successful vendor to finalize the agreement based on the call issued by Buying Group with the City's terms and conditions and price. PMMD will assist in addressing any questions legal or the division may have regarding the procurement process conducted by Buying Group, including providing any documentation.
10. If the analysis in section 8 was not favourable, then the City will issue its own competitive solicitation.
11. Should the successful vendor identified by Buying Group agree with the City terms and conditions and price, the divisional legal representative will initiate and finalize the agreement between the successful vendor and the City, the division is required to submit a purchase requisition, and a signed recommendation letter which describes the award details, confirmation that the Buying Group contract meets the divisional requirements and provides best value for the City.  
**However, division cannot execute any agreement until the award has been made under section.**
12. Should the successful vendor not agree to the City's terms and conditions, then the City will issue its own competitive solicitation.

## **Award**

13. If the Buying Group's opportunity meet the requirements set out in section 4 of this procedure, the analysis set out in section 8 is favourable and the successful vendor agrees to the City's terms and conditions as set out in section 11, then the award of the opportunity can be in accordance with Chapter 195, section 195-6.6 and be considered a competitive process, and follow the award process for a competitive process
14. If the Buying Group's opportunity does not meet the requirements set out in section 4 but otherwise the analysis set out in section 8 is favourable and the successful vendor agrees to the City's terms and conditions set out in section 11, then the award of this opportunity can be done via a non-competitive process as set out in section 195-7 of the Purchasing By-law.
15. After the authority to award is obtained under section 13 or 14, then the agreement between the City and the successful vendor can be executed.

*Please Note: The agreement will be between the supplier who was awarded the contract resulting from the solicitation issued by the respective Buying Group and the City. The City will not be entering into a separate contract with the local dealer unless the original solicitation had allowances for this arrangement.*

#### **Questions? Contact**

Should you have any questions, please contact the Purchasing and Materials Management Division. If further interpretation is required, please contact the Manager, Corporate Purchasing Policy & Quality Assurance at 416-392-0387 or Supervisor, Policy, Training & Technology at 416-392-1305.