

Procurement for All Public Bodies - Frequently Asked Questions

Note this is frequently asked questions (FAQs) for procurement for all public bodies as defined under the Public Procurement Act include government departments, municipalities, local service districts, academic institutions, school districts, health authorities and crown corporations.

Additional information concerning public procurement is included in the Public Procurement Act, Public Procurement Regulations and Public Procurement Policy (<https://www.gov.nl.ca/ppa/division/legislation/>). All procurement staff is encouraged to familiarize themselves with this information and if you require additional assistance contact Tenders@gov.nl.ca or 709-729-3348.

The FAQs are not meant to be comprehensive or replace the legislation or Policy.

In the event of inconsistencies between a FAQ and the Act or Regulations or Policy, the following order of precedence in the interpretation hereof or resolution of such conflict hereunder shall prevail:

- The Act
- The Regulations
- The Public Procurement Policy
- FAQs

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Frequently Asked Questions – General

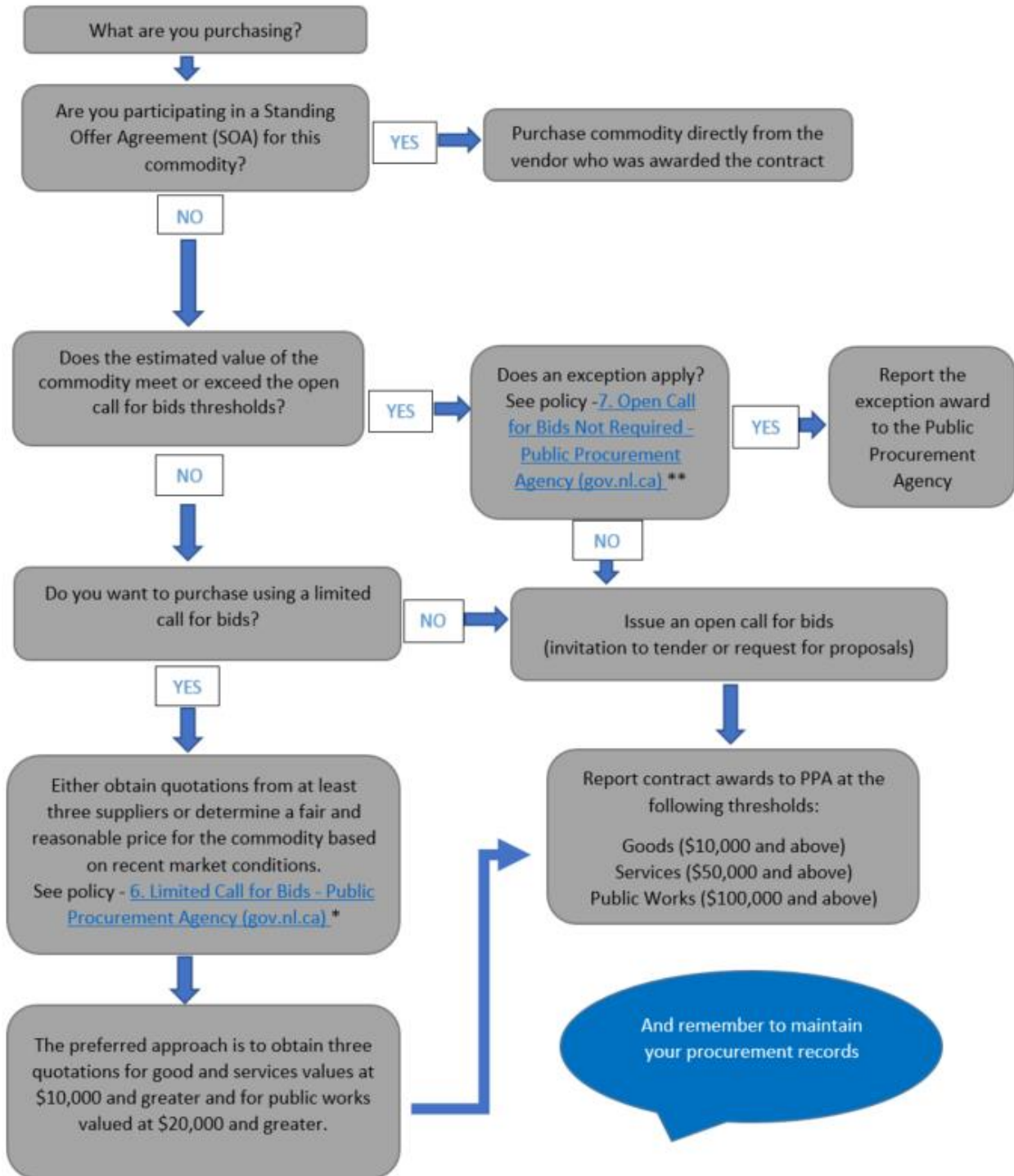
1. How do I determine what procurement process I need to follow?

Decisions on how to procure a commodity are subject to the commodity type (good/service/public work/lease of space) and established thresholds. The current thresholds above which you must issue an open call for bids for public bodies are below.

Open Call for Bids Thresholds for Departments			
Goods	Services	Public Works	Lease of Space
>=\$26,400	>=\$105,700	>=\$105,700	>=\$100,000
Open Call for Bids Thresholds for Municipalities /Local Service Districts/Academic Institutions/School Districts/Health Authorities			
Goods	Services	Public Works	Lease of Space
>=\$105,700	>=\$105,700	>=\$264,200	>=\$100,000
Open Call for Bids Thresholds for Crown Corporations			
Goods	Services	Public Works	Lease of Space
\$264,200	>=\$264,200	>=\$264,200	>=\$100,000

PPA recommends consulting the Public Procurement Framework (<https://www.gov.nl.ca/ppa/division/legislation/>) for detailed information on the procurement process and best practices.

PPA has created the following flowchart to provide an overview of the steps a public body should follow when procuring a commodity.



Policy 6. Limited Call for Bids (<https://www.gov.nl.ca/ppa/division/policy/6-2/>)*

Policy 7. Open Call for Bids Not Required (<https://www.gov.nl.ca/ppa/division/policy/7-2/>) **

2. What is a Standing Offer Agreement?

A Standing Offer Agreement (SOA) is a contractual arrangement between public bodies and a supplier. Under the terms and conditions of a standing offer, the supplier agrees to provide certain goods or services on an “as required” basis, during a particular period of time and at a predetermined price. SOAs are established following an open call for bids and are usually set up for frequently used items. Additional information concerning SOAs can be found in Policy section 3.6.7. (<https://www.gov.nl.ca/ppa/division/policy/3-2/#soa>)

The Public Procurement Agency has a number of SOAs which public bodies may be able to use. In order to participate in an SOA, the public body must be identified as a participant prior to the close of the SOA procurement process. If you are unsure of which SOAs you may be able to participate in, contact the Agency.

3. What is the difference between an open call for bids and a limited call for bids?

An open call for bids is a publicly-advertised invitation to suppliers to submit a bid. A limited call for bids is an invitation to specific supplier(s) to submit a bid (i.e. a quote process).

4. What documentation/records do I need to maintain when issuing a limited or open call for bids?

Your procurement file/ records should include documentation for all phases of the purchase process. Regulations 28 (<https://assembly.nl.ca/Legislation/sr/Regulations/rc180013.htm#28>) and Policy section 18 (<https://www.gov.nl.ca/ppa/division/policy/18-2/>) lists the records included in a procurement file.

PPA also reminds public bodies that they are required to maintain sufficient and appropriate documentation in the file for all exceptions to open call requirements, such as sole source or emergency situation, including the method by which fair and reasonable value was determined where applicable.

5. How long should I keep procurement records?

PPA Policy recommends that public bodies keep procurement records for a minimum of two years after the procurement of a commodity or, where applicable, two years after the end date of a contract for the provision of a commodity. (<https://www.gov.nl.ca/ppa/division/policy/18-2/>)

6. What should I do if I do not know the estimated value of a good/service/public work?

If you are unable to estimate a value, issue an open call for bids.

7. Can I issue an open call even if the estimate value is below the threshold?

Yes. You can issue an open call at any time, regardless of the estimated value.

8. In what situations can an exception be made to using an open call process?

Section 6(a) of the Regulations provides the scenarios under which an open call is not required:

- the estimated value of the commodity being acquired is less than the thresholds required for an open call (see previous question/answer),
- the commodity is of the nature that an open call for bids could reasonably be expected to compromise security,
- the commodity is available from a public body,
- an emergency or a situation of urgency exists and the acquisition of the commodity cannot reasonably be made in time by an open call for bids,
- there is only one source reasonably available for the commodity,
- a list of pre-qualified suppliers has been established using a request for qualifications and the public body is requesting quotations from all pre-qualified suppliers on the list,
- an acquisition of a commodity is for the purpose of resale or for incorporation into a product for resale, or
- where set rates have been established by the Public Utilities Board acting under the Public Utilities Act or another Act.

Policy section 7 (<https://www.gov.nl.ca/ppa/division/policy/7-2/>) provides additional guidance. Public bodies should familiarize themselves with these sections to assist in identifying situations in which an open call for bids may not be required.

9. When I have determined an open call for bids is not required due to one of the above reasons, do I need to include any additional information in the procurement file/records?

Your procurement file/ records should include documentation for all phases of the purchase process. Therefore, it is important to include sufficient appropriate support/explanations in the file for using an exception to an open call process. Documentation depends on the exception type and circumstances. Policy section 7.2 (<https://www.gov.nl.ca/ppa/division/policy/7-2/#2>) and 7.3 (<https://www.gov.nl.ca/ppa/division/policy/7-2/#3>) provides additional guidance on how to determine if a purchase is a valid sole source or an emergency or situation of urgency and also direct public bodies to ensure information for justification (if not using an open call) is to be retained in the procurement file. The file should also include the method by which fair and reasonable value was determined, where applicable.

10. What type of contract awards have to be reported and where are they reported?

Regardless of how the commodity was procured, within 30 days of the award public bodies must electronically post the following awards: Goods - \$10,000 or greater, Services - \$50,000 or greater, Public Works - \$100,000 or greater and Lease of Space - \$100,000 or greater. Section 30(d) of the Regulations (<https://assembly.nl.ca/Legislation/sr/Regulations/rc180013.htm#30>) and Policy section 20 (<https://www.gov.nl.ca/ppa/division/policy/20-2/>) provide additional detail.

Public bodies with their own website may post all award information on their website, public bodies without a website must complete the required form on the PPA website

([https://www.gov.nl.ca/ppa/files/Contract-Awards - 20200601_vs_3-1.xlsx](https://www.gov.nl.ca/ppa/files/Contract-Awards_-_20200601_vs_3-1.xlsx)) and send the information to PPA to have the award posted on PPA's website.

11. If I have my own website where I electronically post procurement information, do I still have to report information to PPA?

No. If a public body maintains its own website all their reporting can be electronically posted on that website. Remember to ensure that your postings include all the information as required under the Framework. See the legislation and Policy for additional details. Policy 20 (<https://www.gov.nl.ca/ppa/division/policy/20-2/>)

12. What type of information is permitted to share with a supplier/general public while a procurement process is ongoing?

During the procurement process any information related to the procurement that is publically posted may be shared with suppliers / general public. Information publically posted would include the notification, the open call for bid documents, and amendments. (See Regulation sections 30 (a), (b) and (c) (<https://assembly.nl.ca/Legislation/sr/Regulations/rc180013.htm#30>)). No further information should be shared.

13. What type of information is permitted to share with a supplier/general public when a procurement process has concluded?

Any information related to the procurement that is publically posted may be shared with suppliers / general public. Information publically posted would include the notification, the open call for bid documents, amendments, cancellation (if applicable), public opening and award information. (See Regulation 30 (a), (b), (c) and (d) (<https://assembly.nl.ca/Legislation/sr/Regulations/rc180013.htm#30>) and Regulation 9 (<https://assembly.nl.ca/Legislation/sr/Regulations/rc180013.htm#9>)).

In addition, an unsuccessful supplier can request a supplier debriefing to obtain more information but only information relevant to the supplier's own bid and why it was not successful would be provided (see question below on debriefing process).

Finally, the general public or suppliers can make a request via the Access to Information and Protection of Privacy (ATIPP) process if they are seeking additional information that would not normally be provided as part of the procurement or debriefing processes.

14. What type of information is permitted to be provided to an unsuccessful supplier who requests a supplier debriefing?

The purpose of a debriefing is to provide an unsuccessful supplier with information as to why their bid was not successful. Public bodies can therefore provide relevant feedback relating to a supplier's submission based on evaluation criteria. This may include relative strengths and weaknesses of the supplier's submission relative to the evaluation criteria; the submission's

evaluation score and relative ranking; and areas where the terms, conditions or specifications may not have been met by the submission. Public bodies cannot share information regarding another supplier's bid, except the name and bid price of the preferred supplier. Additional guidance on the supplier debriefing can be found in Regulation 24 (<https://assembly.nl.ca/Legislation/sr/Regulations/rc180013.htm#24>) and the Policy (<https://www.gov.nl.ca/ppa/division/policy/22-2/>).

15. What does a public body do if they receive a supplier complaint?

Regulation 25 (<https://assembly.nl.ca/Legislation/sr/Regulations/rc180013.htm#25>) is related to supplier complaints and Policy section 23 provides guidance on the supplier and complaint review process (<https://www.gov.nl.ca/ppa/division/policy/23-2/>). In summary, a public body which receives a complaint must acknowledge receipt of a complaint in writing to the supplier. The head of the public body must review the complaint and respond to the supplier within 15 days of receiving the complaint. The public body must also provide the chief procurement officer with a copy of the response.

16. What assistance can PPA provide when I am planning an open call for bids?

The public body is responsible for its procurement process, but in addition to the FAQs and the legislation and Policy (<https://www.gov.nl.ca/ppa/division/legislation/>), PPA can be contacted for assistance with interpretation of the Framework. As well, procurement templates are available from PPA upon request.

Contact information:
Public Procurement Agency
Tel: (709) 729-3348
Email: Tenders@gov.nl.ca

Frequently Asked Questions – Limited Call for Bids for Public Bodies

17. What are the approved commonly used alternatives for undertaking a limited call?

There are two common methods for a limited call permitted under the Framework.
Method one - Obtain quotations from at least three suppliers. This is the preferred approach for goods or services with an estimated value of \$10,000 or greater and public services \$50,000 or greater. If obtaining three quotations is not feasible, file documentation must include rationale as to why it was not feasible.

Method Two -Determine a fair and reasonable price for the commodity based on recent market conditions. If this method is chosen, the public body must include file documentation as to why obtaining three quotations was not feasible as well as how the public body determined the price was fair and reasonable. Policy section 6 (<https://www.gov.nl.ca/ppa/division/policy/6-2/>) provides additional guidance on limited calls.

18. Can I continuously invite quotes from the same suppliers or do I have to use different suppliers?

To promote fairness, competition, supplier diversity, and best value, procurement opportunities must be rotated among suppliers, where possible, and not continuously offered to the same or select group of suppliers.

19. I requested quotes from three or more suppliers but only received two. Do I need to request additional quotes until I have the minimum of three?

Wherever possible three quotes should be obtained. However, in the event that this is not possible, public bodies must document the reason why it was not possible to obtain three quotes.

20. How do I determine a price is fair and reasonable?

There are different ways to determine whether a price is fair and reasonable. Section 6.1.4 of the Policy (<https://www.gov.nl.ca/ppa/division/policy/6-2/#1.1>) provides examples including: obtaining two direct quotes; obtaining one direct quote and ensuring it is fair and reasonable by referencing trade catalogues, price lists, or a recent similar purchase; or obtaining one quote via shelf pricing or advertised price for a low dollar value purchase (in this instance, business should be rotated to ensure that prices are competitive).

21. Does the framework include a threshold or policy for purchasing low dollar items?

The preferred approach for limited calls for public bodies for goods or services valued at \$10,000 or greater and public works valued at \$20,000 or greater is to obtain a minimum of three quotes.

For purchases below these dollar values, public bodies should formally establish its own low dollar value purchasing policy in accordance with the framework. PPA recommends that any low dollar value procurement policy should incorporate and balance principles of best value, efficiency, fairness and competition. Note all internal procurement policies should be approved by the head of the public body and clearly communicated to staff. Public bodies may contact PPA for assistance/guidance in this regard.

22. If I have a charge account with a local supplier can I buy all our small dollar value purchases directly from them without seeking any other quotes?

PPA recommends to promote fairness, competition, supplier diversity, and best value, procurement opportunities must be rotated among suppliers, where possible, and not continuously offered to the same or select group of suppliers. For additional guidance on low dollar purchases and establishing low dollar policy see question 21.

23. What information can I provide suppliers/public when a limited call is awarded?

Public bodies must electronically post the successful bidder, description of commodity, date of award, financial value of award, terms of contract and renewal options of contract for awards procured through limited calls which meet the following thresholds: Goods - \$10,000 or greater, Services - \$50,000 or greater, Public Works - \$100,000 or greater and Lease of Space - \$100,000 or greater.

The Framework does not address the information to be released for limited calls below these values. Therefore, details to be provided for limited calls below those values is a decision of the public body, but as with open call, feedback provided should be limited to information relating to the supplier's proposal and should not include information regarding another supplier's bid, aside from the bid price. Public bodies should note that the general public or suppliers can still make a request for information via the Access to Information and Protection of Privacy (ATIPP) process if they are seeking additional information for limited calls for bids.

24. What do I do if an unsuccessful bidder for a limited call asks for a supplier debriefing?

Public bodies are only required to provide a debriefing following an open call process. However, public bodies have the discretion to provide a supplier debriefing for limited calls as it chooses. See previous advice on purpose and information to be provided for supplier debriefing.