



POLICY

Fair Business Policy

6.1.1P

Policies are directing required organizational practice/behaviour



Purpose:

The Vancouver Island Health Authority (Island Health) is a major purchaser of goods and services and is responsible to foster effective business relationships and to promote fair and ethical business practices by ensuring a climate that is equitable, open, accessible and accountable to third party providers of goods and services and complies with legislation. Island Health will balance the interests of fair business and value for money in acquisition of goods and services. The purpose of this policy is to establish the principles and guidelines to ensure fair business principles are used in the procurement of goods and services.

Scope:

Audience: any Island Health staff member or contracted party initiating procurement of any third party provided goods and services on behalf of Island Health including but not limited to the:

- Purchase and maintenance of equipment;
- Acquisition of supplies (e.g. drugs, medical/surgical, laboratory, etc.);
- Procurement of real property and leased facilities;
- Planning, design and construction and maintenance of Island Health facilities; and
- Award of service contracts (e.g. consulting/professional services, health/support services).

Environment: Island-wide

Exceptions: Procurement processes initiated by the Provincial Health Services Authority (PHSA) on behalf of Island Health.

1.0 Principles

Island Health will conduct its procurement processes according to the following guiding principles:

- Providing transparency in Island Health procurement processes;
- Clearly defining Island Health business requirements;
- Providing vendors with information on business opportunities;
- Affording each vendor equitable treatment;
- Providing opportunities for open competition where appropriate;
- Requiring staff to be accountable for procurement decisions;
- Conformance with Government of B.C. Public Sector purchasing policy wherever possible;
- Receiving the best value for money;
- Meeting the rigor and responsibility required of a public body;
- Leveraging buying power through common supply arrangements; and
- Island Health will strive to be in compliance with the Agreement on Internal Trade (AIT) guidelines and the terms of the Trade, Investment and Labour Mobility Agreement, and the New West Partnership Trade Agreement. This requires Island Health to conduct an open competitive bid process based on established dollar thresholds and ensures equal access to procurement for all Canadian suppliers. Competitive processes have to be transparent and non-discriminatory.

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2.0 Types of Business Arrangements

The FBP provides overarching principles that govern business arrangements and apply to the following related policies and procedures:

- 3.1 - Recruitment of Physicians
- 4.4.3 - Island Health Spending and Signing Authority
- 6.1.1.1PR – Waiver of Competitive Bid Procedure
- 6.1.1.2PR - Vendor Complaint Review Procedure
- 18.0 - Capital Planning and Space Accommodation
- 19.0 - Contract Management Policy
- 20.1.2 - Strategic Procurement Policy
- 20.2.1 Corporate Sponsorship Policy

3.0 Guidelines for Competitive Bidding

Competitive processes will be used for the acquisition of equipment, supplies and services, with exceptions (see Section 6.0), based on contract value inclusive of all fees and taxes. Competitive bid processes will be initiated where appropriate to the value, complexity and profile of the business opportunity through the following processes:

- **Direct Award** – Direct award is permitted for smaller expenditures where the total value of the equipment, supplies and services is less than \$50,000. A direct award will result in a contractual relationship that meets Island Health business needs, demonstrates cost effectiveness, and quality that reflects market value. No competitive bid process is required. Multiple direct awards to the same vendor are not permitted where the work would be reasonably assessed as being related to the previous contract, or is for a similar type of work.
- **Select Bid** – A Select Bid process may be used where the value of equipment, supplies and services is greater than or equal to \$50,000, and less than \$75,000. Construction contracts are permitted to use a Select Bid process where total value is equal to or exceeds \$50,000 and is less than \$200,000. A minimum of three qualified potential vendors will be requested to submit proposals. The entire process is documented in an approved format and all decisions/results clearly justified.
- **Open Bid** – An Open Bid must be used where the value of equipment, supplies and services is equal to or exceeds \$75,000 and construction contracts that are equal to or exceed \$200,000. This highly structured process ensures the opportunity for all interested vendors to submit proposals.

4.0 Competitive Bid Processes

Island Health will use a range of competitive process tools including ITBs, QRs, ROIs, RFPs or RFQs (refer to Section 10.0 - Competitive Bid Processes Definitions) based on the specific needs and requirements. Each process shall be carried out following the laws of competitive bidding under Canadian common law.

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Island Health will strive for general consistency with applicable Government of B.C. Public Sector purchasing policy as well the BC - FIPPA (Freedom of Information and Privacy Act) and any subsequent amendments. At a minimum, the following requirements will be addressed:

- All calls for tenders contain basic information to meet legal requirements and ensure appropriate responses.
- All requirements will be clearly defined and made available to all vendors in the solicitation documents as a means to ensure transparency of process and decision-making.
- All potential vendors are provided identical information on which to bid.
- All proposals must meet certain mandatory requirements (e.g. closing period) for consideration in Island Health competitive processes. Minor irregularities in the mandatory requirements may be accepted by Island Health (e.g. number of copies).
- Objective selection criteria will be established prior to issuing the competitive process and used for reviewing proposals and awarding contracts. The subsequent award of a contract will be made on the basis of the criteria set forth in the solicitation documents.
- All bidders will be notified at the conclusion of the competitive bid process.
- The entire competitive process appropriately documented with all decisions clearly justified.
- Island Health officers, employees, or other individuals acting on behalf of the Authority shall not disclose confidential information or disclose information provided through the process or use the information for their own gain.
- Multi-year contracts are permitted when the stability of the longer time frame supports better value, however, they must not be established through ongoing amendments and extensions of standard term contracts, unless the extensions were planned and included as part of a competitive process or are exempt in accordance with section 6.0 Exceptions to Competitive Bid.

5.0 Managing Competitive Bid Processes

Island Health delegates the responsibility to manage competitive processes as follows:

5.1 Equipment and Supplies

All competitive bid processes for equipment and supplies are managed by PHSA.

5.2 Services

All competitive bid processes for services are managed or overseen by the Contract Policy and Standards (CP&S) department of Island Health.

5.3 Goods and Services

Competitive bid processes that have a combination of goods and services may be coordinated by PHSA. PHSA will coordinate with CP&S to ensure appropriate service contract provisions are in place where applicable.

5.4 Capital Planning and Construction

All competitive bid processes for design and construction projects are managed by the Facilities Capital Construction department of Island Health.

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5.5 Unsolicited Proposals

Unsolicited proposals from private sector suppliers may be considered if they are unique, address the current or future needs of Island Health or the goods or services are not otherwise available in the marketplace. Any unsolicited proposals that result in a contract based on Island Health needs/requirements and must have a total value of less than \$50,000 in order to allow Direct Award.

6.0 Exceptions to Competitive Bid

Exemptions cannot be made for the purposes of avoiding competition between suppliers or in order to discriminate against suppliers of any other Province. The following exceptions apply to the Guidelines for Competitive Bidding requirements detailed in Section 4.0:

6.1 Contracts with other Health Authorities, Government Ministries, and Public Bodies are exempt from competitive processes.

6.2 Additional deliveries or services by the original supplier of goods or services not included in the initial procurement are exempt if a change of supplier for such additional goods or services:

- (i) cannot be made for economic or technical reasons such as requirements of interchangeability or interoperability with existing equipment, software, services, or installations procured under the initial procurement; and
- (ii) would cause significant inconvenience or substantial duplication of costs for the procuring entity;

6.3 IMIT contracts embedded in the organization’s operations and procurement that would be financially and operationally impractical to retender at contract expiry or where there are auto-renewal clauses. For transparency, each fiscal year, IMIT will submit a briefing note to the Board listing all new, renewed or amended IMIT contracts having a total value that is expected to meet or exceed \$5 million (total value includes the value of each amendment and each renewal). The reason each contract is required and the rationale for continuation of the auto-renewal or amendment must be stated.

6.4 Long term care contracts that are renewed on an annual basis or are continually renewed at the end of a multi year term. Given the capital invested in these contracts by private operators, and Island Health’s reliance on them, it is not practical to re-tender once the contracts are awarded. While continuity of long term care providers is important to Island Health’s patients, clients and residents these contracts are not exempt from Competitive Bid in perpetuity. A report will be provided annually to the Island Health Board of Directors summarizing amendments to the term or increase in value of long term care contracts having a total value that is expected to meet or exceed \$5 million (total value includes the value of each amendment and each renewal). The increases in value will be approved by the Board.

6.5 Physician service contracts where Island Health requires flexibility to strengthen partnerships with physicians. Island Health will strive to award service contracts through a selection process based on the qualifications, experience and capabilities of candidates.

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6.6 Increases in software licenses, renewals of existing licenses, and technology maintenance, may be exempt from competitive bid where there is an auto renewal provisions in the terms of the agreement or the license or service has been procured through PHSA.

6.7 Facility lease renewals, where the renewal rates are consistent with current market rates and the space continues to meet organizational needs.

6.8 Research is exempt where Island Health has agreed to conduct the research and the researcher, company or research team, if applicable, is named by the external funder.

6.9 Legal services are exempt where the need for organizational familiarity and timeliness are paramount to the need for transparency.

6.10 The waiver of competitive bid allows an exemption from the requirement to hold a competitive bid process in certain circumstances. A waiver of competitive bid may be applied for on an exceptional basis under the following considerations:

- when the acquisition is of a confidential or privileged nature and disclosure through an open bidding process could reasonably be expected to compromise Island Health confidentiality, cause financial disruption or be contrary to the public interest;
- where only one supplier is able to meet the requirements of a procurement in the following circumstances:
 - to ensure compatibility with existing products or services,
 - to recognize exclusive rights, such as exclusive licenses, copyright, and patent rights, and may include product maintenance, where there is an absence of competition for technical reasons and no alternative or substitute exists;
 - purchase of goods or services in exceptionally advantageous circumstances such as bankruptcy or receivership or the purchase of used/demo equipment or contractor has equipment set up on site from a different contract;
 - in the absence of any bids received in response to an Open Bid competitive process;
- where an unforeseeable situation of urgency exists and the goods, services or construction could not be obtained in time by means of open procurement procedures; use of a vendor is mandated by a higher authority (e.g. province, federal government);
- for significant amendments or extensions outside the stated terms or scope of a contract to maintain service continuity while a competitive process is completed.

All waivers of competitive bid must be applied for through Contract Policy and Standards in writing and in advance of contracting, in the required format and approved by the President and Chief Executive Officer (CEO). Annually the waivers will be reviewed by Internal Audit to ensure the requirements for providing a waiver are met and a report provided to the Board.

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6.11. Notice of Intent

All waivers equal to or exceeding \$75,000 are posted as a Notice of Intent (NOI) on BC Bid or other similar mechanism providing interested vendors ten days to respond with any concerns.

The Chief Executive Officer may make exception to the requirement for an NOI in the following circumstances:

- (i) the contract is with another government organization;
- (ii) Island Health can strictly prove that only one contractor is qualified, or is available, to provide the goods, services or construction or is capable of engaging in a disposal opportunity;
- (iii) an unforeseeable emergency exists and the goods, services or construction could not be obtained in time by means of a competitive process;
- (iv) a competitive process would interfere with Island Health’s ability to maintain security or order or to protect human life or health; or
- (iv) where the need for confidentiality outweighs the need for transparency.

6.12. A summary report of waivers and NOIs will be reported to the Board on an annual basis to monitor compliance with Fair Business policies.

7.0 Vendor Complaint Review Process

A vendor may initiate a complaint if they are dissatisfied with the general procurement process or the competitive process or the application of Island Health policy (6.1.1) as per the Vendor Complaint Review Procedure (Policy 6.1.1.2PR).

Complaints to be accepted must be either:

- (i) From a proponent who actually submitted a qualifying bid or proposal in response to the competition or business opportunity (i.e. competition or business opportunity), or;
- (ii) Is an eligible, qualified party that is an actual or prospective bidder/proponent and whose direct economic interest would be affected by the award of a contract or by failure to award the contract (i.e. competition or business opportunity).

8.0 Definitions

Direct Award: is the award of a contract with a value of less than \$50,000 without a competitive process.

Invitation to Bid (ITB): refers to the process of inviting potential contractors to submit proposals for well defined services where a solution is not required and price and qualifications are primary considerations for selection.

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Notice of Intent (NOI): is the method by which the Authority informs vendors that negotiations with a specified contractor will take place without a competitive process.

Open Bid: is a formal call for tenders that is equally accessible to all Canadian suppliers and is issued through BC Bid (electronic tendering system), or other advertising methods including national newspapers, or Journal of Commerce, etc.

Qualification Requests (QRs): refers to the process of inviting potential contractors and vendors to submit their qualifications and credentials for a specific good or service.

Request for Information (ROI) or Expression of Interest (EOI): is the process where proponents are invited to submit their ideas, solutions and capabilities to meet Island Health’s needs and requirements.

Request for Proposal (RFP): is a competitive bid document that is used when there are less well-defined needs, requirements and specifications. Island Health is searching for creative input from bidders and the price is not the only criteria.

Select Bid: is a competitive process when at least 3 qualified proponents are selectively invited to participate in a tendering process.

9.0 Related Island Health Standards

- Service Contracts 19.1
- Service Contract Management Procedure 19.1PR
- Waiver of Competitive Bid Procedure 6.1.1.1PR
- Vendor Complaint Review Procedure 6.1.1.2PR

10.0 References

- Canadian Free Trade Agreement (<https://www.cfta-alec.ca/>)
- Canada-European Union Comprehensive Economic and Trade Agreement (<http://www.international.gc.ca/trade-commerce/trade-agreements-accords-commerciaux/agr-acc/ceta-aecg/index.aspx?lang=eng>)
- Trade, Investment and Labour Mobility Agreement (TILMA) (<http://www.tilma.ca>)
- New West Partnership Trade Agreement (NWPTA) (<http://www.newwestpartnershiptrade.ca>)

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