



## **Centralized Procurement Initiative – Introduction of Interim Measures**

**To:** Finance, Budget and Enrolment Committee

**Date:** 8 May, 2019

**Report No.:** 05-19-3649

### **Strategic Directions**

- Allocate Human and Financial Resources Strategically to Support Student Needs

### **Recommendation**

It is recommended that the Centralized Procurement Initiative – Introduction of Interim Measures report be received for information.

### **Context**

On Monday, 25 March 2019 Deputy Minister Nancy Naylor sent an e-mail to all Directors of Education and Senior Business Officials advising them of the provincial government's "Centralized Procurement Initiative and Introduction of Interim Measures". The development of such a centralized system was a key recommendation from the independent line-by-line review done by Ernst & Young Canada. Ms. Naylor indicated that these interim measures are intended to "support consistency in procurement-related decisions and collection of data during the transition to a centralized procurement model."

Business Services staff immediately began reviewing these interim measures to assess the extent of possible changes to our current procurement processes. Staff has been actively discussing interpretation of the documentation with purchasing colleagues from the Ontario Association of School Business Officials (OASBO) Supply Chain Management Committee. This committee has been the conduit for conveying our questions to the Ministry of Education to obtain further clarity around the Interim Measures. This communication is ongoing.

### Current State of Purchasing process

- When a need for a product/service is identified that would require an open, competitive procurement process, purchasing staff will regularly review the Vendor of Record (VOR) agreements available through the Ministry of Government and Consumer Services (MGCS) and/or the Ontario Education Collaborative Marketplace (OECM). All school boards have access to these agreements as an alternative to conducting their own full competitive procurement process. If the offering from either of these entities is advantageous to the TDSB, the opportunity will be leveraged. Frequently the TDSB will opt to conduct its own procurement process in anticipation of a better outcome due to the size of our organization or because of unique or specific requirements. There are also many products and services that the TDSB requires that are not available on any VOR arrangements with either OECM or MGCS.

TDSB has a long history of working collaboratively with our coterminous board (Toronto Catholic District School Board), other school boards and Broader Public Sector entities including the City of Toronto in order to pool requirements and obtain best value for money.

### Interim Measures Requirements Summary

- Applies to any procurement over \$25,000 (except construction or items for re-sale) initiated after March 18, 2019, are subject to the Interim Measures;
- Must use the MGCS or OECM VOR (Vendor of Record) arrangements for new procurement, regardless of the procurement value, where possible and appropriate;
- Ensure all new contracts are no longer than a 2 year term, including extensions;
- If unable to adhere to the Interim Measures, must submit a Procurement Rationale Report to the Ministry at least 45 days before the procurement is released to the vendor community; and,
- Develop and submit to the Ministry a Planned Procurement Report for 2019, 2020, and 2021, including completed procurements for the last 6 months. Following that, every 6 months, an Activity Update Report must be submitted highlighting any changes to future planned procurements that have already been reported and any new planned procurements not yet reported.

### Interim Measures Challenges

The \$25,000 in-scope threshold is extremely low. It would cover the majority of Board purchases.

Most of the Board's repetitive contracts established through Request for Proposals/Tenders processes are for terms ranging from 3-5 years (including extension options) in duration. Depending on the number of one-off or unplanned procurements that present themselves during the course of a year, staff are generally at maximum capacity. Having to reduce the term of all contracts to 2 years (including extension options) has the potential to double the workload to turn those procurements over in a 2 year cycle. For more complex procurements, there would be little time between award of a 2-year contract and the commencement of the planning process for the next Request for Proposals (RFP).

In the event it is determined that the Measures cannot be complied with and a Procurement Rationale Report needs to be submitted, the Interim Measures call for a 45 day wait period before the procurement process can begin. That is essentially a month and a half of lost time. This extra time needs to be built in to a process that can be quite lengthy. A complex RFP could be 6-12 months for planning, drafting, posting, evaluating, recommending award, and seeking approvals. Additional lead time will further frustrate end-user departments who are looking for provision of products and/or services within a quicker timeframe.

#### Impact of Adhering to Interim Measures

In the long term, adjustments to comply with the interim measures can be made to work within the spirit of their intent. However, in the short term, the immediate implementation is very restrictive. The significant increase in staff time required to keep contract terms within two years or less would not be possible with existing resources. The reporting requirements also add to the workload.

Given the size of the Toronto District School Board (TDSB), simply leveraging an existing VOR arrangement with either OEM or MGCS doesn't guarantee that it will be the best value for the Board. Adopting a VOR arrangement would ensure compliance with the Interim Measures, but could potentially be more costly.

#### **Action Plan and Associated Timeline**

The Interim Measures are effective 18 March 2019. The Purchasing department staff will continue to review existing agreement timelines, as well as current and future requirements in order to comply with the Interim Measures to the greatest extent possible while still ensuring best value for the Board. It is expected that it will be necessary to issue many Procurement Rationale Reports, at least in the short term, to ensure goods and services can be obtained in a timely manner and provide some flexibility with the length of contract terms.

Before adopting any VOR arrangements, analysis will be done to determine if doing so will be in the best interest of the Board which has been past practise.

Timelines for the submission of the Planned Procurement Report and the subsequent Activity Update Reports have not yet been determined.

## **Resource Implications**

The compression of the length of time contracts can be established for will inevitably put pressure on existing staff to manage a workload that historically has been spread out over longer periods of time (often 3-5 years) in a much shorter period. Without the availability of overtime and/or additional human resources it will not be possible to keep up. Use of the Procurement Rationale Reports will be used to alleviate this pressure.

## **Communications Considerations**

Not applicable.

## **Board Policy and Procedure Reference(s)**

PO:17 Purchasing

## **Appendices**

- Appendix A: Centralizing Procurement – Broader Public Sector (BPS) Interim Measures
- Appendix B: Fact Sheet – Centralizing Procurement BPS Interim Measures

## **From**

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# Centralizing Procurement

## Broader Public Sector (BPS) Interim Measures

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Effective – March 18, 2019

### 1. PURPOSE

The government is centralizing Ontario Public Service and broader public sector purchasing and supply chains.

The Interim Measures are a set of rules designed to support consistency in procurement-related decisions and collection of data during the transition to a centralized procurement model.

### 2. APPLICATION AND SCOPE

The BPS Interim Measures (Measures) apply to the following organizations<sup>i</sup>:

- Hospitals;
- School boards;
- Universities;
- Colleges of applied arts and technology and post-secondary institutions;
- Children's aid societies; and,
- Shared Services Organizations / Group Purchasing Organizations.

For clarity, the BPS Procurement Directive continues to apply to these organizations.

#### In-Scope

The Measures apply to:

- New procurements of goods and services (consulting and non-consulting) valued at \$25,000 or higher.

#### Out-of-Scope

The Measures do not apply:

- Where procurement is related to construction<sup>ii</sup> work. This includes any consulting services that are included in the procurement of construction work.
- Where procurement is related to goods acquired solely for resale.

### 3. IMPLEMENTATION AND ONGOING SUPPORT

Mandatory compliance with the BPS Interim Measures is required where there is existing legislative authority for the funding ministry to provide direction to the BPS organization.

Voluntary compliance with the BPS Interim Measures is appropriate where there is no legislative authority available. In these cases, the BPS organizations are encouraged to comply voluntarily.

Funding ministries will inform the BPS organizations of the nature of the compliance (mandatory or voluntary). The ministry that maintains the primary funding relationship with the BPS organization is considered the funding ministry.

Information on the processes and support materials (including FAQs) is available on <https://www.doingbusiness.mgs.gov.on.ca/>. If there are questions on the BPS Interim Measures, contact [doingbusiness@ontario.ca](mailto:doingbusiness@ontario.ca).

### 4. INTERIM MEASURES

The Measures set out requirements that support the development of a centralized procurement system. They are critical to support the identification of opportunities for collaborative purchasing while helping to ensure value for money and accountability.

#### 4.1 Procurements

##### a) VOR Arrangements

BPS organizations must use existing VOR arrangements whenever possible and appropriate, regardless of the value of the procurement.

A Vendor of Record arrangement could be an Enterprise Vendor of Record arrangement managed by MGCS, or any other arrangement available to the organization.

##### b) Contract Term

Any new contract, including any extensions, must not exceed two years.

##### c) Operational Flexibility

In limited and exceptional circumstances, BPS organizations may find that it is not possible or appropriate to:

- Use a VOR arrangement that is available to the organization; and/or
- Restrict contract duration to two years.

In these situations, BPS organizations must complete a Procurement Rationale Report and submit it to the funding ministry at least 45 calendar days before the procurement is released to the vendor community.

Note that submission of the form does not change the authority of the organization to proceed with the procurement. For clarity, once the report is submitted, the organization can proceed with the procurement.

See Section 4.2 below for more information about reporting requirements.

## **4.2 Regular Reporting**

BPS organizations must prepare and submit reports to the funding ministry.

### Planned Procurement Report

Provide information on planned procurements for 2019 and through to the end of 2021 to the extent that this information is available.

- Submit the report to the funding ministry.

### Activity Update Report

Provide information on procurement activity over the past six months, highlighting any variance from the planned procurement report; include a rationale for any variances.

- Submit every six months following the submission of the planned procurement report.
- Submit the report to the funding ministry.

### Procurement Rationale Report

In the limited and exceptional circumstances as set out in the Operational Flexibility section above, BPS organizations must complete a Procurement Rationale Report and submit it to the funding ministry.

The report must be submitted at least 45 days before the procurement is released to the vendor community.

The Procurement Rationale Report can also be submitted as part of the planned procurement report or activity update report, as long as the 45-day requirement is met.

The submission of the Procurement Rationale Report does not change the authority of the organization to proceed with the procurement as planned. For clarity, once the report is submitted, the procurement can proceed.

### 4.3 Procurement-Related Data

Data and information is needed to help inform the design of a centralized procurement model.

When requested by the funding ministry, BPS organizations must provide procurement data and other information, including, but not limited to any current or past procurement, with spend and contract information.

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<sup>i</sup> The BPS organizations covered by the BPS Interim Measures are defined in the *Broader Public Sector Accountability Act, 2010* section 1(1)

- a) every hospital  
“hospital” means,
  - i. a public hospital (a hospital within the meaning of the *Public Hospitals Act*; (“hôpital public”))
  - ii. a private hospital that received public funds in the previous fiscal year of the Government of Ontario, and
  - iii. the University of Ottawa Heart Institute/Institut de cardiologie de l’Université d’Ottawa (“hôpital”)
- b) every school board (a board as defined in the *Education Act* (“conseil scolaire”))
- c) every university in Ontario and every college of applied arts and technology and post-secondary institution in Ontario whether or not affiliated with a university, the enrolments of which are counted for purposes of calculating annual operating grants and entitlements
- d) every agency designated as a children’s aid society under subsection 34 (1) of Part III of the *Child, Youth and Family Services Act, 2017*
- e) every corporation controlled by one or more designated broader public sector organizations that exists solely or primarily for the purpose of purchasing goods or services for the designated broader public sector organization or organizations.

<sup>ii</sup> “Construction” means construction, reconstruction, demolition, repair or renovation of a building, structure or other civil engineering or architectural work and includes site preparation, excavation, drilling, seismic investigation, the supply of products and materials, the supply of equipment and machinery if they are included in and incidental to the construction, and the installation and repair of fixtures of a building, structure or other civil engineering or architectural work, but does not include professional consulting services related to the construction contract unless they are included in the procurement. (This wording is the definition in the BPS Procurement Directive)



## CENTRALIZING PROCUREMENT FACT SHEET – BROADER PUBLIC SECTOR (BPS) INTERIM MEASURES

### BACKGROUND

#### CENTRALIZATION OF THE ONTARIO PUBLIC SERVICE AND BROADER PUBLIC SECTOR PURCHASING AND SUPPLY CHAINS

- The government is delivering on its commitment to centralize procurement.
- Centralization is expected to realize savings and put money back into programs and services that support Ontarians, make procurement processes more efficient, drive innovation, enable comprehensive data collection, and encourage competition.
- The Interim Measures are a set of rules designed to support consistency in procurement-related decisions and collection of data during the transition to a centralized procurement system that addresses OPS and BPS procurement needs.

### OVERVIEW

#### WHO HAS TO FOLLOW THE INTERIM MEASURES?

- The Measures apply\* to the following select BPS organizations:
  - Hospitals; School boards; Universities; Colleges of applied arts and technology and post-secondary institutions; Children’s aid societies; and, some Shared Services Organizations/Group Purchasing Organizations.
- **Mandatory compliance** with the Interim Measures is required where the funding ministry has existing legislative authority to provide this direction; where there is no legislative authority available, funding ministries will encourage the BPS organizations to **voluntarily comply**.

\*Note that the Measures may apply differently to select BPS organizations, depending on existing legislative authority.

### NEW PROCUREMENTS

#### INTERIM MEASURES FOR NEW PROCUREMENTS

- For all new in-scope procurements:
  - Use an existing available Vendor of Record arrangement, where available and appropriate; and,
  - Establish a contract term that does not exceed two years.
- In limited and exceptional circumstances where it is not possible to comply with these requirements, the organization must submit a Procurement Rationale Report to the funding ministry (i.e., the ministry that maintains the primary funding relationship with the select BPS organization) at least 45 days before the procurement is released to the vendor community.
- *Note that the organization’s authority to proceed with the procurement remains unchanged. For clarity, once the report is submitted, the procurement can proceed.*

#### KEY DEFINITIONS

##### **New Procurements**

- A “new” procurement is any process of acquiring a good or service that begins (e.g. released to the vendor community) after the BPS Interim Measures come into effect, and where there is no pre-existing commitment to acquire the good or service on the part of the buyer, including options to extent pre-existing contracts.

##### **In-Scope procurements**

- Any procurement of goods and/or services valued at \$25,000 or higher except procurements that:
  - Are for goods acquired solely for resale; and/or,
  - Relate to construction.

**CENTRALIZING PROCUREMENT  
FACT SHEET – BROADER PUBLIC SECTOR (BPS) INTERIM MEASURES**

**REGULAR REPORTING**

**INTERIM MEASURES FOR REGULAR REPORTING**

- New documents are required to support the Interim Measures:
  - Procurement Rationale Report
  - Planned Procurement Report
  - Activity Update Report
- Report submission process:
  - Select BPS organizations must provide requested information/reports directly to their funding ministry.
  - The funding ministry must submit the report to MGCS within 10 days of receipt.
  - Funding ministries are not required to review the reports but may do so at their discretion.
  - MGCS will provide supporting templates and instructions for all reports for ministries to share with their BPS organizations.

**PROCUREMENT RATIONALE REPORT**

- This new report is required in the limited and exceptional circumstances where it is not possible or appropriate to comply with the Measures for new procurements.
- The Procurement Rationale Report must be submitted to the funding ministry at least 45 days before the procurement is released to the vendor community.
- The Procurement Rationale Report can also be submitted with the Planned Procurement and/or Activity Update Reports procurement as long as the 45-day requirement is met.
- The organization’s authority to proceed with the procurement remains unchanged.

**PLANNED PROCUREMENT REPORT**

- This new report will collect information on procurements planned for 2019, 2020 and 2021, to the extent that this information is available.
  - The report is intended to capture any future procurements which the organization is able to forecast at the time, with any level of detail.
- MGCS will prompt funding ministries to issue a request for this report in the future.
- The BPS organization will submit this report to the funding ministry.

**ACTIVITY UPDATE REPORT**

- This report collects information on:
  - All procurements completed in the last six months;
  - Any changes to planned procurements that were reported in the Planned Procurement Report or a previous Activity Update Report; and,
  - Any new planned procurements that were not reported in the Planned Procurement Report or a previous Activity Update Report.
- MGCS will prompt funding ministries to issue a request for this report six months after the Planned Procurement Report is submitted, and every six months thereafter.
- The BPS organization will submit the report to the funding ministry.

**RESOURCES AND QUESTIONS**

**ADDITIONAL RESOURCES AND CONTACT INFORMATION**

- Additional information will be made available on the [Doing Business with the Ontario Government](#) internet site.
- BPS partners can use the email address [BPSsupplychain@ontario.ca](mailto:BPSsupplychain@ontario.ca) for any questions related to this process.