

July 20, 2009

NEW CONSULTING RULES

The McGuinty government is committed to increasing transparency and accountability in consulting procurements. We have reduced consulting expenditures from \$656 million in 2001-2002 to \$389 million in 2007-2008, a savings of \$267 million per year compared to the previous government.

Consultants will no longer be entitled to bill for hospitality, food expenses or incidental cost. Consultants will be eligible for transportation and accommodation expenses related to their assignment, only if they have been pre-approved by the appropriate ministry or agency.

All ministries and their agencies will be subject to the new consulting rules which require them to use a competitive process for all consulting services no matter what the value.

For consulting services valued at below \$100K, they may use either an open competitive process (Request for Proposals) and may use a time and cost effective invitational competitive process which requires written requirements be sent to a minimum of three qualified vendors. For anything above \$100K, an open competitive process must be used.

There are rare exceptions to the rules, which apply equally to ministries and agencies:

In situations of urgency, where confidentiality or security requires it, or to protect human, plant or animal life or health, it may be responsible (or legally necessary) to use a more restricted process.

Where a Request for Proposals (RFP) through an open competitive process receives no bids.

Where only one supplier is able to deliver services such as for reasons of compatibility with existing products, or where supply is controlled by a statutory monopoly. In these cases, it may be legally required or fiscally prudent to conduct a non-competitive procurement.

Ministers must sign off on all exceptions requested by ministries, no matter what value.

The McGuinty government is increasing agency oversight while ensuring day-to-day operations are not compromised.

Entity	Description	New Procurement Directive: Consulting Services
<p>Ministries</p> <p>Classified Agencies without operational independence (adjudicative, regulatory and advisory agencies)</p> <ul style="list-style-type: none"> o Adjudicative and regulatory agencies without a governing board are expected to have an MOU with a ministry o Advisory agencies use Terms of Reference 	<p>Ministries</p> <p>40 adjudicative agencies, e.g.:</p> <ul style="list-style-type: none"> Ontario Municipal Board Human Rights Tribunal of Ontario Social Assistance Review Board Ontario Labour Relations Board Landlord and Tenant Board <p>18 regulatory agencies without a governing board, e.g.:</p> <ul style="list-style-type: none"> Office of the Fairness Commission Ontario Film Review Board Public Service Commission <p>122 advisory agencies, e.g.:</p> <ul style="list-style-type: none"> Small Business Agency of Ontario Safe Schools Action Team Education Relations Commission 	<p><u>Must use competitive process</u>, no matter what value</p> <p>Procurement Directive applies in full to adjudicative, advisory and regulatory agencies without governing boards</p> <p><u>Amount less than \$100K</u> <u>May use invitational competitive</u> process (written requirements must be sent to a minimum of 3 qualified vendors) Otherwise, <u>must use open competitive</u> process (RFP)</p> <p><u>Amount \$100K or more</u> <u>Must use open competitive</u> process (RFP)</p> <p>Permits limited <u>allowable exceptions</u> to these rules for non-competitive procurement</p> <p>Exceptions:</p> <ul style="list-style-type: none"> o unforeseen urgency o confidential/privileged nature o security/protection of human, animal, or plant life or health o absence of any bids in response to open tendering process o where only one supplier is able to meet requirements in certain circumstances: <ul style="list-style-type: none"> ▪ compatibility with existing products ▪ where supply controlled by statutory monopoly <p>Now, requires Minister's approval for <u>all non-competitive consulting procurement</u></p> <ul style="list-style-type: none"> o Non-competitive consulting procurement will only occur in rare cases (see exceptions above)
<p>Classified Agencies with operational independence (operational services, operational enterprises, Crown foundations, trusts,)</p> <ul style="list-style-type: none"> o Recognises operational uniqueness of agency operations 	<p>39 operational service agencies, e.g.:</p> <ul style="list-style-type: none"> eHealth Cancer Care Ontario LHINs Legal Aid Ontario Ontario Trillium Foundation <p>38 operational enterprise agencies, e.g.:</p> <ul style="list-style-type: none"> LCBO GO Transit OLGC Ontario Realty Corporation Royal Ontario Museum <p>5 trusts, e.g.:</p> <ul style="list-style-type: none"> WSIB Ontario Public Service Pension 	<p><u>Must use competitive process</u>, no matter what value</p> <p><u>Amount less than \$100K</u> <u>May use invitational competitive</u> process (written requirements must be sent to a minimum of 3 qualified vendors) Otherwise, <u>must use open competitive</u> process (RFP)</p> <p><u>Amount \$100K or more</u> <u>Must use open competitive</u> process (RFP)</p> <p>Permits limited <u>allowable exceptions</u> to these rules for non-competitive procurement</p> <p>Exceptions:</p> <ul style="list-style-type: none"> o unforeseen urgency o confidential/privileged nature o security/protection of human, animal, or plant life or health o absence of any bids in response to open tendering process o where only one supplier is able to meet requirements in certain circumstances: <ul style="list-style-type: none"> ▪ compatibility with existing products ▪ where supply controlled by statutory

Entity	Description	New Procurement Directive: Consulting Services
	Board 15 Crown foundations, e.g.: Brock University Foundation Ontario Foundation for the Arts	monopoly Now, requires Minister's approval for <u>all non-competitive consulting procurement >\$100K</u> Non-competitive consulting procurement will only occur in rare cases (see exceptions above) <ul style="list-style-type: none"> o Significantly enhances agency oversight without interfering with their ability to perform their mandates
Non-Classified Entities (defined in the Procurement Directive as entities where government appoints Chair/CEO)	government appoints Chair/CEO, but not majority of board members, e.g.: Hydro One Inc. Independent Electricity System Operator Ontario Power Authority Ontario Power Generation Waste Diversion Ontario Municipal Property Assessment Corporation	