

# Institutional procurement policies for research purchases: A background on why

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## *Is procurement getting in the way?*

Why are major research equipment and contract purchases required to go through the University's procurement process, including seeking competitive bids? Why not simply permit the direct sole-source purchase of research equipment? Are institutional procurement policies setting up needless barriers to research? These questions sometimes arise in conversations with researchers, and for perfectly understandable reasons.

Researchers often have a clear vision of what they want. They understand better than anyone else the project for which the purchase is needed; they are experienced and familiar with certain products, devices, or manufacturers; they usually have contemplated various options; and they would like to have the goods or services immediately, without the delay of a tendering process.

Moreover, researchers are usually seeking to buy equipment or execute contracts because they have already secured funding for it through a competitive grant process. These processes involve justifying the purchase and an associated budget in great detail. So why the need to justify it again?

## *The legal environment*

Wherever there are public institutions, there are laws governing how their funds may be spent. In Ontario, effectively all the money spent by universities is public money, which means that our neighbours, fellow citizens, and elected representatives have a legitimate interest in ensuring we use it responsibly.

The [Broader Public Service Accountability Act](#) (BPSA) is one of the main instruments for making good on that interest. The part of the BPSA relevant to our current question is the [Procurement Directive](#). The Broader Public Service Procurement Directive (BPS-PD) both reflects and complements other legal agreements that also apply, including the inter-provincial [Canadian Free Trade Agreement](#) (CFTA), and the [Canada-European Union Comprehensive Economic and Trade Agreement](#) (CETA).

Any public university in Ontario is bound by these laws, which apply irrespective of the source of the institution's funding. So, for example, a researcher may have funding available through a federal granting agency to purchase some equipment or infrastructure. Still, the use of funds at an Ontario university is subject to the provincial BPSA's provisions on accountability and transparency, and not only to any federal guidelines that might apply to the funds in virtue of their provenance. In fact,

those federal research funding guidelines typically provide that their use is subject to institutional procurement policies.

### ***Canvassing the market as an individual vs as a public institution***

One key principle of the BPSA's Procurement Directive is that the most fiscally responsible solution to our needs is revealed by "canvassing the market." This means that we must present the description of our needed equipment or service in an open, transparent call, and gather the responses made by aspiring vendors.

That approach might seem excessive, especially if we think of due diligence in terms of our personal purchases. If I want to buy a new bicycle, say, to do some touring over rough roads, I would think about the kind of bike that would stand up to that activity, and then search bicycle manufacturer websites for bikes of that kind. I might take a lot of time and care in my investigation, and ultimately feel quite confident that I've hit on a relatively optimal solution when I eventually make a purchase.

That confidence would be based on assumptions that do not apply in the case of public university infrastructure purchases: I have sufficiently good knowledge of all relevant product advertisements; the advertised options represent with sufficient accuracy the best effort that all providers could make towards satisfying my specific needs; and I am the ultimate arbiter of what counts as "sufficiently good" and "sufficient accuracy" (because the money being spent is mine).

For personal bicycle purchases, those assumptions are usually safe. For major research equipment purchases made with public funds, they are not.

The BPSA and other applicable laws say we must canvass potential vendors - not privately, not merely to our own personal satisfaction, not simply by contacting the vendors we know. We must do it openly, through a transparent call based on explicitly stated criteria.

Hence, for example, the bar is set quite high for satisfying the "there are only one or two suppliers" criterion for exceptions to the competitive bid process: normally we ought to discover how many suppliers there are precisely by undertaking the competitive bid process, rather than by deciding in advance. Canvassing the market is what reveals our full range of options. It lets us make our purchasing decisions on the basis of the responses of vendors who all had the same chance to offer a possible solution to our needs.

### ***Grant-winning does not vitiate procurement policy***

This requirement applies even when a successful grant application for equipment funding was written with reference to a quite specific make and model, or specific

supplier. We can understand each line in the equipment budget of such a successful proposal to have been approved with an implicit “or equivalent” next to it.

Far from making institutional procurement processes irrelevant, those grants formally enjoin us to follow the provisions of our procurement policies, which answer to the wider system of regulations and agreements like the BPS-PD. The procurement process then helps determine whether a more economical functional equivalent, or even a superior product, is available.

### ***Procurement procedures and staff colleagues help us live up to regulatory requirements***

Does this mean that researchers can’t buy the equipment or arrange the contract services they want or need? Not at all. It just means that the inclination to think, “Trust me, I know the right thing to buy” gives way to “Everyone gets a fair chance to make their pitch, and we choose the best option.” Every well-founded reason to prefer a particular solution or product can still be used in the decision process. But they are reasons to choose among the vendor-provided options, rather than reasons not to bother soliciting those options.

Our procurement framework is designed to facilitate the effective purchase of goods and services, while protecting researchers and the university alike from regulatory infractions. Bearing these considerations in mind can help clarify why sole-source exceptions to the competitive bid provisions of the University’s [Procurement Policy](#) are - and ought to be - relatively rare. Any exceptions must meet the strict conditions of that network of laws and agreements, as outlined in Section Four of the [Procurement Procedures](#).

Sometimes it takes a few extra days or even weeks to respect the provisions of BPSA, CETA, and CFTA, on top of the months or years involved in securing funds in the first place. But we are legally obliged to do so, as part of our sector-wide commitment to public accountability and transparency. The experience, due diligence, and expert guidance of staff colleagues who specialize in equipment procurement is invaluable support for researchers in navigating these obligations.