

## Appendix "A"

### **Exemptions and Exceptions to Competitive Procurement Requirements**

The agency should employ a competitive procurement process to achieve optimum value for money. It is recognized however that certain circumstances and activities may require an agency to use non-competitive procurement. The circumstances and activities that will be excluded from the competitive procurement requirements of this policy are noted below. These exceptions are generally consistent with the *Agreement on Internal Trade (AIT)* or other trade agreements.

Note, the exception is for a non-competitive procurement of the good or service that falls within the categories listed, and is not an exemption with respect to the administration, documentation, contract management, or other requirement of the procurement policy.

#### Licensed Professional and Specific Services for Children and Youth in Care:

The procurement of services from licensed professionals including medical doctors and dentists, pharmacists, nurses, psychologists, and lawyers, accountants, architects, as well as boarding rate expenditures including reimbursable expenses paid to Foster Parents and Outside Paid Resources and support services for the case of children and youth that have been placed by the agency.

#### Single Source Supply:

Where only one supplier is available to meet the requirements of the agency procurement including the following circumstances:

- to ensure compatibility with existing products, to recognize exclusive rights, such as exclusive licenses, copyright and patent rights, or to maintain specialized products that must be maintained by the manufacturer or its representative;
- where there is an absence of competition where the goods or services can be supplied only by a particular supplier and no alternative or substitute exists;
- for work to be performed on the behalf of the agency through a building lease agreement where the lessor will invoice costs back to the lessee;
- for work to be performed according to provisions of a warranty or guarantee held in respect of the original work;
- for the procurement of a prototype or a first good or service to be developed that may be needed for research purposes, a particular study or other original purposes;
- for the purchase of goods under duress such as bankruptcy or receivership, where the agency has clearly documented the advantageous value that would be received;
- for the procurement of real property;

#### Limiting Circumstances:

Limiting circumstances may exist where inherent factors limit the procurement process that can be undertaken. Under limiting circumstances, the agency can deviate from competitive procurement requirements provided it does not do so for the purpose of avoiding competition between suppliers or in order to discriminate against suppliers. Limiting circumstance may include:

- where goods or consulting services regarding matters of a confidential or privileged nature are to be purchased and the disclosure of those matters through an open tendering process could reasonably be expected to compromise government confidentially, cause economic disruption or otherwise be contrary to the public interest;
- where compliance with open tendering provisions would interfere with the agency's ability to maintain security or order;
- in the absence of a receipt of any bids in response to a call for tenders made in accordance with the directive;

#### Emergency Situations:

For the purpose of this procedure, an "Emergency" means a situation where the immediate purchase of goods and services is essential to prevent serious delays in service delivery or to prevent or remedy damage to agency property or to restore an essential service.

An "Emergency" includes an imminent or actual danger to the life, health or safety of an official or an employee while acting on the agency's behalf (e.g. emergency boiler repairs or replacement), an imminent or actual danger of injury to or destruction of real or personal property belonging to the agency.

Under emergency circumstances, the Executive Director has the authority to take the necessary steps to address the emergency and will subsequently inform the Board of Directors of the actions taken setting out the details of any purchases made pursuant to this authority and the circumstances justifying the action taken.

If the cost to remedy the emergency exceeds \$25,000 or will result in an increase to the approved annual budget, the President of the Board of Director will authorize the purchase based on the Executive Director's recommendation.