



Policy Number:	CS-1202-2011
Policy Title:	Purchasing
Policy Owner:	Chief Financial Officer
Effective Date:	November 2011
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1. Purpose

The purpose of this policy is to:

- Set rules which ensure that Goods and Services are acquired through a process that is open, fair, transparent and consistent with government policy and applicable trade agreements;
- Establish an accountability framework to effectively guide college staff with assignment of clear responsibilities throughout each stage of the procurement process; and
- Ensure that the college's procurement processes are managed appropriately and consistently at all times.

2. Application and Scope

This policy applies to the purchase of all Goods and Services by Mohawk College.

The college's participation in Buying Groups, Group Purchasing Organizations, Shared Service Organizations or any other collaborative procurement does not relieve it of its obligations under this policy.

All references to procurement value amounts in this policy exclude applicable sales taxes.

3. Definitions

"Advance Contract Award Notice (ACAN)" means a public notice indicating to the supplier community that a department or agency intends to award a good, service or construction contract to a pre-identified supplier, believed to be the only one capable of performing the work, thereby allowing other suppliers to signal their interest in bidding by submitting a statement of capabilities.

"Consulting Services" means the provision of expertise or strategic advice that is presented for consideration and decision making.

"Contract" means an obligation, such as an accepted offer, between competent parties upon a legal consideration, to do or abstain from doing some act. It is essential to the creation of a contract that the parties intend that their agreement shall have legal consequences and be legally enforceable. The essential elements of a contract are an offer and an acceptance of that offer; the capacity of the parties to contract; consideration to support the contract; a mutual identity of consent or consensus ad idem; legality of purpose; and sufficient certainty of terms.

"Debriefing" means a practice of informing a supplier why their bid was not selected upon completion of the Contract award process.

"Delegated Purchasing Authority" means the person identified in section 7.1, as applicable.

"Goods and Services" means any goods, construction and services, including but not limited to information technology and consulting services.

"Invitational Competitive" means a procurement process possibly leading to an agreement for the purchase of Goods and Services which enables at least three qualified suppliers, invited by the college, to compete in a fair and open environment. Purchasing is to be involved in this procurement process.

"Non-Consulting Services" means the provision of any service that does not fall within the meaning of "Consulting Services" defined above.

"Open Competitive" means a procurement process possibly leading to an agreement for the purchase of Goods and Services which enables all suppliers to compete in a fair and open environment.

"Purchase Order Requisition" is a precise document generated by a college department to notify Purchasing Services of items the originating department needs to order, their quantity and the desired delivery date(s).

"Request for Expression of Interest (RFEI)" means a document used to gather information on supplier interest in an opportunity or information on supplier capabilities/qualifications. This mechanism may be used when an organization wishes to gain a better understanding of the capacity of the supplier community to provide the services or solutions needed. A response to a RFEI must not pre-qualify a potential supplier and must not influence their chances of being the successful proponent.

"Request for Information (RFI)" means a document issued to potential suppliers to gather general supplier, service or product information. It is a procurement procedure whereby suppliers are provided with a general or preliminary description of a problem or need and are requested to provide information or advice about how to better define the problem or need, or alternative solutions. A response to an RFI must not pre-qualify a potential supplier and must not influence their chances of being the successful proponent on any subsequent opportunity.

"Request for Proposal (RFP)" means a document used to request suppliers to supply solutions for the delivery of complex products or services or to provide alternative options or solutions. It is a process that uses predefined evaluation criteria in which price is not the only factor.

"Request for Supplier Qualifications (RFSQ)" means a document used to gather information on supplier capabilities and qualifications, with the intention of creating a list of pre-qualified suppliers. This mechanism may be used either to identify qualified candidates in advance of expected future competitions or to narrow the field for an immediate need. Organizations must ensure that the terms and conditions built into the RFSQ contain specific language that disclaims any obligation on the part of the Organization to call on any supplier to provide goods or services as a result of the pre-qualification.

“Supplier/Vendor/Proponent” means any person or organization that, based on an assessment of that person’s or organization’s financial, technical and commercial capacity, is capable of fulfilling the requirements of procurement.

“Supply Chain Activities” means all activities directly or indirectly relating to the college’s planning, sourcing, procurement, moving and payment processes.

“Trade Agreements” means any applicable trade agreement to which Ontario is a signatory.

“Vendor of Record (VOR)” means a procurement arrangement, typically established through an RFP, that authorizes one or more qualified vendors to provide goods/services to the college for a defined period on terms and conditions, including pricing, as set out in the VOR agreement.

4. Principles

- A. Accountability** – The college is accountable for public funds used to purchase Goods and Services, for the results of such procurement decisions and the appropriateness of the processes that were applied in relation thereto.
- B. Transparency** – The college is transparent to all of its stakeholders and especially to the members of the Hamilton community who it serves. Wherever possible, stakeholders shall have equal access to information on procurement opportunities, processes and results.
- C. Value for Money** – College dollars are used prudently and responsibly in order to maximize the value received from the use of public funds. The value-for-money approach aims to deliver Goods and Services at the optimum total life-cycle cost.
- D. Quality Service Delivery** – In fashioning the appropriate method to purchase a good and/or a service, particularly one that relates to a front-line service such as teaching, the college must receive the right product at the right time and in the right place.
- E. Process Standardization** – The college is committed to standardizing the procurement processes in order to remove inefficiencies and create a level playing field.
- F. AODA Compliance** – In accordance with section 5 of the Accessibility for Ontarians with Disabilities Act, 2005, the college is committed to incorporating accessibility design criteria and features when procuring or acquiring goods, services or facilities, except where it is not practicable to do so. If the college determines that it is not practicable to incorporate accessibility design, criteria and features when procuring or acquiring goods, services or facilities, it shall provide, upon request, an explanation.
- G. Equity, Diversity & Inclusion** – The college is strongly committed to supplier diversity and especially welcomes applications from businesses owned and/or operated by racialized persons/persons of colour, women, Indigenous/Aboriginal People of North America, persons with disabilities, and LGBTQ persons.

4.1 Supply Chain Code of Ethics

- A. Personal Integrity and Professionalism** - Individuals involved with Supply Chain Activities must act, and be seen to act, with integrity and professionalism. Honesty, care and due diligence must be integral to all Supply Chain Activities within and between the college, its suppliers and other stakeholders. Respect must be demonstrated for each other and for the environment. Confidential information must be safeguarded. Participants must not engage in any activity that may create, or appear to create, a conflict of interest, such as accepting gifts or favours, providing preferential treatment, or publicly endorsing suppliers or products.
- B. Accountability and Transparency** - Supply Chain Activities must be open and accountable. In particular, contracting and purchasing activities must be fair, transparent and conducted with a view to obtaining the best value for public money. All participants must ensure that publicly funded resources are used in a responsible, efficient and effective manner.
- C. Compliance and Continuous Improvement** - Individuals involved with purchasing or other Supply Chain Activities must comply with this Code of Ethics and all applicable laws. Individuals should continuously work to improve supply chain policies and procedures, to improve their supply chain knowledge and skill levels, and to share leading practices.
- D. Segregation of Duties** - To maintain effective internal controls, the college shall maintain a segregation of duties across the various procurement functions. No one person will be permitted to control an entire purchasing transaction, which in this context, includes the issuance of the procurement documents, the selection of the winning proposal, finalization of the Contract, receipt of the goods or services and payment.

5. Accountability and Compliance

5.1 Accountability Framework

This policy has been approved by the Senior Leadership Team.

5.2 Compliance

The Chief Financial Officer is authorized to ensure that information within this policy is applied.

In accordance with provincial binding policy, the Board of Governors is responsible for approving the Approval Authority Schedule.

6. General Procurement Rules

1. All procurements shall be consistent with budget authorization.
2. All procurements relating to goods and non-consulting services shall be competitive when the total value of the procurement is \$100,000 or above (with invitational competitive procurement being required for amounts between \$25,000 and \$99,999).

3. All procurements relating to consulting services shall be competitive regardless of the value of the procurement.

All provisions in this policy are consistent with this general rule except for those set out in section 11 providing for specific exceptions, exemptions and non-applications.

7. Approval Authority for Procurement of Goods and Services

7.1 Approval Authority Schedule

Prior to commencement, any procurement must be approved in accordance with the Approval Authority Schedule ("AAS") set out below:

(a) For goods and non-consulting services

Delegated Purchasing Authority Level	Total Procurement Amount (before taxes)
All Staff (with requisite approval)	Up to \$5,000
Managers	Up to \$25,000
Associate Deans, Directors, Controller	Up to \$50,000
Chief Officers, Deans, Registrar	Up to \$100,000
Vice Presidents and members of Mohawk Executive Group	Up to \$250,000
Vice President, Corporate Services	Up to \$1,000,000
President & CEO or Chief Operating Officer	Up to \$2,500,000
Board of Governors	Over \$2,500,000

(b) For Consulting Services

Method of Procurement	Total Procurement Amount (before taxes)	Delegated Purchasing Authority Level
Invitational Competitive	\$0 - \$99,999	As per those listed in AAS for goods and non-consulting services
Open Competitive	Any Value	As per those listed in AAS for goods and non-consulting Services
Non-Competitive (Exemption Base Only)	\$0 - \$999,999	President & CEO or Chief Operating Officer
	\$1,000,000 or more	Board of Governors

All levels of approval are required (for example a purchase for \$75,000, requires approval of the Staff member, Manager, Associate Dean/Director/Controller, and Chief Officer/Dean/Registrar).

7.2 Competitive Procurement Thresholds

The following thresholds shall apply to procurement:

(a) For goods and non-consulting services:

Total Procurement Value (before taxes)	Method of Procurement
\$0 - \$50	Petty Cash (where applicable) Purchasing Card (P-Card), or Purchase Order Requisition
\$51 - \$5,000	P-Card or Purchase Order Requisition
\$5,001 - \$24,999	Purchase Order Requisition
\$25,000 - \$99,999	Invitational Competitive (required) – minimum of 3 bids
\$100,000 or more	Open Competitive (required)

Purchasing Services must be the lead in all invitational and open competitive functions at the college, unless otherwise authorized by the Chief Financial Officer. Purchasing will assist departments in creating the procurement documents and issue the bids.

(b) For Consulting Services

Total Procurement Value (before taxes)	Method of Procurement
\$0 - \$99,999	Invitational or Open Competitive (required)
\$100,000 or more	Open Competitive (required)

7.3 Rules

The following rules shall be complied with in respect to the AAS:

- (a) The Delegated Purchasing Authority may never approve any procurement amount above the designated threshold in the AAS.
- (b) The college shall not reduce the overall value of a procurement (e.g. dividing a single procurement into multiple procurements) in order to circumvent or avoid competitive procurement thresholds.

8. Information Gathering – Request for Information and Request for Expression of Interest

8.1 Where Appropriate

Where results of informal supplier or product research are insufficient, a formal process such as a Request for Information (RFI) or Request for Expression of Interest (RFEI) may be utilized by the college, if warranted, taking into consideration the time and effort required to conduct them.

8.2 Restriction

An RFI and RFEI shall be used for information gathering purposes only. A response to RFI or RFEI shall not be used to pre-qualify a potential supplier, and must not influence the chances of the participating suppliers from becoming the successful proponent in any subsequent opportunity. Specifically, an RFI and RFEI shall not:

- (a) Contain means of evaluating or comparing the collected information;
- (b) Result in the award of work;
- (c) Be used to pre-qualify potential suppliers; or
- (d) Result in a legal Contract with a proponent.

It is possible that an RFI or RFEI may require suppliers to provide proprietary information. In the event disclosure of proprietary information is necessary, the college shall ensure that such information remains strictly confidential as between the parties.

9. Supplier Pre-Qualification and Procurement

9.1 Requests for Supplier Qualification

The college may issue a Request for Supplier Qualification (RFSQ) to gather information about supplier capabilities and qualifications in order to pre-qualify suppliers for an immediate product or service need or to identify qualified candidates in advance of expected future competitions.

9.2 Pre-Qualification Not an Obligation to Procure

The college has no obligation whatsoever to call on any supplier to provide goods or services merely as a result of such supplier successfully becoming pre-qualified. Terms and Conditions of the RFSQ shall contain language that provides for such a disclaimer.

9.3 RFSQ Specification

The RFSQ may specify:

1. The type of specifications of goods or services to be provided with a necessary level of detail;
2. Upper limits of the value of future awards ("VOR Ceiling Price");
3. The time duration for which the pre-qualified supplier list will be valid;
4. The method(s) and time intervals by which additional suppliers can be placed on the list; and
5. That any supplier who does not participate in the pre-qualification or does not appear on the list may be excluded from opportunities.

9.4 Vendor of Record

Following a RFSQ, the college may create a Vendor of Record (VOR) arrangement with the pre-qualified suppliers in order to increase procurement process efficiency and to obtain consistent competitive prices for the identified Goods and Services.

9.5 Second Stage Procurement for Pre-Qualified Suppliers

For pre-qualified suppliers following a RFSQ, the college may procure Goods and Services using a second stage selection process ("Second Stage Procurement"). The method of Second Stage Procurement shall be based on the dollar value (before taxes) of the procurement pursuant to the following schedule:

Total Procurement Value (before taxes)	Minimum Number of Pre-Qualified Suppliers to be Invited to the 2nd Stage
\$0 - \$24,999	No need for competitive procurement
\$25,000 - \$99,999	Minimum of three
\$100,000 or more	Must be open competitive to all pre-qualified suppliers

9.6 Rules

The following rules apply to all Second-Stage Procurement:

1. A procurement value shall not be reduced in order to circumvent the requirements outlined in the second-stage; and
2. Where there are fewer members on the VOR list than in the schedule for a certain dollar amount, all suppliers on the list shall be invited to participate in the invitational procurement process.

10. Competitive Procurement Rules

10.1 Posting Open Competitive Documents

Calls for open competitive procurements shall be made through an electronic tendering system that is readily accessible to all Canadian suppliers.

10.2 Timelines for Posting

For procurement of Goods and Services valued at \$100,000 or more, suppliers shall be entitled to a minimum of 30 calendar days to respond.

10.3 Bid Receipt

Bid submission date and closing time shall be held on a business day and clearly stated in competitive procurement documents. Submissions that are delivered after the closing time shall be returned to the supplier unopened.

10.4 Communication Rules during Competitive Process

The following communication rules apply during the competitive process:

1. Competitive process begins when the procurement documents are issued ("Start Date") and ends when the college signs an agreement with a supplier ("End Date");
2. Throughout the competitive procurement process, all communications with suppliers involved in the process shall occur formally (whether oral or in writing) through the Director, Strategic Procurement, Purchasing Services unless otherwise identified in the competitive documents;

3. All communications with suppliers shall be documented by the college;
4. From the Start Date to the deadline for submitting bids ("Closing Date"), the college may provide modifications of the procurement to suppliers through a written Addendum.
5. At any time, the college may hold a bidder's conference to discuss important information pertaining to the procurement.
6. During the period between the Closing Date and the End Date ("Evaluation Period") the college shall not communicate with suppliers on matters related to the competitive procurement process unless it is to seek clarification of a bid or notify the successful supplier. All such communication during the Evaluation Period shall be documented by the college.

10.5 Evaluation Criteria

The following rules apply to Competitive procurements:

1. All competitive procurement shall contain evaluation criteria that has been determined prior to commencement of the procurement process;
2. Procurement documents shall clearly outline mandatory, rated and other criteria that will be used to evaluate submissions, including weight of each criterion;
3. Mandatory criteria shall be limited to items that are necessarily required to ensure that no bid is unnecessarily disqualified;
4. Maximum justifiable weighting shall be allocated to the price/cost component of the evaluation criteria;
5. No criteria shall be fashioned in a way that unreasonably discriminates against or provides preferential treatment of one supplier over another;
6. Evaluation criteria shall be altered only by means of an addendum; and
7. The college may request suppliers to provide alternative strategies or solutions as part of their submissions. Such alternative strategies shall be accompanied by separate evaluative criteria prior to the competitive process having commenced. Alternative strategies must not be considered unless explicitly requested by the college in the procurement documents.

10.6 Evaluation Methodology

Procurement documents shall fully disclose the evaluation methodology and process to be used in assessing submissions, including the method for resolving a tie score. Submissions that do not meet the mandatory criteria shall be disqualified. Evaluation methodology and process shall include the following, where applicable:

1. Clear articulation of all mandatory requirements that shall be assessed on a pass/fail basis and how suppliers can achieve a passing grade;
2. All evaluation weighting, including sub-weighting for the rated criteria;
3. Description of short-listing process, including any minimum-rated score requirements; and
4. The role and weight of other criteria, including reference checks, oral interviews and demonstrations.

10.7 Evaluation Team

Competitive procurement processes shall have an evaluation team, made up of at least two persons, responsible for reviewing and rating compliant bids.

10.7.1 Restrictions

Evaluation team members shall make themselves aware of all restrictions relating to the disclosure of confidential and commercially sensitive information collected through the competitive procurement process and refrain from engaging in activities that may create or appear to create a conflict of interest.

Evaluation team members must sign a conflict-of-interest declaration and non-disclosure of confidential information agreement.

10.8 Evaluation Matrix

Each evaluation team member shall complete an evaluation matrix, rating each of the submissions. Records of evaluation scores shall be retained for audit purposes. Evaluators shall ensure that their input into submissions is fair, factual and fully defensible.

10.9 Winning Bid

The submission that receives the highest evaluation score and meets all mandatory requirements set out in the competitive procurement document shall be declared the winning bid.

10.10 Non-Discrimination

The college shall not discriminate or exercise preferential treatment in awarding a Contract to a supplier as a result of a competitive procurement process.

10.11 Executing the Contract

The agreement between the college and the successful supplier must be formally defined in a signed written agreement before the provision of supplying goods or services commences. Where an immediate need exists for Goods and Services and the college and the supplier are unable to finalize the procurement Contract, an interim purchase order may be used. Justification for such a decision must be documented and approved by the appropriate Delegated Purchasing Authority.

10.12 Mandatory Elements of the Contract

The Contract that is finalized between the college and the supplier shall:

1. Be finalized using the form of agreement released with the procurement documents;
2. Contain an appropriate cancellation or termination clause;
3. Contain the terms of the agreement and any options to extend the agreement only if set out in the competitive procurement documents. Any modifications to the term of the agreement must be approved by the appropriate Delegated Purchasing Authority keeping in mind that an extension of terms beyond that set out in the procurement documents may amount to non-competitive procurement where the extension affects the value/or the stated deliverables of procurement.

10.13 Contract Award Notification

The following rules apply to Contract award notification:

1. After signing a Contract, the college shall notify all suppliers who participated in the competitive process that a Contract has been signed and the competitive process is complete.
2. For procurements valued at \$100,000 or more, the college shall post, in the same manner as the procurement documents were posted, Contract award notification. Such notification shall be posted after the agreement between the college and the successful supplier was executed listing the name of the successful supplier, agreement start and end dates, and any extension options.

10.14 Supplier Debriefing

For procurements valued at \$100,000 or more, unsuccessful Proponents may request a Debriefing after the posting of the notice of award by contacting the contact person in writing. All Proponent requests should be in writing no later than 60 calendar days following the posting of such notification. The college will determine the format, timing and contents of the Debriefing session. Generally, Debriefings shall include a discussion regarding the unsuccessful Proponent's proposal, why it was unsuccessful, and the relative advantages of the successful Proponent's proposal. The Debriefing is not for the purpose of challenging the procurement process.

10.15 Dispute Resolution

Competitive procurement documents shall contain bid dispute resolution procedures to ensure that any dispute is handled in an ethical, fair, reasonable and timely fashion. In the event that a respondent wishes to review the decision in respect of any material aspect of the Request for Proposal (RFP) process and subject to having attended a Debriefing, the respondent shall submit a protest in writing to the RFP Contact Person within 10 calendar days from award.

Any protest in writing that is not received in the period indicated above will not be considered and the services provider will be notified in writing.

A protest in writing shall include the following:

- Specific identification of the provision and/or procurement procedure that is alleged to have been breached
- A specific description of each act alleged to have breached the procurement process
- A precise statement of the relevant facts
- An identification of the issues to be resolved
- The Proponent's arguments and supporting documentation
- The Proponent's requested remedy

10.15.1 Type of Bid Dispute Procedures

The college, at its sole discretion, may choose one of the following bid dispute procedures in its competitive procurement documents:

1. **Negotiation** – a voluntary and usually informal process in which the parties identify issues of concern, explore options for resolution of the issues and search for a

mutually acceptable agreement to resolve the issues that are raised. A neutral third party to assist the parties is not required.

2. **Mediation** – a voluntary, private process where a neutral third party assists the parties to discuss and try to resolve the dispute in a quasi-formal arrangement. The mediator does not have the authority to impose a result but only assists in finding a mutually acceptable resolution, if any.
3. **Arbitration** – a private process where disputing parties agree that one or several individuals can make a decision about the dispute after receiving evidence and hearing arguments. Arbitration is a formal process and an arbitrator has the authority to make a decision about the dispute regardless that any or both parties may disagree with the result. The arbitration process may be binding or non-binding. If binding, the decision is final, if not binding, the decision is advisory.

11. Non-Competitive Procurement Rules

11.1 Non-Competitive Procurement

While competitive procurement is the general rule, the college may utilize non-competitive procurement only in situations outlined in the Trade Agreements including, the Canadian Free Trade Agreement (CFTA), Canada-European Union Comprehensive Economic and Trade Agreement (CETA) and other agreements.

Situations in which the college may not be able to conduct a competitive procurement process are:

- (i) Sole Source – non-competitive process is used to acquire Goods or Services from a specific supplier because there are no other suppliers available or capable of providing the required Goods or Services.
- (ii) Single Source – non-competitive process is used to acquire Goods and Services from a specific supplier, even though there may be more than one supplier capable of delivering the same goods or services.
- (iii) Emergencies – a circumstance in which an immediate purchase or procurement decision is necessary in order to prevent a serious delay which could result in a danger to life, damage to property or the suspension of the provision of an essential service. Failure to plan and allow sufficient time for a competitive procurement process does not constitute an unforeseeable situation of emergency.

11.2 Approval Required

Prior to the commencement of non-competitive procurement where, as a general rule competitive procurement would otherwise be required, supporting documentation (Waiver of Purchasing Policy Form – Appendix 1) shall be completed and approved by the department's Senior Leadership Team member, Manager, Purchasing Services, Chief Financial Officer and the President & CEO or Chief Operating Officer.

11.3 Allowable Non-Competitive Procurement

Special circumstances may require the college to use non-competitive procurement. The college may utilize non-competitive procurement only in situations outlined in CFTA and

CETA. These situations include:

- a) If a competitive procurement was conducted and no tenders were submitted or no suppliers requested participation, provided that the requirements of the tender documentation are not substantially modified;
- b) If a competitive procurement was conducted and no tenders or quotations that conform to the essential requirements of the tender or quotation documentation were submitted, provided that the requirements of the tender documentation are not substantially modified;
- c) If a competitive procurement was conducted and no suppliers satisfied the conditions for participation, provided that the requirements of the tender documentation are not substantially modified;
- d) If a competitive procurement was conducted and the submitted tenders were collusive, provided that the requirements of the tender documentation are not substantially modified;
- e) If the Goods or Services can be supplied only by a particular supplier and no reasonable alternative or substitute Goods or Services exist for any of the following reasons:
 - the requirement is for a work of art;
 - the protection of patents, copyrights, or other exclusive rights;
 - due to an absence of competition for technical reasons;
 - the supply of Goods or Services is controlled by a supplier that is a statutory monopoly;
 - to ensure compatibility with existing goods or to maintain specialized goods that must be maintained by the manufacturer of those goods or its representative;
 - work is to be performed on property by a contractor according to provisions of a warranty or guarantee held in respect of the property or the original work;
 - work is to be performed on a leased building or related property, or portions thereof, that may be performed only by the lessor; or
 - the procurement is for subscriptions to newspapers, magazines, or other periodicals;
- f) For additional deliveries by the original supplier of Goods or Services that were not included in the initial procurement, 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;
- g) If strictly necessary, and for reasons of urgency brought about by events unforeseeable by the procuring entity, the goods or services could not be obtained in time using open tendering;
- h) For goods purchased on a commodity market;

- i) For procuring a prototype or a first Good or Service that is developed in the course of, and for, a particular contract for research, experiment, study, or original development. Original development of a first good or service may include limited production or supply in order to incorporate the results of field testing and to demonstrate that the good or service is suitable for production or supply in quantity to acceptable quality standards, but does not include quantity production or supply to establish commercial viability or to recover research and development costs;
- j) For purchases made under exceptionally advantageous conditions that only arise in the very short term in the case of unusual disposals such as those arising from liquidation, receivership, or bankruptcy, but not for routine purchases from regular suppliers;
- k) If a Contract is awarded to a winner of a design contest provided that:
 - (i) the contest has been organized in a manner that is consistent with the principles of Chapter 5 of CFTA, in particular relating to the publication of a tender notice; and
 - (ii) the participants are judged by an independent jury with a view to a design Contract being awarded to a winner;
- l) If 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 confidentiality, result in the waiver of privilege, cause economic disruption, or otherwise be contrary to the public interest.

11.4 Advance Contract Award Notice (ACAN)

In the event an allowable non-competitive procurement situation is identified as stipulated in section 11.3, it may still be necessary to complete an Advance Contract Award Notice (ACAN). An ACAN is not considered a competitive process for the purposes of the trade agreements and any Canadian International Trade Tribunal (CITT) challenge. An ACAN must be posted for a minimum of fifteen 15 calendar days, but could be longer depending on the magnitude and complexity of the contract.

12. Contract Management

12.1 Effective Management of Contract

The college shall ensure that all procurement and the resulting Contracts shall be managed responsibly and effectively.

12.2 Payment of Contract Amount

Payments shall be made in accordance with the provision of the Contract. All invoices shall contain detailed information sufficient to warrant payment and any overpayments must be recovered in a timely manner.

12.3 Dispute Resolution Process

To manage disputes with suppliers throughout the life of the Contract, the college shall include a dispute resolution process in its procurement Contracts.

12.4 Service Contracts

For procurement of services, the college shall

1. Establish clear terms of reference for the assignment. The terms may include objectives, background, scope, constraints, staff responsibilities, tangible deliverables, timing, progress reporting, approval requirements and knowledge transfer requirements;
2. Establish expense claim and reimbursement rules compliant with the college's Travel, Hospitality and Expense Policy ("Expense Policy"); and
3. Ensure that expenses are claimed and reimbursed only where the Contract explicitly provided for reimbursement of expenses consistent with the Expense Policy.

13. Procurement Records Retention – Duration

For reporting and auditing purposes, all procurement documentation, as well as any other pertinent information shall be retained in a recoverable form for a period of seven (7) years.

14. Conflict of Interest

14.1 Monitoring of Conflict of Interest

The college shall monitor any conflict of interest that may arise as a result of its employees' involvement in or that of its agents, advisors, evaluation team members, suppliers or consultants with the Supply Chain Activities.

14.2 Declaration of Conflict of Interest

Individuals involved with Supply Chain Activities shall declare actual or potential conflicts of interest. Where a conflict arises, it shall be evaluated and an appropriate mitigating action taken by the college including but not limited to disqualifying the involvement of such conflicted individual(s) from Supply Chain Activities.

15. Trade Agreements

15.1 General

The college shall ensure the provisions of all Trade Agreement including the CFTA and CETA are considered during procurement activities and throughout the competitive tendering process.

15.2 Canadian Free Trade Agreement (CFTA) & Canada-European Comprehensive Economic and Trade Agreement (CETA)

CFTA and CETA procurement thresholds are adjusted every two years at the start of the year. Purchasing will monitor the thresholds and ensure compliance with the agreements and make any updates to this policy as required.

15.3 Valuation

In estimating the value of a procurement for the purpose of ascertaining whether it is a covered procurement, a procuring entity shall include the estimated maximum total value of the procurement over its entire duration, whether awarded to one or more suppliers, taking into account all forms of remuneration, including premiums, fees, commissions and interest; and if the procurement provides for the possibility of options, the total value of such options.

16. Non-Compliance

Any violation of the Purchasing policy and procedures outlined in this document, may result in the following:

- Purchasing Services reserves the right to suspend the purchasing process.
- Mandatory training of the policy and procedures will be required by the non-compliant department, which would include at a minimum the employee that initiated the procurement, their manager, and the senior leadership team member.
- Removal of approval authority for future purchasing activities, or any other disciplinary action as deemed appropriate in the circumstances.
- Escalation of the issue to senior and/or executive management.

17. Policy Revision Date

17.1 Revision Date

May 2026

17.2 Responsibility

The Chief Financial Officer is responsible for reviewing this policy every five years or earlier when required.

18. Attachments

Attachment 1 – Waiver of Purchasing Policy

Attachment 2 – Conflict of Interest / Confidentiality Form

18.1 Specific Links

CS-1000-2013 Travel Expenses and Hospitality Policy

CS-1002-2009 Purchasing Card Policy

CS-1004-2013 Approval of Capital, Renovation and Maintenance Projects Policy

CS-1005-2014 Financial Reporting and Safekeeping of Capital Assets Policy

CS-1205-2005 Leasing of Equipment Policy

Broader Public Sector Procurement Directive

Canadian Free Trade Agreement

Canada-European Comprehensive Economic & Trade Agreement

While competitive procurement is the general rule, the College may utilize non-competitive procurement activities only in situations outlined in Trade Agreements. The certain specified circumstances are set out in Table 1.

Definitions:

Sole Source	Non-competitive process used to acquire goods or services from a specific supplier because there are no other suppliers available or capable of providing the required goods or services.
Single Source	Non-competitive process used to acquire goods or services from a specific supplier, even though there may be more than one supplier capable of delivering the same goods or services.
Emergencies	A circumstance in which an immediate purchase or procurement decision is necessary to prevent a serious delay which could result in a danger to life, damage to property or the suspension of the provision of an essential service. Failure to plan and allow sufficient time for a competitive procurement process does not constitute an unforeseeable situation of emergency

Declaration: (to be completed by Requisitioner)

Date Completed		Requisitioner Name	
		Requisitioner Department	
Supplier Name		Value <i>If multi-year, include total cost over all years</i>	
Quote / Document Number		Waiver Validity Period	
		<i>Enter Term of Waiver Validity or Contract Term</i>	

Non-Competitive Procurement Product or Service description:

Rationale: Explain why the Supplier listed above is the only one who can satisfy the requirements, as well as why alternatives are unacceptable. For compatibility, please list the equipment it matches and previous Purchase order number if applicable. Please include any backup and attach any quotes/documentation relevant to the non-competitive procurement.

Check one or more boxes below that best describes the reason for the Single/Sole Source or Emergency Exemption:

TABLE 1
Allowable Non-Competitive Procurement Exemptions

	If a competitive procurement was conducted and no tenders or quotations were submitted or no suppliers requested participation, provided that the requirements of the tender documentation are not substantially modified.		If the goods or services can be supplied only by a particular supplier and no reasonable alternative or substitute goods or services exist because work is to be performed on a leased building or related property, or portions thereof, that may be performed only by the lessor.
	If a competitive procurement was conducted and no tenders or quotations that conform to the essential requirements of the tender or quotation documentation were submitted, provided that the requirements of the tender documentation are not substantially modified.		If the goods or services can be supplied only by a particular supplier and no reasonable alternative or substitute goods or services exist because the procurement is for subscriptions to newspapers, magazines, or other periodicals.
	If a competitive procurement was conducted and no suppliers satisfied the conditions for participation, provided that the requirements of the tender documentation are not substantially modified.		For additional deliveries by the original supplier of goods or services that were not included in the initial procurement, 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; <u>and</u> (ii) would cause significant inconvenience or substantial duplication of costs for the procuring entity.
	If a competitive procurement was conducted and the submitted tenders were collusive, provided that the requirements of the tender documentation are not substantially modified.		If strictly necessary, and for reasons of urgency brought about by events unforeseeable by the procuring entity, the goods or services could not be obtained in time using open tendering. <i>[Note: a failure to plan and allow sufficient time for a competitive procurement does not constitute an unforeseeable situation or urgency.]</i>
	If the goods or services can be supplied only by a particular supplier and no reasonable alternative or substitute goods or services exist because the requirement is for a work of art.		For goods purchased on a commodity market.
	If the goods or services can be supplied only by a particular supplier and no reasonable alternative or substitute goods or services exist due to the protection of patents, copyrights, or other exclusive rights.		For procuring a prototype or a first good or service that is developed in the course of, and for, a particular contract for research, experiment, study, or original development. Original development of a first good or service may include limited production or supply in order to incorporate the results of field testing and to demonstrate that the good or service is suitable for production or supply in quantity to acceptable quality standards, but does not include quantity production or supply to establish commercial viability or to recover research and development costs.
	If the goods or services can be supplied only by a particular supplier and no reasonable alternative or substitute goods or services exist due to an absence of competition for technical reasons.		For purchases made under exceptionally advantageous conditions that only arise in the very short term in the case of unusual disposals such as those arising from liquidation, receivership, or bankruptcy, but not for routine purchases from regular suppliers.

	If the goods or services can be supplied only by a particular supplier and no reasonable alternative or substitute goods or services exist because the supply of goods or services is controlled by a supplier that is a statutory monopoly.		If a contract is awarded to a winner of a design contest provided that: (i) the contest has been organized in a manner that is consistent with the principles of this Chapter, in particular relating to the publication of a tender notice; and (ii) the participants are judged by an independent jury with a view to a design contract being awarded to a winner.
	If the goods or services can be supplied only by a particular supplier and no reasonable alternative or substitute goods or services exist to ensure compatibility with existing goods or to maintain specialized goods that must be maintained by the manufacturer of those goods or its representative.		If 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 confidentiality, result in the waiver of privilege, cause economic disruption, or otherwise be contrary to the public interest.
	If the goods or services can be supplied only by a particular supplier and no reasonable alternative or substitute goods or services exist because work is to be performed on property by a contractor according to provisions of a warranty or guarantee held in respect of the property or the original.		

I understand and accept Mohawk College's Purchasing Policy requires competitive quotes for all acquisitions of goods and services (consulting services requires 3 quotes regardless of value) between \$25,000 and \$99,999 and that formal open competitive process is required for products or services valued over \$100,000. I also acknowledge that this order has not been placed in advance of a Purchase Order being issued.

Position	Name (print)	Date (mm/dd/yy)	Signature
Requestor			
Senior Leadership Team Member			
Director, Strategic Procurement			
Chief Financial Officer			
Chief Operating Officer or President & CEO			

**CONFLICT OF INTEREST / CONFIDENTIALITY FORM
RFP Evaluation Committee Members**

Printed Name of Employee: _____

Vendor Providing Services to the College: _____

Printed Name of Vendor Contact: _____

Relationship of Vendor to Employee: _____

Employees of the college should declare any pecuniary interest, either direct or indirect, in writing to their Manager with a copy to the Director, Strategic Procurement, Purchasing Services indicating the specific nature of the conflict. Any conflict of interest that cannot be isolated and resolved will be reported to the appropriate Conflict of Interest Committee for approval.

No college employee should place themselves, or permit themselves to be placed, in a position that would constitute a conflict of interest or breach of trust.

The employee shall read the following statements regarding conflict of interest and sign that he/she agrees that,

- I will not participate in any decision-making process to engage the services of this vendor; and
- I do not have authority or delegated authority to authorize work to be performed by this vendor; and
- I do not have authority or delegated authority to approved invoices for payment to this vendor; and
- all information received, reviewed and discussed from and about this vendor is strictly confidential and may not be discussed with anyone who is not a college staff member; and
- all financial information about the college, budgets, project budgets and expenditures are confidential and shall not be shared in any way with anyone who is not a college staff member.

Please sign below acknowledging that you have received and read this information. Return a copy of the form to the Director, Strategic Procurement, Purchasing.

Signature of Employee _____ **Date** _____

Signature of Manager _____ **Date** _____

**Completed and signed form must be returned to the Director, Strategic Procurement,
Purchasing Services**