

Ontario Government's Procurement Policies and Procedures

Procurement Policy and IT Procurement Branch
Office of the Corporate Chief Information Officer
Management Board Secretariat
(April 2003)

Presentation Outline:

OPS Procurement:

- Context
 - Policies
 - Process
 - Vendor of Record Arrangements
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- Continuous Improvement
 - Procurement Directive Enhancements
 - Procurement Capacity and Delivery Enhancements
 - Approaches to Contractual Terms and Conditions
 - Tips on doing business with the government

OPS Procurement Context

- Local buying within a corporate procurement framework
- Numerous buying points
- Buying occurs through specific procurement processes or ministry or corporate Vendor of Record (VOR) arrangements

OPS Procurement Context

- Most of the mandatory requirements for Ontario Government procurements flow from Ontario's internal trade agreements:
 - The Agreement for the Opening of Public Procurement for Ontario and Quebec - signed by Ontario and Quebec on May 3, 1994
 - The Agreement on Internal Trade - signed by the Provinces, Territories and Federal Government on July 18, 1995
- Both of Ontario's internal trade agreements contain similar procurement provisions

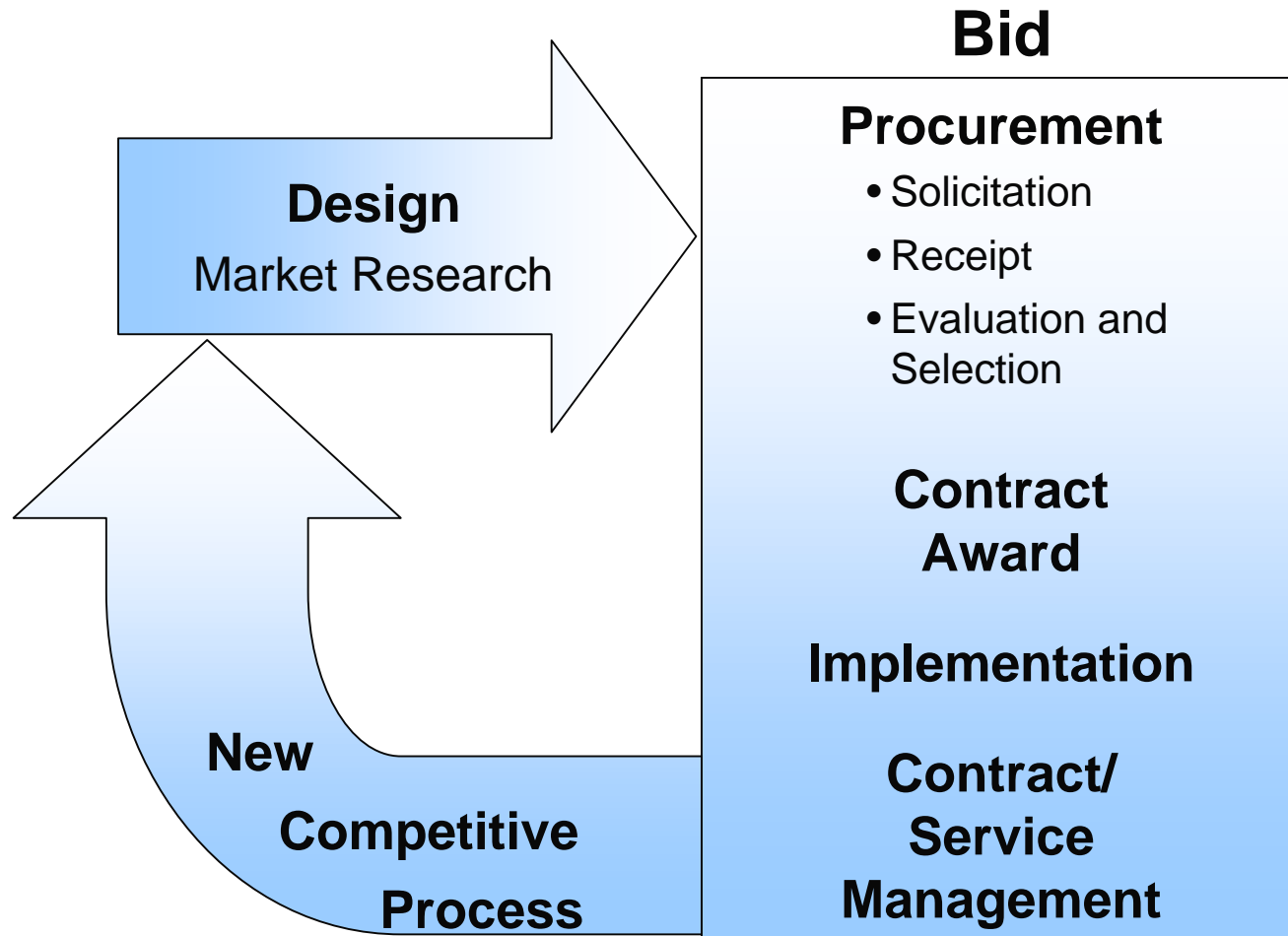
OPS Procurement Policies

- Competitive procurement process required for all acquisitions
- Competitive procurement process must be fair, open and advertised widely, using electronic tendering where possible, for:
 - Goods acquisitions valued at \$25,000 or more; and,
 - Services acquisitions valued at \$100,000 or more
- Requirements must be described in a sound business case which demonstrates value for money
- Procurement must follow a disciplined and comprehensive process

OPS Procurement Policies

- No local preference
- Full disclosure of all requirements
- Tax compliance requirement
- No conflict of interest or unfair advantage

OPS Procurement Process



OPS Procurement Process

Solicitation of Bids

Process must be Open and Fair

- Release of procurement request document
- Clear statement of requirements and how vendors will be evaluated
- Opportunities must be posted for at least 15 calendar days (at least 30 days for Alternative Service Delivery procurements)
- Form of agreement included in Request for Proposal (RFP)



OPS Procurement Process

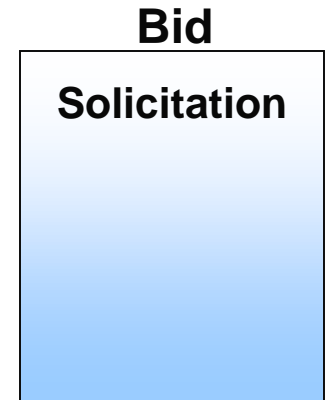
Solicitation of Bids

Buyers must disclose:

- No conflict of interest or unfair advantage for any potential bidder
- All requirements in the evaluation process, including all mandatory requirements and the weighting for each rated requirement

Bidders must disclose:

- Any conflict of interest or unfair advantage
- Ontario corporate taxes in good standing

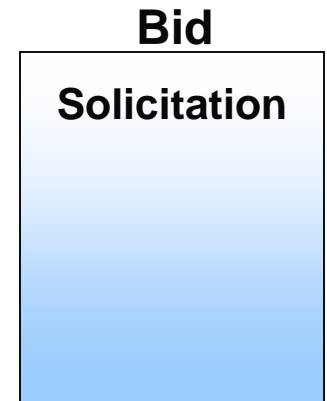


OPS Procurement Process

Solicitation of Bids

Communications

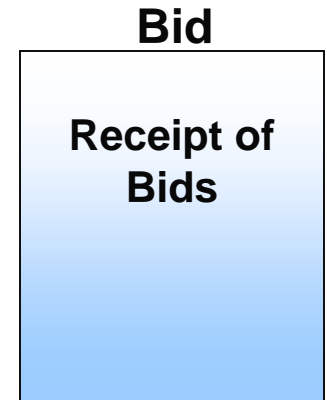
- Potential vendors consulted during business case development, usually through Request for Information (RFI)
- Once RFP is issued, strict rules apply to communications between vendors and buyers
- Official contact designated for all vendor inquiries
- All questions must be submitted in writing and all questions and answers are distributed to all potential bidders



OPS Procurement Process

Receipt of Bids

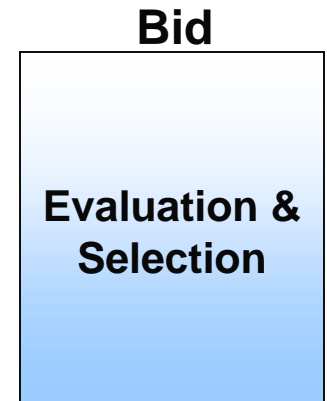
- All bids must be sealed and delivered to the designated location on time
- Conditional proposals will be rejected
- Unsealed or late bids are returned to the bidder unopened
- Buyer's RFP and vendor's bid become binding contract (ie, "Contract A")



OPS Procurement Process

Evaluation and Selection

- Buyers must follow the evaluation process, including the weights for rated requirements, set out in the RFP
- Buyers may only evaluate the content of vendor submissions and requested clarifications - no assumptions made
- Evaluation process focuses on:
 - mandatory criteria
 - rated requirements
 - pricing



OPS Procurement Process

Evaluation and Selection

Mandatory Criteria

- Mandatory criteria must be met or the bid is disqualified
- Generally include:
 - Policy requirements
 - Conflict of interest declaration
 - Tax compliance declaration
 - Capacity requirements (eg, financial stability)
 - Procedural requirements (eg, all forms signed by authorized officer)

Bid

Evaluation &
Selection

OPS Procurement Process

Evaluation and Selection

Rated Requirements

- Rated requirements allow the vendor to demonstrate their understanding of the requirements of the RFP and how their products/services will achieve a quality outcome

Cost/Pricing

- Proposal pricing is evaluated last to avoid pricing information affecting the evaluation of rated requirements
- In the overall evaluation, buyer organizations must apply the maximum justifiable weighting to cost/price

Bid

**Evaluation &
Selection**

OPS Procurement Process

Contract Award

- Contract is awarded to successful vendor (ie, “Contract B”)
- Contract negotiations (if applicable)
- Vendor debriefings on request
- Contact with contracting officer or service manager

Bid



OPS Procurement Process

Contract/Service Management

Bid



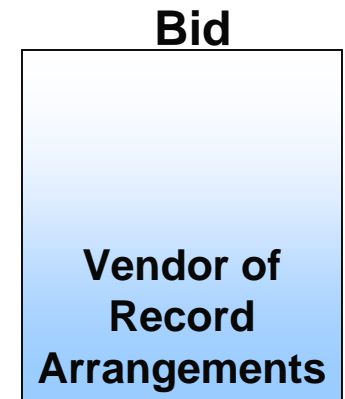
- Ensure continual alignment with business goals
 - Service delivery and quality monitored based on established benchmarks and performance measurement processes
 - Service Manager as broker between vendor and end-user
 - Vendor cannot expand scope of work beyond bid specifications
- Buyer can terminate the contract if vendor fails to perform or honour terms and conditions

OPS Procurement Process

Vendor of Record Arrangements

Definition

- Fixed contractual arrangement with multiple vendors for the on-going acquisition of commonly purchased goods or services within a defined term
- Established through open, competitive procurement processes (ie, RFPs posted on MERX)
- Vendors agree to common terms and conditions, including pricing
- Buyers do not need to repeat full open, competitive process and get access to preferred pricing (ie, volume pricing)
- Based on the value of the assignment, VOR may require additional second stage selection process among approved vendors

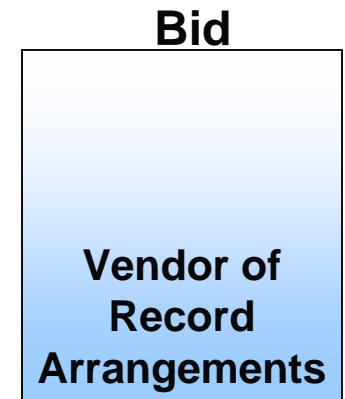


OPS Procurement Process

Vendor of Record Arrangements

Vendor Access

- Generally closed for the duration of the contract
- May include refresh process to:
 - Capture new vendors
 - Allow for pricing changes by existing vendors
 - Allow for the addition of services/products by existing vendors
- Refresh occurs at defined points during the term of the VOR and must be fair, open and competitive

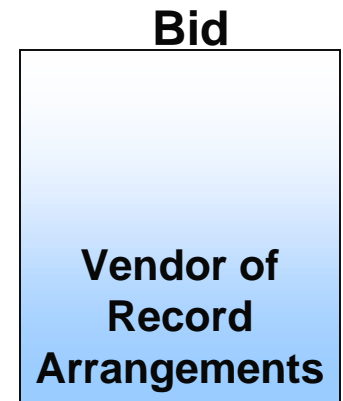


OPS Procurement Process

Vendor of Record Arrangements

Corporate VORs

- Corporate VORs open to all ministries may only be established by Management Board Secretariat (MBS):
 - Procurement Policy & IT Procurement Branch establishes and manages Corporate VORs for IT hardware, services and software
 - Shared Services Bureau establishes and manages Corporate VORs for non-IT goods and services (eg, office supplies, clothing, corporate travel)
 - Ministries may establish specialized VORs for their own use (eg, guns and bullets for the OPP), but cannot establish VORs open to other ministries
 - Some corporate VORs are mandatory use and, as such, must be used by ministries to acquire the goods or services covered



OPS Procurement Process

Vendor of Record Arrangements

Vendor Responsibilities

- Establish and maintain relationships with ministry clients through effective marketing
- Determine resource and time requirements for assignments in response to client requests
- Sign Service Level Agreement (if successful)
- Maintain and ensure the availability of qualified resources as proposed
- Transfer of knowledge to Ontario Public Sector staff during services assignments

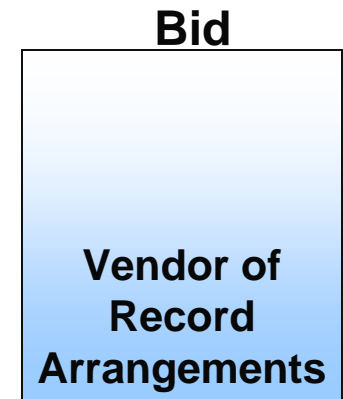


OPS Procurement Process

Vendor of Record Arrangements

Client Responsibilities

- Select Vendor/Resources; may involve additional second stage selection process
- Sign Service Level Agreement
- Approval / Acceptance of deliverables
- Approve and pay invoices
- Submit performance evaluation reports to MBS upon completion of assignments



OPS Procurement Process

Vendor of Record Arrangements

MBS Corporate Responsibilities

- Communicate corporate VOR guidelines and policies to vendors and clients
- Make VOR User Guide available to clients
- Maintain vendor contact lists and profiles
- Monitor VOR usage and vendor performance
- Resolve issues not settled at client level and / or matters arising from Master Agreement
- Conduct any scheduled refresh processes described in the original RFP
- Extend Master Agreement, discontinue VOR or issue new RFP upon expiry

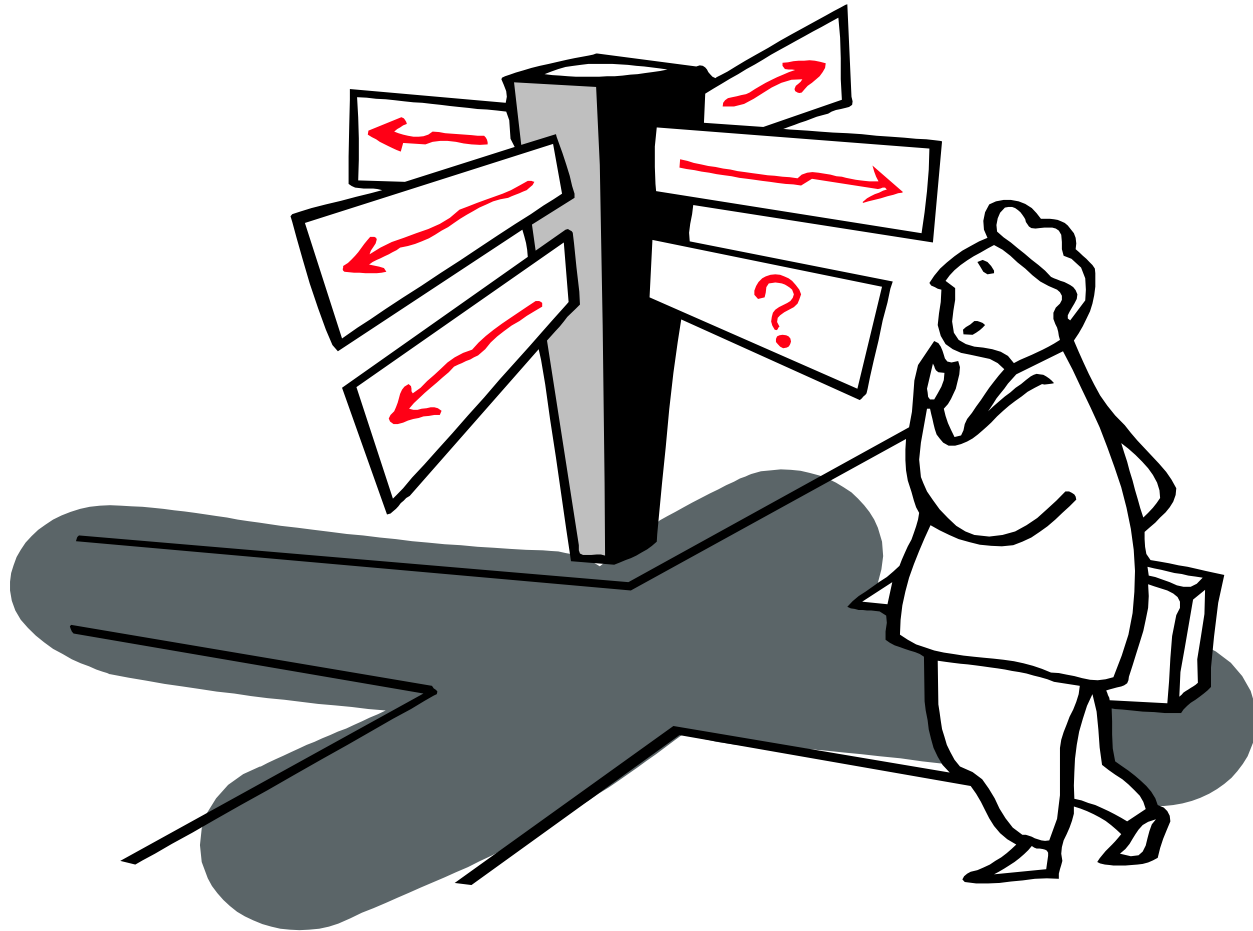
Bid



Summary

- Ontario Government procurements followed a fair, open and structured process
- Large purchases (services over \$100,000 and goods over \$25,000), including corporate Vendor of Record Arrangements, advertised through MERX
- Government buyers can only evaluate what is set out in a proposal - no assumptions made
- Qualified or conditional proposals will be rejected
- Proposals should be written as clearly as possible and should reflect the requirements set out in the procurement request document

Continuous Improvement



Procurement Directives Enhancements

MBS has recently completed changes to the procurement directives that are designed to:

- Address recent recommendations from the Provincial Auditor regarding the use of, and reliance on, consulting services while ensuring that the government continues to obtain value for money for the tax payer's dollar through competitive procurement processes;
- Increase senior level government oversight of large valued procurements; and,
- Facilitate an effective and efficient interaction with the vendor community while respecting the requirements of the procurement directives.

The revised directives were implemented across the Ontario Public Service on April 25, 2003.

Procurement Directives

Enhancements

Clear and Consistent Application

Under the new directives the following mandatory requirements have been enhanced to require ministries to:

- clearly define the requirements for the assignment;
- follow a consistent process for evaluating bids and selecting the highest-ranked consultant(s);
- retain all procurement-related documentation, including appropriate approvals; and,
- where appropriate, ensure a transfer of knowledge from the consultant.

Under the new directives, vendor performance must be managed and documented and any performance issues must be resolved during the term of the assignment.

Procurement Directives Enhancements

Vendor of Record Arrangements

For Second Stage Selections under VORs the following requirements have been added to the procurement directives:

- Under \$25,000 – Select one or more vendors from VOR or use own process.
- \$25,000 - \$249,999 – Ministries must invite (where applicable) at least 3 vendors to submit bids or proposals.
- \$250,000 - \$749,999 – Ministries must invite (where applicable) at least 5 vendors to submit bids or proposals.
- Over \$750,000 - Ministries must proceed with full open competition unless VOR arrangement has another limit approved by Management Board of Cabinet (MBC)

In addition, instructions for using a VOR arrangement include a requirement for ministries to complete a performance evaluation for each consulting assignment.

Future VOR arrangements will also seek commitments from vendors that they will offer the best prices for services to the Ontario Public Service (OPS) that they offer to similar large organizations within Canada.

Procurement Directives

Enhancements

Increased Oversight

The new rules will require ministries to pay close attention to careful planning and accurate costing of proposed consulting assignments.

The new directives impose strict controls on the ability of ministries to expand the scope of a consulting assignment or to structure or subdivide a consulting assignment so as to avoid an open competitive process.

The new directives require a firm agreement price to be tied to the completion by the vendor of tangible deliverables.

Ministries are now required to receive MBC approval for **all** procurements with an estimated value of \$1 million or more, including the creation of VOR arrangements. MBC would also be required to approve any change to the ceiling price of a consulting services contract bringing the total cost/price over \$1 million.

Procurement Directives

Enhancements

Tax Compliance

Vendors will be required to give consent for tax standing information to be shared between the Ministry of Finance and the contracting ministry/agency.

Ministry of Finance will now be required to verify accuracy of tax declarations submitted by vendors prior to contract award. For multi-year contracts, the Ministry of Finance will also verify annually whether a vendor's taxes continue to be in good standing.

Procurement Capacity and Delivery Enhancements

MBS is currently working with ministries to develop a plan to strengthen OPS contract controllership capacity to ensure more effective application of the consulting services procurement policy framework and related efficient procurement processes.

In addition, MBS is currently working to develop an “e-enabled” system to enhance the process for VOR second stage selections.

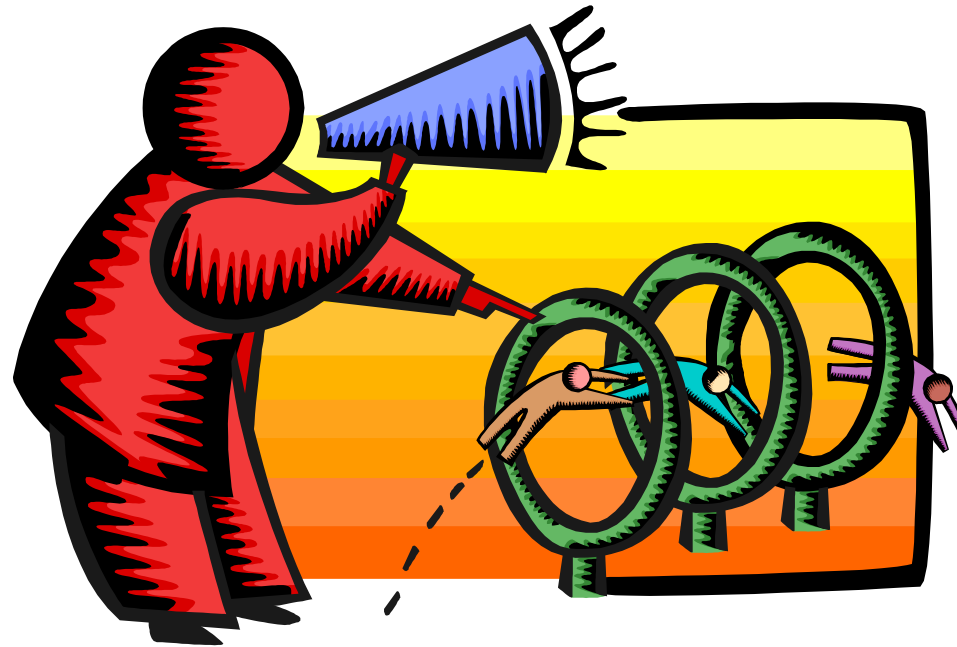
Approaches to Contractual Terms and Conditions

- In conjunction with consultations held with ITAC Ontario, MBS has developed commercially reasonable approaches regarding Limitation of Liability (LoL) and Intellectual Property (IP).
- The revised approach for LoL & IP is a “balanced approach” which ensures that the rights of the Crown are protected but not in a way that is onerous and burdensome to suppliers.
- The revised approach for LoL is currently being applied to corporate VOR arrangements.
- To facilitate the implementation of the revised approach to LoL for all procurements, strategic analytical tools/processes, guidelines and related training material are currently being developed, refined and tested. This will ensure that:
 - the tool is “user friendly” and comprehensive; and,
 - a consistent approach is utilized by OPS staff responsible for designing and establishing IT procurement initiatives in determining appropriate terms and conditions that should be applied to procurement contracts, given the risk of the procurement initiative.

Approaches to Contractual Terms and Conditions

- For IP, the revised approach is to incorporate a default ownership model for custom software development initiatives, with defined exceptions.
- As part of the review of the revised approach, work will be done to determine if this approach could be extended to other areas, such as services.

TIPS on Doing Business with the Ontario Government



Tips on Doing Business with the Ontario Government

- Read the RFP carefully and follow the instructions provided
- Put yourself in the buyer's shoes
- Take advantage of opportunities to ask questions to clarify requirements
- Be clear and concise in your proposal
- Only include relevant information in your proposal per the requirements set out in the RFP
- Ensure that all required documents are signed by an appropriate officer of the company
- Ensure that your proposal is delivered to the correct location on time

www.ppitpb.gov.on.ca

Access to information on:

- How to sell to the Ontario Government
- List of Vendors under IT Vendors of Record
- Public sector buying points; including the broader public sector

