


## Schedule A – Non-Application

The following circumstances do not apply to the requirements set out in the guidelines; however, TRCA may elect to conduct a competitive process for transparency, best value, or other reasons. TRCA does not regularly engage in these scenarios and below are limited examples, so consult with Procurement and Legal Services if you are unsure if one of these scenarios exists.

 Mandatory consultation with Procurement and Legal Services is required prior to commencing the process.

Scenario		Example	Notes
(a) public employment contracts;		Recruitment of public sector employees.	
(b) non-legally binding agreements;		Meadoway - TRCA and Weston Foundation executed an agreement whereby the general relationship between the parties and the collaborative approach that would be taken was outlined.	MOU's are extremely high level and not non-legally binding. They have limited application and should not be used for transfer of funds or when goods or services are being provided by one or both parties.
(c) any form of assistance, such as grants, loans, guarantees, and financial incentives;		Application for grants and loans as well as the successful receipt of one. Head Office Construction financing/loan from a banking institution. TRCA has a guarantee arrangement with Evergreen Brickworks.	Primarily applies to TRCA receiving assistance and not providing it, for example, TRCA would never provide a financial incentive or a loan.
(d) a contract awarded under a cooperation agreement with an international cooperation organization if the procurement is financed, in whole or in part, by that organization, only to the extent that the agreement includes rules for <u>awarding</u> contracts that differ from the obligations of the CFTA;		An international cooperation such as WWF, Greenpeace, or United Nations and that procurement specifies that we award the contract in a certain way because of the nature of the program.	
(e) acquisition or rental of land, existing buildings, or other			TRCA's lease of 101 Exchange Ave. or purchase of the Bolton Camp property.

Scenario		Example	Notes
immovable property, or the rights thereon;			
(f) measures necessary to <u>protect intellectual property</u> , provided that the measures are not applied in a manner that would constitute a means of arbitrary or unjustifiable discrimination for non-Ontario vendors or a disguised restriction on trade;		Protection of intellectual property associated with TRCA's new payroll system (Dayforce by Ceridian).	This scenario is very Intellectual Property (IP) specific. It specifically refers to the protection of IP and not that we use the goods or services in a previous phase of the project.
(g) procurement or acquisition of:	(i) fiscal agency or depository services;	Banking services.	
	(ii) liquidation and management services for regulated financial institutions; or	Management services from banking.	
	(iii) services related to the sale, redemption, and distribution of public debt, including loans and government bonds, notes, and other securities;	Investments or coupon bonds.	
(h) procurement of:	(i) financial services respecting the management of TRCA financial assets and liabilities (i.e. treasury operations), including ancillary advisory and information services, whether or not delivered by a financial institution;	TRCA requires financial advice so we enter into a fee for service arrangement with a bank.	
	(ii) health services or social	Grief counselling, or TRCA hires someone to run a flu clinic. This includes First Aid	

Scenario		Example	Notes
	services;	training and anything related to Health and Safety.	
	(iii) services that may, under applicable law, only be provided by licensed lawyers or notaries;	Legal services.	
	(iv) services of expert witnesses or factual witnesses used in court or legal proceedings; or		
(i) procurement of goods or services:	(i) financed primarily from donations that require the <u>procurement</u> to be conducted in a manner inconsistent with the CFTA;	TRCA receives a monetary donation and these funds will be used for a particular program, and the requirements of the program are such that we have to support a particular type of community or people.	Note that TRCA does not issue tax receipts and all monetary donations go through the Foundation.
	(ii) by TRCA on behalf of an entity not covered by the CFTA;		
	(iii) <u>between</u> one government body or enterprise and another government body or enterprise;	TRCA uses City of Toronto waste services for collection of solid waste and recycling .	
	(iv) from philanthropic institutions, non-profit organizations, prison labour, or natural persons with disabilities; or	TRCA is procuring from another CA their old fleet vehicles or used equipment, or as part of the Groundwater Monitoring Program, CLOCA staff provides administrative services.	
	(v) under a commercial agreement between a procuring entity which	Peter and Paul are a private entity and procure food items related to dietary regulations (i.e. kosher foods).	

Scenario		Example	Notes
	operates sporting or convention facilities and an entity not covered by the guidelines that contains provisions inconsistent with the guidelines.		

## Schedule B – Limited Tendering

Limited tendering may occur for the following circumstances, however, TRCA may elect to conduct a competitive process for transparency, best value, or other reasons. Consult with Procurement and Legal Services if you are unsure if one of these scenarios exists.

 Mandatory consultation with Procurement and Legal Services is required prior to initiating a limited tendering process.

Scenario		Example	Notes
(a) If conducted a procurement process in accordance with the Procurement Policy and provided that the requirements of the original competitive procurement documentation are not substantially modified:	(i) No bids were submitted or no vendors requested participation;		
	(ii) no bids that conform to the essential requirements of the solicitation documentation were submitted;	TRCA has asked for A and the proponent is proposing B.	Can be used for when none of the bids have met the minimum scoring requirements in an RFP process or all of the bids have been disqualified. Not to be used because TRCA is unhappy with the bids, or unhappy with the prices and want to re-scope.
	(iii) no bids satisfied the conditions for participation; or	No bidders attend a mandatory bidders meeting or no bidders had specific certification that is required.	
	(iv) the submitted bids were collusive.	In bidding for public sector construction work, construction firms would collude in setting artificially high prices. Firms would decide which contracts they wanted, and rivals would bid purposefully high price.	When rival firms agree to work together by setting higher prices in order to make higher profits.
(b) if the goods or services can be supplied only by a particular vendor and no reasonable alternative or substitute goods or services exist for	(i) the requirement is for a work of art;	A painting by famous painter.	Does not apply to massively produced works of art (e.g. Ikea art).
	(ii) the protection of patents, copyrights, or other	IT software.	

Scenario		Example	Notes
any of the following reasons:	exclusive rights;		
	(iii) due to an absence of competition for technical reasons;	Purchase of rain or stream gauge equipment or certain hydraulic modelling services.	
	(iv) the supply of goods or services is controlled by a vendor that is a statutory monopoly;	Utilities (Bell, Toronto Hydro, Rogers), or the LCBO.	Cannot be legally purchased elsewhere.
	(v) to ensure compatibility with existing goods, or to maintain specialized goods that must be maintained by the manufacturer of those goods or its representative;	A piece of equipment won't function unless the part is replaced or maintenance occurs by the manufacturer or its representative.	Does not apply to services.
	(vi) 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;	Repairs to a boardwalk are required after an ice storm and the work is covered under a warranty by the original contractor.	
	(vii) work is to be performed on a leased building or related property, or portions thereof, that may be performed only by the lessor; or	Quadreal is retained to provide roof repairs at 101 Exchange Ave.	
	(viii) the procurement is for subscriptions to newspapers, magazines, or other periodicals.		
(c ) For additional deliveries by the original vendor of goods or services	(i) cannot be made for economic or technical	Further improvements to LID tool.	Allowed to go back to the original scope provider but internal

Scenario		Example	Notes
that were not included in the initial solicitation, if a change of vendor for such additional goods or services:	reasons such as requirements of interchangeability or interoperability with existing equipment, software, services, or installations procured under the initial procurement; and		justification is needed as to why it wasn't included in the original scope. Primarily used for IT procurement.
	(ii) would cause significant inconvenience or substantial duplication of costs for TRCA.	Contractor is already on site and doing work and there is another slope failure and additional work is required - this would reduce duplication of mobilization costs.	During consultation, the scope, risk, value, relativity to the project, and the circumstances arising will be examined.
(d) if strictly necessary, and for reasons of urgency brought about by events unforeseeable by TRCA, the goods or services could not be obtained in time using an open competitive procurement;		Natural disasters, EOC is activated, roof is blown off one of our residential rental properties.	Emergency, not to be used for poor planning.
(e) for goods purchased on a commodity market;		Wheat, coffee, sugar, fruit, coco, precious metals.	Not for manufactured products.
(f) if TRCA procures 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 <sup>2</sup> ;		TRCA is approached to trial a new product or 3D printing services to create a unique product or part for a piece of equipment.	Not used for a pilot project.
(g) for purchases made under exceptionally advantageous		A supplier is going out of business due to bankruptcy or other circumstances and	

<sup>2</sup> 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.

Scenario		Example	Notes
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 vendors;		there is a deep discounted sale.	
(h) 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 the CFTA, in particular relating to the publication of a tender notice; and		Cannot limit the contest to Province of Ontario. Does not apply to design charrette, or design build.
	(ii) the participants are judged by an independent jury with a view to a design contract being awarded to a winner.		
(i) 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 competitive procurement 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 <sup>3</sup> .		TRCA requires a consultant to deal with an HR issue.	

<sup>3</sup> In using limited tendering under this paragraph (i), compliance with Article 516 of the CFTA (Transparency of Procurement Information) is also not required (e.g., the procuring entity is not required to post award information).