

The Purchasing Act, 2004

being

Chapter P-49.1 of *The Statutes of Saskatchewan, 2004* (effective June 1, 2005) as amended by the *Statutes of Saskatchewan*, 2014, cE-13.1; and 2017, cP-30.3.

NOTE:

This consolidation is not official. Amendments have been incorporated for convenience of reference and the original statutes and regulations should be consulted for all purposes of interpretation and application of the law. In order to preserve the integrity of the original statutes and regulations, errors that may have appeared are reproduced in this consolidation.

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CHAPTER P-49.1

An Act respecting Government Purchases

Short title

- 1** This Act may be cited as *The Purchasing Act, 2004*.

Interpretation

- 2** In this Act:

- (a) **Repealed.** 2014, c E-13.1, s 57.
- (b) **“director”** means the Director of Purchasing appointed pursuant to section 3;
- (c) **“minister”** means the member of the Executive Council to whom for the time being the administration of this Act is assigned;
- (c.1) **“ministry”** means a ministry as defined in *The Executive Government Administration Act*;
- (d) **“participating jurisdiction”** means any of the following:
 - (i) the Government of Canada or an agency of it;
 - (ii) the government of any other province or any territory of Canada or an agency of it;
 - (iii) a First Nation organization or Métis organization;
- (e) **“public agency”** means any ministry, agency, board or commission of the Government of Saskatchewan, and includes any Crown corporation or other agent of the Crown designated by the minister as a public agency for the purposes of this Act;
- (f) **“public institution”** means:
 - (i) the provincial health authority or an affiliate, as defined in *The Provincial Health Authority Act*;
 - (ii) a university, college, institute, board of education, the conseil scolaire or any other educational institution or body in Saskatchewan;
 - (iii) a municipality or other local governing body in Saskatchewan;
 - (iv) an institution or body that derives its funds in whole or in part from the Government of Saskatchewan;
 - (v) any other institution or body designated by the Lieutenant Governor in Council as a public institution for the purposes of this Act;
- (g) **“services”** means any services required by a public agency or public institution;

(h) **“supplies”** means all goods, wares and merchandise that are required by a public agency or public institution for the transaction of its business and affairs and includes food, drugs, chemicals, petroleum and other processed products, furnishings, fixtures, equipment, appliances and stationery, but does not include supplies designated in the regulations as being included in a contract for construction or a contract for other services.

2004, cP-49.1, s2; 2014, cE-13.1, s57; 2017, cP-30.3, s11-1.

Director of Purchasing

3(1) The minister shall appoint an officer or employee of any ministry or Crown corporation as an official to be called the Director of Purchasing.

(2) The director is responsible for the administration of this Act and the orders and regulations made pursuant to it.

(3) In the exercise of the director's powers and in the performance of the director's duties pursuant to this Act, the director is responsible to the minister.

2004, cP-49.1, s3; 2014, cE-13.1, s57.

Acquisition of supplies for public agencies

4(1) The director shall acquire supplies required by public agencies in accordance with the regulations and the principles set out in this section.

(2) When the director considers it practicable or advantageous to do so, in acquiring supplies required by public agencies the director shall do the following:

- (a) obtain competitive prices for the supplies;
- (b) combine the requirements of two or more public agencies for common or similar supplies;
- (c) obtain the best value for supplies, considering price, quality, delivery, service, warranty or any other factor that the director considers important for the supplies being acquired;
- (d) acquire supplies at rates and on terms and conditions conducive to the economic and environmental well-being of Saskatchewan.

(3) For acquisitions of less than the dollar amount prescribed in the regulations, the director may give a preference in favour of supplies produced, manufactured or sold in Saskatchewan.

(4) Subject to subsection (3), all suppliers who are bidding or otherwise competing on a contract to provide supplies to a public agency are to be governed by the same set of competition rules and procedures established by the director in accordance with the principles set out in this section.

- (5) By entering into agreements or otherwise, the director may secure services that the director considers necessary for the acquisition of supplies.
- (6) The director may establish policies and procedures respecting the purchase of services by public agencies that are consistent with the principles set out in this section.

2004, c P-49.1, s 4.

Disposal of surplus supplies for public agencies

- 5(1) Supplies that are declared by a public agency to be surplus to the needs of the public agency are to be placed by it under the control of the director, and the director shall dispose of those supplies in accordance with the regulations and in any manner that the director considers appropriate and cost effective.
- (2) Without limiting the generality of subsection (1), the director may dispose of surplus supplies by:
 - (a) re-issuing them to another public agency;
 - (b) selling, trading or donating them; or
 - (c) discarding them.
- (3) By entering into agreements or otherwise, the director may secure services that the director considers necessary for the disposal of surplus supplies.

2004, c P-49.1, s 5.

Acquisition and disposal of supplies for public institutions and participating jurisdictions

- 6(1) On request, the director may acquire or dispose of supplies for a public institution or participating jurisdiction if:
 - (a) the public institution or participating jurisdiction provides services to the Government of Saskatchewan;
 - (b) a public agency, public institution or participating jurisdiction will benefit economically from the acquisition or disposition; or
 - (c) in the director's opinion, it is in the public interest to do so.
- (2) Sections 4 and 5 apply, with any necessary modification, to any acquisition or disposition of supplies by the director for a public institution or participating jurisdiction.
- (3) The director may charge a fee or establish other terms and conditions for acquiring or disposing of supplies for a public institution or participating jurisdiction pursuant to this section.

2004, c P-49.1, s 6.

Acquisitions to be made by director, exception

7(1) Subject to subsection (2), section 9 and the regulations, every public agency shall obtain all supplies required by the public agency through the director.

(2) Subject to the regulations, the director may, by order, permit any public agency to acquire its supplies other than through the director if the director is satisfied that the best value can be achieved by doing so, having regard to the factors mentioned in clause 4(2)(c).

(3) An order of the director made pursuant to subsection (2) may be general or limited in its terms.

2004, cP-49.1, s 7.

Acquisition of supplies contrary to Act constitutes malfeasance in office

8(1) Every employee in a public agency who wilfully acquires any supplies in contravention of this Act or any regulation or order made pursuant to this Act is deemed to have committed an act of malfeasance in office and is liable to suspension or dismissal from office.

(2) If the director is satisfied that a contravention by any person of this Act or of any regulation or order made pursuant to this Act is inadvertent or unintentional, in order for payment to be made for the supplies with respect to which the transaction took place, the director may declare the transaction as being in accordance with this Act and with the orders and regulations made pursuant to this Act.

2004, cP-49.1, s 8.

Acquisitions in case of emergency

9 Subject to the regulations, a public agency may purchase or otherwise acquire other than through the director any supplies required by it to meet an emergency.

2004, cP-49.1, s 9.

Disposition of proceeds

10 Moneys received by the director from the disposition or re-issuing of surplus supplies of a public agency, less any costs of disposition or re-issuance that Treasury Board may approve, must be paid to the public agency that placed the surplus supplies under the control of the director.

2004, cP-49.1, s 10.

Standards

11 The director may make or procure tests, conduct examinations or analyses, or use whatever other means the director considers necessary in order that standards for supplies may be established and maintained.

2004, cP-49.1, s 11.

Regulations

12 The Lieutenant Governor in Council may make regulations:

- (a) defining, enlarging or restricting the meaning of any word or expression used in this Act but not defined in this Act;
- (b) designating the supplies or classes of supplies excluded from the provisions of this Act on the basis that those supplies are included in contracts for construction or contracts for other services or for any other reason the Lieutenant Governor in Council considers appropriate;
- (c) prescribing the manner in which supplies are to be acquired through the director or otherwise, and the procedures to be followed;
- (d) prescribing a dollar amount for the purposes of subsection 4(3);
- (e) prescribing the supplies or classes of supplies that may be acquired by all public agencies or by any specified public agency other than through the director;
- (f) prescribing the conditions the existence of which constitutes a case of emergency for the purposes of section 9;
- (g) prescribing the manner in which supplies declared surplus to the needs of a public agency may be re-issued or otherwise disposed of, and the procedures to be followed;
- (h) prescribing any other matter or thing required or authorized by this Act to be prescribed in the regulations;
- (i) respecting any other matter or thing that the Lieutenant Governor in Council considers necessary to carry out the intent of this Act.

2004, c P-49.1, s 12.

Ministerial orders

13(1) The minister may make orders:

- (a) governing the manner in which the business of the director shall be conducted;
 - (b) governing the manner in which a public agency shall request the director to purchase or dispose of supplies;
 - (c) designating the officials or employees of a public agency who may make acquisitions of supplies other than through the director;
 - (d) specifying the conditions under which acquisitions of supplies may be made by persons designated pursuant to clause (c).
- (2) As soon as is practicable after issuing an order pursuant to subsection (1), the minister shall cause a copy of the order to be published in the Gazette.

2004, c P-49.1, s 13.

Act prevails

14 If any provision of this Act or of any order or regulations made pursuant to this Act conflicts with any other Act, regulations or law, the provision of this Act or of the order or regulations made pursuant to this Act prevails.

2004, c P-49.1, s 14.

RSS 1978, c P-49 repealed

15 *The Purchasing Act* is repealed.

2004, c P-49.1, s 15.

Coming into force

16 This Act comes into force on proclamation.

2004, c P-49.1, s 16.