



Best Practices for Group Purchasing Organisations

The National Cooperative Procurement Partners (NCP) is the premier Association for cooperative procurement across North America. Offering unique educational content, legislative advocacy and collaborative efforts among its members, NCP serves as a leading resource on group purchasing. The newly developed “[Road Map to a Group Buying Strategy](#)” is fast becoming a sought after resource by Canadian procurement teams. More information can be found at www.NCPAssociation.org.

This overview contains considerations for Canadian entities on creating a strategy for Group Purchasing Organisation (GPO) use. The information contained in this document is not intended as legal advice nor should it replace it. Entities should consult their legal department when considering the use of GPOs.

1 | WHAT IS A BUYING GROUP

“A Buying group means a group of two or more members that combines the purchasing requirements and activities of the members of the group into one joint procurement process.”

For example, Manitoba and Ontario issuing a joint solicitation to buy fleet vehicles together.

“Buying groups include cooperative arrangements in which individual members administer the procurement function for specific contracts for the group, and more formal corporate arrangements in which the buying group administers procurement for group members.”

For example, the following are Group Purchasing Organisations (GPO); Rural Municipality of Alberta (RMA), Kinetic GPO, Sourcewell, the Canadian Collaborative Procurement Initiative (CCPI).

“Buying groups may consist of a variety of entities, including any combination of procuring entities, private sector entities, or not-for-profit organizations.”

Canadian Free Trade Agreement (CFTA) definition, New West Partnership Trade Agreement (NWPTA) and Trade and Cooperation Agreement Between Ontario and Quebec (On-QB TCA) definitions are virtually identical.

2 | TRADE AGREEMENT COMPLIANCE REVIEW

Entities should note the application of trade agreement requirements may vary with circumstances. For specific guidance on legal issues, entities should seek legal or professional advice.

- a. Review the trade agreement your entity is subject to for specific requirements for the use of GPOs. These requirements will vary depending on the trade agreement.
 - i. For example, CFTA requires entities to post notices of GPO membership at least annually redirecting vendors to the GPO's own tendering site.

- b. The most stringent trade agreement requirements should be used for analysis purposes. Several trade agreements contain specific language on to use of buying groups. For example, CFTA, NWPTA and the On-QB TCA include specific language.
- c. Entities should ensure they verify each trade agreement the entity is subject to.

3 | GPO COMPLIANCE REVIEW

Entities should engage in an open dialogue with the GPO when verifying their compliance to regulatory and trade agreement requirements.

- a. Per CETA, buying groups may consist of a variety of entities, including any combination of procuring entities, private sector entities, or not-for-profit organizations.
- b. Review procurement and contract documents used by the GPO. If not publicly available, the GPO should provide these documents upon request. The inability for an entity to access procurement and contract information from a GPO is a consideration in the decision-making process regarding whether to use a GPO.

- c. Review whether the conditions for participation are disclosed in the tender notice including legitimate requirements for prior experience essential to meet the requirements.
- d. Review the GPO supplier disbarment mechanism.
- e. Review the GPO procurement process for commitment to treaty compliance.
 - i. Assess whether the GPO procurement process or conditions will discriminate based on the location of the supplier or source of materials.

- ii. For example, review the details regarding how notices are posted, use of e-procurement platforms, duration of posting periods.
- iii. Consider whether buying group procurement notices need to be posted on the participating entity's designated tendering website in addition to buying group's website
- iv. Ask questions about procurement policies and practices, including bid dispute mechanism, document disclosure to participating entities and retention practices of procurement records for audit purposes

4 GPO GENERAL CONSIDERATIONS

The process of vetting a GPO has many similarities to vetting a supplier.

- a. Entities can request the following information for review as part of their analysis:
 - i. List of participating Canadian entities where permission has been granted to disclose
 - ii. Reference contact information from participating Canadian entities
- iii. List of contracts, including the characteristics of suppliers, accessible to Canadian entities
- iv. Use of GPO contracts per Canadian entities
- v. Pricing information including options for negotiating additional discounts

5 ENTITY COMPLIANCE REVIEW

Entities should review their internal policies, procedures against the information obtained from the GPO.

Review your entity's policies and procedures. Does your entity have a policy regarding the use of GPOs and participating in joint procurements? For some entities, this addition may be a fairly simple process.

- a. Your entity' and the GPO' procurement processes should be open, transparent, fair and non-discriminatory. Both processes can be subject to similar levels of required disclosure and scrutiny.
- b. Entities should engage their legal counsel when appropriate.
- c. When reviewing the GPO's tender documentation, entities should notice similarities with their own. Entities should consider whether the following are included:
 - i. the conditions for participation are disclosed in the GPO tender notice and the conditions are non-discriminatory;
 - ii. the GPO' supplier disbarment mechanism is consistent with trade agreements;
 - iii. the technical specifications, dates and terms for delivery;
 - iv. all the details pertaining to the evaluation criteria, weighting and process;
 - v. all details related if and how references, presentations, demonstrations, site visits are evaluated;
 - vi. the procurement process will not discriminate based on the location of the supplier or source of materials;
 - vii. if negotiation are permitted and what will be considered for negotiations
 - viii. Review entity's risk tolerance for using buying group

It is possible that a GPO's procurement process, templates and policies are more comprehensive than one of a smaller entity. This determination will vary based on the specific operational reality of each entity.

6 WHEN SHOULD AN ENTITY USE BUYING GROUPS?

There are many reasons and benefits from using buying groups:

- a. Efficiency: Save money and time to access goods or services
- b. Lack of capacity within an entity
- c. Reduce administrative and legal burdens
- d. Access to reliable goods with a pre-negotiated balanced contract in case of emergency
- e. Reduce fragmentation
- f. Promote socioeconomic benefits through access for suppliers to multiple buyers
- g. Promote local economic activity through supplier diversification and participation of regional businesses

REFERENCES:

Myth-Busting Trade Treaty Rules: Innovation, Collaboration and Fairness Presentation, Fasken for Sourcewell, November 5, 2019

[Canadian Free Trade Agreement \(CFTA\) – Consolidated version](#)

[New West Partnership Trade Agreement](#)

[Trade and Cooperation Agreement Between Ontario and Quebec](#)

Trade Agreement Articles relevant to buying groups:

CFTA: Article 504

NWPTA: Article 5

ON-QBTCA: Article 9.6