# Supply Manual Chapter 1 - Public procurement

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| **Teaser** | |
| Teaser content  20 words | See an overview of the Government of Canada’s procurement process in chapter 1 of the Supply Manual. |

Page content

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| H1 (Title) | Chapter 1 - Public procurement |
| Header | In this chapter, get an overview of the Government of Canada’s procurement process. This includes information on the policies, directives, acts, trade agreements and regulations that must be followed when buying for the government. |
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## 1.1 Overview of public procurement

Effective date: 2022-05-12

1. The mandate of Public Works and Government Services Canada (PWGSC) is to provide services to all Canadian federal departments, and is summarized in section 5 of the [*Department of Public Works and Government Services Act*](http://laws-lois.justice.gc.ca/eng/acts/P-38.2/). This section stipulates that:  
   "The Department shall operate as a common service agency for the Government of Canada, and its activities as a common service agency shall be directed mainly toward providing the departments, boards and agencies of the Government of Canada with services in support of their programs."
2. The role of PWGSC as a common service provider is defined in section 5.2 of the [*Directive on the Management of Procurement*](https://www.tbs-sct.gc.ca/pol/doc-eng.aspx?id=32692).
3. Public procurement by Canada is legislated and guided by a number of international and national trade agreements, and acts, as well as policies, directives, and guidelines provided by TB, the Treasury Board Secretariat (TBS) and PWGSC. Certain departments such as Indian and Northern Affairs Canada and Industry Canada are responsible for programs that have a direct impact on procurement. In addition to the above, and the content in this Supply Manual, contracting officers must also be cognisant of policy notifications, relevant communiqués and internal operating procedures.

## 1.5 About the Supply Manual

Effective date: 2022-05-12

1. The [Supply Manual](/node/962391) with its policies and procedures is written for the use of contracting officers from Public Works and Government Services Canada (PWGSC) Acquisitions Branch and regional acquisitions offices to assist them in providing procurement services as a common service provider. Contracting officers from PWGSC Acquisitions Branch and regional acquisitions offices may contact the Strategic Policy Development and Integration Directorate of the Strategic Policy Sector for guidance by email at: [TPSGC.PASPSPublications-APSPSPublications.PWGSC@tpsgc-pwgsc.gc.ca](mailto:TPSGC.PASPSPublications-APSPSPublications.PWGSC@tpsgc-pwgsc.gc.ca). Whenever the term "contracting officer" is used throughout this Manual, it refers to contracting officers within Acquisitions Branch and the regional acquisitions offices of PWGSC.
2. PWGSC staff undertaking internal contracting activities, and not providing services in PWGSC's role as a common service provider for procurement, should refer to PWGSC internal procurement policies such as the PWGSC Departmental Policy (DP) 099 [Policy on Procurement](http://gcintranet.tpsgc-pwgsc.gc.ca/pm-dp/politique-policy/p099-eng.html) (accessible only on the Government of Canada network) and procedures such as the Contract Management Guide, or refer to the TB policies and directives on procurement. The [Supply Manual](/node/962391) may be used as a reference source for such internal procurements, however, it does not supersede the information contained in the above noted policies, guides, and directives.
3. Other government departments and agencies are encouraged to use this [Supply Manual](/node/962391)as reference material for general procurement knowledge. However, for guidance on their own procurement practices, they should refer to their own organizations' policy and guidance procedures as well as Treasury Board contracting policies and directives. Other government departments and agencies should seek advice from their own internal policy group as some [Supply Manual](/node/962391) policies and procedures are applicable only to PWGSC Acquisitions Branch and the regional acquisitions offices.
4. The [Supply Manual](/node/962391) describes the acquisitions-related activities of PWGSC's Acquisitions Branch and regional acquisitions offices. It references laws, regulations, government and departmental policies, directives, and procedures that have an impact on the contracting and procurement activities of the Acquisitions Branch and the regional acquisitions offices.
5. Contracting officers should be aware that this manual and the contracting policies referenced may be read by and referred to by a number of parties interested in procurement activities such as clients, suppliers, the general public, and the media.
6. Canadian government procurement is carried out in a decentralized manner. Individual departments award contracts under their own authorities for services, and under certain authorities for goods and construction as delegated by the Minister of PWGSC. They make a considerable number of lower dollar value purchases through the use of these authorities and make purchases of varying values through their authorized use of procurement instruments put in place by PWGSC.
7. The [Supply Manual](/node/962391) is to be read in conjunction with other government policies and directives, in particular those released by TB and TBS. Acquisition policies are regularly updated by [Policy Notifications](https://buyandsell.gc.ca/policy-and-guidelines/policy-notifications) as well as by TB Contracting Policy Notices. The [Standard Acquisition Clauses and Conditions Manual](https://buyandsell.gc.ca/policy-and-guidelines/standard-acquisition-clauses-and-conditions-manual)must be read as a complementary document to the [Supply Manual](/node/962391).

### 1.5.1 Organization of the Manual

Effective date: 2011-06-29

The Manual generally follows the sequence of a typical procurement process. The structure is as follows:

1. Chapter 1 - Public procurement, provides an overview of the context and the legal framework relating to public procurement for the acquisition of goods or services, including construction.
2. Chapter 2 - Defining the requirement and requisition receipt, is about defining the requirement for the bid solicitation. While this is often the responsibility of the client department, PWGSC involvement is still important.
3. Chapter 3 - Procurement strategy, describes what the procurement strategy is. This determines how the request will be satisfied.
4. Chapter 4 - Solicitation process, outlines the actual bid solicitation preparation and process. Most of the various methods of solicitation and items that need to be included in the bid solicitation are found in this chapter.
5. Chapter 5 - Evaluation and selecting the contractor, explains how to evaluate and select the contractor based on the solicitations.
6. Chapter 6 - Approvals and authorities, provides the details of the approvals that need to be obtained before awarding a contract.
7. Chapter 7 - Award of contracts and issuance of standing offers and supply arrangements, relates to the award of contracts, issuance of standing offers and supply arrangements, debriefings, notification to unsuccessful bidders, and other matters surrounding contract award and the issuance of standing offers and supply arrangements.
8. Chapter 8 - Contract management, offers information regarding contract management during the contract. Non-exhaustive examples of this information are contract performance, progress payments, subcontracting, warranty work, disputes, terminations and the Vendor Performance Corrective Measure Policy.
9. Chapter 9 - Special procurements, details procurements where PWGSC has implemented special procedures applicable to identified commodities, clients or projects.
10. Chapter 10 - Cost and profit, is generally used when a contract is to be awarded on a non-competitive basis for non-commercial goods or services, or in the case of a competitive process for such goods or services, only one compliant bid is received, so price negotiations with this bidder may be required.
11. The Glossary includes words, concepts, titles, etc., used throughout the Manual.

### 1.5.5 Supply Manual format

Effective date: 2010-01-11

1. Each chapter refers to particular subjects by heading, and subsequent sub-heading numbers. Each chapter also commences with a table of contents and concludes with annexes specific to that chapter.
2. Subjects are numbered as they appear in the chapters, i.e., 1.5.5 appears in Chapter 1 and [8.65.5 Release of contract financial security](https://canadabuys.canada.ca/en/how-procurement-works/policies-and-guidelines/supply-manual/chapter-8#_8-65-5)appears in Chapter 8.
3. Section and subsection numbering includes gaps to provide for future additions to the [Supply Manual](/node/962391).

## 1.10 PWGSC procurement process

Effective date: 2010-01-11

There is one over-arching principle for all PWGSC procurement activities: Integrity. Subordinate to this are guiding principles, which provide the framework for PWGSC procurement process. Contracting officers must always respect these principles, regardless of whether or not the actions are clearly set out in this manual.

### 1.10.1 Integrity

Effective date: 2010-01-11

PWGSC procurement processes will be open, fair and honest.

### 1.10.5 Guiding principles

Effective date: 2010-01-11

All those involved in the procurement process must apply prudence, probity and transparency at each stage of the process.

1. Client service  
   PWGSC will make every reasonable effort to satisfy the operational requirements of its clients, while obtaining the best value in each procurement process.
2. National objectives  
   PWGSC procurement activities will advance established government policies, within the limits imposed by international trade obligations.
3. Competition  
   PWGSC procurement will be competitive, with specific exceptions.
4. Equal treatment  
   PWGSC will ensure that all potential bidders of a particular requirement are subject to the same conditions.
5. Accountability  
   PWGSC is accountable for the integrity of the contracting process. Clients are responsible for ensuring that all information relating to their requirements, which is provided to PWGSC, is complete and accurate. (See [Annex 1.1: Matrix of responsibilities between PWGSC and client departments for the procurement of goods and services (generic).)](https://canadabuys.canada.ca/en/how-procurement-works/policies-and-guidelines/supply-manual/chapter-1-annexes#_1-1)

### 1.10.10 Procurement best practices

Effective date: 2022-03-29

1. Ensure integrity  
   Contracting officers must ensure the integrity of the procurement process. If there is any doubt that what is being done (or asked by the client to be done) might bring the integrity of the process into question, the contracting officer should consider suspending the procurement process until the issue is resolved. Issues that cannot be resolved satisfactorily at the contracting officer level must be referred to a higher authority within PWGSC.
2. Get involved early  
   The procurement process can be facilitated by advance work being done with clients. This includes helping with needs identification and requirement definition, procurement strategy development, and drafting of solicitation documents before a requisition is actually received. Facilitating the process also includes ensuring that accessibility has been considered by clients and, where appropriate or necessary, is incorporated into the procurement process, including in the requirement definition and solicitation documents. This can be accomplished through ongoing liaison with the client or a review of procurement patterns. These methods can be initiated by a client request for assistance, or by a more formal process of regular consultation.
3. Consult with peers  
   Contracting officers should consult with colleagues, particularly when working with an unfamiliar situation, such as a new commodity, or incorporating accessibility into procurement requirements or solicitation documents. Their experience and advice may help to arrive at a sound decision. Referring to previous files can also be instructive, particularly for estimating things like business volume under a new contract where there is a current contract covering substantially the same activities.
4. Liaise with the client  
   The contracting officer should keep clients informed and involved, and in order to develop responsive, creative and flexible procurement strategies, their departmental needs must be understood, as well as their specific technical and accessibility requirements. When consulting the client, make the purpose plain, so that if there is a problem with a proposed approach a solution that achieves the purpose can be developed. The contracting officer must work with the client towards their operational objectives.
5. Use specialists  
   The contracting officer should seek advice from the following specialists: Legal Services, policy advisors, Access to Information and Privacy officers, quality control officers, cost analysts and risk management advisors. Specialists are available to provide guidance and recommendations in their areas of expertise. The mandatory or discretionary use of cost and price analysis specialists is detailed in the [Acquisitions Program Policy Suite](http://www.gcpedia.gc.ca/wiki/Acquisitions_Program_Policy_Suite) (accessible only on the Government of Canada network).
6. Communicate effectively  
   Contracting officers should be very clear in communications. Written instructions accompanying each bid solicitation, for example, should be clear with no ambiguity, and be easily understood by all parties.
7. Maintain confidentiality  
   The contracting officer must treat all information of a confidential or personal nature, including bid information, in a secure and confidential manner. This ensures the integrity of the contracting process, and protects the interests of suppliers and clients.
8. Obtain confirmation  
   The contracting officer should obtain written confirmation of significant information, agreements and discussions, such as confirmation of an unusually low price, or extension of a bid validity period by the bidder.
9. Select the appropriate contracting method
   1. Depending on which commodity is being procured, the appropriate contracting method may be a standing offer, a supply arrangement, a government-wide or multi-departmental contract, or a normal contract. See [3.15 Non-competitive contracting process](https://canadabuys.canada.ca/en/how-procurement-works/policies-and-guidelines/supply-manual/chapter-3#_3-15) for details on the usage of the different methods.
   2. Some commodities are available via mandatory standing offers, and these must be used unless there is a valid reason to deviate.
10. Commodity knowledge  
    Contracting officers should develop their understanding of their commodity's industry, the market conditions, opportunities, accessibility standards and options, and other pertinent factors of each commodity, which then affects the choices made by contracting officers in determining, for example, such things as the basis of payment and the selection methodology. Clients should also use their understanding of the commodity, including relevant standards or best practices, when defining their technical and accessibility requirements and scope. This would include any market analysis of capacity when the procurement is subject to a Comprehensive Land Claims Agreement.  
    Contracting officers should also keep themselves informed about such things as the proposed contractor's performance history, financial situation and practices, before recommending a contract award. It also means keeping up to date with a contractor during the performance of a contract.
11. Life Cycle Management of Assets  
    Life Cycle Management of Assets (LCMA) is an integrated approach to materiel management that looks at the process as a complete system rather than separate activities. While this process is primarily the responsibility of materiel managers within client departments, procurement and disposal are a part of this process so contracting officers should discuss with the client the implications of the life cycle management process for each procurement.
12. Maintain records  
    Contracting officers must keep procurement files up to date for reasons of good management, access to information requests as well as for audit purposes. Current files should be kept up to date for anyone who may have to consult the file or assume responsibility for it at a later date. For further details, please refer to section [1.80 Information management and file documentation in the procurement process](#_1.80_Information_management), [Annex 1.4: Guidelines on paper file documentation for procurement](https://canadabuys.canada.ca/en/how-procurement-works/policies-and-guidelines/supply-manual/chapter-1-annexes#_1-4) and [Annex 1.5: Guidelines on electronic file documentation for procurement](https://canadabuys.canada.ca/en/how-procurement-works/policies-and-guidelines/supply-manual/chapter-1-annexes#_1-5).
13. Use standard documents  
    For every solicitation process (with the exception of construction and architecture and engineering services), whether for competitive or non-competitive requirements, contracting officers must only use the departmental [standard procurement templates](https://buyandsell.gc.ca/policy-and-guidelines/Standard-Acquisition-Clauses-and-Conditions-SACC-Manual/Standard-Procurement-Templates) and the clauses of the Standard Acquisition Clauses and Conditions (SACC) Manual. Contracting officers should obtain from their supervisor the most current standard documents that have been developed in accordance with these templates within their respective areas. Directorates requiring assistance in developing documents based on these templates should contact the Strategic Policy Development and Integration Directorate of the Strategic Policy Sector by email at: [TPSGC.Outilsdapprovisionnement-ProcurementTools.PWGSC@tpsgc-pwgsc.gc.ca](mailto:TPSGC.Outilsdapprovisionnement-ProcurementTools.PWGSC@tpsgc-pwgsc.gc.ca). For more information, see section [4.15.1 Departmental standard procurement templates](https://canadabuys.canada.ca/en/how-procurement-works/policies-and-guidelines/supply-manual/chapter-4#_4-15-1).

## 1.15 The legal framework of contracting

Effective date: 2010-01-11

The legal framework is comprised of:

1. statutes and regulations;
2. agreements;
3. policies, directives, procedures and guidelines; and,
4. challenge process.

See sections [1.20 Statutes and regulations](#_1.20_Statutes_and)to [1.35 Challenge process](#_1.35_Challenge_Process)for a description.

## 1.20 Statutes and regulations

Effective date: 2010-01-11

1. PWGSC procurement activities are principally carried out pursuant to the following major statutes:
   1. [*Department of Public Works and Government Services Act*](http://laws-lois.justice.gc.ca/eng/acts/P-38.2/);
   2. [*Financial Administration Act*](http://laws-lois.justice.gc.ca/eng/acts/f-11/) and the [*Government Contracts Regulations*](http://laws-lois.justice.gc.ca/eng/regulations/SOR-87-402/);
   3. [*Defence Production Act*](http://laws-lois.justice.gc.ca/eng/acts/d-1/);
   4. [*Federal Accountability Act*](http://laws-lois.justice.gc.ca/eng/acts/F-5.5/index.html);
   5. [*Government Contracts Regulations*](http://laws-lois.justice.gc.ca/eng/regulations/SOR-87-402/).
2. No legal interpretation should be attempted on the basis of the following sections which summarize the acts. An electronic copy of the acts may be viewed on the [Department of Justice](http://lois-laws.justice.gc.ca/eng/index.html) Web site.

### 1.20.1 Department of Public Works and Government Services Act

Effective date: 2022-12-01

1. The [*Department of Public Works and Government Services Act*](http://laws-lois.justice.gc.ca/eng/acts/P-38.2/) came into force on July 12, 1996, to give legislative sanction to the amalgamation of the former department of Public Works and the former Department of Supply and Services together with the Translation Bureau and the Telecommunication Services for government. The legal name of the Department is "Department of Public Works and Government Services"; while "Public Works and Government Services Canada" or "PWGSC" is the common usage name. The legal name of the Department must be used for the preparation and execution of legal documents.
2. The Act:
   1. constitutes the Department;
   2. provides for the appointment of a minister who has the management and direction of the Department;
   3. provides for the appointment of a deputy minister as deputy head of the Department;
   4. provides that the Minister is the Receiver General for Canada and the Deputy Minister is the Deputy Receiver General;
   5. sets out the powers, duties and functions of the Minister which extends to and includes all matters over which Parliament has jurisdiction, not by law assigned to any other department, board or agency of the Government of Canada.
3. Sections 6 and 7 outline in detail the powers, duties and functions of the Minister. With respect to acquisitions, the following services are specifically identified in Section 6:
   1. acquisition and provision of articles, supplies, machinery, equipment and other materiel for departments;
   2. acquisition and provision of services for departments;
   3. planning and organizing of the provision of materiel and services required by departments;
   4. acquisition and provision of printing and publishing services for departments; and
   5. construction, maintenance and repair of public works, federal real property and federal immovable.
4. Section 8 allows the Minister to delegate any of the Minister's powers, duties or functions under the Act to an appropriate minister, within the meaning of the [*Financial Administration Act*](http://laws-lois.justice.gc.ca/eng/acts/f-11/), for any period and under any terms and conditions that the Minister considers suitable. Section 8 also provides the Minister of PWGSC with the power to authorize other Ministers, to whom he or she has delegated powers under the Act, to sub delegate those powers to the "chief executive" of the relevant department. Subsection 8(3) empowers a minister receiving the authority to sub-delegate to the officials who are in charge of the departments in that minister's portfolio and subsection 8(4) empowers those officials in turn, to sub-delegate to departmental officials under their jurisdiction.
5. Section 9 gives the Minister the exclusive authority for the acquisition of goods. All ministers have inherent power to contract; however, the authority given to the Minister in section 9 supplants the authority of each department to contract for goods. That authority may be restored to the extent determined by the Minister of PWGSC through a delegation, in accordance with section 8, from the Minister of PWGSC to the Minister responsible. Departments may enter into contracts for services under their own authorities, up to the limits contained in Appendix A: Contracting Approvals of the [*Directive on the Management of Procurement*](https://www.tbs-sct.canada.ca/pol/doc-eng.aspx?id=32692); however, they may still choose to have these contracts for services done by PWGSC.
6. Section 16 empowers the "Minister to do anything for or on behalf of:
   1. any department, board or agency of the Government of Canada or Crown Corporation; or
   2. with the approval of the Governor in Council, any government, body or person in Canada or elsewhere that requests the Minister to do that thing, where the Minister is authorized to do that thing under this or any other Act of Parliament for or on behalf of any department, board or agency of the Government of Canada."
7. Sections 20 and 21 provide the necessary contracting powers of the Minister, including the power to fix terms and conditions of contracts, and instructions, terms and conditions with respect to other documents relating to contracts and their formation. Section 22 gives the Minister the power to incorporate contractual clauses by reference.

### 1.20.5 Financial Administration Act and the Government Contracts Regulations

Effective date: 2022-12-01

1. The [*Financial Administration Act*](http://laws-lois.justice.gc.ca/eng/acts/f-11/) provides the legal framework for the collection and expenditure of public funds, including the contracting practices of PWGSC and its clients. Sections 32, 33, 34, 37, 40 and 41 are of direct interest to contracting officers.
2. Section 32 provides that no contract providing for a payment can be entered into unless there is sufficient funding available to discharge any debt that under the contract will be incurred during the fiscal year in which the contract is entered into. Section 33 requires that no charge can be made against an appropriation except on the requisition of the appropriate Minister of the department for which the appropriation was made or of a person authorized in writing by that Minister.
3. Pursuant to section 34, no payment can be made unless the deputy of the appropriate Minister, or another person authorized by the Minister certifies, in the case of a payment for the performance of work, the supply of goods or the rendering of services, that the work has been performed, the goods supplied or the service rendered and that the price charged is in accordance with the contract, or if not specified in the contract, is reasonable. Under [1.20(a) (ii)](https://canadabuys.canada.ca/en/how-procurement-works/policies-and-guidelines/supply-manual/chapter-1#_1-20), payment may be made before completion of the work (i.e., advance or progress payment) but only if such payment is in accordance with the contract.
4. Sections 37 and 37.1 provide that any unexpended portion of an appropriation lapses at the end of the fiscal year, except that a debt incurred for work performed, goods received or services rendered before the end of the fiscal year must be recorded as an expenditure against the appropriation, even though payment is made during the following fiscal year.
5. Section 40 provides that it is a term of every contract providing for the payment of any money by His Majesty under that contract is subject to there being an appropriation for the particular service for the fiscal year in which any commitment under that contract would come in course of payment.
6. Section 41 provides for regulations with respect to the conditions under which contracts may be entered into.
7. Sections 61 and 62 restrict the transfer, lease or loan of public property and require each department to maintain adequate records of its public property. However, pursuant to the *Public Property Loan Regulations*, (SOR/92-745), section 61 permits ministers to loan public property, subject to certain conditions.
8. Sections 66 to 71 describe conditions under which Crown debts may be assigned, and the procedure to follow.
9. Contracting officers should be familiar with the [*Government Contracts Regulations (GCR)*](http://laws-lois.justice.gc.ca/eng/regulations/SOR-87-402/index.html). Part I of the GCRs deals with conditions of contract entry. Section 4 provides that contracts for legal services are only entered into by the Minister of Justice. Section 5 sets out the requirement for soliciting bids and section 6 specifies conditions under which bids need not be solicited. Section 8 and 9 authorize advance payments and progress payments. Part II deals with bid and contract security.

### 1.20.10 Defence Production Act

Effective date: 2010-01-11

1. The [*Defence Production Act (DPA)*](http://laws-lois.justice.gc.ca/eng/acts/d-1/) gives the Minister of PWGSC the responsibility to administer the DPA and the exclusive authority to buy or otherwise acquire defence supplies and construct defence projects required by the Department of National Defence, subject to exceptions listed at subsection 10(2) of the DPA. All PWGSC contracts for defence supplies or projects are governed by the provisions of the DPA.
2. The DPA includes the following three parts: (1) Procurement of Defence Supplies; (2) Regulations of Access to Controlled Goods; and (3) Offence and Punishment.
3. In Part 1, Section 11 permits the Minister, if authorized by the Governor in Council, to do or undertake, on behalf of an associated government, any act or thing that the Minister is empowered to do or undertake under the Act. Sections 12 to 15 deal with the Minister's mandate to organize and control the Canadian defence industry. Section 16 provides wide powers to the Minister with respect to the procurement, production or disposal of defence supplies or defence projects. Sections 21 to 25 deal with the administration of defence contracts.
4. Part 2 deals with the regulation of access to controlled goods, including requirements for registration, offences and prohibitions. Part 3 defines offences, continuing offence and factors to consider when sentencing.

### 1.20.15 *Federal Accountability Act*

Effective date: 2010-08-16

1. The [*Federal Accountability Act*](http://laws-lois.justice.gc.ca/eng/acts/F-5.5/index.html)*(*FedAA*)* was granted Royal Assent on December 12, 2006. The Act provides for conflict of interest rules, measures respecting administrative transparency, oversight and accountability. The Act enacts two new acts (the [*Conflict of Interest Act*](http://laws-lois.justice.gc.ca/eng/acts/C-36.65/)and the [*Director of Public Prosecutions Act*](http://laws-lois.justice.gc.ca/eng/acts/D-2.5/page-1.html)) and makes a series of amendments to existing legislation such as the [*Parliament of Canada Act*](http://laws-lois.justice.gc.ca/eng/acts/p-1/index.html), the [*Lobbying Act*](http://laws-lois.justice.gc.ca/eng/acts/L-12.4/), the [*Financial Administration Act*](http://laws-lois.justice.gc.ca/eng/acts/f-11/), the [*Criminal Code*](http://laws-lois.justice.gc.ca/eng/acts/C-46/) and the [*Department of Public Works and Government Services Act*](http://laws-lois.justice.gc.ca/eng/acts/P-38.2/).
2. The FedAA also amends the [*Department of Public Works and Government Services Act*](http://laws-lois.justice.gc.ca/eng/acts/P-38.2/) to provide for the appointment and mandate of a Procurement Ombudsman. See [1.35.5 Procurement Ombudsman](#_1.35.5_Procurement_Ombudsman)for more details.

### 1.20.20 Other Acts

Effective date: 2010-01-11

In addition to the above statutes, examples of other acts which also apply to contracting for goods and services are as follows:

1. [*Conflict of Interest Act*](http://laws-lois.justice.gc.ca/eng/acts/C-36.65/);
2. [*Access to Information Act*](http://laws-lois.justice.gc.ca/eng/acts/A-1/);
3. [*Privacy Act*](http://laws-lois.justice.gc.ca/eng/acts/P-21/index.html);
4. [*Official Languages Act*](http://laws-lois.justice.gc.ca/eng/acts/O-3.01/);
5. [*Lobbying Act*](http://laws-lois.justice.gc.ca/eng/acts/L-12.4/);
6. [*Criminal Code*](http://laws-lois.justice.gc.ca/eng/acts/C-46/);
7. [*Competition Act*](http://laws-lois.justice.gc.ca/eng/acts/C-34/);
8. [*Department of Justice Act*](http://laws-lois.justice.gc.ca/eng/acts/J-2/);
9. [*Bankruptcy and Insolvency Act*](http://laws-lois.justice.gc.ca/eng/acts/B-3/).

## 1.25 Agreements

Effective date: 2010-01-11

### 1.25.1 International and national trade agreements

Effective date: 2021-04-01

1. Canada is a Party to several trade agreements (TAs) which include obligations aimed at reducing trade barriers between the Parties in the area of government procurement:
   1. Canada is Party to the [Canadian Free Trade Agreement](https://www.cfta-alec.ca/) (CFTA) with the provinces and territories.

**Note**: The CFTA replaced the [Agreement on Internal Trade](https://www.cfta-alec.ca/wp-content/uploads/2017/06/Consolidated-with-14th-Protocol-final-draft.pdf) (AIT) on July 1, 2017. The AIT continues to apply only to procurements commenced before July 1, 2017, until those procurements are complete.

* 1. Canada is also Party to several international trade agreements (ITAs):

[Canada - European Union Comprehensive Economic and Trade Agreement](http://www.international.gc.ca/trade-commerce/trade-agreements-accords-commerciaux/agr-acc/ceta-aecg/text-texte/toc-tdm.aspx?lang=eng) (CETA);

[Revised World Trade Organization Agreement on Government Procurement](https://www.wto.org/english/docs_e/legal_e/rev-gpr-94_01_e.htm) (WTO-AGP);

[Comprehensive and Progressive Agreement for Trans-Pacific Partnership](http://international.gc.ca/trade-commerce/trade-agreements-accords-commerciaux/agr-acc/cptpp-ptpgp/text-texte/index.aspx?lang=eng) (CPTPP);

[Canada - Chile Free Trade Agreement](http://international.gc.ca/trade-commerce/trade-agreements-accords-commerciaux/agr-acc/chile-chili/fta-ale/index.aspx?lang=en) (CCFTA);

[Canada - Colombia Free Trade Agreement](http://international.gc.ca/trade-commerce/trade-agreements-accords-commerciaux/agr-acc/colombia-colombie/fta-ale/index.aspx?lang=eng);

[Canada - Honduras Free Trade Agreement](http://international.gc.ca/trade-commerce/trade-agreements-accords-commerciaux/agr-acc/honduras/fta-ale/index.aspx?lang=eng);

[Canada - Korea Free Trade Agreement](http://international.gc.ca/trade-commerce/trade-agreements-accords-commerciaux/agr-acc/korea-coree/fta-ale/index.aspx?lang=eng);

[Canada - Panama Free Trade Agreement](http://international.gc.ca/trade-commerce/trade-agreements-accords-commerciaux/agr-acc/panama/fta-ale/index.aspx?lang=eng);

[Canada - Peru Free Trade Agreement](http://international.gc.ca/trade-commerce/trade-agreements-accords-commerciaux/agr-acc/peru-perou/fta-ale/index.aspx?lang=eng) (CPFTA);

[Canada - United Kingdom Trade Continuity Agreement](https://www.international.gc.ca/trade-commerce/trade-agreements-accords-commerciaux/agr-acc/cuktca-acccru/agreement_trade_continuity-accord_continuite_commerciale.aspx?lang=eng) (Canada-UK TCA);

[Canada - Ukraine Free Trade Agreement](http://international.gc.ca/trade-commerce/trade-agreements-accords-commerciaux/agr-acc/ukraine/text-texte/toc-tdm.aspx?lang=eng) (CUFTA).

**Note:** The [Canada-United States-Mexico Agreement](https://www.international.gc.ca/trade-commerce/trade-agreements-accords-commerciaux/agr-acc/cusma-aceum/text-texte/toc-tdm.aspx?lang=eng) (CUSMA) replaced the [North American Free Trade Agreement](http://international.gc.ca/trade-commerce/trade-agreements-accords-commerciaux/agr-acc/nafta-alena/fta-ale/index.aspx?lang=eng) (NAFTA) on July 1, 2020. Government procurement obligations of the CUSMA do not apply to Canada. NAFTA continues to apply to procurements commenced before July 1, 2020, until those procurements are complete.

1. For the most part, the Supply Manual refers to the international trade agreements collectively. In general, by complying with the procedural obligations of the WTO-AGP, the procedural obligations of the other international trade agreements will also be met. As coverage varies between agreements, whether a procurement is covered by an international trade agreement still must be determined pursuant to the Market Access Schedules of that Agreement.
2. The Canadian International Trade Tribunal is the mechanism by which Canada enforces the implementation of the procurement obligations in these trade agreements.
3. For assistance with the application of the trade agreements, contracting officers may contact the Trade Agreement Unit of the Strategic Policy Sector at [tpsgc.paaccordscommerciaux-aptradeagreements.pwgsc@tpsgc-pwgsc.gc.ca](mailto:tpsgc.paaccordscommerciaux-aptradeagreements.pwgsc@tpsgc-pwgsc.gc.ca).

### 1.25.2 General principles of trade agreements

Effective date: 2020-07-01

1. The government procurement obligations of all of Canada’s trade agreements are similarly structured:
   1. Procedural obligations for government procurement, such as rules on notices and time periods, are found in the Government Procurement Chapter of each trade agreement; and
   2. Market access obligations, such as which entities and commodities are covered, as well as exceptions specific to Canada, can be found in the Annexes to the Government Procurement Chapter.
2. Where a procurement is covered by a trade agreement, the procedural obligations of the trade agreement must be followed. Procedural obligations of the trade agreements are aimed at ensuring compliance with the general principles of:
   1. Open, transparent, and competitive tendering;
   2. Non-discrimination and national treatment, which prohibit discrimination against goods, services, and suppliers of other Parties to the trade agreements, or from discriminating against domestic suppliers based on the degree of foreign affiliation or ownership. For the Canadian Free Trade Agreement (CFTA), this means Parties cannot discriminate between the goods, services, or suppliers of particular Provinces, Territories, or regions; and
   3. Prohibition of offsets. Offsets are any condition or undertaking that encourages local development, such as the use of domestic or local content. Note that, when a procurement is covered by the CFTA only, Canadian content requirements may be applied, so long as those requirements do not discriminate between Provinces, Territories, or regions and are applied in a manner consistent with CFTA obligations. For example, see [Section 3.130 Canadian Content](https://canadabuys.canada.ca/en/how-procurement-works/policies-and-guidelines/supply-manual/chapter-3#_3-130).
3. The steps to determine coverage under a trade agreement are the same for all of Canada’s trade agreements. A procurement is covered by trade agreement if:
   1. its estimated value is equal to or greater than the relevant threshold;
   2. the client department is covered;
   3. the requirement is covered; and
   4. there is no express exclusion applicable (e.g. shipbuilding, etc.).\*

All four criteria must be met in order for the procurement to be covered by the applicable trade agreement. These steps are described in more detail in [Section 1.25.3 Determining coverage under a trade agreement](#_1.25.3_Determining_coverage).

\*If a set-aside or an exception is made use of or relied upon (e.g., National Security Exception (NSE), general exception for human life and safety, set-aside for minority businesses, etc.), some or all aspects of the procurement may not be subject to certain trade agreement obligations.

In such cases, in order to reduce risk, contracting officers should continue to follow the obligations of the trade agreements to the greatest extent possible, deviating only where necessary to serve the purpose(s) for which the exception is being used or the set-aside is being applied.

1. Coverage under multiple agreements:  
   A proposed procurement can be, and often is, covered by more than one trade agreement. In these instances, all trade agreements must be complied with at the same time. In order to accomplish this, the procedures to be followed are the trade agreement procedures that are considered the most rigorous. This can generally be achieved by compliance with the procedural obligations of the WTO-AGP.

### 1.25.3 Determining coverage under a trade agreement

Effective date: 2022-05-12

1. Determine the value of the requisition. A procurement may be subject to a trade agreement if the estimated value in Canadian dollars (including options and applicable taxes) is equal to or greater than the applicable threshold. Current trade agreement thresholds are published in [Treasury Board Contracting Policy Notice 2021-6](https://www.canada.ca/en/treasury-board-secretariat/services/policy-notice/contracting-policy-notice-2021-6.html) (valid until December 31, 2023). Thresholds are reviewed and converted to Canadian dollars every two years by the Treasury Board Secretariat.
   1. Rules regarding the valuation of a procurement can be found in the Government Procurement Chapter of the trade agreements. Contracting officers must not divide a procurement, or select or use a particular valuation method, with the intention of totally or partially excluding the procurement from coverage of the trade agreement(s). For example, see:
      1. The “Valuation” Article of the Government Procurement Chapter of the [CFTA](https://www.cfta-alec.ca/canadian-free-trade-agreement/);
      2. [Article II Scope and Coverage](https://www.wto.org/english/docs_e/legal_e/rev-gpr-94_01_e.htm#articleII) of the WTO-AGP;
      3. Article 19.2 – Scope and Coverage of [Chapter 19](http://www.international.gc.ca/trade-commerce/trade-agreements-accords-commerciaux/agr-acc/ceta-aecg/text-texte/19.aspx?lang=eng) of CETA; and
      4. Article 15.2: Scope of [Chapter 15](http://international.gc.ca/trade-commerce/trade-agreements-accords-commerciaux/agr-acc/tpp-ptp/text-texte/15.aspx?lang=eng) of the CPTPP.
   2. The Canada-Korea Free Trade Agreement (CKFTA) currently provides the lowest threshold for services at $100,000. When WTO-AGP procedural obligations are applied, the obligations of the CKFTA will also be met. Therefore, WTO-AGP procedural obligations are to be applied to all services procurements valued at or above $100,000 that are covered by the CKFTA. The determination of whether or not a procurement is covered by the CKFTA must still be made pursuant to the Market Access Schedules of the [Government Procurement Chapter](https://www.international.gc.ca/trade-commerce/trade-agreements-accords-commerciaux/agr-acc/korea-coree/fta-ale/14.aspx?lang=eng) of that agreement.
   3. For procurements where the total estimated maximum value of a procurement is not known and cannot be determined, but where the total maximum value of the procurement would definitely not be equal to or greater than the applicable trade agreement thresholds, and where the contracting officer wishes to conduct the procurement without regard to the obligations of the trade agreements, contracting officers must include tender/contract provisions that limit Canada's total potential liability under the resulting contract(s) to less than the applicable trade agreement threshold(s).
   4. For procurements where the total estimated maximum value of a procurement is not known and cannot be determined, but where the total maximum value of the procurement may be equal to or greater than the applicable trade agreement threshold(s), the procurement must be treated as covered by the applicable trade agreements, unless otherwise excluded from the agreement(s).
2. Determine whether the client department is covered by looking at the trade agreement's Market Access Schedule of Canada.
   1. For the [CFTA](https://www.cfta-alec.ca/canadian-free-trade-agreement/), all federal departments and agencies are subject to the CFTA procurement obligations, except those listed in the Schedule of Canada in the Party-Specific Exceptions Annex to the Government Procurement Chapter.

For the international trade agreements, the covered federal government entities are generally indicated in the first Annex or Section of Canada's Market Access Schedule. For examples, see:

* + 1. [Annex 1 – Central Government Entities](https://e-gpa.wto.org/en/Annex/Details?Agreement=GPA113&Party=Canada&AnnexNo=1&ContentCulture=en) of the WTO-AGP;
    2. [Annex 19-1](http://www.international.gc.ca/trade-commerce/trade-agreements-accords-commerciaux/agr-acc/ceta-aecg/text-texte/19-A.aspx?lang=eng#a1) of CETA; and
    3. Section A of [Annex 15-A](http://www.international.gc.ca/trade-commerce/trade-agreements-accords-commerciaux/agr-acc/tpp-ptp/text-texte/15-a3.aspx?lang=eng) of the CPTPP.
  1. For the [CFTA](https://www.cfta-alec.ca/canadian-free-trade-agreement/), all crown corporations are subject to the CFTA procurement obligations, except those listed in the Schedule of Canada in the Party-Specific Exceptions Annex to the Government Procurement Chapter.

For the international trade agreements, covered crown corporations are generally indicated in the third Annex or Section of Canada's Market Access Schedule. For examples, see:

* + 1. [Annex 3 – Other Entities](https://e-gpa.wto.org/en/Annex/Details?Agreement=GPA113&Party=Canada&AnnexNo=3&ContentCulture=en) of the WTO-AGP;
    2. [Annex 19-3](http://www.international.gc.ca/trade-commerce/trade-agreements-accords-commerciaux/agr-acc/ceta-aecg/text-texte/19-A.aspx?lang=eng#a3) of CETA; and
    3. Section C of [Annex 15-A](http://www.international.gc.ca/trade-commerce/trade-agreements-accords-commerciaux/agr-acc/tpp-ptp/text-texte/15-a3.aspx?lang=eng) of the CPTPP.

1. Determine whether the requirement is covered. A procurement may be subject to a trade agreement if the requirement is covered by the trade agreement.
   1. Coverage of goods, services, and construction services is generally found in the fourth, fifth, and sixth Annexes or Sections, respectively, of Canada's Market Access Schedule.
      1. Goods:  
         For the [CFTA](https://www.cfta-alec.ca/canadian-free-trade-agreement/), all goods are covered unless specified in the “Non-Application” provision of the Government Procurement Chapter or the Schedule of Canada in the Party-Specific Exceptions Annex to the Government Procurement Chapter.

In general, international trade agreements cover all goods. For the Department of National Defence (DND), the Royal Canadian Mounted Police (RCMP), and the Canadian Coast Guard (CCG), only certain goods are covered. For examples, see:

* + - 1. [Annex 4 – Goods](https://e-gpa.wto.org/en/Annex/Details?Agreement=GPA113&Party=Canada&AnnexNo=4&ContentCulture=en) of the WTO-AGP;
      2. [Annex 19-4](http://www.international.gc.ca/trade-commerce/trade-agreements-accords-commerciaux/agr-acc/ceta-aecg/text-texte/19-A.aspx?lang=eng#a4) of CETA; and
      3. Section D of [Annex 15-A](http://www.international.gc.ca/trade-commerce/trade-agreements-accords-commerciaux/agr-acc/tpp-ptp/text-texte/15-a3.aspx?lang=eng) of the CPTPP; and
      4. Annex 14-B of [Chapter 14](https://www.international.gc.ca/trade-commerce/trade-agreements-accords-commerciaux/agr-acc/korea-coree/fta-ale/14.aspx?lang=eng) the Canada-Korea Free Trade Agreement.
    1. Services:  
       For the [CFTA](https://www.cfta-alec.ca/canadian-free-trade-agreement/), all services are covered unless specified in the “Non-Application” provision of the Government Procurement Chapter or the Schedule of Canada in the Party-Specific Exceptions Annex to the Government Procurement Chapter.

Coverage of services varies between international trade agreements. It is important to note that in some ITAs, such as the WTO-AGP, the general rule is that only the services expressly listed are covered, while in other ITAs, such as the Canada-Chile Free Trade Agreement, the general rule is that all services are covered except for those expressly listed. For examples, see:

* + - 1. [Annex 5 - Services](https://e-gpa.wto.org/en/Annex/Details?Agreement=GPA113&Party=Canada&AnnexNo=5&ContentCulture=en) of the WTO-AGP;
      2. [Annex 19-5](http://www.international.gc.ca/trade-commerce/trade-agreements-accords-commerciaux/agr-acc/ceta-aecg/text-texte/19-A.aspx?lang=eng#a5) of CETA;
      3. Section E of [Annex 15-A](http://www.international.gc.ca/trade-commerce/trade-agreements-accords-commerciaux/agr-acc/tpp-ptp/text-texte/15-a3.aspx?lang=eng) of the CPTPP;
      4. Annex 14-C of [Chapter 14](https://www.international.gc.ca/trade-commerce/trade-agreements-accords-commerciaux/agr-acc/korea-coree/fta-ale/14.aspx?lang=eng) of the Canada-Korea Free Trade Agreement; and
      5. [Annex K bis-01.1-4](https://www.international.gc.ca/trade-commerce/trade-agreements-accords-commerciaux/agr-acc/chile-chili/fta-ale/03kbis_annex-annexe.aspx?lang=en#04) of the Canada-Chile Free Trade Agreement.

For the DND, the RCMP, and the CCG, services related to goods are only covered if the goods they relate to are covered.

* + 1. Construction Services:  
       For the [CFTA](https://www.cfta-alec.ca/canadian-free-trade-agreement/), all construction services, including dredging services and construction services procured by or on behalf of the Department of Transport, are covered unless specified in the “Non-Application” provision of the Government Procurement Chapter or the Schedule of Canada in the Party-Specific Exceptions Annex to the Government Procurement Chapter.

In general, ITAs cover all construction services identified in Division 51 of the United Nations Central Product Classification (CPC), with the exception of construction services procured by or on behalf of the Department of Transport. Further, dredging services are only covered by CETA and the Canada-UK TCA. For more information on dredging services, see [1.25.3.1 Coverage of dredging services](#_1.25.3.1_Coverage_of). For example:

* + - 1. [Annex 6 – Construction Services](https://e-gpa.wto.org/en/Annex/Details?Agreement=GPA113&Party=Canada&AnnexNo=6&ContentCulture=en) of the WTO-AGP;
      2. [Annex 19-6](http://www.international.gc.ca/trade-commerce/trade-agreements-accords-commerciaux/agr-acc/ceta-aecg/text-texte/19-A.aspx?lang=eng#a6) of CETA; and
      3. Section F of [Annex 15-A](http://www.international.gc.ca/trade-commerce/trade-agreements-accords-commerciaux/agr-acc/tpp-ptp/text-texte/15-a3.aspx?lang=eng) of the CPTPP.

1. Determine if any exclusions apply. Trade agreements do not apply to any procurement where an express exclusion exists.
   1. List of exclusions are found in Canada's Market Access Schedule in the seventh Annex or Section, as well as in the Notes to other Annexes or Sections. For examples, see:
      1. the General Exceptions Chapter of the [CFTA](https://www.cfta-alec.ca/canadian-free-trade-agreement/);
      2. [Annex 7 – General Notes](https://e-gpa.wto.org/en/Annex/Details?Agreement=GPA113&Party=Canada&AnnexNo=7&ContentCulture=en) of the WTO-AGP;
      3. [Annex 19-7](http://www.international.gc.ca/trade-commerce/trade-agreements-accords-commerciaux/agr-acc/ceta-aecg/text-texte/19-A.aspx?lang=eng#a7) of CETA; and
      4. Section G of [Annex 15-A](http://www.international.gc.ca/trade-commerce/trade-agreements-accords-commerciaux/agr-acc/tpp-ptp/text-texte/15-a3.aspx?lang=eng) of the CPTPP.
2. Decide if any exceptions, such as a National Security Exception (NSE) or the general exception for human life and safety, will be invoked or relied upon for the requirement. If an exception will be used, some or all aspects of the procurement may not be subject to certain trade agreement obligations. In order to reduce risk, contracting officers should continue to follow the obligations of the trade agreements to the greatest extent possible, deviating only where necessary to serve the purpose(s) for which the exception is being used.

The list of general exceptions for a trade agreement can typically be found in the Security and General Exceptions Article of the Government Procurement Chapter; however, some trade agreements, such as the CPTPP, also include exceptions in a specific “Exceptions” Chapter. For examples, see:

* 1. the General Exceptions Chapter of the [CFTA](https://www.cfta-alec.ca/canadian-free-trade-agreement/);
  2. [Article III – Security and General Exceptions](https://www.wto.org/english/docs_e/legal_e/rev-gpr-94_01_e.htm#articleIII) of the WTO-AGP;
  3. Article 19.3: Security and General Exceptions of [Chapter 19](http://www.international.gc.ca/trade-commerce/trade-agreements-accords-commerciaux/agr-acc/ceta-aecg/text-texte/19.aspx?lang=eng) of CETA; and
  4. Article 15.3: Exceptions of [Chapter 15](http://international.gc.ca/trade-commerce/trade-agreements-accords-commerciaux/agr-acc/tpp-ptp/text-texte/15.aspx?lang=eng) and Article 29.2: Security Exceptions of [Chapter 29](http://international.gc.ca/trade-commerce/trade-agreements-accords-commerciaux/agr-acc/tpp-ptp/text-texte/29.aspx?lang=eng) of the CPTPP.

See section [3.105 National security exceptions](https://canadabuys.canada.ca/en/how-procurement-works/policies-and-guidelines/supply-manual/chapter-3#_3-105)for more information on NSEs.

Canada's free trade agreements pose no impediment to the inclusion of measures for the benefit of Indigenous Peoples and/or businesses in a procurement. This includes procurement obligations pursuant to Modern Treaties (Comprehensive Land Claims Agreements). For more information on Comprehensive Land Claims Agreements (CLCAs), see [9.35 Modern treaties](https://canadabuys.canada.ca/en/how-procurement-works/policies-and-guidelines/supply-manual/chapter-9#_9-35). For more information on the Procurement Strategy for Indigenous Business (PSIB), see [9.40 Procurement Strategy for Indigenous Business](https://canadabuys.canada.ca/en/how-procurement-works/policies-and-guidelines/supply-manual/chapter-9#_9-40).

1. Decide if any set-asides, such as the set-aside for minority businesses, will be applied. Set-asides may apply to the entire procurement or to only part of the procurement. If all or part of a procurement is set-aside, some or all aspects of the procurement may not be subject to certain trade agreement obligations. In order to reduce risk, contracting officers should continue to follow the obligations of the trade agreements to the greatest extent possible, deviating only where necessary consistent with achieving the goal(s) for which the set-aside was applied.

Canada's set-asides are found in Canada's Market Access Schedule in the seventh Annex or Section. For examples, see:

* 1. the 'Set-asides' provision of the Government Procurement Chapter of the [CFTA](https://www.cfta-alec.ca/canadian-free-trade-agreement/);
  2. [Annex 7 – General Notes](https://e-gpa.wto.org/en/Annex/Details?Agreement=GPA113&Party=Canada&AnnexNo=7&ContentCulture=en) of the WTO-AGP;
  3. [Annex 19-7](http://www.international.gc.ca/trade-commerce/trade-agreements-accords-commerciaux/agr-acc/ceta-aecg/text-texte/19-A.aspx?lang=eng#a7) of CETA; and
  4. Section G of [Annex 15-A](http://www.international.gc.ca/trade-commerce/trade-agreements-accords-commerciaux/agr-acc/tpp-ptp/text-texte/15-a3.aspx?lang=eng) of the CPTPP.

Canada's free trade agreements pose no impediment to the inclusion of measures for the benefit of Indigenous Peoples and/or businesses in a procurement. This includes procurement obligations pursuant to Modern Treaties (Comprehensive Land Claims Agreements). For more information on Comprehensive Land Claims Agreements (CLCAs), see [9.35 Modern treaties](https://canadabuys.canada.ca/en/how-procurement-works/policies-and-guidelines/supply-manual/chapter-9#_9-35). For more information on the Procurement Strategy for Indigenous Business (PSIB), see [9.40 Procurement Strategy for Indigenous Business](https://canadabuys.canada.ca/en/how-procurement-works/policies-and-guidelines/supply-manual/chapter-9#_9-40).

1. If:
   1. the estimated value of the procurement is equal to or greater than the relevant threshold;
   2. the client department is covered;
   3. the requirement is covered; and
   4. there is no express exclusion applicable;

then the procurement is covered by the trade agreement and the obligations of the trade agreement apply.

If a set-aside or an exception is made use of or relied upon, some or all aspects of the procurement may not be subject to certain trade agreement obligations. In such cases, in order to reduce risk, contracting officers should continue to follow the obligations of the trade agreements to the greatest extent possible, deviating only where necessary to serve the purpose(s) for which the exception is being used or the set-aside is being applied.

If the procurement is covered by more than one trade agreement, all applicable trade agreements must be complied with at the same time by following the trade agreement procedures that are considered the most rigorous.

1. For complex procurements, it may be difficult to determine coverage. For example, a procurement may consist of both goods and services, making it difficult to classify, or may include a variety of client departments and commodities where some are covered by trade agreements and others are not. In such cases, contracting officers should contact the Trade Agreement Unit of the Strategic Policy Sector at [tpsgc.paaccordscommerciaux-aptradeagreements.pwgsc@tpsgc-pwgsc.gc.ca](mailto:tpsgc.paaccordscommerciaux-aptradeagreements.pwgsc@tpsgc-pwgsc.gc.ca).

#### 1.25.3.1 Coverage of dredging services

Effective date: 2021-04-01

1. The Canada-European Union Comprehensive Economic and Trade Agreement (CETA) and the Canada-United Kingdom Trade Continuity Agreement (Canada-UK TCA) are the only international trade agreements that cover dredging services (see [CETA Annex 19-6](https://www.international.gc.ca/trade-commerce/trade-agreements-accords-commerciaux/agr-acc/ceta-aecg/text-texte/19-A.aspx?lang=eng#a6) – Construction services and [Canada-UK TCA](https://www.international.gc.ca/trade-commerce/trade-agreements-accords-commerciaux/agr-acc/cuktca-acccru/agreement_trade_continuity-accord_continuite_commerciale.aspx?lang=eng) Article I). As such, when CETA and the Canada-UK TCA apply, in addition to dredging equipment of Canadian make and manufacture, dredging equipment and vessels of European Union (EU) member state and United Kingdom (UK) make and manufacture are permitted on the work, whether in dredging procurements or construction services procurements with dredging as a component.
2. Dredging services and dredging services that are incidental to construction services contracts are only covered for central government entities. The CETA and Canada-UK TCA construction services thresholds for central government entities apply.
3. For dredging procurements subject to CETA and the Canada-UK TCA, or dredging services that are incidental to CETA and Canada-UK TCA -covered construction services contracts, the following requirements apply:
   1. the vessel or other floating plant equipment used in the supply of the dredging services:
      1. is of Canadian, European Union or United Kingdom make or manufacture; or
      2. has been predominantly modified in Canada, the European Union or the United Kingdom and has been owned by a person located in Canada, the European Union or the United Kingdom for at least a year prior to the submission of the tender by the bidder; and
   2. the vessel must be registered in:
      1. Canada; or
      2. The United Kingdom or a Member State of the European Union and have been granted a temporary licence under the [*Coasting Trade Act*](https://laws-lois.justice.gc.ca/eng/acts/c-33.3/), S.C. 1992, c. 31. The temporary licence will be granted to the United Kingdom or European Union vessel, subject to applicable non-discretionary requirements. The requirement that a temporary licence will only be issued if there is no Canadian duty or non-duty paid vessel available will not be applied to the application for that temporary licence.

### 1.25.5 North American Free Trade Agreement (NAFTA)

Effective date: 2019-11-28

In order to simplify and streamline guidance with respect to trade agreements, the information previously found in this Section has been incorporated into Sections [1.25.2 General principles of trade agreements](#_1.25.2_General_principles) and [1.25.3 Determining coverage under a trade agreement](#_1.25.3_Determining_coverage).

For reference purposes only, Section 1.25.5 is available in the [Supply Manual archive](https://www.gcpedia.gc.ca/wiki/Supply_Manual_Archive) (accessible only on the Government of Canada network), Version 2019-1.

### 1.25.10 World Trade Organization Agreement on Government Procurement (WTO-AGP)

Effective date: 2019-11-28

In order to simplify and streamline guidance with respect to trade agreements, the information previously found in this Section has been incorporated into Sections [1.25.2 General principles of trade agreements](#_1.25.2_General_principles)and [1.25.3 Determining coverage under a trade agreement](#_1.25.3_Determining_coverage).

For reference purposes only, Section 1.25.10 is available in the [Supply Manual archive](https://www.gcpedia.gc.ca/wiki/Supply_Manual_Archive), (accessible only on the Government of Canada network), Version 2019-1.

### 1.25.11 Canada-European Union Comprehensive Economic and Trade Agreement (CETA)

Effective date: 2019-11-28

In order to simplify and streamline guidance with respect to trade agreements, the information previously found in this Section has been incorporated into Sections [1.25.2 General principles of trade agreements](#_1.25.2_General_principles), [1.25.3 Determining coverage under a trade agreement](#_1.25.3_Determining_coverage), and [1.25.3.1 Dredging services – CETA](#_1.25.3.1_Coverage_of).

For reference purposes only, Section 1.25.11 is available in the [Supply Manual archive](https://www.gcpedia.gc.ca/wiki/Supply_Manual_Archive) (accessible only on the Government of Canada network), Version 2019-1.

### 1.25.14 Canadian Free Trade Agreement (CFTA)

Effective date: 2019-11-28

In order to simplify and streamline guidance with respect to trade agreements, the information previously found in this Section has been incorporated into Sections [1.25.2 General principles of trade agreements](#_1.25.2_General_principles)and [1.25.3 Determining coverage under a trade agreement](#_1.25.3_Determining_coverage).

For reference purposes only, Section 1.25.14 is available in the [Supply Manual archive](https://www.gcpedia.gc.ca/wiki/Supply_Manual_Archive) (accessible only on the Government of Canada network), Version 2019-1.

### 1.25.15 Agreement on Internal Trade (AIT)

Effective date: 2019-11-28

In order to simplify and streamline guidance with respect to trade agreements, the information previously found in this Section has been incorporated into Section [1.25.1 International and national trade agreements](#_1.25.1_International_and).

For reference purposes only, Section 1.25.15 is available in the [Supply Manual archive](https://www.gcpedia.gc.ca/wiki/Supply_Manual_Archive) (accessible only on the Government of Canada network), Version 2019-1.

### 1.25.16 Bilateral Free Trade Agreements

Effective date: 2019-11-28

In order to simplify and streamline guidance with respect to trade agreements, the information previously found in this Section has been incorporated into Sections [1.25.1 International and national trade agreements](#_1.25.1_International_and), [1.25.2 General principles of trade agreements,](#_1.25.2_General_principles) and [1.25.3 Determining coverage under a trade agreement](#_1.25.3_Determining_coverage).

For reference purposes only, Section 1.25.16 is available in the [Supply Manual archive](https://www.gcpedia.gc.ca/wiki/Supply_Manual_Archive) (accessible only on the Government of Canada network), Version 2019-1.

### 1.25.20 Comprehensive Land Claims Agreements

Effective date: 2013-11-06

1. The federal government, represented by Aboriginal Affairs and Northern Development Canada (AANDC), has negotiated a number of Comprehensive Land Claims Agreements (CLCAs) with Aboriginal peoples. CLCAs are modern treaties that are based on the concept of continued Aboriginal rights and title to lands traditionally used and occupied by an Aboriginal group, which have not been dealt with by treaty or other legal means.
2. CLCAs **are law**. The CLCA obligations are legally binding because they are contained in agreements signed by Canada and backed by legislation. Furthermore, the Aboriginal rights detailed within them are constitutionally protected under [Section 35](http://laws-lois.justice.gc.ca/eng/Const/page-16.html) of the *Constitution Act 1982*.
3. Most CLCAs include measures dealing with procurement, and although these measures are not always identical in the various agreements, they are all aimed at enhancing economic opportunities of the Aboriginal group benefiting from the agreement, usually through increased possibilities of competing successfully for contracts in their settlement areas or of participating in employment, training or subcontracting opportunities.
4. To determine whether CLCAs apply to a procurement, and to learn how to address the CLCA obligations during the procurement process, refer to [9.35 Comprehensive Land Claims Agreements (CLCAs)](https://canadabuys.canada.ca/en/how-procurement-works/policies-and-guidelines/supply-manual/chapter-9#_9-35).

### 1.25.25 Other agreements

Effective date: 2010-01-11

Contracting officers should also be aware that a number of National Park Agreements and Department of National Defence Co-operation Agreements have been signed between individual departments and certain aboriginal groups. Reference to these agreements can be found in sections 7 to 10 of [Treasury Board Secretariat Contracting Policy Notice 1997-8](http://www.tbs-sct.gc.ca/Pubs_pol/dcgpubs/ContPolNotices/97-8-eng.asp).

## 1.30 Policies, directives and guidelines

Effective date: 2010-01-11

### 1.30.1 Treasury Board

Effective date: 2022-12-01

1. The Treasury Board (TB) is a Cabinet committee of the King's Privy Council of Canada. TB is responsible for accountability and ethics, financial, personnel and administrative management, comptrollership, approving regulations and most orders-in-council.
2. As the administrative arm of TB, the Treasury Board of Canada Secretariat (TBS) has a dual mandate to support TB as a committee of ministers and to fulfill the statutory responsibilities of a central government agency. TBS provides advice and support to TB ministers in their role of ensuring value-for-money and provides oversight of the financial management functions in departments and agencies. TBS makes recommendations and provides advice to the TB on policies, directives, regulations, and program expenditure proposals with respect to the management of the government's resources.

### 1.30.5 Treasury Board *Directive on the Management of Procurement*

Effective date: 2022-05-12

The Treasury Board [*Directive on the Management of Procurement*](https://www.tbs-sct.gc.ca/pol/doc-eng.aspx?id=32692), established under s. 7(1) of the [*Financial Administration Act*](http://laws-lois.justice.gc.ca/eng/acts/f-11/) (FAA), sets out the policy objective that procurement of goods, services and construction obtains the necessary assets and services that support the delivery of programs and services to Canadians, while ensuring best value to the Crown.

The expected results of the directive are as follows:

1. Procurements are managed in a manner that enables operational outcomes and demonstrates sound stewardship and best value consistent with the Government of Canada’s socio-economic and environmental objectives;
2. Procurement decisions are based on risk management practices, performance information and an assessment of full life-cycle costs whenever possible;
3. Effective governance and oversight mechanisms are in place to support the management of procurement;
4. Opportunities for collaboration are considered in procurement decisions;
5. Workforce capacity for the management of procurement is developed, maintained and commensurate with organizational need; and
6. Actions related to the management of procurement are fair, open and transparent, and meet public expectations in matters of prudence and probity.

### 1.30.10 Treasury Board Common Services Policy

Effective date: 2022-05-12

Treasury Board rescinded the [Common Services Policy](https://www.tbs-sct.canada.ca/pol/doc-eng.aspx?id=12025) on May 13, 2021, with the exception of subsection 6.5.3, Guard Services, in [Appendix E: Mandatory Services](https://www.tbs-sct.canada.ca/pol/doc-eng.aspx?id=12025#appE). On April 1, 2023, the Common Services Policy will be archived in its entirety.

### 1.30.15 Treasury Board Contracting Approvals

Effective date: 2022-12-01

The Appendix A: Contracting Approvals of the [*Directive on the Management of Procurement*](https://www.tbs-sct.canada.ca/pol/doc-eng.aspx?id=32692), issued pursuant to section 10 and paragraph 41(1)(a) of the FAA, sets basic contracting limits for contracting authorities, and provides specific contracting limits for specific ministers. The Directive sets out the limits above which departments must obtain TB approval. The application of the Directive to PWGSC is set out in [Chapter 6 Approvals and authorities](https://canadabuys.canada.ca/en/how-procurement-works/policies-and-guidelines/supply-manual/chapter-6).

### 1.30.20 Treasury Board procurement review policy

Effective date: 2020-05-04

This section has been removed as per [Policy Notification 138 - Changes to the Procurement Review Policy](https://buyandsell.gc.ca/policy-and-guidelines/policy-notifications/PN-138).

For reference purposes, section 1.30.20 is available in the [Supply Manual Archive](http://www.gcpedia.gc.ca/wiki/Supply_Manual_Archive) (accessible only on the Government of Canada network), Version 2019-3.

### 1.30.25 Code of Conduct for Procurement

Effective date: 2022-01-28

The [Code of Conduct for Procurement](https://www.tpsgc-pwgsc.gc.ca/app-acq/cndt-cndct/cca-ccp-eng.html) (the Code) is a statement of values and expectations that applies to vendors who provide goods and services to the Government of Canada where Public Works and Government Services Canada (PWGSC) is the procurement authority. The Code is included by reference in all of PWGSC’s contracts, standing offers and supply arrangements, and the contracts resulting from PWGSC’s standing offers or supply arrangements. Other Government of Canada departments and agencies are free to incorporate by reference PWGSC’s standard terms and conditions and the Code in their contracts.

## 1.35 Challenge process

Effective date: 2010-01-11

### 1.35.1 Canadian International Trade Tribunal

Effective date: 2023-06-08

1. The trade agreements require that each party have a bid challenge mechanism in place. Canada’s bid challenge authority is the [Canadian International Trade Tribunal](https://citt-tcce.gc.ca/en/home.html) (CITT). The Tribunal decides whether the federal government breached its obligations under certain trade agreements to which Canada is party. Where the trade agreements apply, a potential supplier may file a complaint concerning a procurement action to the CITT, on the grounds that any aspect of the procurement process relating to a requirement covered by these agreements is unfair or discriminatory. Under the CFTA, Canadian provinces and territories must also establish or designate an independent administrative or judicial authority to receive and review bid challenges.
2. CITT is authorized to receive complaints pertaining to any aspect of the procurement process up to and including contract award, and also to conduct inquiries and make determinations. In dealing with a complaint, CITT must determine whether the government institution responsible for the procurement under review has complied with the requirements of the trade agreements and such other procedural requirements, as prescribed in the Canadian International Trade Tribunal Procurement Inquiry Regulations.
3. Contracting officers may contact the PWGSC CITT expert advisor, by telephone at 873-455-1807 for assistance with respect to an actual or potential CITT action. Contracting officers should encourage suppliers to resolve issues directly with PWGSC before making a complaint to the CITT. Any matter brought to the attention of the contracting officer should be handled with a minimum of delay, while exercising due care and judgment. Experience demonstrates that there are often minor errors, omissions, or other inadvertent actions, which can quickly be clarified or corrected to the satisfaction of all concerned, thus removing the basis of many problems and concerns at the outset.
4. All PWGSC actions in response to a complaint filed with the CITT are coordinated through the PWGSC Coordination Office for Dispute Resolution Inquiries (CODRI). All requests, decisions, reports, letters, etc., to the CITT will be coordinated by CODRI in consultation with Legal Services and the procurement organization. The procurement organization is responsible for preparing a chronology of events that will form the "backbone" of the Government Institution Report (GIR). Legal Services will produce the remaining sections, with input from the procurement organization, other departmental specialists, and the client department, as required. The procurement organization's management remains responsible to review and approve the GIR, before the sign-off.
5. Contracting officers must ensure that complete documentation and records dealing with the complaint, including a dated record of all communications with suppliers, are maintained in order to substantiate that the procurement process was carried out in accordance with the obligations of the trade agreements. Throughout the complaint process, PWGSC will keep the client informed of actions taken in response to the complaint, as well as any notices, decisions, information, etc. received from the CITT.
6. The Assistant Deputy Minister, Acquisitions Branch, is the signing authority for requests for the rescission of Postponement of Award Orders.
7. Details about the CITT, including its complaint and inquiry process, are in the publication [Procurement Inquiries - Guide](https://citt-tcce.gc.ca/en/collections/procurement-inquiries/procurement-inquiries-guide.html). The CITT Determinations, Notices and Orders can also be viewed by using the [Advanced Search](https://decisions.citt-tcce.gc.ca/citt-tcce/en/a/s/index.do?cont=&ref=&d1=&d2=&or=) on the CITT website.

### 1.35.5 Procurement Ombudsman

Effective date: 2023-06-08

1. Sections 306 and 307 of the [*Federal Accountability Act*](http://laws-lois.justice.gc.ca/eng/acts/F-5.5/index.html) (FedAA) amend the [*Department of Public Works and Government Services Act*](http://laws-lois.justice.gc.ca/eng/acts/P-38.2/)to provide for the appointment and mandate of a procurement ombudsman. The Procurement Ombudsman has four primary functions, which are to:
   1. review the practices of departments for acquiring materiel and services to assess their fairness, openness and transparency and make any appropriate recommendations to the relevant department for the improvement of those practices;
   2. review any complaint respecting the award of a contract below the value of $30,300 for goods and below the value of $121,200 for services;
   3. review any complaint respecting the administration of a contract for the acquisition of materiel or services by a department, regardless of dollar value;
   4. ensure that an alternative dispute resolution process is provided, if both parties agree to participate;
   5. a possible fifth function is that the [*Federal Accountability Act*](http://laws-lois.justice.gc.ca/eng/acts/F-5.5/index.html) also specifies that the Procurement Ombudsman can also perform any other duty or function respecting the practices of departments for acquiring materiel and services that may be assigned to the Procurement Ombudsman by order of the Governor in Council or the Minister of Public Works and Government Services Canada.
2. The [Office of the Procurement Ombudsman (OPO)](http://opo-boa.gc.ca/index-eng.html) performs its duties and functions as set out in the [Procurement Ombudsman Regulations](http://laws-lois.justice.gc.ca/eng/regulations/SOR-2008-143/page-1.html).
3. The role of coordinating supplier complaints to OPO as well as OPO reviews of those procurement practices performed by Acquisitions Branch on behalf of clients has been assigned to the Coordination Office for Dispute Resolution Inquiries.
4. For assistance with respect to OPO related activities or potential complaints, contracting officers may contact the PWGSC Coordination Office for Dispute Resolution Inquiries, by telephone at 873-455-1807.

## 1.40 Departmental Delegation of Authority

Effective date: 2010-01-11

### 1.40.1 Use of Judgment and Knowledge

Effective date: 2010-01-11

1. The individual requirements of a particular procurement may suggest that a course of action other than one set out in this Manual should be followed. Wherever there is no instruction on a particular subject, contracting officers must use their judgement and knowledge following the guiding principles at subsection [1.10.5 Guiding principles](#_1.10.5_Guiding_principles).
2. PWGSC may be required to defend publicly a contracting officer's actions, and the contracting officer will be required to substantiate those actions. In the event that there is a need to deviate from an established policy or procedure, the process to be followed can only be presented in general terms:
   1. Any deviation must be identified in advance and must be carefully assessed and justified (including the reason for the deviation and the consequences of not deviating) for approval by the director general.
   2. The director general must determine whether more senior officials must become involved in the decision to deviate.

### 1.40.5 Contract approval and signing authorities

Effective date: 2010-01-11

Contracting officers are delegated authorities from the Minister of Public Works and Government Services Canada (PWGSC) to provide procurement and acquisitions-related services to departments and agencies. [See Chapter 6 Approvals and authorities](https://canadabuys.canada.ca/en/how-procurement-works/policies-and-guidelines/supply-manual/chapter-6)for further details.

## 1.45 Division of responsibilities between PWGSC and client departments

Effective date: 2021-12-02

1. The matrix at [Annex 1.1: Matrix of Responsibilities between PWGSC and Client Departments for the Procurement of Goods and Services (Generic)](https://canadabuys.canada.ca/en/how-procurement-works/policies-and-guidelines/supply-manual/chapter-1-annexes#_1-1)provides a generic division of anticipated types of responsibilities between PWGSC and client departments. It forms the basis for an effective and efficient partnering relationship for those who are responsible for activities within the procurement process.
2. The division of responsibilities, as shown in the matrix, represents a standard way of doing business. However, as every procurement and associated contract differs, alternate divisions of roles and responsibilities can be established in advance by way of a written agreement between PWGSC and the client. Such client-specific or procurement-specific arrangements or matrices will take precedence over this generic matrix. Legislation, regulations and policy will also take precedence over this matrix. [Annex 1.1.2: Specific Division of Responsibilities Agreements](https://canadabuys.canada.ca/en/how-procurement-works/policies-and-guidelines/supply-manual/chapter-1-annexes#_1-1-2)contains two client-specific agreements with the Department of National Defence.
3. A Memorandum of Understanding (MOU) has been signed with the Canadian Commercial Corporation. Details for these special procurement processes are described in [Chapter 9 - Special procurements](https://canadabuys.canada.ca/en/how-procurement-works/policies-and-guidelines/supply-manual/chapter-9).
4. The Client Engagement Directorate (CED) in Procurement Assistance Canada (PAC) maintains copies of separate MOUs signed for individual business requirements, which may be obtained by contacting an [account manager for government buyers](https://buyandsell.gc.ca/for-government/contacts-for-government-buyers/account-managers-for-government-buyers).
5. All Major Crown Projects (MCPs) have MOUs signed between the project and the contracting authorities to delineate project management responsibilities between the two departments. Copies of these MOUs may also be obtained from the CED or appropriate MCP office.

### 1.45.1 Litigation costs

Effective date: 2015-02-25

If a procurement conducted by Public Works and Government Services Canada on behalf of the client department is subject to any litigation proceedings (including a complaint to the Canadian International Trade Tribunal or to the Office of the Procurement Ombudsman, or other alternative dispute resolution process), the client will cover all of the costs (including legal costs, departmental administrative costs, any damages and any amounts required to be paid to third parties) associated with such proceedings.

## 1.50 Fairness monitoring

Effective date: 2015-09-24

1. PWGSC's fairness monitoring process provides independent assurance that specific PWGSC procurements are conducted in a fair, open and transparent manner.
2. A fairness monitor is an independent third party whose role is to observe all or part of a procurement process, to provide related feedback on fairness issues to the project team and to PWGSC's Departmental Oversight Branch, and to provide an unbiased and impartial opinion on the fairness of the observed procurement process.
3. The involvement of a fairness monitor in a procurement process in no way diminishes or absolves any PWGSC official of their accountabilities or responsibilities. (See [3.135 Fairness monitors](https://canadabuys.canada.ca/en/how-procurement-works/policies-and-guidelines/supply-manual/chapter-3#_3-135)for more details.)

## 1.55 Commodity management

Effective date: 2010-01-11

Commodity management is defined by a framework of governance and processes used to review, plan, acquire and control the total life cycle activities of a distinct group of goods and/or services. Use of the commodity management framework results in the award of Pre-competed Procurement Instrument(s), which should meet operational requirements of government departments while providing the optimal cost of ownership and disposal and achieving the best value for Canada. This is in keeping with Canada's commitment to deliver services smarter, faster and at a reduced cost.

### 1.55.1 Overview of commodity management

Effective date: 2015-09-24

Commodity management provides the following:

1. A government-wide approach to managing commonly used goods and services that meet the operational requirements of client departments and support their program and service objectives.
2. An effective "best practices" combination of:
   1. market and demand/spend analysis,
   2. total life cycle and risk analysis,
   3. governance and consultation,
   4. strategic sourcing and procurement practices to achieve the best value and reduce total cost to government through:
      1. volume optimization,
      2. purchase specification standardization and improvement,
      3. supply base optimization,
      4. purchasing process improvements and technology integration,
      5. demand, maintenance and spares management,
      6. best value evaluation,
   5. change management and training to improve client procurement process management,
   6. contract management including performance measurement and tracking.
3. Attention to these elements is done in the context of current procurement values and ethics of transparency, equity and openness as well as government socio-economic, sustainable development and environmental "green" improvement objective.

### 1.55.5 Goals and benefits of commodity management

Effective date: 2010-01-11

1. Some of the goals of commodity management are:
   1. to establish performance measures, to assess what, how and at what cost the government procures goods and services, thereby facilitating a successful continuous improvement program;
   2. to identify risk factors to government operations and mitigation strategies to manage those risks (e.g., strengths, weaknesses, opportunities and threats);
   3. to collaborate with client departments through inter-departmental commodity teams, resulting in the commitment to use government-wide procurement instruments, and
   4. to achieve the best value for Canada, including the lowest overall cost and ability to support socio-economic objectives, sustainable development and aboriginal objectives.
2. Some of the benefits of commodity management are:
   1. improved transparency, accountability and responsibility for procurement across the federal government;
   2. a simplified process that ensures efficient delivery of goods and services;
   3. ability to better understand, define and meet operational requirements for a full range of government programs, through close collaboration with client departments;
   4. stronger relationships with the supplier community and the use of procurement processes, leading to the selection of top-performing contractors and to obtain high-quality goods and/or services at best value, and
   5. more effective and pro-active contract management strategies and implementation plans.

### 1.55.10 Pre-competed Procurement Instruments

Effective date: 2010-01-11

1. Pre-competed Procurement Instruments (PCPIs), also known as Consolidated Procurements Instruments, can result in, but are not limited to, standing offers, supply arrangements, task authorization contracts, or government-wide contracts resulting from the commodity management processes and are put in place between Canada and one or more suppliers for the provision of a specific commodity over a specified period of time.
2. Departments and agencies should always consider use of these procurement instruments as the first method of supply of goods and services. There are both mandatory and non-mandatory PCPIs. In 2005, Treasury Board distributed a letter to departments and agencies for mandatory use of standing offers and supply arrangements for 10 [ARCHIVED - commodity categories](http://www.tbs-sct.gc.ca/pubs_pol/dcgpubs/contpolnotices/2005/04-eng.asp). Further details on the different methods of supply can be found in [Chapter 3 Procurement strategy](https://canadabuys.canada.ca/en/how-procurement-works/policies-and-guidelines/supply-manual/chapter-3)and [Chapter 4 Solicitation process](https://canadabuys.canada.ca/en/how-procurement-works/policies-and-guidelines/supply-manual/chapter-4).

## 1.60 Environmental considerations

Effective date: 2012-01-18

### 1.60.1 Green Procurement Policy

Effective date: 2023-04-11

1. The [Policy on Green Procurement](https://www.tbs-sct.gc.ca/pol/doc-eng.aspx?id=32573) was introduced through the [ARCHIVED - TB Contracting Policy Notice 2006-1](https://www.tbs-sct.gc.ca/pubs_pol/dcgpubs/ContPolNotices/2006/01-eng.asp), and came into effect on April 1, 2006. The objective of the policy is to advance the protection of the environment and to support sustainable development by integrating environmental performance considerations into the procurement decision-making process.
2. The policy is set within the context of "value for money" and a life cycle management approach. The policy requires that departments integrate environmental performance considerations as a key factor in procurement decisions that occur throughout the life cycle of assets and acquired services. Departments are also required to establish green procurement targets and monitor and report on their green procurement performance through the annual Report on Plans and Priorities and the Departmental Performance Report; or, if applicable, in the Sustainable Development Strategy section of the [Departmental Performance Report](https://www.tpsgc-pwgsc.gc.ca/rapports-reports/index-eng.html#a2). This policy applies to all departments and agencies.
   1. Pursuant to the policy, Treasury Board Secretariat has issued the [Standard on the Disclosure of Greenhouse Gas Emissions and the Setting of Reduction Targets](https://www.tbs-sct.canada.ca/pol/doc-eng.aspx?id=32743), (the GHG Disclosure Standard) effective April 1, 2023. The objective of the GHG Disclosure Standard is to induce suppliers to disclose their greenhouse gas (GHG) emissions and set reduction targets as per the commitments in the [Greening Government Strategy](https://www.canada.ca/en/treasury-board-secretariat/services/innovation/greening-government/strategy.html).
   2. The GHG Disclosure Standard applies to procurements valued over $25 million CAD including taxes, fees and options.
   3. The GHG Disclosure Standard may be addressed in the solicitation through inclusion of mandatory or point-rated evaluation criteria which require participation in an initiative or standard which addresses GHG emission disclosure, target-setting and reduction, such as Canada’s [Net-Zero Challenge](https://www.canada.ca/en/services/environment/weather/climatechange/climate-plan/net-zero-emissions-2050/challenge.html) or equivalent. Participation in the initiative must also be maintained throughout the duration of the contract, and relevant clauses must be included in the contract to this effect.
   4. Alternatively, participation may be included in the solicitation process via certification, or through a conditionally limited solicitation process. For example, if two or more bids/offers/arrangements are received from bidders/offerors/suppliers participating in the NZC or equivalent, only these will be evaluated.
   5. Non-competitive requirements may include a clause in the contract which requires participation in the NZC or equivalent precedent to contract award or before the end of the contract period. The date by which the Contractor must join the initiative must be determined prior to contract award and be included in the resulting contract through the appropriate SACC Manual clause.
   6. Contracting Officers must use caution when applying any of the above options to requirements subject to trade agreements or when market readiness is uncertain. Refer to [PN-157](https://buyandsell.gc.ca/policy-and-guidelines/policy-notifications/PN-157) or contact the Strategic Policy Sector Green and Clean Technology Procurement Technical Team for additional guidance.
3. The policy is described in further detail in [2.20 Green Procurement and Defining the Requirement](https://canadabuys.canada.ca/en/how-procurement-works/policies-and-guidelines/supply-manual/chapter-2#_2-20) and [3.65 Green Procurement Strategy](https://canadabuys.canada.ca/en/how-procurement-works/policies-and-guidelines/supply-manual/chapter-3#_3-65).
4. The implementation of the policy in Acquisitions Program (AP) is managed by the Strategic Policy Sector (SPS) Green and Clean Technology Procurement Technical Team. Contracting officers can contact the Green Procurement team by contacting [TPSGC.PAAchatsEcologiques-APGreenProcurement.PWGSC@tpsgc-pwgsc.gc.ca](mailto:TPSGC.PAAchatsEcologiques-APGreenProcurement.PWGSC@tpsgc-pwgsc.gc.ca).
5. Contracting officers are required to:
   1. take the online course [Green Procurement (COR405)](https://catalogue.csps-efpc.gc.ca/product?catalog=cor405&cm_locale=en) available through the [Canada School of Public Service](https://csps-efpc.gc.ca/index-eng.aspx);
   2. incorporate environmental considerations into the commodity management process for all procurement instruments, whenever feasible;
   3. advise all clients of the Green Procurement Policy and support them, using the information, tools and guidance available, to meet both the client needs and policy requirements; and
   4. record in procurement files and in procurement strategy approval documents that environmentally preferable goods or services have been considered.

### 1.60.2 Federal Sustainable Development Act

Effective date: 2021-12-02

In 2008, the [*Federal Sustainable Development Act*](https://laws-lois.justice.gc.ca/eng/acts/f-8.6/)was introduced to provide the legal framework for developing and implementing a Federal Sustainable Development Strategy. The objective of this strategy is to make decision making related to sustainable development more transparent and subject to accountability to Parliament, promote coordinated action across the Government of Canada to advance sustainable development, and respect Canada’s domestic and international obligations relating to sustainable development, with a view to improving the quality of life of Canadians.

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#### 1.60.2.1 Greening Government Strategy

Effective date: 2021-12-02

The [Greening Government Strategy](https://www.canada.ca/en/treasury-board-secretariat/services/innovation/greening-government/strategy.html) was introduced in 2017 as a cabinet directive to achieve the Federal Sustainable Development Strategy goal for greening government. It sets a target to reduce greenhouse gas emissions from federal operations by 40% by 2030 and 90% by 2050 relative to 2005 levels, with aspirations to achieve net-zero emissions by 2050. The Greening Government Strategy outlines specific measures to achieve this target and outlines a broader scope for greening efforts, including actions on adapting to climate change, transitioning to clean energy, and integrating greening across government procurement.

### 1.60.5 Centre for Greening Government

Effective date: 2021-12-02

The Centre for Greening Government was created in 2018 within the Treasury Board of Canada Secretariat (TBS). The Centre’s mandate is to ensure that Canada is a global leader in government operations that are net-zero, resilient and green. The Centre is responsible for leading the federal [Greening Government Strategy](https://www.canada.ca/en/treasury-board-secretariat/services/innovation/greening-government/strategy.html), which is committed to the green procurement of goods and services to aid the transition to a less carbon-intensive economy. Green procurement includes life-cycle assessment principles and the adoption of clean technologies and green products and services by:

1. Including criteria that address Greenhouse Gas (GHG) emissions reduction, sustainable plastics and broader environmental benefits into procurements that have a high environmental impact;
2. Incentivizing major suppliers to adopt a science-based target in line with the [Paris Agreement](https://unfccc.int/process-and-meetings/the-paris-agreement/the-paris-agreement), and to disclose their GHG emissions and environmental performance information;
3. Supporting departments in adopting clean technology and undertaking clean technology demonstration projects;
4. Eliminating the unnecessary use of single-use plastics in government operations, events and meetings;
5. Promoting the procurement of sustainable plastic products and the reduction of associated plastic packaging waste;
6. Strengthening support for green procurement, including guidance, tools and training for public service employees.

## 1.61 Accessible procurement

Effective date: 2022-05-12

1. The Treasury Board [*Directive on the Management of Procurement*](https://www.tbs-sct.gc.ca/pol/doc-eng.aspx?id=32692) (Directive) mandates the consideration of accessibility requirements in federal procurement. The objective of the Directive is to advance the objectives of the [*Accessible Canada Act*](https://laws-lois.justice.gc.ca/eng/acts/A-0.6/)(ACA) which requires organizations under federal jurisdiction to identify, remove and prevent barriers to accessibility in the procurement of goods, services and construction. This Directive requires, where appropriate, including accessibility considerations when specifying requirements for goods, services and construction, and ensuring that deliverables incorporate accessibility features. This also applies to procurements made using an acquisition card to purchase on behalf of the Government of Canada.
2. A key factor will be to consider accessibility in the early stages of the procurement process as to not create barriers for end-users. The consideration of accessibility may include consulting end-users, leveraging international accessibility standards or portions of them, and universal design principles to determine if accessibility criteria should be included in the procurement. For more information, please see section [9.5.10 Early involvement](https://canadabuys.canada.ca/en/how-procurement-works/policies-and-guidelines/supply-manual/chapter-9#_5-10).
3. The Treasury Board [*Directive on the Management of Procurement*](https://www.tbs-sct.gc.ca/pol/doc-eng.aspx?id=32692) is described in further detail in [2.21 Accessible procurement and requirements definition](https://canadabuys.canada.ca/en/how-procurement-works/policies-and-guidelines/supply-manual/chapter-2#_2-21).
4. Contracting authorities are required to:
   1. take any required training on accessible procurement;
   2. ensure clients consider accessibility and include accessibility criteria into the requirements, where appropriate, for goods and services being procured;
   3. advise business owners (client department or agency, technical authority) of the accessibility requirements within the Treasury Board [*Directive on the Management of Procurement*](https://www.tbs-sct.gc.ca/pol/doc-eng.aspx?id=32692) and support them, using information, tools and guidance available to meet both the business owner needs and Directive requirements; and
   4. ensure that the client provides a justification when accessibility criteria are not included in the procurement and keep that justification in the procurement file.
5. The implementation of the accessibility requirements to the Treasury Board [*Directive on the Management of Procurement*](https://www.tbs-sct.gc.ca/pol/doc-eng.aspx?id=32692) in Public Works and Government Services Canada (PWGSC) is managed by the Accessible Procurement Resource Centre (APRC), created in June 2018 and housed within the Strategic Policy Sector. Contracting authorities can learn more about the APRC by visiting the [Accessible Procurement Resources and Tools webpage](https://intranet.tpsgc-pwgsc.gc.ca/app-acq/text/ca-pc/roaa-aprt-eng.html) (accessible only on the Government of Canada network). Information on accessible procurement is also available on the [Office of Public Service Accessibility](https://www.gcpedia.gc.ca/wiki/Procurement/_Approvisionnement) (accessible only on the Government of Canada network) webpage. The APRC mandate is to support government buyers in integrating accessibility criteria into their procurement requirements. The APRC conducts research, engages government stakeholders, and provides policy guidance and tools to support the contracting community. Inquiries on accessible procurement can be submitted to the APRC by email at [TPSGC.PACRAAccessible-APAccessiblePRC.PWGSC@tpsgc-pwgsc.gc.ca](mailto:TPSGC.PACRAAccessible-APAccessiblePRC.PWGSC@tpsgc-pwgsc.gc.ca).
6. Further information on accessibility and its requirements and criteria can be found in the following sections of the Supply Manual:
   1. [1.10.10 Procurement best practices](#_1.10.10_Procurement_best)
   2. [1.61 Accessible procurement](#_1.61_Accessible_procurement)
   3. [Annex 1.1.1 Matrix of responsibilities between Public Works and Government Services Canada and client departments for the procurement of goods and services (generic)](https://canadabuys.canada.ca/en/how-procurement-works/policies-and-guidelines/supply-manual/chapter-1-annexes#_1-1-1)
   4. [Section A 1.1.2.1 Division of responsibilities between Public Works and Government Services Canada (PWGSC) and Department of National Defence (DND) for the acquisition of goods and services](https://canadabuys.canada.ca/en/how-procurement-works/policies-and-guidelines/supply-manual/chapter-1-annexes#_1-1-2-1)
   5. [2.1 Requirements definition](https://canadabuys.canada.ca/en/how-procurement-works/policies-and-guidelines/supply-manual/chapter-2#_2-1)
   6. [2.21 Accessible procurement and requirements definition](https://canadabuys.canada.ca/en/how-procurement-works/policies-and-guidelines/supply-manual/chapter-2#_2-21)
   7. [2.60 Requisition review](https://canadabuys.canada.ca/en/how-procurement-works/policies-and-guidelines/supply-manual/chapter-2#_2-60)
   8. [Annex 2.6 Accessible procurement: Factors and considerations](https://canadabuys.canada.ca/en/how-procurement-works/policies-and-guidelines/supply-manual/chapter-2-annexes#_2-6)
   9. [3.1.1 Planning the procurement](https://canadabuys.canada.ca/en/how-procurement-works/policies-and-guidelines/supply-manual/chapter-3#_3-1-1)
   10. [4.15.6 Accessible procurement requirements](https://canadabuys.canada.ca/en/how-procurement-works/policies-and-guidelines/supply-manual/chapter4#_4-15-6)
   11. [5.100 Special program considerations](https://canadabuys.canada.ca/en/how-procurement-works/policies-and-guidelines/supply-manual/chapter-5#_5-100)
   12. [6.5.5.1 Contract planning and advance approval instructions](https://canadabuys.canada.ca/en/how-procurement-works/policies-and-guidelines/supply-manual/chapter-6#_6-5-5-1)
   13. [9.5.10 Early involvement](https://canadabuys.canada.ca/en/how-procurement-works/policies-and-guidelines/supply-manual/chapter-9#_9-5-10)

## 1.62 COVID-19 Vaccination Policy for Supplier Personnel

Effective date: 2022-06-20

This section has been removed as per [Policy Notification 152R1 - COVID-19 Vaccination Policy for Supplier Personnel](https://buyandsell.gc.ca/policy-and-guidelines/policy-notifications/PN-152R1).

For reference purposes, section 1.62 is available in the [Supply Manual Archive](http://www.gcpedia.gc.ca/wiki/Supply_Manual_Archive) (accessible only on the Government of Canada network), Version 2022-1.

## 1.65 Policy on government security

Effective date: 2022-05-02

1. The objective of the [Policy on Government Security](https://www.tbs-sct.gc.ca/pol/doc-eng.aspx?id=16578), as it pertains to contracting, is to ensure that sensitive information and assets of the government are properly protected when entrusted to industry. The role of Public Works and Government Services Canada (PWGSC) in this process is to ensure that individuals and organizations that will have access to or will possess protected or classified information, assets or sites have first received the necessary security screening or clearance through the [Contract Security Program (CSP)](https://www.tpsgc-pwgsc.gc.ca/esc-src/index-eng.html), PWGSC.
2. PWGSC's Industrial Security Sector (ISS) is the Government of Canada’s authority for contract security and the lead in the public service to administer the CSP. The CSP is intended to ensure protection of Canadian and foreign government sensitive assets and information entrusted to industry for contracts administered by PWGSC and, on request, for contracts administered by other government departments, foreign governments, or international organizations. PWGSC’s CSP is responsible for validating and/or security screening private sector organizations and personnel requiring access to sensitive government information and assets. The Program also identifies the appropriate security terms and conditions to be included in each contractual instrument and ensures that contractors comply with the security requirements provided by the client department for safeguarding, disclosing, destroying, removing, modifying and interruption of government sensitive information/assets.
3. The project authority and the Chief Security Officers of departments and agencies are responsible for ensuring that their department or agency adheres to the Policy on Government Security and that provisions are made for any suppliers used to provide goods or services to ensure that they also meet the applicable security requirements.
4. The CSP is responsible, among other things, for the following services:
   1. provide the appropriate security clauses to be inserted into solicitation and contractual documents, as required, when a [Security Requirements Check List (SRCL)](https://www.tbs-sct.gc.ca/tbsf-fsct/350-103-eng.asp) has been used to identify the needs and processed by the CSP;
   2. carry out the appropriate security screening for suppliers that are awarded contracts with security requirements and ensure that they maintain their security clearance during the period of the contract;
   3. ensure that inspections are undertaken and regularly renewed at the suppliers' facilities, if required and appropriate; and
   4. carry out the security screening of the supplier personnel as required by the provisions of the contract.

Note that contracts may still have a security requirement, even though the contractual documents themselves are not designated as PROTECTED/CLASSIFIED.

1. Upon request, the CSP also handles the security requirements of contracts awarded by other government departments under their own contracting authority.
2. The Policy is issued by Treasury Board under the authority derived from government decision and section 7 of the [*Financial Administration Act*](http://laws-lois.justice.gc.ca/eng/acts/f-11/).
3. Each federal department is responsible for protecting sensitive information and assets under its control not only in its own operations but also throughout the bidding, negotiating, awarding, carrying out, and terminating of any contracts it manages. In contracting, the SRCL is used by PWGSC and client departments and agencies to identify their security requirements in a contract. See [2.50 Contract Security Requirements](https://canadabuys.canada.ca/en/how-procurement-works/policies-and-guidelines/supply-manual/chapter-2#_2-50), [3.55 Contract Security Requirements (personnel or organization)](https://canadabuys.canada.ca/en/how-procurement-works/policies-and-guidelines/supply-manual/chapter-3#_3-55)and [7.55 Contract security requirements](https://canadabuys.canada.ca/en/how-procurement-works/policies-and-guidelines/supply-manual/chapter-7#_7-55) for more information on contract security.  
   **Note**: The Contract Security Program (CSP) will provide the results of its screening to the contracting officers/client departments, who will then make a decision concerning contract award. The CSP will not approve or disapprove the decision. It is not its role.

## 1.70 Privacy in contracting

Effective date: 2021-12-02

1. Effective April 1, 2008, TB released a [Policy on Privacy Protection](http://www.tbs-sct.gc.ca/pol/doc-eng.aspx?id=12510&section=text). Canadians value their privacy and the protection of their personal information. They expect government institutions to respect the spirit and requirements of the [*Privacy Act*](http://laws-lois.justice.gc.ca/eng/acts/P-21/index.html). This policy must be read in conjunction with the [Policy on Service and Digital](https://www.tbs-sct.gc.ca/pol/doc-eng.aspx?id=32603), the [*Directive on Service and Digital*](https://www.tbs-sct.gc.ca/pol/doc-eng.aspx?id=32601) and the [Policy on Access to Information](https://www.tbs-sct.gc.ca/pol/doc-eng.aspx?id=12453). Additional mandatory privacy-related requirements are set out in the [ARCHIVED - Privacy Impact Assessment Policy](https://www.tbs-sct.gc.ca/pol/doc-eng.aspx?id=12450).
2. The Policy on Privacy Protection applies to government institutions as defined in section 3 of the [*Privacy Act*](http://laws-lois.justice.gc.ca/eng/acts/P-21/index.html)(the Act), including parent Crown corporations and any wholly owned subsidiary of these corporations. It does not apply to the Bank of Canada and to the information excluded under the Act.
3. The Government of Canada is committed to protecting the privacy of individuals with respect to the personal information that is under the control of government institutions. The government recognizes that this protection is an essential element in maintaining public trust in government. The Supreme Court of Canada has characterized the Act as "quasi-constitutional" because of the role privacy plays in the preservation of a free and democratic society.
4. Privacy protection in this sense means limiting government interventions into the private lives of Canadians to lawful and necessary purposes. It also means that government must ensure a high standard of care for personal information under the control of government institutions. The government also has to respond to requests for access to personal information. Sound information management plays a key role in facilitating the exercise of access rights under the Act and ensuring privacy protection.
5. Through government contracts, contracting authorities, clients and other departmental organizations are privy to individual and company private information. It is imperative that precautions are taken in contracting to safeguard this information. Some examples include such things as individual resumes that contain very personal information and secondly company private information that in the wrong hands may provide competing companies technical advantages, trade secrets or financial information.
6. PWGSC must ensure safeguards are put in place to protect individual and company private information by ensuring information is stored securely and that information is handled through limited distribution and provided only as necessary. Under no circumstances should a company's private information or an individual's personal information be shared with competitors or placed in the public domain without the written authorization of the originator of the information.
7. Contracting officers should review the [Guidance Document: Taking Privacy Into Account Before Making Contacting Decisions](https://www.canada.ca/en/treasury-board-secretariat/services/access-information-privacy/privacy/guidance-document-taking-privacy-into-account-before-making-contracting-decisions.html) whenever personal information about Canadians is to be handled or accessed by private sector suppliers or agencies under contract.

## 1.80 Information management and file documentation in the procurement process

Effective date: 2023-03-30

1. **Information management and documentation policy**

The Treasury’s Board [Policy on Service and Digital](https://www.tbs-sct.gc.ca/pol/doc-eng.aspx?id=32603)states that the strategic management of government information and data supports the delivery of services and the effectiveness of government operations*.* Sound information management and documentation are vital for departments to function and manage effectively and result in a responsive and accountable government.

Proper documentation helps the Department in supporting the Government of Canada’s key objectives under the [*Library and Archives of Canada Act*](https://laws-lois.justice.gc.ca/eng/acts/L-7.7/), to preserve records identified by the Librarian and Archivist to have historical or archival importance and to control the disposal or destruction of records by government institutions.

Maintaining accessible and complete files directly supports the Department in demonstrating transparency, due diligence and sound decision-making in cases of legal risk and liability.

1. **Contracting officers roles and responsibilities**

Contracting officers are responsible for storing and maintaining the documentation related to the procurement files they manage. As such, contracting officers must ensure that decisions and decision-making processes are documented with accuracy to account for and support the continuity of departmental operations as well as to support litigation readiness, and allow for independent evaluation, audit and review.

Contracting officers must ensure that any information received or created is maintained in its original format.

Contracting officers are responsible for ensuring that:

* 1. procurement files are well documented and complete;
  2. key documents and decisions are included to provide the file’s complete history;
  3. the information within the appropriate systems is updated with accuracy, such as the Electronic Procurement Solution (EPS), Galileo and Darwin; and
  4. information received or created in electronic format outside of EPS, is maintained in its original format and filed in the applicable [GCdocs procurement case file folder](https://gcdocs.gc.ca/tpsgc-pwgsc/llisapi.dll/open/32362105) (accessible only on the Government of Canada network).

## Annexes

Consult the list below of annexes related to Chapter 1 – Public procurement.

* [1.1 - Annex: Matrix of responsibilities](https://canadabuys.canada.ca/en/how-procurement-works/policies-and-guidelines/supply-manual/chapter-1-annexes)
  + [1.1.1 - Annex: Matrix of responsibilities between Public Works and Government Services Canada and client departments for the procurement of goods and services (generic)](https://canadabuys.canada.ca/en/how-procurement-works/policies-and-guidelines/supply-manual/chapter-1-annexes#_1-1-1)
  + [1.1.2 - Annex: Specific Division of Responsibilities Agreements](https://canadabuys.canada.ca/en/how-procurement-works/policies-and-guidelines/supply-manual/chapter-1-annexes#_1-1-2)
    - [1.1.2.1 - Section A: Division of responsibilities between Public Works and Government Services Canada (PWGSC) and Department of National Defence (DND) for the acquisition of goods and services](https://canadabuys.canada.ca/en/how-procurement-works/policies-and-guidelines/supply-manual/chapter-1-annexes#_1-1-2-1)
    - [1.1.2.2 - Section B: Division of Responsibilities between PWGSC and DND for the Quality Assurance of Materiel and Services](https://canadabuys.canada.ca/en/how-procurement-works/policies-and-guidelines/supply-manual/chapter-1-annexes#_1-1-2-2)
* [1.2 - Annex: Memorandum of understanding between the Royal Canadian Mounted Police and the Contract Security Program](https://canadabuys.canada.ca/en/how-procurement-works/policies-and-guidelines/supply-manual/chapter-1-annexes#_1-2)
* [1.3 - Annex: Canada Border Services Agency (CBSA) - Security requirements when Public Works and Government Services Canada (PWGSC) does the procurement](https://canadabuys.canada.ca/en/how-procurement-works/policies-and-guidelines/supply-manual/chapter-1-annexes#_1-3)
* [1.4 - Annex: Guidelines on paper file documentation for procurement](https://canadabuys.canada.ca/en/how-procurement-works/policies-and-guidelines/supply-manual/chapter-1-annexes#_1-4)
* [1.5 - Annex: Guidelines on electronic file documentation for procurement](https://canadabuys.canada.ca/en/how-procurement-works/policies-and-guidelines/supply-manual/chapter-1-annexes#_1-5)