



Governance of public procurement: Case of *Canada*

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Public Works and
Government Services
Canada

Travaux publics et
Services gouvernementaux
Canada

Canada 

Outline

- Procurement in Canada
- Policy and legal framework
- Key organizations in Canadian federal procurement
- Oversight bodies and mechanisms
- Procurement process and tools
- Key policy challenges, changes, initiatives

Procurement in Canada

- Procurement in Canada is de-centralized: in addition to the federal government, provincial governments and local public sector organizations do procurement within own areas of responsibility
- Nonetheless, the federal government remains a leading procurer of goods and services in Canada
- Core principles underpinning procurement: fair, open, transparent
- Governed by a number of acts, international and national trade agreements, as well as policies, directives, and guidelines



Procurement in Canada – federal level

- Annual value of Government of Canada procurement contracts is **\$23 billion** (avg over 3 FY):
 - **\$17.86 billion** (78%) by PSPC
 - **\$5.14 billion** (22%) by federal departments and agencies
- While PSPC manages the most procurement by value, the numbers are reversed when looking at the number of transactions:
 - Approx. 80% by federal departments and agencies and only 20% by PSPC.

Policy and Legal Framework

- There are many statutes, regulations, agreements, policies, directives, procedures and guidelines that govern contracting activities. To name a few :
 - *Financial Administration Act*
 - *Government Contracts Regulations*
 - *Department of Public Works and Government Services Act and Defence Production Act*
 - Treasury Board Contracting Policy
 - Others: Trade agreements, Access to Information Act, Code of Conduct for Procurement, Competition Act, Conflict of Interest Act, Criminal Code etc...

Procurement - key departments

- Public Services and Procurement Canada (PSPC) is the procurement arm of the federal government and has exclusive authority for the procurement of goods
 - Handles almost all high value/complex contracting of goods and services, including defence supplies, construction and projects
 - Establishes standing offers/framework agreements that other departments and agencies can use to buy for themselves
- Other departments and agencies: contract within limited legal and delegated authorities (standard: goods with a value of less than \$25,000, services up to \$2,000,000)
- Shared Services Canada: major IM/IT services, networking and end user devices
- Treasury Board Secretariat (TBS): largely responsible for establishing the regulatory and policy environment for federal procurement.
- Department of Justice: contracts for legal services
- Global Affairs Canada: contracting in support of missions overseas



Oversight and recourse mechanisms

- Informal recourse:
 - Dialogue between suppliers and contracting officials
- Formal recourse:
 - Procurement Ombudsman
 - Canadian International Trade Tribunal
 - Federal and Provincial Courts
- Oversight:
 - Internal audit
 - Auditor General of Canada
 - Competition Bureau
 - Public Sector Integrity Commissioner

LEGISLATIVE/REGULATORY FRAMEWORK FOR FEDERAL GOVERNMENT CONTRACTING

Statutes & Regulations (procurement related)

ACTS*

- *Financial Administration Act*
- *Department of Public Works and Government Services Act*
- *Federal Accountability Act*
- *Defence Production Act*

GOVERNMENT CONTRACTS REGULATIONS***

Agreements (enacted)

AGREEMENTS*

- *Agreement on Internal Trade (AIT)*
- *North American Free Trade Agreement (NAFTA)*
- *World Trade Organization Agreement on Government Procurement (WTO-AGP)***

COMPREHENSIVE LAND CLAIMS AGREEMENTS

Policies, Directives, Procedures & Guidelines

TB CONTRACTING POLICY

TB CONTRACTS DIRECTIVE

TB PROCUREMENT REVIEW POLICY

TB COMMON SERVICES POLICY

CODE OF CONDUCT FOR PROCUREMENT

Challenge Process

CANADIAN INTERNATIONAL TRADE TRIBUNAL

OFFICE OF THE PROCUREMENT OMBUDSMAN

FEDERAL COURT

*See [Chapter 1](#) of the *Supply Manual* for complete list of Acts and Agreements.

** Procedural requirements of the other international trade agreements will be fulfilled following compliance to the procedural requirements of NAFTA and the WTO-AGP.

*** (Section 3 of the GCRs – Application)

(Section 6 of the GCRs – Justification for non-competitive procurement)

- Emergency Requirements
- Low dollar value requirements (< \$25K, \$100K Architectural and Engineering, etc.)
- Not in the public interest to compete
- Only one firm/person is capable of performing the contract

Methods of Procurement

- Individual contracts:
 - Range from low dollar value up to most complex
 - PSPC manages most high value goods, services and constructions procurement
- PSPC issues a broad range of standing offers and supply arrangements for use by other federal departments to manage their own purchasing
 - SOs: Ts&Cs and pricing preset
 - SAs: high-level qualifications, generally requirements are competed amongst eligible suppliers
- Policy decision that for top 10 most common commodities, depts must use available standing offers and supply arrangements (eg. Office supplies, furniture, vehicles, fuels, IM/IT etc.)
- In 2013, SOs and SAs were used to purchase 25% of total goods and services procured by the Government of Canada (GC).

PROCUREMENT PROCESS

TECHNICAL & PAYMENT AUTHORITY: IN CLIENT DEPT.

CONTRACT AUTHORITY: IN PWGSC

ALL AUTHORITIES

1. REQUIREMENT DEFINITION

- Security clauses (SRCL) consideration, if required
- Aboriginal consultation and accommodation
- Determine if PSAB set-aside
- Sole-source justification as applicable
- National Security Exception (NSE) as applicable
- Define the requirement in its entirety (including SOW/SOR as required)
- Translate documentation as applicable
- Obtain project/internal approval
- Certify the availability of funds
- Send requisition to PWGSC

2. PROCUREMENT STRATEGY

- Source from existing procurement instruments if available
- Regulations, CLCAs, trade agreements, policies, etc.
- Competitive vs. non-competitive
- Exceptions being invoked
- PRC/SPAC as required
- Assess need for fairness monitor
- Decide on method of supply
- Financial security considerations
- Evaluation criteria & methodology
- Selection methodology
- Procurement Risk Assessment
- Approval of Procurement Plan or CPAA*

3. SOLICITATION PROCESS

- Prepare contract documentation using approved contract templates and clauses
- Official languages requirements
- As applicable, pre-solicitation request to suppliers (LOI/RFI/Draft RFP, etc.) followed by issuance of solicitation document
- Tender Solicitation: NPP/ACAN, Electronic/Not Advertised

Solicitation Process can be a one – or multi-stage process

Solicitation Document types:
RFP, ITT, RFQ, T-Buy, RFSO, RFSA

4. EVALUATION/NEGOTIATION

- Technical evaluation (Client)
- Financial evaluation (PWGSC)
- Apply selection methodology (PWGSC)
- Proof of Proposal (POP)/Demo testing as required
- Price support, negotiations
- Verifications - Vendor Performance Corrective Measure Policy (VPCMP), Integrity Provisions, Security Clearance, etc.

5. CONTRACT APPROVAL

- * Additional reviews as and when appropriate
 - **Peer review**
 - **Legal**
 - **Cost Analyst**
 - **Risk**
 - **Contract Quality Assurance**
 - **Other**
- Perform risk assessment (if identified risks have changed)
- Obtain approval for contract award if advance approval was not obtained or if requirement changed significantly from what was originally approved

6. CONTRACT AWARD

- Contract award notice (CAN) on GETS
- Go-Ahead Letter as required
- Reporting as required
- Regret letters
- Unsuccessful bidders may then request debriefings
- Provide recourse mechanisms if requested

7. CONTRACT ADMINISTRATION

- Monitor:
 - **Progress of work**
 - **Contract progress**
 - **Contractor's performance**
- Resolve any disputes
- Contract audit if required
- Amend contract if required
- Exercise options as required
- Task Authorizations as required
- Call-ups against Standing Offers as required
- Termination if required

Revisit
VPCMP and
Integrity
Provisions,
as required

8. CONTRACT PAYMENT

- Acceptance of deliverables (Client)
- Ensure contractual terms and conditions are met (Shared)
- Ensure payment terms are met (Shared)
- Exercise payment authority (Client)

9. CONTRACT CLOSE-OUT

- Ensure all contractual requirements are met and client received/accepted all deliverables under the contract
- Ensure all payments to the contractor and settlement of claims have been made
- Ensure no outstanding action is required
- Ensure all reporting requirements have been met
- Ensure all required documentation is on file
- Finalization of cost (amendment) if required
- Review any lessons learned including any audit findings

One shop stop: Buyandsell.gc.ca

Buyandsell.gc.ca is the authoritative site for government procurement information, including:

- How to register as a supplier;
- Procurement policies;
- Past and current procurement info;
- Procurement contacts in departments and agencies;
- GoC procurement initiatives, programs; and events

Suppliers do not need to register to browse or search data and information



key trends, policy challenges, changes and initiatives in recent years



Where to start..

- Regulatory and policy framework
- Trade agreements and treaties
- Modernization and simplification of practices
- Desire for standardization, horizontality and efficiencies
- Integrity Framework
- Vendor Performance
- E-procurement
- Open government
- Secondary policy objectives:
 - Innovation, small business, green, ethical buying etc.
- Procurement capacity

Defence procurement

- Defence Procurement Strategy developed and implemented to improve the performance and manage of major defence acquisitions
- New governance model to ensure a more robust structure in to manage these challenges
- Aims to achieve three broad objectives:
 - Timely delivery and sustainment of the right equipment for the Canadian Armed Forces;
 - Fair and transparent procurement processes that result in value-for-money; and
 - Leveraging economic benefits for Canadians
- Three primary Ministers : National Defence; Innovation, Science and Economic Development and Public Services and Procurement Canada

Governance – Distinct Roles and Responsibilities



Questions ?



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