



Contracting Policy Notice 2004-2 – Commissionaires Services (Corps) – Right of First Refusal for Guard Services (Archived)

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Date: December 2, 2004

SUBJECT: Commissionaires Services (Corps) - Right of First Refusal for Guard Services

Summary

On March 29, 2004, the Treasury Board approved an amendment to the Common Services Policy for Guard Services.

For the fiscal year 2004/05, Public Works and Government Services Canada (PWGSC) is to continue to implement the preference for contracting with veterans through a right of first refusal to the Canadian Corps of Commissionaires (Corps) for guard services under the existing National Master Standing Offer.

Effective April 1, 2005 PWGSC is to implement the right of first refusal to the Corps in accordance with the amended Common Services Policy for Guard Services.

Specific changes have been made to the policy to clarify and strengthen the policy's application and its implementation, notably to:

- clearly communicate compliance with international trade agreements;
- ensure consistency with established veterans-based legislation, policies and programs;
- ensure a strengthened implementation model is supported by a clear definition of Guard Services (formerly called Commissionaire Services);
- provide a strengthened alignment between taskings by departments and agencies to the statement of work found in the current Commissionaire Services National master Standing Offer; and

- demonstrate that veterans are the primary beneficiaries of this procurement preference through the provision that 70 per cent of the hours worked on security guard contracts must be performed by veterans (recognizing a three year transition period for Montreal and the National Capital Region).

The above changes to the Common Services Policy will strengthen the government's capacity to clearly demonstrate that the benefits of this right of first refusal to the Corps are directed to and received by veterans.

This preferential sourcing strategy to the Corps is to be evaluated again in five years, in fiscal year 2009/10, with a report back to Treasury Board by March 31, 2010 on:

- the effective use of the preferential sourcing strategy in supporting Canada's veterans; and
- alternative models of service delivery.

Policy Application

This policy applies to all departments as defined in section 2 of the *Financial Administration Act* (including the Canadian Forces) and to crown procurement contracts subject to the *Government Contracts Regulations* and the Treasury Board Contracting Policy.

Contracting Policy

Attached at Annex A to this Contracting Policy Notice is the amended Common Services Policy for Guard Services.

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Enquiries

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Attachment

Distribution: T022, T023, T024, T161, TB06, TB07, TB21 and TB23

Annex A

Approved Amendments to the Common Services Policy for Guard Services

Appendix E - Section 6.5.3 Guard Services

1. In 2004, the Treasury Board reaffirmed the Canadian Corps of Commissionaires' (Corps) long-standing exemption from competition and right of first refusal for Guard Services under the conditions in this policy. It is important to understand the authorities under which this preferential policy is applied:
 1. Guard Services, including commissionaire services, are excluded from NAFTA Chapter 10;
 2. Guard Services of any type were not included in Canada's services commitments in the WTO Agreement on Government Procurement;
 3. Article 507 (d) of the Agreement on Internal Trade does not apply to procurement contracts with a non-profit organization, such as the Corps;
 4. The Treasury Board confirmed the use of para. 6 (c) of the Government Contracts Regulations in that it is not in the public interest to solicit bids when contracting with veterans through this right of first refusal.
2. PWGSC is authorized to enter into a multi-year procurement agreement with the Corps to provide for Guard Services related to safeguarding federal assets, information, persons, buildings and property owned or occupied by federal departments or agencies, including the following:

1. intervention duties such as access control/patrol of buildings and/or restricted areas using physical or technological means;
 2. custodial duties of information and assets, including locksmith duties;
 3. clerical and administrator duties related to the performance of guard services;
 4. receptionist and information desk duties at building or restricted area access control points;
 5. security scanning of incoming mail, parcels and freight at central receiving areas;
 6. fingerprinting and other identification services (traditional, biometric, etc);
 7. classified waste disposal.
3. While it is recognized that guard services will contain "other related duties" necessary to performing the role such as reception, computer data entry, records management or chauffer services, the primary activities of guard services are as stated above.
4. For the purposes of this policy, veteran will be defined as:
1. a veteran of the South African War;
 2. a Canadian veteran of World War I or World War II;
 3. a merchant navy veteran of World War I or World War II;
 4. an allied veteran;
 5. a Canadian dual service veteran;
 6. an allied dual service veteran;
 7. a Canadian Forces veteran;
 8. a Canadian veteran of the Korean War.
5. A Canadian Forces veteran is an individual who was:
1. a former member of the Canadian Forces who was qualified in his/her military occupation;
 2. was honourably discharged.
6. The above definition of veteran recognizes the potential risk that all Canadian Forces members are exposed to when they swear the Oath of Allegiance.
7. The Corps will be required to provide the Contracting Authority at Public Works and Government Services Canada an annual attest audit, commencing June 30,

2006, validating the requirement that a minimum of 70 per cent of the hours worked by each Corps Division on contracts awarded in each fiscal year under the right of first refusal is performed by veterans, allowing for the transition period mentioned below.

8. A transition period ending March 31, 2007 is authorized whereby the Corps will only have to meet 60 per cent for Montreal and the National Capital Region (NCR), although it will still have to meet the 70 per cent requirement nationally. This transition period is permitted due to challenges in responding to Official Languages requirements in these two centres and the diminishing number of qualified veterans.
9. The failure of a Corps Division to meet the requirement that a minimum of 70 per cent of the hours worked by each Corps Division on contracts awarded in each fiscal year under the right of first refusal is performed by veterans, will result in the need for the underperforming Corps Division to take corrective action within six months. Departments and agencies will not be permitted to raise new call-ups or post orders against existing standing offers for guard services during this six month period, unless the Corps can attest to meeting the minimum authorized level of veteran participation. The Corps Division will not be offered the right of first refusal on new requirements for guard services until it achieves the 70 per cent requirement.
10. The Corps will be free to compete for contracts where a sufficient veterans population is unavailable.
11. PWGSC will conduct a biennial contract cost audit to ensure that costs incurred and allocated are consistent with the Corps' status as a not-for-profit organization, commencing June 30, 2006.

Date modified: