



Contracting Policy Notice 2009-3 – Free Trade Agreements: Update of Thresholds and New Free Trade Agreements (Archived)

Published: 2009-12-18

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Published by Treasury Board of Canada, Secretariat
90 Elgin, Ottawa, Ontario, K1A 0R5, Canada

Catalogue Number: BT12-10E-PDF
ISSN: 1491-591X

This document is available on the Government of Canada website, Canada.ca

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Aussi offert en français sous le titre : Avis sur la politique des marchés 2009-3 – Accords de libre-échange : Révision des valeurs seuils et nouveaux accords de libre-échange (Archivé)

File No: 7010-000-006

DATE: December 18, 2009

TO: Functional Heads, Administration / Finance of all Departments and Agencies

SUBJECT: Update of thresholds for the Free Trade Agreements (FTAs) and entry into force of new FTAs.

SUMMARY:

New thresholds for procurements subject to the World Trade Organization Agreement on Government Procurement (WTO-AGP) and the procurement chapter of the North American Free Trade Agreement (NAFTA) are in effect January 1, 2010 and are valid until December 31, 2011. In addition, two new free trade agreements have entered into force since the last update of thresholds: the Canada-Chile Free Trade Agreement (CCFTA) and the Canada-Peru Free Trade Agreement (CPFTA).

THRESHOLDS (CDN \$ January 1, 2010 – December 31, 2011)

	Entities (Departments & Agencies)			Crown Corporations		
FTA	Goods	Services	Construction	Goods	Services	Construction
<u>AIT</u>						
Annex 502.1A	25,000	100,000	100,000	25,000	100,000	100,000

* Under the CCFTA, there are "extended transparency" commitments to provide suppliers with information regarding procurements for which they are not eligible to bid but where: (1) an open-tendering process is used; and (2) the procurement value exceeds \$124,000 CDN. See Annex Kbis-01.1-8 (Extended Transparency Commitments), or Contracting Policy Notice 2008-5

	Entities (Departments & Agencies)			Crown Corporations		
	Goods	Services	Construction	Goods	Services	Construction
FTA						
Annex 502.3	N/A	N/A	N/A	500,000	500,000	5,000,000
<u>NAFTA</u>						
Can/US	27,300					
		76,600	9,900,000	383,300	383,300	12,200,000
Can/MEX	76,600					
<u>WTO-AGP</u>	221,300	221,300	8,500,000	604,500	604,500	8,500,000
<u>Chile</u>*	76,600	76,600	8,500,000	383,300	383,300	12,200,000
<u>Peru</u>	76,600	76,600	8,500,000	383,300	383,300	12,200,000

* Under the CCFTA, there are "extended transparency" commitments to provide suppliers with information regarding procurements for which they are not eligible to bid but where: (1) an open-tendering process is used; and (2) the procurement value exceeds \$124,000 CDN. See [Annex Kbis-01.1-8 \(Extended Transparency Commitments\)](#) or [Contracting Policy Notice 2008-5](#)

BACKGROUND:

Every two years, the thresholds in the World Trade Organization Agreement on Government Procurement (WTO-AGP) and the procurement chapters of the North American Free Trade Agreement (NAFTA), the Canada-Chile Free Trade Agreement (CCFTA) and the Canada-Peru Free Trade Agreement (CPFTA) are updated.

This Notice amends the thresholds in Contracting Policy Notice 2007-5 to provide new thresholds, in Canadian dollars, for NAFTA and the WTO-AGP and sets out the thresholds for CCFTA and CPFTA. All thresholds are for the period January 1, 2010 to December 31, 2011. The thresholds for the Agreement on Internal Trade (AIT) remain unchanged for entities listed in [Annex 502.1A](#) (PDF version 14.61kb) at

\$25,000 for goods and \$100,000 for services and construction. The AIT thresholds for Entities of a Commercial or Industrial Nature listed in [Annex 502.3](#) (PDF version 151.63kb) remain unchanged at \$500,000 for goods or services and \$5,000,000 for construction services.

NEW FREE TRADE AGREEMENTS (FTAs)

Two new free trade agreements have entered into force since the last update of thresholds: the Canada-Chile Free Trade Agreement and the Canada-Peru Free Trade Agreement.

Canada-Chile Free Trade Agreement (CCFTA)

The [CCFTA](#) was amended to add a Chapter on government procurement. This new Chapter came into force on September 5th, 2008. [Contracting Policy Notice 2008-5](#) highlighted the salient provisions of the Chapter.

Canada-Peru Free Trade Agreement (CPFTA)

The [CPFTA](#) entered into force on August 1, 2009. Chapter 14 is devoted to government procurement. As with other free trade agreements, the general principles are: non-discrimination in the treatment of one Party's goods, services and suppliers by the other Party; transparency; and open competition. As with all free trade agreements, the entire government procurement chapter should be consulted to identify Canada's obligations regarding potential contracts.

Nonetheless, some relevant details are set out below:

- *Entities*: The departments and agencies covered by CPFTA are set out in [Annex 1401.1-1](#) (PDF version, 99.33kb) and covered Crown corporations are listed in [Annex 1401.1-2](#). (PDF version, 99.33kb)
- *Goods, services and construction services*: Generally, all goods, services and construction services are covered with provisions for certain exclusions which are listed in Annexes [1401.1-3](#) (PDF version, 99.33kb) and [1401.1-4](#) (PDF version, 99.33kb) respectively. Note that these hyperlinks connect to all Annexes.

- *Thresholds:* As mentioned in the BACKGROUND, the thresholds will be revised every two years.
- *Bid Challenge:* Implementation of the Chapter requires an amendment to the *Canadian International Trade Tribunal Procurement Inquiry Regulations* to bring complaints related to the CPFTA under the scope of the CITT's mandate to review complaints. The amended regulations will come into effect shortly.
- *Transparency Measures:*
 - a. The time limit for tendering is 40 days and may be reduced to no less than 10 days in certain circumstances.
 - b. A Contract Award Notice must be published 72 days after contract award.
 - c. Entities are encouraged to publish, as early as possible for the fiscal year, information regarding its procurement plans.
 - d. There are no extended transparency measures similar to the Canada-Chile Free Trade Agreement.
- *Reporting and Information Requirements:*
 - a. There are no annual reporting requirements, statistical or otherwise.
 - b. Although there is no annual reporting requirement, the CPFTA requires reports and records of tendering procedures relating to covered procurements to be prepared and maintained for a period of at least three years. In particular, a written report must be prepared on each contract award that justified the use of limited tendering.
 - c. Where Treasury Board (TB) procurement-related policies demand longer record retention than the CPFTA, TB requirements prevail.

Canada-Colombia Free Trade Agreement

The Canada-Colombia Free Trade Agreement has been signed but is not yet in force.

Canada-Panama Free Trade Agreement

Negotiations for the Canada-Panama Free Trade Agreement have been concluded. The agreement was initialled by the Prime Minister on August 11, 2009. It is not yet in force.

EFFECTIVE DATE:

The thresholds are effective January 1, 2010

REFERENCES:

1. The international trade agreements to which this Contracting Policy Notice pertains have been hyperlinked throughout the Notice.
2. [Canadian International Trade Tribunal Procurement Inquiry Regulations](#)
3. [Contracting Policy](#).

ENQUIRIES:

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Date modified:

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