



Contracting Policy Notice 2018-01: Update on Thresholds for Trade Agreements, the Comprehensive and Progressive Agreement for Trans-Pacific Partnership, and the Canada–United States–Mexico Agreement

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Contracting Policy Notice 2018-01: Update on Thresholds for Trade Agreements, the Comprehensive and Progressive Agreement for Trans-Pacific Partnership, and the Canada–United States–Mexico Agreement

From Treasury Board of Canada Secretariat

Contracting Policy Notice: 2018-01

Date: December 13, 2018

To: Functional heads of Administration and Finance units at all departments and agencies

This Contracting Policy Notice has 3 elements:

1. an update on thresholds for trade agreements
2. an update on the Comprehensive and Progressive Agreement for Trans-Pacific Partnership (CPTPP)
3. an update on the Canada–United States–Mexico Agreement (CUSMA)

1. Update on thresholds for trade agreements

Summary

Table 1 serves as a summary of the thresholds in effect from December 30, 2018, to December 31, 2019, for procurements that are subject to free trade agreements to which the federal government is a party. Table 1 has been updated to include the CPTPP.

**Table 1: thresholds on trade agreements
(CAN\$ December 30, 2018, to December 31, 2019)**

Free trade agreement	Entities (departments and agencies)			Crown corporations and other government enterprises		
	Goods	Services	Construction	Goods	Services	Construction
Internal						
<u>Canadian Free Trade Agreement</u>	25,300	101,100	101,100	505,400	505,400	5,053,900
International						
<u>Canada-Chile Free Trade Agreement</u>	106,000	106,000	9,100,000	530,000	530,000	16,900,000
<u>CPTPP</u>	237,700	237,700	9,100,000	649,100	649,100	9,100,000
<u>Canada-Colombia Free Trade Agreement</u>	106,000	106,000	9,100,000	530,000	530,000	16,900,000
<u>Comprehensive Economic and Trade Agreement (European Union)</u>	237,700	237,700	9,100,000	Annex 19-3, Section A: 649,100	Annex 19-3, Section A: 649,100	9,100,000
				Annex 19-3, Section B: 731,400	Annex 19-3, Section B: 731,400	

* Under the free trade agreements that Canada has with Chile, Colombia and Ukraine, 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 CAN \$124,000 for Chile and Ukraine and CAN \$150,000 for Colombia.

Free trade agreement	Entities (departments and agencies)			Crown corporations and other government enterprises		
	Goods	Services	Construction	Goods	Services	Construction
Internal						
<u>Canada-Honduras Free Trade Agreement</u>	106,000	106,000	9,100,000	530,000	530,000	16,900,000
<u>Canada-Korea Free Trade Agreement</u>	100,000	100,000	9,100,000	-	-	-
<u>North American Free Trade Agreement (NAFTA)</u>						
Canada/US	32,900	106,000	13,700,000	530,000	530,000	16,900,000
Canada/Mexico	106,000	106,000	13,700,000	530,000	530,000	16,900,000
<u>Canada-Panama Free Trade Agreement</u>	106,000	106,000	9,100,000	530,000	530,000	16,900,000
<u>Canada-Peru Free Trade Agreement</u>	173,700	173,700	9,100,000	530,000	530,000	16,900,000
<u>Canada-Ukraine Free Trade Agreement</u> *	237,700	237,700	9,100,000	649,100	649,100	9,100,000

* Under the free trade agreements that Canada has with Chile, Colombia and Ukraine, 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 CAN \$124,000 for Chile and Ukraine and CAN \$150,000 for Colombia.

Free trade agreement	Entities (departments and agencies)			Crown corporations and other government enterprises		
	Goods	Services	Construction	Goods	Services	Construction
Internal						
<u>World Trade Organization-Government Procurement Agreement (WTO-GPA)</u>	237,700	237,700	9,100,000	649,100	649,100	9,100,000

* Under the free trade agreements that Canada has with Chile, Colombia and Ukraine, 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 CAN \$124,000 for Chile and Ukraine and CAN \$150,000 for Colombia.

2. Update on the CPTPP

Background

The Comprehensive and Progressive Agreement for Trans-Pacific Partnership (CPTPP) will enter into force on December 30, 2018. CPTPP is an international free trade agreement between Australia, Brunei, Canada, Chile, Japan, Malaysia, Mexico, New Zealand, Peru, Singapore and Vietnam and includes government procurement obligations between these countries. Note that the CPTPP:

- developed out of the negotiation process for the Trans-Pacific Partnership Agreement (TPP)
- generally adopts by reference the provisions of the TPP

The CPTPP will coexist with Canada’s other trade agreements, and the obligations set out in Canada’s other trade agreements will continue to apply. The following chapters of the CPTPP should be consulted in order to understand Canada’s obligations and the exceptions

that are available regarding potential contracts:

- [Chapter 1: Initial Provisions and General Definitions](#)
- [Chapter 15: Government Procurement](#)

Chapter 15 of the CPTPP addresses government procurement and consists of the following:

- the procedural rules to be followed when conducting a covered procurement
- Annex 15-A, which forms the Market Access Schedule of Canada

Note that CPTPP obligations commence with the beginning of the procurement process, which starts once an entity has decided on its requirement.

Entities covered in the CPTPP

Federal departments and agencies

The departments and agencies that are subject to the obligations in Chapter 15 are listed in Section A: Central Government Entities of [Annex 15-A: Schedule of Canada](#).

Crown corporations

Crown corporations listed in Section C: Other Entities of [Annex 15-A: Schedule of Canada](#) are also subject to the obligations addressed in the chapter.

Goods, services and construction services

- Unless otherwise specified, all goods are covered (see Section D: Goods in [Annex 15-A: Schedule of Canada](#))
- Specified covered services are listed in Section E: Services in [Annex 15-A: Schedule of Canada](#).
- Unless otherwise specified, construction services are covered, but dredging services and construction services procured by or on behalf of Transport Canada are not covered (see Section F: Construction Services in [Annex 15-A: Schedule of Canada](#))
- The sections in [Annex 15-A: Schedule of Canada](#) should be reviewed for possible exceptions, including Section G: General Notes

Thresholds

The thresholds for procurements covered by the CPTPP are listed in Table 1.

Procedural obligations

Covered entities are advised to familiarize themselves with the procedural obligations set out in Chapter 15. Examples of what the procedural obligations cover are:

- posting periods for tender notices
- information that must be included in notices
- content of tender documentation
- circumstances for the use of limited tendering
- publication of award information

All entities listed in Section A: Central Government Entities of Annex 15-A: Schedule of Canada must publish their tender notices for covered procurement on the Government Electronic Tendering Service (Buyandsell.gc.ca).

Exceptions

For exceptions that may apply, both the main text and the annexes of Chapter 15 should be reviewed. In particular, officials may wish to consult:

- Article 15.2: Scope
- Article 15.3: Exceptions
- Article 15.10: Limited Tendering, which provides information on the circumstances where sole-sourcing is permitted
- Annex 15-A: Schedule of Canada, including Section G: General Notes

Maintenance of records requirements

Article 15.16: Post-Award Information describes requirements for maintaining records for covered entities.

References

- Text of the Comprehensive and Progressive Agreement for Trans-Pacific Partnership (CPTPP).
- Text of the Trans-Pacific Partnership Agreement

Enquiries

For questions about the content of the CPTPP's chapter on government procurement, contact Global Affairs Canada at engserv@international.gc.ca.

3. Update on the Canada–United States–Mexico Agreement (CUSMA)

On November 30, 2018, the United States, Mexico and Canada signed the CUSMA. The CUSMA contains a chapter on government procurement, but Canada is not a party to that chapter, which pertains only to Mexico and the United States.

It is expected that the CUSMA will lead to the repeal of NAFTA, and Canada's government procurement obligations found in NAFTA will consequently cease to be in effect. Once NAFTA is repealed, Canada will continue to have government procurement commitments with:

- the United States through the WTO-GPA
- Mexico through the CPTPP

A future Contracting Policy Notice will provide more information about the CUSMA and its effect on NAFTA.

Original signed by

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