



Contracting Policy Notice 2019-01: Changes to Contracting Limits and Approval of Contracts with Former Public Servants, and New Requirements for Accessibility

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Contracting Policy Notice 2019-01: Changes to Contracting Limits and Approval of Contracts with Former Public Servants, and New Requirements for Accessibility

From Treasury Board of Canada Secretariat

Contracting Policy Notice: 2019-01

Date: May 15, 2019

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

This Contracting Policy Notice provides information on recent changes approved by the Treasury Board to the Treasury Board *Contracting Policy* in support of procurement modernization and a more modern approach to comptrollership.

These include changes in the following three areas:

1. changes to basic and exceptional contracting limits
2. new approval requirements for contracting with former public servants
3. a new requirement to consider accessibility criteria and features when procuring goods or services.

1. Contracting limits

To modernize procurement policies and processes, the Treasury Board Appendix C: *Contracts Directive* has been updated and streamlined.

Basic contract entry limits for construction, goods and services have been:

- increased (except for specialized goods and services) to account for inflation
- updated to reflect previous Treasury Board approvals.

To further simplify and streamline approvals, the distinct limits for contract amendments, electronic and traditional bidding have been removed. Distinct limits have been replaced by a single contracting limit that applies to:

- contract entry and all amendments
- electronic and non-electronic bidding processes

The presentation of basic and exceptional limits has also been reorganized for improved clarity. *Part I - Basic Contracting Limits* and *Part II - Departmental Index to Exceptional Contracting Limits* reflect these approved changes.

2. Approvals for contracts with former public servants

To reflect modern comptrollership practices and risk-based oversight, requirements have been amended for the approvals of service contracts with former public servants in receipt of a pension. The Treasury Board *Appendix C: Contracts Directive - Part 1 Basic Contracting Limits - Schedule 5* reflects the following changes:

- A competitive service contract or contractual arrangement with a former public servant in receipt of a pension is subject to the responsible minister's basic limits, including all applicable taxes, fees and amendments.
- The responsible minister must provide contract approval prior to entering into a non-competitive service contract with a former public servant when one of the following conditions exists:
 - the former public servant is in receipt of a pension under the *Public Service Superannuation Act* (PSSA) when the estimated total contract exceeds \$200,000
 - the former public servant is in receipt of a pension under the PSSA when the annualized rate of remuneration exceeds \$200,000 and the contract term

exceeds ninety (90) working days

- the former public servant is in receipt of a lump sum payment when the total fees payable will exceed \$5,000 during the lump sum payment period as provided in the *Workforce Reduction Directive* made pursuant to the *Public Sector Compensation Act*, or are former members of the Canadian Armed Forces or the Royal Canadian Mounted Police in receipt of lump sum payments through corresponding force reduction programs, regardless of whether one or more than one contract is involved

The application of the fee abatement formula requirement is removed and remains optional, as appropriate.

Sub-sections 16.1.6, 16.5.8, and 16.8 are deleted.

Table 2A lists the specific changes in the Treasury Board *Contracting Policy* related to requirements for contracting with former public servants.

Table 2A: revisions to the Treasury Board *Contracting Policy*

Previous	Revision
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Previous

4.2.20 When contracting for the services of former public servants in receipt of a pension paid pursuant to the *Public Service Superannuation Act* (PSSA), or in receipt of a lump sum payment, discretion is to be exercised to ensure that the public perception is not one of favouritism to these individuals. For this reason, all contracting authorities are to conform with the special operating procedures in article 16.8.

Revision

4.2.20 When contracting for the services of former public servants in receipt of a pension paid pursuant to the *Public Service Superannuation Act* (PSSA), or in receipt of a lump sum payment, discretion is to be exercised to ensure that the public perception is not one of favouritism to these individuals. For this reason, all contracting authorities are to disclose contracting with former public servants regularly (as per the *Guidelines on the Proactive Disclosure of Contracts* and *Contracting Policy Notice: 2012-2*).

Deputy heads are responsible for ensuring that contracting authorities document a justification for contracting with a former public servant that includes price substantiation, risk mitigation and cost control measures to adjust for pension or lump sum payments as appropriate.

11.2.8 *Requirements for specific Treasury Board approval.* As specified in Section 4.1.6, Treasury Board approval is required prior to entering into a contract or an amendment with a dollar value that exceeds the limits prescribed in the Treasury Board Contracts Directive. Other situations where prior Treasury Board approval should be sought includes, but is not limited to:

11.2.8 Before entering into a contract or an amendment to a contract, the approvals specified in the Treasury Board *Contracts Directive* are required.

Situations where prior Treasury Board approval should be sought include but are not limited to:

1. making advance payments if the contract or amendment requires Treasury Board approval (see section 8(2) of the *Government Contracts Regulations*, Appendix B);

Previous

1. making advance payments if the contract or amendment requires Treasury Board approval (see section 8(2) of the *Government Contracts Regulations*, Appendix B);
2. entering into a contract with a former public servant in receipt of a pension where the total fee exceeds \$5,000 during the lump sum payment period;
3. entering into a non-competitive contract with a former public servant in receipt of a pension where the total value of the contract exceeds \$25,000;
4. entering into a competitive contract with a former public servant in receipt of a pension where the total value of the contract exceeds \$100,000
5. for departments other than Public Works and Government Services Canada, entering into a contract containing provisions that limit the proposed contractor's liability;
6. entering into an initial contract that is within the department's contracting limits but where large follow-on contracts and/or amendments are planned;

Revision

2. for departments other than Public Services and Procurement Canada, entering into a contract containing provisions that limit the proposed contractors liability;
3. entering into an initial contract that is within the department's contracting limits but where large follow-on contracts and/or amendments are planned;
4. entering into a contract where unusual circumstances of general public interest exist or where significant issues and risks are involved, even if the contract is within the department's contracting limits;
5. entering into a contract that involves significant national policies and/or objectives, even if the contract is within the department's contracting limits;
6. requests for increased contracting authority or exceptional contracting authority; and
7. derogations from Treasury Board policies.

Previous	Revision
<p>7. entering into a contract where unusual circumstances of general public interest exist or where significant issues and risks are involved, even if the contract is within the department's contracting limits;</p> <p>8. entering into a contract involving significant national policies and/or objectives, even if the contract is within the department's contracting limits;</p> <p>9. requests for increased contracting authority or exceptional contracting authority; and</p> <p>10. derogations from Treasury Board policies.</p>	

3. Accessibility

In support of the Accessible Government priority, requirements have been added to incorporate accessibility criteria when specifying requirements for goods and services, where appropriate. The new requirements specified in the Treasury Board *Contracting Policy* are as follows:

4.2.26. Where appropriate, departments must:

4.2.26.1 include accessibility criteria when specifying requirements for goods and services

4.2.26.2 ensure that deliverables incorporate accessibility features.

4.2.27. Consistent with trade agreements and comprehensive land claims agreements, if the department determines that it is not appropriate to include accessibility criteria as part of commodity specifications, or if it is unable to obtain goods or services that comply, the client or technical authority must ensure that clear justification is on file.

Date modified:

2019-05-15