



Guide to Official Languages in Federal Procurement

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1. Introduction

- 1.1 Canada has official languages obligations that have implications for the federal government's procurement process. This guide:
- explains these legal obligations
 - outlines policy requirements
 - provides practical advice for departments on official languages in federal procurement in accordance with the instruments identified in [Section 5: References](#).

2. Roles and responsibilities

- 2.1 The requirements for official languages set out in the [*Directive on the Management of Procurement*](#) include responsibilities for:
- 2.1.1 Senior designated officials responsible for the management of procurement to establish, implement and maintain a procurement management framework that facilitates compliance with legal obligations, including those related to official languages (refer to subsection 4.1.2.11 of the [*Directive on the Management of Procurement*](#));
- 2.1.2 **Contracting authorities to publish all information and documentation related to a solicitation or a contract in both official languages, and to communicate and provide access to information related to procurement in both official languages** in accordance with the [*Official Languages Act*](#) and [*Official Languages \(Communications with and Services to the Public\) Regulations*](#) (refer to subsection 4.14 of the [*Directive on the Management of Procurement*](#)); and

- 2.1.3 Business owners to clearly define the operational requirements and end-user needs of a procurement, which include any official languages requirements (refer to subsection 4.2.1 of the *Directive on the Management of Procurement*).

3. Applying official languages in federal procurement

- 3.1 There are four key areas of the procurement process where contracting authorities, business owners and senior designated officials responsible for procurement should pay particular attention to official languages:

3.1.1 Procurement planning

Contracting authorities provide advice and recommend procurement strategy options to business owners, including meeting requirements related to official languages.

As part of the planning process, contracting authorities in consultation with business owners are to ensure there is adequate time and a budget for translation, and determine how to address any other requirements that may be impacted while meeting official languages requirements (refer to subsection 4.2.6 of the *Directive on the Management of Procurement*).

For example, it may be necessary to request permission to translate documents produced by third parties. If permission is not granted or standards cannot be translated, contracting authorities can consider the use of alternative but equivalent standards available in both official languages or can consult their departmental legal services unit.

3.1.2 Communicating with suppliers, including posting any notices, solicitations, invitations to tender and other bid documents

Suppliers, as members of the public, have the right to receive services and communications from federal departments in the official language of their choice, in accordance with the act and regulations.

For bid solicitations that are national in scope or that originate from an office having the obligation to serve the public in both official languages, documents must be provided in both official languages. More information on determining requirements for using official languages is provided in subsection 3.1.3. below.

When departments are required to communicate with the public in both official languages, communications with suppliers must be actively offered ¹ in both official languages, including verbal communications and written documents and contracts. Related requirements for communications with and services to the public are outlined in subsection 6.2.1 of the *Directive on Official Languages for Communications and Services*. When the contracting authority does not know the

official language preference of a supplier or communicates with multiple suppliers that have different official language preferences, communications must be in both official languages. When the contracting authority is certain of a supplier's official language preference, that language must be used. This practice applies to communications in support of requirements for industry engagement (refer to subsection 4.4 of the *Directive on the Management of Procurement*) and debriefings and disputes resolution (refer to subsection 4.16 of the *Directive on the Management of Procurement*).

Regardless of the suppliers' preferred language, contracting authorities must publish any publicly posted notices, solicitations and invitations to tender and bid documents in both official languages (refer to subsection 4.14.1 of the *Directive on the Management of Procurement*). English and French versions must be posted simultaneously and be of equal quality to give equal opportunity to both English- and French-speaking suppliers. This practice also applies to accompanying documents (including specifications, architectural drawings or standards) produced by a third party, regardless of their technical or specialized nature.

When procuring in an area where the main language is neither French nor English, contracting authorities in consultation with business owners are encouraged to translate solicitation documents and contracts into that language (in addition to English and French) to increase the pool of potential bidders. For example, a department procuring in Nunavut could consider translating documents into Inuktitut or Inuinnaqtun. Official languages requirements do not prevent departments from communicating in languages other than French and English in the procurement process.

3.1.3 **Defining contractual requirements for official languages**

To determine the language requirements for a procurement, business owners must refer to:

- Part IV of the act and the Parts I, II and III of the regulations, to identify the offices or facilities that must offer services to and be able to communicate with the public in both official languages; and
- Part V of the act, to identify regions designated as bilingual for language-of-work purposes.

Business owners may consult:

- The Official Languages Act and you web page for a description of the main components of the act
- their departmental official languages unit for support in determining language requirements

Senior designated officials responsible for procurement should ensure that their procurement management frameworks include mechanisms to allow business owners to engage with the departmental official languages unit. Refer to subsection 6.1.1 of the *Policy on Official Languages* for more information on related considerations.

When a contractor or other entity provides services to or communicates with the public on behalf of a department (within the meaning of section 25 of the act), contracting authorities must ensure that provisions of the contracts or contractual arrangements clearly identify official languages requirements.

If a deliverable is intended for publication, the contract or contractual arrangement must either specify the deliverable be provided in both official languages or include the necessary intellectual property clauses that enable the Crown to translate and publish the deliverable to ensure compliance with the act and the regulations.

Such publication could involve the Crown either obtaining ownership of the intellectual property or obtaining a licence, as appropriate.

When a procurement is for a regularly and widely used work instrument or electronic system, or for a personal or central service used by federal government employees in bilingual regions for language-of-work purposes as defined in the *Directive on Official Languages for People Management*, contracting authorities must ensure there are provisions to ensure that the goods or services provided are in both official languages. Such provisions could include, for example, the delivery of warning labels related to health and safety, maintenance instructions, parts lists, brochures, and signage in both official languages

3.1.4 **Contract management**

Departments are responsible for monitoring, documenting and certifying all deliverables and performance, and for ensuring that the requirements of the procurement are met, including ensuring fulfillment of requirements for official languages (refer to subsection 4.9.1 of the *Directive on the Management of Procurement*).

4. Resources

4.1 For questions and support on official languages obligations and their impact on specific procurements, refer to the List of persons responsible for official languages, official language champions and persons responsible for the implementation of the Section 41 in institutions subject to the Official Languages Act (OLA).

4.2 For questions on the interpretation of the act or regulations, contact your departmental legal services unit.

5. References

- *Official Languages Act*
- *Official Languages (Communications with and Services to the Public) Regulations*
- *Policy on Official Languages*
- *Directive on the Management of Procurement*
- *Directive on Official Languages for Communications and Services*
- *Directive on Official Languages for People Management*

Footnotes

- ¹ “Actively offers / active offer” is defined in Appendix 1 of the *Policy on Official Languages*.
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