



# Directive on the Management of Procurement

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# Directive on the Management of Procurement

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## **i** Note to reader

The requirements in the *Directive on the Management of Procurement* take effect on May 13, 2021, and replace the following instruments:

- *Contracting Policy*
- *Policy on Decision Making in Limiting Contractor Liability in Crown Procurement Contracts*

The Directive on the Management of Procurement has been amended to include:

- new requirements to integrate human rights, environment, social and corporate governance; supply chain transparency principles; and Public Services and Procurement Canada's *Code of Conduct for Procurement* for all government procurements. The following new sections, in effect as of April 1, 2023, have been added: 4.1.2.14, 4.2.3.3, 4.2.7.4, 4.3.9, 4.17.1, 4.17.4, and Annex D.6
- a new *Appendix E: Mandatory Procedures for Contracts Awarded to Indigenous Businesses*, effective as of April 1, 2022. It was developed in collaboration with Indigenous partners and describes procedures to address the Government of Canada's requirement that a mandatory minimum target of 5% of the total value of contracts is awarded to Indigenous businesses annually. The prior Appendix E: Definitions has moved to Appendix F.

## 1. Effective date

- 1.1 This directive takes effect on May 13, 2021.
- 1.2 This directive replaces the following Treasury Board policy instruments:
  - *Contracting Policy* (April 11, 2019)
  - *Policy on Decision Making in Limiting Contractor Liability in Crown Procurement Contracts* (September 1, 2003)
- 1.3 The requirements in Appendix A: Contracting Approvals of this directive will come into full effect immediately on May 13, 2021.

- 1.4 With the exception of Appendix A: Contracting Approvals, departments have 12 months to transition to this directive.
- 1.5 Subsection 4.5 is not applicable to procurements in solicitation or prior to contract award as of the date of approval of this directive.
- 1.6 Existing contracts or contractual arrangements in place prior to the date of approval of this directive, including option years established at the time of award, will be exempt from transitioning to this directive. For contractual arrangements with no explicit end date, consider transitioning to this directive upon regular review or renewal of the arrangements.

## **2. Authorities**

- 2.1 This directive is issued pursuant to the same authorities indicated in section 2 of the *Policy on the Planning and Management of Investments*.

## **3. Objectives and expected results**

- 3.1 The objective of this directive is that procurement of goods, services and construction obtains the necessary assets and services that support the delivery of programs and services to Canadians, while ensuring best value to the Crown.
- 3.2 The expected results of this directive are as follows:
  - 3.2.1 Procurements are managed in a manner that enables operational outcomes and demonstrates sound stewardship and best value consistent with the Government of Canada's socio-economic and environmental objectives;
  - 3.2.2 Procurement decisions are based on risk management practices, performance information and an assessment of full life-cycle costs whenever possible;
  - 3.2.3 Effective governance and oversight mechanisms are in place to support the management of procurement;
  - 3.2.4 Opportunities for collaboration are considered in procurement decisions;
  - 3.2.5 Workforce capacity for the management of procurement is developed, maintained and commensurate with organizational need; and
  - 3.2.6 Actions related to the management of procurement are fair, open and transparent, and meet public expectations in matters of prudence and probity.

## 4. Requirements

### Senior designated officials for the management of procurement

- 4.1 Senior designated officials for the management of procurement are responsible for the following:
  - 4.1.1 Establishing, implementing, and maintaining a departmental procurement management framework, consisting of processes, systems and controls;
  - 4.1.2 Ensuring that the departmental procurement management framework:
    - 4.1.2.1 Includes oversight, planning and reporting mechanisms including mechanisms pertaining to contracts awarded to Indigenous businesses as stated in Appendix E: Mandatory Procedures for Contracts Awarded to Indigenous Businesses;
    - 4.1.2.2 Includes clearly defined roles, responsibilities and accountabilities for the various governance committees involved;
    - 4.1.2.3 Incorporates performance results, lessons learned and best practices to inform procurement decision-making;
    - 4.1.2.4 Maintains the integrity of the procurement process;
    - 4.1.2.5 Contributes the procurement perspective to departmental planning functions and ensures that procurement strategies in the investment plan are in accordance with the *Policy on the Planning and Management of Investments*, Appendix A: Mandatory Procedures for Investment Plans;
    - 4.1.2.6 Ensures that procurement-planning reflects a strategic approach to departmental procurements, including contractual arrangements;
    - 4.1.2.7 Considers pricing strategies that enable coordinated asset management decisions;
    - 4.1.2.8 Considers input from key stakeholders, including but not limited to real property, materiel, project management, information technology, finance, security, legal services and human resources;
    - 4.1.2.9 Is commensurate to the value, risk and complexity of the procurement (or procurements) undertaken;
    - 4.1.2.10 Promotes collaborative, innovative, iterative and outcomes-based procurement approaches where appropriate;

- 4.1.2.11 Facilitates compliance with all legal obligations such as those arising from modern treaties (such as Comprehensive Land Claim Agreements, refer to Appendix D: Requirements Included in Other Policies, Programs and Agreements That Impact Procurements, section D.1), trade agreements (refer to Appendix D: Requirements Included in Other Policies, Programs and Agreements That Impact Procurements, section D.2), official languages, accessibility, financial management, privacy, environmental sustainability and security legislation;
- 4.1.2.12 Gives precedence to competition in accordance with the Government Contracts Regulations and trade agreements; and
- 4.1.2.13 Facilitates the collection and publication on the Open Government portal of accurate, timely and complete data for corporate reporting on procurement as described in Appendix C: Mandatory Procedures for the Disclosure of Contracts and Reporting;
- 4.1.2.14 Integrates respect for human rights, the environment, and social and responsible corporate behaviour into procurements by including measures to identify, mitigate and disclose risk that human trafficking, forced or child labour, or any other unethical business practice is occurring in departmental supply chains.
- 4.1.3 Facilitating collaboration between contracting authorities and business owners throughout the investment-planning process and procurement life cycle to enable informed procurement decisions;
- 4.1.4 Supporting improvement of government-wide procurement tools and practices by collaborating with Public Services and Procurement Canada, Shared Services Canada and the Treasury Board of Canada Secretariat;
- 4.1.5 Providing advice to the deputy head on:
  - 4.1.5.1 The nature, structure and required resourcing for implementation of the department's procurement management function;
  - 4.1.5.2 Significant gaps in performance or issues of non-compliance with the requirements of this directive; and
  - 4.1.5.3 Departmental procurement plans;
- 4.1.6 Identifying and addressing the department's needs with respect to the necessary competencies, capacity and professional development in procurement management.

**Business owners (client department or agency, technical authority)**

- 4.2 Business owners are responsible for the following:
- 4.2.1 Clearly defining, to contracting authorities, the intended outcomes of the procurement, including the operational requirements, end user needs, expected benefits, alignment with the government's strategic direction and total costs over the life cycle whenever possible;
  - 4.2.2 Adhering to the Values and Ethics Code for the Public Sector and the Directive on Conflict of Interest when engaging with suppliers;
  - 4.2.3 In collaboration with contracting authorities, supporting procurement-planning and decision-making by:
    - 4.2.3.1 Conducting market analysis to better understand industry capacity and availability; and
    - 4.2.3.2 Establishing and maintaining valid cost estimates;
    - 4.2.3.3 Identifying, mitigating and disclosing occurrences or risk that may have a negative impact on human rights, and environmental and social considerations;
  - 4.2.4 Adhering to the required governance processes for projects, assets and procurement decisions, commensurate to the risk and complexity of the procurement and in accordance with the departmental procurement management framework;
  - 4.2.5 Engaging with contracting authorities at the outset of planning investments, in order to integrate procurement considerations into the planning of programs, services and projects;
  - 4.2.6 Building in sufficient lead time to ensure that procurement activities and program operational requirements are met;
  - 4.2.7 Ensuring that the intended outcomes of the procurement are aligned with the departmental mandate and priorities, available funds, and key socio-economic and environmental benefits:
    - 4.2.7.1 Where appropriate, including accessibility considerations when specifying requirements for goods, services and construction, and ensuring that deliverables incorporate accessibility features;
      - 4.2.7.1.1 Ensuring clear justification is documented if it is determined that accessibility considerations are not consistent with modern treaties or trade agreements, or if it is not appropriate to include them as part of commodity specifications, or if it is

not possible to obtain goods, services or construction that comply;

- 4.2.7.2 Where appropriate, including environmental considerations when specifying requirements for goods, services and construction and leveraging procurement practices in accordance with the *Policy on Green Procurement* and documenting files accordingly; and
  - 4.2.7.3 Where appropriate, considering opportunities to support the participation of Indigenous peoples in matters related to procurement and documenting files accordingly;
  - 4.2.7.4 Where appropriate, including human rights considerations throughout the procurement process, to prevent and reduce risks of unethical business practices in markets where risks are the highest, and to ensure that suppliers that do business with the government operate in a socially responsible manner
- 4.2.8 In collaboration with contracting authorities, monitoring the delivery of the procurement and supporting any related reporting requirements;
- 4.2.9 Consulting with Treasury Board of Canada Secretariat (and other impacted government departments) to determine requirements for seeking Cabinet or Treasury Board approval when:
- 4.2.9.1 Developing or leading a program or policy that uses procurement to advance a government-wide socio-economic or environmental objective;
  - 4.2.9.2 Imposing any mandatory requirements that involve changes to the administration of procurement by other departments; and
  - 4.2.9.3 Ensuring that these requests include:
    - 4.2.9.3.1 A clear alignment of intended outcomes with government priorities and other programs or policies; and
    - 4.2.9.3.2 A sound business case, including a risk assessment, expected benefits indicators, and supporting guidance and tools for government-wide implementation.

## **Contracting authorities**

- 4.3 Contracting authorities are responsible for the following:
- 4.3.1 Conducting procurements on behalf of the department or agency, and establishing contracts and contractual arrangements based on sound procurement principles, including fairness, openness and transparency to obtain best value;



- 4.3.2 Ensuring that the integrity of the procurement process is maintained throughout by:
  - 4.3.2.1 Adhering to the Values and Ethics Code for the Public Sector and the Directive on Conflict of Interest; and
  - 4.3.2.2 Monitoring and reporting any conflict of interest that may exist and taking appropriate mitigating action as required;
- 4.3.3 In collaboration with business owners, ensuring that pricing strategies are considered in procurement-planning and throughout the procurement life cycle;
- 4.3.4 Providing advice and recommending options to business owners on procurement strategies that meet operational requirements and have the intended results; the procurement strategies are based on risk, complexity and best value considerations, such as but not limited to:
  - 4.3.4.1 Including outcomes-based, iterative approaches where appropriate;
  - 4.3.4.2 Incorporating market analysis and supplier engagements;
  - 4.3.4.3 Including an initial contract period with option years, off-ramps, phases, and gates to allow flexibility as appropriate;
  - 4.3.4.4 Including supplier incentives, Crown payment credits, and adjustments to contracts, their duration or length, and their processes provided that compliance, safety, quality and other specified considerations within the contract are met;
  - 4.3.4.5 Considering opportunities for the unbundling of requirements where applicable, and inviting bids by commodity to permit smaller and more specialized firms to bid;
  - 4.3.4.6 Ensuring that all decisions related to the legitimate division of requirements into multiple smaller requirements are documented, and are not intended to avoid financial approval thresholds or policy requirements, such as contract entry limits, regulatory rules and trade agreement obligations;
  - 4.3.4.7 Ensuring strategic category management, including socio-economic and environmental considerations;
  - 4.3.4.8 Using pricing strategies, including the basis of payment, incentives and performance adjustments;
  - 4.3.4.9 Considering input from relevant stakeholders responsible for investment management, project management, materiel management and real

- property management;
- 4.3.4.10 Including the life-cycle costs of the asset and all stages of the procurement;
- 4.3.4.11 Using common service providers;
- 4.3.4.12 Using Public Services and Procurement Canada's published list of acquisition instruments, including the mandatory standing offers and supply arrangements as listed in Appendix A: Contracting Approvals, section A.6 (Standing offers and supply arrangements);
- 4.3.4.13 Considering non-mandatory Public Services Procurement Canada acquisition instruments, where practicable; and
- 4.3.4.14 Applying lessons learned from previous procurements and best practices;
- 4.3.5 Implementing the departmental procurement management framework established by senior designated officials while liaising horizontally across business lines to identify opportunities for efficiencies and achieve intended outcomes;
- 4.3.6 Collaborating with other government departments on joint procurements as appropriate;
- 4.3.7 In consultation with business owners, monitoring, documenting, investigating and discussing contractor performance issues as they arise over the course of the contract in order to select appropriate measures required to address documented issues; and
- 4.3.8 Ensuring that requirements included in other policies, programs and agreements are considered and met as described in Appendix D: Requirements Included in Other Policies, Programs and Agreements That Impact Procurements;
- 4.3.9 Incorporating the Code of Conduct for Procurement into procurements (refer to Annex D6: Code of Conduct for Procurement).

#### **Industry engagement and market analysis**

- 4.4 When conducting industry engagement, as appropriate, contracting authorities, in collaboration with business owners, are responsible for the following:
  - 4.4.1 Assessing whether an outcomes-based procurement approach is appropriate, such as in situations where:
    - 4.4.1.1 There is no existing solution on the market;

- 4.4.1.2 The business requirement needs cannot be met without significant modifications to existing solutions;
- 4.4.1.3 The business requirement is complex and involves multiple stakeholders;
- 4.4.1.4 Collaboration with suppliers in solution development may be required;
- 4.4.2 Developing industry engagement strategies that respect the principles of a fair, open and transparent procurement process;
- 4.4.3 Communicating the rules of that engagement with all stakeholders involved;
- 4.4.4 Conducting market analysis in the procurement-planning phase to better understand industry capacity and availability;
- 4.4.5 Developing performance-based evaluation criteria that are commensurate with the risk and complexity of the procurement, through the following measures, including but not limited to:
  - 4.4.5.1 Requesting third-party reviews and analysis;
  - 4.4.5.2 Organizing or participating in events, including bidders' conferences, supplier or industry days and site visits; and
  - 4.4.5.3 Issuing requests for information, request for expressions of interest, or advance contract award notices as required;
- 4.4.6 Ensuring that there are opportunities for suppliers to collaborate and develop solutions, including pilots and prototypes, where appropriate;
- 4.4.7 Leveraging market analysis and applying business acumen and negotiation skills to develop the terms of a contract; and
- 4.4.8 Revalidating the market analysis sufficiently in advance of negotiating the extension of non-competitive procurements to allow for the consideration of other options as appropriate.

#### **Solicitation and bid evaluation**

- 4.5 Contracting authorities are responsible for the following:
  - 4.5.1 Ensuring that bids are solicited for contracts, except when one of the exceptions set out in the Government Contracts Regulations applies;
  - 4.5.2 Publishing on the Government of Canada–approved electronic tendering system, except when publication is not in the public interest, the following as required by applicable trade agreements:

- 4.5.2.1 All notices, solicitations, invitations to tender and bid documents, unless otherwise permitted by each of the applicable trade agreements;
- 4.5.2.2 Advance contract award notices identifying the intended supplier for at least 15 calendar days;
- 4.5.3 Simplifying solicitation documents wherever possible to support streamlined processes;
- 4.5.4 To the extent possible, taking past performance into consideration when assessing a bidder's ability to deliver, and managing the contract accordingly;
- 4.5.5 Including requirements for former public servants to self-identify in solicitations and in the resulting contract clauses of service contract documents, and informing suppliers that this information will be proactively disclosed; and
- 4.5.6 Collaborating with business owners to ensure that any appropriate socio-economic and environmental requirements are achievable and measurable;
- 4.5.7 Designing and conducting the bid evaluation process, financial assessment and due diligence;
- 4.5.8 Limiting the number of mandatory technical criteria to those determined to be essential requirements in order to achieve the desired outcomes and ensure that no bid is unnecessarily disqualified.

### **Contracting approvals**

- 4.6 Contracting authorities are responsible for the following:
  - 4.6.1 Seeking Treasury Board approval when the estimated value for a contract or contractual arrangement, including taxes, expected amendments, and follow-on contract or contractual arrangement, exceeds the limits in Appendix A: Contracting Approvals:
    - 4.6.1.1 Prior to entering into or amending a contract or contractual arrangement;
    - 4.6.1.2 Prior to amending a contract or contractual arrangement if the procurement deliverables or costs change after advance approval; and
    - 4.6.1.3 Prior to entering or amending a contract issued against an acquisition instrument (for example, standing offer or supply arrangement) when the estimated value exceeds the limits specified in the Treasury Board–approved acquisition instrument;
  - 4.6.2 Where appropriate, based on procurement strategies or plan, seeking advance Treasury Board approval to enter into a contract or contractual arrangement;

- 4.6.3 Ensuring that emergency conditions exist and seeking the appropriate approval prior to entering into an emergency contract or contractual arrangements in accordance with the requirements specified in Appendix A: Contracting Approvals, section A.3 (Emergency contracting limits);
- 4.6.4 Seeking ministerial approval for contracts with former public servants in accordance with Appendix A: Contracting Approvals, section A.4 (Former public servants contract approvals);
- 4.6.5 Seeking Treasury Board approval to change an approval authority in accordance with Appendix A: Contracting Approvals, section A.5 (Requesting changes to contracting approval limits); and
- 4.6.6 Seeking Treasury Board approval to limit contractor liability or to indemnify in accordance with Appendix B: Mandatory Procedures for Limitation of Contractor Liability and Indemnification in Contracts.

### **Employer-employee relationships**

- 4.7 Business owners are responsible for the following:
  - 4.7.1 Ensuring that an employer-employee relationship does not form during the contract; and
  - 4.7.2 Keeping their contracting authorities informed of the conditions or changes to the way in which the work must be performed that may create an employer-employee relationship.
- 4.8 Contracting authorities are responsible for the following:
  - 4.8.1 Ensuring that business owners using contracted services are aware of the risks associated with the creation of employer-employee relationships, prior to and during the performance of the contract; and
  - 4.8.2 Including terms and conditions that prevent the risk of creating employer-employee relationships in the contract.

### **Contract management and documentation**

- 4.9 Business owners are responsible for the following:
  - 4.9.1 Monitoring, documenting and certifying the delivery of goods, services and construction to ensure that the delivery meets the provisions of the contract or contractual arrangement, including such criteria as quality, standards and service levels;

- 4.9.2 Monitoring and documenting costs, including confirming that the invoice is in accordance with the contract or contractual arrangement and reflects the work performed;
- 4.9.3 Informing contracting authorities of contractor performance, including both the challenges and achievement of key deliverables as they arise;
- 4.9.4 In collaboration with contracting authorities, communicating performance issues and consequences to the contractors as they arise, and providing contractors with an opportunity to address the issues as appropriate;
- 4.9.5 In collaboration with contracting authorities, reviewing complex procurements, where appropriate to:
  - 4.9.5.1 Assess the appropriateness of the procurement strategy;
  - 4.9.5.2 Determine whether best value and the intended outcomes are being achieved (including but not limited to socio-economic and environmental outcomes);
  - 4.9.5.3 Identify opportunities for improvement or change where applicable;
  - 4.9.5.4 Document, share, and apply lessons learned and best practices, where possible; and
  - 4.9.5.5 Apply best practices in contract management in order to achieve the desired procurement outcomes over the acquisition life cycle;
- 4.9.6 In collaboration with contracting authorities, providing a justification for using any of the exceptions to soliciting bids in the Government Contracts Regulations.

4.10 Contracting authorities are responsible for the following:

- 4.10.1 Where applicable, ensuring that accurate and comprehensive procurement records are created and maintained on the contract file to facilitate management oversight and audit, including but not limited to:
  - 4.10.1.1 A description of the requirement, the rationale for the procurement strategy options and the identification of decision-makers involved;
  - 4.10.1.2 A record of individual assessments, consensus evaluation, relevant decisions, approvals, communications and dates;
  - 4.10.1.3 Justification for using limited tendering, in accordance with each applicable trade agreement;

- 4.10.1.4 Documentation of risk management strategies, financial assessments and ongoing price validations throughout the procurement;
  - 4.10.1.5 Any records related to the limitation of contractor liability or indemnification regardless of the dollar value of the contract;
  - 4.10.1.6 Documentation of any criteria, considerations or plans that leverage procurement to provide socio-economic and environmental benefits, including any additional known costs and planned outcomes;
  - 4.10.1.7 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;
- 4.10.2 Including a condition in complex procurements that prohibits the contractor from supplying goods to the government of Canada that is subject to economic sanctions imposed under the United Nations Act, the Special Economic Measures Act, or the Justice for Victims of Corrupt Foreign Officials Act and listed in Appendix D: Requirements Included in Other Policies, Programs and Agreements That Impact Procurements, section D.4 (International sanctions), subsection D.4.2;
- 4.10.3 Ensuring that the roles and responsibilities of stakeholders involved throughout the procurement process are well-defined and clearly communicated;
- 4.10.4 In collaboration with business owners, documenting contractor performance issues as they occur, in accordance with the escalation guidance;
- 4.10.5 Monitoring and managing the procurement risks identified in the planning stage and ensuring that updates are made to reflect evolving risks throughout the procurement process;
- 4.10.6 Seeking approval from the financial delegation holder prior to extending the duration of a contract or amending a contract where there is a financial impact throughout the procurement life cycle;
- 4.10.7 In collaboration with business owners, assessing whether to extend or re-solicit expiring long-term contracts or contractual arrangements at least two years in advance of their expiry; and
- 4.10.8 In consultation with legal services, ensuring that the contract includes appropriate cancellation or termination clauses, such as clauses that permit cancellation or termination at critical life-cycle stages for complex procurements.

#### **Financial interests of the Crown**

- 4.11 Contracting authorities are responsible for the following:

- 4.11.1 Considering whether to obtain a financial security from bidders and contractors that is commensurate with the risks involved, including the risk of a contractor's failure or inability to perform the work under a contract;
- 4.11.2 Taking into account the standard industry practices in evaluating the type of financial security;
- 4.11.3 Ensuring that any company selected to provide that financial security is licensed to provide it in the jurisdiction of the eventual contract, in accordance with the *Guidance on Source Lists of Companies Licensed to Provide Surety Within Canada*;
- 4.11.4 In collaboration with business owners, ensuring that any financial security held by the Crown is redeemed, where appropriate, when a contractor or a bidder defaults on their obligations;
- 4.11.5 Including options for an exit strategy at key milestones, gates or phases, and monitoring that payment milestones are not missed to avoid additional costs to the Crown; and
- 4.11.6 Where there is knowledge of an insolvency and impending or actual bankruptcy of a contractor or bidder, ensuring that any proposed action by a business owner will not prejudice the Crown's legal position, particularly when the bankrupt contractor resides outside Canada, and that any action taken be in accordance with the bankruptcy laws of the respective foreign country.

#### **Limitation of contractor liability and indemnification**

- 4.12 Business owners are responsible for the following:
  - 4.12.1 Ensuring that a risk assessment is completed and consulting with key departmental stakeholders including legal services as appropriate prior to initiating a request to limit contractor liability and indemnification;
  - 4.12.2 Assuming responsibility for procurement litigation costs, including in situations where the procurement is carried out on their behalf by a contracting authority and where responsibility for such costs has not been otherwise allocated.
- 4.13 Contracting authorities are responsible for the following:
  - 4.13.1 Ensuring that the contract allows for each party to accept responsibility for risks under their control that they can manage or mitigate in accordance with authorities set out in Appendix B: Mandatory Procedures for Limitation of Contractor Liability and Indemnification in Contracts;
  - 4.13.2 Advising business owners on the recommended strategy for limiting contractor liability, where applicable, in accordance with Appendix B: Mandatory Procedures for Limitation of Contractor Liability and Indemnification in Contracts;



- 4.13.3 Communicating the commodity groupings that they create in accordance with Appendix B: Mandatory Procedures for Limitation of Contractor Liability and Indemnification in Contracts, subsection B.1.2.1.2, and their associated financial caps, risk assessment and clauses to Public Services and Procurement Canada for publication and dissemination.

### **Official languages**

- 4.14 In accordance with the Official Languages Act and the Official Languages (Communications with and Services to the Public) Regulations, contracting authorities are responsible for the following:
  - 4.14.1 Publishing all information and documentation related to a solicitation or a contract in both official languages; and
  - 4.14.2 Communicating with suppliers and contractors and providing them with access to information related to procurement in both official languages.

### **Data management, reporting and disclosure**

- 4.15 Contracting authorities are responsible for the following:
  - 4.15.1 Collecting and publishing procurement data in accordance with the departmental procurement management framework; and
  - 4.15.2 Ensuring that contracts comply with all applicable government-wide reporting requirements set out in legislation, policy, trade agreements, or other obligations in accordance with Appendix C: Mandatory Procedures for the Disclosure of Contracts and Reporting; this includes:
    - 4.15.2.1 Ensuring that the information and data, including lessons learned from other procurements, are available to all key stakeholders and enable senior designated officials to make informed procurement recommendations and decisions.

### **Debriefings and disputes resolution**

- 4.16 Contracting authorities are responsible for the following:
  - 4.16.1 Ensuring that procurement documents outline dispute resolution procedures for bids and contracts;
  - 4.16.2 Providing bidders with information on available alternative processes for dispute resolution, including but not limited to negotiation, mediation and arbitration, prior to awarding the contract;

4.16.3 Ensuring that bidders who request a debriefing receive one in a timely manner after a contract has been awarded; and

4.16.4 Dealing with bidder and contractor disputes fairly and promptly.

### **Disclosure of wrongdoing**

4.17 Business owners, in collaboration with contracting authorities are responsible for the following:

4.17.1 Protecting government spending from fraud, corruption, unethical business practices and collusive behaviour;

4.17.2 Escalating and sharing information on potential wrongdoing regarding procurements and contractual arrangements; and

4.17.3 Making every reasonable effort to ensure that no direct benefits accrue to anyone who has an interest in the procurement or in the awarding of a contract to a successful bidder;

4.17.4 Requiring that suppliers and subcontracted suppliers of goods and services apply ethical and sustainability standards across their supply chains and adhere to the Code of Conduct for Procurement (refer to Annex D6: Code of Conduct for Procurement).

## **5. Roles of other government organizations**

5.1 This section identifies the roles of other key government organizations in relation to this directive. In and of itself, this section does not confer any authority.

5.2 **Department of Justice Canada is responsible for the following:**

5.2.1 Procuring the services of arbitrators, mediators, experts, court reporters, stenographers, interpreters, translators, and other professionals where ordered by the court, mandated by court rules, or where agreement with adversarial parties is required in matters that may result in the commencement of legal proceedings or where legal proceedings have already commenced involving the Attorney General of Canada; and

5.2.2 Where the Government Contracts Regulations apply, contracts for legal services may be entered into only by or under the authority of the Minister of Justice; this requirement does not apply to contracting authorities included in the schedule to the Government Contracts Regulations.

5.3 **The Canada Revenue Agency (CRA) is responsible for the following:**

5.3.1 Administering Canadian income tax and commodity tax (for example the Goods and Services Tax (GST) and Harmonized Sales Tax (HST)) legislation and regulations, and the related CRA policies and procedures, including with respect to:

5.3.1.1 Required withholding from amounts paid to non-residents providing services in Canada, other than amounts paid in respect of an office of employment;

5.3.1.2 Reporting payments for services provided in Canada;

5.3.1.3 Determining if an employment relationship exists for income tax purposes; and

5.3.1.4 The application of GST or HST (except with respect to importations and in Quebec).

5.4 **The Office of the Procurement Ombudsman is responsible for the following:**

5.4.1 Reviewing the procurement practices of organizations to assess their fairness, openness and transparency, and making recommendations for improvements;

5.4.2 Reviewing complaints from suppliers about the awarding of contracts that are valued below the monetary thresholds set out in applicable trade agreements; and

5.4.3 Ensuring that an alternative dispute resolution process is provided, at the request of each party to the contract, for disputes related to the interpretation or application of a contract's terms and conditions.

5.5 **The Canadian International Trade Tribunal is responsible for the following:**

5.5.1 Conducting enquiries into complaints by potential suppliers regarding procurement processes for covered goods and services that are valued above the monetary thresholds set out in the applicable trade agreements;

5.5.2 Determining the merits of complaints, including whether procurement processes comply with the requirements of the trade agreements, and awarding a complainant reasonable costs incurred in relation to a complaint where appropriate; and

5.5.3 Recommending remedies to complaints, which may include the re-solicitation of the designated contract and the payment of damages.

5.6 **Public Services and Procurement Canada is a common service provider and is responsible for the following:**

5.6.1 Planning and organizing the provision of materiel and related services to departments and the acquisition of goods, services and construction for departments

in accordance with section 6 of the Department of Public Works and Government Services Act;

5.6.2 Investigating and developing services for increasing the efficiency and economy of the federal public administration and for enhancing integrity and efficiency in the contracting process in accordance with section 7 of the Department of Public Works and Government Services Act;

5.6.3 Procuring goods for the use of any department, except to the extent that the Minister of Public Services and Procurement Canada delegates the powers to another Minister, as stated in section 9 of the Department of Public Works and Government Services Act;

5.6.4 Acquiring defence supplies and constructing defence projects as defined in the Defence Production Act with the exception of defence projects constructed by employees of Her Majesty, or purchasing defence supplies or constructing defence projects that the Minister of Public Services and Procurement Canada requests that another Minister undertake;

5.6.5 Developing operational tools to support procurement undertaken on behalf of other government departments, such as guidance, templates, standard contract clauses, and an electronic tendering system (where appropriate, these tools will be made available to the procurement community);

5.6.5 Providing advice on:

5.6.5.1 Methods and support approaches for early engagement with industry;

5.6.5.2 Procurement strategies and industry barrier reduction;

5.6.6 Administering the Directive on Government Contracts, Including Real Property Leases, in the Nunavut Settlement Area, in collaboration with the Treasury Board of Canada Secretariat and Indigenous Services Canada; and

5.6.7 Advising contracting authorities and business owners on federal procurement activities in Comprehensive Land Claim Settlement Areas.

5.7 **Shared Services Canada is a common service provider and is responsible for the following:**

5.7.1 Providing services related to email, data centres, networks and end-user information technology to federal departments and agencies; and

5.7.2 Planning, organizing, and acquiring related goods and services pursuant to section 7 of the Shared Services Canada Act.

- 5.8 **Crown-Indigenous Relations and Northern Affairs Canada is responsible for the following:**
- 5.8.1 Negotiating and implementing Modern Treaties (Comprehensive Land Claims Agreements and Self-Government Agreements), most of which contain chapters that may have a potential impact on federal procurement activities;
  - 5.8.2 Leading consultations with the Designated Inuit Organization about the development and maintenance of the Directive on Government Contracts, Including Real Property Leases, in the Nunavut Settlement Area and the development of any amendments; and
  - 5.8.3 Advising on duty to consult.
- 5.9 **Employment and Social Development Canada is responsible for the following:**
- 5.9.1 Leading and administering the Federal Contractors Program.
- 5.10 **Global Affairs Canada is responsible for the following:**
- 5.10.1 In consultation with other government departments, agencies and Crown corporations, negotiating international trade agreements that include government procurement obligations; and
  - 5.10.2 Procuring goods, services and construction in support of diplomatic and consular missions, and other departments and agencies operating outside Canada.
- 5.11 **Indigenous Services Canada is responsible for the following:**
- 5.11.1 Leading and administering the Procurement Strategy for Indigenous Business;
  - 5.11.2 Administering the Directive on Government Contracts, Including Real Property Leases, in the Nunavut Settlement Area, in collaboration with the Treasury Board of Canada Secretariat and Public Services and Procurement Canada;
  - 5.11.3 Advising on federal procurement activities in Comprehensive Land Claims Settlement Areas; and
  - 5.11.4 Monitoring and reporting procurement activities, including quarterly and annual public disclosure of federal contracting activities covered by Modern Treaties (Comprehensive Land Claims Agreements and Self-Government Agreements).
- 5.12 **Innovation, Science and Economic Development Canada is responsible for the following:**
- 5.12.1 Leading and administering the Industrial and Technological Benefits Policy;

5.12.2 Negotiating the government procurement chapter of the Canadian Free Trade Agreement; and

5.12.3 Leading and administering the Policy on Title to Intellectual Property Arising Under Crown Procurement Contracts.

**5.13 Natural Resources Canada is responsible for the following:**

5.13.1 Assisting federal government departments under the NRCan Greening Government Services to improve the energy efficiency of their facilities without compromising the work environment of employees.

## **6. Application**

6.1 This directive applies to the organizations described in section 6 of the Policy on the Planning and Management of Investments.

6.2 This directive applies to all Government of Canada procurements as defined in the Policy on the Planning and Management of Investments.

6.3 This directive applies to all departments listed in Schedules I, I.1 and II of the Financial Administration Act (with the exception of the Canada Revenue Agency) and to any commissions established pursuant to the Inquiries Act and designated as a department for the purposes of the Financial Administration Act.

6.4 Senior designated officials of the organizations specified in subsection 6.3 are solely responsible for monitoring and ensuring compliance with this directive within their respective organizations.

6.5 The following transactions are not covered in this directive:

6.5.1 Revenue-producing contracts (sales and concession contracts, leases of Crown property) and the like;

6.5.2 Contracts related to the acquisition of land (which are covered by separate statutes and regulations);

6.5.3 The transfer without payment of goods, services or real property between departments, Crown corporations, provinces, municipalities and the territories;

6.5.4 Grants and contributions and other transfer payments;

6.5.5 Shared cost programs in which the Government of Canada is not the contracting authority;

- 6.5.6 Any contract not funded by Parliament in which the Government of Canada acts as an agent for other parties;
- 6.5.7 Leases and contracts for the fit-up of an office or residential accommodation pursuant to the *Federal Real Property and Federal Immovables Act* and its regulations; and
- 6.5.8 Interchange Canada agreements.
- 6.6 Agents of Parliament:
- 6.6.1 The following organizations are considered Agents of Parliament for the purposes of the directive:
- Office of the Auditor General of Canada
  - Office of the Chief Electoral Officer
  - Office of the Commissioner of Lobbying of Canada
  - Office of the Commissioner of Official Languages
  - Office of the Information Commissioner of Canada
  - Office of the Privacy Commissioner of Canada
  - Office of the Public Sector Integrity Commissioner of Canada
- 6.6.2 With regard to Agents of Parliament, the following do not apply:
- 6.6.2.1 Subsections 4.1.4 (supporting government-wide tools), 4.3.4.11 (use of common service providers) and 4.3.4.12 (use of Public Services and Procurement Canada acquisition instruments);
- 6.6.2.2 All requirements to obtain approval from a Minister, the Treasury Board, or the Treasury Board of Canada Secretariat:
- Subsection 4.2.9 (leveraging procurement for socio-economic benefits),
  - Subsection 4.6 (Contracting approvals), and
  - Appendix A: Contracting Approvals in its entirety;
- 6.6.2.3 Appendix B: Mandatory Procedures for Limitation of Contractor Liability and Indemnification in Contracts in its entirety;
- 6.6.2.4 Appendix C: Mandatory Procedures for the Disclosure of Contracts and Reporting, the reporting requirements for emergency contracts and contractual arrangements;
- 6.6.2.5 The requirement to use the Department of Justice Canada for legal services contracts; and
- 6.6.2.6 The application of the Treasury Board of Canada Secretariat's role in ensuring compliance with this directive;

6.6.3 In the event that any policy, procedure, process, guidance or best practice conflicts with a requirement or impedes on an Agent of Parliament's independence or authority, the Agent of Parliament will have full discretion to make a determination of the applicability of the requirement.

6.7 In the event of a conflict between a requirement in this directive and a requirement in any other departmental policy instrument for procurement management, with the exception of the Directive on Government Contracts, Including Real Property Leases, in the Nunavut Settlement Area, the requirement in the *Directive on the Management of Procurement* will apply. In the event of a conflict between a requirement in this directive and a legal obligation, including an obligation under a modern treaty, the legal obligation will apply.

## 7. References

The following instruments should be read in conjunction with this directive. While these instruments are considered most relevant to departments' ability to comply with the requirements in this directive, the list should not be considered exhaustive.

### 7.1 Legislation

- Access to Information Act
- Accessible Canada Act
- Customs Act
- Customs Tariff
- Defence Production Act
- Department of Public Works and Government Services Act
- Employment Equity Act
- Excise Tax Act
- Export and Import Permits Act
- Federal Accountability Act
- Federal Sustainable Development Act
- Financial Administration Act
- Income Tax Act
- Justice for Victims of Corrupt Foreign Officials Act
- Official Languages Act
- Privacy Act
- Shared Services Canada Act
- Special Economic Measures Act
- United Nations Act

### 7.2 Related policy instruments

- Accessibility Strategy for the Public Service of Canada
- Data Standard on Classification of Procurement Items



- *Directive on Government Contracts, Including Real Property Leases, in the Nunavut Settlement Area*
- *Directive on Security Management*
- *Directive on Service and Digital*
- *Directive on the Management of Communications*
- *Directive on the Management of Materiel*
- *Directive on the Management of Projects and Programmes*
- *Directive on the Management of Real Property*
- *Government Contracts Regulations*
- *Government of Canada Digital Standards*
- *Government of Canada's Integrity Regime*
- *Greening Government Strategy*
- *Income Tax Regulations*
- *Policy on Communications and Federal Identity*
- *Policy on Financial Management*
- *Policy on Government Security*
- *Policy on Green Procurement*
- *Policy on Results*
- *Policy on Service and Digital*
- *Policy on the Planning and Management of Investments*
- *Policy on Title to Intellectual Property Arising Under Crown Procurement Contracts*
- *Policy on Transfer Payments*

## 8. Enquiries

- 8.1 For interpretation of any aspect of this directive, contact Treasury Board of Canada Secretariat Public Enquiries.
- 8.2 Individuals from departments should contact their departmental procurement policy group for information about this directive.
- 8.3 Individuals from the departmental procurement policy group may contact Procurement Management Enquiries for interpretations.
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## Appendix A: Contracting Approvals

This appendix is mandatory as prescribed by the Treasury Board. It applies to contracting authorities as defined in the Government Contracts Regulations with the exception of contracting authorities in the Schedule to the Regulations and Commissions created pursuant to the Inquiries Act.

For the purposes of Appendix A: Contracting Approvals, the term “competitive” includes the publishing of an advance contract award notice.

## A.1 Basic contracting limits

A contract or contractual arrangement may be entered into without the approval of the Treasury Board, if the amount payable, including all applicable taxes, fees and amendments, does not exceed the stated limit in **Canadian dollars** for the contracting authority identified in the basic limits schedules.

Contracting authority is subject to ministerial delegation and, except for delegations provided by common service providers, may not be delegated between ministers.

When an exceptional limit is lower than the basic limit for its corresponding schedule, the exceptional limit applies.

The tables below are subject to Public Services and Procurement Canada and Shared Services Canada delegation of goods, as applicable.

Thresholds for contracting in the *Government Contracts Regulations* and in trade agreements must be adhered to, where applicable.

### Schedule 1: Construction

Department	Competitive	Non-competitive
Public Services and Procurement Canada	\$75,000,000	\$1,250,000
All other departments	\$750,000	\$100,000

### Schedule 2: Goods

Department	Competitive	Non-competitive
Public Services and Procurement Canada	\$75,000,000	\$3,750,000
Shared Services Canada	\$75,000,000	\$3,750,000
National Defence	\$7,500,000	\$375,000
All other departments	\$750,000	\$100,000

### Schedule 2A: Specialized goods

Department	Commodity	Competitive	Notes
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<b>Public Services and Procurement Canada</b>	Bulk fuel	\$75,000,000	Applies to call-ups against a standing offer established by Public Services and Procurement Canada
<b>All other departments</b>	Bulk fuel	\$10,000,000	

### Schedule 3: Services

<b>Department</b>	<b>Competitive</b>	<b>Non-competitive</b>
<b>Public Services and Procurement Canada</b>	\$37,500,000	\$5,750,000
<b>Shared Services Canada</b>	\$37,500,000	\$5,750,000
<b>National Defence</b>	\$7,500,000	\$375,000
<b>Transport Canada</b>	\$7,500,000	\$250,000
<b>Fisheries and Oceans Canada</b>	\$7,500,000	\$200,000
<b>All other departments</b>	\$3,750,000	\$200,000

### Schedule 3A: Specialized services

<b>Commodity</b>	<b>Department</b>	<b>Competitive</b>	<b>Non-competitive</b>	<b>Notes</b>
<b>Architectural and engineering services</b>	Public Services and Procurement Canada	\$7,500,000	\$200,000	Where the Treasury Board has approved an increased amount of a competitive architectural and engineering services contract, the contract amounts stated can be amended by \$250,000 for competitive contracts and \$100,000 for non-competitive contracts.
	All other departments	\$60,000	\$60,000	n/a

<b>Transportation services from common carriers</b>	All departments	Unlimited	n/a	Rates charged must not exceed the normal rates for such services.
<b>Energy services</b>	All departments	\$25,000,000	\$25,000,000	Applies to service contracts issued pursuant to the <u>Natural Resources Canada Federal Building Initiative</u> for the acquisition of energy supply, energy efficiency improvements, energy management services, and energy management monitoring and training. Each custodian's first energy management contract over \$1,000,000 must be submitted for Treasury Board approval.
<b>Regulated services</b>	All departments	n/a	Unlimited	Services must be at regulated prices or at prices accepted by a regulatory mechanism, including electricity, gas, water, sewage disposal, heat, postage and telecommunications, and the contract does not involve negotiated installation or capital charges in excess of \$200,000. Includes services with a railway, telegraph, telephone, or power company for permission to attach wires to poles belonging to the company. Rates or amounts must not exceed those normally charged.

<b>Deregulated services</b>	Public Services and Procurement Canada	\$300,000,000*	n/a	*Applies to non-regulated telecommunications services. Deregulated telecommunications services are defined as services that are not regulated by the Canadian Radio-Television and Telecommunications Commission (CRTC). Applies to services for procurement of electricity or natural gas. Services include deregulated portions, at rates or in amounts no greater than those normally charged.
	Shared Services Canada	\$100,000,000	n/a	
	National Defence	\$300,000,000*	n/a	
	National Research Council Canada	\$20,000,000	n/a	
	All other departments	\$20,000,000	n/a	
		\$5,000,000	n/a	

#### **Schedule 4: Contractual arrangements**

<b>Department</b>	<b>All commodities</b>
<b>Public Services and Procurement Canada</b>	\$25,000,000
<b>All other departments</b>	\$500,000

## **A.2 Exceptional contracting limits: applicable to specific departments**

In addition to the requirements of section A.1 (Basic contracting limits), Treasury Board approval is required when the Minister (or their delegated authority) enters into a contract (or contractual arrangement when stated) above the specified limit for the departments listed below, including all applicable taxes, fees and amendments, unless otherwise indicated.

When an exceptional limit is different from the basic contracting limit for its corresponding schedule, the exceptional limit applies.

The limits below are subject to the Public Services and Procurement Canada and Shared Services Canada delegation of goods as applicable.

## **Agriculture and Agri-Food Canada**

### **Exceptional limits previously approved for the Minister responsible for Agriculture Canada:**

Related to the *Prairie Farm Rehabilitation Act* :

- Competitive architectural and engineering services contract up to \$600,000
- Non-competitive architectural and engineering services contract related to buildings or public works up to \$100,000

## **Canadian Food Inspection Agency**

- Competitive construction contract up to \$1,500,000
- Architectural and engineering services contract up to \$150,000
- Competitive contracts up to \$4,500,000 to implement a Minister's order under the *Health of Animals Act* and the *Plant Protection Act* in response to a threat to Canada's food safety, animal health or plant health

## **Canadian Security Intelligence Service**

- Competitive and non-competitive goods or services contract up to an amount approved by the Treasury Board to support sensitive operations

## **Correctional Service Canada**

- Non-competitive contract for provision of educational and health care services for inmates, and for the provision of residential and non-residential after-care services to conditionally released offenders up to \$600,000
- Competitive health and social services contract up to \$6,000,000
- Non-competitive contractual arrangement with governmental and quasi-governmental entities, such as hospitals, universities and colleges, up to \$5,000,000
- Agreements for the statutory authority as per section 16 and section 81 of the *Corrections and Conditional Release Act* for which the Correctional Service Canada has, and where the total value over five years does not exceed \$25,000,000

## **Crown-Indigenous Relations and Northern Affairs Canada**

### **Exceptional limits previously approved for the Minister responsible for Crown-Indigenous Relations:**

Until March 31, 2027:

- Non-competitive contract for the services of federal negotiators and/or representatives for claims, litigation, rights-based negotiations, engagement and co-development processes on policy and legislative initiatives, and implementation of negotiated agreements up to \$2,000,000
- Non-competitive contract for the services of Crown deponents and expert witnesses for litigation up to \$800,000
- Amend contract with federal negotiators and/or representatives that were entered into under the exceptional contracting limits to extend the period of the explicit indemnification provisions

### **Exceptional limits previously approved for the Minister responsible for Northern Affairs:**

Until March 31, 2027:

- Non-competitive contract for the services of federal negotiators and/or representatives for claims, litigation, rights-based negotiations, engagement and co-development processes on policy and legislative initiatives, and implementation of negotiated agreements up to \$2,000,000
- Amend contract with federal negotiators and/or representatives that were entered into under the exceptional contracting limits to extend the period of the explicit indemnification provisions

## **Environment and Climate Change Canada**

### **Exceptional limits previously approved for the Minister responsible for the Department of the Environment:**

- Non-competitive services contract for research and technology development in water and waste pollution control in support of federal programs up to \$750,000

## **Fisheries and Oceans Canada**

- Competitive architectural and engineering services contract for the salmonid fish hatchery facilities up to \$600,000
- Non-competitive architectural and engineering services contract for the salmonid fish hatchery facilities up to \$100,000
- For the Small Craft Harbour program:
  - competitive construction contract up to \$2,000,000
  - competitive architectural and engineering services contract up to \$350,000

# Global Affairs Canada

Until October 19, 2023, unless otherwise stated:

## Exceptional limits previously approved for the Minister responsible for International Development:

- Competitive services or construction contract for an international development assistance program or project, or to approve a recipient country's entry into such a contract up to \$30,000,000
- Approve a recipient country's entry into a goods contract for:
  - competitive contract up to \$8,000,000
  - non-competitive contract up to \$2,000,000

## Exceptional limits previously approved for the Minister responsible for Foreign Affairs, Trade and Development:

- Competitive construction contract for facilities up to:
  - \$1,500,000 for staff quarters
  - \$4,500,000 for an official residence
  - \$15,000,000 for a chancery
  - \$15,000,000 for multiple-unit facilities
- Architectural and engineering services for:
  - competitive contract up to \$2,000,000
  - non-competitive contract up to \$150,000
- Non-competitive services contract in support of an official visit to a foreign country by the Prime Minister of Canada and/or the Governor General of Canada up to \$900,000
- Until October 19, 2027, competitive security services contract for the purpose of Canadian missions abroad up to \$10,000,000

## Exceptional limits approved for the Minister of Foreign Affairs:

- Until June 6, 2023, under the Weapons Threat Reduction Program, for international support or assistance for:
  - competitive and non-competitive construction contract up to \$5,000,000
  - competitive and non-competitive goods contract up to \$6,500,000
  - non-competitive services contract up to \$2,000,000
- Until June 7, 2023, under the Counter-Terrorism Capacity Building Program (CTCPP) or the Anti-Crime Capacity Building Program (ACCBP), for international support or assistance for:
  - competitive goods contracts up to \$1,500,000



- non-competitive goods contracts up to \$750,000
- non-competitive services contracts up to \$1,500,000

## **Indigenous Services Canada**

Until March 31, 2027:

- Non-competitive contract for the services of Crown deponents and expert witnesses for litigation up to \$800,000
- Non-competitive contract for the delivery of health care services to Indigenous Peoples in Canada up to \$3,000,000

## **Library and Archives Canada**

- Non-competitive goods contract for historical material, books and other publications up to \$150,000

## **National Defence**

- Acquire logistics support, supplies and services from states allied or associated with Canada under a mutual logistic support arrangement during the execution of combined exercises, training, deployments, operations, or other cooperative efforts, provided all related transactions are executed within the approved resource envelope for the activity being supported and subject to a request and authorization from the Minister of Public Services and Procurement Canada when required. Logistic support, supplies and services are specifically defined as food, water billeting, transportation (including airlift), petroleum, oils, lubricants, clothing, communications services, medical services, ammunition, base support (and construction incident to base operations support), storage services, use of facilities, training services, spare parts and components, repair and maintenance services, calibration services, port and airport services, and the temporary use of general-purpose vehicles and other non-lethal items of military equipment to the extent that such use is permitted under the national laws of the signatories.
- Non-competitive test and evaluation services against contractual arrangements with allied states up to \$10,000,000
- From July 1, 2022, to June 30, 2027, for services of transportation of personnel and materiel:
  - competitive contract up to \$20,000,000
  - non-competitive contract up to \$5,000,000
- From July 1, 2012, to June 30, 2027, non-competitive services to provide transportation to the Canadian Armed Forces for certain non-domestic requirements against contractual arrangements with the North Atlantic Treaty Organization Support and Procurement Agency up to \$20,000,000

- Non-competitive services contract for flying and glider training for air cadets up to \$3,000,000
- Competitive and non-competitive goods and services contract or contractual arrangement up to an amount that has been approved by the Treasury Board in support of sensitive operations

## **National Film Board**

- Non-competitive services contract for producer services in the making of films up to \$500,000

## **National Research Council Canada**

- Contract for publications, renewals, and back sets
- Competitive construction contract up to \$6,000,000 and amendments to such contracts that are over \$2,000,000 by up to 10% of the contract amount
- Competitive architectural and engineering services contract up to \$517,500

## **Office of the Superintendent of Financial Institutions**

- Non-competitive services contract, for urgent and highly confidential investigations of financial institutions as determined by the Minister up to \$225,000

## **Parks Canada**

- To be applied to all Parks Canada funding sources, in support of capital investments:
  - competitive construction contracts up to \$15,000,000
  - competitive architectural and engineering services contracts up to \$3,750,000
- Non-competitive architectural and engineering services contract up to \$75,000

## **Public Services and Procurement Canada**

### **Exceptional limits previously approved for the Minister responsible for the Department of Public Works and Government Services:**

- Subject to an approval and any associated conditions set by the President of the Treasury Board, competitive and non-competitive goods and services contracts and contractual arrangements of unlimited value that are part of a response to a sustained emergency of national importance
- Goods agreement to supply edible agricultural products as part of a foreign aid program up to \$10,000,000 under the following conditions:

- bids are reasonable under prevailing market conditions, the lowest valid bid is accepted or when necessary to obtain the tonnage demanded, successive lowest valid bids are accepted; or
  - when bids include Freight Aboard Ship multiple ports, the lowest valid bid or, when necessary to obtain the tonnage demanded, successive lowest valid bids that result in the lowest total cost to the recipient country are accepted
- Competitive and non-competitive agreement up to \$5,000,000 to transport by ocean-going vessel any goods for Global Affairs Canada under the following conditions:
  - the price offered is considered by the contracting authority to be reasonable under prevailing market conditions; and
  - the lowest valid bid is accepted or, if it is necessary to accept more than one bid to accommodate the quantity of goods to be shipped, successive lowest valid bids are accepted
- Services contract for repair and overhaul of military equipment up to \$50,000,000
- Goods or services contract for ammunition under the Munitions Supply Program up to \$50,000,000
- Goods and services contracts and contractual arrangements under the United States Foreign Military Sales Program up to \$50,000,000. Note that Public Services and Procurement Canada is authorized to accept the usual terms dealing with indemnity and liability of the Government of the United States for contractual arrangements with that government.
- Contract with the two selected shipyards for goods and services associated with large ships projects under the National Shipbuilding Strategy up to \$115,000,000

## **Royal Canadian Mounted Police**

- Competitive construction contract up to \$11,500,000
- Architectural and engineering services for:
  - competitive contract up to \$1,850,000
  - non-competitive contract up to \$150,000
- For housing and detachment projects:
  - competitive construction contract up to \$23,000,000
  - competitive architectural and engineering services contract up to \$3,700,000
- Competitive and non-competitive goods and services contracts or arrangements up to an amount approved by the Treasury Board in support of sensitive operations

## **Shared Services Canada**

- Subject to an approval and any associated conditions set by the President of the Treasury Board, competitive and non-competitive goods and services contracts and

contractual arrangements of unlimited value that are part of a response to a sustained emergency of national importance

- Until March 31, 2025, the Minister responsible for Shared Services Canada may enter into and amend non-competitive contracts for up to \$22.5 million to support IT operations for the GC where IP rights of the supplier prevent the contract from being competed.

## **A.3 Emergency contracting limits**

Emergency contracting limits are supplementary to basic and exceptional limits.

Emergency contracting limits are subject to the goods delegations, including those for emergency provisions where specified, from Public Services and Procurement Canada and Shared Services Canada, as applicable.

A.3.1 Contracting authorities are responsible for the following:

A.3.1.1 Entering into or amending a contract or contractual arrangement in response to a pressing emergency where a delay in approval would be injurious to the public interest and when the expected value is up to \$1,000,000, including applicable taxes and fees, provided that:

A.3.1.1.1 the requirement cannot be satisfied by normal contracting procedures due to the urgency of the situation;

A.3.1.1.2 the urgency provision of each applicable trade agreement has been invoked, or an exemption to applicable trade agreements applies;

A.3.1.1.3 the Minister (or their delegated authority) approves the use of these special authorities;

A.3.1.1.4 the most senior contracting authority available enters into the contract or contractual arrangement; and

A.3.1.1.5 any limitation of liability or indemnification of the contractor is approved by the chief financial officer or the most senior designated official available;

A.3.1.2 Seeking Treasury Board approval when the Minister (or their delegated authority) enters into or amends a contract or contractual arrangement above the specified limit for the departments listed below, including amendments, applicable taxes and fees.

A.3.2 **Emergency contracting limits: applicable to specific departments**

## **Canadian Food Inspection Agency**

Non-competitive emergency contracts up to \$2,000,000 to implement a Minister's order under the *Health of Animals Act* and the *Plant Protection Act* in response to a threat to Canada's food safety, animal health or plant health

## **Department of Fisheries and Oceans**

Non-competitive contract in response to pressing emergencies caused by actual or potential marine pollution (including, but not limited to, response or prevention actions where there is an impending risk of a marine pollution incident, in relation to incidents involving hazardous vessels, cargo loss, oil spill and Hazardous and Noxious Substances up to \$15,000,000

## **Department of National Defence**

Non-competitive contract for fuel, food, water and transportation services during urgent deployments of Canadian Forces units, under authorized operational orders up to \$5,000,000

## **Global Affairs Canada**

Emergency limit previously approved for the Minister responsible for the Foreign Affairs:

Non-competitive services contract related to chanceries or national security-related threats to Canadian missions abroad up to \$15,000,000

Emergency limit previously approved for the Minister responsible for International Development:

Contract (including starter contracts) that is part of an international development assistance program or project up to \$4,000,000

## **Office of the Superintendent of Financial Institution Canada**

Non-competitive services contracts in response to pressing emergencies for investigations and monitoring of financial institutions, or in the context of taking control of a financial institution, to act as an agent of the Superintendent up to \$4,000,000

## Public Services and Procurement Canada

Emergency limit previously approved for the Minister responsible for Public Works and Government Services Canada:

Non-competitive contract on behalf of any department, including Public Services and Procurement Canada, up to \$15,000,000

## Shared Services Canada

Non-competitive contract up to \$15,000,000

## All other departments

Non-competitive or competitive contract up to \$1,000,000 in response to a pressing emergency

## A.4 Former public servants contract approvals

A.4.1 Contracting authorities are responsible for the following:

A.4.1.1 Obtaining the responsible Minister's approval before entering into a non-competitive service contract with a former public servant:

A.4.1.1.1 In receipt of a pension under the Public Service Superannuation Act when the estimated total contract exceeds \$200,000, including all amendments, applicable taxes and fees, or

A.4.1.1.2 In receipt of a pension under the Public Service Superannuation Act, when the annualized rate of remuneration exceeds \$200,000, including all applicable taxes and fees, and the contract term exceeds 90 working days; or

A.4.1.1.3 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 Work Force Adjustment Directive made pursuant to the Public Sector Compensation Act; or who are former members of the Canadian Armed Forces and 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.

## A.5 Requesting changes to contracting approval limits

A.5.1 Senior designated officials are responsible for the following:

A.5.1.1 Seeking Treasury Board approval for amendments to departmental contracting approval limits supported by a business case that considers operational, financial, organizational, legal and reputational risks and including the following:

A.5.1.1.1 A description of what the department plans to procure within the proposed contracting approval authority;

A.5.1.1.2 A description of similar procurements by the department within its current contracting approval authority;

A.5.1.1.3 The reason for not using a common service provider's service, if applicable;

A.5.1.1.4 The planned additional management controls that will be instituted to manage any increased risk, if required;

A.5.1.1.5 The actions taken to address the recommendations of the most recent audits or reviews;

A.5.1.1.6 The ratio of the proposed authority to the non-statutory allocation for the department;

A.5.1.1.7 The expected future use of the proposed authority for procurement that is aligned with the departmental priorities identified in the departmental investment and procurement plans, as appropriate;

A.5.1.1.8 The trend in the number and value of procurements by the department over the past two to seven years for the goods, services and construction covered by the request;

A.5.1.1.9 The number and type of projected Treasury Board submissions that would be impacted by the changed authority; and

A.5.1.1.10 The associated workload and the capacity of the department to undertake additional procurements.

## A.6 Mandatory goods and services

- A.6.1 Public Service and Procurement Canada is responsible for procuring goods and services relating to mission-oriented science and technology requirements in the natural sciences and the human science fields of urban, regional and transportation studies.

## A.7 Standing offers and supply arrangements

- A.7.1 Common service providers must publish and maintain a list of standing offers and supply arrangements that is available to departments.

### Mandatory standing offers and supply arrangements

- A.7.2 The use of Public Services and Procurement Canada's standing offers and supply arrangements is mandatory for the commodity classes listed in Table A6, unless the procurement is subject to a Comprehensive Land Claims Agreement and the mandatory standing offers and supply arrangements does not address the applicable Comprehensive Land Claims Agreement contracting obligations.

**Table A7: Commodities for which standing offers and supply arrangements are mandatory**

<b>Commodity class code</b>	<b>Description</b>
<b>D</b>	Information Processing and Related Telecom Services
<b>R</b>	Professional, Administrative and Management Support Services
<b>N23</b>	Ground Effect Vehicles, Motor Vehicles, Trailers and Cycles
<b>N58</b>	Telecommunications Equipment and Accessories
<b>N70</b>	General Purpose Automatic Data Processing Equipment (including Firmware), Software, Supplies and Support Equipment
<b>N71</b>	Furniture
<b>N74</b>	Office Machines, Text Processing Systems and Visible Recording Equipment
<b>N75</b>	Office Supplies and Devices
<b>N84</b>	Clothing, Accessories and Insignia
<b>N91</b>	Fuels, Lubricants, Oils and Waxes



## **Creation or maintenance of mandatory standing offers and supply arrangements**

- A.7.3 Common service providers must seek Treasury Board approval for changes to the overall approach used for mandatory commodities.
- A.7.4 Common service providers are responsible for submitting a business case to the Treasury Board of Canada Secretariat for the review and concurrence of changes to the list of mandatory commodities.
- A.7.5 Common service providers are responsible for monitoring and data collection to ensure the relevancy of mandatory commodities in accordance with Appendix C: Mandatory Procedures for the Disclosure of Contracts and Reporting, subsection C.1.2.
- A.7.6 The Treasury Board of Canada Secretariat reserves the right to request a revalidation or review of the current mandatory standing offers and supply arrangements on a set timeframe following the effective date of the *Directive on the Management of Procurement*.

# **Appendix B: Mandatory Procedures for Limitation of Contractor Liability and Indemnification in Contracts**

## **B.1 Limitation of contractor liability**

- B.1.1 Contracting authorities, in consultation with business owners, are responsible for the following:
  - B.1.1.1 Confirming that the contract includes standard legal language that states that each party is responsible for risks under its control and accepts responsibility for risks that it can manage or mitigate;
  - B.1.1.2 Where appropriate, remaining silent in the contract by not including limitation of liability or indemnification clauses in the contract and accepting that the determination of liability will be subject to common or civil law;
  - B.1.1.3 Using a commodity grouping established and managed by Public Services and Procurement Canada or Shared Services Canada, without seeking Treasury Board approval, provided no changes or substitutions are required to the approved predetermined clauses, risk assessments and financial caps;

- B.1.1.4 In the absence of a viable existing commodity grouping, where appropriate, accepting standard commercial terms and conditions related to the limitation of contractor liability associated with low-risk and low-dollar-value goods and services, including subscriptions, software, mobile applications, cloud services and open source software.
- B.1.2 If there is no existing commodity grouping available for a frequently procured good or service, contracting authorities are responsible for the following:
  - B.1.2.1 Ensuring that a risk assessment is undertaken to determine whether there is a substantive transfer of risk from the contractor to the Crown and consulting with legal services prior to pursuing alternatives in the following order:
    - B.1.2.1.1 Requesting that Public Services and Procurement Canada, or Shared Services Canada for commodities related to information management or information technology, establish a new commodity grouping or limit a contractor's first- and third-party liability on their behalf; and
    - B.1.2.1.2 In cases where Public Services and Procurement Canada or Shared Services Canada are unable to create the commodity grouping when there is a substantive transfer of risk to the Crown, seeking Treasury Board approval for creating a commodity grouping;
  - B.1.2.2 Seeking Treasury Board approval to limit first- and third-party contractor liability or to indemnify the contractor from risks under the contractor's control.
- B.1.3 Contracting authorities must include the following for all requests for approval, whether the request is to establish a new commodity grouping, to obtain Treasury Board approval to limit first- or third-party contractor liability in the absence of a commodity grouping, or to indemnify the contractor:
  - B.1.3.1 The business owner's risk assessment approved by their chief financial officer and senior designated officials;
  - B.1.3.2 The recommended clauses for the limitation of liability or indemnification clauses that have been reviewed by legal services, with supporting documentation;
  - B.1.3.3 A record of all consultations with legal services, key stakeholders (where appropriate), Public Services and Procurement Canada, industry, and

Shared Services Canada for information management and information technology contracts; and

B.1.3.4 The recommended financial caps with supporting documentation.

## B.2 Common service providers

In accordance with Table B.1: Summary of authorities for limitation of liability and indemnification:

- B.2.1 Public Services and Procurement Canada and Shared Services Canada are authorized to negotiate first- and third-party contractor liability, whether a commodity grouping exists or not, except when there is a substantive transfer of risk or when indemnifying the contractor, in which case they must seek Treasury Board approval.
- B.2.2 Public Services and Procurement Canada and Shared Services Canada are responsible for creating new commodity groupings within their respective mandate; Shared Services Canada is authorized to create commodity groupings for information management and information technology only.
- B.2.3 Public Services and Procurement Canada and Shared Services Canada are responsible for publishing all commodity groupings that they create and manage; Public Services and Procurement Canada is authorized to maintain a repository of all commodity groupings.
- B.2.4 Public Services and Procurement Canada and Shared Services Canada are responsible for reviewing existing commodity groupings that they manage, respectively and in collaboration with each other; for those that are related to information management and information technology, at least once every five years or at the request of senior designated officials, to ensure that the risk assessments, liability clauses and financial caps are appropriate.

**Table B.1: Summary of authorities for limitation of liability and indemnification**

Risk allocation strategy	Without Treasury Board approval <sup>1</sup>			Departments require Treasury Board approval
	Public Services and Procurement Canada (PSPC)	Shared Services Canada (SSC)	All other departments	

Risk allocation strategy	Without Treasury Board approval <sup>1</sup>			Departments require Treasury Board approval
	Public Services and Procurement Canada (PSPC)	Shared Services Canada (SSC)	All other departments	
Silence in the contract (not having a specific limitation clause)	Yes	Yes	Yes	No
Using an existing commodity grouping	Yes	Yes	Yes	No
In the absence of an existing viable commodity grouping, accepting industry standard commercial terms for low risk and low dollar value	Yes	Yes	Yes	No
Establishing a commodity grouping	Yes	Yes	No	Yes (except PSPC and SSC)
Limiting first-party liabilities	Yes	Yes	No, except in a pressing emergency contracting situation with CFO approval <sup>*</sup>	Yes (except PSPC and SSC)
Limiting third-party liabilities	Yes, only where there is no substantive transfer of risks	Yes, only where there is no substantive transfer of risks	No, except in a pressing emergency contracting situation with CFO approval <sup>*</sup>	Yes (including PSPC and SSC where there is a substantive transfer of risks)

Risk allocation strategy	Without Treasury Board approval <sup>1</sup>			Departments require Treasury Board approval
	Public Services and Procurement Canada (PSPC)	Shared Services Canada (SSC)	All other departments	
<b>Indemnifying contractors from risk within their control</b>	No, except in a pressing emergency contracting situation with CFO approval <sup>*</sup> -	No, except in a pressing emergency contracting situation with CFO approval <sup>*</sup> -	No, except in a pressing emergency contracting situation with CFO approval <sup>*</sup> -	Yes (including PSPC and SSC)
<p><sup>*</sup> Notes <sup>*</sup> Requires an emergency contracting report to Treasury Board of Canada Secretariat within 60 calendar days. CFO stands for chief financial officer.</p> <p><sup>1</sup> Basic and exceptional limits apply. Subject to the goods delegations, including those for emergency provisions where specified, from Public Services and Procurement Canada and Shared Services Canada, as applicable.</p>				

## Appendix C: Mandatory Procedures for the Disclosure of Contracts and Reporting

In order to support the deputy head in fulfilling disclosure and reporting requirements:

- C.1 Contracting authorities are responsible for the following:
  - C.1.1 Ensuring that accurate information and data on contracts are entered in the department's designated financial and contracting systems of record;
  - C.1.2 Reporting to business owners when procuring on their behalf at the time of contract award or amendments by:
    - C.1.2.1 Providing a copy of the contract or amendments; and
    - C.1.2.2 Reporting the procurement strategy associated with any disclosure of the contract or amendments;

- C.1.3 Ensuring that contracts with former public servants are identified as such in the department's financial and contracting system.

## **Reporting requirements for proactive disclosure of contracts**

- C.2 Senior designated officials for the management of procurement are responsible for the following:
  - C.2.1 Proactively disclosing contract information in accordance with Part 2 of the *Access to Information Act*;
  - C.2.2 Ensuring that the data included in the proactive disclosure reports is materially accurate and complete;
  - C.2.3 Ensuring that the contract data elements are reported in the data format prescribed by the Treasury Board of Canada Secretariat;
  - C.2.4 Proactively disclosing the following contract information on a website designated by the Treasury Board of Canada Secretariat:
    - C.2.4.1 Publishing quarterly, within 30 days after the end of the first three quarters of a fiscal year (April to June, July to September and October to December) and 60 days after the end of the fourth quarter (January to March), each contract entered into by or for the department that is valued over \$10,000, positive and negative amendments valued over \$10,000, and any positive amendments that modify the initial value of a contract to an amended contract value that is over \$10,000; and
    - C.2.4.2 Publishing for each calendar year, by May 30th of the following calendar year, the aggregate total value of all contracts valued at \$10,000 and under, the aggregate total value of all positive or negative amendments valued at \$10,000 and under, and all acquisition card transactions;
  - C.2.5 Providing an annual report to Public Services and Procurement Canada and the Treasury Board of Canada Secretariat, by May 30 of the following calendar year, on each contract entered into by or for the department valued at \$10,000 and under, and on positive or negative contract amendments valued at \$10,000 and under;

## **Reporting requirements for Comprehensive Land Claims Agreements**

- C.2.6 Providing quarterly reports to fulfill the legal obligations of modern treaties and the policy requirements;

- C.2.6.1 Contacting the Business Development Division of Indigenous Services Canada at [aadnc.clcanet.aandc@canada.ca](mailto:aadnc.clcanet.aandc@canada.ca) for enquiries on any of the following:
  - C.2.6.1.1 How to report on Comprehensive Land Claims Agreements and planned procurements in the Nunavut Settlement Area;
  - C.2.6.1.2 Market research and engagement with Inuit firms or the Nunavut Tunngavik Incorporated.

## **Reporting requirements for trade agreements**

- C.3 Public Services and Procurement Canada is responsible for providing contract statistics to the Privy Council Office, Innovation, Science and Economic Development Canada and Global Affairs Canada on procurement contracts awarded by the Government of Canada and federal Crown Corporations to meet the reporting requirements of trade agreements.

## **Reporting requirements for contracts with former public servants in receipt of a pension under the Public Service Superannuation Act**

- C.4 Senior designated officials for the management of procurement are responsible for the following:
  - C.4.1 Ensuring that a quarterly report is provided to the Minister on all such contracts; and
  - C.4.2 Providing ministers, at the outset of each fiscal year, with an overview of the types of such contracts that may be issued for the year.

## **Reporting requirements for emergency contracts and contractual arrangements**

- C.5 Contracting authorities are responsible for the following:
  - C.5.1 Providing a report to the Treasury Board of Canada Secretariat, within 60 calendar days of entering into or amending a contract or contractual arrangement issued in accordance with Appendix A: Contracting Approvals, section A.3 (Emergency contracting limits), that includes:
    - C.5.1.1 The justification for the pressing emergency and detailed information about the circumstances of the emergency situation;
    - C.5.1.2 The type and total value of the awarded contract;

- C.5.1.3 The reason or reasons why the bidding requirements were not practical or permissible;
  - C.5.1.4 The department or agency's delegated contracting authority level at which the emergency contract entry was approved; and
  - C.5.1.5 Information about limitation of liability or indemnification decisions for contracts or contractual arrangements entered without Treasury Board contracting approval regardless of the dollar value, where applicable;
- C.5.2 Ensuring that the context and rationale to support departmental decision-making are well-documented.

## **Appendix D: Requirements Included in Other Policies, Programs and Agreements That Impact Procurements**

### **D.1 Modern Treaties including Comprehensive Land Claims Agreements**

#### **(Sponsoring department: Crown-Indigenous Relations and Northern Affairs Canada)**

- D.1.1 Senior designated officials are responsible for supporting deputy head compliance with reporting obligations by:
  - D.1.1.1 Ensuring that the information about contracts entered into, by or for the department, in a Comprehensive Land Claims Area, or that are reserved for Indigenous businesses (including when there have been no such contracts), is accurate and complete, and:
    - D.1.1.1.1 Is reported to the Deputy Minister of Indigenous Services Canada within 45 calendar days after each quarter of the fiscal year; and
    - D.1.1.1.2 Is reviewed to ensure that it does not include information whose public disclosure would be contrary to the public interest.
- D.1.2 Contracting authorities are responsible for the following:
  - D.1.2.1 Developing and maintaining a detailed understanding of the contracting requirements in modern treaties (Comprehensive Land Claims Agreements);



- D.1.2.2 Complying with specific legal obligations related to economic and social development benefits that affect procurements in the geographic areas that are subject to certain modern treaties (Comprehensive Land Claims Agreements), in a manner that recognizes the following:
  - D.1.2.2.1 Both trade agreements and modern treaties (Comprehensive Land Claims Agreements) may be relevant to procurements; however, trade agreements do not apply to any measures for Indigenous peoples and businesses, including set-asides for Indigenous businesses;
  - D.1.2.2.2 If a modern treaty (Comprehensive Land Claims Agreements) provides a right of first refusal for a procurement, the procurement may not be subject to trade agreements or may be set aside from trade agreements; this does not eliminate the requirement to solicit bids from those designated as having a right of first refusal under a modern treaty;
- D.1.2.3 Determining which obligations apply by consulting the list of Final Agreements relating to Comprehensive Land Claims and Self-Government and the Aboriginal and Treaty Rights Information System relating to potential or established Aboriginal or treaty rights; and
- D.1.2.4 Documenting their assessment of the applicable procurement-related requirements in modern treaty.
- D.1.3 In addition to modern treaties, the Directive on Government Contracts, Including Real Property Leases, in the Nunavut Settlement Area sets out the administrative requirements regarding government contracts and leases in the Nunavut Settlement Area stemming from the obligations in Article 24 of the Nunavut Agreement ( Agreement Between the Inuit of the Nunavut Settlement Area and Her Majesty the Queen in Right of Canada ).

## D.2 Trade agreements

**(Responsible departments: Global Affairs Canada for international agreements, and Innovation, Science and Economic Development Canada and the Privy Council Office for the Canadian Free Trade Agreement)**

- D.2.1 Contracting authorities are responsible for:

- D.2.1.1 Developing and maintaining an understanding of trade agreements including procedural obligations for the procurement of good, services and construction;
- D.2.1.2 Determining which trade agreements apply to a procurement; and
- D.2.1.3 Consulting the [Policy Notices and Treasury Board Circulars–Contracting page](#) for up-to-date information about trade agreements that Canada is party to, including government procurement obligations and current trade agreements thresholds in Canadian funds.

## D.3 Federal Contractors Program

### **(Responsible department: Employment and Social Development Canada)**

- D.3.1 Contracting authorities are responsible for the following:
  - D.3.1.1 Ensuring that suppliers that have a resident workforce in Canada of 100 or more employees and that are awarded federal contracts of \$1,000,000 or more for goods and services comply with employment equity obligations;
  - D.3.1.2 Ensuring that a supplier with a resident workforce in Canada of 100 or more employees has a valid agreement to implement employment equity under the Federal Contractors Program before entering into a contract valued at \$1,000,000 or more. The list of certified employers is available on the [Federal Contractors Program GCpedia page](#) (accessible only on the Government of Canada network);
  - D.3.1.3 Ensuring that a supplier who qualifies for the [Federal Contractors Program](#) enters into a separate agreement to implement employment equity when bidding on goods and services contracts of \$1,000,000 or more, and continues to honour this agreement as an ongoing obligation once contracts are awarded; failure to honour a commitment made to the government under the program or withdrawal from the program can result in the supplier being prevented from being considered for any further federal contracts for goods and services.

## D.4 International sanctions

### (Responsible department: Global Affairs Canada)

- D.4.1 Persons and companies in Canada are bound by the regulations passed in Canada pursuant to any legislation that imposes economic sanctions against certain foreign countries or entities. Consequently, Canada cannot accept the delivery of goods, services or construction that originate, either directly or indirectly, from countries, entities or persons subject to economic sanctions.
- D.4.2 For the list of countries or groups that are subject to Canadian economic sanctions, refer to current sanctions imposed by Canada.

## D.5 COVID-19 Vaccination Policy for Supplier Personnel

### (Responsible department: Public Services and Procurement Canada)

The requirements in this section of Appendix D of the directive come into effect immediately on October 28, 2021.

- D.5.0 Effective June 20, 2022, departments are not required to follow the requirements under paragraphs 5.1, 5.2, and 5.3 of this section of Appendix D.
- D.5.1 Public Services and Procurement Canada is responsible for the following:
  - D.5.1.1 Developing, maintaining, and implementing the COVID-19 Vaccination Policy for Supplier Personnel (the Policy), which sets out Public Services and Procurement Canada's vaccination requirements for supplier personnel who access federal government workplaces;
  - D.5.1.2 Developing and maintaining tools, such as guidance, templates and standard acquisition clauses and conditions for use by contracting authorities;
  - D.5.1.3 Consulting with the Treasury Board of Canada Secretariat, and where feasible with other departments, on any amendments to the Policy; and
  - D.5.1.4 Reassessing the duration of the Policy, which is time-limited to the COVID-19 pandemic, at a minimum of every six months, or as prescribed by the Treasury Board of Canada Secretariat.
- D.5.2 Senior designated officials are responsible for the following:

- D.5.2.1 Implementing the Policy in their department and ensuring the vaccination requirements for supplier personnel under the Policy are implemented in all new and existing solicitations and contracts where, to perform the work, supplier personnel require access to federal government workplaces;
  - D.5.2.2 Ensuring that records regarding the application of the Policy are accurate and complete; and
  - D.5.2.3 Implementing a control framework for ensuring compliance with the Policy.
- D.5.3 Contracting authorities are responsible for the following:
- D.5.3.1 Adhering to the processes set out in the Policy and implementing the vaccination requirements for supplier personnel in solicitations and contracts;
  - D.5.3.2 Documenting the certifications, communications, and decisions regarding the application of the Policy;
  - D.5.3.3 Advising the business owner (technical authority) of supplier certifications; and
  - D.5.3.4 Reporting data on certifications including as requested by the Treasury Board of Canada Secretariat.

## **D.6 Code of Conduct for Procurement (Responsible department: Public Services and Procurement Canada)**

Canada expects vendors to operate lawfully and to conduct their activities in a socially and environmentally responsible manner by, at a minimum, meeting the expectations set out in the Code of Conduct for Procurement (the Code).

- D.6.1 Public Services and Procurement Canada (PSPC) is responsible for the following:
- D.6.1.1 Developing and maintaining standard acquisition clauses and conditions for use by contracting authorities; and
  - D.6.1.2 Developing and maintaining updates to the Code in consultation with the Treasury Board of Canada Secretariat.

## **Appendix E: Mandatory Procedures for Contracts**

# Awarded to Indigenous Businesses

The Government of Canada is committed to economic reconciliation with Indigenous peoples and will contribute to improved socio-economic outcomes by increasing opportunities for First Nations, Inuit and Métis businesses through the federal procurement process.

These mandatory procedures describe:

- procedures to address the Government of Canada's commitment that a mandatory minimum target of 5% of the total value of contracts is awarded to Indigenous businesses ("5% target") annually;
- procedures for:
  - public disclosure of contracts awarded to Indigenous businesses,
  - reporting on procurement planning and performance against the 5% target

Requirements for verifying Indigenous businesses for the purposes of these procedures are available in the Indigenous Business Directory.

This commitment also supports the requirements set out in subsection 4.1.3.6 of the Treasury Board Policy on the Planning and Management of Investments to uphold the obligations of the Crown with respect to Indigenous peoples. These obligations include Canada's procurement obligations arising from multiple comprehensive land claims agreements (CLCAs). In the event of a conflict between a requirement in these mandatory procedures and a legal obligation, including an obligation under a CLCA, the legal obligation will apply.

These procedures should also be read in conjunction with the Treasury Board *Directive on Government Contracts, Including Real Property Leases, in the Nunavut Settlement Area*. In the event of a conflict between a requirement in these mandatory procedures and a requirement in the *Directive on Government Contracts, Including Real Property Leases, in the Nunavut Settlement Area*, the requirement in the directive will apply.

Departments are to meet or exceed the 5% target no later than the fiscal year-end of 2024–25, as set out in the schedule prescribed by Indigenous Services Canada for when departments are required to meet the 5% target. This schedule is based on an assessment of departments' levels of readiness to meet the 5% target using prior departmental procurement plans related to the *Procurement Strategy for Indigenous Business*.

## E.1 Effective date

E.1.1 These procedures take effect on April 1, 2022.

## E.2 Mandatory procedures

E.2.1 These procedures provide details on the requirements set out in subsection 4.1.2.1 of the Treasury Board Directive on the Management of Procurement for

departmental senior designated officials for the management of procurement to establish oversight, planning and reporting mechanisms of departmental procurement management frameworks that support the Government of Canada commitment for a mandatory minimum target for contracts awarded to Indigenous businesses as a proportion of the total value of contracts awarded (“mandatory minimum target”).

E.2.2 Mandatory procedures are as follows:

### **Planning for contracts awarded to Indigenous businesses**

E.2.2.1 Departmental procurement management frameworks are to include oversight, planning and reporting mechanisms that:

E.2.2.1.1 Examine planned procurements within their organizations to identify opportunities for Indigenous businesses;

E.2.2.1.2 Respond to Indigenous Services Canada's annual call letter (refer to subsection E.3.5.2) by submitting a deputy head–approved procurement plan for meeting the mandatory minimum target, including deputy head–approved exceptions, the contents of which are prescribed by Indigenous Services Canada, by March 31 for the following fiscal year, unless otherwise specified by Indigenous Services Canada; and

E.2.2.1.3 Identify to common service providers, as defined in the Treasury Board *Policy on the Planning and Management of Investments*, the procurement tools required of them to support achievement of procurement plans for meeting the mandatory minimum target, as appropriate.

### **Providing opportunities for Indigenous businesses**

E.2.2.2 Departmental procurement management frameworks are to include oversight, planning and reporting mechanisms that:

E.2.2.2.1 Support the participation of Indigenous businesses to compete for contract awards;

E.2.2.2.2 Support the participation of Indigenous businesses to compete for subcontracting arising from a contract;

E.2.2.2.3 Maintain a process for seeking deputy head–approved exceptions to exclude the value of contracts from the calculation of the mandatory minimum target (refer to

subsection E.2.2.3.2.1); such approvals may not be delegated;

- E.2.2.2.4 Maintain a process that requires Indigenous Services Canada's verification of an Indigenous business in accordance with the Indigenous Business Directory , for the purposes of these procedures;
- E.2.2.2.5 Ensure fulfillment of the requirements of the *Procurement Strategy for Indigenous Business*; and
- E.2.2.2.6 Ensure the recording of timely, accurate and complete contracting information on contracts awarded to Indigenous businesses in conjunction with Appendix C.2 of this directive and when reporting to Parliament, in the format specified by the Treasury Board of Canada Secretariat and Indigenous Services Canada.

### **Reporting on contracts awarded to Indigenous businesses**

- E.2.2.3 Departmental procurement management frameworks are to include oversight, planning and reporting mechanisms that ensure the following:
  - E.2.2.3.1 The total value of contracts awarded to Indigenous businesses annually is calculated so that:
    - E.2.2.3.1.1 The value amount includes the total value of contracts awarded to Indigenous businesses, including contract amendments, during the fiscal year, and includes contracts that were entered into by acquisition cards valued over \$10,000;
    - E.2.2.3.1.2 The value amount may include the total value of subcontracting to Indigenous businesses that was committed to by non-Indigenous contractors at the time of contract award or contract amendment during the fiscal year; and
    - E.2.2.3.1.3 The value amount may include the total value of contracts awarded to Indigenous businesses, including contract amendments, during the fiscal year that were entered into by acquisition cards valued at \$10,000 or less;

- E.2.2.3.2 When determining the proportion of contracts awarded to Indigenous businesses:
  - E.2.2.3.2.1 The proportion is to be calculated as an amount of the total value of contracts awarded, including contract amendments, during the fiscal year, excluding exceptions that were deputy-approved; this calculation may exclude the total value of contracts awarded, including contract amendments, during the fiscal year that were entered into by acquisition cards valued at \$10,000 or less;
- E.2.2.3.3 Calculations in subsections E.2.2.3.1 and E.2.2.3.2 apply to contracts, as defined in the Treasury Board *Policy on the Planning and Management of Investments*, and the mandatory minimum target is not to be applied to each individual contract;
- E.2.2.3.4 Responses to Indigenous Services Canada's annual call letter (refer to subsection E.3.5.3) indicate that reports on performance against the mandatory minimum target have been approved by the department's deputy head and submitted to Indigenous Services Canada within six months after fiscal year-end for the purpose of inclusion in government-wide reporting; such approvals may not be delegated; and
- E.2.2.3.5 Information on departmental performance is validated against the mandatory minimum target and is published within 12 months after fiscal year-end, in coordination with Indigenous Services Canada's publication on government-wide performance (refer to subsection E.3.5.4).

## **E.3 Roles of other government organizations**

- E.3.1 This section identifies other key government organizations in relation to these mandatory procedures. In and of itself, this section does not confer any authority.
- E.3.2 The Treasury Board of Canada Secretariat is responsible for the following:
  - E.3.2.1 Ensuring that government-wide training and guidance are developed and maintained, in collaboration with Indigenous Services Canada, Public Services and Procurement Canada, and the Canada School of Public



Service, to support departments in meeting these procedures' requirements; and

- E.3.2.2 Ensuring that departments' results achieved are reported to parliamentarians.
- E.3.3 Public Services and Procurement Canada is responsible for the following:
- E.3.3.1 Developing and evolving procurement tools as part of its mandate, including standing offers, supply arrangements, standard clauses and templates, that pertain to the participation of Indigenous businesses; and
  - E.3.3.2 Providing guidance to the functional procurement community to support departments in meeting these procedures' requirements.
- E.3.4 Shared Services Canada is responsible for the following:
- E.3.4.1 Providing services as described in subsection 5.3.1 of the Treasury Board *Directive on the Management of Procurement*; and
  - E.3.4.2 Developing and evolving procurement tools, such as standing offers, supply arrangements, and other tools that pertain to the participation of Indigenous businesses when implementing activities pursuant to section 7 of the *Shared Services Canada Act* , as described in subsection 5.3.2 of the Treasury Board *Directive on the Management of Procurement*.
- E.3.5 Indigenous Services Canada is responsible for the following:
- E.3.5.1 Prescribing the schedule for when departments are to meet the mandatory minimum target based on an assessment of departmental level of readiness to meet the mandatory minimum target using prior departmental procurement plans related to the *Procurement Strategy for Indigenous Business*;
  - E.3.5.2 Issuing an annual call letter by the end of the calendar year, unless otherwise specified by Indigenous Services Canada, that requires deputy heads to submit procurement plans for meeting the mandatory minimum target for the following fiscal year;
  - E.3.5.3 Issuing an annual call letter by no later than two months after fiscal year-end, unless otherwise specified by Indigenous Services Canada, for deputy heads to submit reports on performance against the mandatory minimum target;

- E.3.5.4 Publishing information on government-wide performance against the mandatory minimum target within 12 months after fiscal year-end;
  - E.3.5.5 Implementing and advising on the *Procurement Strategy for Indigenous Business*; and
  - E.3.5.6 Assisting in identifying and building Indigenous business capacity and supporting coordinated government-wide outreach and assistance to Indigenous businesses.
- E.3.6 Common service providers are responsible for the following:
- E.3.6.1 Ensuring that information on contracts awarded to Indigenous business is shared with requisitioning departments no later than three months after fiscal year-end in order to ensure that requisitioning departments report on contracts awarded on their behalf by common service providers.

## E.4 Enquiries

For interpretation of any aspect of these mandatory procedures, contact the Treasury Board of Canada Secretariat.

For information regarding the Government of Canada *Procurement Strategy for Indigenous Business*, contact Indigenous Services Canada at indigenousprocurement@sac-isc.gc.ca.

For information regarding the Government of Canada's procurement processes and practices, contact Public Services and Procurement Canada at TPSGC.PAApprovisionAutochtone-APIndigenousProc.PWGSC@tpsgc-pwgsc.gc.ca.

For information regarding services provided by Shared Services Canada, contact Shared Services Canada at SSC.pvr-arf.SPC@Canada.ca.

## Appendix F: Definitions

Definitions to be used in the interpretation of this directive can be found in Appendix C of the *Policy on the Planning and Management of Investments*.

**Date modified:** 2022-04-25