



# **Manager's Guide: Key Considerations When Procuring Professional Services**

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# Manager's Guide: Key Considerations When Procuring Professional Services

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## 1. Who is this document for?

This guide is for managers who need additional resources to achieve organizational goals and are considering **procuring** those resources as professional services through a **contract**. This guide should help you:

- make an informed decision on whether to procure professional services to meet your operational needs in a way that advances Government of Canada commitments and priorities
- meet your responsibilities under the Treasury Board *Directive on the Management of Procurement* (directive), which applies once you have decided to procure professional services

The guide sets out questions you can ask yourself as you navigate the following three stages:

1. deciding when to procure professional services
2. structuring the procurement of professional services
3. managing a contract for professional services

The questions are about factors you should consider as you determine your best course of action, taking into account the specifics of your organizational context and requirements. This guide does not provide an exhaustive list of all considerations, and it is not intended to be prescriptive.

It is your responsibility to meet all applicable requirements under the directive and other relevant Treasury Board policy documents and related instruments, so you should read the guide in conjunction with these documents.

## 2. What are the manager's role and responsibilities?

As a manager, you are responsible for making decisions on how best to meet your operational requirements, which may include procuring professional services. If you decide to procure, you become a “business owner” with responsibilities under the directive. <sup>1</sup>

As the business owner, you play a key role in the procurement process. You will work with a procurement specialist (or “contracting authority”) who will manage the procurement process and give you strategic advice about how to use procurement for your initiative and get the results you want from the contract.

Some of your most important responsibilities as a business owner are:

- identifying the outcomes you are looking to achieve through professional services
- explaining why you are contracting for them

- managing the contract by monitoring the delivery of the service, which includes certifying delivery of the services and confirming invoices reflect work performed
- keeping detailed financial records and documenting the rationale for key decisions

You will be required to follow your organization's governance process to advance the contract. It is also your responsibility to collaborate with a procurement specialist throughout the procurement process, from procurement planning to managing and then closing out the contract.

Your actions in all of these stages should be guided by the *Values and Ethics Code for the Public Service*, including being aware of real, potential or apparent conflicts of interest. This includes asking yourself if your decisions will:

- stand up to public scrutiny
- support trust in government
- demonstrate responsible stewardship of public funds

### 3. What are professional services?

Professional services is a broad category that covers a range of services the government procures to address specific needs related to a particular activity or initiative. These activities could include:

- technical, scientific, or professional expert assistance and advice (for example, architects, engineers, medical personnel, and management, audit, financial and business consultants)
- certain health care, welfare and training services
- contracted operational and maintenance services <sup>2</sup>

You might use professional services, for example, when you need temporary capacity, specialized advice, skills or abilities, or data and information that you do not have.

### 4. Questions to help you decide whether to contract for professional services

Before deciding to contract for professional services, take the time to consider whether there are alternative approaches for achieving organizational goals, and how the potential approaches align with your organization's mandate and priorities.

Contracting is generally one of many possible approaches, and sometimes is combined with other resourcing approaches. Taking the time to consider these options will help you make sound choices for both your initiative and its implications for maintaining and developing your organization's current and future core competencies (that is, its knowledge, skills and abilities).

The questions below will help you identify options and define your operational requirements. It will help if you already know your key constraints, such as timelines for when you will need the services and any relevant budgetary considerations.

- Where can you find the services, capacity, expertise or information that you require?
  - Have you consulted your human resources experts to explore staffing or resourcing options (for example, internal staffing, external recruitment, accessing talent

mobilization programs such as Free Agents, upskilling and developmental assignments, hiring casual or term employees or students, or setting up an Interchange Canada assignment)?

- Have you consulted your Financial Management Advisor (FMA) to explore converting operational budget dollars that may have been available contracting into salary to support staffing?
- Can you leverage capacity, expertise or skills that exist elsewhere in your organization or in the Government of Canada?
- Do you need the service provider to be independent from your organization (for example, third-party advice or evaluation)?
- If the outcome you are seeking would generate a public good, have you considered using another mechanism such as a grant or contribution?
- Could you collaborate with other groups with similar needs to achieve your objectives?
- Which options are consistent with the relevant strategies, policies and collective agreements?
  - Would contracting for the service(s) align with your organization's investment and human resources strategies?
  - If you are looking for digital talent (for example, information technology, information management, or other whose primary function is to support the development or delivery of Government of Canada digital initiatives, products or services), have you met the requirement under the *Directive on Digital Talent* to first check the GC Digital Talent Platform if existing Government of Canada-wide pools have the skills you are looking for?
- When and for how long will the capacity, expertise or skill be required (that is, over the short-term or long-term, steadily or intermittently)?
  - Is the demand expected to vary over time, requiring resources that can be scaled up or down as required? Would term employees or casual employees fill the need?
  - Does this justify full-time dedicated resources? If so, have you discussed this need with human resources?
  - If your requirements are urgent, have you considered having a short-term resourcing strategy as a bridge towards a more permanent long-term resourcing approach (for example, hiring casual employees while developing a long-term staffing solution)?
- Are there specific reasons why external providers are better positioned to deliver the service(s) you need (for example, factors could include urgency, cost, access to knowledge, skills and capacity, or access to other resources such as benchmarking data)?
- How would the various options for acquiring the service(s) you need contribute to the core competencies of your program and organization, in the short term and the longer term?
  - If you see a systemic need for knowledge, skills and abilities (for example, it is a recurring need, have you been filling a need to date with successive contracts, sometimes with the same supplier?), have you considered strategies for knowledge transfer and building capacity in-house?
  - Is your approach informed by whether the skills being sought are expected to grow in demand or become obsolete?

## 5. Questions to help you structure the procurement of professional services

When you have decided to contract for a professional service, you should reach out and engage early with your organization's procurement specialist. You should discuss your business and security requirements, timelines, procurement approach, and your internal governance and approval delegations. In some cases, where procurement dollar values are above a departmental contracting limit, your organization's procurement specialist will reach out to the appropriate procurement specialist(s) at Public Services and Procurement Canada or Shared Services Canada.

You will also do some market research and analysis with your procurement advisor to better understand what the industry can offer. These steps help to establish a realistic procurement timeline and develop a comprehensive Statement of Work with clear deliverables, which will help you to manage the contract. <sup>3</sup>

As you structure and manage the procurement, you are responsible for:

- developing a clear statement of work and fair evaluation criteria by which a supplier is selected
- meeting your broader responsibilities (for example, legal, security, privacy, accessibility, and values and ethics)
- consulting organizational specialists in these areas (such as your organization's chief security or privacy officers), as needed

You will also need to consider how your procurement can support broader government social, economic, and environmental priorities, as well as reconciliation with Indigenous peoples (for example, the commitment that a minimum of 5% of the total value of federal contracts is awarded to Indigenous businesses annually).

The following questions should help guide you in your discussions with your procurement specialist and when you are structuring your procurement of professional services.

- Have you clearly articulated what you are buying, and does your Statement of Work clearly define your requirements, including, but not limited to, the following:
  - the specific project or initiative the contract is meant to support
  - the requirements for the work and when it needs to be performed or delivered, with considerations for whether to set out specific deliverables, outcomes, tasks or hours of work
  - the quality of the work expected and the process for addressing performance issues
  - how regularly you and the contractor will communicate with each other for the duration of the contract
  - clear mechanisms and/or processes to help manage the contract and deal with emerging issues, changes and disputes
  - security, privacy and accessibility requirements associated with completing the work and the deliverables produced
  - what knowledge is expected to be transferred from the contractor or subcontractor to the organization, and how and when that should happen
  - terms that would address any operational requirements, such as respecting your employee's rights under the *Official Languages Act* <sup>4</sup>

- any special requirements, such as if you want the Government of Canada to own or otherwise have access to any information or other resources generated through the contract after the contract ends <sup>5</sup>
- Have you talked with your procurement specialist and others in your organization about any other contracts for similar professional services?
  - Can you use information from past contracts to plan your procurement?
  - If others in your organization are seeking similar professional services, would it be more efficient to create one contract to meet all your needs or otherwise collaborate?
- Have you structured your evaluation criteria to assess the contractor's capacity to undertake the work? For example, have you discussed with your procurement specialist the best way to assess contractor capacity, such as past performance on similar work?
- Have you exercised due diligence to maintain the integrity of the procurement, such as:
  - ensuring the process promotes competition unless tendering is validly limited in accordance with the terms of the trade agreements and Government Contracts Regulations
  - ensuring that contractors potentially interested in the contract are advised prior to performing work associated with preparing any part of a solicitation process (such as statement of work or evaluation criteria) that they will be excluded from bidding on later requirement (due to a conflict of interest)
  - requiring certification that the contractor has permission from proposed resources and sub-contractors to propose their services in relation to the work and submit their resume to Canada
  - notifying your procurement specialist if there is a need to clarify or validate elements of a contractor's bid that appear inaccurate (such as information on a resumé)
  - if applicable, checking with your procurement specialist if it is possible to take past performance into consideration (pursuant to the PSPC *Vendor Corrective Measures Performance Policy*)
- Are there processes, policies, legislation, regulations or collective agreements that need to be respected?
  - Does your organization's governance process for procurement have specific requirements related to professional services?
  - Are you aware of the special requirements when, for example, contracting for public opinion research, advertising, digital services <sup>6</sup>, or professional services for which Public Services and Procurement Canada has established mandatory standing offers or supply arrangements?
  - Have you assessed whether the work has security elements, such as sensitive intellectual property, the personal information of Canadians or public servants, international or geopolitical issues, or a requirement to provide a contractor and/or their subcontractors with access to sensitive information, assets or facilities? <sup>7</sup>
- Have you considered measures to mitigate risks such as:
  - establishing "off-ramps" in the contract so that you can exit the contract in the event of performance issues or if the services are no longer needed?
  - avoiding "vendor lock-in," which occurs when a customer using a product or service cannot easily transition the work in-house or to a competitor's product or service?

- Have you considered “unbundling” requirements into smaller-value and/or shorter contracts <sup>8</sup>?  
Unbundling can:
  - allow a greater diversity of firms (including Indigenous businesses) to bid on the contracts
  - can help mitigate risks to the overall project by making off-ramps more feasible and having multiple contractors available to do the work
- Could you structure your contract to support the commitment that a minimum of 5% of the total value of federal contracts is awarded to Indigenous businesses? <sup>9</sup>
  - Is a Procurement Strategy for Indigenous Business (PSIB) set-aside to an Indigenous firm feasible?
  - Have you consulted Indigenous Services Canada’s Indigenous Business Directory to see if there is capacity in the relevant industry to limit competition to Indigenous businesses only?
  - Are you aware of any circumstances (such as telecommunications or transportation infrastructure constraints in remote regions, or cultural practices including hunting seasons) where the date, location, and terms and conditions for bidding could be adjusted to ensure that Indigenous businesses have reasonable
  - With more complex initiatives, could you, for example, incentivize primary contractors to prioritize sub-contracting with Indigenous businesses when putting together their bid?
- If your organization needs to develop its skills or expertise in the area you are procuring professional services in, have you developed a plan for the contractor to transfer knowledge to your organization?
  - Have you clearly articulated what the contractor and any subcontractors engaged by the contractor need to do for that knowledge transfer to occur?
  - Do you have the resources you need to uphold your end of this plan (for example, to have an employee work alongside the subcontractor to gain experience and skills)?

## 6. Questions to help you manage a contract for professional services

After the contract is awarded, you are responsible for monitoring and documenting the delivery of services and verifying that the terms of the contract are being met. You are also accountable for ensuring that the contracted work complies with public service requirements (for example, legal, security, privacy, transparency, accessibility, and values and ethics) throughout the contract.

As outlined in section 5, having a clear Statement of Work, including clear deliverables embedded in the contract, are an important foundation to contract management. <sup>10</sup>

Successfully completing the contract also requires you to actively manage your relationship with the contractor, their employees and any subcontractors they might engage. You will need to ensure that you have enough time and the necessary resources to do this well. Answering the following questions should help you successfully manage the contract.

- Have you taken steps to ensure that you, the contractor, and any subcontractors engaged by the contractor have the same understanding of the contract requirements, both at the outset of



the contract and ongoing. For example, have you launched a kickoff meeting with the contractor and set up regular check-ins and reviews of deliverables?

- Are you monitoring and documenting the contractor's performance and immediately working with your procurement specialist to address any performance issues as they become known to you?
- Are you monitoring and documenting the deliverables and verifying that the invoices submitted by the contractor are consistent with the work performed, as well as what was set out in the contract, prior to approving payment? For example, do timesheets match the actual hours worked by the resource and/or do deliverables meet the acceptance criteria in the contract?
- Have you verified that the security requirements and arrangements specified in the contract are being upheld, and are you reporting any identified security concerns? Have you verified that new resources have required security clearances before they begin work? Are you following up on corrective actions for issues of non-compliance or security incidents?
- Are you maintaining the appropriate separation between yourself and the contractor (and their resources) to ensure that you avoid establishing an employer-employee relationship <sup>11</sup> and/or specifying what resources or firms should be working under the contract (a prohibited practice known as "payrolling")?
- If you identify unforeseen factors that could risk successfully completing the contract (for example, a national or local emergency, or economic shocks), have you talked with your procurement specialist about how to address any potential impacts, including if and how you can change the terms of the contract or terminate it?
- In the event that the vendor subcontracts portions of the contract, have you ensured that the contractual obligations are being met by the subcontractor? The contract should ensure that any subcontractor is bound by conditions compatible with and not less favourable to Canada than the conditions of the contract (with the exception of federal contractors program for employment equity requirements). This should include, for example:
  - Have you ensured that the contract identifies the need for the supplier to extend applicable security requirements to any subcontractor involved in fulfilling the contract?
  - Have you confirmed that subcontracted resources have the required security clearance verification and documentation?
  - Are you actively monitoring the subcontractor's compliance with security requirements; for example, the safeguarding of sensitive information <sup>12</sup>?
- Have you confirmed with your procurement specialist which documents you may need to provide them or retain yourself throughout the procurement process and once the contract is closed?
- After closing out a contract, have you considered doing a "lessons learned" exercise to identify information that can be used to inform future resourcing or contracting decisions (for example, ways to strengthen knowledge transfer)?

Please note that the responsibilities outlined in this section are not exhaustive and managers are advised to refer to the *Directive on the Management of Procurement* and relevant policies and procedures outlined in your departmental procurement framework for comprehensive obligations.

## 7. Ongoing implementation and review

Managers are uniquely positioned to support broader government oversight practices in support of the prudent management of public funds. To this end, this guide provides considerations for managers who are exploring achieving organizational goals through procuring professional services. In support of ensuring that this guide is being effectively used, ongoing oversight mechanisms are embedded in Government of Canada processes, including reviews, evaluations and audits will be conducted as necessary on a risk-basis.

In support of their effective implementation, TBS will update these guidelines as required, to reflect lessons learned from their implementation and emerging leading practices.

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## Footnotes

- <sup>1</sup> “Business owner” is defined in the *Policy on the Planning and Management of Investments* as the “individual who is responsible for the business or program area for which the project, procurement or programme is established.”
- <sup>2</sup> See the *Receiver General’s Object Codes* for a full description of the services covered by professional services.
- <sup>3</sup> For more information on your responsibilities under the *Directive on the Management of Procurement* during this phase of contracting, see subsections 4.2 and 4.4.
- <sup>4</sup> For more information, see the *Guide to Official Languages in Federal Procurement*.
- <sup>5</sup> See the *Policy on Title to Intellectual Property Arising Under Crown Procurement Contracts* for more information about the ownership of intellectual property generated through contracts and exemptions that can be used by the Crown to own that intellectual property.
- <sup>6</sup> For more information on procuring digital talent or information technology-related support, see the *Digital Services Contracting Questionnaire*.
- <sup>7</sup> For more information, see the *Security Requirements Check List* for your procurement, or seek advice from your organization’s chief security officer and security team.
- <sup>8</sup> When unbundling a requirement, you should document the decision so that it is clear on file that you did not break up the contract with the intention of avoiding financial approval thresholds or policy requirements.

- 9 See the directive's [Annex E: Mandatory Procedures for Contracts Awarded to Indigenous Businesses](#) and the Government of Canada's [Procurement Strategy for Indigenous Business and federal procurement](#) web page for more information.
- 10 For more information on your responsibilities under the directive during this phase of contracting, see subsections 4.2, 4.4, 4.7 and 4.9.
- 11 For more information on the employer-employee relationship, see Employment and Social Development Canada's Interpretations, Policies and Guidelines (IPG) in [Determining the Employer/Employee Relationship](#). in its [Interpretations, Policies and Guidelines](#).
- 12 For information on security in contracting, see Appendix F: Mandatory Procedures for Security in Contracts and Other Arrangements Control