



Procurement Accountability Framework Manual

(Version Effective July 16, 2018)

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1. Introduction

1.1. Purpose and Use of this Manual

The GoA procures billions of dollars in goods, services and construction on an annual basis. To reinforce ethical behavior, process integrity and value for money, procurements must foster fairness, transparency and accountability driving consistency and discipline across the enterprise.

The purpose of this Manual is to aid users in complying with the Procurement Accountability Framework (PAF) by providing users with:

- Background regarding the authority for the PAF
- An explanation of the mandatory [e.g. *Canadian Free Trade Agreement (CFTA)* / *New West Partnership Trade Agreement (NWPTA)* / *Canada European Union Comprehensive and Economic Trade Agreement (CETA)* / *World Trade Organization (WTO) Agreement on Government Procurement (GPA)* / Procurement and Sole-sourcing Directive requirements] and discretionary aspects of the procurement and contracting process
- Information pertaining to the role of Knowledge Experts (KEs) in the Goods, Services and Construction acquisition process
- Overarching guidance on the principles and obligations of employees responsible for and/or involved with acquiring Goods, Services and Construction on behalf of the Government of Alberta (GoA) – it should not be used in substitution for more stringent Department procurement policies that do not conflict with any mandatory requirements
- Specific guidance for addressing each element of the PAF, and
- Where applicable, responses to questions raised regarding the procurement and contracting process

In accordance with the Treasury Board (TB) Directive, the PAF has been developed by the Departments under the leadership of Service Alberta. The PAF and this Manual are consistent with trade agreement and TB Directive requirements.

The PAF and this Manual are supplementary to, and are not to be interpreted or used as a replacement for, professional judgment. Users (and their advisors) must decide on the level and degree of analysis, documentation and processes (other than legislated) required to satisfy the elements of the PAF for each type of acquisition within the context of various factors such as risk, value, and potential stakeholder impact.

To support this effort, the GoA has developed templates and supporting guidelines and initiated employee training relating to procurement and contracting.

This Manual is centrally managed by Procurement Services, Service Alberta on behalf of all Departments and will be updated regularly through continuous improvement activities across the GoA and reviews of industry best practices.

Service Alberta has developed a *Policy and Procedures Manual for the Acquisition of Goods by Departments \$10,000 or Greater* (“P&P Manual”) that further expands on the principles and best practices contained within this Manual. It is available on the MyAgent Purchasing Site. Sample forms/correspondence to assist Departments in sourcing approval, public opening of Responses, award approval, return of late bids, preparing a recommendation for award, and procurement file content are also included in the P&P Manual.

Infrastructure and Transportation have also developed policy and procedure manuals that further expand on the requirements, principles and best practices contained within this Manual as they apply to Construction related procurement.

New to this version of the PAF Manual are updates with respect to the following:

The *Canadian Free Trade Agreement (CFTA)* replaced the *Agreement on Internal Trade* July 1, 2017 and the *Canada European Union Comprehensive and Economic Trade Agreement (CETA)* came into force September 21, 2017. GoA has increased government procurement obligations under these trade agreements.

Acronyms and defined terms used in this Manual are listed in Appendix A.

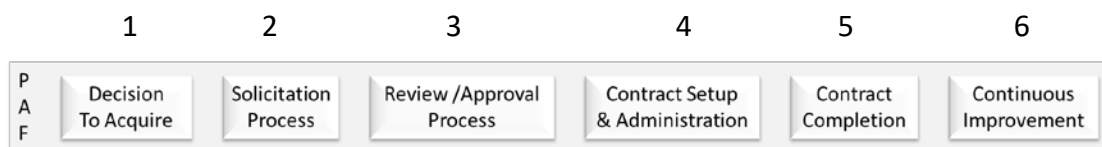
1.2. Using the PAF for Acquiring Goods, Services and Construction

The PAF was developed from the Accountability Framework for Acquiring Goods and Services (AF) which was approved by the Deputy Minister’s Council (December 7, 2011). The AF was amended to support the implementation of the Treasury Board Procurement and Sole-sourcing Directive. The PAF:

- Reinforces fairness, transparency and integrity in the procurement process
- Adds rigor and accountability to Department processes
- Drives consistency and discipline in contracting across the GoA
- Contains appropriate controls and a shared set of values and ethics

1.2.1. The PAF

The PAF consists of six required procurement and contracting process elements and several sub-requirements as follows:



1. Decision to Acquire

Identify the Need and Outcomes to be Achieved

- Describe the problem or opportunity to be addressed, the Goods, Services or Construction to be acquired, and the outcome to be achieved
- Describe how the outcome aligns with Department or GoA business/operational plans
- Describe the scope of the Goods, Services or Construction to be acquired in general terms
- Identify all the stakeholders
- Explain the nature of the impact expected by the acquisition/project

Analyze Alternatives for Goods/Services/Construction Delivery

- Consider all alternatives for delivery (internal and external) including options for financing, resourcing and implementation
- Conduct appropriate analysis of each alternative, for example:
 - Intuitive (i.e. common sense) reviews to exclude those obviously non-viable
 - Appropriate value based analysis such as cost/benefit analysis
 - Risk Assessment – even if no viable alternatives exist
 - Summarize the outcomes of analysis performed on each alternative

Describe the Rationale for a Decision to Purchase

Outline the rationale for a Decision to Acquire and support it with the summary of analysis for alternatives described above.

Develop a high-level Procurement Plan

- A Terms of Reference for the procurement plan should include key components such as background and outcomes to be achieved, scope of services, specifications for the Goods, Services or Construction being acquired, deliverables and performance measures, payment framework, project risks and assumptions)
- Describe the existing marketplace from which to obtain the Goods, Services or Construction
- Method of procurement (Open Solicitation, Limited Solicitation or Sole-source)
- Internal resources required to support the procurement
- Key communications issues and risks to be addressed
- A description of who needs to authorize to proceed and under what conditions

2. Solicitation Process

Determine the appropriate method of solicitation

- Open Solicitation
- Limited Solicitation
- Sole-source

In the absence of a TB Directive or trade agreement exception, as applicable, the solicitation process that must be used is as follows:

- For TB Directive Amounts: Either Limited Solicitation or Open Solicitation
- For NWPTA Threshold Amounts: Open Solicitation

A Sole-source solicitation process may be used as follows:

- For TB Directive Amounts: If a trade exception listed under the TB Directive exists, subject to Deputy Minister authorization and public disclosure as applicable
- For NWPTA Threshold Amounts: If a NWPTA exception exists, subject to Department authorization and public disclosure as applicable

3. Review/Approval Process

Establish effective procurement and contracting governance

- Each Department must have clearly established review and approval processes with approval levels appropriate for the efficient operation of the Department's business
- A Contract Review Committee is required in each Department to support the PAF
- Those engaged in managing the procurement process should not be involved in approving the award of a contract, but may make recommendations to the approving Expenditure Officer. However, there may be situations where the nature of the procurement or the available procurement personnel would make it impractical to separate the roles. In these instances, while one individual may be involved in both the management of the procurement process and the awarding of the contract, the Contract Review Committee should provide the recommended independent review and approval of contract awards subject to applicable authority matrices and thresholds

4. Contract Administration

Contract Set-Up

- Ensure contract is aligned to the Department's strategic plan, business plan and operational plan
- Ensure the contract provides for the right to audit vendor obligations and performance
- Finalize the contract or complete negotiations as permitted within the solicitation document(s)
- Complete the contract documentation and related processes (financial and administrative)
- Ensure vendor provides evidence of required insurance and performance security

Administering the Contract

- Hold a kick off meeting/discussion
- Monitor contractor progress and assess performance against project deliverables and outcomes
- Grow the relationship through mutual respect, flexibility and open communications
- Reviews should be undertaken where there is a need to confirm/assess the contracting/administration process
- Monitor vendor obligations and performance requirements
- Document and maintain appropriate records of all activities regarding the administration of the contract according to the level of risk associated with the contract

5. Contract Completion

Close Out Strategy

Establish a contract close out strategy to ensure the final contractual requirements are met.

6. Continuous Improvement

Drive government-wide improvements to procurement and contracting processes

Departments should implement appropriate strategies to monitor contracting processes and, where possible, leverage lessons learned within the Department and share those with other Departments.

Department continuous improvement efforts should:

- Engage the resources most familiar with the individual contracts
- Build the existing knowledge base by documenting the experiences and perceptions of trained procurement resources within the Department
- Document specific opportunities/recommendations for procurement and contracting improvements arising from an evaluation of Department procurement processes and contracts.

1.2.2. Mandatory and Discretionary Aspects of the PAF

There are mandatory and discretionary aspects to following the PAF:

1. **Mandatory aspects** – determined by legislation, regulation, government policy and intergovernmental agreements where compliance is required (in some instances non-compliance may result in financial and other penalties). Examples of this include:

- a. *Freedom of Information and Protection of Privacy (FOIP Act),*
- b. *New West Partnership Trade Agreement (NWPTA),*
- c. *Canadian Free Trade Agreement (CFTA),*
- d. *Canada European Union Comprehensive and Economic Trade Agreement (CETA),*
- e. *World Trade Organization (WTO) Agreement on Government Procurement (GPA),*
- f. *Financial Administration Act,*
- g. *Government Organization Act,*
- h. *Direct Purchase Regulation,*
- i. *Procurement and Sole-sourcing Directive,*

where users have a formal accountability to ensure enterprise wide compliance and oversight (without exception).

2. **Discretionary aspects**

- a. **Standards and Best Practice** – it is advisable to seek input from KEs who have designated accountability to protect the Crown's interest and ensure consistency across the GoA. In these instances KEs apply professional standards and best practices and should substantiate and document their rationale for the advice given. KEs also update government-wide practices as required.

- b. **Professional** – determined by Department program areas (including senior executives and those responsible for contracting and procurement within the Department). Users from Department program areas have professional accountability to make decisions based on best practices / common practices, Department policy and a duty to substantiate and document the rationale for decisions. Here, accountability rests with the Department (i.e. senior executive). These elements must be addressed, but the Department program area responsible can apply professional discretion to ensure the required areas are addressed “reasonably” (i.e. to the extent an ordinarily prudent professional would deem acceptable).

1.2.3. Authority for Knowledge Expert Involvement

The mandate, authority and support/applicability to the PAF for each of the various Knowledge Experts is found in Appendix E.

2. 2. Procurement and Contracting Environment

2.1. Principles

As a public entity, the GoA seeks to ensure value for money by following an open and competitive procurement process. Consequently, the following principles should be followed by all Departments and individuals when contracting for Goods, Services and Construction.

2.1.1. Integrity

- All GoA employees and members of the executive/legislative branches must act, and be seen to be acting, according to a set of procurement ethics, standards, and policies codified in law (e.g. *Code of Conduct and Ethics for the Public Service of Alberta*)
- Departments and other GoA organizations need to establish governance structures that provide appropriate procurement process oversight (e.g. Contract Review Committees, and senior official review and accountability)
 - Procurement processes must be sound, documented, defensible and substantiated in accordance with legislation and GoA policy
 - Vendors must not be allowed to circumvent processes
 - All confidences must be maintained

2.1.2. Fairness

- Ensure procurement processes are flexible enough to accommodate business needs in urgent situations, while maintaining the necessary principles of fairness, transparency and integrity of process consistent with the PAF

- Spend appropriate time and resources to ensure clear statements of expected outcomes and deliverables, the intent of the solicitation and what's valued in the solicitation
- Adopt common terms and conditions for solicitation and contract documents and use them consistently across the GoA enterprise. Terms and conditions need to be fair to all vendors and appropriately allocate risks to achieve best value for taxpayers
- Ensure only truly mandatory criteria are labelled as such in solicitation documents
- Require all participants engaged in the process to disclose any real or perceived conflicts of interest
- Use evaluation criteria that drive best value for taxpayers and apply them equally to all Responses
- Inform vendors of their performance within the process providing each an explanation of the reasons why its tender was not selected once the process is complete
- Maintain proper controls to ensure compliance with privacy and security requirements
- For selected procurement projects (e.g. complex, costly, politically sensitive, limited vendors, high risk associated with failure), consider using a fairness/process monitor subject to the following parameters:
 - The fairness/process monitor must be an independent, non-voting advisor and observer throughout the process to ensure fair, consistent and reasonable treatment for all vendors. This includes attesting to that fairness and testifying at tribunals, review boards and court proceedings
 - The fairness/process monitor should be involved in all stages of the procurement
 - The GoA Purchasing Officer should hire/contract, select and pay the fairness/process monitor and define the fairness mandate in the solicitation

2.1.3. Transparency and Openness

- Process
 - Ensure the values of openness and transparency are reinforced, firmly embedded in the culture, and incorporated into any approach to procurement across the GoA
 - Ensure all procurement and contracting is aligned with GoA and Department business plans
 - Properly document the procurement process
 - Ensure vendors delivering Goods, Services or Construction are not the same ones performing the associated quality assurance
- Access to Information
 - Ensure all information that could impact the price and solution of a Response is provided equally to all vendors (e.g., budgetary range or maximum price

- for a particular procurement, specifications of Goods, Services or Construction, internal nuances that may only be known to an incumbent contractor)
- Provide vendors with regular access to, and communications from, Departments and KEs subject to the communication requirements specified in procurement documents
- Be as open and transparent as possible with scoring criteria, pricing received and other aspects of submissions
- To the extent practicable, market test and validate best value prior to renewing/extending agreements

2.2. Department Planning for Procurement

Considerable front-end work is required to ensure successful acquisition processes and outcomes. Failure to assess needs, determine how those needs will be addressed, budget to address them, and engage the proper resources will lead to significant process issues and increased risk to the GoA in the later stages of the acquisition (i.e. Solicitation Process, Contract Administration and Contract Completion).

To mitigate this risk, Departments should consider:

- Identifying the procurement initiatives to be undertaken over the upcoming fiscal year and the expected outcomes for each
 - Describe what the procurement intends to achieve or what business problem it will solve
 - If necessary, break initiatives into more phases
- Aligning planned procurement initiatives with Department business and operational plans and prioritizing each to ensure adequate time
- Engaging senior management in the planning process; and, by doing so, educating them on adequate timelines for due diligence (e.g. engagement of KEs) and competitive processes thereby reducing unrealistic timing expectations
- Planning for services required for emergent needs with the use of source lists
- Engaging the vendors for market research including:
 - Department plans, challenges, needs and procurement opportunities and expected outcomes. Share information through open vendor forums
 - The Department's intent to solicit work, thereby giving time for vendors to consult with Department representatives prior to the process-imposed blackout
 - Capacity of the vendor community to deliver prior to releasing solicitations. Consider publishing draft Request for Proposals (RFP) release schedules to increase the number of vendors prepared to respond to the final request
 - Changes in client needs, business environment and the labour market

Note to Reader: Caution should be exercised when engaging vendors and sharing information to:

- Avoid creating a competitive advantage for one/some and ensuring all and similar information is made available to prospective vendors. Such engagement must be fair, open and transparent
- Ensure proprietary, sensitive and/or confidential information is not externally or internally inappropriately disclosed

2.3. Employer/Employee Relationships

A potential contract issue may arise when unintended employer-employee relationships are created through the process to acquire Services. Given the variety of scenarios that could emerge as an employer-employee relationship, and potential liability for the GoA to Canada Revenue Agency, the worker and in relation to the GoA's collective bargaining agreement, it is important Departments and agencies are aware of the criteria used to determine whether such a relationship would be formed.

The following five tests help determine if acquisition parameters would create an employer-employee relationship between the Department and the worker/contractor. Consider all the factors when making an assessment:

1. Control over the Work (identify whether Department or contractor)

- Who determines how the work is to be done?
- Who determines the hours of work?
- Who approves required time-off?
- Who provides the day-to-day instructions as to what work is to be carried out?
- Who assumes responsibility for the performance of the work?

If the answer is "Department" to most of these questions, the Department exercises control over the worker. If it is obvious the Department controls the worker's activities, it is more likely an employer-employee relationship exists.

2. Entrepreneur Test (identify whether Department or contractor)

- Who provides the tools/equipment and supplies used by the contractor?
- Who supplies the office space?

If the answer is "Department" to these questions, it means by supplying the tools, equipment and materials, the Department exercises control over the contractor. There is no risk of loss for the contractor. An employer-employee relationship is more likely to exist. If the answer is "contractor" to most of these questions, it is more likely a business relationship exists.

3. Organization or Integration Test (Yes or No)

- Is the contractor's principle work location on-site on a continuous basis?
- If the contractor works on GoA premises, is the contractor situated amongst GoA employees?
- Is the work performed by the contractor integral to the ongoing business/activities of the Department?
- Do employees of the Department perform similar work?

- Is there a risk someone could perceive the contractor to be part of the Department?

If the answer is “yes” to most or all of these questions, it is more likely an employer-employee relationship exists. If the answer is “no” to these questions, it is more likely a business relationship exists.

4. *Chance of Profit / Risk of Loss (identify whether Department or contractor)*

- Who assumes the risk of liability?
- Who guarantees the quality of the work?
- Who covers the costs incurred by the worker in carrying out the work?
- Who covers the costs of benefits (paid vacation, sick leave, life insurance premiums, etc.)?

If the answer is “Department” to most of these questions, it means there is little involvement on the part of the contractor, and his/her income does not depend on the results achieved at the end of the contract. An employer-employee relationship is more likely to exist. Otherwise, if the answer is “contractor” to most of these questions, it is more likely a business relationship exists.

5. *Former Employee (Yes or No)*

- Is the contractor a former employee of the Department?

If yes, what was their:

- Position
- Last date of employment

Overall, if the answer is “Department” or “yes” to most or all of these factors/questions, it is more likely an employer-employee relationship exists. Contact Departmental Human Resources or the Public Service Commission and/or Justice and Solicitor General for questions regarding a potential employer-employee relationship.

If the answer is “contractor” or “no”, it indicates the worker integrates the Department’s activities to the contractor’s own activities and it is more likely a business relationship exists.

2.4. Lobbyists Act

2.4.1. Fairness and Transparency Implications

Among the goals of the *Lobbyists Act* is ensuring lobbying activities are conducted openly and do not impact procurement processes.

The *Lobbyists Act* imposes obligations on lobbyists by requiring those who are paid to lobby Departments and Provincial entities considered to be part of government to register as lobbyists. Lobbyists will identify the subject matter of their lobbying efforts and must declare if they have any existing contracts to provide paid advice to the GoA.

It is important for each Department to consider what steps would be appropriate to avoid entering into contracts that would violate the vendors’ prohibition against

simultaneously lobbying and providing paid advice on the same subject matter. While there is no legal prohibition against the GoA itself from entering into such contracts, as a matter of best practice, steps should be taken to minimize or eliminate the possibility of entering into such contracts. Departments should not knowingly enter into such contracts.

One preventative step is to check the lobbyist registry when entering into a contract for paid advice. There may be additional steps uniquely suited to a Department to determine vendor compliance with this prohibition.

If any questions arise regarding the *Lobbyists Act*, advice should be sought from Justice and Solicitor General.

2.5. Canadian Competitive Bid Law and Trade Agreement Obligations

2.5.1. Canadian Competitive Bid Law

In addition to the obligations under the trade agreements (see 2.5.2 below), the GoA is subject to all of Canada's competitive legal obligations found in the common law. These include the obligation of the GoA to comply with the following five major implied duties in the competitive procurements it conducts:

1. *Duty to disclose* – This includes the requirement to disclose material information about the contract that could impact a vendor. Evaluation criteria must be disclosed and be clear and measurable.
2. *Duty to reject non-compliant Responses* – If a vendor's Response fails to meet a mandatory requirement, the GoA is required to reject the Response.
3. *Duty to conduct a fair procurement process* – The GoA must conduct all stages of the procurement in a fair and transparent manner. This includes the initial stages of gathering requirements and drafting of the procurement documents, to issuing the procurement and responding to inquiries, conducting evaluations and awarding the contract. The GoA is required to ensure the integrity of the competition by avoiding conflict of interest, unfair advantage or bias.
4. *Duty to award to the winning vendor* – The GoA must determine the successful vendor in accordance with the pre-established criteria and weighting system set out in the solicitation documents, and must be able to justify and defend its award.
5. *Duty to award the contract as tendered* – The contract that is awarded must be consistent with the form of contract that was attached in the solicitation documents.

When vendors submit a compliant Response to a GoA competitive procurement, both the vendors and the GoA have rights and obligations arising from that procurement process. If the GoA breaches its obligations set out in the solicitation documents, or if it

fails to comply with its implied duties, the GoA could be subject to complaint, a civil action claim for damages or judicial review.

For additional information on the GoA's legal obligations for procurement, contact Justice and Solicitor General.

2.5.2. Trade Agreements

The GoA is subject to two inter-provincial trade agreements affecting procurement: the CFTA, and the NWPTA. Additionally, the GoA has undertaken international commitments with respect to international suppliers, including countries of the European Union and the United States of America through the CETA and WTO GPA. When taken together, the following table of rules and restrictions apply to the GoA, which must be followed – no exceptions.

New - Publication of Award Information

No later than 72 days after the award of each contract covered by this Chapter, a procuring entity shall publish a notice on one of the tendering websites or systems designated by its Party. The information shall remain readily accessible for a reasonable period of time. The notice shall include at least the following:

- (a) a description of the goods, services or construction procured;
- (b) the name and address of the procuring entity;
- (c) the name and address of the successful supplier;
- (d) the value of the successful tender;
- (e) the date of award; and
- (f) if limited tendering was used, the conditions and circumstances described in Article 513 that justified its use.

New – Procurement Valuation

Procurement valuation must include the maximum total value of the procurement inclusive of all amendments, extensions, and renewals.

Table 1: Trade Agreement and TB Directive Requirements

CFTA	NWPTA	CETA	WTO GPA	TB Directive
<p>Note: For complete text and obligations users must refer to <i>CFTA</i>. The following is a synopsis of key areas and is provided as a convenience only:</p> <p><u>General</u></p> <ul style="list-style-type: none"> The objective of <i>CFTA</i> is to reduce and eliminate, to the extent possible, barriers to the free movement of persons, Goods, Services and investments within Canada and to establish an open, efficient and stable domestic market. The parties to <i>CFTA</i> recognize and agree enhancing trade and mobility within Canada contributes to the attainment of this goal The procurement process must be consistent with Chapter Five which establishes a framework that ensures equal access to procurement for all Canadian suppliers in order to contribute to a reduction in purchasing costs and the development of a strong 	<p>Note: For complete text and obligations users must refer to <i>NWPTA</i>. The following is a synopsis of key areas and is provided as a convenience only:</p> <p><u>General</u></p> <ul style="list-style-type: none"> <i>NWPTA</i> requires government and public entities remove impediments across all economic sectors. The Agreement is comprehensive, applying to all government measures (e.g. legislation, regulations, standards, policies, procedures, guidelines, etc.) affecting trade, investment and labour mobility As with other trade agreements to which Alberta is signatory, <i>NWPTA</i> obligates public entities to ensure there are: <ul style="list-style-type: none"> No obstacles: government standards and regulations cannot restrict or impair trade, investment or labour mobility between the three provinces 	<p>Note: For complete text and obligations users must refer to <i>CETA</i>. The following is a synopsis of key areas and is provided as a convenience only:</p> <p><u>General</u></p> <ul style="list-style-type: none"> <i>CETA</i> requires government and public entities at all levels to remove impediments across all economic sectors. The Agreement is comprehensive, applying to all government measures (e.g. legislation, regulations, standards, policies, procedures, guidelines, etc.) affecting trade, investment and labour mobility Chapter 19 of the <i>CETA</i> prescribes tendering rules and obligations to ensure procuring entities subject to the Agreement do not protect domestic products or suppliers, or discriminate against foreign products or suppliers <p>Canada has made commitments to all 28 countries within the European Union, which are</p>	<p>Note: For complete text and obligations users must refer to <i>GPA</i>. The following is a synopsis of key areas and is provided as a convenience only:</p> <p><u>General</u></p> <ul style="list-style-type: none"> The <i>World Trade Organization (WTO)</i> is an international organization that deals with the rules of trade between nations. The overall objective of the <i>WTO</i> is to ensure trade flows as smoothly, predictably and freely as possible to meet the objective to increase economic growth and prosperity. The <i>GPA</i> is the <i>WTO</i> Agreement that establishes international obligations regarding government procurement The <i>GPA</i> prescribes tendering rules and obligations to ensure procuring entities subject to the Agreement do not protect domestic products or suppliers, or discriminate against foreign products or suppliers 	<p>Note: For complete text and obligations users must refer to the TB Directive. The following is a synopsis of key areas and is provided as a convenience only:</p> <p><u>General</u></p> <ul style="list-style-type: none"> The TB Directive requires Departments to foster consistent, Government-wide practices in the procurement of Goods, Services and Construction The TB Directive specifies certain requirements for procurements within the TB Directive Amounts. Specifically, the TB Directive: <ul style="list-style-type: none"> Lowers the threshold where a competitive solicitation is required for Services and Construction. Requires Deputy Minister sign-off on Sole-source exceptions Requires public disclosure on Sole-source exceptions for Services In addition, the TB Directive:

CFTA	NWPTA	CETA	WTO GPA	TB Directive						
<p>economy in a context of transparency and efficiency</p> <ul style="list-style-type: none"> Contracting staff and Managers must have a thorough understanding of Chapter Five of CFTA in order to apply the principles throughout the procurement process. This knowledge must be demonstrated at all times when providing direction and guidance to their Department and vendors 	<ul style="list-style-type: none"> Non-discrimination: there will be no preferential treatment of a province's people, investments and goods, except for justified actual cost-of-service differences Special provisions have been established for certain economic sectors covering investment, business subsidies, labour mobility, procurement, energy, and transportation. Although the Agreement has special provisions that define particular obligations in certain sectors, the breadth of its coverage covers trade, investment and labour mobility 	<p>extended to provincial/territorial governments as well as their MASH sectors. Please note: Britain is in the process of leaving the European Union.</p>	<ul style="list-style-type: none"> Commitments under the GPA are made on a reciprocal basis. This means only those countries that have made similar commitments under the GPA to the commitments of another country may benefit. Canadian provinces and territories have made reciprocal commitments to 47 countries, including the United States of America and the European Union 	<ul style="list-style-type: none"> requires the establishment of a procurement accountability framework Requires each Department to have a Contract Review Committee 						
<p><u>Procurement Thresholds</u> Parties will provide open and non-discriminatory access:</p>	<p><u>Procurement Thresholds</u> See column 1</p>	<p><u>Procurement Thresholds</u> See column 1</p>	<p><u>Procurement Thresholds</u> See column 1</p>	<p><u>Procurement Thresholds</u> Departments must adhere to the requirements of the TB Directive where the procurement value is:</p> <table border="0"> <tr> <td>Goods</td> <td>NA</td> </tr> <tr> <td>Services</td> <td>\$10,000 - \$75,000</td> </tr> <tr> <td>Construction</td> <td>\$50,000.01-\$100,000</td> </tr> </table>	Goods	NA	Services	\$10,000 - \$75,000	Construction	\$50,000.01-\$100,000
Goods	NA									
Services	\$10,000 - \$75,000									
Construction	\$50,000.01-\$100,000									

2.5.3. Federal Competition Act

The *Federal Competition Act* regulates the conduct and behavior of enterprises participating in the Canadian economy. Be aware of the basic objectives and provisions of the Act, which include:

- Objectives
 - Promote the efficiency and adaptability of the Canadian economy
 - Expand opportunities for Canadian participation in world markets while at the same time recognizing the role of foreign competition in Canada
 - Ensure small and medium-sized enterprises have an equitable opportunity to participate in the Canadian economy
 - Provide consumers with competitive prices and product choices
- Overview of provisions
 - Prohibits certain criminal offences (such as price-fixing and bid-rigging conspiracies (see below), resale price maintenance, price discrimination and predatory pricing)
 - Contains non-criminal provisions which allow the Competition Tribunal (Tribunal) to:
 - Review mergers and certain business practices (such as exclusive dealing, refusal to deal and abuse of dominance)
 - In certain circumstances, issue orders prohibiting or correcting conduct so as to eliminate or reduce its anti-competitive impact
 - Private parties may apply to the Tribunal and seek a review of certain business practices (such as refusal to deal, tied selling and exclusive dealing)
 - Act also requires pre-merger notification
- Consequences of anti-competitive acts
 - Certain types of criminal offences are punishable by fines of up to \$10 million per count or imprisonment for periods of up to five years, or both
 - Provides for the recovery of civil damages to compensate for harm suffered as a result of a violation of a criminal provision of the Act, or as a result of breach of an order of the Tribunal
 - The application of the non-criminal provisions of the Act can also have significant consequences since orders of the Tribunal can force businesses to put an end to some of their practices, or to change them with the result that significant costs may have to be incurred (for example, if a merger is prevented or a distribution system must be changed)
- Canadian Competition Bureau priorities
 - Conspiracy/cartel enforcement and immunity from prosecution
 - Merger notification and review
 - Abuse of dominant position
 - Greater focus has also been placed on the imposition of administrative monetary penalties for contraventions of the misleading advertising and

deceptive marketing provisions of the Act, which have exceeded \$1 million in recent cases

Bid-rigging occurs when two or more vendors agree to take pre-arranged action in Response to a solicitation. The four most common types are:

- *Cover bidding* – giving the impression of competitive bidding but where vendors agree to submit token bids that are usually too high
- *Bid suppression* – an agreement among vendors either to abstain from bidding or to withdraw bids
- *Bid rotation* – a process where a pre-selected vendor submits the lowest bid on a systematic or rotating basis
- *Market division* – an agreement among vendors not to compete in designated geographic regions or for specific customers. This does not include situations where a manufacturer designates specific vendors to sell and service its products in a designated geographic region or for specific customers

If bid-rigging is suspected, or if information about a bid-rigging scheme becomes available, the Purchasing Officer is to notify their supervisor immediately, who may wish to obtain legal opinion.

Further information is available from the Government of Canada's, Competition Bureau website at: http://www.competitionbureau.gc.ca/eic/site/cb-bc.nsf/eng/h_00110.html

2.6. Who Can Provide Guidance with Respect to PAF

2.6.1. Who should be consulted or involved?

There are numerous instances KEs and others may need to be engaged, especially where contracts have significant complexity and/or risk. Examples include the following:

- Elected officials – depending on any associated political risk
- Senior executive/management (and/or the governing bodies such as the Board of Directors) must be aware of, understand and support approaches to risk management
- KEs such as:
 - Procurement and contracting to ensure compliance with trade agreements, the TB Directive and GoA purchasing policies, and to provide advice regarding contracting best practices
 - Justice and Solicitor General to ensure legal risks are managed properly and that Terms of Reference and solicitation documents do not include provisions contrary to GoA policy
 - Risk Management and Insurance to ensure risk is properly covered and mitigated through insurance and other means (e.g. performance bonds, etc.)
 - The Public Service Commission to prevent unintentionally creating employer/employee relationships

- Information Management and FOIP Services, Access and Information Protection to ensure protection of personal information, access to records and the security of all GoA information is managed properly
- In some instances, vendors to ensure a competitive environment and level playing field in solicitation processes (e.g. Requests for Information and Request for Comments – process must be open, fair and transparent)
- Stakeholders on risks and risk management performance
- Contract Review Committees provide a sounding board for advice in developing information to support a Decision to Acquire

2.6.2. When and to what extent should they be involved?

When to engage KEs and others depends on a number of factors, some being the complexity, monetary value, risk and potential impact to stakeholders of the acquisition. Employees should consult with their immediate supervisors and Department contracting staff to determine the need for, or timing of, engaging KEs or others. These considerations are all part of the 'Decision to Acquire' element of the PAF.

Best practices recommend early involvement. In disputes, Justice and Solicitor General relies on the underlying documents as part of the agreement (e.g. RFP, Response and contract), so their involvement in developing and reviewing terms of reference, solicitation documents and the contract is highly valuable. Table 2 outlines when KEs and others should be involved in each element of the PAF.

Table 2: User Guide for Involvement of KEs and Others in the PAF Process

KEs / Other	Decision to Acquire	Solicitation Process	Review/Approval	Contract Administration	Contract Completion	Continuous Improvement
Elected Officials (Minister)	<ul style="list-style-type: none"> Acquisition may or will have political impacts 		<ul style="list-style-type: none"> Approval by Elected Official maybe required 			<ul style="list-style-type: none"> Recording any issues in need of improvement for action and future reference
Deputy Minister			<ul style="list-style-type: none"> Approval of all Sole-source contracts for TB Directive Amounts Best practice: approval of all Sole-source contracts for NWPTA Threshold Amounts. 			
Department Contract Review Committee (CRC)	<ul style="list-style-type: none"> As determined by Department necessary to support PAF 		<ul style="list-style-type: none"> As determined by Department necessary to support PAF 			
Department Executive in addition to Senior Financial Officer (SFO)	<ul style="list-style-type: none"> All requests for Sole-source procurements for NWPTA Threshold Amounts Acquisition may or will have political impacts Acquisition may or will have significant Department operational impacts Advice on alignment with GoA and Department policies and procedures, and business and operational plans 		<ul style="list-style-type: none"> Approval of all contracts Identify high risk contracts for senior management approval Perform independent reviews of non-competitive contracts 	<ul style="list-style-type: none"> Approval of contract amendments subject to applicable authority matrices 		<ul style="list-style-type: none"> Recording any issues in need of improvement for action and future reference

KEs / Other	Decision to Acquire	Solicitation Process	Review/Approval	Contract Administration	Contract Completion	Continuous Improvement
	<ul style="list-style-type: none"> Identify trends or other corporate initiatives that may impact planned procurements Oversee the contracting process 					
Department procurement, contracting and financial services personnel (SFO, budget and accounting officers, etc.)	As part of the Executive Team or CRC, oversee the contracting process Assist in developing a business case: <ul style="list-style-type: none"> Identification of alternatives Evaluation of alternatives <ul style="list-style-type: none"> Cost/benefit analysis or cost/value assessments – advice on methods and benchmarks Risk assessment – identification of risks, quantification of risks and cost of impact Stakeholder impact assessment – participate in identifying stakeholders who could be impacted Ensure alignment with Department budget 	<ul style="list-style-type: none"> Solicitation document development – advice on appropriate payment framework (invoicing and payment, etc.) Ensuring compliance with Department financial and contract management policy and reporting 	<ul style="list-style-type: none"> Confirmation of funding 	<ul style="list-style-type: none"> Input on project governance structure to minimize risk to the GoA Input on contract management requirements – Department specific Analyzing financial statements and other financial reports Recording for financial statement purposes contract surpluses (accounts receivable), unpaid amounts for services rendered (accrued liabilities) and any contractual obligations as at year-end Management of receipt of Goods, Services or Construction expenditure authorization and disbursements Advice regarding contract 	<ul style="list-style-type: none"> Advice regarding contract close out 	<ul style="list-style-type: none"> Recording any issues in need of improvement for action and future reference

KEs / Other	Decision to Acquire	Solicitation Process	Review/Approval	Contract Administration	Contract Completion	Continuous Improvement
				termination/off-ramping, if required		
Justice and Solicitor General, Legal Services	<ul style="list-style-type: none"> • Identification of alternatives • Evaluation of alternatives <ul style="list-style-type: none"> – Risk assessment – identification and qualification of legal risks and non-quantifiable costs – Stakeholder impact assessment – input into the process 	<ul style="list-style-type: none"> • Solicitation process and document development and review (including review of mandatory elements and evaluation criteria) to ensure a fair process • Input on: <ul style="list-style-type: none"> – Trade obligations – Intellectual Property issues or other complicating factors – Advice on FOIP provisions and obligations regarding solicitation process and documents – Type of contract to use and the appropriate terms and conditions • Review of any proposed changes to solicitation or contract templates • Liaise with RMI respecting indemnity and insurance provisions of draft contract • Vendor debriefing – advice on the parameters of disclosure and conduct of meetings • Negotiations regarding the conditions of the award 	<ul style="list-style-type: none"> • Provides legal advice but is not part of the approval process at CRC, when requested to attend by the Department 	<ul style="list-style-type: none"> • Advice regarding reporting, monitoring, enforcing provisions, dispute resolution and documentation • Advice on amending or renewing contracts • Advice regarding contract termination/off-ramping, if required 	<ul style="list-style-type: none"> • Advice regarding contract close out, if required 	<ul style="list-style-type: none"> • Recording any issues in need of improvement for action and future reference

KES / Other	Decision to Acquire	Solicitation Process	Review/Approval	Contract Administration	Contract Completion	Continuous Improvement
		<ul style="list-style-type: none"> Recommendations on process documentation 				
Treasury Board and Finance – Risk Management and Insurance	<ul style="list-style-type: none"> Business case – identification and evaluation of alternatives <ul style="list-style-type: none"> Risk assessment – advice on methods and risk categories Stakeholder impact assessment – participate in identifying stakeholders who could be impacted 	<ul style="list-style-type: none"> Solicitation document – advice on appropriate forms of performance security Contract terms and conditions – advice regarding insurance (general liability, errors and omissions, etc.) and indemnity and hold harmless provisions Contract provisions for limitations of liability 	<ul style="list-style-type: none"> Provides risk management advice but is not part of the approval process at CRC when requested to attend by the Department 	<ul style="list-style-type: none"> Input on governance structure to minimize risk to the GoA Advice regarding contract termination/off-ramping, if required Evidence of insurance from contractors 	<ul style="list-style-type: none"> Advice regarding contract close out, if required 	<ul style="list-style-type: none"> Recording any issues in need of improvement for action and future reference
SA – Procurement Services	<ul style="list-style-type: none"> Assistance with the development of a Procurement Plan including process, tools and documentation advice (e.g. Sole-source, Limited Solicitation, Open Solicitation) Standards and best practices Government-wide sourcing Trend analysis Key performance indices Business case guidance (client Department responsible for business case preparation) Solicitation strategy Terms of Reference, Scope of work or Goods specifications development assistance 	<ul style="list-style-type: none"> Input on trade obligations Solicitation process advice and/or management and solicitation document development assistance Vendor debriefing – advice on process Recommendations on process documentation 	<ul style="list-style-type: none"> Input on trade obligations 	<ul style="list-style-type: none"> Advice regarding reporting, monitoring, amending or renewing vs. re-competing, and documentation Input on trade obligations Advice regarding contract termination/off-ramping, if required 	<ul style="list-style-type: none"> Advice regarding contract close out documentation and filing 	<ul style="list-style-type: none"> Recording any issues in need of improvement for action and future reference

KEs / Other	Decision to Acquire	Solicitation Process	Review/Approval	Contract Administration	Contract Completion	Continuous Improvement
	<ul style="list-style-type: none"> Compliance with trade agreements and GoA purchasing policies 					
Public Service Commission	<ul style="list-style-type: none"> Alternative service contracting advice – employment agencies, best practices for dealing with unsophisticated contractors, advice regarding obligations around collective bargaining (i.e. unions), ensuring employee/employer relationships are not unintentionally created 	<ul style="list-style-type: none"> Advice on reference checks Recommendations on process documentation 	<ul style="list-style-type: none"> Support at CRC/Executive Council presentations, where required 	<ul style="list-style-type: none"> Advice regarding the management of contracted Services vs. employees (work environment, training of contractors, etc.) 	<ul style="list-style-type: none"> Advice regarding contract close out documentation required to satisfy PSC/Union expectations 	<ul style="list-style-type: none"> Recording any issues in need of improvement for action and future reference
SA – FOIP Services, Access and Information Protection (FOIP)	<p>For complex contracts involving a cross-government initiative or high volume of personal information:</p> <ul style="list-style-type: none"> Advice on access and privacy provisions and obligations regarding compliance with <i>the FOIP Act</i> 		<ul style="list-style-type: none"> Evaluation of access and privacy controls if significant to the contract 			
Department FOIP Coordinators	<ul style="list-style-type: none"> Process documentation Advice on access and privacy provisions and obligations regarding compliance with <i>the FOIP Act</i> 	<ul style="list-style-type: none"> Advice on FOIP provisions and obligations regarding solicitation process and documents Vendor debriefing – advice on handling confidential information and information sharing Recommendations on process documentation 	<ul style="list-style-type: none"> Evaluation of access and privacy controls on a routine basis 	<ul style="list-style-type: none"> Advice regarding proposed changes to standard privacy and confidentiality terms and conditions (must be done in conjunction with Justice and Solicitor General) Advice regarding documentation and record management 	<ul style="list-style-type: none"> Advice regarding contract close-out documentation and records management 	<ul style="list-style-type: none"> Recording any issues in need of improvement for action and future reference

KEs / Other	Decision to Acquire	Solicitation Process	Review/Approval	Contract Administration	Contract Completion	Continuous Improvement
Vendors	<ul style="list-style-type: none"> In some instances consult vendors to ensure a competitive environment and level playing field in proposed solicitation processes 					<ul style="list-style-type: none"> Obtain feedback on potential process improvement
Stakeholders	<ul style="list-style-type: none"> Consult with stakeholders to identify risks and risk management strategies 			<ul style="list-style-type: none"> Consult on risk management performance 		<ul style="list-style-type: none"> Record risk management performance improvement suggestions

3.3. Specific PAF User Guidance

The following provides further detail for each of the six required procurement and contracting process elements of the PAF previously identified in section 1.2.1: Decision to Acquire, Solicitation Process, Review/Approval Process, Contract Administration, Contract Completion and Continuous Improvement. The associated supporting sub-requirements for each element are highlighted in grey.

3.1. Decision to Acquire

3.1.1. General Guidance

- The most common tool used to complete all requirements of this PAF element is the business case. The business case drives consideration of all sub-requirements of the Decision to Acquire (need and outcomes, alternatives considered, analysis of alternatives, rationale for decision to purchase, and procurement/implementation plan)
- The GoA has adopted a business case and user guidelines. The approved Business Case Template and Guidelines are available on SA's e-FormLinks website at <https://forms.gov.ab.ca/>
- Appendix C provides direction for users in preparing business cases and includes two Department specific sample short form business case templates
- If the Department chooses to not complete a business case given the nature of the procurement, then follow through the guidelines for each sub-requirement of the Decision to Acquire below and document the rationale for process used
- The level of review required to justify a Decision to Acquire is dependent on several factors, such as: monetary value, risk, and potential stakeholder impact and professional judgment
- It is important to engage impacted stakeholders (e.g. front line) throughout business case development to ensure the preferred alternative meets their needs

3.1.2. Identify the Need and Outcomes to be Achieved

- Describe the problem or opportunity to be addressed, the Goods, Services or Construction to be acquired, and the outcome to be achieved
- Describe how outcome aligns with Department or GoA business/operational plans
- Describe the scope of the Goods, Services or Construction to be acquired in general terms
- Identify all the stakeholders
- Explain the nature of the impact expected by the acquisition / project

Guidance

- One of the largest risks of procurement and contracting is not being clear on what is being acquired, the timelines under which it will be delivered and how the results will be measured. If the request and measurement of results are not clear, it can give rise to several issues and concerns throughout the procurement and contracting process. Time and effort should be taken to define in as clear terms as possible:
 - The outcome to be achieved
 - The scope or description of the Goods, Services or Construction to be acquired
 - The affected stakeholders and potential impacts to each expected by the acquisition/project

3.1.3. Analyze Alternatives for Goods/Services/Construction Delivery

- Consider all alternatives for delivery (internal and external) including options for financing, resourcing and implementation
- Conduct appropriate analysis of each alternative, for example:
 - Intuitive (i.e. common sense) reviews to exclude those obviously non-viable
 - Appropriate value based analysis such as cost/benefit analysis
 - Risk Assessment – even if no viable alternatives exist
 - Summarize the outcomes of analysis performed on each alternative

Guidance

Identify All Potential Alternatives

- Whether using a business case template or not, the first action after defining the need and expected outcomes is to identify all the potential alternatives as means to acquire them. Alternatives may be expressed in any combination of:
 - Delivery:
 - Internal versus external
 - Share – joining an existing shared services offering or sharing the Goods
 - Purchase – hiring or buying
 - Rent – outsourcing/contracting or leasing
 - Financing:
 - Traditional (GoA capital and/or operational funding)
 - Alternative (examples include debt and equity financing, private sector financing)

Conduct Appropriate Analyses on each Alternative

- After each alternative is identified, they must be analyzed and evaluated. The extent of analysis and evaluation is driven by the nature of the procurement (e.g. risk, complexity, cost etc.). Several forms of analysis can be performed to

determine a preferred viable alternative including intuitive (i.e. common sense) reviews, risk assessment, and value based such as cost evaluations, cost-benefit analysis and other forms for more complex acquisitions

- As recommended by Corporate Internal Audit Services, a risk assessment should be completed; even when no viable alternatives exist. Note contract value is not in a direct relationship with degree of risk (i.e., small value contracts do not necessarily mean low risk). See Appendix C for guidelines on preparing a risk assessment
- Inputs for the analysis of alternatives include:
 - Market research on services, products, costs, risks, etc.
 - Economic factors such as existing labour pool, availability of competition, rising input costs for vendors
 - Other government jurisdiction research regarding an intended acquisition
 - Information on any strategic linkages with the private sector, or other public sector entities (strategic sourcing and alternative delivery scenarios increasing GoA leverage in the marketplace)
 - GoA policies affecting the acquisition of Goods or contracting Services and Construction related to the specific acquisition sought such as: employer/employee relationships; contracting and procurement thresholds under intergovernmental trade agreements; and, information security and records management
 - Information gathered through Requests for Information (RFI) such as: product, Service, or process; performance of the Goods, Services or Construction; and vendor availability to compete

Summarize results and indicate preferred alternative

Prepare a summary sheet listing each alternative and the results of each analysis (intuitive, risk assessment, and an appropriate cost evaluation or cost/benefit analysis) as it applied to each alternative. Use this sheet to identify the preferred alternative.

3.1.4. Describe the Rationale for a Decision to Purchase

Outline the rationale for a Decision to Acquire and support it with the summary of analysis for alternatives described above

Guidance

Include a brief write-up outlining the rationale for a Decision to Acquire. This is supported by the summary of analyses for alternatives (or business case) described above. Some reasons for contracting Services as opposed to delivering them in-house might be to:

- Achieve the best value for tax dollars
- Increase competition
- Stimulate innovation
- Optimize the use of GoA resources

- Balance competing interests (e.g. risk vs. adopting new approaches to Service delivery)
- Provide a new GoA service
- Extend coverage to underserved sectors of the population and provide priority services to targeted groups
- Enlist private sector support for public priorities
- Introduce market tools and market-like incentives, such as links between results and costs, demand-based service provision and monitoring of customer satisfaction, service definition and calculations of unit costs, and accountability of personnel for performance

3.1.5. Develop a High-Level Procurement Plan

- A Terms of Reference for the procurement plan should include key components such as background and outcomes to be achieved, scope of services, specifications for the Goods, Services or Construction being acquired, deliverables and performance measures, payment framework, project risks and assumptions)
- Describe the existing marketplace from which to obtain the Goods, Services or Construction
- Method of procurement (Open Solicitation, Limited Solicitation or Sole-source)
- Internal resources required to support the procurement
- Key communications issues and risks to be addressed
- A description of who needs to authorize to proceed and under what conditions

Guidance

Extent of the Procurement Plan is determined by the nature of the specific procurement (e.g. risk, complexity, cost, etc.).

Terms of Reference

- Outline scope of work/specifications for the Goods, Services or Construction being acquired and any technical issues or concerns
 - If necessary for complex projects, consider contracting independent technical advisors to ensure the Department understands the cost and performance impacts of what is being requested
- Appropriate disclosure of all known information about the requirements (e.g. intellectual property and copyright considerations) that would potentially influence the vendor's decision to bid, what to bid and their bid price
- A clear statement of the expected outcomes and deliverables
- A list of performance measures and how the contract will be monitored
- Draft weighted evaluation criteria and a description of what is valued in the solicitation (e.g. price, service, warranty, personnel qualifications, etc.)

- Delivery inputs [i.e. people (evaluate qualifications), equipment, materials, and facilities] required to deliver the Goods, Services or Construction and produce the results the Department seeks to acquire
- Contract duration including any options to extend, continue with the successful vendor for subsequent phases of work or compete such subsequent phases
- Preliminary cost and schedule (with milestone estimates) and any foreseeable related constraints
 - Costs
 - Determine if funds are available in the current and future budget years to acquire/deliver the Goods, Services or Construction
 - If the contract is expected to run across two or more fiscal years, then the maximum allowable budget should be determined for each year
 - If an asset is being developed, clarify the future impact on amortization, capital outlays, and amortization period. What is the expected life of the asset? When will the asset become operational?
 - Ensure the budget is consistent with generally accepted accounting principles and Department policies
 - Include costs for contractor fees and any internal costs for support staff, GoA programs costs committed, facilities used, vehicles used, contract administration, cost of covering risks, and hiring/contracting of additional outside expertise for procurement or contract management or project support
- Proposed payment framework. There are three costing and paying methods:
 - *Results Based Costing* – payment upon achieving particular outcomes, deliverables or milestones, or monthly or quarterly fee schedules where these cannot be appropriately defined. Compensation for results rather than expenditures is recommended wherever possible
 - *Inputs Based Costing* – payment for costs and expenses incurred by the contractor in achieving the contract objectives (e.g. salaries, overhead, fees, supplies/materials)
 - Payments are based on hourly/daily/monthly/quarterly fees; reimbursement of expenses, and cost plus – reimbursed plus agreed upon profit
 - Proof of expenditure is required before payment
 - Note: When this method is used, it is essential a firm ceiling or total maximum contract value be agreed upon
 - *Blended Costing* – combines both results-based and inputs-based costing

Marketplace Information

Having regard for the nature of the specific procurement, include a high level description of the existing marketplace from which the Goods, Services or Construction will be obtained. Include information on products and service standards and benchmarks, vendor community and availability, work on the street, and changes affecting client needs such as the business environment and labour market. Where marketplace information may be lacking a Request for Information (RFI) may be used.

Method of Procurement

(Competitive or Sole-source – see Section 3.2)

Internal Resources

Identify all internal resources required to support the procurement process [e.g., procurement planning and set up costs (e.g. independent technical advisers), management and governance resources, and fairness/process monitor, if required].

Communications

Develop a communications strategy listing the potential issues and tactics to be used to address each strategy.

Assumptions

List all assumptions regarding cost, risk, timing, marketplace, specifications, etc.

Authorization/Approvals

Identify who needs to review and authorize to proceed and under what conditions.

3.1.6. Decision to Acquire Documentation

For all elements of the PAF, documentation should be retained to demonstrate compliance with the PAF. The precise documentation required depends on the nature and risk profile of the acquisition. The documentation should demonstrate and support the reasons for the procurement, the process followed and all relevant decisions, including approvals and authorizations, and the basis of those decisions.

For this stage of the PAF, users should prepare and keep on file:

- The statement problem or opportunity and statements of need and outcomes to be achieved
- The process and documents used to support the Decision to Acquire
 - Business case, or
 - Evidence of full consideration of alternatives including input received from KEs and relevant stakeholders, and results of any evaluation (intuitive assessment, risk assessment, cost evaluations or cost/benefit analysis, etc.)
- The rationale for selecting the preferred viable alternative
- Approvals received to proceed to solicitation

Records Management

- Ensure compliance with all legislative and regulatory requirements (e.g. FOIP, Records Management Regulation)
- Keep files up to date. Currency of filed information serves not only as an historical record but also provides an accurate audit trail in the event of any inquiries, subsequent legal action or an official complaint
- When the contents of the file are stored in more than one location, one file should be designated as the primary file, which acts as the main file for the

project. It should contain a table of contents indicating where all other project documents are located

- As per existing GoA policies, documentation relating to procurement should be retained for a minimum period of ten years from the date of contract expiry or termination. Longer retention periods may be appropriate if required by legislation or other reasons pertaining to a specific procurement (e.g. warranties)

3.2. Solicitation Process

Determine the appropriate method of solicitation

- Open Solicitation
- Limited Solicitation
- Sole-source

In the absence of a TB Directive or trade agreement exception, as applicable, the solicitation process that must be used is as follows:

- For TB Directive Amounts: Either Limited Solicitation or Open Solicitation
- For NWPTA Threshold Amounts: Open Solicitation

A Sole-source solicitation process may be used as follows:

- For TB Directive Amounts: If a trade exception listed under the TB Directive exists, subject to Deputy Minister authorization and public disclosure as applicable
- For NWPTA Threshold Amounts: If a NWPTA exception exists, subject to Department authorization and public disclosure as applicable

3.2.1. Principles of Solicitation

In addition to the Principles in Section 2.1, the solicitation process requires consideration of the following focused principles:

- Fair, open, transparent, accountable and consistent processes
 - Fully disclose all known information which would potentially influence a vendor in deciding whether or not to bid, what to bid and the price to bid. This includes disclosing other vendor's non-confidential questions and the GoA's responses, as well as any amendments to the solicitation documents
 - Negotiations with vendors after submission of Responses are not acceptable unless negotiation terms are specified in the solicitation documents. The contract should not be negotiated with the vendor until the award is made.
 - If a vendor offers an interesting feature or process, the Department cannot request the same of another vendor who has not proposed the feature or process

- The evaluation cannot favour or discriminate, for example, based on region or location or product brand. This is enforced by the trade agreements, with some specific exceptions that must be justifiable
 - The solicitation document, the contract and actions under the contract must be consistent
- Mandatory requirements are an absolute
 - The solicitation document describes the mandatory requirements (e.g. for the Goods, Services or Construction to be provided, experience, scope, process, procedures and performance). Responses that do not comply with mandatory requirements must be rejected
- Maximizing value and benefit to the taxpayer
 - Acquire Goods, Services or Construction on the basis of value – consider qualitative, performance and pricing criteria
 - In the case of Construction projects exceeding 24 months in duration, require an apprenticeship training plan as part of the bid
 - Ensure the competitive process is not cost prohibitive to GoA or vendors
 - Reducing risk of vendor selection must be balanced with trying new and better approaches to provide improved services to citizens
 - Ongoing competition is necessary to respond to the prevailing market conditions of the day
- Process efficiency
 - Use appropriate systems to provide workflow routing to track the flow of documents and information, thus speeding the review and approval of procurements, contracts and work assignments

3.2.2. Methods of Solicitation

There are two primary methods of solicitation available to the GoA when purchasing Goods, Services or Construction: competitive bidding and Sole-sourcing.

Guidance

Types

- *Open Solicitation* – Open solicitations are posted on Alberta Purchasing Connection (APC), Alberta’s electronic tendering system, and may be advertised elsewhere in compliance with trade obligations and Department policies
- *Limited Solicitation* – For under NWPTA threshold procurements

Considerations

- When deciding on the competitive bid approach, consider the size of the solicitation package, the number of vendors being solicited, the time required for Responses to be submitted, and/or other pertinent matters
- For open or limited solicitations, a single or multiple-stage process can occur (e.g. Request for Information stage/Pre-Qualification Request stage/Request for

Comments stage/Request for Proposals/Quotes stage/Best and Final Offer stage; or Request for Proposals/Quotes stage alone)

- Procedures for small acquisitions (e.g. repetitive purchases of office supplies) must not be used when evaluation factors are highly complex and require lengthy or detailed vendor submissions

Limited Solicitation

Types of Source Lists

- *Open Source List* – has the meaning given to it in Appendix A
- *Qualified Source List* – has the meaning given to it in Appendix A. To qualify, vendors must respond to a public invitation (PQR or solicitation) and meet the evaluation criteria specified. To the extent possible, pre-qualified vendor lists should contain the names of at least three potential vendors or the number specified in the PQR or solicitation document
 - Vendor of Record (VOR)/Standing Offer Lists – are classes of Qualified Source Lists where qualified vendors offer specific Goods or Services to Departments for a specified period of time with terms and conditions and pricing set out in the specific VOR agreement or Standing Offer contract
- *Limited Good/Commodity, Service or Construction Lists* – some Departments with specialized needs may keep lists of contractors to fulfill those needs. This list is created using vendor market knowledge existing in the Department.

Creating and Updating Source Lists

- Source List management (i.e. how it's created, updated and used) and lifespan should be explained in the PQR or solicitation document used to develop the list, or, in the case of Open Source Lists, in vendor registration information.
- To ensure compliance with trade obligations, vendors that meet the conditions for registration on an Open Source List or for Limited Good/Commodity, Service or Construction Lists must be able to register at any time. However, the Department may limit the application period for Qualified Source Lists to once at the start if the Qualified Source List is used for 3 years or less. If it will be used for more than 3 years the application period to qualify for these source lists are updated at least annually.
- Despite the above, CETA Article 19.8 (10) Multi-Use Lists requires that when a Qualified Source List is established to create a list for subsequent work vendors must be able to register at any time.
- When creating source lists, whether through a PQR or otherwise:
 - Ask vendors to submit their credentials including but not limited to: qualifications, experience and Goods, Services or Construction offered. Consider asking vendors to provide basic charge-out rates or unit rate prices for the Goods, Services or Construction

- All vendors who meet the requirements of the request criteria must be registered on the source list unless otherwise identified in the PQR or solicitation document (e.g. PQR or solicitation document may specify a maximum number of vendors that may be prequalified based on a minimum score/rating required to get on the source list)
- To the extent possible, pre-qualified vendor lists should contain the names of at least three potential vendors or the number specified in the PQR or solicitation document

Using Source Lists

For TB Directive Amounts or NWPTA Threshold Amounts:

- All source lists can be used to select a vendor to award a Sole-source contract, provided the requirements of the TB Directive and trade agreements for a Sole-source, as applicable, are met.
- Qualified Source Lists and Open Source Lists can be used to conduct Limited Solicitations. When undertaking a further competitive process from the list:
 - for NWPTA Threshold Amounts, the trade agreements require solicitations for Responses be issued to all vendors registered or qualified the list.
 - for TB Directive Amounts, it is a best practice to issue subsequent solicitations to all vendors registered or qualified on the list.
- Lists where vendors were added without an initial competitive or registration process (e.g. Limited Good/Commodity, Service or Construction Lists) should not be used for Limited Solicitations.

Sole-sourcing

When Sole-sourcing is Permitted

In the circumstances listed in the tables in Appendix F, Department's may Sole-source in accordance with the exceptions noted. However, the exceptions cannot be utilized for the purpose of avoiding competition, discriminating between suppliers or protecting local suppliers.

Note: For complete text and obligations refer to the trade agreements. The following is a synopsis of key areas and is provided as a convenience only. In cases where a procurement is subject to more than one trade agreement, **for a procurement exception to be justifiable it must be permissible under *each* trade agreement to which the procurement is subject.**

Effective April 1, 2015, the Procurement and Sole-sourcing Directive limits the authority of Departments to Sole-source Services and Construction for TB Directive Amounts. A Department must not Sole-source procurements for TB Directive Amounts inclusive of any contractual amendments or renewals. At a minimum, a Limited Solicitation is required for these procurements.

The TB Directive requires the Deputy Minister to approve Sole-source procurements for TB Directive Amounts. It is recommended Departments require Deputy Minister approval for all Sole-source procurements for NWPTA Threshold Amounts. Deputy Minister approval of a detailed annual Sole-source contracting plan, bundles of similar Sole-source contracts and/or other similar documentation or processes may be evidence of the required authorization.

In accordance with the TB Directive, for TB Directive Amounts, where feasible, a Department must Sole-source from a list of vendors approved by:

- (a) Service Alberta, where a Government-wide list is applicable, or
- (b) the Department's Contract Review Committee, where there is no applicable Government-wide list approved by Service Alberta.

Justifying a Sole-source Award

- Document the rationale as to why a competitive bid process (Limited Solicitation or Open Solicitation) cannot be used
- Reference the specific Procurement and Sole-sourcing Directive exception for TB Directive Amounts or trade agreement exception that applies for NWPTA Threshold Amounts. The unique circumstances that justify the use of an exception must be documented along with the required approval on the procurement file in order to support the award and any subsequent audit or inter-provincial trade dispute arising from a Sole-source award
- Confirm that challenges received as a result of a Notice of Proposed Procurement (NPP), if any, have been addressed
- Document any further justification for a Sole-source by providing:
 - An explanation of the proposed contractor's unique qualifications or other factors that qualify the proposed contractor for the procurement award
 - Evidence proposed costs are fair and reasonable
 - A description of the market survey conducted and the results thereof (or reasons why a market survey was not conducted), and a list of the potential sources contacted or which expressed, in writing, an interest in the procurement
 - Any other pertinent facts or reasons supporting the use of a Sole-source as compared to a competition

Evaluating Sole-source Responses

Evaluate the Sole-source Response in a manner similar to a competed project, but do not score it. The purpose of evaluating a Response for a proposed Sole-sourced vendor is to:

- Confirm the vendor has fully understood the terms and conditions of the proposed contract
- Ensure the vendor is able to meet the requirements and deliver the results stipulated in the solicitation

- Demonstrate the Department has practiced due diligence when Sole-sourcing the project
- Provide a starting point for contract negotiations

Any deficiencies in the Sole-sourced Response must be documented, and the vendor should be requested to address these deficiencies before any contract negotiations are undertaken.

Reporting and Disclosure of Sole-source Contracts

Departments must publicly disclose quarterly the following information from all Sole-source contracts within TB Directive Amounts:

- (a) date,
- (b) vendor name and address,
- (c) department name and address,
- (d) general description of the services,
- (e) value of the contract, and
- (f) circumstances of the procurement including the applicable exception under the Procurement and Sole-sourcing Directive.

To accommodate the required public disclosure, Departments shall report these Sole-source contracts for Services. A consolidated quarterly report will be on a website designated by the Controller.

Such disclosure is not required if doing so would:

- (a) be contrary to the *Freedom of Information and Protection of Privacy Act*,
- (b) impede law enforcement,
- (c) prejudice the legitimate commercial interests of particular enterprises,
- (d) involve a waiver of privilege,
- (e) cause economic disruption, or
- (f) otherwise be contrary to the public interest.

Where disclosure is not required for these reasons, the Department shall keep a complete record of the Sole-source contract and required approval for review by the Controller, from time to time.

It is a requirement to disclose Sole-source service contracts for NWPTA Threshold Amounts.

3.2.3. Types of Solicitation and Templates

The following table lists the standard solicitation types for use by the GoA. A template will be developed for each solicitation type, including guidelines for use. Departments should continue using their current templates and those on the MyAgent Purchasing Site in those instances where a standard GoA template has not yet been developed.

Table 3: Table of Solicitation Types

Type	When to Use
Non-Evaluative, Information Gathering Request Stage – Goods and Services	
Request for Information (RFI)	Used when the purchaser knows the function to be performed but has little or no knowledge of any specific process or product that can meet the requirements. An RFI is not a competitive process. The RFI should be posted publicly to maximize input and future competition. Specific information about the vendor, their interest in providing products and Services and details about those products and Services is requested. Binding Responses and firm prices are not requested at the RFI stage. The quality of the response is not formally evaluated. Vendors are under no obligation to respond to an RFI in order to bid on any subsequent solicitation relating to the RFI.
Request for Comments (RFC)	Used to gain vendor feedback/input on draft initiatives and solicitation documents. It is a formal vendor consultation process. The input is considered by the GoA but not evaluated/scored. A RFC is not a competitive process. It may also be conducted following completion of a Pre-Qualification Request (PQR).
Notice of Proposed Procurement (NPP)	Used when the GoA intends to Sole-source, typically for NWPTA Threshold Amounts. The notice is posted on APC and informs interested parties of the GoA's intent to Sole-source, explains the rationale behind the decision, and offers vendors the opportunity to dispute the rationale and/or identify their ability to compete for the work. An NPP may assist with the contract approval process.
Pre-Qualification Stage	
Pre-Qualification Request (PQR) or Request for Qualifications	Used to register qualified vendors on a source list or to produce a Short List of vendors eligible to bid on multiple or one time only Goods or Services procurements through a Request for Quotes, Value-Based Request (VBR), Request for Service (RFS), Statement of Work (SOW) or RFP. The PQR or Request for Qualifications asks vendors to submit their credentials, qualifications, experience, and Service and/or Goods offering. It may ask vendors to provide their basic charge-out rates or unit rate prices for Goods and/or Services. A PQR or Request for Qualifications may contain both mandatory and desirable criteria. These Responses are evaluated and may be ranked. All vendors who meet the required minimum standards must be registered on the source list, or provided the opportunity to move to bid stage (Request for Quotes, VBR, RFS, SOW or RFP).
Bid Stage – Competitive Bidding Methods	
Invitation to Quote (informal)	Used for simple and/or low dollar value requirements below NWPTA threshold that pose minimal risk. Price quotations can be obtained verbally or in writing. Obtain at least two quotes, if possible. The Purchasing Officer must record any particular details and the prices quoted.
Request for Quotes (formal)	Used when: <ul style="list-style-type: none"> • The marketplace for the Goods is well-established and well-understood • The requirement is straightforward and exact specifications are known • All requirements in the solicitation document are mandatory, and • The evaluation is straightforward and the lowest cost Response meeting all requirements (specification, terms and conditions) is successful Potential vendors are invited to bid through the use of public advertising or Qualified Source Lists.

Type	When to Use
Value-Based Request (VBR)	<p>Used as an alternative to Request for Quotes to acquire Goods and/or related Services (e.g. maintenance or training) where a value as opposed to a price based evaluation is appropriate. Can be used where the Goods acquisition is not overly complex and there is a desire to avoid the costs and timelines associated with the RFP process while enabling some degree of qualitative analysis.</p> <ul style="list-style-type: none"> • Uses mandatory requirements which must be met like a Request for Quotes, but also includes weighted (based on importance) desirable provisions (e.g. such as vendor qualifications and functional specifications), of which the latter can be scored • Pricing can be weighted • Responses must be received in the template prescribed in the solicitation document to facilitate evaluation and comparison • An evaluation plan must be established to score Responses
Request for Proposals (RFP)	<p>Used for acquiring Goods and/or Services when:</p> <ul style="list-style-type: none"> • The primary objective is to acquire a solution to a particular problem; • The acquisition is based on demonstrated best value; • The proposed solutions can be quite varied and/or complex to evaluate (an evaluation plan must be established to score responses); • The solicitation document contains both mandatory requirements and desirable provisions; and • Mandatory requirements (if scored) and desirable provisions are weighted according to importance. <p>The RFP process, being complex, time consuming and expensive for both the Department and vendors, should not be undertaken unnecessarily.</p> <p>It may be desirable to request a proposal submission in two parts: a technical and management submission and a separate cost and price submission. This enables consideration of cost and price factors after the technical and management evaluation has been made.</p>

Goods and Services Solicitation, Contract, and Evaluation Templates

Service Alberta, in conjunction with Justice and Solicitor General, has developed a number of standardized solicitation and contract templates and associated guidelines for procurement of Goods and Services across the GoA. Templates incorporate a certain degree of flexibility to meet Department specific program requirements; however, any proposed changes will require KE input. Those templates which are available on the MyAgent Purchasing Site are marked with an asterisk below. Contact Service Alberta for copies of the remaining templates.

Solicitation Templates

1. Request for Information (RFI)
2. Request for Comments (RFC)
3. Pre-Qualification Request (PQR):
 - i. Pre-qualify vendors to participate in a future RFP process; and
 - ii. Pre-qualify vendors for inclusion in Qualified Source lists (e.g. Vendor of Record)

4. Notice of Proposed Procurement (NPP)
5. Request for Quotes *
6. Value-Based Request (VBR)*
7. General Services Request for Proposals (RFP)*
8. Information Communication and Technology (ICT) RFPs:
 - i. Commercial off the shelf Packaged Software RFP*
 - ii. ICT Applications Maintenance RFP
 - iii. Application Development (Fixed Price/Time & Materials) RFP

Contract Templates

1. General Services (Fixed Price/Time & Materials) Long Form Contract*
2. General Services Short Form Contract*
3. Contract Amendment*
4. Services Standing Offer Contract
5. Purchase Order*
6. Goods Standing Offer and Blanket Contract
7. ICT Contracts:
 - i. Application Development Contract A
 - ii. Application Development Contract B/C
 - iii. Applications Maintenance Contract

Evaluation Templates

1. RFP Evaluation Plan*
2. VBR Evaluation Plan*

In developing the above noted and future templates, the following best practices have and will be followed:

- Solicitation documents will:
 - Require vendors to submit particulars sufficient for the Department to evaluate Responses, shortlist vendors (as appropriate), and award a contract in a fair, equitable, and transparent manner
 - Set out in a clear and unambiguous manner criteria by which Responses are to be evaluated
 - Include a form of contract or provide contract provisions which set out the rights and obligations of the GoA and the successful vendor
 - Define the nature, quality and quantity of Goods, Services or Construction to be provided
 - Not include requirements or provisions which would provide a competitive advantage to one vendor
 - Use clear and unambiguous language
- All templates will, to the extent possible:
 - Have accompanying guidance documents
 - Be supported with training
 - Be flexible enough to respond to the varying needs of Departments

- Reside in a centralized repository (MyAgent Purchasing Site) and be accessible and regularly updated to address changing GoA needs and policy
- Use plain language
- Be structured to require due consideration of important elements as opposed to serving as checklists or yes/no fill in the blanks forms

Construction Solicitation, Contract, and Evaluation Templates

Infrastructure and Transportation have developed a number of standardized solicitation and contract templates and associated guidelines for procurement of Construction on behalf of the GoA. These templates which are based on construction industry best practices are not available for use by other Departments in light of the centralized nature of Construction procurement within Infrastructure and Transportation.

3.2.4. Putting it all together – Solicitation Process Guidance

Pre Solicitation

The following outlines the activities, strategies and issues (inputs) that should be considered during the pre-solicitation stage and the potential outputs of that process.

Solicitation Planning Inputs

- Procurement Plan and Statement of Work/Terms of Reference from Decision to Acquire
- Mandatory and desirable criteria
 - Ensure only truly mandatory criteria are labelled as such – overuse of mandatory terms may limit vendor participation, restrict the vendor from proposing certain solutions or result in non-compliant Responses
 - Avoid being prescriptive of the required solution as it inhibits vendor innovation and value. Rather, examine and convey clearly the business requirements and expected outcomes of a procurement and allow the vendor to provide the best value approach and solution
 - Maintain the GoA’s best practice of owning core tools and processes
 - Pricing
 - In setting pricing criteria, allow for different service delivery models and a range of work that is eligible for fixed fees to encourage innovation and creatively priced solutions
 - Incorporate life-cycle costing (“best value”) as a criteria, enabling consideration of the total life-cycle cost of the Goods, Services or Construction
 - Insurance Requirements – Insurance is often required as a means to ensure the vendor is able to pay for losses vendors cause to the GoA as well as responsibilities to third parties arising out of the vendor’s performance. Standard GoA contract templates include minimum insurance requirements but for unique or particularly hazardous contracts additional insurance may be required. Risk Management and Insurance should be consulted.

- Performance Security – Performance security may be required as a method of ensuring a particular project will be completed. It is a financial obligation imposed on a vendor if the vendor fails to perform contractual obligations. Money received pursuant to the performance security can be used by the Department to offset the additional costs incurred to complete the project. Types of performance security include a holdback provision, a letter of credit, a financial guarantee bond or a performance bond. Including such a vendor requirement should only be done in consultation with Justice and Solicitor General and Risk Management and Insurance
- Results from consultation process
 - When going to the vendor community for information throughout the procurement process, be cautious to balance the benefit of vendor consultation with the cost to obtain or provide it
- Standard forms (i.e. solicitation templates, contract templates)
 - Use standardized templates to help shorten the process, reduce errors and facilitate review – see Section 3.2.3
 - Obtain input from KEs regarding the use of templates (especially if any modifications are being considered)
 - Prior to making changes to standard clauses in solicitation documents or draft contracts, all relevant KEs should be consulted (e.g. any changes to indemnity clauses must not be made unless it is done in consultation with Treasury Board and Finance, Risk Management and Insurance with advice from Justice and Solicitor General)
 - Document all changes including a description of the change, the rationale for making the change, a record of KE consultation undertaken, and evidence of approvals
 - Seek Department approval
 - Inform Service Alberta, Procurement Services of any changes that are relevant to all Departments
- Consider the contracting best practices outlined in Sections 3.4.1 and 3.4.3
- Solicitation Evaluation criteria
 - To ensure a fair process, evaluation criteria must reflect the procurement objectives and outcomes, and must not be altered after Responses are received. Evaluation criteria must be applied equally and objectively to all Responses
 - Clearly communicate the rationale and intent of each evaluation criterion
 - Consider using the following criteria:
 - Vendor qualifications (leadership, experience, specialization, people, past vendor performance, team maturity level) to allow meaningful evaluation against needs
 - Proposed Solution (technical aspects, innovation, efficiency, value add elements, warranties, etc.)
 - Delivery cost (pricing, financial arrangements, incentives/disincentives, risk – reward sharing, vendor readiness, “line-of-sight” to subcontractors)

- The results of any consultation with industry regarding evaluation criteria
 - Select only those factors and sub-factors likely to surface the most advantageous Responses
 - Weigh each criterion in terms of relative priority either by using tradeoff statements or numerical weighting
- Scoring Method - must be clear and fully documented. For example, if certain criteria are weighted more than others, the weighted scoring method must be disclosed
 - Consider setting minimum scores for each evaluation category. If a Response falls below those minimum scores for any evaluation category, disqualify from further competition
 - Move away from price driven decision-making to quality of service driven decision-making where service quality and innovation are more important than price
 - Pricing may merit significant weighting in Goods, acquisitions using the VBR process and Services using the RFP process.

Solicitation Planning Outputs

- Establish an Evaluation Team
 - Formed to develop an evaluation plan, evaluate Responses, and select a preferred vendor with whom the Department will finalize/negotiate a contract, or to select vendors who qualify for inclusion on a source list
 - Composition varies, but consider including:
 - Procurement and/or contracting personnel from affected Departments
 - Program/Project Managers or other employees with knowledge/experience with the specific Goods or Services and an understanding of the Department's business needs
 - Private sector representatives who have specialized knowledge of the Goods, Services or Construction, or who possess specific expertise that is required to make educated decisions
 - KEs such as accounting, information technology, privacy, and risk management
 - Request all Evaluation Team members disclose any potential conflict of interest. Evaluation Team members must disclose any potential conflict of interest (in writing) to their immediate supervisor to be resolved prior to evaluating any Responses.
- Procurement documents to solicit Responses from vendors (See types of solicitation documents in Section 3.2.3)
 - Documents should facilitate accurate and complete Responses from vendors, and include the relevant scope of work and Terms of Reference, a description of the desired form of the response, and a copy of a draft contract
 - Documents should be rigorous enough to ensure consistent, comparable Responses, but flexible enough to allow consideration of vendor suggestions for better ways to satisfy the requirements

- Any Statement of Work/Terms of Reference updates
- Procurement process and timelines
 - Pre-solicitation
 - Release solicitation documents with sufficient lead time prior to the expiration date of an existing contract – at least six months, and potentially longer for significant outsourcings to provide sufficient time for the procurement process and transition
 - Provide vendors with notice of any potential impact to solicitation timing (e.g. when releasing documents near to an election period)
 - If possible, issue solicitation documents in an electronic format that enables vendors to more easily prepare their Response
 - Solicitation
 - Ensure frequent communication with vendors as to evolving procurement timelines
 - Post-solicitation
 - While being cognizant of the time required to complete the acquisition and contract finalization process, minimize the duration between Response submission deadlines to contract commencement, so successful contractors can hold resources they bid, or allow the substitution of “like or better” resources
 - Recognize external factors (e.g. the existing business environment or municipal approvals) may render it difficult for an agreement being executed within the time specified in the solicitation document. However, delays beyond such time may require award to the next highest scoring compliant vendor or re-tendering of the opportunity

Solicitation – Obtaining Responses

The following outlines the activities, strategies and issues (inputs) that should be considered during the solicitation stage and the potential outputs of that process.

Solicitation Inputs

- Solicitation documents
- Procurement schedule for vendor information session(s), Request for Information (if required), Pre-Qualification Request (if required), RFP/Request for Quotes preparation, solicitation period, response evaluation and contract award processes
- Tools and strategies such as: APC, vendor information sessions, communication materials for use with stakeholders and vendors, advertising
- Vendor Meetings, Site Visits and Vendor Questions:
 - Review the nature and scope of project/acquisition resulting in better Responses
 - Open, fair and equitable
 - Notify vendors in the solicitation document that queries will be accepted only in writing, by fax or email, only before the stipulated cut-off date and

that queries will be answered in the vendor information session, if one has been arranged, followed by a written response, or in a written response if no vendor information session was held – responses to be directed to all vendors

- In answering written vendor queries, do not reveal the name of the vendor submitting a question, which is confidential information
- Share questions raised by vendors with the client
- Subject to ensuring equal access/information and consistent messaging to all vendors, maximize access to GoA resources prior to and during procurements to increase vendor opportunities to ensure they are putting forward a solution with the best possible business and/or technical fit
- Ensure appropriate Department representatives are available to deal with vendor questions during the solicitation process
- For complex procurements, the GoA may hold a vendor information session to clarify, obtain and share information with vendors regarding the Solicitation Document. The objective of a vendor information session is to provide a thorough understanding of the:
 - Requirements/specifications
 - Terms and conditions
 - Purchaser’s existing environment
 - General expectations of the Purchaser
- In addition to a vendor information session, and given the complexity, cost, nature and/or risk of the procurement, the GoA may hold one-on-one sessions with vendors – prior to Response submission – to enhance vendor understanding of the GoA’s business needs. This could be appropriate for major opportunities where innovation would be beneficial
- If vendor meetings are held, be cognizant of not inadvertently extending the timeframe for or inadvertently complicating the procurement, and manage such meetings to ensure the GoA is not “molding or writing” the vendor’s response
- Keep a record of all meetings held with, and responses provided to, vendors

Note to Reader: Caution should be exercised when engaging vendors and sharing information to:

- Avoid creating a competitive advantage for one/some and ensuring all information is made available to prospective vendors. Such engagement must be fair, open and transparent
 - Ensure proprietary, sensitive and/or confidential information is not externally or internally inappropriately disclosed
- Procedures for Response receipt and Response openings (see P&P Manual for an example) which includes:
 - Receipt log, date and time stamping and Response storage
 - Proof of receipt of vendor Responses

- Response receipt inquiries
- Late Responses
- Duplicate Responses
- Receipt of Responses to Cancelled Solicitation Documents
- Response withdrawal, modification and discrepancies
- Public opening of Responses

Solicitation Outputs

Qualified Responses for review and evaluation.

Response Evaluation

The following outlines the activities, strategies and issues (inputs) that should be considered during the evaluation stage and the potential outputs of that process.

Evaluation Inputs

- Relevant organizational policies such as evaluation of Government-subsidized organizations and employee Responses (see P&P Manual for guidance)
- Vendor Responses, evaluation plan, review team input
- The *Request for Proposal (RFP) Response Evaluation Process and Evaluation Plan Template and Guidelines* documents posted on the MyAgent Purchasing Site provides guidance on initiating the evaluation process, screening mandatory requirements, scoring proposals, and preparing the evaluation report
- Inputs can also include information from vendor presentations/interviews
 - Vendor presentations/interviews can be held with the lead vendor or a shortlist of top-ranking vendors, providing the opportunity to:
 - Seek clarification on any issue pertaining to the Response
 - Seek responses to questions specific to the presentation/interview
 - Vendor presentations/interviews may not be required when there is a clear frontrunner, clarification is not required, and there are no issues or concerns that could jeopardize the vendor's ability to deliver the Goods, Services or Construction according to the terms of the contract
 - Consider using vendor presentations for smaller value contracts, but do not unnecessarily extend the process
- Tools and strategies include:
 - Weighting system – method for quantifying qualitative data in order to minimize the effect of personal prejudice on vendor selection
 - Screening system – involves establishing minimum scoring requirements for one or more of the evaluation criteria
 - Independent estimates and reference checks – procuring organization may prepare its own estimates as a check on proposed pricing and conduct vendor reference checks to ensure information matches that contained in Responses
 - When evaluating Responses, consider doing so first without reference to “transition” – not doing so may favour incumbents

- For complex RFP evaluations, consider using fairness/process monitors

Evaluation Outputs

- Contract award recommendation (summary of the competition results), which includes the following, as appropriate:
 - Method and type of solicitation:
 - Open Solicitation (single or multi staged RFP, VBR, Request for Quotes) and how it was advertised (e.g. solicitation document posted on APC);
 - Sole-source (state if an NPP was posted on APC and if challenges were received); or
 - Limited Solicitation.
 - Purchaser (i.e. Department name/area and end user)
 - Description of Goods, Services or Construction solicited
 - Specifications for Goods, Services or Construction (e.g. generic; brand specific – no substitution; etc.) and if applicable, reference the appropriate trade agreement provisions justifying Sole-source/limited solicitation
 - Evidence funds for the acquisition of the Goods, Services or Construction have been approved
 - Evaluation/award criteria (e.g. highest scoring vendor, category, one vendor, line item) and weightings
 - Receipt, handling and opening of Responses
 - Number of Responses received
 - Initial examination/screening of Responses
 - Explanation of the correction of any mathematical errors
 - Clarifications requested and responses received
 - Currency conversion if provided for in the solicitation
 - Waiver by the Department of any minor or inconsequential irregularity
 - Names of vendors disqualified at the high level evaluation and reasons (e.g. late)
 - Responses subject to detailed evaluation
 - Detailed Evaluation of Responses
 - Comparison of Responses
 - Summary evaluation matrix including vendor names, cost, scoring and ranking (pre and post shortlist, if applicable), or
 - **Recap**, meaning a summary listing of specific Response information including vendor names, goods [including itemized description of the quantity, unit of measure and prices (unit, extended and total bid prices and conversions, if applicable)] or services (including price) quoted in accordance with the award criteria (e.g. by line item, category total or total bid).
 - Short-listed vendors
 - Names of vendors disqualified and a brief explanation of each failed requirement (e.g. Request for Quotes stated 100 horsepower; vendor

quoted 50 horsepower) for each disqualified Response. For Request for Quotes commence with the vendor with the lowest cost Response until a Response is deemed compliant, excluding all remaining higher cost Responses

- Deviations in a vendor's Response, if deemed to be minor and brief explanation of the acceptability of the deviation compared to the specified requirements. Minor deviations regarding mandatory requirements must be reviewed with KEs to determine if the vendor's Response is compliant. The clause number in the solicitation document that allowed for minor deviations is to be referenced
- Preferred Response and rationale (e.g. highest scoring compliant vendor or lowest cost compliant vendor, as applicable)
- If a Sole-source Response is to be evaluated, an explanation how pricing was reviewed and determined to be competitive/reasonable
- Contract award value
- Disclosure of any other information the approver should be aware of and is pertinent to the evaluation of Responses
- Confirmation the recommended vendor meets all solicitation requirements
- Confirmation the acquisition process complied with Department policies and procedures
- Completed evaluation plan for each vendor Response evaluated
 - Must be factual, objective and solely based on the vendor's Response
- Process/Fairness Monitor's report, if used

Procurement Award

When notifying the preferred vendor, the Purchasing Officer must emphasize the Department wishes to enter into contract negotiations (where provided for in the solicitation document) and contract award is dependent upon the successful conclusion of those negotiations/finalization of the contract document.

Vendor Debrief

Please note: CFTA Chapter 5, Article 516, Paragraph 1 (Information Provided to Suppliers) requires public entities to provide an unsuccessful vendor with an explanation of the reasons why the procuring entity did not select its tender on request of the vendor.

General Inquiry Debriefings

- Inquiries regarding Contract award information should be answered promptly and courteously. If the award has been made and the Contract has been signed by all parties, the successful vendor's name and Contract price may be disclosed. For Goods procurements, the type of Goods ordered may also be disclosed. A copy of the solicitation document may also be provided if requested. No other details regarding the procurement process are to be disclosed by the Purchasing Officer. For procurements posted on APC, vendors are also to be advised the

Contract award information is available for viewing on APC at <http://www.purchasingconnection.ca>

Debriefings

- Vendor debriefings for solicitations may be conducted by the Purchasing Officer over the telephone or in a formal meeting format
- If a vendor's Response is not successful, it is prudent to include the Department and the technical support/business KEs conversant with the relevant details of the solicitation document in the debriefing meeting. Unsuccessful vendors should be advised prior to notification of selection to the preferred vendor. It is recommended debriefing meetings offered by the GoA or requested by the vendor be held prior to awarding a Contract and chaired by the Purchasing Officer. Debriefing meetings should not unreasonably delay the contract award process
- When debriefing vendors, the Purchasing Officer should:
 - Reference the appropriate solicitation document clause(s) and/or specifications the Response failed to meet if applicable
 - In the event of a re-tender, advise all respondents to the original solicitation of the reason for the re-tender and the approximate release date of the re-tender
 - Provide a clear explanation why the vendor's Response was not successful. Under no circumstances are the contents of another vendor's Response to be discussed
 - When conducting VBR or RFP debriefings, the feedback should include the strengths of the vendor's Response and areas for improvement to assist the vendor in responding to future solicitations. Vendors are permitted to take notes; voice recording devices are not permitted
 - Vendors insistent upon receiving a written explanation as to why they were unsuccessful may be provided with same after Justice and Solicitor General review
 - Do not disclose the scoring and ranking of any vendor Responses, including the score and ranking of the vendor being debriefed
 - Debriefing sessions should be documented in case of a challenge by an unsuccessful vendor
 - If a vendor wishes more information about the procurement or evaluation process than what it received during that process, the vendor may make a formal access request under the *FOIP Act*

If a vendor understands the explanation for its Response not being successful, the debriefing should be documented (including date of call/meeting and name of vendor representative) and the Purchasing Officer may proceed with the Contract award recommendation.

In the event a vendor does not accept the explanation, request the vendor to provide detail regarding same in writing within 2 Business Days (or less if

mutually agreed). Document the debriefing as outlined above, including the vendor's objections. KEs should be consulted immediately to obtain direction and escalation of the issue within the Department is recommended. The Contract award process should not continue until Department direction has been provided.

Note to Reader: The successful vendor's name and Contract prices are not to be disclosed until the Contract has been signed by all parties.

3.2.5. Solicitation Process Documentation

General

During this stage, users should prepare and keep on file:

- Procurement planning and approvals received prior to solicitation (includes budget, timing and alignment with Department plans)
- Solicitation planning and rationale for decisions (especially if Sole-sourced), solicitation documents/communications (e.g. Terms of Reference, RFI, Request for Quotes, VBR, RFP, etc.) and related approvals and decisions
- Copies of all Responses received from vendors
- All solicitation and vendor notices and communications (e.g. solicitation updates, Vendor Information Session minutes and vendor meeting notes)
- All questions asked by the vendors and GoA responses
- Group/committee evaluation ratings and scoring sheets and/or other justifications for scoring and how the final score was determined. Group/ committee consensus is a procurement best practice
- Record of notices to vendors regarding outcomes of the evaluation
- Records of any debriefing requests and sessions
- Recommendation for award
- Department internal communication documentation where applicable (e.g. briefing notes)
- Documentation of Contract Review Committee review and approval
- Posting of contract award information on APC to comply with trade agreement obligations
- KE advice or opinions where applicable
- If applicable, the fairness/process monitor's report
 - Any communications regarding the award of the procurement to the successful vendor

Documentation Required for Sole- sourced Awards

- A clear description of the reason a competitive bidding process was not used including a reference to the trade agreement or Procurement and Sole-sourcing Directive exceptions used to support the Sole-source

- The dollar value, duration, and scope of Goods, Services or Construction, to be acquired through a procurement
- A record of attempts to contact other vendors who might be adequately qualified to provide the Goods or perform the Services or Construction (e.g. Request for Information, phone calls to potential vendors, etc.)
- If applicable, the NPP posting on APC and the outcome
 - Where a challenge has been received, documentation to demonstrate that the challenge has been addressed and resolved in a satisfactory manner
- A clear description of the process used to select the vendor and the results of that process
 - The request to the Sole-sourced vendor to prepare a Response – date of notification provided and a record of the communication (verbal/written) with vendor
 - A copy of the document/statement conveyed to the vendor in receipt of a Response that a Response does not commit the GoA to enter into a contract with the vendor
 - The evaluation criteria, process and results of the evaluation
 - A list of any deficiencies found in the Sole-source Response and the GoA's request to address those deficiencies before contract negotiations can occur
 - All vendor queries and responses to those queries
- The process of approval followed (e.g. Contract Review Committee and Deputy Minister review and approval as required) to demonstrate compliance with Department and GoA policies
- Where extensions or amendments are anticipated, a statement to that effect in the solicitation documents and any relevant caps (e.g. cost, duration, number of amendments, etc.)

3.2.6. Application of the PAF to all Acquisitions

Should different considerations apply depending on contract complexity, cost and/or risk? The short answer to this question is no. PAF should be applied to all acquisitions.

- Department contracting processes should be engineered to fit the PAF considerations and be scalable in rigor to address varying degrees of risk and supported by tools that minimize delays in review and approval
- Sometimes Goods, Services or Construction for projects are acquired from inside the organization, an example being when the cost of finding and managing an external resource may exceed the potential savings. In these instances, solicitation planning through contract close out would likely not be performed, but that should not relieve the Department from proper project planning and management
- The type of contract used for each procurement (i.e., fixed price, time and materials, or unit price) will vary depending on the following:
 - Monetary value
 - Existing contractual vehicles (cost of building vs. using existing templates)

- Extent of competition available (ease of switching out)
- Socioeconomic goals
- Necessary reviews and approvals
- Contract administration requirements
- Complexity of the project and the associated risk
- Anticipated period of performance
- Vendor financial and technical requirements

3.3. Review / Approval Process

- Each Department must have clearly established review and approval processes with approval levels appropriate for the efficient operation of the Department's business
- A Contract Review Committee is required in each Department to support the PAF
- Those engaged in managing the procurement process should not be involved in approving the award of a contract, but may make recommendations to the approving Expenditure Officer. However, there may be situations where the nature of the procurement or the available procurement personnel would make it impractical to separate the roles. In these instances, while one individual may be involved in both the management of the procurement process and the awarding of the contract, and the Contract Review Committee should provide the recommended independent review and approval of contract awards subject to applicable authority matrices and thresholds

Guidance

For clarity, this element refers to the review and approval of a recommendation for the award of a contract – not the review and approval of the final contract.

Department Guidance

Each Department will have its own review and approval processes and delegated signing authorities consistent with the efficient operation of the Department. Department review and approval policy should:

- Ensure the Expenditure Officer approval levels keep the contracting process efficient (i.e. ADMs and DMs should not be required to review and approve every recommendation for contract award, or sign every contract)
 - Establish terms of reference for the required Contract Review Committee.
 - Consider developing a streamlined review and approval process for emergent situations, where conditions change unexpectedly and for small, low risk contracts. When streamlined review and approval processes are used, the rationale is documented and kept on file
- To ensure regular review and compliance with the PAF, define Department staff roles regarding procurement and contracting
- Ensure appropriate timeframes to enable objective and comprehensive review and approval. The more complex and involved the acquisition, the longer the timeframe for review and approval
- Ensure appropriate segregation of duties. Subject to section 3.3 above, the individual advising on and/or managing the procurement process and award is not approving the contract award

Reviewing and Approving Expenditure Officer Guidance

Expenditure Officers being asked to approve the recommended award of a contract should be acquainted with the specific Department policies and procedures regarding

review and approvals and ask the following questions to those seeking approval thereby ensuring the major elements of the PAF have been duly considered and covered off:

- Was the Decision to Acquire stage of the PAF properly conducted?
 - Was a business case prepared?
 - Were the need for the acquisition and the expected outcomes clearly defined?
 - Does the acquisition align with the Department business or operational plan? If not, was the rationale for why it is being pursued properly documented?
 - Were viable delivery alternatives identified and evaluated?
 - Was an assessment of benefits and risks completed?
 - Was the rationale for the Decision to Acquire clearly stated?
 - Was a procurement plan prepared and documented?
 - Market information (e.g. vendor capability)
 - Method of procurement decided and rationale provided
 - Enterprise leverage explored? (e.g. existing standing offers, strategic sourcing, etc.)
 - Terms of Reference (e.g. clearly defined scope/specifications, timing, deliverables, performance criteria, reporting and monitoring, etc.)
 - Internal resources required to support the procurement
 - Key communications issues and risks addressed
 - Procurement assumptions
 - A description of who needs to authorize to proceed and under what conditions
 - Was a solicitation plan prepared and documented?
 - Method of procurement (single or multi-staged) and solicitation documents
 - All mandatory and desirable criteria for solicitation developed
 - Communications plan to support solicitation (advertising, notices, bidders meeting)
 - KE engagement as required
 - Resources to support solicitation process
 - Evaluation team established
 - Need for fairness/process monitor determined and justification for not using one provided
- Was the Solicitation Process stage of the PAF properly conducted in an open and fair manner?
 - If using an open or limited solicitation process, were all potential vendors provided with an equal opportunity to respond to the solicitation?
 - In the case of the limited solicitation, was the source list updated recently and developed on the basis of an open Pre-Qualification Request?
 - Was the solicitation process (single or multi-staged) and type (Pre-Qualification Request, RFI, Request for Quotes, VBR, and RFP) appropriate for the Goods Services or Construction being acquired?

- Were any changes made to standard provisions in the solicitation document? If so, were appropriate KEs consulted?
- Did any unique requests of vendors or other situations arise that needed to be addressed. If so, were appropriate KEs consulted?
- Was the Response evaluation process fair and properly documented?
- Were there any ethical issues (e.g. conflicts of interest) and if so how were they resolved?
- If the proposed contract value is over the pre-determined Department threshold or unique in any way have the appropriate KEs/authorities signed off?
- **Review and Approval**
 - Has the entire procurement process been documented to demonstrate compliance with the required elements of the PAF to this stage?
 - If a streamlined process was used due to operational realities (i.e. emergency and urgent demands), have exemptions and rationale been documented, standard templates been used, and KE reviews conducted (as necessary)?
 - Is the amount to be paid by the GoA in the Department budget? If not, has the budget been reallocated or added to with new funds and has that action been approved?
 - Is the Response amount within the delegated authority's signing limits?
 - Was the delegated authority on the Evaluation Team for the acquisition being approved? (Subject to 3.3 above, the response should be no. The party approving the award of a contract should not be involved in recommending the award thereof)

A greater degree of rigor and oversight in review and approval is required for contracts where:

- Sole-sourcing is the method of procurement selected
- The acquisition is complex, substantially risky, or costly
- An existing contract is being extended, renewed or amended

Contract Review Committees – Best Practices

The following best practices should be considered by Departments when establishing a Contract Review Committee.

Proposed Functions of the Contract Review Committee

- Ensuring prudence, probity and fairness in procurement and contracting processes
 - Compliance with PAF at various stages
 - Compliance with any applicable legislative, financial, Department, reporting or regulatory requirements
 - Review methodology should address basics such as:
 - Is the Response within the contracting authorities' legislative mandate?
 - Are funds available?
 - Are the competitive requirements of the regulations observed?

- Are the Department signing/financial authorities observed?
- Does the Response have legal clearance where required?
- Is the Response in line with GoA policies on employment equity, conflict of interest, etc.?
- Adherence to GoA and Department business plans
- Evaluate risk of the contract
- Automatic review of contracts (including amendments)
- Providing guidance or direction on any procurement and contracting related issues that may be brought before the Contract Review Committee
- Continuously assessing effectiveness of Department contracting practices (optional – this may be carried out internally by other resources)

Required Contract Review Committee Components and Structure

- Description of Contract Review Committee authority and responsibility
- Duties of Chair
 - Finalizing and distributing decisions to the respective signing authority
 - Distribution of materials for committee meetings
 - Meeting agenda preparation
- Description of membership, supporting resources and meeting attendance requirements
- Quorum and voting provisions
- Meetings scheduling and decisions outside of meetings
- Preparation and distribution of minutes

Contract Review Committee Role and Operations

- Focus on process, not on whether the contracting should occur
- To the extent possible, streamline processes and reduce time intensive nature
- Examine potential for Contract Review Committee to be used as an advisory and counselling body
- Engage contracting specialists (i.e. Justice and Solicitor General, Risk Management, etc.) throughout the process as a support resource for advice but not as part of the formal approval process

See Appendix D for a sample Contract Review Committee Mandate and Terms of Reference.

3.3.1. Review and Approval Documentation

Reviewers and approving Expenditure Officers need to:

- Ensure the acquisition file contains the documentation for Decision to Acquire and Contract Solicitation stages (see Sections 3.1 and 3.2, respectively).
- Record, and keep on file, their actions of review against a “checklist” containing review questions such as those listed above in “Reviewing and Approving Expenditure Officer Guidance”

- Record, and keep on file, the rationale for approval (e.g. this could be the same rationale outlined in a recommendation for award)

3.4. Contract Set-Up and Administration

3.4.1. Contract Set-Up

- Ensure contract is aligned to the Department’s strategic plan, business plan and operational plan
- Ensure the contract provides for the right to audit vendor obligations and performance
- Finalize the contract or complete negotiations as permitted within the solicitation document(s)
- Complete the contract documentation and related processes (financial and administrative)
- Ensure vendor provides evidence of required insurance and performance security

Guidance

Contract Set-Up

From approval of procurement award to contract finalization:

- Commit experienced resources to finalize and set-up the contract. Recognize that large, complex contracts may require a full time commitment
- Contract finalization – when the contract has been included in the solicitation document and the vendor has accepted all contract provisions in its Response, the contract is finalized without negotiation
- Contract negotiation – when the contract has not been included in the solicitation document or the contract in the solicitation document contains desirable provisions (as reviewed and approved by KEs), where permitted within the solicitation document(s):
 - Negotiate the contract in consultation with KEs with focus on:
 - The formal structure and requirements of the contract (performance and contract close out strategies)
 - The risk management processes – where practical, transfer operational risk to the private sector to drive savings and efficiencies
 - Governance – roles and responsibilities, progress review, scope management, issues management and dispute resolution
 - Complex procurements – consider using an independent process with inputs (e.g. an issues or open items list) and outputs (e.g. closure of issues list)
 - Resist vendor requests for all encompassing contract clauses under which they attempt to bring in new scope, big projects to avoid the competitive process

- See “Contracting for the Long Term” below for additional guidance
- Be flexible and enable the parties to execute their roles and responsibilities with minimal “interference”
- Contemplate, and where possible stipulate, continuous improvement through the term of the contract
- Execute a deal that works in practice and facilitates implementation
- Structure the negotiating terms to ensure a sustainable result and clarity regarding respective accountabilities supporting same
- Use appropriate negotiating tactics to support the formation and sustainment of a healthy relationship – avoid surprise, raise issues early, share information, do not use artificial deadlines or threats of escalation, ask tough questions about both parties’ ability to deliver and be inclusive
- Prepare the Contract to reflect the final agreement and obtain approvals/signatures
 - Use common contract templates containing all standard terms and conditions, schedules, and attachments (see the MyAgent Purchasing Site for Service Alberta contract templates as required)
 - If necessary, request/add specialized provisions and seek review/approval for the same from Justice and Solicitor General and other KEs. Additions, deletions, modifications and supplementary agreements must be in writing, and signed by the parties to the contract
- Prior to entering into a contract with a preferred vendor, complete the following items
 - Check contract administration readiness
 - Has the GoA identified appropriate resources to manage the contract and govern the relationship for success
 - Has a clear governance structure for contract management been established
 - Confirm funds – confirm the contract value is the same as the contract award amount approved by the appropriate Expenditure Officer
 - Conduct Security Screening –depending on the nature of the contract, the preferred contractor may be required to provide evidence of a valid security screening.
 - See the Security Screening directive for GoA resources for descriptions of security screening levels:
 - <http://www.psc.alberta.ca/Practitioners/?file=directives/staffing/security-screening&cf=5depending>
 - Complete the security screening process in place for the Department
 - Address any conflict of interest issues when contracting former employees –
 - Contracts with recent former employees of the GoA, regardless of dollar value, should require prior authorization
 - The Public Service Commission should be contacted to ensure appropriate controls are met prior to awarding a contract

- Verify the legal identity of contractor(s) – the Purchasing Officer/Contract Manager must verify the legal status of the contractor (e.g. corporation, sole proprietorship). A search of the contractor’s name should be completed on the GoA’s Corporate Registry System (CORES). The contract must be issued in the contractor’s legal name which is the only name to which invoice payments will be issued
- Insurance and performance security in place – ensure the preferred contractor has arranged for, and provided evidence of, all insurance and performance security requirements
- Copy of WCB clearance from the contractor, if applicable
- Sign the Contract and keep originals and copies on file
- In the absence of extenuating circumstances (e.g. emergency) no work should be undertaken by a vendor until the contract has been finalized and executed

Contracting for the Long Term

Organizational Success Factors for an Effective Contractual Agreement

- Establish objectives strategy – take the time to map out what the Department requires out of the contract (i.e. the business objectives) and how it intends to achieve that end (i.e. the services and expected performance/outcomes)
- Establish accountability at all levels of the organization
- Set realistic and clear performance commitments
- Define standard, unambiguous metrics to evaluate performance
- Emphasize actions to undertake when performance varies outside of commitments
- Incorporate and link enforcement provisions such as compensation, incentives and disincentives to performance measurements

Contracting for Performance (Best Practices)

- General
 - Clearly spell out the desired end-result expected of the contractor – the manner in which the work is to be performed is left to the contractor’s discretion
 - Performance-based contracting requires the GoA determine exactly what it needs to accomplish and to establish standards of performance and quality that become part of the contract
- Measure performance against established metrics in stages: a baseline period, allowing for due diligence by both parties; a ramp-up period (e.g. 90 days); and then full execution of the metrics and associated incentives/disincentives
- GoA contract management teams must have the capabilities to properly evaluate metrics in order to accurately evaluate success or the lack thereof

3.4.2. Administering the Contract

- Hold a kick off meeting/discussion
- Monitor contractor progress and assess performance against project deliverables and outcomes
- Grow the relationship through mutual respect, flexibility and open communications
- Reviews should be undertaken where there is a need to confirm/assess the contracting/administration process
- Monitor contractor obligations and performance requirements
- Document and maintain appropriate records of all activities regarding the administration of the contract according to the level of risk associated with the contract

Guidance - Contract Administration

- Establish a project team to enhance productivity and easily adapt to change. Commit experienced senior managers to lead initiative
- Begin active contract management with a kick-off meeting to:
 - Reiterate the governance model, communications strategy, risk management process and performance monitoring approach
 - Develop a common vision and outcomes with all parties
 - Discuss and agree on how success will be achieved
 - Establish clear communication processes among project team members
- Establish work plans
 - Require contractors to use experienced project managers to develop and sign-off on vendor work plans to address contract requirements
 - Work plans for complex, high-risk and costly projects should be subjected to internal peer review
 - Approved work plans should be included as part of the Project Charter
- Monitor contractor progress and performance beginning the day of contract award
 - If it emerges there's not a shared understanding of performance, resolve immediately
 - If not explicitly stated in the contract, develop and implement appropriate contract performance measures and regular reviews with contractors
 - Keep clear records of the results in the contract file
- Focus on governance of the project
 - Contract Managers emphasize governance criticality and planning at the outset
 - Involve all needed stakeholders in the design of the governance model
 - Clarify differences and segregation of duties, roles and activities between governance, service management and contract management
 - Set the expectation for all activities and resource requirements
 - Promote good communications and issues resolution to provide a platform to build trust and enhance mutual respect
- Grow the Relationship

- Adopt an approach of shared respect, mutual trust and integrity
- Strive for regular, timely, consistent and open communication
- Address any disputes or problems according to a process agreed upon during contract negotiation
- Insist on regular progress reporting and performance reviews
- Be mindful of the end, not the means to the end
- Demonstrate a willingness to be flexible throughout the contract term
- Recognize and celebrate shared accomplishments
- Feed lessons learned into future processes
- Minimize contracting risk by
 - Using performance-based contracts
 - Providing ongoing due diligence
 - Meeting regularly to review progress and issues - do not allow problems to develop without solutions being negotiated or arranged
 - Provide for regular reporting on risk management strategies
- Monitor the contractor's conformance to the contract terms and conditions including confirmation that appropriate controls are in place to ensure compliance with information access, privacy, security, and confidentiality requirements in the contract
 - Clearly define and jointly develop administration processes and performance requirements in the contract (or as a schedule to the contract)
 - Benchmark the processes and requirements against industry best practices and standards
 - Revisit the project contract administration process on an on-going basis (annually at minimum) and strive for continuous improvement in that regard
- Payment
 - Ensure proper separation of duties regarding Goods received/Services/Construction performed and assessments and payments/disbursements relating thereto in accordance with the *Financial Administration Act*
 - Contract Managers assume responsibility for payment when having received Goods, Services or Construction consistent with contract terms and conditions and an invoice with appropriate supporting documentation
 - Maintain appropriate documentation in an official contract file, as follows:
 - A payment log, either manually or computerized, to track the contractor's claimed costs and fees (if applicable) against contract costs and fees
 - Payment documentation supporting each paid invoice to ensure proper accountability
 - Ensure a list of persons authorized to sign invoices and payments on each contract is sent to the Department finance office with periodic updates to avoid payment delays
 - Ensure payments made to contractors who are non-residents of Canada comply with the withholding tax provisions of the federal *Income Tax Act*
- Document Actions and Decisions

- The detail of documentation should vary according to the level of risk in each contract situation (see Section 3.4 Contract Administration Documentation)

Guidance - Contract Amendments

When it becomes necessary to amend a contract, whether to change scope or services, or to extend the term or exercise a renewal option, the following guidelines should be considered:

Contract Amendments

- Clearly define and detail the amendment being sought including any additions, deletions, and modifications to the contract regarding scope, term, pricing, etc.
 - A contract amendment must be within the scope, intent, and purpose of the base contract or a logical extension thereof. A provision allowing for amendment of the contract (clearly identifying the scope and terms of such Amendment) must be included in the solicitation document
 - If the amendment changes the scope or the terms of the existing contract, re-compete the work (unless provided for in the solicitation document). Where there is a possibility of the requirement for an amendment for additional services or extending the Contract, Departments are recommended to consult with Justice and Solicitor General to ensure appropriate language is included in the original solicitation documents to provide for such amendments without having to re-compete
- Provide sound rationale/justification for the amendment
- Substantiate the Goods, Services or Construction continue to be provided on a cost effective and competitive basis (i.e. the GoA is receiving value for money)
- Substantiate there is sufficient time to complete the amendment prior to the end of the existing contract
- Provide evidence the amendment does not contravene the trade agreements
- If the amendment increases the contract dollar value so that the new dollar value of the contract is subject to the TB Directive or trade agreement, the Department may:
 - Re-compete for the provision of the Goods or Services
 - Determine whether a Sole-source exception exists as per the Procurement and Sole-sourcing Directive or trade agreements as applicable. A NPP may be posted on APC advising vendors of the GoA's intent to Sole-source.
- Any change to the contract terms must be reflected in every associated element of the contract and related schedules, appendices, etc. (e.g. baseline or deliverables)
- Ensure contract amendments are signed by all parties, prior to the effective date
- Once fully executed, a copy of the Amendment is provided to the contractor and the Department's signed copy is filed with the original contract

3.4.3. Contract Termination / Off-Ramping

Each contract should outline the process, roles and obligations of the parties in dealing with contract expiry or termination in accordance with the contract terms

Guidance

Items for consideration include:

- Circumstances under which the contract may be terminated
- Any processes to bring the contractor back into compliance
- Any financial compensation
- Obligations during the transition to another service provider to assist, or replace the existing contractor
- Obligations of the parties in the event the contract is terminated including but not limited to the return or destruction of confidential and/or personal information

Justice and Solicitor General should be consulted when considering early termination of a contract.

3.4.4. Contract Administration Documentation

General

- The more far-reaching, complex, and lengthy a contract is, the greater the need for a well-organized and documented contract administration function
- Records need not be complex – the important point is the creation of a paper trail of the project that can be consulted in the future
- After satisfying all statutory requirements, maintain records such that someone could open the files and understand how the project was contracted and where it now stands
- Include all written correspondence (e.g. letters and e-mails)
- Include the contract number and date on all documents for easy reference

Specific

- Contract Set Up
 - Signed copies of the contract including schedules, attachments and appendices (e.g. as applicable, Terms of Reference, solicitation documents, successful Response, Response evaluation process and results documents)
 - Contract approval package, including an approval summary or contract summary information, and appropriate working documents currently in use (such as the monitoring plan)
 - Correspondence between the parties leading to the contract signing
 - Department internal communication documentation where applicable (e.g. briefing notes)
 - KE advice or opinions where applicable

- The contract approval routing form, including any briefing notes or contract summary information, as appropriate
 - Evidence of incorporation, statutory declarations
 - Evidence of insurance and any other document required by the contract
 - Contract management plan
 - The monitoring plan
 - Project Charter or accountability agreements
 - Service Level Agreements (SLAs) and/or agreed project outcomes
- Contract Administration
 - Monitoring and Reporting
 - Contractor and/or GoA status/progress reports and presentations
 - Inspections
 - Description of the monitoring activity
 - Date of completion
 - Description of observations
 - Description of follow-up activities and decisions
 - Records/minutes of meetings with the contractor
 - Customer satisfaction evaluations
 - Audits and evaluations of performance
 - Third party verifications
 - Benchmarking activity used to justify action under contract such as: payment, performance or contract changes
 - All interim and final reports and supporting materials used in their formulation
 - All warranties and guarantees
 - Patterns of non-compliance when first identified
 - Any indication of wrongdoing (i.e. evidence of deliberate falsification versus honest mistakes)
 - All verbal reports from the contractor
 - Dispute resolution and/or enforcement
 - Any notices of default, claims, disputes, or other formal notifications that may have a potential business or financial impact and any official responses to the same
 - Documentation related to contract termination
 - Payment
 - Payment schedules, budgets, purchase orders, invoices, receipts, records of disbursements, etc.
 - A record of all monetary transactions, invoices, holdbacks, bid security and performance security
 - Amendments, extensions and renewals and associated documents
 - Ensure close out strategies and activities are considered and planned before, and as part of, contract execution
 - Post project evaluations of Goods, Services or Construction
 - GoA and vendor contact persons and contact information for each

Documentation Required for Contract Amendments

- Clear description of the nature and scope of the amendment including any additions, deletions, and modifications to the contract regarding scope, term, pricing, etc.
- Rationale for the amendment
 - If there was a provision in the solicitation document to extend the contract duration, increase the total contract amount, increase quantities, modify scope, deliver additional services, and or complete subsequent phases of work on a project:
 - The Purchasing Officer's/Contract Manager's award recommendation must indicate the amendment complies with the trade agreements (if applicable), and the solicitation document contemplated the amendment
 - For Goods contracts, if the total dollar value of the existing contract is raised to address increased volume, the procurement file must contain justification for not re-competing and show that an attempt was made to negotiate a reduced price on any increased volume if not already provided for in the contract
- Assurance the amendment does not violate the trade agreements
- Assurance the amendment is consistent with the original solicitation documents
- Evaluation of the contractor's performance to date
- Substantiation the Goods and/or Services continue to be provided on a cost effective and competitive basis (i.e. the GoA is receiving value for money)
- The approval process followed to demonstrate compliance with Department and GoA policies.
- Signed contract award approval form
- A draft of the actual contract amendment
- A copy of any KE (e.g. Justice and Solicitor General) feedback/inputs on the draft contract amendment document
- A fully executed copy of the contract amendment Contract Completion

3.4.5. Close Out Strategy

Establish a contract close out strategy to ensure the final contractual requirements are met
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Guidance

Contract close out:

- Begins when the contract is physically complete, that is, all the Services have been performed and Goods delivered or Construction completed
- Is complete when all administrative actions are completed, all disputes settled and final payment is made

Department Guidance

- Establish a separate close out function within the contracting organization

- Provide contract close out training to procurement practitioners, including the sharing of internal best practices and processes
- Where available, use a management information system with milestones to track contract closeout from physical completion through final payment
- Implement follow-up processes on warranties after the contract is completed and payments have been made
- Complete follow-up processes for return and or destruction of confidential and/or personal information
- Where possible, implement a quick close out procedure based on:
 - Dollar thresholds
 - Low risk
 - Relationship with contractor (long-standing vs. new)

Close Out Activities for Contract Managers

- Perform project evaluations (see Project Evaluations below)
- Compile the lessons learned for the project
- Complete the close-out report
 - Final project status report
 - Customer and contractor satisfaction (summary level)
 - Evaluation report (also see Project Evaluations below)
 - What went right?
 - What went wrong?
 - What would be kept the same?
 - What would change?
 - What was learned?
 - What new ideas and strategies can be used in the future?
 - Recommendations for improvement
- Issue completion certificates and any holdbacks in a timely manner
- Archive the project records for future project teams
- Stimulate thinking about improvements through open communication with contractors
 - Consider sharing project evaluation report with contractor. Involve appropriate KEs in the development of the project evaluation report template and process for sharing the project evaluation report

Project Evaluations

To ensure value for money is achieved, every contract/project should be evaluated to determine whether what was contracted for was delivered, and delivered to the standard expected. Nevertheless, this does not presuppose every evaluation should encompass the same degree of detail. Rather, evaluations will differ given the variety of factors impacting each procurement, examples being the circumstances under which the Goods, Services or Construction was acquired (e.g. emergency), risk, cost, availability of alternatives, etc.

Project evaluations are used to:

- Assist in the formulation of future contracts
- Provide a record of the contractor's performance where future contracting or continuation is contemplated
- Assess and improve the performance of the Department's internal management
- Drive discipline in GoA contracting processes

When conducting project evaluations:

- Determine the customer's and contractor's level of satisfaction with the final deliverable and with the project process as a whole
- Ask the sponsor and key stakeholders to evaluate the project process (i.e. the schedule met the requirements of the organization; stakeholder involvement was effective, etc.)
- Evaluate both the project and the team (ensure compliance with FOIP when completing contractor evaluation)
 - Examples of project questions
 - Did the outputs achieve the organization's objectives?
 - Were all the risk factors identified and successfully dealt with?
 - Were there too many reviews? Not enough? Were they effective?
 - Examples of team questions
 - Did we work well together as a team?
 - Did everyone participate in the planning process? In monitoring and solving problems?
 - Did staff receive any new ideas or approaches for future assignments of this kind?

Vendor Evaluations

Contract Managers should be asking the following questions when evaluating the effectiveness of contractor performance at contract close out.

- Were expected results achieved?
- Were there lapses in schedule, quantity or quality of the Goods, Services or Construction?
- Was there any departure from the planned quality or quantity of output or input specifications?
- Were risks identified and mitigated?
- Were budget estimates and deliverables achieved?
- Was the project planning process thorough and efficient?
- Did the contractor fulfill all of its obligations under the contract?
- Did the contractor work well with Department staff?
 - Were meetings effective?
 - Were communications timely and informative?

- Were all stakeholders kept apprised of progress and issues and involved throughout the project?
- Were status reports clear and complete?
- Were change management processes effective?
- Did the contract have an unexpected impact on the project and the program? Explain
- Were there unexpected obstacles? Identify and explain the response to shortcomings and obstacles
- Did the contract affect internal relationships inside the Department?
- Were there any residual benefits to the Department?
- Did staff get new ideas or approaches for the future?
- Were any unsuspected problems uncovered?
- Could problems encountered have been prevented?
- Should the original specifications, solicitation documentation and contract be reviewed in light of the above?
- Would the contractor be provided a positive reference by the Department for this work?
- Are there any recommendations regarding future specifications and terms of reference?
- Goods questions (supplementary to those listed above)
 - Were the Goods substandard? Did they meet the quality specifications as per the contract?
 - Were Goods delivered on time?
 - Were the Goods delivered, reliable and able to satisfy their intended purpose?
 - What were the response times to service requests?
 - Were orders processed efficiently, or advance notice of delays provided?
 - Were warranty claims subject to frequent disputes regarding coverage?
 - Was after sales support available to assist with getting the Goods to work as required?

3.4.6. Contract Completion Documentation

To ensure full contract completion and sign-off, the following items should be part of the contract file. Consider using a checklist and including that in the file. Appendix B outlines best practices for using checklists.

- Decision to Acquire information [i.e. a business case (or a summary of the evaluation of alternatives, rationale for preferred alternatives and required approvals) and Procurement Plan]
- Procurement related documentation (see Section 3.2.5):
 - Procurement planning and approvals received prior to solicitation (includes budget, timing and alignment with Department plans) – should be on file from the Decision to Acquire stage

- Solicitation planning and rationale for decisions (especially if Sole-sourced), solicitation documents/communications (e.g. Terms of Reference, RFI, Request for Quotes, VBR, RFP, etc.) and related approvals and decisions
- Copies of all Responses received from all vendors
- All solicitation and vendor notices and communications (e.g. solicitation updates, vendor information session minutes and vendor meeting notes)
- All questions asked by the vendors and GoA responses
- Group / committee evaluation ratings and scoring sheets and/or other justifications for scoring and how the final score was determined. Group / committee consensus is a procurement best practice
- Record of notices to vendors regarding outcomes of the evaluation
- Records of any debriefing requests and sessions
- Recommendation for award
- Department internal communication documentation where applicable (e.g. briefing notes)
- KE advice or opinions where applicable
- If applicable, the fairness/process monitor's report
 - Any communications regarding the award of the procurement to the successful vendor
- Contractor/vendor information
- Copy of the signed contract (including all supporting schedules and requested and approved contract changes)
- Project Charter, if applicable
- Project financials (e.g. invoices, verification of final payment, etc.)
- Project documentation (approvals, meetings, monitoring results, etc.)
- Close Out report
 - Assessment of the contractor's performance (periodic contractor performance reports and contractor inspection reports)
 - Lessons learned, if applicable
 - Customer and contractor satisfaction, if applicable
 - Final project status report (i.e. acceptance of work, final release, property certificate, transfer/return of records, etc.)
 - Evaluation of project and team processes (i.e. were objectives met, team performance, etc.)
 - Recommendations for improvement, if applicable
- If required, audit of billings and records
- Evidence of issuance of completion certificates and payment of any holdbacks
- Formal written notice that the contract has been completed
- Plan for warranty and other follow-up that may be required, if applicable
- A copy of any vendor evaluation completed and instruction for its use

3.5. Continuous Improvement

Departments should implement appropriate strategies to monitor contracting processes and, where possible, leverage lessons learned within the Department and share those with other Departments.

Department continuous improvement efforts should:

- Engage the resources most familiar with the individual contracts
- Build the existing knowledge base by documenting the experiences and perceptions of trained procurement resources within the Department
- Document specific opportunities/recommendations for procurement and contracting improvements arising from an evaluation of Department procurement processes and contracts.

3.5.1. Guidance

To support continuous improvement across the GoA and within each Department, Purchasing Officers/Contract Managers should prepare a list of specific opportunities and recommendations arising from the contract. In doing so, the following should be considered:

- What was learned?
 - Was it cost effective to have the Goods provided or Services or Construction performed by an independent contractor?
 - Did the contractor experience any difficulties with performance of the contract?
 - Provide detail and, where possible, specific statements made by the contractor (written or verbal)
 - Were the Department's expectations met as agreed?
 - Explain any deviation from expectations, either positive or negative
 - If deviations occurred, provide detailed descriptions of any/all resulting impact(s) (e.g. financial, customer service, service stability, service continuity, co-dependencies impacted, etc.)
- Based on the specific learnings from the contract, what new ideas and strategies can be used for future contracting?
 - What stage of the PAF does the idea or strategy relate to?
 - What specific deficiency will it address?
 - What are the specific enhancements required, desired and/or anticipated?
- Based on the overall experience with the contract, or generally, are any changes required to improve the overall effectiveness of the PAF? Examples may be specific staff training required, vendor education and awareness, better communication, support from KEs, etc.

Procurement and/or contracting opportunities for improvement should be distributed through the Department for implementation and referred to SA Procurement Services for potential implementation across the GoA enterprise.

3.5.2. Continuous Improvement Documentation

Procurement Services, Service Alberta will work with Departments to develop an annual recap of continuous improvement initiatives under the PAF which support consistent procurement practices across all Departments that reflect best practices and foster accountability, fairness, effectiveness, and efficiency.

Appendix A: Definitions and Acronyms

A1. Definitions

In this Manual:

“Construction” means a construction, reconstruction, demolition, repair or renovation of a building, structure or other civil engineering or architectural work and includes site preparation, excavation, drilling, seismic investigation, the supply of products and materials, the supply of equipment and machinery if they are included in and incidental to the construction, and the installation and repair of fixtures of a building, structure or other civil engineering or architectural work, but does not include professional consulting services related to the construction contract unless they are included in the procurement.

“Contract Manager” means the individual responsible for the day-to-day management of the contract for the Goods, Services or Construction acquired. In some instances, the Contract Manager may also perform the Purchasing Officer role.

“Decision to Acquire” means the Department’s decision to acquire Goods, Services or Construction.

“Department” means a department of the Government established under the *Government Organization Act*, and the office of Public Service Commission established by the *Public Service Act*.

“Deputy Minister” means the chief officer of a Department or part of a Department, as the case may be.

“Evaluation Team” means individuals who will evaluate the information, proposal or quote on behalf of the Department.

“Expenditure Officer” means an individual designated to authorize disbursements pursuant to Section 37 of the *Financial Administration Act*.

“GoA” means Government of Alberta.

“Goods” or “Supplies” means the product (materials, equipment and other personal property, including furnishings) whether purchased, licensed, leased or rented, and/or any associated services (e.g. installation, training and/or warranty/maintenance service) to be acquired by the Department.

Note to Reader: Use of the term “Supplies” has been retained and used where appropriate to ensure consistency with the *Government Organization Act* and *Direct Purchase Administrative Practices*.

“KEs” or “Knowledge Experts” means knowledge experts, which includes legal, risk management and insurance, procurement, security and privacy, human resources, and financial experts.

“Limited Solicitation” means a solicitation where a pre-determined, limited group of vendors are invited to submit a Response.

“Manager” means an individual, at a management level, who has responsibility and accountability for the procurement of Goods, Services or Construction in the Department.

“Manual” means this Procurement Accountability Framework Manual.

“NWPTA Threshold Amounts” means:

- (a) Goods valued at \$10,000 or greater;
- (b) Services valued at \$75,000 or greater; and
- (c) Construction valued at \$100,000 or greater;

inclusive of any contractual amendments, extensions or renewals.

“Open Solicitation” means a solicitation where any vendor may submit a Response to an opportunity posted on Alberta Purchasing Connection.

“Open Source List” means a list of vendors which have indicated their willingness to respond to solicitations where any vendor can register.

“PAF” means the procurement accountability framework referenced in the TB Directive and described in section 1.2.1.

“Procurement and Sole-sourcing Directive” or “TB Directive” means Treasury Board Directive no. 7/2014 attached as Appendix G of this Manual.

“Purchasing Officer” means the Department’s designated purchasing employee responsible for managing the procurement process for the acquisition of the Goods, Services or Construction. In some instances, the Purchasing Officer may also perform the Contract Manager role.

“Qualified Source List” means a list of vendors who meet the evaluation criteria specified in the Pre-Qualification Request (PQR) or similar solicitation document.

“Response” means the written information, proposal or quote submitted by a vendor.

“Services” means the functions, duties, tasks and responsibilities to be acquired by the Department.

“Sole-source”, “Sole-sourcing” and other variations means offering to only one vendor an opportunity to provide Goods or Services, or to provide Goods or Services in respect of Construction, as the case may be.

“TB Directive Amounts” means:

- (a) Services valued at \$10,000 or more but less than \$75,000; and
- (b) Construction valued at more than \$50,000 but less than \$100,000;

inclusive of any contractual amendments or renewals.

A2. Acronyms

Acronym	Full Term
ABC	Agencies, boards and commissions
ADM	Assistant Deputy Minister
AF	Accountability Framework for Acquiring Goods and Services
APC	Alberta Purchasing Connection
CETA	Canada European Union Comprehensive and Economic Trade Agreement
CFTA	Canadian Free Trade Agreement
CIAS	Corporate Internal Audit Services
CORES	Corporate Registry System
CRC	Contract Review Committee
DM	Deputy Minister
EMC	Executive Management Committee
FOIP Act	<i>Freedom of Information and Protection of Privacy Act</i>
GoA	Government of Alberta
ICT	Information Communication and Technology
KE	Knowledge Experts
MASH	Municipalities, academic institutions, schools boards and health entities, as well as any corporation or entity owned or controlled by one or more of the preceding entities
NPP	Notice of Proposed Procurement
NWPTA	New West Partnership Trade Agreement
OSSI	Online Surplus Sales Information
PAF	Procurement Accountability Framework
PIPA	<i>Personal Information Protection Act</i>
PQR	Pre-Qualification Request
P&P Manual	Policy & Procedures Manual for the Acquisition of Goods by Departments \$10,000 or Greater
RFC	Request for Comments
RFI	Request for Information
RFS	Request for Service
RFP	Request for Proposals
RMI	Risk Management and Insurance
SA	Service Alberta
SFO	Senior Financial Officer
SOW	Statement of Work
TB	Treasury Board
TILMA	Trade, Investment and Labour Mobility Agreement
VBR	Value Based Request

VOR	Vendor of Records
WCB	Workers' Compensation Board
WTO GPA	World Trade Organization Agreement on Government Procurement

Appendix B: Best Practices for Using Checklists

General

Checklists can serve as an invaluable tool for evaluation purposes, ensuring processes are adhered to and driving consistency across the enterprise. They assist in clarifying what needs to be considered or done; reduce the possibility of critical steps or issues being missed; and, enhance an assessment's or processes' objectivity, credibility and reproducibility. Nevertheless, the following checklists should not be considered a substitute for the provisions outlined in this Manual, consulting with KEs, or the contract templates.

Developing a Checklist

In the event a Department determines it is appropriate to use a checklist and an enterprise Department template is not available, it should consider incorporating the following best practices in the development thereof:¹

- Focus the checklist task
 - Define the content area of interest and checklist's intended uses
 - Draw upon pertinent training and experience
 - Study the relevant literature and engage with experts in the content area
 - Clarify and justify the criteria to be met by the checklist (e.g., pertinence, comprehensiveness, clarity, applicability to the full range of intended uses, concreteness, parsimony, ease of use and fairness)
- Make a candidate list of checkpoints
 - List descriptors for well-established criteria of merit
- Classify and sort the descriptors
 - Sort the descriptors in search of categories
 - Identify and label the main candidate categories
- Define and flesh out the categories
 - Define each category and its key concepts and terms
 - Write a rationale for each category
 - Review and revise the descriptors in each category for inclusiveness, clarity, and parsimony
- Determine the order of categories
 - Decide if order is an important consideration regarding the intended uses of the checklist
 - Provide an ordering of the categories
- Obtain initial reviews of the checklist
 - Engage potential users to review and critique the checklist
 - List the issues in need of attention
- Revise the checklist content

¹ Stufflebeam, Daniel (2004) [Guidelines for Developing Evaluation Checklists: The Checklists Development Checklist \(CDC\)](#) *Western Michigan University – The Evaluation Center*

- Examine and decide how to address the identified issues
- Rewrite the checklist content
- Delineate and format the checklist to serve the intended uses – determine with users
 - Whether category and/or total scores are needed or desired
 - What needs exist regarding differential weighting of categories and/or individual checkpoints
 - Any descriptors or categories of descriptors that must be passed for a satisfactory score on the overall checklist
 - What needs exist regarding profiling of checklist results
 - Format the checklist based on the above determinations
- Evaluate the checklist
 - Obtain reviews of and engage intended users to field-test the checklist
 - Generally, assess whether the checklist meets the requirements of pertinence, comprehensiveness, clarity, applicability to the full range of intended uses, concreteness, parsimony, ease of use, and fairness
- Finalize the checklist
 - Systematically consider and address the review and field-test findings
 - Print the finalized checklist
- Apply and disseminate the checklist
- Periodically review and revise the checklist

Where a Checklist May Not be Needed

Numerous organizations – outside of the GoA – utilize checklists for contract contents. While the GoA is in the process of developing common contract templates for use across the enterprise, which in most instances will adequately address the need for contract content checklists, there may be occasions where specialized contracting checklists are required. Conversely, if none of the conditions below apply a general Goods/Services contract is likely appropriate.

- If Goods or Services being purchased are under \$10,000 consider using a Procurement Card
- Are the Goods or Services available through a Supply Arrangement (standing offer or blanket contract)?
- If the acquisition of Goods is valued at \$50,000 and greater and not on a Supply Arrangement, the procurement will be conducted by SA Procurement Services
- Will the contract create an employee/employer relationship? Consider the following:
 - Does the Department directly control the work to be done?
 - Does the Department supply the equipment and tools required by the contractor?
 - Does the Department or the contractor assume the risk of loss?
 - To what extent will the contractor’s activities be integrated with those of the Department?

See Section 2.3 in the body of this Manual for additional details.

Specialized Checklists for Contracts

Should a checklist for specialized contracts be required, consider including the elements for each type of contract listed below, which were identified through best practices research and a review of Department documents. Note: none of the checklist examples are exhaustive.

General Contract

- Body of the Contract
 - Legal names of parties
 - Background
 - Definitions
 - Services
 - Term (including extension options)
 - Payment (including maximum price, fixed price, or time and materials, as appropriate; payment and invoicing requirements; and performance securities)
 - Records (including GoA right to perform audits)
 - Non-assignability and subcontracting
 - Personnel replacement
 - Statutory compliance (including WCB requirements)
 - Material Ownership (including copyright, intellectual property, waiver of moral rights, etc. as applicable)
 - Confidentiality and privacy of personnel information
 - Indemnity and Liability
 - Warranties and Representations (including warranty period), as applicable
 - Insurance (General liability, Automobile liability, Errors and Omissions)
 - Relationship of Parties
 - Notices (including addresses of parties)
 - Termination
 - Safety and Security (use of GoA buildings, premises, equipment, hardware, software) and Department access to worksite (as applicable)
 - Parties' Representatives
 - Conflict of Interest
 - Change Request Process (where appropriate)
 - Dispute Resolution (where appropriate)
 - Survival of Terms
 - General including order of precedence clause
 - Signature Page (i.e. full legal name of contractor, Department name, Authorized representative signature, title and date block)

Ensure proper numbering of pages, labelling and referencing of Appendices, Exhibits, and Attachments.

- Schedule A – Statement of Work/Description of Services

Depending on the scope of Goods, Services or Construction to be provided, contract duration, and complexity of the contract, the following would be described in Schedule B or a separate Schedule may be merited for one or more of the subject areas:

 - Detailed descriptions of the work to be performed including clearly defined deliverables to avoid future disputes over the type and extent of work to be done.
 - Where applicable, additional responsibilities and obligations of both parties
 - Service levels and performance measurement including any quality control/quality assurance procedures
 - Reporting requirements
 - Security and safety, including Department access to work site
 - Specific certification, professional or licensing requirements
 - Standards (e.g. architecture and technology) or required procedures
 - Governance and Management (e.g. relationship principles, committee relationships and memberships, service management procedures)
 - Personnel - designated personnel, qualifications, and staffing levels
 - Required equipment and facilities
 - Transition and transformation requirements (planning and management)
- Schedule B – Payment
 - Basis for payment defined (e.g. upon receipt of deliverables, schedule of payments, hourly or per unit rates, etc.) including timelines for completion of work including milestones
 - Allowable expenses (i.e. travel, meals, etc.) and their basis of payment (i.e. upon submission of receipts and in accordance with GoA's Subsistence and Travel allowances, etc.)

Appendix C: Business Cases

Business Case Development and Content Guidelines

An effective business case is a multi-purpose document that generates the support and participation needed to turn an idea into reality. It explains what the idea, problem, or opportunity is about, how and who it will impact, what others are doing, drives the consideration and analysis of alternatives and the associated impacts, risks and cost/benefit of each, provides benchmarking to measure performance, and makes recommendations (including whether an acquisition/project should go ahead or not and which alternative should be pursued).

The GoA has adopted a business case and user guidelines. The approved GoA Business Case Template and Guidelines are available on the SA's e-FormLinks website at <https://forms.gov.ab.ca/>

In addition, the following sample short form Department specific templates are available for reference:



EII Terms of Reference template



AE&T Dec to Contract and Risk Assessment template

At a minimum any business case should provide:

- A clear description of the need for, and expected outcomes of, the Goods, Services or Construction to be acquired
- A summary of the analysis conducted on alternatives for delivery
- The rationale for the Decision to Acquire
- A high-level procurement/implementation plan (including key components of a Terms of Reference such as outcomes, deliverables, critical success factors and schedule of delivery)

More specifically, best practices suggest the following business case components should be considered.

- Executive Summary
 - Describe the acquisition/project precisely and concisely
 - Tell why the acquisition/project is necessary, and why it is the best solution
 - Outline the most important benefits of the project to the community
 - Outline the costs and major disadvantages, if any
 - Summarize the most important reasons for recommending the acquisition/project
 - Limit to one to two pages in length only
 - Write after the business case is completed
- Purpose of the acquisition and description of the need (a Terms of Reference could be used where appropriate)
- Expected deliverables

- Benefits to be derived and when they are likely to accrue – acquisition/project objectives [Specific, Measurable, Achievable, Realistic and Timely (S.M.A.R.T.)]
- Performance measures
- Where appropriate, the proposed arrangements to manage the project, including confirmation that a sufficiently senior, experienced and competent project manager is being assigned to the acquisition/project
- The proposed division of work between the vendor and in-house staff
- The expected costs and associated financial metrics (financial plan)
- Confirmation that financial resources are available to meet the estimated cost of the requirement
- A systematic assessment of the alternatives that have been considered (risk assessment, cost evaluation or cost/benefit analysis, stakeholder impact review, etc.)
- Capital asset management plan
- Statement of critical assumptions
- How evaluation of Responses will be undertaken
- How eventual implementation would be handled
- Project work plan and implementation timeline

The business case will be more convincing if the arguments are supported by hard data:

- If stakeholder views are cited, provide some evidence of the consultations
- For community or other benefits, provide evidence of the research conducted into the existing situation and expected improvements
- Provide the experience gained by other organizations in implementing the same kind of initiative – this provides a good reality check
- Accurate costing of alternatives and expected benefits, based on a thorough approach and using relevant assessment tools
- Reference material (articles, websites, libraries, books etc.) on alternatives

Risk Assessment Guidelines

General

Determining the appropriate risk assessment from a holistic perspective is difficult – it is dependent on the complexity of the particular procurement and the availability of information. It requires the exercise of discretion and may necessitate the engagement of KEs and internal Department expertise. Within that context, Departments must still assess the risk of all Goods, Services or Construction acquisitions even when no alternatives exist, and do so while applying the best practices outlined below. In addition, Treasury Board and Finance – Risk Management and Insurance is available to discuss the type and contents of risk assessment that should be conducted.

Risk Assessment Steps

Below is a high level outline of how to conduct a risk assessment.

- Establish the context
 - Define the relationship between activity and its environment. Identify the activities, strengths, weaknesses, opportunities and threats
 - Establish the goals, objectives, strategies, scope and parameters of the activity to which the risk management process is being applied
 - Develop risk evaluation criteria – decide the criteria against which risk is to be evaluated. Decisions concerning risk acceptability and risk treatment may be based on operational, technical, financial, legal, political, social or other criteria
 - Define the structure – categorize the activity into sub-systems. Analyzing the whole and sub-systems improves the potential of risk identification
- Identify the risks – determine which risks are likely to affect the project and document the characteristics of each
 - Use checklists, flowcharting, interviews, judgments based on experience and records, brainstorming, systems analysis, scenario analysis and systems engineering techniques to determine risks
- Assess the risks (including probability and impact of each) – evaluate risks and risk interactions to assess the range of possible project outcomes. Process may be complicated by opportunities and threats interacting in unanticipated ways, single risk events causing multiple effects, opportunities for one stakeholder (reduced cost) potentially being a threat to another (reduced profits) and mathematical techniques creating a false impression of precision and reliability
- Plan the risk response – define enhancement steps for opportunities and responses to threats. Responses to threats generally fall into one of three categories: avoidance, mitigation and acceptance
 - To plan the risk response the following should be considered:
 - Opportunities to pursue and threats to respond to
 - Opportunities to ignore and threats to accept
 - Use procurement, contingency planning, alternative strategies and insurance/bonding to respond to risks
- Document the risk assessment and mitigation plan – ensure adequate documentation of the risk assessment process generated by the foregoing is maintained on the file
- Monitor and control the risks – respond to changes in risk over the course of the project. This involves executing the risk management plan in order to respond to risk events over the course of the project. When changes occur, the basic cycle of identify, quantify, and respond is repeated
- Ongoing communication and consultation – involves two-way communication between those responsible for implementing the risk management and those with a vested interest understanding the basis on which decisions were made and why particular actions are needed
- Document lessons learned

Pitfalls to Avoid when Establishing the Risk Management Framework

- Treating the identification of risk as a one-off activity and not setting up a mechanism for the identification of future risks
- Continuing in activities and initiatives which are not aligned with the Department's current objectives and are outdated
- Setting the level of responsibility
- Implementation too low in the organization as it must be driven from senior management
- Not using common terminology to ensure all within the organization have a clear understanding of the defined risk
- Taking short-cuts in the process and not ensuring all identified risks are in line with the organization's strategic objectives

Specific Components of Managing Risk

- Ensure the decision model accounts for risks in the organization today and in its envisioned future state
- Use proven planning methods and templates, including workshops, interviews, past experiences and quantitative risk analysis methods to develop and deliver a risk analysis and mitigation plan
- Outline a defined roadmap and provide management with visibility into upcoming investments and associated benefits
- Set expectations and develop consensus amongst stakeholders through upfront collaboration
- Identify dependencies throughout the organization
- Align project priorities with organizational goals
- Encourage joint delivery
- Develop contract monitoring provisions necessary to meet performance goals, having regard to the following factors:
 - Dollar amount
 - Complexity of the contract
 - Political or social importance of the contract
 - Media or community interest
 - Vendor experience
 - History of problems

Reducing Contract Failure

Techniques to reduce the risk of contract failure include the following:

- Provide for ongoing due diligence
- Establish a schedule of regular meetings between the Contract Manager and contractor
- Insist the schedule is maintained and reports are accurate and current when presented

- When meetings are held, written reports should be provided which confirm all requirements of the contract management plan
- Ensure trends or problem areas are identified early in the management of the contract
- Do not allow problems to develop without solutions being negotiated or arranged
- Provide for regular reporting on risk management strategies

The following points summarize the most likely reasons for failure:

- Failure by the vendor or contractor to deliver the Goods, Services or Construction according to agreed standards
- Failure to deliver an acceptable technical solution to the contract requirements
- Failure by either party to control the cost of the contract
- Total failure of the contract due to financial or project mismanagement by either party

Appendix D: Contract Review Committee - Sample

AUTHORITY AND RESPONSIBILITY

The Contract Review Committee (the “Committee”) is a standing committee established by authority of the Deputy Minister of (*Department name*). The Committee recommends to the Deputy Minister:

- Contracting related decisions for contracts entered into by the Department; and
- Department policy as it relates to contracts in the Department

The Committee is responsible for contracting related recommendations and activities within its scope of authority. This includes:

- Ensuring contracts add value by helping to achieve Business Plan Goals and Objectives
- Ensuring prudence, integrity and fairness in contracting
- Ensuring compliance with GoA legislative, regulatory, procurement and reporting requirements and Department financial policies [i.e., *Financial Administration Act*, *Canadian Free Trade Agreement (CFTA)*, the *New West Partnership Trade Agreement (NWPTA)*, *Canada European Union Comprehensive and Economic Trade Agreement (CETA)*, and the *World Trade Organization (WTO) Agreement on Government Procurement (GPA)*, Treasury Board Directives, the Procurement Accountability Framework (PAF) and the PAF Manual]
- Providing guidance or direction on contracting related issues that may be brought before the Committee
- Continually assessing the effectiveness of the Department’s contracting related policies and recommending changes as necessary

The Chair is responsible for:

- Finalizing and distributing decisions to the respective signing authority
- Distribution of materials for Committee meetings
- Providing a quarterly summary listing and the recommendations of the contracts reviewed by the Committee to the Deputy Minister’s office

The Co-chair is responsible for:

- Acting in the capacity of the Chair in their absence
- Recording the decisions of the Committee

MEMBERSHIP, RESOURCES AND MEETING ATTENDANCE

The Committee is to be appointed by members of Executive Management Committee (EMC). The “Chair” and the “Co-chair” of the Committee will be determined at the first meeting of the Committee. The Department should establish the number of members it wishes to have on the Committee (recommended minimum number is four).

Alternate members are to be appointed by the EMC members (“Alternates”) to attend Committee meetings on an ad hoc basis in place of a Committee member when the

Committee member is unable to attend. The Alternates should be of management classification.

At the discretion of each Committee member, other resource persons may be invited to attend to provide advice or additional information with respect to an agenda item or items.

QUORUM

A minimum of three Committee members and/or Alternates must be present to form a quorum. In the absence of the Chair or Co-chair, a temporary Chair will be selected from the Committee members in attendance for the purpose of conducting the meeting and recording the recommendations of the Committee.

VOTING

Committee members and their Alternates shall be entitled to vote. A simple majority of Committee members and/or Alternates present, excluding the Chair, is required to carry a decision. In the event of a tie, the Chair shall cast the deciding vote.

REGULAR SCHEDULED MEETINGS

The Committee shall normally meet at a regularly scheduled time and place determined by the Chair.

DECISIONS OUTSIDE OF REGULAR SCHEDULED MEETINGS

Committee decisions may also be made outside of regular scheduled Committee meetings, provided that all pertinent information is distributed to all Committee members and/or Alternates, when applicable, and the written concurrence (via email) of a majority of Committee members and/or Alternates constituting a quorum is obtained.

This process may be employed, at the discretion of the Chair, in lieu of regularly scheduled meeting, typically when there are a small number of routine agenda items. It may also be employed at the discretion of the Chair, when there is an urgent item of business that must be addressed prior to the next regular scheduled meeting. All decisions made in this way shall be reviewed and minuted at the next regularly scheduled meeting.

AGENDA

The Chair shall be responsible for the preparation of an agenda for each meeting. The agenda shall be distributed to all Committee members and/or Alternates, when applicable, with a copy to EMC members for information.

At the discretion of the Chair, an agenda item may also be added to the agenda at the time of the meeting, provided it is an urgent item that cannot be deferred until the next regularly scheduled meeting.

MINUTES

The Co-chair shall be responsible for preparation of meeting minutes. The minutes shall be distributed to all Committee members and Alternates (if applicable). EMC members will receive monthly updates on decisions of the Committee.

The Committee shall, at each meeting, formally review and approve the minutes of the preceding meeting. Any errors or omissions in the minutes of the preceding meeting shall be noted and corrected in the minutes of the current meeting.

Appendix E: Knowledge Experts

E1. Treasury Board and Finance – Risk Management and Insurance (RMI) Division

Mandate

RMI administers the GoA self-insurance program established to protect, secure and preserve public assets against risk of significant accidental loss. RMI serves participants of the Alberta Risk Management Fund prescribed pursuant to the *Financial Administration Act* and provides leadership by supporting GoA agencies in identifying, measuring, controlling and financing the risks of accidental loss.

Authority

The RMI authority is found in the *Financial Administration Act* (Section 76) and the Alberta Risk Management Fund Regulation. The legislation establishes RMI's authority to provide risk management services and to indemnify participants in the Alberta Risk Management Fund against loss arising out of liability imposed by law because of bodily injury, personal injury or property damage, loss or damage to property, and other exposures or risks.

Support/Applicability to the PAF

Contracts can be a source of risk and, frequently, parties to GoA contracts may attempt to shift liability from the contractor to the GoA. RMI advises Departments on the reasonableness of the proposed contract clauses and the implications of not using standard clauses (RMI works collaboratively with Justice and Solicitor General in the review of contracts and development of standards).

Legislation addresses assumption of liability in two key areas:

- *Indemnities:* Section 71 of the *Financial Administration Act* imposes restrictions on the granting of indemnities. Many contract forms used by contractors request the GoA provide an indemnity to the contractor for its actions. In many cases, these indemnities would be illegal under the provisions of the *Financial Administration Act*. Departments need to be aware of these restrictions and contract accordingly. RMI and Justice and Solicitor General are available to assist in negotiations with contractors on this point
- *Insurance:* Many contractor agreements request the contractor be added to the GoA's insurance coverage. This is not possible under the *Financial Administration Act* and regulations. RMI can assist Departments in negotiating with contractors – in virtually all cases a successful compromise is achieved. However, this must be done during the negotiations stage before the contract is signed and may need to be done before the procurement closes if the form of the contract is issued with the procurement documents.

RMI works with all Departments to educate them on these legislated requirements in contracting.

E2. Justice and Solicitor General – Legal Services

Mandate and Authority

Schedule 9 of the *Government Organization Act* outlines the powers and duties of the Minister of Justice and Solicitor General. The Schedule provides authority whereby the Minister:

- Is the official legal advisor to the GoA, and advises the head of the GoA Departments on matters of law
- Regulates and conducts litigation for and against the Crown
- Ensures public affairs are administered according to law
- Is responsible for matters related to the administration of justice in Alberta in areas of provincial jurisdiction

Support/Applicability to the PAF

Legal Services, Justice and Solicitor General, in accordance with the above mandate, responds to requests from Departments to provide legal and related strategic advice with respect to public procurement law and contracts for Goods, Services and Construction. In this regard, the Legal Services' lawyers take on a "corporate counsel" role as a means for providing advice which:

- Is proactive in approach
- Provides legal risk analysis
- Addresses legal impediments, and where possible, provides alternatives or solutions that comply with the law
- Considers the client's business objectives along with a broader perspective of how a course of action may impact the GoA
- Is consistent, objective and strategic

Also, in accordance with Cabinet-approved protocol Legal Services, Justice and Solicitor General is responsible for retaining all outside legal counsel, in consultation with the GoA Departments requiring such services. As part of that responsibility, outside counsel is monitored and evaluated in accordance with Justice and Solicitor General policy. Legal service protocols entered into by Legal Services, Justice and Solicitor General with each Department provide that all legal work required by a Department be performed by, or under the supervision of Justice and Solicitor General staff unless otherwise provided in the protocol.

E3. Service Alberta – FOIP Services, Information Access and Protection

Mandate

FOIP Services, Information Access and Protection of Service Alberta is responsible for the administration of the *Freedom of Information and Protection of Privacy (FOIP) Act*. FOIP Services provides support to GoA Departments and agencies subject to the Act.

The unit also administers the *Personal Information Protection Act (PIPA)* which applies to private sector organizations. FOIP Services provides information and support to GoA Departments and agencies regarding how these two pieces of legislation impact contracting situations.

For public bodies contracting with custodians as defined in the *Health Information Act*, FOIP Services, Information Access and Protection may also provide information regarding how this legislation interacts with the *FOIP Act*.

Each public body, as defined in the *FOIP Act*, is responsible for ensuring its own compliance with the *FOIP Act*. FOIP Services, Information Access and Protection may provide input on complex contracts involving a cross-government initiative or a high volume of personal information. FOIP issues in other contracts may also be referred to the public body's own FOIP office.

Requirements and Authority

When GoA Departments enter into contracts and other agreements, they must consider their duties and functions under the *FOIP Act*, as well as the *Records Management Regulation* established under the *Government Organization Act*.

The *FOIP Act* provides a right of access to information in the custody or under the control of public bodies. When a Department enters into a contract, it must ensure records created by or for the Department will continue to be accessible to the Department for its own use and in response to a request for information by the public. The *FOIP Act* further requires the Department to protect personal information in its custody and control. This includes personal information in the possession of a contractor, since a Department often maintains control over that information. When the Department enters into a contract, it must ensure its responsibility for the protection of personal information will be fulfilled by the contractor, the contractor's employees, and any subcontractors, on its behalf.

The *Records Management Regulation* requires the deputy head of a Department to ensure Department records are managed in accordance with the Regulation. Records management is of particular importance with respect to enabling the GoA to meet its obligations under the *FOIP Act*.

A large number of contracts public bodies enter into are relatively straightforward – or may not involve personal information – and the application of the *FOIP Act* and the *Records Management Regulation* to the information and records involved is well understood. However, Departments are increasingly entering into new and more complex forms of agreements, and it is essential access and privacy obligations are considered. It is important the contracting process enables clear communication of the GoA's and contractor's obligations, and the contract ensures the GoA can meet its duty of accountability.

Advisory Services

FOIP Services, Information Access and Protection publish “Managing Contracts under the FOIP Act: A Guide for Government of Alberta Contract Managers and FOIP Coordinators”. This publication, produced with input from Justice and Solicitor General, provides guidance for Contract Managers on access to information, protection of privacy and records management issues when preparing and administering contracts. The publication is available on the FOIP web site, at www.foip.gov.ab.ca.

E4. Public Service Commission

Mandate

The Public Service Commission is responsible for administering Directives respecting the use of contracts of employment and fee for service arrangements.

Authority and Requirements

Authority derives from the *Public Service Act* and the supporting *Public Service Employment Regulation* and *Directives*.

- Section 28 of the *Public Service Act* specifies the conditions for a contract of employment:
 - Contracts of employment cannot be used for a person filling a bargaining unit position, providing a bargaining unit service, or occupying a class represented by the Alberta Union of Provincial Employees
 - All contracts of employment must comply with the guidelines issued by the Public Service Commissioner. Applicable Directives are available on the PSC website:
 - Administration of Contracts of Employment
<http://www.psc.alberta.ca/?file=directives/staffing/admin-of-contract-of-employ>
 - Contract of Employment Salary, Length and Benefits
<http://www.psc.alberta.ca/?file=directives/staffing/contr-of-employ-sal-length>
 - Contract of Employment or Fee for Service Contract
<http://www.psc.alberta.ca/?file=directives/staffing/contr-of-employ-fee-for-ser>
 - The Public Service Commissioner may delegate to a deputy head the authority to establish guidelines for contract use for specific positions or classes of positions
- Section 29 of the *Public Service Act* specifies the conditions for the use of Fee for Service arrangements:
 - Fee for Service contracts are to be used for the provision of Services, but not for employment situations

- Fee for Service contracts are to meet the requirements of any other Service contract
- The Contract of Employment or Fee for Service Contract Directive provides guidance on the proper elements of a Fee for Service contract versus a contract of employment. The Directive is available at: <http://www.psc.alberta.ca/?file=directives/staffing/contr-of-employ-fee-for-ser>
- Fee for Service contracts must include standard language related to the application of the Code of Conduct and Ethics

Discretionary Issues

Departments may contract with external agencies, such as temporary staffing agencies for the provision of supplemental human resources. Services from a temporary agency should be used for:

- Brief periods of time only – for example: vacation cover off; while recruitment is underway; or, to obtain specific skill sets on a short term basis
- Specific services or skills and not for specific individuals

Temporary hires should not be used to fill a bargaining unit position on a long term basis.

Advisory Services

The Public Service Commission provides advisory services to Department human resources departments on the use of contracts, as follows:

- Advice regarding Contracts of Employment or Fee for Service (Compensation Unit)
- Advice on the use of temporary agencies and other external contracted services (Labour Relations Unit)

E5. Service Alberta

Centralized Acquisition of Goods and Disposal of Goods

Mandate

Service Alberta is responsible for the centralized acquisition of Goods [materials (including commercial off-the shelf software), equipment, and furnishings] and development/enhancement of information technology application software on behalf of GoA Departments.

Surplus Sales is responsible for the disposition of Goods that have become surplus or are no longer required by GoA Departments. Surplus Sales also provides Departments with fair market valuations for assets and provides advisory services on the disposition and sale of assets. It also distributes surplus computers to the not-for-profit Computers for Schools program for distribution to schools throughout Alberta.

Additionally, Surplus Sales administers the Abandoned and Seized Vehicle Program on behalf of Alberta Transportation and Justice and Solicitor General.

Authority and Requirements

Service Alberta's authority for the acquisition and disposition of Goods is legislated in the *Government Organization Act*.

The *Direct Purchase Regulation* and associated *Administrative Practices* list the circumstances where Departments may purchase Supplies (including commercial off-the-shelf software) and the development/enhancement of Information Technology application software, other than through the Minister of Service Alberta.

The MASH² sector is not subject to the *Direct Purchase Regulation*, however, the *Government Organization Act* also provides the Minister of SA with the authority, on request, to acquire Supplies on behalf of, or provide services to, approved hospitals as defined in the *Hospitals Act*, schools, post-secondary educational institutions, municipalities, Metis settlements and any organizations that carry out services or programs on behalf of the GoA.

The legislative authority for the disposal of abandoned vehicles is the *Traffic Safety Act*, the *Vehicle Seizure and Removal Regulation* and the *Motor Vehicle Accident Claims Regulation*.

Support and Advisory Services

Service Alberta delivers information sessions and training on procurement governance to Departments. In addition, it provides advisory services to Departments on contracting best practices and the end-to-end procurement process. Also, under the TB Directive, Service Alberta lead the establishment of the PAF and this Manual.

Surplus Sales has established the Online Surplus Sales Information (OSSI) system that provides an online process for declaring surplus assets. OSSI also provides an inventory of surplus assets that are available for redeployment and reuse within the GoA prior to disposal.

Service Alberta has established the Purchasing Site on MyAgent as a one-stop shop for purchasing information in the GoA. The following information is a sampling of what is accessible from the Purchasing Site:

- Standing Offer contracts
- Trade Agreements
- *Direct Purchase Regulation* and *Direct Purchase Administrative Practices*
- Solicitation, evaluation, and contract templates

² MASH includes municipalities, municipal organizations, publicly-funded academic institutions, school boards and health and social service entities

Trade Agreements

Mandate

Service Alberta's Trade Development Office is responsible for the overall administration and implementation of the obligations of the trade agreements as they relate to the acquisition of Goods, Services and Construction. This office provides guidance and advisory services to GoA ministries to assist them in complying with the requirements of the Agreements. This includes procurement advice in relation to the procurement provisions set out in *NWPTA* (Article 14), *CFTA* (Chapter 5), *WTO GPA* and *CETA* and involvement in the dispute resolution processes of the Agreements.

Authority and Requirements

The *AIT* was established to reduce and eliminate barriers to the inter-provincial movement of Goods, Services, labour and investment, and to bring about a more stable domestic trade market within Canada.

The Agreement, signed on July 18, 1994 by the First Ministers of all 10 provinces, two of the territories and the federal government, came into effect July 1, 1995. Since then the GoA's position has been all of its entities such as Departments, government agencies, crown corporations, boards, councils, commissions, and commercial enterprises are covered under the procurement provisions of Chapter 5.

Effective July 1, 1999, Annex 502.4 (MASH Annex) extended the procurement provisions of the *AIT* to MASH Sector entities. On January 1, 2005, Annex 502.3 (Crown Annex) extended the procurement provisions of the *AIT* to several provincial and territorial commercial enterprises and crown corporations that were previously not covered under Chapter 5.

In July, 2017 the *AIT* was replaced with the *CFTA*. The newly-adopted *CFTA* is meant to take the place of the *AIT* and includes Canada as well as all provinces and territories as signing Parties. Effective immediately all provisions were extended to the MASH sector as well as Crown Corporations within the main body of the agreement.

TILMA, a bilateral agreement between British Columbia (BC) and Alberta, came into effect on April 1, 2007 for provincial departments, agencies, boards, councils, committees and commissions. It applies to all government measures that affect trade, investment and labour mobility including legislation, regulations, standards, policies, procedures and guidelines. On April 1, 2009 *TILMA* was extended to cover crown corporations and the MASH Sector. The Agreement builds upon the goals of the *AIT* and further breaks down trade barriers between provinces by:

- Lowering procurement thresholds;
- Reducing the number of exceptions (permitted under the *AIT*); and
- Covering almost all professional services

On July 1, 2010, the *NWPTA* came into effect for the provinces of Alberta, BC and Saskatchewan. On January 1, 2018 the *NWPTA* was extended to include Manitoba. Fundamentally, the agreement replicates *TILMA* in almost every respect and effectively

supersedes the *TILMA*. For instance, the thresholds at which the *NWPTA* applies to procurement are the same as under *TILMA*. The changes that are found in the *NWPTA* largely reflect the need to transform the *TILMA* from a bilateral agreement (between BC and Alberta) to a trilateral agreement (between BC, Alberta and Saskatchewan) and to incorporate specific provisions relating to Saskatchewan. For the purposes of this Manual, users need not be concerned with *TILMA* requirements.

Effective February 16, 2010, Canada undertook commitments through the *World Trade Organization (WTO) Agreement on Government Procurement (GPA)* for all provinces and territories (except Nunavut) in exchange for US sub-federal GPA commitments. This meant for those procurements subject to the GPA, Canadian suppliers had access to US state-level procurement and US suppliers have access to provincial and territorial procurement. The *WTO* is an international organization that establishes the rules of trade between nations. At its heart are the *WTO* Agreements, negotiated and signed by member countries and ratified in accordance with their domestic procedures. The *GPA* is the *WTO* Agreement that establishes international obligations regarding government procurement.

Effective 2013 the *WTO GPA* commitments were extended to 45 other countries as they became signatories to the agreement. Each country follows *WTO GPA* provisions at different threshold levels.

The *GPA* applies to all Government of Alberta departments, agencies, boards, councils, committees and commissions. Unlike *CFTA*, *TILMA* and *NWPTA*, the *GPA* does not apply to Alberta crown corporations or the MASH sector.

On September 21, 2017 the CETA came into effect. It is a progressive trade agreement that upholds and promotes the values that Canada shares with the EU. All Canadian provinces and territories, as well as their MASH sector entities and Crown Corporations are covered under the CETA. The agreement covers virtually all sectors and aspects of Canada-EU trade in order to eliminate or reduce barriers. CETA addresses everything from tariffs to product standards, investment, professional certification and many other areas of activity.

Support and Advisory Services

The Vendor and Trade Development Office:

- Provides interpretive, advisory and education services on procurement related trade obligations to all GoA entities, the MASH sector and crown corporations relative to the trade agreements
- Disseminates information to Alberta businesses regarding trade agreement awareness and how to do business with the GoA
- Acts as the provincial contact point for procurement disputes arising under the trade agreements

Treasury Board Procurement and Sole-sourcing Directive

The Treasury Board Procurement and Sole-sourcing Directive requires Departments to foster consistent, government-wide practices in the procurement of Goods, Services and Construction, and limits the authority of Departments to Sole-source in respect of Services and Construction for TB Directive Amounts. To the extent practical, approval and reporting requirements of the Procurement and Sole-sourcing Directive should be applied to NWPTA Threshold Amounts acquisitions.

E6. Treasury Board and Finance– Corporate Internal Audit Services

Mandate

The mandate of Corporate Internal Audit Services (CIAS) is set out in the [Corporate Internal Audit Services Charter](#) approved by the Deputy Minister of Executive Council, Chair of the Internal Audit Committee.

The mission of CIAS is to work with Departments to provide risk-based assurance and advisory services that add value to the GoA. CIAS provides independent, objective services designed to improve the GoA's operations. It helps the GoA accomplish its objectives by bringing a systematic, disciplined approach to evaluate and improve the effectiveness of risk management, control and governance processes including those related to procurement.

Authority

The Authority of the Chief Internal Auditor is set out in the Corporate Internal Audit Services Charter and includes investigating any matter assigned by the Internal Audit Committee, requested by a Deputy Minister or within the approved audit plan.

Purpose

The purpose of an internal audit is to:

- Provide reassurance to management that operations are well-managed, efficient and within the bounds of applicable laws, regulations and policies;
- Identify weaknesses in business practices and management systems and recommend improvements; and
- Identify opportunities to reduce expenditures, increase revenues and put in place effective controls to better protect GoA assets.

Services

Corporate Internal Audit Services offers advisory and assurance services to the GoA.

Advisory engagements are forward-looking. They support improvements in systems and processes and focus on problem-solving activities. To maintain independence of CIAS, the Chief Internal Auditor will not permit any auditor to perform any assurance work on areas where that auditor has provided advisory service to the GoA or Agency, Board or Commission (ABCs) nor was an employee of that Department or ABC within the previous year.

Assurance audits focus on the adequacy or effectiveness of current or past performance and include [operational audits](#), [information system reviews](#), [investigative assignments](#) and [compliance audits](#).

Appendix F: Summary of Sole-sourcing Exceptions and Statutory Requirements

F1. Summary of Sole-sourcing Exceptions

A summary of Sole-sourcing exceptions for the various trade agreements can be found in the following pages.

You will note *GPA* differs from *CFTA* and *NWPTA* in that only those services listed in *GPA* Annex 4 are covered under the *GPA*. Annex 4 lists the following services as being covered under the *GPA*: urban planning and landscape architectural services; consultancy services related to the installation of computer hardware; software implementation services, including systems and software consulting services, systems analysis, design, programming and maintenance services; data processing services, including processing, tabulation and facilities management services; data base services; maintenance and repair services of office machinery and equipment including computers; other computer services; real estate services involving own or leased property; real estate services on a fee or contract basis; leasing or rental services concerning machinery and equipment without operator; leasing or rental services concerning personal and household goods; general management consulting services; human resources management consulting services; production management consulting services; services related to management consulting; technical testing and analysis services including quality control and inspection; services incidental to forestry and logging, including forest management; services incidental to mining, including drilling and field services; repair services of personal and household goods; repair services incidental to metal products, machinery and equipment; building-cleaning services; packaging services; commercial courier services; electronic mail; voice mail; on-line information and data base retrieval; electronic data interchange; enhanced/value-added facsimile services, including store and forward, store and retrieve Code and protocol conversion; on-line information and/or data processing; sewage and refuse disposal, sanitation and similar services; hotel and similar accommodation services; food and beverage serving services; and travel agency and tour operator services. More information concerning services coverage under the *GPA* is available through the MyAgent Purchasing Site.

Exception	CFTA	TILMA/NWPTA	GPA	CETA	TREASURY BOARD DIRECTIVE
Absence of bids	<p>Article 513 - Limited Tendering.1(a): Subject to paragraphs 2 and 3,...a procuring entity may use limited tendering in the following circumstances: (a) if: (i) no tenders were submitted or no suppliers requested participation; (ii) no tenders that conform to the essential requirements of the tender documentation were submitted; (iii) no suppliers satisfied the conditions for participation; or (iv) the submitted tenders were collusive, provided that the requirements of the tender documentation are not substantially modified;</p>	<p>Part V C. Government Procurement.2(l): In the absence of a receipt of any bids in response to a call for tenders</p>	<p>Article XIII.1(a): ...a procuring entity may use limited tendering...where: (i) no tenders were submitted or no suppliers requested participation; (ii) no tenders that conform to the essential requirements of the tender documentation were submitted; (iii) no suppliers satisfied the conditions for participation; or (iv) the tenders submitted have been collusive, provided that the requirements of the tender documentation are not substantially modified</p>	<p>Article 19.12 – Limited Tendering.1(a): a procuring entity may use limited tendering.....under any of the following circumstances: (i) no tenders were submitted or no suppliers requested participation; (ii) no tenders that conform to the essential requirements of the tender documentation were submitted; (iii) no suppliers satisfied the conditions for participation; or (iv) the tenders submitted have been collusive, provided that the requirements of the tender documentation are not substantially modified</p>	<p>Schedule:</p> <ul style="list-style-type: none"> in the absence of a receipt of any bids in response to a call for tenders
Confidentiality	<p>Article 513.1(i): if goods or consulting services regarding matters of a confidential or privileged nature are to be purchased and the disclosure of those matters through an open tendering process could reasonably be expected to compromise government confidentiality, result in the waiver of privilege, cause economic disruption, or otherwise be contrary to the public interest.</p>	<p>Part V C. Government Procurement.2(i): When the acquisition is of a confidential or privileged nature and disclosure through an open bidding process could reasonably be expected to compromise government confidentiality, cause economic disruption or be contrary to the public interest</p>	<p>Article XVII – Disclosure of Information</p> <p>2. Notwithstanding any other provision of this Agreement, a Party, including its procuring entities, shall not provide to any particular supplier information that might prejudice fair competition between suppliers.</p> <p>3. Nothing in this Agreement shall be construed to require a Party, including its procuring entities, authorities and review bodies, to disclose confidential information where disclosure: (a) would impede law enforcement; (b) might prejudice fair competition between suppliers; (c) would prejudice the legitimate commercial interests of particular</p>	<p>Article 19.16 – Disclosure of information.2 & 3</p> <p>2. Notwithstanding any other provision of this Chapter, a Party, including its procuring entities, shall not provide to any particular supplier information that might prejudice fair competition between suppliers.</p> <p>3. Nothing in this Chapter shall be construed to require a Party, including its procuring entities, authorities and review bodies, to disclose confidential information if disclosure: (a) would impede law enforcement; (b) might prejudice fair competition between suppliers; (c) would prejudice the legitimate commercial interests of particular persons,</p>	<p>Schedule:</p> <ul style="list-style-type: none"> when the acquisition is of a confidential or privileged nature and disclosure through an open bidding process could reasonably be expected to compromise government confidentiality, cause economic disruption or be contrary to the public interest

Exception	CFTA	TILMA/NWPTA	GPA	CETA	TREASURY BOARD DIRECTIVE
			persons, including the protection of intellectual property; or (d) would otherwise be contrary to the public interest.	including the protection of intellectual property; or (d) would otherwise be contrary to the public interest.	
Emergency	Article 513.1(d) <i>if strictly necessary, and for reasons of urgency brought about by events unforeseeable by the procuring entity, the goods or services could not be obtained in time using open tendering;</i>	Part V C. Government Procurement.2(h): <i>Where an unforeseen situation of urgency exists and the goods, services or construction could not be obtained in time by means of open procurement procedures</i>	Article XIII.1(d): <i>Insofar as is strictly necessary where, for reasons of extreme urgency brought about by events unforeseeable by the procuring entity, the goods or services could not be obtained in time using open tendering or selective tendering</i>	Article 19.12 – Limited Tendering.1(d): <i>only when strictly necessary if, for reasons of extreme urgency brought about by events unforeseeable by the procuring entity, the goods or services could not be obtained in time using open tendering or selective tendering;</i>	Schedule: <ul style="list-style-type: none"> where an unforeseeable situation of urgency exists and the goods, services or construction could not be obtained in time by means of open procurement procedures
Entities not covered	Article 504 – Scope and Coverage. 11(i)(ii)(vi): <i>(i) procurement of goods or services: (ii) by a procuring entity on behalf of an entity not covered by this Chapter; (vi) under a commercial agreement between a procuring entity which operates sporting or convention facilities and an entity not covered by this Chapter that contains provisions inconsistent with this Chapter;</i> <i>* Also see exception clauses for specific named Excluded Entities not covered by this Chapter in each of the Provincial Schedules.</i>	Part V C. Government Procurement.2(e) & (f): <i>(e) on behalf of an entity not covered by Article 14 (f) by entities that operate sporting or convention facilities, in order to respect a commercial agreement containing provisions incompatible with Article 3, 4 or 14</i>	Annex 2 Note 8: <i>This Agreement does not apply to any procurement made by a covered entity on behalf of a non-covered entity</i> Annex 2 Note 9: <i>This Agreement does not apply to Crown Corporations of the provinces and territories.</i>	Article 19.2 – Scope and coverage.5 <i>If a procuring entity, in the context of covered procurement, requires a person not covered under a Party's Annexes to its Market Access Schedule for this Chapter to procure in accordance with particular requirements, Article 19.4 shall apply mutatis mutandis to such requirements.</i>	Schedule: <ul style="list-style-type: none"> on behalf of an entity not covered by the NWPTA by entities that operate sporting or convention facilities, in order to respect a commercial agreement containing provisions incompatible with NWPTA government procurement obligations
Philanthropic, Prisons, Persons with Disabilities	Article 504 - 11(i)(v): <i>(v) from philanthropic institutions, non-profit organizations, prison labour, or natural persons with disabilities;</i>	Part V C. Government Procurement.2(a): <i>From philanthropic institutions, prison labour or persons with disabilities</i>	Article III.2(d): <i>Relating to goods or services of persons with disabilities, philanthropic institutions or prison labour</i>	Article 19.3 – Security and general exceptions.2(d) <i>2.Subject to the requirement.....nothing in this Chapter shall be construed to prevent a Party from imposing or enforcing measures: (d) relating to goods or services of persons with disabilities, of philanthropic institutions or of prison labour.</i>	Schedule: <ul style="list-style-type: none"> from philanthropic institutions, prison labour or persons with disabilities
Promotional Purposes	<i>Not in the main article but exception clauses can be found in some Parties / Provinces Exceptions and Notes. (IE. This Chapter does not cover procurement:</i>	Part V C. Government Procurement.2(c): <i>Of goods purchased for representational or promotional</i>	Annex 2 Note 5: <i>For those provinces...this Agreement does not apply to procurement:</i>	The CETA does not include an exception for promotional purposes	Schedule: <ul style="list-style-type: none"> of services, or goods or services in respect of Construction purchased for representational or

Exception	CFTA	TILMA/NWPTA	GPA	CETA	TREASURY BOARD DIRECTIVE
	<p>(a) of goods purchased for representational or promotional purposes, and services and construction purchased for representational or promotional purposes outside the territory of a Party;</p> <p>.. excerpt from Alberta Schedule...clause may differ slightly depending on Provincial Schedule...)</p> <p><u>Annex 520.1: Party-Specific Exceptions</u> Quebec, Nova Scotia, New Brunswick, Prince Edward Island, Saskatchewan, Alberta, Newfoundland and Labrador</p>	<p>purposes, and services or construction purchased for representational or promotional purposes outside the territory of a Party</p>	<p>(i) goods purchased for representational or promotional purposes; or (ii) services or construction purchased for representational or promotional purposes outside the province or territory.</p>		<p>promotional purposes outside of Alberta</p>
<p>Public Body and Non-Profit Organizations</p>	<p>Article 504 - 11(i)(v): (v) from philanthropic institutions, non-profit organizations, prison labour, or natural persons with disabilities;</p>	<p>Part V C. Government Procurement.2(b): From a public body or a non-profit organization</p>	<p>Article III.2(d): Relating to goods or services of persons with disabilities, philanthropic institutions or prison labour. General Note 2: Procurement in terms of Canadian coverage...does not include...government provision of goods and services</p>	<p>Article 19.3 – Security and general exceptions 2. Subject to the requirement that such measures are not applied in a manner that would constitute a means of arbitrary or unjustifiable discrimination between Parties where the same conditions prevail or a disguised restriction on international trade, nothing in this Chapter shall be construed to prevent a Party from imposing or enforcing measures: d. relating to goods or services of persons with disabilities, of philanthropic institutions or of prison labour.</p> <p>Annex 19-7 – General notes 3. For greater certainty, this Chapter shall be interpreted in accordance with the following: f. this Chapter does not cover procurement by a procuring entity from a government entity.</p>	<p>Schedule:</p> <ul style="list-style-type: none"> from a public body or a non-profit organization

Exception	CFTA	TILMA/NWPTA	GPA	CETA	TREASURY BOARD DIRECTIVE
Regional and Economic Development	<i>Not in the main article but exception clause can be found in some Parties / Provinces Exceptions and Notices. <u>Annex 520.1: Party-Specific Exceptions</u> Nova Scotia, New Brunswick, Prince Edward Island, Alberta, Newfoundland and Labrador, Yukon, Northwest Territories, Nunavut</i>	Part V F. Regional Economic Development.1: <i>Regional economic development measures, provided that such measures: (a) are only adopted and maintained under exceptional circumstances; (b) are not more trade restrictive than necessary to achieve their specific objective;(c) do not operate to unduly harm the economic interests of persons, goods, services or investments of the other Party; (d) minimize the discriminatory effects and impacts on trade , investment and labour mobility; and (e) are consistent with Article 12(1) [Business Subsidies]</i>	Annex 2 Note 2: <i>This Agreement does not apply to preferences or restrictions associated with programs promoting the development of distressed areas</i> Note 3: <i>This Agreement does not apply to procurement that is intended to contribute to economic development within the provinces or territories of Manitoba, Newfoundland and Labrador, New Brunswick, Prince Edward Island, Nova Scotia, Yukon or Northwest Territories.</i>	The CETA does not include an exception for Regional and Economic Development	<i>The TB Directive does not include an exception for regional and economic development</i>
Resale to Public	<u>Annex 520.1: Party-Specific Exceptions</u> <u>Canada</u>	Part V C. Government Procurement 2(k): <i>Of goods intended for resale to the public</i>	Article II.2(a)(iii): <i>(a) of goods, services or any combination thereof: (ii) not procured with a view of commercial sale or resale, or for use in the production or supply of goods or services for commercial sale or resale</i>	Article 19.2 – Scope and coverage.2(a)(ii) <i>For the purposes of this Chapter, covered procurement..... for governmental purposes: (a) of a good, a service, or any combination thereof: (ii) not procured with a view to commercial sale or resale, or for use in the production or supply of a good or a service for commercial sale or resale;</i>	<i>The TB Directive does not include an exception for resale to the public</i>
Security	<u>Article 402: Regulatory Notification</u> <i>3. If an urgent problem of safety, health, environmental protection, or national security arises or threatens to arise for a Party, that Party may omit any of the steps set out in paragraph 1 as it considers necessary provided that, upon adoption of the regulation, the Party;</i>	Article 6: <i>A Party may adopt or maintain a measure that is inconsistent with Articles 3 (No Obstacles), 4 (Non-discrimination) or 5 (Standards and Regulations), or Part II(C) (Special Provisions) provided that the Party can demonstrate that: (a) the purpose of the measure is</i>	Article III.2(a) and (b): <i>...nothing in this Agreement shall be construed to prevent any Party from imposing or enforcing measures: (a) necessary to protect public morals, order or safety (b) necessary to protect human, animal or plant life or health</i>	Article 19.3 – Security and general exceptions. <i>1. Nothing in this Chapter shall be construed to prevent a Party from taking any action or from not disclosing any information that it considers necessary for the protection of its essential security interests relating to the procurement: (a) of arms, ammunition, or war material;</i>	<i>The TB Directive does not include an exception for security</i>

Exception	CFTA	TILMA/NWPTA	GPA	CETA	TREASURY BOARD DIRECTIVE
	<p>(a) immediately provides to the Parties a description of the regulation, including a brief description of the urgent problem; (b) provides a copy of the regulation to a requesting Party; and (c) allows the Parties to make comments in writing and, on request, discusses the comments.</p>	<p>to achieve a legitimate objective; (b) the measure is not more restrictive to trade, investment or labour mobility than necessary to achieve that legitimate objective; and (c) the measure is not disguised as restriction to trade, investment or labour mobility</p>		<p>(b) or to procurement indispensable for national security; or (c) for national defence purposes.</p> <p>2. Subject to the requirement that such measures are not applied in a manner that would constitute a means of arbitrary or unjustifiable discrimination between Parties where the same conditions prevail or a disguised restriction on international trade, nothing in this Chapter shall be construed to prevent a Party from imposing or enforcing measures: (a) necessary to protect public morals, order or safety; (b) necessary to protect human, animal or plant life or health; (c) necessary to protect intellectual property; or (d) relating to goods or services of persons with disabilities, of philanthropic institutions or of prison labour.</p>	
<p>Sole Source</p>	<p>Article 513.1(b): (b) if the goods or services can be supplied only by a particular supplier and no reasonable alternative or substitute goods or services exist for any of the following reasons: (i) the requirement is for a work of art; (ii) the protection of patents, copyrights, or other exclusive rights; (iii) due to an absence of competition for technical reasons; (iv) the supply of goods or services is controlled by a supplier that is a statutory monopoly; (v) to ensure compatibility with existing goods, or to maintain specialized goods that must be</p>	<p>Part V C. Government Procurement.2(g): Where it can be demonstrated that only one supplier is able to meet the requirements of a procurement</p>	<p>Article II 3(a): ...this Agreement does not apply to: (a) the acquisition and rental of land, existing buildings or other immovable property or the rights thereon</p> <p>Article III 2(c): ...nothing in this Agreement shall be construed to prevent any Party from imposing or enforcing measures: (c) necessary to protect intellectual property</p> <p>Article XIII 1(b), (c) and (e) to (h):</p>	<p>Article 19.12 – Limited Tendering.1: (b) if the goods or services can be supplied only by a particular supplier and no reasonable alternative or substitute goods or services exist for any of the following reasons: (i) the requirement is for a work of art; (ii) the protection of patents, copyrights or other exclusive rights; or (iii) due to an absence of competition for technical reasons; (c) for additional deliveries by the original supplier of goods or services that were not included in the initial procurement if a</p>	<p>Schedule:</p> <ul style="list-style-type: none"> where it can be demonstrated that only one supplier is able to meet the requirements of a procurement

Exception	CFTA	TILMA/NWPTA	GPA	CETA	TREASURY BOARD DIRECTIVE
	<p><i>maintained by the manufacturer of those goods or its representative;</i></p> <p><i>(vi) work is to be performed on property by a contractor according to provisions of a warranty or guarantee held in respect of the property or the original work;</i></p> <p><i>(vii) work is to be performed on a leased building or related property, or portions thereof, that may be performed only by the lessor; or</i></p> <p><i>(viii) the procurement is for subscriptions to newspapers, magazines, or other periodicals;</i></p>		<p><i>(b) where the goods or services can be supplied only by a particular supplier and no reasonable alternative or substitute goods or services exist for any of the following reasons:</i></p> <p><i>(i) the requirement is for a work of art;</i></p> <p><i>(ii) the protection of patents, copyrights or other exclusive rights; or</i></p> <p><i>(iii) due to an absence of competition for technical reasons;</i></p> <p><i>(c) for additional deliveries by the original supplier of goods or services that were not included in the initial procurement where a change of supplier for such additional goods or services:</i></p> <p><i>(i) cannot be made for economic or technical reasons such as requirements of interchangeability or interoperability with existing equipment, software, services or installations procured under the initial procurement; and</i></p> <p><i>(ii) would cause significant inconvenience or substantial duplication of costs for the procuring entity;</i></p> <p><i>(d) insofar as is strictly necessary where, for reasons of extreme urgency brought about by events unforeseeable by the procuring entity, the goods or services could not be obtained in time using open tendering or selective tendering;</i></p> <p><i>(e) for goods purchased on a commodity market;</i></p>	<p><i>change of supplier for such additional goods or services:</i></p> <p><i>(i) cannot be made for economic or technical reasons such as requirements of interchangeability or interoperability with existing equipment, software, services or installations procured under the initial procurement; and</i></p> <p><i>(ii) would cause significant inconvenience or substantial duplication of costs for the procuring entity;</i></p> <p><i>(d) only when strictly necessary if, for reasons of extreme urgency brought about by events unforeseeable by the procuring entity, the goods or services could not be obtained in time using open tendering or selective tendering</i></p> <p><i>(e) for goods purchased on a commodity market;</i></p> <p><i>(f) if a procuring entity procures a prototype or a first good or service that is developed at its request in the course of, and for, a particular contract for research, experiment, study or original development. Original development of a first good or service may include limited production or supply in order to incorporate the results of field testing and to demonstrate that the good or service is suitable for production or supply in quantity to acceptable quality standards, but does not include quantity production or supply to establish commercial viability or to recover research and development costs;</i></p> <p><i>(g) for purchases made under exceptionally advantageous conditions that only arise in</i></p>	

Exception	CFTA	TILMA/NWPTA	GPA	CETA	TREASURY BOARD DIRECTIVE
			<p><i>(f) where a procuring entity procures a prototype or a first good or service that is developed at its request in the course of, and for, a particular contract for research, experiment, study or original development. Original development of a first good or service may include limited production or supply in order to incorporate the results of field testing and to demonstrate that the good or service is suitable for production or supply in quantity to acceptable quality standards, but does not include quantity production or supply to establish commercial viability or to recover research and development costs</i></p> <p><i>(g) for purchases made under exceptionally advantageous conditions that only arise in the very short term in the case of unusual disposals such as those arising from liquidation, receivership or bankruptcy, but not for routine purchases from regular suppliers</i></p> <p><i>(h) where a contract is awarded to a winner of a design contest provided that:</i> <i>(i) the contest has been organized in a manner that is consistent with the principles of this Agreement, in particular relating to the publication of a notice of intended procurement; and</i></p>	<p><i>the very short term in the case of unusual disposals such as those arising from liquidation, receivership or bankruptcy, but not for routine purchases from regular suppliers; or</i></p> <p><i>(h) if a contract is awarded to a winner of a design contest provided that:</i> <i>(i) the contest has been organised in a manner that is consistent with the principles of this Chapter, in particular relating to the publication of a notice of intended procurement; and</i> <i>(ii) the participants are judged by an independent jury with a view to a design contract being awarded to a winner.</i></p>	

Exception	CFTA	TILMA/NWPTA	GPA	CETA	TREASURY BOARD DIRECTIVE
			(ii) the participants are judged by an independent jury with a view to a design contract being awarded to a winner		

All services are covered under the scope of the **CFTA and TILMA/NWPTA** except the services of the professions in the following table.
For a procurement exception to be justifiable it must be permissible under the TILMA/NWPTA, CFTA, CETA and GPA.

Professional Services Exceptions	CFTA	TILMA/NWPTA	TB Directive
Lawyers and notaries	Annex 508.1B, 1(a)	Part V Government Procurement 2(j)	Schedule, 10 th bullet
Health services and social services	Annex 508.1B, 1(e)	Part V Government Procurement 2(d)	Schedule, 4 th bullet
Services of financial analysts or the management of investments by organizations who have such functions as a primary purpose	Annex 508.1B, 1(c)	Part V Government Procurement 4	Schedule, 11 th bullet
Financial services respecting the management of government financial assets and liabilities (i.e. treasury operations), including ancillary advisory and information services, whether or not delivered by a financial institution	Annex 508.1B, 1(d)	Part V Government Procurement 4	Schedule, 11 th bullet

As opposed to covering most services, the GPA and CETA differ from CFTA and TILMA/NWPTA in that only those services that are listed in GPA Annex 4 or CETA Annex 19-5 are covered. More information concerning services coverage under the GPA or is available through the MyAgent Purchasing Site. Taken together, the services in the above chart are the only services that are not covered by CFTA, TILMA/NWPTA and the GPA.

F2. Summary of Statutory Requirements

The following table provides a summary of statutory requirements referred to in this Manual. Users should familiarize themselves with the sections in this Manual referring to legislative requirements and consult with KEs regarding the Departments specific obligations under these statutes.

Legislation	Relevance to Manual	Manual Reference
Direct Purchase Regulation	Lists circumstances where Departments may purchase Supplies (including commercial off-the-shelf-software and the development/enhancement of information technology application software) other than through the Minister of Service Alberta.	Pages 3, 7, Appendix E
Canadian Competitive Bid Law	The GoA is subject to all of Canada's competitive legal obligations found in the common law. These include the obligation to comply with five major implied duties in every procurement conducted: <ol style="list-style-type: none"> 1. Duty to disclose 2. Duty to reject non-compliant Responses 3. Duty to conduct a fair procurement process 4. Duty to award to the winning vendor 5. Duty to award the contract as tendered 	Page 13
<i>Government Organization Act</i>	Establishes Service Alberta's authority for the acquisition and disposition of Goods. Additionally, outlines the powers and duties of the Minister of Justice and Solicitor General	Pages 3, 7, Appendix E
<i>Health Information Act</i>	Includes rules for public bodies contracting with custodians as defined in the legislation.	Appendix E
<i>Financial Administration Act</i>	Establishes Risk Management and Insurance's authority to provide risk management services and to indemnify participants in the Alberta Risk Management Fund.	Page 7, Appendix E
<i>Freedom of Information and Protection of Privacy Act</i>	Sets out the parameters for the collection, use and disclosure of personal information.	Page 7, Appendix E
<i>Lobbyist Act</i>	Imposes obligations on lobbyists by requiring those who are paid to lobby GoA departments	Page 12

	and Provincial entities considered to be part of government to register as lobbyists.	
<i>Personal Information Protection Act</i>	Establishes rules governing private sector organizations when collecting, using and disclosing personal information.	Appendix E
<i>Public Service Act and supporting Public Service Employment Regulation and Directives</i>	Sets out conditions for a contract of employment and the use of Fee for Service arrangements.	Appendix E
Procurement and Sole-sourcing Directive no. 7/2014	For TB Directive Amounts, limits the authority of Departments to Sole-source for procurements of Services and Construction and requires Deputy Minister approval to Sole-source procurements. Also requires quarterly public disclosure of certain Sole-source contracts. Requires Departments to establish a CRC.	Pages 3, 7, 14-15, Appendices F, G
Records Management Regulation	Requires the deputy head of a Department to ensure departmental records are managed in accordance with the Regulation.	Appendix E
Trade Agreements	The GoA is subject to three inter-provincial trade agreements affecting procurement: the Canadian Free Trade Agreement (CFTA), the <i>Trade, Investment and Labour Mobility Agreement (TILMA)</i> , and the <i>New West Partnership Trade Agreement (NWPTA)</i> . Additionally, the GoA has undertaken international commitments with respect to USA and countries of the European Union suppliers' through the <i>World Trade Organization (WTO) Agreement on Government Procurement (GPA)</i> and the <i>Canada European Union Comprehensive and Economic Trade Agreement (CETA)</i> .	Pages 3, 7, 14-15, Appendix F
<i>Traffic Safety Act, Vehicle Seizure and Removal Regulation and Motor Vehicle</i>	Provides the legislative authority for the disposal of abandoned vehicles.	Appendix E

Accident Claims Regulation		
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Appendix G: Procurement and Sole-sourcing Directive

TREASURY BOARD DIRECTIVE NO. 7/2014

PROCUREMENT AND SOLE-SOURCING DIRECTIVE

Financial Administration Act (ss. 5(1), 7, and 78(1))

Summary

1. This Directive requires Departments to foster consistent, Government-wide practices in the procurement of goods and services, including in respect of Construction, and limits the authority of Departments to Sole-source in respect of services and Construction. Nothing in this Directive is intended to limit the Crown's obligations under applicable trade agreements.

Interpretation

2. The following terms have the following meanings:

<u>Term</u>	<u>Meaning</u>
Construction	a construction, reconstruction, demolition, repair or renovation of a building, structure or other civil engineering or architectural work and includes site preparation, excavation, drilling, seismic investigation, the supply of products and materials, the supply of equipment and machinery if they are included in and incidental to the construction, and the installation and repair of fixtures of a building, structure or other civil engineering or architectural work, but does not include professional consulting services related to the construction contract unless they are included in the procurement
Contract Review Committee	a committee referenced in section 5
Department	a department of the Government established under the <i>Government Organization Act</i> , and the office of the Public Service Commission established by the <i>Public Service Act</i>
Deputy Minister	the chief officer of a Department or part of a Department, as the case may be
Sole-source, Sole-sourcing, and other variations	offering to only one vendor an opportunity to provide services or to provide goods or services in respect of Construction, as the case may be
Trade Exception	an exception drawn from the New West Partnership Trade Agreement in respect of services or Construction, as set out in the Schedule

Scope

3. This Directive applies in respect of Departments.

General Procurement Practices

4. Departments shall participate, under the leadership of Service Alberta, in the establishment of a procurement accountability framework that will
 - (a) support consistent goods and services procurement practices, including those in respect of Construction, across all Departments, that reflect best practices and foster accountability, fairness, effectiveness, and efficiency, and
 - (b) include processes to ensure compliance with sections 6 to 10.
5. Each Department must establish a Contract Review Committee to support the procurement accountability framework.

Sole-sourcing Restrictions

6. Except where a Trade Exception applies, a Department must not Sole-source
 - (a) services valued at \$10,000 or more but less than \$75,000; or
 - (b) goods or services in respect of Construction valued at more than \$50,000 but less than \$100,000;inclusive of any contractual amendments or renewals.
7. Only a Deputy Minister may authorize Sole-sourcing under a Trade Exception.
8. When Sole-sourcing, a Department must select a vendor based on merit and value to the Crown.
9. Where feasible, a Department must Sole-source from a list of vendors approved by
 - (a) Service Alberta, where a Government-wide list is applicable, or
 - (b) the Department's Contract Review Committee, where there is no applicable Government-wide list approved by Service Alberta.

Reporting of Sole-sourcing

10. Departments must publicly disclose quarterly all Sole-sourced contracts for services valued at \$10,000 or more but less than \$75,000, inclusive of any contractual amendments or renewals, by
 - (a) date,
 - (b) vendor name and address,
 - (c) department name and address,
 - (d) general description of the services,
 - (e) value of the contract, and
 - (f) circumstances of the procurement including the applicable Trade Exception.
11. The Controller may determine the method and form of disclosure.
12. Disclosure is not required if doing so would
 - (a) be contrary to the *Freedom of Information and Protection of Privacy Act*,
 - (b) impede law enforcement,

- (c) prejudice the legitimate commercial interests of particular enterprises,
- (d) involve a waiver of privilege,
- (e) cause economic disruption, or
- (f) otherwise be contrary to the public interest.

Coming Into Force

13. This Directive comes into force on April 1, 2015.

SCHEDULE

Trade Exceptions

Procurement

- a) from philanthropic institutions, prison labour or persons with disabilities
- b) from a public body or non-profit organization
- c) of services, or goods or services in respect of Construction, purchased for representational or promotional purposes outside of Alberta
- d) of health services and social services
- e) on behalf of an entity not covered by the New West Partnership Trade Agreement
- f) by entities which operate sporting or convention facilities, in order to respect a commercial agreement containing provisions incompatible with NWPTA government procurement obligations
- g) where it can be demonstrated that only one supplier is able to meet the requirements of a procurement
- h) where an unforeseeable situation of urgency exists and the services, or the goods or services in respect of Construction, could not be obtained by means of open procurement procedures
- i) when the acquisition is of a confidential or privileged nature and disclosure through an open bidding process could reasonably be expected to compromise government confidentiality, cause economic disruption or be contrary to the public interest
- j) of services provided by lawyers and notaries
- k) of treasury services
- l) in the absence of a receipt of any bids in response to a call for tenders