



**Affaires autochtones et
Développement du Nord Canada**

**Aboriginal Affairs and
Northern Development Canada**



Modern Treaty Training for Federal Officers

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Workshop Objective

1. Overview of Canada's Contracting Process
2. CLCA Obligations
3. Tools
4. Specific Awareness Sessions
5. Questions



Procurement Process

Objectives:

To acquire goods, services and construction in a manner which:

- Enhances access
- Provides competition
- Treats industry fairly; All potential suppliers of a particular requirement are subject to the same conditions
- Results in best value OR optimal balance of overall benefits to the Crown and the Canadian People
- Fair, Transparent, Open



Procurement Planning

Contracting Officer reviews the Statement of Work for the requirement to determining the method of supply:

- Competitive Process
- Post in the Federal Government Electronic Tendering System - Buyandsell.gc.ca
- Standing Offer
- Supply Arrangement
- Acquisition Cards
- Non-Competitive Process



Competitive Contracting

Request for Proposals (RFP)

- Used when procurement activity is not covered by a pre-existing Standing Offer or Supply Arrangement
- Satisfies Canada's obligations under the North American Free Trade Agreement
- Is considered to be the most fair, transparent and open methodology for obtaining goods or services.



Buyandsell.gc.ca

(Federal Government Electronic Tendering System)

- Allows suppliers to view bid opportunity notices and allows suppliers to request bid solicitation documents
- Allows potential suppliers to download documents from the Buyandsell.gc.ca website, which is the most economical and fastest delivery option available, as well as ordering documents using the traditional methods; phone, FAX, written request
- Basic services are FREE but suppliers subscribing to Buyandsell.gc.ca 's additional services or profiles are required to pay a service fee



Standing Offer

- Standing Offer: “A *Standing Offer Agreement* means a price agreement between the Government and a supplier, wherein the supplier agrees to provide, on demand, specified goods or services under specified conditions during a set period at a defined price or discount structure.”
- PWGSC has put in place a number of standing offers and supply arrangements that must be used before any new procurement is considered



Mandatory Standing Offers

The use of standing offers and supply arrangements for the commodity groups listed below is mandatory:

- N84: Clothing, Individual Equipment and Insignia
- N58: Communication, Detection, and Coherent Radiation Equipment
- N91: Fuels, Lubricants, Oils and Waxes
- N71: Furniture
- N70: General Purpose Automatic Data Processing Equipment (Including Firmware), Software, Supplies and Support Equipment
- N23: Ground Effect Vehicles, Motor Vehicles, Trailers and Cycles
- D3: Information Processing and Related Telecommunication Services
- N74: Office Machines, Text Processing Systems and Visible Record Equipment
- N75: Office Supplies and Devices
- R: Professional, Administrative and Management Support Services



Supply Arrangements

- Similar to Standing Offers – meets a recurring need
- Used mainly for services
- Uses a competitive process to determine a list of pre-qualified suppliers
- Includes a predetermined set of terms and conditions but allows for some negotiation
- Mini competition seeks bids on specific requirements
- Posted on Buyandsell.gc.ca, refreshed at least annually



Non Competitive – Sole Sourcing

Treasury Board Contracting Policy Notice 2007-04 - Non-Competitive Contracting

- The requirement MUST fall under one of the 4 exceptions
 1. The requirement is in response to an emergency (i.e. fire, flood, earthquake)
 2. It is not in the public interest to solicit bids (e.g.. there are national security implications)
 3. Only one supplier can do the work (holds patent, trademark or intellectual property essential for the work to be done)
 4. The requirement is less than \$25K



Procurement Under \$25K

- A purchase for less than \$25K is not reason enough to ignore the competitive process. Treasury Board contracting policy notice states: “contracting authorities are expected to call for bids whenever it is cost effective to do so.”
- For Service Contracts evidence that Canada is spending tax payer money wisely.
 - at least 2 proposals for the same work from different suppliers or
 - industry research showing average and/or range of fees paid for the services
- For Goods, price for comparable products need to be on file
- Deliverables to a CLCA area



Role of the Treasury Board (TB)

- Setting government-wide procurement policy and limits on project and contract approval authorities.
- Reporting on government-wide contracting.
- Approving entry into contracts and projects above the established limits.

Treasury Board Secretariat (TBS) supports TB in meeting these roles, is responsible for monitoring and managing compliance through the Management Accountability Framework (MAF), and leads the functional community (training and certification, policy interpretation).



Role of Departments and Agencies

- Departments and Agencies are responsible for:
 - Planning & defining their specific requirements
 - The acquisition and provision of goods and services that fall within their own delegated authority
 - Contract administration and post-contract evaluation
 - Ensuring their respective departments and agencies have the requisite capacities (training, certification, etc.) whether acquiring goods or services on their own authority or through PWGSC
- Departments may procure services and construction under their own authorities subject to the Treasury Board Contracting Approval Limits, and do not require a delegation from the Minister of PWGSC.



Role of Public Works and Government Services

- PWGSC is responsible for:
 - The acquisition and provision of goods and services for departments
 - Planning and organizing the provision of goods and services for departments
 - Investigating and developing services for enhancing integrity and efficiency in the contracting process
 - Investigating and developing services for increasing efficiency and economy of the federal public administration



Role of Public Works and Government Services cont'd

- Minister of PWGSC has exclusive authority (with some exceptions for SSC) to purchase goods for departments. However, the Minister of PWGSC has delegated to other Ministers standard authority:
 - To contract for goods up to \$25K through direct methods such as sole source/competed contracts, credit cards, purchase orders, etc.,
 - To enter into a contract for goods using a PWGSC pre-competed procurement instrument (e.g. Supply Arrangement or Standing Offer) up to the limit permitted in the instrument,
 - For emergency contracting for goods in accordance with Treasury Board policy.



Government Roles

PWGSC as the Contracting Authority

- 75% of the dollar contracts (\$ volume)
- 25% of the number of contracts awarded (Business Volume)

OGD as the Contracting Authority

- 25% of the dollar contracts (\$ volume)
- 75% of the number of contracts awarded (Business Volume)



Role of Aboriginal Affairs and Northern Development Canada (AANDC)

- Negotiate Land Claim Agreements for the Government of Canada.
- Provide interpretation of and advise on Comprehensive Land Claim Agreements and their associated Implementation Plans with respect to Canada's contracting obligations through TAG/Implementation.
- Provide interpretation/advice on Procurement Strategy for Aboriginal Business (PSAB) through APBP.
- Provide assistance to client departments in determining Aboriginal capacity to aid procurement strategy development.



Role of Aboriginal Affairs and Northern Development Canada cont'd

- Develop and provide training to client departments on contracting obligations pertaining to CLCAs and PSAB.
- Assist Aboriginal suppliers to market themselves to the federal government.
- Verify that an Aboriginal business meets the PSAB criteria and is registered in PSAB's Aboriginal Business Directory (ABD).
- Point of contact to request pre/post award audits of contracts awarded to Aboriginal suppliers under the PSAB.



CLCAs and Procurement

- Nineteen CLCAs have Economic Measures that affect your procurement. Each CLCA is unique and different.



Cities	CLCA
Whitehorse	Ta'an Kwach'an and Kwanlin Dun
Yellowknife	Tlicho
Inuvik	Inuvialuit and Gwitch'in
Iqaluit	Nunavut
Chibougamau	James Bay and Northern Quebec
Rocky Harbour	Labrador Inuit



Applicability of CLCAs

It is the final delivery point(s) (location of delivery) of the goods and/or construction, or the services performed that is the determining factor as to whether the contracting obligations of one (1) or more CLCA(s) apply.

PWGSC Supply Manual Reference 9.35



Contracting Challenges

Depend on:

- Type of procurement
- Type of contract
- Location(s) of delivery
- Timing
- Obligation ambiguity

Complexity

- Canada's Contracting Process
- CLCAs



Procurement Planning

- Many CLCA share similar language but it is important to understand the obligations of the individual CLCA where the goods, services or construction are to be delivered
- You should consider when feasible how can this procurement create socio-economic benefits for the aboriginal business community?
- Time Management



Engagement

To adequately engage with affected signatory groups, we suggest you contact the appropriate CLCA claimant group, either by:

- Telephone
- Fax
- E-mail
- Town halls/Industry Days

Remember, you can also discuss with your Policy Directorate or AANDC's Implementation Branch.



Chapter 9.35 – Comprehensive Land Claims Agreements

<https://buyandsell.gc.ca/policy-and-guidelines/supply-manual/section/9>



Comprehensive Land Claim Agreements

- Nunavut LCA – Article 24

- NWT
 - Inuvialuit Final Agreement
 - 16.2 (a)(b)
 - 16 (4)
 - 16.8 (b)(c)
 - CPN 1997-8 Section 2
 - Gwich'in Comprehensive Land Claim Agreement – Chapter 10.1.4
 - Sahtu Dene and Metis Final Agreement – Chapter 7.1
 - Tlicho Agreement – Chapter 26.3.1



Comprehensive Land Claim Agreements cont'd

- JBNQA
 - Cree Chapter 28
 - Inuit Annex A – Implementation Plan with Makivik
 - Nunavik Inuit LCA
- Labrador Inuit LCA – 7.10 Contracting
- Yukon – Chapter 22 (+)



Bid Invitation

- 24.7.1 - The DIO shall prepare and maintain a comprehensive list of Inuit firms, together with information on the goods and services which they would be in a position to furnish in relation to government contracts. This list shall be considered by the Government of Canada in meeting their obligations under this Article.

List of registered Inuit Firm:

www.inuitfirm.tunngavik.com



Notification of Procurement

The most common obligation is the notification of the procurement that must be issued to the appropriate claimant group(s). For the procurement of goods, services and/or construction destined for locations covered by land claim agreements, a copy of a notice describing the procurement, e.g. the Notice of Proposed Procurement (NPP) or Advance Contract Award Notice (ACAN), must be faxed to all land claimant groups listed in [Annex 9.2](#) for each of the applicable agreements, on the date of posting on the Government Electronic Tendering Service (GETS).

Supply Manual 9.35.35



Notification of Procurement

For procurements not posted on GETS, the contracting officer should send to the applicable land claimant groups a notice about the procurement, containing the same information that an NPP or ACAN would have contained. In such cases, contracting officers should allow the land claimant groups at **least 15 calendar days** to submit any enquiries before awarding a contract, although the CLCAs do not specify any waiting period.

For list of claimant groups please refer to Annex B of 9.35.35



Business Lists

- Nunavut Tunngavik Inc.: <http://inuitfirm.tunngavik.com/>
- Gwich'in: <http://biz.gwichintribalcouncil.com/find-registered-businesses/>
- Inuvialuit: <http://www.irc.inuvialuit.com/corporate/ibl/>
- Sahtu: http://driveit.clickspace.com/ir/clients/sahtu/pdf/businessdevelopment/category_order.pdf
- Tlicho: <http://www.tlicho.ca/node/191>
- JBNQA: <http://www.gcc.ca/links/links.php#busi>
- Nunavik: http://www.krg.ca/images/stories/docs/2012Business_Directory_updated.pdf
- LILCA: <http://www.nunatsiavut.com/index.php/education-and-economic-development/inuit-business-directory>



Business Lists cont'd

- Yukon
 - Champagne & Aishihik: <http://www.cafn.ca/busdev.html>
 - Carcross/Tagish: Under Development
 - Kwanlin Dun: http://www.kwanlindun.com/kdfn_business_listings/
 - Kluane: <http://www.kfn.ca/index.php/business>
 - Little Salmon/Carmacks: Under Development
 - Nacho Nyak Dun: Under Development:
http://nndfn.com/images/uploads/pdfs/NND_Business_Registry_Form_2012_copy_2.pdf
 - Selkirk: Under Development
 - Tr'ondek Hwech'in: Under Development
 - Ta'an Kwach'an: Under Development
 - Teslin Tlingit: <http://www.teslin.ca/businesses/business.html>
 - Vuntut Gwitchin: Under Development



C5 Expert

What is C5?

C5 is a tool to help in fulfilling the CLCA Contracting Obligations.

What does C5 do?

C5 is a rules-based application that determines contracting obligations Based on the statement of work.

How does C5 work?

C5 creates a report displaying the procurement Process detailing the Contracting obligations.

What is the time line?

4 days or less from submission.



CPN 2008-4

- CPN 2008-4 was developed to clarify monitoring and reporting obligations in implementing federal contracting in CLCAs
- 5.1.4.3 - The deputy head of INAC must prepare and disclose, on a public Government of Canada website, a quarterly report on contracts for each area covered by a CLCA within 90 calendar days after the end of the quarter. Each report must include the information described in sections 5.1.4.1 and 5.1.4.2 from each department and agency.
- http://pse5-esd5.ainc-inac.gc.ca/clcaonline/clca_public/Reports/SearchCLCAQuarterlyReport.aspx?lang=eng (link to CLCA.net Quarterly reports)



Data Elements

1. The name of the applicable CLCA(s) where the services or goods were delivered,
2. The postal code(s) for the locations benefiting from the services delivered, or where the goods are installed and put to use,
3. The name of the contractor,
4. Classification of the Contractor as either
 - A beneficiary of a Land Claims Agreement or an entity owned by the beneficiaries of the [Insert name of the appropriate CLCA], or
 - Not a beneficiary or entity owned by beneficiaries of the CLCA(s). The transaction number(s) in the departmental financial system (for example, the requisition number, commitment number or contract number).
6. The Contract Award date,
7. The contract expiry date,
8. The Economic Objects code,
9. A short narrative description of the goods or services to be delivered.
10. The value of the contract,
11. Department Name and Customer Information System (CIS) number, and
12. Address of the location from where the order originated.



Thank You!

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