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LEGAL STUDY

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procurement outside EU

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CONTENTS TABLE

| | | |
|----|---|----|
| 1. | Introduction | 6 |
| 2. | Executive summary | 7 |
| 3. | Main Challenges For European SME's | 9 |
| 4. | Preamble | 10 |
| 5. | What are CETA's guiding principles? | 11 |
| | 1. Openness, transparency, and the obligation to establish a centralized platform | 11 |
| | 2. Impartiality | 12 |
| | 3. No discrimination | 12 |
| | 4. Accountability | 12 |
| 6. | What is CETA's framework, and which markets does it cover? | 14 |
| | A. Which Public Entities are Open to Bids from European Companies? | 14 |
| | B. Which Goods and Services are Open for Bidding? | 15 |
| | C. What are the Value Thresholds for Qualification under CETA? | 15 |
| | D. Does an Exclusion Apply? | 15 |
| 7. | What are the General Tendering Principles in Canada? | 17 |
| | A. What are the Phases of the Procurement Process? | 17 |
| | B. Are all Procurement Processes Competitive? | 18 |
| | C. What are the Different Approaches to Tendering? | 18 |
| | D. What are the Different Solicitation Methods? | 20 |
| | 1. Request for Quotation ("RFQ") | 20 |
| | 2. Invitation to Tender ("ITT") | 20 |
| | 3. Request for Proposal ("RFP") | 20 |
| | 4. Request for Standing Offer ("RFSO") | 21 |

| | |
|--|----|
| 5. Request for Supply Arrangement (“RFSA”) | 21 |
| E. What Best Practices Should you Apply? | 22 |
| F. How are the Contracts Adjudicated? | 24 |
| G. Was the Contract Awarded Properly and Legally? | 25 |
| 8. Federal procurement | 26 |
| A. How is the Federal Purchasing System Organized? | 26 |
| B. How to Register as a Supplier? | 27 |
| C. How to Bid for Federal Contracts? | 31 |
| D. How to Challenge an unfavourable outcome? | 32 |
| 1. What is the Business Dispute Management Program? | 32 |
| 2. What is the Canadian International Trade Tribunal? | 32 |
| 9. Quebec procurement | 34 |
| A. How is the Quebec Purchasing System Organized? | 34 |
| B. How to Register as a Supplier? | 36 |
| 1. How are procurement opportunities published? | 37 |
| 2. How to obtain the necessary authorizations? | 37 |
| 3. What are other relevant requirements? | 38 |
| C. How to bid for Quebec Contracts? | 39 |
| D. How to Challenge an unfavourable outcome? | 40 |
| E. How to Navigate Local Procurement? | 41 |
| 1. What are the general principles that apply to local procurement?..... | 41 |
| 2. What are the different types of local procurement contracts and what are the CETA thresholds at the local level? | 42 |
| 3. How to register as a supplier? | 43 |
| 4. How to bid for the City of Montreal?..... | 44 |
| 5. How to challenge a bid and what are the recourse mechanisms? | 45 |

- 10. Ontario procurement 46
 - A. How is the Ontario Purchasing System Organized? 46
 - 1. What is Supply Ontario and what is its role? 46
 - 2. What are Vendor-of-record arrangements? 46
 - B. How to Register as a Supplier? 47
 - C. How to Bid for Ontario Contracts?..... 48
 - 1. How to bid for contracts with the Ontario Public Service (OPS)? 48
 - 2. How to bid for contracts with the Broader Public Sector (BPS)? 48
 - 3. How are contracts adjudicated?..... 50
 - D. How to Challenge an unfavourable outcome? 50
 - E. How to Navigate Local Procurement? 52
 - 1. How is the City of Toronto's purchasing system organized? 52
 - 2. How to register and bid for the City of Toronto? 53
 - 3. How to challenge a bid and what are the recourse mechanisms? 53
- Schedules..... 55

1. Introduction

This guide is a practical roadmap for European small and medium-sized enterprises (“SMEs”) to navigate the Canadian public procurement market.

European suppliers have a growing need for information and guidance as they seek to succeed when participating in Canadian public procurement processes. In response, this guide aims to enable and encourage European suppliers, particularly European SMEs, to take advantage of the plethora of opportunities offered by the Canadian Public procurement market.

This guide will provide the following information, in particular:

- A summary of the impacts of the Comprehensive Economic and Trade Agreement (“CETA”).
- A description of the markets covered by CETA and available to European suppliers.
- A description of the federal market, as well as that of the provinces of Ontario and Quebec.

For a list of the acronyms and terms used in this guide, see Schedule F of this guide. For any additional information or guidance concerning the Canadian public procurement market or CETA, you can contact the authors using the coordinates featured below.²

² The present guide contains and explains the broad lines of procurement processes and the requirements across the Federal, Quebec, and Ontarian markets. However, please note that this guide constitutes a summary, and the information provided will change over time. It is intended to be used as a preliminary roadmap only and does not constitute legal advice. To ensure the success of your bids on the Canadian market, you may need additional and/or updated information, for which we advise you to contact local counsel.

The present guide was drafted by Dentons Canada LLP, a legal service firm, in particular by Xavier Van Overmeire and Andreas Dhaene. Visit dentons.com for more details and contact information.

2. Executive summary

CETA has opened the Canadian, Quebec and Ontario government procurement markets to European SMEs. This guide provides a summary overview of those markets and provides basic information on how to navigate them. Here are the main takeaway points.

Which government contracts can I bid for?

- You can bid for contracts with governments at all levels, and with crown corporations: this includes the Canadian federal government, all the way down to the local (municipal) provincial governments.
- This means that you can bid for contracts with the vast majority of Canadian, Quebec, and Ontarian public entities, including government departments and agencies, municipalities, health or educational bodies, and government enterprises.
- Certain exclusions may apply to particular industries. Refer to Schedule E of this guide, and consult local counsel in Canada, to determine whether your business falls within an excluded category.

Where can I find contract opportunities?

There is **no centralized platform** for all public procurement opportunities in Canada.

For **Federal** bodies:

- Visit the government website <https://buyandsell.gc.ca/for-businesses>.
- Register on the future procurement website <https://canadabuys.canada.ca/en>.
- See Schedule B for more information and useful links.

For **Quebec**:

- Visit the government website <https://www.seao.ca/>.
- For contract opportunities with cities and municipalities, it is helpful to consult their individual website and search for a procurement (*approvisionnement* in French) or purchasing and supply section. Some examples:
 - Montreal: http://ville.montreal.qc.ca/portal/page?_pageid=5798,43301570&_dad=portal&_schema=PORTAL
 - Saint-Bruno-de-Montarville: <https://stbruno.ca/ville/approvisionnements/>.
 - See Schedule C for more information and useful links.

For **Ontario**:

- Visit the government website <https://ontariotenders.app.jaggaer.com/esop/nac-host/public/web/login.html>
- For contract opportunities with cities and municipalities, it is helpful to consult their individual website and search for a procurement or purchasing and supply section. Some examples:

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- Toronto: <https://www.toronto.ca/business-economy/doing-business-with-the-city/searching-bidding-on-city-contracts/>
- London (Ontario): <https://london.ca/business-development/purchasing-supply>
- See Schedule D for more information and useful links.

How do I bid?

- Ensure that you comply with the applicable laws and regulations.
- Obtain the tendering documentation and follow the steps described in the documentation.
- In case of doubt, refer to the tendering documentation and get in touch with the contact person mentioned in the documentation. It is also a best practice to retain local legal and/or consulting services.
- See our **section on best practices** for bidding (section III. E of this guide), and refer to the specific section that deals with the jurisdiction that you seek to do business in.

Where can I get help and information?

- You will likely be faced with questions and issues as you prepare to bid, or as you participate in the bidding process. The next section explains some of the main challenges that you should be prepared to face.
- For information, help, or advice, contact your country's trade or investment agency in Canada, and obtain the advice of local attorneys in the jurisdiction that you seek to do business in.

3. Main Challenges for European SME's

As a European **SME**, you will face challenges throughout your participation in the bidding process for public contracts in Canada. Some of the main challenges that you should be aware of include:

1. When you prepare for the bidding process:

- a. Making sure that your sector is not excluded from **CETA**.

The **CETA** framework of inclusions and exclusions is complicated to navigate and can appear nebulous or unclear. Contact your country's investment or trade agency in Canada and refer to a local attorney.

- b. Complying with applicable rules and regulations without a physical presence in Canada.

Even though you can participate in a tender as an international business, you will need to respect the applicable rules and regulations in Canada, and in the province where you will be doing business. For example, you may need to obtain tax numbers, to ensure and maintain conformity with anti-corruption and integrity regulations, and even obtain certain regulatory permits.

- c. Identifying opportunities in a decentralized landscape.

As we mentioned, there is no centralized platform for all tenders in Canada, its provinces and territories. You will have to be proactive and resourceful to identify specific tenders that could be of interest to you. The process will likely be time-consuming.

2. While you are in the bidding process:

- a. Obtaining feedback and support from the contracting body.

Since tendering in Canada may be new to you, you will likely have questions and problems that arise during the bidding process. As a rule of thumb, you should not expect to receive active nor timely feedback and support from the contracting body. In many cases, they may even refuse to exchange with bidding parties. Always refer to the tender documentation. Be prepared to face problems on your own, and don't hesitate to seek help from available resources in Canada such as your country's trade or investment agency, local attorneys, and local consultants.

- b. The potential language barrier in Quebec

In Quebec, all documentation and communications will be in French. Make sure you have the right resources on your team to successfully navigate the francophone landscape of Quebec.

3. After the bidding process:

- a. Following up on the process.

As we will explain later on in the guide, whether or not you have obtained the contract, timely action and follow-up is required after the process has been adjudicated in order to ensure long-term success in the public procurement market. Be prepared to reach out and ask for feedback on the strengths and weaknesses of your bid. Be prepared to challenge the outcome of the tender immediately if you raised any red flags during the process.

4. Preamble

Historically, only Canadian companies were allowed to partake in public procurement processes, whether by the nationwide federal government, or by the ten provincial or three territorial governments. The only way for European **SMEs** to participate in public tenders was through an **indirect mechanism**: either by creating a Canadian-incorporated wholly owned subsidiary, or by partnering with one or multiple local companies to create a joint venture or consortium.³

Change first came about in the form of the 1994 Multilateral Agreement on Government Procurement (“**GPA**”), which has been adopted by 48 signing countries within the framework of the World Trade Organisation (“**WTO**”). The GPA was intended to open the door for enterprises of signatory countries to participate in foreign public tenders. However, the mechanisms of the GPA are restricted by a considerable number of exclusions and limitations in the agreement. As such, its ability to empower European **SMEs** to participate in Canadian government procurement processes has been mitigated.

However, in 2017, Canada and the European Union concluded the Comprehensive Economic and Trade Agreement (“**CETA**”). One of CETA’s effects is to provide **very broad and direct access for European companies** to Canadian federal, provincial and municipal government procurement markets.

On paper, European companies and partnerships can now compete for public tenders directly and on equal footing with Canadian companies, provided certain requirements are met. These requirements relate primarily to the face value of the goods and services being procured, as well as to their nature and type.

The next two sections of this guide explain **CETA**’s guiding principles and its framework.

³ Schedule A of this guide contains a Quick Facts Sheet with information and definitions regarding Canadian subsidiaries, joint ventures, and consortia, as well as considerations for the incorporation of a company under Federal, Ontario, or Quebec law.

5. What are CETA's guiding principles?

Since CETA came into force in 2017, European SMEs can participate in public procurement processes initiated by all levels of Canadian government: federal (central), provincial, territorial, and even municipal. The opening of **municipal markets** under CETA is ground-breaking for non-Canadian companies, as they now have a clear competitive advantage over companies based in the United States ("US") since the free-trade agreement governing the latter does not provide this expanded access to sub-central public markets. The volume and value of provincial government contracts are approximately twice that of the federal government.

Under CETA, all levels of government in Canada must treat European suppliers of goods and services in an open, transparent and non-discriminatory manner when they participate in public procurement. There are four key guiding principles for trade between Canadian governments and European SMEs as described below:

1. Openness, transparency, and the obligation to establish a centralized platform

Governments subject to CETA must promote access to information, by making procurement documents clear and accessible to businesses, and by publicly disclosing information about each opportunity and the applicable rules during a competitive procurement process. Governments must provide a description of the nature and quantity of goods or services being provided, the conditions associated with supplier participation and the evaluation criteria that will be used to select a supplier. It also requires that information be provided to unsuccessful bidders with respect to the awards of contracts so that they can improve their chances for future bids. Technical specifications must be based on international standards and described in terms of functional or performance requirements. Restrictions on the technical and documentary specifications of the tender are also imposed for example, by preventing procuring agencies from establishing technical specifications that would have the effect of creating unnecessary barriers to trade.

The principle also aims at establishing **unique and centralized forums (one-stop-shop) for publishing calls for tenders**, in accordance with Article 19.6 of CETA. Canada has indeed committed to creating a website to facilitate procurement between businesses by consolidating information on all tenders, thereby providing access to procurement for all levels of government. This commitment to creating a website is consistent with the joint commitments made by Canada and the EU to establish a single electronic reference access point for bidders, which will operate in a similar manner to the single electronic access point already maintained by the EU, and will allow suppliers to quickly retrieve information on all business opportunities in Canada covered by the CETA. Given the technical complexity of developing such an electronic system, Canada has a transitional period of five years to implement it. At the time of writing, there is still no single electronic point of access for all tenders across Canada. The deadline for the implementation of such a platform is September 21, 2022. In the meantime, business opportunities can

still be found on the sites of each jurisdiction. In addition, certain online resources publish calls for [tender](#) on a pan-Canadian scale, including [MERX](#)⁴, [Biddingo](#)⁵, [BidsandTenders](#)⁶.

2. Impartiality

The bidding process must be fair, and bids must be subject to the same conditions for all participants. This provides for the establishment of procedural rules designed to increase the fairness of the process, including taking into account both Canadian and foreign competence and capabilities, not requiring prior experience in Canada as a condition for participation, establishing a level playing field for technical specifications and tender documentation (through performance and functional requirements rather than design or descriptive features), establishing clear rules for negotiations as well as procedures for processing bids and awarding contracts, and setting minimum transaction time frames to ensure that suppliers have sufficient time to prepare and submit their bids.

3. No discrimination

Canadian procurement entities cannot treat EU suppliers in a manner that is less favourable than their Canadian counterparts. As such, this guiding principle prohibits offset mechanisms or nationalist policies, i.e., any condition or commitment that encourages local development or improves a party's balance of payments account (e.g. domestic components, technology licensing, investment, offset trade, etc.). For example, procurement entities may require that suppliers have prior experience, but cannot require that experience to be in the entity's territory.

4. Accountability

[CETA](#) also provides that each Party shall establish an internal review procedure, either administrative or judicial, in the event of non-compliance with [CETAs](#) procurement provisions, through which potential suppliers can challenge procurement decisions that they believe violated the [CETA](#) obligations. Allowing suppliers, the right to challenge a procurement decision gives them confidence that the process will be conducted in a fair and impartial manner. It also eliminates the need for suppliers to rely on their home country to redress perceived violations of this international agreement.

Each government entity is accountable to a complaint management body. The methods used for the resolution of a contractual dispute depend on the contracting authority identified in the solicitation. It is important to note that there are different and mandatory dispute resolution processes for federal and sub-central government procurement processes. Notably, European companies facing difficulties in the context of a Canadian procurement process can contact:

- a. The **Business Dispute Management Program** ("BDM") - in case of difficulties with a federal government contract.
- b. The **Canadian Competition Bureau** - in case of anti-competitive behaviour.

⁴ "MERX", online: <<https://www.merx.com/>>.

⁵ "Governmental Contract Portal", online: *Biddingo* <<https://www.biddingo.com/>>.

⁶ "Bids and tenders", online: <<https://www.bidsandtenders.com/>>.

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- c. The **Canadian International Trade Tribunal** (“CITT”) - in case of difficulties with a federal government contract that is subject to a trade agreement.
- d. The **Autorité des marchés publics** (“AMP”) - in case of difficulties with a Quebec government contract.

These guiding principles underlie and structure the application of **CETA**’s mechanisms and rules.

While **CETA**’s mechanism for the participation in Canadian government procurement tenders was intended to be comprehensive, it does have certain limits and does feature certain exclusions. Below, we provide a general overview of **CETA**’s general framework as a guide to European companies for the assessment of the applicable rules.

6. What is CETA’s framework and which markets does it cover?

Not all Canadian markets and sectors are open for European companies to participate in government tenders. In addition, Canadian tenders do not always explicitly indicate whether or not they fall under [CETA](#) and allow direct participation by European or other foreign companies.

A European company preparing to bid for a Canadian government tender should always verify whether the [tender](#) documents correctly indicate that their market is covered by [CETA](#). If there is no clear indication, a preliminary auto-assessment can be made by answering the following questions:

1. Is the public entity that issues the call for tenders subject to [CETA](#)?
2. Are the goods and/or services requested in the [tender](#) subject to the [CETA](#)?
3. Is the value of the contract equal to, or greater than, the applicable [CETA](#) threshold?
4. Can a specific exception or exclusion to [CETA](#) be invoked?

It should be noted that the framework, exclusions, and tendering rules provided for in [CETA](#) are of a legislative nature and are therefore legally binding.

A. Which Public Entities are Open to Bids from European Companies?

The vast majority of Canadian public entities are subject to [CETA](#), including government departments and agencies, municipalities, education, health and social service agencies, Crown corporations, and government-owned commercial enterprises. Nevertheless, certain specific exclusions apply. The list of entities that are subject to [CETA](#) can be found in Annex 19A-1 of the [CETA](#) text for central government entities, Annex 19A-2 for sub-central government entities and Annex 19A-3 for other government entities, as subdivided below.

| Federal | Provincial and territorial | Local (MASH) |
|--|--|---|
| <ul style="list-style-type: none"> • Ministries • Agencies • Crown corporations | <ul style="list-style-type: none"> • Ministries • Agencies • Crown corporations | <ul style="list-style-type: none"> • Municipalities (Top-Tier Regions / Districts / Counties/ Lower Tier Cities / Towns/ Villages/ Municipal Corporations • Academic Organisations (Universities / Colleges) • School Boards • Health Sector Entities |

It may be useful to consult with Canadian experts to help you navigate the various lists of entities in the Agreement.

B. Which Goods and Services are Open for Bidding?

The general rule is that all types of goods and services, including all construction services, fall under CETA. In order for the subject matter of a public tender to be excluded from the Agreement, an express exclusion is required, as will be explained in Section D below. More details can be found in Annex 19A-4 for goods, 19A-5 for services and 19A-6 for construction services.

C. What are the Value Thresholds for Qualification under CETA?

To be covered under CETA, the contract must have a total value that meets or exceeds certain minimum thresholds. The thresholds of the Government Procurement Agreements (as per the WTO and CETA) are established in Special Drawing Rights (“SDR”, a financial instrument created by the International Monetary Fund (“IMF”)) and revalued every 2 years in Canadian currency to account for fluctuations in the exchange rate between the Canadian dollar and the SDR. The following table lists the Government Procurement Thresholds in Free Trade Agreements for 2020-2021.⁷

| Type | Federal Ministries and Agencies | Federal Crown Corporations | Provincial, territorial and MASH | Government enterprises/public services ⁸ |
|--------------------|---------------------------------|--|----------------------------------|---|
| Goods and services | 238 000 \$ | 650 000 \$ **for Hydro-Québec, the threshold is 732 400 | 366 200 | \$ 732 400 \$ |
| Construction | 9 100 000 \$ | 9 100 000 \$ | 9 100 000 \$ | 9 100 000 \$ |

D. Does an Exclusion Apply?

All exclusions can be found in Annexes 19A-1 to 19A-8 of the CETA text. A summary table of exclusions, based on extracts from the CETA text, can also be found in Schedule E to this guide. It is critical to determine in the early stages of any plans to participate in Canadian government procurement whether the public entity as well as their proposed goods and/or services are subject to an express exclusion.

⁷ <<Accords de libéralisation des marchés publics”, online: *Gouvernement du Québec, secretariat du Conseil du Trésor* <<https://www.tresor.gouv.qc.ca/faire-affaire-avec-letat/publications/info-marches-publics/bulletins/volume-22-numero-1-janvier-2020/>>; *Marchés publics*, online : *Gouvernement du Canada* <<https://www.international.gc.ca/trade-agreements-accords-commerciaux/topics-domaines/gp-mp/index.aspx?lang=fra>>.

⁸ Provision of airport or other terminal facilities to air carriers; provision or operation of networks providing a service to the public in the field of transport by railway, automated systems, tramway, trolley bus, bus or cable; provision of maritime or inland port or other terminal facilities to carriers by sea or inland waterway; provision or operation of fixed networks intended to provide a service to the public in connection with the production, transport or distribution of drinking water and treatment of wastewater, or the supply of drinking water to such networks; provision or operation of fixed networks intended to provide a service to the public in connection with the production, transport or distribution of electricity, or the supply of electricity to such networks; or provision or operation of fixed networks intended to provide a service to the public in connection with the production, transport or distribution of gas or heat, or the supply of gas or heat to such networks.

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Notable areas of activity that are excluded from [CETA](#), and are therefore inaccessible to direct bids from European companies are:

Public transportation [tenders](#) for Ontario and Quebec

- Cultural industries
- Aboriginal businesses
- Defence
- Research and development
- Financial services
- Recreational, sports and educational services
- Healthcare and social services

It should be noted that [CETA](#) does not limit the types of contracts that European SMEs can access. In addition, a market that is not covered by [CETA](#) may still allow external bids and it is possible that European [SMEs](#) who submit competitive bids will win these [tenders](#). There is no general form for determining whether a non-covered procurement accepts EU suppliers, and an analysis must be carried out for each case. However, it is common for [tender](#) documents to expressly state whether a particular procurement is subject to [CETA](#).

7. What are the General Tendering Principles in Canada?

This section defines and frames the procurement process applied in Canada by answering the following questions:

- What are the phases of the procurement process?
- Are all procurement processes competitive?
- What are the different solicitation methods?
- What are the best practices for tendering?
- How are the bids adjudicated?

We also provide an overview of the risks associated with participating in the procurement process.

A. What are the Phases of the Procurement Process?

(i) The pre-contractual phase

This phase refers to the period ranging from the preliminary procurement planning up to the issuance of the bid solicitation. It includes preliminary verifications by the public body such as:

- Determining and defining project requirements.
- Verifying the requisite form for goods and services.
- Funding requirements.
- Identifying environmental performance considerations.
- Choosing the appropriate procurement requirement.
- Developing a procurement strategy.
- Reviewing the evaluation and adjudication criteria.
- Developing and drafting the bidding documentation.
- Determining the appropriate contractor selection methodology.
- Approving the procurement process.

(ii) The contractual phase

This phase includes all activities between the bid solicitation issuance until the awarding of the contract, including the solicitation of competitive bids, responding to inquiries from potential bidders, evaluating bids, awarding contracts, debriefing unsuccessful bidders and responding to challenges to procurement decisions. The contractual phase can also be divided into three important stages:

| | |
|--------------------|--|
| Publication | <ul style="list-style-type: none">• It is during this stage that:<ul style="list-style-type: none">• Suppliers may ask questions |
|--------------------|--|

| | |
|-------------------------|--|
| | <ul style="list-style-type: none"> • Pre-bid meetings may be organized • The public entity may issue addenda related to a specific tender • The submission deadline marks the end of this period |
| Evaluation | <ul style="list-style-type: none"> • In this period, the contracting officer will evaluate bids for compliance with mandatory submission and technical requirements • Depending on how the contract is to be awarded, the contracting officer will rate the suppliers regarding their criteria evaluations and/or pricing evaluation • If there is a second-stage evaluation, meetings or demonstrations may be required to finish the evaluation |
| Vendor selection | <ul style="list-style-type: none"> • At this stage, the winning supplier is identified in accordance with the applicable selection criteria • Contractual negotiations may be allowed prior to contract execution |

(iii) Contract management phase

Once the contract has been successfully obtained, the process shifts to activities such as progress monitoring, deliverables tracking, payment processing, resolving disputes and amending contracts.

(iv) Post-contractual phase

This phase includes final interventions, such as final amendments on contracts, approving final payments, initiating audits, addressing claims, and closing files.

B. Are all Procurement Processes Competitive?

Broadly speaking, most contracts tendered for under [CETA](#) follow a competitive process. A non-competitive process can only be used in specific circumstances, notably:

- Cases where the value does not exceed specific thresholds, in line with the thresholds for European companies under [CETA](#);
- Cases of extreme urgency.
- Cases where only one person can perform the contract.
- Cases where the nature of the work makes it contrary to the public interest.

C. What are the Different Approaches to Tendering?

There are three tendering approaches under trade agreements: open tendering, selective tendering, and limited tendering.

(i) Open tenders

Occur when a Notice of Proposed Procurement (NPP) is issued and where any supplier is allowed to submit a bid. An NPP is a summary of the solicitation that briefly describes the requirements and provides relevant information to assist suppliers in determining their interest and their ability to successfully meet any key conditions for participating. If applicable, contracting officers must indicate in the NPP which trade agreement or agreements apply or if Canadian content restrictions apply. This tendering approach is the preferred method.

(ii) Selective tenders

Since preparing bids can be a costly process, a short list approach can be used, by using a one-time or permanent list of prequalified suppliers.

(iii) Limited or Restricted tenders

Under specific circumstances, a soliciting body may deviate from certain procedural obligations of the trade agreements. Limited tendering must not be used to avoid competition between suppliers, to discriminate against suppliers, or to protect domestic suppliers. Trade agreement rules regarding technical specifications must still be followed. Limited tendering is restricted and governed by Article 19.12 of [CETA](#).

D. What are the Different Solicitation Methods?

The approaches to tendering mentioned above translate to five recognized solicitation methods:

1. Request for Quotation (“RFQ”)

- **Threshold.** Contracts valued at or below \$25,000 for goods and at or below \$40,000 for construction and services.
- **Nature.** A government can issue an RFQ to one or more suppliers when it aims to rapidly adjudicate and award a contract to the lowest-priced bid. RFQs is not publicly posted and contracting officers can have suppliers submit their RFQs directly to them. The selected suppliers can be solicited verbally, in person or over the telephone.
- **Details.** Because of its short-form nature, an RFQ may not contain all the typical terms and conditions used in a contract. However, the requirements must be well defined, such that bids can be evaluated and compared based on price and delivery, and such that the contract can be awarded to the lowest-priced bid that meets the requirements. A verbal contract may be entered into by telephone (and an order may be placed) if the contracting officer has the appropriate authority. Written confirmation from the bidder is not required for telephone bids however, the contracting officer must record the details of the bid and the order must be confirmed in writing by issuing the relevant contract document and providing a copy to the supplier. Contracting officers must first verify the Ineligibility and Suspension List and ascertain that the bidder is not ineligible.

2. Invitation to Tender (“ITT”)

- **Threshold.** When the value of the contract is \$25,000 and more for goods, and \$40,000 and more for services and construction contracts, and two or more suppliers are able to fulfil the task, the government should generally issue an ITT.
- **Nature.** This solicitation method is used when the criteria are clear, and the bids can be submitted on a common pricing basis that allows the ranking of the suppliers to determine the lowest-priced bid. An ITT can be used to solicit bids through public advertisement on the Government Electronic Tendering Service (“GETS”), through direct invitation of selected suppliers, or by invitation of one supplier in the case of a non-competitive process. Public openings should be considered for any bid where the contract award will have a high degree of public visibility.

3. Request for Proposal (“RFP”)

- **Threshold.** Not applicable.
- **Nature.** An RFP is used when the bidder selection is based on best value rather than on price alone, and when suppliers are invited to bring an effective solution to a problem. Bids are thus evaluated according to specific criteria set out in the bid solicitation.
- **Details.** Just like an ITT, bids can be solicited through public advertisement on GETS, through the direct invitation of selected suppliers, or by invitation of one supplier in the case of a non-competitive process. Responses to the bid solicitation may result in negotiations before contract award when applicable. To reduce the costs to suppliers, these types of bids can be formulated in two steps where

suppliers are first requested to provide letters of interest and qualifications which allows the government to develop a short list and second, short-listed suppliers are then requested to submit more detailed and complete bids.

4. Request for Standing Offer (“RFSO”)

- **Threshold.** Not applicable.
- **Nature.** A standing offer is a continuous offer from a supplier to the government that the purchase of goods or services on a recurring basis and through the use of a call-up process.
- **Details.** Suppliers that meet the evaluation criteria and selection methods are pre-qualified and issued a Standing Offer (“SO”). An SO is not a contractual commitment by either the government or the supplier. When goods and services available through an SO are needed, the government agency usually issues a time-sensitive call-up, which becomes contractual upon the supplier’s acceptance. Call-ups under an **RFSO** are always done through non-competitive processes.

5. Request for Supply Arrangement (“RFSA”)

- **Threshold.** Not applicable.
- **Nature.** Just like an SO, a supply arrangement (SA) is also a non-binding agreement between the government and a pre-qualified supplier that allows agencies to solicit bids for specific requirements. However, there is also a second-stage solicitation issued to some or all of the pre-qualified suppliers.
- **Details.** Unlike an SO where the terms and conditions, including price, are set as part of the bidding process, SAs give suppliers the opportunity to change their bids to reflect market changes, innovation, or pricing adjustments.

E. What Best Practices Should you Apply?

Every **solicitation** is unique and will include the essential information and rules on how to structure your bid, and on how it will be evaluated. Staying informed and respecting these rules will help you to avoid issues and delays during the process. The solicitations will minimally include:

- A clear definition of the requirements.
- Instructions to bidders.
- Instructions for preparing bids.
- Clearly defined evaluation procedures.
- Requirements for certifications.
- Security and financial requirements.
- Rules for bid validity.
- Resulting contract clauses.
- Instructions informing suppliers that they can request information about the results of the **RFP** and the evaluation of their bid.

All inquiries and other communications regarding the **solicitation** must be directed only to the contracting officer identified in the **solicitation**. Contact with the client department or other government officials can be a breach of the tender rules and thereby render your bid non-compliant and/or inadmissible.

Generally speaking, a tender or bid will be comprised of these four sections:

1. **Technical section:** in this section, you must demonstrate to the evaluation team that you have understood the requirements. You will need to describe the work you will be doing and how you plan to do it, including your plan, methodology, feasibility, problems, contingencies, deliverables and schedule.
2. **Management section:** in this section, you must present your team members (and your subcontractors, if applicable) and their skills, usually through providing their resumes.
3. **Financial section:** this section must include a detailed breakdown of the price you are asking for by cost components. The bid **solicitation** indicates the cost elements that you must consider. No other costs can be considered.
4. **Security clearance:** a clearance may be necessary when a contract requires a supplier to access classified or protected information, assets or sensitive federal work sites. The solicitation document will specify what level of security clearance is needed. This can be a lengthy process. Therefore, you should plan ahead and speak to the contracting officer to get the process started as soon as possible.

In drafting or completing the bid, make sure to apply the following guidelines:

- **Carefully review** and make sure you understand the clauses, general conditions and standard instructions. Before you start writing, figure out which criteria are mandatory (the “must-haves”).

Mandatory criteria are usually evaluated on a simple pass/fail basis. If your bid fails to meet any of the mandatory criteria, such as a surety bond, it will be considered non-responsive.

- Make sure that you **follow the instructions** provided and address each and every point completely. You may be asked to provide your bid in various separately bound sections such as: a technical section, management section, financial section and certifications, if required.
- **Do not assume** that the government entity knows your qualifications and skills just because you have contracted with them before. You must complete each submission with the requested information. Ensure that your bid meets the conditions to bid, such as submitting it on time. This is especially important since only responsive bids will be evaluated, regardless of the quality of the document.
- **Provide details where required**, starting with a short introduction that includes an overview of the present situation, why the proposed work is needed and the benefits to the organization. Describe what you plan to do and how the project will be completed, along with backup plans should problems arise. Include specific tasks, a schedule for delivery and installation (if required), principal staff needed to do the project, as well as hours or days of work. This is a good opportunity to introduce your team. Name each team member, list their education and work experience, and make sure their individual qualifications complement what the project needs. If you decide to hire a subcontractor or sub-consultant, include their information as well. Do not include your price in this section.
- Give an **accurate and realistic quote** by providing a detailed breakdown of your price in the financial section. Remember that if a tender is accepted, it will be legally binding and pricing changes may not be possible, depending on the terms of the solicitation and tender.
- **Double-check** the document to make sure you have covered all the sections, especially those that carry the most points during the evaluation and all mandatory requirements. Check if your bid is compliant with any regulatory and other applicable requirements.
- You might also consider adding **complementary information**, such as: an executive summary and a table of contents with page numbers if your proposal is long; awards your company may have won, or a breakdown of successful projects; your company's logo or company name on each page.
- *Helpful hint:* it is imperative to submit your bid within the agreed time frame in order to be selected as a supplier. There are **six time zones** in Canada, so it is very important to check the deadline for bid submission. Most Canadian cities operate on Daylight Saving Time.

If your bid is not selected, you can request a debriefing from the contracting officer, preferably within 15 working days of receiving the results. This will allow you to identify the evaluation criteria used and understand how and why a supplier was awarded a contract, in order to readjust and improve future bids, or in order to refer to a challenge and recourse mechanism.

- *Warning:* some calls for tenders will include a specific deadline for the submission of a **debriefing** request. Make sure to check the documentation for tailored deadlines.

If your bid was selected, it is highly advisable to arrange, if possible, that a **dispute resolution process** be built into the contract to manage disputes throughout the life of the contract.

F. How are the Contracts Adjudicated?

Bids will be evaluated in accordance with the evaluation criteria established in the bid solicitation documents.

Broadly speaking, public contracts can be awarded through four methods. The method of adjudication will be mentioned in the tender document.

| | |
|---|---|
| <p>Lowest price with mandatory requirements only</p> | <ul style="list-style-type: none"> • Used when the procuring agency can easily define its requirement in its tender document, and where the mandatory requirements account for the entire scope of a project. • Bids are assessed against the mandatory criteria only, on a pass-fail basis, and compliant bids are then chosen based on the lowest price. No point-rated criteria are used. |
| <p>Lowest price with mandatory requirements and point-rated criteria</p> | <ul style="list-style-type: none"> • The minimum quality and price award method is most often used when the public agency feels it is important to evaluate a defined minimum level of quality for certain characteristics of a good or service but does not want to pay more for more quality. • Bids are first evaluated against the mandatory requirements, and bids meeting the mandatory requirements are then assessed against point-rated criteria. A minimum pass score is generally set for the point-rated criteria. Among those bids meeting the mandatory criteria and the minimum score for the point-rated criteria, the contract is awarded to the lowest price bid. |
| <p>Lowest adjusted price</p> | <ul style="list-style-type: none"> • When the public agency is willing to pay a higher price for more quality, it chooses the value-for-money award method, where the price of each acceptable bid is adjusted according to a mathematical formula. • The government agency evaluates the quality of the bids, adjusts the price according to the mathematical formula and awards the contract to the bidder whose bid is responsive and whose adjusted price is the lowest. |
| <p>Combination of technical merit and price</p> | <ul style="list-style-type: none"> • Used when price is not a major competitive consideration or is not a consideration at all. The contract is awarded to the service provider with the highest final score for an acceptable bid. • Both point-rated criteria and price are incorporated into the evaluation, but one is given more weight. For example, for a project requiring technical knowledge, the point-rated criteria may account for 80% of the evaluation and the price for 20%. • This award method can also be based on a quality-only basis when the price is not a competitive consideration (and such is assigned no weight or a very small weight). |

G. Was the Contract Awarded Properly and Legally?

Although there are exceptions to avoid the bidding process, a public entity that does not follow the competitive process and is unable to demonstrate that any of the exceptions were available to it may have its contract nullified by a competent office, tribunal, or court.⁹ Various non-conformity problems can also arise during this process. Some questions that you should ask include:

- Did you submit a technically compliant proposal?
- Did the contracting entity include restrictive specifications in the bid [solicitation](#) such as regional content requirements?
- Did the [solicitation](#) include ambiguous evaluation criteria?
- Did the bidding officer properly evaluate all bidders in accordance with the conditions listed in the bid documents?
- Did the bidding officer base their selection of bidders on criteria that were not disclosed in the evaluation process?
- Did the bidding officer allow a non-conforming amendment to the [tender](#) documents, i.e. not allowing all bidders to correct their bids accordingly after the closing date.
- Did the adjudicator accept a proposal submitted after the closing date that should otherwise have been rejected?
- Did the bidding officer ignore essential information that could have been critical to a particular supplier?
- Did the government purchase office haggle with bidders in an inappropriate manner after their proposal submissions?

For detailed information on how to file complaints and obtain remedies in case of a suspected violation or an injustice, consult the section below that pertains to the jurisdiction of the contract.

⁹ R c Woodburn, (1898) 29 RCS 112.

8. Federal procurement

The government of Canada devotes approximately \$22 billion annually to the purchase of goods and services for its departments and agencies.¹⁰ To take advantage of the many opportunities offered by federal government contracts, it is essential to know the procedures of the agency that manages this spending: **Public Works and Government Services Canada (“PWGSC”)**.¹¹

A. How is the Federal Purchasing System Organized?

The **Treasury Board (“TB”)** is the general manager and regulator of federal government procurement. It sets out the guidelines and policies for the general process for the procurement of goods and services by the government.

In practice, and with some exceptions, procurement for Federal Ministries and Agencies purchases is handled by a **Common Service Organization (“CSO”)**, which is designated as a central supplier. For certain mandatory services, Ministries and Agencies (“M/As”) must purchase through a CSO unless they are exempted by the Treasury Board or granted the necessary delegation of authority from the CSO to carry out purchases themselves. Some departments do have existing authority to manage their purchases directly (such as the Department of National Defence for certain services).

As such, CSOs act as a one-stop-shop solution for M/As, and as a single access platform to the government for private contractors, to obtain advantages from economies of scale and to seek benefits from the pooling of specialized expertise. For other optional services, M/As have the choice of going through a CSO on an optional basis, or arrange for other sources of supply, including internal supply, suppliers outside of government, or shared services with other departments (for example, **Shared Services Canada** handles the purchase of software, printers and computers).

Most of the federal purchases for goods and services are carried out by PWGSC, which acts as a CSO under the alternate name **Public Services and Procurement Canada (“PSPC”)**. The purpose of PSPC is to serve the Federal Government as its central purchasing agent, linguistic authority, real property manager, treasurer, accountant, integrity adviser, and pay and pension administrator.

In an effort to modernize procurement practices, the federal government has established the **Canadian Collaborative Procurement Initiative**¹² by which all twelve provincial and territorial governments, as well as the MASH sector and other entities are able to benefit from PSPC’s purchasing power and knowledge. For suppliers, this means that the scope and potential value of each contract increase as a result of such a consolidation of purchases. It also reduces the time and resources required to develop bids.

¹⁰ “The Procurement Process”, online: *Government of Canada* <<https://buyandsell.gc.ca/for-businesses/selling-to-the-government-of-canada/the-procurement-process#20>>.

¹¹ The legal name of the Department is “Department of Public Works and Government Services”. The department may also be referred to as Public Services and Procurement Canada (PSPC).

¹² Canadian Collaborative Procurement Initiative”, online: *Government of Canada* <<https://www.tpsgc-pwgsc.gc.ca/app-acq/app-collaborat-procur/index-fra.html>>.

B. How to Register as a Supplier?

Since 2013 and in an effort to comply with CETA requirements, all bidding opportunities are published via the **Government Electronic Tendering Service (GETS)**, a service available through the website called Buyanse11.¹³ Federal M/As have an obligation to post, on this website, any bid that is subject to a trade agreement such as CETA¹⁴. The MERX website¹⁵ can also be consulted, subject to certain access fees.

However, the Canadian federal government is transitioning to a new and updated online platform for procurement services called **CanadaBuys**,¹⁶ hosted on **SAP Ariba**. To register, visit <https://canadabuys.canada.ca/en/canadabuys>, create an account, and view procurement opportunities. Eventually, all procurement done by PSPC will be posted on CanadaBuys. For the moment, the **BuyandSell** website remains online and is available to all, free of charge and without restriction. Suppliers do not need to register or create a user account to view opportunities.

On these platforms, the government has an obligation to publish an **Advance Contract Award Notice (“ACAN”)**. The ACAN is a public notice published for a period of at least 15 business days. During this posting period, suppliers may indicate their interest and submit a statement of capabilities.

Once a business has identified an opportunity that it wishes to bid on, it must register in the **Supplier Registration Information (“SRI”) system** in order to obtain a **Procurement Business Number (“PBN”)**, a mandatory prerequisite for contracting with the federal government. Registration with the SRI requires a Business Number (BN) or a Goods and Services Tax/ Harmonized Sales Tax (GST/HST) number⁻¹⁷ and the business name as registered with the Canada Revenue Agency (CRA). Sole proprietors can provide their own name as the business name.

Once you have gathered all the information, you can visit the registration page on **SAP Ariba**.¹⁸

¹³ “Tenders”, online: *Government of Canada* <<https://buyandsell.gc.ca/procurement-data/tenders>>.

¹⁴ For opportunities that fall below the trade agreement thresholds federal public entities may use other electronic databases such as Supplier Registration Information, ProServices and SELECT

¹⁵ “Merx”, online: <<https://www.merx.com/>>.

¹⁶ “Canada buys”, online: *Government of Canada* <<https://canadabuys.canada.ca/en/about-us>>.

¹⁷ The first nine digits of your GST/HST number are your Business Number (eg:123456789RT0001).

¹⁸ “SAP Ariba Proposals and Questionnaires Register”, online: SAP Ariba <<https://service.ariba.com/Register.aw/124987036/aw?awh=r&awssk=SdlpdP9n&dard=1&ancdc=1>>.

| How to Register in SRI | |
|---|--|
| <p>Before registering, ensure you have your BN. If you do not have a BN and you are outside of Canada, consult the CRA's Non-resident GST/HST Registration and Security Enquiries.¹⁹ There is also a CRA webpage to guide you on how to register for your BN.²⁰</p> <p>Open the SRI page and enter your BN and your legal name. You will then receive an email containing your PBN.</p> <p>Return to the SRI registration page and click on "Access my account". Complete your registration with your PNB, username, password and your company information such as address and contact. From there on, you can indicate the goods and services your company wants to supply to the government. It can be useful to refer to the Goods and Services Identification Number (GSIN).²¹</p> | |
| How to Register on SAP Ariba (CanadaBuys) | |
| <p>First, gather the following information:</p> | |
| <p>Basic company information</p> | <ul style="list-style-type: none"> • Company name (legal name) • Street address • City • Province • Postal code • Country • Decide on who will be the main user and enter this person's name, email address, and phone number |
| <p>Company profile</p> | <ul style="list-style-type: none"> • Short description of your company • Product/service categories (what your business sells) • Ship-to address and service locations • Year founded • Number of employees |

¹⁹ "Non-resident GST/HST Enquiries", online: Government of Canada <<https://www.canada.ca/en/revenue-agency/corporate/contact-information/non-resident-gst-hst-enquiries.html>>.

²⁰ "How to register for a business number or Canada Revenue Agency program accounts", online: Government of Canada <<https://www.canada.ca/en/reve-nue-agency/services/tax/businesses/topics/registering-your-business/register.html>>.

²¹ "Goods and Services Identification Number", online: Government of Canada <<https://buyandsell.gc.ca/procurement-data/goods-and-services-identification-number>>.

| | |
|---|--|
| | <ul style="list-style-type: none"> • Whether your business is a sole proprietorship, corporation, partnership or cooperative |
| General business questions | <ul style="list-style-type: none"> • Industry • Type of business • Names of current owners, directors, and partners AND the relationship (such as owner, trustee, etc.) but their position is optional (such as CEO, CFO, etc.) • Official documents for environmental management systems (if applicable, such as ISO14001, etc.) • Link(s) to sustainable suppliers' rating systems (such as LEED or equivalent) |
| Financial Information | <p>CRA BN</p> <p>CRA ownership type (sole proprietorship, partnership, corporation, other)</p> <p>Vendor type (Canadian, non-Canadian)</p> <p>Country code (if non-Canadian)</p> <p>Preferred method of payment</p> <p>Bank name</p> <p>Bank address</p> <p>Name of the account holder</p> <p>BIC/SWIFT code</p> <p>Bank sort code</p> <p>Account type</p> <p>Account number</p> <p>Bank control key (an alphanumeric, two-character field that indicates the type of bank account such as chequing, savings, credit, etc.)</p> <p>International Bank Account Number (IBAN)</p> <p>Wire instructions</p> <p>Copy of a voided cheque or wire details from your bank</p> |
| <p>Once you have gathered all the information, you can visit the registration page on SAP Ariba.²²</p> | |

²² "SAP Ariba Proposals and Questionnaires Register", online: SAP Ariba <<https://service.ariba.com/Register.aw/124987036/aw?awh=r&awssk=SdlpdP9n&dard=1&ancdc=1>>.

To contract with the Government of Canada, you cannot be identified on the list of ineligible and suspended suppliers under the Integrity Regime.²³ As a supplier, it is essential that you consult this list to ensure that you are contracting with eligible subcontractors. The **Ineligibility and Suspension Policy**, which is part of the Government of Canada Integrity Regime sets out when a supplier may be declared ineligible or suspended and the length of these periods.

²³ "Ineligible and suspended suppliers under the Integrity Regime", online: Government of Canada <<https://www.tpsgc-pwgsc.gc.ca/ci-if/four-inel-eng.html>>.

ProSME: supporting European SMEs to participate in public procurement outside EU

C. How to Bid for Federal Contracts?

As mentioned, every **solicitation** is unique and will include the essential information and rules on how to structure your bid, and on how it will be evaluated.

Follow the instructions in the documentation provided by the soliciting entity, whether on CanadaBuys or through any other platform. Do not hesitate to reach out to the contact person mentioned in the documentation for any clarification.

PSPC publishes the following best practices checklist for their procurement processes:²⁴

You must:

- Read all terms and conditions thoroughly.
- Meet all mandatory criteria.
- Respond to all sections, regardless of point value (Note: not all evaluations are point-rated).
- Provide the number of copies of your bid as requested in the **solicitation** document.
- Make sure that all certifications are included with your bid, if requested.
- Remember that the contracting officer, not the end-user, is your only point of contact during the bidding process.
- Sign your bid and make sure to fill in and sign all required elements (e.g., certifications) within your bid.
- Follow the instructions completely and submit your bid on time and to the right place.

Failure to do the above could result in your bid being deemed non-responsive or non-compliant.

You should:

- Organize your bid so that it is complete, concise and precise.
- Include the following on the front page of your bid:
 - The reference number you have assigned to the bid for legal purposes.
 - Public Works and Government Services Canada file number and the date; and
 - The name, address and phone number of your contact person.
- Write an executive summary, paginate, and include a table of contents.
- While responding to all criteria, pay particular attention to sections that may carry more points in point-rated evaluations.
- Put your logo or business name on every page.
- Have fresh eyes do a quality review of your bid before submitting it.

²⁴ "Best Practices for Bidding: A Checklist", online: Government of Canada <<https://buyandsell.gc.ca/for-businesses/for-businesses-guide/bid-on-opportunities/best-practices-for-bidding-a-checklist>>.

After the contract has been awarded, ask the contracting officer for a debriefing.

D. How to Challenge an unfavourable outcome?

If concerns arise about certain elements of the process (before, during or after the bid solicitation stage), the first point of contact for discussion should be the contracting officer in the relevant department or agency. Most often, complaints relate to work completed without a written contract, notification of bid evaluation results, contract award notification, problems with the supplier debriefing, the inappropriate administration of a contract, the terms and conditions of the contract not being respected.

1. What is the Business Dispute Management Program?

The federal Business Dispute Management (“BDM”) program provides services to participants and issuers of calls for tenders for the resolution of issues through mechanisms of alternative dispute resolution (commonly referred to as “ADR”). It is the first point of outreach in case of concern regarding the tender process.

Further information about the BDM program,

including its contact information, can be found on its website.²⁵ In particular, the BDM program provides the following services:

- Consultation
- Coaching
- Facilitated discussion
- Mediation
- Arbitration

Participation in these services is voluntary. The BDM program is not a decision-making entity and does not have the authority to issue binding orders to the participating parties. If discussions with the issuing entity deteriorate, you should consider addressing the Canadian International Trade Tribunal.

2. What is the Canadian International Trade Tribunal?

The competent authority to rule on a challenge of the award of a federal government contract is the **Canadian International Trade Tribunal (CITT)**. The CITT was put in place to respect Canada’s obligations under its trade agreements. A European company that considers a procurement activity or the procurement process to be unfair or discriminatory may apply for relief to the **CITT**.

The time limits to file proceedings before the **CITT** are very short: a supplier has **10 working days** from the day the supplier becomes aware or should reasonably have become aware of the reason for the complaint. For example, if you considers that you should have won the **tender**, because you were the lowest-bidding compliant bidder, you must file proceedings within 10 working days of the moment at which the name of the winning supplier becomes known.

²⁵ “Get help managing business disputes where Public Services and Procurement Canada is the contracting authority”, online: <<https://www.tpsgc-pwgsc.gc.ca/gcc-bdm/index-eng.html#a3>>.

It is sometimes possible to **suspend this ten-day period** by submitting a **formal written objection** to the public adjudicator concerned. Therefore, be very careful with the time limits to avoid a premature rejection of your complaint. Normally, it takes 90 days for a complaint to be investigated. The [CITT](#), in accordance with the law, can extend this period of investigation up to 135 days when it is faced with a complex case. It is also possible, although uncommon, to apply for an expedited process that shortens the investigation to 45 days.

Instructions on how to file a complaint can be found on the [CITT](#) website. However, most companies hire legal counsel to accompany them before the [CITT](#). The following is an example of a complaint process that takes place within a 90-day time frame:

- The complaint is filed with the [CITT](#).
- The [CITT](#) rules on the admissibility of the complaint (a refusal must be justified by a written decision).
- Publication of a notice of inquiry in the [Canada Gazette](#).
- The contracting entity files a “report of the federal institution” and answers all questions arising from the complaint.
- The supplier may, if it wishes, file written comments on the report of the adjudicator.
- Deliberation of the [CITT](#) (possibility of a public hearing).
- The [CITT](#) renders a decision.

When a complaint is upheld, the [CITT](#) will then recommend a remedy that must be implemented by the public entity. For example, the [CITT](#) could order a new [tender](#), a re-evaluation of the bids, the termination of the contract, the awarding of the contract to the complainant, the payment of compensation for lost profits, etc. The [CITT's](#) decisions are subject to judicial review by the Federal Court of Appeal (“[FCA](#)”) and a request for a review may be filed within 30 days of the [CITT's](#) decision.

However, the [CITT](#) will not always intervene or grant relief in cases of a breach of the protocols established by the solicitation documentation. In a landmark case by the Supreme Court of Canada, *Double N Earthmovers Ltd v Edmonton (City)*, [2007] 1 SCR 116, a contractor appearing to meet all the criteria was selected for the bid. Following the award of the contract, the government entity noted the contractor’s noncompliance with certain technical requirements. Despite this, the government entity decided to maintain the contract with the contractor. A second contractor then challenged the award. Five judges determined that the municipality was within its rights to proceed with the contract even though the requirements set out in the [tender](#) documents were not fully met. The implication of this decision is that the government entity retains some discretion where the award process was conducted fairly and in compliance with applicable legal requirements.

9. Quebec procurement

The Quebec government is composed of several Ministries and Agencies, as well as approximately 1,200 municipalities, including major cities such as Montreal and Quebec City. The province of Quebec has the largest public sector in Canada. In 2019-2020, public tenders accounted for 78% of all contracts awarded by public entities (municipalities excluded) for a value of \$12.7 billion.²⁶ Suppliers should be aware that the majority of the adjudication and contracting process of a Quebec public organization is conducted in French.²⁷

A. How is the Quebec Purchasing System Organized?

In Quebec, the secretariat of the **Conseil du trésor** (Treasury Board) is the central entity in the management of contracts and material resources of the public administration. The Treasury Board runs its procurement activities through a government organisation called Centre d'acquisitions gouvernementales (**CAG**, the Center of Government Acquisitions). The **CAG** manages Quebec government procurement, and also makes group purchases for other government bodies. In addition, the **Sous-secrétariat aux marchés publics** (sub-secretariat for public contracts) ensures that contracting activities are optimally managed. The sub-secretariat has the responsibility of proposing legislative and regulatory texts, policies and directives regarding public sector contracts. It is also the entity responsible for the follow-up and negotiation of agreements on the liberalization of government procurement, such as **CETA**. The sub-secretariat is a primordial source of information for both contracting agents and suppliers.

Quebec government procurement is governed by the **Act respecting contracting by public bodies ("ACPB")**.²⁸ Quebec's legislative framework differs from the federal approach, which does not rely on laws passed by a parliament, but rather on administrative policies, guidelines and practices.

Under the authority of the ACPB, the Treasury Board issues two binding sets of directives:

(1) The first is applicable to all public bodies: the *Directive concernant la gestion des contrats d'approvisionnement, de services et de travaux de construction des organismes publics* (Directive concerning the management of contracts for procurement, for services and for construction work by public bodies).²⁹

²⁶ Statistiques sur les contrats des organismes publics 2019-2020., online : Government of Quebec <https://www.tresor.gouv.qc.ca/fileadmin/PDF/faire_affaire_avec_etat/Rapport_Statistiques_1920.pdf>.

²⁷ In accordance with the guideline issued by the Treasury board, Directive concernant la gestion des contrats d'approvisionnement, de services et de travaux de construction des organismes publics, section 2.

²⁸ Act respecting contracting by public bodies (ACPB), RLRQ, c C-65.1

²⁹ Available on this webpage: "Directives de gestion contractuelle", online: Government of Quebec <<https://www.tresor.gouv.qc.ca/en/public-procurement/cadre-normatif-de-la-gestion-contractuelle/directives-de-gestion-contractuelle/>>. Here is the link to the pdf document: a Directive concernant la gestion des contrats d'approvisionnement, de services et de travaux de construction des organismes publics, online : Government of Quebec <https://www.tresor.gouv.qc.ca/fileadmin/PDF/faire_affaire_avec_etat/cadre_normatif/directive_gestion_contractuelle.pdf>.

(2) The second is applicable to departments and agencies:³⁰ *Politique de gestion contractuelle concernant le resserrement de certaines mesures dans les processus d'appel d'offres des contrats des organismes publics*³¹ (Policy for contract management concerning the tightening of certain measures in tendering processes by public bodies).

Since 2015, the TB has issued certain recommendations as part of an initiative called the *Passeport Entreprise* (Enterprise Passport),³² a plan to make it easier for businesses to access government contracts and to allow more **SMEs** and start-ups to participate, by improving the tendering process in order for it to be more rigorous and transparent. These recommendations, issued to public contracting bodies, include:

- To ensure that contractual requirements or conditions are well adapted to the contracts to be carried out to avoid the systematic rejection of **SMEs** due to disproportionate requirements.
- Make it mandatory for public bodies to use standardized tender documents, thus avoiding the need for companies to validate all of these documents each time they wish to bid.
- When a quality assessment is required, provide a bid template in the tender documents to promote consistency of bid information to facilitate the selection committee's task.
- Make available to public organizations a computerized tool that will allow them to standardize the production of tender documents in order to standardize practices.
- Encourage the use of a Request for Interest (RFI) before issuing a tender to better understand the markets and solutions that meet the needs of public agencies.
- Give more consideration to fixed-price contracts (fixed price instead of hourly rate) and the allotment of contracts (making smaller contracts to get more bidders).
- Invite at least one **SME** in the case of an invitational tender.
- Publish draft tender documents to receive industry feedback prior to using the public tendering process.
- Consider extending the bidding period to allow companies to have time to prepare their bids.

³⁰ The policy applies to all identified organisms indicated in paragraphs 1 to 4 of section 4 ACAB such as "budget-funded bodies listed in Schedule 1 to the Financial Administration Act (chapter A-6.001), except bodies referred to in section 6; bodies whose personnel is appointed in accordance with the Public Service Act (chapter F-3.1.1); bodies other than budget-funded bodies listed in Schedule 2 to the Financial Administration Act, even when exercising fiduciary functions, and the Commission de la construction du Quebec, the Cree-Quebec Forestry Board, the Office franco-quebecois pour la jeunesse and the Office Quebec-Monde pour la jeunesse"

³¹ Available on this webpage: "Politique de gestion contractuelle", online: Government of Quebec <<https://www.tresor.gouv.qc.ca/en/public-procurement/cadre-normatif-de-la-gestion-contractuelle/politique-de-gestion-contractuelle/>>. Here is the link to the pdf document: ".Politique de gestion contractuelle concernant le resserrement de certaines mesures dans les processus d'appel d'offres des contrats des organismes publics, online : Government of Quebec <https://www.tresor.gouv.qc.ca/fileadmin/PDF/faire_affaire_avec_etat/cadre_normatif/politique_gest_cont_resserrement.pdf>.

³² Available on this webpage: "Publications", online: Government of Quebec <<https://www.tresor.gouv.qc.ca/en/public-procurement/publicationsk/>> Here is the link to the pdf document: "Passeport entreprise", online: Government of Quebec <https://www.tresor.gouv.qc.ca/fileadmin/PDF/faire_affaire_avec_etat/passeport_entreprises.pdf>.

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- Provide for the centralized qualification of firms for smaller IT contracts, thereby streamlining the contracting process.
- Ensure that companies retain ownership of the copyrights to their solutions, subject to appropriate licensing to the public body.
- Review the parameters related to the ISO1 requirement for IT contracts, so that more SMEs can bid.
- Provide an option for companies to bid electronically, in addition to paper format.

Who is the *Autorité des marchés publics* and what role does it play?

Since the coming into force of the *Loi sur l'intégrité en matière de contrats publics*³³ (Integrity in Public Contracts Act) on December 7, 2012, public procurement contracts and subcontracts covered by the Act can only be concluded with companies authorized by the ***Autorité des marchés publics*** (Authority of public markets, AMP), which replaced the *Autorité des marchés financiers* (AMF) in January 2019. Companies covered by the Act which must obtain authorization from the AMP are those that are involved in a call for tenders or award process for contracts and sub-contracts with departments and agencies, Crown corporations and municipalities in Quebec, involving an expenditure equal to or greater than the following thresholds:

- \$5 million for all construction and public-private partnership contracts and subcontracts.
- \$1 million for all service contracts and sub-contracts concluded following a call for tenders or awarded by mutual agreement.

The AMP is a neutral and independent government agency whose main role is to oversee public procurement and the application of laws and regulations governing public contracts in Quebec. Its oversight role covers the public sector, the health and education networks, Crown corporations and municipal organizations.

There is, however, one particularity with respect to the City of Montreal. The functions and powers vested in the AMP, with the exception of those relating to the review of the contractual management of a designated organization, are, with respect to the City of Montreal or a person or organization related to the city and covered by the Act, exercised by the Inspector General of the City of Montreal. The Inspector General is bound by the same obligations as the AMP would be in the exercise of its duties and powers.

The AMP's mission is to monitor all public contracts, including the compliance of the processes for awarding and granting these contracts. It is also responsible for the register of business enterprises that are authorized to enter into public contracts and subcontracts and the register of enterprises ineligible for public contracts. The Act respecting the *Autorité des marchés publics* gives the AMP various powers. Among these, the powers of audit and investigation allow the AMP, as the case may be, to issue orders, make recommendations or suspend or terminate a contract.

B. How to Register as a Supplier?

³³ Loi sur l'intégrité en matière de contrats publics, LQ, 2012, c 25.

1. How are procurement opportunities published?

All public procurements opportunities in Quebec are published on the electronic tendering system, *Système électronique d'appel d'offres du gouvernement du Québec (SEAO)*, which includes procurements on behalf of provincial government agencies and local MASH. They are published for a minimum period of 15 days, and it is possible to set up an alert and notification system for notices published according to your preferred sector of activity.

Simply browse the site and obtain the tender documents you are interested in. The documents contain the details of the goods and services to be provided, the criteria to be met and the terms and conditions of the award. You must then write a bid. In many cases, a bid template will be provided. For more information, contact the responsible person identified in the tender documents. It is also possible to obtain training on the operation of the platform.

Access to the documents on the SEAO is not free of charge. While it is possible to download for free the first five documents under each published tender, the remaining documents are subject to a fee. You can view the types of subscriptions on the SEAO website, with some ranging from \$6.95 to \$119.95 per month.³⁴

Currently, the SEAO is able to receive electronic bids for tenders that operate on the lowest bidder basis only. Bids that operate on the point system must still be submitted in paper format. The Government of Quebec is considering a redesign of the SEAO platform to allow electronic submission of all types of bids.

2. How to obtain the necessary authorizations?

As mentioned above, a business that wishes to conclude public contracts or public subcontracts must, if the contract involves an expenditure equal to or greater than the amount determined by the government, obtain a certificate from *Revenu Québec* and submit an application to the AMP in order to obtain an authorization to contract.

As a first step, the business must first obtain a certificate from *Revenu Québec* (Quebec Revenu Agency).³⁵ The certificate from Revenu Quebec must be issued less than 30 days before the date of filing the application for authorization with the AMP. The mandatory requirement to obtain the certificate from *Revenu Québec* applies even to businesses that are part of a consortium with a Canadian business.

Following a request for authorization, the AMP consults the audit commissioner associated with the Unité permanente anticorruption (UPAC, Permanent Anti-Corruption Unit) to verify the background of the company, its shareholders and its affiliates. The commissioner then provides recommendations to the AMP, which decides whether or not to authorize the company to contract with the government. The authorization is valid for 3 years and is renewable no later than 90 days before the expiration date. The

³⁴ Systeme électronique d'appel d'offres, online : Government of Quebec <https://www.seao.ca/Inscription/abonnement_type.aspx>.

³⁵ Attestation de revenu Quebec", online: Revenu Quebec <<https://www.revenuquebec.ca/en/attestation-de-revenu-quebec/>>.

licensing fee per company is currently \$447³⁶ (this fee is determined by the TB and could change in the future).

Following the issuance of the AMP authorization, the company will be required to complete certain business relationship disclosure forms. If an individual or entity requires verification following disclosure, a fee of \$224 will be charged. You will find user guides and forms to fill out on the *Autorisation de contracter* (Authorization to Contract) section of the AMP website³⁷. For suppliers located outside of Canada, applications and forms will need to be completed in paper form as you do not have access to AMP's online services.

The AMP will request a certificate of good conduct issued by local authorities primarily for criminal background checks.³⁸ If such a certificate is not available, the company officer will be required to produce a sworn letter stating that the company has not been prosecuted or convicted of any criminal offence in the past 5 years.

The business will also need to file certain declarations disclosing the identity and background information of certain persons tied to the business (such as directors and lenders).³⁹ Statements filed with the AMP must have been signed less than six months prior to filing. If you wish to sign your returns using an electronic signature, please note that only encrypted electronic signatures are accepted. PDF signatures will not be accepted.

Practical tip: the AMP verification process can take, on average, 8 weeks for a clean record. It is therefore prudent to make your request to the AMP as soon as possible, if you anticipate participating in a public procurement process in Quebec.

To challenge a refusal to issue a permit, you must apply to the Superior Court for a judicial review of the administrative decision.

3. What are other relevant requirements?

Most of the time, an attestation form regarding the probity of the bidder will be required as part of the standard bidding documents.⁴⁰ By filing this form, the bidder declares that it has not contravened any

³⁶ Droits, frais et tarifs exigiblesD, online : Autorité des marche publics <<https://amp.quebec/information-sur-les-contrats-publics/droits-frais-et-tarifs-exigibles/>>.

³⁷ Entreprises étrangères et personnes physiques exploitant une entreprise, online: Autorite des marche publics <<https://www.amp.quebec/autorisation-de-contracter/entreprise-etrangeres-et-personnes-physiques-exploitant-une-entreprise/>>.

³⁸ "How to get a police certificate - Belgium", online: Government of Canada <<https://www.canada.ca/en/immigration-refugees-citizenship/services/application/medical-police/police-certificates/how/belgium.html>>. ; "How to get a police certificate — France", online: Government of Canada <<https://www.canada.ca/en/immigration-refugees-citizenship/services/application/medical-police/police-certificates/how/france.html>>; "How to get a police certificate - Spain", online : Government of Canada <<https://www.canada.ca/en/immigration-refugees-citizenship/services/application/medical-police/police-certificates/how/spain.html>>.

³⁹ The forms for the declarations can be found on this webpage: "Guides and declarations", online: Autorite des marches publics <<https://amp.quebec/en/authorization-to-contract/guides-and-declarations/>>.

⁴⁰ "An attestation form regarding the probity of the bidder", online: Government of Quebec <<https://www.tresor.gouv.qc.ca/en/public-procurement/cadre-normatif-de-la-gestion-contractuelle/autres-exigences/attestation-relative-a-la-probite-du-soumissionnaire/>>.

federal law or entered into any agreement or arrangement with a competitor, except with respect to a possible subcontract. The supplier must also declare that it or any of its affiliates have not committed, within the five years preceding the date of submission of the bid, any criminal act or offence set out in item 9 of the Certification.

For all other public contracts or subcontracts, firms must not be listed on the Registre des entreprises non admissibles ([RENA](#), Register of Firms Not Eligible for Public Contracts). A firm is placed on the register if it commits an offence under Schedule 1 of the ACPB or has its AMP authorization withdrawn or refused. In addition, construction companies must not be on the list of restricted licences issued by the Régie du bâtiment du Québec ([RBO](#), building control).

For contracts over \$25,000, companies must obtain a certificate from [Revenu Québec](#).

Note that if your business works in the field of information technology professional services contracts, you will need the ISO 9001:2015 registration certificate if you are entering into a contract of more than \$2,000,000 with a Quebec public organization.⁴¹

C. How to bid for Quebec Contracts?

The [Secrétariat du Conseil du Trésor](#) (Treasury Board Secretariat) uses standard bidding documents. They are currently not available on the website as they are undergoing a general review. However, the templates are very detailed and include a set of clauses grouped in chapters with instructions on their use.

As mentioned previously, the instructions of the bid solicitation documents must be followed as closely as possible.

As a supplier, you should be aware that Quebec public bodies can introduce sustainable development and environmental requirements in tender documents for procurement and service contracts.⁴² In the event that the requirement is too stringent and unduly reduces competition, the public entity can still allow all companies to bid. However, it may grant a preferential margin of up to 10% to suppliers that meet the sustainability requirements.

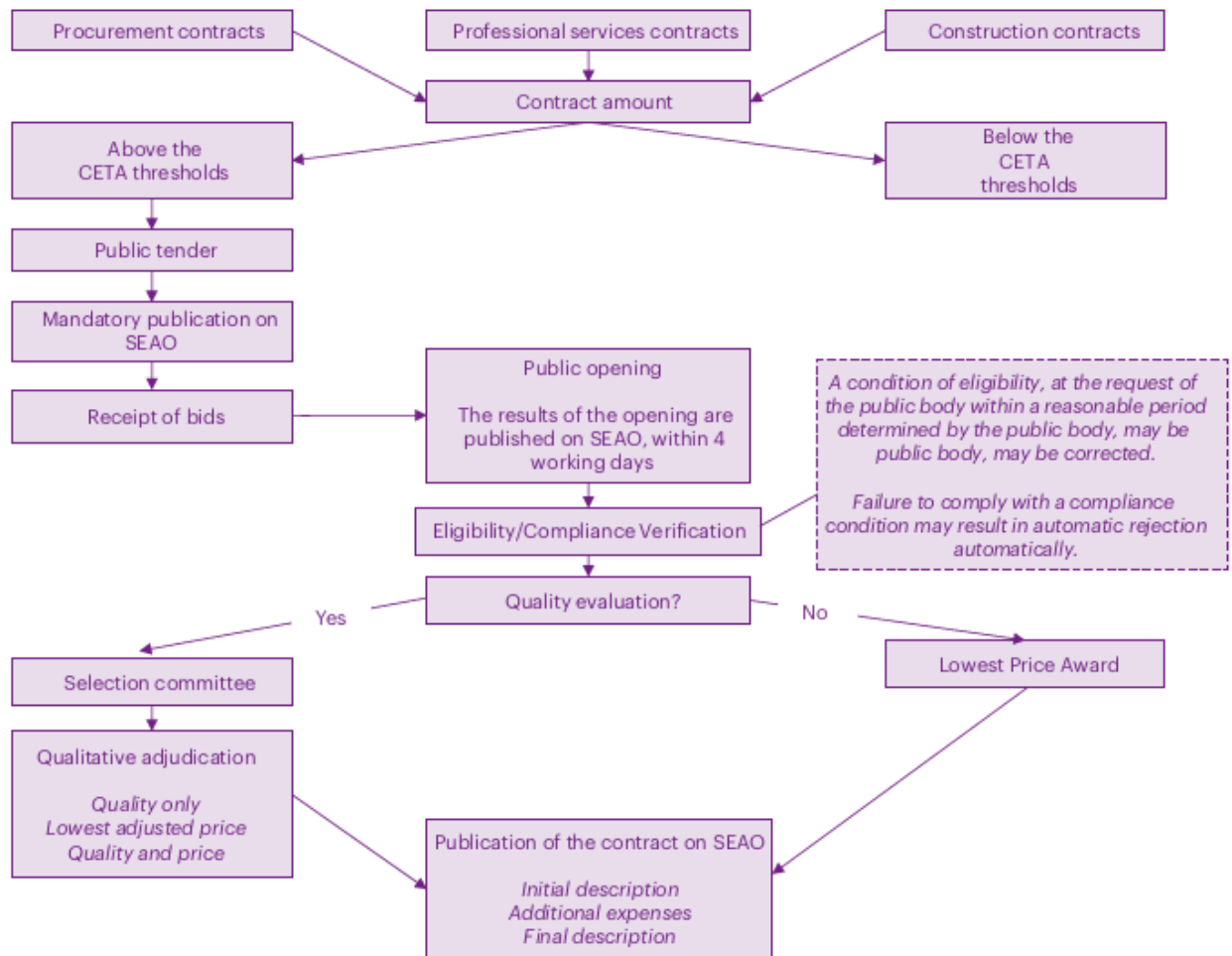
To avoid rejection of your bid, apply the following Quebec-focused best practices:

- Read the [tender](#) documents carefully and pay particular attention to the date and time of bid entry, noting that the whole Quebec province applies Daylight Saving Time and that there are two time zones. The majority of the territory is covered by UTC-05:00 (eastern time zone), but eastern Quebec falls under UTC-04:00 (Atlantic time zone).
- The submission must be written in French.
- The submission form must be signed by an authorized person.

⁴¹ Directive de gestion contractuelle concernant la conclusion des contrats d'approvisionnement, de services et de travaux de construction des organismes publics, sec 3(4).

⁴² ACPB, sec 2(4); "sustainable development and environment", online: Government of Quebec <<https://www.tresor.gouv.qc.ca/en/public-procurement/cadre-normatif-de-la-gestion-contractuelle/autres-exigences/developpement-durable-et-environnementk>>.

- Documents used must be those provided or contain the same provisions.
- Any erasures or corrections to the amounts must be initialled by the authorized person
- In prescribed cases, the bid security must be consistent with that provided by the Owner, e.g., a bond or irrevocable letter of guarantee. The following chart, published by the Treasury Board Secretariat, illustrates a typical contracting process:⁴³



D. How to Challenge an unfavourable outcome?

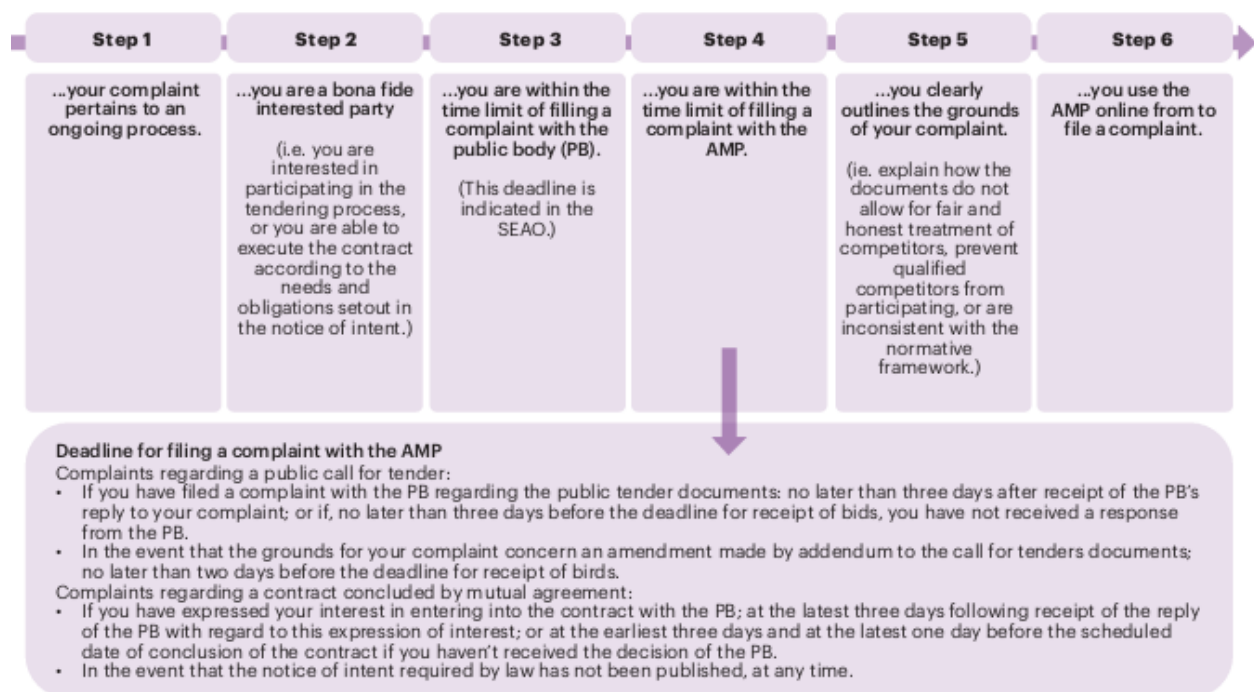
The AMP is the competent authority to rule on complaints from EU companies concerning a call for tenders procedure in Quebec. It has the power to audit and investigate to ensure that the tendering procedures comply with the applicable legal and regulatory framework.⁴⁴

⁴³ "Obtenir un contrat avec un organisme public», online : https://www.tresor.gouv.qc.ca/fileadmin/PDF/faire_affaire_avec_etat/contrats/tab_processus_appel_offres.pdf.

⁴⁴ This brings Quebec in conformity with the public procurement obligations arising from CETA concerning the establishment of a procedure for the administrative handling of bidders' complaints.

Before lodging a complaint with the AMP, it is highly recommended that you contact the contracting entity directly to ask for explanations. Each contracting entity has the capacity to handle complaints internally and may subsequently render a decision to explain the reasons for its choice, thereby providing additional information that clarifies the events in question. To do so, you can access the AMP's webpage regarding the filing of a complaint against a public body⁴⁵

You must use the form provided by the AMP and forward it to the appropriate public entity. If, following such explanations, you still feel aggrieved, you can appeal this decision to the AMP by using the correct form.⁴⁶ If you believe that the terms or the execution of a public procurement, or of the notice of intent, do not comply with the applicable contractual rules or do not ensure fair treatment of competitors, six steps must be followed to ensure that your complaint is admissible before the AMP⁴⁷



If your complaint before the AMP is not treated or successful, you may be able to file legal proceedings before the Quebec courts. It is recommended to seek the advice of legal counsel in such a case.

E. How to Navigate Local Procurement?

1. What are the general principles that apply to local procurement?

The laws and regulations governing the contractual management of municipalities and municipal organisms are the responsibility of the *Ministere des Affaires municipales et de l'Habitation* (Ministry of

⁴⁵ "Complaint filed with a public body", online: Autorite des marches publics <<https://amp.quebecien/file-complaint/complaint-public-body/>>.

⁴⁶ File a complaint with AMP., online: Autorite des marches publics <<https://amp.quebec/en/file-complaint/complaint-amp/>>.

⁴⁷ You can find the document on this webpage: "File a complaint concerning a public contract", online: <<https://amp.quebec/porter-plainte/>>.

Municipal Affairs and Housing) and the information is available under the corresponding heading on the Ministry's website.

Since the 2017 adoption of *An Act mainly to recognize that municipalities are local governments and to increase their autonomy and powers*, municipalities have been given greater flexibility to weigh the nature and complexity of their projects in their choice of contracting method. Municipal organizations are however still covered by the market liberalization agreements entered into by Canada, including [CETA](#).

2. What are the different types of local procurement contracts and what are the CETA thresholds at the local level?

The following thresholds apply for a local/municipal contract to be open to bids by European companies under [CETA](#):

| Type of contracts | Construction contracts | Procurement contracts | Professional services contracts |
|--|--|--|---|
| Definition | Construction, reconstruction, demolition, repair or renovation of a building or civil work, the supply of products and materials, equipment and machinery if provided for in the contract and the installation and repair of fixed equipment of a building or civil work | Purchase or lease of movable property, which may include charges for the installation, operation and maintenance of the property, as well as any equipment lease with a purchase option. | Contracts for the provision of services in which parts or materials necessary for such provision may be included. |
| Expenditure thresholds (CETA) | > \$ 9,100,00 | > \$ 366,200 | > \$ 366,200 |
| Minimum time limits for the receipt of bids | 30 days | 30 days | 30 days for services covered by CETA |

When the expenditure is equal to or greater than the threshold requiring public tendering, a municipality has several options. It can decide to use the lowest compliant bidder, the two-stage contract award method, or the weighting grid including price (with or without discussion and negotiation) for any contract awarded following a call for tenders. Only professional services contracts cannot be awarded using the lowest compliant bidder method. For information purposes, the following table represents the possible methods of awarding contracts by type when the expenditure involved is equal to or greater than the threshold requiring public tendering.

| Method of awarding contracts | Construction contracts | Procurement contracts | Professional services contracts | Non-professional services contracts |
|---|------------------------|-----------------------|---------------------------------|-------------------------------------|
| Lowest compliant bidder | X | X | | |
| <i>Methods with weighting and offer evaluation systems</i> | | | | |
| Two steps (quality, price) | X | X | X | X |
| Weighting grid | X | X | X | X |
| Weighting grid including price with discussions and negotiations | X | X | X | X |

3. How to register as a supplier?

Similarly, to the provincial procurement process, suppliers may need to obtain certain authorizations to contract with municipalities.

Suppliers who do not have an establishment in Quebec where they carry their activities on a permanent basis, do not require any certificate of tax compliance. However, note that suppliers with permanent activities in Quebec wishing to enter into a construction contract involving an expenditure of more than \$25,000 with a municipality must obtain a certificate of tax compliance issued by *Revenu Québec* no more than 90 days prior to or after the deadline for receipt of bids.

Before the **tender** is issued, the municipality must indicate in its **tender** documents whether the contract is subject to **AMP** approval. Depending on the case, sufficient time must be allowed for businesses to obtain their authorization before the contract is entered into.

In particular, AMP authorisation is mandatory for all contracts of \$100,000 or more in the sectors listed below:

- Construction, reconstruction, demolition, repair or renovation work related to roads, water or sewers.
- Supply of asphalt mixes.
- Services related to the construction, reconstruction, demolition, repair or renovation of roads, water or sewers.

In addition, the City of Montreal has the authority to subject certain contracts to a prior authorisation by the **AMP**, by issuing a decree to that effect. The contract solicitation document should indicate this

information. If you have any doubts as to whether you should obtain an AMP authorisation, contact the contractual agent and/or seek the advice of legal counsel.

Prior to entering into the contract, the municipal agency will ensure that you are registered with the Registry of Authorized Firms (ROF/REA)⁴⁸ or, in the case of a contract that is not yet subject to authorization, that you are not registered with the Registry of Ineligible Firms⁴⁹ or subject to a restricted licence under the Building Act.

4. How to bid for the City of Montreal?

The value of goods and services acquired, and work performed by the City of Montreal exceeds \$1 billion annually (with construction alone accounting for half of this amount) and lead to the conclusion of a large number of transactions, commercial agreements and contracts with more than 20,000 active suppliers.

The first step to take if you wish to do business with the City of Montreal is to register in the City's supplier file. Falling under the responsibility of the *Service de l'approvisionnement*, this computerized directory contains the contact information and expertise of each supplier. Once registered, you may be called upon to submit bids on bilateral transactions or on Invitations to Tender. The City of Montreal systematically verifies supplier information in its directory. Businesses that are re-tendered must confirm their interest in remaining on the file. A business that does not confirm its registration will be rendered inactive.

To register, go to the Ville de Montréal Web site and fill out the form provided for this purpose.⁵⁰ Be sure to complete all the required fields so as not to delay the processing of your file. A confirmation and a registration number for the suppliers' file will be sent to you by e-mail. Keep these elements for future reference.

For professional services, you must specify your choice among the three following fee levels (under \$25,000, under \$100,000 or over \$100,000). It is also possible to choose the "all levels" option. A firm with multiple affiliates can only register once in the supplier file. If several firms are part of the same group, they can register separately as long as they are in the company register.

Public calls for tenders are published on the Internet site of the Government of Quebec's electronic appeal system (SEAO), on the website of the City of Montreal and in a daily newspaper in the City's territory.

In 2014, the *Charte de la Ville de Montreal, metropole du Quebec*⁵¹ was amended to create the position of **Inspector General**. This office performs the same functions as the AMP, targeted for the majority of the city of Montreal, the regional metropolitan transportation authority and the Montreal metropolitan community (although the AMP retains the right to oversee and review contract management). However,

⁴⁸ "Register of firms authorized to practise", online: Autorite des marchés publics <<https://amp.quebec/en/rea/>>.

⁴⁹ Registre des entreprises non admissibles aux contrats publics (RENA)D, online: Autorite des marchés publics <<https://amp.quebec/en/rea/>>.

⁵⁰ Please note that the website of the City of Montreal is currently being updated; therefore, the link provided may no longer be available at the time of reading. Fichier des FournisseursD, online : <http://ville.montreal.qc.ca/portal/page?_pageid=4657,28545571&_dad=portal&_schema=PORTAL>.

⁵¹ Charte de la Wile de Montreal, metropole du Quebec, RLRQ c C-11.4, division VI.0.1.

the AMP can still make recommendations to the Inspector General and the provincial government can repeal this exception and render the City of Montreal subject to the AMP's authority.

There are three award methods that the City of Montreal uses:

1. **Lowest compliant bidder:** Bids received are analyzed for administrative and technical compliance. Of the bidders whose bids are administratively and technically compliant, the contract is awarded to the lowest price.
2. **One envelope weighting and evaluation system:** Bids received are analyzed for administrative and technical compliance. Administratively and technically compliant bids are then evaluated using an evaluation and weighting grid including price and a score is assigned. The contract is then awarded to the bidder with the highest score.
3. **Two (2) envelope weighting and evaluation system:** Bids received are analyzed for administrative and technical compliance. Administratively and technically compliant bids are then evaluated using an evaluation and weighting grid and an interim score is assigned. The second envelope containing the price is opened only for bids with an interim score equal to or greater than seventy percent and a final score is assigned. The contract is then awarded to the bidder with the highest final score.

5. How to challenge a bid and what are the recourse mechanisms?

As of May 25, 2019, all municipalities were required to adopt a procedure for the receipt and review of complaints. They must identify the person responsible for receiving complaints and the email address to which complaints should be sent. Such a procedure must be available on the municipality's website. The City of Montreal has adopted its own procedure for the receipt and review of complaints in connection with the awarding of a contract.⁵² The office of the **Contrôleur général** (Auditor-General) is responsible for receiving complaints.

All complaints should be sent electronically to the City of Montreal (contrats@ville.montreal.qc.ca) and must be presented on the form determined by the AMP available on the website of the Inspector General of the City of Montreal (<http://www.bigmtl.ca>). It must be received no later than the deadline for receipt of complaints that is indicated in the documentation published on the SEAO for the contract.

⁵² Here is the pdf link: .Procédure portant sur la réception et l'examen des plaintes formulées dans le cadre de l'adjudication ou de l'attribution d'un contrat en ligne: City of Montreal
<http://ville.montreal.qc.ca/p1s/portal/docs/page/prt_vdmilmedia/documents/procedurejoi_108.pdf>.

10. Ontario procurement

The Ontario government purchases more than \$29 billion in goods and services per year.⁵³ Ontario has embarked on a procurement centralization process, drawing on practices implemented in British Columbia and Quebec.

A. How is the Ontario Purchasing System Organized?

1. What is Supply Ontario and what is its role?

Ontario public sector procurement of goods and services has long been carried out on a decentralized and deregulated basis. However, on November 5, 2020, the Ontario government adopted the Ontario Regulation 612/20 Centralized Supply Chain Ontario under the authority of the Supply Chain Management Act, 2019. This new regulation establishes a body called **Centralized Supply Chain Ontario** (“**Supply Ontario**”), a centralized procurement agency that will act as a single supply chain organization for the provincial ministries and agencies that make up the Ontario Public Service (**OPS**), as well as municipalities, educational organizations and health care institutions which make up the Broader Public Sector (**BPS**).

Under the Regulation, Supply Ontario may provide notice to any of the OPS and BPS entities specifying that it will provide or support supply chain management on behalf of those entities and any entity that receives such notice must obtain supply chain management functions from Supply Ontario, as well as provide certain procurement information upon request.

In the long term, **Supply Ontario** will act as a single, independent and integrated supply chain across the **OPS**, **BPS** and health sectors. **Supply Ontario** has indicated that they will be engaging stakeholders, such as vendors, suppliers and public agencies impacted by the newest regulation as new information becomes available. However, given how recently the organisation was created, there are no direct implications to the way entities access and procure goods and services other than an obligation to comply with an eventual notice from Supply Ontario.

2. What is Vendor-of-record arrangements?

In March 2019, the Ontario Government introduced the Broader Public Sector Interim Measures, certain of which support the development of Supply Ontario by requiring specified entities to use existing Vendor-of-record (“**VOR**”) arrangements whenever possible and appropriate, regardless of the value of the procurement.

VOR arrangements can be an interesting option for EU **SMEs**. These types of solicitations are posted on the **Ontario Tenders Portal** and are subject to a competitive and transparent procurement process. Suppliers must successfully meet all requests for bid requirements and will be invited to sign a master agreement with the government in order to give them a **VOR** status, and recurring purchases. This allows Ontarian government bodies to obtain commonly procured goods and services quicker, avoiding the delays incurred initiating the procurement process from scratch. The Vendor of Record Program-Three-

⁵³ “Ontario Government Doing business with the Government of Ontario”, online: Government of Ontario <<https://www.ontario.ca/page/doing-business-government-ontario>>.

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Year Outlook⁵⁴ provides information about advance notice of upcoming enterprise-wide VOR, where it is possible to browse through categories, planned posting date, estimated start date, client users and VOR number.

There are three types of VOR arrangements in the province of Ontario:

1. Enterprise-wide VORs is established when multiple departments are seeking to acquire the same type of goods and services to give them access to a pre-identified group of vendors to simplify the process and reduce prices.
2. Multi-ministry VORs is established when more than one ministry requires a particular good/service, but there is insufficient demand for an enterprise-wide arrangement.
3. Ministry specific VORs is established by individual ministries for their exclusive use.

B. How to Register as a Supplier?

Before contracting with the Government of Ontario, you should be aware of the differences between the OPS and BPS tendering processes, although the basic principles remain the same. Procurement opportunities in Ontario are published electronically on a multitude of publication sites, with no central publication system. Usually, the website of a given body or entity is the best starting point for information on its procurement. Tender notices may also be published in the Globe and Mail for goods and services procurement opportunities and the Daily Commercial News for construction procurement opportunities. Although Canada-Europe trade treaties contemplate free access to opportunities via electronic publication sites for suppliers, as the transition to the universal system is not yet complete, some tenders are still on other platforms that may require you to pay certain fees.

The following is an overview of the various publication sites used by OPS and BPS. You can also find opportunities on the BPS's entities specific websites.

| Level of government | Publication platform | Cost | Website |
|-----------------------------|------------------------|--|--|
| Ontario Public Sector (OPS) | Ontario Tenders Portal | Free | www.ontariotenders.bravosolution.com |
| Broader Public Sector (BPS) | Merx | Subscription fee / Per opportunity fee | www.merx.com |
| | Biddingo | Subscription fee | www.biddingo.com |
| | Bids&tenders | Subscription fee / Per opportunity fee | www.bidsandtenders.ca |

⁵⁴ Vendor of Record Program", online: Government of Ontario <[https://www.doingbusiness.mgs.gov.on.ca/mbs/psb/psb.nsf/Attachments/Three-Year-Outlook-EN/\\$F1LE/Three-Year-Outlook-EN.pdf](https://www.doingbusiness.mgs.gov.on.ca/mbs/psb/psb.nsf/Attachments/Three-Year-Outlook-EN/$F1LE/Three-Year-Outlook-EN.pdf)>.

C. How to Bid for Ontario Contracts?

1. How to bid for contracts with the Ontario Public Service (OPS)?

In order to enter into a contract with the Government of Ontario, you must respond to a bid [solicitation](#). The procurement documents will provide information on:

- How to prepare your bid.
- How your bid will be evaluated.
- The mandatory requirements and desirable elements.
- The weighting of the different areas that will be scored.

In addition, to bid on a procurement contract of over \$25,000, you will be required to:

- Undergo contractor tax compliance verification.
- Supply a nine-digit BN number provided by the Canada Revenue Agency (CRA);⁵⁵ and
- Potentially be subject to a security screening.

Each bid must be completed in full and will be evaluated solely based on the information provided by the bidder. You should not assume that the government knows your company and its competencies because of a previous contract.

As a new supplier, you will be asked to register for direct deposit as a safe way to receive payments.⁵⁶ You will also need your business number if your invoice charges CST/HST and your legal name that you used to register with the Canada Revenue Agency. Note that if you become a [VOR](#) of the Ontario government you will be asked to submit a monthly usage report⁵⁷ (this requirement will be specified in the contract).

2. How to bid for contracts with the Broader Public Sector (BPS)?

Broader Public Sector organizations buy goods and services directly or as a group, following their own procurement policies and guidelines. Buyers may integrate their own purchasing activities under a shared services organization, a group purchasing organization or a regional collaborative. Ontario promotes the adoption of supply chain management leading practices by the broader public sector, but it is up to each individual BPS organization to determine what works best for its operations. Broader public sector organizations use electronic advertising to post any open competition for goods, services and construction, but some may also advertise in local newspapers.

Some methods used by BPS include:

⁵⁵ See section IV-B of the guide (concerning federal contracts) for instructions concerning how to obtain this number.

⁵⁶ "Supplier Registration and Application for Direct Deposit/Electronic Funds Transfer Form", online: Government of Ontario <<https://www.forms.ssb.gov.on.ca/mbs/ssb/forms/ssbforms.nsf/FormDetail?OpenForm&ACT=RDR&TAB=PROFILE&SRCH=&ENV=WWE&TIT=5098&NO=002-33-5098E>>.

⁵⁷ "Vendor reporting", online: Ontario ministry of Government and consumer services <https://www.doingbusiness.mgs.gov.on.ca/mbs/psb/vordb.nsf/eng-lish/home_page?openDocument&login>.

- **Request for Proposal** for complex goods and services with predefined evaluation criteria and where the price is not the only factor.
- **Request for Tender** for goods and services based on specific requirements and specifications. Usually focuses the evaluation criteria on price and delivery requirements.
- **Request for Quotation** for specific goods and services where the criteria are based solely on price.
- **Request for Supplier Qualifications** to help identify qualified suppliers to draw up a Vendor of Record (VOR) for future needs.
- **Request for Information** where suppliers are given a general description of a problem or need and requested to provide advice or an alternative solution.

At the end of the procurement process, the ministry will let you know whether your bid was successful or not. If you don't receive any phone call or email regarding your application, you can look for the award notices that are posted on the same platform as the RFPs.

The Ministry of Finance of Ontario publishes a sample Request for Proposal that rounds up the main elements of a typical Request for Proposal or Request for Tender. The list below summarizes the information provided by the government:

- **Description required:** The organization must include a description of the goods, services or construction required in generic or functional terms. For purchasing information technology, the organization may express its requirements specific to its corporate or organization IT standards.
- **Evaluation criteria:** The evaluation criteria will be used by the organization to decide which bid to select. It would have been developed, reviewed and approved before the competitive process began. It spells out those criteria that are considered mandatory and any technical standards that have to be met. The evaluation criteria cannot be changed once the competitive process has begun.
- **Contact information:** The name of the person to be contacted is included in the competitive document, together with the person's address and telephone number. All communication during the blackout period, which begins when procurement documents are issued and ends when the agreement is signed with the successful vendor, must be done only with the contact person or the bidder can be disqualified.
- **Conflict of interest:** The organization must require any individual involved in the competitive process to declare all actual or potential conflicts of interest. This applies to all employees, advisors, external consultants or suppliers. Evaluation team members must not engage in activities that may create or appear to create an unfair advantage towards any vendor.
- **Deadline:** The date and time limit to submit bids, and the address where the bid is to be sent, are part of the competitive document. Bids received after the closing date and time must be returned unopened.
- **Questions on the competitive document:** Questions about the competitive document are to be submitted no less than seven days before the closing date. Sometimes, questions are considered within 7 days of the closing date and, if necessary, the closing date is extended, taking into account

the project schedule. The objective is to ensure that all bidders receive as much relevant information as possible.

- **Submission rules:** The submission rules and other information such as bid format, language, executive summary, if required, number of copies, attendance at a bidders' conference, and any additional rules must be followed in order to be considered a compliant bid.
- **Copy of the contract:** The winning bidder receives a formal contract award letter once the competitive process is completed and a vendor is chosen. The formal contract is the agreement between the buyer and the successful vendor and must be signed by both parties before the provision of goods, services or construction.
- **Use of subcontractors:** The organization may ask for a list of all subcontractors the supplier may use to complete the procurement.
- **When bids cannot be withdrawn** Bids usually cannot be withdrawn within 120 days of the closing date of the competitive process.
- **Ontario's trade agreements:** The organization must comply with Ontario's trade agreements for goods, services and construction valued at \$100,000 or more. Under the Agreement on Internal Trade, all Canadian suppliers must have access to procurement opportunities meeting this threshold through electronic tendering systems, advertisements in daily newspapers, or the use of source lists.
- **Disclosing confidential information:** Under the Freedom of Information and Protection of Privacy Act, the public has a right to access records within any public organization's custody, including any confidential information related to a purchase, unless exceptions to disclose apply to all or part of the request.

3. How are contracts adjudicated?

If you are the successful bidder, you will receive a formal contract award letter at the conclusion of the competitive process. The notice of the award will also be advertised and posted on the electronic tendering site. In accordance with the Freedom of Information and Privacy Act, the name of the successful vendor and the accepted bid price can also be provided upon request. The buyer may also choose to write to the unsuccessful bidders to inform them of the decision and, for bids at \$100,000 or greater, to let them know they are entitled to a debriefing.

D. How to Challenge an unfavourable outcome?

Each bidder is entitled to an individual debriefing from the buyer. It typically covers the strengths and weaknesses of the bid and how to improve future bids. Vendors may address specific questions and issues as they see appropriate while, at the same time, being open to feedback from the buyer.

Within 60 days, you can also reach out to the procurement agent for a debrief to obtain feedback on the name of the successful bidder, the winning bid price, and how your bid ranked against others. If you are not satisfied with the explanation given by the agent, you may contact the manager or director responsible for the bid. If you are not satisfied with the soliciting organisation's response, you can file a complaint to Supply Ontario.

In Ontario, there is currently no tribunal equivalent to the federal CITT or the AMP in Quebec. However, as provinces and territories move to establish their own dispute resolution regimes to meet the standards prescribed by CETA and ALEC, it is likely that past decisions of the CITT will be used to guide the establishment of principles at the sub-central level. For the time being, aggrieved suppliers can appeal to the **common law courts** and seek a judicial review of the adjudicator's decisions and the compensatory remedies that flow from them.

Therefore, the only extrajudicial complaint mechanism is through Supply Ontario.

As mentioned earlier, the first step is to contact the project manager and attempt to resolve the issue with the public entity involved. If you deem his response to be insufficient, a complaint can be filed with Supply Chain Ontario **within 30 days of learning of the problem**, which will initiate a central, formal review process.

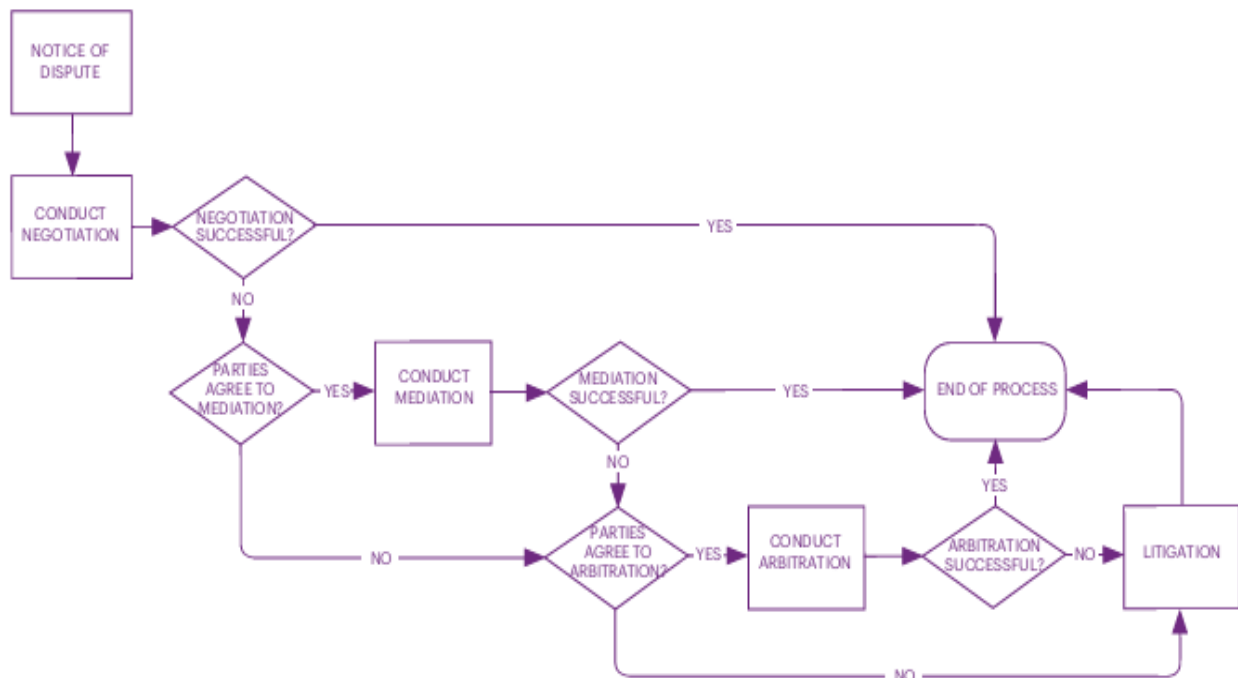
To file a complaint, you must complete the **form**⁵⁸ available on the government website and attach a detailed description of the events. All the necessary documentation must be sent to Director, Program and Policy Enablement Branch, Supply Chain Ontario, Ontario Shared Services, Ministry of Government and Consumer Services by email to doingbusiness@ontario.ca or in hard copy to 222 Jarvis Street, 8th Floor, Toronto, ON, M7A 0B6.

It is possible that other public entities have established their own, private, bid protest processes, either as part of their standard contractual operating procedures, or spurred by the recent publication of a guide by the government of Ontario to assist ministries and agencies in implementing an effective and efficient bid contestation procedure.

Information on entity-specific processes will be included in the bid documents published at the time of the bid **solicitation**. For example, the BPS directive indicates that it would be the best practice to include a dispute resolution process⁵⁹ into the contract to oversee disputes throughout the contract (see chart below as an example of such dispute resolution sequence published recommended for BPS). Since we are dealing with suppliers from the EU, any arbitration will be held in Canada.

⁵⁸ Suppliers who have an Ontario Government procurement complaint are required to complete and submit this bid dispute form and attach a detailed description of the complaint with relevant background information: "Central Forms Repository", online: Government of Ontario <<https://www.forms.ssb.gov.on.ca/mbs/ssb/forms/ssbforms.nsf/FormDetail?OpenForm&ACT=RDR&TAB=PROFILE&SRCH=1&ENV=WWE&TIT=5205&NO=002-5205E>>.

⁵⁹ "Broader Public Sector Procurement Directive Implementation Guide Book", online: Ontario ministry of Government and consumer services <[https://www.doingbusiness.mgs.gov.on.ca/mbs/psb/psb.nsf/Attachments/BPSProc_procurement_implementation-eng/\\$F1LE/bps_procurement_implementation.html#sec10-3-8](https://www.doingbusiness.mgs.gov.on.ca/mbs/psb/psb.nsf/Attachments/BPSProc_procurement_implementation-eng/$F1LE/bps_procurement_implementation.html#sec10-3-8)>.



In all cases, it is recommended that you seek legal advice to ensure that you understand all the remedies available. In fact, despite any openness and consideration of the public entity, it is possible that intervention before the courts of common law will be necessary to truly compensate the damages suffered by a supplier in the context of a non-compliant public contracting process.

E. How to Navigate Local Procurement?

To make the most of the opportunities in the Ontario procurement market, suppliers should be familiar with the opportunities offered by the city of Toronto.

1. How is the City of Toronto’s purchasing system organized?

Public procurement in the City of Toronto is mainly regulated by the Toronto Municipal Code⁶⁰ and various policies that are all listed on the City’s website.⁶¹ In addition, you must be aware of and adapt your practices to comply with the City of Toronto’s *Fair Wage Policy*.⁶² To be eligible to participate in the City of Toronto’s procurement process, you must also ensure that your company is not on the list of *Suspended and Disqualified Firms*.⁶³ In order to comply with lobbying regulations, it is imperative that you do not, at

⁶⁰ Chapter 195 — Purchasing, Chapter 71 Financial control.

⁶¹ “Purchasing policies legislation”, online: City of Montreal <<https://www.toronto.ca/business-economy/doing-business-with-the-city/understanding-the-procurement-process/purchasing-policies-legislation/>>.

⁶² “Fair wage office and policy”, online: City of Montreal <<https://www.toronto.ca/business-economy/doing-business-with-the-city/understanding-the-procurement-process/fair-wage-office-policy/>>.

⁶³ “Suspended disqualified firms”, online: City of Montreal <<https://www.toronto.ca/business-economy/doing-business-with-the-city/searching-bidding-on-city-contracts/suspended-disqualified-firms/>>.

any time, contact members of the City Council or their staff regarding [tenders](#). Only contact the person specifically designated by the city.⁶⁴

As of September 1, 2019, the City of Toronto publishes its [tenders](#) on the SAP Ariba sourcing platform (<http://toronto.supplier.ariba.com/register>). The transition is expected to be fully completed by October 2021.⁶⁵ Suppliers can download solicitations documents free of charge through the SAP Ariba Discovery Portal. Solicitation documents and Notices of Intended Procurement will continue to be advertised on the City of Toronto's website using the Online Call Document System. SAP Ariba research posting link within the advertisement will direct suppliers to the SAP Ariba Discovery portal.

2. How to register and bid for the City of Toronto?

In order to bid on solicitations posted on the Ariba Discovery portal, suppliers must register their company and identify their interests. To register, go to the City of Toronto's Registration Page, and follow the instructions. Note that there is a three-day processing time to approve registration. If you are already registered on the SAP Ariba Network, you will need to go to the Registration page and log on from this page.

Once you have registered, you will start receiving electronic notifications when solicitations are issued that match your interest. To receive Notices of Intended Procurement, suppliers can also register with the Online Call Document System, given that SAP Ariba only provides notifications for live solicitations. Do, however note that the Supplier Registration process at the City of Toronto is changing with the implementation of the *Supplier Lifecycle Performance* module, which will be used to onboard, manage, and segment suppliers and will be integrated with the SAP Ariba Sourcing module currently in place.

In addition, the City may leverage buying groups to either carry out joint procurements or piggyback off existing contracts, such as city agencies and corporations, the province of Ontario, the Federal Government, Sourcewell and Kinetic GPO. You should therefore also look to these websites to be able to participate in all procurements that the city offers.

The successful bidder for the [tender](#) will be contacted by the City of Toronto by email or telephone. The lowest bidder rule will be applied for Request for Quotations and Request for Tenders. The contract is awarded to the highest scoring proponent in the case of Request for Proposals. Each contractor will receive a Contractor Performance Evaluation to assess performance and guide the city when considering a contractor's eligibility for future awards.

3. How to challenge a bid and what are the recourse mechanisms?

To lodge a complaint regarding the tendering process, you can refer to the City's policy regarding Pre-Award and Post-Award Bid Disputes.⁶⁶

⁶⁴ "Understanding the procurement process", online: City of Montreal <<https://www.toronto.ca/business-economy/doing-business-with-the-city/understanding-the-procurement-process/>>.

⁶⁵ "Searching bidding on city contracts", online: City of Montreal <<https://www.toronto.ca/business-economy/doing-business-with-the-city/searching-bidding-on-city-contracts/>>.

⁶⁶ "Pre-award and post-award dispute procedures", online: Toronto <<https://www.toronto.ca/wp-content/uploads/2017/08/8f6e-Pre-Award-and-Post-Award-Dispute-Procedures.pdf>>.

For complaints regarding the competitive process prior to the contract award, you should contact the **Chief Purchasing Official**. Examples of such complaints include biased evaluation criteria or ambiguous information leading to a declaration of non-compliance. You should send this email as soon as possible after becoming aware of the defect. In the case of a declaration of nonconformity, the time limit is five days. The Chief Purchasing Official, with the assistance of the Purchasing Manager and the City Solicitor will then determine the appropriate remedy, such as reinstating the supplier into the competition.

For complaints regarding the competitive call process after the award of the contract, you have 10 business days to contact the Chief Purchasing Official or 5 days after a debriefing, if requested. This deadline is extremely important, as a complaint filed too late will not be evaluated. It may not be possible for the Chief Purchasing Official to resolve the post-award dispute with the supplier. In such a case, the Chief Purchasing Official will refer the matter to the City Treasurer to ensure an impartial review. In the event that a complaint is received, the **City Treasurer** will indicate the appropriate remedies, which can include the rescission of the award of a contract, or the cancellation of an ongoing contract.

You may not challenge the City Treasurer's decision before any other city official. However, you can still file legal proceedings for a judicial review of the administration's decisions before the courts of Ontario.

Schedules

Schedule A - Canadian Legal Entities: Quick Facts

A **Canadian-incorporated wholly owned subsidiary** is a legal entity distinct from its shareholders, which may be created under federal or provincial law.

A **consortium and joint venture** are strategic business associations, or groups of two or more entities or individuals formed to undertake an enterprise together where each member retains its separate legal status and remains independent.

The decision of **which jurisdiction to incorporate** under depends on multiple factors such as the jurisdictions in which the business will operate, director residency requirements, corporate name requirements and cost.

- Companies that wish to carry on a business subject to federal regulation must be incorporated under federal law. In addition, particularities in the provincial statutes may result in a foreign investor preferring federal incorporation.
- If a company intends to operate in more than one province or territory, it will need to register in each province and territory in which it conducts business, regardless of the jurisdiction of incorporation.
- An important feature of **Quebec** formed partnerships and corporations is that the legal name of each type of entity must be in French and comply with the Charter of the French language. This obligation does not prevent an entity from having an English version of its French legal name. Foreign investors must consider residency requirements.
- The **Canada** Business Corporations Act (federal law) requires that at least 25 per cent of a corporation's directors be resident in Canada. Where there are fewer than four directors, the Act requires that one director be resident in Canada.
- **Each province** has different residency requirements that investors should take into consideration. However, there are no residency requirements for directors of corporations under the business corporations acts in each of the three Canadian territories, British Columbia, Nova Scotia, New Brunswick, Prince Edward Island, Quebec and Ontario.

Schedule B - Federal Procurement Examples and Useful Links

Federal Procurement Examples

| Canada Revenue Agency (CRA) | |
|-----------------------------|--|
| Website | https://www.canada.ca/en/revenue-agency.html |
| Mandate | The CRA is the revenue service of the Government of Canada. It collects taxes, administers tax law and policy, and delivers benefit programs and tax credits for the federal government and most provincial and territorial governments. |
| Annual Budget | \$5.1 billion |
| Publication Site | Central Publication Site – Buyandsell.gc.ca : https://buyandsell.gc.ca/ |

| Department of National Defense (DND) | |
|--------------------------------------|--|
| Website | https://www.canada.ca/en/department-national-defence.html |
| Mandate | The DND is the department of the Government of Canada which supports the Canadian Armed Forces in its role of defending Canadian national interests domestically and internationally |
| Annual Budget | \$23.3 billion |
| Publication Site | Central Publication Site – Buyandsell.gc.ca : https://buyandsell.gc.ca/ |

Federal Procurement Useful Links

| | |
|---|--|
| <p>Main page</p> | <ul style="list-style-type: none"> Buy and sell: https://buyandsell.gc.ca/for-businesses |
| <p>Learn about selling to the Government of Canada</p> | <ul style="list-style-type: none"> Basics of the federal procurement process: https://buyandsell.gc.ca/for-businesses/selling-to-the-government-of-canada/theprocedureprocess Support for smaller businesses: https://buyandsell.gc.ca/support-smaller-businesses Attend a seminar: https://buyandsell.gc.ca/for-businesses/seminars-and-events |
| <p>Understand procurement policies and guidelines</p> | <ul style="list-style-type: none"> Supply Manual: https://buyandsell.gc.ca/policy-and-guidelines/Supply-Manual Procurement forms: https://www.tpsgc-pwgsc.gc.ca/app-acq/forms/formulaires-forms-eng.html Reference sheets for a supplier: https://buyandsell.gc.ca/for-businesses/resources-for-businesses/reference-sheets-forsuppliers The bidding process: https://buyandsell.gc.ca/for-businesses/selling-to-the-government-of-canada/bid-onopportunities |
| <p>Your supplier accounts</p> | <ul style="list-style-type: none"> Register as a supplier (SRI): https://buyandsell.gc.ca/for-businesses/selling-to-the-government-of-canada/register-as-a-supplier Getting started on CanadaBuys: https://canadabuys.canada.ca/en/getting-started?utm_source=canadabuys&utm_medium=ybanner&utm_campaign=ybanner20210305en2 Registering on SAP Ariba: https://canadabuys.canada.ca/en/resources/registering-on-sap-ariba-guide-forbusinesses |

| | |
|---|--|
| <p>Search for opportunities</p> | <ul style="list-style-type: none"> • CanadaBuys (in transition): https://canadabuys.canada.ca/en/canadabuys • PSPC Tender minisite: https://buyandsell.gc.ca/procurement-data/tenders • Goods and Services Identification Number (GSIN code): https://buyandsell.gc.ca/procurement-data/goods-and-services-identification-number • Contract history: https://buyandsell.gc.ca/procurement-data/contract-history |
| <p>Preparing a bid</p> | <ul style="list-style-type: none"> • How to prepare a bid: https://buyandsell.gc.ca/for-businesses/selling-to-the-government-of-canada/bid-onopportunities/how-to-prepare-a-bid |
| <p>Challenge and recourse mechanisms</p> | <ul style="list-style-type: none"> • Bid challenge and recourse mechanisms: https://buyandsell.gc.ca/for-businesses/selling-to-the-government-of-canada/bid-followup/bid-challenge-and-recourse-mechanisms |

Schedule C – Quebec Procurement Examples and Useful Links

Quebec Procurement Examples

| Hydro-Québec | |
|-------------------------|--|
| Website | hydroquebec.com |
| Mandate | Public utility body that manages the generation, transmission and distribution of electricity in the province of Quebec. |
| Annual Budget | \$14.3 billion |
| Publication Site | SEAO: https://www.seao.ca/ |

| Loto-Québec | |
|-------------------------|---|
| Website | lotoquebec.com |
| Mandate | Provincial crown corporation mandated to conduct and administer lottery schemes and to operate businesses that are incidental to the operation of a state casino in the province of Quebec. |
| Annual Budget | \$861 million |
| Publication Site | SEAO: https://www.seao.ca/ |

| City of Montreal | |
|-------------------------|---|
| Website | ville.montreal.qc.ca |
| Mandate | Largest city in Québec and the second-largest city in Canada with a population of 4.1 million people for the Greater Montréal Area. |
| Annual Budget | \$5.7 billion |
| Publication Site | SEAO: https://www.seao.ca/ |

| Quebec City | |
|----------------------|--|
| Website | ville.quebec.qc.ca/en/ |
| Mandate | Capital of Québec, with a population of 543,000 people. |
| Annual Budget | \$1.5 billion |

| | |
|-------------------------|---|
| Publication Site | SEAO: https://www.seao.ca/ |
|-------------------------|---|

Quebec Procurement Useful Links

| | |
|------------------------------------|---|
| Electronic Tendering System | Système électronique d'appel d'offres du gouvernement du Québec (SEAO) https://www.seao.ca/Information/apropos.aspx |
| Government of Québec | Commission of Inquiry on the Awarding and Management of Public Contracts in the Construction Industry https://www.ceic.gouv.qc.ca/ |
| Treasury Board Secretariat | <ul style="list-style-type: none"> • Public procurement https://www.tresor.gouv.qc.ca/en/public-procurement/government-procurement/ • Public procurement laws and regulations https://www.tresor.gouv.qc.ca/en/public-procurement/cadre-normatif-de-la-gestioncontractuelle/lois-et-reglements-sur-les-marches-publics/ • Organizations subject to the law https://www.tresor.gouv.qc.ca/fileadmin/PDF/secretariat/statut_obligation_2012.pdf • Contract management guidelines https://www.tresor.gouv.qc.ca/en/public-procurement/cadre-normatif-de-la-gestioncontractuelle/directives-de-gestion-contractuelle • Contract management policy https://www.tresor.gouv.qc.ca/en/public-procurement/cadre-normatif-de-la-gestioncontractuelle/politique-de-gestion-contractuelle/ • Other requirements – Quebec Revenue Agency https://www.tresor.gouv.qc.ca/en/public-procurement/cadre-normatif-de-la-gestioncontractuelle/autres-exigences/attestation-de-revenu-quebec/ • Certificate of good character of the bidder https://www.tresor.gouv.qc.ca/en/public-procurement/cadre-normatif-de-la-gestioncontractuelle/autres-exigences/attestation-relative-a-la-probite-du-soumissionnaire/ • Quality Assurance |

| | |
|---|--|
| | <p>https://www.tresor.gouv.qc.ca/en/public-procurement/cadre-normatif-de-la-gestioncontractuelle/autres-exigences/attestation-relative-a-la-probite-du-soumissionnaire/</p> <ul style="list-style-type: none"> • Sustainable development and environment https://www.tresor.gouv.qc.ca/en/public-procurement/cadre-normatif-de-la-gestioncontractuelle/autres-exigences/attestation-relative-a-la-probite-du-soumissionnaire/ • Integrity in public contracts https://www.tresor.gouv.qc.ca/en/public-procurement/integrite-en-matiere-decontrats-publics/ • Authorization to contract with the state https://www.tresor.gouv.qc.ca/en/public-procurement/integrite-en-matiere-decontrats-publics/autorisation-de-contracter-avec-letat/ • Register of ineligible businesses https://www.tresor.gouv.qc.ca/en/public-procurement/integrite-en-matiere-decontrats-publics/registre-des-entreprises-non-admissibles/ • Government contracts https://www.tresor.gouv.qc.ca/en/public-procurement/les-contrats-au-gouvernement/types-de-contrats/ • Training for companies https://www.tresor.gouv.qc.ca/en/public-procurement/formation/entreprises/ |
| <p>Public Authority Website Market (AMP)</p> | <ul style="list-style-type: none"> • Mission and mandate https://amp.quebec/a-propos/mission-et-mandat/ • Information on public contracts https://amp.quebec/en/information-on-public-contracts/ • Authorization to contract https://amp.quebec/en/authorization-to-contract/ • Obtain a certificate from Revenu Québec https://www.revenuquebec.ca/en/attestation-de-revenu-quebec/how-to-request-anattestation/ |

| | |
|--|---|
| | <ul style="list-style-type: none"> Filing a complaint concerning a public contract https://amp.quebec/en/file-complaint/ Filing a complaint – 6 key steps https://www.amp.quebec/fileadmin/documents/plaintes/6_Key_steps_complaint_AMP_20201104.pdf Tools and publications https://amp.quebec/en/tools/ |
| Ministry of Municipal Affairs and Housing | <ul style="list-style-type: none"> Municipal contract management https://www.mamh.gouv.qc.ca/gestion-contractuelle/gestion-contractuelle/#c3612 |
| City of Montreal | <ul style="list-style-type: none"> Public tenders http://ville.montreal.qc.ca/portal/page?_pageid=5798,43301570&_dad=portal&_schema=PORTAL Bid Challenge procedure http://ville.montreal.qc.ca/pls/portal/docs/page/prt_vdm_fr/media/documents/procedure_loi_108.pdf |
| Inspector General's Office | <ul style="list-style-type: none"> About and history https://www.bigmtl.ca/a-propos/historique/ Filing a Complaint with the City of Montréal's Bureau de l'Inspecteur Général https://www.bigmtl.ca/wp-content/uploads/2020/08/file-complaint-inspectorgeneral-montreal.pdf |

Schedule D – Ontario Procurement Examples and Useful Links

Ontario Procurement Examples

| Ontario Power Generation | |
|---------------------------------|---|
| Website | opg.com |
| Mandate | Crown corporation responsible for approximately half of the electricity generation in the province of Ontario. |
| Annual Budget | \$5.5 billion |
| Publication Site | Ontario Tender Portal: www.ontariotenders.bravosolution.com SAP Ariba: https://service.ariba.com/Discovery.aw/ad/profile?key=opg |

| Infrastructure Ontario | |
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| Website | infrastructureontario.ca |
| Mandate | Crown corporation that supports the Ontario government's initiatives to modernize and maximize the value of public infrastructure and real estate. |
| Annual Budget | \$16.9 billion |
| Publication Site | Mex: www.merx.com Biddingo: www.biddingo.com |

| City of Toronto | |
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| Website | toronto.ca |
| Mandate | Capital of Ontario and Canada's largest city with a population of more than 6.3 million people in the Greater Toronto Area. |
| Annual Budget | \$13.4 billion |
| Publication Site | SAP Ariba: http://toronto.supplier.ariba.com/register Sourcewell: https://www.sourcewell-mn.gov/ Province of Ontario's VOR Program: https://www.doingbusiness.mgs.gov.on.ca/mbs/psb/psb.nsf/English/forvendors Federal Government of Canada: https://buyandsell.gc.ca/ Kinetic GPO: https://www.kineticgpo.ca/ |

| City of Ottawa | |
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| Website | ottawa.ca |
| Mandate | Capital of Canada and its fourth-largest city with a population of more than 1 million people. |
| Annual Budget | \$3.6 billion |
| Publication Site | Merx: http://www.merx4.merx.com/cityofottawa |

Ontario Procurement Useful Links

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| <p>Doing Business with the Ontario Government</p> | <ul style="list-style-type: none"> • Information for Vendors https://www.doingbusiness.mgs.gov.on.ca/mbs/psb/psb.nsf/English/forvendors • Frequently Asked Questions for Vendors https://www.doingbusiness.mgs.gov.on.ca/mbs/psb/psb.nsf/EN/CP-Vendors-QA-EN • Vendor of Record Program - Three Year Outlook: https://www.doingbusiness.mgs.gov.on.ca/mbs/psb/psb.nsf/English/VOR-3Year-Outlook-en • Doing Business with the Ontario Broader Public Sector: A Guide for Small and Medium Enterprises https://www.doingbusiness.mgs.gov.on.ca/mbs/psb/psb.nsf/6cccc3a1c31d117f8525746300707e83/35f4f2271419176185257b2e006e5257/\$F1LE/BPSDoingBusiness-Handbook-eng.html |
| <p>Ontario Tenders</p> | <ul style="list-style-type: none"> • Ontario Tenders Portal: https://ontariotenders.app.jaggaer.com/esop/nac-host/public/web/login.html |
| <p>City of Toronto</p> | <ul style="list-style-type: none"> • Main page: Doing Business with the City https://www.toronto.ca/business-economy/doing-business-with-the-city/ • Understanding the Procurement Process https://www.toronto.ca/business-economy/doing-business-with-the-city/understanding-the-procurement-process/ • Policies, Legislation & Rules Regarding City Procurement https://www.toronto.ca/business-economy/doing-business-with-the-city/understanding-the-procurement-process/purchasing-policies-legislation/ • Fair Wage Policy https://www.toronto.ca/business-economy/doing-business-with-the-city/understanding-the-procurement-process/fair-wage-office-policy/ • Pre-Award and Post-Award Bid Dispute process document: |

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| | <p>https://www.toronto.ca/wp-content/uploads/2017/08/8f6e-Pre-Award-and-Post-Award-Dispute-Procedures.pdf</p> <ul style="list-style-type: none">• Searching & Bidding on City Contracts https://www.toronto.ca/business-economy/doing-business-with-the-city/searching-bidding-on-city-contracts/• Suspended and Disqualified Firms list https://www.toronto.ca/business-economy/doing-business-with-the-city/searching-bidding-on-city-contracts/suspended-disqualified-firms/• Follow-up on city Contracts: https://www.toronto.ca/business-economy/doing-business-with-the-city/follow-up-on-city-contracts/• Competitive and Non-Competitive Award Results https://wx.toronto.ca/inter/pmmd/callawards.nsf/postedawards?OpenView• Contractor performance evaluation https://www.toronto.ca/business-economy/doing-business-with-the-city/follow-up-on-city-contracts/contractor-performance-evaluation-cpe-form/• Kinetic GPO: https://www.kineticgpo.ca/• Sourcewel I: https://www.sourcewell-mn.gov/ |
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Schedule E - Summary Table of CETA Exclusions

General Exclusions⁶⁷

CETA's government procurement section (chapter 19) does not apply to:

the acquisition or rental of land, existing buildings or other immovable property or the rights thereon.

non-contractual agreements or any form of assistance that a Party provides, including cooperative agreements, grants, loans, equity infusions, guarantees and fiscal incentives.

the procurement or acquisition of fiscal agency or depository services, liquidation and management services for regulated financial institutions or services related to the sale, redemption and distribution of public debt, including loans and government bonds, notes and other securities.

public employment contracts.

procurement conducted:

for the specific purpose of providing international assistance, including development aid.

- under the particular procedure or condition of an international agreement relating to the stationing of troops or relating to the joint implementation by the signatory countries of a project; or
- under the particular procedure or condition of an international organisation, or funded by international grants, loans or other assistance if the applicable procedure or condition would be inconsistent with this Chapter.

Goods

- CETA's government procurement section (chapter 19), unless otherwise specified, covers all goods.
- Subject to the application of Article 19.3.1, with respect to procurement by the Department of National Defence, the Royal Canadian Mounted Police, the Department of Fisheries and Oceans for the Canadian Coast Guard, the Canadian Air Transport Security Authority, and provincial and municipal police forces, this Chapter covers only the goods described in the Federal Supply Classifications listed below:
 - Railway equipment
 - Motor vehicles, trailers and cycles (except buses in 2310; and, except military trucks and trailers in 2320 and 2330 and tracked combat, assault and tactical vehicles in 2350 and wheeled combat, assault and tactical vehicles in 2355 formerly classified in 2320)

⁶⁷ The table of exclusions is based on extracts from the CETA text. CETA texts can be subject to interpretation and specific precedents may apply to certain categories. Contact your legal counsel for an evaluation of a specific exclusion regarding your business.

- Tractors
- Vehicular equipment components
- Tires and tubes
- Engine accessories
- Mechanical power transmission equipment
- Woodworking machinery and equipment
- Metalworking machinery
- Service and trade equipment
- Special industry machinery
- Agricultural machinery and equipment
- Construction, mining, excavating and highway maintenance equipment
- Materials handling equipment
- Rope, cable, chain and fittings
- Refrigeration and air conditioning equipment
- Fire fighting, rescue and safety equipment (except 4220: Marine lifesaving and diving equipment; and 4230: Decontaminating and impregnating equipment)
- Pumps and compressors
- Furnace, steam plant, drying equipment and nuclear reactors
- Plumbing, heating and sanitation equipment
- Water purification and sewage treatment equipment
- Pipe, tubing, hose and fittings
- Valves
- Maintenance and repair shop equipment
- Measuring tools
- Hardware and abrasives
- Prefabricated structures and scaffolding
- Lumber, millwork, plywood and veneer
- Construction and building materials
- Electric wire and power and distribution equipment

- Lighting fixtures and lamps
- Alarm and signal systems (except 6350: Security detection systems related to security screening)
- Medical, dental and veterinary equipment and supplies
- Instruments and laboratory equipment (except 6615: Automatic pilot mechanisms and airborne Gyro components; 6635: Physical properties testing, and inspection related to security screening; and 6665: Hazard detecting instruments and apparatus)
- Photographic equipment
- Chemicals and chemical products
- Training aids and devices
- General purpose automatic data processing equipment, software, supplies and support equipment (except 7010: Automatic Data Processing Equipment (ADPE) configurations)
- Furniture
- Household and commercial furnishings and appliances
- Food preparation and serving equipment
- Office machines, text processing system and visible record equipment
- Office supplies and devices
- Books, maps and other publications (except 7650: drawings and specifications)
- Musical instruments, phonographs and radios
- Recreational and athletic equipment
- Cleaning equipment and supplies
- Brushes, paints, sealers and adhesives
- Containers, packaging and packing supplies
- Toiletries
- Agricultural supplies
Live animals
- Fuels, lubricants, oils and waxes
- Nonmetallic fabricated materials
- Nonmetallic crude materials
- Ores, minerals and their primary products

- Miscellaneous
- For the Provinces of Ontario and Quebec, this note applies to the procurement of mass transit vehicles. A mass transit vehicle refers to a streetcar, bus, trolley bus, subway car, passenger rail car or locomotive for subway or rail system used for public transportation.
- Procuring entities in the provinces of Ontario and Quebec, when purchasing mass transit vehicles, may, in
- accordance with the terms of this Chapter, require that the successful bidder contracts up to 25 per cent of the contract value in Canada.
- Any lowering of such percentage of contract value decided by the Government of Canada or the province of Ontario or the province of Quebec, as a result of an international agreement or in domestic law, regulation or policy, will replace the abovementioned percentage of 25 per cent on a permanent basis under this Chapter for that province and for the category of mass transit vehicle to which such new percentage applies. When applying this note, the provinces of Ontario and Quebec must treat European Union bidders no less favourably than Canadian or other third country bidders.
- The term “value” refers to the eligible costs in the procurement of mass transit vehicles for components, subcomponents and raw materials produced in Canada, including labour or other related services such as after-sale and maintenance services, as determined in the tender. It also includes all costs related to a final assembly of the mass transit vehicle in Canada. It will be for the bidder to determine which part of the contract value will be fulfilled through the use of Canadian acquired value. However, the province of Quebec may require that final assembly takes place in Canada.
 - a. Final assembly:
 - i. Final assembly of a bus includes:
 - A. installation and interconnection of the engine, transmission, axles, including the brake system.
 - B. installation and interconnection of heating and air conditioning systems.
 - C. installation of pneumatic, electrical and door systems.
 - D. installation of passenger seats and handrails.
 - E. installation of the destination sign;
 - F. installation of the wheelchair access ramp; and
 - G. final inspection, road tests and preparation for delivery.
 - ii. Final assembly of a train includes:
 - A. installation and connection of the ventilation, heating and air conditioning system;

- B. installation and connection of bogie frames, suspension, axles and differential;
 - C. installation and connection of propulsion engines, propulsion control and auxiliary power;
 - D. installation and connection of braking control, braking equipment and air brake compressors;
 - E. installation and connection of communication system, on-board information and remote monitoring system; and
 - F. inspection, verification of all installation and interconnection work and fixed-point testing to verify all functions.
- b. The eligible costs must provide reasonable flexibility for a successful bidder to source the contract value on competitive terms from Canadian suppliers, including price and quality. Contracts may not be split with the purpose of restricting the choice of eligible costs by the bidder.
 - c. The procuring entities must indicate the existence of such conditions clearly and objectively in both tender notices and contract documents.
 - d. The application of this paragraph will be revisited five years after entry into force of this Agreement.
 - e. The application of this paragraph will be revisited with a view to reduce its inconsistency with the provisions of this Chapter in the event that the United States of America permanently lowers its local content restrictions applicable to transit vehicles (rolling stock) below 25 per cent for local and state contracting authorities.
- For the Province of Prince Edward Island, procurement of construction materials that are used for highway construction and maintenance are not covered.
 - For the Province of Quebec, following goods by Hydro-Quebec are not covered (identified in accordance with the HS): HS 7308.20; HS 8406; HS 8410; HS 8426; HS 8504; HS 8535; HS 8536; HS 853 HS 8544; HS 8705.10; HS 8705.20; HS 8705.90; HS 8707; HS 8708; HS 8716.39; or HS 8716.40
 - For the Province of Manitoba, procurement of the following goods by Manitoba Hydro Electric Board are not covered:
 - Textiles – fire retardant clothing and other work apparel;
 - Prefabricated buildings;
 - Bridges, bridge sections, towers and lattice masts, or iron or steel;
 - Steam turbines and other vapour turbines; hydraulic turbines and water wheels; gas turbines other than turbojets and turbo-propellers;
 - Electrical transformers, static converters and inductors;

- Electricity distribution or control apparatus;
- Parts of electricity distribution or control apparatus;
- Co-axial cable and other co-axial electrical conductors;
- Other electric conductors, for a voltage exceeding 1000V;
- Gates;
- Woodpoles and crossarms; or
- Generators

Services

- Unless otherwise specified, CETA's government procurement section (chapter 19), covers the services specified in the next two paragraphs.
- Procurement of the following services by central entities:
 - Legal services (advisory services of foreign and international law only)
 - Accounting, auditing and book-keeping services
- Procurement of the following services by entities:
 - Description
 - Repair services of personal and household goods
 - Commercial courier services (including multi-modal)
 - Electronic data interchange (EDI)
 - Electronic mail
 - Enhanced/value-added facsimile services, including store and forward, store and retrieve
 - Code and protocol conversion
 - On-line information and data base retrieval
 - Voice mail
 - Real estate services on a fee or contract basis
 - 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
 - On-line information and/or data processing (including transaction processing)

- Data base services
- Maintenance and repair services of office machinery and equipment including computers other computer services
- General management consulting services
- Marketing management consulting services
- Human resources management consulting services
- Production management consulting services
- Services related to management consulting (except 86602 Arbitration and conciliation services)
- Architectural services
- Engineering services
- Integrated engineering services (excluding 86731 Integrated engineering services for transportation infrastructure
- turnkey projects)
- Urban planning and landscape architectural services
- Technical testing and analysis services including quality control and inspection (except with reference to FSC 58
- and transportation equipment)
- Building-cleaning services
- Repair services incidental to metal products, machinery and equipment
- Sewage and refuse disposal, sanitation and similar services
- CETA'S government procurement chapter does not cover procurement of the following:
 - all services, with reference to those goods purchased by the Department of National Defence, the Royal Canadian Mounted Police, the Department of Fisheries and Oceans for the Canadian Coast Guard, the Canadian Air Transport Security Authority, and provincial and municipal police forces which are not covered by Annex 19-4; and
 - services procured in support of military forces located overseas.
- It does not apply to instruments of monetary policy, exchange rates, public debt, reserve management or other policies involving transactions in securities or other financial instruments, in particular transactions by the contracting authorities to raise money or capital. Accordingly, this Chapter does not apply to contracts relating to the issue, purchase, sale or transfer of securities or other financial instruments. Central bank services are also excluded.

- For procuring entities included in Annex 19-2, the thresholds will be SDR 355,000 when an entity procures consulting services regarding matters of a confidential nature, the disclosure of which could reasonably be expected to compromise government confidences, cause economic disruption or similarly be contrary to public interest.
- For the Province of Quebec, are not covered procurement from a non-profit organisation with respect to urban planning, as well as resulting plans and specifications preparation and works management, provided that the nonprofit organisation respects, for its procurement, the procuring entity's obligations under this Chapter.
- For the Province of Quebec, are not covered procurement of the following services by Hydro-Québec:
 - Computer and related services
 - Engineering design services for the construction of civil engineering works
 - Other engineering services.
- For the Province of Manitoba, are not covered procurement of services by Manitoba Hydro Electric Board.

Construction services

- Unless otherwise specified, CETA's government procurement section (chapter 19), covers all construction services identified in Division 51 of the CPC.
- This Chapter does not include construction services contracts that are awarded by procuring entities when carrying out activities listed in Section B of Annex 19-3, including:
 - for the purchase of water and for the supply of energy or of fuels for the production of energy;
 - for purposes other than the pursuit of their activities as listed in this Annex or for the pursuit of such activities in a non-European Economic Area country;
 - for purposes of re-sale or hire to third parties, provided that the procuring entity enjoys no special or exclusive right to sell or hire the subject of such contracts and other entities are free to sell or hire it under the same conditions as the procuring entity.
- The supply of drinking water or electricity to networks that provide a service to the public by a procuring entity other than a contracting authority shall not be considered as an activity within the meaning of subparagraphs (a) or (b) of this Annex where:
 - the production of drinking water or electricity by the entity concerned takes place because its consumption is necessary for carrying out an activity other than that referred to in subparagraphs (a) to (d) of this Annex; and

- supply to the public network depends only on the entity's own consumption and has not exceeded 30 per cent of the entity's total production of drinking water or energy, having regard to the average for the preceding three years, including the current year.
- The supply of gas or heat to networks that provide a service to the public by a contracting entity other than a contracting authority shall not be considered a relevant activity within the meaning of subparagraph (b) of this Annex where:
 - the production of gas or heat by the entity concerned is the unavoidable consequence of carrying out an activity other than those referred to in subparagraphs (a) to (d) of this Annex; and
 - supply to the public network is aimed only at the economic exploitation of such production and amounts to not more than 20 per cent of the entity's turnover having regard to the average for the preceding three years, including the current year.
- This Chapter shall not apply to procurements by procuring entities covered by this Annex for the purpose of activities relating to the exploitation of a geographical area for the purpose of exploring for, or extracting of, oil, gas, coal or other solid fuels.
- For central government entities, includes dredging services, and dredging services that are incidental to construction services contracts, subject to the following requirements:
 - a. the vessel or other floating plant equipment used in the supply of the dredging services:
 - i. is of Canadian or European Union make or manufacture; or
 - ii. has been predominantly modified in Canada or the European Union and has been owned by a person located in Canada or the European Union for at least a year prior to the submission of the tender by the bidder; and
 - b. the vessel must be registered in:
 - i. Canada; or
 - ii. a Member State of the European Union and have been granted a temporary licence under the Coasting Trade Act, S.C. 1992, c. 31. The temporary licence will be granted to the European Union vessel, subject to applicable non-discretionary requirements.
Footnote1 The requirement that a temporary licence will only be issued if there is no Canadian duty or non-duty paid vessel available will not be applied to the application for that temporary licence.
- The Province of Quebec reserves the right to adopt or maintain any measure favouring local outsourcing in the case of construction services contracts awarded by Hydro-Quebec. For greater certainty, such measure would in no case be a condition for the participation or qualification of suppliers.
- For the Province of Manitoba, are not covered procurement of construction services by Manitoba Hydro Electric Board.

- CETA’s government procurement section (chapter 19) does not cover procurement:
 - in respect of shipbuilding and repair, including related architectural and engineering services, for central entities and for sub-central entities in British Columbia, Manitoba, Newfoundland and Labrador, New Brunswick, Nova Scotia, Prince Edward Island, and Quebec;
 - in respect of agricultural goods made in furtherance of agricultural support programs or human feeding programs; of transportation services that form a part of, or are incidental to, a procurement contract;
 - in relation to an international crossing between Canada and another country, including the design, construction, operation or maintenance of the crossing as well as any related infrastructure;
 - between subsidiaries or affiliates of the same entity, or between an entity and any of its subsidiaries or affiliates, or between an entity and a general, limited or special partnership in which the entity has a majority or controlling interest; and
 - of goods purchased for representational or promotional purposes, or of services or construction services purchased for representational or promotional purposes outside the province, in respect of the provinces of Alberta, British Columbia, Newfoundland and Labrador, Nova Scotia, Prince Edward Island, Quebec and Saskatchewan;
 - of services contracts, excluding construction services contracts, which grant to a supplier the right to provide and exploit a service to the public as complete or partial consideration for the delivery of a service under a procurement contract;
 - for the acquisition, development, production or co-production of programme material by broadcasters and contracts for broadcasting time;
 - by Quebec entities of works of art from local artists or to procurement by any municipality, academic institution or school board of other provinces and territories with respect to cultural industries. For the purpose of this paragraph, works of art includes specific artistic works to be integrated into a public building or a site;
 - by procuring entities in connection with activities in the fields of drinking water, energy, transport and the postal sector, unless such contracts are covered by Section B of Annex 19-3;
 - subject to the Northwest Territories Business Incentive Policy;
 - subject to the Nunavummi Nangminiqagtunik Ikajuuti Policy (NNI Policy).

Regional Economic Development

- The provinces and territories of Manitoba, Newfoundland and Labrador, New Brunswick, Nova Scotia, Northwest Territories, Nunavut, Prince Edward Island, or Yukon may derogate from CETA’s

government procurement section (chapter 19) in order to promote regional economic development, without providing undue support to monopolistic activities.

- any procurement qualifying for a derogation pursuant to this Note shall:
 - i. be of a total value estimated at CAD\$ one million, or less; and
 - ii. support small firms or employment opportunities in non-urban areas.
- if the procurement meets the requirement but its total value exceeds CAD\$ one million, the value of the part of the contract that would be affected by the derogation would not exceed CAD\$ one million.
- a procurement shall not qualify for a derogation pursuant to this Note if it is funded by the federal government.
- a procurement qualifying for a derogation pursuant to this Note shall be notified at least 30 days prior to the signing of a procurement contract, accompanied by:
 - iii. the details of the circumstances justifying a derogation pursuant to this Note;
 - iv. the information regarding the area where the procurement is expected to provide regional economic benefits, and, if made available, the name of the supplier;
 - v. and an explanation of the conformity of the procurement with the requirements of this Note.

Interpretation

- This Chapter does not apply to:
 - any measure adopted or maintained with respect to Aboriginal peoples, nor to set asides for aboriginal businesses; existing aboriginal or treaty rights of any of the Aboriginal peoples of Canada protected by section 35 of the *Constitution Act*, 1982 are not affected by this Chapter; and
 - any measure adopted or maintained by Quebec with respect to cultural industries.
- For greater certainty, this Chapter shall be interpreted in accordance with the following:
 - procurement in terms of Canadian coverage is defined as contractual transactions to acquire goods or services for the direct benefit or use of the government. The procurement process is the process that begins after an entity has decided on its requirement and continues through to and including contract award;
 - where a contract to be awarded by an entity is not covered by this Chapter, Canada's Annexes to its Market Access Schedule shall not be construed to cover any good or service component of that contract;
 - any exclusion that is related either specifically or generally to central or sub-central entities or enterprises covered by Annexes 19-1 or 19-2, or Section A of Annex 19-3 will also apply to any

successor entity or entities, enterprise or enterprises, in such a manner as to maintain the value of the coverage of Canada's Annexes to its Market Access Schedule for this Chapter;

- services covered by this Chapter are subject to Canada's exclusions from and reservations to Chapters Eight (Investment), Nine (Cross-Border Trade in Services) and Thirteen (Financial Services);
- this Chapter does not cover procurement by a procuring entity on behalf of another entity where the procurement would not be covered by this Chapter if it were conducted by the other entity itself; and
- this Chapter does not cover procurement by a procuring entity from a government entity.

Schedule F - List of Key Acronyms and Procurement Terms

| General | |
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| ACAN | Advance Contract Award Notice - A notice of intent to solicit a Bid and negotiate with a single firm. Other Suppliers are not invited to Bid on these requirements but can forward letters of intent indicating their interest before the closing date. Notice of Bidding requests will then be solicited from letters of interest that have been received. |
| BA | Business number. |
| CAG | The Center of Government Acquisitions. |
| CETA | The Comprehensive Economic and Trade Agreement. |
| CSO | Common service organization. |
| CCPI | The Canadian Collaborative Procurement Initiative is part of the Government of Canada's ongoing work to modernize procurement practices. Through this initiative, provincial and territorial governments, as well as Municipalities, Academic Institutions, Schools and Hospitals (MASH) sectors and other entities, can use federal procurement tools to meet their buying needs, reduce costs, generate administrative efficiencies and obtain better value. |
| Contract management phase | Progress monitoring, deliverables tracking, payment processing, monitoring, etc. |
| Contractual Phase | All activities between the issuance of the RFP and the award of the contract. Includes information sessions. |
| Free Trade: | An international trade policy that allows goods and services to be bought and sold across borders with no or few government prohibitions, quotas, subsidies, or tariffs. |
| GPA | Government Procurement Agreement, a plurilateral agreement within the framework of the WTO, whose fundamental aim is to mutually open government procurement markets among its parties. |
| IBAN | International Bank Account Number. |
| IFB | Invitation for Bids - a procurement method used to solicit competitive sealed bid responses, sometimes called a formal bid, when the price is the basis for the awarding. |

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| ITT | Invitation to tender – a solicitation issued when two or more sources of supply have been identified, the requirement can be adequately defined, and the entity intends to accept the lowest-priced responsive tenders from a responsible offeror without negotiations. |
| MASH | Municipalities, Academic institutions, Schools, and Hospitals. |
| M/As | Ministries and agencies. |
| Open tenders | Occurs when an ITT is issued. This allows any supplier to submit a bid. This is the preferred method. |
| PBN | Procurement Business Number. |
| Post-contractual phase | Final interventions and file closure. |
| Pre-contractual phase | Definition of requirements, procurement plan and related activities. Prior to the issuance of the Invitation to Tender. |
| Public procurement | The designated legal authority to advise, plan, obtain, deliver, and evaluate a government’s expenditures on goods and services that are used to fulfil stated objectives, obligations, and activities in pursuit of desired policy outcomes. |
| Restricted tenders | Occurs when, under specific circumstances, a bargaining agent may deviate from certain procedural obligations of the trade agreements. |
| RFQ | Request for quotation – purchasing method generally used for small orders under a certain dollar threshold, such as \$1000.00. A request is sent to suppliers along with a description of the commodity or services needed and the supplier is asked to respond with price and other information by a predetermined date. Evaluation and recommendation for award should be based on the quotation that best meets price, quality, delivery, service, past performance, and reliability. |
| RFP | Request for Proposal – a solicitation in which it is not advantageous to set forth all the actual, detailed requirements at the time of solicitation and responses are subject to negotiation. Price must be a factor in the award but not the sole factor. |
| RFSO | Request for Standing offer – a method of supply used by Canadian public agencies to satisfy the requirements of departments and agencies by arranging with suppliers to submit a standing offer to provide goods, services, or both during a specified period for a specified price. The quantity of goods, level of services, and estimated expenditure specified |

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| | in the RFSO are only an approximation of requirements given in good faith. Standing offers are not contracts. If and when a department/agency issues an order against a standing offer, a contract is created. |
| RFSA | Request for Supply Arrangement. |
| SAP Ariba | Procurement and supply chain collaboration software. |
| SMEs | European small and medium-sized enterprises. |
| SDR | Special Drawing Rights, an international reserve asset, created by the IMF in 1969 to supplement its member countries' official reserves. The SDR serves as the unit of account of the IMF and other international organizations. |
| Solicitation | The process used to communicate procurement requirements and to request responses from interested vendors. A solicitation may be but is not limited to a request for bid and request for proposal. |
| SRI | Supplier Registration Information system. |
| Supplier | A person or business that provides goods or services. |
| Tender | A bidding process for goods, services, or construction that is open to all qualified Bidders and where the sealed Bids are opened in public for scrutiny and are chosen on the basis of compliance with the Bid requirement and lowest price. Also referred to as competitive tender or public tender and is a term normally used in Canadian procurement. Also see Bid and Solicitation. |
| TB | Treasury Board of Canada, the Cabinet committee of the Privy Council of Canada which oversees the spending and operation of the Government of Canada and is the principal employer of the core public service. The committee is supported by the Treasury Board of Canada Secretariat, its administrative branch and a department within the government itself. |
| Canada | |
| BDM | Business Dispute Management Program. |
| BN | Business Number, which under Canada Revenue Agency, is equal to the first nine digits of your GST/HST (eg: 123456789RT0001). |
| Buyandsell.gc.ca | Buyandsell.gc.ca makes Government of Canada procurement a little bit easier by simplifying the way procurement information is shared on the |

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| | Web. By accessing open procurement and contracting data, Buyandsell.gc.ca helps businesses and government buyers focus less on figuring out how to do business and more on doing business. |
| Canada buys | Online procurement services launched by Public Services and Procurement Canada. |
| Canada Gazette | Official newspaper of the Government of Canada |
| CIDA | Canadian International Development Agency. |
| CITT | Canadian International Trade Tribunal, an independent quasi-judicial body operating in Canada's trade system. The administrative tribunal reports to Parliament through the Minister of Finance. The Tribunal was established on December 31, 1988, and is based in Ottawa, Ontario. |
| CRA | Canada Revenue Agency. |
| FCA | Federal Court of Appeal, which has jurisdiction to hear appeals from judgments of the Federal Court and the Tax Court of Canada |
| GETS | Government of Canada's tendering system. |
| GSIN | The Goods and Services Identification Number - An alphanumeric code used to categorize goods and services for the allocation of requisitions, identification of source lists, and coding of Contracts. Number is allocated systematically by Supply and Services Canada. |
| GST/HST | Goods and Services Tax and Harmonized Sales Tax The GST tax is charged by the Canadian Government on the purchase of goods and services in Canada, levied on all goods manufactured or produced in Canada, as well as those imported into Canada unless an exemption applies. The HST includes the provincial portion of the sales tax but is administered by the Canada Revenue Agency (CRA) and is applied under the same legislation as the GST. |
| MERX | MERX is the most comprehensive source of public and private sector business opportunities in Canada. MERX provides suppliers and contractors with one-stop access to thousands of public and private sector tenders from every level of government and Canada's largest agencies, crown and private corporations. |
| PAC | Procurement Assistance Canada, previously named Office of Small and Medium Enterprises (OSME). PAC, as part of Public Services and |

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|---|---|
| | Procurement Canada (PSPC), is here to make it easier for smaller and diverse businesses to bid on federal contracting opportunities. |
| PSPC | Public Services and Procurement Canada. |
| PWGSC | Public Works and Government Services Canada. |
| Quebec | |
| Loi sur les contrats des organismes publics | Act respecting contracting by public bodies. |
| AMP | Autorité des marchés publics - a neutral, independent body whose main role is oversight of public procurement and the application of legislation and regulations governing public contracts in Quebec. Its oversight role covers the public sector, the health and education networks, government corporations, and the municipal sector. |
| RBQ | Régie du bâtiment du Québec - building control. |
| Loi sur l'intégrité en matière de contrats publics | <i>Integrity Act.</i> |
| Ministère des Affaires municipales et de l'Habitation | Ministry of Municipal Affairs and Housing. |
| Conseil du trésor | Treasury board - central entity in the management of contracts and material resources of the public administration. |
| Directive concernant la gestion des contrats d'approvisionnement, de services et de travaux de construction des organismes publics | Contract management guidelines adopted by the treasury Board. |
| Passeport Entreprise | Enterprise Passport - Facilitating Access to Government Contracts guide. |
| Politique de gestion contractuelle concernant le resserrement de certaines mesures dans les processus d'appel d'offres des | Contract management policy adopted by the treasury board. |

| | |
|---|--|
| contrats des organismes publics | |
| RENA | Registre des entreprises non admissibles - Register of Firms Not Eligible for Public Contracts. |
| Revenu Québec | Quebec Revenu Agency. |
| Sous-secrétariat aux marchés publics | Sub-secretariat for public contracts ensures that contracting activities are optimally managed. |
| SEAO | Système électronique d'appel d'offres - Electronic Tendering System. |
| UPAC | Unité permanente anticorruption - Permanent Anti-Corruption Unit. |
| Ontario | |
| BPS | Broader Public Sector, generally referring to the organizations that receive funding from the Government of Ontario but who are not, however, a part of the government itself. Examples of BPS organizations include hospitals, universities, colleges, and school boards. |
| FIPPA | Freedom of Information and Protection of Privacy Act. |
| OPS | Ontario Public Service, the workforce of 60,000+ public servants working for the Government of Ontario including its ministries, agencies and Crown corporations. |
| RAQS | Registry, Appraisal and qualification system. |
| Supply Ontario | Supply Ontario is a centralized supply chain agency in Ontario |
| VOR | Vendor of record. |

PUBLIC PROCUREMENT IN CANADA

MARKET STUDY

ProSME: supporting European SMEs to participate in public
procurement outside EU

Work Package 2: Deliverable 2
30th November 2021



COSME PROGRAMME
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ProSME Programme

Walloon Export and Investment Agency, Business France and Basque Trade's action plan to support European SMEs to participate in public procurement in Colombia, Canada, Switzerland and Ukraine¹



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¹ The content of this report has been drafted on the date of the redaction and could be not up to date. The authors (AWEX, Business France, Basque Trade and investment) do not accept any responsibility for any mistakes or for use that may be made of the information it contains.

CONTENTS

Contents

| | |
|---|----|
| CONTENTS | 2 |
| Executive brief..... | 4 |
| Introduction | 5 |
| USEFUL LINKS & PUBLICATIONS (to start with)..... | 6 |
| WHAT TO DO & WHY?..... | 7 |
| HOW TO DO IT? | 7 |
| 1. Diagnostic on each destination country covering public procurement | 8 |
| • Volume of public procurement processes | 8 |
| • Sectorial and thematic breakdown of public procurement..... | 10 |
| • Regional breakdown of public procurement | 11 |
| • International participation in public procurement | 12 |
| 2. Buyers' identification and description | 13 |
| • Lobbying | 13 |
| • Federal government..... | 13 |
| • Regional bodies | 13 |
| • Municipalities | 14 |
| • Other entities (state-owned enterprises, other authorities with public procurement competences)..... | 14 |
| 3. Future opportunities: | 15 |
| • Identification of public development plans (which could lead to public procurement opportunities) | 15 |
| • Identification of upcoming project pipeline large projects in the sectors of interest | 19 |
| PUBLIC INFRASTRUCTURE & TRANSPORTS | 19 |
| HEALTHCARE & BIOTECHNOLOGIES..... | 21 |
| ENERGY..... | 22 |
| ENVIRONMENT & CLEANTECHS | 24 |
| SMART CITIES | 26 |
| 4. Competitive framework | 29 |
| • Main local bidders and international bidders | 29 |
| 5. Main stakeholders (professional organizations, chambers of commerce, sectorial clusters ...) | 31 |
| SUPERCLUSTERS | 31 |
| CIVIL ENGINEERING..... | 31 |

| | |
|--|----|
| ELECTRICITY, ENERGY | 31 |
| CLEANTECHS..... | 31 |
| ENVIRONMENT..... | 31 |
| TRANSPORTS | 32 |
| LIFE SCIENCES & HEALTH..... | 32 |
| SMART CITIES | 32 |
| CHAMBERS OF COMMERCE, LOCAL DEVELOPMENT | 32 |
| FEDERAL AND PROVINCIAL (ON, QC) PUBLIC PROCUREMENT AGENCIES | 32 |
| OTHER OFFICIAL REGULATORY BODIES | 32 |
| OFFICIAL EU & BILATERAL REPRESENTATIONS IN CANADA (France, Spain, Belgium (Wallonia))..... | 33 |
| 6. CONCLUSIONS: FORECAST OF BUSINESS OPPORTUNITIES IN PUBLIC PROCUREMENT FOR EUROPEAN SMES..... | 34 |

Executive brief

The entry into force of the Canada-European Union Comprehensive Economic and Trade Agreement – also known as CETA – has brought new market perspectives to European SMEs in terms of both bilateral exchanges and access to public procurement on each side of the Atlantic.

Cognisant of these new opportunities, the European Union, either directly or through its international channels (EU delegations, chambers of commerce, EU-members trade offices, etc.) has since spared neither energy nor time to educate European businesses, providing them with numerous tools and guidance designed to take full advantage of these new opportunities.

Platforms like Access2Markets and its recently introduced Access2Procurement (starting with Canada) are specifically designed to increase European SMEs' involvement in overseas public procurement programmes.

Publications like the [European Union Guide to Canadian Government Procurement](#), **Practical Business Guides** like [How EU Businesses Can Take Advantage of Public Procurement Opportunities in Canada under the CETA](#), and **webinars** held on [Public Procurement Opportunities in Canada](#) form part of the comprehensive and essential arsenal already at the disposal of EU exporters of goods and services.

Funded by the European Commission (**European Innovation Council and SME Executive Agency**) and conducted jointly by economic and trade development agencies from France (Business France), Wallonia (AWEX) and the Basque Country (BFT), the present study will offer SMEs both the background (sectoral and market) information necessary to understand the Canadian context as well as practical advice to set up successful commercial strategies.

Together with the accompanying legal assessment, the current study aims at better preparing SMEs for the next step of their approach to public procurement in Canada: *Meet the Procurers* missions will be organized in Canada in the future to offer SMEs a first-hand, on-site experience.

Introduction

Canada is the ninth largest economy in the world² and, as such, deserves your attention if you are serious about expanding your market opportunities overseas. But with the provisional entry into force of the CETA Agreement in 2017, new opportunities should present themselves to you as the treaty makes provision for an **expanded access to public procurement**, for **more transparency** and for **additional legal security**.

According to the OECD³, Canada ranks 9th among OECD countries when it comes to Public Procurement as a share of total government expenditures. With 32.39% of its expenditures channelled through PP processes, Canada registers an OECD above average (30.45%) performance. As a comparison, France (25.68%), Belgium (27.54%), Spain (23.41%) and Italy (21.20%) sit below OECD average, well behind the Netherlands (OECD champion with 45.83%) and Germany (35.46%).

On top of the previously accessible **federal** procurement segment worth 22 billion CAD⁴, CETA not only expands your horizons to both **provincial** and **local/municipal** public procurement (PP) programs, but it will, in due course, also provide you with new **tools** (platforms) specifically designed to facilitate a centralized access to all levels of PP, estimated by some experts at a whopping **150 billion CAD** a year (some⁵ even value it at 200 billion CAD). Considering the vastness of the Canadian territory, the geographical scope of the current study will, for logistical and practical motives, focus specifically on the provinces of **Ontario** and **Quebec** which, combined, contribute to 57.8% of the national GDP (2017)⁶.

Whereas both the Federal Government and the Province of Quebec have, for a few years already, rolled out centralized public procurement platforms, Ontario, for its part, only initiated this process in 2019, resulting in the implementation of Supply Ontario⁷. As this new tool is still operating under interim measures⁸, Ontario PP statistics are extremely hard to come by and, consequently, past and current trends (sectors, commodities, protagonists) almost impossible to assess. In the absence of relevant and comprehensive official data, one could only assume that Ontario's PP profile would be quite similar in nature to Quebec's.

The current document aims at providing you with some practical guidance and useful advice to proceed with success in the somewhat apparently complex labyrinth of public procurement in Canada: thank you for joining us!

² : by nominal 2020 GDP, according to the [International Monetary Fund](#)

³ : OECD Data Set – Government at a Glance – 2019 Edition

⁴ : <https://buyandsell.gc.ca/>

⁵ : <https://mcmillan.ca/expertise/practices/government-public-policy/procurement/>

⁶ : Statistics Canada. [Table 36-10-0487-01 Gross domestic product \(GDP\) at basic prices, by sector and industry, provincial and territorial \(x 1,000,000\)](#)

⁷ : On November 5, 2020, the Ontario government published *Ontario Regulation 612/20 Centralized Supply Chain Ontario* (the “Supply Chain Regulation”), under the *Supply Chain Management Act, 2019* (the “Act”).

⁸ : <https://www.doingbusiness.mgs.gov.on.ca/mbs/psb/psb.nsf/English/SCC-IM-FAQS-EN>

USEFUL LINKS & PUBLICATIONS (to start with)

Market Access & Public Procurement Platforms (EU, federal, ON, QC)

Acces2Markets (EU)

<https://trade.ec.europa.eu/access-to-markets/en/home>

Exporting from the EU, importing into the EU - all you need to know · tariffs & taxes · customs procedures · rules of origin · trade barriers · product requirements ...

Access2Procurement (EU)

<https://webgate.ec.europa.eu/procurement/#/step1>

Wondering if you can bid for government procurement contracts outside the EU? The new Access2Procurement tool is here to help you. In its first phase it covers public procurement in Canada.

Public Services and Procurement Canada (federal)

<https://buyandsell.gc.ca/> - <https://www.tpsgc-pwgsc.gc.ca/app-acq/index-eng.html>

Buyandsell.gc.ca is the Government of Canada's open procurement information service to find tender opportunities, pre-qualified suppliers, contract awards ...

Système Électronique d'Appels d'Offres du Gouvernement du Québec

<https://www.seao.ca/>

SEAO is Quebec's official public platform.

Supply Ontario

<https://www.ontario.ca/page/supply-ontario>

Supply Ontario is the recently created PP platform for the Province of Ontario. Not operational yet.

Ontario Tenders Portal by JAGGAER (private)

<https://ontariotenders.app.jaggaer.com/esop/nac-host/public/web/about.html>

Publications, Webinars

EU Guide to Canadian Government Procurement

https://trade.ec.europa.eu/doclib/docs/2020/september/tradoc_158939.pdf

How EU Businesses Can Take Advantage of Public Procurement Opportunities in Canada under the CETA

<https://op.europa.eu/en/publication-detail/-/publication/e285e718-3f4d-11eb-b27b-01aa75ed71a1/language-en/format-PDF/source-189414892>

Public Procurement Opportunities in Canada

https://www.youtube.com/watch?v=S3wDIEksAzs&ab_channel=DelegationoftheEuropeanUniontoCanada

L'Accord économique commercial global entre l'Union européenne et le Canada – Perspectives économiques et revue légale (English version avail.)

Ed. LexisNexis Canada, Inc. 2020, – X. Van Overmeire, A. Van Assche, M. Bastille-Parent

WHAT TO DO & WHY?

When it comes to accessing foreign procurement processes, experts generally coincide on the advantage of establishing some sort of local presence in the target market.

Although the CETA Treaty makes provision for rendering both the EU and Canadian procurement processes better accessible to foreign bidders, it also contains specific exclusions in terms of sectors¹ and minimum contracts' value (thresholds, sometimes out of reach of the average SME) that could possibly limit a direct participation in the Canadian (federal, provincial and local) tender procedures.

What are the advantages of a local (Canadian) representation?

A local presence (incorporation, consortium, joint venture) provides potential bidders with:

- a first-hand and constantly updated business and market intelligence;
- an increased and more efficient lobbying capacity;
- some degree of risk protection against financial exposure, product liability, IP protection, etc.
- a wider access to all bidding processes in Canada (federal, provincial and local).

HOW TO DO IT?

In its Schedule A, the accompanying **legal analysis publication** addresses some of the facts regarding the provincial or federal incorporation process; here are some quick highlights:

*A **Canadian-incorporated wholly owned subsidiary** is a legal entity distinct from its shareholders, which may be created under federal or provincial law.*

*A **consortium and joint venture** are strategic business associations, or groups of two or more entities or individuals formed to undertake an enterprise together where each member retains its separate legal status and remains independent.*

*The decision of **which jurisdiction to incorporate** under depends on multiple factors such as the jurisdictions in which the business will operate, director residency requirements, corporate name requirements and cost.*

- o *Companies that wish to carry on a business subject to **federal** regulation must be incorporated under federal law. In addition, particularities in the provincial statutes may result in a foreign investor preferring federal incorporation.*
- o *If a company intends to operate in more than one province or territory, it will need to **register** in each province and territory in which it conducts business, regardless of the jurisdiction of incorporation.*
- o *An important feature of **Quebec** formed partnerships and corporations is that the legal name of each type of entity must be in French and comply with the Charter of the French language. This obligation does not prevent an entity from having an English version of its French legal name. Foreign investors must consider residency requirements.*
- o *The **Canada Business Corporations Act** (federal law) requires that at least 25 per cent of a corporation's directors be resident in Canada. Where there are fewer than four directors, the Act requires that one director be resident in Canada.*
- o ***Each province** has different residency requirements that investors should take into consideration. However, there are no residency requirements for directors of corporations under the business corporations acts in each of the three Canadian territories, British Columbia, Nova Scotia, New Brunswick, Prince Edward Island, Quebec and Ontario.*

Whichever avenue you decide to explore, the help of a legal counsel is highly recommended - if not simply indispensable - as it would assist you in initiating the bidding process in the best and most secure terms: not only will they advise you on the most suitable form of incorporation (if any), but they will be of great help with the drafting of bidding proposals, joint venture agreements and subsequent commercial contracts.

1. Diagnostic on each destination country covering public procurement

In 2020, trade⁹ in goods and services between the EU and Canada amounted to €53.3 billion, with the EU registering a positive trade balance of €13.3 billion in goods and €3.7 billion in services.

As Canada's third largest trading partner after the United States and China, the EU represented 8.2% of the country's commercial flows with the world in 2020. Canada, for its part, accounted for almost 1.5% of the EU's total external trade in goods during the same period.

The top two product categories that the EU and Canada exported to each other in 2020 were:

- machinery (36% of EU exports to Canada and 21% of its imports).
- chemical and pharmaceutical products (24% of EU exports and 17% of its imports).

When it comes to services, EU countries' trade to Canada is made mainly of TCI (telecommunications, computer and information), transport and use of certain intellectual properties. Trade in services between the two parties amounted to €25.6 billion in 2020.

Those statistics demonstrate that we are in the presence of two market-based, open and mature economies enjoying a stable and mutually beneficial relationship, recently celebrated with the provisional entry into force of a comprehensive trade agreement, the CETA.

Whereas goods and services have, for quite some time, been easily exchanged between the two protagonists on strictly commercial basis, direct access to public procurement has remained scarce and difficult: in its Chapter 19, the CETA is clearly starting to address this situation. One must nevertheless admit that there is still a long path to be travelled before a full, transparent and easy access be granted to non-national bidders.

As limitations persist in terms of sectoral exclusions and value thresholds, strategies can now be developed to successfully enter this 150 billion CAD (101 billion €) market: this is the very purpose of the current study.

- Volume of public procurement processes

Federal Procurement Process

For illustration purposes, the federal section of this study will be based on a 24-month period spanning from April 1st, 2019, to March 31st, 2021. On average, 23400 federal tenders were published¹⁰ each year. Total value of awarded tenders on an annual basis is nevertheless difficult to establish with precision, as a good number of tenders are of a revolving nature, i.e., their total value has been initially computed at the time of first award date (outside of period under review).

It is worth noting that 65.56% of the total number of federal contracts have been awarded under *Open Bidding Status* during the period under review; this is to say that a third of the federal public procurement still benefit from a non-competitive status (extreme urgency, best interests/value to Government, confidential nature, fixed price, exceptional circumstances, etc.).

⁹ : <https://ec.europa.eu/trade/policy/countries-and-regions/countries/canada/>

¹⁰ : <https://open.canada.ca/data/en/dataset/53753f06-8b28-42d7-89f7-04cd014323b0>

Quebec

Statistics published¹¹ by Quebec's Secrétariat du Conseil du Trésor tend to shed a more precise light on the province public procurement processes conducted through the SEAO¹² platform.

Important facts (2019-2020) are as follows:

- 16.3 billion CAD (11 billion €) is the **total value** of provincial contracts (valued at 25000 CAD and up) awarded during the Apr. 2019- March 2020 period in Quebec.
- 26928 is the **number** of contracts (valued at 25000 CAD and up) awarded.
- 42% (6.88 billion CAD) of the total contracts were awarded by **ministries and public administration agencies**.
- 37% (5.93 billion CAD) of the total contracts were awarded by bodies related to **public health and social services agencies**.
- 21% (3.46 billion CAD) of the total contracts were awarded by entities pertaining to the public **education** network.
- **Goods'** supplies represented 31% (5.04 billion CAD) of the total value of contracts awarded.
- **Services** represented 36% (5.88 billion CAD) of the total value of contracts awarded.
- **Construction** contributed to 33% (5.34 billion CAD) of the total value of contracts awarded.
- **ITC goods and services** represented 15% (2.42 billion CAD) of the total value of contracts awarded.
- 78% (12.72 billion CAD) is the percentage of contracts concluded on the basis of a public procurement process.

Ontario

Ontario spends about \$29 billion CAD (19.6 billion €) annually on goods and services. So far, the Ontario Public Service and organizations across the broader public sector - like hospitals and schools and other MASH entities¹³ – have been buying those goods and services independently. This is about to change with the recently created Supply Ontario, a centralized procurement platform across the Ontario Public Service and the broader public sector.

¹¹ : <https://www.tresor.gouv.qc.ca/faire-affaire-avec-letat/publications/statistiques-sur-les-acquisitions-gouvernementales/>

¹² : Système électronique d'Appels d'offres du Gouvernement du Québec (<https://www.seao.ca/index.aspx>)

¹³ : MASH : Organizations that form the broader public sector which operate independently from Federal, Provincial or Territorial government control. The acronym MASH stands for Municipalities, Academic Institutions, Schools and Hospitals. Source : <https://buyandsell.gc.ca/policy-and-guidelines/policy-notifications/PN-131>

- Sectorial and thematic breakdown of public procurement

Federal

The in-depth analysis of the latest available statistical series¹⁴ allows us to extract the following highlights and draw a general contour of the federal public procurement process:

- The [Department of National Defence](#) and the [Royal Mounted Police](#) accounted for nearly a quarter of the total number of awarded contracts listed between April 2019 and March 2021. It is worth noting that the vast majority of these contracts (71.8%) were awarded on a Competitive Tender basis.
- [Fisheries and Oceans Canada](#) occupied the second position in federal PP contracts, with 3070 occurrences (out of 46929 entries).
- [Health Canada](#), together with [Public Health Agency of Canada](#), ranked 3rd in terms of total awarded contracts during the period under review.
- [Natural Resources Canada](#) (446 occurrences), [Environment and Climate Change Canada](#) (590 occurrences) and the [Canadian Space Agency](#) (481 entries) constituted the other major federal contracting entities.
- When it comes to goods and services, let us highlight the following categories:
 - ICTs (7969 occurrences),
 - military/weapons/armament (837 occurrences)
 - aircraft: miscellaneous (882 occurrences)
 - medical: laboratories, studies, services, equipment (417 occurrences)
 - energy (164 occurrences)
 - water: purification, recycling, transportation, distribution (124 occurrences)

Quebec

When it comes to public procurement, 418¹⁵ Quebec governmental and MASH entities are required by law¹⁶ to operate via the centralized [SEAO platform](#) :

- 127 public entities operate under the authority of the Provincial Government: 20 ministries, 102 public bodies, 5 public subsidiaries.
- 59 public entities belong to the Public Health and Social Services' Network: hospitals, supply agencies, etc.
- 232 public entities originate from the Education Network: 72 Commissions scolaires, 48 Cégeps (community colleges), 19 universities, etc.

¹⁴ : <https://open.canada.ca/data/en/dataset/53753f06-8b28-42d7-89f7-04cd014323b0>

¹⁵ : As of March 31st, 2020, 418 Quebec entities were subject to the application of the LCOP (see below)

¹⁶ [Loi sur les Contrats des Organismes publics](#)

Accounting for 88% of the total value of provincial contracts awarded over a period of 12 months, the top 10 categories below provide you with a global overview of the sectorial breakdown in Quebec’s PP programs:

| QUEBEC – Top 10 Contracts Categories awarded (Apr. 2019-March 2020) | | |
|---|---------------------|------------------|
| Category | Number of Contracts | Value Percentage |
| Buildings | 4442 | 22% |
| Medical Supplies & Equipment, Pharmaceutical Products | 2597 | 16% |
| Health & Social Services | 1944 | 11% |
| Civil Engineering Works | 918 | 11% |
| Computer Equipment & Software | 1527 | 8% |
| ITC | 2255 | 7% |
| Architecture & Engineering | 2619 | 6% |
| Maintenance, repairs, modifications & installation of goods & equipment | 2453 | 3% |
| Public Services | 665 | 3% |
| Surveillance/monitoring & Associated Services | 143 | 1% |
| TOTAL Top 10 Categories | 19563 | 88% |
| Source : https://www.tresor.gouv.qc.ca/faire-affaire-avec-letat/publications/statistiques-sur-les-acquisitions-gouvernementales/ | | |

Ontario

As stated in the introduction, the absence of a centralized provincial PP program has rendered any detailed analysis almost impossible to conduct. This is hopefully about to change with the recently established – but not yet fully operational – [Supply Ontario](#) platform. For lack of better information, readers are therefore referred to the Quebec section above for sectorial and thematic breakdown indications.

- [Regional breakdown of public procurement](#)

Ontario and Quebec being the most populated provinces and, by far, the biggest contributors to Canada’s GDP, it should come as no surprise that they also play a central role in federal PP programs nationwide. Suppliers from both provinces combined account for 63% of the total contracts awarded by federal entities during the period under review (April 2019 – March 2021).

Likewise, 74.3% of the federal PP contracts awarded nationwide originate from either Ontario or Quebec. Other Provinces and Territories are left trailing far behind.

| Province/Territory where federal PP processes are initiated | # Of Contracts | % of total |
|---|----------------|------------|
| Alberta | 2501 | 5,33% |
| British Columbia | 2672 | 5,69% |
| Manitoba | 1592 | 3,39% |
| New Brunswick | 1237 | 2,64% |
| New Foundland/Labrador | 922 | 1,96% |
| Northwest Territories | 80 | 0,17% |

| | | |
|----------------------|--------------|---------------|
| Nova Scotia | 1848 | 3,94% |
| Nunavut | 25 | 0,05% |
| Ontario | 20115 | 42,86% |
| Prince Edward Island | 309 | 0,66% |
| Québec | 14771 | 31,48% |
| Saskatchewan | 842 | 1,79% |
| Yukon | 12 | 0,03% |

Source : <https://open.canada.ca/data/en/dataset/53753f06-8b28-42d7-89f7-04cd014323b0>

- International participation in public procurement

Federal

A picture is worth a thousand words: out of the 46928 contracts awarded¹⁷ by the Canadian Federal Government between Apr. 2019 and March 2020 (i.e., with CETA in force), only 396 successful bids (0.84% of total) originated from one of the 27 EU Members countries. Adding the United Kingdom (0.62%) to the group would make the Western European continent contribute only a humbling 1.46% to Canada's federal PP.

As Canada's major trading partner, the USA score a little better with a still meagre 1.67% of the total successful bids.

There is - hopefully - more than meets the eyes and, beyond these crude and somewhat disappointing statistics, one can only hope for a brighter picture, a picture made of a sizeable number of non-Canadian companies successfully accessing public procurement contracts via three different avenues: through their Canada-incorporated subsidiary, by taking part in international consortia led by Canadian partners or as sub-contractors of a Canadian supplier. More on that later.

One way or another, one would be hard pressed to invoke the direct benefits of the recently negotiated CETA Treaty, if it were not for the expanded access (to local entities), increased transparency and additional legal security.

Quebec

Unfortunately for EU companies, Quebec doesn't offer a very distinct panorama when it comes to international contribution to the Province's PP Program: with only 0.77%¹⁸ of the total number of contracts and 0.66% their global value, the EU-27 still lags far behind the USA (1.39% of total).

Ontario

As stated in the introduction, the absence of a centralized provincial PP program has rendered any detailed analysis almost impossible to conduct. This is hopefully about to change with the recently established – but not yet fully operational – [Supply Ontario](#) platform. For lack of better information, readers are therefore referred to the Quebec section above for indications on international participation in PP.

¹⁷ : <https://open.canada.ca/data/en/dataset/53753f06-8b28-42d7-89f7-04cd014323b0>

¹⁸ : https://www.tresor.gouv.qc.ca/fileadmin/PDF/faire_affaire_avec_etat/Rapport_Statistiques_1920.pdf

2. Buyers' identification and description

The detailed identification of each and every buyer (including officers and decision-taking boards) would render the current exercise and study extremely cumbersome, if not impossible.

But there is more...

- **Lobbying**

As a potential bidder, it is important to keep in mind that the direct approach (contact) of public stakeholders is a matter of legal and commercial significance, as Canada's PP processes are strictly regulated when it comes to lobbying activities. Lobbying is defined¹⁹ as communicating, with public office holders, for payment with regard to:

- the making, developing or amending of federal legislative proposals, bills or resolutions, regulations, policies or programs;
- the awarding of federal grants, contributions or other financial benefits; and
- in the case of consultant lobbyists, the awarding of a federal government contract and arranging a meeting between their client and a public office holder.

Whether you, as a potential bidder, or through a designated lobbying firm, decide to directly approach a public contracting entity, caution must be exerted as these activities are strictly regulated at both federal ([Office of the Commissioner of Lobbying](#)) and provincial levels ([Commissaire au lobbyisme du Québec](#), [Ontario Office of the Integrity Commissioner](#)). Any breach of these legal prescripts presents the risk of rendering the entire PP process null and void.

FASKEN, a local (Canadian) legal firm, recently held a webinar specifically dedicated to lobbying in a PP process; you are invited to watch its replay at:

https://www.youtube.com/watch?v=fvw9jKM547A&ab_channel=Fasken

- **Federal government**

This being said, identifying the various contracting entities might prove useful in developing a better perception of the local environment and gathering background information regarding future public projects requiring PP processes.

As far as the Federal Government is concerned, all ministries, agencies and departments are listed here: <https://www.canada.ca/en/government/dept.htm>

- **Regional bodies**

Quebec

Quebec Ministries, Agencies and Departments are listed here:

<https://www.quebec.ca/gouvernement/ministeres-et-organismes>

Ontario

Ontario Ministries, agencies and departments are listed here:

<https://www.ontario.ca/page/ministries>

¹⁹ : Federal Office of the Commissioner of Lobbying - <https://lobbycanada.gc.ca/en/>

- Municipalities

Quebec

Répertoire des Municipalités du Québec :

<https://www.mamh.gouv.qc.ca/repertoire-des-municipalites>

Ontario

A list of the 444 municipalities in Ontario – including status as an upper-, lower- or single-tier municipality and location is available here: <https://www.ontario.ca/page/list-ontario-municipalities>

- Other entities (state-owned enterprises, other authorities with public procurement competences)

Here again, it would be almost impossible to list ALL entities with PP prerogatives, but we can highlight various categories of contracting bodies, each entitled to initiate PP processes, like:

Quebec

List of Quebec Universities:

<https://www.quebec.ca/education/universite/etudier/liste-universites>

List of School Commissions (Commissions scolaires):

<http://www.education.gouv.qc.ca/trouver-un-centre-de-services-scolaire-ou-une-commission-scolaire-anglophone-ou-a-statut-particulier/>

List of Quebec hospitals:

<https://www.indexsante.ca/hopitaux>

Ontario

List of Ontario Universities:

<https://www.ontariouniversitiesinfo.ca/universities>

List of Ontario School Boards:

<http://www.edu.gov.on.ca/eng/sbinfo/boardlist.html>

List of Ontario Hospitals:

<https://www.health.gov.on.ca/en/common/system/services/hosp/>

3. Future opportunities:

Future opportunities can be identified by scanning major federal and regional investment plans across the country. Most of these public development initiatives serve as excellent indicators of potential opportunities for EU enterprises willing to join Canadian PP processes.

- Identification of public development plans (which could lead to public procurement opportunities)

Federal

As a matter of fact, the major development strategies launched in Canada (at federal and provincial levels) more or less mirror the orientations taken in the EU under the Green Deal²⁰.

Economic transformation (green transition), **sustainable and accessible transports, cleaner energy systems**, sustainable and **energy-efficient housing and cities**, sustainable management of **natural resources** can all be found at the core of Canada's development strategy and will require innovative solutions to which European companies could bring a positive contribution.

Through its **"Investing in Canada Plan – Building a Better Canada"** national initiative launched in 2016, the Government of Canada committed over \$180 billion over 12 years for infrastructure that benefits Canadians – from public transit to trading ports, broadband networks to energy systems, community services to natural spaces.

The Plan²¹ is designed to achieve the following three objectives:

- **Jobs & Growth**
The Plan is associated with the creation of 100,000 good, well-paying jobs each year and boosting Canada's GDP.
- **Sustainable & Resilient**
The Plan has committed billions of dollars towards projects that are cleaning the country's waters, strengthening its energy grids, reducing greenhouse gas emissions and building resiliency to the impacts of climate change.
- **Inclusive & Accessible**
The Plan is investing in projects that are improving social inclusivity, accessibility for people with disabilities and quality of life for all Canadians.

Across its five investment streams:

- **Public Transit**
Investments to build new urban transit networks and service extensions that will transform the way Canadians live, move and work. Under the Plan, investments of over \$13 billion have been made in more than 1,300 public transit projects across Canada. These investments have helped build more than 240 kilometres of new public transit subway and light rail line, purchase over 300 zero-emission buses, and create almost 500 kilometres of active transportation trails, bike and pedestrian lanes, and recreational paths. [Learn more about the public transit investment stream.](#)
- **Green**

²⁰ : https://ec.europa.eu/info/strategy/priorities-2019-2024/european-green-deal_en

²¹ : <https://www.infrastructure.gc.ca/alt-format/pdf/plan/icp-pic/IC-InvestingInCanadaPlan-ENG.pdf>

Investments to ensure access to **safe water, clean air, and greener communities** where Canadians can watch their children play and grow. Infrastructure Canada's Disaster Mitigation and Adaptation Fund (DMAF) helps protect Canadians and their homes and businesses, while reducing the long-term costs associated with replacing infrastructure following natural disasters. Through DMAF's first intake, more than \$1.9 billion was announced for **69 large-scale infrastructure projects** to help protect communities across the country from the emerging threats of climate change. Since the launch of the [Clean Energy for Rural and Remote Communities](#), \$111.3 million has been invested to reduce reliance on diesel and other fossil fuels for heat and power in Canada's rural and remote communities, by supporting 81 community-led renewable energy projects. [Learn more about the green investment stream.](#)

- **Social**

Investments to provide **adequate and affordable housing** and childcare as well as cultural and recreational centers that will ensure Canada's communities continue to be great places to call home. Through the Canadian Mortgage and Housing Corporation, housing stock has been expanded by over 14,000 housing units, over 65,900 housing units repaired and over 23,800 community housing units have been protected. Under the [Enabling Accessibility Fund](#), \$19.9 million has been invested in 672 projects, including small, mid-sized and youth projects, to support communities to become more accessible by creating accessible pathways, installing ramps, accessible washrooms and hearing loop systems, and improving accessibility in workplaces. [Learn more about the social investment stream.](#)

- **Trade and Transportation**

Provide **safe, sustainable and efficient transportation systems** that will bring global markets closer to Canada to help Canadian businesses compete, grow and create more middle-class jobs. Through the [National Trade Corridors Fund](#), \$704 million has been committed to 16 air projects and 27 marine projects, leveraging total investments of \$1.45 billion; and, \$1.09 billion has been committed to 19 rail and 21 road projects, leveraging total investments of \$2.5 billion. [Learn more about the trade and transportation investment stream.](#)

- **Rural and Northern Communities**

Investments to grow local economies, improve social inclusiveness and better safeguard the health and environment of rural and northern communities. Over 100 mostly rural communities now have high-speed internet, with hundreds more soon to be connected with over 22,000 km of fibre by 2023. [Learn more about the rural and northern communities' investment stream.](#)

The [“Investing in Canada Plan Project Map”](#)²² includes some of the approved, geo-locatable projects under the \$180+ billion Investing in Canada plan as of September 23, 2020.

The current pandemic’s impact on national priority strategies varies from barely unaffected (climate change) to highly fast-tracked (digitalization²³) and will definitely leave its mark on the Canadian post-COVID economic recovery.

As expected, the health and social sector is being severely strained by the COVID crisis and additional public resources will need to be allocated to compensate for recurrent disinvestment as well as to face ongoing challenges related to an ageing population.

Canada’s own *Green Deal* is being implemented through various strategies²⁴ “leading to direct public investment in **clean technology, clean energy and greenhouse gas reduction** (among others)”; by doing so, it will likely generate new opportunities in the mobility, fuel, waste treatment and disposal and energy sectors.

Future public investments will therefore be scrutinized and evaluated in light of their potential environmental impact.

Fast-tracked by the current pandemic, the **digital shift** clearly induces or accelerates new transversal trends (data management and valorization, artificial intelligence, among others) contributing to a more efficient mobility, more resilient infrastructures, more sustainable cities, increased energy efficiency and smarter health and wellbeing.

The introduction of teleworking and flexible workplaces also brings along its share of technological challenges and expectations, in terms of data and cybersecurity, connectivity, privacy and human resources management.

In its *Restart, Recover and Reimagine Prosperity for All Canadians* publication²⁵, [Canada’s Industry Strategy Council](#) lays out “an ambitious growth plan for building a digital, sustainable and innovative economy”, with the direct implication of the **Innovation Superclusters Initiative**²⁶ (part of the [Canadian Innovation and Skills Plan](#)). It comes as no surprise that superclusters relevant for post covid recovery were indeed allocated new funding from the 2021 budget²⁷.

The main government priorities that will traduce in spending by PSPC (Public Service and Procurement) were highlighted by Mrs. Anita Anand, Minister of Public Services and Procurement in her presentation of the 2021 to 2022 PSPC Departmental Plan²⁸:

- protecting public health;
- ensuring a strong economic recovery;
- promoting a cleaner environment.

²² : <https://www.infrastructure.gc.ca/gmap-gcarte/index-eng.html>

²³ ²³ " Canada Digital Adoption Program"

<https://www.mfat.govt.nz/br/trade/mfat-market-reports/market-reports-americas/canada-covid-19-economic-recovery-september-2021/#:~:text=Canada%20Digital%20Adoption%20Program>

²⁴ : [Federal Sustainable Development Strategy](#) , the Government of Canada's [Greening Government Strategy](#) , [Canada's Strengthened Climate Plan, A Healthy Environment and a Healthy Economy](#)

²⁵ : [https://www.ic.gc.ca/eic/site/062.nsf/vwapj/00118a_en.pdf/\\$file/00118a_en.pdf](https://www.ic.gc.ca/eic/site/062.nsf/vwapj/00118a_en.pdf/$file/00118a_en.pdf)

²⁶ : <https://www.ic.gc.ca/eic/site/093.nsf/eng/00016.html>

²⁷ : <https://www.mfat.govt.nz/br/trade/mfat-market-reports/market-reports-americas/canada-covid-19-economic-recovery-september-2021>

²⁸ <https://www.tpsgc-pwgsc.gc.ca/rapports-reports/pm-dp/2021-2022/index-eng.html>

Planned expenditures up to 2024 for each of PSPC’s main responsibilities are as follow²⁹ (dollars)

| Core responsibilities and Internal Services | 2018 to 2019 expenditures | 2019 to 2020 expenditures | 2020 to 2021 forecast spending | 2021 to 2022 budgetary spending (as indicated in Main Estimates) | 2021 to 2022 planned spending | 2022 to 2023 planned spending | 2023 to 2024 planned spending |
|---|---------------------------|---------------------------|--------------------------------|--|-------------------------------|-------------------------------|-------------------------------|
| Purchase of Goods and Services | 184,354,499 | 160,744,972 | 1,198,392,386 | 165,373,648 | 165,373,648 | 147,238,024 | 132,106,964 |
| Property and Infrastructure | 2,829,166,463 | 2,626,433,017 | 3,097,107,307 | 3,244,445,160 | 3,244,445,160 | 3,298,786,358 | 2,607,869,222 |
| Government-Wide Support | 106,721,614 | 151,289,700 | 180,349,125 | 157,928,212 | 157,928,212 | 141,388,957 | 129,768,766 |

- (1) Purchase of goods and services will include spending in support of the government’s response to COVID-19; for the implementation of the cloud-based Electronic Procurement Solution (EPS); key procurements in support of Canada’s defense air and land requirements, aircraft fleet, fleet of combat and non-combat vessels...
- (2) Spending for Property and Infrastructure will support the Government’s climate goals of net-zero emissions. See report³⁰ for detailed Portfolio of construction and rehabilitation projects
- (3) (Government-Wide Support will include procurement in the field of the transition to a digital government such as ICT services (linguistic, document imaging,) or flexible workplace (security and oversight services, remote and video interpretation...

- **Regional programs**

Quebec

The Province of Quebec is currently rolling out its [Plan québécois des infrastructures 2021-2031](#) with the following highlights:

- a **total of 135 billion CAD** (91.5 billion €) will be invested in Quebec over the 2021-2031 period, aiming at boosting the province’s economy;
- public investment will focus on **priority sectors**, i.e.:
 - an additional 3.1 billion CAD will be allocated to **retirement homes, rehabilitation centres (CHSLD) and hospitals**;
 - 1.8 billion CAD will be added to the existing investment budget for **schools**;
 - additional 811.8 million CAD will be channelled towards renovation and expansion projects in **community colleges** and **universities**;
 - an additional 2.6 billion CAD will be invested in the maintenance and expansion of the provincial **road network**;
 - 1.5 billion CAD will be spent on **mobility** improvement and public transport **electrification**, of which 450 million CAD will go directly to the 2030 [Plan for a Green Economy](#)³¹;
 - 100 million CAD are being earmarked for cultural projects, to maintain and further develop cultural infrastructures.

²⁹: <https://www.tpsgc-pwgsc.gc.ca/rapports-reports/pm-dp/2021-2022/index-eng.html>

³⁰ 2021 to 2022 Departmental Plan <https://www.tpsgc-pwgsc.gc.ca/rapports-reports/pm-dp/2021-2022/index-eng.html>

³¹ : <https://www.quebec.ca/en/government/policies-orientations/plan-green-economy>

ProSME: supporting European SMEs to participate in public procurement outside EU

Detailed and constantly updated information regarding Quebec's infrastructure projects are listed on the province **Ministry of Transports website**³².

Ontario

Infrastructure Ontario (IO), a Crown Agency that *“supports the Ontario government’s initiatives to modernize and maximize the value of public infrastructure and real estate... upholds the government’s commitment to renew public services”*³³ and *“acts as procurement and commercial lead for all major public infrastructure projects in the province.”*³⁴

Ontario major infrastructure projects can be accessed through the Infrastructure Ontario online Platform; they are listed under the following categories:

- Education
 - Health Care
 - Justice
 - Tourism, Culture & Sports
 - Transit & Transportation
 - Other
- Identification of upcoming project pipeline large projects in the sectors of interest

The current study will focus on 4 major sectors presenting opportunities for EU companies, i.e.: **Public infrastructure and transportation** (rail, road, air, water);

- **Smart cities, better housing**
- **Energy, Cleantech & Environment**
- **Healthcare and biotechnologies**

Most projects related to the sectors above can be accessed through the various federal and provincial platforms already mentioned.

PUBLIC INFRASTRUCTURE & TRANSPORTS

We would be tempted to shortlist a handful of emblematic infrastructure projects nationwide, for illustration purposes; but we would be better inspired to direct potential bidders to the various online platforms as they provide a truly dynamic, constantly updated picture of all ongoing and future ventures.

Federal

Investing in Canada Projects List:

<https://www.infrastructure.gc.ca/plan/icip-list-liste-pidc-eng.html>

Quebec

Quebec Ministry of Transports:

<https://www.transports.gouv.qc.ca/fr/projets-infrastructures/Pages/projets-infrastructures.aspx>

Case in point: Montreal's REM mega project

³² : <https://www.transports.gouv.qc.ca/fr/projets-infrastructures/Pages/projets-infrastructures.aspx>

³³ : <https://www.infrastructureontario.ca/About-Infrastructure-Ontario/>

³⁴ : *ibid.*

Back in 2016, the Greater Montreal Metropolitan Area decided on the construction of The Réseau Express Métropolitain (REM), “a new automated light rail network.

The Phase 1 of the project – currently under construction³⁵ - is to include 26 stations and span the greater Montréal area with 67 km of tracks. Phase 2 has been announced in October 2021 and should retain the attention of international bidders in the public transportation sector (see below).

The REM is the largest public transit project undertaken in Québec in the last fifty years. The first trains (Phase 1) are expected to start running in 2022 from the South Shore to Bonaventure-Central Station. Then, the other branches of the network will be gradually put into service in 2023-2024”³⁶.

The implementation of the REM Project (Phase 1 and 2) has been entrusted to the [Caisse de Dépôt et des Placement du Québec \(CDPQ\)](#), a major Québec and global private equity investor.

A growing controversy has sprung in Quebec around the CDPQ’s decision to award the construction of the first lot of rolling stock to an Indian subsidiary of the ALSTOM Group, despite the local presence of Bombardier Transport, a Quebec-based constructor recently acquired by the French multinational. “The idea, in this project, is to maximize the local (Quebec) content while respecting international treaties” said Harout Chitilian, VP CDPQ Infra, in response to the critics formulated during Phase 1. It is estimated that the second phase of the REM project (REM East) could yield 6.3 billion CAD in industrial returns to Quebec’s local economy.

At the time of initiating the Phase 2 of the project³⁷, and learning from its past experience (Phase 1), CDPQ recently announced it is departing from its design-build approach, opting instead for a bidding process divided in 4 separate lots:

- the first one aims to identify an operator/partner in charge of assisting the CDPQ in the drafting of technical specifications and international tenders for the remaining 3 lots;
- the remaining lots will cover the construction of tunnels, the 23km-long aerial structures (tracks) as well as the building of the REM’s stations.

With its October 19th, 2021, announcement, CDPQ Infra hopes to rouse interest among local, national and international potential bidders.

In the meantime, a public debate is raging about the possibilities to guarantee minimal local industrial returns (estimated at 6.3 billion CAD).

According to local legal experts, the CETA could offer Quebec a great latitude on the local content requirements, as it makes provision for contracting entities in Ontario and Quebec to set a minimal 25% threshold. In its Annexes, CETA also stipulates that the Province could specifically require that public transport vehicles (including rolling stock) be assembled in Canada. Whether this particular provision will be activated remains to be seen.

Ontario

Infrastructure Ontario

[Infrastructure Ontario Platform](#)³⁸

³⁵ : the design-build Project (Phase 1) was entrusted to the [NouvelR consortium](#), led by SNC-Lavalin and Pomerleau, two of Quebec’s leading civil engineering firms.

³⁶ : <https://rem.info/en/reseau-express-metropolitain>

³⁷ : October 2021

³⁸ : <https://www.infrastructureontario.ca/Projects/?projectId=34359738436>

HEALTHCARE & BIOTECHNOLOGIES

Federal

It comes as no surprise that pandemic-related issues have placed a heavy burden on public finances and demonstrated the urgent attention required by the health sector in general. As a federal state, Canada's public health prerogatives are shared between the federal and provincial governments.

In view of identifying and quickly **filling products gaps**, special efforts are currently being deployed in the fields of **medical devices' testing, personal protective equipment, clinical trials, drug shortages, regulatory agility and health product access, drugs and vaccines development, disinfectants, sanitizers and cleaners**, to name but a few.

[BuyandSell.gc.ca](https://buyandsell.gc.ca) is dedicating an entire [section](#)³⁹ to COVID-19 related supplies and services required in response to the pandemic.

For additional information, please visit [here](#)

Quebec

In its 2021 annual budget, Quebec earmarked 10.3 billion CAD to further strengthen the health sector in a post-pandemic era (5-year period).

The COVID-19 pandemic shed a dramatic light on numerous and somewhat dramatic shortcomings experienced by the provincial public health sector, especially as it relates to Quebec's **ageing population**. Additional budgetary resources have therefore been funneled in the 2021 budget to address this worrisome situation.

Together with the education department (+6%), healthcare accounts for nearly two thirds (65%) of the 2021 provincial budgetary increase.

Between 2021 and 2026, provisions are being made for the allocation of:

- 7 billion CAD for the eradication or control of the sanitary crisis (of which 400 million CAD for the vaccination only).
- 2 billion CAD for the services to the elderly.
- 1.3 billion CAD to improve health cares and services.

Ontario

The Ontario government is investing \$182.6 million in 2021 to support critical **upgrades, repairs and maintenance** in 133 hospitals and 63 community health service providers across the province, including \$50 million for COVID-19 related and other urgent projects at hospitals.

Provided through the [Health Infrastructure Renewal Fund](#)⁴⁰ and the [Community Infrastructure Renewal Fund](#)⁴¹, this funding addresses urgent infrastructure renewal needs such as upgrades or replacements of roofs, windows, security systems, fire alarms and back-up generators. A total of \$50 million from the Health Infrastructure Renewal Fund will be used by hospitals for urgent projects, including those that support the health system response to COVID-19, such as

³⁹ : <https://buyandsell.gc.ca/supplying-goods-and-services-in-support-of-canada-s-response-to-covid-19>

⁴⁰ : The Ministry of Health and Long-Term Care (the ministry) established the Health Infrastructure Renewal Fund (HIRF) in 1999 to assist hospitals in renewing their hospital facilities.

⁴¹ : Recognizing the need for the renewal of community health care infrastructure, the Ministry of Health and Long-Term Care (Ministry) created the Community Infrastructure Renewal Fund (CIRF) program as part of the Community Health Capital Programs policy.

upgrading HVAC systems to enhance patient and staff safety, and improving infection prevention and control measures.⁴²

The government continues to make investments to support hospitals across the province and ensure the health care system is prepared to respond to any scenario. In March 2021, the government committed up to \$696.6 million in funding to help cover historic working funds deficits and strengthen the **financial stability** of hospitals across the province.

Through the 2021 Budget, Ontario's Action Plan: Protecting People's Health and Our Economy, the provincial government is providing a total of \$1.8 billion in additional investments to hospitals in 2021-22. This includes funding to create more than 3,100 additional hospital beds to increase capacity, as well as an increase of \$778 million in operational funding to ensure all publicly funded hospitals will receive a minimum 1 per cent increase to help them keep pace with patient needs and to increase access to high-quality care for patients and families across Ontario.

For 2021-22, Ontario has increased the Community Infrastructure Renewal Fund by three per cent and will be investing more than \$22 billion in capital grants over the next 10 years for health infrastructure projects across Ontario that will lead to \$30 billion in health infrastructure.⁴³

ENERGY

Like in most industrialized countries, the energy sector is gaining national attention in Canada, as an environmental challenge but also as a major pillar of the economic transition.

The country's current energy mix can be characterized as follows:

| Energy Source | Annual Production 2019, in TJ | % of total | Annual Production 2018, in TJ | % of total | Variation |
|-----------------|-------------------------------|------------|-------------------------------|------------|-----------|
| Crude Oil | 10735028 | 50,13% | 10519956 | 48,79% | 2,04% |
| Natural Gas | 7719008 | 36,05% | 7973732 | 36,98% | -3,19% |
| Hydro & Nuclear | 1821531 | 8,51% | 1843917 | 8,55% | -1,21% |
| Coal | 1138773 | 5,32% | 1221898 | 5,67% | -6,80% |
| TOTAL | 21414340 | 100,00% | 21559503 | 100,00% | -0,67% |

Source : <https://energy-information.canada.ca/en/indicators>

With a total annual energy production of 24.414.340 terajoules⁴⁴, and a national consumption of "only" 8.882.020TJ, Canada registers a clear energy balance surplus being exported to its Southern neighbour (i.e., the USA) at an average monthly rate of 1.184.538TJ, which generated 78.76 billion CAD in revenues in the year 2020.

In 2021, energy production and distribution represented close to 304.422 jobs, contributing to 7% of the national GDP.

⁴² : <https://news.ontario.ca/en/release/1000840/ontario-investing-in-health-care-infrastructure-upgrades-and-repairs>

⁴³ : <https://news.ontario.ca/en/release/1000840/ontario-investing-in-health-care-infrastructure-upgrades-and-repairs>

⁴⁴ : <https://energy-information.canada.ca/en/indicators>

Electricity

At national⁴⁵ level, the installed **electrical** generation capacity is shared between an array of private (42,681 MW) and public (93,356MW) utilities, the latter contributing to more than two thirds of the combined total.

Smarter Energy Use

In its *Report to Parliament Under the Energy Act*⁴⁶ covering the 2018-2019 period, the then Minister of National Resources highlighted Canada's strategy for a smarter energy use in the following terms:

"... we want to capture the opportunities energy efficiency presents by:

- *mobilizing investment and accelerating **building retrofits** through increased adoption of programs and tools such as [ENERGY STAR® Portfolio Manager](#)[®]*
- *increasing the energy efficiency of **homes** by:*
 - *providing Canadians with information about their energy use through energy audits*
 - *Using EnerGuide labels*
 - *ensuring new homes are built to net-zero National Building Code of Canada standards*
- *improving the energy performance of **windows** and **space heating** and **water heating** equipment*
- *working with **provincial** and **territorial** partners to encourage wider adoption of more efficient windows and heating equipment*
- *helping the industrial sector move to a **low-carbon economy** through energy efficiency programs that make it more competitive*
- *reviewing the Energy Efficiency Act (the Act) to ensure energy efficiency is considered in **all future government procurement, programming and planning**"*

At provincial level, Ontario and Quebec present a very different profile: whereas Ontario registers an installed capacity equally distributed between private (20,614MW) and public utilities (19,043MW), the Province of Quebec's installed capacity is largely concentrated in the hands of a single public utility.

Quebec

The Province's blue and green energies are the envy of the world, yet "they represent only 35% of the energy consumed in Québec" states [Hydro-Quebec's](#) in its *Strategic Plan 2020–2024* ([downloadable here](#)).

With an annual production of 213.7 TWh⁴⁷, Hydro-Quebec hydroelectric power plants generate 95% of the electricity consumed in Quebec and account for about a third of the electricity produced nationwide (2018).

⁴⁵ 2017 figures

⁴⁶ <https://oee.nrcan.gc.ca/publications/statistics/parliament/2018-2019/pdf/2018-19-ReportToParliament-EEAct-EN.pdf>

⁴⁷ : <https://www.cer-rec.gc.ca/en/data-analysis/energy-markets/provincial-territorial-energy-profiles/provincial-territorial-energy-profiles-quebec.html>

The remaining electricity generation (5% of total) rests in the hands of private companies (e.g.: Rio Tinto Alcan for its own mining operations) and small local communities.

Ontario

As far as Ontario is concerned, electricity generation and distribution offer a very atomized profile, with a provincial scene occupied by no less than 61 different operators (all listed [here](#)) regulated by the [Ontario Energy Board](#).

Hydrogen

“Canada’s hydrogen and fuel cell sector is recognized as a global leader in the industry for pioneering new technologies and industry expertise. Increasing demand for clean energy products and solutions domestically and worldwide is generating opportunities and investments in a broad range of applications (i.e., passenger vehicles, stationary and back-up power, and material handling).

The hydrogen and fuel cell sector are an important contributor to the Canadian economy and the development of clean, efficient, and reliable energy alternatives. According to surveys of hydrogen industry members in Canada conducted by the [Canadian Hydrogen and Fuel Cell Association](#) in 2017, 41% reported annual revenues of approximately €133 million (\$207 million), of which product sales represented 72% and contributions to support R&D were 23%

Canada’s hydrogen and fuel industry at a glance

- Revenue of 207 million CAD
- Employment of 2,177 jobs
- Research, development and demonstration expenditures of 91 million CAD

Source: Canadian Hydrogen and Fuel Cell Sector Profile Report November 2018

However, this probably under-represents the actual market size, as there is a substantial volume of hydrogen production and use in the chemicals and petrochemicals. Indeed, according to Natural Resources Canada, Canada ranks among the world’s top ten producers of hydrogen with an estimated 3 million tons generated via steam-methane reforming.

The Canadian federal government released its [Hydrogen Strategy for Canada – Seizing the Opportunities for Hydrogen – A Call to Action](#) in December 2020. This strategy forms part of Canada’s commitment to meet its obligations under the Paris Agreement, and to achieve net-zero carbon emissions by 2050.”⁴⁸

A detailed analysis of Canada’s hydrogen strategy and market opportunities is available [here](#).

ENVIRONMENT & CLEANTECHS

Environment

Among the 13 objectives set by the Canadian Government in its *Federal Sustainable Development Strategy*⁴⁹, let us focus on those that represent true opportunities for local and international companies as they relate to the scope of the current study:

- Effective action on **climate change**: low-carbon economy, carbon pricing and zero-emission vehicles.

⁴⁸ : https://trade.ec.europa.eu/doclib/docs/2021/august/tradoc_159778.pdf

⁴⁹ : <https://laws-lois.justice.gc.ca/PDF/F-8.6.pdf>

- Modern and resilient **infrastructure**; climate-resilient initiatives, investments in green infrastructure.
- **Water** management: watershed management, reduction of water pollution and contamination, drinking water quality, coastal and marine areas preservation
- **Air** quality management.
- Greening **Government**: greener federal operations, greenhouse gas emission reductions, clean energy and **green procurement**.
- Clean **energy**: renewable energy and energy efficiency.
- **Lands and forest** sustainability.
- Sustainable **food**
- Clean **growth**: Zero plastic waste, clean technologies.
- Healthy **wildlife**

Further detailed information can be obtained [here](#)

Cleantech

“Canada is one of the fastest growing markets for clean energy and clean technologies. According to Canada’s Department of Environment and Climate Change, Canada’s clean energy sector has 20 times as much wind energy capacity and 125 times as much solar electricity capacity as it did a decade ago.”⁵⁰

Through its [Pan-Canadian Framework on Clean Growth and Climate Change](#) (“Pan-Canadian Framework”) adopted in 2016, the Canadian Government aims to:

- promote Canada’s cleantech internationally, through skills and training;
- foster and support Canadian cleantech through public procurement processes.
- Educate and build a better awareness for cleantech among the Canadian population.

“The following funding and programs offer unique opportunities for EU companies to enter or expand in the Canadian market:

- Clean Technology: €1.45 billion (\$2.2 billion) supports the development of clean technologies for sustainable development and for natural resource sectors; it also includes nearly €659.85 million (\$1 billion) in financing dedicated to clean technology firms.
- The Low Carbon Economy Fund: €1.32 billion (\$2 billion) supports new provincial and territorial actions to reduce emissions by 2030.
- Green Infrastructure: €14.58 billion (\$22.1 billion) supports projects including for electricity transmission and grids, renewable energy, electric vehicle charging and natural gas and hydrogen refueling stations, new building codes, reducing reliance on diesel in Indigenous, northern and remote communities, and disaster mitigation and adaptation.
- €65.98 million (\$100 million) for the Clean Resource Innovation facilities, government bodies, academic institutions and financiers dedicated to enhancing innovation in the Canadian oil and gas sector and reducing the industry’s environmental footprint. The money is intended to support the development and commercialization of cleaner technology in the oil and gas industry.”⁵¹

⁵⁰ : [https://trade.ec.europa.eu/doclib/docs/2020/november/tradoc_159030.10.20\).pdf](https://trade.ec.europa.eu/doclib/docs/2020/november/tradoc_159030.10.20).pdf)

⁵¹ : *ibid.*

“In addition, to help clean technology firms grow and expand, Canada’s Innovation and Skills Plan includes investments of nearly €923.78 million (\$1.4 billion) in new financing on a cash basis. Funding is being allocated through the Business Development Bank of Canada and Export Development Canada as follows:

- €252,72 million (\$383 million) in equity financing to support clean technology producers
- €379.41 million (\$575 million) in working capital to support clean technology producers
- €230.95 million (\$350 million) in additional project finance for clean technology producers
- €265.92 million (\$403 million) committed by Budget 2017 to recapitalize Sustainable Development Technology Canada’s Sustainable Development Tech Fund, which supports the development and demonstration of early-stage clean technology projects.

This is in addition to broader innovation measures, including better supporting growing companies through government procurement.

Foreign investment in clean technology is on the rise, and Canada’s commitment to clean technology growth and adoption makes Canada a hotbed of clean technology potential⁵²

For a comprehensive approach on Canadian cleantech, read the excellent publication “The Clean Technology Market Entry Guide - A Practical Guide to the Canadian Clean Technology Market for European Union Companies” commissioned by the EU Delegation to Canada (downloadable [here](#)).

SMART CITIES

When it comes to smart cities, the *Smart City Priority Areas and Labour Readiness of Canadian Cities*⁵³ publication constitutes an excellent starting point as it sets the framework for the various strategies towards better and more sustainable urban entities.

Federal

The [Information and Communications Technology Council](#) (author of the publication) sets the following priorities for Canada’s smarter cities:

- Smart **government**: online platforms, increasing reliance on data to facilitate decision-making, cybersecurity and data protection, access to Open Data.
- Smart **mobility**: public transportation, infrastructure, green mobility, intelligent traffic planning. A few initiatives:
 - Montreal, QC: [Propulsion Québec](#), Cluster for Electric and Smart Transportation
 - [National Autonomous Vehicle Technology & Innovator Directory](#)
 - Ottawa, ON was the first Canadian city to launch [testing of an on-street autonomous vehicle \(AV\) communicating with live City infrastructure](#) through Kanata’s AV Cluster
- Smart **infrastructure**: energy efficiency, increased connectivity and data availability to bolster economic growth, innovation and participation; urban planning, optimized traffic management, increased public safety, 5G deployment, food security, etc.

⁵² : *ibid.*

⁵³ : https://www.ictc-ctic.ca/wp-content/uploads/2019/08/ICTC_Smart-City-Priority-Areas_Brief_ENG-8.19.19.pdf

- Smart health and well-being: smart health technology, Big Data, AI, Blockchain, AR/VR, etc. An example:
 - [Health Cities](#), an Edmonton, AL based not-for-profit corporation that works with clinicians, innovators, philanthropic organizations, and companies to develop new models of care to drive better health outcomes and economic growth in the health sector.
- Smart regulation

Worth mentioning is the [Smart Cities Challenge](#) initiative, a pan-Canadian competition open to all municipalities, local or regional governments, and Indigenous communities (First Nations, Métis and Inuit). The Challenge empowers communities to adopt a smart cities approach to improve the lives of their residents through innovation, data and connected technology. Launched in 2017, the winners were announced two years later.

Quebec

Through its [Urban Innovation Lab](#), the City of Montreal “fosters and supports the creation of innovative solutions emerging from all walks of life,

- pursuing the implementation of projects relating to mobility and access to food in Montreal after its proposal was awarded 50 million CAD from the Smart Cities Challenge;
- Launch programs, communications and mobilization activities with the population, paying particular attention to the challenges of the digital divide which worsened during the pandemic;
- Increase the openings of data sets and support the data ecosystem in Montreal.”⁵⁴

Not to be outdone, Quebec (Capital City) has also launched various local, uncoordinated initiatives aiming at improving the city’s resilience in adverse conditions ([Plan K](#)): extreme weather, industrial incident, handling/transit of dangerous substances, water and rivers’ management, public health crisis. In an effort to tackle the misuse of social networks, a pilot-project is currently deployed for the detection of criminal activities.

Ontario

The very concept of a smart city is constantly evolving as it is moving away from a technology-centered process (smart city), focusing rather on the real needs of its citizen (sustainable city); the Toronto waterfront Quayside saga is a very good illustration thereof.

When Sidewalk Labs, a Google-backed company, pledged to make Toronto one of the world’s first smart cities a few years ago, its project immediately started to raise eyebrows in the local community when it realized thousands of cameras and monitoring devices would be deployed citywide.

Amid growing criticism, the Sidewalk Labs initiative was finally abandoned in March 2021, to make place for a new vision, driven by more citizen-centric principles like affordability, sustainability and environmental friendliness. [Waterfront Toronto](#) therefore launched an international competition “to secure a development partner for the Quayside lands. The first step in this effort was to issue a Request for Qualifications (RFQ) to identify potential development proponents with the proven experience, design portfolio, financial resources, and

⁵⁴ : <https://laburbain.montreal.ca/en/about>

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shared vision necessary to bring Quayside to reality.”⁵⁵ Deadline for submissions was May 12, 2021, with the idea of selecting a winning proponent before the end of 2021.

⁵⁵ :<https://waterfrontoronto.ca/nbe/portal/waterfront/Home/waterfronthome/newsroom/newsarchive/news/2021/march/waterfront+toronto+launches+international+competition+for+quayside+development+partner>

4. Competitive framework

As a leading economy, Canada presents a competitive profile in many ways comparable with other world-class economic powerhouses:

- Canada benefits from a wide and **diversified** industrial base, fuelling a sound and vivid national competition;
- the country offers a politically, socially and legally **stable** environment, conducive to attracting foreign investment;
- supported by a nationwide network of internationally renowned universities and research centers, Canadian scientists and researchers are at the forefront of industrial, scientific, environmental **innovation**;
- nationwide **workforce** shortages tend to temporarily hamper Canada's rapid economic recovery;
- although the country likes to profile itself as an open and reliable international commercial and industrial partner, one should bear in mind that "Canada and **the United States** enjoy the largest trading relationship in the world"⁵⁶. When approaching the Canadian market, foreign companies should therefore expect to face stiff competition from both local and US companies, as both markets are closely integrated.
- as illustrated during the COVID pandemic, acute shortages occurred in essentials health-related goods and equipment usually sourced internationally, shedding some light on the necessity to rebuild a **sustainable and reliable supply chain** in strategic sectors. National preference, short marketing circuit of local products and solutions are therefore the flavour of the month when it comes to promote the nation's resilience in troubled times.
- at provincial and lower level (municipality and MASH), the tendency to favour local bidders remains strong, in spite of international treaties' provisions and other national regulations.

- [Main local bidders and international bidders](#)

ENGINEERING

As stated before, the list of main local and international bidders would be almost impossible to compile, due to the high number of companies participating in PP processes nationwide.

This being said, top engineering companies – whether alone, in consortia or through joint venture - often engage in bidding processes and are therefore pretty easy to identify; they are (non-exhaustively) listed below, for your perusal:

Top Engineering Companies in Canada

[Arup](#)

[Bantrel](#)

[BBA](#)

[GCM Consultants](#)

[GHD Group](#)

[McElhanney](#) (Vancouver)

[MCW Consultants Ltd](#) (nationwide)

[Quasar Consulting Group](#) (Toronto, Ottawa, Vancouver)

⁵⁶ : <https://www.international.gc.ca/country-pays/us-eu/relations.aspx?lang=eng>

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[Vista Projects](#) (Calgary)

[Williams Engineering Canada](#) (Alberta, British Columbia)

[Keller Engineering](#) (Ottawa, Calgary, Toronto, Edmonton, Vancouver, Kingston)

[Systra Canada](#) (Quebec)

[Pomerleau](#) (Quebec)

[SNC Lavalin](#) (Montreal)

[Hatch](#) (Ontario)

[WSP Canada](#) (Quebec)

[Golder](#) – Member of WSP (Ontario)

[Stantec Inc.](#) (Edmonton)

[Aecom](#) (US-based)

Source : <https://www.airiodion.com/engineering-companies-canada/>

[Bâtiguide – Le répertoire des professionnels de la construction au Québec](#)

5. Main stakeholders (professional organizations, chambers of commerce, sectorial clusters ...)

SUPERCLUSTERS

In the framework of the Innovation Superclusters Initiative, it's worth mentioning that a “**Transatlantic cluster collaboration**” was signed in 2019 between the EU and Canada and administrative arrangements were put in place to strengthen collaboration and form strategic business partnerships with overseas counterparts.

Contact data from the superclusters:

Digital Technology Supercluster (located in BC):

<https://www.ic.gc.ca/eic/site/093.nsf/eng/00011.html>

Protein Superclusters (located in the Prairies):

<https://www.ic.gc.ca/eic/site/093.nsf/eng/00012.html>

Next Generation **Manufacturing** Supercluster (located in Ontario):

<https://www.ic.gc.ca/eic/site/093.nsf/eng/00010.html>

Scale **AI** Supercluster (located in Montreal):

<https://www.ic.gc.ca/eic/site/093.nsf/eng/00009.html>

Ocean Supercluster (located in Atlantic Canada):

<https://www.ic.gc.ca/eic/site/093.nsf/eng/00013.html>

CIVIL ENGINEERING

CA - [Association of Consulting Engineering Companies \(ACEC\)](#)

ON - [Association of Consulting Engineers Ontario](#)

QC - [Association des Firmes de Génie-conseil Québec](#)

ELECTRICITY, ENERGY

CA - [Canadian Electricity Association](#)

CA - [Waterpower Canada](#)

CA - [Canadian Wind Energy Association](#)

CA - [Canadian Renewable Energy Association](#)

CA - [The Canadian Hydrogen and Fuel Cell Association](#)

QC - [Hydrogène Québec](#)

CLEANTECHS

CA - [Canada Cleantech](#)

QC - [Ecotech Québec](#)

ON - [Ontario Clean Technology Industry Association](#)

ENVIRONMENT

CA - [Municipal Waste Association](#)

ON - [Ontario Waste Management Association](#)

CA - [Canadian Association of Recycling Industries](#)

CA - [Electronic Products Recycling Association](#)

CA - [Electronic Recycling Association](#)

CA - [Automotive Recyclers of Canada](#)

- CA - [Canadian Beverage Container Recycling Association](#)
- CA - [Canadian Water and Wastewater Association](#)

TRANSPORTS

- CA - [Transportation Association of Canada](#)
- QC - [Association du Transport urbain du Québec](#)
- CA - [Canadian Urban Transit Association](#)
- ON - [Ontario Public Transit Association](#)
- CA - [Canadian Association of Railway Suppliers \(CARS\)](#)
- CA - [Railway Association of Canada](#)

LIFE SCIENCES & HEALTH

- CA - [BIOTECanada](#)
- ON - [Ontario Bioscience Innovation Organization](#)
- ON - [Life Sciences Ontario](#)
- QC - [BIOQuébec](#)
- AB - [BioAlberta](#)
- BC - [LifeSciences British Columbia](#)
- CA - [Innovative Medicines Canada](#)
- CA - [Canadian Generic Pharmaceutical Association](#)
- CA - [Food, Health & Consumer Products of Canada](#)
- CA - [National Research Council Canada](#)
- CA - [HealthCareCAN](#) (healthcare organizations and hospitals)
- ON - [Ontario Hospital Association](#)

SMART CITIES

- CA - [Canadian Urban Institute](#)
- QC - [Laboratoire de l'Innovation Urbaine de Montréal](#)

CHAMBERS OF COMMERCE, LOCAL DEVELOPMENT

- QC - [The Chamber of Commerce of Metropolitan Montréal](#)
- QC - [Montréal International](#) (local economic development agency)
- QC - [Québec international](#) (local economic development agency)
- ON - [Ontario Chamber of Commerce](#)
- ON - [Toronto Region Board of Trade](#)
- EU - [European Chamber of Commerce in Canada](#)

FEDERAL AND PROVINCIAL (ON, QC) PUBLIC PROCUREMENT AGENCIES

- CA - [Public Services and Procurement Canada \(federal\)](#)
- QC - [Système Électronique d'Appels d'Offres du Gouvernement du Québec](#)
- ON - [Supply Ontario](#)
- ON - [Ontario Tenders Portal](#) by JAGGAER (private)

OTHER OFFICIAL REGULATORY BODIES

- QC - [Autorité des Marchés Financiers](#)
- CA - [Office of the Commissioner of Lobbying](#)
- QC - [Commissaire au lobbyisme du Québec](#)
- ON - [Ontario Office of the Integrity Commissioner](#)

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OFFICIAL EU & BILATERAL REPRESENTATIONS IN CANADA (France, Spain, Belgium (Wallonia))

- EU - [Delegation of the European Union to Canada](#)
- FR - [Business France Canada](#) (Montréal, Toronto)
- ES - [Embassy of Spain in Canada](#) (Ottawa)
- BE - [Wallonia Trade Commissions](#) (Montreal, Toronto, Vancouver)

6. CONCLUSIONS: FORECAST OF BUSINESS OPPORTUNITIES IN PUBLIC PROCUREMENT FOR EUROPEAN SMES

Spanning by design over a limited number of pages, this market study never ambioned - or even pretended - to present you with an exhaustive picture of Canada's public procurement (PP) opportunities. It is instead intended both as an **eye-opener** for those enterprises which never thought of entering foreign PP processes before, and as a **confirmation** for those who already have.

Together with the accompanying practical (legal) guide for SMEs, titled *The Canadian, Quebec and Ontarian Government Procurement Markets*, the current market study outlines the **main principles and procedures** pertaining to PP processes in Canada and sketches out **market opportunities** for EU companies in a few promising sectors, namely: **infrastructure/railway transportation, smart cities, environment & clean technologies, life sciences and health**.

Those are sectors in which we believe EU technologies and know-how can bring a positive and competitive contribution to Canada's socio-economic development, rendered easier by the signing of the **CETA Treaty** and the more favorable framework it provides.

As part of a successful bidding strategy, we cannot stress enough the importance of a **local presence**, enabling you to acquire the necessary **market intelligence**, to **lobby** contracting entities and identify potential industrial **partners**, as well as to lift most of the **limitations** applied on price (thresholds) or sector (exclusions). An in-depth analysis conducted on tens of thousands of past federal bidding processes confirms the very limited direct successful access gained by EU or international companies to public procurement programs in Canada.

In spite of CETA providing a level playing field and a more secure legal and commercial framework to bilateral transactions, feedbacks from EU companies currently participating in Canadian PP processes all point towards the necessity to ensure a (semi-)permanent presence in the country. Since the form this presence may take will vary in regard to the targeted sector or project, it is strongly advised to seek the assistance of a legal counsel. Should your strategy favor a local incorporation, be aware that this process is neither long nor expensive, yet it does require some **legal guidance**.

Combined with the joint legal practical guide, this current publication only constitutes an attempt to **build awareness** on public procurement market opportunities in Canada. Should it manage to raise more than your curiosity and secure a real interest on your part, it would have achieved the purpose for which it was intended.

The whole idea, nevertheless, is to take you **a step further** and further refine your understanding of PP opportunities through **webinars** and information sessions specifically dedicated to this theme, placing you in close proximity of actors in the field and providing you with their first-hand experience. Such webinars and information sessions will be scheduled in the course of 2022, and you are strongly encouraged to attend.

Ultimately, this strategy will culminate with the **"Meet the Procurers"** field missions to be deployed in Canada in the foreseeable future.

We truly hope to have the pleasure of welcoming you on board of this promising voyage.