



Government Procurement

Trade has, in its general sense, been going on for as long as people have existed and today more than ever constitutes a core driver of Canada's economy. Canadian companies and their federal government understand the economic scope of trade with other countries; in turn, **government procurement**—a process subject to strict rules governing the allocation of public resources and followed by government entities when purchasing goods and services—consequently opens the door to **bilateral and multilateral trade**. Trade agreements provide Canada greater access to outside markets while also offering competitors around the world reciprocal access. By **opening up** the procurement process, Canada seeks to stimulate **competition** and expand the range of **goods and services** available to Canadians with the objective of improving quality while also keeping prices down. The **Comprehensive Economic and Trade Agreement (CETA)** signed in September 2017 between Canada and the European Union, under the terms of which procurement contracts may be awarded without awaiting the agreement's ratification, celebrates its first anniversary this year. See also the May 2017 issue of *Intell-Echo* (Vol. 4, no. 5, p. 4), which lists a number of websites related to government procurement and business opportunities at the national, provincial and regional levels.

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Important events in 2018

2018 Forum of the Canadian Public Procurement Council (CPPC)

September 16–19, 2018
Whitehorse, Yukon

<http://cppc-ccmp.ca/>

Atlantic Provinces Reverse Trade Show

Fall 2018 (PEI)

In 2017, more than 500 suppliers from across the Atlantic Provinces converged on Fredericton for this annual event where they networked with public sector procurement professionals from 25 organizations and learned more about how to access bidding opportunities.

Workshop on government procurement

Geneva, Switzerland, 10-14/09/18

Organized by the WTO, this event on maximizing the benefits of opening up markets was attended by more than 30 participants from more than 28 countries.

1.6%

1.6% of European imports come from Canada.

2%

2% of European exports target the Canadian market.

\$112 billion

The annual volume of Canadian government procurement contracts available to companies in the EU is valued at \$112 billion Canadian.

X2

The provinces' share of the total purchase volume of procurement contracts is twice that of the federal government.

#12

Canada is the European Union's 12th-largest trade partner for imports.

#13

Canada is the European Union's 13th-largest trade partner for exports.

30%

The opening up of Canadian government procurement provides European companies more than 30% access, whereas before CETA the quota was less than 10%.

9%

For Canada, CETA means preferred access to a market of 500 million consumers and 9% of European government procurement processes.

\$893 million

In 2016-2017, New Brunswick procured more than \$93 million in goods and services. The share of this amount going to NB suppliers represented more than 85% of the total volume of purchases.

\$1.2 billion

In 2017-2018, New Brunswick's Strategic Procurement division purchased \$1.2 billion in goods and services, 83% (\$1,026,501,902) of which came from NB suppliers.

\$2 billion

Nova Scotia's public sector spends nearly \$2 billion each year on the procurement of goods and services, more than 80% of which are purchased locally.

Public Services and Procurement Canada (PSPC) purchases the vast majority of goods and services for the Canadian government on behalf of some 100 or more federal departments and agencies. Maximum amounts for procurement of goods and services by other government entities are \$25,000 for goods and \$2,000,000 for services.

Additional information: Comprehensive Economic and Trade Agreement (CETA) between Canada and the European Union, <<http://www.international.gc.ca/>>; Québec-New Brunswick Procurement Agreement, <<https://www.tresor.gouv.qc.ca/>>; Canadian Free Trade Agreement (CFTA), <<https://www.cfta-alec.ca/>>; World Trade Organization Agreement on Government Procurement (WTO-AGP), <<https://www.wto.org/>>; Council of Atlantic Premiers, <<https://www.atlanticsuppliers.ca/>>; Atlantic Procurement Agreement (APA), <<http://www.cap-cpma.ca/>>; Integrated Government Procurement Market Access Information (e-GPA) Portal, <<https://e-gpa.wto.org/>>; Ministry for Economic Affairs and Energy of Germany, <<https://www.bmwi.de/>>; Théma Vision, <<http://www.themavision.fr/>>; Canadian International Trade Tribunal, <<http://www.citt.gc.ca/>>.

Access to Domestic Markets: Key Figures

Good to know

Suppliers should ensure they know and understand the **laws** and **regulations** concerning the principles of openness, fairness and transparency of trade agreements before becoming involved in the government procurement process.

Parties on both sides of the Atlantic provide companies access to documentation developed to offer guidance and support with a view to bidding successfully on procurement contracts.

The trade thresholds specified in free trade agreements are reviewed and updated every **two years**.

Four **criteria** applicable to procurement under CETA:

- ▶ its value must be equal to or greater than the relevant threshold
- ▶ the type of requirement must be covered
- ▶ the entity for which the procurement is being done must be covered
- ▶ no specific exceptions must be applicable or invoked.

Public procurement rules apply only to **high-value** procurement; for many Canadian municipalities, CETA will consequently have minimal impact on their procurement methods applicable largely to the subnational or national framework.

The **Canadian International Trade Tribunal** is the authority responsible for balancing free and fair trade and administering Canada's domestic law governing unfair trading practices. The Tribunal is mandated to investigate any disputes potentially arising concerning the government procurement process. All Canadian or foreign suppliers from a signatory country have a right to request that the Tribunal review the validity of procurement methods, which ensures that the contract awarding process remains open, fair, transparent and non-discriminatory. The document **Procurement Inquiries – A Descriptive Guide** outlines the various stages of the inquiry process.

Tables of trade thresholds established under the various agreements

Thresholds in Canadian dollars for procurement processes under any of the main free trade agreements to which the federal government is party

for the period between January 1, 2018, and December 31, 2019

Free trade agreement	Entities (departments or agencies)			Crown corporations / government-owned enterprises		
	Goods	Services	Construction	Goods	Services	Construction
CFTA	25,300	101,100	101,100	505,400	505,400	5,053,900
CETA	237,700	237,700	9,100,000	Section A 649,100	Section A 649,100	9,100,000
				Section B 731,400	Section B 731,400	
WTO-AGP	237,700	237,700	9,100,000	649,100	649,100	9,100,000

Note:

CFTA: interprovincial trade agreement aiming to reduce or eliminate trade barriers within Canada

CETA: trade agreement between the EU and Canada extending access to domestic procurement processes beyond the framework established in the **WTO-AGP** (Agreement on Government Procurement)

WTO Agreement on Government Procurement

Threshold values indicated in SDRs (special drawing rights)

Free trade agreement	Central government entities		Sub-central government entities		Other entities	
	Goods and services	Construction services	Goods and Services	Construction services	Goods and Services	Construction services
WTO-AGP	130,000	5,000,000	355,000	5,000,000	355,000	5,000,000

Note:

The CETA thresholds are expressed in special drawing rights (SDRs).

A "special drawing right" is a form of international money defined and maintained by the International Monetary Fund (IMF) to facilitate trade between countries. In light of the fluctuations of domestic currency rates, this international exchange rate—made up of multiple currencies including the U.S. dollar, the euro, the British pound, the Japanese yen and the Chinese yuan—promotes greater market stability.

Canada's commitment to domestic market access under CETA

Thresholds expressed in CETA SDRs

Each annex lists the thresholds assigned to the various types of entities gaining access to domestic markets.

Table based on Annex 19-A (Annex 19-1, Annex 19-2, Annex 19-3)	Thresholds (in SDRs)		
	Goods	Services	Construction services
Annex 19-1 – Central government entities	130,000	130,000	5,000,000
Annex 19-2 – Sub-central government entities	200,000	200,000	5,000,000
Where the above-mentioned entities procure concerning activities listed in Section B, Annex 19-3	400,000	400,000	5,000,000
Annex 19-3 – Other entities – Section A	355,000	355,000	5,000,000
– Other entities – Section B	400,000	400,000	5,000,000

Active Tender Opportunities Open to French Suppliers: Examples

(Note: Only selected items from tender notices are shown for the purposes of the *Intell-Echo* Bulletin; for access to full information concerning tender notices, please follow the links provided.)

Prince Edward Island

HMCS Acadia Cadet Training Centre (W8484-189042/A)

<https://buyandsell.gc.ca/procurement-data/tender-notice/PW-HAL-121-5781>

Dates

Publishing status	Active
Publication date	2018/09/10
Amendment date	None
Date of closing	2018/10/23 14:00 (AST)

Details

Reference number	PW-\$HAL-121-5781
Region of delivery	New Brunswick, Newfoundland and Labrador, Nova Scotia, Prince Edward Island
Notice type	Notice of proposed procurement (NPP)
Tendering procedure	All interested suppliers may submit a bid
Competitive procurement strategy	Lowest/lower bid
Procurement entity	Public Works and Government Services Canada
End user entity	Department of National Defence

Description

Trade agreement	CETA / WTO-AGP / NAFTA / CFTA / FTAs with Peru / Colombia / Panama / Korea
Nature of requirement	[...] The Contractor will be required to provide facilities and services to operate and support the HMCS ACADIA Cadet Training Centre (CTC) for nine (9) weeks and provide year round storage facilities. Some of the training may take place off-site. In addition, there may be optional fall and spring training weekends. There will be various facilities required, including but not limited to: administration offices, storage space, walk-in medical clinic, theatre, classrooms, training sites, etc. [...]

New Brunswick

Fiberglass insulation (21C11-184785/A)

<https://buyandsell.gc.ca/procurement-data/tender-notice/PW-HL-664-75501>

Dates

Publishing status	Active
Publication date	2018/09/20
Amendment date	None
Date of closing	2018/10/30 14:00 (AST)

Details

Reference number	PW-\$HL-664-75501
Region of delivery	New Brunswick, Quebec, Saskatchewan
Notice type	Notice of proposed procurement (NPP)
Tendering procedure	All interested suppliers may submit a bid
Competitive procurement strategy	Lowest/lower bid
Procurement entity	Public Works and Government Services Canada
End user entity	Correctional Service of Canada

Description

Trade agreement	CETA / WTO-AGP / NAFTA / CFTA / FTAs with Peru / Colombia / Panama / Korea
Nature of requirement	The Correctional Service of Canada (CSC) is requesting a National Individual Standing Offer (NISO) for the supply and delivery of Fiberglass Insulation at [...] the Dorchester Penitentiary in Dorchester, New Brunswick [...] for two years with the option to renew for up to three (3) additional one year periods. [...]

Tender Opportunities: Examples (cont.)

Nova Scotia

CCGS Cove Isle Dry Docking (F2599-185060/A)

<https://buyandsell.gc.ca/procurement-data/tender-notice/PW-MD-039-26994>

Dates

Publishing status	Active
Publication date	2018/09/20
Amendment date	None
Date of closing	2018/10/17 14:00 (AST)

Details

Reference number	PW-\$\$MD-039-26994
Region of delivery	Newfoundland and Labrador, Nova Scotia, Ontario, Quebec
Notice type	Notice of proposed procurement (NPP)
Tendering procedure	All interested suppliers may submit a bid
Competitive procurement strategy	Lowest/lower bid
Procurement entity	Public Works and Government Services Canada
End user entity	Fisheries and Oceans Canada

Description

Trade agreement	CETA / CFTA
Nature of requirement	To carry out the drydocking refit of the Canadian Coast Guard Vessel CCGS Cove Isle in accordance with the associated technical information as detailed in Annex A Statement of Work. Including but not limited to overhaul of the anchor windlass, hull inspection, preparation and coating, overhaul of generators and inspection of rudders and fuel, potable water, ballast and sewage tanks. [...]

Newfoundland and Labrador

Office furniture PSPC St. John's NL (EB129-191386/A)

<https://buyandsell.gc.ca/procurement-data/tender-notice/PW-HAL-219-10512>

Dates

Publishing status	Active
Publication date	2018/09/19
Amendment date	2018/09/26
Date of closing	2018/10/02 14:00 (ADT)

Details

Reference number	PW-\$\$HAL-219-10512
Region of delivery	Newfoundland and Labrador
Notice type	Notice of proposed procurement (NPP)
Tendering procedure	Suppliers on permanent list or able to meet qualification requirements
Competitive procurement strategy	Lowest/lower bid
Procurement entity	Public Works and Government Services Canada
End user entity	Public Works and Government Services Canada

Description

Trade agreement	CETA / WTO-AGP / NAFTA / CFTA / FTAs with Peru / Colombia / Panama / Korea
Nature of requirement	<p>1. This NPP is issued pursuant to PWGSC Supply Arrangement (SA) # E60PQ-140003/B and covers a requirement from the following Product Category(ies) of the SA:</p> <ul style="list-style-type: none"> - Category 1: Interconnecting Panels and Freestanding Systems - Category 2: Freestanding Height Adjustable Desk / Table Products - Category 3: Metal Filing and Storage Cabinets - Category 5: Ancillary and Lighting Products - Category 6: Support Space – Collaborative Furniture - This requirement also contains products that are NON-SUPPLY ARRANGEMENT. <p>2. Public Services and Procurement Canada has a requirement for the purchase, delivery and installation of office furniture to St. John's, Newfoundland, Atlantic Region, by November 30, 2018. [...]</p>



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Publishing public procurement



According to France's Economy, Finance and Industry Ministry, public procurement accounts for **approximately 10% of the country's GDP, i.e. nearly €200 bn.**

Public procurement is subject to **procedure and publication regulations**, which **vary depending on the procurer** (authority, government, etc.), **contract value and type** (supplies, services or works).

Since 1 October 2018, any contract with a value of at least €25,000 ex. tax and for which a notice has been published must be advertised electronically on the procurer's platform.

The mandatory* advertising can take various formats:

- publication in the BOAMP,
- publication in a newspaper authorized to carry legal announcements,
- publication in the European Union's Official Journal (OJ).

Definition: A public contract is a legally enforceable commitment agreed for pecuniary interest between the contracting authorities and public or private economic operators, and **meeting the administration's requirements in terms of supplies, services or works.**

<https://www.boamp.fr/>

Boamp.fr publishes the public tender notices released by the government, army, regions, *départements*, communes and their facilities. It makes it possible to identify and track business opportunities free of charge. It provides practical tools for understanding public procurement regulations.

The BOAMP in figures:

boamp.fr published **156,366 notices** in 2017.

The site registered **3,205,125 visits** in 2017.

By 31 December 2016, **168,518 businesses had created accounts** to receive automated updates on public contracts.

[https://](https://www.francemarches.com/)

www.francemarches.com/

France Marchés provides **free, unique and centralized access** to all public contract notices published in France. Every day, France Marchés publishes public tenders from over 300 regional press outlets (weekly and daily), the BOAMP, the European Union's Official Journal (OJ) and over 1,000 public procurer sites.

[http://www.e-](http://www.e-marchespublics.com/)

[marchespublics.com/](http://www.e-marchespublics.com/)

The leading site for paperless public contract advertising since 2003. 5,500 local authorities and 680,759 businesses. 650,000 visitors a month, 600,000 tenders a year, 23 million dossiers downloaded. The one-stop-shop for electronic public contracts.

*For contracts with a value of less than €25,000 ex. tax, publication is not mandatory and the procurer's only obligation is to choose a relevant bid, make good use of public funds and not contract systematically with the same supplier when there are several bids likely to meet its requirements.

Digitization



The December 2017 **digital transformation plan for public procurement** has several aims:

- **simplification**, limiting multiple entries, which can contain errors, and facilitating financing;
- **accessibility**, enabling more businesses, particularly SMEs, to compete;
- **transparency**, providing secure, traceable exchanges;
- **innovation**, making it possible to process the contract data and bring the procurers decision-making tools.

Digitization obligations in public procurement:

Digitization in public procurement aims to use the benefits of digital technology to facilitate the awarding of public contracts electronically on secure platforms. It saves time for the business and maximizes confidentiality, traceability and reliability in the submission of applications, up to opening the bids.

Since 1 October 2018, all public procurement greater than or equal to €25,000 ex. tax must involve a digital platform. Procurers are now required to publish the essential contract information as open data.

Digital signatures replacing wet signatures:

Electronic certificates are essential. The introduction of **digital signatures** implies a number of preliminary steps. The procurers and businesses must have obtained digital signature certificates. More importantly, the procurers must have detailed their entity's internal organization and designated the people authorized to sign on its behalf.

Procurer platforms:

Before 1 October 2018, procurer platforms were only essential for consulting documents on contracts worth at least €90,000. **Henceforth, irrespective of the contract value, all public procurers must make the consultation documents available to economic operators free of charge on a procurer platform.** Paperless procurer platforms make it possible to:

- Make the consultation documents available to economic operators and receive applications and bids electronically;
- Ensure the security and integrity of exchanges: timestamping, confidentiality, traceability and storage.

The European Single Procurement Document (ESPD):

The ESPD is a self-declaration of a business's financial status, abilities and suitability for a European public procurement procedure. The electronic document can be tailored to the procedure and pre-completed with existing data.

Although the ESPD is set to become the sole document for businesses to compete for a public contract, the other application forms (DC1, DC2, MPS, etc.) will remain available to use during a transition period.

For more information:

To prepare all parties for the change, France's Legal Affairs Directorate has posted two "very practical" guides on **digitization** on its site, one aimed at procurers and the other particularly addressing economic operators' concerns:

Guide très pratique de la dématérialisation des marchés publics pour les opérateurs économiques: https://www.economie.gouv.fr/files/files/directions_services/daj/marches_publics/dematérialisation/20180601_Guide-MP-dematerialisation-2018-OE.pdf

Public contracts and CETA



Via the **WTO Agreement on Government Procurement (GPA)** and **bilateral or regional free-trade agreements**, businesses headquartered outside the EU can access its public supply market. With the introduction of the Comprehensive Economic and Trade Agreement (CETA) between Canada and the European Union, **Canadian businesses now have better access to the business opportunities presented by public contracts with EU institutions and the 28 Member States' national, regional and local administrations.**

To sell goods and services to European institutions and governments, the **TED database (Tenders Electronic Daily)** should be consulted (<https://ted.europa.eu/TED/main/HomePage.do>). TED is the **official source for public contracts in Europe**. It publishes 520,000 contract notices a year, including 210,000 tenders with a total value of approximately €420 bn. TED gives free access to:

- public contract notices from all EU Member States (public contract notices for supplies, services or works as well as public services — water, energy and transport — and postal services);
- public contract notices from European institutions (supplies, services or public works, and foreign aid);
- public contract notices from Switzerland, Norway, Liechtenstein and Iceland (European Economic Area);
- projects financed by the European Investment Bank, European Central Bank and European Bank for Reconstruction and Development (EBRD);
- prenotice of future contracts;
- information on the contracts awarded.

TED uses the common procurement vocabulary (CPV) to identify the goods involved in the contracts, as well as nomenclature of territorial units for statistics (NUTS) geocodes, making it possible to carry out searches by EU Member State.

In addition, **SIMAP (Information System for European Public Procurement)**, the European public procurement portal, gives access to the most important information on public contracts in Europe <http://simap.ted.europa.eu/web/simap/home>

Public contracts and SMEs

SMEs accounted for over 99% of businesses in 2013, but **receive only 58% of public contracts or 30% of public procurement in value** (Economy, Finance and Industry Ministry figures, April 2016).

Clearly **public procurement does not significantly benefit the smallest businesses**. Yet the opportunities provided by these contracts are a potential source of significant revenue for SMEs.

The widely held idea that contracts are always awarded to the same applicants, poor understanding of administrative requirements, and the impression of wasting time by presenting a bid that has no chance of being selected have hindered SME access to public contracts.

With progress towards digitization and fewer requirements, applicants for a public contract can now present their bid very easily via the internet. All they need is a digital signature certificate, which is valid for all contracts.

The business spends less time preparing its dossier and can, if necessary, focus more on creating and presenting its bid to increase its chances of success. Therefore, public procurement is simpler.

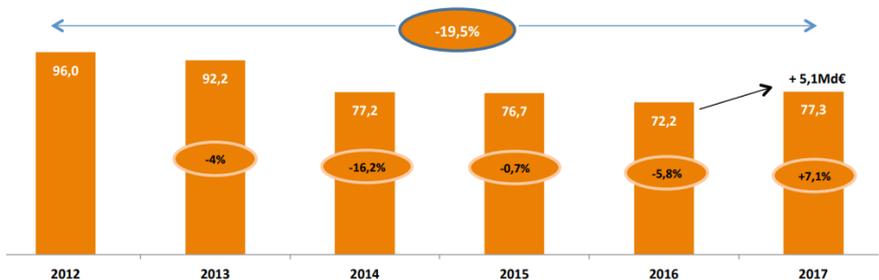
Changes to public procurement



France's **Public Procurement Barometer** was launched by the Caisse des Dépôts and Assemblée des Communautés de France in 2015.

2012 to 2017 data on public procurement reveal an **upturn in 2017 (+7.1%) following four years of constant downturns**. The recovery plan launched following the 2008/2009 crisis reached its peak in 2012. Public procurement has since declined each year, reaching the lowest level in its history in 2016.

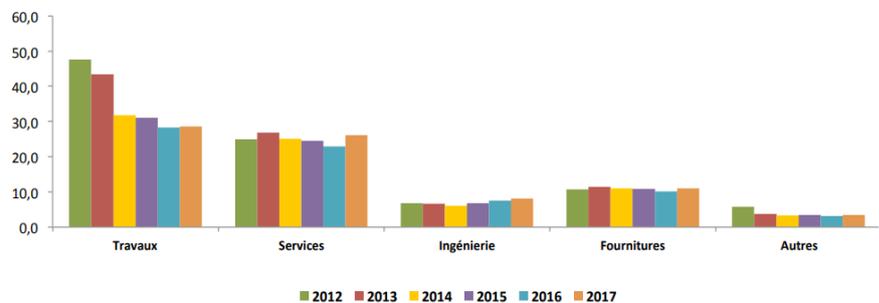
The public procurement published in France (in billions of euros)



Supply (+8%), service (+14%) and engineering (+8%) contracts boosted public procurement in 2017.

The fall in works contracts slowed with 0.9% growth in 2017 compared to 2016. However, the total value of works contracts has plummeted since 2012.

Changes to public procurement by type (in billions of euros)



The documents forming a *Dossier de Consultation des Entreprises*

The *Dossier de Consultation des Entreprises* (DCE) is the dossier distributed to applicants by the public body. It includes all documents prepared by the public procurer for businesses interested in the contract, containing the **information needed to prepare their applications and bids**. The DCE comprises (non-exhaustive list):

- **The *Règlement de Consultation (RC)*** presents the "rules of the game" for responding to public contracts: documents to be produced, response timescales, award criteria, etc.
- **The *Acte d'Engagement (AE)* or DC3** is the undertaking signed by the applicant, in which it presents its bid and agrees to comply with the specification clauses and remain within the proposed price. The document is then signed by the contracting authority.
- **The *Cahier des Clauses Administratives Particulières (CCAP)*** defines the conditions: advances, down payments, guarantees required, timescales and means of implementation, payment timescales, penalties, etc.
- **The *Cahier des Clauses Techniques Particulières (CCTP)*** are the specifications. These are the stipulations that give a precise description of the services to be performed and enable the person responsible to oversee the contract's implementation and full provision of the services.

The CCTP is sometimes merged with the CCAP: it is then known as the *Cahier des Clauses Particulières (CCP)* or *Cahier des Clauses Administratives et Techniques Particulières (CCATP)*.

INTELL-ECHO



Are you seeking business opportunities in this sector?
CACIMA and PROVIS can facilitate your business prospection process and help with establishing new partnerships
(targeted information and network contacts)

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