

Proactive disclosure of COVID-19-related contracts

Issue

As part of its response to COVID-19, Public Services and Procurement Canada (PSPC) is aggressively procuring supplies and equipment in the global marketplace, while facing the risks posed by fragile supply chains, the fluidity of the current situation, and a surge in demand. The global nature of this pandemic and demand for supplies has meant that it faces severe competition for goods and a highly volatile supply chain. The government is exercising caution at this time about divulging procurement information that could compromise its negotiating position.

Key messages

- The Government of Canada is engaged in an unprecedented effort to acquire supplies and equipment to ensure that front-line healthcare workers and Canadians stay safe and healthy
- In order to protect the integrity of procurement processes, as well as the integrity of global supply chains, PSPC needs to exercise caution at this time about divulging procurement information
- PSPC is nevertheless posting some solicitation documents for COVID-19 related procurements on Buy and sell, particularly where the timeline to secure the particular good or service allows for more flexibility
- Several contracts have also been publicly announced over the past few weeks and PSPC is posting details about orders and deliveries of personal protective equipment, online

Background

PSPC is procuring significant amounts of protective equipment and medical supplies on behalf of the Public Health Agency of Canada (PHAC). In response to the current COVID-19 emergency response, the vast majority of contracts PSPC has put in place have included a National Security Exemption (NSE).

The application of an NSE removes the obligation for tenders to stay open for a set period of time, thereby maximizing the speed with which urgent procurements can be completed.

NSE application also means that the Government is not required to publicly post tender notices, which is important given the volatility of the marketplace and the intense world-wide competition to secure needed personal protective equipment and other supplies. In this environment, the disclosure of procurement information, such as supplier name and contract value, could jeopardize orders and compromise Canada's negotiating position, in particular in international markets. Consequently, while some general information has been released regarding Canada's COVID-19 purchases, most contract information has not been disclosed to date.

The application of an NSE does not absolve a department of its obligation to proactively disclose contracts; however, the *Access to Information Act* contains provisions that provide heads of organizations discretion around disclosure.

Specifically section 18 (b) of the *Act* states that "the head of a government institution may refuse to disclose any record requested under this Part that contains information the disclosure of which could reasonably be expected to prejudice the competitive position of a government institution or to interfere with contractual or other negotiations of a government institution".

These risks are expected to continue until supplies and equipment become less difficult to secure. Additional information will be made publicly available as soon as PSPC's competitive position is no longer prejudiced so that transparency is maximized.