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## Chapter 1 - Overview

### Public Works and Government Services Canada Procurement

1.001 (1998-02-16) This Manual describes the supply activities of Public Works and Government Services Canada (PWGSC). It contains relevant laws, regulations, government and departmental policies. It explains why and how the Department carries out its supply activities.

There is one governing postulate for all PWGSC: Integrity. Subordinate to this are five principles which provide the framework for PWGSC supply activities. Whenever a PWGSC contracting officer must act in a way not clearly set out in this Manual, integrity and its supporting principles provide necessary guidance.

#### Governing Postulate

##### Integrity

PWGSC supply activities will be open, fair and honest.

#### Guiding Principles

##### Client Service

PWGSC will make every reasonable effort to satisfy the operational requirements of its clients, while obtaining best value in each procurement process.

##### National Objectives

PWGSC supply activities will advance established government national socio-economic policies, within the limits imposed by international trade obligations.

##### Competition

PWGSC procurement will be competitive, with specific exceptions.

##### Equal Treatment

PWGSC will ensure that all potential suppliers of a particular requirement are subject to the same conditions.

##### Accountability

PWGSC is accountable for the integrity of the complete procurement process including all actions taken within the process: this also applies to actions originating from the client that are not in compliance with the Treasury Board or PWGSC policies, or applicable legislation. (see [7D.395](#))

### The Legal Framework

1.002 (2003-12-12) PWGSC supply activities are carried out pursuant to four major statutes:

Financial Administration Act  
Department of Public Works and Government Services Act  
Defence Production Act  
Comprehensive Land Claim Agreements (See [4.002](#))

No legal interpretation should be attempted on the basis of the following highlights. For detailed study of each act, the full text should be consulted.

*Copies of the acts are in the departmental library. Copies of the thirteen ratified comprehensive*

*land claim agreements are readily available from the Department of Indian and Northern Affairs and may be viewed at Acquisition Policy and Process Directorate.*

## Financial Administration Act

- 1.003 (2003-12-12) The [Financial Administration Act](#) (FAA) provides the legal framework for the collection and expenditure of public funds, including the contracting practices of PWGSC and its clients. Sections 32, 33, 34, 37 and 40 are of direct interest to the contracting officers in PWGSC.

Section 32 states:

- “(1) No contract or other arrangement providing for a payment shall be entered into with respect to any program for which there is an appropriation by Parliament or an item included in estimates then before the House of Commons to which the payment will be charged unless there is a sufficient unencumbered balance available out of the appropriation or item to discharge any debt that, under the contract or other arrangement, will be incurred during the fiscal year in which the contract or other arrangement is entered into.”

Section 33 requires that "No charge shall be made against an appropriation except on the requisition of the appropriate Minister of the department for which the appropriation was made or of a person authorized in writing by that Minister."

Section 34 states that:

- “(1) No payment shall be made in respect of any part of the public service of Canada unless, in addition to any other voucher or certificate that is required, the deputy of the appropriate Minister, or another person authorized by the Minister, certifies:
- (a) in the case of a payment for the performance of work, the supply of goods or the rendering of services,
    - (i) that the work has been performed, the goods supplied or the service rendered, as the case may be, and that the price charged is according to contract, or if not specified by the contract, is reasonable,
    - (ii) where, pursuant to the contract, a payment is to be made before the completion of the work, delivery of the goods or rendering of the service, as the case may be, that the payment is according to the contract, or
    - (iii) where, in accordance with the policies and procedures prescribed under subsection (2), payment is to be made in advance of verification, that the claim for payment is reasonable; or
  - (b) in the case of any other payment, that the payee is eligible for or entitled to the payment.”
- “(2) The Treasury Board may prescribe policies and procedures to be followed to give effect to the certification and verification required under subsection (1).”

Sections 37 and 37.1 provide that any unexpended portion of an appropriation lapses at the end of the fiscal year, except that a debt incurred for work performed, goods received or services rendered prior to the end of the fiscal year shall be recorded as an expenditure against the appropriation, even though payment is to be made during the following fiscal year, or during such shorter period as the Treasury Board (TB) may direct.

Section 40 states that "It is a term of every contract providing for the payment of any money by Her Majesty that payment under that contract is subject to there being an appropriation for the particular service for the fiscal year in which any commitment under that contract would come in course of payment."

Section 41 provides for regulations with respect to the conditions under which contracts may be entered into.

Sections 61 and 62 restrict the transfer, lease or loan of public property and require each department to maintain adequate records of its public property. However, pursuant to the [Public Property Loan Regulations](#), (SOR/92-745), section 61 permits ministers to loan public property, subject to certain conditions.

Sections 66 to 71 describe conditions under which Crown debts may be assigned, and the procedure to follow.

Sections 72 to 75 prescribe circumstances whereby persons who performed labour or services or supplied material in connection with a contract for which the government holds a "payment bond", and for which they have not been paid in full by the contractor, may become assignees of the right of the Crown for payment under the bond.

Sections 76 to 79 explain the liability of persons who have received public money and who fail to pay it over, account for it or apply it as intended.

Sections 155 to 160 cover, among other things, recovery of debts due to the Crown through deduction or set-offs, the avoidance of duplication of public accounts statements, and the provision that no bank can charge the government for the cashing of its cheques. Section 160 empowers the Governor in Council to make the necessary regulations to carry the purpose and provisions of this Act into effect.

### ***Government Contracts Regulations***

- 1.004 (1994-06-23) The *Government Contracts Regulations* (GCR) are issued pursuant to subsection 41(1) of the FAA.

Part I of the GCR deals with conditions of contract entry. Under section 4, contracts for legal services require the authority of the Minister of Justice. Section 5 sets out the requirement for soliciting bids (defined in section 7). Section 6 specifies conditions under which bids need not be solicited. Sections 8 and 9 authorize advance and progress payments.

Part II of the GCR deals with bid and contract security. Section 11 sets conditions for the use of government guaranteed bonds as security; section 17 deals with handling the coupons attached to such bonds where the value exceeds the value of security required. Sections 12 through 16 deal with holding and retiring bid and contract security.

The procedures in this Manual apply the GCR to PWGSC supply activities.

### ***Treasury Board***

- 1.005 (1994-06-23) The FAA also deals with the organization, responsibilities, authorities, duties, powers and functions of the TB. In particular, paragraph 7(1)(c) provides that TB may act for the Queen's Privy Council for Canada on all matters relating to financial management, including estimates, expenditures, financial commitments, accounts, fees or charges for the provision of services or the use of facilities, rentals, licences, leases, revenues from the disposition of property, and procedures by which departments manage, record and account for revenues received or receivable from any

source whatever.

Section 10 outlines the areas for which TB may make regulations, such as for the purpose of ensuring effective co-ordination of administrative functions and services among and within departments, or establishing performance standards in the public service. It also provides that TB may exercise the powers of the Governor in Council under paragraph 41(1)(a) of the *Act* which refers to regulations respecting conditions relating to contract award as delegated to TB by the [TB Delegation of Powers Order](#) (SOR/86-1123).

### ***Treasury Board Contracts Directive***

- 1.006 (1994-06-23) The TB Contracts Directive, issued pursuant to section 10 and paragraph 41(1) (a) of the FAA, sets basic contracting limits for contracting authorities, and provides special contracting limits for specific ministers. The application of the Directive to PWGSC is set out in [Chapter 6](#) of this Manual.

### ***Treasury Board Contracting Policy***

- 1.007 (2002-12-13) The TB Contracting Policy sets out the broad parameters of government contracting. The TB Guidelines on Contracting provide additional information to assist contracting authorities in carrying out their responsibilities.

The foundation for government contracting appears in the TB Policy, which states:

#### **“1. Policy Objective**

The objective of government procurement contracting is to acquire goods and services and to carry out construction in a manner that enhances access, competition and fairness and results in best value or, if appropriate, the optimal balance of overall benefits to the Crown and the Canadian people.

#### **“2. Policy Statement**

Government contracting shall be conducted in a manner that will:

- (a) stand the test of public scrutiny in matters of prudence and probity, facilitate access, encourage competition, and reflect fairness in the spending of public funds;
- (b) ensure the pre-eminence of operational requirements;
- (c) support long-term industrial and regional development and other appropriate national objectives, including aboriginal economic development;
- (d) comply with the government's obligations under the North American Free Trade Agreement, the World Trade Organization - Agreement on Government Procurement and the Agreement on Internal Trade.”

This Manual applies the TB policy and guidelines to PWGSC supply activities.

### **Mandate of Department of Public Works and Government Services**

- 1.010 (1996-12-02) The Department was formed in July 1993 by the amalgamation of two main supply organizations - the Department of Supply and Services and the Department of Public Works. Within the general structure of government financial management and contracting established by the FAA, the specific legal authorities of DPWGS are set out in the [Department of Public Works](#)

[and Government Services Act](#) and the [Defence Production Act](#).

The legal name of the Department is "Department of Public Works and Government Services". While "Public Works and Government Services Canada" or "PWGSC" is the common usage name, the legal names of the department and the Minister, as set out in the *Department of Public Works and Government Services Act*, must be used for such legal purposes as the preparation and execution of legal documents.

The Act came into force on July 12, 1996.

### **Department of Public Works and Government Services Act**

1.013 (1996-12-02) Section 3 deals with the legal name of the Department and its Minister, as follows:

- "(1) There is hereby established a department of the Government of Canada called the Department of Public Works and Government Services over which the Minister of Public Works and Government Services appointed by commission under the Great Seal shall preside."
- (2) The Minister holds office during pleasure and has the management and direction of the Department.
- (3) The Minister is the Receiver General for Canada."

1.014 (1996-12-02) The broad mandate of providing materiel and other management services to all departments is summarized in section 5 which stipulates that: "The Department shall operate as a common service agency for the Government of Canada, and its activities as a common service agency shall be directed mainly toward providing the departments, boards and agencies of the Government of Canada with services in support of their programs."

1.015 (2002-12-13) Section 6 outlines the powers, duties and functions of the Minister which extend to and include all matters over which Parliament has jurisdiction, not by law assigned to any other department, board or agency of the Government of Canada, relating to:

- "(a) the acquisition and provision of articles, supplies, machinery, equipment and other materiel for departments;
- (b) the acquisition and provision of services for departments;
- (c) the planning and organizing of the provision of materiel and services required by departments;
- (d) the acquisition and provision of printing and publishing services for departments;
- (e) the construction, maintenance and repair of public works, federal real property and federal immovables;
- (f) the provision of accommodation and other facilities for departments;
- (g) the planning and coordination of telecommunications services for departments, boards and agencies of the Government of Canada;
- (h) the provision to departments of advice on or services related to architectural or engineering matters affecting any public work, federal real property or federal immovable; and

- (i) the provision to departments, boards and agencies of the Government of Canada of translation and related services."
- 1.016 (1996-12-02) Subsection 7(1) further provides that the Minister shall:
- "(a) investigate and develop services for increasing the efficiency and economy of the public service of Canada and for enhancing integrity and efficiency in the contracting process;
  - (b) acquire materiel and services in accordance with any applicable regulations relating to government contracts;
  - (c) plan and organize the provision of materiel and related services to departments including the preparation of specifications and standards, the cataloguing of materiel, the determination of aggregate requirements for materiel, the assuring of quality of materiel, and the maintenance, distribution, storage and disposal of materiel and other activities associated with the management of materiel; and
  - (d) provide such other services as the Governor in Council may direct."
- 1.017 (1996-12-02) Subsection 7(2) contains the limitation that: "Notwithstanding paragraph (1)(c), the Minister's power to manage materiel, as distinct from its acquisition, does not extend to the management, in an exclusively military supply system, of materiel essential for the conduct of military missions."
- 1.018 (1996-12-02) Section 8 allows the Minister to "delegate any of the Minister's powers, duties or functions under this Act to an appropriate minister, within the meaning of the *Financial Administration Act*, for any period and under any terms and conditions that the Minister considers suitable."
- 1.019 (1996-12-02) Section 9 states: "The Minister shall exercise the powers in relation to the acquisition and provision of materiel for the use of any department that are conferred on any minister or other authority under any Act of Parliament, except to the extent that those powers have been delegated by the Minister."
- 1.020 (2004-12-10) Section 10 states:
- "(1) The Minister has the administration of all federal real property and federal immovables situated in Yukon, the Northwest Territories or Nunavut except those under the administration of any other minister, board or agency of the Government of Canada or any corporation.
  - (2) The Minister may incur expenditures or perform, or have performed, services or work in relation to:
    - (a) any federal real property or federal immovable;
    - (b) any work or other property belonging to Her Majesty in right of Canada; and
    - (c) any real or immovable property, any work or any other property not belonging to Her Majesty in right of Canada, with the consent of its owner.
  - (3) Nothing in paragraph (2)(c) affects the operation of the [Seized Property Management Act](#)."
- 1.021 (1996-12-02) Section 14 states:

- "(1) Subject to subsection (2), the Minister may provide departments, boards and agencies of the Government of Canada with production, processing and distribution services for film, within the meaning of the [National Film Act](#), videos and any other cinematographic works that the Governor in Council may designate.
- (2) Except with the approval of the Governor in Council, no department shall initiate the production or processing of a motion picture film without the authority of the Minister, and the production and processing, by or for departments, of all motion picture films shall be undertaken by the Minister unless the Minister is of the opinion that it is in the public interest that it be otherwise undertaken and authorizes it to be so undertaken."
- 1.022 (1996-12-02) Section 15 states: "The Minister may, on request of a department, board or agency of the Government of Canada, provide it with:
- (a) management consulting services;
  - (b) information management and information technology systems and services;
  - (c) accounting services;
  - (d) auditing services;
  - (e) financial services;
  - (f) services and advice in relation to the acquisition, management or disposition of real or immovable property;
  - (g) architectural and engineering services, including services in respect of the adoption and application of related codes, standards, procedures, guidelines and technologies; and
  - (h) services of any other kind that are within the ambit of the Minister's powers, duties and functions."
- 1.023 (1996-12-02) Section 16 empowers "the Minister to do anything for or on behalf of:
- (a) any department, board or agency of the Government of Canada or Crown corporation, or
  - (b) with the approval of the Governor in Council, any government, body or person in Canada or elsewhere that requests the Minister to do that thing,
- where the Minister is authorized to do that thing under this or any other Act of Parliament for or on behalf of any department, board or agency of the Government of Canada."
- 1.024 (1996-12-02) Section 18 states:
- "(1) The Minister may use any electronic or other means to create, collect, store, transfer, receive or otherwise handle documents or information.
  - (2) The Minister may fix the terms and conditions, formats and other requirements for the use of any electronic or other means that must be met by persons who use that means in their dealings with the Minister.
  - (3) The Minister may, by regulation, prescribe the electronic or other means by which a requirement referred to in subsection (2) shall be published."

- 1.025 (1996-12-02) Sections 20 and 21 provide the necessary contracting powers of the Minister, including the power to fix terms and conditions of contracts, and instructions, terms and conditions with respect to other documents relating to contracts and their formation.
- 1.026 (1996-12-02) Section 22 further provides "that instructions or terms and conditions identified by number or other designation are applicable to or form part of the contract or other document shall be read and construed as if the instructions or terms and conditions to which the reference is made were expressly set out in the contract or other document."

### Defence Production Act

- 1.032 (2001-12-10) The [Defence Production Act](#) has been amended by adding two new parts. The Act now consists of the following three parts: (1) Procurement of Defence Supplies; (2) Regulations of Access to Controlled Goods; and (3) Offence and Punishment.
- 1.033 (2001-12-10) After section 2: Part 1 - PROCUREMENT OF DEFENCE SUPPLIES. All PWGSC contracts for defence supplies or projects are governed by the provisions of the *Defence Production Act*. The Minister of Public Works and Government Services is responsible for administration and application of the Act.

Section 6 empowers the Minister to establish, if authorized by the Governor in Council, corporations to facilitate the carrying out of the purposes and provisions of the Act, and to appoint or dismiss members, directors or officers, at any time. Section 9 allows the Minister to contract with these corporations.

- 1.034 (1994-06-23) Subsection 10(2) provides to the Minister "exclusive authority to buy or otherwise acquire defence supplies and construct defence projects required by the Department of National Defence, except:
- (a) defence projects to be constructed by persons in the employ of Her Majesty; and
  - (b) such defence supplies or defence projects as the Minister of National Defence or any other Minister designated by the Governor in Council may procure or construct at the request of the Minister."
- 1.035 (1994-06-23) Section 11 permits the Minister, if authorized by the Governor in Council, to exercise his/her powers under the Act in favour of an "associated" government. Associated governments are the governments of the British Commonwealth and of NATO, or the government of any other country designated by the Governor in Council as being a country the defence of which is vital to Canada.
- 1.036 (1994-06-23) Sections 12 to 15 deal with the Minister's mandate to organize and control the Canadian defence industry, "to mobilize, conserve and coordinate all economic and industrial facilities in respect of defence supplies and defence projects and the supply or construction thereof." Under sections 13 and 14, the Minister may require returns of other information from persons in the defence industry, or assistance from other government departments in obtaining relevant data. In accordance with section 15 and if authorized by the Governor in Council, the Minister may also stockpile materials or substances considered essential to the needs of the community.
- 1.037 (1994-06-23) Section 16 provides wide powers to the Minister with respect to the procurement, production or disposal of defence supplies or defence projects. The Minister may make loans or advances to persons engaged in the manufacture of defence supplies, or in the construction of defence projects.

Section 17 authorizes expenditures from the Consolidated Revenue Fund to be used to maintain

stockpiles and to pay for the acquisition of defence supplies.

- 1.038 (1994-06-23) Under section 18, loans or advances authorized for any purpose other than to assist in the construction, acquisition, extension or improvement of capital equipment or works by any person are to be paid from the Consolidated Revenue Fund and charged to the Defence Production Loan Account.
- 1.039 (1994-06-23) When a defence contract involves provision, manufacture or construction of government issue or building for which Her Majesty provides money or the use of such government issue or building, section 20 is an important consideration. In such cases, Legal Services should be consulted to ensure that the contractual clauses inserted in the contract are drafted so as to include the protections and rights available to the Crown with respect to title to such government issue or building.
- 1.040 (1994-06-23) Contractors, according to section 21, are not entitled to claim damages, compensation or other allowances for loss of profits, if the contract is rescinded or terminated before it is fully performed.
- 1.041 (1994-06-23) Section 22 provides that the Minister may protect a contractor from paying royalties under a defence contract, but that the holder of a patent is entitled to reasonable compensation from the Crown.
- 1.042 (1994-06-23) Section 23 requires a defence contractor to keep proper accounts and cost records until the expiration of six years from the end of the calendar year in which the contract is terminated or completed, and, on demand, to make them available to the Minister or a delegate. Section 24 empowers the Minister to reassess contract costs and profits when considered unreasonably high, and to reduce them. If the contractor's records seem unsatisfactory, the Minister is not bound by them.
- 1.043 (2001-12-10) The contractor whose claimed costs and profit have been reduced under section 24 by the Minister, may appeal within 30 days of the receipt of the order or direction to the Federal Court of Canada (section 25).

The heading before section 26 and sections 26 to 29 of the Act are repealed.

Section 30 states that business information obtained under the Act shall not be disclosed without the consent of the person carrying on that business.

- 1.044 (1994-06-23) Section 31 empowers the Canadian Commercial Corporation or a company to which the [Government Corporations Operation Act](#) applies, to make arrangements to act on behalf of the Minister under this Act.
- 1.045 (2001-12-10) Section 32 states that the powers conferred by this Act may be exercised notwithstanding anything contained in the *Public Works Act*.
- 1.046 (2001-12-10) Section 33 states that the Governor in Council may make orders and regulations to carry out the purposes and provisions of this Part.
- 1.047 (2001-12-10) Section 34 outlines the regulations to be published and the Motions to revoke or amend them. Every regulation, as defined in the [Statutory Instruments Act](#), made under the authority of this Part shall be published in the *Canada Gazette* within thirty (30) days after it is made.
- 1.048 (2001-12-10) After section 34, PART 2 - REGULATION OF ACCESS TO CONTROLLED GOODS, section 35 states that in this Part, "controlled goods" means the goods referred to in the schedule.

(See [6B.192.](#))

- 1.049 (2001-12-10) Section 36 deals with excluded persons and states that this Part does not apply to a person who (a) occupies a position in the federal public service or a federal Crown corporation or is employed by Her Majesty in right of a province, who acts in good faith in the course of their duties and employment; or (b) is a member of a class of persons prescribed by regulation.
- 1.050 (2001-12-10) Section 37 deals with offences and prohibitions and states that: (1) No person shall, unless the person is registered under section 38 or exempt from registration under section 39 or 39.1, knowingly examine or possess a controlled good or transfer a controlled good to another person. (2) No person registered or exempt from registration shall knowingly transfer a controlled good to or permit the examination of a controlled good by a person who is not registered or exempt from registration. (3) In this section, "transfer" means, in respect of a controlled good, to dispose of it or disclose its content in any manner. (4) The registration of a person extends to the officers, directors and employees authorized by the registered person in accordance with the regulations.
- 1.051 (2001-12-10) Section 38 deals with registration by the Minister and states that: (1) The Minister may, in accordance with the regulations, register any person who makes an application for registration and may, for that purpose, request any information that in the opinion of the Minister is necessary. (2) A registration or its renewal is subject to conditions prescribed by regulation and any conditions that in the opinion of the Minister are appropriate. (3) The Minister may deny an application for registration or suspend, amend or revoke a registration on the basis of a security assessment prescribed by regulation. (4) The Minister shall furnish a registered person with a certificate of that registration in a form that the Minister may specify.
- 1.052 (2002-05-24) Sections 39 and 39.1 provide for exemptions from registration for individuals (visitors or temporary workers), or a class of individuals.
- 1.053 (2004-12-10) Section 40 deals with reporting and states that every registered person shall provide the Minister with any information prescribed by regulation, in the manner and time prescribed by regulation, including reporting breaches of security.
- 1.054 (2002-05-24) Section 41 deals with inspection and provides for the designation of inspectors by the Minister to ensure compliance with the Program.
- 1.055 (2004-12-10) Section 42 deals with the inspection of facilities and outlines the powers of inspectors to ensure the compliance of the Program. It also states that inspectors may be accompanied by another person chosen by the inspector. These powers include the power to require attendance and to question any individual, the power to obtain and copy documents, the power to detain or remove controlled goods, and the power to demand implementation of remedial measures.
- 1.056 (2001-12-10) Section 43 provides the Governor in Council with authority to make regulations for carrying out the purposes and provisions of PART 2.
- 1.057 (2002-05-24) Section 44 enumerates prohibited acts. These are absolute liability offences.
- 1.058 (2002-05-24) Section 45 outlines PART 3 of the Act - Offence and Punishment. This Part defines offences, continuing offence and factors to consider when sentencing.
- 1.059 (2002-12-13) Section 46 states that an "officer, director or agent of a corporation that commits an offence under this Act is liable to be convicted of the offence if he or she directed, authorized, assented to, acquiesced in or participated in the commission of the offence, whether or not the corporation has been prosecuted or convicted."

## Comprehensive Land Claims Agreements

- 1.070 (2001-12-10) Comprehensive Land Claims Agreements (CLCAs) are modern treaties that are based on the concept of continued Aboriginal rights and title to lands that have been traditionally used and occupied, by an Aboriginal group, which have not been dealt with by treaty or other legal means. The comprehensive land claims settlement process is intended to result in agreement on the special rights Aboriginal peoples will have in the future with respect to lands and resources.
- 1.071 (2001-12-10) CLCAs have been granted quasi-constitutional status by virtue of section 35 of the *Constitution Act (1982)*.

### ***Ratified Comprehensive Land Claims Agreements***

- 1.072 (2004-12-10) At present, there are thirteen CLCAs (including 9 which fall under the Umbrella Final Agreement - Council for Yukon Indians), that have been ratified by Parliament and are in effect. These are listed below along with the approximate areas of Canada covered by the CLCAs. Canada's contracting obligations under each agreement are identified in TBS [Contracting Policy Notice 1997-8](#), Amendments and Additions, and the [Addendum](#) .

Section 1: [James Bay and Northern Quebec Agreement](#): from the shores of James Bay and Hudson Bay to Labrador, covering approximately 50 percent of Quebec's land mass, mainly the northern portion of the province.

Section 2: [The Inuvialuit Final Agreement](#): the islands and part of mainland along the Beaufort Sea (northwest portion of the Northwest Territories, including western portion of Victoria Island, all of Banks Island, Prince Patrick Island in the northern portion, and the western portion of Melville Island).

Section 3: [Gwich'in Comprehensive Land Claim Agreement](#): parts of northeastern Yukon and northwest portion of the Northwest Territories. A Yukon Transboundary Agreement, for the Tetlit Gwich'in claimant group, exists as Appendix "C" under this final agreement. This transboundary agreement is considered to be a separate land claims agreement according to Department of Indian and Northern Affairs officials. However, notification of procurement opportunities within this area is to be sent to the Gwich'in Tribal Council.

Section 4: [Inuit of Nunavut Land Claim Agreement](#): Northern Canada - includes districts of Franklin (central Nunavut), Keewatin (south-central Nunavut, northwest coast of Hudson's Bay area), Baffin Island (southeast portion of Nunavut) and Ellesmere Island (northern portion of Nunavut).

Section 5: [Umbrella Final Agreement - Council for Yukon Indians](#): The western portion of the Yukon Territory. The territory extends from the northern border of British Columbia to the southern border of the Inuvialuit land claims area, and includes fourteen separate Comprehensive Land Claims Settlement Areas (CLCSAs).

- [5.1](#) First Nation of Nacho Nyak Dun Final Agreement: Part of Yukon Territory
- [5.2](#) Champagne and Aishihik First Nations Final Agreement: Part of Yukon Territory
- [5.3](#) Teslin Tlingit Council Final Agreement: Part of Yukon Territory
- [5.4](#) Vuntut Gwich'in First Nation Final Agreement: Part of Yukon Territory
- [5.5](#) Selkirk First Nation Final Agreement: Part of Yukon Territory
- [5.6](#) Little Salmon/Carmacks First Nation Final Agreement: Part of Yukon Territory

- [5.7](#) Tr'ondëk Hwëch'in Final Agreement: Part of Yukon Territory (formerly Dawson City)
- [5.8](#) Ta'an Kwach'an Council Final Agreement: Part of Yukon Territory (includes Whitehorse)
- [5.9](#) Kluane First Nation Final Agreement: Part of Yukon Territory covering Burwash Landing.

Section 6: [Sahtu Dene and Metis Comprehensive Land Claim Agreement](#): Northwestern part of the District of Mackenzie, including the communities of Echo Bay, Richardson, Fort Franklin, Fort Norman, Norman Wells, and Fort Good Hope.

Copies of the ratified comprehensive land claim agreements may be viewed at Acquisition Policy and Process Directorate (APPD). To determine if a specific community is located within a CLCSA, contracting officers should consult the map "Comprehensive Land Claims in Canada" and contact APPD, at telephone number (819) 956-4744 for guidance.

### ***National Park Agreements and DND Co-operation Agreements***

- 1.073 (2003-05-30) Contracting authorities should also be aware that a number of National Park Agreements and DND Co-operation Agreements have been signed between individual departments and certain aboriginal groups. These agreements which are listed below can be found in Sections 7 to 10 of TBS [Contracting Policy Notice 1997-8](#) :

Section 7: [Agreement for the Establishment of a National Park on Banks Island](#)

Section 8: [Tuktut Nogait National Park Agreement](#)

Section 9: [Co-operation Agreement between the Inuvialuit Regional Corporation and the Department of National Defence concerning the Operation and Maintenance of the North Warning System](#) .

Section 10: [Co-operation Agreement between the Inuvialuit Regional Corporation and the Department of National Defence concerning the Restoration and Clean-up of DEW Sites within the Inuvialuit Settlement Region](#).

*When advised by the client department, PWGSC will consider these co-operation agreements in the procurement process.*

### ***For more information***

- 1.080 (2005-06-10) For more information on CLCAs and government procurement, contracting officers may want to consult with their managers, seek legal advice or contact the appropriate subject matter expert. Policy advice is available by calling the Acquisition Policy and Process Directorate, at:

Telephone: (819) 956-4744  
Facsimile: (819) 956-0355.

## **Other Laws, Regulations and Government Policies**

- 1.085 (2001-12-10) In addition to the above statutes, PWGSC supply activities are carried out in compliance with numerous other laws, regulations and broad government policies. These are referenced within the appropriate chapters of the Manual.

## **User Guide**

## Organization of the Manual

- 1.090 (2005-06-10) This Manual follows the sequence of a procurement action:
- (a) the procurement starts with Public Works and Government Services Canada (PWGSC) as a client service organization, receiving a request from a client for service ([Chapter 3](#), Requisition Receipt);
  - (b) the contracting officer makes key decisions regarding the conduct of the procurement ([Chapter 4](#), National and International Trade Agreements; [Chapter 5](#), Sourcing Strategy);
  - (c) the many factors that will or may impact on the procurement are reviewed, and appropriate decisions made, in order to develop and obtain approval for the procurement action ([Chapter 6](#), Developing the Procurement Strategy);
  - (d) the procurement is carried out ([Chapter 7](#), Competitive Procurement; [Chapter 8](#), ACAN/Negotiated Procurement);
  - (e) [Chapter 10](#), Cost and Profit, provides the detailed procedures for establishing the price of a negotiated contract; and
  - (f) the contract is administered until all terms and conditions of the contract have been fulfilled ([Chapter 11](#), Contract Management).
- 1.091 (2001-12-10) Two general chapters complement this structure. [Chapter 2](#), Best Practices, provides generic advice to procurement staff, based on years of experience, that is applicable to the procurement process. [Chapter 9](#), Special Procurements, details procurements where normal PWGSC procedures do not apply.
- 1.092 (2001-12-10) [Chapter 12](#) is the Glossary. It is an integral part of the Manual because words, concepts, titles, etc., are not defined in each chapter. First-time or occasional readers of this Manual, therefore, will probably need to make extensive use of the Glossary to round out the ideas in the operating procedures.

## Presentation Format

- 1.095 (2001-12-10) The Manual contents are numbered by individual paragraph or by paragraph groups dealing with a topic. The first element of this reference number is the chapter reference; the second is the specific identifier within the chapter. Gaps in the numbering sequence provide room for later additions of information. Immediately after the reference number is the effective date of the material.

The Manual uses words such as "must", "shall", and "are to be" to identify the procedures to be followed in most PWGSC supply activities. Where there are specific exceptions, these are noted.

There are numerous areas where there are some clear options or a preferred way to proceed. These procedures are presented using terms such as "normally" and "should".

Finally, the Manual includes material which may be of use to contracting officers as suggested approaches or background information. This material is italicized: officers are free to use it as they wish.

Annexes are used to provide information that is essential if a particular course of action is to be followed. Since most procurements do not require this information to be readily available, it has been removed from the main text.

**Discretion to Act**

1.100 (2001-12-10) The individual requirements of a particular procurement may suggest that a course of action other than one set out in this Manual should be followed. There is also no reasonable way that a manual can set out, for every possible circumstance, what authority is required to deviate from an established policy or procedure. Wherever there is no instruction on a particular subject, contracting officers must use their judgement and knowledge - with the provision that the governing postulate and the five guiding principles of PWGSC contracting are to be followed.

The process to deviate from an established policy or procedure can only be presented in general terms:

- (a) any deviation must be carefully assessed and justified;
- (b) any deviation must be identified in advance, for decision, to the person who will approve the Contract Planning and Advanced Approval (CPAA) form, the Procurement Plan, or the contract;
- (c) any deviation which would appear to go against the governing postulate or one of the five guiding principles must be identified in advance, for decision, to the person to whom the person, who will approve the CPAA, the Procurement Plan, or the contract, reports.

The person making the decision must determine whether more senior officials must become involved in the decision to deviate.

***The Department may be required to defend publicly a contracting officer's actions - and the contracting officer will be required to substantiate those actions. Hence, while there is a clear need and obligation to use judgement and knowledge, contracting officers must be prepared to be held accountable for that use.***