GOVERNMENT PROCUREMENT AND THE
COMPREHENSIVE ECONOMIC TRADE AGREEMENT (CETA)¹
What steps do I need to follow?

1) How do I launch my Covered Procurement?

Do I have ongoing obligations independent of launching a Covered Procurement?
- Federal Government (as Party to CETA) and P/Ts required to:
  (a) publish any law, decision, etc. and legally required standard contract clause incorporated by reference in notices or tender documentation and procedure regarding Covered Procurement in a designated electronic or paper medium (Art. V (1(a), 2 and 3 and Annex X-08); and
  (b) provide explanations upon request
- Federal Government (as Party to CETA) to participate in Committee on Government Procurement with other Party (EU) (Art. XIX) and provide report on contracts awarded for Covered Procurement (Art. XV (4))

**How do I launch my Covered Procurement?**

- Notice of Intended Procurement by designated paper or electronic medium through single point of access (Art. VI (1)
- Plus Summary Notice that is “readily accessible” (Art. VI (4)

**Exception:** electronic auctions (Art. XII)

**Transitional period:** for up to 5 years Sub-central Procuring Entities (Annex X-02) and other Procuring Entities (Annex X-03) may, if using electronic means, use links to a gateway electronic site

**Alternative approach:** Sub-Central and Other Procuring Entities may publish notice of a planned procurement as early as possible in each fiscal year (Art. VI (5 and 6)

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**What general principles arise under CETA that I should keep in mind?**

- Treatment no less favorable (non discrimination) with respect to any measure regarding Covered Procurement (Art. IV (1 and 2)
- Special rules when Covered Procurement conducted by electronic means (Art. IV (3)
- Conduct of Covered Procurement to be in a transparent and impartial manner (Art. IV (4)
- Rules of origin in goods and services to be those in normal course of trade (Art. IV (5)
- Procuring entity not to seek, take account of, impose or enforce any offset (Art. IV (5) and Art. 1 (par. (k))

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**What do I put in my Notice of Intended Procurement?**

- Designated information at Art. VI (3)
- Information to include:
  - a list and brief description for participation of suppliers including requirements for specific documentation or certifications to be provided by suppliers (par (j))
  - if limited number of qualified suppliers to be invited to tender criteria for selection and any limitation on number of suppliers permitted to tender (par (k))
- See also tender documentation (below)

**Conditions for participation:** limited to ensure legal and financial capacities and technical abilities with rules on certain grounds for exclusion (Art. VII)

**Registration systems for qualified suppliers:** procuring entities to minimize differences in qualification procedures and registration systems and not create unnecessary obstacles (Art. VIII (1, 2 and 3) and follow rules on selective tendering (Art. VIII (4, 5 and 6) and multi use lists (Art. VIII (7 to 14)
What can I put in my requirements for technical specifications in tender documentation?
- No technical specifications having in general purpose or effect of creating “unnecessary obstacles to international trade” and specific rules (Art. IX (1 to 6))
- Complete tender information (with modifications) with rules on date for delivery and evaluation criteria (Art. IX (7 to 11))

How much time need I allow to reply to my notice?
- Sufficient time taking into account nature and complexity of procurement, subcontracting anticipated and time to submit non-electronic tenders from foreign and domestic points (Art. X (1 and 2))
- Specific rules for selected tendering (Art. X (2 to 8))

2) How do I make my Covered Procurement decision?

What can I do if tenders submitted are not satisfactory?
- Negotiations may be conducted subject to certain conditions (Art. XI (1 and 2))
- Limited tendering may be used subject to certain conditions (Art. XII (1 and 2))

What rules do I need to follow in treating tenders and awarding contracts?
- Treatment procedures to guarantee fairness, impartiality and confidentiality with rules on late tenders and correction of errors (Art. XIV (1 to 3))
- Basic rules for awarding contracts (Art. XIV (4 to 7))
- See above “What general principles arise under CETA that I should keep in mind?”
3) Information obligations once Covered Procurement decision taken

**Who do I need to inform when a contract is awarded?**
- Participating suppliers to be promptly informed (with explanation if requested) (Art. XV (1))
- General public within 72 days after award (Art. XV (2))
- Note: Procuring Entity to maintain information for at least 3 years (Art XV (3))

**What happens if a contract award for Covered Procurement is contested?**
- Canada (as a Party to CETA) and P/Ts will provide an administrative or judicial procedure to challenge a breach of the provisions of CETA with resolution of the complaint through consultations encouraged (Art. XVIII (1 to 8))
- Upon request from the EU the Federal Government shall (subject to certain restrictions) provide information to determine whether a procurement was "conducted fairly, impartially and in accordance with [CETA] (Art. XVI (1 and 2))