

Ontario Government Trade Agreement Webinar

Question and Answers

The following questions were asked at Supply Chain Ontario's August 10, 2017 webinar on Trade Agreement Obligations for Public Sector Procurement Organizations:

TRADE AGREEMENT THRESHOLDS

Q1: Are the thresholds for CETA, CFTA, WTO-AGP and Ontario-Quebec inclusive or exclusive of taxes when determining the value?

A1: In CETA, CFTA, WTO-GPA and the Trade and Cooperation Agreement between Ontario and Quebec, the thresholds are inclusive of taxes.

CETA COMPLIANCE

Q2: Has the compliance date for CETA been established?

A2: The procurement provisions for CETA will be in force as of September 21, 2017.

APPLICATION OF TRADE AGREEMENTS

Q3: Will there be a process disclosed on how an agency can get on the 'negative list?'

A3: CFTA uses a negative list approach, meaning that CFTA's procurement obligations apply to all public sector organizations described in CFTA (see Article 504 – Scope and Coverage) except for those specifically excluded. For Ontario, the Offices of the Legislative Assembly are the only public sector entity excluded from coverage. Therefore, under CFTA, all provincial agencies are covered when they procure goods and services at or above CFTA's monetary thresholds, as these negotiations are completed.

REPORTING

Q4: Will we need to give data in early 2018 if we don't know now what Ontario is looking for?

A4: Although the manner in which you'll be providing the data is still being determined, we do know that you will be required to report annually on the number and aggregate value of contracts based on all procurements (open and

non-competitive) for goods, services and construction conducted above the trade agreement thresholds.

We'll provide additional information about reporting obligations as it's available.

In the meantime, we strongly recommend gathering data for such procurements conducted from January 2017 onward, so as to be prepared to incorporate it into the reports.

Q5: Reporting typically follows our fiscal year do you anticipate the new reporting structure to be based on the calendar year?

A5: At this point, it is not yet known whether reporting will be based on the fiscal or calendar year. By tracking data for procurements conducted from January 2017 onward, you will be prepared to incorporate it into the reports.

PROCUREMENT POSTINGS

Q6: I understand that there is a requirement to provide the quantity or estimated quantity in the Notice, but is there a requirement in CFTA or CETA to display the estimated Procurement value of the contract publicly?

A6: [CFTA](#) and [CETA](#) do not require the procuring entity to provide the estimated procurement value of a tender. You'll find more information in the agreements themselves (for CFTA, see article 506 – Tender Notices; and for CETA, see article 19.6 – Notices).

Q7: Can RFPs be posted in only one official language?

A7: The trade agreements themselves do not comment on the language in which procurement opportunities are posted. This being the case, according to your business needs, opportunities may be posted in either English or French.

VENDOR OF RECORD PROCUREMENTS

Q8: How do Vendor of Record (VOR) procurements fit in the definition of open competitive?

A8: When conducting a procurement to establish a VOR arrangement where the estimated value of the VOR arrangement is at or above an applicable trade agreement's monetary thresholds, a procuring entity is required to comply with the relevant trade agreement's procurement obligations with respect to open competitive procurements.

AWARDS

Q9: Is the requirement to post award information within 72 days a CETA or CFTA requirement?

A9: The requirement to post award information within 72 days of the awarding of a contract is a requirement of both CETA and CFTA.

Q10: Award decisions are made before we contact the successful vendor and make the award formal. Is it at the date of the award decision or at the date of the formal award that the 72-day period for posting award information begins?

A10: Under CFTA and CETA, there is a requirement to post the award information within 72 days of the formal awarding of a contract, in the same manner in which the procurement opportunity was posted.

Q11: Do award notice requirements cover non-competitive procurement contracts?

A11: Yes they do. You'll find more details for CFTA in article 516 – Transparency of Procurement Information, section 2 (f); and in CETA in article 19 – Transparency of Procurement Information, section 15.2 (f).

BID DISPUTE PROCESS

Q12: When does the province expect to have a bid review system we can utilize? What should we put in place in the interim?

A12: Covered entities are expected to be in compliance with the bid dispute requirements in CFTA and CETA, and may if they wish, make use of the revised bid dispute process Ontario is putting in place, once it is available, which should be in the summer of 2018. Alternatively, they may make use of their own processes, so long as they are consistent with the trade agreements.

In order to assist public sector procurement organizations to assess their processes, we have created a Bid Dispute Resolution Guide, which will soon be available on our [Information for Buyers](#) page.

Q13: Is there a potential by a participating Vendor to "halt" the procurement process, while a bid dispute is being heard or evaluated?

A13: CETA and CFTA allow the use of rapid interim measures, such as pausing the award of a contract and extending the closing date, in order to preserve the vendor's opportunity to participate in the procurement process, while their complaint is under review. The use of rapid interim measures is at the discretion of the reviewer of the bid dispute where circumstances warrant.

SINGLE POINT OF ACCESS

Q14: Has the online portal (single point of access) for open competitive tenders - been identified?

A14: The Government of Canada is required to develop and launch a Single Point of Access (SPA) within five years of the commencement of CETA. Details about functionality and precisely how the portal will work are being determined.

All entities covered by CETA will be required to make their CETA-related tender notices (not the procurement documents themselves) available on the SPA.

Once the SPA is developed for CETA, the Government of Canada shall consult with the other CFTA Parties in order to determine how to adapt the SPA for the purposes of CFTA. Once all CFTA Parties agree that the SPA is suitable, all entities covered by CFTA will be required to make their CFTA-related tender notices directly accessible through the SPA. Please note that entities may continue using the electronic tendering sites that best suit their business needs, as long as they comply with applicable trade agreements.

More details will be provided about the SPA's functionality as they are determined.

ADDITIONAL QUESTIONS

Q15: How do we seek further clarification regarding specific provisions within the agreements?

A15: Should you have questions in the future about CFTA or CETA, you are welcome to send them to BPSSupplyChain@ontario.ca, and we will respond as soon as possible.

Please note: some of the questions above were reworded for the purpose of clarity.