

Non-Application

Trade Agreement Government Procurement rules do not apply in the following circumstances:

- x public employment Contracts;
- x non-legally binding agreements;
- x any form of assistance, such as grants, loans, equity infusions, guarantees, and fiscal incentives;
- x a Contract awarded under a cooperation agreement between a Party and an international cooperation organization if the Procurement is financed, in whole or in part, by the organization, only to the extent that the agreement includes rules for awarding Contracts that differ from the obligations of this Chapter;
- x acquisition or rental of land, existing buildings, or other immovable property, or the rights thereon;
- x measures necessary to protect intellectual property, provided that the measures are not applied in a manner that would constitute a means of arbitrary or unjustifiable discrimination between Parties where the same conditions prevail or are a disguised restriction on trade;

Procurement or Acquisition of:

- x fiscal agency or depository Services;
- x liquidation and management Services for regulated financial institutions; or
- x Services related to the sale, redemption, and distribution of public debt, including loans and government bonds, notes, and other securities;
- x financial Services respecting the management of government financial assets and liabilities (i.e. treasury operations), including ancillary advisory and information Services, whether or not delivered by a financial institution;
- x health Services or social Services;
- x Services that may, under applicable law, only be provided by licensed lawyers or notaries;
- x Services of expert witnesses or factual witnesses used in court or legal proceedings;

Procurement of Goods and Services:

- x financed primarily from donations that require the Procurement to be conducted in a manner inconsistent with the CFTA;
- x on behalf of an entity not covered by the CFTA;
- x between enterprises that are controlled by or affiliated with the same enterprise, or between one government body or enterprise and another government body or enterprise;
- x Procurement by non-governmental bodies that exercise governmental authority delegated to them;
- x Procurement from philanthropic institutions, non-profit organizations, prison labour, or natural persons with disabilities;
- x under a commercial agreement between a procuring entity which operates sporting or convention facilities and an entity not covered by the CFTA that contains provisions inconsistent with the CFTA;
- x conducted for the specific purpose of providing international assistance, including development aid, provided that the procuring entity does not discriminate on the basis of origin or location within Canada of Goods, Services, or Suppliers;
- x under the particular procedure or condition of an international agreement relating to the stationing of troops or relating to the joint implementation by the signatory countries of a project;
- x under the particular procedure or condition of an international organization, or funded by international grants, loans, or other assistance, if the procedure or condition would be inconsistent with the CFTA.
- x Procurement by a small business set-aside program provided that the program is fair, open, transparent, and does not discriminate on the basis of origin or location within Canada of Goods, Services, or Suppliers.

References:

- x *Chapter 5, Canadian Free Trade Agreement (CFTA)*
- x *Chapter 19, Comprehensive Economic and Trade Agreement (CETA)*