



PRINCE EDWARD ISLAND
ÎLE-DU-PRINCE-ÉDOUARD

PUBLIC PURCHASING ACT

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This document is *not* the official version of the Act. The Act and the amendments as printed under the authority of the Queen's Printer for the province should be consulted to determine the authoritative statement of the law.

For more information concerning the history of this Act, please see the *Table of Public Acts* on the Prince Edward Island Government web site (www.princeedwardisland.ca).

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PUBLIC PURCHASING ACT

CHAPTER P-32

1. Definitions

In this Act

- (a) “**department**” means any department of the Government set out in Schedule A to the *Financial Administration Act* R.S.P.E.I. 1988, Cap. F-9 and includes
- (i) any other branch of the public service, and
 - (ii) any body or office, not being part of the public service, the operation of which is effected through money appropriated for the purpose and paid out of the Operating Fund,
- set out in the regulations;
- (b) “**Division**” means the Supply and Services Division of the Department of Finance;
- (c) “**emergency**” means any flood, tempest, hurricane, act of war by Her Majesty’s enemies, insurrection, rebellion and any other occurrence which, in the opinion of the Minister, is or constitutes an emergency;
- (d) “**Minister**” means the Minister of Finance;
- (d.1) “**procurement agreement**” means an agreement entered into by the province governing the manner in which goods and services are procured and includes the agreements prescribed in the regulations;
- (d.2) “**public advertisement**” means an advertisement that is
- (i) published in at least one daily newspaper circulating in the province, or
 - (ii) displayed on a bulletin board or other electronic medium accessible to vendors;
- (e) “**supplies**” means goods, wares and merchandise required by a department for the transaction of its business and affairs, and includes all furnishings, whether fixtures or otherwise, all equipment and all stationery and includes services that are furnished incidental to the supply of such goods, wares and merchandise;
- (f) “**vendor**” means a person carrying on the business of selling supplies to the Government. 1984, c.32, s.1; 1986, c.5, s.2; 1993, c.29, s.4; 1996, c.33, s.1; 1997, c.20, s.3; 2010, c.31, s.3; 2012, c.17, s.2; 2015, c.28, s.3.

2. Object

The object of this Act is to provide for the procurement of supplies in the public sector in accordance with the following principles:

- (a) suppliers have equal access to opportunities;
- (b) fair and open competition among suppliers is maintained;

- (c) the best quality, service and price for supplies is obtained. *1984, c.32, s.2; 1986, c.5, s.2; 1993, c.29, s.4; 1996,c.33,s.2.*

3. Purchasing through the Division

- (1) Except as otherwise provided in the Act or the regulations, each department shall purchase its supplies through the Division.

Idem

- (2) The Division shall acquire by purchasing or otherwise all supplies that are required by any department. *1984, c.32, s.3.*

4. Rules governing Government purchases

- (1) Subject to subsection (2) and except where tenders are called by public advertisement, the purchasing of all supplies by the Division for a department is subject to the following rules:
- (a) tenders shall be requested from a minimum of three vendors on the vendors' list for all purchases of value in excess of such amount as may be prescribed by regulations;
 - (b) where there are fewer than three vendors on the vendors' list with respect to supplies to be purchased by the Division, clause (a) does not apply;
 - (c) where there are more than ten vendors on the vendors' list with respect to supplies to be purchased by the Division, tenders shall be requested from at least six vendors;
 - (d) nothing in clauses (a), (b), and (c) prevents the Division from inviting a tender from a vendor not on the vendors' list in addition to those entitled to submit a tender under clauses (a),(b), and (c);
 - (e) all purchases of supplies valued in excess of such amount as may be prescribed by regulations shall be advertised publicly in accordance with the regulations;
 - (f) all vendors invited to bid shall be notified of the date for opening of tenders and may attend the opening of tenders;
 - (g) a vendors' list shall be maintained by the Division upon which shall be placed the names of all vendors who comply with the standards as to pricing, delivery and service set out in the regulations and who request in writing to the Division to be placed upon the list;
 - (h) the Minister shall make the vendors' list available for public inspection in the office of the Division during business hours; and
 - (i) a vendor carrying on business with the government through an agent shall register with the Division, in accordance with the regulations, the name of any such agent.

Emergency

- (2) In the event of an emergency, the Minister may declare all or any of the provisions of subsection (1) to be inoperative for such period as is set out in the declaration.

Preference for locally produced supplies

- (3) Except where contrary to a procurement agreement and to the extent that it is practicable and in the best interests of the province, the Division shall acquire supplies that are produced or manufactured in the province. *1984, c.32, s.4; 1996,c.33,s.3.*



5. Payment authorization

- (1) Subject to subsection (2), the Comptroller shall refuse the payment of money out of the Operating Fund to satisfy a commitment by a department to purchase supplies unless he is satisfied
- (a) that the supplies were purchased through the Division or through some other purchasing authority with the approval of the Division; or
 - (b) that the department was authorized by this Act or the regulations to purchase the supplies otherwise than through the Division.

Inadvertence, authorization of payment

- (2) Where the Minister is satisfied that the contravention of this Act or the regulations with regard to the purchase of supplies is due to inadvertence, he may so certify to the Comptroller in writing and authorize him to approve payment for the supplies in respect of which the contravention took place, and thereupon, subject to the *Financial Administration Act*, the Comptroller shall approve payment. *1984, c.32, s.5; 1996, c.33, s.4; 1997, c.20, s.3.*

6. Malfeasance

A person employed to serve any department who wilfully purchases or authorizes the purchase of any supplies in contravention of this Act and the regulations shall be deemed to have committed an act of malfeasance and is liable to suspension or dismissal. *1984, c.32, s.6.*

7. Regulations

The Lieutenant Governor in Council may make regulations

- (a) respecting the manner in which a department is to request the Division to purchase supplies;
- (b) prescribing the information to be supplied by a department making any such requisition;
- (c) subject to section 4, respecting the manner in which and the conditions under which supplies are to be acquired by the Division;
- (d) respecting the manner in which the business of the Division is to be conducted, and the forms to be used in connection therewith;
- (e) establishing conditions upon which and the manner in which a department may be exempted from purchasing supplies through the Division;
- (f) establishing standards as to pricing, delivery and service to be required by vendors;
- (g) prescribing the departments to which this Act applies;
- (g.1) prescribing procurement agreements;
- (h) respecting the registration of vendors' agents;
- (i) prescribing the amounts for the purposes of clauses 4(1)(a) and (e); and
- (j) respecting any other matter or thing necessary for carrying out the purpose of this Act. *1984, c.32, s.7; 1996, c.33, s.5.*