

Summary of Trade Agreements

Thresholds for Published Tenders for Publicly Funded Academic Institutions				
	AIT	CFTA	NWP	CETA
Description				
Goods	\$100,000	\$100,000	\$75,000	\$355,000
Services	\$100,000	\$100,000	\$75,000	\$355,000
Construction	\$250,000	\$250,000	\$200,000	\$5,000,000

*AIT - Agreement on Internal Trade; CFTA - Canadian Free Trade Agreement; NWP - New West Partnership; CETA - Comprehensive Economic and Trade Agreement

CFTA vs. AIT Highlights

- **Extensions/Changes** - prohibits the use of extension options, cancellations, or post-award changes to undermine the open procurement obligations.
- **Local Preference** - prohibits the use of local preference or economic benefits. Criteria now expressly include construction contracts.
- **Prohibited Practices** - prohibitions against preference for local goods, services, or suppliers, specifying requirements or delivery schedules that limit the participation of suppliers, and providing selective information to suppliers to create an unfair advantage. **Now also include** new express prohibitions against limiting participation in a procurement process to those suppliers who have supplied the institution in the past or to requiring prior experience that is not essential to meeting the requirements of the procurement.
- **Open Tender Thresholds** - carries forward the AIT contract value thresholds for open tendering but is subject to future adjustments for inflation.
- **General Exemptions** - carries forward traditional exemptions such as certain financial services, all legal and notary services, goods, and services financed primarily through donations that contain specific contradicting procurement conditions.
- **Tender Notices/Single Point of Access** - Canada will create a single point of access, eventually to make opportunities accessible. All tender notices will be free of charge and the content of these notices include traditional disclosures of key procurement details. The procurement method must state whether the procurement will include negotiations or electronic auctions.
- **Unnecessarily Restrictive Conditions** - now expressly prohibits the condition of prior experience with the specific procuring entity or prior experience within the territory of the entity.

- **Prequalification** - now requires an annual re-posting where supplier prequalification lists will be used for more than 3 years.
- **Restrictive Specifications** - carry forward regulations against restrictive specifications and calls for technical specifications to be stated in accordance with performance and functional requirements, rather than according to design or descriptive characteristics.
- **Recognition of Negotiated RFPs** - introduces express new protocols for using negotiations during a procurement process. These protocols require the disclosure of the intention to use a negotiation process, require that transparent criteria be used in the elimination of any suppliers during that process, and prohibit unfair or discriminatory treatment of any suppliers during the negotiations. For constructive negotiations, the protocols require that a specific amount of time be specified for a supplier to submit its final offer prior to proceeding to negotiate with the next-ranked supplier.
- **New exception for entrenched Incumbents** - new exemption for procurements with existing suppliers involving technical or interoperability restrictions with existing equipment, software, or services even if the procurement goes beyond the original scope of the contract if retendering would cause significant or substantial duplication of costs to the entity.
- **Electronic Auctions** - new protocols recognize the use of electronic auctions.
- **Tender Evaluations and Awards** - new provisions to allow for the correction of unintentional errors in the form, provided the same opportunity is made available to all participating suppliers. Contract awards should go to the best compliant tender based on criteria established on the tender call and contain new price verification protocols for situations involving abnormally low bids.