

EC2020-634

PRINCE EDWARD ISLAND
LANDS PROTECTION ACT
PETITION TO ACQUIRE A LAND HOLDING
101678 P.E.I. INC.
(APPROVAL)

Pursuant to section 5 and section 9 of the *Prince Edward Island Lands Protection Act* R.S.P.E.I. 1988, Cap. L-5 Council granted permission to 101678 P.E.I. Inc. of Stratford, Prince Edward Island to acquire a land holding of approximately forty-five (45) acres of land at Cherry Valley, Lot 50, Queens County, Province of Prince Edward Island, being acquired from Irene Lillian Strang of Vernon Bridge, Prince Edward Island PROVIDED THAT the said real property is identified for non-development use pursuant to the Land Identification Regulations (EC606/95) made under the said Act.

EC2020-635

PRINCE EDWARD ISLAND
LANDS PROTECTION ACT
PETITION TO ACQUIRE A LAND HOLDING
102534 P.E.I. INC.
(APPROVAL)

Pursuant to section 5 of the *Prince Edward Island Lands Protection Act* R.S.P.E.I. 1988, Cap. L-5 Council granted permission to 102534 P.E.I. Inc. of Rosebank, Prince Edward Island to acquire, by share acquisition, an interest in a land holding of approximately ten decimal three (10.3) acres of land at Borden-Carleton, Lot 28, Prince County, Province of Prince Edward Island, being acquired from Randy Cooke of Cape Wolfe, Prince Edward Island; Dewis Cooke of Sherbrooke, Prince Edward Island; and John Price in trust for Murphy's LLC of Sanibel, Florida.

EC2020-636

PRINCE EDWARD ISLAND
LANDS PROTECTION ACT
PETITION TO ACQUIRE A LAND HOLDING
12414091 CANADA INC.
(APPROVAL)

Pursuant to section 5 of the *Prince Edward Island Lands Protection Act* R.S.P.E.I. 1988, Cap. L-5 Council granted permission to 12414091 Canada Inc. of Rosebank, Prince Edward Island to acquire, by share acquisition, an interest in a land holding of approximately zero decimal four (0.4) of an acre of land at Freeland, Lot 11, Prince County, Province of Prince Edward Island, being acquired from Randy Cooke of Cape Wolfe, Prince Edward Island; Dewis Cooke of Sherbrooke, Prince Edward Island; and John Price in trust for Murphy's LLC of Sanibel, Florida.

EC2020-637

PRINCE EDWARD ISLAND
LANDS PROTECTION ACT
PETITION TO ACQUIRE A LAND HOLDING
CHING BROTHERS INC.
(APPROVAL)

Pursuant to section 5 of the *Prince Edward Island Lands Protection Act* R.S.P.E.I. 1988, Cap. L-5 Council granted permission to Ching Brothers Inc. of Souris, Prince Edward Island to acquire a land holding of approximately three decimal two six (3.26) acres of land at Head of Cardigan, Lot 52, Kings County, Province of Prince Edward Island, being acquired from Raymond Jeffrey Shaw of Cardigan, Prince Edward Island.

EC2020-638

PRINCE EDWARD ISLAND
LANDS PROTECTION ACT
PETITION TO ACQUIRE A LAND HOLDING
CHING BROTHERS INC.
(APPROVAL)

Pursuant to section 5 and section 9 of the *Prince Edward Island Lands Protection Act* R.S.P.E.I. 1988, Cap. L-5 Council granted permission to Ching Brothers Inc. of Souris, Prince Edward Island to acquire a land holding of approximately sixty-four decimal four seven (64.47) acres of land at Head of Cardigan, Lot 52, Kings County, Province of Prince Edward Island, being acquired from Raymond Jeffrey Shaw of Cardigan, Prince Edward Island PROVIDED THAT the said real property is identified for non-development use pursuant to the Land Identification Regulations (EC606/95) made under the said Act.

EC2020-639

PRINCE EDWARD ISLAND
LANDS PROTECTION ACT
PETITION TO ACQUIRE A LAND HOLDING
ISLAND SEED FARM INC.
(APPROVAL)

Pursuant to section 5 and section 9 of the *Prince Edward Island Lands Protection Act* R.S.P.E.I. 1988, Cap. L-5 Council granted permission to Island Seed Farm Inc. of Middleton, Prince Edward Island to acquire a land holding of approximately three hundred and fifty-three decimal seven eight (353.78) acres of land at Middleton, South Freetown and Newton, all in Lot 26, Prince County and Shamrock, Lot 67, Queens County, Province of Prince Edward Island, being acquired from Frank B. McCardle of Middleton, Prince Edward Island PROVIDED THAT the said real property is identified for non-development use pursuant to the Land Identification Regulations (EC606/95) made under the said Act.

EC2020-640

PRINCE EDWARD ISLAND
LANDS PROTECTION ACT
PETITION TO ACQUIRE A LAND HOLDING
KINGS COUNTY BLUE FARMS LIMITED
(APPROVAL)

Pursuant to section 5 of the *Prince Edward Island Lands Protection Act* R.S.P.E.I. 1988, Cap. L-5 Council granted permission to Kings County Blue Farms Limited of Montague, Prince Edward Island to acquire a land holding of approximately twenty decimal one (20.1) acres of land at Lower Montague, Lot 59, Kings County, Province of Prince Edward Island, being acquired from the Royal Canadian Legion Montague Branch #8 of Montague, Prince Edward Island.

EC2020-641

PRINCE EDWARD ISLAND
LANDS PROTECTION ACT
PETITION TO ACQUIRE A LAND HOLDING
M & D CONSTRUCTION INC.
(APPROVAL)

Pursuant to section 5 of the *Prince Edward Island Lands Protection Act* R.S.P.E.I. 1988, Cap. L-5 Council granted permission to M & D Construction Inc. of Suffolk, Prince Edward Island to acquire a land holding of approximately eight decimal three four (8.34) acres of land at Stanhope, Lot 34, Queens County, Province of Prince Edward Island, being acquired from James Ballantyne and Pierre Ouellette, both of Elora, Ontario.

EC2020-642

PRINCE EDWARD ISLAND
LANDS PROTECTION ACT
PETITION TO ACQUIRE A LAND HOLDING
M & D CONSTRUCTION INC.
(APPROVAL)

Pursuant to section 5 and section 9 of the *Prince Edward Island Lands Protection Act* R.S.P.E.I. 1988, Cap. L-5 Council granted permission to M & D Construction Inc. of Suffolk, Prince Edward Island to acquire a land holding of approximately thirty-five (35) acres of land at Suffolk, Lot 34, Queens County, Province of Prince Edward Island, being acquired from James Philip Arbing of Marshfield, Prince Edward Island PROVIDED THAT approximately thirty-three (33) acres of the said real property is identified for non-development use pursuant to the Land Identification Regulations (EC606/95) made under the said Act.

EC2020-643

PRINCE EDWARD ISLAND
LANDS PROTECTION ACT
PETITION TO ACQUIRE A LAND HOLDING
WEST CAPE FARMS LTD.
(APPROVAL)

Pursuant to section 5 and section 9 of the *Prince Edward Island Lands Protection Act* R.S.P.E.I. 1988, Cap. L-5 Council granted permission to West Cape Farms Ltd. of West Cape, Prince Edward Island to acquire a land holding of approximately seventy-six decimal five nine (76.59) acres of land at Cape Wolfe, Lot 7, Prince County, Province of Prince Edward Island, being acquired from Phalen Benedict Griffin of Amherst, Nova Scotia PROVIDED THAT the said real property is identified for non-development use pursuant to the Land Identification Regulations (EC606/95) made under the said Act.

EC2020-644

PRINCE EDWARD ISLAND
LANDS PROTECTION ACT
PETITION TO ACQUIRE A LAND HOLDING
MICHEL JACOB, TIM WILLISTON,
MIREILLE BREAU WILLISTON AND JULIE MACPHAIL
(APPROVAL)

Pursuant to section 4 of the *Prince Edward Island Lands Protection Act* R.S.P.E.I. 1988, Cap. L-5 Council granted permission to Michel Jacob of Cap-Pelé, New Brunswick, Tim Williston and Mireille Breau Williston, both of Shediac Cape, New Brunswick and Julie MacPhail of Lower Cloverdale, New Brunswick to acquire an interest in a land holding of approximately zero decimal four (0.4) of an acre of land at Freeland, Lot 11, Prince County, Province of Prince Edward Island, being acquired from Randy Cooke of Cape Wolfe, Prince Edward Island, Dewis Cooke of Sherbrooke, Prince Edward Island and John Price, in trust for Murphy's LLC of Sanibel, Florida.

EC2020-645

PRINCE EDWARD ISLAND
 LANDS PROTECTION ACT
 PETITION TO ACQUIRE A LAND HOLDING
 MICHEL JACOB, TIM WILLISTON,
 MIREILLE BREAU WILLISTON AND JULIE MACPHAIL
 (APPROVAL)

Pursuant to section 4 of the *Prince Edward Island Lands Protection Act* R.S.P.E.I. 1988, Cap. L-5 Council granted permission to Michel Jacob of Cap-Pelé, New Brunswick, Tim Williston and Mireille Breau Williston, both of Shediac Cape, New Brunswick and Julie MacPhail of Lower Cloverdale, New Brunswick to acquire an interest in a land holding of approximately ten decimal three (10.3) acres of land at Borden-Carleton, Lot 28, Prince County, Province of Prince Edward Island, being acquired from Randy Cooke of Cape Wolfe, Prince Edward Island, Dewis Cooke of Sherbrooke, Prince Edward Island and John Price, in trust for Murphy's LLC of Sanibel, Florida.

EC2020-646

PRINCE EDWARD ISLAND
 LANDS PROTECTION ACT
 PETITION TO ACQUIRE A LAND HOLDING
 ETHEL ZORAYA PRAJZLER
 (DENIAL)

Council, having under consideration an application (#N6047) for acquisition of a land holding under authority of section 4 of the *Prince Edward Island Lands Protection Act* R.S.P.E.I. 1988, Cap L-5, denied permission to Ethel Zoraya Prajzler of Calgary, Alberta to acquire a land holding of approximately ninety-eight (98) acres of land at Brae, in Lot 9, Prince County, currently owned by Joseph McHugh of Tignish, Prince Edward Island.

EC2020-647

PROCUREMENT OF GOODS ACT
 DECLARATION RE

Under authority of section 16 of the *Procurement of Goods Act* Stats. P.E.I. 2016, c. 50 Council ordered that a Proclamation do issue proclaiming the said "Procurement of Goods Act" to come into force effective November 15, 2020.

EC2020-648

**PROCUREMENT OF GOODS ACT
PROCUREMENT OF GOODS REGULATIONS**

Pursuant to section 13 of the *Procurement of Goods Act* R.S.P.E.I. 1988, Cap. P-22.1, the Lieutenant Governor in Council made the following regulations:

PART I
INTERPRETATION

- 1.** In these regulations,
- | | Definitions |
|--|-------------------------------------|
| (a) “Act” means the <i>Procurement of Goods Act</i> R.S.P.E.I. 1988, Cap. P-22.1; | Act |
| (b) “competitive bidding process” means a procurement process used to acquire goods through a solicitation for bid submissions that is open to more than one supplier and includes an invitation to tender, a request for proposals and a reverse auction; | competitive bidding process |
| (c) “construction material” means asphalt mix, concrete mix, bridge components, gravel, sand, sandstone, and rock and borrow material; | construction material |
| (d) “disqualified” means disqualified from providing goods to Schedule A entities or a Schedule B entity, as the case may be, under section 62; | disqualified |
| (e) “estimated value” means the estimated maximum total value of a procurement contract, including the value of all optional renewals, or, in the case of a standing offer agreement, the estimated maximum total value of all procurement contracts anticipated under the agreement for its original duration, and includes transportation costs, tariffs, duties, installation costs, premiums, fees, commissions, interest and any other costs incidental to the purchase of the goods, but does not include taxes; | estimated value |
| (f) “limited competitive bidding process” means a competitive bidding process that is limited in some aspect when bid submissions are solicited; | limited competitive bidding process |
| (g) “local supplier” means a manufacturer of goods or vendor of goods that has a place of business in Prince Edward Island; | local supplier |
| (h) “open competitive bidding process” means a competitive bidding process open to all suppliers, other than disqualified suppliers, in which bid submissions are solicited by public advertisement; | open competitive bidding process |
| (i) “place of business” means an establishment where a supplier regularly conducts its activities on a permanent basis, that is clearly identified by name and is accessible during normal business hours; | place of business |
| (j) “procurement record” means a record of all documents related to a procurement, compiled in accordance with section 76; | procurement record |
| (k) “procurement website” means the website established by the Minister in accordance with section 11 for the purposes of conducting and facilitating competitive bidding processes; | procurement website |
| (l) “procuring entity” means | procuring entity |
| (i) in the case of a Schedule A entity, the Minister or, where the Act or these regulations authorize a Schedule A entity to procure its own goods, the Schedule A entity, or | |
| (ii) in the case of a Schedule B entity, the Schedule B entity regardless of whether the procurement is a joint procurement or the Minister procures on its behalf; | |
| (m) “solicitation period” means the period of time during which bids may be received in a competitive bidding process, which closes on the date and time specified in the solicitation documents; | solicitation period |
| (n) “standing offer agreement” means a procurement contract with a supplier by which a procuring entity agrees to buy goods, when needed, from the supplier for a period specified in the contract and | standing offer agreement |

- the contract includes all terms applicable to the procurement, including the cost of the goods and delivery requirements;
- (o) “supplier” means a manufacturer of goods or a vendor of goods. supplier
2. (1) For the purposes of clause 1(1)(e) of the Act, the entities listed in Schedule A of these regulations are Schedule A entities. Schedule A entities
- (2) For the purposes of clause 1(1)(f) of the Act, the entities listed in Schedule B of these regulations are Schedule B entities. Schedule B entities
3. Where both goods and services are to be obtained by a procurement process, the procurement shall be treated as a procurement of goods if the estimated value of the goods to be obtained is greater than the estimated value of the services to be obtained. Mixed procurement of goods and services

PART II PROCUREMENT RULES

Trade Agreements Do Not Apply

Schedule A Entities

4. Subject to an applicable standing offer agreement, where the estimated value of goods is less than the lowest applicable threshold value of all relevant trade agreements, a Schedule A entity may procure the goods for itself. Schedule A entity may procure itself, under threshold value
5. (1) Where the estimated value of goods is less than \$5,000, a procuring entity may procure the goods for a Schedule A entity by Value under \$5,000
- (a) mutual agreement with a supplier; or
- (b) an open or a limited competitive bidding process.
- (2) Where the estimated value of goods is \$5,000 or more but less than \$10,000, a procuring entity may procure the goods for a Schedule A entity by Value \$5,000 to \$9,999
- (a) mutual agreement with a supplier, after requesting an informal quote in writing from at least three local suppliers; or
- (b) an open or a limited competitive bidding process.
- (3) Where the estimated value of goods is \$10,000 or more but less than the lowest applicable threshold value of all relevant trade agreements, a procuring entity may procure the goods for a Schedule A entity by Value \$10,000 to threshold
- (a) an open competitive bidding process; or
- (b) a limited competitive bidding process, limited to local suppliers.
- (4) Where a competitive bidding process conducted pursuant to this section is not successful, a procuring entity may procure the goods for a Schedule A entity by mutual agreement with a supplier. Competitive bidding process fails

Schedule B Entities

6. (1) Where the estimated value of goods is less than \$250,000, a procuring entity may procure the goods for a Schedule B entity by Value under \$250,000
- (a) mutual agreement with a supplier; or
- (b) an open or a limited competitive bidding process.
- (2) Where the estimated value of goods is \$250,000 or more but less than the lowest applicable threshold value of all relevant trade agreements, a procuring entity may procure the goods for a Schedule B entity by Value \$250,000 to threshold
- (a) an open competitive bidding process; or
- (b) a limited competitive bidding process, limited to local suppliers.
- (3) Where a competitive bidding process conducted pursuant to this section is not successful, a procuring entity may procure the goods for a Schedule B entity by mutual agreement with a supplier. Competitive bidding process fails

Exceptions

7. Notwithstanding subsections 5(2) and (3) and 6(2), a procuring entity may procure goods under those provisions by mutual agreement with a supplier where Exception, specific goods or circumstances
- (a) the goods are one of the following types:
 - (i) compact discs (CDs), digital video discs (DVDs), film, film strips, pre-recorded tapes, videotapes, recordings,
 - (ii) printed test materials,
 - (iii) subscriptions to magazines, newspapers or periodicals,
 - (iv) textbooks,
 - (v) artifacts, related books and plaques for historical projects and buildings,
 - (vi) works of art,
 - (vii) goods of a confidential nature,
 - (viii) representational goods for use outside the province,
 - (ix) repair parts for road maintenance vehicles and equipment,
 - (x) vehicles provided for the use of Ministers,
 - (xi) construction material used for highway construction and maintenance;
 - (b) it is necessary to procure the goods from a particular supplier for the following reasons:
 - (i) to ensure compatibility with present supplies,
 - (ii) to meet technical requirements,
 - (iii) the goods are controlled by a statutory monopoly,
 - (iv) the goods originate from a commodity market,
 - (v) the goods are under warranty or a maintenance contract,
 - (vi) the procurement results from a design contest,
 - (vii) the goods are being liquidated or are otherwise available below usual market prices,
 - (viii) goods with the desired characteristics are only available from a particular supplier; or
 - (c) the goods are being procured
 - (i) for the first time,
 - (ii) in respect of a leased property,
 - (iii) for resale,
 - (iv) in emergency circumstances,
 - (v) to address compromised security or order,
 - (vi) from a philanthropic organization, approved by the Minister,
 or
 - (vii) from a public body or non-profit organization.

Exempt from Trade Agreements

8. Where the estimated value of goods is equal to or greater than the lowest applicable threshold value of all relevant trade agreements but the goods are exempt under the relevant trade agreements, a procuring entity may procure the goods for a Schedule A entity or a Schedule B entity by Equal to or above threshold value but exempt
- (a) an open competitive bidding process; or
 - (b) a limited competitive bidding process, limited to local suppliers.

Trade Agreements Apply

9. Where the estimated value of goods is equal to or greater than the lowest applicable threshold value of all relevant trade agreements and the goods are not exempt under the relevant trade agreements, a procuring entity shall procure the goods in accordance with the relevant trade agreements. Equal to or above threshold value, relevant trade agreements apply

PART III
COMPETITIVE BIDDING PROCESS

10. This Part applies to a competitive bidding process conducted pursuant to the Act and these regulations, subject to relevant trade agreements. Application of Part, subject to trade agreements

Conduct of Competitive Bidding Process

11. The Minister shall establish a procurement website for the purposes of conducting and facilitating competitive bidding processes under the Act and these regulations. Procurement website

12. (1) A competitive bidding process may be conducted in different stages and using different processes, which may or may not bind the parties, to

Different stages and processes

(a) enable the procuring entity to better identify the subject of the procurement; and

(b) enable suppliers to determine if they wish to participate in the competitive process.

(2) All suppliers shall be treated fairly, equally and equitably throughout a competitive bidding process, subject to any limits or requirements set out in solicitation documents.

Fair, equal and equitable treatment

(3) Where the solicitation documents state that a class of suppliers may be given preferential treatment in a manner authorized in these regulations, the procuring entity shall treat all suppliers in that class fairly, equally and equitably.

Fair, equal and equitable treatment within class

Future Procurement Plans and Pre-qualification List

13. (1) A procuring entity may publish notice of its future procurement plans and, where it does so, shall

Notice of planned procurement

(a) publish the notice as early as possible in the fiscal year; and

(b) post the notice on the procurement website for at least 35 days but not more than 12 months before the solicitation notice is issued.

(2) The notice of a planned procurement shall state

Contents of notice

(a) the subject matter of the procurement; and

(b) the planned date of the publication of the solicitation notice.

14. (1) Subject to subsection (2), a procuring entity may, using a competitive bidding process, establish a pre-qualification list of goods or suppliers to be used in a future competitive bidding process.

Establishment of pre-qualification list

(2) Where a procuring entity intends to use a pre-qualification list to procure goods that are subject to a trade agreement, the procuring entity shall use an open competitive bidding process to establish the list.

Open process to establish list if trade agreement

(3) In addition to any other requirements in these regulations respecting solicitation documents, the solicitation documents used to establish a pre-qualification list shall state

Solicitation documents - information

(a) the period for which the list is to be established;

(b) the procuring entities that may use the list; and

(c) any other conditions governing the use of the list.

15. Where bid submissions for inclusion on a pre-qualification list are evaluated on a point system, the procuring entity shall place on the pre-qualification list all suppliers with accepted bid submissions that meet the minimum acceptable score as indicated in the solicitation documents.

Pre-qualification list – evaluations on points

16. (1) A pre-qualification list is valid only for the period indicated in the solicitation documents.

Validity period

(2) A procuring entity may divide into categories the goods and suppliers that have been pre-qualified.

Division into categories

(3) When a pre-qualification list has been established, the procuring entity shall restrict the competitive bidding process to which it applies to

List governs process

(a) the suppliers that are on the list or an applicable category of the list;

(b) the period for which the list was established; and

(c) the procurement of the goods on the list or for which the list was established.

(4) The procuring entity shall solicit competitive bids from the suppliers on a pre-qualification list, or a category of the list, by

Methods of soliciting competitive bids

(a) inviting the suppliers on the list to respond to the solicitation; or

(b) publicly advertising a solicitation notice that indicates that participation in the competitive bidding process is restricted to suppliers that have been pre-qualified.

Solicitation of Bids

- 17.** When a solicitation notice is publicly advertised, the procuring entity shall post the notice on the procurement website for the minimum solicitation period specified under section 20, and the notice shall contain the following information:
- Posting and contents of public notice
- (a) the solicitation number;
 - (b) a brief description of the goods being procured;
 - (c) where the goods being procured are subject to a trade agreement, the name and relevant chapter number of the trade agreement;
 - (d) the place where relevant information and solicitation documents may be obtained;
 - (e) the conditions for obtaining the solicitation documents;
 - (f) the location where a bid submission shall be submitted;
 - (g) the date and time by which a bid submission shall be submitted;
 - (h) the date, time and location that bid submissions are to be opened, if the submissions are to be publicly opened.
- 18.** All suppliers shall be provided with the same information and documents for preparing bid submissions, and the information and documents provided shall be adequate for the preparation of a bid submission.
- Same information and documents
- 19.** Where a procuring entity intends to evaluate submissions in a competitive bidding process on criteria in addition to price, the procuring entity shall indicate clearly in the solicitation documents the criteria to be used and the method by which the bid submissions will be evaluated, including the relative weight to be assigned to each criterion.
- Criteria in addition to price
- 20.** The minimum solicitation period for an open competitive bidding process is 10 days, unless a longer minimum period is required under a trade agreement that applies to the goods being procured.
- Minimum solicitation period – open competitive bidding
- 21.** Where a procuring entity is procuring goods using a limited competitive bidding process, the procuring entity shall give suppliers reasonable time to prepare bid submissions.
- Solicitation period – limited competitive bidding
- Modification and Clarification**
- 22.** (1) At any time before the solicitation period closes, a procuring entity may, for any reason, modify the solicitation documents by issuing an amendment.
- Amendment of solicitation documents
- (2) Where a procuring entity issues an amendment to solicitation documents, the procuring entity shall
- Communication of amendment
- (a) communicate the amendment promptly and in the same manner as the original solicitation documents; and
 - (b) provide suppliers with sufficient time to modify their bid submissions, if necessary.
- (3) A procuring entity shall post notification of an amendment to a publicly advertised solicitation on the procurement website.
- Notification on website
- 23.** Subject to section 20, a procuring entity may shorten the solicitation period for a competitive bidding process where
- Shortening of solicitation period
- (a) it is evident that the original closing date was incorrect; or
 - (b) the need for the goods being procured has become more immediate.
- 24.** A procuring entity may extend the solicitation period for a competitive bidding process where
- Extension of solicitation period
- (a) the original solicitation period is clearly of an inadequate length to prepare a bid submission;
 - (b) suppliers require additional time to prepare bid submissions as a result of an amendment to the solicitation documents; or
 - (c) the procuring entity considers it appropriate to extend the solicitation period in the circumstances.
- 25.** (1) A supplier may, in writing, request clarification of the solicitation documents from the procuring entity.
- Request for clarification

(2) A procuring entity shall respond to a written request made under subsection (1) within such reasonable time as to permit the supplier to submit a bid submission.

Response to clarification request

(3) Without identifying the source of a request for clarification, a procuring entity shall communicate the clarifying information to all suppliers at the same time as providing a response under subsection (2) and in the same manner as the original solicitation documents.

Communication of clarifying information

(4) In the case of a publicly advertised solicitation, notification of the clarification shall be posted on the procurement website.

Notification on website

Submission of Bids

26. (1) A supplier shall ensure that its bid submission

- (a) is legible and properly completed;
- (b) contains the proper solicitation number; and
- (c) is delivered to the location specified in the solicitation documents by the date and time specified in those documents.

Requirements for bid submission

(2) Where a procuring entity receives a bid submission in a sealed envelope that does not bear the solicitation number on it, the procuring entity shall open the envelope to match it to a solicitation for bids, while taking all reasonable measures to preserve the confidentiality of the envelope's contents.

No solicitation number

27. (1) A supplier may amend a bid submission that has been submitted to a procuring entity by delivering the amendment to the location specified in the solicitation documents by the date and time specified in those documents.

Amending bid submissions

(2) A supplier shall ensure that an amendment to its bid submission

- (a) is signed by the person who signed the original bid submission or by a person authorized to sign on his or her behalf; and
- (b) clearly indicates the solicitation number applicable to the bid submission being amended.

Requirements for amendment

(3) For the purposes of these regulations, a bid submission includes all amendments to the bid submission that comply with this section, received by the procuring entity.

Bid submission includes amendments

Receipt of Bid Submissions

28. (1) On receipt of a bid submission, including a late bid submission referred to in section 32, a procuring entity shall stamp the bid submission with the date and time of its receipt, and this shall be the official date and time of receipt of the bid submission.

Date and time of official receipt

(2) Subject to subsection 32(3), a procuring entity shall store each bid submission it receives in a secure place until the bid submissions are opened.

Secure storage

29. (1) A procuring entity shall take all reasonable measures to preserve the confidentiality of a bid submission received by facsimile transmission.

Confidentiality of bid by facsimile

(2) Notwithstanding subsection (1), the confidentiality of information contained in a bid submission received by facsimile transmission is not assured and the procuring entity shall not be held liable if any such information becomes known inadvertently.

Limitation of liability

30. A solicitation period shall close at the date and time indicated in the solicitation documents.

Close of solicitation period

31. A supplier may not withdraw a bid submission after the solicitation period closes unless the solicitation documents provide otherwise.

Withdrawal of bid submissions

32. (1) For the purposes of this section, a "late bid submission" is a bid submission that is received after the solicitation period closes.

Late bid submission

(2) A procuring entity shall reject a late bid submission in a competitive bidding process unless the late receipt of the bid submission was caused solely by the procuring entity.

Not accepted, exception

(3) Where a late bid submission is rejected in accordance with subsection (2), it shall be returned, unopened if possible, to the supplier. Returned unopened

(4) Where a late bid submission is accepted, all documents related to its acceptance shall be maintained in the procurement record. Documents on file

33. (1) Where a procuring entity receives a bid submission by facsimile transmission, the procuring entity may only accept the pages transmitted before the solicitation period closes and shall reject the pages transmitted after the solicitation period closes. Bid submissions received by facsimile transmission

(2) A procuring entity shall reject a bid submission received by facsimile transmission where all the information required in the bid submission is not transmitted before the solicitation period closes. Rejection of bid submission by facsimile transmission

Opening Bid Submissions

34. (1) A procuring entity shall designate a person to open bid submissions for a procurement process and only the person designated may open them. Designated person

(2) Where bid submissions are to be opened in public, the person designated by the procuring entity shall open them at the location, date and time specified in the solicitation documents. Public opening

35. (1) The person designated to open bid submissions shall reject a bid submission that Rejection of bid submissions

- (a) is not signed;
- (b) is not accompanied by a security deposit in the form and in the amount required by the solicitation documents;
- (c) does not contain a total price, where more than one item is being procured and a total price was required by the solicitation documents; or
- (d) is not legible.

(2) Where a supplier submits more than one bid submission and they are not marked as alternative submissions, the procuring entity shall accept the last bid submission received before the solicitation period closes and all other bid submissions from that supplier shall be rejected. Multiple bid submissions

36. A procuring entity shall not award a procurement contract at the time that bid submissions are opened. No award on opening

37. Following the opening of bid submissions and before awarding a procurement contract, a procuring entity may disclose Disclosure of information

- (a) in the case of a competitive bidding process based on price, the name of each supplier who submitted a bid and the total price of the supplier’s bid, where a total price was required by the solicitation documents; and
- (b) in the case of a competitive bidding process based on a point system, the name of each supplier who submitted a bid.

Examination and Evaluation of Bid Submissions

38. (1) Following the opening of bid submissions, the procuring entity shall examine each bid submission. Examination of bid submission

(2) A procuring entity shall reject a bid submission that does not meet the mandatory requirements of the solicitation documents. Reject, does not meet requirements

(3) Notwithstanding subsection (2), a procuring entity may accept a bid submission that does not meet the mandatory requirements of the solicitation documents where Exception

- (a) the solicitation documents authorize the procuring entity to do so;
- (b) the deficiency in the bid submission
 - (i) affects the form of the bid submission, rather than its substance, and
 - (ii) does not affect price, delivery, quality or quantity in the bid submission; and
- (c) accepting the bid submission would not give the supplier an unfair advantage over other suppliers who submitted bids.

- 39.** A procuring entity may reject a bid submission for reasons that include the following: May reject bid submission
- (a) the submission contains substantive qualifications or conditions that are contrary to the terms of the solicitation documents;
 - (b) the submission is from a disqualified supplier;
 - (c) the submission contains a change in price that was not initialled by the person who signed the submission;
 - (d) the procuring entity determines that the information submitted with respect to the qualifications of the supplier is false or misleading.
- 40.** (1) A procuring entity shall objectively evaluate each bid submission accepted into the competitive bidding process and consider all bid submissions equally, fairly and honestly. Evaluation standard
- (2) All bid submissions accepted in a competitive bidding process shall be evaluated by the same individual or group of individuals. Same individual or group
- 41.** When evaluating a bid submission and determining the successful supplier, a procuring entity shall use only those criteria, weighting and procedures set out in the solicitation documents and shall apply those criteria and procedures only in the manner set out in the solicitation documents. Evaluation according to solicitation documents
- 42.** Where there is a discrepancy between the stated unit price and the stated total price in a bid submission, the procuring entity shall use the unit price to calculate the total price for evaluation purposes. Discrepancy in price
- 43.** (1) A procuring entity may request clarification of a bid submission from a supplier. Clarification of bid submission
- (2) No changes to the substance of a bid submission may be made, proposed or allowed following a request for clarification under this section. No substantive changes
- 44.** (1) Subject to subsection (2), a procuring entity may reject a bid submission where it determines that the bid price, in combination with other aspects of the submission, is so abnormally low in relation to the subject matter of the procurement that it raises concerns respecting the supplier's ability to perform the procurement contract. Abnormally low price
- (2) Before rejecting a bid under subsection (1), a procuring entity shall request and consider clarification of the bid submission from the supplier. Clarification
- (3) The request for clarification under subsection (2) shall be in writing and state the deadline for the written submission of clarifying information. Request in writing
- (4) A procuring entity may only consider clarifying information received from the supplier by the deadline set out in the request for clarification. Consideration of information
- (5) A procuring entity shall keep a record of a decision to reject a bid submission under this section in the procurement record, including the reasons for rejecting the submission and all written communications between the procuring entity and the supplier. Record
- (6) A procuring entity shall promptly communicate to the supplier a decision to reject a bid submission under this section. Notice to supplier

Negotiation of Terms

- 45.** In the context of a competitive bidding process, the terms of a procurement contract may be negotiated between a procuring entity and a supplier if Negotiations during procurement process
- (a) the authority to negotiate is set out in the solicitation documents, including the negotiation process to be used and the conditions under which negotiations will take place;
 - (b) the negotiations are confidential, and the procuring entity shall not disclose any information with respect to the bid submission of another supplier;

- (c) the solicitation documents do not permit the procuring entity give an unfair advantage to, or discriminate against, a supplier in the course of negotiations; and
- (d) suppliers are eliminated from the process based on the criteria set out in the solicitation documents.

Preferential Treatment

- 46.** To apply preferential treatment in the evaluation of bid submissions, a procuring entity shall clearly indicate on the solicitation documents
- (a) that preferential treatment may be applied; and
- (b) the method to be used in applying the preferential treatment.
- 47.** A supplier may be advantaged by preferential treatment only once during a procurement process, regardless of whether the procurement is completed in stages or multiple parts.
- 48.** (1) Where the estimated value of the goods to be procured is less than the lowest applicable threshold value of all relevant trade agreements, a procuring entity may give preferential treatment to a local supplier.
- (2) Where bid submissions are evaluated on price, a procuring entity may give preferential treatment under subsection (1) by reducing the local supplier's bid price by up to 10% for the purposes of evaluating the bids.
- (3) Where bid submissions are evaluated on a point system, a procuring entity may give preferential treatment under subsection (1) by reducing the price component of the local supplier's bid by up to 10% for the purposes of evaluating the bids.
- 49.** Where the estimated value of the goods to be procured is equal to or greater than the lowest applicable threshold value of all relevant trade agreements but the goods are exempt from the application of the relevant trade agreements, a procuring entity shall not give preferential treatment to any supplier.

Cancellation of Competitive Bidding Process

- 50.** A procuring entity may cancel a competitive bidding process and decline to enter into a procurement contract
- (a) where none of the bid submissions are acceptable;
- (b) where the goods that were the subject of the competitive bidding process are no longer required; or
- (c) in accordance with the solicitation documents, if applicable.

Awarding Procurement Contract

- 51.** (1) Subject to subsection (2), where bid submissions are evaluated on price, the procuring entity shall award the procurement contract to the supplier with the accepted bid submission that has the lowest price, subject to any preferential treatment given in accordance with these regulations.
- (2) A procuring entity may award a procurement contract under subsection (1) to multiple suppliers with the accepted bid submissions with the lowest prices, if that possibility was indicated in the solicitation documents.
- (3) For the purposes of this section, the price of a good includes the total cost of ownership of the good or the value of the return on investment to the procuring entity, where the solicitation documents disclosed that these factors would be considered when evaluating bid submissions.
- 52.** (1) Subject to subsection (2), where bid submissions are evaluated on a point system, the procuring entity shall award the procurement contract to the supplier with the accepted bid submission that receives the highest score.
- (2) A procuring entity may award a procurement contract under subsection (1) to multiple suppliers with the accepted bid submissions

that have the highest scores, if that possibility was indicated in the solicitation documents.

- (3) For greater certainty, when bid submissions are evaluated on a point system, preferential treatment given under these regulations is considered in the awarding of points. Points include preferential treatment
- 53.** Where there is a tie among two or more accepted bid submissions after bid submissions have been evaluated, the procuring entity shall select a fair and transparent method for awarding a procurement contract under section 51 or 52. Award – Tie among bid submissions
- 54.** (1) Notwithstanding sections 51 and 52, where the value of a procurement contract is \$25,000 or more but less than \$250,000, no person shall award a contract to a supplier or suppliers without the approval of the Minister or the head of a Schedule B entity, as the case may be. Authorization for procurement \$25,000 to \$249,999
- (2) The authority of the Minister or the head of a Schedule B entity to approve a procurement contract under subsection (1) may not be delegated to another person. No delegation
- (3) Notwithstanding sections 51 and 52, where the value of a procurement contract is \$250,000 or more, no person shall award a contract to a supplier or suppliers without the approval of the Treasury Board. Authorization for procurement \$250,000 or greater
- 55.** (1) On awarding a procurement contract following a competitive bidding process, a procuring entity shall issue award documents to the successful supplier or suppliers and the documents shall include all information pertinent to the procurement. Award documents
- (2) A procuring entity may only amend or alter award documents issued under this section in the following circumstances: Amendments or alterations
- (a) on the agreement of the supplier and the procuring entity, to make an addition to or deletion from the contract with respect to a matter not dealt with in the original solicitation documents due to an error or oversight;
 - (b) to correct a clerical error in the award documents to render the award documents consistent with the supplier's bid submission;
 - (c) on the agreement of the supplier and the procuring entity, to renew the contract, where the solicitation documents included a renewal option.
- 56.** The terms of a procurement contract awarded following a competitive bidding process shall be substantially the same as those terms in the solicitation documents. Contract substantially similar
- 57.** (1) Where the goods being procured are subject to a trade agreement, a procuring entity shall, within 72 days of awarding a procurement contract for the goods under section 51 or 52, publish an award notice on the procurement website. Notice of award, trade agreement
- (2) An award notice published in accordance with subsection (1) shall contain the following information: Contents of notice
- (a) the name and address of the procuring entity;
 - (b) the solicitation number;
 - (c) a description of the goods procured;
 - (d) the name and address of the successful supplier;
 - (e) the total value of the awarded procurement contract;
 - (f) the date the procurement contract was awarded.
- 58.** On awarding a procurement contract following a competitive bidding process, a procuring entity may disclose the name of the successful supplier and the total value of the contract. Disclosure of contract information
- 59.** (1) After a procurement contract has been awarded following a competitive bidding process, on the request of an unsuccessful supplier, the procuring entity shall provide the unsuccessful supplier with a debriefing on the procurement process. Debriefing
- (2) During a debriefing, a procuring entity shall not disclose the bid of another supplier, including that of the successful supplier. Non-disclosure

Standing Offer Agreements

- 60.** (1) A procuring entity may enter into a standing offer agreement with a supplier following a competitive bidding process conducted in accordance with these regulations. Standing offer agreement
- (2) In addition to any other requirements under these regulations respecting solicitation documents, the solicitation documents for a standing offer agreement shall include Solicitation documents, additional contents
- (a) the period for which the agreement will be valid;
 - (b) the terms and conditions of use of the agreement; and
 - (c) the Schedule A entities or Schedule B entities that may obtain goods under the agreement.
- 61.** (1) A standing offer agreement is valid only for the period indicated in the solicitation documents. Period of validity
- (2) Only a Schedule A entity or a Schedule B entity identified in a standing offer agreement may obtain goods under the agreement. Identified entities only
- (3) Where a standing offer agreement applies to a Schedule A entity or a Schedule B entity, the entity shall only obtain goods covered by the agreement in accordance with the agreement. Goods obtained only per agreement

PART IV
DISQUALIFICATION OF SUPPLIERS

- 62.** Subject to section 63, the Minister may disqualify a supplier from providing goods to Schedule A entities or a Schedule B entity may disqualify a supplier from providing goods to the Schedule B entity, where Disqualification by Minister or Schedule B entity
- (a) the Minister or Schedule B entity, as the case may be, has documented significant or persistent deficiencies on the part of the supplier in fulfilling or performing a substantive requirement or obligation under a prior contract or contracts; or
 - (b) the supplier has been found guilty of an offence that, in the opinion of the Minister or Schedule B entity, as the case may be, makes the supplier unsuitable to provide goods to Schedule A entities or the Schedule B entity, as the case may be.
- 63.** (1) A supplier's performance under a prior contract that occurred within two years before, and any time after, the coming into force of these regulations may be taken into account for the disqualification of a supplier for past performance. Elements of past performance
- (2) The facts that gave rise to a previous disqualification of a supplier may not be considered with respect to a subsequent disqualification, but the fact that the supplier has been previously disqualified may be considered. Previous disqualification
- (3) Only an offence committed after these regulations come into force may result in a disqualification. Previous offence not relevant
- 64.** Before disqualifying a supplier, the Minister or Schedule B entity shall give the supplier notice in writing, which shall state Notice of intention to disqualify
- (a) detailed reasons as to why the Minister or Schedule B entity is considering disqualifying the supplier;
 - (b) that the supplier, within 15 days after receiving the notice, may object to the disqualification by sending a notice of objection to the Minister or Schedule B entity, as the case may be, by registered mail;
 - (c) that the supplier has a right to be represented by counsel, at the supplier's own expense, if the supplier wishes to object to the disqualification; and
 - (d) that the supplier may present the objection in person or in writing.
- 65.** Where a supplier chooses to present an objection in writing, the supplier shall include with the notice of objection all the documents in the supplier's possession that support the objection. Objection in writing
- 66.** (1) Where a supplier chooses to present an objection in person, the Minister or Schedule B entity, as the case may be, shall set a date, time Objection in person

and place to hear the supplier's objection, and the hearing shall occur within 15 days after receipt of the notice of objection.

(2) Notwithstanding subsection (1), the supplier may agree to a hearing occurring within 30 days after receipt of the notice of objection.

Extension of time for hearing

67. The Minister or Schedule B entity, as the case may be, shall give notice in writing of the decision, including reasons, respecting the disqualification of a supplier within one of the following time lines:

Decision

(a) where the Minister or Schedule B entity, as the case may be, has not received a notice of objection, within five days after the period for sending a notice of objection has expired;

(b) where a hearing has been held in accordance with section 66, within 15 days after the hearing;

(c) where an objection has been made in writing under section 65, within 15 days after the Minister or Schedule B entity, as the case may be, receives the documents under that section.

68. (1) The Minister or a Schedule B entity may impose on the disqualification of a supplier conditions relating to the scope of the disqualification.

Conditions on disqualification

(2) The total length of the first disqualification of a supplier shall not be more than 24 months.

Total period of disqualification

69. (1) The Minister or a Schedule B entity may disqualify a supplier while the supplier is in the course of fulfilling a procurement contract for a Schedule A entity or the Schedule B entity, as the case may be.

Disqualification during performance of a procurement contract

(2) Where the Minister or a Schedule B entity disqualifies a supplier in the circumstances set out in subsection (1), the Minister or Schedule B entity, as the case may be, may cancel the existing procurement contract unless to do so would be too costly or otherwise detrimental.

Cancellation of procurement contract

(3) Where the Minister or Schedule B entity does not cancel a procurement contract pursuant to subsection (2), the Minister or Schedule B entity, as the case may be, may take oversight measures with respect to the contract including, inspections, measures to prevent delays and tracking of the stages or different aspects of the contract.

Oversight measures

70. The Minister or a Schedule B entity shall not award a procurement contract to a supplier whom the Minister or Schedule B entity, as the case may be, disqualifies during the procurement process for that contract.

Disqualification during procurement process

71. (1) A supplier is deemed to be disqualified when a person who has a controlling interest in that supplier is disqualified.

Person with controlling interest disqualified

(2) A supplier is deemed to be disqualified when that supplier has a controlling interest in another supplier that is disqualified.

Supplier with controlling interest disqualified

72. A supplier who has been disqualified may apply in writing to the Minister or Schedule B entity, as the case may be, to be reinstated after the expiration of

Application for reinstatement

(a) in the case of an initial disqualification, the six-month period following the disqualification; and

(b) in the case of any subsequent disqualification, the twelve-month period following the disqualification.

73. (1) The Minister or a Schedule B entity, as the case may be, may reinstate a supplier if satisfied that the supplier has taken appropriate corrective measures and is suitable to provide goods to Schedule A entities or the Schedule B entity, as the case may be.

Reinstatement

(2) The Minister or Schedule B entity, as the case may be, shall give notice in writing of the decision, including reasons, respecting the application within 15 days of receiving the application.

Decision

74. Where a supplier is not reinstated under section 73, the supplier may reapply in writing to be reinstated only after the expiration of the six-month period following the decision not to reinstate.

Subsequent applications for reinstatement

75. (1) A notice required to be given under this Part shall be served on the appropriate party by registered mail to the last known mailing address of the recipient.

Notice by registered mail

(2) A notice sent by registered mail in accordance with subsection (1) is deemed to have been received five days after mailing. Deemed receipt

PART V GENERAL

76. Regardless of the value of a procurement contract or the procurement method used, a procuring entity shall maintain a record of all documents related to a procurement of goods, including those necessary to justify the procurement method used. Procurement record

77. (1) No person shall prepare, design or otherwise structure a procurement or separate procurement requirements in order to avoid the requirements of the Act or these regulations or to avoid the rules set out in a relevant trade agreement. Prohibition, design of procurement process

(2) No person shall select a method for evaluating bid submissions in order to avoid the requirements of the Act or these regulations. Prohibition, method of evaluating bids

78. Notwithstanding any other provision of these regulations, except as otherwise required by law, a procuring entity shall not disclose any information collected during a procurement process if disclosure of the information would Prohibition, disclosure of information

- (a) endanger the security of the province or the well-being of its residents;
- (b) interfere with the integrity of the procurement process;
- (c) be contrary to the law or otherwise interfere with the enforcement of the law;
- (d) reveal a trade secret or business practice of or otherwise prejudice the legitimate commercial interests of a supplier; or
- (e) otherwise impede fair competition.

79. When an organization or jurisdiction that is not subject to the Act and these regulations procures goods on behalf of a Schedule A entity or a Schedule B entity, the Minister shall ensure that the goods are procured in compliance with Part 2 and, where applicable, sections 17 and 20. Joint procurement

80. These regulations come into force on November 15, 2020. Commencement

SCHEDULE A

Department of Agriculture and Land
 Department of Economic Growth, Tourism and Culture
 Department of Education and Lifelong Learning
 Department of Environment, Water and Climate Change
 Department of Finance
 Department of Fisheries and Communities
 Department of Health and Wellness
 Department of Justice and Public Safety
 Department of Social Development and Housing
 Department of Transportation, Infrastructure and Energy
 Elections PEI
 Executive Council
 Legislative Assembly
 Office of the Auditor General
 Public Service Commission

SCHEDULE B

Charlottetown Regional Development Corporation
 Finance PEI
 Health PEI
 Innovation PEI
 Island Investment Development Inc.
 Island Regulatory and Appeals Commission
 Island Waste Management Corporation
 La Commission scolaire de langue française
 Prince Edward Island Agriculture Insurance Corporation
 Prince Edward Island Energy Corporation
 Prince Edward Island Grain Elevators Corporation

Prince Edward Island Housing Corporation
 Prince Edward Island Human Rights Commission
 Prince Edward Island Liquor Control Commission
 Prince Edward Island Lotteries Commission
 Prince Edward Island Museum and Heritage Foundation
 Prince Edward Island Student Financial Assistance Corporation
 Public Schools Branch
 Summerside Regional Development Corporation
 Tourism PEI
 Workers Compensation Board of Prince Edward Island

EXPLANATORY NOTES

SECTION 1 defines terms used in these regulations.

SECTION 2 provides that the entities listed in Schedule A to these regulations are “Schedule A entities” and the entities listed in Schedule B to these regulations are “Schedule B entities”.

SECTION 3 provides that when both goods and services are to be procured, it shall be treated as a procurement of goods where the estimated value of the goods is greater than the estimated value of the services.

SECTIONS 4 and 5 set out procurement rules for Schedule A entities where the estimated value of goods is less than the lowest applicable threshold value of all relevant trade agreements, so that no trade agreement applies.

In this case, a Schedule A entity may procure goods for itself.

Where the estimated value of goods is less than \$5,000, a procuring entity may procure the goods for a Schedule A entity by mutual agreement, a limited competitive bidding process, or an open competitive bidding process.

Where the estimated value of goods is \$5,000 or more but less than \$10,000, a procuring entity may procure the goods for a Schedule A entity by: mutual agreement for the goods, provided that the procuring entity has first requested an informal quote in writing from at least three local suppliers; a limited competitive bidding process; or an open competitive bidding process.

Where the estimated value of goods is \$10,000 or more but less than the lowest applicable threshold value of all relevant trade agreements, a procuring entity may procure the goods for a Schedule A entity by: a limited competitive bidding process, limited to local suppliers; or an open competitive bidding process.

Where a competitive bidding process is not successful, the procuring entity may procure the goods for a Schedule A entity by mutual agreement.

SECTION 6 sets out procurement rules for Schedule B entities, where the estimated value of goods is less than the lowest applicable threshold value of all relevant trade agreements, so that no trade agreement applies.

Where the estimated value of goods is less than \$250,000, a procuring entity may procure the goods for a Schedule B entity by mutual agreement, a limited competitive bidding process, or an open competitive bidding process.

Where the estimated value of goods is \$250,000 or more but less than the lowest applicable threshold value of all relevant trade agreements, a procuring entity may procure the goods for a Schedule B entity by: a limited competitive bidding process, limited to local suppliers; or an open competitive bidding process.

Where a competitive bidding process is not successful the procuring entity may procure the goods for a Schedule B entity by mutual agreement.

SECTION 7 sets out exceptions to the rules in subsections 5(2) and (3) and 6(2).

SECTION 8 provides that where the estimated value of goods is equal to or greater than the lowest applicable threshold value of all relevant trade agreements, but the goods are exempt under the relevant trade agreements, the procuring entity may procure the goods for a Schedule A entity or a Schedule B entity by: a limited competitive bidding process, limited to local suppliers; or an open competitive bidding process.

SECTION 9 provides that where the estimated value of goods is equal to or greater than the lowest applicable threshold value of all relevant trade agreements and the goods are not exempt under the relevant trade agreements, a procuring entity shall procure the goods in accordance with the relevant trade agreements.

SECTION 10 provides that Part 3 applies to a competitive bidding process, subject to relevant trade agreements.

SECTION 11 requires the Minister to establish a procurement website to conduct and facilitate competitive bidding processes under the Act and these regulations.

SECTION 12 provides that a competitive bidding process may be conducted in different stages and using different processes, binding or not binding, to enable the procuring entity to better identify the subject of the procurement or suppliers to determine if they wish to participate. It requires that all suppliers or all suppliers within a preferred class, as the case may be, shall be treated fairly, equally and equitably throughout a competitive bidding process.

SECTION 13 permits a procuring entity to publish notice of its future procurements, requires such a notice to be posted as early as possible in the fiscal year for at least 35 days but not more than twelve months before the solicitation notice is issued, and sets out information required in the notice.

SECTION 14 permits a procuring entity to establish a pre-qualification list of goods or suppliers to be used in a future competitive bidding process. It requires the pre-qualification list to be established using a competitive bidding process, and in particular an open process where a trade agreement applies. It also sets out particular requirements for the solicitation documents to establish a pre-qualification list.

SECTION 15 requires that when bid submissions for inclusion on a pre-qualification list are evaluated on a point system, the procuring entity shall include on the list all suppliers with accepted bid submissions that meet the minimum acceptable score indicated on the solicitation documents.

SECTION 16 provides that a pre-qualification list is valid only for the period indicated in the solicitation documents. The list shall apply in respect of the suppliers and goods on the list during the period and in respect of the competitive bidding process for which the list was established. Solicitations of suppliers on the list may be made by invitation or public advertisement indicating the process is restricted to pre-qualified suppliers.

SECTION 17 requires that when a solicitation notice is publicly advertised, the procuring entity shall post the notice on the procurement website for the minimum solicitation period set out in section 20 and sets out what the notice shall contain.

SECTION 18 requires that all suppliers be provided with the same and adequate information and documents for preparing bid submissions.

SECTION 19 provides that where bid submissions are to be evaluated on criteria in addition to price, the procuring entity shall indicate in the solicitation documents the criteria, the method by which it will be evaluated, and the weight to be given to each criterion.

SECTION 20 states that the minimum solicitation period for an open competitive bidding process is 10 days.

SECTION 21 provides that where a procuring entity is procuring goods using a limited competitive bidding process, it shall give suppliers reasonable time to prepare bid submissions.

SECTION 22 permits a procuring entity to modify solicitation documents by issuing an amendment at any time before the solicitation period closes. It requires that the amendment be communicated promptly and in the same manner as the original solicitation and allows suppliers sufficient time to modify their bid submissions if necessary. It requires that notice of the amendment to a publicly advertised solicitation be posted on the procurement website.

SECTION 23 provides that, subject to the minimum solicitation period requirements in section 15, a procuring entity may shorten a solicitation period if it is evident that the original closing date was incorrect or the need for the goods being procured has become more immediate.

SECTION 24 sets out reasons for which a solicitation period may be extended.

SECTION 25 provides that a supplier may request, in writing, clarification of solicitation documents from the procuring entity. A procuring entity shall respond to the request in a reasonable time to permit the supplier to submit a bid submission. The response shall be communicated to all suppliers in the same manner as the solicitation documents, without identifying the supplier that made the request. In the case of a publicly advertised solicitation, notice of the clarification shall be posted on the procurement website.

SECTION 26 requires a supplier to ensure its bid submission is legible, properly completed, contains the proper solicitation number and is delivered to the location specified in the solicitation documents by the closing date and time. It also sets out the procedure to be followed where a procuring entity receives a sealed bid submission that does not bear the solicitation number on it.

SECTION 27 provides that a supplier may amend a bid submission if the amendment is delivered to the location specified in the solicitation documents by the closing date and time. It requires that the amendment shall be signed by the person who signed the original bid submission or a person authorized to sign on his or her behalf and clearly indicate the solicitation number of the bid submission being amended. It provides that for the purpose of these regulations, a bid submission includes amendments made in accordance with this section.

SECTION 28 requires a procuring entity to stamp a bid submission with the date and time of its receipt and store it in a secure place until the submissions are opened.

SECTION 29 requires a procuring entity to take all reasonable measures to protect the confidentiality of a bid submission received by facsimile, but provides that the procuring entity is not liable if information in such a bid submission becomes known inadvertently.

SECTION 30 states that a solicitation period closes on the date and at the time indicated in the solicitation documents.

SECTION 31 states that a supplier is not permitted to withdraw a bid submission after the solicitation period closes unless the solicitation documents provide otherwise.

SECTION 32 requires a procuring entity to reject a late bid submission unless the late receipt was caused solely by the procuring entity. It requires that a rejected late bid submission shall be returned, unopened if possible, to the supplier and all documents related to an accepted late bid submission shall be maintained in the procurement record.

SECTION 33 provides that, where a bid submission is received by facsimile, the procuring entity may only accept the pages transmitted before the solicitation period closes and shall reject the bid submission if all the information required is not transmitted before the solicitation period closes.

SECTION 34 requires a procuring entity to designate a person to open bid submissions and provides that only that person may open them. Where bid submissions are to be opened in public, the designated person shall open them at the location, date and time specified in the solicitation documents.

SECTION 35 sets out circumstances in which the designated person shall reject bid submissions. It also provides for how multiple bids from a supplier that are not marked as alternative bids are to be dealt with.

SECTION 36 prohibits a procuring entity from awarding a procurement contract at the time bid submissions are opened.

SECTION 37 sets out what a procuring entity may disclose after bid submissions are opened and before a procurement contract is awarded.

SECTION 38 provides that following the opening of bid submissions, the procuring entity shall examine each bid submission and reject those that do not meet the mandatory requirements of the solicitation documents, except in circumstances specified in the section.

SECTION 39 sets out reasons for which a bid submission may be rejected.

SECTION 40 requires that each accepted bid submission be evaluated by the same individual or group of individuals and considered equally, fairly and honestly.

SECTION 41 requires a procuring entity to evaluate a bid submission and determine the successful supplier in the manner and using only the criteria, weighting and procedures set out in the solicitation documents.

SECTION 42 provides that where there is a discrepancy in a bid submission between the stated unit price and the total price, the procuring entity shall use the unit price to calculate the total price for evaluation purposes.

SECTION 43 permits a procuring entity to request clarification of a bid submission from a supplier but states that no changes to the substance of a bid submission may be made, proposed or allowed following the request.

SECTION 44 permits a procuring entity to reject a bid if it has concerns that the bid price is so abnormally low that the supplier will not be able to perform the procurement contract. It requires the procuring entity to request and consider clarification of the bid submission before rejecting it and sets out a process for doing so.

SECTION 45 provides that the terms of a procurement contract may be negotiated in the context of a competitive bidding process where certain conditions are met.

SECTION 46 sets out the required contents of solicitation documents to apply preferential treatment in the evaluation of bid submissions.

SECTION 47 provides that a supplier may only be advantaged by preferential treatment once during a procurement process, regardless of whether it is completed in stages or parts.

SECTION 48 provides that where the estimated value of goods is below the lowest applicable threshold value of all relevant trade agreements, a procuring entity may give preferential treatment to a local supplier.

It provides that where bid submissions are evaluated on price, preferential treatment may be given to a local supplier by reducing the supplier's bid price by up to 10% for the purpose of evaluating bid submissions.

It provides that where bid submissions are evaluated on points, preferential treatment may be given to a local supplier by reducing the price component of the supplier's bid by up to 10% for the purpose of evaluating bid submissions.

SECTION 49 provides that where the estimated value of goods is equal to or greater than the lowest applicable threshold value of all relevant trade agreements, but the goods are exempt under the relevant trade agreements, no preferential treatment may be given to suppliers.

SECTION 50 sets out the circumstances in which a procuring entity may cancel a competitive bidding process and decline to enter into a procurement contract.

SECTION 51 provides that, where bid submissions are evaluated on price, the procuring entity shall award the procurement contract to the supplier or suppliers with the accepted bid submission with the lowest price or prices, subject to any preferential treatment given in accordance with these regulations. It provides that a contract may be awarded to multiple suppliers only where provided for in the solicitation documents. It provides that in this section, the price of a good includes the total cost of ownership of the good or the value of the return on investment to the procuring entity, but only where this is provided for in the solicitation documents.

SECTION 52 provides that, where bid submissions are evaluated on a point system, the procuring entity shall award the procurement contract to the supplier or suppliers with the accepted bid submission that receives the highest score or scores. It provides that a contract may be awarded to multiple suppliers only where provided for in the solicitation documents. It clarifies that when bid submissions are evaluated on points, preferential treatment given is considered in the awarding of points.

SECTION 53 provides that, where there is a tie among two or more accepted bid submissions, the procuring entity shall select a fair and transparent method for awarding the procurement contract.

SECTION 54 provides that, where the value of a procurement contract is \$25,000 or more but less than \$250,000, no person shall award a contract to a supplier or suppliers without the approval of the Minister or the head of a Schedule B entity, as the case may be. The authority of the Minister or head of a Schedule B entity to approve a procurement contract may not be delegated to another person. It also provides that, where the value of a procurement contract is \$250,000 or more, no person shall award a contract to a supplier or suppliers without the approval of the Treasury Board.

SECTION 55 provides for the issuance of award documents on awarding a procurement contract and sets out the only circumstances in which award documents may be amended or altered after issuance.

SECTION 56 requires that the terms of a procurement contract shall be substantially the same as those terms in the solicitation documents.

SECTION 57 provides that, where goods are subject to a trade agreement, a procuring entity shall publish an award notice on the

procurement website within 72 days of awarding a procurement contract for the goods. It also sets out the required contents of the award notice.

SECTION 58 provides that, on awarding a procurement contract following a competitive bidding process, a procuring entity may disclose the name of the successful supplier and the total value of the contract.

SECTION 59 provides that, on the request of an unsuccessful supplier in a competitive bidding process, the procuring entity is required to provide the unsuccessful supplier with a debriefing on the process. It also prohibits the procuring entity from disclosing the bid of another supplier, including the successful supplier, during a debriefing.

SECTION 60 provides that a procuring entity may enter into a standing offer agreement with a supplier following a competitive bidding process conducted in accordance with these regulations. It also sets out additional required contents of solicitation documents for a standing offer agreement.

SECTION 61 provides that a standing offer agreement is only valid for the period indicated in the solicitation documents, only a Schedule A entity or Schedule B entity identified in a standing offer agreement may obtain goods under the agreement, and those entities shall only obtain goods covered by the agreement in accordance with the agreement.

SECTION 62 sets out reasons for which the Minister may disqualify a supplier from providing goods to Schedule A entities or a Schedule B entity may disqualify a supplier from providing goods to the Schedule B entity.

SECTION 63 provides that a supplier's performance under a prior contract that occurred within two years before the coming into force of these regulations and any time after may be taken into account to disqualify a supplier for past performance. It provides that the facts that gave rise to a previous disqualification of a supplier may not be considered with respect to a subsequent disqualification but the fact that the supplier was previously disqualified may be considered. It also provides that only an offence committed after these regulations came into force may result in a disqualification.

SECTION 64 requires the Minister or Schedule B entity to give notice containing specified information to a supplier before disqualifying the supplier.

SECTION 65 provides that, where a supplier chooses to present an objection to the disqualification in writing, the supplier shall include with the objection all supporting documents in the supplier's possession.

SECTION 66 provides that, where a supplier chooses to present an objection to the disqualification in person, the Minister or Schedule B entity shall set a date, time and place to hear the supplier's objection and shall hold the hearing within 15 days of receipt of notice of the objection unless the supplier agrees to a hearing date within 30 days of receipt of the notice of objection.

SECTION 67 requires the Minister or Schedule B entity to give notice in writing of the decision respecting the disqualification of a supplier within a specified time line depending on how the matter proceeded.

SECTION 68 permits that Minister or Schedule B entity to impose on a disqualification conditions relating to the scope of the disqualification. It also provides that the total length of the first disqualification of a supplier shall not be more than 24 months.

SECTION 69 permits the Minister or Schedule B entity to disqualify a supplier while the supplier is in the course of fulfilling a procurement contract for a Schedule A entity or the Schedule B entity, as the case may be, in which case the existing procurement contract may be cancelled unless it would be too costly or otherwise detrimental to do so. It

provides that if the existing procurement contract is not cancelled, the Minister or Schedule B entity may take oversight measures with respect to the contract.

SECTION 70 prohibits the Minister or a Schedule B entity from awarding a procurement contract to a supplier whom the Minister or Schedule B entity disqualified during the procurement process for that contract.

SECTION 71 provides that a supplier is deemed to be disqualified when a person who has a controlling interest in that supplier is disqualified or that supplier has a controlling interest in another supplier that is disqualified.

SECTION 72 provides for a supplier who has been disqualified to apply to the person who disqualified the supplier to be reinstated after the expiration of a six-month period, in the case of an initial disqualification, and after a twelve-month period, in the case of any subsequent disqualification.

SECTION 73 provides for the Minister or Schedule B entity to reinstate a supplier if satisfied that the supplier has taken appropriate corrective measures and is suitable to provide goods to Schedule A entities or the Schedule B entity, as the case may be. Notice of the decision in respect of a reinstatement application, including reasons, shall be given within 15 days of receipt of the application.

SECTION 74 provides that, where a supplier is not reinstated under section 73, the supplier may reapply in writing after the expiration of six months following the decision not to reinstate.

SECTION 75 requires that a notice given under Part IV shall be served on the appropriate party by registered mail to the last known address of the recipient and is deemed to have been received five days after mailing.

SECTION 76 requires a procuring entity to maintain a record of all documents related to a procurement process, regardless of the value of the procurement contract or the procurement method used.

SECTION 77 prohibits a person from preparing, designing or otherwise structuring a procurement process or procurement requirements to avoid the requirements of the Act, these regulations or a relevant trade agreement. It also prohibits a person from selecting a method for evaluating bid submissions in order to avoid the requirements of the Act or these regulations.

SECTION 78 prohibits a procuring entity from disclosing information acquired during a procurement process in specified circumstances.

SECTION 79 requires the Minister or Schedule B entity to ensure certain provisions of the regulations are complied with when an organization or jurisdiction that is not subject to the Act or regulations procures goods on behalf of a Schedule A entity or the Schedule B entity, as the case may be.

SECTION 80 provides for the commencement of these regulations.

EC2020-649

**PUBLIC HEALTH ACT
CONTINUATION OF
DECLARATION
STATE OF PUBLIC HEALTH EMERGENCY**

WHEREAS a state of public health emergency was declared in Prince Edward Island on March 16, 2020, pursuant to Order-in-Council EC2020-174; and continued on April 15, 2020 by Order-in-Council EC2020-254; on May 15, 2020 by Order-in-Council EC2020-305; and on June 15, 2020 by Order-in-Council EC2020-350; on July 15, 2020 by Order-in-Council EC2020-435; on August 14, 2020 by Order-in-Council EC2020-488; on September 13, 2020 by Order-in-Council EC2020-542; and on October 13, 2020 by Order-in-Council EC2020-603;

WHEREAS Council has determined, on the advice of the Chief Public Health Officer, that a public health emergency continues to exist as a result of COVID-19 (coronavirus);

AND WHEREAS continued coordination of action or special measures are required in order to protect the public health of the population;

THEREFORE, Council continues Order-in-Council EC2020-174 pursuant to subsection 49(5) of the *Public Health Act*, R.S.P.E.I. Cap. P-30.1 effective November 12, 2020 for a period of thirty (30) days, unless it is sooner terminated or continued by Council.

EC2020-650

**PUBLIC PURCHASING ACT
REGULATIONS
REVOCATION**

Pursuant to section 7 of the *Public Purchasing Act* R.S.P.E.I. 1988, Cap. P-32, Council made the following regulations:

- 1. The *Public Purchasing Act* Regulations (EC43/85) are revoked.**
- 2. These regulations come into force on November 14, 2020.**

EXPLANATORY NOTES

SECTION 1 revokes the Regulations made under the *Public Purchasing Act*.

SECTION 2 provides for the commencement of these regulations.