



Capital Procurement Checklist - Overview

The Ministry of Finance has recently implemented a capital procurement checklist to support the Capital Asset Management Framework (CAMF) and related provincial policies for capital projects. The checklist is a comprehensive listing of minimum expectations and requirements that currently exist for publicly-financed capital construction project procurement undertaken by provincial public sector agencies.

The checklist is based on the principle that taxpayers are best served through competitive procurement processes that are open, fair and transparent. The process should be well-structured, objective and inclusive. Bidders will be more likely to participate, and there will be more competition, where the selection process is clear and well understood, and where the risks between contractor, design authority and the public sector owner are allocated to those best able to manage them.

The checklist is based on the lifecycle phases of typical capital construction procurement, from conceptual plans through business case approval, the selection and contracting of advisors, development of tender documents, the tender process, and execution of contracts. The checklist identifies procurement objectives, key risks, criteria and examples of evidence that demonstrates that the criteria were met.

The checklist was developed based on the following assumptions that:

- individuals managing capital procurement are qualified and knowledgeable with respect to public sector procurement processes.
- individuals managing capital procurements are fully aware of the contents of the CAMF, Chapter 6 (Procurement) of the Core Policy and Procedures Manual (CPPM), inter-governmental trade agreements and any procurement policies which apply to the specific agency.
- all documentation provided as evidence is of an appropriate standard and quality, exhibits an appropriate level of due diligence and has received the necessary approvals.

There may be subsequent refinements to the checklist should results indicate that further clarity is needed to help ensure adherence with provincial policy.

Although the checklist currently does not specifically address other aspects of the procurement process such as administration, monitoring, reporting and contract evaluation, it is expected that the provisions of the CAMF and CPPM Chapter 6 related to these elements of the procurement process will continue to be adhered to.

This checklist should be used in conjunction with the CAMF and CPPM Chapter 6, which provide further detail on government's capital policy. The CAMF, along with links to other relevant policies for capital projects, can be found on the Ministry of Finance website at <http://www.fin.gov.bc.ca/tbs/camf.htm>. CPPM Chapter 6 can be found at http://www.fin.gov.bc.ca/ocg/fmb/manuals/CPM/06_Procurement.htm.



Capital Procurement Checklist – Frequently Asked Questions

What is the checklist?

The checklist is a comprehensive summary of the government’s minimum expectations and requirements that currently exist for capital construction procurement undertaken by public sector agencies. This includes publicly financed procurement in the form of construction management, stipulated price or design-build approaches.

All public sector agencies are expected to immediately begin using the checklist to assess adherence to provincial procurement policies.

Who must use the checklist?

Just as with government’s capital policies, the checklist applies to all provincial government ministries and public sector agencies including taxpayer-supported and commercial Crown corporations, Health Authorities, post-secondary institutions and school districts.

What projects does the checklist apply to?

The policies and principles in the checklist apply to all service and construction contracts associated with capital construction projects that are procured using a design-bid-build or construction management procurement process with provincial funding over the following amounts, which are the current competitive thresholds under existing policy:

	Services associated with construction (Including Consulting)	Construction
Ministries, Agencies, Boards and Commissions	\$ 75 K	\$100 K
Post-Secondary, Education and Health Sectors	\$ 100 K	\$250 K
Crown Corporations	\$ 500 K	\$5 million

Not all service and construction contracts associated with capital construction projects above these thresholds are required to be reviewed. Determination of which contracts are to be reviewed should be done using a *risk-based assessment* approach. This higher-level approach considers the broader risks to a ministry in relation to its goals and objectives and may include considerations such as procurement methodology, impact on service delivery, environmental, economic & social impacts, and ministerial interdependencies. For assistance in developing a risk-based assessment tool, please contact the Risk Management Branch at 250-356-8915.

The checklist does not apply to other types of capital acquisitions or projects such as goods and information technology systems.



Does the checklist apply to public private partnership projects?

No it does not.

The checklist was designed to reflect the procurement process that would be followed for a stipulated price, design-build or construction management model. The procurement model for public private partnerships involves different processes and contractual arrangements.

For each public private partnership, following the conclusion of a contract agreement, the procurement process is made public in a value for money report. These projects also typically have a "fairness advisor" who observes the procurement process and reports out periodically.

However it is important to note that the underlying policy requirements and objectives of fair, open and transparent procurement apply to **all** procurement models including public private partnerships.

Why is this checklist needed?

The checklist reinforces existing policy and provides an additional level of detail and assurance that will assist agencies in meeting the objectives of fairness, openness, competition, and transparency in the procurement process.

The checklist is based on best practices and the requirements set out in the province's Capital Asset Management Framework, Chapter 6 (Procurement) of the Core Policy and Procedures Manual, and other related capital policies. Its use will support consistent procurement practices across the public sector.

How does this checklist change the procurement process?

The procurement process remains unchanged; the checklist does not impose new requirements on the process; it provides a detail and clear expectations for existing government policy. It also serves as a comprehensive tool for reviewing procurement processes.

How is the checklist used?

For new projects: the checklist will help guide procurement managers design a procurement process, based on best practices that will meet government policy requirements.

For procurement processes and projects that are completed: the checklist will be used to assess if best practices were followed and government policy requirements were met and can also identify ways the procurement process can be improved on future capital construction projects.



Who performs reviews of compliance against the checklist?

Each ministry will determine who performs reviews. They can be conducted by internal or external auditors, ministry staff or external agencies. Internal Audit and Advisory Services in the Ministry of Finance is available to undertake adhoc reviews on a cost recovery basis.

For completed procurement processes/projects: ministries are responsible for ensuring that reviews are conducted on a selection of completed procurement processes/projects. Each Ministry and agency can determine, using a risk-based assessment, which completed projects/processes will be evaluated using the checklist. Treasury Board, or the Ministry of Finance may also provide direction on specific projects to be reviewed. Agencies should contact their responsible ministry to determine the process for conducting reviews for completed procurement processes and projects.

Where can I get more information and resources on procurement?

Training resources

Procurement and Contract Management Program – government's new comprehensive procurement training program

<http://www.procurementlearning.gov.bc.ca/>

Policy resources

Capital Asset Management Framework

<http://www.fin.gov.bc.ca/tbs/camf.htm>

Core Policy and Procedures Manual

<http://www.fin.gov.bc.ca/ocg/fmb/manuals/CPM/CPMtoc.htm>

Agreement on Internal Trade (AIT)

<http://www.ecdev.gov.bc.ca/ProgramsAndServices/Trade/AIT.htm>

British Columbia – Alberta Trade, Investment and Labour Mobility Agreement (TILMA)

http://www.gov.bc.ca/ecdev/popt/media_room/bc_ab_trade_investment_mobility_agreement.htm

Freedom of Information and Protection of Privacy Act

<http://www.qp.gov.bc.ca/statreg/>

Financial Administration Act

<http://www.qp.gov.bc.ca/statreg/>

Risk Management Guidelines and Risk Management Standards

<http://www.min.fin.gov.bc.ca/pt/rmb/forms/index.stm>

Capital Procurement Checklist

DESIGN PHASE				
Objective	Risk	Criteria	Evidence	Sample Policy References ¹
<ul style="list-style-type: none"> Identify required team of design-related consultants and other required consultants (such as planning, programming, development, financial, public consultation) for the project with appropriate skills. 	<ul style="list-style-type: none"> Required expertise is missed. 	<ul style="list-style-type: none"> Identify required consultants including “prime” or lead consultant, and also specialist consultants (e.g. a parking consultant, quantity surveyor). Require coordination of engineering disciplines. 	<ul style="list-style-type: none"> Evidence from the planning file (e.g. Business Case, Implementation or Work Plan, Project Pro-forma) including terms of reference and cost estimates for each consultant. 	<ul style="list-style-type: none"> CAMF, Sections: <ul style="list-style-type: none"> 4.5. Business Cases 7.0. Project Personnel & Management 9.0. Budget and Cost Management Core Policy and Procedures Manual Chapter: <ul style="list-style-type: none"> 6. Procurement
<ul style="list-style-type: none"> Implement fair and open competitive selection processes (RFQ and RFP) to evaluate and select consultants with appropriate regard for required expertise, experience, capacity and cost. 	<ul style="list-style-type: none"> Best advisors (value for money) are not selected. Limited competition results in failing to identify consultants with best expertise or sufficient capacity to meet project requirements. Limited competition results in failure to get best value from consultants. 	<ul style="list-style-type: none"> Use an open competitive process so interested qualified design parties can participate easily and at low cost. Use standard industry RFQ/RFP and contract documents, amended as required, to include Agency’s requirements for the project providing sufficient project detail and including insurance, indemnification and limitation of liability requirements. Use fair, clear and transparent selection criteria that addresses required expertise. 	<ul style="list-style-type: none"> Confirmation on the file that the appropriate expertise has been identified. Where specific expertise is required, have appropriate regard for price, considering benefits to project of using required expertise, in the evaluation and selection of consultants. Competitive selection documents precisely define scope of services, including coordination services contract administration details and, as possible, time allotment. 	<ul style="list-style-type: none"> CAMF, Sections: <ul style="list-style-type: none"> 8.0. Capital Procurement in general – specifically section 8.5.3.1.1 Consultant Selection AIT <ul style="list-style-type: none"> Chapter 5 , Procurement TILMA <ul style="list-style-type: none"> Article 14 , Procurement Core Policy and Procedures Manual, Chapter: <ul style="list-style-type: none"> 6. Procurement

¹ * Policy references are provided for guidance and examples only. They are not meant to provide an exhaustive list of all relevant government or agency policy, legislation or trade agreements relevant to procurement in a particular sector. The Capital Procurement Checklist - Frequently Asked Questions also provides a list of relevant policy resources that agencies and auditors should reference.

Capital Procurement Checklist

Objective	Risk	Criteria	Evidence	Sample Policy References
	<ul style="list-style-type: none"> • Selecting on basis of lowest cost (rather than value for money) results in incurring higher capital and operating costs due to inferior design from less-qualified consultants. • Lack of appropriate design and field resources for construction administration leads to poor integration of design tasks and delays and additional costs. • Processes that are not fair, open and transparent breach provincial policy regarding procurement of services. • Processes could breach Agreement on Internal Trade (AIT) and the Trade Investment and Labour Mobility Agreement (TILMA) requirements. 		<ul style="list-style-type: none"> • Competitive selection documents clearly define evaluation criteria. • Confirmation that selected firm has assigned sufficient staff and time to be committed to project. • Evidence of numerous addenda, change orders, or contract amendments could indicate poor design or scope at time of bid or poor communication on site. • Justify and document key decisions including any deviations from procurement policy in memo to file. 	

Capital Procurement Checklist

Objective	Risk	Criteria	Evidence	Sample Policy References
<ul style="list-style-type: none"> • Avoid conflicts of interest or unfair advantage. 	<ul style="list-style-type: none"> • Contracts might be challenged on basis that conflicts of interest caused bias or unfairness or breach of RFP/tender invitations. • Project/Agency loses credibility if conflicts of interest or unfair advantages arise. 	<ul style="list-style-type: none"> • Procurement process should include formal consideration to check for conflicts of interests or opportunities for unfair advantages. 	<ul style="list-style-type: none"> • Documentation of policy and sign-off by all individual representatives of the Agency and consultant. • Provide list of Agency's consultants and advisors who are unavailable to be retained by consultants (restricted parties) in procurement documents. 	<ul style="list-style-type: none"> • CAMF, Sections: <ul style="list-style-type: none"> – 8.0. Capital Procurement in general – specifically section 8.3. Legal and Ethical Issues • AIT <ul style="list-style-type: none"> – Chapter 5 , Procurement • TILMA <ul style="list-style-type: none"> – Article 14 , Procurement • Core Policy and Procedures Manual, Chapter: <ul style="list-style-type: none"> – 6. Procurement - specifically section 6.3 Pre-Award and Solicitation
<ul style="list-style-type: none"> • Develop functional programs and design concepts with appropriate input and review by the Agency. 	<ul style="list-style-type: none"> • Design is developed and project is constructed that does not meet needs or budget of Agency. 	<ul style="list-style-type: none"> • Review anticipated design development process to identify required Agency's review. • Require coordination of engineering disciplines. • Require time for site inspections. 	<ul style="list-style-type: none"> • Use standard industry contract documents, with appropriate design/review consultation and responsibility (schematic design approval, design development approval and working drawings approval, etc.) amended to include Agency's requirements for the project. 	<ul style="list-style-type: none"> • CAMF, Sections: <ul style="list-style-type: none"> – 8.0. Capital Procurement in general – specifically section 8.5.3.1.2 The Design Process – 9.0. Budget and Cost Management

Capital Procurement Checklist

Objective	Risk	Criteria	Evidence	Sample Policy References
<ul style="list-style-type: none"> • Prepare contract documents (back-end documents – technical specifications, design drawings and working drawings) which align with the project objectives, as stated in the business case, reflect realistic project scheduling, and are appropriately complete to mitigate schedule and budget risk. • Design documents support fair, open and transparent procurement process which provides value for money. 	<ul style="list-style-type: none"> • Project does not meet functional requirements. • Project is over budget, over/under scope and or over schedule. • Project is delayed or terminated because project exceeds available funds. • Fast tracking is used unnecessarily and results in greater risk exposure to the owner with respect to budget, scope and/or schedule. • Where design documents are incomplete, prices could be higher because bidders are forced to include amount for uncertainty risk. • Incomplete design documents could lead to scope, schedule and budget challenges due to extras and change orders. • Qualified bidders decline to bid. • Design documents give unfair advantage to one bidder over another. • Design documents offer disproportionate risk allocation. 	<ul style="list-style-type: none"> • Prepare complete functional programs (schematic designs and cost estimates) to track through process. • Have a cost management strategy, which includes formal budget review at defined milestones. • Prepare complete design drawings unless unique project conditions support less than complete documents. • Documents are project specific and have been completely reviewed and coordinated with Agency and Design Team members. • Design documents are complete to the determined level and provide sufficient information as required by the contracting market to prepare bids and prices. • Design documents are compatible with the contracting form, supplying sufficient information in a way that does not favour any one bidder. • Contract administrator has appropriate experience for scale of project. • Contract documents describe appropriate risk transfer specific to indemnity and insurance. 	<ul style="list-style-type: none"> • Evidence of documentation of functional programs. • Business case includes a risk assessment and justification for proceeding to tender prior to completion of design documents. • Evidence of consultation with Risk Management Branch, where appropriate. • Design documents (technical specifications and drawings) have been prepared that meet quality standard required and expected by industry, including identifying design life. • Credentials of contract administrator of owner and/or coordinating Professional. 	<ul style="list-style-type: none"> • CAMF, Sections: <ul style="list-style-type: none"> – 8.0. Traditional Capital Procurement – 9.0. Budget and Cost Management Procurement Options Analysis guidance (under development). • CAMF, Sections: <ul style="list-style-type: none"> – 8.0. Capital Procurement in general – specifically section 8.5.3.1.3 Preparing Contract Documents.

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APPROVAL PHASE ²				
Objective	Risk	Criteria	Evidence	Policy Reference
<ul style="list-style-type: none"> • Project has appropriate planning foundation, and has been approved by the appropriate authority. 	<ul style="list-style-type: none"> • Project is released to market/public without required government approval; • Time and effort is spent and public interest is generated prematurely before the project undergoes appropriate investigation. • The outputs (benefits) and the scope of the project are not clearly defined, creating the risk that cost and schedule controls will not be appropriate or implemented. • Risk that project must be delayed and re-scoped or even cancelled at tender stage because it is over budget , resulting, for example in higher construction costs because of inflation; loss of confidence in the project. 	<ul style="list-style-type: none"> • Have appropriate business case approval. • Business case generally includes: <ul style="list-style-type: none"> • clear identification of a need that the project will fill; • scope of project and draft deliverables; • link to Service Plan; • cost benefit analysis with reasonable assumptions; • project schedule based on project-specific requirements; • current reasonable estimate of the cost of the project/contract based on sufficiently detailed project scope; • financial plan or project proforma including anticipated cash flow schedule; • results of market sounding (consulting with potential bidders) where appropriate (i.e. where market response to project, procurement method and contract model are uncertain); 	<ul style="list-style-type: none"> • Business case documentation. • Options analysis is documented, including user input as appropriate. • Evidence of appropriate approvals. • Evidence of cost management strategy from the planning file. 	<ul style="list-style-type: none"> • CAMF, Sections: <ul style="list-style-type: none"> – 4. Planning – and specifically section 4.4 and 4.5 (Options Analysis and Business Cases) – 5. Consolidated Capital Plan Process and Approvals – 9.0. Budget and Cost Management • CAMF Business Case Tool Kit (<i>under development</i>).

² Approvals can take place at one or more milestones during the life-cycle of a project. Typically a project would require some level of approval, based on an appropriate business case, prior to significant design effort being undertaken. In addition, from a procurement audit prospective - this phase recognizes projects commonly require approval before proceeding to a tender phase.

Capital Procurement Checklist

Objective	Risk	Criteria	Evidence	Policy Reference
	<ul style="list-style-type: none"> • Inconsistent with Capital Asset Management Framework (CAMF) approval processes. 	<ul style="list-style-type: none"> • solicitation/ procurement plan (including description of the consultants that will be required; a plan as to when each will be required; and a description of the anticipated procurement/ appointment method). 		

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TENDER AND AWARD PHASE				
Objective	Risk	Criteria	Evidence	Policy Reference
<u>Procurement Planning Stage:</u>				
<ul style="list-style-type: none"> • Determine optimum risk allocation to minimize cost to the Agency. 	<ul style="list-style-type: none"> • Inappropriate allocation of risk to contractor could result in too high tender/contract price, and/or risk of claims/disputes regarding contractor's unanticipated costs. 	<ul style="list-style-type: none"> • Project-specific risk analysis undertaken in context of current market conditions. • Determine appropriate insurance and bonding. 	<ul style="list-style-type: none"> • Evidence of appropriate and informed risk analysis completed as part of approved business plan. • Evidence of consultation with Risk Management Branch, where appropriate. 	<ul style="list-style-type: none"> • CAMF, Sections: <ul style="list-style-type: none"> – 4. Planning – and specifically section 4.4 and 4.5 (Options Analysis and Business Cases) • CAMF Business Case Tool Kit (<i>under development</i>).
<ul style="list-style-type: none"> • Optimize procurement strategy to encourage competition and meet project objectives. 	<ul style="list-style-type: none"> • Lack of interest from qualified bidders; • Procurement approach does not achieve project objectives or is not appropriate to manage Agency risks. 	<ul style="list-style-type: none"> • Informed analysis of procurement options undertaken. • Procurement options analysis based on procurement option guidance. • Procurement option which best meets project objectives is selected. 	<ul style="list-style-type: none"> • Evidence of comprehensive and project-specific comparison of different procurement methods and form of contract (design-bid-build; design/build; construction management), as part of approved business plan. 	<ul style="list-style-type: none"> • CAMF, Sections: <ul style="list-style-type: none"> – 4. Planning – and specifically section 4.4 and 4.5 (Options Analysis and Business Cases) • CAMF Business Case Tool Kit (<i>under development</i>)

Capital Procurement Checklist

Objective	Risk	Criteria	Evidence	Policy Reference
<ul style="list-style-type: none"> • Select construction contract form and payment regime that is matched to project - specific conditions and will achieve lowest overall cost. 	<ul style="list-style-type: none"> • Higher tender prices. 	<ul style="list-style-type: none"> • Analysis of project-specific conditions and risks, including scope, complexity, location and market conditions, to determine appropriate form of contract. • Use of procurement options guidance. 	<ul style="list-style-type: none"> • Evidence of assessment of project specific conditions and risks (documentation referenced in business plan). • Evidence of review of contract options such as lump sum; cost-plus; construction management, etc. • Documentation in business case of justification for form of contract chosen. • Select form of contract before preparing tender documents. 	<ul style="list-style-type: none"> • CAMF, Sections: <ul style="list-style-type: none"> – 4. Planning – and specifically section 4.4 and 4.5 (Options Analysis and Business Cases) • CAMF Business Case Tool Kit (<i>under development</i>)
<ul style="list-style-type: none"> • Implement fair, open procurement and award that gains the confidence of the bidders and the public and provides best value for taxpayer dollars. 	<ul style="list-style-type: none"> • Unfairness, or even the potential of unfairness or lack of openness puts project at risk. • Project does not achieve best value for money through, for example, limited competition. 	<ul style="list-style-type: none"> • Documentation prepared with the objective of establishing a fair (to qualified bidder), open and transparent (to the public) and accountable process which provides the best value for money. 	<ul style="list-style-type: none"> • Documentation which adequately describes the scope of work and the expertise required, which is advertised appropriately (i.e. BC Bid). 	<ul style="list-style-type: none"> • CAMF, Section: <ul style="list-style-type: none"> – 8.0. Capital Procurement • AIT <ul style="list-style-type: none"> – Chapter 5 , Procurement • TILMA <ul style="list-style-type: none"> – Article 14 , Procurement

Capital Procurement Checklist

Objective	Risk	Criteria	Evidence	Policy Reference
<u>Pre-qualification:</u>				
<ul style="list-style-type: none"> •Prequalification is used only in appropriate circumstances, for example, for projects requiring contractors with specific skills, experience, financial capacity or other characteristics, or where the cost of bidding is unusually high, agencies may consider using prequalification processes that will invite contractors with desired expertise and do not unfairly favour specific contractors. 	<ul style="list-style-type: none"> •Pre-qualification is used unnecessarily restricting competition and potentially reducing competition and compromising potential value for money. •RFQ description is too imprecise resulting in qualified parties failing to respond making them ineligible to submit tenders. •RFQ requirements are too narrow, resulting in the exclusion of qualified bidders and thereby reducing competition and compromising potential value for money. 	<ul style="list-style-type: none"> •Analyze whether the specific contract, or the project, would benefit from pre-qualification process (for example where specific qualifications are required as a condition of award; or where there is risk that “lowest price” from poorly qualified bidder will not achieve lowest cost to Agency; or where market interest will be heightened and competition improved by restricting actual number of bidders). •Follow Government’s Pre-Qualification guidance document. •Write RFQ so interested parties can participate with reasonable cost and effort. 	<ul style="list-style-type: none"> •Evidence of consideration that shows fair process to qualify and solid grounds for selection (memo to appropriate signing authority with approval). Internal sign-off by Agency calibrated to size of the project. •Copy of RFQ documentation -- standard, or if not standard, documentation on why and on approval. •RFQ selection criteria are clear and concise. •If prequalification is used, then at tender stage, qualification is no longer grounds for selection such that, all else being equal, lowest compliant bid such be selected. 	<ul style="list-style-type: none"> •CAMF, Sections: <ul style="list-style-type: none"> – 8.0. Capital Procurement in general – specifically section 8.5.3.2.4 Contractor Prequalification •Provincial Pre-Qualification Guidelines and Principles – CAMF Toolkit (Under development) •AIT <ul style="list-style-type: none"> – Chapter 5 , Procurement – particularly Article 504 Reciprocal Non-discrimination •TILMA <ul style="list-style-type: none"> – Article 14 , Procurement

Capital Procurement Checklist

Objective	Risk	Criteria	Evidence	Policy Reference
		<ul style="list-style-type: none"> • Pre-qualification asks only for information that is specifically relevant to the pre-qualification process (for example, work on hand, project of similar size, scope or complexity, key project personnel, bonding capacity, ability to obtain the required insurance, safety record etc). • If RFQ is used, potential project, or at least the nature of the work, should be described so as to attract correct party/expertise. • Any minimum qualifications must be clearly defined (expertise, experience, bonding capacity, ability to obtain the required insurance). 		
<ul style="list-style-type: none"> • Pre-qualify the number of parties who are qualified to undertake and complete the work as appropriate for market conditions and market interest. 	<ul style="list-style-type: none"> • Potentially qualified contractors could be excluded from the process. • Too small a list could lead to insufficient competition. • Perception of preferential treatment of bidders could lead to lack of interested bidders on future projects. 	<ul style="list-style-type: none"> • Records relating to evaluation of pre-qualification submissions must be made and maintained for a reasonable period. • Criteria must be stated based on the requirements of the project. 	<ul style="list-style-type: none"> • Report to project executive outlining the process followed and result of process. • Debriefing offered to all bidders and carried out in a timely manner, if requested. • Copy of prequalification documents on file. 	<ul style="list-style-type: none"> • CAMF, Sections: <ul style="list-style-type: none"> • 8.0. Capital Procurement in general – specifically section 8.5.3.2.4 Contractor Prequalification • Provincial Pre-Qualification Guidelines and Principles – CAMF Toolkit (Under development)

Capital Procurement Checklist

Objective	Risk	Criteria	Evidence	Policy Reference
<u>Preparation of Construction Contract</u>				
<ul style="list-style-type: none"> • Cost-effective and fair, open and transparent procurement, clearly describing and defining fair and cost-effective allocation of risks and responsibilities. 	<ul style="list-style-type: none"> • Standard documents may not appropriately allocate risk, potentially resulting in unintended risk allocation and price impact; • Risk that drafting/negotiating customized contract form is either too expensive, has one-sided risk allocation or is incomplete. • Contractors will decline to bid or will increase bid amount (bid risk premium) on projects using non standard documents that do not clearly describe risks. 	<ul style="list-style-type: none"> • Use Agency or industry-based or general standard form (i.e. CCDC) amended with limited variations as approved by designated authority, to include Agency's requirements for the project. • Amendments to standard documents, including insurance, indemnification and limitation of liability, should not inappropriately allocate risk and should be implemented through approved Supplementary Conditions, without direct amendment of the standard document. 	<ul style="list-style-type: none"> • Construction contract based on standard form contract with appropriate amendments to address public sector business practices and risk tolerances and approved by the appropriate approval authority. 	<ul style="list-style-type: none"> • CAMF, Sections: <ul style="list-style-type: none"> – 8.5.3. Traditional Capital Procurement
<ul style="list-style-type: none"> • Contract Documents reflect selected risk allocation, and other project-specific requirements. 	<ul style="list-style-type: none"> • Industry standard documents are not necessarily balanced fairly for owners and may impose unfair costs and risks. 	<p>Use Agency or industry-based or general standard form (ie CCDC) amended with limited variations as approved by designated authority, to include Agency's requirements for the project and approved Supplementary Conditions.</p>	<ul style="list-style-type: none"> • Contract Documents, based on a standard form contract, contain limited specific Supplementary Conditions to achieve necessary adjustments, approved by appropriate approval authority. 	<ul style="list-style-type: none"> • CAMF, Sections: <ul style="list-style-type: none"> – 8.5.3. Traditional Capital Procurement

Capital Procurement Checklist

Objective	Risk	Criteria	Evidence	Policy Reference
	<ul style="list-style-type: none"> • Standard documents may not fully reflect public sector risk allocation. • Standard documents may not provide contract support for some aspects of the project. • Inappropriate risk allocation may reduce Contractor interest in bidding on future projects. Less competition could lead to increased costs on future projects. 	<ul style="list-style-type: none"> • Appropriate standard insurance forms provided by Risk Management Branch, Ministry of Finance (RMB) are used, or, if not, revisions approved by RMB. 	<ul style="list-style-type: none"> • Standard forms used; or non-standard with documentation of approval. 	<ul style="list-style-type: none"> • CAMF, Sections: <ul style="list-style-type: none"> – 8.5.3. Traditional Capital Procurement
<u>Preparation of Tender Documents:</u>				
<ul style="list-style-type: none"> • Use tender documents that have been drafted for use with the selected construction contract. 	<ul style="list-style-type: none"> • Instructions to bidders are incomplete or incompatible resulting in non-compliant bids, reduction of competition, or higher bids. • Poorly drafted selection and award criteria might force Agency to select sub-optimal bid or make attractive bid unavailable. • Inappropriate privilege clause may deter qualified contractors from bidding. • Sub contractors concerned about unfair treatment and complain to government. 	<ul style="list-style-type: none"> • Tender documentation should be prepared only by persons properly trained and qualified to do so. • Coordinating professional accountable for completeness and coordination of documents (i.e. architect or engineer). • Use of standard tender process with clear, uncomplicated tender closing. • Consider the use of the bid depository for major trade and supply contracts (+\$100,000). 	<ul style="list-style-type: none"> • Tender documents that meet industry standards, including changes in tender law. • Tender Form requires contractor qualifications. • Resumes/relevant work histories of persons responsible for preparation of tender documents. • Written evidence of full consideration, provided by project manager. 	<ul style="list-style-type: none"> • CAMF, Sections: <ul style="list-style-type: none"> – 8.5.3. Traditional Capital Procurement • AIT <ul style="list-style-type: none"> – Chapter 5 , Procurement – particularly Article 504 reciprocal Non-discrimination • TILMA <ul style="list-style-type: none"> – Article 14 , Procurement • CAMF, Sections: <ul style="list-style-type: none"> – 8.5.3. Traditional Capital Procurement

Capital Procurement Checklist

Objective	Risk	Criteria	Evidence	Policy Reference
<ul style="list-style-type: none"> • Confirm successful bidder is financially capable of completing the project or has appropriate bonding. 	<ul style="list-style-type: none"> • Project is not delivered within scope, schedule, and/or budget. 	<ul style="list-style-type: none"> • Bidders are third party secured for their bid. 	<ul style="list-style-type: none"> • Instructions require bid bond and consent of Surety. 	<ul style="list-style-type: none"> • CAMF, Sections: <ul style="list-style-type: none"> – 8.5.3. Traditional Capital Procurement
<ul style="list-style-type: none"> • Optimize design and pricing. 	<ul style="list-style-type: none"> • Risk that selected design/material/equipment solution described in design documents is not optimal. 	<ul style="list-style-type: none"> • Consider use of separate and alternate prices as appropriate. 	<ul style="list-style-type: none"> • Written evidence of full consideration by project manager. 	<ul style="list-style-type: none"> • CAMF, Sections: <ul style="list-style-type: none"> – 8.5.3. Traditional Capital Procurement
<ul style="list-style-type: none"> • Minimize legal risks in documentation. 	<ul style="list-style-type: none"> • Agency could make decisions on improper, or out-of-date legal advice. • The law of tender is changing constantly. 	<ul style="list-style-type: none"> • Obtain qualified legal advice for non-standard documents or unusual conditions. • Prior to commencing a competitive process, the Agency should identify who would provide qualified legal advice when developing tender documents (if not standard) and during the process (if necessary). 	<ul style="list-style-type: none"> • Retention of experienced legal counsel. • Legal counsel opinion on file. 	<ul style="list-style-type: none"> • CAMF, Section: <ul style="list-style-type: none"> – 8.3 Legal and Ethical Issues
<ul style="list-style-type: none"> • Prepare tender documents which: <ul style="list-style-type: none"> – attract qualified bidders to create competition; – provide clear description of rights and obligations through to award. 	<ul style="list-style-type: none"> • Bidders are uncertain as to submission requirements, evaluation etc. with the risk that either qualified bidders fail to respond, or Agency is faced with claims. • Insufficient bidders leads to a non competitive price. 	<ul style="list-style-type: none"> • Tender documents should include procedural information, project and proponent information, technical and legal information. • Hold open bidders conference to answer questions. 	<ul style="list-style-type: none"> • Evidence that work was completed including complete tender documents and written evidence of bidders conference. 	<ul style="list-style-type: none"> • CAMF, Sections: <ul style="list-style-type: none"> – 8.5.3. Traditional Capital Procurement

Capital Procurement Checklist

Objective	Risk	Criteria	Evidence	Policy Reference
<ul style="list-style-type: none"> • Administer tender fairly in strict conformity with tender documents. 	<ul style="list-style-type: none"> • Project may result in claims that ambiguities not dealt with or legitimate questions not answered. 	<ul style="list-style-type: none"> • Advertise project in compliance with AIT and CAMF (using BC Bid). • Meet AIT criteria or CAMF thresholds: national notification required as follows: for ministries where procurement value is \$100,000 or greater for local agencies where the procurement value is \$250,000 or greater, and for Crown Corporations, where the procurement value is \$ 5 million or greater. • TILMA requires notification where procurement value is \$100,000 or greater for all government entities (effective April 1, 2007 for government; April 1, 2009 for Crown corporations and MASH sector). • Request or observations from bidders are appropriately dealt with: respond, clarify and take corrective action as may be required. 	<ul style="list-style-type: none"> • Evidence of notification; evidence of approval to run advertisements; if no notification, then justification is approved and documented or if direct award, use Notice of Intent. • Written documentation to show appropriate and in accordance with agency policy with sign-off form appropriate authority. 	<ul style="list-style-type: none"> • CAMF, Sections: <ul style="list-style-type: none"> – 8.5.3. Traditional Capital Procurement • AIT <ul style="list-style-type: none"> – Chapter 5 , Procurement • TILMA <ul style="list-style-type: none"> – Article 14 , Procurement

Capital Procurement Checklist

Objective	Risk	Criteria	Evidence	Policy Reference
<u>Evaluation:</u>				
<ul style="list-style-type: none"> Evaluate tenders strictly as required by Instructions to Bidders. 	<ul style="list-style-type: none"> If evaluation procedure not followed, Agency could be exposed to claims from unsuccessful bidders. 	<ul style="list-style-type: none"> Process should only be administered by persons properly trained or qualified to do so. Where appropriate, for example, projects using RFPs, projects which are complex or very large, consider whether process monitor is needed for project. Where appropriate, for example, projects using RFPs, projects which are complex or very large, consider preparing an evaluation handbook or tender opening process handbook. 	<ul style="list-style-type: none"> Documentation of process monitor existing and/or justification for no process monitor. Evaluation handbook exists and in alignment with project objectives. Resumes/relevant work histories of persons responsible for preparation. 	<ul style="list-style-type: none"> CAMF, Sections: <ul style="list-style-type: none"> 8.5.3. Traditional Capital Procurement
	<ul style="list-style-type: none"> Process is not transparent and open. 	<ul style="list-style-type: none"> Each tender is opened in public and signed by Agency personnel present. 	<ul style="list-style-type: none"> Proper record of receipt and opening of tenders. Public opening with attendance sheet. 	<ul style="list-style-type: none"> CAMF, Sections: <ul style="list-style-type: none"> 8.5.3. Traditional Capital Procurement, especially 8.5.3.3.1
	<ul style="list-style-type: none"> Process may not be fair. 	<ul style="list-style-type: none"> The Agency is not entitled to use or take any benefit from one tender in any negotiation – “bid shopping” is unfair and prohibited. 		

Capital Procurement Checklist

Objective	Risk	Criteria	Evidence	Policy Reference
		<ul style="list-style-type: none"> • If circumstance requires deviation from the stated tender process, seek legal advice before proceeding. Examples could include (not a complete list): • Negotiating with a bidder; • Using privilege clauses; • Dealing with non-compliant bids; • Disqualifying; • Cancellation of process. 	<ul style="list-style-type: none"> • Written evidence in file that legal counsel was consulted on these issues. 	
<u>Contract Award:</u>				
<ul style="list-style-type: none"> • Contract is implemented as intended. 	<ul style="list-style-type: none"> • Project is not delivered on scope, schedule and/or budget. 	<ul style="list-style-type: none"> • Timely execution of Contract Documents. 	<ul style="list-style-type: none"> • Contract date; evidence of date of start of work. • The notifications. 	<ul style="list-style-type: none"> • CAMF, Sections: <ul style="list-style-type: none"> – 8.5.3. Traditional Capital Procurement
	<ul style="list-style-type: none"> • Dispute as to final contract form and contents – i.e. reference Project Schedule; version of specifications and drawings etc. 	<ul style="list-style-type: none"> • Have a properly executed contract. 	<ul style="list-style-type: none"> • The actual contract. • Certificate of Insurance/Evidence of Bonding. 	
		<ul style="list-style-type: none"> • Debrief session with bidders who request one. 	<ul style="list-style-type: none"> • Written documentation of debrief sessions. 	
		<ul style="list-style-type: none"> • Monitoring and performance feedback; post contract evaluations. 	<ul style="list-style-type: none"> • Written documentation of reviews. 	