

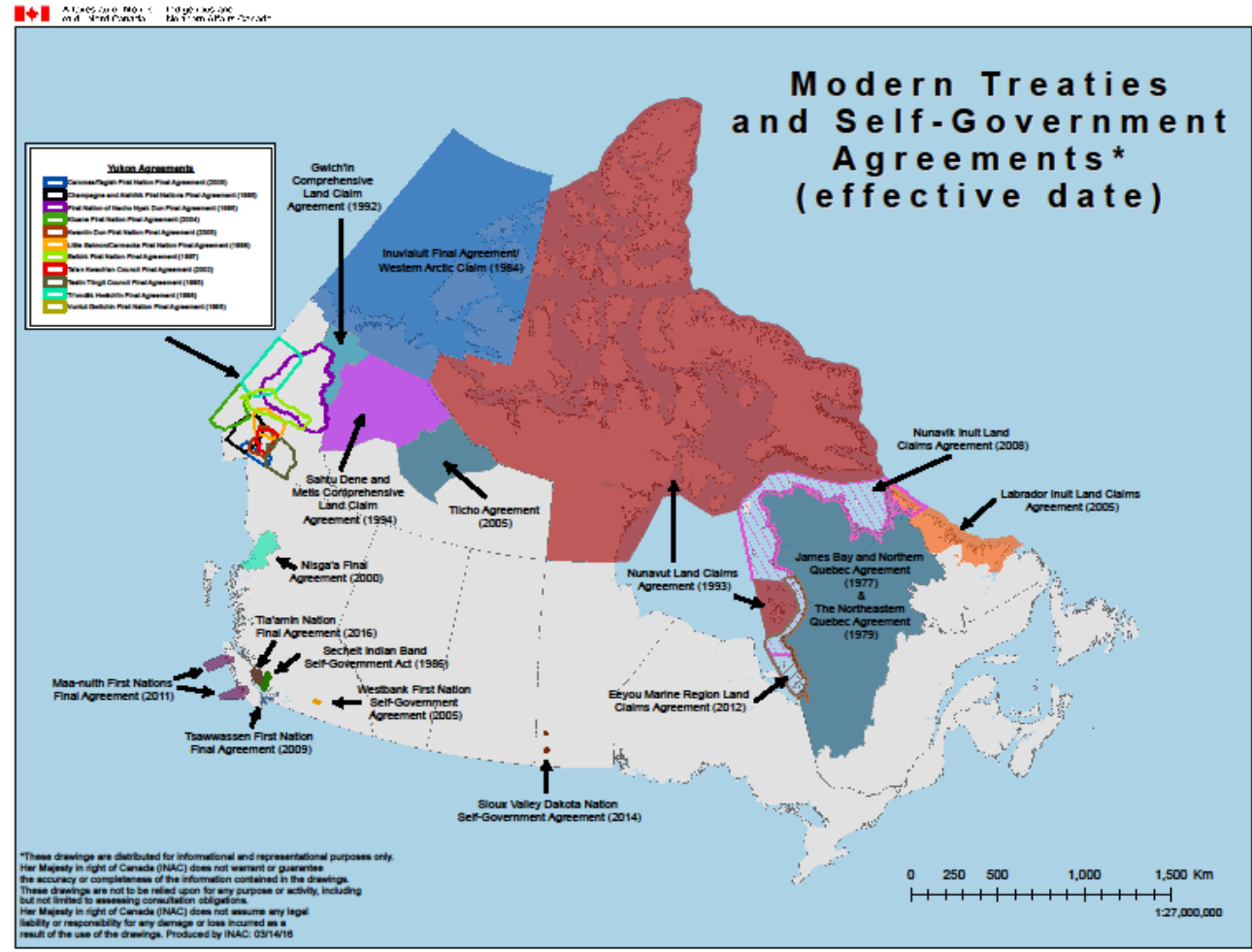


COMPREHENSIVE LAND CLAIMS AGREEMENTS (CLCAs) are negotiated agreements with individual aboriginal communities who continue to use and occupy traditional lands, and whose aboriginal rights and title have not been addressed through another treaty or other legal means.

WHEN DO CLCAs APPLY?

- When the procurement, or a portion thereof, includes the final delivery of goods/services/construction to a settlement area(s) covered by particular CLCAs; *(Note: the final delivery point(s) is not necessarily the destination address detailed in the requisition, nor the origin (i.e. ordering office) of the requisition);*
- Where a procurement is in support of government activities within a CLCA area; and
- Where a procurement involves the performance of services or associated travel by the resulting contractor within a CLCA area.

In such cases, contracting officers should seek assistance, on whether CLCAs apply, by contacting the ESDC Procurement Policy Team.



CLCA OBLIGATIONS - Although Canada's procurement obligations vary with each CLCA, they can involve:

- providing notification of the procurement to the land claimant groups and/or CLCA beneficiary firms;
- separating requirements into commodity or geographic groupings, whenever practical and consistent with sound procurement management, to permit smaller and/or more specialized firms to submit bids;
- use of CLCA business directories/lists;
- use of Bid Evaluation Criteria to benefit CLCA beneficiaries, subject to international obligations, wherever practical and consistent with sound procurement management; and
- "right of first refusal" for certain procurements (e.g. archaeology, heritage, parks, surveying).

CLCA FACTS

- Canada first established policies on Aboriginal claims in 1973.
- CLCAs are law, their obligations are legally binding, and they are constitutionally protected.
- CLCAs apply, regardless of dollar value, to both competitive and non-competitive procurements.
- The final delivery points determine the applicability of a CLCA, not the origin of the requisition (i.e. ordering office).
- No two CLCAs are exactly the same.
- There are 26 comprehensive land claims agreements currently in effect, many containing economic measures with procurement obligations.

METHODS OF SUPPLY

- Standing Offers (SO) and Supply Arrangements (SA):
 - If the SO/SA is already in place, ensure that it addresses CLCAs and can be used for delivery within CLCAs
 - If developing an RFSO or RFSA, determine if the resulting SO or SA can be used for delivery within CLCAs.
 - If SO or SA will be used within CLCA:
 - address the obligations of the applicable CLCAs;
 - include the appropriate clauses in the RFSO/RFSA and resulting SO/SA to indicate that the SO/SA can be used for delivery within CLCAs, and identify which one(s).
 - If SO or SA will not be used within CLCA:
 - include the appropriate clauses in the RFSO/RFSA and resulting SO/SA to indicate that it is not possible to use the instrument for delivery within CLCAs.
 - Request for Proposal and resultant Contract.
 - "As-and-when Requested" type Contracts with Task Authorizations.
 - Call-ups against a Standing Offers

Note: When issuing Call-ups against a Standing Offer, Contracts against a Supply Arrangement, or Task Authorizations against a Contract, no further CLCA requirement needs to be addressed; all mandatory CLCA obligations should already form part of the applicable Standing Offer, Supply Arrangement or Contract.

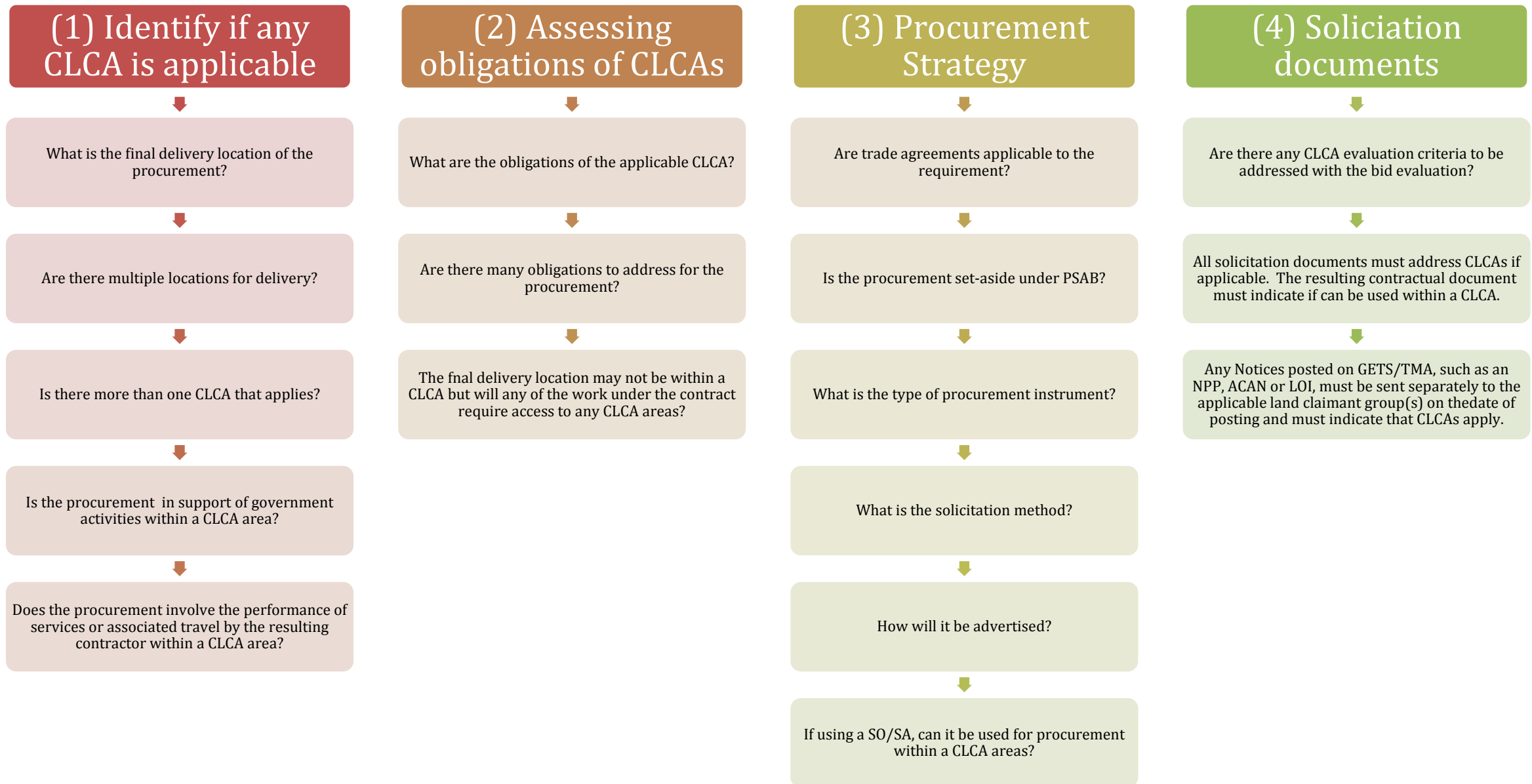
Officers must ensure that the procurement file contains adequate documentation on the measures taken to address any CLCA procurement obligations especially with regards to Requirements definition, notification of procurement and evaluation criteria.

FOR PROCUREMENT OFFICERS

- BEST PRACTICE: Engage with the client to ensure a good understanding of the requirement as additional information may trigger CLCA obligations.
- Upon receipt of the file, verify if final delivery locations identify any applicable CLCA.
- If CLCA applies:
 - identify which CLCAs apply and verify the obligations for the procurement; and
 - ensure that the client is aware of the applicability of CLCA(s) to their requirement.
- If CLCA does not apply, as you engage with the client, keep in mind the possibility that additional information may have an impact to CLCAs.

Access to Aboriginal-Owned Lands

When there is a possibility that contracting activities will be located on aboriginal land, clients must liaise with the appropriate directorate within INAC to determine if the location is subject to other access provisions under the CLCA, and if any access permits are required.



PROCESS FOR ALLOCATION UNIT

Best practice: It is important to verify all new PReqs to identify if the final delivery location falls within any CLCA.

