



Newfoundland and Labrador
Environmental Industry Association

Environmental Sector Needs in Procurement Reform

Submission to the Deputy Minister Responsible for Government Procurement Reform

June 21, 2016

Following a briefing on proposed new *Public Tendering Act* from the Deputy Minister Responsible for Government Procurement Reform, the Newfoundland and Labrador Environmental Industry Association (NEIA) would like to reiterate what it views as important considerations for the new act take in to account.

Environmental Impact Explicit as a Value Consideration

NEIA supports procurement reform which shifts decision making from the least cost to the best value option. Allowing decision-makers to take other factors in to consideration can result in selections of higher quality which will save taxpayers in the medium and long term. This is also true with respect to the environment. Through their operations, the provincial government, its agencies, and municipalities procure a substantial number of products and services and their collective impact on the environment – for better or worse – can be significant. Environmental factors to consider through a procurement would include greenhouse gas emissions, the use of natural resources, end of life costs, and expected degradation, pollution, or waste associated with a decision. For example, a locally produced product may have significant advantages when considering the emissions produced associated with transportation, materials, packaging, etc. This type of valuation can lead to decisions on more efficient products and services. It should be noted that one of the objectives of the provincial government’s *Greening Government Action Plan (2015)* was to integrate green considerations into the procurement of goods and services. For these reasons, NEIA contends that the environmental impact of products or services should be explicitly stated as a key consideration in the evaluation process during procurement.

Require a Focus on Desired Outcomes while Avoiding Prescribing Processes

When a tender or RFP delineates a project or product in exact terms, e.g. defining not just the final deliverable but also how that deliverable should be achieved, this eliminates new ideas or alternative solutions from the outset, and discourages innovative thinking. For example, a tender for the installation of a drainage culvert on the highway will attract only proposals for culvert installations. But an RFP which asks instead for effective stormwater retention on the highway could potentially attract more resilient and economical solutions. This focus is critically important for the environmental sector where technology advances rapidly and industry best practices are fluid.

Strategically Deconstructing Bundled Procurement

RFPs and tenders are, on occasion, asking for packaged products or services which contain elements not available within the province. This inhibits local firms from selling products and services that are readily available. This prevents firms from achieving scale and denies them valuable reference projects when pursuing export opportunities. While fully deconstructing bundles would be too onerous for public servants to manage in a time when government is looking for efficiencies, opportunities exist for bundles to be broken strategically where local capacity has been identified. This approach promotes supplier diversity, lowering the costs to government over time.

Supplier Engagement and Communications

In the interest of providing maximum fair opportunity for local firms, it is critical procurement officers within governments and agencies are aware of the relevant local products and services available. Work must be done on a continuous basis – throughout the procurement process from contemplation, to planning, to decision-making – to share knowledge between public decision makers and private businesses.

One method to achieve this would be to engage the business community before tenders or RFPs are issued. This will serve to (1) make industry aware of upcoming opportunities; (2) inform decision makers of new products and services of relevance; and (3) give industry the opportunity to provide feedback on what may be undesirable aspects of the procurement outlined. In this respect government may consider the use of pre-qualifying questionnaires (PQQs) to allow the private sector to challenge mandatory elements of the procurement which may negatively impact intakes and outcomes.

Another engagement possibility would be for the government to hold annual or semi-annual procurement ‘previews’ that would outline expected expenditures on products and services for the next 6 to 12 month cycle. This would allow suppliers to be better apprised of requirements, ask related questions, present information on their relevant products/services matching the procurement requirements, and potentially suggest alternatives that may provide significant cost and/or time savings.

Government may also consider the implementation of a reporting system that will allow for the recording of the quality of products and services provided by specific firms; such information can be considered in future decisions to ensure maximum value for the tax-payer.

Avoid Lock-In

Current procurement activities often specify products that are compatible with outdated systems, thereby excluding the applicability of newer and more efficient components. ‘Lock-in’ results from a failure to plan beyond the short term in procurement, leading to piecemeal purchases. For example, consider a broken component of a ferry’s aging engine. A tender to replace that particular component is issued. One year later, the engine fails. A tender is then issued to replace the engine – one that works with the newly acquired component. The public is locked in to a cycle of procurement which is supporting the continued use of outdated equipment. Effective planning in this case could have mandated once a component of an engine fails, that the ferry be retrofitted with modern equipment which will result in savings over the life of the ferry for the tax-payer.

Facilitate Innovation and Economic Development

International trade agreements limit procurement policies which favour local bids, but this notwithstanding it is important for a new *Public Tendering Act* and accompanying regulations to go as far as possible in allowing for and facilitating local innovation and economic development.

One important example is the proactive use of pilot projects. Having a local government as a client is a critical influencing factor for firms when doing business abroad. The increased use of pilot projects will contribute to the local economy, support innovation, provide local firms with a government client, and also afford the local firm with critical real-world feedback on their product or service. Similarly, public procurement must avoid seeking validation of products and technologies which are already widely used in other jurisdictions. The public sector must be open to new products, services, and processes – particularly when there is evidence of success elsewhere. A jurisdictional review of modern public procurement policies should take place to identify appropriate opportunities for procurement to facilitate local innovation and economic development. The Government of Canada's *Build In Canada Innovation Program* (BCIP) can be used as a model; local firms have accessed the BCIP and have found it valuable.

Workforce Education

In order for the new legislation to achieve its desired outcomes, procurement officers and other officials throughout the public sector must be educated on the new requirements, processes, tools, and expectations. Communicating to the workforce (1) how the new processes can benefit the taxpayer, and (2) how the new processes can contribute to the local economy, would be a motivating factor in the legislation's success.

A Commitment to Continuous Improvement

An advisory council which continuously evaluates the performance of public procurement processes should have representation from the private sector, or have a formal private sector counterpart with which it confers. It is critical that the supplier community have a continued dialogue with government on procurement successes and failures.