

Parliamentary Appearance - OGGO - Diversity in Procurement - PSPC October 6, 2022

Q1: Public Services and Procurement Canada's Implementation of activities under its responsibility to respond to the 2018 report on Modernizing Federal Procurement for Small and Medium Enterprises, Women-Owned, and Indigenous Businesses

Response: The Standing Committee on Government Operations and Estimates' report "[Modernizing Federal Procurement for Small and Medium Enterprises, Women-Owned and Indigenous Businesses](#)" directly implicates PSPC in 13 recommendations specifically aimed toward smaller businesses, Indigenous and women-led and woman-owned businesses. Five recommendations have been implemented and there is work underway on the remaining eight. Public Services and Procurement Canada's (PSPC's) progress is outlined below:

Recommendation 10 - The Government of Canada request that all procuring departments and agencies, during the early development of procurements, examine how small and medium enterprises, Indigenous-owned business, and women-owned business, are considered as part of the process.

The Public Service and Procurement Canada (PSPC) Policy on Social Procurement enhances best value in procurement by providing a framework for the inclusion of socio-economic measures and objectives at the early planning stages of procurement undertaken by PSPC. It lays out the parameters of socio-economic considerations in procurement.

The Supplier Diversity Action Plan was launched by PSPC in January 2022 and outlines concrete steps to advance social procurement and increase supplier diversity in federal supply chains. The Action Plan includes the enhanced services to be delivered by PSPC's Procurement Assistance Canada (PAC). PAC provides assistance and advisory services to federal procurement professionals to identify and reduce unintended barriers in procurement opportunities to increase the participation of smaller and diverse businesses.

The Procurement Modernization Initiative is also important in enabling underrepresented suppliers, including small businesses, women-led and -owned businesses and Indigenous businesses in accessing procurement opportunities and supports.

The Government is modernizing procurement practices to streamline the contracting processes.

Recommendation 20 - The Government of Canada examine the possibility of establishing procurement set-asides, in compliance with Canada's trade agreements, for small and medium enterprises, including set-asides for women-owned businesses.

As outlined in the PSPC Policy on Social Procurement, the department will create a social procurement program, policy instruments, and guidelines on social procurement.

The Supplier Diversity Program will outline how PSPC's Policy on Social Procurement will be applied to increase supplier diversity in Canada. The Program, which is currently being finalized, will describe ways to incorporate socio-economic objectives into procurement and identify appropriate procurement strategies.

The Supplier Diversity Program is being developed through extensive engagement with stakeholders in order to ensure that it is responsive to the needs of the industry, and in particular of equity-deserving groups, including women, Indigenous Peoples, Black and racialized Canadians, People with Disabilities and people who identify they are from the LGBTQ2+ community.

Recommendation 29 - The Government of Canada develop procurement strategies, including simplifying its process, that will benefit women entrepreneurs and women-owned businesses, through consultation with those groups.

Procurement Assistance Canada (PAC) provides this direct outreach and support to smaller and diverse businesses on how to participate in federal procurement through:

- Seminars
- Workshops
- Tailored one-on-one sessions
- A coaching service
- National Infoline for email and telephone inquiries

PAC also conducts studies to provide evidence-based data to develop policies and strategies to continue reducing barriers faced by underrepresented suppliers in federal government. More specifically, PSPC has conducted the following consultations:

- **Annual Acquisitions Program (AP) surveys:** Since 2018, PAC has been surveying suppliers on procurement related matters, including barriers to doing business with the Government of Canada. Following the 2018 survey, PAC produced a report summarizing the barriers to federal procurement for women-owned businesses.
- **Partnership meetings:** In 2019, PAC entered into a corporate partnership with Women Business Enterprises Canada (WBE Canada). PAC meets with WBE Canada every two months to discuss procurement issues, events and initiatives.
- **Coaching Service:** PAC established an agreement with WBE Canada to offer exclusive participation in the pilot cycle (2021-22) to 10 of their certified members. This provided the pilot with a diverse range of participants from WBE Canada's membership.
- **Participation in ongoing policy development:** PSPC consults with various underrepresented and diverse suppliers, including women focused organizations and women-owned businesses

Recommendation 30 - The Government of Canada examine the possibility of using a weighting scheme to award points to small and medium enterprises and women-owned businesses when awarding federal contracts.

PSPC's Policy on Social Procurement provides the parameters to identify procurements where value can be enhanced through the inclusion of socio-economic objectives. This policy will have an important and positive impact on the majority of federal procurements.

In support of the Policy, a Supplier Diversity Program will soon be launched and will provide procurement officers with various methods to increase the number and value of contracts awarded to underrepresented suppliers such as women and Indigenous businesses.

Recommendation 31 - The Government of Canada examine and learn lessons from the experience of suppliers using the Procurement Strategy for Aboriginal Business, as well as the successful practices in the United States, and consult with women-owned businesses when determining how these businesses will be certified.

Indigenous Services Canada (ISC) is the lead department on Procurement Strategy for Indigenous Business (PSIB), its policies, and research related to their application. PSPC has looked to other nations' successful procurement practices. However, a number of factors make the Canadian context unique for Indigenous procurement, such as Canada's history, its constitutional responsibilities with in regards to Treaty rights and the fact that reconciliation in Canada will look different from reconciliation elsewhere.

In 2021, the Minister of Public Services and Procurement was mandated to ensure that at least 5% of the value of all federal contracts were awarded to Indigenous businesses, working with the Minister of Indigenous Services and the President of the Treasury Board. The 5% target will be phased in over three years starting in 2022, with full implementation expected by 2024.

In addition, PAC and PSPC's regional offices have been instrumental in supporting small and medium sized enterprises in the federal procurement process, particularly Indigenous businesses. PSPC continues to collaborate, engage, and learn from the experiences of small businesses and entrepreneurs.

In 2019, PSPC established a formal relationship with Women Business Enterprises Canada. The partnership provides for bi-monthly meetings for discussion and feedback on issues. In addition, Women Business Enterprises Canada is a member of PSPC's Supplier Advisory Committee (SAC). Through the committee, PSPC and national associations, including Women Business Enterprises Canada, work together to improve government procurement and achieve a better understanding of issues.

Recommendation 32 - The Government of Canada increase the participation of Indigenous businesses in federal procurement contracts by taking into account the culture of Indigenous communities and by developing strong relationships and partnerships through more in-person interactions.

PSPC, the Treasury Board of Canada Secretariat (TBS), and ISC have developed courses for the Canada School of Public Service that take into account the culture of Indigenous communities and the need to engage early in the procurement process with Indigenous businesses to develop strong relationships and partnerships. PSPC, TBS and ISC will also provide tools and guidance to support online courses as the strategy is developed to assure that the procurement community is well informed.

To support the 5% mandate, PAC and PSPC's regional offices are in regular contact with Indigenous businesses and entrepreneurs. PAC provides workshops on the Federal procurement process generally, as well as one-on-one coaching for small business owners and entrepreneurs to ensure they are 'bid ready'. In fall 2022, PAC held a series of [Information Sessions](#) for Indigenous businesses and organizations to build awareness regarding the opportunities for their increase participation in procurement and support for capacity building.

Recommendation 33 - The Government of Canada develop a multi-departmental approach for the administration of the Procurement Strategy for Aboriginal Business, including greater roles and responsibilities for PSPC in the policy development and implementation and for the Treasury Board Secretariat to monitor, report and enforce departmental use and adherence to the policy.

The Minister of Public Services and Procurement, working with the Minister of Indigenous Services and the President of the Treasury Board announced on August 6, 2021, that a mandatory minimum 5% target would be phased in over three years, with full implementation expected by 2024. New mandatory procedures through a Treasury Board Directive established policy and reporting requirements for the Government of Canada and represent a foundational step in support of this announcement.

PSPC has taken a leading role in supporting our partners and other government departments in implementing the 5% Indigenous procurement target across government. This includes: providing direct support to procurement officers on Modern Treaty obligations and increasing Indigenous participation in procurements; communicating directly with self-identified Indigenous business to register on ISC's Indigenous Business Directory; and, conducting relevant policy changes.

Recommendation 34 - The Government of Canada ensure that all procuring departments and agencies have a common interpretation of the Procurement Strategy for Aboriginal Business and take advantage of the voluntary set-asides component for Indigenous businesses.

As part of the modernized of PSIB, a new voluntary set-aside mechanism was established. In order to implement the whole of government approach to reach and exceed the 5% mandatory minimum target, PSPC is working with other government departments to leverage modernized PSIB, including voluntary set-asides, as well as maximizing innovative approaches, like Indigenous Participation Plans (IPPs), and tapping into existing capacities of Modern Treaty businesses. PSPC will continue to work with ISC to develop new tools, guides and material to better support the federal procurement community. PSPC is supporting PSIB implementation and is working closely with ISC as they review their current policies and guidance.

PSPC is also leading to develop its own tools and guidance that is actionable by the procurement community to support increased participation by Indigenous entrepreneurs, businesses, and communities across PSPC's commodity groups.

Recommendation 35 - The Government of Canada publish on an annual basis a centralized report on the number and value of contracts awarded under the Procurement Strategy for Aboriginal Business.

The new mandatory procedures for the Treasury Board Directive on the Management of Procurement provides a policy framework for reporting and accountability in achieving the 5% target. It was developed in collaboration with Indigenous partners. It requires federal departments and agencies to provide ISC with procurement plans explaining how they intend to meet their respective targets. They will subsequently report on those plans to track progress. ISC will report on government-wide results within 12 months after fiscal year-end (no later than Spring 2024).

As part of the existing proactive disclosure process, departments report publicly on individual contracts over \$10,000 including contracts awarded to Indigenous businesses. Quarterly reports for proactive disclosure are published on the Open Government Portal.

Recommendation 36 - The Government of Canada conduct a gender-based analysis plus (GBA+) of the impact of the Procurement Strategy for Aboriginal Business to identify potential barriers to different groups of Indigenous business owners.

Preliminary Gender-Based Analysis Plus (GBA Plus) indicates that Indigenous women may be at a greater disadvantage in accessing federal procurement opportunities. For example, on average Indigenous women face challenges including lack of financial literacy, lower income, lack of education, and systematic barriers to accessing traditionally male-dominated fields. Indigenous women-owned businesses tend to be smaller and women are more likely to be sole proprietors. PSPC works to identify, reduce and eliminate barriers in federal procurement for all small and medium enterprises, this includes Indigenous Businesses.

Recommendation 37 - The Government of Canada improve the current set-asides for Indigenous businesses to increase their use and promote contract awards to Indigenous businesses in order to respect the requirements of the Procurement Strategy for Aboriginal Business and the set-asides.

The modernized PSIB allows for the use of set-asides in order to limit competition for contracts among local Indigenous businesses. The new PSIB will apply to areas where at least 51% of the population is Indigenous and removes the requirement for businesses to maintain a majority of Indigenous people as employees.

PSPC is also supporting the use of IPPs to ensure that subcontracting and capacity development tools, such as the hiring and promotion of Indigenous employees, is considered as well. PSPC is attempting to create a network of investments that raises capacity of both Indigenous suppliers and the government procurement community to ensure the socio-economic goals of the 5% mandate are fully realized. Today's subcontractor may be tomorrow's prime contractor and thus, exploring every available mechanism will increase the number of opportunities for Indigenous suppliers to bid on and win government contracts.

Recommendation 38 - The Government of Canada improve its data collection of Indigenous business activities to properly measure and evaluate the impact of the Procurement Strategy for Aboriginal Business in order to identify challenges, provide greater accountability, and improve the Strategy as required.

Since this recommendation was made, PSPC has launched the Electronic Procurement Solution that allows for more detailed PSIB data. Analysis of this data is underway to find where existing Indigenous business capacity and PSPC's key commodity areas overlap. As part of the 5% implementation, mandatory and centralized reporting of the volume of contracts awarded to Indigenous businesses will be publicly released on an annual basis going forward.

The data provided across the Government of Canada to report Indigenous participation in the federal procurement process will be used to direct future efforts to achieve the 5% target. This data will include those contracts awarded under the Procurement Strategy for Indigenous Businesses but that does not show the full picture. Efforts are underway to ensure that subcontracts, any contracts awarded to Modern Treaty-verified businesses, and contracts won by Indigenous businesses in open competitions are counted as well.

Challenges and possible solutions have been identified to allow a central reporting capability. PSPC is working with TBS and ISC to develop an implementation strategy as part of the Indigenous procurement policy modernization process.

Recommendation 39 - The Government of Canada require large-scale contractors and suppliers to report on the use of diverse subcontractors, including Indigenous and women-owned businesses.

PSPC's new Policy on Social Procurement enables the department to collect information on bidders and suppliers to establish a baseline on the participation of diverse groups of suppliers and monitor progress over time. PSPC's new Electronic Procurement Solution has recently been launched and will enable data on diversity characteristics, such as gender and ethnicity, to be collected and evaluated, in addition to tracking diversity and industry-based data in collaboration with Statistics Canada. PSPC is also supporting the use of IPPs to increase and measure Indigenous participation in subcontracting.

Q2: Privacy implications of tracking participation of equity-deserving groups

Response: Privacy rights in Canada are governed by legislation that dictates the requirements to safeguard Canadians' personal information. Specifically, the [Privacy Act](#) covers how the Government of Canada handles personal information¹. In order for the Government to be able to track the participation of suppliers from equity-deserving groups in procurements led by PSPC, the department needs to satisfy all the requirements of the *Privacy Act* to lawfully collect, protect, use, disclose, retain, and dispose of suppliers' personal information.

Although suppliers' personal information related to their identification as members of equity-deserving groups may already be available through other government sources or systems, the government must collect this personal information directly from the suppliers for specific purposes and uses. Suppliers' personal information must be obtained through informed and voluntary consent, which means suppliers must willingly submit their personal information, be aware of the purpose and use of the collection, and have a guarantee of its protection as per the sections under [Collection, Retention and Disposal of Personal Information](#) and [Protection of Personal Information](#) of the *Privacy Act*.

As per [section 4 of the Privacy Act](#), the Government can only collect personal information if it directly relates to an operating program or activity of the Government. PSPC is developing a Supplier Diversity Program that will cover multiple equity-deserving groups.

Prior to developing the program, PSPC's [Policy on Social Procurement](#) had to be established in order to provide the policy coverage to collect, protect, use, disclose, retain, and dispose of personal information for administering and reporting on social procurement policy, programs and initiatives in accordance with the Government of Canada's *Privacy Act*, the [Privacy Regulations](#), and the related Treasury Board policies and directives.

PSPC is identifying and assessing all processes and systems that will be used for the Supplier Diversity Program to collect, protect, use, disclose, retain, and dispose of suppliers' personal information, to ensure that they will be fully compliant with the *Privacy Act*, the *Privacy Regulations*, and the related Treasury Board policies and directives upon implementation of the program. A Privacy Impact Assessment is required to ensure that the management of personal information under the control of

¹ [Summary of privacy laws in Canada - Office of the Privacy Commissioner of Canada](#)

PSPC as part of the program complies with the *Privacy Act* and Treasury Board privacy policies and directives and with the [Library and Archives of Canada Act](#). In addition, the Privacy Impact Assessment is a requirement of the TBS [Directive of Privacy Impact Assessment](#).

PSPC must also consider how international privacy laws could impact the Government's handling of suppliers' personal information for any data that may be used or stored abroad while being compliant with the *Privacy Act*. In particular, PSPC's Electronic Procurement Solution (EPS) will be the main mechanism to collect suppliers' diversity characteristics to enable social procurement; and EPS's data is stored in the U.S. and subject to the [USA FREEDOM Act](#) (superseded by the [USA PATRIOT Act](#)). Prior to implementation of EPS, PSPC assessed the associated risks concerning the storage of data abroad from a privacy perspective and put risk mitigations in place. This was addressed in a separate Privacy Impact Assessment that was done for EPS. Subsequently, in order to use EPS for collection of suppliers' personal information including diversity characteristics, PSPC amended the EPS PIA in order for PSPC to collect, protect, use, disclose, retain, and dispose of suppliers' personal information with the purpose of administering the Policy on Social Procurement and the social procurement programs, respecting the Government of Canada's privacy obligations. This data can also be used to conduct data analysis and statistical reporting to create baselines of representation for different equity-deserving groups in public procurement and target underrepresented suppliers.