

# SMART & COLLABORATIVE PROCUREMENT RECOMMENDATIONS



**For Public Works Government Services Canada  
(PWGSC) and Shared Services Canada (SSC)**

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**ITAC**

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As Canada's national ICT business association, the Information Technology Association of Canada (ITAC) champions the development of a robust and sustainable digital economy in Canada. A vital connection between business and government, we provide our members with the advocacy, networking and professional development services that help them to thrive nationally and compete globally. A prominent advocate for the expansion of Canada's innovative capacity, ITAC encourages technology adoption to capitalize on productivity and performance opportunities across all sectors. A member-driven not-for-profit, ITAC has served as the authoritative national voice of the \$150 billion ICT industry for 60 years. More than 33,500 Canadian ICT firms create and supply goods and services that contribute to a more productive, competitive, and innovative society. The ICT sector generates one million jobs directly and indirectly and invests \$4.8 billion annually in R&D, more than any other private sector performer.

The development of smart<sup>1</sup> and collaborative<sup>2</sup> procurement approaches illustrates the Government of Canada's ongoing commitment to modernize and transform how it operates. ITAC shares the Government's belief that procurement is more than simply about buying and selling goods and services.

The sheer size of what Government buys has the ability to shift markets, fuel partnerships, launch businesses, employ Canadians, and innovate public service delivery. Thus government procurement is a powerful instrument of public policy – both economic and social.

For example, government procurement can: springboard a promising young company with an innovative new solution into success in domestic and global markets; help determine where private sector investments are made to create employment; advance the progress of under-represented groups in Canada; accelerate innovation throughout the Canadian technology ecosystem; and, by being a model user of technology, promote and encourage the broader use of technology throughout the whole economy. For the nation, procurement is important, and getting procurement done in a smart and collaborative manner is imperative.

The Information Communications Technology (ICT) industry plays a key role in government procurement. Public sector procurement accounts for the largest single share of all ICT procurement in the Canadian economy. The Government's buying power thus has a profound impact on the overall prosperity, productivity and investment decisions in our industry.

We have a large stake in the evolution of procurement. We have been active participants in the fine work Public Works and Government Services Canada (PWGSC) has done to advance its Smart Procurement initiative and also with Shared Services Canada and its Collaborative Procurement initiative. ITAC is appreciative of the invitation to offer observations about these initiatives' progress to date and recommendations for improvements going forward.

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<sup>1</sup> Smart Procurement allows Public Works and Government Services Canada (PWGSC) to meet shifting expectations both from our Government of Canada clients and industry. It allows procurement to be about more than just buying goods and services. The four elements of the Smart Procurement approach are: Early Engagement, Effective Governance, Independent Advice, and Benefits for Canadians. Read about these elements in the [About Smart Procurement](#) page.

<sup>2</sup> Collaborative Procurement allows Shared Services Canada (SSC) to maintain public procurement values of transparency, openness and fairness. Objectives are to have engagement with industry early in the procurement process (pre-RFP) to co-develop requirements definition, increase efficiency and effectiveness of procurement process, and to ensure optimal solutions so that SSC can deliver on its mandate. A Review of the Collaborative Procurement Process can be found here: <http://www.ssc-spc.gc.ca/pages/itir-triti/pdf/Collaborative-Procurement-Process-EN.pdf>

In summary form, these recommendations are:

1. Improve business processes and rules of engagement by ensuring a robust dialogue, two-way communication, quality feedback, and disclosure right up until an RFP is issued.
2. Accelerate transparency measures so that appropriate time is given to respond.
3. Align Government practices with broader commercial practices seen across the globe.
4. Improve evaluation procedures and selection methods to maintain quality, mitigate risk, avoid gaming, and achieve desired outcomes.
5. Improve security processing by reviewing the business processes to address the multiple concerns raised by industry.
6. Incorporate appropriate strategies for fostering SME growth now so Canadian businesses can remain a participant in the federal IM/IT procurement framework.
7. Improve the design of service delivery frameworks, metrics, options evaluated for outcomes for Canadians.
8. Accelerate public access to suppliers to fairness monitors to help ensure a fairer marketplace.

ITAC believes that the adoption of these recommendations will deliver solid benefits to Government:

- It will ensure robust competition to meet government requirements.
- It will ensure the Government achieves its business objectives for citizens.
- It will help to ensure that vendors make a reasonable return on their investments in their engagement in the Smart Procurement and Collaborative Procurement Process.

### **Recommendation 1:**

#### **Improve business processes and rules of engagement by ensuring a robust dialogue, two-way communication, quality feedback, and disclosure right up until an RFP is issued.**

Appropriately, one of the key elements of Smart and Collaborative Procurement is early engagement and ITAC fully supports SSC and PWGSC's commitment to engage industry early. We have done our best to be valued partners in this engagement. ITAC members make significant contributions to SSC and PWGSC industry committees, specifically the Information Technology Infrastructure Roundtable (ITIR) and its two current sub-committees, the Architecture Framework Advisory Committee and the Procurement Benchmarking Committee. Additionally, ITAC members also participate in PWGSC's Supplier Advisory Committees.

Recognizing that the opportunity to provide advice to Government is both a privilege and responsibility, ITAC's members take participation in these committees very seriously. In most cases, they incur considerable expense to bring their top experts to the table to ensure SSC and PWGSC have access to world-class counsel. Suppliers who do this voluntarily receive very little

feedback regarding how the inputs from their participation are used. Ideas fly around the table in committee but there is an absence of feedback and closure on the ideas and how and why (or why not) they are used.

Similarly, through Industry Engagements, dialogue is one directional. Suppliers invest time and resources to support the process and respond to the Request for Information (RFI) and receive little to no feedback before the Request for Proposal (RFP) or Invitation to Qualify (ITQ) or otherwise.

Occasionally some RFPs that appear to government as fulfilling a strategic requirement, have limited engagement, and collaboration. SSCs Strategic Advisory Services – Sourcing and Benchmarking Solicitation and the DND Defence Renewal Requirement are examples of this. In the case of the latter, DND issued a major RFI on their renewal program covering their entire operations including components relating to IM/IT. There was no opportunity for industry to provide input in the early stage of the process because the first time information industry received about the project was when the RFI was posted.

Lastly, ensure the information provided during these phases of early engagements is seriously considered, and further investigation is done if more information is required. More often than not, the Invitation to Qualify (ITQ) process does not begin with a reasonable set of requirements or its interconnectivity to other procurements underway is not thought out. This leads to the final document becoming a drastic departure from its original form, as changes are consistently made during the Review and Refine Requirements (RRR) phase, and government is forced to either retract the document for further investigation or restart the process to ensure fairness for all. The Data Centre Networks (DCN) or Hosted Contact Services (HCS) initiatives are good examples of this at SSC, as is Defence Resources Information Management System (DRIMS) at PWGSC.

Industry understands that large complex projects may sometimes require rethinking leading to delays or cancellations. Government must recognize that engagement, even in the preliminary stages of the procurement process, can be costly to vendors. While delays and cancellations are inevitable, communication from Government is essential to ensure Industry understands what has occurred and can position itself to participate in restarted, revised, or new projects.

ITAC recommends engagement and would like to work directly with Government toward creating a better consultation process. We believe the hallmarks of a better process would include:

- Government providing feedback to the industry as to how it is using, or not using, information and ideas presented in consultation;
- Clear communication from Government about the objectives and the challenges that are driving the specific procurement; and
- Government should open and extend the opportunity for dialogue until a formal RFP is issued.

## **Recommendation 2:**

**Enhance transparency by ensuring substantive business issues are defined during the Invitation to Qualify (ITQ) stage so that Industry has a reasonable time frame to react accordingly.**

Our members observe that substantive business elements in procurement are solidified so late in the process as to hamper collaboration and a robust bid response. For example, if finalization of Limitation of Liability requirements occurs at the same time as the release of the final RFP and is circulated to only a short list of bidders, this reflects badly on the transparency of the process.

When it comes to critical contractual requirements like liability, penalty structures, and supplier evaluation criteria, Government needs to share information earlier and more fully to support its response time requirements.

The PWGSC Request for Proposal (RFP) for Canada Student Loans is a good example of the need for this, along with SSC's Data Centre Server and Storage Infrastructure (DCSSI) project, and Secure Internet Connections (SIC) tender.

ITAC recommends that the hallmarks of optimum transparency should include:

- Consistent engagement and communication;
- Engagement over a time period appropriate to the size and significance of the procurement and its impact on the ICT supply chain;
- Active listening from both parties and sharing more information earlier;
- Government demonstrates an approach to better weigh and assess the diverse inputs it receives from industry; and
- Business fundamentals, particularly those capable of 'show-stopping' such as Limitation of Liability are identified early in the process.

### **Recommendation 3:**

#### **Align terms and conditions for government procurement with commercial terms and conditions.**

There is a misalignment of the terms and conditions required for government procurements with accepted commercial business practices in use in the wider ICT marketplace. For example, Limitation of Liability requirements for government projects frequently exceed levels that vendors accept when contracting with large commercial clients of comparable stature. This approach increases complexity and cost in public sector procurements and is considered a showstopper for some members.

There is also an absence of alternative approaches to joint risk management, which are also commonly found in commercial procurements. These alternatives present other ways for industry and government to jointly manage risk without having the impact on prices those higher LOL thresholds do.

The solutions industry puts forward to Government in response to a dramatically high Limitation of Liability (LOL) may be quite different than a solution presented for a more reasonable LOL. An inappropriate LOL may also prompt some suppliers to decide not to bid, which narrows the competitive field and ultimately reduces selection options.

Similarly, penalties and service level agreements that are misaligned with more widespread commercial terms and conditions can lead to a no-bid decision and thus a restriction of competition. And requesting fixed prices for work where there is too much risk for suppliers to be able to offer fixed prices will also limit competition and lead to higher prices.

Additionally, when terms and conditions do not contain guarantees of revenue or volume metrics, it becomes impossible for bidders to assess the business case or for officers in bidding companies to approve a competitive bid price. This, too, leads to higher prices and reduced competition.

ITAC has raised concerns about better alignment of government terms and conditions with appropriate commercial practices for some years now. And we generally encounter a willingness and even commitment from Government to address this but there has been little progress made to date. The LOL within SSC's High Performance Computing (HPC) initiative is an example of this point.

ITAC recommends a more appropriate, and in our view, optimum approach:

- Government sharing risk assessments with short-listed companies;
- Government's willingness to work with short-listed companies to identify alternative strategies within the project framework to address risk;

- A general review outside of each procurement opportunity that could establish general principles that would apply to different types of procurements;
- Meaningful dialogue about limitation of liability levels;
- Earlier identification of limitation of liability thresholds so that firms can make decisions about bids before significant resources are invested in the process;
- A framework where liability levels are set at those commensurate with large commercial clients of comparable stature;
- Large business transformation projects which have unusually heavy ICT enablement should have terms and conditions comparable with those used for traditional IM/IT projects;
- Government service level agreements and associated penalties should be aligned with commercial industry standards for operations of comparable scale and scope;
- The procurement process should reflect a willingness to work with suppliers to ensure that the basis of payment aligns with the business risk and that there is congruence between the basis of payment and the statement of work; and
- Discussions about guarantee of revenue and business volumes to be awarded should be discussed early in the process and clearly stated in the RFP.

#### **Recommendation 4: Improve evaluation criteria and selection methods.**

The evaluation of suppliers against well designed criteria and using selection methodologies aligned to both the nature of the requirement and its risk profile is essential to a successful procurement.

Execution of projects with the size, scope and transformative aspirations of many government procurements require some of the most highly qualified individuals and skill sets available in Canada - yet the technical scoring of proposals frequently under-values the scarcity and value of these resources. This approach instigates a low-ball price mentality, where high-level resources can be evaluated and given points but the overall value of the technical proposal ends up so low in comparison that the firm with the lowest price is favoured.

Industry often finds the financial scoring of proposals is not aligned to the expected business outcomes. Evaluation constructs with odd percentage scores given to different components in the bid breed gaming activities, whereby suppliers are forced to take advantage of these oddities, rather than simply pricing to supply. PWGSC's Permanent Resident Card project is a case where these challenges are seen by Industry.

There are also times when the financial evaluation templates do not lead to sensible results. Our members have also observed that options are sometimes under-weighted in the financial scoring grid in comparison to their cost in the total solution. This leads suppliers to load more costs into the options, which ultimately distorts the process.

For transformative IT projects, suppliers believe they are being too heavily driven by price without recognition for the inherent risks and complexities characteristic of transformative solutions. Too much emphasis on price can actually mitigate against the desired transformative outcomes. The SSC Email Transformation Initiative (ETI) is an excellent example of this.

ITAC recommends key measures to improve evaluation procedures and selection methodologies that would include:

- Demonstration of the Government's willingness to place more emphasis on technical merit and capabilities rather than make price the determining factor; and
- Ensure that PWGSC and SSC exercise greater diligence in establishing the financial scoring of proposals and in the development of financial grids.

## **Recommendation 5: Improve Security Processing**

Security concerns are obviously important given the nature of government information and communications. However, Government, while following its procedures to ensure the security of the ICT supply chain, needs to understand the implications this practice has on the procurement process.

Because the criteria for accepting or rejecting a potential supplier are not published, suppliers are operating without any guidance on security processing. Suppliers submit to security processing in good faith and their submissions may include many supply chain partners trusted by the supplier and in other contexts acceptable to the client. Security processing results are binary and inscrutable – either accepted or rejected. If rejected, no information is provided to permit the supplier to make adjustments for future bids. And now a “2 Strikes” practice will punitively disqualify suppliers with two rejections on a specific requirement, even though they are given no way of knowing what the issue is and remedying it.

The Government ICT Supply Chain process also causes lengthy delays after contracts are awarded. While suppliers are awaiting clearances of personnel, the key resources bid often have to accept other work. This can result in the loss of key resources central to the project. These two factors impair suppliers' ability to deliver at the very outset of a project.

In addition, this process increases the burden of compliance for suppliers. The registration process for Controlled Goods for independent contractors, for example, requires the completion of two documents and the collection and submission of supporting documentation. Now with the imposition of a \$700 annual fee per person, the burden will further increase. This will be particularly true for companies in the technical and professional services areas that often need to establish large teams to undertake project work.

Recognizing that the security requirements for suppliers seeking to be part of the Federal IT supply chain are important, ITAC asks Government to ensure they do not unduly impair participation in procurements or produce other negative impacts that might be otherwise addressed. Therefore, ITAC recommends:

- The development of a methodology for suppliers to be able to verify the acceptability of a potential subcontractor or secondary supplier for inclusion in their supply chain;
- Recognition that without a method to identify or pre-screen vendors' supply chain partners, the 2-strike rule is unduly punitive and should be amended or relaxed;
- A focus on timelines for file processing. When companies win a contract but cannot start work due to security processing, those cases should be advanced in priority; and
- An overall process review with an aim to ensure that security procedures are not unduly prejudicing project outcomes.

### **Recommendation 6:**

#### **Accelerate the incorporation of appropriate strategies for SMEs within the Federal IM/IT procurement framework**

As discussed on page 1, government procurement is an instrument of public policy. Government purchasing power can be used to address an array of economic and social policy priorities. These include fostering economic opportunities and advancement prospects in specific segments of society such as aboriginal businesses and encouraging the growth of SMEs.

Government is taking steps to develop strategies to advance the participation of SMEs and aboriginal companies in the procurement process. But while these strategies are in development, major procurements are proceeding.

Under current rules, smaller firms face significant barriers to participation. For example, requirements to provide lengthy past history of deployment of a specific technology or service effectively prevent young companies from participating. While the broader strategic framework for aboriginal and SME engagement is being developed, ITAC believes that mechanisms can be put in place to remove barriers to participate in current processes.

All major transformation initiatives released by SSC to date do not have set-aside asides requirement built into the procurement nor a way to motivate suppliers to include small and medium businesses within its response.

Therefore, ITAC recommends:

- The Procurement Strategy for Aboriginal Business (PSAB) policy be applied to all appropriate procurements to motivate and grow set-asides across government;
- All major transformative initiatives incentivize respondents to leverage small and medium businesses (i.e. through weighted points in the evaluation criteria); and
- Where possible, include mechanisms such as deferment or waivers of prohibitive elements within existing procurements to ensure engagement of SMEs and Aboriginal companies.

### **Recommendation 7:**

#### **Improve the design of service delivery frameworks, metrics and options evaluated to achieve better outcomes for Canadians**

ITAC believes that embracing a total cost of ownership approach to procurements would achieve better service outcomes for Canadians. This approach is currently under-used and under-valued. Many of the procurements that have occurred have focused on low prices for the base hardware, software or applications without considering the cost to install and operate a solution. Ignoring total cost of ownership has led to unrealistic “make or buy” business cases which in our view do not serve Canadians well.

While “Total Cost of Ownership” components in a business case may be open to interpretation, we believe they should become a more frequent discussion in procurements. If Government were prepared to share business cases with suppliers early in the procurement process, industry would bring insights that may be helpful in evaluating present and future cases.

ITAC recommends:

- PWGSC and SSC ensure that the Total Cost of Ownership is considered with the overall procurement strategies;
- Government should give suppliers access to government business cases in order to have feedback for improvement; and
- Government should move to fully loaded business cases.

## **Recommendation 8:**

### **Review the access of suppliers to fairness monitors**

The fairness-monitoring program is an important measure for ensuring that PWGSC activities are conducted in a fair, open and transparent manner. They provide valuable counsel to Government and enjoy an excellent vantage point on the procurement process.

Suppliers have a large stake in a fair marketplace. Therefore, we believe that fairness monitors can be an important resource to industry. At present, we do not have immediate access to these independent advisors. We believe providing industry access to fairness monitors would enable all parties to work toward a shared understanding of fair principles and standards and ultimately ensure a fairer marketplace.

ITAC therefore recommends:

- Suppliers have access to fairness monitors to raise concerns and questions about fairness directly; and
- Fairness monitors be empowered to respond to concerns raised by suppliers.

## **Conclusion:**

In the spirit of continuous improvement, ITAC appreciates the opportunity to submit this paper, to help advance its smart and collaborative procurement initiatives even further. We know that our members also have a role to play in addressing the identified improvements and we look forward to continued association.

ITAC welcomes any feedback from PWGSC and SSC and, to that end; we would propose a session to review the recommendations, as well as discussions in the SSC ITIR and the PWGSC Supplier Advisory Committees. Our members are committed to continuous improvement to achieve the most effective smart and collaborative procurement systems possible.