



The Construction Industry's Guide for how to Improve Provincial Procurement and Enhance the Success of Local Vendors

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Best Value procurement is a methodology to procure goods or services that considers more than simply the price of the goods or services being offered. The goal of the procurement methodology is to select the vendor that offers the best overall value.

The Government of Saskatchewan has adopted Best Value procurement as its methodology of preference for the selection of vendors.

While Best Value is a superior method for selecting vendors, it is more complex and challenging than simply picking the "low price" vendor.

It is more challenging for the procuring agency, which must develop more complex, and less narrowly defined, documentation, processes, policies, and guidelines to guide their procurement work.

It is also more challenging for vendors, who must now respond to a wider array of questions and criteria and become more adept at "telling their story". Responding to competitions in a Best Value environment takes more time for vendors and requires more effort. Consequently, this method of procurement increases the costs of pursuit for vendors.

As the implementation of Best Value procurement by the Government of Saskatchewan has evolved over the past six years, there have been several recurring challenges with its execution. Most of these challenges are a result of a lost understanding within government about the process, capabilities, and benefits of Best Value procurement.

For effective implementation of Best Value, a procuring agency's culture should consistently demonstrate such attributes as:

- Constant engagement and relationship building with vendors and prospective vendors;
- A focus on developing and supporting the local supplier base;
- Creativity;
- Strategic thinking;
- Solution-focused approach to problems; and
- Ability to think and operate outside silos.



The most common concerns raised by vendors when it comes to Best Value, include:

- Inconsistent standards, expectations, documents, and processes from one competition to the next;
- Work being awarded to out-of-province vendors when cost effective local alternatives exist;
- Unnecessary contract clauses and supplementary conditions that shift a heavy risk burden on to the contractors or sub-contractors;
- Duplication of effort (through the posting of the same information) from one competition to the next;
- Inconsistent platforms (SaskTenders, Ariba, ISNet, MERX, ProCon, Bravo) that add layers of complexity and in some cases create a cost barrier for contractors;
- Asking for specific qualifications that are not necessary, but by their nature exclude local contractors (i.e. experience doing similar projects, when none have been in done in Saskatchewan in more than a decade);
- Price is not the main factor, but it gets considered first (or at the same time) sometimes, which naturally skews analysis for qualitative elements;
- Bid evaluators that don't have relevant real-world experience and so struggle to evaluate and compare different approaches within bid documents (i.e. in evaluating a tender, does the evaluator have enough experience to understand the difference between various materials and methodologies?);
- The use of tools like Negotiated Bids or Best and Final Offers, turn Best Value procurement into price grinding; and
- The use of infrastructure procurement processes to achieve social objectives is a dangerous trend (i.e. establishing workforce or ownership quotas or mandates that vendors must meet).

Priority Saskatchewan has identified seven steps to the public procurement process:

1. Needs Identification/Problem Definition;
2. Decide on a Procurement Approach;
3. Conduct the Competition;
4. Evaluate Bids;
5. Make an Award;



6. Debrief Suppliers; and
7. Contract Management.

While these steps make sense, they suggest that the process is linear. Perhaps it is fair to say that an individual procurement project is indeed a linear process. However, this linear process must exist within an organizational culture that supports the broader policy objectives of the strategy behind Best Value procurement.

The Saskatchewan Construction Association (SCA) supports a Best Value procurement strategy that has, at its roots, the objective of maximizing value for the taxpayers of Saskatchewan, through achieving the best possible Return on Investment for the dollars spent on infrastructure.

This core philosophy – maximizing value for taxpayers – requires government agencies to think beyond their own ministries, crowns, or agencies. It forces a shift in thinking that encourages procurement officials to consider the Saskatchewan business and individual revenue generated as a result of their efforts, and the long-term positive impact on the economy. It also supports a more concerted and ongoing effort to encourage local vendor growth and development.

Every individual involved in procurement, at any level and in any way, across the Government of Saskatchewan, should clearly understand this core philosophy and that procurement is an important tool within the broader governmental strategy of growth and economic development. Procurement is a strategic tool that can be used to successfully position not only the government, but also the private sector for sustained success. **Therefore, procurement officials should think of themselves as local economic growth enablers.**

This shift in mindset, which connects procurement to growth, necessitates better and more universal stakeholder engagement and supplier development. Every individual involved with procurement should be expected to spend time, regularly, getting to know the local supplier base and understanding the strengths and weaknesses of the existing and potential supplier base within the marketplace.

Saskatchewan is a member of multiple trade agreements and is a province that believes in the importance of free and fair trade. It is imperative that trade agreements be complied with. However, too often, public officials are so afraid of trade agreements (and sometimes unaware of what the agreements actually require) that they do not proactively and positively engage with local suppliers. This is a failed outcome of an overly cautious culture that is used to being rules driven.



Once a project goes out to public competition, trade rules apply. There is no question about this. However, that provides a high degree of latitude to engage and support local suppliers prior to the actual issuing of competition documents. This should not be seen as a function separate from procurement, but part of the expectations of those who procure. If you do not know your local supplier base, and if they don't understand your current and future needs, how can anyone expect that local companies will be able to succeed?

To help focus the attention of everyone within the procurement world on the idea of local supplier development, the **SCA recommends that the Government of Saskatchewan adopt an enterprise-wide policy that every time a competition, of any size or category, is awarded to a non-Saskatchewan firm it triggers a review process.** This "after action report" would begin with the assumption that an award to an out-of-province vendor signals a failure at some point within the system. The goal of the report is to identify that failure and develop recommendations for minimizing the likelihood of repeating the failure again.

Additionally, the **SCA recommends that to further entrench the culture of procurement as economic development, and the criticality of local vendor engagement, all officials working in procurement across the Government of Saskatchewan should have a local vendor relationship development and management metric built into their individual performance plans.** It should be clear that this is a universal expectation of all employees, in or out of scope, and this expectation should be measured and reported on quarterly.

Finally, with respect to cultural/philosophical recommendations, **the SCA recommends that the existing training programs for procurement officials be modified to include these new philosophies and that industry stakeholders be engaged to participate in the training modules.** No training module for procurement officials should be provided without someone from the local supply community there to discuss the private-sector perspective.

In addition to the recommendations listed above, the SCA wishes to provide a series of recommendations for each of the steps within the individual procurement project process. In addition to the seven steps identified by Priority Saskatchewan, the SCA would add an earlier stage, called "Pre-Procurement".



Pre-Procurement: Recommendations

The pre-procurement stage should include ongoing and robust dialogue with the local supply chain. Multi-year capital plans should be shared with the vendor community on a rolling basis so that vendors can plan their capacity and adjust offerings to meet potential demand. In addition, the procuring agency should be routinely meeting with vendors to understand their work and what they can deliver.

As well, we recommend this stage include the creation and use of a standardized general prequalification system for vendors.

Specifically, when it comes to pre-procurement, the following steps are recommended for the construction industry:

- Complete, with industry, a thorough analysis of all procurement data from across all government agencies to identify patterns regarding the awarding of work to vendors outside of Saskatchewan. Share that data with industry, and together develop a strategy for addressing any identified patterns.
- Require that every quarter, every ministry/crown/agency that procures construction services coordinates vendor dialogue sessions that accomplish several things:
 - Forecasts the next 12 months of work (on a rolling basis);
 - Reviews the last quarter of work to talk about lessons learned;
 - Assesses current status and near-term future status of industry capacity;
 - Looks for gaps in the entity's procurement plan in terms of where local vendors may not be able to meet expectations;
 - Develops plans to address any identified gaps;
 - Takes time to meet with new potential vendors.
- With the construction industry, develop (or cause to be developed) a Saskatchewan construction supplier database that can serve as a preliminary prequal list for invitations to pre-procurement briefings, etc. This database can be similar to that developed by SIMSA.



- Following the lead of Alberta, which does this for Electrical Contractors, require that all bidders to government work in Saskatchewan hold a Master Contractor license as approved by industry. This license would be used to ensure certain levels of integrity and capacity and would protect the buyers. The license would be accessible by out-of-province contractors but would have similar barriers in place to those in Alberta.
- Following the lead of Alberta, ensure that all documents, designs, and specifications for any construction project posted on SaskTenders be only accessible through the Electronic Planroom service provided by the Saskatchewan Construction Association's network of associations. This would be identical to the Alberta Infrastructure arrangement with the associations in their province. While out-of-province contractors can access the information, there is a fee associated with doing so and this fee supports the development of the local industry. The association network would ensure continued compliance with trade agreements through the level of information that is publicly accessible, and the opportunities would continue to be posted on SaskTenders, even though the documents necessary to bid on the job would not (access to documents is not a requirement of trade agreements).
- Tighten the requirements for account creation on SaskTenders. Currently SaskTenders is the most open platform in Canada. This level of openness isn't necessary and encourages companies or individuals to register, as opposed to creating a hurdle for non-local firms to clear, which should be the goal.
- Require that any bidder to government work in Saskatchewan hold a current membership in provincial construction association relevant to the scope of work that they are bidding. This practice occurs in other Canadian jurisdictions and is used in Saskatchewan occasionally for certain scopes of work – notably roofing and masonry.
- Establish the SCSA's Certificate of Recognition (COR) or Small Employer Certificate of Recognition (SECOR) as a required standard for any contractor working on a government project. Contractors could also provide a letter of equivalency from the SCSA recognizing their home province's COR/SECOR standard. While setting COR and SECOR as a standard is not directly a barrier to non-Saskatchewan companies, requiring the letter of equivalency does create an additional step. More importantly, COR/SECOR is an industry supported and strongly endorsed base safety standard that should be at the heart of any government requirements, not only for bidders, but for all contractors working on site.



Needs Identification/Problem Definition: Recommendations

Convene experts in the related procurement field, from the local community, to discuss the needs and problems and source options. Leverage this knowledge to design processes that take advantage of those local options where possible.

The list of local vendors can be populated from the maintained supplier database, and should, by definition, only include local vendors.

While industry wants to see the behaviours and characteristics outlined in this document to be consistent across everyone in government involved in procurement, we understand that certain processes might only be relevant in certain situations or at certain project thresholds. These thresholds should not be set arbitrarily however, but rather should be driven by the data. If the goal is to improve the likelihood of success for local vendors, then the solutions should be surgically applied to achieve this goal. Industry should be consulted before thresholds, or other such decision-gates for processes, are put in place.

Decide on a Procurement Approach: Recommendations

Consult with the local vendor community when selecting the appropriate procurement approach for the specific project. Ensure that the approaches being considered do not unintentionally preclude local bidding.

Where possible, avoid using a stipulated sum approach as this puts too much emphasis on price and compels the general contractor to seek low cost trade contractors at the expense of enhanced value for taxpayers.

Prior to the release of competitions, local vendors that are known to have capabilities and capacities consistent with the intended work should be engaged and informed about the opportunity and the expected evaluation plan.



Conduct the Competition: Recommendations

Saskatchewan's construction industry strongly endorses the greater use of the Saskatchewan Bid Depository (SBDI) during the competition phase. SBDI is an industry endorsed, policed, and administered system that protects the sanctity of bidding for all players within the supply chain. The uniform system prevents incomplete, last minute, and qualified tenders and it prevents any form of bid shopping. The system improves outcomes for trade contractors (ensures no bid shopping and ensures that all contractors in the same scope are bidding to the same scope), decreases risk for the general contractors (giving them more than mere minutes to evaluate bids), provides trade scope definitions for design consultants before the project starts, and protects the owner through lowered risk and greater confidence in the process. We believe SBDI should be used for any project of a value greater than \$2 million (not including heavy/civil construction for which SBDI does not apply) where more than two trade scopes are involved.

Determine how you will evaluate between bidders and build and share an appropriate scoring matrix based on that determination. The scoring matrix must be transparent, clearly tied to the outcomes desired, and must provide sufficient scoring options to allow for genuine differentiation between bidders. The draft scoring matrix should be shared with the local vendor community ahead of the competition, and the final scoring matrix should be shared within the competition documents.

Only ask for information that is relevant to determining scores within the matrix. Use that as a test to determine if the information is necessary or not, before including it in the competition document. If you're not going to score something, do not ask for that information.

Every individual involved in procurement in Saskatchewan should be required to participate in a vendor-led training session focused on explaining the competition process from the vendor perspective. These officials must understand pursuit costs, the risk of pursuit for the private sector, and the danger – especially to small vendors – of onerous and excessive processes (i.e. massive breakdowns of pricing, numerous requests for unit or separate pricing, extensive bid information, etc.) Remember that 94% of all Saskatchewan construction companies have fewer than 20 employees. These are small businesses, without dedicated writers or staff solely dedicated to supporting pursuit of opportunities. Few companies can afford to dedicate half (or more) of their company resources in pursuit of one job, and so procurement officials must be mindful of this as they shape their competitions.



Evaluate Bids: Recommendations

When evaluating bids, public owners should use a two-envelope system, where one envelope holds the price and another envelope holds the qualitative items to be assessed. In every case, the qualitative items envelope should be opened and evaluated for all bidders before the price envelope is opened and considered.

Make sure the scoring system is sufficient to allow for genuine differential evaluations of bidders. If everyone ends up with the same qualitative scores, we're just awarding on price after all – so why go through the effort then. Differential scoring on a clear matrix also permits vendors to properly understand how they can improve their performance in future competitions, which is an essential

Evaluators need to have sufficient expertise in the field to be able to assess what is and isn't reasonable with bids (i.e. schedules that condense the critical path by 25%, or bid pricing that is 25% lower than everyone else should raise red flags, but they often don't). Likewise, they need to be able to understand the nuances of various products and processes contained within bids to ensure they comply with the specifications and bid requirements. Having this level of internal expertise is not feasible for most, if any, public sector owner entities. Consequently, we recommend the regular use of private sector consultants to support better evaluations. Bidders need to be confident in the evaluation process, and the project owner benefits from greater certainty when the evaluators have the expertise needed to evaluate bids.

When evaluating bids, and in the creation of competitions and the scoring matrices to be used for evaluation, put extra weight on the ability of the vendor to provide local service capability beyond their specific time of construction on site. Establishing expectation with respect to service response times and availability will strengthen the likelihood of local firms being successful.

Never accept non-compliant bids. Bids should not be arbitrarily dismissed, but when the factors required for compliance are clearly outlined and communicated, non-compliant bids should be rejected. Determining the compliance of a bid may require the added evaluation sophistication referenced in the paragraph above, in particular when compliance is tied to expected product outcomes or specifications where it may not be clearly evident when/if bid submissions can meet those outcomes.



Make an Award: Recommendations

All bidders should be communicated with, whether successful or not. Information that should be provided in that communication includes, but is not limited to:

- Where the bidder placed within the scoring matrix and relative to other bidders (i.e. they scored 83/100 and place 4th out of 7);
- If the project was awarded, who it was awarded to and what the winning score was;
- If the project was not awarded, why was it not awarded and what, if any, plans are there for re-issuing the project at a later date, and what could the bidder do to put itself in a better position for successfully being awarded that project on re-issuing;
- What the process for accessing an in-depth debriefing session is and how the bidder can get the feedback they need to improve future performance;
- Where a project is awarded to an out-of-province contractor, it should trigger an after-action report (as outlined above) to evaluate where the process failed; and
- Project award information should be shared with industry to allow for industry tracking and performance review. This information can include, at minimum:
 - Winning bidder;
 - Geographic location of head office for winning bidder;
 - Expected value of the project;
 - Trade scopes expected to be involved in the project;
 - Classification of project (i.e. highway; water; wastewater; new building; renovations, etc.);
 - Project owner/client; and
 - Procurement model used.



Debrief Suppliers: Recommendations

Based on the feedback from companies that have participated in supplier debriefs there are several recommendations that can be applied to improve the debrief experience/outcome:

- Standardize the expectations about what can and cannot be shared in debriefs and communicate this widely and publicly – and err on the side of sharing more information and more details;
- The individual or team that conducted the evaluation should also be the individual or team conducting the debrief. This is necessary to provide consistent and relevant feedback on the specific evaluation of the bidder and what can be done to improve their future performance, and to guarantee accountability for decisions made;
- That everyone who may conduct a debrief be trained in how to do meaningful debriefs. This training should include scenario-based training, and involve private sector speakers who can speak to the importance of debriefs and the key elements that ensure that meaningful feedback is provided;
- Debrief training should focus on shifting from a perspective of fear (i.e. I don't want to reveal too much and get my organization in trouble) to a perspective of help and support (i.e. I want this vendor to be able to win next time, so what can I do to help them get there?)

Contract Management: Recommendations

When it comes to the management of construction contracts, industry leaders have a series of recommendations that can support improved outcome. These include:

- Adopting the series of standard documents created by the Canadian Construction Documents Committee (CCDC) as the templates for all government contracts. CCDC includes owner representatives from both the public and private sector, along with representatives from the design consultant and construction industries, and a representative from the Canadian Bar Association. Representing the collective interests of all parties within the vertical construction supply chain, CCDC develops, produces and reviews these standard construction contracts, forms and guides. CCDC documents are an accepted national standard, are well understood by all industry players, and provide consistency and clarity for all parties;



- Working together with local vendors, develop a common series of approved supplementary conditions for CCDC contracts in Saskatchewan;
- Establishing a joint owner, consultant, contractor task force to examine the downloading of risk along the supply chain with the goal of developing a series of collaborative recommendations for risk allocation and the pricing of risk. From a contractor perspective, too much unknown risk is being downloaded by owners to contractors, which increases the cost of bidding or ends up restricting the number of bidders; and
- Developing, with industry, a common protocol for project evaluations that meaningfully allow an assignment of past performance scores for vendors, and ensure this common protocol is executed across all government platforms. If an effective vendor performance system is fast-tracked during a period of time when local vendors are favoured due to a local focus stemming from a stimulus investment, the system can be populated with results for local vendors that can provide them with a scoring advantage when procurement access to out-of-province vendors is opened up again.