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# Updating the Code of Conduct for Procurement

## Public Services and Procurement Canada

Presentation to: Committee of Experts of the Mechanism for Follow-up on  
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Public Services and  
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Services publics et  
Approvisionnement Canada

Canada

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## Overview – Government of Canada Procurement

- The Government of Canada procures on average \$23.6 billion worth of goods and services annually. The vast majority of these procurements are carried out by Public Services and Procurement Canada (PSPC), the Government of Canada's central purchasing entity.
- PSPC provides comprehensive services for acquiring large, complex and high value procurements that exceed the purchasing authority of client departments and agencies. Procurements range from office supplies to military ships to security systems and everything in between.
- PSPC purchases on average \$18.5 billion annually from domestic and foreign suppliers, including those with complex multi-national supply chains.
- As the central purchasing entity for the Government of Canada, PSPC uses its purchasing power to advance socio-economic objectives and ensure that goods and services being procured reflect Canada's values (i.e. ethical procurement).
- Incorporating human rights considerations in federal procurement is essential to ensuring that Canada is not directly or indirectly supporting or encouraging human rights abuses through its contracting activities.

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# The Code of Conduct for Procurement

- PSPC has a number of existing instruments to ensure that the Government of Canada conducts business with ethical suppliers and incorporates clauses referencing these into its contracts.
- The **Integrity Regime** helps foster ethical business practices, ensure due process and uphold the public trust. PSPC makes determinations on whether a supplier is ineligible to do business with the government based on whether the supplier or any of its affiliates have been convicted of certain offences, for example:
  - Fraud
  - Bribery
  - Forgery
  - Bid-rigging
  - Insider trading
  - Organised crime
- The **Code of Conduct for Procurement**, is incorporated into federal government contracts and sets out the key responsibilities for both public servants and vendors engaging in the contracting process. It acts as a mechanism to consolidate requirements related to ethical conduct such as:
  - Conflict of Interest Measures
  - Prohibiting corruption, collusion, bid-rigging and other anti-competitive activity
  - Vendor Complaints and Procedural Safeguards



## The Code of Conduct for Procurement

(continued)

- PSPC Code of Conduct for Procurement (the Code) was first announced as a key milestone in the implementation of the *Federal Accountability Act* to support the government in fulfilling its commitment to reform procurement, ensuring greater transparency, accountability, and the highest standards of ethical conduct.
- The Code is incorporated by reference into all PSPC contracts, therefore holding all suppliers accountable to its requirements.
- The Code consolidates the government's existing legislative and policy requirements into a statement of expectations that the government has of its employees and its suppliers.
  - The Code summarizes and links to existing legislative and policy requirements present in other instruments.
  - The Code and the expectations set out in the Code are equally applicable to all suppliers whether domestic or foreign.
- The first version of the Code was posted September 2007 and has since undergone revisions in September 2012 and again in November 2014 resulting in the Code that is in use today.



## Impetus for Changing the Code

- The Prime Minister of Canada at the North American Leaders Summit in June 2016 stated that:

*“Canada would undertake efforts to review its federal procurement guidelines and policies to determine if there are potential vulnerabilities to abuse by human traffickers”.*

- In addition, in-line with PSPC Minister’s mandate letter the Code was examined with the objective of making it simpler, less administratively burdensome, and more reflective of best practices in use within other jurisdictions and the supplier community while supporting the Government’s socio-economic policy goals.
- Revisiting the Code provides an opportunity to better align it with these goals.



## Current Version of the Code – Opportunity for Change

- Enhancements to the Code are envisioned to:
  - make it clearer and less difficult for stakeholders to understand their responsibilities and expected behaviours;
  - make it simpler, use plain language, less administratively burdensome, and more reflective of comparable Codes in use within other jurisdictions and the supplier community.
- There is also an opportunity to better align the Code with the government’s stated policy objectives, such as social and green procurement.
- The Code can also be used as a tool to help Canada meet its various international commitments, such as International Labour Organization Conventions, the UN Guiding Principles on Business and Human Rights and the UN Protocol to Prevent, Suppress and Punish Trafficking in Persons.
- Updating and enhancing the Code provides PSPC with an opportunity to support the move towards greater social responsibility in federal procurement.



## Current Version of the Code – Opportunity for Change *(continued)*

- PSPC is in the process of reviewing and identifying a number of potential enhancements to the Code of Conduct that could serve to clarify what Canada expects of its suppliers in terms of socially responsible behaviour.
- Enhancements could include language to address Canada's concerns on:
  - child or forced labour (includes human trafficking),
  - discrimination,
  - harsh or inhumane treatment,
  - freedom of association and collective bargaining,
  - employment practices (unsafe working conditions, fair wages, excessive working hours),
  - health and safety,
  - building codes, and
  - environmental practices.
- The new Code would apply to Government of Canada suppliers and their subcontractors.





## Current Version of the Code – Opportunity for Change *(continued)*

- The new Code could contain language to hold suppliers responsible for ensuring that all aspects of their supply chain comply with the socially responsible behaviours laid out in the Code.
  - Therefore raising supplier awareness of these practices and ensuring their due diligence in protecting their supply chain.
- There is potential to encourage suppliers to develop and make publically available, their own Codes of Conduct to which their suppliers would be required to comply.
- PSPC would provide reference materials and other resources to support suppliers that wish to develop their own Codes.



## Current Version of the Code – Opportunity for Change *(continued)*

- In addition to the Code, PSPC is exploring the requirement to make suppliers and first-tier subcontractors submit a separate certification to meet a minimum acceptable standard of labour and human rights in their supply chains.
- This will likely include standards on the following:
  - Forced labour (includes Human Trafficking)
  - Child labour
  - Freedom of association and collective bargaining
  - Unsafe Working conditions
  - Workers not being paid living wages
  - Excessive working hours
  - Discrimination
  - Harsh or inhumane treatment
- This is based on international commitments as the Code (United Nations *Guiding Principles on Business and Human Rights* and International Labour Organization Conventions).



## Changing the Code

- PSPC has identified a number of new additions to the Code of Conduct as a result of changes in its procurement mandate. These changes would provide a clearer picture of what is expected of suppliers in terms of their supply chain and socially responsible behaviours.
- Procurement Officers have also identified and requested changes to the Code of Conduct regarding certain expectations they would like to see added as a result of their experiences in dealing with suppliers on a daily basis.
- PSPC is interested in re-writing the Code in such a way that would make it easier and clearer to read and understand the expectations.
- Given the ever expanding global market there is opportunity to revise the Code in such a way as to set expectations for suppliers regarding their supply chains, extending the behaviours laid out in the Code to first tier subcontractors and beyond.



## New Look and Feel – Code of Conduct for Procurement

- PSPC plans to develop a new Code that is in line with best practices in other jurisdictions and industry codes – setting socially responsible expectations for suppliers.
- The new Code could be developed with the same look and feel as comparable codes. This will facilitate a greater understanding of Government of Canada expectations and provide for easier referencing.
- The new Code could incorporate labour standards set by International Labour Organization Conventions ratified by Canada, clauses on civility and harassment as well as environmental protection standards



## Next Steps

- PSPC has undertaken the drafting process for a new Code based on recommendations, comments, and feedback received from internal stakeholders (e.g. interested parties within PSPC, Government of Canada legal services, other government departments) that also incorporates industry best practices.
- The draft Code will undergo extensive engagement with internal and external stakeholders (e.g. Suppliers, Industry Associations, Non-Governmental Organizations) to further refine and improve the Code.
- PSPC will develop a communication plan to ensure broad dissemination of the new Code.
- In order to successfully launch the new Code, PSPC plans to leverage existing federal, provincial, and territorial fora to share best practices and lessons learned.



## Annex A – Industry Best Practices (Codes of Conduct)

- PSPC conducted a review of a number of industry Codes of Conduct in order to identify commonalities that could inform a revision of our Code.

Through this review PSPC identified the following:

- Industry Codes of Conduct are written in short concise paragraphs or bullet points
- They reflect specific expectations on external parties with whom the supplier does business
- Doing business with the company is contingent on meeting the expectations laid out in the Code.
- Industry Codes of Conduct typically clarify the expectations around a wide variety of aspects such as:
  - child or forced labour (including human trafficking),
  - discrimination,
  - employment practices,
  - health and safety,
  - building codes, and
  - environmental practices.

## Annex B – Codes of Conduct Examined

### Apparel / Clothing Manufacturing:

#### Gildan Activewear Inc.

[http://www1.gildan.com/corporate/IR/popup/man\\_ethic\\_code\\_en.pdf](http://www1.gildan.com/corporate/IR/popup/man_ethic_code_en.pdf)

[http://www.genuinegildan.com/media/multiuploader\\_images/Gildan\\_Code\\_conduite-EN.pdf](http://www.genuinegildan.com/media/multiuploader_images/Gildan_Code_conduite-EN.pdf)

#### Patagonia Inc.

[http://www.patagonia.ca/static/on/demandware.static/-/Library-Sites-PatagoniaShared/en/dw63489f7b/PDF-US/Patagonia\\_COC\\_English\\_02\\_13.pdf](http://www.patagonia.ca/static/on/demandware.static/-/Library-Sites-PatagoniaShared/en/dw63489f7b/PDF-US/Patagonia_COC_English_02_13.pdf)

### Food Manufacturing and Processing:

#### High Liner Foods Inc.

<http://www.highlinerfoods.com/site/media/Parent/High%20Liner%20Foods%20Supplier%20Code%20of%20Conduct.pdf>

#### Nestlé S.A.

<https://www.nestle.com/asset-library/documents/library/documents/suppliers/supplier-code-english.pdf>

### Government:

#### City of Ottawa

<http://ottawa.ca/en/business/doing-business-city/purchasing/ethical-purchasing#supplier-code-conduct-1>



## Annex B – Codes of Conduct Examined

(continued)

### General Retail:

#### Canadian Tire Corp.

<http://corp.canadiantire.ca/EN/AboutUs/Documents/CTC%20Supplier%20Code%20of%20Conduct%20July%204%202012.pdf>

#### Costco Wholesale Canada Ltd.

<http://www.google.ca/url?sa=t&rct=j&q=&esrc=s&source=web&cd=1&ved=0ahUKEwiY1Ovl0OrSAhUB-WMKHSLkAylQFggcMAA&url=http%3A%2F%2Fphx.corporate-ir.net%2FExternal.File%3Fitem%3DUGFyZW50SUQ9ODE4NDZ8Q2hpbGRJRD0tMXxUeXBIPtM%3D%26t%3D1&usg=AFQjCNH5zyOvn-6WN0dj5owdFdos4A8sew&sig2=fH9NvHfRVHOS397WEddo0Q>

#### Loblaws Inc.

<http://www.loblaw.ca/content/dam/lclcorp/pdfs/Responsibility/SupplierCodeOfConduct/Supplier%20Code%20of%20Conduct%202015.pdf>

### Heavy Industries Manufacturing Transportation:

#### Bombardier Inc.

<http://www.bombardier.com/en/governance/code-of-ethics-and-business-conduct.html>

### Industry Associations:

#### Ethical Trading Initiative Base Code of Conduct

<http://www.ethicaltrade.org/eti-base-code>

