

Recommendations

These recommendations were developed with input from:

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The following recommendations should be applied across the Canadian government's procurement regulations, policy and guidance documents, and procurement activities. While Transparentem recognizes that some of the recommendations have been implemented to varying extents, there is room for improvement.

Within the following recommendations, a '**contractor**' refers to any entity with a direct contractual relationship with a public buyer to provide goods or services in fulfillment of a government contract. A '**subcontractor**' refers to any entity contracted by the contractor or by subcontractors to contribute to the fulfillment of a government contract (including the 'contractors' suppliers' and 'suppliers to the contractors' suppliers' detailed above).

Policy Development

1. Embed human rights due diligence responsibilities and accountability for public buyers, contractors and subcontractors throughout the entire procurement cycle¹ in alignment with the UN Guiding Principles on Business and Human Rights, OECD Guidelines for Multinational Enterprises on Responsible Business Conduct, and the ILO core labor standards.²

Modern slavery should be considered in relation to all contracts on the basis of risk, rather than considered only on bases of contract value or type. Such limitations can undermine public buyers' efforts to carry out appropriate modern slavery risk management measures.³

2. Publicly disclose all procurement anti-slavery practices and policies, contractors and subcontractors involved in the performance of a contract, violations of anti-slavery requirements and subsequent remediation in government supply chains.⁴
3. Engage directly and meaningfully with supply chain workers, as well as their legitimate representatives and trade unions, throughout the development and implementation of procurement processes, as they are at highest risk of adverse impacts accompanying contractor and subcontractor non-compliance.⁵
4. Consider establishing purchasing consortia anti-slavery expertise to organize procurement across agencies for high-risk sectors.⁶

Purchasing consortia can provide significant procurement value and cost efficiencies to agencies, in addition to the efficiencies gained from agencies pooling anti-slavery capabilities and resources.

Pre-Tender Phase

1. Collaborate across agencies and with civil society to develop a list of high-risk products, sectors, or geographies for procurement officials to reference during due diligence.⁷ Supplement this with an additional list that outlines end-products that contain, as components, items found on the primary list to ensure adequate due diligence is applied to any goods that may be produced in part through modern slavery.⁸
2. Require potential contractors and subcontractors to disclose how they identify and manage modern slavery risks in their operations and supply chains,⁹ and whether they have been subject to any judicial, administrative, or otherwise credible allegations related to modern slavery.¹⁰

As smaller companies may have less capacity to conduct comprehensive supply chain due diligence, evaluations of these disclosures should consider company annual turnover, resources, and modern slavery risks.¹¹
3. Integrate sector-specific perspectives from businesses, civil society, unions, and others in the pre-tender stage to establish tailored, and ultimately more efficient, tendering approaches that improve labor rights protections while ensuring contractor and subcontractor compliance requirements are feasible.¹²
4. Disqualify companies from public tendering that have failed to take positive, proactive steps to address modern slavery risks and cases in their operations or supply chains following a reasonable window for action.¹³

Tender Phase

Technical Specifications and Clauses

Embed anti-slavery requirements and obligations into the technical specifications and clauses of supplier eligibility requirements, tender requirements, and tender award criteria.¹⁴

- a. Bidding contractors should not be excluded from tendering at the early stages if they do not meet all these criteria at the outset. Instead, work with them to improve their due diligence practices.¹⁵
- b. Requirements and obligations must apply to subcontractors.¹⁶

Supplier Relations Management

1. Support and advance effective supplier relations management to cultivate dialogue and partnership with contractors and subcontractors through contract life cycles.¹⁷
2. Offer educational and training programs to support smaller or less-resourced potential contractors and subcontractors, including those from developing countries, navigate compliance and adequately manage modern slavery.¹⁸

Post-Tender Phase

Monitoring

Conduct supply chain risk management at and around production facilities in high-risk sectors to evaluate contractor and subcontractor contractual compliance and assure that relevant responsibilities are fulfilled.¹⁹

Audits and other assessments of contractor and subcontractor compliance should maximize worker agency and be structured to minimize the risks of audit deception and maximize public transparency. Public buyers should be aware that traditional audits often do not uncover extreme labor abuses. See Transparentem's report [Hidden Harm](#) for more details.

Internal Capacity Building

1. Develop and mandate function-specific training on modern slavery risk management for all public procurement officials at the point of hiring and annually thereafter.²⁰
Function-specific training can increase training efficiency and impact. It is important for officials across various roles, and with varying responsibilities, to understand how to identify, respond to, and report cases of abuse,²¹ and how to include anti-slavery terms in all tender and contract documentation.²²
2. Collaborate and share information regarding best practices and lessons learned for risk management, both domestically—with other federal agencies and procurement bodies—and internationally—with other governments and public buyers.²³

Reporting & Grievance Mechanism

Create a mechanism that allows affected individuals or relevant stakeholders to report any adverse impact from contractor or subcontractor actions.²⁴

The mechanism should be advertised widely at and around worksites and accessible and sensitive to the needs of marginalized groups, particularly women, migrant workers, and other vulnerable groups.²⁵

Remedy

Require contractors and subcontractors that contribute to or cause harm to individuals during the contract performance to provide effective remediation.²⁶ If contractors or subcontractors are unwilling or unable to do so, public buyers should take it on themselves.

- a. Effective remedy for affected parties should align with international standards and be developed with rights-holders as well as their legitimate representatives and trade unions.²⁷
- b. Only penalize contractors and subcontractors that themselves self-identify and report instances of modern slavery in their operations or supply chains if they fail to adequately remediate those abuses and learn from the experiences.²⁸ Reserve contract termination, debarment, and similar penalties as a last resort in the case of continued, blatant non-compliance despite repeated efforts by the public buyer to resolve the issues with the contractor or subcontractor.²⁹

- c. Working with contractors and subcontractors as collaborators can give them the confidence to admit errors and work on solutions.³⁰ Public buyers should avoid an overreliance on penalty frameworks for contractors and subcontractors which may encourage denial and evasion.³¹

- ¹ De Aguinaga, S.G. (2022). Evidence review: Effectiveness of public procurement measures at addressing modern slavery in supply chains. <https://modern-slavery.files.svdcn.com/production/assets/downloads/Public-procurement-evidence-review-final.pdf?dm=1667559321>
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- ³ Amanze, M., and A. Eyo. (2023). Strengthening the Prohibition of Forced or Indentured Child Labor in Government Contracts: A Critical Analysis of FAR Subpart 22.15. <https://oro.open.ac.uk/83600/>; Martin-Ortega, O., Trusgnach, M., & Berman, C. (2024). Push, pull, dance: Approaches to address labour abuse in public health supply chains. <https://doi.org/10.1177/0022185624124222>
- ⁴ OECD. (2022). Pilot on Integrating OECD Due Diligence into Public Procurement in the Garment Sector. <https://mneguidelines.oecd.org/pilot-on-integrating-oecd-due-diligence-into-public-procurement-in-the-garment-sector.pdf>
- ⁵ Martin-Ortega, O., Trusgnach, M., & Berman, C. (2024). Push, pull, dance: Approaches to address labour abuse in public health supply chains. <https://doi.org/10.1177/0022185624124222>
- ⁶ Rogerson, M., Grosvold, J., & Alves, K. (2024). Climate change and modern slavery in public procurement. <https://www.unseenuk.org/wp-content/uploads/2024/01/Procurement-modern-slavery-full-report-1.pdf>
- ⁷ Amanze, M., Cahill, D., & Evans, C. (2022). Tackling Human Trafficking in Governments Supply Chains: Legal Certainty and Effectiveness Issues Under the Australian Commonwealth Procurement Rules Model. <https://doi.org/10.1177/0067205X221126554>
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- ¹² De Aguinaga, S.G. (2022). Evidence review: Effectiveness of public procurement measures at addressing modern slavery in supply chains. <https://modern-slavery.files.svdcn.com/production/assets/downloads/Public-procurement-evidence-review-final.pdf?dm=1667559321>
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