Submission No 2

PROCUREMENT OF GOVERNMENT INFRASTRUCTURE PROJECTS

Organisation: Government of Canada

Name: Mr George Da Pont

Position: Deputy Minister, Public Services and Procurement Canada

Date Received: 28/01/2016

Gouvernement du Canada | Government of Canada

Mr. Alister Henskens, SC, MP
Committee Chair
Parliament of New South Wales
Macquarie Street
Sydney NSW 2000
AUSTRALIA

JAN 2 0 2016

Dear Mr. Henskens:

This is further to your letter of November 25, 2015, to my colleague Mr. Jean-Francois Tremblay, Deputy Minister, Infrastructure Canada, regarding your invitation to make a submission to the New South Wales Legislative Assembly Committee on Transport and Infrastructure's inquiry into the procurement of government infrastructure. Mr. Tremblay asked me if I could be of assistance.

I am pleased to inform you that Public Services and Procurement Canada is making one formal submission as well as an alternate submission, which I think could be of interest to the Committee:

- Formal submission—New Champlain Bridge Corridor Project
- Alternate submission—Atomic Energy of Canada Limited Restructuring Project

I would like to personally thank you for giving us the opportunity to submit the enclosed projects for the Committee's consideration.

Yours sincerely,

[redacted]
George Da Pont

Enclosures

Canada

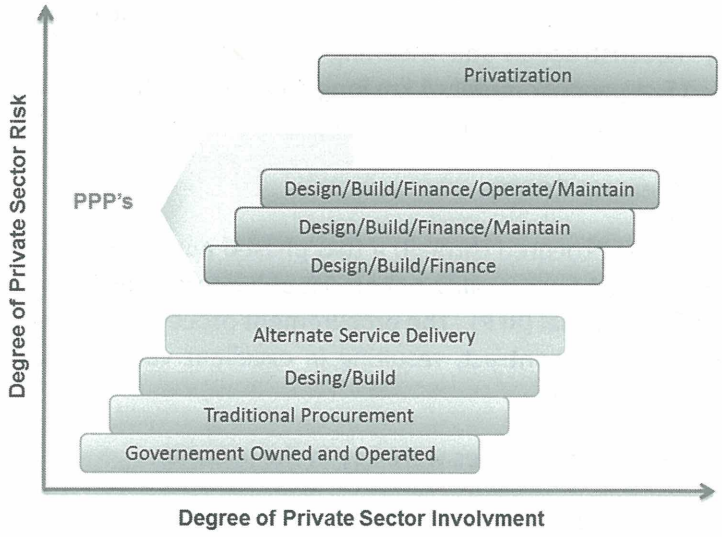
The New Champlain Bridge Corridor Project

Introduction

The New Champlain Bridge Corridor (NCBC) located in the Montreal region is one of the largest infrastructure projects ever undertaken by the Government of Canada under a Public Private Partnership (P3) model and is currently valued at approximately $3.9B CAD. The contract to Design, Build, Finance, Operate and Maintain the new bridge was the conclusion of an exemplary timely and fair process that optimized the division of risk and resulted in excellent value. As such I believe this infrastructure project aligns to your submission terms of reference and would be an excellent model to showcase in your inquiry.

Public Services and Procurement Canada (PSPC) is the Canadian federal government's primary procurement service provider offering federal organizations a broad base of procurement solutions. Procurements range from office supplies to military ships to security systems and everything in between. We are continuously looking to improve our processes and methods of procurement.

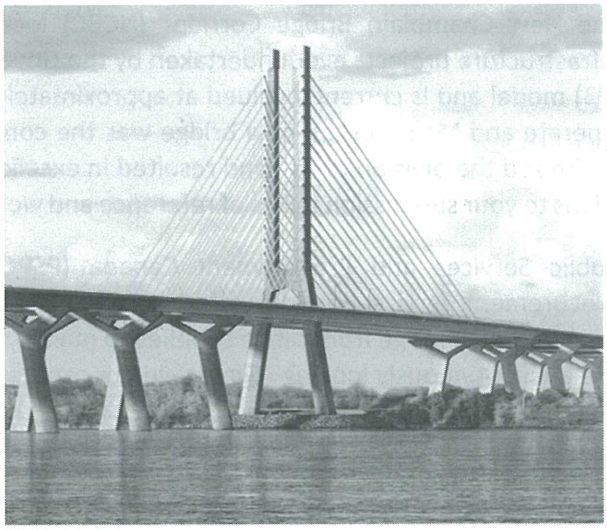
The use of P3s to deliver public infrastructure is relatively new within the Canadian Federal government. However, given its demonstrated advantages and value for money, it is gaining momentum and is expected to become a more common approach to federal procurement for large infrastructure projects.



The Public Private Partnership model of procurement is a long-term performance-based approach for procuring public infrastructure where the private sector assumes a major share of the responsibility in terms of risk and financing for the delivery and the performance of the infrastructure, from design and structural planning, to long-term maintenance. P3s are effective as they engage the expertise and innovation of the private sector combined with the discipline and incentives of capital markets to deliver public infrastructure projects.

The Project

Originally scheduled to be completed by 2021, the new bridge opening was accelerated in December 2013, with a new target date of December 2018 for the delivery of the main bridge and 2020 for the remainder of the corridor.



The design and construction Work includes the following 3 components:

1) New Champlain Bridge: a 3.4 km long, 8 lane bridge across the St. Lawrence River to replace the existing Champlain Bridge;

2) New Île des Soeurs Bridge: a 470 m long, 6 lane bridge linking Île des Soeurs to the Verdun borough to replace the existing Île des Soeurs Bridge; and

3) Reconstruction and widening of Autoroute 15, an approximately 4 km long and 6 lane highway.

The Procurement Process

The NCBC was procured through a two phased approach consisting of a Request for Qualification (RFQ) phase intended to pre-qualify a short list of bidders to be invited to participate in the second phase – the Request for Proposal (RFP). The procurement process took approximately 15 months from RFQ launch to the award of the contract, resulting in excellent value and an early completion of the procurement process.

The following best practices were key in the success:

- Build a solid and nimble governance structure
  - Consolidated expertise of 4 federal departments into a single project team
  - Integrated Project Management Team empowered to make decisions
  - Structure developed to ensure timely decisions making
- Ensure integrity and **"optimize contestability"**
  - Fully disclosed all evaluation criteria and selection methodology
  - Designed processes that reduce arbitrary decisions or political influence
  - Engaged a Fairness Monitor to provide formal oversight of process activities and ensure independent validation and attestation as to fairness of process
  - Relationship Review Committee comprised of senior government executives assessed potential conflicts between and among individuals involved in project, including evaluators, and suggested mitigating measure as required
- Engage industry throughout the process
  - Early and continuous engagement through targeted presentations and one-on-one meetings
  - Industry Day to promote local and regional businesses
  - Commercially confidential meetings throughout the procurement process

- **Reduced the cost of contractors** tendering by pre-qualifying three, providing compensation to unsuccessful proponents and keeping the solicitation period as short as possible.

- Secure a solid team of in house personnel and external advisors
- Build trust with Proponents
  - Be predictable - Provide a procurement schedule and stick to it
  - Foster dialogue, listen and strive to understand their concerns
  - Always prepare for meetings and provide prompt responses to questions
  - Provide as much information as possible on the evaluation criteria

Standard National Processes and Documentation

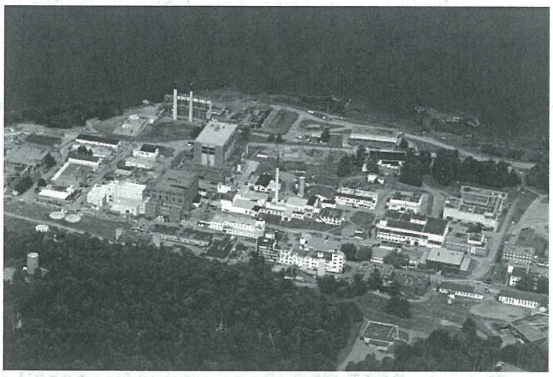
Given the success of the NCBC, the procurement practices and processes that were developed are being used as a model for all future federal P3's. In fact PSPC has established a P3 directorate to ensure standardization and consistent application of these practices across government.

The success of the NCBC procurement was further recognized through the receipt of multiple awards including the Gold Award for Effective Procurement from the Canadian Council for Public-Private Partnerships and the Project Management (Group) Award from the Canadian Institute for Procurement and Material Management and Finance Project of the Year from the 8th Global Infrastructure Leadership Forum.

As a result of the successful procurement of the NCBC the Government of Canada is confident that Canadians will be able to enjoy on time a safe and long-lasting world-class infrastructure in the region of Montreal.

Atomic Energy of Canada Restructuring Project

Facilities:



Background:

In 2009, the Canadian government announced the restructuring of Atomic Energy of Canada Ltd. (AECL) and after first divesting its CANDU reactor Division, it then focussed on the management of its Nuclear Laboratories. The Nuclear Laboratories are comprised of two main sites, Chalk River Laboratories in Ontario (about 3000 employees) and Whiteshell Laboratories in Manitoba, which has been in the process of decommissioning (about 400 employees.)

The Nuclear Laboratories focus is on key missions including;

i- managing remediation of legacy liabilities accumulated during 60 years of nuclear research and development at AECL sites, including decommissioning of some infrastructure;
ii- performing Science and Technology activities; and,
iii- providing access to AECL facilities and resources on a commercial basis to address industry's need for in-depth nuclear science expertise.

In 2013, Canada decided to proceed with a competitive procurement process to retain the services of a Contractor under a Government–Owned, Contractor-Operated (GoCo) model to manage the Nuclear Laboratories. Under the GoCo Model, a subsidiary was created under AECL which contained most of the employees as well as lease/license to AECL assets, etc. This subsidiary was transferred to the Contractor via share transfer as a step in the contracting process, similar in some fashion to the UK model of managing nuclear laboratories. This successful multi-billion dollar initiative was a first of a kind in Canada.

Procurement Process:

Public Services and Procurement Canada, in its capacity as the central buyer for the Federal government of Canada, was the contracting authority for the GoCo procurement process and worked in close collaboration with the project leads, Natural Resources Canada and AECL.

Major milestones in the GoCo procurement included:

- **2012 RFEOI** (Request for Expressions of Interest) to obtain significant industry and other stakeholder inputs to help Canada decide options for the initiative which lead to the definition of a GoCo approach.
- **2013 RFI** (Request for Information), Industry Day kick-off, and supplier one-on-ones used to develop the 3 stage procurement process with a focus on supplier prequalification and detailed consultations at stage 1.
- **Stage 1: 2014 RFRE** (Request For Response Evaluation) to prequalify bidder teams and to permit detailed consultations to be held with these industry teams to develop the competitive RFP documents.
- **Stage 2: 2015 RFP** (Request for Proposal) competitive process to seek bids, conduct bid evaluation, and seek approvals.
- **Stage 3: 2015 Contracting:** June 2015 Issuance of a Preferred Bidder Agreement to the preferred bidder identified in Stage 2 to complete certain closing steps (financial guarantees, clearances, transition work, legal processes). AECL issued the GoCo Contract in September 2015.

The following best practices were key in the success for the GoCo procurement:

- An effective governance structure
  - Governance Committee included multi-departmental participation and joint Deputy-Minister level leadership where risks could be elevated and decision making could be made in a timely manner.
  - Multi-departmental weekly Director General Oversight committee empowered to oversee risks and make decisions where needed.

- Effective bid evaluation procurement strategy
  - Fully disclosed technical criteria, use of situational scenarios and interviews as part of the personnel evaluation, appropriately weighted technical evaluation points in the selection process.
  - Target cost pricing structure for major elements of the decommissioning work to encourage early and effective completion. Financial Target cost approach used. Fully disclosed all evaluation criteria and selection methodology.
  - Designed processes that reduce arbitrary decisions or political influence.
  - Engaged a Fairness Monitor to provide formal oversight of process and procurement activities and ensure independent validation and attestation as to fairness of process.

- Extensive stakeholder consultation throughout the process
  - Early and continuous engagement on GoCo scope development, the procurement process and the RFP development. Manages risk, ensures government - industry understanding and helps allow industry to deliver innovative potential solutions.

- Extensive use of consultation tools such as one-on-one confidential stakeholder meetings, group industry sessions, Industry Day, and sharing of draft procurement documentation
- Industry Day: kick off of process, get industry's attention to allow them to plan around the procurement process, open and transparency served.
- **Group meetings** Good in most cases where Canada wishes to share information with the entire industry group. Usually not as effective in fostering dialogue amongst participants due to bidder fear of revealing their bid preparations.
- One-on-one meetings: More effective in getting substantive feedback from industry participants. Maintain measures to ensure fairness –develop meeting protocols, consistent treatment of suppliers, equality of time with Canada. Advance team planning re discussion.
- **Technical evaluation** – Fine tuning of multi-tier evaluation scales permits evaluators to distinguish between bid quality.
- **Risk and feasibility evaluation** – A unique approach to assess risks associated with target cost bids including logic, reasonableness of the levels of effort, etc. proposed for decommissioning work. (reduced risk of 'low ball' or 'high ball' priced bids and change-order risk).
- **Financial evaluation** – Include as part of the point rated evaluation but ensure extensive sensitivity testing.
- **Bidder Key Personnel Interviews** – Interviews of the executive team proposed by each bidder were very insightful to the evaluation team and worth the challenge included as part of the technical evaluation.
- **Situational Scenario** – A scenario which the bidder team had to work through and present while being observed – a valuable demonstration of the team's capabilities. Both these approaches required detailed logistical planning to avoid fairness risks.
- **National Security Requirement** – To ensure procurement fairness, clear protocol was developed to accept or reject bids.
- **Online data room – Using technology to share thousands of documents.**
- Engagement of the Canada's nuclear regulator, the Canadian Nuclear Safety Commission
- Local communities impacted by the restructuring were engaged through activities such as information sessions.
- **Timeline precision** – Communicate and respect schedule and update industry as soon as possible – this allows them to plan and builds credibility.
- **Flexible prequalification process** – Plan for flexibility in the prequalification process (multiple supplier 'intake' points, corporate changes, etc.)
- Dispute resolution process to manage conflicts, dealings with other stakeholders' (unions, media, etc.) conflicts. Sets the stage for effective working relationships with industry throughout the consultation.

➢ Third Party Expertise

- Use of third party experts including nuclear technical, financial and legal advisors helped ensure the process was effective by providing the best advice possible and adding additional credibility when recommending decisions

- An independent fairness monitor observed the procurement process and published a fairness report to attest to the fairness of the process (http://www.tpsgc-pwgsc.gc.ca/se-fm/2015/mai-may29-2015-eng.html)
- Early and continuous engagement on GoCo scope development, the procurement process and the RFP development
- **Conflicts of interest** - Complex procurement process with many stakeholders require additional diligence and protocols.
- **RFP vetting** – Careful vetting of the RFP to minimize risk of non-responsive bids – from use of 'should' vs 'must', 'request' vs 'require', clarity on all mandatory criteria, stressing elements such as no conditional bids, working fairness as well as flexibility into the process.
- **Performance based Statement of Work** for decommissioning work – essential requirement to decommission is to achieve approval from the Canadian Nuclear Safety Commission for closure of the site. This opened innovation and flexibility (and risk) for bidder solutions.
- **Incentive-based payment structure** – Contractor payment based on incentives. Annual set aside for performance against key performance indicators as well as target cost pricing for facility decommissioning.

➢ Secure a solid team of in house personnel and external advisors

➢ Build trust with Proponents
- Be predictable - Provide a procurement schedule and stick to it
- Foster dialogue, listen and strive to understand their concerns
- Always prepare for meetings and provide prompt responses to questions
- Provide as much information as possible on the evaluation criteria