



Global Affairs
Canada

Affaires mondiales
Canada

Canada

CIPMM 2016

Procuring Abroad in a Volatile Market

Global Affairs Canada

Josephine Dahan, Director Missions Procurement
Operations (AAO)

Brent Hygaard, Procurement Specialist Missions
Procurement Operations (AAO)

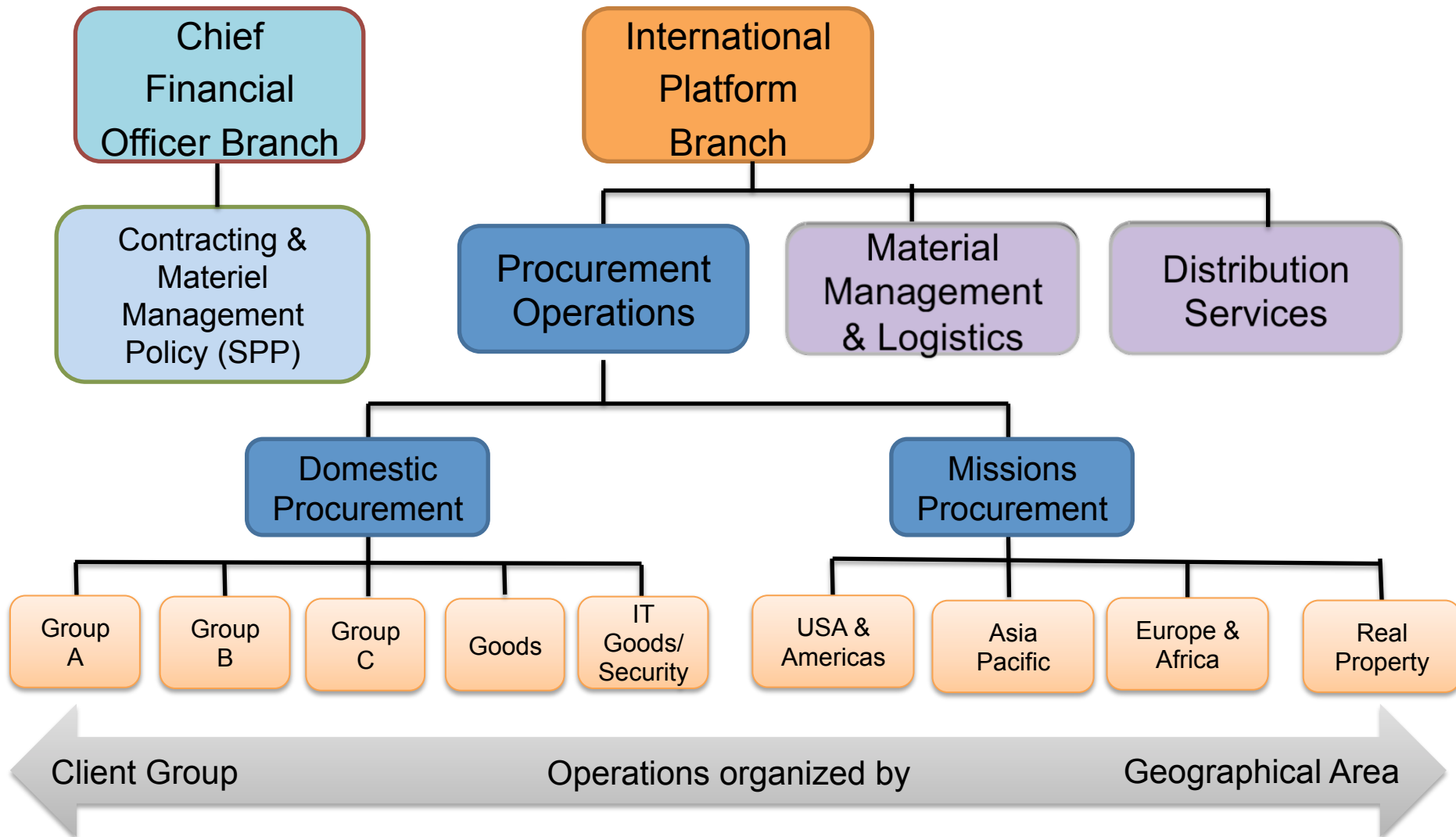
Global Affairs Canada, International Platform Branch (IPB)

- Global Affairs Canada (GAC) is responsible for the conduct of Canada's international relations, including foreign affairs, international trade and commerce, and international development across a network of 177 missions in 109 countries.
- The IPB within GAC supports the operation of all Canadian missions and is the common services point for issues related to procurement, real property, distribution of diplomatic mail, management of locally engaged staff, and foreign service directives.
- GAC procures approximately \$400M per year on goods and services of which half are for mission related procurements.

Top Commodities Purchased for Missions

- Security guard services
- Real property transactions
- Architectural and engineering services
- Rental of space for exhibitions
- Moving and relocation services
- Property maintenance services
- Maintenance of green spaces
- Cleaning services
- Rubbish collection and treatment
- Vehicles and vehicle insurance
- Fuel delivery to missions
- Language Training (mainly French and local languages)
- Temporary help services
- Mail / diplomatic mailbags
- Training services such as vehicle driver training, retirement planning, first-aid training, etc
- Printing services
- Staff Quarter Furniture and other miscellaneous furniture
- Appliances and miscellaneous household items

New Service Delivery Model



Next Wave of Evolution for Procurement at GAC

- ✓ Greater monitoring and oversight by HQ and outreach to missions.
- ✓ Regionalizing procurement functions to Common Service Delivery Points (CSDPs).
- ✓ Develop standardized tools and templates in consideration of local context.
- ✓ Managing of procurement by risk and complexity.
- ✓ Greater professionalization and development of PG Community and those involved in procurement.

Next Wave of Evolution for Procurement at GAC

- ✓ Development of regional strategic sourcing plans in consultation with key internal and external stakeholders and industry.
- ✓ Implementation of a commodity management framework by analyzing procurement spend and market capabilities prior to developing sourcing strategies.
- ✓ Multi-year procurement to gain administrative efficiencies, leverage buying power, and improve vendor performance.
- ✓ Developing pricing strategies and terms that address global circumstances and issues.

PG Skillset Required at GAC

- Analytical skills, including commodity management and strategic sourcing abilities.
- Understanding of government procurement and contracting policies, acts, regulations, including contract terms and conditions.
- Understanding of international procurement considerations such as economic, political, ethical, environmental, social, and legal.
- Negotiation and relationship management skills.
- Interpersonal and team building skills.
- Flexibility to work overtime on short notice and work in different time zones.
- Innovative and creative problem solving in accordance with government policies, acts and regulations.

Challenges and Risks

- The capacity of our network of missions to operate effectively is routinely affected by instability in certain regions of the world.
- Changes in economic, social, or political dynamic within a given country can create challenges to managing our missions in accordance with Canadian standards of governance.
- Additionally, there are unique ethical, environmental and legal issues that arise which further complicate procuring the necessary goods and services.
- Accordingly, planning, oversight, and risk assessment take on special significance in our operation.



Global Affairs
Canada

Affaires mondiales
Canada

Canada

Risks and Challenges for Security Guard Contracts at GAC

Currency Devaluation

- The currency in several South American countries have been dramatically depreciating for several years due to their fragile economic situation. This has had an impact on our ability to retain our suppliers since the value of the contract is virtually worthless in the local currency. As such, several suppliers were looking to terminate their contracts, most notably, our security guards services contractor.

Questions:

1. Is it reasonable for the supplier to seek termination of the contract? If so, what standard government clause would apply?
2. What measures would you take to try to mitigate the situation and negotiate with the supplier to maintain service delivery?

Currency Devaluation Answers

- Question 1:
 - Yes it is reasonable. They can terminate the contract due to Force Majeure using common law or influence a termination as part of Excusable Delay in GC 2035 (10). Though it does not grant them rights to terminate, the Contracting Authority can terminate the contract after 30 days if work cannot resume.

Currency Devaluation Answers

- Question 2:
 - Negotiate with supplier to switch to a more stable currency.
 - Negotiate with supplier to continue to provide services until another service provider can be found.
 - Hire security guards as term or casual employees until economy has stabilized.
 - Bundle requirement within a region so that suppliers can offset losses from one region against a more profitable region in order to maintain supply.
 - Next contract, allow for pricing adjustment calculation for exchange rate fluctuations.
 - Ensure changes are also extended to local guards and periodically verify paystubs to ensure guards are being paid in accordance with the contract.

Inflation Adjustments

- Often our security guard suppliers come to us seeking a rate increase due to increases to inflation. Despite our efforts to seek multi-year pricing, supplier local business practices have been to negotiate rate increases every year. For example, one supplier sought a 27% rate increase when the option (in year 3) was due for renewal arguing that inflation has increase 9% per year though it has been steadily increasing at this rate for the last 5 years. In looking at the file, it appeared that their bid did not allow for a year over year increase.
- Question:
 1. Is it reasonable for the supplier to seek a rate increase to the contract? If so, what aspects would you consider in allowing for a rate increase and how would you prepare for the negotiations.
 2. How would you mitigate this situation moving forward?

Inflation Adjustments Answers

- Question 1:
 - Yes it is reasonable given local business practices
 - Clarifications should have been made prior to awarding the contract in order to ensure pricing will remain firm for the life of the contract without adjustment for inflation.
 - Seek open book pricing to better understand the elements that are impacted by inflation.
 - Do not allow for adjustments for first two years as they should have brought up the issue before.
 - Allow for 9% increase to aspects in their costing that reasonably would have been impacted by inflation such as salaries and some operating costs.
 - Alternatively, you hold the supplier to their pricing and re-compete the requirement.

Inflation Adjustments Answers

- Question 2:
 - Seek year 1 pricing only and structure the pricing to allow for clear calculations of how pricing will be adjusted year over year in order to avoid future negotiations and better predict contract costs.
 - Clear terms and conditions related to how and if price will be adjusted due to changes in inflation, currency, minimum wage, or any other financial circumstance.
 - Clarify with successful supplier to confirm price will remain firm without adjustment for the life of the contract.
 - Seek open book pricing to have on hand for any potential future negotiations.
 - Bundle requirement within a region so that suppliers can offset losses from one region against a more profitable region in order to maintain supply.
 - Ensure changes are also extended to local guards and periodically audit contract to ensure guards are being paid in accordance with the contract.

Human Rights Considerations

- Often in our security guard contracts, we have minimum wage pricing requirements to ensure that suppliers are paying their guards in accordance with local laws. In situations where there is no minimum wages, it becomes a bit more tricky. Furthermore, security guard suppliers should provide human rights training as part of their mandatory guard training. As you can see, human rights are taken seriously at Global Affairs Canada.
- Questions:
 1. How would you structure your pricing to ensure minimum wages are paid to guards?
 2. When minimum wages are not mandated by the local government, how would you address this concern?

Human Rights Considerations Answers

- Question 1:
 - Move from a Firm Fixed Price to a Variable Price per category with clear calculations how price will be adjusted when minimum wage changes occur.
 - In lieu of not having this in the contract, seek open book pricing and correct the issue moving forward.
 - Periodically verify guard paystubs are in accordance with the contract.

Human Rights Considerations Answers

- Question 2:
 - Best combined technical and financial score RFPs (not lowest price) with more emphasis on technical than on pricing.
 - Use general minimum wage where available.
 - Look at outlining countries or regions with similar economic environment for minimum wage estimate (potentially).
 - Seek out salary market reports.

Contracting Authority Limits

- GAC has exceptional contracting authority from TBS for security guard services abroad up to \$3.75M. In some parts of the world, this amount is insufficient to cover one year's worth of service requiring us to seek additional Treasury Board approval. In addition, due to political instability in certain parts of the world, we have had to suddenly increase our security guard contracts bringing at times beyond our \$3.75M contracting authority limit.
- Questions:
 1. How would you respond to these situations?
 2. How would you mitigate this situation moving forward?

Contracting Authority Limits Answers

- Question 1:
 - Emergency contracting authority for departments is \$1M. We have exceptional emergency contracting limit up to \$15M for Chanceries.
 - Award contracts in shorter duration and re-compete annually until TB Submission has been approved (short term measure).
 - Put in place a Standing Offer and award call-ups for the services needed on an annual basis not to exceed \$3.75M.

Contracting Authority Limits Answers

- Question 2:
 - Conduct commodity analysis to determine impacted missions and seek higher authority from TBS for those missions.
 - Put in place a Standing Offer and award call-ups for the services needed on an annual basis not to exceed \$3.75M.
 - Consult with TBS for advice and guidance.

Contract Clauses

- Often suppliers are not familiar with the Government of Canada's competitive bidding processes and do not read Bid Submission Instructions or do not want to accept our terms and conditions. This is not new to government as it happens in Canada as well. However, some commodities are more critical than others such as security guard services and we need to find solutions to ensure we can secure these much needed services. We frequently receive bids from suppliers requesting us to use their terms and conditions. They seek favourable clauses for the supplier to:
 - terminate for convenience without penalty;
 - limit liability; and/or
 - change the governing laws to the local country.
- Questions:
 1. How would you address these 3 types of requests?
 2. How would you mitigate these issues moving forward?

Contract Clauses Answers

- Question 1:
 - Termination for convenience:
 - Reference General Conditions, 2035 S.30.
 - Do not agree. Not reasonable. Supplier bid to provide work and should be ready to commit to their bid.
 - Limitation of Liability:
 - Remain silent and remove clauses on indemnity, 2035 (General Conditions) S.24.
 - Seek TB approval (if possible) and stress to supplier that there is no guarantee of approval.
 - Suppliers are to absorb the risk and seek sufficient insurance.
 - Local Governing Laws:
 - Do not agree as Canada is not familiar with the local laws and in some countries the local laws are non-existent or would not adequately protect the Crown, Standard Template Wording Part 2, S.2.5 “Applicable Laws”.
 - In all instances, seek Legal Advice.

Contract Clauses Answers

- Question 2:
 - Hold bidders conference to go over key conflicting clauses we typically see to ensure suppliers understand our position and to limit negotiations prior to award.
 - Seek bidders acceptance of our terms and conditions (term by term) in their bid submission.
 - Consult with legal to see if there are clauses that can be modified given these circumstances.
 - Remove indemnity clause in draft contract of the RFP.
 - Reach out to OGDs, especially PSPC, for advice and guidance on how they have addressed similar situations.