



With this new law, the government wants a better harmonization of conditions to submit applications for tender. This law allows a series of measures to make procurement easier, like themed workshops, a directory of suppliers, or training for companies in Quebec.

The Law 12 intends to reinforce the significance of relying on local structures, indeed the government will favor the percentage of local purchaser's proportion for the public tenders. The *Autorité des Marchés publics* will favor the goods and services and construction projects of Quebec each time the contracts include expenses higher than the threshold defined by the Canadian Free Trade Agreement but below the threshold defined by the Canadian-European Union Comprehensive Economic and Trade Agreement.

Therefore, even though establishment in Canada is not mandatory to access public tenders it appears essential because of this "local preference". A successful incorporation is not difficult to achieve, but it implies a good knowledge of the country, of local market and its legal framework. It is recommended to speak with appropriate organizations, as Pierrick le Luherme recently did, when he incorporated a subsidiary of Technilium in Montréal in 2011.

Technilium has taken advantage of Business France's services among other experts. Pierrick le Luherme recommends building strong partnerships with local agencies to facilitate the incorporation of the company and the success in the market. It can be beneficial to invest in local certifications for some products and thus obtain a local recognition to maximize the growth of the company. Technilium shared with us an example of a public tender his company has won, within the framework of the Canadian-European Union Comprehensive Economic and Trade Agreement: the company has obtained the public tender for the lightning of the Trilium Line of Ottawa, the tramway of the city and is now able to grow even more in the months and years ahead – bravo and best wishes for future success!

3 - How the Ukrainian War rekindle the Debate about Defence public procurement in Canada

Since the beginning of the war in Ukraine in February 2022, the public debate about defence procurement system has been revived. Indeed, some people advocate for the need for more flexible rules to expedite delivery of military equipment. In the legal framework, there are rules of defence public procurement in Canada, governed by the Canadian Free Trade Agreement as it requires competition, except in particular circumstances, like in wartime.

In this debate, two points of view are opposed. On the one hand, some people stand up for a single, sole source contracting entity when the situation is urgent : it therefore implies that competition be bypassed to provide the military with goods and services. On the other hand, some people believe that public procurement mustn't be the result of a choice of one individual or a group of individuals. It is crucial to foster a fair and transparent competition in order to acquire the best equipment at the right price. It is important to keep in mind that public procurement makes use of Canadian taxpayers' money, so the government must choose the best possible option.



It is interesting to understand how specific the Canada defence public procurement system can be. Amongst his allies, Canada stands alone with its system of 'dispersed accountability', whereas in other countries like the US or Australia, the responsibility falls to the Secretary of Defence. Canada has no Defence procurement Minister but there are two Ministers: The Minister of National Defence and the Minister of Public Services and Procurement. To speed up the whole process, it could be a solution to merge these two entities.

However, beyond those somewhat conflicting viewpoints, some immediate improvements could be introduced in terms of defence procurement process, by including performance and accountability measures to prepare a long-time fully costed capital plan. More than ever, in a rapidly evolving world, the notion of anticipation is proving decisive, and the defence procurement system will remain a crucial issue.

To be continued...

Michel Bricteux (AWEX)
Omar Janjua (Business France)
Marie-Alix Million (Business France)
Isabelle Raux (Business France)