

# GREENING PROCUREMENT IN CANADA: NEW IMPLICATIONS FOR THE CONSTRUCTION INDUSTRY AND BEYOND

Posted on February 1, 2023

**Categories:** [Insights](#), [Publications](#)

In December 2022, the Treasury Board of Canada announced two new standards under Canada's *Policy on Green Procurement* (the "**Policy**"): [\[1\]](#)

1. The *Standard on Embodied Carbon in Construction* which took effect December 31, 2022; [\[2\]](#) and
2. The *Standard on the Disclosure of Greenhouse Gas Emissions and the Setting of Reduction Targets*, which takes effect April 1, 2023. [\[3\]](#)

These new standards support a number of the commitments made in Canada's *Greening Government Strategy*. [\[4\]](#)

## **What is the Policy on Green Procurement?**

Launched in 2006, the Policy aims to reduce the environmental impacts of federal government operations by integrating environmental considerations into the procurement process. It directs federal departments and agencies, including Public Services and Procurement Canada, to incorporate environmental considerations into the procurement decision-making process for purchases of all goods and services. [\[5\]](#)

Until the two new standards announced last month, the Policy focused on high-level goals. For instance, Deputy heads of departments were (and remain) "accountable to": [\[6\]](#)

- "integrate environmental stewardship and life-cycle principles in procurement planning and practices";
- "set green procurement targets tailored to reflect mandates"; and
- "buy environmentally preferable goods and services where value for money is demonstrated", among others. [\[7\]](#)

Unlike these goals, the new standards both impose specific obligations on contracting authorities and, by extension, vendors.

## **Standard on Embodied Carbon in Construction: Supporting Net-Zero Carbon Concrete**

### *i. Application*

The *Standard on Embodied Carbon in Construction*, which generally targets carbon embodied in concrete, is already in effect and applies to procurements initiated after December 31, 2022. This standard affects procurements for design services and for construction services<sup>[8]</sup> for projects valued at \$10 million or more, and which are expected to use more than 100m<sup>3</sup> of ready-mix concrete. This minimum threshold will be reduced to \$5 million projects after 2024.<sup>[9]</sup>

Currently, the standard only covers ready-mix concrete, supporting the government's goal to position Canada as a world-leading producer and exporter of low-carbon cement.<sup>[10]</sup> The covered materials may expand in the future.

This standard does not currently apply in the Yukon, Nunavut or the Northwest Territories, due to the limited availability of low-carbon options.<sup>[11]</sup>

#### *ii. Requirements*

While the standard imposes both carbon disclosure and carbon reduction requirements on such procurements related to design services, procurements for construction services are only subject to the disclosure requirements. In particular, the standard requires vendors to disclose, on a per-project basis, embodied greenhouse gas emissions of certain structural materials. Vendors will be required to complete the "Embodied Carbon Disclosure Template" (the "**Disclosure Template**") prior to project completion.<sup>[12]</sup> The Disclosure Template will ask for information like contractor and material supplier information, identification of concrete used in the project, project mix strengths, and calculations of baseline and reduced greenhouse gas emissions.

In preparing to complete the Disclosure Template, vendors should retain a qualified environmental consultant to assist in the greenhouse gas emissions calculations and budget accordingly for this work. Environmental consultant advice on carbon capture and storage technologies and related products should also be considered to not only ensure that the information provided in the Disclosure Template is accurate, but that Canada's green policy is satisfied and claims made by the vendors with respect to the sustainability of their project is verifiable.

Contracting authorities are required to submit a consolidated report of all Disclosure Templates received, detailing the embodied carbon footprint for all construction projects completed in the year that meet or exceed the applicable thresholds.

In addition to disclosure, vendors of design services must also reduce the carbon footprint of the ready-mix concrete by at least 10% compared to the baseline mix. Carbon capture utilization and storage technologies can be used to reduce the global warming potential of a portion or all concrete supplied to a project. The

reduction requirement may not apply if “the required performance of a structural material hinders the implementation of the [reduction]” or “if a material is not available in a given region”.<sup>[13]</sup> In either case, the engineer of record can provide an exemption rationale, which must be submitted to the relevant federal organization.<sup>[14]</sup>

For more information on ESG initiatives in the construction and development industry generally, see our previous bulletin [here](#).

### ***Standard on the Disclosure of Greenhouse Gas Emissions and the Setting of Reduction Targets***

The *Standard on the Disclosure of Greenhouse Gas Emissions and the Setting of Reduction Targets* will take effect on April 1, 2023.

This standard applies to procurements for material supply after the effective date with a value over \$25 million, including taxes. It requires contracting authorities to “ensure” that the procurement process “induce[s] major suppliers” to measure and disclose their greenhouse gas emissions and to adopt an emissions reduction target that aligns with the [Paris Agreement](#) or equivalent.<sup>[15]</sup>

This standard is broad in that it imposes this obligation on all suppliers for procurements over \$25 million. However, there are a number of exceptions: the standard will not apply for any procurements using emergency contracting authorities or those established through foreign military sales. Similarly, if it is determined that “it is not feasible or appropriate” to apply the standard, the standard will not apply, although a rationale for its inapplicability must be provided and then approved by the applicable deputy head.<sup>[16]</sup>

### ***Potential Impacts***

Vendors in the industry who anticipate participating in a federal public procurement for goods or services should begin considering now how they will adapt their bid responses to account for these additional standards. Even those who do not anticipate contracting directly with a contracting authority may find themselves as subcontracting to such a project, and so may be subject to similar obligations by way of contract flow-through. Additionally, we may see that other owners and industry players begin adopting similar standards in their own private procurement processes, as stakeholders become more conscious of ESG factors.

In a time when market forces, including supply chain interruptions, are already impacting pricing, ability and willingness to bid on projects (including public infrastructure), it would not be unexpected if such increased requirements on bidders resulted in less bids or higher bid amounts. It is unclear if this is anticipated by the government procurement teams, and whether they are taking steps to address the potential impacts (e.g., increased budgets).

## Conclusion

By introducing these standards, the Treasury Board is furthering its goal of reducing the Government of Canada's impact on climate change. Vendors should be prepared to comply with these requirements in forthcoming federal government procurements. If you have any questions, including how to prepare for these requirements, please contact the authors of this bulletin.

- [1] Treasury Board of Canada Secretariat, "[Contracting Policy Notice 2022-3: Introducing two standards under the Policy on Green Procurement](#)" (16 December 2022).
- [2] [Standard on Embodied Carbon in Construction](#), (14 November 2022).
- [3] [Standard on the Disclosure of Greenhouse Gas Emissions and the Setting of Reduction Targets](#), (24 November 2022).
- [4] Treasury Board Secretariat, [Greening Government Strategy](#), ISSN: 978-0-660-24164-7.
- [5] For a list of federal departments and agencies covered by the Policy see section 2, Schedule I and Schedule I.1 of the *Financial Administration Act*, R.S.C. 1985, C. F-11.
- [6] Treasury Board Secretariat, [Policy on Green Procurement](#), (2018) ISBN: 978-0-660-26635-0, s. 7.2.
- [7] Treasury Board Secretariat, [Policy on Green Procurement](#), (2018) ISBN: 978-0-660-26635-0, ss. 7.2.1, 7.2.3, and 7.2.4.
- [8] [Standard on Embodied Carbon in Construction](#), (14 November 2022), ss. 3.2.2 and 3.2.3.
- [9] [Standard on Embodied Carbon in Construction](#), (14 November 2022), Appendix A.
- [10] Innovation, Science and Economic Development Canada, [Government of Canada and Cement Association of Canada launch Roadmap to Net-Zero Carbon Concrete by 2050](#), November 9, 2022.
- [11] [Standard on Embodied Carbon in Construction](#), (14 November 2022), Appendix A.
- [12] [Standard on Embodied Carbon in Construction](#), (14 November 2022), Appendix B.
- [13] [Standard on Embodied Carbon in Construction](#), (14 November 2022), s. 4.3.
- [14] [Standard on Embodied Carbon in Construction](#), (14 November 2022), Appendix C.
- [15] [Standard on the Disclosure of Greenhouse Gas Emissions and the Setting of Reduction Targets](#), (24 November 2022), ss. 1.1 and 3.2.1.
- [16] [Standard on the Disclosure of Greenhouse Gas Emissions and the Setting of Reduction Targets](#), (24 November 2022), s. 5.3.

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## A Cautionary Note

The foregoing provides only an overview and does not constitute legal advice. Readers are cautioned against making any decisions based on this material alone. Rather, specific legal advice should be obtained.

The logo for mcmillan, featuring the word "mcmillan" in a lowercase, sans-serif font. The letters "m", "c", "m", "i", "l", "l", "a", and "n" are in a dark red color, while the letter "c" is in a light blue color. The logo is positioned in the top left corner of a banner image that shows a low-angle view of a modern glass skyscraper against a clear sky.

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