

## The Future is Here: How Canada's own Modern Slavery Act Will Change the RFP Process

by Sharon Sheppard & Michael Asner

Public procurement managers in Canada should be bracing themselves. Ditto large corporate supply chain managers and those chasing business with Canadian government ministries, departments and crown corporations at the federal and provincial levels.

For the procurement people in government and large corporations, Bill S-211 will soon be changing how they handle the RFP and the evaluation process.

**Imagine having to update your RFP templates with new mandatory requirements asking each proponent to describe its program for complying with the regulations under Bill S-211.**

For those responding to RFPs, the new act will soon impose changes to your proposals.

Imagine that your company earns millions of dollars in government business across Canada. You have developed a successful marketing strategy – a way of responding to RFPs – that combines product specifications, customer support, R&D, and price that make you a leader in a highly competitive field. Contracts with governments and public agencies are an important part of your firm's success.

**Imagine that your entire government portfolio, and your future success, now depends on your ability to respond to new RFPs. Imagine new *mandatory* requirements that demand you identify forced/child labour practices in your product offerings and then provide *documentation* on how you mitigate, replace or remove, said 'unclean' components from your products.**

Back in February of 2016, we wrote about how the ripple effect of the UK's Modern Slavery Act will spur fundamental changes in public procurement in North America<sup>1</sup>. Not many people were writing about this topic in North America at the time and our article did not generate a lot of interest. Well, as predicted, those ripples have finally reached Canada's shores.

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<sup>1</sup> In 2016 we wrote 'Pretending' Just Got Harder for Public Procurement: Why The UK's Modern Slavery Act Changes Everything.' This 14-page article discusses the UK's Act and its likely impact on Canadian public procurement. Much of the content of this article is still current. The article also provides links to 25 references.  
<https://www.linkedin.com/pulse/our-opinion-pretending-just-got-harder-public-why-uks-sheppard/>

Effective January 1, 2024, Bill S-211, the *Fighting Against Forced Labour and Child Labour in Supply Chains Act*<sup>2</sup>, goes into effect. Organizations will be required to report on the 'cleanliness', as it were, of their supply chains if they meet *any two* of the following criteria:

- (a) over \$40 million in revenues;
- (b) over \$20 million in assets; and
- (c) over 250 employees.

Those who meet the threshold, will be required to issue annual reports that disclose their

- (a) structure, activities and supply chains;
- (b) policies and due diligence processes in relation to forced labor and child labour;
- (c) businesses parts and supply chains that carry risk of forced labour or child labour and steps taken to assess and manage the risk;
- (d) measures taken to remediate said forced labour and child labour;
- (e) measures to remediate loss of income to the most valuable families that result from any measure to eliminate forced labour or child labour in their activities and supply chains
- (f) training provided to employees on forced labour and child labour;
- (g) assessments on their effectiveness ensuring that forced labour and child labour are not being used in its business and supply chains

Oh yes, and these annual reports will need to be approved and signed off on by the organizations' governing bodies and posted prominently on their web sites.

Federal and Provincial government ministries, departments and Crown corporations are also required to issue these reports.

My prediction is that all of these new requirements will very soon flow down to the RFP process. Government procurement processes will demand that vendors and suppliers provide the evidence that they satisfy newly defined additional mandatory requirements. Evaluation criteria will have to be created that assesses proponents' supply chain declarations and evidence.

Rules around those who are non-compliant will also have to be discussed and amended. In the UK, for instance, they've changed rules to ban those guilty of modern slavery offences from bidding on public procurement contracts.

Supply Chain Canada and other professional procurement associations will provide training and certification to its members.

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<sup>2</sup> <https://www.parl.ca/DocumentViewer/en/44-1/bill/S-211/royal-assent>

One might think that smaller vendors will not be affected and that Bill S-211 will only apply to large organizations. Not so. In order to be able to provide evidence that their supply chain is 'clean', public agencies as well as larger vendors will have to turn to their smaller vendors and suppliers and press them for compliance.

It will take time to wind its way throughout the entire public procurement system, but ultimately the end goal – a supply chain free of forced labour and child labour – will be worth the effort.

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