

Antigua and Barbuda: Sustainable Public Procurement Action Plan

1. Context

1.1 History of SPP in the country

To date, there have been no substantive initiatives undertaken by the Government of Antigua and Barbuda to implement SPP. There is a low level of awareness of SPP with the public sector and, as a result, no stimuli have yet been communicated to the local business community to transition to the supply of sustainable products.

As a result of this project, there is now some nascent interest on the part of Government but substantial support will need to be provided to the Government to help it prepare for and rolling out SPP.

1.2 Contribution to sustainable development objectives

Antigua and Barbuda's Medium-Term Development Strategy 2016-2020 commits the Government, as a key measure to improve expenditure management, to "enact new procurement legislation and regulations and improve the institutional arrangements for procurement in the public sector", as well as to "curtailing expenditure on goods and services and ensuring more efficient use of resources by enhancing procedures for procurement and contract administration". While the Strategy makes no specific link between public procurement and the country's sustainable development goals, these reforms may offer an opportunity to integrate SPP considerations into the legal regime for procurement.

The Medium-Term Development Strategy 2016-2020 also identifies four dimensions of sustainable development: optimal generation of national wealth, enhanced social cohesion, improved natural environment and sustained historical and cultural assets and enhanced citizen security.

Within the natural environment area, the strategy places emphasis improving water resource management, recognizing that, "Antigua and Barbuda is a water scarce country", where the water that can be accessed from natural sources, "is far from sufficient to meet the demand for residential, agriculture and domestic uses"¹. As a result, water resource management, including reducing reliant on expensive desalinated water, forms one of the central objectives of the country's national development strategy and is of paramount consideration when the Government is procuring concrete blocks, given that their production is a water-intensive process.

With respect to the preservation of historical and cultural assets, local production of both these products is also potentially impactful. For example, the Greencastle Hill National Park site, which

has been described as “a tropical Stonehenge” is situated close to a limestone quarry owned by the Ministry of Housing. Therefore, it would benefit the government’s priorities in the area of preservation of historical and cultural assets to ensure that sustainable quarry management practices are followed in the quarrying of gravel for use in the local production of concrete and concrete blocks.

In the energy sector, energy generation is heavily reliant on fossil fuels, with generation from renewable energy resources contributing just 11% of installed energy in 2018. Under the Government’s Sustainable Energy Action Plan, its action plan for diversification of energy sources mandates a target to achieve 15% renewable energy in electricity supply by 2030; as government is a major user of energy, SPP clearly has an important role to play in ensuring the country reaches that target.

1.3 Relevant laws and regulations for SPP

Public procurement in Antigua and Barbuda is governed by the Tenders Board Act of 1991, amended in 2000 and 2002. The purpose of the Act, as its name suggests, is simply to regulate the operations of the Tenders Board (TB); it sets no objectives for public procurement and is silent on most of the key aspects of procurement regulation.

The TB conducts procurement functions on behalf Government, including inviting and evaluating tenders above 100,000 Eastern Caribbean (EC) Dollars (approximately US\$37,000); below that threshold, procurement is conducted on a decentralized basis by individual procuring entities. The Act provides only two procurement methods: Public Tendering, whereby the TB publishes an invitation to tender in the Gazette, and Selective Tendering, whereby the TB or procuring entity selects bidders to be invited directly to submit bids; the Act contains no provision as to a minimum number of bidders to be invited. Selective Tendering may be used “whenever the Board considers it expedient or desirable to do so”;² there are no other conditions for use of the Selective Tendering procurement method.

The Tenders Board (Amendment) Act No. 8 of 2002 weakened the Act of 1991 by adding to the functions of the Board that, “The Board may exempt the Government or any statutory body to which this Act applies from the tender procedure under this Act”. While the Act requires all contracts estimated to cost more than 100,000 EC Dollars to be awarded by Public Tendering, the most widely used procurement method is single source procurement, where only one bidder is invited to participate and there is no competitive process. Single source procurement is not one of the procurement methods provided under the TB Act. In practice, a substantial percentage of public contracts are awarded under waivers to the application of the Tenders Board Act. As a result, the public procurement system of Antigua and Barbuda is characterized by a lack of competition and the availability of excessive discretion under the applicable procurement rules.

The provisions of the Act regarding the criteria to be used in the evaluation of bids are limited and written so as to add to the discretion afforded public officials under the Act. The Act provides that the TB shall accept the tender offering the lowest price except where it has “good reason to justify the acceptance of an offer higher than the lowest offer”.³ The Act does not provide any definition of “good reason” nor any criteria by which such a justification might be made. Acceptance by the Board of a higher offer is subject to the approval of the Minister of Finance on a case-by-case basis.

A new Procurement and Contract Administration Act (2011) has been on the statute book for eight years but the Government has never brought into effect; this Act makes no reference to SPP. While the Government has held up the promulgation of the Act since 2011, its recent action in signing the CARICOM Protocol on Public Procurement may provide the impetus needed to move reform forward, albeit that it has not yet ratified the Protocol, is not currently applying it and has not yet assumed any obligation to transpose its provisions into the country’s domestic legislation.

2. Institutional arrangements and definition of roles and responsibilities

The Ministry of Finance is the lead agency for public procurement, while the Ministry of Works leads on all procurement of civil works for public agencies.

3. List of priority product groups and services and definition of criteria

The products that have been selected to be the focus of Grenada’s SPP Action Plan are:

- preservation of water, improved water usage and reduction of waste water disposal from the production of concrete blocks;
- concrete blocks, including the materials and resources that comprise their production: cement, aggregate, sand and water;
- lumber.

4. Engagement with the market

The Government has yet to engage with the market on SPP but this will clearly have to be a priority for the Government once it moves to ramp up the procurement of sustainability construction materials and in improving the efficiency of water usage in the production of concrete blocks.

5. Development and adaptations of new sustainable procurement tools

5.1 Procurement guidelines

As noted above, the legal framework for public procurement is incomplete. Once the new draft law comes into effect planned for June 2021 – there will be a considerable need for support to Government for the development of Implementing Regulations. The Caribbean Development Bank is currently taking the lead in supporting the Government in the development of its legal framework for public procurement.

5.2 Sustainability criteria

Water conservation and improved usage of water in the production of concrete blocks will be a key sustainable criterion for Government. Also, sustainable extraction of aggregate and gravel, particularly from domestic quarries, for use in concrete blocks will also be a priority; in the specific country context of Antigua and Barbuda, this is also related to the preservation of cultural heritage.

5.3 Updates tender documents

Antigua and Barbuda currently has no standard tender documents. These will have to be developed as part of the development of the country's legal framework for procurement.

5.4 Training modules

There is currently no provision of SPP training. SPP training will be a priority for Government in strengthening its new legal framework for public procurement.

6. Monitoring and control

Monitoring of the implementation of SPP as a procurement policy will be done by MOF. Monitoring of the physical aspects of the adoption of more sustainable materials will fall under the responsibility of the Ministry of Works.

Consultant Name: John Oliver Moss

Consultant Job Title: Expert on Sustainable Public Procurement

Contract No. 2500248038

Product No. 5: SPP Action Plan (Antigua and Barbuda)

Date of Submission: 31 May, 2021