

# An Evaluation of Canada's Procurement Policies for Aboriginal Business

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## Abstract

With the pressures of globalization and the government trends toward a smaller state, many public policy observers have argued that the choice of policy instruments governments have at their disposal is shrinking. Using a policy tool framework, this paper explores this argument by evaluating the Canadian government's Procurement Strategy for Aboriginal Business (PSAB). After defining the policy tool framework, the paper provides an overview of the PSAB program, the rationale behind its creation, and the ways in which procurement strategies have been utilized to stimulate Aboriginal business development and creation. The program's accomplishments and deficiencies are examined, followed by a discussion of how procurement policies, and the PSAB program in particular, show that the policy toolbox from which governments choose their implementation instruments is not shrinking but merely changing to adapt to Canada's changing realities and priorities.

*Keywords:* Canadian public policy, Procurement Strategy for Aboriginal Business, policy toolbox

## Introduction

Procurement policies can be used to encourage various types of action. A review of the literature shows that procurement policies have been used to stimulate innovation and entrepreneurship (Timmermans and Zabala-Iturriagoitia 2013), as well as social outcomes such as racial and gender equality (McCrudden 2004; Orser 2009). Governments in particular may use federal procurement policies to provide opportunities to marginalized groups by stimulating both business development and entrepreneurial activities; however, I will argue that such strategies can create misleading results. Procurement policies can encourage minority businesses to compete for and win contracts, and may also fuel the creation of new businesses to respond to the increase in demand, but the unintended impacts of such policies may actually create a more contentious work environment for those groups who are meant to benefit.

By utilizing a policy tool framework, this paper will evaluate the Procurement Strategy for Aboriginal Business (PSAB) to argue that although procurement policies are limited in their application to Aboriginal communities, their existence shows that policy tools are being utilized in new ways, and that the policy toolbox is not shrinking. I will begin this paper by outlining the policy tool framework and its main arguments, and continue with a discussion of the context of PSAB's creation, in which the federal government came to choose procurement as a policy tool to solve a defined problem. I will then evaluate the success of PSAB in relation to the problem definition and highlight some of the major concerns regarding procurement policies and PSAB in particular, finishing with a discussion on how this innovative use of public procurement policies defies the argument that the policy toolbox is shrinking.

### **The Policy Instrument Conceptual Framework**

Policy instruments are essentially the techniques that form the toolbox from which governments choose to enact their public policy goals (Howlett 2011, 22). By looking at the benefits and downsides of particular instruments, one can begin to decipher why governments choose certain techniques over others. In an era of globalization and privatization of many government services, utilizing a policy tool framework is particularly important, as many argue that the policy toolbox is shrinking as sovereign state policy instruments align internationally to stimulate and facilitate business interactions. Further, by examining instrument use by governments, one can see how instrument choice has been changing over time and which tools remain most effective in a changing state.

Policy tools are central to the public policy cycle: they affect agenda-setting (which utilizes stakeholder consultations and government reviews), they provide the mechanisms for implementation, and they are linked to evaluation through reflective cost-benefit analyses (Howlett 2011, 22). Public procurement is a policy tool that enlists the help of contractors to perform a function of government vis-à-vis a contract, defined as “a business arrangement between a government agency and a private entity in which the private entity promises, in exchange for money, to deliver certain products or services...on the government's behalf” (Kelman 2002, 282). In other words, governments outsource certain responsibilities or tasks to private businesses instead of utilizing internal resources. With the rise of new public management, which utilizes more private-sector techniques within government, contracting private firms to perform public work has become increasingly popular in order to utilize specialized skill sets the government may not need to constantly employ (315).

There are three attributes of procurement that make it a valuable tool for the government: its economic efficiency (through its use of external sources for services to save internal resources), its automaticity, and its level of coerciveness. Steven Kelman (2002) ranks procurement in the “medium” category for automaticity, which measures the extent to which a tool is grafted onto existing administrative structures instead of relying on the creation of entirely

new systems (284). This medium ranking is due to the reliance on “regulations for choosing and overseeing contractors” (284) in place of a pure reliance on the market to sell the contractor’s services; however, public procurement for Aboriginal businesses has a higher degree of automaticity since it is a specialized form of procurement, which is grafted onto a pre-existing procurement structure complete with regulations, staff, and online tools, which will be discussed later.

Procurement strategies through PSAB may also have been chosen by the government to stimulate Aboriginal business development and creation due to its medium level of coerciveness. It was helpful that procurement could be used to encourage Aboriginal prosperity and wealth creation without the use of coercive regulation, such as new funding rules, which could insult communities. Instead, procurement policies put the onus entirely on Aboriginal businesses themselves to seek out contracts. However, as Kelman (2002) points out, “the potential contractor may feel some degree of coercion if it has become dependent on government contracts for its survival” (284). This is a situation that will be touched upon later in this paper.

Finally, this tool was chosen by the government for its ability to promote socioeconomic goals (Kelman 2002, 296). In PSAB’s case, Aboriginal businesses were awarded the first bids on certain government contracts over \$5,000, called set-asides, in order to reward those that may be at a competitive disadvantage in the unregulated marketplace. In Kelman’s words, procurement uses “the immense buying power of government in support of a worthy goal” (314). However, procurement policies may not always allow for the most economical choice due to the finite amount of applicants, and may discourage other non-minority businesses from applying for government contracts, which discourages pure competition (314).

### **Problem Definition**

PSAB’s creation in 1996 was a “response to the underrepresentation of Aboriginal businesses among firms that were seeking and winning federal government contracts” (INAC 2007, i). In other words, Aboriginal communities needed a mechanism to assist in business development and professional interaction with federal departments and agencies. The problem identified was the inadequate number of Aboriginal firms competing for federal contracts. Therefore, a policy tool was needed to improve the contracting relationship. Public procurement contracts can account for a significant amount of a state’s gross domestic product (GDP); for example, procurement contracts can constitute up to 20 percent of the GDP of the European Union annually (Timmermans and Zabala-Iturriagagoitia 2013, 674). Accordingly, this policy tool was a logical method to stimulate Aboriginal business creation, profitability, development, and their acquisition of federal contracts.

Before the creation of PSAB, entrepreneurship trends among Aboriginals were growing in the late 1970s and 1980s due to “dissatisfaction with the results of community business

development and...an increasing emphasis by government on entrepreneurship” (Brant and Brant 1985, quoted in Weir 2007, 8). As a result, the last two decades have seen marked growth in this trend, escalating from approximately 6,000 Aboriginal organizations in the early 1990s up to more than 30,000 by 2007 (Weir 2007, 5). The types of businesses have also changed: the early 1990s saw a 50/50 split between private and not-for-profit businesses, while recent statistics indicate there are now about 3,000 not-for-profits compared to 27,000 for-profit small-to-medium enterprises (Weir 2007, 5). In light of this, the Canadian government began to recognize that Aboriginal businesses were not competing for lucrative government contracts, which could enhance business and economic development for these populations.

In keeping with a suggestion from The Royal Commission on Aboriginal Peoples (1996) that highlighted “the need to develop and support Aboriginal businesses” (cited in Weir 2007, 10), Aboriginal Affairs and Northern Development Canada (AANDC; 2013) created the Procurement Strategy for Aboriginal Business (PSAB) in 1996 to “increase the number of Aboriginal firms participating in the federal procurement process” (i) and stimulate economic development. The program has been lauded as a success and since its inception the program has awarded over \$3.3 billion worth of contracts to qualified Aboriginal businesses; this includes sole proprietorships and co-operatives, which may bid on sub-contract opportunities and “joint ventures with other firms” (i).

### **Procurement Policies as a Solution**

Procurement policies have been marketed as a useful policy tool for stimulating Aboriginal business development, but how exactly does the program work? Primarily, PSAB ensures that contracts relating directly to Aboriginal groups are made available to the affected population. Specifically, PSAB stipulates, “contracts that serve a primarily Aboriginal population are set aside for competition among qualified Aboriginal businesses” though Aboriginal firms are also able to “compete for federal contracts which are open to all qualified suppliers.” As well, the government encourages employees to volunteer set-aside contracts for Aboriginal bids whenever practical (AANDC 2013, 2). The program applies to all federal bodies under the Financial Administration Act and has three components specified by Indian and Northern Affairs Canada (INAC 2007, i):

- Set-aside contracts: Goods or services contracts valued at over \$5,000 “that are destined primarily for Aboriginal populations” must be set aside for Aboriginal businesses so long as they are able to adequately fulfill the contract. Other contracts, outside of these parameters, are also encouraged to be set aside by government bodies.
- Federal purchasing: Targets are annually set for Aboriginal procurement, while information sessions and the departmental PSAB coordinator promote the Strategy.
- Education: Increase the capacity and awareness of PSAB program and its requirements among Aboriginal firms.

PSAB Aboriginal businesses may be sole proprietorships, limited companies, co-operatives, partnerships, or not-for-profit organizations, though all must meet the specific requirements stipulated by INAC (2007, 21):

- At least 51 percent of the firm must be Aboriginal-owned and controlled.
- If the business has six or more full-time staff, at least one-third must be of Aboriginal descent.
- At least 51 percent of the joint venture/consortium must be owned and controlled by an Aboriginal business or businesses, as defined above. If there are six or more employees working for the joint venture/consortium, at least one-third must be of Aboriginal descent.
- If an Aboriginal supplier or the joint venture subcontracts part of the requirement, the Aboriginal component of the work must be maintained. Contractors must certify that an Aboriginal firm will conduct at least one-third of the value of the work performed under the contract.

Public procurement as a policy mechanism can be seen from the institutions-as-tools approach, whereby organizations themselves constitute policy instruments. Accordingly, AANDC delivers PSAB as an instrument for providing both public services and government policy (Hood 2007, 133). Public procurement can also be used to drive innovation to solve societal problems, which first involves, “identifying human needs and societal problems that are not satisfied or solved” (Timmermans and Zabala-Iturriagagoitia 2013, 676). In this case, PSAB helps to alleviate the barriers to the success of Aboriginal businesses and improves the welfare of reserve populations. This is because Aboriginal entrepreneurs often hire other Aboriginal employees, provide necessary products and services to their people (which is particularly important in remote reserves where non-Aboriginal businesses may not operate), and keep the generated revenue within the community (Weir 2007, 23-24). Bram Timmermans and Jon Zabala-Iturriagagoitia (2013) also observe that procurement policies encourage entrepreneurial activities through the development of new firms in reaction to the opportunities provided by the procurement agency (678).

Leslie Pal (2010) notes policy instruments are chosen to tackle a defined problem in order to achieve certain policy goals (130). As previously stated, PSAB was developed to stimulate Aboriginal business development and competition for government contracts. Though the Government of Canada uses multiple methods to stimulate Aboriginal business development – for example community grants for economic development – PSAB is unique in that it further stimulates entrepreneurship and explicitly encourages competition for government contracts (INAC 2007, 10).

On the other hand, governments may not always want to be seen as giving handouts to Aboriginal communities. In the 1990s, the Canadian government was working extremely hard to balance the budget and program spending was being cut (Martin 1996, 11). As a result, public procurement was a policy tool that both assisted Aboriginal business development and allowed them to obtain lucrative government contracts; this would be seen as helping alleviate Aboriginal inequities in contract awards, and creating wealth in communities. Public procurement was also

an inexpensive solution, as it did not provide any extra funding for Aboriginal groups (INAC 2007, 40). The policy simply altered the rules to ensure Aboriginal businesses received a larger portion of the contracts. In developing PSAB, the government recognized the growing number of Aboriginal businesses and college/university graduates, which marked an increased capacity for their competition over government contracts. A new relationship between Aboriginal groups and the government facilitated by procurement would bring socio-economic benefits to Aboriginals, open a gateway for new joint ventures with non-Aboriginal firms to compete for larger government contracts, and expose them to increased involvement in the mainstream Canadian economy (10-11).

### **Is This Really a Public Policy Issue?**

There is a distinction to be made between whether procurement policies are in fact, a public policy issue, under the direction of elected officials, or if they are within the realm of operational and administrative policy. Public policy can easily be defined as “a course of action or inaction chosen by public authorities to address a given problem or interrelated set of problems” (Pal 2010, 35). Administrative and operational policies are those that direct governmental staff in their daily activities and guide actors in administering governmental programs (Ontario Ministry of Natural Resources 2012). As Steven Maynard-Moody and Adam Herbert (1989) point out, a central distinction between the two is that administrative policy is largely formed by “the ideas, norms, routines, and choices of nonelected public employees,” whereas legislative public policy is directed by public officials and can intrude “on the choices and actions of administrative agencies” (137). An argument can be made that procurement policies are housed within the realm of administrative policy, as they appear to be largely informed by the bureaucrats who administer them. This is evident with PSAB, whereby the single evaluation that has been done on the program obtained much of its information from the program’s staff instead of through the elected officials who had a hand in developing the policies. As well, one could take the view that procurement policies merely work to guide staff toward whom they can hire for particular contracts via hiring quotas and regulations around what defines Aboriginal businesses.

However, some important features of PSAB distinguish it from administrative policy, which can be illustrated with the following examples. One example is Maynard-Moody and Herbert’s (1989) discussion of the United States’ food stamp program; here, vague legislation required administrators to fill in the gaps in the policies. With PSAB, public procurement policies were not vague: specific quotas were set for suppliers, the makeup of Aboriginal businesses had to be at least 51 percent, while the policies ensured to include regulations around the makeup of joint ventures, consortiums, and subcontractors. Policies do leave some room for departments to volunteer set-aside contracts, but even these must follow the rigid qualifications of the program. In the second example, Oregon, Colorado, and Connecticut implemented Community corrections, “a form of policy adaptation that placed nonviolent felons into halfway

houses and treatment and training programs”, before any act was passed (138), allowing administrative agencies to be the policy entrepreneurs. Again, this example does not apply to procurement policies for Aboriginal businesses, as government departments did not initiate such programs before the policies were implemented.

Essentially, PSAB’s procurement policies follow Pal’s (2010) definition: they were implemented to tackle the specific problem of federal contracts not being regularly awarded to Aboriginal businesses. In this sense, policy makers realized that they could remedy this specific problem, but could also tackle more interrelated problems such as the poor economic position of Aboriginal communities. As noted, procurement can help alleviate discrimination, stimulate business creation, and bring wealth onto reserve populations since Aboriginal businesses tend to hire other Aboriginals and buy from one another, allowing revenue to stay on reserve (Timmermans and Zabala-Iturriagoitia 2013; Weir 2007, 23-34).

## **Analysis**

PSAB was developed under the rubric of new public management, which aimed to modernize and streamline the public sector using market-based techniques. This organizational style favoured cost-effective methods, including delivering services on a contractual basis, and grafting PSAB onto a pre-existing procurement program to save on new administrative costs. The benefits of public procurement policies are also evident in other countries and industries, such as the private sector. For instance, Syncrude Canada Ltd., Canada’s largest producer of crude oil from oil sands, relies heavily on procurement as a way to engage Aboriginal communities in work contracts. This strategy has been working, and since 2002 it saw \$82 million in Aboriginal business alone, and over \$500 million in the previous decade (Weir 2007, 32). The dollar figures suggest that procurement strategies can work in the private sector to promote Aboriginal business, but can the same be said about the public sector? As in Canada, the United States construction industry provided a vehicle to implement set-aside procurement policies, since infrastructure projects use ample federal funding. Here, “a portion of Public Works funded construction contracts [were] secured by black-owned businesses in an attempt to promote the entrepreneurial black middle class” (Letchmiah 2012, 30). Due to set-aside programs such as 1997s Public Works Employment Act, state, local government, and other federal agencies soon instituted their own procurement programs (31).

Similar to PSAB, Minority Business Enterprises (MBEs) were the target group for set-aside policies, and were defined as any business that was 50 percent minority-owned, including Black Americans (Letchmiah 2012, 31). MBE programs successfully provided market access to minority businesses and also allowed them to gain exposure in the construction sector. Clearly, public sector procurement has the ability achieve positive social policy functions, including the minimization of discrimination against minority groups. It has also been used in South Africa’s construction sector to “address institutional gender discrimination and inequality” (19-20).

Blanchflower and Wainwright (2005) note that the mere use of race-neutral programs fails to stimulate the hiring of minority-owned businesses (cited in Letchmiah 2012, 32). Therefore, procurement policies may be necessary for such groups to gain a foothold in certain industries.

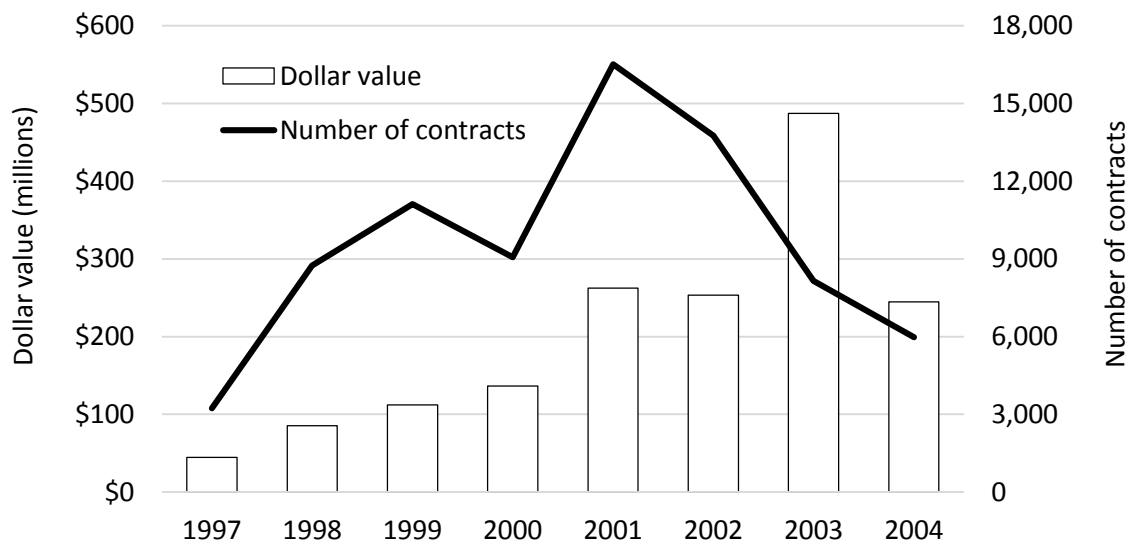
While directly affecting their target population, procurement policies can also create unintended benefits by stimulating the creation of industries that exist in relation to those policies. For example, by bringing attention to the positive benefits that come from employing and partnering with Aboriginal firms, PSAB has helped catalyze the creation of a number of other organizations, including the Public Sector Aboriginal Business Association (Weir 2007, 46-47). The express purpose of this not-for-profit organization is to assist Aboriginal firms with accessing PSAB as well as other government contracts. In doing so, the Association also provides, “a voice for Aboriginal business interests with all levels of government” and provides feedback to continually improve PSAB and other policies that affect Aboriginal business (46-47).

Another primary benefit of the PSAB program in Canada is the ability of the government to utilize the country’s superior internet capabilities to provide government resources and tools. This allows small-to-medium enterprises to better take advantage of various procurement opportunities. In Canada, the government provides: MERX, “the official Canadian public tender website;” Business Access Canada, which raises awareness of procurement opportunities for suppliers and buyers; BizPal, which provides “permit and license processes for entrepreneurs, governments and third party business service providers;” and MARCAN, which posts public sector tender notices and additional information on procurement programs (Orser 2009, 14-15). Lastly, the PSAB website directs Aboriginal businesses to view its free tender notices on the Government Electronic Tender Service, which is managed by Public Works and Government Services Canada (AANDC 2014). These pre-existing online portals, which were used for regular procurement activities, provided a convenient online structure to advertise for new procurement contracts aimed at Aboriginal businesses, and thus contributed to the higher level of automaticity for the PSAB program. Of course, these tools may have limited application to Aboriginal businesses domiciled on reserve or in remote areas where internet access is intermittent or non-existent (Smillie-Adjarkwa 2005, 2). A 2009 Canadian Federation of Independent Business survey notes that a mere 8 percent of micro-firms (one to four employees), which make up the majority of Aboriginal businesses (Weir 2007, 21), utilized MERX (Orser 2009, 17). Furthermore, government offices – where more information is available on tender notices, or the PSAB program itself – may be a far distance from the community, or may be inaccessible during certain times of the year (i.e., ice roads). As such, government procurement strategies do little to encourage entrepreneurship and business development in these remote areas; however, they may serve to be particularly beneficial to those groups who are technically savvy and located near urban areas with better internet connections and more government resources available to them.



A defining aspect of Canada’s procurement policies is the qualification rules. As noted earlier, all Aboriginal businesses bidding on a contract must be, at minimum, 51 percent Aboriginal-owned and controlled (including joint ventures); also, a third of employees must be Aboriginal in companies with six or more full time staff (INAC 2007, 21). A 1996 study noted that the set-aside program initiated in the United States as a procurement strategy was ineffective due to instances where firms claim to be minority-owned, but in fact, the minority owner had little, if any, control of managerial responsibilities (Letchmiah 2012, 32). This same risk is evident in Canada. Though AANDC reserves the right to audit the qualifications of an Aboriginal-owned business, oversight in this arena may not be adequate. Indeed, the United States saw a plethora of abuse in its qualifications for MBE programs due to the lack of verification and monitoring of businesses claiming to be minority-owned, and the minimal penalties for non-compliance (32). In order for procurement strategies to be successful in Canada, oversight cannot be lax. INAC (2007) addressed these unintended outcomes of the PSAB program in their survey of PSAB program staff. They indicated that illegitimate joint ventures (between Aboriginals and non-Aboriginals) were not rampant, however, violators were “not being appropriately penalized for their dishonesty” (37).

A proper evaluation of the entire PSAB program’s expected impacts is unavailable due to a lack of data; however, INAC (2007) has noted the number and value of federal contracts awarded since the program’s creation (29). From figure 1, one can note that the overall dollar value of the contracts has increased since PSAB’s inception, and peaked in 2003. The number of contracts awarded peaked in 2001, then declined in the following years; this suggests that a smaller number of more lucrative contracts are being awarded to Aboriginals.



**Figure 1.** Dollar values of contracts and number of contracts awarded to Aboriginal-owned firms, 1997 to 2004. Adapted from INAC (2007, table 9).

The positive survey results of departmental PSAB coordinators (see table 1), also reflects the opinion that PSAB remains an important mechanism to encourage Aboriginal economic development, and to a slightly lesser degree, encourages joint ventures after a decade of operations (INAC 2007, 12). This suggests that the government views public procurement, and PSAB in particular, as a good policy tool to stimulate Aboriginal business development.

**Table 1.** PSAB Coordinators' level of agreement with statements regarding rationale for PSAB and its components (N=28).

Statement regarding rationale for PSAB and its components	Level of agreement				
	Strongly agree	Somewhat Agree	Somewhat Disagree	Strongly disagree	Don't know/ No response
The rationale for the PSAB remains valid after a decade.	39%	43%	11%	4%	4%
The program for setting aside contracts for Aboriginal firms under the PSAB remains a valid policy tool to support Aboriginal economic development.	32%	46%	14%	4%	4%
Department performance objectives should still include level of procurement from Aboriginal businesses.	43%	39%	4%	7%	7%
Supplier development activities are less important now than five years ago.	14%	11%	36%	29%	11%
There remains a strong rationale for encouraging partnerships (joint ventures and subcontracting arrangements) between Aboriginal and non-Aboriginal firms.	18%	54%	14%	—	14%
The set-aside program is a good way to increase full-time employment within the Aboriginal population.	21%	46%	7%	4%	21%

Source: INAC 2007, table 1

Note: Totals may not sum to 100% due to rounding. PSAB = Procurement Strategy for Aboriginal Business.

One of the other direct impacts expected from PSAB was that it would “increase investment in Aboriginal firms and business startups” (INAC 2007, 13). In other words, it would increase entrepreneurial tendencies to create new businesses. A direct correlation between procurement policies and the creation of new Aboriginal businesses is difficult to assess because the data is generally unavailable. However, there were some positive indications from senior federal procurement officers who noted that since PSAB’s inception, there had been an increase in Aboriginal firms contending for and winning government contracts. However, respondents were also sceptical, noting the limited variety in available goods for purchase from Aboriginal suppliers, which suggests that new businesses may not be forming to fill these supply gaps (36).

Even those businesses that are created in response to procurement demands may be at a disadvantage. As Timothy Bates and Darrell Williams (1996) point out, Minority Business Enterprises (MBEs) that sell to government “have the same survival prospects as MBEs not selling to government” (297). However, those companies that relied on state and local government business for over 25 percent of their sales not only reported lower mean sales than other firms, they were also far more likely to go out of business within four years. This pattern was found to be even more likely for younger firms that relied heavily on government sales (297). According to this study, a heavy reliance on public procurement for Aboriginal entrepreneurs can be particularly damaging, and highlights that this policy tool can be extremely coercive if it creates a form of user dependency (Kelman 2002, 284).

Intrigued by this pattern, Bates and Williams (1996) theorized that 38.8 percent of MBEs relied heavily on government sales and were less than two years in operation simply because they were front companies (297). In other words, a non-minority would partner with a minority to create a company for a specific government contract, which would then dissolve upon completion of that contract. From this, one could hypothesize that government procurement contracts targeted at minority businesses do little to stimulate the creation of enduring Aboriginal companies, but merely lead to short-term partnerships between minorities and non-minorities specific to a single job. Admittedly, this pattern may be more likely when larger contracts are awarded to MBEs that do not have the capacity to complete the contract themselves and are thus forced into partnership with a non-minority company for assistance. However, it remains that government procurement contracts alone are not enough to stimulate long-lasting Aboriginal companies. They must diversify their clientele base in order to ensure their existence (297).

Data compiled by INAC to evaluate the program’s success shows that the proportional value of contracts awarded by Public Works and Government Services Canada through PSAB has declined in recent years, after peaking in 1998 (see table 2). From this data, one could conclude that although a procurement strategy was able to increase the awarding of government contracts to Aboriginal firms, it has not worked well as a reliable, consistent policy tool in the past decade. This supports Bates and Williams’ (1996) assertion that procurement policies for minority businesses may create an over-reliance on government contracts without becoming established in the mainstream market, causing them to go out of business. Further data compiled by INAC shows that about 9 percent of Aboriginal businesses surveyed “indicated that 100% of their revenue had been due to PSAB set-asides”. However, the data compiled in their assessment was merely a snapshot and does not fully assess the long-term impact of PSAB (INAC 2007, 31).

**Table 2.** Value of contracts awarded by PWGSC to Aboriginal businesses by year (in 1996 constant \$).

	Non-PSAB	PSAB	Total	% PSAB
1996	\$31,955,411	\$97,420	\$32,052,831	.3%
1997	\$50,180,835	\$7,126,569	\$57,307,404	12%
1998	\$16,705,470	\$42,144,783	\$58,850,253	72%
1999	\$38,545,226	\$21,137,260	\$59,682,486	35%
2000	\$77,499,161	\$65,312,622	\$142,811,783	46%
2001	\$139,751,874	\$123,534,049	\$263,285,923	47%
2002	\$292,119,951	\$49,353,813	\$341,473,764	14%
2003	\$391,766,873	\$66,983,572	\$458,750,445	15%
2004	\$206,930,064	\$38,471,873	\$245,401,937	16%
2005	\$242,850,508	\$63,880,637	\$306,731,145	21%
2006 <sup>a</sup>	\$376,930,031	\$24,323,021	\$401,253,052	6%
Total	\$1,802,413,733	\$498,311,782	\$2,300,725,515	

Source: INAC 2007, table 10

Note: PWGSC = Public Works and Government Services Canada

<sup>a</sup>Values projected (based on 10 months of data)

Smaller Aboriginal businesses not only have issues when competing with non-Aboriginal firms for government contracts, but they must also compete with larger, more established Aboriginal businesses (INAC 2007, 37), a problem which PSAB does not address. PSAB may therefore only be able to encourage the growth of a few Aboriginal businesses who may grow to dominate federal-contracts, in which case PSAB would fail to properly stimulate the creation of new Aboriginal businesses and to nurture their development into sustainable firms. This problem is further exacerbated if an overabundance of Aboriginal firms compete for the same opportunities. Samuel Myers Jr. and Tsze Chan (1996) describe this phenomenon in their study of minority business set-aside contracts in the United States. Despite equal applications from blacks and Hispanics as white males, blacks' successful bids fell from 28 percent to 21 percent, while Hispanics' fell from 42 percent to 38 percent due to "the increase in the number of bids submitted without a corresponding increase in awards" (214). In other words, policies meant to stimulate the creation of Aboriginal businesses may actually cause a decline in their success rate due to increased competition for the same number of contracts.

The increased formation of Aboriginal businesses also appears to be uneven both regionally and sectorally. PSAB vendors appear to, largely, be situated in either Manitoba or Ontario (47 percent), while 22 percent are located in Quebec or Alberta. Likewise, business survey respondents overwhelmingly indicated that they were "located within 100 km of an urban centre of 5,000 people or more" (79 percent), 46 percent noted they were located in an urban centre, and 34 percent were on reserve. Overall, the construction and manufacturing sectors dominated the makeup of Aboriginal business participants in PSAB, at 28 percent and 20 percent respectively, while program staff noted that PSAB was lacking in architectural, engineering,

surveying, and medical fields (INAC 2007, 38). Surprisingly, despite the high percentage of Aboriginal construction firms participating in PSAB, program staff noted that federal contracts were usually awarded to “large, established non-Aboriginal companies, many of whom are reluctant to hire Aboriginal employees due to negative stereotyping,” leading to the conclusion that PSAB needs to do more to stimulate the skilled trades sectors (i.e. carpentry, electrical, cooling and refrigeration; 38). Such uneven results across regions and sectors may partially be due to ineffective compliance mechanisms, which points to a problem in policy implementation. Only 43 percent of PSAB coordinators indicated that compliance mechanisms were effective, while 39 percent indicated an absence of effective compliance mechanisms altogether; this could be improved with incentives, “penalties for non-compliance and... more training for new and existing staff” (17).

### **A New(er) Tool in the Toolbox**

A key debate within public policy today is that the policy toolbox is shrinking due to globalization and trends towards a smaller state. Many argue, for example, that “countries are aggressive in pressuring other countries to weaken regulations or preferential tax or subsidy treatments that restrict international firms’ business activities,” while international agreements such as the North American Free Trade Agreement, or supranational organizations such as the European Union, restrict the policy instrument choices of sovereign states (Howlett 2011, 6). One of the most eloquent arguments against these claims is that policy tool choice is not being restricted by globalization and a smaller government, but that these patterns are creating a need for new and revised tools. In other words, older policy tools are becoming outdated, and are either being replaced by new instruments, or are being re-imagined to suit new realities (Howlett 2011, 128-130).

To use PSAB as an example of a policy tool, one could argue three points: first, that the use of procurement to affect positive social change within Aboriginal communities marks a trend towards decreased government involvement and a smaller state and thus, a smaller policy toolbox. Second, an argument could be made that international agreement regulations could override any preferential treatment given to Aboriginals, which would render domestic procurement strategies impotent. Lastly, one could argue that Aboriginal procurement policies are not a new instrument for the toolbox, and that they merely constitute one of a decreasing number of tools surviving the downsizing of the toolbox.

Beginning with the first argument, Michael Howlett (2011) points out that any shift towards less direct government tools should not be equated with a wholesale replacement or disassembling of direct government tools, as these “remain the backbone of most policy sectors” (128). In fact, the shift from traditional direct regulatory mechanisms has been complimented by an increase in more voluntary regulatory regimes. This constitutes a form of self-policing, whereby people or markets for instance, tend to subscribe to certain activities without coercive

governmental legislation, they voluntarily take action. This phenomenon evens out the decrease in certain policy tools by an increase in newer types. With PSAB, the traditional method of creating new regulations to enact policy is exemplified by the enactment of regulations surrounding supplier quotas and set-aside contracts, which is accompanied by the support for, and encouragement of, voluntary set-aside contracts as well.

The second concern that international directives would supersede domestic regulations and thus, limit policy tool choice is also refuted by PSAB. The regulations for this program cannot be overridden by international agreements:

*The Agreement on Internal Trade (AIT)* does not apply to any measure adopted or maintained with respect to Aboriginal people. It does not affect existing Aboriginal or treaty rights of any of the Aboriginal peoples of Canada under Section 35 of the Constitution Act, 1982. The *International Trade Agreements* allow for exemptions from their provisions for set aside for small or minority businesses. A contracting opportunity set-aside for Aboriginal suppliers is; therefore, not required to adhere to the provisions of these trade agreements. (AANDC 2013, 7)

Howlett (2011) also notes that the proliferation of international trade agreements merely prohibits a relatively small number of policy tools from being utilized, and even these contain exceptions (6).

The last assertion that procurement policies are not a new tool and are merely part of the shrinking toolbox is partially true. Procurement policies have been in use in Canada for decades in areas such as highway and railway maintenance (Howlett 2011, 71). The point here, illustrated by PSAB, is that procurement policies are being re-imagined in today's globalized world and shrinking state. The intent is to realize procurement goals ("quality, timeliness, cost, minimizing business, financial and technical risks") while simultaneously achieving non-procurement goals, including environmental and social goals (Thai 2001, 27). Admittedly, procurement policies for Aboriginal businesses may not be as effective as they could be, and are undoubtedly in need of complimentary policies to aide in the transition of successful businesses to the mainstream marketplace. However, the traditional procurement policies themselves have been augmented to target specific populations in order to initiate social change. In this way, procurement policies are highly flexible as they can be used to achieve varying economic, social, and political goals, depending on a state's current needs and demands (27), and show that the toolbox is not shrinking, it is merely changing.

## **Conclusion**

The criticisms of PSAB do not suggest that procurement policies are the wrong approach to ensuring Aboriginal business development and creation. On the contrary, the evidence above shows that such policies have undoubtedly helped alleviate the problem as it was defined. From a purely numerical standpoint, PSAB has increased the number of Aboriginal firms competing for

and obtaining federal contracts, while testimonials from PSAB staff indicate that the overall number of businesses competing has increased. However, there are multiple drawbacks to the tool, including the risk of over-reliance on the program (which heightens the tool's level of coercion), the concentration of procurement success to both specific regions and sectors due to ineffective implementation, and the risk that policies may actually decrease success rates for Aboriginal firms by increasing competition for government contracts. Procurement policies must go beyond the simple inclusion of Aboriginal firms in the bidding of government contracts and establish complimentary programs that ensure promising businesses can successfully enter the mainstream market.

PSAB also serves to defy the argument that the policy toolbox is shrinking. It utilizes both traditional direct regulation as well as newer voluntary regulatory regimes for set-asides, showing that any decrease in traditional tools is neutralized by the use of newer instruments. Further, policy makers have ensured that the provisions of international agreements do not override the regulations of PSAB, which ensures that state instruments remain relevant. Most importantly, the augmentation of traditional federal procurement policies to achieve social goals highlights the fact that traditional instruments are being utilized in new and innovative ways, showing that the toolbox is not shrinking, it is simply being re-imagined.

## References

- AANDC (Aboriginal Affairs and Northern Development Canada). 2011. *Procurement Strategy for Aboriginal Business*. [https://www.aadnc-aandc.gc.ca/DAM/DAM-INTER-HQ-ECD/STAGING/texte-text/psab\\_booklet2012\\_1354799215697\\_eng.pdf](https://www.aadnc-aandc.gc.ca/DAM/DAM-INTER-HQ-ECD/STAGING/texte-text/psab_booklet2012_1354799215697_eng.pdf).
- . 2014. "Important Links". Last modified July 21. <http://www.aadnc-aandc.gc.ca/eng/1100100033063/1100100033064>.
- Bates, Timothy, and Darrell Williams. 1996. "Do Preferential Procurement Programs Benefit Minority Businesses?" *The American Economic Review* 86 (2): 294-97. <http://www.jstor.org/stable/2118140>.
- Hood, Christopher. 2007. "Intellectual Obsolescence and Intellectual Makeovers: Reflections on the Tools of Government After Two Decades." *Governance: An International Journal of Policy, Administration, and Institutions* 20 (1): 127-44. doi:10.1111/j.1468-0491.2007.00347.x.
- Howlett, Michael. 2011. *Designing Public Policies: Principles and Instruments*. New York, NY: Routledge.
- INAC (Indian and Northern Affairs Canada). 2007. "Summative Evaluation of the Procurement Strategy for Aboriginal Business (PSAB)." [https://www.aadnc-aandc.gc.ca/DAM/DAM-INTER-HQ/STAGING/texte-text/aev\\_pubs\\_ev\\_psab\\_1328287138191\\_eng.pdf](https://www.aadnc-aandc.gc.ca/DAM/DAM-INTER-HQ/STAGING/texte-text/aev_pubs_ev_psab_1328287138191_eng.pdf).
- Kelman, Steven J. 2002. "Contracting." In *The Tools of Government: A Guide to the New Governance*, edited by Lester M. Salamon. New York, NY: Oxford University Press.
- Letchmiah, Deenadayalan Ruthensamy. 2012. "An Examination of the Effectiveness of Preferential Procurement in the South African Construction Industry." PhD diss., University of the Witwatersrand, Johannesburg.
- Martin, Paul. 1996. "Budget Plan: Including Supplementary Information and Notices of Ways and Means Motions." Ottawa: Department of Finance Canada.
- Maynard-Moody, Steven, and Adam W. Herbert. 1989. "Beyond Implementation: Developing an Institutional Theory of Administrative Policy Making." *Public Administration Review* 49 (2): 137-43.
- McCrudden, Christopher. 2004. "Using Public Procurement to Achieve Social Outcomes." *Natural Resources Forum* 28: 257-267. doi:10.1111/j.1477-8947.2004.00099.x.



- Myers Jr., Samuel L., and Tsze Chan. 1996. "Who Benefits from Minority Business Set-Asides? The Case of New Jersey." *Journal of Policy Analysis and Management* 15(2): 202-26. doi:10.1002/(SICI)1520-6688(199621)15:2<202::AID-PAM3>3.0.CO;2-N.
- Ontario Ministry of Natural Resources. 2012. "Operational and Administrative Policy." Last modified April 25. [http://www.mnr.gov.on.ca/en/Business/Forests/2ColumnSubPage/STEL02\\_164306.html](http://www.mnr.gov.on.ca/en/Business/Forests/2ColumnSubPage/STEL02_164306.html).
- Orser, Barbara. 2009. *Procurement Strategies to Support Women-Owned Enterprises*. Canada Works Limited. [http://www.womensenterprise.ca/sites/default/files/resources/WEConnect%20Canada%20Procurement%20Study\\_Mar09.pdf](http://www.womensenterprise.ca/sites/default/files/resources/WEConnect%20Canada%20Procurement%20Study_Mar09.pdf).
- Pal, Leslie. 2010. *Beyond Policy Analysis: Public Issue Management in Turbulent Times*. 5th ed. Toronto: Nelson Education Ltd.
- Smillie-Adjarkwa, Christine. 2005. "Is the Internet a Useful Resource for Indigenous Women Living in Remote Communities in Canada, Australia and New Zealand to Access Health Resources?" National Network for Aboriginal Mental Health Research. <http://research.arts.yorku.ca/nhnf/DigitalDivide.pdf>.
- Thai, Khi V. 2001. "Public Procurement Re-Examined." *Journal of Public Procurement* 1(1): 9-50.
- Timmermans, Bram, and Jon Mikel Zabala-Iturriagoitia. 2013. "Coordinated Unbundling: A Way to Stimulate Entrepreneurship Through Public Procurement for Innovation." *Science and Public Policy* 40: 674-85. doi:10.1093/scipol/sct023.
- Weir, Warren I. 2007. *First Nation Small Business and Entrepreneurship in Canada*. Saskatoon: National Centre for First Nations Governance. [http://fngovernance.org/ncfng\\_research/warren\\_weir.pdf](http://fngovernance.org/ncfng_research/warren_weir.pdf).