



CANADIAN GLOBAL AFFAIRS INSTITUTE  
INSTITUT CANADIEN DES AFFAIRES MONDIALES

# **The National Shipbuilding Procurement Strategy: How did we get to where we are now?**

by Tom Ring  
March, 2016



# POLICY UPDATE

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**T**he Government of Canada, through the National Shipbuilding Procurement Strategy (NSPS), has embarked on a massive undertaking, the size and complexity of which has not been seen since the Second World War. No project, even hosting the Olympic Games, will cost more, be more complex, take longer or, as we have already experienced, be subject to more scrutiny. No defence procurement in a generation has produced economic returns to Canada on the scale that the NSPS is poised to deliver. No defence procurement has had the ambition of the NSPS's strategic goals, namely to fundamentally recapitalize the Navy and Coast Guard and to do so in a manner that produces a sustainable Canadian shipbuilding industry.

Much has been written recently about the NSPS. Not much has been favourable. The casual (and perhaps even the careful) reader comes away with the impression that Canada embarked on a \$35-50 Billion endeavour that is doomed to fail. Behind schedule...already. Over-budget...already.

As befits a program that will be in excess of \$35 billion there is no shortage of material to write about. Yet, paradoxically, keeping Canadians well informed seems a daunting task. Canadians deserve a sophisticated and analytical perspective on the NSPS. They need to be kept informed based on facts.

Healthy public debate on matters of important public policy is vital to democracy. Differing points of view and outright opposition should be a welcome part of a debate on an issue as important as the NSPS. More needs to be done to inform Canadians, especially with so much taxpayer money at stake.

As the first in a series of contributions to the public debate on this important program, this paper will examine the logic behind the NSPS, review the principles behind the successful selection process, assess what the Shipyards and Canada received in setting out the strategic partnership (including the potential economic benefits for Canada), and conclude with where things stand today and the key challenges to be addressed going forward.

## **WHY DOES THE STRATEGY EXIST?**

Any examination of the National Shipbuilding Procurement Strategy should start with an assessment of first principles. "Why does the NSPS exist?" With an understanding of the conditions and assumptions that led to the creation of NSPS, it is easier to understand why it was shaped as it was and to determine whether the program is meeting its intended goals. So let's begin at the beginning.

Several factors contributed to the development of the concept that we now call NSPS. Almost 15 years ago, officials in the Department of National Defence and the Coast Guard had identified near term capital investment projects of over \$30 Billion, involving over 30 vessels. (It should be noted here that many factors affect cost estimates for complex projects that take many years and in some cases, decades to complete. The initial program costs that were made public in 2010 were not intended to be then, nor should they be now, definitive project by project cost estimates. Rather they are an indicative measure of the massive size of the shipbuilding program



that would be needed). Essentially, due to a lack of any large vessel construction since the 1990s, the Navy and the Coast Guard fleets required a complete re-build.

Historically, the building of federal ships in Canada has been carried out on a project-by-project basis. Shipyards often drifted in and out of bankruptcy protection, were re-structured or bought by new owners or managed to get by on infrequent vessel construction projects or repair and overhaul work. Without a long-term plan, vessel procurements provided for short term employment, often at a high cost to taxpayers. This “boom and bust” cycle of shipbuilding meant that the skilled labour required to build vessels had to seek work in other fields during extended periods of inactivity. Further, shipyard owners were less inclined to invest in technology improvements to keep pace with advancements in the craft of building complex vessels.

In 2006, the Government re-confirmed a 2001 policy decision, and what was essentially a longstanding trend in Canada, that federal vessels would be built in Canada. This was, in part, to ensure that the expenditure of tens of billions of dollars of taxpayers’ money returned as much economic value to Canada as possible. Moreover, it reflected the practice in most countries around the world when it comes to large defence acquisitions.

It is also a frequent criticism of NSPS. “It would be cheaper and faster to build offshore.” This assertion may or may not be correct, but unfortunately, it cannot be either proven or disproven. The challenge of the build in Canada approach is to do so in a manner that respects value for money while ensuring that the billions of dollars of economic benefits remain in Canada. Unfortunately, it is simply not possible to seek quotes from offshore builders for vessels that have yet to be designed, or at least not without incurring high risk premiums and questionable price quotations. Thus, while in theory and/or practice there may be lower labour costs in foreign ship-yards, how this would affect the final price for vessels cannot be stated with certainty, given that labour costs typically represent approximately 30 per cent for the building of complex vessels.

Following the 2006 announcement, the first attempt to rebuild Navy and Coast Guard vessels revealed a number of issues affecting the plans to rebuild the federal fleets over the course of 25-30 years. The failed attempt to procure the Joint Support Ships (JSS) for the Navy brought these issues into clear focus. The unaffordable bids carried an additional 25 per cent risk premium and when the process was stopped almost \$50 million had been spent, and there was nothing to show for it. Having not built any vessels for the Government in 15-20 years, the Canadian shipbuilding industry was not well-positioned to deliver on Canada's ambitious shipbuilding objectives. An extensive review of the industry in 2008 concluded that significant investment in capacity building for the shipbuilding industry was going to be required. It was clear that a new approach to vessel procurement in Canada was needed.

A review of practices in other countries revealed a trend towards consolidation within domestic shipbuilding industries and the establishment of strategic partnerships between ship builders and governments. Officials in the Navy who themselves may have formerly believed that it would be simpler, faster and cheaper to buy abroad, became convinced that Canada should have its own national procurement strategy. In consultation with Canada's shipbuilding industry, government officials developed the strategic partnership approach known as the National Shipbuilding Procurement Strategy. (NSPS)

During this consultation process, most participants supported establishing a strategic relationship with only two shipyards to build all large ships. One shipyard would build all



combat vessels; the other, all non-combat vessels. Dividing the work into two packages also addressed the real concern that there be sufficient bids to make the process truly competitive. While there were five shipyards in Canada that were generally considered capable of doing the work, (Seaspan in Vancouver, Seaway Marine in St. Catharines ON, Davie in Quebec City, Irving Shipbuilding in Halifax, and Peter Kewit in Marystown NL). two had traditionally concentrated their efforts on ship repair and construction of smaller less complex vessels than were required for the Navy and the Coast Guard. Additionally a third, Davie, was in financial difficulty. It was believed that in a competition for the packages of work involved, Davie would resolve its financial difficulties and submit bids and the two remaining yards would aggressively pursue both packages thus resulting in a competition within a competitive process. This analysis turned out to be correct.

This new approach was finally approved by the Government in late spring 2010. In approving the strategy, it was accepted that with five possible bidders spread across all regions of Canada, there would be three losers among Canada's shipyards. Officials were instructed to ensure that the process for selecting the winning shipyards was fair, open, transparent and perhaps most ambitiously, free from any political involvement in the decision-making process. Since this instruction came from Prime Minister Harper himself, it seemed possible that this aspiration might actually be realized.

## THE SELECTION PROCESS

Following the approval of the NSPS concept, a pre-qualification process was conducted in the summer of 2010. The five shipyards listed above were qualified to bid on the two NSPS packages. When the results of the competitive process were announced 15 months later, the selection process was hailed as one of the most successful procurement processes in Canadian history.

The NSPS concept itself was not uncommon. Other countries (most notably the UK) had used similar strategic partnership approaches to deal with shipyard capacity problems combined with the need to build ships over a long period of time. What distinguished the NSPS was the selection process. Four key attributes defined its core: engagement, the use of third parties, the governance process, and transparency. In and of themselves, none of these was unique. It was the extent and manner in which they were applied that had never been done before in any Canadian procurement.

### *Engagement*

Engagement is integral to almost every aspect of the Government of Canada's business. Every department interacts with various stakeholders on a daily basis, be they other federal or provincial departments, industry associations, companies or interest groups. Engagement is a key success factor in achieving the right outcomes, either policy outcomes or business outcomes. Engagement involves sharing information, obtaining feedback, working collaboratively with and empowering individuals and organizations. Engagement is used to inform decisions yet to be taken and not confirm those already made. Further, it usually implies the sharing of risk, accountability and/or responsibility.



In the context of the NSPS procurement, however, the engagement was particularly fraught. For the shipyards, the issues were existential. At the end of the process three of the five would lose. Losing likely meant a serious blow to their long-term viability.

Effective and meaningful engagement in the context of a complex procurement involves an open dialogue where there is a shared commitment to problem identification and problem solving. The magnitude of the NSPS program caused officials to adopt new and innovative approaches to normal practices such as engagement and communications with prospective bidders. Such an approach was new to prospective bidders as well. With the stakes as high as they were, it should surprise no one that, at the outset, there was a genuine feeling of mistrust among all the players. Not familiar with the concept of an open and transparent dialogue and the sharing of ideas on how best to conduct the process fairly, it took several meetings to convince them that the transparency principle was paramount and that all dialogue between the Government and prospective bidders would be open and available to all alike.

Once the initial skepticism had been overcome, and a certain level of trust established, the engagement process proved that it could actually result in innovation. Industry leaders provided excellent ideas for the development of the Request for Proposals documentation, the evaluation criteria, and how those criteria would be applied and scored (e.g. the specific weighting of all evaluation criteria was discussed with and adjusted following industry input). The extensive engagement process evolved into a spirit of a true partnership. All prospective bidders were present during all discussions related to the selection criteria and how the evaluation process would be conducted.

The Government, for its part, adjusted its thinking significantly in such areas as the weighting of key evaluation parameters in recognition of the proposals that were submitted by some of the prospective bidders. The end result both decreased the legal risk usually associated with a normal selection process (i.e. one that did not use such an engagement process), and dramatically reduced the length of time required to take the request for proposals from an initial draft to final document. Whereas the normal timeline for consultations on an RFP in a complex procurement is 12 to 24 months, the initial consultation with bidders began in September 2010 and the RFP was released less than five months later, in early February 2011.

### *Use of Third Parties*

Like engagement, the concept of using independent third parties as part of the procurement process is not new. However, NSPS applied the use of third parties in a way that had never been contemplated. One of the particular challenges with the NSPS selection process was identifying shipyards which, while not currently the most efficient, could produce a detailed plan for how they might become the most efficient shipbuilder over the long-term. To solve this particular problem, the Government hired First Marine International (FMI) the world's leading consultancy firm on shipbuilding practices and the benchmarking of shipbuilding processes. Injecting FMI into the process had the double advantage of introducing a clearly demonstrable expertise which did not exist in Canada and removing this element of the process from any domestic contention.

First Marine International (FMI) was engaged to conduct a benchmark assessment of over 183 aspects of shipbuilding processes and to identify what would be required to achieve efficient shipbuilding practices, typical of the top shipyards in the world (the "Target State"). Prospective bidders not only wholeheartedly supported the concept but had real and meaningful input into



how this assessment would be done and the key elements of how to develop a plan to address deficiencies. With an independent third-party, FMI, establishing the framework for over 60% of the evaluation process, the potential for disputes and disagreements on the evaluation process, in general, was greatly reduced.

In addition to FMI, several other third parties were used in the NSPS selection process. KPMG was engaged to conduct an overall process validation to ensure that the intended procurement process would achieve the desired outcome. PricewaterhouseCoopers (PwC) provided advice on the financial criteria that would be used to assess bidders' financial viability, an element that proved crucial. One potential bidder was engaged in restructuring due to financial insolvency and sought to have one of the mandatory financial requirements waived at time of bid closing. As an added assurance feature, outside independent legal counsel was engaged to provide an opinion on the merits of their request, which was eventually denied. Finally, a fairness monitor, a practice frequently used in procurement, oversaw the entire process, attesting that it had been conducted in a fair manner and that decisions had been made objectively without political influence and encompassed the elements of openness, competitiveness, transparency and compliance.

Taken together, the extensive use of independent third parties strengthened the integrity of the selection process and provided assurance to bidders and Government decision-makers alike that every effort had been made to challenge and validate proposed courses of action. In his audit of the NSPS process in 2013, the Auditor General commented very favourably on the use of independent third parties during the selection process, as did the bidders themselves.

## *Governance*

When the NSPS was formally announced in June 2010, a special Deputy Minister's Governance Committee (DMGC), chaired by the DM of Public Works and Government Services Canada (PWGSC), and including the Deputy Ministers from the Departments of National Defence (DND), Fisheries and Oceans, Industry Canada, Foreign Affairs, Finance, Treasury Board and the Privy Council Office was established to act as the main decision-making body. This committee was set up to ensure that the selection process would be free from any political interference. In addition to the DMGC, a full-time secretariat, housed at PWGSC, with staff from all concerned Government departments was established to conduct the selection process.

Another unique element of the NSPS governance process was the dispute resolution ladder that was used to resolve any disagreements between prospective bidders and the Government officials overseeing the selection process. Any disputes were first referred to an interdepartmental working group at the Director General level. Upon consideration of the issue, a formal decision was issued. If the applicant in the process was unsatisfied with the decision, they had the option of referring the matter to the interdepartmental committee of Assistant Deputy Ministers who would then review the issue. Again, if unsatisfied, the issue could finally be referred to the DMGC for consideration.

This dispute resolution process was used several times during the RFP period. The theory was that it allowed for transparent, nimble decision-making, not a quality normally associated with Government procurements. Both during and after the selection process, the dispute resolution methodology was favourably commented on as ensuring that any prospective problem was fully considered at the most senior levels of Government decision-making.



## *Transparency*

The final attribute was the overall effort to ensure the process was transparent and free from political interference. While an argument has been made that excluding any political involvement from the final decision represented an abdication of ministerial responsibility, the convention of Ministerial accountability does not mean that Ministers make all the decisions they are held responsible for. It is equally true that with the stakes as high as they were and regional politics being what they are in Canada, the edict from the Prime Minister himself that the process was to be “bulletproof” and free from any political involvement was unprecedented and, as some have observed, courageous.

Given the fact that there were several Ministers with a clear interest in the results, a single Minister was designated as the lead Minister for NSPS, the Minister of Public Works and Government Services (PWGSC). This Minister throughout the selection process was Rona Ambrose. She was briefed frequently on the progress of the selection process, but at no time did she or her staff seek out inappropriate information, an excellent example of the differentiation between the Minister’s legal/constitutional responsibilities and the use of Ministerial discretion in actual decision-making. Not surprisingly, learned behaviours from past procurements led to efforts by others from time to time to circumvent the process by tapping into the political level. (e.g. requests for information from several Provincial Governments) However in every single instance, the requestor was directed to contact the officials who were managing the process. On no occasion did such activity result in pressure on those presiding over the process.

Extensive use was made of a dedicated website where all documents, questions and answers, decisions and announcements were posted. A side benefit of the website was that questions from reporters and other interested parties could usually be answered by referring them to the website.

The efforts to keep the results of the evaluation secret were also unique. There were seven separate evaluation teams assessing the different aspects of the bids. Each team was privy to only its own results, and the bids were identified only as Bidder A, B, C, etc. Only the two evaluation co-leads had access to the aggregated scores and during the final approvals process the various bids were only identified by their assigned letters. Only three public servants had knowledge of the outcome prior to the bidders being advised. The two evaluation co-leads and, about one hour before the public announcement at a nationally televised press conference, the PWGSC Assistant Deputy Minister with overall responsibility for the process who called the shipyards and informed them of the results. The prospective bidders were informed of the results before any elected official, a fact that stunned all bidders.

In summary, the application of these four attributes in the National Shipbuilding Procurement Strategy selection process was the main reason that the announcement of the winning shipyards in October 2011 was hailed as a procurement success. Unfortunately, basking in the unusual glow of praise for a Government procurement process, officials failed to communicate effectively enough that the selection of Irving and Seaspan was just the very beginning of a process that would take decades. As time passed through 2012 and 2013, the Government was increasingly criticized that ships were not being built. Not understood by these critics was the fact that the shipyards had to be completely rebuilt before vessel construction could begin. This necessary precondition, an essential component of the entire strategy, had been designed into the process from the outset. The passage of time further contributed to cost estimation/escalation issues that became easy fodder for criticism.



## **THE STRATEGIC PARTNERSHIP**

One of the least understood concepts of the NSPS is the nature of the strategic partnership between the Government and the winning shipyards. The lack of understanding is not surprising given the normal contractor/contractee relationship that exists for procurement processes. Despite repeated efforts at numerous media briefings to fully explain the nature of what is, and is likely to remain, a unique and complex relationship, the normal elements of a contractor/contractee relationship remains the conceptual model most used when commenting on NSPS.

After the selection process, the next step in the National Shipbuilding Procurement Strategy was the negotiation of a partnership agreement between the Government and the shipyards, followed by the work to rebuild shipbuilding capacity in both Halifax and Vancouver. These two activities were expected to take approximately 36 months. The partnership agreements were both signed in February 2012, a mere four months following the announcement of the winning shipyards.

Called Umbrella Agreements, these were framework documents that captured the principles and general intent of the relationship between Canada and each of the selected shipyards. They described certain preconditions prior to the negotiation and award of specific contracts and also set out some specific provisions to be included in each contract. The UA is not a contract to build ships. Rather it sets up the parameters for the negotiation of the ensuing contracts by outlining the elements of the partnership agreement. A key factor contributing to the speedy negotiation of the UA was the fact that the draft of this agreement had been negotiated during the RFP engagement process. Its acceptance was a mandatory bid requirement. Set out below are some of the advantages to Canada and the shipyards of this strategic partnership arrangement.

### *Canada*

1. The shipyard capability to build large federal ships in Canada in a timely and affordable manner would be built at no cost to Canada. Clearly, the investments being made by the shipyards to upgrade their facilities will be funded through profits earned over the course of the program as one would expect in any private sector undertaking. BUT, the open book accounting included as part of the UA and referenced below ensures that the actual capital costs and associated financing charges needed to modernize the shipyards cannot be charged to Canada, at any time. Only the ongoing operating costs of the shipyard are an eligible expense (this is the normal practice).
2. There is significant cost avoidance for Canada. In the traditional project by project process, any facility upgrade needed to do the work would be priced into the contract and paid for by that project, thus likely making the cost of that project unaffordable. In the NSPS strategic partnership approach, the shipyards proposed that in exchange for the long-term package of work they would bear the cost of the facility upgrades. Thus, it can be fairly argued that the NSPS model saved Canadian taxpayers over \$500 million before the process of building ships began.
3. There will be benefits to the broader marine industry through the adoption of the Value Proposition obligations which are over and above normal Industrial and Technological Benefits (ITB) requirements.



4. The arrangement provides for a partnership environment which enhances direct dialogue between Canada and the shipyards to inform decision-making on time-cost-performance-risk trade-offs. This element has already proven to be very useful in the trade-off discussions during the design of the Arctic Offshore Patrol Ships (AOPS) and in the incentive based contract for the AOPS construction.

## *Shipyards*

1. The long term relationship means shipyards can develop labor force capacity and supply chain expertise thereby enhancing their ability to compete for work from outside Canada.
2. The shipyards can marshal resources in advancing technology and innovation which contribute to efficient shipbuilding and gives them the capacity to build the ships needed to meet Canada's requirements.
3. The Umbrella Agreements establish a long-term partnership arrangement to manage the various shipbuilding projects and the required trade-offs needed to achieve success.

Some additional obligations for the shipyards that are set out in the umbrella agreements include:

1. The shipyards have an obligation to upgrade their facility, as outlined above at no cost to Canada, to meet their efficient "target state" within a specified period.
2. Shipyards are required to provide for continuous disclosure of financial status and all legal liabilities on an open book basis.
3. The shipyards have provided Canada with step-in rights to take over the shipyard and complete ships under contract in the event of default.
4. The shipyards have agreed not to enter into exclusive arrangements that restrict Canada's right to contract with or access other sources of supply or services.
5. Canada maintains the right to conduct independent third party value for money assessments of any proposed contract.

Of course, one of the challenges associated with a unique and innovative concept like the National Shipbuilding Procurement Strategy is that it is difficult to benchmark success because it has never been done before. It is far easier to use existing contractor methodology relating to time and cost to assess progress. If one uses such a measure, it is easy to be critical and fundamentally miss the point of the long term value of a strategic partnership like NSPS, an approach now being adopted in Australia.

## *Economic Benefits for Canadian Industry*

With the adoption of the policy that federal vessels would be built in Canada, there was no doubt that there would be substantial economic benefits for Canadian companies. The National



Shipbuilding Procurement Strategy concept further enhanced the potential benefits that flow to businesses in Canada in two specific ways beyond the application of the Government's Industrial and Regional Benefit (changed in 2014 to ITB) policy. That policy, briefly stated, requires that companies awarded contracts must commit to spending an equivalent of the total contract amount in Canada.

The two additional ways that economic benefits flow within Canada are the upgrading of the shipyard facilities to meet the FMI assessed "target state", and the introduction of the concept of the "Value Proposition" as a weighted and rated criterion of the bid submissions.

The first of these ways, the upgrading of the shipyard facilities, has resulted in investments in the two shipyards of over half a billion dollars. These investments are largely unseen to most Canadians, especially for those who have not witnessed the significant transformations that have taken place in Halifax and Vancouver over the past three years. New, modern and efficient shipbuilding facilities have been completed in these two cities and work is underway on constructing the first vessels in each of the combat and non-combat packages. Many dozens of companies across Canada have directly benefited from the building of these new facilities. Being able to fully assess whether or not these facilities achieve the ultimate NSPS goal of revitalizing the shipbuilding industry in Canada is still some time away. What is very obvious right now, however, is that without these facilities, Canada would have had no choice but to acquire its vessels offshore, spending billions upon billions in a foreign country.

The second way in which the NSPS contributed to the enhancement of economic benefits flowing to Canadian companies was the inclusion of the Value Proposition component of the bid evaluation process. The value proposition was a straightforward concept. In exchange for decades of work that would run into the billions of dollars, bidders were obligated to submit a value proposition strategy under which they provided a vision of how their expected spending would meet their offset obligations. Key priority areas that were identified included human resources development, technology investment, and industrial development activities. The value proposition component of the bid was evaluated to assess its impact on metrics such as support for education and training, investments in research and development, employment created, and contributions to productivity, innovation and competitiveness.

The value proposition concept was subsequently adopted for broader application in the 2014 Defence Procurement Strategy (DPS).

## **WHERE ARE WE NOW AND WHITHER NSPS**

Having recently begun the next phase of NSPS, the vessel construction activity, it is timely to conduct a critical assessment of the current progress and examine issues that may prevent the Government from achieving its goals and objectives. Pointing to the original inadequate budget estimation problem noted above and reinforced in the report by the Auditor General, there are those who advocate that the Government scrap the entire process and start over. It is difficult to imagine how a rebooted RFP process could achieve a different outcome. If for some reason, it did, it would then require the Government to pay for the facility upgrade costs, as well as deal with other legal liability matters that the almost certain lawsuits by the NSPS shipyards would seek to claim. Finally, a rebooted process would only achieve what NSPS critics have complained



about: time and money have been wasted while the Navy and Coast Guard are stuck with inadequate vessels.

Instead of rebooting a thus-far successful process, we should look at whether the intended goals are being met at this point in a 25-30 year program.

### *Goal One: Rebuild the Federal Vessels in Canada*

This is being accomplished and while it has been suggested that the ships can be built cheaper elsewhere, no evidence has ever been provided to substantiate this assertion. In addition, the loss of broader economic benefits to Canada may well exceed any cost savings that might possibly be gained from building offshore. Further, it remains to be seen whether the overall Total Cost of Ownership would be lower if the supply chain needed for the entire lifecycle of the vessels resides outside of Canada.

### *Goal Two: Revitalize the Shipbuilding Industry in Canada*

This has been accomplished and the resulting job creation and associated economic benefits are being felt across Canada and will continue to be for some time to come.

### *Goal Three: Maximizes Value for Taxpayers and Fosters Economies of Scale*

This goal is perhaps one of the more contentious elements of NSPS for within its achievement is the implied acceptance by the Government of a “premium” for building vessels in Canada. There is likely no counter argument to the fact that shipyards in Canada cannot match the low labour rates charged by shipyards in Asia. However, for most Canadians, it is also likely a common sense proposition that if we need to invest \$30-50 billion to rebuild the Navy and the Coast Guard we should do so in Canada....as long as we do it in such a way as to maximize productivity and efficiency. This is why Canada engaged First Marine International (FMI), the recognized world leader in assessing shipbuilding processes. Measuring over 183 different processes, FMI has established efficiency and productivity standards, for the winning shipyards, based on leading practices world-wide and any contract to be subsequently awarded is conditional on these standards being maintained. We are only able to assess achievement of this goal after the two shipyards achieve their “target state” as established by FMI, and subsequently verified by them as required by the UA. If one assumes that target state will be reached then FMI has stated that the facilities will be a significant national strategic asset. The resulting economic impact for Canada in the long term will not be only jobs created, but careers created that will last for decades.

### *Goal Four: Establish a Long-Term Strategic Relationship with Two Shipyards*

The elements of this arrangement are set out in the two UAs and include all of the provisions needed to permit value for money assessments, open book accounting, risk sharing, cost/capability trade-offs, etc. Most of these provisions would not exist in a standard contract relationship. For example, in a standard firm price based contract relationship, the contractor prices in all known and unknown risks which the Government pays for, whether or not the risks are realized. An analysis of the achievement of this goal should be possible in another 5-7 years as we get into the second and third projects as the case may be.

### *Goal Five: Realization of the Shipyards Commitments on ITB's and Value Proposition*



The achievement of this goal will require continuous assessment but there is no evidence to date that this will not happen.

There are, nonetheless some very real and problematic challenges to be addressed. There are two that should be discussed. To date, real solutions have not been identified. The first of these is the acknowledged inadequacies of the project budgets. The second is the ongoing challenge of program management for a multi-billion dollar endeavour. Neither is new nor unexpected.

The risk that intended capabilities might not be achieved within the established project budgets was identified by officials involved in implementing NSPS even before the shipyard selection process began. Officials with DND, the Department of Fisheries and Oceans as well as at PWGSC knew that most of the project budgets had been developed many years earlier and needed updating to reflect factors such as cost escalation, technology improvements and new capability requirements. However, given the delays incurred due to the failed vessel procurement processes already, and having nothing better to inform the new budget numbers before design work was well underway on each ship type it was decided to proceed with the overall program of work knowing that budgets would have to be re-visited at the design stage anyway.

In his 2013 assessment of the NSPS, the Auditor General noted that inadequate project budgets could constrain the achievement of required capabilities. No specific action was taken to address the observation.

The second issue is the ongoing management of the program and this is also a critical short-coming. If not addressed adequately, it will continue to hamper the achievement of the overarching goals and objectives of NSPS. Much like the issue of inadequate project budgets, the ongoing management of NSPS implementation was identified as a significant vulnerability in the fall of 2011, shortly after the selection process was completed. The challenge identified at the time was how to ensure that the entire implementation of NSPS was managed as one program and not a series of related projects. PricewaterhouseCoopers was engaged in late 2011 to conduct a review and make recommendations on the “most appropriate governance and operating model to manage the Umbrella Agreements and long-term sourcing relationships that have been created by the NSPS process.”

PwC’s recommendations were never accepted. The costs associated with the horizontal management of the program would have to be borne by the individual projects themselves and sponsoring Departments were unwilling (understandably) to fund the identified management shortfalls.

In summary, the identified key risks to successful NSPS implementation, inadequate project budgets and lack of horizontal program management, still have yet to be fully addressed and represent an ongoing vulnerability to the full achievement of the NSPS goals.

## CONCLUSION

In 2006, the federal Government made a bold strategic decision. (Interestingly, in its recent white paper on defence, the Government of Australia outlined its intention to follow a model very similar if not identical to NSPS.) It would use the renewal of the Navy and Coast Guard



fleets to rebuild Canada's shipbuilding industry. The economic benefits of this construction would accrue not only to the shipyards which eventually won the bidding process. Ancillary benefits would also accrue to the hundreds and thousands of suppliers in this decades-long, multi-billion dollar commitment.

Rather than the well-trodden practice of shipyards bidding on a project-by-project basis, they would bid on the entire package, one for the combat package, the other for the non-combat package. There would be two winners. And there would be three losers. This was not how shipbuilding procurement had ever been done.

A process was put in place which engaged the bidders from the outset, meaningfully involving them in the drafting of the RFP criteria and the evaluation process. All politicians, whether Ministers responsible for the files themselves or interested Members of Parliament, were kept strictly out of the process.

The major criticisms of the NSPS are well known. The various vessel construction projects are over budget and have yet to be delivered. Has the Government maintained sufficient control/authority in the Umbrella Agreements for its partnership arrangement with the shipyards? Does the UA sufficiently protect the Crown's interests? Whether such concerns are real or could now be mitigated if they are real, is a question that deserves to be continually examined given the size, scope and complexity of the program to re-build the federal fleets. To date, sufficient care has not been taken to ensure that the complex principles underlying the process, and the expected outcomes, were understood and communicated to the public. This article is an attempt to contribute to that process.

## **About the Author**

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Tom Ring is a Senior Fellow at the Graduate School of Public and International Affairs at the University of Ottawa. He has an MA in War Studies from the Royal Military College. He retired from the Public Service in January 2015 following a 39 year career, the last five of which were as the Assistant Deputy Minister of the Acquisitions Branch at Public Works and Government Services Canada. In that role he was responsible for the implementation of the selection process for the National Shipbuilding Procurement Strategy.



## **Canadian Global Affairs Institute**

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