

MOWAT RESEARCH #153 | JULY 2017

Delivering Benefit

Achieving Community Benefits in Ontario

BY JAMIE VAN YMEREN & SARA DITTA

Mowat Centre

ONTARIO'S VOICE ON PUBLIC POLICY



School of Public Policy & Governance
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Acknowledgements

The authors would like to thank the key informant interviewees and critical reviewers who generously gave their time, expertise and perspectives to this report. All content and any remaining errors are the sole responsibility of the authors. The authors would also like to thank Elaine Stam for her design work on this report as well as Rajesh Sankat, Mike Morden and Sunil Johal at Mowat for their helpful contributions.

The Mowat Centre would like to thank Metrolinx for commissioning and providing financial support for this report. The content, conclusions and recommendations expressed in the report are the authors' alone.

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©2017 ISBN 978-1-77259-049-4

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When the rubber hits the road, what can policymakers do to make sure that what gets promised to communities actually gets delivered?

EXECUTIVE SUMMARY

Public investments in infrastructure have long been seen as a driver of economic growth and productivity. However, in recent years, unlocking the potential social value of these investments has also become a vital consideration for governments.

The basic premise behind community benefits approaches is that investment in public infrastructure and economic development projects can be better leveraged to create local economic value, as well as other social and environmental outcomes that strategically align with community goals and government mandates.

However, putting these concepts into practice can be difficult. When properly designed and implemented, community benefits and social procurement policies can ensure that benefits accrue to those living in communities. But, if developers and governments are unable to deliver upon their promises, they risk losing the trust of the communities in which they're operating.

This report examines the key success factors for designing effective community benefits requirements for large transit infrastructure projects and how their success can be monitored, tracked and measured – particularly for targeted training and recruitment initiatives. It also offers a series of recommendations to policymakers across Ontario and, in particular, Metrolinx, as the agency moves to implement the promises outlined in its 2014 Community Benefits Framework.

Community Benefits in Ontario

Community benefits approaches involve setting out contractual standards and requirements in government procurement processes and public works contracts to ensure that the benefits of public infrastructure investment flow into the communities where that infrastructure is being built.

The report distinguishes between UK-style approaches to “community benefits clauses” versus US-style approaches to “community benefits agreements”. Looking at Ontario’s legal environment and policy structures, it is argued that community benefits will most likely be achieved by embedding community benefits clauses into procurement contracts.

In jurisdictions that have successfully embraced community benefits clauses, policies that support the inclusion of clauses in contracts tend to have:

- » standardized approaches and defined priorities,
- » more similar contract requirements across the board,
- » clear thresholds for when community benefits will be considered,
- » defined targets in contracts,
- » pre-determined mechanisms for reporting and enforcement.

Key Lessons

- » Systems should be clear and aligned – from high-level regulatory frameworks through to the substance of individual contracts.
- » The strength of community benefits and social procurement policies rests on the definitions of the “social value” or “community benefit” principles contained in them.
- » Thresholds for consideration can spur policymakers to more systematically and thoroughly examine opportunities for community benefits on the projects they’re proposing as a matter of process.
- » Policymakers can ensure that proposed community benefits align with broader policy frameworks and allow industry partners to make informed planning and tendering decisions by conducting community benefits needs assessments up-front.
- » Since contracts are focused on direct benefits to local communities, terms must be defined, fulfilled, enforced and reported on in a way that ensures public accountability. At the same time, procurement processes must not be overly onerous and create unnecessary burdens for contract recipients.
- » Clarity and predictability in procurement processes and expected contract terms are important for contractors in order to make effective planning decisions.
- » Targets in contracts should be clear, meaningful, proportional, and defined up-front.
- » Labour market intermediaries are used in many jurisdictions to help ensure that developers are able to meet targets and hire the populations that have been identified in community benefits clauses.
- » To understand the long-term impact of what’s been achieved, policymakers should consider developing clear evaluation strategies and adopting standardized reporting requirements and performance indicators that directly align to policy objectives.

1 INTRODUCTION

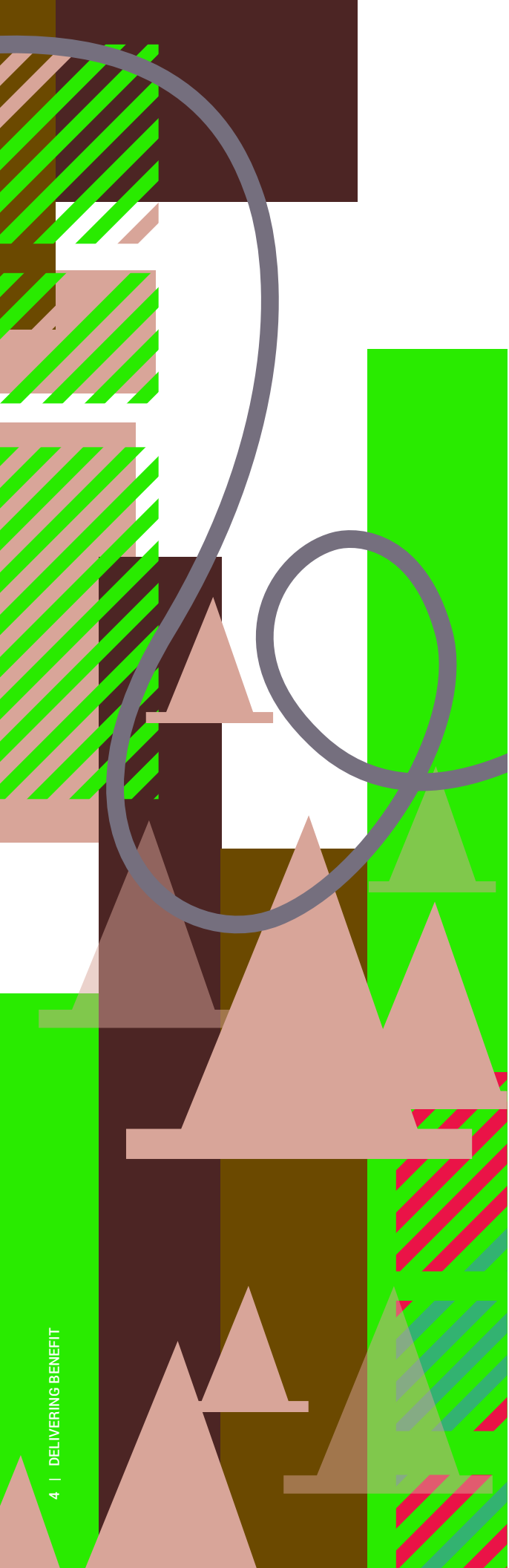
For governments engaged in developing large infrastructure projects, community benefits and social procurement policies are an emerging trend. Public investments in infrastructure have long been seen as a driver of economic growth and productivity; however, in recent years, unlocking the potential social value of these investments has become a vital consideration for governments.

Favoured by community groups and policymakers looking for ways to achieve social outcomes by tapping into pre-existing government spending, community benefits approaches involve setting out contractual standards and requirements in government procurement processes and public works contracts to ensure that the benefits of public infrastructure investment flow into the communities where that infrastructure is being built.

The basic premise behind these approaches is that investment in public infrastructure and economic development projects can be better leveraged to create local economic value, as well as other social and environmental outcomes that strategically align with government mandates.

By implementing community benefits policies, policymakers see significant opportunity to maximize the value of government expenditures by considering how infrastructure projects can help achieve social outcomes alongside more traditional considerations such as project cost, completion time and service quality. Likewise, community groups see potential in the prospect of infrastructure projects providing meaningful public benefits that are often lacking in their communities, such as improved transit access, long-term skilled employment, environmental protection and renewed public spaces.

However, putting these concepts into practice can be difficult. When the rubber hits the road, what can policymakers do to make sure that what gets promised to communities actually gets delivered? If done right, community benefits and social procurement policies can ensure that benefits accrue to those living in communities, but, if developers and governments are unable to deliver upon their promises, they risk losing the trust of the communities in which they're operating.



This report examines the key success factors for designing effective community benefits requirements for large transit infrastructure projects and how their success can be monitored, tracked and measured – particularly for targeted training and recruitment initiatives. To deliver on the promise of these policies, the report will provide guidance to policymakers on five key elements of the community benefits development process:

- » Enabling community benefits
- » Preparing contractors to deliver on commitments
- » Setting effective targets
- » Ensuring the right people get hired
- » Measuring long-term impact

The report also offers a series of recommendations to policymakers across Ontario and, in particular, Metrolinx, as the agency moves to implement the promises outlined in its 2014 Community Benefits Framework.

Research Process

The research process for this report included a review of existing literature and key informant interviews with policymakers and procurement experts engaged with community benefits and social procurement initiatives in Ontario and internationally. Between April and July 2016, a total of 22 interviews were conducted to support the report's conclusions.

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WHAT ARE COMMUNITY BENEFITS?

Community benefits and social procurement policies refer to any government legislation, policy, process, or strategy that seeks to generate social and economic value through public spending on goods, services, and infrastructure.¹ They build on investments that government *would already have made* to provide additional value through efforts such as workforce development, local economic opportunities, environmental sustainability and community initiatives.

Of course, using public investment dollars to achieve dual policy objectives is not a new idea. In particular, infrastructure investment has long been seen as a way to stimulate economic growth and create jobs. However, a renewed focus on ensuring that benefits accrue locally and incorporate broader social policy outcomes into government spending processes means that best practices for procurement and infrastructure planning are changing.

Approaches to Community Benefits

Community benefits and social procurement initiatives vary across jurisdictions – both in their goals and approach. From a high level, initiatives involve setting out contractual standards and requirements through government procurement processes and/or development contracts to achieve desired social, economic or environmental benefits. Previous Mowat Centre research highlights three general approaches to the broader concept of community wealth building,² all of which are designed to ensure accountability

and responsiveness to community concerns. It is important to note that none of these categories are static, however, and definitions can change over time as jurisdictions experiment with new approaches and tactics.

A growing number of governments and institutions have introduced or reformed their procurement and infrastructure policies to include social and economic value considerations.

¹ Dragicevic and Ditta, “Community Benefits and Social Procurement Policies: A Jurisdictional Review.”

² Community wealth building uses public investments and procurement processes to foster greater social impacts in neighbourhoods and communities.

FIGURE 1
Community Wealth Building Approaches³

DESCRIPTION	EXAMPLE
Community Benefit Agreements (CBAs)	
<p>CBAs are formal contractual agreements between developers and community groups representing those who will be affected by a given project. These agreements are legally binding and can be enforced by the parties that signed the agreement. Governments also often serve as an intermediary in these agreements.</p> <p>CBAs are generally negotiated on a project-by-project basis and are often driven by community efforts in response to a project. Developers promise to deliver agreed-upon benefits to communities in exchange for community support and its voice at the table.</p>	<p>Oakland Army Base Year: 2012 Parties: City of Oakland, Revive Oakland coalition Benefits: The Good Jobs Policy that was signed off on by the city, community and developer called for the creation of 3,000 living wage jobs, 50 per cent of which were targeted to local residents in Oakland and 25 per cent of which were targeted for disadvantaged workers.⁴ A cooperation agreement was also signed between the city and community groups relating to the \$800-million redevelopment project designed to ensure commitments were delivered upon.</p>
Community Benefits Clauses	
<p>Community benefits clauses, or requirements, involve embedding social value considerations into contract language through public procurement processes.</p> <p>Contract clauses require those bidding on a specific public procurement contract to provide benefits to surrounding communities or target populations as part of the project delivery process. Government enforces the terms of these agreements.</p>	<p>In 2008, the Scottish government formally incorporated community benefits clauses in its procurement policy – following years of pilot projects. A legislative framework was subsequently developed, through the <i>Procurement Reform Act of 2014</i>, encouraging more robust use of community benefits clauses and requiring consideration of their use for contracts larger than £4 million.⁵ Scotland defines community benefits requirements as relating to training and recruitment, sub-contracting opportunities and other efforts that improve economic, social or environmental outcomes.⁶</p>
Social Purchasing/Procurement	
<p>Social purchasing involves efforts by large institutions – often called “anchor institutions” – to actively seek supplier diversity and purchase from suppliers that deliver a social benefit. This typically involves efforts to reach out to social enterprises and local businesses.</p> <p>The goal is to make government procurement more accessible to businesses and populations that typically would not have the capacity or resources to engage with formal procurement processes but may provide equal or better value, or at least more innovative approaches, compared to larger incumbent vendors.</p>	<p>Pan Am Games Year: 2014-2015 Parties: Government of Ontario Benefits: According to an Auditor General report, the pilot project was successful in local purchasing – with a total of 84 per cent (\$301 million) of goods and services purchased from suppliers in Canada and 66 per cent (\$241 million) from municipalities involved in hosting the games. Additionally, 346 contracts (worth \$23.7 million) involved businesses that represent diverse and underrepresented populations.⁷</p>

3 Dragicevic and Ditta, “Community Benefits and Social Procurement Policies: A Jurisdictional Review.”; Marantz, “What Do Community Benefits Agreements Deliver? Evidence From Los Angeles.”

4 Partnership for Working Families, “Paving the Path to Opportunity: How Revive Oakland Innovated a New Model for Inclusive Economic Development.”

5 Scottish Government, “Guidance under the Procurement Reform (Scotland) Act 2014.”

6 Sutherland et al., “Analysis of the Impact and Value of Community Benefit Clauses in Procurement,” 1.

7 Office of the Auditor General, “2015 Pan Am/Parapan Am Games,” 31.

Of these types, CBAs and community benefits clauses are the most relevant approaches to the construction of large infrastructure projects because they are most aligned to the large, high-dollar value contracts typically awarded for infrastructure builds. Beyond their legal and procedural differences, there has been some variation in how they've been used in different jurisdictions:

» **CBAs have received a lot of attention in recent years and are arguably the most high profile of these approaches.**

CBAs incorporate community benefits into development on a project-by-project basis. Community need is often defined by powerful community coalitions that work with the grassroots community, developers and political leadership to identify concerns and shape demands.⁸ CBAs are a particularly popular vehicle in the United States, which has completed a number of agreements for high-profile projects.

» **However, there is increasing interest in incorporating community benefit requirements more systematically into public procurement processes, starting from the policy level.**

This approach has particularly gained momentum in the UK. Rather than case-by-case project-specific agreements defined by community coalitions that have been pursued by US counterparts, community benefits clauses generally have less of a focus on community advocacy.⁹ Instead, policies that support the inclusion of community benefits clauses in contracts tend to have more standardized approaches and defined priorities. They commonly include more similar contract requirements across the board, clear

thresholds for when community benefits will be considered, targets in contracts (based on size or dollar amounts) and pre-determined mechanisms for reporting and enforcement.

The movement toward more entrenched community benefits requirements has not been confined to EU jurisdictions. A growing number of governments and institutions have introduced or reformed their procurement and infrastructure policies to include social and economic value considerations – with many adopting specific community benefits and social procurement policies in support of these aims.

In the US, as state and local governments have developed familiarity with the CBA model, advocates and policymakers have taken steps to incorporate the principles of individual projects more concretely into ongoing policy frameworks.¹⁰ For example, as they embarked on a 30-year, multi-billion dollar expansion effort, the Los Angeles County Metropolitan Transit Agency adopted a Construction Careers Policy and master Project Labor Agreement with targeted hiring measures. For public works contracts that reach a certain threshold, the agency requires that 40 per cent of construction workers reside in low-income areas, 10 percent of workers be from disadvantaged populations and 20 per cent of workers are apprentices.¹¹

8 Graser, "Community Benefits in Practice and in Policy: Lessons from the United States and the United Kingdom," 11.

9 Ibid., 18

10 Partnership for Working Families, "Delivering Community Benefits through Economic Development: A Guide for Elected and Appointed Officials."

11 Los Angeles County Metropolitan Transportation Authority, "Project Labor Agreement and Construction Careers Policy."

Where to Start?

Policies surrounding community benefits offer clear opportunities to strengthen support for social value objectives. However, challenges can occur almost immediately in determining the types of objectives on which to focus.¹²

While there are a large range of community benefits that can be considered through projects, targeted training and recruitment opportunities for large-scale construction projects are what usually get the most attention. To date, this is often the starting point for jurisdictions looking to introduce community benefits initiatives¹³ – likely because such projects are high profile and tangible. However, this is changing as policymakers explore use of these models in service contracts, supplier diversity and local supply chain initiatives.¹⁴ In many cases, policymakers may choose to start with one approach or area of focus and expand as institutional confidence grows.

12 Barraket, Keast, and Furneaux, *Social Procurement and New Public Governance*, 111.

13 Macfarlane, "Tackling Poverty Through Public Procurement."

14 *Ibid.*, 21.

Defining "Community Benefit"

Definitions of "community benefit" change based on the needs of communities where public dollars are being spent. For example, efforts may focus on improving employment or housing outcomes for local residents or disadvantaged groups, alleviating poverty through new services or community resources, improving a region's environmental outlook, or strengthening local businesses where infrastructure is being built.

However, as community benefits are becoming more common, governments and local agencies are increasingly adopting explicit community benefits and social procurement policies, which often contain definitions of what is meant by "social value" or "community benefit" in a particular jurisdiction.

For example, community benefits policies in Wales identify six categories of "community benefit" under the policy (see Figure 2) and within contracts, activities toward these benefits are focused under two main areas – workforce initiatives and supply chain initiatives.¹⁵

FIGURE 2
Community Benefits
in Wales



15 Welsh Government, "Community Benefits: Delivering Maximum Value for the Welsh Pound," 14.

Stakeholder Perspectives

In general, there are four main stakeholders involved in the community benefits policy process – community groups, industry, trade unions and government. Each of these groups has different perspectives on the promises and pitfalls of community benefits. All of these viewpoints must be taken into consideration in any efforts to implement community benefits policies in the future.

From the perspective of **community groups**, community benefits policies should involve strong engagement with communities to ensure commitments laid out in projects are met. In general, that means community benefits policies should:

- » Provide communities with a voice at the table to express any concerns relating to a development process in their jurisdiction
- » Establish firm targets and thresholds to ensure community interests are achieved
- » Ensure accountability and transparency in processes

Industry groups have their own viewpoints on the potential opportunities and challenges associated with community benefits. While potential advantages to community benefits have been noted by developers, including the value of community support in receiving approval for their projects,¹⁶ there is often risk aversion in changing the status quo and concern that new requirements will slow down the development process. In general, industry stakeholders believe that these policies should:

- » Ensure clarity and predictability in procurement processes, as it is an essential part of the business planning process
- » Be feasible and achievable, given limited capacity
- » Be flexible, as concerns have been raised about the ability to meet specific targets or rigid approaches amid increasing project timelines and costs

Trade unions have distinct viewpoints that involve advocating on behalf of their members and prioritizing their needs. They also have an interest in supporting the potential of these policies to give back to communities in which they operate. The relationships between unions and other stakeholders can be important to the development of certain agreements. In general, trade unions believe these policies should:

- » Be flexible, so as not to displace the existing workforce and ensure fairness for union members
- » Ensure agreements respect existing union commitments
- » Enable unions to gain new members

Finally, **governments** generally highlight the value of addressing multiple policy objectives through these investments. In general, from the perspective of governments, these policies should:

- » Provide them with a strong tool to better address the needs of constituents
- » Address community concerns that emerge from the inconvenience of construction projects
- » Find a balance between prescriptive requirements and flexible approaches to ensure the continued effectiveness of government procurement frameworks

What are the Trade-offs Associated with Community Benefits Policies?

While many stakeholders are excited about the potential to unlock local economic value and improved social outcomes related to community benefits, there are also concerns about the challenges associated with implementing them. Policymakers and industry stakeholders are often concerned about the potential time, effort, cost and value of community benefits efforts. In many ways this is understandable – in recent years, efforts to improve delivery of procurement projects have primarily focused on improvements on timing and budgeting. However, it is important to distinguish between up-front development costs associated with early community benefits efforts versus ongoing costs associated with more routine practices.

Interviews with policymakers and procurement officials with experience incorporating community benefits into policy frameworks stressed that, at least initially, community benefits require a significant amount of time and resources to design and implement. However, as key resources, supports and partnerships are developed and stakeholders gain comfort and experience with the process, transaction costs are decreased.

To make community benefits work for all stakeholders, governments must consider key decision points in relation to the overall design of community benefits policies and frameworks. Systems must find the right balance between prescriptive requirements and flexibility in approach. Poor alignment between policy frameworks and implementation mechanisms make it unlikely that policymakers and community partners will be able to effectively carry out desired initiatives. Throughout the report, recommendations will be made to develop robust community benefits approaches that promote accountability, but also align with the discipline of the procurement process.

How will Community Benefits be Applied in Ontario?

Looking at Ontario's legal environment and policy structures, community benefits will most likely be achieved by embedding community benefits clauses into procurement contracts. Ontario's legislative and regulatory environment have many similarities to the legal foundations and frameworks seen in the UK and, given the prominent role of public-private partnerships in Ontario's infrastructure landscape, the use of community benefits requirements for these types of contracts seems most likely. At the same time, there is no standard model and policymakers in Ontario have the opportunity to select elements from both US and UK-style models. In terms of focus, like many other jurisdictions, early efforts have focused on workforce development schemes, particularly targeted training and recruitment efforts.



DELIVERING ON THE PROMISE

The following section will consider five key questions that relate to the effective development of community benefits clauses for workforce development commitments on large transit infrastructure projects:

- » How to Enable Community Benefits
- » How to Prepare Contractors to Deliver on Commitments
- » How to Set Effective Targets
- » How to Ensure the Right People Get Hired
- » How to Measure Long-Term Impact

To examine how these questions might apply in Ontario, this section will be followed by a case study of the Metrolinx Eglinton Crosstown LRT that focuses on long-term considerations for the development of effective compliance, monitoring and measurement frameworks for future community benefits initiatives under Ontario's AFP model.



A Note on Scope

The following sections will mainly focus on the policy frameworks and supports needed to implement community benefits clauses, with a particular focus on workforce development commitments.

Why Not Social Purchasing?

Social purchasing requirements are often an important element of community benefits requirements included in contracts, or agreements. For example, the CBA in advance of the Vancouver Olympics included local procurement provisions worth \$15 million. However, due to scope, this report will not delve into best practices for developing social procurement policies and practices at a policy level.

Efforts to promote supplier diversity and other supply chain initiatives are often approached differently – requiring distinct strategies and approaches. For example, rather than focusing on large contracts, community benefits goals focused on increasing opportunities for SMEs or social enterprises will often involve procedural changes within normal procurement processes, especially focused on lower-value contract opportunities where government is purchasing directly from a supplier. This could include:

- » Removing procedural barriers that small organizations and social enterprises face during tendering processes
- » Proactively engaging potential suppliers through intermediaries
- » Educating procurement officials about the needs of these groups to change government culture¹⁷

¹⁷ Barraket and Weissman, *Social Procurement and Its Implications for Social Enterprise: A Literature Review*.

3 HOW TO ENABLE COMMUNITY BENEFITS

The first step in the process of delivering on community benefits through contracts is to ensure that there is a supportive enabling environment. Community benefits and social procurement policies exist in a complex legal and policy environment. Implementation requires sustained coordination between internal government stakeholders – as well as with external partners – to incorporate new objectives into existing legislation, policies and administrative processes. Jurisdictions with a successful track record of community benefits initiatives tend to have robust systems and policies in place to support their effectiveness.

Systems should be clear and aligned – from high-level regulatory frameworks through to the substance of individual contracts. Poor alignment between policy frameworks and implementation mechanisms make it unlikely that policymakers and community partners will be able to effectively carry out desired initiatives.

FIGURE 2
Enabling Policy Elements



Legislative and Regulatory Tools

Legal, regulatory and policy efforts often work hand-in-hand to effectively enable community benefit policies. Figure 2 highlights the key elements that governments should consider to enable community benefits and social procurement approaches across government.

Legislation

Many jurisdictions choose to adopt specific legislation in support of community benefits and/or social procurement. The benefits of adopting specific policies are two-fold. Enabling legislation is particularly important in providing:

- » Clarity for policymakers on the types of activities desired and encouraged by government
- » Clear policy rationale for inclusion into procurement activities.

Providing contracting authorities and policymakers with a clear policy rationale is particularly important because many government procurement frameworks – including Ontario’s – require that procurement needs align with “policy/program and/or legislative and regulatory requirements.”¹⁸ Adopting legislation that encourages the consideration of community benefits approaches in desired circumstances can provide a necessary legal foundation for their inclusion as a requirement in procurement, as well as set norms and expectations for policymakers and developers.¹⁹

An example of legislation enabling community benefits clauses is Scotland’s *Procurement Reform Act 2014*, which mandates that contracting authorities consider imposing community benefits requirements on projects of a certain size (£4 million or greater) and provides specific guidance on incorporating clauses. Contracting authorities must include summaries of the community benefits requirements in contract and award notices or otherwise provide a statement of its reasons for not doing so.²⁰ It has been referred to as a “game changer” in advancing community benefits, as well as helping to drive a shift in culture in the way the public sector does business in Scotland.²¹

18 Government of Ontario, “Ontario Public Service Procurement Directive.”

19 Macfarlane, “Tackling Poverty Through Public Procurement,” 24.

20 HM Government, *Procurement Reform (Scotland) Act 2014*.

21 Graser, “Community Benefits in Practice and in Policy: Lessons from the United States and the United Kingdom,” 13.

“CONSIDERATION” OF COMMUNITY BENEFITS

Most legislative and regulatory language that exists is non-compulsory and, instead, calls for a “consideration” of community benefits in contracts, rather than a specific requirement that contracting authorities must include them in all circumstances. A key reason for this is to limit potential disputes regarding non-discrimination language in trade agreements that may not allow for local preference. Similarly, language that focuses on targeting certain demographics (rather than local preference criteria) has been used to get around this concern.²² Additionally, concerns about the ability of governments to enforce uniform, across-the-board requirements for all contracts have prompted some jurisdictions to soften the language and call for a “consideration” of benefits instead of more prescriptive requirements.

However, a careful balance is needed between prescriptiveness and flexibility. Overly broad legislative language can lead to unclear interpretation, and a lack of clear objectives can undermine community benefits by providing no clear direction to contracting authorities on what these policies should resemble.²³

Legislation should:

- » Clearly empower community benefits approaches or requirements in procurement processes
- » Remain broad enough that it encompasses a range of approaches
- » Be bolstered by clear policies and procurement directives that provide substance and direction to procurement experts.

22 Dragicevic and Ditta, “Community Benefits and Social Procurement Policies: A Jurisdictional Review.”

23 Ibid.

Targeted Regulations

In some cases, governments may opt to use targeted regulation to bolster legislative efforts. For example, in 2016, Scotland drafted enabling regulations and guidance in support of the policies outlined in the *Procurement Reform Act*.²⁴ Similarly, the Ontario government is working on regulations related to apprenticeships to support policies outlined in the *Infrastructure for Jobs and Prosperity Act*.

Similar types of tools have also been used in the US, such as ordinances on local or targeted hiring, living wages and contractor responsibility. For instance, targeted hiring ordinances have been used to develop a standardized approach to targeting workers for public works contracts in a given jurisdiction.²⁵

Targeted regulations should:

- » Be considered when there are specific, across-the-board requirements desired by policymakers that do not need to be decided on a case-by-case basis

Procurement Directives

Public sector procurement directives include principles, policies and exceptions for procurement. Ideally, they should not only allow “social considerations” to be considered as part of the procurement process but encourage their inclusion through contract clauses. For instance, clauses permit “social and environmental considerations” under the *EU Procurement*

24 Scottish Futures Trust, “Community Benefits Toolkit For Construction”; Scottish Government, “Guidance under the Procurement Reform (Scotland) Act 2014”; Pinsent Masons, “A Short Guide to Public Procurement Reform in Scotland.”

25 Los Angeles Department of Public Works, “Targeted Hiring Guidelines for Contractors, Project Labour Agreement 2015-2020.”

*Directive.*²⁶ Guidance for specific procurement methods should be updated to reflect any changes or new exceptions.

Procurement directives should:

- » Align with high-level legislation and regulations that enable community benefits
- » Provide clear requirements, exemptions and allowances in terms of both procurement principles and methods.

Strategies and Frameworks

In addition to legislative and regulatory measures, governments, individual ministries or agencies may choose to develop specific policies or strategies that complement and build off of broader legislation.

Well-articulated strategies can help contracting authorities further articulate and define their strategic priorities in relation to the types of community benefits desired and can be particularly helpful where there may be a need for sector-specific policies, guidance or support. For example, Northern Ireland has developed a construction procurement policy framework which includes broad strategic themes that are key to its procurement process alongside specific policy guidance to aid with implementation.²⁷

Technical Guidance

Most jurisdictions choose to develop clear and detailed guidance for contracting authorities that provides technical assistance and examples related to implementation. Guides and toolkits are particularly important to help policymakers, procurement specialists and stakeholders navigate changing procurement processes – clarifying policy scope and best practices in relation to technical issues that may arise. Template contracts, sample clauses and guidance in relation to key performance indicators can promote standardization and ensure that clauses are targeted, measurable and achievable through the terms of the contract.

Resources should provide guidance in relation to:

- » Legislative requirements, focus areas and – where applicable – thresholds for application
- » Specific procurement methods and their technical requirements
- » Business case considerations (Value for Money) and community needs assessments
- » Sample clauses and templates
- » The roles and responsibilities of specific actors in relation to their implementation.

²⁶ European Parliament and the Council of the European Union, *Directive 2014/24/EU on Public Procurement*.

²⁷ Government of Northern Ireland, "Construction Procurement Policy Framework Procurement Guidance Note."

What Should Policies Include?

Internationally, the form of community benefits and social procurement policies and frameworks vary based on jurisdiction and are shaped by differing legal environments, policy drivers and desired social objectives. As a result, the methods used to achieve them are diverse. They often rely on a combination of policy instruments to enable their use. Whether outlined directly in legislation, procurement guidance, or strategy documents, effective community benefit policies usually include:

- » Definitions of “community benefit” and areas of focus
- » Thresholds for consideration
- » Preferred procurement approaches and standard enforcement practices

Definitions of community benefit should be neither too narrow nor too broad.

Definitions of “Community Benefit” and Areas Of Focus

In general, the strength of community benefit and social procurement policies rests on the definitions of the “social value” or “community benefit” principles contained in them.²⁸ Language choices significantly impact the scope of application and clarity of interpretation that these policies may offer. Additionally, a clear focus within policy frameworks can help ease concerns that industry may raise by providing direction and leadership on what exactly community wealth building policies are designed to achieve.

Definitions should be neither too narrow nor too broad. Overly broad definitions may not provide sufficient direction to contracting authorities, whereas overly specific policies may unnecessarily bind efforts to specific types of activities, populations and/or focus areas – which may not be relevant in the long-term or may preclude innovative approaches or challenges that may emerge.

One approach may be to leave legislative definitions relatively broad, while further defining desired areas of focus through non-statutory policies and/or procurement guidance which can be more easily amended as priorities change.

²⁸ Dragicevic and Ditta, “Community Benefits and Social Procurement Policies: A Jurisdictional Review.”

Defining Benefit: San Francisco Public Utilities Commission (SFPUC)

How Can Policymakers Decide Where to Focus Their Efforts?

The San Francisco Public Utilities Commission (SFPUC) offers an illustrative example of how to define “community benefit” in relation to mission, existing efforts, and community need. As San Francisco’s water and sewer agency, with a large catchment area across three counties, SFPUC is well positioned as an anchor institution in the city. Faced with a multi-year, multi-billion dollar water and sewer infrastructure investment across diverse neighbourhoods, SFPUC developed a comprehensive community benefits program to guide SFPUC’s community engagement, operations and infrastructure investment decisions.²⁹

Align Existing Efforts

What was notable about SFPUC’s approach was that it was based on review of efforts that the agency was already undertaking and consultation with the public. In order to clarify objectives, SFPUC staff began by taking stock and mapping out initiatives that the agency was already implementing. Through this initiative, the agency identified more than 80 programs and a lack of strategic alignment among them. After identifying potential areas of impact, the Commission engaged in extensive stakeholder consultations, interviews, surveys and community meetings to better understand community need. As a result of these activities, SFPUC was able to develop a clear definition of how it would interpret community benefits based on these results.

The decision on where to focus its community benefits related to the specific context of that jurisdiction. For instance, arts and culture was chosen as one of the categories that benefits would be designed to support because it is an area in which SFPUC was already investing – in light of a requirement in the San Francisco City Charter that two per cent of funds for above-ground construction is set aside for public art. As a result of the community benefits policy, it realigned efforts among local artists.

SFPUC’s community benefits policy outlines 10 key objectives, which are grouped into five main activity areas:

- » Arts and Culture
- » Workforce and Economic Development
- » Land Use and Environmental Justice
- » Neighbourhood Revitalization
- » Education.³⁰

Using these focus areas as a starting point, the SFPUC works to incorporate these initiatives into their own operations and has embedded community benefits requirements into RFPs worth more than \$5 million.³¹

Limit Scope

When working with contractors, policymakers may choose to narrow which area of community benefits will apply to a specific contract. In the case of the SFPUC, contracting staff have the ability to predetermine or narrow the area of community benefits being considered in the terms of the contract. While they generally allow contractors to design and propose their own initiatives that align with their business strengths, where time considerations or geographic relevance come into play, areas of focus may be outlined in advance through the call for tender. For example, on larger contracts, community benefits proposals may be limited to workforce and economic development initiatives.

This approach may not apply in all cases. Some jurisdictions may choose to adopt very specific regulations that predetermine requirements, while others may choose to redefine community benefits in relation to each agreement and local circumstance. However, SFPUC’s approach provides a clear example of how alignment with high-level policy frameworks can be used to effectively enable and streamline the inclusion of community benefits in contracts.

²⁹ San Francisco Public Utilities Commission, “SFPUC Community Benefits Policy.”

³⁰ Ibid.; City and County of San Francisco, “Adopted Minutes: Southeast Community Facility Commission.”

³¹ San Francisco Public Utilities Commission, “Community Benefits Commitments in Contracts.”

Thresholds for Consideration

When should contracting authorities consider using community benefits requirements, and on what types of contracts? In developing community benefits policies, governments must make decisions on the thresholds at which community benefits requirements should apply.

There can be a lot of confusion surrounding the term “threshold” when talking about community benefit requirements. Setting “thresholds for consideration” of community benefits requirements does not mean that community benefits can, or should only, be applied on contracts above a certain dollar amount. In fact, many jurisdictions, including the City of Toronto, have had a lot of success introducing social purchasing requirements, or even benefits such as training opportunities, on small projects.³² Similarly, it does not mean that community benefits must be applied to all contracts valued above a procurement value.

Instead, thresholds are concerned with the infrastructure planning and procurement process. Thresholds for consideration can be seen as an administrative catalyst for policymakers to more systematically and thoroughly examine opportunities for community benefits on the projects they’re proposing as a matter of process. They may signal the point at which more stringent, or standardized community benefit requirements come into play, or place more onus on policymakers to explain why or why not community benefits are included on a given contract. Thresholds can be particularly helpful when there are different legal or procedural procurement requirements that come into effect at certain contract values or on different procurement types.

32 City of Toronto, “Poverty Reduction Strategy - Social Procurement Program”; City of Toronto, “Mayor Miller Officially Opens Youth Hub at 1652 Keele St.”

While some have pegged projects worth at least \$100 million as appropriate for incorporating enhanced community benefits requirements in infrastructure projects (which is the same threshold used by Infrastructure Ontario to assess AFP feasibility³³), others have suggested much higher threshold levels.³⁴ In fact, thresholds do not need to be defined by monetary value at all. For example, depending on its social outcome goals, a transit authority might choose to routinely consider community benefits requirements when their proposed projects are located within a community with a certain proportion of low income residents, or when a project is expected to include a certain number of labour hours.

In practice, jurisdictions have taken varied approaches to threshold levels:

- » Scotland requires the consideration of clauses on contracts larger than £4 million.³⁵
- » In Wales, all contracts require consideration of community benefits on all contracts “where such benefits can be realized,” but contracts with an estimated value of more than £2 million are required to report outcomes via the Community Benefits Measurement Tool.³⁶
- » Detroit is working on an ordinance that would require developers to include community benefits in projects worth more than \$75 million with municipal subsidies of at least \$1 million. This effort was approved by city council and the city’s voters in a 2016 ballot measure. It is reported to be the first city in the United States with “such a sweeping requirement.”³⁷

33 Infrastructure Ontario, “Market Update - Spring 2015.”

34 Galley, “Community Benefits Agreements.”

35 Scottish Government, *Community Benefits in Public Procurement*; Welsh Government, “Community Benefits: Delivering Maximum Value for the Welsh Pound.”

36 Scottish Government, “Guidance under the Procurement Reform (Scotland) Act 2014.”

37 Guillen and Helms, “Detroit Voters Back Proposal B Community Benefits Plan”; Ferretti, “Prop B Wins, Prop A Fails in Detroit Community Benefits.”

» In the United States, certain targeted hiring initiatives (many of which were through Project Labor Agreements) required that contracts be worth amounts ranging from \$50,000 to \$25 million, though some had no set limit.³⁸

Procurement Approaches

There are a number of different ways that policymakers can approach community benefits clauses in procurement. Some requirements may be focused and mandatory, while others are broad and voluntary. The approach chosen by policymakers in a given jurisdiction will depend on the social and economic objectives they seek to achieve, as well as any legal considerations.

Whether through direct government procurement, or through some form of public-private partnership, jurisdictions that have successfully adopted community benefits clauses tend to pursue three main approaches within competitive bidding processes. Though terminology varies between jurisdictions, in general, there are three key approaches to clauses:³⁹

Core: as part of the subject matter of the contract and reward criteria

Community benefits that are a 'core' part of contract requirements and are included as part of the process of selecting and awarding a contract are in this category. Ability to carry out community benefits requirements, or submitted community benefits proposals may be scored as part of the tendering process.

Non-core: as a requirement or deliverable within a contract

Community benefits that are part of the contractual conditions and planned deliverables, but are not a core requirement that is considered in the selection and award process are in this category.

Voluntary: commitments made outside of the contract

Some jurisdictions have opted to take a voluntary approach – which involves commitments that are made outside of contract language, or contract language that is written to be non-binding.

Most jurisdictions with comprehensive community benefits policies and guidance allow for both core and non-core approaches to procurement. Both of these approaches require bidders to carry out community benefits requirements, the difference lies in how bidders are assessed on those requirements during the procurement process. In Wales, the core approach is identified as a best practice and the default for all procurement.⁴⁰ However, both core and non-core approaches are encouraged, as well as the usage of both approaches within certain contracts. Likewise, Northern Ireland allows for both approaches but notes that contractors may regard contract conditions/deliverables ("non-core" approach) as less important to the commissioner than the use of core deliverables in the contract.⁴¹ In both approaches, procurement authorities must decide how they will define their objectives/targets in advance. See Figure 3, p. 24 for further detail.

38 UCLA Labor Center, "Exploring Targeted Hire: An Assessment of Best Practices in the Construction Industry."

39 Based on definitions outlined by Northern Ireland Strategic Investment Board, "Buy Social Toolkit"; Government of Northern Ireland, "Construction Procurement Policy Framework Procurement Guidance Note"; The Scottish Government, "Guidance under the Procurement Reform (Scotland) Act 2014"; Welsh Government, "Community Benefits: Delivering Maximum Value for the Welsh Pound."

40 Welsh Government, "Community Benefits: Delivering Maximum Value for the Welsh Pound," 29.

41 Northern Ireland Strategic Investment Board, "Buy Social Toolkit," 15.

The voluntary approach has been described as more of a corporate social responsibility approach than true community benefits clauses since contracts do not hold any requirements to ensure desired initiatives are carried out.⁴² Procurement experts stress that they do not prefer voluntary approaches, as these methods are generally unenforceable and are much weaker than the other two models.⁴³ For example, Wales allows for voluntary approaches as a last resort. Procurement guidance outlines it as an exception for instances where contracts have been awarded out of line with the Wales Procurement Policy Statement.⁴⁴

42 Macfarlane, "Tackling Poverty Through Public Procurement."

43 Ibid., 43. Partnership for Working Families, "Common Challenges in Negotiating Community Benefits Agreements."

44 Welsh Government, "Community Benefits: Delivering Maximum Value for the Welsh Pound," 25.

Do Trade Agreements Impede Community Benefits?

Concerns have surfaced in some jurisdictions in relation to potential barriers caused by international and internal trade agreements, as well as existing public procurement rules.

However, as research has shown, the barriers are less restrictive than initially imagined.⁴⁵ In Ontario, concerns have focused on potential conflicts arising from the interprovincial *Internal Agreement on Trade (AIT)*, the 1990 *Discriminatory Business Practices Act* and Canada's recently-signed free-trade agreement with the European Union (CETA). However, previous Mowat research highlights that many of these concerns remain largely theoretical:

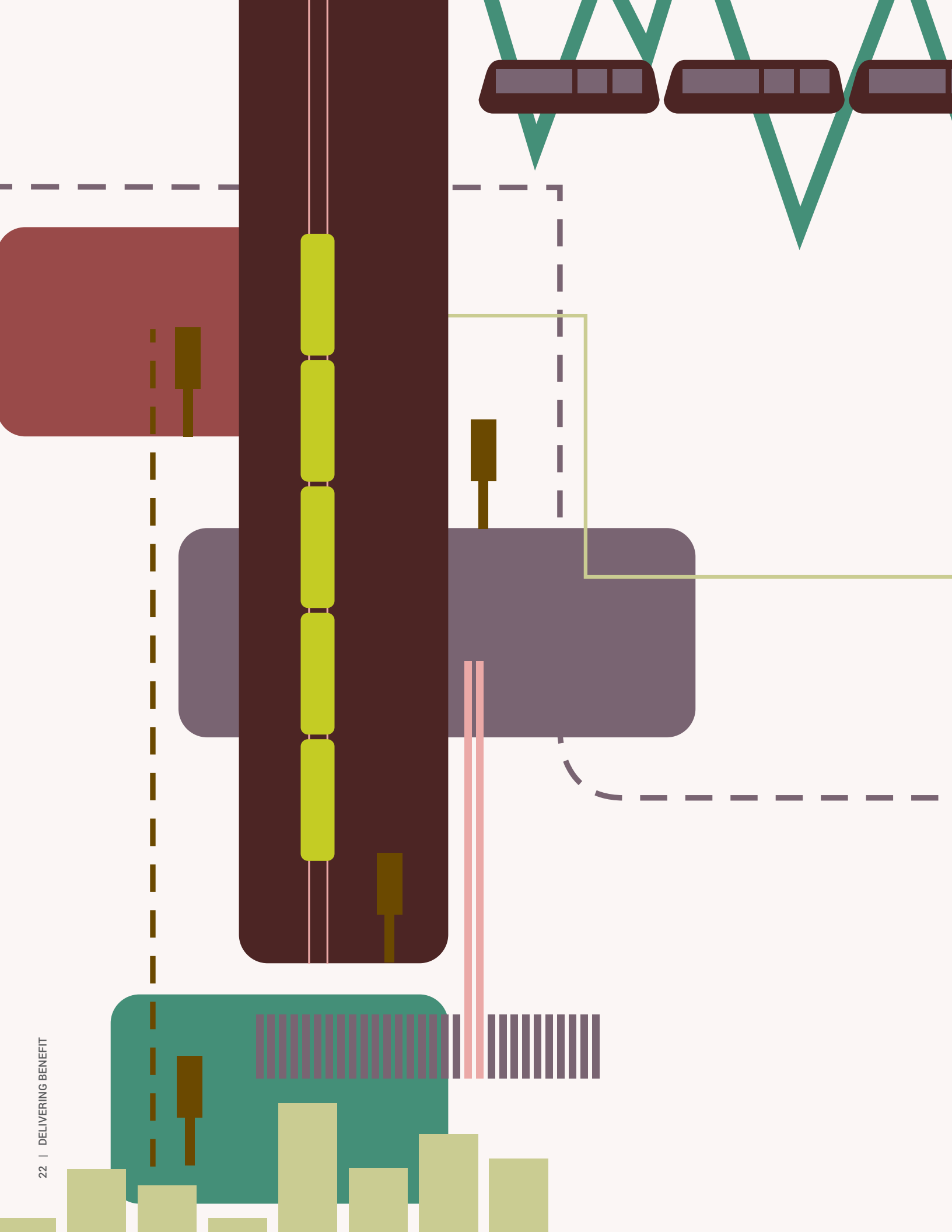
- » The AIT agreement contains numerous exceptions in relation to affirmative action clauses for disadvantaged groups and/or procurement taken in the name of regional economic development.
- » Sub-national government procurement is not generally bound by international free trade agreements and, where applicable, contains exemptions and exceptions that allow for flexibility in procurement.
- » While CETA calls for non-discrimination toward EU suppliers by Canadian procurers, it is unclear the degree to which this would impact community benefits policies.

Despite these potential roadblocks, legislation and regulation have aided jurisdictions in overcoming these hurdles. Many EU members have well-established community benefits and social procurement regimes at the national level, supported at least in part by language in procurement directives.⁴⁶ Additionally, efforts that focus on specific types of beneficiaries, such as unemployed people, will avoid non-discrimination laws by not privileging local hires.⁴⁷ Furthermore, interviewees noted that in the EU, there have been efforts to identify labour market partners and intermediaries in contract notices as a way to ensure a level playing field with respect to hires and, therefore, avoid discrimination against international construction companies.

45 Revington, Hoogendam, and Holeyton, "The Social Procurement Intermediary: The State of the Art and Its Development within the GTHA"; Dragicevic and Ditta, "Community Benefits and Social Procurement Policies: A Jurisdictional Review."

46 European Parliament and the Council of the European Union, *Directive 2014/24/EU on Public Procurement*.

47 Richards, "Community Benefits Clause in Public Sector Planning, Economic Development and Regeneration Commitments to Tackle Worklessness."



4 HOW TO PREPARE CONTRACTORS TO DELIVER ON COMMITMENTS

At a high level, governments must juggle competing priorities when designing procurement processes and policy frameworks that encourage buy-in and follow-through. As in any contracting situation, authorities are concerned with ensuring that agreed-upon activities are carried out in an acceptable manner. Since contracts are focused on direct benefits to local communities, terms must be defined, fulfilled, enforced and reported on in a way that ensures public accountability. At the same time, procurement processes must not be overly onerous and create unnecessary burdens for contract recipients.

Stakeholder Needs and Interests

Governments can expect pressure from both community and industry groups in this area. Community advocacy groups often see effective compliance, monitoring and performance management systems as a key accountability function in terms of ensuring that agreements are honoured by developers and contracting governments. Particularly in the US, CBAs are seen as a tool to ensure public accountability, promote equality, and advance social justice aims. To ensure that agreements are legally enforceable, advocacy groups must take special efforts to ensure that contract terms are bound tightly and avenues for recourse are clearly laid out.

Likewise, industry groups require certainty and clarity in relation to the rules that may apply to them. This is particularly important for infrastructure construction projects, where primary contractors often rely on many sub-contractors to carry out pieces of a given project. Taking into account the needs of community

groups, industry and government, policymakers should strive for requirements that are clear, targeted, accountable and balanced. Success will depend on developing approaches that respect current procurement objectives and align with the discipline of the procurement process.

Buy-In and Follow Through Under Community Benefits Clauses

Examples from the UK, Scotland, Northern Ireland and Wales may be particularly helpful in Ontario. These jurisdictions have often introduced social considerations and requirements through community benefits clauses, using existing government procurement processes versus a full-scale CBA process. In these cases, enforcement mechanisms largely rely on the contractual power of government as a commissioner and successful follow-through largely relies on building strong relationships among government, contractors and community representatives from the outset.⁴⁸

⁴⁸ Macfarlane, "Tackling Poverty Through Public Procurement," 42.

Pre-Procurement Activities

START EARLY

Particularly when developing community benefits and social procurement initiatives through clauses, it is important to consider monitoring and compliance early on. Lessons from jurisdictions that have incorporated community benefits and social procurement approaches across government show that procedural choices at the pre-procurement and contractual negotiation stages are some of the most important choices that can be made to ensure follow-through from contractors.

For example, New South Wales relies on guidance and a procurement policy framework to support its policies, which call for social procurement to be integrated “at the earliest stage in the project’s development.”⁴⁹ In particular, it calls for social procurement to be a consideration in project planning, as part of business plans, feasibility studies and in tendering and selection processes.

CLEAR PROCESS

A clearly laid-out process, with easy to understand requirements and helpful tools and resources for contractors, can help educate bidders and reduce uncertainty through bidding and contract negotiation. Clarity and predictability in procurement processes and contract terms are important for contractors in order to make effective planning decisions. Interviewees from UK jurisdictions stressed the importance of clarity from government procurement agencies as a key factor to facilitate buy-in from industry partners.

For example, social procurement strategies in Northern Ireland are laid out under its Buy Social framework.⁵⁰ The framework sets out areas of focus, guidelines and requirements across

government. In addition, because of the high profile of workforce development initiatives in contracts and unique needs of the construction industry, a Construction Procurement Policy framework came into effect in April 2016 that clarifies key aspects of procurement policy related to construction, including requirements for sustainable procurement.⁵¹ The framework includes standard templates for pre-qualification questionnaires, model clauses for contracts and standard targets for targeted recruitment and new entrant trainee requirements.

PROMOTE AWARENESS

Particularly when community benefits requirements are first introduced, governments should take steps to promote awareness of the initiatives – not only to communities to engage them in the initiative, but also to industry groups who may need education and support to engage with any new dimensions of the procurement process. This could include holding information sessions for potential bidders, having dedicated community benefits staff liaisons who are able to conduct education and awareness outreach on an ongoing basis, and developing technical guidance documents and templates for stakeholders.

GET SPECIFIC

In advance of any new requirements, potential bidders should be made aware of any relevant legislation, regulation, priorities, strategies and requirements. Contract notices should clearly state any community benefits requirements that will be required as part of the contract and bidders should be made aware of when and where they will need to engage in the process. Requirements should be clear, targeted and aligned with community needs.

49 Knode, “Social Procurement in NSW: A Guide to Achieving Social Value through Public Sector Procurement,” 8.
50 Northern Ireland Strategic Investment Board, “Buy Social Toolkit.”

51 Government of Northern Ireland, “Construction Procurement Policy Framework Procurement Guidance Note.”

Scope

In practice, this means that the scope of requirements expected of bidders should be defined in advance. Some governments and agencies choose to require contractors to submit their own proposals on the community benefits they believe can be delivered given the pre-determined priorities, while other jurisdictions set out their own requirements in advance through contract specifications and/or regulation.

Regardless of approach, policymakers may choose to narrow the range of benefits that will apply to a specific contract. Guidance from Northern Ireland suggests that it is “better to get good outcomes on a few requirements than to dissipate the energy and effort of the contractor/supplier and the client’s contract management team across a wide range of requirements.”⁵² Additionally, policymakers should consider the potential administrative burden that wide-ranging requirements may impose in relation to monitoring and reporting.⁵³

FIGURE 3
Common Approaches to Objectives/Targets in Contracts

Approach	Description
Across-the-board requirements (regulations)	Standardized requirements are outlined in relation to specific areas of focus, applied to all contracts specified in regulation.
Across-the-board requirements (policy)	Standardized guidelines/requirements are outlined within policies or strategies and are applied at relevant thresholds/criteria for inclusion.
Pre-determined requirements in relation to tender (scored or unscored)	Desired community benefits are defined by procurement officials in advance of specific procurement processes and are included either as core or non-core requirements of delivery on a case-by-case basis.
Proposal from contractors (scored or unscored)	Contractors are invited to propose community benefits initiatives in relation to areas specified by procurement officials and may be further refined during negotiation processes.
Negotiated requirements	While statements that community benefits will be required may be included in pre-procurement and procurement documentation, the substance and focus of community benefits approaches are negotiated after the selection of the contract recipient.
Voluntary approaches (based on best efforts)	Statements of desired community benefit are included in pre-procurement documentation. However, contractors are not held to specific activities, requirements or agreed-upon targets.

⁵² Northern Ireland Strategic Investment Board, “Buy Social Toolkit,” 36.

⁵³ Ibid.

“There may be a temptation to put an ‘open question’ in the specification, drawing attention to the [...] policies of the client organization and asking bidders to say how they will help deliver these. This assumes that the bidders have more experience of delivering social considerations than the client organization which is often not the case. There may well be value in talking to ‘the market’ about what social considerations would be relevant to the contract that is being procured, and their experience of delivery elsewhere. This is best done in the early stages of the procurement process – in the development of the business case – and then used to develop a specification that all bidders have to respond to.”

– Northern Ireland, Buy Social Toolkit

Assess Community Need in Advance

By conducting needs assessments in advance, as part of the regular planning and business case development process, policymakers can ensure that proposed community benefits approaches not only align with broader policy frameworks, but are sufficiently focused so that industry partners can make informed planning and tendering decisions in relation to the contract and their proposed activities. In general, needs assessments determine the degree to which projects “will increase or meet demand for services and how the surrounding neighbourhood might benefit from the project.”⁵⁴

Policymakers must have a clear understanding of community needs in the area where infrastructure or operations are being carried out.⁵⁵ For the San Francisco Public Utilities Commission, this involves conducting comprehensive community needs assessments during the pre-procurement stage for planned expansion projects and ongoing efforts. Identifying community needs and engaging with community members and local stakeholders – such as non-profits, agencies, local government officials and community groups – allows SFPUC to plan ahead for areas of future need and decide what types of benefits should be considered for each project.

⁵⁴ Partnership for Working Families, “Policy and Tools: Community Impact Reports.”

⁵⁵ Dragicevic, Anchor Institutions, 24.

Identify Partners and Support

During all stages of a contract, government authorities have an important role to play as a broker between construction partners, community advocacy groups, as well as other government partners and any intermediary groups. Strong relationships and buy-in from contractors are key features of ensuring compliance with community benefits regimes.

Especially when terms are laid out as a deliverable of a contract (non-core approach), enforcement powers largely rely on building strong relationships between government, contractors and community representatives.⁵⁶

Where contractors will be expected to report to stakeholders through oversight mechanisms or work with intermediaries to source jobseekers, notice should be given as early in the process as possible to establish contact between partners.

In some cases, it may be beneficial to identify intermediaries within contract notices. Where community benefits requirements are specified as part of the award criteria of a bid, a process that incorporates intermediaries can help ensure a level playing field during competitive procurement processes. This may be particularly important in the context of non-discrimination language in trade agreements. By ensuring that all bidders are able to fulfill the contract

⁵⁶ Macfarlane, “Tackling Poverty Through Public Procurement,” 42.

requirements through the same terms, potential for discrimination against international bidders can be diminished. See page 25 for further discussion on intermediaries.

SCREEN FOR CAPACITY

Contracting authorities may wish to develop methods that allow them to assess stakeholder readiness to deliver community benefits early on in the tender process. Chosen contractors must have the skills and appetite to deliver community benefits commitments. While readiness to deliver community benefits is not the only, or most important, expertise required to successfully carry out infrastructure projects, including it as a capacity that is assessed alongside other mandatory skills and requirements can be beneficial.

Guidance from Northern Ireland uses this approach, stating that “management commitment and capability are key elements in the successful delivery of social requirements.”⁵⁷ Screening efforts can also nudge contractors to start thinking about delivery early on in the design stage.

Two methods that have been used are:

Pre-Qualification Questionnaires (PQQ) at the RFQ stage⁵⁷

Where there are invitational elements to a procurement process, many jurisdictions choose to screen for stakeholder capacity in delivering community benefits purchased at the pre-qualification stage. For example, both Scotland and Northern Ireland use PQQs to identify contractors that have the capacity and capability to deliver all mandatory elements of the contract.⁵⁸

For contracts that have workforce development requirements, PQQs may require contractors to give examples of previous experience in:

- » Generating employment and training opportunities for long-term unemployed people
- » Providing training opportunities
- » Developing trade skills in their existing workforce
- » Equal opportunity recruiting

Scored Proposals/Experience in Competitive Tenders

One of the benefits of including community benefits criteria as a ‘core’ condition of the competitive procurement process, versus as a contract deliverable, is that it may encourage bidders to begin planning for community benefits earlier in the process. By scoring proposed community benefits plans, or experience relevant to delivering community benefits initiatives during the procurement selection process, contracting authorities may find it easier to select successful projects.

For example, the San Francisco Public Utilities Commission requires contractors to submit community benefits proposals in relation to their priority areas at the RFP stage. The content is left up to bidders and the bids are scored, but they are given minimal weight in the scoring process. Instead the goal is to encourage contractors to begin planning approaches early, as well as to establish communication with the agency’s community benefits team through regular interactions and promote trust by responding quickly to any concerns. One of the challenges of this approach is that when contractors have submitted a weak proposal, government procurement officials (or community benefit liaison officers) must have the ability and capacity to work with developers to improve their plans early on, and to enforce the plans during the project lifecycle.

⁵⁷ Northern Ireland Strategic Investment Board, “Buy Social Toolkit,” 22.

⁵⁸ Scottish Government, “Guidance under the Procurement Reform (Scotland) Act 2014”; Northern Ireland Strategic Investment Board, “Buy Social Toolkit.”



Planning and Negotiation Activities

USE OF TARGETS

Guidance from the UK stresses the importance of measurable targets for construction contracts that involve targeted training and recruitment workforce development schemes.⁵⁹ Whether they are specified by government in advance through regulation or developed through negotiation with government, communities and industry, contracts should contain clear specifications and objectives. Unclear terms benefit no one. Contractors with experience delivering community benefits, procurement experts and community advocacy groups all stress the importance of clear specifications and terms within contracts.⁶⁰

TIMING

The details of community benefits plans should be negotiated up front – before the financial close of a contract. This is especially important in instances where there are requirements for workforce development schemes. For construction projects, primary contractors often line up their subcontractors in advance. In situations where details are to be clarified after the contract has already been awarded, parties may find it difficult to reach an acceptable agreement.

⁵⁹ Ibid.

⁶⁰ Partnership for Working Families, "Delivering Community Benefits through Economic Development: A Guide for Elected and Appointed Officials."

5 HOW TO SET EFFECTIVE TARGETS

Effective monitoring and performance management systems require clear targets that are meaningful but achievable and can serve as proxies for the long-term social outcomes contracting authorities wish to see. Short-term targets that do not reasonably represent progress toward long-term social goals are not only detrimental to those involved in the agreement, but also risk undermining the community trust and legitimacy that these types of policies are meant to promote.

Setting clear targets is important to meeting and measuring planned outcomes. It also helps to ensure that procurers, bidders and community groups all have similar expectations and understanding. This can be best achieved through specific language in project agreements or broader enabling legislation.

In general, the most effective targets are:

Clear

Unclear targets can undermine community benefits efforts. Especially for larger contracts, specifications must be clear, targeted, manageable and can be understood on cost. Furthermore, clarity can help to ensure transparency – with clear objectives that can be tracked to determine the degree to which planned outcomes were achieved.

Proportional

Targets must be proportional to the work being done and take into account the context of specific projects. The degree to which services or labour can be delivered locally or other commitments must be met, for example, need to be among the considerations in determining appropriate targets. There are potential risks associated with requiring targets that are difficult or burdensome, though allowing for a certain level of flexibility in the way targets can be achieved may address some of these concerns.

Limited in Scope

When working with contractors, policymakers may choose to narrow which area of community benefits will apply to a specific contract. A more focused approach also has the benefit of limiting administrative burdens in the monitoring and reporting process.

Trends In Target-Setting

Workforce Development Targets In Contracts

Targets have been measured in a number of ways, ranging from percentage of the workforce to time spent on the job by certain types of populations, such as unemployed, underemployed, disadvantaged groups or those local to the project's jurisdiction. In recent years, many jurisdictions have moved toward time spent on the job as the best indicator of providing meaningful work for target populations.

FIGURE 4
Key Examples Of How Targets Can Be Approached

	How is it determined?	How is it applied?	What are the considerations?
Scotland	Based on a set percentage of total person-weeks on site ⁶¹	<ul style="list-style-type: none"> » 10 per cent of expected total person-weeks (which are five days of on-site work or training) for trainees » 20 per cent of expected total person-weeks for targeted recruitment » 3 per cent of expected total person-weeks for work experience placements⁶² 	Targets should also take into account the degree to which labour resources compare to the available numbers of workers in the targeted population and the degree to which supply-side resources exist to provide support ⁶³
Northern Ireland	Based on the size of the contract – for every £1 million in contract value, a set number of person-weeks must be set aside for trainees that are new to the industry ⁶⁴	<ul style="list-style-type: none"> » 52 person-weeks of work for each £1 million in contract value for building contracts worth more than £2 million » 26 person-weeks of work for each £1 million in contract value civil engineering contracts worth more than £4 million⁶⁵ 	The degree to which specific target demographics – unemployed, apprentices, students and young people – are incorporated is flexible based on the needs of contractors. ⁶⁶
Seattle	Based on a proportion of work hours involved in a project, for public works contracts worth more than \$1 million ⁶⁷	» 15 per cent of total work hours must be done by apprentices enrolled in approved programs ⁶⁸	Public works contracts are expected to include a goal that 21 per cent of apprenticeship work hours be performed by minority populations and 20 per cent be performed by women, respectively ⁶⁹
Los Angeles	Based on a proportion of work hours involved in public works contracts, established through a Project Labor Agreement	<ul style="list-style-type: none"> » 30 per cent of total work hours on a project are required to be done by local residents » 10 per cent of total work hours are required to be done by disadvantaged populations » 20 per cent of total work hours must be done by apprentices » 50 per cent of total work hours by apprentices are required to be by local apprentices⁷⁰ 	Contractors are also required to submit and receive approval for a hiring plan, in advance of starting a project, as well as use of a referral process to hire workers ⁷¹

61 Scottish Government, *Community Benefits in Public Procurement*.

62 Ibid., 15.

63 Ibid., 16.

64 Construction Industry Forum for Northern Ireland, "Sustainable Construction Requirements," 4.

65 Ibid., 4.

66 agendaNi, "Social Clauses in Public Procurement."

67 Seattle Finance & Administrative Services Department, "City Purchasing & Contracting."

68 Ibid.

69 UCLA Labor Center, "Exploring Targeted Hire: An Assessment of Best Practices in the Construction Industry," 88.

70 Los Angeles Department of Public Works, "Annual Report, Fiscal Year 2014-2015."

71 Los Angeles Department of Public Works, "Targeted Hiring Guidelines for Contractors, Project Labour Agreement 2015-2020."

Other target-setting efforts have focused on specific sectors – with the aim of encouraging certain populations to become more involved in specific types of work.⁷² Some jurisdictions may also opt to incorporate a range of considerations in calculating targets, such as the proportion of contract value in wages and salaries, the number of full-time workers needed to deliver contracts and the number of trainees that can be used safely, among others.⁷³

Overall, there is no one-size-fits-all best practice number or percentage at which targets should be set. However, those providing clear benchmarks and a consideration of the context in which projects will be undertaken have been found to be most beneficial in developing targets that are achievable and, therefore, effective in meeting planned outcomes.

Defining Beneficiaries

In defining target groups, some community benefits policies focus on specific populations (such as unemployed people or disadvantaged populations) while others focus more on ensuring benefits are geographically tied to the area where infrastructure is being built. Achieving outcomes may become more challenging depending on the type of community benefit that is focused upon.

Both demographics and geography have been part of community benefits frameworks in many jurisdictions, particularly when these policies are related to hiring practices.⁷⁴ However, strictly adhering to focusing on a particular neighbourhood or community can be difficult when seeking to match local apprentices with training opportunities in a specific construction project

compared to focusing in particular on target populations. In the case of the Port of Oakland, the project encountered difficulties in ensuring the effectiveness of a Project Labor Agreement on local hiring with requirements that covered the entire city rather than specific neighbourhoods or communities of interest. As a result, there have been calls to avoid targeting hiring based on geography and, instead, support the development of clear and focused definitions for target groups to improve outcomes.⁷⁵

Furthermore, there must be considerations about the degree to which existing laws may impede hiring based on demographics or geography. Hiring locally may encounter more barriers than hiring from targeted populations due to laws in some jurisdictions, such as in the European Union, that are designed to ensure that local or national preferences are not favoured in the awarding of contracts by public authorities.⁷⁶

Challenges can also emerge in identifying and reaching out to disadvantaged populations to ensure that they are engaged and reap the benefits associated with these policies. To mitigate these challenges, policymakers can take steps to ensure that targets are met by clearly defining their social policy objectives and target populations. Once policies set out a specific rationale that frames their planned approach and beneficiary groups, targets can be more clearly and easily outlined in contract language and subsequently delivered. Strong mechanisms to support candidates' job readiness and access to labour market pipelines through intermediaries, as well as long-term evaluation frameworks to track progress will also help to ensure that targeted populations are benefitting from these policies. (See Section 8 for further discussion).

72 UK Department for Transport, "Transport Infrastructure Skills Strategy: Building Sustainable Skills."

73 Macfarlane, "Tackling Poverty Through Public Procurement," 26.

74 "Targeted hiring" often refers to efforts that focus on hiring specific types of groups within the population, such as minorities, women and low-income workers. "Local hiring" is focused on hiring residents local to a project. See more at UCLA Labor Center, "Exploring Targeted Hire: An Assessment of Best Practices in the Construction Industry."

75 United Way Toronto and York Region and Employment Ontario, "On Track to Opportunities : Linking Transit Development to Community Employment and Training Project," 34.

76 Chopin and Niessen, *Combating Racial and Ethnic Discrimination: Taking the European Legislative Agenda Further*.

Transit-Specific Considerations

Transportation, in particular, has been identified as a sector where community benefits policies would make sense. The following are examples of the types of benefits that can be targeted on transportation infrastructure projects:

- » Skilled workforce development through training and apprenticeship opportunities,
- » Poverty reduction by supporting economic development opportunities in communities with high proportions of low-income or disadvantaged populations,
- » Engagement opportunities to communities and social enterprise organizations,
- » Measures to mitigate the negative impact that transit-driven development has on marginalized residents living near a project due to gentrification pressures.⁷⁷

Interview subjects suggested that public transportation projects are particularly suited to community benefits involving training and apprenticeships as part of procurement processes for construction and professional services. Indeed, this is where early efforts have focused so far in Ontario. Other community benefits can include more diverse options, such as the inclusion of affordable housing, though such a benefit is more commonly part of agreements involving large development and redevelopment projects.⁷⁸ Nevertheless, there are also some key challenges with procurement in the transportation sector. Interviewees consulted for this project highlighted barriers that include the length of contracts, the precarity of work and the degree to which jobs are well-matched to beneficiaries.

The types of jobs that should be targeted through community benefits policies are also a consideration. In the transportation sector, a range of potential work opportunities are available, including both low- and high-skilled work. In general, the process for incorporating low-skilled work is fairly simple and can allow workers to quickly earn money on designated projects. Interviewees noted that this type of work is considered more successful in providing work opportunities to long-term unemployed people. In contrast, students were identified as the category of workers more likely to benefit from high-skilled work opportunities, such as engineers or surveyors, through community benefits policies.

It is high-skilled work, though, that is often most in-demand on major infrastructure projects. Efforts such as the UK's *Transport Infrastructure Skills Strategy* aim to ensure specific sectors of the population access high-skilled work. The department has a goal to increase the entry of women and minority populations to engineering and technical apprenticeships in the transportation sector by 20 per cent in 2020. In light of this goal, it is using its procurement dollars to increase the number of apprenticeships in the sector – one per £3 million to £5 million of contract value.⁷⁹

Furthermore, transportation is particularly unique in that its infrastructure covers a lot of distance, often stretching into multiple communities at a time. As a result, benefits are able to specifically accrue to the residents in areas surrounding the construction across a number of neighbourhoods. For example, the Eglinton Crosstown LRT project is expected to be built across or near five neighbourhoods that the City of Toronto has identified as areas with low equity scores that are particularly in need of greater support.⁸⁰ Therefore, community benefits agreements are a good fit for transit and transportation projects, as they can target groups that would be affected across the a corridor and would otherwise receive limited benefits from and may be opposed to such major construction projects in their neighbourhoods.

⁷⁷ Nugent, "The Right to Build the City: Can Community Benefits Agreements Bring Employment Equity to the Construction Sector?"

⁷⁸ Galley, "Community Benefits Agreements."

⁷⁹ UK Department for Transport, "Transport Infrastructure Skills Strategy: Building Sustainable Skills."

⁸⁰ Metrolinx, "Metrolinx Community Benefits Framework."

6 HOW TO ENSURE THE RIGHT PEOPLE GET HIRED

Once priorities or targets for recruitment efforts have been set, it is important to ensure that targeted individuals are reached and given meaningful employment. Policymakers, contract recipients and community partners must consider how they will work together, not only to facilitate compliance, but to promote success.

Creating the Talent Pool

Labour market intermediaries are used in many jurisdictions to help ensure that developers are able to meet targets and hire the populations that have been identified in community benefits clauses. The use of intermediaries has been found to have a significant impact on the success of community benefits and social procurement policies.⁸¹ Intermediaries support the aims of community benefits policies by connecting employers with job-ready workers and/or apprentices from target populations. They also often provide support to jobseekers to ensure that they have the skills needed on job sites.

For instance, the Regional Training Partnership model in Wisconsin involves work with various stakeholders early in the process to ensure needs are met – including through the use of a database that tracks local candidates and their areas of expertise.⁸² Additionally, Northern Ireland is now working to support its community

benefits policies by enhancing brokerage services designed to connect workers with contract opportunities and provide needed supports.⁸³

There are a number of benefits to this approach:

Access to job-ready candidates

One of the challenges of targeted training and recruitment efforts is that candidates are often new to the field and may require additional training and support to become job-ready. By offering ongoing training and support to workers, including pre-apprenticeship training, labour market intermediaries can increase the likelihood that workers they help connect to work will be successful on job sites.

Reduced transaction costs for industry

Intermediaries draw on networks and expertise of employment focused agencies. Ideally, intermediaries should develop long-term relationships with all relevant stakeholders.⁸⁴ Rather than relying on contractors who may

81 Revington, Hoogendam, and Holeyton, "The Social Procurement Intermediary The State of the Art and Its Development within the GTHA."

82 United Way Toronto and York Region and Employment Ontario, "On Track to Opportunities : Linking Transit Development to Community Employment and Training Project."

83 agendaNi, "Social Clauses in Public Procurement."

84 United Way Toronto and York Region and Employment Ontario, "On Track to Opportunities : Linking Transit Development to Community Employment and Training Project."

have little familiarity with recruiting from diverse populations, labour market intermediaries can offer significant expertise on recruitment and can ease the process for developers to hire local workers and/or those from certain populations to meet specific targets. This can help reduce the burden and cost placed on contract recipients to do this outreach and training themselves.

Level playing field in competitive procurement

Where community benefits requirements are specified as part of the award criteria of a bid, a process that incorporates intermediaries can also ensure a level playing field during competitive procurement processes. This may be particularly important in the context of non-discrimination language in trade agreements. If there are concerns that community benefits requirements may unfairly advantage local suppliers, contract notices can identify the intermediaries as partners in advance. By ensuring that all bidders are able to fulfill the contract requirements through the same terms, potential for discrimination against international bidders can be diminished.

The strength of labour market intermediaries is a crucial element for the success of any equity hiring initiatives. Though this report does not delve into the success factors for labour market intermediaries, there is a growing body of literature that examines this issue.⁸⁵

⁸⁵ For a further discussion of the key elements that might be needed to ensure employment equity results are achieved, see Nugent, "The Right to Build the City: Can Community Benefits Agreements Bring Employment Equity to the Construction Sector?"

Governance and Oversight

Oversight Committees

Oversight committees can be used to ensure transparency and public accountability, promote dialogue between government, contract recipients and community groups, and, through routine check-ins and reporting requirements, offer the ability to troubleshoot and course correct on challenges faced in meeting agreed-upon objectives and targets.

Committees may be particularly helpful in the case of contracts using community benefits clauses, where more routine approaches to community benefits risk diminishing the role of community engagement in the delivery process. Community involvement in reporting structures can be a part of contract requirements, ensuring that community groups have a voice in the oversight of benefits that affect their communities.⁸⁶ For instance, a PLA implemented by the Port of Oakland led to the creation of a Social Justice Subcommittee – which was made up of community members, contractors, union representatives and other stakeholders.⁸⁷ The role of this subcommittee was to provide monitoring and oversight on the project.

Noncompliance Clauses and Penalties

Within procurement contracts, ultimate accountability rests with government and any noncompliance or enforcement mechanisms stipulated within the terms of agreements.

What should be done in instances where community benefits goals are not met? In a true CBA, community partners may have the right

⁸⁶ Gross, LeRoy, and Janis-Aparico, "Community Benefits: Making Development Projects Accountable," 3.

⁸⁷ UCLA Labor Center, "Exploring Targeted Hire: An Assessment of Best Practices in the Construction Industry,"

to legally enforce contract clauses through a court of law. However, within contracts, both financial and behavioural penalties enforced by governments are more commonplace.

In practice, defining appropriate penalties can be difficult. Procurement officials want to ensure that contractors take their responsibilities seriously but, at the same time, penalties that are too harsh or burdensome may drive up perceptions of risk and uncertainty from industry stakeholders, who may feel the need to price this risk into their tender proposals. Policymakers must ensure that penalties are reasonably strong to ensure enforcement, but adequately rare to ensure that adverse incentives are not created.

Some jurisdictions, such as the City of Toronto, have adopted penalties that bar certain contractors or vendors from receiving future contracts in cases of serious noncompliance. In Toronto, vendors who do not comply with workforce development requirements through the city's Social Procurement Framework may be barred from future contracts after two instances of failure to implement community benefits plans in a three-year period.⁸⁸ However, discretion is left to the Chief Purchasing Official on these decisions – vendors may be barred from conducting business with the City for two years and, after a third instance of gross noncompliance, officials may recommend that the vendor be disqualified for an indefinite period.⁸⁹ Decisions regarding what counts as “failure” or “noncompliance” are not often easily made. A 2005 report noted that “if an employer falls short of the percentage goal, then [determining] compliance will probably depend on whether the employer has made ‘good faith efforts’ to hire targeted individuals.”⁹⁰

88 “City of Toronto Social Procurement Program.”

89 Ibid.

90 Gross, LeRoy, and Janis-Aparico, “Community Benefits: Making Development Projects Accountable,” 47.

When asked about their experiences, contracting authorities with experience in community benefits initiatives stress that noncompliance penalties are last-resort options. In practice, compliance with requirements is more dependent on early engagement and buy-in from contractors, effective oversight bodies and strong reporting practices that allow for course correction over the life of a project.

Monitoring Progress

Reporting Requirements

It is important to clarify monitoring and reporting strategies upfront. In order to do this, targets and specifications must already be defined and the details of community benefits plans negotiated before the financial close of a contract. Figure 5 provides a sample clause of monitoring requirements that procurement guidance from Northern Ireland suggests for inclusion in contracts to align with its Construction Procurement Policy Framework.⁹¹

Frequency

Frequency is a key consideration in developing reporting requirements, with different jurisdictions opting to report on an annual, quarterly or biannual basis. Experts from the US suggest that reports should be made at least once per year and be made publicly available.⁹² The San Francisco Public Utilities Commission currently reports on a quarterly basis, though it is moving to a biannual scheme to reduce burden on contractors.⁹³ In the UK, the frequency of reporting varies from quarterly to monthly.

91 Northern Ireland Strategic Investment Board, “Buy Social Toolkit,” 51

92 Gross, LeRoy, and Janis-Aparico, “Community Benefits: Making Development Projects Accountable,” 70.

93 San Francisco Public Utilities Commission, “Community Benefits Commitments in Contracts.”

FIGURE 5

Sample Monitoring Clauses - Northern Ireland's Buy Social Toolkit

- 2.6 *Monitoring information*
- 2.6.1 *Within 10 working days of the end of each calendar month the contractor is to provide a listing of all of the 'new entrant trainees' by name that have been engaged on the contract, their status (apprentice, student professional trainee or other trainee), the number of weeks they have delivered in the month and the period since their employment engagement commenced.^x*
- 2.6.2 *10 days prior to each Employer's site meeting or contract review meeting to provide to the Employer a report setting out information for the following Performance Indicators and Key Performance Indicators (KPIs):*
- the value of works invoiced to date;*
 - the total number of person-weeks employment/engagement for new entrant trainees required in relation to this value of works (e.g. proportionate to the full value of the contract or the number stated in the contract);*
 - the total number of new entrant trainee person-weeks that have been delivered (split between apprentices and student/professional trainees, and other trainees) and a comparison with the number required for the value of works invoiced (KPI);^x*
 - the total number of unwaged work-experience weeks that have been delivered and a comparison with the number required for the value of works invoiced;*
 - the number of people working on the project that have a home address (not a temporary accommodation address) in the []x postcode area;*
 - information on any special factors that have influenced the delivery of the new entrant trainee person weeks, and actions being undertaken to address any problems in the delivery of the new entrant trainee opportunities.*

Content

The content of reports should be targeted and, where possible, key performance indicators should be standardized to facilitate aggregated data collection and performance monitoring. A 2014 report that draws on sustainable procurement experiences from across the UK suggests limiting the range of community benefits being sought in contracts to one or two areas per contract and working to limit information collected from contractors to only what is needed to assess outcomes.⁹⁴

Technology and Reporting Templates


Depending on the area of community benefits being focused on, there may be solutions that streamline reporting processes. Because community benefits approaches in the US evolved out of accountability-focused, tripartite CBAs, American approaches to reporting have naturally focused on the verifiability of reports received from contractors. For example, workforce development agreements with targeted recruitment and training requirements could

use industry-developed software, such as the web-based Labour Compliance Program (LCP Tracker), that offer payroll certification to ensure that contractors are hiring, training and staffing priority populations. However, not all jurisdictions have taken the same approach, and some instead rely on standardized reporting spreadsheets and templates.

Guidance from Northern Ireland's Buy Social Toolkit suggests that where there is a need to collect demographic information from beneficiaries for targeted training and recruitment initiatives – data can potentially be obtained by requiring beneficiaries to register with the client, or its job-matching intermediary, so that data can be collected and aggregated for reporting purposes (whether through software or some other database).⁹⁵ One of the challenges in collecting this type of data is that beneficiaries need to self-identify and agree to any data collection efforts. Likewise, developers and government must have systems in place to ensure that anonymous data is collected and stored in a way that respects the privacy of those employed through these efforts.

94 Macfarlane, "Tackling Poverty Through Public Procurement," 29.

95 Northern Ireland Strategic Investment Board, "Buy Social Toolkit," 19.



**Systems should
be clear and
aligned – from
high-level
regulatory
frameworks
through to the
substance of
individual contracts.**

7 HOW TO MEASURE LONG-TERM IMPACT

Finally, how can the long-term impacts of community benefits initiatives be evaluated? Monitoring and evaluation of the long-term outcomes of community benefits are challenges that have not yet been comprehensively addressed by most jurisdictions. While many jurisdictions have made progress in tracking and monitoring contract performance and compliance, many still struggle with how to measure the impact of these activities on participating individuals and/or communities.

Even jurisdictions with strong reporting and monitoring systems tend to have challenges in assessing the long-term and wider community impacts of community benefits clauses in contracts. For example, Scotland is often cited as a system with strong reporting mechanisms for community benefits requirements.⁹⁶ However, a 2015 report from the University of Glasgow found significant challenges in assessing the impact of community benefit clauses in contracts due to a lack of data that could speak to the sustainability of outcomes beyond the contract.⁹⁷

Challenges for Understanding Long-term Impact

Contract reporting requirements tend to result in strong data on outputs rather than outcomes

It is often much easier to track outputs – such as dollars invested, number of short-term jobs created, or hours of employment offered – than report on outcomes in a meaningful way. These information points tend to be more easily contained within routine contract reporting practices.

Desired outcomes are often long-term and may not be realized during the lifetime of the contract

The long-term nature of the desired outcomes – such as increased access to community services, skill improvements in the workforce, measures of long-term attachment to the labour

force or increased diversity in the construction industry – may not be realized during the lifetime of the contract. There is a need to track results over a longer period of time and a need to conduct baseline studies so that changes can be captured.

Outcomes from individual contracts may not be seen on a smaller scale

For example, a small number of employment outcomes may result in wider social impacts when taking into account cost savings or avoidance of negative social outcomes government-wide. To fully understand whether or not these activities are impactful, there may be a need to evaluate the outcomes of community benefits activities as a whole (not just contract-by-contract) or in relation to specific focus areas identified through government strategy.

96 Dragicevic and Ditta, "Community Benefits and Social Procurement Policies: A Jurisdictional Review."

97 Sutherland et al., "Analysis of the Impact and Value of Community Benefit Clauses in Procurement."

The Importance of Monitoring and Measurement

The challenges faced by governments in developing evaluation strategies for community benefits and social procurement clauses are not unique. They are similar to those governments face with regard to evaluation capacity more generally.⁹⁸ Often, these challenges are the result of:

- » Trade-offs between offering a streamlined process versus one focused more heavily on information needs
- » Lack of evaluation expertise from both government policymakers and delivery partners
- » Unclear objectives and a lack of overarching policy/evaluation framework

However, despite these challenges, understanding the long-term impact of community benefits initiatives is important. Community benefits initiatives require significant amounts of time and effort to implement. They involve cooperation between multiple stakeholders. Policymakers need to know if the intervention is working and whether the returns to the community are worth the investment of time and resources being put into them.

Best Practices

The focus of evaluation and monitoring systems will be different in each jurisdiction based on strategic objectives outlined in policies and the content of clauses in contracts.

Evaluation Framework

To understand the impact of community benefits activities, policymakers may consider adopting a high-level evaluation framework that clearly outlines key areas of focus in relation to desired social objectives to be achieved through community benefits approaches. A clear strategy document, supported by a theory of change, can help clarify measurement needs in relation understanding the impact of community benefits activities and can be applied to all future contracts.

In order to do this, policymakers need to be clear on exactly what objectives they are trying to achieve. For example, Scotland's procurement efforts draw from its National Performance Framework, a high-level strategic framework that outlines government objectives through 16 National Outcomes.⁹⁹ The 16 outcomes address a range of topics, including income inequality, economic potential through employment opportunities, community resiliency and high quality public services, among others. Scotland's approach aligns more specific procurement outcomes with these identified national priorities and then identifies specific related outputs it seeks to track through reporting – while also taking into account the feasibility of doing so.¹⁰⁰ On economic potential through employment opportunities, it identifies outputs such as the number of new entrants recruited within specific categories.

98 Johal, Galley, and Molson, "Reprogramming Government for the Digital Era"; Gold and Mendelsohn, "Better Outcomes for Public Services: Achieving Social Impact Through Outcome-Based Funding."

99 Scottish Government, "National Performance Framework."

100 Scottish Government, "Monitoring the Impact of Community Benefits Clauses in Procurement Contracts – Guidance Notes and Definitions"; Scottish Government, "National Performance Framework."

Wales Community Benefits Measurement Tool

Social Return on Investment (SROI) is often presented as an ideal method to help make the case for sustainable procurement approaches, particularly in relation to value-for-money considerations at the pre-procurement stages and evaluating the impact of community benefits initiatives on cost savings to government in the long-term.

As part of a standardized reporting process, the Wales Community Benefits Measurement Tool uses a variation of this approach that relies on a local multiplier to assess the economic impacts in Wales as a result of community benefits initiatives.¹⁰⁴ Developed in 2011, the tool is an Excel spreadsheet designed to capture “the full range of Community Benefits outcomes not just those aspects that can be easily monetised and to provide a consistent way of measuring CBs.”¹⁰⁵ The tool was designed so that it only draws on information that would be available to contract recipients through existing financial and personnel records, plus the metrics/outcomes that were required by contracting authorities for that particular project (e.g. apprenticeships offered, hours spent achieving educational goals, etc.).¹⁰⁶

¹⁰⁴ Ibid.

¹⁰⁵ Value Wales, “A Guide to the Community Benefits Measurement Tool Version 6.6 July 2014.”

¹⁰⁶ Ibid.

Align Reporting

As much as possible, policymakers should consider adopting standardized reporting requirements and performance indicators that directly align to evaluation strategies. While standardized reporting may prevent more detailed or nuanced assessments of impact on a case-by-case basis, a widely adopted system allows for a broader understanding of community benefits at a large scale. Additionally, by focusing on key information needs and presenting them in a routine manner, policymakers can avoid placing undue evaluation burden on contract recipients.

Research from the University of Glasgow recommends that data should be reported by contractors and collected and analyzed at the government level.¹⁰¹ During the lifetime of a contract, governments can require strong reporting from industry groups but it is not feasible to expect them to track long-term outcomes directly. In order to understand the longer-term outcomes, governments should consider evaluation partnerships or data-sharing agreements that may allow beneficiaries to be monitored over a longer period of time.

This approach aligns with emerging best practices in the UK. Both Scotland and Northern Ireland have taken steps to improve their monitoring and reporting systems – focusing on standardized approaches and improvements to the quality of output data received from contractors.¹⁰² Likewise, Wales has a long-standing system in place that focuses on standardized outcomes reporting that uses a local multiplier to estimate social impact.¹⁰³

¹⁰¹ Sutherland et al., “Analysis of the Impact and Value of Community Benefit Clauses in Procurement,” 31.

¹⁰² Government of Northern Ireland, “Construction Procurement Policy Framework Procurement Guidance Note”; Scottish Government, “Guidance under the Procurement Reform (Scotland) Act 2014,” 82.

¹⁰³ Welsh Government, “Community Benefits Measurement Tool.”



CASE STUDY: METROLINX EGLINTON CROSSTOWN LRT

This case study examines the development of community benefits policies at Metrolinx, particularly their incorporation in the Eglinton Crosstown Light Rail Transit (LRT) project, and discusses long-term considerations for the design of future community benefits initiatives under Ontario's Alternative Financing and Procurement (AFP) model.

What is the Eglinton Crosstown LRT?

The Eglinton Crosstown LRT is a significant expansion of transit infrastructure in Toronto. Based on a \$5.3 billion investment by the Ontario government, the completed Eglinton Crosstown LRT is expected to accommodate 5,500 passengers per hour across a 19-kilometre corridor that runs across Toronto, including through several neighbourhoods designated as Neighbourhood Improvement Areas by the City of Toronto.¹⁰⁷ The project is being delivered by Metrolinx but procurement is being managed by Infrastructure Ontario (IO) through the AFP process. The Eglinton Crosstown represents Metrolinx's first attempt at incorporating community benefits into a large transit development project.

Ontario's Alternative Financing and Procurement (AFP) Process ¹⁰⁷

In Ontario, major infrastructure projects often use IO's AFP process – a model also known as a public-private partnership. Therefore, the scope of the project is determined by Metrolinx but the work will be carried out by the private sector.

As of January 2017, projects with an estimated value of more than \$100 million are considered for AFP delivery and financing. The AFP process is focused on making the “best use of private sector resources and expertise to provide on-budget and on-time project delivery.”¹⁰⁸ When deciding what projects are suited to the AFP process, IO relies on a “value for money” (VfM) assessment designed to ensure the project is the “best value proposition” for the province and receives favourable commercial terms.¹⁰⁹

¹⁰⁷ Metrolinx, “Eglinton Crosstown LRT: Backgrounder”; Crosslinx Transit Solutions, “Community Benefits and Liason Plan for Eglinton Crosstown LRT Project,” 10.

¹⁰⁸ Metrolinx, “Alternative Financing & Procurement: Backgrounder.”

¹⁰⁹ Infrastructure Ontario, “Assessing Value for Money: An Updated Guide to Infrastructure Ontario's Methodology.”

Progress to Date

In December 2013, Metrolinx and IO released a request for proposals (RFP) for the Eglinton Crosstown LRT project. The RFP required interested bidders to submit plans for increasing apprenticeship training, providing opportunities for local companies and ensuring design excellence and community benefits as part of their bid proposals.¹¹⁰ Through the AFP process, Crosslinx Transit Solutions (CTS) was selected by Metrolinx and IO to design, build, finance and maintain the Eglinton Crosstown LRT.¹¹¹

In 2014, Metrolinx signed a Community Benefits Framework with the Toronto Community Benefits Network (TCBN) – a coalition of community groups, labour organizations and workforce development agencies which represents community interests in the city. The aim of the framework was to incorporate community benefits – including employment, training, apprenticeships, local suppliers and social procurement opportunities – as part of a broader effort to spend billions of dollars on transportation infrastructure in coming years.¹¹² The Framework committed Metrolinx to including a “community benefits program” in several of its planned LRT projects, starting with the Eglinton Crosstown and continuing with the Finch West and Sheppard East expansion projects.

Metrolinx and the TCBN are both signatories to the Framework. Primary partners identified in the Framework include ProjectCo, the company which will deliver the projects (Crosslinx in the case of the Eglinton Crosstown), and the Ontario Ministry of Advanced Education and Skills Development which will coordinate on workforce development and apprenticeship opportunities. The Framework

also committed partners to regular coordination through a working group that includes representatives from all relevant partners, covering topics such as the development of a system for monitoring and evaluation.

In 2015, a Project Agreement was signed by Metrolinx, the Ontario government and Crosslinx Transit Solutions which incorporated the principles of its Community Benefits Framework.¹¹³ The Project Agreement for the Eglinton Crosstown LRT states that Crosslinx is responsible for developing plans on community engagement and initiatives to support apprenticeships; employment, training and workforce development; social enterprise and social procurement; and community improvements. However, the agreement did not include specific language on the details of what should be included in plans, including targets on the proportion of apprentices that will be involved in the project.¹¹⁴ The initial Project Agreement also placed responsibility on Crosslinx to implement a “Procurement Monitoring and Implementation Plan.”

However, on the apprenticeships front, targets were later agreed to through subsequent negotiation. In November 2016, a “Declaration re. Apprentices on the Eglinton Crosstown LRT Project” was signed by Metrolinx, Infrastructure Ontario (IO), the Ministry of Advanced Education and Skills Development (MAESD), the Toronto Community Benefits Network (TCBN), Crosslinx Transit Solutions and the United Way Toronto & York Region outside of the terms of the Project Agreement.¹¹⁵ The declaration outlined a goal that 10 per cent of “trade or craft working hours” on the project will be delivered by “apprentices or

110 Crosslinx Transit Solutions, “Community Benefits and Liason Plan for Eglinton Crosstown LRT Project,” 5

111 Ibid., 14

112 Metrolinx, “Metrolinx Community Benefits Framework.”

113 “Project Agreement: Eglinton Crosstown LRT Project.”

114 Ibid.

115 Government of Ontario, “Ontario Helping People Facing Employment Barriers Get Construction Jobs.”

journeypersons from historically disadvantaged and equity seeking groups.”¹¹⁶ However, the agreement is non-binding in the sense that it does not amend the terms of the Metrolinx-CTS Project Agreement.

Additionally, a consortium of community groups and other government partners have been developing a “Construction Pathway” to act as an intermediary organization that provides a pipeline of job-ready candidates, in conjunction with pre-existing union job training programs.

Now, Metrolinx and its partners are in the process of determining an effective monitoring and tracking regime for the contract that builds on these developments. They need to determine how targets will be met, performance metrics that will demonstrate success, partner roles and responsibilities, as well as effective reporting mechanisms and schedules.

However, as the lead agency responsible for building transit in the GTHA region, Metrolinx is also trying to determine a long-term strategy for effective processes and community benefits frameworks to be used for upcoming projects. Therefore, the results of the Eglinton Crosstown LRT will be important. The progress and lessons from this project will likely inform future efforts – not only by Metrolinx, but by other orders of government in Ontario as well. Metrolinx has already committed to incorporating community benefits into upcoming projects in Finch West and Sheppard East. Long-term, there may be opportunities for further investment in a wide variety of transportation expansion projects, including the GO Regional Express Rail, which will receive an investment of \$13.5 billion over 10 years.¹¹⁷ However, projects will be distinct from one another, with different community needs, stakeholders and timelines.

¹¹⁶ Metrolinx, “Declaration Re: Apprentices on the Eglinton Crosstown LRT Project.”

¹¹⁷ Metrolinx, “GO RER Initial Business Case Summary.”

What Should Metrolinx Consider as it Moves Forward with Future Initiatives?

In order to move forward with future initiatives, policymakers at Metrolinx must make several key decisions to strengthen and clarify their approach:

- » **What are Metrolinx’s high-level policy goals and objectives for community benefits?**
- » **What are the types and/or sizes of projects on which Metrolinx intends to apply community benefits in the future? Are there specific thresholds at which community benefits will be considered?**
- » **Does Metrolinx prefer to apply targets to contracts on a standardized or case-by-case basis?**
- » **To what degree will Metrolinx seek to standardize reporting and oversight of community benefits efforts? Will reporting focus mainly on compliance or be aligned to a shared evaluation framework focused on the long-term impact of community benefits policies?**
- » **What would a plan to monitor investments in community benefits look like? Are there opportunities to work with partners on this front?**

To streamline future efforts, Metrolinx must ensure that agency-wide goals for community benefits are sufficiently clear and supported by robust policy frameworks. Significant progress has already been made in establishing an enabling environment in Ontario. Efforts by the Ontario government and Metrolinx have provided a solid foundation to ensure that community

Policy Goals and Objectives

benefits policies flourish in the province. In particular, legislation and procurement directives have or will soon start to support the inclusion of community benefits in public sector procurement, while strategy documents have also begun to focus on the concept.

Nevertheless, these efforts could still be strengthened to ensure that policies are clear and specific in terms of what is expected to meet community benefits requirements. For instance, there are gaps regarding IO's AFP model, as it is unclear how considerations on community benefits and social value can and should fit into that process. However, in terms of the enabling environment, Ontario and Metrolinx are overall well prepared to begin incorporating community benefits in an ongoing way.

LEGISLATION AND REGULATIONS

Language on community benefits was part of provincial legislation passed in 2015, the *Infrastructure for Jobs and Prosperity Act*. It sets out principles that call for the consideration of community benefits in infrastructure planning and investment. However, the law was fairly broad in terms of its definition of community benefits.

Nevertheless, policymakers in Ontario are now in the process of crafting regulations in support of the law, such as on apprenticeships, and are doing consultations to move forward with their development. It is important that these final regulations not only provide specificity on how they will be applied, but also that they find the right balance between flexibility and prescriptive action to ensure that outcomes meet community benefits objectives in a manner that is feasible for all relevant stakeholders.

Additionally, the Ontario government is also working on a long-term plan for infrastructure

which will examine how decisions are made in Ontario including considerations about the impacts and benefits related to planning approaches and project prioritization. This provides another potential opportunity to provide greater clarity on its community benefits policies and planned objectives.

PROCUREMENT DIRECTIVES

In Ontario, the Public Service Procurement Directive and the Broader Public Service Directive set requirements for how ministries and agencies in the provincial government should acquire goods and services. While there is currently no language on community benefits in either of these documents, the Public Service Procurement Directive is in the process of being updated.

A November 2016 draft of the OPS Public Service Directive that was shared as part of a public consultation incorporated considerations of "social benefits." For instance, it outlines that in using "value for money" to evaluate procurement efforts, social and environmental benefits should be part of "non-price" attributes considered.¹¹⁸ Nevertheless, it remains broad in its definition of social benefits, only specifically highlighting that "support of social enterprises" would qualify as an example. It also leaves it up to ministries to opt whether or not to include such benefits in procurement. As a result, the Ontario government or Metrolinx should consider procurement guidance that provides specific direction on the proposed scope of community benefits policies. It would also be beneficial to outline best practices for when procurement officials can or should "consider" community benefits in projects.

¹¹⁸ Government of Ontario, "Draft Public Service Procurement Directive."

The Ontario Public Service Procurement Directive applies in full to ministries and most provincial agencies, but has limited application to provincial agencies that are not regulated as “Commission public bodies,” which includes Metrolinx. Therefore, the applicability to Metrolinx of the social and environmental benefits considerations that are outlined in the updated directive remains unclear. Nevertheless, the addition of this language is a positive step, as it offers a strong signal to policymakers across the Ontario government about key procurement considerations going forward. Ideally, the Broader Public Service Directive should incorporate similar enabling clauses as well.

IO’S AFP MODEL

Metrolinx is currently using the AFP model to procure and deliver the Eglinton Crosstown LRT. It would likely continue to use this model given the large scale of planned upcoming infrastructure projects. However, consideration of community benefits is not currently built into the AFP process.

In 2015, IO updated its guide for assessing “value for money,” designed to address recommendations made by the provincial Auditor General. This guide aims to incorporate best practices on developing a business case to deliver AFP projects.¹¹⁹ It is unclear whether community benefits must be specifically outlined as part of the value-for-money assessment to enable their inclusion, as this was not needed to do so in the Eglinton Crosstown project. However, there would likely be value in incorporating them into projects’ business cases. Nevertheless, a shift in thinking on what is considered “value” beyond financial considerations may be needed to effectively incorporate the concept in procurement.

119 Ontario Ministry of Finance, “2016 Ontario Budget: Jobs for Today and Tomorrow.”

Additionally, IO noted in December 2016 that it supported Metrolinx’s efforts to incorporate apprenticeships on the Eglinton Crosstown project, and likely more broadly, by “working with industry to ensure all contractors working on AFP projects submit and implement apprenticeships plans.”¹²⁰ IO began a pilot project in 2015 that would encourage greater inclusion of apprentices on projects – though that effort was fairly broad and did not set any specific targets.

Finally, it is also worth noting that as policymakers consider developing community benefits requirements, they should take into account the context of the AFP model. Indeed, policies should be clear, targeted, manageable and built early into the procurement process. Furthermore, they should also aim to limit uncertainty and costs that cannot be well estimated.

METROLINX’S SUSTAINABILITY STRATEGY

Metrolinx has developed a broad Sustainability Strategy, covering 2015 to 2020, which includes “action areas” on sustainable procurement and social value.¹²¹ Broadly, Metrolinx notes in a September 2016 draft that the strategy aims to “reduce our impact on the environment and enhance opportunities for communities.”¹²²

This strategy document provides a strong foundation to ensure community benefits are built into future projects on which it engages. The document specifically notes that it is designed to align ongoing efforts to increase community benefits on infrastructure projects, including the *Infrastructure for Jobs and Prosperity Act*.

120 Government of Ontario, “Ontario Helping People Facing Employment Barriers Get Construction Jobs.”

121 “Metrolinx Annual Report 2015-2016.”

122 Metrolinx, “Draft Metrolinx Sustainability Strategy (2015-2020).”

Metrolinx also outlines five sustainability goals, including to “enhance community responsibility.”¹²³ This goal is the most notable in relation to community benefits policies, as it outlines the agency’s vision for what constitutes community benefits. In particular, the document notes that it seeks to support communities and “create a lasting legacy” by developing programs that support specific key issues, including employment and training, mental health and local economic development.¹²⁴

Also as part of that objective, Metrolinx discusses plans to measure success through efforts such as working with community residents in the process of undertaking new infrastructure projects, supporting workforce development and building partnerships to support skills and trades.¹²⁵ It also outlines expected completion dates for these planned actions, though it offers varying levels of specificity in how these commitments will be achieved.

Thresholds for Consideration of Community Benefits

For future community benefits initiatives, policymakers at Metrolinx and the province will need to determine the size and type of projects for which community benefits will be considered. As they gain experience in delivering community benefits, many jurisdictions choose to adopt thresholds at which they are automatically considered for inclusion into contracts. There is no single way to determine the most appropriate threshold level for a given jurisdiction. Decisions regarding threshold levels are often a product of trial and error – set and amended based on local experiences with the requirements and the types of community benefits being pursued.

In general, since workforce development schemes require participants to receive meaningful employment and initially require significant coordination to develop and carry out, they are mostly applied to high-dollar construction contracts with long timelines. Conversely, efforts to promote social enterprise or achieve environmental benefits can be more easily integrated into procurement at all spending levels. For Metrolinx, approaches to deciding when and where to pursue community benefits will most likely rely on a combination of organizational interest and willingness to develop processes for smaller contracts and concrete thresholds set out for larger construction projects, possibly through provincial legislation.

Under section 9 of the *Infrastructure for Jobs and Prosperity Act*, the circumstances under which government will require community benefits commitments and when bidders will be required to provide an apprenticeship plan for the construction or maintenance of infrastructure projects are not currently defined. However, section 12 of the Act states that they may be defined through further regulation. In terms of threshold levels for when community benefits are considered as part of the business case, the AFP threshold of \$100 million could potentially act as a natural starting point for further experimentation with workforce development commitments across the province, while Metrolinx may consider policies and procedures for other types of benefits on lower value contracts.

The intent of this model would be to ensure that workforce development commitments in particular are systematically and routinely incorporated on large-scale AFP contracts across multiple projects, while giving individual agencies and ministries the freedom to experiment with different approaches and processes on other

123 Ibid.

124 Ibid.

125 Ibid.

procurement values. This does not mean that other approaches could not be included and considered on large contracts, including AFP projects – only that standardized approaches toward workforce development requirements could be considered government-wide at this level.

For example, mirroring Scotland's *Procurement Reform Act 2014*, contracts with an estimated value of more than \$100 million could require consideration of workforce development commitments and other community benefits in proposed infrastructure construction projects. If due to specific technical or logistical requirements community benefits are not feasible, procurement officials would be required to provide justification for their decision as part of the procurement process. At an agency level, similar to the City of Toronto's 2013-2015 Social Procurement Pilot, Metrolinx could approach further expansion of its community benefits efforts across its operations and business lines as a learning exercise – piloting supply chain initiatives and other approaches on lower value contracts to better understand organizational interest and challenges on this front. However, as stated above, there is no clear guideline for when community benefits ought to be applied to specific contracts.

Targets

Targets are a key element of community benefits initiatives. With the announcement in late 2016 of an agreement and declaration on target levels for apprenticeships on the Eglinton Crosstown LRT project, Metrolinx and the Ontario government have acknowledged the need for these mechanisms and taken a strong first step toward their use in future projects. It serves as a starting point in applying community benefits initiatives to future similar large-scale transportation projects.

The declaration for the Eglinton Crosstown sets a goal of “10 per cent of all trade and crafting hours” to be done by apprentices and journeypersons from “historically disadvantaged communities and equity seeking groups.”¹²⁶ However, that target is non-binding and specific to that project. Policymakers will have to determine whether they want to similarly negotiate targets on a project-by-project basis or develop a standardized approach. Both approaches have been undertaken by jurisdictions engaging in community benefits policies, though clauses – which this paper has identified as being most appropriate for the Ontario context – generally involve a standardized approach. While project-by-project target-setting can allow for a certain degree of flexibility, standardization is more predictable for all relevant stakeholders and therefore easier to build into procurement processes.

Indeed, on timing, a key lesson has already emerged in the case of the Eglinton Crosstown LRT – the benefit of building specific targets into the process early to ensure expectations are clear to contractors at the outset and before the contract is signed. Doing so will prevent later delays and help to ensure that community benefits objectives are effectively achieved.

As policymakers move forward, clarity will be needed on defining the groups that targets will apply to, the degree of flexibility that will be possible, the clarity of terms, and the feasibility of requirements. Many of these elements will become clearer as the declaration agreement is implemented on the Eglinton Crosstown LRT project. Additionally, the current policy only applies to apprenticeships on construction projects and targets will need to be considered in different ways for other types of community

¹²⁶ Government of Ontario, “Ontario Helping People Facing Employment Barriers Get Construction Jobs.”

benefits if Metrolinx and the Ontario government intend to expand upon the current focus on workforce development into areas such as operational jobs and the impact that transit-oriented development has on low-income renters through gentrification pressures.¹²⁷

Reporting, Monitoring and Measurement

Long-term, decision-makers at Metrolinx are examining how they might be able to articulate progress on their broader community benefits commitments (not just workforce development requirements) to the agency's board and the broader public. To ensure that this happens, strong reporting, oversight and measurement frameworks are needed.

Policymakers must decide to what degree Metrolinx will seek to standardize its approach to community benefits commitments and its reporting and oversight processes. Will reporting be mostly compliance and implementation focused? Or are Metrolinx's leadership and board more interested in capturing information on the long-term impacts of these investments? If so, reporting will likely need to be aligned to a shared evaluation framework that clearly links community benefits activities to Metrolinx's stated community benefits goals. Finally, what would a plan to monitor community benefits investments look like? Are there opportunities to work with partners on this front?

Project outputs and outcomes from individual contracts can answer immediate questions about whether a certain project activity occurred, but the outcomes will be occurring at a low level due to the long-term nature of expected change. To understand long-term impact, it may be more effective to roll-up the outcomes from many

projects into a broader evaluation framework that looks at community impact as a whole and shares a standardized approach to reporting.

To do this, Metrolinx must clearly define its community benefits objectives. Metrolinx has started this process through updates to its Sustainability Strategy, however more clarity on objectives and dedicated resources/partnerships for evaluation would strengthen its approach. Short, medium and long-term outcomes could be defined, with relevant indicators and information sources identified for each. Key performance indicators/targets could be tied to a logic model that links back to identified policy goals, be used across multiple contracts and then be analyzed in the aggregate, over a pre-determined period of time. In that case, procurement officials would be moving beyond analyzing questions such as "Did the contractor hire who they said they were going to hire?" to "What were the outcomes of the hiring initiative(s)?"

For example, if a desired outcome is "previously unemployed individuals from historically disadvantaged and equity-seeking groups become attached to the labour market" a potential indicator could be "# and per cent of target community members who progressed through apprenticeship requirements after placement." As Metrolinx experiments with further community benefits initiatives and pilots, it may consider hiring an experienced evaluator to guide and work alongside them during pilot design and learning efforts.

¹²⁷ Nugent, "The Right to Build the City: Can Community Benefits Agreements Bring Employment Equity to the Construction Sector?"

Eglinton Crosstown and Declaration re. Apprentices on the Eglinton Crosstown LRT

The following is a brief overview of some of the considerations for a monitoring and evaluation plan as it relates to apprenticeship commitments based on the information provided through the Crosslinx Community Benefits and Liaison Plan and the subsequent target declaration on apprentices document. It is not comprehensive and there are many ways that tracking these commitments could be approached. However, it may provide a starting point for dialogue on the key decisions needed for future monitoring efforts.

For the Crosstown project, as part of its Project Agreement, agreed upon community benefits activities were outlined through the CTS Community Benefits and Liaison Plan submitted in February 2016. In the plan, community benefits activities were proposed under three main categories:

- » Employment, Training and Workforce Development
- » Social Enterprises and Social Procurement
- » Community Improvements¹²⁸

Under these categories, Crosslinx proposed a number of community benefits, including supporting the development of a construction pathway for apprenticeship opportunities, working with local workforce agencies, school engagement programs, committing to engage social enterprise and hosting social purchasing information sessions.¹²⁹ While the plan outlined activities and processes for how it would seek to engage, hire and purchase from local communities, it did not contain any hard targets for success or indicators for progress on outlined goals.

However, through subsequent negotiation, numerical targets for apprenticeship commitments were outlined through the signing of the *Declaration re. Apprentices on the Eglinton Crosstown LRT Project*. The public declaration was signed on November 8, 2016 and affirms the signatories' intention to work towards the goal of:

"employing apprentices or journeypersons from historically disadvantaged communities and equity seeking groups to perform 10% of all trade or craft working hours, on a trade by trade basis, required to construct the Project."¹³⁰

The declaration is not legally binding and is reliant on good-faith efforts of the partners to work towards achieving it. However, as Metrolinx and its partners move forward, there are implications for how progress towards meeting CTS's goals will be reported on and measured.

REPORTING TIMELINES, ROLES AND RESPONSIBILITIES

Key decisions:

- » Who is responsible for reporting on which outputs/key performance indicators (KPIs)? (Could be multiple sources)
- » Who do they report it to?
- » When do the parties report and how often?
- » What form will the data be reported in?
- » Once reported, who collects, aggregates and analyzes the data?
- » Will progress on outcomes be monitored beyond the length of the contract?

128 Crosslinx Transit Solutions, "Community Benefits and Liaison Plan for Eglinton Crosstown LRT Project," 14.

129 Ibid., 20

130 Metrolinx, "Declaration Re: Apprentices on the Eglinton Crosstown LRT Project."

KEY STAKEHOLDERS

Stakeholder	Needs
Working Group Members	<ul style="list-style-type: none"> » Clarify roles for reporting and oversight » Ensure compliance and public accountability
Crosslinx Transit Solutions (CTS)	<ul style="list-style-type: none"> » Assess current workforce in relation to identified criteria » Reporting requirements to working group, Metrolinx/IO » Reporting requirements from sub-contractors
Trade Union Programs	<ul style="list-style-type: none"> » Clarify job pathway referral process to CTS project » Identify any alignment opportunities and reporting requirements
Construction Pathway Steering Committee	<ul style="list-style-type: none"> » Clarify job pathway referral process to CTS project » Identify any alignment opportunities and reporting requirements
MAESD/Ontario College of Trades	<ul style="list-style-type: none"> » Identify information needs » Potential source for long-term tracking of new apprenticeships, demographic changes, progression through apprenticeship requirements, etc. identified by CTS
Metrolinx	<ul style="list-style-type: none"> » Meet Metrolinx community benefits objectives » Identify information needs » Ensure CTS compliance with Project Agreement
TCBN	<ul style="list-style-type: none"> » Ensure public accountability and alignment to community needs

Target Community

Goal:

10% of all “trade or craft working hours” required to complete the Eglinton Crosstown LRT Project will be completed by “apprentices or journeypersons from historically disadvantaged communities and/or equity seeking groups.”

Based on the target declaration, targeted hire community members would be members of “a historically disadvantaged and/or equity-seeking group” which would need to be further defined, along with any exclusion or inclusion criteria identified by project partners.

Based on the goal stated above, the following definitions would need to be agreed on:

- » Historically disadvantaged communities and equity-seeking groups
- » Equity-seeking groups
- » Apprentice
- » Journeyperson
- » Trade working hours
- » Craft working hours
- » Trade
- » Trades implicated under the agreement

Definitions of historically-disadvantaged communities and equity-seeking groups:

Once defined, there may be challenges with identification of potential target community members. Processes such as a self-report equity survey for existing employees and processes through the various job pathway models should be considered, with non-disclosure as an option. Labour compliance software, such as LCP Tracker may facilitate reporting processes, but workers will still need to self-identify for it to work effectively.

For the Crosstown project, applications and referrals for candidates are processed through the CTS online portal. The portal is hosted by ICIMS and each candidate is given a unique ICIMS identifier. The ICIMS’ Applicant Tracking System has the ability to collect and store candidate related data, track and monitor progress, and if it were linked to Ontario College of Trades registration numbers, may provide the necessary information to allow evaluators at the province to follow the long-term progress of targeted candidates.

BASELINE

In order to understand progress toward the 10 per cent target, project partners will likely need to gather information about the expected need for apprentices and the current demographic makeup of the existing workforce. For example, project partners might need to know the:

- » Estimated # of “trade or craft working hours” required to complete project
- » Estimated # of apprentices and journeypersons required to complete project, by trade, including ratio requirements
- » % of “trade or craft working hours” already being completed by “apprentices and journeypersons from historically disadvantaged communities and equity seeking groups” (and whether these groups will count towards the total)

Likewise, if identified goals of the province were to improve the labour supply for infrastructure-related skilled trades, increase diversity in the trades and reduce skills shortages, there may be a need for a skills strategy, similar to the UK Transport Infrastructure Skills Strategy, which could help to set a baseline for shortages and then track progress towards meeting them.¹³¹

KEY PERFORMANCE INDICATORS

To understand Crosslinx’s hiring efforts, KPIs should be developed and reported on to the steering committee at regular intervals during the lifetime of the contract. The following example shows sample KPIs as they relate to the Apprenticeship Declaration. Similar indicators should be developed for non-apprenticeship and operational hiring targets.

Potential Key Performance Indicators for Eglinton Crosstown LRT Apprenticeships

Potential Key Performance Indicators for Eglinton Crosstown LRT	
Number of Apprentices	# of apprentices employed on the project*
	# of apprentices employed who are individuals from historically disadvantaged or equity-seeking groups
New Apprentices	# of apprenticeships started on the project*
	# apprenticeships started by individuals from historically disadvantaged or equity-seeking groups
Working Hours	# of trade or craft working hours completed
	# completed by journeypersons
	# completed by journeypersons from historically disadvantaged or equity-seeking groups
	# completed by apprentices
	# completed by apprentices from historically disadvantaged or equity-seeking groups

*Mandated in declaration document

OUTCOME INDICATORS

If desired, short-, medium- and long-term outcome indicators could be defined in relation to the goals set out in the Metrolinx-CTS Project Agreement, the Metrolinx Community Benefits Framework, the target declaration on apprentices, logic models from existing job pathways that feed into the Crosstown project and any other “core” guiding documents parties see as relevant to the agreement. The outcomes identified should align to the stated goals of Ontario’s community benefits legislation, Metrolinx’s Sustainability Strategy and its Community Benefits Framework.

To follow the long-term outcomes of targeted individuals, information sources that allow evaluation partners to track their progress after the completion of the project would be required. For example, as a proxy for long-term labour market attachment, unique identifiers through the College of Trades could be used to understand whether or not apprentices go on to complete their apprenticeships after the project ends and whether they maintain continued membership in the College.

131 UK Department for Transport, “Transport Infrastructure Skills Strategy: Building Sustainable Skills.”

A person wearing an orange safety vest is holding a tablet computer. The tablet displays a technical drawing or architectural plan with various labels and diagrams. The background is blurred, showing an outdoor setting with other people.

To overcome challenges and leverage opportunities, policymakers must be proactive to ensure these policies are successful by taking specific steps to ensure they are properly enabled, targeted, tracked and achieved.

9 RECOMMENDATIONS

Overall, there is significant opportunity to leverage government investment to support social and environmental policy objectives. However, challenges can be encountered in putting these concepts into practice and in making sure promises are delivered. To overcome challenges and leverage opportunities, policymakers must be proactive to ensure these policies are successful – not just by voicing broad support for the principles but by taking specific steps to ensure they are properly enabled, targeted, tracked and achieved.

In particular, as Metrolinx moves forward in the implementation of its Community Benefits Framework and with particular projects that incorporate these principles – such as the Eglinton Crosstown, Finch West and Sheppard East – specific steps should be taken related to the policy landscape in Ontario. The Infrastructure for Jobs and Prosperity Act, 2015 set out important principles and was a major first step for Metrolinx and policymakers across Ontario toward enabling social value and community benefits considerations in infrastructure planning and procurement processes. However, further action should be taken to ensure the successful delivery of community benefits in an ongoing way. Based on the analysis outlined in this paper, the Mowat Centre offers a series of recommendations to Metrolinx and the province of Ontario, where applicable.

In line with international best practices, update Ontario's procurement directives to reflect social value considerations – both in relation to guiding procurement principles and specific processes.

Enabling clauses for community benefits should be incorporated into both the OPS and BPS procurement directives. While efforts are already underway to include consideration of “social benefits” in a draft version of the updated Ontario Public Service Directive, the enabling environment would be further strengthened by making similar amendments to Ontario's Broader Public Service Directive.

Develop technical guidance for procurement officials that provides concrete advice on community benefits, with model clauses and templates.

Greater clarity regarding objectives, focus, rationale and roles and responsibilities is needed in procurement directives and supplementary guidance documents. Technical procurement guidance on community benefits processes and approaches should be developed to better clarify rationale, define concepts and outline best practices.

There is a particular need for guidance in relation to how clauses can be enabled in Ontario's AFP process. In recent years, efforts to improve delivery of AFP projects have primarily focused on improvements on timing and budgeting. Therefore, without clearly mandated requirements and guidance, it may be difficult to incorporate other considerations as part of that process, as it would be a significant change from the way such infrastructure has typically been procured in the province.

Strengthen the focus of community benefits policies, consider developing a strategy document to supplement and clarify the types of social outcomes or "community benefits" desired across all lines of business.

As it undertakes these efforts, Metrolinx may consider a similar approach to the process used by the SFPUC for their community benefits strategies. The process should consider the proposed scope of any community benefit/sustainable procurement policies in relation to pre-existing efforts and requirements, as well as community need in areas where they operate.

For Metrolinx, a long-term strategy should consider community benefits across all lines of business – operations, construction and procurement. However, in the short-term, it is reasonable for initial efforts to focus on potential benefits arising from planned expansion and construction, as the potential benefits are imminent, high profile and tangible.

Metrolinx has already made significant progress on this front. Its Community Benefits Framework broadly outlines guiding principles for its community benefits programs, including inclusivity, accessibility, transparency and collaboration.¹³² The framework does not,

Targets in contracts should be clear, meaningful, proportional, and defined up-front.

however, specifically outline areas of focus – despite mentions of concepts such as employment, training, apprenticeships and social procurement, among others. Metrolinx's Sustainability Strategy further expands upon issues in which it is interested in focusing on through community benefits policies. However, more clarity could be helpful to further focus its efforts and tie them more concretely to the agency's day-to-day efforts.

Where possible, policymakers should consider opportunities to align focus areas to high-level policy priorities across government, such as the Ontario Poverty Reduction Strategy and Ontario's Social Enterprise Strategy. Due to Metrolinx's focus in the GTHA, there may also be opportunities to leverage existing efforts by various orders of government to determine which areas or populations in the region are likely to benefit most from certain types of community wealth building strategies. For instance, the City of Toronto updates its list of Toronto Priority Neighbourhoods on an ongoing basis – all of which would be positioned to benefit from specific investments that target social value. Indeed, construction for the Eglinton Crosstown will occur around five neighbourhoods already highlighted as a priority by the city. Collaboration with other municipalities in the GTHA, as well as across Ontario, would be necessary to ensure that similar types of data can be used

¹³² Metrolinx, "Metrolinx Community Benefits Framework."

and needs are covered in all the diverse areas across the region. However, as noted above, there may be challenges associated with a geographic approach to targeted hiring. Low-income residents living in transit-adjacent neighbourhoods are most at risk of displacement due to gentrification pressures caused by transit development.¹³³

Define the proposed scope of any community benefit and sustainable procurement requirements early on in procurement processes.

An important lesson from other jurisdictions is the value of incorporating community benefits and social value considerations into procurement process as early as possible. The details of community benefits plans should be negotiated up front, before the financial close of a contract. In situations where details are to be clarified after the contract has already been awarded, parties may find it difficult to reach an acceptable agreement or pass on requirements to any subcontractors.

To effectively incorporate social value as part of IO's AFP process, approaches are most likely to be successful if they are targeted and streamlined – with specific and standardized requirements that ensure clarity and predictability. To support this, the Ontario government should work to develop a process where potential community benefits are identified in advance through community needs assessments during the planning and business case development processes.

Policymakers should refrain from voluntary procurement approaches or project specifications that do not clearly frame desired outcomes in advance of pre-tendering processes. Once a

procurement approach is selected, within these options, there are choices to be made in relation to the prescriptiveness of the requirements and approach. Especially for large contracts, policymakers should consider approaches that provide necessary clarity and specificity for contractors.

For contracts that include workforce development requirements, develop a common approach to the inclusion of targets.

Some steps have already been taken by Metrolinx to set targets. As part of the Eglinton Crosstown LRT project, Metrolinx signed an agreement with partners in government, community groups and the project's developer to set a goal that "10 per cent of all trade and crafting hours needed for the project will be performed by apprentices."¹³⁴ While the development of aspirational targets on that specific project is a good first step, Metrolinx would benefit from setting clear and specific targets earlier in the process – in advance of awarding the contract – and developing a common approach rather than doing so project by project.

Overall, targets should be developed that are proportional to the amount of work being done on a given project and objectives should be specifically defined to ensure approaches effectively support target populations. Lessons learned from the experience of applying targets to the Eglinton Crosstown LRT project should help pave the way for development of a standardized approach to targets in the future.

133 Nugent, James, 2017, "The Right to Build the City: Can Community Benefits Agreements Bring Employment Equity to the Construction Sector?," Labour/Le Travail, Vol. 79, Spring.

134 Government of Ontario, "Ontario Helping People Facing Employment Barriers Get Construction Jobs."

Consider the capacity of stakeholders during the bidding process and offer opportunities for support.

Stakeholder capacity and buy-in to develop and carry out initiatives are important factors that must be considered. For large development projects, IO and the Government of Ontario should consider processes that screen for capacity at the pre-qualification stage. Questions related to capacity to implement planned initiatives could be incorporated into contractor screening at the RFQ stage. Particularly in relation to the AFP model, there may be an opportunity to promote buy-in and compliance by encouraging bidders to begin thinking about community benefits approaches early on.

Connect bidders to existing construction job pathways and other pre-apprenticeship streams.

Community benefits policies that focus on training and apprenticeships often include a pathway to match employer needs with targeted populations. Metrolinx, in combination with other government partners, has already begun work on a Construction Pathway pilot project which will provide jobseekers with training in the sector. It is expected to be used as a method to match jobseekers with work on the Eglinton Crosstown LRT.¹³⁵ However, a robust system of intermediaries is needed to ensure that a talent pool is available to support community benefits through workforce development – which will likely require secure funding support to develop necessary capacity.

Long-term, a strategy should be developed which examines the types of jobs that community benefits policies are effectively creating and the degree to which they are high skilled or low skilled, as well as the degree to which they are addressing skills shortages. Indeed,

these considerations should be part of the pre-screening done by intermediaries – creating a system with a strategic approach to training and investing resources to ensure individuals are hired that are well-suited to the work.

Additionally, long-term outcomes on labour market attachment, apprenticeship completion and other indicators of economic success are important considerations. In the case of Ontario, the responsibility for choosing and evaluating these outcomes will largely rest with authorities responsible for the development and maintenance of job pathways and candidate brokerage in relation to community benefits requirements. Data on jobseekers using job pathways should be incorporated into reporting and monitoring mechanisms, as a way to track both short- and long-term performance.

Develop a shared evaluation framework.

Metrolinx should consider developing an evaluation framework that can be used to determine the impact of community benefits across multiple projects and help clarify measurement needs for future contracts. Ideally, a framework that clearly links community benefits activities to Metrolinx’s stated goals could be used to standardize and align reporting practices across projects moving forward.

Ensure requirements and expectations on reporting and monitoring are standardized, outlined early in the procurement process and include stakeholder consultation and coordination.

As Metrolinx moves forward on incorporating community benefits policies, it would benefit from outlining reporting and monitoring efforts early in the process – at pre-procurement and negotiation stages. Indeed, lessons from other jurisdictions illustrate that policies are most likely to be successful when compliance is an early

¹³⁵ Ibid.

consideration. Similarly, a standardized process – which allows for wide adoption of reporting systems – has also been found to be beneficial in easing burdens on developers by ensuring predictability.

The complexities of IO's AFP process adds to the need to clarify these details to ensure developers understand what will be required of them. Key considerations that must be outlined include the outcomes that are being reported, the frequency of such reporting requirements and the stakeholders which will receive reports. These efforts would also be best aligned with a broader evaluation strategy.

Metrolinx should also consider working with community groups to develop a community benefits reporting and oversight mechanism with which all relevant parties can engage to ensure outcomes are being achieved and reported on – providing public oversight and encouraging transparency. Reporting and oversight processes within this context should be timely, allowing for stakeholder buy-in and opportunities for course correction throughout the lifecycle of a project.

The strength of community benefits policies rests on the definitions of “social value” or “community benefit” principles contained in them.

Long-term, from a government-wide or specific ministry/agency perspective, thoughtful integration efforts within government may provide needed information pathways to better understand the long-term impacts of community benefits activities as a whole. For example, progression through apprenticeship requirements may be examined on a longer-term basis through collaboration with the Ontario College of Trades to understand both the success of targeted entrants and long-term trends in promoting diversity and meeting labour needs in the skilled trades. Overall, Metrolinx should work with government partners to coordinate and integrate efforts to share information and gain a broader perspective on the impacts and outcomes of community benefits policies.

Explore opportunities to leverage existing tools for monitoring and compliance.

Policymakers should consider whether existing tools or processes can be used to facilitate monitoring and compliance efforts. For example, there may be software solutions or other initiatives that can be used to track the activities of jobseekers, or score vendor performance.

Policymakers should consider whether labour compliance software or applicant tracking systems used by contract recipients could be used to help verify their targeted hiring efforts. For example, ICIMS, the applicant tracking system used by CTS for the Eglinton Crosstown LRT, could potentially allow partners to determine the degree to which candidates fit specific criteria to meet community benefits requirements. The ICIMS' Applicant Tracking System has the ability to collect and store candidate-related data, track and monitor progress and, if it were linked to Ontario College of Trades registration numbers, may also provide the necessary information to allow evaluators at the province to follow the long-term progress of targeted candidates

throughout the time apprentices spend on projects and beyond.

Policymakers should also assess whether or not there is an opportunity to incorporate community benefits into IO's proposed vendor performance program as part of its compliance approach. As part of the program, scores are assigned to contractors participating in IO projects, with demerit points given to those who do not meet project agreement criteria.¹³⁶ Scores are considered as a part of future project submissions evaluated by IO. The goal is to "ensure responsiveness and good behaviour" for contractors working on IO projects. Building in a community benefits component to such a system could help ensure community benefits objectives are achieved on projects by Metrolinx and those pursued across Ontario, as well as provide strong support for a compliance regime. However, it would be important to ensure that any potential demerit penalties were proportional and applied only in instances of gross noncompliance, so as not to overly penalize contract recipients who made good faith efforts to meet their commitments.

It should be noted that compliance monitoring mechanisms will likely change over time as community benefits policies develop and mature. As contract terms become more entrenched and standardized, compliance and oversight mechanisms may become more routine. Governments may not need the same information in order to learn from activities and evaluate the process. Likewise, new requirements may be introduced to respond to emerging challenges or standards. It is important that policymakers, industry and community stakeholders are prepared to learn and adapt from experiences as time goes on.

As a starting point for future projects, experiment with contract thresholds that require the consideration of targeted recruitment initiatives on procurement values with an estimated value of more than \$100 million.

As the Ontario government crafts regulations to support the *Infrastructure for Jobs and Prosperity Act*, it should do so in a way that ensures clarity and specificity on how and when community benefits requirements will be applied to infrastructure development projects. As part of regulations, policymakers will likely need to determine the size and type of projects most appropriate to apply community benefits requirements.

Based on international experiences, there is no generally accepted guideline for when community benefits ought to be applied to specific contracts. Currently, the threshold for which projects are considered as part of the AFP process is set at \$100 million – a level which could potentially inform Metrolinx's approach. In advance of requirements through provincial regulation, policymakers at Metrolinx may choose to further experiment with workforce development commitments on contracts that reach the AFP threshold, while piloting supply chain initiatives and other approaches on lower value contracts to better understand organizational interest and challenges for different methods.

¹³⁶ Wall, "IO Unveils Vendor Performance Program for RFQ Phase."



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