

# Procurement Administration Manual

Community Economic Development Initiatives  
Aboriginal Procurement

POLICY

## Aboriginal Procurement

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**Effective Date:** April 1, 2009  
**Revision Date:** May 6, 2010  
**Replaces Date:** April 21, 2009

### Policy

- The Aboriginal Procurement Initiative (API) must be incorporated into all tenders.

### Rationale

- To support commitment to community economic development as a key component of Manitoba's economic strategy, intended to develop a provincial economy that is more inclusive, equitable, and sustainable.
- To use procurement practices to assist in the development of Aboriginal business that may contribute to community economic development.
- To maximize opportunities to access government tenders by Aboriginal business, while maintaining competitive pricing for government.
- Potential benefits:
  - Help stimulate Aboriginal business development
  - Increase procurement from Aboriginal businesses through sub-contracting and/or joint ventures with the general business community when bidding on tenders
  - Build relationships between Aboriginal business, government Administrators and the general business community
  - Improve understanding of the tender process by Aboriginal businesses
  - Increase knowledge of the Aboriginal business community by government Administrators

### Application

- API applies to
  - Goods
  - Primarily goods with a minor service component
  - Primarily services with a minor component for goods
  - Services including
    - Construction related projects (does not include capital projects)
    - Consulting services
    - Professional services
  - Some exceptions apply: additional guidelines for capital projects are under development and include capital works programs in Infrastructure and Transportation (ex: winter roads) and construction of capital assets (ex: buildings)
- API applies to the following organizations:
  - All Departments including Departments and programs with delegated purchasing authority.
  - Special Operating Agencies

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- API does **not** apply to the following organizations:
  - Crown Agencies such as Manitoba Hydro.
  - Government Boards and Commissions.
  - “MASH” Sector Purchasing Authorities as follows:
    - **M**unicipal Government, through the Association of Manitoba Municipalities
    - **A**dvanced Education (Universities and Colleges)
    - **S**chools
    - **H**ealth (Regional Health Authorities and Institutions)

### References

- [The Government Purchases Act, Chapter G90](#)
- [Sustainable Development Act](#), S270, Schedule A.
- Manitoba’s Aboriginal Procurement Initiative (API), approved in principle by the Community Economic Development Committee December 4, 2001.
- Manitoba’s Sustainable Development Procurement Goals, including API, approved with action plans by Cabinet May 2002.
- [General Manual of Administration \(GMA\)](#)
  - 1.2 General Approvals
  - 1.3 Contracts
- [Agreement on Internal Trade](#) (AIT), Article 1802

### Policy Guidelines

- The objective of the API is to increase the participation of Aboriginal business in providing goods and services to Manitoba. The API provides options in the tendering process to help achieve this objective.
- Departments and Special Operating Agencies are responsible for following policy and guidelines. Deviations from policy and guidelines must be approved by Procurement Services Branch.
- An Aboriginal Business must be at least:
  - 51% Aboriginal-owned and controlled; and
  - If it has six or more full-time employees, at least one-third of its employees must be Aboriginal persons.
- A non-Aboriginal business employing Aboriginal people does not constitute being an Aboriginal business.
- An Aboriginal person is one who is First Nations, Non-status Indian, Métis or Inuit person who is a Canadian citizen and resident in Canada.
- The primary focus of this initiative is procurement. There may be other initiatives that have greater focus on education, employment and training initiatives that compliment the API.

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### Aboriginal Procurement Criteria

- The following two criteria are used in the assessment of a requirement to determine options to be incorporated into a tender:
  1. The requirement is **culturally specific to Aboriginal people**, ex: Aboriginal art, cross-cultural awareness workshops, or
  2. The requirement is **primarily designated for Aboriginal people**, ex: a study on diabetes within the Aboriginal community, an Aboriginal event planner for an Aboriginal event, an Aboriginal conference/event, focus of the requirement is Aboriginal in nature.
    - Exceptions:
      - Goods and/or services on established agreements with a legal commitment to purchase exclusively from the vendor (check with Contract Administrator)
      - Requirements serving the general population
      - Department programs serving the general population, ex: Child and Family Services

### Aboriginal Procurement Assessment and Options

- Prior to an Aboriginal Procurement Assessment, requirement planning should be undertaken and may include:
  - Budgeting
  - Preliminary Aboriginal Procurement assessment
  - Dividing requirements into specialized work packages to accommodate Aboriginal businesses
  - Incorporating other government priorities, ex: Sustainable Development
  - Relationship building with the Aboriginal community
- All requirements must have an Aboriginal Procurement Assessment, see Guideline
- The Assessment must determine if the requirement meets Aboriginal Procurement Criteria.
- An Aboriginal Procurement Assessment will result in one of the following options being selected:
  1. Aboriginal Business Set-Aside
    - Guideline Manitoba Aboriginal Business Set-Aside (RFP)
    - Guideline Manitoba Aboriginal Business Set-Aside (RFQ)
    - Guideline Canada Aboriginal Business Set-Aside (RFP)
    - Guideline Canada Aboriginal Business Set-Aside (RFQ)
  2. Mandatory Aboriginal Business Participation
    - Guideline Mandatory Aboriginal Business Participation (RFP)
    - Guideline Mandatory Aboriginal Business Participation (RFQ)
  3. Aboriginal Business Participation
    - Guideline Aboriginal Business Participation (RFP)
    - Guideline Aboriginal Business Participation (RFQ)
  4. Aboriginal Business Standard
    - Guideline Aboriginal Business Standard (RFQ)
- As part of the Aboriginal Procurement Assessment, Administrators identify and assess potential competition and capacity of Aboriginal businesses.
- Once Administrators have identified tendering type and terms and conditions, the method of issuing a tender will be determined.

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- API is exempted from the provisions of the Agreement on Internal Trade, article 1802
  - While Agreement on Internal Trade establishes thresholds over which tenders must be publicly tendered and accessible to vendors, Manitoba has established different thresholds for public tendering under the API. See Aboriginal Procurement Assessment for thresholds and tender distribution.

### Additional Policy Guidelines

- A corporate directory listing Manitoba and Canadian Aboriginal businesses that have formally self registered through the Manitoba's API is to be used as an information resource to help determine the level of competition and capacity existing in the Aboriginal Business Community. See Policy Guideline: Aboriginal Business Directory
- Department Purchasing Coordinators are the first point of contact within the departments.
- Procurement Service Branch (PSB) will provide additional business consultancy services to Department Purchasing Coordinators, Administrators and department staff.
- Manitoba will engage Aboriginal business to assist in understanding and participating in the procurement process in Manitoba. Relationship building forums will be used to bring together Aboriginal businesses, government Administrators and the general business community to exchange information and to build relationships. See Policy Guideline: Supporting Aboriginal Business
- As API is a Government-wide initiative, a number of committees and departments have high level coordinating roles and responsibilities in development, communication and reporting of API. See Policy Guideline: Roles and Responsibilities
  - Departments are responsible for implementing, monitoring and reporting on this initiative within their program areas.
  - Departments will develop annual objectives, action plans and reporting mechanisms that record progress.
- PSB will coordinate a corporate reporting process to consolidate Department reports. See Policy Guideline: Aboriginal Business Activity Reporting
- Questions and answers from the policy and guidelines are summarized in this Q &A section. See Policy Guideline: API - Questions and Answers

### Definitions

**Aboriginal Business:** A Canadian business that is at least 51% Aboriginal owned and controlled **and**, if it has six or more full-time employees, at least one-third of its employees must be Aboriginal persons.

**Aboriginal Business Certificate:** A form used to self-declare Aboriginal ownership and control of a business.

**Aboriginal Business Certification:** A process to verify Aboriginal ownership and control of a business. Certification will be required to register in the Aboriginal Business Directory, and when submitting a bid for a particular tender, and on as required during the contract. Contracts with Aboriginal business stipulate that the Aboriginal businesses maintain its Aboriginal business status throughout the duration of a contract.

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**Aboriginal Business Directory:** A business directory of Aboriginal businesses that meet Manitoba's definition of an Aboriginal business.

**Aboriginal Business Involvement:** The level of Aboriginal business participation in any tender.

**Aboriginal Business Mandatory Participation:** A portion of the tender **must** be provided by a Canadian Aboriginal Business, as a contractor or subcontractor. The portion of Aboriginal involvement is determined by the bidder.

**Aboriginal Business Participation:** Terms and Conditions that indicate that Aboriginal business participation is desirable.

**Aboriginal Business Set-Aside:** A purchase of a good or service that has been reserved for competition among Aboriginal businesses only.

**Aboriginal Business Standard (RFQ):** A condition of a tender that indicates that Aboriginal business participation is desirable and **no** points will be assigned in the tender document for "Aboriginal Business Standard (RFQ)".

**Aboriginal Person:** A First Nations, Non-status Indian, Métis or Inuit person who is a Canadian citizen and resident in Canada.

**Administrator:** The individual who on behalf of Manitoba is responsible for the preparation and administration of the tendering process, execution of the Agreement and monitoring contract performance. The Administrator can be a Buyer, a Purchasing Agent, or staff assigned by the specific department or end user.

**Advance Notice:** The process of notifying potential businesses with the capacity to provide a good or service, ex: Advanced letter of notification (if posted on MERX), or direct tenders.

**Capacity:** The ability of a business to meet a requirement in whole or in part.

**Competitive Bid:** A competitive environment is deemed to exist when: A) at least two Bids have been received, or B) when, in the absence of multiple Bids, the Administrator's knowledge of the good or service and business community, considers that the price for the good or service is reasonable, taking into account such factors as the additional cost to providing goods and services in remote locations. Justification must be in writing, on file and verifiable by audit.

**Insufficient Competition:** During the assessment, fewer than two vendors are in the Aboriginal Business Directory or known to the Administrator, or less than two bids are received, or the bids that are received are considered uncompetitive.

**Joint Venture:** The legal entity that is an enterprise consisting of Aboriginal and general businesses may qualify as an Aboriginal Business under the Aboriginal Procurement Initiative providing that the Aboriginal Business has at least 51% ownership and control of the joint venture.

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**Mandatory Aboriginal Business Participation:** A condition of a tender where a portion of a contract, as determined by the Bidder/Proponent **must** be provided by a Canadian Aboriginal Business as the prime contractor, or subcontractor.

**Partnership:** The legal entity that is two or more individuals or businesses joining together to conduct business with Manitoba. For the partnership to qualify under the Aboriginal Procurement Initiative it must consist of an Aboriginal and general business providing that the Aboriginal Business has at least 51% ownership and control of the partnership.

**Points:** The value attached to each criterion to be evaluated by the Administrator, ex: a minimum of five points out of 100 would be assigned to Aboriginal Business content.

**Prime Contractor:** The legal entity that is awarded the contract. Government of Manitoba pays the Primary contractor. The Primary Contractor is responsible for paying sub-contractors used to perform obligations of the contract.

**Rating:** Comparison of scores of multiple bids/proposals.

**Request for Proposal (RFP):** Solicits competitive proposals. It contains the terms and conditions and is used when a business is invited to propose a solution to a problem, requirement, or objective.

**Request for Quotation (RFQ):** Solicits competitive Bids. It contains the terms and conditions and describes the specifications of the goods or services required.

**Scoping:** Within the assessment process, consideration will be given to splitting a requirement into smaller components or specialized work packages for tendering to better suit the capacity of businesses that meet specified criteria.

**Score:** Identifies the individual points awarded to each criteria. Bids are evaluated out total points available or an equivalent percentage. Normally a total of 100 points are used.

**Set-Aside:** A procurement for a good or service that has been reserved for competition among a selective number of businesses that meet specified criteria.

**Subcontractors:** Companies that have a contract with a Prime Contractor(s). Subcontractors do not have a direct contractual relationship with Manitoba.

**Weighting:** Part of the evaluation process whereby the individual tender is scored against assigned points.

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### Issued by

Procurement Services Branch

### Inquires

<b>Department</b>	Department Purchasing Coordinators	See <a href="#">PSB Bulletins: Bulletin #90</a> - Department Purchasing Coordinators
<b>PSB Consultation Services</b>	Mark Freedman Vendor Relations Coordinator	945-0826 <a href="mailto:Mark.Freedman@gov.mb.ca">Mark.Freedman@gov.mb.ca</a>
	Ruth Sawatzky Business Consultant	945-2415 <a href="mailto:Ruth.Sawatzky@gov.mb.ca">Ruth.Sawatzky@gov.mb.ca</a>
	General Inquiry Line	945-6361 <a href="mailto:ProcServ@gov.mb.ca">ProcServ@gov.mb.ca</a>

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