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Agreement on Internal Trade (AIT) – MASH Annex

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Agreement on Internal Trade
(AIT)

MASH Annex

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Purpose

- The purpose of this bulletin is to provide general information on the provisions of the MASH Annex 502.4 of the Agreement on Internal Trade (AIT) and includes highlights of the Annex. MASH sector entities are referred to the full details of the Annex; available online.

Background

- On July 1, 1999, the AIT enacted the MASH Annex that defines the procurement rules for the MASH sector (municipalities, academic institutions, and social and health sectors) in all Provinces and Territories (except the Yukon).
- The provisions of the MASH Annex:
 - *“prohibits covered entities from having any procurement practices which discriminate against goods, services construction materials, the suppliers of such goods , services or construction materials, from another province or territory;*
 - *ensures that suppliers can gain ready access to all measures maintained by a province or a MASH entity related to procurement covered under the Annex; and*
 - *requires that covered procurements be subject to a fair acquisition process”*
- Full details of this Annex are available in the AIT, Chapter 5 – [Procurement Annex 502.4](#).

Who is Covered

- MASH entities covered include all municipalities, municipal organizations, school boards and publicly-funded academic, health and social service entities, as well as any corporation or entity owned or controlled by one or more of the preceding. Some exemptions apply, such as:
 - services related to the delivery of health care and of social services
 - entities of a commercial or industrial nature

What is Covered

- All procurement where the largest portion of the value of the procurement equals or exceeds:
 - \$100,000 in the case of goods or services
 - \$250,000 in the case of construction
- Estimating the value of a particular procurement takes into account all forms of remuneration, including the value of the goods or services, any premiums, fees, commissions, interest receivable, duty, freight and applicable taxes.

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Fair Acquisition Process

- All covered procurement shall be subject to a competitive tendering process.
- Tendering process includes all methods of tendering including Requests for Information; Request for Quotation; Request for Proposals; Request for Qualifications; and Invitation to Tender.
- A fair acquisition process must be based on the highest degree of competition, efficiency and effectiveness and be consistent with the requirements for no discrimination and for ready access to the procurement measures maintained by MASH entities.
- Entities may continue to use their existing policies and procedures provided they are compatible with the provisions of the MASH Annex.
- Entities may use pre-qualified goods, services or suppliers when the process to pre-qualify has been openly competed.
- Long term contractual arrangements between an entity and a supplier are permitted provided they are compatible with the provisions of the MASH Annex.
- Covered entities may continue to participate in buying groups provided the activities of each buying group are compatible with the provision of the MASH Annex.
- Covered entities must post their tender notices on Manitoba's electronic tendering system (MERX) or another system which is low cost, easy to use and readily accessible across Canada.

Exceptions

- Exceptions to the provisions of the MASH Annex are allowed under certain circumstances which include:
 - emergency situations (ex: where there is a risk to life, health or property; not the result of inadequate planning)
 - where only one supplier is able to meet the requirements of a procurement (ex: sole source or single source)
 - where a supplier is selected from a pre-qualified list that was competitively tendered
 - procurement of materials for the construction or repairs of roads
 - procurement of goods, services or construction that is financed primarily from donations

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Tender Notices

- A tender notice must include at least the following information to comply with [Article 506:4\(g\)](#) of the AIT:
 - a brief description of the procurement contemplated
 - the place where a person may obtain further information and tender documents
 - the conditions for obtaining tender documents
 - the place where the tenders are to be sent
 - the date and time limit for submitting tenders
 - the time and place of the opening of the tenders in the event of a public opening, and
 - a statement that the procurement is subject to the MASH Annex

Bid Evaluation

- Covered entities can take into account any number of criteria in evaluating bids including:
 - quality
 - quantity
 - delivery
 - price
 - servicing
 - the capacity of the supplier to meet the requirements of the procurement, and
 - any other criteria consistent with the provisions of the MASH Annex
- The bid document must clearly identify the requirements of the procurement, the criteria that will be used in the evaluation of the bids and the methods of weighing and evaluating the criteria.

Business Language

- MASH entities covered by this Annex have the right to specify the language requirements for their respective procurement tendering procedures.

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Disputes

- There are provisions for the resolution of disputes which may arise between a covered entity and a supplier. The dispute resolution process shall not cause delay in the awarding of a contract by an entity covered by the MASH Annex.
- The responsibility for initial steps to resolve a dispute rests with each covered entity.
- If there are recurring complaints about a specific entity or if a province or territory feels that there is merit in a specific complaint, then the province where the covered entity is located and the province where the supplier is located can initiate discussions to resolve the matter.
 - If parties involved cannot agree on a resolution, there is provision for a panel of experts to consider the matter and report back to the parties with a decision.
 - If all else fails, a parties may suspend benefits under this Annex to the other party which persists in not complying with the MASH Annex (ex: reciprocal action).

Reporting Requirements

- There are no reporting requirements for covered entities.

Other Agreements

- If there is another agreement between two or more provinces that covers the procurement of MASH entities, the most trade liberalizing agreement will take precedence in the event of a disagreement.

Links

- Additional information on the MASH Annex may be obtained on [MARCAN](http://www.marcan.net/en/mb/index.php) (<http://www.marcan.net/en/mb/index.php>), an official website established by the Internal Trade Secretariat, and will include:
 - Applicable provisions (procurement rules) of the AIT for the MASH sector and Crown Corporations
 - Where Canadian public sector tender notices are electronically posted
 - Government Procurement contacts
 - How to do business with governments and who to contact
 - Entities that are covered or excluded from the provisions of the AIT
 - Statistics on government contracting across Canada

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- The full details of Procurement Chapter 5 are also available on [MARCAC](http://www.marcac.net/english/5_en.pdf) (http://www.marcac.net/english/5_en.pdf)

Inquiries

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