

# Procurement Administration Manual

Community Economic Development Initiatives  
Responsible Manufacturers

POLICY

## Responsible Manufacturers - Purchase of Clothing

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Effective Date: January 1, 2007  
Revision Date: April 1, 2010  
Replaces Date: January 1, 2007

### Policy

- Manitoba will make best efforts to purchase clothing manufactured in a responsible manner.
  - A responsible manner is defined as minimum fair labour practices including:
    - in accordance with all laws applicable in the jurisdiction of their production
    - in accordance with minimum labour rights set out in this policy
  - This means that:
    - Contractors and their sub-contractors will be obliged to comply with local labour laws that are applicable in the jurisdictions where the work is done, and ensure that their labour practices embody the minimum labour rights listed in this policy.
  - Exceptions to the policy
    - Justification for exceptions must be in writing, on file and verifiable by audit.
    - Standard contract approvals under the General Manual of Administration must be obtained.

### Rationale

- to promote awareness, better understanding and support for the promotion of humane working conditions
- to recognize the public interest in purchasing goods manufactured under humane working conditions, by manufacturers and sub-contractors who abide by local labour laws and other labour standards
- to support the principles of Manitoba's Sustainable Development Act (1998), which includes under Schedule A, Sec. 7, Global Responsibility, the following statement: "Manitobans should think globally when acting locally, recognizing that there is economic, ecological and social interdependence among provinces and nations "
- to support Manitoba's Provincial Sustainable Development Code of Practice (2001), which requires that Government's decisions and activities strive toward: "ensuring that our local decision-making is consistent with our global environmental, economic and social responsibilities"

### Application

#### Who

- Departments
  - including departments with delegated purchasing authority, ex: Manitoba Labour and Immigration
  - including Special Operating Agencies with purchasing authority

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### What

- The policy applies when the responsible manufacturer component of a clothing purchase is estimated to be  $\geq$  \$5,000 including applicable taxes, incidental charges and expenses.
- Standard exceptions to the policy:
  - the responsible manufacturer component of a clothing purchase is estimated to be  $<$  \$5,000 including applicable taxes, incidental charges and expenses
  - the clothing purchase is necessary to respond to an emergency, which endangers public health and safety
  - after reasonable assessment, it appears that the clothing purchase is only available from a single vendor or must be purchased from a sole source vendor who is unable to meet the requirements of the policy
  - a tender that has been reissued as a result of the previous tender being cancelled because the bids were:
    - non-compliant
    - uncompetitive
    - competition is deemed insufficient (less than 3 bidders)
  - goods for temporary use where unforeseen circumstances cause an approved clothing item to be discontinued or unavailable for an extended period of time.
    - The use of a temporary substitute will not result in future exemption from responsible manufacturer requirements.

### Definitions

- **Bidder:** An individual, partnership, corporation or other person who submits a Bid (written submission and shall include the Form of Offer) to Manitoba.
- **Child:** A person under 16 years of age.
- **Clothing:** Garments in general; personal attire including uniforms and outerwear.
- **Contractor:** The Bidder selected by Manitoba to provide the goods. Also known as the successful Vendor, companies that have a direct contractual relationship with Manitoba. These companies may have factories or production facilities of their own or they sub-contract parts or their entire production.
- **Credible Complaint:** A complaint in writing, submitted to the Procurement Services Branch (PSB), Attention: Procurement Manager, and accompanied by sufficient factual evidence to support the allegations in the complaint.
- **Factories or Production Facilities:** Contractor's and/or their sub-contractor's factories or assembly and manufacturing facilities producing goods for Manitoba.
- **Forced Labour:** All work or service which is exacted from any person under the menace of any penalty and for which the person has not offered themselves voluntarily (International Labour Organization Conventions #29 and #105).

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- **Local Labour Laws:** Local, regional or national labour laws, by-laws, regulations or employment standards that apply in the location of manufacture and assembly. These laws may be different than the minimum labour rights.
- **Minimum Labour Rights:** Defined as follows:
  - **No Forced Labour:** Employers shall not subject a worker to forced labour practices, whether in the form of involuntary prison labour, indentured labour, bonded labour or otherwise except for types of compulsory work generally considered acceptable, such as compulsory military service, certain civic obligations, prison labour not for private purposes and work exacted in cases of emergency.
  - **No Child Labour:** Employers shall not employ children in work that is hazardous, unsafe or unhealthy or would jeopardize the full physical, mental or moral development of the child (including schooling).
  - **Freedom of Association:** Workers shall have the right to join or form trade unions of their own choosing and to bargain collectively. In situations where rights to freedom of association and collective bargaining are restricted under law, the employer shall facilitate parallel means of independent and free association and bargaining for all workers.
  - **Occupational Health and Safety:** Workers shall be provided with a safe and hygienic working environment, including access to clean toilet facilities and potable water.
  - **No Employment Discrimination:** There shall be no discrimination in hiring, compensation, access to training, promotion, termination or retirement based on race, caste, national origin, religion, age, disability, gender, marital status, sexual orientation, union membership or political affiliation subject to certain reasonable exceptions, such as, where applicable, bona fide occupational requirements or qualifications and established practices or rules governing retirement ages, and special measures of protection or assistance for particular groups designed to take into account the effects of discrimination.
  - **Employment Standards:** Employment standards, such as wages (including overtime), benefits and hours of work are to meet, at a minimum, local labour laws.
  - **Purchasing:** The process of procuring goods from vendors.
  - **Responsible Manufacturer Component:** The portion of a requisition, tender or award relating to clothing purchases governed by the Purchase of Clothing from Responsible Manufacturers Policy.
  - **Responsible Manufacturers Information:** The bidder will provide the name and address of all factories and production facilities used in the manufacture and assembly of clothing and declare the clothing is manufactured in accordance with the laws applicable in the jurisdiction of the production and in accordance with the minimum labour rights set out in the Purchase of Clothing from Responsible Manufacturers Policy.

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- **Sub-contractors:** Companies that have a contract with a Contractor(s). Sub-contractors do not have a direct contractual relationship with Manitoba.

### Policy Guidelines

#### Implementation and Compliance

- Manitoba will:
  - Adhere to trade agreements applicable to Manitoba.
  - Rely on Bidder disclosures and certification, and public disclosure of information about factories and production facilities to ensure compliance with this policy.
  - Include the terms and conditions in all formal tenders for clothing issued under this policy.
    - Bidders will provide the name and address of all factories and production facilities used in the manufacture and assembly of clothing and must declare that all clothing is manufactured in accordance with all laws applicable in the jurisdiction of their production and in accordance with the minimum labour rights set out in this policy.
    - The responsible manufacturer information is a mandatory requirement.
    - Failure to provide the required information will result in rejection of the bid/proposal.
    - Upon award of contract, the name and addresses of the Contractor and their sub-contractors shall be made public.
  - Require that Bidders ensure their sub-contractors comply with the policy.
  - Require the Contractor to provide notification of any changes to Manitoba.
  - Communicate that non-compliance with this policy may be a factor affecting future awards.
  - Coordinate a response to credible complaints by a Review Team led by PSB (see below).
  - Apply standard procurement practices ex.:
    - Signature of a signed bid/proposal acknowledges certification of all requirements.
    - Manitoba reserves the right to ask for proof of compliance.
    - Manitoba reserves the right to cancel and reissue a tender.

#### Complaint Assessment Process

- Manitoba will oversee a case-by-case assessment process in the event of a credible complaint with the following general responsibilities:
  - **PSB** will:
    - Coordinate Manitoba's response to a credible complaint.
    - Create and coordinate a Review Team with expertise to review the complaint such as Manitoba Labour and Immigration (employment and health and safety issues), the Human Rights Commission (discrimination issues), Civil Legal Services, and the client department.
    - Refer complaint to appropriate department such as Manitoba Labour and Immigration for investigation as necessary.
    - Provide procurement advice to assist the Review Team in developing the recommendation.
    - Take action based on direction from Deputy Minister Committee on Procurement and/or appropriate Executives, or Ministers of Manitoba Infrastructure and Transportation and Manitoba Labour and Immigration, as appropriate.

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- **The Review Team** will:
  - Assess and determine the complaint credibility and supporting information.
  - Inform the Contractor of the complaint and the supporting information.
  - Request written response from the Contractor.
  - Assess the Contractor response.
  - Assess and accept any instances where it is reasonably determined that Contractor practices may differ from the policy so long as the purpose and spirit of the policy is upheld.
  - Make a recommendation, in consultation with the Director of PSB, concerning the allegation to be submitted for decision to the Deputy Minister Committee on Procurement or appropriate Executives and the Ministers of Manitoba Infrastructure and Transportation and Manitoba Labour and Immigration.
- **The Contractor** will:
  - Assess and respond to the complaint.
  - Provide response in writing to PSB (and/or the responsible Manitoba department if appropriate) within a designated timeframe.
  - Indicate actions to rectify situation, in the event the complaint is valid and will provide information to substantiate actions.
  - Be responsible for their costs associated with verifying compliance including their costs incurred during an investigation.

### Reporting

- PSB is responsible for coordinating corporate reporting.
- Departments and SOA's will report their purchasing activities under this policy to PSB.

### Public Disclosure

- PSB will coordinate Manitoba's public reporting under this policy.

### **Procedures**

- Procurement Administration Manual: Responsible Manufacturers - Purchase of Clothing

### **Issued by**

- Procurement Services Branch, Manitoba Infrastructure and Transportation, in consultation with Manitoba Labour and Immigration.

### **References**

- [Manitoba Sustainable Development Procurement Guidelines, Dec. 6, 2000](#)
- [The Sustainable Development Act, S270, 1998 and schedules A, B](#)
- [Provincial Sustainable Development Code of Practice \(2001\)](#)
- [The Government Purchases Amendment Act](#) (Responsible Manufacturing)
- [Government Purchases Regulation](#)

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### Inquires

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