

Indigenous Procurement Manual

Responsible Procurement
Indigenous Procurement

POLICY

Indigenous Procurement Initiative

Index to All Procurement Policies

Effective Date: July 23, 2020
Replaces Date: December 11, 2018

Policy

- Procurement options under Manitoba's Indigenous Procurement Initiative (IPI) must be incorporated into all tenders according to internal Operating Guidelines.

Objective

The Objective of the IPI

- increase the participation of Indigenous Businesses in providing goods and services to Manitoba
- 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
- use procurement practices to assist in the development of Indigenous Businesses that may contribute to community economic development
- maximize opportunities to access government tenders by Indigenous Businesses, while maintaining competitive pricing for government and value-for-money

Anticipated Benefits of the IPI

- stimulate Indigenous Business development
- increased procurement from Indigenous Businesses through subcontracting and/or joint ventures with the non-Indigenous business community when bidding on tenders
- build relationships between Indigenous Businesses, government Administrators and the non-Indigenous business community
- improved understanding of the tender process by Indigenous Businesses
- increased knowledge of the Indigenous business community by government buyers and Tender Administrators

Primary Focus of the IPI

- The primary focus of the IPI is utilizing procurement options that will increase contracting opportunities for Indigenous Businesses. While other initiatives exist that have a greater focus on education, employment or training of Indigenous people, they operate independently of the IPI, but complement the purpose and objective of the IPI.

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Application

- The IPI Policy and internal Operating Guidelines **apply** to the following government entities:
 - All Departments
 - Special Operating Agencies (SOAs)
- The IPI Policy and internal Operating Guidelines do **not apply** to the following entities:
 - Agencies, Boards, Commissions, Committees, or similar entities that report to the executive branch of the Manitoba Government
 - Crown Corporations (ex: Manitoba Hydro)
 - “MASH” Sector Purchasing Authorities such as:
 - Municipalities and Municipal Organizations
 - Advanced Education (Universities and Colleges)
 - Schools
 - Manitoba Health Authorities
 - These entities may use existing Indigenous Procurement Options under the IPI framework or may use an adapted model, at their discretion.

Commodities

- The IPI Policy, subject to internal Operating Guidelines, **apply** to the following commodities:
 - Goods that meet Indigenous Procurement Criteria
 - Primarily goods with a minor service component
 - Primarily services with a minor component for goods
 - Services including consulting services, professional services and fee-for-service contracts
- The IPI Policy and internal Operating Guidelines do **not apply** to the following commodities:
 - Construction-related procurement (ex: facility repair)
 - Construction of capital projects (ex: buildings)

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- Capital works programs (ex: winter roads or Northern Involvement) where alternate Indigenous Procurement Options may be used.
- Application of the IPI Policy and internal Operating Guidelines are not mandatory for these commodities and programs but are optional; used at the discretion of the purchasing authority responsible for the program.
- For these commodities and programs, best efforts are to be made to use the Indigenous Procurement Options under the IPI framework, or may use an adapted model in conjunction with other related initiatives to achieve similar community and economic benefits for Manitoba Indigenous Businesses or Manitoba Indigenous Persons.

Policy Guidelines

Implementation

- Departments and SOAs are responsible for implementation of the IPI as stated in Policy and must be in accordance with internal Operating Guidelines, where this Policy applies.

Requirements Planning

- Routine requirements planning should take place on all planned acquisitions and should be a routine exercise by end users and Tender Administrators. Requirement may involve or impact Indigenous people, communities or businesses and therefore requirement planning may include:
 - a preliminary Indigenous Procurement Assessment, for planning purposes
 - dividing requirements into specialized work packages to accommodate Indigenous Business capacity and/or competition
 - relationship building with an Indigenous community (ex: in the planning phase of a project and well in advance of commencement of the procurement process) informing potential bidders when use of Indigenous Procurement Options results in changes to typical bidding methods that may now be new or unknown to suppliers (ex: introducing points to evaluate and score bids where this practice was not used before)
 - consideration given to tendering thresholds and methods of tendering that may be dictated by procurement policy related to dollar thresholds establishing a suitable method of tendering (ex: use of an RFQ or RFP) and appropriate terms and conditions that may be used

Indigenous Procurement Assessment

- An Indigenous Procurement Assessment must be undertaken on all requirements and will include
 - a review of the requirement to determine if [Indigenous Procurement Criteria](#) is met or not

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- an assessment of the potential competition of both Indigenous owned and non-Indigenous suppliers (ex: number of potential bidders that may compete in the bidding)
- an assessment of the potential capacity of Indigenous Businesses (ex: capable of handling all, or some of the work)
- Where option of Indigenous Business Standard is used, purchasing authorities must document the procurement file with the reasons other Indigenous Procurement Options could not be used, or were not considered to be suitable.

Indigenous Persons

- For the purposes of this policy an **Indigenous Person of Canada** means
 - (a) a person of First Nation ancestry, including treaty, status or registered Indian, non-status or non-registered Indian, and a Métis person, or
 - (b) a person of Inuit ancestry, who is a Canadian citizen and resides in Canada.
- For the purposes of this policy **Indigenous Person of Manitoba** means
 - (a) a person of First Nation ancestry, including treaty, status or registered Indian, non-status or non-registered Indian, and a Métis person, or
 - (b) a person of Inuit ancestry, who is a Canadian and resides in Manitoba.

Indigenous Business

- For the purposes of this policy **Indigenous Business** means Canadian Indigenous Business or Manitoba Indigenous Business or both, whichever is applicable given the context.
- **Indigenous Business** means a business
 - (a) that is at least 51% owned and controlled by one or more Indigenous persons of Canada / Manitoba; and
 - (b) if it has six or more full-time employees, at least one-third of whose full time employees must be Indigenous persons of Canada/Manitoba.
- An Indigenous Business (Manitoba or Canadian), eligible under the IPI, can be a:
 - Sole proprietorship
 - Limited company
 - Co-operative

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- Band, as defined in the Indian Act
- Not-for-profit organization whose by-laws require that at least 51% of its board members be Indigenous persons (of Manitoba or Canada).
- Partnership
- Joint venture, consisting of two or more Indigenous Businesses or an Indigenous Business and a non-Indigenous Business(es) provided the Indigenous Business(es) has at least 51% ownership and control of the joint venture
- A business that is **not** owned and controlled by an Indigenous Person, albeit that business may employ Indigenous people, does not constitute being an Indigenous Business.

Indigenous Procurement Criteria

- For the purposes of this policy **Indigenous Procurement Criteria** means a requirement that is
 - (a) culturally specific to Indigenous people; or
 - (b) primarily designated for Indigenous people
- All requirements must be assessed to determine if Indigenous Procurement Criteria is met or not. This assessment will help determine which procurement option may be incorporated into an RFP or RFQ.
 - Examples of requirements that may be "*culturally specific*" may include
 - Indigenous art; or
 - cross-cultural workshops
 - Examples of requirements that may be "*primarily designated for Indigenous people*" may include
 - a study of, or for Indigenous people; or
 - research on Indigenous demographics; or
 - an Indigenous event planner for an Indigenous event/conference
- Indigenous Procurement Criteria will **not** be met when:
 - the goods or services required are already on an established agreement and there exists a legal commitment to purchase exclusively from the supplier under contract
 - the goods or services are intended to serve the general population
 - the requirement is delivered by a program that serves the general population (ex: most programs delivered by Family Services & Labour)

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Procurement Options

- An Indigenous Procurement Assessment will result in one of the following options being selected. It is mandatory that Operating Guidelines be used for the following procurement options:

Indigenous Business Set-Aside

1. Manitoba Indigenous Business Set-Aside (RFP)
2. Manitoba Indigenous Business Set-Aside (RFQ)
3. Canadian Indigenous Business Set-Aside (RFP)
4. Canadian Indigenous Business Set-Aside (RFQ)

Mandatory Indigenous Business Participation

5. Mandatory Indigenous Business Participation (RFP)
6. Mandatory Indigenous Business Participation (RFQ)

Desired Indigenous Business Participation

7. Desired Indigenous Business Participation (RFP)
8. Desired Indigenous Business Participation (RFQ)

Indigenous Business Standard

9. Indigenous Business Standard (RFP)
10. Indigenous Business Standard (RFQ)

Operating Guidelines

- The IPI policy framework includes a range of internal Operating Guidelines that must be used to incorporate Indigenous Procurement into tenders (ex: RFPs, RFQs).
- Internal Operating Guidelines are available to Tender Administrators in this Indigenous Procurement Manual and provide procuring entities with:
 - instructions on how to conduct an assessment
 - explanation of the various procurement options
 - sample terms and conditions for bid documents
 - forms to be used in bid documents
 - maintenance and use of an Indigenous Business Directory
 - reporting procedures

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Definitions

Canadian Indigenous Business: means a business

- (a) that is at least 51% Indigenous-owned and controlled by one or more Indigenous Persons; and
- (b) if it has six or more full-time employees, at least one-third of whose (full-time) employees are Indigenous Persons of Canada.

In this definition a “business” includes:

- a band, as defined by the Indian Act, a sole proprietorship, a corporation, a cooperative, or a partnership; or,
- a not for profit organization whose by-laws require that at least 51% of its board members be Indigenous persons of Canada.

Canada Indigenous Business Set-Aside: A purchase of a good or service that has been reserved for competition among Canadian Indigenous Businesses only, but may include Manitoba Indigenous Businesses.

Capacity: The ability of a business to meet a requirement in whole or in part and/or provide the full range of goods or services required.

Desired Indigenous Business Participation: means terms and conditions that indicate that Indigenous Business involvement is desirable and points will be assigned in the tender document for “Indigenous Business Participation”.

Indigenous Business: A Canadian Indigenous Business or Manitoba Indigenous Business or both, whichever is applicable given the context.

Indigenous Business Certificate: A form used to self-declare ownership and control of an Indigenous Business by an Indigenous Person(s).

Indigenous Business Certification: A process to verify ownership and control of an Indigenous Business by an Indigenous Person(s). Certification is required to register in Manitoba’s Indigenous Business Directory, and again when submitting a Bid/Proposal for a particular tender. Contracts with an Indigenous Business stipulate that the Indigenous Business maintain its status as an Indigenous Business throughout the duration of the contract, with further evidence of certification on request.

Indigenous Business Directory: A business directory of Indigenous owned businesses that meet Manitoba’s definition of an Indigenous Business.

Indigenous Business Participation: Terms and Conditions that indicate that Indigenous Business involvement, as a Prime Contractor and/or a Subcontractor is either desired or mandatory. This criterion is generally weighted and points assigned to Bids/Proposals that offer Indigenous Business Participation.

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Indigenous Business Standard: A condition of a tender that indicates that Indigenous Business involvement is desired but **no** points are assigned in the tender document for Indigenous Business Participation.

Indigenous Person of Canada:

- (a) a person of First Nation ancestry, including treaty, status or registered Indian, non-status or non-registered Indian, and a Métis person, or
- (b) a person of Inuit ancestry, who is a Canadian citizen and resides in Canada.

Indigenous Person of Manitoba:

- (a) a person of First Nation ancestry, including treaty, status or registered Indian, non-status or non-registered Indian, and a Métis person, or
- (b) a person of Inuit ancestry, who is a Canadian citizen and resides in Manitoba.

Indigenous Procurement Criteria: is a requirement that is

- (a) culturally specific to Indigenous people; or
- (b) primarily designated for Indigenous people

List of Business to provide Services: A form used to verify the use of Indigenous Businesses in a bid / proposal submission.

Mandatory Indigenous Business Participation: A condition of a tender where a portion of a contract, as determined by the Bidder/Proponent, **must** be provided by an Indigenous Business(es) as the Prime Contractor, or Subcontractor. This criterion is weighted and points assigned to Bids/Proposals and points assigned for the level of Indigenous Business Participation offered.

Manitoba Indigenous Business: means a business

- (c) that is at least 51% Indigenous-owned and controlled by one or more Indigenous Persons; and
- (d) if it has six or more full-time employees, at least one-third of whose (full-time) employees are Indigenous Persons of Manitoba.

In this definition a “business” includes:

- a band, as defined by the Indian Act, a sole proprietorship, a corporation, a cooperative, or a partnership; or,
- a not for profit organization whose by-laws require that at least 51% of its board members be Indigenous persons of Manitoba.

Manitoba Indigenous Business Set-Aside: A purchase of a good or service that has been reserved for competition among Manitoba Indigenous Businesses only.

Partnership: A legal entity where two or more individuals or businesses join together to conduct business with the Manitoba Government. For the partnership to qualify under the Indigenous Procurement Initiative it must consist of Indigenous Business(es) only, or an Indigenous Business(es) and a non-Indigenous business providing that the Indigenous Business(es) has at least 51% ownership and control of the partnership.

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Points: The value attached to each criterion to be evaluated by the Administrator (ex: a minimum of five points out of 100 may be assigned to a one of several criterions) and used to determine both individual and the total score of the Bid/Proposal.

Prime Contractor: The legal entity that is awarded a contract. Government of Manitoba is responsible for payment to the primary contractor, while the Prime Contractor is responsible for payment to Subcontractors used to perform obligations of the contract.

Rating: Comparison of scores of multiple Bids/Proposals.

Request for Proposals (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.

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

Subcontractors: Companies that have a contract with a Prime Contractor. Subcontractors have a direct contractual relationship with a Prime Contractor. A subcontractor does not have a direct contractual relationship with Manitoba.

Tender Administrator: The individual who on behalf of Manitoba is responsible for the preparation and administration of the tendering process, coordinating 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.

Weighting: Part of the evaluation process whereby the individual Bid/Proposal is scored against assigned Points.

References

- [The Government Purchases Act, Chapter G90](#)
- [Sustainable Development Act](#), S270, Schedule A.
- [Canadian Free Trade Agreement](#) (CFTA), Chapter Eight, Article 800

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