

# Corporate Procurement Policy Manual

## **Tendering**

### **Community Economic Development**

#### ***Purchase of Clothing from Responsible Manufacturers***

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**Effective Date:** January 1, 2007

**Revision Date:**

**Replaces Date:**

### **Policy**

- Manitoba will make best efforts to purchase clothing which is manufactured in a responsible manner.
  - A responsible manner is defined as:
    - 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
    - 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 by all participants.
- To recognize the public interest in purchasing commodities 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, recognising 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.*"

### **References**

- Manitoba Sustainable Development Procurement Guidelines, Dec. 6, 2000
- The Sustainable Development Act, S270, 1998 and schedules A, B and C
- Provincial Sustainable Development Code of Practice (2001)

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#### **Application**

##### **Who:**

- Departments and Special Operating Agencies using Procurement Services Branch (PSB) for contract and award of clothing purchases including all Departments with delegated purchasing authority for clothing.

##### **What:**

- Purchases of clothing > \$5,000.00 including applicable taxes, incidental charges and expenses.
- Standard exceptions to the policy:
  - Purchases of clothing ≤ \$5,000.00 including applicable taxes, incidental charges and expenses.
  - If, after reasonable assessment, it appears that the required good is procurable only from one vendor or from a sole source vendor.
  - On a case-by-case basis where competition is deemed to be insufficient prior to tendering (less than 3 bidders) and/or uncompetitive offers (cost of goods) exists.
  - If the required goods are necessary in order to respond to an emergency, which endangers public health and safety.
  - Goods for temporary use if unforeseen circumstances cause an approved good to be discontinued or unavailable for an extended period of time. The use of a temporary substitute is not meant to imply that this item will be considered an approved good for future tenders. The Contractor must obtain approval of the substitute good in writing from Procurement Services Branch (PSB) prior to shipping the good.
  - The required good is only incidental to other purchases under the contract (10% or less of the total contract).

#### **Definitions**

**Bidder**: An individual, partnership, corporation or other person who submits a Bid (written submission and shall include the Form of Offer) to Manitoba.

**Clothing**: Garments in general; personal attire including uniforms and outerwear.

**Child**: A person under 16 years of age.

**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.

**Factories or production facilities**: Contractor's and/or their sub-contractor's factories or assembly and manufacturing facilities producing goods for Manitoba.

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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 29 and 105).

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.

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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.
- Will rely on Bidder disclosures and certification, and public disclosure of information about factories and production facilities to ensure compliance with this policy.
- Will include the terms and conditions in all formal tenders for clothing issued under this policy.
  - Bidders shall 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 are 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 information and the declaration are to be submitted with the Offer.
  - Failure to provide the required information and certification will result in rejection of the Offer.
  - Upon award of contract, the name and addresses of the Contractor and its' sub-contractors shall be made public.
- Will require that Bidders ensure their sub-contractors comply with the policy.
- Reserves the right to ask for proof of compliance with all applicable laws and minimum rights stated in this policy.
- Will require the Contractor to provide notification of any changes to Manitoba.
- Will communicate that non-compliance with this policy may be a factor affecting future awards.
- Will coordinate a response to credible complaints by a Review Team led by PSB (see below).

#### Assessment Process

Manitoba:

- Will oversee a case-by-case assessment process in the event of a credible complaint with the following general responsibilities:

##### **A credible complaint:**

- Must be in writing and submitted to Procurement Services Branch, Attention: Procurement Manager.
- Must be accompanied by sufficient factual evidence to support the allegations in the complaint.

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#### **PSB:**

- Will coordinate Manitoba's response to a credible complaint.
- Will 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.
- Will refer complaint to appropriate department such as Manitoba Labour and Immigration for investigation as necessary.
- Will provide procurement advice to assist the Review Team in developing the recommendation.
- Will take action based on direction from Deputy Minister Committee on Procurement and/or Ministers of Manitoba Infrastructure and Transportation and Manitoba Labour and Immigration, as appropriate.

#### **The Review Team:**

- Will assess and determine the complaint credibility and supporting information.
- Will inform the Contractor of the complaint and the supporting information.
- Will request written response from the Contractor.
- Will assess the Contractor response.
- Will 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.
- Will 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.
- Will provide response in writing to PSB (and/or the responsible Manitoba department if appropriate) within a designated time frame.
- Will indicate actions to rectify situation, in the event the complaint is valid and will provide information to substantiate actions.

#### **Public Disclosure**

- PSB is responsible for corporate public disclosure on behalf of Manitoba under this policy.

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#### **Issued by:**

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

#### **Inquires:**

##### **Procurement**

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