

Procurement Administration Manual

Responsible Procurement
Responsible Manufacturers

POLICY

Responsible Manufacturers - Clothing

Date: January 2, 2013
Replaces Date: April 1, 2010

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; and
 - in accordance with minimum labour rights set out in this policy
 - This means that contractors and their subcontractors 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.

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 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

- This policy applies to the following organizations of the Manitoba Government:
 - Departments
 - Special Operating Agencies (SOAs)
 - Agencies, Boards, Commissions and Committees that report to the executive branch of government
- This policy applies to the purchase of clothing estimated to be $\geq \$5,000$ including applicable taxes, incidental charges and expenses. Clothing is considered to be garments in general, personal attire, uniforms and outerwear.

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- At the discretion of the purchasing organization, responsible Manufacturing may be a requirement on purchases < \$5,000.
- 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 and time does not permit a standard competition
 - 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
 - In these circumstances, the use of a temporary substitute will not result in future exemption from responsible manufacturing requirements.

Policy Guidelines

Implementation

- Tender Administrators will incorporate terms and conditions into a procurement opportunity that requires Bidders to provide Responsible Manufacturers Information, which includes the name, and address of all factories and production facilities used in the manufacture and assembly of the product.
- Bidders must be informed that by submitting an offer with Responsible Manufacturers Information, they agree to the Responsible Manufacturers Certification; that, to the best of its knowledge, the manufacturer and any subcontractors for the item(s) offered, complies with Local Labour Laws and Minimum Labour Rights, outlined in this policy. And, that manufacturers and any subcontractors will remain in compliance for the duration of the contract.

Responsible Manufacturers Information

- Bidders are required to provide Responsible Manufacturers Information for each item, including the Factory name, Factory address, City and Country.

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- The Responsible Manufacturer Information is a mandatory requirement and failure to provide the required information will result in rejection of the bid.
 - However, Tender Administrators, at their discretion, may allow for “partial” disclosure, which permits Bidders to report only the country of manufacture or assembly at the time of bid submission, but must provide full disclosure prior to the award of a contract.
 - Partial disclosure may be used when the Tender Administrator is of the opinion that delays may occur in obtaining information for full disclosure or when it is known in advance that additional time may be required to allow Bidders to verify compliance to Local Labour Laws or Minimum Labour Rights.

Responsible Manufacturers Certification

- By submitting an offer with Responsible Manufacturers Information, the Bidder will certify, that to the best of its knowledge, the manufacturer and any subcontractors for the item(s) offered, complies with Local Labour Laws and Minimum Labour Rights noted in the tender; and will continue to do so throughout the duration of any contract resulting from this tender.

Local Labour Laws

- Local Labour Laws are defined as local, regional or national labour laws, by-laws, regulations or employment standards (ex: wages, overtime, benefits and hours of work) that apply in the location of manufacture and assembly. These laws may be different from the minimum labour rights.

Minimum Labour Rights

1. **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. Forced Labour is defined as 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).
2. **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). A child is defined as a person under the age of 16 years.
3. **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.
4. **Occupational Health and Safety:** Workers shall be provided with a safe and hygienic working environment, including access to clean toilet facilities and potable water.

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5. **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.

Compliance

- Manitoba will rely on Bidder disclosures and certification, and public disclosure of information about factories and production facilities to ensure compliance with this policy.
- Upon award of contract, the name and addresses of the Contractor and their subcontractors shall be made public.
- Require that Bidders ensure their subcontractors 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, such as:
 - 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 in the event of a credible complaint, with sufficient factual evidence to support the allegations in the complaint. General responsibilities include:
 - A. Procurement Services Branch will assist the procuring organization to:
 - respond to a credible complaint
 - create and coordinate, if necessary, a Review Team with the expertise to review the complaint; such as Manitoba Family Services & Labour (employment and health and safety issues), the Human Rights Commission (discrimination issues), Civil Legal Services, and the client department

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- refer complaint to appropriate department (such as Manitoba Family Services & Labour) for investigation as necessary
- provide procurement advice to assist the Review Team in developing a recommendation
- recommend action to be taken with consideration given to any direction from departmental Executives and/or Ministers of Manitoba Infrastructure and Transportation or Manitoba Family Services & Labour, as appropriate

B. 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 departmental Executives and the Minister of Manitoba Infrastructure and Transportation and/or Manitoba Family Services & Labour, as appropriate

C. Contractor will be required to:

- assess and respond to the complaint
- provide a response in writing to the Review Team and/or PSB and/or the responsible Manitoba department within a designated timeframe
- indicate actions to rectify situation, in the event the complaint is deemed to be valid and 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 to government.
- Purchasers, to whom this policy applies, will report their purchasing activities under this policy to PSB.

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Public Disclosure

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

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](#)
- [The Government Purchases Amendment Act \(Responsible Manufacturing\)](#)
- [Government Purchases Regulation](#)

Inquires

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