

Indigenous Peoples and Federal Procurement in Canada



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Public Services and
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Services publics et
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Canada

Advancing Reconciliation with Indigenous Peoples

The Government of Canada (GC) is committed to economic reconciliation with Indigenous Peoples by increasing economic opportunities and participation of First Nations, Inuit and Métis businesses through the federal procurement process across four main areas:

Modern Treaties

Agreements containing procurement obligations and requirements for Canada to co-develop procurement policies with Treaty holders.

Procurement Strategy for Indigenous Business and Minimum 5% Target

To increase Indigenous participation in procurement, and a government-wide requirement to award 5% of total value of contracts to Indigenous businesses.



Best Practices for Indigenous Procurement

Innovative mechanisms such as Indigenous Procurement Plans, unbundling, limited bidding, weighted and rated criteria in procurement.

Transformative Indigenous Procurement Strategy

Developing longer-term transformation efforts based on challenges and opportunities through ongoing engagement and co-development with Indigenous partners.

Indigenous Peoples in Canada

There are three **distinct** groups of Indigenous Peoples in Canada:

First Nations



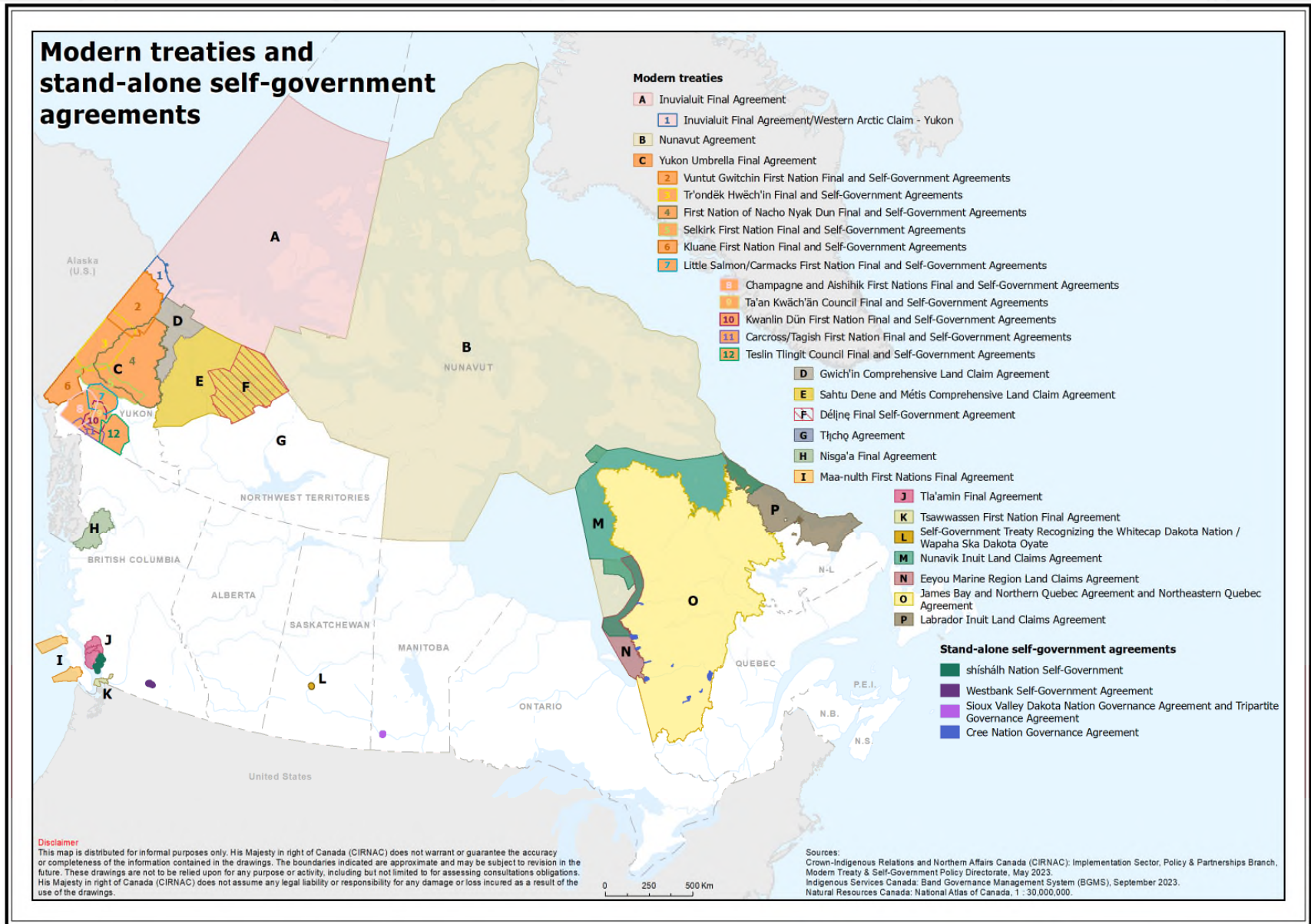
Inuit



Métis



Modern Treaties in Canada



Nunavut Agreement and Directive



Procurement Strategy for Indigenous Business

1996: Procurement Strategy for Aboriginal Business

- “increase the number of Aboriginal offerors bidding for, and winning, federal contracts.”

August 2021: Procurement Strategy for Indigenous Business

- Government of Canada implemented a government-wide mandatory requirement for federal departments and agencies to ensure a minimum of 5% of the total value of contracts are held by Indigenous businesses.
- Limiting bidding under the Procurement Strategy for Indigenous Business is implemented through the Set-Aside Program for Indigenous Business.

All of Canada's trade agreements include provisions allowing for Indigenous procurement set-aside programs.

Procurement Strategy for Indigenous Business

Set-asides under the Procurement Strategy for Indigenous Business:

Mandatory:

- If an Indigenous population (in which Indigenous People make up at least 51% of the population) is the primary recipient or end user of the goods or services being procured, and
- The value exceeds \$5,000, provided that operational requirements, prudence, probity, best value and sound contracting management can be assured.

Voluntary:

- Any procurement may be restricted exclusively to Indigenous suppliers.
- Can be set aside where Indigenous business capacity exists and where operational requirements, best value, and contract management can be met.

Conditional:

- Can be used when departments are unsure if there is Indigenous business capacity to fulfill the requirement. The department then opens the procurement to both Indigenous and non-Indigenous businesses.
- However, if 2 or more Indigenous businesses submit a bid, then the procurement is set-aside under PSIB only the Indigenous firms who submitted a bid would be assessed.

Procurement Strategy for Indigenous Business

To be considered for a federal government contract that is limited to bidding under Procurement Strategy for Indigenous Business, a business must be listed on either

- the Government of Canada's Indigenous Business Directory (IBD) or
- a modern treaty business list or directory

Indigenous ownership and control

To be listed on the IBD, a business must be at least 51% owned and controlled by Indigenous peoples. A joint venture consisting of 2 or more Indigenous businesses or an Indigenous business and a non-Indigenous business, provided that the Indigenous business or businesses have at least 51% ownership and control of the joint venture

Indigenous content

At least 33% of the total value of work performed under a PSIB contract must be performed by the Indigenous business awarded the contract or by a combination of that business and other businesses that also meet the 51% Indigenous ownership and control criterion.

Implementation of the Minimum 5% Target

Through a phased implementation approach, **96** government organizations are working towards achieving or surpassing the minimum 5% target.

In fiscal year **2022-23**, these organizations awarded **6.27%** of all contract dollars (excluding exceptions) to Indigenous businesses.



32 organizations

8.04% of all contract dollars awarded to Indigenous businesses in 2022-23 (excluding exceptions)

20 organizations

5.97% of all contract dollars awarded to Indigenous businesses in 2022-23 (excluding exceptions)

44 organizations

4.84% of all contract dollars awarded to Indigenous businesses in 2022-23 (excluding exceptions)

Best Practices within Indigenous Procurement

Determine the most appropriate procurement strategy early in the procurement process

- Prioritize early engagement, co-development, and dedicated opportunities
- Seek out capacity, interest and availability of Indigenous businesses to supply goods, services and construction

Efforts undertaken to take concrete action and accelerate progress to increase the participation of Indigenous businesses in federal procurement include:

1. use of set-asides or limited tendering
2. structuring and unbundling
3. Indigenous Participation Plans



Indigenous Participation Plans

Canada is increasingly incorporating requirements for benefits for Indigenous Peoples and businesses into federal procurement, such as through Indigenous Participation Plans.

Indigenous Participation Plans enhance economic opportunities for Indigenous Peoples and businesses through increased possibilities of competing successfully for contracts or of participating in employment, training or subcontracting opportunities.

Indigenous Participation Plans may be used:

- to complement limited bidding
- independently when it is not practical to limit bidding, or
- to meet modern treaty procurement obligations

Indigenous Participation Plans may include measures, such as:

- subcontracting
- employment
- training
- skills development
- other forms of indirect benefits for Indigenous peoples and businesses

Federal departments may request that bidders submit an IPP with their proposals. IPPs become contractual obligations that are tracked, reported on, and legally enforceable.

North Warning System

In January 2022, as a result of an open and competitive procurement in a Modern Treaty Area, an Inuit owned business Nasittuq Corporation was awarded the contract for the operation and maintenance of the North Warning System (NWS).

The procurement strategy included an Inuit-Benefits Mandatory Requirements for the operation and maintenance of the NWS

- the successful bidder's commitments in terms of Inuit benefits thus became contractual commitments, and included:
 - Inuit employment, salary and wages (minimum % of total for Inuit employees),
 - spending directed towards Inuit-owned companies,
 - Inuit participation in at least 4 supervisory positions etc.



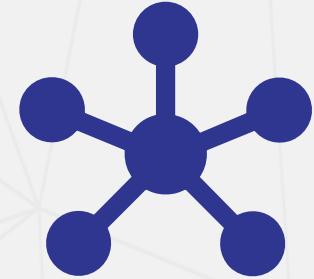
Transformative Indigenous Procurement Strategy



Co-developing a new Indigenous Procurement Strategy, supporting greater Indigenous control; and transforming /or transfer services.



Engagements to validate and gather feedback and insight on mandatory mechanisms and new approaches to develop transformative procurement options.



Seeking to understand **Indigenous perspectives**

Questions?

