



INCLUSION OF INDIGENOUS PEOPLES IN THE PUBLIC PROCUREMENT MARKET: LESSONS FROM AUSTRALIA, CANADA, NEW ZEALAND, SOUTH AFRICA AND THE UNITED STATES



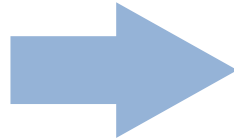
NICOLÁS SILVA VALENZUELA

LESLIE HARPER

TRINIDAD INOSTROZA

ECONOMIC UNDERREPRESENTATION OF INDIGENOUS PEOPLES IN THE NATIONAL ECONOMIES OF LATIN AMERICA

GLOBAL INDIGENOUS POPULATION



476.6 mm Indigenous people
238.4 mm Indigenous women
238.2 mm Indigenous men

11.5% in Latin America and the Caribbean
52.8 mm Indigenous people live in the region
400 Culturally and linguistically diverse indigenous peoples

Occupation of indigenous population in agriculture 55% globally, compared to 26.9% of the non-indigenous population

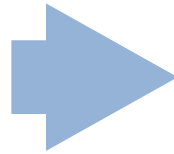
Inequalities in terms of income and wage gap reaches 40% in Latin American and Caribbean countries with respect to the rest of the population

Informality rate of indigenous persons in Latin America and the Caribbean, which rises to 86.6%, in contrast to 51.1% of non-indigenous persons in the region

These figures are a proxy to infer that indigenous enterprises and enterprises are not fully or properly included in the national economies of Latin American and Caribbean countries.

ROLE OF PUBLIC PROCUREMENT IN THE INCLUSIVE DEVELOPMENT OF INDIGENOUS PEOPLES IN LATIN AMERICAN ECONOMIES

PUBLIC PROCUREMENT SYSTEMS



In countries of the European Union they represent 14% of GDP and 23% of total public expenditure

In the case of Latin America and the Caribbean, these percentages are significantly lower, with public procurement representing only 6% of GDP and 17.4% of total government spending in the countries of the region.

In Peru, public procurement represents 9.9% of GDP and 46.4% of government public spending

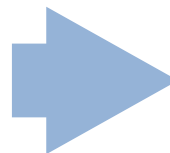
In Mexico it represents only 3.6% of GDP and 16.0% of government public spending



Public procurement systems have the potential to play a very significant economic role in the national economies of Latin America and the Caribbean and therefore in the economic inclusion of indigenous peoples in the region.

EXPERIENCES OF COUNTRIES WITH INDIGENOUS PUBLIC PROCUREMENT POLICIES

Selected countries have procurement policies that seek to incorporate indigenous peoples into their public procurement systems



Australia, Canada, New Zealand, South Africa and the United States



Each of these countries has experienced particular developments, but they share the maintenance within their territories of indigenous populations or ethnic minorities that have suffered historical marginalization and that, therefore, currently maintain an unfavourable socio-economic situation and are less integrated into their respective national economies than the majority or non-indigenous populations.

They have procurement and contracting systems, regulations or regulations aimed at the inclusion of indigenous or ethnic minority enterprises, although they use different mechanisms to achieve this objective.

INDIGENOUS PROCUREMENT INITIAL IMPLEMENTATION YEARS: AUSTRALIA, CANADA, NEW ZEALAND, SOUTH AFRICA AND THE UNITED STATES

INDIGENOUS PUBLIC PROCUREMENT POLICY IMPLEMENTATION YEARS BY COUNTRY		
COUNTRY	INITIAL POLICY NAME	INITIAL IMPLEMENTATION YEAR
UNITED STATES	8(a) Business Development Program (Small Business Administration, SBA)	1978
CANADA	Public Procurement Strategy For Aboriginal Businesses	1996
SOUTH AFRICA	Public Procurement Act And Preferential Procurement Regulations	2000 – 2001
AUSTRALIA	Australian Government Indigenous Procurement Policy (IPP)	2015
NEW ZEALAND	New Zealand Government Procurement Rules	2015

AUSTRALIA: INDIGENOUS PROCUREMENT POLICY

The Australian Federal Government established in 2015 the Indigenous Procurement Policy (IPP), whose main objective is to stimulate entrepreneurship and indigenous economic development, providing Australian indigenous peoples with greater opportunities to participate in the Australian national economy.

ELEMENTS OF PUBLIC POLICY

- Annual targets for volumes and values of contracts to be awarded to indigenous companies by the government.
- Mandatory Set Aside reserves or quotas that provide opportunities for indigenous companies to bid in tenders prior to their opening to the market.
 - Indigenous companies of "remote Australia"
 - Australian tenders with an estimated value of A\$80,000 to A\$200,000
- Mandatory Minimal Requirement (MMR) targets are required on high-value contracts, AUD 7.5 million or more in certain procurement categories.

AUSTRALIA: INDIGENOUS PROCUREMENT POLICY

ELIGIBILITY CRITERIA: DEFINITION OF INDIGENOUS ENTERPRISES

Companies with at least 50% indigenous owners; must be registered in the Indigenous Business Direct register of the Australian national supplier system Supply Nation.

EXPECTED OR OBTAINED RESULTS

Two key performance indicators (KPIs):
The increase in the number of Indigenous companies being contracted by the Australian Commonwealth
Increase in the volume and value of contracts awarded by indigenous enterprises

The IPP defines a progressive goal of 3% of public procurement awarded to indigenous companies for each fiscal year.

Since its introduction in 2019, 13,700 contracts awarded to more than 1550 Indigenous businesses, worth approximately \$2.2 billion Australian dollars.

CANADA: PROCUREMENT STRATEGY FOR ABORIGINAL BUSINESS

The objective of the Procurement Strategy for Aboriginal Business is the acquisition of goods and services through the improvement of the competition and equity of Indigenous businesses, seeking the best values for the Crown and the Canadian people.

ELEMENTS OF PUBLIC POLICY

- The mandatory reserves or Mandatory Set Aside, are tenders open exclusively for indigenous suppliers in:
 - **Areas where indigenous population corresponds to 80% of the local population**
 - **Contracts over \$5,000 Canadian dollars**
 - **Indigenous population is the recipient of goods or services**
- Voluntary Set Aside reserves are applied when public agencies decide to use exclusively indigenous procurement, there is supplier capacity, management and probity of contracts
- Joint Venture Agreements/Partnerships allow Indigenous and non-Indigenous companies to bid jointly on opportunities that have been reserved (obligatorily or voluntarily).

CANADA: PROCUREMENT STRATEGY FOR ABORIGINAL BUSINESS

ELIGIBILITY CRITERIA: DEFINITION OF INDIGENOUS ENTERPRISES

Indigenous businesses: indigenous persons have at least 51% ownership and control; joint ventures, where entrepreneurs or indigenous businesses have at least 51% ownership and control of the Partnership.

EXPECTED OR OBTAINED RESULTS

Since the establishment of the PSAB in 1996, more than 100,000 contracts have been awarded to Indigenous suppliers with total values greater than C\$5.2 billion. Over \$1 billion CAD has been delivered only through mandatory or voluntary reserves since the program's inception.

However, Canadian agencies point out that the federal government's annual spending on Indigenous contracting in 2015 reached only 0.32% of \$20 billion CAD.

UNITED STATES: 8(a) BUSINESS DEVELOPMENT PROGRAM & HUBZone PROGRAM / SMALL BUSINESS ADMINISTRATION (SBA)

THE 8(a) BUSINESS DEVELOPMENT PROGRAM

The objective of the 8(a) program is to promote small businesses owned by disadvantaged individuals to become viable and self-sufficient enterprises capable of competing effectively in the marketplace.

ELEMENTS OF PUBLIC POLICY

The beneficiaries correspond to small businesses owned by indigenous individuals, communities, corporations or societies that have at least 51% ownership of one or more socially and economically disadvantaged persons; and whose management and daily operations are controlled by such individuals.

These businesses may qualify for Small Disadvantaged Business Certification and will be eligible to participate in the 8(a) program.

The official measures established in the program were the implementation of mandatory market reserves or quotas (set asides), contracts or direct awards (sole-awards) and preferential economic evaluations in public tenders (price-evaluation preferences).

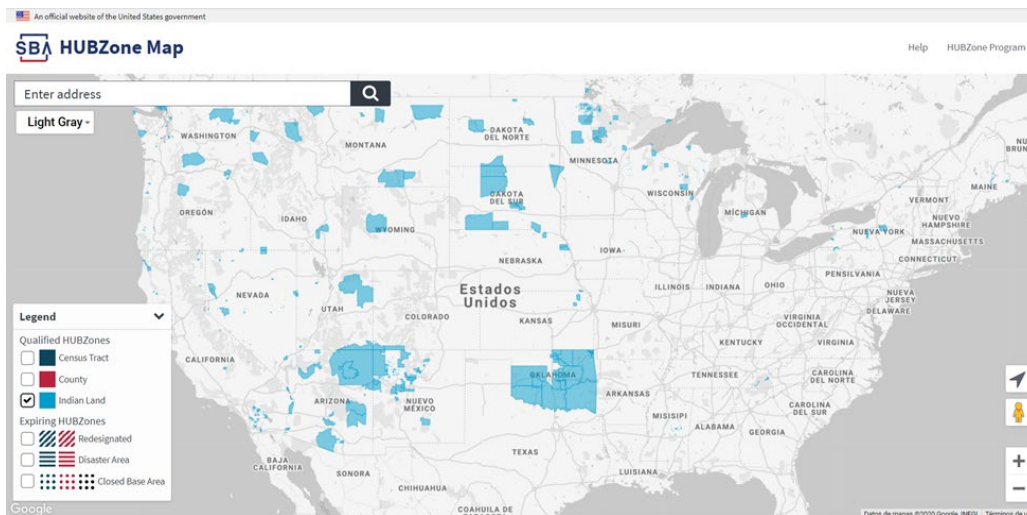
UNITED STATES: 8(a) BUSINESS DEVELOPMENT PROGRAM & HUBZone PROGRAM / SMALL BUSINESS ADMINISTRATION (SBA)

HUBZone PROGRAM

The HUBZone program is a federal small business hiring assistance program whose primary goal is job creation and increased capital investment in distressed communities.

ELEMENTS OF PUBLIC POLICY

The HUBZone program defines six geographical areas considered economically disadvantaged (poverty levels, unemployment, among others). These include qualified Indian reservations/Indian Country.



The beneficiaries are small businesses that are at least 51% owned by socially and economically disadvantaged individuals.

The HubZone program uses the same tools from a territorial perspective: mandatory quotas (set asides), direct contracts (sole-awards), preferential economic evaluations (price-evaluation preferences)

NUEVA ZELANDA: THE GOVERNMENT PROCUREMENT RULES

The Government Procurement Rules is a general public procurement policy of the New Zealand central government introduced in 2015 and includes special cross-cutting provisions for the preservation of indigenous Maori and Pasifika peoples.

ELEMENTS OF PUBLIC POLICY

Rule 17 of the Procurement Planning section explicitly provides considerations for the inclusion of local Maori and Pasifika businesses.

- **Public agencies should consider guidelines for creating opportunities (e.g., separate part tenders) for Maori and Pasifika businesses**
- **Agencies must conduct sufficient monitoring of awarded contracts**

The Rules make it mandatory if the acquisitions made exceed \$100,000 NZD; or NZD \$9 million for new construction or infrastructure.

The opportunities provided may not preclude the participation of non-indigenous suppliers, (Rule 3 Non-discrimination: best public value bid)

SOUTH AFRICA: PROCUREMENT ACT Y PREFERENTIAL PROCUREMENT REGULATIONS

The Procurement Act of 2000, following the South African constitution of 1996, mandates that national, provincial or local government institutions implement procurement policies aimed at promoting historically disadvantaged or discriminated against people.

ELEMENTS OF PUBLIC POLICY

- Government agencies carry out an evaluation through a ranking of socioeconomic objectives following the Black Economic Empowerment Act (BEE)
- Evaluation is carried out by assigning Preference points, determined by the value of the contracts, where the higher the value of these, the lower the number of preference points that can be assigned, with maximums of 20 out of 100 points.
 - **Historically Disadvantaged Individual (HDI)**
 - **Recruitment based on gender or disability**
 - **Implementation of Reconstruction and Development Programmes**
- The Act aims to adopt a uniform approach to BEE in South Africa including recruitment practices by State bodies.

INDIGENOUS PROCUREMENT ELEMENTS AND TOOLS: AUSTRALIA, CANADA, NEW ZEALAND, SOUTH AFRICA AND THE UNITED STATES

COUNTRY	INDIGENOUS PROCUREMENT POLICY	APPROACH OR ORIENTATION	MAIN ELIGIBILITY CRITERIA	MAIN TOOLS USED	LEVELS OF GOVERNMENT IMPLEMENTATION	PRESENCE OF TECHNICAL ADVISORY BODIES	RESULTS OBTAINED
UNITED STATES	Section 8(a) of the Small Business Investment Act of 1958 '8(a) Business Development Program' or '8(a) Program' 1978 HUBZone Act 1997	ORGANIZATIONAL AND TERRITORIAL (MIXED) ORGANIZATIONAL Indigenous companies and entrepreneurs program (8a) TERRITORIAL HUBZone program	PRESENT Small socially and economically disadvantaged enterprises (including indigenous enterprises) or enterprises that are at least 51% owned by one or more socially and economically disadvantaged individuals and whose management and day-to-day operations are controlled by such individuals (including indigenous individuals).	Market quotas or reserves (set asides) Sole-award contracts are federal contracts with no competition among bidders. Price-evaluation preferences	FEDERAL AND REGIONAL	Office of Native American Affairs (ONAA) of the Small Business Administration (SBA)	From 2010 through 2019, 8(a) program participating firms (Indian and non-Indian) were awarded an annual average of 5.42% of all federal contracts, receiving about USD\$274.849 million in federal contracts; USD\$75.760 million was through quotas or set asides, or 27.6% of all 8(a) program contracts; USD\$92.296 million through direct awards or procurements, or 33.6% of 8(a) program procurements; and USD\$106.793 million through open bidding or other preferential tool. The HUBZone program awarded 76,503 contracts valued at USD\$6.77 billion to participating companies; about USD\$1.69 billion awarded through set-asides; USD\$45 million through sole awards; USD\$34.6 million were awarded through price-evaluation preference; USD\$1.48 billion awarded through open bidding; and the remainder awarded through other preference tools. In 2017, there were 6,026 certified HUBZone small businesses.
CANADA	Procurement Strategy for Aboriginal Business (PSAB) 1996 Aboriginal Entrepreneurship Programme (complementary program)	ORGANIZATIONAL AND TERRITORIAL (MIXED) Indigenous businesses and entrepreneurs Areas or communities where the indigenous population corresponds to at least 80% of the local population.	PRESENT Are registered under the Canadian Indian Act (Indian Act, 1985). Belong to an established Aboriginal Community in Canada with recognized Aboriginal ancestry or are on the Band List. Members of an affiliate of the "Metis National Council" or the "Congress of Aboriginal Peoples"; or are involved in a land claim agreement.	Mandatory Set Aside Voluntary Set Aside Joint ventures; and indigenous subcontracting criteria.	FEDERAL AND REGIONAL	Aboriginal Affairs and Northern Development Canada (in dissolution) Crown-Indigenous Relations and Northern Affairs Canada and Indigenous Services Canada (current)	Since the establishment of the PSAB in 1996, more than 100,000 contracts have been awarded to indigenous suppliers for CAD\$5.2 billion. Over CAD\$1 billion has been delivered through mandatory or voluntary set-asides. Despite the large sums spent, evaluations indicate that indigenous businesses remain underrepresented, accounting for only 0.32% of CAD\$20 billion in 2015 federal procurement.
SOUTH AFRICA	Procurement Act 2000 Procurement Preference Regulations of 2001 Black Economic Empowerment Act (BBE) 2003 South African Constitution 1996 (Article 217)	ORGANIZATIONAL The preference points system is applied across the board, being used by those companies that can demonstrate the BBE objectives.	PRESENT South African preference point system is done using the BBE's list of social policy objectives that will add points to bidders if they are included. These objectives include: Hiring of individuals or categories of individuals historically disadvantaged by unfair discrimination on the basis of race (Historically Disadvantaged Individual or HDI; gender or disability; Development and implementation of Reconstruction and Development Programs.	Ranking of socioeconomic objectives of bidders or bidders, called Preference points system. The allocation of preference points is determined by the value of the contracts, where the higher the value of the contracts, the lower the number of preference points that can be allocated, with a maximum of 20 out of 100.	CENTRAL (OR SEMI-FEDERAL) AND REGIONAL GOVERNMENTS	Not identified or nonexistent	No information.
AUSTRALIA	Indigenous Economic Development Strategy 2011-2018 Indigenous Procurement Policy (IPP) 2015	ORGANIZATIONAL AND TERRITORIAL (MIXED) Indigenous businesses and entrepreneurs Preference in 'Remote Australia	PRESENT Businesses must have at least 50% indigenous ownership and must be registered on the free Indigenous Business Direct register of Australia's national supplier system.	Annual targets for contract volumes and values Market Quotas or Reserves Indigenous Participation Targets In High Value Contracts Key performance indicators (no. of companies and increase in contracts awarded)	FEDERAL, REGIONAL AND MUNICIPAL	National Indigenous Australian Agency (NIAA)	OECD data estimates that between 2015 to 2019, the IPP awarded 13,700 contracts to more than 1550 indigenous businesses, worth approximately \$2.2 billion AUD. In comparison, it is estimated that Indigenous awards were only \$6 million AUD to fewer than 30 Indigenous businesses in 2013.
NEW ZEALAND	The Government Procurement Rules 2015 Principles of Government Procurement There is no specific indigenous contracting policy.	ORGANIZATIONAL The rules apply across the board in the public procurement system.	ABSENT No eligibility criteria have been identified	Not identified or nonexistent No specific tools or mechanisms have been identified	CENTRAL GOVERNMENT No initiatives have been identified at the regional or provincial level.	Te Puni Kōkiri (TPK), Ministry of Māori Development	In December 2020 it was established that public bodies must ensure that a minimum of 5% of their contracts are awarded to Maori companies. Approximately NZD\$2.1 billion of a total NZD\$42 billion public expenditure on goods and services.

RECOMMENDATIONS FOR LATIN AMERICA

The mechanisms differ in the levels of complexity required to be implemented:

- The definition of annual indigenous public procurement goals or objectives will require high levels of institutional commitment at the national, regional or local government level.
- The mandatory quotas or reserves will require the definition of eligibility criteria for indigenous companies or indigenous territories that may participate in the quotas or reserves during the tenders.
- The implementation of mandatory minimum requirements could be considered less complex, as it would resemble cross-cutting inclusion practices already contained in some of the public procurement systems of Latin American and Caribbean countries (e.g., female hiring).
- Strategic approaches to indigenous recruitment should be adapted depending on the specific experiences and developments of the countries of the region, taking into account the particular antecedents of historical marginalization and socio-economic disadvantage of indigenous peoples in Latin America and the Caribbean.