

**TO:** CITY MANAGER 2001 October 29

**FROM:** DIRECTOR FINANCE File: T97

**SUBJECT:** AGREEMENT ON INTERNAL TRADE (AIT)  
AND THE B.C. MUNICIPALITIES

**PURPOSE:** To provide information on the impacts of procurement provisions of the Agreement on Internal Trade.

**RECOMMENDATION(S):**

1. **THAT** this report be received for the information of Council, and
2. **THAT** a copy be sent to the Union of B.C. Municipalities.

**REPORT**

At its meeting of 2001 October 22 Council received correspondence from the U.B.C.M. regarding the provincial Cabinet's decision, on 2001 July 18, to extend the procurement provisions of the Agreement on Internal Trade (AIT) to local B.C. governments, to be effective as of 2002 March 31. Currently, all provinces in Canada except B.C. and the Yukon comply with the agreement.

**PROCUREMENT PROVISIONS OF THE AIT**

The procurement provisions of the AIT will cover all municipalities, regional districts, municipal organizations, school boards, universities, colleges, health and social service agencies. The enactment includes the following obligations:

1. **Scope**  
The procurement provisions of the AIT must be complied with where the procurement value is in excess of:

Goods and Services	\$100,000
Construction	\$250,000
  
2. **Non-Discrimination**  
A municipality may not restrict its purchases to suppliers in a limited geographic area within Canada.

3. **Exceptions**

Some types of purchases may be exempted from complying with the AIT, they are:

- an unforeseeable situation of urgency exists for the goods, services or construction.
- purchases regarding a confidential or privileged nature that could be compromised by an open tendering process.
- contracts awarded under agreements financed by an international cooperation organization.
- construction materials that transportation costs or technical considerations impose geographic limits; like: sand, gravel, asphalt, and pre-mixed concrete.
- where compliance would interfere with the ability to protect human, animal or plant health.
- the absence of any bids in response to a call for tenders.

4. **Fair Acquisition Process**

- existing methods of procurement may be continued provided they are consistent with the AIT.
- the acquisition processes must be fair, competitive, efficient, effective, non-discriminatory and transparent.

5. **Dispute Resolution**

Municipalities must document their internal complaint process and provide this to a supplier or a Province upon request.

The Province may enter into disputes with the Provincial government of the suppliers and resolve the dispute with the supplier or the supplier's Province.

If the dispute is still not resolved a panel of experts will be formed by the two Provinces party to the dispute and a public report will be produced to form the basis of a resolution to be agreed to by the Provinces.

## **MUNICIPAL ISSUES WITH THE AIT**

In 1995/1996 the B.C. Municipalities, U.B.C.M. and the Provincial government reviewed the provisions of the AIT as they were then drafted. At the end of the review the B.C. Government made the decision not to accept the Procurement Provisions of the AIT but agreed to accept the objectives of the agreement and adhere to the principles in a manner consistent with current purchasing principles.

The reasons for the B.C. Government's decision are believed to have included:

1. The original threshold amounts for bid solicitation were:

Goods	\$ 25,000
Services	\$100,000
Construction	\$100,000

The Goods and Construction thresholds were considered to be much too low, leading to unnecessarily complex tendering processes with little net return associated with the benefits of open tendering.

The thresholds have now been increased to levels not inconsistent with current municipal purchasing practices.

2. The original reporting requirements were extensive and complex, including annual reports on the number of contracts let with extensive details of each including:

- purchasing procedures used
- details of tender advertising
- contact names for inquiries and complaints

The reporting requirements have been removed from the AIT.

3. The tender procedures that were specified in the original AIT, coupled with the low threshold limits, would have resulted in significant cost and administrative burden, they included:

1. the provision of electronic access to tenders for everyone
2. the publication of the tenders in at least one daily newspaper accessible to all Canadian suppliers
3. the inclusion of much more detail in the tenders than we would normally supply

Access to the B.C Bid website has been provided by the Provincial government, the other requirements have been dropped from the provisions of the AIT. Burnaby has used the B.C Bid web site to advertise tenders for the last several years.

4. The provincial government objected to a rules based approach to tendering practices which would result in restrictive procedures and undue administrative costs. Although still "rules based", the rules have been changed to more closely maintain

the principles of our current purchasing practice.

5. In 1995 the Federation of Canadian Municipalities endorsed a resolution that supported the stated purposes of the AIT but based on the fact that municipalities use professional purchasing principles in their procurement practices it was felt that the AIT would "have little or no discernable benefit, be costly to implement and be contrary to the stated objective in the Agreement of reducing purchase costs".

## CONCLUSION

While the AIT has come a long way in addressing the original concerns of the B.C. Municipalities there are a few areas that need to be addressed:

1. Burnaby already has a non-discriminatory, transparent tendering process founded on professional purchasing principles, therefore there is still little or no discernable benefit to Burnaby from being required to adhere to the AIT.
2. Most of the contentious issues surrounding senior trade agreements are as a result of secretive dispute resolution panels used to the exclusion of the domestic judicial process offered under the laws governing tendering and purchasing practices. The AIT is no exception, the dispute settlement process for B.C. municipalities must, ultimately, come under the courts and laws of B.C. and Canada and not rely on a "panel of experts" agreed to by a third party (the Province).

The Municipal Purchasing Managers are actively involved in the ongoing input, changes and improvements to the provisions of the AIT.

This report is provided for the information of Council.



Rick Earle  
DIRECTOR FINANCE