

Annex 5.1: Canadian Content Policy (2005-12-16)

Note: The following is a compilation, for information purposes, of all Supply Manual material related to Canadian Content Policy. For more information on Canadian Content Policy, contact the [Acquisitions Strategy and Relations Directorate](#).

Section 5: Sourcing Strategy

Determining Eligible Bidders

5.070 (2005-06-10) The Canadian Content Policy is a Cabinet-mandated policy. The Policy encourages industrial development in Canada by limiting, in specific circumstances, competition for government procurement opportunities to suppliers of Canadian goods and services.

The Policy applies to procurement carried out by the former Supply and Services Canada (SSC), now a part of Public Works and Government Services Canada. Therefore, it would not normally apply to construction procurement unless this procurement had been previously carried out by SSC.

5.071 (2005-12-16) The Canadian Content Policy applies to competitive procurements, publicly advertised, with an estimated value of \$25,000 or more, **except** for the following:

- (a) government procurements subject to the NAFTA or WTO-AGP;
- (b) procurements made in furtherance of aid to developing countries, but does apply to purchases made by the Canadian International Development Agency (CIDA) on its own account;
- (c) procurements made by Public Works and Government Services Canada (PWGSC) Supply Operations Offices located outside Canada; and
- (d) Cabinet-mandated Sourcing, including Sourcing Relating to Shipbuilding, Ship Repair, Refit and Mid-Life Modernization.

5.072 (2004-12-10) A good wholly manufactured or originating in Canada is considered a Canadian good. A product containing imported components may also be considered Canadian for the purpose of this policy when it has undergone sufficient change in Canada, in a manner that satisfies the definition specified under the North American Free Trade Agreement (NAFTA) Rules of Origin (see [Annex 5.5](#)). For photocopiers, computers and office equipment within Federal Supply Classification (FSC) groups 36, 70 and 74, only the products of CIRCLE Canada and MERIT Partnership Program firms or companies in Priority Group 1 prior to April 1992 are considered Canadian (see [5.073](#)).

A service provided by an individual based in Canada is considered a Canadian service. Where a requirement consists of only one service, which is being provided by more than one individual, the service will be considered Canadian if a minimum of 80 percent of the total bid price for the service is provided by individuals based in Canada.

5.073 (2005-06-10) Other Canadian Goods and Services:

- (a) CIRCLE Canada and MERIT Partnership Program: For photocopiers, computers and office equipment within FSC groups 36, 70 and 74, only the products of the following firms are considered Canadian goods:
 - (i) MERIT Partner under the [MERIT Partnership Program](#) (administered by Industry Canada [IC] and Public Works and Government Services Canada [PWGSC]);

- (ii) Companies which, on March 31, 1992, were allocated to Priority Group 1 under the Priority Groups Policy in effect at that time; or
 - (iii) [CIRCLE Canada](#) companies as agreed on by IC and PWGSC.
- (b) **Textiles:** Textiles are considered to be Canadian goods according to a modified rule of origin, copies of which are available from the Clothing and Textiles Division, Logistics, Electrical, Fuel and Transportation Directorate.
- 5.074 (2003-12-12) The bidder will certify Canadian content by signing a statement that the products offered meet the definition of Canadian Goods and Services. The certification forms are contained in the *Standard Acquisition Clauses and Conditions* (SACC) Manual under clause numbers [K4001T](#), [K4002T](#), [K4003T](#), [K4004T](#), [K4005T](#), [K4006T](#), [K4011T](#), [K4013T](#), and [K4014T](#).

Section 7A: Preparing a Bid Solicitation

Canadian Content

- 7A.010 (1995-07-01) When requirements consist of more than one good, the Canadian content certification can be done in the following ways:
- (a) Aggregate. Multi-item requirements will be certified on an aggregate basis; or,
 - (b) Item by Item. Multi-item requirements will be certified on an item-by-item basis. In these cases, suppliers will be asked to identify separately, each item that meets the definition of Canadian goods in [5.072](#) or [5.073](#).
- 7A.011 (2003-12-12) For procurement to which the Canadian Content Policy applies, the contracting officer shall decide, at the procurement planning stage, whether a competition will be:
- (a) **Solely Limited:** the solicitation will be solely limited to suppliers who could offer Canadian goods and/or services when the contracting officer believes there exists, in the marketplace, three or more such suppliers (solely limited certifications are provided in the SACC Manual, under clause numbers [K4001T](#), [K4003T](#), [K4004T](#), [K4011T](#), [K4013T](#) or [K4014T](#)). Except for bids that will be publicly opened, the contracting officer will determine whether:
 - (i) the bidder will be required to submit the certification of content with bid ([K4001T](#), [K4003T](#) or [K4004T](#)), or
 - (ii) the bidder will be asked for the certification if it is not submitted with bid ([K4011T](#), [K4013T](#) or [K4014T](#)). The contracting officer must indicate in the clause the number of days that the bidder will have to submit the certification upon request. Bidders will normally be given no more than three (3) working days to provide signed Canadian Content certifications. The specified time period should be dependent upon the urgency of the requirement.

For publicly opened bids, the bidder must be required to submit signed certification with bid ([K4001T](#), [K4003T](#) or [K4004T](#)).

The contracting officer will normally not require bidders to submit certifications with bid unless the requirement is urgently needed by the client; or

- (b) **Conditionally Limited:** the solicitation will be conditionally limited when the contracting officer is uncertain whether three or more suppliers of Canadian goods and/or services exist (conditionally limited certifications are provided in the SACC Manual, under clause numbers [K4002T](#), [K4005T](#) or [K4006T](#)). The bidder will be required to submit certification of content with bid; or

- (c) **Open:** when the contracting officer is of the opinion that three or more suppliers of Canadian goods and/or services do not exist, the solicitation shall be open to all suppliers. Bidders are not required to provide a certification.

7A.013 (2003-12-12) Once the sourcing strategy is determined, the contracting officer will prepare a Notice of Proposed Procurement (NPP). The procurement opportunity will be coded on GETS as:

Solely Limited, per procedure [7A.011](#) a): Code O-5;
Conditionally Limited, per procedure [7A.011](#) b): Code O-4; or,
Open, per procedure [7A.011](#) c): Code O-1.

Section 7D - Bid Handling

Canadian Content

Certification of the Bid

7D.366 (2003-12-12) When requirements consist of more than one good, the evaluation of Canadian content certification can be done the following ways:

- (a) **Aggregate:** a minimum of 80 percent of the total bid price must consist of Canadian goods (see [Annex 7.8](#)); or,
- (b) **Item by Item:** The bid certification is conducted on an item-by-item basis.

For requirements consisting of more than one service, a minimum of 80 percent of the total bid price must be provided by personnel based in Canada (see [Annex 7.8](#)).

When requirements consist of a mix of goods and services, 80 percent of the total bid price must consist of Canadian goods and Canadian services (see [Annex 7.8](#)).

A bid can be accepted in part without resubmission of a certification.

Application of the Policy

7D.367 (2002-05-24) Bids to which the special procedures under the Canadian Content Policy applies will be evaluated as follows:

- (a) For **Solely Limited solicitations:**
- (i) If the bidder was **required** to submit the certification with bid ([K4001T](#), [K4003T](#) or [K4004T](#)), only bids with valid certifications will be evaluated. The bid evaluation process can proceed where there is at least one bid with a valid certification, otherwise the procurement must be retendered.
- (ii) If the bidder was **not required** to submit the certification with bid ([K4011T](#), [K4013T](#) or [K4014T](#)), the contracting officer will contact all bidders who did not submit a signed certification with bid and request the signed certification. If signed certifications are not received within the time period specified in the Canadian Content clause, bids are to be considered non-responsive. A bid will only be provided to the client for evaluation once a signed certification is received. The bid evaluation process can continue as long as there is at least one bid with a valid certification, otherwise the procurement must be retendered.
- (b) For **Conditionally Limited solicitations**, the contracting officer will, prior to the further evaluation of the bids, determine whether there are three or more bids with a valid certification. In this event, the evaluation will be limited to the bids with certification,

otherwise all bids will be considered. If the bids with a valid certification are later determined to be non-responsive or withdrawn, and less than three responsive bids of Canadian goods and/or services remain, evaluation will continue among those bids which contain a valid certification. If **all** bids with a valid certification are subsequently found to be non-responsive or if their bids are withdrawn, then **all** other bids received should be evaluated.

7D.368 (2002-05-24) The onus is on the supplier to demonstrate that its bid meets the definition of Canadian goods and/or services. The supplier must execute and submit the certification form (see [5.074](#)). When the *Standard Acquisition Clauses and Conditions* (SACC) Manual clauses [K4003T](#), [K4004T](#), [K4005T](#), [K4006T](#), [K4013T](#) or [K4014T](#) are used, the supplier must clearly identify the status of each individual product.

7D.369 (1995-07-01) PWGSC may verify the validity of the certification. If the certification is found to be invalid, then the offered goods or services are deemed not to meet the definition of Canadian Content. Verification of the certification shall in no way alter the price quoted or any substantive element of the bid.

Section 7E: Contract Award

7E.503 (2001-12-10) Contracts awarded on the basis of the bid having met the definition of Canadian content under the Canadian Content Policy will include SACC Manual clause [K4100C](#).

Section 9L: Set-aside Program for Aboriginal Business - Conducting Set-aside Procurements

Set-Asides and Canadian Content

9L.070 (1997-03-31) Set-aside procurements and the Canadian Content Policy may be applied simultaneously.

9L.080 (1997-03-31) In applying the Canadian Content Policy under a set aside procurement, it must be recognized that there are two levels of certification. The first level of certification will be to qualify the bidder(s) as eligible for consideration, i.e. bidders must provide a certification that they are an Aboriginal business.

9L.090 (1997-03-31) Having established that the procurement will be conducted as a set-aside, contracting officers must then apply the Canadian Content Policy, in the same manner as any other procurement, in the context of the supplier community which is eligible to respond: the Aboriginal business community. Contracting officers must determine, on the basis of their knowledge of this community, whether there are sufficient eligible firms to carry out the procurement as Solely Limited (three or more Aboriginal firms exist which are able to provide Canadian goods or services), Conditionally Limited (there may be three or more Aboriginal suppliers of Canadian goods or services), or Open (there is an insufficient number of Aboriginal businesses able to provide Canadian goods or services; the procurement is open to all Aboriginal businesses regardless of the origin of the good and services supplied). (See [5.070](#).)

9L.100 (1997-03-31) Bids for set aside procurements which include the Canadian Content provision must be reviewed initially to determine that the bidder has provided the necessary certificate that they are an Aboriginal business. Bids meeting this basic certification are then assessed according to the stated Canadian Content criteria.

Section 11: Contract Management

Audits

11.081 (2005-12-16) The authority for discretionary audits results from either the contractual terms, or statute (*Defence Production Act*, [section 19](#)). If a contracting officer determines that a discretionary audit is required, a request is to be made to the Contract Audit Group (CAG). The cost of discretionary audits will be borne by CAG.

Contracting officers may refer any supplier certification of Canadian content to CAG for audit of compliance to the policy.

Annex 5.5: The Rules of Origin Calculation

The Canadian Rules of Origin for Goods (Chapter 4 of the North American Free Trade Agreement) and Canadian Customs Tariff Harmonized System are used to determine if imported components that go into the production of an item for resale to the government are sufficiently altered or converted in Canada to be considered "Canadian."

The Harmonized Commodity Description and Coding System is a structured classification system for goods that has been adopted by Canada and most of the world's trading nations, for customs purposes.

For the purposes of this determination, the reference in the Rules of Origin to "territory", is to be replaced with "Canada".

Products containing imported components may be considered Canadian when they have undergone sufficient change in Canada in a manner that satisfies this amended definition. There are three basic steps to determine if any good that is partially or wholly constructed from imported components meets the Rules of Origin definition:

- (a) Locate the heading number in the Harmonized System that best reflects the final product for sale.
- (b) Find the appropriate heading number in the Harmonized System that identifies imported components used to construct the final product.
- (c) Look up the section in the Rules of Origin that defines whether the conversion that took place in Canada allows the goods to be defined as Canadian.

Example

For example, hats manufactured in Canada that use imported calves leather, would reflect the following calculation:

- (a) Look up hats in the index of the Canadian Customs Tariff Harmonized System (HS) and find the type that matches the kinds of hats to be sold: Hats and other headgear, plaited or made by assembling strips of any material, whether or not lined or trimmed. The HS number is 6504.00.00. The first two numbers indicate the good is listed in Chapter 65.
- (b) Look up leather, bovine in the index. Leather, bovine falls under HS heading 4104.
- (c) Finally, refer to the Rules of Origin which lists the conditions for transforming goods listed in the HS into Canadian goods (Chapter 65 is for Headgear and Parts Thereof and is listed in Section XII of the rules). The second rule for Chapter 65 applies: A change from 65.03 to 65.07 from any heading outside that group. As the leather is classified outside 65.03 to 65.07, the final product (the hats) for sale are considered to be sufficiently transformed and therefore the hats are deemed to be Canadian for the purposes of this policy.

Annex 7.8: Determination of Canadian Content for a Mix of Goods and/or Services (2001-05-25)

There is a Public Works Government Services Canada (PWGSC) solicitation for: 100 wooden office desks; 100 electric space heaters with maintenance and repair included; 100 telephone sets with maintenance and repair included; and, 100 metal swivel chairs.

The bidder will provide:

- unfinished wooden office desks which are imported into Canada and finished in Canada;
- electric space heaters which were constructed using domestic labour/materials and imported parts. The maintenance/repair of the electric space heaters is being done by Canadian-based personnel.;
- telephone sets which were constructed using domestic labour/materials and some imported parts. The maintenance/repair of the telephones is being done by U.S.-based personnel;
- metal swivel chairs which were constructed using domestic labour/materials and some imported parts.

Below are the prices for the goods and services offered in the bid:

100 Wooden Office Desks @ \$150 each	\$15,000
100 Electric Space Heaters @ \$200 each	\$20,000
Maintenance/Repair for Heaters	\$5,000
100 Telephone Sets @ \$50 each	\$5,000
Maintenance/Repair for Telephone Sets	\$1,000
100 Metal Swivel Chairs @ \$25 each	<u>\$2,500</u>
Total Bid Price	\$48,500

Determination whether individual goods and services are Canadian (using NAFTA Chapter 4 - Rules of Origin)

(You may wish to refer to [Annex 5.5](#) for The Rules of Origin Determination.)

Wooden Office Desks:

Unfinished wooden office desks (HS 9403.30) were imported and finished in Canada. The final good (finished wooden office desks) falls in same the subheading (HS 9403.30) as the unfinished good. The NAFTA rules of origin covering HS 9403.30 (wooden office desks) require a change from another chapter, or a change from parts heading 9403.90, provided there is sufficient regional value content. These rules are not satisfied.

Therefore, the wooden office desks are **not** considered Canadian goods.

Electric Space Heaters:

Electric space heaters (HS 8516.21) were constructed using domestic labour/materials and imported parts (HS 8516.90).

The NAFTA rules of origin covering HS 8516.21 (electric space heaters) allow a change from subheading 8516.90, provided there is a regional value content of not less than 60% where the transaction value method is used or 50% where the net cost method is used..

After calculations are done, the regional value content is found to be 65% using the transaction value method.

Therefore, the electric space heaters are considered Canadian goods.

Telephone Sets:

Telephone sets (HS 8517.11) were constructed using domestic labour/materials and some imported plastic tubes (HS 3917).

The NAFTA rules of origin covering HS 8517.11 (telephone sets) require a change to subheading 8517.11 from any other subheading, except 8517.90.11, 8517.90.12, 8517.90.13, 8517.90.14 or 8517.90.41.

Therefore, the telephone sets are considered Canadian goods.

Metal Swivel Chairs:

Metal swivel chairs (HS 9401.30) were constructed using domestic labour/materials and some imported parts (HS 9401.90).

The NAFTA rules of origin covering HS 9401.30 (metal swivel chairs) allow a change from subheading 9401.90, provided there is a regional value content of not less than 60% where the transaction value method is used or 50% where the net cost method is used.

After calculations are done, the regional value content is found to be 37% using the transaction value method.

Therefore, the metal swivel chairs are **not** considered Canadian goods.

Maintenance/Repair of Telephones:

The maintenance/repair of telephones is being done by U.S.-based personnel. Therefore, this service is **not** considered a Canadian service.

Maintenance/Repair of Electric Space Heaters:

The maintenance/repair of electric space heaters is being done by Canadian-based personnel. Therefore, this service is considered a Canadian service.

Calculation of Percent of Bid Price Considered Canadian

Canadian Goods and Services

100 Electric Space Heaters	\$20,000
100 Telephone sets	\$5,000
Maintenance/Repair of Heaters	<u>\$5,000</u>
Total Canadian Goods and Services	\$30,000

Non-Canadian Goods and Services

100 Wooden Office Desks	\$15,000	
100 Metal Swivel Chairs	\$2,500	
Maintenance/Repair of Telephone	<u>\$1,000</u>	

Total non-Canadian Goods and Services	\$18,500	
	Total Bid Price	<u>\$48,500</u>

Percent of the Bid Price that is composed of Canadian goods and services = $\$30,000/\$48,500 = 62\%$

Conclusion

The Supplier has **not** met the Canadian Content requirement that "no less than 80 percent of the bid price consists of Canadian goods and Canadian services".