



# Reflections on the AIT

**T**HE AGREEMENT ON INTERNAL TRADE (AIT) has been in effect since 1995. The federal and provincial governments, along with other governmental entities, agreed to adopt a set of principles embedded in the AIT to encourage inter-provincial access to goods and services arising from government procurement opportunities. Supply management professionals and the supplier community have been responding to the AIT thresholds and obligations ever since. The AIT was followed by the regionally focused Trade, Investment, Labour, and Mobility Agreement in 2010, and the more recent New West Trade Partnership

Agreement, which is in transition in the western Canadian market. Not to be outdone by the West is the Atlantic Procurement Agreement which encourages the adoption of standard procurement terms and conditions.

Trade agreements must be integrated into supply management practices along with the World Trade Organization Agreement on Government Procurement as well as other public sector legislated requirements and rules of conduct. The issue of compliance becomes one of greater due diligence for the procurement groups which issue the business opportunities and become increasingly as challenging for suppliers to submit

responses in accordance with the binding terms and conditions.

I asked a few senior public sector supply management professionals for their reflective comments and opinions on the AIT and subsequent trade agreements. They have shared their tacit knowledge as follows:

Trade agreement compliance ensures that the majority of public procurement requirements are issued via a fair, open, and transparent competitive bidding process. This results in a greater percentage of purchases being open to wider competition resulting in substantial savings and increased value for taxpayers. The common obligations of the

agreement have served to significantly standardize procurement policies across Canada. While each jurisdiction has their own individual practices, the AIT's common vocabulary and foundational principles, have markedly aligned procurement practice. This consistency enhances vendor understanding and compliance.

Extending competition outside the local area translates to increased price competitiveness and cost savings for the public sector. There is no question that public sector procurements generate interest from companies across Canada and internationally which undoubtedly results in price benefits. The elimination of "local preference" policies in favour of removing trade barriers has served to level the playing field for the vendor community.

The competitive process works extremely well for commodities and commercial goods/services. The preparation and use of competitive bidding documents provides greater indemnification and risk mitigation in the rigor of the contracting process.

While there have been advantages to the AIT and other trade agreements, there are also some areas for improvement. Formal competitions are being held for goods/services/construction of relatively low value. The cost of running these competitions often outweighs the (potential) value expected for receiving the lowest cost bid. These process costs are not just borne by the government purchaser but also by the vendor community.

For a formal competitive process to be legally compliant it requires a very clear definition of exactly what is being purchased. Without this, vendors don't know how to bid and purchasers don't know how to evaluate their bids. The result of this requirement eliminates both the purchaser's and vendor's ability to modify requirements and deliverables. This can be especially difficult in situations where procurement needs are flexible, changing, evolving, or in any way uncertain, as is often the case in the largest and most expensive, construction and IT projects.

Small- and medium-sized enterprises have often been put at a disadvantage. Larger firms have the resources and ability to cover the ongoing support costs

of participating in tender processes, while small organizations often do not. Tender processes have become inherently complicated and smaller organizations may be unable to develop the level of expertise to bid effectively. In most cost analyses, the larger firms will have an advantage due to economies of scale.

The issue of savings creates a paradox of views. While it was noted *substantial savings and value* were realized, this is not proven in all cases. To the contrary, there is likely an economic loss being incurred when tendering low-value items. In the most complicated and expensive projects, the use of a formal competitive process often results in both higher costs and a poorer overall outcome. This is believed to be due in part to the mandatory compliance with the procurement obligations of the agreement which produces a net monetary loss rather than a net gain. We may have addressed transparency but have sacrificed economy to get it. The AIT does not work effectively for projects or services which morph over time and cannot be well defined at their inception.

Public sector organizations often develop policies and practices which are based on the AIT obligations and then apply those policies to all vendors – not just Canadian. The unexpected access and transparency often entices unsolicited foreign suppliers to bid, adding to the cost of bid evaluation.

A common theme in the reflective thoughts was the issue of staff training. The real need for education is within the public sector entities. As procurement professionals move from organization to organization and/or retire, knowledge and experience is lost. Procurement or operational staff new to an organization often do not understand the agreement(s) and thresholds or their obligation to follow them – and are not keen to learn.

One strongly held opinion was that public sector procurement organizations, for the most part, do not support the AIT. They don't welcome the additional demands it places upon their staff, resources and processes, nor do they appreciate the loss of flexibility the competitive process imposes. Compliance is, not surprisingly, difficult to achieve.

Recruitment and retention of staff

with the skills and experience to manage what is becoming an increasingly complex role remains a challenge. Most senior staff continue to be developed internally by being hired into entry level positions and then gaining experience, mentoring and formal training sponsored by the organization. Alternatively, senior positions are being filled more by candidates that have business training but with little or no direct procurement credentials or experience.

Some interesting comments were elicited on where improvements could be made. The agreement could be improved by returning to its "roots" – specifically relating to tendering thresholds and procurement value. The dollar values below which AIT procurement obligations do not apply were determined in 1994. Since that time, inflation has eroded the relevance in threshold value. A formal competitive process for acquiring goods, services and construction is now mandated at levels lower than those envisioned by the original AIT signatories. The thresholds were set correctly in 1994 – they should be re-adjusted to reflect current values. There would be no loss of openness or competition. 