

March 5, 2020

ICF Considerations as the Deadline Nears

The deadline for completing ICFs is April 1, 2020

As the ICF deadline approaches, RMA has received questions from members in three common areas:

- Completion
- Notification
- Arbitration

This bulletin provides high-level information on each of these areas. For more detailed information on ICFs, view the RMA and AUMA [ICF Workbook](#), or contact the Alberta Municipal Affairs Intermunicipal Collaboration Team using the following contact information:

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ICF Completion

An ICF can be considered complete when all parties agree that it meets the legislative requirements set out in the *Municipal Government Act* (MGA) and all councils have approved the ICF by resolution or bylaw. See Section 6.0 of the [ICF Workbook](#).

If an ICF negotiation process has been progressing, but terms related to a specific issue or service cannot be agreed upon due to lack of adequate information, then an ICF can be structured to indicate that an issue or service will continue to be studied after ICF adoption. This allows for the ICF to be adopted (and arbitration avoided) without a single service disagreement derailing the process.

When completing an ICF that includes an agreement for further study, it is important that all parties are confident that further study will lead to a mutually agreed-upon approach to addressing the issue or delivering the service. If the parties to the ICF have fundamentally different views on the issue or service, further study may not lead to a mutually agreed-upon solution and proceeding to arbitration may be the preferable approach.

Additionally, if parties to an ICF are going to agree to further study related to an issue or service, it would be beneficial to outline an agreement as to what the process to complete the further study will look like (i.e. tasks, responsibilities, timeline, and outcomes or deliverables desired) and what the next steps will be after the study is complete.

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If agreeing to further study is not a suitable option to address an outstanding issue(s), and an ICF cannot be completed by the deadline, the parties to the ICF must proceed to arbitration as set out in section 708.34 of the MGA.

ICF Completion Notification

Completed ICFs do not need to be shared with Municipal Affairs. Instead, all parties must send email notification to the Ministry confirming completion. If only one party to an ICF sends notification, then the other party (or parties) involved in the ICF must be copied. Notification emails should be sent to icf@gov.ab.ca.

ICF Arbitration

If municipalities cannot complete an ICF by the April 1, 2020 deadline, then the matter must be referred to an arbitrator. See section 5.3 of the [ICF Workbook](#).

Section 708.35 of the MGA outlines the requirements for the arbitration process. The parties to the ICF choose the arbitrator, and if they cannot agree on an arbitrator, they must advise Municipal Affairs and the Minister will appoint an arbitrator.

The Ministry's [Intermunicipal Relations Team](#) recommends that an arbitrator from their [roster](#) be selected for ICF arbitrations as they are familiar with the MGA requirements and municipal issues. Alternatively, any mediator who has assisted the municipalities in attempting to create an ICF may act as the arbitrator to make an award that resolves the issues in dispute among the municipalities.

The role of the arbitrator is set out in section 708.36 of the MGA. Costs of an arbitration must be paid on a proportional basis by the parties to the ICF, unless the parties agree otherwise or the arbitrator awards costs differently. Each municipality's proportion of the costs would be determined by dividing the amount of that municipality's equalized assessment by the sum of the equalized assessments of all municipalities as set out in the most recent equalized assessment. Note that the use of equalized assessment to determine costs will only be used should both the parties to the arbitration and the arbitrator decline to allocate costs based on other factors.

It is advisable, though not mandatory, to inform Municipal Affairs if your municipality will enter arbitration. You may email the Ministry at icf@gov.ab.ca to inform them of the initiation of arbitration, or if appointment of an arbitrator by the Minister is needed.

For enquiries, please contact:

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