



Nunavummi Nangminiaqtunik Ikajuuti (NNI Policy)

Reviewed, Revised and Prepared By

The GN / NTI NNI Review Committee

May 26, 2005

CONTENTS

- 1.0 Coming into Effect
- 2.0 Replacement
- 3.0 Authority
- 4.0 Title
- 5.0 Application
- 6.0 Definitions
- 7.0 Policy Objectives
- 8.0 The Bathurst Mandate
- 9.0 The Clyde River Protocol
- 10.0 Relationship to Nunavut Land Claims Agreement (NLCA)
- 11.0 Evaluation Process and Bid Adjustment
- 12.0 Bonuses and Penalties
- 13.0 Leases – Special Provisions
- 14.0 Monitoring and Enforcement Procedures
- 15.0 Application of Monitoring and Enforcement Procedures
- 16.0 Periodic Review
- 17.0 Review Committee
- 18.0 Appeals Process
- 19.0 Financial Resources
- 20.0 Revisions to or Repeal of this Policy
- 21.0 Contracting Policy for Territorial Parks

Appendix A: Definitions

Appendix B: Terms of Reference for NNI Review Committee

Appendix C: Park-Specific Procedures for Contracting and Business Opportunities

Nunavummi Nangminiaqtunik Ikajuuti

1.0 Coming Into Effect

- 1.1 The Nunavummi Nangminiaqtunik Ikajuuti (NNI Policy) was first approved by Cabinet on March 17, 2000 and came into effect on April 1, 2000.
- 1.2 Pursuant to s.17.4 of the March 17, 2000 policy, the NNI underwent a comprehensive review at the end of its first three year period; details of which are set out in a report entitled "*Nunavummi Nangminiaqtunik Ikajuuti Policy First Comprehensive Review, 2003*".
- 1.3 In November 2003, Cabinet approved the report and its thirty-two recommendations, with the exception of the Bid Adjustment values, and directed as follows:
 - (a) that a detailed workplan be developed for implementation of the recommendations; and
 - (b) that the administrative recommendations be implemented effective April 1, 2004.
- 1.4 Accordingly, this revised NNI Policy is in effect on and after April 1, 2004 for every contract initiated on or after April 1, 2004 and reflects the administrative recommendations approved by Cabinet on November 21, 2003.

2.0 Replacement

- 2.1 On its coming into effect, and subject to s.21.1, this NNI Policy revises the Nunavummi Nangminiaqtunik Ikajuuti (NNI Policy) of March 17, 2000. This NNI Policy continues to replace the Contracting Procedures for the Nunavut Settlement Area and the Nunavut Business Incentives Policy which were replaced by the March 17, 2000 NNI Policy.
- 2.2 For greater clarity, any guidelines or directives previously issued under the replaced policies continue in effect until otherwise modified, but shall be interpreted so as to comply with this NNI Policy.

3.0 Authority

- 3.1 In exercising its wider responsibilities and prerogatives, the Cabinet may, on an exceptional basis, depart from the application of provisions of the Policy.

4.0 Title

- 4.1 The Policy is entitled the "Nunavummi Nangminiaqtunik Ikajuuti" or "NNI Policy".

5.0 Application

- 5.1 Subject to sections 5.2 and 5.3, the Policy applies to the design, award, administration and interpretation of any Contract:
- (a) to which the Government of Nunavut or any of its Public Agencies or Public Boards as described in the Financial Administration Act is a party;
 - (b) where the Government of Nunavut provides, directly more than 51% of the total Contract funds; or
 - (c) where the Government of Nunavut provides, directly more than 51% of the annual operating funds of one of the parties.
- 5.2 The Policy does not apply to:
- (a) a contract that provides the Government of Nunavut with insurance against liability;
 - (b) a Government of Nunavut Employment Contract; or
 - (c) a contract for the supply of Emergency Services.
- 5.3 Unless otherwise agreed by the Government of the Northwest Territories, the Policy does not apply to a contract where one of the parties is:
- (a) a public body that is administered on behalf of the Government of Nunavut by the Government of the Northwest Territories; or
 - (b) a joint body of the Government of Nunavut and the Government of the Northwest Territories.

6.0 Definitions

- 6.1 Unless otherwise required by the context, terms used in the Policy have the meanings set out in Appendix A..

7.0 Policy Objectives

- 7.1 The Policy has the following objectives:
- (a) Good Value and Fair Competition
To secure goods and services for the Government of Nunavut at the best value, recognizing the higher cost of doing business in Nunavut, and using a contracting process that is clear, fair and equitable.
 - (b) Strengthening the Nunavut Economy
To build the economy of Nunavut and its communities by strengthening business sector capacity and increasing employment.

(c) Inuit Participation

Subject to ss.16(2), to bring about a level of Inuit participation in the provision of goods and services to the Government of Nunavut that reflects the Inuit proportion of the Nunavut population.

(d) Nunavut Education and Training

Subject to ss.16(2), to increase the number of trained and skilled Nunavut Residents in all parts of the workforce and business community to levels that reflect the Inuit proportion of the Nunavut population.

7.2 These objectives are not listed in order of importance and should not be interpreted as such.

8.0 The Bathurst Mandate

8.1 The Policy has been developed in a way consistent with the Government of Nunavut's 1999 Bathurst Mandate.

9.0 The Clyde River Protocol

9.1 The Policy has been developed in cooperation with Nunavut Tunngavik Incorporated in a way consistent with the "Protocol to Govern Working Relations Between the Government of Nunavut and Nunavut Tunngavik Incorporated" ('the Clyde River Protocol'), signed in November 1999.

10.0 Relationship to Nunavut Land Claims Agreement (NLCA)

10.1 The Policy is aimed at implementing the Government of Nunavut's obligations under Article 24 of the NLCA.

10.2 The Policy shall be interpreted so as to respect to the letter and intent of the NLCA.

11.0 Evaluation Process and Bid Adjustment

11.1 The evaluation process for the award of Tenders shall be as follows:

- (a) All Tenders submitted should meet minimum contract requirements specified in the Request For Tender and should demonstrate a capability of carrying out the work;
- (b) All Tenders with a labour component over \$300,000 must include a detailed training plan for Inuit workers. In the case of maintenance contracts, a training plan must be included where the contract cost is estimated to exceed \$250,000.00;

- (c) All Requests for Tenders shall contain a provision that requires a general contractor to invite Nunavut, Inuit or Local Companies to bid on any sub-contracts that will be entered into subsequent to the award of the main contract.
- (d) All Tenders meeting the requirements of 11.1 (a), and where applicable (b), shall then be adjusted based upon Nunavut Business status, Inuit Firm status, and Local Business status of the general contractor, subcontractors, and suppliers, including the labour component;
 - (i) for tenders including a labour component, the adjustments for the labour component shall be based on estimates of payroll expenditures made by the general contractor, subcontractors and suppliers, for Nunavut, Inuit, and Local payroll expenditures that form part of the bid; and the bid adjustment for estimates of Inuit payroll expenditures shall be limited to the minimum requirement set out by the Contract Authority; and,
 - (ii) for tenders for the supply of goods, or for the clearly identified goods or materials portion of a bid such as for a construction contract, the Nunavut Business status adjustment shall apply only if the company listed in the bid is a Nunavut Supplier or Local Supplier approved by the GN for the supply of the category of goods or materials identified in the bid; and
 - (iii) for tenders for the supply of goods only, and not including the materials portion of a bid for a construction contract, a Bid Adjustment Cap shall apply and bid adjustments values shall only be applied to the first \$100,000 of the bid value;
 - (iv) in the absence of any qualitative or contrary considerations based on quality of goods and services, conduct, past performance, or other like considerations, the lowest tender after adjustments shall be awarded the contract.
- (e) The bid adjustment values shall be as follows:
 - (i) Nunavut Business status, an adjustment of 7%;
 - (ii) Inuit Firm status, an additional adjustment of 7%;
 - (iii) Local Business status, an additional adjustment of 7%.
- (f) The Local Business status adjustment shall apply to any company that also qualifies for the Nunavut Business status adjustment or the Inuit Firm status adjustment, so long as that company is local to the community where the work or services are required; and
- (g) Where no local business submits a Bid or Proposal and only one of the Bidders or Proponents qualifies for the Nunavut Business status adjustment, the qualifying Nunavut Business shall be deemed to be a Local Business and the Local Business status adjustment shall apply.

11.2 The evaluation process for the award of Proposals shall be as follows:

- (a) All proposals submitted should meet minimum contract requirements specified in the Request For Proposals (RFP) and should demonstrate a capability of carrying out the work;

- (b) All Proposals containing a labour component with an estimated cost in excess of \$300,000 must include a detailed training plan for Inuit workers. In the case of maintenance contracts, a training plan must be included where the contract cost is estimated to exceed \$250,000.00;
 - (c) All proposals meeting the requirements of ss. 11.2 (a) and where applicable (b) will be evaluated to determine which appears to offer the best overall value to the Government of Nunavut, based on the evaluation criteria established in the RFP;
 - (d) For proposals where there is a clear cost criteria, the bid adjustment values for Tenders that are outlined in 11.1(e), (f) and where applicable (g) will be applied to that portion of the evaluation;
 - (e) Inuit content criteria will also be included in the evaluation criteria established for each RFP. The Inuit content values shall be, at a minimum, as follows:
 - (i) for Inuit employment 10%;
 - (ii) for Inuit ownership 5%.
- 11.3 Tenders and RFPs by invitation may be issued exclusively to Nunavut based businesses where sufficient competition exists, being three (3) or more companies located in Nunavut that are interested and capable of performing the work. The GN may also invite Inuit firms that are not based in Nunavut, provided they are included on the NTI Inuit Firms Registry.
- 11.4 Details of the evaluation process shall be further described in procedures developed by the Responsible Department and made available to the public.
- 11.5 Evaluation criteria, consistent with the Policy Objectives contained in 7.0, and based on the Bid Adjustment Values and Content Ratings identified in this section, may be developed by the Responsible Department for specific types of professional services contracts or other distinctive sub-categories of contract.

12.0 Bonuses and Penalties

- 12.1 Construction contracts will provide for:
- (a) A bonus that shall be applied in the event that minimum threshold requirements set by the Contracting Authority in the request for tenders has been exceeded;
 - (b) A penalty that shall be applied in event that minimum threshold requirements set by the Contracting Authority in the request for tenders which have not been met.
 - (c) Bonuses and Penalties that shall apply with respect to Inuit participation in employment, project management, and training.
 - (d) Bonuses and Penalties that shall be calculated for Local Inuit Labour and/or Nunavut Inuit Labour.

- (e) Where applicable, a bonus or shall be calculated as 1% of the total labour content of the contract for each 1% of the amount by which Inuit employment exceeds the mandatory requirement.
 - (f) Where applicable, a penalty shall be calculated as 2% of the total labour content of the contract for each 1% of the amount by which Inuit employment does not meet the mandatory requirement.
 - (g) In the area of Inuit management, a bonus in the amount of 2% of the total labour content shall be determined on the basis of whether an Inuk is employed as a Project Manager, either locally or for Nunavut. A larger bonus, but not a larger penalty, of an additional 1% shall be determined for a locally employed Inuk Project Manager than a Nunavut employed Inuk Project Manager.
 - (h) The maximum total bonuses and penalties to be determined for a single construction contract shall not exceed 25% of the total labour price.
- 12.2 All other types of contracts may, at the discretion of the Contract Authority, provide for bonuses and penalties as described in section 12.1.

13.0 Leases – Special Provisions

- 13.1 The following two clauses must be contained in any and all Commercial Leases entered into by the Government of Nunavut:
- (a) Where a lease is won as a result of an NNI Bid Adjustment, the agreed rent will remain in force only as long as the lease is owned and managed by a company that is on the Nunavut Firm Registry or the Inuit Firm Registry. Should the lease be transferred to a firm that does not qualify for either list, the value of the lease will be adjusted to the lowest bid amount prior to the NNI bid adjustment.
 - (b) Any firm that wins a lease as a result of an NNI bid adjustment must report annually confirming their continued eligibility and confirming that there have been no substantive changes in ownership. Failure to do so would result in the lease being adjusted as above.

14.0 Monitoring and Enforcement Procedures

- 14.1 Monitoring and enforcement procedures shall be developed and applied:
- (a) generally, to ensure compliance with the Policy by Contractors;
 - (b) more specifically, to ensure that bonuses and penalties are based on actual performance;
 - (c) to ensure that the Policy is applied consistently across departments of the Government of Nunavut, the various regional and local offices of those departments, and those GN Public Agencies and Boards set out in the Financial Administration Act.

15.0 Application of Monitoring and Enforcement Procedures

- 15.1 Each Contract Authority within the Government of Nunavut is responsible for monitoring and enforcement of Contracts under which it expend funds.
- 15.2 Each Contract Authority within the Government of Nunavut shall provide monitoring and enforcement information to the Responsible Department in a manner that may be stipulated by that department.
- 15.3 The Government of Nunavut, through the Responsible Department shall provide Nunavut Tunngavik Incorporated with information in a timely manner regarding the outcomes of its monitoring and enforcement activities.

16.0 Periodic Review

- 16.1 It is recognized that achieving the objectives of the Policy will require consistent and persistent effort.
- 16.2 It is further recognized that the achievement of objectives may be most realistically and reliably secured by measured progress over time.
- 16.3 The substance and application of the Policy should therefore be reviewed and revised on a periodic basis to ensure that progress towards objectives is being made in a demonstrable and balanced way.

17.0 Review Committee

- 17.1 An NNI Policy Review Committee, consisting of representatives appointed by the Government of Nunavut and Nunavut Tunngavik Incorporated, shall be established to review the implementation of the Policy on a periodic basis and, in any event, at least on an annual basis.
- 17.2 The NNI Policy Review Committee shall meet at least on a quarterly basis.
- 17.3 The Terms of Reference for the NNI Policy Review Committee are attached as Appendix B.
- 17.4 As part of its mandate, the Review Committee shall develop and apply specific mechanisms for assessing progress towards objectives and making recommendations for adjustments to the Policy.
- 17.5 As part of its mandate, the Review Committee shall examine monitoring and enforcement concerns arising out of the implementation of the Policy.
- 17.6 The Review Committee will conduct a comprehensive review every five years.
- 17.7 The Review Committee shall submit all of its work to the Government of Nunavut and Nunavut Tunngavik Incorporated.

- 17.8 In carrying out its work, the Review Committee shall make efforts to collect public input and to consult with interested parties. Without limiting the ability of the Committee to make other parts of its work available to the public, these annual and multi-year reviews shall in all cases be made available to the public.

18.0 Appeals Process

- 18.1 Subject to 18.2, an independent Contracting Appeals Board shall be established consisting of three Commissioners and three Alternate Commissioners appointed by the Minister for a term of three years as follows:
- (a) one Commissioner and one Alternate Commissioner from nominees put forward by NTI;
 - (b) one Commissioner and one Alternate Commissioner from nominees put forward by the Nunavut regional Chambers of Commerce; and
 - (c) one Commissioner and one Alternate Commissioner appointed by the Minister.
- 18.2 In order to provide for continuity, the Minister shall appoint the first members of the Board to staggered terms as follows:
- (a) one Commissioner and one Alternate Commissioner for a term of 2 years;
 - (b) one Commissioner and one Alternate Commissioner for a term of 3 years; and
 - (c) one Commissioner and one Alternate Commissioner for a term of 4 years.
- 18.3 The Minister shall have regard to the importance of regional representation in making appointments to the Board.
- 18.4 If either NTI or the Chambers of Commerce do not submit nominations to the Minister within 45 days of the Minister's request for nominations, the Minister may make the necessary appointment.
- 18.5 (a) A Commissioner or Alternate Commissioner must be a Nunavut Resident as defined in the NNI Policy, that is a person who:
- (i) is on the NTI Inuit Enrolment List or who has spent the last twelve months ordinarily resident in Nunavut; and
 - (ii) has a valid Nunavut healthcare card and/or other accepted proof of residency such as a Nunavut driver's license, a lease or rental receipt, and provides a physical address where residing.
- (b) A Commissioner may not be an employee of, or contractor for:
- (i) The GN Department which holds responsibility for implementing the NNI Policy or the Contracting Authority of the disputed contract;
 - (ii) NTI or a Regional Inuit Association;
 - (iii) a Chamber of Commerce in Nunavut.

- 18.6 On appointment, a Commissioner shall certify in writing that they are not an employee as defined in paragraph 18.5 (b), and that to the best of their knowledge they are not in a conflict of interest and will not sit on any appeal if a conflict of interest comes to their attention.
- 18.7 No person may serve as a Commissioner until such person has accepted the position in writing and has executed a confidentiality agreement.
- 18.8 Each year one Commissioner shall be chosen by the Commissioners to serve as Chairperson. The role of the Chairperson is to preside over meetings of the Board and to supervise the operations of the Board.
- 18.9 If a Commissioner is unable to act in a particular appeal an Alternate Commissioner shall be selected by the Chairperson to hear the appeal.
- 18.10 The Minister shall appoint a person to act as Secretary of the Board.
- 18.11 (a) An unsuccessful Bidder or Proponent who wishes to challenge an award of a tender or RFP must do so in writing within five (5) business days of the award announcement. The challenge must be directed to the Contracting Authority and copied to the GN NNI Policy Advisor, and must set out the following information.
- (i) the name, address, telephone and if available fax number and email address of the party challenging the award;
 - (ii) the tender or RFP number and/or title;
 - (iii) the issue(s) to be reviewed by the Contracting Authority; and
 - (iv) the remedy sought by the contractor.
- (b) The Contracting Authority shall have five (5) business days to respond in writing and shall copy the response to the GN NNI Policy Advisor.
- 18.12 (a) If, after a further 5 business days have elapsed, and the unsuccessful Bidder or Proponent is not satisfied with the response of the Contracting Authority, or if no response has been received from the Contracting Authority, the unsuccessful Bidder or Proponent may appeal the award to the Board.
- (b) An appeal to the Board must be in writing and directed to the Secretary of the Appeals Board within 15 business days of the award announcement.
- (c) The appeal must set out the following:
- (i) the name, address, telephone and if available fax number and email address of the party challenging the award;
 - (ii) the name of the Contracting Authority that issued the tender or RFP;
 - (iii) the tender or RFP number and/or title;
 - (iv) the issue(s) to be reviewed by the Board including the reasons why the contractor believes the application of the NNI Policy is incorrect; and
 - (v) the remedy sought by the contractor.

- 18.13 (a) An appeal from an award by an unsuccessful Bidder or Proponent to the Contracting Appeals Board may be made on the ground that the Contracting Authority in making the award has erred in the application of the NNI Policy.
- (b) For greater certainty, there shall be no appeal to the Board from an act or omission relating to the performance of a contract that has been awarded.
- (c) Notwithstanding (a) and (b) above, the Board has jurisdiction to consider and make recommendations on any matter relating to the application of the NNI Policy that is referred to it in writing by GN and NTI jointly.
- 18.14 Where the appeal filed with the Board does not fall within the jurisdiction of the Board the appeal may be dismissed by order of the Board without holding a hearing.
- 18.15 The Secretary of the Board shall immediately give notice of an appeal to the Board to the Contractor, to NTI and to the Contracting Authority.
- 18.16 In addition to the appellant, the Contracting Authority, the Contractor and NTI have the right to participate in proceedings before the Board in a particular appeal. The Board may, in its discretion, permit any other person to participate in the proceedings.
- 18.17 The Board shall hear the appeal as soon as possible and, in any event, shall hold a hearing no later than 10 business days after the appeal has been filed with the Board.
- 18.18 The Board may receive representations and evidence from the parties in writing, by conference call or in person having regard to convenience and economy. If the Board holds a hearing by conference call or by personal appearance the proceedings shall be recorded by the Board.
- 18.19 The Board shall conduct its proceedings in an informal manner and is not required to receive evidence on oath.
- 18.20 If required in a proceeding, the Board shall provide the services of an interpreter.
- 18.21 After hearing an appeal, the Board may:
- (a) dismiss the appeal; or
 - (b) allow the appeal and recommend to the Contracting Authority that remedial action, consistent with sound procurement policy and practice, be taken by the Contracting Authority, which may include:
 - (i) requiring the contractor to undertaken additional measures,
 - (ii) providing the contractor with specific information as to Inuit or Inuit firms who are available and qualified,
 - (iii) paying compensation to an unsuccessful Bidder or Proponent,
 - (iv) putting the proposed contract in abeyance until the dispute is resolved, except in cases of urgency,
 - (v) changing any procedure or policy followed by contracting authorities,

(vi) in exceptional circumstances involving long term contracts, terminating a contract in whole or in part, and a reassessment or re-issue of tenders.

- 18.22 Decisions of the Board shall be by consensus and failing consensus by a majority vote. The Board shall make a decision as soon as possible after a hearing.
- 18.23 The Board shall give written reasons for its decisions signed by the Commissioners. If there is a majority decision, the dissenting Commissioner may give reasons for the dissent.
- 18.24 The Board shall distribute copies of the decision to all parties who participated in the appeal.
- 18.25 Notwithstanding that an appeal is pending, the Contracting Authority, in its discretion, may enter into a contract with the successful Bidder or Proponent.
- 18.26 If the Contracting Authority does not accept the recommendations of the Board for remedial action, in whole or in part, it shall issue reasons for its decision.
- 18.27 The Board shall be given access by the Contracting Authority to the Bid or Proposal of the appealing Bidder or Proponent and of the Contractor for the purposes of determining an Appeal.
- 18.28 The record of proceedings before the Board, including its decision, shall be placed on a public file.
- 18.29 The proceedings of the Board shall be conducted in accordance with the language policy of the Government of Nunavut.
- 18.30 An Annual Report, including financial statements, shall be prepared by the Board at the end of each fiscal year. The Annual Report shall include a summary of appeals heard and decisions rendered.
- 18.31 The Annual Report shall be submitted to the Government of Nunavut and to Nunavut Tunngavik Incorporated and made available to the public.
- 18.32 The Government of Nunavut shall be responsible for the costs of the Board in accordance with GN Policies.

19.0 Financial Resources

- 19.1 The expenditure of funds by the Government of Nunavut under the Policy is conditional on approval of such funds in the Main Estimates by the Legislative Assembly and on there being a sufficient uncommitted balance in the appropriated item for the fiscal year in which the expenditure is required, and on meeting such further requirements as may be set out in the Financial Administration Act.

20.0 Revisions to or repeal of this Policy

- 20.1 Cabinet may make changes to this policy consistent with the obligations of the Government of Nunavut in Article 24 of the Nunavut Land Claims Agreement which requires a collaborative process with Nunavut Tunngavik Inc. in the maintenance of preferential procurement policies, procedures and approaches.

21.0 Contracting Policy for Territorial Parks

- 21.1 Pursuant to Section 5.3 of the Umbrella Inuit Impacts and Benefits Agreement (IIBA) for Territorial Parks, the NNI Policy in effect on March 17, 2000 will continue in effect until the relevant parts of the present policy have been adopted by the signatories to that Agreement.
- 21.2 The Park-Specific Procedures for Contracting and Business Opportunities are attached as Appendix C.

APPROVED BY CABINET

DATE: _____

Paul Okalik, Premier

Includes Appendix A – Six pages
 Appendix B – Three pages
 Appendix C – Sixteen pages

APPENDIX A: DEFINITIONS

The following definitions apply to the Policy and its Procedures.

Article 23 - the Article of the Nunavut Land Claims Agreement dealing with Inuit Employment within Government.

Article 24 - the Article of the Nunavut Land Claims Agreement dealing with Government Contracts.

Bid - a tender or an offer to sell or provide goods, services, or construction that is submitted to a Contract Authority in response to a Request for Bids or Tenders.

Bid Adjustment - the amount by which the face value of a Bid is reduced in accordance with this Policy. The Bid Adjustment is used for Bid evaluation purposes only. The Bid price minus the Bid Adjustment will be referred to as the adjusted price.

Bid Adjustment Cap - the amount by which the Bid Adjustment is limited on a bid/tender for a Goods Contract. The cap does not apply to bids/tenders for construction contracts.

Bid Security - security given by a Bidder or Proponent to guarantee entry into a Contract.

Bidder - an individual, partnership, corporation, society or co-operative who submits a Bid.

Contract - a written agreement between a Contracting Authority and another party to provide goods, perform services, construct public works, or lease real property, for consideration, and includes

- i. Contracts for the supply of goods.
- ii. Construction Contracts.
- iii. Contracts for the supply of services.
- iv. Leases.

Contract Authority - a Government of Nunavut Minister, a Deputy Minister, or a public officer with the duties and authorities set out in the Financial Administration Act and Regulations thereto.

Contract Price - the price or price formulated in a Contract.

Contract Security - a deposit of securities by the Contractor which the Contracting Authority may convert to carry out the Contractor's obligations under the Contract.

Contractor - a corporation, partnership or individual that has been awarded a Contract for the execution of work or services under the terms of a Contract.

DIO - Nunavut Tunngavik Incorporated or such other Inuit organizations that, from time to time, Nunavut Tunngavik Incorporated may, by notice to the Government of Nunavut, designate.

Emergency Services - any contract that is sole sourced (awarded without promoting competitive bids) under the provisions of s.10(a) of the Government Contract Regulations made

pursuant to the Financial Administration Act: "where the Contract Authority believes, on reasonable grounds, that the goods, services or construction are urgently required, and delay would be injurious to the public interest."

Employment Contract - a Contract which establishes an employer-employee relationship.

Financial Administration Act - the Financial Management Act, R.S.N.W.T 1990 (as adopted by Nunavut) c. F-3 and amendments thereto.

General Contractor - a Contractor who contracts to undertake an entire Contract, rather than a portion of the Contract.

Goods Contract - a Contract for the purchase of articles, commodities, equipment, goods, materials or supplies which may include installation.

Government - the Government of Nunavut.

Government of Nunavut - all Territorial Government departments and all public agencies defined by the Financial Administration Act, S.N.W.T. 1987 (1), c.16, Part IX, and Schedules A, B, and C, as amended for Nunavut pursuant to s.29 and 76.05 of the federal Nunavut Act but excluding the Northwest Territories Power Corporation.

Inuit (singular: Inuk) - a person as described in the Nunavut Land Claims Agreement (NLCA).

Inuit Content - the dollar value of the goods and services required by the Contract supplied by any Inuit Firm or Inuit sole proprietorship, and Inuit Labour. Inuit Content may include:

- i. goods and services supplied by an Inuit Firm or Inuit supplier acting as the General Contractor. These are referred to as "own forces";
- ii. goods and services supplied by an Inuit Firm or Inuit supplier so long as these goods and services are required for the completion of the Contract and are paid for by the Contract.
- iii. Inuit labour by an Inuit Firm or a non-Inuit Firm

Inuit Enrolment List - the list of Inuit maintained by Nunavut Tunngavik Incorporated under Article 35 of the Nunavut Land Claims Agreement.

Inuit Firm - an entity which complies with the legal requirements to carry on business in the Nunavut Settlement Area, and which is

- i. a limited company with at least 51% of the company's voting shares beneficially owned by Inuit, or
- ii. a cooperative controlled by Inuit, or
- iii. an Inuk sole proprietorship or partnership; and
- iv. able to present evidence of inclusion on NTI's Inuit Firms Registry.

Inuit Firms Registry - the list of Inuit Firms that is maintained by Nunavut Tunngavik Incorporated in accordance with Article 24.7.1 of the Nunavut Land Claims Agreement.

Inuit Labour - labour, including professional services, provided in any capacity by an Inuk or Inuit, and not necessarily through an Inuit Firm.

Inuit Training - Training of an Inuk or Inuit related to a specific Contract that has been pre-approved by the Contract Authority.

Inuk Project Manager - an Inuk [ordinarily resident in the Subject Community] who is capable of undertaking all aspects of the management of the project, and has decision-making authority over day-to-day matters affecting the project.

Invite - to call publicly for Bids.

Local Business - a Nunavut Business which has been resident in the Subject Community for the four months prior to application and in addition complies with the following criteria:

- i. maintains an approved place of business by leasing or owning office, commercial or industrial space or where applicable, residential space, in the community on a year-round basis for the primary purpose of operating the subject business, and
- ii. maintains a Local Resident Manager, and
- iii. undertakes in the Subject Community the majority of its management and administrative functions related to its operations in the Subject Community, and
- iv. has applied for and received designation as a Local Business at least two weeks prior to the Tender or RFP closing.

Local Content - the goods and services required by the Contract and supplied by any Local Business or Local Labour. Local Content may include:

- i. goods, services or labour supplied by a local business acting as the General Contractor. These are referred to as "own forces";
- ii. goods, services or labour supplied by any other Local Business or Local Supplier that are required for the completion of the Contract and are provided for by the Contract.

Local Labour - labour of Local Residents related to a Contract, not necessarily through a Local Business.

Local Resident - a Nunavut Resident who has been ordinarily resident in the subject community for the last four months.

Local Resident Manager - a Local Resident who is capable of undertaking all aspects of the management of the Local Business and has absolute decision-making authority over day to day matters affecting the Local Business. The Government of Nunavut may waive this requirement in the case of a newly appointed Local Resident Manager, on proof that within six months the Local Resident Manager will have met the residency requirements.

Local Supplier - a supplier of goods in the Subject Community, to whom the public has access and from whom the public may purchase directly from a Representative Inventory of items offered for sale. The supplier must be and must have been a Local Resident for the four months prior to application. The Government of Nunavut may recognize as a Local Supplier a

business that does not "physically" carry in inventory specific goods due to factors such as high cost/low demand, made-to-order goods, or articles of a nature that the Government is the sole requisitioner.

Nunavummi Nangminiqagtunik Ikajuuti (NNI Policy) - the name of this Policy in Inuktitut, meaning "Assistance for Nunavut Businesses."

Nunavummi Nangminiqagtunik Ikajuuti Business Directory - the list of Nunavut Businesses that have applied and met the requirements of the NNI for Nunavut Business Status.

Nunavut Business - A business which complies with the legal requirements to carry on business in Nunavut, and meets the following criteria:

- i. is a limited company with at least 51 percent of the company's voting shares beneficially owned by Nunavut Residents, or
- ii. is a co-operative with at least 51 percent of the Residents' voting shares beneficially owned by Nunavut, or
- iii. is a sole proprietorship, the proprietor of which is a Nunavut Resident, or
- iv. is a partnership, the majority interest in which is owned by Nunavut Residents and in which the majority benefits, under the partnership agreement, accrue to Nunavut Residents and complies with:
 - i. maintains a registered office in Nunavut by leasing or owning office, commercial or industrial space or in the case of service oriented businesses, residential space, in Nunavut on an annual basis for the primary purpose of operating the subject business, and
 - ii. maintains a Resident Manager, and
 - iii. undertakes the majority of its management and administrative functions related to its Nunavut operations in Nunavut, and
 - iv. has received designation as a Nunavut Business at least two weeks prior to the Tender or RFP closing.

Nunavut Content - the goods and services required by the Contract and supplied by any Nunavut Business or Nunavut Supplier. Nunavut Content may include:

- i. goods, services or labour supplied by a Nunavut Business acting as the General Contractor. These are referred to as "Own Forces";
- ii. goods, services or labour supplied by any other Nunavut Business or Nunavut Supplier that are required for the completion of the Contract and are paid for by the Contract.

Nunavut Resident - a person who:

- i. is on the NTI Inuit Enrollment List; or has spent the last twelve months ordinarily resident in Nunavut, and
- ii. has a valid Nunavut Healthcare Card and/or other accepted proof of residency such a Nunavut General Hunting Licence, a Nunavut Driver's Licence, a lease or rental receipt, and provides a physical address where residing.

Nunavut Supplier - a Nunavut Business that is a supplier of goods to which the general public has access and from whom the general public can purchase directly from a Representative Inventory of items offered for sale, and has received designation as a Nunavut Business at least two weeks prior to a Tender or RFP closing.

Nunavut Land Claims Agreement (NLCA) - the Agreement between the Inuit of the Nunavut Settlement Area and Her Majesty the Queen in Right of Canada, signed on May 25, 1993, and any amendments thereto.

Nunavut Tunngavik Incorporated (or NTI) - the corporation incorporated under the Canada Corporations Act, and the Inuit party to the Nunavut Land Claims Agreement.

Own Forces - goods, services or labour supplied by a Nunavut Business acting as the General Contractor.

Professional Services - services such as legal, accounting or consulting services provided to the Government of Nunavut by way of a Contract by individuals or professional service companies.

Proponent - an individual, partnership, corporation or cooperative who submits a Proposal.

Proposal - an offer, either unsolicited or in response to a Request for Proposals, to propose a solution to a problem, need or objective, under stated terms and conditions.

Public Agency - Public Agency means an entity as defined by the *Financial Administration Act, R.S.N.W.T. 1988, c. F-4*, as amended by the *Nunavut Act, S.C. 1993, c. 28* and any territorial legislation enacted pursuant to the *Nunavut Act*.

Public Board - Those boards defined as Public Boards in the Financial Administration Act Regulations concerning Government contracts.

Public Tender - a Request for Bids made by public advertisement.

Qualification Committees - committees in the Kivalliq, Kitikmeot, and Baffin Regions chaired by the Responsible Department, and responsible for determining the eligibility of businesses to be included on the **Nunavummi Nangminiaqtunik Ikajuuti Directory**.

Request for Bids - a document defining the minimum standards to be met by Bidders and the specific requirements for goods, services or construction, so as to permit the comparison of Bids on the basis of price.

Request for Tenders - a document defining the minimum standards to be met by Tenderers and the requirements of the Contract so as to permit the comparison of Bids on the basis of price.

Request for Proposals - a document inviting companies to propose a solution to a problem, need or objective, so as to permit the comparison of proposals on the basis of a number of factors including price.

Representative Inventory - for a company that is a supplier of goods, an inventory stored in the community where the company is located, that consists of the type of goods that the

supplier deals in. The inventory volume should be large enough to generally to meet the demand of Local and Nunavut Residents and is to be re-stocked as goods are sold so that goods are usually available off the shelf.

Resident Manager - a Nunavut Resident who is capable of undertaking all aspects of the management of the Nunavut Business and has absolute decision making authority over day-to-day matters affecting the Nunavut Business. The Government of Nunavut may waive this requirement in the case of a newly appointed Resident Manager, on proof that within six months the Resident Manager will have met the residency requirements.

Responsible Department - The Department of the Government of Nunavut which holds responsibility for implementing the Nunavummi Nangminiqaqtunik Ikajuuti Policy.

Security - cash, a bank draft or certified cheque payable to the Government, or such other Security specified in the Request for Tender or Contract documents.

Solicit - to request Bids from a limited number of businesses based on some form of pre-qualification.

Standing Offer Agreement - a method of supply used to provide direct access to sources of supply for goods and/or services, on an as-needed basis, for specific periods of time, at prearranged prices and delivery conditions.

Subcontractor - includes any party that does not have a direct Contract with the owner, **or** has entered into a Contract with the General Contractor to supply goods or services that will be incorporated into the entire project covered by the Contract.

Subject Community - the community or communities wherein or adjacent to where the Contract performance is required. Where the work is required outside the legal boundaries of a community, the Government of Nunavut may:

- i. define "community" to include that adjacent community in any case, or
- ii. define "community" to include both or all adjacent communities, where two or more communities, such as Hall Beach/Igloolik and Arctic Bay/Nanisivik, are both very close to the work site.
- iii. The name(s) of the Subject Community or Communities to be included in the term "Subject Community" for the purpose of receiving a local preference shall be specified in all Tender documents and Contracts.

Tender - a Bid or offer to sell or provide goods, services, or construction that is submitted to a Contract Authority in response to a Request for Bids or Tenders.

Tenderer - a person, partnership or corporation who submits a Tender.

Tender Adjustment - the amount by which the face value of a Tender is reduced in accordance with this Policy. The Tender Adjustment is used for Bid evaluation purposes only. The Tender price minus the Tender Adjustment will be referred to as the adjusted price.

Training - training related to a specific Contract that has been pre-approved by the Contract Authority.

APPENDIX B: NNI REVIEW COMMITTEE TERMS OF REFERENCE

Background

The Government of Nunavut's contracting preference policy, the Nunavummi Nangminiaqtunik Ikajuuti (NNI Policy), came into effect April 1, 2000 and was revised March 31, 2004. The NNI policy was negotiated between GN and NTI to replace the GNWT Business Incentives Policy and the GNWT Contracting Procedures for the Nunavut Settlement Area with a policy designed to meet the objectives of Article 24 of the Nunavut Land Claims Agreement.

The use of incentives and preferences for Inuit and Nunavut businesses is intended to promote the growth of the economic base of the territory and ensure Inuit participation in it. This includes providing economic and training opportunities for Inuit and other Nunavut residents.

The ongoing review will be conducted to meet the requirements of the NNI Policy and will constitute the ongoing requirement mandated by the Revised NNI Policy.

Under Clauses 17 and 19 of the NNI Policy, a Contracting Policy Review Committee (Review Committee) consisting of representatives appointed by the Government of Nunavut and Nunavut Tunngavik Incorporated shall be established to review the implementation of the Policy. This Review Committee is to meet at least on a quarterly basis to ensure that progress towards the objectives of the Policy is being made and to do the Annual Review.

Under Clause 21 of the NNI Policy, Cabinet may make changes to this policy consistent with the obligations of the Government of Nunavut in Article 24 of the Nunavut Land Claims Agreement that requires a collaborative process with Nunavut Tunngavik Inc. in the maintenance of preferential procurement policies, procedures and approaches.

Scope of the Review

The Review Committee will conduct an ongoing review of the NNI Policy and conduct the next Comprehensive Review in 2008. The responsibilities will include but not be limited to performing:

- A review of GN contracting data, subject to or exempted from the NNI Policy annually;
- A review of the substance and application of the policy to determine the extent to which the NNI Policy meets the objectives set out in Article 24 of the NLCA and of the objectives of the NLCA in general;
- A review of the substance and application of the policy to determine the extent to which the NNI Policy meets the objectives set out in Sections 11 and 12 of the policy;
- A review of the recommendations of the previous review and their implementation; • A review of the monitoring and enforcement concerns that may have arisen or may arise out of the implementation of the NNI Policy;
- A review of the results of all submissions and input received through written submissions from third parties.
- A full comprehensive review in 2008 based on mutually accepted Terms of Reference specifically developed for this review.

The Review Committee will prepare a report annually that shall include recommendations which, in the opinion of the Committee, will ensure that the Government of Nunavut is better able to take meaningful steps toward providing Inuit with the means of participating in economic opportunities in Nunavut by maximizing Inuit employment and business opportunities as well as incorporating proposed changes that will benefit Inuit and all Nunavummiut. The report shall specifically address how the Government of Nunavut can best carry out the terms of Article 24 of the NLCA through the appropriate application of preferential contracting policies, procedures and approaches. Without limiting the scope of possible recommendations, the Review Committee may recommend the following:

- Revisions to the NNI Policy
- Amendments to legislation or regulations.
- Changes in administrative or regulatory structures.
- Other arrangements.

Composition of the Review Committee

- NTI and the GN shall each appoint up to a maximum of six members to the Review Committee; a minimum of two members from each organization shall constitute a quorum.
- Deputy Minister of Economic Development and Transportation, Government of Nunavut and the Chief Executive Officer, Nunavut Tunngavik Incorporated shall appoint a Senior Representative.
- The Review Committee shall be chaired by the Senior Representatives jointly.
- The Senior Representatives, upon mutual agreement, may invite people with particular knowledge or expertise to attend meetings of the Review Committee for the purposes of providing specific support and advice. NTI and GN will notify the Senior Representatives, at least three days in advance, of any meeting where such resource people will attend. Each team will be limited to three invited resource people per meeting.
- Decisions of the Review Committee will be by agreement of the Senior Representatives, all communications regarding these decisions, will be made by the Senior Representatives jointly.
- The Annual Report must be agreed to by the senior representative for each Party and will be submitted by the Chair of the Review Committee to the Deputy Minister of Intergovernmental Affairs and the Chief Executive Officer of Nunavut Tunngavik Inc.

Consultation

- The Review Committee shall invite public input and consult with interested parties as required. • The Review Committee shall agree to a process for regional consultations according to a schedule mutually acceptable to both parties where needed.

Reporting Relationships

- The Senior Representative of the Government of Nunavut, for the purposes of the Review Committee, shall report to the Deputy Minister of Economic Development and Transportation.

- The Senior Representative of NTI and other Inuit Organizations, for the purposes of the Review Committee, shall report to the Chief Executive Officer of NTI.

Time Frame

- The committee shall meet quarterly and complete its Annual Report no later than November 1 of each year.
- All relevant information or data gathered in advance by either GN or NTI shall be provided to all Committee members in a timely manner before meetings.
- The Committee shall consider its deliberations and recommendations and prepare an Annual Report to be submitted to Cabinet and to the NTI Executive Committee for approval, and both Parties will make best efforts to make the report available to the public no later than November 30 of each year, following the approvals.

Costs

- GN will be responsible for the costs of the participation of its staff;
- NTI will be responsible for the costs of the participation of its staff;
- The costs of public consultations, including advertising will be the responsibility of the GN;
- GN will bear the costs of providing secretarial support to the Review Committee;
- The costs of advertising, production, translation and distribution of the draft report will be the responsibility of the GN.

Confidentiality

The parties commit to disclose information to the Review Committee as fully as possible. It is recognized that some information provided by firms may be commercially sensitive, personal or provided by third parties in the expectation that it would not be shared with anyone outside the Government of Nunavut. Such information will be kept strictly confidential and shall not be disclosed or used by any person in any proceedings or in any manner outside the review process.

Signed on this 16th day of July, 2004 at Iqaluit, Nunavut

Signed

Alex Campbell
Deputy Minister
Economic Development and Transportation
Government of Nunavut

Signed

John Lamb
Chief Executive Officer
Nunavut Tunngavik Incorporated

**GOVERNMENT OF NUNAVUT
NUNAVUMMI NANGMINIQAQTUNIQ IKAJUUTI (“NNI POLICY”)**

**PARK-SPECIFIC PROCEDURES FOR CONTRACTING AND BUSINESS
OPPORTUNITIES**

1. POLICY STATEMENT

- 1.1 The *Umbrella Territorial Parks Inuit Impact and Benefit Agreement* (IIBA) negotiated between Government and Inuit as required by Article 8 of the *Nunavut Land Claims Agreement* (NLCA), requires the Minister to “... secure any regulatory changes, and to make best efforts to secure any statutory changes, as are necessary to give full effect to the provisions of this IIBA” (IIBA 2.5.2). To that end, the Government of Nunavut is committed to applying the measures undertaken in Article 5 of the IIBA which requires amendment to the Nunavummi Nangminiqagtunik Ikajuuti (NNI Policy) as described herein.
- 1.2 This Policy is to be implemented as a Park-specific annex to the NNI Policy, in accordance with the following IIBA principles:
- (a) Parks contracting and access to business opportunities should promote, to the maximum extent possible, Inuit economic self-sufficiency, capacity and participation in business opportunities in the Nunavut Settlement Area; and
 - (b) Parks contracting and business opportunities should provide the maximum possible employment and training opportunities for Inuit.

2. PURPOSE AND CONTENTS

- 2.1 This Policy shall establish procedures for Territorial Parks contracting, and the regulation of Business Opportunities or Ventures relating to Territorial Parks, which are intended to
- (a) maximize the participation of Inuit and Inuit Firms in Parks contracting and business opportunities;
 - (b) improve the capacity of Inuit and Inuit Firms to compete for government contracts;
 - (c) achieve a level of Inuit participation in employment and in the provision of goods and services for Parks Contracts that reflects the proportion of Inuit to the total population of Nunavut; and
 - (d) maximize opportunities for Inuit employment, training and experience in Parks-related contracts and business opportunities.

GOVERNMENT OF NUNAVUT
NUNAVUMMI NANGMINIQAQTUNIQ IKAJUUTI (“NNI POLICY”)
 -
PARK-SPECIFIC PROCEDURES FOR CONTRACTING AND BUSINESS OPPORTUNITIES

2.2 The Policy is set out under the following subject headings:

Section	Heading	Page
3	Definitions	2
4	Roles of GN Agencies in Parks Contracting	3
5	Parks Contracting	3
6	Relationship to the Government NNI Policy	4
7	Relationship to the Umbrella Territorial Parks IIBA	5
8	Territorial Parks PCWG	5
9	Contract Design	8
10	Bid Adjustment and Evaluation	9
11	Minimum Inuit Employment	10
12	Municipalities	10
13	Monitoring and Enforcement	10
14	Review of Parks Contracting	12
15	Rights of First Refusal	13
16	Prerogative of Executive Council	14
17	Term	14

3. DEFINITIONS

PARKS CONTRACTS (IIBA 5.2.2): For the purposes of this Policy “Parks Contracts” means all contracts issued or to be issued by the GN relating directly or indirectly to a Territorial Park or Parks, and includes, without limitation:

- (a) contracts for the design, development, purchase, construction, installation, improvement, operation, maintenance, repair, or removal of Park facilities or Parks-related infrastructure, including, without limitation, roads and trails to, from or related to a Park;
- (b) contracts for the development of Parks-related information or promotional material; and
- (c) contracts for the procurement of Parks-related goods and services.

RESPONSIVE (IIBA 5.2.1): For the purposes of this Policy “responsive” means, in relation to a tender, conforming in all material respects to the invitation to tender, and that the tenderer is not in default of obligations under any other GN contract.

CONTRACTS FOR EMERGENCY SERVICES (IIBA 5.2.4): For the purposes of this Policy “Contracts for Emergency Services” means, contracts with respect to goods or services that are urgently required to assess or respond in a timely and appropriate manner to

GOVERNMENT OF NUNAVUT
NUNAVUMMI NANGMINIQAQTUNIQ IKAJUUTI (“NNI POLICY”)
-
PARK-SPECIFIC PROCEDURES FOR CONTRACTING AND BUSINESS OPPORTUNITIES

circumstances that involve a risk of harm to persons or property, or other catastrophic event.

CONTRACTS FOR EXCEPTIONAL SERVICES (IIBA 5.2.5): For the purposes of this Policy “Contracts for Exceptional Services” means contracts with respect to which unusual, and urgent or otherwise compelling, circumstances require that the contract be issued otherwise than in accordance with the obligations set out in Article 5 of the Territorial Parks IIBA.

NNI POLICY: For the purposes of this Policy “NNI Policy or Nunavummi Nangminiqatunik Ikajuuti” means the current, Cabinet-approved Nunavummi Nangminiqatunik Ikajuuti [March 2000] as amended from time to time, and any future or other policy or legislation approved by the Government of Nunavut, dealing with contracting procedures or preferences to be employed by the Government of Nunavut.

Business Opportunity or Venture (IIBA 5.10.1): For the purposes of this Policy “Business Opportunity or Venture” means a Parks Contract or Contracts to provide goods or services to the GN or to the public over a period of more than one year.

4. ROLES OF GOVERNMENT AGENCIES IN TERRITORIAL PARKS CONTRACTING

- 4.1 The primary GN agencies involved in Territorial Parks contracting are the Departments of Sustainable Development (DSD) and Public Works and Services. (PW&S) As a result of this split in responsibility the roles and responsibilities of these core agencies require clarification and elaboration.

Department of Sustainable Development:

- 4.2 The Department of Sustainable Development’s roles and responsibilities as they relate to Territorial Parks contracting include the following:
- a) Establishment of the terms and conditions specific to all DSD directed Parks Contracts and their subsequent administration
 - b) The development of an annual Capital and Project Management Plan (in consultation with the Nunavut Joint Planning and Management Committee NJPMC) that shall identify and itemize projects, relative priority and scope, and provide for their overall management as well as any and all costs associated with these projects.
 - c) Provide funding sufficient to complete all DSD-related capital and management contracts let within a specified fiscal year.
 - d) The administration of all permitting, licensing, right of first refusal and business opportunities as they relate to Territorial Parks.

GOVERNMENT OF NUNAVUT
NUNAVUMMI NANGMINIQAQTUNIQ IKAJUUTI (“NNI POLICY”)
-
PARK-SPECIFIC PROCEDURES FOR CONTRACTING AND BUSINESS OPPORTUNITIES

The Department of Public Works and Services:

- 4.3 The roles and responsibilities of the Department of Public Works and Services (PWS) are as follows:
- a) To centrally manage and co-ordinate government contracting services as they relate to territorial parks administered by PW&S, and to ensure consistency and adherence to this and other government contracting policies and regulations.
 - b) As the agency with the expertise and responsibility for all matters related to contracting, this position shall provide technical advice on contracting issues to all of the GN’s representatives of the Parks Contract Working Group to be established as a requirement of this policy and the Territorial Parks Umbrella IIBA.

Other Government Agencies and Departments:

- 4.4 All other government agencies and departments contemplating the letting of a contract or business opportunity that relates to a Territorial Park shall be required to adhere to and follow all of the terms and conditions outlined within this policy and the Territorial Parks IIBA.

5. PARKS CONTRACTING

- 5.1 All Parks Contracts shall be required to follow the processes outlined within this policy and the Territorial Parks IIBA with the following exceptions:
- (a) GN employment contracts;
 - (b) contracts for insurance;
 - (c) contracts for emergency services;
 - (d) contracts in exceptional circumstances;
 - (e) contracts for legal services; and
 - (f) contracts valued at less than \$5,000, net of GST.
- 5.2 Prior to the award of a contract referred to in Section 5.1 (d) of this Policy or, where urgent circumstances require immediate issuance of the contract as soon as possible thereafter, the GN shall notify Nunavut Tunngavik Incorporated (NTI) and the Relevant Regional Inuit Association (RIA) in writing that it intends to issue, or has issued a contract under IIBA subsection 5.2.3 (d) with reasons.

**GOVERNMENT OF NUNAVUT
NUNAVUMMI NANGMINIQAQTUNIQ IKAJUUTI (“NNI POLICY”)**

-

PARK-SPECIFIC PROCEDURES FOR CONTRACTING AND BUSINESS OPPORTUNITIES

- 5.3 When a contract referred to in Section 5.1 (d) is awarded, the GN shall take all reasonable steps to ensure that the benefits otherwise anticipated under Article 5 of the IIBA shall go to Inuit contractor(s) or Firm(s) through the award of future Contracts or other effective remedial measures, and shall seek the advice of the Parks Contracting Working Group (PCWG) in making this determination.
- 5.4 Parks-related contracts for goods and services valued at between \$1,000 and \$5,000 shall, to the maximum extent possible, be directed to Inuit or Inuit Firms. Information regarding such contracts in any year shall be reported to the Parks Contracting PCWG as per section 8.2.6 of this policy.

6. RELATIONSHIP TO THE GOVERNMENT NNI POLICY

- 6.1 The NNI Policy shall apply to the design, award and administration of all Parks Contracts, subject only to the following:
- (a) section 3.1 of the NNI Policy shall not apply;
 - (b) no changes to the NNI Policy shall apply to Parks Contracts unless agreed upon in writing by the Parties to the IIBA; and
 - (c) in the event of any inconsistency or conflict between this policy and the NNI Policy, this Policy shall prevail to the extent of the inconsistency or conflict.
- 6.2 Subject to item 6.1 above, this Policy is adopted as a Parks-specific annex to the NNI Policy.

7. RELATIONSHIP TO THE UMBRELLA TERRITORIAL PARKS IIBA

- 7.1 In the event of a conflict between this policy and the IIBA, the IIBA shall prevail to the extent of the inconsistency or conflict. This policy shall be interpreted and amended as required to conform to the IIBA as amended from time to time.

8. THE TERRITORIAL PARKS CONTRACTING WORKING GROUP (PCWG)

PCWG COMPOSITION

- 8.1 A Territorial Parks Contracting Working Group shall be established to review certain aspects of Territorial Parks Contracting in accordance with the Territorial Parks Umbrella IIBA. Its membership shall be as follows:
- (a) NTI shall appoint one member;
 - (b) the RIAs shall each appoint one member; and

**GOVERNMENT OF NUNAVUT
NUNAVUMMI NANGMINIQAQTUNIQ IKAJUUTI (“NNI POLICY”)**

-

**PARK-SPECIFIC PROCEDURES FOR CONTRACTING AND BUSINESS
OPPORTUNITIES**

- (c) the Minister of Sustainable Development shall appoint two members. One member shall be from the Department of Public Works and Services. Due to Public Works and Services’ role as the main contracting agent for the Government of Nunavut this position shall provide technical advice on contracting issues to all of the GN’s representatives. The second member shall be appointed from the Department of Sustainable Development.

ROLE OF THE PCWG

8.2 The PCWG shall operate by consensus decision-making, and shall carry out the following roles and responsibilities as they relate to Territorial Parks Contracting:

8.2.1 Parks Contracting:

- a) The PCWG shall provide advice to the GN on awarding future contracts and providing remedial measures when contracts are exempted under section 5.1 (d).
- b) The PCWG shall annually review all parks related contracts for goods and services valued between \$1,000 and \$5,000, as per Section 5.4 of this policy.

8.2.2 Contract Design:

- a) Between January 1st and February 15th of each year the PCWG shall review a list of anticipated activities to be contracted out during the coming fiscal year, as well as a list of anticipated categories of employment and services required for activities anticipated over the coming year. The list of anticipated activities shall be provided annually by the Department of Sustainable Development.
- b) The PCWG shall in accordance with Section 5.4.5 of the IIBA receive a list of Inuit contractors, firms and employees interested in participating in the activities listed above. Upon receipt of this list the PCWG shall meet to consider the design and packaging of all Parks Contracts for the upcoming fiscal year. Following this meeting the PCWG shall provide its recommendations on the design and packaging of these contracts to the GN.
- c) In the event that the GN intends to design or package a parks contract contrary to the recommendations of the PCWG, or if no consensus is reached by the PCWG, and the GN designs or packages a parks contract contrary to the recommendations of any member of the PCWG, the GN shall then provide written notice and reasons to the PCWG for their review. In this event, the matter shall be referred to the next review to be conducted pursuant to section 5.9 of the IIBA.

GOVERNMENT OF NUNAVUT
NUNAVUMMI NANGMINIQAQTUNIQ IKAJUUTI (“NNI POLICY”)
-
PARK-SPECIFIC PROCEDURES FOR CONTRACTING AND BUSINESS OPPORTUNITIES

8.2.3 Bid Adjustment and Evaluation:

- a) PCWG members may choose to participate in the opening and evaluation of a tender as a member of the evaluation team, except where a member is in a conflict of interest under GN conflict of interest guidelines.
- b) An Inuit member of the PCWG, NJPMC, or the relevant CJPMC shall be invited to participate in each evaluation of requests for proposals as a member of the evaluation team.

8.2.4 Minimum Inuit Employment

The GN shall consult with the PCWG in the establishment of minimum Inuit employment levels in all situations where the GN intends to issue a contract solely for professional services, and the PCWG agrees that the list provided by NTI pursuant to this policy does not include qualified Inuit.

8.2.5 Monitoring and Enforcement

The GN shall provide in writing to the PCWG notification of any failure on the part of the contractor to perform his/her contract in conformance with this policy, and the GN shall provide notification to the PCWG as to the remedial measures (as identified within the pertinent section of this policy) taken to remedy or address the failure.

8.2.6 Review of Parks Contracting and Contract Management

- (a) At the close of each season the GN shall provide the following information to the PCWG:
 - i. all Parks Contracts that the GN let during the previous 12-month period;
 - ii. any instances where the GN packaged a Parks Contract contrary to the recommendations of the PCWG with the reasons for each instance;
 - iii. any instances where a contractor failed to conform to this policy and the remedial measures taken by the GN in each instance;
 - iv. the number, amount and awards of contracts for goods and services valued at between \$1,000 and \$5,000;
 - v. a summary of the process and outcomes of tenders and requests for proposals; and
 - vi. a copy of any GN legislation, regulations, policies and procedures applicable to Parks Contracting during the previous 12-month period.

**GOVERNMENT OF NUNAVUT
NUNAVUMMI NANGMINIQAQTUNIQ IKAJUUTI (“NNI POLICY”)**

-

**PARK-SPECIFIC PROCEDURES FOR CONTRACTING AND BUSINESS
OPPORTUNITIES**

- (b) The PCWG shall then meet annually to review this information, and may provide the GN with recommendations following its review. In addition after two years the PCWG shall in accordance with section 5.5.6 of the TP IIBA review the process for evaluating contract tenders.

9. CONTRACT DESIGN

- 9.1 Between January 1 and February 15 of each year, the GN shall provide the PCWG with a list of anticipated activities to be contracted during the coming Fiscal Year, and a list of anticipated categories of employment and services required for activities anticipated over the coming Fiscal Year.
- 9.2 The PCWG shall receive, no later than March 1 of each year, a list of Inuit contractors, Inuit Firms and potential Inuit employees interested in participating in the listed activities in accordance with Section 5.4.5 of the IIBA. This list should include adequate contact information, including fax contact information to guarantee that interested employees and firms can receive tenders for GN contracts. Where the recipient is unable to access a fax, it is recommended that an alternate contact point be identified such as the Community’s Economic Development Officer or Hamlet Office. An individual Inuk employee who is hired on a contract basis and who is not affiliated with an incorporated company shall be requested to sign a waiver for the purposes of limiting the GN’s liability with regard to any claims for Worker’s Compensation.
- 9.3 Upon receipt of the required lists pursuant to subsections 5.4.4 and 5.4.5, the PCWG shall meet to consider the design and packaging of Parks Contracts for the coming Fiscal Year in view of the objectives in subsection 5.4.7 below, and to make recommendations to the GN on the design and packaging of Parks Contracts.
- 9.4 The GN shall design and package Parks Contracts to meet the following objectives:
 - (a) to set the date, location, and terms and conditions for bidding so that Inuit and Inuit Firms may bid more readily;
 - (b) to set evaluation criteria for requests for proposals so that Inuit and Inuit Firms may more successfully compete;
 - (c) to invite bids by commodity groupings to permit smaller and more specialized firms to bid;
 - (d) to permit bids for goods and services for a specified portion of a larger contract package to permit smaller and more specialized firms to bid;
 - (e) to design construction contracts in a way so as to increase the opportunity for smaller and more specialized firms to bid;

**GOVERNMENT OF NUNAVUT
NUNAVUMMI NANGMINIQAQTUNIQ IKAJUUTI (“NNI POLICY”)**

-

PARK-SPECIFIC PROCEDURES FOR CONTRACTING AND BUSINESS OPPORTUNITIES

- (f) to avoid artificially inflated employment skills requirements not essential to the performance of contractual obligations; and
 - (g) to identify and address exceptional circumstances concerning the design and packaging of Parks Contracts.
- 9.5 All requests for proposals and tender calls issued by the GN for Parks Contracts shall include only those professional, employment and skills requirements that are essential for performance.
- 9.6 All requests for proposals and tender calls issued by the GN for Parks Contracts shall provide Inuit and Inuit Firms with a minimum of fifteen (15) days to respond and, in any event, no less time than available to any non-Inuit firm.
- 9.7 In the event that the GN intends to design or package a parks contract contrary to the recommendations of the PCWG, or if no consensus is reached by the PCWG, and the GN designs or packages a parks contract contrary to the recommendations of any member of the PCWG, the GN shall then provide written notice and reasons to the PCWG. In this event, the matter shall be referred to the next review to be conducted pursuant to section 5.9 of the IIBA.

10. BID ADJUSTMENT AND EVALUATION PROCESSES - TENDERS

Bid Adjustments

- 10.1 Bid adjustment values pursuant to sections 11.1(c) and 11.2(c) of the NNI Policy shall not apply to Parks, instead the bid adjustment values applied to Parks Contracts let by way of tender shall be as follows:
- (a) for a Nunavut Firm, an adjustment of 8%;
 - (b) for a local firm, an adjustment of 4%; and
 - (c) for an Inuit Firm, an adjustment of 8%,

The Calculation of bid adjustment values pursuant to Section 10.1 above shall include the general contractor and all subcontractors and suppliers.

Evaluation Processes for Tenders:

- 10.2 The evaluation of tenders shall be subject to the following process:
- (a) initially, only tenders submitted by Inuit or Inuit Firms shall be opened;

GOVERNMENT OF NUNAVUT
NUNAVUMMI NANGMINIQAQTUNIQ IKAJUUTI (“NNI POLICY”)
-
PARK-SPECIFIC PROCEDURES FOR CONTRACTING AND BUSINESS OPPORTUNITIES

- (b) in the event that three or more Inuit or Inuit Firms submit a tender and two or more responsive tenders are received from Inuit or Inuit Firms at a price that is within GN's available budget for the Contract:
 - (i) only the Inuit or Inuit Firm tenders shall be evaluated in accordance with IIBA Article 5, including the bid adjustment values provided in subsection 10.1 and
 - (ii) a Parks Contract shall be awarded to the Inuit or Inuit Firm that submitted the lowest adjusted bid; and
- (c) in the event that, the conditions stated in subsection 10.2 (b) are not met:
 - (i) all tenders that have been submitted shall be opened and evaluated in accordance with IIBA Article 5, including the bid adjustment values provided in subsection 8.1 and
 - (ii) a Parks Contract shall be awarded to the tenderer that submitted the lowest adjusted bid.

Evaluation Processes for Requests for Proposal (RFPs) below \$75,000

- 10.3 In the evaluation process for the award of Parks Contracts where the total Contract value is \$75,000 or less, and which are let by way of request for proposal, Inuit content criteria weights to be included in the evaluation criteria shall be, at a minimum:
- (a) 17% for Inuit employment; and
 - (b) 8% for Inuit ownership.

Evaluation Processes for Requests for Proposal (RFPs) above \$75,000

- 10.4 In the evaluation process for the award of Parks Contracts where the total Contract value is \$75,000 or over, and which are let by way of request for proposal, Inuit content criteria weights to be included in the evaluation criteria shall be, at a minimum:
- (a) 17% for Inuit employment; and
 - (b) 13% for Inuit ownership.

Calculation of Inuit content criteria

- 10.5 Calculation of Inuit content criteria for Inuit ownership pursuant to subsections 10.3 and 10.4 shall include the general contractor and all subcontractors and suppliers.

GOVERNMENT OF NUNAVUT
NUNAVUMMI NANGMINIQAQTUNIQ IKAJUUTI (“NNI POLICY”)
-
PARK-SPECIFIC PROCEDURES FOR CONTRACTING AND BUSINESS OPPORTUNITIES

Bonuses and Penalties

10.6 For greater certainty, bonuses and penalties shall apply to Parks Contracts in accordance with sections 12 and 13 of the NNI Policy.

11. MINIMUM INUIT EMPLOYMENT

11.1 The minimum Inuit employment level for Parks Contracts shall be based on the percentage of the dollar value of the bid or proposal designated for “labour,” and shall include costs related to Inuit employees and trainees, and any subcontractor’s Inuit employees and trainees. Subject to Section 11.2, of this policy the minimum Inuit employment level for each Parks Contract shall be set at 50%.

Contracts where NNI Policy standards cannot be met

11.2 In the event that the GN intends to issue a contract solely for professional services, and the PCWG agrees that the list provided by NTI does not include a sufficient number of qualified Inuit to ensure that the 50% minimum Inuit employment level can be met, then the minimum Inuit employment level shall be set by the GN in consultation with the PCWG.

11.3 The GN shall keep a record of the process and outcomes for tenders and for requests for proposals pursuant to this section of the policy and shall provide this information to the PCWG annually.

12. MUNICIPALITIES

12.1 Municipalities shall not be eligible to bid on Parks Contracts except in exceptional circumstances as determined by the PCWG.

13. MONITORING AND ENFORCEMENT

13.1 The GN shall monitor the performance of Parks Contracts to ensure the contractor’s compliance with the requirements of IIBA Article 5. The GN shall promptly notify the PCWG in writing of any failure on the part of a contractor to perform its Contract as required by IIBA Article 5.

13.2 The GN shall immediately take whatever remedial measures are necessary or appropriate to remedy or address a failure of the kind described above including one or more of the following measures as appropriate:

- (a) requiring the contractor to undertake additional measures to achieve the criteria;

GOVERNMENT OF NUNAVUT
NUNAVUMMI NANGMINIQAQTUNIQ IKAJUUTI (“NNI POLICY”)
-
PARK-SPECIFIC PROCEDURES FOR CONTRACTING AND BUSINESS OPPORTUNITIES

- (b) providing the contractor with information about specific Inuit or Inuit Firms who are known to be available and qualified for employment or for contracting and advising the contractor that further enforcement measures may be taken if the criteria are not met;
- (c) withholding progress payments;
- (d) issuing a stop work order;
- (e) imposing any penalties authorized within the NNI Policy or within an individual contract; and
- (g) terminating the contract.

Parks Contracts shall contain notice that the above remedies for default may be imposed, as appropriate.

- 13.3 The GN shall immediately notify the PCWG of the remedial measures taken in accordance with subsection 5.8.2.

14. REVIEW OF PARKS CONTRACTING

- 14.1 After the close of each construction season, the GN shall provide the PCWG with information regarding:

- (a) all Parks Contracts that the GN let during the previous 12-month period;
- (b) any instances where the GN packaged a Parks Contract contrary to the recommendations of the PCWG, with the reasons for each instance;
- (c) any instances where a contractor failed to conform to IIBA Article 5, and the remedial measures taken by the GN in each instance;
- (d) the number, amount and awards of contracts for goods and services valued at between \$1,000 and \$5,000;
- (e) a summary of the process and outcomes of tenders and requests for proposals pursuant to sections 5.5 and 5.6; of the IIBA and
- (f) a copy of any GN legislation, regulations, policies and procedures applicable to Parks Contracts that were not provided in an earlier year.

- 14.2 The PCWG shall meet annually to review Parks Contracts for the prior season pursuant to Article 5.

**GOVERNMENT OF NUNAVUT
NUNAVUMMI NANGMINIQAQTUNIQ IKAJUUTI (“NNI POLICY”)**

**PARK-SPECIFIC PROCEDURES FOR CONTRACTING AND BUSINESS
OPPORTUNITIES**

15. PARKS BUSINESS OPPORTUNITIES OR VENTURES – FIRST RIGHT OF REFUSAL

- 15.1 If the GN intends to contract out a Business Opportunity or Venture with respect to a Park, it shall notify NTI or the relevant Designated Inuit Organization (DIO) of its right of first refusal to operate the Business Opportunity or Venture as per Schedule 5.1 of the IIBA.
- 15.2 A Business Opportunity or Venture shall include multi-year (i.e. more than 12 months) operation and maintenance contracts within a Park, and contracts entered into by the GN for the provision of goods or services with respect to any activities conducted by the GN in connection within a Park., except where a contract fits into the exception provided by Section 5.10.2 of the Territorial Parks IIBA.

Renewal of Existing Business Opportunities:

- 15.3 If the GN intends to renew or amend an existing Business Opportunity or Venture, and the renewal or amendment is substantially different in nature or location from the existing Contract, the right of first refusal and the procedure set out in the Territorial Parks IIBA (IIBA Schedule 5.1, **See Appendix #1**) shall apply.

Assignment and Transfer of Existing Business Opportunities:

- 15.4 If a person or firm applies to the GN to assign or otherwise transfer an existing Business Opportunity or Venture, the applicant shall provide to the GN a copy of the applicant’s “Notice of Right of First Refusal” in the form provided in the Territorial Parks IIBA (IIBA Schedule 5.1.), together with confirmation of the date when the notice was provided to the DIO, and the DIO employee who received it, before the GN may grant the application. Parks licenses and permits issued in connection with Business Opportunities and Ventures shall include this requirement.

Park Use Permits and Business Licenses

- 15.5 If a non-Inuk or non-Inuit firm applies for a park use permit or business licence to carry on a business in a Territorial Park for which a quota has been established, the GN shall, in accordance with the procedure set out in the Territorial Parks IIBA (IIBA Schedule 5-2 **See Appendix #2**), give the Relevant RIA or its designate a right of first refusal to acquire a park use permit or business licence to carry on a business that is substantially similar to that described in the non-Inuit application.

Renewal of Park Use Permits and Business Licenses

- 15.6 If a non-Inuk or non-Inuit firm applies for a renewal or the amendment of an existing park use permit or business licence for which a quota has been established and the nature or location of the business is substantially different from that carried out under

**GOVERNMENT OF NUNAVUT
NUNAVUMMI NANGMINIQAQTUNIQ IKAJUUTI (“NNI POLICY”)**

**-
PARK-SPECIFIC PROCEDURES FOR CONTRACTING AND BUSINESS
OPPORTUNITIES**

the existing permit or licence, the right of first refusal and the procedure set out in the Territorial Parks IIBA (IIBA Schedule 5-2) shall apply.

Assignment and Transfer of Existing Park Use Permits and Business Licenses:

- 15.7 In the event that any person or firm applies to assign or otherwise transfer a park use permit or business licence for which a quota has been established, the applicant shall provide to the GN a copy of the applicant’s “Notice of Right of First Refusal” in the form provided in the Territorial Parks IIBA (IIBA Schedule 5-2), together with confirmation of the date when the notice was provided to the DIO, and the DIO employee who received it, before GN may grant the application. Parks licenses and permits for which quotas have been established shall include this requirement.

Written Notice

- 15.8 The Relevant RIA may give written notice at any time of a designate for the purposes of subsection 13.3. Such a designate must be an Inuk or Inuit Firm.

16. PREROGATIVE OF THE EXECUTIVE COUNCIL

Subject to the requirements of the Territorial Parks IIBA, and the NNI policy, nothing in this Policy shall in any way be construed to limit the prerogative of the Executive Council to make decisions, or take actions respecting Territorial Parks Contracting.

Subject to the terms and conditions outlined in Section 8.2.6 of this policy and Section 5.3.1 (b) of the IIBA, this Policy shall be reviewed and evaluated on an annual basis.

17. TERM

This Policy shall be in effect from the date of signature until May 03 2007

Original Signed by: _____

Premier, and Chairman of the Executive Council

**GOVERNMENT OF NUNAVUT
NUNAVUMMI NANGMINIQAQTUNIQ IKAJUUTI (“NNI POLICY”)**

**-
PARK-SPECIFIC PROCEDURES FOR CONTRACTING AND BUSINESS
OPPORTUNITIES**

Appendix #1

**NOTICE OF RIGHT OF FIRST REFUSAL
(Business Opportunity or Venture)**

TAKE NOTICE, that the undersigned

_____ (name)

on behalf of _____ (company or business name)

proposes to transfer or assign a Business Opportunity or Venture as defined in section 5.10 of the *Umbrella Inuit Impact and Benefit Agreement for Territorial Parks in the Nunavut Settlement Area*.

YOU HAVE SIXTY (60) DAYS, OR A LONGER PERIOD OF TIME IF AGREED WITH THE GOVERNMENT OF NUNAVUT, TO EXERCISE A RIGHT OF FIRST REFUSAL with respect to the attached contract between the Government of Nunavut and

_____ (company or business name), dated _____,

YOU ARE ENTITLED to request and receive from the Government of Nunavut any report or other material in possession of the Government of Nunavut, which is relevant to the history or economic feasibility of this Business Opportunity or Venture.

The Government of Nunavut contact for purposes of discussing this right of first refusal, and for obtaining information to which you are entitled is identified on page _____ of the attached contract.

UPON EXPIRY OF SIXTY (60) DAYS from the date this notice is provided **OR A LONGER AGREED UPON PERIOD OF TIME**, you shall be deemed to have declined this right of first refusal, and the Government of Nunavut may award the transfer of this Business Opportunity or Venture to any qualified applicant.

Signed _____

_____ (company or business name)

Contact Information _____

Umbrella Inuit Impact and Benefit Agreement For Territorial Parks in the Nunavut Settlement Area, Schedule 5-1, Form 1

GOVERNMENT OF NUNAVUT
NUNAVUMMI NANGMINIQAQTUNIQ IKAJUUTI (“NNI POLICY”)
-
PARK-SPECIFIC PROCEDURES FOR CONTRACTING AND BUSINESS OPPORTUNITIES

Appendix #2

**NOTICE OF RIGHT OF FIRST REFUSAL
(Park Use Permit or Business Licence)**

TAKE NOTICE, that the undersigned

_____ (name)

on behalf of _____ (company or business name)

intends to transfer or assign a Business Licence or Permit, which is subject to section 5.11 of the *Umbrella Inuit Impact and Benefit Agreement for Territorial Parks in the Nunavut Settlement Area*.

YOU HAVE SIXTY (60) DAYS, OR A LONGER PERIOD OF TIME IF AGREED WITH THE GOVERNMENT OF NUNAVUT, TO EXERCISE A RIGHT OF FIRST REFUSAL with respect to the attached contract between the Government of Nunavut and

_____ (company or business name, if any), dated _____,

YOU ARE ENTITLED to request and receive from the Government of Nunavut any report or other material in possession of the Government of Nunavut, which is relevant to the history or economic feasibility of this Park Use or Business.

The Government of Nunavut contact for purposes of discussing this right of first refusal, and for obtaining information to which you are entitled is identified on page _____ of the attached permit.

UPON EXPIRY OF SIXTY (60) DAYS from the date this notice is provided **OR A LONGER AGREED UPON PERIOD OF TIME**, you shall be deemed to have declined this right of first refusal, and the Government of Nunavut may award the transfer of the business licence or permit to any qualified applicant

Signed _____

_____ (company or business name)

Contact Information _____

Umbrella Inuit Impact and Benefit Agreement For Territorial Parks in the Nunavut Settlement Area, Schedule 5-2, Form 1