



## 1. Statement of Policy

The Government of the Northwest Territories may provide an incentive to northern business in order that northern business is able to:

- (1) Provide goods and services to government, the private sector and the general public at a reasonable price, and
- (2) Provide financial support, through the reinvestment of corporate earnings, to the northern economy.

## 2. Principles

The Government of the Northwest Territories will adhere to the following principles when implementing this Policy:

- (1) To provide existing northern business with a level of business incentive that compensates for the higher cost of operating a business in the Northwest Territories. This business incentive will allow for northern business to compete successfully with southern business.
- (2) To provide new northern business with a level of business incentive that would enable the firm to develop necessary experience and business skills. These business skills will allow northern business to compete successfully with other northern business and southern business.
- (3) To provide northern business with the opportunities required to create employment for northern and local administrative and management staff.
- (4) To provide northern business with the opportunities necessary to train northern administrators and managers.
- (5) To develop policies which are easily understood by the business community and which are easy to administer.



- (6) To treat all northern business fairly and at the same time to take account of local cost differences without causing intra-territorial conflict.
- (7) To require the Business Incentive Policies to apply to all Government of the Northwest Territories departments and corporations, as well as communities and any other organization when 51 percent or more of the community's total funding or when 51 percent or more of the funding received for a specific project is obtained from the Government of the Northwest Territories.

### 3. Scope

Unless otherwise specified herein, this Policy applies to any contract whenever:

- (1) fifty-one percent or more of the total contract funds, or
- (2) fifty-one percent or more of the total annual operating funds of one of the parties,

is received directly or indirectly from the Government of the Northwest Territories.

### 4. Definitions

The following terms apply to this Policy:

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

Local Business - a northern business which has been resident in the subject community for the six months prior to application and in addition complies with the following criteria:



- (a) maintains an approved place of business by leasing or owning office, commercial or industrial space or where applicable, residential space, in the community on an annual basis for the primary purpose of operating the subject business, and
- (b) maintains a local resident manager, and
- (c) undertakes the majority of its management and administrative functions (related to its operations in the subject community) in the subject community, and
- (d) has applied for and received designation as a local business at least two weeks prior to the tender opening.

Local Content - the dollar value of the goods and services required by the contract supplied by any local business. Local content may include:

- (a) goods and services supplied by a local business or local supplier acting as the general contractor. These are referred to as "own forces";
- (b) goods and services supplied by any other local business or local supplier so long as these goods and services are required for the completion of the contract and are paid for by the contract.

To receive a tender adjustment, the name of the local business or local supplier and the value of the local content must be listed on the appropriate tender documents. Prior to tender award, the Government of the Northwest Territories may review the proposed local content and request substantiation of the values submitted.

Local Resident - a northern resident who has been ordinarily resident in the subject community for the last six 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 over day to day matters affecting the local business. The Senior Management Preference Committee may waive the requirement for the local resident manager to be a local resident in the case of a newly appointed local resident manager, if the business can demonstrate that within six months the



local resident manager will have met the residency requirements and will in fact become a local resident.

Local Supplier - a northern supplier which is and has been for the six months prior to application, a supplier of goods in the subject community to which the public has access and from which the public can purchase directly from a representative inventory of items offered for sale. The Senior Management Preference Committee may grant local supplier status to a business that does not "physically" carry specific goods due to factors such as high cost/low demand, made to order goods, or articles of a nature that the Government of the Northwest Territories is the sole requisitioner. However, these goods would not be permitted to make up the majority of the goods offered by the business for sale.

### Northern Business

- (a) A business which complies with the legal requirements to carry on business in the Northwest Territories, and meets the following criteria:
- (i) is a limited company with at least 51 percent of the company's voting shares beneficially owned by northern residents, or
  - (ii) is a co-operative with at least 51 percent of the co-operatives' voting shares beneficially owned by northern residents, or
  - (iii) is a sole proprietorship, the proprietor of which is a northern resident, or
  - (iv) is a partnership, the majority interest in which is owned by northern residents and in which the majority benefits, under the partnership agreement, accrue to northern residents and complies with the following criteria for overhead:
  - (v) maintains an approved place of business in the Northwest Territories by leasing or owning office, commercial or industrial space or in the case of service oriented businesses, residential space, in the Northwest Territories on an annual basis for the primary purpose of operating the subject business, and



- (vi) maintains a resident manager, and
  - (vii) undertakes the majority of its management and administrative functions (related to its operations in the Northwest Territories) in the Northwest Territories, and
  - (viii) has applied for and received designation as a northern business at least two weeks prior to the tender opening.
- (b) Notwithstanding Section (a) of this definition, a non-resident business that has carried out business in the Northwest Territories for ten consecutive years prior to the date of application and complies with the following criteria for overhead:
- (i) maintains an approved place of business in the Northwest Territories by leasing or owning office, commercial, or industrial space or where applicable, residential space, in the Northwest Territories 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 operations in the Northwest Territories) in the Northwest Territories, and
  - (iv) has applied for and received designation as a northern business at least two weeks prior to the tender opening.

Approval of a contractor under Section (b) of this definition will not be automatic. All companies which do not meet the ownership criteria as stated in Section (a) of this definition may apply for approval under Section (b) of this definition. Approval under Section (b) shall be reviewed and a recommendation made by the Advisory Committee and shall only be approved by the Senior Management Preference Committee. All companies which were previously approved as a northern business under the Business Incentive Policy Section 6.1(2) dated February 28, 1985, shall be re-examined.



Companies requesting approval under Section (b) of this definition will be expected to meet the "spirit and intent" of the Business Incentive Policy and shall be expected to demonstrate an ongoing contribution to the economy of the Northwest Territories through the operation of their business.

Northern Content - the dollar value of the goods and services required by the contract supplied by any northern business or northern supplier. Northern content may include:

- (a) goods and services supplied by a northern business or northern supplier acting as the general contractor. These are referred to as "own forces";
- (b) goods and services supplied by any other northern business or northern supplier so long as these goods and services are required for the completion of the contract and are paid for by the contract.

To receive a tender adjustment, the name of the northern business or northern supplier and the value of the northern content must be listed on the appropriate tender documents. Prior to tender award, the Government of the Northwest Territories may review the proposed northern content and request substantiation of the values submitted.

Northern Resident - a person who:

- (a) has spent the last twelve months ordinarily resident in the Northwest Territories, and
- (b) has a valid Northwest Territories Health Card.

Northern Supplier - a northern business that is a supplier of goods to which the general public has access and from which the general public can purchase directly from a "representative" inventory of items offered for sale. The Senior Management Preference Committee may grant northern supplier status to a business that does not "physically" carry specific goods due to factors such as high cost/low demand, made to order goods, or articles of a nature that the Government of the Northwest Territories is the sole



requisitioner. However, these goods would not be permitted to make up the majority of the goods offered by the business for sale.

Owner - any organization which has authority to enter into a contract and shall include any Government of the Northwest Territories department, agency and corporation, as well as any community and any other organization when 51 percent or more of the organization's total funding or when 51 percent or more of the funding received for a specific project is obtained directly or indirectly from the Government of the Northwest Territories.

Qualification Committees - a committee in the North Slave, South Slave, Sahtu, Inuvik and Deh Cho Regions chaired by the Manager of Trade and Investments of the Department of Industry, Tourism and Investment, and including such departmental representatives as the Chairs may find necessary, but shall exclude additional representation from the Departments of Industry, Tourism and Investment, Public Works and Services, Transportation and the Northwest Territories Housing Corporation.

Resident Manager - a northern resident who is capable of undertaking all aspects of the management of the northern business and has absolute decision making authority over day to day matters affecting the northern business. The Senior Management Preference Committee may waive the requirement for the resident manager to be a northern resident in the case of a newly appointed resident manager, if the northern business can demonstrate that within one year the resident manager will have met the residency requirements and will in fact become a northern resident.

Subcontractor - a subcontractor shall include any party that does not have a direct contract with the owner but has entered into a contract with the general contractor or any subcontractor to supply goods or services that will be incorporated into the entire project covered by the contract.

Subject Community - the community wherein the work is being undertaken. In those cases where the work is undertaken outside the legal boundaries of a community the Government of the Northwest Territories may:



- (a) define "community" to include that community in any case, or
- (b) where two or more communities are both very close to the work site the Government of the Northwest Territories may define "community" to include both or all adjacent communities.

In all cases the definition of "community" shall be included in the tender documents.

Tender Adjustment - the amount by which the face value of a tender is reduced in accordance with Section 6(2) of 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.

## 5. Authority and Accountability

### (1) General

This Policy is issued under the authority of the Executive Council. The authority to make exceptions and approve revisions to this Policy rests with the Executive Council. Authority and accountability is further defined as follows:

#### (a) Minister

The Minister of Industry, Tourism and Investment (the Minister) is accountable to the Executive Council for the implementation of this Policy.

#### (b) Deputy Minister

The Deputy Minister of Industry, Tourism and Investment (the Deputy Minister) is accountable to the Minister and responsible to the Minister for the administration of this Policy.





(2) Specific

(a) Senior Management Preference Committee

A Deputy Ministers' Committee consisting of the major contracting departments (Industry, Tourism and Investment, Public Works and Services, Transportation, and the Northwest Territories Housing Corporation) established to provide for overall policy coordination and monitoring of the government's preferential policies. The Departments of Justice and Finance shall provide advisory support from time to time as may be required.

The Senior Management Preference Committee shall ensure that the true "spirit and intent" of the Policy is considered and exercised at all times.

The Senior Management Preference Committee will:

- (i) review appeals from contractors who are not granted northern status and make appropriate rulings for or against the application;
- (ii) analyze and develop new Business Incentive Policies and amendments to existing Business Incentive Policies;
- (iii) review and rule upon tender irregularities that relate to the application of the Business Incentive Policy;
- (iv) from time to time issue "Interpretative Bulletins" which shall interpret the "spirit and intent" embodied in this Policy or other issues which may arise from time to time;
- (v) approve procedural manuals pursuant to the Business Incentive Policy to facilitate its implementation, and issue interpretative bulletins, as required; and
- (vi) report semi-annually to Cabinet any documents issued under Section 5(2)(a)(v) of this Policy and any decisions



made according to "spirit and intent" which deviate from the strict rules of the Business Incentive Policy.

(b) Advisory Committee to the Senior Management Preference Committee

The Advisory Committee to the Senior Management Preference Committee (Advisory Committee) will act as a working committee to the Senior Management Preference Committee. In addition to the departments/corporations represented on the Senior Management Preference Committee, the Advisory Committee will include one representative from the Northwest Territories Construction Association and one representative from the Northwest Territories Chamber of Commerce. Any issues to be dealt with by the Senior Management Preference Committee may be reviewed first by the Advisory Committee.

The Chairman of the Advisory Committee shall determine those discussions which involve internal Government of the Northwest Territories issues which cannot include the representatives of the Northwest Territories Construction Association or the Northwest Territories Chamber of Commerce.

The Advisory Committee will:

- (i) consider Headquarters applications for designation as a northern/local business under the Business Incentive Policy and approve or reject these applications;
- (ii) review all applications for designation as a northern/local business from joint ventures and approve or reject these applications; and
- (iii) consider recommendations from the Monitoring Office for revoking northern status and approve or reject these recommendations.



(c) Regional Qualification Committees

Regional Qualification Committees will:

- (i) consider regional applications for designation as a northern/local business under the Business Incentive Policy and approve or reject these applications. The Regional Qualifications Committee will report to the Monitoring Office all businesses approved or rejected; and
- (ii) respond to regional enquiries from business and the general public about the Business Incentive Policies.

(d) Monitoring Office

A Monitoring Office located in the Department of Industry, Tourism and Investment will provide the requisite northern business registration, monitoring and reporting system for all departments and agencies.

The Monitoring Office will:

- (i) review Headquarters applications for designation as northern/local business under the Business Incentive Policy and recommend approval or rejection to the Advisory Committee;
- (ii) review approvals of northern/local business made by Regional Qualification Committees;
- (iii) receive appeals from rejected contractors and prepare documentation and recommendations for the Senior Management Preference Committee;
- (iv) on an ongoing basis confirm the list of all Business Incentive Policy approved companies to ensure they still meet criteria for northern status and recommend revoking northern status to the Advisory Committee in



the case of businesses that no longer meet the requirements of the Business Incentive Policy; and

- (v) collect data from all contracting authorities in respect to:
- prepare an annual list of all Government of the Northwest Territories contract awards noting northern or Southern status;
  - collect data and report on names and addresses of workers on construction contracts;
  - collect data and report on subcontractors and suppliers used on construction contracts; and
  - review available annual reports from all northern businesses to identify trends in the capital asset base of northern business.

## 6. Provisions

(1) Eligibility

- (a) Application for designation under the Business Incentive Policy is available to any corporation, partnership, sole proprietorship, joint venture or co-op.
- (b) In order to receive the benefits of the Business Incentive Policy the business must have received prior approval. In order to receive prior approval the business must make application. The application must meet the criteria set out in this Business Incentive Policy and, furthermore, the application must meet the "spirit and intent" of the Policy as determined by the Senior Management Preference Committee. Application and approval must be completed two weeks prior to the approval status taking affect.



- (c) The Senior Management Preference Committee may waive the strict requirements of the Business Incentive Policy so long as the "spirit and intent" of the policy is met and the business can prove that it provides long term benefit to the economy of the Northwest Territories.
- (d) The Senior Management Preference Committee may remove preference from a northern business, subsequent to tender closing and prior to contract award, based on the identification of a failure to comply with the "spirit and intent" or the rules of the Business Incentive Policy.
- (2) Tender Adjustment

For bid evaluation purposes the base bid submitted by a tenderer shall be reduced by an amount calculated as follows:

- (a) Under \$5,000

An owner shall purchase goods and services valued at less than \$5,000 directly only from approved northern businesses. No discount is applied.

- (b) Over \$5,000

- (i) Construction, Service and Maintenance Contracts

- Northern Content

A 15 percent discount will be applied to northern content on all contracts.

- Local Content

An additional 5 percent discount will be applied to any local content. The combined preference for local content shall, therefore, be 20 percent.



(ii) Goods Contracts

- Northern Content

A 15 percent discount will be applied to northern content on all contracts.

The business incentive provided in this Section shall apply only to a northern business which is a northern supplier as defined in this Policy.

- Local Content

An additional 5 per cent discount will be applied to any local content unless otherwise specified in the contract documents.

(3) Awarding of Contracts

Contracts will be awarded in accordance with the Contract Regulations of the Government of the Northwest Territories and in accordance with the Business Incentive Policy.

(4) Evaluation

A bid will be adjusted for evaluation purposes by the owner when all of the following criteria are met:

- (a) a tender submission identifies the value of northern content and local content on the appropriate tender submission documents;
- (b) an officer of the tenderer has certified that the northern and local content is correct (support materials must be available for supply to the owner on request).



(5) Calls for Proposals

Excepting consultants contracts, all contracts which are awarded based on a proposal call instead of a tender call shall require that all of the government's preference policies shall apply and further shall include, as a part of the proposal review and rating format, a provision for the consideration of proponent's northern status.

(6) Tender Procedures

(a) wherever practicable, construction projects will be split into phases or segments so that small northern contractors will have an opportunity to bid.

(b) wherever practicable, goods contracts will be tendered by logical grouping. Goods contracts shall not be tendered in a manner where disparate goods must all be supplied by one supplier and where the inability of a northern supplier to supply all the goods within a tender makes it impossible for that supplier to tender on a single component which the supplier is capable of supplying.

(c) wherever practicable, contracts for the supply of goods will be tendered in a manner which provides opportunities for northern manufacturers. This will include three-year to five-year contracts. The intent of this clause is that long term contracts are available which will permit northern manufacturers to recover their start-up costs through long term guaranteed contracts.

(7) Selection of Consultant Services

In accordance with the Government Contract Regulations, where a consultant contract is entered into pursuant to a request for proposal, the proposal shall be requested in accordance with the "Selection of Consultant Services" Directive. This Directive ensures that only northern consultants are requested to submit proposals so long as there are two or more northern consultants capable of undertaking the work.



(8) Purchase of Northern Manufactured Goods

In addition to Section 6(2) of this Policy, "Tender Adjustments", all contracts shall be evaluated in accordance with the "Purchase of Northern Manufactured Goods" Directive. This Directive extends an additional preference to goods which are manufactured in the Northwest Territories and are supplied under the terms of the specific contract.

(9) Contractors' Use of Commercial Room and Board

Whenever the nature of a contract requires that accommodation for workers is required then the "Contractors' Use of Commercial Room and Board" Directive shall apply. This Directive requires contractors to use commercial room and board whenever available.

(10) Leasing of Improved Real Property

Whenever improved real property is leased by an owner the "Leasing of Improved Real Property" Directive shall apply. This Directive ensures that opportunities for northern lessors are maximized.

(11) Monitoring

(a) Preference

If a general contractor, subcontractor, or supplier:

- (i) fails to provide the amount of northern and/or local involvement stipulated under the terms of the contract, or
- (ii) has incorrectly certified the use of northern and/or local involvement stipulated under the terms of the contract, or
- (iii) has changed without prior permission, the use of named northern and/or local businesses and/or workers stipulated under the terms of the contract, or





- (iv) misrepresented themselves in any way, either at the time of application or a subsequent (e.g. non-declared change of ownership) alteration which contravenes mandatory policy registration criteria,

then the owner may recommend to the Senior Management Preference Committee that the general contractor or subcontractor or supplier be disqualified as a northern business. The period of disqualification may be temporary or permanent according to the decision of the Senior Management Preference Committee.

- (b) Damages

All contracts shall be written to include a condition that provides for the recovery of damages from the general contractor equal to the value of the northern content or local content promised by the general contractor or subcontractor under the terms of the specific contract but not received by the owner.

## **7. Financial Resources**

Financial resources required under this Policy are conditional on approval of funds in the Main Estimates by the Legislative Assembly and there being a sufficient unencumbered balance in the appropriate activity for the fiscal year for which the funds would be required.

## **8. Prerogative of the Executive Council**

Nothing in this Policy shall in any way be construed to limit the prerogative of the Executive Council to make decisions or take action respecting business incentive outside the provisions of this Policy.

  
Premier and  
Chairman of the Executive Council