

Nunavut Comprehensive Land Claim Agreement Interim Implementation Measures

A. INTRODUCTION

The Nunavut Final Agreement (NFA) was signed on May 25, 1993 and ratified on July 9, 1993 by the Inuit of the Nunavut Settlement Area, the Government of Canada and the Government of the Northwest Territories (GNWT). Article 24 of the Agreement requires that the GNWT ". . . provide reasonable support and assistance to Inuit firms . . . to enable them to compete for government contracts."

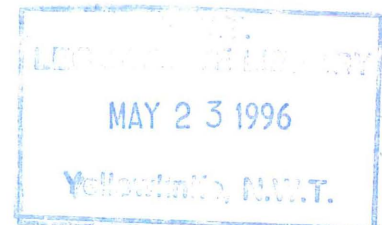
The objectives of Article 24 as stated in S.24.3.6 are to facilitate:

- a) increased participation by Inuit firms in business opportunities in the Nunavut Settlement Area economy;
- b) improved capacity of Inuit firms to compete for government contracts; and
- c) employment of Inuit at a representative level in the Nunavut Settlement Area work force.

B. DEFINITIONS

"Inuit firm" means an entity which complies with the legal requirement to carry on business in the Nunavut Settlement Area, and which is

- a. a limited company with at least 51% of the company's voting shares beneficially owned by Inuit,
- b. a cooperative controlled by Inuit, or
- c. an Inuk sole proprietorship or partnership;
- d. "contracting authority" means the Government of the Northwest Territories.



C. MEASURES

The GNWT is implementing interim measures which meet the obligations of Article 24. These measures fall into three categories:

1. Revised Negotiated Contract Procedures
2. Mandatory measures for Tenders and Proposals for Inuit Content
3. Administrative Measures Designed to Increase Inuit Participation in Economic Activity in Nunavut Region

These interim measures are effective immediately. The interim measures will be formalized into GNWT policies and directives which will be submitted to Cabinet by September 1996.

1. Revised Procedure for Negotiated Contracts

When the GNWT negotiates a contract in Nunavut, the GNWT must ensure that, "...qualified Inuit firms will be given fair consideration." (Section 24.5.3). The following procedure shall be followed whenever it is contemplated that a contract will be negotiated with a contractor for work which will be carried out in the Nunavut Settlement Area:

1. The GNWT will only consider negotiating a contract when requested to do so by a community government or the community governments in the particular region(s). The request must have the support of the representative MLA.
2. In order for the GNWT to consider a negotiated contract, the community must identify specific objectives and benefits for the community which will result from the negotiated contract. These benefits should include:
 - exceptional community, regional and northern benefit which are unavailable through normal tendering procedures,
 - support to a new northern or local company which does not yet have the experience and business skills to secure the contract on a competitive basis,
 - local and northern or Inuit ownership. The company must be 100% northern owned and the majority of the owners must be local residents or the company may be an Inuit firm.

- the contractor is required to use 100% Northern and local subcontractors, equipment and labour, except where specifically approved by the Minister and the contractor must ensure that the specified minimum Inuit labour and business content is achieved.
3. Cabinet must agree to the intent to negotiate a contract.
 4. If Cabinet agrees to a negotiated contract, the GNWT shall provide 21 days notice to NTI of the intent to negotiate the contract and shall identify the business entity with whom the contract will be negotiated.
 5. If one or more qualified Inuit firms express an interest in the contract, within the 21 day notice period, then a competitive process shall be used.
 6. Government may support the payment of a premium as a result of the negotiation of contracts, where the economic development and social benefits defined in the Company's business plan equal or exceed the value of the premium to be paid.

2. Measures for Tenders and Proposals in respect to Inuit Content

Wherever practicable and consistent with sound procurement management the GNWT shall employ measures that give additional opportunities to Inuit workers and Inuit businesses so that they can benefit from GNWT contracts in the Nunavut Settlement Area. The measures include:

- I. Employment of Inuit Labour
- ii. Use of suppliers that are Inuit or Inuit firms in carrying out the contracts.

I. Employment of Inuit Labour

On contracts which include a labour component the GNWT will set a minimum percent by dollar value for the use of Inuit labour. The Inuit labour content may be provided by the general contractor or any subcontractor and may include professional or administrative staff or skilled or unskilled trades people. The general contractor shall be responsible for ensuring compliance with these obligations.

The contract authority shall set this percentage on a project specific basis. Levels will be established based on the level of eligible Inuit workers with relevant skills. These levels will be adjusted according to the specific job conditions but as a matter of principle, and to the degree reasonably possible, Inuit participation will be maximized.

The minimum may only be reduced in the case where sufficient Inuit labour is not available and the approval of the contracting authority has been obtained.

On every contract with a labour component the contracting authority shall require the contractor to record and report on the value of all labour and the amount spent on Inuit workers and the job classification of the work performed.

On a quarterly basis the GNWT will review all projects to ensure that Inuit content provisions are being met by the Contractors. This information will then be provided to NTI. Contractors who fail to fulfill their contractual obligations will be assessed damages.

ii. Use of suppliers that are Inuit or Inuit firms in carrying out the contracts

1. Complex Contracts

On any contract where there are two or more different goods and/or services being supplied as part of the contract, the GNWT will set a minimum percent by dollar value that must be provided by Inuit firms. This shall be inclusive of the value of Inuit labour. The minimum content will be set on a contract by contract basis, and may be supplied by an Inuit general contractor, an Inuit sub-contractor or an Inuit supplier or any combination thereof. The Inuit content may include any direct or indirect cost of the work provided by an Inuit firm. The minimum may only be reduced in the case where sufficient Inuit content is not available or capable and the approval of the contracting authority has been obtained.

Procedures will be developed that list various project types or sub components and the recommended level of Inuit business participation. These levels must be adjusted according to the specific job conditions.

On every contract, the contracting authority shall require the contractor to record and report on the value of all Inuit content. A standard reporting form will be included in the contract.

On a quarterly basis, the GNWT will review all projects to ensure that Inuit content provisions are being met by the Contractors. This information will then be provided to NTI. Contractors who fail to fulfill their contractual obligations will be assessed damages.

2. Simple Goods Contracts

On simple goods contracts where there is no direct labour cost and the contract is for the supply of a single product which will be supplied by a single supplier and where the BIP adjusted price is identical between an Inuit firm and a non Inuit firm, the contract shall be awarded to the Inuit firm.

3. Use of Inuit professional services

In the case of an award for professional services such as consulting contracts for architectural, engineering, management, financial or other similar service, the award of the contract shall be based on a Request for Proposal process in which one of the several evaluation criteria shall be "Inuit content".

On every consulting contract, the contracting authority shall request the consultant to record and report on the value of all Inuit content. A standard reporting form will be developed .

On a quarterly basis, the GNWT will review all projects to ensure that Inuit content provisions are being met by the Consultants. This information will then be provided to NTI. Consultants who fail to fulfill their contractual obligations will be assessed damages.

3. **Measures to Increase Inuit Participation**

1. Seminars and Training for Beneficiaries

- a. To promote increased Inuit participation in economic activity in the Nunavut Region, the Department of Public Works and Services, in concert with the Department of Transportation and the NWT Housing Corporation, will initiate the development and presentation of courses to Inuit beneficiaries competing for government contracts. These will

include seminars on project management, bidding for GNWT goods and services contracts and contract administration procedures. These seminars shall be provided as necessary and in cooperation with NTI.

- b. The Department of Economic Development and Tourism, in concert with the Departments of Public Works and Services, the Department of Transportation and the NWT Housing Corporation, will initiate the development and presentation of seminars on setting up business in the NWT, how to access business development opportunities and how to secure assistance from government in the NWT.
- c. The Department of Education, Culture and Employment, in concert with the Departments of Public Works and Services, the Department of Transportation and the NWT Housing Corporation, will initiate the development and presentation of seminars on the Building and Learning strategy, apprenticeship programs and other training initiatives available to Inuit workers and Inuit businesses in the NWT.
- d. All departments will provide copies of relevant policies and procedures to NTI, and to specific Inuit firms as requested.

2. Community Consultation

All Departments are expected to consult with communities to get the local view of what services are required, how services should be delivered and to identify community priorities for new facilities.

Although every situation will be somewhat different, generally, the following steps should be used:

- The consultation shall be held in the community and should be open to all interested members of the community including the local governing body, adult education, local businesses, and local business groups.
- Notification of and invitation to the consultation should be sent to NTI and the Regional Inuit Association.
- The following issues should be discussed:
 - i. Review projects planned for construction in the community.
 - ii. Identify GNWT priorities and objectives.
 - iii. Identify community objectives.

- iv. Identify Inuit objectives.
- v. Identify available local and Inuit resources including labour, goods and services.
- vi. Identify local and Inuit training programs that may be feasible.
- vii. Identify opportunities for local and Inuit resources and the possibilities for local and Inuit involvement including the use of labour and businesses.
- viii. Identify the appropriate approach which will achieve the objectives.

3. Project Notification and Advertising

The contract authority will:

- On a regular basis supply NTI with a list of upcoming projects in Nunavut,
- Advertise tenders in a public manner. Tender advertisements should be in Inuktitut and in English.
- Provide a minimum of 2 weeks from the effective time of tender notification to the closing of tenders.

4. Tenders and Proposals

The GNWT will ensure that tenders and proposal calls are prepared in a manner that facilitates Inuit firms making submissions.

5. Benchmarking and Monitoring

The GNWT in concert with NTI will share existing historic data on Inuit contract awards in order to develop procedures to benchmark current Inuit participation and provide a framework for tracking and improving future successes.

