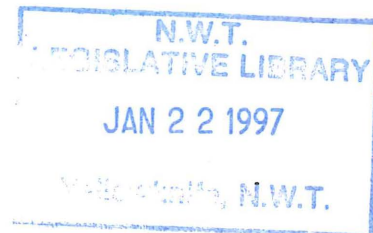


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*Report of the
Joint Working Group
on the
Business Incentive
Policy*



December 11, 1996

The positions and recommendations put forward in this Report represent the views of a majority of the Members of the Joint Working Group on the Business Incentive Policy, and are not attributed to a single Member or Members.

In addition, this Report, and recommendations contained herein, is produced for discussion purposes only by the full Caucus of the 13th Legislative Assembly, and as such, is not a statement of GNWT policy or proposed policy.

**MEMBERS OF THE JOINT WORKING GROUP ON THE
BUSINESS INCENTIVE POLICY REVIEW**

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BUSINESS INCENTIVE POLICY

JOINT MINISTER/ORDINARY MEMBER WORKING GROUP

TERMS OF REFERENCE

Whereas Caucus has agreed that a decision on the future structure of the BIP needs to be addressed and direction given in order for it to be implemented in time for the next contracting season;

And whereas GNWT spending has a significant impact on the NWT economy;

And whereas the GNWT is operating in an environment of fiscal restraint;

And whereas the GNWT is committed to creating and maximizing business and employment opportunities for NWT residents and encouraging investment;

And whereas the GNWT is committed to minimizing economic leakage to the South;

And whereas the GNWT is committed to promoting NWT manufactured products;

Now therefore, the Joint Minister/Ordinary Member Working Group consisting of the Minister of Resources, Wildlife and Economic Development, Minister of Public Works & Services and three Ordinary Members, and one alternative Member, shall hereby review and make recommendations on the following:

1. Review the current BIP including its objectives, accomplishments and shortcomings, including the Interim Manufacturing Directive.
2. Review the results of the Public Consultation on the revised BIP.
3. Discuss the costs and benefits associated with implementing the BIP.
4. Review various options for implementing the BIP. Options could include but are not limited to:
 - a) Continue with the current BIP as is
 - b) Implement previously proposed revisions
 - c) Propose revisions to existing BIP
 - d) Eliminate the BIP
 - e) Any other options identified by Working Group Members

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And further, the Joint Minister/Ordinary Member Working Group will report with its observations and recommendations to full Caucus by November 25, 1996.

SUMMARY OF RECOMMENDATIONS:

BED AND BREAKFAST ESTABLISHMENTS:

The Joint Working Group on the BIP recommends that the Department of Resources, Wildlife and Economic Development re-write the Tourist Establishment Regulations and replace the classification of a "Tourist Home" with "Bed and Breakfast" as defined by the Office of the Fire Marshal.

Members further recommend that because contractors must use the Local Hotel and/or legitimate Local Bed And Breakfast facilities, no bid adjustment be provided to contractors for using these facilities.

NORTHERN MANUFACTURING DIRECTIVE:

The Working Group recommends that consideration be given to supporting the Interim Manufacturing Directive and that the Government rationalize why this Directive applies to all parties that receive 51% or more of their program and/or project funding from the GNWT. It was further recommended that the Government rationalize the proposed incentive rates under this Directive.

NORTHERN AND LOCAL LABOUR:

The Working Group recommends that the current bid adjustment for the proposed use of Northern and Local Labour be discontinued. In its place, contracting departments will specify a minimum amount of Northern and Local Labour to be used. Contractors who exceed the minimum labour requirement will receive a cash bonus. Contractors who fail to meet the minimum labour requirement will be subject to monetary damages. There will be no bid adjustment provided.

It was further recommended that consideration be given to the use of a "fair wage scale" similar to that currently used in the Yukon Territory.

GRANDFATHER CLAUSE:

The Working Group recommends that, due to a lack of consensus on this issue, a review be undertaken of the criteria used for approving Grandfathered firms to determine whether or not Grandfathered firms should continue to benefit from the BIP.

REDUCED COSTS AND BID ADJUSTMENT:

Notwithstanding GNWT policies currently in place, the Working Group recommends consideration of the following as options for adjusting the bid adjustment percentages:

- 10% - Northern
10% - Local

This provides more incentives to use Local businesses

- An overall reduction of the percentage discounts for Northern, Local and the Manufacturing Directive.
- No adjustment
- Slide Scale Option

The Working Group further recommends that the current "Northern Only" tender limit of \$30,000 be decreased to \$25,000. Members noted that this newly established ceiling would be in-line with existing Inter-jurisdictional Trade Agreements.

STANDING OFFER AGREEMENTS:

The Working Group recommends that more analysis be undertaken on the relationship between Standing Offer Agreements and the BIP by the Department of Resources, Wildlife and Economic Development.

The Joint Working Group on the Business Incentive Policy (BIP) is pleased to report that some progress was made regarding the review of the BIP.

The cooperation and support of Departmental staff assisted in fast-tracking the Working Group's review of the issues. Notwithstanding the important issues that were generally addressed, the following concerns are noted:

BED AND BREAKFAST ESTABLISHMENTS:

Background:

The intent of the Commercial Room & Board Directive (CR&B) is to support the economic viability of commercial establishments (Local Hotel) by requiring all non-local contractors to use these facilities. In the past contractors from outside the community have set up bunkhouse type of camps to accommodate their workers and avoided using the Local Hotel, thus providing no benefit to the community.

Hotels provide local employment and require considerable capital investment to start up and operate on a continuing basis. While the summer season may provide tourism revenue, the rest of the year or "off season" only contributes marginal revenues. The CR&B helps to subsidize these establishments in the "off season" by directing contracting businesses to use these facilities. This helps ensure the Hotel is open year round and money spent on GNWT contracts supports the viability of the Local Hotel, provides local employment and benefits the community.

The CR&B specifically excludes Bed & Breakfast facilities for use when the Local Hotel has accommodation available. Contracting departments have experienced problems in the past with contractors purchasing residential homes in communities and getting them licensed as a "Tourist Home". By doing this, contractors avoid using the Local Hotel. Contractors, for the most part, would only operate these facilities as a staff house when they have a contract in the community. These facilities are generally not open to the public.

Concerns:

Members expressed concern that the Directive has created a monopoly in many communities resulting in high prices and poor service. The Working Group would like to see legitimate Bed & Breakfast facilities become eligible under the CR&B.

Recommendation:

Notwithstanding GNWT policies currently in place, the Working Group recommends:

The Department of Resources, Wildlife and Economic Development re-write the Tourist Establishment Regulations and replace the classification of a "Tourist Home" with "Bed and Breakfast" as defined by the Office of the Fire Marshal.

This would enable contractors to choose between legitimate Bed & Breakfasts and the Local Hotel for accommodation of non-local workers. This would also close the loophole of contractors operating bunkhouse type staff houses to avoid using local commercial accommodation.

Members further recommended that because contractors must use the Local Hotel and/or legitimate Local Bed And Breakfast facilities, no bid adjustment be provided to contractors for using these facilities.

NORTHERN MANUFACTURING DIRECTIVE:

Background:

The issue of GNWT support for NWT produced goods received a lot of attention in the last phase of the public consultation on the BIP. NWT manufacturers complained about the lack of support from the GNWT and how the GNWT led them to believe they would receive more support than they were getting.

The current BIP calls for a Manufacturing Directive but such a directive was never written nor approved by Cabinet. The BIP provides 20% preference to Northern Suppliers who purchase Southern Materials. The current policy does not assist NWT manufacturing, which involves significant direct benefits with respect to jobs and investment and helps to diversify the economy.

Not all departments consider the use of Northern Manufactured products out of lack of awareness of product availability and quality. Agencies of the GNWT and communities do not always apply the BIP. Significant orders from the South by these agencies and communities along with Government restraint, has seriously affected the viability of these operations according to the manufacturers.

At this time, only the Departments of Public Works & Services, Transportation and the NWT Housing Corporation purchase NWT manufactured products through various contract approaches. The most common approach is to stipulate that such manufactured products be purchased and used in a specific contract. This is referred to as "nominating a product". Although this approach seemed to work initially, it was inconsistently applied and premiums were at times excessive and uncontrolled.

Earlier this summer RWED drafted a proposed Manufacturing Directive and presented it to Cabinet. Cabinet approved this directive for consultation with NWT manufacturers and land claim organizations.

It is proposed by the Department that this directive be implemented on an interim basis to address the immediate concerns of the industry. It is recognized that significant other problems such as marketing need to be addressed in the long term.

This proposed manufacturing directive is planned to be approved on a one year basis through to the fall of 1997. The directive allows for a 20% adjustment for Northern Manufactured goods, f.o.b. the manufacturer's plant, over a similar product from the Southern supplier, and up to 25% adjustment for landed cost to the community where the product will be used. The goods will be identified in an approved listing on the basis that the manufacturer provides a minimum of 25% value added to the NWT economy.

This pre-approved list would be made available to all contract authorities. This directive will apply to all contracts within the GNWT, its agencies, and Municipalities where more than 51% of the funding is received from the GNWT.

Consultations with NWT manufacturers and the relevant land claim organizations are complete. There is a general consensus that the proposed

directive will address the industry's short term needs and will comply with the GNWT's obligations under the various land claims.

By the fall of 1997, RWED is to have completed a more thorough review of the NWT manufacturing industry and will formulate a policy which will address the needs of the industry on a long term basis.

Concerns:

Members are in support of this Directive and recognize the importance of this sector to the NWT economy. However, the Working Group requests the Government rationalize why this directive should be enforced on participants of the NWT Housing Corporation's Down Payment Assistance Program.

Recommendation:

Notwithstanding GNWT policies currently in place, the Working Group recommends that consideration be given to supporting the Interim Manufacturing Directive and that the Government rationalize why this Directive applies to all parties that receive 51% or more of their program and/or project funding from the GNWT. It was further recommended that the Government rationalize the proposed incentive rates under this Directive.

NORTHERN AND LOCAL LABOUR:

Background:

It is a fundamental GNWT objective to ensure that all capable and available labour (including skilled and semi-skilled) is used on GNWT projects. It is desirable from both the GNWT's perspective and the contractors perspective to hire first from the local community and region, then from the NWT, and finally from the South. Even if contracts were awarded on price alone, most contractors would employ local/ NWT labour where it was qualified and available.

The current BIP requires the contractor to speculate on how much local, NWT and Southern labour they will use, and to fulfil that promise. The contractor receives a 15% bid adjustment for NWT labour and a 20% bid adjustment for local labour. This requires the contract authority to monitor

the contractors success and apply penalties if the promises are not met in the performance of the contract. There are several difficulties with this approach:

1. The availability of the workforce depends on the total of all contracts to be undertaken in a community at a specific time, and this is not always known to the contractor during tendering;
2. The bid evaluation process is complicated because labour projections for each contractor and subcontractor must be individually promised and analyzed for reasonableness;
3. Penalties do not satisfy the unemployed labour that still did not get a job. Penalties do not satisfy the contractor who lost the contract because a competitor promised more labour than they could deliver.

Concerns:

Concerns were expressed that capable and available labour from the communities were not always hired by contractors for projects in the community and that this problem needs to be addressed.

In order to better fulfil the GNWT objective of maximizing the use of NWT and Local labour in GNWT contracts, RWED proposes that the current labour bid adjustment procedure be abandoned. Instead, the contract authority should specify a minimum and realistic level of local and NWT labour to be provided in the contract. This would guarantee that a certain number of NWT and Local people would be hired. The minimum would be set for each contract by all contract authorities working with the communities to set realistic targets. This would also provide for evaluating the cost and benefits of the BIP as it applies to Labour

This concept was generally accepted by the business community as something they could work with. This is also how the GNWT will fulfil its obligations to employ Inuit on GNWT contracts under Article 24 of the Nunavut Final Agreement.

Recommendation:

Notwithstanding GNWT policies currently in place, the Working Group recommends that:

The current bid adjustment for the proposed use of Northern and Local

Labour be discontinued. In its place, contracting departments will specify a minimum amount of Northern and Local Labour to be used. Contractors who exceed the minimum labour requirement will receive a cash bonus. Contractors who fail to meet the minimum labour requirement will be subject to monetary damages. There will be no bid adjustment provided. It was further recommended that consideration be given to the use of a "fair wage scale" similar to that currently used in the Yukon Territory.

GRANDFATHER CLAUSE:

Background:

Notwithstanding the current BIP requirement that businesses must be at least 51% owned by NWT residents, businesses that have operated in the NWT for at least 10 consecutive years and have invested in overhead and employ NWT resident(s) but are not majority owned by NWT residents may be approved under the BIP if they meet the "spirit and intent" of the Policy.

The purpose of the "Grandfather" clause was to encourage Southern Businesses to invest in starting up business operations in the NWT and not penalize those businesses that had already made a significant investment and contribution to the North, especially in those business sectors where there was a lack of Northern firms providing important services. i.e. air charters, construction, engineering and architecture.

The following firms are currently registered as Grandfather firms in the following communities:

BUSINESS	COMMUNITY	DATE APPROVED
Acklands	Inuvik Yellowknife	93/05/13 96/03/05
A.D. Williams Engineering Ltd.	Yellowknife	93/12/13
Agra Earth & Environment	Yellowknife	93/12/13
Bartle & Gibson Co. Ltd.	Yellowknife	85/02/20
Bradley Air Services	Yellowknife	85/02/08
Burns Meats Ltd.	Yellowknife	85/04/04
Byers Transport Ltd	Yellowknife Hay River	85/01/24 96/11/28

Calm Air International Ltd.	Thompson, MB.	93/02/08
Canadian Airlines	Iqaluit	88/05/10
Canadian Helicopters	Fort Simpson	85/03/07
Canadian North Ltd.	Edmonton	87/09/15
Canadian Imperial Bank of Commerce (CIBC)	Yellowknife	85/03/07
Canadian Helicopters Corp.	Inuvik	93/01/18
Clark Builders (Clark Bowler)	Yellowknife	85/02/27
Coopers Barging Service Ltd.	Fort Simpson	90/06/22
Explorer Hotel Ltd.	Yellowknife	90/03/09
Finning Ltd.	Inuvik Hay River	88/01/13 85/04/24
Finning Tractor and Equipment Ltd.	Inuvik	85/03/12
First Air	Yellowknife	95/02/21
Flint Engineering & Construction Ltd.	Norman Wells	93/05/13
Frobisher Developments	Iqaluit	85/02/08
Gensen Land Co. Ltd.	Hay River	96/06/27
Grimshaw Trucking	Yellowknife	85/02/27
ICG Propane Inc.	Yellowknife	85/01/24
Imperial Oil Ltd.	Norman Wells	93/05/13
Kenn Borek Air Ltd.	Resolute Bay	85/06/28
Mid Arctic Transportation Co. Ltd.	Inuvik Yellowknife Fort Smith Norman Wells Hay River	93/09/23 93/09/23 93/09/23 93/09/23 96/03/05
Narwhal Arctic Services	Yellowknife	95/01/26
Northern Stores Inc.	Winnipeg, MB	85/02/07
Northwest Transport Ltd.	Yellowknife	85/03/07
Northwest Tel Inc.	Yellowknife	87/02/03
Northwestern Air Lease Ltd.	Fort Smith	87/12/14
NWT Airways	Yellowknife	85/03/07
Oliver Mangoine McCalla & Associates Ltd.	Iqaluit	93/12/13
PCL Constructors Northern Ltd.	Yellowknife	86/07/23
Polar Pandas Development Ltd.	Yellowknife	86/12/03

Reed Stenhouse Limited	Yellowknife	85/04/18
Stanley Associates Engineering Ltd.	Yellowknife	87/09/18
Thompson Underwood McLennan	Yellowknife	85/05/13
Toronto Dominion Bank	Yellowknife	85/10/25
UMA Engineering Ltd.	Yellowknife	92/07/09
Xerox Canada Ltd.	Yellowknife	85/03/07

Concerns:

Some members expressed the opinion that "Grandfathered" businesses should be eliminated. Other members requested a better understanding of the issues and implications of removing these firms before supporting any recommendation.

Recommendation:

The Working Group recommends that, due to a lack of consensus on this issue, a review be undertaken of the criteria used for approving Grandfathered firms to determine whether or not Grandfathered firms should continue to benefit from the BIP.

REDUCED COSTS AND BID ADJUSTMENT:

Background:

Despite changes to the BIP which were intended to ensure the GNWT obtained real Northern and Local benefits for the extra price it was willing to pay, complaints from communities and business about the BIP persisted.

The current BIP provides one incentive rate of 15% to all businesses who are registered and an additional 5% for those businesses who are bidding on contracts in their own community.

This incentive is intended to compensate Northern business for the higher cost of operating in the NWT. This higher cost of "business overhead" is comprised of 3 factors:

- **Specific business sector:** the overhead cost of operating an air charter business is very different than running a retail outlet or a construction

contracting firm;

- **Location:** the cost of office/retail space, utilities, wages etc will be higher in some communities than in others.
- **Percentage of business operations undertaken in the NWT:** those businesses which undertake all their business operations in the NWT are exposed to greater operating costs than those businesses which only undertake some of their business operations in the NWT.

Studies undertaken by the BIP Monitoring Office showed that the one incentive rate of 15% provided more compensation than was needed to level the playing field between the NWT and the South for some business sectors such as general contracting and suppliers. However, it is not enough for other business sectors such as air charters and manufacturing.

The current BIP only requires that a majority of the management and administrative functions be undertaken in the NWT. Operational functions are difficult to define and monitor, leading to many disputes over "spirit and intent" in the business qualification and review process. The fundamental problem is the "on - off" nature of rulings; you are either "in" or you are "out". The Policy fails to recognize those businesses who have some, but not the majority of their business functions in the north, and provides no incentive for businesses to increase their overhead functions once they have been registered.

Recommendations were made to recognize overhead through a proportional bid adjustment based upon:

- **Business Sector:** different incentives for different sectors
- **Location:** each community would be assigned their own respective cost index
- **Overhead:** sliding scale depending on how much was undertaken in the NWT

The business community rejected this idea as too complicated. They also stated that the new incentive rates were insufficient to cover overhead costs, especially so with suppliers who complained they would be put out of business. The general consensus was that the existing BIP with all its faults was seen as better than the proposed new BIP.

Although many businesses stated that they do not necessarily need the entire 15% and 20% bid adjustment, this level of incentive does shut the door on competition from the south.

Concerns:

Some Members were concerned that the percentage adjustments (15% and 20%) offered by the current BIP were too high and asked if they could be adjusted.

Recommendation:

Notwithstanding GNWT policies currently in place, the Working Group recommends consideration of the following as options for adjusting the bid adjustment percentages:

- *10% - Northern
10% - Local
Provides more incentives to use Local businesses*
- *An overall reduction of the percentage discounts for Northern, Local and the Manufacturing Directive.*
- *No adjustment*
- *Slide Scale Option*

The Working Group further recommends that the current "Northern Only" tender limit of \$30,000 be decreased to \$25,000. Members noted that this newly established ceiling would be in-line with existing Inter-jurisdictional Trade Agreements.

STANDING OFFER AGREEMENTS:

Recommendation:

The Working Group recommends that more analysis be undertaken on the relationship between Standing Offer Agreements and the BIP by the Department of Resources, Wildlife and Economic Development.

ACKNOWLEDGEMENTS:

Members of the Joint Working Group on the BIP would like to thank staff from the Department of Resources, Wildlife and Economic Development and the Legislative Assembly for their assistance both during the review process and in developing a final report.

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