



Obtaining Bids

This section describes two primary methods used to obtain competitive bids.

Government Contract Regulations (Part II - Tenders, 8.(1)) require that, before entering into any contract, an invitation to tender be solicited by public advertisement or private invitation (*1. (1)*).

Public Advertising

When publicly advertising, the purchaser should consider these factors:

- media advertising
- public notices
- timing

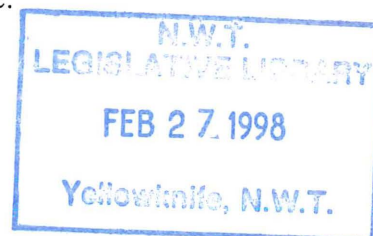
Media Advertising

Depending upon the value of the contract, and/or other political or market factors, advertisements should be placed in *News/North*, local newspapers, or a combination. The advertisement should clearly state the:

- requirement
- closing time
- date and
- location and where the tender / bid documents may be obtained.

Public Notices

In addition to media advertising, the purchaser should post public notices of advertised tenders, regardless of the value of the contract, in all Regional offices and the Hamlet or Settlement office where the work will be done.



Timing

The purchaser should ensure that there is sufficient time between issuing the tender and the closing date, so that potential bidders may obtain tender documents, prepare and submit bids. Allowing a minimum of two weeks is recommended for this purpose.

Internal Trade Considerations

The purchaser should be aware that the *Agreement on Interprovincial Trade* requires that tenders and proposals for goods and services valued in excess of \$25,000 be made available to any interested party, without restriction.

It is recommended that tender documents be sent to southern bidders only when specifically requested and only when the contract value exceeds this threshold amount (\$25,000).

The Department of Resources, Wildlife and Economic Development is responsible for matters arising from this *Agreement*.

Invitational

For contracts valued at less than \$30,000, tenders may be obtained by invitation rather than public advertising. Remember, the *BIP* provides restrictions if there are at least two qualified Northern bidders.

When inviting tenders (or proposals), the purchaser should ensure that all qualified firms that are in a position to undertake the work are provided with the opportunity to bid.

For low value contracts (under \$5,000), soliciting bids verbally is acceptable. The purchaser should, however, restrict this practice whenever possible to those situations where time is a restricting factor.

And finally, tendering is not required for contracts under \$1,000.

Sole Source Contracting

Government Contract Regulations require that all contracts be issued through a competitive process, unless they meet the strict regulatory requirements for sole source contracting.

The issue of sole source contracts is receiving increasing attention at the political level. Therefore, care should be exercised when issuing such contracts.

Criteria for Sole Source Contracts

Government Contract Regulations permit sole source contracts when any of the following criteria exists:

- the goods or services are urgently required and delay would be injurious to the public interest
- only one party is available and capable of performing the contract
- the contract is valued at less than \$1,000

A contract that does not meet any of the criteria for a sole source award must be competitively tendered or approved by Cabinet as a negotiated contract.

Examine the Requirement

Before entering into a sole source contract, the purchaser must sufficiently analyse the requirement to ensure that the best value is received.

Questions for the Purchaser

The purchaser should routinely ask the following questions when reviewing a request/requisition for a sole source purchase:

- Is there an alternative to the sole source procurement? For example, brand name specifications should not be used. Instead, performance specifications help to ensure that competitive bids are obtained.
- Is the sole source price expected to be reasonable?

Price Analysis Techniques

If a sole source procurement is to be made, some price analysis techniques can be used to determine whether the price is reasonable. The purchaser should research and compare prices:

- previously paid for the item or service
- previously paid for functionally similar items
- paid by other purchasers for the commodity
- listed in commercial catalogues, published price lists, or Internet web pages
- with the purchaser's internally prepared cost estimates

Checklist

The purchaser may use this checklist in sole source situations:

- Is the pricing reasonable?
- Should an alternative to the sole source procurement be pursued?
- Is the justification for sole-sourcing stated by the requisitioner/end user sufficient?
- Will the supplier provide supplies and instructions with the equipment?
- Will the supplier provide a warranty?
- Will the supplier deliver FOB (Free On Board) destination?

And most importantly, have the criteria for sole source contracts as stated in the *Government Contract Regulations* been met?

Negotiated Contracts

Departments are authorized to enter into contracts only through a competitive process. Cabinet may, for a variety of reasons, waive the requirement for a competitive process and allow the direct negotiation of a contract with a specified party.

What is a Negotiated Contract?

A *negotiated contract* is one where a specific firm is targeted, for a variety of reasons, to perform the contract, even though there is more than one firm that can perform the contract. Under normal circumstances, a competitive tender or proposal would be issued.

Note, this differs from a *sole source* situation, which occurs when:

- only one firm is available and capable of performing the contract, or
- the urgency of the situation dictates that the competitive process cannot be used.

Authority to Negotiate

The ultimate authority for approval of a negotiated contract rests with the Cabinet. Further, the Cabinet shall prescribe the terms and conditions for a negotiated contract.

Policy

The GNWT currently does not have a comprehensive policy governing negotiated contracts. As a result of discussions in the Legislative Assembly, a formal *Negotiated Contracts Policy* is being developed.

Land Settlement Legislation

Implementation of land settlement legislation impacts on negotiated contracts. In particular, refer to the GNWT *Interim Measures* related to contracting in Nunavut.

Recommended Procedures

Regardless of the contract value, when you are contemplating a negotiated contract, prepare a briefing for the Deputy Minister, along with a draft Cabinet *Decision Paper* supporting the request.