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Introduction to Proposals

This section introduces the concept of using proposals to obtain prices.

The proposal process is initiated by a *Request for Proposals* (*RFP*). An *RFP* is a formal competitive process where the Government is requesting proposed solutions to a defined need or problem.

The purchaser should also review *Section 808-1*, of the *Financial Administration Manual* (*FAM*), which provides directives and guidelines on the proposal process.

Proposals Different from Tenders

A proposal is different from a tender. Unlike a tender, an *RFP* is not an offer, but only contemplates an offer. Unlike the receipt of a tender, the receipt of a proposal is not an acceptance, and therefore does not result in a contract. For example, a marriage proposal does not always result in an agreement of marriage.

- An *RFP* is used when the purchaser is looking for the best value solution to resolve a problem or to deliver a good or service, **but is not exactly sure how to achieve it.**

- A **tender** is used when the purchaser **knows exactly** what good or service they want and is looking for the best price to deliver it.

The difference between a tender and a proposal is well explained in a recent NWT court judgment:

> "When the Government knows what it wants done and how it should be done (such as a construction project), it will already have its plans and specifications and is looking simply for the best price. On the other hand, when the Government knows what it wants done, but not how to go about doing it, it seeks proposals on methods, ability, and price. Then it can negotiate on the best method to achieve the best value." **(1) Socanav Inc and the GNWT *et al.*, SCNT, Vertes, Aug 5, 1993.**

When to Use a Proposal or a Tender

To determine whether to use an *RFP* or a tender, consider the following.

Tender - Know What and How

Use a **tender** if you **know what** you want done **and how** it should be done:

- if the good or service is clearly defined; or
- if there is a detailed methodology, procedure, or material and performance specification

Proposals - Know What, But Not How

Use an *RFP* if you **know what** you want done, **but** you do **not know how** it should be done, that is:

- if the good or service is **not** clearly defined; or
- if there is **no** detailed material or performance specification; or
- if you are looking for a general solution to a problem; or
- if the proposers' solutions are expected to be quite varied and/or difficult to evaluate.

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Requests for Proposals

This section explains the *Request for Proposals* (*RFP*) document. An *RFP* for the provision of any type of good or service must include information in three basic areas / sections:

- *Instructions to Proposers*
- *Terms of Reference*
- *Evaluation Criteria*

An *RFP* must be carefully drafted to ensure that it is, in fact, a proposal and cannot be interpreted as a tender. Simply calling a document a proposal does not automatically make it a proposal. This section outlines the information that should be included in an *RFP*. It also covers terminology and specific items that must be avoided to ensure that an *RFP* cannot be interpreted by the courts as a tender, in which case the laws of tenders would apply.

What not to include in an *RFP*

To clearly establish that a proposal is intended to be a proposal, not to be confused with a tender, the words *'tender'* or *'bid'* should not be used at all in the proposal documents.

Since a proposal is one proposer's unique solution to a need or problem, the terms of a proposal cannot be absolutely set out in the proposal call. Usually, some level of further negotiation will need to take place before the final terms of the contract are agreed upon. Ultimately, any one of the various proposers may not be able or willing to contract on the terms eventually developed. Therefore, *Requests for Proposals* should not include the requirement for bid security, nor shall they require proposals to be irrevocable for any period of time.

Instructions to Proposers Section

The *Instructions to Proposers* section of an *RFP* should include information and instructions on the administrative parameters of the proposal call.

Standardized wording has been developed with the assistance of Legal Counsel, Department of Justice and is reproduced as follows:

1. *Proposals will be received until (time) local time on (date) at:*

Title	
Department	
Address	
Telephone:	*Fax:*

The original and (xxx) copies are to be submitted, quoting ***title****, on the outside of the envelope or package.*

2. *The GNWT will not be responsible for any proposal that:*

   - *does not indicate the Request for Proposal reference, closing date and proposer's name;*
   - *is delivered to any address other than that provided above.*

3. *Facsimile-transmitted proposals will be accepted under the following conditions:*

   - *the proposal is received before the submission deadline at the facsimile number stated;*
   - *the GNWT will not accept liability for any claim, demand or other actions for any reason should a facsimile transmission be interrupted, not received in its entirety, received after stated closing time and date, received by any other facsimile unit other than that stated herein, or for any other reasons;*
   - *the GNWT cannot guarantee the confidentiality of information contained in the proposal;*
   - *the proposer shall submit an original proposal and (yy) copies to the address stated herein immediately following the transmission of the facsimile.*

4. *All questions or enquiries concerning this Request for Proposals must be in writing and be submitted to the address provided above no later than five (5) calendar days prior to the proposal deadline. Verbal responses to any inquiry cannot be relied upon and are not binding on either party.*

5. *This is* ***not*** *a Request for Tenders or otherwise an offer. The GNWT is not bound to accept the proposal which provides for the lowest cost or price to the GNWT, nor any proposal of those submitted.*

6. *If a contract is to be awarded as a result of this Request for*

Proposals, it shall be awarded to the proposer who is responsible and whose proposal provides the best potential value to the GNWT. Responsible means the capability in all respects to perform fully the contract requirements and the integrity and reliability to assure performance of the contract obligations.

7. *Notice in writing to a proposer and the subsequent execution of a written agreement shall constitute the making of a contract. No proposer shall acquire any legal or equitable rights or privileges whatever until the contract is signed.*

8. *The contract will contain the relevant provisions of this Request for Proposals, the accepted proposal as well as such other terms as may be mutually agreed upon, whether arising from the accepted proposal or as a result of any negotiations prior or subsequent thereto. The GNWT reserves the right to negotiate modifications with any proposer who has submitted a proposal.*

9. *In the event of any inconsistency between this Request for Proposal, and the ensuing contract, the contract shall govern.*

10. *The GNWT has the right to cancel this Request for Proposals at any time and to reissue it for any reason whatsoever, without incurring any liability and no proposer will have any claim against the GNWT as a consequence.*

11. *Any amendments made by the GNWT to the Request for Proposals will be issued in writing and sent to all who have received the documents.*

12. *The GNWT is not liable for any costs of preparation or presentation of proposals.*

13. *An evaluation committee will review each proposal. The GNWT reserves the exclusive right to determine the qualitative aspects of all proposals relative to the evaluation criteria.*

14. *Proposers may not amend their proposal after the closing date and time, but may withdraw their proposal at any time.*

15 *Proposals shall be evaluated as soon as practicable after the closing time. No detail of any proposal will be made public, except the names of all parties submitting proposals.*

16. *Provisions of the GNWT Business Incentive Policy, 32.04, will be applied in the evaluation of all proposals.*

17. *Proposals may be short listed. Proposers who are short listed may*

be requested to make a formal presentation. Such presentations shall be made at the cost of the proposer.

18. The proposal and accompanying documentation submitted by the proposers are the property of the GNWT and will not be returned.

Terms of Reference Section

The *Terms of Reference* section of the *RFP* should describe the details of the problem or project and the level of service expected to be delivered by the proposer. It is important to include as many pertinent details about the problem and scope of work as are available at the time of the proposal call. *RFP*s that do not have well-defined *Terms of Reference* will most likely result in large variations in the methodology and fees presented in the proposals received, and thus will be more difficult to analyse and compare. The *Terms of Reference* should typically include these areas, described below:

- project description or scope of work
- schedule
- mandatory requirements / minimum standards
- progress and final reports, submissions and reviews
- costs (fees and disbursements)

Project Description or Scope of Work

A detailed description of the scope of the work should be included. This would adequately define and quantify the limits of the project. This may include, but is not limited to:

- a background statement describing the situation leading to the requirement

- the objective - a statement describing the general intent of what is to be achieved

- the scope - a detailed description of what is to be achieved

- details of any constraints, such as Government policies and standards, land settlement legislation, current and proposed

related activities, security, sensitivity to other interests, protection of the environment, conservation of resources and other restrictions

- details of any special local and Northern approaches that are to be undertaken during the performance of the work
- financial limits of the budget and cash flow (this is discretionary and should not be included if it might mislead proposers, result in improper proposals or diminish the possibility of the GNWT receiving the best value)
- details of available client support or responsibilities.

Bulky reports or documents that may be useful background information or help to define the scope of work, but are not critical at the proposal stage, may be referenced as available for viewing during the proposal period.

Schedule

A schedule for the work, with as much detail as possible, should be included with the proposal call. Critical milestone dates that **must** be met should be explicitly described in the *Terms of Reference* (i.e., preliminary report dates, final report dates, etc.).

Mandatory Requirements / Minimum Standards

There may be criteria in the *RFP* that the proposer **must** comply with. These criteria may be mandatory requirements or minimum standards. If so, you **must** state this fact in the *RFP*. Further, you must state that, if the proposer is unable to meet this criteria, the proposal submission shall be disqualified.

Mandatory requirements or minimum standards must be established in the proposal call if they are to be used as evaluation criteria.

A mandatory requirement or minimum standard **must** be included in the proposal call, if it is to be used during evaluation.

Conversely, since a proposal is to be disqualified if it fails to meet mandatory requirements or minimum standards, the proposal **must not include minimum standards** if these minimum standards are not, in fact, intended to be mandatory.

Progress and Final Reports, Submissions and Reviews

You should detail the requirements for progress and final reports or submissions in the proposal. This should consist of a list indicating the stages at which submissions will be required, the detail to be achieved at each stage, and the number of submission copies required. You should note approval and acceptance requirements relating to performance at each stage.

Cost (Fees and Disbursements)

You should instruct the proposer to break down completely how the cost of the service will be determined. This may include hourly or per diem rates for all personnel and equipment and for additional work, and a detailed estimate of expense disbursements, if these will be payable under the contract. Specific criteria for establishing fees or the timing of payments should be stated in the *RFP*.

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Evaluation Criteria Section

The *RFP* must outline the rating method that will be used to evaluate the proposals. This is done in the *Evaluation Criteria* section. These criteria should be carefully selected so that the evaluation will properly reflect the *RFP*'s requirements, and so that the best overall proposal will be selected.

> To provide a proposal that effectively priorizes the purchaser's needs, the weighting of the criteria to be used for evaluation should normally be listed in the *RFP*. However, there may be occasions where the nature of the proposal is such that the weighting criteria should not be disclosed. These situations should be discussed with the appropriate program manager.

An example of an *RFP Rating Form* is provided in *FAM 808-1, Appendix B*, which includes typical criteria related to consulting proposals. Other criteria could include:

- related experience of company
- local and Northern content

As for the evaluation criteria, the weighting should also be specifically tailored to suit the purposes of each *RFP*.

Proposer Response Guidelines

The quality of the proposed solutions depends to a great extent on the amount of accurate, detailed information that you provide to the proposers.

The level of detail about the evaluation criteria influences proposer behaviour. You should guide the proposers to provide the information you want, in the manner consistent with how you are going to evaluate the proposals. Following are some examples of such guidelines. These are provided for information only and should be tailored to fit the particular requirement and conditions.

Proposed Personnel

"The proposer is to describe the capability of the resources proposed to meet the requirements described in the Terms of Reference."

Methodology

"It is expected that the schedule will demonstrate how the proposer will proceed; how much time each stage is expected to take; demonstration of a good understanding of how the work is to be done; time allocated for different tasks; etc."

Schedule

"The proposer should demonstrate how closely the proposed schedule meets the project requirements in a logical manner, delivering a quality service."

Inuit Preference

The GNWT has established specific rules relating to contracting in Nunavut. These are contained in the *Interim Measures*, which are discussed in *Section 1.6, Purchasing in Nunavut*. The purchaser must be aware that a specific evaluation criteria for Inuit preference has been provided for in the *Interim Measures*. The relative weighting for this factor has been set at 15%, as a result of negotiations with NTI.

The following wording should be included in Nunavut proposals:

"In compliance with Section 24 of the Nunavut Final Agreement, the GNWT will provide consideration for the use of Inuit goods and services, labour and training, and the location of the Inuit business in the work. Proponents should describe fully the proposed Inuit content. This Inuit content will be the percentage of work completed by an Inuit firm listed on the registry of Inuit firms available from the Department of Public Works & Services and the amount of Inuit employment created."

Proposed Contract

Terms and conditions of the contract - ideally a sample of the contract document that will ultimately be entered into - should be appended to the *RFP*. This allows all proposers to become familiar with the terms and conditions of the ultimate contract.

If a standard contract is not appropriate, the basic terms and conditions of the contract should be detailed. In some cases it may be appropriate for the purchaser to allow the proposer an opportunity to propose a contract format in addition to or instead of a standard contract format.

Advisory Services

The purchaser may obtain advice and assistance from the Regional Support Services Division of Public Works & Services in Yellowknife at 873-7414. We are able to provide assistance in developing and evaluating *RFP*s, from both the contractual perspective, and from experience in a wide variety of other disciplines.

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Calling for Proposals

This section describes three usual methods of calling for proposals:

- public advertising
- expressions of interest
- short list invitation

Public Advertising

To ensure a competitive selection process, proposals should normally be publicly advertised, subject to restrictions contained within the *Business Incentive Policy*.

Expressions of Interest

Expressions of interest are publicly advertised notices intended to solicit interest and pre-qualify firms. With a proposal call, an expression of interest may be used to establish a short list of qualified contractors or consultants, which may then be invited to submit proposals. Expressions of interest are not used to obtain pricing.

Short List Invitational

Government Contract Regulations also permit soliciting proposals by invitation, as well as through public advertising.

The purchaser should consider the following factors when developing a list of suitably qualified proponents:

- the size, complexity, and time constraints of the work
- the firm's demonstrated ability and satisfactory previous performance
- known qualifications and experience of the firm's personnel who may be made available for the work

If a large number of firms are capable of providing the type of service required, the purchaser should ensure that, over time, all qualified firms are given an equal opportunity to compete.

Restrictions

For consultant services, including architectural/engineering services, the GNWT *Business Incentive Policy, 32.04, Provisions - Section 9*, provides restrictions. It states that,

"...proposals must only be invited from Northern firms so long as there are two or more Northern firms capable of performing the contract."

Northern firms are defined as those registered as Northern under the *Business Incentive Policy, 32.04.*

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Receiving and Opening Proposals

Formal or informal openings should be held for *Requests for Proposals*.

Receiving Proposals

Unlike tenders, the receipt of proposals does not require strict adherence to formal procedures, because unlike tenders, proposals are not formal offers. The ultimate success of a proposal depends on the evaluation of all criteria presented, not on dollar value alone. However, the conditions for the receipt of proposals, as spelled out in the proposal call, must be adhered to. For example, if the *Instructions to Proposers* states a closing location, time and date, then this must be adhered to. This helps avoid the public perception that a proposal submission has been dealt with unfairly.

Opening Proposals

Formal Opening

When a *Request for Proposals* closes, a formal opening of all proposals submitted *may* be conducted. The decision to hold a formal opening depends on the nature and magnitude of the proposal. High profile proposals should generally be opened formally. In a formal opening, each proposal will be opened at the closing time designated in the proposal call. The name and address of each proposer should be recorded in a register similar to that used for recording tenders.

Informal Opening

For most *Requests for Proposals*, a formal public opening is not required. In these cases, information regarding the date and time of the receipt of the proposal should be recorded, and the proposals may be opened at a later time. It is recommended that if proposals are not opened formally, then the committee responsible for evaluating the proposals conduct a 'formal' opening.

Release of Information

If a formal public opening is held, only the name and address of the proposer is identified publicly and recorded in the register. Once proposals have been opened, formally or otherwise, only the name and address of each proposer as recorded may be released to the public.

The dollar value of a proposal shall **not** be recorded nor publicly revealed. Since the dollar value is only one of the criteria on which an award is made, the low price may not be the successful price. Therefore, publicly revealing these numbers may be misleading to the proposers and may lead to political or legal challenges.

The dollar value of a proposal shall not be recorded nor publicly revealed.

Late Proposals

Late proposals cannot be accepted unless no other proposals have been received. The late proposal should be returned to the proposer, with a covering letter explaining why the proposal was rejected.

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Evaluating Proposals

This section explains how to evaluate proposals once they have been received.

Evaluation Committee

A selection/evaluation committee will evaluate proposals. This committee will consist of personnel who are familiar with the services to be provided, and applicable GNWT policies, directives and contractual procedures. The committee should have a minimum of three, and a maximum of five, members depending on the size and complexity of the work. The committee will appoint a Chairperson who will chair the committee and ensure that a comprehensive evaluation report is prepared.

Selection Procedure

The evaluation committee will evaluate the proposals to determine which proposal appears to offer the best overall value to the GNWT, while also maximizing the opportunity for northern businesses and workers. The following will also apply:

- The evaluation must be based exclusively on the evaluation criteria specified in the *RFP*.

- The evaluation criteria are given an assigned weight according to relative importance. This is done before the *RFP* is issued and is normally included in the *RFP* document.

  Each submission may then be rated subjectively according to the following degrees of satisfaction:

Poor	1 - 3 points
Fair	4 - 6 points
Good	7 - 8 points
Excellent	9 - 10 points

Note that the cost elements of proposals may be objectively

evaluated by comparing them to the budget, historic cost, or if appropriate, to the average cost figures for all proposals.

- For each criterion, the assigned weight is multiplied by the proposer's rating for that criterion to yield the total points for each criterion. The total points are added to yield the total score, which represents the overall degree of satisfaction with the specific proposal.

- All proposals received must be evaluated. Unless proposals do not contain mandatory information, therefore resulting in rejection, even obviously poor proposals should be evaluated. This ensures that the process is fair, and will enable a constructive debriefing of the unsuccessful proposers afterwards.

Initially each member of the evaluation committee should separately review or evaluate the proposals. The members of the committee then should meet and complete the evaluation. A rating on each criterion may be reached by consensus or averaging individual ratings. The final recommendation should represent a consensus of the committee and must represent the best overall value to the Government. This would normally be provided by the proposal with the highest total score.

Application of the Business Incentive Policy

The *Business Incentive Policy* requires that,

"*All contracts that are awarded based on a proposal 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 a proponent's Northern status.*"

This is accomplished by:

- **For goods and general service proposals or proposal calls where there is a clear cost criteria:** applying the adjustment factor outlined in *BIP* to the cost criteria.

- **For consultant proposals:** applying the adjustment factor to the overall total score, in direct ratio to the proponent's local/NWT

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project team content.

The above applies to Northern content or to the unusual situation where southern firms are competing.

Additional Information

During a proposal evaluation, additional information may be requested from the proposer. Unlike a tender, the *Request for Proposal* process allows for the receipt of further information after the deadline for the receipt of proposals. For example, information may be requested to:

- substantiate part of the proposal
- provide additional detail
- confirm or clarify aspects of the proposal that are not clear

Any additional information must be received in writing from the proposers.

Proposer Interview

Additional information may also be obtained through an interview with any or all of the proposers. In the interview, both parties may explore concerns and questions related to the project and the proposed solution.

Post-proposal Addendum

The GNWT may request that all proposers amend their proposals by responding to a post-proposal addendum, which may add or change part of the original proposal call.

Negotiations

After the proposals have been evaluated, the purchaser may find that one or more of the proposals are clearly superior. Negotiations may be undertaken with the apparent winner or with a short list of proposers. Such negotiations may be done to clarify points contained within the proposal, contract terms, or modifications to the scope of the work.

It may be advantageous to conduct final contract negotiations with more than one proposer, so as to obtain the best contract terms as a part of the overall selection process. If this is being considered, then all the proposers who will be involved in the final negotiations should be made aware of the process and the purpose of these negotiations.

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Request for Proposals

The Government of the Northwest Territories is requesting Proposals from qualified proposers for the provisions of the services outlined in the Request.

Table of Contents

Instructions to Proposers

1. Proposals will be received until (time) local time on (date) at:

[illegible]
[illegible]
[illegible]
Telephone: Fax:

The original and x copies are to be submitted, quoting *title*, on the outside of the envelope.

2 The GNWT will not be responsible for any proposal that:

- does not indicate the Request for Proposal reference, closing date and proposer's name;
- is delivered to any address other than that provided above.

3. Facsimile transmitted proposals will be accepted under the following conditions:

- the proposal is received before the submission deadline at the facsimile number stated;
- the GNWT will not accept liability for any claim, demand or other actions for any reason should a facsimile transmission be interrupted, not received in its entirety, received after stated closing time and date, received by any other facsimile unit other than that stated herein, or for any other reasons;
- the GNWT cannot guarantee the confidentiality of information contained in the proposal;
- the proposer shall submit an original proposal and ( ) copies to the address stated herein immediately following the transmission of the facsimile.

4. All questions or enquiries concerning this Request for Proposals must be in writing and be

submitted to the address provided above no later than five (5) calendar days prior to the proposal deadline. Verbal responses to any enquiry cannot be relied upon and are not binding on either party.

5. This is **not** a Request for Tenders or otherwise an offer. The GNWT is not bound to accept the proposal which provides for the lowest cost or price to the GNWT nor any proposal of those submitted.

6. If a contract is to be awarded as a result of this request for proposals, it shall be awarded to the proposer who is responsible and whose proposal provides the best potential value to the GNWT. Responsible means the capability in all respects to perform fully the contract requirements and the integrity and reliability to assure performance of the contract obligations.

7. Notice in writing to a proposer and the subsequent execution of a written agreement shall constitute the making of a contract. No proposer shall acquire any legal or equitable rights or privileges whatever until the contract is signed.

8. The contract will contain the relevant provisions of this Request for Proposals, the accepted proposal as well as such other terms as may be mutually agreed upon, whether arising from the accepted proposal or as a result of any negotiations prior or subsequent thereto. The GNWT reserves the right to negotiate modifications with any proposer who has submitted a proposal.

9. In the event of any inconsistency between this Request for Proposal, and the ensuing contract, the contract shall govern.

10. The GNWT has the right to cancel this Request for Proposals at any time and to reissue it for any reason whatsoever, without incurring any liability and no proposer will have any claim against the GNWT as a consequence.

11. Any amendments made by the GNWT to the Request for Proposals will be issued in writing and sent to all who have received the documents.

12. The GNWT is not liable for any costs of preparation or presentation of proposals.

13. An evaluation committee will review each proposal. The GNWT reserves the exclusive right to determine the qualitative aspects of all proposals relative to the evaluation criteria.

14. Proposers may not amend their proposal after the closing date and time but may withdraw their proposal at any time.

15. Proposals shall be evaluated as soon as practicable after the closing time. No detail of any proposal will be made public except the names of all parties submitting proposals.

16. Provisions of the GNWT Business Incentive Policy, 32.04, will be applied in the evaluation of all proposals.

17. Proposals may be short listed. Proposers who are short listed may be requested to make a formal presentation. Such presentations shall be made at the cost of the proposer.

18. The proposal and accompanying documentation submitted by the proposers are the property of the GNWT and will not be returned.

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Terms of Reference

Heading 3

Heading 3

Proposal Evaluation

Selection Methods

When an alternative is proposed regarding any specific requirement, it will be evaluated to ensure that the desired results will be achieved.

Proposers should be aware that certain mandatory requirements may have been set out in the Terms of Reference. Proposals that fail to provide these requirements shall be deemed not responsible and will not be evaluated.

Rating

The evaluation team will utilize specific criteria to rate each proposal. Ratings will be confidential and no details will be released to any of the other proposers.

Each proposal will be evaluated using the following criteria:

EXAMPLE:

- *50 % - Fees and Expenses;*
- *20 % - Project Team's knowledge, skill, and experience;*
- *15 % -Schedule;*
- *10 % - Methodology; and,*

- *5 % - Past relevant experience.*

(IF FOR NUNAVUT, ADD INUIT PREFERENCE @ 15% - The other criteria should be adjusted so that the overall total does not exceed 100%)

END OF EXAMPLE

COMMENT

Note: FAM 808-1 suggests that the formula to be used in evaluating proposals be included in the proposal documents. However, there is no legal obligation to do so. If it is decided to omit the actual percentages, then the the criteria should be listed in descending order of importance and the following statement should be incorporated into the RFP: "Each proposal will be evaluated using the following criteria which is listed in descending order of importance."

END OF COMMENT

Proposer Response Guidelines

The following information should be provided in each proposal. This information will be utilized in evaluating each proposal submitted.

Pro-Forma Contract

The resultant contractual agreement will be substantially in the form and content described as follows:

AGREEMENT

BETWEEN: THE GOVERNMENT OF THE NORTHWEST TERRITORIES, as represented by the Department of _____ (hereinafter referred to as the "GNWT")

OF THE FIRST PART

AND: *(Insert the name of the contractor)* of the *(City/Town/Hamlet)*, in the Northwest Territories, (hereinafter referred to as the "Contractor")

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OF THE SECOND PART

WHEREAS the GNWT has requested the Contractor to provide certain services;

AND WHEREAS the Contractor has agreed to provide such services to the GNWT;

AND WHEREAS the GNWT and the Contractor wish to set out the terms and conditions relating to the provision of such services;

THEREFORE the GNWT and the Contractor agree as follows:

DEFINITIONS:

i) "Contracting Authority" means the Minister of _____, Government of the Northwest Territories or his authorized delegate;

ii) "GNWT" means the Government of the Northwest Territories.

iii) "Contractor" means a proposer who has been awarded a contract resulting from the Request for Proposals.

1. SERVICES AND PAYMENT

1.1 The Contractor agrees to provide to the GNWT those services set out in the Request for Proposal, "*TITLE OF THE RFP*", reference _____ and attached as Appendix "A" hereto and the Contractor's Proposal, dated *(DATE OF PROPOSAL)* and attached as Appendix "B" hereto (the "Services") to the full satisfaction of the GNWT

1.2 The GNWT agrees to pay for the services, a total amount not greater than *(INSERT AMOUNT OF CONTRACT)* Dollars ($_____) based on the formula set out in Appendix B hereto.

2. TERM

2.1. This Contract shall commence on the __th day of _____, 199_ and terminates on the __ day of _____, 199_, unless otherwise terminated in accordance with the provisions of this Contract.

3. NOTICE AND ADDRESS

3.1 Any notice required to be given herein or any other communication required by this contract shall be in writing and shall be personally delivered, sent by facsimile, or posted by prepaid registered mail and shall be addressed as follows:

i) If, to the GNWT:

(TITLE)
Department of _____
Government of the Northwest Territories

Reference:

ii) If to the Contractor, at:

(CONTRACTOR NAME, ADDRESS AND CONTACT)

3.2 Every such notice and communication, if delivered by hand, shall be deemed to have been received on the date of delivery or if sent by prepaid registered mail shall be deemed to have been received on the seventh day after posting, or if by facsimile, 48 hours after the time of transmission, excluding from the calculation weekends and statuatory holidays.

4. ENTIRE AGREEMENT

This contract comprises the entire agreement between the parties hereto and supersedes and shall take effect in substitution for all previous agreements and arrangements whether written or implied between the parties relating to the services to be provided by the contractor and all such prior agreements, arrangements and understandings shall be deemed to have been terminated by mutual consent with effect from the date of execution of this contract.

5. GENERAL TERMS

5.1 Any information obtained from or concerning any department of the GNWT, or clients of any department of the GNWT, by the contractor, its agents or employees in the performance of any contract shall be confidential. The contractor shall take such steps as are necessary to ensure that any such information is not disclosed to any other person and shall maintain confidential and secure all material and information that is the property of the GNWT and in the possession of or under the control of the contractor. This clause survives the termination of this contract.

5.2 Time shall in every respect be of the essence.

5.4 The Contractor is an independent Contractor with the GNWT and nothing in this contract shall be construed or deemed to create the relationship of employee and employer or of principal and

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agent between the GNWT and the Contractor. The Contractor is solely responsible for payments of all statutory deductions or contributions including but not limited to pension plans, unemployment insurance, income tax, workers' compensation and the GNWT Payroll Tax.

5.5 This contract shall be interpreted and governed in accordance with the laws of the Northwest Territories and the laws of Canada as they apply in the Northwest Territories.

5.6 No waiver by either party of any breach of any term, condition or covenant of this contract shall be effective unless the waiver is in writing and signed by both parties. A waiver, with respect to a specific breach, shall not affect any rights of the parties relating to other or future breaches.

5.7 The failure of either party at any time to require the performance of any provision or requirement of this contract shall not affect the right of that party to require the subsequent performance of that provision or requirement.

5.8 Title to any report, drawing, photograph, plan, specification, model, prototype, pattern, sample, design, logo, technical information, invention, method or process and all other property, work or materials which are produced by the Contractor in performing the contract or conceived, developed or first actually reduced to practice in performing the contract (herein called "the property") shall vest in the GNWT and the Contractor hereby absolutely assigns to the GNWT the copyright in the property for the whole of the term of the copyright.

5.9 It is intended that all provisions of this agreement shall be fully binding and effective between the parties, but in the event that any particular provision or provisions or a part of one is found to be void, voidable or unenforceable for any reason whatever, then the particular provision or provisions shall be deemed severed from the remainder of this agreement and all other provisions shall remain in full force.

5.10 This contract may be extended by the written consent of the parties.

5.11 The Contracting Authority may delegate any of his authority and undertaking pursuant to this contract to any other Minister, officer, employee or agent of the GNWT.

5.12 This contract shall enure to the benefit of and be binding on the respective administrators, successors and assigns of each of the parties hereto.

6. CONTRACTOR RESPONSIBILITIES

6.1 The Contractor shall indemnify and hold harmless, the GNWT, its officers, employees, servants and agents from and against all claims, actions, causes of action, demands, losses, costs, damages, expenses, suits or other proceedings by whomsoever made, brought or prosecuted in any manner based upon or related to the activities of the Contractor under this contract.

6.2 The Contractor shall be liable to the GNWT for any loss or damage to property or equipment that is supplied to or placed in the care, custody or control of the Contractor for use in connection with the contract whether or not such loss or damage is attributable to causes

beyond the Contractor's control.

6.3 In the event that the Contractor is, in the opinion of the Contracting Authority, in default in respect of any obligation of the Contractor hereunder the GNWT may do any act as it deems necessary to rectify such default and the GNWT may deduct or set off the cost of such rectification against any payment due the Contractor.

6.4 ASSIGNMENT: The Contractor may not assign or delegate work to be done under this contract, or any part thereof, to any other party without the written consent of the GNWT In the case of a proposed assignment of monies owing to the Contractor under this contract, the consent in writing of the Comptroller General of the GNWT pursuant to S.69(4) of the Financial Administration Act RSNWT 1988 must be obtained.

6.5 The Contractor shall keep proper accounts and records of the services for a period of 3 years after the expiry of this agreement. At any time during the term of this contract or the 3 year extension set out herein, the Contractor, upon the request of the GNWT shall produce such accounts and records.

6.6 The Contractor shall notify the GNWT immediately of any claim, action, or other proceeding made, brought, prosecuted or threatened in writing to be brought or prosecuted that is based upon, occasioned by or in anyway attributable to the performance or non-performance of the services under this contract.

7. TERMINATION

7.1 The GNWT may terminate this contract at any time without penalty upon giving written notice to this effect to the Contractor if, in the opinion of the Contracting Authority, the Contractor is unable to deliver the service as required, the Contractor's performance of work is persistently faulty, in the event that the Contractor becomes insolvent or commits an act of bankruptcy, in the event that any actual or potential labour dispute delays or threatens to delay timely performance of the contract or the Contractor defaults or fails to observe the terms and conditions of the contract in any material respect.

7.2 This contract shall terminate as of the day for termination set out in the written notice and the Contractor shall forthwith invoice the GNWT for work performed to the date of termination.

8. FINANCIAL

8.1 It is a condition of this contract that payment thereunder is subject to Section 46 of the Financial Administration Act, which provides as follows:

"It is a condition of every contract made by or on behalf of the government requiring an expenditure, that an expenditure pursuant to the contract will be incurred only if there is a sufficient uncommitted balance in the appropriated item for the fiscal year in which the expenditure is required under the contract."

8.2 The GNWT, having given written notice of a breach, may withhold or hold back in whole or in

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part any payment due the Contractor without penalty, expense or liability, if in the opinion of the Contracting Authority, the Contractor has failed to comply with or has in any way breached an obligation of the Contractor. Any such hold back shall continue until the breach has been rectified to the satisfaction of the GNWT.

8.3 The GNWT may set off any payment due the Contractor against any monies owed by the Contractor to the GNWT

8.4 The GNWT purchases of goods/services are made on a tax free (zero rated) basis in accordance with the following certification:

> "We certify that the goods/services purchased by the GNWT are being purchased with Crown funds and therefore not subject to the Goods and Services Tax."

The Contractor will arrange with Revenue Canada to claim full input tax credits, if applicable, from the Federal Government.

8.5 Provided all terms and conditions on the part of the Contractor have been complied with, each invoice will be paid thirty (30) calendar days after receipt of the invoice, or thirty (30) calendar days after delivery of the services, whichever is later. Invoices from Northern Contractors (as defined by the GNWT Business Incentive Policy, 32.04) will be paid twenty (20) calendar days after receipt of the invoice, or twenty (20) calendar days after receipt of the services, whichever is later.

8.6 The GNWT may, in order to discharge lawful obligations or to satisfy lawful claims against the Contractor or a subContractor arising out of the execution of work, pay any amount, which is due and payable to the Contractor under the contract, if any, directly to the obligee of and the claimants against the Contractor or subContractor.

9. INSURANCE

The Contractor shall, without limiting his obligations or liabilities hereto, obtain, maintain and pay for during the period of this agreement, the following insurance with limits not less than those shown:

a) Workers' Compensation insurance covering all employees engaged in the work in accordance with the statutory requirements of the Territory or Province having jurisdiction over such employees. If the Contractor is assessed any additional levy, extra assessment or super-assessment by a Workers' Compensation Board as a result of an accident causing injury or death to an employee of the Contractor or subContractor, or due to unsafe working conditions, then such levy or assessment shall be paid by the Contractor at its sole cost and is not reimbursed by the GNWT.

b) Employer's liability insurance with limits not less than $500,000 for each accidental injury to or death of the Contractor's employee engaged in the work. If Workers' Compensation insurance exists, then in such event, the aforementioned Employer's Liability insurance shall not be required but the Comprehensive General Liability policy referred to in item (e) herein shall contain an endorsement providing for Contingent Employers' Liability insurance.

c) Motor Vehicle, water craft and snow craft standard liability insurance covering all vehicles and/or craft owned or non-owned, operated and/or licensed by the Contractor and used by the Contractor in the performance of this agreement in an amount not less than one million dollars ($1,000,000.00) per occurrence for bodily injury, death and damage to property; and with respect to busses limits of not less than one million dollars ($1,000,0000.00) for vehicle hazards and not less than one million dollars ($1,000,000.00) for Bodily Injury to or death of one or more passengers and loss of or damage to the passengers property in one accident.)

d) Aircraft Liability insurance covering all aircraft, owned or non-owned, operated and/or licensed by the Contractor and used in operations hereunder with a bodily injury, death and property damage and passenger hazard limit of five million dollars ($5,000,000.00) (inclusive).

e) Comprehensive General Liability Insurance with limits of not less than two million dollars ($2,000,000.00) (inclusive) per occurrence for bodily injury, death and damage to property including loss of use thereof. Such insurance shall include but not be limited to the following terms and conditions:

- Products & Completed Operations Liability *
- Contractor's Protective Liability
- Blanket Contractual Liability
- Broad Form Property Damage
- Personal Injury Liability
- Cross Liability
- Medical Payments
- Non-owned Automobile Liability *
- Contingent Employers Liability *
- Employees as Additional Insureds *

**WHERE APPLICABLE*

f) Professional Liability Insurance with limits of not less than two hundred fifty thousand dollars ($250,000.00) per claim and five hundred thousand dollars ($500,000.00) in the annual aggregate, to cover claims arising out of the rendering of or failure to render any professional service under this contract or agreement.

g) Motor Truck Cargo insurance, against all risks of physical loss or damage in an amount not less than $500,000, covering the property of the GNWT while in the care and custody of the Contractor during any transit, warehousing and delivery services called for by the contract.

All policies shall provide that thirty days written notice be given to the GNWT prior to any material changes or cancellations of any such policies.

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The policies shall name the GNWT and all subContractors as additional insureds only with respect to the terms of this contract (except on Workers' Compensation Insurance and Professional Liability) and shall extend to cover the employees of the insureds hereunder.

The Contractor shall be responsible for any deductibles, exclusions and/or insufficiency of coverage relating to such policies.

The Contractor shall deposit with the GNWT prior to commencing with the work a certificate of insurance evidencing the insurance(s) required by this clause in a form satisfactory to the GNWT and with insurance companies satisfactory to the GNWT.

IN WITNESS WHEREOF the parties hereto have set their hand and seals as of the date and year entered below.

FOR THE GNWT:	FOR THE CONTRACTOR
_____	_____
Name/Title	Name/Title
_____	_____
Date	Date
_____	_____
Witness	Witness

CONSULTANTS PROPOSAL RATING SCHEDULE

Item	Rating Criteria	Unit Points Awarded (A)	Assigned Weight (B)	Total Points (A) x (B) = (C)
1				
2				
3				
4				
5				
6				
		SUB-TOTAL:		
OPTIONAL LOCAL/NORTHERN BONUS POINTS PLUS: (C) _____ X (D) _____ X (E) _____ X 15% =				
PLUS: (C) _____ X (D) _____ X (F) _____ X 5% =				
PROPOSER:			TOTAL	

Comments:

Committee Member:_____ Date:_____

LEGEND:	RATING POINTS:	
A - Evaluation Points Awarded	Poor	1 - 3 points
B - Weighting Factor	Fair	4 - 6 points
C - Sub-Total Weighted Score (A times B)	Good	7 - 8 points
D - % of Work to be done be Registered Northern Business	Excellent	9 - 10 points
E - % of Work to be done by Northern Residents including Local Residents		
F - % of Work to be done by Local Residents		

LETTER OF REGRET

UNSUCCESSFUL PROPOSALS

(Addressee)

Dear Sir:

(Proposal Name/Reference Number; Community)

Thank you for your proposal dated _____ for the above referenced work. We also received proposals from: _____
_____.

We evaluated all proposals in accordance with criterial outlined in the Request for Proposals.

We regret to inform you that your proposal was not accepted; we accepted the proposal from _____.

Should you desire, we are prepared to discuss, in a general manner, the evaluation of your proposal with respect to its relative strengths and weaknesses.

We appreciate the time and effort you spent in preparing your proposal and hope you will continue to submit proposals when requested.

Yours sincerely,

Chairperson of Selection
Committee