

Produced for the NNI Review Committee

# NNI 2008-2009 Comprehensive Review Report

January 2010



## Table of Contents

1	Executive Summary .....	2
2	Introduction .....	10
3	Methodology .....	13
3.1	Review Matrix.....	13
3.2	Structure of the Document .....	14
4	Key Findings .....	16
4.1	Awareness and Education.....	16
4.1.1	Requirements within the NNI Policy and Article 24 of the NLCA.....	16
4.1.2	Findings from Previous Reviews .....	17
4.1.3	Profile of Awareness and Education Implementation Measures .....	21
4.1.4	Findings from Consultations, Interviews and Surveys.....	21
4.1.5	Overall Assessment and Suggested Action Items.....	28
4.2	The Inuit Firm and Nunavut Business Registries .....	30
4.2.1	Requirements within the NNI Policy and Article 24 of the NLCA.....	30
4.2.2	Profile of NNI Business and Inuit Firm Registries.....	32
4.2.3	Findings from Previous Reviews and/or Reports .....	35
4.2.4	Findings from Consultations, Interviews and Surveys.....	37
4.2.5	Overall Assessment and Suggested Actions Items.....	39
4.3	Bid Adjustments .....	42
4.3.1	Requirements within the NNI Policy and Article 24 of the NLCA.....	42
4.3.2	Profile of Current Bid Adjustments .....	45
4.3.3	Findings from Previous Reviews and/or Reports .....	46
4.3.4	Findings from Consultations, Interviews and Surveys.....	46
4.3.5	Overall Assessment and Suggested Action Items.....	48
4.4	Monitoring and Enforcement .....	49
4.4.1	Requirements within the NNI Policy and Article 24 of the NLCA.....	49
4.4.2	Profile of Monitoring and Enforcement .....	51
4.4.3	Findings from Previous Reviews and/or Reports .....	53
4.4.4	Findings from Consultations, Interviews and Surveys.....	55
4.4.5	Overall Assessment and Suggested Action Items.....	58
4.5	The Appeals Process .....	60
4.5.1	Requirements within the NNI Policy and Article 24 of the NLCA.....	60
4.5.2	Findings from Previous Reviews and/or Reports .....	61
4.5.3	Profile of the Appeals History .....	62
4.5.4	Findings from Consultations, Interviews and Surveys.....	66
4.5.5	Overall Assessment and Suggested Actions Items.....	67
4.6	Impact of the NNI Policy .....	68
4.6.1	Requirements within the NNI Policy and Article 24 of the NLCA.....	68
4.6.2	Findings from Previous Reviews and/or Reports .....	69
4.6.3	Profile of Impacts of the NNI Policy .....	72
4.6.4	Findings from Consultations, Interviews and Surveys.....	79
4.6.5	Overall Assessment and Suggested Action Items.....	85
4.7	Key Elements of other Business Incentive Policies.....	87
5	Conclusion .....	91
	Appendix A: Interviewees and Community Consultation .....	98
6	Appendix B: Master List of Evaluation Questions.....	100
	Appendix C: Survey of SAOs, EDOs and CLOSs.....	103
	Appendix D: Data Sources.....	107
	Documents Cited .....	110

## List of Acronyms

Community and Government Services – CGS

Contracting Appeals Board – CAB

Department of Education – D.o.E.

Government of Nunavut – GN

Nunavut Arctic College – NAC

Nunavut Tunngavik Inc. – NTI

NNI Review Committee – RC

NNI Secretariat – NNIS

Nunavummi Nangminiqagtunik Ikajuuti – NNI

Public Works and Services – PWS

Request for Proposals – RFP

# 1 Executive Summary

## Background

Article 24 of the Nunavut Land Claims Agreement (NLCA) required that the Government of Nunavut (GN) “maintain preferential procurement policies, procedures and approaches... for all Territorial Government contracts required in support of Territorial Government activities in the Nunavut Settlement Area”. The NLCA further specified that the implementation measures should respond to the developing nature of the economy, labour force and increased ability of Inuit firms to successfully compete for and conduct government contracts. The specific objectives of Article 24 of the NLCA include:

- Increased participation by Inuit firms in business opportunities in the Nunavut Settlement Area economy;
- Improved capacity of Inuit firms to compete for government contracts;
- Employment of Inuit at a representative level in the Nunavut Settlement Area work force;
- Increased access by Inuit to on-the-job training, apprenticeship, skills development, upgrading, and other job related programs; and
- Greater opportunities for Inuit to receive training and experience to successfully create, operate and manage Northern businesses.

The NNI Policy was developed collaboratively by the Government of Nunavut (GN) and Nunavut Tunngavik Inc. (NTI) to enable the GN to meet the obligations of Article 24. The objectives of the NNI Policy are to achieve:

- (a) *Good Value and Fair Competition*: To secure goods and services for the Government of Nunavut at the best value, recognizing the higher cost of doing business in Nunavut, and using a contracting process that is fair and equitable.
- (b) *Strengthening the Nunavut Economy*: To build the economy of Nunavut and its communities by strengthening business sector capacity and increasing employment.
- (c) *Inuit Participation*: Subject to ss. 16(2)<sup>1</sup>, to bring about a level of Inuit participation in the provision of goods and services to the Government of Nunavut that reflects the Inuit proportion of the Nunavut population.
- (d) *Nunavut Education and Training*: Subject to ss. 16(2), to increase the number of trained and skilled Nunavut Residents in all parts of the workforce and business community to levels that reflect the Inuit proportion of the Nunavut population.<sup>2</sup>

## Scope of the Review

The purpose of this Comprehensive Review (Review) of the Nunavummi Nangminiaqtunik Ikajuuti (NNI) NNI Policy is to examine the extent to which the NNI Policy is achieving its four objectives as well as to determine if the NNI Policy is appropriately supporting the implementation of Article 24 (Government Contracting) of the Nunavut Land Claims Agreement (NLCA). This report is the product of the NNI Review Committee (RC), which is comprised of members of the GN and NTI.

---

<sup>1</sup> Sub-section 16(2) states the following: “It is further recognized that the achievement of objectives may be the most realistically and reliably secured by measured progress over time.”

<sup>2</sup> GN/NTI NNI Review Committee, Nunavummi Nangminiaqtunik Ikajuuti (NNI Policy), April 20, 2006, pg. 3.

## Scope

As required in the Terms of Reference for the RC, the 2008 Comprehensive Review included the following:

- A review of GN contracting data, subject to or exempted from the NNI Policy annually;
- A review of the substance and application of the policy to determine the extent to which the NNI Policy meets the objectives set out in Article 24 of the NLCA and of the objectives of the NLCA in general;
- A review of the substance and application of the policy to determine the extent to which the NNI Policy meets the objectives set out in Sections 11 and 12 of the policy;
- A review of the recommendations of the previous review and their implementation; A review of the monitoring and enforcement concerns that may have arisen or may arise out of the implementation of the NNI Policy;
- A review of the results of all submissions an input received through written submissions from third parties; and
- A full comprehensive review in 2008 based on mutually accepted Terms of Reference specifically developed for this review.<sup>3</sup>

The role of PricewaterhouseCoopers LLP (PwC) in this initiative has been to develop the review methodology, evaluate and analyze information from key documents and literature, interview individual stakeholders, conduct community consultations with business owners and members of the public and, finally, to consolidate all of this information into an initial draft of this report. In undertaking these efforts, the PwC Project Team has worked closely with James Arreak of JAS Consulting Services Ltd., a 100% Inuit-owned and managed consulting firm established in 2003, based in Iqaluit, Nunavut.

This executive summary provides: an overall assessment; a brief description of the most significant issues raised during the review; and the overarching suggested actions for addressing the critical issues. The full report presents an in-depth discussion of the key issues, status against objectives, concerns and suggested action items identified throughout this review. The conclusion of the report lists all of the individual suggested action items.

## Overall Assessment

Overall, there remains a general view, as found in previous reports, that the NNI Policy contains the right approach and key elements for achieving the objectives of Article 24, and that it provides a basis for improvements in the competitiveness and strength of the economy and welfare of Inuit and Nunavummiut. However, results still fall short of the NNI Policy aspirations.

---

<sup>3</sup> *ibid*, Appendix B, pg. 1.

Prior to providing an assessment of progress, it is important to note that objective assessment of progress is hindered by a lack of data in many areas. There have been some significant advances in the collection and assembly of information on the extent to which Inuit and Nunavut firms are being awarded GN contracts and the employment of Inuit on GN contracts. However, there are areas where data is not available to assess progress against all of the NNI Policy objectives. For example, there is no data on actual contract spending on Inuit and Nunavut firms (i.e. there is only spending on the initial award values), nor is there data on the impacts of the NNI Policy on, and the performance of, Inuit and Nunavut firms. Furthermore, the data on contracts does not include all contracts. For example, it does include data on a number of types of contracts, such as some types of fuel, housing, medical travel, and other types of contracts.

There is only limited data and it may be difficult to access the extent, nature, quality and success of training programs conducted in accordance with the NNI Policy. In advance of projects, GN advises Arctic College, and Arctic College offers “pre-trades” training programs (e.g. worksite safety). They keep records, but the information is sporadic. There are no records on training provided by contractors.

Finally, there is no database containing key challenges and barriers reported or assessments of concerns raised. There is a website that people can submit concerns to, and there was a study done of Barriers to Business, but there is no formal, ongoing tracking of issues or how they were dealt with. Consequently, the assessment of the information must be qualified by recognition of the lack of data to delve into a deeper, objective analysis of the impacts of the NNI Policy on Inuit and Nunavut firms, Inuit workers and the Nunavut Economy in general.

Improving the range of data collection and analysis is critical for better understanding the extent to which the NNI Policy is applied and monitored appropriately as well as impacts of the NNI Policy.

It is also important to note that there are many areas where there is a perception of a lack of progress or a barrier, or a belief about what should be done. This perception is sometimes based on incorrect information. Therefore, a key objective of this review is not just to identify what progress has been made, what barriers exist and what new or modified actions should be put into place, but also what misperceptions might exist that limit the perceived success of the NNI Policy.

With these considerations noted, an assessment against the objectives of the NLCA and the NNI Policy is presented below. The first five objectives are common to the NLCA and the NNI Policy. The last objective is specific to the NNI Policy.

***Increased participation by Inuit firms in business opportunities in the Nunavut Settlement Area economy.***

Nunavut has experienced rapid growth in Gross Domestic Product (GDP) on a per capita basis. It has substantially narrowed the gap in GDP per capita relative to the country as a whole. However, there does not appear to be data available that demonstrates what percentage of GDP is accounted for by Inuit businesses versus other businesses. There is anecdotal evidence that Inuit firms continue to face many challenges, including language barriers and inadequate skills, to effectively compete in

the market place. Consequently, it is not possible to assess progress against this objective.

***Improve the ability of Inuit, Nunavut-based and local firms to compete for government contracts.***<sup>4</sup>

- Reported contract awards to Inuit firms increased from \$20 million in 2000-01 (23.7% of contract dollars) to almost \$60 million (30.7% of contract dollars) in 2007-08. Hence, there has been progress for Inuit firms.
- Reported contract awards to non-Inuit, non-Nunavut based firms have increased even more, from \$32 million (37.8% of contract dollars) to over \$117 million (60.8% of contract dollars). This means that the majority of the increased spending is going to non-Inuit, non-Nunavut based firms.
- Reported contract awards to Nunavut-based firms declined from \$33 million in 2000-01 (38.5% of contract dollars) to \$16 million in 2007-08 (8.5% of contract dollars).
- Reported contract values vary substantially from year to year. Moreover, the share of contract awards by type of firm also varies substantially through time. This volatility presents a challenge for firms seeking to build sustainable capacity.
- Reported Inuit employment shares have improved in minor construction and service contracts in Baffin, but been volatile in most areas.
- Reported Inuit employment shares appear to be strongly related to Inuit employment bid requirements.
- Reported actual bonus payments have been substantially lower than anticipated bonus payments on construction and maintenance contracts, but much higher than penalties levied.

***Promote the employment of Inuit in the Nunavut Settlement Area.***

Inuit employment appears to have increased only marginally on construction and maintenance contracts over the seven year period (2000-01 to 2007-08). Overall, Inuit employment in Nunavut increased substantially over the 2004 to 2007 period, and unemployment rates declined dramatically over the same period. This suggests that progress is being made in the area of Inuit employment overall, although it is not clear how much of this is due to successful implementation of the NNI Policy.

***Increase Inuit access to on-the-job training, apprenticeship, skills development and upgrading and other job-related programs.***

It is difficult to assess objectively the impact that the policy has had on skills development among Inuit. The NNI Policy requires that a training plan be prepared for Inuit employees for all large construction and maintenance contracts. However, there appears to be no assessment by the GN on whether this training is appropriate, or is even carried out. There is no training requirement associated with other contracts (i.e. outside of maintenance and construction), regardless of size. Finally, there is no data available for assessing what training and skills development Inuit are receiving on

---

<sup>4</sup> It is important to note that comparisons over time are complicated by the fact that prior to 2005/06 all contracts were reported on annually, whereas after 2005/06, only contracts over \$5,000 in value were assessed annually. However, contracts of less than \$5,000 constituted less than 5% of reported contract dollars over the 2000-01 to 2004-05 period, so this change does not appear to be significant when looking at overall contract values.

government contracts. Anecdotal evidence from community consultations suggests that an increase in skill levels among Inuit has been observed in some areas.

***Greater opportunities for Inuit to receive training and experience to successfully create, operate and manage Northern businesses.***

The GN provides training on the application process associated with government contracts and the NNIS has been conducting workshops in communities to raise awareness and understanding of the objectives of the NNI Policy and what it means for Inuit and Nunavut-based businesses. However, the overwhelming sense in the community and government is that Inuit and Nunavut-based businesses do not have a sufficient understanding of the objectives of the NNI Policy, what it means for them, and the opportunities created as a result. Moreover, as noted above, there is anecdotal evidence to suggest that Inuit businesses have not developed the skills and competitive capacity to achieve their full potential.

***Good value and Fair Competition.***

The Government of Nunavut applies a strict set of criteria when determining “good value” or “best value”. “Best value” or the proposal that demonstrates the best potential value is determined using scoring criteria employed within the competitive proposal process. All relevant factors (rating criteria) are scored using a rating legend provided in the Request for Proposals document. This rating legend allows the GN to take into account not only cost, but other factors such as proposed methodologies, qualifications and experience, in the decision to award contracts. Using this type of evaluation criteria allows the GN to score proposals based on the highest probability of success and/or judgments about what potential proponent will provide the best value or quality of service. Hence, the GN adheres to the commonly used terms of “good value” and “fair competition” as understood within the practice of contracting and procurement.

However, business representatives, existing and potential employees, contractors and the general public are not necessarily familiar with how these terms are practically employed when evaluating a bid or proposal. The terms “good value” and “fair competition” mean different things to different people. It is not generally understood by businesses and members of the general public how the GN defines and seeks to achieve the principles of “good value” and “fair competition”. Consequently, representatives of business and the public have expressed concern over how this is ensured. This is one of the many areas where a lack of understanding of contracting policy within the business and general community contribute to a misunderstanding of how the objectives of the policy are in fact being met. While the general public can never be expected to fully understand the intricacies and legalities of public procurement, widespread misperceptions necessarily make it challenging for the general public to fully understand if NNI Policy objectives are being met successfully. Continuing education on the NNI Policy in general, and on how CGS seeks to achieve ‘good value and fair competition’ will serve to mitigate and alleviate this issue.

In summary, while progress has been made in many areas, there is not sufficient data to assess progress in all areas. Nor is there sufficient data to understand how the NNI Policy has contributed to much of the progress that has been achieved.

It is important to recognize the context for this assessment and the suggested action items. The GN is still a relatively young government – now just ten years old. The development and refinement of the policies has taken a substantial investment by both



the GN and NTI to work collaboratively together to achieve progress. There have been extensive investments in developing systems to facilitate the analysis of contract data, the development of guides, and the formulation of training and workshop agendas. These investments are all leading to improvements in systems and tools and efficiencies in data collection and analysis.<sup>5</sup> As such, these investments continue to lay the foundation for better understanding the impacts of the NNI Policy, and options for improving outcomes and efficiency. It is critical that these investments not be under-appreciated.

### **Key Issues**

Seven major issues were raised throughout the study. In many ways these issues are intertwined. They are presented in summary form here, but many of the themes repeat throughout the report.

#### **Awareness and Education**

There have been substantial investments in awareness-raising and education in relation to the NNI policy. Nevertheless, virtually all stakeholders identified a need for more and better information and education. There is still a widespread lack of understanding of the objectives, the appropriate procedures for applying the policy, in particular the bid adjustments, and a lack of awareness of contract opportunities and obligations. This lack of awareness is seen, or believed to exist, among the general population, the business population and Contracting Authorities. The lack of awareness is most common among smaller firms and in smaller communities.

There are numerous specific recommendations about how to improve awareness and education. There is an overarching need to identify the different stakeholders, their associated information and education needs and develop and implement a plan (including monitoring and feedback mechanisms) to address these needs. Activities such as the Next Steps, a program that involves representatives from the NNIS and CGS traveling to communities to deliver workshops on the NNI Policy as well as on Contracting and Procurement with the GN, are critical to meeting this need.

#### **Business Registries**

There are substantial and conflicting problems associated with both the registration process and use of the Nunavut Business Registry and the Inuit Firm Registry. On one hand, there is concern that the annual registration process is too burdensome (particularly for the Nunavut Business Registry). On the other hand there, is concern that “shell” companies – companies that are registered as Inuit-owned or Nunavut based but really are not – are abusing the process, and that greater vigilance in assuring the legitimacy of businesses on the registries is required.

Overall, at this point in time, the concern over excessive burden appears to outweigh the concern about ensuring legitimacy. There is some support for the GN moving towards a more simplified renewal approach, similar to that of NTI.

---

<sup>5</sup> It is important to note that while investments have been made to improve the cost-effectiveness of data collection and analysis, this has not translated into more timely production of the annual procurement contract report.

### **Bid Adjustments**

There are two types of concerns in regards to bid adjustments. First, based on feedback from the community consultations, there is a widespread belief that bid adjustments are not calculated consistently by Contracting Authorities. Second, there are also conflicting views on the adequacy of the bid adjustments. Many people, primarily business people from the North, advocate that the bid adjustments are not sufficient to “level the competitive playing field”. However, it is important to note that the NNI Policy is not intended to entirely level the playing field. As described in CGS’s report “Guiding You. Benefiting Nunavummiut” (<http://www.gov.nu.ca/business/guide2006.pdf>), under the NNI Policy, all qualified Inuit-owned, local and Nunavut-based businesses obtain a favourable adjustment of 7% for each criteria met (to a maximum of 21%) to ensure competitiveness when assessed against bids from other qualified bidders. The bid adjustment partially offsets the higher costs of doing business in the north and also provides access to the GN’s requirements and serves to build further capacity within the Nunavut economy. Conversely, there are concerns among some government officials that the bid adjustments are too high and they prevent the government from obtaining “good value”. Bid adjustments are one of the key tools that the GN uses to meet its obligations as defined in the NLCA. As such, it is important to balance the desire to “level the playing field” against the need to acquire goods and services at a cost that is reasonable to the tax payer. There is unlikely to be a strict formula to balance these needs and judgment will need to be exercised as the economy evolves.

With regards to consistency in bid adjustments, it is critical that a common method be adopted. With regards to the adequacy of the bid adjustment, sufficient data does not exist to assess whether the bid adjustments are sufficient to meet the various objectives. It is also important to recognize that it was not intended that bid adjustments would exist indefinitely. Rather, the NNI Policy should work progressively towards a goal of accomplishing objectives and adjust in response to the state of the economy and the labour force. It is also important to note that level of bid adjustment that would be required to meet the NNI Policy objectives will likely vary by industry. It would be worthwhile to periodically select a sample of contracts to assess the impacts of the policy on Inuit contractors and workers, so as to guide this evolution

### **Monitoring and Enforcement**

Adherence to the policy is not monitored or enforced on a consistent basis. For example, it is not clear how many contracts have been let that did not adhere to the NNI Policy. There is also little, if any validation of Inuit employment and no validation of the appropriateness of the training plan or whether it was undertaken.

The NNIS has a mandate to promote continuity and consistency of the application of the NNI Policy across government departments while ensuring that all monitoring and enforcement processes are followed. This is a necessary and critical role. However, there are concerns, given that it is housed within the GN, that it is not truly independent, and that it would be better able to fulfill its role if it were independent.

As noted throughout this document, a key challenge encountered was the prevalence of concerns, without objective information to assess the legitimacy of the concerns or appreciate the need for remedial action. There are two key suggestions offered to address this problem. First, a website exists that allows people to register concerns anonymously, but does not currently appear to be used extensively. This website should be promoted and complaints should be investigated and tracked, so as to provide a

richer basis for future reviews. Secondly, audits or reviews of specific contracts should be undertaken so as to assess the extent to which the NNI Policy was adhered to, and to assess the impacts of the NNI Policy on Inuit and Nunavut-based firms and Inuit employees.

### **Appeals Process**

The Appeals Process is an important component of the NNI Policy in that allows bidding contractors to raise concerns and helps to ensure that both Community and Government Services (CGS) and the NNI Policy are considered accountable to those who engage in contracting and procurement in the territory of Nunavut. There were a number of concerns expressed regarding the perceived efficacy of the Appeals Process in its current state.

Key suggested action items include: improved on going training for the members of the Appeals Board, to ensure greater clarity amongst the public of the role of the Board. Clarifying the bid adjustment calculation process, will also pre-empt many of the issues the Board has faced. Increasing the emphasis on the debriefing process by the Contracting Authority would help as well.

### **Measuring and Achieving Outcomes**

As noted above, while there is agreement that the NNI Policy is appropriate, there is a sense that achievement of improvements in outcomes has been slow for Inuit and Nunavut-based firms. It has been even more difficult to assess the impact on Inuit employees. The GN produces information on contract submissions and awards by type of firm (Inuit, Nunavut and other), Inuit employment on construction and maintenance contracts, NNI adjustments, bonus payments and penalties. However, there is no information on how much is actually spent by type of firm (e.g. actual spending is likely to vary from spending anticipated on proposals due to scope changes), and more importantly, how this translates into improved capacity of Inuit firms or Inuit workers. Together with the suggested action items noted above, one of the most important factors in enabling the achievement of better outcomes lies in improved monitoring and measuring of activities and outcomes.

## 2 Introduction

### **Background**

The Nunavummi Nangminiaqtunik Ikajuuti (NNI) Policy was created by the Government of Nunavut (GN) in close consultation with Nunavut Tunngavik Inc. (NTI) in 2000 as a direct result of the GN's obligations towards contracting opportunities for Inuit firms as mandated by Article 24 of the Nunavut Land Claims Agreement (NLCA). In conducting this review, there are several key aspects of the Article 24 of the NLCA to take into account.

### ***Territorial Government Policies***

*24.3.4 Subject to Section 24.9.2, the Territorial Government shall maintain preferential procurement policies, procedures and approaches consistent with this Article for all Territorial Government contracts required in support of Territorial Government activities in the Nunavut Settlement Area. The Territorial Government will consult with the DIO when developing further modifications to its preferential policies, procedures and approaches in order that the provisions of this Article may be met.*

### ***Adaptability Over Time***

*24.3.5 Procurement policies and implementing measures shall be carried out in a manner that responds to the developing nature of the Nunavut Settlement Area economy and labour force. In particular, the policies shall take into account the increased ability, over time, of Inuit firms to compete for and to successfully complete government contracts.*

*24.9.3 The Government of Canada, the Territorial Government and the DIO shall conduct a review of the effect of this Article within 20 years of its implementation. If the DIO and the Government of Canada or the Territorial Government, as the case may be, agree after the review that the objectives of this Article have been met, the obligations under this Article of the Government of Canada or the Territorial Government, as the case may be, shall cease within one year of the completion of the review. If the obligations of the Government of Canada or the Territorial Government under this Article remain in effect after the initial review, the Parties shall review the requirement to continue such provisions every five years or at such other times as they may agree.*

The overall objectives of Article 24 are identified in sub-sections 24.3.6 and 24.3.7. Results must be analyzed according to these objectives.

*24.3.6 Procurement policies and implementing measures shall reflect, to the extent possible, the following objectives:*  
*(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.*

### **Consultation**

*24.3.7 To support the objectives set out in Section 24.3.6, the Government of Canada and the Territorial Government shall develop and maintain policies and programs in close consultation with the DIO which are designed to achieve the following objectives:*

- (a) increased access by Inuit to on-the-job training, apprenticeship, skill development, upgrading, and other job related programs; and*
- (b) greater opportunities for Inuit to receive training and experience to successfully create, operate and manage Northern businesses.*

The NNI Policy was negotiated between the GN and NTI to replace the GNWT Business Incentives NNI Policy and the GNWT Contracting Procedures. As an incentive-based, procurement policy applicable to all qualifying Nunavut and Inuit businesses competing for government contracts, the NNI Policy is intended to promote economic development in Nunavut, ensure Inuit participation in the Nunavut economy and provide economic and training opportunities for Inuit and other Nunavut residents.

Section 7.0 of the NNI Policy lists the following four objectives:

- (a) Good Value and Fair Competition:* To secure goods and services for the Government of Nunavut at the best value, recognizing the higher cost of doing business in Nunavut, and using a contracting process that is fair and equitable.
- (b) Strengthening the Nunavut Economy:* To build the economy of Nunavut and its communities by strengthening business sector capacity and increasing employment.
- (c) Inuit Participation:* Subject to ss. 16(2)<sup>6</sup>, to bring about a level of Inuit participation in the provision of goods and services to the Government of Nunavut that reflects the Inuit proportion of the Nunavut population.
- (d) Nunavut Education and Training:* Subject to ss. 16(2), to increase the number of trained and skilled Nunavut Residents in all parts of the workforce and business community to levels that reflect the Inuit proportion of the Nunavut population.<sup>7</sup>

Also included within the NNI Policy is a framework for periodic review. Appendix B of the NNI Policy outlines the composition of the RC, the body responsible for ensuring on-going reviews of the NNI Policy. As part of its mandate, the Review Committee is required to conduct a comprehensive review every five years. The first comprehensive review of the NNI Policy was conducted in 2003.

---

<sup>6</sup> Sub-section 16(2) states the following: "It is further recognized that the achievement of objectives may be the most realistically and reliably secured by measured progress over time."

<sup>7</sup> GN/NTI NNI Review Committee, Nunavummi Nangminiaqqtunik Ikajuuti (NNI Policy), April 20, 2006, pg. 3.

The 2003 Comprehensive Review focused on the question “Does the NNI Policy work?”, with the Review Committee concluding that the NNI Policy has been “partially effective”.<sup>8</sup> The review found that “some of the mechanisms used so far to achieve these objectives are inadequate”.<sup>9</sup> As a result of the 2003 Comprehensive Review, 32 proposed recommendations were put forth suggesting changes and additions to the NNI Policy. All of the recommendations produced were accepted by Cabinet, excluding those relating to the bid adjustment values. Fourteen of the 2003 recommendations were put into effect as of April 1, 2004, while the remaining recommendations are in various stages of implementation.

### **Scope**

As required in the Terms of Reference for the RC, the 2008 Comprehensive Review included the following:

- A review of GN contracting data, subject to or exempted from the NNI Policy annually;
- A review of the substance and application of the policy to determine the extent to which the NNI Policy meets the objectives set out in Article 24 of the NLCA and of the objectives of the NLCA in general;
- A review of the substance and application of the policy to determine the extent to which the NNI Policy meets the objectives set out in Sections 11 and 12 of the policy;
- A review of the recommendations of the previous review and their implementation;
- A review of the monitoring and enforcement concerns that may have arisen or may arise out of the implementation of the NNI Policy;
- A review of the results of all submissions and input received through written submissions from third parties; and
- A comprehensive review in 2008 based on mutually accepted Terms of Reference specifically developed for this review.<sup>10</sup>

---

<sup>8</sup> Nunavummi Nangminiaqtunik Ikajuuti NNI Policy, First Comprehensive Review, 2003, pg. 4.

<sup>9</sup> *ibid*, pg. 4.

<sup>10</sup> Nunavummi Nangminiaqtunik Ikajuuti NNI Policy, First Comprehensive Review, 2003, Appendix B, pg. 1.

## 3 Methodology

### 3.1 Review Matrix

During the course of this review, the Project Team collected a large amount of information from a wide variety of sources. As such, it was necessary to develop a data collection tool that would allow information and feedback from different sources to be aligned with specific review issues and topics. In order to accomplish this, the Project Team created a Review Matrix that made it possible to array evidence (either in the form of information collected from a document and literature review or elicited from interviews/surveys) against the principal review issues and topics. In doing so, similar information and feedback could be more easily organized to address specific areas of inquiry.

For the purposes of this Review, there were eleven issues identified. These included the following:

Review Issues / Topics	
1.	Familiarity with NNI Policy
2.	Clarity of NNI Policy
3.	Appropriateness of NNI Policy
4.	Activities and outputs associated with NNI Policy
5.	NNI Policy processes and their effectiveness
6.	Resource allocation
7.	Unintended impacts
8.	Accomplishing objectives
9.	Questions for business
10.	Appeals process
11.	Other recommendations and improvements

Within each of the review issues/topics, questions were developed in cooperation with representatives from the RC. These questions were developed with the aim of gathering information and feedback that would provide a comprehensive profile of these issues. A complete listing of the questions employed during the course of the review can be found in Appendix B.

The questions that were developed were then employed throughout the course of the review to solicit information and feedback from key stakeholders such as community members, business owners, government employees and officials, representatives of territorial organizations and other groups and individuals with a vested interest in the NNI Policy.

When conducting a Review of this nature, it is important that the review mechanism and tools employed are leveraged to maximize the engagement and participation of key stakeholders. The aim of this effort is to gather information on opinions and viewpoints in order to create a firm basis on which to build effective recommendations leading to positive change. As such, the PwC Project Team has made every effort to ensure that

the tools employed when engaging a particular stakeholder or group of stakeholders have been targeted to elicit meaningful and realistic feedback. Due to a lack of available quantitative data that could be used to objectively determine the extent to which the NNI Policy was accomplishing its stated objectives, a specific focus was placed on maximizing the number of stakeholders consulted during this project. The intent of this focus was to identify common viewpoints regarding the NNI Policy and the degree to which it is considered to be effectively achieving its desired outcomes.

During the course of the review, the Project Team collected a significant amount of diverse feedback from stakeholders across Nunavut. All of the feedback was collected and organized in an effort to identify common responses to the questions employed during both community consultations and interviews with key informants. When analyzing any type of qualitative feedback, it is necessarily difficult to quantify the exact type of responses provided. Taking this into consideration, the Project Team has attempted to provide an indication of the commonality of responses or opinions by adopting a standardized approach to indicating the number of times they heard certain responses. Throughout the report, the use of the following terms will indicate the frequency with which specific feedback was encountered. It is important to note however that “majority” may have, in some cases, only referred to a small number of people.

<b>Term</b>	<b>Frequency of Response</b>
A few	< 25%
Several	25% - 50%
Many or Most	50% - 75%
Majority	> 75%

### *3.2 Structure of the Document*

The structure of the document is based on six key areas of concern that were raised throughout the review. For each of these six areas, the discussion is presented in five sections: 1) a review of the requirements of the NNI Policy, 2) a summary of findings from previous reviews, reports or working notes, 3) a profile of implementation activities in the area, 4) findings from consultations and 5) an overall assessment and list of suggested action items.

The following table illustrates where various elements of the NNI Policy and Article 24 of the NLCA are addressed in this document.



	<b>Key Issue</b>	<b>NNI Policy</b>	<b>Article 24 of the NLCA</b>
1	<b>Awareness/understanding of NNI Policy</b>	5.0 (5.1, b, c) 7.0 (7.1, a, b, c) 12.0 (12.1a, b, c, d, e, f, g, h)	24.2.1 24.3.7 24.4.1 24.4.2 24.4.3 24.5.1 24.5.2 24.5.3
2	<b>NNI Business and NTI Inuit Firm Registry</b>	11.0 (11.3) 13.0 (13.1 a, b)	24.7.1
3	<b>Bid Adjustments</b>	1.0 (1.3) 11.0 (11.1 d - i, ii, iii, iv) 11.0 (11.1 e - i, ii, iii) 11.0 (11.1 f) 11.0 (11.1 g - i, ii) 11.0 (11.2 d) 11.0 (11.5) 13.0 (13.1 a, b)	24.3.4 24.3.6 24.6.1 24.6.2
4	<b>Monitoring and Enforcement</b>	5.0 (5.1, b, c) 12.0 (12.1a, b, c, d, e, f, g, h) 14.0 (14.1a, b, c) 15.0 (15.1) 15.0 (15.2) 15.0 (15.3)	24.3.5 24.8.1 24.9.3
5	<b>Appeals</b>	18.0 (18.1 through 18.32)	
6	<b>Impact on Inuit Firms, Inuit Employment and Training and Nunavut in General</b>	10.0 (10.1) 10.0 (10.2) 11.0 (11.1, b) 11.0 (11.2 b) 11.0 (11.2 e - i, ii) 12.0 (12.1a, b, c, d, e, f, g, h)	24.3.6a, b, c 24.3.7a, b 24.4.1 24.4.2c 24.6.1b 24.6.2b 24.9.1 24.9.2

## 4 Key Findings

### 4.1 Awareness and Education

#### 4.1.1 Requirements within the NNI Policy and Article 24 of the NLCA

Article 24 of the NLCA and the NNI Policy set out requirements in regards to raising awareness about contracting opportunities, developing Inuit labour through training and conducting reviews so as to assess progress and make the public aware of progress through the provision of public reports. The following excerpts from Article 24 of the NLCA and the NNI Policy illustrate the objectives and requirements in regards to awareness and education.

Article 24 of the NLCA stipulates that both the Government of Canada and the GN "... shall provide reasonable support and assistance to Inuit firms in accordance with this Article to enable them to compete for government contracts".<sup>11</sup> Furthermore, Article 24 stipulates that "the Territorial Government shall assist Inuit firms to become familiar with their bidding and contracting procedures, and encourage Inuit firms to bid for government contracts in the Nunavut Settlement Area."

The NNI Policy itself references awareness in Section 1.0, sub-section 1.5. Cabinet approved administrative changes to the NNI Policy "... that increased the opportunity for Nunavut Businesses and Inuit firms to participate in Government procurement activities..."<sup>12</sup> One of the measures employed to increase the awareness of available contract opportunities is detailed in Section 11.3, whereby "Tenders and RFPs by invitation may be issued exclusively to Nunavut-based businesses where sufficient competition exists, being three (3) or more companies located in Nunavut that are interested and capable of performing the work. The GN may also invite Inuit firms that are not based in Nunavut, provided they are included on the NTI Inuit Firm Registry."<sup>13</sup> In addition, Section (11.4) indicated that "Details of the evaluation process shall be further described in procedures developed by the Responsible Department and made available to the public."<sup>14</sup>

Subsection 24.3.7 stipulates that the policies and programs that are implemented are "...designed to achieve the following objectives:

- a. *increased access by Inuit to on-the-job training, apprenticeship, skill development, upgrading and other job related programs; and*
- b. *greater opportunities for Inuit to receive training and experience to successfully create, operate and manage Northern businesses.*<sup>15</sup>

---

<sup>11</sup> Agreement Between the Inuit of the Nunavut Settlement Area and Her Majesty the Queen in Right of Canada, Article 24, Government Contracts, Part 2: Objective, 24.2.1, pg. 198.

<sup>12</sup> GN/NTI NNI Review Committee, Nunavummi Nangminiqaqtunik Ikajuuti (NNI Policy), April 20, 2006, pg.

1.

<sup>13</sup> *ibid.* pg. 5.

<sup>14</sup> *ibid.*

<sup>15</sup> Agreement Between the Inuit of the Nunavut Settlement Area and Her Majesty the Queen in Right of Canada, Article 24, Government Contracts, Part 3: Procurement Policies, 24.3.7, pg. 199.

Education is explicitly referenced as the fourth overall objective of the NNI Policy:

*d. Nunavut Education and Training*

*Subject to ss.16(2), to increase the number of trained and skilled Nunavut Residents in all parts of the workforce and business community to levels that reflect the Inuit proportion of the Nunavut population.<sup>16</sup>*

Additionally, Section 11.0 (Evaluation Process and Bid Adjustment) of the NNI Policy requires “All Tenders with a labour component over \$300,000 must include a detailed training plan for Inuit workers. In the case of maintenance contracts, a training plan must be included where the contract cost is estimated to exceed \$250,000”<sup>17</sup>

The roles and responsibilities of the Review Committee are explained in Section 17.0. Sub-section 17.8 mandates that “... the Review Committee shall make efforts to collect public input and to consult with interested parties. Without limiting the ability of the Committee to make other parts of its work available to public, these annual and multi-year reviews shall in all cases be made available to the public”.<sup>18</sup>

## 4.1.2 Findings from Previous Reviews

### 2001 Annual Review

Following the creation of the NNI Policy in 2000, PWS provided a number of training initiatives to the majority of Nunavut communities, targeted GN employees, businesses and the public. These education and training initiatives included the following:

- Highlights of the NNI Policy;
- Simplified examples of how the bid adjustments and labour bonuses/penalties are applied;
- GN Contract Regulations; and
- GN’s Request for Proposal process.<sup>19</sup>

Handout materials from these information/training sessions were made available in both Inuktitut and Inuinnaqtun. In addition to the groups listed above, presentations were also delivered to specific groups, including: GN Deputy Ministers, Directors, Management, other levels of government employees, Economic Development Officers, and the Kivalliq Chamber of Commerce. Information and materials were also distributed at the trade shows in both Iqaluit and Cambridge Bay. The 2001 Annual Review also mentioned that training on the NNI Policy is available to all Nunavut Municipalities, Housing Associations, the Nunavut Housing Corporation, the Nunavut Power Corporation and Municipal Liaison Officers.<sup>20</sup>

---

<sup>16</sup> GN/NTI NNI Review Committee, Nunavummi Nangminiaqqtunik Ikajuuti (NNI Policy), April 20, 2006, pg. 3.

<sup>17</sup> *ibid.* pg. 4.

<sup>18</sup> *ibid.* pg. 8.

<sup>19</sup> GN/NTI NNI Review Committee, February 2002. Nunavummi Nangminiaqqtunik Ikajuuti (NNI Policy), 2000-01 Annual Review, pg. 19.

<sup>20</sup> *ibid.*

In Section 7.3 of the 2001 Review (Other Concerns Discussed by the Review Committee), it was noted that achieving the fourth objective of the NNI Policy (Nunavut Education and Training) will require an investment in further training programs for business and trades. At the time, some of the suggestions involved initiatives related to:

- Small business ownership;
- Office management;
- Trades as a career option;
- Trades competitions through Skills Canada;
- Re-introduction/expansion of trades courses in high school curriculum; and
- Other on-the-job training and certification programs related to skills development.<sup>21</sup>

Both the GN and NTI fully supported such initiatives. However, the Review pointed out that the GN did not possess the required resources necessary to develop and implement all the programs that may be needed. In light of this, commitment and collaboration between a number of organizations and agencies would be essential. The organizations listed included: NTI, regional Inuit economic development organizations, Human Resources and Development Canada, the Regional Chambers of Commerce and the business community.<sup>22</sup>

Finally, Recommendation #6 outlined three specific Training Needs for GN Employees and Businesses. These were:

- a. In consultation with NTI, GN will carry out Section 3.1.1 (Article 24 training), and Section 3.4.1 (translation of relevant training documents) from the GN Contract Procedures Manual;
- b. The GN will make available to NTI its training schedule as set out in Section 3.2.2, and will provide NTI with its workshop materials prior to the workshop as set out in Section 3.2.3 of the GN Contract Procedures Manual; and
- c. NTI and GN will make all efforts to provide simultaneous interpretation during workshops as set out in 3.2.3ii.<sup>23</sup>

### **2003 First Comprehensive Review**

The 2003 First Comprehensive Review offered a number of recommendations in regards to awareness and education. With respect to increasing awareness of bid opportunities available to firms with NNI status, Recommendation #7 outlined the following modification to Invitational Tendering: “Where sufficient competition is present, 3 or more capable and interested bidders, invitational tenders/proposals [should only be issued] to Nunavut businesses. Any invitational tender must include Nunavut vendors if they exist. Review and revise if necessary the mechanism for ensuring Nunavut businesses have equitable access to government contracts (sole source and invitational)”.<sup>24</sup>

Recommendation #15 pertained to the Applicability of the NNI Policy. In addition to suggesting that the GN more strictly enforce Section 5.1 of the NNI Policy stipulating that all municipalities, Crown Corporations and Government Agencies are subject to the NNI Policy, it was recommended that meetings be held with every municipality, Crown

---

<sup>21</sup> *ibid.* pg. 26.

<sup>22</sup> *ibid.*

<sup>23</sup> *ibid.* pg. 33.

<sup>24</sup> Nunavutmi Nangminiqagtunik Ikajuuti NNI Policy, First Comprehensive Review, 2003, pg. 27.

Corporation and Government Agency to ensure their responsibilities under the NNI Policy were understood. It was also suggested that training be provided with regards to the application and reporting requirements of the NNI Policy.<sup>25</sup>

The 2003 Comprehensive Review also indicated that Nunavut businesses and individuals should be made aware of goods and services currently being obtained from outside of the territory. This would assist these individuals and businesses in their decision to provide specific goods and services locally. It was stated that providing this sort of information would serve to develop the local economy by helping to increase the availability of goods and services in Nunavut communities.<sup>26</sup>

Section 6.0 of the 2003 Comprehensive Review places a significant amount of emphasis on both Employment and Training (Section 6.2.1) as well as New Employment and Training Initiatives (Section 6.2.2). The 2003 Review noted that there is very little information within the Contract Procedures to indicate how employment levels or training guidelines are set. It was noted that the application of Inuit employment and training guidelines differ considerably from one region to another as well as between and within departments.<sup>27</sup> It was further explained that "... NNI Policy and associated procedures provide very little detail about how business training or on the job training is to be achieved or evaluated...Both the NNI Policy and the Contract Procedures require considerable revision if they are to provide support in an effort to meet the training needs necessary to attain the objectives set out in the NNI Policy."<sup>28</sup>

The 2003 Comprehensive Review focused specifically on issues relating to New Employment and Training Initiatives. It was noted that training and capacity building must be considered from the outset due to the fact that Government of Nunavut contracting and procurement often represent important employment and training opportunities. As a result, there were eight recommendations put forth by the Review Committee.

These Recommendations are as follows:

- Recommendation #20: Apprenticeship Wages Rebate
  - That a rebate of Inuit apprentice wages be provided to contractors as an incentive to hire and train Inuit. Since this is an incentive to hire apprentices, and would provide an advantage to companies receiving the salary rebates, it is suggested that the amount be initially set at 15% of all apprentices' wages.
- Recommendation #21: Inuit Training Plans within Contracts
  - That a requirement be imposed that every contract with a labour component of over \$300,000 includes a training plan for Inuit, which should include apprenticeships where possible. This requirement would be an integral part of the contract.

---

<sup>25</sup> *ibid.* pg. 34.

<sup>26</sup> *ibid.*

<sup>27</sup> *ibid.* pg. 42.

<sup>28</sup> *ibid.* pg. 43.

- Recommendation #22: Training as part of Maintenance Contracts
  - That all maintenance contracts with a value of over \$250,000 should contain a training/apprenticeship requirement, given that the Government of Nunavut contracts all of its maintenance to the private sector.
  
- Recommendation #23: Training in the Communities
  - That two or three years before any large capital project commences in a given Nunavut community, the Government of Nunavut put in place training programs to ensure that training is done in the community to maximize the use of local labour.
  
- Recommendation #24: List of Available Human Resources in Each Community
  - That a list identifying workers and their specific skills be maintained for each community, and updated semi-annually. The list would be provided to all bidders on projects in the target community and surrounding communities as a matter of practice.
  
- Recommendation #25: Trades in Schools
  - That the government of Nunavut reconsider the emphasis it gives to trades training in its high schools and brings in training for all high school students to encourage more interest in the trades as a career. This would also mean that Nunavut Arctic College would need to adapt its programming to provide options for students wishing to pursue such studies.
  
- Recommendation #26: Apprenticeship Program Review
  - That the Government of Nunavut Reviews its whole apprenticeship program with a view to adapting it to the needs of Nunavut. This would mean looking at alternate delivery methods, possible alternate arrangements with more flexible jurisdiction than the one currently being used; one that is willing to explore options to meet the unique needs of Nunavut or the possibility of local certification.
  
- Recommendation #27: Supporting People Being Trained
  - That the application of Social Assistance and Housing Subsidies/Adjustments be studied and changes be made to encourage people to go into the workforce rather than discourage them. It is further recommended that special attention be paid to those undertaking training and/or apprenticeships to ensure that these people are supported during their training.<sup>29</sup>

---

<sup>29</sup> *ibid.* pgs. 44-47.

### **4.1.3 Profile of Awareness and Education Implementation Measures**

The NNIS has recently engaged in 'Next Steps'. This program involves representatives from the NNIS and CGS traveling to communities to deliver workshops on the NNI Policy as well as on Contracting and Procurement with the GN. It is expected that this program will assist the NNIS and CGS in developing a more accurate representation of some of the issues and/or barriers currently faced by the public. As of the end of June 2009, 'Next Steps' workshops had been delivered in the three Regional hubs: Cambridge Bay, Rankin Inlet and Iqaluit. 'Next Steps' is a two-day workshop targeting owners and managers of Nunavut-based businesses, covering the following topics:

- Introduction to NNI Policy;
- Advantages and disadvantages of incorporation;
- Advantages and disadvantage of partnering with Southern businesses;
- Review of the Government of Nunavut's RFP and Tender processes; and
- Outline of how to do business with the Government of Nunavut and the Federal Government.

In addition to the training provided by the NNIS/CGS, the GN releases a number of materials to assist business owners with the contracting and procurement process. For example, they provide the following educational guides:

- Reference Guide to Acquiring Goods and Services with Public Money;
- Purchasing in Nunavut, Client Department Guide;
- How to Guide: Doing Business with the Government of Nunavut; and
- Interpretive Bulletin.

### **4.1.4 Findings from Consultations, Interviews and Surveys**

#### **Lack of Understanding of How the NNI Policy is Applied in the Public Procurement Process**

The objectives of the NNI Policy are stated in Section 7 of the NNI Policy (also shown in section 2 of this document). However, based on the feedback from participants at the community consultations, there appear to be many business people who either are not familiar with these objectives, or who are not clear how the objectives are achieved. In terms of overall understanding of the main purposes of the NNI Policy, community consultation participants had mixed views, including the following:

- In three of the seven communities, the majority of participants indicated they were not familiar with the NNI Policy at all. A lack of familiarity with the NNI Policy itself tended to be more prevalent in the smaller communities;
- Some interviewees indicated that while they understand the intent of the NNI Policy, it is not always clear how the NNI Policy is practically applied when evaluating bids or proposals; and
- A small number of stakeholders reported that the NNI Policy is too complex to clearly provide incentives that are fully understood.

With respect to communicating the specific objectives of the policy, the Project Team heard mixed expectations, including the following:

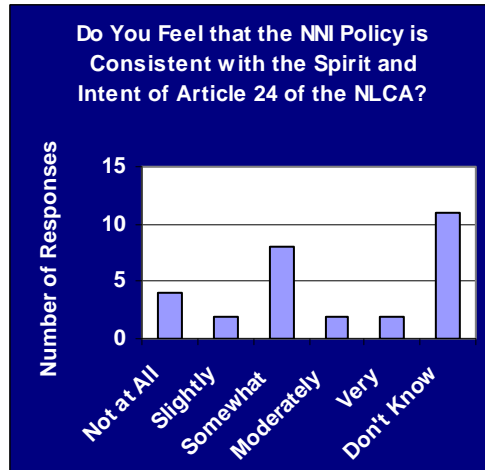
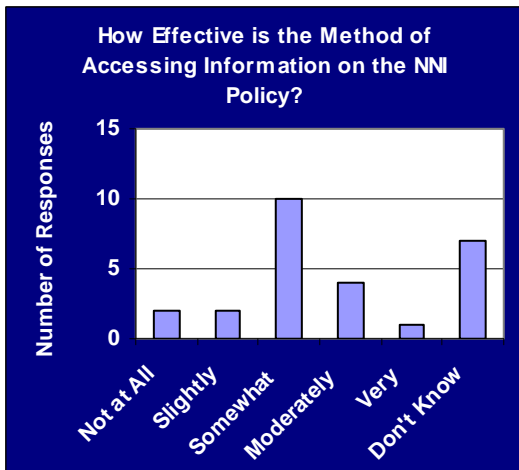
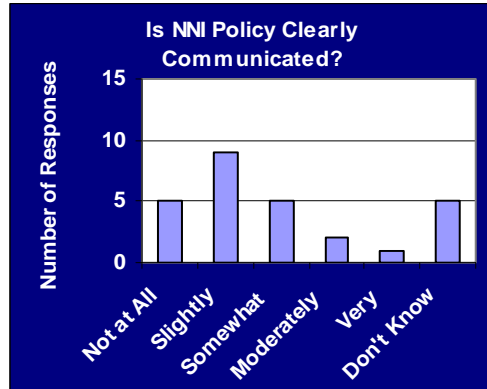
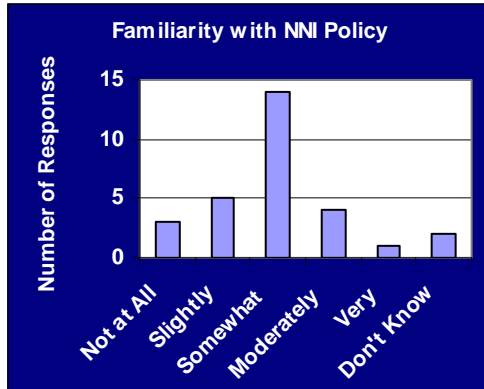
- The purpose of the NNI Policy is to protect Northern companies given the higher cost of doing business in Nunavut;
- The NNI Policy is used by the GN to help Inuit and Inuit firms get Government contracts; and
- The purpose of the NNI Policy is to enable Inuit and Northern businesses to be more competitive in their pricing (to 'level the playing field' with other competitors).

There was also a lack of familiarity with specific elements of the NNI Policy. For example, participants in the community consultations who owned and operated small-sized businesses were not familiar with the bonus and penalty system, whereas individuals who worked in large-scale operations were. The majority of businesses did not know if they were eligible for bonuses or how penalties were applied to their individual contracts. It is important to note that a substantial amount of bonuses and penalties were in fact applied. Moreover, as bonuses and penalties are only applicable on construction contracts, it would seem likely that many of the businesses who were not aware of bonuses and penalties were not eligible for them.

Another example of a lack of understanding is that numerous business owners reported that one of the main challenges associated with qualifying as a GN supplier is a requirement to carry an inventory. They reported that for many Inuit firms, carrying a significant amount of inventory is not realistic, especially due to the high cost of shipping and storing materials in the North. However, carrying an inventory is not a requirement. The misunderstanding that carrying an inventory was a requirement may therefore have dissuaded some firms from registering as a Nunavut-based business.

The lack of familiarity with the policy is further confirmed by the responses to the survey of Senior Administrative Officers, Economic Development Officers and Community Liaison Officers conducted by PwC as part of this study and presented in the following charts. Very few respondents indicated a high degree of familiarity with the NNI Policy, or a belief that it was clearly communicated and accessible. Similarly, a high percentage of respondents indicated that they were unaware if the NNI Policy was consistent with the spirit and intent of the NLCA.





The Government of Nunavut applies a strict set of criteria when determining “good value” or “best value”. “Best value” or the proposal that demonstrates the best potential value is determined using scoring criteria employed within the competitive proposal process. All relevant factors (rating criteria) are scored using a rating legend provided in the Request for Proposals document. This rating legend allows the GN to take into account not only cost, but other factors such as proposed methodologies, qualifications and experience, in the decision to award contracts. Using this type of evaluation criteria allows the GN to score proposals based on the highest probability of success and/or judgments about what potential proponent will provide the best value or quality of service. Hence, the GN adheres to the commonly used terms of “good value” and “fair competition” as understood within the practice of contracting and procurement.

However, business representatives, existing and potential employees, contractors and the general public are not necessarily familiar with how these terms are practically employed when evaluating a bid or proposal. The terms “good value” and “fair competition” mean different things to different people. It is not generally understood by businesses and members of the general public how the GN defines and seeks to achieve the principles of “good value” and “fair competition”. Consequently, representatives of business and the public have expressed concern over how this is ensured. This is one of the many areas where a lack of understanding of contracting policy within the business and general community contribute to a misunderstanding of how the objectives of the policy are in fact being met. While the general public can never

be expected to fully understand the intricacies and legalities of public procurement, widespread misperceptions necessarily make it challenging for the general public to fully understand if NNI Policy objectives are being met successfully. Continuing education on the NNI Policy will serve to mitigate and alleviate this issue.

It is important to note that while the evaluation methodology provides a basis for assessing “good value”, many interviewees, including some GN officials, indicated that they felt the application of the NNI Policy during the public procurement process is basically ‘too complex’ for many business people to understand thoroughly. It was also communicated to the Project Team that some interviewees were unsure of where they should go for assistance with interpreting the language and requirements of the NNI Policy.

With respect to improving the public’s understanding of NNI Policy, participants indicated that the GN should provide workshops for businesses, contracting officers and other Government employees on a regular basis. It was emphasized that education on the NNI Policy needs to be provided on a continual basis. In an effort to respond to this issue, CGS, the NNIS and NTI have worked together to draft and issue an ‘Interpretive Bulletin’ to “...facilitate consistent application of the bid adjustments across all organizations responsible for applying the NNI Policy in their contracting activities throughout Nunavut.”<sup>30</sup> The bulletin provides examples to demonstrate how adjustments are to be applied in different contracting situations. Additionally, an explanation for evaluating Inuit Content in applicable proposals is also provided. A 1-800 number is also being publicized to provide answers for questions on the NNI Policy.

It was acknowledged that the recent development and deployment of the NNI Interpretive Bulletin should help to make the NNI Policy more clear. It was noted by the majority of participants in one of the community consultations that there has been considerably more information available on NNI Policy over the past six to 12 months than there has been in the past. Nevertheless, the bid adjustment methodology remains complex and presents a challenge for businesses to fully understand. This is a challenge for which there is not an easy solution; preparing bids is a complex process, and the process related to bid adjustments can only be simplified so much.

Some participants indicated that there is insufficient information on the outcomes of the NNI Policy. There have been significant advances in the collection and assembly of information on the extent to which Inuit and Nunavut firms are being awarded GN contracts and the employment of Inuit on GN contracts. However there are areas where data is not available. For example, there is no data on actual contract spending on Inuit and Nunavut firms (i.e. there is only spending on the initial award values), nor is their data on the impact on and performance of Inuit and Nunavut firms more generally. Data is also not available on the extent, nature, quality and success of training programs. There is also no data on Inuit and Nunavut firms overall. Consequently, several participants expressed a lack of understanding of the available statistics to appreciate impacts of the NNI Policy.

---

<sup>30</sup> NNI Interpretive Bulletin 1, Government of Nunavut, Community and Government Services, March 23, 2009. Pg. 1.

**Language is a Barrier**

Participants in some of the smaller community consultations indicated that language is a significant barrier facing unilingual business owners in Nunavut. Similarly, even individuals who speak English have experienced difficulty interpreting/understanding the requirements of the NNI Policy. While the bulk of NNI Policy-related materials are translated, there are difficulties associated with interpreting some of the more complex concepts contained within the NNI Policy. In order to address this issue, the NNIS has hired an individual to assist Inuit, Nunavut-based and Local firms with NNI Policy specific concerns and questions, in Inuktitut or English. As well, English speaking staff have been taking Inuktitut language courses.

According to the funding agreements between the Government of Nunavut and the Nunavut municipalities under which financing is provided to hire the Economic Development Officers (EDOs), one of the conditions for hiring the EDOs is that they will support the “*implementation and monitoring of the NNI Policy*”. It was mentioned in one community that the EDO has made a significant effort to assist both unilingual and bilingual business owners in understanding the NNI Policy as well as helping them develop their responses to RFPs and tenders. However, it was noted that this is a significant undertaking, and it is increasingly difficult for an EDO to assist community members with the interpretation and requirements of the NNI Policy, given their substantial workload. There may be a need to define what is meant by “support the implementation and monitoring of the NNI Policy” to ensure that EDOs are able to provide the necessary support and meet their other obligations.

**Uneven Application of the NNI Policy across Government Departments**

The majority of community consultation participants in two communities expressed that the NNI Policy in its current form is too open to interpretation. In their opinion, this has resulted in the NNI Policy being applied differently depending on the type of contract being pursued and what particular GN department is evaluating the bids. It was noted by several interviewees that while CGS may have a thorough understanding of the NNI Policy, the individuals letting contracts within departments may not.

Some GN staff believed that it was possible that any inconsistencies in the application of the NNI Policy could be the result of discrepancies at the regional level. CGS does provide training to all departments on a number of contracting and procurement related issues (including the NNI Policy) during meetings with Senior Managers as well as during bi-annual training of Senior Managers that takes place in Iqaluit. However, it was also noted that this is just one small element of training, and greater depth and frequency of coverage of the NNI Policy specifically (due to staff turnover) could help to better raise awareness within the communities.



**Lack of Training on How to Compete for Government Contracts**

The majority of community consultation participants believe there is not enough being done by the GN to train Inuit and Nunavut-based businesses to compete for and win contracts. Similarly, respondents to the SAO/EDO/CLO survey were more likely to

respond that they thought training was more insufficient than sufficient. It is believed that these types of training initiatives would significantly increase the ability of firms to pursue Government contracts. It was further noted that there is a lack of assistance for those firms looking for advice on how to best formulate their responses to opportunities with the GN. Participants are not seeking direction on specific RFPs, but rather general guidance on proposal preparation. Additionally, it was also mentioned that an increased focus on trades' promotion (as an occupation) would help to expand the pool of resources currently available to businesses existing and operating in Nunavut, thereby increasing their ability to win GN contracts.

GN officials noted that there have been increased training efforts undertaken in the previous year as compared to past years. It was noted that the training programs that had been offered to potential bidders in the past had experienced low attendance. It was not clear if this was due to lack of interest, advertising, timing or content. The NNIS has recently canvassed all of the businesses in Nunavut to solicit input as to what types of training businesses would be most interested in.

### **Shortage of Job-Specific/Trades Training Opportunities**

GN officials commented that there is currently no mechanism within the NNI Policy that allows for the NNIS to assess the quality of proposed training plans included within contracting bids. Similarly, it was noted that while different Contracting Authorities also lack the capacity to evaluate training plans, they are responsible for monitoring whether or not the agreed training was delivered. It was noted that there are representatives from both Nunavut Arctic College and the GN's Department of Education on the RC to ensure that training components and considerations are appropriately integrated into the NNI Policy, but that this expertise is not leveraged regularly.

The majority of community consultation interviewees indicated that an increased focus on trades would help to expand the pool of resources currently available to businesses operating in Nunavut. Participants also mentioned that since the timeframes of GN contracts are often so short that it is very difficult to sustain any type of effective on-the-job training. Due to the relatively short timeframes of certain projects in the North, the schedule does not allow for a prolonged investment in focused training.

There were diverging views on the desire for the government's role in training. Many interviewees indicated that the government's role in training should be limited to preparing students to enter the labour force and that the private sector should provide job-specific training. However, many community consultation participants, including representatives of the private sector, indicated that they thought the government should provide trade-related training that ultimately would enable more Inuit to be trained and employed as contract workers in Nunavut. For example, there appears to be a strong demand for trade schools across Nunavut. While investments are being made in trade schools (e.g. a new trade school is being established in Rankin Inlet), demand also exists in other communities.

### **Poor Advertisement of GN Contracting Opportunities**

Views on the advertisement of GN contracting opportunities were mixed and included the following:

- Slightly over half of the community consultation participants indicated that there are difficulties associated with a lack of awareness of GN contracting opportunities;
- Participants in the smaller communities expressed that a lack of awareness is a distinct problem for them. Oftentimes RFPs or tenders are advertised in the newspapers, in many cases reaching the smaller, more remote communities significantly later than the regional hubs or the South. This has sometimes resulted in it being too late for local firms to enter a bid on these projects. It should be noted that the GN has recently taken steps to significantly increase access to government tenders and Requests for Proposals, both of which can be directly downloaded from <http://www.nunavuttenders.ca/>. Consequently, in communities where delayed notice through newspapers is common, proactive regular checking of the website may be more important;
- Participants in the larger communities indicated that contracting opportunities are for the most part adequately advertised;
- Some individual businesses added that there can be issues associated with the amount of time available between becoming aware of an opportunity (<http://www.nunavuttenders.ca/>) and the bid being due; and
- Several community consultation participants reported that they believed there have been cases where invitations to bid were sent only to Southern firms, based on a presumption that only firms from the South had the requisite experience and skill set to bid. There were concerns expressed that the Government may not have knowledge or be aware of existing or newly develop local/Inuit capacity to meet specific contracting requirements. It is important to note that when people expressed these concerns, they also indicated that they did not believe they could report this concern to an independent and unbiased source. They felt that if they complained to the Contracting Authority, or the GN more generally, there would be negative consequences for them. As a result, there is no database that contains this information. While the evidence is anecdotal, it is an important issue to raise. The fact that evidence is anecdotal is a result of the factors noted above, not an indication that the concern cannot be substantiated. There is neither evidence to prove nor disprove these claims. However, these concerns did exist and with sufficient frequency, that they merit consideration.

### **Reflections on Training Recommendations from 2003 Comprehensive Review**

It is noted by the NNIS that there is no system in place to inform them of key issues, such as: which GN contracts include training components; what training is/was provided; and how successful/effective the training was. The GN interviewee reflections on recommendations made in the 2003 First Comprehensive Review.

- Recommendation #20: Apprenticeship Wages Rebate
  - There are programs run by both the Aboriginal Human Resource Development Agreement and the Department of Education that provide apprenticeship and training wage subsidies.
- Recommendation #21: Inuit Training Plans within Contracts
  - This has been mandated.
- Recommendation #22: Training as part of Maintenance Contracts
  - This has been mandated.

- Recommendation #23: Training in the Communities
  - This has been attempted with the Cape Dorset School Pilot Project, but Capital Planning changes have interfered with its effective implementation.
  
- Recommendation #24: List of Available Human Resources in Each Community
  - This has been mandated. The Department of Education does maintain a database that lists trade skills by community, however, this database does require a considerable amount of resources to maintain, and is currently under development.
  
- Recommendation #25: Trades in the Schools
  - Status is unclear.
  
- Recommendation #26: Apprenticeship Program Review
  - Status is unclear.
  
- Recommendation #27: Supporting People Being Trained
  - There seems to be a perception in Nunavut that it requires more attention.

#### **4.1.5 Overall Assessment and Suggested Action Items**

At this point in time, there appear to be key areas where a lack of awareness or education is inhibiting the achievement of the full benefits of the NNI Policy. Much of the problem may be related to a lack of understanding within the general public, rather than to a failure in the NNI Policy itself. For example, many people do not appreciate how “good value” is determined when selecting proponents. Similarly, some businesses mistakenly believe that the purpose of the NNI Policy is to protect Nunavut businesses; they fail to understand that the purpose of the NNI Policy is to “level the playing field”.

As was stated by one of the Review participants: “The key to the success of the NNI Policy is education”. This includes education and training on the NNI Policy itself, as well as education and training on contracting and procurement activities with the Government of Nunavut.

##### **Awareness and Education 1: Increase Frequency of Workshops in the Communities**

While alternative training methods and materials are important in improving overall awareness and education of the NNI Policy, the provision of workshops to business owners in the communities remains the preferred method of promoting NNI Policy. It is suggested that the NNIS continue to pursue initiatives similar to ‘Next Steps’ as a way to actively engage the public in the application of the NNI Policy in Nunavut. The provision of this type of ‘in-person’ training allows Nunavummiut the opportunity to ask questions that may be unique to their individual business as well as provide feedback to the NNIS personnel on what they feel is working well and what they may feel requires improvement. It was communicated to the Project Team that these types of initiatives are best coordinated with SAOs, EDOs and CLOs in the communities as they are well

positioned to promote the sessions and ensure that those who would benefit most from the NNI Policy are in attendance.

While there appeared to be widespread support for more education and training, it was noted that attendance at contract training sessions offered by the GN was often quite low. It would also be important to better understand why attendance is often low so that scarce training resources can be allocated more appropriately.

**Awareness and Education 2: Promote Existing Forums where Individuals can Anonymously Identify Concerns with the Implementation of the NNI Policy**

During the course of the Review, people expressed concern related to the level of comfort with voicing issues having to do with the application of NNI Policy. There is a website (<http://nni.gov.nu.ca/home>) where people can register complaints in an anonymous fashion, but people at the consultations did not mention this as an avenue for which they could safely voice their concern. Consequently, it may be valuable to better promote this website.

**Awareness and Education 3: Make Additional Information Available on the Implementation and Effects of the NNI Policy for the Public**

The annual Contract Activity reports provide summary statistics on contracts, but they are very detailed and in many cases it is difficult to identify high-level findings and trends. Moreover, the annual reports do not include information on a host of critical factors, such as: the impacts of the NNI Policy on the capacity of Inuit/Local/Nunavut firms; activities undertaken in support of the policy in terms of education and training workshops; and successes in skills development. Throughout this document, suggestions have been offered on the need for more information. Consideration should be given on how to communicate this additional information to the public, once it has been gathered.

**Awareness and Education 4: Enhance Awareness and Training for Contracting Authorities and Other Government Stakeholders in all Regions to ensure the Application of the NNI Policy**

Due to the fact that there were significant concerns expressed regarding the consistent application of the NNI Policy across departments and regions, it is suggested that the GN develop and implement a standardized training course for all GN and municipal Contracting Authorities, as well as other stakeholders that influence contracts. It is important that this training be offered annually or semi-annually in order to address any changes to the NNI Policy as well as to familiarize new GN contracting and procurement staff with the NNI Policy and its application.

**Awareness and Education 5: Communicate to Firms the Importance of Checking the Tender Website Regularly.** A key concern, raised more commonly in the smaller communities, was that businesses learned of opportunities late, due to delays in receiving newspapers. Promoting the idea of checking the tender website more regularly may help firms to better mitigate challenges associated with delays in receiving newspapers.

**Awareness and Education 6: Clarify role of EDOs.** According to the funding agreements between the Government of Nunavut and the Nunavut municipalities under which financing is provided to hire the EDOs, one of the conditions for hiring is that they will support the *“implementation and monitoring of the NNI Policy”*. There are clearly

many stakeholders including municipalities, regional GN staff and business, that could benefit from assistance in regards to the NNI Policy. There may be a need to define what is meant by “support the implementation and monitoring of the NNI Policy” to ensure that EDOs are able to provide the necessary support and meet their other obligations. This is particularly important given the fact that there is often high turnover in this job category.

## 4.2 The Inuit Firm and Nunavut Business Registries

### 4.2.1 Requirements within the NNI Policy and Article 24 of the NLCA

Section 11.0 of the NNI Policy (Evaluation Process and Bid Adjustment for the award of Tenders), sub-section 11.1. (d) states:

*All Tenders meeting the requirements of 11.1(a), and where applicable (b), shall then be adjusted based upon Nunavut Business status, Inuit Firm status, and Local business status of the general contractor, subcontractors, and suppliers including the labour component;<sup>31</sup>*

The eligibility of an individual firm to be registered to the NTI Inuit Firm Registry<sup>32</sup> is characterized by its ability to align with definitions outlined in Appendix A of the NNI Policy. These definitions are provided below:

*Inuit Firm – an entity which complies with the legal requirements to carry on business in the Nunavut Settlement Area and which is*

- i. a limited company with at least 51 percent of the company’s voting share beneficially owned by Inuit, or*
- ii. a cooperative controlled by Inuit, or*
- iii. an Inuk sole proprietorship or partnership;<sup>33</sup> and*
- iv. able to present evidence of inclusion on NTI’s Inuit Firm Registry<sup>34</sup>*

*Nunavut Business – a business which complies with the legal requirements to carry on business in Nunavut, and meets the following criteria:*

- i. is a limited company with at least 51 percent of the company’s voting shares beneficially owned by Nunavut Residents, or*

---

<sup>31</sup> GN/NTI NNI Review Committee, Nunavummi Nangminiaqtunik Ikajuuti (NNI Policy), April 20, 2006, pg. 4.

<sup>32</sup> During the course of this review, it became apparent that sometimes the term “Registry” is used and sometimes the term “Directory” is used. A recommendation of this Review is that only the term Registry be used, for two reasons. First, the current Interpretive Bulletin uses the term Registry. Second, the term “directory” simply means a listing of individuals or entities. Conversely, the term “registry” means an official list where the entities or individuals on the list are eligible for certain privileges.

<sup>33</sup> Agreement Between the Inuit of the Nunavut Settlement Area and Her Majesty the Queen in Right of Canada, Article 24, Government Contracts, Part 7: List of Inuit Firms, 24.7.1, pg. 201.

<sup>34</sup> GN/NTI NNI Review Committee, Nunavummi Nangminiaqtunik Ikajuuti (NNI Policy), April 20, 2006, Appendix A: Definitions, pg. 2



- ii. *is a cooperative with at least 51 percent of the Resident's voting shares beneficially owned by Nunavut, or*
- iii. *is a sole proprietorship, the proprietor of which is a Nunavut Resident, or*
- iv. *is a partnership, the majority interest in which is owned by Nunavut Residents and in which the majority benefits, under the partnership agreement, accrue to Nunavut residents and complies with:*
  - i. *maintains a registered office in Nunavut by leasing or owning office, commercial or industrial space or in the case of a service oriented businesses, residential space, in Nunavut on an annual basis for the primary purpose of operating the subject business, and*
  - ii. *maintains a Resident Manager, and*
  - iii. *undertakes the majority of its management and administrative functions related to its Nunavut operations in Nunavut, and*
  - iv. *has received designation as a Nunavut Business at least two weeks prior to the Tender or RFP closing.<sup>35</sup>*

*Local Business – a Nunavut Business which has been resident in the Subject Community for the four months prior to the application and in addition complies with the following criteria:*

- i. *maintains an approved place of business by leasing or owning office, commercial or industrial space or where applicable, residential space, in the community on a year-round basis for the primary purpose of operating the subject business; and*
- ii. *maintains a Local Resident Manager; and*
- iii. *undertakes in the Subject Community the majority of its management and administrative functions related to its operations in the Subject Community; and*
- iv. *has applied for and received designation as a Local Business at least two weeks prior to the Tender or RFP closing;*
- v. *or is an approved Inuit firm included on the Inuit Firm Registry and is local to the Subject Community.<sup>36</sup>*

Inuit Firm status is indicated by a firm's inclusion on the NTI Inuit Firm Registry while Nunavut-based Business status is determined by a firm's inclusion on the Nunavut Business Registry that is maintained by the NNIS.

---

<sup>35</sup> *ibid.* pg. 4.

<sup>36</sup> *ibid.* pg. 3.

## 4.2.2 Profile of NNI Business and Inuit Firm Registries

### The NTI Inuit Firm Registry

The Inuit Firm Registry is administered and maintained by NTI. The Economic and Business Development Department of NTI maintains this list as mandated by Article 24 of the NLCA.<sup>37</sup> Part Seven, List of Inuit Firms states:

*The DIO shall prepare and maintain a comprehensive list of Inuit firms, together with information on the goods and services which they would be in a position to furnish in relation to government contracts. This list shall be considered by the Government of Canada and Territorial Government in meeting their obligations under this Article.<sup>38</sup>*

The Inuit Firm list directly corresponds to part iv of the definition of an Inuit firm outlined in Appendix A of the NNI Policy. As stated above, the main purpose of the Inuit Firm Registry is to assist with the implementation of Article 24 of the NLCA. Additionally, the mandate of the Inuit Firm Registry Database as stated on their website is to:

- Maintain and promote the Inuit Firm Registry;
- Assert Inuit Economic Rights and Benefits; and
- Support Inuit in developing the Nunavut Economy.<sup>39</sup>

Once a firm is confirmed as having Inuit Firm status by the Business and Economic Development Department of NTI, they are issued a Certificate and the name, location, contact information and goods and/or service sector of the firm is listed on the Inuit Firm Registry Database website ([www.inuitfirm.com](http://www.inuitfirm.com)). First applications to the Inuit Firm Registry were accepted in 1994, with 140 Inuit firms registered by November of 1996. As of June 2, 2009, there were 240 firms in the Inuit Firm Registry.

In order to maintain its place in the Inuit Firm Registry, a business must complete an Annual Business Update Form.

This form requests the following information:

1. Inuit Firm Registry Certificate Number;
2. Date Certificate Issued;
3. Region;
4. Business Name;
5. 'Operating As' (if different from Business Name);
6. Type of Business (Sole Proprietorship, Partnership, Limited/Incorporated, or Co-operative);
7. Name and Title of Primary Contact;
8. Is the business still in operation (Yes or No)? If 'No', on what date did the business cease operations?;
9. Is the following contact information up-to-date (PO Box, Telephone, Fax, E-mail)?;

---

<sup>37</sup> Inuit Firm Registry Database (IFRD), Benefits of Registration, [www.inuitfirm.com/public/benefits.html](http://www.inuitfirm.com/public/benefits.html)

<sup>38</sup> Agreement Between the Inuit of the Nunavut Settlement Area and Her Majesty the Queen in Right of Canada, Article 24, Government Contracts, Part 7: List of Inuit Firms, 24.7.1, pg. 201.

<sup>39</sup> Inuit Firm Registry Database (IFRD), Welcome to the Inuit Firm Registry Database (IFRD), [www.inuitfirm.com/public/index.html](http://www.inuitfirm.com/public/index.html).

10. Does your business have any new shareholders, partners or members (Yes or No)? If 'Yes', on a separate sheet, please provide the names of these shareholders, partners or members and if these are individuals, please indicate whether they are enrolled as beneficiaries under the Nunavut Land Claims Agreement;
11. Has the number of shares issued changed in the last twelve months (Yes or No)? If 'Yes', please attach all legal documentation and corporate documents pertaining to the change; and
12. Has the ownership of issued shares changed in the last twelve months (Yes or No)? If 'Yes', please attach all legal documentation and corporate documents pertaining to the change.<sup>40</sup>

Once complete, the business is required to certify their information by signing the renewal form and submitting it to a Business Development Officer at NTI. It should be noted that failure to complete the form and provide accompanying information in a timely manner may result in Inuit firm status being revoked. Additionally, it is also stated on the form that misrepresentation of any information may also result in Inuit firm status being revoked and the possibility of future applications being delayed or denied.<sup>41</sup> If questions exist surrounding the legitimacy of a firm's claim of Inuit status, the details of their application are submitted to NTI's Legal Department they strive to ensure the validity of their submission.

Finally, included on the Inuit Firm Registry Database website is a section outlining the benefits associated with registration. As previously stated, the intent of Article 24 of the NLCA is to provide guiding principles to enable the Federal and Territorial governments to improve the participation of Inuit firms in the economy of Nunavut, improve the capacity of Inuit firms to compete for government contracts, and secure the employment of Inuit at a representative level in the Nunavut work force. The Inuit Firm Registry website further explains that the list is used as a tool to assist the Government of Canada and the Government of Nunavut in meeting these aforementioned goals. The NNI Policy uses the firms listed in the Registry as the basis for the application of the 7% bid adjustment when awarding tenders and Requests for Proposals.<sup>42</sup>

### **The NNI Nunavut Business Registry**

The NNIS is mandated to administer and maintain the Nunavut Business Registry. As such, the NNIS maintains and enters all data and updates relating to approved Nunavut businesses on the NNI Business Registry. This registry is maintained through the NNI website and changes are made as required.<sup>43</sup>

During Nunavut's initial years as a Territory, businesses frequently appeared and disappeared. In order to more closely manage within the constantly changing business environment during the development of the NNI Policy, the current process of registration and annual renewal was put in place to ensure businesses were accurately representing themselves when applying for preferential bid adjustments under the NNI Policy.

---

<sup>40</sup> Nunavut Tunngavik Incorporated, Inuit Firm Registry, 2009 Annual Business Update Form.

<sup>41</sup> *ibid.*

<sup>42</sup> Inuit Firm Registry Database (IFRD), Benefits of Registration, [www.inuitfirm.com/public/benefits.html](http://www.inuitfirm.com/public/benefits.html)

<sup>43</sup> NNI Policy Procedures, Section 1: NNI Responsibilities

The Draft NNI Operations Manual outlines the steps necessary to register an individual business with the NNIS. There four main steps are:

1. Ensure your business is eligible;
2. Acquire and complete the NNI application form;
3. Attach copies (originals are not necessary) of required supporting documentation; and
4. Submit completed paperwork to the applicable Regional Qualification Committee.

The following table summarizes the documents required to support applications by firms wanting to initiate or renew their status as a Nunavut-based business.

Required Supporting Documentation	
For ALL Businesses:	
1	<b>Certificate of Compliance</b> indicating the business account number issued by the Nunavut Worker's Compensation Board
2	<b>Business License</b> issued by a Nunavut Community or where applicable the Government of Nunavut
3	<b>Nunavut Health Care Card(s)</b> of majority owner(s) issued by Government of Nunavut, Department of Health and Social Services
4	<b>Nunavut Health Care Card</b> of Resident Manager
5	<b>List of Goods and/or Services Provided</b> describes the categories of goods and services provided and will be used when entering the approved businesses on the electronic NNI Business Registry
6	<b>Standards</b> if a business is specialized or is required to meet Federal or Territorial standards
For a Sole Proprietorship	
1	Certified copy of a Declaration <b>Use of Business Name</b> issued by the Government of Nunavut, Department of Justice, Nunavut Legal Registries
For a Partnership	
1	Certified copy of a <b>Declaration of Partnership</b> issued by the Government of Nunavut, Department of Justice, Nunavut Legal Registries
For an Incorporated Business	
1	<b>Certificate of Compliance</b> (Annual Filings)
2	<b>Certificate of Incorporation</b> (Newly Incorporated Business)
3	<b>Certificate of Status</b> (Extra-Territorial) issues by the Government of Nunavut, Department of Justice, Nunavut Legal Registries
4	<b>Shareholder Registration</b> maintained at the Records Office of the Corporation
5	<b>Extra-Territorial Certificate of Incorporation</b> only for businesses that have been incorporated in a jurisdiction other than Nunavut (provide only once)
6	<b>Declaration as to Use of Business Name</b> only for businesses operating under a name (trade name) other than the parent name of the incorporated company (provide only once)
For Co-operative Associations	
1	<b>Letter of Compliance</b> issued by the Government of Nunavut, Department of Economic Development and Transportation

Source: NNI Operations Manual (Draft), Version 1.0

The Definition of a Nunavut Business is defined in the NNI Policy as follows:  
business in Nunavut, and meets the following criteria:

- i. is a limited company with at least 51 percent of the company's voting shares beneficially owned by Nunavut Residents, or*
- ii. is a co-operative with at least 51 percent of the Residents' voting shares beneficially owned by Nunavut, or*
- iii. is a sole proprietorship, the proprietor of which is a Nunavut Resident, or*
- iv. is a partnership, the majority interest in which is owned by Nunavut Residents and in which the majority benefits, under the partnership agreement, accrue to Nunavut Residents and complies with:*
  - i. maintains a registered office in Nunavut by leasing or owning office, commercial or industrial space or in the case of service oriented businesses, residential space, in Nunavut on an annual basis for the primary purpose of operating the subject business, and*
  - ii. maintains a Resident Manager, and*
  - iii. undertakes the majority of its management and administrative functions related to its Nunavut operations in Nunavut, and*
  - iv. has received designation as a Nunavut Business at least two weeks prior to the Tender or RFP closing.*

Furthermore, the NNI Policy defines a Nunavut Resident – as a person who:

- i. is on the NTI Inuit Enrollment List; or has spent the last twelve months ordinarily resident in Nunavut, and*
- ii. has a valid Nunavut Healthcare Card and/or other accepted proof of residency such a Nunavut General Hunting License, a Nunavut Driver's License, a lease or rental receipt, and provides a physical address where residing.*

It is worthwhile noting that changes to this definition are currently being considered, building on considerations in the NNI Draft Operations Manual.<sup>44</sup>

In summary, considerable effort is made to validate the legitimacy of the application. However, it is important to note that the NNIS operates in good faith and relies on the documents provided by the clients.

### **4.2.3 Findings from Previous Reviews and/or Reports**

#### **2001 Annual Review**

While the 2001 Annual Review did not explicitly deal with the NTI Inuit Firm Registry or the NNI Business Registry, it did touch on a number of areas influencing the composition and interpretation of these lists.

The Review noted that companies that were neither NTI-registered Inuit firms nor NNI-registered Nunavut firms had won contracts through the application of bid adjustments. Where these firms had subcontracted work to Inuit and/or Nunavut firms or supplied Inuit and/or Nunavut labour, the bid adjustment was applied to the dollar amount of Inuit, Nunavut and/or Local content in the bid.<sup>45</sup>

---

<sup>44</sup> NNI Operations Manual (Draft, Version 1.0), Section B: How to Register a Business with NNI.

<sup>45</sup> GN/NTI NNI Policy Review Committee, February 2002. Nunavummi Nangminiqaqtunik Ikajuuti (NNI Policy), 2000-01 Annual Review, pg. 17.

While there are lists of Inuit and Nunavut-based firms, there is no listing of firms that are considered “local.” It was stated that the NNI Policy only provides the bid adjustment if the company is listed on the NNI Nunavut Business Registry and is local to the community where the work is to be carried out. However, Public Works and Services (PWS) indicated that the adjustment should be provided to either a registered Nunavut-based firm or a registered Inuit firm as long as the company in question is registered in the community where the work is being carried out. The local adjustment is not provided to firms that are not registered with either the GN or NTI.<sup>46</sup>

In terms of clarification, the 2001 Annual Review report indicated that the meaning of “Local Business” and “Nunavut resident” required further explanation within the context of the NNI Policy.<sup>47</sup> Finally, Recommendation #14, entitled “Interpretation” provided suggested improvements for mitigating the potential misunderstanding that could arise as a result of misinterpreting the above terms. For example, it was suggested that “Nunavut Resident” should be clarified to mean that, in order to be classified as a “Nunavut Resident”, a person must meet the requirements regardless of whether they are Inuit or not.<sup>48</sup>

### **2003 First Comprehensive Review**

The 2003 Review Report stated that the RC agreed that the bid adjustment must be based on criteria that are clearly understood and fairly applied, as in some cases the nature of the criteria and the manner in which they were applied was not clear to all GN or NTI officials, potential applicants or the general public.<sup>49</sup> It became apparent during this review that it was important that both NTI and the GN make clear how Inuit or Nunavut firm status is determined and ensure that the firms in each of the lists sufficiently satisfied the registry requirements. In this respect, the report recommended (Recommendation #3, NNI Nunavut Firm Registry and Inuit Firms Registry) that the RC examine all of the registered Nunavut businesses and Inuit firms to ensure the validity of their status. Additionally, it was recommended that the RC take steps to make certain that the registration criteria are clearly understood and establish a mechanism to identify firms that may not be correctly registered. It was further recommended these firms be alerted to issues with their status, providing them with the opportunity to respond prior to any decision impacting their inclusion or removal from the lists.<sup>50</sup>

---

<sup>46</sup> *ibid.* pg. 21.

<sup>47</sup> *ibid.* pg. 31.

<sup>48</sup> *ibid.* pg. 36.

<sup>49</sup> Nunavummi Nangminiaqqtunik Ikajuuti NNI Policy, First Comprehensive Review, 2003, pg. 23.

<sup>50</sup> *ibid.*

#### **4.2.4 Findings from Consultations, Interviews and Surveys**

During six of the eight community consultations and most interviews, participants communicated that the NNI registration and renewal process is believed to be overly complicated and burdensome. More specifically, private firms believe that there are too many forms to fill out and submit when registering or renewing their business. This is made increasingly difficult if an individual owns multiple businesses that qualify as Nunavut-based.

##### **Concerns Have Been Raised About Eligibility Rules**

It was observed that some firms have misinterpreted the NNI Policy such that they assume they are on the NNI Business Registry if they have been accepted on the NTI Inuit Firm Registry. In recognition of this concern and in response to Recommendation #3 from the 2003 Comprehensive Review, the NNIS indicated that the Government of Nunavut now maintains a website with a full listing of the firms currently registered as Nunavut-based businesses ([www.nni.gov.nu.ca](http://www.nni.gov.nu.ca)).

Some of the individuals consulted during this project were not clear on whether or not office space and staff were necessary to ensure their acceptance as a Nunavut-based firm.

A majority of participants in the community consultations as well as some key stakeholders indicated that the existence of 'shell companies' is a significant concern. These are firms that are majority Inuit-owned or Nunavut-based (51% or over) but the management of these firms does not rest with Inuit beneficiaries with Nunavut residents. Similarly, there were significant concerns expressed regarding the fact that a large portion of the revenue and profits associated with the operation of these firms do not make it into the hands of their Inuit or Nunavummiut ownership<sup>51</sup>.

It is important to note that the definition of an Inuit firm is stipulated in the Nunavut Land Claim Agreement and NTI is required to observe this definition. Consequently, it is not currently within their ability to disallow Inuit firm status to any firm that meets the requirement as described in the NLCA. With respect to the NNI registry, the website ([www.nni.gov.nu.ca](http://www.nni.gov.nu.ca)) details the necessary requirements for eligibility and inclusion in the Registry. It was noted that in cases of complex ownership structures, it is decidedly more difficult for the NNIS to confirm the legitimacy/accuracy of a firm's claim of Nunavut status. Nevertheless, the NNIS strives to ensure that firms are accurately representing themselves when applying for or renewing their Nunavut-based firm status.

##### **Registration/Renewal Process Deters Some Firms from Taking Advantage of Bid Adjustments**

Many participants in the community consultations reported that the number and nature of the forms required for registration and renewal are sufficiently complicated such that they act as a barrier to Nunavut firms, especially smaller Nunavut firms who may not have the required administrative capacity to complete the paperwork. Additionally, some participants indicated that it was difficult to find individuals with an in-depth knowledge of the NNI Policy who were able to answer their questions and/or provide guidance in Inuktitut or Inuinnaqtun. As such, some of the participants had not applied for registration

---

<sup>51</sup> This concern was also identified in the Second Comprehensive Review of the Implementation of the Nunavut Land Claim Agreement.

or renewal on account of finding the process too daunting. The NNIS has recently filled its staffing complement and now is able to provide more education and awareness seminars, and respond to questions.

The NNIS appreciates the fact that applicants have experienced difficulty in the past obtaining information, clarification or confirmation, and has made a number of changes to address these concerns. The NNIS indicated that the Interpretive Bulletin is now available in both Inuktitut and Inuinnaqtun. It is expected that this should contribute to assisting all firms in better understanding the processes and benefits associated with the NNI Policy. Part of the challenge has been due to the high rate of turnover among the NNIS staff. It is only within the last year that the NNIS has been able to maintain a consistent staffing complement of three people (four since January 2009). Additionally, the NNIS explained that they have recently publicized a toll-free number that they believe will increase the likelihood that applicants and registered firms are able to attain the support and assistance they require. Finally, within the last year the NNIS has contacted every business on the registry to inform them of their status or any outstanding requirements necessary to fulfill their standing on the registry.

### **Difficulties in Obtaining Required Permits to Renew Registration**

One of the other issues raised during community consultations, was related to the supporting documentation required by the NNIS for the registration renewal of a Nunavut business. Most businesses indicated that the annual renewal process was sufficiently burdensome such that it acted as a deterrent to their maintaining their status. A key challenge noted was delays in obtaining evidence of the supporting requirements, because of delays in obtaining those documents. Interviewees noted that the majority of difficulties related to securing required supporting documentation were associated with attaining Local Business licenses. Hamlets/Municipalities are often backlogged or lack the necessary staff required to process license requests.

The NNIS explained that much of this supporting documentation is required by CGS when considering a firm's bid. Without this documentation, these firms cannot do business with the Government of Nunavut. Therefore, in addition to being required to certify their status on the Nunavut Business Registry, much (but not necessarily all) of this documentation is required to win contracts with the government.

Nevertheless, the challenges associated with acquiring permits have been recognized by the GN, and a number of solutions have been, or are being developed, such as:

- With respect to renewals, it was noted that firms can renew their Nunavut-based firm status at any point during the year; they do not have to wait until their status has expired. This provision should work to limit the number of firms that experience difficulty submitting their supporting documentation on time;
- The GN is currently working to streamline administrative processes; and
- GN officials explained that while they recognize and understand that companies consider registration/renewal to be time-consuming and cumbersome (specifically with respect to repeatedly producing supporting documentation), they have found that when provided with an explanation and justification for the process, businesses typically understand and accept the requirements. The Government of Nunavut must be cautious when granting status under the NNI Business Registry, specifically making certain that they are only validating those firms or businesses that can meet the required obligations.



NTI communicated to the Project Team that as a result of streamlining and simplifying their renewal process, this year they have experienced the highest rate of renewals in the history of the NTI Inuit Firm Registry. To improve this process further, NTI is examining ways in which the renewal process could be made more efficient.

#### 4.2.5 Overall Assessment and Suggested Actions Items

##### Registries 1:

The current definition of a 'Local Business' in the April 20, 2006 copy of the NNI Policy is as follows:

*Local Business – a Nunavut Business which has been resident in the Subject Community for the four months prior to the application and in addition complies with the following criteria:*

- i. maintains an approved place of business by leasing or owning office, commercial or industrial space or where applicable, residential space, in the community on a year-round basis for the primary purpose of operating the subject business, and*
- ii. maintains a Local Resident Manager, and*
- iii. undertakes in the Subject Community the majority of its management and administrative functions related to its operations in the Subject Community, and*
- iv. has applied for and received designation as a Local Business at least two weeks prior to the Tender or RFP closing.<sup>52</sup>*

It is proposed that the following changes (as indicated in bolded red text), be made:

*Local Business – a Nunavut Business which has been resident in the Subject Community for the four months prior to the application and in addition complies with the following criteria:*

- i. maintains an approved place of business by leasing or owning office, commercial or industrial space or where applicable, residential space, in the community on a year-round basis for the primary purpose of operating the subject business; and*
- ii. maintains a Local Resident Manager; and*
- iii. undertakes in the Subject Community the majority of its management and administrative functions related to its operations in the Subject Community; and*
- iv. has applied for and received designation as a **Nunavut** Business at least two weeks prior to the Tender or RFP closing;*
- v. or is an approved Inuit Firm included on the Inuit Firm Registry and is local to the Subject Community.***

<sup>52</sup> GN/NTI NNI Review Committee, Nunavummi Nangminiqagtunik Ikajuuti (NNI Policy), April 20, 2006, Appendix A: Definitions, pg. 3.

Similarly, there are a number of suggested changes to the definition of 'Nunavut Business'. The original definition as it appears in the 2006 version of the NNI Policy is as follows:

*Nunavut Business – a business which complies with the legal requirements to carry on business in Nunavut, and meets the following criteria:*

- i. is a limited company with at least 51 percent of the company's voting shares beneficially owned by Nunavut Residents, or*
- ii. is a cooperative with at least 51 percent of the Resident's voting shares beneficially owned by Nunavut, or*
- iii. is a sole proprietorship, the proprietor of which is a Nunavut Resident, or*
- iv. is a partnership, the majority interest in which is owned by Nunavut Residents and in which the majority benefits, under the partnership agreement, accrue to Nunavut residents and complies with:*
  - i. maintains a registered office in Nunavut by leasing or owning office, commercial or industrial space or in the case of a service oriented businesses, residential space, in Nunavut on an annual basis for the primary purpose of operating the subject business, and*
  - ii. maintains a Resident Manager, and*
  - iii. undertakes the majority of its management and administrative functions related to its Nunavut operations in Nunavut, and*
  - iv. has received designation as a Nunavut Business at least two weeks prior to the Tender or RFP closing.<sup>53</sup>*

The following bolded red text highlights the proposed changes:

*Nunavut Business – a business which complies with the legal requirements to carry on business in Nunavut **may qualify for inclusion in the NNI Business Registry if it meets the following criteria:***

- i. is a limited company with at least 51 percent of the company's voting shares **beneficially owned by Nunavut Residents or by other Nunavut Businesses; or***
- ii. is a cooperative with at least 51 percent of the Resident's voting shares beneficially owned by Nunavut **Residents; or***
- iii. is a sole proprietorship, the proprietor of which is a Nunavut Resident; or*
- iv. is a partnership, the majority interest in which is owned by Nunavut Residents **or by another Nunavut Business** and in which the majority benefits under the partnership agreement accrue to **the** Nunavut residents **or to the Nunavut Business;***
- v. **In addition to meeting at least one of the above ownership criterion, the business will also comply with requirements a through e listed below:***
  - a. maintains a registered office in Nunavut by leasing or owning office, commercial or industrial space or in the case of a service oriented businesses, residential space, in Nunavut on an annual basis for the primary purpose of operating the subject business; and*

<sup>53</sup> *ibid.* pg. 4.

- b. maintains a Resident Manager; and*
- c. undertakes the majority of its management and administrative functions related to its Nunavut operations in Nunavut; and*
- d. has received designation as a Nunavut Business at least two weeks prior to the Tender or RFP closing; and*
- e. is not a municipality or any business in which the Government of Nunavut maintains ownership or control.*

Finally, it is also suggested that the definition of a 'Local Supplier' also be clarified so as to avoid misinterpretation. The original definition is as follows:

*Local Supplier – a supplier of goods in the Subject Community, to whom the public has access and from whom the public may purchase directly from a Representative Inventory of items offered for sale. The supplier must be and must have been a Local Resident for the four months prior to application. The Government of Nunavut may recognize as a Local Supplier a business that does not “physically” carry in inventory specific goods due to factors such as high cost/low demand, made-to-order goods or articles of a nature that the Government is the sole requisitioner.*

The modified definition of 'Local Supplier' would appear as follows:

*Local Supplier – **a Nunavut Business that is** a supplier of goods in the Subject Community, to whom the public has access and from whom the public may purchase directly from a Representative Inventory of items offered for sale **or is an approved Inuit Firm included in the Inuit Firm Registry. To be a Local Supplier, the business** must be and must have been **supplying goods in the Subject Community** for the four months prior to the application. The Government of Nunavut may **approve** as a Local Supplier a business that does not “physically” carry **an** inventory **of** specific goods due to factors such as high cost/low demand, made-to-order goods or articles of a nature **where** the Government is the sole requisitioner.*

## **Registries 2: Develop System to Simplify NNI Business Registry Renewal Process**

The perceived complexity and/or burden of the registration and renewal process associated with the NNI Business Registry was consistently raised as a significant issue throughout the review process.

During discussions with the NNIS and NTI, it was noted that while IT solutions incorporating connected databases would be ideal, it is currently outside the capacity and reality of the GN. This type of 'one-window' approach, whereby all documents/certificates/registrations administered by the GN are maintained in a central system that could be accessed by authorized users would drastically streamline the NNI business renewal process. However, as is the case with Governments across Canada, numerous challenges related to resources, technical capacity and privacy considerations have meant that this is not a practical solution in the shorter term.

It was also suggested numerous times that the Secretariat adopt a similar renewal method to the process currently used by the Business and Economic Development Department of NTI (see previous section on the NTI Inuit Firm Registry). The current renewal process for Nunavut-based firms poses a greater burden than the process

presently in place for Inuit firms renewing with NTI. In this respect, it is suggested that the NNIS examine their renewal process and develop an updated practice.

### 4.3 Bid Adjustments

#### 4.3.1 Requirements within the NNI Policy and Article 24 of the NLCA

As per Sections 24.3.4, 24.3.6, 24.6.1, 24.6.2 and 24.9.2 of the NLCA, the GN is required to provide preferential procurement policies, procedures and approaches (including the setting of bid criteria) so as to improve the participation by and capacity of Inuit firms in competing for government contracts. Section 24.9.1 indicates that the objectives of Article 24 “*shall be achieved through the allocation or real-allocation of government expenditures without imposing additional financial obligations on the Government of Canada or the Territorial Government*”. These Sections are presented below so as to identify the specific wording of the legislation.

*24.3.4 Subject to Section 24.9.2, the Territorial Government shall maintain preferential procurement policies, procedures and approaches consistent with this Article for all Territorial Government contracts required in support of Territorial Government activities in the Nunavut Settlement Area. The Territorial Government will consult with the DIO when developing further modifications to its preferential policies, procedures and approaches in order that the provisions of this Article may be met.*

*24.3.6 Procurement policies and implementing measures shall reflect, to the extent possible, the following objectives:*

- (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.*

*24.6.1 Whenever practicable, and consistent with sound procurement management, and subject to Canada's international obligations, all of the following criteria, or as many as may be appropriate with respect to any particular contract, shall be included in the bid criteria established by the Government of Canada for the awarding of its government contracts in the Nunavut Settlement Area:*

- (a) the existence of head offices, administrative offices or other facilities in the Nunavut Settlement Area;*
- (b) the employment of Inuit labour, engagement of Inuit professional services, or use of suppliers that are Inuit or Inuit firms in carrying out the contracts; or*
- (c) the undertaking of commitments, under the contract, with respect to on-the job training or skills development for Inuit.*

*24.6.2 Whenever practicable and consistent with sound procurement management, and subject to Canada's international obligations, all of the following criteria, or as many as may be appropriate with respect to any particular contract, shall be included in the bid criteria established by the Territorial Government for the awarding of its government contracts in the Nunavut Settlement Area:*

- (a) the proximity of head offices, administrative offices or other facilities to the area where the contract will be carried out;*
- (b) the employment of Inuit labour, engagement of Inuit professional services, or use of suppliers that are Inuit or Inuit firms in carrying out the contract; or*
- (c) the undertaking of commitments, under the contract, with respect to on-the job training or skills development for Inuit.*

*24.9.2 The Territorial Government will carry out the terms of this Article through the application of Territorial Government preferential contracting policies, procedures and approaches intended to maximize local, regional and northern employment and business opportunities.*

Section 11.0 of the NNI Policy (Evaluation Process and Bid Adjustment for the award of Tenders), establishes the criteria for making bid adjustments.

*11.1 The evaluation process for the award of Tenders shall be as follows:*

- (a) All Tenders submitted should meet minimum contract requirements specified in the Request For Tender and should demonstrate a capability of carrying out the work;*
- (b) All Tenders with a labour component over \$300,000 must include a detailed training plan for Inuit workers. In the case of maintenance contracts, a training plan must be included where the contract cost is estimated to exceed \$250,000.00;*
- (c) All Requests for Tenders shall contain a provision that requires a general contractor to invite Nunavut, Inuit or Local Companies to bid on any subcontracts that will be entered into subsequent to the award of the main contract.*
- (d) All Tenders meeting the requirements of 11.1 (a), and where applicable (b), shall then be adjusted based upon Nunavut Business status, Inuit Firm status, and Local Business status of the general contractor, subcontractors, and suppliers, including the labour component;*
  - (i) for tenders including a labour component, the adjustments for the labour component shall be based on estimates of payroll expenditures made by the general contractor, subcontractors and suppliers, for Nunavut, Inuit, and Local payroll expenditures that form part of the bid; and the bid adjustment for estimates of Inuit payroll expenditures shall be limited to the minimum requirement set out by the Contract Authority; and,*
  - (ii) for tenders for the supply of goods, or for the clearly identified goods or materials portion of a bid such as for a construction contract, the Nunavut Business status adjustment shall apply only if the company listed in the bid*

*is a Nunavut Supplier or Local Supplier approved by the GN for the supply of the category of goods or materials identified in the bid; and*

- (iii) for tenders for the supply of goods only, and not including the materials portion of a bid for a construction contract, a Bid Adjustment Cap shall apply and bid adjustment values shall only be applied to the first \$100,000 of the bid value;*
- (iv) in the absence of any qualitative or contrary considerations based on quality of goods and services, conduct, past performance, or other like considerations, the lowest tender after adjustments shall be awarded the contract.*
- (e) The bid adjustment values shall be as follows:*
  - (i) Nunavut Business status, an adjustment of 7%;*
  - (ii) Inuit Firm status, an additional adjustment of 7%;*
  - (iii) Local Business status, an additional adjustment of 7%.*
- (f) The Local Business status adjustment shall apply to any company that also qualifies for the Nunavut Business status adjustment or the Inuit Firm status adjustment, so long as that company is local to the community where the work or services are required; and*
- (g) (i) Where no local business submits a Bid or Proposal, any qualifying Nunavut Based, Nunavut Business or Inuit Firm, submitting a Bid or Proposal, shall be deemed to be a Local Business and the Local Business status adjustment shall apply;*
  - (ii) a Nunavut Business or an Inuit Firm shall be considered "Nunavut Based" when it would be eligible for a Local Business status adjustment under Section 11.1(f) for the same work or service if it were to be provided in the community in which the Business or Inuit Firm is considered local.*

*11.2 The evaluation process for the award of Proposals shall be as follows:*

- (a) All proposals submitted should meet minimum contract requirements specified in the Request For Proposals (RFP) and should demonstrate a capability of carrying out the work;*
- (b) All Proposals containing a labour component with an estimated cost in excess of \$300,000 must include a detailed training plan for Inuit workers. In the case of maintenance contracts, a training plan must be included where the contract cost is estimated to exceed \$250,000.00;*
- (c) All proposals meeting the requirements of ss. 11.2 (a) and where applicable (b) will be evaluated to determine which appears to offer the best overall value to the Government of Nunavut, based on the evaluation criteria established in the RFP;*
- (d) For proposals where there is a clear cost criteria, the bid adjustment values for Tenders that are outlined in 11.1(e), (f) and where applicable (g) will be applied to that portion of the evaluation;*
- (e) Inuit content criteria will also be included in the evaluation criteria established for each RFP. The Inuit content values shall be, at a minimum, as follows:*

- (i) for Inuit employment 10%;*
- (ii) for Inuit ownership 5%.*

*11.3 Tenders and RFPs by invitation may be issued exclusively to Nunavut based businesses where sufficient competition exists, being three (3) or more companies located in Nunavut that are interested and capable of performing the work. The GN may also invite Inuit firms that are not based in Nunavut, provided they are included on the NTI Inuit Firms Registry.*

*11.4 Details of the evaluation process shall be further described in procedures developed by the Responsible Department and made available to the public.*

*11.5 Evaluation criteria, consistent with the NNI Policy Objectives contained in 7.0, and based on the Bid Adjustment Values and Content Ratings identified in this Page 6 of 13 Revised Nunavummi Nangminiaqtunik Ikajuuti (NNI Policy) April 20, 2006 section, may be developed by the Responsible Department for specific types of professional services contracts or other distinctive sub-categories of contract.*

The NNI Interpretive Bulletin, dated March 23, 2009, was prepared to “facilitate consistent application of bid adjustments across all organizations responsible for applying the NNI Policy”. The bulletin also provides examples to demonstrate how adjustments are to be applied in different contracting situations and how Inuit Content is to be evaluated.

### **4.3.2 Profile of Current Bid Adjustments**

When the NNI Policy was created in 2000, the bid adjustments were 14% for Nunavut ownership, 3% for local ownership, and 3% for Inuit ownership. At the time, the GN/NTI contracting Working Group anticipated that changes might be required in order to ensure effective incentives to Nunavut, Local or Inuit firms. Any change was to be based on the results of the current adjustments as found in the contracting data<sup>54</sup>.

In the 2003 NNI Policy Comprehensive Review, the Review committee recommended that the bid adjustments be modified to represent levels that would provide a more competitive basis for Inuit firms. The Committee recommended that the Nunavut firms adjustment be changed to 10%; the Inuit firm adjustment be changed to 6% and that the Local firm adjustment be changed to 4%<sup>55</sup>. Following this review, Cabinet rejected the recommendation and instead approved 7% for all three categories.

---

<sup>54</sup> Nunavummi Nangminiaqtunik Ikajuuti NNI Policy, First Comprehensive Review, 2003, pg. 21

<sup>55</sup> *ibid*, pg. 22

### 4.3.3 Findings from Previous Reviews and/or Reports

#### 2001 Annual Review

In the 2001 Annual Review, the Review Committee provided clarification on the cap on bid adjustments and bid adjustments for goods and services.

The Committee explained that the allowable adjustments for Inuit, Nunavut or Local firms are provided on the first \$100,000 on a goods purchase contract only. This cap is not applied to construction contracts or other service contracts<sup>56</sup>.

It was also stipulated that the bid adjustment for goods is only applicable if the Nunavut supplier is approved for the types of good supplied. All Nunavut firms qualify for a bid adjustment on services, while all Inuit firms qualify for bid adjustments on both goods and services<sup>57</sup>.

#### 2003 First Comprehensive Review

The Review Committee examined Inuit firm participation based on contracting data from the first three years of the implementation of the NNI Policy.

The Committee raised the issue of Inuit participation and suggested modifying the bid adjustment in order to expedite the shift towards achieving the objectives of the NNI Policy. It reaffirmed that the principal goal associated with the bid adjustment for Inuit ownership was to increase Inuit participation in the economy over time so as to reach a “representative level” (as per Article 23 and Article 24, Section 24.3.6 (c) of the NLCA)<sup>58</sup>. When the NNI Policy was created, it was anticipated that changes might be required to reflect the increased ability of Inuit firms to compete for, win and successfully complete government contracts (Article 24, Section 24.3.5 of the NLCA)<sup>59</sup> over time.

Contracting data from the first three years showed that there was an increase in the number of both Nunavut-based and Inuit firms winning contracts through the bid adjustment process<sup>60</sup>. While the total of contracts won by Inuit firms did not change over the period, the dollar value of contracts won by Inuit firms increased by 13%<sup>61</sup>. It was noted however, that while the shift of contracts in the dollar value from 24% to 37% was a significant increase, it was still far below the target level.

### 4.3.4 Findings from Consultations, Interviews and Surveys

On the evidence of the community consultations and interviews, most participants were aware of the purpose of the bid adjustment system but expressed some concerns on how the GN arrived at the current percentages and whether or not they are sufficient for Inuit, Local and Nunavut-based firms.

---

<sup>56</sup> GN/NTI NNI Review Committee, February 2002. Nunavummi Nangminiaqtunik Ikajuuti (NNI Policy), 2000-01 Annual Review, Pg 21

<sup>57</sup> *ibid.*

<sup>58</sup> Nunavummi Nangminiaqtunik Ikajuuti NNI Policy, First Comprehensive Review, 2003, pg. 21

<sup>59</sup> Agreement Between the Inuit of the Nunavut Settlement Area and Her Majesty the Queen in Right of Canada, Article 24, Government Contracts, Part 3: Procurement Policies, Adaptability Over Time, 24.3.5, pg. 198.

<sup>60</sup> Nunavummi Nangminiaqtunik Ikajuuti NNI Policy, First Comprehensive Review, 2003, pg. 19.

<sup>61</sup> *ibid.* pg. 18.



### **Purpose of Bid Adjustments**

There were numerous and diverging views on the purpose of the bid adjustments. The majority of business owners interviewed believed that the purpose of bid adjustments was to assist new, small local, Inuit and Nunavut entrepreneurs to operate on a competitive basis. They also thought the purpose of the bid adjustment was to compensate for the higher costs associated with maintaining a full time operation in the Territory. During the community consultations, the majority of participants, comprised largely of Nunavut business owners, reported that the adjustments are not reflective of the true costs associated with doing business in Nunavut. Similarly, some representatives of the GN indicated that, in most cases, Southern companies can submit lower bids, partly because they do not incur the extra expenses of operating in the North. The cost of living in Nunavut is higher than in the south; food, fuel, electricity, housing and consumer goods all cost more than they do in other parts of Canada. Travel between communities in Nunavut, and to communities outside of the Territory, is more expensive than travel between communities in Southern Canada. It was also noted that businesses in smaller communities often take longer to receive supplies and have more difficulty securing labour resources, both of which contribute to contracts taking longer to complete when compared to the timeframes associated with firms in larger communities or the South.

However, it is important to note that the purpose of the bid adjustments is not to account for all cost differentials, but rather to give preferential treatment so as to maximize local regional and northern employment and business opportunities (as per Section 24.9.2 of the NLCA) and must do so without imposing additional financial obligations on the Territorial Government (as per Section 24.9.1 of the NLCA).

Some southern business representatives maintain that the bid adjustments promote artificial barriers that inhibit competition. Some report, in fact, that they must resort to artificially “padding” their bids with Nunavut staff. The purpose of the NNI Policy is to develop capacity in Nunavut. If firms are simply “padding” their bids, but not truly developing capacity in Nunavut, then the NNI Policy is not achieving its intended objectives.

Finally, several GN interviewees noted that the bid adjustments may be too high to achieve good value for the GN. Clearly, there are different perspectives and it is not clear whether in fact the bid adjustments are sufficient to meet the objectives of the NNI Policy. It is worth noting however that capacity development takes time, and no specific level of bid adjustments will achieve these objectives instantly. Consequently, it is more relevant to investigate whether the bid adjustments are resulting in the advancement of capacity, than to attempt to objectively assess whether the bid adjustments are sufficient.

### **Lack of Statistical Data**

A majority of stakeholders stated that the current incompleteness of statistical data seriously impacts the Government of Nunavut’s ability to report quantitatively on the effectiveness of the current bid adjustment. Stakeholders explained that when the bid adjustments were changed in 2003 the Review Committee did not have sufficient data to accurately assess the expected results of their decisions. This continues to be an issue. There is neither a model nor sufficient data to allow for an informed prediction of the impact of an increase in the bid advantage from the current 7%. There is also a lack of

data to support analysis in regards to other factors, such as monitoring, enforcement and assessment of impacts, as discussed in the remainder of this report.

### **Clarity of Bid Adjustments**

As was discussed in the previous section, businesses have difficulty understanding exactly how the bid adjustments work, and there is concern that these are not consistently applied across all contracts. As such, an Interpretive Bulletin was developed by C&GS, NTI and the NNIS to facilitate consistent application of bid adjustments across all organizations responsible for applying the NNI Policy in their contracting activities throughout Nunavut. While this document helps to provide examples, the bid adjustment process is a complicated one, and the bulletin cannot make it simple.

## **4.3.5 Overall Assessment and Suggested Action Items**

The bid adjustment system is a cornerstone of the NNI Policy and is supported by most Nunavut and southern respondents in the consultations and interviews. However, there exists some concerns to the effect that the local status percentage is not accurately reflective of the cost of living in north. On the evidence, the lack of capacity for cost analysis may therefore impact the Government of Nunavut's ability to assess the effectiveness of the bid adjustments.

### **Bid Adjustments 1: Assess Actual Impact of Bid Adjustments on a Sample/Case Study Basis**

As noted previously, there is significant debate as to whether the bid adjustments are too high or too low. There is no simple answer. It is possible that higher bid adjustments would result in more work for Inuit and Nunavut-based firms and ultimately greater capacity. However, higher bid adjustments would likely result in higher costs to the GN, at least in the short term. Consequently, it would be worthwhile to assess the costs and benefits of bid adjustments on a sample or case-by-case basis. For example, a sample of contracts awarded to Inuit and/or Nunavut-based firms could be selected and queried as to whether they believe they would have bid on the contract if the bid adjustment had not been in place. Other questions could also be posed, such as whether the bidder thinks they would have won the contract without the bid adjustment and whether they were able to enhance their capacity to conduct contracts on behalf of the government, but the responses would be hypothetical, and therefore would have to be considered along with other information.

### **Bid Adjustments 2: Ensure that the Bid Adjustments are Calculated Consistently**

Provide ongoing training to Contracting Authorities to ensure that they are applying the bid adjustments consistently as expected.

## 4.4 Monitoring and Enforcement

### 4.4.1 Requirements within the NNI Policy and Article 24 of the NLCA

There are two sections within the NNI Policy dealing explicitly with monitoring and enforcement. Sub-section 14.1 specifies that monitoring and enforcement procedures that shall be developed and applied:

- (a) *generally, to ensure compliance with the NNI Policy by Contractors;*
- (b) *more specifically, to ensure that bonuses and penalties are based on actual performance;*
- (c) *to ensure that the NNI Policy is applied consistently across departments of the Government of Nunavut, the various regional and local offices of those departments, and those GN Public Agencies and Boards set out in the Financial Administration Act<sup>62</sup>.*

The application of Monitoring and Enforcement Procedures are outlined in section 15.0:

- 15.1 *Each Contract Authority within the Government of Nunavut is responsible for monitoring and enforcement of Contracts under which it expend funds.*
- 15.2 *Each Contract Authority within the Government of Nunavut shall provide monitoring and enforcement information to the Responsible Department in a manner that may be stipulated by that department.*
- 15.3 *The Government of Nunavut, through the Responsible Department shall provide Nunavut Tunngavik Incorporated with information in a timely manner regarding the outcomes of its monitoring and enforcement activities<sup>63</sup>.*

Closely related to monitoring and enforcement is the application of bonuses and penalties on construction contracts. The bonus and penalty system was designed to provide the GN with a feedback mechanism for setting Inuit employment and training levels<sup>64</sup>. Bonuses and penalties are assessed by the Contracting Authorities based on Employment Records and Reports data supplied to them and their Project Managers by the winning contractor<sup>65</sup>. Bonuses are provided to contractors who achieve a higher level of Inuit employment content than the minimum required in their bids. Penalties are applied to contractors who fail to achieve mandatory minimum levels of Inuit employment. The bonuses and penalties have changed since the NNI Policy was first established in 2000. Bonuses have been increased to 1% of total payroll for every percentage point achieved above stipulated threshold levels for Inuit employment; and penalties have been set at 2% of total payroll for every percentage point under the stipulated minimum levels for Inuit employment<sup>66</sup>.

---

<sup>62</sup> GN/NTI NNI Review Committee, Nunavummi Nangminiaqtunik Ikajuuti (NNI Policy), April 20, 2006, pg 7

<sup>63</sup> *ibid.*

<sup>64</sup> Nunavummi Nangminiaqtunik Ikajuuti NNI Policy, First Comprehensive Review, 2003, pg. 29

<sup>65</sup> *ibid.*, pg. 22.

<sup>66</sup> Nunavummi Nangminiaqtunik Ikajuuti NNI Policy, First Comprehensive Review, 2003, pg. 31

As previously stated, aspects of monitoring and enforcement are included in sub-section 12.1 (a) to (h) which specify that construction contracts will provide for:

- (a) *A bonus that shall be applied in the event that minimum threshold requirements set by the Contracting Authority in the request for tenders has been exceeded;*
- (b) *A penalty that shall be applied in event that minimum threshold requirements set by the Contracting Authority in the request for tenders which have not been met.*
- (c) *Bonuses and Penalties that shall apply with respect to Inuit participation in employment, project management, and training.*
- (d) *Bonuses and Penalties that shall be calculated for Local Inuit Labour and/or Nunavut Inuit Labour.*
- (e) *Where applicable, a bonus or shall be calculated as 1% of the total labour content of the contract for each 1% of the amount by which Inuit employment exceeds the mandatory requirement.*
- (f) *Where applicable, a penalty shall be calculated as 2% of the total labour content of the contract for each 1% of the amount by which Inuit employment does not meet the mandatory requirement.*
- (g) *In the area of Inuit management, a bonus in the amount of 2% of the total labour content shall be determined on the basis of whether an Inuk is employed as a Project Manager, either locally or for Nunavut. A larger bonus, but not a larger penalty, of an additional 1% shall be determined for a locally employed Inuk Project Manager than a Nunavut employed Inuk Project Manager.*
- (h) *the maximum total bonuses and penalties to be determined for a single construction contract shall not exceed 25% of the total labour price<sup>67</sup>.*

For other types of contract, sub-section 12.2 states:

*All other types of contracts may, at the discretion of the Contract Authority, provide for bonuses and penalties as described in section 12.1<sup>68</sup>.*

In addition to monitoring and enforcement as it pertains to the contracting-specific aspects of the NNI Policy, the concept of each applies equally to the mandated periodic review of the NNI Policy as a whole. In order to achieve the objectives of the NNI Policy, consistent periodic reviews are required as stated in section 16.0:

- 16.1 *It is recognized that achieving the objectives of the NNI Policy will require consistent and persistent effort.*
- 16.2 *It is further recognized that the achievement of objectives may be most realistically and reliably secured by measured progress over time.*
- 16.3 *The substance and application of the NNI Policy should therefore be reviewed and revised on a periodic basis to ensure that progress towards objectives is being made in a demonstrable and balanced way<sup>69</sup>.*

---

<sup>67</sup> GN/NTI NNI Review Committee, Nunavummi Nangminiqagtunik Ikajuuti (NNI Policy), April 20, 2006, pg. 6.

<sup>68</sup> *ibid.*

<sup>69</sup> *ibid.* pg.7.

The periodic reviews outlined in Section 17.0 are to be overseen and administered by an NNI Policy Review Committee. Detailed in section 17.0, the Review Committee shall operate as follows:

- 17.1 *An NNI Policy Review Committee, consisting of representatives appointed by the Government of Nunavut and Nunavut Tunngavik Incorporated, shall be established to review the implementation of the NNI Policy on a periodic basis and, in any event, at least on an annual basis.*
- 17.2 *The NNI Policy Review Committee shall meet at least on a quarterly basis.*
- 17.3 *The Terms of Reference for the NNI Policy Review Committee are attached as Appendix B.*
- 17.4 *As part of its mandate, the Review Committee shall develop and apply specific mechanisms for assessing progress towards objectives and making recommendations for adjustments to the NNI Policy.*
- 17.5 *As part of its mandate, the Review Committee shall examine monitoring and enforcement concerns arising out of the implementation of the NNI Policy.*
- 17.6 *The Review Committee will conduct a comprehensive review every five years.*
- 17.7 *The Review Committee shall submit all of its work to the Government of Nunavut and Nunavut Tunngavik Incorporated.*
- 17.8 *In carrying out its work, the Review Committee shall make efforts to collect public input and to consult with interested parties. Without limiting the ability of the Committee to make other parts of its work available to the public, these annual and multi-year reviews shall in all cases be made available to the public<sup>70</sup>.*

#### **4.4.2 Profile of Monitoring and Enforcement**

The implementation of the NNI Policy rests in the hands of the Contracting Authorities and their Project Managers. The Contracting Authorities implement NNI Policy by:

- Writing and issuing Tenders and RFPs;
- Evaluating responses and awarding contracts;
- Monitoring the progress of individual contracts; and
- Reviewing completed contracts and awarding or assessing bonuses and penalties.

There are two key documents that are published on an annual basis that illustrate monitoring and enforcement activities.

1. The Procurement Activity Report presents a summary analysis of some contract awards and lists those contract awards.<sup>71</sup> The list includes a brief description of the awards, the location, the department, the vendor, the method and the award value. By publishing this information, the document makes it possible for people

---

<sup>70</sup> *ibid.* pg. 8.

<sup>71</sup> The Procurement Activity Report excludes a number of types of contracts, such as some types of fuel, housing, medical travel, and other types of contracts as well as all contracts under \$5,000.

to identify some situations where they believe the policy was not followed. For example, it identifies some of the sole source contracts that were awarded and as such, affords an opportunity for firms to identify projects that people think could have been made available to local or Inuit firms for competition.

2. The Contract Activity Report presents summary information on some contract awards and tabulates much of the information according to awards by type of business (Inuit, Nunavut or Other). It also includes information on bonus payments and penalty. As will be discussed further in Section 4.6, and summarized in the executive summary, examination of these reports illustrates that
  - Reported contract awards to Inuit firms increased from \$20 million in 2000-01 (23.7% of contract dollars) to almost \$60 million (30.7% of contract dollars) in 2007-08. Hence, there has been progress for Inuit firms.
  - Reported contract awards to non-Inuit, non-Nunavut based firms have increased even more, from \$32 million (37.8% of contract dollars) to over \$117 million (60.8% of contract dollars).
  - Reported contract awards to Nunavut-based firms declined from \$33 million in 2000-01 (38.5% of contract dollars) to \$16 million in 2007-08 (8.5% of contract dollars).
  - Reported contract values vary substantially from year to year. Moreover, the share of contract awards by type of firm also varies substantially through time. This volatility presents a challenge for firms seeking to build sustainable capacity.
  - Reported Inuit employment shares have improved in minor construction and service contracts in Baffin, but been volatile in most areas.
  - Reported Inuit employment shares appear to be strongly related to Inuit employment bid requirements.
  - A review of reported bonus payments and penalties, a key means of enforcing the NNI Policy on construction illustrates that substantially more bonuses were paid (\$101,000) than penalties levied (\$33,000) in 2005-06 on reported contracts. The gap between bonuses paid (\$110,000) and penalties levied (\$31,000) widened slightly in 2006-07.

There is no other ongoing reporting to ensure that the NNI Policy is being monitored and enforced. For example, there is no ongoing reporting to assess the extent to which Inuit or Nunavut-based firms would have been capable of fulfilling contracts or the impacts on those who did. Nor is there any monitoring of how project managers ensured the accuracy of Inuit labour reports or the appropriateness of training.

### 4.4.3 Findings from Previous Reviews and/or Reports

#### 2001 Annual Review

During the 2000-01 fiscal year, the GN calculated that if all contractors had achieved the Inuit Employment levels committed to in their bids, the GN would have been obligated to pay approximately \$281,000 in bonuses. According to the 2001 Annual Review, only a portion<sup>72</sup> of this amount had actually been paid. The amount of bonuses granted was expected to increase as construction contracts awarded in 2000-01 were completed. For contracts awarded in the fiscal years 2000-02, there were no penalties levied on contractors who failed to meet Inuit labour requirements.<sup>73</sup>

It was reported in the 2001 Annual Review that GN monitoring and enforcement practices, specifically monitoring and enforcement of Inuit content, required a number of improvements. The RC noted that within the existing contracting guidelines, the evaluation criteria for requests for proposals were not clear. It was recommended “That the GN develop clear criteria for determining Inuit Content in Evaluation/Rating Criteria for Requests for Proposals, including management, labour and training, and that these criteria will, when practicable, be standardized across all departments” (Recommendation #2: Evaluation Criteria for Request for Proposals).<sup>74</sup>

Secondly, it was reported that Contracting Authorities and GN staff did not fully understand how to use the evaluation criteria in assessing proposals. The RC recommended “That the GN provide training to its Contracting Authorities and any appropriate GN staff in [the] development and use of evaluation/rating criteria used in the evaluation of RFPs” (Recommendation #3: Training in Use of Evaluation Criteria).<sup>75</sup>

Finally, it was observed that the GN Contract Procedures Manual was not always consistent with the NNI Policy. The RC recommended that the GN and NTI review the GN contract procedures manual for conformity to the NNI Policy for the 2002-03 contracting season (Recommendation #4: Review of Procedures).<sup>76</sup>

#### 2003 First Comprehensive Review

The 2003 Comprehensive Review put forth eight recommendations pertaining to issues related to monitoring and enforcement. This included recommendations covering the following: Bonuses and Penalties; Monitoring and Enforcement Procedures; Application of Monitoring and Enforcement; Periodic Review; and the Review Committee. The eight recommendations were as follows:

- Recommendation #10: Increased Bonuses and Penalties
  - The NNI/NTI Review Committee reported that the system of bonuses and penalties did not do enough to both reward companies who were making extra efforts to hire Inuit, or to penalize firms that fell short of required minimum levels of Inuit labour. It was recommended that bonuses be increased to 1% of total payroll for every percentage point achieved

---

<sup>72</sup> The report did not specify the degree of shortfall. GN/NTI NNI Policy Review Committee. February 2002. Nunavummi Nangminiqaqtunik Ikajuuti (NNI Policy), 2000-01 Annual Review. Page 18

<sup>73</sup> *ibid.* pg. 25.

<sup>74</sup> *ibid.* pg. 32.

<sup>75</sup> *ibid.*

<sup>76</sup> *ibid.*

above stipulated threshold levels for Inuit employment; and that penalties be set at 2% of total payroll for every percentage point under the stipulated minimum levels for Inuit employment

- Recommendation #11: Removal of Bid Adjustment on Inuit Employment
  - Based on the evidence that some contractors have falsely inflated proposed levels of Inuit employment in order to win a contract, the RC recommended the removal of the bid adjustment on Inuit employment at the tendering phase based on estimates "... that bonuses and penalties be paid based on the minimum Inuit labor component set by the Contracting Authority, and that no bid adjustment be given in the tendering phase for bidders' estimates of Inuit content over and above the minimum required".
  
- Recommendation #12: Establishment of Criteria for Minimums
  - This recommendation suggested the establishment of criteria for delivering the minimum level of Inuit employment. This was due to the fact that the methods for calculating how the minimum levels of Inuit employment set and the reasoning for these levels was not explained in either the NNI Policy or the supporting contract procedures manual. It was recommended that "... the Government of Nunavut establishes criteria for setting minimum Inuit employment percentages and ensures that these criteria are put in the contract procedures manual".
  
- Recommendation #13: Publication of Inuit Employment Levels
  - In support of the preceding recommendations, the RC recommended "That the proposed minimum Inuit labour content be included for all construction projects on the list published each year in anticipation of the upcoming construction section. It should be made clear that feedback from interested persons is encouraged on these proposed levels prior to the issuing of the tenders".
  
- Recommendation #14: Monitoring and Training Unit
  - The RC noted that the NNI Policy and associated procedures provided very little detail about how business training or on-the-job training was to be achieved or evaluated. It was suggested "That a unit be created in the appropriate department and provided with the resources, both financial and human, necessary to do the follow-up and training on the NNI Policy and to ensure consistency of application and consistency of reporting the required data in a timely manner".
  
- Recommendation #15: Applicability of NNI Policy
  - The RC found that there did not appear to be a mechanism for tracking the use of the NNI Policy by Municipalities, GN Agencies or Crown Corporations. The RC suggested "That the government enforce Section 5.1 of the NNI Policy that stipulates that all municipalities, Crown Corporations, and Government Agencies are subject to the NNI Policy. Further, that meetings be held with every municipality, Crown Corporation and Government Agency to make sure that they understand their responsibilities under this policy, provide the necessary training with



regards to the application of the policy and the reporting requirements of the policy”.

- Recommendation #16: Contracts with Outside Firms
  - The RC reported that Nunavut businesses required information regarding goods or services currently being obtained from outside Nunavut, in order to decide whether or not they should try to provide the same goods or services locally. The RC suggested “Publish(ing) at least annually in Nunavut newspapers a list of the items/services purchased from businesses outside Nunavut, including purchase price and relevant contract details. Immediately publish a list of all contracts issued to firms outside of Nunavut on the government public web site”.
  
- Recommendation #17: RC
  - In order to provide the Contracting Review Committee with a clear mandate and ongoing ability to follow-up on issues relating to the NNI Policy, it was recommended: “...that the mandate of the Contracting Review Committee be changed to give it a 5-year mandate with the appropriate Terms of Reference similar to those for this Comprehensive Review, and that the Review Committee meet at least quarterly to discuss issues relating to the NNI Policy such as: its implementation, how it is functioning and the status of the implementation of its approved recommendations. The GN and NTI should each appoint Co-Chairs. Each party should have up to four members to provide for regional input. The GN Co-Chair should be appointed from a Central Agency, ideally Executive and Intergovernmental Affairs, with the Chairs having the same decisional powers they have been given for this Comprehensive Review”.<sup>77</sup>

Finally, the RC was provided with examples of situations where the NNI Policy was not applied consistently across government departments. The committee came to the conclusion that the lack of consistency was the root cause of much of the limited success of the policy. It was emphasized that the NNI Policy needs to become an integral part of government planning.<sup>78</sup>

#### **4.4.4 Findings from Consultations, Interviews and Surveys**

##### **Bonuses and Penalties**

One of the key mechanisms for enforcing the NNI Policy in regards to Inuit employment is through bonuses and penalties. There were numerous concerns raised in regards to bonuses and penalties.

- Many business owners maintained that they feel that it is unfair that they are penalized while making valid efforts to include the appropriate number of Inuit employees. In their words, they have experienced significant difficulty keeping Inuit workers committed over the duration of a project due to cultural differences. However, the fact that actual Inuit employment rates appear to exceed required levels on average, and the fact that bonus payments far exceed penalties levied), suggest that the actual magnitude of this issue is not significant.

---

<sup>77</sup> Nunavummi Nangminiaqatunik Ikajuuti NNI Policy, First Comprehensive Review, 2003, pgs. 30-36

<sup>78</sup> *ibid.* pg. 49.

- A majority of participants raised the issue that larger firms had often been awarded bonuses by including smaller subcontractors in their bids. In such cases, the subcontractor (while employing a significant portion of Inuit workers) does not share in the bonus. There was a concern among some study participants that the fact that there is no direct tie to sub-contracts means that Southern firms can take advantage of Inuit and/or Nunavut-based firms. However, other interviewees note that the advantage to the Inuit and/or Nunavut based firm was the opportunity to participate in the work and that one would expect that through time the capacity of the contractor would deepen, as would their ability to compete successfully.
- Stakeholders reported that on occasion, contractors have overstated the degree of which Inuit employment has actually been created. Participants reported instances where Inuit workers were paid to stay at home, while their employment status was reported to the Contracting Authority. The majority of business owners explained that there is currently inadequate monitoring of firms after they have won contracts. While the basis for these claims was founded on anecdotal evidence, the majority of participants, including all interviewees and participants in community consultations indicated that they were aware that these issues persisted in Nunavut and expressed significant concern regarding this being a real and legitimate problem. These concerns are anecdotal because people are not aware of or comfortable reporting such information to the GN.

#### **Lack of Adequate Monitoring and Enforcement Efforts**

The majority of businesses and stakeholders believe that current monitoring and enforcement procedures are not working effectively. Stakeholders noted that it is unrealistic for the GN to perform site-visits to all businesses completing GN contracts. As a result, CGS/NNIS depends on 'self-policing' by businesses themselves. This raises the potential for abuses of the current system.

#### **Lack of Monitoring and Enforcement of Inuit Training Plans**

A majority of business owners and stakeholders reported that no one is assessing the strength of the proposed training plans included in bid proposals. Stakeholders pointed out that there is currently only one representative from Nunavut Arctic College and one representative from the Department of Education on the Review Committee who can perform proper assessments of proposed training plans. While these two individuals are experts on Education and Training, and help to ensure that components of both are properly integrated into the NNI Policy, they do not review individual bid submissions, nor can they assist each Contracting Authority in assessing every proposed training plan.

Stakeholders stressed that CGS Contracting Authorities and Project Managers have the responsibility to confirm that all contract stipulations are implemented. Most stakeholders believed that CGS officials and Project Managers do not properly assess the extent to which contractors carry out the training of Inuit employees as proposed in their bids. Business owners maintained while many businesses provide the training defined within their respective bids, it was reported that some businesses falsely claim to have provided training in an effort to satisfy bid requirements.

The majority of community participants stressed that the ineffectiveness of the process is the result of two main issues:

1. Contracts failing to state the specific training requirements; and
2. Failing to effectively monitor and enforce training plans as a condition of contracts.

### **Application of NNI Policy by Contracting Authorities**

A majority of stakeholders reported that they believe that the NNI Policy is not being applied consistently by all Contracting Authorities. There is concern regarding the extent to which the people letting and overseeing contracts fully understand the requirements and implications of the NNI Policy as a whole. There is currently no mechanism in place to confirm if people letting or managing contracts are correctly applying the NNI Policy when releasing bids or tenders, awarding contracts or managing contracts. Selection and review of projects, either from the financial records, or the list of contract awards, could form a basis for assessing consistency.

### **Overview of Status of Recommendations from the 2003 First Comprehensive Review.**

NNIS interviewees noted that based on the recommendation from the 2003 First Comprehensive Review, some actions had been taken. These were as follows:

- Recommendation #10: Increased Bonuses and Penalties
  - This change has been made.
- Recommendation #11: Removal of Bid Adjustment on Inuit Employment
  - This change has been made, but some confusion has arisen. Some Contracting Authorities are treating Local Inuit Labour above the “minimum” as “Other” and giving it no competitive consideration during the bid evaluation process. While some other Contracting Authorities are treating Local Inuit Labour above the “minimum” as Local Nunavut Labour and applying a bid adjustment of 14%.
- Recommendation #12: Establishment of Criteria for Minimums
  - Has not been applied.
- Recommendation #13: Publication of Inuit Employment Levels
  - Has not been applied.
- Recommendation #14: Monitoring and Training Unit
  - The NNIS was established and has completed some of this outreach. Due to low staffing levels at the NNIS, the high rate of staff turnover, the number and geographic distribution of the Contracting Authorities it was originally planned that the NNI website would be the preferred vehicle for most training and follow-up. Unfortunately, the NNI website has not been developed as it was initially envisioned. It was noted however that one pilot involving the training of a summer student within the NNIS to complete data-driven website development was very successful.

- Recommendation #15: Applicability of NNI Policy
  - Meetings were held with representatives of all municipalities and presumably with all Crown Corporations and Government Agencies (requires confirmation).
- Recommendation #16: Contracts with Outside Firms
  - Procurement Activity Report publishes a list of firms that won contracts and their location.
- Recommendation #17: RC
  - There have been occasional, informal and formal meetings of the NNI Policy Review Committee over the past two years.

#### **4.4.5 Overall Assessment and Suggested Action Items**

Monitoring and enforcement, while only a small portion of the NNI Policy itself, is critically important when reflecting on the actual implementation of the NNI Policy across Nunavut. With the bulk of monitoring and enforcement responsibilities resting with the different GN Contracting Authorities, consistent knowledge and application of the NNI Policy across the GN is imperative. As has been seen with the Awareness and Education section, much of the perceived success of the NNI Policy relies on the extent to which it is understood by all parties. An effective monitoring and enforcement mechanism further enables the NNI Policy to achieve its objectives and increasing the capacity and accountability of Inuit, Nunavut and Local-based firms.

##### **Monitoring and Enforcement 1: Audit of Monitoring and Enforcement Procedures**

While steps are taken to ensure compliance with the NNI Policy by GN contractors, there exists significant concern that they may not be sufficient. Concerns exist in relation to the consistent application of bonuses and penalties as well as the extent to which the Employment Reports submitted by contractors can be considered valid. The government tracks bonuses and penalties and acts in good faith when contractors submit payroll records. Finally, as previously stated, there is significant doubt that the NNI Policy is being applied consistently throughout Nunavut. However, the extent to which these concerns are founded in fact cannot be objectively assessed, due to the fact that there appears to be a reluctance to report concerns, and there is no documentation on the number of concerns raised and the investigation into those concerns. One solution is to identify a selection of contracts, either from financial records or from the list of contracts awarded in the procurement activity report, and conduct an audit or review to assess the extent of monitoring and enforcement activities.

##### **Monitoring and Enforcement 2: Develop and Implement an Improved System for Monitoring and Enforcement of the NNI Policy**

As detailed in the NNI Policy, monitoring and enforcement procedures are the direct responsibility of the project managers. However, it has been noted by some business owners and GN officials that current procedures are considered inadequate. It is suggested that both the GN and NTI work together to develop and implement a more structured and thorough monitoring and enforcement mechanism. The primary aim of this exercise will be to improve compliance with all requirements and rules of the NNI Policy.

Improvement may also involve the creation of a Monitoring and Enforcement manual detailing step-by-step instructions of how GN Contracting Authorities are to go about assessing compliance and identifying non-compliance with all aspects of the NNI Policy.

To increase transparency, the NNIS should provide businesses with a clear description of the NNIS and Contracting Authorities' responsibilities in assessing compliance and non-compliance within the scope of the monitoring and enforcement methodology.

Finally, given that NNIS is currently within the GN, there is a perception that it is not independent. It is suggested that the NNIS, NTI and other applicable departments of the GN consider ways of making the NNIS more independent.

### **Monitoring and Enforcement 3: Improve Available Feedback Mechanisms**

A key challenge in this Review has been the lack of documentation of concerns and evidence to the extent of which these concerns are legitimate. As such, NNIS should promote the use of websites such as <http://www.nunavuttenders.ca/>, <http://public.govnu.ca/> by people who have concerns with the process, and encourage them to register their concerns (emphasizing the confidentiality of their input). The NNIS should maintain a report on the number and detail of criticisms or complaints (by department, agency, community, etc.) including telephone calls, letters and e-mails, etc. relating to monitoring and enforcement practices and procedures. This would allow the GN to identify particular regions, communities or departments where specific monitoring and enforcement issues exist and determine if there are any discernible themes. Once identified, recurring issues could be more readily addressed and resolved or determined to be unfounded. This will enable future reviews to present more objective, less anecdotal, information.

### **Monitoring and Enforcement 4: Review Committee**

Since the inception of the NNI Policy in 2000, only one Annual Review has been completed (2001). It was reported to the Project Team that in the past meetings of the Review Committee had not been regular and in some cases the Committee had failed to meet on a quarterly basis. Additionally, disagreements between the GN and NTI have resulted twice in legal action, necessarily stalling the functions of the Review Committee. The Review Committee has been meeting regularly during the last two years and most, if not, all contentious issues between the GN and NTI in relation to the NNI Policy have been resolved. No further suggested action items are required here.

## 4.5 The Appeals Process

### 4.5.1 Requirements within the NNI Policy and Article 24 of the NLCA

The NNI Appeals Process is outlined in detail in Section 18.0 of the NNI Policy. This section covers the following issues as they relate to the Appeals process:

- i. The composition and requirements of the independent Contracting Appeals Board;
- ii. Appointment details, responsibilities and schedule of the Contracting Appeals Board;
- iii. Conditions and timeframe under which an unsuccessful Bidder or Proponent can challenge the award of a tender or RFP;
- iv. Responsibilities of an unsuccessful Bidder or Proponent wishing to launch an Appeal;
- v. Requirements and conditions of an Appeal;
- vi. Requirements, conditions and timeframe under which the Contracting Appeals Board must act;
- vii. Rights of the Contracting Authority and Contractor; and
- viii. Details of the Appeals process.

Further information on the Appeals process is described in the following sub-sections of Section 18:

- *18.14: Where the appeal filed with the Board does not fall within the jurisdiction of the Board the appeal may be dismissed by order of the Board without holding a hearing.*
- *18.17: The Board shall hear the appeal as soon as possible and, in any event, shall hold a hearing no later than 10 business days after the appeal has been filed with the Board.*
- *18.21(a): After hearing an appeal, the Board may: dismiss the appeal; or*
- *18.21(b): allow the appeal and recommend to the Contracting Authority that remedial action, consistent with sound procurement policy and practice, be taken by the Contracting Authority, which may include:*
  - (i) requiring the contractor to undertake additional measures;*
  - (ii) providing the contractor with specific information as to Inuit or Inuit firms who are available and qualified;*
  - (iii) paying compensation to an unsuccessful Bidder or Proponent;*
  - (iv) putting the proposed contract in abeyance until the dispute is resolved, except in cases of urgency;*
  - (v) changing any procedure or policy followed by Contracting Authorities, in exceptional circumstances involving long term contracts,*
  - (vi) terminating a contract in whole or in part, and a reassessment of re-issue of tenders.*

- *18.22: Decisions of the Board shall be by consensus and failing consensus by a majority vote, the Board shall make a decision as soon as possible after a hearing.*<sup>79</sup>

The Appeals Process is intended to give satisfaction to bidders that the NNI Policy was applied appropriately in the cases which they bring before the Appeals Board.

## **4.5.2 Findings from Previous Reviews and/or Reports**

### **2001 Annual Review**

At the time of the first Annual Review, the Appeals Board as mandated by the NNI Policy had not been created as the GN and NTI had not yet agreed on the scope of the proposed Board. It was noted that during the first year of the implementation of the NNI Policy, there were a number of requests for award decisions to be reviewed by an Appeals Board.<sup>80</sup>

Further, the initial NNI Review Terms of Reference included an assessment of “the Appeals Process provided in the NNI Policy”. At the time, GN members of the Review Committee suggested the Terms of Reference for the Appeals Board be re-examined by both NTI and the GN outside of the review process. NTI agreed to this suggestion and planned to meet with the GN in early 2002 in order to finalize the Terms of Reference specific to the Appeals Board.<sup>81</sup>

### **2003 First Comprehensive Review**

Early in the report, the 2003 Comprehensive Review addressed the issue of the Appeals Board Terms of Reference, citing it as a major barrier to the implementation of the NNI Policy that had been dealt with outside of the formal review process (as was agreed to following the 2001 Annual Review). In August of 2002 an ‘Agreement of Settlement’ was reached between the GN and NTI and a facilitator was retained to resolve the outstanding issues as they related to the establishment of a satisfactory Appeals process.<sup>82</sup> All of the outstanding issues were resolved and the parties adopted the Terms of Reference for the Appeals Board that was put forth by the facilitator.<sup>83</sup>

Recommendation #18 of the 2003 Comprehensive Review suggested that Section 18 of the NNI Policy be replaced with a revised section detailed in Appendix 6 of the report. Furthermore, it proposed “...that consequential amendments to the Government Contract Procedures be made, that the Appeals Board be established as soon as possible and that the inclusion of the Terms of Reference of the Appeals Board in the Government Contract Procedures be considered by the Review Committee during the 2004 Annual Review”.<sup>84</sup>

---

<sup>79</sup> GN/NTI NNI Review Committee, Nunavummi Nangminiqagtunik Ikajuuti (NNI Policy), April 20, 2006, pgs. 10-11.

<sup>80</sup> GN/NTI NNI Policy Review Committee, February 2002. Nunavummi Nangminiqagtunik Ikajuuti (NNI Policy), 200-01 Annual Review, pg. 26.

<sup>81</sup> *ibid.*

<sup>82</sup> Nunavummi Nangminiqagtunik Ikajuuti NNI Policy, First Comprehensive Review, 2003, pg. 10.

<sup>83</sup> *ibid.* pg. 37.

<sup>84</sup> *ibid.*

With respect to Recommendation #18 from the 2003 Comprehensive Review, NNIS interviewees indicated that the revisions to Section 18 were adopted and eventually integrated into the NNI Policy. However, appointments to the NNI Appeals Board had delayed due to administrative issues. The report points out that new appointees had been sought and at the time the report was published, that their appointment to the Contracting Appeals Board was expected soon.

### 4.5.3 Profile of the Appeals History

In May of 2008 the NNIS responded to a number of questions posed by an MLA. Sections 18.30 and 18.31 require the Contracting Appeals Board to submit an annual report to both the GN and NTI. The report is to include a summary of appeals heard and decisions rendered. Since the inception of the NNI Policy in April of 2000, the Legislative Assembly inquired as to the number of annual reports that had been prepared and submitted by the Contracting Appeals Board during this time period. The NNIS' Contracting Appeals Board was formally established in 2004. Since this time, annual reports have been submitted for the following years: 2004-05, 2005-06, 2006-07, 2007-08 and 2008-09.<sup>85</sup>

The 2004-05 (April 1<sup>st</sup>, 2004 to March 31, 2005) Annual Report by the Contracting Appeals Board indicates there were four Intents to Appeal submitted under Section 18.11 of the NNI Policy. Of these four, all received hearings under Section 18.12. None of the Intents to Appeal were dismissed under Section 18.14 of the NNI Policy. Three of the Appeals were heard within the timeframe defined by Section 18.17. The remaining appeal was heard within the timeframe set out in Section 18.17, however, no decision was issued within the time limits set out in Section 18.22, therefore the appeal was classified "Decision Pending".<sup>86</sup>

The following table summarizes the 'Reasons for Appeal' and the Board decisions during the fiscal year 2004-05.

Summary of 2004-05 Appeals		
Appeal Number and Timeframe	Reasons for Appeal	Board Decision
<b>Appeal 1</b> <i>Date Intent to Appeal Received:</i> May 27, 2004 <i>Date Appeal proceeded to Hearing:</i> June 25, 2004	Contracting Authority erred in the application of NNI Policy.	Appeal dismissed under Section 18.21(a)
<b>Appeal 2</b> <i>Date Intent to Appeal Received:</i> August 13, 2004 <i>Date Appeal proceeded to Hearing:</i> October 14, 2004 (delay due to set up of the NNIS)	Contracting Authority erred in the application of NNI Policy.	Appeal dismissed under Section 18.21(a) with a recommendation to the GN under Section 18.21(b)(v).
<b>Appeal 3</b> <i>Date Intent to Appeal Received:</i> July 12, 2004 and November 14, 2004	Contracting Authority erred in the application of the NNI Policy.	Originally dismissed under Section 18.21(a), the Board was notified that the Appellant was not using the newest

<sup>85</sup> Response to Written Question 13-2(4), Appeal under the Nunavummi Nangminiqagtunik Ikajuuti (NNI) NNI Policy, May 28, 2008, pg. 1.

<sup>86</sup> NNI Contracting Appeals Board, Annual Report 2004-05, pg. 1.



Summary of 2004-05 Appeals		
Appeal Number and Timeframe	Reasons for Appeal	Board Decision
<i>Date Appeal proceeded to Hearing:</i> August 3, 2004 and December 14, 2004.		Contracting Appeals. In order to ensure fairness, the Appellant was allowed to resubmit an Intent to Appeal following the NNI Contracting Appeals procedures developed in consultation with NTI. The Appellant resubmitted an Appeal in November of 2004 and it was again dismissed under Section 18.21(a).
<b>Appeal 4</b> <i>Date Intent to Appeal Received:</i> October 29, 2004 <i>Date Appeal proceeded to Hearing:</i> November 25, 2004	Contracting Authority erred in the application of the NNI Policy.	When the appeal was heard, the Board posed question to the Contracting Authority regarding the evaluation process. A written request was submitted to the Authority by the Board. The Board was not satisfied with the reply and requested further information. No further activity transpired. At this point the appeal was classified as 'decision pending'.

Source: NNI Contracting Appeals Board, Annual Report 2004-05, pgs. 1-3.

In the fiscal year 2005-06, under Section 18.11 of the NNI Policy no Intents to Appeal were submitted to the NNI Contracting Appeals Board. Correspondingly, no appeals received a hearing under Section 18.12 of the NNI Policy.<sup>87</sup>

A total of three Intents to Appeal were submitted to the NNI Contracting Appeals Board during the 2006-07 fiscal year. One of these appeals was heard and dismissed under Section 18.21(a), one was not heard by the Contracting Appeals Board and was dismissed under Section 18.14 and the last was allowed under Section 18.21(b). Of the three appeals, two were heard within the time limits set in Section 18.17.<sup>88</sup>

The following table summarizes the 'Reasons for Appeal' and the Board decisions during the fiscal year 2006-07.

Summary of 2006-07 Appeals		
Appeal Number and Timeframe	Reasons for Appeal	Board Decision
<b>Appeal 1</b> <i>Date Intent to Appeal Received:</i> June 19, 2006 <i>Date Appeal proceeded to Hearing:</i> June 29, 2006	Contracting Authority erred in the application of NNI Policy.	Appeal dismissed under Section 18.21(a) with two recommendations for the Contracting Authority.
<b>Appeal 2</b> <i>Date Intent to Appeal Received:</i> May 1, 2006 <i>Date Appeal proceeded to Hearing:</i> August 31, 2006	Contracting Authority erred in the application of NNI Policy.	Appeal dismissed under Section 18.14 with no hearing, provided four administrative recommendations for the RC.
<b>Appeal 3</b> <i>Date Intent to Appeal Received:</i> September 28, 2006 <i>Date Appeal proceeded to Hearing:</i> October 11, 2006	Contracting Authority erred in the application of the NNI Policy.	Appeal allowed under Section 18.21(b) and provided eight recommendations to the Contracting Authority and the Government of Nunavut.

Source: NNI Contracting Appeals Board, Annual Report 2006-07, pgs. 1-5.

<sup>87</sup> NNI Contracting Appeals Board, Annual Report 2005-06, pg. 1

<sup>88</sup> NNI Contracting Appeals Board, Annual Report 2006-07, pg. 1.

Under Section 18.11, there were no Intents to Appeal submitted to the NNI Contracting Appeals Board during the 2007-08 fiscal year.<sup>89</sup>

In February of 2009 the Nunavut Court of Justice heard an application for judicial review of a decision made by the NNI Contracting Appeals Board. In June of 2008 the GN issued an RFP for the provision of medical boarding home facilities and services in the City of Iqaluit. Two proponents responded to this RFP and the GN Contracting Authority awarded the contract at the end of October 2008.<sup>90</sup>

The unsuccessful proponent launched an appeal on November 3, 2008. The appeal was based on two issues:

1. The fair application of the NNI Policy particularly in relation to the two proponents NNI registry status; and
2. The notation within the RFP that preference was for a newly constructed facility.

The date of the appeal hearing was set for November 21, 2008, however, this was adjourned to enable the Appeals Board to review and consider its hearing procedures (it is noted that no such procedures had been established beforehand, nor were any procedures outlined under the NNI Policy). This was the first substantive appeal to the Board in since its formal inception in 2004.<sup>91</sup>

The procedural rules for an appeal were distributed to the parties on December 16, 2008. In a letter dated December 11, 2008, the appellant requested the following information from the Contracting Appeals Board in order to adequately frame their appeal:

- The length of time that the Department of Community and Government Services had to file a reply to the appeal;
- The factors that the Appeals Board would consider in making its decision;
- Full disclosure of how the committee applied the NNI Policy and calculated the appellant's bid adjustment and, more specifically, the bid adjustment for the daily bed cost; and
- Production of the record that was before the committee regarding the NNI Policy and its application the to the appellant's bid.<sup>92</sup>

The Contracting Appeals Board did not provide a response to the above request for information, at which point the appellant again requested the previous information in addition to the following:

- The appellant's gross (unadjusted) score;

---

<sup>89</sup> NNI Contracting Appeals Board, Annual Report 2007-08, pg. 1.

<sup>90</sup> Nunavut Court of Justice, *Qikiqtaaluk Corporation v. Nunavut (Commissioner)*, 2009 NUCJ 06, 'The Facts', pg. 3.

<sup>91</sup> *ibid.*

<sup>92</sup> *ibid.* pg. 4.

- All information and documentation which was used by the Contracting Authority in calculating the bid adjustment to be applied to the appellant's proposal in accordance with s. 11.1(d), (e), (f) and (g) of the NNI Policy;
- The methodology used to calculate the adjustment for Nunavut business, Inuit firm and local status; and
- The appellant's adjusted score.<sup>93</sup>

On December 17, 2008 the Appeals Board reconvened and following submissions from all parties delivered an oral decision denying the request by the appellant for disclosure of the above items as well as denying a further request for an adjournment. The appellant refused to proceed absent further disclosure and the Board concluded [dismissed] the appeal.<sup>94</sup>

It was at this point that the appellant applied to the Nunavut Court of Justice seeking the following:

1. A declaration that the Contracting Appeals Board established under the NNI Policy is bound by and must comply with the rules of natural justice and procedural fairness;
2. A declaration that the Board, in making its decision of December 17, 2008 and its decision of December 22, 2008, declaring that the applicant's appeal was concluded failed to observe the principles of natural justice and procedural fairness, and that the said decisions constitute a violation of the applicant's right to be heard; and
3. An order setting aside the decisions and referring the said decisions back to the Board for reconsideration and determination, together with such directions as the Honorable Court may consider appropriate.<sup>95</sup>

The decision by the Nunavut Court of Justice proceeded to provide background by summarizing the relevant details of the Contracting Appeals Board. It is noted within the document that "... the authority of the Board is limited. The NNI Policy identifies a series of remedies that may be recommended by the Board. The Board cannot, however, change decisions of the Contracting Authority. Nor is the Contracting Authority required to accept the recommendations of the Board."<sup>96</sup> It is further concluded that "Any authority on the Board thus comes from the good faith of the Contracting Authority and those working under the authority of the NNI Policy. The Board has little effective enforcement authority".<sup>97</sup>

There was also substantial debate about how much information proponents have a right to. Common practice in federal government contracts generally involves provision of information to all bidders once the contract has been awarded. Typically, information is provided on rated scores on all criteria to an individual bidder (but not usually the scores by criteria for other bidders), as well as the total rated score and price for the winning bidder. Commentary is also usually provided on why the bidder scored high or low on each point, and how they might do better in the future. Sometimes these details are

---

<sup>93</sup> *ibid.*

<sup>94</sup> *ibid.* pg. 5.

<sup>95</sup> *ibid.* pg. 3.

<sup>96</sup> *ibid.* 'The Contracting Appeals Board', pg. 6.

<sup>97</sup> *ibid.* pg. 7.

provided automatically by the Contracting Authority, and sometimes only at the request of the bidder. The NNIS reported that a similar process is followed in Nunavut. The bid adjustments add an additional level of complexity to assessing what information is reasonable to provide. In summary, there is a clear recognition that disclosure is required, but it is not clear how much is enough.

#### **4.5.4 Findings from Consultations, Interviews and Surveys**

##### **Lack of Awareness of the Appeals Process**

The majority of community consultation participants and individual interviewees had little to no knowledge of the Appeals Process. Those that were aware of an NNI Appeals Process had not used it or were not familiar with how it was applied within the context of contesting GN-awarded contracts. Similarly, individual businesses interviewed communicated that they were not familiar with the Appeals Process, oftentimes having not been in a situation where they felt launching an Appeal was necessary or appropriate.

Officials within the GN indicated that there have been issues in the past related to the public's understanding of the Appeals Process. Some felt that this was indicative of a lack of awareness and education about this section of the NNI Policy.

##### **Independence of Current Appeals Process**

Amongst the community consultation participants and interviewees aware of the NNI Policy Appeals Process currently in place, there were a number of concerns expressed regarding the perception of the process and its results, given that the NNI Appeals Board reports to Cabinet through the Government of Nunavut. It should be noted however, that while the GN (specifically the NNIS) provides administrative support and secretarial services to the Contracting Appeals Board, they do not directly manage or control the Board. The Board is considered a "semi-autonomous, quasi-judicial tribunal" within the GN (it is funded directly by the GN). All Board decisions are submitted to the Deputy Minister and then to the Legislative Assembly.

This perceived lack of separation/independence between the contracting and procurement mechanisms and the governance of the Appeals Process hinders confidence in an objective and unbiased process. Additionally, it was explained during the consultations that with the Contracting Appeals Board governed by the GN, firms are necessarily reluctant to appeal a contract award decision to the single largest source for contracts within the territory. There is a perception that questioning the GN's bid decisions may jeopardize an individual's firm's likelihood of winning future GN contracts. As noted throughout this document, there is no evidence to suggest that questioning a bid decision has or would lead to negative consequences. As noted in the suggested action items in the previous section, encouraging people to document their concerns and then conducting investigations to monitor and track results is the only way to objectively assess whether the concerns are founded.

##### **Increasingly Legal Climate of the Contracting Appeals Process**

GN officials had a number of general points to contribute with respect to the Appeals Process. It was noted that the current process has created a number of issues. While the Appeals Process was initially designed as a mechanism to deal with challenges to

the application of the NNI Policy without resorting to the court system, study participants reported that the process is becoming increasingly legalistic. Another issue brought to light by GN officials was the fact that the NNI Policy stipulates that all parties can participate in the Appeals Process, however, appeals proceedings are confidential. As the term 'participate' is not clearly defined, this further adds to a perceived lack of transparency and accountability.

#### **Increased Capacity Required by Contracting Appeals Board Members**

Finally, a small number of stakeholders indicated that members of the Contracting Appeals Board may not possess sufficient knowledge of the NNI Policy required to make effective appeals decisions. In light of this, they suggested that the Contracting Appeals Board should be provided with extensive training to ensure members are aware of their roles and responsibilities. In this view, there also needs to be better coordination with the NNIS, specifically; the NNIS should be doing a better job of helping businesses understand what is required of them during the Appeals Process.

### **4.5.5 Overall Assessment and Suggested Actions Items**

The Appeals Process is an important component of the NNI Policy in that it helps to ensure that both CGS and the NNI Policy are considered accountable to those who engage in contracting and procurement in the territory of Nunavut. There were a number of concerns expressed regarding the perceived efficacy of the Appeals Process as it exists in its current state. In light of this, the following two suggested action items will serve alleviate these concerns while increasing the effectiveness and independence of the process.

#### **Appeals 1: Remove Contracting Appeals Board from under the control of the GN**

As was mentioned by community consultation participants, individual businesses, GN officials and key stakeholders, having the Contracting Appeals Board currently administered by the GN has necessarily generated questions surrounding independence. In this respect, it is suggested that the NNIS explore an alternative arrangement for reporting directly to Cabinet.

#### **Appeals 2: Clarify Scope of Contracting Appeals Board**

It is suggested that both the scope and authority of the Appeals Board be clarified through education and awareness sessions. Providing potential contractors with a better understanding of the Appeals Process and how it works in practice will serve to better educate the public.

## 4.6 Impact of the NNI Policy

### 4.6.1 Requirements within the NNI Policy and Article 24 of the NLCA

The NLCA is explicit in detailing the intent of Article 24 with respect to Government Contracting and how this Article is to be used as a mechanism to positively impact Inuit firms, Inuit employment and the Government of Nunavut. The overall objective of Article 24 of the NLCA is stated as follows:

*The Government of Canada and the Territorial Government shall provide reasonable support and assistance to Inuit firms in accordance with this Article to enable them to compete for government contracts.<sup>98</sup>*

In order to achieve the overall objective of this Article, sub-section 24.3.6 states that procurement policies and implementing measures are to reflect (if possible) the following:

- (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.<sup>99</sup>*

In order to support the three goals listed above, the Territorial Government is to work in close consultation with the DIO so as to achieve the following:

- (a) *increased access by Inuit to on-the-job training, apprenticeship, skill development, upgrading, and on the job related programs; and*
- (b) *greater opportunities for Inuit to receive training and experience to successfully create operate and manage Northern businesses.<sup>100</sup>*

The remaining six Parts of Article 24 define how preferential contracting and procurement policies are to be established and implemented in an effort to maximize opportunities available to Inuit firms. This includes the following:

1. Bid Invitation;
2. Bid Solicitation;
3. Bid Criteria;
4. List of Inuit Firms;
5. Evaluation and Monitoring; and
6. Implementation.

The NNI Policy was created to facilitate the implementation of Article 24 by the Government of Nunavut. Broadly speaking, the NNI Policy is considered a tool used by the GN to leverage its spending to help build the economy of Nunavut. A central component of developing the Nunavut economy is the extent to which the NNI Policy

---

<sup>98</sup> Agreement Between the Inuit of the Nunavut Settlement Area and Her Majesty the Queen in Right of Canada, Article 24, Government Contracts, Part 2: Objective, 24.2.1

<sup>99</sup> *ibid.* pg. 199.

<sup>100</sup> *ibid.* pg. 198.

improves Inuit employment, increases the number of successful Inuit and Nunavut-based firms and provides “good value and fair competition” to the GN.

The four overarching objectives of the NNI Policy encompass the provision and promotion of “good value and fair competition” for the GN, strengthening of the Nunavut economy, increasing Inuit participation in the provision of goods and services to the Government of Nunavut and increasing the number of skilled Nunavut Residents in all parts of the workforce and business community. Each of these objectives influences the impact of the policy on Inuit employment, Inuit firms and the GN.

While all parts of the NNI Policy can be considered as having an effect on Inuit employment, Inuit firms and the Government of Nunavut, the following sections of the NNI Policy deal with these directly. Due to the fact that the impacts can be considered extensive, please refer directly to the NNI Policy for detail.

- i. Section 5.0: Application
- ii. Section 7.0: NNI Policy Objectives
- iii. Section 10.0: Relationship to Nunavut Land Claims Agreement (NLCA)
- iv. Section 11.0: Evaluation Process and Bid Adjustment
- v. Section 12.0: Bonuses and Penalties
- vi. Section 14.0: Monitoring and Enforcement Procedures
- vii. Section 15.0: Application of Monitoring and Enforcement Procedures
- viii. Section 16.0: Periodic Review
- ix. Section 17.0: Review Committee
- x. Section 18.0: Financial Resources
- xi. Section 19.0: Revisions to or repeal of this NNI Policy

## 4.6.2 Findings from Previous Reviews and/or Reports

### 2001 Annual Review

The 2001 report explained that with only one year of data collected, it was difficult to accurately identify relevant trends. In this respect, data would need to be collected for at least two years for any discernible patterns to emerge regarding the effectiveness of NNI Policy and the extent to which it has been able to reach its objectives. As a result, the Review Committee agreed that a jointly funded study is required to determine appropriate benchmarks for measuring progress.<sup>101</sup>

With respect to working towards achieving the objectives of the NNI Policy (specifically ‘Strengthening the Nunavut Economy’ and ‘Inuit Participation’), the 2001 Review noted that all Inuit and Nunavut firms combined had won 82% of reported GN contracts in terms of total numbers and 62% in terms of total dollars. The report does note that there is significant progress required until Inuit participation reaches a level representative of the percentage of the Nunavut population.<sup>102</sup>

The following highlight some of the findings from the 2001 Annual Review.

---

<sup>101</sup> GN/NTI Review Committee, February 2002. Nunavummi Nangminiqagtunik Ikajuuti (NNI Policy), 2000-01 Annual Review, pg. 16.

<sup>102</sup> *ibid.*

- Of reported contracts awarded, 41% of the total number were awarded to Inuit firms, and 41% to Nunavut firms;
- Of the total dollar value of reported GN contracts, 24% was paid to Inuit firms and 38% to Nunavut firms. The remaining 38% of contract dollars went to firms not registered under the Inuit Firm Registry or the Nunavut Business Registry;
- The difference between the number of contracts awarded and the dollar value of contracts awarded indicates that Inuit firms won a fairly large number of small value contracts;
- There were 256 large and small contracts awards reported (excluding Goods Contracts, LCA's and Sole Source contracts). Of these, 46 (18%) were awarded to companies that were not initially the lowest bidder, but were awarded the contract due to bid adjustments; and
- The dollar value of the 46 contracts awarded as a result of the bid adjustments was \$3,078,134, or 6% of the total (\$50,336,785).<sup>103</sup>

With respect to Inuit employment levels, the 2001 Report indicates that while it is difficult to identify trends with only one year of data, Inuit labour minimums specified on contracts and the amount of Inuit labour bid by contractors (on both minor and major constructions contracts) indicates that Inuit labour is being actively recruited. It was calculated that if all contractors achieved the Inuit employment levels specified in their bids, the GN would be obliged to distribute \$281,000 in bonuses. While this dollar amount appeared quite low at the time, it was reported that anecdotal evidence suggested that many contractors considered the bonus and penalty system to be "... an attractive incentive for providing higher levels of Inuit labour".<sup>104</sup>

In 2000-01, NTI surveyed 40 firms from the Inuit Firm Registry. Survey respondents indicated two specific areas they believe required more attention and development: the legitimacy of the status of Inuit-owned firms; and the monitoring and enforcement of Inuit Content. More specifically, a number of Inuit-owned firms indicated that some contractors must be monitored more effectively (particularly with respect to verifying minimum Inuit employment levels). In addition to monitoring contractors more closely, it was suggested that the reports submitted by contractors to the GN should be reviewed more thoroughly. The majority of respondents also indicated that they considered the bid adjustments for Inuit firms to have had the most significant impact on Inuit companies in Nunavut.<sup>105</sup>

The RC did point out that there may be other factors that indicate the success of the NNI Policy beyond Inuit employment and the number of Inuit firms operating in the Territory. Some of the other measures suggested were: the quality of jobs held by Inuit; comparative levels of pay; the relative distribution of wealth; and the nature of training available.<sup>106</sup> In listing their conclusions, the RC posed the question of whether or not the Inuit employment objective made a difference. There was general agreement that setting employment objectives would positively impact Inuit employment levels, however, it was noted that it was too early to determine how. It was further explained that there were differences in the way the regions were implementing the NNI Policy as well as a difference of opinion regarding the reasoning and justification for setting Inuit

---

<sup>103</sup> *ibid.* pgs. 16-17.

<sup>104</sup> *ibid.* pg. 18.

<sup>105</sup> *ibid.* 24-25.

<sup>106</sup> *ibid.* 28.



employment targets. The RC indicated that a study of the impact of the NNI Policy on employment levels in general, and Inuit employment levels specifically, was required.<sup>107</sup>

### 2003 First Comprehensive Review

Key contracting data from the 2003 Comprehensive Review Report is summarized as follows:

- **All Reported Contracts:** 11,298 contracts were awarded in 2000-01, 12,851 contracts in 2001-02 and 11,181 contracts in 2002-03. The total value of the contracts that went to both Inuit and Nunavut firms did not change substantially over the period, but there was an increase in value for Inuit firms from 24% in 2000-01 to 37% in 2002-03.
- **Small Contracts:** 1,038 contracts awards were reported in 2000-01, 1,120 contracts in 2001-02 and 1,321 contracts in 2002-03. The total value of the reported contracts that went to both Inuit and Nunavut firms increased from 20% in 2000-01 to 27% in 2002-03.
- **Local Contract Authorities (LCAs):** 9,466 LCAs contract awards were reported in 2000-01, 10,890 in 2001-02 and 9,113 LCAs in 2002-03. The total value of the reported contracts that went to both Inuit and Nunavut firms did not change substantially over this period. There was a marked increase in the value for Inuit firms from 23% in 2000-01 to 38% in 2002-03.
- **Large Contracts – Including Goods:** 794 contracts awards were reported in 2000-01, 841 in 2001-02 and 747 in 2002-03. The total value of reported contracts going to both Inuit and Nunavut firms did not change substantially over the period. There was a marked increase in the value for Inuit firms, shifting from 24% in 2000-01 to 37% in 2002-03.
- **Large Contracts – Excluding Goods:** 229 contracts awards were reported in 2000-01, 311 in 2001-02 and 234 in 2002-03. The total value of reported contracts going to both Inuit and Nunavut firms did not change substantially over this period. There was an increase in the value of contracts going to Inuit firms, increasing from 20% in 2000-01 to 39% in 2002-03.
- **Sole Sourced Contracts – Excluding Goods:** In 2000-01, 18.5% of reported contracts were awarded using this method, 24.5% in 2001-02 and 14% in 2002-03. The total value of reported sole-source contracts going to both Inuit and Nunavut firms increased over this period, however, there was no significant change for Inuit firms, as the proportional value increased from 0.9% in 2000-01 to 1.0% in 2002-03.<sup>108</sup>

Finally, the 2003 Report noted that an important measure of the effectiveness of the NNI Policy is the value of contracts awarded as a result of NNI bid adjustments. In 2000-01 the value was \$3,078,134, this decreased by 13.0% in 2001-02 to \$2,677,581, and increased significantly, by 523.8% to \$16,703,883 in 2002-03. It was added that the value of contracts awarded to Inuit firms increased from 37% in 2000-01 to 53% in 2002-03.<sup>109</sup>

---

<sup>107</sup> *ibid.* 29.

<sup>108</sup> Nunavummi Nangminiqatunik Ikajuuti NNI Policy, First Comprehensive Review, 2003, pg. 5.

<sup>109</sup> *ibid.*

### 4.6.3 Profile of Impacts of the NNI Policy

In order to accurately determine the quantitative impact of the NNI Policy on the economy of Nunavut, Inuit employment, Inuit firms and the GN, a complete and detailed analysis of available contracting data is required. As noted previously, data is not available on all contracts let by the GN or any of its Public Agencies or Public Boards. Analysis of the data is complicated by the fact that the data has varied from year to year, both with respect to what data is reported and how that data is summarized. The type of analysis also varies from year to year. In some cases only percentages are presented, in other cases dollar values are provided. It is important to note that the data entry and tabulation process has only recently been automated and it is likely that the reports will become more consistent through time and thus both foster greater efficiencies in producing the reports, and enable more trend analysis.

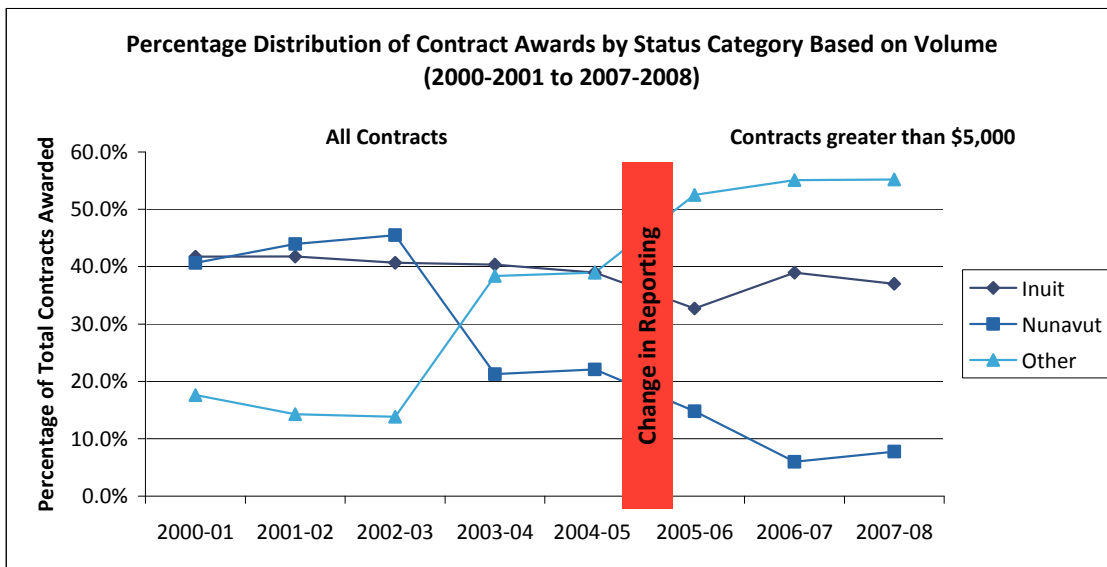
Data from the annual Contracting Activity Reports is included below, along with notes about changes in methodology.

#### Assessment of Total Reported Contract Awards

**Key changes in data calculation methods:** In 2005-06, the GN adopted a \$5,000 threshold for contracts to be included in the aggregated calculations for reporting purposes. As a result, the reports from 2005-06 to 2007-08 provide a greater focus on higher value contracts.

Territorial Government Contract Awards

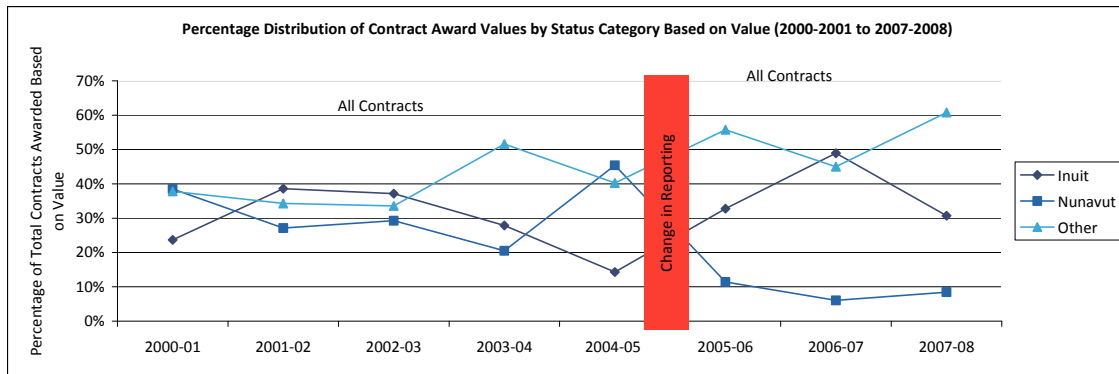
Status Category		2000-01	2001-02	2002-03	2003-04	2004-05	Change in reporting approach	2005-06	2006-07	2007-08
Inuit	#	4,716	5,368	4,549	4,163	3,865			321	410
	%	41.7%	41.8%	40.7%	40.4%	39.0%		32.7%	38.9%	37.0%
Nunavut	#	4,593	5,648	5,086	2,193	2,190		145	63	112
	%	40.7%	43.9%	45.5%	21.3%	22.1%		14.8%	6.0%	7.8%
Other	#	1,989	1,835	1,546	3,956	3,862		515	580	796
	%	17.6%	14.3%	13.8%	38.4%	38.9%		52.5%	55.1%	55.2%
<b>Total</b>		<b>11,298</b>	<b>12,851</b>	<b>11,181</b>	<b>10,312</b>	<b>9,917</b>		<b>981</b>	<b>1,053</b>	<b>1,442</b>



**Key findings regarding the number of contracts:** During the periods of analysis (2000-01 to 2004-05), the total number of contracts over the period declined. Non-Inuit, Non-Nunavut-based firms experienced a substantial growth in the share of contracts they won, largely at the expense of Nunavut-based firms. During the latter period of analysis, the number of contracts (limited to just those over \$5,000) increased substantially, and Inuit firms saw an increasing share of contracts, and in total the number of contracts to Inuit firms increased by 66% from 321 to 534. Nunavut-based firms, on the other hands, experienced a decline in contracts, in terms of both share and absolute numbers over the period.

**Key findings regarding the value of contracts:** The value of contracts let was relatively stable over the 2000-01 to 2004-05 period and then grew over the 2005-06 to 2007-08 period. During the earlier period, Inuit firms initially experienced an increase in the value of contracts and then a decline, such that the value and share of contract dollars in 2004-05 was lower than that seen in 2000-01, while the opposite trend was seen in Nunavut-based firms. In the latter period, Inuit firms were awarded more contract dollars, but lost in terms of share relative to non-Inuit, non-Nunavut-based firms.

Status Category		2000-01	2001-02	2002-03	2003-04	2004-05	Change in reporting approach	2005-06	2006-07	2007-08
Inuit	#	\$20,154,127	\$36,053,205	\$32,400,342	\$32,580,495	\$12,463,487			\$29,003,000	\$67,559,000
	%	24%	39%	37%	28%	14%		33%	49%	31%
Nunavut	#	\$32,801,600	\$25,312,092	\$25,539,756	\$23,969,191	\$39,563,103		\$10,105,000	\$8,347,000	\$16,371,000
	%	39%	27%	29%	21%	45%		11%	6%	8%
Other	#	\$32,196,924	\$32,020,202	\$29,279,309	\$60,302,016	\$35,077,524		\$49,330,000	\$62,113,000	\$117,551,000
	%	38%	34%	34%	52%	40%		56%	45%	61%
<b>Total</b>		<b>\$85,152,651</b>	<b>\$93,385,499</b>	<b>\$87,219,407</b>	<b>\$116,851,702</b>	<b>\$87,104,114</b>		<b>\$88,438,000</b>	<b>\$138,019,000</b>	<b>\$193,317,000</b>



**In summary, Inuit and non-Inuit, non-Nunavut-based firms both seemed to do better in absolute and share terms, at the expense of Nunavut-based firms in terms of the number of contracts, but non-Inuit, non-Nunavut-based firms saw much stronger growth in contract values than did Inuit firms, over the 2005-06 to 2007-08 time period.**

**Assessment of Reported Contract Awards by Size of Contract**

**Key changes in data calculation methods:** Starting in 2005/06, the GN made significant changes to the manner in which it reports the outputs of contracting activities outlined in its annual Contract Activity Report. In prior years, the GN categorized its contracts as Large Contracts (which included goods contracts with a value of \$5,000 or greater and all other contract types with a value of \$25,000 or greater) or Small Contracts (which included goods contracts under \$5,000 and other contract types under

\$25,000, but excluding LCA contracts). These categories have been replaced by three new categories: contracts under \$25,000; contracts between \$25,000 and \$100,000; and contracts over \$100,000. A second major change was that starting in 2005/06, reporting on contract values by contract size was done excluding goods. Because of these substantial differences in methodology, only the number of contracts (as opposed to contract values) is analyzed here.

**Key findings regarding small contracts:** The number of small contracts declined slightly during the earlier period. The majority of small contracts went to non-Inuit, non-Nunavut-based firms and the remainder was fairly evenly split between Inuit and Nunavut-based firms. During the latter period, the number of contracts grew. With the revised definition of “small”, Inuit and non-Inuit, non-Nunavut firms shared equally the majority of contracts. It would appear, based the fact that Nunavut firms shares fell in the latter period, that spending for products and services under \$5,000 is a substantial portion of their revenue. Data on spending for amounts under \$5,000 the total value of all small contracts was not included in reports from 2005/06 on.

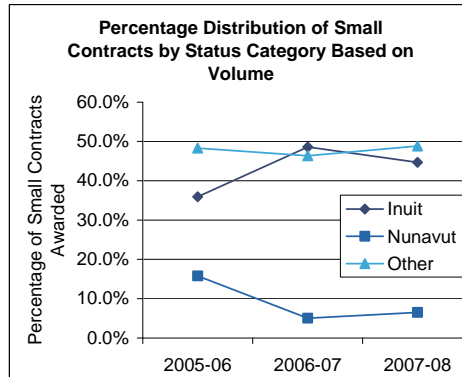
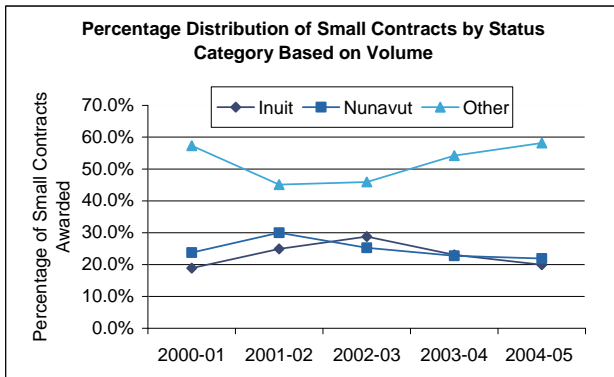
The lack of information regarding spending on goods and services means that it is difficult to track outcomes for firms providing small value goods and services. This could be an important loss of information, given the fact that small jobs can be an important starting point for new entrepreneurial companies. However, the value that is gained from this data must be assessed against the cost of gathering the data. Information on contracts or spending under \$5,000 appeared to account for approximately 10,000 (about 90%) of the approximately 11,000 contracts. While accounting for a significant proportion of the number of contracts, these smaller contracts account for less than about 1% of total spending. Consequently, GN has concluded that it is more important to devote scarce budget dollars to higher value activities than gathering information on small contracts.

Number of Small Contracts (Under \$5,000)

Status Category		2000-01	2001-02	2002-03	2003-04	2004-05
Inuit	#	196	279	380	253	183
	%	18.9%	24.9%	28.8%	23.0%	19.9%
Nunavut	#	247	336	334	250	201
	%	23.8%	30.0%	25.3%	22.8%	21.9%
Other	#	595	505	607	595	534
	%	57.3%	45.1%	46.0%	54.2%	58.2%
<b>Total</b>		<b>1,038</b>	<b>1,120</b>	<b>1,321</b>	<b>1,098</b>	<b>918</b>

Number of Small Contracts (\$5,000 - \$25,000)

Status Category		2005-06	2006-07	2007-08
Inuit	#	189	259	322
	%	35.9%	48.6%	44.7%
Nunavut	#	83	27	47
	%	15.8%	5.1%	6.5%
Other	#	254	247	352
	%	48.3%	46.3%	48.8%
<b>Total</b>		<b>526</b>	<b>533</b>	<b>721</b>



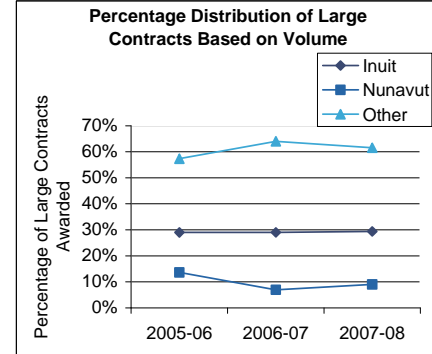
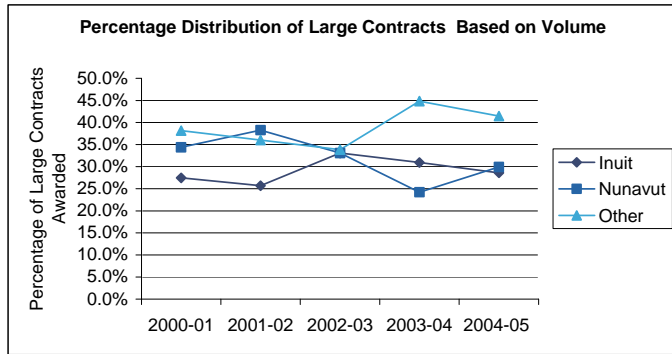
**Key findings regarding large contracts:** The number of large contracts has varied through time. In both periods under study, non-Inuit, non-Nunavut-based firms won a larger share of contracts, largely at the expense of Nunavut-based firms.

Number of Large Contracts (\$5,000 and higher)

Status Category		2000-01	2001-02	2002-03	2003-04	2004-05
Inuit	#	218	216	260	216	171
	%	27.5%	25.7%	33.1%	30.9%	28.6%
Nunavut	#	273	322	260	169	179
	%	34.4%	38.3%	33.1%	24.2%	29.9%
Other	#	303	303	266	313	248
	%	38.2%	36.0%	33.8%	44.8%	41.5%
<b>Total</b>		<b>794</b>	<b>841</b>	<b>786</b>	<b>698</b>	<b>598</b>

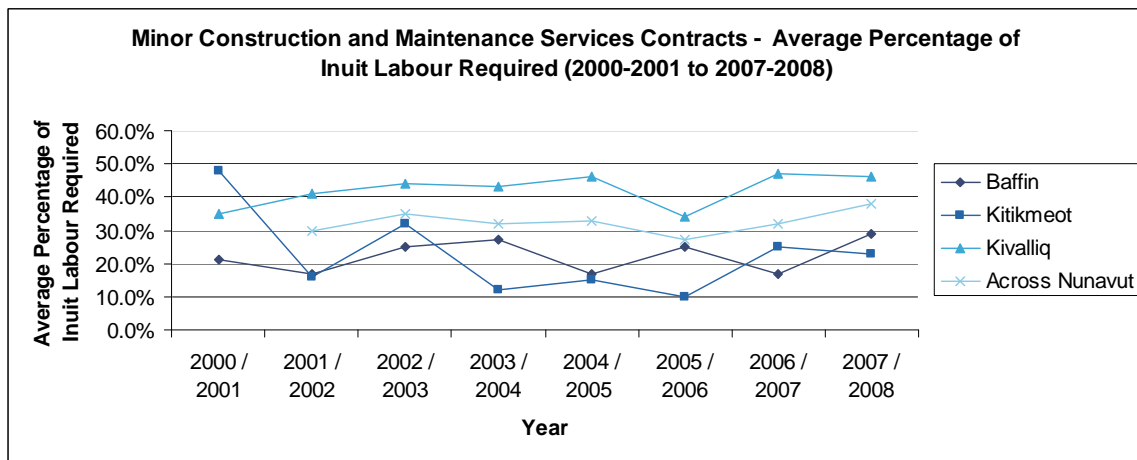
Number of Large Contracts (\$25,000 and higher)

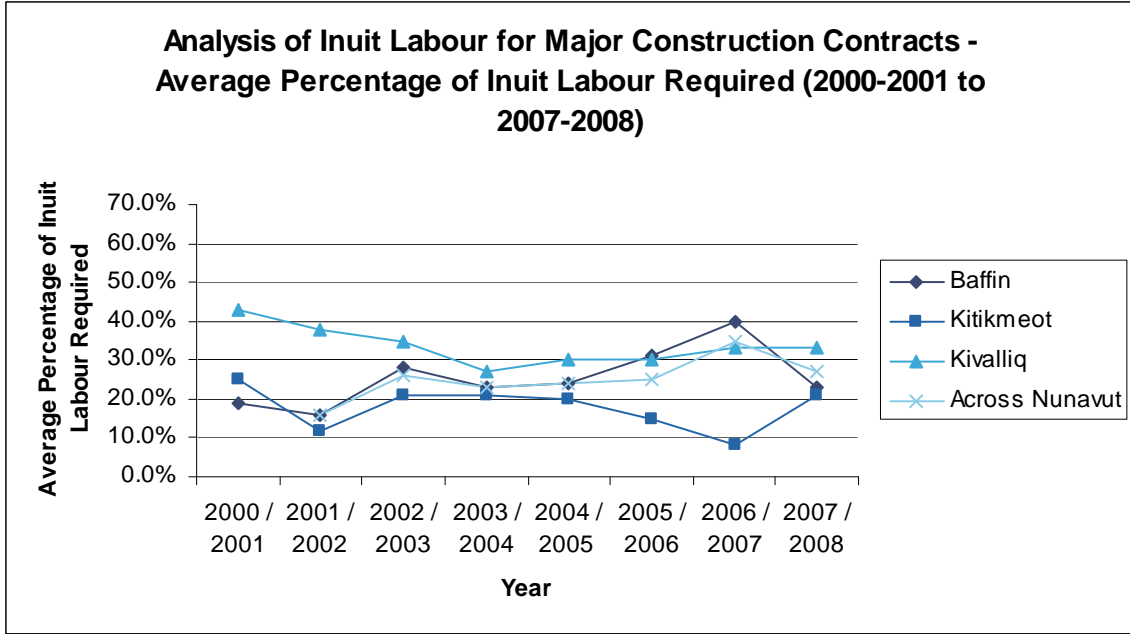
Status Category		2005-06	2006-07	2007-08
Inuit	#	132	151	212
	%	29.0%	29.0%	29.4%
Nunavut	#	62	36	65
	%	13.6%	6.9%	9.0%
Other	#	261	333	444
	%	57.4%	64.0%	61.6%
<b>Total</b>		<b>455</b>	<b>520</b>	<b>721</b>



### Assessment of Reported Inuit Employment

The following charts present the key findings in regards to Minor Construction and Maintenance Contracts. The following chart illustrates that Kivalliq typically had the highest requirements and the highest Inuit employment shares for construction and maintenance projects.



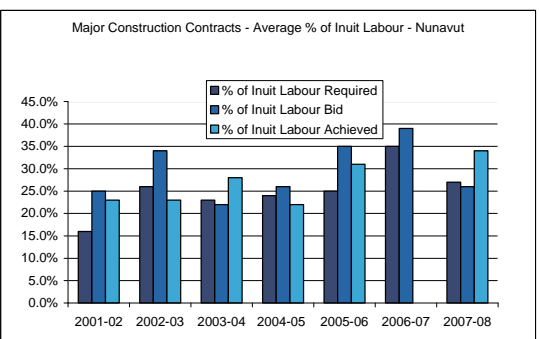
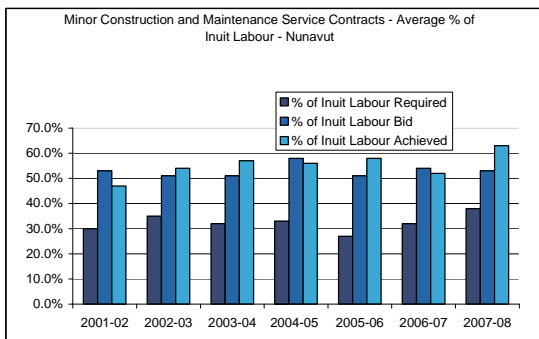
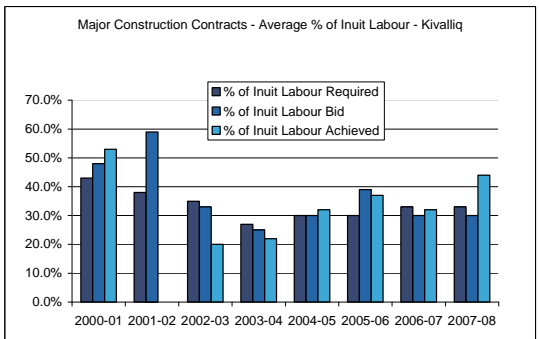
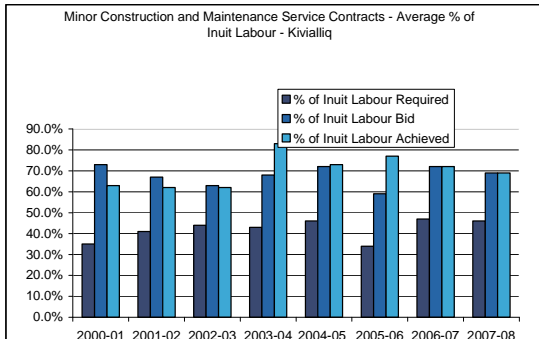
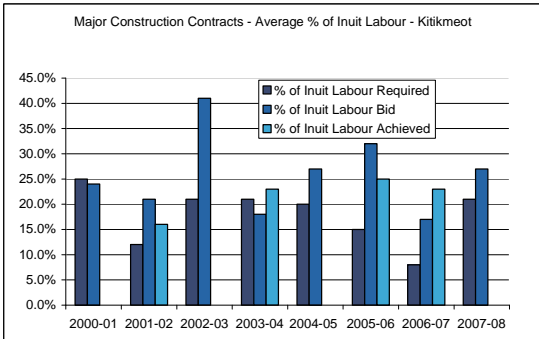
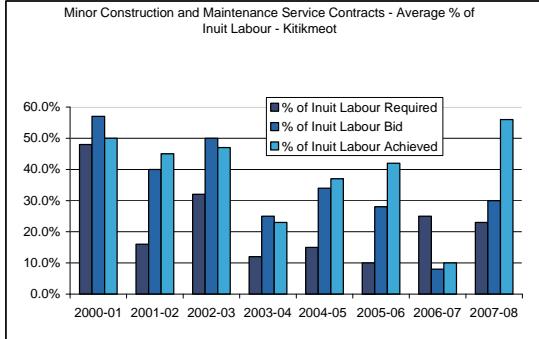
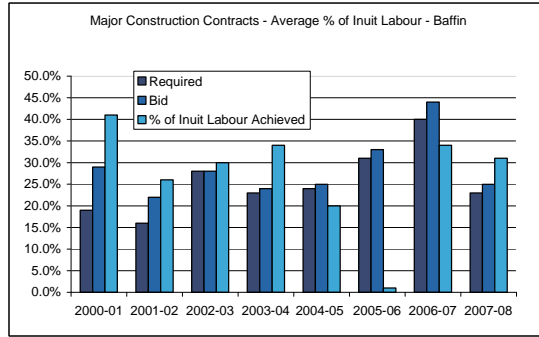
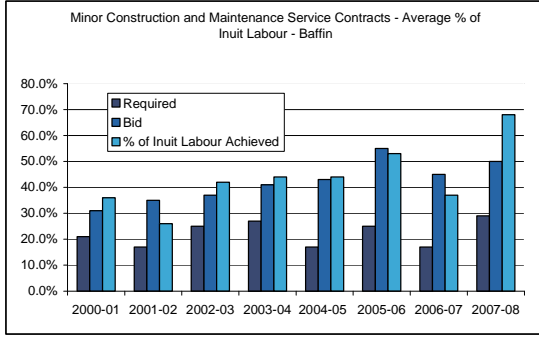


As illustrated in the following charts by region, the share of employment expected to be achieved by Inuit typically exceeded the minimum requirement for minor construction and maintenance, but results were more mixed for major construction. Similarly, where actual ratios typically exceed bid ratios for Inuit labour, results were even more mixed for major construction projects.

An interesting positive relationship is seen with regards to minimum requirements and the achievement of results. For example, as noted above, Kivalliq typically had the highest requirements and the highest Inuit employment ratios.<sup>110</sup> While these trends appear to suggest a strong relationship between Inuit employment requirements and outcomes, it may also be that Inuit labour requirements were set with a knowledge of the availability of skilled Inuit. These numbers do suggest that the labour requirements are not excessive.

Inuit labour shares appear to have increased relatively consistently in minor construction and maintenance in the Baffin region. However, no strong consistent trend is evident in other regions. It is important to note that there is no data on Inuit employment for other contracts. This lack of data limits the ability to assess the impact of the NNI Policy on Inuit employment.

<sup>110</sup> It is noteworthy that there appear to be numerous cases (Kitikmeot, Minor Construction and Maintenance, 2006/7, Kivalliq, Major Construction, 2002-2003, 2003-04 and 2006-07) where the average Inuit percent of labour bid actually fell short of the Inuit percent of labour required. This is interesting, because these bids should have been rejected.



M

**Key findings regarding labour bonuses:**

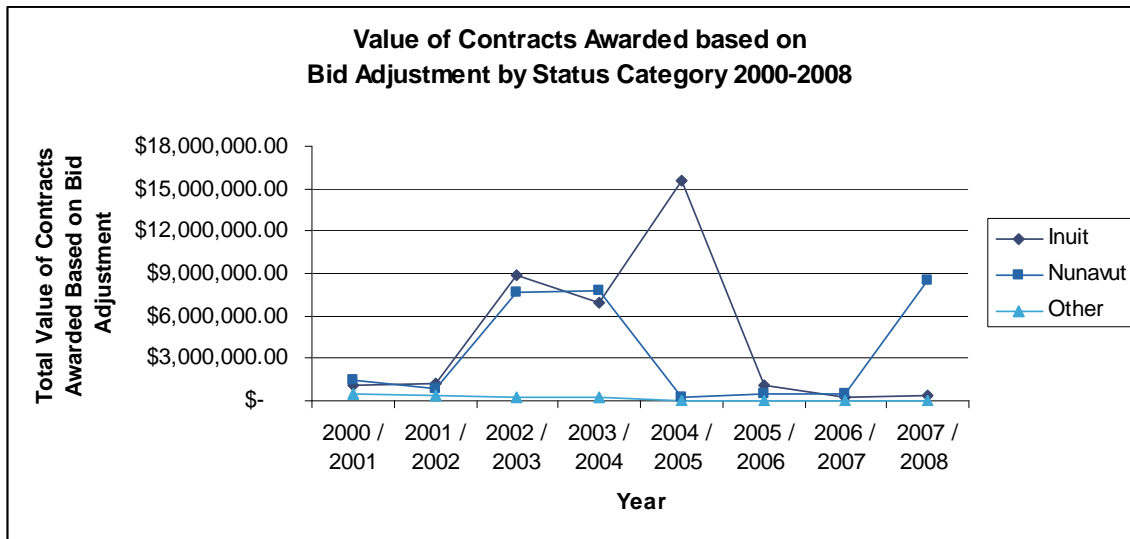
The following chart illustrates that the reporting of actual payments and penalties has only occurred in recent years. Bonus payments were much more common than penalties, suggesting that contractors are more likely to exceed than fall short of minimum requirements. The anticipated payments appear to vary from and substantially exceed the actual payments, a trend that merits further explanation.

Anticipated and Actual Bonus Payments and Penalties

	2000-01	2001-02	2002-03	2003-04	2004-05	2005-06	2006-07
Anticipated Bonus payments	281	225	15	124	191	330	228
Baffin	225	142	6	54	117	123	117
Kitikmeot	3	25	8	42	29	69	6
Kivalliq	53	59	2	29	7	138	105
Actual Bonus Payments			37	86	121	101	110
Baffin					76	56	27
Kitikmeot					5	2	3
Kivalliq					40	43	80
Actual Penalties					4	33	31
Baffin						32	29
Kitikmeot						1	
Kivalliq							2

**Key findings regarding bid adjustments:**

There was no distinct trend observed for the value of contracts that were awarded based on bid adjustment in the period observed. The overall value of bid adjustments in a year varied from as low as \$751,000 in 2006-07 all the way up to \$16.7 million in 2002-03, however the distribution of contracts awarded over time behaved erratically both in terms of value and in distribution between Inuit and Nunavut status category firms.



The objective of the NNI Policy is not just to impact contract awards and Inuit employment through those awards, but to assist in building capacity and greater competition within the North. While it is impossible to attribute trends in the general economy to the NNI Policy directly, it is worthwhile noting some of the key trends. As noted in the NLCA, the performance of the economy and labour force in general, serve as an important source of contextual information for reviewing the effectiveness and



relevance of the NNI Policy. Some of the key trends, which influence the context and need for the NNI Policy include:

- The gap in GDP per capita narrowed substantially over the 2003 to 2007 period.<sup>111</sup>
- As illustrated in the 2008 Nunavut Economic Outlook by Impact Economics, the economic gains are countered by many challenges in regards to social outcomes related to education, health, social conditions and housing, despite seeing economic improvements.
  - Unemployment rates declined substantially from 13% in 2004 to 8.9% in 2007 in Nunavut as a whole, and declined from 18.4% among Inuit to 12.3%.
  - According to the Community Well-Being Index, Inuit communities achieve slightly higher outcomes in terms of well-being than First Nations communities but well below the average for other Canadian Communities.
  - Life expectancy rates at 66 for males and 70 for females are well behind the Canadian averages of 78 and 83 respectively.
  - Rates of suicide and self-inflicted injury are more than seven times the national average.
  - Violent crimes per 100,000 population are almost 10 times the national average (at 6,447 compared to 951).

While these statistics do not relate directly to the NNI Policy, they do point to the continued need to build capacity for a stronger socio-economic foundation in Nunavut.

#### **4.6.4 Findings from Consultations, Interviews and Surveys**

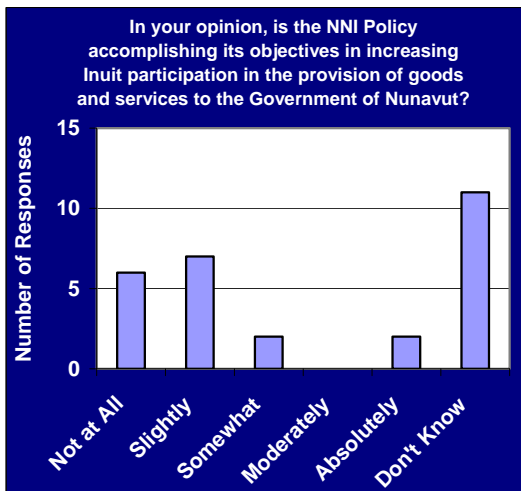
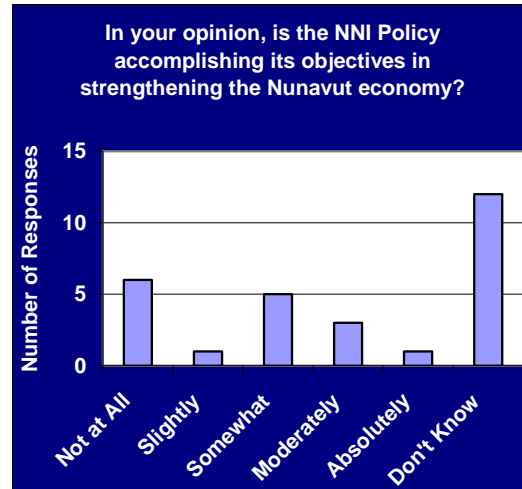
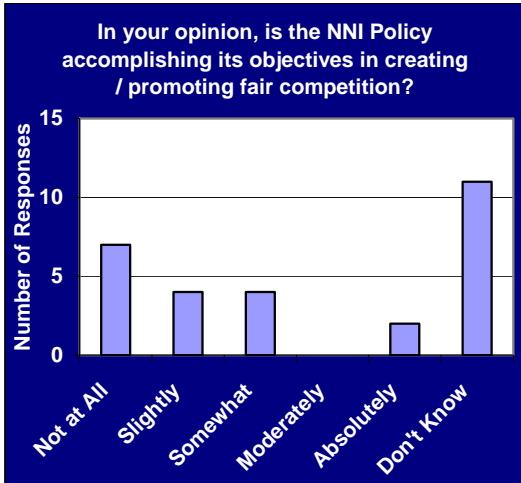
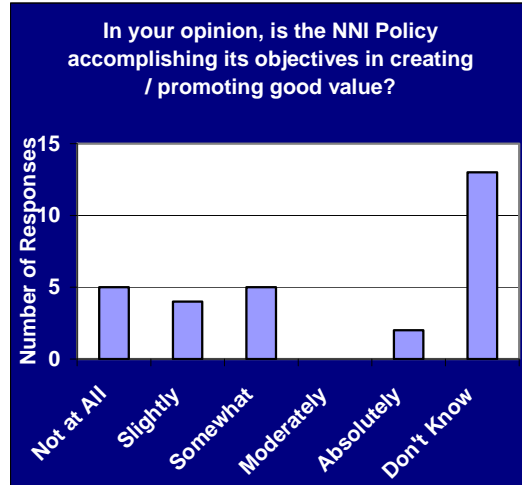
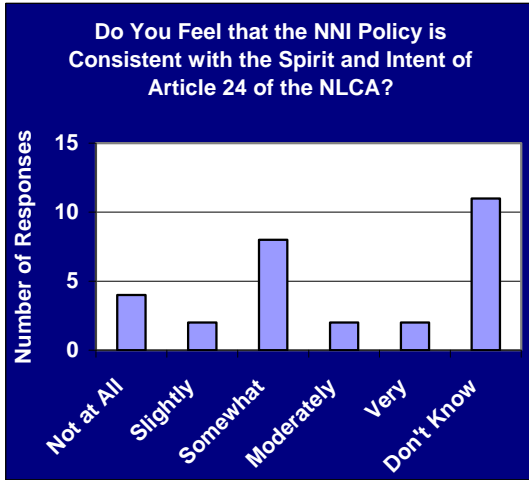
##### **Views are mixed on the extent to which the NNI Policy is Achieving the Intent of Article 24 of the NLCA**

According to many participants in the community consultations and the key stakeholders interviewed, the NNI Policy is the right policy to accomplish the intent of Article 24 of the NLCA. However, as shown in the charts below, responses to the SAO/EDO/CLO survey suggest that opinions are widely dispersed. Many stakeholders indicated that the NNI Policy should always be considered open to change. Many stakeholders also indicated that the basic structure of the NNI Policy is appropriate in that its objectives are being met to varying degrees. Stakeholders added that they considered it important that NTI act as a collaborative partner in the on-going evolution of the NNI Policy, specifically acting to ensure that the NNI Policy continues to support the implementation of Article 24 of the NLCA. It is also worthwhile noting that there were no suggestions for major changes to the NNI Policy.

It is important to report that the majority of community consultation participants indicated that the link between Article 24 of the NLCA and the NNI Policy has to be clarified to the public. It was suggested that this may involve appending both Article 24 and a copy of the NNI Policy to all GN RFPs or Tender where the NNI Policy applies.

<sup>111</sup> Statistics Canada, CANSIM, tables 384-002 and 051-001.

### Responses from Survey of SAO/EDO/CLO as Part of the Comprehensive Review of the NNI Policy



### **Impact of the NNI Policy on Inuit Firms Pursuing GN Contracts**

As discussed previously, there have been many concerns that have been raised frequently, but for which people cannot cite documented sources that present objective assessments of the foundation for the concern. For example, several community consultation participants indicated that they believed that the GN will invite firms from South to bid on government contracts – even when there are enough Inuit (Nunavut-based or Local) suppliers operating in the North. They have further reported that by inviting Southern firms to bid on GN contracts, they believe that the GN is discouraging Inuit firms from pursuing opportunities they may have otherwise bid on (due to a perception that even with applicable bid adjustments, it remains difficult to compete with Southern firms in some industries/sectors). As suggested previously, people should be encouraged to document these concerns, thereby affording an opportunity to investigate the basis for them, and provide a stronger foundation for future reviews.

Inuit business owners communicated that it is very difficult to bid successfully when competing against Southern firms due to the fact they are comparatively less diversified/developed and lack the same level of access to available resources and capital. While many Inuit firms have begun and are flourishing in the GN's bidding environment affected by the NNI Policy, some business owners, particularly in the smaller communities indicated that they would like to see GN contracting opportunities kept strictly local when possible so as to increase the capacity of Inuit and Nunavut-based firms.

While some Inuit business owners reported they were familiar with the NNI Policy and believe that the process of making bids has improved since the inception of the NNI Policy, other Inuit business owners felt that there is a lack of advice and resources available to assist Inuit firms with winning GN contracts. This was especially prevalent in smaller communities where it was noted that some Inuit businesses do not possess the language skills and technical capacity to interpret and understand the more complex aspects of the NNI Policy. A small number of community consultation participants argued that the lack of assistance on the part of GN Contracting Authorities has contributed to a perception that in some cases, the GN has already chosen a successful proponent prior to the close of the RFP or tender. It is important to note that the GN cannot provide assistance to individual bidders in regards to responses to specific RFPs. The only way for a bidder to obtain clarification on an RFP is to send specific questions in writing to the Contracting Authority. The Contracting Authority will then send a response to all bidders. Consequently, as discussed throughout this report, it is important to continue working to improve awareness and understanding of the NNI Policy and the legalities surrounding the government contracting process.

Ultimately, the real challenge is twofold: first, Inuit business owners often do not have the language skill sets required to participate in the public bidding process. Secondly, Inuit businesses do not have a clear understanding of what help they can request, and do not feel that they can turn to a knowledgeable source for assistance when preparing a bid. However, the NNIS has taken significant steps over the last year to provide the public with accessible resources to better assist them in leveraging the NNI Policy and submitting successful bids to the GN Contracting Authorities.

### **Training the Inuit Labour Force**

With respect to facilitating training for Inuit, the majority of community consultation participants and stakeholders interviewed acknowledged that the GN does provide

opportunities for skill-specific training. However, oftentimes this training is offered outside the Territory and involves significant travel. Inuit participants indicated that this can pose a problem as there can be a reluctance to travel for training. It was suggested that an increased effort be made by the GN to provide job-specific training in the territory. Stakeholders and business owners did draw attention to current efforts being made by the GN to improve Inuit work skills, specifically the construction of a trade school in Rankin Inlet.

The majority of Review interviewees believe that long-term contracts are necessary to provide effective education and training that result in concrete labour force skills for Inuit employees. Business owners noted that if contracts could be increased in size and scope, it would be easier for them to provide stable and consistent training to Inuit employees.

A few business owners reported that there was a shortage of available Inuit trainees. It was added that in some cases, available Inuit trainees did not possess the requisite basic skills to support some of the more specific training opportunities offered by employers. In summary, business owners would like to be able to access a broader base of Inuit with basic skills.

Inuit business owners participating in the community consultations explained that some companies in the North have provided cultural training for staff so as to facilitate better working relationships between Inuit and non-Inuit. It was noted that in order to successfully integrate Inuit into the labour market, non-Inuit business owners should be familiar with Inuit cultural traditions and appreciate the values that relate to working styles in the North.

Overall, stakeholders expressed concern surrounding the existence of available training delivered in Nunavut as well as the level of assistance provided to Inuit firms engaged in training their employees. The NNIS has reported that they have taken significant steps within the last year to provide more available information and assistance as it relates to available training options for Inuit-owned firms and Inuit employees. This will continue to be enhanced through the development of integrated strategic partnerships with both the GN's Department of Education and Nunavut Arctic College.

### **Impact of the NNI Policy on the Inuit Labour Force**

Most business owners maintained there are opportunities for advancement of Inuit within the labour force in Nunavut, however, as previously mentioned, concerns were expressed regarding access to adequate amounts of skilled Inuit labour. This was especially significant within the smaller communities. Some of the Southern business owners interviewed agreed that not only is the quantity of available Inuit employees increasing but the skill level Inuit employees is also improving. That being said, a small number of participants in the community consultations believe that the quantity of available Inuit employees with the necessary skills is at roughly the same level as it was five years ago.

Some business owners indicated that once hired, they found it difficult to keep Inuit employees on the job (retention); specifically those with little work experience. Inuit participants communicated that they find it difficult to work with Southern employers, particularly on construction contracts. Business owners reported that while they can offer positions to Inuit, there has to be a commitment to work on the part of the employee.

Additionally, business owners added that retention rates of Inuit employees have also improved in the recent past. Additionally, it was noted that although there are difficulties securing sufficient Inuit employment, business owners do believe that the NNI Policy served to improve the skills of the Inuit workforce in Nunavut.

A majority of business owners maintain that Inuit and Inuit firms have not been provided adequate opportunities to do the work that is being offered by the GN in their own communities. Participants had expected that the NNI Policy would mean that Contracting Authorities would consider Inuit, Nunavut-based or Local firms when awarding a bid for a given project, but now feel that this has not been the case to the extent that it was expected. Business owners noted that without the adequate opportunities to win contracts and complete work in their own communities, developing the local Inuit labour force becomes very difficult.

On average, stakeholders believe that Inuit employment and access to the labour force has improved in recent years. Issues surrounding retention, availability of Inuit workers and the desired skill levels of Inuit workers continue to persist. Many Local Inuit business owners feel strongly that the development of the local Inuit workforce will only be achieved through the provision of GN contracting opportunities at the local level.

#### **Impact of NNI Policy on Individual Business**

Most Inuit business owners operating in the smaller communities indicated that the NNI Policy currently favours larger businesses as well as businesses presently operating in Nunavut's larger communities. They believe that businesses operating in larger communities have a distinct advantage when bidding on government contracts, specifically with respect to having comparatively lower costs and a larger pool of qualified labour from which to draw from.

Most Nunavut business owners agreed that the NNI Policy has had a positive effect on their businesses by improving their ability to compete with Southern firms. However, business owners felt that the NNI Policy is really only beneficial to Inuit and Nunavummiut on small GN contracts. Stakeholders indicated a need for an analysis of the financial barriers that many Inuit businesses face due to remoteness/isolation combined with the higher cost of living and doing business in the various communities across the North. This need has been identified in previous studies, and the GN has identified that they are trying to streamline the permitting process, which is expected to contribute to a reduction in business costs.

#### **Impact of the NNI Policy on the Nunavut Economy**

A majority of participants in the community consultations agreed that since its inception, the NNI Policy has helped businesses grow within the communities and increase the number of Inuit in labour force. Most of the individuals, businesses and government officials interviewed as part of the review process believe the NNI Policy has had an overall positive impact on the Nunavut economy. It was noted that the GN continues to remain dependent on Southern firms for the provision of goods and services; however, it was acknowledged that this dependence would be much greater without the existence of the NNI Policy.

Most stakeholders expected that it would be difficult to properly evaluate the impact of the NNI Policy on the economy of Nunavut without the appropriate statistical data. Many community consultation participants were unsure if such data existed and if so, if it was

being used by the GN. It was suggested that there is a distinct need for public reports documenting the impact of the NNI Policy on the Nunavut economy. While there are annual reports on contract awards, there is no information on what impact the NNI Policy has had on the capacity of Inuit workers or firms or Nunavut-based businesses. Moreover, as the documents do not look at trends in the data over multiple years, they do not provide a general sense of the direction of change. While this Review involved examining available information on this matter, it also highlighted the need to collect information so as to assess the impact at the contract/firm level.

### **Impact of the NNI Policy on the GN's Ability to Obtain Goods and/or Services at a Reasonable Cost and with Good Value**

When asked to comment if the NNI Policy has improved the GN's ability to obtain goods and services at a "reasonable cost" and with "good value", most stakeholders indicated they did not feel they were in a position to answer as they were not clear on how the concepts of both "reasonable cost" and "good value" were measured. This issue has been discussed in greater depth in Section 4.1.

### **The NNI Policy and the Changing Socio-Economic Environment in Nunavut**

The majority of stakeholders interviewed and community consultation participants reported that the design and implementation of NNI Policy has not evolved with the changing socio-economic environment in Nunavut. There were two key issues:

- Business owners mentioned that local businesses within the smaller Nunavut communities have undergone significant development and are increasingly becoming a source for goods and services to the GN. However, there are concerns (based on anecdotal evidence) that even where capacity has developed, GN is still going to contractors in the South because they are not aware of local capacity.
- It was noted by a majority of GN officials that the nature of ownership of Inuit firms has changed drastically since the inception of the NNI Policy in 2000. This has included the trend towards Inuit-owned businesses being a part of larger businesses with more diverse holdings. In this respect, the definition of an Inuit-owned firm has increasingly been questioned by business owners and the public.<sup>112</sup> This is especially common in the larger communities where strategic partnerships between Inuit and non-Inuit firms are more prevalent. Concerns were also expressed that the criteria used to classify an Inuit firm are insufficient. As discussed in Section 4.2, the term 'Inuit business' is defined in the NLCA. In the case of multiple owners, the business must have at least 51% of the company's voting shares beneficially owned by Inuit. There is a fear that in some cases Inuit do not exercise any real management control. However, it should be recognized that NTI is obligated to operate under the conventions detailed in Section 24 of the NLCA. As such, the extent to which they can confirm and manage Inuit firm status is necessarily limited by the inherited set of criteria outlined in the Agreement.

In general, there have been many changes in the economy of Nunavut since 2000. In light of this, most stakeholders believe that these changes should be assessed,

---

<sup>112</sup> It is important to recall that the second (2005-06) Five Year Comprehensive Review of the Implementation of the Nunavut Land Claim Agreement stated that the definition of 'Inuit-owned business' is a contentious issue in Nunavut communities.

analyzed and integrated into a revised and updated version of the NNI Policy that more accurately reflects the current economic realities of the Territory.

#### 4.6.5 Overall Assessment and Suggested Action Items

Overall, there remains a general view, as found in previous reports, that the NNI Policy contains the right approach and key elements for achieving the objectives of Article 24, and that it provides a basis for improvements in the competitiveness and strength of the economy and welfare of Inuit and Nunavummiut. However, results still fall short of the NNI Policy aspirations, as illustrated by the assessment against the objectives of the NLCA and the NNI Policy presented below. The first five objectives are common to the NLCA and the NNI Policy. The last objective is specific to the NNI Policy. However, it is important to note that this objective is actually common to many departments in the government of Nunavut, including Department of Education, Nunavut Arctic College, Department of Health and Social Services etc. Consequently, the NNI Policy alone cannot be expected to result in full achievement of the objective.

***Increased participation by Inuit firms in business opportunities in the Nunavut Settlement Area economy.*** Nunavut has experienced rapid growth in Gross Domestic Product (GDP) on a per capita basis. It has substantially narrowed the gap in GDP per capita relative to the country as a whole. However, there does not appear to be data available that demonstrates what percentage of GDP is accounted for by Inuit businesses versus other businesses. There is anecdotal evidence that Inuit firms continue to face many challenges, including language barriers and inadequate skills, to effectively compete in the market place. Consequently, it is not possible to assess progress against this objective. This is an important finding, as it suggests that additional data collection is required so as to be able to report against this objective in the future.

***Improve the ability of Inuit, Nunavut-based and local firms to compete for government contracts.***<sup>113</sup> Based on information currently available, this Review has found that:

- Reported contract awards to Inuit firms increased from \$20 million in 2000-01 (23.7% of contract dollars) to almost \$60 million (30.7% of contract dollars) in 2007-08. Hence, there has been progress for Inuit firms.
- Reported contract awards to non-Inuit, non-Nunavut based firms have increased even more, from \$32 million (37.8% of contract dollars) to over \$117 million (60.8% of contract dollars).
- Reported contract awards to Nunavut-based firms declined from \$33 million in 2000-01 (38.5% of contract dollars) to \$16 million in 2007-08 (8.5% of contract dollars).
- Contract values vary substantially from year to year. Moreover, the share of contract awards by type of firm also varies substantially through time. This volatility presents a challenge for firms seeking to build sustainable capacity.

<sup>113</sup> It is important to note that comparisons over time are not possible because of the fact that prior to 2005/06 all contracts were reported on annually, whereas after 2005/06, only contracts over \$5,000 in value were assessed annually. However, contracts of less than \$5,000 constituted less than 5% of total contract dollars over the 2000-01 to 2004-05 period, so this change is not significant when looking at overall contract values.

- Inuit employment shares have improved in minor construction and service contracts in Baffin, but been volatile in most areas.
- Inuit employment shares appear to be strongly related to Inuit employment bid requirements.
- Actual bonus payments have been substantially lower than anticipated bonus payments on construction and maintenance contracts.
- The key challenge in assessing performance is the absence of sufficient data to both understand what is happening (e.g. there is little data by contract size, and no data on training and education), and to understand why it is happening.

**Promote the employment of Inuit in the Nunavut Settlement Area.** Overall, Inuit employment in Nunavut increased substantially over the 2004 to 2007 period, and unemployment rates declined dramatically over the same period. This suggests that progress is being made in the area of Inuit employment overall.

**Increase Inuit access to on-the-job training, apprenticeship, skills development and upgrading and other job-related programs.** It is difficult to assess objectively the impact that the policy has had on skills development among Inuit. The NNI Policy requires that a training plan be prepared for Inuit employees for all large construction and maintenance contracts. However, there appears to be no assessment by the GN on whether this training is appropriate, or is even carried out. There is no training requirement associated with other contracts (i.e. outside of maintenance and construction), regardless of size. Finally, there is no data available for assessing what training and skills development Inuit are receiving on government contracts. Anecdotal evidence from community consultations suggested that an increase in skill levels among Inuit has been observed in some areas.

**Good value and Fair Competition.**

The Government of Nunavut applies a strict set of criteria when determining “good value” or “best value”. “Best value” or the proposal that demonstrates the best potential value is determined using scoring criteria employed within the competitive proposal process. However, business representatives, existing and potential employees, contractors and the general public are not necessarily familiar with how these terms are practically employed when evaluating a bid or proposal. Consequently, representatives of business and the public have expressed concern over how this is ensured. This is one of the many areas where a lack of understanding of contracting policy within the business and general community contribute to a misunderstanding of how the objectives of the policy are in fact being met. While the general public can never be expected to fully understand the intricacies and legalities of public procurement, widespread misperceptions necessarily make it challenging for the general public to fully understand if NNI Policy objectives are being met successfully. Continuing education on the NNI Policy will serve to mitigate and alleviate this issue.

In summary, while progress has been made in many areas, there is not sufficient data to assess progress in all areas, nor is there sufficient data to understand how the NNI Policy has contributed to much of the progress that has been achieved.

The following actions are offered as suggestions to improve the realization of the objectives of the NNI Policy and Article 24 of the NLCA.



**Impacts 1: Consider suggestions throughout the report.**

All of the challenges regarding awareness, education, Registries, etc. as noted above, affect the ability of the NNI Policy to achieve the desired impacts on firms, workers and the economy.

**Impacts 2: Ensure that Contract Authorities Carefully Consider Inuit, Nunavut and local businesses.**

There was a common sense that bid invitations were sent to southern firms when capacity existing amount Inuit or Nunavut-based firms. Given that the capacity of firms is evolving rapidly, it is important to ensure that assumptions about the capacity of Inuit or Nunavut-based businesses not be made.

#### *4.7 Key Elements of other Business Incentive Policies*

There are two key business incentive policies targeted to Aboriginal Peoples in Canada that may offer interesting points of consideration.

**The Procurement Strategy for Aboriginal Business (PSAB)**

The PSAB is a program led by Indian and Northern Affairs (INAC) that has been designed to stimulate Aboriginal business development and increase the number of Aboriginal firms bidding on and winning Federal Government contracts.

The Strategy has three primary activities:

- The creation of measures to set aside specific contracts for competition by Aboriginal businesses;
- The development of performance objectives targets to increase the total value of Aboriginal procurement; and
- The development of complementary measures to facilitate access by Aboriginal business to federal procurement opportunities, such as information on Aboriginal suppliers, changes to federal contracting policy notices, informing Aboriginal business of market accessibility, and changes to federal contract security requirements.<sup>114</sup>

In addition to assisting Aboriginal firms in securing Federal Government contracts, the PSAB also aims to provide Aboriginal business with the potential for: partnerships; joint ventures; strategic alliances; subcontracting opportunities; and business network development.

The PSAB is open to all Aboriginal businesses, incorporated or not. A business includes a sole proprietorship, limited company, co-operative, partnership, or not-for-profit organization. To be considered an Aboriginal business, a firm must meet the following criteria: (1) At least 51 percent of the firm is owned and controlled by Aboriginal people, and, (2) At least one third of the firm's employees, if it has six or more full-time staff, are Aboriginal. If a firm is starting a joint venture or consortium, at least 51 percent of the

---

<sup>114</sup> Evaluation of the Procurement Strategy for Aboriginal Business, [http://www.collectionscanada.gc.ca/webarchives/20071125232555/http://www.ainc-inac.gc.ca/pr/pub/ae/ev/00-06/00-06\\_3\\_e.html](http://www.collectionscanada.gc.ca/webarchives/20071125232555/http://www.ainc-inac.gc.ca/pr/pub/ae/ev/00-06/00-06_3_e.html)

joint venture or consortium must be controlled and owned by an Aboriginal business or businesses, as defined above.<sup>115</sup> When a firm bids for a contract under the PSAB, it must complete and sign the form entitled "Certification Requirements for the Set-Aside Program for Aboriginal Business." An Aboriginal bidder must provide proof of eligibility upon request. Indian and Northern Affairs Canada (INAC) audits Aboriginal supplier certifications on a regular basis.

Under the PSAB the Government of Canada is reserving, or "setting aside", certain contracts exclusively for competition among Aboriginal businesses. There are two kinds of PSAB set-asides: mandatory and voluntary. A mandatory set-aside policy applies to all contracts that serve a primarily Aboriginal population (i.e., at least 80 percent) and that are worth more than \$5,000. Voluntary set-asides may be applied to other contracts by federal buyers whenever practical.

When a contract is reserved for Aboriginal competition, the department or agency indicates in its advertisement or request for proposal that the requirement is set aside for Aboriginal suppliers in accordance with the PSAB. Bids are prepared and submitted by Aboriginal businesses, and are evaluated in keeping with the principles of federal government contracting: fairness, openness and best value for the Canadian public.<sup>116</sup>

Overall, the PSAB is expected to produce many positive impacts for Aboriginal business in Canada, these include:

- Increase the number of contracts with Aboriginal firms;
- Increase the value of federal contracts (set-aside and regular process) with Aboriginal businesses;
- Increase the number of Aboriginal firms competing for an winning contracts;
- Increase investment in Aboriginal firms and business start-ups;
- Enhance the capacity of firms through skill transfer; and
- Increase partnerships between Aboriginal and non-Aboriginal businesses.<sup>117</sup>

### **Government of the Northwest Territories, Business Incentive Policy (BIP)**

The GNWT's Business Incentive Policy (BIP) gives preference to registered Northwest Territories businesses for the Government's purchase of goods and services. The Policy also applies to all contracts entered into directly by the Government of the Northwest Territories. The Department of Industry, Tourism and Investment maintains the Government's official registry of all approved northern businesses under the Business Incentive Policy. The Government's Contract Registry and Reporting System provides a single comprehensive and readily accessible database of all Government contracting. It supports the BIP Policy by ensuring transparency and accountability in all manners related to public contracting in the NWT.<sup>118</sup>

---

<sup>115</sup> Frequently Asked Questions, Who is eligible for PSAB?, <http://www.ainc-inac.gc.ca/ecd/ab/psa/faq-eng.asp>

<sup>116</sup> *ibid.*

<sup>117</sup> Evaluation of the Procurement Strategy for Aboriginal Business, [http://www.collectionscanada.gc.ca/webarchives/20071125232555/http://www.ainc-inac.gc.ca/pr/pub/ae/ev/00-06/00-06\\_3\\_e.html](http://www.collectionscanada.gc.ca/webarchives/20071125232555/http://www.ainc-inac.gc.ca/pr/pub/ae/ev/00-06/00-06_3_e.html)

<sup>118</sup> Business and Economic Development, Business Incentive NNI Policy, <http://www.iti.gov.nt.ca/businesseconomicdevelopment/businessincentivepolicy.shtml>

The Policy itself states that GNWT may provide an incentive to northern business in order that northern business is able to:

- (1) Provide goods and services to government, the private sector and the general public at a reasonable price, and
- (2) Provide financial support, through the reinvestment of corporate earnings, to the northern economy.<sup>119</sup>

The Policy is composed of seven guiding principles, these are as follows:

- (1) To provide existing northern business with a level of business incentive that compensates for the higher cost of operating a business in the Northwest Territories. This business incentive will allow for northern business to compete successfully with southern business.
- (2) To provide new northern business with a level of business incentive that would enable the firm to develop necessary experience and business skills. These business skills will allow northern business to compete successfully with other northern business and southern business.
- (3) To provide northern business with the opportunities required to create employment for northern and local administrative and management staff.
- (4) To provide northern business with the opportunities necessary to train northern administrators and managers.
- (5) To develop policies which are easily understood by the business community and which are easy to administer.
- (6) To treat all northern business fairly and at the same time to take account of local cost differences without causing intra-territorial conflict.
- (7) To require the Business Incentive Policies to apply to all Government of the Northwest Territories departments and corporations, as well as communities and any other organization when 51 percent or more of the community's total funding or when 51 percent or more of the funding received for a specific project is obtained from the Government of the Northwest Territories.<sup>120</sup>

The BIP is designed to apply to any contract whenever 51 percent or more of the total contract funds is received directly or indirectly from the GNWT or 51 percent or more of the total annual operating funds of one of the parties is received directly or indirectly from the GNWT.

The bid adjustments applied by the BIP are as follows:

Under \$5,000	An owner shall purchase goods and services valued at less than \$5,000 directly only from approved northern businesses. No discount is applied.
Over \$5,000	<p>Construction, Service and Maintenance Contracts</p> <ul style="list-style-type: none"> <li>• Northern Content <ul style="list-style-type: none"> <li>○ A 15 percent discount will be applied to northern content on all contracts</li> </ul> </li> <li>• Local Content <ul style="list-style-type: none"> <li>○ An additional 5 percent discount will be applied to any local content. The combined preference for local content shall,</li> </ul> </li> </ul>

<sup>119</sup> Business Incentives 63.02, Northwest Territories, pg. 1.

<sup>120</sup> *ibid.* pgs. 1-2.

	therefore be 20 percent
Over \$5,000	<p>Goods Contract</p> <ul style="list-style-type: none"> <li>• Northern Content <ul style="list-style-type: none"> <li>○ A 15 percent discount will be applied to northern content on all contracts</li> <li>○ The business incentive provided in this Section shall apply only to a northern business which is a northern supplier as defined in this Policy</li> </ul> </li> <li>• Local Content <ul style="list-style-type: none"> <li>○ An additional 5 percent discount will be applied to any local content unless otherwise specified in the contract documents</li> </ul> </li> </ul>

In April of 2009 the Northwest Territories Constructions Association (NWTCA) proposed that the percentages for Northern bid adjustments remain at 15% for the first \$1 million, then fall to 12.5% for any portion between \$1 million and \$5 million, decreasing to 10% for any amount over \$5 million. Additionally, the committee also proposed that the local preference remain at 5% for all three levels in order to sustain existing support for smaller contractors and suppliers. This proposal was in response to the GNWT's suggestion that the maximum bid adjustment should be limited to \$150,000 for Northern and \$50,000 for Local on contracts valued between \$1 million and \$5 million and eliminating the BIP entirely on contracts of \$5 million or more.

The NWTCA believe that their suggested recommendation would assist the government in limiting the high BIP premiums on large construction projects, while safeguarding the policies integral role in discouraging southern companies from bidding unrealistically low and miscalculating the true cost of doing business in the north.<sup>121</sup>

In summary, this policy is similar to the NNI Policy. However, it is important to note that there have been many concerns raised about the administrative complexity associated with this policy.

<sup>121</sup> NWTCA Bulletin, Vol. 28/No. 15, April 17, 2009.

## 5 Conclusion

In summary this review has found that there are areas where progress has been achieved. However, there is much work still to be done.

A critical theme that arose throughout the review was the need for more and better data to more accurately assess and improve performance. Specifically, more data is needed in the following areas:

- Contract Tendering/Issuing of RFPs;
- Monitoring and Enforcement Data;
- Common concerns; and
- Impacts of the NNI Policy on firms and Inuit workers

In terms of collecting and tabulating contracting data, progress has been made over time. The GN produces contracting data annually which illustrates Inuit and Nunavut-based firms' success in winning contracts in addition to publishing data on Inuit employment. Investments have been made in systems to improve the efficiency of the data gathering and presentation process. There are numerous actions that could be taken to enhance this data gathering process and better understand how effective the NNI Policy is in achieving its objectives and what changes could be made to further enhance its effectiveness.

**Contracting Data in General:** There are several challenges associated with analyzing the contracting data. For example, information on contract values by contract size excludes goods. Changes in data collection and presentation over time make it somewhat difficult to examine trends that have arisen since the inception of the NNI Policy. Most important though is the lack of data on monitoring and enforcement activities and on impacts associated with the NNI Policy. Much of the information in this report is based on anecdotal information about concerns that cannot be independently validated. The fact that the same concerns are heard repeatedly throughout consultations suggests that they cannot simply be disregarded. As suggested throughout the document, developing a means of capturing information, investigating and documenting concerns raised, and investigating impacts through an audit or review of contracts would provide a much stronger basis for future reviews.

**Training and Skills Development Data:** Contractors on large construction and maintenance contracts are required to provide training to Inuit, but no data or information has been provided on this training. Moreover, there is no information available on the extent to which other non-GN contracts provide training and skills development opportunities.

**Effectiveness of Training Seminars:** The GN delivers a number of training workshops and publishes a variety of guides explaining how to do business with the Territorial government. However, attendance is often low. It would be valuable to collect data on the perceived and actual effectiveness of these initiatives to assess how they might be improved.

A second major theme that permeates throughout the document is the importance of raising awareness and education. There was widespread agreement that going to the communities and engaging in dialogue with people (as was done in the Next Steps program) was the most important means of doing this.

The following table lists the “Suggested Action Items” proposed throughout the body of the report in summary format.

Section	Action #	Description
Awareness and Education	1	<p><b>Increase Frequency of Workshops in the Communities</b></p> <p>While alternative training methods and materials are important in improving overall awareness and education of the NNI Policy, the provision of workshops to business owners in the communities remains the preferred method of promoting NNI Policy. It is suggested that the NNIS continue to pursue initiatives similar to ‘Next Steps’ as a way to actively engage the public in the application of the NNI Policy in Nunavut. The provision of this type of ‘in-person’ training allows Nunavummiut the opportunity to ask questions that may be unique to their individual business as well as provide feedback to the NNIS personnel on what they feel is working well and what they may feel requires improvement. It was communicated to the Project Team that these types of initiatives are best coordinated with SAOs, EDOs and CLOs in the communities as they are well positioned to promote the sessions and ensure that those who would benefit most from the NNI Policy are in attendance.</p> <p>While there appeared to be widespread support for more education and training, it was noted that attendance at contract training sessions offered by the GN was often quite low. It would also be important to better understand why attendance is often low so that scarce training resources can be allocated more appropriately.</p>
	2	<p><b>Awareness and Education 2: Promote Existing Forums where Individuals can Anonymously Identify Concerns with the Implementation of the NNI Policy</b></p> <p>During the course of the Review, people expressed concern related to the level of comfort with voicing issues having to do with the application of NNI Policy. There is a website (<a href="http://nni.gov.nu.ca/home">http://nni.gov.nu.ca/home</a>) where people can register complaints in an anonymous fashion, but people at the consultations did not mention this as an avenue for which they could safely voice their concern. Consequently, it may be valuable to better promote this website.</p>
	3	<p><b>Make Additional Information Available on the Implementation and Effects of the NNI Policy for the Public</b></p> <p>The annual Contract Activity reports provide summary</p>

Section	Action #	Description
		<p>statistics on contracts, but they are very detailed and in many cases it is difficult to identify high-level findings and trends. Moreover, the annual reports do not include information on a host of critical factors, such as: the impacts of the NNI Policy on the capacity of Inuit/Local/Nunavut firms; activities undertaken in support of the policy in terms of education and training workshops; and successes in skills development. Throughout this document, suggestions have been offered on the need for more information. Consideration should be given on how to communicate this additional information to the public, once it has been gathered.</p>
	4	<p><b>Enhance Awareness and Training for Contracting Authorities and Other Government Stakeholders in all Regions to ensure the Application of the NNI Policy</b>            Due to the fact that there were significant concerns expressed regarding the consistent application of the NNI Policy across departments and regions, it is suggested that the GN develop and implement a standardized training course for all GN and municipal Contracting Authorities, as well as other stakeholders that influence contracts. It is important that this training be offered annually or semi-annually in order to address any changes to the NNI Policy as well as to familiarize new GN contracting and procurement staff with the NNI Policy and its application.</p>
	5	<p><b>Communicate to Firms the Importance of Checking the Tender Website Regularly.</b> A key concern, raised more commonly in the smaller communities, was that businesses learned of opportunities late, due to delays in receiving newspapers. Promoting the idea of checking the tender website more regularly may help firms to better mitigate challenges associated with delays in receiving newspapers.</p>
	6	<p><b>Clarify role of EDOs.</b> According to the funding agreements between the Government of Nunavut and the Nunavut municipalities under which financing is provided to hire the EDOs, one of the conditions for hiring is that they will support the “<i>implementation and monitoring of the NNI Policy</i>”. There are clearly many stakeholders including municipalities, regional GN staff and business, that could benefit from assistance in regards to the NNI Policy. There may be a need to define what is meant by “support the implementation and monitoring of the NNI Policy” to ensure that EDOs are able to provide the necessary support and meet their other obligations. This is particularly important given the fact that there is often high turnover in this job category.</p>
The Inuit Firm and Nunavut Business Registries	1	<p><b>Clarify Definitions in Appendix A</b>            It was brought to the attention of the Project Team during the course of the review that there have been a number of suggested changes made to the definitions included within</p>

Section	Action #	Description
		<p>Appendix A of the NNI Policy. These definitions have evolved over a number of years through close collaboration and extensive discussions between NTI and the NNIS/GN. It is suggested that these changes be incorporated into a revised copy of the NNI Policy. (See Section 4.2.5 for specific recommendations)</p>
	2	<p><b>Develop System to Simplify NNI Business Registry Renewal Process</b></p> <p>The perceived complexity and/or burden of the registration and renewal process associated with the NNI Business Registry was consistently raised as a significant issue throughout the review process.</p> <p>During discussions with the NNIS and NTI, it was noted that while IT solutions incorporating connected databases would be ideal, it is currently outside the capacity and reality of the GN. This type of 'one-window' approach, whereby all documents/certificates/registrations administered by the GN are maintained in a central system that could be accessed by authorized users would drastically streamline the NNI business renewal process. However, as is the case with Governments across Canada, numerous challenges related to resources, technical capacity and privacy considerations have meant that this is not a practical solution in the shorter term.</p> <p>It was also suggested numerous times that the Secretariat adopt a similar renewal method to the process currently used by the Business and Economic Development Department of NTI (see previous section on the NTI Inuit Firm Registry). The current renewal process for Nunavut-based firms poses a greater burden than the process presently in place for Inuit firms renewing with NTI. In this respect, it is suggested that the NNIS examine their renewal process and develop an updated practice.</p>
Bid Adjustments	1	<p><b>Assess Actual Impact of Bid Adjustments on a Sample/Case Study Basis</b></p> <p>As noted previously, there is significant debate as to whether the bid adjustments are too high or too low. There is no simple answer. It is possible that higher bid adjustments would result in more work for Inuit and Nunavut-based firms and ultimately greater capacity. However, higher bid adjustments would likely result in higher costs to the GN, at least in the short term. Consequently, it would be worthwhile to assess the costs and benefits of bid adjustments on a sample or case-by-case basis. For example, a sample of contracts awarded to Inuit and/or Nunavut-based firms could be selected and queried as to whether they believe they would have bid on the contract if the bid adjustment had not</p>



Section	Action #	Description
		<p>been in place. Other questions could also be posed, such as whether the bidder thinks they would have won the contract without the bid adjustment and whether they were able to enhance their capacity to conduct contracts on behalf of the government, but the responses would be hypothetical, and therefore would have to be considered along with other information.</p>
	2	<p><b>Ensure that the Bid Adjustments are Calculated Consistently</b>                      Provide ongoing training to Contracting Authorities to ensure that they are applying the bid adjustments consistently as expected.</p>
Monitoring and Enforcement	1	<p><b>Audit of Monitoring and Enforcement Procedures</b>                      While steps are taken to ensure compliance with the NNI Policy by GN contractors, there exists significant concern that they may not be sufficient. Concerns exist in relation to the consistent application of bonuses and penalties as well as the extent to which the Employment Reports submitted by contractors can be considered valid. The government tracks bonuses and penalties and acts in good faith when contractors submit payroll records. Finally, as previously stated, there is significant doubt that the NNI Policy is being applied consistently throughout Nunavut. However, the extent to which these concerns are founded in fact cannot be objectively assessed, due to the fact that there appears to be a reluctance to report concerns, and there is no documentation on the number of concerns raised and the investigation into those concerns. One solution is to identify a selection of contracts, either from financial records or from the list of contracts awarded in the procurement activity report, and conduct an audit or review to assess the extent of monitoring and enforcement activities.</p>
	2	<p><b>Develop and Implement an Improved System for Monitoring and Enforcement of the NNI Policy</b>                      As detailed in the NNI Policy, monitoring and enforcement procedures are the direct responsibility of the project managers. However, it has been noted by some business owners and GN officials that current procedures are considered inadequate. It is suggested that both the GN and NTI work together to develop and implement a more structured and thorough monitoring and enforcement mechanism. The primary aim of this exercise will be to improve compliance with all requirements and rules of the NNI Policy.</p> <p>Improvement may also involve the creation of a Monitoring and Enforcement manual detailing step-by-step instructions of how GN Contracting Authorities are to go about assessing</p>

Section	Action #	Description
		<p>compliance and identifying non-compliance with all aspects of the NNI Policy.</p> <p>To increase transparency, the NNIS should provide businesses with a clear description of the NNIS and Contracting Authorities' responsibilities in assessing compliance and non-compliance within the scope of the monitoring and enforcement methodology.</p> <p>Finally, given that NNIS is currently within the GN, there is a perception that it is not independent. It is suggested that the NNIS, NTI and other applicable departments of the GN consider ways of making the NNIS more independent.</p>
	3	<p><b>Improve Available Feedback Mechanisms</b>                      A key challenge in this Review has been the lack of documentation of concerns and evidence to the extent of which these concerns are legitimate. As such, NNIS should promote the use of websites such as <a href="http://www.nunavuttenders.ca/">http://www.nunavuttenders.ca/</a>, <a href="http://nni.gov.nu.ca/tenders">http://nni.gov.nu.ca/tenders</a>, <a href="http://public.govnu.ca/">http://public.govnu.ca/</a> by people who have concerns with the process, and encourage them to register their concerns (emphasizing the confidentiality of their input). The NNIS should maintain a report on the number and detail of criticisms or complaints (by department, agency, community, etc.) including telephone calls, letters and e-mails, etc. relating to monitoring and enforcement practices and procedures. This would allow the GN to identify particular regions, communities or departments where specific monitoring and enforcement issues exist and determine if there are any discernible themes. Once identified, recurring issues could be more readily addressed and resolved or determined to be unfounded. This will enable future reviews to present more objective, less anecdotal, information.</p>
The Appeals Process	1	<p><b>Remove Contracting Appeals Board from under the control of the GN</b>                      As was mentioned by community consultation participants, individual businesses, GN officials and key stakeholders, having the Contracting Appeals Board currently administered by the GN has necessarily generated questions surrounding independence. In this respect, it is suggested that the NNIS explore an alternative arrangement for reporting directly to Cabinet.</p>
	2	<p><b>Clarify Scope of Contracting Appeals Board</b>                      It is suggested that both the scope and authority of the Appeals Board be clarified through education and awareness sessions. Providing potential contractors with a better understanding of the Appeals Process and how it works in</p>

Section	Action #	Description
		practice will serve to better educate the public.
Impact of the NNI Policy	1	<p><b>Consider suggestions throughout the report.</b>                      All of the challenges regarding awareness, education, Registries, etc. as noted above, affect the ability of the NNI Policy to achieve the desired impacts on firms, workers and the economy.</p>
	2	<p><b>Ensure that Contract Authorities Carefully Consider Inuit, Nunavut and local businesses.</b>                      There was a common sense that bid invitations were sent to southern firms when capacity existing amount Inuit or Nunavut-based firms. Given that the capacity of firms is evolving rapidly, it is important to ensure that assumptions about the capacity of Inuit or Nunavut-based businesses not be made.</p>

## Appendix A: Interviewees and Community Consultation

Throughout the course of this review, PwC interviewed 17 people from the following organizations

- Government of Nunavut, NNIS
- Nunavut Tunngavik Inc.
- NNI Review Committee Members
- Community and Government Services
- Nunavut Association of Municipalities
- NNI Appeals Board Members

PwC also interviewed 20 representatives of companies or Hamlets

Community	Representatives of Business or the Hamlet
Iqaluit	3
Arviat	3
Rankin Inlet	10
Outside Nunavut	4
Total	16

During the course of this review, there were eight community consultations conducted in seven separate communities. These are summarized as follows:

Location	Date	No. of Participants	Sectors Represented
Cambridge Bay	February 19, 2009	6	Construction, building supply sales, environmental services, petroleum products, household renovations, mining, translation services
Iqaluit (1)	March 2, 2009	6	Environmental management services, helicopter operations, heavy equipment sales and service, petroleum distribution, real estate construction management activities, DEW line site cleanups, offshore shrimp and turbot fishing, embroidery, printing and advertising services
Pond Inlet	March 3, 2009	10	Construction, vehicle rentals, outfitting, hotel and accommodations, broadband services, Inuit-owned Cooperatives
Pangnirtung	March 19, 2009	8	Construction, cargo handling, outfitting, hotel and accommodations, Inuit-owned Cooperatives
Arviat	March 24, 2009	8	Municipal representatives, construction, heavy equipment trades and service
Rankin Inlet	March	4	Construction, freight hauling and delivery,

Location	Date	No. of Participants	Sectors Represented
	26, 2009		real estate development
Baker Lake	March 27, 2009	5	Outfitting, travel and tourism, transportation
Iqaluit (2)	April 8, 2009	18	Environmental management services, helicopter operations, heavy equipment sales and service, petroleum distribution, real estate construction management activities, DEW line site cleanups, offshore shrimp and turbot fishing, construction, printing, Inuit-owned Cooperatives

## 6 Appendix B: Master List of Evaluation Questions

EVALUATION QUESTION
<b>FAMILIARITY WITH NNI POLICY</b>
1. What is your understanding of the main purposes of the NNI Policy?
2. What do you consider the primary responsibility of the NNIS?
3. Are the project managers within each GN department familiarized with NNI Policy? If no, why not?
4. Are the Municipalities/Hamlets familiar with NNI Policy? If no, what are the consequences of their not being familiar with the NNI Policy?
<b>CLARITY OF NNI POLICY</b>
5. Do you feel that NNI Policy is clear and easy to understand? If no, what parts of the NNI Policy do you feel are not clear? If no, do you think this prevents Inuit and Nunavut business from pursuing contracts they otherwise might?
6. Do you feel that the Contracting Authorities responsible for awarding contracts under the NNI Policy have a firm understanding of the policy itself? If no, what do you feel is not being understood or misinterpreted?
<b>APPROPRIATENESS OF NNI POLICY</b>
7. In considering the requirements of Article 24 of the NLCA, do you think the NNI Policy provides preference (where acceptable) for Inuit and Inuit firms through government contracting? (Acceptable means where there are qualified Inuit businesses capable of bidding)
8. In your opinion is the NNI Policy current enough to keep up with the changing socio-economic environment in Nunavut?
<b>ACTIVITIES AND OUTPUTS ASSOCIATED WITH NNI POLICY</b>
9. Has the Government helped to train Inuit or Nunavut-based firms on how to compete for contracts? Has the government set up programs to increase Inuit employment and business skills?
10. Are government contracts widely advertised? If yes, where? If no, where else could they be advertised to ensure they receive wide exposure?
11. Is the Performance Bonus and Penalty System being applied on a regular basis? If not, why not?
12. Are the Monitoring and Enforcement Procedures being applied on a regular basis? If not, why not?
13. What are some of the issues associated with the NNI Nunavut Business Registry? Do you feel that it is difficult to keep it current? What could be done to alleviate this problem?
14. Are the Monitoring and Enforcement Procedures being applied on a regular basis? If not, why not?
15. What are some of the issues associated with the NNI Nunavut Business Registry? Do you feel that it is difficult to keep it current? What could be done to alleviate this problem?
16. Is the Inuit Firm Registry current and up-to-date? If no, why not? If no, what could be done to assist with the IFR being kept up to date?
<b>NNI POLICY PROCESSES AND THEIR EFFECTIVENESS</b>
17. Do NNI rules pertaining to government contracts assist Inuit firms or Nunavut-

<b>EVALUATION QUESTION</b>	
	based firms in their bids for contracts when competing against other qualified firms?
18.	Do Inuit or Nunavut-based firms have enough information to make effective bids?
19.	Do you consider the bid adjustment percentages to be sufficient for Inuit firms? For Nunavut firms? For Local firms? Should they be more? Should they be less? If so, why?
20.	Does NNI Policy unfairly favour larger businesses? Or does NNI Policy unfairly favour smaller businesses? Does NNI Policy unfairly favour businesses that operate in the larger communities? Or does it unfairly favour businesses that operate in the smaller the communities?
21.	Are contractors carrying out the training of Inuit employees as they propose in their responses to RFPs? How can a contractor be forced to carry out a proposed training plan?
22.	Do Territorial Government departments apply the policy consistently? If no, why not? Can you provide an example?
23.	Do Territorial Government departments communicate and cooperate with one another in the areas of training and employment?
24.	Have Municipalities or Hamlets been diligent in their application of NNI Policy? If not, why not? What are some of the barriers that exist to them implementing NNI Policy?
25.	Is the Performance Bonus and Penalty system effective? Is it applied on a regular basis? If no, why not?
26.	Are the Monitoring and Enforcement Procedures working effectively? Are they applied on a regular basis? If no, why not?
27.	Do you believe that the recommendations from the 2003 NNI Comprehensive Review have been implemented and led to improvements? If no, why not? If yes, why?
<b>RESOURCE ALLOCATION</b>	
28.	In your opinion does the NNIS have sufficient resources to carry out its tasks?
29.	Is the NNIS under-staffed? If yes, what other types of positions could be created so as to assist in their operations?
<b>UNINTENDED IMPACTS</b>	
30.	In your opinion, does NNI Policy affect the government's ability to obtain goods and/or services at a reasonable cost?
<b>ACCOMPLISHING OBJECTIVES</b>	
31.	In your opinion, is the NNI Policy accomplishing the following: <ul style="list-style-type: none"> <li>i. Creating/promoting value?</li> <li>ii. Creating/promoting fair competition?</li> </ul>
32.	Do you think the NNI Policy accomplishes the intent of Article 24 of the Nunavut Land Claims Agreement?
33.	Do you think the NNIS has been successful in helping Inuit and Nunavut businesses take advantage of the NNI Policy? If no, what do you think they could be doing better?
34.	Do you think that NNI Policy has improved Inuit participation in the labour force in Nunavut?

<b>EVALUATION QUESTION</b>
35. Do you think NNI Policy has contributed to a more-skilled, better-trained Inuit workforce?
36. Do you feel that the NNI Policy has had an overall positive impact on the Nunavut economy since its inception? Please describe what impact you think it has had.
37. Do you feel that the NNI Policy is truly resulting in firms winning contracts that are led by Inuit? Do you feel the policy is resulting in firms winning contracts that are truly Nunavut-based?
38. Do you think that NNI Policy is clearly communicated to Inuit and Nunavut Residents? If not, why not? How could NNI Policy be communicated more clearly? What types/forms of public education should be undertaken?
<b>OTHER RECOMMENDATIONS AND IMPROVEMENTS</b>
39. If you feel that the NNI Policy is not keeping current with the changes in Nunavut's business environment - what changes do you think need to be made to the policy to accommodate the changes in Nunavut?
40. Do you have any other specific recommendations or improvements to the NNI Policy?
<b>APPEALS PROCESS</b>
41. Are you satisfied with the appeals process outlined in the NNI Policy? For example, are the timeframes for submission adequate?
42. Are the general timeframes (i.e. response times) associated with the appeals process adequate?
43. Are there any changes that you would make to the appeals process?



## Appendix C: Survey of SAOs, EDOs and CLOs

### COMPREHENSIVE REVIEW OF NUNAVUMMI NANGMINIQAQTUNIK IKAJUUTI (NNI) NNI POLICY

Questionnaire for Senior Administration Officers (SAOs), Economic Development Officers (EDOs) and Community Liaison Officers (CLOs)

In order to help inform our review of the NNI Policy, we would greatly appreciate it if you would complete the following questionnaire. If you require more space than is available, feel free to expand on your answers on a separate sheet(s) and attach this to the completed questionnaire when you fax it back.

i. What community are you in?

ii. Please indicate which position you occupy within your community? *Please check all that apply.*

<input type="checkbox"/>	Senior Administration Officer (SAO)
<input type="checkbox"/>	Economic Development Officer (EDO)
<input type="checkbox"/>	Community Liaison Officer (CLO)

iii. Approximately how long have you been in your current position? *Please check one.*

<input type="checkbox"/>	Less than one year
<input type="checkbox"/>	One to three years
<input type="checkbox"/>	Three to five years
<input type="checkbox"/>	More than five years

1. On a scale of 1 to 5, please indicate how familiar you are with NNI Policy? *Please circle one.*

1	2	3	4	5	DON'T KNOW / NOT SURE
NOT AT ALL FAMILIAR		SOMEWHAT FAMILIAR		VERY FAMILIAR	

*Please provide any comments that you believe are important:*

---



---



---



---



---



---

2. In your opinion, what is the main purpose of the NNI Policy?  
 Please provide any comments that you believe are important:

---



---



---



---

	DON'T KNOW / NOT SURE
--	-----------------------

3. Do you feel that the NNI Policy is clearly communicated to Inuit and Nunavut residents?  
 Please circle one.

1	2	3	4	5	DON'T KNOW / NOT SURE
NOT AT ALL		SOMEWHAT		VERY CLEARLY COMMUNICATED	

Please provide any comments that you believe are important:

---



---



---



---

4. How do you typically access information on the NNI Policy? Please check those that apply.

	Internet
	Direct contact with the NNIS (Government of Nunavut)
	Materials provided by the Government of Nunavut
	Other:

5. How effective is this method of accessing information on NNI Policy? Please circle one.

1	2	3	4	5	DON'T KNOW / NOT SURE
NOT EFFECTIVE		SOMEWHAT EFFECTIVE		VERY EFFECTIVE	

Please provide any comments that you believe are important:

---



---



---



---

6. Do individuals and businesses within your community take advantage of the NNI Business Incentive NNI Policy? *Please circle one.*

1	2	3	4	5	DON'T KNOW / NOT SURE
---	---	---	---	---	-----------------------

NEVER

SOMEWHAT

ALL THE TIME

*Please provide any comments that you believe are important:*

---



---



---



---



---



---

7. Do you feel that the NNI Policy is consistent with the spirit and intent of Article 24 of the Nunavut Land Claims Agreement? *Please circle one.*

1	2	3	4	5	DON'T KNOW / NOT SURE
---	---	---	---	---	-----------------------

NOT AT ALL

SOMEWHAT

VERY CONSISTENT

*Please provide any comments that you believe are important:*

---



---



---



---



---



---

8. Do you think sufficient training is offered to Inuit-owned, Nunavut-based and/or Local-based firms in terms of how to properly pursue contracts? *Please circle one.*

1	2	3	4	5	DON'T KNOW / NOT SURE
---	---	---	---	---	-----------------------

NOT AT ALL

SOMEWHAT

YES

*Please provide any comments that you feel are important:*

---



---



---



---



---



---

9. In your opinion, is the NNI Policy accomplishing its objectives? *Please circle one response for each Objective.*

<b>Objective</b>	NO		SOMEWHAT		YES	DON'T KNOW / NOT SURE
i. Creating/promoting good value?	1	2	3	4	5	
ii. Creating/promoting fair competition?	1	2	3	4	5	
iii. Strengthening the Nunavut Economy?	1	2	3	4	5	
iv. Increasing Inuit participation in the provision of goods and services to the Government of Nunavut?	1	2	3	4	5	
v. Increasing the number of trained and skilled Nunavut Residents in all parts of the workforce?	1	2	3	4	5	

*Please provide any comment that you feel are important:*

---



---



---



---



---

10. What do you feel are some specific short-comings of the NNI Policy in its current form?  
*Please provide any comments that you feel are important:*

---



---



---



---



---

DON'T KNOW / NOT SURE
-----------------------

11. How do you think the NNI Policy could be improved to better assist individuals or businesses in your particular community in winning contracts?  
*Please provide any comments that you feel are important:*

---



---

DON'T KNOW / NOT SURE
-----------------------

## Appendix D: Data Sources

In cooperation with the RC, PwC identified a variety of sources to address the review questions listed in Appendix B as well as identifying additional sources of information necessary to satisfy the eleven review issues/topics. A description of each source of information is provided below.

A number of steps were taken in an effort to maximize attendance at the community consultations listed above. Both the Cambridge Bay and Rankin Inlet consultations were paired with the NNI's 'Next Steps' program and scheduled to immediately follow both the Kitikmeot Regional Tradeshow and the Kivalliq Regional Tradeshow respectively. The aim of scheduling both of these sessions to follow the immediate close of both tradeshows was to maximize attendance while at the same time capitalizing on other Nunavut community members who may be in the Regional hubs attending the tradeshow(s). In addition there were a number of steps taken to actively promote and advertise each community consultation. With the exception of the first community consultation in Iqaluit, at least one week prior to the scheduled session, the following key community stakeholders were contacted directly and informed of the consultation:

- Mayor;
- Senior Administrative Officer;
- Community Economic Development Officer;
- Community Liaison Officer; and
- Chamber of Commerce (all three Regional Chambers in addition to individual community Chambers if present).

In addition to the above individual stakeholders, the Project Team attempted to personally contact every business in each community listed on both the Inuit Firm Registry and the Nunavut Business Registry to inform them of the consultation details. Each community's local radio station was contacted and provided with an announcement while posters were distributed in the hamlet with specific attention paid to the Northern Store and the Post Office.

Due to the low attendance experienced at the March 2<sup>nd</sup> Iqaluit Consultation, a second Iqaluit Consultation was scheduled for April 8<sup>th</sup>, 2009. In an effort to better promote this session, advertisements were placed in both the Nunatsiaq News and NewsNorth (in addition to the steps mentioned above).

At each Community Consultation participants were provided with the following materials:

- A brief Overview of the NNI Policy;
- A one-page summary of explaining the motivation of the 2008 Comprehensive Review;
- A copy of the NNI Policy
- A copy of the NNI Interpretive Bulletin; and
- Contact information for the NNIS (Allen Kunuk).

Each Community Consultation was three hours in duration. The following set of questions was used to guide the discussion. While these set questions were not strictly adhered to, they provided a framework with which the Project Team could probe certain issues while soliciting feedback that was unique to the specific community in question.

<b>REVIEW QUESTION</b>	
<b>Familiarity with the NNI Policy</b>	
1.	What is your understanding of the purpose of the NNI Policy?
2.	Are the Municipalities/Hamlets familiar with NNI Policy? If no, what are the consequences of their not being familiar with the NNI Policy?
<b>Appropriateness of the NNI Policy</b>	
3.	In considering the requirements of Article 24 of the NLCA, do you think the NNI Policy provides preference (where acceptable) for Inuit and Inuit firms through government contracting? (Acceptable means where there are qualified Inuit businesses capable of bidding)
4.	In your opinion is the NNI Policy current enough to keep up with the changing socio-economic environment in Nunavut?
<b>Activities and Outputs Associated with the NNI Policy</b>	
5.	Has the Government helped to train Inuit or Nunavut-based firms on how to compete for contracts? Has the government set up programs to increase Inuit employment and business skills? Do you think what has been done/what is being done is sufficient? If no, why not?
6.	Do you think sufficient training is offered to Inuit in Nunavut, specifically in terms of being able to compete for contracts
7.	Are government contracts widely advertised? If yes, where? If no, where else could they be advertised to ensure they receive wide exposure?
8.	What are some of the issues associated with the NNI Nunavut Business Registry? Do you feel that it is difficult to keep it current? What could be done to alleviate this problem?
<b>NNI Policy Processes and their Effectiveness</b>	
9.	Do NNI rules pertaining to government contracts assist Inuit firms or Nunavut-based firms in their bids for contracts when competing against other qualified firms?
10.	Does NNI Policy unfairly favour businesses that operate in the larger communities? Or does it unfairly favour businesses that operate in the smaller the communities? Does the NNI Policy unfairly favour larger businesses? Does the NNI Policy unfairly favour smaller businesses?
11.	Do you think NNI Policy encourages Inuit to pursue government contracts? If no, why not?
12.	Is the Performance Bonus and Penalty system effective? If no, why not?
<b>Accomplishing Objectives</b>	
13.	In your opinion, is the NNI Policy accomplishing the following: ii. Creating/promoting value? iii. Creating/promoting fair competition?
14.	Do you think the NNI Policy accomplishes the intent of Article 24 of the Nunavut Land Claims Agreement?
15.	Do you think that NNI Policy has improved Inuit participation in the labour force in Nunavut?
16.	Do you think NNI Policy has contributed to a more-skilled, better-trained Inuit workforce?
17.	Do you feel that the NNI Policy has had an overall positive impact on the Nunavut economy since its inception? Please describe what impact you think it has had.
18.	Do you feel that the NNI Policy is truly resulting in firms winning contracts that are led by Inuit? Do you feel the policy is resulting in firms winning contracts that are truly Nunavut-based?
19.	Do you think that NNI Policy is clearly communicated to Inuit and Nunavut Residents? If not, why not? How could NNI Policy be communicated more clearly? What types/forms of public education should be undertaken?
<b>Questions for Business</b>	
20.	Do you feel that NNI has had a positive effect on your business overall? If yes, how has it positively affected your business? If no, why not?
<b>Appeals Process</b>	
21.	Are you aware of the appeals process for NNI Policy? If so, what is your understanding of this process?
22.	Are you satisfied with the appeals process outlined in the NNI Policy? For example, are the timeframes adequate?

REVIEW QUESTION
<b>Other Recommendations and Improvements</b>
23. Do you have any other specific recommendations or improvements to the NNI Policy to address its shortcomings or for it to stay current with the changing business environment in Nunavut? Do you have any specific recommendations or improvements for the Appeals Process?

**Individual Interviews**

In addition to Community Consultations, the Project Team conducted a number of individual interviews with key stakeholders throughout the review process. These individuals were identified in cooperation with both NTI and the NNIS. In each case the interviewees were asked questions derived from the Review Matrix outlined above. The list of questions was customized to elicit feedback that aligned most closely with a specific individual’s position or particular knowledge of the NNI Policy itself. The following table summarizes the list of individuals interviewed.

**NNI Web-based Surveys and Written Submissions**

The NNIS had deployed a web-based survey as well as invited written submissions from stakeholders in the August and September of 2008. In each of the following Key Findings sections, all comments have been integrated into the summaries provided.

**SAO/EDO/CLO Surveys**

In an effort collect feedback from Senior Administrative Officers, Economic Development Officers and Community Liaison Officers a survey was deployed via e-mail. In total, surveys were sent to 75 e-mail addresses (for each of the above positions in every Nunavut community), of which 66 were up-to-date and valid (resulting in successful delivery). The Project Team received 29 completed surveys, resulting in a response rate of 44%. The survey asked a combination of close-ended and open-ended questions in order to develop a sense of SAO, EDO and CLO interaction with and knowledge of the NNI Policy. All comments provided by these respondents were integrated into each of the relevant Key Findings sections. A copy of the SAO/EDO/CLO survey can be found in Appendix C.

**Document and Literature Review**

Over the course of the Comprehensive Review a number of key documents and relevant literature was referred to in order to provide historical context and support the feedback collected from key stakeholders, survey respondents and community consultation participants. In particular, the Project Team drew from the annual Contracting Activity Reports, the 2001 Annual Review, the 2003 First Comprehensive Review, and the Second Independent Review of the Nunavut Land Claims Agreement in each of the Key Findings sections so as to provide a complete picture of the evolution of associated NNI Policy issues over time.

## Documents Cited

1. Aarluk Consulting, 2008, *Inuit Firm Registry Survey*
2. Aarluk Consulting, *February 15, 2005, Inuit Firm Registry Survey Project - Final Report*
3. Agreement Between the Inuit of the Nunavut Settlement Area and Her Majesty the Queen in Right of Canada
4. Community and Government Services Department, Purchasing, Logistics and Contract Support, Government of Nunavut, *Annual Contract Data Report, Fiscal Year 2004/05*
5. Department of Community & Government Services, Department of Economic Development & Transportation Nunavut Tunngavik Inc., August 13, 2008, *NNI Application Directive 1*
6. Department of Community & Government Services, Department of Economic Development & Transportation Nunavut Tunngavik Inc., August 13, 2008, *NNI Interpretive Bulletin 1*
7. Department of Community and Government Services, Government of Nunavut, *Contract Activity Report, Fiscal Year 2005/06*
8. Department of Community and Government Services, Government of Nunavut, *Contract Activity Report, Fiscal Year 2006/07*
9. Department of Community and Government Services, Government of Nunavut, *Contract Activity Report, Fiscal Year 2007/08*
10. Department of Community and Government Services, *Guiding You. Benefiting Nunavummiut, Reference Guide to acquiring goods and services with public money, Volume II*
11. *Department of Community and Government Services, How to Guide. Doing Business with the Government of Nunavut. Benefitting Nunavummiut, Reference Guide Volume I*
12. Department of Public Works and Services Contracts and Procurement Section, Operation Division, Government of Nunavut, December, 2001, *Annual Contract Data Report, Fiscal year 2000/2001*



13. Department of Public Works and Services Contracts and Procurement Section, Operation Division, Government of Nunavut, March, 2003, *Annual Contract Data Report, Fiscal year 2001/2002*
14. Department of Public Works and Services Contracts and Procurement Section, Operation Division, Government of Nunavut, August, 2002, *Annual Contract Data Report, Fiscal year 2002/2003*
15. Department of Public Works and Services Contracts and Procurement Section, Operation Division, Government of Nunavut, October, 2004, *Annual Contract Data Report, Fiscal Year 2003/2004*
16. GN/NTI NNI Policy Review Committee, February 2002, *Nunavummi Nangminiaqqtunik Ikajuuti (NNI Policy), 2000-01 Annual Review.*
17. GN/NTI NNI Review Committee, 2003, *(NNI Policy), First Comprehensive Review, 2003*
18. GN/NTI NNI Review Committee, April 20, 2006, *Nunavummi Nangminiaqqtunik Ikajuuti (NNI Policy)*
19. Government of Nunavut NNI Policy Department, *NNI Application Bulletin notes*
20. Government of Nunavut, Community and Government Services Department, Purchasing, Logistics & Contract Support. *Annual Contract Data Report, Fiscal year 2004/05*
21. Government of Nunavut, Department of Community and Government Services. *Contract Activity Report, Fiscal year 2005/06.*
22. Government of Nunavut, Department of Community and Government Services. *Contract Activity Report, Fiscal year 2006/07.*
23. Government of Nunavut, Department of Community and Government Services. *Procurement Activity Report, Fiscal year 2005/06.*
24. Impact Economics (Clinton, G) and Vail, S 2005, *2005 Nunavut Economic Outlook. Update on five years of progress, Yellowknife, Northwest Territories*
25. Impact Economics (Clinton, G) and Vail, S, August 2008, *2008 Nunavut Economic Outlook. Our future to choose*
26. Inuit Firm Database (IFRD), Welcome to the Inuit Firm Registry data
27. *Inuit Firm Registry Database (IFRD), Benefits of Registration, [www.inuitfirm.com/public/benefits.html](http://www.inuitfirm.com/public/benefits.html)*
28. *Minutes, 2007 NNI Contracting Appeals Board AGM, May 24, 2007, Baker Lake Nunamiut Lodge*

29. *NNI Contracting Appeals Board, Annual Report 2004-05*
30. *NNI Contracting Appeals Board, Annual Report 2005-06*
31. *NNI Contracting Appeals Board, Annual Report 2006-07*, April 1, 2007
32. *NNI Contracting Appeals Board, Annual Report 2007-08*, April 1, 2008
33. *NNI Operations Manual (Draft)*
34. *NNI Policy Procedures*
35. *NNI Policy Procedures Manual (Draft)*
36. *Nunavummi Nangminiqaqtunik Ikajuuti NNI Policy Procedures manual*, March 2005
37. Nunavut Economic Forum. Annual General Meeting 2006, *Inuit participation in Nunavut's Economy*
38. Nunavut Housing Corporation, HQ, November 29, 2001, *Briefing for the NNI Policy Review Committee*
39. Nunavut Tunngavik Inc., 2004, A plain language guide to the Nunavut Land Claims Agreement, Iqaluit, Nunavut
40. PricewaterhouseCoopers LLP, May 11, 2006. *Government Contracting. Second Independent Review of Implementation of the Nunavut Land Claims Agreement.*
41. *Purchasing In Nunavut. Client Department Guide. Fourth edition.* Revised September/06
42. The Conference Board of Canada, Vail, S and Clinton, G, 2002, *Nunavut Economic Outlook; An Examination of the Nunavut Economy*
43. The Department of Public Works and Services, Contracts and Procurement Section, Operations Division 2001, *Government of Nunavut. Annual Contract Data Report. Fiscal year 2000/2001*
44. The Department of Public Works and Services. Contracts and Procurement Section, Operations Division 2003, *Government of Nunavut. Annual Contract Data Report. Fiscal year 2001/2002*
45. The Department of Public Works and Services. Contracts and Procurement Section, Operations Division 2002, *Government of Nunavut. Annual Contract Data Report. Fiscal year 2002/2003*
46. The Department of Public Works and Services. Contracts and Procurement Section, Operations Division 2004, *Government of Nunavut. Annual Contract Data Report. Fiscal year 2003/2004*

47. The Sivummut Economic Development Strategy Group 2003, *Nunavut Economic Development Strategy. Building a Foundation for the Future*