

TENDER FORM
GENERAL CONTRACTORS & SUB-CONTRACTORS DOLLAR AMOUNT

APPENDIX J-1
GENERAL CONTRACTORS & SUB-CONTRACTORS DOLLAR AMOUNT

Tenderers are required to identify the dollar value of own forces as well as ALL Sub-Contractors that will be involved in the completion of the Project. The Appendix MUST be submitted no later than the time and date set for Phase I of the Tender closing. If this Appendix is not submitted or is incomplete the Tenderer may be disqualified. By signing this Tender, the Tenderer is certifying that the information on this Appendix is correct. Changes to this information will not be accepted after Phase I of the Tender closing. The City reserves the right to ask the Tenderer for substantiation of information provided.

General Contractor: (Full Business Name)	Own Forces Amount: (\$) \$
Sub-Contractors: (Full Business Name)	Sub-Contract Amount: (\$)
6.	\$
7.	\$
8.	\$
9.	\$
10.	\$
11.	\$
12.	\$
13.	\$
14.	\$
15.	\$
Other(s)	Amount: (\$)
16.	\$
17.	\$
18.	\$
19.	\$
20.	\$
TOTAL	\$

TENDER FORM
SUBSTANTIATION OF BID ADJUSTMENT

APPENDIX J-2
SUBSTANTIATION OF BID ADJUSTMENT

[attached]

TENDER FORM
CONTRACTOR'S OBLIGATION TO PROVIDE INUIT CONTENT

APPENDIX K
CONTRACTOR'S OBLIGATION TO PROVIDE INUIT CONTENT

1.0 General

This Contract pertains to work in Nunavut and contains provisions regarding minimum prescribed levels of Inuit Labour that must be met or exceeded in the performance of the Work. The requirements set out in this Appendix K to meet minimum prescribed levels of Inuit Labour is a fundamental term of the Contract. The minimum prescribed level of Inuit Labour shall be complied with.

If the amount of Inuit Labour identified by the Tenderer on Appendix "J-2" of the Tender is less than the Tender requirements, this would result in an obvious qualification to the Tender submission by the Tenderer that would ordinarily cause the Tender to be considered non-responsive.

For an Inuit Labour level achieved which differs from the level prescribed, a bonus or penalty will be assessed in accordance with the NNI Policy, specifically Articles 12.3 and 12.4 of the Policy. A bonus would be for exceeding the minimum prescribed Inuit Labour level, and a penalty would be for not meeting the minimum prescribed Inuit Labour level.

"Inuit Labour" and "Inuit Goods and Services" identified on the Tender Documents shall receive a bid adjustment in accordance with the NNI Policy and the adjustment percentages indicated on Appendix J-2 forms. "Inuit Goods and Services" means "Inuit Content" as defined in the Nunavummi Nangminiqatunik Ikajuuti (NNI) Policy definition appendix; the NNI Policy is attached to the Tender Documents.

Damages as described in GC 13.4 may apply if the Inuit Labour and/or Inuit Goods and Services proposed by the Contractor on the Tender Appendix J-2 forms are not met. In addition, if the minimum prescribed levels of Inuit Labour identified on page 4 of this Appendix (page 25 of the Tender Form) are not met, then for future tenders where there are similar prescribed minimum levels for Inuit Labour, the Contractor may be deemed "not responsible" (as defined in the Government Contract Regulations.)

2.0 Definitions

.1 "Inuit (singular Inuk)" means a person described in Article 1.1.1 of the Nunavut Land Claims Agreement (NLCA) and who has enrolled himself or herself on the Inuit Enrolment List under Article 35 of the NLCA.

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

- .1 a limited company with at least 51% of the company's voting shares beneficially owned by Inuit, or
- .2 a cooperative controlled by Inuit, or
- .3 an Inuk sole proprietorship or partnership; and
- .4 is included on Nunavut Tunngavik Inc. (NTI)'s Inuit Firms Registry.

.3 "Labour"

For the purpose of this Contract and specifically Appendix K, "Labour" means the Labour (including Inuit labour) used on the job in any capacity and including, for example, tradespeople, administrative staff and professional staff whether in a head office or in a site office and attributable to this project. "Inuit Labour" refers to the status of employees and may be directly provided by the general contractor or indirectly through a sub contractor, and is not necessarily through an Inuit Firm.

TENDER FORM
CONTRACTOR'S OBLIGATION TO PROVIDE INUIT CONTENT

.4 "Goods and Services"

For the purpose of this contract and specifically Appendix K, "Goods and Services" means the entire dollar value of the Work including Labour. For further clarification "Inuit Goods and Services" includes all labour of Inuit firms attributable to and paid from the Contract. "Inuit Goods and Services" are to have the same meaning as the term "Inuit Content" used in the General Conditions of the Construction Contract.

.5 "Inuit Content"

"Inuit Content" is defined as the dollar value of the goods and services required by the Contract supplied by any Inuit Firm or Inuit sole proprietorship and Inuit Labour. Inuit Content may include:

- .1 Goods and services supplied by an Inuit Firm or Inuit supplier acting as the General Contractor and are referred to as "own forces";
- .2 Goods and services supplied by an Inuit Firm or Inuit supplier so long as these goods and services are required for the completion of the Contract and are paid for by the Contract; or
- .3 Inuit labour by an Inuit Firm or a non-Inuit Firm.

3.0 Requirements

- .1 The Contractor shall maximize the value of Inuit Labour and Inuit Goods and Services and shall meet or exceed the Inuit Labour minimum level identified in this Appendix when tendering. In the performance of the Work, the Contractor shall meet or exceed the amounts tendered on Appendix J-2.
- .2 The Contractors shall submit records on a monthly basis, or as specified, indicating the amount of Inuit Labour and Inuit Goods and Services used. No payment shall be due or payable to the Contractor if the Contractor fails to supply these reports to the City.

4.0 FAILURE TO ACHIEVE INUIT CONTENT REQUIREMENTS

In addition to the bonus or penalty prescribed by the Nunavummi Nangminiaqtunik Ikajuuti (NNI) Policy for exceeding or not meeting the minimum prescribed Inuit Labour level set out on page 4 of this Appendix K (page 25 of the Tender Form); the following damages may apply for not meeting Inuit Labour and /or Inuit Goods and Services requirements:

- .1 There is a requirement to provide no less than the levels of Inuit Labour and Inuit Goods and Services tendered by the Contractor on Appendix J-2 of the Tender. Failure to meet this requirement by achieving the levels tendered may result in the City applying damages described in the contract General Condition GC 13.4.
- .2 Additionally, if the Contractor fails to meet the prescribed minimum Inuit Labour set out on page 4 of this Appendix K (page 25 of the Tender Form), then for future tenders where there are similar prescribed minimum levels for Inuit Labour the City may deem the Contractor to be "not responsible" (as defined in the Government Contract Regulations).
- .3 The City may terminate this contract prior to Final Completion if the Contractor has not demonstrated compliance with the requirement to attain the prescribed minimum levels of Inuit Labour set out on page 4 of this Appendix K (page 25 of the Tender Form).

5.0 INDEMNIFICATION

- .1 The Contractor shall indemnify the City against any claim brought by any person because of any failure by the Contractor to achieve the prescribed levels of Inuit Labour prescribed by this contract.

TENDER FORM
CONTRACTOR'S OBLIGATION TO PROVIDE INUIT CONTENT

6.0 WAIVER OF INUIT CONTENT REQUIREMENTS

.1 The prescribed level of Inuit Labour shall only be reduced when sufficient Inuit Labour is not available and the Contractor has requested and received prior approval by the City in writing to reduce the prescribed levels.

Inuit Labour	
<p>It is a fundamental term of this contract that the contractor shall maximize the value of Inuit labour used to perform the Work. Therefore the City has set a minimum percent by dollar value for the use of Inuit labour. The Inuit labour content may be provided by the general contractor or any subcontractor and may include professional or administrative staff or skilled or unskilled trades people, and not necessarily through an Inuit Firm. The minimum may only be reduced where sufficient Inuit labour is not available and the approval of the City has been obtained in writing.</p>	
<p>For the purposes of this Contract the City has prescribed that the following minimum percent of the total labour for this job by dollar value shall be provided by Inuit workers.</p>	<p style="text-align: center;">0 %</p> <p>Prescribed minimum level of Inuit labour as a percent of total labour by dollar value.</p>
Substantiation	
<p>In order to substantiate the amount of Inuit Labour the Contractor shall be responsible for providing an amalgamated employment report that shall reflect the Inuit labour used by the Contractor and any other subcontractor or supplier. The Contractor shall submit this employment report with every Progress Claim. Receipt of an employment report shall be a condition precedent to the release of a progress payment, an interim payment and/or a final payment.</p> <p>If requested, the Contractor shall also provide a completed "Employee Verification and Consent Form" for an Inuit worker.</p>	

END OF TENDER FORM

NNI POLICY AND NNI POLICY APPEALS PROCESS



Nunavummi Nangminiqaqtunik Ikajuuti

Note to Tenderers: Section 18 of the NNI Policy has been replaced by a revised Section 18 which is attached to this document.

Nunavummi Nangminiqaqtunik Ikajuuti

Prepared by

The GN / NTI Contracting Working Group

March 17, 2000

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Appendices

Appendix A: Definitions

10.0 Relationship to Nunavut Land Claims Agreement (NLCA)

- 10.1 The Policy is aimed at implementing the Government of Nunavut's obligations under Article 24 of the NLCA.
- 10.2 The Policy shall be interpreted so as to respect to the letter and intent of the NLCA.

11.0 Evaluation Process and Bid Adjustment

- 11.1 The evaluation process for the award of Tenders and for the cost criteria portion of Requests for Proposals shall be as follows:
 - (a) all Tenders submitted should meet minimum contract requirements specified in the request for tender or proposal and should demonstrate a capability of carrying out the work;
 - (b) all Tenders meeting the requirements of 11.1.a and the cost criteria of relevant Proposals shall then be adjusted based upon Nunavut Business status, Inuit Firm status, and Local status of the proponent, general contractor, subcontractors, and suppliers, including the labour component;
 - (i) the adjustment 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,
 - (ii) 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.
 - (c) the bid adjustment values shall be as follows:
 - (i) Nunavut firm status, an adjustment of 14%;
 - (ii) Inuit firm status, an additional adjustment of 3%;
 - (iii) Local status, an additional adjustment of 3%
- 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 and should demonstrate a capability of carrying out the work;
 - (b) all proposals meeting the requirements of 11.2.a 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;
 - (c) for Proposals where there is a clear cost criteria the bid adjustment values outlined in 11.1.c will be applied to that portion of the evaluation;
 - (d) Inuit content criteria will 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 Details of the evaluation process shall be further described in procedures developed by the Responsible Department and made available to the public.
- 11.4 The bid adjustment values for goods contracts will be applied to the first \$100,000.00 only.
- 11.5 Evaluation criteria, consistent with the Policy Objectives contained in 7.0, and based on the Bid Adjustment Values and Content Ratings identified in this section, may be developed by the Responsible Department for specific types of professional services contracts or other distinctive sub-categories of contract.

12.0 Bonuses and Penalties

- 12.1 Contracts may 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 or proposals have been exceeded; or,
 - (b) a penalty that shall be applied in event that minimum threshold requirements set by the Contracting Authority in the request for tenders or proposals have not been met.
- 12.2 Where applicable, bonuses or penalties shall apply with respect to Inuit participation in employment, project management, and training.
- 12.3 Where applicable, in the area of employment, a bonus or penalty shall be calculated as 1/3 of 1% of the total labour content of the contract for each 1% of the amount by which employment either exceeds or does not meet the mandatory requirement.
- 12.4 Bonuses and penalties shall be calculated for Local Inuit Labour and/or Nunavut Inuit Labour.
- 12.5 In the area of Inuit management, a bonus or penalty 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.
- 12.6 Where applicable, a bonus or penalty shall be determined on the basis of on-going evaluation as to whether Inuit are provided training in the following areas:
 - (a) entry level or support positions, involving the performance of basic tasks; and,
 - (b) apprenticeship or development positions, involving on-the-job training and classroom instruction aimed at professional skills and accreditation;
- 12.7 Bonuses and penalties shall be determined for the provision of training to both non-Local Inuit and Local Inuit.

18.9 Notwithstanding that an appeal may be pending, the Contracting Authority may award the Contract.

19.0 Financial Resources

19.1 The expenditure of funds by the Government of Nunavut under the Policy is conditional on approval of such funds in the Main Estimates by the Legislative Assembly and on there being a sufficient uncommitted balance in the appropriated item for the fiscal year in which the expenditure is required, and on meeting such further requirements as may be set out in the Financial Administration Act.

20.0 Transition for Certain Businesses

20.1 The Government of Nunavut recognizes the contribution made to the Nunavut economy by a number of companies that have operated for many years in Nunavut that do not qualify as a Nunavut Business under this Policy. Accordingly, any business that, immediately before the coming into effect of the Policy, qualified as a Nunavut Business for the purpose of the Business Incentive Policy, shall qualify as a Nunavut Business under this Policy until the second anniversary of the coming into effect of this Policy.

20.2 For greater certainty, section 20.1 shall cease to have any application on the second anniversary of the coming into effect of the Policy and no business shall continue to qualify as a Nunavut Business or Inuit Firm unless it meets the definitions for those terms set out in Appendix A.

21.0 Revisions to or repeal of this Policy

21.1 Cabinet may make changes to this policy consistent with the obligations of the Government of Nunavut in Article 24 of the Nunavut Land Claims Agreement which requires a collaborative process with Nunavut Tunngavik Inc. in the maintenance of preferential procurement policies, procedures and approaches.

APPROVED BY CABINET

DATE:

Original is signed by the Premier

Paul Okalik, Premier

Includes Appendix A – Six pages

APPENDIX A: DEFINITIONS

The following definitions apply to the Policy and its Procedures.

Article 23 - the Article of the Nunavut Land Claims Agreement dealing with Inuit Employment within Government.

Article 24 - the Article of the Nunavut Land Claims Agreement dealing with Government Contracts.

Bid - a tender or an offer to sell or provide goods, services, or construction that is submitted to a Contract Authority in response to a Request for Bids or Tenders.

Bid Adjustment - the amount by which the face value of a Bid is reduced in accordance with Section 6(2) of this Policy. The Bid Adjustment is used for Bid evaluation purposes only. The Bid price minus the Bid Adjustment will be referred to as the adjusted price.

Bid Security - security given by a Bidder or Proponent to guarantee entry into a Contract.

Bidder - an individual, partnership, corporation, society or co-operative who submits a Bid.

Contract - a written agreement between a Contracting Authority and another party to provide goods, perform services, construct public works, or lease real property, for consideration, and includes

- (i) Contracts for the supply of goods.
- (ii) construction Contracts.
- (iii) Contracts for the supply of services.
- (iv) leases.

Contract Authority - a Government of Nunavut Minister, a Deputy Minister, or a public officer with the duties and authorities set out in the Financial Administration Act and Regulations thereto.

Contract Price - the price or price formulated in a Contract.

Contract Security - a deposit of securities by the Contractor which the Contracting Authority may convert to carry out the Contractor's obligations under the Contract.

Contractor - a corporation, partnership or individual that has been awarded a Contract for the execution of work or services under the terms of a Contract.

DIO - Nunavut Tunngavik Incorporated or such other Inuit organizations that, from time to time, Nunavut Tunngavik Incorporated may, by notice to the Government of Nunavut, designate.

Employment Contract - a Contract which establishes an employer-employee relationship.

Financial Administration Act - the Financial Management Act, R.S.N.W.T 1990 (as adopted by Nunavut) c. F-3 and amendments thereto.

General Contractor - a Contractor who contracts to undertake an entire Contract, rather than a portion of the Contract.

Goods Contract - a Contract for the purchase of articles, commodities, equipment, goods, materials or supplies which may include installation.

Government - the Government of Nunavut.

Government of Nunavut - all Territorial Government departments and all public agencies defined by the Financial Administration Act, S.N.W.T. 1987 (1), c.16, Part IX, and Schedules A, B, and C, as amended for Nunavut pursuant to s.29 and 76.05 of the federal Nunavut Act but excluding the Northwest Territories Power Corporation.

Inuit (singular: Inuk) - a person described in Article 1.1.1 of the Nunavut Land Claims Agreement (NLCA) and who has enrolled himself or herself on the Inuit Enrolment List under Article 35 of the NLCA.

Inuit Content - the dollar value of the goods and services required by the Contract supplied by any Inuit Firm or Inuit sole proprietorship, and Inuit Labour. Inuit Content may include:

- (i) goods and services supplied by an Inuit Firm or Inuit supplier acting as the General Contractor. These are referred to as “own forces”;
- (ii) goods and services supplied by an Inuit Firm or Inuit supplier so long as these goods and services are required for the completion of the Contract and are paid for by the Contract.
- (iii) Inuit labour by an Inuit Firm or a non-Inuit Firm

Inuit Enrolment List - the list of Inuit maintained by Nunavut Tunngavik Incorporated under Article 35 of the Nunavut Land Claims Agreement.

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% of the company’s voting shares beneficially owned by Inuit, or
- (ii) a cooperative controlled by Inuit, or
- (iii) an Inuk sole proprietorship or partnership; and
- (iv) able to present evidence of inclusion on NTI’s Inuit Firms Registry

Inuit Firms Registry - the list of Inuit Firms that is maintained by Nunavut Tunngavik Incorporated in accordance with Article 24.7.1 of the Nunavut Land Claims Agreement.

Inuit Labour - labour, including professional services, provided in any capacity by an Inuk or Inuit, and not necessarily through an Inuit Firm.

Inuit Training – Training of an Inuk or Inuit related to a specific Contract that has been pre-approved by the Contract Authority.

Inuk Project Manager - an Inuk [ordinarily resident in the Subject Community] who is capable of undertaking all aspects of the management of the project, and has decision-making authority over day-to-day matters affecting the project.

Invite - to call publicly for Bids.

Local Business - a Nunavut Business which has been resident in the Subject Community for the four months prior to 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 opening.

Local Content - the goods and services required by the Contract and supplied by any Local Business or Local Labour. Local Content may include:

- (i) goods, services or labour supplied by a local business acting as the General Contractor. These are referred to as “own forces”;
- (ii) goods, services or labour supplied by any other Local Business or Local Supplier that are required for the completion of the Contract and are provided for by the Contract.

Local Labour - labour of Local Residents related to a Contract, not necessarily through a Local Business.

Local Resident - a Nunavut Resident who has been ordinarily resident in the subject community for the last four months.

Local Resident Manager - a Local Resident who is capable of undertaking all aspects of the management of the Local Business and has absolute decision-making authority over day to day matters affecting the Local Business. The Government of Nunavut may waive this requirement in the case of a newly appointed Local Resident Manager, on proof that within six months the Local Resident Manager will have met the residency requirements.

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.

Nunavummi Nangminiqagtunik Ikajuuti (NNI) - the name of this Policy in Inuktitut, meaning “Assistance for Nunavut Businesses.”

Nunavummi Nangminiqagtunik Ikajuuti Business Directory - the list of Nunavut Businesses that have applied and met the requirements of the NNI for Nunavut Business Status.

Security - cash, a bank draft or certified cheque payable to the Government, or such other Security specified in the Request for Tender or Contract documents.

Solicit - to request Bids from a limited number of businesses based on some form of pre-qualification.

Standing Offer Agreement - a method of supply used to provide direct access to sources of supply for goods and/or services, on an as-needed basis, for specific periods of time, at prearranged prices and delivery conditions.

Subcontractor - includes any party that does not have a direct Contract with the owner, or has entered into a Contract with the General Contractor to supply goods or services that will be incorporated into the entire project covered by the Contract.

Subject Community - the community or communities wherein or adjacent to where the Contract performance is undertaken. Where the work is undertaken outside the legal boundaries of a community, the Government of Nunavut may:

- (i) define “community” to include that adjacent community in any case, or
- (ii) define “community” to include both or all adjacent communities, where two or more communities, such as Hall Beach/Igloolik and Arctic Bay/Nanisivik, are both very close to the work site. The name(s) of the Subject Community or Communities to be included in the term “Subject Community” for the purpose of receiving a local preference shall be specified in all Tender documents and Contracts.

Tender - a Bid or offer to sell or provide goods, services, or construction that is submitted to a Contract Authority in response to a Request for Bids or Tenders.

Tenderer - a person, partnership or corporation who submits a Tender.

Tender Adjustment - the amount by which the face value of a Tender is reduced in accordance with Section 6(2) of this Policy. The Tender Adjustment is used for Bid evaluation purposes only. The Tender price minus the Tender Adjustment will be referred to as the adjusted price.

Training - training related to a specific Contract, that has been pre-approved by the Contract Authority.

NUNAVUMMI NANGMINIQAQTUNIK IKAJUUTI (NNI POLICY) APPEALS PROCESS

Below is the new wording for section 18 of the NNI Policy which outlines the process to follow regarding appealing an award of a Tender or RFP.

- 18.1 Subject to 18.2, an independent Contracting Appeals Board shall be established consisting of three Commissioners and three Alternate Commissioners appointed by the Minister for a term of three years as follows:
- (a) one Commissioner and one Alternate Commissioner from nominees put forward by NTI
 - (b) one Commissioner and one Alternate Commissioner from nominees put forward by the Nunavut regional Chambers of Commerce.
 - (c) one Commissioner and one Alternate Commissioner appointed by the Minister.
- 18.2 In order to provide for continuity, the Minister shall appoint the first members of the Board to staggered terms as follows:
- (a) one Commissioner and one Alternate Commissioner for a term of 2 years;
 - (b) one Commissioner and one Alternate Commissioner for a term of 3 years; and
 - (c) one Commissioner and one Alternate Commissioner for a term of 4 years.
- 18.3 The Minister shall have regard to the importance of regional representation in making appointments to the Board.
- 18.4 If either NTI or the Chambers of Commerce do not submit nominations to the Minister within 45 days of the Minister's request for nominations, the Minister may make the necessary appointment.
- 18.5 (a) A Commissioner or Alternate Commissioner must be a Nunavut Resident as defined in the NNI Policy, that is a person who:
- (i) is on the NTI Inuit Enrolment List or who 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 as a Nunavut drivers license, a lease or rental receipt, and provides a physical address where residing.
- (b) A Commissioner may not be an employee of, or contractor for:
- i) The GN Department of Public Works and Services or the Contracting Authority of the disputed contract;
 - ii) NTI or a Regional Inuit Association;
 - iii) a Chamber of Commerce in Nunavut.
- 18.6 On appointment, a Commissioner shall certify in writing that he is not an employee as defined in paragraph 18.5 (b), and that to the best of his knowledge he is not in a conflict of interest and will not sit on any appeal if a conflict of interest comes to his attention.
- 18.7 No person may serve as a Commissioner until such person has accepted the position in writing and has executed a confidentiality agreement.
- 18.8 Each year one Commissioner shall be chosen by the Commissioners to serve as Chairperson. The role of the Chairperson is to preside over meetings of the Board and to supervise the operations of the Board.

- 18.9 If a Commissioner is unable to act in a particular appeal an Alternate Commissioner shall be selected by the Chairperson to hear the appeal.
- 18.10 The Minister shall appoint a person to act as Secretary of the Board.
- 18.11 (a) A contractor who wishes to challenge an award of a tender or RFP must do so in writing within five (5) business days of the award announcement. The appeal must be directed to the Contracting Authority and copied to the GN NNI Policy Advisor, and must set out the following information.
- (i) the name, address, telephone and if available fax number and email address of the party challenging the award;
 - (ii) the tender or RFP number and/or title;
 - (iii) the issue(s) to be reviewed by the Contracting Authority; and
 - (iv) the remedy sought by the contractor.
- (b) The Contracting Authority shall have five (5) business days to respond in writing and shall copy the response to the GN NNI Policy Advisor.
- 18.12 (a) If, after a further 5 business days have elapsed, a contractor is not satisfied with the response of the Contracting Authority, or if no response has been received from the Contracting Authority, the contractor may appeal the award to the Board.
- (b) An appeal to the Board must be in writing and directed to the Contracting Authority within 15 business days of the award announcement.
- (c) The appeal must set out the following:
- (i) the name, address, telephone and if available fax number and email address of the party challenging the award;
 - (ii) the name of the Contracting Authority that issued the tender or RFP
 - (iii) the tender or RFP number and/or title
 - (iv) the issue(s) to be reviewed by the Board including the reasons why the Contractor believes the application of the NNI Policy is incorrect; and
 - (v) the remedy sought by the contractor.
- 18.13 (a) An appeal from an award by a contractor to the Contracting Appeals Board may be made on the ground that the Contracting Authority in making the award has erred in the application of the NNI Policy.
- (b) For greater certainty, there shall be no appeal to the Board from an act or omission relating to the performance of a contract that has been awarded.
- (c) Notwithstanding (a) and (b) above, the Board has jurisdiction to consider and make recommendations on any matter relating to the application of the NNI Policy that is referred to it in writing by GN and NTI jointly.
- 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.
- 18.15 The Secretary of the Board shall immediately give notice of an appeal to the Board to the successful bidder, to NTI and to the Contracting Authority.
- 18.16 In addition to the appellant, the Contracting Authority, the successful bidder and NTI have the right to participate in proceedings before the Board in a particular appeal. The Board may, in its discretion, permit any other person to participate in the proceedings.

- 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.
- 18.18 The Board may receive representations and evidence from the parties in writing, by conference call or in person having regard to convenience and economy. If the Board holds a hearing by conference call or by personal appearance the proceedings shall be recorded by the Board.
- 18.19 The Board shall conduct its proceedings in an informal manner and is not required to receive evidence on oath.
- 18.20 Where required in a proceeding, the Board shall provide the services of an interpreter.
- 18.21 After hearing an appeal, the Board may:
- (a) dismiss the appeal; or
 - (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,
 - (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,
 - (vi) in exceptional circumstances involving long term contracts, terminating a contract in whole or in part, and a reassessment or 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.
- 18.23 The Board shall give written reasons for its decisions signed by the Commissioners. If there is a majority decision, the dissenting Commissioner may give reasons for the dissent.
- 18.24 The Board shall distribute copies of the decision to all parties who participated in the appeal.
- 18.25 Notwithstanding that an appeal is pending, the Contracting Authority, in its discretion, may enter into a contract with the successful bidder.
- 18.26 If the Contracting Authority does not accept the recommendations of the Board for remedial action, in whole or in part, it shall issue reasons for its decision.
- 18.27 The Board shall be given access by the Contracting Authority to the response to an RFP or tender bid of the appealing contractor and of the successful contractor for the purposes of determining an Appeal.
- 18.28 The record of proceedings before the Board, including its decision, shall be placed on a public file.
- 18.29 The proceedings of the Board shall be conducted in accordance with the language policy of the Government of Nunavut.

- 18.30 An Annual Report, including financial statements, shall be prepared by the Board at the end of each fiscal year. The Annual Report shall include a summary of appeals heard and decisions rendered.
- 18.31 The Annual Report shall be submitted to the Government of Nunavut and to Nunavut Tunngavik Incorporated and made available to the public.
- 18.32 The Government of Nunavut shall be responsible for the costs of the Board in accordance with GN Policies.