

**Format for Executive Council Submissions Recommending
Authorization to Negotiate Contracts
Under the Negotiated Contracts Policy (11.26)**

DECISION PAPER

Negotiated Contract for [description of work] in [community(ies)]

PROBLEM

Contract regulations pursuant to the *Financial Administration Act* provide that only Cabinet may enter into or direct a contract authority to enter into a contract outside of competitive or sole-source contracting processes.

[Contractor(s)], of [community], has requested a negotiated contract for [description of work and dates] arguing that a negotiated contract would provide opportunities to improve the skills and experience of residents and northern businesses or realize economic benefits for residents, the community or region, which would not be provided or realized through a competitive contract process.

BACKGROUND

The background section should address:

- the decision to contract for the proposed services (reasons for contracting for the goods or services, history of comparable contracting, whether the proposed activities are identified in business plans, allocated budgets, etc.);
- events leading to the request that the contract be negotiated;
- the specific benefits to be achieved from negotiating the contract which would not be achieved through a competitive contract process;
- the proposed contractor's standing as a northern business as defined by the Business Incentive Policy;
- the proposed contractor's ability to fulfil the contract (past experience, etc.);
- a listing of all other GNWT contracts the proposed contractor has been awarded either through negotiated or public processes (i.e., term of the contract, type of service, etc.);

- the involvement, in any, of a subcontractor or partner who would not qualify as an eligible contractor under the Negotiated Contracts Policy;
- whether there are other businesses that might be interested if the contract was publicly tendered;
- compliance with, or requirements to make an exception to, any applicable Executive Council approved policies; and
- compliance with, or requirements to make an exception to, any Executive Council approved intergovernmental agreement.

PRINCIPLES

1. Negotiated contracts should contribute to the support and development of self-sustaining businesses at the local and regional level.
2. Goods and services obtained by the Government of the Northwest Territories through contracts shall be provided at a reasonable cost.

PROPOSAL SUMMARY

To waive the competitive contract process and authorize negotiations with [contractor(s)], of [community], for [description of work and dates] in order to achieve [identify specific benefits to residents, northern business, community or region].

FACTORS

i) Political

The [municipal corporation(s) or band council(s)] of [community(ies)] and [the MLA(s) representing the community(ies)] have provided their written support for the [contractor(s)] request to negotiate a contract for the [description of work]. Copies of the letters of support are attached.

ii) Financial

Should address:

- the total cost which the proposed contract should not exceed,
- how the total cost was estimated,
- the estimated cost of the contract if it were to go to a competitive process,
- whether or not the proposed contract can be supported within existing budget allocations; and

In the case of multi-year contracts, the financial section should also address:

- the estimated annual per unit costs; and
- where applicable, the basis upon which contract cost adjustments will be negotiated.

iii) Specific Benefits

Identify the specific benefits to be achieved as a consequence of negotiating the contract as opposed to using a competitive contracting process.

CONSULTATION

Indicate the results of any public or interdepartmental consultation undertaken in the development of the decision paper.

PUBLIC RELATIONS

Upon successful negotiation and award of the negotiated contract, the Minister of [department] shall give public notice of the awarding of the contract and the reasons for negotiating the contract rather than using the competitive contracting process. Notices shall be placed in the local newspaper serving the community in question. In the absence of a local newspaper, notices shall be placed in a territorial newspaper available in the community in question. French language notices shall be placed in the territorial French newspaper.

All notices must follow the GNWT Visual Identity Program guidelines.

CONCLUSION

The Minister of [department] should be authorized to enter into negotiations with [contractor(s)] for [description of work and dates] and to award the contract provided that the total amount of the negotiated contracts does not exceed [\$ total].

RECOMMENDATIONS

It is recommended that, in order to achieve [identify specific benefits to residents, northern business, community or region]:

- (1) the Minister of [department] be authorized to enter into negotiations with the [contractor(s)] for the [description of work] in [community(ies)] for the [period] [with any option years if applicable];
- (2) further to paragraph (1) above, the Minister of [department] be authorized to award the negotiated contract to the [contractor(s)] provided the amount of the negotiated contract does not exceed [total cost];

- (3) further to paragraph (2) above, if the amount of the contract exceeds [total cost], the Minister of [department] return to Cabinet for further consideration of the proposed negotiated contract;
- (4) subject to (2) above, the Minister of [department] be directed to give public notice of the awarding of the negotiated contract consistent with the attached announcement;
- (5) direct the Minister of [department] to submit to Cabinet:
 - (a) upon the awarding of the contract, the:
 - scope of the contract
 - name of the contractor
 - location of contract
 - total contract value
 - fiscal year of contract
 - duration of contract if multi-year
 - benefits analysis
 - the total estimated premium (if applicable); and
 - (b) upon completion of the contract, or at the end of each year of a multi year contract, a report on the contract including benefits achieved that might not have been achieved if the contract had been awarded through a competitive process.

NOTICE OF AWARD

The Minister of [department] has awarded a contract to [contractor(s)] for the [description of work] in [community(ies)] for the [period] for a amount not to exceed [total cost].

This contract has been negotiated and awarded under the authority of the Executive Council, so as to [identify specific benefits to residents, northern business, community or region].