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Directive on Government Contracts, Including Real Property Leases, in the Nunavut Settlement Area

1. Effective date

1.1 This directive takes effect on December 20, 2019.

2. Authorities

2.1 This directive is issued pursuant to section 7 of the *Financial Administration Act*.

3. Application

3.1 This directive applies to departments and agencies listed in Schedules I, I.1 and II of the *Financial Administration Act*, with the exception of the Canada Revenue Agency, and to Commissions established pursuant to the *Inquiries Act* that are designated as departments for the purposes of the *Financial Administration Act*.

3.2 Appendix A contains the definitions that apply to this directive.

3.3 This directive applies to all government contracts, including real property leases, as defined in Article 24.1.1 of the [Agreement Between the Inuit of](#)

the Nunavut Settlement Area and Her Majesty the Queen in right of Canada (Agreement) where the deliverable(s), or a portion of the deliverable(s), include final delivery or performance in or into the Nunavut Settlement Area.

- 3.4 In the event of a conflict between a requirement in this directive and a requirement in any other Treasury Board or departmental policy instrument, the requirement in this directive will apply. In the event of a conflict between a requirement in this directive and a legal obligation, including an obligation under the Agreement, the legal obligation will apply.
- 3.5 This directive does not apply to any government contracts, including real property leases, which were entered into before the effective date of this directive, or to solicitations or invitations that occurred before the effective date of this directive.

4. Context

- 4.1 The Government of Canada:
 - 4.1.1 Conducts all contracting in a manner that is fair, open and transparent;
 - 4.1.2 Demonstrates sound stewardship of public funds; and
 - 4.1.3 Supports results for Canadians through the delivery of programs and services.
- 4.2 Article 24 of the Agreement includes procurement obligations for the Government of Canada to contribute to and respond to:
 - 4.2.1 The developing nature of the Nunavut economy and labour force; and

4.2.2 The increased ability over time of Inuit firms to compete for government contracts, including real property leases.

4.3 In the Nunavut Settlement Area, the Government of Canada's contracting activities provide an important opportunity for Inuit firms to compete for government contracts, including real property leases, and for Inuit to participate in employment, training and business opportunities created by those activities. As such, this *Directive on Government Contracts, Including Real Property Leases, in the Nunavut Settlement Area* (directive), which was developed in close consultation with the Designated Inuit Organization (DIO):

4.3.1 Clarifies the obligations in the Agreement for government officials;

4.3.2 Establishes a new mandatory policy measure to limit government contracts, including real property leases, in the Nunavut Settlement Area for bidding among Inuit firms;

4.3.3. Strengthens the requirement to include bid criteria related to socio-economic opportunities for Inuit (Inuit benefits) and Nunavut (Nunavut benefits) as part of the bid evaluation criteria in solicitation documents; and

4.3.4 Establishes a new formal review committee to be co-chaired by the Treasury Board of Canada Secretariat and the DIO. The Government of Canada and the DIO recognize the importance of working together in the committee to:

4.3.4.1 Monitor and review the outcomes of the directive; and

4.3.4.2 Identify evidence-based opportunities to improve the application of the directive, including, but not limited

to, the impacts of the evaluation methodology of Inuit benefits criteria.

- 4.4 The directive sets out the Government of Canada's responsibilities with respect to fulfilling the procurement obligations in Articles 8, 9 and 33 of the Agreement.
- 4.5 The directive sets out the responsibilities of deputy heads, contracting authorities, business owners, and designated real property officials regarding government contracts, including real property leases, in the Nunavut Settlement Area, with respect to the Government of Canada's obligations in Article 24 of the Agreement.
- 4.6 Specific additional responsibilities of the deputy heads of Indigenous Services Canada, Public Services and Procurement Canada and the Treasury Board of Canada Secretariat are also set out in this directive.
- 4.7 The directive includes requirements for a government-wide approach that complements existing governance frameworks to:
 - 4.7.1 Provide support to government officials through access to training, guidance and tools, such as standard clauses and templates; and
 - 4.7.2 Enhance monitoring and reporting activities.
- 4.8 This directive and its mandatory procedures are supported by guidance for contracting authorities, business owners and designated real property officials. The guidance material includes examples, best practices, and ways to integrate the rules from other policies, trade agreements and legislation.

5. Objective and expected results

- 5.1 In accordance with Article 24 of the Agreement, the objective of this directive is to provide reasonable support and assistance to Inuit firms in order to enable them to compete for government contracts, including real property leases.

Expected results

- 5.2 This directive and its implementing measures reflect the expected results of Article 24, which are, to the extent possible, as follows:
- 5.2.1 Increased participation by Inuit firms in business opportunities in the Nunavut Settlement Area economy;
 - 5.2.2 Improved capacity of Inuit firms to compete for government contracts and real property leases in the Nunavut Settlement Area; and
 - 5.2.3 Employment of Inuit at a representative level in the Nunavut Settlement Area workforce.

6. Requirements

Business owner (technical authorities)

- 6.1 Business owners are responsible for the following:
- 6.1.1 Ensuring that the requirements set out in the directive are addressed in a manner that supports, assists, and responds to the increased ability over time of Inuit firms to compete when planning a government contract, including a real property lease, in the Nunavut Settlement Area;

- 6.1.2 Consulting the Inuit firm list that is maintained by the DIO when planning a government contract, including a real property lease, in the Nunavut Settlement Area in order to determine Inuit firm capacity;
- 6.1.3 Conducting additional market research, in conjunction with the contracting authority or the designated real property official, if necessary, to obtain additional information on Inuit capacity that is commensurate with the complexity, duration and dollar value of the government contract, including a real property lease, in the Nunavut Settlement Area;
- 6.1.4 In conjunction with the contracting authority, determining whether the procurement's operational requirements permit inviting bids by commodity groupings in order to permit smaller and more specialized firms to bid (unbundling), and/or for a specified portion of a larger contract package;
- 6.1.5 Consulting with the contracting authority or the designated real property official responsible for the government contract or real property lease in the Nunavut Settlement Area for advice on the implementation of the requirements in this directive; and
- 6.1.6 Documenting government contracts, including real property leases, according to the Mandatory Procedure on Documenting Government Contracts, Including Real Property Leases, in the Nunavut Settlement Area (Appendix C).

Contracting authorities

- 6.2 Contracting authorities should note that this section sets the requirements regarding government contracts other than real property

leases in the Nunavut Settlement Area, and that the requirements regarding real property leases start at subsection 6.4 of this directive.

6.3 Contracting authorities are responsible for the following:

- 6.3.1 Consulting the list of Inuit firms that the DIO maintains to determine the capacity of Inuit firms before soliciting or inviting bids for a government contract in the Nunavut Settlement Area;
- 6.3.2 Conducting additional market research if necessary, in conjunction with the business owner, to obtain additional information on Inuit capacity that is commensurate with the complexity, duration and dollar value of the government contract in the Nunavut Settlement Area;
- 6.3.3 Providing all reasonable opportunities to Inuit firms to submit competitive bids for government contracts in the Nunavut Settlement Area, by taking, where practicable and consistent with sound procurement management, the following measures:
 - 6.3.3.1 Setting the date, location, and terms and conditions for bidding so that Inuit firms may readily bid;
 - 6.3.3.2 Inviting bids by commodity groupings to permit smaller and more specialized firms to bid (unbundling);
 - 6.3.3.3 Permitting bids for goods and services for a specified portion of a larger contract package to permit smaller and more specialized firms to bid; and
 - 6.3.3.4 Designing construction contracts in a way so as to increase the opportunity for smaller and more specialized firms to bid;

- 6.3.3.5 Avoid artificially inflated employment skills requirements not essential to the fulfilment of the contract.
- 6.3.4 Taking all reasonable measures to inform Inuit firms of such bids, and providing Inuit firms with a fair and reasonable opportunity to submit bids;
- 6.3.5 Ensuring that Inuit firms are included on the list of those firms solicited to bid when soliciting bids for government contracts to be performed in the Nunavut Settlement Area;
- 6.3.6 Including an Inuit firm in the solicitation to bid for contracts of a similar nature where an Inuit firm has previously been awarded a government contract and has successfully carried out the contract; and
- 6.3.7 Giving Inuit firms fair consideration when there is an absence of competitive bidding for a government contract;

Limiting bids to Inuit firms

- 6.3.8 Limiting all bids for government contracts in the Nunavut Settlement Area, including government contracts in support of the Government of Canada's activities in the Nunavut Settlement Area, to qualified Inuit firms registered on the Inuit firm list maintained by the DIO unless:
 - 6.3.8.1 The contract value is estimated to be from \$5,000 to \$25,000, and there is no Inuit firm registered on the Inuit firm list maintained by the DIO for that commodity or service;

6.3.8.2 The contract value is estimated to be over \$25,000, and there are fewer than two Inuit firms registered on the Inuit firm list maintained by the DIO for that commodity or service;

6.3.8.3 Despite subsections 6.3.8.1 and 6.3.8.2, if a government contract must be sole sourced because:

6.3.8.3.1 There is a situation where the need is one of pressing emergency including, but not limited to, an actual or imminent life threatening situation or a disaster endangering the quality of life or safety of Canadians, in which delay would be injurious to the public interest; or

6.3.8.3.2 There is a situation where the nature of the work is such that it would not be in the public interest to invite bids, including, but not limited to, national security circumstances, such as procurements that are indispensable for national security or for the maintenance of international peace and security;

Then the Government of Canada will make best efforts, consistent with its operational needs, to sole source to a qualified Inuit firm that is registered on the Inuit firm list maintained by the DIO.

6.3.9 Noting that a government contract may be limited for competition among Inuit firms by removing it entirely or partly from the scope of the relevant trade agreements pursuant to the

set-aside provisions for small and minority businesses, or for Indigenous businesses;

- 6.3.10 Evaluating bids according to the procedure set out in the bid solicitation or the invitation to bid;
- 6.3.11 Awarding a government contract to an Inuit firm that is registered on the Inuit firm list maintained by the DIO when bids have been limited to Inuit firms unless:
 - 6.3.11.1 No responsive or compliant bids are submitted by Inuit firms;
 - 6.3.11.2 The contracting authority does not proceed to contract award for reasonable and demonstrable reasons that are unrelated to this directive, including, but not limited to, changes to the requirements;
 - 6.3.11.3 Doing so would result in one of the following situations:
 - 6.3.11.3.1 The Government of Canada exceeding the estimated contract value, which factors in the cost of doing business in the Nunavut Settlement Area, and the inclusion of Inuit benefits criteria and Nunavut benefits criteria, as applicable, consistent with this directive; or
 - 6.3.11.3.2 On reasonable and demonstrable grounds, paying a contract price for the commodity or service that would be excessive and unjustifiable after taking fully into account

the benefits associated with the
implementation of Article 24;

Bid criteria

6.3.12 Including the following four separate and independent bid criteria when required under this directive:

Inuit benefits criteria

- 6.3.12.1 The employment of Inuit labour;
- 6.3.12.2 The undertaking of commitments, under the contract, with respect to on-the-job training or skills development for Inuit;
- 6.3.12.3 The bidder is an Inuit firm or will be engaging Inuit firm(s) as subcontractor(s) in carrying out the government contract in the Nunavut Settlement Area; and

Nunavut benefits criteria

- 6.3.12.4 The bidder or subcontractor has head offices, administrative offices, or other facilities in the Nunavut Settlement Area;
- 6.3.13 Including all four bid criteria listed under subsection 6.3.12 for competitive tenders in the Nunavut Settlement Area, according to the following thresholds:
- 6.3.13.1 Goods, services and construction services that have an estimated value of over \$100,000; or
 - 6.3.13.2 Real property leases that have a total consideration of over \$1,000,000;

- 6.3.14 Making best efforts to include all four bid criteria listed under subsection 6.3.12, when practicable and in keeping with sound procurement management principles, for all competitive tenders for:
- 6.3.14.1 Government contracts for goods, services and construction services that have an estimated value of \$100,000 and under; or
 - 6.3.14.2 Real property services that have an estimated total consideration of \$1,000,000 and under;
- 6.3.15 Relying on the Inuit firm list maintained by the DIO to confirm whether a bidder and/or their subcontractor(s) meets the definition of Inuit firm when the Inuit benefits criterion listed in subsection 6.3.12.3 is included in a solicitation or invitation to bid;
- 6.3.16 For competitive tenders limited to Inuit firms, weighting the bid criteria at 30% of the total available points, and allocating these points among the four criteria listed under subsection 6.3.12, according to Appendix B;
- 6.3.17 For competitive tenders not limited to Inuit firms, weighting the bid criteria at 35% of the total available points, and allocating these points among the four criteria listed under subsection 6.3.12, according to Appendix B;
- 6.3.18 Maintaining discretion in particular cases to weight bid criteria at a higher percentage of the total available points than required in subsections 6.3.16 and 6.3.17;
- 6.3.19 Determining how best to structure the weighting of each separate and independent bid criteria based on the ranges set out in Appendix B, and taking into consideration Inuit capacity in

relation to the work to be performed under the government contract in the Nunavut Settlement Area;

6.3.20 Ensuring that a solicitation or invitation to bid for a government contract in the Nunavut Settlement Area that includes any criteria under subsection 6.3.12 of this directive requires bidders to include, at a minimum, the following information in their bids:

6.3.20.1 An estimate of the number of days of employment for Inuit due to the government contract;

6.3.20.2 A description of:

6.3.20.2.1 The nature and extent of subcontracting to Inuit firms and the goods acquired from Inuit firms;

6.3.20.2.2 The nature and extent of Inuit employment;

6.3.20.2.3 The on-the-job training and skills development for Inuit who are employees of the supplier;

6.3.20.2.4 The Inuit firm list identification number associated with the supplier and any subcontractor(s); and

6.3.20.2.5 Any other benefits that the supplier may propose;

6.3.20.3 The costs to fulfill the above requirements identified as separate line items in a bid;

6.3.21 Ensuring that a government contract includes requirements that would require a contractor to engage, when requested by the

contracting authority, an independent professional to confirm that the contractor has met the requirements regarding any work to be performed by an Inuit firm or by Inuit;

- 6.3.22 Evaluating bids according to Appendix B when a solicitation or invitation to bid for a government contract in the Nunavut Settlement Area includes any criteria under subsection 6.3.12;
- 6.3.23 Evaluating each criterion under subsection 6.3.12 separately and independently from each other according to Appendix B;
- 6.3.24 Evaluating bids according to the procedure set out in the bid solicitation or invitation to bid;

Contract award

- 6.3.25 Noting that an Inuit firm is qualified to be awarded a government contract in the Nunavut Settlement Area unless:
 - 6.3.25.1 The Inuit firm is not in good standing, has a demonstrably poor record of performance on similar contracts, or the Inuit firm's bid does not comply with the policies of the Government of Canada, including requirements regarding security, integrity and vendor performance;
 - 6.3.25.2 The Inuit firm demonstrably lacks sufficient capacity to meet the technical requirements of the government contract, or the Inuit firm cannot apply or acquire the capacity needed to perform the work required under the contract or to deliver the contract work on a timely basis; and

- 6.3.25.3 The Inuit firm's bid does not fulfill all mandatory bid criteria, including, but not limited to, meeting or not readily meeting, the intellectual property, licensing, land ownership or similar requirements associated with the work to be performed;
- 6.3.26 Ensuring that the award of a government contract to a supplier will proceed unless:
 - 6.3.26.1 The supplier's bid does not fulfill all mandatory bid criteria;
 - 6.3.26.2 The supplier's bid does not comply with the policies of the Government of Canada, including, but not limited to, requirements regarding security, integrity and vendor performance;
 - 6.3.26.3 The supplier's bid would result in one of the following situations:
 - 6.3.26.3.1 The Government of Canada exceeding the estimated contract value, which factors in the cost of doing business in Nunavut, and the inclusion of Inuit benefits criteria and Nunavut benefits criteria, as applicable, consistent with this directive; or
 - 6.3.26.3.2 On reasonable and demonstrable grounds, paying a contract price for the commodity or service that would be excessive and unjustifiable after taking fully into account the benefits associated with the implementation of Article 24;

- 6.3.26.4 The contracting authority does not proceed to contract award for reasonable and demonstrable reasons unrelated to this directive, including, but not limited to, changes in requirements;
- 6.3.27 Ensuring that the award of a government contract is contingent on the supplier having the legal capacity to enter into a contract;
- 6.3.28 Noting that in the event that the contracting authority, in consultation with the business owner, is unable to proceed with awarding a contract, the contracting authority may reissue the bid solicitation or invitation to bid with revisions, including revisions related to the provisions in this directive, while respecting the obligations of Article 24 of the Agreement, or cancel the bid solicitation or invitation to bid;

Reporting and documentation

- 6.3.29 Ensuring that contracting authorities' reports of government contracts in the Nunavut Settlement Area are completed and submitted in accordance with Appendix D;
- 6.3.30 Documenting government contracts as set out in Appendix C.

Government contracts, including real property leases in parks and conservation areas and for archaeological work

- 6.4 Business owners, contracting authorities, and designated real property officials are responsible for the following:
 - 6.4.1 When the Government of Canada intends to contract for the establishment, operation or maintenance of park facilities in the Nunavut Settlement Area:

- 6.4.1.1 Giving preferential treatment to qualified Inuit firms where the Government of Canada proposes to tender such contracts; and
 - 6.4.1.2 Ensuring that all contractors give preferential treatment to Inuit;
- 6.4.2 Providing the DIO with the right of first refusal to operate all business opportunities and ventures that are contracted out with respect to parks in the Nunavut Settlement Area;
- 6.4.3 Noting that the application of Articles 8.4.8 and 8.4.9 of the Agreement shall not restrict the provisions of an Inuit Impact and Benefits Agreement that deals with economic benefits for Inuit in relation to a proposed park in the Nunavut Settlement Area;
- 6.4.4 Applying subsection 6.4.5 of this directive in a like manner to conservation areas;
- 6.4.5 When contracting for carrying out archaeological work in the Nunavut Settlement Area:
 - 6.4.5.1 Giving preferential treatment to qualified Inuit firms when soliciting or inviting bids; and
 - 6.4.5.2 Ensuring that all contractors give preferential treatment to qualified Inuit.

Designated real property officials

- 6.5 Designated real property officials should note that the definition of “government contracts” in the Agreement includes real property leases, even though real property leases have been separated from procurement contracts in other Treasury Board policy instruments since 1993.

6.6 Designated real property officials are responsible for:

- 6.6.1 Ensuring that business owners requiring the real property leases in the Nunavut Settlement Area are aware of the Government of Canada's obligations under Article 24 of the Agreement and Article 24.4.2 in particular;
- 6.6.2 Including requirements in a real property lease that would require a lessor to engage, when requested by the designated real property official, an independent professional to confirm that the company has met its requirements regarding any work to be performed by an Inuit firm or by Inuit;
- 6.6.3 When inviting bids for leases in the Nunavut Settlement Area, to take "all reasonable measures to inform Inuit firms of such bids, and provide Inuit firms with a fair and reasonable opportunity to submit bids," according to Article 24.4.3;
- 6.6.4 When soliciting bids for real property leases in the Nunavut Settlement Area, ensuring "that qualified Inuit firms are included in the list of those firms solicited to bid";
- 6.6.5 Considering the list of Inuit firms that the DIO maintains before issuing an invitation for bids on a lease in the Nunavut Settlement Area;
- 6.6.6 Where an Inuit firm has previously been awarded a lease, and has successfully fulfilled the lease, including that Inuit firm in the solicitation to bid for leases of a similar nature;
- 6.6.7 Giving Inuit firms fair consideration in the absence of competitive bidding for a real property lease in the Nunavut Settlement Area;

Limiting bids to Inuit firms

6.6.8 Limiting all solicitations for real property leases in the Nunavut Settlement Area, including real property leases in support of the Government of Canada's activities in the Nunavut Settlement Area, to qualified Inuit firms registered on the Inuit firm list that is maintained by the DIO unless:

6.6.8.1 The estimated total consideration of the lease is \$100,000 or under, and there is no Inuit firm registered on the Inuit firm list maintained by the DIO for the nature of the lease;

6.6.8.2 The contract is estimated at over \$100,000, and there are fewer than two Inuit firms registered on the Inuit firm list maintained by the DIO for the nature of the lease;

6.6.8.3 Despite subsections 6.6.8.1 and 6.6.8.2, if a real property lease must be sole sourced because:

6.6.8.3.1 There is a situation where the need is one of pressing emergency, including, but not limited to, an actual or imminent life-threatening situation, or a disaster endangering the quality of life or safety of Canadians, in which delay would be injurious to the public interest; or

6.6.8.3.2 There is a situation where the nature of the work is such that it would not be in the public interest to invite bids, including, but not limited to, national security circumstances, such as procurements indispensable for national security, or the

maintenance of international peace and security;

Then the Government of Canada will make best efforts, consistent with its operational needs, to sole source to a qualified Inuit firm registered on the Inuit firm list maintained by the DIO;

- 6.6.9 Noting that a real property lease may be limited for competition among Inuit firms by removing it entirely or partly from the scope of the relevant trade agreements pursuant to the set-aside provisions for small and minority businesses, or for Indigenous businesses;
- 6.6.10 Evaluating bids in accordance with the procedure set out in the solicitation or invitation to bid for a real property lease;
- 6.6.11 Awarding a real property lease to an Inuit firm that is registered on the Inuit firm list maintained by the DIO, when bids have been limited to Inuit firms, unless one or more of the exceptions listed in subsection 6.3.11 apply;

Bid criteria

- 6.6.12 Including the four separate and independent criteria listed under subsection 6.3.12 for all competitive tenders for real property leases unless:
 - 6.6.12.1 The estimated total consideration of the lease is \$1,000,000 or under;
 - 6.6.12.2 The real property to be leased is not located in the Nunavut Settlement Area;

- 6.6.13 Making best efforts to include all four criteria listed under subsection 6.3.12, when practicable and in keeping with sound procurement management principles, for competitive tenders for real property leases that have an estimated total consideration of \$1,000,000 and under;
- 6.6.14 Relying on the Inuit firm list maintained by the DIO to confirm whether a lessor and/or their subcontractor(s) meet the definition of an Inuit firm when the Inuit benefits criterion listed in subsection 6.3.12.3 is included in a solicitation or invitation to bid for a real property lease;
- 6.6.15 Structuring and weighting bid criteria in accordance with subsections 6.3.16, 6.3.17, 6.3.18 and 6.3.19, and Appendix B, and taking into consideration Inuit capacity in relation to the nature of the real property lease;
- 6.6.16 Ensuring that a solicitation or invitation to bid for a real property lease in the Nunavut Settlement Area, that includes any Inuit benefits criteria based on subsection 6.3.12 of this directive, requires bidders to include, at a minimum, the following information in their bids:
 - 6.6.16.1 An estimate of the number of days of employment for Inuit due to the real property lease;
 - 6.6.16.2 A description of the items listed in subsection 6.3.20.2; and
 - 6.6.16.3 The costs to fulfill the requirements identified in subsections 6.3.20.1 and 6.3.20.2 as separate line items in a bid;

- 6.6.17 Evaluating bids in accordance with Appendix B when a solicitation or invitation to bid for a real property lease in the Nunavut Settlement Area includes any criteria based on subsection 6.3.12;
- 6.6.18 Evaluating each criterion under subsection 6.3.12 separately and independently from each other, in accordance with Appendix B;
- 6.6.19 Evaluating bids in accordance with the procedure set out in the bid solicitation or invitation to bid;

Contract award

- 6.6.20 Noting that an Inuit firm is qualified to be awarded a real property lease in the Nunavut Settlement Area, unless one or more of the exceptions under subsection 6.3.25 apply;
- 6.6.21 Ensuring that the award of a real property lease to a lessor will proceed unless one or more of the exceptions in subsections 6.3.26 and 6.3.27 apply;
- 6.6.22 Ensuring that the award of a real property lease is contingent on the supplier having the legal capacity to enter into a real property lease;
- 6.6.23 Noting that in the event that the designated real property official, in consultation with the business owner, is unable to proceed with awarding a real property lease, the designated real property official may reissue the bid solicitation or invitation to bid with revisions, including revisions related to the provisions in this directive, while respecting the obligations of Article 24 of the Agreement, or cancel the bid solicitation or invitation to bid;

Reporting and documentation

- 6.6.24 Ensuring that designated real property officials' reports of real property leases in the Nunavut Settlement Area are completed and submitted according to Appendix D;
- 6.6.25 Documenting real property leases as set out in Appendix C.

7. Review committee

Membership

- 7.1 The committee will be co-chaired by a representative of the Treasury Board of Canada Secretariat and a representative of the DIO.

Meetings

- 7.2 The committee will meet annually and at other times agreed to by the co-chairs.
- 7.3 The co-chairs must agree to the meeting agenda and its objective, including the amount of time set aside to conduct each item on the agenda and any amendments.

Scope

- 7.4 The committee may provide advice to the Government of Canada and the DIO on ways to improve the application of the directive in departments, including, but not limited to, the content of the training provided to public servants on the directive, the use of targets or thresholds, the evaluation methodology for Inuit benefits in bid solicitations and any other issues related to the directive, including whether amendments to the directive are needed to better achieve the objectives of Article 24.
- 7.5 The Government of Canada will collect and make available to the committee the data needed to assess the effectiveness of the directive

over time, including the appropriateness of the mandatory total weightings for bid criteria. In particular, the Government of Canada will make available to the committee the data referenced in Appendix D.

- 7.6 The committee will review the data made available by the Government of Canada on government contracts, including real property leases, in the Nunavut Settlement Area.
- 7.7 The committee may review any formal assessment of the policy prepared by the Government of Canada.
- 7.8 The committee may review any additional documents exchanged by the Government of Canada and the DIO.
- 7.9 It is recognized that some information, such as, but not limited to, commercially sensitive or personal information, may not be shared outside the Government of Canada. The Government of Canada is not required to disclose any information that it is required or entitled to withhold under any statute relating to access to information and privacy. Where the Government of Canada has discretion to disclose any information, it will take into account the objective of the Agreement in exercising that discretion.

Reports

- 7.10 The committee's advice must be agreed to by the Government of Canada and the DIO, and will be made public jointly.

Secretarial support

- 7.11 The Government of Canada will provide secretarial support for the committee, including the cost of public consultations, rental facilities, advertising, translation, minutes and reporting.

Funding

- 7.12 The Government of Canada will be responsible for the costs of the participation of its staff.
- 7.13 The DIO will be responsible for the costs of the participation of its staff.
- 7.14 The Government of Canada will be responsible for the travel costs of all committee members in accordance with the meal, private vehicle, and incidental expense allowances specified in appendices B, C and D of the Treasury Board Travel Directive and in the other provisions of the *Travel Directive* that refer to “travellers” rather than those referring to “employees.”
- 7.15 Any expenditure by the Government of Canada or the DIO related to the activities of the committee is subject to sufficient funds being appropriated by Parliament or being made available by the Government of Canada or the DIO respectively.

8. Deputy heads

- 8.1 Deputy heads are responsible for the following:
- 8.1.1 Ensuring that contracting authorities, business owners, and designated real property officials in their departments, who have responsibilities for contracting in the Nunavut Settlement Area, are aware of the requirements in the Agreement for government contracts, including real property leases, and have the necessary training to comply with the requirements in this directive;
 - 8.1.2 Providing the Deputy Minister of Indigenous Services Canada with a list of government contracts and real property leases in the Nunavut Settlement Area as follows:

- 8.1.2.1 Before the start of each fiscal year, a list of planned government contracts, including real property leases, that may contain bid criteria to create benefits for Inuit firms or for Inuit; and
- 8.1.2.2 Within six months after the end of each fiscal year, a list of government contracts, including real property leases, that were entered into, noting which government contracts or leases were limited to Inuit firms and/or contained bid criteria consistent with Appendix D;
- 8.1.3 Ensuring close consultation with the DIO when developing and maintaining policies and programs that are designed to achieve the following objectives:
 - 8.1.3.1 Increase access by Inuit to on-the-job training, apprenticeship, skill development, upgrading and other job-related programs;
 - 8.1.3.2 Provide greater opportunities for Inuit to receive training and experience in order to successfully create, operate and manage Northern businesses;
 - 8.1.3.3 Encourage Inuit firms to bid for government contracts, including real property leases, in the Nunavut Settlement Area, in cooperation with the DIO.

9. Deputy Minister of Indigenous Services Canada

- 9.1 The Deputy Minister of Indigenous Services Canada is responsible for the following:

- 9.1.1 Assisting Inuit firms to become familiar with the Government of Canada's bidding and contracting procedures and provide advice and support on individual transactions;
- 9.1.2 Ensuring that deputy heads receive advice on fulfilling the obligations of the directive that pertain to Inuit benefits criteria and the identification of Inuit firm capacity in the Nunavut Settlement Area;
- 9.1.3 Coordinating government-wide procurement and leasing plans in the Nunavut Settlement Area in order to support monitoring and reporting activities to demonstrate the socio-economic benefits achieved in the Nunavut Settlement Area; and
- 9.1.4 Leading consultations with the DIO about the development and maintenance of this directive and the development of any amendments.

10. Deputy Minister of Public Services and Procurement Canada

- 10.1 The Deputy Minister of Public Services and Procurement Canada is responsible for the following:
 - 10.1.1 Ensuring that deputy heads have access to advice on fulfilling the obligations under the Agreement regarding government contracts, including real property leases;
 - 10.1.2 Ensuring that government-wide training, guidance and tools, such as checklists, standard clauses and templates supporting the requirements in Article 24 of the Agreement, are developed for contracting authorities, business owners, and designated real property officials;

- 10.1.3 Ensuring that training and guidance are available to officials in other departments;
- 10.1.4 Ensuring that other departments have access to experts in contracting and real property leasing practices; and
- 10.1.5 Ensuring that solicitations and invitations for standing offers, supply arrangements, and government-wide contracts for commodities to be delivered in the Nunavut Settlement Area permit smaller and more specialized Inuit firms to bid, where practicable and consistent with sound procurement management.

11. Comptroller General of Canada

- 11.1 The Comptroller General of Canada is responsible for the following:
 - 11.1.1 Bringing this directive to the attention of the Canada Revenue Agency and Crown corporations;
 - 11.1.2 Ensuring that the results of this directive are independently assessed every five years, in cooperation with the review committee, as set out in section 7 of this directive;
 - 11.1.3 Coordinating the participation of the review committee to monitor and periodically evaluate the implementation of Article 24 of the Agreement;
 - 11.1.4 Developing amendments to this directive that respond to the developing nature of the economy and labour force in the Nunavut Settlement Area or that better achieve the purpose of this directive, and seeking approval as required;

- 11.1.5 Ensuring that the obligations regarding government contracts, including real property leases, in the Agreement and the requirements in this directive are addressed in the development of the accreditation program for contracting officials and are consistent with the training developed by Public Services and Procurement Canada;
- 11.1.6 Establishing, with the DIO, a review committee that will cooperate with implementing the measures to monitor and periodically evaluate the implementation of Article 24; and
- 11.1.7 Appointing representatives of the Government of Canada to the review committee in addition to the representatives that may be appointed by the DIO.

12. Enquiries

- 12.1 For interpretation of any aspect of this directive, contact [Treasury Board of Canada Secretariat Public Enquiries](#).

Appendix A: Definitions

The following definitions apply to this directive:

- A.1 **Agreement** means the land claims agreement between the Inuit of the Nunavut Settlement Area and Her Majesty the Queen in right of Canada, that was signed on May 25, 1993, and tabled in the House of Commons by the Minister of Indian Affairs and Northern Development on May 26, 1993, and includes any amendments to that agreement made pursuant to the agreement.

- A.2 The definitions of **government contract**¹ and **Inuit firm** found in Article 24.1.1 of the Agreement.
- A.3 The definition of a **Designated Inuit Organization** (DIO) found in Article 1.1.1. of the Agreement²
- A.4 The definition of a **park** found in Article 1.1.1 of the Agreement.
- A.5 The definition of a **conservation area** found in section 9.1.1 of the Agreement.
- A.6 The **business owner** is the individual responsible for the business or program area for which the procurement, project or programme has been established. The business owner is responsible for defining the required capabilities, intended business outcomes and benefits of a project or programme at its outset and for the achievement of the business outcomes and benefits following implementation of the project.
- A.7 For the purposes of this directive, the **estimated contract value** is the amount, in Canadian currency, including the goods and services tax or the harmonized sales tax, funded on the requisition in accordance with section 32 of the *Financial Administration Act*, for the deliverables under the government contract or real property lease, and which factors in the cost of doing business in Nunavut and the inclusion of Inuit benefits criteria and Nunavut benefits criteria.

Appendix B: Mandatory Procedure on Developing and Evaluating Bid Criteria (Inuit Benefits Criteria and Nunavut Benefits

Criteria)

B. Procedures

- B.1 These procedures provide details on the requirement to include the criteria under subsection 6.3.12 of the *Directive on Government Contracts, Including Real Property Leases, in the Nunavut Settlement Area*.
- B.2 Mandatory procedures are as follows:

Requirements definition phase

- B.2.1 Inuit benefits criteria and Nunavut benefits criteria are mandatory for the following competitive tenders in the Nunavut Settlement Area:
- B.2.1.1 Goods, services and construction services contracts that have an estimated value of over \$100,000; and
 - B.2.1.2 Real property leases that have an estimated value of over \$1,000,000.
- B.2.2 Business owners and contracting authorities must undertake best efforts when practicable and in keeping with sound procurement management principles to include Inuit benefits criteria and Nunavut benefits criteria for the following competitive tenders in the Nunavut Settlement Area:
- B.2.2.1 Goods, services and construction services contracts that have an estimated value of \$100,000 and under; and
 - B.2.2.2 Real property leases that have an estimated value of \$1,000,000 and under.

Procurement strategy phase

- B.2.3 Develop technical and price criteria, taking into account subsection 6.3.3 of the directive. In particular for construction contracts, avoid artificially inflated requirements for employment skills that are not essential to the fulfillment of the contract.
- B.2.4 Prior to developing Inuit benefits criteria, consult the Inuit firm list maintained by the DIO and conduct market research, as appropriate, to assess the capacity and availability of Inuit firms based on the nature of the work required under the competitive tender.
- B.2.5 Identify the following, as appropriate, based on the market research:
 - B.2.5.1 The number of Inuit firms expected to meet some or all of the operational requirements;
 - B.2.5.2 The type of expertise that Inuit have in relation to the required deliverable;
 - B.2.5.3 The volume of business that Inuit firms have the capacity to support;
 - B.2.5.4 The location of potential Inuit firms;
 - B.2.5.5 The certifications required to meet the operational requirements, and whether there are Inuit firms who maintain the certifications; and
 - B.2.5.6 Whether there are any other activities that are planned in the Nunavut Settlement Area that may affect the ability of Inuit firms to participate in the procurement opportunity.

- B.2.6 Conduct additional engagement activities, such as letters of interest, requests for information and/or scheduling bidders' conferences, if further information is required.
- B.2.7 Apply information obtained from market research and engagement activities to structure the bid criteria for the purpose of realizing meaningful, measurable benefits for Inuit, while meeting business and operational requirements.
- B.2.8 Structure the following four bid criteria to be evaluated separately and independently from each other.

Inuit benefits criteria

- B.2.8.1 Inuit employment: to evaluate the employment of Inuit labour.
- B.2.8.2 Inuit training and skills development: to evaluate the undertaking of commitments, under the contract, with respect to on-the-job training or skills development for Inuit.
- B.2.8.3 Inuit ownership (prime contractor and subcontractors): to evaluate whether the bidder is an Inuit firm listed on the Inuit firm list maintained by the DIO, and whether Inuit firms will be engaged as subcontractor(s) in carrying out the government contract in the Nunavut Settlement Area.

Nunavut benefits criteria

- B.2.8.4 Location in the Nunavut Settlement Area: to evaluate whether the bidder or the subcontractor(s) have head offices, administrative offices or other facilities in the Nunavut Settlement Area.

- B.2.9 The Inuit employment component may include the following sub-criteria:
- B.2.9.1 The portion of labour attributable to Inuit;
 - B.2.9.2 The description and duration of the employment opportunity;
 - B.2.9.3 The opportunity for skills development;
 - B.2.9.4 The sustainability of jobs;
 - B.2.9.5 The type of work;
 - B.2.9.6 The experience to be gained; and
 - B.2.9.7 The human resource strategies for Inuit recruitment, retention, succession planning and staff management.
- B.2.10 The Inuit training and skills development component may include among others, the following sub-criteria:
- B.2.10.1 A description of the training and the training location (for example, apprenticeship, school programs, on-the-job or in-house training programs);
 - B.2.10.2 The number of training opportunities for Inuit;
 - B.2.10.3 The duration of the training;
 - B.2.10.4 The quality of training;
 - B.2.10.5 The effectiveness of the training delivery approach, such as classroom or fieldwork; and
 - B.2.10.6 Specialization, certification or accreditation with future potential for employment.

- B.2.11 The Inuit ownership (prime and subcontractors) component may include, among others, the following sub-criteria:
- B.2.11.1 Demonstrable Inuit ownership of prime and subcontractor(s) through registration on the Inuit firm list maintained by the DIO;
 - B.2.11.2 A description and the type of work to be conducted in-house by the Inuit-owned firm, or their Inuit firm subcontractor; and
 - B.2.11.3 The number of subcontracting opportunities for Inuit firms.
- B.2.12 The location in the Nunavut Settlement Area component may include the following sub-criteria:
- B.2.12.1 A description of the number, type and size of the head offices, administrative offices or other facilities that are located in the Nunavut Settlement Area;
 - B.2.12.2 The number of years that the firm has been in existence;
 - B.2.12.3 A description of the type of work to be conducted in-house by the firm located in the Nunavut Settlement Area;
 - B.2.12.4 A description of the type of work to be conducted by subcontractors located in the Nunavut Settlement Area; and
 - B.2.12.5 The number of subcontracting opportunities for firms located in the Nunavut Settlement Area.

Structure of the bid criteria in bids limited to Inuit firms

B.2.13 When competitive tenders in the Nunavut Settlement Area are limited to Inuit firms:

B.2.13.1 Each criterion has the following weight by default:

Criterion	Default weight
Inuit ownership	5%
Inuit employment	10%
Inuit training	10%
Location in the Nunavut Settlement Area	5%
Total	30%

B.2.13.2 Shift weighting toward the remaining bid criteria if one or more criteria are excluded to ensure that 30% of total available points are allocated to the bid criteria;

B.2.13.3 Divide the remaining 70% of total available points between technical, financial, administrative and/or other criteria when rated criteria are established; and

B.2.13.4 Adjust the weightings within the ranges set out below if, depending on the nature of the requirement and Inuit capacity, it is not possible to weight each criterion according to subsection B.2.13.1:

Criterion	Type of contract and percentage weighting by contract type			
	Goods	Major contracts above \$10 million	Services and construction services	Real property leases

Inuit ownership	5% to 30%	5%	10% to 15%	0% to 30%
Inuit employment	0% to 10%	10%	10% to 15%	0% to 30%
Inuit training	0% to 10%	10%	0% to 10%	0% to 30%
Location in the Nunavut Settlement Area	5% to 10%	5%	10% to 15%	0% to 30%
Total	30%	30%	30%	30%

Structure of the bid criteria in bids that are not limited to Inuit firms

B.2.14 When competitive tenders in the Nunavut Settlement Area are not limited to Inuit firms:

B.2.14.1 Each criterion has the following weight by default:

Criterion	Default weight
Inuit ownership	10%
Inuit employment	10%
Inuit training	10%
Location in the Nunavut Settlement Area	5%
Total	35%

B.2.14.2 Shift weighting toward the remaining bid criteria if one or more criteria are excluded to ensure 35% of total available points are allocated to the bid criteria;

B.2.14.3 Divide the remaining 65% of total available points between technical, financial, administrative and/or other criteria when rated criteria are established; and

B.2.14.4 Adjust the weightings within the ranges set out below if, depending on the nature of the requirement and Inuit capacity, it is not possible to weight each criterion according to subsection B.2.14.1:

Criterion	Type of contract and percentage weighting by contract type			
	Goods	Major contracts above \$10 million	Services and construction services	Real property Leases
Inuit ownership	10% to 30%	10%	10% to 15%	0% to 30%
Inuit employment	0% to 10%	10%	10% to 15%	0% to 30%
Inuit training	0% to 10%	10%	0% to 10%	0% to 30%
Location in the Nunavut Settlement Area	5%	5%	5%	5%
Total	35%	35%	35%	35%

B.2.15 Include the criteria under subsection 6.3.12 of the directive in solicitation documents.

B.2.16 Include terms and conditions that require the bidder to provide the costs to fulfill the requirements for Inuit benefits criteria and Nunavut benefits criteria as separate line items in a bid.

B.2.17 Include terms and conditions that require the contractor to:

B.2.17.1 Report on Inuit benefits and Nunavut benefits achieved;

B.2.17.2 Engage, when requested by the contracting authority or designated real property official, an independent professional to confirm that the contractor or lessor has met the requirements regarding any work to be performed by an Inuit firm or by Inuit; and

B.2.17.3 Agree to holdback provisions when contractually obligated Inuit benefits are not being achieved in a government contract if they are invoked.

B.2.18 Invoke set-aside provisions for small and minority businesses or Indigenous businesses for competitive tenders covered by trade agreements.

Evaluation

B.2.19 Evaluate bids according to the procedures set out in the solicitation or invitation to bid.

Contract award

B.2.20 Proceed to award the contract according to subsections 6.3.26, 6.3.27, and 6.3.28 of the directive.

Contract administration and contract payment

B.2.21 Request a report from the contractor or lessor on the Inuit benefits achieved.

B.2.22 Assess whether contractually obligated Inuit benefits are not being achieved and apply holdback provisions, if appropriate.

Reporting

B.2.23 Report quarterly on the awarding of the contract and the Inuit benefits achieved according to Appendix C of the directive.

Appendix C: Mandatory Procedure on Documenting Government Contracts, Including Real Property Leases, in the Nunavut Settlement Area

C.1 Effective date

C.1.1 This mandatory procedure takes effect on December 20, 2019.

C.2 Standard

C.2.1 This mandatory procedure describes the additional documentation in government records for government contracts valued at over \$10,000 and real property leases valued at over \$100,000 within the Nunavut Settlement Area.

C.2.2 The mandatory procedure is as follows:

C.2.2.1 The documentation collected and retained by a contracting authority responsible for a government contract in the Nunavut Settlement Area and a designated real property official responsible for a real property lease in the Nunavut Settlement Area must include the following:

C.2.2.1.1 Confirmation that the business owner and either the contracting authority or the designated real property official applied the guidance in *Aboriginal Consultation and Accommodation: Updated Guidelines for Federal Officials to Fulfill the Duty to Consult* (March 2011);

- C.2.2.1.2 Confirmation by the contracting authority or the designated real property official that the business owner was aware of the Government of Canada's obligations under Article 24;
- C.2.2.1.3 A copy, provided by the business owner, of the Inuit firm list maintained by the DIO on the day when:
 - C.2.2.1.3.1 The contracting strategy was approved;
 - C.2.2.1.3.2 The contract was awarded to an Inuit firm;
 - C.2.2.1.3.3 The contract was amended; and
 - C.2.2.1.3.4 The contract ends;
- C.2.2.1.4 A copy, provided by the business owner, of the evidence used to justify the Inuit benefit criteria, any subsequent modifications to the criteria, and the capacity among Inuit firms to successfully complete the work;
- C.2.2.1.5 Any market research provided by the business owner into the capacity of Inuit firms;
- C.2.2.1.6 A copy of any notification provided to Inuit firms who have successfully carried out a

contract of a similar nature in the Nunavut Settlement Area; and

- C.2.2.1.7 A copy of the evidence provided by contractors that they have met their obligations regarding providing benefits to Inuit and Inuit firms, and any evidence of corrective measures if a contractor is unable to provide such benefits.

Appendix D: Mandatory Procedure on Reporting on Government Contracts, Including Real Property Leases, in the Nunavut Settlement Area

D.1 Effective date

- D.1.1 This mandatory procedure takes effect on December 20, 2019.

D.2 Mandatory procedure

- D.2.1 This mandatory procedure describes the additional documentation required for government contracts valued at over \$10,000, and for real property leases valued at over \$100,000.
- D.2.2 The information in the following table must be included in the report required under the directive, excluding any information whose disclosure may compromise a criminal investigation, litigation, national security or public safety, and information described in paragraphs 20(1)(a) to (d) of the *Access to Information Act* (for example, a contractor's trade secret).

Element	Description
Reference number	Unique identifier for the government contract or real property lease in the Nunavut Settlement Area
Value of government contract or real property lease	Dollar value
Vendor or lessor name and address	Name and address
Vendor or lessor classification	Inuit firm Inuit joint venture Indigenous firm Indigenous joint venture Other
Type of government contract or real property lease	Goods, service, construction contract or real property lease
Competitive (solicitation or invitation) or non-competitive contract or real property lease	<ol style="list-style-type: none"> 1. Invitation (limited for bidding by Inuit firms, or a right of first refusal) 2. Reserved for competition among Indigenous firms 3. Open tender or competitive 4. Non-competitive
Were Inuit firms that previously provided similar work or that have successfully fulfilled a similar real property lease notified of the solicitation?	Yes or no
Were Inuit benefit criteria included in the solicitation?	Yes or no
Value of Inuit benefits	Dollar value
Benefits provided to Inuit firms and Inuit	Description of the benefits provided by the contractor or lessor

Footnotes

- 1 Real property leases have been separated from procurement contracts in other Treasury Board policy instruments and in legislation since 1993, but constitute government contracts for the purposes of this definition.
- 2 The Nunavut Inuit have designated Nunavut Tunngavik Incorporated (NTI) as the DIO and, under Article 39.1.3 of the Agreement, a DIO may, on such terms and conditions as it deems appropriate, designate an organization as responsible for any power, function or authority of the DIO under the Agreement, where that organization has the capability to undertake that power, function or authority.

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