



POLICY

15.05

Vendor Performance Management Policy

1. Statement of Policy

The Government of the Northwest Territories (GNWT) is committed to monitoring Vendor performance as a means of holding Vendors accountable while encouraging and motivating Vendors to improve performance and comply with Local Content and NWT Content obligations under the Business Incentive Policy and all other applicable terms and conditions of a Contract.

2. Principles

Vendor performance management is an essential element of effective supply chain management and is to be applied in a standardized and consistent manner. The following principles are to be adhered to when applying this Policy:

- (1) The public should be confident that Contracts with Vendors are consistently and fairly enforced.
- (2) Contracts with Vendors should promote good Vendor performance and hold poor or inadequate Vendors accountable.
- (3) Vendor performance management is considered part of the contract/project management role performed by GNWT departments and public agencies.

3. Scope

This Policy applies to all GNWT departments and to those public agencies identified in Schedule 1 to this Policy. Monitoring and enforcement of Vendor performance management is the responsibility of each GNWT department and Public Agency.

The *Financial Administration Act* is the legislative authority for the GNWT procurement function.



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4. Definitions

The following terms apply to this Policy:

Bid – Means an offer to sell or provide goods, services, construction, or a combination of these, that is submitted to a GNWT department or Public Agency.

Bidder or Proponent – Means a prospective Vendor participating in a procurement process.

Business Incentive Policy – The [Business Incentive Policy](#), 63.02, of the GNWT, as may be amended.

Contract – Means a contract entered into by the GNWT or Public Agency for the supply of: (a) goods, (b) services, (c) construction, or (d) any combination of goods, services or construction referred to in this definition.

Financial Administration Act – Means the [Financial Administration Act](#) of the Northwest Territories, as may be amended.

Local Content – Has the meaning defined in the Business Incentive Policy .

NWT Content – Has the meaning defined in the Business Incentive Policy .

Payment Period – Means a period of 30 consecutive days or such other interval as has been agreed upon between the GNWT/Public Agency and Vendor by Contract.

Progress Claim – Means an invoice that fully describes any part of the work that has been completed during the Payment Period.

Public Agency – Means the Public Agencies set out in Schedule 1.

Vendor – A person or business that has entered into a Contract with the GNWT or Public Agency.



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5. Authority and Accountability

(1) General

This Policy is issued under the authority of the Executive Council. The authority to make exceptions and approve revisions to this Policy rests with the Executive Council. Authority and accountability is further defined as follows:

(a) Chair of the Financial Management Board

The Chair of the Financial Management Board is accountable to the Executive Council for the implementation of this Policy.

(b) Deputy Minister

The Deputy Minister of Finance is accountable to the Chair of the Financial Management Board for the administration of this Policy.

(2) Specific

(a) Financial Management Board

The Financial Management Board, will:

- (i) establish and maintain the Vendor performance management system and provide coordination, monitoring, and reporting on this Policy;
- (ii) delegate the Procurement Procedures Committee to maintain the Vendor performance management program and system and provide coordination, monitoring, and reporting on this Policy;
- (iii) collect information and data necessary for the proper administration of this Policy;



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(iv) ensure detailed reporting of the data collected through the administration of this Policy; and

(v) approve Vendor Performance Management Guidelines.

(b) Ministers

Ministers, or their delegates, responsible for GNWT departments and Public Agencies subject to this Policy, shall:

- i. request Local Content and NWT Content as part of a Bid, in the form of the Substantiation of BIP Adjustment Forms as outlined in the Vendor Performance Management Guidelines;
- ii. ensure Vendors submit BIP Content Substantiation Forms for all Local Content and NWT Content involved in the invoiced Payment Period;
- iii. ensure Vendors comply with all contractual obligations, including Local Content and NWT Content commitments;
- iv. ensure that data pertaining to vendor performance management, including the entry of Local Content and NWT Content with invoices and any contract change orders, is tracked during the term of the Contract; and
- v. bear responsibility for the management of their Contracts and the enforcement of this Policy.



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6. Provisions

(1) Vendor Performance Management Program

The framework for developing a Vendor performance management program, training, and a procedures manual will be established and maintained by the Department of Finance to support government departments and Public Agencies subject to this Policy in implementing and promoting good Vendor performance management standards and practices.

The Vendor performance management program shall include qualitative and quantitative evaluation metrics that will acknowledge the performance history of Vendors when evaluating responses to procurement processes and assessing eligibility for contracts.

(2) Vendor Performance Management Contract Reporting

GNWT departments and Public Agencies subject to this Policy, shall ensure that data pertaining to Vendor performance management is tracked on a regular basis during the term of a Contract using the GNWT financial reporting system referred to as the system for accountability and management (SAM).

With regards to performance management of the Business Incentive Policy, Vendor commitments and actual costs incurred with respect to Local Content and NWT Content shall be reported publicly by the Department of Finance.

(3) Enforcement of Business Incentive Policy Commitments

This provision shall only apply to the types of contracts and the dollar value thresholds outlined in the Vendor Performance Management Guidelines maintained by the Department of Finance.

If the Vendor has completed a Substantiation of Business Incentive Policy Adjustment Form that has established the Vendor's commitments to achieve a specific amount of Local Content and NWT Content, it shall be a condition of a Contract that those commitments are achieved.



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In accordance with the Vendor Performance Management Guidelines, a Contract may be subject to a payment adjustment if the Vendor fails to achieve its commitments to Local Content and NWT Content over the term of the Contract. The calculation and value of such payment adjustments is set out in the Vendor Performance Management Guidelines and shall be identified in any applicable Contract.

For payments to a Vendor to be approved and processed, the Vendor must provide documentation substantiating the Local Content and NWT Content with each Progress Claim in accordance with the requirements of the Contract and the Vendor Performance Management Guidelines

(4) Finding a Vendor Not “Responsible”

Vendor Contracts are subject to the *Government Contract Regulations* and therefore include the possibility of the Vendor being deemed not “responsible” for a specific Contract or for all future Contracts, based on past performance that fails to demonstrate that the Vendor has the ability to meet the definition of being “responsible”.

The *Financial Administration Act, Government Contract Regulations*, as amended, provides the following definition of “responsible”:

“responsible” means, in respect of a Bidder or a Proponent, having the capability to perform fully the contract requirements and the integrity and reliability to assure performance of the contract obligations.”



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7. Prerogative of the Executive Council

Nothing in this Policy shall in any way be construed to limit the prerogative of the Executive Council to make decisions or take action respecting the performance of Vendors outside the provisions of this Policy.

A handwritten signature in blue ink that appears to read "Caroline Dochrane".

Premier and Chair of the
Executive Council

September 29, 2023
Date



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SCHEDULE 1

PUBLIC AGENCIES

This Policy applies to the following Government of the Northwest Territories public agencies:

1. Housing Northwest Territories, as established under the *Housing Northwest Territories Act*.