

4.4 Non-competitive Procurement, in FAM 3301:

In certain circumstances, Sole-Source or Negotiated procurement may be necessary.

Issue

Recent approval of the NWT Manufacturing Products Policy issued pursuant to the Business Incentive Policy (BIP) raises the possibility of another situation where non-competitive procurement may occur. The policy states:

“Where there is only one manufacturer of an Approved NWT Manufactured Product, the Approved NWT Manufactured Product will be purchased from that manufacturer.”

Interpretation

Section 4 of the Government Contract Regulations (GCR) was amended to provide the Executive Council with the authority to enter into or direct the entry into a **class** of contracts and the reasons for doing so. This is in addition to the existing authority to enter directly into an individual contract. A class of contracts means a type or group of similar contracts that is approved by way of an Executive Council policy instrument.

Under BIP s. 5(2)(b)(iv), the Minister of Industry Tourism and Investment established the NWT Manufactured Products Policy (NWTMPP) to maintain the principles of the Interim Manufacturing Directive (1996), which it replaces. The NWTMPP requires “where there is only one manufacturer of an Approved NWT Manufactured Product, the Approved NWT Manufactured Product will be purchased from that manufacturer” (s. 8.1(a)).

On August 2011, Executive Council approved contracts for Approved NWT Manufactured Products where there is only one manufacturer as a class of contracts pursuant to section 4(1)(c) of the GCR.

Therefore, non-competitive procurement is permissible in circumstances described in the NWTMPP.

The existing Sole Source Authorization Form will not be amended as it applies only to non-competitive procurement undertaken pursuant to section 10 of the GCR.

Further assistance with this interpretation, may be obtained by contacting Accounting Services, Department of Finance.

Authority:

- Government Contract Regulations section 4(1)(c)
- Business Incentive Policy (BIP) section 5(2)(b)(iv)
- Executive Council
- NWT Manufactured Products Policy
[www.iti.gov.nt.ca/publications/2011/businesseconomicdevelopment/NWT
ManufacturedProductsPolicy001.pdf](http://www.iti.gov.nt.ca/publications/2011/businesseconomicdevelopment/NWTManufacturedProductsPolicy001.pdf)