



IDENTIFICATION

Department	Position Title	
Aboriginal Affairs and Intergovernmental Relations	Senior Negotiator	
Position Number(s)	Community(s)	Division/Region(s)
18-13212, 18-1811, 18-13241 18-13300	Yellowknife	Negotiations/HQ

PURPOSE OF THE POSITION

The Senior Negotiator is responsible for leading the negotiations on specific areas, for example lands, transboundary, self-government that will lead to the completion of land and resource, and self-government agreements between Aboriginal groups and the GNWT and the federal government.

This position ensures that the GNWT's negotiating mandates, instructions, policies, and views are articulated at NWT land, resources and self-government negotiations, and that the resulting Aboriginal Rights agreements are consistent with the GNWT's negotiating mandates, instructions, and policies.

This position is also responsible for either supporting, or carrying out the GNWT's legal duty to consult with other potentially affected Aboriginal parties regarding Framework Agreements, draft Agreements in Principle, approved Agreements in Principle, contemplated interim land withdrawals, finalized interim land withdrawals, proposals identifying potential settlement lands, and draft Final Agreements.

Under the direction of the Director, and the general direction of the Deputy Minister and Minister, the incumbent is responsible for ensuring that the interests of the GNWT and the residents of the NWT are taken fully into account in the development of framework agreements, interim measures agreements, agreements-in-principle, final agreements, including related agreements regarding interim land withdrawals, the identification of settlement lands, finances implementation, and legislation or amendments to legislation giving effect to self-government and/or land and resources agreements.

SCOPE

The position is located in Yellowknife and reports to the Director, Negotiations. The incumbent serves as the GNWT's Senior Negotiator at negotiations and is responsible for successfully concluding the negotiation of Aboriginal Rights agreements respecting land, resources and self-government. Courts have directed that prior to completing Aboriginal

Rights agreements that may potentially adversely affect other Aboriginal parties' Aboriginal and/or Treaty rights, government must consult with those potentially affected Aboriginal parties. The incumbent is responsible for either supporting or leading and discharging the GNWT's legal duty to consult as part of the overall process of concluding Aboriginal Rights agreements.

As a lead negotiator for the GNWT (working with and under the direction of a Chief Negotiator) on aspects of large complex negotiations, or as the GNWT's lead negotiator at negotiations with a limited or narrow scope, speaks on behalf of, and for, the GNWT at negotiations.

Inherent to negotiations is an atmosphere of conflict between the parties. The pressure of negotiating agreements that will become constitutionally protected modern Treaties, often adds tensions to negotiations. A GNWT Senior Negotiator is required to conduct themselves with a high level of tact, diplomacy, professionalism and the utmost discretion.

The tact, diplomacy, professionalism and discretion needed for effective negotiations is also required when consulting with other potentially affected Aboriginal parties, who may view developments at other Aboriginal Rights negotiations with suspicion, fear or animosity.

The incumbent provides direction and oversees the work of the Assistant Negotiator(s). When leading negotiations for the GNWT, the incumbent is also responsible for managing the participation and conduct of the GNWT negotiating team at negotiations. A GNWT negotiating team includes: the GNWT Assistant Negotiator, Legal Counsel, Senior Policy Advisor, the Implementation Negotiator and other departmental representatives.

The incumbent leads the negotiating team by exercising daily control over the file and providing functional direction; assigning tasks and generally ensuring negotiation requirements are met so that negotiations are concluded in a timely basis.

The incumbent has significant amount of latitude provided that the policies and guidelines of the GNWT are complied with. This latitude is tempered by the knowledge that incorrectly interpreting GNWT policies, mandates, instructions, and guidelines is likely to result in:

- considerable conflict at negotiations and delays in concluding agreements;
- political backlash from the Aboriginal party, Federal Government or other affected parties;
- precluding or limiting options for future political and constitutional development in the NWT;
- considerable embarrassment for the Minister and the Executive Council;
- the initiation of legal action against the GNWT for failing to adequately consult,
- legal action initiated against the GNWT regarding a failure to consult being successful and the GNWT being found in breach of its duty to consult if the incumbent fails to comprehensively document the GNWT's consultation efforts, and
- unnecessary costs to the GNWT and the other parties to the negotiations.

The incumbent is responsible for identifying gaps in existing mandates, identifying what new mandates are needed, and recommending whether existing mandates require amendment. The incumbent regularly decides, during negotiating sessions and in preparation for negotiations, whether another party's proposal conforms to GNWT mandates and policies and/or will otherwise be acceptable to the GNWT before agreeing to such proposals.

The incumbent, in consultation with GNWT negotiating team members and senior departmental officials, decides how goals are to be achieved within the scope of the negotiating mandate. Each set of negotiations is unique, and the incumbent must be able to come up with constructive ideas and creative solutions that address the various interests. Creative decision-making is essential. General instructions are channeled directly to the incumbent from the Director, Negotiations. Other work is assigned verbally or in writing. Negotiating instructions and mandates are approved by Cabinet, which also provides direction. Unusual or unprecedented situations are discussed with the Director and Deputy Minister.

RESPONSIBILITIES

1. Negotiates specific NWT land, resources and self-government agreements.

Main Activities

- When leading negotiations, speaks for, and on behalf of, the GNWT at negotiations;
- Leads the GNWT negotiating team at land, resources and self-government negotiations in the NWT;
- co-ordinates, directs and leads the GNWT participation in all phases of negotiations;
- manages and provides leadership to the GNWT negotiating team;
- directs and supervises the work of the Assistant Negotiator
- involves departments at a senior level for developing departmental interests and strategies;
- establishes ongoing communication links with key contact personnel within GNWT departments and agencies;
- meets from time to time with senior management officials in various departments to resolve issues relating to development of GNWT positions;
- involves key departmental personnel directly in discussions at negotiations when deemed desirable and appropriate;
- builds and maintains constructive relationships with the Federal and Aboriginal negotiating teams
- seeks the views, from time to time with authorized representatives of Aboriginal peoples, the federal negotiator, other federal representatives and public interest groups concerning certain aspects of claims negotiations;
- incorporates GNWT policies, legislation and regulation into proposals for negotiations;
- analyses Aboriginal and federal positions and proposals from a GNWT policy and

- legislative context;
- recommends positions, new mandates or policies and changes in existing mandates and policies as needed;
- develops negotiating strategies;
- establishes interdepartmental/agency working groups when appropriate to review GNWT policy, legislation and regulations in the context of proposals from the other parties at negotiations and the development of strategies and responses; and
- briefs Senior Management, Ministers and the Executive Council on the progress of negotiations and topical issues on a continuing basis.

2. Reconciles broad principles and policies received from the Deputies Committee on Aboriginal Rights and the Executive Council with proposals from the Federal and Aboriginal negotiating teams.

Main Activities

- develops solutions to negotiating issues that meet the interests of all parties by learning and understanding the other parties interests and comparing these interests to GNWT mandates, instructions and policies;
- maintains a close working relationship with Aboriginal and federal representatives;
- reviews and analyses other lands and resources and self-government agreements and determines the applicability of various proposals to NWT Acts and Regulations and Policies;
- recommends to the Department's Senior Management and the Minister strategies and positions designed to represent the best interest of the GNWT and the people it represents;
- acts as advisor to the Department's Senior Management, the Deputies Committee on Aboriginal Rights, the Minister and the Executive Council, by proposing compromises or alternatives to bring the Aboriginal and federal proposals into harmony with GNWT proposals and policies; and
- communicates on a regular basis with senior GNWT officials and the Minister for the purpose of advising them on the status of negotiations, identifying areas of differing interpretation with particular attention to the jurisdictional, legal, financial and constitutional implications.

3. Assists with, or leads and is responsible for, discharging the GNWT's legal duty to consult with other potentially affected Aboriginal parties regarding Framework Agreements, draft Agreements in Principle, approved Agreements in Principle, contemplated interim land withdrawals, finalized interim land withdrawals, proposals identifying potential settlement lands, and draft Final Agreements.

Main Activities:

- Assesses the merits of working jointly with the federal government on a particular consultation initiative and, consistent with DAAIR's Aboriginal Government Consultation Protocol, works with federal officials.
- Responds to proposals from federal officials, consistent with DAAIR's Aboriginal Government Consultation Protocol, to jointly engage in consultation initiatives.
- Identifies other potentially affected Aboriginal parties.
- Is the lead GNWT contact for consultation with other potentially affected Aboriginal parties regarding Aboriginal rights negotiations.
- Assesses, and makes recommendations, regarding the depth of consultation a potentially affected Aboriginal party should have.
- Initiates consultation with potentially affected Aboriginal parties.
- Assesses whether 'consultation plans' and 'consultation work plans' are required with a potentially affected Aboriginal party, and if so sees that these documents are developed;
- Provides potentially affected Aboriginal parties with the appropriate information so that they can provide the GNWT with their views on the matter being consulted on.
- Compiles and analyzes the feedback received as a result of consultation and makes recommendations as to whether accommodation is warranted
- Follows up with the Aboriginal party being consulted with, stating the GNWT's response to the feedback received during consultation.
- Comprehensively and accurately documents every aspect of the consultation process so that if necessary, these records can be produced in the event of legal action against the GNWT regarding the consultation process.

4. Anticipates and strategizes to avoid or resolve legal, constitutional and technical problems and issues arising from lands and resources and self-government proposals.

Main Activities

- research appropriate legislation, constitutional documents, and other Aboriginal rights agreements;
- directs the conduct of specific legal, constitutional and financial research and analysis through either the GNWT Department of Justice, the Department of Aboriginal Affairs and Intergovernmental Relations, the Department of Finance or, where appropriate, contracting outside expertise;
- stays current with developments across the NWT and throughout Canada regarding the negotiation and conclusion of Aboriginal rights agreements;
- stays current on Court decisions that may affect the negotiation and conclusion of Aboriginal rights agreements;
- stays current on Court decisions that may affect the Crowns' duty to consult other potentially affected Aboriginal parties regarding the negotiation and conclusion of Aboriginal rights agreements;
- based on research and analysis, develops proposals for Ministerial, Executive Council and/or the Deputies Committee on Aboriginal Rights;
- directs the research and development of policy recommendations and specific

- proposals as required in negotiating any aspect or elements of proposed agreements; and
- maintains a close working relationship with legal counsel within the Legal Division, Department of Justice and with appropriate officials in the Department of Finance.

5. Acts as advisor to the Minister, Deputy Minister and other GNWT Departments with respect to the negotiation of Aboriginal Rights final agreements.

Main Activities

- advises the Minister Deputy Minister and officials from other departments on the contents and implications of Framework Agreements, Interim Measure Agreements, Agreements in Principle and Final Agreements;
- advises the Minister, Deputy Minister and other government officials on whether the GNWT's duty to consult has been triggered, the depth of consultation required, and whether, as a result of consultation, accommodations are warranted;
- recommends and advises the Minister on legislative and administrative changes required by the GNWT in order to comply with the contents and spirit of Framework Agreements, Interim Measure Agreement, Agreements in Principle;
- monitors the implementation of commitments in Framework Agreements, Interim Measure Agreement, Agreements in Principle;
- considers the financial and operational impact on the GNWT of obligations created in Framework Agreements, Interim Measure Agreement, Agreements in Principle and Final Agreements, and takes positions that can result in the GNWT being in a position to implement these agreements; and
- briefs and recommends to the Minister approval of: Framework Agreements, Interim Measures Agreements, Agreements in Principle and Final Agreements.

KNOWLEDGE, SKILLS AND ABILITIES

- Knowledge of lands and resources and self-government agreements, their intent, purpose, and implications.
- Up to date knowledge of Aboriginal rights issues of national and territorial importance.
- Knowledge of legal issues surrounding lands and resources and self-government.
- Strong abilities at resolving conflict both with Interest-based (collaborative) and positional negotiating environments, including skills and knowledge of negotiation tactics and strategies.
- Knowledge of federal and territorial government policies, legislation, roles, functions and structures.
- Knowledge of land administration systems and procedures.
- Leadership and supervision skills.
- Ability to work in a team environment.
- Ability to work with a moderate level of supervision.
- Ability to travel extensively, sometimes on short notice.

- Excellent organization skills and the ability to handle a high volume of information.
- Excellent oral and written communication skills.
- Good computer skills, including working knowledge of a variety of software i.e. word processing, spreadsheets, Internet and electronic mail.
- Thorough knowledge of the North, its environment, economic, political and social milieu.
- Ability to work in a cross-cultural environment.
- Ability to demonstrate tact and diplomacy.
- Excellent interpersonal skills.
- Excellent analytical skills.
- Must be able to interpret various acts, regulations, policies of federal and territorial governments and positions of other negotiating parties.
- Ability to assess the financial, political and practical implications of various proposals and agreements.
- Ability to speak Inuvialuktun or a Dene language would be an asset.

The GNWT further expects that Senior Negotiators will acquire within six months:

- Knowledge of GNWT mandates and policies regarding or affecting the negotiations of Aboriginal rights agreements.
- In depth and comprehensive knowledge of the GNWT's Consultation Framework and DAAIR's Aboriginal Government Consultation Protocol.

Typically the above qualifications would be attained by:

A degree in social sciences along with formal training in negotiations skills and conflict resolution and 2 years of directly related experience in negotiations.

WORKING CONDITIONS

Physical Demands

The incumbent spends significant time sitting at a desk and sitting at negotiating tables for lengthy periods. However, the incumbent has the opportunity to move about the office. The incumbent is likely to work irregular hours. Negotiating sessions regularly involve working hours beyond the normal 7.5 hours per day.

The incumbent is expected to work irregular or long hours and work on weekends, which can often place a high degree of stress on the incumbent's health and family situation.

Environmental Conditions

The incumbent works in a generally comfortable work environment. The incumbent works in a closed office. Frequent travel (one, possibly 2 trips per month, of on average 3 days duration is to be expected) within the NWT and to southern Canada is an element of the job. Duty travel sometimes involves travel on small bush planes and on short notice. Negotiating sessions are often held in small communities where meeting and accommodation facilities may lack "hotel-like" amenities. This may result in stress and affect the incumbent's health and home life.

Sensory Demands

The incumbent spends a lot of time attending and participating (often leading) meetings and leading the discussion for the GNWT at negotiations. The incumbent is exposed to demands of high concentration during difficult, and sometimes, confrontational negotiations.

As the GNWT's representative, the incumbent may become the focus of the other party's frustrations with everything the GNWT is doing or not doing. As the GNWT's representative in these situations, the incumbent will face significant stress and pressure to act and respond to such challenges in an appropriate way and displaying tact, diplomacy, and a high level of professionalism.

As the GNWT's Senior Negotiator, the incumbent also states GNWT's positions at negotiations, at times to the disappointment and displeasure of the other parties at negotiations. The incumbent will be the other parties' focus for disappointment and criticism when GNWT mandates do not align with the other parties' mandates. The incumbent will face significant pressure to accept the positions of the other parties. These situations result in a very high level of stress. Adding to this stress is the need to respond, often in the 'heat' of negotiations. Tact, diplomacy, and a high level of professionalism and discretion are needed at all times.

While discharging the GNWT's duty to consult with other potentially affected Aboriginal parties, the incumbent must provide accurate and complete information to the Aboriginal party being consulted, even if that Aboriginal party expresses concerns, dissatisfaction, and questions the GNWT's motives, including those of the incumbent during consultation. The incumbent is required to conduct themselves during consultation in a manner consistent with upholding the honour of the Crown. Accordingly, the incumbent will be under considerable pressure to conduct consultations appropriately as the incumbent's actions, and any failure to act, can be used as evidence in Court if an argument is made that the GNWT has failed to adhere to its legal duty to consult. Furthermore, while consulting with other Aboriginal parties, the incumbent must act with the highest degree of professionalism and diplomacy so that the GNWT's relationship with the Aboriginal party which the GNWT is engaged with in negotiations is maintained and respected.

The incumbent spends a fair amount of time sitting at a desk writing and reviewing proposals, preparing reports, conducting research and communicating to staff via electronic mail. This can result in eye strain and result in other physical discomforts. The incumbent spends a fair amount of time on the telephone dealing with a number of issues including funding, staffing issues, and liaison with stakeholders.

Mental Demands

The incumbent is exposed to tight deadlines and a large workload with competing priorities and demands. Contact with the Federal and Aboriginal negotiators during tense and sometimes volatile negotiating sessions requires extensive tact and diplomacy and the ability to think clearly in stressful situations. In extreme circumstances the incumbent must

be able to manage and deal with criticism and insults directed at the incumbent personally. These situations are extremely stressful.

Following negotiating sessions, the incumbent must be able to 'digest', or 'deconstruct', the events that occur during a negotiating session, critically assessing their own performance, re-examining the statements and actions of the other parties with objective of approaching the next negotiating session so that progress can be achieved.

Successfully concluding agreements in timely fashion is directly related to the effectiveness of the incumbent to develop proposals and find solutions that meet the interests of all parties, while developing and maintaining a constructive and collaborative relationship among the negotiating parties.

This is a demanding job, one which the incumbent will face criticism, frustration, as well as enjoying the satisfaction and sense of accomplishment that results from successfully concluding an agreement.

Position Security (check one)

- No criminal records check required
- Position of Trust – criminal records check required
- Highly sensitive position – requires verification of identity and a criminal records check