

Wahnapiatae First Nation Tendering Policy

Adopted by **Band Council Motion: # 03/08**
At the **Chief and Council Meeting of: February 4, 2003**

1.0 INTRODUCTION:

Wahnapiatae First Nation shall call for public tenders for all capital projects (the "Construction Work") funded in whole or in part by Canada. This policy (the "Tendering Policy") is to ensure Value for Money, comparability with industry practice and public confidence in the administration of funds in Wahnapiatae First Nation.

2.0 DEFINITIONS:

2.1 Aboriginal Contractor/Supplier: a sole proprietorship, corporation, co-operative, partnership, not-for-profit organization, joint venture, or consortium where:

- at least 51 percent of the business is owned and controlled by Aboriginal people; and
- at least one third of the business employees, if it has six or more full-time staff, are Aboriginal.

To qualify, an aboriginal business shall provide a duly sworn statutory declaration certifying it meets the above criteria and provide certified documentary proof of eligibility to the Council upon request.

2.2 Best Value: includes bid price as well as direct and indirect benefits to Wahnapiatae First Nation. The Council shall consider Best Value when evaluating bid proposals. In determining Best Value, trade-offs may be considered including, but not limited to, factors such as: quality; service; cost; procurability; and socio-economic considerations. The most desirable technical quality or suitability may not necessarily be the most desirable procurement because it may not be the most economical overall. A cost benefit analysis may balance technical quality against other factors such as initial and operating costs, economic life, service, maintenance and repair. These various factors will be assessed in quantifiable terms.

2.3 CN1: Construction Contracting Guidelines for First Nation and Aboriginal

Communities.

- 2.4 Direct Benefits:** subcontractors or employment opportunities for members of Wahnapiatae First Nation.
- 2.5 Indirect Benefits:** capacity building or training opportunities for members of Wahnapiatae First Nation.
- 2.6 Invited Tender:** the tender shall be limited to a selected list of contractors invited to submit a bid on the project. Normally at least three qualified firms will be invited to bid to ensure competition. Each firm will only submit one bid.
- 2.7 Local Content:** quantifiable criteria established by Wahnapiatae First Nation to support local benefits and against which all bids will be assessed. This could include the number of individuals and skills available, as well as local material and equipment to be used on the project and the resulting skills enhancement.
- 2.8 Lowest-Bid:** the bid that meets all contract requirements and specifications at the lowest bid price.
- 2.9 Public Tender:** public or open tenders shall be publicly advertised in a local or regional newspaper and/or through a public electronic bidding service to allow any interested contractor or supplier the opportunity to bid on a project. Each firm will only submit one bid.
- 2.10 Qualified Contractor/Supplier:** is qualified according to the Contractor's Qualification Statement as referred to in Appendix 2-9 of the CN1. A contractor who qualifies according to the Contractor's Qualification Statement and possesses the capacity, skill and integrity to ensure the work is completed as specified, within time and budget.
- 2.11 Tender Insurance or Security:** two of the tender documents are the Insurance Conditions and the Security Conditions forms as referred to in Appendix 2-9 E and F of the CN1. These provisions ensure the contractor has adequate coverage for the liability arising out of, or resulting from, the ownership, existence, maintenance or use of premises by the Contractor and operations necessary or incidental to the performance of a given contract, as well as performance bond and labor and material payment bonds. This requirement does not apply to the First Nation or any portion of a business it owns in whole or in part.
- 2.12 Tendering Process:** the procedure by which documents or specifications outlining the requirements and qualifications necessary to complete a contract are remitted to contractors/suppliers who could be interested in preparing and submitting a bid for

a project. Council may use one of two different methods: invited tenders and public or open tenders.

2.13 Value of Money: normally, the lowest bid price which incorporates specified provisions for local content committed to by the contractor/supplier in carrying out the contract. These factors will be clearly identified and incorporated in both the tender documents and the evaluation criteria. Tender documents may include basic requirements in areas such as: the use of availability of local materials; services; contractors and labour; as well as skill enhancement under apprenticeship or facilities operator programs. Bidders are expected to incorporate these requirements within the contract and their bid price. Specific training and economic development initiatives should be coordinated with planned capital works, but would not generally be a part of the contracting process. For example, training to provide an individual with the basic skill sets needed should be planned in advance of a capital project and could be carried out in advance as well. The project could then provide job opportunities and on-the-job experience for the trained individuals. This could be done as part of an apprenticeship program.

3.0 REASON FOR ESTABLISHING A TENDERING POLICY:

3.1 The objective of establishing a Tendering Policy, as it relates to Federal Government funding for capital projects, is to ensure Best Value and Value for Money while ensuring contracts are awarded in an open and equitable fashion. Consideration will be given to extending the Tendering Policy to all other projects including the purchase of goods and services required in the day to day operation of the First Nation.

4.0 DELIVERY REQUIREMENTS:

4.1 For all Construction Work, Wahnapiatae First Nation Council (the "council") shall call for tenders to ensure Best Value (including consideration of opportunities to secure socio-economic benefits for the community), prudence, probity and sound contract management. The council shall:

- call for public tenders where the estimate of any Construction Work is over \$500,000;
- maintain copies of each contract awarding process within its records; and
- develop a policy for use of a tendering process for all projects over \$100,000 but under \$500,000 which will support community development.

5.0 BENEFITS OF THIS TENDERING POLICY:

- 5.1 This Tendering Policy shall be used to enhance the participation of First Nation businesses. This is to encourage the participation of First Nation businesses and maximize economic development potential in Wahnapiatae First Nation.

Specific benefits that could be achieved include:

- increasing the participation of First Nation businesses in all First Nation contracting;
- developing the ability of First Nation businesses to compete for and win, public and private sector contracts; and
- encouraging the development of sustainable partnerships with private sector contractors/suppliers.

6.0 APPLICATION OF TENDERING POLICY:

6.1 Over \$500,000:

Effective, April 1 1998, Wahnapiatae First Nation shall call for public tenders for all capital projects, **excluding housing**, funded in whole or in part by the Canadian federal government, where the estimate of the construction work is over \$500,000. Tender calls shall be publicly advertised by Wahnapiatae First Nation in a newspaper or through a public electronic bidding service to allow any interested business the opportunity to bid on the project.

6.2 Between \$100,00 and \$500,000:

For all projects between \$100,000 and \$500,000 Wahnapiatae First Nation will consider the following competitive tendering options:

1. An open tender through public advertisement; and/or
2. An invited tender where bids are invited from a selected list of at least three qualified contractors.

6.3 Value from \$50,001 to \$100,000

Upon receipt of a request for tender the Departmental Director will undertake an invited Tender Process. The Tenders will then be forwarded to the Executive Director for recommendation to the Chief and Council. Upon receipt of the necessary approvals the Departmental Director will proceed with the purchase in line with standard purchasing practices. Unsuccessful tenderers will be notified in writing.

The Wahnapiatae First Nation Administration will retain all recorded details of the tenders and all documentation.

6.4 Value from \$10,001 to \$50,000

For projects valued between \$10,001 to \$50,000 written tenders must be sought by the Departmental Director from a minimum of three suppliers. A signed summary of all tenders received will be prepared by the Departmental Director with recommendation to the Chief and Council through the Executive Director. The completed Tender File will be forwarded for approval to the Executive Director. Upon Receipt of the necessary approval the Departmental Director will proceed with the purchase after ensuring that adequate description/technical specifications have been supplied, funds are available and that due provision has been made for maintenance costs/staffing/minor works. The Wahnapiatae First Nation Administration will retain all recorded details of the tenders and all documentation.

6.5 Value from <\$ 10,000

Three written quotations must be obtained by the Departmental Director. This record shall be signed by the Departmental Director who must make recommendations to the Executive Director for approval, and forwarded to the Administrative Assistant.

6.6 Conflict

Prior to announcing tendering amount, any Chief or Councillor with the intent to bid must remove themselves from any discussions around the contract. When Chief and Council agree to the amount of tender this must be done through an in-camera session.

7.0 BASIC PRINCIPLES OF WAHNAPITAE FIRST NATION TENDERING POLICY:

7.1 Procedures: Wahnapiatae First Nation is committed to developing its own procedures to be used throughout each of the following stages: assembling tender documents; tender advertising; distribution of tender documents; extension of tender closing date; receipt and opening of tenders; review of tenders; award of contract and cancellation of tendering process before and after receipt of bids. The CN1 Guidelines shall be followed subject to Best Value criteria.

7.2 Principals: In applying the Tendering Policy Wahnapiatae First Nation is committed

to the following principles:

- dealing with all potential bidders on a fair and equitable basis;
- following specific criteria within the public tendering process based on good contracting principles taking into consideration Best Value and Value for Money, the complexity of the work to be undertaken and the number of businesses within the area of competition who are able to meet the level of expertise and qualifications necessary;
- treating all tender documents confidentially;
- opening all tenders in public with appropriate safeguards; and
- assessing all tenders on the basis of a clear, consistent, predetermined and specific evaluation criteria.

7.3 Other Considerations: In addition, Wahnapiatae First Nation may also consider the following in awarding contracts:

- recognizing Best Value rather than Lowest Bid only as legitimate concept in evaluating bid proposals;
- maximizing the use and development of available First Nation resources or skills;
- developing and updating annually a list of qualified local and Aboriginal businesses from which to invite bids for contracts;
- a discussion and review of the pros and cons of different approaches to complete a construction project (ie. Construction Management, General Contractor, etc.)

8.0 MAXIMIZING LOCAL BENEFITS WHEN TENDERING CONSTRUCTION PROJECTS:

There are three principal ways Wahnapiatae First Nation is committed to ensuring the community derives the maximum benefits possible from every publicly tendered Construction Work by:

1. Requiring local content provisions within the contract;
2. Joint-venture arrangements; and/or
3. Specifying Aboriginal set-asides, where appropriate and cost effective, within the contract.

8.1 Local Content: to increase local content conditions, the Council shall identify the number of individual to be employed, the local material and equipment to be used, and the training to be provided appropriate to the project requirements. Bids will then be evaluated and a value established for the local content (i.e. savings in social assistance costs, skills enhancement, etc.) And then combined with the bid amount

to determine the best value for the community.

8.2 Joint-Venture Arrangements: This approach involves a Wahnapiatae First Nation business working with a partner and using a joint venture agreement to access the additional resources and skills needed to participate in the public tendering process and complete a project successfully.

8.3 Using Aboriginal Bidders: The Council reserves the right, at its sole discretion, to limit eligibility for any contract to qualified Aboriginal businesses. A decisions to do so shall be based primarily on having enough qualified Aboriginal bidders to ensure competition, normally at least three qualified businesses submitting bids.

9.0 OPEN APPLICATION OF THIS POLICY:

9.1 Posting Tendering Policy: Current copies of the Tendering Policy shall be publicly posted permanently in a conspicuous location within the First Nation.

9.2 Availability of Tendering Policy: A copy of the current Tendering Policy shall be given to anyone, free of charge, upon the request of the First Nation's Administration Office.

10.0 AMENDMENTS:

The Council may amend this Tendering Policy by Band Council Resolution from time to time.

11.0 REVIEW

This policy will be reviewed every two years by the Senior Management Team, who will make any necessary recommendations to the Chief and Council.



