



# WAHNAPITAE FIRST NATION TENDERING & PROCUREMENT POLICY

Adopted by **Band Council Motion: 22/23-01-362**  
At Chief and Council Meeting of: **January 9, 2023**



# WFN TENDERING & PROCUREMENT POLICY

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**TENDERING AND PROCUREMENT POLICY**

Policy Type:	Financial	Initially Approved:	10/18/2004
Policy Sponsor:	Facility and Infrastructure	Last Revised/Approved:	02/09/2023
Primary Contact:	Facility and Infrastructure Director	Review Scheduled:	02/09/2026
Approver:	Chief and Council by BCM # WFN 22/23-01-362		

**A. PURPOSE**

To establish fair and thorough tendering and procurement policies which secure the best possible value and services for the Band and its Members. The Band is committed to a fair and open competitive Tender process for all interested parties and qualified suppliers, subject to the stipulations set out in this policy and relevant legislation.

**B. SCOPE**

This policy applies to Chief & Council, the Committees of Council, Directors, and all other Band employees involved in purchasing goods, services, and assets on behalf of the Band.

**C. POLICY STATEMENT**

This policy has been established to ensure that Band acquisitions in goods and services are made in such a manner that maximizes value for each dollar disbursed. This policy is subject to the terms and conditions set forth by the Band, its donors, grantors, and applicable government agencies.

**1. DUTIES**

**1.1 Chief and Council**

- a) Ensures effective control over the purchasing of goods, services, and assets through documented policies and procedures of Band governance.

## 1.2 Executive Director

- a) Communicates the policies and procedures to all applicable parties.
- b) Oversees the development, documentation and maintenance of policies and procedures relating to the procurement process for goods, services, and assets for the Band.
- c) Manages the selection, evaluation, and monitoring of all contractors and suppliers. Manages and monitors project expenditures, while also identifying and reporting budget variances.

## 2. GENERAL TENDERING PROCESSES

Tendering processes shall run in accordance with the Authorization of Chief and Council and upon the direction of the Authorized Authority.

### 2.1 Period Terms for Tender Documents

- a) Where period terms for tender documents are to be established, they should not exceed a period of more than three years, unless the Authorized Authority believes there is fiscal value in the contract extension.

### 2.2 Amending Tender Documents

- a) Interpretations shall be made in reply to queries from suppliers only in the form of a written addendum. When necessary to revise a tender document under call, the Executive Director shall execute the issuance of an addendum.
- b) Addenda shall be forwarded to all participating suppliers which received tender documentation. In cases where the addendum requires an additional time commitment from suppliers; the closing date may be extended and will be documented in the addendum.

### 2.3 Technical Specifications

- a) Specifications included in all tender documents should be to the point and written in accessible language. Reasonable care should be taken to avoid unnecessarily restrictive specifications, or specifications which would needlessly favour one supplier over another when the need is generic.

### 2.4 Conditions for a Tender Document Closing

- a) All tender documents are to clearly identify the place, date, time and contact for tender document closing. Written tender submissions will be accepted as per the methods stated in the tender documentation.



- b) Tenders conveyed orally will not be considered.
- c) Tender submissions received after the specified closing date and time will not be considered. This is unless the supplier can provide conclusive evidence that their submission was delivered to the issuing office on time, and that under normal circumstances their submission would have met deadline.
- d) Any tender submission which do not meet the clearly stated submission requirements may be rejected. Any tender submissions in which information is not legible may also be rejected.

## 2.5 Conditions for Tender Submissions

- a) A written submission for tender shall be understood as an acknowledgement by the supplier that they have obtained all necessary information to deliver the solicited goods or services adequately and enthusiastically.
- b) The Band reserves the right to accept tender submissions for individual items within a project or a project in its entirety.
- c) Unless otherwise specified by the supplier, tender submissions shall remain valid for a period of ninety (90) days from closing date of the tender document.
- d) The supplier may be called upon to provide additional information beyond what is provided in their original tender submission. The supplier shall, within the specified timeframe, comply with requests for additional details/information.
- e) The Band reserves the right to interview or inspect the premises of any supplier prior to awarding a contract or formalizing an order allocation.
- f) All formal tender communications must be submitted in writing. Content of said submissions may be further included into any contract or order between the Band and the supplier.
- g) A supplier may submit alternatives to the contents of their original submission if the specific terms of the tender document allow. Where an alternative is offered, the supplier must include a fully detailed description of the change, including its technical acceptability, methodology, time frame, and price. The alterations will then be assessed by the Authorized Authority for acceptability.
- h) The tender submission must include net pricing (less all discounts), including all direct and indirect costs associated with the project.



## 2.6 Tender Submission Acceptance

- a) The Band is not obligated to accept the lowest financial bid, nor do they have an obligation to accept any of the submitted bids for tender. No tender shall be understood as accepted unless formal written notice in the form of a contract or agreement is provided by the Band.
- b) A tender document, written acceptance notices in response to a submitted offer, or any subsequent written amendment; shall constitute a formal agreement between the Band and successful supplier.

## 2.7 Confidentiality of Tenders

- a) Submissions received during the tender process are considered confidential. Copies of these documents may be provided for internal Band use only.

## 2.8 Notification of Unsuccessful Suppliers

- a) Unsuccessful suppliers must be notified no later than three (3) business day(s) after the contract has been awarded to the successful applicant. Unsuccessful bidders must be offered a post-tender review meeting within this time frame to outline why their application was unsuccessful. Information regarding the financial details of the successful applicants' submission must not be divulged.

## 2.9 Approval, Initiation, and Monitoring

- a) The appointed Director will review contract progress monthly, noting and communicating budget variances to the Finance Director. Those contracts exceeding budget fluctuations as stipulated in Band Financial Policy must be reported to the Executive Director.

## 2.10 Documentation Requirements

- a) All purchasing documents must clearly indicate the details of the goods and services requested.
- b) Approvals, budget appropriations and relevant expense accounts will be documented on the relevant internal purchasing documentation.
- c) Internal files must be created for documenting each Request for Proposals, bidding opportunity or competitive purchasing process, stating the outcome of said process/competition.

## 2.11 Information Management

- a) The Finance Department is responsible for the maintenance and storage or all purchasing documentation/information.

## 2.12 Monitoring of Suppliers

- a) The Executive Director is responsible for monitoring the quality of work provided by the supplier and oversee the working relationship between them and the Band. Noted issues will be documented in the supplier file as referenced in 3.10 – c, and all issues of serious concern must be elevated to and resolved by the Executive Director. The Executive Director must review active files on an annual basis.
- b) Performance Evaluations should be tailored in accordance with job size and complexity. A review of project and service quality must be conducted utilizing pre-established criteria, which are to be determined and communicated at the time of awarding the contract.

## 2.13 Period Terms for Suppliers

- a) Contracts and routine purchases will be reviewed on an annual basis for competitiveness and a request for alternative suppliers will be initiated at the discretion of the Executive Director.

## 2.14 Local Content Requirements

When appropriate the Band will promote the use of local goods and services during the procurement process. This includes but is not limited to:

- a) Requiring Contractors to utilize local labour and resources or provide training to local labourers for projects rather than bringing in outside workers.
- b) Requiring bidders to state in their proposals how they would use local materials, equipment, and/or provide local training programs.
- c) Before developing tender documents, the Band may identify local:
- d) Labour and trades.
- e) Prices and quantity of local materials.
- f) Rental rates for local equipment.
- g) Training requirements and trade apprenticeships which are available for local labour.
- h) Clauses reflecting the agreed upon local content requirements will be incorporated into contracts with the successful bidder.



### 3. SPECIFIC PROCESSES FOR ACQUIRING GOODS & SERVICES

All Band employees must comply with the purchasing limits set out in Appendix A: Purchase Approval Limits. The procurement of Low Value Items may be solicited and approved by the Authorized Authority in accordance with **Appendix A**. The Authorized Authority will ensure that the goods or services purchased will provide the maximum and best value for the Band. The Authorized Authority indicated in Appendix A will sign the applicable invoice indicating that goods and/or services have been acquired in accordance with the Terms of Agreement between the Band and the Vendor.

#### 3.1 Sourcing Thresholds for Goods: Supplies, equipment, vehicles, materials, or goods:

The sourcing of physical goods must be conducted according to the amounts and appropriate Authorized Authority in accordance with Appendix A.

#### 3.2 Sourcing Thresholds for Professional and other services:

- a) For service contracts less than or equal to \$10,000, the Band can enter into a Sole Source Agreement.
- b) For contracts greater than \$10,000 but lesser or equal to \$25,000; the Authorized Authority must request a minimum of three quotes from different Service Providers. The recommended quote must be approved by the Authorized Authority.
- c) For contracts greater than \$25,000 and less than \$100,000; the Authorized Authority must request a minimum of three quotes from different Service Providers. A successful Band Council Motion must be passed prior to purchase.
- d) The Band must utilize the Competitive Purchasing Process detailed in Section 6. A Band Council Motion must be passed prior to the submission of Purchase and Tender documentation.

### 4. CONSTRUCTION CONTRACTS

Construction contracts fall under a different tender category due to industry-specific standards. Advancing construction projects is an important element of advancing the Band's goals and strategic plan. Construction contracts are essential to further maintaining current Band facilities, as well as planning and developing new facilities according to best practices. The Band seeks to contract those individuals and companies which will assist in furthering the Band's interests, and will meet the Band's requirements for excellent quality, expedience, and fiscal responsibility.



4.1 For any construction contract lapsing over its scheduled and agreed upon date-of-completion, service providers are subject to fines and additional charges by the Band.

4.2 **Sourcing Thresholds for General Contracting (Canadian Construction Documents Committee 2: Stipulated Price Contract) Pricing:**

a) For contracts less than or equal to \$50,000, the Band may enter a Sole Source Agreement.

b) For contracts greater than \$50,000 or less than or equal to \$400,000:

- The Authorized Authority must request a minimum of three Request for Proposals (RFP's) from different service providers, which must then be approved by Chief and Council.
- The Band may enter into a Sole Source Agreement with an Aboriginal Contractor, if the contract is deemed of fair value, meets budgetary requirements, and approved by the Authorized Authority.
- Work may proceed on a contract based on an Issued Purchase Order by the Band or by a Signed **Canadian Construction Documents Committee 2: Stipulated Price Contract**.

c) For contracts greater than \$400,000 and equal to or less than \$2,500,000:

- The Authorized Authority must ask for a minimum of three Requests for Proposals from different, qualified Service Providers. Evaluation requirements will be included in the RFP for all party's knowledge. Approval of a successful bid is subject to Chief and Council approval.
- Work on the project in question may proceed only with a signed **Canadian Construction Documents Committee 2: Stipulated Price Contract**.
- If Band funds are being utilized for the construction project, a successful majority vote at the next general membership meeting must pass for the project to proceed.

d) For contracts greater than \$2,500,000:

- The Authorized Authority must ask for a minimum of three Requests for Proposals from different, qualified Service Providers. Evaluation requirements will be included in the RFP for all party's knowledge. Approval of a successful bid is subject to Chief and Council approval.



- Work on the project in question may proceed only with a signed **Canadian Construction Documents Committee 2: Stipulated Price Contract**.
- If Band funds are being utilized for the construction project, a successful majority vote at the next general membership meeting must pass for the project to proceed.

#### 4.3 Acquiring Construction Management Services:

The Band may hire a Construction Manager to assist in the smooth development of projects and the dispersal of Tender Agreements. The contract for Construction Manager must follow proper hiring processes and be reviewed by the Executive Director every two years to ensure fairness and best value. If concerns with the Construction Manager or their work exceed what is reasonable for the Executive Director to manage, the matter must be raised to Chief and Council.

#### 4.4 Sourcing Thresholds for Construction Management: Construction Management Contract: - For Services and Construction (CCDC5B)

The Band may enter a Construction Management Services contract utilizing a **Construction Management Contract - For Services and Construction (CCDC5B)** for regular services which do not require project specificity, as per the Authorized Authority. The Construction Manager may procure consulting services if consultants have not already been hired at that stage of development. The Construction Manager must follow Competitive Work Package procurement measures and work may only proceed according to Band need, if there are available and official funds allocated to the project prior to the work beginning.

- a) For contracts less than \$400,000, they may proceed at the discretion of the Authorized Authority.
- b) For contracts greater than \$400,000 and less than or equal to \$1,500,000:
  - The Authorized Authority must ask for a minimum of three Requests for Proposals from different, qualified Service Providers.
  - May proceed at the direction and approval of Chief and Council.
  - A **Construction Management Contract - For Services and Construction (CCDC5B)** must be created and signed for the project to be approved by Chief and Council and Construction Manager. At such a time, work packages and all relevant documentation must be submitted to the Band.



- If Band funds are being utilized for the construction project, a successful majority vote at the next general membership meeting must pass for the project to proceed.
- c) For contracts greater than \$1,500,000 and above:
- The Authorized Authority must ask for a minimum of three Requests for Proposals from different, qualified Service Providers.
  - May proceed at the direction and approval of Chief and Council.
  - **A Construction Management Contract - For Services and Construction (CCDC5B)** must be created and signed for the project to be approved by Chief and Council and Construction Manager. At such a time, work packages and all relevant documentation must be submitted to and by the Band.
  - Monthly budget and schedule updates must be submitted with monthly billing services.
  - If Band funds are being utilized for the construction project, a successful majority vote at the next general membership meeting must pass for the project to proceed.

## 5. COMPETATIVE PURCHASING PROCESS:

Under a competitive purchasing process, the Authorized Authority will determine whether specific suppliers will be contacted under a Request for Proposal process. Alternatively, a formal open tender process may be issued, upon the recommendation of relevant internal and external experts. All RFP's must be approved by the Authorized Authority before issuing Tender documents.

### 5.1

The responsibilities of the Authorized Authority accountable for managing the Request for Proposals will include, but is not limited to the following:

- The background and context of the proposal.
- The scope of work to be performed and contracted.
- Determining the period of contract.
- Defining the necessary qualifications (e.g., experience, skills, education, and certifications) desired of those to be hired.

- The relevant criteria and weighting standards (if applicable) by which proposals will be assessed
- Establishing the RFP proposal deadline schedule, including the planned contract award date.
- Determining a First Nation contact person and obtaining their contact information.
- Writing disclaimer(s) which specifically detail the obligations and responsibilities of all parties and limit the liability of the Band during and after the RFP process.

## 6. EVALUTATION PROCESS

The Authorized Authority, representative(s) from Chief & Council, and any relevant employees will establish a review panel to consider various RFP proposals. Each proposal will be evaluated against pre-determined criteria as outlined in Appendix B. Personnel selected to participate in the review panel must have relevant knowledge and experience and be free from conflict of interests as laid out in the WFN Conflict of Interest Policy. The review panel will provide the Authorized Authority with a recommended course of action.

### 6.1 Evaluation Scoring Considerations:

The inclusion of key factors such as the utilization of Aboriginal Businesses, local materials and cost effectiveness are all awarded as a percentage of the scoring evaluation.

a) Base Bid: 80%

- Project will be evaluated and scored as a percentage. At the discretion of the Authorized Authority a two-envelope system may be required.
- Will be based upon relevant project or task-specific experience, knowledge, qualifications, and costs.

b) The inclusion of local content and Indigenous businesses: 10%

- Will be based on the utilization of local resources, benefits to the Band, and/or the inclusion of Indigenous employees or sub consultants.

c) Indigenous Business as the Bidder: 5%

- Does the supplier meet the criteria for an Aboriginal Business, Aboriginal Contractor &/or Consultant, as established in Section D: Definitions?



d) First Nation project experience and related activities: 5%

- Can the supplier provide references in relation to their experience with previous and current Indigenous projects or employment?
- Can the supplier provide proof of participation in Indigenous business groups, councils, volunteer organizations and similar positions?

## 7. EXCEPTIONS

In accordance with the authority of Chief and Council, Sourcing Thresholds may only be surpassed under the following conditions:

- a) If no bids are received during the Request for Proposals (RFP) process. If three proposals are not submitted from a suitable contractor, the Band may request proposals from any relevant contractor which satisfies the consultation process, at the discretion of Chief and Council.
- b) When the goods or services in question are only reasonably available through a sole source.
- c) In the event of an emergency where a delay in acquiring goods or services could reasonably result in a serious threat to the safety of Band Members, or in the severe loss or damage to Band infrastructure, property, or lands.

## 8. COMMUNITY CONSULTATION:

If the procurement of any goods and/or services exceeds the cost of \$400,000 of community/Band funds, the purchase must be presented at the next appointed Band Meeting. Hereby the purchase must also receive a majority vote in favour from those Band Members in attendance.

## D. DEFINITIONS

- (1) **Aboriginal Business/ Contractor &/or Consultant** means a sole proprietorship, limited company, cooperative, partnership, or not-for-profit organization where:
- at least 51% of the firm is owned and controlled by Aboriginal people; and,
  - at least 1/3 of the firm's employees, (if it has six or more full-time staff) must be Aboriginal.
  - If a joint venture or consortium:
    - at least 51% of the joint venture or consortium must be controlled/owned by an Aboriginal business or businesses, as defined above.
- (2) **Aboriginal/ Indigenous Person:** means those persons identified by *the Indian Act* or 91 (24) of the constitution Act.
- (3) **Appropriate Authority** means those detailed in the attached Appendix A: Purchase Approval Limits authorized to issue company cheques and Electronic Fund Transfers.
- (4) **Band** means Wahnapiatae First Nation
- (5) **Bid** means an application, proposal or tender which is submitted in response to a request for goods or services under contracted stated terms and conditions.  
means a person, partnership or corporation which
- (6) **CCDC2 or Canadian Construction Documents Committee 2: Stipulated Price Contract** means the contract required to allow a construction job to be completed for a pre-determined sum. This contract is between the service provider and the Band.
- (7) **CCDC5B or Construction Management Contract - For Services and Construction** means the contract between Owner (the Band) and Construction Manager to provide advisory services during the pre-construction phase and perform the required Work during the construction phase. Work is performed on an actual-cost basis, plus a percentage or fixed fee which is applied to actual costs.
- (8) **Consulting Service Contract** means a legal agreement for the provision of professional services. These agreements can include contracts for architectural, engineering, planning, project



management, legal, accounting, and other professional services.

- (9) **Construction Contract** means a legal agreement for the construction, purchase, moving, repair, renovation, or extension of any form of building. Also, for streets and municipal infrastructure, and other civil engineering works. Also includes design-build contracts where the bidder both designs and builds the structure.
- (10) **Construction Management** Means the utilization of specialized project management techniques to oversee the planning, design, and construction of a project, from beginning to end. This is to control a project's timeline, delivery, cost, and quality.
- (11) **Competitive Purchasing Process** means a set of procedures for developing a procurement contract through a bidding or proposal process. The intent is to solicit fair, impartial competitive bids.
- (12) **Competitive Work Package** means the iterative breakdown of a large scope of work into smaller and smaller chunks, or work packages. These smaller packages are then put up for Tender by the Construction Manager.
- (13) **Dollar** means the Canadian Dollar, utilizing exchange rates at the time of purchase.
- (14) **Estimated Contract Value** means the total estimated value of the contract before issuing a request for bids.
- (15) **Evaluation Criteria** means the standards by which proposals are evaluated to determine which bids qualify; and the ranking of said bids.
- (16) **Invitational Tender** means a request for bids/proposals for a contract open to several selected bidders.
- (17) **Lump-Sum Contract, General Contract or Stipulated Sum Contract** means a construction agreement in which the contractor agrees to complete the project for a predetermined, set price. The contractor submits a proposal for the total project price instead of bidding on each individual item. The contracted utilized for this method is the **Canadian Construction Documents Committee 2: Stipulated Price Contract**.
- (18) **Low Value Item** means assets that have an average unit cost that is equal to or lower than the first section shown in Appendix A.

- (19) **Non-Professional Services Contract** means a legal agreement for services where the service provided is not a solution to a problem and does not involve professionals. Examples include janitorial work, wood cutting, equipment rental, catering, security, water delivery, firefighting.
- (20) **Proposal** means an offer of services, bid or tender for a service contract, consulting contract, and/or non-professional services contracts.
- (21) **Purchasing Contract** Means a legal agreement for the purchase of physical goods, including installation of said goods when required.
- (22) **Request For Proposals (RPF)** means a document defining the requirements, terms of reference, and bid evaluation criteria for the work or services to be contracted. This allows for interested parties to submit bids.
- (23) **Sole Source Agreement** means a contract the Band may enter into which does not require a competition. Within specified purchase approval limits, this contract may be directly entered into with a preferred supplier.
- (24) **Terms of Agreement** means the document/contract such as a Construction Contract, Purchasing Contract, Consulting Services Contract or other, which defines the conditions of the good or services to be provided and the responsibilities of all parties.
- (25) **Two- Envelope System** means a process where a Request for Proposals requires two separate submissions. One, which contains details of the Service Provider's workplan, and another separate proposal with the workplan plus the financial costs associated with the project. This system allows proposals to be evaluated without financial bias.



**E. RELATED POLICIES**

- Business Lot Allocation Policy, Conflict of Interest Policy

**F. RELATED LEGISLATIONS**

- Indian Act, Constitution Act

**G. RELATED DOCUMENTS**

- Appendix A and B

**H. REVIEW**

This policy must be reviewed every three years to ensure relevance and best-practices.

**I. REVISION HISTORY**

<b>Date (mm/dd/yyyy)</b>	<b>Motions</b>
10/18/2004 (Financial Policy)	#04/73
05/08/2006 (Financial Policy)	#06/32
06/26/2006 (Financial Policy)	#06/53
04/08/2014 (Financial Policy)	#14/15-02
04/18/2019 (Financial Policy)	#19/20-04-014
06/28/2022 (Financial Policy)	#22/23-06-131
01/09/2023	#22/23-01-362

## APPENDIX A: PURCHASE APPROVAL LIMITS

Purchase Threshold <sup>1</sup>		Authorized Authority
Less than or equal to \$1000		Department Director (Probationary Period)
Greater than \$1000	Less than or equal to \$5000	Department Director (Under 1-year of employment) <sup>2</sup>
Greater than \$5000	Less than or equal to \$10,000	Department Director <sup>2</sup>
Greater than \$10,000	Less than or equal to \$25,000	Executive Director
Greater than \$25,000	Less than or equal to \$400,000	Chief & Council
Greater than \$400,000		Chief & Council <sup>3</sup>

1. For discrepancies between the below thresholds and those outlined in the Financial Policy: Cheque Signing Authority, that later supersedes the former.
2. Increase in purchasing threshold requires written approval from the Executive Director.
3. Expenditures greater than \$400,000 require a majority vote at a general membership meeting.



**APPENDIX B: CONTRACTOR/SUPPLIER EVALUATION TEMPLATE**

SUPPLIER EVALUATION				
<b>Organization name:</b>				
<b>Service/goods to be provided:</b>				
<b>RFP reference #:</b>				
<b>Value of contract:</b>				
	Criteria	Details / Comments	Value	Score
1.	RFP or other requirements [list here] [xxxx] [xxxx] [xxxx]	<i>Describe any areas of concern or where requirements were not met....</i>	[#]	[#]
2.	Qualifications and experience	<i>Do they have the appropriate qualifications and experience to perform the work?</i>	[#]	[#]
3.	Terms and conditions	<i>Are their terms and conditions acceptable to the First Nation?</i>	[#]	[#]
4.	Has the organization worked previously with the First Nation? Provide details and an evaluation of the work.	<i>Evaluate the First Nation's previous experience with this supplier</i>		
5.	[xxxx]			
6.	[xxxx]			
7.	[xxxx]			
8.	[xxxx]			
9.	[xxxx]			
10.	[xxxx]			
11.	Price	<i>Evaluation of the price, results of previous criteria.</i>		
12.	Other considerations?	<i>Anything not covered above that should be included in evaluation the supplier i.e. inclusion of local content</i>		
<b>Evaluation</b>			<b>Score:</b>	[XX/XX]
Overall comments / recommendation:				%