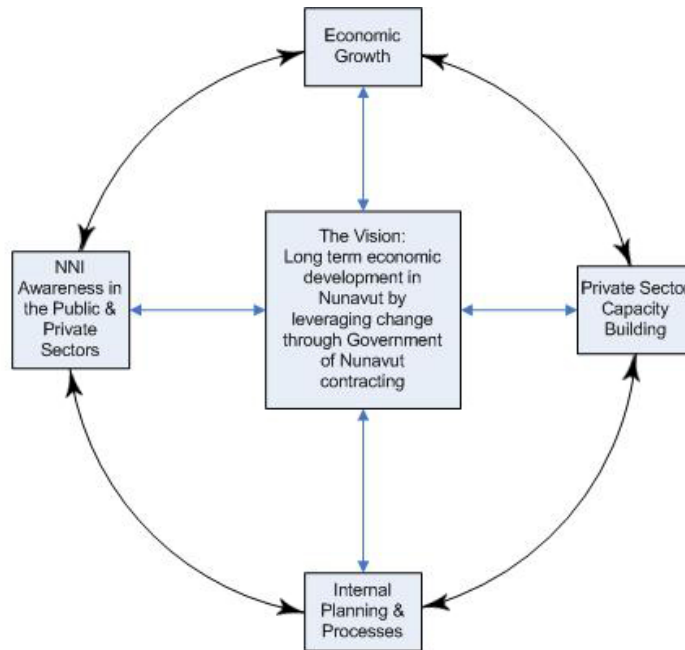


**Nunavummi Nangminiqaqtunik Ikajuuti  
(NNI)**

**The NNI Review Committee's  
Summary of the  
2008 -2009 Comprehensive Review  
Report**

**Produced by:  
NNI Secretariat  
&  
Nunavut Tunngavik Incorporated**

## 2010-2015 Vision



**Objectives      Measures      Targets      Timelines      Initiatives**

	<b><u>Objectives</u></b>	<b><u>Measures</u></b>	<b><u>Targets</u></b>	<b><u>Timelines</u></b>	<b><u>Initiatives</u></b>
<b>Economic Growth</b>	Increased private sector growth	Volume and value of contracts awarded in Nunavut	An identifiable % increase in contracts awarded in Nunavut	On going	Promote and encourage use of NNI incentives by private sector  Increase training
<b>Private Sector Capacity Building</b>	Increased ability of Nunavut private sector to win GN contracts	Volume and value of contracts awarded to Nunavut / Inuit Businesses	Increased Inuit employment in private sector	To be implemented as an on going initiative	Promote use of NNI incentives and encourage access to training \$
<b>Processes &amp; Planning</b>	Develop procedures for consistent application in all 3 regions	Completed procedures manual	Procedure manuals distributed to all regions with support	Currently in progress	NNI staff undertaking this now
<b>NNI Awareness in Public and Private Sectors</b>	Improve understanding and comprehension of NNI Policy by private and public sector	Quantity of workshops and levels of attendance	Improved feedback from public and private sector on NNI implementation	To be undertaken on a yearly basis	Undertake workshops & community visitations by NNI staff

## **NNI Comprehensive Review Process**

Under Section 17 of the Nunavummi Nangminiqaqtunik Ikajuuti (NNI) Policy, there is a requirement for the Review Committee made up of representatives from the Government of Nunavut and Nunavut Tunngavik Incorporated. The committee is mandated to conduct a comprehensive review of the NNI Policy every five years.

In August of 2008, the Review Committee met and initiated the process to start the comprehensive review. An initial Request for Proposal (RFP) to obtain the necessary services to conduct the review was advertised in the public media but was unsuccessful due to limited responses. The review committee refocused the RFP and released a second call late in the fall of 2008, which generated better results and the winning firm was chosen and began work early in the winter of 2009.

The consulting firm conducted research and carried out numerous community consultations. They were able to deliver their first draft version of the results to the Review Committee in July of 2009.

Upon delivery of the first draft, the NNI Review Committee conducted its first analysis of the research in September of 2009. This process continued until the final draft document was completed and provided by the consultant to the Review Committee in February of 2010.

The community consultation process was able to gauge the public perception of the NNI Policy as well as identify some common themes and key issues.

This comprehensive review summary represents a synopsis of the themes and issues which came out of the research and community consultation process. The research work carried out by the consulting team contains much more in depth detail and can be referred to for further information.

## **Themes Identified**

### ***The Policy***

The research conducted during the community and private sector consultations highlighted the general opinion that the NNI Policy contains the proper approach and key elements for achieving the objectives of Article 24 in the Nunavut Land Claims Agreement (NLCA). The policy was generally seen as being advantageous for both Inuit and Nunavut Businesses.

### ***Availability of Data***

It was noted that a lack of statistical data was an obstacle to providing an assessment of the impact that the NNI Policy is having on the economy of Nunavut. While Community and Government Services produces annual reports, such as the Contract Activity Report as well as the Procurement Activity Report, the data required to thoroughly analyze NNI implementation and impact on Nunavut Government contracting and the Nunavut economy is lacking.

The incompleteness of data collected as well as questions concerning the reliability of data has made it difficult for the review committee to objectively and accurately assess the bid adjustment levels. More research is necessary to identify the data gaps and enable more quantitative analysis and substantiate any future revisions.

### ***Inaccurate Public Perceptions***

It was highlighted in the research material that certain perceptions exist in the public regarding the NNI Policy and its implementation that may be based on incorrect information. While the NNI Secretariat and NTI have been working diligently on improved communication with the general public, a more strategic approach might be necessary.

Continued education is required to assist the public and the private sector to more fully understand and benefit from the NNI Policy.

### *Contract Award Data*

Not all contracts are included in the reports prepared by the GN, specifically there are numerous contract exemptions and conditions that complicate the analysis of contract award data. The most frequent exemptions are contract awards under the five thousand dollar threshold as well as other various general contract exemptions. For example, most fuel supply contracts as well as contracts awarded by the Nunavut Housing Corporation when funding for their contracts came from the Nunavut Housing Trust.

### *Inuit Employment*

Based on research done during the comprehensive review consultation process it was noted that overall levels of Inuit employment have increased marginally on construction and maintenance type contracts, there has nevertheless been a marked increase in the overall levels of Inuit employment in Nunavut. The full implementation of the NNI Policy has the potential to directly impact many areas of employment in Nunavut. However with variables outside of the NNI context affecting employment in Nunavut and with data collection issues, it becomes difficult to quantify employment statistics specific to NNI implementation.

Data available from the Nunavut Bureau of Statistics indicates an increase in overall Nunavut wide Inuit employment from 2005 to 2007 and a slight decline in overall Inuit employment from 2007 to 2009 followed by a slight growth in Inuit employment after 2009. Data collection practices changed during these years and due to the limited labour market, any major construction projects or natural resource development activities could cause a significant variation in the overall Nunavut data reported.

### *Determining "Good Value"*

The determination and definition of good value in public procurement activities is a well defined concept within the Government of Nunavut and its contracting authorities, but based on comments arising out of the consultation process it

remains a difficult concept for the general public and private sector. A continuing public awareness and education program is likely the best approach to clarifying this concept specifically within the context of the NNI Policy.

## **Important Issues Arising from the Themes**

Six major issues were raised throughout the study. A commonality between these issues was observed. In this section they are presented in summary form but many of the identified themes and issues repeat throughout the research conducted by the consultants.

### ***Awareness and Education***

There have been substantial investments in awareness-training and education opportunities in relation to the NNI policy. Nevertheless, virtually all stakeholders identified a need for more and better information and education. There is still a widespread lack of understanding of the general NNI objectives, the appropriate procedures for the application of the policy (more specifically the bid adjustments), and a lack of awareness of contracting procedures and obligations. This lack of awareness is perceived to exist among the general public, the business community and also the Contracting Authorities. This perceived lack of awareness is most common among smaller firms and in smaller communities.

### ***Business Registries***

There are substantial and conflicting problems associated with both the registration process and use of the Nunavut Business Registry and the Inuit Firm Registry. One issue raised numerous times was the concern that the annual registration process is too complicated and burdensome (particularly for the Nunavut Business Registry).

A potentially conflicting issue also raised was the concern that “shell” companies (companies that are legally registered as Nunavut-based or Inuit-owned, but the day-to-day operation or decision making may not be with Nunavummiut or Inuit) are abusing the process, and that greater vigilance in assuring the legitimacy of businesses on the registries is required. Unfortunately, reports of these cases are often based on speculation and hearsay and thus lack the detail required to investigate.

At this point in time the concern expressed by some elements of the business community about excessive registration requirements appears to outweigh the validity issue. There is some support for the GN moving towards a more simplified renewal approach, similar to that of NTI’s Inuit Firm Registry. Although initial Nunavut Business registration must be supported by sufficient documentation steps have been taken to simplify the renewal process.

### ***Bid Adjustments***

When the public consultations were conducted, two common issues emerged with regards to the NNI bid adjustments. First, there is a perception that the bid adjustments are not calculated consistently by the Contracting Authorities. Secondly, there seems to be a conflicting view on the adequacy of the bid adjustments themselves.

Many people, primarily from the Nunavut business community, advocate that the bid adjustments are not sufficient to “level the competitive playing field”. The intent of the NNI Policy was never to entirely level the playing field. As described in Community and Government Services’s report “Guiding You. Benefiting Nunavummiut” (<http://www.gov.nu.ca/business/guide2006.pdf>), under the NNI Policy, all qualified Inuit-owned, Local and Nunavut-based businesses obtain a preferential adjustment of 7% for each criteria met (to a maximum of 21%) which ensures competitiveness when assessed against bids from other qualified bidders. The bid adjustment is intended to partially offset the higher costs of doing business in the north. The bid adjustments meet the GN’s requirements under Article 24 of the NLCA and serve to build further capacity within the Nunavut economy.

Conversely, there are concerns among some government officials that the bid adjustments are too high and they prevent the government from obtaining “good value”. As previously mentioned the bid adjustments are one of the key tools that the GN utilizes to meet its obligations as defined in the NLCA. As such, it is important to balance the desire to “level the playing field” against the need to acquire goods and services at a cost that is reasonable to the tax payer. A fixed mathematical formula designed to balance these needs would be impossible to identify and judgment will need to be exercised as the economy evolves.

There is a shortage of contract and bid data available for analyzing the impact which the bid adjustment levels have on contract awards. This has made any significant dialogue on bid adjustment values very difficult. The objective research and data needed to substantiate any changes to bid adjustment levels is currently impossible to collect and more discussions need to occur to assess data gaps or identify missing variables.

With regards to the need for consistency in bid adjustment application, it is essential that a common method be used. Continuing efforts are necessary to ensure the use of the standardized approach to contracting subject to the NNI Policy. Further training and education will enable GN agencies and municipalities to implement the NNI Policy consistently and accurately.

### ***Monitoring Implementation***

Adherence to the policy is not monitored on a consistent basis. For example, it is not clear how many contracts have been let that did not adhere to the NNI Policy. There is also little, if any validation of Inuit employment and no validation of the appropriateness of any training plans or whether such plans were implemented.

As noted throughout this document, a key challenge encountered was to assess the legitimacy of concerns without objective and statistical information to determine remedial action. There are two key suggestions offered to address this problem. Although a website exists that allows people to register concerns anonymously, it does not currently appear to be used extensively possibly because there are few concerns. This website should be promoted and complaints should be investigated and tracked, so as to provide a richer basis for



future reviews. Secondly, audits or reviews of specific contracts should be undertaken so as to assess the extent to which the NNI Policy was adhered to, and to assess the impacts of the NNI Policy on Inuit and Nunavut-based firms and Inuit employees.

### *Appeals Process*

The Appeals Process is an important component of the NNI Policy. It allows bidding contractors to raise concerns and helps to ensure that GN contracting authorities and the implementation of the NNI Policy are accountable to those who engage in contracting and procurement in the territory of Nunavut. There were a number of concerns expressed regarding the perceived efficacy of the Appeals Process.

The majority of the concerns heard were related to the administrative aspects of the appeals process. Some individuals raised concerns regarding the timelines associated with the appeals as well as the general administration of the appeals committee. Specifically, the issue regarding timelines was in reference to the amount of time allowed for unsuccessful proponents to present an appeal to the NNI Appeals Board. Currently the time allowed is 21 calendar days from notice of award of contract to the date by which an appeal must be received by the NNI Secretariat on behalf of the NNI Appeals Board. In some cases concerns regarding cut off dates for sea lift ordering would have significant impact on the timeline allowed for the appeals process. This issue may warrant further review by the NNI Review Committee.

Of other issues raised regarding the NNI Appeals Board the conclusion in the research work was that further public awareness and education would serve to resolve many of the concerns.

### *Measuring and Achieving Outcomes*

As noted above, while there is agreement that the NNI Policy is appropriate, there is a sense that the achievement of the intended objectives has been a slow process for Inuit and Nunavut-based firms. The data issues have made it even more difficult to assess the impact on Inuit employment levels. The GN produces

information on contract submissions and awards by: type of firm (Inuit, Nunavut and other), Inuit employment on construction and maintenance contracts, NNI adjustments, bonus payments and penalties.

However, there is no information on how much is actually spent by type of firm (e.g. actual spending is likely to vary from spending anticipated on proposals due to scope changes), and more importantly, how this translates into improved capacity of Inuit firms or Inuit workers. The data reporting available also does not capture the subcontracting levels associated with any given contract. The reporting requirements and data collection are for the general contractor only. It is quite plausible that if data regarding Inuit or Nunavut Firm values, at the sub-contractor level, are going un-captured then employment results may be inaccurate.

One of the most important factors in enabling an analysis of achievement lies in improved monitoring and measuring of activities and outcomes.

## **Recommendations**

### **Recommendation #1**

*That the review committee undertake to identify and review the specific areas of data deficiencies and produce recommendations to address the difficulties that currently exist in collecting and utilizing GN contracting information.*

### **Recommendation #2**

*That the review committee conducts an audit on the implementation of the NNI Policy with regards to Government of Nunavut Contracting*

### **Recommendation #3**

*That the terms of reference for the review committee will reflect the following changes:*

*“The Review Committee will prepare a report annually that shall include recommendations which, in the opinion of the Committee, will ensure that the Government of Nunavut is better able...”*

To:

*“The Review Committee will prepare a report bi-annually that shall include recommendations which, in the opinion of the Committee, will ensure that the Government of Nunavut is better able...”*

And;

*“NTI and the GN shall each appoint up to a maximum of six members to the Review Committee; a minimum of two members from each organization shall constitute a quorum.”*

To:

*“The Review Committee shall consist of appointed members from NTI and the GN, to a maximum of three members each or 6 members total; a minimum of one member from each organization (GN & NTI) shall constitute a quorum.”*

#### **Recommendation #4**

*Conduct research into any existing national standards or best practices for the NNI Appeals process, specifically focusing on the timelines used for identifying and conducting appeals.*

### **Recommendations for the NNI Policy Definitions**

The research material made the point that, *“Overall, there remains a general view, as found in previous reports, that the NNI Policy contains the right approach and key elements for achieving the objectives of Article 24, and that it provides a basis for*

*improvements in the competitiveness and strength of the economy and welfare of Inuit and Nunavummiut.”*

Given that statement there are, however, certain areas in the NNI Policy, primarily in the definition sections that the NNI Review Committee has identified as requiring attention. The following recommendations were included in the research work prepared for the committee.

The current definition of a ‘Local Business’ in the April 20, 2006 copy of the NNI Policy is as follows:

*Local Business – a Nunavut Business which has been resident in the Subject Community for the four months prior to the application and in addition complies with the following criteria:*

- i. maintains an approved place of business by leasing or owning office, commercial or industrial space or where applicable, residential space, in the community on a year-round basis for the primary purpose of operating the subject business, and*
- ii. maintains a Local Resident Manager, and*
- iii. undertakes in the Subject Community the majority of its management and administrative functions related to its operations in the Subject Community, and*
- iv. has applied for and received designation as a Local Business at least two weeks prior to the Tender or RFP closing.<sup>1</sup>*

It is proposed that the following changes (as indicated in bolded red text), be made:

*Local Business – an Inuit Firm or Nunavut Business which has been resident in the Subject Community for the four months prior to the application and in addition complies with the following criteria, is either:*

- A. is an approved Inuit Firm included in the Inuit Firm Registry and is local to the subject community; or*

B.

- i. maintains an approved place of business by leasing or owning office, commercial or industrial space or where applicable, residential space, in the community on a year-round basis for the primary purpose of operating the subject business; and
- ii. maintains a Local Resident Manager; and
- iii. undertakes in the Subject Community the majority of its management and administrative functions related to its operations in the Subject Community; and
- iv. has applied for and received designation as a **Nunavut** Business at least two weeks prior to the Tender or RFP closing;

Similarly, there are a number of suggested changes to the definition of “Nunavut Business” The original definition as it appears in the 2006 version of the NNI Policy is as follows:

*Nunavut Business – a business which complies with the legal requirements to carry on business in Nunavut, and meets the following criteria:*

- i. is a limited company with at least 51 percent of the company’s voting shares beneficially owned by Nunavut Residents, or
- ii. is a cooperative with at least 51 percent of the Resident’s voting shares beneficially owned by Nunavut, or
- iii. is a sole proprietorship, the proprietor of which is a Nunavut Resident, or
- iv. is a partnership, the majority interest in which is owned by Nunavut Residents and in which the majority benefits, under the partnership agreement, accrue to Nunavut residents and complies with:
  - i. maintains a registered office in Nunavut by leasing or owning office, commercial or industrial space or in the case of a service oriented businesses, residential space, in Nunavut on an annual basis for the primary purpose of operating the subject business, and
  - ii. maintains a Resident Manager, and
  - iii. undertakes the majority of its management and administrative functions

- related to its Nunavut operations in Nunavut, and*
- iv. has received designation as a Nunavut Business at least two weeks prior to the Tender or RFP closing.<sup>2</sup>*

The following bolded red text highlights the proposed changes:

*Nunavut Business – a business which complies with the legal requirements to carry on business in Nunavut **may qualify for inclusion in the NNI Business Registry if it meets the following criteria:***

- i. is a limited company with at least 51 percent of the company's voting shares **beneficially owned by Nunavut Residents or by other Nunavut Businesses; or***
- ii. is a cooperative with at least 51 percent of the Resident's voting shares beneficially owned by Nunavut **Residents; or***
- iii. is a sole proprietorship, the proprietor of which is a Nunavut Resident; or*
- iv. is a partnership, the majority interest in which is owned by Nunavut Residents **or by another Nunavut Business** and in which the majority benefits under the partnership agreement accrue to **the Nunavut residents or to the Nunavut Business;***

***In addition to meeting one of the above ownership criterion, the business will also comply with requirements "a" through "e" listed below:***

- a. maintains a registered office in Nunavut by leasing or owning office, commercial or industrial space or in the case of a service oriented businesses, residential space, in Nunavut on an annual basis for the primary purpose of operating the subject business; and*
- b. maintains a Resident Manager; and*
- c. undertakes the majority of its management and administrative functions related to its Nunavut operations in Nunavut; and*
- d. has received designation as a Nunavut Business at least two weeks prior to the Tender or RFP closing; **and***
- e. **is not a municipality or any business in which the Government of Nunavut maintains majority ownership or control.***

It is also suggested that the definition of a 'Local Supplier' also be clarified so as to avoid misinterpretation. The original definition is as follows:

*Local Supplier – a supplier of goods in the Subject Community, to whom the public has access and from whom the public may purchase directly from a Representative Inventory of items offered for sale. The supplier must be and must have been a Local Resident for the four months prior to application. The Government of Nunavut may recognize as a Local Supplier a business that does not physically carry in inventory specific goods due to factors such as high cost/low demand, made-to-order goods or articles of a nature that the Government is the sole requisitioner.*

The modified definition of 'Local Supplier' would appear as follows:

*Local Supplier – is*

*(A) an approved Inuit Firm included in the Inuit Firm Registry and is local to the Subject Community or;*  
*(B) a Nunavut Business supplying goods in the Subject Community, to whom the public has access and from whom the public may purchase directly from a Representative Inventory of items offered for sale. **To be a Local Supplier, the business must be and must have been supplying goods in the Subject Community** for the four months prior to the application. The Government of Nunavut may **approve** as a Local Supplier a business that does not “physically” carry **an** inventory **of** specific goods due to factors such as high cost/low demand, made-to-order goods or articles of a nature **where** the Government is the sole requisitioner.*

The current definition of a 'Nunavut Resident' is as follows:

**Nunavut Resident** - a person who:

- i. is on the NTI Inuit Enrollment List; or has spent the last twelve months ordinarily resident in Nunavut, and*
- ii. has a valid Nunavut Healthcare Card and/or other accepted proof of residency such a Nunavut General Hunting License, a Nunavut Driver's License, a lease or rental receipt,*

iii. *provides a physical address where residing*

The modified definition of a 'Nunavut Resident' would be as follows:

***Nunavut Resident*** – a person who:

- i. *Is currently and ordinarily a resident in Nunavut and*
- ii. *has a valid Nunavut Healthcare Card and or other accepted proof of residency such as a Nunavut General Hunting License, a Nunavut Driver's License, a T-2222 form, a Statutory Declaration confirming Nunavut as the place of residence, or a lease or rental receipt and*
- iii. *provides a physical address where residing.*

The definition of *Resident Manager* which is as follows:

***Resident Manager*** –

*a Nunavut Resident who is capable of undertaking all aspects of the management of the Nunavut Business and has absolute decision making authority over day-to day matters affecting the Nunavut Business. The Government of Nunavut may waive this requirement in the case of a newly appointed Resident Manager, on proof that within six months the Resident Manager will have met the residency requirements.*

The definition of *Resident Manager* should be changed to:

***Resident Manager-***

*A Nunavut Resident who is responsible for all aspects of the management of the Nunavut Business and has absolute decision making authority over day to day matters affecting the Nunavut Business. The Government of Nunavut may waive this requirement in the*



*case of a newly appointed Resident Manager, on the proof that the Resident Manager resides in Nunavut.*

The definition of *Qualification Committee* which is as follows:

**Qualification Committees -**

*committees in the Kivalliq, Kitikmeot, and Baffin Regions chaired by the Responsible Department, and responsible for determining the eligibility of businesses to be included on the Nunavummi Nangminiqaqtunik Ikajuuti Directory.*

The definition of *Qualification Committee* should be changed to:

**Qualification Committee –**

*Committees in the Kivalliq, Kitikmeot and Qikiqtaaluk Regions chaired by the Responsible Department or a GN employee designated by the Responsible Department and which are responsible for determining the eligibility of businesses to be included on the Nunavummi Nangminiqaqtunik Ikajuuti Business Directory.*

## **Recommendations for the NNI Policy Regarding Contracting for Territorial Parks**

The current statements in the NNI Policy (Section 21) regarding contracting in Territorial Parks refers to the Umbrella Inuit Impact and Benefit Agreement (IIBA) for park specific procedures. Although this IIBA is up for renewal at the time of the writing of this document it is still in effect. Therefore the following recommendations are made.

Section 21 reads:

*21.1 Pursuant to Section 5.3 of the Umbrella Inuit Impact and Benefit Agreement (IIBA) for Territorial Parks, the NNI Policy in effect on March 17, 2000 will continue in effect until the relevant parts of the present policy have been adopted by the signatories to that Agreement.*

*21.2 The Park-Specific Procedures for Contracting and Business Opportunities are attached as Appendix C.*


Section 21 should be amended to read as follows:

*21.1 The application of the NNI Policy to Government of Nunavut contracting in Territorial Parks is subject to the Umbrella Inuit Impact and Benefit Agreement (IIBA) and the Park-Specific Procedures for Contracting and Business Opportunities created pursuant to Article 5 of the IIBA.*

*Copies of the Territorial Park's Umbrella Inuit Impact and Benefit Agreement and the Park Specific Procedures for Contracting and Business Opportunities are available from the NNI Secretariat or the Parks and Special Places division of the Department of the Environment.*

This synopsis of the research work carried out over the previous year represents a summary of the key themes and issues followed by recommendations arising out of the issues. This summary was prepared in consultation with NTI by the NNI Review Committee and represents the data described in the research document prepared by the consultants. For more in depth analysis of the themes and issues identified by the consultants please refer to the 2008-2009 Comprehensive Review Report.

Finally it is prudent to point out, from the research work conducted, that most respondents believed the NNI Policy contains the “*key elements for achieving the objectives of Article 24 and that it provides a basis for the improvements in the competitiveness and strength of the economy and welfare of Inuit and Nunavummiut.*”



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