

Standing Committee on
Economic Development
and Environment



Report on Supporting Northern Businesses

19th Northwest Territories Legislative Assembly

Chair: Mr. Jackie Jacobson

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ECONOMIC DEVELOPMENT AND ENVIRONMENT**

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SPEAKER OF THE LEGISLATIVE ASSEMBLY

Mr. Speaker:

Your Standing Committee on Economic Development and Environment is pleased to provide its *Report on Supporting Northern Businesses* and commends it to the House.

Mr. Jackie Jacobson
Chair, Standing Committee on
Economic Development and Environment

**STANDING COMMITTEE ON
ECONOMIC DEVELOPMENT AND ENVIRONMENT
REPORT ON SUPPORTING NORTHERN BUSINESSES**

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**STANDING COMMITTEE ON
ECONOMIC DEVELOPMENT AND ENVIRONMENT**

REPORT ON SUPPORTING NORTHERN BUSINESSES

EXECUTIVE SUMMARY

The Standing Committee on Economic Development and Environment (Committee) made it a priority early in the life of the 19th Legislative Assembly to increase the responsiveness of government policies and services in an effort to stimulate diversity among northern businesses, and particularly Indigenous businesses. To achieve this goal, Committee reviewed Government of the Northwest Territories (GNWT) policies, programs, and legislation related to business development. Committee also conducted internal research and engaged with stakeholders and the public at large. Several Members of the 19th Assembly raised concerns with support for the private sector especially in response to the COVID-19 Pandemic. Committee has considered all this information and used it to inform a range of recommendations to the GNWT with the intent and purpose of building and diversifying the NWT economy and improving business support services and programs.

Recommendation 1: The Standing Committee on Economic Development and Environment recommends the GNWT increase transparency for all capital projects and especially provide public Three-Year Capital Plans for projects in small communities and regional centres, so businesses can plan.

Recommendation 2: The Standing Committee on Economic Development and Environment recommends the GNWT track and limit sole source contracts by creating a target to ensure:

- no more than 15% of all contracts over \$25,000 are issued as sole source contracts,
- regular public reports on the achievement of this target be provided within six months of the end of each fiscal year,
- and that these public reports outline sole source contracts given to non-NWT businesses as well as the Departments using sole source methods most often.

Recommendation 3: The Standing Committee on Economic Development and Environment recommends that contractual provisions limit change orders to no more than 15% of the original project cost and that there be a regular review of change orders requiring Ministerial oversight for change orders greater than \$10,000.

Recommendation 4: The Standing Committee on Economic Development and Environment recommends the GNWT improve the public reporting of actual benefits achieved under Negotiated Contracts to better track the impact of this spending, and further recommends that the GNWT's public reports on this spending indicate the local accommodations used and the number of jobs created.

Recommendation 5: The Standing Committee on Economic Development and Environment recommends that the GNWT review the U.S. Small Business Administration 8(a) program, which currently serves Indigenous businesses, such as those owned by the Alaska Native corporations and Native Hawaiian organizations, with the purpose of developing similar programs in the NWT.

Recommendation 6: The Standing Committee on Economic Development and Environment recommends the GNWT create and implement an Indigenous Procurement Policy that addresses economic gaps in the NWT by giving preference to Indigenous businesses.

INTRODUCTION

The Standing Committee on Economic Development and Environment (Committee) made it a priority early in the life of the 19th Legislative Assembly to increase the responsiveness of government policies and services in order to stimulate diversity among northern businesses and in particular Indigenous businesses.

To achieve this goal, Committee reviewed Government of the Northwest Territories (GNWT) policies, programs, and legislation related to business development. Committee also conducted internal research and engaged with stakeholders and the public at large. Several Members of the 19th Assembly raised concerns with support for the private sector most especially in response to the COVID-19 Pandemic. Committee has considered all this information and used it to inform a range of recommendations to the GNWT.

WHY DOES IT MATTER

A mandate item of the GNWT in the 19th Legislative Assembly is to implement the United Nations Declaration on the Rights of Indigenous Peoples (UNDRIP). Committee recognizes this commitment and believes the recommendations provided in this report support the GNWT towards the implementation of UNDRIP.

To advance reconciliation, the implementation of the recommendations below should follow the priorities set out in the Articles. According to the UNDRIP, Indigenous peoples have the right to self-determination and to freely pursue economic development in all their traditional and other economic activities (Articles 3, 5 and 20). The GNWT must take

effective measures to ensure continuing improvement of economic conditions and Indigenous peoples have a right to be actively involved in administering economic programs affecting them (Article 21 and 23). They must also consult and cooperate in good faith when making decisions that impact Indigenous resources.

Several UNDRIP Articles address Indigenous people's right to lands and natural resources.

Article 32(2)

"States shall consult and cooperate in good faith with the indigenous peoples concerned through their own representative institutions in order to obtain their free and informed consent prior to the approval of any project affecting their lands or territories and other resources, particularly in connection with the development, utilization or exploitation of mineral, water or other resources."

Engagement Process

Committee invited submissions or presentations from all Indigenous governments. Committee also solicited presentations from Indigenous economic development corporations and businesses across all regions of the Northwest Territories. Committee advertised its requests for public submissions and public presentations were live streamed. The following stakeholders presented to Committee. Recordings can be viewed in full on the NT Legislative Assembly YouTube channel,ⁱ and are included in the Appendix to this report:

- Denendeh Investments
- Yukon First Nation Chamber of Commerce (Yukon Indigenous Procurement Policy)
- Gwich'in Tribal Council
- Tłı̨chǫ Investment Corporation
- Yellowknife Chamber of Commerce
- NWT Métis Nation
- Det'on Cho Corporation
- NWT Indigenous Leaders Economic Coalition
- Yellowknife Chamber of Commerce

Several internal briefings were held with the Minister of Industry, Tourism and Investment regarding the Procurement Review, mining, and the Mining Royalty Review, supports for businesses during the COVID-19 Pandemic, the Knowledge Economy Action Plan, Regional Economic Development Plans as well as the Business Development Investment Corporation.

Internal briefings were also held with the Minister of Infrastructure regarding major infrastructure projects and support for regional economic development through GNWT infrastructure projects.

Recommendations to Government

Based on this engagement, Committee provides several recommendations to the GNWT around the following themes:

- Building the NWT economy,
- Building a diversified economy, and
- Improving business support services and programs.

BUILDING THE NWT ECONOMY

The GNWT is a significant player in the NWT economy. The Bureau of Statistics reports in 2021, the GNWT created \$458.2 million dollars of value-added goods and services in the NWT economy. This represents 11% of the NWT's total GDP overall.ⁱⁱ The Bureau of Statistics also shows public administration was one of the fastest growing sectors in the NWT economy after Mining, Oil and Gas activities.ⁱⁱⁱ

The impact of GNWT spending in the NWT economy, however, is significantly more than just the GNWTs impact on the territory's GDP. The GNWT's 2023-24 budget proposes spending \$2.206 billion dollars. The 2023-24 Main Estimate budget shows the GNWT plans to spend over \$1 billion dollars on grants, contributions, and transfers; \$432 million is to be spent on compensation and benefits; \$307 million on contract services and \$126 million on fees and payments.

Procurement

Early in its review of business supports, Committee recognized that GNWT procurement is a significant contributor to the economic health of the NWT overall, especially in the regional centres and small communities. Procurement was both a focal point for SCEDE discussions and a concern for many regular Members of the 19th Assembly. The topic of 'procurement' was discussed over 500 times in the 19th Assembly, far surpassing other Assembly discussions on this topic. Members advocated for a variety of changes related to improving administration, payment timelines, targeting procurement in small communities, etc.

A 2019-2023 Mandate of the GNWT is to "ensure government procurement and contracting maximizes benefits to residents and businesses." The GNWT has set out to achieve this by:

- strengthening procurement policies and practices
- increase awareness of GNWT contracting opportunities, and
- improve NWT companies' participation in Business Incentive Policy (BIP)

Committee heard from stakeholders on this topic and received a variety of suggestions on how to improve procurement in the GNWT related to:

- planning and strategic administration of procurement
- improving payment timelines
- expanding the use of negotiated contracts
- improving vendor performance management
- increasing Indigenous business
- targeting procurement in small communities
- strategic procurement to build local business, especially indigenous businesses and businesses in remote communities

On November 4, 2021, the GNWT tabled a Report of the Procurement Review Panel.^{iv} An independent panel reviewed GNWT procurement and issued over 50 recommendations. The GNWT responded to this panel's report, releasing an operational workplan on the Procurement Review September 2022.^v

On March 27, 2023, the Minister acknowledged this response was a summary of the work underway, but that the Government would be providing a more comprehensive response to the Panel's 50 recommendations later this summer.

While Committee supports the work of the GNWT to review procurement policies with independent experts, the public, and Indigenous governments, Committee believes more urgency is needed to affect meaningful change within the NWT's private sector and economic health overall.

Committee recognizes that the NWT economy is resource dependent and the current lifespan of diamond mining in the NWT is finite. And while efforts are underway to extend the life of diamond mines, expand critical mineral resource development, and diversify the economy, Committee also recognizes that none of these initiatives, at this point, will replace the economic value that diamond mining brings to the NWT. Other factors impact this sector of the economy as well:

- Decades high inflation rates are impacting diamond mines operating costs, as well as labour, fuel, electricity, and equipment costs.
- Diavik diamond mine is expected to end production in the first quarter of 2026.^{vi}
- Ekati (Arctic Canadian Diamond Company) may cease conventional mining in 2028.^{vii}
- Gahcho Kue (Mountain Province) has made positive steps in refinancing to reduce debt which "places the company in a position to pursue exciting growth opportunities in the Hearne discovery and Kennady North project".

With mines potentially closing, the GNWT is the largest employer in the territory; public administration is the fastest growing sector. This speaks to the urgency behind Committee's efforts to improve GNWT procurement, and therefore *how* the GNWT spends its money can significantly alter the health of the NWT economy.

Committee held a public hearing with the independent panel to discuss the findings and recommendations. The themes of recommendations from this Panel are listed below:

1. Establish a strategic approach to procurement
2. Increase procurement opportunities and impact
3. Make it easier to do business with the GNWT
4. Create greater capacity to support procurement.

Committee agrees with the recommendations of the panel. Committee also acknowledges that the GNWT has made progress on procurement and that the GNWT has had to respond to a global pandemic in which several new GNWT programs were rolled out. However, Committee felt the GNWT's urgency to re-shape programs to respond to COVID-19 is the same urgency needed today to ensure the economic health of the NWT in the future.

Strategic Procurement

Committee agrees with the independent panel that more planning and communication around government procurement could maximize benefits for northern businesses.

The independent panel recommended that procurement should be treated like a 'program' requiring things like objectives, targets, measurables, etc. By treating procurement as a program, the GNWT would ensure more supports to each stage of the procurement process such as:

- identifying and planning for the contract,
- advertising, communicating and outreach of the contract,
- awarding the contract,
- monitoring the project, and
- evaluating value for money spent.

Improved communications and advance planning

In the NWT, while there are a few highly developed companies and corporations, much of the private sector is still developing. Committee remains concerned that a large portion of GNWT procurement is benefitting southern companies; and that within the NWT the smaller, more remote, or emerging businesses are unable to compete with established businesses.

Stakeholders expressed concern about procurement processes and viewed inclusion in procurement processes as part of reconciliation.

There was concern that businesses miss opportunities by not being aware of what projects are being advanced. For businesses in regional centres and more remote communities, advance notice is necessary to provide time for adequate preparation.

Committee analyzed the distribution of BIP'd businesses, GNWT grants, and contributions, by region and community. It is clear that capital and regional centres are driving business in the NWT.

The NWT economy is weakest in the remote communities.

Committee agreed that to support businesses locally, increased communications is key. But for businesses in regional centres and small communities, this advance notice and communication is essential to allow for fair competition.

Without advance notice and preparation time to secure partners or make business relationships, businesses in small communities will always be significantly disadvantaged.

Committee agreed that the GNWT should be able to increase transparency with the private sector regarding both upcoming capital projects and procurement plans that will be delivered in small communities. Increasing local communications where a project is planned allows for local industry to respond and prepare for the work. For example, the Government of Yukon publishes a public Five-Year Capital Plan to provide a transparent view into the government's priorities. This report reviews how the government has delivered on its commitments, provides project budget updates, and discusses on-going capital projects.^{viii} A model like this could serve the need to keep communities informed.

The Procurement Review Panel noted increased communications as an interim step to implementing an Indigenous Procurement Policy. This matter also relates to the implementation of economic measures under the Land and Resource Self Government Agreements which are discussed further below.

Recommendation 1: The Standing Committee on Economic Development and Environment recommends the GNWT increase transparency for all capital projects and especially provide public Three-Year Capital Plans for projects in small communities and regional centres, so businesses can plan.

Contract Services

Contract Services was a particular focus of Committee. How the GNWT administers contract services can directly impact the development and prosperity of the NWT business sector.

When looking at the value of business to BIP registered companies it varies between 75% to 25% of total GNWT contracts (see *Table 1: Value of GNWT Contracts, by BIP registration status*).

Apart from 2019/20, the value of business with BIP registered companies has been growing. From \$168 million in 2018/19 to \$279 million in 2021/22. The value of contracts

provided to NWT businesses over this time has increased from \$187 million (18/19) to \$334 million (21/22).

In 2019/2020, the GNWT awarded the highest value of contracts to non-NWT businesses valued at \$510 million overall (75%). While non-NWT businesses did receive substantial support in 2019/20, the GNWT procured 93% of contracts through the competitive process in 19/20 (see *Table 2: Value of GNWT Contracts, Competitive vs. Non-Competitive Process*).

Of the competitive contracts issued in 2019/20, \$478 million was provided to non-NWT businesses. Of those non-NWT businesses, contracts of highest value were procured for construction and fuel services (see *Table 3: 2019/20 Highest Value Competitive Contracts to Non-NWT Businesses*).

Members of the 19th Assembly voiced concerns about the value of contract services being administered by the GNWT, and that contract services were being over-used by GNWT staff, while simultaneously the size of the public sector itself was growing. Members negotiated with the GNWT through the budget planning process to reduce contract services across all Departments.

Committee wanted to see changes in the administration of Contract Services to ensure that NWT-based businesses were not losing business opportunities to southern companies.

Origination of Sole Source Contracts

Committee has been particularly focused on the use of sole source contracts in GNWT procurement. The sole source contracting process should occur when only one firm is available and capable of performing a contract, or the urgency of the situation determines that the competitive process cannot be used. An analysis of GNWT Contract Reports revealed that while negotiated contracts resemble sole source contracts, they are fundamentally different (this is discussed in more detail below), and the value of sole source contracts has grown over the life of the assembly while the total value of contracts has decreased overall.

Sole source contracts have risen from \$45 million (19/20) to \$83 million (21/22). However, the value of sole source contracts is still below 2018/19 at \$137 million. Total GNWT contracts have decreased over the same period from \$679 million (19/20) to \$444 million (21/22). Sole source contracts as a percentage of total GNWT contracts grew from 6.7% (19/20) to 18.8% (21/22).^{ix}

The value of competitively obtained contracts peaked in 2019/20 at \$628 million. If you look at the trend from 2018/19 (\$192 million) to 2021/22 (\$291 million) competitive contracts are increasing, while the same period shows a decrease in overall contracts from \$628 million (2019/20) to \$291 million (2021/22). Year to year there does not appear

to be consistency in the percentage of sole source contracts administered by the GNWT overall.

During the same period, the use of sole source contracts increased while the use of competitively obtained contracts decreased. However, setting aside the surge in competitive contracts in 2019/20, the value of competitively obtained contracts still increased over time from \$192 million (2018/19) to \$291 million (2021/22).

Of the \$45 million in sole source contracts the GNWT provided in 2019/20, \$32 million went to non-NWT businesses. Looking specifically at these sole source contracts to non-NWT businesses, the Department of Infrastructure and Finance were the largest administrators at \$15 million and \$10 million respectively. Health and Social Services was the next highest at \$2.5 million. Of these, contracts administered over 1 million were related to: computer software licencing and programming, barge design, legacy building design (see *Table 5: sole source contracts to non-NWT businesses*).

Committee recognizes that sole source contracts are a necessary form of procurement for the GNWT to conduct business, especially as it relates to contracts under \$25,000; however, Committee is concerned about the potential for the GNWT to use this form of procurement over competitive tenders to the detriment of NWT-based businesses.

Policy on Sole Source Limits

The GNWT's financial administration manual and interpretive bulletins explain the process and guidelines to procure goods and services. For goods and services under \$25,000 Departments can go direct to suppliers.

On April 1, 2021, media reports stated that the GNWT reduced the sole source contract limit for general goods and services from \$25,000 to \$10,000 on a short-term basis.^x The reason cited for this change was to prevent people from "gaming the system." However, the current rules allow sole source contracts for goods and services up to \$25,000.

Under the Financial Administration Manual Policy,^{xi} in order for the GNWT to procure a sole source contract over \$25,000 the following criteria would need to be met:

- contract is urgently required, and delay would be injurious
- only one party available and capable of performing the contract
- professional services between 25,000 – 50,000
- architectural or engineering services between 25,000 – 100,000
- only one manufacturer or an Approved NWT Manufactured Product

Committee recognizes the GNWT has had to weather a global pandemic, unprecedented flooding, wildfires, and public health restrictions over the life of the assembly, but Committee notes continued concerns about the rationale for using sole source contracts over \$25,000.

The government has stated publicly the use of sole source contracts is largely related to urgency.^{xii} Committee questions the use of urgency.

Committee also has concerns about the procurement of sole source contracts to non-NWT businesses. When looking at the value of sole source contracts provided to non-NWT businesses it varies between 42% – 80% of total sole source contracts administered by the GNWT between 2018/19 – 2021/22.

Although 80% of sole source contracts were provided to non-NWT business in 2018/19, that year Imperial Oil was provided \$56 million for barge re-supply, which is over half of the total amount of sole source contracts provided to non-NWT businesses. Excluding the Imperial Oil contract for barge re-supply, non-NWT businesses still accounts for 40% of all sole source contracts. Apart from \$110 million administered to non-NWT business in 2018/19, over the life of the 19th assembly contracts to non-NWT business has ranged between \$27 million to \$38 million (see *Table 5: Sole Source Contracts to Non-NWT Businesses*).

The percentage of sole source contracts to non-NWT businesses (42%-80%) is slightly higher than the ratio of non-NWT businesses receiving GNWT contracts overall (25%-75%). Committee is concerned that it may be easier for the GNWT to conduct business with non-NWT companies when administering sole source contracts as opposed to through the competitive process (see *Table 6: Value of GNWT Contracts, by BIP status*).

Committee also notes there is no reporting mechanism to track which criteria are applied to administer a sole source contract over \$25,000.

Recommendation 2: The Standing Committee on Economic Development and Environment recommends the GNWT track and limit sole source contracts by creating a target to ensure:

- no more than 15% of all contracts over \$25,000 are issued as sole source contracts,
- regular public reports on the achievement of this target be provided within six months of the end of each fiscal year,
- and that these public reports outline sole source contracts given to non-NWT businesses as well as the Departments using sole source methods most often.

Change Orders

Committee noted concerns about the use of change orders as a tool for contractors to obtain a bid, and then adjust the value of the total contract throughout the duration of the project.

When looking at the use of change orders over time, one correlation appears to be consistent: as the total value of GNWT contracts increases, the value of change orders also increases (see *Figure 1: Total GNWT Contracts and Change Orders*).

The percentage of the total GNWT contracts adjusted from change orders varied between 9.3% – 14.7% from 2018/19 to 2021/22 (see *Table 4: Sole Source Contract Change Orders*). The use of change orders on GNWT contracts has remained just below the typical percentage applied for contingency planning (15%), and sole source contracts also represent on average 17% of the total change orders.

To ensure the use of change orders does not become a tool to manipulate project overruns and total project costs, Committee suggests placing a limit on the percentage of total change that will be approved on change orders for across all projects.

Such a limit on change orders would be consistent with practices in other jurisdictions. For example, the British Columbia Construction Association (BCCA) agreed to a provision determining contractor markup on change orders by percentage: “to the cost of the work performed by the contractor directly, the contractor may add a maximum of 20% markup for overhead and profit combined” with a provision for a maximum of 10% for subcontractors.^{xiii} For change orders in Alberta, contractors can receive 15% for actual direct costs related to changes in work for overhead costs and profit, and subcontractors are entitled to the same, provided the province and contractors agree to the written change order.^{xiv}

Limiting change orders can help prevent low-bid contracts. Auditing of the GNWT’s change order policy, and Ministerial oversight for change orders greater than \$10,000, will also ensure transparency and public accountability.

Recommendation 3: The Standing Committee on Economic Development and Environment recommends that contractual provisions limit change orders to no more than 15% of the original project cost and that there be a regular review of change orders requiring Ministerial oversight for change orders greater than \$10,000.

Business Incentive Policy

Committee acknowledges the intent behind the Business Incentive Policy and believes it is a tool that should be leveraged to build the NWT economy by increasing business with BIP’d companies.

Committee wants to see the policies of the GNWT result in increased business development and value of business captured by NWT companies.

GTC states the BIP has had limited effectiveness in relation to success and development of Gwich’in businesses.

Aside from the surge in non-NWT business in 2019/20, Table 1 demonstrates over the years BIP registered businesses have grown slightly from 48% in 2018/19 to capture the majority of GNWT contracts at 63% in 2021/22,

As noted earlier, 2019/20 appears to be an odd year where non-NWT business contracts (\$510 million) far exceeded NWT business contracts (\$168 million).

When looking at a longer timeframe, however, the benefits to northern business are decreasing. The Procurement Review Panel notes that although the number of contracts received by BIP businesses averages 65% the value of contracts has been lower in the past five years compared to the previous four years.

“BIP registered businesses have received a fairly consistent share of the overall number of contracts (averaging 65% annually), they have been receiving a decreasing proportion of the total value of contract expenditures (averaging 39% of expenditures over the past five years, compared to 64% during the preceding four years).^{xv}”

Over the life of the 19th Assembly, the value of business done with BIP companies has risen slightly, an analysis of a longer timeframe shows business with BIP companies is down.

Committee is concerned with the application of the policy specifically as it relates to: Grandfathered Companies under the Business Incentive Policy

- International corporations, such as Walmart, that are grandfathered under the policy,

Definition of the Northern Resident/Northern Business

- Committee has heard from residents and businesses about concerns regarding the definition of “northern resident” and “northern businesses.” Committee wants to ensure that in the Business Incentive Policy review the GNWT.

Vendor Performance Management

- The procurement panel identified that increasing vendor compliance with BIP commitments would increase NWT supplier confidence and interest in working with the GNWT.

BIP Evaluations

- While BIP does award points for NWT and Local content, stakeholders felt this was still an area that could be improved, and that the BIP Policy may not fully recognize the higher cost of living, that local services are hard to obtain, as well as the added cost of managing a northern business.

All stakeholders identified the higher costs of doing business in the NWT as a challenge to business development. The purpose of BIP is to address the higher cost of business in the NWT, but Committee heard from stakeholders that the BIP policy is not effective with respect to contracts greater than \$1 million.

The Procurement Review Panel notes that the current caps render BIP meaningless on contracts over \$1 million, and this is something Members heard from their constituents as well. A review of the GNWT's Contract Reports shows that the majority of contracts over \$1 million are awarded to non-NWT businesses. Local businesses should be incentivized to take on contracts over \$1 million so they can compete with non-NWT businesses.

Negotiated Contracts

Committee supports the use of the negotiated contracts policy and believes this procurement tool should support the development and expansion of Indigenous business and corporations.

Under the Negotiated Contracts Policy, *"the GNWT may negotiate contracts outside the competitive contracting process when reasonably be expected to.... contribute to the creation, growth and competitive capacity of the NWT based businesses."*^{xvi} The GNWT makes annual reports available on contracts administered under the Negotiated Contracts Policy (see Appendix, *Table 7: Annual Reporting Negotiated Contracts*).

The annual reports provided under the Negotiated Contracts Policy do not provide enough information to determine whether GNWT contracts are effectively contributing to the creation, growth, and competitive capacity of NWT-based businesses. It is also unclear how the GNWT determines when a negotiated contact should be undertaken.

Committee has concerns about the GNWT being perceived as giving preference to certain contractors. When the GNWT has scheduled projects in small communities, increased engagement with each community may allow the GNWT to tailor negotiated contracts to meet the size and scale of community-based businesses. This may in turn develop the economy and improve business opportunities in regional centres and small communities in the NWT. For example, GTC noted that the Negotiated Contracts Policy needs to be updated as there is currently not enough focus on Aboriginal or Indigenous business.

Committee is concerned that there are no clear requirements or targets for how negotiated contracts will generate local spending or job creation results. The Review Panel for Procurement also notes the need for meaningful performance targets that would address this issue.

The outcomes of negotiated contracts should be more transparent. Every year the GNWT publishes a report that identifies anticipated benefits for each project, but there is no actual reporting on the actual benefits achieved by each project. Without this reporting, it is difficult to see how Negotiated Contracts are contributing to the *"creation, growth and competitive capacity of NWT-based businesses."*

Committee remains concerned that projects have not come in on budget and on time.

Recommendation 4: The Standing Committee on Economic Development and Environment recommends the GNWT improve the public reporting of actual benefits achieved under Negotiated Contracts to better track the impact of this spending, and further recommends that the GNWT's public reports on this spending indicate the local accommodations used and the number of jobs created.

Committee sees an opportunity under Negotiated Contracts to provide wraparound supports for Indigenous businesses across the NWT so they can develop and expand. The GNWT could use the Negotiated Contracts policy as a tool to provide direct contracts to Indigenous businesses, while at the same time supporting the development and growth of these companies through a range of other business support services (such as loans, and business advice).

Committee believes there is great value in applying a similar procurement model as the US Small Business Administration (SBA), (see Appendix, *Case Study: Small Business Administration*).

Under this program qualifying “socially and economically disadvantaged businesses” can become certified under the 8(a) business development program. Once in the program, over the course of nine years, qualifying businesses are eligible for direct contracts from the government. The government not only sets aside contracts for eligible businesses, it targets 5% of all contracts to be placed with socially and economically disadvantaged businesses.

The SBA program over the course of nine years provides wraparound supports to businesses through loan programs, mentorship, advice, and direct contracts, including support to create joint ventures to obtain contracts. The result is that after nine years, these businesses have developed and expanded to a point where they no longer require the 8 (a) business development program to be competitive in the US economy.

The 8(a) Business Development program is intended to support Indigenous Business Development in the United States, particularly in Hawaii and Alaska, although the program uses the term “tribal economies,” noting that “when tribal economies flourish, the surrounding, non-tribal communities prosper as well.”^{xvii}

Other Canadian jurisdictions have developed similar approaches. The Social Procurement Brief for Alberta notes that by increasing participation from disadvantaged businesses owners, public institutions can improve economic and social outcomes for economically marginalized groups.^{xviii}

Recommendation 5: The Standing Committee on Economic Development and Environment recommends that the GNWT review the U.S. Small Business Administration 8(a) program which currently serves Indigenous businesses, such as those owned by the Alaska Native corporations and Native Hawaiian organizations, with the purpose of developing similar programs in the NWT.

Indigenous Business Development

The United Nations Declaration on the Rights of Indigenous People affirms the right to self-determination and for Indigenous people to freely pursue their economic, social, and cultural development. Land and Resource Self-Government Agreements set out provisions to achieve full participation of Indigenous people in the NWT economy with the overarching principle that Indigenous people in the NWT should be self-sufficient.

The economic measures as set out in the Gwich'in,^{xix} Sahtu,^{xx} and Tłı̨cho^{xxi} land claim agreements all provide stipulations around GNWT using preferential contracting policies in settlement areas, with approaches intended to maximize local, regional, and northern business opportunities and employment. When there is activity on settlement land, beneficiaries shall be given first opportunity to negotiate contracts, and the GNWT shall consult with communities when there is opportunity for financial, training, or economic activity within that community. Notifications for preferential contracting policies shall be provided.

Yet despite these provisions, a review of the Indigenous economic measurements in the NWT demonstrates that this vision is not being achieved.

In the NWT, Indigenous people make up over half (50.7%) of the population at 20,860 people, yet income, employment rates, and education levels rank significantly lower than in the non-Indigenous population. According to the Indigenous Peoples 2016 Census, median income for NWT Indigenous people at \$29,747, was considerably lower than the NWT non-Indigenous median of \$71,400. Among the NWT Indigenous population, Metis people had a median income of \$56,502 almost double that of the median Inuit income of \$25,743.^{xxii}

Economic Measures of Land and Resource Self Government Agreements

Committee recognizes that business and economic development is an important tool to improve socio economic indicators across the NWT. When businesses and individuals normally excluded from economy are included, economic prosperity benefits everyone.

GTC suggests updating the Economic Measures MOU with a more tangible document to meet the needs of the Gwich'in and follow the spirit and intent of Chapter 10 in the GCLCA. Committee supports the GNWT to advance work to implement the economic measures.

Indigenous procurement policy

Committee has supported an Indigenous procurement policy that will address the economic gaps in the NWT. The number of Indigenous businesses and the value of the Indigenous economy is not tracked by the Bureau of Statistics. However, the Department of Industry, Tourism, and Investment tracks the number of BIP registered businesses.

Statistics Canada data indicates that Indigenous entrepreneurship is increasing relative to the rest of Canada. Yet, Indigenous people are still less likely than non-Indigenous people to be self-employed.^{xxiii} The same study notes that there are 54,255 Indigenous Canadians who were self-employed at the time of the report, and 375 self-employed Indigenous people in the NWT, and of those self-employed Metis comprised 53.2%, followed by 41.1% First Nation, and 1.8% Inuit.^{xxiv}

Until Indigenous people have equal access to economic opportunities, the full potential of the Indigenous economy will remain unknown.^{xxv}

Levelling the competition for Indigenous Business

There are many ways that Indigenous businesses can be provided a more equitable and fair opportunity to grow their business through government contracts.

Specific suggestions to improve government process were identified in the *BC Indigenous Procurement Initiative, What We Heard Report*. In this report five key themes were identified as necessary to implement an indigenous procurement initiative:

1. Valuing Indigenous culture and knowledge (culturally aware procurement staff)
2. Enhancing procurement processes to be more accessible to Indigenous business and communities (bid requirements, language, scale and scope)
3. Creating space in the procurement process for Indigenous businesses and communities (meaningful Indigenous participation and building effective partnerships and joint ventures)
4. Strengthening relationships, open communication and transparency (Indigenous capacity development, transparency in evaluation process, feedback on unsuccessful proposals)
5. Emphasizing local Indigenous procurement (notification process, consideration of indigenous knowledge, and communication).

The first step is that staff need to be culturally sensitive. Secondly, procurement staff need to design bids so that Indigenous businesses have the capacity to compete on them.

Committee also noted that increasing bid evaluation for majority-owned Indigenous businesses in the NWT, as well as those based in regional centres and small communities.

In addition to the tailoring the design of bids to match Indigenous businesses capacity, it is also identified that advance notice and communication be provided. This is necessary to allow Indigenous businesses the time to strategically organize their business to compete (through partnerships, joint ventures, etc.). This is also a point that stakeholders raised. More notice is required for upcoming construction projects, and better communication.

Stakeholders commented that Indigenous businesses need support to build ownership models to allow Indigenous businesses to invest in energy and infrastructure projects.

While implementing an Indigenous Procurement Policy in the NWT is one tool that will help bridge the economic gaps between Indigenous and non-Indigenous people, the *BC Indigenous Procurement Initiative* notes importantly that there are other barriers to Indigenous Business Development:

Many Indigenous people continue to endure racism along with the lasting impacts of colonialism and the dispossession of traditional territories, and the intergenerational impacts of residential schools and the Sixties Scoop. Discrimination creates barriers for Indigenous businesses and communities that are interested in doing business with government; therefore, different from other procurement approaches, Indigenous procurement requires government staff who are involved in each stage of the procurement process to incorporate a greater understanding of Indigenous culture, protocols, and values throughout.^{xxvi}

Providing a range of other supports in addition to an Indigenous Procurement Policy is required to effectively increased Indigenous business development, especially to reach the small remote communities.

Recommendation 6: The Standing Committee on Economic Development and Environment recommends the GNWT create and implement an Indigenous Procurement Policy that addresses economic gaps in the NWT by giving preference to Indigenous businesses.

CONCLUSION

This concludes the Standing Committee on Economic Development and Environment's Report on Supporting Northern Businesses. Committee would like to thank all presenters who came before Committee, including several appearances by GNWT departments to inform Committee's review.

Appendix

1. Case Study US Small Business Administration 2020-12-01
2. Indigenous Procurement Discussion Paper 2020-12-01
3. Indigenous Procurement Review Table 2020-12-01
4. Presentation from DDC 2020-12-08
5. Northern Business Meeting Notes 2021-11-08
6. ABQ Article Det'on Cho Corporation
7. ABQ Article The need for an Indigenous Procurement Strategy
8. ABQ Det'on Cho Corporation Capacity Building Program
9. ESG Mining Whitepaper Final 2021
10. Financial Dashboard Mock
11. HR Dashboard Annual Year 2020-21
12. Paul Gruner Bio
13. Up Here Business Issue 1 2020 Paul Gruner Guest Column
14. Gwich'in Tribal Council presentation
15. Procurement Review Panel presentation
16. TIC Presentation
17. YK Chamber Presentation to Standing Committee. December 2021
18. YouTube Link for the Public Meeting: Support Northern and Indigenous businesses through policies and regulations:
<https://www.youtube.com/watch?v=7ZCO1rNiUL8&list=PLZiv8lTEMg4ff8N7Oho9E68WgWgRxk-Hj&index=23>

Table 1: Value of GNWT Contracts, by BIP registration status

	2018/19	2019/20	2020/21	2021/22
BIP registered	\$168,799,269	\$145,591,021	\$209,441,000	\$279,607,617
NWT, Non BIP	\$18,661,756	\$23,232,881	\$29,191,000	\$54,388,927
NWT Business Subtotal	\$187,461,025	\$168,823,902	\$238,632,000	\$333,996,544
Non NWT	\$161,378,903	\$510,338,665	\$99,856,000	\$110,502,771
Total	\$348,839,978	\$679,162,567	\$338,488,000	\$444,499,315
% of Non NWT	46.3%	75.1%	29.5%	24.9%

Source: Office of the Clerk, GNWT Contract Reports 18/19, 19/20, 20/21, 21/22

Table 2: Value of GNWT Contracts, Competitive vs. Non-Competitive Process

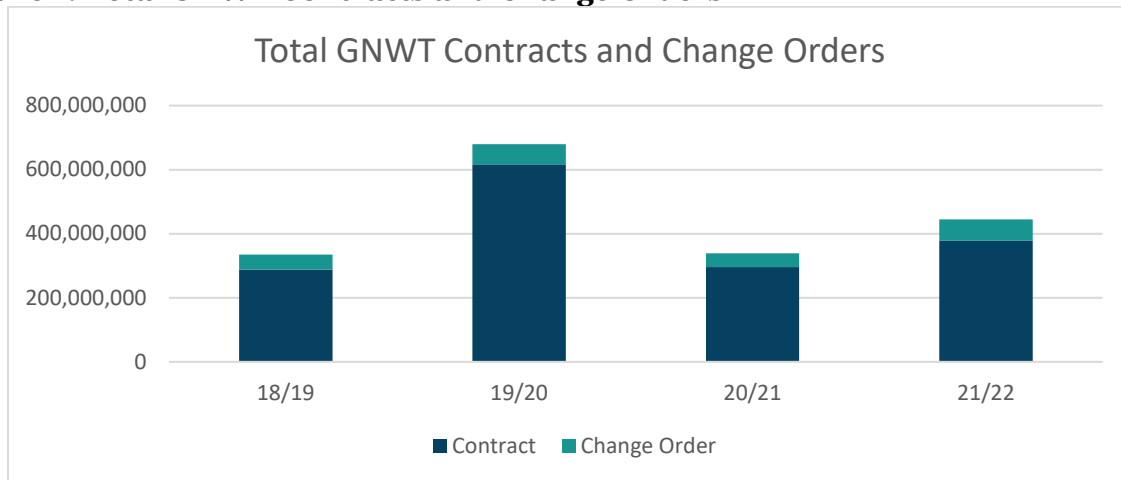
	2018/19	2019/20	2020/21	2021/22
Competitive Process	\$192,400,770	\$628,267,369	\$258,773,956	\$291,509,185
Negotiated Contract	\$19,398,272	\$5,339,577	\$14,788,392	\$69,249,277
Sole Source Contract	\$137,040,887	\$45,555,622	\$64,926,398	\$83,740,853
Total	\$348,839,929	\$679,162,568	\$338,488,746	\$444,499,315

Source: Office of the Clerk, GNWT Contract Reports 18/19, 19/20, 20/21, 21/22

Table 3: Sole Source Contracts

	18/19	19/20	20/21	21/22
Sole Source Contracts	\$137,040,886	\$45,555,621	\$64,926,398	\$83,740,852
Total GNWT Spending	\$348,839,929	\$679,162,568	\$338,488,746	\$444,499,315
% of sole source contracts	39.2%	6.7%	19.1%	18.8%

Source: Office of the Clerk, GNWT Contract Reports 18/19, 19/20, 20/21, 21/22

Figure 1: Total GNWT Contracts and Change Orders

Source: Office of the Clerk, GNWT Contract Reports 18/19, 19/20, 20/21, 21/22

Table 4: Sole Source Contract Change Orders

	18/19	19/20	20/21	21/22
Contract	\$118,548,292	\$36,063,707	\$58,234,909	\$73,256,748
Change Order	\$18,492,594	\$9,491,914	\$6,691,489	\$10,484,104
Total	\$137,040,886	\$45,555,621	\$64,926,398	\$83,740,852
Percentage of Change Order	13.3%	9.3%	12.7%	14.7%

Source: Office of the Clerk, GNWT Contract Reports 18/19, 19/20, 20/21, 21/22

Table 5: Sole Source Contracts to Non-NWT Business

	2018/19	2019/20	2020/21	2021/22
Non-NWT business	\$110,553,33 5	\$32,002,33 4	\$27,095,55 5	\$38,222,01 7
NWT Business - not BIP	\$5,409,805	\$4,917,229	\$11,159,184	\$11,690,589
BIP Registered	\$21,077,748	\$8,636,057	\$27,095,555	\$33,828,246
Total Sole Source contracts	\$137,040,888	\$45,555,620	\$65,350,294	\$83,740,852
% of non NWT business receiving sole source contracts	80.7%	70.2%	41.5%	45.6%

Table 6: Value of GNWT Contracts, by BIP registration status

	2018/19	2019/20	2020/21	2021/22
BIP registered	\$168,799,269	\$145,591,021	\$209,441,000	\$279,607,617
NWT, Non BIP	\$18,661,756	\$23,232,881	\$29,191,000	\$54,388,927
Non NWT	\$161,378,903	\$510,338,665	\$99,856,000	\$110,502,771
Total GNWT Contracts	\$348,839,928	\$679,162,567	\$338,488,000	\$444,499,315
% of contracts to Non NWT	46.3%	75.1%	29.5%	24.9%

Table 7: Negotiated Contracts Annual Report

Year	Contractor	Scope	Negotiated	Specific Anticipated Benefits
18/19	Tli Cho Road Constructors Ltd.	Construction of Tlicho winter road	\$8,400,000	To provide employment, training and business opportunities for residents within the Tłı̄chǝ Region
18/19	EGT Northwind Ltd	O&M Inuvik Tuk Hwy	\$10,000,000	To provide employment, training and business opportunities for residents within the Beaufort Delta Region
18/19	K & D Contracting Ltd.	Demolition of two temporary buildings and landscaping at Aklavik school	\$280,000	To provide employment, training and business opportunities for residents within the Beaufort Delta Region
19/20		Labour and equipment for runway drainage improvements at the Aklavik Airport	\$200,000	<ul style="list-style-type: none"> - Creates employment, training, skills development and economic opportunities for residents in Aklavik - Contributes to building the administrative, managerial and operational capacity and resources of K&D Contracting Ltd.
20/21		Construction and maintenance of the Inuvik to Akalvik Winter Road	\$2,160,000	<ul style="list-style-type: none"> - Maximize employment, training and business opportunities for the residents of Aklavik - Achieve effective and efficient construction by building on the contractor's knowledge and experience with the Mackenzie Delta channels between Inuvik and Aklavik
15/16	LJ's Septic Services & Contracting Ltd.	Maintenance and operation of Fort McPherson airport	\$459,715	To achieve employment, training and business opportunities for residents of Fort McPherson
15/16		Embankment widening	\$2,250,000	To achieve employment, training and business opportunities for residents of Inuvik Region
17/18		Maintenance of Dempster	\$3,678,000	Ensuring the maintenance contract is performed by a local business and the local employment that comes with it. All the identified benefits, including employment, training, and business opportunities, will remain within the GSA. It is possible that a nonlocal business could be successful in a competitive process.

Table 7: Negotiated Contracts Annual Report

Year	Contractor	Scope	Negotiated	Specific Anticipated Benefits
18/19		Haul gravel on Dempster	\$525,000 or \$35/cubic meter	To provide employment, training and business opportunities for residents within the Gwich'in Settlement Area
20/21		Operation and maintenance of Dempster Highway	\$1,567,472	<ul style="list-style-type: none"> - Retain employment, training and business opportunities within the Gwich'in Settlement Area - Ensure the project is performed by a local business and provides local employment
18/19	Delta North Alliance	Demolition of RCMP hangar	\$1,000,000	- To provide employment, training and business opportunities for residents within the Beaufort Delta Region
19/20		Construction of three market duplex buildings (6 units) in the community of Inuvik	\$4,200,000	- Creates employment, training, skills development and economic development opportunities for residents in the Beaufort Delta region
19/20	994481 NWT Ltd.	Construction of a market duplex (2 units) in Fort Smith	\$1,150,000	<ul style="list-style-type: none"> - Creates employment, training, skills and economic development opportunities for residents in Fort Smith - Improves the ability of 994481 NWT Ltd. to participate in the market economy
20/21		Construction of one replacement public housing duplex in Fort Smith	\$1,375,000	<ul style="list-style-type: none"> - Maximize employment, training and business opportunities for the residents of the South Slave Region - Grow regional capacity in housing construction for future projects - Reduce project costs associated with travel and accommodation - Promote regional pride and accomplishment
20/21	13394883 Canada Inc. Consortium: Delta North Alliance, EGT Northwind Ltd.	Enabling works for the Inuvik Airport Runway Extension and Civil Infrastructure Project	\$4,700,000	<ul style="list-style-type: none"> - Retain employment, training and business opportunities within the Beaufort Delta Region - Grow competitive capacity for future infrastructure projects within the region

Table 7: Negotiated Contracts Annual Report

Year	Contractor	Scope	Negotiated	Specific Anticipated Benefits
	and 21 other companies			
21/22		Embankment fill and storm-water drainage for Inuvik Airport Runway Extension and Civil Infrastructure Project	\$40,000,000	- Employment, training and business opportunities - Grow capacity for future projects in region
18/19	Nihtat Energy Ltd.	Provide biomass heating in 6 GNWT buildings	Heating cost 5 years	- To provide employment and business opportunities for residents within the Beaufort Delta Region
18/19	Digga Enterprises Ltd.	Renovations to Deh Gah Got'ie Kue Seniors home in Fort Providence	\$800,000	- To provide employment, training and business opportunities for residents within Fort Providence
		Rehabilitation of Highway 1	\$9,500,000	- Achieve employment, training and business opportunities for Fort Providence and Kakisa - Grow competitive capacity in road construction - ensure benefits associated with project remain in the NWT
16/17	Sambaa K'e Development Corporation	Charles Tetcho School renovation/addition	\$3,000,000	- To achieve employment, training and business opportunities for the residents of Sambaa K'e
17/18		Construction and maintenance of Trout Lake winter road	\$1,000,000	- To achieve employment, training and business opportunities for the residents of Sambaa K'e
19/20		Labour and equipment for runway drainage	\$250,000	- Creates employment, training, skills development, and economic opportunities for residents in Sambaa K'e

Table 7: Negotiated Contracts Annual Report

Year	Contractor	Scope	Negotiated	Specific Anticipated Benefits
		improvements at the Sambaa K'e Airport		- Contributes to building the administrative, managerial, and operational capacity and resources of the Sambaa K'e Development Corporation
16/17	TDIC/HRN Contracting JV	Construction on canyon Creek All season access road	\$18,800,000	To achieve employment, training and business opportunities for residents of Tulita district
21/22	HRN Contracting Ltd.	Construction of first phase of Prohibition Creek Access road, between Canyon Creek and Christina Creek	\$25,500,000	- retain employment, training and business in Norman Wells and Tulita - build capacity in road construction
16/17	PJK Joint Ventures	Complete construction of Fort McPherson seniors complex, 2017 - 2019	\$3,000,000	To achieve employment, training and business opportunities for the residents of Sambaa K'e
16/17	Pehdzeh Ki Contractors Limited	Maintenance for Wrigley airport	\$300,000	Maintenance of Wrigley airport
15/16	Det'on Cho Construction	Aggregate production and stockpiling on Yk Hwy#3	\$450,000	To provide direct economic opportunities and benefits for the Yellowknives Dene First Nations in particular and North Slave Region in general
15/16	Red River Inc. Band Limited	Brushing km 149-154	\$200,000	To achieve employment, training, and business opportunities for residents of the Inuvik Region

Table 7: Negotiated Contracts Annual Report

Year	Contractor	Scope	Negotiated	Specific Anticipated Benefits
15/16	Nappaq Design and Construction Ltd.	New ENR complex and water resource facility Shell Lake (demo and clean-up of warehouse)	\$6,000,000	To maximize local and northern content, increase opportunities for training and business development and increase the capacity of the local construction industry
19/20	Metis-Arcan Design-Build Group (Arctic Canada Construction Ltd. And Hay River Metis Dev Corp)	Woodland Manor Long Term Care Facility: design and construction of addition and minor upgrades	\$6,500,000	Hay River Metis Dev Corp to grow into an established contractor and gain experience in design -build project delivery
21/22	Nogha Enterprises Ltd. and Arctic Canada Construction Ltd. JV	Construction of one public housing duplex in Fort Simpson	\$2,300,000	<ul style="list-style-type: none"> - Maximize employment, training, experience, projects and opportunities for residents and businesses - Build capacity in construction - At least one apprenticeship in construction - Reduce projects costs with travel and accommodation - Promote regional pride - Increase economic self-sufficiency in region
21/22	Norman Wells Claimant Corporation	Construction of two public housing duplexes in Norman Wells	\$3,900,000	<ul style="list-style-type: none"> - maximize employment, training, experience projects and opportunities - build capacity in construction - at least one apprenticeship in construction - reduce projects costs with travel and accommodation - promote regional pride - increase economic self-sufficiency in region
20/21		Construction of two single family	\$2,200,000	<ul style="list-style-type: none"> - Maximize employment, training and business opportunities for the residents of the Sahtú Region - Grow regional capacity in housing construction

Table 7: Negotiated Contracts Annual Report

Year	Contractor	Scope	Negotiated	Specific Anticipated Benefits
		residences in Norman Wells for RCMP		<ul style="list-style-type: none"> - Reduce project costs associated with travel and accommodation - Promote regional pride and accomplishment
21/22	Metcan Building Solutions Inc.	Construction of two public housing duplexes in Hay River	\$3,950,000	<ul style="list-style-type: none"> - maximize employment, training, experience projects and opportunities - build capacity in construction - at least one apprenticeship in construction - reduce projects costs with travel and accommodation - promote regional pride - increase economic self-sufficiency in region
21/22	MYB Construction Ltd	Construction of one market housing four-plex in Tulita (labour only)	\$1,800,000	<ul style="list-style-type: none"> - maximize employment, training, experience projects and opportunities - build capacity in construction - at least one apprenticeship in construction - reduce projects costs with travel and accommodation - promote regional pride - increase economic self-sufficiency in region
21/22	Deninu Kue Development Corporation Ltd.	Construction of one public housing duplex in Fort Resolution	\$1,300,000	<ul style="list-style-type: none"> - Maximize employment, training, experience, profits and opportunities for area residents and businesses - Build capacity in modular building assembly and completion, including through at least one apprenticeship assignment in a construction trade - Reduce project costs associated with travel and accommodations - Promote a sense of community pride and accomplishment - Increase economic self-sufficiency in the region

Table 7: Negotiated Contracts Annual Report

Year	Contractor	Scope	Negotiated	Specific Anticipated Benefits
14/15	Rowe's Construction Ltd.	Reconstruction of highway 6, km 42 to km 62	\$8,000,000	- To achieve local and regional employment, training and business opportunities for Council and Denínu Kúę First Nation
14/15	Rose Construction with Nogha Enterprises and Jean Marie River First Nation	Reconstruction Mackenzie Highway No.1	\$9,800,000	- To maximize benefits by providing for involvement of local northern workforce and equipment, allow significant economic benefits in region, building capacity by involving northern aboriginal owned companies in a partnership capacity.
20/21	Beaver Enterprises Limited Partnership	Rehabilitation of Highway 7	\$14,500,000	- Achieve employment, training and business opportunities for Nahendeh region - grow competitive capacity in road construction within the region - ensure majority of benefits associated with the project remain in the NWT
20/21	Gwich'in Development Corporation	Remediation of two land treatment units at the James Creek Highway Maintenance Camp	\$450,000	- retain employment, training and business opportunities for Gwich'in Settlement Area - ensure project is performed by a local business and provides local employment - grow regional capacity in environmental remediation
20/21	Hamlet of Sachs Harbour	Provide labor and equipment to complete runway drainage improvements at the Sachs Harbor Airport	\$400,00	- maximize employment, training and business opportunities for Sachs Harbour - grow administrative, managerial and operational capacity of hamlet of Sachs Harbor

Table 7: Negotiated Contracts Annual Report

Year	Contractor	Scope	Negotiated	Specific Anticipated Benefits
20/21	Doi T'oh Territorial Park Corporation	Construction of two emergency shelters on the CANOL heritage Trail	\$275,000	- develop the contractors' capacity and skills to develop, operate and manage a territorial park
19/20	Charter Community of Deline	Operations and maintenance of Deline Airport	\$870,000	To achieve local and regional employment, training and business opportunities for Council
19/20	K'asho Got'ine Dene Council	Operations and maintenance of Fort Good Hope	\$820,000	To achieve local and regional employment, training and business opportunities for Council
19/20	Incorporate Hamlet of Tulita	Operations and maintenance of Tulita	\$825,000	To achieve local and regional employment, training and business opportunities for Council
19/20	Red River Inc. Band Ltd.	Brushing along Dempster	\$200,000	To achieve employment training and business opportunities for the residents and Inuvik region
19/20	Nihtat Services Ltd	Dempster Highway maintenance, litter control, signage and brushing	\$450,000	To achieve employment training and business opportunities for the residents and Inuvik region
19/20	Rat River Development Corporation Ltd.	Dempster Highway provision of labor for surveying, flag person, equipment servicing and repairs	\$220,000	To achieve employment training and business opportunities for the residents and Inuvik region

Table 7: Negotiated Contracts Annual Report

Year	Contractor	Scope	Negotiated	Specific Anticipated Benefits
19/20	Dinjii Zhuh Trucking	Dempster Highway Reconstruction and Maintenance works	\$2,250,000	To achieve employment, training and business opportunities for residents of Inuvik region

Source: Office of the Clerk Analysis, Negotiated Contracts Annual Report, 14/15, 15/16, 17/18, 18/19, 20/21, 21/22

Case Study: Small Business Administration 8(a) business development program

The US Small Business Administration (SBA) is an independent agency of the United States federal government to aid, counsel, assist, and protect the interests of small business concerns: to preserve free competitive enterprise; and to maintain and strengthen the overall economy of the United States.

Congress empowered the SBA to grant government contracts to qualifying small business entities. Part 124 of the Small Business Act defines socially and economically disadvantaged small business concern.

Part 124 8(a) of the Small Business Act describes the model of business development of small and disadvantaged businesses. The purpose of the 8(a) business development program is *“to assist eligible small disadvantaged business concerns compete in the American economy through business development.”*^{xxvii}

This support is provided through various forms of capital assistance, support to obtain government contracts, and business counselling. Under the program, businesses once certified, receive a term of nine years. Through the nine-year tenure businesses must demonstrate progress to not rely on the 8(a) program.

The 8(a) business development program provides support to access federal contracts; specifically 8(a) business are eligible for direct contracts. The regulations state that at least 50% of the work must be performed by 8(a) businesses themselves. There must be documentation that shows how much subcontractors add in value to the project.

The US Small Business Administration 8(a) program not only sets aside’s government contracts for eligible businesses; it has a target for doing 5% of all business with socially and economically disadvantaged businesses (of which indigenous businesses are essentially streamlined through eligibility). The SBA 8(a) program works closely with those businesses over nine years to build capacity through loan programs, mentorship, advice, and direct support to bid on government contracts including the establishment of joint ventures to be competitive.

While the Small Business Agency is best known for its financial support of small business, 8(a) businesses are also eligible for management or technical expertise. The Agency provides counselling and training to promote growth, expansion, innovation and increased productivity and management improvement.

The most recent report, [U.S. SBA 2017 Summary of Performance and Financial Information](#), from 2009 – 2017 the SBA demonstrated positive growth in all performance indicators such as:

- Dollar of small business loans approved from 13.1B to 30.5B
- Jobs supported through SBA capital program from \$514 000 to \$675,200
- Federal contract dollars awarded to small business \$96.8B to \$99.9B

END NOTES

ⁱ NWT Legislative Assembly, YouTube channel,

<https://www.youtube.com/playlist?list=PLZiv8ITEMg4ff8N7Oho9E68WqWgRxk-Hj>

ⁱⁱ NWT Bureau of Statistics, Gross Domestic Product by Industry, NWT, 1999 to 2021

ⁱⁱⁱ Bureau of Statistics, Newstats, Gross Domestic Product, November 8, 2022

^{iv} Report of the Procurement Review Panel, Review of the Government of the Northwest Territories Procurement Policies, June 30, 2021, https://www.ntassembly.ca/sites/assembly/files/td_473-192.pdf

^v GNWT, Procurement Review, Operational Workplan, September 2022,

https://www.fin.gov.nt.ca/sites/fin/files/resources/procurement_review_work_plan_september_2022_0.pdf

^{vi} For an updated timeline see, “Rio extends mine life at Diavik” <https://m.miningweekly.com/article/rio-extends-mine-life-at-diavik-2023-02-24#:~:text=Based%20on%20the%20updated%20mine,in%202025%2C%20as%20previously%20indicated>

^{vii} <https://arcticcanadian.ca/ekatimine/#:~:text=Mining%20operations%20at%20Pigeon%20pit,Point%20Lake%2C%20runs%20to%202028>

^{viii}

<https://yukon.ca/sites/yukon.ca/files/fin/fin-2022-23-five-year-capital-plan.pdf>

^{viii} See the Yukon’s “2022–23 Five-Year Capital Plan,” <https://yukon.ca/sites/yukon.ca/files/fin/fin-2022-23-five-year-capital-plan.pdf>

^{ix} see Table 3: Sole Source Contracts.

^x NNSL Media, [New GNWT policy lowers tender threshold to \\$10,000](#), March 23, 2021

^{xi} GNWT, Financial Administration Manual Policy, Interpretation Bulletin, Sole Source Authorization Form for Procurement of \$25,000 or Greater, https://www.fin.gov.nt.ca/sites/fin/files/fin_ib_705_03_-_solesource_authorization_form_for_over_25000.pdf

^{xii} CBC News, [“Urgency cited as main reason for sole source contracting by NWT government”](#), August 26, 2021

^{xiii} According to the records of the British Columbia Documents Committee (BCDC), BCCA agreed to the “GC 6.2 Change Order” clause in BCDC 2, 2013 on the following as a Supplementary Condition to CCDC 2, 2008, <https://bccasn.xpr.cloud/resources/construction-files/construction-file--fair-markups-on-changes-to-the-work>

^{xiv} Paragraphs 25 and 26 in the Alberta “General conditions of Contract” set out the details for “Changes in the Work” and “Valuation of Changes,” which was updated on October 31, 2022, https://www.alberta.ca/assets/documents/tr/tr-00_72_14SP.pdf.

^{xv} Report of the Procurement Review Panel, Review of the Government of the Northwest Territories Procurement Policies, June 30, 2021, p. iv

^{xvi} GNWT, 11.26 Negotiated Contracts Policy, <https://www.eia.gov.nt.ca/sites/eia/files/content/11.26-negotiated-contracts-policy.pdf>

^{xvii} American Indian Law Review, America Cinches Its Purse Strings on Government Contracts: Navigating Section 8(a) of the Small Business Act through a Recession Economy, Jones, N., Vol.33, No.2, pp. 491-523, 2008/2009

^{xviii} Social Procurement Brief for Alberta, June 2019

^{xix} 10.1 Gwich’in Comprehensive Land Claim Agreement

^{xx} 12.2 Sahtu Dene Metis Comprehensive Land Claim Agreement

^{xxi} 26.3 Tłı̨cho Agreement

^{xxii} NWT Bureau of Statistics, Indigenous Peoples 2016 Census

^{xxiii} Conference Board of Canada, Indigenous Entrepreneurship in Northern and Remote Canada, June 15, 2020

^{xxiv} Conference Board of Canada, 2020

^{xxv} Canadian Council for Aboriginal Business, Digital Differences, The impact of automation on the Indigenous economy in Canada, July 2020

^{xxvi} BC Indigenous Procurement Initiative, What We Heard Report

^{xxvii} [https://www.ecfr.gov/current/title-13/chapter-I/part-124#:~:text=The%20purpose%20of%20the%208\(a\)%20BD%20program%20is%20to%20assist%20eligible%20small%20disadvantaged%20business%20concerns%20compete%20in%20the%20American%20economy%20through%20business%20development.](https://www.ecfr.gov/current/title-13/chapter-I/part-124#:~:text=The%20purpose%20of%20the%208(a)%20BD%20program%20is%20to%20assist%20eligible%20small%20disadvantaged%20business%20concerns%20compete%20in%20the%20American%20economy%20through%20business%20development.)