



Oinpegitjoig L'Noeigati
Pabineau First Nation

Tendering Policy
Capital Projects

Our Vision

Taking a holistic approach to community development that is focused on the mental, physical, and spiritual well-being of our members and their families, will assist us in building social and economic strength and stability throughout the Pabineau First Nation community.

Ta'n telita'suatmu'g ms't goqwei ugjit unjig telilta'mg ula gm'tginaq na gigjo'tmug angita'suaqanei, mtinninei aq ugijjaqamijuwei ta'n teltajigo'lti'tij ms't gigmenaq, apoqnmugsitesnu ta'n telitu'g mawo'ltingewei aq iganto'sultingewei aq mlgigno'ti ugjit ula gm'tginu.



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1.0 Application

Contracting or tendering will be carried out by the Chief and Council to ensure that the Pabineau First Nation will obtain the maximum benefit for monies spent. First Nation and non-First Nation Companies and individuals bidding will be encouraged to bid on tendered band projects. First Nation-based companies and companies willing to include a First Nation employment component to their bids will be given preferential consideration provided the bid is competitive.

A minimum of two tenders will be required for contracts expected to exceed \$10,000.00. For projects, products, and services in excess of \$10,000.00, the Council may require a tender security deposit of 10% of the total tender value from those bidding.

For those contracts under \$10,000.00, the Chief and Council may negotiate a contract with a company or individual.

2.0 Definitions

2.1 Tenders

Prices, bids, quotations, or proposals lodged in response to an invitation or request.

2.2 Tenderers

Parties submitting tenders.

2.3 Open Tendering

The process whereby tenders for contracts will be invited by public advertisement.

2.4 Selective Tendering

The process whereby only certain parties are invited to tender by:

- a. Tenders are invited following a public advertisement calling for expressions of interest, or
- b. Recognized contractors prequalified by Council are invited to tender for particular kinds of proposed contracts.
- c.

2.5 Contract

Agreement for the supply of goods or performance of services.

2.6 Contractor

The successful tenderer who has entered into a legal contract with Chief and Council for the supply of goods or performance of services.

2.7 Contact Staff Member

The person nominated by the Chief and Council for purposes identified in a tender advertisement.

3.0 General Conditions of Tendering

The general conditions of tendering should meet at least the following conditions:

- a. Parties must conduct the tendering process with professional integrity at all times.
- b. Parties must conform to all legal obligations.
- c. Parties must not seek or submit tenders without a firm intention to proceed.
- d. Parties must not engage in any practice, including an inappropriate inducement which gives one party an advantage over another.
- e. Tenderers must be prepared to attest to their probity, and not engage in any form of collusive practice.
- f. Conditions of tendering must be the same for each tenderer on any particular tender.
- g. All requirements must be clearly specified in the tender documents and criteria for evaluation must be clearly indicated.
- h. Evaluation of tenders must be based on the conditions of tendering and selection defined in the tender documents.
- i. Parties must not disclose confidential or proprietary information.
- j. Any party with a conflict of interest must declare that interest as soon as the conflict becomes apparent and immediately withdraw from the tender process.
- k. An invitation to tender or a public tender call for projects, products, and services will include all or some of the following documents, depending on the services being tendered:
 - i. Tender instructions,

- ii. Tender and contract form,
 - iii. General conditions,
 - iv. Labor conditions,
 - v. Terms of payment,
 - vi. Insurance schedule,
 - vii. Contract security conditions,
 - viii. Contractor's qualification statement, and
 - ix. Statement of work plans and specifications.
- I. An invitation to submit proposals for professional services will include all or some of the following documents , depending on the services being tendered:
- i. A letter of invitation,
 - ii. a statement of work requirements,
 - iii. Proposal evaluation criteria,
 - iv. Articles of agreement,
 - v. General conditions, and
 - vi. Terms of payment.

4.0 Preparation of Tenders

- a. The tender documents relating to a proposed contract must:
- 1. Give details of the work to be carried out, the goods or facilities to be provided, the services to be performed and, if the proposed contract is an installment contract:
 - i. Give details of the installments to be paid by or to the Council,
 - ii. Specify the period over which the installments are to be paid,
 - iii. Specify the intervals between payments of the installments.
 - 2. Specify the criteria on which the assessment of tenders will be based.
 - 3. Specify the name of the person to whom requests for information concerning the proposed contract may be addressed and how the person can be contacted.
 - 4. Specify that the Chief and Council expects all tenderers and contractors to conduct their business in an ethical manner.
- b. The officer compiling the technical specifications of the tender document is required to ensure that the Project Manager and Finance Office are aware of all aspects of the tender in order to ensure that the relevant clauses for insurance purposes are inserted in the "Conditions of Contract" portion of the tender documents and to protect the Chief and Council from any possible litigation.

5.0 Calling Tenders

The officer preparing the tender will seek direction from the Chief and Council as to whether the tenders are to be invited by way of open tendering or selective tendering.

5.1 Open Tendering

- a. Invitations to tender are to be extended by way of advertisement in any major newspaper circulating in an area considered as likely to attract potential tenderers.
- b. The advertisement must express the purpose of the proposed contract, detail availability of tender documents, and the costs of obtaining the same and advise of the closing date for submission of tenders.
- c. The tender documents must incorporate the following:
 - i. Details of work to be carried out, goods and services to be provided, services to be performed, property to be disposed of,
 - ii. In the case of installment contracts – the details of the installments, intervals of payment and period of the contract,
 - iii. Criteria for assessment of tenders,
 - iv. Details of Chief and Council contact person(s) for enquiries.

5.2 Selective Tendering – Expressions of Interest

- a. Persons/Companies interested in tendering for the proposed contract will be invited by way of advertisement to submit expressions of interest.
- b. Invitations to tender are to be extended by way of advertisement in any major newspaper circulating an area considered as likely to attract potential tenderers.
- c. The advertisement must include a brief description of the work, goods, facilities, services, or property concerned, details of the Chief and Council contact person for enquires, and the closing date.
- d. Assessment of the applications must take into account the experience of the applicants in fulfilling the requirements of, and their capacity to undertake, similar contracts.
- e. All applications received in response must be submitted to the Chief and Council by registered mail and referred to the appropriate officer for assessment.

5.3 Selective Tendering – Prequalified Contractors

- a. Persons/Companies interested in tendering for the proposed contract will be invited by way of advertisement to submit applications so that Council may prepare a list of suitable tenderers.
- b. Invitations to tender are to be extended by way of advertisement in any major newspaper circulating an area considered as likely to attract potential tenderers.
- c. The advertisement must include a brief description of the work, goods, facilities, services or property concerned, details of the Chief and Council's contact person for enquires and the closing date.
- d. Assessment of the applications must take into account the experience of the applicants in fulfilling the requirements of, and their capacity to undertake, similar contracts.

- e. All applications received in response must be submitted to the Chief and Council by registered mail and referred to the appropriate officer for assessment.
- f. After applications have been considered, the assigned officer will recommend to the Chief and Council one of the following courses of action:
 - i. List the applicant as a recognized contractor for some or all of the kinds of work, goods, facilities, services, or property specified in the application, or
 - ii. Reject the application in whole or part.
- g. In seeking tenders for a particular proposed contract, the Chief and Council may invite some or all of the recognized contractors that they have listed as “pre-qualified” to tender for that contract and may do so on the basis of;
 - i. Their ability to fulfill the requirements of the proposed contract, and
 - ii. The number of occasions on which each contractor has previously been invited to tender for similar proposed contracts.
- h. In inviting tenders for a proposed contract from recognized contractors listed by the Chief and Council as “pre-qualified,” the Chief and Council must:
 - i. Invite them to submit tenders by the deadline specified in the invitations, and
 - ii. Give details of where and when tender documents relating to the proposed contract can be obtained and the purchase price of those documents.
- i. A company/person recognized by the Chief and Council as a pre-qualified contractor ceases to be recognized as such if the company/person informs the Council in writing that the company/person no longer wishes to be listed as a pre-qualified contractor for the purposes of this clause.

6.0 Other Issues

6.1 Alteration to Tender Period

- a. In circumstances deemed by the Chief and Council to be exceptional, advertisements in relation to tenders may specify a closing date being not less than seven days after the date that the advertisement is first published or invitations to tender are prepared in accordance with Clauses 5.1 (a) and 5.2 (b) of this policy.
- b. If the originally advertised closing date of the tender does not sufficiently permit meaningful tenders to be submitted, the closing date may be extended and all reasonable steps shall be taken to inform companies/persons who have acquired contract documents of the extended closing date.

6.2 Alteration to Tender Conditions

In circumstances deemed by the Chief and Council to be exceptional, tender documents may be amended after they have been issued to companies/persons. In such a situation all reasonable steps must be taken to inform those persons of the amendments.

6.3 Council May Submit Tenders

Members of Council may themselves submit a tender for works and services so advertised which are within their capacity, however, all efforts must be made to ensure that the Pabineau First Nation's Conflict of Interest Policy is respected.

7.0 Submission of Tenders

- a. Tenders must be submitted in writing and be enclosed in a sealed envelope, unless submitted by facsimile or electronic transmission, in which case the person receiving the tender must immediately place it within an envelope, seal the envelope, and record across the seal of the envelope their signature and the date and time of receipt.
- b. All tenders shall be placed in the tender box provided for that purpose in a safe and secure location designated by the Chief and Council.
- c. Once a tender has closed, all bids shall be sealed in an envelope in the same manner. The sealed envelope shall then be delivered to an assigned individual, who will submit and review the same with the Chief and Council. The Chief and Council will determine whether or not the tender is eligible for consideration.
- d. Tenders received after the closing date may be considered only if the tenderer proves to the satisfaction of the Chief and Council that the tender was dispatched, in accordance with tender document requirements, in time to ensure that delivery could have been made by the deadline.

8.0 Closing of Tenders

- a. Tenders will close at end of the business day of date posted in the advertisement.
- b. Tenders received after the deadline has expired will be dealt with in accordance with Clause 7 (d) of this policy.

9.0 Assessment of Tenders

- a. After the closing date of the tender, the assigned officer and another individual independent of the tendering process will remove the tenders from the tender box. Each page of each tender received will be stamped and initialed by each of the participants in the opening process. (Bidders may request to be present and will be welcome to be at time of opening)

- b. The assigned officer will prepare a confidential summary of the names of the tenderers. A copy of all tenders, stamped and initialed, together with the tender list, will be provided to the Chief and Council.
- c. No members of the Chief and Council with a personal interest in the tender will sit on the evaluation committee or vote on the motion to award the contract.
- d. The assigned officer and the independent individual assisting will announce the following to those present for the opening of the tender box:
 - i. The official name of the project,
 - ii. That all tenders/proposals received are subject to technical and administrative review, prior to the contract being awarded,
 - iii. That no questions concerning tenders/proposal will be answered at the opening. As tenders/proposals are opened, one at a time, the assigned officer will announce only the following:
 - The name and address of the bidder,
 - The amount of each bid, including the total amount of any amendments, and revised total tender/proposal amount.
- e. All matters pertaining to the tenders received, excluding those covered in Clause 9 (d), will remain confidential until the tender has been awarded by resolution of the Chief and Council.

10.0 Acceptance of Tenders

- a. The lowest or any tender will not necessarily be accepted.
- b. For construction projects valued at \$10,000.00 or more, the Council will require that the successful bidder submit proof of fire, liability, worker's compensation registration, and vehicle insurance within 14 days of being awarded the contract.
- c. For projects, products and services in excess of \$10,000.00, the Council will expect the successful bidder to provide the proper contract security within 14 days of being awarded the contract. This is to ensure performance by the contractor and payments to sub-contractors and suppliers.
- d. As soon as practical, after the opening of tenders, the assigned officer will prepare a confidential summary of the tenders received which incorporates the amounts tendered and includes that information in a confidential report assessing the tenders received for consideration of the Council. This confidential summary will be made available to the Chief and Council for review at the next scheduled Chief and Council meeting.
- e. After considering the tenders submitted, the Chief and Council may either accept the tender that appears to be the most advantageous to the Pabineau First Nation or decline to accept any of the tenders.
- f. If the Chief and Council declines to accept any of the tenders, or receives no tenders for a proposed contract, it must, by resolution:

- i. postpone or cancel the proposed tender,
 - ii. invite fresh tenders based upon the same or different requirements,
 - iii. enter into negotiations with any company or person with a view to entering in to a contract, whether that person was a tenderer or not, or
 - iv. pursue other avenues to carry out the requirements of the contract.
- g. A decision of the Chief and Council not to accept a tender and to pursue other avenues to provide the goods, materials, services, facilities, or works itself, must be made at a duly convened Chief and Council meeting and those reasons must be included in the formal minutes of that meeting.

11.0 Notification to Tenders

- a. After a decision is made at a Chief and Council meeting to award a tender, on the next working day, the officer overseeing the tender, will advise the successful tenderer by telephone of Chief and Council's decision.
- b. As soon as practical, after entering into a formal contract arrangement with the successful tenderer, or deciding not to accept any of the tenders for a proposed contract, the unsuccessful tenderers will be notified of Council's decision.

12.0 Administration of Contracts

- a. The assigned officer overseeing the contract will be responsible for referring all payment claims to the finance office for approval by the Chief Financial Officer.
- b. Progress or final payments are not to be authorized unless the Tenderer provides periodic evidence of compliance with this Policy and provides access to all relevant information to demonstrate compliance for the duration of the contract that may be awarded.
- c. If any Tenderer has failed to comply with this Policy, their failure will be taken into account by the Chief and Council when considering this or any subsequent tender, without prejudice to any other rights of action or remedies available to the Chief and Council for the non-compliance.
- d. If the Administration encounters difficulty due to the capacity required to prepare documents, invite proposals or tenders, award a contract, or to carry out the administrative and management duties specified within the contract, the Council may hire a specialist, such as a consultant or an engineer, to provide this service for the Pabineau First Nation.
- e. The Chief, Council, and Finance office will keep complete records of contracts, such as correspondence, invoices, receipts, vouchers, change orders, minutes, faxes, e-mails,

warranties, shop drawings, addendum, etc...for at least two years following the completion date of the contract or time required by law, whichever comes first.

13.0 Confidentiality

The Chief and Council must follow, at all times, the terms and conditions of the Pabineau First Nation's "Confidentiality Policy" and "Code of Conduct Policy."

14.0 Review

This Policy shall be reviewed periodically to ensure that it meets the needs of the Chief, Council, and Pabineau First Nation community.

The Chief and Council may seek advice and legal support to amend this policy, as may be required from time to time. In addition to these supports, the following publications (available from the DIAND regional/district offices upon request), may also assist the First Nation in additional adjustments to this Policy.

- a. BCP – CN1 – Construction Contracting Guidelines for Band Councils
- b. BCP – CN1 - Contracting for Professional Services
- c. BCP – CN3 – Contracting for Non-Professional Services

15.0 Amendments and Repeal

- a. The Chief and Council may amend or repeal its previous decisions if they are later found to contravene this tendering policy.
- b. Any amendments or repeals of this policy will be executed by vote of a majority of the Chief and Council and recorded in the formal Chief and Council minutes.