

## Chapter 13

### NUNAVUMMI NANGMINIQAQTUNIK IKAJUUTI IMPLEMENTATION ACT

(Assented to March 14, 2017)

The Commissioner of Nunavut, by and with the advice and consent of the Legislative Assembly, enacts as follows:

#### Definitions

1. (1) In this Act,

"Inuit firm" has the same definition as in Article 24 of the Nunavut Land Claims Agreement; (*entreprise inuit*)

"Inuit labour" means labour performed by a person enrolled under Article 35 of the Nunavut Land Claims Agreement; (*main-d'œuvre inuit*)

"Nunavummi Nangminiqagtunik Ikajuuti" means the set of rules provided for in the regulations for preferential treatment in public procurement of Inuit firms, Nunavut businesses and contractors employing Inuit, local or Nunavut labour; (*Nunavummi Nangminiqagtunik Ikajuuti*)

"Review Committee" means the Nunavummi Nangminiqagtunik Ikajuuti Review Committee established under section 4; (*comité de révision*)

"Tribunal" means the Nunavummi Nangminiqagtunik Ikajuuti Tribunal established under section 2. (*Tribunal*)

#### Paramountcy

(2) Despite the *Financial Administration Act*, if there is a conflict between this Act or the regulations and the following, this Act and the regulations prevail to the extent of the conflict:

- (a) directives issued under the *Financial Administration Act*; and
- (b) regulations made under paragraph 107(1)(f) of the *Financial Administration Act*, including, for greater certainty, the *Government Contract Regulations*.

#### Application

(3) This Act and the regulations apply to all the entities and contracts to which the Nunavummi Nangminiqagtunik Ikajuuti applies.

### Tribunal

**2.** (1) The Nunavummi Nangminiaqtunik Ikajuuti Tribunal referred to in the Nunavummi Nangminiaqtunik Ikajuuti is established.

### Composition

- (2) The Minister shall, in accordance with the Nunavummi Nangminiaqtunik Ikajuuti,
- (a) appoint the members of the Tribunal; and
  - (b) designate a chairperson and vice-chairperson of the Tribunal from among its members.

### Panels

(3) The Tribunal may act in panels in accordance with the Nunavummi Nangminiaqtunik Ikajuuti.

### Conduct

- (4) The members of the Tribunal, including the chairperson and vice-chairperson shall conduct themselves in accordance with
- (a) the Nunavummi Nangminiaqtunik Ikajuuti, and
  - (b) the *Conflict of Interest Act*.

### Immunity from liability of Tribunal members

(5) No action lies against members of the Tribunal, former members of the Tribunal or any other person who is or was employed in or engaged by the Tribunal for anything done or not done in good faith under this Act.

### Jurisdiction of NNI Tribunal

**3.** (1) The Tribunal has jurisdiction over matters related to the Nunavummi Nangminiaqtunik Ikajuuti in accordance with the Nunavummi Nangminiaqtunik Ikajuuti.

### Binding nature of recommendation

(2) The recommendations of the Tribunal made in accordance with the Nunavummi Nangminiaqtunik Ikajuuti are binding, subject to any limitations or exceptions referred to in the Nunavummi Nangminiaqtunik Ikajuuti.

### Costs

(3) The Tribunal may award costs in accordance with the Nunavummi Nangminiaqtunik Ikajuuti.

#### Review Committee

**4.** (1) The Nunavummi Nangminiaqtunik Ikajuuti Review Committee referred to in the Nunavummi Nangminiaqtunik Ikajuuti is established.

#### Composition

(2) The Review Committee is composed of members appointed in accordance with the Nunavummi Nangminiaqtunik Ikajuuti.

#### Minister appoints Government of Nunavut members

(3) The Minister shall appoint the members of the Review Committee representing the Government of Nunavut.

#### Confidentiality

(4) The members of the Review Committee shall, in accordance with the Nunavummi Nangminiaqtunik Ikajuuti, maintain the confidentiality of information disclosed to the Review Committee.

#### Regulations

**5.** (1) The Commissioner in Executive Council, on the recommendation of the Financial Management Board established by the *Financial Administration Act*, and following consultations under section 24.3.4 of the Nunavut Land Claims Agreement, may make regulations

- (a) providing for the Nunavummi Nangminiaqtunik Ikajuuti in accordance with subsection (2); and
- (b) providing for transitional measures related to changes to the Nunavummi Nangminiaqtunik Ikajuuti.

#### Nunavummi Nangminiaqtunik Ikajuuti

(2) The Nunavummi Nangminiaqtunik Ikajuuti is a set of rules for preferential treatment in public procurement of Inuit firms, Nunavut businesses and contractors employing Inuit, local or Nunavut labour, which may, without restricting the generality of the foregoing, include rules

- (a) respecting bid adjustments and bonuses;
- (b) providing for the entities and contracts to which it applies;
- (c) establishing classes of Inuit firms and Nunavut businesses;
- (d) providing for different preferential treatment, including different bid adjustments and bonuses, for
  - (i) different classes of Inuit firms and Nunavut businesses, and
  - (ii) different contractors based on the level of Inuit, local and Nunavut labour employed by the contractor;

- (e) requiring Inuit firms, Nunavut businesses and contractors to be registered and to comply with other legal requirements to be eligible for preferential treatment;
- (f) further defining the term "Inuit labour";
- (g) defining terms used in this Act that are not otherwise defined;
- (h) respecting the evaluation of bids;
- (i) respecting monitoring, enforcement and dispute resolution;
- (j) respecting the Tribunal, including
  - (i) its jurisdiction,
  - (ii) the appointment of its members,
  - (iii) the powers and duties of its members, including of its chairperson and vice-chairperson,
  - (iv) the conduct of its members,
  - (v) its procedure,
  - (vi) quorum,
  - (vii) the retention of experts,
  - (viii) its costs,
  - (ix) administrative support, and
  - (x) any other matters under sections 2 and 3 that are to be done in accordance with or are subject to the Nunavummi Nangminiaqtunik Ikajuuti;
- (k) respecting the Review Committee, including
  - (i) its mandate,
  - (ii) the appointment of its members,
  - (iii) the powers and duties of its members,
  - (iv) its costs, and
  - (v) administrative support; and
- (l) respecting consultations with the Designated Inuit Organization as defined in the Nunavut Land Claims Agreement.

#### Publication in Gazette

(3) Where the regulations made under paragraph (1)(a) incorporate all or part of the Nunavummi Nangminiaqtunik Ikajuuti by reference to another document or instrument,

- (a) a notice shall be published in the *Nunavut Gazette* indicating how a copy of the other document or instrument may be obtained;
- (b) publication of the notice referred to in paragraph (a) is sufficient publication of the other document or instrument for the purposes of section 9 of the *Statutory Instruments Act*; and
- (c) the other document or instrument shall be judicially noticed.

### Consequential amendments

**6. Section 107 of the *Financial Administration Act* is amended by**

- (a) renumbering it as subsection 107(1); and**
- (b) adding the following after subsection (1):**

*Nunavummi Nangminiaqtunik Ikajuuti Implementation Act*

(2) Regulations made under paragraph (1)(f) must include provisions, if any, that are necessary to give effect to the requirements under the *Nunavummi Nangminiaqtunik Ikajuuti Implementation Act* in procurement processes, contracts, agreements or undertakings to which those regulations apply, except to the extent that, under that Act, those requirements are subject to regulations made under paragraph (1)(f).

### Transitional

**7. The following regulations may come into force retroactively to April 1, 2017:**

- (a) initial regulations made under section 5;**
- (b) initial amendments to regulations made under paragraph 107(1)(f) of the *Financial Administration Act* after the coming into force of this Act.**

### Coming into force

**8. This Act comes into force on April 1, 2017.**