

Terms & Conditions / Definitions

Book 9



Procurement in Indigenous Communities



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About these books

The Procurement Books are a series of books to offer guidance to Indigenous communities who want to get better value for their money when they purchase goods and services. The books outline the general procurement principles, procedures and practices for those Indigenous communities interested to establish a procurement process. The books are designed to address many of the procurement challenges associated with Indigenous communities.

The goal of these books are to help Indigenous communities to purchase goods and services including the construction of homes are acquired by the Communities through a process that is fair, open, transparent (gifting) , non-discriminatory, geographically neutral and accessible to qualified suppliers, subject only to established procurement policies.

The Procurement Books include:

1. Introduction to Procurement in Indigenous Communities
2. Construction & Procurement in Indigenous Communities
3. Roles and Responsibilities, Construction Documents & Construction Contracts
4. Pre- Contract Phase – Preparing the Bid
5. Contracting Phase
6. Contract Administration Phase
7. Post-Contract Phase
8. Guides & Resources
9. Terms & Conditions/Definitions

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Disclaimer

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purposes only and do not constitute legal or professional advice on any subject matter. FNNBOA does not accept any liability for actions arising from its use and cannot be held responsible for the contents of any pages referenced by an external link. Given the nature of procurement, it is recommended that Indigenous communities seek advice from legal counsel or a professional procurement expert regarding their procurement policies.

1. Terms and Definitions

The terminology below is intended as a reference to create a common understanding. In reviewing the terms and contents of the guide, you'll note that an individual or group may play multiple roles, for example the Chief & Council may be the "Owner" and

Addenda: *The plural word of "Addendum" means a document that calls attention to additions, deletions, and amendments to the bid documents in a brief and concise manner.*

Alternatives: *Anything for which bidders provide a price in a manner that gives the Owner options in determining the actual work of the contract. An alternative could be an optional product, system, installation method, design, requirement, scope of work, etc.*

Approved Equal: *An approved material or process that is deemed of equal quality and similar value.*

Architect (See also design professional): *Architect is the design professional who generally coordinates the work of the design professional's team. Architects are in charge of ensuring Codes conformity. The architect is also the referee for the agreement between and Owner and Contractor.*

Authority having jurisdiction: *The governmental body with authority to administer and enforce the applicable codes or the local by-laws.*

Bid or Tender: *Bid or tender is a process that involves stating for what price the contractor will assume a contract to be evaluated by the owner.*

Bidder(s): *The entity (individual or company) that is submitting a bid.*

Bid Security: *A statement of whether bid security is required.*

Bid Documents: *Includes all documents to be included in the executed contract, including the agreement, specifications and drawings, as a minimum.*

Building Permit: *A permit to build or construct is issued by a city or town or authority and is required for construction of a new building or structure, for additions, fireplaces and woodstoves, and for most alterations to existing buildings. Building permits are also a type of authorization that must be granted by a government or other "regulatory" authority before the construction of a new or existing building can legally occur.*

ByLaw: *Rule or regulation enacted under the Indian Act. (Reference to Section 81- Powers of Council - 81 (1) The council of a band may make by-laws not inconsistent with this Act or with any regulation made by the Governor in Council or the Minister, for any or all of the following purposes, namely, et al.*

Contract: *A contract is a voluntary binding agreement between two or more parties.*

Contract Documents: All documents including the engineering and architectural drawings and specifications as defined in the construction contract(s) for the project.

Chief and council: Is an elected group lead by an elected chief and councilors based on the number of members of the First Nation. Chief and council are the authority having jurisdiction.

Change Order (CO): A Change Order is a written contract amendment prepared by the Consultant and signed by the Owner and the Contractor stating their agreement upon:

- a change in the Work;
- the method of adjustment or the amount of the adjustment in the Contract Price, if any; and
- the extent of the adjustment in the Contract Time, if any.

Client: The client is the building project initiator and this person or group usually decides when to proceed with the various phases of development of a construction project. The most basic ingredient a client provides to a project is money to design, construct and subsequently operate the facility over its life cycle. The client may be from either the public sector, such as government, or private sector such as a corporation.

Commissioning: A process by which building operating systems are activated, tested and verified for correct function.

Construction Budget: The sum established by an owner as available for construction of a project, including contingencies for cost increases during construction.

Construction Team: Refers to design professionals including the project manager, contractors, subcontractors and others who are directly involved in the construction or design phase of the project.

Corporations: Corporations include what are commonly referred to as companies, and are legal entities created by law.

Design build: is a project delivery system used in the construction industry. It is a method to deliver a project in which the design and construction services are contracted by a single entity known as the design–builder or design–build contractor.

Designer: An architect or engineer licensed to practice in the province or territory where the project is constructed and who designs all or part of the project.

Design professional: Individuals are registered or licensed by a province or territory to assure the public that individuals calling themselves architects or engineers have the qualifications necessary to practise their profession.

Directive Change (DC): A written instruction prepared by the Consultant and signed by the Owner directing the Contractor to proceed with a change in the Work within the general

scope of the Contract Documents prior to the Owner and the Contractor agreeing upon adjustments in the Contract Price and the Contract Time.

Construction Drawings: *The graphic and pictorial portions of the Contract Documents showing the design, location and dimensions of the work, generally including plans, elevations, sections, details, and diagrams.*

Engineer: *(See also Design professional): The consulting engineer or engineers who are sub-consultants to the prime consultants.*

Entity: *Refers to a body with distinct and independent existence, such as an organization or an institution.*

Estimate: *A reliable cost/time evaluation of an item or project both in part and in total, both for the present and for the life cycle.*

Facility: *A broad term used in the construction industry for all or any portion of a physical complex, including buildings, structures, equipment, grounds, roads, parking lots, etc.*

Fiduciary Trust: *a person (or a business like a bank or stock brokerage) who has the power and obligation to act for another (often called the beneficiary) under circumstances which require total trust, good faith and honesty.*

Feasibility: *A study of the economic feasibility of a development project, usually based on a concept or preliminary cost study.*

First Nations Building Officer: *An individual who has received training and is certified by a provincial building officials association to conduct compliance under the National Building Code or provincial building codes.*

General Contractor: *A common term used to define the prime contractor, who typically oversees sub-contractors to do some or all of the work.*

General Requirements: *Establishes conditions that apply to the entire project.*

Holdback: *Retaining funds due to the contractor for work completed to assure substantial project completion.*

Insurance: *A contract in which one party agrees to pay for another party's financial loss for a set fee resulting from a specified event.*

Intellectual Property: *creations of the mind, such as inventions; literary and artistic works; designs; and symbols, names and images used in commerce*

Liability: *The state of being liable or accountable. Something for which one is liable: an obligation, responsibility or debt.*

Life Cycle: *The continuous evolution of a property which starts as an empty space, becomes a concept, then a design, is constructed into a useable construction entity, is used, and then*

decommissioned to one again be an empty piece of property. The evolutionary process can then begin again.

Owner (See also Chief and Council): *Identifies the Owner or the Owner's authorized agent or representative as designated to the Contractor in writing but does not include the Consultant.*

Phased Construction: *A design-construction process in which design and construction overlap, thus shortening the project time.*

Prime Consultant: *The individual who, or firm which, is registered with a professional association, and who or which has the responsibility to coordinate the design and the field reviews of the various design professionals (such as structural, mechanical, electrical, geotechnical, architectural) for the project.*

Procurement: *The action of obtaining (buying) or procuring material and/or services.*

Project: *A construction undertaking in which the work or construction contract may be whole or part.*

Project Budget: *The sum established by an owner as available for an entire project including the construction budget, professional fees, cost of land, rights of way, furnishings, equipment, financing and all other costs for a project.*

Project Manager: *A person employed or appointed by an owner or an agent in a construction project.*

Punch List: *A list of items of work or deficiencies to be attended to prior to completion.*

Risk: *The possibility of suffering harm or loss; danger. A factor, thing, element or course involving uncertain danger; a hazard.*

Request for proposals: *A document that solicits proposal, often made through a bidding process, by an agency or company interested in procurement of a commodity, service, or valuable asset, to potential suppliers to submit business proposals.*

Shop Drawings: *Drawings, diagrams, illustrations, schedules, performance charts, brochures, product data, and other data which the contractor provides to illustrate details of portions of the work.*

Specification: *That portion of the Contract Documents, wherever located and whenever issued, consisting of the written requirements and standards for products, systems, workmanship, quality, and the services necessary for the performance of the work.*

Statement of interests: *A formal business letter that is sent with a resume and/or documentation to indicate one's interest in a project or work.*

Statement of work: is a document routinely employed in the field of project management. It is referred to as the narrative description of a project's work requirement. It defines project-specific activities, deliverables and timelines for a vendor providing services to the client.

Subconsultants: is a professional who is appointed and paid by another discipline (usually an architectural or engineer practice) to carry out design or surveys work that requires specialization.

Subcontract: A party to a contract who does a specific category of work.

Submittals: Documents or items required by the contract documents to be submitted by a contractor before the portion of the work that they represent can be incorporated into the work. (For example, shop drawings, samples, models, mock-ups, record drawings, etc.)

Substantial Completion: Complete performance such as the work is ready and useable for the purpose intended for which it was constructed.

Substitution: A proposal by bidders to provide similar products, materials and equipment not originally specified, for consideration before or after the contract award.

Temporary facilities: Services and similar prerequisites for work that is provided on site by a contractor, which is related to the project work.

Tender: (see bid)

Work: The total construction and related services required by the contract documents.

Work Schedule: A work plan showing tasks or phase durations along with the dates for the start and completion of tasks and phases for the entire project. This is sometimes referred to as a "critical path" method of project scheduling.

2. For more information

For additional definitions see:

- Government of Canada – Standard Acquisition Clauses and Conditions (SACC) Manual
<https://buyandsell.gc.ca/policy-and-guidelines/supply-manual/glossary/1>
- Business dictionary – Procurement defined
<http://www.businessdictionary.com/definition/procurement.html>
- What's the difference between procurement and purchasing (Blog)
<https://blog.procurify.com/2014/02/07/what-is-the-difference-between-procurement-and-purchasing/>