GOVERNMENT OF NUNAVUT
PUBLIC-PRIVATE PARTNERSHIP POLICY

POLICY STATEMENT

The GN believes that a cooperative approach to building infrastructure through public-private partnerships (P3) can be an appropriate, efficient and effective use of Nunavut's resources to deliver services. Any P3 must ensure the protection of the interests of Nunavummiut and should not result in a decreased level of service.

PRINCIPLES

Prior to entering into a P3, projects must be evaluated to ensure that they address government priorities. All other delivery options must be investigated prior to determining that a P3 is the best alternative.

Many of the guiding principles of Tamapta apply to P3s:

- Inuuqatigiitsiarniq: respecting others, relationships and caring for people;
- Pijitsirniq: serving and providing for family and/or community;
- Aajiiqatigiinniq: decision making through discussion and consensus;
- Piliriqatigiiniq/Ikajuqtigiinniq: working together for a common cause; and
- Qanuqtuurniq: being innovative and resourceful.

More specifically, each P3:

- Has a clearly defined project. The project is of a size or complexity to benefit from the use of shared resources, especially as it relates to public sector participation.

- Genuinely benefits the private sector as a whole. It is important that while encouraging the growth of private industry, the government also protects Nunavummiut by supporting a competitive private market.

- Provides benefits to both the private and public sectors. The public receives value for money in the form of improved services or infrastructure while the private sector receives a fair return on its investment.

- Clearly defines and allocates the risks associated with the project. Each partner assumes risks that it is best able to minimize, manage or mitigate.

- Is reached through an open, fair and transparent process that is in compliance with the GN's procurement policies and procedures. The costs and risks associated with the entire life of the partnership are scrutinized and the public sector remains accountable to Nunavummiut.

- Project is awarded based on pre-determined and advertised evaluation criteria. The evaluation criteria will include evaluation weights. The criteria will also include the Inuit Content requirements as outlined in GN procurement policies and procedures.

- Is formed through a formal contract. P3s are long-term partnerships and contracts are in writing and signed by each partner.

- Includes a communication plan. It is important that Nunavummiut are informed about the partnership as it is implemented.

APPLICATION

This policy applies to all departments and public agencies of the Government of Nunavut.

DEFINITIONS

The Canadian Council for Public-Private Partnerships uses the following definition for public-private partnerships: they are cooperative ventures between the public and private sectors, built on the expertise of each partner, that best meet clearly defined public needs through the appropriate allocation of resources, risks and rewards.

Essentially, public-private partnerships involve the provision of public services through partnerships where each risk associated with a project is identified and then allocated to one of the partners. Each partner strives to ensure best value for money based on their own expertise in managing, minimizing and mitigating the specified risks.

As a government, the balance between value and risk is not only measured in dollars and cents but is also influenced by the social benefits that can be achieved by entering into a partnership with the private sector. These benefits might include the ability to provide services or infrastructure for Nunavummiut in a more timely manner within a long-term partnership arrangement than might have been possible outside of a partnership.

Public-private partnerships lie on a continuum from service contracts to build-own-operate partnerships. A list of public-private partnership models can be found in Appendix I. This policy applies to all public-private partnerships.

ROLES AND RESPONSIBILITIES

Executive Council - This policy is issued under the authority of the Executive Council. The authority to make exceptions and approve revisions to the policy rests with the Executive Council.

Minister of Finance - The Minister of Finance is accountable to the Executive Council for the implementation of this policy as it may impact on decisions of the Financial Management Board.

Minister of Community and Government Services - The Minister of Community and Government Services (CGS) is responsible for the management and administration of this policy. CGS provides contracting expertise through its Government Services Branch and sets government-wide contracting policies and procedures.

Ministers - Ministers have the authority to deliver services assigned to their portfolios and responsibilities of their department or agencies established by authority of the Executive Council.

Deputy Ministers/Deputy Heads – The Deputy Minister of the Department of Community and Government Services and the Deputy Minister of Finance have the joint responsibility to review all contemplated P3 projects and requests for proposals for contract services that are estimated to value over fifty million dollars prior to their being let to determine if the opportunity to pursue a P3 is present. For clarity, this applies to both construction and service contracts.

The Deputy Ministers of the Department of Community and Government Services and Economic Development and Transportation, and the Deputy Heads of public agencies of the Government of Nunavut, have the responsibility for the implementation of this policy for their respective organizations.

Central Accountability Committee – The Central Accountability Committee has the responsibility to review eligible P3 projects and Requests for Proposals to ensure that this policy is being used for all relevant projects.

The supporting documents required for Committee review would normally be fulfilled through the submission of a high level business case. The business case must include a financial costing model identifying total expected cost of capital and operations, projected GN capital and O&M costs over the life of the project, third party funding and implications on the GN's debt.

If accepted by the Committee, the sponsoring department or agency would then be required to produce a full-blown value for money business case for presentation to the Committee for review prior to project initiation.

PROVISIONS

1. Project Definition

The project must be of a sufficient size and/or complexity for a P3 to be a viable option. This might mean combining various elements into one project to provide the private sector with the opportunity to best respond to the government's P3 initiative.

Any element of the project outside of the initial construction/implementation must be considered over the entire life of the contract.

The purpose of the project, from a functional plan and program perspective, should be clearly outlined in order to contribute to the project definition.

2. Competitive Private Sector Market

The execution of a P3 requires a private sector market that is capable of responding to the identified needs of the government. This may require multiple private sector proponents working together to respond to requests. An assessment of private sector interest may be required depending on the complexity of the project.

An assessment may be necessary to ensure that the P3 will not negatively impact on the competitiveness of the private sector.

3. Benefits for Nunavummiut

When evaluating proposals, the highest benefit for the lowest cost represents value for money. In order to be successful, a proposal must demonstrate that it is the alternative which offers the lowest ratio of cost to benefit.

Some benefits are not easily quantifiable but every effort must be made to assign value to the identified benefit in order to accurately determine project outputs. Ultimately, resulting programs, services or infrastructure must meet or exceed identified standards and respond to the needs of Nunavummiut.

4. Risk Assessment and Allocation

The transfer of risks to the private sector through a P3 has a value because it eliminates those risks for Nunavut and Nunavummiut. Risks fall into the following general categories: project risk, environmental risk, social risk, and political risk. Risks that must be assessed can be project-specific and include, but are not limited to: design error and/or omission risk; construction/implementation risks such as project cost risk and schedule/completion risk; and financing risks such as interest rate, ownership, property, and the operating risk associated with inflation.

The risk assessment must recognize that some risks are heightened in underdeveloped markets, such as is currently the case in Nunavut. Special care must be taken to ensure all potential risks, to both the public and private sectors are completely recognized and either managed, mitigated, or minimized.

A demonstrated transfer of risk from the public sector to the private sector must be evident and clearly documented with the level of risk identified in a qualitative risk analysis specific to the project. As with the definition of roles and responsibilities, allocation of risk between the partners must be based on which partner is best able to minimize, manage or mitigate each risk. Where possible the value associated with the transfer of risk should be quantified in the form of a quantitative risk analysis.

5. Due Diligence

A due diligence process is important to ensure the integrity of the project review process. It must identify, in advance and at a minimum, a project schedule of milestone events, standards and criteria, processes to be followed, activities to be carried out, considerations, and evaluation criteria in order to ensure value for money.

Value for money is not always about lowest cost, it should consider a quantitative and qualitative due diligence process while emphasizing the absolute need for full and transparent disclosure.

For all projects, a business case must be developed in advance of the evaluation process. The business case must be used in the evaluation process, and evaluation and procurement processes must be open, fair, transparent and objective.

6. Contract Administration

A signed contract between the Government of Nunavut and the private sector proponent is mandatory for every P3. The contract must identify the roles and responsibilities of both parties. The contract must clearly identify the financial terms of the agreement and include agreed upon performance standards, target dates, deliverables, a conflict resolution mechanism, and options for terminating the contract. Ongoing contract management/monitoring must be ensured through the appropriate contracting authority.

For clarity, each P3 project must have its own dedicated Project Manager, identified and assigned to the project.

7. Communications

It is essential that Nunavummiut have an understanding of each P3. A comprehensive communications plan must be developed and approved by the GN before the project commences as well as throughout the life of the project.

PREROGATIVE OF EXECUTIVE COUNCIL

Nothing in this directive shall in any way be construed to limit the prerogative of Executive Council to make decisions or take action respecting Public-Private Partnerships outside the provisions of this directive.

SUNSET

This policy will be effective from the date of signature until March 31, 2018

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Premier

APPENDIX I
MODELS OF PUBLIC-PRIVATE PARTNERSHIPS

The following terms are commonly used to describe partnership agreements in Canada:

Design-Build (DB): The private sector designs and builds infrastructure to meet public sector performance specifications, often for a fixed price, so the risk of cost overruns is transferred to the private sector. (Many do not consider DB's to be within the spectrum of PPP's).

Operation & Maintenance Contract (O & M): A private operator, under contract, operates a publicly-owned asset for a specified term. Ownership of the asset remains with the public entity.

Design-Build-Operate (DBO): The public sector finances the project and sets performance objectives. A private partner is engaged to design, construct and operate the facility for a specified period, that typically includes building maintenance services. Ownership of the asset remains with the public entity.

Design-Build-Finance (DBF): The design, construction and financing functions are the responsibility of the private partner selected through a competitive process. However, private financing is typically replaced following construction and the public sector is responsible for the cost of long-term operations and maintenance.

Design-Build-Finance-Maintain (DBFM): The design, construction, financing and facility maintenance functions are the responsibility of the private sector partner selected through a competitive process.

Design-Build-Finance-Operate (DBFO): The private sector designs, finances and constructs a new facility under a long-term lease, and operates the facility during the term of the lease. The private partner transfers the new facility to the public sector at the end of the lease term.

Design-Build-Finance-Operate-Own (DBFOO): The design, construction, financing, operation and ownership of facilities are the responsibility of the private partner selected through a competitive process.

Build-Lease-Operate-Transfer (BLOT): The public sector sets performance objectives. The private sector designs, finances and constructs a new facility (on public land) under a long-term lease and operates the facility during the term of the lease. Ownership transfers to the public sector at the end of the lease.

Build-Own-Operate (BOO): The private sector finances, builds, owns and operates a facility or service in perpetuity. The public constraints are stated in the original agreement and through on-going regulatory authority.

Build-Own-Operate-Transfer (BOOT): A private entity receives a franchise to finance, design, build and operate a facility (and to charge user fees) for a specified period, after which ownership is transferred back to the public sector.

Buy-Build-Operate (BBO): Transfer of a public asset to a private or quasi-public entity usually under contract that the assets are to be upgraded and operated for a specified period of time. Public control is exercised through the contract at the time of transfer.

Operation License: A private operator receives a license or rights to operate a public service, usually for a specified term. This is often used in IT projects.

Finance Only: A private entity, usually a financial services company, funds a project directly or uses various mechanisms such as a long-term lease or bond issue.