

# Post-Contract Phase

Book 7



**Procurement in Indigenous Communities**



# Contents

- 1. Introduction ..... 4
- 2. File final action contractor agreement to final claim ..... 4
- 3. Return performance bonds and obtain close-out ..... 5
  - 3.1 Closeout documentation ..... 5
  - 3.2 Retainage – aka: holdback ..... 5
  - 3.3 Final billing and payment..... 6
- 4. Ensure completeness and accuracy of file documentation ..... 6
  - 4.1 Operations and Maintenance Manuals ..... 6
  - 4.2 Occupancy..... 7
- 5. Reconcile the budget ..... 8
- 6. Need more information? ..... 8



## 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 though 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

## **Acknowledgements**

FNNBOA wants to thank Indigenous Services Canada (ISC) for the funding of this project. The association wants to thank those individuals who provide comments to the development of the books.

## **Disclaimer**

*The views in these books are those of the authors and do not necessarily reflect the views and policies of ISC or the Board of FNNBOA. FNNBOA does not guarantee the accuracy of the information in these books and accepts no responsibility for any consequence of their use. The reference of specific websites does not imply that they are endorsing the information in the books. The information contained in these books are provided for general information 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. Introduction

This booklet focuses on the post-contract phase and includes closing out the project and final actions with the file.

The completion of the project is the time to ensure that all required final inspections have been completed and that all construction records and documents are also ready to hand over to the council. Final completion includes not only the actual construction work but all contractual obligations such as submission of specific documents.

Common activities often include:

- Providing the occupancy permit (if required)
- Providing equipment and appliance warranty and operating instruction manuals
- Ensure cleanliness of the construction site (construction debris has been cleared)
- Supply an affidavit indicating that payment for all materials, labour and subcontractors have been satisfied
- Addressing any outstanding contractor claims
- Review approval for last payment
- Returning contract financial security and holdbacks
- Initiating the audit of a cost-reimbursable contract
- Ensuring that all Crown-owned intellectual property and government furnished equipment are returned (if applicable)

## 2. File final action contractor agreement to final claim

This phase determines if the work or a designated portion of it is “substantially” complete or if additional items need to be completed or corrected.

Substantial completion is defined as the stage of the work when it is sufficiently complete in accordance with the contract documents. This should be considered as stage where the chief and council can occupy or utilize the place for its intended purpose?

Substantial completion means the work has progressed to the point where the chief and council can occupy or utilize the work or designated portions thereof for the use for which it was intended.

Final completion typically refers to the “authority” (such as architect/engineer) determines whether the contractor has completed the project and is entitled to receive final payment.

When the contractor deems the building project complete, it is common to notify the chief and council or the project representative in writing that the contract work has been completed.

The acceptance of a completed project is based on a final inspection performed by the council’s representative. It also based upon the correction of any deficiencies. If the chief

and council or project representative does not agree, they should provide a written report detailing any outstanding work and deficiencies. Alternatively, a wrap-up meeting can be scheduled at the close of the project. This meeting should be recorded.

The chief and council's report should be based on an overall project review and final project inspection to identify any deficiencies. Have the deliverables been delivered? Conditions may be provided in writing to address seasonal based deficiencies (e.g., landscaping) that are outstanding. A holdback in the payment should accompany and reflect the value of these seasonal deficiencies.

The date of substantial completion is also the conclusion of the contractor's schedule for the project. Any minor outstanding contract work may be completed or corrected, then a final inspection should take place to ensure the project is complete.

If the work has been satisfactorily completed, the chief and council must remit the amount due to the contractor.



### **3. Return performance bonds and obtain close-out**

When the contractor has fulfilled all the requirements of the contract, the obligations come to an end. At this point, the chief and council or representative should release the performance bond or any other type of security bonding that was required for the project.

Close-out of the project refers to answering the questions of have the deficiencies been resolved, have final inspections completed, and if all certificates, schedules and documents required provided by the contract been submitted.

#### **3.1 Closeout documentation**

Substantially complete implies that the project is ready for use by the council. If any bonds were required under the contract, upon the determination of "substantial completion" the contractor would be released from bonding requirements.

Additionally, documents such as warranties, as-built drawings, manufacturer's guides, etc. are all part of the information that the council requires to operate the building efficiently. These documents need to be collected and handed over to the council in a timely fashion.

#### **3.2 Retainage – aka: holdback**

Sometimes referred to as "holdback" is the process where the chief and council hold back money from the contractor as protection against the potential failure by the contractor to

complete the work according to contract requirements. The contract must stipulate the exact terms related to this hold back.

### **3.3 Final billing and payment**

Generally, at the end of construction a final billing is submitted by the contractor. Likewise, it is important that the council realize the importance of ensuring that all work is complete and that the payment is promptly completed in a timely manner.

It is common practice in off-reserve jurisdictions for the chief and council to apply to the building department for a certificate of occupancy. This document confirms that the work has been completed in accordance with drawings and specifications and has passed inspection approvals.

## **4. Ensure completeness and accuracy of file documentation**

Good business practice mandates that proper records and documents must be kept and filed in an orderly manner. Documentation from the construction phase can include items such as:

- Copy of approved shop drawings
- Field test reports (if required)
- Inspection certificates
- Record drawings (as built)
- Warranties/guarantees
- Acceptance documents and permits
- Operation and maintenance manuals

Ultimately, these documents must be handed over to the chief and council's project manager.

### **4.1 Operations and Maintenance Manuals**

If requested in the specifications, operating and maintenance manuals (user guides), are issued by the contractor to explain how to maintain the building and its systems.

Maintenance and operation manuals are required to assist the chief and council in maintaining and operating the building and its equipment efficiently and effectively.

Manual(s) usually include:

- A copy of all warranties/guarantees for the different elements of the project (roof, windows & doors, HVAC system, etc.)
- A technical data sheet of all the products installed in the building
- Instructions on how to use all the equipment installed
- Appliance/equipment manuals
- Maintenance information documents provided by manufacturers

Property maintenance is very important to protect your housing investments. There is a growing necessity to have better operating manuals for completed buildings to achieve this objective.

## 4.2 Occupancy

This phase is where the chief and council and occupants gain access to the building and can start occupying. If it is included in your contract, there will be a final visit from the design professionals.

During this visit, the design professional - usually the architect – will conduct an inspection to ensure that has been built according to the contract documents. The resulting report is known as a **deficiency list or punch list** and includes all items that the contractor needs to address in order for the build to conform to the drawings and specifications.

If the design professional or architect is satisfied with the completed state of the building, they issue a Certificate of Substantial Performance, which legally transfers the building to the chief and council. From that point on, the chief and council is responsible for insuring and maintaining the building.

This is also the phase for final building and required inspections such as fire inspections.

If everything is deemed acceptable and the design professionals, project manager or housing manager are satisfied with the work completed, then a certificate of completion is issued, and the project holdback funds are released. At this point, the design professionals (if party to the work) are considered to have completed their services.

The chief and council may also consider providing tenants/occupants with basic maintenance courses or programs.



## 5. Reconcile the budget

Another key point in a procurement process is review and reconciling the financial side, at or near the project end. This is a good time to reconcile the cost and budget. Are there any outstanding invoices or expenses? What was learned in this process?

Even for future consideration the cost of every project provides a valuable reference for future work

Examples: Materials, supplies and consumable items are wrongly charged to projects.

Suppliers and contractors might conspire to cheat chief and councils in cost-plus-fee contracts and use false invoices.

## 6. Need more information?

Government of Canada – The Procurement Rules and Process  
Chapter 8 – Contract Management

<https://buyandsell.gc.ca/policy-and-guidelines/supply-manual/section/8>

Close out Checklist (OAA)

[http://www.oaa.on.ca/oaamedia/procedures/procedure-33/ContractClosoutForm\\_vOct%2024-2014.pdf](http://www.oaa.on.ca/oaamedia/procedures/procedure-33/ContractClosoutForm_vOct%2024-2014.pdf)