

## NNI Tribunal Annual Report 2018-2019

In accordance with section 9.30 of the NNI Regulations,

*9.30 The members of the Tribunal shall prepare and submit to the Minister an annual report on the operations of the Tribunal within six months of the end of each fiscal year.*

The members of the NNI Tribunal present the following report.

### Background

- The NNI Tribunal took over from the NNI Appeals Board on April 01, 2017
- The terminology in the new NNI gives added authority to the work of the Tribunal as per section 9.26 of the NNI Regulations;  
*9.26 The Contract Authority shall implement all recommendations given by the Tribunal to the greatest extent possible.*
- The Tribunal will only hear complaints related to a reported failure of applying NNI correctly in the procurement evaluation process as per section 9.1 (a) of the NNI Regulations;  
*9.1 (a) An independent NNI Tribunal (the “Tribunal”) shall be established to hear and decide on complaints regarding the application of the NNI in the award of any contracts covered by the NNI in accordance with section 4.1. The Tribunal shall not:  
(a) review any aspect of a procurement process other than the application of the NNI...”*
- The appointed Tribunal Members were selected based on their previous experience sitting on similar boards; three having served on the NNI Appeals Board and one having served on the Canadian International Trade Tribunal
- To date there has only been one challenge launched under the new NNI, in October 2017. However, it did not proceed as the Tribunal determined that it did not qualify under the Tribunal’s jurisdiction as described in section 9.1 of the NNI Regulations
- The GN continues to wait for a nominee from NTI to fill a vacant position on the NNI Tribunal
- Tribunal Member and Chairperson, James Ogilvy, resigned from the Tribunal in December 2018 in order to accept his appointment to a settlement panel under the North American Free Trade Agreement
- The NNI Secretariat will be seeking a replacement for Mr. Ogilvy.
- There has been no further activity with the Tribunal in the 2018-2019 fiscal year

### Tribunal Members

Under the NNI (the Act and Regulations) Tribunal members are appointed by the Minister. The Cabinet Appointments Policy requires cabinet approval for high profile appointment decisions such as these.

The Tribunal is composed of 5 members as per section 9.2 of the NNI Regulations:  
*9.2 The Tribunal is composed of five (5) members as follows who serve on a part-time basis for a term of three (3) years:*  
*(a) two (2) members, appointed by the Government of Nunavut on the nomination of Nunavut Tunngavik Incorporated;*  
*(b) three (3) other members appointed by the Government of Nunavut.*

James Ogilvy	Served on the Canadian International Trade Tribunal and has extensive experience in procurement and administrative law, resident of Ottawa. (GN appointee) <ul style="list-style-type: none"> <li>• Appointed June 01, 2017</li> <li>• Appointed Tribunal Chairman</li> <li>• Resigned December 12, 2018</li> </ul>
Barbara Tartak	GN employee living in Rankin Inlet, previously on NNI Appeals Board. (GN appointee) <ul style="list-style-type: none"> <li>• Appointed June 01, 2017</li> <li>• Term ends May 31, 2020</li> </ul>
Al Lahure	Long-time businessperson living in Baker Lake, previously on NNI Appeals Board. (GN appointee) <ul style="list-style-type: none"> <li>• Appointed June 01, 2017</li> <li>• Term ends May 21, 2010</li> </ul>
Sarah Maniapik	Employee of Baffin Business Development Corporation living in Iqaluit, previously on NNI Appeals Board. (NTI nominated) <ul style="list-style-type: none"> <li>• Appointed June 01, 2017</li> <li>• Term ends May 21, 2020</li> </ul>
Vacant Position	To date, NTI has been unable to nominate an individual to fill the remaining Tribunal position which the NNI Regulations allocates to them.

Section 9.4 of the NNI Regulations allows for the Tribunal to operate with as few as three members, which maintains a quorum.

*9.4 Three members of the Tribunal constitute quorum. For greater certainty, a vacancy on the Tribunal does not invalidate its constitution or impair the right of its members to act, if quorum is maintained.*

### Costs

The Tribunal incurred no costs in the 2018-2019 fiscal year.