

Bidding / Contracts - General Information

We have provided this “information sheet” on various requirements and terminology when bidding on or completing various service and/or construction contracts for the ministry. Note that this is not an all inclusive list but is to assist in answering some common questions.

This information is only to provide general information and is not intended to identify the specific requirements of the tendering and/or contract documents. Please ensure that you read and understand all the conditions of the documentation when bidding on service and/or construction contracts for the Ministry to avoid disqualification.

This information was current at the time it was written, however, the information may change and/or circumstances noted may differ from those of a specific invitation to bid. Therefore, information specified in the solicitation documentation and contracts prevails.

Please ensure that any concerns and/or questions you have around solicitation documentation and contracts are discussed with the appropriate ministry representative and/or your legal counsel.

1. ENSURE YOU READ CAREFULLY ALL THE DETAILS IN THE **“INFORMATION TO BIDDERS”**. SHOULD YOU HAVE ANY QUESTIONS AND/OR REQUIRE CLARIFICATION ENSURE THAT YOU CONTACT THE MINISTRY REPRESENTATIVE NOTED IN THE TENDER DOCUMENTS AS SOON AS POSSIBLE AS THEY MAY NOT BE AVAILABLE IMMEDIATELY AND WILL HAVE TO GET BACK TO YOU.
2. ENSURE THAT YOU UNDERSTAND AND COMPLY WITH ALL CONDITIONS NOTED IN THE **“CONDITIONS OF TENDER”**. To mention a few (*not inclusive please see the appropriate Conditions of Tender to the service and/or construction contract(s)*).
 - a) Tender Closing date, time and location. **This is critical**
 - b) Site Viewing (if applicable) date and time as this may be a mandatory requirement.
 - c) Informational Meeting (if applicable) date and time as this may be a mandatory requirement.
 - d) Bidder Eligibility requirements. E.g. Mandatory requirements.
 - e) Bid Security requirements. Example: If the requirement is for a “Bid Bond” that you have made all necessary arrangement to ensure that you have the Bid Bond issued in accordance with the conditions noted.

2. CONTINUED:

- f) List of Sub-contractors if applicable and the description of the work they will be providing.
- g) Other Eligibility documentation (if required) – some bid packages may require you to provide certain documentation at the time of bidding in order for the ministry to verify (during the bid evaluation process) that you as the bidder meet the eligibility requirements.
- h) Obligations of the Successful Bidder – conditions / requirements which you must be prepared to comply with if you are the successful bidder Examples: specific form of performance security, specific insurance types and amounts, and any other documentation specified as required in the bid package or contract award notification.
- i) Contract Performance Security requirements are met in accordance with the noted conditions therein.
- j) Ensure you have included all appropriate insurance (if required) at this time.
- k) Provides an understanding of how bidder eligibility impacts tender acceptance / rejection.

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BID SECURITIES:

Securities are submitted with a tender as assurance that if you are the successful bidder you will meet all pre-contract requirements and will enter into the contract. Bid securities are usually in the amount of 10% of the bid price, although they can be as high as 25%, or have a set value.

If you are the successful bidder and fail to enter into the contract, you would then forfeit the bid security by either: (1) the difference between your total bid price and the total bid price of the next lowest qualified bidder; or (2) the entire bid security, whichever is less.

Usually, projects that require a bid security also require a performance security. The successful bidder's bid security is normally retained (rolled over) as the performance security for the duration of the contract, unless it is in the form of a bid bond. In this case where it is a bid bond, an acceptable form of performance security must be received before the bid bond will be released. Cash (aka liquid) forms of bid security may also be replaced by another acceptable form of performance security, such as a safekeeping agreement, letter of credit, or performance bond.

Bonds in the name of a third party are not acceptable.

The Bid securities will not be released to the unsuccessful bidders until the contract has been signed by the successful bidder.

Acceptable Forms of bid security is found in the Conditions of Tender

Personal cheques and cheques in the name of a third party (a name other than the contractor's) are not acceptable.

PERFORMANCE SECURITY:

Performance securities are submitted by the successful bidder. These are to guarantee that you as the successful bidder will promptly and faithfully perform the contract in accordance with the terms and conditions specified.

Where a performance security is required it must be submitted in the form and amount specified in the tendering documents which is usually 10% of the contract value or 50% if a **performance bond** is, being used. However, BC Timber Sales road construction, the performance security is 10% on the first \$100,000 of the contract value and 5% on the balance.

Acceptable Forms of performance security is found in the Conditions of Tender or the contract.

The performance security **must** be received before work may commence.

The performance security is retained until total performance is certified, or in the case of major works contracts, upon either of substantial performance or total performance, whichever is noted in the contract.

Some of the contracts have specific requirements that must be completed before the security can be released E.g. Completion Certificate, as noted in the terms and conditions of the contract.

Performance Bonds or Letters of Credit are returned to you as the contractor immediately following the issuance of the contract completion certificate or final contract payment certificate.

NOTE: However, if the contract contains a warranty provision that is covered through a performance bond, the bond remains in effect until the expiry of the warranty.

If you have used a Safekeeping Agreement these are released to the financial institution instructing them to release the security.

LABOUR AND MATERIAL PAYMENT BONDS:

These may be issued in conjunction with a performance bond on ministry works contracts, and for the same value (E.g. 50%) where a performance bond are specified as the sole form of performance security. This bond is to guarantee that you as the contractor will pay employees, subs, and suppliers.

The Labour and Material Payment Bond are held along with the Performance Bond until the warranty period is up, and there are no 3rd party claims. If no claims including warranty work by the ministry then the bond is returned to you as the contractor.

INSURANCE:

NOTE: It is important that you review the documentation to ensure that you are prepared to comply with the appropriate insurance requirements relating to the specific services and/or construction. Various services may require very different forms of insurance E.g. Automobile; Professional Liability.

The types of insurance commonly used in ministry contracting can be broadly grouped as either liability or property insurance.

The conditions of tender and/or contracts will clearly define the various forms of insurance that you will be required to obtain based on the service and/or construction contract you are bidding on.

It is government policy to require the submission of a **Certificate of Insurance** signed by your insurance company and/or agent, stating that the insurance coverage of the contractor meets the requirements of the contract. The Certificate of Insurance form (*which the ministry will provide*) contains an area for the insurance agent or broker's comments; however we **will not** accept a certificate that has been altered.

Proof of the appropriate insurance must be provided before you as the contractor commences work. Proof is made by using the appropriate government forms, ICBC's confirmation etc. as defined in the contract.

It is the responsibility of the successful contractor to ensure that all sub-contractors have the appropriate and required insurance.

WORKSAFE BC (WSBC)

WorkSafe BC is a requirement when we are soliciting (tender call) for services and/or construction. Note the specifics in the Conditions of Tender and contract. As a contractor bidding on these contracts for services and/or construction for the ministry you **must** have a valid registration number with WorkSafe BC before work commences.

The ministry will not accept "private insurance" as an alternative to WorkSafe BC Coverage.

If you are a **non-incorporated** company with employees and you as the owner or partner will be doing any of the work yourself, you need to be aware that you will not have coverage unless you obtain WorkSafe BC's Personal Optional Protection (POP). Therefore, you must obtain POP.



MINISTRY OF FORESTS & RANGE



PRIME CONTRACTOR:

The Workers' Compensation Act establishes that where a multiple employer workplace is created, a **prime contractor** may be named and will be responsible for the coordination of safety at the worksite.

During the tender planning stage, the ministry project team will determine if more than one contractor is required on the same site at the same time. On such multiple contractor work sites, the ministry will determine who fits the most appropriate designation as the prime contractor and ensure the solicitation documents clearly state the contractor will be designated as the prime contractor and to bid accordingly. At any given time on a multiple contractor work site, there still is only one prime contractor. The designation of prime contractor may be transferred when another contractor arrives at the site to work.

HOLDBACKS:

Holdbacks are funds withheld from contract payments for any of the following described purposes. Although not a primary purpose of a holdback, *following satisfaction of the purpose for which it was originally retained*, a holdback may be applied to an unpaid debt the contractor owes to the province (i.e., unpaid stumpage, social services tax, etc.).

"Statutory" holdbacks are required by law, while "contractual" holdbacks are established under the contract as required by ministry policy.

Statutory Builders Lien Act Holdback

Statutory holdbacks are used to meet the requirements of the *Builders Lien Act* with respect to contract work performed and materials supplied for improvements on provincially owned, leased, or rented land that ***is*** registered in the Land Title Office and, therefore, lien able under the act (primarily ministry-owned facilities and property).

Contractual Third Party Claims Holdback

Third party claims holdbacks are required by policy. They are used to provide holdback protection similar to that of the *Builders Lien Act* to work performed and materials supplied for improvements on untitled Crown land that ***is not*** registered in the Land Title Office and, therefore, not lienable under the act (the majority of Crown provincial forest land under the jurisdiction of the ministry falls into this category.) As well, it covers for payment of claims made by government agencies such as Employment Standards Branch, WorkSafe BC, Canada Customs and Revenue Agency, etc.

The contract will lay out the requirements and conditions for Holdbacks. The time period for the holdback retention period vary from 40, 55 or 60 days from date of substantial completion or total completion, whichever is designated in the contract.

WARRANTY:

A warranty is a form of guarantee given to the ministry specifying that you as the contractor will make any repairs or replace any defective parts free of charge for a specified period of time. Warranties are a standard requirement of the major works contract, **other than forest road construction**, and may be included as an additional requirement in a schedule attached to the minor works contract, or any other contract for a tangible item.

Warranties are required on all major works contracts, with the exception of forest road construction contracts. Warranties may be required for those contracts that supply and install manufactured products, and/or contracts for the construction of a facility, building, bridge or other structure.

Where a warranty is required it will be supported by one of the following:

- A performance bond (applicable to construction contracts only) (see Performance Security section above); or
- A *warranty holdback; or
- A maintenance bond (applicable to construction contracts only).

***Warranty Holdback:**

Contract warranty requirements are supported by a contract provision entitling the ministry to holdback a specified percentage of the contract price (usually 5%) from contract payments for a specified period following completion of the work, (usually one year). The holdback is drawn upon if the contractor refuses to remedy any problems that arise during the specified period. After the expiry of the warranty period, the balance of the holdback is returned to the contractor.

A **guarantee** is an assurance given to the purchaser (Ministry) of the quality or length of use to be expected from a product offered for sale, often with a promise of reimbursement. Guarantees are more often associated with purchasing than with contracting. However, a guarantee may be appropriate when a contract is for the purchase and installation of a product.

BC BID:

This is where the Ministry of Forests & Range posts service and contract opportunities. The BC Bid® e-service ("Service") is offered to you by the Province of British Columbia, and on behalf of B.C. public sector entities that use the BC Bid® service.

If you register, the Service will send you notifications, via e-mail, of **bid opportunities** posted in the commodity groups and/ or locations that you select when registering. The e-mail will contain a referring web-link to the updated information. <http://www.bcbid.gov.bc.ca/open.dll/welcome>

BC BID CONTINUED:

Where Tender Documents are available electronically on BC Bid®, the Ministry may post any addendum to the Tender Documents on the BC Bid® website. Bidders are strongly encouraged to select “Send Me Amendments” that is included as an option on the Opportunity Notice published on BC Bid®. By selecting this option a registered Bidder will be automatically notified of any amendment that may be issued. Bidders that are not registered with BC Bid® may register by selecting Start your e-Service, Supplier Registration on the BC Bid® home page, www.bcbid.ca. Bidders who do not register with BC Bid® are solely responsible to continually monitor the BC Bid® website on an ongoing basis to keep themselves informed of any addendum.

ENGINEERING EQUIPMENT AND SERVICES SYSTEM (EES):

The Engineering Equipment and Services (EES) Directory is a web-based registration that provides a listing of equipment and service providers registered for work with the ministry. All equipment, contractors, and service providers must be registered in EES before they can be considered for hiring.

NOTE: This is a self registration system and is not a “pre-approved” select list established for soliciting services and/or construction contracts.

TYPES OF CONTRACTOR BUSINESSES:

NOTE: If you are planning on forming a company, partnerships, joint ventures etc. then you should be discussing this with your (individual's) legal counsel. The following is a list (not inclusive) of various types of contractor businesses.

Contracts with the ministry must be made in the contractor's legal name E.g. Company, firm or individual. Each contract must be approved and signed by the appropriate authority.

INDIVIDUAL AND PROPRIETORSHIP

Individual is a person contracting under their own name. An individual must be at least 19 years old to enter into a contract with the ministry

Name on the contract: Proper legal name of the individual

Signature on the contract: Only the individual

Sole-Proprietorship (Non-registered) One person performs all the functions of a business operating under a business name. “Doing business as” the proprietorship firm name.

Name on the contract: Full legal name of the individual, doing business as
“Proprietorship firm name.”

Signature on the contract: Only the proprietor

TYPES OF CONTRACTOR BUSINESSES Continued :

Sole Proprietorship (Registered) One person performs all the functions of a business operating under a business name. Name of the firm is registered with the Registrar of Companies within 3 months of first use of a firm name if the firm is engaged in trading, manufacturing or mining, and uses a business name other than an individual's name plus some word or phrase that indicates more than one member is the business (e.g., "and Company"; "and Associates").

Name on the contract: Full legal name of the individual, doing business as "*Proprietorship firm name.*"

Signature on the contract: Only the proprietor

PARTNERSHIP

Simple Partnership Two or more individuals conducting business under their full legal names.

Name on the contract: Full legal names of all partners.

Signature on the contract: All partners must sign

General Partnership (Joint Venture) Two or more people or corporations combine to conduct business under a name which is registered with the Registrar of Companies ("Full legal names of all" (partners) doing business as (Partnership Name)).

Name on the contract: Full legal names of all partners, doing business as (*Partnership name*) cannot use "Ltd" or "Inc".

Signature on the contract: One partner can sign on behalf of the other partners.

Limited Partnership A partnership where there maybe one or more general partners and one or more limited partners as defined by a formal agreement between all partners. There must be a least one limited partner at all times. A partnership "certificate" is filed with the Registrar of Companies. A limited partnership is not an incorporated business.

Name on the contract: Proper legal name of the partnership. Legally required to end the name with the words "Limited Partnership" in full

Signature on the contract: Any general partner may sign. Limited partners may not sign.

INCORPORATED COMPANY

Limited Company A legal entity which is separate and distinct from its members (shareholders). It is formed according to the terms of a special contract between the members as expressed in the corporation's Memorandum and Articles. E.g. Limited; Ltd. Incorporated; Inc.

Name on the contract: Proper legal name of the firm. A BC incorporated company must use "Limited", "Limitee", "Ltd.", "Ltee.", "Incorporated", "Corporation", "Corp." or "Inc." as part of and at the end of its name.

Signature on the contract: The *Company Act* permits signing by one authorized company official. However, the company "Articles" may require two or more to sign or to affix the corporate seal.

FIRST NATIONS CONTRACTORS/ORGANIZATIONS

SOLE PROPRIETORSHIP: OWNER RESIDES ON A RESERVE

An individual doing business under their own name or a firm name. Individual's name will be registered on a Band List held by the Band Council or the Department of Indian Affairs and Northern Development. Individual must be 19 years of age.

Name on the contract: Legal name of individual. If business operating under a firm name then "Individual's legal name" doing business as "*Firm name*" (e.g. Lawrence Larry Goodwin doing business as Middle of the Road).

Signature on the contract: Only the individual.

PROPRIETORSHIP: A DIVISION OF A FIRST NATIONS' CORPORATION

A corporation incorporated or registered in BC may also operate a proprietorship if business is carried on under a name different than the corporation's; e.g. Northern Stand Tending a division of First Nations Inc.

Name on the contract: Name of corporation doing business as proprietorship name (E.g. First Nations Forestry Inc. doing business as *Northern Stand Tending*.)

Signature on the contract: Authorized signatory of the corporation.

FIRST NATIONS CONTRACTORS/ORGANIZATIONS continued:

PARTNERSHIP: INDIVIDUAL PARTNERS RESIDE ON A RESERVE

Two or more individuals doing business under their own names or a firm name. Individuals' names will be registered on a Band List held by the Band Council or the Department of Indian Affairs and Northern Development.

Name on the contract: Full legal names of all general partners and, if also a firm name, followed by doing business as "*Firm Name*" (E.g. John Lindsay Sweeney and Paul Theodore Konroy doing business as Kootenay Tree Planting.)

Signature on the contract: All partners must sign; not necessary for a "limited" partner to sign (limited partners cannot act on behalf of the partnership).

NATIVE BAND - TRIBAL COUNCIL

A Native "band" is a body of persons defined in the Indian Act whose common lands set apart after September 4, 1951 are vested in Her Majesty, or for whom moneys are held by Her Majesty, or who are declared as a band by the federal government.

Name on the contract: Full legal name and title of band's authorized signatory (ies) followed by the band's legal name. Name of band as recognized by Indian and Northern Affairs Canada; band council.

Signature on the contract: Authorized signatory as determined by a resolution of the band council.

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