

**Annex J**  
**Natural Resources Canada**  
**Terms & Conditions for the Contribution Program:**  
**Indigenous Economic Development**

## **1.0 Program / Legislated Authority**

Authority for these Terms and Conditions is derived from several key legal and policy documents, including:

- *Department of Natural Resources Act* (S.C. 1994, c. 41)
- *Forestry Act* (R.S.C., 1985, c. F-30)
- Cabinet Decision (June 2009) – A New Federal Framework for Aboriginal Economic Development
- Cabinet Decision (June 2009) – An Action Plan to Implement a New Federal Framework for Aboriginal Economic Development
- Treasury Board Decision (June 2010) – An Action Plan to Implement the New Federal Framework for Aboriginal Economic Development – Strategic Partnerships Initiative

## **2.0 Summary**

Natural resources play a central role – culturally, socially, spiritually and economically – in many Indigenous communities. With hundreds of projects representing over \$700 billion in potential new investment planned or under construction over the next 10 years in the energy, mining and forest sectors, natural resource development has the potential to improve the well-being of hundreds of Indigenous communities across the country. Many of these projects are located near, or pass directly through, Indigenous territories - with the majority of current and planned major projects located within 100km of an Indigenous community.

In recognition of this relationship to the land, the Department of Natural Resources (the Department) has a long history of supporting Indigenous participation in the natural resource sectors. This history includes the Forest Resource Development Agreements in the early 1980s, the First Nations Forestry Program following that (1995-2010), and now the Aboriginal Forestry Initiative (2011-Present). In addition, the Department has taken action to facilitate greater Indigenous participation in mining opportunities in support of the Mineral and Metals Policy of Canada. This suite of programming aligns with the Department's mandate to enhance the contribution of the natural resource sectors to the economy and improve the quality of life for Indigenous communities.

Many Indigenous communities would be in a better position to benefit from these opportunities with support for economic development activities, thus facilitating the transition to natural resource sector leaders. The Department's Aboriginal Forestry Initiative (AFI) provides an example of a strategic approach to supporting economic

development that promotes cooperation with Indigenous communities in the sustainable development and use of Canada's natural resources. To date the AFI has worked with over 100 communities across Canada, establishing the groundwork for economic development through natural resource opportunities.

The Terms and Conditions described here are closely aligned with those of the Indigenous and Northern Affairs Canada-led Strategic Partnerships Initiative (SPI), which seeks to enable horizontal coordination of federal investments in Indigenous economic development and increase economic development opportunities for Indigenous Canadians by supporting partnerships between federal and non-federal partners. While these initiatives share similar objectives, key differences between the two include process, scale, and administration. Further, the SPI is broadly focused, while the Terms and Conditions for Indigenous Economic Development are focused more narrowly on natural resource-based economic development.

These Terms and Conditions are intended for use to support the Department's Indigenous economic development initiatives when they align with the program description, objectives and outcomes described herein, as policy and/or funding authorities are received.

### **3.0 Purpose, Objectives and Expected Results**

The purpose of these Terms and Conditions is to increase Indigenous participation in development opportunities in order to contribute to a more environmentally and commercially sustainable natural resource sector. These Terms and Conditions provide an avenue for the Department to support, either directly or indirectly, Indigenous communities and organizations across Canada participating in natural resource development.

The objective of these Terms and Conditions is to increase the capacity of Indigenous communities to engage in and benefit from economic development arising from opportunities in the natural resource sectors, as well as to increase the investment and collaboration between Indigenous peoples and other natural resource development stakeholders, including governments, industry, and non-governmental organizations.

This objective is operationalized through the Aboriginal Forestry Initiative (AFI) and linked to the Department's Strategic Outcome 1 – *Canada's natural resource sectors are globally competitive*. The AFI contributes directly to the Department's Program Activity 1.2 – *Innovation for new products and processes* and Sub-Program 1.2.2 – *Forest sector innovation*. Moreover, the AFI is aligned with the Government of Canada's commitment to a renewed nation-to-nation relationship with Indigenous Peoples.

As outlined in the AFI performance measurement strategy (included in the Performance Measurement and Risk Strategy (PMRS)), the immediate outcomes of the initiative include:

- Indigenous communities are increasingly aware of natural resource development opportunities;
- Indigenous communities have increased capacity to understand and participate in natural resource opportunities; and
- Increased engagement between Indigenous communities and natural resource development stakeholders.

Performance indicators for the initiative include:

- Number of opportunity scans and feasibility studies completed;
- Percentage of projects that include a partnership with external natural resource development stakeholders;
- Attendance of presentations and workshops to Indigenous communities and external stakeholders; and
- Number of individuals from Indigenous communities that successfully complete a training program.

#### **4.0 Eligible Recipients**

Eligible Recipients under these Terms and Conditions include:

- a) Indigenous communities or governments (including *Indian Act* bands, self-governing First Nations, Métis Community Organizations, modern treaty implementation organizations including economic development corporations constituted under a modern treaty, etc.);
- b) Tribal Councils or entities that fulfill a similar function (e.g., general council);
- c) Provincial, territorial, municipal and regional governments working with an Indigenous partner organization to facilitate Indigenous economic development;
- d) National and regional Indigenous organizations;
- e) Academic institutions and research associations working with an Indigenous partner organization to facilitate Indigenous economic development;
- f) Indigenous (majority owned and controlled by Indigenous people): for-profit and not-for-profit corporations, businesses, joint ventures, partnerships, associations, co-operatives and institutions; and
- g) Non-Indigenous: not-for-profit corporations, joint ventures, partnerships, associations, co-operatives and institutions, fully endorsed by an Indigenous partner organization or community to facilitate Indigenous economic development.

For the purposes of these Terms and Conditions, the term “Indigenous” is understood to include Inuit, Métis, First Nation, Status Indian and non-Status Indian individuals, or any combination thereof.

#### **5.0 Eligible Projects**

Projects approved under these Terms and Conditions must demonstrate the potential to stimulate economic development and aim to increase Indigenous participation in the natural resource economy. As a result, projects must demonstrate the potential to provide economic benefits to Indigenous communities.

Eligible projects include:

- a) Studies, plans, evaluations, assessments or related activities to identify or develop economic or business opportunities in natural resource development;
- b) Strategic, business and financial planning or community natural resource economic development planning;
- c) Identification of opportunities, application and development of agreements or licenses related to natural resource development;
- d) Development or expansion of Indigenous joint ventures, partnerships or businesses related to natural resource development;
- e) Capacity development to support natural resource project management;
- f) Development of tools, technology, products, services and systems for natural resource development; and
- g) Engineering or project design activities for natural resource development.

## **6.0 Type and Nature of Eligible Expenditures**

Eligible expenditures will be those that the Department deems essential to carry out the project.

Eligible expenditures include:

- a) professional and technical services;
- b) training and skills development;
- c) facility/transportation rentals;
- d) communications materials;
- e) planning and design costs;
- f) equipment and machinery costs;
- g) salaries, wages and benefits, excluding post-employment benefits such as severance;
- h) travel, including accommodation, meals, and allowances (will mirror, to the extent possible, National Joint Council rates); and
- i) GST/PST/HST net of any tax rebate to which a Recipient is entitled<sup>1</sup>.

## **7.0 Stacking Limits**

The level of funding provided to Recipients will be proportionate to the direct economic development benefits anticipated to accrue to the Recipient and/or the Indigenous

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<sup>1</sup> In accordance with the departmental GST/PST/HST certification form, the reimbursable Goods and Services Tax, Provincial Sales Tax, and Harmonized Sales Tax costs must be net of any tax rebate to which the Recipient is entitled.

community. Contributions under these Terms and Conditions will be determined based on the minimum level required to ensure the project proceeds in the time-frame, scope and location proposed and furthers program objectives.

The maximum level (stacking limit) of Total Government Assistance (federal, provincial/territorial and municipal assistance for the same eligible expenditures) will not exceed 100% of eligible project costs.

## **8.0 Calculation of the Transfer Payment**

Contribution amounts will be determined through a collaborative work planning process involving the Recipient, the Department, and other stakeholders as deemed necessary. The contribution amounts will be determined based upon an assessment of the reasonable costs to undertake the activities identified in the work plan, the need for federal funding, and the potential benefits to be accrued.

Types and levels of assistance are subject to the limits of funding availability and will be commensurate with the assessment of the risk involved, the resources of the Recipient and the potential benefit to Indigenous communities. Funding will generally be determined on the basis that the amount and level are the minimum required to ensure that the project will deliver the forecast objectives.

## **9.0 Maximum Amount Payable**

The maximum contribution for a project will not exceed 100% of the eligible project costs and may not exceed \$1 million per fiscal year per Recipient.

## **10.0 Basis and Timing of Payment**

Payments will be made based on the achievement of pre-determined performance expectations or milestones and/or documented claims for reasonable eligible costs incurred, to be submitted by the Recipient not more frequently than monthly. Where payment is based on a claim for costs incurred, each claim is to be accompanied by a brief report of the work completed and details of all costs being claimed. The claim shall be substantiated by supporting documents such that they are satisfactory to the Department.

Where it is essential to the achievement of the program objectives and specifically provided for in the funding arrangement, alternative payments may be made in accordance with the cash management provisions of the Directive on Transfer Payments. Alternative payment options include:

- a) advance payment; or
- b) a combination of advance payment and progress payments.

The final payment, including the release of a holdback, will be made only once the Recipient has met all the requirements of the contribution funding arrangement to the satisfaction of the Department, and on receipt and acceptance of all required reports as outlined in the Contribution Agreement.

Further, final payment will not be made until all agreed-upon project activities have been completed by the Recipient and are deemed acceptable to the Department. In order to ensure appropriate project oversight, a reasonable holdback may be applied to the total amount payable and released once all conditions of the contribution agreement have been met.

## **11.0 Retroactive Payments**

Recipients will be allowed to incur eligible expenditures and will only be reimbursed on those eligible expenditures from the date the Recipient has been informed that their project proposal has been approved to the formal signing of a contribution agreement within a given fiscal year. Retroactive expenditures will be limited to 50% of Canada's contribution. The claims for retroactive payment will include supporting documents. All eligible expenditures listed per section 6.0 will be eligible for retroactive payment. The program will issue payments once it is satisfied that the retroactive expenditures are directly related to the project. Only projects that proceed to contribution agreements will be eligible to claim retroactive eligible expenditures incurred.

Recipients eligible to receive retroactive payments are limited to:

- a) Indigenous communities or governments (including *Indian Act* bands, self-governing First Nations, Métis Community Organizations, modern treaty implementation organizations including economic development corporations constituted under a modern treaty, etc.);
- b) Tribal Councils or entities that fulfill a similar function (e.g., general council);
- c) National and regional Indigenous organizations; and
- d) Indigenous not-for-profit corporations.

For greater clarity, any eligible expenditures incurred by the Recipient prior to the contribution agreement's signing date within that fiscal year will be deemed eligible and therefore reimbursable by the Program only if the eligible expenditures have been verified by the Program, through the proposal approval process, and found to be related to the project, in advance of their incurrence.

## **12.0 Application Requirements and Assessment Criteria**

### **12.1 Application Requirements**

Recipients will be required to submit sufficient supporting information to determine Recipient and project eligibility. Required information includes:

Applicant information:

- a) full name, mailing address, and description of the applicant;
- b) management and organizational capacity; and
- c) any other information considered necessary by the Department, including whether the Recipient is operating under a modern treaty.

Project information:

- a) a project title, detailed description of the proposed project and description of activities to be undertaken;
- b) relevant documentation related to any partnership arrangements and commitments;
- c) project timelines;
- d) a cost forecast of the project, including financing details and all funding sources;
- e) anticipated economic benefits of the project, including expected outcomes and proposed performance measures; and
- f) any other information considered necessary by the Department.

In some cases, additional information may be required, including strategic or business plans that address:

- a) use of funds and identification / justification of costs;
- b) suppliers and management capacity;
- c) business organization and worker capacity;
- d) potential environmental effects and proposed mitigation measures;
- e) obligations under the *Canadian Environmental Assessment Act, 2012*, as appropriate;
- f) risk mitigation / provision for unexpected contingencies;
- g) products and services, markets and sales plans;
- h) revenues, expenses and profit expectations;
- i) land tenure requirements;
- j) demonstration of compliance with laws and regulations;
- k) documentation related to legal structure, ownership and control of the business; and
- l) documentation related to the business's equity gap.

## 12.2 Assessment Criteria

Eligible project proposals will be reviewed with priority consideration being granted to projects:

- a) for which the Recipient is an Indigenous community or organization;
- b) that include at least one private, government or non-governmental partner organization (providing cash funding or in-kind support) in addition to the recipient;
- c) that include additional partner organizations (more than one additional partner);
- d) that are part of a planned multi-year project or integrated into a broader natural resource development initiative;
- e) that will accrue benefits to multiple Indigenous communities; and
- f) that include a greater proportion of funding (financial or in-kind contributions) derived from non-federal partners.

### **13.0 Monitoring and Reporting Mechanisms**

The Recipient will be requested to submit data, schedules, plans and reports in sufficient detail to enable the Department to:

- a) assess the progress of the project;
- b) carry out the post-completion monitoring called for in the funding arrangement; and
- c) evaluate the effectiveness of the contributions.

A Director-level committee may require the development of a monitoring plan for select projects. The monitoring plan will provide benchmarks to measure the progress of the initiative and to identify unanticipated risks or impediments to achieving intended results. The proposed level of monitoring will correspond to the level of risk associated with the project.

Annual reporting requirements for Recipients include:

- a) A report depicting how the activities and outputs of the project contribute to the objectives outlined in the Project Description; and
- b) Assessment of key performance indicators, as specified in the Contribution Agreement.

At the end of the project, Recipients will provide the following:

- a) A financial report that demonstrates how the contribution was spent, with a declaration as to the total amount of contributions or payments received from other sources with respect to the Project;
- b) A final narrative report to describe how project activities have contributed to the achievement of the objectives of the Project and a final assessment of key performance indicators to report on project outcomes; and
- c) If applicable, a report outlining any unfinished components of the project.

Where applicable, the Recipient will also provide a copy of any studies that were conducted with support from the program; however, ownership of reports and studies remain the property of the Recipient.

Regular communication between the Department and the Recipient will continue throughout the duration of the project to monitor progress.

#### **14.0 Official Languages**

Implementation of activities will respect the requirements stipulated in the *Official Languages Act*, related regulations, and federal government policies. Compliance will be achieved by ensuring all external communications and public consultations and associated documents will be in both official languages, and all applicants will be given equal access to the program, including the opportunity to submit proposals in the official language of their choice, regardless of geographical location. In addition, employees will be encouraged to participate in interdepartmental meetings and working sessions in the official language of their choice. Services to the public will be available in both official languages. This will include services delivered by federal employees and contractors delivering services on behalf of NRCan.

#### **15.0 Intellectual Property**

All intellectual property that arises in the course of a project shall vest in, or be licensed to, the Recipient. The Recipient will grant to Canada a non-exclusive, irrevocable, world-wide, royalty-free license in perpetuity to use the data and information contained in reports and modify such reports and documents for non-commercial governmental purposes.

#### **16.0 Other Terms and Conditions**

##### **16.1 Non-Repayable Contributions**

Contributions made through these Terms and Conditions will be non-repayable in order to further the objective to increase economic development opportunities for Indigenous communities in the natural resource sectors. Where contributions to Recipients may generate profits or increase the value of a business, the presence of healthy and viable businesses able to support the community helps achieve this objective by providing employment opportunities and by generating self-sustaining interest in natural resource opportunities. Note that the only for-profit Recipients eligible under these Terms and Conditions are those that are majority owned and controlled by Indigenous people.

Contributions to for-profit businesses will be non-repayable in accordance with the Directive on Transfer Payments, Appendix E, Section E-15, which permits non-repayable contributions when “the benefits from the contribution accrue broadly rather than to the Recipient.”

Funding allocated through these Terms and Conditions will be distributed through contribution agreements, rather than grants, to provide added accountability for the use of funds.

It is anticipated that the benefits of these contributions will accrue broadly, as increased economic development opportunities for Indigenous communities in the natural resource sectors will benefit:

- the local natural resource sectors through increased awareness and interest in related employment opportunities; and
- Indigenous entrepreneurs who will be well-placed to provide services to industry and government (e.g., environmental assessment and monitoring, consulting services, transportation services).

In the long term, it is anticipated that business and skills development and knowledge sharing activities will result in more sustainable employment within the natural resource sectors and accrue economic benefits for Indigenous communities. Therefore, all contributions including those to for-profit businesses will be non-repayable.