

Benefits Plan Guidelines for Northwest Territories' Petroleum Lands

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1. INTRODUCTION

1.1 Purpose and Scope of Guidelines

The Northwest Territories (NWT) *Oil and Gas Operations Act (OGOA)* regulates the exploration and drilling for and the production, conservation, processing and transportation of oil and gas in the NWT onshore lands. As indicated in the OGOA, 'onshore' lands are described in the federal *Northwest Territories Act*. This includes all NWT lands except for the lands within the Inuvialuit Settlement Region or areas that remain regulated by the federal government. Hereafter in this document these NWT 'onshore' lands will be described as 'Petroleum Lands'.

Fundamental to the regulatory regime under the OGOA is the requirement for a Benefits Plan. A Benefits Plan represents a documented commitment by an operator to provide employment to Canadians and full and fair opportunity to Canadian businesses. The objective of the Benefits Plan Guidelines for NWT's Petroleum Lands (Guidelines) is to assist an Operator to develop a Benefits Plan that meets the requirements of the OGOA as well as the NWT *Petroleum Resources Act (PRA)*.

These Guidelines do not limit the Minister's discretion to alter or amend any condition as a requirement for approval of a Benefits Plan. In addition, the OGOA and the PRA will prevail in the event of any inconsistency with the content of these Guidelines.

Lastly, the scope of these Guidelines is limited to a Benefits Plan in relation to an oil and gas work or activity in the Petroleum Lands.

1.2 Legislative Reference

Oil and Gas Operations Act (OGOA)

The OGOA promotes, in respect of the exploration for and exploitation of oil and gas, worker safety, protection of the environment, petroleum resources conservation, joint production arrangements, and economically efficient infrastructures.

Section 17(1) of the OGOA establishes the requirement for a Benefits Plan and a Benefits Plan approval, concurrent with an application for approval of a development plan under subsection 14(1)(b) or an application for an authorization of any work or activity under paragraph 10(1)(b). Once a Benefits Plan is approved by the Minister, an operator is obligated to endeavour to fulfill the commitments therein.

The relevant sections of the OGOA are indicated here:

Definition of "benefits plan"

17(1) In this section, "benefits plan" means a plan for the employment of Canadians and for providing Canadian manufacturers, consultants, contractors and service companies with a full and fair opportunity to participate on a competitive basis in the supply of goods and services used in any proposed work or activity referred to in the benefits plan.

Benefits plan

(2) No approval of a development plan shall be granted under subsection 14(1) and no authorization of any work or activity shall be issued under paragraph 10(1)(b), until the Minister has approved, or waived the requirement of approval of, a benefits plan in respect of the work or activity.

Affirmative action programs

(3) The Minister may require that any benefits plan submitted pursuant to subsection (2) include provisions to ensure that disadvantaged individuals or groups have access to training and employment opportunities and to enable such individuals or groups or corporations owned or cooperatives operated by them to participate in the supply of goods and services used in any proposed work or activity referred to in the benefits plan.

Ministerial guidelines and interpretation notes

18(2) The Minister may issue and publish, in any manner the Minister considers appropriate, guidelines and interpretation notes with respect to the application and administration of section 17(1).

Not statutory instruments

(3) For greater certainty, guidelines and interpretation notes issued pursuant to subsections (1) and (2) are not statutory instruments as defined in the Statutory Instruments Act.

Petroleum Resources Act (PRA)

The *PRA* regulates interests in petroleum in relation to Petroleum Lands. The relevant section of the *PRA* is indicated here:

Benefits plan

20. No work or activity on any petroleum lands that are subject to an interest shall be commenced until the Minister has approved, or waived the requirement of approval of, a benefits plan in respect of the work or activity pursuant to subsection 17(2) of the Oil and Gas Operations Act.

1.3 Other Legislation and Obligations

There may be other federal and territorial legislation and obligations under Comprehensive Land Claim Agreements that apply to an oil and gas work or activity on Petroleum Lands. It is an Operator's responsibility to ensure that it complies with any applicable legislation and obligations.

2. DEFINITIONS with these Guidelines

Benefits Plan	Means a plan for the employment of Canadians and for providing Canadian companies with a full and fair opportunity to participate in the supply of goods and services for oil and gas work or activities on Petroleum Lands.
Benefits Plan Report	Means a report detailing how the requirements of the OGOA and the commitments approved by the Minister in a Benefits Plan were fulfilled.
Canadian business	Means a business other than a NWT Aboriginal Business or a NWT business that makes a representation or that provides reasonably reliable evidence that it either: <ul style="list-style-type: none">- is incorporated under the laws of Canada or of a province or territory and that has an ongoing operation in Canada;- complies with the legal requirements to carry on business in Canada, is an incorporated company,

unincorporated joint venture, partnership, proprietorship or cooperative of Canadians, and complies with the following criteria:

- maintains an approved place of business in Canada by leasing or owning office, commercial or industrial space or in the case of service-oriented business, residential space in Canada on an annual basis for the primary purpose of operating the subject business; or

- undertakes most of its management and administrative functions for its Canadian businesses in Canada.

Canadian resident Means a person having Canadian citizenship or permanent residency.

OGOA Means *Oil and Gas Operations Act*, S.N.W.T. 2014, c.14

Contractor Means a person or business that has entered into a contract with an operator to deliver a required good or service; subcontractor refers to a third party that enters into a contract with a contractor, or another subcontractor, to perform all or part of a good or service.

PRA Means *Petroleum Resources Act*, S.N.W.T. 2014,c.15

Decision Report Means a document that conveys the Minister's approval of a Benefits Plan. A Decision Report may include certain conditions accessory to the approval of a Benefits Plan.

Minister Means the Minister of Industry Tourism and Investment (ITI)

NWT Aboriginal Resident Means a person of an Aboriginal people of Canada that has Aboriginal and/or treaty rights in the NWT, as recognized under Section 35 of the Constitution Act of Canada, 1982.

NWT Aboriginal Business Means a business that makes a representation or that provides reasonably reliable evidence that it is either:

- effectively owned or controlled by a NWT Aboriginal person and complies with the legal requirements to carry on business in the NWT; or

- listed on a NWT Aboriginal Business listing.

NWT Aboriginal Organization	Means a NWT Aboriginal Organization established pursuant to a Comprehensive Land Claim Agreement in the NWT.
NWT Business	<p>Means a business other than a NWT Aboriginal Business that makes a representation or that provides reasonably reliable evidence that it complies with the legal requirements to carry on business in the NWT, is an incorporated company, unincorporated joint venture, partnership, proprietorship or cooperative of NWT Residents, and complies with the following criteria:</p> <ul style="list-style-type: none"> - maintains an approved place of business in the NWT by leasing or owning an office, commercial or industrial space or in the case of service oriented businesses, residential space in the NWT on an annual basis for the primary purpose of operating the subject business; or - undertakes most of its business management and administrative functions in the NWT.
NWT Resident	Means a person who is ordinarily resident in the Northwest Territories and has been so resident for the last twelve months.
NWT Stakeholder	Means a resident, group or other stakeholder in the NWT, including the Government of the Northwest Territories, which demonstrates an interest in a proposed oil and gas work or activity.
Operator	Means a person, corporation or other body that is seeking to apply for OGOA authorization to carry out an oil and gas work or activity on Petroleum Lands.
Petroleum Lands	For purposes of these Guidelines and ease of reference, means the 'onshore' lands described in the federal <i>Northwest Territories Act</i> , which is all NWT lands except for the lands within the Inuvialuit Settlement Region or areas that remain regulated by the federal government.
Total direct hires	Means the total number of persons hired directly attributed to an oil and gas work or activity referred to in an approved Benefits Plan.

Total direct program expenditures	Means the total value of the program expenditures directly attributed to an oil and gas work or activity referred to in an approved Benefits Plan.
Total direct wages	Means the total value of the wages directly attributed to an oil and gas work or activity referred to in an approved Benefits Plan.
Total direct work hours	Means the total number of work hours directly attributed to an oil and gas work or activity referred to in an approved Benefits Plan.

3. ADMINISTRATION

3.1 Review and Approval Process

The Department of Industry Tourism and Investment (ITI) is responsible for the administration of Benefits Plans and these Guidelines.

An Operator is responsible to submit a Benefits Plan to ITI well in advance of the anticipated start date of a proposed oil and gas work or activity to allow ITI a sufficient period of time to internally review a Benefits Plan. Failure to do so may result in a delay to the start of a work or activity as the authorization of an oil and gas work or activity will not be granted until the Minister has approved, or waived the requirement for the approval of, a Benefits Plan.

Generally, the greater the scale and the scope of a work or activity referred to in a Benefits Plan, the greater the period of time required by ITI for internal review. Early communication with ITI by an Operator is encouraged in order to assess an adequate review and approval process period of time.

The decision by the Minister to approve or to waive the requirement for approval of a Benefits Plan will be conveyed to an operator by way of a Decision Report.

Any other arrangement or agreement that is required under other legislation or obligations under a Comprehensive Land Claim Agreement and that is entered into between an Operator and another party in relation to an oil and gas work or activity on Petroleum Lands is not a substitute for a Benefits Plan that is required under the OGOA.

3.2 Coverage Period

The coverage period of a Benefits Plan should accurately reflect the entirety of a proposed oil and gas work or activity referred to in a Benefits Plan.

3.3 Benefits Plan Amendments

In the event of an amendment to an oil and gas work or activity that may significantly differ from the work or activity that was referred to in a previously approved Benefits Plan, an Operator may be required to provide ITI with a Benefits Plan amendment to the previously approved Benefits Plan. An Operator may also be required to provide to ITI an assessment of the potential impact that the amendment may have on the commitments approved by the Minister in the previously approved Benefits Plan.

If ITI determines that a Benefits Plan amendment is required, the review and approval process requirements in these Guidelines would come into effect.

The format of a Benefits Plan amendment will depend upon the scale and scope of the potential impact on a previously approved Benefits Plan.

Where, in an Operator's view, a Benefits Plan amendment is not required, an Operator is required to submit its rationale to ITI for a decision prior to the continuation of an oil and gas work or activity.

3.4 Monitoring and Auditing

ITI reserves the right to undertake reasonable monitoring and/or auditing activities of an Operator and its contractors and/or subcontractors to verify that the objectives and principles in a Benefits Plan have been followed, and that the commitments approved by the Minister have been fulfilled.

Verification expenses may be recovered by ITI.

To ensure the accuracy and completeness of a Benefits Plan, an Operator should create controls for monitoring and reporting procedures and consider conducting compliance audits of its contractors and subcontractors.

Also, it is important that a contractor or subcontractor who undertakes an oil and gas work or activity referred to in a Benefits Plan understands the requirements of the OGOA and follows the principles and objectives in the Guidelines, and fulfills the commitments approved by the Minister in a Benefits Plan. An Operator is responsible to ensure that its contractors and subcontractors fulfill all the commitments.

4. PRINCIPLES AND OBJECTIVES

An Operator engaged in oil and gas work or activity is expected to follow the principles and objectives outlined below. These are intended to assist an Operator to develop a Benefits Plan to meet the requirements of the OGOA.

4.1 Communication

It is important for an Operator to initiate early communication and to maintain communication with interested NWT Stakeholders and/or NWT Aboriginal Organizations during the development of a Benefits Plan. Sharing information about a proposed oil and gas work or activity builds strong community relationships and facilitates local participation.

The extent of communication during the development of a Benefits Plan will depend on the nature and scope of the oil and gas work or activity.

In accordance with this principle, an Operator should apply the following objectives:

- meet early and adequately for the purpose of interested NWT Stakeholders and/or NWT Aboriginal Organizations and NWT Businesses to share information concerning potential training, employment and business opportunities;
- employ a variety of communication techniques that effectively facilitate two-way dialogue and that take into account the particular needs of interested NWT Stakeholders and/or NWT Aboriginal Organizations; and
- keep a record of any meetings and include information regarding benefits issues discussed, advice identified, and mitigative measures proposed and planned.

During the review and approval process of a Benefits Plan, ITI may contact interested NWT Stakeholders and/or NWT Aboriginal Organizations to verify that an operator has followed this principle and its objectives.

4.2 Maximize Northern Benefits

A Benefits Plan should ensure that NWT Aboriginal Residents and NWT Aboriginal Businesses, as well as other NWT Residents and NWT Businesses, are provided an opportunity to participate in and benefit directly from oil and gas work or activities on Petroleum Lands.

An Operator is encouraged to develop and implement training and employment strategies as well as business and procurement processes that maximize NWT benefits.

4.2.1 Training and Employment Strategies

During the development of a Benefits Plan an Operator should consider training and employment strategies to apply the following objectives:

- support opportunities for education and training;
- provide sufficient lead time for necessary education and training; and
- promote transferrable skills and succession planning.

4.2.2 Business and Procurement Processes

To the extent practicable, an operator should consider business and procurement processes to apply the following objectives:

- employ a transparent and fair procurement and contract award process;
- promote bid requests and opportunities in a timely manner to support participation of local suppliers; and
- use best efforts to remove any impediments that could limit local suppliers from participating economically.

4.3 Northern Preference

Oil and gas work or activities can provide direct benefits to NWT Aboriginal Residents and NWT Aboriginal Businesses and other NWT Residents and NWT Businesses to improve their social and economic well-being while contributing to the NWT's economic development.

Northern preference represents a hierarchy in which first consideration for employment and business opportunities should be extended to qualified NWT Aboriginal Residents and other NWT Residents and NWT Businesses.

In accordance with this principle, an Operator should apply Northern preference in the following priority:

- i. local NWT Aboriginal Residents and local NWT Aboriginal Businesses in the vicinity of a proposed oil and gas work or activity;
- ii. other NWT residents and NWT Businesses in the NWT; and
- iii. other Canadian residents and businesses.

5. BENEFITS PLAN COMPONENTS

A Benefits Plan should clearly set out how an Operator proposes to meet the requirements of the OGOA and to follow the principles and objectives outlined in these Guidelines. A Benefits Plan should also clearly outline how an Operator plans to integrate its internal best practices, processes and procedures during the development and implementation of a Benefits Plan.

A Benefits Plan should include, but is not limited to, the following components.

5.1 Program Description

A Benefits Plan should describe a proposed oil and gas work or activity at a level of detail that is commensurate with the scope of the work or activity:

- descriptions of the activities that will be carried out;
- key activity timelines and major milestones;
- forecasts of the total program expenditures categorized by Northern preference priority;
- plans for engagement with interested NWT Stakeholders and/or NWT Aboriginal Organizations; and
- location maps that depict the proposed activity.

5.2 Employment and Training Opportunities

A Benefits Plan should include a description of an Operator's training and employment strategies:

- timely communications of potential employment and training opportunities;
- forecasts of its training opportunities categorized by Northern preference priority;
- forecasts of its total planned hiring, total wages and total work hours categorized by Northern preference priority; and
- strategies for providing opportunities for advancement.

5.3 Procurement and Business Opportunities

A Benefits Plan should include a description of an Operator's procurement and contracting strategies:

- timely communications of potential business opportunities and the opportunity to bid on work;

- forecasts of its total planned procurement expenditures by major procurement category and by Northern preference priority; and
- strategies for providing business opportunities categorized by northern preference priority.

5.4 Reporting

A Benefits Plan should include an overview of an Operator's monitoring and reporting strategies.

6. REPORT ON A BENEFITS PLAN

As a condition of the approval of a Benefits Plan by the Minister, an Operator is required to submit to ITI a Report on the implementation of a Benefits Plan. The Report should demonstrate how an Operator met the requirements of the OGOA, followed the principles and objectives in the Guidelines, and fulfilled the commitments approved by the Minister in a Benefits Plan.

As a rule of thumb, for a single-season oil and gas work or activity ITI will normally require a single final Report. For a multi-season or multi-year work or activity, ITI may require an annual and/or semi-annual Report, as well as a final Report.

The timing and frequency of a Report will depend on the scale and scope of an oil and gas work or activity referred to in a Benefits Plan. An Operator can establish the timing and frequency of a Report during early communication with ITI.

6.1 Content of a Benefits Plan Report

Similar to the content of a Benefits Plan, an Operator should provide a Report that includes, but is not limited to:

- a summary of the work or activities undertaken;
- total direct program expenditures categorized by Northern preference priority;
- total direct employment categorized by Northern preference priority;
- total number of trainees categorized by Northern preference priority;
- total direct wages categorized by Northern preference priority;
- total direct work hours categorized by Northern preference priority;

- total value of goods and services categorized by Northern preference priority;
- confirmation of engagement with NWT Stakeholders and/or NWT Aboriginal Organizations; and
- a brief description of future projects, if applicable.

7. ADDITIONAL INFORMATION

For information about the Benefits Plan requirement in the Petroleum Lands, please contact:

Petroleum Resources Division
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P.O. Box 3019
Inuvik, NT X0E 0T0
Phone: (867) 777-7480
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