

**Day Labour Hire for the Completion of Engineering Works
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BACKGROUND INFORMATION

MFR Day Labour (See Chapter 2 of the Engineering manual for details):

- A “Engineering Equipment Rental Agreement” (FS 21 contract) is used for the hourly hiring of equipment on day labour projects include multiple pieces of equipment from one supplier on the project.
- A project is defined as the work assignment to be carried out by a piece of equipment before it is demobilized. A project is not limited by FSR designation, but is defined by the nature of the works (i.e. grading equipment for surface maintenance on several FSRs to make up one project).
- All projects using day labour require justification for the use of direct hire of equipment and labour as detailed below under “direct award contracts”.

MFR Engineering Equipment Selection Directory (EES):

- The EES system is a self registration system for equipment and professional and technical consultants.
- EES does not allow for the direct award of a contract to a single equipment owner, without meeting the direct award contract criteria.
- Work should be equitable and fairly distributed among service providers as much as possible.

DAY LABOUR HIRING OPTIONS

1. Ministry of Transportation and Infrastructure (MOT) – Hired Equipment (HE) Process

If MFR regions/districts want to use the MFR system:

- The MFR project supervisor determines what pieces of equipment it requires and notifies the District Manager of the local MOT office;
- MOT will then use the HE system to generate equipment suppliers;
- The equipment suppliers will report to the MFR projects supervisor and be required to sign an Equipment Rental Agreement.

Features

- The HE process uses a rotational list (system generated) of hired equipment suppliers based on seniority registered in a specific area. Seniority is determined based on the number of years a specific piece of equipment has been registered with MOT and an average of three years of accumulated work hours. The equipment call-out lists are generally divided into three blocks – primary, secondary and open. In each equipment category, owners may only have a maximum of one piece of equipment in the primary and secondary categories. Additional pieces may be registered in the open block.
- The MTI HE process is not considered a direct award.

- Equipment can be hired by MOT for up to 300 or 600 hours (depending on the type of equipment) maximum per contractor per year only.
- Each HE equipment owner carries equipment insurance, general liability insurance and Worksafe BC coverage.
- The hours worked per piece of equipment is tracked every day through the Hired Equipment Tracking System (HETS).

2. Direct Equipment Hire

Core Policy and Trade Agreements limit the flexibility for day labour. Current government direct award policy contains the following allowable exemptions, abridged here for the purposes of this discussion that are also supported under the trade agreements:

- an emergency exists; or
- there could be an interference with a ministry's ability to maintain security or order or to protect human, animal or plant life or health; or
- the contract concerns matters of a confidential or privileged nature and disclosure matters could compromise government confidentiality, cause disruption, or otherwise be contrary to public interest; or
- it has been recently strictly proven that only one contractor is qualified and/or available; or
- the work is valued at less than \$25,000 and it is not reasonable or cost effective to openly compete the acquisition of the services and all of the following apply:
 - a) prices obtained are at market value; b) it is not repeated direct awarding to the same contractor; and, c) there are no other interested contractors.

Direct awards valued at \$50,000 or more require posting a “Notice of Intent to Direct Award” on BCBid for a minimum of eight days. Core Policy requires all direct awards to have a rationale and justification placed on file explaining why a competitive process was not used. Work should be equitable and fairly distributed among service providers as much as possible

3. Open Invitation

- Any service opportunity with an estimated value from \$25,000 up to \$75,000* or any construction opportunity with an estimated value from \$25,000 up to \$100,000 must be awarded using a competitive process. These opportunities can be either posted on BC Bid or at least three quotes (where possible) must be obtained from an established pre-qualification list.
- If the expected contract value for services is \$75,000 or more or construction of \$100,000 or more then it is subject to the trade agreements and the opportunity must be openly competed using BC Bid or all contractors from an established pre-qualification list that meet the criteria for a specific project must be invited to bid and the list must have been established within the past 12 months.
- * any service or construction opportunity with an estimated value of less than \$25,000 should be competed to the extent reasonable and cost-effective (i.e. three quotes).

CONSIDERATIONS FOR THE USE OF DAY LABOUR

- Previous guidance until current was to avoid use of day labour in favour of project contracts.
- Direct award contract constraints limit flexibility to use day labour/hourly hires.
- Government contract requirements have limitations on methods of contract awards and amounts.
- Require letting of contracts for qualified foremen; reported difficulty in engaging qualified personnel to direct and oversee projects.
- For ministry oversight of projects would likely entail significant amounts of overtime as contract works are not restricted to typical business hours
- Any risks associated with project delivery and outcomes are solely held by MFR. No expressed warranty on works completed.
- Responsible for compliance with Worksafe BC requirements for worksite safety including meeting Worksafe first aid requirements as the Prime Contractor. First aid, ambulance, traffic control, etc are time consuming to manage in addition to traffic plans and safety plans for larger and longer term projects.
- Increased resource requirements for project administration and documentation – time slips, numerous contracts, payroll, etc.
- Only suited to routine road projects not involving more complex and higher risk works (e.g. suited to road maintenance; not suited to bridge construction).
- Equipment hire does not address operator skill or qualifications or condition of equipment or previous work.

Field Supervision of Works - MFR Consulting Services (see Chapter 2 of the Engineering manual for details):

- To ensure the successful implementation of day labour projects may require the hiring of knowledgeable field supervisors where internal qualified staff are not available.
- The EES directory is considered a “select list” for the purposes of contracting professional and technical services.
- A “Consulting and General Services Contract” (FS 1) should be used to hire professional and technical services.
- Note – the Southern Interior Region has a pre-qualified list of professional service providers that is considered a “select list”.