

Guide to Equipment Hire for Forestry and Engineering Activities using the:

- **Engineering Equipment and Services Directory and;**
- **Equipment Rental Agreement-NRS21 (ERA).**

Application:

This document (The Guide) provides guidance for work done by the heavy equipment industry through Daily Hire, Hourly Hire and Emergency Services on various projects and is consistent with Ministry of Forests Lands and Natural Resource Operations (FLNR) policy. The Guide may also be appropriate for use by others within the Natural Resource Sector as best management practices, subject to each business area's contract policy and governance (with exception of FLNR Wildfire Management Branch, which manages its own Equipment Rental Agreement -FS101).

In October 2013, the form was converted by the Corporate Services Division for the Natural Resource Sector, Financial Services Branch, Contract Procurement Policy & Compliance to a form that is now available for use by others in the Natural Resource Sector ministries as well as FLNR. The [ERA](#) has been approved by the Ministry of Justice, Legal Services Branch.

1. Policy Directive

The following policy for equipment hire on ministry projects using the Engineering Equipment and Services (EES) Directory and Equipment Rental Agreement (ERA) is consistent with the province's Core Policy and the New West Partnership Trade Agreement and the Agreement on Internal Trade.

All engineering contracts must be solicited, awarded and administered in a fair, equitable and transparent manner. This is a manner that is balanced with efficient use of ministry staff resources and is cost-effective in the delivery of the end product.

Using Equipment Hire on Day Labour Projects

- 1.1 Equipment rates are to be negotiated for each piece of rental equipment and should reflect local market availability. The parties may wish to refer to and adopt where appropriate, the provisions of the [BC Road Builders and Heavy Construction Association](#) Equipment Rental Guide (the "Blue Book") as authorized by the Government of British Columbia, in effect the date in which this ERA is entered.
- 1.2 All equipment considered for day labour hire by the FLNR for engineering activities within Timber Operations, Pricing and First Nations Division, or BC Timber Sales must be registered in the ministry's provincial EES Directory.
- 1.3 The ERA has a maximum term value of \$100,000 on an 'as, if and when required' basis.

- 1.4 Equipment hire costs on any specific engineering project¹ must be less than \$50,000 ([ref: 11250-2005 Deputy Memo for Equip Hire for Use on FSR](#)). An agreement for a project valued in excess of \$50,000 must be made through an alternate approved contract agreement form (reference Chapter 9-Contract Management Manual).
- 1.5 In accordance with government's Core Policy and for the purpose of this guidance document:
- (a) subject to 1.5(c)(ii) & (iii), all work assignments between \$25,000 and \$50,000 *must* be competitively tendered by soliciting three or more vendors;
 - (b) subject to 1.5(c)(i), (ii) & (iii), all work assignments valued less than \$25,000 *should* be competitively tendered to the extent reasonable and cost effective by soliciting three or more vendors;
 - (c) where it is not reasonable or cost effective to solicit competitive rates under the following circumstances, direct award² may be authorized by an Expense Authority³:
 - (i) the value of the **work assignment** is **less than \$25,000** to an **individual contractor** and the answer to all of the following is yes [when using the EES Directory or a prequalified select list, use CAS Procurement Code 400 (code 207 applies if a vendor list is not used)]:
 - prices obtained through direct invitation will correspond with current market value;
 - value for money cannot be achieved when the added costs associated with going out to tender are considered;
 - there are no other potentially interested contractors;
 - will not result in repeated direct awards to same contractor or group of contractors and;
 - a contractor monopoly will not be created.
 - (ii) the value of the **project** is less than \$50,000 and at least one of the following applies:
 - it has recently been strictly proven⁴ that only one contractor is qualified and/or available to do the work (CAS Procurement Code 201);
 - a competitive process would interfere with the ability to maintain security or order or to protect human, animal or plant life or health (CAS Procurement Code 203); or
 - the work concerns matters of a confidential or privileged nature and disclosure of those matters through a competitive process could reasonably be expected to compromise government confidentiality, cause economic disruption, or otherwise be contrary to the public interest (CAS Procurement Code 204).

¹ "engineering project" means the work assignment to be carried out by all pieces of equipment combined for a specified, pre-determined worksite. A project is not limited by a road designation, but is defined by the nature of the works and may include multiple roads. An example of this is the use of equipment for surface maintenance on several roads that makes up one project. The project's pre-determined worksite must be well-defined and documented [NB: there are considerations that may affect Prime Contractor and safety (e.g., crew travel to and from the worksite may or may not be excluded from the project or mobilization/demobilization to or from the worksite may be included or excluded as part of the project)]

² "direct award" means negotiation with one supplier without a competitive process. All supplier names **must** be rotationally drawn in a fair and equitable manner from the EES Directory or an eligibility list established by advertising on BC Bid. All suppliers on the eligibility list must be also be registered in the EES directory. All suppliers should be given equal opportunity to obtain work of the same dollar value. To avoid criticism of unfair, biased tendering practices, staff must plan their contracting activity to achieve that objective.

³ Unless there is program specific policy to the contrary, an 'Expense Authority' has the authority to approve Equipment Rental Agreement direct awards to the limits not exceeding those detailed in this Guide **and** of their [MFLNRO Expense Authority Matrix](#) as determined through [Financial Services Branch Signing Authority](#). Contracts in excess of the expense authority's levels require the approval and contract execution of the next hierarchical level of authority conducive to the value of the contract.

⁴ "Strictly proven" means a recent public tender resulting in no qualified vendors or a Notice of Intent to Direct Award was posted with no valid responses.

(iii) the situation is an emergency⁵ including an unforeseeable situation of urgency and the work could not be obtained in time by means of open procurement procedures. This circumstance is not restricted by value (CAS Procurement Code 202).

- 1.6 All directly awarded contracts must have on file a written justification and rationale and approval ([FS1340](#)) for the use of direct hire of equipment and labour, including reason for use of a particular contractor.
- 1.7 Documentation of [Verbal Invitation to Quote \(NRS1363\)](#) or [Letter Format Invitation to Quote \(NRS1290\)](#) should be used and placed on the contract file.
- 1.8 Direct invitation to selected vendors from the EES Directory or a formally established pre-qualification list of vendors that are registered in the EES Directory will utilize CAS Procurement Code 401 (the EES Directory is advertised and available through BC Bid).

2. Equipment Rental Agreement (ERA)

- 2.1 An [Equipment Rental Agreement \(NRS21\)](#) may be used for hiring equipment (such as excavators, skidders, tractors, trucks, graders and drills) for road construction, maintenance and deactivation on day labour projects. The agreement lists all the pieces of equipment the contractor will make available for use.
- 2.2 The ERA permits designation to various worksites for various projects taking place throughout the year with a Term date ending March 31st of the year following the date the ERA is executed. The ERA is an ‘as, if and when required’ contract having no obligation on the ministry to offer work or on the contractor to accept work at any given time.
- 2.3 Subject to the ministry’s estimate, the contractor’s quote for completion of the work on a specified and pre-determined project becomes the ceiling price for that particular project. The amount expended per project per contractor must be tracked under each ERA utilizing the [Project Time Report \(daily\) - NRS472](#) or [Project Time Report \(bi-weekly\) - NRS472A](#)
- 2.4 Where the quoted price on any given project is exceeded or where the ERA has reached its ceiling, a [Contract Modification Agreement \(NRS600\)](#) is required.
- 2.5 Proof of Commercial General Liability (CGL) insurance must be confirmed through submission of the [Province of BC Certificate of Insurance \(FIN173\)](#) may be accepted where a contractor will be undertaking the same type of activity on each project. At the point of hire for any project, the certificate must be reviewed to ensure coverage is still valid.
- 2.6 A fuel adjustment may be considered in negotiating the hourly rate for ERA’s. Once the equipment hourly rental rates are agreed upon, those rates are established throughout the term of the ERA (per section 2.2 above) no further fuel rate adjustment (monthly or otherwise) should be applied unless the agreement is re-negotiated through mutual agreement. Ministry of Transportation and Infrastructure’s (MOTI’s) fuel adjustment based on MJ Ervin (BC) average price of fuel using two groupings of equipment: “On-Road” (e.g. gravel trucks) and “Off-Road (e.g. heavy equipment such as excavators) is the recommended guide in determining fuel adjustments. <http://www.th.gov.bc.ca/hired-equipment/hiredequip.htm>
- 2.7 Table: Overview of the Application of the Equipment Rental Agreement

⁵

“Emergency” means any situation which constitutes an *imminent* and *serious* threat to human safety, Crown land or resources, ministry or private property, or otherwise has the imminent potential to result in significant loss to the Province, including situations of an urgent matter.

| Work/Service Required | Major Features of the ERA | Examples of Use |
|---|---|--|
| <ul style="list-style-type: none"> • Contractor supplies heavy equipment, usually on an hourly hire or daily rate • The following guidelines a) & b)* complement the ERA sections 1(a) (all found), 1(b) (standby) and (mobilization costs): <ul style="list-style-type: none"> a) All-found: primarily used for day labour hourly or daily work. Operators are expected to report to the project site at their own expense unless there is an agreement to the contrary; b) Standby: there must be an agreement on the conditions under which standby will apply before work starts and payment is allowed; c) Mobilization & Demobilization: A negotiated point-of-hire must be mutually agreed to and recorded on the NRS472 or NRS472A prior to transport charges being accepted. In addition to rental charges, equipment mobilization, demobilization or transport costs from the point of hire to and from the project site and between projects may be paid as determined by the Province. <p>*Source: Blue Book Equipment Rental Rate Guide ~page 20</p> | <ul style="list-style-type: none"> • Allows for: <ul style="list-style-type: none"> a) Direct award or, b) A competitive process for obtaining quotes; • Direct award value not to exceed \$25,000 per contractor per project and in specific cases not to exceed \$50,000. • For competitive process, the value must not exceed \$50,000 per project; • As, if and when requested with no commitment or guarantee of work; • All Equipment Rental agreements expire on March 31st of the fiscal year in which the agreement is executed. • May cover numerous projects throughout its Term and a maximum Term value of \$100,000. • As, if and when requested with no commitment or guarantee of work. • Worksites are designated as and when required; • Any use of the equipment at the worksite shall be under the direction of an agent designated by the province, unless a contractor has been delegated “prime.” • Use the NRS472 or NRS472A to track costs per project per contractor. • If a multi-employer worksite is created, the ministry may function as the Prime Contractor but must be qualified and resourced to do so appropriately. <p>If the ERA utilized for an emergency⁵, this circumstance is not restricted by value (CAS Procurement Code 202).</p> | <ul style="list-style-type: none"> • Maintenance of the road prism and its clearing width; • Road construction; • Bridge or major culvert construction; • Road deactivation; • Emergency repairs. |

3. Using the Engineering Equipment and Services Directory

- 3.1 The Engineering Equipment and Services (EES) Directory is a web-based registration system that provides a listing of equipment and equipment owners registered for work with the ministry.
- 3.2 Where the ministry is to engage contractors for day labour hired equipment on engineering FSR projects, supplier names must be drawn from the EES Directory. The EES Directory can be accessed by ministry staff through the [BC Bid log on screen](#). Enter: account type “Idir”, “ID”, “Password” then click “Submit” then click “MFR EES”.
- 3.3 Equipment owners who wish to offer their equipment for hire to the ministry for engineering works must be registered for the appropriate equipment categories in the EES Directory. Supplier registration is available through BC Bid when suppliers complete the Supplier Registration screen.
- 3.4 Ministry staff drawing from the EES Directory shall ensure that listed equipment owners are provided work opportunities on a fair, transparent and equitable basis and repeat engagements of the same contractor is avoided and all equipment owners on the list are provided a rotational opportunity.
- 3.5 The EES Directory is not to be used to solicit multiple-year contracts, option to renew contracts or contracts subject to the trade agreements. For further direction on contracts and trade agreements refer to [Corporate Services for the Natural Resource Sector-Contract Procurement](#) homepage.
- 3.6 Interested equipment suppliers may be directed to the [FLNR Engineering Branch Website](#) for guidance on self-registration in the EES Directory.

4. Prime Contractor, Safety and Planning Considerations

4.1 The establishment of a prime contractor is only required if a multi-employer worksite is created. For day rate projects, a contractor could be assigned to prime contractor responsibilities. The prime contractor is not responsible for all aspects of safety. Each firm also has responsibilities, which generally includes the responsibilities to protect all workers at their workplace which is a shared workplace by virtue of it being multiple-employer. In a multi-employer worksite, the prime contractor is responsible for ensuring continuing coordination of the activities of all employers to ensure safety of all workers. Further, the prime contractor is responsible to ensure a system of compliance regarding the activities and work related to the project. These responsibilities are specified under [Section 118 of the Workers Compensation Act](#). The safety of workers on a workplace must also consider how they travel to and from the workplace.

4.2 Planning is the most critical component of the project to ensure safety. Staff must consider if a multi-employer workplace will be created and how it will be managed. Many projects undertaken by equipment hire agreements are, or will become, multi-employer workplaces and as such staff need to plan in advance as to who is qualified to act as a prime contractor including the ministry itself (The ministry may function as the prime contractor but must be appropriately qualified and resourced to do so).

Depending on the degree of control and direction applied by the ministry, staff must consider whether or not the contractor(s) will be considered an independent firm(s). If the ministry directs and controls the contractor(s) as it would its own employees, the contractor(s) may not be seen to be independent and the ministry would be responsible for them in the same way it would its own employees (see the document entitled: [Influencing Safety through Interactions with FLNR Clients & Stakeholders](#) . Further considerations for planning the project include, but are not restricted to, the nature of the work to be undertaken; the season; other works in the area; first aid requirements and provider; communications and emergency evacuation; appropriateness of equipment; and alternative approaches should the unexpected occur.

4.3 The ERA is a stand-alone ‘as, if and when required’ contract with no obligations for the contractor to be prime contractor. The ministry must plan for and ensure that a contractor who will be delegated prime contractor has the capacity and resources and is aware of its responsibilities and has bid (or is compensated) accordingly.

4.4 If a contractor is to be delegated prime contractor, this will require both the ministry and contractor agreeing and executing a separate, stand-alone [Prime Contractor Agreement - NRS1354](#) and may require the [Safety Conditions Schedule - NRS1313](#) attached if appropriate.

Planning out how and by whom the project will be managed in advance and ensuring all parties know and understand this and what to do in unforeseen circumstances can do much to ensure a safe outcome and successful project.

5. BC Timber Sales Considerations Prior to Equipment Being Hired for Work

5.1 Equipment operators and services consultants must meet requirements of the Environmental Management System (EMS). For more information about EMS training and registration, please see Chapter 9 of the ["BC Timber Sales, Environmental Management System Manual"](#) and [BC Timber Sales Environmental Management System Schedule FS11](#).

The use of the NRS21, “Schedule E”: EMS as an attachment to the Equipment Rental Agreement is subject to BCTS Business contracting practices.

5.2 Equipment operators and service consultants must be *either*;

- certified in the BC Forest Safety Council SAFE Company Program;
- certified under another safety scheme recognized by BC Forest Safety Council or BC Timber Sales; or
- exempted by the ministry in writing from the requirement to be certified in the SAFE Companies Program for it or its subcontractors.

The use of the “Schedule H”: Safe Certification as an attachment to the Equipment Rental Agreement is subject to BCTS Business contracting practices.

For further information go to: http://www.bcforestsafe.org/safe_companies/registration.html