

GENERAL ADMINISTRATION MANUAL

VOLUME 2: INFRASTRUCTURE POLICIES

TITLE: YUKON BUSINESS INCENTIVE POLICY FOR CONSTRUCTION

EFFECTIVE: February 8, 1990

1 SCOPE

1.1 Authority

- 1.1.1 This policy is issued under the authority of Cabinet meeting 99-19 dated May 27, 1999 together with the Construction Materials Incentive Rebate Schedule.
- 1.1.2 Related to this policy is the Yukon Business Incentive Policy for Goods and Services together with the Goods and Services Incentive Rebate Schedule.

1.2 Application

- 1.2.1 This policy applies:
 - 1.2.1.1 In the case of Yukon apprenticeship incentive rebates, to all construction contracts entered into by the government;
 - 1.2.1.2 In the case of Yukon youth incentive rebates, to all construction contracts entered into by the government to May 31, 2005;
 - 1.2.1.3 In the case of Yukon materials incentive rebates, to all construction contracts entered into by the government;
 - 1.2.1.4 In the case of Yukon labour incentive rebates, to construction contracts entered into by the government on which the award price is equal to or greater than \$100,000; and
 - 1.2.1.5 To other construction contracts that the Minister, in extraordinary circumstances and for compelling economic reasons, may wish to include under the terms of this policy.

1.2.2 This policy does not apply:

1.2.2.1 To contracts entered into by agencies and Crown Corporations, unless approved by their governing body;

1.2.2.2 To contracts where federal cost share agreements prohibit the application of a local preference policy; or

1.2.2.3 To land development contracts where the costs will be charged back to the public.

1.3 Purpose and Principles

1.3.1 The purposes of this policy are:

1.3.1.1 To maximise the employment opportunities for Yukon residents in government construction projects;

1.3.1.2 To maximise the use of Yukon materials and manufactured products in government construction projects;

1.3.1.3 To encourage the use of Yukon apprentices in government construction projects; and

1.3.1.4 To encourage the employment of Yukon youth in government construction projects.

1.3.2 To meet the purposes of this policy, incentive rebates will be paid to contractors, subcontractors and manufacturers for eligible expenditures that they incur for work performed on government construction contracts.

1.4 Background

This policy was approved by Cabinet in February, 1990 and the initial Construction Materials Incentive Rebate Schedule was approved by Management Board in September, 1990. Revised schedules were approved November 7, 1991 and February 1, 1994. The policy was revised October 1, 1992 to incorporate changes in policy application, revised reporting relationships for the findings of the Business Incentive Review Committee (Appendix 1 attached), and to revise wording to conform with the Contract Regulations approved September 1, 1992. Effective June 1, 1998 a new Yukon youth rebate was incorporated into the policy, the apprenticeship rebate was increased to 15% for harmonisation with the

youth rebate and certain benefits were included in the definition of wages. Effective June 1, 1999, the \$100,000 contract threshold for the Yukon materials incentive rebate was eliminated.

1.5 Definitions

Apprentice: A Yukon resident who has a valid apprenticeship contract and is registered as an apprentice with the Director of Apprenticeship Training in the Yukon.

Business Incentive Review Committee: A committee appointed by the Minister under this policy to assist in the application and administration of this policy.

Construction Contract: A contract for the construction, or major repair/maintenance of a public work (as defined in the Contract Regulations).

For greater certainty, a construction contract includes a contract for the supply of a structure pre-fabricated in accordance with plans and specifications supplied by the government, and a contract relating to demolition.

Construction Materials Incentive Rebate Schedule: A listing of construction materials or groups of materials and Yukon manufactured products that are eligible for incentive rebates, and the rate of rebate to be offered for each.

Contractor: A corporation, partnership, or individual that has been awarded a contract for the execution of work or services under the terms of a construction contract.

Deputy Minister: A Yukon Government official designated as the Deputy Minister of Infrastructure.

Incentive Rebates: Payments made to contractors, subcontractors and manufacturers based on Yukon labour content, Yukon materials and/or Yukon apprentice or Yukon youth labour used in the completion of a construction contract.

Incentive Rebate Rate: A percentage contained in the Construction Materials Incentive Rebate Schedule that is associated with a construction material or group of construction materials and Yukon manufactured products.

Minister: An Executive Council member designated as the Minister of Infrastructure.

Subcontractor: A corporation, partnership, or individual who has been awarded a contract by a contractor of the government and under that contract is performing work or providing services on the project for which the contractor was engaged.

Youth: A Yukon resident who is aged 24 or younger.

Yukon Labour Content: That portion of a contract's wage and benefit costs that are paid in wages and benefits to Yukon residents.

Yukon Materials: Construction materials or groups of materials and Yukon manufactured products identified in the Construction Materials Incentive Rebate Schedule.

Yukon Resident: A person who resides in the Yukon and has maintained a valid Yukon Health Care Insurance Plan registration for at least 90 days immediately prior to the date of hire.

Wages and Benefits: Money paid as compensation to an employee or to a fund, insurer or other person for an employee's benefit by a contractor or subcontractor for work directly related to an eligible construction contract. Benefits shall include the employer's contribution to supplementary health, life, disability insurance and pension plans for an employee's benefit by a contractor for work directly related to an eligible contract. For the purpose of this policy, wages and benefits shall exclude any payment made for work of a general administrative nature.

2 ROLES AND RESPONSIBILITIES

2.1 Minister of Infrastructure

- 2.1.1 The Minister shall appoint a **Business Incentive Review Committee** to advise the Minister on matters relating to this policy, pursuant to criteria established in Appendix 1 of this policy.
- 2.1.2 The Minister shall forward to Management Board an annual evaluation of the policy as presented by the Business Incentive Review Committee.
- 2.1.3 The Minister may amend the Construction Materials Incentive Rebate Schedule by approving the inclusion or exclusion of materials

or groups of materials and manufactured products, and the incentive rate to be applied to each.

- 2.1.4 The Minister shall receive an appeal regarding a decision made pursuant to this policy.
- 2.1.5 Upon receipt of an appeal, the Minister shall seek the advice and guidance of the Business Incentive Review Committee.
- 2.1.6 The Minister shall make the decision regarding the appeal and shall give written notice of that decision to the appellant, the Deputy Minister and the Business Incentive Review Committee. The decision of the Minister will be final.

2.2 Deputy Minister of Infrastructure

- 2.2.1 The Deputy Minister shall receive from the Business Incentive Review Committee, at least on an annual basis, recommendations on the Construction Materials Incentive Rebate Schedule respecting:
 - 2.2.1.1 Whether a material or group of materials or manufactured product should be included as part of the Construction Materials Incentive Rebate Schedule;
 - 2.2.1.2 Whether a specified Yukon material should remain as part of the Construction Materials Incentive Rebate Schedule; and
 - 2.2.1.3 Whether the incentive rebate rate applied to a Yukon material should be amended.
- 2.2.2 The Deputy Minister shall recommend any changes to the Construction Materials Incentive Rebate Schedule to the Minister as required.

2.3 Deputy Minister of Infrastructure or Delegate

- 2.3.1 The Deputy Minister of Infrastructure or delegate shall administer and maintain the Construction Materials Incentive Rebate Schedule.
- 2.3.2 The Deputy Minister of Infrastructure or delegate shall prescribe claims procedures and time frames for establishing payment procedures for incentive rebates.
- 2.3.3 The Deputy Minister of Infrastructure or delegate shall receive claims for incentive rebates from contractors, subcontractors and

manufacturers and will calculate incentive rebates on the following basis:

Yukon Labour Content:

- 2.3.3.1 Where Yukon labour content equals or exceeds 80% of the total wage and benefit bill, a rebate of 5% of the wages and benefits which comprise the first 80% of the Yukon labour content in the project will be payable to the contractor or subcontractor.
- 2.3.3.2 If the Yukon labour content exceeds 80% of the total wage and benefit bill, an additional rebate of 15% of the portion of Yukon labour content which exceeds 80% of the total wage and benefit bill but does not exceed 90% of the total wage and benefit bill will be payable to the contractor or subcontractor.
- 2.3.3.3 If the Yukon labour content exceeds 90% of the total wage and benefit bill, an additional rebate of 20% of the portion of Yukon labour content which exceeds 90% of the total wage and benefit bill will be payable to the contractor or subcontractor.

Yukon Apprentices:

- 2.3.3.4 For all eligible apprentices, a rebate of 15% of the total wages and benefits paid by the contractor or subcontractor to Yukon resident apprentices will be payable.
- 2.3.3.5 The contractor or subcontractor must abide by the *Apprenticeship Training Act*, especially with respect to the supervision of apprentices.
- 2.3.3.6 Contractors or subcontractors who are already receiving benefits under a training assistance or wage allowance program from the Yukon government for an apprentice will not be eligible to receive an apprenticeship incentive rebate for that apprentice.
- 2.3.3.7 Contractors or subcontractors shall claim only an apprenticeship incentive rebate for a period where the contractor or subcontractor is eligible to claim both an apprenticeship and youth rebate for an apprentice.

Yukon Youth:

2.3.3.8 For all eligible youth, a rebate of 15% of the total wages and benefits paid by the contractor or subcontractor to Yukon resident youth will be payable.

2.3.3.9 Contractors or subcontractors shall not claim a youth incentive rebate for the period where an apprenticeship incentive rebate is claimed.

Yukon Materials:

2.3.3.10 Manufacturers will be eligible for incentive rebates on Yukon manufactured products which are utilised in an eligible construction project.

2.3.3.11 The incentive rebate rate will be determined according to the Construction Materials Incentive Rebate Schedule that was in effect at the time the construction contract was tendered.

2.3.3.12 The incentive rebate will be determined by the following formula: **Incentive Rebate rate x Value of Yukon Materials = Incentive Rebate.**

2.3.3.13 The value of the materials will be determined by the actual price paid by the contractor or subcontractor to the manufacturer of the materials. The value of the materials shall not include on site assembly or installation.

2.3.3.14 If, in the judgement of the Deputy Minister of Infrastructure or delegate, the price paid was unnecessarily high, the Deputy Minister of Infrastructure or delegate may substitute a lower value in this calculation.

2.3.4 The Deputy Minister of Infrastructure or delegate may request documentation and records from the contractor, subcontractor or manufacturer for audit by the Deputy Minister of Infrastructure or delegate.

2.3.5 The Deputy Minister of Infrastructure or delegate shall receive a petition from any group, individual or government department regarding:

2.3.5.1 The inclusion or exclusion of materials or groups of materials and manufactured products from the Construction Materials Incentive Rebate Schedule; and

2.3.5.2 Changes to the amount of the incentive rebate rate to apply to each.

2.3.6 Upon receipt of a petition, the Deputy Minister of Infrastructure or delegate shall refer the matter to the Business Incentive Review Committee for recommendation.

2.3.7 The Deputy Minister of Infrastructure or delegate shall attend all meetings of the Business Incentive Review Committee, perform the duties of Secretary to the Committee, and take direction from the Chair as to the administrative needs and requirements of the Committee.

2.4 Departments

2.4.1 Any department may petition the Deputy Minister of Infrastructure or delegate regarding:

2.4.1.1 The inclusion or exclusion of materials or groups of materials and manufactured products from the Construction Materials Incentive Rebate Schedule; and

2.4.1.2 Changes to the amount of the incentive rebate rate to apply to each.

2.5 Non-Government

2.5.1 Contractors, subcontractors and manufacturers shall submit incentive rebate claims for Yukon labour, Yukon apprentices, Yukon youth and Yukon materials to the Deputy Minister of Infrastructure or delegate, in the form and manner prescribed by the Deputy Minister of Infrastructure or delegate according to the following:

2.5.1.1 Claims for rebates will be accepted separately from contractors, subcontractors and manufacturers.

2.5.1.2 Claims shall be submitted after the project has reached substantial completion and before the expiry of the warranty period, or where there is no warranty period, within one year of substantial or total completion.

2.5.1.3 Only one claim per project may be submitted by each contractor, subcontractor or manufacturer. In special cases,

such as multi-year projects, more than one claim may be submitted with the prior agreement of the Deputy Minister of Infrastructure or delegate.

- 2.5.2 Contractors, subcontractors and manufacturers will be required to document and substantiate their claims.
- 2.5.3 Contractors, subcontractors and manufacturers may petition the Deputy Minister of Infrastructure or delegate regarding:
 - 2.5.3.1 The inclusion or exclusion of materials or groups of materials and manufactured products from the Construction Materials Incentive Rebate Schedule; and
 - 2.5.3.2 Changes to the amount of the incentive rebate rate to apply to each.
- 2.5.4 Contractors, subcontractors and manufacturers may appeal to the Minister any decisions made pursuant to this policy, except those decisions made by the Minister.

APPENDIX 1

BUSINESS INCENTIVE REVIEW COMMITTEE

1 COMPOSITION

- 1.1 There shall be established a six (6) member Business Incentive Review Committee composed of:
- 1.1.1 One senior official of the Yukon Government (Chair);
 - 1.1.2 One member from the Yukon Building and Construction Trades Council;
 - 1.1.3 One member from the Yukon Federation of Labour;
 - 1.1.4 One member from the Yukon Contractors Association;
 - 1.1.5 One member from the Yukon Chamber of Commerce; and
 - 1.1.6 One member-at-large from the general public.

2 APPOINTMENT OF MEMBERS

- 2.1 Upon initial appointment:
- 2.1.1 Each member shall be appointed for a three year term;
 - 2.1.2 In the event of a vacancy on the committee, the Minister shall appoint an alternate member from the same organisation for the duration of the term of the member initially appointed;
 - 2.1.3 The members of the Committee shall be paid a per diem and expenses in accordance with existing government policy or regulation.

3 RESPONSIBILITIES

- 3.1 The Committee shall advise the Minister on:
- 3.1.1 Any appeal referred to the Committee by the Minister; and
 - 3.1.2 Any other matter that the Minister may choose to refer to the Committee.
- 3.2 The Committee shall advise the Deputy Minister on:
- 3.2.1 Materials or groups of materials and manufactured products to be included in or excluded from the Construction Materials Incentive Rebate Schedule;
 - 3.2.2 The appropriateness of the incentive rebate rate associated with each Yukon material; and

APPENDIX 1 (Continued)

- 3.2.3 Any other matter that the Deputy Minister may choose to refer to the Committee.
- 3.3 In making a recommendation to include or exclude materials or groups of materials and manufactured products from the schedule, the Business Incentive Review Committee may consider the following criteria:
- 3.3.1 Local manufacture;
 - 3.3.2 The use of Yukon materials;
 - 3.3.3 Increased Yukon job benefits;
 - 3.3.4 Spin-off benefits to the economy; and
 - 3.3.5 The promotion of materials that can replace imported materials.
- 3.4 In determining what incentive rebate rate is recommended for application to Yukon materials in the Construction Materials Incentive Rebate Schedule, the Business Incentive Review Committee may consider the following criteria:
- 3.4.1 The added costs of being a northern supplier/manufacturer;
 - 3.4.2 The promotion of competition;
 - 3.4.3 The encouragement of efficient northern businesses; and
 - 3.4.4 The development of new industry.
- 3.5 The Business Incentive Review Committee shall provide written recommendations relating to 3.3 and 3.4 to the Deputy Minister.
- 3.6 The Business Incentive Review Committee shall provide a written recommendation regarding any petition to the petitioner and the Deputy Minister, who shall inform the Minister of the recommendation.
- 3.7 The Business Incentive Review Committee shall review every Yukon material in the Construction Materials Incentive Rebate Schedule at least once in each year. The Committee shall recommend to the Deputy Minister:
- 3.7.1 Whether the Yukon material should remain as part of the Construction Materials Incentive Rebate Schedule; and
 - 3.7.2 Whether the incentive rebate rate applied to any Yukon material should be amended.

APPENDIX 1 (Continued)

4 ADMINISTRATION

- 4.1 The Committee shall establish its own rules of procedure within the intent of this policy.
- 4.2 The Committee may call witnesses for the purpose of obtaining additional information or evidence.
- 4.3 The Committee shall conduct any appeal hearing in accordance with the rules of conduct that it prescribes for itself within the intent of this policy, and such hearings shall be open to all interested parties.

5 APPEAL PROCEDURE

- 5.1 When the Minister refers an appeal to the Business Incentive Review Committee, the Committee shall:
 - 5.1.1 Consider all the evidence presented to it; and
 - 5.1.2 Request additional information or evidence as it may deem necessary.
- 5.2 Upon consideration of all evidence and completion of the hearing, the Committee shall issue a written opinion to the Minister.

6 ANNUAL EVALUATION

- 6.1 The Committee shall deliver to the Minister an annual evaluation that:
 - 6.1.1 Documents the application of the policy and the resultant benefits to the Yukon, including the number of times the policy was applied, the value of rebates paid, etc.;
 - 6.1.2 Describes the direct effects of these rebates on the economy;
 - 6.1.3 Reviews the policy and recommends amendments in light of changes that may have occurred in the industry; and
 - 6.1.4 Reviews the administrative requirements and procedures of the policy, and recommends ways to make that administration more effective.
- 6.2 The annual evaluation will be delivered after the close of each fiscal year unless otherwise directed by the Minister.