

Guidelines: Benefits Agreements

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These guidelines were prepared according to Yukon's *Oil and Gas Act*, (YOGA) and its regulations. If there is any conflict or inconsistency between these guidelines and a provision of the YOGA or any regulations under it, the latter provision prevails.

PURPOSE AND AUTHORITY

Pursuant to Yukon's *Oil and Gas Act* (YOGA) and the *Oil and Gas Licence Administration Regulations* (OGLAR), when work related to an oil and gas activity is anticipated to entail costs in excess of \$1,000,000 in any twelve month period, the licensee must enter into a benefits agreement. This document is intended to provide guidelines regarding such agreements.

GETTING STARTED

START EARLY

The process for establishing a benefits agreement should be initiated by the licensee when the licence application is submitted, or well before. Finalizing a benefits agreement may require more time than that required by the licence application process. When the oil and gas activity requires a benefits agreement, that agreement must be in place before activity can begin. It is important to begin discussions early so that the proposed activity is not delayed.

GET TO KNOW THE YUKON

Oil and Gas Resources

Licensees are invited to call Oil and Gas Resources first. Staff at the branch may be able to assist with most of the particulars including

- identification of the landowner for the category of land where the proposed activity is planned,
- contact information for the First Nations on whose settlement land or traditional territory the activity is proposed,
- the negotiation procedure, and
- compliance with the agreement.

Yukon First Nations

Licensees should immediately contact the Yukon First Nation that will be affected by the activity (on whose traditional territory the activity is planned). Establish a working relationship prior to the beginning of negotiations of a benefits agreement. These guidelines list a source for maps regarding traditional territories.

Phone numbers for First Nations offices are listed in the Government Blue Pages in the Northwestel phone book.

Yukon Oil and Gas Act, section 2:

"The objectives of this Act are
(a) to provide for the disposition of oil and gas rights in Yukon oil and gas lands on terms that provide a fair and equitable economic return to the Yukon people;"

Yukon oil and gas legislation can be downloaded from yukonoilandgas.com.

First Nations representatives are invited to contact Oil and Gas Resources to inquire about the potential for activity in their territories.

Yukon Suppliers, Employment, and Training

Get to know Yukon suppliers and resources. You'll find sources of additional information included in these guidelines. Contact Yukon College to discuss available resources for training. Contact applicable Chambers of Commerce, municipalities, and civic governments where the activity will take place.

THE BENEFITS AGREEMENT

WHAT IS IT?

It's a contract that contains undertakings by a licensee to provide opportunities for employment and training, and the supply of goods and services. The opportunities are to be afforded through any means or structures that are appropriate to the operation. A benefits agreement will provide for benefits commensurate with the nature, scale, duration and cost of the oil and gas activity but shall not place an excessive burden on the licensee.

Subject to YOGA section 68(3)(c), a single benefits agreement may cover oil and gas activities to be carried out under two or more licences if certain conditions under this section are met. The work related to those oil and gas activities must be carried out in one location or on contiguous or adjacent locations; and the operation may not span locations that combine category A land with other lands, or category B settlement land with Yukon oil and gas lands.

Section 68 does not apply if the Yukon First Nation and the Minister have agreed to waive the requirement for a benefits agreement.

Every benefits agreement forms a unique contract between the designated parties and will therefore reflect the specifics of an operation, and the results of negotiations carried out in the drafting of a contract.

WHO IS MEANT TO BENEFIT?

It is intended that the Yukon First Nation, its citizens, residents of communities affected by the oil and gas activity, and other Yukon residents should be offered these opportunities. For the purpose of these guidelines, this list of groups will be referred to as *Yukon people*. Individual benefits agreements will specifically name the parties as set out in YOGA.

PARTIES TO THE AGREEMENT

Parties to a benefits agreement are determined based on the category of land where the proposed activity will take place. The licensee shall always be party to a benefits agreement.

Category of Land	Parties	Requirements
Category A settlement land or traditional territory of a Yukon First Nation	Required: - Licensee, and - the Yukon First Nation on whose category A settlement lands the activity will take place. The Minister may be party to the agreement.	- The activity planned falls exclusively on category A Land. - There is full and fair consideration of the views presented by the Minister. Or the Minister may be party to the agreement.
Yukon oil and gas lands	Required: - Licensee and the Minister. The Yukon First Nation may be party to the agreement.	- The activity planned falls exclusively on Yukon Oil and Gas lands other than a Yukon First Nation's category B settlement land. - There is full and fair consideration of the views of the Yukon First Nation. Or the First Nation may be party to the agreement.
Category B settlement land of a Yukon First Nation	- Licensee, and - the Yukon First Nation, and - the Minister.	-All parties must execute the agreement.

Licensee Contractor

The licensee may carry out petroleum operations directly, or through a licensee contractor. Although licensee contractors are not named as parties to a benefits agreement, a licensee contractor is expected to assist a licensee in complying with a benefits agreement by providing opportunities to *Yukon people*. A licensee shall make reasonable efforts to instruct licensee contractors on how to comply with the benefits agreement.

COMPONENTS OF A BENEFITS AGREEMENT

Benefits agreements will vary, depending upon the negotiated terms of the contract. Generally, an agreement should contain: the purpose of the agreement; an overview of the activity; description of the work program; principles and procedures pertaining to employment and training and the procurement of goods and services; an action plan

containing specifics for implementation; details regarding monitoring and compliance; and reporting.

Specific content for a benefits agreement will be the subject of discussions between the parties.

GUIDING PRINCIPLES FOR BENEFITS AGREEMENTS

(EMPLOYMENT, TRAINING, AND PROCUREMENT)

Competitiveness

Yukon people are required to compete in the marketplace, demonstrating their ability to fulfill the terms of employment and training, or a contract for the supply of goods and services. When candidates are equal, *Yukon people* shall be given priority.

All employees and suppliers must comply with a licensee's corporate policies and any security, occupational health and safety, or other applicable legislation and regulations, including the requirement for pre-employment and random drug and alcohol screening.

Communication

Opportunities shall be advertised widely by the licensee throughout the communities affected by the oil and gas operation, and in the rest of Yukon; using a range of media to reach the broadest spectrum of the community.

Timeliness

Prospects for employment, training, and the supply of goods and services shall be advertised in a timely manner, providing *Yukon people* reasonable opportunities to prepare and respond.

All parties to a benefits agreement shall abide by the timelines set out in the contract.

Feasibility for the Licensee

Benefits agreements shall provide opportunities that are commensurate with the size and scope of the activity to be undertaken but shall not place an excessive burden on the licensee.

Licensees have the sole discretion to determine when a candidate qualifies for an employment-training opportunity, or to supply goods and services.

Best Value for Both Licensee & Yukon

Licensees are encouraged to:

- Purchase goods and services on a best value basis. In this context, best value means the optimum combination of technical acceptability, including
 - ◆ quality,
 - ◆ overall price,
 - ◆ transportation costs and service, and
 - ◆ benefits to Yukon that also benefit the licensee, including
 - future requirements for similar products or services and
 - the need to develop long term, secure sources of supply.
- Aim to transfer technology and know-how to Yukon businesses and to share technology with associates on generally accepted commercial terms.
- Consider Yukon firms and institutions or joint operations in undertaking external research and development.
- Provide Yukon firms with an opportunity to be involved in the development of manufacturing or service concepts resulting from research conducted by the licensee relating to frontier activities.
- Encourage the development of joint ventures or similar business arrangements between Yukon entrepreneurs and other experienced suppliers in areas where capabilities are lacking or require enhancement.
- Support and encourage the development of industry in the Yukon by considering potential suppliers on the basis of best value, competitiveness, and benefits to the Territory.
- Take appropriate measures to enable qualified *Yukon people* to ultimately replace non-*Yukon people* occupying long-term positions.

BENEFITS AGREEMENTS AND YESAA

Recommendations for socio-economic benefits that may include opportunities for *Yukon people* may be made as a result of an assessment of the licensee's project under the *Yukon Environmental and Socio-Economic Assessment Act* (YESAA). However, recommendations that arise from an assessment pursuant to YESAA form a separate process which does not eliminate the requirement for a benefits agreement under the *Yukon Oil and Gas Act*.

WHEN AN AGREEMENT CANNOT BE REACHED

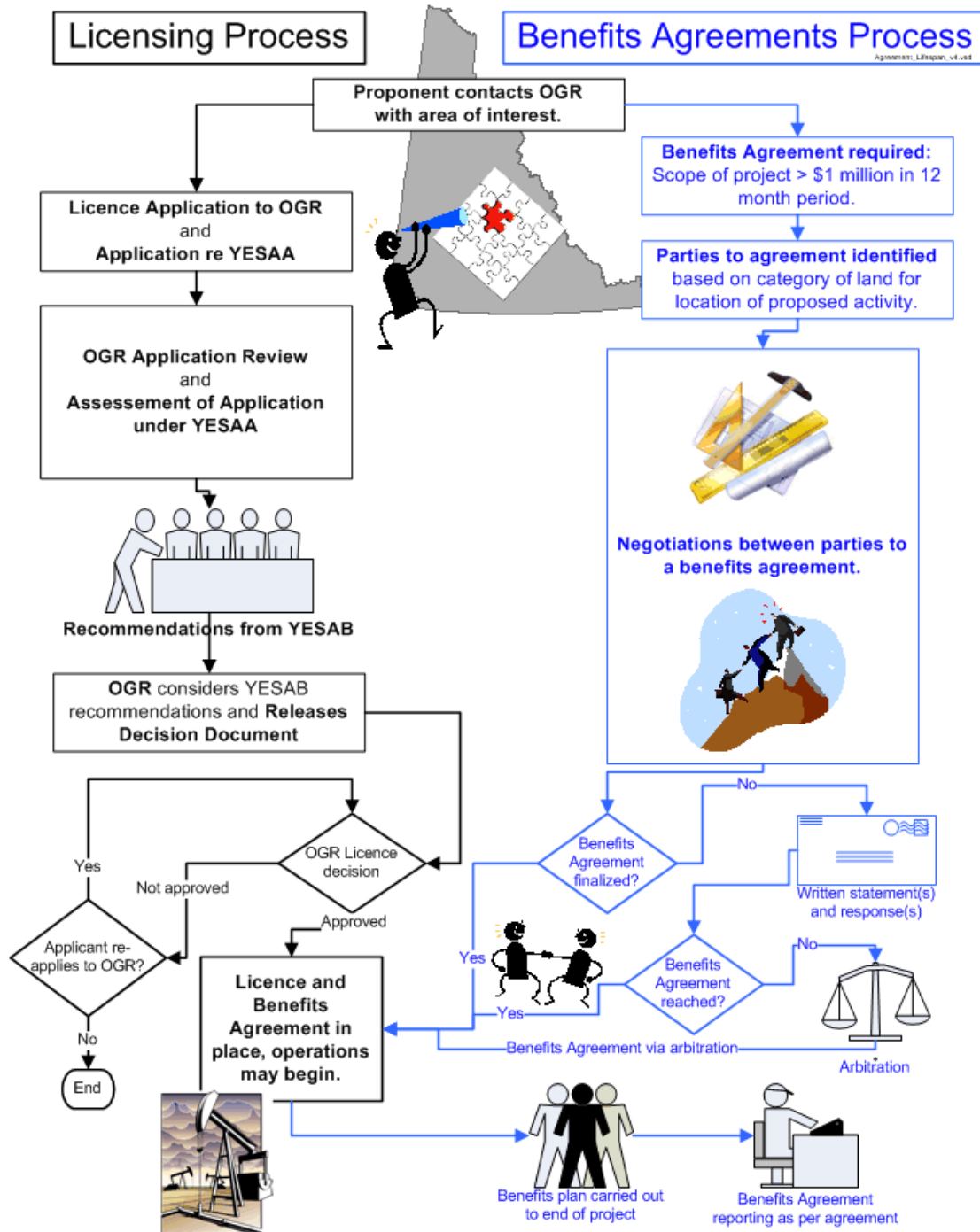
When the parties are unable to finalize a benefits agreement, there is a dispute resolution process under YOGA that provides for written communication between the parties regarding the issues. This process, carried out within set timelines, provides proof that full and fair consideration has been provided.

If the activity will occur exclusively on a First Nation's category A settlement land, that Yukon First Nation will make the final determination respecting the contents of a benefits agreement after giving full and fair consideration to the views of the Minister.

If the activity will occur exclusively on Yukon oil and gas lands other than category B settlement land, the Minister will make the final determination respecting the contents of a benefits agreement after giving full and fair consideration to the views of a First Nation that will be affected by the activity.

If the oil and gas activity will occur exclusively on the category B settlement land of a Yukon First Nation, any of the parties may submit the matter to arbitration. The arbitrator will be charged with settling the terms of the agreement.

LIFESPAN OF A BENEFITS AGREEMENT



PROCEDURES

PROCUREMENT OF GOODS AND SERVICES

A licensee shall make reasonable efforts to:

Get to Know Yukon Resources

- Become familiar with the supply and services capabilities and industries of Yukon, by obtaining from First Nations, and the Government of Yukon, their existing lists of potential suppliers.
- Collaborate with training agencies in the identification of suitable pre-employment training programs.

Effectively Communicate

- Conduct pre-bid meetings with potential Yukon suppliers providing information on bid preparation if applicable, specific project requirements, and the anticipated requirements for goods and services.
- Clearly articulate any requirements to qualify before proponents may submit a bid.
- Provide reasonable time for Yukon suppliers to respond to tenders.
- Provide feedback to successful and unsuccessful bidders regarding the outcomes of tender submissions.
- When appropriate, communicate the contact information for key procurement personnel, including contractors.

Run a Fair Competition

- Evaluate invitational and public tenders in an impartial, consistent, and confidential manner.
- Provide first consideration to suppliers in Yukon when they meet the requirements as outlined in the tender.
- Design specifications in accordance with Canadian standards where practicable.
- Review bid specifications to ensure fairness in allowing Yukon suppliers to participate.
- Package bid requests to ensure that small Yukon suppliers are not prevented from taking part in the bidding process.
- Instruct licensee contractors on how to comply with the benefits agreement.

EMPLOYMENT AND TRAINING

A licensee shall make reasonable efforts to:

Provide Fair Opportunities

- Work with parties to the agreement and other government and non-government agencies to develop and implement recruitment plans.
- Provide employment and training opportunities that are commensurate with skills, experience, qualifications, and education of *Yukon people*.
- Make reasonable efforts to provide training opportunities that will allow *Yukon people* to acquire the requisite knowledge and experience.
- Collaborate with training agencies on the development of training programs.

Effectively Communicate

- As early in the program as possible, provide information about opportunities for employment and training.
- Effectively communicate employment opportunities through First Nation, federal, and Yukon government employment offices and through local media.

DURING THE OPERATION

Communication, Monitoring, and Compliance

The licensee is required to maintain contact with the parties to the agreement, and the appropriate Government of Yukon representatives throughout the work season.

Work programs should be prepared well in advance of the work season. Details should include:

- company contact information;
- project description with planned activities, scheduling, equipment to be used, forecast of total program expenditures;
- location on a 1:50,000 map;
- anticipated employment positions and training opportunities;

- recruitment plan including the establishment of a hiring office, and schedule for hiring;
- goods and services needed, including tendering schedules; and
- a list of major contractors already in place.

If the complete information is not available in advance of the work season, the licensee shall provide updates as soon as possible, including when other permits and approvals are applied for.

Action Plans

The licensee may be expected to develop specific action plans to address issues pertaining to Yukon benefits and priorities. Each action plan will clearly identify the following:

- the relevant issue;
- the specific activity to be undertaken by the licensee; there may also be references to complementary activities to be undertaken by government agencies and other parties;
- a schedule for implementation indicating milestones as well as a description of performance indicators;
- the method by which results will be communicated to the government; and
- remedial measures to be adopted by the licensee in the event that performance standards are not met.

When Objectives Are Not Met

It is the licensee's responsibility to advise the parties and government officials when it appears that objectives will not be met, and to propose alternative remedies. If the licensee is in contravention of the terms and conditions of the benefits agreement and alternative remedies are not recommended or satisfactory, the Minister may request the posting of a performance bond, or take other necessary action.

REPORTING

The benefits report must be submitted to the parties by the licensee within 90 days after the work program is completed. Thirty days after the submission of the report, the licensee must meet with the parties, and appropriate government officials for a review.

If the operation is slated for more than 12 months, the benefits agreement may state a schedule for interim reports. Meetings to review the interim reports should be spelled out in the agreement.

A benefits report should outline the steps taken to fulfill the benefits agreement and contain the following information.

Communication of Opportunities

Describe the action taken to ensure that opportunities were advertised in a timely manner, allowing candidates reasonable time to respond.

- Include copies of advertisements, with the schedule and locations of the ads.
- Indicate the other ways that *Yukon people* were made aware of opportunities.
- Keep records of meetings held in communities.

Activities

Indicate to what degree *Yukon people* were involved in the activities undertaken during the timeframe covered by the report.

- Outline the work program completed during the previous work season.
- Outline expenditures related to research, development, education, and training in the Yukon.
- Provide a map (1:50,000) indicating the locations of the activity.
- Indicate total project costs (value of purchased goods and services, direct wages, and direct work months).
- Provide proof of costs. Include copies of invoices indicating Yukon and outside sources.

Employment and Training

Provide a record of the steps taken to train and employ *Yukon people*.

- Total direct wages paid, grouped by community of residence.
- Total direct work months, grouped by community of residence.
- The total number, and the names of individuals who were trained as part of the program, and the type of training they received.
- The total number and the names of individuals employed for each component of the work program (seismic, drilling, support, and construction).
- Proof of payroll.

Procurement

Provide a record of the steps taken to procure local goods and services.

- Total expenditures paid to Yukon suppliers indicating the communities that benefited.
- Names of individual suppliers including a purchase description for each component of the work program (seismic, drilling, support, and construction).
- Proof of costs. Provide copies of invoices.

Consultation Activity

- Describe the efforts made to provide full and fair consideration to *Yukon people* for opportunities articulated in the work plan. Provide records where applicable.

Identification of Shortfall

- Describe any problems encountered in meeting the benefits commitments.
- Describe the proposed solutions to attain the improved benefits commitment levels.
- Describe the final outcomes.
- Where it was not possible to utilize a Yukon source, outline the rationale.

Action Plan Status

- A review of each action plan outlined in the original benefits agreement, describing outcomes.

Next Season's Work

- If applicable, provide an outline of the next season's work program.

SOURCES OF ADDITIONAL INFORMATION

Licensees are responsible for completing their own research. The following information is intended to be of assistance, however it is not an exhaustive list.

OIL AND GAS RESOURCES

Website: www.yukonoilandgas.com

Address:

Government of Yukon
Department of Energy, Mines and Resources
Oil and Gas Resources
Suite 300, 211 Main Street
Whitehorse, Yukon, Y1A 2B2
Tel: (867) 393-7042
Fax: (867) 393-6262
E-mail: derek.fraser@gov.yk.ca

MAPS

1. The map entitled: ***Yukon Land Status with Oil and Gas Interests*** can be found at <http://www.emr.gov.yk.ca/oilandgas/mapsdata.html>.
2. A map entitled ***Traditional Territories of Yukon First Nations and Settlement Areas of Inuvialuit and Tetlit Gwich'in*** can be found at http://www.eco.gov.yk.ca/pdf/fn_trad_terr_map.pdf.
3. An interactive map with traditional territories of Yukon First Nations, oil and gas dispositions, and the Yukon Land Division System entitled ***Oil and Gas Dispositions and First Nation Lands Within the Yukon*** can be found at: www.emr.gov.yk.ca/oilandgas/mapsdata.html.
4. To obtain information about Yukon oil and gas maps, contact:

Liudmila Lebarge, A/Manager, Geomatics / Web Development
Government of Yukon
Department of Energy, Mines and Resources
Oil and Gas Resources
Suite 300, 211 Main Street
Whitehorse, Yukon, Y1A 2B2
Tel: (867) 667-5012 Fax: (867) 393-6262
E-mail: liudmila.lebarge@gov.yk.ca

YUKON FIRST NATIONS

Phone numbers for First Nation offices are listed in the Government Blue Pages in the Northwestel phone book.

Council of Yukon First Nations (CYFN)

2166-2nd Avenue, Whitehorse, Yukon, Y1A 4P1
Phone: (867) 393-9200
Fax: (867) 668-6577
RECEPTION@CYFN.NET
<http://cyfn.ca>

EMPLOYMENT AND TRAINING

Yukon College

500 College Drive,
PO Box 2799, Whitehorse, Yukon, Y1A 5K4
Ph: (867) 668-8800 or 1-800-661-0504
<http://www.yukoncollege.yk.ca/>

Employment Central

#202, 204 Black Street
Whitehorse, Yukon, Y1A 2M9
Phone: (867) 393-8270
Fax: (867) 393-8278
E-mail: ec@northwestel.net
<http://www.employmentukon.ca/>

Jobshub

<http://en.jobshub.ca>

YUWIN ~ Yukon WorkinfoNET

<http://www.yuwin.ca/>

ASSOCIATIONS AND NON-PROFITS

Dawson City Chamber of Commerce

1102 Front Street
P.O. Box 1006, Dawson City, Yukon, Y0B 1G0
Phone 867-993-5274 Fax: 867-993-6817
E-Mail: office@dawsoncitychamberofcommerce.ca
<http://www.dawsoncitychamberofcommerce.ca/>

Saint Elias Chamber of Commerce

Box 5419, Haines Junction, Yukon, Y0B 1L0
Ph: (867) 634-2916 Cell: (867) 634-5200
Email: kluaneridin@yknet.ca

Silver Trail Chamber of Commerce

Box 268, Mayo, Yukon, Y0B 1M0
Ph: (867) 996-2827
Email: nhager@nndfn.com

Watson Lake Chamber of Commerce

Box 591, Watson Lake, Yukon, Y0A 1C0

Ph: (867) 536-2294 Fax: (867) 536-7294

Email: wlchamberofcommerce@northwestel.net

Whitehorse Chamber of Commerce

101-302 Steele Street Whitehorse, Yukon, Y1A 2C5

Tel: (867) 667-7545 Fax: (867) 667-4507

business@whitehorsechamber.com

<http://www.whitehorsechamber.com/>

Yukon Chamber of Commerce

Tel: (867) 667-2000 Fax: (867) 667-2001

#205-2237 Second Ave. Whitehorse, YT, Y1A 0K7

office@yukonchamber.com

www.yukonchamber.com

Yukon Economic Development

Government of Yukon, Energy, Mines and Resources, online portal

http://www.investyukon.com/index.php?option=com_content&task=view&id=132&Itemid=99

Yukon Links, Land, Tourism & Travel information

http://www.out-there.com/yt_info.htm

Online list of Yukon Associations and Non-Profits

http://www.manta.com/world/North+America/Canada/Yukon+Territory/associations_non_profits--F0/