

PROBATIONARY COMMUNITY FOREST AGREEMENT (PCFA) APPLICATION REQUIREMENTS

(Direct Invitation to apply)

1. Submission of Application

1.1. The application must be received by <DATE>, at the following location to:

<Address/phone/fax here>

- 1.1.1. Two paper copies and one digital copy of the application must be submitted.

1.2. Authority

- 1.2.1. The authority for entering into a PCFA, for which an invitation to apply is being made, is Section 43.51 of the Forest Act.

1.3. Freedom of Information

- 1.3.1. This application is subject to the Freedom of Information and Protection of Privacy Act. Consequently, the public has a right of access to the document--unless the information falls within any of the Act's exceptions to disclosure.

1.4. Application Costs

- 1.4.1. The applicant is solely responsible for the cost of preparing the application.

1.5. Acceptance of Terms

- 1.5.1. The application must be submitted and received on the basis that the Applicant has read and agrees to all the provisions of this invitation to apply. If the application imposes any condition on, or modification of provisions of this invitation to apply, it will be rejected.

1.6. Obligations of the Ministry

- 1.6.1. This invitation to apply does not obligate the Minister to accept an application or to direct that a PCFA be entered into.

2. Application Contents, Format, and Amendment

2.1. Application Content

- 2.1.1. The application must contain the following items, and include applicable documentation to substantiate all statements, claims and materials:

- 2.1.2. A description of the legal entity that is intended to be the PCFA holder (see Attachments A and B);
- 2.1.3. A description, including a map, of the location of the proposed community forest land base (see Attachments A and C);
- 2.1.4. Written confirmation from the District Manager that the proposed landbase is suitable for a PCFA and is consistent with the _____ cubic metres of AAC allocated for the PCFA (see Attachments C);
- 2.1.5. Evidence of broad community support for and awareness of the PCFA application being submitted (see Attachments A, E and F);
- 2.1.6. A business Plan (see Attachment A and G); and
- 2.1.7. A Plan for Management of Forest Resources (see Attachment A and D).

2.2. Application Format

The application must be made in accordance with and must contain the information required by the application outline (see Attachment A).

2.3. Application Amendments

The Applicant may amend its application prior to the deadline for submission. Amendments must be:

- 2.3.1. submitted in writing;
- 2.3.2. in accordance with all invitation to apply requirements; and
- 2.3.3. signed by a person authorized to sign on behalf of the applicant, preferably by the same person who signed the original application.

3. Evaluation Process

3.1. The application will be evaluated through the following process:

- 3.1.1. Ministry staff will screen the application for submission requirements. If one or more submission requirements are missing, the application will be returned to the Applicant. If all submission requirements are included, the application will be forwarded to the evaluation committee.
- 3.1.2. The evaluation committee may be comprised of all or a sub-set of the Community Forest Advisory Committee (CFAC) selected Ministry of Forests staff members, or a combination of CFAC and MOF staff. The committee will evaluate the application, using the criteria described below.
- 3.1.3. If the evaluation committee is satisfied with the application, it will be forwarded to the Minister. If the Minister is satisfied with the application,

he will instruct ministry staff to enter into discussions with the Applicant (see below).

- 3.1.4. If the evaluation committee determines the application “requires minor changes”, the application will be returned to the Applicant with requests for the minor changes. Once these changes have been made, to the satisfaction of the Regional Manager, the application will be forwarded to the Minister.
- 3.1.5. If the evaluation committee determines the application “unacceptable”, or the application is found to contain any error, omission or misrepresentation of a serious nature, the application will be returned to the Applicant with a description of major changes, additions or deletions, which must be made before the application will again be considered. Once these major modifications have been made, the evaluation committee will again review the application as described in 3.1.3.

4. Return or Rejection of an Application

- 4.1. If the application is returned, the Applicant will have 60 days to revise and re-submit the application.**
- 4.2. An application can be submitted, returned and re-submitted more than once. However, if, in the opinion of the Minister, it appears that the Applicant is not willing to revise sections of the application that the Minister considers to be essential to the successful implementation of the PCFA, adherence to the laws of British Columbia or compatible with the goals of the Community Forest Agreement Program and the ministry, the Minister may reject the application for a PCFA.**

5. Evaluation Criteria

- 5.1. The evaluation committee will consider all aspects of the application when determining whether or not it is satisfactory. The following provides an outline of some of the key aspects of the application that the committee will be considering:**
- 5.2. Community involvement (awareness/support/commitment)**
 - 5.2.1. Awareness of the application by the members of the community;
 - 5.2.2. Broad spectrum support of the application within the community and the plans for continued community involvement;
 - 5.2.3. Commitment of Applicant to successfully implement a PCFA
- 5.3. Business plan and administration**
 - 5.3.1. Overall quality of the business plan;
 - 5.3.2. Linkages between the business plan and existing local forest-based operations and programs;

- 5.3.3. Process for strategic planning and decision-making; and
- 5.3.4. Mechanism for conflict resolution, monitoring, auditing and reporting

5.4. Forest stewardship and management objectives

- 5.4.1. Overall quality of the Plan for Management of Forest Resources (activities, outputs, results expected and how these support the stated objectives).
- 5.4.2. Correspondence of the application with the government objectives for the PCFA program.
- 5.4.3. Correspondence of proposed forest stewardship objectives in the application with government forest stewardship objectives.

5.5. Application quality

Quality, comprehensiveness, innovation, chance of success.

6. PCFA AWARD

6.1. Discussions

- 6.1.1. If the Minister is satisfied with the application he will direct Ministry staff to enter into discussions with the Applicant for the purpose of developing the content of the PCFA.. During the discussion process, the Ministry staff will advise the Applicant of the terms and conditions, which must be included in the PCFA.
- 6.1.2. If Ministry staff and the Applicant are successful in developing a PCFA with which the Minister is satisfied, and all the conditions that must be met before the Minister will direct that a PCFA be entered into have been satisfied, a PCFA will forwarded to the Applicant or its representative for signature. The Applicant or its representative must then sign the agreement and return it by the date specified in the cover letter accompanying the agreement.
- 6.1.3. If Ministry staff and the Applicant are unable to agree on the content of the PCFA the Minister will direct that discussions be terminated and that no PCFA will be entered into with the Applicant.

7. PCFA Content

- 7.1. A sample PCFA is available for review. The Applicant is advised to obtain and study the sample agreement. It must be noted, however, that the sample agreement is an example only and the Minister must approve the final content of a PCFA stemming from this invitation to apply. For example, the Minister may require that any or all statements or commitments made in the application be included in the agreement document and thereby become a part of the PCFA.**

In addition, Section 43.3 (g.1) of the *Forest Act* provides that:

- 7.2. if the community forest agreement provides that it is entered into with a first nation or its representative to implement or further an agreement, the "other agreement", between the first nation and the government respecting treaty-related measures, interim measures or economic measures, the community forest agreement must state that it is a condition of the community forest agreement that the first nation comply with the other agreement.**

ATTACHMENTS

- A. Application Outline
- B. Agreement Holder
- C. PCFA Area
- D. Plan for Management of Forest Resources Guidelines
- E. Documentation of Community Support and Awareness
- F. Public Input
- G. Business Plan

Attachment A:

Application Outline

The application must be prepared using the following outline.

1. Title Page

2. Letter of Introduction

One page, introducing the application, dated and signed by the person(s) authorized to sign on behalf of the applicant.

3. Table of Contents

Show the page numbers of all major headings.

4. Executive Summary

Provide a concise overview of the application summarizing, in no more than three pages, the key points from each major section. Indicate where the supporting detail is located in the application body and its attachments.

5. Legal Entity

Describe the legal entity that is applying for the PCFA. Include the documentation for that legal entity as described in Attachment B.

6. PCFA Area

- a. Provide a map showing the location of the land that will be in the proposed PCFA area, nearby communities, and existing access structures. The map scale must be in the range of 1:20,000 to 1:50,000.
- b. Describe how the proposed PCFA area has historically been used, and how it would be used under a PCFA. Identify any issues or areas of potential conflict that will need to be addressed in implementing the PCFA.
- c. Based on the best information currently available, describe the proposed PCFA area in terms of the:
 - i. ownership and/or existing tenures or rights granted to others;
 - ii. forest resources, e.g. productivity and potential uses, forest types, timber and non-timber resources;
 - iii. state of land and resources, e.g. history and current management; existing tenures;
 - iv. access to area, e.g. existing roads;
 - v. environmental considerations, e.g. sensitive sites or unique features; and
 - vi. cultural considerations, e.g. areas of cultural significance.
- d. See **Attachment C**.

7. Stewardship and Management Objectives

- a Include a Plan for Management of Forest Resources in this section (see **Attachment D**).
- b Include a description of the intended process for public involvement and consultation concerning matters relating to the PCFA, including consultation within the local community, broader community and with government agencies and affected stakeholders (including licenced users).

8. Community Awareness, Support and Involvement

- a Describe the level of support, awareness and commitment by the community (see Attachment E).
- b Report on the public input event(s). (See Attachment F.)

9. Administrative Authority and Structure

- a Include in this section a Business Plan (see Attachment G) for the PCFA.
- b Where not covered in the Business Plan or Plan for Management of Forest Resources, include in this section a description of the proposed processes for decision-making, resource allocation, monitoring and reporting, and for the resolution of any conflicts regarding implementation of the PCFA.

10. Not For Public Disclosure

- a It is suggested that the Applicant identify which information in the application they do not wish to have released and which they believe to be excepted from disclosure under the Freedom of Information and Privacy Act. This can best be accomplished by including such information in a separate section of the application headed "Not for Public Disclosure."
- b NOTE: Applicant should be aware that if a Freedom of Information request is received for the application only information excepted from disclosure under the Freedom of Information and Privacy Act will be withheld. The fact that information is contained in the "Not for Public Disclosure" section will not of itself save it from disclosure.

11. Attachments

Attach relevant supporting information and documentation to the application.

Attachment B:

Agreement Holder

The Applicant is solely responsible for ensuring that the legal entity who will be the intended holder of the PCFA is lawfully constituted, in good standing and authorized to carry on the business described in the application in accordance with all applicable federal, provincial and municipal legislation, including statutes, regulations and by-laws.

The following are legal entities that may be eligible. The documentation that must be included in the application, if that legal entity is intended to be the agreement holder, is described under each entity. A photocopy of the documents is required to be submitted with the Applicant's application and if further requested, certified copies must be submitted:

(a) A Band as defined in the *Indian Act* (Canada);

- i) the Band Council resolution authorizing the band to enter into the PCFA;
- ii) the names and addresses of the Chief and the Band Councillors; and
- iii) the address of the Band office.

(b) A Society incorporated under the *Society Act*;

- i) a copy of the certificate of incorporation of the society issued by the Registrar of Companies under Section 3 of the Society Act, or in the alternative, a Certificate of Good Standing issued by the Registrar;
- ii) a copy of the constitution and by-laws of the society certified by the Registrar of Companies pursuant to Section 3 of the Society Act;
- iii) a list of the names and addresses of the individuals who are the current directors of the society, as of the date that the application for the PCFA is submitted by the Applicant;
- iv) the address of the office of the society; and
- v) a copy of the last annual report filed with the Registrar of Companies.

(c) An Association incorporated under the *Cooperative Association Act*;

- i) a copy of the certificate of incorporation of the cooperative issued by the Registrar of Companies under Section 8 of the Cooperative Association Act, or in the alternative, a Certificate of Good Standing issued by the Registrar;
- ii) the statement signed by the incorporators and required to be submitted to the Superintendent of Cooperatives under Section 6 of the Cooperative Association Act;

- iii) the memorandum and rules adopted by the subscribers of the cooperative and all amendments thereto required to be filed by the subscribers or members with the Superintendent of Cooperatives under the Cooperative Association Act;
- iv) a list of the names and addresses of the individuals who are the current directors of the cooperative, as of the date that the application for the PCFA is submitted by the Applicant;
- v) the address of the office of the cooperative; and
- vi) a copy of the last annual report filed with the Registrar of Companies.

(d) A Corporation incorporated or registered under the B.C. Company Act;

- i) the memorandum of incorporation, and all amendments thereto, as defined in Section 1 and required under Section 5 of the Company Act;
- ii) the certificate of incorporation of the company issued by the B.C. Registrar of Companies under Section 9 of the Company Act;
- iii) the articles of incorporation and all amendments thereto, as defined in Section 1 and required under section 6 of the Company Act;
- iv) a list of the names and addresses of the individuals who are the current directors of the company, as of the date that the application for the PCFA is submitted by the Applicant;
- v) the notice of offices setting out the current addresses of the registered office and the records office of the company, as required under Section 8 of the Company Act;
- vi) the most recent annual report of the company required to be filed with the Registrar of Companies under Sections 333 and 334 of the Company Act;
- vii) instruments of continuation of the corporation, if any; and
- viii) the charter of the corporation, if any.

(e) A Partnership registered under the Partnership Act.

- i) the declaration of partnership and all amendments thereto required to be filed by the partnership with the Registrar of Companies under the Partnership Act;
- ii) in the case of a limited partnership, the certificate of limited partnership and all amendments thereto required to be filed by the limited partnership with the Registrar of Companies under the Partnership Act;
- iii) a copy of the written partnership agreement and all amendments thereto, signed by all of the partners in the partnership, including all general partners and all limited partners; and
- iv) the address of the office of the partnership.

Attachment C:

PCFA Area

Each PCFA describes a specific area of land to be managed by the agreement holder under the PCFA (the PCFA area). The PCFA area must include Crown land, but may also include municipal land, Indian Reserve land, and private land where the owner agrees to have it included in the PCFA area and have it managed it as part of the PCFA area.

The proposed PCFA area must be suitable to meet the management objectives proposed by the Applicant and must represent an area no greater than that which will produce an allowable annual cut of up to _____m³.

The Applicant **must** submit with its application written confirmation from the District Manager that the proposed PCFA area is suitable for a PCFA and is consistent with the AAC allocated for the agreement.

The proposed PCFA area for this PCFA application must be located within the boundaries of <defined by District Manager>. It cannot include lands included in tree farm licences and woodlot licences.

Attachment D:

Plan for Management of Forest Resources

The Plan for Management of Forest Resources submitted with the application must provide a clear statement of the applicant's objectives for resource management on the PCFA area. If awarded a PCFA, the Applicant will be required to produce a Management Plan for approval by the Regional Manager or District Manager. The PCFA will not be entered into until the Management Plan is approved.

Once approved, the Management Plan will form an integral part of the PCFA and will be used as a key component against which operations under the agreement will be monitored and evaluated.

The Applicant must ensure that statements made in the Plan for Management of Forest Resources are consistent with those in the Business Plan. Where there is overlap, cross-reference should be identified.

The outline for the Plan for Management of Forest Resources required for submission under this invitation to apply follows. Where necessary to describe and address the range of objectives that the Applicant proposes to pursue under the PCFA, additional headings or content should be included.

The plan should contain at a minimum the following information:

- (a) include existing inventories:
 - i) for the timber in the Agreement area, and
 - ii) for botanical forest products that will be utilized,
- (b) include any other inventories and information regarding the development, management and use of the Agreement area that the may be required for the management of the forest landbase.
- (c) propose a allowable annual cut for the Agreement area which considers the following:
 - i) inventories and other information referred to in subparagraph (a) and (b),
 - ii) timber specifications proposed for the timber resources in the Agreement Area,
 - iii) reductions that are necessary to facilitate the management and conservation of non-timber resource values in the Agreement area, including visual quality, biological diversity, soils, recreation resources, cultural heritage resources, range land, wildlife, water and fish habitats,
 - iv) silviculture practices and forest health factors that may impact on timber production,
 - v) the anticipated impact of the reductions to the productive portion of the Agreement area due to permanent roads, landings, pits and trails, and
 - vi) any other factors that may impact on the allowable annual cut during each year,
- (d) contain a rational for the allowable annual cut referred to in subparagraph (c)
- (e) propose management objectives for the Agreement area regarding the harvesting, management of, and the charging fees for botanical forest products that will be managed.

- (f) specify measures to be taken by the Agreement Holder to identify and consult with persons using the Agreement area for purposes other than timber production and harvesting of botanical forest products:
 - i) trappers, guide outfitters, range tenure holders, and other licenced resource users,
 - ii) an aboriginal group who may be exercising or claiming to hold aboriginal interests or treaty rights, and
 - (g) community members and local governments.
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Outline of Plan for Management of Forest Resources

1. Statement of Goals and Guiding Principles

Describe the general management philosophy and broad resource management goals proposed for the PCFA.

2. Management Objectives

Describe the specific resource management objectives, including those related to stewardship of forest resources on the proposed agreement area.

3. Resource Inventories

Identify existing inventories, and state commitments to conduct additional inventories necessary to properly plan for resource management on the agreement area.

4. Proposed Allowable Annual Cut (AAC)

The Plan for Management of Forest Resources must reference existing inventories and contain a proposed AAC for timber and any other resources intended for extraction under the PCFA. An explanation of how AACs were developed must also be included.

ATTACHMENT E:

Documentation of Community Support and Awareness

The application must contain proof that there is a high level of community awareness of the application and strong support for the application from a broad cross-section of the community. Examples of how this proof could be demonstrated include, but are not limited to:

- (a) distribution of information newsletters or brochures to community members;
- (b) recognition of the application in an official community plan or endorsement by a city, regional district or Band council;
- (c) recognition of the application in bylaws or resolutions, of the legal entity;
- (d) community meeting(s) respecting the application;
- (e) results of a community survey respecting the application;
- (f) letters of support from licensees that operate in or near the proposed landbase;
and
- (g) letters of support from community members and stakeholders regarding the application.

It is the responsibility of the Applicant to determine the methods that will provide proof of broad community support and awareness within their community.

Letters of Support

To ensure that letters of support for the application are considered, they must be included with the application. If letters of support are more than three months old, the Applicant must confirm that they are still valid with regard to the content of the application.

Consultation with Stakeholders and First Nations

The Minister must consider the input and concerns of First Nations, the general public, stakeholders and licensed users that may be affected by a PCFA. The Applicant is encouraged to ascertain the position of such parties and address how the concerns of those parties, if any, will be addressed in the application for the PCFA.

ATTACHMENT F:

Public Input

The Applicant must hold at least one public meeting, open house or other event to obtain input from the public and affected stakeholders regarding the application. The event(s) must allow the public to present thoughts orally and in writing by completing a questionnaire, or by providing written statements at the event(s) or delivered to the Applicant up to three weeks following the event(s).

The Applicant will be responsible for advertising, coordinating and providing relevant information regarding the application to the public before and during the event(s). Ministry of Forests staff may attend the event(s) and may also provide information to the public.

Prior to the commencement of the public event(s) the Applicant must provide the District Manager with notice of the public input event(s) including the proposed format, date, location and advertisement strategy.

The application must include a report on the public input event(s) including a summary of who attended, all comments, concerns or issues raised by persons attending, or written comments received following the event(s) and how concerns or issues were addressed in the application, if appropriate.

ATTACHMENT G:

Business Plan Guidelines

Information contained in the Business Plan submitted as part of an application for a PCFA will be used in the evaluation of the application.

The evaluation of a Business Plan as part of an application is not intended to be an assessment of the financial viability or feasibility of a business venture. It is the responsibility of a Applicant to ensure that such financial viability or feasibility assessments are carried out by appropriate experts and, where necessary, lending institutions, prior to submission of the application.

For the purpose of preparing financial forecasts or statements associated with the harvesting of Crown timber, the Applicant is advised that the following will apply to the PCFA:

Stumpage must be paid on timber harvested from the Crown land part of the PCFA area.

A PCFA is subject to the payment of annual rent. The current rate is \$.25 per cubic metre of allowable annual cut attributed to Crown land within the agreement area. This rate is subject to change.

A holder of a PCFA is responsible for the payment of all applicable taxes and fees levied by federal, provincial and municipal government agencies. It is the responsibility of the Applicant to determine what those taxes and fees will be.

A suggested outline for a Business Plan, indicating some basic information requirements expected in the Business Plan submitted as part of the application for this invitation to apply follows. The Applicant is not required to use this format. The following Internet site offers assistance in producing Business Plans: www.smallbusinessbc.ca/

The Applicant may also wish to consult guidelines provided by various banks and financial organizations.

Reference to "company" or "business" in this outline is not intended to exclude eligible legal entities that may not commonly be considered as corporate structures.

Suggested Business Plan Outline

1.0 Executive Summary

Include a concise (maximum two pages) overview of the history of the intended holder of the PCFA including its management structure, present financial state and future plans.

2.0 Mission Statement

Include a mission statement for the intended PCFA holder. Indicate the purpose of the business, what it will do, and for whom.

3.0 Management – Governance structure

Describe the proposed governance structure for the intended PCFA holder and all other entities that will play a role in the business management decisions or the business operations to be carried out under the PCFA.

For example, if the PCFA will be managed through by a board, indicate how that board would be structured, who would be represented and how persons would be appointed or elected to the board and for what term.

Describe how the board (or other management structure) would be accessible and accountable to the community.

For the intended PCFA holder, and all other entities that will play a prominent role in the business affairs or operations to be carried out under the PCFA, identify:

the proposed role in the business affairs and operations to be carried out under the PCFA; key personnel, their proposed roles and their qualifications relevant to those roles

4.0 Product/Service Description

Describe the products and services that the intended PCFA holder and related businesses (if any) will produce and identify factors that will contribute to the success of the operations.

5.0 Industry/Market Analysis and Strategy

Describe the environment in which the business will be operating and how the business will respond to the market conditions. Provide a summary of the competition the business will encounter.

Provide an analysis of the company's products in the context of the markets being served, measured against the markets available.

If the business will be involved in a specialized venture, provide a comprehensive description of that market including whether the product will be marketed locally, nationally or internationally, and the potential demand in each market area.

Suggested Business Plan Outline

(Continued)

6.0 Potential Risks and Pitfalls

Identify the inherent risks to the business and how those risks will be addressed.

7.0 Implementation Plan

If the business will be seeking financing or capital, show how the funds will be acquired and how the lender/investor will be repaid. Include a table listing the various expenditures and the corresponding sources of financing.

8.0 Human Resources

Identify the tasks/jobs that will require full-time and/or part-time employees. Include positions which will be staffed by volunteers. Identify associated costs.

9.0 Future Plans

State the short, medium and long-term objectives for the business. Statements in this section should be in accordance with other components of the business plan and with objectives identified in the Plan for Management of Forest Resources submitted with the invitation to apply.

10.0 Projected Financial Statement Summary

Provide the following for each of the five years of operations under the term of the PCFA:

- a profit and loss forecast based on projected income statement;
- b cash flow forecast;
- c balance sheet forecast;
- d projected capital expenditure budget; and
- e company assets.