



Advisory Bulletin No. 11/21/06 – Prohibited Activities in the Tendering and Bidding Process

This advisory bulletin provides advice to BC Timber Sales (BCTS) customers and staff on prohibited activities in the tendering and bidding process as they apply to timber sale licences (TSL). The advice herein is intended for customer consideration and ministry use and supercedes advice previously provided on this issue.

Guiding Principles

BCTS, in conjunction with the Compliance and Enforcement (C&E) Branch of the Ministry of Forests and Range, will monitor the process of tendering and bidding for BCTS timber sale licences to detect prohibited activities in that process. Through this initiative, BCTS endeavours to ensure that all qualified persons are provided a fair and equitable opportunity to bid on timber sale licences.

Legislation

Section 164 of the *Forest Act* (the *Act*) contains the legislative provisions pertaining to prohibited activities in the tendering and bidding process.

- 164** (1) A person must not
- (a) by intimidation or threat hinder or prevent a person from making an application for an agreement, or from submitting a tender or bid, under Part 3,
 - (b) for an improper purpose threaten to make an application for an agreement, or to submit a tender or bid, under Part 3, or
 - (c) participate in or be a party to an agreement or arrangement among 2 or more persons, under which
 - (i) one or more of the persons agrees or undertakes not to make an application for an agreement, or to submit a tender or bid, under Part 3, or
 - (ii) particulars in an application made for an agreement, or the amount of a tender or bid submitted, under Part 3, by one or more of the persons are decided.
- (2) Subsection (1) (c) does not apply to
- (a) an agreement or arrangement made only among 2 or more corporations that are affiliated within the meaning of the *Business Corporations Act*, or
 - (b) an application for an agreement under this Act made jointly by 2 or more persons.

- (3) A person who is convicted of an offence under subsection (1), and a corporation controlled by that person, is disqualified from making an application under Part 3, either on the person's own application or through an agent, for 2 years after the date of the person's conviction.

Enforcement

All timber sale licence tendering and bid processes will be monitored with respect to compliance with s.164 of the *Act*. Any activities that appear not to be in compliance with s.164 of the *Act* will be reported to C & E program staff for investigation. If C&E personnel suspect criminal activity, or encounter evidence of criminal activity such as fraud, all pertinent information will be turned over to the RCMP for prosecution.

Penalties may include fines of up to \$1,000,000.00 and/or disqualification from bidding on licences offered by BCTS for up to 10 years.

It is the policy of BCTS and C & E Branch to recommend immunity from any administrative penalty to the first participant in a bid-rigging scheme to come forward and provide evidence of that scheme.

Contacts

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