



MINISTRY OF FORESTS POLICY

POLICY SUBJECT		
Timber Sale Licence Deposit Administration		
EFFECTIVE	RESPONSIBLE BRANCH	NUMBER
September 1, 2022	BC Timber Sales	19.1
APPROVED		
		
Allan Powelson, Executive Director, BC Timber Sales on behalf of Melissa Sanderson, Assistant Deputy Minister, Timber, Range, and Economics Division		

Scope

This policy, which cancels and replaces any previously existing policy or procedure pertaining to the administration of timber sale licence (TSL) deposits, applies in respect of any TSL issued under the *Forest Act* unless specifically exempted by the Executive Director, BC Timber Sales.

Purpose

To ensure that TSL deposits are established and administered in a manner that is fair, legally compliant and consistent with the goals of BC Timber Sales (BCTS).

Definitions

For the purpose of this policy:

TSL means TSLs competitively awarded pursuant to Section 20 of the *Forest Act*, in which eligibility was restricted to one or more categories of BC timber sales enterprises.

Bid deposit means an acceptable form of deposit paid by an applicant for a TSL in accordance with Section 15 of the BC Timber Sales Regulation (BCTSR).

Deposit means an acceptable form of deposit paid by the successful applicant for a TSL in accordance with Section 16 of the BCTSR.

Standing bid deposit means a standing deposit specified under Section 15(1)(b) of the BCTSR.

Standing deposit means a standing deposit specified under Section 16.1 of the BCTSR.

The **total estimated upset stumpage value**

- For a scale-based TSL is the product of the advertised competitive volume multiplied by the upset stumpage rate plus the product of the advertised non-competitive volume multiplied by the statutory rate; or
- For a lump sum TSL (i.e., cruise-based/bonus offer), is the advertised upset stumpage amount.

The **total stumpage value**

- For a scale-based TSL, is the product of the advertised competitive timber volume multiplied by (the sum of the upset stumpage rate plus the bonus bid), plus the product of the advertised non-competitive volume multiplied by the statutory rate (excluding the bonus bid); or

- b) For a lump sum TSL (i.e., cruise-based/bonus offer), is the advertised upset stumpage amount exclusive of any bonus offer.

Acceptable form of deposit means any or all of the following:

- cash, money order, bank draft, or certified cheque, payable to the revenue minister;
- an Irrevocable Letter of Credit, issued by a chartered bank, credit union or trust company, payable to the Minister of Finance, with a termination date not less than 120 days after the date of the deadline for applications, and which, if submitted by the successful applicant, must be replaced. Any Irrevocable Letter of Credit shall incorporate the following statement:

"This Letter of Credit shall be deemed to be automatically extended on an annual basis without any formal amendment unless, thirty days prior to the present expiry or any future expiry date as automatically extended, we shall notify {name and address of licensee} and {timber sales manager and address of BC Timber Sales Office} in writing that we elect not to extend the Letter of Credit for any further period, and at the same time forward to the Timber Sales Manager, together with such written notice of election, a bank draft payable to the Minister of Finance in the amount of {\$_____} less any amount previously paid under this Letter of Credit."

Policy

It is the policy of the Ministry of Forests (the Ministry) that deposits associated with TSLs shall be established and administered as follows:

Pre-issuance Deposit Management

Applications

Where the timber sales manager has specified that a **bid deposit** is required and in accordance with Section 15 of the BCTSR, each application for a TSL must be secured by its own discrete **bid deposit**.

Setting the bid deposit

Subject to the exceptions described below, the timber sales manager will set the bid deposit at the default amount determined in accordance with Section 15 (3) of the BCTSR (i.e., the greater of \$3,000 or 2% of the total estimated upset stumpage value).

Exceptions

In cases where the total estimated upset stumpage value is anticipated to be less than \$3,000, pursuant to Section 15 (3) of the BCTSR, the timber sales manager may set the bid deposit at an amount that is greater than the amount determined under Section 15(3).

<i>Standing bid deposits</i>	The applicant may specify that it is relying on a standing bid deposit in lieu of paying a bid deposit amount, provided that the standing bid deposit was previously received by the government.
<i>Refund of bid deposits</i>	<p>Pursuant to Section 18 of the BCTSR, and subject to the following conditions, if an application for a TSL is not approved, the timber sales manager will refund the bid deposit paid in respect of that application where:</p> <ol style="list-style-type: none">1. The application containing the highest bonus bid/bonus offer, submitted by an eligible applicant has been identified and approved by the timber sales manager;2. The timber sales manager is satisfied that there is no longer a need for the bid deposit;3. The bid deposit associated with an unsuccessful application is not required to be set off against an outstanding debt payable to Government; and,4. The unsuccessful applicant understands that the return of its bid deposit signifies that it withdraws from the competition for the TSL. <p>A standing bid deposit is non-refundable during the 12-month period immediately following the date it is established.</p>
<i>Forfeiture of bid deposit and standing bid deposit</i>	Pursuant to Section 19 of the BCTSR, the bid deposit or standing bid deposit, as the case may be, will be forfeited to the Crown subject to a forfeiture relief request, if an applicant, upon having its application approved by the timber sales manager, fails to enter into the TSL.
<i>Determining the base deposit amount</i>	<p>The timber sales manager shall set the base deposit amount for the TSL in accordance with Section 16.2 (2) of the BCTSR (i.e. not less than the sum of 10% of first \$100,000 of the total estimated value of the licence and 5% of the remaining total estimated value of the licence).</p> <p>In cases where an assessment indicates a significant risk to the Crown may result from a potential incidence of non-conformance with a contractual requirement of the TSL or non-compliance with a statutory requirement related to applicable forestry legislation, the timber sales manager may set the amount of the base deposit amount to greater than the default minimum that would otherwise be calculated under Section 16.2 (2) of the BCTSR and appropriate with the risk assessed.</p> <p>Where a timber sales manager has set the base deposit amount greater than the default amount calculated in accordance with Section 16.2 (2) of the BCTSR, the timber sales manager must state as such in the TSL Particulars.</p>
<i>Setting the deposit amount</i>	The timber sales manager will, pursuant to Sections 16.3 and 16.4 of the BCTSR, determine whether the successful applicant is a Level 1, Level 2, or Level 3 applicant, and pursuant to Section 16 of the BCTSR will determine the deposit amount accordingly.

Standing deposit

The successful applicant may specify that it is relying on a standing deposit in lieu of paying a deposit amount, if the following criteria are met:

1. The applicant is a level 1 applicant as determined by the timber sales manager pursuant to Section 16.4(1) of the BCTSR;
2. The applicant is a BCTS enterprise; and
3. The government has already received the standing deposit from the applicant.

Submission of the deposit

The successful applicant for a TSL must, on the demand of a timber sales manager, pay the deposit before entering into the TSL. The maximum duration of the demand period shall be no longer than 10 business days following the notice of demand of the timber sales manager.

In the event that the applicant fails to pay the deposit in accordance with the demand notice and timing limitations set out above, the timber sales manager shall, in accordance with Section 78(4)(a) of the *Forest Act* and section 12 of the BCTSR, deem the applicant to have refused to enter into the TSL. This will result in disqualification from being registered as a BC timber sales enterprise and forfeiture of the bid deposit under section 19(1) of the BCTSR, if applicable.

**Post-issuance
Deposit Management****Surrender, Expiry,
Cancellation**

Deposits associated with TSLs that have been successfully entered into (issued) shall be administered in accordance with the *Forest Act*, the specific terms of the agreement, and the BCTSR.

Transfer of TSL

Any deposits held by Government may be released to the previous holder of the TSL, subject to set-off, upon the appropriate replacement deposit being received from the intended recipient of the agreement(s).

The amount of the deposit required from the recipient (new holder) of a TSL is contingent upon the "level of applicant" of the new holder as determined in accordance with Section 16.5 of the BCTSR.

Refund of Deposit

In considering the refund of a deposit in respect of an agreement that includes a timber processing obligation, the timber sales manager will take into account the significance of the timber processing obligation in satisfying the objectives of the BCTS program. For example, in considering whether the agreement holder has substantially fulfilled its obligations, has the agreement holder presented evidence that the timber processing obligation has been completed as required by the agreement? The timber sales manager will seek advice from BCTS Provincial Operations as to whether information provided by the agreement holder satisfies the requirements of the obligation.

Responsibilities

Executive Director, BC Timber Sales

The Executive Director, BC Timber Sales is responsible for:

- Monitoring the effectiveness and administration of this policy;
- Ensuring TSL deposits are established and administered in accordance with this policy;
- Providing advice to the timber sales managers respecting the implementation of this policy; and,
- Recommending changes to this policy to the Assistant Deputy Minister, Timber, Range and Economics Division, as required.

Timber Sales Managers

Timber Sales Managers are responsible for:

- Establishing and administering TSL deposits in accordance with this policy; and,
- Recommending changes to this policy to the Executive Director, BC Timber Sales.

Effective Date

This policy is in effect **September 1, 2022**.

References

- *Forest Act*, Sections 20, 22, 58.3 and 78
- *BC Timber Sales Regulation* (B.C. Reg. 381/2008, October 25, 2021)

Schedule A - General post-issuance deposit management procedure for TSLs

