



MINISTRY OF FORESTS,  
LANDS, AND NATURAL  
RESOURCE OPERATIONS  
POLICY

| POLICY SUBJECT                             |                    |        |
|--|--------------------|--------|
| Timber Sale Licence Deposit Administration |                    |        |
| EFFECTIVE                                  | RESPONSIBLE BRANCH | NUMBER |
| April 15, 2014                             | BC Timber Sales    | 19.1   |
| APPROVED                                   |                    |        |
|  |                    |        |

**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 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**

- a) For a scale-based TSL is the product of the advertised competitive timber volume multiplied by the upset stumpage rate; or
- b) For a lump sum TSL (i.e., cruise-based), is the advertised upset stumpage amount.

The **total estimated value**

- a) 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; or
- b) For a lump sum TSL (i.e., cruise-based), is the advertised upset stumpage amount plus 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 Minister of Finance;
- a Safekeeping Agreement form executed by a chartered bank, credit union or trust company, verifying that assignable securities in the amount designated by a timber sales manager, are being held in safekeeping, and the rights and claims to the securities have been assigned to Minister of Finance; or
- 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, Lands and Natural Resource Operations (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 a **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 and 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, and pursuant to Section 15 (2)(a) and (b)(i) of the *BCTSR*, the timber sales manager shall set the bid deposit amount at \$500 or stipulate that a bid deposit is unnecessary.

Where a timber sales manager has set the bid deposit at \$500 or stipulated that a bid deposit is unnecessary, the timber sales manager must state in the TSL Particulars that the normal standing bid deposit provisions set out in Section 15 (1)(b) of the *BCTSR* do not apply.

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|---|--|
| <i>Standing bid deposits</i>                              | The applicant may specify that the person 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 <i>BCTSR</i>, 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"><li>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;</li><li>2. The timber sales manager is satisfied that there is no longer a need to retain the bid deposit from any or all of the unsuccessful applications;</li><li>3. The bid deposit associated with an unsuccessful application is not required to be set off against an outstanding debt payable to Government; or,</li><li>4. The unsuccessful applicant requests the return of the deposit and understands that it signifies a withdrawal from the competition for the TSL.</li></ol> <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 <i>BCTSR</i> , 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>Subject to the Exceptions described below, the timber sales manager shall set the base deposit amount for the TSL at the default amount calculated in accordance with Section 16.2 (2) of the <i>BCTSR</i> (i.e., 10% of first \$100,000 of the total estimated value of the license and 5% of the remaining total estimated value of the license).</p> <p><u>Exceptions</u></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 will set the amount of the deposit to greater than the default minimums that would otherwise be calculated under Section 16.2 (2) of the <i>BCTSR</i> and appropriate with that risk assessed.</p> <p>Where a timber sales manager has set the deposit amount greater than the default amount calculated in accordance with Section 16.2 (2) of the <i>BCTSR</i>, 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 Section 16.4 of the <i>BCTSR</i> , determine whether the successful applicant is a Level 1, Level 2 or Level 3  |

applicant and will, pursuant to Section 16(3) of the *BCTSR*, 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 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 that TSL. Subject to the exceptions described below, the maximum duration of that demand period shall be no longer than 10 business days following the advertised application opening date for the TSL.

#### Exceptions

1. Where a timber sales manager requires more than 2 business days, to confirm the successful applicant's eligibility and to approve that person's application for the TSL; or,
2. Where the Executive Director, BC Timber Sales determines that a longer period is warranted.

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, for the purposes of Section 19 (1) of the *BCTSR*, deem the applicant as having refused to enter into the TSL resulting in the forfeiture of the bid deposit or standing bid deposit, as the case may be.

## **Post-issuance Deposit Management**

### *Extension, Surrender, Expiry, Cancellation*

Deposits associated with TSLs that have been successfully entered into shall be administered in accordance with the *Forest Act*, the specific terms of the agreement, the *BCTSR* and the general procedures described within Schedule A.

### *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 that was advertised after October 1, 2012 is contingent upon the "level of applicant" of the new holder as determined in accordance with Section 16.5 of the *BC Timber Sales Regulation*.

The amount of deposit required from the recipient (new holder) of a TSL that was advertised before October 1, 2012 is the amount determined in accordance with Section 16 of the *BC Timber Sales Regulation* as it read immediately before that date.

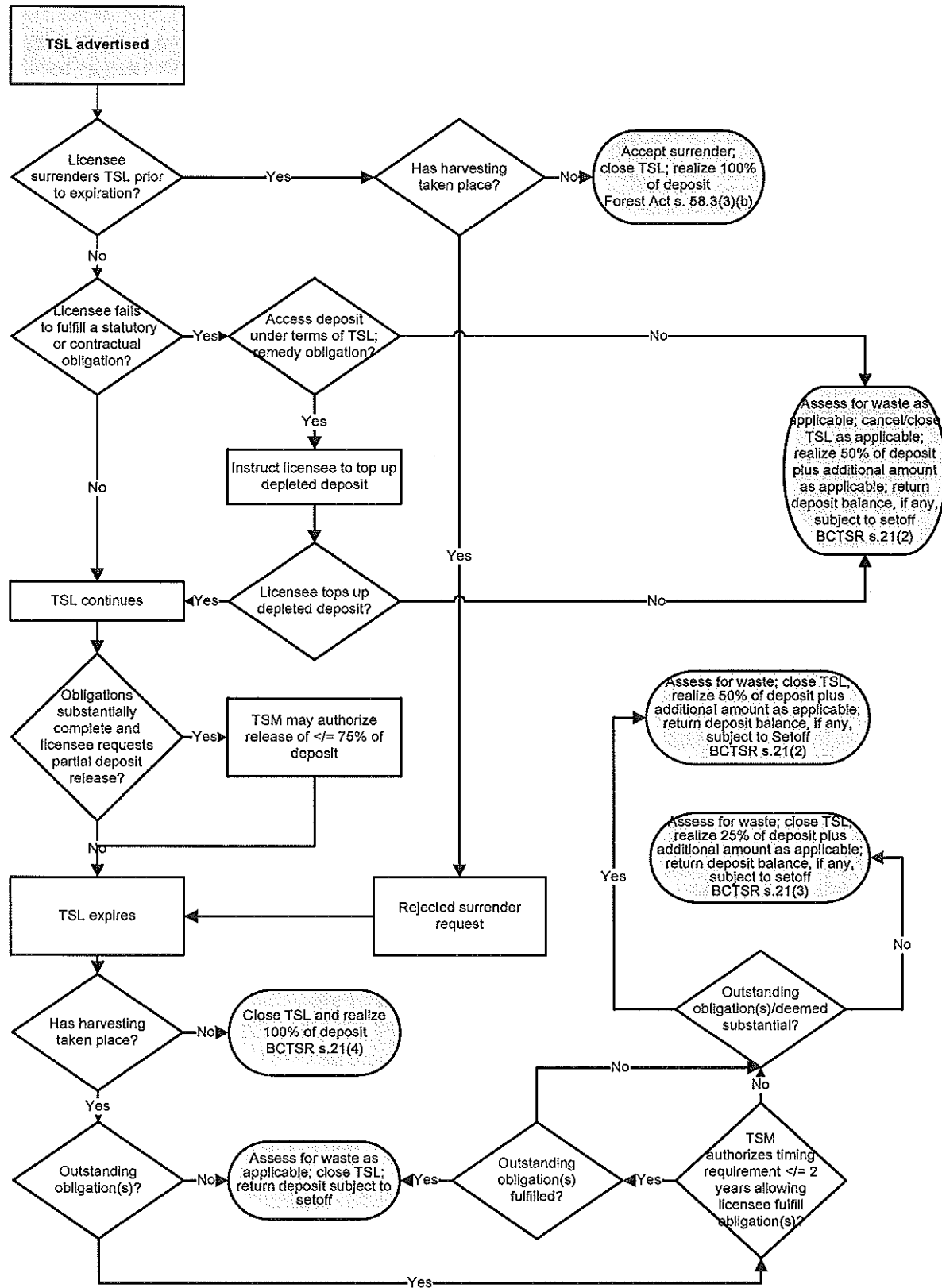
## **Responsibilities**

### **Executive Director, BC Timber Sales**

The Executive Director, BC Timber Sales is responsible for:

- Monitoring the effectiveness and administration of this policy;

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



- 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 Operations, Pricing and First Nations 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 April 15, 2014

#### **References**

- *Forest Act*, Sections 20, 22, 58.3 and 78
- *BC Timber Sales Regulation* (B.C. Reg. 278/2012, October 1, 2012)