

**Forest Management Branch
Responses to RFP Validation Questions
Annex 2 Information Session – April 19, 2007**

STATEMENT (I): Sklar indicated that government RFPs providing direction in DFMPs will/must accept accountability for that direction.

Q1. How will that accountability be disclosed?

A1. *Department reviewers are RFPs and their work will be identified with their signature and RFP registration number.*

Q2. Will they sign the appropriate sections on the checklists?

A2. *Reviewers will document their reviews and comments using checklists.*

Q3. Will they submit letters providing the direction and accepting responsibility?

A3. *Letters sent to companies are always signed by government reviewers or the managers responsible for the review. A government RFP that provides direction to a company is accountable for the direction given.*

Q4. My understanding is that the government leveraged the College's members as certifiers of required submissions with a consultative involvement from the Colleges?

A4. *The Colleges were consulted prior to writing Annex 2 to understand their interests and views.*

Q5. What is the function of the College of Alberta Professional Foresters with respect to Annex 2?

A5. *The CAPF is a regulatory body with authority granted by the Regulated Forestry Profession Act to regulate the professional practice of its members. Its role is defined in the Act: Part 1, Section 3. The provisions of Annex 2 do not alter the roles and responsibilities of the College.*

Q6. What about with respect to communications?

A6. *The department will maintain open communication with both Colleges on any matters relating to professional practice of government employees or the requirements of Annex 2.*

Q7. Disciplinary matters?

A7. *The department will follow the legislated requirements as outlined in the Regulated Forestry Profession Act and Regulation. Complaints are expected to be the exception rather than the rule and will not be made without cause.*

Q8. How does this impact the operations of the college (i.e. discipline process and contingency fund)?

- A8.** *The department is unable to comment on this matter. The Colleges must assess their situation considering their history of discipline cases, future cases, contingency fund reserves and anticipated expenses.*

STATEMENT (II): A document such as a Detailed Forest Management Plan has a tremendous number of contributors. Annex 2 requires only the senior RFP responsible for its preparation to seal it. Each of the major components (i through vii) must be sealed by the RFP most directly responsible for its preparation.

- Q1.** Do these RFP's assume all liability (potential discipline & financial consequences)?
- A1.** *The RFPs most directly responsible for the FMP and supporting documentation are accountable for submitting accurate work. Alberta is not assessing liability for any damages that occur but later is assessing the accuracy of the submission. The College's discipline review will determine the extent of a RFP's professional accountability. Generally, unless settled out of court, civil actions through the Court of Queens' Bench will determine the financial liability for non-professional practice causing financial loss or damages.*
- Q2.** Does the sealing of a document make you solely accountable to the government, the College's discipline process, and other penalties? Or would this be shared with all of the other regulated forestry professionals that worked on the project but were not required to seal their work.
- A2.** *As answer above.*
- Q3.** What is the liability for RFP's involved but were not required to seal?
- A3.** *All RFPs whether signatory to a document or not are accountable for the work they do.*
- Q4.** What is the statute of limitations on a sealed document?
- A4.** *There is no limit. Documents are updated regularly and/or replaced by newer versions and as these documents are replaced, the responsible RFP often changes.*
- Q5.** What is the liability of the FMA holder (i.e. the company)?
- A5.** *The Company is responsible for the implementation of the plan or action proposed by the RFP. The rationale for having the senior company RFP validate the document is to ensure the company agrees with the work proposed and that the corporation is committed to implementing the approved plan.*
- Q6.** What is the liability of the consultant if they were not required to stamp the deliverable?

A6. Same as previous answer.

- Q(i).** What happens to the liability if the RFP is no longer working 1) for the company, 2) in industry, 3) in the province, or retired?
- A(i).** *If the RFP is not a “registered member” of the College, there may be little recourse for assigning liability for unprofessional practice after the fact. This is a legal issue to be sorted out by the Colleges.*
- Q(ii).** What is the accountability of the government RFPs who are part of the development process for various plans? Or for those who have signed off on submitted documents and reports?
- A(ii).** *Government RFPs are accountable for the direction they provide, the reviews completed and recommendations given. Senior government officials that provide “approvals” do so as administrators of government programs. Their authority for approvals is derived by virtue of the position held, not their RFP status.*
- Q(iii).** Accountability — Generally, one would expect authority, responsibility, and accountability to be kept in balance for any individual, regulated professional or not. I’m concerned that SRD may be offloading some responsibility and accountability onto RFPs, but without a commensurate increase in authority so that RFPs can actually make “better” decisions. The present situation could make RFPs accountable for decisions made by their employers, regardless of whether the employer is SRD, consulting firm, or manufacturer. We may see several good RFPs lose their jobs through this process, if the balance can’t be kept.
- A(iii).** *The forestry profession has been regulated in Alberta since 1985. The professional accountability of RFPs has not changed since then and does not change with the implementation of Annex 2.*
- Q(iv).** Due Process — If an action is brought against a RFP by SRD, common law requires that the accused has the right to face his accusers directly. To me, this means that any action brought against a member must be “attached” to the name of one or more officials who personally are prepared to stand up in court and defend their accusations. This is certainly the case with our police whenever they issue a traffic ticket. SRD employees must be confident enough in their accusations to sign for them. They should not come from “The Minister”.
- A(iv).** *There is confidentiality regarding individuals registering a complaint against a RFP as outlined in the Regulated Forestry Profession Act. In the event a complaint is registered by the department, an individual, e.g. Executive Director, Assistant Deputy Minister or other manager will make the complaint.*
- Q(v).** Annex 2 states that Alberta may refer occurrences such as inadequate documentation to the Complaints Director of the college. This does not sound like appropriate corrective actions. This issue appears to be something that should be resolved outside of the College. A process needs to be outlined where the

actions are first attempted to be resolved between the government's representative and the RFP. If that fails to address the matter then the issue escalates between senior representatives of the government and the forest company. SRD should limit their referrals to the college discipline director to issues that negatively impact the forest as per the best interests of the public.

A(v). *The department will continue to work with companies and RFPs to provide complete and accurate information. Checklists are available to help RFPs assess the completeness of their work prior to submission. Unintentional errors or omissions will be resolved through discussions with all parties. Blatant misrepresentations and chronic poor workmanship will be subject to complaints being filed.*

Q(i). I do not envision that the college is capable of handling this potential number of requests based on it depends on volunteers, the modest contingency fund and that the simplest of frivolous complaints has cost the college almost \$10,000.

A(i). *The Colleges are self-regulating organizations that have a mandate to regulate the professional practice of RFPs. This is an issue for each College to manage in order to meet its legislated obligations.*

STATEMENT (III): Section 7.0 of the Alberta Regeneration Survey Manual states, "To ensure all regeneration surveys are accurate and complete all survey submissions to Alberta must be validated by a RFP, and the forest company undertaking the surveys should have a system of check surveying for quality control purposes.

Q1. Is it the expectation of ASRD and CAPF that a RFP who has validated a survey submission must have used a quality control system as outlined in sections 7.1 and 7.2 of the Survey Manual? If not, what other alternatives are acceptable?

A1. *Yes, quality control is essential to any reputable system. There are not alternatives to a quality control system, however, there could be various approaches taken to achieve the same end. The department is eager to hear your options for achieving cost-effective quality control methodologies.*

Q2. Can a RFP who is not a certified regen surveyor validate the work of a surveyor who is certified?

A2. *Yes, The department has replaced the requirement for certification of regeneration surveyors with a requirement for a quality control program. The RFP will validate that the work was done to standard and reported accurately.*

Q3. If the surveyor is both a certified regen surveyor and a RFP can they validate their own work on the basis of having personally completed it or is there a requirement for review by a third party for validation?

A3. As above, certification for regeneration surveyors is being phased out and the accountability will remain with the RFP validating the work. In this case the RFP validation is the requirement, not the regeneration certification.

Q(i). Annex 2 requires RFP validation of ARIS submissions and silviculture operation reports. A single reforestation activity (e.g. planting) requires submission of a significant number of data items to ARIS. Will ASRD outline clear standards with respect to tolerances (if any) in regards to the accuracy of these data? (For example, no tolerance for planted species or seedlot, 10% tolerance for area planted or number of seedlings, etc.).

A(i). *The standards are those established by Annex 2 and the ARIS manual. The department will not be issuing accuracy tolerance limits for this information. Work is expected to be accurate and true and validated as such.*

COLLEGE OF ALBERTA PROFESSIONAL FOREST TECHNOLOGISTS

STATEMENT (IV): In August of 2005 the continuing competency committee was asked to provide feedback on the then proposed Annex 2 portion of the Alberta Forest Management Planning Standard. A response was drafted providing feedback and requesting clarification on several issues. Implementation of the standard occurred shortly thereafter with no clarification being provided. Key issues brought forward were:

1.1 Significance of RFP Validation

Q1. Line 22 states that Government RFP's shall take "appropriate corrective actions where validated work is not accurate." Is there any supporting documentation that indicates what the appropriate action will be?

A1. *The appropriate action will be decided by department managers. The corrective actions will vary depending on the situation and risk to the environment and the department.*

Q2. Is there a process that will be followed when taking the appropriate corrective actions? It would be beneficial for both the Government and industry RFP's to know this prior to submissions being made.

A2. *The process has not been documented in the Planning Standard but is common practice and will involve: a. Identifying the issue, b. Investigating the cause or causes and discussing with company or individual, c. Considering options to correct, d. Agreeing on corrective action with company or individual, or in cases of disagreement, directing corrective action to be completed.*

Q3. Is it necessary to say that Alberta "may refer such occurrences to the Complaints Director of the appropriate college" in line 25?

A3. *The department believes this potentiality is not well understood. The statement makes it clear to all.*

1.2 Approval of Validated Work

Q1. There should be a statement requiring Alberta's RFP's to provide the same documentation to demonstrate *due diligence* as the RFP's who are completing the submissions.

A1. *This has been added to the Planning Standard.*

1.2.1 Appraisal

Q1. Is the word appraisal being used in place of approval? A clear definition of this should be provided.

A1. *This is not approval but describes a process for reviewing work to be approved. The definition is provided in Annex 2.*

Q2. Is there a specific list that identifies work with far-reaching and significant potential effect? Different interpretations may lead to issues in the future if these areas of work are not clearly identified ahead of time.

A2. *There is a list in Annex 2.*

Q3. Line 39 states that timelines for approval shall be established by Alberta and will vary depending on the nature of the validated work. Future issues may be prevented if timelines can be established and mutually agreed upon prior to submission.

A3. *Timelines for approval are generally outlined in the Interpretive Bulletins. Approval timelines will vary depending on staffing, workload and other issues.*

1.2.2 Acceptance

Q1. How does acceptance differ from appraisal? A clear definition should be provided.

A1. *A definition is provided in Annex 2. Generally, acceptance is expedited approval based on the responsible RFP's validation that the work meets standards, is complete and accurate. Appraisal refers to a more detailed review, taking more time prior to approval.*

A2. Is there a specific list that identifies work with limited potential effect? Different interpretations may lead to issues in the future if these areas of work are not clearly identified ahead of time.

Q2. *No, it is not practical to list the many items.*

Q3. Line 47 states that Alberta will notify the submitting organization by acknowledging receipt of the work within 5 working days. Do all submissions require acknowledgement of receipt? If so, is it realistic to expect a response to all submissions within 5 days?

A3. *Yes, all submitted work requires acknowledgement of receipt by Alberta. The department will work to achieve the timelines.*

Q4. It appears that there is no set timeline for Alberta to bring issues related to the submissions forward. This may result in issues being brought forward long after the submission has been made.

A4. *Issues will be brought forward as they are identified.*

2.0 Work Validated by a RFP

Q1. Upon approval, does the reviewing Government RFP assume responsibility for all submissions made by companies harvesting less than 30,000 m³ annually from public land? If not then who is ensuring that the due diligence occurs?

A1. *The reviewing RFP is accountable for his/her review and recommendations based on the information provided by the company. The company is responsible for providing complete and accurate information.*

2.3 Harvesting and Reforestation Activities

Q2. Is the list identified here inclusive or is it open for interpretation by Alberta? A thorough clear understanding of what requires RFP validation and the liability associated with validation may be required if the list is open for interpretation.

A2. *At this time the list is comprehensive but will be reviewed and revised from time to time.*