

Development Partnership Agreement Policy

1. Overview

A Development Partnership Agreement (DPA) is a voluntary agreement between the Government of Nunavut (GN) and a resource development company, that sets out how they will work together to help Nunavummiut, their businesses and their communities benefit from resource development projects in Nunavut.

Pursuant to section 5 of the *Tax Rebate Regulations*, resource development companies may contribute long-term investments in Nunavut by negotiating a DPA with the GN.

This policy sets out principles, processes, and parameters to help the GN design and implement DPAs in ways that best achieve the GN's long-term goals.

2. Policy Statement

The GN encourages resource development companies to negotiate a DPA with the GN in order to maximize social and economic benefits for Nunavut and to contribute long-term investment to Nunavummiut, their businesses, and their communities.

3. Application

This policy applies to officials in GN departments and public agencies involved in the negotiation, administration, or evaluation of Development Partnership Agreements (DPAs), in order for resource development companies to access the GN's Fuel Tax Rebate (FTR) established by the *Tax Rebate Regulations* (under the *Petroleum Products Tax Act*).

4. Principles

The GN intends for DPAs to allow Nunavummiut to share in and benefit from the wealth generated by the territory's mining sector. The DPA Policy is rooted in the Inuit societal values *Aajiiqatigiinni* (decision-making through discussion and consensus), *Qanuqtuurniq* (being innovative and resourceful), and *Piliriqatigiinni/Ikajuqtigiinni* (working together for a common cause).

In addition, the GN's approach to DPA negotiations and implementation is guided by the following principles:

- **Mutually beneficial goals** – The GN and the company will identify and pursue shared objectives so that both parties benefit from the DPA.

- **Value for money** – DPA obligations should complement and support GN priorities. The benefits associated with a DPA must bring as much or more value to the GN than the cost of the associated Fuel Tax Rebate (FTR).
- **Incrementality** – The partners will ensure that each DPA obligation is incremental, meaning that it is above and beyond what the company would normally do through its regular business operations or to meet other obligations.
- **Benefit Nunavummiut** – The GN aims to establish initiatives through a DPA that will contribute to long-term economic development and capacity building for Nunavummiut.
- **Strengthen communities** – A DPA should foster healthy communities (particularly those near the project), and should consider municipal priorities together with those of the GN.
- **Work together** – Many organizations in Nunavut look for ways to benefit from local resource development projects. Where appropriate, the GN should consider the interests of these other organizations to achieve shared goals.
- **Transparency and openness** – Information will be shared openly: between the partners; among GN departments to negotiate a DPA that is beneficial to the GN as a whole; and with communities, Inuit Organizations and other stakeholders so that a DPA can consider community priorities and interests.
- **Sustainability** – The GN strives for sustainable development, and will ensure that DPAs balance the needs and interests of various stakeholders so that benefits can be enjoyed by Nunavummiut over the long-term.

5. Definitions

Company – A resource development company or firm engaged in mine development, mineral extraction, or reclamation activities that intends to enter into a DPA with the GN.

Fuel Tax Rebate Program (FTR) - Program administered by the Department of Finance under the *Tax Rebate Regulations* of the *Petroleum Products Tax Act*.

Hub Community - The logistical location(s) in Nunavut for a large scale development project through which the primary lines of business flow through.

Incrementality - A DPA provision is incremental if it requires the resource development company to do something that it would not do in the absence of a DPA. Incrementality is sometimes referred to as *additionality*.

Partners - The Government of Nunavut and a resource development company involved in mineral development, extraction, or reclamation.

6. Objectives

Each DPA aims to create the conditions that will allow Nunavummiut, their businesses and their communities to benefit from the development of Nunavut's natural resource wealth. While each DPA will incorporate unique ways of achieving this intent, the GN has identified objectives that all DPAs should meet:

- Each DPA is an opportunity for the GN to advance its priorities in ways that benefit both government and the company. Therefore, each DPA should, where appropriate, be guided by existing GN strategies and policies.
- Each DPA should set out obligations that the company must meet to apply for a Fuel Tax Rebate.
- Obligations may take many forms (activities to undertake, standards to meet, information to provide, etc.). The value of benefits resulting from each obligation should also be clearly defined and measurable.
- The partners should be able to demonstrate a link between each obligation and the resource development project itself.
- Each obligation should be clear, incremental, and measurable and should precisely describe what the GN expects the company to produce or achieve (the outputs), and the timelines to do so.
- The GN expects that companies involved in mining use a Nunavut community as a logistical center for their operations. To support this, a DPA will focus on tangible benefits to the hub community and/or region.
- A DPA may include, but is not limited to:
 - Education and training for Nunavummiut, resulting in transferrable skills and recognized credentials that will allow them to participate in the economy;
 - Infrastructure development and investment (including physical, energy, communications, and organizational infrastructure) that strengthens the community;
 - Developing and diversifying local businesses;
 - Collecting and sharing information about the local community or region;
 - Investing in new or existing programs to build capacity, social wellbeing, and economic strength of communities to help employees, their families, and the community address challenges that may arise as result of the mine; and/or
 - Other benefits identified by relevant stakeholders in the community and region.
- Where the DPA itself cannot be clear in the outputs, or where it is appropriate to allow for flexibility, the DPA should commit the company and GN to formally clarify expectations in a timely fashion (for example, by developing Terms of Reference).

7. Eligibility

To be eligible to enter into a DPA, a company must:

- Be otherwise eligible under Section 5 of the *Tax Rebate Regulations* to apply for a tax rebate on eligible petroleum products used for mine development, extraction or reclamation;
- Hold and be in compliance with a valid Project Certificate issued by the Nunavut Impact Review Board or a Federal Panel in accordance with Article 12 of the Nunavut Land Claims Agreement (NLCA); and
- Be in good standing with the Department of Finance with respect to territorial taxes, and otherwise be in compliance with territorial legislation and regulations.

A DPA will contain terms and conditions governing the consequences, up to or including ineligibility for the FTR, in the event that a company ceases to meet any of the above eligibility criteria, is not in good standing with regulatory agencies, or is not in compliance with the DPA.

Prior to entering into a DPA the GN must be satisfied that the company's economic feasibility projections for a project are reasonable and sound, notwithstanding unexpected market fluctuations or extreme events that could impact the project.

Eligibility to enter into a DPA does not necessary mean eligibility for the FTR.

8. Initiating a DPA

To initiate a DPA negotiation, a company must submit a Letter of Intent to the Department of Economic Development & Transportation. This letter shall be submitted only after a project has been referred to a Part 5 or 6 review under Article 12 of the NLCA. The Letter of Intent must include:

- Background information about the company and its activities in Nunavut;
- A detailed, non-technical description of the project;
- A projected timeline for the proposed project;
- An estimate of the amount and cost of fuel the project will use for each year during its construction and operations; and
- A designated contact for the company.

Negotiation of a DPA is encouraged to take place during the development of the Environmental Impact Statement, when the company is identifying the socio-economic benefits, potentially adverse impacts, and mitigation measures for its project.

9. General Provisions

Neither the company nor the GN is obligated to enter into a DPA.

A DPA must set out the terms or conditions under which either party may terminate the agreement.

Each DPA shall set out a list of activities the company will perform or conditions the company must meet.

If the company meets all of the terms in a DPA to the GN's satisfaction, including duly submitting the DPA implementation report, it is eligible to apply for a Fuel Tax Rebate (FTR), whereby the GN returns territorial taxes the company paid on fuel during the previous year.

Partners will ensure that duplication between a DPA and the Inuit Impact and Benefit Agreement (IIBA) for the development project is minimized.

The GN must have a good understanding of the estimated cost of the Fuel Tax Rebate and must be able to demonstrate that the company's DPA obligations provide value-for-money to the GN.

A DPA may stipulate limits to the Fuel Tax Rebate available for a project, including an annual cap, a partial (percentage-based) rebate, or a performance-based rebate. Such limits will be considered during the negotiation of DPA obligations.

Each DPA is associated with a single project that holds a valid Project Certificate. A company that operates more than one project in the territory has the opportunity to engage in more than one DPA.

Where a company has a DPA and is operating more than one project in Nunavut, the company may be required to demonstrate how fuel was allocated for each project.

Where a project may grow, resulting in amendments to the project certificate or an additional certificate issued to the same company for an adjacent resource, the DPA must be amended to reflect the changes to the project. Alternatively, a DPA may contain terms and conditions governing such scenarios.

Nothing in the planning stages and negotiation process will preclude the GN from making recommendations and providing input into the Environmental Assessment review and Environmental Impact Statement hearings.

Each DPA will be made available to the public.

10. Implementation Reports

Each DPA must contain a requirement that the company produce and submit to the GN a DPA implementation report. The DPA must provide a schedule for submission of reports, and must set out how the company will demonstrate to the GN that it has met, or is in the process of meeting, its obligations under the agreement.

This reporting must allow for accurate assessment of value produced by the DPA over the period covered by the report. The report must complement the reporting schedule for the FTR program, in which reporting timelines are continuous and without any gaps.

Both partners will ensure that personal information and sensitive business information is kept confidential or is aggregated appropriately to protect privacy.

Upon approval by the GN, DPA implementation reports will be publicly available and accessible.

11. Roles and Responsibilities

Departments

The Department of Economic Development & Transportation develops procedures for interdepartmental review and approval of DPAs, coordinates the DPA negotiation process and the evaluation of implementation reports, and ensures interdepartmental collaboration.

The Department of Finance administers the FTR program.

An inter-departmental committee designated by Deputy Ministers, consisting at minimum of representatives from the departments of Economic Development & Transportation and Finance, will evaluate implementation reports to determine whether the company has complied with the DPA and Nunavut has received the intended benefits.

Deputy Ministers

Deputy Ministers review proposed DPAs, and provide recommendations to Cabinet and the Financial Management Board on approval of DPAs.

Deputy Ministers approve DPA implementation reports.

Executive Council

Cabinet approves all DPAs and will designate the Premier or appropriate Minister to sign the DPA on behalf of the GN.

Cabinet designates a committee of Deputy Ministers to carry out duties set out in this policy.

Cabinet approves procedures for interdepartmental collaboration, including the review and approval of DPAs, DPA negotiation, and the evaluation of implementation reports.

Only the Minister of Finance has the authority to approve an application for fuel tax rebate.

Company

The company fulfills DPA obligations and commitments, and reports to the GN and the public on its implementation of the DPA following an agreed-upon reporting template and timeline.

12. Prerogative of the Executive Council

Nothing in this directive shall in any way be construed to limit the prerogative of the Executive Council to make decisions or to take actions with respect to agreements with resource development companies outside the provisions of this directive.

13. Sunset Clause

The GN may update this policy at any time to clarify questions or to address other issues that may arise through negotiation and implementation of individual DPAs.

The GN will initiate a comprehensive review of this policy not later than four years after its approval.

This policy will be effective from the date of signature until March 31, 2016.