

BC Infrastructure Benefits Contractor & Subcontractor Q & A

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About this Document

BC Infrastructure Benefits is responsible for implementing the Community Benefits Agreement. This document provides general information based on questions received from contractors. BCIB is committed to providing all interested contractors and subcontractors with the opportunity to be part of CBA public infrastructure project(s).

This document will be updated as required and on an ongoing basis.

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1 Definitions

- Please note: Refer to Article 8.100 regarding Union Membership requirements and Article 8.600 (Hiring Process) of the CBA which references Name Hire and Name Request.

1.1 Employee

- BCIB is the employer for workers on CBA projects.
- CBA Article 2.309 defines who is required to become a BCIB Employee and who is not.

1.2 Supervisor

- A Supervisor or Foreperson is a skilled worker who instructs and manages the workers in the performance of their duties on the site.
- Supervisors and non-working Forepersons are considered BCIB Employees. A Supervisor will become a member of an AIRCC union within 30 days of becoming a BCIB Employee (may include working and non-working forepersons).
- Supervisors are not project management staff or site-superintendents, but are the craft supervisors.

1.3 Name Hire

- A Name Hire is an individual a contractor chooses who may or may not be an existing member of an Affiliated Union.
- As described in article 8.601 of the CBA, Name Hires must be residents of Canada for a period of six months.
- The individual must have been employed by the Employer (BCIB) or the contractor for six months within the last two years.¹
- An Employee, including a Name Hire is required to join the appropriate Affiliated Union within 30 days.

1.4 Name Request

- A Name Request is an individual who is a member of an Affiliated Union and is requested by name from the contractor through the Employee request to BCIB.

¹ This six-month length of employment requirement does not apply to project specific Enabling Agreement (EA) Name Hires. For clarity, all Name Hires must be residents of Canada for six months.

1.5 Local

- A local Resident lives in British Columbia within 100 km radius or the job site.
- Locals may be asked to give BCIB proof of residence showing they have been living in that community for six months.

1.6 AIRCC

There are 19 unions that are members of the AIRCC:

- British Columbia Regional Council of Carpenters
- Construction Maintenance and Allied Workers Council
- International Association of Bridge, Structural, Ornamental and Reinforcing Ironworkers Local Union 97
- International Association of Heat & Frost Insulators & Asbestos Workers local Union 118
- International Association of Sheet Metal, Air, Rail and Transportation Workers Local Union 280, Local Union 276
- International Brotherhood of Boilermakers, Iron Shipbuilders, Blacksmiths, Forgers and Helpers Lodge 359
- International Brotherhood of Electrical Workers Local Union 213, Local Union 993, Local Union 1003, Local 230
- International Brotherhood of Teamsters Local Union 213
- International Union of Bricklayers & Allied Craftworkers Local Union No. 2
- International Union of Operating Engineers Local Union 115
- International Union of Painters & Allied Trades District Council 38 Painters 138, Glaziers 1527, Drywall Finishers 2009
- Labourers International Union of North America Construction and Specialized Workers Union Local 1611
- Move Up – A Movement of United Professionals Local 378
- Operative Plasterers' and Cement Masons' International Association of the United States and Canada Local Union 919
- United Association of Journeymen and Apprentices of the Plumbing & Pipefitting Industry of the United States and Canada Local Union 170, Local Union 516, Local 324
- United Brotherhood of Carpenters and Joiners of America Floorlayers Local Union 1541
- United Brotherhood of Carpenters and Joiners of America Millwrights, Machine Erectors & Maintenance 2736
- United Brotherhood of Carpenters and Joiners of America Piledrivers Local Union 2404
- UNITE-HERE Local 40

2 Labour Supply and Sourcing

2.1 Sources of labour

How does the CBA create opportunities for local contractors and subcontractors?

- BCIB represents an opportunity for all interested subcontractors, including Indigenous and small-to-medium size subcontractors, to bid on projects that they would otherwise be unable to because of limited access to skilled labour and stable labour costs.
- BCIB enables contractors and subcontractors to have transparent, reliable pricing for labour and access to skilled trades, training and education.

Where will BCIB find the workers needed for CBA projects?

- BCIB Employees come from three different sources –
 - AIRCC union membership
 - Outreach and recruitment in local communities with priority efforts to include local, Indigenous, women, people with disabilities and other underrepresented groups
 - Name Hires from the Contractors
- BCIB and the contractor will collaborate, engage and recruit locally in the communities where CBA projects are taking place.
- BCIB will focus on underrepresented groups who are often overlooked, for example, women, Indigenous peoples and other equity-seeking groups.
- BCIB is committed and mandated to provide the workforce through the hiring process outlined in the CBA, which includes sourcing skilled workers across Canada and internationally, if required.
- Through ongoing collaboration between BCIB and the contractor, the contractor may identify available Employees to BCIB, then BCIB will hire them. Refer to 4.2 (c) in the BCIB-Contractor Agreement (BCA) and the BCIB-Subcontractor Agreement (BSA).
- BCIB provides workforce pathways to connect candidates that may require skills enhancement to qualify for future projects.

2.2 Labour supply process

What is the process if BCIB is unable to provide the required workforce to the contractor, and what timelines are associated with this?

- BCIB has access to a variety of sources for skilled workers including workers residing across British Columbia, Canada and, if required, internationally.
- BCIB will work collaboratively with the contractor to ensure a qualified workforce is provided.
- The contractor, per the BCIB-Contractor Agreement (BCA) / BCIB-Subcontractor Agreement (BSA), is required to provide a three-month forward-looking labour forecast to BCIB on a monthly basis.
- Specifically, Employee requests will be provided to BCIB no later than 30 days prior to date the contractor requires Employees.
- At no later than 21 days prior to the date that the contractor requires Employees as set out in their request, BCIB will notify the contractor if it is unable to fulfil the request. In this case BCIB will Name Hire Employees identified by the contractor. These name hires will be in addition to Article 8.601 and Enabling Agreement Name Hires.
- Notwithstanding the above, BCIB acknowledges and recognizes that short notice requirements for labour come up. And in such cases, please refer to section 4.7 in the BCA.

Could a company Name Request an affiliated union member working for any other company throughout the Province?

- A contractor can Name Request an Affiliated Union member regardless of whether or not they are working for another contractor. However, like all dispatch requests, it is up to the individual to decide to accept the assignment.
- Note that Priority Hiring applies to Name Requests.

Can workers refuse dispatch if Name Request is soon expected by another contractor?

- Every worker has the right to accept or refuse dispatch.
- Like all dispatch requests, it is up to the individual to decide whether or not to accept the assignment.

How will BCIB determine priority between subcontractors if more workforce is requested than is available? E.g. if more than one subcontractor requires a specific trade in numbers that exceed the craft available for dispatch / hire. Who gets priority?

- BCIB will work collaboratively with contractors to proactively manage priority workforce requirements.
- BCIB fills Employee requests in the order that they are received, i.e. first come, first served.

What happens if an individual crew member does not meet the CBA qualifications for Red Seal or provincial requirements?

- Employees that have worked in a specific trade with enough hours of experience to satisfy the requirements of the Industry Training Authority will be employed as a journey person.
- In addition, BCIB and the AIRCC will assist the Employee to achieve the Qualification Standards for that trade.

How long does worker screening take?

- Workers dispatched to the worksite as BCIB Employees have already had their qualifications confirmed.
- Reviewing interested applicants is an ongoing process.
- For those individuals applying through BCIB (e.g. those other than Name Hires or Name Requests), the individual is required to submit their application. BCIB will then contact the individual to review qualifications and experience, followed by a reference check.
- All Employees, including Supervisors, will need to have foundational safety training and need to meet the qualifications as specified in the CBA, Article 8.300.

If a contractor changes labour requirement within the 30-day dispatch window is there a penalty to the contractor?

- No.
- However, there may be instances when a contractor changes their request after an Employee has been dispatched to the site. In that case, there are minimums with respect to how much individuals get paid if they're dispatched to site and not required.

Could a contractor be required to buy trucks and hire Teamsters to drive them?

- No, the contractor will not be required to buy trucks and hire teamsters, however the Community Benefits Agreement outlines how owner-operators are hired. For teamsters or operators there are no limits. The wages are set out within the agreement.

2.3 Prefabrication facilities

Does the CBA apply to prefabrication facilities?

- Article 4.400 of the CBA provides for the exclusion of all supplies, materials, pre-assembled units, precast, fabricated components that may be sourced globally. These items are out of scope of the CBA.
- Materials included within the scope of the CBA are those fabricated at a purpose-built domestic facility.
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3 Management responsibilities

Are Name Hired workers available to a contractor's other projects while they are an Employee of BCIB? How is it handled when those persons have specialized skills developed by the Contractor and required for their ongoing business?

- Contractors and subcontractors name the supervisors and set the schedule for the crew on a CBA project.
- It is up to the contractor or subcontractors how they manage that crew's performance and if they are scheduled full time on a CBA project, or if they remain employed on other projects.

If a CBA project stops for three weeks, how does BCIB ensure workers remain available and come back to work?

- BCIB is working hand-in-hand with contractors to develop forward-looking scheduling and dispatch of Employees.
- As a BCIB Employee and member of a union, if there was a gap in the skilled labour requirement for one project, the individual can be dispatched immediately to another site through the union.
- As with any construction project, timing and labour needs sometimes require adjustments. Like contractors, we value our Employees' time and skills and therefore will keep them on where possible.

On a job site, overtime requirements are determined 12-24 hours in advance. How will BCIB help schedule overtime?

- The contractor or subcontractor is responsible for scheduling the workforce on the job site, subject to minimum rest times, as well as meal provisions in the case that overtime is worked.
- It is the contractor's responsibility to ensure that all time worked, including overtime, is correctly reported on the timesheets.

If the assigned work force is not meeting a contractor's historic productivity, who is responsible?

- The contractor is responsible for the direction, operation and supervision of Employees and the performance on the work on site.
- BCIB is involved in the hiring, termination, and discipline of Employees. Contractor's productivity is the responsibility of the contractor in the scheduling and management of the workforce on the worksite.
- If you have concerns regarding any of the Employees provided to you from BCIB, BCIB will be co-located with the contractor on-site to provide support to the contractor.

Will BCIB have the authority to transfer a contractor's Name Hire Employee to another BCIB project without the original contractor's permission?

- BCIB will not unilaterally transfer an Employee from one contractor to another.
- The CBA allows for the transfer of Employees upon agreement of the appropriate Affiliated Union, contractors involved, the Employee and the Employer (BCIB). Refer to Article 7.600 of the CBA.
- BCIB will always have on-the-ground support at all project sites and will work collaboratively with contractors to ensure seamless, transparent communications and integrated work teams.

If a contractor's employee is hired by BCIB do other companies have access to them?

- While individuals in the construction industry may choose to change employers, BCIB will not unilaterally reassign an Employee from one contractor to another contractor, without the agreement and consent of all parties.
- Refer to Article 7.600 of the CBA and Section 5.2 (c) of the BCA / BSA for additional information.

What happens with workers' current Health & Safety policies such as Pensions and Employer Matching Contribution while that employee is with BCIB?

- BCIB does not mandate how individual companies manage their employees.
- The individual will become an Employee of BCIB when working on the project.
- It is up to the contractor or subcontractor if they want them to remain an employee of the company at the same time and/or work on other projects.

3.1 BCIB on-site representatives

What role do BCIB's on-site representatives play for contractors and subcontractors?

- BCIB is working hand-in-hand with contractors on-site to allow for an immediate response to any operational requirements and to respond to contractor needs and requests.

How many on-site personnel do BCIB anticipate will be with the Contractor?

- Each project will have a different number of on-site staff, proportional to the size of the project.
- BCIB will communicate directly to the project co and owner site support when finalized.

Who pays for BCIB's on-site representatives?

- BCIB pays for on-site representatives.

4 Training and education

Will BCIB invoice the contractor for worker orientation and training?

- All employees on CBA projects will be required to have their foundational safety training prior to any work on-site
- Training for Employees on CBA projects can be completed in one day. This includes:
 - Orientation and Onboarding
 - Indigenous Cultural Competency Training
 - Respect on the Worksite
 - Mentorship Training (where applicable)

- On-site safety training (by the contractor)
- Project proponents can find reference to total number of hours for training in the BCIB-Contractor Agreement.
- Supervisors will receive a supervising for safety training, which is anticipated to be 2 days in duration.
- BCIB is responsible for facilitator cost and curriculum associated with orientation, cultural competency, functional safety and mentorship training.
- The contractor will be responsible for all Employee wages, benefits, and other payroll related costs associated with the time Employee participates in BCIB training.
- Scheduling for training will be done in coordination with contractors to fit within required schedules.

How much time is required for onboarding, orientation, and training?

- In total, contractors and subcontractors can expect orientation, onboarding and training to take between 10-12 hours to complete.
- BCIB organizes and delivers orientation and onboarding for all new Employees. That will take 3 – 4 hours on the first day of work. Contractors pay workers for their time.
- Over the first few weeks on the job, BCIB will work with the contractor to schedule the Respectful Workplace training and Indigenous Cultural Competency training. These will be two sessions, scheduled separately, each about 3-4 hours. They are mandatory for all employees.
- BCIB will work with contractors and subcontractors to schedule a time to do these two sessions sometime in the first couple months on the job site.

Is training required if the Employee works for a short time period?

- Yes.

Do workers have to repeat the training if they were previously on a CBA jobsite?

- No.

5 Payroll and grievances

Have agreements been made with the unions for the wages and benefits in the CBA?

- Yes, the CBA was negotiated and agreed to by the AIRCC.
- Regardless of any existing union agreements, the enabling agreement for this project is the CBA. Existing union agreements don't apply in this instance.

How will the payroll invoice be presented to contractors / subcontractors? Will it be a detailed breakdown of hours /earnings / benefits paid?

- The invoice submitted with all payroll reports will include a breakdown of all associated details for the contractor.
- BCIB's team is committed to working with the contractor to ensure information is clear, accessible and meets their reporting needs.

Is there a penalty if payroll invoice is not paid within 5 days?

- If Project Co. or a subcontractor has not paid BCIB within the timelines specified in the BCIB-Contractor Agreement or the BCIB-Subcontractor Agreement, BCIB may request payment from the Project Owner of such amount.
- For each such occurrence the contractor is responsible for paying BCIB \$1,000.
- When a subcontractor has not paid BCIB, BCIB notify the Project Co. of the non-payment.

What happens if BCIB makes a payroll error?

- Any issues related to invoices can be discussed and resolved directly with the BCIB Payroll representative.
- If timesheet information provided by the contractor is accurate and a payroll error occurs, BCIB will revise and reissue the Payroll Invoice.

What are the extra costs billed to the contractor above and beyond the worker hourly costing invoice?

- The worker hourly costing invoice includes the payroll amounts as well as the benefits and any fund contributions.
- Section 11 of the BCIB-Subcontractor Agreement includes a list of any costs that might apply, such as meals, mileage, ferry or transportation costs.

5.1 Tax and benefit considerations

How should a company manage employees hired by BCIB? What are the tax and benefits considerations?

- BCIB does not mandate how individual companies manage their employees. The individual will become an employee of BCIB when working on the CBA project.
- Individual contractors and employees should seek advice from tax and benefits specialists on their tax and benefit questions.

5.2 Record of employment

Do employees of a contractor / subcontractor still remain an employee of their original company, or does the company need to issue a Record of Employment (ROE)?

- BCIB hires Employees for CBA projects.
- It is outside of the scope of BCIB to recommend how the original company chooses to manage the Employee who decides to take a job with BCIB.

Who issues ROEs when the employee stops working on the CBA project?

- As the Employer, BCIB issues Employee ROEs.

How is a shop steward appointed?

- Each Affiliated Union is entitled to appoint Stewards. This is detailed in Article 12.100 of the CBA.

5.3 Grievance process

Does BCIB pay for the grievance or arbitration process?

- BCIB manages the grievance process and pays grievance administration costs.
- Should the contractor determine that they need to bring in professionals, legal advisors, consultants etc., such costs are the contractor's responsibility.
- Contractors and subcontractors are responsible for settlement costs when they are found at fault.

6 Living out allowance (LOA)

Who covers living out allowance if workers need to be brought in? Does this include travel costs to and from the project?

- The contractor is responsible for covering all room and board, living out allowances and travel as required by the CBA.
- Please refer to Schedule 2 and Section 6.4 of the BCIB-Contractor Agreement and BCIB-Contractor Agreement and Section 6.4 of the CBA.

How will contractors know whether the workers dispatched to them will be local or from outside of BC?

- BCIB and the AIRCC are committed to transparent hiring processes and procedures and work collaboratively to ensure qualified workers are provided to its projects.
- Overall, BCIB is with the project from procurement to completion, working with contractors at each phase of the planning and implementation process.
- When contractors give BCIB their interim labour forecast, BCIB will have a good idea about what can be filled with local labour and what may require labour from across BC and beyond.
- Identifying skilled workers for the project will be an ongoing dialogue between the contractor and BCIB.

7 Permitting

7.1 Composite Crews

How many composite crews can a subcontractor apply for per month?

- There are no monthly limits to the composite crews, provided they meet the criteria set out in Article 6.800 of the CBA.
- For clarity, composite crews are not intended to be used to replace full-time work in one trade's jurisdiction, with another trade.

How is composite crew work less than two hours tracked?

- Tracking hours are done by the contractor. Contractors will be filling in timesheets for all of the Employees that are provided to you, and those will be provided to BCIB on a bi-weekly basis.
- For composite crews, those individuals' contractors will track and record those Employees as working under a different jurisdiction for that period of time.

Is two days of work or less measured by location, task, or job?

- The two days applies when working in a different jurisdiction.
- Note that the pre-job conference on the project is not just at the beginning of the project, but anytime a different scope is coming in, or when a new contractor is coming on,
- BCIB will help coordinate a conference at such times and that can be used to clarify composite crews as well.

7.2 Specialized crews

What ability will a specialized contractor have to bring its entire (specialized) crew onto a CBA project?

- If the contractor is providing work that the appropriate affiliate union is not able to provide qualified individuals to perform, it is considered a specialty application and they can receive a permit.
- In addition, an Enabling Agreement for specific projects allow certain aspects of the work on the Project to be performed by Name Hires that contractors and subcontractors may identify in addition to those already allowed by the CBA.

7.3 Wages for permitted workers

Can a permitted workforce get paid more than wages outlined in the CBA?

- Permitted workers must be paid according to wages and benefits outlined in the CBA.

Are permits available for suppliers or subcontractors without an existing union agreement?

- No, permits are only available to those who apply and meet the conditions under Article 8.4 of the CBA.

7.4 Intermittent and short-term works

Do suppliers of services, such as portable toilets, or companies delivering product to a CBA project, need to be unionized or require a permit?

- Each supplier will submit request for permit and BCIB will review the application.
- Permits are required for intermittent works that involves multiple mobilization and demobilization cycles, and/or is for the purposes of delivery to site.

For intermittent work, are crews released from BCIB until subcontractor resumes work?

- Employees performing intermittent work as per the CBA Article 8.400 are not required to become Employees of BCIB.

8 Worksite safety

If workers are BCIB Employees and not the contractor's, how is WorkSafeBC properly managed?

- Both the contractor and BCIB have obligations under the applicable law as an employer for the health and safety of the Employees provided to the contractor by BCIB.
- Contractor WorkSafeBC premiums will be based on a contractor's payroll, which includes the CBA project portion of payroll.
- BCIB will assist contractors by providing accurate and complete payroll information through the payroll invoice for WorkSafeBC assessment purposes.
- Through the BCIB-Contractor and Subcontractor Agreements, BCIB grants the contractor the authority to act on behalf of BCIB in all matters related to WorkSafeBC claims management and in all adjudications of the WorkSafeBC claims. The contractor is required to keep BCIB informed of the status and progress of such matters.

Will owner-operators of trucks be under their own Workers Compensation?

- Yes, owner-operator truckdrivers are under their own workers compensation.

9 BCIB-Contractor Agreement and BCIB-Subcontractor Agreement

I'm a small contractor looking to work on a CBA project. Does the CBA apply to me?

A contractor or subcontractor's business size, scope of work and frequency on the jobsite will affect whether they need to sign a BCIB-Contractor or Subcontractor agreement.

To help, the following is a detailed explanation of the CBA sections that could possibly apply. Throughout CBA projects, BCIB will have an active role working with contractors and subcontractors to understand the CBA and to determine how to effectively apply the CBA to each specific scenario or request.

Permits

Under the CBA, BCIB is the Employer of the workforce on public infrastructure projects. There is flexibility in the CBA and in some circumstances a contractor doing temporary work may be eligible for a permit.

Contractors operating under a permit are not required to enter into a BCIB-Contractor Agreement or a BCIB-Subcontractor Agreement. Permits allow workers to work on site without becoming BCIB Employees or union members. A contractor with a permit may use its own employees on the job, but they must be paid wages and benefits in accordance with the wages in the trade sections or applicable addenda in the CBA.

Each permit request needs to be submitted to BCIB by the contractor hiring the subcontractor (not the subcontractor looking to be permitted). If the permit request meets the requirements of CBA Article 8.400, BCIB will forward the permit request form to the Allied Infrastructure and Related Construction Council (AIRCC). The appropriate AIRCC union will make a decision regarding the permit application and advise BCIB, which will in turn advise the contractor.

Permits are available for emergency or temporary works, short term works with multiple mobilization and demobilization activities, or specialized work or qualifications that BCIB or the AIRCC unions are unable to fill. Further details regarding time limitations are referenced in Article 8.403.

CBA Article 8.400 outlines the requirements for a permit.

Indigenous contractors or workers

If the contractor in your scenario is an Indigenous contractor or an Indigenous person working subject to, or as a result of an agreement with the Government, they may elect to obtain a permit under CBA Article 8.400. In this case, they will be guaranteed a permit by the appropriate AIRCC union.

Refer to Article 9.500 of the CBA for more details.

Local subcontractors on small jobs

The CBA also considers local subcontractors doing small jobs. Local companies doing work with a labour component of less than \$35,000 (on most projects) can pick all their employees for their crew, so long as the workers are local.

These individuals still become Employees of BCIB and they must join an affiliated union of the AIRCC, however it enables the contractor to work entirely with its own crew and helps local companies get work on CBA projects.

CBA Article 8.604 explains this requirement.

Definition of BCIB Employees

You may also want to consider the definition of a BCIB employee. Some roles on the CBA jobsite are excluded from the requirement to be employed by BCIB. This is in CBA Article 2.309.

Is the BCIB-Contractor Agreement negotiable?

- The BCIB-Contractor Agreement (BCA) and the BCIB-Subcontractor Agreement (BSA) are part of the request for Proposals (RFP), as is the Draft Project Agreement.
- Documents may be amended based on feedback from Proponents.
- The BCA and BSA are not amended on an individual contractor or subcontractor basis but rather will apply across all agreements for a specific project.

Who represents the subcontractors in negotiating the BCA and BSA contract?

- The Draft BCA and Draft BSA are part of the RFP and may be discussed and amended through this competitive selection process.

Why does BCIB's Contractor Agreement and the CBA receive amendments and updates for each new project?

- Each project is different from the other. BCIB works closely with proponents to ensure the application of the CBA and BCIB-Contractor Agreement is tailored to the specifics of the project to maximize achievement of both CBA objectives and proponent needs.