

## SCHEDULE 12-4

### BNA Articles 2.9, 12 & 13

- 2.9 A Northern Aboriginal Contractor shall be defined as a Manitoba business: a) that is at least 50% owned by an aboriginal resident(s) or organization(s) and b) that is based in or whose aboriginal owner has resided within the Northern affairs boundary for a cumulative period of 5 years or more.

The provisions of Article 12.1 may be waived by any Northern Aboriginal Contractor who is engaged by Manitoba Hydro on a non tendered direct contract basis, provided that:

- a) The Contractor may only waive the said provisions of Article 12.1 if the person to be hired is a Northern Aboriginal, and;
- b) Prior to such a hire, the person to be hired provides Manitoba Advanced Education and Training (M.A.E.T.) with information that confirms that he qualifies as a Northern Aboriginal in accordance with Article 12.1.1.3.2 (see also Article 13 for definition of Northern Aboriginal).

While all such employees hired under this Article 2.9 will be required to pay the current amount of applicable union dues and Council assessment, in the case of initiation fees, payment will be made on the basis of fifty cents (50¢) per hour worked and credited towards the payment of this fee. Union dues, Council assessment and payments relative to initiation fees will be collected as a payroll deduction and remitted in accordance with the provisions of Article 12.2.8, 12.2.9 and 12.2.10.

#### 12.1 The Hiring Procedure and Referral System.

- 12.1.1. For the purposes of this Article, "job qualified" means that a candidate for employment meets or exceeds the training, accreditation, skill, and experience stipulated in a Contractor's job order. All employees shall be recruited in accordance with the procedures set out below, except as otherwise provided for in Article 12.3, 12.4.2, and Article 2.7, and Article 2.9. Further, it is understood and agreed that Contractors shall have the right to name hire all foremen and general foremen from the referral list prepared by Manitoba Advanced Education and Training (M.A.E.T) or the unions Out-Of-Work lists, as applicable. The Contractor has the right to reject any candidate referred in accordance with this Article: a) if the candidate is not job qualified, or b) if the candidate was previously employed on the Project and resigned within 30 calendar days of being hired or re-hired or was discharged during the twelve month period preceding the job order, or c) the candidate was previously employed on the Project and received more than two written

warnings or a suspension for inappropriate workplace-related conduct or activities, or d) on any other reasonable ground. The Council shall have the right to grieve the decision of a Contractor to reject any candidate referred in accordance with this Article only to the extent of and for the reason of claiming that a rejected referred candidate actually did meet the required qualifications specified in the job order.

- 12.1.1.1. The Contractor or his agent shall first contact a designated office of M.A.E.T. and advise M.A.E.T. of his specific requirements by placing a job order.
- 12.1.1.2. M.A.E.T. shall immediately forward a copy of the job order to the Council, as information. The Council shall inform the applicable Local Unions.
- 12.1.1.3. Except as otherwise provided by Article 12.1.1.3.1, on receipt of the Contractor's job order, M.A.E.T. shall refer, directly to the Contractor, in the sequence set out below, any of the following job qualified candidates who are registered with M.A.E.T.:
  - (a) Northern Aboriginals who reside within the Churchill/Burntwood/ Nelson River area, which area shall be defined as: i) the area of the Churchill River water Power Reserve from Granville Lake downstream to Hudson Bay; ii) the area of the Burntwood River Water Power Reserve from south Indian Lake downstream to split Lake; iii) the area of the Nelson River Water Power Reserve from the outlet of Lake Winnipeg downstream to Hudson Bay; and iv) the following communities: the incorporated community of South Indian Lake; the Northern Affairs communities of Granville Lake, Nelson House, Ilford, Wabowden, Thicket Portage, Pikwitonei, Norway House and Cross Lake; the towns of Leaf Rapids, Churchill, and Gillam; the City of Thompson; and Nisichawayasihk Cree Nation, Tataskweyak Cree Nation, York Factory First Nation, Fox Lake First Nation, War Lake First Nation, Norway House Cree Nation and Cross Lake First Nation (See Schedule D for illustration of Burntwood/Nelson/Churchill River area and communities included);
  - (b) secondly, if job vacancies remain, any Northern Residents who are members of the appropriate Local Union of the Council and are not covered by (a) above;

- (c) thirdly, if job vacancies remain, any other Northern Aboriginals who are not covered by (a) or (b) above;
- (d) fourthly, if job vacancies remain, any other Northern Residents who are not covered by (a), (b), or (c) above.

The definitions of a Northern Aboriginal and Northern Resident are set out in Articles 13.1 and 13.2.

Administrative details concerning Union membership are set out in Article 12.1.4.

12.1.1.3.1 A Northern Aboriginal who:

- (a) has been employed on the Project as a trainee or apprentice and such training was interrupted due to a lay-off;
- (b) has performed on the job in a satisfactory manner, and,
- (c) is registered with M.A.E.T.,

shall be referred by M.A.E.T. to a Contractor, in advance of any other Northern Residents who have not worked on the Project, to fill training vacancies in that trade as they may arise from time to time.

To facilitate the foregoing, a Contractor will advise M.A.E.T. and the Council, in writing, of the name and social insurance number of any Northern Aboriginal employed as an apprentice or trainee who has been laid off and is eligible for rehire in the trade in which he was training. Such notification shall be provided within ten (10) days of the date of the lay-off.

12.1.1.3.2 To qualify for the employment preference set out in Article 12.1.1.3, candidates must meet the eligibility requirements set out in Article 13, and M.A.E.T. shall be solely responsible for determining whether or not candidates so qualify. However, at the request of M.A.E.T., the Association and the Council will provide joint guidance to M.A.E.T. relative to the application of Article 13.

12.1.1.3.3 Subject to 12.1.2, M.A.E.T. shall have up to forty-eight (48) hours, measured from the time the job order is

received, in which to refer Northern Aboriginals and other Northern Residents to the Contractor. The Contractor shall have as much time as he deems appropriate to assess the said referred candidates, and shall advise M.A.E.T., forthwith, if a candidate or candidates so referred are not hired, leaving job vacancies remaining to be filled.

12.1.1.3.4 Candidates so referred, if hired by the Contractor, shall obtain a referral slip issued by M.A.E.T. and report to the Project Site:

(d) as soon as possible, but in any event within a period of seventy-two (72) hours measured from the time the person is hired, when the Contractor stipulates that his requirements are immediate.

or

(e) on the date stipulated by the Contractor when the Contractor stipulates a reporting time in excess of the maximum provided for in (a) immediately above.

12.1.1.3.5 If a Northern Aboriginal or other Northern Resident does not report to the Project Site as per Article 12.1.1.3.4(a) or 12.1.1.3.4(b), as the case may be, then, if there are no further Northern Aboriginal or Northern Resident candidates on M.A.E.T.'s referral list, the Contractor shall advise M.A.E.T. to proceed to the next step of the hiring procedure (i.e., 12.1.1.4). If there are further Northern Aboriginal or Northern Resident candidates on M.A.E.T.'s referral list who were not considered by the Contractor then the Contractor shall proceed to consider further candidates in the order of the list provided by M.A.E.T., and a second candidate, if hired by the Contractor, shall obtain a referral slip issued by M.A.E.T. and report to the Project Site as stipulated in Article 12.1.1.3.4. If the said second candidate does not report to the Project Site as per Article 12.1.1.3.4(a) or 12.1.1.3.4(b), as the case may be, then the Contractor shall advise M.A.E.T. to proceed to the next step of the hiring procedure (i.e. 12.1.1.4).

12.1.1.4 If M.A.E.T. is unable to refer a sufficient number of job qualified Northern Aboriginals and other Northern Residents to fulfil the Contractors requirements within said forty-eight (48) hours outlined in 12.1.1.3.3, M.A.E.T. shall, prior to, or at the expiry of the time limit on

behalf of the Contractor, advise the Council and the applicable Local Union of the job vacancies remaining to be filled. Moreover, if the Contractor has advised M.A.E.T. under Article 12.1.1.3.3 that referred candidates have not been hired, leaving job vacancies remaining to be filled, M.A.E.T. shall immediately advise the Council and the applicable local union accordingly.

- 12.1.1.5 The Union, on notification of such job vacancies, may then refer job qualified persons to the Contractor through a designated office of M.A.E.T.
- 12.1.1.5.1 The Union shall have up to forty-eight (48) hours, measured from the time the Council and Local Union is notified in accordance with 12.1.1.4, in which to refer persons to the Contractor.
- 12.1.1.5.2 Persons so referred, if hired by the Contractor, shall obtain a referral slip issued by M.A.E.T. and report to the Project Site:
  - (a) as soon as possible, but in any event within a period of seventy-two (72) hours measured from the time the person is hired, when the Contractor stipulates that his requirements are immediate.

or

  - (b) on the date stipulated by the Contractor when that date is subsequent to the maximum time period provided for in (a) immediately above.
- 12.1.1.6 If the Union is unable to refer a sufficient number of job qualified persons to fulfill the Contractor's requirement within the said forty-eight (48) hours, the Union shall prior to, or at the expiry of, the time limit, advise M.A.E.T. of the job order vacancies remaining to be filled. M.A.E.T. shall have an additional forty-eight (48) hours, measured from the time M.A.E.T. is notified of the vacancy, in which to refer other job qualified Manitoba Residents to the Contractor.
- 12.1.1.6.1 Persons hired by the Contractor shall report to the Project Site as provided for in Article 12.1.1.5.2 (a) or (b).
- 12.1.1.7 The Contractor may recruit persons to fill job order vacancies where:
  - (a) job order vacancies remain after following the procedures set out in Article 12.1.1.1 to 12.1.1.6.

or

(b) persons referred pursuant to Article 12.1.1.5 and Article 12.1.1.6 do not report to the Project Site within the stipulated time period.

12.1.1.7.1 All persons hired in this manner shall obtain a referral slip issued by M.A.E.T., which referral slip shall be secured prior to commencing work.

12.1.1.8 In the event the Contractor cannot recruit the necessary personnel within a further thirty (30) day period, the Contractor shall reinitiate the job order in accordance with Article 12.1.1 to fill any remaining vacancies.

12.1.2 The time periods referred to in 12.1.1.3.3, 12.1.1.5.1 and 12.1.1.6 are exclusive of Saturday, Sunday, Statutory Holidays and Civic Holidays on which M.A.E.T. offices are closed.

12.1.3 The Contractor shall submit the names of all newly hired employees to the Council within three (3) working days.

12.1.4 In Article 12.1.1.3(b), the appropriate Local Union means the Union named in the Appendix containing the classification corresponding to the Contractor's job order.

For purposes of Article 12.1.1.3(b), each Local Union shall compile and submit to the Council the names and social insurance numbers of all Northern Residents who are members of that Union and who are seeking employment on the Project. The Council shall submit the current listing for the applicable Unions to M.A.E.T. by the tenth (10th) of each month. By mutual agreement between M.A.E.T. and the Council, arrangements differing from the foregoing may be instituted to ensure that the necessary information is available on a timely basis.

## 12.2 Union security and check-off

12.2.1 Except as provided in Letter of Agreement No. 3, all employees shall, as a condition of employment and/or continuing employment, be members or obtain membership in the appropriate Union of the Council, and maintain such membership in good standing.

12.2.2 The Contractor shall, at the time of hire, advise all employees who are not members of the appropriate Union that they are required to secure such membership within thirty (30) calendar days of being hired.

12.2.3 To facilitate the obtaining of membership, employees shall sign the "check-off Authorization" form, a copy of which is attached as schedule B of this Agreement.

- 12.2.4 The Council shall be responsible for:
- (a) obtaining the employee's written authorization for membership in the appropriate Union.
  - (b) obtaining the employee's signature in respect of the Check-off Authorization.
  - (c) submitting an executed copy of the Check-off Authorization to the Contractor, which shall detail the arrangements made with the employee in respect of payment of any initiation fees.
- 12.2.5 The assignment of Union initiation fees, assessments and dues, and the per capita tax of the Council shall be irrevocable during the term of this Agreement.
- 12.2.6 Union dues and Council assessments shall be effective from the date of hire.
- 12.2.7 The Contractor shall make deductions from wages in respect of:
- (a) Union dues and assessments due to the appropriate Union.
  - (b) Assessments due to the Council which shall be consistent with its Constitution and By-Laws.
  - (c) Initiation fees: the arrangements for the deduction of initiation fees shall be that stipulated in the Check-off Authorization, but subject to the option referred to in 12.2.13 which is available to certain Trainees and Northern Residents, and the provisions set out in Article 2.9.
- 12.2.8 During the second week of each month, the Contractor shall transmit the monies deducted from employees up to the end of the preceding pay period. Union dues, assessments and initiation fees shall be forwarded to the officials designated by each Union. Council assessments shall be forwarded to the designated official of the Council.
- 12.2.9 Monies forwarded to each Union shall be accompanied by documentation, which shall state:
- (a) the name of the employee on whose behalf the deduction was made,

- (b) the individual amounts deducted in respect of dues, assessments and/or initiation fees.
- 12.2.10 Monies forwarded to the Council shall be accompanied by a list of employees, segregated on a trade basis, stating the amount deducted from each employee in respect of Council assessment and the Social Insurance Number.
- 12.2.11 The aforementioned deductions shall be consistent with schedule c of this Agreement. The Council shall advise the Contractor and the Association, in writing, of any changes to applicable dues, assessments and initiation fees. This notification shall be provided at least fifteen (15) working days prior to the requested implementation date of any such change, otherwise the changes will be deemed to be effective for the pay period immediately following the date notification is received.
- 12.2.12 Where a training program is conducted on the Project Site, the following definitions shall apply in respect of this Agreement:
  - (a) a person involved in an "on-the-job training program" shall be deemed to be an employee on the first day he is on the payroll of the Contractor.
  - (b) a trainee, other than a trainee employed by a Contractor, who is participating in a training program on the Project which is operated and sponsored by the Government of Canada or the Manitoba Government or a department or agency of either, shall be deemed not to be an employee.
- 12.2.13 A trainee, as referred to in 12.2.12(b), who is subsequently hired by a Contractor, or a Northern Resident (other than a Northern Aboriginal who is covered under Article 2.9), shall have the option of paying the required initiation fees on the following basis, provided such employees have not previously been members of a Union covered by this Agreement:
  - (a) in accordance with the arrangements extended to other employees, or
  - (b) at the employee's request, the Check-off Authorization shall reflect the following schedule of deductions:
    - (i) where the initiation fee is one hundred dollars (\$100.00) or less the appropriate amount shall be deducted from the



employee's pay on the first full pay period following the acquiring of membership in the Union.

- (ii) where the initiation fees are in excess of one hundred dollars (\$100.00), an amount of one hundred dollars (\$100.00) shall be deducted from the employee's pay on the first full pay period following the acquiring of membership in the Union and the applicable remaining amount in four equal installments on subsequent full pay periods.

### 12.3 Transfer Provision.

12.3.1 A Contractor who is signatory to a construction collective agreement may request that certain persons in the employ of that Contractor be transferred to a Project covered by this Agreement. This provision shall only apply for purposes of securing:

- (a) supervisory personnel covered by this Agreement.
- (b) personnel with skills of a specialized nature.
- (c) personnel with skills necessary for the effective operation of a Contractor's on-the-job training program.
- (d) key personnel required for work on contracts of short duration and in which the craft or skills required to perform the work are generally limited to one or two trades.

12.3.2 A request for a transfer must be submitted to the Council and the Association, in writing, at least five (5) working days in advance of the time the person is required on the Project. The transfer request shall indicate the following:

- (a) the name, social insurance number and trade qualifications of the person to be transferred,
- (b) the Appendix in this Agreement under which the person to be transferred would be working, and the corresponding classification,
- (c) related experience relative to 12.3.1 (a), (b) or (c), as the case may be.

12.3.3 The Council shall consult with representatives from the applicable Local Union and within three (3) working days from the date of receipt of the transfer request, the Contractor shall be advised of the respective positions of the Association and the Council; and,

- (i) if the Council and Association mutually agree that the transfer meets the provisions of this Article, then the Contractor may proceed with the transfer; or
- (ii) if the Council and Association mutually agree that the transfer does not meet the provisions of this Article, then the Contractor will be obliged to follow the procedures set out in Article 12.1.1; or
- (iii) if either the Council or the Association does not agree that the transfer is in accord with the provisions of this Article, then the Contractor may refer the matter to the President of the Council and the Managing Director of the Association, or their respective delegates, who shall meet and attempt to resolve same. If agreement cannot be reached, the Contractor may request that the matter be resolved in accordance with Article 31.

12.3.4 When a person is transferred, the Association shall notify M.A.E.T. of the name and classification.

## 12.4 Lay-off and Recall Provisions

### 12.4.1 Lay-off

12.4.1.1 Subject to the provisions of Article 12.4.1.2, when a reduction in the Contractor's work force is to be instituted, the Contractor shall lay-off employees, by classification, as follows:

- (a) Firstly, employees who at the time of hire were not residents of the Province of Manitoba.
- (b) Secondly, residents of the Province of Manitoba, other than the Manitoba residents set out in (c), (d), & (e) below.
- (c) Thirdly, Northern Residents, other than Northern Residents set out in (d) & (e) below.
- (d) Fourthly, Northern Aboriginals: other than those Northern Aboriginals set out in (e) below.

(e) Northern Aboriginals referenced in Article 12.1.1.3 a).

12.4.1.1.1 Where classifications in any Appendix have been grouped, either on a capacity basis or because they are subject to a common wage rate, each classification in the group shall be dealt with as a separate classification.

12.4.1.2 The order of lay-off set out in Article 12.4.1.1 shall be followed except:

(a) when an employee to whom continuing employment preference is intended is not job qualified to perform the remaining work or whose overall skills, abilities, or work performance, in the judgement of the Contractor, compares less favourably to the overall skills, abilities, or work performance of others similarly employed.

(b) when the progress and efficiency of the work would be significantly adversely impacted, the effects of which would not be short term, because of the resultant reallocation of employees to different work locations.

(c) when an employee is hired in accordance with the provisions of Article 12.3, or when an employee is covered by the provisions of Article 6.3.

(d) when the Contractor elects to retain the services of an employee who has been employed with the Contractor on the Project for more than twelve (12) months during the past eighteen (18) months, provided the retention of such an employee would not result in the lay-off of another employee who also has more than twelve (12) months of employment during the past eighteen (18) months and to whom employment preference is intended in accordance with Article 12.4.1.1.

12.4.2 Lay-off Subject to Recall

12.4.2.1 The provisions in this Article may be used by the Contractor to facilitate the re-employment of an employee whose lay-off has been precipitated by breakdowns, shortages of materials or parts, or changes in the construction schedule, scheduled or unscheduled cessation of work, or other like conditions, and there is a reasonable likelihood the employee will be re-employed for purposes of continuing the work to which he was assigned at the time of lay-off.

12.4.2.2 Pursuant to 12.4.2.1 an employee who was a Manitoba Resident at the time of hire may be recalled for employment by the Contractor provided:

- (a) the employee is advised in writing at the time of lay-off that he is eligible for recall and a copy of this notification is concurrently forwarded to the appropriate Local Union and M.A.E.T. and,
- (b) the recall is initiated by the Contractor prior to the expiry of 120 calendar days measured from the date of lay-off.

12.4.2.3 When more than one employee in a particular classification (i.e. classifications as set out in the Appendices) is on lay-off subject to recall and,

- (a) such employees are involved in a common or collective work assignment, and
- (b) such employees are not recalled on the same date, then the order of recall shall be the same as the order of employment preference set out in Article 12.1., except when all such employees are scheduled to be recalled within a period not exceeding twenty-eight (28) calendar days, from the date of the first recall, in which case recalls may occur on a non-preferential basis.

12.4.2.4 To initiate the recall mechanism, the Contractor shall contact M.A.E.T. and provide the name, address and telephone number of the person to be recalled.

12.4.2.5 M.A.E.T. shall contact the person and notify the appropriate Local Union and the Council that this person is to be re-employed.

13.1 When the term Northern Aboriginal is used in this Agreement, it shall mean status Indians, Metis, non-status Indians, and. Inuit who qualify as Northern Residents in accordance with the definition set out in Article 13.2.

13.2 For purposes of this Agreement and subject to the provisions set out below, a person shall be deemed to be a Northern Resident if the person has resided in that part of Manitoba north of the Boundary as set out in schedule D for:

- (a) a period of five (5) years accumulatively, or more, and
- (b) a period of six (6) consecutive months, or more, immediately prior to being referred to employment or re-employment without being absent during that six (6) month period from the employment preference zone for more than

six (6) weeks accumulatively, except as may be provided for in Article 13.5, 13.6, and 13.7.

- 13.3 Time spent in employment on the Project shall not be counted towards the acquiring of Northern Residency status pursuant to the provisions of Article 13.2.
- 13.4 A Northern Resident who is absent from the employment preference zone, referred to in Article 13.2, for a period not exceeding six (6) weeks accumulatively, during the six (6) month period immediately prior to referral for employment shall continue to be considered a Northern Resident.
- 13.5 A person who is absent from the employment preference zone for a period of more than six (6) weeks accumulatively, during the six (6) month period immediately prior to referral for employment, for purposes of receiving medical treatment or for purposes of attending a recognized educational institution, and except for such absence would otherwise qualify as a Northern Resident, shall continue to be considered a Northern Resident.
- 13.6 A person who; a) qualified as a Northern Resident, was employed on the Project as an apprentice and was laid off, and b) for the purposes of employment and/or training related to that apprenticeship was absent from the employment preference zone for a period not exceeding 180 (one-hundred & eighty) calendar days measured from the date of lay-off and c) except for b) above would otherwise have qualified as a Northern Resident and d) is a member in good standing of the applicable local union (this will require union confirmation if that persons name does not appear on the monthly union listing), shall continue to be eligible for Northern Residency employment preference for purposes of re-employment as an apprentice in the trade in which that person was formerly employed.
- 13.7 A person who qualified as a Northern Aboriginal and successfully completed a recognized Pre-Project Training program sponsored by Manitoba, Canada, and/or Manitoba Hydro, and who left the employment preference zone for a period not exceeding ninety (90) calendar days in order to gain relevant work experience, shall continue to be considered a Northern Aboriginal.
- 13.8 A person who attends a designated office of M.A.E.T. for purposes of registering for possible referral to employment on the Project, and who considers himself to be a Northern Aboriginal or Northern Resident as defined in this Agreement, shall, on request of M.A.E.T., provide reasonable proof of having met the requirements.