

Feedback Provided by:

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Timing of stakeholder feedback process

- Timing related to the stakeholder feedback process for this procurement has been on unmanageable timelines for participants. In order to collect fulsome feedback, time is required for participants to review documents and propose changes, coordinate and meet internally, and conduct analysis. Not only is the most recent feedback round only a handful of days before responses are requested, but the process in general has been rushed. For this reason, input in this process may not be complete. Further, given the nature of the process and the related uncertainty, it is not in the best interest of developers to incur large legal costs for fulsome legal reviews of the contract in this stakeholder process. We recommend that,
 - The IESO considers delaying the process for the E-LT-RFP procurement; or,
 - Allowing proponents to submit their bids with suggested redlines of the contract, which can be discussed upon proponent selection

Security for project completion

- The current terms contemplate legal liability associated with project completion. Given the elevated bid securities, being a challenge in themselves, this unlimited liability is an issue for developers. We suggest removing the legal liability to ensure that the procurement is successful. We understand the IESO wants certainty around project completion, but no amount of liability will remove the significant hurdles currently facing developers related to macro economic factors and the IESO's compressed procurement timeline.

Changes to Market Rules

- The protection against IESO market rules in the E-LT1 RFP is far less compared to previous IESO contracts. We believe this creates significant added risk for suppliers.
- The Market Renewal Program being introduced will change the market rules and it is not known today exactly how the rules will be formed. This is especially true for energy storage. The contract in its current form offers no protection for future changes that will impact supplier economics.

- Protection of Supplier Economics similar to that offered in previous contracts (CES, CHP, etc.) is essential protection for suppliers and the IESO. This protection is present in procurements across North America, including NYSEERDA's TIER 1 contracts.
- Protections from Discriminatory Actions should not be limited to legislative changes, and should include changes resulting from an Order In Council, as they can result in Directives to the IESO.

Off-ramps and Expectations of CIB Funding

- The draft contract provides nearly no contractual offramps for suppliers. Offramps are even more important given the rushed timelines set by the RFP as well as the volatile macro environment impacting developers. The final contract should include offramps for suppliers, especially for supply chain disruptions provided Suppliers can demonstrate reasonable commercial efforts were taken to mitigate these risks.
- The ability to access funding from CIB has been introduced very close to the bid submission date. From the presentation made by the CIB on October 18th it was clear that many more details needed to be finalized and final approval from the CIB Board was still required. This has introduced some additional uncertainty into project economics. The IESO should recognize this in their contract, recognizing that bids reflect the expectation of funding from the CIB as presented ahead of the bid. Should CIB funding be unavailable or materially different than what was presented, the IESO should allow Suppliers some relief or an offramp from the contract.

Materials Cost Index Adjustment

- We believe the inclusion of lithium in the Materials Cost Index Adjustment for batteries enhances the contracts and we are happy to see the IESO include it in its latest draft. However, we would like the IESO to recognize it is impossible to produce an index that works for every supplier. Different battery suppliers will have different economics and will reflect that in their price formulas.
- Bidders should be able to specify their own weighting between the ferrous and nonferrous metals index and the lithium index. This will allow each participant to align the Materials Cost Index Adjustment in their contract as closely as possible with the lithium exposure they are exposed to with their battery supplier.

Lack of foreign exchange indexing

- The IESO has not responded to stakeholder feedback associated with USD to CAD foreign exchange indexing in the contract price. Although this is a risk that developers have taken on in the past, this is an unprecedented time in global economies and unlike any other time that the IESO has procured a significant amount of generation. It is a time of immense risk for investors. In order for the procurement to be as competitive as possible, it is suggested

that foreign exchange hedging be considered in your contract mechanisms, similar to commodity indexing.

Capacity obligations and augmentation

- Currently, the IESO is obligating proponents to maintain the capacity of their systems over the life of the contract, such that the IESO can conduct capacity planning. When it comes to battery energy storage, ongoing augmentation is required for capacity to be maintained, which involves ongoing capital investment – mostly in relation to cycling of the system and energy throughput. This ongoing capital investment is subject to the same commodity, lithium, and foreign exchange issues as the upfront capex. Unfortunately, upfront overbuild is not an economic solution for a system cycling at any reasonable frequency. We urge the IESO to consider allowing proponents to bid a contract capacity curve that declines over the 20-year period, eliminating this risk, and allowing for the IESO to contract any augmentations on an ongoing basis. While the IESO has expressed that augmentation is simply operating costs, it should perhaps rather be considered more similar to either capex or fuel costs, both of which the IESO has allowed indexing or flow-through risk mitigation on in the past.
- A declining capacity obligation also has benefits for the IESO, mainly as a built-in safeguard against contracted capacity overcommitment if the need for future capacity is less than originally anticipated, say as a result of a slower uptake of electrification