

FN Direct Award and Market Competitive Price

Introduction

The 2016 Aboriginal Procurement Policy introduces the term "Market Competitive Price" and it is important that there is an understanding of what this is and how BC Hydro can satisfy itself that it has met this definition when it is signing a Direct Award contract or in other situations when there is not a full public competition.

In regular business situations BC Hydro canvasses the market through a public competition on BC Bid to seek bids to meet its defined needs. Potential bidders assess the opportunity provided by BC Hydro and freely decide if they wish to bid or not. Those that bid form the "market" that BC Hydro evaluates to determine which one of the bidder's best meets its needs as described in the bid documents. BC Hydro would then contract with the successful bidder at true market competitive price.

However, for direct award contract, in the absence of an actual market, BC Hydro will not be able to establish the true market competitive price.

Estimated Market Competitive Price

For the purpose of direct award, BC Hydro can establish an estimated market competitive price ("EMCP") as the basis to justify the direct award.

At first, the EMCP should compare to the preliminary expected estimate for that contract which typically has an accuracy range of +15% / -10% (with an 80% confidence). This expected cost estimate was prepared for budgeting at the end of the project definition phase and is the basis for the first full funding of that particular project.

If bid price to budget estimate does not compare well then a decision needs to be made to determine if the bid price is unreasonable or if a more accurate estimate should be prepared for this contract package. To decide if a more accurate estimate needs to be prepared one would take into consideration the timing of the work, the local factors, conflict of interest if BCH will be contacting vendors and specialty subcontracts, and any design changes that may have taken place since the end of the definition phase of the project. This more accurate estimate would be classed as an Engineer's Estimate as defined in the PPM Project Estimating Procedure and would have an accuracy range of +10%/ -5%. Preparing a more accurate Engineer's estimate would typically be the exception and not the rule as they are time and resource consuming and expensive to the project.

To develop the EMCP if an Engineer's estimate is required, it is expected to have the design, drawings and the specification fully complete to prepare this bottom-up estimate. Sufficient time and resources are required to be allocated in the project. With the bottom-up approach, it is similar to what a bidder needs to go through putting together their bid. Typically, for smaller contract, say less than \$5M, a three-week bidding period is allocated. For larger contract, a six-

week bidding period is not uncommon. Significant estimating resource will have to be involved in establishing the EMCP. For contracts when design-build components or lump sums are involved then additional design or specialty contractor involvement would be required to produce this more detailed cost estimate.

With limited internal estimating/engineering resources, BC Hydro has the option to engage external estimating resources such as engineering consultants, contractors, quantity surveyors which are experienced in similar type of work.

Schedule of prices should be structured in such a way to facilitate clarification or negotiation if required. This may mean asking for more break-down prices than usual.

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Proposal Pricing Evaluation

Pricing evaluation of the proposal should be based on the following approach:

1. Prior to pricing evaluation, evaluation team should review the proposal to make sure that it meets the contract requirements as stipulated in the RFX.
2. Clarify with the proponent for any deviation from the contractual requirements and obtain updated price accordingly.
3. BC Hydro may have to adjust the EMCP (based on preliminary expected cost as set out in the project budget) after clarification if certain components of the work are mis-estimated. (Note that if the bid package is significantly different than the preliminary design then an Engineer's estimate should be prepared and this would become the EMCP).
4. Should the price be within the +10% of the EMCP, project team may want to negotiate with the proponent and then proceeds to recommending contract award.
5. Should the price exceed the +10% of the EMCP, project team should make recommendation to the Director of Supply Chain, Director of Aboriginal Relations and Project Director for direction to:
 - a. Accept the price;
 - b. Negotiate with the proponent; or
 - c. Terminate the direct award process.

Note: Sufficient time should be allocated on the project schedule to allow for unsuccessful direct award of contract and subsequently procure the work through other means.

Frequently Asked Questions:

- (1) Should BC Hydro add the value of social licence to operate and the value of long term relationship with First Nations to the EMCP?
No, these factors are already considered in the formation of the commitments in the agreements with the First Nations.