

# Stakeholder Feedback and IESO Response

## Long-Term RFP (LT1 RFP) – August 17, 2023

Following the August 17, 2023 LT1 RFP engagement webinar, the Independent Electricity System Operator (IESO) invited stakeholders to provide feedback on the changes to rated criteria proposed in the meeting.

The IESO received feedback from the following stakeholders:

- [Boralex](#)
- [Capital Power](#)
- [Capstone Infrastructure](#)
- [EDP Renewables](#)
- [Enbridge](#)
- [Energy Storage Canada](#)
- [Invenergy](#)
- [Northland Power](#)
- [NRStor](#)
- [Shift Solar](#)

This feedback has been posted on the [engagement webpage](#).

### Note on Feedback Summary and IESO Response

The IESO appreciates the feedback submitted. The table below responds to the feedback received and is organized by each topic. This document is provided for information purposes only. It does not constitute, nor should it be construed to constitute, legal advice or a guarantee, offer, representation or warranty on behalf of the IESO.

# Changes to Rated Criteria: Indigenous Community Participation

Feedback was generally supportive of the revised Rated Criteria approach with respect to Indigenous Community Participation, including the introduction of more granularity to the economic interest segments and an increase overall to the total points available for Indigenous Community Participation. Several stakeholder submissions included additional points for consideration, and these and the common themes of feedback on this topic are summarized in the table below.

Feedback / Common Themes	IESO Response
<p><b>When Rated Criteria points are awarded for Indigenous Community Participation, the IESO should require Proponents to submit partnership structure details:</b> partnerships should be structured in a manner that provides meaningful economic benefits to the Indigenous equity partner (i.e. the share class held by all partners should be the same).</p>	<p>In order to attain Rated Criteria Points based on the Proponent Indigenous Participation Level, a Proponent must establish that the Economic Interest in the Proponent held by one or more Indigenous Communities or Indigenous Holding Vehicles (a newly added defined term identifying business entities ultimately owned exclusively by Indigenous Communities) is above the threshold amounts. The definition of “Economic Interest” requires the Indigenous Community (whether via an Indigenous Holding Vehicle or otherwise) to have the opportunity to participate in payments arising out of the Proponent, including participation in a return from the Proponent as the result of a partnership interest.</p> <p>In the Prescribed form – Evidence of Indigenous Community Participation – the Proponent is required to submit, as evidence of the Economic Interest held by the applicable Indigenous Community, “An organizational chart of the Proponent, together with evidence of applicable securities holdings reflecting the Economic Interest held by the Indigenous Community(ies) or Indigenous Holding Vehicle(s) via copies of the securities register(s) of the applicable Person(s) (including any Indigenous Holding Vehicle or any other intermediary entities between an Indigenous Community and the Proponent)”. Where applicable, the above would be required to include information about partnership structures.</p>

Feedback / Common Themes	IESO Response
<p><b>Price adder:</b> consider an Indigenous Community price adder as part of the LT1 Contract as it would incent Indigenous participation after the LT1 Proposal Submission Deadline.</p>	<p>The IESO has carefully reviewed feedback on Indigenous Participation, identifying Rated Criteria Points as an effective means to value Indigenous Participation in both E-LT1 and LT1 RFPs. The IESO received additional feedback on how to further revise the Rated Criteria point structure which is reflected in the updated draft LT1 RFP. Price adders will not be utilized in this RFP.</p>
<p><b>Increase the number of Rated Criteria points for when an Indigenous Community has an equity share greater than 50%:</b> awarding more than 6 points will lead to greater levels of Indigenous involvement.</p>	<p>Over the past months the IESO has engaged with Proponents and Indigenous Communities on the Rated Criteria for Indigenous participation. Based on the feedback received, the IESO amended the Rated Criteria structure to include additional tranches of points based on the Proponent Indigenous Participation Level in addition to bonus points based on the proximity of a participating Indigenous Community to the Project Site. Further, the IESO believes the current points structure strikes an appropriate balance between the maximum Rated Criteria points for Indigenous Participation – six (6) - and attaining a Local Governing Body Support Confirmation – four (4).</p>
<p><b>The Deliverability Test requirements limit some Indigenous equity partners from participating as “local” partners:</b> select Indigenous equity partners may be located in areas that likely may not have favourable Deliverability Test outcomes. There may also be complexities for considering an Indigenous equity partner as a “local” partner when a project involves more than one Indigenous equity partner.</p>	<p>The Rated Criteria points for Local Indigenous Community Participation are based on feedback from community engagement and awarded as an incentive to encourage economic opportunities on Indigenous Lands or lands within the treaty area, traditional territory or homeland of an Indigenous Community that holds Economic Interest in the Proponent of at least 10% and is included in the Proponent Indigenous Participation Level (including through an Indigenous Holding Vehicle, if applicable). Deliverability testing is a technical assessment that takes available transmission capability on</p>

Feedback / Common Themes	IESO Response
	<p>existing transmission infrastructure into consideration, in order to ensure that the facility can contribute to system needs. A Proposal with a Deliverability Test result of “Not Deliverable” in the LT1 RFP may receive a different result in future procurements as transmission infrastructure in Ontario evolves.</p>

## Changes to Rated Criteria: Local Governing Body Support

Feedback was mixed on the revised Rated Criteria approach with respect to Local Governing Body Support. Several stakeholders indicated their support for the proposed approach, while two other stakeholders commented on a perceived imbalance in points between municipal support vs. Indigenous participation (these latter points are captured in the table above). The common theme of feedback on this topic is summarized in the table below.

Feedback / Common Themes	IESO Response
<p><b>Provide clarity on which Blanket Municipal Support Resolutions (MSRs) are accepted:</b> Blanket MSRs which cover the E-LT1 and LT1 RFPs and are dated prior to the launch of the E-LT1 RFP should be accepted.</p>	<p>The definition of “Blanket Municipal Support Resolution” has recently been updated in the latest draft of the LT1 RFP to include a resolution that covers one or more Long-Term Reliability Project(s) for the purpose of the LT1 RFP or other IESO procurement initiatives that are <u>subsequent</u> to the E-LT1 RFP. Based on this revised definition, a project-specific resolution that was expressly for purposes of both the E-LT1 RFP and the LT1 RFP (or other future procurements) would meet the definition of a Blanket Municipal Support Resolution and can be dated earlier than February 17, 2023.</p> <p>Proponents are reminded that if any part of a Project Site is located on lands subject to the authority of a Local Municipality, a Municipal Support Confirmation (MSC) is required from that Local Municipality. Thus, if a Project Site spans the jurisdictions of multiple Local Municipalities, a MSC is required from each such Local Municipality. See Section 2.2(l) of the LT1 RFP.</p>

Feedback / Common Themes	IESO Response
<p><b>Provide clarity on public community meeting (i.e., open house) requirements for projects that have already received a Municipal Support Confirmation:</b></p> <p>(i) Clarify whether projects that have already held a Public Community Meeting but have changed project owners are required to hold a subsequent public community meeting.</p> <p>(ii) Additional Public Community Meetings should not be required for projects where a Blanket MSR for the ELT-1 and LT1 RFP was granted and a public community meeting was held prior to February 17, 2023.</p>	<p>(i) Where there is a change of Control (as defined in the LT1 Contract) of the Proponent, projects that have satisfied the Mandatory Requirements for a MSC and the Community and Indigenous Engagement Plan described in Section 2.1(f) of the LT1 RFP in the name of the identified Proponent entity, are not required to hold a subsequent Public Community Meeting as the result of a change of Control of such named Proponent. For certainty, if an ownership change occurs by way of asset transfer from one prospective Proponent to a different prospective Proponent (rather than via change of Control), a MSC and Community and Indigenous Engagement Plan record in the name of the prior prospective Proponent would not meet the requirements of these sections of the LT1 RFP.</p> <p>(ii) Public Community Meetings must be held no earlier than February 17, 2023 in order to satisfy the requirements for the Community and Indigenous Engagement Plan. See Section 2.1(f)(i) of the LT1 RFP.</p>

## Comments on Duty to Consult

Feedback was generally supportive of the new Development and Construction Covenant added to the draft LT1 Contract. Several stakeholder submissions, however, included comments on the Duty to Consult (DTC) process, primarily focused on timing. The common themes of feedback on this topic are summarized in the table below.

Feedback / Common Themes	IESO Response
<p><b>Allow Proponents to reach out to the Ministry at any time:</b> Proponents should be eligible to begin the Duty to Consult (DTC) process prior to the Proposal Submission Deadline, even if the DTC process outcomes are not used until future procurements as the proposed timing of the DTC</p>	<p>The IESO acknowledges the important role that meaningful engagement with Indigenous Communities may play in the successful planning, development and operation of Electricity resources. It is recommended that Proponents begin engaging with Indigenous Communities early in the project development process. While</p>

Feedback / Common Themes	IESO Response
<p>process limit's a Proponent's available development time.</p>	<p>the Ministry of Energy's formal preliminary assessment of any Duty to Consult for Electricity Storage Projects will take place once the IESO awards LT1 Contracts, Proponents participating in the LT1 RFP may begin engagement with Indigenous Communities at any time. The Ministry of Energy's Indigenous Consultation Package for Electricity Storage Projects includes links that may assist Proponents with identifying Indigenous Communities for early engagement purposes. In addition, the LT1 RFP includes requirements for Indigenous engagement prior to Proposal submission (where applicable), including the development and publication of a Community and Indigenous Engagement Plan, and the holding of a public community meeting. Where the proposed project is located on Indigenous Lands, as defined in the LT1 RFP, a Proponent is also required to submit evidence of Indigenous support.</p> <p>Transmission connection components of proposed Electricity Storage Projects may be subject to the screening process outlined in the Class Environmental Assessment for Minor Transmission Facilities (MTF Class EA). Under that process, the Ministry of Energy fulfills the upfront elements of the Crown's Duty to Consult, which includes conducting a preliminary assessment and providing direction as appropriate to Proponents on which Indigenous Communities should be consulted with respect to the connection components of their Electricity Storage Project. It is expected that any Indigenous Communities identified under the MTF Class EA for consultation by the Ministry of Energy would be the same list Proponents might want to engage and consult within in regards to their Proposals.</p> <p>If the MTF Class EA screening process might be applicable to a proposed Electricity Storage Project, Proponents may wish to initiate that process to inform their Indigenous Community</p>

Feedback / Common Themes	IESO Response
	<p>engagement planning and outreach activities. Proponents are welcome to reach out to the Ministry of Energy with questions pertaining to the MTF Class EA and the DTC process prior to LT1 Contract award. Enquiries can be sent to: <a href="mailto:shannon.mccabe@ontario.ca">shannon.mccabe@ontario.ca</a>.</p>
<p><b>A new Duty to Consult standard should not be developed for energy projects:</b> Any determination of a DTC should be in line with existing legislation, policy, and procedures in place for Environmental Permissions.</p>	<p>In accordance with the Ministerial Directive issued to the IESO in August 2023, the DTC provisions apply to projects that are not subject to a provincial environmental approvals framework that the Crown may rely on to fulfill its DTC (e.g., Energy Storage facilities). The Ministry of Energy’s proposed DTC process is intended to align (where possible) with existing legislation, policy and procedures that are in place for the Environmental Assessment processes for other electricity infrastructure.</p>

## Draft RFP and Contract

Several stakeholder feedback submissions included specific recommendations for consideration with respect to the draft RFP and Contract. These points are detailed in the table below.

Feedback / Common Themes	IESO Response
<p>The IESO should amend the language in Section 3.6(a)(iii) of the LT1 RFP to reflect that the cumulative number of MWs submitted by a Proponent, in all of its Proposals, will not prevent the IESO from awarding a LT1 contract to one or more Proposals submitted to that Proponent, provided that the total MWs awarded to the Proponent do not exceed 900MW.</p>	<p>Proponents may submit up to and including 10 Proposals for which there is no restriction on the aggregate MW amount. In order to provide greater clarity, section 3.6(a)(iii) of the LT1 RFP will be revised as follows “Regardless of the total number of Proposals submitted by the Group, in no circumstances will a Proposal be selected under this LT1 RFP if the selection of such Proposal would result in an aggregate Maximum Contract Capacity of all the Selected Proposals of the Group that exceeds 900 MW in the Storage Category or 600 MW in the Non-Storage Category”.</p>

Feedback / Common Themes	IESO Response
<p>Encourage the IESO to include parental guarantees as an alternate form of Proposal Security that will satisfy Supplier obligations.</p>	<p>The IESO will not be changing its approach to Proposal Security for the LT1 RFP, as it is standard practice for IESO procurements. The IESO may revisit alternate forms of Proposal Security in subsequent procurements.</p>
<p>Recommend that Section 2.5(a)(i) of the LT1 Contract be revised to indicate that the Commercial Operation Date (COD) should be established by issue of a Conditional RAN and not by a Final RAN.</p>	<p>For a new facility, issuance of the Final RAN provides confirmation that a facility is able to participate in the IESO-administered markets as a dispatchable facility, which is necessary to meet the Must-Offer obligation under the LT1 Contract. Similar to the E-LT1 RFP, the COD for the LT1 Contract will require receipt of a Final RAN.</p>
<p>Two stakeholders recommended that the bid date be deferred beyond the December 12<sup>th</sup> Proposal Submission Deadline in order to provide additional time to develop and de-risk the projects, leading to a more competitive RFP.</p>	<p>As the LT1 RFP is being undertaken to meet a reliability need, the IESO must balance the need to give more time for Proponents to develop their Proposals, and the need to expediently award contracts. The IESO has previously adjusted its timelines for the LT1 RFP, including expediting the deliverability process and extending the Proposal Submission Deadline, in order to provide Proponents with additional time to prepare submissions. The IESO will not defer the Proposal Submission Deadline beyond December 12, 2023.</p>
<p>Two stakeholders recommended that the language in Section 4.1 – Completeness Requirements of the LT1 RFP be expanded to allow a rectification period during which the IESO evaluation team can request clarification and/or additional information from Proponents to rectify any perceived technical issues with their bids and to ensure that all projects are fully considered on their merit.</p>	<p>While the IESO acknowledges this question, the IESO can confirm that a rectification period will not be introduced to the LT1 RFP. This question is addressed in Question 3.18 of the LT1 FAQ document.</p>



Feedback / Common Themes	IESO Response
<p>One stakeholder recommended that the IESO provide earlier feedback regarding the use of Prescribed Form: Notice of Change and allow the opportunity for Control Group Member changes to be submitted and feedback to be provided by the IESO prior to the Proposal Submission Deadline.</p>	<p>The LT1 RFP requires that the Prescribed Form: Notice of Change be submitted as part of the Proposal, which will be reviewed by the IESO following the Proposal Submission Deadline. However, Proponents will be able to ask the IESO questions during the Question and Comment Period or prior to the procurement launch. Proponents are also encouraged to consult their legal counsel.</p>
<p>Remove the Exclusivity of Contract Capacity to IESO in Section 2.12 of the LT1 RFP as the proposed Must-Offer Obligation limits the ability of a Proponent to seek out participation in other markets, services or non-wire alternative program.</p>	<p>The intent of Section 2.12 in the LT1 RFP is to contract capacity that is needed to meet the IESO’s reliability and not to preclude successful Proponents from seeking out other revenue opportunities. In order to provide greater clarity, the language in Section 2.12 has been revised to state “The Supplier shall ensure that the Contract Capacity is exclusively committed to the Buyer hereunder such that no part of the Facility is subject to any physical or contractual arrangement that conflicts with the Supplier’s ability to satisfy the Must-Offer Obligation during the Term.”</p>
<p>One stakeholder recommended that the IESO allow a Proponent to alter equity stakes for Indigenous Partners, prior to the COD only, so that Proposals can access all available tax credits without undermining the equity of Indigenous Partners over the long-term of the project.</p>	<p>Except as set out in Section 16.7(b) of the LT1 Contract, until the fifth anniversary of the COD, reductions in the Indigenous Participation Level (IPL) below the initial IPL will constitute a Supplier Event of Default if the IPL is not restored to at least the initial PL within six months after the IESO is notified of the reduction.</p>

## General Comments/Feedback

Feedback submissions included other general comments for consideration which are outlined below.

Feedback	IESO Response
The IESO's Market Renewal Program (MRP) continues to present significant uncertainty to both standalone energy storage and hybrid projects.	As part of the IESO's MRP engagement, support for readiness activities is provided to all current and prospective Market Participants. Proponents are encouraged to explore design documents and other resources available on the <a href="#">MRP webpage</a> and contact the <a href="#">MRP Implementation Engagement team</a> .
If the Non-Storage Target Capacity is not met, unused Non-Storage Category MWs should be reassigned to the Storage Target Capacity as the E-LT1 demonstrated that there are sufficient storage projects to fulfill additional capacity.	The IESO may, at its discretion, assign unused MWs from the Non-Storage Target Capacity to the Storage Target Capacity. See Section 4.5(e)(iii) of the LT1 RFP.
The IESO should allow hybrid projects at existing facilities to participate in the LT1 RFP.	The LT1 RFP is a technology-agnostic procurement in which any facility that is able to deliver a continuous amount of energy on a dispatchable basis for the number of hours indicated in Section 1.2(f) of the LT1 RFP is eligible to participate. The eligibility of hybrid projects is addressed in Question 1.2 of the LT1 RFP – FAQ.