



## Stakeholder Comment and AESO Replies Matrix

### AESO Consultation – Competitive Procurement Process

September 17, 2010

The AESO is asking market participants and interested parties to indicate their interest in participating in the AESO's consultation regarding the AESO's proposed competitive procurement process and to provide comments on the related Terms of Reference and Discussion Paper.

Date of Request for Comment: <u>2010-MM-DD</u>	Contact: <u>Steve Hodgkinson</u>
Period of Consultation: <u>2010-MM-DD</u> through <u>2010-MM-DD</u>	Phone: <u>(403) 267-4273</u>
Comments From: <u>AltaLink</u>	E-mail: <u>steve.hodgkinson@altalink.ca</u>
Date [yyyy/mm/dd]: <u>2010-11-03</u>	

Interest in Participating in AESO Consultation for a Proposed Competitive Procurement Process		
Please indicate your interest in participating in this consultation		
	<b>Stakeholder Comment</b>	
	<input checked="" type="checkbox"/> Interested <input type="checkbox"/> Not Interested	
Terms of Reference - In-Scope Section		
Do stakeholders agree with the scope set out in the Terms of Reference? Are there any other documents the AESO should consider as in scope?		
<b>Stakeholder</b>	<b>Stakeholder Comment</b>	<b>AESO Replies</b>
	<input checked="" type="checkbox"/> Support <input type="checkbox"/> Oppose Generally agree, as far as it goes. The	

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	<p>scope ends after the RFQ process. Key components of a competitive process are the RFP itself and the contracts which would apply. These appear to have been left to some future date and it is unclear as to what the AESO has in mind as far as consultation on these elements.</p> <p>Given the importance of the design of the RFP and contracts, in ensuring a successful outcome from the competitive process, it would be helpful if the scope included consultation on the RFP itself, and the contract that would be associated with either of the alternatives presented. This would also resolve a number of the issues identified in Section 3 of the AESO discussion paper. Items such as end of contract term, force majeure and assignment rights, along with a myriad of other contract issues, many of which are interrelated, should be dealt with in the context of the contract.</p>	
<b>Terms of Reference – Out-of-Scope Section</b>		
Do stakeholders agree with the out-of-scope section?		
Stakeholder	Stakeholder Comment	AESO Replies
	<input checked="" type="checkbox"/> Support <input type="checkbox"/> Oppose Agree. It would not be productive to revisit	



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	government policy and legislative decisions that have already been made.	
<b>Terms of Reference - Consultation Activities, Documents and Schedule Section</b>		
Do stakeholders agree with the consultation activities, documents and schedule?		
<b>Stakeholder</b>	<b>Stakeholder Comment</b>	<b>Replies</b>
	General agreement, subject to the need to expand consultation and the schedule to recognize other comments and suggestions throughout this document.	
<b>Terms of Reference - Other Comments</b>		
Do stakeholders have any other comments regarding the Terms of Reference for the competitive procurement process documents?		
<b>Stakeholder</b>	<b>Stakeholder Comment</b>	
	<input type="checkbox"/> Support <input type="checkbox"/> Oppose AltaLink believes it would be useful to establish a working group of industry participants, to assist the AESO in developing the RFP process and the appropriate contracts. To the extent that long term contracts are to be used, it is critical that these contracts are financeable. The development of these contracts is not an insignificant undertaking.	
<b>Discussion Paper</b>		
The AESO is seeking stakeholder comments regarding the proposed implementation schedule.		
<b>Stakeholder</b>	<b>Stakeholder Comment</b>	



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	<p><input type="checkbox"/> Support <input type="checkbox"/> Oppose</p> <p>As discussed previously, the implementation schedule ends on March 9, 2011 with the AESO responding to comments on its Recommendation Paper. The only indication of scheduled activities beyond that date is that the AESO anticipates that the Process could be completed by autumn 2011. It is not clear what happens between March and the Autumn of 2011, when the process will have been completed. Some clarification of the activities expected in this period would be helpful.</p> <p>Step 6 of the proposed implementation schedule states that the AESO will determine “if further consultation is appropriate.” AltaLink feels that additional consultation definitely would be required, particularly relating to the design of the RFP and the required contracts.</p>	
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Discussion Paper		
<p>The AESO is seeking stakeholder comments regarding the objectives and principles to be used in the design of a competitive procurement process for CTI in Alberta.</p>		
Stakeholder	Stakeholder Comment	
	<p><input type="checkbox"/> Support  <input type="checkbox"/> Oppose</p> <p>Goal 2(a) should refer to minimization of lifecycle costs.</p> <p>Goal 2(c) is stated as “Create opportunity for new entrants.” This would be more appropriately phrased as “Create opportunity for competition”. While it is important to have broad participation to ensure competition, the goal as currently expressed, implies a preference for new entrants.</p> <p>As part of the discussion on design objectives and principles, Section 2.1.3(a) refers to the form of contract being based on the traditional rate base return. There should be some recognition of the fact that in having an asset constructed by a third party, based on a specification prepared by the AESO, and transferred to the incumbent TFO, with limited involvement of the TFO, the TFO may face additional performance and integration risks.</p>	



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	<p>Section 2.1.3(c) refers to allowing for innovation and creativity throughout the lifecycle of the contract. This would more appropriately refer to the lifecycle of the asset, since, in the case of the EPC Alternative, the term of the contract will be quite limited.</p> <p>Consideration should be given to the issue of ensuring that municipalities and crown corporations are not advantaged as a result of their government ownership. In addition, consideration should be given to a requirement that there should be reciprocal arrangements in place, where government owned entities from other regulatory jurisdictions outside of Alberta are seeking to participate in the competitive process in Alberta.</p> <p>The AESO Paper, in the context of evaluating pros and cons of the options, makes a number of references to the importance of the relationship between landowners and the project proponent and the fact that procurement of land access and rights-of-way are critical components of the process. In light of this, it is suggested that the whole area of consultation,</p>	
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	<p>landowner relationships and land acquisition be highlighted by making appropriate treatment of landowners one of the goals of the process. It is important that landowners and other stakeholders under this process be treated in a consistent manner to others under existing processes.</p>	
<b>Discussion Paper</b>		
<p>The AESO is seeking stakeholder comments regarding additional alternatives including associated advantages and disadvantages for the competitive procurement process.</p>		
<b>Stakeholder</b>	<b>Stakeholder Comment</b>	
	<p>It is suggested that a variation of the EPC Alternative be considered to mitigate key potential disadvantages associated with the proposed EPC Alternative. Under this alternative (TFO/EPC Alternative) the incumbent TFO would be responsible for the front end development work, including stakeholder consultation, facility applications and land acquisition. Once this was completed, the remainder of the process would be as described in the EPC Alternative and the competitive portion of the process would be managed by the AESO.</p> <p>This approach, in AltaLink’s view, has some key advantages over the EPC</p>	



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	<p>Alternative identified in the discussion paper, as follows:</p> <ul style="list-style-type: none"> <li>• As with the EPC Alternative, the TFO/EPC Alternative would provide the same advantages of a competitive turnkey price by the EPC including a premium to manage risks associated with unforeseen situations. However, the risk premium would be substantially reduced in this option, compared to the EPC Alternative, since cost and timing uncertainties associated with the routing and permitting process would be eliminated from the competitive bid.</li> <li>• As in the EPC Alternative, the TFO's operational familiarity would continue to be employed in ongoing operation and maintenance of the facility.</li> <li>• The TFO/EPC Alternative would be better in terms of stakeholder consultation and coordination, and establishing and maintaining long-term relationships with landowners and other stakeholders. The TFO, in this case, would ensure effective management and mitigation of landowner and other stakeholder impacts. This would also address the disadvantage of the EPC Alternative related to "hand-off" of the</li> </ul>	
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	<p>landowner relationships.</p> <ul style="list-style-type: none"> <li>• The TFO has familiarity with the regulatory process and associated rules and practices and can therefore ensure consistency in consultation and land acquisition practices between projects done under this competitive process and other transmission projects in Alberta.</li> <li>• Under the oversight of the AESO, this alternative would effectively mitigate the potential for significant risk premiums associated with delays and protracted negotiations with landowners by utilizing current mechanisms for cost control without the need for implementing “special provisions” or “risk-sharing” mechanisms to deal with the associated uncertainties.</li> <li>• The TFO/EPC Alternative would reduce the need for bidders to heavily qualify their bids on the assumption that the AESO will backstop all associated risks. This alternative will also reduce the complexity of evaluating the bids.</li> </ul>	
<b>Discussion Paper</b>		
The AESO is seeking stakeholder comments regarding the process steps in the Own Alternative.		
<b>Stakeholder</b>	<b>Stakeholder Comment</b>	



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	<p> <input type="checkbox"/> Support  <input type="checkbox"/> Oppose         </p> <p>           Step 2 does not provide any indication of the criteria to be used by the AESO in establishing the short list of eligible bidders, nor does it indicate how many bidders would be on the short list. This information would be valuable to potential bidders in assessing their willingness to participate.         </p> <p>           In step 6 it would be useful to provide some guidance, as to the criteria to be employed in determining whether to accept a proposal, reject all proposals or repeat the entire process.         </p> <p>           Step 7 requires the Selected Entity to submit a tariff application to the AUC under section 37 of the <i>EU Act</i>. It is not clear to AltaLink why the AUC would need to approve the tariff, given that the tariff was determined under the competitive process developed by the AESO and previously approved by the AUC. The contract would be finalized through negotiation between the Selected Entity and the AESO, and the requirement for a further approval by the AUC, would be unusual and would increase the risk.         </p>	
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	<p>It would seem that the AESO, as the counterparty to the contract, would file a tariff application to the AUC for inclusion of the payment obligations under the Own Contract as part of the AESO tariff.</p>	
<b>Discussion Paper</b>		
<p>The AESO is seeking stakeholder comments regarding the advantages, as well as any other advantages and disadvantages the stakeholder believes are appropriate for the Own Alternative.</p>		
<b>Stakeholder</b>	<b>Stakeholder Comment</b>	
	<p> <input type="checkbox"/> Support  <input type="checkbox"/> Oppose            One of the noted advantages of the Own Alternative is “more efficient negotiations” of ROW and land option agreements. This might be the case in comparison to the EPC Alternative, but would not be the case when compared to the TFO/EPC Alternative outlined earlier.             The Own Alternative has a disadvantage when compared to the TFO/EPC alternatives in that landowner/stakeholder dealings are unlikely to be consistent with projects done under existing processes. This may result in specific groups of landowners being either advantaged or disadvantaged, as a result of the competitive process.         </p>	



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	<p>The Own Alternative has significant risk and timing uncertainty associated with the siting and permitting and would attract a significant risk premium. Potential risk-sharing mechanisms could help mitigate the cost of the permitting work to some degree, but do nothing to address timing uncertainties and their potential cost impacts.</p>	
<b>Discussion Paper</b>		
<p>The AESO is seeking stakeholder comments regarding efficient risk-sharing options that will optimize the overall cost of CTI projects.</p>		
<b>Stakeholder</b>	<b>Stakeholder Comment</b>	
	<p><input type="checkbox"/> Support  <input type="checkbox"/> Oppose</p> <p>We agree that as much as it would be desirable to have fixed price bid or that at least bidders would submit a highly predictable price, this will be difficult given the risks involved, particularly with the front end work on the project.</p> <p>To meaningfully respond to this question there needs to be much greater clarity, as to the bidders' obligations and which party is expected to cover the relevant risks. This can be done by developing the full contract, which would consider the full</p>	



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	<p>spectrum of risks and how best to allocate them, between the parties.</p> <p>On page 9, the paper stated, in the context of risk involved in the FA process, that “Requiring the Selected Entity bear these risks may result in a significant risk premium”. AltaLink agrees that the risk associated with the work leading up to approval of a facility application and land acquisition will definitely attract a significant risk premium.</p> <p>AltaLink does not think that the “risk-sharing” option as alluded to in AESO paper will effectively mitigate the uncertainties related to routing, permitting and land acquisition. Fundamentally, the bidder would have to submit a bid without knowing the route, the length of the line, landowner impact mitigation, land compensation costs, environmental mitigation and when the P/L permit will be received. This uncertainty would result in a high risk premium, or a highly qualified bid either of which would undermine the objective of optimizing lifecycle costs.</p> <p>It is unclear to AltaLink how either the “RFQ screening process” or the “AUC-approved</p>	
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	<p>Process” will effectively reduce these uncertainties associated with the Own Alternative, in any substantial way.</p> <p>The TFO/EPC Alternative proposed earlier would be a viable approach to dealing with this issue. Under this approach, EPC tendering will be done when the FA timing and route is substantially determined, which would allow a substantial portion of the risk premium to be removed from the EPC bids.</p>	
<b>Discussion Paper</b>		
The AESO is seeking stakeholder comments regarding the process steps in the EPC Alternative.		
<b>Stakeholder</b>	<b>Stakeholder Comment</b>	
	<input type="checkbox"/> Support <input type="checkbox"/> Oppose <p>This section appears to make a distinction from the Own Alternative by defining the development work as being included in a “competitive turnkey bid”. This turnkey bid will still include a “significant risk premium” associated with the FA work, although it will be reduced relative to the Own Alternative, as the TFO will be more motivated to assist in this work. As discussed previously, this risk premium can be eliminated by designating the TFO’s to perform FA</p>	



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	<p>related work prior to the competitive EPC tender. The TFO's would be motivated to make sure the FA related work is done effectively, since they would ultimately own the assets and all the landowner and stakeholder relationships for the life of the asset. The TFO's understand the need for consistency with the many other projects being executed throughout Alberta under the existing TFO process.</p> <p>Step 7 indicates that the EPC Entity would enter into a contract. It is not clear who the counterparty would be (the AESO or the TFO). This step goes on to state that the contract would oblige the TFO to coordinate with the EPC Entity to prepare and file the FA. This appears to create contractual obligations on the part of the incumbent TFO even though the TFO may not be a party to the contract.</p> <p>The concept of the incumbent TFO providing construction financing is workable but would necessitate a contractual arrangement between TFO and EPC Entity, which would have been selected by the AESO.</p>	
<b>Discussion Paper</b>		



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The AESO is seeking stakeholder comments regarding the advantages, as well as any other advantages and disadvantages the stakeholder believes are appropriate for the EPC Alternative.

Stakeholder	Stakeholder Comment	
	<input type="checkbox"/> Support <input type="checkbox"/> Oppose AltaLink believes that there are several additional advantages for EPC Alternative in comparison to the Own Alternative. <ul style="list-style-type: none"> <li>• There is a much wider range of entities who can do EPC bidding, and therefore the EPC Alternative will have access to a larger pool of participants than with the Own Alternative, which should lead to a more competitive outcome;</li> <li>• Utility cost of debt will be lower than would be expected under the Own Alternative, this is apparent from recent comparisons of debt issued to P3 projects and Utility financings.</li> <li>• The EPC Alternative strikes a better balance of achieving competition on the biggest portion of the cost, without compromising landowner/stakeholder relations, reliability, safety, environmental issues, and recognizing the need to operate this critical infrastructure on an integrated system basis.</li> </ul>	



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	<p>AltaLink does not agree that financial engineering is a disadvantage of the EPC Alternative. The opportunity to provide financial engineering is a result of the use of a long-term contract, instead of short term regulation. A long-term contract approach could just as easily be used in the case of TFO ownership, to produce similar financial engineering benefits to the Own Alternative.</p>	
<b>Discussion Paper</b>		
<p>The AESO is seeking stakeholder comments regarding additional issues for consideration applicable to the Own and EPC Alternatives, as well as identification of any other issues that will need consideration.</p>		
<b>Stakeholder</b>	<b>Stakeholder Comment</b>	
	<p><input type="checkbox"/> Support  <input type="checkbox"/> Oppose</p> <p>The AUC's role should be limited to approval of the process. Subsequent approval of a tariff by the AUC adds another element of uncertainty with no apparent benefit to the process.</p> <p>Over the life of the contract there should only be very limited involvement on the part of the AUC, perhaps in dispute resolution and approval of any contract assignments otherwise the contract, as a business arrangement, should be a binding</p>	



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	<p>commercial arrangement for the entire term of the contract.</p> <p>Issues related to default, collateral, letters of credit, etc., are contract issues that should be addressed as part of the development of appropriate contracts.</p> <p>The issue of an affiliate rule appears to relate more to the AUC than the AESO, and the relationship between a utility and its affiliate is already covered by the existing Code of Conduct. There may be changes needed to the Code of Conduct but care must be taken to ensure that affiliate rules do not limit competition or participation of incumbents.</p>	
<b>Discussion Paper</b>		
<p>The AESO is seeking stakeholder comments regarding additional issues for consideration applicable to the Own Alternative, as well as identification of any other issues that will need consideration.</p>		
<b>Stakeholder</b>	<b>Stakeholder Comment</b>	
	<p><input type="checkbox"/> Support  <input type="checkbox"/> Oppose</p> <p>The Selected Entity should be required to function as a TFO. It should be subject to the same duties and obligations as the incumbent TFO's including AESO rules, Alberta reliability standards and reporting,</p>	



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	<p>and the inter-affiliate Code of Conduct.</p> <p>There are many contract issues which must be dealt with in the design of tendering process and the contracts themselves. End of term, force majeure, assignment, etc., should all be dealt with through the development of the contract. They should be reviewed in the context of the complete contract, not in a piecemeal way, as the integration of all of the terms are important to any contract.</p>	
<b>Discussion Paper</b>		
<p>The AESO is seeking stakeholder comments on the inclusion of the proposed structure for the Request for Qualifications (RFQ), as well as any other information the stakeholder believes should be included.</p>		
<b>Stakeholder</b>	<b>Stakeholder Comment</b>	
	<p><input type="checkbox"/> Support  <input type="checkbox"/> Oppose</p> <p>Section 4.1(4) refers to the RFQ project description showing “expected routing”. The AESO determination of “expected routing” may limit the search for viable alternatives and cause complications during the facility application process, and create the opportunity for later court challenge. The AESO should define the end terminals, and allow bidders to determine the route by balancing the many</p>	



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	applicable factors, including risk, price, innovation, etc.	
<b>Discussion Paper</b>		
The AESO is seeking stakeholder comments on the inclusion of the information required by potential bidders to substantiate their qualifications to an RFQ, as well as any other information the stakeholder believes should be included.		
<b>Stakeholder</b>	<b>Stakeholder Comment</b>	
	<input type="checkbox"/> Support <input type="checkbox"/> Oppose Agree.	
<b>Discussion Paper</b>		
The AESO is seeking stakeholder comments on the potentially required amendments to relevant regulations, as well as any other amendments the stakeholder believes will be necessary.		
<b>Stakeholder</b>	<b>Stakeholder Comment</b>	
	<input type="checkbox"/> Support <input type="checkbox"/> Oppose  We have not done an extensive analysis on changes needed to the ISO rules, but we would expect that some changes will be required, of particular note would be ISO Rule 9, which will need to be amended to enable the competitive process. The specific amendments would be better considered once the competitive process has been better defined.	



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<b>Discussion Paper</b>		
The AESO is seeking any other stakeholder comments on the Discussion Paper concerning the AESO's proposed competitive procurement process.		
<b>Stakeholder</b>	<b>Stakeholder Comment</b>	