

# Draft LRP II RFQ and Prescribed Forms

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## 1. Introduction

The Canadian Solar Industries Association (CanSIA) is a national trade association that represents the solar energy industry throughout Canada. CanSIA's vision for Canada's solar energy industry is for solar electricity to be a mainstream energy source and an integral part of Canada's diversified electricity mix by 2020. CanSIA also intends for the solar electricity industry to be sustainable, with no direct subsidies, and operating in a supportive and stable policy and regulatory environment within a similar time frame.

This submission was developed by CanSIA's LRP II Forum. The LRP II Forum is a group of CanSIA members with an interest in the Large Renewable Procurement (LRP) who have volunteered their time and resources toward the development of this submission. In general CanSIA supports the draft LRP II RFQ, however, there are important pieces of clarification that are required. These recommended changes and clarifications are detailed below.

CanSIA also wishes to reiterate that the current Engagement Plan has not scheduled consultation on the draft LRP II RFP and LRP II Contract to begin until the conclusion of the LRP II RFQ. CanSIA understands that certain members of the IESO procurement team will be engaged with the evaluation team for the LRP II RFQ and may have limited ability to simultaneously consult on and develop the draft LRP II RFP and LRP II Contract. This period of time (approximately 5-6 months), however, represents a significant opportunity to shorten the overall process and would help to ensure that the LRP II process was concluded with contracts announced by Q4 2017.

## 2. Draft LRP II RFQ

### 2.1 Appendix B (Development Experience)

The IESO has revised the layout of Appendix B in an attempt to clarify the Development Experience requirements for participants. The IESO has also signalled that while the layout of Appendix B has changed, that the Development Experience requirements remain unchanged from the LRP I RFQ. Due to the restructuring of the layout of Appendix B, however, there appears to be a different interpretation taken of the Development Experience requirements for Designated Team Members. The difference between the layouts/interpretations is described below.

#### 2.1.1 LRP I RFQ

In the LRP I RFQ the requirement for Designated Team Members for an RFQ Applicant that was attempting to qualify for Category 3 (>10 MW or 4 or more Large Renewable Projects) was defined as: Evidence demonstrating experience in each of:

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- Planning;
- Developing in Ontario;
- Constructing in North America;
- Financing; and
- Operating;

By at least 4 Designated Team Members in at least 3 Similar Facilities or Comparable Facilities.

This requirement was interpreted to mean that:

- The group of Designated Team Members needed to be at least 4 individuals (2 of which needed to be Designated Employees);
- Across those 4 Designated Team Members (i.e. in aggregate) the group needed to have worked on at least 3 Similar Facilities or Comparable Facilities; and
- Each Designated Team Member only needed to have one type of Development Experience (ex. Planning) but as a group (i.e. in aggregate) all of the types of Development Experience needed to be present.

This interpretation is supported by LRP I RFQ Question and Comment Period postings.

Within the Question and Comment Period for the LRP I RFQ, the following question and answer was posted to the LRP Website on July 28, 2014:

**Q 60:** (First part of question writes out Appendix B and so has been omitted). Does this requirement mean that each Designated Team Member must have experience in at least 3 Similar Facilities or Comparable Facilities or that in aggregate the Designated Team Members must have experience in at least 3 Similar Facilities or Comparable Facilities? If the former, then it would appear that only the names of Designated Team Members that have experience adequate to cover the aggregate number of MW being applied for are relevant.

**OPA Response:** Each Designated Team Member must have Development Experience with at least one Similar Facility or Comparable Facility. In aggregate, the Designated Team Members must have at least the Development Experience listed in Appendix B, meaning, that across all Designated Team Members there must be a certain number of Designated Employees (as specified in Appendix B), and all types of required Development Experience.

Within the Question and Comment Period for the LRP I RFQ, the following question and answer was posted to the LRP Website on August 4, 2014:

**Q 2:** Do Designated Team Members who are Designated Employees need to have experience with three Similar or Comparable Facilities each or may the experience requirement respecting three facilities be satisfied from among other Designated Employees or among other Designated Team Members?

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**OPA Response:** Each Designated Team Member must have experience with at least one Similar Facility or Comparable Facility. In aggregate the Designated Team Members must have Development Experience with at least 1 or 3 Similar Facilities or Comparable Facilities (depending on the aggregate MW of proposed Contract Capacity) in accordance with Appendix B.

### 2.1.2 Draft LRP II RFQ

Within the draft LRP II RFQ the requirement for Designated Team Members for an RFQ Applicant that is attempting to qualify for >10 MW or 4 or more Large Renewable Projects is defined as:

The RFQ Applicant must provide evidence demonstrating that Designated Team Members have experience in each of:

- Planning by at least 4 Designated Team Members in at least 3 Similar Facilities or Comparable Facilities;
- Developing in Ontario by at least 4 Designated Team Members in at least 3 Similar Facilities or Comparable Facilities;
- Constructing in North America by at least 4 Designated Team Members in at least 3 Similar Facilities or Comparable Facilities;
- Financing by at least 4 Designated Team Members in at least 3 Similar Facilities or Comparable Facilities; and
- Operating by at least 4 Designated Team Members in at least 3 Similar Facilities or Comparable Facilities.

This requirement could be interpreted to mean that:

- 4 Designated Team Members must each have Planning experience in at least 3 Similar Facilities or Comparable Facilities;
- 4 Designated Team Members must each have Developing in Ontario experience in at least 3 Similar Facilities or Comparable Facilities;
- 4 Designated Team Members must each have Constructing in North America experience in at least 3 Similar Facilities or Comparable Facilities;
- 4 Designated Team Members must each have Financing experience in at least 3 Similar Facilities or Comparable Facilities; and
- 4 Designated Team Members must each have Operating experience in at least 3 Similar Facilities or Comparable Facilities.

If interpreted in this way, the new Development Experience requirements divert significantly from the previous interpretation as they would require the RFQ Applicant to assemble a much larger team in order to ensure, for example, that they had 4 Designated Team Members with Planning experience in 3

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Similar Facilities or Comparable Facilities whereas under the previous interpretation, they would only need one Designated Team Member that had Planning Experience.

Using the Designated Team Member requirements for an RFQ Applicant attempting to qualify for >10 MW or 4 or more Large Renewable Projects as an example, CanSIA recommends that the IESO clarify Appendix B to specify that:

- Each Designated Team Member need only have experience with one type of Development Experience;
- The Designated Team Members will be evaluated in aggregate to ensure:
  - Across the group of Designated Team Members there are at least 2 Designated Employees;
  - Across the group of Designated Team Members there is at least one Designated Team Member exhibiting each required type of Development Experience (i.e. at least one Designated Team Member with Planning, at least one Designated Team Member with Developing in Ontario etc.); and
  - Across the group of Designated Team Members there are at least 3 Similar Facilities or Comparable Facilities.

In order to help with this clarification, CanSIA recommends the following language:

The RFQ Applicant must provide evidence demonstrating that:

1. The RFQ Applicant Team contains at least 4 Designated Team Members;
2. At least two of the Designated Team Members are Designated Employees;
3. Each Designated Team Member has at least one of the types of Development Experience listed below, and, in aggregate, that the group of Designated Team Members has all of the types of Development Experience listed below.
  - a. Planning;
  - b. Developing in Ontario;
  - c. Financing;
  - d. Constructing in North America;
  - e. Operating;
4. The group of Designated Team Members, in aggregate, has worked on at least 3 Similar Facilities or Comparable Facilities.
  - a. If the RFQ Applicant is demonstrating Designated Team Member Development Experience using only Similar Facilities, the capacity of the Similar Facilities must be, in aggregate, at least 60% of the Contract Capacity the RFQ Applicant is attempting to qualify for of the specific Renewable Fuel; or

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- b. If the RFQ Applicant is demonstrating Designated Team Member Development Experience using either a combination of Similar Facilities and Comparable Facilities, or only Comparable Facilities, the capacity of the facilities must be, in aggregate, at least 200% of the Contract Capacity the RFQ Applicant is attempting to qualify for of the specific Renewable Fuel.

If this language was adopted, the IESO could also remove the 60% and 200% capacity thresholds from the definitions of Similar Facility and Comparable Facility as they would be spelled out within Appendix B more clearly.

### 2.2 Technological Upgrades and Optimizations

The IESO has specified that an RFQ Applicant that is attempting to qualify for a Large Renewable Project that is a technological upgrade or optimization of an Existing Renewable Generation Facility will be required to qualify for the total number of MW of the Existing Renewable Generation Facility plus the technological upgrade or optimization (ex. If the Existing Renewable Generation Facility is 100 MW and the technological upgrade or optimization would add 20 MW, the RFQ Applicant will be required to qualify for 120 MW).

The purpose of the Development Experience and Financial Capability requirements are to ensure that participants have sufficient past experience and access to capital to propose, develop and construct the Large Renewable Projects they submit under the LRP process. In the case of a technological upgrade to or optimization of an Existing Large Renewable Project, the MW associated with the existing project will already be in commercial operation. The RFQ Applicant should not need to evidence their past experience or access to capital for a project they have already completed and brought through to commercial operation. This restriction also limits the amount of MW/Large Renewable Projects that an RFQ Applicant/Qualified Applicant will be able to propose under any potential LRP II RFP by shrinking the number of MW they are able to be qualified for under the LRP I RFQ.

CanSIA recommends that the IESO only require the RFQ Applicant to qualify for the MW associated with the technological upgrade or optimization rather than the MW associated with the already completed, in service, facility.

### 2.3 Prohibited Communications and Non-Collusion Requirements

The IESO has included helpful additional clarity with regards to participating in government/agency engagements and forming partnerships with Indigenous Communities. Per CanSIA's feedback to the IESO's Large Renewable Procurement Feedback Survey, however, participants in the LRP process would benefit from additional clarity with regards to the type of information that can be shared with potential business partners. Questions were raised on multiple occasions with regards to whether exploration of these relationships between parties and the sharing of project specific details (Ex. Location of Site/Connection Line, status of community engagement, project costs and expected return on

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equity/investment) constituted Prohibited Communications. This question remains unclear in the draft LRP II RFQ.

Sharing project specific details is normal and required in order to explore potential partnerships between entities and negotiate in good faith (whether both parties are participants in the LRP process or not).

CanSIA recommends the IESO clarify that project specific information can be shared by RFQ Applicants with potential business partners and that this will not constitute a Prohibited Communication provided they are not communicating for Excluded Purposes. If inclusion in the LRP II RFQ presents difficulties, further clarity could also be provided via a final Frequently Asked Questions (FAQ) document released with the final LRP II RFQ.

### 2.4 Confidentiality

The IESO has modified Section 2.8 to specify that the RFQ Applicant is not permitted to share their Qualification Submission with anyone other than the RFQ Applicant Team.

Many companies that were Qualified Applicants under the LRP I RFQ, and will act as RFQ Applicants under the LRP II RFQ, are owned/controlled by other parent companies. In order to proceed with their submission of the Qualification Submission, these companies are required to share and seek approval of the Qualification Submission by their parent companies.

CanSIA recommends that the IESO specify that the RFQ Applicants are also permitted to share their Qualification Submissions with Control Group Members in order to permit these normal approval processes.

### 2.5 Question and Comment Period

On the July 12, 2016 LRP II webinar the IESO identified that the Question and Comment Period would end before the Deadline for Issuing Addenda.

There may be instances where the IESO makes significant changes to the LRP II RFQ at the Deadline for Issuing Addenda which may require further clarification for potential RFQ Applicants to ensure changes are well understood and incorporated into their Qualification Submissions.

CanSIA recommends that the IESO incorporate a “tentative/potential” further Question and Comment Period posting in order to address questions that arise from any significant changes to the LRP II RFQ that are made at the Deadline for Issuing Addenda.

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### 2.6 Minor Clarifications and Corrections

#### 2.6.1 Section 2.5.1.1(d)

This section specifies that Prescribed Forms and Templates will be issued as PDFs and Microsoft Excel worksheets. This section should be revised to specify that some Prescribed Forms will be issued as fillable Microsoft Word documents.

#### 2.6.2 Definition of Renewable Generation Facility vs Existing Renewable Generation Facility vs Large Renewable Project in the context of a technological upgrade or optimization

The definition of a Renewable Generation Facility specifies that the facility must be connected through its own meter. However, a Large Renewable Project that is a technological upgrade to an Existing Renewable Generation Facility would likely connect through the meter of the existing facility (i.e. not have its own meter). These definitions should be harmonized to ensure that a Large Renewable Project that is a technological upgrade to or optimization of an Existing Renewable Generation Facility is not required to have its own meter.

#### 2.6.3 Definition of Tangible Net Worth

Within the new definition of Tangible Net Worth the IESO has included the term “prepaid benefit costs”. As this is not a term within GAAP, CanSIA recommends that the IESO issue a clarification to clarify the IESO’s accepted definition of this term.

## 3. Prescribed Forms/Templates

### 3.1 Prescribed Template – Commitment Letter

#### 3.1.1 Instructions Page

CanSIA recommends reviewing use of the word “Qualification” which appears misspelled as “Qualificaiton” multiple times.

#### 3.1.2 Declaration 3

This section requires the Designated Equity Provider to have reviewed the Qualification Submission in advance of signing the Prescribed Template. Requiring the Designated Equity Provider to review the Qualification Submission in advance of signing the Prescribed Template can prove difficult given the time required to complete the Qualification Submission and the process required to execute a commitment (in principle) from the Designated Equity Provider.

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This issue is exacerbated if a Designated Equity Provider is a parent company (or any other entity) located in another country. Additionally, the Designated Equity Provider should be permitted to put in place any requirements or checks and balances that they deems sufficient for them to sign the Prescribed Template, which may include reviewing the Qualification Submission at a later date, or not at all.

CanSIA recommends the IESO revise Section 3 of the Prescribed Template – Commitment Letter to modify the requirement for the Designated Equity Provider from “has reviewed” the Qualification Submission to, “will review” the Qualification Submission.

### 3.1.3 Instruction 10

CanSIA recommends reviewing this instruction as the reference to Exhibit A appears to be in error (should be Exhibit B).

### 3.1.4 Modifications to the Prescribed Template

There appears to be a discrepancy between the wording of the Prescribed Template, which specifies that modifications cannot be made to the Prescribed Template, and the draft LRP II RFQ which says that the Prescribed Template represents the minimum requirements for a Commitment Letter.

CanSIA recommends the IESO specify clearly whether RFQ Applicants/Designated Equity Providers are permitted to add additional text (not contemplated by the existing template) to the Prescribed Template – Commitment Letter.

## 3.2 Prescribed Form – RFQ Applicant Declarations for the Simplified Process

### 3.2.1 Defined Terms

Certain defined terms (ex. Declaration 13 - Designated Team Member), when they are in reference to the LRP I RFQ, are not capitalized. When they are in reference to the LRP II RFQ those same terms are capitalized.

CanSIA recommends the IESO review this Prescribed Form to ensure accuracy in the use of defined terms.

### 3.2.2 Declaration 19

This declaration requires the declarant (likely a CEO or other senior manager) to declare that they have read all Addenda, questions, answers/comments and FAQs posted on the LRP Website in relation to the LRP II RFQ. The declarant for this form would normally rely on staff to read



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these types of materials and to inform senior management if required – they would not normally read these types of materials themselves.

CanSIA recommends either removing this declaration and maintaining an indemnification for the IESO in the LRP II RFQ (that is the RFQ Applicants responsibility to read Addenda, Q/As and FAQs), or, modifying this declaration to specify that the declarant has either read, or been informed by staff of, these materials.

### 3.3 Prescribed Form – RFQ Applicant Declarations for the Standard Process

#### 3.3.1 Declaration 18

This declaration requires the declarant (likely a CEO or other senior manager) to declare that they have read all Addenda, questions, answers/comments and FAQs posted on the LRP Website in relation to the LRP II RFQ. The declarant for this form would normally rely on staff to read these types of materials and to inform senior management if required – they would not normally read these types of materials themselves.

CanSIA recommends either removing this declaration and maintaining an indemnification for the IESO in the LRP II RFQ (that is the RFQ Applicants responsibility to read Addenda, Q/As and FAQs), or, modifying this declaration to specify that the declarant has either read, or been informed by staff of, these materials.

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Thank you for the opportunity to comment on the draft LRP II RFQ. CanSIA staff are available to answer any questions with regards to this submission at your convenience.

Sincerely,



Ben Weir  
Director of Policy and Regulatory Affairs  
Canadian Solar Industries Association

CC: John Gorman, President & CEO, Canadian Solar Industries Association  
Wes Johnston, Vice President, Canadian Solar Industries Association