



Land Procedure Allocation Procedures – Expressions of Interest

NAME OF LAND PROCEDURE: Allocation Procedures – Expression of Interest

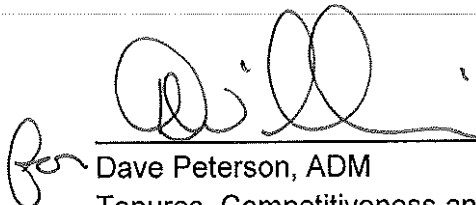
APPLICATION: Applies to Expressions of Interest which may lead to decisions concerning the disposition of Crown land.

ISSUANCE: Assistant Deputy Minister, Tenures, Competitiveness and Innovation

IMPLEMENTATION: Ministry of Forests, Lands and Natural Resource Operations

REFERENCES: *Land Act (Ch. 245, R.S.B.C, 1996)*
Ministry of Lands, Parks and Housing Act (Ch.307, R.S.B.C, 1996)

RELATIONSHIP TO PREVIOUS LAND PROCEDURE: New Procedure in 2013


for Dave Peterson, ADM
Tenures, Competitiveness and Innovation
Ministry of Forests, Lands and Natural Resource Operations

May 1, 2013
Date

EFFECTIVE DATE: May 1, 2013
AMENDMENT:

FILE: 11480-00/EOI

APPROVED AMENDMENTS:		

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1. PURPOSE

A competitive process may be used where the Authorizing Agency has identified and developed a natural-resource use opportunity. This procedure provides guidance on the competitive process of expressions of interest (EOI).

A competitive process may be used to fairly and equitably dispose of Crown land by Crown Grant or by tenure agreement. Competitive processes are used to obtain the broadest market exposure and to attract proponents able to meet the strategic goals of the government.

An EOI may be used by the Authorizing Agency to solicit interest for the potential use, development and acquisition of Crown land for a particular purpose where it is anticipated there may be more than one interested party. Through the EOI process, a proponent may be chosen for negotiations regarding the terms of future agreements and/or disposition of Crown land.

At the discretion of the Authorizing Agency the purpose of the land may be predetermined or it may be determined based on the results of the EOI process.

This procedure complies with the *Ministry of Lands, Parks and Housing Act* and *Land Act* and aligns with the Crown Land Allocation Principles and the Crown Land Sales Policy all providing strategic guidance for the allocation of Crown land.

2. DEFINITIONS

ADM means the Assistant Deputy Minister (ADM), or other employees with appropriate delegated authority, and who are responsible for the administration of the Crown land or land use program that is the subject of the EOI.

Authorizing Agency means the provincial ministry(s) responsible for the administration of land use programs that support the *Ministry of Lands, Parks and Housing Act* and the *Land Act*.

Expression of Interest means a process to solicit interest for the potential use, development and acquisition of Crown land for a particular purpose where it is anticipated by the Authorizing Agency that there may be more than one party. At the discretion of the Authorizing Agency the purpose of the land may be predetermined, or it may be determined based on the results of the EOI process.

Letter of Agreement means an agreement between the Authorizing Agency and the successful proponent, as selected as a result of the EOI Process, that identifies the agreed upon terms and conditions for the use, development and acquisition of the Crown land.

3. PROCEDURE

3.1 Proponent Eligibility and Other Criteria

The Authorizing Agency will define criteria prior to issuing a call for Expressions of Interest (EOI). The criteria that will establish proponent eligibility for participation in the EOI should be based on such factors as the intended land use, broad provincial objectives, business sector strategies, government direction, or other factors as determined by the ADM or other senior official.

Criteria may include mandatory criteria that a proponent must meet in order to be considered, as well as non-mandatory criteria and information that may also be considered in evaluating an EOI. For example, a mandatory criteria may be established that require a participant to include a deposit, whether refundable or non-refundable, as a condition of an EOI package.

The Authorizing Agency must ensure criteria are clearly identified in the EOI documentation so as to be available to any interested party.

3.2 Preparation Activities and the Information Package

The Authorizing Agency is responsible for the preparation of the EOI package. This includes many factors, such as:

- Completion of land status reports and identification of existing interests and for preparing an evaluation about how those interests may be affected.
- Consideration of Aboriginal Interests following approved provincial procedures.
- Completion of land surveys and appraisals, as required.
- Finalizing listing activities (e.g. posting on BC Bid or MLS).
- Establishing the media format(s) for advertising and the length of time for advertising.
- Establishing the length of time for eligible proponents to prepare and submit an EOI.
 - The time period may be affected by the number of known, interested parties, the complexity of known issues, any limitations or restrictions imposed on eligibility or other matters predetermined to be necessary to fulfill the province's goals.
- Determining how the Authoring Agency will respond to the EOI call (e.g. what actions will occur if no Expressions are received or when they do not meet certain, non-mandatory criteria).
- Determination of the future negotiation processes related to financial considerations such as deposits and expectations for payment upon successful conclusion of negotiations.

- Financial matters will be developed in accordance with current policies and with advice and approval from the Authorizing Agency’s Senior Finance Officer and Executive.

The information package will be available to all interested parties and will include relevant details about the application and evaluation process. Details should include but are not limited to:

- the eligibility criteria,
- the EOI submission process including the deadline for submission and the location at which submissions must be received,
- the acceptable format for submission,
- any specific requirements of the Crown with regard to development,
- survey data,
- current encumbrances and,
- the necessary financial factors an interested party requires in order to prepare an informed proposal.

Disclosure of information about persons, commercial or industrial entities or others having an interest in Crown land be done in accordance with the *Freedom of Information and Protection of Privacy Act* or other legislation or regulation related to the release of government information.

3.3 Advertising and Deadline for Receiving Expressions of Interest

The Authorizing Agency may determine the number of media formats and the breadth of markets into which the advertising will enter, as long as one of the formats includes posting a request for an Expression of Interest on *BC Bid*.

The EOI Information Package and advertisement will clearly identify the deadline, location, and format for receiving the EOIs. The length of time for advertising and the length of time for eligible proponents to respond will be determined in advance and conveyed to proponents as part of the Information Package and in any advertisement. A minimum of two weeks should be provided for submission of an EOI application unless otherwise determined by the Authorizing Agency Executive. EOIs received after the deadline will be disqualified.

The Authorizing Agency must communicate any obligations or limitations to proceed in circumstances when no proposals are received or when proposals do not meet certain, specified criteria. (e.g., the Authorizing Agency determines it may terminate the process and/or re-advertise using different criteria). Information packages and advertisements must include statements to the effect that “The highest price might not be accepted” and, “The Authorizing Agency reserves the right to reject any EOI if deemed not satisfactory”.

The Authorizing Agency will evaluate all qualified expressions received to make a determination if there is a preferred proponent and the eligible proponents should be informed about any decisions of the Authorizing Agency with respect to this point of the EOI process.

3.4 Evaluation of Expressions of Interest

The Authorizing Agency will predetermine the process for evaluation of EOIs in advance of the call. The authorizing agency should consider the following factors when developing the evaluation criteria:

- any mandatory criteria used to determine applicant eligibility;
- any mandatory development proposal criteria to evaluate EOI applications;
- any additional information, clearly identified in the Information package, that may be used during the evaluation process.

Expressions of Interest that do not meet the mandatory criteria should not be considered.

Following the EOI evaluation, the Authorizing Agency may choose to do one or combination of the following:

- 1) engage with proponents that met the mandatory criteria in order to obtain additional information to inform a decision for choosing a preferred proponent or;
- 2) establish a subsequent competitive process between proponents meeting the mandatory criteria or;
- 3) terminate the EOI process or,
- 4) pursue another action as determined by the ADM or;
- 5) selection of a preferred proponent.

The EOI process is officially, closed after all expressions have been evaluated and a preferred proponent has been chosen.

All eligible proponents should be informed in writing that the process is closed and about any decisions of the Authorizing Agency with respect to future actions related to the EOI process.

In the event the Authorizing Agency and a preferred proponent are unable to reach mutually agreeable terms, the agency may seek to negotiate with any interested party.

3.5 Letter of Agreement

The Authorizing Agency may enter into a Letter of Agreement with the preferred proponent. The letter will contain terms and conditions concerning further actions by the parties as deemed appropriate by the ADM or delegated employees having the appropriate authority. The Letter of Agreement may contain information about the

process and conditions to be met leading to a disposition of Crown land for the use by the proponent to development as contemplated by the EOI.

Prior to completion of the Letter of Agreement, an Interim Agreement may be developed to commit the parties to matters related to without prejudice negotiation, confidentiality, exclusivity and transparency until a process and timeline for future Crown land sale or lease could be arranged. The agreement should provide 'off-ramps' for the parties should the plans change.

3.6 First Nations

The Authorizing Agency is responsible for ensuring the province's obligations to First Nations are met in undertaking an EOI and in any subsequent disposition of Crown land. The Authorizing Agency may conduct all aspects of consultations with First Nations or may delegate certain procedural components to the proponent in accordance with provincial guidelines and policies.