

Price Guarantees Beyond 30 Days - Industry Feedback

These info-sheets are produced by Saskatchewan's construction industry to provide information to all parts of the construction supply chain. Each info-sheet focuses on one particular contract clause that is often seen as problematic and challenging. This info-sheet is intended to encourage discussion between all parties to construction contracts and to support the implementation of best practices wherever possible.

Example Clause:

Bids shall remain open to acceptance and shall be irrevocable for a period of sixty (60) days after the bid closing date.

What the clause is intended to do:

Owners seek to provide themselves time to properly evaluate bids and want flexibility in case additional time is needed. The clause transfers the risk of any material or equipment price increases during this extended award period to the contractor.

Why the clause is problematic for industry:

- Asking contractors to hold prices beyond a reasonable bid closing period (30 days) causes issues across the construction supply chain. Uncertainty in the supply chain and cost certainty for raw materials can swing with longer award periods. This is particularly true in a time when global supply chains are volatile.
- Contractors will need to price this risk in, driving increased project costs.
- Decisions regarding concurrent bidding means contractors are assuming greater risk than beyond the individual contract. Delays cause contractors to be uncertain about their ability to deliver.
- Extended award periods impact planning and bidding for concurrent work due to professional resource commitments (i.e. project managers).

Better option for the owner:

- Contractors should not be obligated to hold bid pricing beyond 30 days.
- If a longer-period of time may be required by the owner, contract price negotiations based on cost escalations should be permitted. Cost escalation might be a scary word, but some consideration should be given to the increased costs being faced by contractors. This will allow contractors to provide the lowest possible cost at the time of the bid rather than pricing in the risk of cost increases as mentioned above.
- As early as possible, provide the bid rankings during analysis or narrow the list of contractors down to the top three, so contractors can better assess the likelihood of success.
- Allow contractors to provide alternative price on bid forms for shorter award periods.



What Industry can do:

As a contractor, when you face a clause requiring you to hold pricing beyond 30 days, you should consider a few mitigation strategies, including:

- Identifying problematic deliverables (i.e. steel) and flag them for owners;
- Allocating risk appropriately along the supply chain;
- Managing expectations for trade closing dates (i.e. trade pricing that expires in 14 days, but the owner is requiring 30-day closing); and/or
- Submitting a request for information (RFI) to the owner/consultant requesting a shortened award period and identify the why. This document can be attached to the RFI as support for a shortened award period.

For more information about this issue, or any issue related to procurement and contracts within Saskatchewan's construction industry, please reach out to the Saskatchewan Construction Association at 306-525-0171 or sca@scaonline.ca.

Prepared by the Saskatchewan Industry Advisory Council, a committee of the Saskatchewan Construction Association, representing 19 industry and trade associations in the province, as a guideline of recommended industry practice.