



February 25, 2021

Attention: Kim Kieley, P. Eng., FEC, Director, Municipal Infrastructure

**RE: Request for Supplier Qualifications for Municipal Infrastructure Project Prequalification No. MI2760 issued January 8, 2021.**

As you are aware, several of our member firms have individually submitted questions and concerns regarding the above referenced RFSQ. We believe it is of mutual benefit to our industry and the Department of Municipal Infrastructure (Department) to use a short list for a limited call for bids as this will save the industry and the Department time and money in not having to prepare and evaluate lengthy proposal documents. However, as an industry we would be remiss if we did not mention some of our concerns related to the pre-qualification process, some of which we know have been experienced in other jurisdictions.

We are aware of instances in other provincial jurisdictions, through our Provincial and National counterparts, where governments did not actually determine if firms were qualified for each category. The qualification process was treated essentially as a checklist; if a firm indicated that they were qualified for a certain category of work, they were simply included in that category. As a result, firms were sometimes engaged to do work they were not qualified to do and the department ended up receiving unsatisfactory work. We trust that the qualification process will be thorough, transparent, and fair.

Our larger concern is that, as has been the trend of late, this process will result in a scenario where many firms are considered “equally” qualified and contracts will be awarded based primarily on the lowest proposal price. We contend however that if highest price cannot be considered fair market value, neither can the lowest price. As such, we earnestly encourage the Department to consider using a median based fee proposal process similar to that used in Nova Scotia. The Nova Scotia *Procurement Process: Architects & Professional Engineering Services* indicates that:

*The procedures described here are designed to be consistent with and promote the concept of best value accruing to the Province in the context of the overall project for which services are required. The Province recognizes that certain professional services, such as design services, may have a significant influence on a project’s subsequent construction, maintenance and operations costs. The extent of this influence is often disproportionate to the direct price of the professional services procured. Accordingly, these procurement procedures are designed to encourage the use of Qualifications-Based-Selection (QBS) concepts while at the same time preserving the important role of price competition.*

*The Province recognizes that the effort associated with preparing procurement documentation can be significant for all parties involved. These procedures are intended to promote quality and efficiency while at the same time minimizing the cost and effort associated with responding to government requirements.*



While no system is “perfect”, we believe that median based pricing challenges consultants to thoroughly understand the scope of the work and develop a fee proposal that is right for that scope of work. Awarding maximum points to the lowest price, forces consultants to ‘race to the bottom’ to secure work. Doing so requires that a “bare minimum” level of service is provided or, as is more often the case, Consultants must expend considerably more effort than for what they are compensated. While this may result in some short-term savings for government it certainly does not represent the best value.

Basing awards on the lowest price also favours consultants with minimal overhead. Again, in other provincial jurisdictions, this has translated to 1 or 2 person firms, primarily individuals working out of their homes, receiving the majority of the work, preventing fair competition among firms. While these individuals are qualified, they have in most cases, acquired solid experience through employment at other larger firms or through the public sector. The Consulting engineering industry, however, is founded on knowledge and experience being passed down from experienced engineers to junior personnel, ensuring continuity and advancement of the profession. If work is continuously awarded to individuals or very small firms because they have the advantage of being able to provide the lowest price, the sustainability of our industry is weakened as the wealth of experience and knowledge acquired by these professionals is lost once they retire or leave the profession.

A procurement method that encourages the fairest price, rather than the lowest price fosters economic development by ensuring every capable Newfoundland & Labrador supplier has the opportunity to do business with Government.

We believe the Department has a positive intent to reduce the “red-tape” through this RFSQ process, and as indicated above we believe it is of mutual benefit to our industry and the Department to use a short list for a limited call for bids as this will save the industry and the Department time and money in not having to prepare and evaluate lengthy proposal documents. We do not wish to delay the RFSQ process and it is also not our intent to imply that the scenarios that have been realized in other jurisdictions will indeed be realized here. Our intent in writing is two-fold:

- To bring awareness to the types of issues that can arise, and indeed have been experienced elsewhere, as well as the associated challenges that these issues present for our industry.
- To encourage the Department to consider the median based fee process as a part of their overall procurement policy as we believe it is of mutual benefit to the industry and to the Province of Newfoundland & Labrador.

We thank you for your time and attention to this matter. We are available at your convenience should you wish to further discuss.

Sincerely,

Christy Cunningham, P.Geo., Executive Director



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