

Procurement Policy
Professional Services

Municipal Infrastructure and Waste Management Division
Department of Municipal Affairs and Environment

November 2019

Subject: Consultant Procurement Policy for Infrastructure Projects Funded by the Department of Municipal Affairs and Environment (MAE).

Effective: November 2019

1.0 Policy Statement

- 1) If the professional service fee estimate included in the infrastructure application for funding is \$100,000 before HST is added or greater, then a public Request For Proposal (RFP) process in accordance with the Public Procurement Act is required in all cases.
- 2) If the professional service fee estimate included in the application for funding is less than 100,000 before HST is added, then an open call for bids is not required. If the Ultimate Recipient (UR) does not use an open call to procure the services, the UR may proceed with a Limited Call for Bids as per the following requirements, or engagement of professional services based on Fair and Reasonable as defined below:
 - a) Limited Call for Bids
 - i) Detailed scope of work must be developed and invitations sent to a minimum of five potential proponents selected by MAE and the UR;
 - ii) The proposal from these proponents must contain at a minimum:
 - (1) The total fee for the defined scope of work
 - (2) Hourly rates to be used for additional work or change orders
 - (3) Confirmation of ability to complete the work in the timelines identified in the request
 - iii) The Ultimate Recipient and MAE will review the submitted proposals and select a preferred proponent;
 - iv) The Ultimate Recipient will issue a letter to the preferred proponent requesting the preparation of a Prime Consultant Agreement (PCA) based on the scope of work provided in the invitation and the submitted proposal;
 - v) MAE will review the PCA and provide approval for the UR to enter into the agreement for professional services.
 - b) Fair and Reasonable
 - i) "Fair and Reasonable" must be substantiated by:
 - (1) Recent tender results of similar work in the similar geographical region or
 - (2) Fees of recent work completed of a similar nature in the general region; or
 - (3) Trade Catalogue "NLAA & ACECNL Guidelines and Recommended Minimum Fees for Architectural and Engineering Projects", latest edition.
 - ii) The Ultimate Recipient must submit an outline of the project Scope of Work to the MAE regional engineer for consideration prior to soliciting a fee proposal from an engineering/architectural firm.

- iii) The UR will identify the firm which they wish to engage for engineering/architectural services. The firm must be in good standing with Province of Newfoundland and Labrador licensing body, as appropriate.
 - iv) The UR will request a fee proposal indicating at a minimum:
 - (1) The total fee for the defined scope of work
 - (2) Hourly rates to be used for additional work or change orders
 - (3) Confirmation of ability to complete the work in the timelines identified in the request
 - v) The UR and MAE will review the submitted proposal and determine if it meets the “Fair and Reasonable” test as identified in this policy.
 - vi) The UR will issue a letter to the successful proponent requesting the preparation of a Prime Consultant Agreement (PCA) based on the detailed scope of work provided in the invitation.
 - vii) MAE will review the PCA and provide approval for the UR to enter into the agreement for professional services.
- 3) If, in the opinion of the Director of Municipal Infrastructure and Waste Management, it is in the best interest of MAE and the Ultimate Recipient to issue an open call RFP for any project where the estimated fee of professional services is less than \$100,000 before HST, a directive will be issued to the Ultimate Recipient to use an open call RFP.

2.0 Purpose

The objective of this policy is to create clear, consistent guidelines in accordance with the Public Procurement Act regarding the procurement for professional services related to infrastructure projects funded by MAE.

3.0 Definitions

For the purposes of this policy, the following definitions apply:

“Limited call for bids” means an invitation to specific proponents to submit a proposal.

“Owner” means the Ultimate Recipient procuring the services.

“Proponent” is an individual or firm registered with the Professional Engineers and Geoscientists Newfoundland and Labrador or Architects Licensing Board of Newfoundland and Labrador who puts forward a consultant proposal to the ultimate recipient for consideration.

“Prime Consultant Agreement” is an agreement prepared by the selected professional or engineering/architect firm for the infrastructure project.

“Ultimate recipient” means an entity that is eligible to receive municipal infrastructure funding (i.e. municipality, local service district, etc.).

4.0 Application

This policy applies to all Ultimate Recipients receiving funding from Municipal Affairs and Environment (MAE) for infrastructure projects. For Non Municipal Ultimate Recipients, where the Public Procurement Act does not apply, a request may be made to MAE to deviate from this policy from the department, Minister approval or delegate is required.

5.0 Accountability

The Director of Municipal Infrastructure and Waste Management will ensure compliance with this policy. All applications will be assessed by the Director and/or applicable Divisional staff to ensure requirements are met. This policy will ensure the fair and transparent engagement of professional services related to publically funded projects.

6.0 References

The policy complies with the requirements of the *Public Procurement Act* and associated *Regulations and Policies*.



Dan Michielsen

Assistant Deputy Minister – Infrastructure and Support



Date

Frequently Asked Questions

Q1. How does a consultant firm get included on a limited call list of proponents?

A1. The consultant firms are responsible for building their professional relationships with the ultimate recipients. The ultimate recipient can add such firms to this list of proponents.

Q2. If a consultant has been the engineer for the ultimate recipient for the last 20 years and has provided good service, can an ultimate recipient assign the work to them?

A2. No. However, if the estimated fee included in the application for funding is less than \$100,000 before HST, as per the policy, the ultimate recipient may include the consultant in the list of proponents for consideration in a limited call, or engage them based on the Fair and Reasonable criteria.

Q3. How does an ultimate recipient engage a consultant to evaluate and prepare an application for municipal infrastructure funding?

A3. The procurement of these services is required to be in accordance with the *Public Procurement Act* and associated *Regulations*. Likely this fee will be less than \$100,000, therefore the Limited Call or Fair and Reasonable methods could be used.

Q4. Where can templates be obtained for the limited call procurement process?

A4. The MAE regional engineering team can provide templates and guidance on the development of scope of work if necessary. Please contact the Regional Engineer responsible for your area.