

## A Synopsis

# New West Partnership Trade Agreement (NWPTA)

November 2009

*It should be noted that the mobility of professionals and their credentials across borders is the responsibility of the regulatory bodies of APEGGA, APEGBC and APEGS and as such is not addressed in this document. The purpose of this synopsis will focus on the procurement of professional services.*

### What NWPTA IS



The basis of NWPTA is to break down provincial barriers which may impede the flow of labour, capital and commerce between Alberta and British Columbia. The provisions of NWPTA that govern the procurement of engineering services by government entities, including municipalities, municipal districts, crown corporations and government itself, came into effect April 1, 2009 (AB & BC) and July 1, 2010 (SK).

Architectural and engineering consultant services require open and non-discriminatory access to procurements where the value is:

- ⇒ \$10,000 (Provincial) / \$75,000 (MASH) or greater for goods
- ⇒ \$75,000 or greater for services
- ⇒ \$100,000 (Provincial) / \$200,000 (MASH) or greater for construction

Exceptions:

- Where an unforeseeable situation of urgency exists and the goods, services and constructions could not be obtained in time by means of open procurement procedures.
- Where it can be demonstrated that only one supplier is able to meet the requirements of a procurement.
- In the absence of interest in response to a called for proposal.
- Aboriginal groups are exempt from NWPTA.
- The NWPTA includes a general exception (1b) for "water, and services and investments pertaining to water". Water is defined in the Agreement as "surface and ground water in liquid, gaseous, or solid state, but does not include water packaged in containers with a capacity of 20 litres or less". Water treatment plants, fishway or constructed wetland would be covered by the exception.

### What NWPTA is NOT

#### Lowest Price

The public interest commands that experience, competence and quality of work must take precedence when choosing a consultant for a project. Choosing a qualified consultant will ensure the life-cycle benefit/cost ratio is optimized.

#### Geographic location

Preference cannot be given based on geographic location, however, clients are able to specify that no or limited travel costs will be allowable expenses to be reimbursed under the resulting contracts.



## Pre-Qualification and Short-Listing Process

The pre-qualification package is used for the purposes of short-listing consulting firms to be invited for project specific requests for proposals. A pre-qualification request should provide enough information about the project so that professional consultants can determine their level of ability and interest in the project and should include what short-listing criteria will be used to select the optimal (usually three) number of consultants to the Request for proposal (RFP) stage. The package should request:

- APEGGA Permit to Practice number
- Corporate information and resources
- Years of experience requirement for both corporate and staff experience in delivering projects
- Certificate of Recognition (COR) or provincial equivalent (eg. Corporate safety manual)
- Previous relevant experience and References
- Past Performance
- Technical Competence
- Prime Consultant and sub-consultant team makeup

Once these packages have been received, invite three consultants to the RFP stage and request the following additional information:

- Work Methodology
- Team
- Fees
- Schedule
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This allows consultants to expand upon their qualifications and experience in a more project specific way.

The same method can be used to invite three consultants to the RFP stage for a multi-year Standing Offer Agreement.

## The Request for Proposal (RFP) Format

The RFP normally has two components: the **Terms of Reference** (TOR) which outline the technical scope of the projects; and, the **Commercial Terms** which specify the content of the proposal submission and the consultant selection procedure. The extent to which all points should be included will depend upon a number of factors, including the magnitude and technical complexity of the project.

### Key Components of the Terms of Reference

- ⇒ Project description and objectives
- ⇒ Project history and relevant background information
- ⇒ Special or unusual project issues
- ⇒ Currently available technical information, such as previous reports, mapping, legal surveys, geotechnical information and monitoring data
- ⇒ Proposed scope of consulting services
- ⇒ Project deliverables such as inspections, technical reports, computer analyses, construction drawings and contract documents
- ⇒ Special or non-engineering project needs such as land acquisition, public hearings, environmental reports, permits, tariff evaluations
- ⇒ Client requirements for project management and reporting in addition to the purely technical components of the assignment
- ⇒ Expected project schedule
- ⇒ Anticipated level of participation by the owner of the project

### Key Components of the Commercial Terms

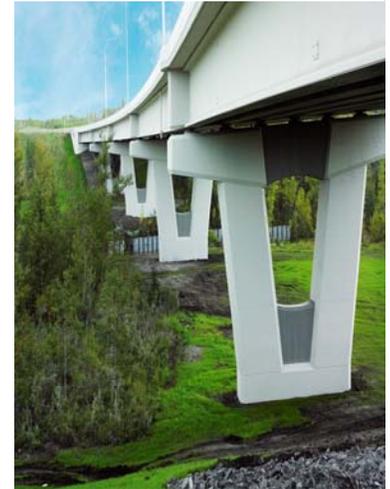
- ⇒ Outline of the consultant selection process and schedule
- ⇒ Identification of proposal evaluation/weighting criteria
- ⇒ Due date and time for submissions, with full address of recipient
- ⇒ Process for handling queries during the proposal process including the name of a contact
- ⇒ Details of any proposed briefing meetings and/or site inspections
- ⇒ Number of consultants invited, where possible, company names
- ⇒ Proposal format, i.e. letter form and bound document and/or electronic submissions, number of copies
- ⇒ Required proposal content such as sections addressing:
 

<ul style="list-style-type: none"> <li>• <i>Project understanding</i></li> <li>• <i>Work plan / methodology</i></li> <li>• <i>Corporate structure and history</i></li> <li>• <i>References</i></li> <li>• <i>Project staffing plans</i></li> <li>• <i>Staff resumes</i></li> </ul>	<ul style="list-style-type: none"> <li>• <i>Related experience of key project staff</i></li> <li>• <i>Details of manpower allocation</i></li> <li>• <i>Proposed schedule</i></li> <li>• <i>Budget</i></li> <li>• <i>Fee basis</i></li> </ul>
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## Proposal Evaluation Criteria for the Selection of Professional Consultants

A number of different criteria have been developed that will allow a Client to select a professional consultant from their proposals based on their experience and past performance rather than just price. The Terms of Reference included in the Request for Proposals should always include the weighting for each of the criteria. Proposals should be evaluated, scored and weighted in accordance with these criteria and weighted as specified in the Terms of Reference.

- a. Consultant Experience and Past Performance
  - Referenced projects are similar to RFP project
  - Budget and schedule targets are met
  - High level of client satisfaction
  - Demonstrated quality of deliverables
  - Responsiveness to project related requests
- b. Prime Consultant and Sub-consultant Team
  - Sufficient staff resources to complete project
  - Education, experience and track record of prime consultant
  - Education, experience and track record of other key personnel on the team
- c. Project comprehension
  - Quality of analysis and demonstrated understanding of project
  - Identification of special needs or considerations
- d. Project Management and Work Methodology
  - Design philosophy matches project requirements
  - Clear description of priorities, sequences, team coordination, project organization
  - Project management approach, including quality management is clearly described for services and deliverables
  - Proposed work methodology reflects current, state-of-the-art technology and professional practice
- e. Innovation
  - Provides rationale for innovation (e.g. gaps in current practice, special needs of project)
  - Outlines new or improved methods to address identified special project needs



### Why QBS?

The success of any project often depends upon obtaining the most capable, experienced and reputable engineering expertise available. Selecting a consulting engineer is, therefore, one of the most important decision an owner makes.

Engineers provide

- Technical expertise
- Innovation
- Latest technology
- High degree of professional competence.

When you are purchasing professional services you are buying intellectual property . . . not a commodity.



“It is unwise to pay too much, but it is worse to pay too little. When you pay too little, you sometimes lose everything because the thing you bought was incapable of doing the thing you bought it to do.”

John Ruskin  
(1819-1900)

Author & Scientist, Oxford  
University

## Decision Making and Investment Planning

In order to eliminate the effort and costs required to assemble and review many proposals, CEA is recommending public sector clients use a Qualifications Based Competition and Selection Process (QBS) to allow them to short-list professional consultants and get full proposals from a select number of consultants. Establishing a pre-qualification and short-listing process has been endorsed as an acceptable practice under NWPTA.

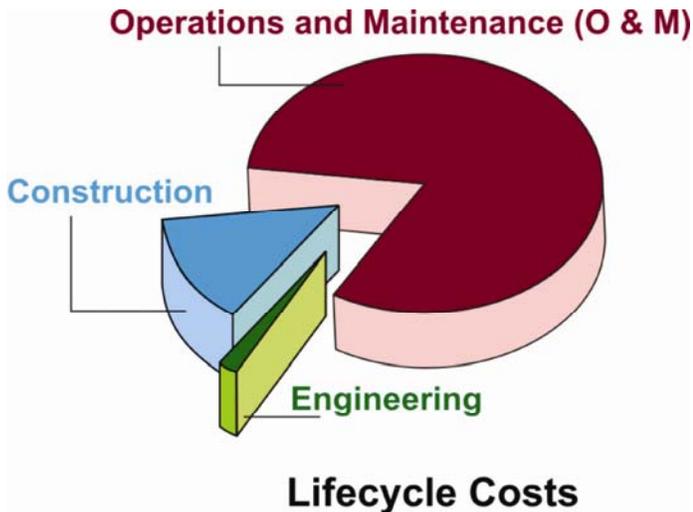
The Brooks Act in the US has governed the Federal procurement of design services since 1972. It sets forth a QBS process requiring architectural and engineering firms to compete for government contracts on the basis of experience and technical expertise, rather simply on cost.

The Province of Quebec has just recently legislated QBS be used on all provincial government projects.

As a means of providing guidance to government agencies in selecting professional consultants, a Best Practice for consultant selection was published in June 2006 through InfraGuide®. The FCM, Infrastructure Canada, the National Research Council and the Canadian Public Works Association collaborated to produce this Best Practice entitled, "Selecting a Professional Consultant." The Best practice promotes the principles of qualifications-based selection including innovation, fairness and sustainability.



## Engineering = Investment



*Studies have shown that engineering typically represents 1.5% of the total cost of a project, while construction costs represent 16.5% of the total cost, and operations are 82% of the total cost. By hiring a consulting engineer at the beginning of the project, good design can cut 10-15% of construction costs - and more in life cycle costs. It is through engineering services that a client has the best opportunity to manage and potentially reduce the remaining 98.5% of the project's life cycle costs.*



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## Why QBS?

- Life Cycle Cost Considerations
- Technology / Innovation
- Reduced Scope Changes
- Team Building
- Competition Among Best Performers; Not Low Bidders

## FAQ

What happens if the Owner and the Consultant cannot agree on the fee for services?

- *The Owner terminates negotiations with the first ranked firm and begins negotiation with the second ranked firm. The Owner is always in control of the process. This happens only rarely, since the consultant has invested significant resources to arrive at this point.*

Why not ask for prices from three qualified firms?

- *Each firm will offer a price based on its own interpretation of the scope and not necessarily that of the owner. Each price, therefore, represents a unique and unilateral scope.*
- *Since most equally qualified firms have similar labour cost, overhead and profit structure, they will cut scope first to be price competitive.*
- *When the Owner write the scope without the Consultant's input, he is exposed to a greater risk of change orders.*

Does QBS encourage competition?

- *Absolutely. The Consultant will make a serious investment in the preparation of qualifications packages and the interview process at minimal expense to the Owner. This investment will also ensure the Consultant — Owner negotiations are successful.*

Does QBS result in high Engineering Consultant fees?

- *Not when you consider the final project costs. A study in Maryland, US between 1976 and 1982 showed that fee bidding or two envelope bidding (technical and price proposals) may offer a lower initial price but the "savings" are lost in change orders and time delays.*
- *When multiple prices are on the table, the Owner is not in control; the price is.*

How does the Owner know he is getting fair price in the negotiation?

- *A/E's typically get about 85% of their business from repeat clients. Client satisfaction ranks second only to the A/E's public safety professional responsibility. A reputation of inflated fees without commensurate high quality (value) is a sure formula for losing clients and not in the best business interest of the A/E.*

## Common Misconceptions

- **QBS takes longer** . . . False: *QBS fosters teamwork between the client and engineering and facilitates construction, leading to faster project delivery.*
- **QBS is a waste of taxpayer money** . . . False: *In fact, low-bid is more expensive because it leads to increased change orders and high project maintenance costs. Furthermore, QBS ensures the public gets a high quality and safe design. Low-bidding leads to inferior results and actually increases overall project costs.*
- **QBS eliminates price as a selection criteria** . . . False: *Price is a factor! Price becomes a factor only after the most qualified firm has been identified and a detailed scope of work has been jointly developed by the owner and design professional.*



"Claims statistics show that more claims are made against design professionals by project owners than by any other group and that the damage claimed most often is economic loss.

Obviously, it is in the owner's interest to obtain a project of the best quality for the funds being spent. The achievement of such an end is in the owner's control by selecting the appropriate design team.

Owners who wish to achieve their goal of high quality projects need to look beyond the traditional low price method of selecting providers of services. They need to select those providers who have the means and who are capable of delivering quality on a consistent basis. QBS is one tool for achieving such an end."

Peter Needra  
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