

Government of Newfoundland and Labrador

Transportation and Infrastructure
Municipal Infrastructure

Consultant Procurement Policy

Revision 1
May 2021

| Revision | Changes | Effective Date |
|-----------------|---|-----------------------|
| 0 | New Policy | November 2019 |
| 1 | Updates to New Department, Prequalified supplier List | May 2021 |

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1 POLICY STATEMENT

Engagement of Professional Services for projects funded through Municipal Infrastructure (MI) will occur through one of the three (3) scenarios below. The selection of the scenario will be based on discussion between the Ultimate Recipient (UR) and the MI Regional Office, but ultimately, the final decision will rest with the MI Regional Office.

2 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 MI.

3 DEFINITIONS

- 1) "Limited call for bids" means an invitation to specific proponents to submit a proposal.
- 2) "Owner" means the Ultimate Recipient procuring the services.
- 3) "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.
- 4) "Prime Consultant Agreement" (PCA) is an agreement between an Ultimate Recipient and their consultant (i.e. a selected professional or engineering/architect firm), prepared by the MI Regional Office for the infrastructure project.
- 5) "Ultimate Recipient" (UR) means an entity that is eligible to receive municipal infrastructure funding (i.e. municipality, local service district, etc.).
- 6) "Self-Administering" Municipalities that have been granted flexibilities in the project process by Municipal Infrastructure.

4 APPLICATION

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

Municipalities who have been given approval by MI to operate as Self Administering, must follow these guidelines and request approval as required by their self-administering approvals. If MI approval is not required, the Self Administering municipality, must follow this policy and retain all supporting documentation.

5 ACCOUNTABILITY

The Director of Municipal Infrastructure 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 REFERENCES

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

7 DETERMINATION OF ENGAGEMENT PROCESS

Determination of the scenario below will be based on the estimated fee for Professional Services from either:

- a) The Prime Consultant project cost estimate found in the funding recipient's submitted application for funding, or
- b) The Regional Office's estimated fee based on recent, similar engagements.

7.1 ENGAGEMENT SCENARIOS – ESTIMATED FEES LESS THAN \$105,700

- 1) If the estimated professional service fee, as determined above, is less than \$105,700 (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 a Fair and Reasonable price as defined in the following sections.
- 2) If, in the opinion of the Director of Municipal Infrastructure, it is in the best interest of MI and the Ultimate Recipient to issue an open call RFP for any project where the estimated fee of professional services is less than \$105,700 before HST, a directive will be issued to the Ultimate Recipient to use an open call RFP.

7.1.1 Limited Call for Bids

- 1) A detailed scope of work must be developed and invitations sent to a minimum of five (5) potential proponents, selected by MI and the UR;
- 2) The proposal from these proponents must contain at a minimum:
 - a) The total fee for the defined scope of work
 - b) Hourly rates to be used for additional work or change orders
 - c) Confirmation of ability to complete the work in the timelines identified in the request
 - d) Confirmation that proponents are suitably registered and licensed with the appropriate regulatory body/bodies (e.g. PEGNL, ALBNL), and that requisite insurance is in place.
- 3) The UR and MI will review the submitted proposals and select a preferred proponent; the proponent who has submitted the lowest cost proposal meeting the conditions of the engagement.
- 4) MI will issue a letter indicating approval to enter in to contract to the owner, and indicating to the preferred proponent that they have been selected. Accompanying this letter will be a prepared Prime Consultant Agreement (PCA) based on the scope of work provided in the invitation and the submitted proposal.
- 5) MI will coordinate review and signature of the PCA by the owner and preferred proponent.

7.1.2 Fair and Reasonable

- 1) “Fair and Reasonable” must be substantiated by:
 - a) Recent tender results of similar work in the similar geographical region or
 - b) Fees of recent work completed of a similar nature in the general region; or
 - c) Trade Catalogue “NLAA & ACECNL Guidelines and Recommended Minimum Fees for Architectural and Engineering Projects”, latest edition, or
 - d) Another method deemed suitable by the Public Procurement Agency (PPA).
- 2) The UR must submit an outline of the project Scope of Work to the MI Regional Engineer for consideration prior to soliciting a fee proposal from a consulting firm. The

scope for work must utilize the Limited Call for Bid template, but only submitted to the firm chosen.

- 3) The UR will identify the firm which they wish to engage for consulting services. The firm must be in good standing with the appropriate licensing body/bodies in the Province of Newfoundland and Labrador, as appropriate, with professional members suitably registered.
- 4) The UR will request a fee proposal indicating at a minimum:
 - a) The total fee for the defined scope of work,
 - b) Hourly rates to be used for additional work or change orders, and
 - c) Confirmation of ability to complete the work in the timelines identified in the request.
- 5) The UR and MI will review the submitted proposal and determine if it meets the “Fair and Reasonable” test as identified in this policy.
- 6) MI will issue a letter indicating approval to enter in to contract to the owner, and indicating to the preferred proponent that they have been selected. Accompanying this letter will be a prepared Prime Consultant Agreement (PCA) based on the scope of work provided in the invitation and the submitted proposal.
- 7) MI will coordinate review and signature of the PCA by the owner and preferred proponent.

7.2 ENGAGEMENT SCENARIO – ESTIMATE FEE GREATER THAN \$105,700

If the estimated professional service fee, as determined above, is \$105,700 (before HST is added) or greater, there will be two options for engagement of professional services:

7.2.1 Prequalified Supplier List

For Limited Scope, or Routine Projects:

- 1) In consultation with the MI Regional Engineer, URs may avail of MI’s Prequalified Supplier List (PSL) for certain project types or limited scopes of work.
- 2) The PSL has established a list of consulting firms who may be engaged in various regions of the province, for specific types of work.
- 3) Where the MI Regional Engineer and the UR have agreed to use the PSL for engagement of professional services, the MI Regional Office and the UR will establish

the detailed scope of work, and will distribute invitations to all potential proponents who operate in that geographic area.

- 4) The proposal from these proponents must contain at a minimum:
 - a) The total fee for the defined scope of work
 - b) Hourly rates to be used for additional work or change orders
 - c) Confirmation of ability to complete the work in the timelines identified in the request
- 5) The UR and MI will review the submitted proposals and select a preferred proponent; the proponent who has submitted the lowest cost proposal meeting the conditions of the engagement.
- 6) MI will issue a letter indicating approval to enter in to contract to the owner, and indicating to the preferred proponent that they have been selected. Accompanying this letter will be a prepared Prime Consultant Agreement (PCA) based on the scope of work provided in the invitation and the submitted proposal.
- 7) MI will coordinate review and signature of the PCA by the owner and preferred proponent.

7.2.2 Public Request for Proposals

- 1) For Complex Projects (e.g. Water or Waste Water Treatment Facilities, New Buildings or Substantial Renovations, etc.) then a public Request For Proposal (RFP) process in accordance with the Public Procurement Act is required in all cases.
- 2) The RFP must use MI templates, and be approved by MI prior to public advertisement.
- 3) The RFP must be posted using eProcurement methods, namely MERX through Tendering and Contracts division of Transportation and Infrastructure.
- 4) The UR and MI will review the submitted proposals in accordance with the terms of the RFP and identify a preferred proponent.
- 5) MI will issue a letter indicating approval to enter in to contract to the owner, and indicating to the preferred proponent that they have been selected. Accompanying this letter will be a prepared Prime Consultant Agreement (PCA) based on the scope of work provided in the invitation and the submitted proposal.

- 6) MI will coordinate review and signature of the PCA by the owner and preferred proponent.

Frequently Asked Questions

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

A1. Consulting 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. What is MI's Prequalified Supplier List, and how does a consulting firm get included?

A2. The Prequalified Supplier List (PSL) was established, in consultation with the Public Procurement Agency, in order to streamline consultant engagement where projects have estimated professional services fees greater than \$105,700 (+HST), but routine in nature, unlike other types of major infrastructure project.

MI has established the list through a publically advertised Request for Supplier Qualification (RFSQ) process in early 2021, and gone through considerable effort to review all submissions to establish the PSL. Those firms who did not respond to the RFSQ, or those who wish to modify their presence on the list may do so by following the information published on the MI website.

Q3. 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?

A3. No. However, if the estimated fee included in the application for funding is less than \$105,700 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.

Q4. How does an ultimate recipient engage a consultant to evaluate and prepare an application for municipal infrastructure funding?

A4. 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 \$105,700, therefore the Limited Call or Fair and Reasonable methods could be used.

Q5. Where can templates be obtained for the limited call procurement process?

A5. The MI 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.