



# Procurement Process: Architects & Professional Engineering Services

**Procurement**

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Through the Procurement policy, the Province of Nova Scotia is committed to the continual support and progress of the environment, economy and society by putting into practice the following procurement principles:

- Ensuring that the Government's requirements for goods, services, construction, and facilities are met through an open, fair, and transparent process that maximizes competition and value to the Government.
- Ensuring bidders have reasonable notice and opportunity to tender.
- Fostering economic development by ensuring every capable Nova Scotia supplier has opportunity to do business with the Government.
- Providing outreach programs that encourage competitiveness and innovation to Nova Scotia businesses which in turn will contribute to the sustainable prosperity of Nova Scotia.
- Ensuring Government procurement decisions consider the benefit to the environment and social fabric of Nova Scotia.
- Adhering to the Agreement on Internal Trade and the Atlantic Procurement Agreement, which create economic opportunities for Nova Scotians.
- Treating out of province bidders in the same way as their jurisdictions would treat bidders from Nova Scotia.
- Being accountable for procurement decisions.

The information in this guide is intended to provide government departments and the general public with information on the process and procedures that support the Procurement policy, particularly as it affects procurement for Architect and Professional Engineering Services.

Questions and enquiries regarding this policy may be directed to:

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-Or-

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# Procurement Procedure

## Professional Services - Architects and Professional Engineers

### INTRODUCTION:

The Province of Nova Scotia is committed to procure Architectural and Professional Engineering services in accordance with the *Province of Nova Scotia Sustainable Procurement Policy, August 20, 2009* referred to hereafter in this document as the *Procurement Policy*. 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.

### APPLICATION:

This process applies (where deemed appropriate, at the discretion of the Contracting Authority) to government departments, agencies, boards and commissions. It is also recommended that this process be used by crown corporations, municipalities, academic institutions, school boards and health sector entities (MASH Sector). The procedures included in this document will be used for the procurement of Architectural and Professional Engineering services to the extent possible and consistent with the established *Procurement Policy*. These procedures will provide Architects and Professional Engineers an opportunity to compete fairly and openly on the basis of their business and professional qualifications. Important characteristics such as technical competency, management expertise and administrative control processes are given extensive consideration while preserving the principle of best value for the Province.

These procurement procedures incorporate two methods based on the Contracting Authority's estimated value of the assignment. Architectural and Engineering service assignments with fees estimated to have a value **less than \$100,000**, will be procured using a standing offer which lists basic qualifications and, where necessary, may involve the subsequent evaluation of each proponent's project specific submission. Architectural and Engineering service assignments with fees estimated by the Contracting Authority to have a value **greater than \$100,000**, will be procured by public tender, with notice being given on the electronic public bid notice system and advertisement through public media.

## SCOPE of SERVICES

The Contracting Authority must establish the Project Scope and Terms of Reference in advance of any service requirement proceeding. Precise and comprehensive scope of services is critical to the successful execution of a professional service assignment.

The type and approach to contracting will vary dependent on how well the project is understood and the completeness of the Terms of Reference. For instance, where the scope of services can be precisely and completely defined by the Contracting Authority, then a Request for Quotation (RFQ) or tender type of procurement can and should be used. In such instances, subject to satisfying a stringent set of standards and specifications, price will represent a significant factor of the decision-making process.

On the other hand, if the scope of services cannot be completely defined, or the Contracting Authority is unsure how to undertake the assignment, the Request for Proposal Process may be undertaken. Procurements in these cases may involve a two-stage process where:

- ▶ initially a Request for Expressions of Interest (REI) is issued
- ▶ followed by a Request for Proposal (RFP)

The REI seeks general information from prospective proponents regarding basic information such as general approach, resource capabilities, manager's credentials and interest in the specific project being considered. REIs are normally used to confirm project scope and develop a short list of suppliers who will be invited to submit a detailed proposal in response to the need. REIs do not include a consideration of costs, they are used as instruments to screen based on technical and managerial grounds in advance of the cost based part of the competition.

An RFP is then used where a supplier is invited to propose a solution to a problem, requirement or objective. The RFP is to lay out as clearly and completely as possible the scope of the project, any deliverables suppliers would be committing to and the criteria which will be used to identify the successful proposal. Firms are therefore encouraged to use ingenuity in developing their methodology and proposal to complete the project Scope of Services.

## SECTION 1:

### **Procurement of Professional Services with fees Estimated Value Less Than \$100,000.**

For procurement of services estimated at less than \$100,000 fee the Contracting Authority may elect to use the same procedure as for services estimated above \$100,000 as outlined in this policy or may elect to establish standing offers. (See Appendix A)

Architectural and Engineering services will be procured on a basis of qualifications, competency, and cost or, if appropriate, to the type of assignment, a combination of qualifications and competency (where pre-approved in writing by the Deputy Minister). This procedure will be used except where an exemption exists under the Procurement Policy. To be eligible for selection, firms wishing to compete for assignments must pre-register their qualifications through the annual standing offer tender call. The onus for submitting and maintaining up-to-date qualifications rests solely with the submitting firm.

Requests for standing offers will be advertised annually by the Contracting Authority. Firms may remain on the standing offer list for a maximum of two years before they are required to update their qualifications.

### 1.1 Selection Utilizing Database:

When the project scope is sufficiently detailed, the Contracting Authority will establish selection criteria in order to short-list prospective professional firms. The Contracting Authority will then apply these criteria to identify **all** conforming preregistered firms listed on the standing offer. The Contracting Authority is responsible for ensuring that the selection criteria are consistent with the project Scope of Services. However, considerable latitude may be exercised to establish a short-list that will avoid unwarranted and excessive bidding effort. The number of professional firms identified from the standing offer will vary depending on the number of selection criteria and the number of available firms that are registered. Care should be taken when defining the Scope of Services to avoid identifying an inordinate number of firms from the standing offer database.

The number of firms selected from the database for consideration will vary depending on the complexity or uniqueness of the project. Normally, this number will range from two (2) to four (4). It is suggested the following guideline be used: less than \$25,000 consulting fees - one (1) or two (2), \$25,000 to \$100,000 - three (3) or four (4) consulting firms. After an appropriate number for firms have been identified from the database, and depending upon the completeness of the Scope of Services, the Contracting Authority may solicit from the short listed organization(s):

- ▶ additional information (RFI);
- ▶ a price quote (RFQ); or
- ▶ a proposal (RFP)\*

*\*Under exceptional circumstances the Contracting Authority may negotiate a price with the one organization determined to be better qualified, subject to the written pre-approval of the Deputy Minister.*

The contracting authority will evaluate the price quotations received from the short-listed firms using the following approach:

one or two firms responding with price quotes	- award based on low price
three firms responding with price quotes	- award made to firm with median price
four firms responding with price quotes	- award made to the lower of the two middle prices

When three or more prices are received; notwithstanding the above process, the contracting authority may reject any proposal where prices are deemed to be unreasonable relative to other prices bid. Unless otherwise indicated in RFP, proposal with price submissions varying from the median qualified bid by 25% or more will normally be rejected.

### 1.2 Performance Evaluation:

Upon completion of the assignment, the firm's performance may be evaluated and the results recorded in a database for future reference. Contract award procedures and reporting

requirements must conform to Provincial policy and the requirements of the Department of Internal Services, Procurement Branch.  
Performance evaluations to be reviewed with consultant before becoming finalized.

## **S**ECTION 2:

### **Procurement of Professional Services with Estimated Value Greater Than \$100,000.**

The following procedure will be used when procuring Architectural and Engineering services where the Contracting Authority estimates the fee of the assignment is greater than \$100,000. This procedure is qualifications based selection system which accounts for such factors as quality and quantity of professional and technical staff, related experience, proposed management processes, past performance and other pertinent factors in addition to the price. Except where an exemption exists under the Procurement policy, this procedure must be used.

#### **2.1 Contracting Authority Responsibilities:**

##### **2.1.1 Contracting Authority Cover Sheet:**

The Contracting Authority is responsible for drafting a cover sheet which is to include all pertinent dates, tender numbers, project numbers and contact information. Each copy of procurement documents must include such a cover page.

##### **2.1.2 Instructions to Bidders:**

The Contracting Authority is responsible for drafting the instructions (Instructions to Bidders) which advise prospective firms of bidding requirements and the type of procurement used to select the successful firm (*e.g. RFP*). These instructions must include all necessary project specific information and any special or mandatory requirements. The Instructions to Bidders will normally accompany the other procurement documents as a separate document.

##### **2.1.3 Standard Form of Agreement:**

A blank copy of the proposed standard form of professional services contract should be included with each procurement document.

##### **2.1.4 Supplementary General Conditions:**

Where circumstances warrant amendment of the standard general conditions to the professional services agreement, the Contracting Authority may draft supplementary general conditions that will add to or modify the general conditions.

##### **2.1.5 Terms of Reference and Scope of Services:**

The Contracting Authority is also responsible for drafting the Terms of Reference which define requirements for the execution of the services, including the Scope of Services that details the nature and extent of work to be performed. The requirements detailed in the Scope of Services are essential to bidders when developing their proposals. The Scope of Services must be concise, precise, clear in their meaning, and as complete as possible to permit proponents to develop a proposal that meets the project objectives and avoids the need for subsequent changes, while allowing sufficient latitude to permit alternate methodologies.

The Terms of Reference must also include the following information:



- The evaluation criteria and scoring system which will be used to determine the proposal rating.
- The minimum evaluation score which must be achieved before a proposal is deemed qualified and subject to further consideration. Generally this would be 80% of the available technical/ managerial points.
- The method of measurement and payment for professional services (i.e. remuneration).
- Liaison, reporting and invoicing requirements.
- List of deliverables.
- Any special indemnifications, insurance and warranty provisions peculiar to the assignment.
- Any other requirements.

## **2.2 Requests for Information/Expressions of Interest**

Occasionally the Contracting Authority will not be fully familiar with the willingness of, expertise available to, or methodology within the professions to achieve project objectives. In such cases the Contracting Authority should consider an REI to determine the consulting industry's interest in a particular project.

## **2.3 Contracting Procedure**

The Contracting Authority will follow the procedures for public tendering which are detailed in the *Procurement Policy*. Services will usually be tendered as an RFP using a two envelope system. The first envelope will contain the managerial and technical information submission detailing the proponent's qualification, their understanding of the project objectives, their capabilities (resources), their work plan and methodology. The second envelope will contain the financial information submission. The information contained in each envelope must be clearly marked and conform to the Terms of Reference. Failure to conform may result in disqualification of the submission.

## **2.4 Submission Evaluation**

### **2.4.1 Evaluation Committee:**

The Contracting Authority will receive proposals with the envelopes containing financial information **unopened**. An evaluation committee, usually consisting of not fewer than three persons, will be convened to evaluate the technical and management information submissions. The Contracting Authority will be responsible to coordinate the evaluation process. While evaluation committee members would normally be Civil Servants, the Province may contract with other agencies or individuals to perform all or part of any evaluation. In such cases, the Contracting Authority is advised to execute appropriate confidentiality and conflict of interest agreements.

### **2.4.2 Evaluation Process:**

Qualifications will be evaluated in accordance with the proposal evaluation criteria included in the Competition Document. Each evaluator will evaluate the proposals **independently**, without consultation with others. Evaluators must consider only the information documented within the proposal using the defined evaluation criteria exclusively, and must avoid assumptions regarding the submission. If an individual evaluator has personal knowledge that a proposal contains a significant misrepresentation, or fundamental error, such should be immediately communicated to the Contracting Authority.



### 2.4.3 Evaluation Conclusion:

Upon completion of individual evaluations, the evaluators will review the results and identify any significant differences in rating. If a significant difference in a rating is identified, **which would alter the final result**; the Contracting Authority will review the result and may elect to have the evaluators jointly discuss their results in an attempt to acquire a clear decision. While consensus among the evaluation committee is desirable, unanimity is not necessary. Balanced judgement and discretion must be exercised in reviewing evaluations done by others. The Contracting Authority should accept reasonable differences among evaluators such as:

- ▶ natural variation in scoring philosophy (e.g., conservative vs liberal rating tendencies);
- ▶ normal variation in evaluator's interpretation of evaluation criteria;
- ▶ occasional minor error in evaluating a proposed qualification or work plan;
- ▶ other incidental deviations from the median evaluation which would not be classified as a fundamental evaluation error.

Except as provided for in the review process described in the preceding paragraph, revisions of ratings should normally be avoided. The ratings received from the evaluators will be tabulated using the median scores for each category described in the evaluation criteria. **The median is defined as an ordered set of values below which and above which there is an equal number of values or which is the arithmetic mean of the two middle values if there is no one middle number.**

The following are examples of median calculations based on a category valued at 20 points.

<b>Example #1:</b> Odd Number of Evaluators	14 15 18 Median = 15
<b>Example #2:</b> Even Number of Evaluators	14 15 16 18 Median = $(15 + 16) / 2 = 15.5$
<b>Example #3:</b> Repeated Values (Even Number of Evaluators)	14 15 15 18 Median = $(15 + 15) / 2 = 15$
<b>Example #4:</b> Repeated Values (Odd Number of Evaluators)	14 15 15 16 18 Median = 15

Overall ratings will then be calculated by the Contracting Authority and proposals receiving a rating which meets or exceeds the minimum threshold will be deemed qualified and eligible for further consideration, with the remaining points awarded according to cost. Normally the technical/managerial submission will be rated out of 90 points and a minimum of 80% (72 points) of available points required as the threshold and the remaining points awarded according to cost.

#### **2.4.4 Financial Information:**

While standard practice calls for a 90%/10% or 80%/20% ratio between technical/managerial and price related points allocated in a competition, occasionally, depending on the nature of the service, the Contracting Authority may elect to use an alternative split, such as 85%/15%, or 70%/30%. The use of a 70%/30% split, with a greater emphasis on cost, would apply where the scope and procedure are well defined, and the service provision is relatively standardized, such as inspection, testing and so forth.

The financial information envelopes attached to proposals which were deemed qualified will be opened by the Contracting Authority and the prices, rates, expense disbursements, etc., analyzed and compared. In cases where the prices must be analyzed in order to establish an assessed total cost of professional services (e.g. where more than one factor contributes to the overall cost) the price analysis should accompany the evaluation sheet.

#### **2.4.5 Variance Clause:**

When three or more prices are received;

Notwithstanding the technical/managerial and price scores, the Contracting Authority reserves the right to reject any proposal where prices are deemed to be unreasonable relative to other prices bid or to the owner's estimated fee value for the services. Unless indicated otherwise in the RFP, proposals with price submissions varying from the median qualified bid by 25% or more will normally be rejected.

If two or fewer proposals are received, then the variance clause does not apply. However the Contracting Authority may exercise discretion in the evaluation of the price(s) received and award the contract to the firm that has submitted a price that in the sole opinion of the Contracting Authority, represents the best value to the Contracting Authority.

The contracting authority may negotiate a fee with the preferred proponent in special circumstances.

#### **2.4.6 Assigning Points Based on Price:**

For price submissions qualifying under Section 2.4.5, points will be assigned as follows. If the technical/managerial submission is rated out of 90 points of 100, the remaining 10 points will be allotted to price.

1. Award 10 points to the median price.

2. All fees above the median price up to a maximum of 5% will also receive 10 points.
3. All fees below the median price up to a maximum of 10% will also receive 10 points.
4. All fees greater than 5% and up to 15% above the median will receive 8 points.
5. All fees greater than 10% and up to 15% below the median price will receive 8 points.
6. All fees greater than 15% and up to 25% above or below the median price will receive 5 points.
7. All fees greater than 25% above or below the median price may have their proposal rejected.

#### **2.4.7 Evaluation Procedure:**

##### **Proposal evaluation method for engagements valued in excess of \$100,000**

1. Submit proposal with price in a separate envelope (“two-envelope system”)

##### **Evaluation Stage 1**

2. Open the “technical/managerial” envelope only.
3. Allocate points to “technical and managerial” and other predefined evaluation criteria and determine each proposal’s score based on the total value assigned to this component.
4. Reject any proposal not meeting the minimum requirements for the Technical / managerial portion.

##### **Evaluation Stage 2**

5. Open the price envelope for qualifying proposals only.
6. Follow Clause 2.4.6 for awarding points.

##### **Evaluation Completion**

7. Add all the scores for each proposal, to give a total score out of 100.
8. Award the work to the proposal with the highest combined (technical/managerial + cost) score.
9. In the event of a tie between the overall scores of 2 or more proposals, award the work to the proposal with the lowest price.

## 2.5 Successful Submissions

The qualified firm submitting highest assessed value will usually be recommended for award of a contract. No change in the Scope of Services may be negotiated prior to the award of a contract. Any changes to the terms or conditions of a professional services contract must be negotiated and executed in strict accordance with contract conditions and the *Procurement Policy*.

## 2.6 Unsuccessful Submissions

Financial information envelopes attached to submissions not deemed qualified will be **returned unopened**. Managerial and Technical information submissions will be retained for record purposes and held subject to public disclosure under the terms of the Freedom of Information and Protection of Privacy Act. Bidders should be advised of the opportunity for, and encouraged to receive a debriefing as to how proposals were evaluated. All debriefings will be presented orally at the Contracting Authority's office unless a mutually agreeable alternative is identified. Such debriefing should deal only with the consolidated evaluation and in no case should include the evaluation of an individual evaluator. The purpose of such debriefings is to focus on communicating the evaluation's aggregate result and is intended to help bidders identify the areas in which their proposals did not meet the stated requirements or could be improved for future occasions.

## 2.7 Award Recommendation

At the conclusion of the evaluation process, a recommendation detailing the results will be forwarded by the Contracting Authority to the appropriate agency for formal authorization to award a contract. Upon receiving written concurrence, the Contracting Authority will notify the successful firm of the intent to award a contract and two original copies of the contract documents will be drafted and submitted to the selected firm for signature and immediate return for subsequent processing. All other bidders should be notified of the result as soon as possible after a contract award decision is made.

## 2.8 Performance Evaluation

Upon completion of the assignment, the firm's performance may be evaluated and the results recorded in a database for future reference. Contract award procedures and reporting requirements must conform to Provincial policy and the requirements of Department of Internal Services, Procurement.

In the case where performance evaluations are completed the results (are) to be reviewed with the firm before being finalized.

## **Glossary of Terms Used in the Procurement of Professional Services**

### **Authority**

Individual or Public Official or his/her agent who is responsible for the procurement of professional services and preparation of tender documents.

### **Province**

Province of Nova Scotia

For the purposes of this policy, the following definitions are provided.

### **Invitation to Tender**

An invitation to tender (also referred to as request for bids or request for quotations) solicits competitive bids. It is used when the requirement is adequately defined to permit the evaluation of tenders against clearly stated criteria and specifications. The tender document describes the specifications to be met and the terms and conditions that will apply.

### **Request for Proposal**

A request for proposal is used when a supplier is invited to propose a solution to a problem, requirement, or objective. Suppliers are requested to submit detailed proposals (also referred to as bids) in accordance with predefined criteria. The selection of the successful proposal is based on the effectiveness, value, and price of the proposed solution. Negotiations with suppliers may be required to finalize any aspect of the requirement.

### **Request for Expression of Interest**

The Request for the Expression of Interest is similar to the Request for Proposal, where suppliers are invited to propose a solution to a problem. The REI, however, is only the first stage in the procurement process. Bidders responding to the REI will be short listed according to their scoring in the evaluation process. The short-listed firms will then be invited to respond to a Request for Proposal. The selection process will be the same as the Request for Proposal

### **Department**

In this policy “department” includes agencies, boards, and commissions that are subject to the Auditor General Act, or other public sector entities for whom compliance with this policy has been directed by the minister responsible.

### **Unsolicited Proposals**

Unsolicited proposals are submissions from any source where the originator believes the proposal may be of benefit to the Province. These proposals are not in response to a tender call or other type of request from government.

## APPENDIX A

### Procurement of Professional Services less than \$100,000, - Architects and Professional Engineers

In accordance with the Procurement policy, the Province will use a qualifications-based selection process for engaging professional firms to provide Architectural and Professional Engineering services. These services may include design as well as analytical and other related technical services usually associated with architectural and engineering firms.

Any firm interested in providing professional services to the Province with an estimated value less than \$100,000 is to be registered with the Contracting Authority's standing offer database.

#### Procedures:

The Contracting Authority will annually invite firms through public advertisement to submit their qualifications in a prescribed electronic format. Where identified in the Standing Offer, firms may also submit supplementary information from time to time at their sole discretion, thereby keeping the database information up-to-date and current.

The Contracting Authority will select from the Register, a short list of firms qualified to meet all project criteria and able to perform the work according to the following primary areas:

- financial stability/insurability;
- availability of qualified personnel;
- experience on similar projects;
- professional independence and integrity;
- location/local knowledge;
- previous involvement of the firm.

A final selection of the preferred firm will be made based on supplementary areas:

- managerial ability;
- technical competence;
- proven performance;
- price.

Criteria related to strategic or other special procurement will only be applied in strict accordance with Government policies. For all projects, the nature and scope of the services must be established on the basis of:

- description of the project;
- budget;
- schedule;
- other special considerations.

In cases where the fee for design services is to be established by bilateral negotiation rather than by advance tender, the Province may also negotiate with the next highest ranked firm.