

Pre-Qualification of Contractors

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Summary

Pre-qualification of contractors prior to the bidding phase is often a desire of public or private clients wishing to limit the bidders to a group of contractors who have demonstrated experience and capability with similar projects and that will be enthusiastic about bidding the work. Architects can assist the client and provide professional advice in a pre-qualification, as an additional service.

There are specific procedures that should be followed for a client's pre-qualification process so that it is fair and transparent to avoid potential claims from an unsuccessful proponent. The Canadian construction industry standard document, *CCDC 11 - 2016 Contractor's Qualification Statement*, should be used as a primary source of pre-qualification information.

Architects can assist and provide professional advice with a pre-qualification and evaluation but the decisions must be made by the client/owner.

Background

Pre-qualification can help limit contractors to those who have demonstrated the necessary financial capacity, relevant experience and human resources for the project. Most contractors will prefer a limited number of bidders who are fair competition where the odds of success are in reasonable balance with the efforts expended to prepare the bid.

Architects' basic or traditional services include for assistance and advice to the client in obtaining bids; however, this does not extend to a pre-qualification process which is considered an additional service not required on all projects. The needs of the particular project and client will vary considerably. Submission of a CCDC 11 may be all that is required on one project. Another may require the consultants to prepare advertisements, lengthy pre-qualification documents, complicated scoring, rating, evaluation and reporting.

When narrowing the list of bidders, there are specific procedures which should be followed, in order to be objective and transparent, and to avoid the possibility of the bid process going awry and leading to costly litigation against the client and architect.

Suggested Procedure

1. Include in agreements with clients that pre-qualification of bidders is an additional service. This is listed as a separate line item under "Bidding/Negotiation Phase" in "GC 3 Provision of Additional Services" of the OAA 600-2013 with July 1, 2018 Amendments, and OAA 600-2013 with Amendments to October 1, 2019 Standard Form of Contract for Architect's Services.
2. If a pre-qualification process is deemed appropriate by the client, review objectives, options, policies and procedures that will be adhered to in arriving at a pre-qualified list of bidders. Remind clients that an architect can provide assistance and professional advice but the final decisions must be theirs.

3. Clients should be made aware that, despite language that may be included in the bid documents entitling the client to select other than the low bid, a pre-qualification process creates legal expectations that the award will go to the lowest bid from a pre-qualified bidder. The clients should obtain their own legal advice.
4. Develop an evaluation point system and instructions to proponents to suit specific project priorities. Require all proponents to submit a CCDC 11 statement. Suggested criteria for the evaluation system could include: number of years in business, volume of construction in the past five years, principal projects, similar projects, major projects underway, office personnel, site personnel, etc. The scoring system should be as clear and simple as practical, minimizing discretionary ratings. Obtain the client's concurrence on ratings, scoring, weighting, etc.
5. State in the instructions to proponents that a rating formula will be used to arrive at a list of qualified bidders and the criteria for selection; (e.g. the top five highest rated, or all those that achieve a rating above a certain number.)
6. Advertise, receive responses, evaluate, and report the results to the client for his/her decision. Report results, avoid recommendations.
7. Inform all proponents of the results.

References

CCDC 11 - 2016 Contractor's Qualification Statement

The OAA does not provide legal, insurance or accounting advice. Readers are advised to consult their own legal, accounting or insurance representatives to obtain suitable professional advice in those regards.
