Proposal for the Ministry of Transportation:

Assessing the RFP Evaluation Criteria Weighting Review

Consulting Engineers of Ontario
+ POSITIVE CHANGE

Thursday December 12, 2019

Issue

CEO's Engineering and Construction Administration subcommittees share concern that the Ministry of Transportation's (MTO's) recent proposed change to its RFP Evaluation model may result in increased overall costs of the ministry's capital infrastructure program.

In summer 2019 MTO proposed a re-allocation of points among the Corporate Performance Rating (CPR), Technical Proposal, and Price categories used to score submitted proposals, and introduced an "Enhanced Value Based Selection" (EVBS) stage to the evaluation. CEO and its member firms welcome the opportunity to provide commentary on the proposed changes, and herein provide an alternate scoring mechanism that we believe will not only achieve the MTO's goal of increasing the price sensitivity of the model, but also achieve the ministry's and CEO's commonly-held goal of improving the overall value-for-money proposition of both these assignments, and MTO's larger Capital program.

Background

The current evaluation mechanism, in place since September 2017, involves scoring of Technical Proposals, a linear-weighted scoring of associated prices, and application of each firm's CPR. These three elements are weighted as follows:

65% Technical Proposal: 25% CPR: 10% Price

Since this scoring system was introduced, ministry staff have expressed concern that the model does not provide a desirable degree of sensitivity to the price score due to some recent but limited situations where an undesirable price differential existed between the winning and second-place proponents. In an attempt to address this situation ministry staff have proposed the following alternative to increase the price sensitivity of the evaluation:

50% Technical Proposal: 30% CPR: 20% Price

And the addition of an "Enhanced Value Based Selection" stage of evaluation

If (Price 1 – Price 2) / Price 2 < 10%, award to Proponent #1; else,

If (Quality 1 – Quality 2) / Quality 2 > (Price 1 – Price 2) / Price 2, award to Proponent 1, else, award to Proponent 2

Where (Quality = Technical Score + CPR Score)

Simply, if the proponent that scores highest in the initial phase has a Quality advantage that outweighs the Price premium, or if the Price premium is less than 10%, the highest scoring proponent wins. Otherwise the second highest-scoring proponent wins.

CEO Assessment

CEO has raised a number of important concerns with the above-noted approach. These include:

- The addition of the EVBS evaluation stage will motivate firms to strip away important elements of their proposals or encourage undesired behavior, potentially including but not limited to:
  - Reduced Quality Control;
  - Reduced Succession Management;
  - Reduced ability to manage risk;
  - Cutting corners on deliverables;
  - Strategic (price-based) scope minimization at bid with subsequent intensification of change order frequency and cumulative cost;
  - Assignment of tasks to individuals with less experience and knowledge, therefore, lower charge rate;
  - Reduced value-added service.
- There is no protection against “low ball” pricing that reduces the quality of services provided and acts to commoditize the value of engineering services.
- The ministry’s adoption of a model encouraging a “race to the bottom” (with respect to price) will likely drive some consulting industry firms to seek other, non-MTO opportunities. This has the potential to shrink resource availability in a market where expertise is in decline, and ultimately produce a negative impact on the efficient and effective delivery of MTO’s capital program. CEO notes that only a few years ago MTO recognized the challenges that would be faced in trying to deliver their largest/growing capital program. This led to MTO partnering with the engineering community to identify and establish prioritized initiatives (through the EDEI and ODEI) to ensure the successful delivery of their capital program. CEO is eager to refocus this partnership in order to successfully achieve this objective.

CEO believes that each of the above unintended consequences carries a significant likelihood of increasing overall project costs. We view this happening by driving limited investment funds to the end of projects, the most disproportionately expensive part of the project life-cycle, where the MTO will have no alternative but to overspend to address significant contractor change orders, extension of time agreements and increasingly substantial construction claims.

Low-price engineering combined with low-bid construction tendering in complex civil/transportation engineering results in projects with the highest risks to all parties (owner, designer and contractor) for change orders, disputes, litigation and, in some cases, project failure. As a result, many jurisdictions in North America are pursuing alternative procurement methods that deliberately avoid low-bid construction award toward a best-value procurement system for engineering as well as the more expensive construction phase. It is CEO’s sincere belief that the greatest return on investment for MTO’s limited capital funds, or value for money, will be realized through the application of additional resources at the beginning of a project's life cycle, and with service providers that are similarly aligned with the MTO's goals of safety, quality, and cost-efficiency. In summary, the overall lifecycle cost of highway infrastructure projects represents a significant cost to Ontario taxpayers. While engineering planning, design and construction administration (CA) represent a small portion of this overall cost, engineering represents the most significant opportunity to ensure best value for money through the entire infrastructure assets lifecycle. A poor-quality design or lack of proper construction oversight is often not fully understood until construction costs soar, reminding us of an old saying; "the bitterness of poor quality remains long after the sweetness of low price is forgotten".

Where the current model, which does not include the EVBS evaluation phase, allows firms to use their quality advantage and experience to incorporate value-added components without fear of exceeding the available 10% "goalposts", the ministry's proposed model does not. Many of MTO's projects, while similar at a "high level" are frequently complex and unique in their details, making exacting definition of scope at the design phase difficult and subject to interpretation. Proponents, in an effort to remain competitive and fearful that competitors will strip out scope elements from their proposals, will also strip those elements out of their own proposal, potentially exploiting subjectivity in scope definitions. Those elements may include:

- For Design assignments
  - Robust and timely quality control checks;
  - Development of a meaningful design/construction schedule;
  - Meaningful constructability reviews (when not formally required);
  - Evaluation of additional, potentially cost-saving, alternatives;
  - Innovation within base bids;
  - LEED and other design approaches to reducing carbon footprint;
  - Risk analysis and design elements to mitigate sponsor/project risks;
  - Reductions in effort for public/property owner consultation, which can significantly impact schedule;
  - Introduction of new technologies;
  - Field investigations;
  - Excessively tight w.r.t. traffic control, PM level of effort, meetings with MTO etc., all potentially adversely impacting quality and /or safety;
  - Training, education and succession management;
  - Discourage deploying staff with considerable experience, which in turn impact quality and drive resources from the marketplace.
- For Construction Administration assignments
  - Hours associated with unanticipated weekend or night work;
  - Succession candidates;
  - Hours associated with the time staff require to "assist" or "train" contractor staff;

- Additional, value-added Project Management and Field Staff hours associated with the time necessary to manage unanticipated contractor claims or time necessary to participate in the Dispute Resolution process in a fulsome manner;
- Reduced level of effort and reduction in staff experience level for evaluating change orders, value-engineering alternatives, disputes and claims.

Each of these items carries with it the risk of increased contractor costs during the construction phase.

Construction phase costs are the largest single driver of any assignment program cost. Dollars spent on value-added and discretionary elements of both the design and construction administration phases of a project have a considerable ability to disproportionately and positively affect the cost of the construction phase of a project program. Evolving to a greater emphasis on price during early development and design will represent a step backward compared to many other transportation agencies and public infrastructure owners.

It has also been acknowledged by MTO and CEO that a robust Ontario transportation marketplace is driving the need for more high-performing civil engineering staff at all levels, which includes the requirement to introduce to the industry and develop new engineering staff. The cost of this staff development is distributed throughout project fees, and pricing pressures (as a result of an Enhanced Value-Based Selection), serve to inhibit the introduction of new staff, and curtail succession management efforts. Not only does this stifle the personnel development of an expanding industry, it also unintentionally drives up the costs of existing engineering service providers, as a smaller pool of engineering staff deliver a larger and growing engineering program.

CEO has repeatedly raised the potential for reduced service by service providers, and the associated unintended impacts to construction costs and quality during several meetings with ministry officials, and understands that the ministry believes the CPR system is the most effective tool to be used to manage this risk. CEO offers the following caution:

1. The CPR, as currently constituted, is not an effective means of managing this risk;

2. If <u>all</u> firms are motivated to act similarly by the scoring model currently proposed, stripping away beneficial elements of their proposal, CPR scores for all firms would theoretically drop, and the CPR becomes irrelevant as a tool to manage this risk.

CEO has also raised the long standing matter of technical evaluation of RFP submissions. In 2017 MTO committed to undertaking a comprehensive review and revision of the technical proposal evaluation process through which consultant submissions are scored. However this review has yet to take place and CEO is growing increasingly concerned because until this happens the ministry cannot with any certainty evaluate the quality side of the value proposition. CEO strongly believes that any price sensitivity concerns MTO may have with the current model could be alleviated by properly scoring the quality of proposal submissions. CEO strongly believes that the currently proposed evaluation model does not achieve the “fair, open, and transparent” goals shared by MTO and CEO.

CEO also believes in improved transparency throughout, which seems to be aligned with current provincial objectives and the move to a web based system. CEO asks that the following items be considered on a move forward basis:

- Greater detail and clarity of RFP score allocations (e.g. provide the detailed score sheets that will be used for the specific opportunity, versus the currently rolled up high level allocations). Greater transparency would improve the owner's ability to drive results (internally and externally) and would level the playing field, as some firms may already have this knowledge (by hiring past MTO staff);

- Publish all fee totals, without firm names, so that the industry as a whole can gain an appreciation for the range in scope interpretations/market forces, while maintaining confidentiality;

- Improve de-brief sessions by increasing the amount and value of feedback provided with specific identification of variance from top score for each element evaluated;

- Greater use of RFP's vs RFQs, as it seems quotes are being used as a tool to shorten the procurement duration, versus a best fit assessment, without due regard for the potential and considerable impacts to constriction costs.

PROPOSED ALTERNATIVE

CEO believes the most effective approach to RFP scoring maintains a connection between quality and price at every phase of the evaluation. Whenever quality and price are decoupled in an evaluation, a "race to the bottom" will result characterized by a degradation of initial quality, life-cycle cost performance and more litigious relationships between MTO and the engineering community. This is not an appropriate means of procuring professional services as the first casualty to the project is value.

As such, CEO's proposed solution to this problem includes the following elements:

- Complete a comprehensive, objective, fair, open, and transparent review of the evaluation and scoring process for technical proposals;

- Complete the review of the CPR calculation process that has been underway since 2017;

- Score proposal submissions using a process that maintains a connection between quality and price at every stage of the evaluation.

Understanding that it is MTO's desire to move forward with modifications to RFP scoring quickly, in advance of MTO providing CEO with the opportunity to review the variances in the data with respect to technical proposal and CPR scores, and without adjusting how these two elements are scored, CEO recommends that MTO proceed with the modifications to the RFP scoring using a phased approach, with "Interim" and "Ultimate" RFP evaluation models. The interim model would recognize that the current

CPR and technical proposal scores do not properly allow for selection of service providers on the basis of best value provided.

<u>Interim Model</u>

Phase 1 of the RFP evaluation process involves a 25% CPR weighting with the remaining 75% dedicated to project staffing & organization. As such, CEO maintains that CPR should not be included in the Phase 2 evaluation so as to avoid a double counting of CPR. If MTO is not prepared to eliminate the double counting of CPR then CEO maintains that its weighting should be capped at 25%. CEO strongly advises against setting price-only "goalposts" by incorporating EVBS elements in the evaluation process. As a first course of action CEO recommends that MTO consider the following scoring breakdown as a first step:

CEO OPTION 1:

60% Technical Proposal: 25% CPR: 15% Price

No Enhanced Value-Based Selection

CEO believes that the added weight on the Price component of the evaluation may be significant enough to motivate firms to carefully consider each of the additional scope components identified, but also allow for the incorporation of such elements where the firm and staff employed by the firm have a demonstrated track record of high-quality service. Most importantly to CEO and MTO, the model maintains a connection between quality and price throughout the evaluation.

Alternatively, and recognizing that MTO has indicated that EVBS is a required evaluation component, CEO proposes that the following approach be taken in an interim condition, which introduces two potential EVBS assessments:

CEO OPTION 2:

60% Technical Proposal: 25% CPR: 15% Price

And

If (Price 1 / Price 2) > 120%, award to Proponent 2; else

If (Price 1 / Price 2) < [10% + (Quality 1 / Quality 2)], award to Proponent 1; else,

Award to Proponent 2

(Note: a 55:30:15 allocation of points is the weighting proposed by MTO in 2017 prior to the negotiated 65:25:10 methodology. The CEO weighting of 60:25:15 proposed above applies the same total weight to Quality & Price as MTO's previous proposal.)

CEO believes this approach not only provides MTO with the “goalposts” it is seeking, but also maintains the connection between price and quality at the EVBS phase. Simply, if Proponent 1 has a 1% advantage in quality score, the goalposts are 11% wide; a 2% advantage results in goalposts that are 12% wide, etc. For certainty, CEO is proposing capping the allowable price premium at 20% for any firm that has an advantage of 10% or more on the quality score in an evaluation.

Ultimate Model

CEO recommends that MTO and CEO work together to complete the review of the CPR and commence/complete the review of the technical proposal scoring methodology before deciding on an Ultimate Model. We envision that, pending the outcome of the CPR and technical proposal reviews; EVBS may or may not be necessary to meet the common value-for-money and appropriate price sensitivity goals of the evaluation, an increased weight on price could be considered, or a modified London Based Model with some protection/provision should there only be two submissions, could all be options worth of consideration. Consequently, CEO proposes that the determination of the required components and methodology of the Ultimate Model be discussed and agreed upon once the technical proposal and CPR reviews are complete, in a timely manner (e.g. within the next 12 months).

Summary

CEO recognizes that MTO is seeking added price sensitivity in the evaluation model for Request for Proposal submissions. We believe that the proposed alternatives can achieve this goal while also maintaining a connection between quality and price at every stage of the evaluation process. While CEO prefers an evaluation model that does not include EVBS, we recognize that this process may be a necessary requirement for the ministry. As such, we have proposed an alternative evaluation model containing an EVBS evaluation stage that maintains a link between quality and price.

CEO recommends MTO adopt one of the two proposed evaluation models. We also call on the ministry to immediately commence a joint CEO/MTO review of the means by which technical proposals are evaluated. We remain committed to the positive and productive partnership between MTO and engineering and construction administration service providers, and are prepared to provide any information or consultation necessary to develop a solution that meets the objectives of both MTO and CEO.

CEO is requesting increased transparency in terms of; evaluation score allocations for a specific RFP, publishing all total fees submitted, greater and more consistent de-brief sessions and a better and more limited use of Requests for Quotations.

We appreciate the opportunity to provide our perspective and recommendations on this shared and critically important issue.