



January 20, 2023

Contract Management Office
Ministry of Transportation

Re. ACEC-Ontario Response to TCP number 000-0125 (Corporate Performance Rating Pause in Bid Evaluation of Engineering Services)

On behalf of the Association of Consulting Engineering Companies-Ontario (ACEC-Ontario), and its 140 member firms operating across the province, I am writing to provide a response to the Ministry of Transportation's (MTO) plan to pause the use of a Corporate Performance Rating (CPR) in bid evaluations for Request for Quotations and Proposals (RFQs and RFPs).

ACEC-Ontario is very concerned that the ministry's decision to pause the use of corporate CPRs will result in an immediate deterioration in the quality of Engineering and Contract Administration services, and an overall reduction in value-for-money for the ministry, the government, and taxpayers. As such, we recommend that the current CPR system remain in place until the ministry, in consultation with ACEC-Ontario, has developed a new system (or adequate modifications to the existing system) that can be effectively implemented.

Service provider appraisals, when implemented and administered correctly, have the capability to reinforce positive performance and recognize a clear distinction between tiers of service providers. ACEC-Ontario believes it is vitally important that, when reviewing the CPR and by extension the overall evaluation criteria for procurement of service providers, we consider the full lifecycle cost of a project. Specifically, more experienced and innovative service providers produce improved designs, better manage and mitigate issues that inevitably arise during construction, keep projects on-schedule, improve safety to both the traveling public and construction workers, and better preserve the ministry's interests through analysis, innovation, and fact-based negotiations. These actions, along with others, result in overall savings for the ministry over the delivery and full life cycle of a capital project.

We recognize the challenges with the current system, and we agree that changes need to be made to improve efficiencies. Over the years, ACEC-Ontario has repeatedly said that CPR needs to be considered in parallel with improved technical evaluation scores and appropriate weighting on value. We are certain ACEC-Ontario and MTO are undertaking similar research to identify best practices when it comes to bid evaluations. As we have done for previous significant projects, both the ministry and ACEC-Ontario must unite resources and findings to help inform the development of the new CPR system.

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It is important that any removal of the quality-based CPR component from bid evaluations be replaced with other elements that promote a focus on quality. Indeed, these points should be reallocated to other quality-based components such as the Technical Score, in parallel with improved transparency of technical scoring and a focus on improving the ability to provide separation of scores during the evaluations.

With that said, ACEC-Ontario offers the following preliminary feedback, which is categorized based on the two procurement models (RFQ and RFP), as well as more general all-encompassing points.

Request for Quotations (RFQs)

- i. We do not support the implementation of an evaluation system that is 100% based on price. This elimination of all quality-based criteria will create an unbalanced environment wherein only those service providers focused on reducing costs and not on sustained quality will thrive. Indeed, the system should include an evaluation of the team / key individuals (e.g. PM, Design Leads, CA, etc.) listed in the Quotation. For example, the 50% previously allotted to the CPR could be split between price and an evaluation of the proposed team. This split could vary depending on the complexity of the project. Having such a system in place will ensure that, in addition to meeting minimum experience and qualification requirements for staff (which themselves are not a good differentiator for quality), the ministry has a mechanism to recognize the past-performance and expertise of key project personnel. In turn, this will encourage the industry to propose a team with experience aligned with project complexities, instead of encouraging the use of low-cost inexperienced teams, which have demonstrated to have considerable negative impacts on projects through scheduling challenges to budget and life cycle costs.

Request for Proposals (RFPs)

- i. We do not agree with a proposed split of 70% Technical Score and 30% price, given that most of the points that were previously rooted in a quality-based metric are now being redirected to a cost-based approach. The data provided by the ministry demonstrates that this 70% / 30% distribution would have resulted in an overall reduction in value-for-money along with a considerable impact on changing past award results (23 of 100 or 23% having different outcomes).

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- This represents a significant change in procurement intended only to serve as an interim method while an improved system is developed.
- ii. Instead, ACEC-Ontario proposes a distribution of 85% Technical Score (all former CPR points redistributed to another quality metric) and 15% Cost Based on MTO's own analysis of the data, the 85/15 formula change increases value for money (0.64%), increases technical score (which will in turn encourage experienced teams, innovation and quality), and had the least impact to overall change in award results. In other words, it is the only formula mix that addressed (or outperformed on) all three metrics assessed by MTO.
 - iii. ACEC-Ontario believes the 70 / 30 split will force firms to use price and effort-cutting practices so they can submit bids with the lowest possible price. As a result, the ministry will be exposed to increased risks, see reduced value for money, and higher construction costs. For additional information on this issue, please refer to ACEC-Ontario's December 2019 briefing note (attached).
 - iv. ACEC-Ontario supports the provincial government's objectives regarding transparency. Towards this end, we had previously requested that the ministry post the Technical Score and Price of each proponent involved in an RFP procurement (without firm names to maintain confidentiality). This transparency would promote fairness and would provide firms with valuable information related to the range of scope interpretation that takes place as well as where they may need to improve to increase their competitiveness in the market, which will ultimately benefit MTO and the Ontario taxpayer.

General Feedback

- i. It is requested that the ministry provide clear timelines and milestone date targets for a revamped / restructured CPR system. We are concerned that without such measures in place that the pause will go beyond the ministry's projected two to three-year timeline. Moreover, these measures will enhance accountability and help lead to the successful implementation of a revamped CPR system. It is to our collective benefit to have a better system in place that meets our shared goals of objectivity, consistency, and simplicity.
- ii. We recommend that improved guidelines be established for assessing which procurement model (RFQ versus RFP) will be used for each assignment, considering aspects such as project complexity, contract value and duration. It is our view that these guidelines promote an increased use of the RFP model, with the aim of continuing to reinforce a value-based selection model. ACEC-Ontario would be pleased to work with the ministry on developing an ideal percentage for RFP usage.

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- iii. Finally, in relation to the proposed minimum corporate CPR of 2.5 to bid, we believe this number needs to be tied to the Starter CPR score for each category, which fluctuates in time and will be impacted by the CPR reset objectives. As a result, we propose that the minimum CPR be set at 70% of the Starter CPR score, and that the actual CPR minimum number be posted with the Starter CPR scores, and both be updated quarterly (similar to existing practices for the Starter scores, and corporate CPRs). It is also recommended that this minimum threshold be re-evaluated as part of any new system, following the reset.

ACEC-Ontario looks forward to further discussion with the ministry related to any of the points raised above. We strongly believe that a more fulsome review will lead to a better system for the ministry, the provincial government, and Ontario's taxpayers. The ACEC-Ontario and its member firms are committed to providing the support and resources that the ministry needs to make this happen.

Sincerely,

Bruce G. Matthews, P. Eng.
Executive Director

- cc. Hon. Caroline Mulroney, Minister of Transportation
Michael Beaton, Chief of Staff, Office of the Minister of Transportation
Douglas Jones, Deputy Minister, Ministry of Transportation