



STATEMENTS OF POLICY

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OF
GENERAL CONTRACTORS ASSOCIATION OF OTTAWA
(January 2011)

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1. CONSTRUCTION BY SINGLE CONTRACT

The Association believes that the construction industry's clients in both the private and public sectors are best served by having the construction projects, of all types and sizes, carried out under a single contract between the client and a capable general contractor qualified by experience, knowledge and resources to handle the entire project from commencement to completion. The single contract principle places responsibility upon one general contracting firm for the total execution of the project in accordance with the contract documents; the client thus avoids the obvious hazards arising from fragmentation of overall responsibility. The single contract creates the framework for optimum coordination, maximum efficiency and economy, and simplicity of administration.

The Association recognizes that there are several different types of contracts which are all consistent with the single contract principle and recommends that each client should determine the particular type of contract best suited to his circumstances and the basic requirements of his project.

The Association recommends that the industry's clients pursue one of the following methods in engaging the services of a general contractor:

1. a public call for tenders, with or without prior prequalification, followed by a contract award for a stipulated sum;
2. on invitation to a selected list of contractors to submit tenders, resulting in a contract in the form specified in the tendering documents.
3. the negotiation of a contract between the client and a chosen contractor in a form to suit the project involved.
4. the execution of a contract based on the actual cost of the project, together with payment of predetermined fee to the contractor for the performance of services as required by the client.
5. in certain types of projects, the public or invited tendering and awarding of a contract based on unit prices for quantities of completed work.

The Association recommends to clients in both the private and public sectors the use of the Canadian Standard Forms of Construction Contract between Owner and Contractor, as developed by the Canadian Construction Documents Committee and endorsed jointly by the national organization representing architects, engineers, contractors and specification writers. The Association urges that such Forms be used without amendments, except where acceptable changes are necessary for the projects involved.

The Association opposes the practice of calling separate trade tenders resulting in either the subsequent arbitrary assignment of selected sub-contractors to the general contractor or in the award of separate trade contracts. The Association believes that the foregoing practices lead to fragmentation of authority and responsibility for the progress, quality, safety and completion of the project, and are thus in conflict with the owner's and industry's best interests. The Association is not opposed, however, to the early tendering of a part of the project which involves an extended period of time for delivery of materials or equipment required for that part of the project; in such cases, the general contractors tendering the project should be informed early in their bidding period of the proposed sub-contractor and his tender price.



2. CONSTRUCTION OF PUBLIC PROJECTS BY GENERAL CONTRACTORS

From time to time certain government departments and other public bodies have carried out construction work with their own forces. The Association believes that this practice is not in the public interest in that it results in higher end costs to the taxpayers, stifles private enterprises, and is detrimental to the economic development of the construction industry.

3. LOCAL PREFERENCE

The Association is aware that from time to time a contractor will be denied the opportunity to submit a bid on a tender call by a municipal or other local authority only because his principal place of business is not resident within the locality involved; similarly there have been occasions where a non-resident contractor who has submitted the lowest bid will have his tender set aside in favour of a higher bid from a local contractor.

The Association believes that such practices and policies result in undue restrictions of competition and unnecessary additional expenditure of public funds and are therefore not in the public interest. The Association therefore reaffirms its disapproval of any tendency by a public authority to give preference in tender calls or contract awards to local contractors.

4. CANADIAN MATERIAL AND EQUIPMENT

The Association recommends that in the national interest project specifications should stipulate construction materials and equipment of Canadian origin and manufacture wherever practicable and available.

5. BID DEPOSITORIES

The Association recognizes the Bid Depository method of tendering for Mechanical and Electrical Subcontractors to General Contractors provided that such Bid Depositories are operated in accordance with appropriate rules and regulations and with the use of acceptable tender forms.

The Association urges that Bid Depository rules, regulations and tender forms shall provide, among other conditions, for the following:

1. the submission of a bid bond and an agreement to bond with each tender;
2. the stipulation of irrevocability of such tenders for an acceptable time period;
3. the forfeiture of the bid security for premature revocation of a tender;
4. the provision of a minimum 50% Performance Bond by the successful bidders, to the successful general contractor;
5. acceptable regulations covering the handling and disposition of disputes concerning tenders submitted through a Bid Depository.

The Association is opposed to any extension of the Bid Depository method of tendering.

6. SELECTION OF BIDDERS

The Association believes that it is in the best interests of owners, architects and engineers to select as bidders, general contractors of demonstrated capability, experience and knowledge commensurate with the nature and size of the project involved.



The Association recommends that for private projects the selection of bidders be made from GCAO members firms. It is advocated that for most such projects up to six bidders be invited to submit tenders, thereby assuring the owner a very satisfactory level of competition for his project and maximum interest by each of the invited bidders.

Where bidding by invitation is not appropriate, the Association believes that the tender-calling authorities should pre-qualify the bidders to ensure an acceptable degree of competence and experience for the project involved; in recommending prequalification, the Association emphasizes the necessity and importance of first determining reasonable qualification standards, and then applying such standards objectively in the prequalification process.

7. PROVISION OF DRAWINGS AND SPECIFICATIONS

- a) The Association recommends that tender-calling authorities provide each prime contract bidder with two hard-copy sets of the Bid Documents for tendering purposes. The Bid Documents must be made available on a refundable basis. Refer to: The Association's Policy on Non-Refundable 'Deposits' for Tendering Documents.
- b) The Association recommends that on the award of a contract the successful general contractor be supplied with a minimum of 18 sets of drawings and specifications exclusive of permit requirements and the signed contract sets of documents; the Association urges that this minimum be increased in the case of very large and/or complex projects.

8. SUB-SURFACE CONDITIONS

The Association recommends that the following principles and practices dealing with sub-surface conditions and related information be observed and adopted by owners, architects and engineers.

- a) Information on sub-surface conditions based on appropriate tests and adequate for tendering purposes shall be obtained by the owner who shall assume responsibility for its accuracy.
- b) Such information shall be included in and form part of the tendering documents
- c) In the event that during the execution of the contract, the sub-surface conditions are found to differ from those indicated in the information on which the tender was based then an equitable adjustment will be made between the parties.

9. PAYMENT PROVISIONS IN CONTRACTS

The Association emphasizes the importance of providing and adhering to payment provisions in contracts which will facilitate the flow of funds between clients and contractors, thereby avoiding unnecessary costs during and on completion of construction projects. The Association urges that progress and final payments be made promptly and that the provisions of the Construction Lien Act of Ontario governing the progressive and final release of holdback moneys be observed.

The Association believes that when a contract provides for a Performance Bond and a one-year guarantee period, then the stipulation of a performance holdback is redundant and results in unnecessary cost to the client.

The Association recommends that the payment provisions of a contract should provide for the payment of interest on overdue accounts owing to the contractor as follows: 2% per annum above Prime Rate for the first 60 days; 4% per annum above Prime Rate after the first 60 days; the



Association believes that this recommendation will not penalize clients who adhere to payment schedules, and will encourage others to adopt improved payment procedures.

10. CONSTRUCTION SPECIFICATIONS

The Association believes that clear, concise and comprehensive specifications are a major factor in obtaining fair and competitive bidding and help to assure the industry's clients maximum satisfaction in their completed projects. Accordingly the Association urges clients, through their architects and engineers, to select and specify the products, materials and equipment to be installed, by their manufacturers' names: competitive pricing may be obtained by naming two or more products or manufacturers, any one of which is acceptable, with the final choice being left to the bidder.

The Association believes that the use of the terms "or equal" or "equivalent" leads to confusion in tender preparation and unacceptable variations on which tenders are based and should therefore not appear in the specifications.

11. CASH ALLOWANCES

The specification of stipulated or provisional sum allowances for materials and equipment as yet to be detailed by the architect, engineer, or owner can present problems of interpretation to the general contractor at the time of the tender call. The requirements for installation and guarantee may be unknown to all parties at that time. The Association recommends that when such sums are specified, the contract shall provide that the general contractor's mark up for overhead and profit, as well as the cost of the required materials, equipment and labour for their installation shall be chargeable against such allowances. This procedure would represent a fair and equitable condition of contract to both the owner and the general contractor. (Refer also to CCA Document #29).

12. CONTINGENCY ALLOWANCES

The bid documents may specify a contingency allowance to cover unforeseen events. Overhead and profit allocated to the contingency allowance is to be included in the contingency allowance, not in the bid price because of the unpredictability of such events. Bidders cannot be expected to foresee overhead cost requirements. (Refer also to CCA Document #29)

13. CHANGE ORDERS, CHANGE DIRECTIVES AND THEIR VALUATION

The Association, while recognizing that changes to a contract in progress cannot always be avoided, urges architects and engineers to adopt change order procedures which will facilitate their handling and execution, thus avoiding delays in the progress of the work and the completion of the project. The Association recommends that, in appropriate instances, a separate contract covering a change order or change directive should be entered into, thus allowing timely completion of the main contract; in other instances, the time for completion of the contract should be extended.

The Association advocates that valuation of change orders or change directives shall be determined either (a) by estimate and acceptance in a lump sum, or (b) on the basis of the cost of the work together with a percentage of fee covering profit and head office overhead. The Association recommends that change order fees should be negotiated or quoted upon in the



tender; the Association believes that such fees should not be established arbitrarily by the tender-calling authorities.

The Association also recommends that, in the conditions of contract,

- a) The recommended mark-ups for overhead and profit on Change Orders or Change Directives are in accordance with CCA 16, i.e. 20% on work executed by the General Contractor's forces and 15% on work executed by the forces of Subcontractors.
- b) the contractor shall make a minimum charge for the processing and valuation of proposed changes or change orders;
- c) the contractor shall not be required to refund any amount representing profit or overhead on a change order involving a credit against the contract;
- d) the contract may fix a time limit for the acceptance of quotation on change orders.
- e) Insurance and bonding costs be line items as costs rather than be included in mark-ups.

14. REQUESTS FOR UNIT PRICES

The Association recommends that unit prices should only be called for in a tender form where such information is considered essential at the time of tendering and where they can be estimated with reasonable accuracy. When requested, unit prices should be asked for as "additions to" and "deductions from" the work as shown: in every request for unit prices, the classification of the work covered shall be clearly defined. Ordinarily, request for unit prices at the time of tendering should be restricted to excavation, concrete, form work and reinforcing steel necessary for adjusting underground foundations. Where a substantial number of unit prices are required, they should not be submitted with the original tender but rather, forty-eight hours after tender closing. (Refer also to CCA Document #29)

15. QUANTITY VARIATIONS IN UNIT PRICE CONTRACTS

The Association recommends that in the interests of equity between the parties, and recognizing that a unit price quotation will vary according to quantity, that the parties entering into a Unit Price Contract agree that if the quantities of completed work of any individual item in the contract vary 15% or more from the quantities stipulated in the tendering and contract documents then the applicable unit price(s) shall be subject to revision at the request of either party.

16. ISSUANCE OF ADDENDA

The Association urges architects and engineers in the interest of good tender preparation to avoid the issuance of addenda within 3 working days of tender closing date; where the issuing of an addendum during this time cannot be avoided (particularly one involving significant changes), the Association recommends that the tender closing be extended accordingly. As an alternative to the latter procedure, the Association recommends that the addendum be withheld and its content be dealt with by negotiation with the successful bidder after tender closing and prior to contract award.

17. BID SECURITY

The Association urges that the following practices concerning bid security and tender deposits be adopted by all tender-calling authorities:



- a) The tender document should stipulate a percentage of the tendered value or amount and not a specific dollar amount in the requirement for a bid bond or cash security.
- b) A requirement for cash security in certified cheque or other form should only be stipulated for public projects and not for private work.
- c) Where tender documents call for some form of cash as bid security, those documents must specify acceptable conditions for the handling and prompt return of such security to the unsuccessful bidders within one week of the tender closing date; such conditions should include the provision that where certified cheques are given as bid security, they shall be held in escrow and shall not be cashed by the tender-receiving authority.

18. RE-BIDDING

The Association recognizes that on some occasions, when competitive tenders are received, the prices quoted will exceed the Owner's estimate or budget for the project, and that in order to proceed with the project, it is necessary to make changes which will reduce the cost. The Association recommends that in such cases, the contract-awarding authority as a first step negotiate changes in the work with the lowest acceptable bidder conforming with the tender requirements, and, provided such negotiations produce an acceptable price, award the contract to that bidder. The Association further recommends that where such negotiations do not produce an acceptable price or where substantial cost changes are required, involving redesign, new bids based on the revision tender documents be invited from not more than the three lowest acceptable bidders who originally submitted tenders. (refer also to CCDC Document #23)

19. ARCHITECT-CONTRACTOR PRACTICES AND PROCEDURES

On sizable projects, The Association urges adherence to the provisions of the document entitled OAA/OGCA Take-Over Procedures – 1981, as prepared and published jointly by the Ontario Association of Architects and the Ontario General Contractors Association. The Association recommends that the full text of these procedures form a part of the contract documents from the outset by reference in the general conditions of the contract to facilitate the closing phases of a construction contract and the take-over of the construction project by the owner from the contractor.

20. GUARANTEES

The Association recommends that the contract documents should stipulate a one-year guarantee by the general contractor against faulty workmanship and materials. The Association views longer term guarantees as a condition of contract between the owner and the product manufacturer.