

COR/2019/03352

July 22, 2019

Dear Applicant:

**Re: Your request for access to information under Part II of the Access to Information and Protection of Privacy Act (Our File #: TW/092/2019)**

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On June 21, 2019, the Department of Transportation and Works received your request for access to the following records:

*I am writing seeking documents under the provision of the ACCESS TO INFORMATION AND PROTECTION OF PRIVACY ACT, 2015. I am seeking information relating to the decision of the Newfoundland and Labrador government to proceed with the use of public private partnerships. Other provinces which have used P3s have developed methodologies to help them decide whether to use P3s. For example, In British Columbia the governments agency responsible for P3s, Partnerships BC, has published a Methodology for Quantitative Procurement Options Analysis Discussion Paper ([http://www.partnershipsbc.ca/files-4/documents/Methodology%20for%20Quantitative%20Procurement%20Options%20Analysis%20\(2014%20update\).pdf](http://www.partnershipsbc.ca/files-4/documents/Methodology%20for%20Quantitative%20Procurement%20Options%20Analysis%20(2014%20update).pdf)) In Ontario, the government uses ASSESSING VALUE FOR MONEY: A Updated Guide to Infrastructure Ontario's Methodology - March 2015 (<https://www.infrastructureontario.ca/Value-For-Money/>) In Saskatchewan the document is Saskbuilds Corporation Public-Private Partnership project Assessment And Procurement guideline, 2016 (<http://www.saskbuilds.ca/alternative-financing/SaskBuilds%20P3%20Project%20Assessment%20and%20Procurement%20Guideline%20-%20revised%202016.pdf>) Alberta uses a Treasury Board document, Alberta Treasury Board, Alberta's Public-Private Partnership Framework and Guideline ([www.infrastructure.alberta.ca/alberta-p3-framework-and-guideline.docx](http://www.infrastructure.alberta.ca/alberta-p3-framework-and-guideline.docx)) I am assuming that Newfoundland and Labrador would not proceed with expensive public private partnerships projects without carrying out the same degree of analysis taken by these other provinces. Therefore, broadly speaking, I seek any records outlining the methodology used by the NL government when it is analyzing whether to use P3s. I request any records used by the government of NL that would have a function similar to those used in other provinces to analyze whether to use public private partnerships for projects. These records would include such things as methodology documents, guidelines, and framework documents. I seek these records whether they have been developed by the government itself or whether the government has paid third parties to develop the documents for the governments use. This request does not include specific value for money reports on current public private partnerships but rather the methodology that is applied when making these decisions in general.*

Please be advised the Department of Transportation and Works has no records responsive to your request. While there is no overarching document that address your specific request, it is important to note that the Government of Newfoundland and Labrador follows a consistent approach in considering the best procurement approach for major infrastructure projects. Specific to the consideration of Public Private Partnerships, Section 20 of the Public Procurement Regulations under the Public Procurement Act <https://www.assembly.nl.ca/Legislation/sr/regulations/rc180013.htm#20> states that: “A public body, with the approval of the Lieutenant-Governor in Council, may establish public-private partnerships, use buying groups or adopt another alternative procurement approach to acquire commodities.”, and; the procurement “shall employ an open and transparent process...”. Further to this, the mandate letter to the Minister of Transportation and Works from the Premier of Newfoundland and Labrador requires that the department inform these decisions using a Value for Money analysis.

The Value for Money approach employed by the Government of Newfoundland and Labrador is consistent with the practice used in many Canadian jurisdictions that are responsible for the delivery of major infrastructure projects. The scope of work and objectives for a Value for Money analysis completed for the Department of Transportation and Works is typically as outlined in the attached Requests for Proposals that was most recently publicly issued to engage an external consultant for the Value for Money analysis for the replacement of Her Majesty’s Penitentiary.

Please be advised that you may ask the Information and Privacy Commissioner to review the processing of your access request, as set out in section 42 of the *Access to Information and Protection of Privacy Act* (the *Act*). A request to the Commissioner must be made in writing within 15 business days of the date of this letter or within a longer period that may be allowed by the Commissioner.

The address and contact information of the Information and Privacy Commissioner is as follows:

Office of the Information and Privacy Commissioner  
2 Canada Drive  
P. O. Box 13004, Stn. A  
St. John’s, NL. A1B 3V8

Telephone: (709) 729-6309  
Toll-Free: 1-877-729-6309  
Facsimile: (709) 729-6500

You may also appeal directly to the Supreme Court Trial Division within 15 business days after you receive the decision of the public body, pursuant to section 52 of the *Act*.

Please be advised that this letter will be published following a 72 hour period after it is sent electronically to you or five business days in the case where records are mailed to you. It is the goal to have the letter posted to the Completed Access to Information Requests website within one business day following the applicable period of time. Please note that requests for personal information will not be posted online.

If you have any further questions, please contact me by telephone at 709-729-5351 or by email at [ATTW@gov.nl.ca](mailto:ATTW@gov.nl.ca).

Sincerely,

A handwritten signature in blue ink that reads "Angela McIntyre".

**Angela McIntyre**  
ATIPP Coordinator

### **Access or correction complaint**

**42.** (1) A person who makes a request under this Act for access to a record or for correction of personal information may file a complaint with the commissioner respecting a decision, act or failure to act of the head of the public body that relates to the request.

(2) A complaint under subsection (1) shall be filed in writing not later than 15 business days

(a) after the applicant is notified of the decision of the head of the public body, or the date of the act or failure to act; or

(b) after the date the head of the public body is considered to have refused the request under subsection 16 (2).

(3) A third party informed under section 19 of a decision of the head of a public body to grant access to a record or part of a record in response to a request may file a complaint with the commissioner respecting that decision.

(4) A complaint under subsection (3) shall be filed in writing not later than 15 business days after the third party is informed of the decision of the head of the public body.

(5) The commissioner may allow a longer time period for the filing of a complaint under this section.

(6) A person or third party who has appealed directly to the Trial Division under subsection 52 (1) or 53 (1) shall not file a complaint with the commissioner.

(7) The commissioner shall refuse to investigate a complaint where an appeal has been commenced in the Trial Division.

(8) A complaint shall not be filed under this section with respect to

(a) a request that is disregarded under section 21 ;

(b) a decision respecting an extension of time under section 23 ;

(c) a variation of a procedure under section 24 ; or

(d) an estimate of costs or a decision not to waive a cost under section 26 .

(9) The commissioner shall provide a copy of the complaint to the head of the public body concerned.

### **Direct appeal to Trial Division by an applicant**

**52.** (1) Where an applicant has made a request to a public body for access to a record or correction of personal information and has not filed a complaint with the commissioner under section 42, the applicant may appeal the decision, act or failure to act of the head of the public body that relates to the request directly to the Trial Division.

(2) An appeal shall be commenced under subsection (1) not later than 15 business days

(a) after the applicant is notified of the decision of the head of the public body, or the date of the act or failure to act; or

(b) after the date the head of the public body is considered to have refused the request under subsection 16 (2).

(3) Where an applicant has filed a complaint with the commissioner under section 42 and the commissioner has refused to investigate the complaint, the applicant may commence an appeal in the Trial Division of the decision, act or failure to act of the head of the public body that relates to the request for access to a record or for correction of personal information.

(4) An appeal shall be commenced under subsection (3) not later than 15 business days after the applicant



## **REQUEST FOR PROPOSALS**

### **Infrastructure Procurement Analysis**

### **New Adult Correctional Facility**

### **Province of Newfoundland and Labrador**

RFP Number: 10910  
Project Number: 18139004

Department of Transportation and Works

**December 14, 2017**



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## 1 Objective

- 1.1 The Government of Newfoundland and Labrador represented by the Department of Transportation and Works (herein referred to as the “Owner”) is issuing this Request for Proposals (RFP) for the review and analysis of procurement options for a new multi-purpose adult correctional complex (hereafter collectively referred to as the “Work”). The resulting documents from this planning exercise will inform the project delivery method of a new multi-purpose correctional complex to replace Her Majesty’s Penitentiary (HMP) currently located at St. John’s, Newfoundland.
- 1.3 A detailed description of the scope of services is attached in Schedule "B" – Scope of Services. Details about the requested contents of proposals can be found in the attached Schedule "C" – Proposal Content Requirements.

## 2 Information Regarding the RFP Process

### 2.1 General

- 2.1.1 The Department of Transportation and Works is issuing this RFP as the lead agency for the Government of Newfoundland and Labrador, in coordination and collaboration with its client the Department of Justice and Public Safety (herein collectively referred to as the “Client Department”).
- 2.1.2 This RFP competition is open to any firm or joint venture. Sub-consultants are permissible, but any and all Sub-consultants must be identified by each Respondent in its proposal and may not be changed by the successful proponent during completion of the Project without the prior written approval of the Department. Proposal evaluations as indicated in this RFP will be based on the overall composition of the respondents’ complete team.
- 2.1.3 Proposals will be evaluated in accordance with Schedule “D”.
- 2.1.4 The form of contract for this work will be the Owner’s Standard Form of Agreement between Client and Prime Consultant. A generic sample of such a contract is attached as Schedule “E”.
- 2.1.5 The Closing Time and Date of this RFP is January 24, 2017 at 3:00 p.m. or as amended by any addenda issued by the Department.
- 2.1.6 The onus is on the Respondent to ensure that all addenda issued during the response period have been received prior to response submission. The Owner shall not be responsible to verify that Respondents have received all addenda. Respondents who fail to inform themselves of the full requirements and scope of this RFP Document do so entirely at their own risk.

## 2.2 Submission Requirements

- 2.2.1 The Proposal response shall consist of two (2) separate envelopes:
- (a) The professional services component and any optional pre-printed literature about the Proponent; and
  - (b) The cost component.
- 2.2.2 The Proposal response may include pre-printed literature about the Proponent. The Proponents shall place any and all pre-printed material into a separate volume which shall be submitted in the same envelope as the professional services component. Pre-printed material about the Proponents will not be evaluated by the Evaluation Committee and will only be accepted as supplementary reference material.
- 2.2.3 All Proposals should be on 8 ½ inch x 11 inch format paper printed on both sides. The professional services component of the Proposal shall be limited to twenty-five (25) pages and should not include pre-printed material.
- 2.2.4 The Proponent shall place the submission envelopes in third envelope or package clearly marked “**RFP Response: Infrastructure Procurement Analysis for New Adult Correctional Facility**”, addressed to:
- Deputy Minister  
C/O Tendering and Contracts  
Department of Transportation and Works  
Ground Floor, Confederation Building, East Block  
PO Box 8700, St. John’s, NL A1B 4J6
- 2.2.5 Proposals must be received at the address above no later than the date and time indicated in the public posting or as indicated in subsequent Addenda, if any
- 2.2.6 Proposal(s) received and not conforming to Items 2.2.1 to 2.2.5 will be returned to the Proponent(s), without consideration.
- 2.2.7 Proposals received via facsimile machine or e-mail will not be accepted.
- 2.2.8 Proposal amendments via facsimile machine will be accepted. The facsimile number is (709) 729-6729.
- 2.2.9 All prices quoted in the Proposal are to be in Canadian funds and are to show all applicable taxes.
- 2.2.10 Proposals must be based on Section 2.2 Submission Requirements, Schedule B – Scope of Services and Schedule C – Proposal Content Requirements.
- 2.2.11 Proposals must clearly show the complete company name and the name and

telephone number of the contact person (the “Proponent Representative”) for the Proponent.

- 2.2.12 Proponents are solely responsible for any costs or expenses related to the preparation and submission of Proposals, including costs associated with attendance at meetings or interviews requested by the Owner.
- 2.2.13 After the closing date and time, all Proposals received by the Owner become the property of the Owner.
- 2.2.14 The Proposal must remain valid for a period of 60 days after the date of closing.
- 2.2.15 The laws of the Province of Newfoundland and Labrador shall govern this Proposal and any subsequent contract resulting from this Proposal.

### 2.3 Amendments and Cancellation

- 2.3.1 The Department may without liability, cost or penalty, amend, supplement or cancel the RFP documents by way of addenda. No other statement, whether oral or written, made by the Owner will amend the RFP documents. Respondents shall not rely on any information or instructions from the Owner except the RFP documents and any issued addenda.

### 2.4 Confidentiality and Disclosure of Respondent Information

- 2.4.1 The Owner is subject to the *Newfoundland and Labrador Access to Information and Protection of Privacy Act, 2015* (“**ATIPPA**”), which gives people a right of access to records in the custody or control of the Owner, with certain exceptions.
- 2.4.2 Subject to ATIPPA and except as provided otherwise in this RFP or as required by law, the Owner shall treat the Proponent’s Proposal and information gathered in interviews carried out as part of this RFP process as confidential.
- 2.4.3 The Proponent shall not require the Owner or any of its representatives to sign a confidentiality agreement in respect of any step taken or information provided as part of this RFP process.
- 2.4.4 The Proponent, by submitting its proposal, agrees that the Owner may disclose to other Proponents and the public:
  - a) the name and address of the Proponents;
  - b) the cost of service and/or rates of the successful Proponent; and
  - c) the name and address of the successful Proponent.
- 2.4.5 The Owner may provide the Proposal to any person involved in the review and evaluation of respondent’s proposals on behalf the Owner and the may:
  - a) make copies of the Proposal; and
  - b) retain the Proposal.

In this regard, by responding to this RFP each respondent agrees that each proposal submitted is the property of the Owner.

2.4.6 The Owner, as required by law, may disclose any information with respect to the Respondents, the Proposals and the RFP Process to any person.

## 2.5 Confidentiality of Owner Information

2.5.1 The Proponents acknowledge and agree that all material, data, information (oral or written), or any item in any form, whether it is in electronic or hard copy format, supplied by or obtained from the Owner that the Proponents acquired during the RFP process:

- a) shall remain the sole property of the Owner and the Proponents shall treat it as confidential;
- b) shall not be used by the Proponent for any other purpose other than submitting a Proposal in response to this RFP;
- c) shall not be disclosed by the prospective Proponent or Proponents to any person who is not involved in the Proponent's preparation of its Proposal without prior written authorization from the Owner; and
- d) if requested by the Owner, shall return the same to the Owner no later than ten (10) calendar days after a request by the Owner to return the RFP Information.

## 3 RFP Documents

3.1 The RFP Documents forming this Request for Proposals are:

1. This document;
2. Schedule "A" – Project Information;
3. Schedule "B" – Scope of Services;
5. Schedule "C" – Proposal Content Requirements;
6. Schedule "D" – Evaluation Process;
7. Schedule "E" – Standard Form of Agreement between Client and Prime Consultant;  
and
8. Any addenda issued pursuant to this RFP.

3.2 The RFP documents shall be read as a whole. The Schedules and Addenda, if any, constitute an integral part of this RFP and are incorporated by reference.

## 4 Required Fields of Expertise

4.1 Respondents to this RFP must demonstrate proven leadership, expertise and experience in the analysis of procurement models for major infrastructure projects.

4.2 Respondents will have following qualifications:

- 4.2.1 extensive and recent experience in advising provincial governments or other public sector organizations in the analysis and review of procurement models of major

- justice infrastructure projects, including Risk Analysis, Cost Projections, Value for Money Analysis, Market Soundings and Business Case development;
- 4.2.2 extensive and recent experience is demonstrated as having successfully completed a minimum of 3 infrastructure projects within the last 10 years;
- 4.2.3 proven approach for providing procurement advisory services to public sector organizations in connection with major infrastructure projects and for performing VFM assessments and business case analysis using well-established Canadian and provincial methodologies.
- 4.3 Respondents must include as part of their project team, independent cost consulting expertise with appropriate analysis to ensure that benchmarking costs from other jurisdictions in Canada are appropriately marked-up/discounted for market conditions in the province of Newfoundland and Labrador.

## **5 Inquiries**

- 5.1 All inquiries regarding this RFP must be made via email to:

stevenforward@gov.nl.ca

- 5.2 All questions should be submitted in writing at least five (5) business days prior to the Closing Time. Questions beyond that time may not receive a response.
- 5.3 If, in the opinion of the Owner, the inquiry and subsequent response has a material impact on the intent or interpretation of the RFP documents, the Owner will issue an appropriate addendum to address that/those item(s).
- 5.4 Any representations, promises, statements or advice made by representatives of the Owner other than ones provided in writing through the email person noted above, do not represent a response of the Owner and shall not be relied upon for the preparation of proposal(s).

**Schedule “A”**

**Project Information**

## Project Information

The Owner's Functional Space Program is approximately 21,000 m<sup>2</sup> Building Gross Area with 387 inmate beds. The new correctional facility will enhance and expand the scope of correctional services currently available in the province. The following areas and services are being considered for the new facility:

- Housing Units
  - o Male Housing Units
  - o Male Special Handling
  - o Male Mental Health
  - o Male Disciplinary Segregation
  - o Male New Admissions
  - o Female Housing Units
  - o Female Intermittent
  - o Male Intermittent
  - o Male and Female Infirmary
- Shared Facilities
  - o Civilian Entrance / Visitation
  - o Security and Central Control
  - o Admitting and Discharge
  - o Administration
  - o Health Services
    - Medical Clinic
    - Infirmary
  - o Inmate Program Services
  - o Support Staff Facilities
  - o Food Services
  - o Laundry Services
  - o Building Support Services
    - Receiving and Stores
    - Canteen
    - Maintenance Shops
    - Garage
  - o Building Systems Services

## **Schedule “B”**

### **Scope of Services**

## Overview

In 2014 Parkin Architects, CGL and John Hearn Architects were engaged to provide a functional program and functional plan for the replacement of Her Majesty's Penitentiary (HMP) located in St. John's. The original Centre Block was first occupied in 1859, east and west wings were constructed in the mid-1940's and in 1981 Living Units were added. HMP is the main male institution in Newfoundland housing both sentenced and remand offenders with a total capacity of 145 male offenders. The institution provides housing for both provincial and federal inmates.

The scope of this Request for Proposals (RFP) is to provide value for money options for a New Adult Correctional Facility (NACF) to replace the existing Her Majesty's Penitentiary (HMP). This new correctional facility will be located in the Northeast Avalon area but is not to be site specific, and intended for a generic green field site.

This will be a review the value for money to provide a basis for analysis on the possible procurement methods for the facility.

The work will be comprised of the following activities:

1. Undertake a qualitative review to assess the optimal procurement model, factors to be examined in the assessment of the various delivery models include: project characteristics and risks; project schedule and budget constraints; private sector market interest and capacity; regulatory and legal considerations; and other factors such as technology and security considerations.
2. The qualitative analysis will also require the involvement and input of key stakeholders that reflect the comprehensive nature of the factors being considered. These factors may be translated into qualitative evaluation criteria to be used in assessing the range of potential models. The expected outcome a report summarizing the process and outcomes and the identification of a short-list of preferred models for further consideration.
3. Perform a risk analysis for each of the short-listed procurement options, this should include a risk workshop attended by GNL representatives. An outcome of this process will be to provide a risk analysis report summarizing the process to quantify the risks, and the output of the analysis undertaken. It is anticipated that complete financial models to quantitatively analyze each of the short-listed procurement options incorporating the cost consultants' estimates, associate risk and risk transfer, and other financial and commercial assumptions required.
4. Undertake a Procurement Options Analysis to identify procurement options. This would include conducting a market sounding to review market feedback on key considerations for the procurement of the project. This process will result in a

procurement options analysis report summarizing the process and outcomes of the qualitative analysis of procurement options.

5. Develop Cost Projections by appointing a mutually agreed upon cost consultant (eg: Altus Group, Turner and Townsend) (the “Cost Consultant”) to develop estimates for expected capital and lifecycle costs for the correctional facility and review the costs estimates. Provide any cost reports issued by the cost consultant in respect to this project.
6. Undertake a Value for Money Analysis to compare the risk adjusted costs of a potential P3 delivery model against a traditional approach in order to estimate the potential quantitative benefit of each. Provide a copy of the financial model prepared for the procurement options analyzed.
7. Provide a financial Business Case for the project, use the qualitative, quantitative and risk analysis deliverables (including the GNL approved Cost consultants cost estimates) to develop a draft business case for the procurement of the project.

Proponents are asked to provide a work plan and schedule for the completion of each activity highlighted above.

## **Schedule “C”**

### **Proposal Content Requirements**

## Proposal Content

To assist with the evaluation process, proposals shall be submitted in accordance with the following basic sections. Proponents are free to add sub-sections within this basic outline to suit the particulars of their proposal. The proposal content, not including any appendices, the table of contents and the executive summary should not exceed twenty-five (25) pages.

### 1.1 Table of Contents

Proposals shall include a table of contents properly indicating the section and page numbers of the information included.

### 1.2 Executive Summary

Responses shall include an abstract of no more than one (1) page on the information presented in the proposal and the Proponent's unique qualifications and services.

### 1.3 Background, Experience & Capabilities

#### 1.3.1 Background Information:

Provide general information on the project team, including a brief history of the firm(s), number of years in business and relevant past projects.

#### 1.3.2 Team Members:

Provide a complete list of key members on the project team complete with their role, competencies and past relevant experience. Indicate that key personnel are fully capable of completing the required tasks with respect to their full work load. CVs should be included in an appendix.

#### 1.3.3 Organizational Chart:

The chart should indicate the names of the individuals to be involved in the major tasks of the project and reporting relationships. The chart shall identify the overall project lead, as well as the sub-leads. Any changes to staffing during the project must be approved by the Owner. All requests to be made in writing.

### 1.4 Project Methodology & Work Plan

Provide a description of the proposed methodology and the process to be used to carry out the project requirements.

The project methodology should provide sufficient detail for the Owner to be assured that the appropriate level of involvement and effort is applied by the respective experts included in the 'Team Members' section of the proposal.

Provide a work plan, which will provide an overview of the schedule to complete the above scope in a timely fashion. Gantt chart type format.

1.5 Cost Submission

The cost submission shall be presented as a lump sum price, inclusive of all travel, fees and expenses to carry out the Work in accordance with the proposed methodology. The cost submission shall also include a separate rate schedule for all personnel noted in the proposal.

**Schedule “D”**

**Evaluation Process**

## Evaluation Process

- 1.0 An Evaluation Committee will review and evaluate the proposals submitted in response to this RFP. Based on the results of the evaluation, the Committee will rank proposals in accordance with the criteria outlined in 1.3 and make a recommendation to the Owner to enter into detailed negotiations with the highest ranked proponent(s).
- 1.2 The Evaluation Committee reserves the right to accept any qualifying proposal or none of the proposals submitted.
- 1.3 The Evaluation Committee will evaluate proposals based on the following criteria and maximum point scores:

Evaluation Criteria	Weighting
Team Composition, Personnel and Experience	50 points
Work Plan / Methodology	25 points
Cost	25 points

- 1.4 Acceptance of the proposal rankings and resulting recommendations is subject to the approval of the Owner.
- 1.5 The Owner reserves the right to negotiate all or portions of the proposal with the preferred Proponent prior to signing a contract for the execution of the Work.

**Schedule “E”**

**Standard Form of Agreement between Client and  
Prime Consultant**

## Contract Agreement

- 1.1 The contract form will be based on the “**STANDARD FORM OF AGREEMENT BETWEEN CLIENT AND PRIME CONSULTANT**”. A sample can be found at [http://www.tw.gov.nl.ca/works/prime\\_consultant\\_agreement.doc](http://www.tw.gov.nl.ca/works/prime_consultant_agreement.doc).