



City of Niagara Falls
Bidder Information for Small Value Quotes

TERMS AND CONDITIONS

1. Definitions
 - a. "Bidder" means a legal entity, being a person, partnership, firm or corporation that submits a Quotation in response to an RFQ.
 - b. "City" means The Corporation of the City of Niagara Falls.
 - c. "MFIPPA" means the Municipal Freedom of Information and Privacy Protection Act, R.S.O. 1990, c.M.56, as amended from time to time.
 - d. "Order" means the contract formed by the City's acceptance of the Bidder's Quotation. The provisions of the contract are contained in the Quotation (including any addenda) and these Terms and Conditions.
 - e. "Quotation" means a Quotation submission by a Bidder in response to a RFQ, which includes all of the documentation necessary to satisfy the submission requirements of the RFQ.
 - f. "RFQ" means the Request for Quotation – Small Value Quotes, including the covering letter issued by the City's representative, inclusive of all appendices, attachments and any addenda or change notice that may be issued by the City from time to time.
 - g. "Sender of Request for Quote" means the person named in the RFQ as issuing the RFQ.
 - h. "Time Limit" means noon on the date that is the "Time Limit for Quote" contained in an RFQ.
2. Request for Small Value Quote
 - a. The City may issue from time to time a Request for Quotation - Small Value Quotes to potential Bidders.
 - b. City may change or alter any RFQ by way of a follow-up letter or E-mail.

3. Response to RFQ

- a. A Bidder receiving a RFQ may respond to the RFQ by providing prices for the goods and/or services enumerated in the RFQ.
- b. By submitting a Quotation the Bidder agrees to all the terms and conditions of the RFQ, including these Terms and Conditions.
- c. Bidder shall attach to its response to the RFQ any warranty information as well as any other information that may be requested in the covering letter (if any) to the RFQ.
- d. The prices submitted in response to the RFQ shall include all work and services described therein to complete the requirements of the RFQ to the satisfaction of the City of Niagara Falls.
- e. If there is a Time Limit for response to the RFQ, a Quotation received later than the Time Limit may not be received or accepted.

4. Rejection of Quotes

Any or all of the following events may disqualify a Bidder's Quotation:

- a. Collusion between Bidders;
- b. Any attempt to by-pass the RFQ process;
- c. Any attempt to bribe a person to influence the RFQ process or outcome;
- d. Any political or other lobbying with respect to a RFQ, including seeking to influence the outcome of the RFQ and subsequent procurement process through contact or communication with City staff, its elected and appointed officers and officials and agents of the City;
- e. The Quotation contains conditions or otherwise materially fails to conform to the requirements of an RFQ;
- f. The Bidder has an unsatisfactory record of compliance with the Occupational Health and Safety Act, R.S.O. 1990, c. O.1, as amended;
- g. The Bidder is in arrears to the City of Niagara Falls, upon debt or contract, or Bidder is a defaulter, as surety or otherwise, upon any obligation to the City, or Bidder is deemed irresponsible or unreliable by the City;
- h. The Quotation contains materially false, incorrect or misleading information;

- i. There is a real or perceived conflict of interest involving the Bidder;
 - j. Bidder identifies its entire Quotation as confidential or is otherwise not reasonable in the designation of its own information in the Quotation as confidential;
 - k. Bidder is deemed by the City not to have a practical knowledge of the requirements stated in the RFQ and cannot prove that it has the necessary financial resources to perform and complete the services outlined in the RFQ;
 - l. Bidder is in a lawsuit with the City; and
 - m. Bidder has misinterpreted the RFQ or underestimated the hours or value of any services to be performed or has submitted unbalanced prices or fees, not accurately or realistically reflecting the services or goods requested.
5. City's Reserved Rights
- a. The City of Niagara Falls may make all necessary corrections to any Quotation that is in error through addition mistakes or errors in extensions. The calculation as corrected by the City will be deemed to be the amount quoted by the Bidder.
 - b. The City reserves the right to modify specific details and deadlines, to cancel a RFQ at any time prior to or following the stated RFQ closing time, to consider Bidders that have not responded to an RFQ, to request additional information if deemed necessary by the City and to take any steps whatsoever the City deems necessary to choose a particular Quotation. A request by the City for additional information shall not constitute an opportunity by the Bidder to adjust, improve or in any manner add to its Quotation.
 - c. The City reserves the right to reject or retain for its consideration any Quotation, even though it is non-conforming because it does not contain the content or form required by these Terms and Conditions or because it does not comply with the process for submission set out in the RFQ.
 - d. The City reserves the right not to issue an Order in response to any Quotation.
 - e. The City reserves the right to negotiate price, terms, conditions or any matter whatsoever with a Bidder. Should negotiations with the Bidder not be successful, the City reserves the right to enter into negotiations with any other Bidder regardless of ranking or to cancel the RFQ completely or

to cancel and re-issue the RFQ.

- f. The City reserves the right not to reveal the results of or reasons for its decision in selecting a Bidder's Quotation for purposes of making an Order.
- g. The City reserves the right not to provide any debriefing or any information regarding any Quotation submitted by any Bidder or discuss reasons why any Quotation submission was unsuccessful.
- h. The City reserves the right to waive informalities and minor inconsistencies in a Quotation at its sole discretion.
- i. The City reserves the right of ownership of all documents submitted to the City by the Bidder. All such documents become and are the property of the City upon submission and the City may, without restriction, make use of such documents and underlying concepts therein as it sees fit. The Bidder, however, shall not be liable for any damage that may result from any use of said documents for purposes other than those described in an RFQ.
- j. The City reserves the right to withdraw, at its discretion, any RFQ at any time and shall not be liable for any expense, cost, loss or damage incurred or suffered by Bidder as a result of such withdrawal.
- k. The City reserves the right not to accept the lowest priced or any Quotation.

6. Submission of Questions

Questions regarding the RFQ must be submitted in writing only to the Sender of Request for Quote. No City staff, whether an official, agent or employee, other than the Sender of Request for Quote, is authorized to speak for the City with respect to a RFQ. If Bidder uses any information, clarification or interpretation from any other source, Bidder does so entirely at its own risk. The time limit for providing the Quotation shall not be modified or extended because of questions or unanswered questions. The City will provide the questions and answers to all potential Bidders that have received the RFQ.

7. Acceptance of Quote

- a. The Bidder's Quotation is subject to acceptance by the City of Niagara Falls. The City reserves the right, in its absolute discretion, to accept a Quotation that it deems to be most advantageous to itself and reserves the right to reject any or all Quotations in each case without giving any notice or justification. No particular Quotation will necessarily be accepted and the City is not under any obligation to accept any Quotation. In no event will the City be responsible for the Bidder's costs of the preparation

or the submission of a Quotation.

- b. A Quotation is not an Order until it is accepted. Acceptance of a Quotation does not occur unless and until the City issues a Purchase Order to the Bidder by email indicating that the Bidder's Quotation has been accepted. If the City accepts the Quotation by issuing a Purchase Order by email as aforesaid, then a contract is formed, and the Bidder will fulfill the Order in that contract in accordance with the terms of the Quotation and these Terms and Conditions.
- c. The acceptance of Bidder's Quotation is not a guarantee of exclusivity in the supply of the goods or services mentioned in the RFQ.

8. Irrevocable Offer

By submitting a Quotation in response to a RFQ, the Bidder thereby acknowledges that offers contained within its Quotation shall be irrevocable and remain open for acceptance by the City for a period of not less than ninety (90) days following the Time Limit.

9. Withdrawal or Modification of Quotation

Bidder may withdraw its Quotation after the Quotation has been delivered to the City at any time up to noon on the date that is the Time Limit. Bidder will not be permitted to withdraw its Quotation following the Time Limit contained in the RFQ. No adjustments by Bidder to its Quotation submission will be permitted after the Time Limit.

10. Confidentiality of Information

- a. Confidentiality of Bidder's information will be governed by MFIPPA. Bidder, acting reasonably, shall identify any information in its Quotation that, if disclosed, could cause Bidder injury. The City will make reasonable efforts to maintain the confidentiality of such information, but the Bidder must be aware that the information may become public through requests for information under MFIPPA. The City shall not be liable if Bidder's confidential information becomes public or is otherwise disclosed under MFIPPA.
- b. Bidder will keep City's confidential information confidential and will not disclose it to any third party without the prior written consent of the City. Bidder must treat all City information in a highly confidential manner and must not use this information for any purpose other than for replying to the RFQ and fulfilling any related Order. Notwithstanding the foregoing in this paragraph 10, the obligation of confidentiality shall not pertain to information that was at the time of disclosure, or thereafter became, part of the public domain or that was already known to the recipient.

- c. Any announcement concerning any information about Quotations received or the City's issuance of an Order shall be in accordance with MFIPPA.

11. Infringement

Bidder shall indemnify and save harmless City and its Council members and staff against all claims, actions, suits and proceedings brought by any person in respect of the infringement or alleged infringement of any patent, copyright, trademark or industrial design or the use or misuse or misappropriation of intellectual property in connection with its Quotation, including any and all costs incurred by the City.

12. Notification to Bidder

Any notice that the City may be required or may wish to give to the Bidder shall for all purposes be deemed to have been sufficiently and properly given if issued by email to the email address given by the Bidder or by electronic message left on the City's secure, web-enabled procurement portal.

13. Liability of City

While the City has attempted to ensure an accurate representation of information in each RFQ, the

information contained in such RFQ may not be accurate, comprehensive or exhaustive. Nothing in a RFQ is intended to relieve Bidder from forming its own opinions and conclusions with respect to the matters addressed in an RFQ.

14. Bidder's Expenses

Bidder are solely responsible for its own expenses in preparing a Quotation and for subsequent negotiations with the City, if any. If the City elects to reject any or all Quotations received, the City will not be liable to Bidder for any claims, whether for costs or damages incurred by Bidder in preparing its Quotation, loss of anticipated profit in connection with any final Order, or any other matter whatsoever.

15. Conforming with all Laws

Bidder agrees to abide by all applicable laws, regulations and administrative rulings of Canada, Ontario, and the City, including securing all necessary licenses and permits in connection with the Quotation.

16. Insurance

If the City elects to require the Bidder to demonstrate that it has insurance cover, Bidder shall be required to purchase and maintain in force, at its own expense (including the payment of all deductibles) and for the duration of this Order, the following policies of insurance, which policies shall be in a form and with an insurer

acceptable to the City, acting reasonably. If the City requires insurance as aforesaid, then Bidder shall deliver certificates of these policies:

- a. Comprehensive General Liability, with cover of not less than \$5 million per occurrence, with provisions for broad form contractual liability, employer's liability and personal injury/death liability, non-owned automobile coverage; and
- b. Standard automobile liability coverage for owned and leased vehicles with limits of not less than \$2 million per occurrence for bodily injury and property damage, with a deductible of not more than \$5 thousand.

The policies shall not contain exclusions for damage or loss from the removal or weakening of support of any property, building or land whether such support be natural or otherwise or from blasting or vibration from pile driving or caisson work.

17. Workplace Safety & Insurance Board Requirements (WSIB) – as applicable

- a. The Contractor must be in good standing with all the provisions of the Workplace Safety and Insurance Board (WSIB) and shall submit to the City's Contract Administrator a "letter in good standing" from the WSIB prior to the start of any work. Following substantial completion of the work as determined by the City, the Contractor must furnish the City with a "Certificate of Clearance" from the WSIB. For work of long duration the Contractor must supply the City with a "Certificate of Clearance" every 90 days. Progress payments will not be paid by the City unless a valid "Certificate of Clearance" is supplied to the City. Final payment to the Contractor will not be made unless this certificate is received from the Contractor.
- b. A Contractor who operates under an "Independent Operator Status" must supply the City with a document from the WSIB that clearly states that the WSIB has deemed that the successful Contractor is classified as an independent operator as defined under the provisions as issued by the Workplace Safety & Insurance Board. Such document shall be required for each subsequent work under this Contract and updated if the work covered under the Contract resulting from this RFQ is of an intermittent nature involving the same or different types of work over a determined period of time. The successful Contractor will not be permitted to start any work under the Contract until such Contract is received by the City.

18. No Assignment/Subcontracting

The Bidder shall not assign any part of its obligations in any Order which may be issued to it. The Bidder shall be solely responsible for the payment of every subcontractor or service provider employed, engaged, or retained by Bidder for fulfillment of the Order and shall be liable to the City for all costs or damages arising

from acts, omissions, negligence or willful misconduct of its sub-contractors and service providers.

19. Contractor Vaccination Policy – as applicable

The City of Niagara Falls (the City) is committed to providing a safe working environment for our employees, our customers, and members of the public with whom we interact regularly. In doing so, the City is committed to taking every precaution reasonable in the circumstances for the protection of the health and safety of workers from the hazards of COVID-19. Vaccination is a key element in the protection of our city employees against COVID-19.

Please be advised, the City has established COVID-19 Vaccination requirements for all contractor representatives including any sub-contractors conducting work inside City facilities or private residences for a period of 15 minutes duration or greater. This direction is aligned with the City's Workplace COVID-19 Vaccination Policy. As such, effective December 1, 2021, all contractors working within any City facilities or private residences (15 minutes or greater), will be required to be double vaccinated and sign our declaration

This policy is being administrated by the City of Niagara Falls for the benefit of its workers and visitors to its facilities. The City of Niagara Falls has the right to administer, amend or adjust the policy at its sole discretion. The City reserves the right to waive the policy for emergency services.

The City will continue to be guided by the Provincial Medical Officer of Health information and legislative requirements. These requirements may be updated as warranted by their new guidance or other changing circumstances. The City reserves the right to request additional documentation as circumstances and legal requirements evolve. We appreciate your understanding and support as we adjust to these new requirements.

Please review the Contractor Vaccination Declaration requirements in the Important Documents and Links section @ www.niagarafalls.ca/bids, ensure that you have the necessary processes in place to comply with the City's policy, sign and return the declaration to the City Contract Administrator for the work or meeting you are attending. If you have any questions, please reach out to your City Contract Administrator or for general questions e-mail the Procurement department at bids@niagarafalls.ca

20. Payment

The City shall pay the Bidder against Bidder's invoices for goods and services delivered under the Order in accordance with the cover letter for the RFQ or in accordance with the City's customary practice, if payment is not dealt with in the cover letter. The Bidder's invoices shall contain such detail as may be required by the City, and the City reserves the right to require further proof or documentation

from the Bidder in respect of services performed or pass-through expenses incurred by the Bidder and the Bidder shall provide, without delay, such further proof or documentation.

21. Termination for Convenience of the City

The City, upon giving 30 days' written notice may terminate any Order, in whole or in part, when it is in the best interest of the City of Niagara Falls. To the extent that the Order is for services and is so terminated, the City shall be liable only for payment in accordance with the payment provisions of the Order for services rendered prior to the effective date of termination.

22. Work Completion Schedule

If requested by the Sender of Request for Quote, the Bidder may be required to submit a complete work completion schedule.

23. Other Conditions

The Bidder shall not have any claim for any compensation of any kind whatsoever, as a result of responding to a RFQ, and by submitting a Quotation the Bidder shall be deemed to have agreed that it has no claim. Unless otherwise stated all goods supplied under an Order shall be new only, never used, of the latest manufacture and not re-manufactured. All work performed under an Order must be carried out in accordance with the terms and conditions of the Occupational Health and Safety Act, R.S.O. 1990, c. O.1, the Workplace Safety and Insurance Act, 1997, S.O. 1997, c. 16, and the Human Rights Code, R.S.O. 1990, c. H.19.

24. Communications in Writing Only

No verbal arrangement or agreement, relating to the goods, materials, articles, equipment, work or services specified or called for under an Order will be considered binding, and every notice, advice or other communication pertaining thereto, must be delivered by email by a duly authorized person or via the City's secure, web-enabled procurement portal.

25. Budget Limitations

The issuance of an Order resulting from a RFQ is subject to the limits of the City of Niagara Falls budget for the procurement in question. Bidder shall have no claim if the City cancels a RFQ process or any subsequent procurement process because the lowest or any Quotation that does not meet the limitations of the approved budget for the RFQ.

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