



# Alberta Infrastructure Procurement Processes

Hon. Brad Rutherford, MLA  
Chair  
Standing Committee on Legislative Offices

I am honoured to transmit my report, *Procurement Processes*, to the Members of the Legislative Assembly of Alberta, under Section 20(1) of the *Auditor General Act*.

We conducted our work under the authority of the *Auditor General Act* and in accordance with the standards for assurance engagements as set out in the CPA Canada Handbook—Assurance.



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Edmonton, Alberta  
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## Related Reports

- [Systems to Manage the School-Building Program \(April 2016\)](#)
- [Systems to Manage the School-Building Program \(Assessment of Implementation June 2021\)](#)
- [Fort McMurray Residential Facility-Based Care Centre \(Willow Square\) Project Management \(February 2020\)](#)
- [Alberta Schools Alternative Procurement \(April 2010\)](#)
- [Alberta Schools Alternative Procurement Followup \(February 2014\)](#)

Appointed under *Alberta's Auditor General Act*, the Auditor General is the legislated auditor of every provincial ministry, department, and most provincial agencies, boards, commissions, and regulated funds. The audits conducted by the Office of the Auditor General report on how government is managing its responsibilities and the province's resources. Through our audit reports, we provide independent assurance to the 87 Members of the Legislative Assembly of Alberta, and the people of Alberta, that public money is spent properly and provides value.

# Report Highlights



Alberta Infrastructure's procurement processes are guided by the **Government of Alberta's Procurement Accountability Framework** which is based on the principles of fairness, transparency, and integrity p. 2

**Fair and competitive procurement processes are needed to ensure Albertans get good value from the significant dollars their government spends on construction projects**  
p. 3

From January 2016 to December 2020, Alberta Infrastructure has undertaken over **2,700 construction procurements** with a value of approximately **\$4.5 billion** p. 2



While Alberta Infrastructure has made improvements to its construction procurement processes in the past two years, it should make further improvements p. 3



Construction contracts are often in the millions of dollars and the stakes are high—not only for Albertans and Alberta Infrastructure but also for proponents, including sub-contractors. Proponents invest time and money in the development of their submissions, including their bids, and they rely on and expect fair and competitive procurement processes p. 7

Our audit objective was **to assess whether Alberta Infrastructure has effective processes to ensure fair and competitive procurement of its construction tenders** p. 6



## We found:

- Alberta Infrastructure has processes to conduct procurements of its construction tenders fairly and competitively, but not all these processes are effective, and improvements can be made
- Alberta Infrastructure competitively procured its construction contracts, included the necessary information in solicitation documents and followed its evaluation process
- However, Alberta Infrastructure's processes did not always result in procurements that were compliant with the trade agreements and it did not always follow its process for receiving submissions and ensuring only submissions received on or before the procurement close were considered for evaluation
- Alberta Infrastructure had weaknesses in its procurement information system access controls and it did not always evaluate proponent submissions consistently p. 2

# Summary

Alberta Infrastructure's procurement processes are guided by the Government of Alberta's Procurement Accountability Framework (PAF) which is based on the principles of fairness, transparency, and integrity.

Alberta Infrastructure is also subject to Canadian and international trade agreements designed to reduce trade barriers; these agreements are based on similar principles of openness, non-discrimination, non-circumvention, and transparency.

In addition to requirements under the trade agreements, Alberta Infrastructure is subject to all of Canada's competitive legal obligations found in the common law, including the duty to conduct a fair procurement process.

Failure to comply with its legal obligations means Alberta Infrastructure could be subject to complaint, legal action for damages or judicial review.

## Why We Did This Audit

From January 2016 to December 2020, Alberta Infrastructure undertook over 2,700 construction procurements with a combined value of approximately \$4.5 billion.

Given the significant dollars Alberta Infrastructure spends on construction, Albertans should be confident it has effective procurement processes to deliver good value and reduce the risk of costly legal challenges. Proponents also rely on Alberta Infrastructure's procurement processes and expect them to be impartial, consistent, and transparent. We examined Alberta Infrastructure's processes to ensure fair and competitive procurement of its construction tenders.

## What We Examined

We examined a selection of construction contracts over \$100,000 that Alberta Infrastructure awarded from January 2016 to December 2020 for schools, hospitals, and government-owned facilities. Our audit focused on the solicitation stage through to the contract award stage. We examined Alberta Infrastructure's processes for contracts that it ultimately awarded to the lowest priced compliant proponent. We focused on contracts where the ultimate award was based on price only because these contracts are usually for significant amounts and have increased risks for ensuring a fair procurement process.

## What We Found

We found Alberta Infrastructure has processes to conduct procurements of its construction tenders fairly and competitively, but not all these processes are effective, and improvements can be made.

Alberta Infrastructure competitively procured its construction contracts, included the necessary information in solicitation documents and followed its evaluation process. However, Alberta Infrastructure's processes did not always result in procurements that were compliant with the trade agreements and it did not always follow its process for receiving submissions and ensuring only submissions received on or before the procurement close were considered for evaluation. Alberta Infrastructure had weaknesses in its procurement information system access controls and it did not always evaluate proponent submissions consistently.

The deficiencies in Alberta Infrastructure's processes and controls resulted in Alberta Infrastructure accepting bids after the procurement close and inconsistently disqualifying proponents for the same compliance matters. These results were prior to Alberta Infrastructure implementing improvements to some of its procurement processes in the last two years, including its submission receiving process and its review of non-compliant submissions.

## What We Recommended

Alberta Infrastructure should improve its procurement of construction by strengthening its processes, documentation and controls for verifying that it only evaluates submissions received on or before the procurement close, accessing procurement information and evaluating proponent submissions. Alberta Infrastructure also needs to review its solicitation documents and posting timelines to ensure compliance with trade agreements.

While Alberta Infrastructure has made improvements to its construction procurement processes in the past two years, it should make further improvements.

## Why This Matters to Albertans

Fair and competitive procurement processes are needed to ensure Albertans get good value from the significant dollars their government spends on construction projects. Fair and competitive processes provide market participants with an equal opportunity to bid and help ensure capital projects are delivered within scope, on budget and on schedule.

Alberta Infrastructure may not be able to fully demonstrate that its processes are perceived as fair, which could result in increased risk of legal actions, including financial penalties and reputational damage. As well, proponents may lose confidence in Alberta Infrastructure's procurement systems, which could result in decreased competition or inflated contract costs.

# Background

## The Procurement Accountability Framework, Trade Agreements and Canadian Competitive Bid Law

All Government of Alberta departments must procure goods and services in accordance with the PAF. The PAF provides departments with procurement requirements and guidance. The PAF:

- reinforces fairness, transparency and integrity
- adds rigor and accountability
- drives consistency and discipline
- includes controls and a shared set of values and ethics
- outlines duties under the common law<sup>1</sup>

Alberta Infrastructure must also follow Canadian and international trade agreements, as outlined in the PAF, when it conducts procurements. The agreements are triggered based on the value of the procurement.<sup>2</sup> The agreements aim to reduce trade barriers and are based on the principles of:

- **openness**—all eligible suppliers that meet requirements are given an opportunity to submit a proposal
- **non-discrimination**—the procuring entity does not provide favorable treatment to suppliers in their own or any jurisdiction
- **non-circumvention**—the procurement is not structured in any way to avoid the obligations of the trade agreements

- **transparency**—the procuring entity must post procurements on designated systems, provide procurement policies on request, and provide requested documents in a non-discriminatory manner

## Procurement at Alberta Infrastructure

Alberta Infrastructure focuses on delivering innovative, adaptive, and responsible infrastructure solutions that meet the needs of Albertans. Alberta Infrastructure engages third parties to build most of this infrastructure through large and complex contracts.

From January 2016 to December 2020, Alberta Infrastructure has undertaken over 2,700 construction procurements with a value of approximately \$4.5 billion. Having effective procurement systems is critical for Alberta Infrastructure in ensuring it:

- conducts procurements fairly, competitively, and openly in accordance with the trade agreements, common law and other government policies and directives
- is obtaining the most value from its contracts
- delivers capital projects on time, on budget, and to specification
- reduces the risk of costly legal action

The Capital Projects Delivery Division of Alberta Infrastructure procures construction services for schools, health facilities, and other government-owned facilities.

<sup>1</sup> Procuring entities have the duty to disclose material information about the contract that could impact a proponent, reject non-compliant responses, conduct a fair procurement process, award to the winning proponent, and award the contract as tendered.

<sup>2</sup> Appendix A includes the procurement threshold for each trade agreement.

For most construction procurements, Alberta Infrastructure uses one of two solicitation methods—open or limited competition, which is driven by the requirements of the trade agreements:

- **open solicitation**—any proponent may submit a response
- **limited solicitation**—Alberta Infrastructure invites a pre-determined, limited group of proponents to submit a response

Alberta Infrastructure may conduct procurements in one stage or two-stages:

- In the one-stage procurement, Alberta Infrastructure provides proponents with a solicitation document called a request for proposal (RFP); Alberta Infrastructure then evaluates proponent submissions against pre-established evaluation criteria or it may evaluate the proponent on price only—proponent with the lowest priced compliant bid wins. Alberta Infrastructure uses a one-stage price only selection for standard procurements that do not have significant risks associated with them.
- In a two-staged procurement, Alberta Infrastructure provides proponents with a solicitation document called a request for qualification (RFQ); Alberta Infrastructure will then evaluate proponents based on pre-established evaluation criteria and determine the short-listed proponents. Alberta Infrastructure provides the short-listed proponents with the design specifications (RFP) and invites them to submit a bid that Alberta Infrastructure will evaluate on price.

Alberta Infrastructure considers factors such as project complexity and risk when determining the procurement approach. Each method has advantages and disadvantages. For example, a two-staged method may take longer than a one-staged method. However, in a two-stage method proponents only invest time and money in preparing their bid if Alberta Infrastructure short-lists them.

# About This Audit

## Objective and Scope

Our audit objective was to assess whether Alberta Infrastructure has effective processes to ensure fair and competitive procurement of its construction tenders.

Our audit focused on the solicitation stage through to the contract award stage and included contracts that Alberta Infrastructure ultimately awarded to the proponent with the lowest priced compliant bid, using either a one-stage or two-stage method. We focused on contracts awarded based on lowest price because the magnitude of the contract spend is significant. These contracts also have increased risk for ensuring a fair procurement process, such as protecting confidentiality of bid prices before the procurement closes.

The audit included procurements in the Capital Project Delivery Division for schools, health facilities and government-owned facilities. From January 2016 to December 2020, Alberta Infrastructure awarded approximately 175 construction contracts in this division with a combined value of \$1.1 billion ultimately based on price, using either a one-stage or two-stage method.

To assess Alberta Infrastructure's process and controls, we sampled 25 contracts Alberta Infrastructure awarded from January 2019 to December 2020. We also used a sample of 58 contracts awarded between January 2016 and December 2020 to analyze procurement data including bidding patterns, contract award characteristics and bid compliance.

Our audit did not include:

- the decision to acquire, contract management or contract completion
- construction contracts Alberta Infrastructure procured using a one-stage procurement that were selected on qualifications and price
- contracts less than \$100,000
- consulting contracts
- public-private partnership contracts
- procurements within Alberta Infrastructure's Properties Division or Corporate Strategies and Services Division

## Criteria

We used the following criteria to determine whether the audit objective was met.

Alberta Infrastructure should:

- ensure the solicitation method is appropriate and ensure solicitation documents are posted for the required time and contain required information
- ensure it has adequate controls to receive proponent responses
- ensure it has adequate controls to protect the confidentiality of information received
- ensure its procurement evaluation and contract award processes are clear, consistent, and impartial
- prepare and retain appropriate procurement records and information
- ensure all pre- and post-award communication to proponents is complete and transparent

We developed our criteria from the PAF and trade agreements.

Management of Alberta Infrastructure acknowledged the suitability of the audit criteria on July 22, 2021.

## What We Examined

In assessing Alberta Infrastructure's procurement systems, we examined:

- relevant legislation, policies, guidelines, manuals, and trade agreements
- the procurement information in Alberta Infrastructure's systems
- a sample of procurements and the supporting documentation

We also interviewed staff involved in procurement at Alberta Infrastructure.

We conducted our fieldwork from August 2021 to March 2022. We completed our audit on June 8, 2022.

## Conclusion

Based on our audit criteria, we conclude that Alberta Infrastructure has processes to ensure fair and competitive procurement of its construction tenders but not all of these processes are effective, and improvements can be made.



## Why This Conclusion Matters to Albertans

Albertans should be confident that Alberta Infrastructure has effective processes to ensure the significant dollars it spends on construction contracts are procured fairly and competitively.

Construction contracts are often in the millions of dollars and the stakes are high—not only for Albertans and Alberta Infrastructure but also for proponents, including sub-contractors. Proponents invest time and money in the development of their submissions, including their bids, and they rely on and expect fair and competitive procurement processes.

# Summary of Recommendations

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## **RECOMMENDATION:**

Improve controls for ensuring compliance with trade agreements

We recommend the Department of Infrastructure improve its controls to ensure solicitation documents and posting periods comply with trade agreements.

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## **RECOMMENDATION:**

Improve controls for receiving submissions

We recommend the Department of Infrastructure ensure its controls for verifying that it receives electronic submissions on or before the procurement close are operating appropriately.

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## **RECOMMENDATION:**

Improve access controls for procurement information systems

We recommend the Department of Infrastructure improve its access controls for its procurement information systems.

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## **RECOMMENDATION:**

Improve submission evaluation controls

We recommend the Department of Infrastructure improve its controls for:

- verifying compliance with request for proposal requirements
  - identifying potential conflicts of interest
  - ensuring evaluation comments are adequately documented
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# Detailed Findings and Recommendations

## Solicitation Documents and Posting

### Context

#### Solicitation method

The trade agreements<sup>3</sup> require departments to use open solicitation for construction procurements over a threshold amount. For example, the New West Partnership Trade Agreement requires departments to use an open solicitation method for construction services with an estimated value of over \$100,000.

#### Solicitation documents and posting

The trade agreements have several requirements regarding Request for Qualification (RFQ) and Request for Proposal (RFP) solicitation documents, including the procuring entity:

- provide proponents with a reasonable time to submit a response. The time limit should consider the nature and complexity of the procurement, extent of subcontracting anticipated, and the time needed to submit submissions by non-electronic means. When the procuring entity accepts electronic submissions, some trade agreements require a minimum 25-day posting period for construction procurements over \$9.1 million.<sup>3</sup>
- provide proponents with all necessary evaluation criteria, design specifications and other information needed to submit a response
- avoid the use of design specifications that refer to a producer or supplier or, when this is impossible, indicates it will consider equivalent goods or services

If a proponent requires further interpretation or modification to a posted solicitation document, Alberta Infrastructure will post its response in an addendum. It also posts addenda to notify proponents of extensions to procurement closing dates.

Alberta Infrastructure balances project requirements, such as the project schedule, with posting timelines. However, the procurement posting time, including addenda, is important because proponents need adequate time to prepare their submissions, factoring in any new or changed information Alberta Infrastructure issues via addenda. If proponents do not have adequate time to prepare their submission, they may not submit a proposal resulting in less competition or they may price this risk into their bid.

In alignment with the principle of openness, the trade agreements allow the procuring entity to include manufacturers in design specifications provided the procuring entity will consider equivalent goods or services. Allowing equivalents ensures competition is not limited and provides opportunity for other producers or suppliers to be considered.

### Criteria

Alberta Infrastructure should ensure:

- the solicitation method is appropriate
- solicitation documents are posted for the required time and contain required information

<sup>3</sup> The trade agreements allow for certain exceptions.

## Our findings

### Key findings

Alberta Infrastructure:

- competitively procured construction contracts over \$100,000 as required by trade agreements
- posted some solicitation documents for less time than required, resulting in non-compliance with the posting requirements in the trade agreements
- included necessary information in the solicitation documents; however, did not always have evidence it approved solicitation documents or addenda in accordance with its processes prior to posting

Due to inconsistencies and ambiguity in solicitation documents, it was not always clear if Alberta Infrastructure was complying with trade agreements when it included manufacturers in its solicitation documents.

### Solicitation method

At the start of a procurement, Alberta Infrastructure completes an authority to procure report (ATP), which indicates the solicitation method. For all procurements sampled, we found Alberta Infrastructure appropriately completed the ATPs and solicitation methods were in accordance with the trade agreements.

### Posting time requirements

Alberta Infrastructure did not always comply with the posting time requirements in trade agreements. We found nine out of 17 sampled RFQs—each with an estimated value of more than \$9.1 million—had not been posted for the minimum 25 days required by the trade agreements. Alberta Infrastructure posted three of the 17 RFQs for only 14 days.

Alberta Infrastructure does not have guidelines for how long it should post addenda. In seven out of 25 sampled RFPs, we found Alberta Infrastructure issued addenda that included updates to design specifications or drawings two or less days before the procurement closed. In a few of these samples, the addenda contained substantial updates to specifications. For example, in one procurement, Alberta Infrastructure issued two addenda containing updates to 50 drawings and 20 specifications two days before closing.

### Information in solicitation documents and approval controls

Alberta Infrastructure's solicitation document approval control is not working effectively. Alberta Infrastructure's process requires approval of solicitation documents and addenda prior to posting to ensure they are in accordance with trade agreements.

Solicitation documents included the required information. However, in six out of the nine sampled RFQs, we found evidence of Alberta Infrastructure's approval even though the posting times were not in accordance with trade agreement requirements. In 16 out of 44 samples, there was no documented evidence Alberta Infrastructure approved the solicitation documents or one or more addendum before posting.

### Listing manufacturers in solicitation documents

It is not uncommon for Alberta Infrastructure to include manufacturers in design specifications for areas such as electrical and finishes, which is in accordance with trade agreements if Alberta Infrastructure considers other equivalents. We focused on the electrical engineering specifications for six sampled RFPs.

Due to inconsistencies and ambiguity in the solicitation documents, we were unable to determine if the electrical specifications were compliant with the trade agreements for three out of six samples. For example, for specific lighting requirements that included manufacturers, the specifications were inconsistent in stating whether Alberta Infrastructure would accept equivalents; for some requirements, the specifications clearly indicated yes, but for others they were silent.

In one of the six samples, we found the lighting specifications component of the RFP likely to be non-compliant with the trade agreements because the specifications stated equivalents would not be allowed for any of the listed manufacturers.

Alberta Infrastructure's RFP has a section on product options and substitutions<sup>4</sup> which states that where substitutions are permitted, Alberta Infrastructure will not consider or approve them until after it awards the contract. Alberta Infrastructure stated that this section of the RFP aligns with its practice. However, for three out of six samples, we found the electrical specifications stated substitutions had to be made a week before the close of procurement, which was inconsistent with the statement made in the substitutions section of the RFP.

#### **RECOMMENDATION:**

**Improve controls for ensuring compliance with trade agreements**

We recommend the Department of Infrastructure improve its controls to ensure solicitation documents and posting periods comply with trade agreements.

## Consequences of not taking action

If proponents are not provided with adequate time to prepare their submissions, including bid prices, it could result in withdrawals by proponents and decreased competition or proponents may price this risk into their bid.

The inclusion of manufacturers in solicitation documents without allowing equivalents may result in unequal opportunities for companies to bid on public procurements, which may lead to less competition and increased contract costs.

Proponents may sue Alberta Infrastructure for non-compliance with the trade agreements which could result in financial penalties or reputational damage.

## Receiving Submissions

### Context

Solicitation documents state proponents must provide Alberta Infrastructure with their submission by the procurement closing date and time. This requirement ensures Alberta Infrastructure treats submissions consistently and that it does not provide any proponent with an unfair advantage. Alberta Infrastructure disqualifies submissions not received by the procurement close.

Prior to the COVID-19 pandemic, Alberta Infrastructure received proponent submissions in hard copy or electronically, depending on the procurement. Throughout the COVID-19 pandemic, Alberta Infrastructure received proponent submissions electronically only and has stated it does not intend to accept hard copy submissions in the future.

<sup>4</sup> In accordance with Alberta Infrastructure's Request for Proposal solicitation documents, a substitute product "shall be the same type as, be capable of performing the same functions as, and meet or exceed the standards of quality and performance of the named product(s)." Whereas a substitute manufacturer "shall have capabilities comparable to those of the named manufacturer(s)".

Alberta Infrastructure’s process for receiving electronic and hard copy submissions is different:

	Electronic Submissions	Hard Copy Submissions
Form	Bid Submission Form	Bid Sheet
Submission receiving info tracked	Date and time of each submission	Bid price, including modifications and time of submission opening
Completed and reviewed by two employees in procurement unit	Yes	Yes
Purpose	Control to verify submissions are received before the procurement close	Control to determine proponent final bid price and evidence submissions were not opened in advance of procurement close
Process currently used	Yes	No—in March 2020 Alberta Infrastructure moved to electronic submissions only

## Criteria

Alberta Infrastructure should ensure it has adequate controls to receive proponent responses.

## Our findings

### Key findings

- Alberta Infrastructure’s control for verifying that it evaluates only submissions received on or before the procurement close is not operating effectively. The bid submission form was not always accurate, it was not always reviewed, and it was not always completed or reviewed in a timely way. In some cases, Alberta Infrastructure could not find the bid submission forms. We did not identify any electronic submissions Alberta Infrastructure inappropriately accepted or disqualified because of these control deficiencies.
- Alberta Infrastructure accepted hard copy bids that were late, before it changed its process to only accepting electronic submissions.

Having effective submission controls is important to ensuring processes are consistent and fair. Alberta Infrastructure receives 17 per cent of bid submissions within one minute of the procurement closing.

## Electronic submissions received

Completion and verification of the bid submission form is Alberta Infrastructure’s key control for determining if it receives electronic submissions on or before the procurement close. However, we found the bid submission control is not operating effectively.

We found that for a sample of 37 procurements with electronic submissions:

- Alberta Infrastructure could not find six bid submission forms
- there was no documentation to confirm the procurement specialist verified 13 forms
- six forms had inaccurate dates or times and the procurement specialist signed off three of these forms despite the inaccuracies
- the procurement unit did not complete or review five forms in a timely manner

For example, in one procurement we sampled, the bid submission form inaccurately stated that Alberta Infrastructure received the bid almost an hour after the procurement closed even though the proponent submitted the bid before the closure time. In another sample, the procurement unit had not completed and reviewed the bid submission form until almost a year after the procurement closed.

We did not identify any electronic submissions Alberta Infrastructure inappropriately disqualified or accepted because of these control deficiencies. However, because the bid submission form control is not operating effectively, it increases the risk that proponent submissions could be inappropriately disqualified or late submissions could be accepted.

## Hard copy submissions received

As of March 2020, Alberta Infrastructure stopped using the hard copy submission process.

Prior to March 2020, for hard copy bid submissions, the bids were timestamped. However, there was no documented evidence that Alberta Infrastructure reviewed the submission times to assess if it received the bids before the procurement close. We found in three out of 35 sampled procurements with hard copy submissions, Alberta Infrastructure accepted bids that were late. Alberta Infrastructure received these bids within one minute after the procurement closed.

### RECOMMENDATION:

Improve controls for receiving submissions

We recommend the Department of Infrastructure ensure its controls for verifying that it receives electronic submissions on or before the procurement close are operating appropriately.

## Consequences of not taking action

Ineffective controls over the receiving of submissions increase the risk that Alberta Infrastructure may not accurately assess if it received proponent submissions on time, undermining the integrity and credibility of Alberta Infrastructure's procurement process. The absence of effective controls could result in unfair practices, which could lead to proponents pursuing legal action against Alberta Infrastructure.

## Protecting Confidentiality

### Context

It is essential for a procuring entity to protect the confidentiality of procurement information to ensure it does not provide proponents with an unfair advantage. In accordance with the trade agreements, a procuring entity must "receive, open and treat all tenders under procedures that guarantee the fairness and impartiality of the procurement process, and the confidentiality of tenders".<sup>5</sup>

### Confidentiality of hard copy submissions

To protect the confidentiality of bids, for hard copy submissions Alberta Infrastructure required that proponents provide Alberta Infrastructure with their submissions in sealed envelopes. Two procurement staff observed the bid opening, after the procurement closed. If a proponent modified their bid, the bid modification included only the price increase or decrease from their previous bid.

### Procurement information systems

Alberta Infrastructure stores procurement information in three main systems:

- **Integrated Contracting and Procurement System (ICAPs)**—this is Alberta Infrastructure's primary procurement system and includes procurement-related information such as successful and unsuccessful proponents, submission evaluation results, bid prices, award recommendations, and approvals.
- **email account**—Alberta Infrastructure uses this account to receive proponent submissions electronically.
- **procurement network folders**—Alberta Infrastructure uses these folders to store procurement records electronically. The information stored includes proponent submissions, submission evaluations, contracts, communications with proponents and other key procurement documents that support Alberta Infrastructure's procurement processes and decisions.

<sup>5</sup> Guidelines to the Procurement Obligations of Domestic and International Trade Agreements, New West Partnership, December 2021 pg. 21.

## Criteria

Alberta Infrastructure should ensure it has adequate controls to protect the confidentiality of information received.

## Our findings

### Key findings

- Alberta Infrastructure has not restricted employee access to its procurement information systems based on information needs related to their job responsibilities or confidentiality of the information.

### Hard copy bid modifications

Alberta Infrastructure did not require proponents to submit hard copy bid modifications in sealed envelopes. In 21 out of 35 procurements sampled with hard copy bids, proponents did not provide their modifications in sealed envelopes. Therefore, there is no assurance the confidentiality of these bid modifications was protected prior to the procurement closing.

### Procurement information system access controls

Alberta Infrastructure does not periodically review access to its procurement information systems. It reviews access only when a business need arises.

More than 400 Alberta Infrastructure employees have authorized access to Alberta Infrastructure's Integrated Contracting and Procurement System (ICAPs). However, Alberta Infrastructure has not restricted employee access to ICAPs based on information needs related to their job responsibilities. These employees can view most of the procurement information stored in the system for most of Alberta Infrastructure's procurements, including evaluation scores, team evaluation memos, and detailed evaluation worksheets. We would expect Alberta Infrastructure to restrict employee access to ICAPs based on information needs.

Alberta Infrastructure does not have controls to identify if procurement employees open electronic submissions in advance of the procurement closing for submissions it receives in the email account. A risk exists that any employee with access to the submission email account could share submission information inappropriately, with no audit trail. Given this risk, we would expect access to the email account to be restricted. However, 16 out of 22 procurement employees at Alberta Infrastructure have access to this email account.

Alberta Infrastructure is supposed to restrict access to electronic information it stores in procurement network folders to department employees in the procurement unit. However, we found 12 employees from outside the unit had access to the procurement folders, including the ability to view and modify every document in them.

### RECOMMENDATION:

Improve access controls for procurement information systems

We recommend the Department of Infrastructure improve its access controls for its procurement information systems.

## Consequences of not taking action

Without adequate access controls, there is a risk employees may access confidential information, including bid prices and evaluation information, and share that information inappropriately with proponents. The inappropriate sharing of confidential information could result in an unfair advantage, undermining the credibility and integrity of the procurement process.

# Evaluating Proponent Submissions

## Context

When evaluating proponent submissions, consistency is critical for ensuring the procurement process is fair. Proponents expect Alberta Infrastructure to have consistent and fair evaluation processes as proponents invest time and money to develop their submissions. Inconsistent practices can result in proponents being unfairly disqualified or can result in a proponent not being disqualified and potentially awarded a contract when they should not have been.

## Request for Proposal (RFP)—bid submission requirements

Alberta Infrastructure issues an RFP to short-listed proponents, inviting them to submit a bid price for the project. The RFP contains mandatory bid submission requirements including, for example, proponents use the appropriate bid submission form and do not include conditions on the bid. The RFP also requires proponents to provide Alberta Infrastructure with a bid bond<sup>6</sup> in accordance with RFP requirements. In accordance with trade agreements, Canadian competitive bid law and the procurement accountability framework, Alberta Infrastructure is supposed to disqualify submissions that do not comply with mandatory requirements in the solicitation documents.

## Request for Qualification (RFQ) —potential conflict of interest

When hiring a contractor, Alberta Infrastructure states in its RFQ that proponents must not include anyone on their teams who is associated or indirectly involved with any consultant who Alberta Infrastructure has already retained for the project. If a proponent concludes a relationship does not create a conflict of interest or perceived conflict but is concerned Alberta Infrastructure may arrive at a different conclusion, the proponent must fully disclose the circumstances to Alberta Infrastructure. These stipulations are intended to ensure no proponent gains an unfair advantage and appropriate segregation between conflicting roles.

## RFQ evaluation process and short-listing proponents

Alberta Infrastructure specifies certain evaluation criteria in its RFQ. Typically, these include evaluation of the proponent's corporate profile, proposed project team, performance on three past projects, understanding of the project, proposed work methodology and scheduling, apprenticeship plan, and a summary of why the proponents think they may hold an advantage over other respondents.

Alberta Infrastructure uses a two-part team consensus scoring process to ensure it consistently evaluates all submissions for the procurement and to select the proponents it will short-list. First, each member of the evaluation team individually evaluates submissions against the criteria in the RFQ. Second, the whole team meets to agree on a consensus score for each submission. To support and defend the evaluation score, the evaluation team must also document comments for each evaluation criteria.

Short-listing is a significant milestone for proponents—once Alberta Infrastructure short-lists a proponent, they are invited to submit a bid and the lowest-compliant bid wins.

## Criteria

Alberta Infrastructure should ensure its procurement evaluation and contract award processes are clear, consistent and impartial.

<sup>6</sup> A bid bond provides Alberta Infrastructure with financial security in the event the lowest price bidder does not enter into the contract. The bid bond must be issued on the correct form, in the correct name, for the correct amount, enforceable for a specific period, and appropriately signed and dated.

# Our findings

## Key findings

### Alberta Infrastructure:

- does not have adequate controls to verify that bids comply with RFP requirements. Alberta Infrastructure disqualified a proponent for not adhering to a bid bond requirement in the RFP but did not disqualify other proponents who also did not adhere to the same RFP requirement.
- does not require proponents to provide a declaration stating they do not have any potential conflicts of interest. In a few procurements, Alberta Infrastructure identified potential conflicts of interest but did not consistently disqualify the proponents.
- follows its evaluation process for RFQs but does not have adequate documentation to demonstrate that it completes evaluations consistently. We found evaluation scores for which the evaluation comments did not adequately explain the differences across procurements.

## RFP—bid compliance

Alberta Infrastructure does not have adequate controls to verify that bids comply with RFP requirements. An Alberta Infrastructure procurement specialist is responsible for completing a bid compliance analysis to confirm bids comply with RFP requirements and to report any compliance matters to the construction procurement manager.

In eight out of 58 procurements sampled, the bid bond<sup>7</sup> was not issued in accordance with the RFP requirements; the proponent did not assign the bond using Alberta Infrastructure's legal name. Alberta Infrastructure disqualifies imperfectly issued bonds because of the risk that they may not be enforceable.

In one of these eight samples, Alberta Infrastructure disqualified the proponent. However, in the remaining seven samples, Alberta Infrastructure did not disqualify the proponents for incorrectly issuing the bond. In fact, the bid compliance analysis inaccurately stated the bonds had been issued in accordance with RFP requirements. In one case, Alberta Infrastructure awarded a contract with a value between \$5 million and \$10 million to a proponent with an improperly issued bond.

In another procurement, the RFP included a requirement that Alberta Infrastructure would not accept bids over a maximum amount. Every submitted bid exceeded the maximum amount stated in the RFP, meaning every bid was likely non-compliant. However, Alberta Infrastructure did not disqualify any of the bids. The contract went to the lowest bidder. A risk exists that the competition may have been limited if some proponents did not bid on the project as they may have anticipated their bid would exceed the maximum amount stated in the RFP.

## Potential conflicts of interest

Alberta Infrastructure relies on proponents to declare any potential conflicts of interest. However, it does not require proponents to provide a written declaration stating they do not have any potential conflicts. We also found that Alberta Infrastructure does not consistently identify or disqualify proponents with a potential conflict of interest.

In April 2020, Alberta Infrastructure's Contract Review Committee began reviewing non-compliant submissions to help ensure it deals with compliance matters consistently.

In four of the 19 RFQ procurements sampled, the proponent proposed a team member who was also working for the project's consultant. We did not find any documented evidence that the proponent disclosed these potential conflicts to Alberta Infrastructure. In the first sample, there was no documented evidence that Alberta Infrastructure had identified the potential conflict. In two of these samples where the evaluation also took place prior to April 2020—with the same potential conflict of interest, involving the same team member—Alberta Infrastructure identified the potential conflict but did not disqualify the submission. And in the fourth sample, involving the same team member and where the evaluation took place after April 2020, Alberta Infrastructure identified and deemed the proponent had a perceived unfair advantage and potential conflict of interest and disqualified the submission for non-compliance.

<sup>7</sup> A bid bond provides Alberta Infrastructure with financial security in the event the lowest price bidder does not enter into the contract. The bid bond must be issued on the correct form, in the correct name, for the correct amount, enforceable for a specific period, and appropriately signed and dated.

## Evaluating submissions

Alberta Infrastructure followed its evaluation process. The evaluation criteria and weightings in the RFQ matched those used in the evaluation. Alberta Infrastructure also completed the evaluation consistently for each individual procurement. Although Alberta Infrastructure evaluates submissions relative to each other for each individual procurement, evaluation comments do not adequately explain the reason for significant differences in scores across procurements.

We examined similar procurements and focused on the evaluation components for past projects and project team members. We found proponents submitted the same past project or project team member for similar procurements with similar evaluation criteria and received different scores from different evaluation teams. The evaluation comments did not explain the marked differences. Although different scores may be appropriate, evaluation comments should adequately justify the differences.

For example, one proponent proposed the same project manager for three similar procurements. The three evaluation teams awarded this component a score of 88 per cent, 67 per cent and 50 per cent, respectively. Although the three teams mentioned the same reason—amount of school experience—in justifying their ratings, there was a 38-point spread in scoring for this component across procurements. We would have expected the evaluation comments to adequately justify the differences.

### RECOMMENDATION:

#### Improve submission evaluation controls

We recommend the Department of Infrastructure improve its controls for:

- verifying compliance with request for proposal requirements
- identifying potential conflicts of interest
- ensuring evaluation comments are adequately documented

## Consequences of not taking action

Alberta Infrastructure may not be able to demonstrate that its procurement practices are fair.

Inconsistent practices can result in proponents being unfairly disqualified or potentially awarded contracts despite not meeting requirements. Even the perception of unfair practices could undermine the credibility of the procurement process and lead to legal action against Alberta Infrastructure, potentially resulting in financial and reputational consequences.

# Audit Responsibilities and Quality Assurance Statement

Management of Alberta Infrastructure is responsible for the construction procurement systems.

**Our responsibility is to express an independent conclusion on whether Alberta Infrastructure has effective processes to ensure fair and competitive procurement of its construction tenders.**

We conducted our audit in accordance with Canadian Standard on Assurance Engagements 3001 issued by the Auditing and Assurance Standards Board (Canada). The Office of the Auditor General applies Canadian Standard on Quality Control 1 and, accordingly, maintains a comprehensive system of quality control, including documented policies and procedures regarding compliance with ethical requirements, professional standards, and applicable legal and regulatory requirements. The office complies with the independence and other ethical requirements of the Chartered Professional Accountants of Alberta Rules of Professional Conduct, which are founded on fundamental principles of integrity and due care, objectivity, professional competence, confidentiality, and professional behaviour.

# Appendix A—Trade Agreement Thresholds for Construction

Trade Agreement	Construction threshold for Ministries/Departments <sup>8</sup>
New West Partnership Trade Agreement	\$100,000
Canadian Free Trade Agreement	\$121,200
World Trade Organization – Agreement on Government Procurement	\$9,100,000
Canada-European Union Comprehensive Economic and Trade Agreement	\$9,100,000
Canada-UK Trade Continuity Agreement	\$9,100,000
Comprehensive and Progressive Agreement for Trans-Pacific Partnership	\$9,100,000

<sup>8</sup> Thresholds as of January 2022.





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