

May 12, 2020

Honourable Travis Toews
Minister of Treasury Board and Finance
Transmitted via email: tbf.minister@gov.ab.ca

Dear Minister Toews:

Re: Bidding Uncertainty Needs to Be Resolved to Maximize Economic Recovery

Alberta's construction industry appreciates your personal support in responding to COVID-19. We are proud to have continued operating safely throughout this first wave of the pandemic. Alberta's construction industry is eager to be a key engine for economic recovery in Alberta and across Canada. However, the industry risks imminent catastrophe, with many contractors facing insolvency in as little as eight weeks without profitable work. This week, Alberta's construction industry reached out to Government MLAs to sound the alarm (attached).

While we appreciate the recent announcements to expedite procurement and construction of "shovel-ready" projects, current and future procurements of Government of Alberta funded projects carry a significant impediment. Alberta Infrastructure and Alberta Health Services in particular have been unable to clarify their expectations of addressing additional cost and / or schedule implications of supply and labour disruptions from recurrence of pandemic-induced shutdowns across Canada and the world. This same issue will apply to public owners partially or fully funded by the Government of Alberta.

Prudent contractors have sought clarification prior to submitting recent bids have not received any response and subsequently been disqualified when they have clarified their bid. We understand from discussions with Alberta Infrastructure that this lack of clarity in part arises from requirements to adhere to project budgets authorized by Treasury Board and Finance. Our industry is not seeking carte blanche coverage of any expense, but rather a clear set of expectations and a collaborative process to address valid unmanageable cost and/ or schedule impacts arising beyond the control and mitigation efforts of the contracting team. The contract needs to place risk with the party best able to manage or mitigate. If neither party is better suited, then the risk should remain with the initiating party, which is the client who is the ultimate benefactor of the investment in construction.

We recommend the following language be added to tenders and requests for proposals:

If a Covid Event affects the cost and/or time required by Consultants and/or Construction Contractors to perform the scope of their services in an orderly and efficient manner, including cost and schedule impacts associated with, for example, project shutdown, demobilization and remobilization, they shall be entitled to a reasonable adjustment in compensation and/or schedule.

We further recommend Alberta Infrastructure and Alberta Health Services hold pre-bid meetings with the short-listed proponents to openly discuss this issue and understand GOA expectations surrounding the future tender call.

We understand that Alberta Transportation has adopted a "Fairness Panel" to review and make non-binding recommendations when COVID-related impacts are raised by the contractor. We believe Alberta Infrastructure should adopt a similar process, rather than the current unclear and unresponsive approach.

Without such clarity, we fear that projects will in some cases be awarded to contractors ill prepared to complete the work, and that there will be subsequent time-consuming and expensive disputes and claims. We believe Alberta is better served if every dollar of economic investment goes to supporting jobs and recovery, and not to red tape and claims that could have been resolved during the project.

We urgently request a meeting with yourself to explain our concerns and work toward resolution. Please contact ACA Executive Director Ken Gibson, ken.gibson@albertaconstruction.net, 780-233-6738 for meeting arrangements.

Sincerely,



Frederick Vine, Chairman, Alberta Construction Association



Jason Portas, General Contractors Alliance of Canada, Alberta Chapter



Terry Milot, Chairman, Alberta Trade Contractors Coalition

cc. Infrastructure Minister Prasad Panda
Premier Jason Kenney