



May 27, 2020

Honourable Prasad Panda
Infrastructure Minister

Dear Minister Panda:

Re: Past Contracts Clause in Alberta Infrastructure Procurements

Alberta Infrastructure provided on April 8, 2020 the attached advisory to ACA.

Since the introduction of this clause, ACA is aware of a number of contractors that have had their bids adjusted by Alberta Infrastructure.

ACA strongly urges Infrastructure to rescind this clause. The Past Contracts clause is a complete reversal from the highly collaborative dialogue of the department and industry on the Vendor Performance Management Framework. This new clause was implemented without reasonable notice to the contracting community.

Unlike the VPMF, the Past Contracts is:

- Retroactive, which assumes that contractors would have not taken other actions had the clause been in place at the time of the previous project
- Not objective or transparent, Contractors should be aware of their status prior to closing
- definition of “curing” a default unclear
- No appeal mechanism
- No Industry input or consultation

A 10% penalty added to bid prices will eliminate any bidder from successfully winning a tender.

Application of the Past Contracts clause severely reduces the standing of Alberta Infrastructure as a preferred client that could impact the number and quality of bids as alternative opportunities increase.

Sincerely,

Ken Gibson, Executive Director
Attachment

Serving Members of:

