

The Statements of Policy represent the views of the Ontario General Contractors Association (OGCA) and provide guidance on the matters referred to therein. These Statements are for the information of construction users and consultants, as well as others directly or indirectly involved with members of the OGCA. Comments or inquiries concerning these statements are welcomed and should be addressed to the President of the OGCA.

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## **1. FREEDOM OF ENTERPRISE**

The Ontario General Contractors Association believes that an economic and political system based on individual and corporate free enterprise is of the greatest advantage to our industry and in the best interest of our municipalities, province and country.

## **2. GOVERNMENT RELATIONS**

The OGCA supports and encourages its membership and business partners in working towards, and promoting legislation, at all levels of government to improve the open competitiveness of the industry.

## **3. LABOUR RELATIONS**

The OGCA recognizes the various construction labour relations associations whose purpose is to negotiate and administer agreements with trade unions on behalf of companies bound to those agreements. The OGCA will make appropriate representation to government regarding labour and other legislation which affects member companies equally and fairly representing union and open shop members.

## **4. SAFETY**

The OGCA affirms its support for the prevention of injuries, illness, accidents and fatalities in the workplace. The OGCA believes working as a group will optimize the opportunity to learn from each other and achieve this goal. To this end, the OGCA encourages all members to join and be active participants in the OGCA / Workplace Safety & Insurance Board (WSIB) Safety Group program. The OGCA recommends to all member companies the Construction Safety Association of Ontario (CSAO), which has demonstrated its ability to assist construction employers in their safety programs and bring about a reduction of accident and injury frequency and associated costs.

The OGCA urges the management of its member companies to adopt and administer safety programs and policies consistent with the Occupational Health and Safety Act (OHSA) and Regulations on all their projects and encourages construction employers and employees to cooperate in such programs in the interest of accident-free jobsites.

## 5. EDUCATION AND TRAINING

The OGCA is dedicated to improving its Members' workforce through continuing education and training as well as promoting careers in construction, and more specifically careers in general contracting.

The OGCA is dedicated to the fundamental importance of and need for continuing programs of education and training having two principal objectives:

- (a) to improve technical, supervisory and management skills and knowledge of present industry personnel; and,
- (b) the development of new personnel sufficient to meet industry demand

The OGCA will actively promote careers in construction by:

- a) encouraging a greater cooperative effort by its member firms, Government authorities, educational institutions and employee organizations with a view to increasing the effectiveness of apprenticeship programs.
- b) developing and sponsoring, under its own or other auspices, programs which will meet the particular requirements of General Contractors and to raise the performance standards and abilities of all industry personnel.
- c) developing and sponsoring, under its own or other auspices, programs which will encourage youth to view and pursue construction as a viable and rewarding career which is highly respected.

## 6. SEPARATE TENDERS AND SEPARATE CONTRACTS

The OGCA opposes the practice of calling separate trade tenders resulting in either the subsequent arbitrary assignment of selected Subcontractors to the General Contractor or in the award of separate trade contracts. The OGCA believes that the foregoing practices lead to fragmentation of authority and responsibility for the progress, quality, safety and completion of the project, and are, thus, in conflict with the Owner's and industry's best interest. The OGCA is not opposed, however, to the early tendering of a part of the project which involves an extended period of time for delivery of materials or equipment required for that part of the project; in such cases, the General Contractors tendering the project should be informed early in their bidding period of the name of the proposed Subcontractor and his tender price. Refer also to Ontario Joint Standard Practices Committee Agreed Item #1 "Prepurchasing of Equipment and Materials", which is available from OGCA.

## **7. LOCAL PREFERENCE ISSUE**

The OGCA believes that the use of local preference practices and policies result in undue restriction of competition and unnecessary additional expenditures, and are, therefore, not in the interest of the tender-calling authority. The OGCA opposes any tendency by a tender-calling authority to give preference in tender calls or contract awards to local Contractors.

Where the tender-calling authority of publicly or privately funded construction projects require or insist on local content of the bid and the evaluation of tenders will occur on this basis, that information and the related process must be clearly defined to all bidders at the time of the initial bid call.

## **8. SELECTION OF BIDDERS**

The OGCA believes that it is in the best interest of Owners, Consultants and the project in general to work with General Contractors of proven capability, experience and knowledge commensurate with the nature and size of the proposed project.

The OGCA believes that all qualified firms, without limiting the number of bidders, should be permitted to bid on publicly funded projects, and that on such projects, bidders' lists should not be restricted to an "invited" list.

In the absence of a request to prequalify, it is the OGCA's position that once the tendering documents are issued to a potential bidder by the tender-calling authority, then that firm is considered to be a qualified bidder, unless the potential bidder is notified within five (5) working days of being issued the tendering documents that they are not a qualified bidder. This procedure is recommended to prevent firms deemed to be unqualified by the tender-calling authority from expending time and money in a bid submission for which they will not be considered.

When a tender call by invitation is appropriate, the OGCA believes that the tender-calling authority should prequalify the bidders prior to the issuance of tender documents. The OGCA strongly urges that the selection of bidders be made from OGCA member firms. When requested, the OGCA will provide a membership list to the tender-calling authority in order to assist in the selection of bidders.

## 9. DRAWINGS AND SPECIFICATIONS

- **QUALITY OF DOCUMENTS**

The OGCA believes that clear, concise and comprehensive drawings and specifications:

- are a major factor in obtaining fair and competitive bidding,
- help to insure the industry's clients maximum satisfaction in their completed projects, and
- reduce conflict in interpretation of their meaning and intent.

Accordingly, the OGCA urges clients, through their Consultants, to select and specify the products, materials and equipment to be installed, by their manufacturers' name; (competitive pricing may be obtained by naming two or more products or manufacturers, any one of which is acceptable, with the final choice being left to the bidder).

The OGCA believes that the use of the terms "or equal" or "equivalent" leads to confusion in the tender preparation and unacceptable variations on which tenders are based, and should, therefore, not appear in the specifications.

- **THE PROVISION OF PROJECT PLANS AND SPECIFICATIONS**

The cost of providing project plans and specifications should be included in the cost of project development and should be borne by the project owner. Costs associated with the provision of these tender documents should not be passed on to interested bidders in any form.

In order to encourage the re-use of plans and specifications, tender-calling authorities may require a deposit that is refundable upon the return of the complete and usable tender documents within 14 days after contract award. Bidders who return unusable or incomplete documents may receive a pro-rated refund, at the discretion of the tender-calling authorities.

In instances where there is a non-refundable deposit, the OGCA may implement the OGCA Non-Refundable Deposit Recovery Program in accordance with accepted procedures for same.

- **REQUIRED NUMBER OF SETS OF TENDER DOCUMENTS**

Owners, consultants, contractors and sub-contractors all have vested interests in a sufficient number of drawings and specifications being available during the tendering periods. Too few sets may reduce exposure of documents to sub-trades and suppliers and perhaps reduce the number

of competitive prices. The number of sets made available should take into consideration:

- ... Requirements of the owner and consultants;
- ... Requirements of building permit authorities and other regulatory bodies;
- ... Sets required for contract signing purposes;
- ... Sets for plans room at local construction associations;
- ... Size and nature of job;
- ... Number of contractors and sub-contractors likely to bid;
- ... Will drawings be revised and re-issued for construction, or will the tender documents be reused for that purpose?

Client/consultant agreements may stipulate a number of sets which are to be included as part of the fee. It is advantageous for all parties to agree on a realistic quantity, as well as a method of payment for plans in excess of those called for in the agreement.

Since it can be difficult and costly to reprint additional sets of specifications, it is wise to print a few extra sets in the initial run. Additional sets of drawings, on the other hand, can be printed more easily and at a reasonable cost. It is important that reprints be the same as those originally issued.

The cost involved in having sufficient sets of documents available during tendering is small considering the benefits.

## **10. ISSUANCE OF ADDENDA**

The OGCA urges Consultants, in the interests of good tender preparation, to avoid the issuance of addenda within five working days of tender closing date. Where the issuing of an addendum during this time cannot be avoided (particularly one involving significant changes), the OGCA recommends that the tender closing be extended accordingly. As an alternative to the latter procedure, OGCA recommends that the addendum be withheld and its content be dealt with by negotiation with the successful bidder after tender closing and prior to contract award.

## **11. NON-REFUNDABLE DEPOSIT RECOVERY PROGRAM**

The OGCA supports the principle that tender documents should be issued without charge to bidders, or with a refundable deposit system.

In cases where an owner / consultant has levied a non-refundable charge, and refuses to reverse that decision, the OGCA will contact the bidders to implement the following cost recovery process:

1. This policy is to be utilized whenever the charge is more than \$50 per set of tender documents, and where 100% of the bidders agree to participate.
2. Any bidder on a project with a non-refundable deposit should notify the OGCA as soon as possible in order to get this policy underway.
3. The OGCA will contact all bidders and obtain their agreement to this process, and determine how many sets have been obtained.
4. Each bidder will carry in their tender an amount equal to the total amount of deposits paid by all participating bidders (up to 2 sets per bidder). For example: 8 bidders x 2 sets each x \$100 per set = \$1,600. OGCA will calculate the amount and notify all bidders of the amount to include in their tender.
5. The successful bidder will remit to the OGCA this pre-set amount not later than upon receipt of the first progress draw.
6. The OGCA will distribute 90% of the deposit amount to each of the participating OGCA members and 80% to non-members. The amount retained by the OGCA is for the cost of administering this policy.
7. If there are extenuating circumstances as to why a bidder is unable or unwilling to pay the amount in #5 above, a committee will review the circumstances, and determine an appropriate resolution or action.
8. Participants may be asked to deliver / return sets to the successful contractor / owner / consultant.

## **12. PAYMENT PROVISIONS IN CONTRACTS**

The OGCA emphasizes the importance of providing and adhering to payment provisions in contracts which will facilitate the flow of funds between clients and Contractors and subcontractors, thereby avoiding unnecessary costs during and upon completion of construction projects. The OGCA urges that progress and final payments be made promptly, and that the provisions of the Construction

Lien Act of Ontario governing the progressive and final release of holdback monies be observed.

The OGCA believes that when a contract provides for a performance bond, then the stipulation of any form of performance or maintenance holdback is redundant and should not be contained in any contract.

The OGCA recommends that the payment provisions of a contract should provide for the payment of interest on overdue accounts owing to the Contractor at a rate of 2% above the prime rate set by a Canadian chartered bank. The OGCA believes that this recommendation will not penalize clients who adhere to payment schedules, and will encourage others to adopt improved payment procedures.

### **13. CHANGE ORDERS AND THEIR VALUATION**

The OGCA urges buyers of construction, consultants and members to refer to Ontario Joint Standard Practice Committee Agreed Item #8 "Change Order Procedures", and CCA Document 16 "Guidelines for Determining the Costs Associated with Performing Changes in the Work".

### **14. BID SECURITY**

The OGCA urges that the following practices concerning bid security and tender deposit be adopted by all tender-calling authorities:

- a) Tender security should be specified, preferably, in the form of a bid bond only or, alternatively, in the form of either a bid bond or cash security at the option of the bidder.
- b) Either a specific value or percentage (i.e. not a dollar amount) of tender price may be stipulated for bid bonds, whereas a specific value should be stipulated for cash security.

### **15. RE-BIDDING**

The OGCA recognizes that on some occasions, when competitive tenders are received, the prices quoted will exceed the Owner's estimate or budget for the project, and that in order to proceed with the project, it is necessary to make changes which will reduce the cost. The OGCA recommends that in such cases, the contract-awarding authority, as a first step, negotiate changes in the work with the lowest bidder conforming with the tender requirements, and provided such negotiations produce an acceptable price, award the contract to that bidder. The OGCA further recommends that where such negotiations do not produce an acceptable price or where substantial cost changes are required, involving

redesign and the revision of drawings and specifications, the new tender should be invited on the revised tender documents from not more than the three lowest bidders who originally submitted tenders. Refer also to CCDC 23.

## **16. ARCHITECT / CONTRACTOR TAKE-OVER PROCEDURES**

The OGCA urges adherence to the provisions of Document 100 - OAA/OGCA Take-Over Procedures as prepared and published jointly by the Ontario Association of Architects and the Ontario General Contractors Association. The OGCA recommends that the full text of these procedures form a part of the contract documents from the outset by reference in the general conditions of the contract to facilitate the closing phases of a construction contract and the take-over of the construction project by the Owner from the Contractor.

## **17. POLICY RE: FORMAL BID**

The OGCA believes that a tender form should be as simple as possible in order to facilitate the preparation of the tender by the Contractor, and the assessment of the bid by the tender-calling authority. To this end, it is the policy of the OGCA that the following items only should be requested in the tender form:

1. Base price as per tender documents;
2. Tender form signed, sealed, witnessed and/or as otherwise directed in the tender documents;
3. Provision of executed bid security as prescribed in the tender documents;
4. Executed agreement to bond as required by the tender documents;
5. Listing of all addenda and other written notifications received from the tender-calling authority;
6. Completion date and/or schedule as required by the tender documents;

The OGCA recognizes a formal bid as one that contains information as listed in items 1 to 6 above. Tenders received after the announced closing time shall be ruled informal and will be returned by the tender-calling authority unopened to the late tenderer.

The President of the OGCA is authorized to administer any tender call problem concerning items listed above and in the event that a problem exceeds this scope, then a tender review committee will be struck.

## Tender Review Committees

### 1. Informal Poll

When the President requires assistance in forming an opinion on a Tendering or Contract Award problem, he may elect to poll three or more Directors. A simple majority shall govern.

### 2. Formal Tender Review Committee

Where the informal poll (above) is not satisfactory, or when requested specifically by one or more of the concerned parties, a Formal Tender Review Committee shall be convened.

The Formal Tender Review Committee may offer an official position of the OGCA on any Tender and/or Contract Award problem whether addressed in OGCA policies or not.

1. Make-up of committee to be a quorum of 5 Directors.
2. No Director who has bid the job under discussion will be allowed to adjudicate.
3. Any Director who feels he has a conflict of interest will not be asked to serve.
4. The OGCA will not disclose the names of those appointed to the committee.
5. The members will not discuss the matter outside the committee meeting either before or after rendering the written opinion.
6. The committee will convene when:
  - a) formally requested in writing by a Consultant, construction purchaser, or general contractor;
  - b) copies of each tender under consideration are provided to the OGCA along with tender documents as necessary.
7. A written opinion of the committee's decision will be given. In cases where a firm conclusion cannot be reached, this shall be so communicated to the parties concerned.

## **18. STANDARD DOCUMENTS**

The OGCA supports the standardization of construction contract documents, and recommends the publications of Canadian Construction Documents Committee (CCDC) and the Canadian Construction Association (CCA).

## **19. SUBTRADE BONDING**

The OGCA feels that trades with bid values in excess of \$500,000 should provide bonding as is required for General Contractors.

## **20. ENVIRONMENTAL RESPONSIBILITY**

The OGCA supports and encourages its membership and business partners in working towards, and promoting Environmental responsibility, leadership and sustainable development in its activities, while recognizing the need to balance economic considerations with environmental in decision making processes.

## **21. AMENDMENTS**

The Statements of Policy of the OGCA may be amended by a two-thirds vote of the membership of the OGCA present at any General Meeting. Notice of proposed amendments shall be given in writing to the President and it shall be his or her duty to forward to the members a copy of such amendments at least 30 days prior to the date of the meeting at which same is to be considered. Amendments may be adopted in their original form or in amended form.

Revised at Annual General Meeting 2007, Halifax, Nova Scotia