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• EXPERT SERVICES •

Adjudicator Authority for Disputes Federal Construction Projects (February, 2021) Government Updates Consultation Initiative

Public Works and Government Services Canada (PWGSC) issued a “RFI for Prompt Payment”^{*} covering Alberta, British Columbia, Manitoba, National Capital Region, New Brunswick, Newfoundland and Labrador, Northwest Territories, Nova Scotia, Nunavut, Ontario, Prince Edward Island, Quebec, Saskatchewan and Yukon. This RFI (Request for Information) introduced two new questions to a previous RFI^{**} issued in May 2019 and provides the opportunity to adjust any previous responses, specifically:

- “Can you identify lessons learned or things that Canada should consider from other Adjudicator Authorities (whether they be international such as one of the Adjudicator Nominating Bodies in Britain; or Canadian such as the Ontario Dispute Adjudication for Construction Contracts (ODACC))? Note that lessons learned or things to consider can be both things to emulate and things to avoid.”
- “There has been concern expressed that Adjudicators may have difficulty obtaining their fees (especially from those not successful in the adjudication). Can you suggest ways to fairly ensure payment to Adjudicators?”

This RFI is a further consultation initiative by Public Services and Procurement Canada (PSPC) aimed at a) requesting Industry feedback regarding a proposed approach to establishing an Adjudicator Authority for Adjudicators related to disputes in Federal Construction Projects; and b) to solicit feedback that could help Canada develop a comprehensive and competitive Request for Proposal (RFP) that would enable firms or associations to bid to provide the services of an Adjudicator Authority.

The Government seeks feedback on a proposed approach to establishing an appropriate, reliable and effective adjudication process that is available to all contractors and sub-contractors engaged in federal construction projects on federal lands. This calls for the engagement of an Adjudicator Authority to provide specific services.

This initiative continues on the backdrop of the Government stating an interest in ensuring that its funds are properly and promptly distributed along the supply chain of contractors, subcontractors and suppliers involved in delivering federal construction projects, specifically:

- *The Government aims to ensure that construction projects are delivered with speed, efficiency and continuity.*

Timely cash flow throughout the construction payment chain is fundamental to a healthy construction industry by enabling companies to realize the competitive profit margins necessary to fuel growth, employment, and to create the capacity in Canadian firms to build the infrastructure that is critical to the economic prosperity of Canada.

Responses to this Request for Information are due by April 6, 2021 and may be submitted in either official language of Canada.

Watch this space: Further **Adjudication Awareness Bulletins** will follow.

^{*}PW-\$\$GB-009-79704, dated February 5, 2021

^{**}PW-\$\$GB-009-77169, dated May 27, 2019

Note: This Adjudication Awareness Bulletin is issued for informational purposes only and does not constitute legal advice. Further, Adjudico Inc. is not liable for reliance by any party in respect of any and all statements contained within this Adjudication Awareness Bulletin.

Key Services to be provided by the Adjudicator Authority

1. Training & Continuing Education
2. Certification & Prescribed Criteria
3. Registry of Adjudicators
4. Adjudicator Fee Schedule
5. Services Contract Template
6. Timely Adjudicator Appointment
7. Code of Conduct
8. Complaints Procedure
9. Managing Adjudicator Resignations
10. Reports, Statistics & Trends
11. Services in French & English

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