

Call for Applications – The Authority under the Construction Act (March, 2019) Identification of Candidate

This is further to the Adjudication Awareness Bulletin – Special Bulletin #2 (January, 2019) titled “Ministry of the Attorney General Considering Options” with respect to the Construction Act (Act) that came into force in Ontario in 2017.

On March 8, 2019 the Ministry of the Attorney General (“Ministry”) advised of an upcoming Call for Applications to select an entity to act as Authorized Nominating Authority (“Authority”) under the Construction Act (“Act”) and Ontario Regulation 306/18 (“Regulations”).

Registered applicants will be able to respond to the Call for Applications for selection as the Authority responsible for training, qualifying, appointing, and overseeing a roster of qualified adjudicators to perform statutory interim dispute adjudication for construction disputes across Ontario.

The setup, administration of adjudication and the operational costs of the Authority are to be entirely self-funded. The Act provides that the Authority may, subject to the Regulations, set fees, costs or other charges related to the administration of adjudication, including fees, costs or charges for the training and qualification of persons as adjudicators or for the appointment of adjudicators, and require their payment.

The Ministry has confirmed that Dentons Canada LLP will be the independent fairness reviewer for the Authority during the selection process and further that Ernst and Young will administer the application process including:

- **Independence:** Acting as independent due diligence provider, responsible for intake, review, verification, clarification, and assessment of applications in accordance with criteria specified in the application form.
- **Recommendations:** Receiving and evaluating the applications and providing an impartial recommendation to the Minister as to which applicant is best qualified according to the criteria.

Following the responses to the Call for Applications, and an evaluative process, the Ministry will identify a candidate to be designated to act as the Authority in accordance with the Act.

Key Services to be provided by the Authority:

- **Training Programs**
Developing and overseeing training programs for adjudicators
- **Qualifying Adjudicators**
Qualifying persons who meet the prescribed requirements as adjudicators
- **Appointing Adjudicators**
Appointing adjudicators to conduct adjudications
- **Code of Conduct**
Establishing a code of conduct for adjudicators
- **Annual Report**
Publishing an annual report containing aggregated information regarding adjudication in Ontario

Watch this space: Further **Special Bulletins** will follow.

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