

Peddle, Jennifer MTIC:EX

To: Harvey, Fred MTIC:EX
Subject: RE: FORMAL NOTICE OF APPEAL, OBJECTION AND STAY OF AWARD [ON-002815]:

From: Keenan, Ralph C MTIC:EX
Sent: Tuesday, February 21, 2017 12:22 PM
To: Harvey, Fred MTIC:EX
Subject: FW: FORMAL NOTICE OF APPEAL, OBJECTION AND STAY OF AWARD [ON-002815]:
Importance: High

This is about the closest I'd have is the email and with their attached affidavit. The VCRP process in the ministry is so randomly communicated, I don't think vendors know how or what they are supposed to submit.

From: Brad Boyd [<mailto:Brad@lowcostinterlock.com>]
Sent: Thursday, April 21, 2016 4:53 PM
To: Keenan, Ralph C MTIC:EX; FIN OCG Procurement Governance FIN:EX
Cc: Allan Soll; Becki Lyon; Mike Lyon
Subject: FORMAL NOTICE OF APPEAL, OBJECTION AND STAY OF AWARD [ON-002815]:
Importance: High

Dear Mr. Keenan:

Pursuant to your email to our Becki Lyon of today's date, this is our formal notice of objection to and appeal of your stated reason(s) for not considering our proposal.

As there isn't a link for the **Vendor Review Complaint Process**, for the **Ministry of Public Safety & Solicitor General**, we are copying them on this correspondence.

The process requests the following, and accordingly we answer each requirement, highlighted in yellow:

. Complaint Format and Information Requirements

The complaint must include:

- name, title, company name, address, e-mail address, fax and telephone numbers of the complainant. **Low Cost Interlock Canada, INC. / Low Cost Interlock Canada, INC. 422 Richards St Suite 170 Vancouver BC V6B 2Z4, brad@lowcostinterlock.com / Phone: 309-808-9289 / Fax: 877-679-6025 / Brad Boyd / Chief Operations Officer**
- the signature of the complainant. Where an email complaint has been received, it will be deemed to have been signed by the originator of the email. **As per email sender**
- competition or contract number. **ON -002815**
- a detailed description of the complaint, the background leading to the complaint, including relevant dates, and actions of involved parties. **Further to Mr. Keenan's email reasons stated below, Section 5.4.9 of the RFP document states:**

Readiness at Contract Commencement The Contractor will be responsible for the delivery of the IIP Services as of October 1, 2016. Sixty (60) days prior to that date, the Contractor will be required to demonstrate to the Province that it has the necessary resources and procedures in place (including Province approvals as required) and that it will be ready to successfully commence delivery of the IIP Services.

Response Guideline for section 5.4.9

Proponents should provide a detailed plan for ensuring that required resources, procedures and approvals will be in place to successfully commence delivery of the IIP Services on October 1, 2016.

The affidavit (attached) Mr. Keenan refers to, clearly says that our device materially conforms to the Canadian Interlock standards and will definitely do so before July 31, 2016, which is the Readiness at Contract Commencement date

- copies of relevant documents, including the Vendor Complaint Review Form submitted under the ministry/SSBC process. **please see attached**
- the name of the ministry or SSBC representative contacted to review the complaint originally, and the results of the discussions or correspondence within the procuring entity's vendor complaint review process. **Ralph Keenan | Procurement Specialist | Procurement Services Branch | Shared Services BC Ph: 250-387-7328 | e: Ralph.Keenan@gov.bc.ca | m: PO Box 9476, Stn Prov Gov, Victoria BC V8W 9W6**
- request for a review of the complaint. **This is our formal request for a review and appeal of our non-consideration and a formal request for a stay of awarding this RFP.**
- actions/remedies being requested of the Province. **This is a request that the province review and evaluate our response on the same basis as all other proponents. Also if an evaluation has been done on our proposal that it be released forthwith, as well as the evaluation scores of the other proponents.**
- information establishing that the person submitting the complaint is a valid complainant as per the definition (section 6.2.1). **As Chief Operations Officer, I, Brad Boyd, am authorized to initiate this complaint.**
- a statement that no other review process is currently underway for the complaint. **No other review process is currently underway.**

Yours very truly:

Brad Boyd

COO

www.LowCostInterlock.com

brad@lowcostinterlock.com

C.309.808.9289

P.800.352.4872

F.877.679.6025



----- Forwarded message -----

From: "**Keenan, Ralph C MTIC:EX**" <Ralph.Keenan@gov.bc.ca>

Date: Thu, Apr 21, 2016 at 1:45 PM -0700

Subject: Regarding Request for Proposal (RFP) ON-002815 – Ignition Interlock Program Delivery

To: "Becki Lyon" <becki@lowcostinterlock.com>

Dear Becki Lyon

I am writing to inform you that we are unable to review your proposal as submitted.

Section 5.3 of the RFP set out that *"Each Proponent must as part of its proposal, provide third party certification, in the manner described in Section 3.0 (Certification for Ignition Interlock Devices) of Schedule B, attesting to the fact that the Proponent's proposed IID is an IID that meets or exceeds those standards."*

The Response Guideline for this section requested that Proponents “must”, *as part of its Proposal, provide third party certification, in the manner described in Section 3.0 (Certification for Ignition Interlock Devices) of Schedule B, attesting to the fact that the Proponent’s proposed IID is an IID that meets or exceeds the standards set out in Section 1.0 of Schedule B.*

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As the proposal did not contain the third party certification that confirmed the proposed IID meets the requirements of Schedule B unfortunately we have no ability to consider the proposal further.

I am providing this information at this time as a courtesy as your proposal mentioned your testing was ongoing.

Regards

Ralph Keenan | Procurement Specialist | Procurement Services Branch | Shared Services BC

Ph: 250-387-7328 | **e:** Ralph.Keenan@gov.bc.ca | **m:** PO Box 9476, Stn Prov Gov, Victoria BC V8W 9W6



PROCUREMENT
SERVICES
A BRANCH OF SHARED SERVICES BC



Shared ServicesBC

Ref: 104474

June 29, 2016

Brad Boyd
Chief Operations Officer
Low Cost Interlock Canada, INC.
422 Richards St, Suite 170
Vancouver BC V6B 2Z4

Dear Brad Boyd:

Re: Vendor Complaint Review Process Submission MTIC-17-001

I am writing in response to the complaint submitted to Procurement Services Branch (PSB) by Low Cost Interlock Canada, INC. under the Vendor Complaint Review Process (VCRP) in reference to Request for Proposal (RFP) ON-002815 for Ignition Interlock Program Delivery. This matter has been referred to me for reply in my capacity as Assistant Deputy Minister responsible for the Procurement Services Branch, which has issued the RFP on behalf of the Ministry of Public Safety and Solicitor General.

Low Cost Interlock Canada, INC.'s complaint as described in your VCRP submission references Mr. Keenan's email [of April 21, 2016] that informed Low Cost Interlock Canada INC. that their proposal did not satisfy the mandatory certification requirement in Section 5.3 of the RFP. Low Cost Interlock INC.'s complaint references Section 5.4.9 of the RFP document (points below) and states that the affidavit provided "clearly says that our device materially conforms to the Canadian Interlock standards and will definitely do so before July 31, 2016, which is the Readiness at Contract Commencement date."

- **Readiness at Contract Commencement:** The Contractor will be responsible for the delivery of the IIP Services as of October 1, 2016. Sixty (60) days prior to that date, the Contractor will be required to demonstrate to the Province that it has the necessary resources and procedures in place (**including Province approvals as required**) and that it will be ready to successfully commence delivery of the IIP Services; and
- **Liability for Errors:** While the Province has used considerable efforts to ensure information in this Request for Proposals is accurate, the information contained in this Request for Proposals is supplied solely as a guideline for Proponents. The information is not guaranteed or warranted to be accurate by the Province, nor is it necessarily

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comprehensive or exhaustive. *Nothing in this Request for Proposals is intended to relieve Proponents from forming their own opinions and conclusions with respect to the matters addressed in this Request for Proposals.*

I have reviewed the details of Low Cost Interlock Canada, INC.'s complaint and can provide the following in response to the points identified in your complaint.

Section 5.4.9, Readiness at Contract Commencement, was a desirable requirement that focused on operational readiness of the service delivery (resources, training, materials and procedures and approvals, etc. if required). This section is intended to explore a Proponents' plan to have those elements of the service in place prior to the commencement of the contract and is in addition to any mandatory requirements of the RFP.

The Liability for Errors clause advises Proponents that they should apply their own judgment in how to and choosing to respond to an RFP. It does not detract from any mandatory response requirements of an RFP.

Section A, 1, e) defines that "must" or "mandatory" means a requirement that must be met in order for a proposal to receive consideration.

Section 5.3 of the RFP paragraph set out a mandatory requirement that was confirmed in Section 6.1 of the RFP. It was mandatory that in order for a proposal to be considered, it must include the third party certification that provides evidence that the IID is currently certified to the standards as described in Section 3.0 of the Schedule B. Proposals that did not include that certification could not be considered.

The Proposal that Low Cost Interlock Canada, INC. provided was clear that the certification was still pending and was not included with the RFP.

Low Cost Interlock Canada, INC. has requested that their proposal be reviewed and evaluated on the same basis as other proposals. I am satisfied that the wording in the RFP was unequivocal in terms of the requirement that evidence of third party certification was to be provided as part of the proposal and that the process followed was consistent with the evaluation process as described in the RFP, which is necessary in order to treat all proponents equally. Therefore we are unable to support your request for the RFP to be further evaluated.

I recognize the amount of work that went into your proposal and appreciate your disappointment at not having the proposal fully evaluated. I can only suggest that if similar situations arise in future opportunities, that you send a request for additional clarity to the contact person while the RFP is still open for response.

The VCRP includes a provision that, should you not be satisfied with this response, you may apply to the Procurement Governance Office (PGO) within the Ministry of Finance for a second review. For more information on the PGO review process, please see:
www.fin.gov.bc.ca/ocg/pgo/VCRP.htm.

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I trust this explains the Ministry's position on this matter.

Sincerely,

A handwritten signature in black ink, appearing to be 'DM' or similar initials, written in a cursive style.

David Morel
Assistant Deputy Minister
Technology, Innovation, Procurement and Supply Division

cc: Mark Ross
Executive Director, Procurement Services



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COLUMBIA
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**VENDOR COMPLAINT
REVIEW PROCESS FORM**

FILE NUMBER:

Name: Letitia Silk

Title: Director of Marketing and Strategic Communications

Company/Organization Name: Musson Cattell Mackey Partnership (MCMP)

Address: 1600 - Two Bentall Centre - 555 Burrard Street

City: Vancouver, BC Postal Code: V7X 1M9

Business Phone: (604) 687-2990 Alternate Phone: s.22

Fax Number: 604-687-1771 Email Address: lsilk@mcmparchitects.com

Competition or Contract number: RFQ ON-002287

Please provide the following information (attach additional information as necessary):

1. Description of the complaint.
2. Background leading to the complaint (initial actions and ministry/CBS response, relevant dates, and the actions of the parties).
3. Who have you dealt with to date regarding the complaint? (*names, titles, phone numbers*).
4. Describe any other action you have taken.
5. Describe the outcome that you seek.

*Please refer to the attached Word document responding to all information requests noted above.

Signature:

Date: October 13, 2016

Freedom of Information and Protection of Privacy Act

This form is required to process your vendor complaint and the collection of personal information complies with the *Freedom of Information and Protection of Privacy Act*. If you have any questions about the collection or use of this information, please submit them to the contact person for the ministry you are dealing with.

The completed form is to be submitted to the contact person for the ministry/CBS VCRP, or to the individual indicated in the solicitation document.

Information as requested:

Description of Complain:

On August 26th, 2016 MCM submitted the appropriate documents in response to the Competition number (RFQ ON-002287). At 13:40:04 that same day MCM received an e-mail from BC Bid indicating, with the confirmation number 33310138_2016/08/26_13:40:04, that our information had been successfully received. My colleague Gabriele Bromley, MCM Associate and Office Manager, and I were experiencing technical difficulties with the BC Bid site during submission, so I promptly followed up with an e-mail and phone call leaving a voice message to inquire about MCM's submission; however we did not receive any response or acknowledgement.

On September 28/2016, I received an e-mail letter from Mr. Jerry Gauthier indicating that we had not been approved for the vendor pre-qualification list because we failed to attach the necessary documents to the BC Bid RFQ submission. The same day I phone Mr. Gauthier and we spoke at length about the inquiry and he directed me to Mr. Adam McKinnon. I left a message for Mr. McKinnon on September 28th and received an e-mail back from Mr. McKinnon on September 30th indicating and acknowledging my request for assistance while experiencing the technical difficulties upon submission but there was nothing he could do. After exchanging a few e-mails with Mr. McKinnon he kindly agreed to discuss further with myself and Ms. Bromley on Monday October 3/2016. After a 15 minute conversation with Mr. McKinnon, MCM indicating that because of BC Bid's lack of ability to appropriately inform us of "no attaching documents" and despite our e-receipt received with a "confirmation" and thus MCM was excluded from a vendors pre-qualification list that MCM had been on for a number of years prior to this situation, he indicated that there was nothing he could do for us and that this was a closed situation and to follow-up with the Ministry with a Vendor Complain Review Process (VCRP).

As this particular competition is an RFQ to enlist a pre-qualified list of vendors for future projects, no noted projects indicated on the RFQ, MCM strongly believes that having been on this list in years prior and in good standing that we should be able to re-submit our original document and have it be noted that we did make concerted efforts to inquire as to whether our document had been successfully received given the technical difficulties we were experiencing with BC Bid and also receiving an automated confirmation from BC Bid that our documents/submission was confirmed. Had MCM not have had the intention of reissuing our project information and gone to the trouble of putting the document together, we would not have submitted – therefore our

submission was a clear indication that MCM was still interested in being considered and included on the vendor pre-qualification list for projects on an “as-is” basis.

Background leading to the complaint (initial actions and ministry/CBS response, relevant dates, and the actions of the parties).

MCM believes that this information is clearly presented in the “Description of Complaint” section; however bullet point details to clearly communicate the details are as follows:

- Aug 26/2016 – submitting MCM response via BC Bid E-Bidding portal as instructed and experienced technical difficulties.
- Aug 26/2016 – MCM sent an e-mail and left a voice message indicating our technical difficulties and asking to confirm receipt of the attached submission.
- Aug 26/2016 – Following our submission over BC Bid E-Bidding, we received an e-mail confirming the receipt of our information. (no details indicating as to whether there was an error OR no attachments).
- September 28/2016 – MCM received an e-mail letter from Mr. Jerry Gauthier indicating that our submission was not accepted due to our file not being attached
- September 28/2016 – MCM phoned Mr. Gauthier to inquire about the issue and situation and that in fact we had attached the necessary documents and had not received any response indicating otherwise from BC Bid or Procurement.
- September 28th/2016 – MCM was referred to Mr. Adam McKinnon and left a voice message for him.
- September 30th/2016 – Mr. McKinnon responded via e-mail acknowledging my voice message from the 28th but that there was nothing he could do further to assist or reverse the situation.
- September 30th/2016 – MCM requested a conference call with Mr. McKinnon to further explain our situation.
- October 3rd/2016 – MCM and Mr. McKinnon had a phone call where MCM communicated our challenges with BC Bid E-Bidding during submission and how MCM believed and felt reassured that our information had been properly received. (MCM has an audio version of the conference call should you wish to have in on file).
- October 3rd/2016 – Mr. McKinnon indicated over the phone call there was nothing he could do due to the procurement laws and suggested we escalate our concerns via the Vendor Complaint Resolution Process.

Contact Names and information that we have dealt with:

1. Mr. Jerry Gauthier – Procurement Specialist, Procurement Services Branch: Phone: 250-387-7333
2. Mr. Adam McKinnon – Director, eProcurement and Sourcing Solutions: Phone: 250-217-4377

Describe any other action we have taken:

No further action has been taken following the formal submission of our complaint to the VCRP and will await follow-up from the necessary parties.

Outcome we are seeking:

As RFQ ON-002287 is for the request of information/qualification to populate a Vendor pre-qualification list and not for a strictly stated "future" project(s) but rather on an "as needed" basis, and given that MCM has successfully been on this same list in prior year with much of the same information, MCM feels strongly that our document from August 26/2016 should have merit to be re-submitted, reviewed by the appropriate parties for evaluation for this RFQ and then given a fair opportunity to be evaluated on our experience as in previous years. We are requesting based on our experience and information submitted that we be reinstated and re-enlisted on this Vendor prequalification list as it is for a number of years going forward and we do not wish to miss the opportunity to pursue possible projects.



Shared
ServicesBC

Ref: 105197

October 17, 2016

Letitia Silk
Director of Marketing and Strategic Communications
MCM Architects
1600 - Two Bentall Centre
555 Burrard St, Box 264
Vancouver BC V7X 1M9
E-mail: lsilk@mcmparchitects.com

Dear Ms. Silk:

Re: Vendor Complaint Review Process (VCRP) Submission MTIC-17-002

We have reviewed the complaint submission under reference number MTIC-17-002 (the Complaint), in connection with Request for Qualifications ON-002887 (the RFQ) conducted by the Procurement Services Branch (PSB) on behalf of the Ministry of Technology, Innovation and Citizens' Services (MTICS). Our analysis and conclusions with respect to the Complaint are set out below.

Complaint #1:

BC Bid was experiencing technical difficulties preventing the submission of eBids at the time MCM Architects attempted to upload their bid.

Response:

There is no evidence of any technical issues with BC Bid on August 26, 2016 on or around 13:40:04 (the time stamp of MCM Architects' submission in BC Bid). On the contrary, two other proponents successfully uploaded eBid submissions around the same time (12:15 and 13:36) on August 26, 2016. It is important to note the essential steps in submitting an eBid which are:

1. Log On and open the Opportunity Notice
2. Create e-Bid Response Form
3. Enter e-Bidding Key (i.e. the password)
4. Upload Attachment(s)
5. Submit the eBid

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As a response was received by BC Bid from MCM Architects on August 26, 2016 at 13:40:04 (without attachments), it appears Step 4, above, was not completed in its entirety at the time of submission.

Finally, all proponents registered for the BC Bid eBidding service agree to Terms and Conditions on the use of that service at time of registration. Included in those Terms and Conditions are the following:

13. The Bidder should not rely on the Service as its exclusive method of submitting bids, proposals or other communications to Us. For example, there may be technical issues that affect the provision of the Service and, because the Service is provided over the Internet, the Bidder's communications to Us may be susceptible to data corruption and/or delays in transmission.

14. The service is provided "AS IS" without warranty of any kind, including warranty of fitness for a particular purpose. We do not warrant the accuracy or the completeness of the service or the information made available to the bidder by the service, or that the service will function without error, failure or interruption.

As the RFQ allowed for hardcopy submissions in addition to eBids, alternatives were made available to proponents in the event issues were encountered with the eBid option.

Complaint #2:

MCM Architects attempted to contact PSB to confirm that their bid had been received, but did not receive a response prior to the closing time. Had a response been received confirming attachments were absent, MCM Architects could have corrected the submission.

Response:

PSB can confirm that on August 29, 2016 at 09:57 MCM Architects e-mailed procurement@gov.bc.ca (PSB's central point of contact and the point of contact noted for the RFP) to inquire as to the status of their eBid submission. This e-mail correspondence is as follows:

Good Morning Mr. Gauthier,

I just wanted to see if you could verify that you have receive our RFQ submission for the above noted document. I had trouble sending it in on Friday and I had to do it twice.

If you could please get back to me I would appreciate it. If I don't hear from you I will assume you don't have it and will send it in today prior to the deadline.

Thank you,

Letitia Silk

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The BC Bid e-Bidding option is provided as a means for suppliers to submit bids securely through the Province's system as an alternative to a hardcopy (e.g. couriered) submission. As with any bid submission, all that can be verified prior to the closing time is that a submission has been received – not that submission's contents. In the case of a hardcopy response, that would be receipt confirmation of a sealed envelope. For an e-Bid, it is a record showing that a response has been electronically uploaded (which may or may not include attachments). In neither instance would a submission be opened prior to the closing time to verify the bid's contents.

Therefore, if PSB had been able to respond to MCM Architects prior to the RFQ's closing time, PSB would only have been able to confirm that MCM Architects had uploaded an e-Bid – not whether there were any documents attached to that eBid.

Complaint #3:

BC Bid provided electronic confirmation that a bid was received, but failed to mention that no attachments were included.

Response:

While proponents receive confirmation via e-mail that a bid has been submitted, this e-mail does not provide verification of the existence of any documents submitted during the upload process. During the eBidding submission process, however, proponents are provided a visual point of reference to confirm whether any attachments are included in that submission on the BC Bid e-Response Notice Form screen (sample screenshot below). Once an attachment is successfully uploaded, this reference changes to read "Attachments Exist" next to a folder icon.

Document Details

Actions

- Withdraw
- Print
- Refresh Screen
- Exit Document

e-Response Notice Form (Test)

BC Hydro and Power Authority (Planholder List)

Test Account

Quality Control / Testing / Inspection

• Attachments do not exist

e-Bidding Key:
SECRET
e-Bidding Key Did Not Match

For more information, contact:

BC Bid Help Desk, Test Account

Test Company 1
563 Superior Street
PO Box 9476 Stn Prov Govt
Victoria, British Columbia
V8W 9W6
Canada

Phone: 1 (250) 387-7301
Fax: 1 (250) 387-7309

Final

Supplier Document #: 20215796
Solicitation No: 1476 (ATTEMPT2)
Close Date and Time: 2011/11/02 12:00
Time Zone: Pacific Time

Approx. Time Left 0day 0hr 00min 00sec

All dates are yyyy/mm/dd

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Complaint #4:

Given MCM Architects' history as participants on the previous Qualified Suppliers List, the demonstrated intent to submit a proposal for evaluation on the new RFQ, and the fact that the Qualified Suppliers List does not guarantee a contract for work in-and-of-itself, MCM Architects' bid should be accepted.

Response:

The RFQ established mandatory requirements which were required to be fulfilled by proponents in order for proposals to be accepted as follows:

2. Request for Qualifications Definitions:

- i) "must", or "mandatory" means a requirement that must be met in order for a Response to receive consideration;

3.2 Closing Date:

One (1) complete electronic Response must be received in accordance with BC Bid instructions for e-bidding before 2:00 PM, Pacific Time, on August 22nd, 2016.

(note: this was amended to 2:00 PM, Pacific Time, on August 29th, 2016 in Addendum #4 to the RFQ.)

Therefore, incomplete submissions received at the time the RFQ closed are deemed final and cannot be adjusted afterward in order to ensure compliance with Provincial Core Policy, as stated within http://www.fin.gov.bc.ca/ocg/fmb/manuals/CPM/06_Procurement.htm which reads:

b. Selection and Award

- 1. Ministries must award contracts on the basis of the criteria set forth in the solicitation documents.
- ...
- 4. Before considering a bid or proposal, ministries must ensure that it meets all mandatory requirements specified in the solicitation documents.

I recognize the amount of work that went into your proposal and appreciate your disappointment at not being awarded a contract after having received a number of contracts for similar work in the past.

The VCRP includes a provision that, should you not be satisfied with this response, you may apply to the Procurement Governance Office (PGO) within the Ministry of Finance for a second review. For more information on the PGO review process, please see: www.fin.gov.bc.ca/ocg/pgo/VCRP.htm.

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I trust this explains the Ministry's position on this matter.

Sincerely,

David Morel
Assistant Deputy Minister
Technology, Innovation, Procurement and Supply Division

cc: Mark Ross
Executive Director, Procurement Services Branch