

OGCA asks IO to hold off on vendor performance program

by Don Wall Dec 9, 2016

Infrastructure Ontario's (IO) new AFP Vendor Performance Program (VPP) is getting a rough ride from the general contractors it targets, with affected members and the leadership of the Ontario General Contractors Association (OGCA) calling on IO to put the program on hold so that full consultation can take place.



On Dec. 5 OGCA president Clive Thurston said his association had consulted with contractors affected by the VPP and had just addressed the issue with board members where the decision to take a stand against the program was endorsed.

"We have serious concerns that we will put in writing," he said. "We are going to advocate that implementation be delayed until those concerns are addressed.

"We don't oppose this type of system if it is fair. This we had no say in, this we did not contribute to, this we find to be onerous and unacceptable. And we sincerely believe it is going to fail and not achieve anything."

Thurston said not one OGCA member contacted had spoken in favour of the program, which is set to launch in January on a phased-in basis.

IO did not indicate it would change its timetable upon learning of the OGCA position.

Asked for comment on the OGCA stance, IO released a statement from executive vice-president and general counsel Marni Dicker: "We believe that continuing to improve project delivery is important and a vendor performance program is another way to further protect the public interest. We have done due diligence and had dialogue with many industry partners, and look forward to strengthening vendor performance on our AFP major projects."

Others interviewed including Craig Lesurf, vice-president of Walsh Canada, Andy Manahan, executive director of the Residential and Civil Construction Alliance of Ontario and Geoff Wilkinson, executive director of the Ontario Road Builders' Association, said there are flaws with the program as proposed and all said there had been inadequate consultation.

"I am totally upset about it," commented Lesurf, who said he had an hour-and-a-half meeting with an IO executive where he listed "hundreds" of concerns.

"IO needs to stop, to reassess, and put it on the shelf. Because this is not an acceptable process."

The VPP was publicly unveiled Nov. 14 at the Canadian Council for Public-Private Partnerships (CCPPP) conference in Toronto.

As explained by Dicker, the program introduces a scorecard to be assigned to contractors who participate in IO projects, with contractors accumulating demerit points over a rotating two-year period that would have an impact on team rankings at the Request for Qualifications stage. Demerit points will be assessed for IO project infractions cited not only against the contractor's firm but also against other team members.

There would be no appeals, Dicker said, because the 12 criteria listed would prompt direct yes or no answers.

Lesurf, who is chairman of the board of the Toronto Construction Association, but said he was speaking for himself, and who also said his firm has a clean slate with IO, listed numerous concerns he had with the program.

He said it was not fair that general contractors were singled out, nor that the contractors would suffer from mistakes made by any of its partners; that it's against natural justice to not have an appeal mechanism; that it's wrong that all violations are treated equally, regardless of mitigating circumstances, the seriousness of violations or even if a violation is later proven to have been wrongly assessed; and that it's unfair for firms who do a lot of work with IO to have a greater chance of accumulating demerit points than less active firms.

"If you need a bigger stick then do something different," he said. "This is not the way, to say 'I'm scoring you bad.'"

Manahan said his association first learned about the program at an industry roundtable in October, where, he said, there was general surprise, and he suggested the "pause button" be pushed.

At another meeting in November, stakeholders had an opportunity to review the VPP document and make suggestions for changes.

Dicker told the P3 conference IO had consulted with stakeholders prior to the Nov. 14 announcement and would continue to meet with contractors and consider amendments.

Both Manahan and Wilkinson identified issues that they hoped would be addressed by IO but both felt the program could be salvaged.

Manahan said, "I can understand the rationale for why they're doing it, and I think over time it will prove to be an effective tool, but this doesn't override the disappointment that we weren't consulted."

Said Wilkinson, "What is important to us is that there is consultation so that we are involved in the process... and that there will continue to be a fair, equitable and open procurement process."