With features on Bill 66, how to draft a successful RFP response, and advice to owners on preparing construction bid documents.
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A MESSAGE FROM
THE CHAIR

CELEBRATING OUR
INDUSTRY’S YOUNG
PROFESSIONALS

As a young leader, I recognize the challenges of finding my spot in the corporate world.

Many of us under the age of 40 do. We all respect our peers—their accomplishments, their knowledge and their passion—and value all that they have passed on to us. Thanks to their leadership, our generation is preparing itself to take our industry to the next level.

Many of our member firms have employees under the age of 40 who are making tremendous contributions to the industry, and who are developing their skills. Our first annual GVCA Building on Leadership Development (BOLD) Awards celebrate these accomplishments, and the promise of things to come. I, for one, am thrilled at the idea of these awards, which were proposed to us by the members of our LinC Committee. I’m even happier to serve as Chair of GVCA as we launch this important initiative.

You will hear more about the BOLD Awards in the weeks and months ahead (and on page 23), but for now, mark January 23 in your calendars. Join us as we celebrate our industry’s next generation of construction professionals.

LET’S CELEBRATE!

We have a lot to celebrate in our construction industry—and GVCA never misses a chance to throw a party!

We celebrate because it is important to recognize the contribution we all make to beautifying the communities in which we work, live and play. Everyone that is part of a construction project contributes to its success. There has been tremendous spending on all types of projects in our region. And I can say with confidence that all of those have been executed with collaboration foremost in mind. We come together as an industry to get the job done, so it only makes sense that we celebrate our accomplishments, our successes and our friendships.

Join us as we celebrate in GVCA style at our next Building Excellence Awards gala on April 24, 2020. Our biennial event recognizes entire project teams. If you were part of it, you earned the recognition. Check out the back cover for more information. This will be the greatest show on Earth with lots of surprises, exciting entertainment and great food. See you then!
CRYSTAL BALL REPORT

GVCA's *Crystal Ball Report* is a unique and insightful member service. Updated daily by GVCA staff, the report tracks planned projects during the pre-bidding phases, following them from concept to design to prequalification, construction and completion.

A large development that has the potential to drastically reshape the area around Clappison's Corners has been proposed by the Krpan Group.

The business park area—which generally stretches from Highway 6 in the west, to Parkside Drive in the north, to the south of Dundas Street to the south and east of the soon-to-be-complete Clappison Drive in the east—is made up of approximately 100 acres. The proposed development includes 2,000 residential units, 1.5 million square feet of commercial space, and is expected to create 3,000 jobs.

Krpan says the plan would include low-rise townhomes, mid-rise residential and high-rise residential. A nursing and retirement facility is also slated for the development with over 350 beds. The project is slated to have 392 stacked townhouse units on the north side of Dundas Street, 54 single townhouses, 80 mid-rise units, 630 high-rise units, 165 retirement beds and 192 nursing beds. Meanwhile, the south side is slated for 64 stacked townhouse units, 16 single townhouse units, 388 mid-rise units and 220 high-rise units.

Krpan hopes to have rezoning approvals in the next year, and have site plan approval for the first build in 2021 or 2022. The city is expected to garner approximately $65 million in development charges from the growth to come as a result of the project, plus approximately $20 million in property taxes per year.

The application for an official plan amendment and changes in zoning were received by the City of Hamilton Planning Division in June. They are now under review.

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**Clappison’s Corners**

**iConnect Community**

Flamborough, ON

For more information or to have your project profiled, contact GVCA’s pre-bid reporter Rob Agley at rob@gvca.org

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**Market Snapshot Q3 2019**

Waterloo Region & Guelph is home to one of the fastest growing tech communities. With its close proximity to the Greater Toronto Area, the Region has experienced a tremendous increase in demand for office and industrial space. There is currently 1,293,014 SF of office and industrial space under construction in 10 buildings across the 4 cities. There has been a slight decrease in the number of buildings under construction, from 13 to 10 buildings, this quarter with additional construction planned to begin in Q4 2019 and early 2020.

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<th>SF TOTAL</th>
<th>TOTAL BLDGS</th>
<th>SF UNDER CONST</th>
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</tbody>
</table>

For more market statistics and information please contact: Chad Vrenjak, Market Analyst, chad.vrenjak@cushwakewr.com
WERE YOU SPOTTED?

GVCA Annual Golf Tournament – June 20
More than 200 golfers head out for the shotgun start at the Conestoga Golf and Conference Centre.
Left to right: Scott Crockard, Lionel Chicas, Ben Foertsch and Brant Harder of Baywood Interior Millwork.

Leaders in Construction (LinC) Annual Golf Tournament – July 18
Left to right: Lindsay Markle of Conestoga College, Marvin Menjivar of O’Dell Associates, and Stefanie Hargest of Boehmers by Brampton Brick.

The guys prep for the Longest Marshmallow Drive contest.
Left to right: Otmar Taubner, Conor Downe, Clay Kieswetter and Lee Kieswetter of Kieswetter Excavating, and Ian Cunningham of ATCO Structures & Logistics and member of the LinC committee.

Narisha Joseph of Gallagher and Chair of the LinC Committee presents the winners of the tournament with their prizes.
Left to right: Jeremy Vandevas of PM Contracting, Narisha, Adam Bleay of Stevensons Rental Services, and Nelson Oliveria of CJ’s Plumbing & Electrical. Absent from the photo: Mike Murray of the GVCA. (Adam was also the winner of the Longest Marshmallow Drive contest!)

The TVAN Excavating crew.
Left to right: Ted Van Dinther, Ron McWhirter, Emrys Bishop and Cindy McMillan.

Left to right: Aaron Hilker and George Winsor of Arriscraft Canada, and Scott Robertson of EllisDon.
Women in Construction (WinC) Golf Tournament – August 22

The winners of the “Best Dressed Team” at the WinC golf tournament! Left to right: Lisa Moore, Becky Simpson, Edie Bishop and Cindy McMillan of TVAN Excavating.

Left to right: Valerie Schmidt of GSP Group, Jessi McLellan of ABA Architects, Carrie Curtis of Killam REIT and Pam Tolton of ABA Architects.

Left to right: Kendra Dynes of Aviva Insurance, Anita Flootman-Paterson and Jennifer Stewart-May of Staebler Insurance Brokers, and Lindsey Groeneweg of Aviva Insurance.
Nanotechnology refers to a wide range of technologies and materials that create, manipulate, or use particles that are extremely small and have dimensions roughly between 1 and 100 nanometres (nm). A nanometre is 1 billionth of a metre. Most research and studies have concentrated on nanomaterials with at least one dimension of less than 100 nm.

Nanotechnology is a field that is quickly changing both in terms of how we use it, and in our understanding of it. The best approach to take is the precautionary principle—the need to take prudent action in the face of potentially serious risk, without waiting for the completion of further scientific research.

**Health Effects**

- Can enter the body through inhalation, ingestion or absorption through the skin
- Health effects are influenced by chemical composition, shape, size, surface texture, surface charge and other factors, and their retention in tissues may be relatively short or long
- Latency period (time between exposure and the manifestation of health effects) is unknown

**Nanomaterials are in the workplace and**

- Batteries and computer components – silicon dioxide, zinc oxide (op)
- Car – carbon nanotubes in the frame (adds strength without weight)
- Windows – titanium dioxide coating
- Makeup – silver (antibacterial and
- Clothing – silver (stain resistant and
- Cleaners – silver, silicon dioxide, ful
- Paint – silver, silicon dioxide, titaniu
- Cutting board – silver (controls bacteria
- Sunscreen – titanium or zinc oxide (keeps it
- Cement mixtures – silicon dioxide, titanium di
Editor's note: this infographic was created by the Canadian Centre for Occupational Health and Safety. For more information, visit www.ccohs.ca.
There are several options for procuring funding to get started, enhance growth and invest in your company’s future. Each option has its own advantages and disadvantages so be sure to compare the different financing alternatives available to you before signing on the dotted line.

The following are some of the most common financing options available:

**EQUIPMENT FINANCING**
- This option would be suitable for newer companies when obtaining equipment. The loan will finance equipment purchases with the equipment being collateral for the loan. Equipment financing is often easier to obtain than unsecured loans.
- Regular repayments will be made on a monthly basis, similar to any term loan. If you have seasonality in cash flow, you may be able to negotiate an alternate payment schedule.

**OPERATING LINE OF CREDIT**
- Good for growing companies and can help to alleviate cash flow strains due to seasonality. You can access a fixed amount of capital and pay interest only on the amount of funds you draw out. You need to repay the funds you’ve borrowed only and can keep borrowing as needed up to the maximum fixed amount available. Operating lines of credit may be secured or unsecured. Interest rates on lines of credit are lower than credit cards. It’s better to secure a line of credit before you need it. You won’t pay anything until you draw from the line of credit when you need it.
TERM LOAN
- Usually used to finance a large project or investment.
- A commercial loan obtained from a bank for a sum of money with a payback term ranging from one to 25 years.
- Regular repayments are typically made monthly and will consist of principal and interest. As noted with equipment financing, in some cases you may be able to negotiate payment terms to match cash flow seasonality.

ALTERNATIVE FINANCING/PRIVATE LENDING
- Financing obtained from a non-bank financial institution (for example, a credit union or private lender).
- These loans are good options if a company won’t qualify for traditional bank financing. Because the risk is higher with these loans the interest rate is typically higher and the terms are usually shorter (ranging from one month to five years).
- These are typically the most flexible loans and may allow for interest only payments during the term and are quite often used for bridge financing purposes until the company can qualify for traditional bank financing.

Things to consider before applying for financing:

CASH FLOW NEEDS
- With cyclicality in the construction industry, cash flow needs are an important factor to consider when determining which financing option is best for your company.
- A line of credit may help to alleviate cash flow worries in slower months of the year to help cover overhead costs.

REPORTING REQUIREMENTS
- Some bank loans will require annual, quarterly or even monthly financial reporting depending on the amount of financing obtained.
- Some will require an audit or review of your financial statements on an annual basis.
- This reporting can be time consuming and costly, so it is an important factor to consider.

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**CREDIT HISTORY**
- A higher credit score will help to ensure you are able to obtain the financing your company needs. It can also lead to lower interest rates.

**INTEREST AND FINANCING COSTS**
- Professional fees paid to obtain financing are not 100 percent deductible in the year the cost is incurred. For tax purposes, the cost is deductible over five years.
- Interest incurred is a typically a tax-deductible expense.

**SECURED VS. UNSECURED DEBT**
- Secured debt is backed by assets that are held as collateral, in the case that the borrower defaults on the loan.
- Collateral mitigates the lender’s risk. Therefore, secured debt is often easier to qualify for than an unsecured loan. With less risk, lenders may also offer better terms and lower interest rates on secured loans.
- You won’t have to put your assets up as collateral and more of the risk will lie with the lender, so unsecured debt may be tougher to qualify for. Creditors will be looking to lend to companies who are low risk and have higher credit scores.

**PERSONAL GUARANTEES**
- Financial institutions may require a signed personal guarantee. If the company is unable to repay the debt, then you as the guarantor would be personally responsible for the repayment of the loan.

**COVENANT REQUIREMENTS**
- Financial institutions want to ensure that your company as a borrower will continue to be able to repay your debt obligations in order to maintain the level of risk attached to the loan they’ve given you. Therefore, some credit agreements will include financial covenants that must be satisfied. Some covenants can restrict or limit the actions of your company as the borrower. For example, a covenant may state that the borrower cannot borrow more debt or cannot pay dividends over a certain threshold. If a covenant is not met, this is a breach of your contract. When a covenant is violated, depending on the severity, the lender may be able to demand immediate repayment of the loan.

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This article written by Katherine Salis, senior accountant at RLB. She can be reached at katherine.salis@rlb.ca.
This special event is aimed at buyers and bidders of construction services. Our expert panelists (to be confirmed) will discuss all things procurement. Some of the planned subjects include:

- a review of best practices under CCDC 23 – 2018 A Guide to Calling Bids and Awarding Contracts
- a discussion of what owners look for in RFP response documents, and how to structure winning responses, and
- ways of evaluating bids and RFP responses to achieve fairness.

The cost for the event is just $100, and a light breakfast and lunch are included.
TIPS FOR SUCCESSFULLY CALLING BIDS AND AWARDING TENDERS

Construction procurement is complicated. There are countless legalities and written and unwritten conventions that can cause headaches for even experienced procurement officials.

We spoke with John Davies, the president & CEO of John G. Davies, Architect, Inc., and a specialist in the preparation, application and interpretation of various forms of construction and consulting contracts, about best practices for calling bids and awarding tenders. Here are his recommendations.

1. Use standard forms of contract.
   Your first choice for construction contracts and guides should be those issued by the Canadian Construction Documents Committee (CCDC) and the Canadian Construction Association (CCA). CCDC documents in particular are nationally upheld standard forms of contract that have been unanimously approved by the groups representing Canada’s owners, architects, engineers, contractors and specification writers.

2. Choose the right method of delivery.
   Let your project dictate the method of delivery you choose. Methods such as unit-price arrangements, stipulated-sum arrangements, design-build or construction management each have their own pros and cons. Evaluate carefully according to your project scope, budget, schedule and tolerance for risk.
Include supplementary conditions sparingly.
CCA and CCDC documents were created to be as comprehensive as possible, but no two projects are ever the same. Where there is a need to include supplementary conditions, such as for administrative purposes, exercise caution. Supplementary conditions often add complexity. Be careful how you use these conditions to re-assign risk.

Prequalify contractors.
You want to know your project is being bid only by experienced and qualified contractors—not just any company. Use the CCDC 11 – 2018 Contractor’s Qualification Statement to find those contractors that have the background and proven success in the field of the building you need constructed. Davies recommends shortlisting and inviting three to five bidders to bid on your project.

Go out to bid.
Your instructions to bidders are critical. Set clear expectations of what you require from bidders, include general conditions of the contract, bonding requirements, and the exact time and location to which bids must be submitted. Once you receive each bid, stamp it with the time at which you receive it, and reject any that arrive late.

Analyze the bids.
Davies advises opening bids publicly. Owners that read out the names of the contractors, their prices and any proposed schedules (if that is a principal consideration) are generally viewed to be more transparent than those that open bids behind closed doors. As you analyze bids, be sure that all bids are compliant.

Award the job.
Awarding the contract carries its own set of complications and conventions. For example, if you pre-qualified bidders, you are custom-bound to award the contract to the lowest bidder; if you did not, you may award the project to any compliant bidder that you deem appropriate—provided the approach you used to award the contract meets the legal standard for fairness.

Of course, each step in this process is more complicated and nuanced than it appears here, but these are the basic principles of calling bids and awarding tenders on conventional construction projects. Learn more about standards construction forms and documents for calling bids and awarding contracts at www.ccdc.org.

Good luck!
FEATURE

VERDICTS IN, BUT JURY OUT ON BILL 66

Not all affected municipalities opted out of their construction employer designation when Bill 66 became law. Meanwhile, the debate over how much money (if any) open tendering will save taxpayers remains open.

By Paul Knowles

When it comes to the legislation concerning municipalities as construction employers, the Ontario government’s Bill 66, it could be argued that the verdicts are in but the jury is still out.

Bill 66—officially the Restoring Ontario’s Competitiveness Act, and deemed an omnibus bill—includes a diverse menu of actions and implications, but a great deal of the debate focused on the construction employer controversy. In a nutshell, previous legislation had meant that municipalities that were deemed construction employers could accept tenders from unionized contractors only. Until Bill 66, municipalities bound by that restriction included the Region of Waterloo, Toronto, Sault Ste. Marie, Hamilton and the Greater Essex County School Board. That no longer needs to be the case.

But Bill 66 included an unusual clause. It allowed municipalities to accept the provisions of the bill, or to opt out. Four of the five accepted the change—some welcomed it—while the council of the City of Toronto voted overwhelmingly to continue to function as a construction employer, with construction jobs open only to unionized contractors. In making that decision, Toronto remains tied to nine province-wide collective agreements, which means that to win contracts from the city, contractors must agree to employ workers from those unions.

During the debate that culminated in a 20-4 vote to opt out of Bill 66, a key point made by councillors arguing for retention of the restrictions involved the alleged financial savings that municipalities will gain with open tendering. An internal report prepared by Toronto’s city manager estimated that adhering to the bill would mean savings of between $12 million and $48 million annually. But Toronto councillor Anthony Perruzza was quoted as saying that projected savings “probably aren’t true,” and that the real debate was “ideological,” not financial.

OPINIONS ON OPEN TENDERING VARY

Proponents of open tendering have suggested savings of as much as 15 to 20 percent. Opponents believe savings could
be negligible. This is where the jury is still out. Organizations like Cardus, associated with the Progressive Contractors Association of Canada (PCAC), and the Christian Labour Congress of Canada, have argued that the change will save municipalities an average of 15 percent on projects. But the Ontario Construction Secretariat (OCS) and organizations including the Carpenters’ Union, have suggested savings of less than 2 percent.

Wildly divergent claims about the impact of Bill 66 have been made by the two sides of the debate. Organizations opposing the bill, like the OCS, argue that negative impacts will include fewer young people in apprenticeships, more work-related injuries, and loss of equity programs that introduce under-represented groups into the construction industry.

Proponents of Bill 66 discount those claims, and argue that there is general consensus among government leaders (except in Toronto, of course) and academics that “fair and open competition” is best for everyone. They argue that cost savings will be significant.

Municipal leaders in the communities that have accepted the provisions of Bill 66 do make general statements anticipating cost savings, but are still very cautious in estimating any actual levels of savings.

For example, Karen Redman, Waterloo Regional Chair, says, “Bill 66 allows for
more competition, and more competition is likely to lead to better prices for our construction contracts.”

The change has been celebrated in Sault Ste. Marie, where the city has been deemed a construction employer since 1987. The city has launched—and lost—two challenges to the designation, prior to Bill 66. Sault councillor Matthew Shoemaker has been quoted proclaiming that, “a 30-year struggle... has finally come to an end.”

LEGAL CHALLENGES MAY ARISE

There is an additional problem that could be faced by the municipalities, because of the opt-out option: the possibility of lawsuits. Because the province has essentially downloaded the decision to the municipalities, they could be vulnerable to lawsuits by the affected unions—or in the case of Toronto, by non-union contractor organizations.
PCAC, for example, has said it will challenge Toronto’s decision in court. But in Hamilton, the United Brotherhood of Carpenters and Joiners of America Local 18 has stated it is considering legal action to challenge the city’s decision to abide by Bill 66.

Nonetheless, Redman sees advantages in the new open tendering climate. She says, “Bill 66 will result in greater opportunity for construction companies to bid on regional projects. We anticipate the

opportunity for more local companies to compete for work.”

**FOCUS ON WATERLOO REGION**

The status of construction employer is relatively new in Waterloo. The region was deemed a construction employer in 2012. The Regional Chair says the impact was felt immediately.

“Since 2012 when the region was deemed a construction employer, the number of bids for Regional projects declined by 50 percent,” she says. “As a result, successive regional councils have lobbied provincial governments to change the legislation and exempt the [municipalities, universities, schools and hospitals] sector from this category.”

Michael Harris is a member of Waterloo Regional Council, representing the City of Kitchener. He has a unique perspective on Bill 66.

In 2012, Harris proposed a private member’s bill at Queen’s Park, The Fair and Open Tendering Act, which was an immediate response to Waterloo Region’s designation as a construction employer. Today, he says, the construction employer sections of Bill 66 look very familiar.

“The government has rolled in a lot of remedies from my original bill,” he says.

Harris believes that, “being a construction employer was preventing us from getting multiple bids from local contractors.”

The change, he says, “is a great thing. We were getting a significantly reduced number of companies bidding.” In fact, says Harris, in anticipation of the change to be enacted in Bill 66, the region held back on about 20 projects, waiting for the construction employer designation to be dropped, to allow open tendering from contractors.

Like Redman, Harris expects cost savings, but won’t quantify his expectations. “It’s going to be a significant saving for the taxpayers,” he says, “But no one project is the same. We’ll see how it goes. We need to stretch infrastructure dollars.”

Redman agrees. “There are never enough infrastructure dollars to address all the needs for investment in our region. Bill 66 provides the opportunity for more projects to be completed with the funds available. It is safe to assume that with a greater number of companies competing for large infrastructure projects, there will be better return on investment.”
TIPS FOR
WINNING YOUR NEXT
RFP RESPONSE

Building a successful RFP response document is an exercise in convincing a client that your firm is right for their job. You have to dive deeper than the facts, and present a compelling argument that speaks to your company's strengths and the client's requirements.

It's no secret that purchasing authorities are trending more and more toward using request for proposals (RFPs) as their main purchasing method. Unlike a conventional tender process, in which price is the purchaser's main consideration, an RFP allows the buyer to choose a consultant or a contractor based on a number of factors, including experience, overall approach, safety, history—and, of course, cost. For buyers, the RFP is one way of diving below the bottom line and understanding a proponent's actual capabilities.

There's another advantage, and it comes down to legality. An RFP is non-binding. So where the conventional tender process leads to the Contract A/Contract B arrangement, and the purchaser is required to treat all bidders fairly when evaluating the bids and awarding the contract, the RFP allows more flexibility. The buyer can choose its preferred proponent based
on any criteria it wants—provided the evaluation criteria and scoring weighting are stated clearly—and not have to worry about contractual relations.

**BUILDING WINNING RFP RESPONSES**

RFPs are relatively new animals in our industry, and many contractors and consultants struggle with how to put together winning proposals. Lee Kelly, founder and principal of Constructing Minds Inc., works regularly with GVCA to deliver sessions on how to respond successfully to an RFP. A veteran contractor who counts more than 30 years’ construction management experience, she has deep knowledge of how to create winning RFP responses.

“Answering an RFP effectively requires knowledge, understanding and a proposed solution of the subject,” she says. “As a proponent, your job is to convince the purchaser that your company is the best suited to build their project.”

In other words, where a response to a tender is an exercise in providing details and putting the focus on the overall cost of a project, an RFP response is a more complicated exercise. It’s about persuasion, and putting forward a strong argument about why your company is the best for the job.

The next step to building a successful RFP response is to create what Kelly calls a “win theme.”

“You need to boil the client’s main requirement and all your company’s strengths down into a single, owner-focused statement,” she says.

That’s not an easy thing to do.
It requires a lot of creativity to arrive at a sentence or a few words that speak to your strengths in light of the client’s requirement. But it’s a must. Your win theme has to permeate through your entire RFP response. Create that message, and craft it in a number of different ways so that it keeps appearing across the various pages of your RFP response. Repetition—but not word-for-word repetition—helps keep that win theme front and centre in the reader’s mind, and it shows your passion and commitment toward helping the purchaser achieve its goals.

**BE CREATIVE**

A strong win theme combined with a strong understanding of the owner’s requirements can go a long way toward helping your company win projects that you might not be obviously qualified for.

Kelly herself experienced a situation where one of the contracting companies she worked for submitted an RFP response for a $100-million office building. The RFP document required proponents to list their previous experience on three similar buildings valued at a minimum of $80 million. Although Kelly’s firm didn’t have that experience, it won the bid because the team was able to demonstrate a deep understanding of the client’s needs and situation, and they built in a win theme to match.

“There are ways to work around those mandatory requirements,” she says. “Consider partnering with another firm in a joint venture, for example.”

**BE THE SOLUTION**

Building a successful RFP response isn’t easy. It takes a lot of work, a lot of creativity and a lot of commitment. Every detail matters, and the most successful responses are those that truly position your company’s skills and abilities as the solutions to the client’s requirements.

Good luck!
Link2Build.ca is a new construction-industry portal owned and operated by seven of Ontario's local construction associations, including GVCA. In addition to publishing daily news articles about goings-on in and around our industry, Link2Build will be a hub for plans and specifications posted across the province, and will offer contractors and owners a new forum to publish mandatory legal notices, such as Certificates of Substantial Performance—at a price of less than half of what other publications charge.

All the fees charged for publishing CSPs on our site are returned directly to the seven members of the Link2Build alliance.

Learn more at www.link2build.ca.

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**Celebrate our industry’s next generation of construction professionals**

The best way to recruit and retain excellent people is to recognize their excellence. These new BOLD Awards give you the opportunity to see your best next-generation people publicly recognized while showing your appreciation.

**7 CATEGORIES OPEN FOR NOMINATIONS:**

- **Craft Award:** given to a skilled tradesperson.
- **Safety Award:** an individual’s commitment to safety.
- **Onsite Award:** an individual who has the ability to bring the team together.
- **Leadership Award:** given to a person who demonstrates professionalism and leadership qualities.
- **Spirit Award:** given to an individual with social responsibility and who inspires others.
- **Customer Service Excellence Award:** given to a person who has provided exceptional customer service.
- **Outstanding Apprentice Award:** given to an outstanding individual enrolled in any apprenticeship program and has shown his or her desire to make their chosen trade a career.

**Make your nomination at gvca.org/bold**

Award winners will receive a custom commissioned BOLD Award illustration to proudly display.

For more information, please contact: boldawards@gvca.org

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- Certificates of Substantial Performance
- Notices of Non-Payment of Holdback
- Notices of Termination
- Certificates of Completion of Subcontract
- Notices of Intention to Register a Condominium

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Presented by GVCA and LinC

To be eligible for the 2019 BOLD Awards, a nominee must be 39 years of age or younger on December 31, 2019. (Born in 1979 or later)

Deadline for Nomination: December 15, 2019

(It’s free to nominate!)

BOLD Awards Presentations & Gala: January 23, 2020 at Bloom, Conestoga College
 Approximately 40 adjudicators will be qualified and trained in advance of the October 1 implementation date.

Adjudication for construction disputes will come into effect on October 1, 2019. On July 18, the provincial government selected ADR Chambers to serve as the Authorized Nominating Authority (ANA).

The ANA is a new body created by the Construction Act to administer adjudication in Ontario. It will perform five key functions. It will train and qualify adjudicators. It will appoint adjudicators where the parties are unable to agree on an adjudicator. It will set rates for adjudicators in circumstances where they are appointed. It will establish a code of conduct for adjudicators, and it will establish a process for handling complaints against adjudicators.

ADR Chambers was a safe choice to act as the ANA. ADR Chambers is a familiar name in the field of alternative dispute resolution. You may not know what ADR Chambers is, but your lawyer does. ADR Chambers has managed large-scale alternative dispute resolution projects in the past. Back in 2012, when the province was overwhelmed by the volume of mandatory mediations and arbitrations in the auto insurance system, it hired ADR Chambers to tackle the backlog. And, unlike most other ANA candidates, ADR Chambers already has faculty and facilities to provide training to construction adjudicators through its Stitt Feld Handy Group division.

Now that we know who the ANA will be, it is fair to wonder what is next. I called Allan Stitt, the CEO of ADR Chambers, to ask a few questions. Although the planning for the ANA was still evolving at the time of our conversation, he shared his early thinking with me.

Stitt says that it will not be necessary for ADR Chambers to use its power to grandfather-in any adjudicators. ADR Chambers expects to roll out the training for adjudicators before the October 1 implementation date. The training will involve an online component and an in-class component in Toronto. Stitt expects to train and qualify approximately 40 construction adjudicators before October 1 with more to follow. Since adjudication won’t apply to any contracts signed before October 1, 40 adjudicators should be more than enough to handle any adjudications that arise in the first few months.

Next, where it is necessary for the ANA to appoint an adjudicator, ADR Chambers intends to make the fees charged by the adjudicator proportionate to the amount in dispute. On the one hand, it does not make sense for an adjudicator who normally charges a high rate to accept a lower fee if they are appointed to adjudicate a small claim. On the other hand, it is unreasonable for the parties involved in a small dispute to pay a higher rate simply because the adjudicator appointed to hear the dispute normally charges a high rate. Stitt suggested that disputes would be classified into separate categories depending on the amount at stake. Different rates would be set for disputes falling into different categories. An adjudicator who charges a high rate could limit themselves to largest claims to which the highest fees would apply.

Lastly, the roster of construction adjudicators will be separate from ADR Chambers’ existing roster of mediators, arbitrators and neutrals. You will not need to become an ADR Chambers roster member to become an adjudicator, and existing ADR Chambers roster members will need to apply and qualify to become a construction adjudicator just like anyone else.

Anyone having at least ten years of experience in the construction industry who is interested in applying to qualify as an adjudicator should email ADR Chambers atadr@adrchambers.com.

Ted Dreyer is a construction and insurance lawyer at Madorin, Snyder LLP in Kitchener. This article should not be relied on as legal advice.
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### EDUCATION & EVENTS

**SEPTEMBER - OCTOBER 2019**

To view a complete list of upcoming education and to register, please visit www.gvca.org. Note: All education courses and training courses take place at GVCA, 25 Sheldon Drive, Cambridge (unless noted otherwise).

#### EDUCATION

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To view a complete list of upcoming events and to register, please visit www.gvca.org.

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