



**STAFF REPORT
ACTION REQUIRED
Confidential Attachment**

**Management of Construction Contracts –
Leaside Bridge Structure Rehabilitation Contract**

Date:	March 23, 2007
To:	Audit Committee
From:	Auditor General
Wards:	All
Reason for Confidential Information:	This report relates to litigation or potential litigation that affects the City.
Reference Number:	

SUMMARY

Our 2006 Audit Work Plan included a review of how the City manages its various construction contracts. This particular report is the third such review conducted by the Auditor General.

RECOMMENDATIONS

The Auditor General recommends that:

1. City Council not authorize the public release of the confidential report in Attachment 1 as this report contains confidential legal advice and information in relation to current litigation.
2. The following recommendations in the attached Auditor General's report dated March 23, 2007 entitled "Management of Construction Contracts – Leaside Bridge Structure Rehabilitation Contract" be adopted:
 - “1. The Executive Director, Technical Services Division, ensure that where possible all tender quantities contained in construction contract tenders are accurate and are representative of actual quantities required to complete the contract.

2. The City Manager, in consultation with the City Solicitor, review the content of all standard construction contracts in order to ensure that contract provisions are clear, consistent and enforceable.
3. The Executive Director, Technical Services, ensure that staff are aware of their levels of authority in regard to the approval of amendments to City contracts. Further steps be taken to monitor compliance with this level of authority.
4. The Executive Director, Technical Services, direct that any renegotiation of contract terms which appear to be ambiguous, unclear or inconsistent only be conducted after consultation with the City's Legal Services Division. All such consultations be documented.
5. The Executive Director, Technical Services Division, ensure that documentation supporting all reductions in tender quantities and tender prices is completed and retained. Any negotiated reductions in tender amounts be approved by appropriate staff.
6. The Executive Director, Technical Services Division, evaluate the appropriateness of the current quality control policies and procedures and make the changes necessary to increase the effectiveness of the current process.
7. The Deputy City Manager and Chief Financial Officer, in consultation with the City Solicitor, review the tender evaluation process particularly as it relates to the impact recoveries from third parties may have on the award of contracts.
8. The Executive Director, Technical Services Division, review the current practice relating to the billing and recovery of costs from third parties and ensure procedures are developed for the timely billing and recovery of all related costs.
9. The Deputy City Manager and Chief Financial Officer consider the implementation of a policy for the recovery of administration fees relating to the management of contracts by the City on behalf of third parties. Such a policy be included in the Technical Services Capital Works Projects Procurement and Administration Procedures Manual.
10. The Executive Director, Technical Services Division, review the process for determining and approving all payroll overhead calculations. In regard to the Leaside Bridge contract, payroll overhead overpayments should be determined and recovered.

11. The Executive Director, Technical Services Division, ensure that the Division's existing procedural requirements identifying the due dates for all warranty inspections are performed for all projects. Details of all warranty inspections be clearly documented and approved by senior management. Deficiencies identified during the warranty inspection process be documented along with the specific steps undertaken to address these deficiencies."

FINANCIAL IMPACT

The implementation of the recommendations in this report has the potential to reduce contract costs. The extent of these reduced costs is not determinable.

ISSUE BACKGROUND

The attached confidential report represents the Auditor General's review of the management of the Leaside Bridge Structure Rehabilitation Contract.

COMMENTS

Effective management and administration of City construction projects is essential in maintaining the City's infrastructure in a cost-effective manner that ensures safety, minimizing liabilities and risks, and provides the City with assets that will stand the test of time.

In order to properly build and maintain City infrastructure, it is essential that senior management develop proper, accurate and complete tender specifications, ensure bids on construction contracts are analyzed, protect the City's interests and that the construction process is closely supervised, evaluated and conducted in accordance with the contract.

In view of concerns identified in our report entitled "Contract Compliance Issues" issued in late 2005, it was determined that our 2006 Audit Work Plan should include a more detailed review of a construction contract. In addition, the Auditor General's Office has received a number of calls on its Fraud and Waste Hotline expressing concerns relating to the management of certain other City contracts. These concerns have been addressed on an individual basis and, where appropriate, have been communicated to management. In addition, in September 2006, we completed a review of a construction contract related to the reconstruction of the Queensway Eastbound Lanes (Queensway contract). In view of the concerns with the management of the Queensway contract, we expanded our work plan to include additional contract compliance reviews.

The "Leaside Bridge Over Don Valley Structure Rehabilitation" contract (Leaside Bridge contract) was essentially selected for review because of the significant amount of funds involved and also because it related to a specific type of contract, a bridge rehabilitation, which had not been reviewed previously.

The Leaside Bridge contract includes the replacement of existing sidewalk, parapet walls, curb, asphalt, railings, deck and repairs to piers and abutments. The contract was awarded to Grascan Construction Ltd. and Torbridge Construction Ltd. jointly in the total amount of \$19,655,900. Our focus in conducting this work was to address the following questions:

1. Does management exercise adequate and effective oversight of construction contracts?
2. Do contract documents, terms and conditions adequately protect the City's interests?
3. Do contractors comply with contract provisions and specifications?
4. Are payments to the contractor adequately supported, authorized, monitored and controlled?

This audit, much like the review of the Queensway contract, has identified a number of concerns in how the City manages its construction contracts. This is not totally unexpected as the recommendations contained in the report relating to the Queensway contract are still in the process of implementation. In this context, we have not repeated those comments and recommendations included in the Queensway contract report. However, this current review did identify additional concerns, which either did not exist or were not readily apparent during our review of the Queensway contract. Concerns identified as we progressed through this review were communicated to management for appropriate and immediate action.

This report contains 11 recommendations. Management's response to the recommendations is included as an Appendix to this public report. The implementation of these recommendations will improve the management of the City's construction contracts, and has the potential to reduce City-wide contract costs and will further protect the City's interests.

CONTACT

Jeff Griffiths, Auditor General, Auditor General's Office
Tel: 416-392-8461, Fax: 416-392-3754, E-mail: Jeff.Griffiths@toronto.ca

Syed Ali, Senior Audit Manager, Auditor General's Office
Tel: 416-392-8438, Fax: 416-392-3754, E-mail: sali4@toronto.ca

SIGNATURE

Jeff Griffiths, Auditor General

cg
06-CMO-02

ATTACHMENTS

Appendix to the Public Report:
Management's Response to the Auditor General's Review of Management of
Construction Contracts – Leaside Bridge Structure Rehabilitation Contract

Attachment 1 – Confidential Information:
Management of Construction Contracts – Leaside Bridge Structure Rehabilitation
Contract

G:\AGO\2007\Reports\City Manager\Other\Management of Construction Contracts - Leaside Bridge (Staff Report) March 23, 2007.doc