



**STAFF REPORT
ACTION REQUIRED**

Suspension of Entities Owned, Directed or Controlled by Sebastian Corbo from being Awarded or Granted City Contracts and bypassing lowest bidder on Tender Call 254-2011.

Date:	January 26, 2012
To:	Government Management Committee
From:	Acting Director, Purchasing and Materials Management, and General Manager, Toronto Water
Wards:	All
Reference Number:	P:/2012/Internal Services/pmmd/gm12002pmmd (AFS 15042)

SUMMARY

The purposes of this report are to recommend:

- 1) the temporary suspension of IPAC Paving Limited, Sebastian Corbo, as an individual, and any entity in any way owned, directed or controlled by Sebastian Corbo, including Road Mill Construction Inc., from being awarded or granted any future City contracts; and
- 2) that City Council bypass the lowest bidder, Road Mill Construction Inc., and award the contract for Tender Call No. 254-2011 for the non-exclusive supply, delivery, installation, warranty of all labour, equipment, material necessary for asphalt paving services at various locations for Toronto Water on an as and when required basis from January 1 to December 31, 2012 with the option to renew for four additional separate one-year periods to the second lowest bidder meeting specifications, Bond Paving & Construction Inc., for reasons set out in this report.

These requests are based on the fact that on June 15, 2011 Sebastian Corbo was arrested and charged with several Criminal Code offences, including fraud, in relation to a TTC paving contract. City staff believe that awarding and entering into future contracts with IPAC Paving Limited, Sebastian Corbo, or with any company Sebastian Corbo owns, directs or otherwise controls, would be an unsound business decision and would undermine the public's confidence in the integrity of the City's procurement processes. A

suspension is therefore recommended until the criminal charges have been dealt with before the courts. If Sebastian Corbo is convicted or pleads guilty to the criminal charges, staff will report to Council with a further recommendation on the term of the suspension.

RECOMMENDATIONS

The Acting Director, Purchasing and Materials Management and the General Manager, Toronto Water recommend that:

1. City Council suspend IPAC Paving Inc., Sebastian Corbo, as an individual, and any entity in any way owned, directed or controlled by Sebastian Corbo, as determined by the Director, Purchasing and Materials Management in consultation with the City Solicitor, including Road Mill Construction Inc., from being awarded or granted any future City contracts until the courts have rendered a final decision with respect to the charges against Sebastian Corbo and all appeals have been exhausted or until all of the charges against Sebastian Corbo have been withdrawn.
2. City Council direct that in the event Sebastian Corbo is convicted or pleads guilty to the charges the Treasurer report back to Committee and Council with respect to the term of the suspension.
3. City Council award a contract to Bond Paving & Construction Inc., being the second lowest bidder meeting specifications of Tender 254-2011, for the non-exclusive supply, delivery, installation, warranty of all labour, equipment, and materials necessary for asphalt paving services at various locations for the City of Toronto's Water Division on an as and when required basis, from the date of award to December 31, 2012 in the amount of \$333,900.00 net of HST (\$339,776.64 net of HST Recoveries) with the option to renew for an additional four (4) separate one (1) year periods on the same terms and conditions, at the sole discretion of the City for a total potential contract award including option years identified in this report of \$1,669,500.00, net of HST (\$1,698,883.20 net of HST Recoveries), subject to an adjustment in accordance with the annual CPI.

Financial Impact

There are no financial impacts from Recommendation Nos. 1 and 2.

The financial impact of Recommendation No. 3 is the difference in the bid prices of Road Mill Construction Inc. ("Road Mill") and Bond Paving & Construction Inc. ("Bond Paving"): \$26,710.00, net of HST. Should the option years be exercised, the total potential difference in bid prices including option years is \$133,550.00, net of HST.

The total potential contract award including option years identified in this report is \$1,886,535.00 inclusive of all taxes and charges. The potential cost to the City is

\$1,698,883.20, net of HST Recoveries. Funding is available in the Approved 2012 Toronto Water Operating Budget. Should the option years be exercised, then additional funding will be included in the 2013, 2014, 2015, and 2016 Toronto Water Operating submissions. The cash flow funding requirements for this project are as follows:

Funding Source	WBS/ Operating Account	Description	2012 – Net of HST Recoveries (Year One)	2013 Net of HST Recoveries (Option Year 1)	2014 Net of HST Recoveries (Option Year 2)	2015 Net of HST Recoveries (Option Year 3)	2016 Net of HST Recoveries (Option Year 4)	Total Net of HST Recoveries
Operating	WW1182	District Operations Services	\$339,776.64	\$339,776.64	\$339,776.64	\$339,776.64	\$339,776.64	\$1,698,883.20

Note: Should the option years be exercised, pricing will be subject to an adjustment in accordance with the annual CPI – All items – Toronto, for a 12 month period commencing two months prior to the start of each option year.

The Deputy City Manager and Chief Financial Officer has reviewed this report and agrees with the financial impact information.

ISSUE BACKGROUND

TTC Contract with IPAC Paving

In 2007, the Toronto Transit Commission (the "TTC") entered into a three (3) year contract with IPAC Paving Limited ("IPAC") for various paving construction work (the "TTC Work") with a value of approximately \$860,000. Amendments over the term increased the contract price to just over \$1.8 million.

IPAC's secretary, treasurer and general manager is Sebastian Corbo. The other corporate officers of IPAC share the last name Corbo and all list their address as 144 Brooke Street, Vaughan, ON. A copy of the corporate profile report for IPAC is attached to this report as Appendix A.

According to a Toronto Police Service news release, attached to this report as Appendix B, in July, 2009 the TTC began investigating a complaint of fraud involving a TTC project manager and Sebastian Corbo in relation to the TTC Work. The Toronto Police began assisting in the investigation in the summer of 2010.

As indicated in the news release, it is alleged that between June, 2009 and July, 2010, Sebastian Corbo billed the TTC \$198,619.92 for work valued at \$54,087.75, resulting in a monetary loss due to fraud in the amount of \$149,020.62. It is further alleged that the TTC project manager, his wife and son created bank accounts and received funds directly from IPAC under fraudulent companies.

The TTC has launched a civil action against IPAC Paving, Sebastian Corbo, the TTC project manager and the TTC project manager's wife and son to recover the losses the TTC has incurred.

Criminal Case

On June 15, 2011, Sebastian Corbo, the TTC employee, the TTC employee's wife and son were arrested and charged as follows:

Sebastian Corbo:

1. Fraud Over \$5,000
2. Possession of Property Obtained by Crime
3. Laundering Proceeds of Crime
4. Two Counts of Conspiracy to Commit an Indictable Offence

The TTC employee:

1. Fraud Over \$5,000
2. Laundering Proceeds of Crime
3. Possession of Proceeds of Crime
4. Agent Receive Secret Commission
5. Two Counts of Conspiracy to Commit an Indictable Offence

The TTC employee's wife and son:

1. Laundering Proceeds of Crime
2. Possession of Proceeds of Crime
3. Conspiracy to Commit an Indictable Offence

The arrests were reported by a number of media outlets including the Toronto Star, the CBC and CP24.

On November 29, 2011, the TTC employee pleaded guilty and was convicted of accepting a secret commission while acting as an agent for the TTC. The TTC employee received a conditional sentence and was given a \$30,000 restitution order. All charges were withdrawn against the TTC employee's wife and son.

The charges against Sebastian Corbo are still pending before the court.

COMMENTS

Recommendation for Suspension

The City issues a number of calls for paving and asphalt work each year. City staff are aware that Sebastian Corbo has bid on and has been awarded City work in the past under the companies IPAC and Road Mill. Based on a corporate profile report, attached to this

report as Appendix C, Sebastian Corbo of 144 Brooke Street, Vaughan, ON is listed as Road Mill's director, president, secretary and treasurer. He therefore is effectively Road Mill's directing mind.

As pointed out in the Bellamy Inquiry report, “[t]he first rule of procurement is that the taxpayer’s money should be spent only in the public interest.”¹ Further, companies who bid on City work need to understand and respect that when dealing with procurement calls issued by the City, the City is the trustee of public money.

With these principles in mind, staff believe that given the seriousness of the charges, which were laid after an extensive investigation by the TTC and the Toronto Police Services, awarding any contract in the future to IPAC Paving, Sebastian Corbo, or to any company which Sebastian Corbo owns, directs or otherwise controls, would be an unsound business decision and would undermine the public's confidence in the integrity of the City's procurement processes.

The recommendation is that IPAC Paving, Sebastian Corbo, as an individual, and any entity in any way owned, directed or controlled by Sebastian Corbo be suspended from being awarded or granted any future City contracts until the courts have rendered a final decision with respect to the charges against Sebastian Corbo and all appeals have been exhausted. If Sebastian Corbo is convicted or pleads guilty to any or all of the charges, it is recommended that staff report back to Council on the term of the suspension. If staff are required to report back, the report will discuss the length of the suspension in the context of what happened before the court with respect to sentencing.

The City received a fax on January 6, 2012 from the lawyer representing IPAC Paving indicating that Sebastian Corbo had resigned from being the President, Secretary-Treasurer and Director of IPAC Paving on November 17th, 2009 and ceased being the General Manager in 2010. As mentioned above, the corporate profile report the City conducted for IPAC Paving (attached as Appendix A) indicates that Sebastian Corbo is still listed as the Secretary, Treasurer and the General Manager of IPAC Paving. Additionally, IPAC Paving was the corporation involved in the TTC Work and the criminal charges that have resulted. Finally, as noted above, the TTC has launched a civil action against IPAC Paving in relation to recovery of the losses incurred by the TTC. Therefore, at this time, staff believe that IPAC Paving should still be suspended from receiving future City contracts.

¹ Madam Justice Denise E. Bellamy, *Toronto Computer Leasing Inquiry; Toronto External Contracts Inquiry: Good Government*, vol. 2 (Toronto: City of Toronto, 2005) at 97.

Toronto Water Paving Tender

Toronto Water requires asphalt paving work throughout the City in 2012 and future years.

On November 7, 2011, Purchasing and Materials Management Division ("PMMD") issued Tender Call No. 254-2011 for Contract No. MCP1-2011 for the non-exclusive supply, delivery, installation, warranty of all labour, equipment, and materials necessary for asphalt paving services at various locations for Toronto Water on an as and when required basis for the period of the date of award to December 31, 2012 with the option to renew for four (4) additional separate one (1) year periods (the "Toronto Water Tender"). The Toronto Water Tender was available for download in PDF format on the City's website and was advertised in the Daily Commercial News. On November 21, 2011, Addendum No. 1 was issued. The closing date was November 23, 2011.

At its public opening held on November 23 2011, PMMD opened the following bids for the Toronto Water Tender:

Firm Name	Date of award to December 31, 2012 (Net of HST)	Option Year 1 January 1, 2013 to December 31, 2013 (Net of HST)	Option Year 2 January 1, 2014 to December 31, 2014 (Net of HST)	Option Year 3 January 1, 2015 to December 31, 2015 (Net of HST)	Option Year 4 January 1, 2016 to December 31, 2016 (Net of HST)	Grand Total (Net of HST)
Road Mill Construction Inc	\$307,190.00	\$307,190.00	\$307,190.00	\$307,190.00	\$307,190.00	\$1,535,950.00
Bond Paving & Construction Inc.	\$333,900.00	\$333,900.00	\$333,900.00	\$333,900.00	\$333,900.00	\$1,669,500.00
Serve Construction Ltd.	\$465,325.00	\$465,325.00	\$465,325.00	\$465,325.00	\$465,325.00	\$2,326,625.00
Mountain Top Construction Inc.*	\$534,370.00	\$534,370.00	\$534,370.00	\$534,370.00	\$534,370.00	\$2,671,850.00
Dig-Con International Ltd.	\$647,634.40	\$647,634.40	\$647,634.40	\$647,634.40	\$647,634.40	\$3,238,172.00

*The bid from Mountain Top Construction Inc. was declared informal as the bid bond was not signed and sealed by the bidder.

The lowest compliant bidder is Road Mill which, as described above, is owned and controlled by Sebastian Corbo. Given the seriousness of the charges against Sebastian Corbo and the information from the TTC following its investigation, staff are also recommending to bypass Road Mill as the lowest bidder meeting specifications for the

Toronto Water Tender and instead award to the second lowest bidder meeting specifications, Bond Paving.

The bid documentation submitted by Bond Paving has been reviewed by the General Manager of Toronto Water and was found to be in conformance with the Toronto Water Tender requirements.

Toronto Water staff have compared the bid to the estimated cost and found the price of Bond Paving to be reasonable given the tender prices of all bidders.

The Fair Wage Office has reported that the recommended firm has indicated that it reviewed and understands the Fair Wage Policy and Labour Trades requirements and has agreed to comply fully.

City Contracts with Road Mill and IPAC

In the past, the City has awarded contracts to both Road Mill and IPAC. Parks, Forestry and Recreation had a contract with IPAC that expired April 30, 2011. Toronto Water had a contract with Road Mill that expired December 31, 2011, although no work had been requested under that contract since October 7, 2011.

Legal Services has been consulted and concurs with the recommendations in this report.

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ATTACHMENTS

Appendix A: Corporation Profile Report for IPAC Paving Limited dated January 10, 2012

Appendix B: Toronto Police Services News Release; broadcast time: 13:39 on June 15, 2011

Appendix C: Corporation Profile Report for Road Mill Construction Inc. dated January 10, 2012