

Supplementary Report - Award Report for Various Suppliers for the Provisions of Winter Maintenance Services

Date: December 14, 2021

To: City Council

From: General Manager, Transportation Services and Chief Procurement Officer,
Purchasing and Materials Management

Wards: All

SUMMARY

The purpose of this report is to provide a response to the motion at Infrastructure and Environment Committee which requested the General Manager, Transportation Services to consult with the Auditor General on this contract award process, and to report to directly to the December 15 and 16, 2021 City Council meeting on their findings.

Transportation Services and Purchasing Materials and Management Divisions met with the Auditor General December 7, 2021 to discuss the process. The Auditor General's office did have a discussion with staff regarding the implementation of the audit recommendations from the audits of the Winter Road Maintenance Program, but does not weigh in on open procurements. The Auditor must remain independent because their office may audit the procurement process at a later date. City Council can request that an audit of the procurement process be added to the work plan should they deem this a priority.

This report details the process preceding the procurement including the work to implement the Auditor General's recommendations in Phases One and Two of the Review of Winter Road Maintenance Program. This report also provides additional details on the procurement process to get to the contract award report for all eleven contract areas which is currently before City Council for its consideration. It is the opinion of the Chief Procurement Officer and supported by the General Manager, Transportation Services that the procurement process was run in a fair and transparent process ensuring that all bidders had access to required info on City requirements and an equal opportunity to submit compliant bids.

Furthermore, should the award report not be approved at this time by City Council, the City will be at considerable risk of not being able to provide winter maintenance services in 2022.

FINANCIAL IMPACT

There is no financial impact related to adopting this report. Financial impacts are described in the report for Award of Negotiated Request for Proposals to Various Suppliers for the Provision of Winter Maintenance Services.

DECISION HISTORY

On December 2, 2021, Infrastructure and Environment Committee forwarded the report for Award of Negotiated Request for Proposals to Various Suppliers for the Provision of Winter Maintenance Services to City Council without recommendations which can be found at:

<http://app.toronto.ca/tmmis/viewAgendaItemHistory.do?item=2021.IE26.4>

On July 14, 2021, City Council adopted the Auditor General's Report Winter Road Maintenance Program Phase Two: Analysis Deploying Resources without recommendations which can be found at:

<http://app.toronto.ca/tmmis/viewAgendaItemHistory.do?item=2021.AU9.11>

On November 19, 2020 Audit Committee adopted without amendment the Audit of Winter Road Maintenance Program Update

<http://app.toronto.ca/tmmis/viewAgendaItemHistory.do?item=2020.AU7.8>

On October 27, 2020, City Council adopted with amendments the Auditor General's Report of the Winter Road Maintenance Program Phase One: Leveraging Technology and Improving Design and Management of Contracts to Achieve Service Level Outcomes. This report focused on a set of recommendations to improve the design, management and adherence to service levels. The Committee decision can be found at:

<http://app.toronto.ca/tmmis/viewAgendaItemHistory.do?item=2020.AU6.2>

COMMENTS

Introduction

Transportation Services currently provides annual winter maintenance services through private contractors for the majority of the transportation network. A total of 47 contracts were previously issued for a 7-year term, which will expire at the end of the 2021/2022 season (April 2022). In June of 2020, Transportation Services embarked on a process to review the existing winter services contracts with an aim to consolidate, adjust and provide specific and measurable performance contracts. In addition, the Auditor General's Office completed an audit of the winter road maintenance program that focused on the Council-approved service levels, contract management, and contractor

performance. The audit made specific recommendations which were incorporated throughout the procurement process including improved contract language, flexibility to modify the winter season for climate change, GPS requirements and performance metrics.

Transportation Services goal is to set the foundation for contracts that leverage the industry and best practices, while improving performance and quality of work in this critical city service delivered by winter maintenance suppliers. The integrity of the process was critical and accomplished through a variety of tactics starting with assigning a very small team of key Transportation Services individuals to develop the scope of work and contract requirements. In addition, a select team from the following Divisions informed and executed this procurement process: PMMD's Category Management and Strategic Sourcing unit, Legal Services, and Accounting Services with additional support from HDR Inc. and Ernst & Young.

Transportation Review

A transformation of the way the City delivers winter maintenance services required a comprehensive review of both internal resources and external contractors, and a review on how this critical city service is delivered. Transportation Services welcomed the above-mentioned Auditor General's program review, which added value to improving the service for the residents of Toronto. These reviews yielded quality information which the team assessed in consultation with a HDR Inc., a consulting firm that specializes in municipal winter maintenance and is familiar with Toronto's winter maintenance services.

HDR was specifically tasked to review the current winter maintenance contracts and the components required to properly run these contracts. Their review and recommendations were provided on the following components which helped to frame and develop the new consolidation of contracts:

- Conduct a winter facility review assessing the existing network for redundancies, capacities, location, material storage, geographic coverage to determine best placement in the new contract model.
- Review existing equipment and develop options for all infrastructure such as roads, sidewalks and cycling facilities
- Review existing route mapping of equipment and develop a new version based on the contract consolidated transferrable to the Geospatial Competency Centre
- Develop contractor performance metrics, incentives and disincentives recommended for the new winter maintenance contracts
- Program cost analysis for the future contract consolidation model
- Proposed consolidation of the existing 47 contracts to increase efficiency of service delivery, and achieve a more consistent approach city wide

Parallel to this review, the Transportation Services team reviewed the existing contract language in its entirety focusing on improving and harmonizing the contract language and implementing the Auditor General's recommendations. This review commenced with a jurisdictional scan of similar cities winter services contracts. Targeted workshops with internal staff were also conducted prior to developing the new contracts to review

the existing contracts against the Auditor General's recommendations and other existing operational pain points including GPS requirements and calibration of all equipment types. These workshops developed concrete parameters that were included in the contract documents to satisfy the Auditor General's recommendations and allow City staff to better monitor and enforce contract requirements.

In consultation with Legal Services, the contract documents included in the nRFP and part of the award report have been rewritten with an entire new layout, which follows proven contract management principles that are not present in the existing contract documents. As part of this initiative there is now improved and clear contract language consistent across all eleven (11) contract areas which will result in clear requirements for both the City and its contractors to adhere to, as recommended by the Auditor General.

Attachment 1 of this report itemizes each recommendation and the specific way it was implemented in the new contract language in the nRFP.

Auditor General's Reports

The Auditor General reviewed the 2015-2022 the winter contracts as part of her work program with an aim at improving the way the City delivers winter maintenance services. Transportation Services requested that the Auditor General accelerate her review so that the development of the new winter contracts would be informed by her findings. In October of 2020, the Auditor General completed the Audit of Winter Road Maintenance Program - Phase One: Leveraging Technology and Improving Design and Management of Contracts to Achieve Service Level Outcomes report that identified thirty (30) key recommendations to improve service delivery and safeguarding best value for the City. Fifteen (15) of the 30 recommendations focused on the new winter maintenance contract procurement and management.

In November of 2020, the Auditor General commenced her Phase Two report to review the data from the existing contracts about deploying equipment and resources to gain best value for the city. The Phase Two: Analysis Deploying Resources report released in July of 2021 provided recommendations around the data analysis conducted on the number of resources and equipment deployed during each winter event over the last five years. This report detailed the number of pieces of equipment required for deployment and the frequency of activations in the last five years. It also included information and recommendations about Transportation Services management of the data and errors in the existing work management system. Another key recommendation identified that Transportation Services should be including the flexibility to modify terms within the contracts for items such as warming weather due to climate change and bringing specific additional work in-house where it made operational sense to do so.

In particular, the analysis on the required pieces of equipment to complete winter maintenance services was of top priority as it scrutinized the number of existing pieces of equipment that could be reduced and still meet City Council mandated service levels. This analysis was cross referenced with the contract consolidation proposal from and equipment estimates developed by HDR for verification that the City proposal was feasible to go to the market. With the use of the information provided from the Auditor General's Phase Two audit, Transportation Services clearly saw the need to make
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improvements to monitor the data inputs in the next procurement with increased rigor and conduct this type of analysis ourselves moving forward. This will require moving away from the existing business system to the new Enterprise Work Management System (EWMS) to obtain this type of data analysis. A team of Transportation Services staff are currently working on this with a target for 2022 implementation.

Highlights of New Winter Services Contracts

The new set of procurements for winter services contracts consolidates all winter maintenance services for all road classifications and sidewalks, within the same geographic region achieving a more efficient and cooperative method to delivering services. A reduction from the current 47 winter contracts to 11 contracts is a strategic decision identified through the sourcing strategy development phase that will allow existing staff resources to better focus and administer contracts with suppliers to improve the quality and performance with specific aim to cover all modes of transportation in an equitable and consistent manner.

One of the significant differences was not stipulating mandatory equipment and snow removal procedures. This allowed suppliers the opportunity to combine best practices, creativity and new technology in their proposals that will set the standard for years to come.

Other notable modifications to the new winter services contracts include:

- Leveraging technology where possible,
- Claims and customer service delivery focus,
- Consolidation and reduction of facilities
- Metrics to hold suppliers accountable to contract requirements; and
- Flexibility to modify the contractual Winter Season where feasible to realize cost savings

Sourcing Strategy Development- Winter Services Procurement

With collaboration from a team comprised of select staff from Purchasing and Materials Management Division, Operations and Maintenance in the Transportation Services Division, Corporate Finance Ernst & Young, HDR, and with support from Legal Services, a sourcing strategy was developed for the Winter Services procurement to achieve increased value for money, improving quality of service and productivity, leveraging performance based contracts, technology and adherence to City service level expectations. The team utilized several different inputs to achieve this goal, such as understanding trends, challenges, innovation, including market sounding meetings with winter service suppliers and public organizations, and seeking further insight from the supplier market through a Request for Information (RFI) solicitation to inform on the strategy.

The market sounding meetings with winter service suppliers and other public organizations involved discussions seeking input on leading practices related to service delivery and innovative methodologies, procurement process and understanding current challenges with delivering winter services to the City and other municipalities. The RFI was utilized to understand supplier capability and capacity to deliver winter services and the impacts of insurance risk in the market.

The outcome of these various inputs provided the basis for the procurement sourcing strategy that involved the following main components:

1) **Scope of work and contract consolidation:** Based on supplier feedback to allow optimal equipment recommendations based on expertise and public organization's experience with consolidated contracts by geographical regions, the City identified an opportunity to consolidate all related winter maintenance services work by activity and infrastructure type and the number of existing contracts to 11 geographical regions. This allows the City to leverage its volume of scope to support a competitive process and focus City staff time and efforts to manage a reduced number of contracts so it may be used on other important business needs. Another resulting benefit is eliminating existing potential conflicts between multiple suppliers providing different winter maintenance services in a similar area. Under the aforementioned consolidated approach a single supplier will be accountable for executing all the winter maintenance services within their awarded zone, thus arranging a coordinated implementation.

2) **Procurement type:** suppliers and public organizations confirmed that the procurement type does not affect the service delivery process and saw the value of open dialogue to discuss contract requirements should a negotiation stage be incorporated into the evaluation process. The team assessed the different procurement options, comparing the Request for Quotations process (which was used historically) against either a Request for Proposal or a negotiable Request for Proposal process. The team found the optimal value was in utilizing an nRFP process. The nRFP allows the City to: (i) recognize the Suppliers' difference in experience and quality of delivery through technical proposal evaluations (including evaluation of innovation or value added services) and does not focus solely on the lowest price wins model; and (ii) facilitates engagement with suppliers in a collaborative way during the procurement process through direct negotiations with the highest scoring suppliers for the 11 specific Contract Areas.

3) **Performance based mechanisms:** Multiple public organizations confirmed use and inclusion of key performance indicators (KPIs) to improve overall performance and ensure City service levels are being met across contracts. The City leveraged a performance based mechanism inclusive of service levels with associated KPIs to improve overall quality and timeliness of services. This will ensure City service levels are being met for each of the Contract Areas. This also fosters a collaborative working relationship with suppliers as both parties will review the results of the KPIs regularly as defined in the nRFP to ensure service levels are being met. Transportation Services is currently working on reporting that provides metrics to meeting the Provincial Minimum Maintenance Standards and Council Mandated Service Levels.

4) **Technology:** As part of the market soundings, suppliers and public organizations confirmed effective and efficient use of GPS/AVL technology and on-equipment cameras to support contract requirements. The City will leverage GPS technology as the primary tool to support contract and supplier management including but not limited to payment validation, location tracking, material usage, inspection and contractor and supplier management.

5) **Cost Escalation:** The bid submission form included information for suppliers to provide insight into key cost contributors such as equipment costs, maintenance costs, depot operations costs and other costs including insurance costs heavily influenced by market conditions, see table 1 below. The City has utilized a standardized annual price adjustment mechanism to account for inflation, commodity and infrastructure and activity changes over the term of the contracts.

6) **Contract Term:** The term of this contract is seven years with three one-year extension options. A seven year contract is the typical industry standard and allows for suppliers to amortize the capital equipment investment over a longer period and encourage them to secure qualified employees for this term.

Purchasing and Materials Management Oversight

Throughout the winter maintenance strategic sourcing initiative, the City's Purchasing and Materials Management (PMMD) staff led and oversaw all three (3) procurements to uphold the use of fair, open and transparent processes in line with the City's policies and procedures. Due to its complex nature, three (3) different PMMD staff were assigned to this initiative, with further oversight from management, in an effort to ensure that all three procurements met the highest standards of business ethics. Specifically, PMMD staff responsibilities included but were not limited to:

- Reviewing and/or drafting documentation including nRFP documents, addendum, letters of communication with Suppliers, notices etc. to validate transparency and openness to supplier community;
- Acting as the sole communication liaison between the City and suppliers and;
- Overseeing the evaluation of proposals in all stages including individual technical evaluations, score compilation and validation, leading consensus evaluation meetings, and managing clarifications if and when required.

As this was a strategic sourcing initiative, there were regular touchpoints and monthly updates on the progress of this procurement with the Director, Purchasing Client Services as well as with the Chief Procurement Officer. In addition to this, staff from Legal Services Division were engaged throughout all three (3) procurement processes to review documentation, advise on risks, and for consultation on adherence to applicable by-laws, procedures, and policies.

Given the number of PMMD staff engaged in this procurement for the purposes of maintaining a fair, open, and transparent process, consultation from Legal Services Division, and the implementation of best practises from previous strategic sourcing initiatives, the City did not retain a Fairness Monitor for this project.

Summary of Procurement Results

In order to get adequate submissions for each of the contract areas, the City had to go out to suppliers multiple times. After the first procurement, the evaluation team identified that 50% of the submissions were not of the quality and detail expected. Half
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of the suppliers failed to submit fulsome RFP submissions that provided detailed explanations, rationales, and proposals for:

- Operational Capability
- Technology and Risk Management
- Fleet Management
- Past Experience
- Value-Added Services
- Diversity Profile

The evaluation team reviewed the viability of reducing the evaluation thresholds but confirmed that this would not have yielded enough additional successful suppliers. The team took steps to provide specific feedback to all of the unsuccessful suppliers and solicit direct feedback from them about the process.

Subsequently, the team modified the second procurement with improvements taking into consideration the feedback received, to support the supplier's ability to succeed. The improvements included adding clarity to the technical proposal questions and the level of detail required in the responses from the bidders. In addition, the City allowed for supplementary documents to be submitted to provide ease of submitting fulsome responses. Upon issuance of the second procurement to the market, a supplier information meeting was held and all participants were provided with the same detailed feedback provided to the unsuccessful suppliers to even the playing field for all suppliers.

Once evaluations were completed for the second procurement, a third non-competitive procurement process was undertaken due to time limitations and results of the previous unsuccessful procurements which is an allowable rationale under the Purchasing Bylaw. Staff chose to contact the highest ranked supplier from the first two procurements given they had passed the mandatory financial requirements, operational capability and the technical evaluations. Should they have declined the offer to bid, the next highest ranked supplier would have been contacted. The proposal submitted was received and negotiated similar to all other contract areas. It should be noted the typical requirements for a non-competitive procurement were met and the process was followed according to the policies as outlined by the City, including ensuring that the Supplier could take on the two additional areas from a financial capability perspective.

The table below provides a high level summary of the events.

Table 1: Results from the Negotiated Request for Proposal

Procurement #	Contract Areas	Duration on Market	Suppliers Submitted	Successful Suppliers	Negotiated Contract Areas
nRFP Doc2970598171	11	May 7- June 16, 2021	10	5	5

Procurement #	Contract Areas	Duration on Market	Suppliers Submitted	Successful Suppliers	Negotiated Contract Areas
nRFP Doc3136860258	6	September 2 – 28, 2021	7	4	4
Non-Competitive Doc3244381937	2	November 2021	1	1	2

As a result of this sourcing initiative, the City will benefit from better contract controls around GPS and key performance metrics to hold suppliers accountable to contract terms and conditions. Other potential benefits include value added services provided by suppliers such as:

- Access to dash camera footage to respond to claims
- Insurance rebates
- Volume discounts
- LiDAR (Light detection and ranging) technology to weigh salt quantities
- Leasing revenue in the off season to store equipment on site
- A pilot to reduce the number of vehicles required for plow teams on expressways.

Current Market Conditions

Since the last Winter Maintenance award in 2015, the supplier market has substantially changed due to several direct factors affecting costs, as noted in the table below:

Table 2: Current Market Conditions

Cost Driver	Increase	Comments
Consumers Price Index	14%	In the last 7 years
Wages	30%	For incomes under \$40k
Insurance Premiums	200%	Limited companies provide coverage
Insurance Deductibles	400%	2015 term \$5k now \$25-50k/ claim
Fuel	60%	From 2015-2021
Equipment	50%	Vehicle, attachments and installation
Global Markets	30%	Due to Covid-19 increase on all goods, services and supply chain

Note: % listed above are approximations based on government published websites and information gathered through the procurement

Another notable and unforeseen change affecting this procurement is lead time required for vehicle purchases. Prior to Covid-19 this lead time was four (4) months, then ten (10) months as of May 2021, with an additional 20% increase in price since May 2021.

Management of Multiple Procurements

As outlined in the Report for Action to Council, the City conducted (2) separate Negotiated Request for Proposals (nRFP) and one (1) Non-Competitive Procurement to strategically source the provision of winter maintenance services across eleven (11) Contract Areas. Upon conclusion of Stage 3 – Technical Proposal Evaluations for nRFP-1: Doc297059817, it was determined that six (6) Contract Areas did not have a supplier who met the minimum scoring thresholds and as a result would need to be procured through an alternative method. Evaluations continued for the five (5) out of the eleven (11) Contract Areas that had at least one (1) supplier meeting the minimum thresholds. The decision to issue a subsequent procurement for the remaining (6) Contract Areas was done in consultation with Legal Services and the Chief Procurement Officer to ensure that it was done fairly.

Due to overlapping timelines, the City strategically planned and executed the process flow for each procurement such that no supplier would have an unfair advantage over another. Specific decisions made to ensure this include but are not limited to:

- **Delaying Negotiations of nRFP-1:**
- Although Stage 4 & 5 – Pricing Evaluation & Ranking was completed by August 18th, 2021 for nRFP-1, the City did not begin Stage 6 – Negotiations until September 30th, 2021, after the final closing date for nRFP-2 (September 28th, 2021). This decision was made to safeguard the integrity of the procurement process by ensuring that suppliers selected for Stage 6 - Negotiations in nRFP-1, would not have an unfair advantage over others submitting a proposal for nRFP-2.
- **nRFP-1 Debriefings:**
- The City conducted debriefings with each supplier that failed to meet the minimum thresholds of nRFP-1 between August 11, 2021 and August 19, 2021, providing feedback pertaining to their technical evaluation. The purpose of these debriefing meetings was to provide feedback to suppliers on improvement areas within their respective technical proposal and general themed feedback that would help improve them upon future technical proposal submissions. In an effort to maintain fairness for all Suppliers, the City included the same general themed feedback in the material presented during the nRFP-2 supplier information meeting conducted on September 13th, 2021. This material was then shared via addendum on September 16, 2021 so that all Suppliers, regardless of whether they attended the optional information meeting, would have access to the same information.

Risks If Award Report Not Approved

As detailed in the above noted sections of the report, Transportation Services along with many other Divisions have provided a significant amount of detail to transform the

delivery of critical winter maintenance services. Not approving these contracts would leave the City in a vulnerable state with minimal negotiating leverage with the existing suppliers. In addition to failing to meet the Ministry of Transportations minimum maintenance requirements which would jeopardise public safety, the City faces the following risks:

- The City would have to renegotiate 47 separate contracts, with existing suppliers that know they will not be awarded contracts beyond the one-year extension. Some existing suppliers may not interested in continuing to provide winter maintenance services on a short-term basis or for any number of other reasons.
- Failing to reach an agreement with any of the suppliers would leave the City without the means to provide snow clearing activity for that area, putting the safety of road users at significant risk on various road classifications and in non-compliance with Ontario Maintenance Standard Regulations for winter maintenance
- Existing suppliers may not be satisfied with the current financial contract terms and could require significant cost increases before agreeing to continue with the City.
- The AG recommendations to be implemented through the procurement process would have to be negotiated into any renewal with the existing Suppliers which the existing Suppliers may resist or request increases costs to implement.
- The City will have to reissue contracts in future years, which based on the current economic forecasts could result in much higher bids.

Further to this, should the award report not be approved by City Council, there will likely be insufficient time for vendors to procure the required equipment. The market soundings conducted in preparation for the procurement with the industry advised that they require between nine and twelve months to procure and outfit the equipment required for winter maintenance services. The current market conditions may require additional lead time.

Conclusion

Given the above noted information the Chief Procurement Officer and the General Manager, Transportation Services believes this has been a fair and transparent process that has yielded the best value for the services provided.

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ATTACHMENTS

Audit of Winter Road Maintenance Program 2022 Procurement Enhancements