

# TORONTO STAFF REPORT

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April 18, 2000

To: Works Committee

From: Commissioner, Works and Emergency Services, and City Solicitor

Subject: Toronto Integrated Solid Waste Resource Management (“TIRM”) Process  
Proven Disposal Capacity – Envelope 1 Informal Submissions

Purpose:

The purpose of this report is to identify non-conforming responses to the TIRM Request for Proposals ("RFP") for Proven Diversion Services and seek City Council's adoption of the recommendation that the non-conforming responses be declared informal and not considered further in the RFP Proven Diversion Capacity process.

Financial Implications and Impact Statement:

There are no direct financial considerations arising from this report.

Recommendations:

It is recommended that the TIRM Proven Diversion Capacity RFP submissions from All Treat Farms Limited; HUWS Corporation; Stone and Webster Canada Limited and Canada Composting Inc.; and SUBBOR be declared informal (for the reasons set out in this report) and that they not be considered further in the current RFP Process.

Background:

The TIRM Process is a multi-faceted undertaking. It is designed to address the impending closure of the Keele Valley Landfill Site by providing new residual solid waste disposal capacity, and to provide new diversion capacity to meet the City's policy of 50 percent diversion from disposal by the year 2006. The City has also initiated a program to potentially engage new and emerging technologies.

New disposal and diversion capacity is being obtained through a Request for Proposal process designed to engage the marketplace to identify options. At its meeting of November 23, 24 and 25, 1999 City Council approved the issuance of a RFP for Proven Diversion Capacity through its

adoption of Clause No. 2 of Report No. 5 of the Works Committee. New waste disposal capacity is being sought through a related RFP process. This report focuses on the RFP for proven diversion capacity.

One of the important features of the RFP for proven diversion capacity is the Respondent's option to build either a "mixed waste" or a "source separated organics" (SSO) processing facility on their own land or utilize a portion of the Scarborough Transfer Station.

On March 17, 2000, six submissions were received in response to the RFP for Proven Diversion Services. The names of the six Respondents are as follows:

- All Treat Farms Limited
- Groupe Conporec, Inc. and Services Matrec
- HUWS Corporation
- Rail Cycle North Limited
- Stone & Webster Canada Limited and Canada Composting Inc.
- SUBBOR (Super Blue Box Recycling Corp.)

Proposal summaries for each of the above listed Respondents are enclosed as Attachment A.

Following the receipt of the six submissions the TIRM project team, assisted by Legal Services, undertook Step 1 of the five-step process to identify top-qualified proposals. In Step 1 the Respondent's submissions are reviewed to ascertain whether or not they met the required mandatory screening criteria, including the required commercial securities detailed in Section 2.0 of Part B of the RFP document (page B-2). Table 5.1 of the RFP document (p. A-38) identifies the following mandatory and comparative evaluation criteria:

- "Minimum 60% Net Diversion Rate, (see Section 3.9) to be achieved within six months following completion of construction.
- Technically Proven Capacity, to be evidenced by a clear description of facility and technology proposed coupled with documentation of technology performance relevant to the specific type of waste to be diverted.
- Commercial Security,
  - To be established through provision of letters of credit or bonds securing the Respondents' proposal, in the amount of \$75,000 (for capacity 50,000 to 100,000 tonnes per year) or \$200,000 (for capacity 100,001 to 300,000 tonnes per year);
  - Evidence of possession of liability insurance to a minimum of \$5,000,000; and
  - Provision of agreement to provide a letter of credit for 20% plus bond for 40% of the annual value of the potential diversion contract."

In addition, Respondents proposing to utilize a facility or site provided by Toronto were required to provide an agreement to provide an additional letter of credit in the amount of 10% of the annual value of the potential diversion contract (due at time of contract signing).

Respondents successfully completing Step 1 can proceed to Step 2, Comparative Evaluation of Performance, which includes an evaluation of the price proposals contained in Envelope No. 2.

Comments:

The screening criteria noted in the previous section were applied to each of the RFP submissions received. The submissions from All Treat Farms Limited, HUWS Corporation, Stone & Webster Canada Limited and Canada Composting Inc., and SUBBOR did not conform to the required Step 1 mandatory screening criteria. A description of the non-conformities is provided in Attachment B.

The City has discretion to waive irregularities as set out in Section 4.2.6 of the RFP and as acknowledged in the Declaration of Proposal Submission signed by each Respondent. It is staff's position, however, that in the context of this RFP, one or more mandatory requirements have not been met by the above four Respondents and there should be no waiver of the requirement(s).

In particular, the submission of agreements to provide the specified commercial securities was a fundamental mandatory requirement to evidence the current (at the time of proposal closing) ability of a Respondent to obtain banking and surety commitments. While forms of agreement for each of the specified securities were set out in the RFP, staff were prepared to accept alternative forms or documents which nonetheless incorporated the same commitments. In general, the submissions by the four Respondents either totally failed to provide a particular security commitment or provided, in lieu of the agreements, letters from banks or sureties that lacked the necessary commitment.

Through this report we are recommending that the RFP submissions from the four Respondents listed above be declared informal and not considered further in the current TIRM RFP process.

We are currently in the process of seeking clarification from the two other Respondents that submitted RFP submissions: Groupe Conporec, Inc. and Services Matrec; and Rail Cycle North. The clarification sought is in relation to the composition and roles of parties in their respective consortiums, not a specific mandatory screening criteria. Following receipt of their clarifying responses, a supplementary report will be submitted to Works Committee.

At this time we have not proceeded to open the price proposals contained in the submitted second envelopes.

Conclusions:

This report recommends that four of the six Respondents which have submitted proposals in response to the TIRM RFP for Proven Diversion Services Capacity be declared informal and not be considered further in the current TIRM RFP process.

We are currently seeking clarification regarding the composition and roles of the respective consortiums of the two other Respondents. This will be the subject of a supplementary report.

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List of Attachments:

Attachment A.  
Summaries of RFP Submissions

Attachment B.  
Description of Non-Conformities

Summaries of RFP Submissions

<u>Respondent</u>	<u>Proposal Summary</u>
All Treat Farms Limited	<p>Compost (Yard Waste)</p> <p>All Treat is proposing to manage Toronto’s yard waste (up to 70,000 tonnes/year) at their facility in Arthur, Ontario. They utilize aerobic composting (static pile composting) to manage yard waste.</p>
Groupe Comporec, Inc. and Services Matrec	<p>Compost (Mixed Waste)</p> <p>This consortium proposes to utilize the Scarborough Transfer Station to manage 130,000 tonnes/year of mixed waste per year. Their technology utilizes “bioreactors” that provide accelerated waste composting and eliminates the need to crush or shred incoming wastes. Organic matter is reduced, while non-organic material remains whole for separation from the compost through the subsequent sorting and screening processes.</p> <p>Following sorting and screening, the remaining organic material undergoes additional windrow composting.</p>
HUWS Corporation	<p>Refuse Derived Fuel/Compost (Mixed Waste/Source Separated Organic Waste)</p> <p>This Respondent proposes to construct a Herhof Biocell system to manage up to 100,000 tonnes per year at the Scarborough Transfer Station. The proposed facility is capable of producing either compost or refuse-derived fuel from mixed waste, or compost from source separated organic waste.</p>

<u>Respondent</u>	<u>Proposal Summary</u>
Rail Cycle North Limited	<p>Composting (Source Separated Organics/Yard Waste)</p> <p>The lead member of the Rail Cycle North consortium, for the purposes of the RFP for Proven Diversion Capacity is Miller Waste Systems. They propose to utilize the Ebara in-vessel composting technology to manage a range of material input rates and feedstock at the Scarborough Transfer Station and/or a site(s) owned by Miller. In total, eleven options are presented in their proposal.</p> <p>In summary, they propose to process up to 50,000 tonnes/year at the Scarborough Transfer Station and/or up to 100,000 tonnes/year at other sites.</p>
Stone & Webster Canada Limited and Canada Composting Inc.	<p>Anaerobic Digestion (Mixed Waste/Source Separated Organics)</p> <p>Utilizing the BTA-Process technology (waste separation with advanced anaerobic digestion) this consortium has proposed three options:</p> <p>Option A.</p> <p>A new BTA-Process facility constructed at the Scarborough Transfer Station that is designed to accept 100,000 tonnes/year of source separated organics.</p> <p>Option B.</p> <p>A new BTA-Process facility constructed at the Scarborough Transfer Station that is designed to accept 150,000 tonnes/year of mixed waste.</p> <p>Option C.</p> <p>An offer to the City of Toronto to contract for 100,000 tonnes per year of source separated organics capacity at Canada Composting's Newmarket facility.</p>

<u>Respondent</u>	<u>Proposal Summary</u>
SUBBOR	<p>Anaerobic Digestion (Mixed Waste)</p> <p>SUBBOR proposes to utilize the Scarborough Transfer Station to manage 150,000 to 200,000 tonnes per year of mixed waste.</p> <p>The Respondent also proposes an option to process 300,000 tonnes per year at the Scarborough Transfer Station. This quantity is in excess of the maximum allowed for this facility in the RFP.</p> <p>SUBBOR is also proposing to design, build, own and operate one or more additional facilities at other sites (unnamed) with combined capacity capable of handling the entire mixed waste processing needs of Toronto.</p>

Description of Non-Conformities

<u>Respondent</u>	<u>Non-Conformity in Relation to Mandatory Document Requirements</u>	<u>Recommendation and Reason for Recommendation</u>
All Treat Farms Limited	<p>1). Form A-3 (Proposal Security Letter of Credit) was provided but modified to indicate that it would expire, not in 365 days as required, but on June 30, 2000. The Letter of Credit indicated that, if All Treat made it to the due diligence stage, the Letter of Credit would be renewed effective July 1, 2000 and would expire at the end of February 2001.</p> <p>2). Form A-6 (Agreement to Provide Operations Performance Bond) was not provided.</p> <p>3). Form A-7 (Agreement to Provide Operations Letter of Credit) was not provided. Instead, All Treat submitted a letter from Scotiabank. The letter simply refers to the requirement and states “In the event that our customer, All Treat Farms Limited, is successful in reaching the “Due Diligence and Negotiations” level, The Bank will conduct a due diligence review and reassess the proposal further.”</p>	<p>All Treat Farms should not proceed to the next stage.</p> <p>It failed to meet the mandatory criteria. While 1) is not fatal, it failed to provide a completed Form A-6 and the letter from the bank was not an obligation such that it could be considered equivalent to Form A-7.</p>

<u>Respondent</u>	<u>Non-Conformity in Relation to Mandatory Document Requirements</u>	<u>Recommendation and Reason for Recommendation</u>
HUWS Corporation	<p>In respect to Form A-7 (Agreement to Provide an Irrevocable Letter of Credit), HUWS provided a letter from Scotiabank stating as follows:</p> <p>“HUWS Corporation is a valued client of our bank. Provided that HUWS is successful in its bid with the City of Toronto and provided that the terms and conditions are acceptable to our bank, we see no reason why a letter of credit in the amount of 30% of the annual value of the contract could not be issued by our bank within the next 365 days.”</p>	<p>HUWS Corporation should not proceed to the next stage.</p> <p>The letter from Scotiabank, in connection with Form A-7, does not constitute an obligation to provide the required letter of credit.</p>
Stone & Webster Canada Limited and Canada Composting Inc. (“S&W and CCI”)	<p>In respect of the required Forms, two letters were received referencing CCI as a client – Aon Reed Stenhouse Inc. in respect of letters of credit. The surety letter states the client is in the process of establishing a surety facility which would be in place in the coming weeks. The CIBC letter states that CIBC is interested and prepared under appropriate terms and conditions to provide funding including issuance of a Letter of Credit to support the performance of CCI.</p>	<p>S&amp;W and CCI should not proceed to the next stage.</p> <p>The letters from the bank and surety do not constitute obligations, obviously being left to the new equity partner. The letters pertain to CCI, which under the proposal would not be designing or constructing the plant, but would be providing the technology.</p>
SUBBOR	<p>1). In respect of Forms A-5 (Agreement to Bond for Labour and Materials Payment) and A-6 (Agreement</p>	<p>SUBBOR should not proceed to the next stage.</p> <p>Regarding items 1) and 2),</p>

<u>Respondent</u>	<u>Non-Conformity in Relation to Mandatory Document Requirements</u>	<u>Recommendation and Reason for Recommendation</u>
	<p>to Provide Operations Performance Bond) SUBBOR provided a letter, which states:</p> <p>“We can confirm that SUBBOR has applied for a surety bond facility with CGU Insurance Company of Canada (“CGU”) which would be sufficient to accommodate the requirements of this project.</p> <p>Should the Proposal be accepted within one year of the closing date for submissions under the RFP, CGU will participate in the negotiations between SUBBOR and the City of Toronto with respect to the form of a Labour &amp; Material payment Bond and a Performance Bond, and subject to a due diligence review and to final forms, terms and conditions which are satisfactory to CGU in its sole discretion, CGU will consider becoming bound as surety for SUBBOR.”</p> <p>2). In respect of Form A-7 (Agreement to Provide an Irrevocable Letter of Credit), SUBBOR provided a form which appears to be form A-7, but the form has been modified to state that the undersigned “agree to consider providing an irrevocable letter of credit”, and, further on, “The offer is</p>	<p>there are no obligations to provide the requested securities as contemplated by the RFP. In 1), there is merely confirmation of an application being made. CGU also reserves to itself the decision in its sole discretion to consider becoming bound as surety.</p> <p>Regarding item 2), there is merely an offer to consider issuance of a Letter of Credit and that it would still be subject to approval through a credit committee.</p> <p>In addition, SUBBOR has failed to document the successful performance of their representative facility, i.e. provide test results from their Guelph facility or other facilities that substantiate SUBBOR’s claims). SUBBOR is the only Respondent that failed to meet the RFP’s mandatory screening criterion regarding “Technically Proven Capacity”.</p>

<u>Respondent</u>	<u>Non-Conformity in Relation to Mandatory Document Requirements</u>	<u>Recommendation and Reason for Recommendation</u>
	conditional upon our customer winning the Proposal mandate, completion of our standard due diligence, and formal approval of the LC by our Bank's Credit Committee(s)."	