



**STAFF REPORT
ACTION REQUIRED
with Confidential Attachment**

**Supply and Care Program for Bunker Suits
Request for Proposal (RFP) 3806-04-0246**

Date:	January 28, 2011
To:	City Council
From:	City Solicitor
Wards:	All
Reason for Confidential Information:	This report is about litigation or potential litigation that affects the City or one of its agencies, boards, and commissions. This report contains advice or communications that are subject to solicitor-client privilege.
Reference Number:	

SUMMARY

The City issued a Request for Proposal (RFP) No. 3806-04-0246 on November 2, 2004 for the supply of and maintenance for approximately 3,400 'bunker suits.' Bunker suits are protective suits used by firefighters.

One proponent, Innotex Inc., submitted a proposal to the City on December 13, 2004 in response to the RFP. The City advised Innotex on April 28, 2005 that based on a review of technical specifications and price contained in its bid, Innotex had been selected as the successful proponent. However on July 8, 2005, Innotex purported to withdraw its bid. Innotex told the City that it had made a mathematical error and the price contained in its bid was inadvertently too low.

In July, 2005, City Council directed the City Solicitor to commence an action against Innotex to pursue damages in relation to its failure to provide bunker suits and maintain the suits in accordance with its response to the RFP. The City issued a Statement of Claim against Innotex in accordance with Council's direction. Innotex has defended against the City's Claim.

RECOMMENDATIONS

The City Solicitor recommends that:

1. City Council adopt the confidential instructions to staff in Attachment 1; and
2. The confidential recommendations and information contained in Attachment 1 remain confidential as it relates to litigation that affects the City and is subject to solicitor-client privilege.

Financial Impact

The financial impacts are set out in the Confidential Attachment.

DECISION HISTORY

At its meeting on July 19 – 26, 2005, Toronto City Council adopted, with amendment, a report dated July 18, 2005 from the Treasurer and Fire Chief. In light of Innotex's withdrawal of its response to the RFP, City Council awarded the contract for the supply and care of bunker suits to Starfield Lion Company which was a lower-ranked proponent than Innotex.

Council amended the Staff Report to direct the City Solicitor to commence an action against Innotex to pursue damages in relation to its failure to provide bunker suits and care for the suits in accordance with its response to the RFP. The City Solicitor was also directed to report back to Council as appropriate in relation to this matter.

COMMENTS

On the advice of the City Solicitor, the balance of the information relating to this matter is confidential, as it relates to litigation that affects the City and is subject to solicitor-client privilege.

Additional information and confidential recommendations are contained in Attachment 1 to this report.

CONTACT

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SIGNATURE

Anna Kinastowski
City Solicitor

ATTACHMENTS

Attachment 1 (Confidential): Supply and Care Program for Bunker Suits