



Purchasing & Materials Management
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May 15, 2015

SENT VIA EMAIL 2 pages

Mr. Antonio Graneri, President
Aquagran Landscaping and Construction Ltd
600B Magnetic Drive
North York, ON
M3J 2C4

Mr. Howard Gerson
Gerson Law
5255 Yonge Street, Suite 1300
Toronto, ON
M2N 6P4

RE: Request for Quotations (RFQs) 6032-15-0091 to 6032-15-0105
For Snow Clearing, Sanding and Salting of Sidewalks, Bus Stops, Pedestrian Crosswalks and
Signalized Intersections for the City of Toronto

Dear Mr. Graneri and Mr. Gerson,

Thank you for your response on May 14, 2015 to Clarification No 1, sent by the City on May 12, 2015. The City, as it was conducting a final review of the RFQs in preparation for the staff report to award the contracts noted that for RFQ 6032-15-0095, Aquagran Landscaping and Construction Ltd ("Aquagran") had listed Bevcon Construction & Paving Ltd ("Bevcon") as a reference for three of the four references provided. It was also noted that Bevcon and Aquagran shared the same phone number and were located next to each other. The City wrote the clarifications to both Bevcon and Aquagran as part of further due diligence to ensure that the RFQ process was conducted in a fair and transparent manner. In addition to the clarification, the City conducted further due diligence on the references provided by Aquagran in response to all of the above noted RFQs, and in particular RFQ 6032-15-0095 in which Aquagran is noted as the lowest priced bidder.

Based on your information provided and our further due diligence with respect to your references, the City is declaring your quotes for RFQs 6032-15-0091 to 6032-15-0105 as non-compliant for the following reasons:



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1) Aquagran listed four references, of which three references was work done as a subcontractor to Bevcon. The expectation in section 9.0 of the RFQ was that Bidders would provide references where the contractor worked direct from the Owner of the contracts as oppose to a subcontract relationship. Further, the City could not confirm that Aquagran was a properly authorized subcontractor to do the work on those contracts, nor could we confirm that Aquagran actually did the work. Bevcon also indicated to the City for the contracts you cite as a reference that Bevcon would do that work using own forces. Finally, section 9.0 provides the City sole discretion in determining if the references do not confirm the Bidder's experience, the quotation will be deemed non-compliant.

2) The definition of "Conflict of Interest" as set out in the RFQ includes "(iii) engaging in conduct that compromises or could be seen to compromise the integrity of the open and competitive RFQ process and render that process non-compliant and unfair" and further section 10 of Appendix A, requires Bidders to disclose any potential conflict of interest and if such a conflict of interest exists the City may refuse to consider the Quotation. In this case, the related nature of your businesses would put you in a potential conflict to have a fellow competitor and closely related ally act as a reference for you. Through your lawyer's letter you have subsequently confirmed that you are related, even if you are not affiliated. Finally, section 8 of Appendix A, requires that "No Bidder may discuss or communicate about, directly or indirectly, the preparation or content of its Quotation with any other Bidder or the agent or representative of any other Bidder or prospective Bidder. If the City discovers there has been a breach at any time, the City reserve the right to disqualify the Quotation..." The acknowledged relationship of the Bidders after the call closed (i.e. after listing Bevcon for the purpose of an independent reference), suggests previous communication between Bevcon and Aquagran about the contents of the Quotation.

Based on the above, the City is proceeding to recommend to the Public Works and Infrastructure Committee meeting on May 28, 2015 that RFQ 6032-15-0095 be awarded to the next lowest compliant bidder. If you wish to object to the declaration of non-compliance, please put it in writing and direct it to my office only. I will remind you that the prohibition on communicating with anyone besides my office is in effect (see section 5.0 of the Procurement Processes Policy which can be found at www.toronto.ca/purchasing/policies).

If you wish to depute at the Public Works and Infrastructure Committee meeting, please contact the City Clerk's office at pwic@toronto.ca to register as a deputant once the agenda for the May 28th, 2015 meeting is posted. To see the agenda, please visit:

<http://app.toronto.ca/tmmis/decisionBodyProfile.do?function=doPrepare&meetingId=10371#Meeting-2015.PW5>

You are also entitled to a debriefing to discuss your quotations, if you wish to set that up please contact the buyer assigned to the call, Christine Sze at csze@toronto.ca or by phone at 416-392-6180.

Yours truly,



Michael Pacholok, J.D.

Chief Purchasing Official & Director, Purchasing Materials and Management Division

Cc: Rod Blake, Legal Services
Elena Caruso, Manager, Goods and Services, Purchasing & Materials Management Division
Edward Chin, Supervisor, Goods and Services, Purchasing & Materials Management Division