

May 25, 2015

SENT VIA EMAIL 2 pages

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. Gerson,

We are in receipt of your letter dated May 20, 2015. This is to confirm the City's decision dated May 15, 2015 to find your client's quotations non-compliant.

**Non-Compliant References:**

With respect to your comments regarding the references, there are rules with respect to subcontracting work. First, for the contracts that your client claims to be a subcontractor on for Bevcon, in Bevcon's bids for each of those contracts they indicated to the City that they would use their own forces.

Second, in each of the contracts listed, the contract contained a provision that required that Bevcon receive approval from the City first before using any subcontractors. The City has no record of this request being made, nor can the Transportation managers who oversaw the contract confirm that Aquagran was a subcontractor for those contracts.

Finally, the subcontractors, as part of the approval, would have been checked by the City's Fair Wage Office for compliance with applicable fair wage rates or the labour trades obligations. The Fair Wage Office has no record of Bevcon indicated that Aquagran was a subcontractor and no record that Aquagran submitted the proper fair wage declaration as a subcontractor on those files. On that basis, we cannot accept the references from Bevcon that Aquagran actually performed the work. Since the reference cannot be accepted, your client has failed to provide the minimum of two references that can be verified and therefore is declared non-compliant.

**Non-Disclosure of Potential Conflict/Unfair Advantage:**

While it's true that Aquagran did obtain the required bond to guarantee performance that does not make them compliant with the requirements of the call document as a whole.

The fact that Bevcon either did not follow the contract provisions and the policies of the City in allowing Aquagran to be a subcontractor, or Bevcon is assisting Aquagran so that Aquagran appears to meet the mandatory requirements of the RFQ does appear to be in conflict with fair tendering principles.

While there may have been a number of bidders in the RFQ that does not negate the fairness that is owed to the process as a whole. The other bidders met the rules of the RFQ and would expect the City to follow through on declaring bidders non-compliant who do not follow the rules or attempt to gain an undisclosed advantage based on its relationship with another bidder.

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