

Detection of Warning Signs for Potential Bid Rigging Should be Strengthened

Date: March 17, 2017

To: Audit Committee

From: Auditor General

Wards: All

SUMMARY

The City of Toronto awards public contracts worth over \$1 billion annually for construction of vital infrastructure including bridges, roads, and water supply. Between 2010 and 2015, the Transportation Services Division spent on average over \$100 million annually on road repair and maintenance contracts.

The Auditor General's Office commenced an audit of the City's paving contracts in 2015. The audit results are contained in two separate reports:

- A first report, entitled "Improving the Tendering Process for Paving Contracts", was issued in June 2016. The report brought to light the issue of materially unbalanced bidding in the award of road resurfacing contracts.
- This second report focuses on ensuring value for money through fair and competitive bidding practices.

Central to this audit report is the question whether proper monitoring and management controls are in place to ensure a competitive tendering environment allowing the City to obtain the best value for money.

Our audit identified significant control deficiencies and a lack of a meaningful analysis of bid submissions and bidding patterns. This, combined with findings in our first report highlighting a lack of accurate quantity estimates by staff in issuing road resurfacing tenders, leave the City vulnerable to inflated prices and potential bid rigging by contractors.

There were telltale signs of bid-rigging and inflated pricing and even more concerning was the fact that most district contracts were consistently dominated by a small group of contractors over the past five years.

The City needs to ensure adequate measures are in place to deter and detect potential bid rigging and collusion between bidders.

RECOMMENDATIONS

The Auditor General recommends that:

1. City Council request the Director, Purchasing and Materials Management Division, to develop and maintain a database of tender, contract, and sub-contracting information for all construction contracts in order to proactively monitor and detect potential bid rigging.
2. City Council request the Director, Purchasing and Materials Management Division, to provide training on bid rigging, including preventive controls and red flags, to City purchasing and divisional staff who are involved in tender preparation or contract administration.
3. City Council request the Director, Purchasing and Materials Management Division, to adopt a practice of keeping the identity of prospective bidders who purchased the bid documents confidential.
4. City Council request the Director, Purchasing and Materials Management Division, and the General Manager, Transportation Services Division, to ensure staff members involved in procurement or contract management have up-to-date and clear understanding of the City's conflict of interest policy and procedure requirements, as it relates to the procurement process, and their application, as well as providing periodic refresher training.
5. City Council request that General Manager, Transportation Services Division, to review and enhance the current processes for quality control testing and progress payments for road resurfacing contracts to ensure adequate segregation of duty and independence.
6. City Council request the City Manager to forward this audit report to other relevant City divisions and City Agencies and Corporations which acquire contracted construction services on a regular basis for information.

FINANCIAL IMPACT

Implementation of the audit recommendations in this report may result in future cost savings in construction contracts. However, the exact amount of savings is not determinable at this time.

DECISION HISTORY

The Auditor General's 2015 Audit Work Plan included an audit of the City's paving contracts. The 2015 Audit Work Plan is available at:

<http://www.toronto.ca/legdocs/mmis/2015/au/bgrd/backgroundfile-79980.pdf>

The audit results are contained in two separate reports:

- A first report, entitled "Improving the Tendering Process for Paving Contracts", was issued in June 2016. The report brought to light the issue of materially unbalanced bidding in the award of road resurfacing contracts. The Audit Report is available at:

<http://www.toronto.ca/legdocs/mmis/2016/au/bgrd/backgroundfile-94704.pdf>

- This second report focuses on ensuring value for money through fair and competitive bidding practices.

COMMENTS

This report highlights a number of red flags which should raise concerns about the potential for bid rigging by contractors and conflicts of interest between individual contractors and employees.

Due to a lack of a centralized database capturing basic tendering and subcontractor information, the City cannot analyze the market properly to identify questionable bidding patterns or activities. This, combined with findings in our first report highlighting a lack of accurate material quantity estimates by staff in issuing road resurfacing tenders, leave the City vulnerable to inflated prices and potential bid rigging by contractors.

Implementation of the six recommendations in this report will help ensure a fair and competitive procurement process enabling the City to obtain best value and fair market prices, as well as a level playing field for contractors.

The audit report entitled "Detection of Warning Signs for Potential Bid Rigging Should be Strengthened" is attached as Attachment 1.

CONTACT

Jane Ying, Assistant Auditor General, Auditor General's Office
Tel: 416-392-8480, Fax: 416-392-3754, E-mail: jane.ying@toronto.ca

Ruchir Patel, Senior Audit Manager, Auditor General's Office
Tel: 416-392-8478, Fax: 416-392-3754, E-mail: ruchir.patel@toronto.ca

SIGNATURE

Beverly Romeo-Beehler, Auditor General

ATTACHMENTS

Attachment 1: Detection of Warning Signs for Potential Bid Rigging Should be Strengthened