



REPORT FOR ACTION

Contract Award - Collection Services for Provincial Offences Act fines, Request for Proposals 9138-18-7006

Date: February 19, 2019

To: General Government and Licensing Committee

From: Chief Purchasing Officer and Director, Court Services

Wards: All

SUMMARY

This report advises on the results of Request for Proposal ("RFP") No. 9138-18-7006 for the provision of collection agency services to support the collection of defaulted fines under the *Provincial Offences Act* (POA) and seeks approval of collection rates under the *City of Toronto Act, 2006*. Existing contracts expire on March 31st, 2019 and new contracts are required in order to continue service. Staff are requesting authority to negotiate and enter into agreements with eleven (11) recommended Proponents in accordance with the terms in the RFP as listed in Attachment 1.

This report also proposes that City Council approve an average commission rate plus non-recoverable tax for First (1st) Assignment, Second (2nd) Assignment, and Third (3rd) Assignment Accounts. This will ensure that an equal commission rate is applied to City debtors with defaulted POA fines based on assignment category.

Finally, this report seeks authority to permit collection agencies that pursue defaulted POA fines to have expanded hours for debtor contact in accordance with the Provincial Regulation. These hours differ from the City approved policy for Use of Collection Agencies to Collect Parking Fines. It will allow collection agencies to contact debtors by phone between the hours of 7:00am and 9:00pm Monday through Saturday, and between 1:00pm and 5:00pm on Sunday. This will provide the successful Proponents with an enhanced tool for collecting defaulted POA fines that are owed to the City.

RECOMMENDATIONS

The Chief Purchasing Officer and Director, Court Services recommend that:

1. City Council grant authority to the Director, Court Services to negotiate and enter into the agreements as outlined in Attachment 1, authorizing the successful Proponents to be compensated at the commission rates set out in their respective proposals, on terms and conditions satisfactory to the Director, Court Services and in a form satisfactory to the City Solicitor.
2. City Council permit Collection Agencies to contact debtors during the hours set out in Subsection 22(6) of R.R.O. 1990, Regulation 74: General under the *Collection and Debt Settlement Services Act* in order to provide the successful Proponents with an enhanced tool to collect defaulted Provincial Offences Act fines that are owed to the City.
3. City Council grant authority to the Director, Court Services to apply an average commission rate plus non-recoverable tax in each category to be charged to the debtor for defaulted Provincial Offences Act fines that are owed to the City, to be set at 14.5% for First (1st) Assignment Accounts, 22.37% for Second (2nd) Assignment Accounts, and 31.55% for Third (3rd) Assignment Accounts.
4. City Council deem the approval of the collection agency rates set out in Recommendations 1 and 3 to be the City's approval for the purposes of Subsection 165(9) of the Provincial Offences Act and Section 240 of the City of Toronto Act, 2006.

FINANCIAL IMPACT

There is no financial impact to the City from the recommendations in this report. Collection agency costs are fully recovered from the debtor as per Section 70.1(1) of the *Provincial Offences Act* (POA).

The total potential value of the contracts including all option years is \$9,329,916 net of HST recoveries.

Funding in the amount of \$1,749,359 net of HST recoveries is included in the 2019 Staff Recommended Operating Budget for Court Services in Cost Centre CT-2000 G/L 6590. Funding in the amount of \$583,120 net of HST recoveries for the balance of the contract period (January 1 to March 31, 2020) will be included in the 2020 Operating Budget Submission for Court Services.

Should the City choose to exercise its option to renew for an additional three (3) separate one (1) year periods, then appropriate additional funding, if needed, will be included in the 2020-2023 annual Operating Budget Submissions for Court Services.

Table 1 below illustrates the value of the individual contracts in the RFP procurement process for the one-year fixed term contract and all optional periods (net of HST recoveries). This analysis assumes an equal distribution of accounts throughout the contract period. This may not necessarily be the case when the performance incentive program is taken into consideration. The performance incentive program is described in the comments section of this report.

Table 1: Financial Impact Summary

Successful Proponents	March 2019 to Dec. 31, 2019 Net of HST Recovery	Jan 1, 2020 to Mar. 31, 2020 Net of HST Recovery	Option Year 1 (Apr 1, 2020 to Mar 31, 2021) Net of HST Recovery	Option Year 2 (Apr 1, 2021 to Mar 31, 2022) Net of HST Recovery	Option Year 3 (Apr 1, 2022 to Mar 31, 2023) Net of HST Recovery	Total Net of HST Recoveries
Partners in Credit Inc.	\$221,216	\$73,738	\$294,954	\$294,954	\$294,954	\$1,179,816
EOS Canada Inc.	\$202,362	\$67,454	\$269,816	\$269,816	\$269,816	\$1,079,264
CBV Collections Services Ltd	\$198,506	\$66,169	\$264,675	\$264,675	\$264,675	\$1,058,700
D & A Collection Corporation (D&A Group Services)	\$174,393	\$58,131	\$232,524	\$232,524	\$232,524	\$930,096
852515 Ontario Limited o/a Action Collections and Receivables Management (ACRM)	\$191,142	\$63,714	\$254,856	\$254,856	\$254,856	\$1,019,424
Financial Debt Recovery Ltd.	\$188,296	\$62,765	\$251,061	\$251,061	\$251,061	\$1,004,244
Groupe Solution Collect Solo Inc.	\$183,589	\$61,196	\$244,785	\$244,785	\$244,785	\$979,140
Global Credit & Collection Inc. O/A AFFGLO	\$182,275	\$60,758	\$243,033	\$243,033	\$243,033	\$972,132
Collectcents Inc./o/a Credit Bureau of Canada Collections	\$175,049	\$58,350	\$233,399	\$233,399	\$233,399	\$933,596
Gatestone & Co.	\$16,489	\$5,496	\$21,985	\$21,985	\$21,985	\$87,940

General Credit Services Inc.	\$16,042	\$5,348	\$21,390	\$21,390	\$21,390	\$85,560
Total (net of HST recoveries)	\$1,749,359	\$583,120	\$2,332,479	\$2,332,479	\$2,332,479	\$9,329,912

The Chief Financial Officer and Treasurer has reviewed this report and agrees with the financial impact information.

COMMENTS

Background:

Since 2004, Court Services has entered into contracts with third-party collection agencies to support the collection of defaulted fines under the *Provincial Offences Act* (POA). The ability to use collection agencies to enforce defaulted POA fines is provided under Section 165(9) of the POA and Section 240 of the *City of Toronto Act, 2006*. Section 70.1(1) of the POA allows the City to charge back collection agency costs to the debtor as part of the outstanding debt.

Procurement Process:

RFP No. 9138-18-7006 for the provision of Collection Agency Services was issued by the Purchasing and Materials Management Division (PMMD) on November 1, 2018 and was made available to download in PDF format on the City's website. The RFP included the selection criteria for the evaluation. The solicitation closed on November 30, 2018.

Seventeen (17) firms submitted a proposal. Of the seventeen (17) firms, three (3) firms submitted their proposals late (*Commercial Credit Adjusters Ltd. ARO Inc. and International Credit Experts Inc.*) and were not considered further. The remaining fourteen (14) proposals advanced to Stage 1 – Mandatory Compliance review. Table 2 below lists the firms that advanced to Stage 1 by Assignment Account category:

Table 2: Fourteen (14) Firms advanced to Stage 1- Mandatory Compliance Review Listed by Assignment Account Category

1st Assignment Account <i>means accounts have been in default for up to 2 years from the date of the Accounts Receivable Report based on the debtor.</i>	2nd Assignment Account <i>means accounts generally ranging anywhere from two (2) years post-default to 20 years post-default</i>	3rd Assignment Account <i>means accounts have been in default for over 20 years or may have been previously assigned to 1st or 2nd Assignment Vendors for collection.</i>
Partners in Credit Inc.	D & A Collection Corporation (D&A Group Services)	General Credit Services Inc.
EOS in Canada Inc.	852515 Ontario Limited o/a Action Collections and	Gatestone & Co

	Receivables Management (ACRM)	
CBV Collection Services Ltd.	Financial Debt Recovery Ltd.	-
-	Groupe Solution Collect Solo Inc.	-
-	Global Credit & Collection Inc. O/A AFFGLO	-
-	Collectcents Inc./o/a Credit Bureau of Canada Collections	-
-	A-1 Credit Recovery & Collection Services Inc.	-
-	UPLevel	-
-	Debt Control Agency Inc.	-

The RFP was seeking qualified Proponents to work with Court Services to collect defaulted fines under the POA. Staff added a new Third (3rd) assignment category for accounts that have been in default for over twenty (20) years. The addition of this category represents a new strategy to address defaulted POA fines that are difficult to collect as outlined in Recommendation #1 of the City Auditor General's April 2018 report entitled 'Toronto Court Services: Collection of Provincial Offence Default Fines'.

City staff also designed the requirements in the RFP to ensure that rigorous performance and accountability measures were in place. Performance measures included a requirement that collection agencies meet quarterly collection benchmarks established by the City. Accountability measures included strict debtor information sharing requirements. The RFP also included a performance incentive program that rewards top performers with a 5% increase in newly defaulted accounts upon subsequent assignments. These measures represent improvements to Court Service's management of collection agency contracts through the incorporation of performance management criteria and incentives, information sharing requirements, and structure of account assignments as outlined in Recommendation #5 of the City Auditor General's April 2018 report.

The RFP evaluation process was conducted as a two envelope system. Each Proponent was required to submit two separate envelopes. Envelope one (1) contained the technical proposal submission. Envelope two (2) contained the cost of services. The cost of services envelope was only opened for the Proponents who passed the mandatory compliance review stage as well as the threshold of 75% out of 80 points (60 points) in each category of the detailed evaluation. As disclosed in Section 2 of the RFP, it is the intent of the City to award up to three (3) Vendors for First (1st) Assignment Accounts, six (6) Vendors for Second (2nd) Assignment Accounts, and three (3) Vendors for Third (3rd) Assignment Accounts.

Evaluation of the Proposal Submissions

A formal Selection Committee was comprised of three (3) staff members. One (1) member was from Accounting Services and two (2) members were from Court Services. Purchasing and Materials Management Division (PMMD) provided ongoing support. All staff involved in the evaluation process signed and submitted a Non-Disclosure and Declaration of Conflict of Interest Agreement to PMMD prior to the proposals being Award of Request for Proposal (RFP) No. 9138-18-7006

received. The Selection Committee evaluated the proposals in compliance with the criteria set out in the RFP. The stages of the evaluation are identified below:

Stage 1: Initial Evaluation Mandatory Requirements

Proposals were reviewed by PMMD to assess compliance with the mandatory requirements. Out of fourteen (14) proposals, the proposal submitted by A-1 Credit Recovery & Collection Services Inc. did not pass the mandatory technical submission requirement after following the rectification process. Out of thirteen (13) compliant proposals, three (3) proposals were identified for First (1st) Assignment Accounts, eight (8) proposals were identified for Second (2nd) Assignment Accounts and two (2) proposals were identified for Third (3rd) Assignment Accounts.

Stage 2A– Detailed Technical Evaluation

In order for a Proponent to move to Stage 3-Cost of Services evaluation, each proposal was required to score a minimum of 75 percent (or 60 points out of an available 80 points) in each technical section of the RFP.

At the end of the technical evaluation for Stage 2, the Selection Committee determined that the proposal submitted by Debt Control Agency Inc. did not meet the minimum technical score of 75 percent (or 60 points) and did not progress to Stage 3-Cost of Services evaluation process. The remaining twelve (12) proposals met the minimum technical score of 75 percent (or 60 points) in each technical section of the applicable bidding category and advanced to the cost of service evaluation as follows.

- Three (3) Proposals for First (1st) Assignment Accounts;
- Seven (7) Proposals for second (2nd) Assignment Accounts; and
- Two (2) Proposals for third (3rd) Assignment Accounts

The overall technical scores for all twelve (12) qualifying Proponents ranged from 60.20 to 70.87.

Stage 2B: Interviews, Site Visits, and Demonstrations

The Selection Committee determined that Stage 2B was not required.

Stage 3 – Cost of Service Evaluation

The Selection Committee completed the cost of service evaluation for the twelve (12) Proponents that met the minimum technical threshold. The cost submissions were reviewed and calculations of the total annual costs and price scores were validated by PMMD. The technical scores and the cost of service scores were then added together with the total representing the final score for each Proponent.

In Section 2 of the RFP the City disclosed that for 2nd Assignment Accounts the City will only recommend award to up to six (6) proponents. It was identified following the scoring that an additional proponent met the technical threshold. Only the top six (6) proponents with the highest scoring in this Assignment Account category are being recommended for award. The remaining successful proponent will be considered a replacement should one of the six (6) proponents fail to perform. The eleven (11)

recommended proponents are referenced in Attachment-1 *Recommended Proponents per Assignment Account with corresponding Total Potential Award Values*.

Staff are seeking authority to enter into separate agreements with each of the recommended eleven (11) proponents in accordance with the terms set out in the RFP with compensation at the commission rates set out in their respective proposals, on terms and conditions satisfactory to the Director, Court Services and in a form satisfactory to the City Solicitor. The Proponents' scores and staff analysis can be provided to Councillors in an in camera presentation upon request.

Average Commission Rates for First (1st), Second (2nd), and Third (3rd) Assignment Accounts

Each of the eleven (11) recommended Proponents submitted a commission rate for its services. These individual commission rates were included in the RFP evaluation process. The commission rates for First (1st) Assignment Account collection agencies range between 12% and 16%, the commission rates for Second (2nd) Assignment Account collection agencies range between 18% and 25%, and commission rates for Third (3rd) Assignment Account collection agencies range between 30% and 32%.

Court Services randomly distributes defaulted POA fines to collection agencies based on the age of the oldest fine in the debtor's account. The age of the oldest fine determines whether the account goes to a First, Second, or Third Assignment Account collection agency. Staff are proposing that Council authorize the Director, Court Services to allow the collection agencies to utilize the average commission rate plus non-recoverable tax for each category set out in this report. These rates will be charged to debtors with defaulted POA fines when fines are sent to collection agencies.

The recommended rates are 14.5% for First (1st) Assignment Accounts, 22.37% for Second (2nd) Assignment Accounts, and 31.55% for Third (3rd) Assignment Accounts. The application of an average commission rate plus non-recoverable tax is an attempt to try to treat debtors with defaulted POA fines equally within each account category.

Expanded Hours for Debtor Contact under Provincial Legislation

Collection agencies under contract with Court Services must comply with all federal, provincial, and municipal laws and regulations, including the *Collection and Debt Settlement Services Act* (CDSSA). These agencies are also bound by City policies pertaining to collection activity.

Council authorization of the practice listed below will allow the eleven (11) successful Proponents to incorporate this processes into standard business operations. This practice allowed under Subsection 22(6)-1. of R.R.O 1990, Regulation 74: General.

Permitted Contact Hours by Phone

The City's Parking Ticket Collection Policy states that collection agencies are able to contact debtors by phone between 9:00am and 8:00pm Monday through Friday and are not able to contact debtors on the weekend. Currently, collection agencies under contract with Court Services to collect defaulted fines under the POA adhere to this

policy. This policy is set out in Government Management Committee Item GM7.2 adopted by Council at its meeting of September 26 and 27, 2007.

This policy position is inconsistent with the provisions in the CDSSA which allow collection agencies to contact debtors by phone between the hours of 7:00am and 9:00pm Monday through Saturday, and between 1:00pm and 5:00pm on Sunday.

Staff recommend that Council adopt a policy change in line with Section 22(6)-1. of R.R.O 1990, Regulation 74: General, pursuant to the *Collection and Debt Settlement Services Act* in order to provide collection agencies with enhanced ability to collect defaulted POA fines that are owed to the City. Allowing extended contact hours represents a new strategy for difficult to collect fines as outlined in Recommendation #1 of the Auditor General's April 2018 report. Should Council adopt this policy change, Court Services will implement this revised policy which reflects the permitted contact hours in the CDSSA.

Approval of Collection Agency Rates under Legislation

The Transfer Agreement which the City has in place with the Province for the collection of POA fines and the ability to impose charges under Section 169(5) of the *Provincial Offences Act* is subject to the approval of collection agency recovery rates under the *City of Toronto Act*, 2006 (s.240). This report seeks approval of individual collection agency commission rates, as well as average rates to be charged to debtors on an equitable basis, for the purposes of the *City of Toronto Act*, 2006.

CONTACT

Elena Caruso
Manager, Purchasing and
Materials Management
Phone: 416-392-7316
Email: Elena.Caruso@toronto.ca

Philip Arhinson
Manager of Finance & Administration
Court Services
Phone: 416 338-7362
Email: Philip.Arhinson@toronto.ca

SIGNATURE

Susan Garossino
Director, Court Services

Mike Pacholok
Chief Purchasing Officer

ATTACHMENTS

Attachment 1 – Request for Proposal No. 9138-18-7006 – Recommended Proponents per Assignment Account with corresponding Total Potential Award Values

Please Note: Based on the expected placement and historical collection rates, the total contract award value for each category of account assignment was estimated and is pro-rated among the firms based on the scores during the Stage 2A Technical Evaluation process. Actual commissions will be based on individual commission rates and collection agency performance.

Table 1 – Successful Proponents for "First Accounts"

Successful Proponents with Commission Rate	Value of the Initial term of Agreement from the date of award to March 31, 2020	Total Potential value of the contract including exercising of three additional one year terms at the sole discretion of the Director, Court Services
Partners in Credit Inc. 12.00%	Up to a maximum of: \$294,954	Up to a maximum of: \$1,179,817 net of HST recoveries; \$1,310,135 including all applicable taxes and charges; and \$1,159,412 net of all applicable taxes and charges.
EOS Canada Inc. 16.00%	Up to a maximum of: \$269,816	Up to a maximum of: \$1,079,266 net of HST recoveries; \$1,198,477 including all applicable taxes and charges; and \$1,060,599 net of all applicable taxes and charges.
CBV Collection Services Ltd. 14.75%	Up to a maximum of: \$264,675	Up to a maximum of: \$1,058,700 net of HST recoveries; \$1,175,640 including all applicable taxes and charges; and \$1,040,389 net of all applicable taxes and charges.

Table 2 – Successful Proponents for "Second Accounts"

Successful Proponents/Commission Rate	Value of the Initial term of Agreement from the date of award to March 31, 2020	Total Potential value of the contract including exercising of three additional one year terms at the sole discretion of the Director, Court Services
D & A Collection Corporation (D&A Group Services) 25.00%	Up to a maximum of: \$232,524	Up to a maximum of: \$930,094 net of HST recoveries; \$1,032,829 including all applicable taxes and charges; and \$914,008 net of all applicable taxes and charges.

852515 Ontario Limited o/a Action Collections and Receivables Management (ACRM) 25.00%	Up to a maximum of: \$254,856	Up to a maximum of: \$1,019,425 net of HST recoveries; \$1,132,027 including all applicable taxes and charges; and \$1,001,794 net of all applicable taxes and charges.
Financial Debt Recovery Ltd. 18.00%	Up to a maximum of: \$251,061	Up to a maximum of: \$1,004,245 net of HST recoveries; \$1,115,170 including all applicable taxes and charges; and \$986,876 net of all applicable taxes and charges.
Groupe Solution Collect Solo Inc. 19.90%	Up to a maximum of: \$244,785	Up to a maximum of: \$979,139 net of HST recoveries; \$1,087,290 including all applicable taxes and charges; and \$962,204 net of all applicable taxes and charges
Global Credit & Collection Inc. O/A AFFGLO 19.00%	Up to a maximum of: \$243,033	Up to a maximum of: \$972,132 net of HST recoveries; \$1,079,510 including all applicable taxes and charges; and \$955,319 net of all applicable taxes and charges.
Collectcents Inc./o/a Credit Bureau of Canada Collections 25.00%	Up to a maximum of: \$233,399	Up to a maximum of: \$933,597 net of HST recoveries; \$1,036,719 including all applicable taxes and charges; and \$917,450 net of all applicable taxes and charges.

Table 3 – Successful Proponents for "Third Accounts"

Successful Proponents/Commission Rate	Value of the Initial term of Agreement from the date of award to March 31, 2020	Total Potential value of the contract including exercising of three additional one year terms at the sole discretion of the Director, Court Services
Gatestone & Co. 30.00%	Up to a maximum of: \$21,985	Up to a maximum of: \$87,939 net of HST recoveries; \$97,653 including all applicable taxes and charges; and \$86,418 net of all applicable taxes and charges.
General Credit Services Inc. 32.00%	Up to a maximum of: \$21,390	Up to a maximum of: \$85,562 net of HST recoveries; \$95,012 including all applicable taxes and charges; and \$84,082 net of all applicable taxes and charges.