TORONTO

REPORT FOR ACTION

Contract Award of Negotiable Request for Proposal No. 4204-19-5019 for the Construction of Watermains and Amendment to Purchase Orders No. 6045918 and 6046025 for Engineering Services for Detailed Design

Date: May 8, 2019
To: Infrastructure and Environment Committee
From: Chief Engineer and Executive Director, Engineering and Construction Services and Chief Purchasing Officer
Wards: All

SUMMARY

The purpose of this report is to advise of the results of Negotiable Request for Proposals (NFRP) No. 4204-19-5019 for the construction of watermains at various locations across the City of Toronto in 2019, 2020 and 2021, and to request the authority to award Service Area A of the NRFP to 2489960 Ontario Inc. in the amount of $56,686,028 net of all taxes ($57,683,703 net of HST recoveries). This represents a price proposal of $54,462,328 plus an annual escalation adjustment of three (3) percent in years 2020 and 2021 of the contract to account for commodity and labour price adjustments specified in the NRFP.

This NRFP is the first strategic sourcing event under the Purchasing and Materials Management Division's Category Management and Strategic Sourcing Transformation (a project under the Supply Chain Transformation). Strategic Sourcing is a collaborative effort between various City Divisions and Purchasing and Materials Management Division (PMMD) to plan and execute a sourcing event. It relies on analysis of market data and input from market sounding meetings with potential proponents in developing the procurement strategy.

Authority is also being requested to amend Purchase Order Nos. 6045918 and 6046025, issued to GHD Limited (GHD Ltd.) and The Municipal Infrastructure Group Limited (TMIG Ltd.), respectively, associated with the award of Request for Proposal (RFP) No. 9117-17-7001 for the Coordinated Professional Services for Toronto Water and Transportation Services Program Management Assignments. The values of the amendments are as follows:

- Increase Purchase Order No. 6045918, issued to GHD Ltd., by $4,104,404 net of all taxes and charges ($4,176,642 net of HST recoveries), revising the current purchase order value from $10,319,525 to $14,423,929 net of all taxes and charges ($14,677,790 net of HST recoveries).

- Increase Purchase Order No. 6046025, issued to TMIG Ltd., by $2,097,946 net of all taxes and charges ($2,134,870 net of HST recoveries), revising the current purchase order value from $11,823,217 to $13,921,163 net of all taxes and charges ($14,166,175 net of HST recoveries).

RECOMMENDATIONS

The Chief Engineer and Executive Director of Engineering and Construction Services and the Chief Purchasing Officer recommend that:

1. The Infrastructure and Environment Committee, in accordance with Section 195-8.4A of Toronto Municipal Code Chapter 195 (Purchasing By-Law), grant authority to the Chief Engineer and Executive Director of Engineering and Construction Services to negotiate and enter into agreements with 2489960 Ontario Inc., having submitted the highest scoring compliant proposal for Service Area A and having met the specifications in conformance with the NRFP No. 4204-19-5019 requirements, in the amount of $56,686,028 net of all taxes ($57,683,703 net of HST recoveries), all in accordance with the terms and conditions as set out in the NRFP and any other terms and conditions satisfactory to the Chief Engineer and Executive Director, Engineering and Construction Services and in a form satisfactory to the City Solicitor.

2. The Infrastructure and Environment Committee, in accordance with Section 71-11.1.C of Toronto Municipal Code Chapter 71 (Financial Control Bylaw), grant authority to amend the following purchase orders with The Municipal Infrastructure Group Limited (TMIG Ltd.) and GHD Limited (GHD Ltd.) to provide additional engineering services for detailed design as follows:

a) Purchase Order No. 6045918, issued to GHD Ltd., be increased by $4,104,404 net of all taxes and charges ($4,176,642 net of HST recoveries), revising the current purchase order value from $10,319,525 to $14,423,929 net of all taxes and charges ($14,677,790 net of HST recoveries); and,

b) Purchase Order No. 6046025, issued to TMIG Ltd., be increased by $2,097,946 net of all taxes and charges ($2,134,870 net of HST recoveries), revising the current purchase order value from $11,823,217 to $13,921,163 net of all taxes and charges ($14,166,175 net of HST recoveries).

FINANCIAL IMPACT

Award of Negotiated Request for Proposal No. 4204-19-5019

The total amount to award NRFP No. 4204-19-5019 is $64,055,212 including HST and all applicable charges ($57,683,703 net of HST recoveries). The engineering estimate for this project was $60,704,175 net of all taxes ($61,772,568 net of HST recoveries).

Funding is available in the Toronto Water 2019 Approved Capital Budget and 2020-2028 Approved Capital Plan in account CPW545-25-10, CPW542-26-04, CPW544-21-20 and in the Transportation Services 2019 Approved Capital Budget and the 2020-2028 Approved Capital Plan in account CTP315-07-317. Funding details are provided in Table 1 below (all values are net of HST recoveries).

Table 1: Projected Cash Flow for NRFP No. 4204-19-5019

Account	2019	2020	2021	2022	2023	Total
CPW542-25-10	$5,817,446	$18,102,803	$11,355,875	$2,146,671	$4,158,088	$41,580,883
CPW542-26-04	$1,258,878	$2,559,758	$443,616	$0	$473,584	$4,735,835
CPW544-21-20	$0	$6,362,271	$3,181,135	$0	$1,060,378	$10,603,785
Total for Toronto Water	$7,076,324	$27,024,831	$14,980,626	$2,146,671	$5,692,050	$56,920,503
CTP315-07-317	$254,400	$254,400	$254,400	$0.00	$0.00	$763,200
Total for Transportation Services	$254,400	$254,400	$254,400	$0	$0	$763,200
Total	$7,330,724	$27,279,231	$15,235,026	$2,146,671	$5,692,050	$57,683,703

Amendment to Purchase Order No. 6045918 with GHD Ltd.

The amendment of Purchase Order No. 6045918, issued to GHD Ltd., for an additional amount of $4,104,404 net of all taxes, $4,637,977 including HST and all applicable charges ($4,176,642 net of HST recoveries), will increase the current Purchase Order value from $10,319,525 to $14,423,929 net of all taxes and charges ($14,677,790 net of HST recoveries).

Funding is available in the Toronto Water 2019 Approved Capital Budget and 2020-2028 Approved Capital Plan in account CPW545-02, CWW470-02 and in the Transportation Services 2019 Approved Capital Budget and the 2020-2028 Approved Capital Plan in account CTP315-06-252. Funding details are provided in Table 2 below (all values are net of HST recoveries).

Table 2: Proposed Cash Flow for Amendment to Purchase Order No 6045918

Account	2019	2020	Total
CPW545-02	$1,079,662	$883,360	$1,963,022
CWW470-02	$1,079,662	$883,360	$1,963,022
CTP315-06-252	$137,829	$112,769	$250,598
TOTAL	$2,297,153	$1,879,489	$4,176,642

Amendment to Purchase Order No. 6046025 with TMIG Ltd.

The amendment of Purchase Order No. 6046025, issued to TMIG Ltd., for an additional amount of $2,097,946 net of all taxes, $2,370,679 including HST and all applicable charges ($2,134,870 net of HST recoveries), will increase the current Purchase Order value from $11,823,217 to $13,921,163 net of all taxes and charges ($14,166,175 net of HST recoveries).

Funding is available in the Toronto Water 2019 Approved Capital Budget and 2020-2028 Approved Capital Plan in account CPW545-02, CWW470-02 and in the Transportation Services 2019 Approved Capital Budget and the 2020-2028 Approved Capital Plan in account CTP315-06-252. Funding details are provided in Table 3 below (all values are net of HST recoveries).

Table 3: Projected Cash Flow for Amendment to Purchase Order No 6046025

Account	2019	2020	Total
CPW545-02	$551,864	$451,525	$1,003,389
CWW470-02	$551,864	$451,525	$1,003,389
CTP315-06-252	$70,451	$57,641	$128,092
TOTAL	$1,174,178	$960,691	$2,134,870

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

DECISION HISTORY

At its meeting on June 11, 12 and 13, 2013, Council directed the Deputy City Manager and Chief Financial Officer to begin implementation of various short term shared services opportunities and to report back on a multi-year implementation plan for longer term shared services opportunities. One of the long term shared services opportunities was to implement category management and strategic sourcing. A copy of the Decision Document can be found at:
http://app.toronto.ca/tmmis/viewAgendaItemHistory.do?item=2013.EX32.3.

At its meeting of November 14, 2016, Government Management Committee received a report for information from the City Treasurer entitled Purchasing and Materials Management Review: Strategy for Category Management and Strategic Sourcing. A copy of the Decision Document can be found at:
http://app.toronto.ca/tmmis/viewAgendaItemHistory.do?item=2016.GM16.5.

At its meeting of September 20, 2017, Bid Award Panel granted authority to the Director, Purchasing and Materials Management, to enter into an agreement with GHD Limited (GHD Ltd.), The Municipal Infrastructure Group Limited (TMIG Ltd.), R. V. Anderson Associates Limited and WSP Canada Incorporated for the provision of Coordinated Professional Engineering Services for Toronto Water and Transportation Services Program Management Assignments, being the highest scoring proponents meeting the requirements of Request for Proposal No. 9117-17-7001. A copy of the Decision Document can be found at:
http://app.toronto.ca/tmmis/viewAgendaItemHistory.do?item=2017.BA41.2.

At its meeting of April 18, 2018, Bid Award Panel granted authority to the Chief Purchasing Officer to enter into an agreement with Ernst and Young LLP for Professional Services for Procurement Transformation, being the highest scoring proponent meeting the requirements of Request for Proposal No. 9101-17-7262. A copy of the Decision Document can be found at:
http://app.toronto.ca/tmmis/viewAgendaItemHistory.do?item=2018.BA73.2.

COMMENTS

Background

Category Management and Strategic Sourcing

The City's Purchasing and Materials Management Division (PMMD) is currently undergoing a Supply Chain Transformation that will transition PMMD from a tactical, transactional procurement model to one that encompasses a Category Management and Strategic Sourcing Approach to securing the best value for the City on identified categories of spend.

Following a competitive RFP process (RFP No. 9101-17-7262), PMMD retained the services of Ernst and Young LLP (EY) to provide consultation services for the transformation. Under their contract, EY is assisting with the development of Category Management and Strategic Sourcing process frameworks suitable for use in a public procurement environment and also providing support to PMMD and City Divisions to develop and execute specific strategic sourcing initiatives.

Category Management is a systematic and disciplined approach to procurement whereby an organization segments its spending into discrete groups or categories, depending on the functions or uses of the goods and services. Within the context of the City of Toronto, examples of categories include Construction and Maintenance; Fleet; and Facilities Management. Category Management involves developing business plans for the different categories, resulting in strategic projects to produce improved business results that are constantly re-evaluated to optimize value to the organization. The category management process is illustrated in Figure 1.

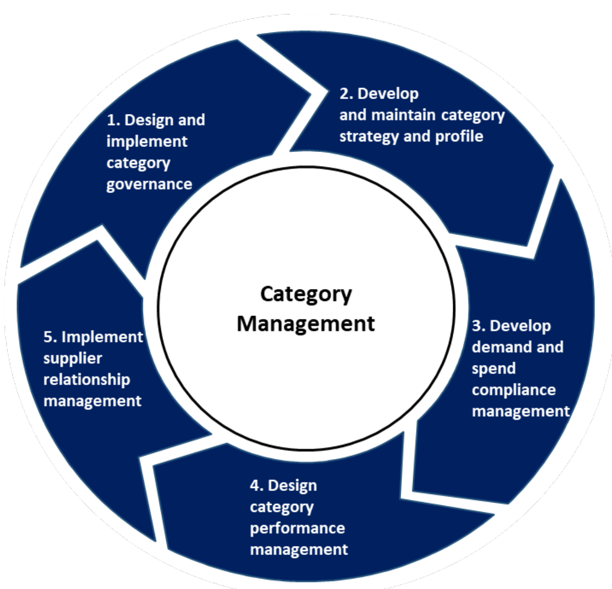

Figure 1. Graphical representation of the category management approach to procurement showing five sequential and continuous steps.

Strategic Sourcing is part of the category management approach to procurement. It relies on analyzing information about the goods and services that are purchased, namely the spend profile (volume and dollar value of purchases) of the purchasing organization, as well as the make-up and dynamics of the supplier market. Negotiation with suppliers and periodic assessments of supply transactions are hallmarks of effective Strategic Sourcing. Applied to the City, Strategic Sourcing is intended to leverage the City's purchasing power to find the best possible values in the marketplace.

Strategic Sourcing for Watermain Construction

As identified above, Construction and Maintenance is one of the categories of goods and services purchased by the City. The Construction and Maintenance Category can be segmented into a number of sub-categories, such as linear roadwork, watermain replacement, vertical construction and engineering services.

Of these sub-categories, watermain replacement was identified as one type of procurement that would be an appropriate candidate for Strategic Sourcing because:

- There is a relatively stable volume of watermain replacement work approved by Council each year, which provides a degree of certainty to vendors in the marketplace.
- The City issues approximately ten (10) watermain construction contracts annually, typically valued at less than $5,000,000 and with a relatively short construction duration of between three (3) and twelve (12) months. Reducing the frequency with which the City issues watermain replacement tenders would save time (staff time and elapsed time required to advertise, issue, receive, review, and award the tenders) and resources.

Based on the above factors, a team comprising staff from PMMD, EY, Engineering and Construction Services (ECS) and Toronto Water (TW), with support from Legal Services, developed a sourcing strategy that focused on increasing the duration of watermain replacement contracts, with the aim of optimizing City resources and increasing cost competitiveness. In respect of the latter, contractors who have a guaranteed quantity of work for multiple years are provided a level of work certainty to be able to maintain a given level of equipment and labour and may, in turn, be motivated to reduce bid prices.

To move forward with the Strategic Sourcing for watermain replacement, the City:

- Combined the City-wide work into two (2) large contracts each spanning three (3) years to attract larger contractors that may not have normally bid on this type of work in the past and thus increase competition. The two contracts represented two “Service Areas”, outside of the downtown core (described in more detail below).To preserve access to all contractors, smaller contractors were encouraged to form joint ventures to meet the requirements of the two large contracts.
- Developed a Negotiable Request for Proposals (NRFP) approach in order to verify that contractors have the demonstrated management and financial capabilities, access to sufficient equipment and labour to deliver the anticipated volume of work, and the experience successfully delivering projects of similar size and complexity to those planned to be issued under this model.

- Developed a price adjustment mechanism to account for inflation and commodity price changes over the term of a multiple-year contract.
- Identified a method to account for possible future price adjustments in the event that the volume of watermain construction changes significantly compared to the volume of work estimated in the NRFP. This is needed to avoid proponents from including pricing risk into their cost proposals.
- Developed and included contract language to assure acceptable contractor performance before the City approves each subsequent year's watermain replacement work.

The NRFP approach offers a number of advantages, such as providing:
- Flexibility in the process to minimize ways that proponents could be disqualified for failing to provide mandatory requirements by providing opportunities for the proponents to rectify submission issues.
- Opportunity to discuss the City's new approach and requirements with proponents through commercial-in-confidence meetings.
- Ability to engage in negotiations such as a best and final offer (BAFO) negotiations with the top ranking proponents. In conventional tenders, negotiations are not permitted, and in conventional RFPs, negotiations are limited as compared to a NRFP.

As part of the strategic sourcing strategy, City staff and EY conducted market soundings with representative watermain construction contractors, as identified by the Greater Toronto Sewer and Watermain Contractors Association, which validated that the new approach would be accepted by the marketplace.

A typical contract tender for watermain construction includes detailed designs for all locations included in the tender, supporting information on existing conditions and a pricing form listing all required items and quantities of work to be completed under the contract. The NRFP included detailed designs and associated supporting materials for all 2019 projects and only quantity estimates for the subsequent two years (2020 and 2021) because engineering design work is still under way.

The anticipated benefits of taking this strategic sourcing approach are as follows:
- Capital Cost Reduction – Securing more competitive pricing through increased contract value and earlier market engagement increases buying power. Drawing on international experience and a benefits analysis for the “bundling” of work rather than the traditional past practise of smaller tenders and recognizing that because this is the first such procurement approach in Toronto where the proponents may include some level of risk pricing in their bids, EY estimated a potential cost reduction of 4.5 percent using this procurement approach.
- Use of Full Construction Season – Allowing additional time to formalize the construction programs for years 2020 and 2021 by removing the need to tender separately for each year ensures the full construction season is utilized on an annual basis.
- Leverage Industry Expertise – Facilitating strategic supplier collaboration and encouraging knowledge sharing between the suppliers and the City allows the supplier to have input into the detailed engineering design process for the 2020 and 2021 program years.

- Optimize Use of City Resources – By reducing the total cost of procurement and contract administration by reducing the number of solicitations issued to market, the annual effort by PMMD and ECS staff is expected to be reduced by approximately 200 hours.
- Competitive Advantage – Engaging the market earlier than has been the traditional past practise for construction programs helps drive increased competition as bidders have not yet picked up work from other government entities.

Negotiable Request for Proposal (RFP) Process, Contractor Selection and Negotiations

NRFP No. 4204-19-5019 was issued on March 1, 2019, with a closing date for submissions of April 3, 2019. The work to be delivered as set out in the NRFP includes the construction and commissioning of watermains and the permanent restoration of impacted infrastructure at various locations across the City of Toronto, separated into two Service Areas, which would be awarded as individual contracts (one for each Service Area). The Service Areas span across the City outside of the downtown core, with Service Area A covering the Scarborough and East York Districts and Service Area B covering the North York and Etobicoke Districts. The work includes portions of Toronto Water's state of good repair watermain capital program for the years 2019, 2020 and 2021.

Proponents were allowed to submit Proposals for either one or both Service Areas, however a proponent would not be awarded more than one (1) contract in order to avoid the risk of a contractor over-extending its capacity to perform the work. Proponents whose proposal achieved a predefined technical score (details are provided below) would be invited to enter into direct negotiations to finalize their best and final offer (BAFO), which would become the basis for awarding each of the two contracts.

The NRFP made it clear that the City was under no obligation to award any contracts and that should the proposals fail to satisfy the City for either one or both Service Areas, the City at its sole discretion could decide not to award one or both of the contracts.

At the time of closing, responses were received from the following five (5) firms:

- 2489960 Ontario Inc.
- Clearway Construction Inc.
- Drainstar Contracting Ltd.
- GFL Infrastructure Group
- Trisan Construction

Evaluation Process

A formal Evaluation Committee was convened for the purpose of reviewing the responses received from the five proponents. All staff involved in the evaluation process signed and submitted a Non-Disclosure and Declaration of Conflict of Interest Agreement and under the supervision of PMMD, evaluated the proposals in compliance with the criteria set out in the NRFP.

The evaluation process described in the NRFP consisted of five (5) stages and each of the proposals were evaluated against the criteria as described below.

Stage 1: Mandatory Submission Requirements
Each proponent was required to submit responses to a list of mandatory requirements. Proponents that did not satisfy the mandatory submission requirements were issued a rectification notice which identified the deficiencies and provided an opportunity to rectify the shortcoming(s) by a specified date. Proponent's submissions that did not satisfy the mandatory requirements by the specified date did not proceed to Stage 2. Following the rectification period, all five (5) proponents were deemed to have satisfied the mandatory submission requirements and the evaluation of their submissions proceeded to Stage 2.

Stage 2: Initial Evaluation
Each of the proponents were evaluated on their qualifications. Proponent's submissions that received a minimum score of 65% or higher and having passed the minimum score threshold on three (3) key qualification criteria, proceeded to Stage 3. Three (3) of the five (5) proponents successfully exceeded all of the threshold scores and moved on to pricing evaluation. These proponents were:

- 2489960 Ontario Inc.
- Clearway Construction Inc.
- Trisan Construction

Stage 3: Pricing
The price evaluation for each of the two (2) Service Areas was conducted in accordance with the method set out in the NRFP. After the completion of Stage 3, all scores from Stage 2 (representing 20% of the total score) and Stage 3 (representing 80% of the total score) were added together and the proponent's submissions were ranked in order according to their total scores. According to the NRFP the top three (3) ranked proponents for each Service Area would be invited to enter into concurrent negotiations to submit a best and final offer (BAFO), unless a submission's score was more than 20% lower than the highest scoring proponent, by Service Area, in which case the City would not enter into BAFO negotiations with those proponents. Given the scoring results of the NRFP the City proceeded with BAFO negotiations with only two (2) Proponents, representing the top scoring proposals for the two (2) Service Areas:

- 2489960 Ontario Inc.
- Trisan Construction

Stage 4: Concurrent Negotiations and Best and Final Offer (BAFO)
The BAFO negotiations included a commercial and confidential meeting with each of the proponents separately, followed by a period in which they could revisit their pricing proposal and resubmit their final (BAFO) pricing offer. The proponents that were invited to this Stage were required to execute a non-disclosure agreement prior to participation.

During the concurrent negotiation sessions, the City provided each proponent with additional information (gap analysis) in order to seek proposal improvements in each proponent's best and final offer submission. At the end of the BAFO period both proponents submitted their final pricing offer for both Service Areas. Staff were able to identify the top ranked proponent for each Service Area based on a total value formula identified in the NRFP, which included the condition that only one (1) Service Area would be awarded to each proponent.

City staff compared the proposals to the pre-solicitation engineering estimate for each Service Area:

- The proposal submitted by 2489960 Ontario Inc. for Service Area A was lower than the engineering estimate and represented value for the City in line with the objectives of the Strategic Sourcing initiative.
- The proposal submitted by Trisan Construction for Service Area B significantly exceeded the engineering estimate for that scope of work by approximately 7%. Given the cost reduction objectives of this Strategic Sourcing Procurement, City staff could not justify proceeding with a recommendation of award for Service Area B.

Stage 5: Contract Negotiations

Service Area A

Contract negotiations were held with 2489960 Ontario Inc., the top ranked proponent for Service Area A based on the BAFO submission and were concluded as set out in the NRFP documents. As a non-binding procurement process, the terms and conditions of the NRFP do not form a legally binding agreement until such time as the agreement is fully executed following the award made by the Infrastructure and Environment Committee.

Engineering and Construction Services staff compared the final BAFO price against the pre-solicitation engineering estimate for Service Area A of $60,704,175 (net of all taxes). The recommended contract award of $56,686,028 (net of all taxes) is approximately 6.6 percent lower than the pre-solicitation engineering estimate and exceeds the anticipated benefit of 4.5 percent.

Upon award, the City will enter into a Master Agreement and three (3) associated Program Agreements for the 2019, 2020 and 2021 program years, respectively, with 2489960 Ontario Inc. Each Program Agreement will be signed prior to the start of each year and will include technical specifications, construction durations and general conditions to be followed during its execution. The Master Agreement will govern and be in effect during the execution of all three (3) Program Agreements.

The Fair Wage Office has reported that the recommended proponent has indicated that they have reviewed and understand the Fair Wage Policy and Labour Trades requirements and have agreed to comply fully.

Service Area B
Given that the BAFO bid price for Service Area B exceeded the engineering estimate, a multi-year contract will not be awarded at this time. Instead, the Service Area B scope of work will be procured as a traditional tender for the 2019 work only and ECS and PMMD plan to issue a multi-year Strategic Sourcing event for Service Area B later in 2019 for capital program years 2020, 2021 and 2022.

Fairness Monitor

A Fairness Monitor was retained via a separate competitive process to support the Strategic Sourcing procurement process. The consulting firm of Lakeland Consulting Inc. was retained to act as Fairness Monitor for the NRFP. The Fairness Monitor's scope of work was to review the NRFP prior to posting and to oversee the procurement process for the purpose of ensuring adherence to high standards, objectivity of evaluation and transparency; monitor the level of openness and competiveness, addressing any concerns related to accountability and fairness; and, provide independent assurance of the integrity of the procurement process.

The Fairness Monitor has concluded that the procurement process satisfied the principles of openness, fairness, consistency and transparency. The Attestation Report from the Fairness Monitor is included as Attachment 1.

Proponent's scores and the evaluation results can be provided to Councillors in an in camera presentation if requested.

Amendment to Purchase Order Nos. 6045918 and 6046025 for Professional Engineering Services

In 2017, through Request for Proposal No. 9117-17-7001, professional engineering services assignments were awarded for detailed design, contract administration and post construction services to support the delivery of the coordinated Toronto Water and Transportation Services capital works programs for years 2018 through 2020. The assigned value of the capital construction program to be delivered over the three-year period was estimated at $220 million. To maximize service delivery and to ensure competitiveness, program management assignments were awarded to four (4) consulting engineering firms. Each firm was assigned a portfolio of work based on a construction cost of $55 million over the three (3) year period.

In 2019, Toronto Water increased the value of the 2020 state of good repair (SOGR) program being delivered through the four program management assignments by approximately $69 million, revising the total three-year program to an estimated value of $289 million.

The total value of the 2020 watermain replacement program for Service Areas A and B, respectively, the downtown core and along major roads is now estimated at $101 million.

As noted above, this report recommends a construction contract award for watermain replacement work in Service Area A (i.e., Scarborough and East York Districts). The construction value associated with the work planned for 2020 is estimated to be $25 million, and the contract commits the City to providing the successful proponent (2489960 Ontario Inc.) a complete set of engineering designs and drawings for the 2020 work by November 2019.

GHD Ltd. has been assigned responsibility for the engineering design associated with watermain replacement work in Service Area A. At the same time, due to Toronto Water's expanded 2020 watermain replacement capital program, GHD Ltd. is responsible for the design of an additional $17 million of projects outside of Service Area A. The total value of the 2020 watermain replacement capital program that has been assigned to GHD Ltd. is thus $42 million, and engineering design work has been initiated for all assigned projects. However, the remaining funds in the existing contract with GHD Ltd. are only sufficient to cover the engineering design of an estimated $4 million of capital projects.

The tight timelines required to complete the engineering designs and drawings for the 2020 program assigned to GHD Ltd. preclude issuing a new Request for Proposal for the balance of the engineering design work and, therefore, staff recommend issuing an amendment to Purchase Order No. 6045918, issued to GHD Ltd., in the amount of $4,104,404 net of all taxes and charges ($4,176,642 net of HST recoveries), revising the current purchase order value from $10,319,525 to $14,423,929 net of all taxes and charges ($14,677,790 net of HST recoveries), to ensure that the City is able to meet its contractual obligations to the successful proponent, and thereby reduce its exposure should this design work be delayed.

Also noted above, staff are recommending that a new Strategic Sourcing Negotiable RFP for Service Area B (i.e., North York and Scarborough Districts) be issued later this year, for watermain replacement work for capital program years 2020, 2021 and 2022, replicating the approach described above. This will require completing engineering designs and drawings at the time the Service Area B NRFP is issued.

Issuing the NRFP for Service Area B NRFP in the fall 2019, well in advance of the 2020 start of construction for this work, will help ensure bid competitiveness, particularly given the multi-year nature of this proposed contract.

TMIG Ltd. has been assigned responsibility for the engineering design associated with watermain replacement work in Service Area B estimated at $15 million for 2020. These designs must be ready in time for the fall 2019 issuance of the Strategic Sourcing NRFP for Service Area B. At the same time, due to Toronto Water's expanded 2020 watermain replacement capital program, TMIG Ltd. is responsible for the design of an additional $17 million of projects outside of Service Area B. The total value of the 2020 watermain replacement capital program that has been assigned to TMIG Ltd. is thus $32 million, and engineering design work has been initiated for all assigned projects. However, the remaining funds in the existing contract with TMIG Ltd. are only sufficient to cover the engineering design of an estimated $11 million of capital projects in 2020.

The tight timelines required to complete the engineering designs and drawings for the 2020 program assigned to TMIG Ltd. preclude issuing a new Request for Proposal for the balance of the engineering design work and, therefore staff recommend an amendment to Purchase Order No. 6046025, issued to TMIG Ltd., in the amount of $2,097,946 net of all taxes and charges ($2,134,870 net of HST recoveries), be issued, revising the current purchase order value from $11,823,217 to $13,921,163 net of all taxes and charges ($14,166,175 net of HST recoveries).

Both firms, GHD Inc. and TMIG Ltd., have confirmed that they have the capacity to undertake the extra work and both have agreed to deliver the engineering design work at the same rates as stipulated in their original 2017 purchase orders.

CONTACT

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SIGNATURE

Michael D'Andrea, M.E.Sc., P.Eng.,
Chief Engineer and Executive Director, Engineering and Construction Services

Michael Pacholok, JD,
Chief Purchasing Officer

ATTACHMENTS

Attachment 1 – Fairness Monitor Attestation Report

Attachment 1 – Fairness Monitor Attestation Report

Lakeland
Consulting Inc.

May 3rd, 2019

Mr. Anton Korol
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RE: Fairness Monitor Attestation
RFP No. 4204-19-5019 Contract No. 19ECS-LU-07SU/17SU, 20ECS-LU-06SU/16SU, 21ECS-LU-06SU/16SU
Procurement Process associated with the Construction of Watermains across the City of Toronto

Dear Mr. Korol,

Please accept this letter as my initial attestation of the above referenced competition process.

In our opinion the procurement process administered by the City of Toronto for the above referenced competition has fully met acceptable standards of an open, fair and transparent process.

The remainder of this letter provides more detail on our observations and findings.

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Fairness Overview

The City of Toronto (the "City") is procuring services for the construction, restoration, clean-up and rectification of water main infrastructure across two large service areas. The intent is to award contracts to two separate suppliers. The procurement process included a negotiated RFP process followed by a Best and Final Offer. The term of the contracts will be for a period of three years. Lakeland Consulting Inc. was retained by the City to provide Fairness Monitor services.

As Fairness Monitor our role is to act as an independent observer of the process, to monitor procurement activities and to provide advice on how the City can achieve an appropriate level of fairness, openness and transparency.

As Fairness Monitor, we were directly involved in all aspects of the competition process. We were given a draft copy of the RFP and were able to provide comments and suggestions. We noted that our input and advice was appropriately incorporated into the RFP. Once the RFP was posted we monitored the proceedings to help ensure processes were administered in an open, fair and transparent manner. This included eight addenda made up of questions and answers plus revisions to the RFP document and attachments.

During the RFP open period we were given an opportunity to review and comment on the draft evaluation material. We noted that City staff were responsive to our comments and incorporated our suggestions into their documents.

In terms of the evaluation process, we were apprised of the evaluation of the mandatory requirements which was done by the Procurement Lead and the Procurement Team from the City. We also attended the evaluator training session and presented a slide deck on best practice for evaluators from a fairness perspective.

Once the evaluators had completed their scoring of the rated requirements, we attended and observed the consensus scoring sessions (April 15th, 2019). Prior to the commencement of the consensus scoring, we provided a short overview of fairness considerations during consensus. We noted that one of the evaluators had misunderstood what parts of the proposals he was supposed to review. It was determined that he had not evaluated or scored certain parts of each proposal. Since there were five evaluators and it was clear that the other four evaluators had completed their evaluation work, the first evaluator was asked to leave.

In instances where issues arose, the City was quick to advise us of the situation and seek our advice on best practices. The City has consistently demonstrated throughout the process an eagerness to ensure they have conducted this competition in an open, fair and transparent manner.

The Price Evaluation was administered by the Procurement Team. This process was form-driven so there was no need for our direct involvement. We were provided with the summary table of the price information and did review the document to make certain it was applied in a consistent manner.

Once the evaluation process was complete, the City identified two short listed candidates that were invited to participate in the BAFO sessions. We attended the BAFO sessions, which were held on April 23rd, 2019. The City did a good job of explaining the purpose of the BAFO sessions and was careful about pressuring the two vendors into reducing their price.

In the end, only one contract was awarded representing services in one of the areas. The second contract was not awarded because the proposed price was above the City estimate. We are fine with this decision since it was clearly articulated in the RFP.

In our professional opinion, the City of Toronto has conducted this competition process to a high standard of openness, transparency and fairness. The RFP was clearly written, and the City was very diligent in their description of the procurement process. The Evaluation Team was qualified to conduct the evaluation and they followed the evaluation process exactly as it was described in the RFP. The evaluators treated all bidders in an open, fair and consistent manner. The City followed the process described in the RFP and we saw no evidence of bias for or against any bidder.

My full report, which will be provided at the end of the process, will contain further details on each step and a more fulsome description of my observations.

Yours truly,
LAKELAND CONSULTING INC.

BILL MOCSAN,
FAIRNESS MONITOR