



REPORT FOR ACTION

Amendment to Expired Contract 47021093 - SUPCO Construction Ltd. for Backhoe Services with Operators

Date: August 20, 2019

To: Infrastructure and Environment Committee

From: General Manager, Toronto Water and Chief Purchasing Officer

Wards: All

SUMMARY

The purpose of this report is to request authority to amend an expired Contract No. 47021093 issued to SUPCO Construction Ltd. for Backhoe Services with Operators for planned, unplanned and emergency work and repair activities at various locations as required by Toronto Water in the amount of \$150,000 net of all taxes and charges (\$152,640 net of HST Recoveries), increasing the current contract from \$1,008,545 to \$1,158,545 excluding all taxes and charges. The amendment is being requested in order to bring the expired contract into compliance and no further purchases will be processed against this contract. There are no outstanding invoices to be paid to SUPCO Construction Ltd. New contracts were awarded to multiple contractors as a result of RFQ 6031-18-7163 for the period from October 1, 2018 to August 31, 2023.

As a result of the additional backhoes and operators that were required due to the disqualification of Ruffolo Contracting Ltd. and Queensway Excavating & Landscaping Ltd., Contract No. 47021093 was first amended in July 2018 in the amount of \$495,000.00 net of all taxes which was approved under staff delegated authority, however the contract is currently overspent by an additional amount of \$150,000 net of all taxes, revising the current value of the Contract from \$1,008,545 to \$1,158,545 net of all taxes.

RECOMMENDATIONS

The General Manager of Toronto Water and the Chief Purchasing Officer recommend that:

1. Infrastructure and Environment Committee in accordance with Section 71-11.1.C of the City of Toronto Municipal Code Chapter 71 (Financial Control By-Law), grant authority to amend Contract 47021093 with SUPCO Construction Ltd. for Backhoe

Services with Operators for planned, unplanned and emergency work and repair activities as required by Toronto Water by an additional amount of \$150,000 net of all taxes (\$152,640 net of HST recoveries) revising the current value from \$1,008,545 to \$1,158,545 net of all taxes (\$1,178,935.39 net of HST recoveries).

FINANCIAL IMPACT

The contract amendment request included in this report will increase the total contract value by \$150,000 net of all taxes (\$152,640 net of HST recoveries), revising the current value from \$1,008,545 to \$1,158,545 net of all taxes (\$1,178,935.39 net of HST recoveries).

As a result of the disqualification of two (2) existing contractors due to Fair Wage Policy non-compliance, alternate arrangements were made with one of the remaining contractors in order to continue the service. This resulted in overspending of \$152,640 (net of HST recoveries), which was accommodated using unspent funding available in the 2018 Operating Budget for Toronto Water in cost centre TW2030 (D&C: Construction Services: North & West), cost element 4424.

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

DECISION HISTORY

On October 18, 2017, by authority of Bid Award Panel, Request for Quotation (RFQ) 6038-17-7256 was awarded for Backhoe Services with Operators for planned, unplanned and emergency work and repair activities at various locations within Toronto, as required by Toronto Water. The contract was issued to cover the period from November 16, 2017 to August 31, 2018, with four (4) additional one year (1) periods. The link to Bid Award Panel report:

<https://www.toronto.ca/legdocs/mmis/2017/ba/bgrd/backgroundfile-107793.pdf>

On May 22, 2018 Council adopted recommendations without amendment to disqualify Queensway Excavating & Landscaping Ltd. from City Contracts under the Fair Wage Policy for non-compliance for a period of two years inclusive. The link to the Council report:

<http://app.toronto.ca/tmmis/viewAgendaItemHistory.do?item=2018.GM27.16>

On May 22, 2018 Council adopted recommendations without amendment to disqualify Ruffolo Contracting Ltd. from City Contracts under the Fair Wage Policy for non-compliance for a period of two years inclusive. The link to the Council report:

<http://app.toronto.ca/tmmis/viewAgendaItemHistory.do?item=2018.GM27.17>

COMMENTS

In 2017, a Request for Quotation (RFQ) No. 6038-17-7256 was issued, closed and awarded to multiple contractors to provide Backhoe Services with Operators for planned/unplanned emergency work and repair activities at various locations within Toronto, as required by Toronto Water's Construction Yards (NW and SE Construction). The RFQ was structured to allow vendors to bid by districts Part A or Part B or both and multiple vendors were awarded contracts based on lowest unit cost and based on the number of backhoes and operators offered and available to deliver these services.

Further, all contractors are required to comply with the City of Toronto Fair Wage Policy and pay workers the rate of wages as specified in the Fair Wage schedule which was included in the RFQ document. Prior to the award of these contracts, the contractors indicated that they had reviewed and understood the City's Fair Wage Policy requirements and agreed to comply fully.

During the term of the contract the Fair Wage Office conducted its review to ensure the contractors were compliant with the Fair Wage Policy and found that two contractors, Ruffolo Contracting Ltd. and Queensway Excavating & Landscaping Ltd., were found to be non-compliant with the Fair Wage Policy on two or more occasions. As a result, Council approved the disqualification of both firms from conducting business with the City of Toronto for a period of two years.

The disqualification of Ruffolo Contracting Ltd. and Queensway Excavating & Landscaping Ltd. caused a reduction of available Backhoe and Operators from twelve (12) to two (2). In order to continue services, Toronto Water in collaboration with PMMD requested SUPCO Construction Ltd. to provide the additional ten (10) backhoes and operators until the base term of the contract was completed. Toronto Water opted not to exercise the remaining option terms due to changes in scope and has issued a subsequent call (RFQ6031-18-7163) based on new operational requirements.

As a result of the additional backhoes and operators required due to the disqualification of Ruffolo Contracting Ltd. and Queensway Excavating & Landscaping Ltd. Contract No. 47021093 was first amended in July 2018 in the amount of \$495,000 net of all taxes, which was approved under staff delegated authority. However, the contract is currently overspent by additional amount of \$150,000 net of all taxes revising the current value of the Contract from \$1,008,545 to \$1,158,545 net of all taxes.

The Operations Contract Services (OCS) unit in Toronto Water has undergone a reorganization of roles and responsibilities. The reorganization improved the management and compliance of the payment of invoices and overall contract management. During the reorganization the unreported over-expenditure was identified. OCS has implemented controls to review expenditure on a monthly basis to ensure the expenditures on all contracts are within the approved limits. Should it be identified additional requirements are needed, OCS will submit a report for approval in advance.

Toronto Water requests the authority to amend the Contract 47021093 to bring the contract back into compliance. There are no outstanding invoices to be paid to SUPCO Construction Ltd. New contracts were awarded to multiple contractors as a result of RFQ 6031-18-7163 for the period from October 1, 2018 to August 31, 2023.

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SIGNATURE



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