TORONTO

REPORT FOR ACTION

Oversight of Tree Maintenance Service Contracts

Date: June 22, 2021
To: Audit Committee
From: City Manager, Chief Procurement Officer, and General Manager, Parks, Forestry and Recreation
Wards: All

SUMMARY

This report responds to a recommendation adopted at the Audit Committee's February 2021 meeting to report on ways to ensure adequate performance measures and oversight of all City tree maintenance service contracts, including methods to guard against payments for work not stipulated in the contracts or for work falsely reported, and for the termination of contracts due to evidence of performance that does not meet the terms and conditions of the contract.

The City has implemented a number of approaches to strengthen oversight and management of tree maintenance service contracts. These include:

- Increased the number of staff performing crew oversight inspections
- Doubled the number of weekly daily log reviews
- Hired a third party service provider to perform physical observations of crews
- Held emergency meetings with vendors and issued letters of expectations
- Hold regular meetings with vendors to review performance and issues including but not limited to findings related to crew observations, deficiencies, and time management
- Implemented new/updated guidelines (Daily Work Activity Report, Forestry Performance Inspection Report, Towing, Hydro Hold-off)
- Implemented new tracking spreadsheets (Centralized parked car call log, emergency hold-off log)
- Utilizing Management Services, a branch within Parks, Forestry and Recreation to provide additional assurance of oversight

Further, the City has incorporated additional measures into the new tree maintenance services contracts which commence July 1, 2021, including:

- Introduction of unit rate pricing for some maintenance activities which will:
  - reduce paying for supportive and non-productive time
  - transfer day-to-day oversight of crews to the vendors

- require suppliers to meet minimum productivity requirements

- Full access to live GPS systems for further oversight
- Clarified roles and responsibilities outlining expectations of suppliers
- Service level agreements (SLAs) to address operational deficiencies
- Several qualitative factors, such as quality control plans, innovative/value-added services and risk mitigation strategies, were included in the scoring evaluation of bids

In addition, the City is developing processes to strengthen contract management practices across Divisions. This will include the development of a working group to lead the development and implementation of policies and procedures in collaboration with Ernst and Young to enhance contract management and operational productivity and efficiency.

RECOMMENDATIONS

The City Manager, the Chief Procurement Officer, and the General Manager, Parks, Forestry and Recreation recommend that:

1. The Audit Committee receive this report for information.

FINANCIAL IMPACT

Any costs associated with the initiatives specifically related to oversight of tree maintenance service contracts and City-wide contract management strengthening, as outlined in this report, will be accommodated within the 2021 Council Approved Operating Budget for Parks, Forestry and Recreation (PFR) and the Purchasing and Materials Management Division (PMMD), respectively. Future incremental impacts, if identified, will be dealt with in future year budget processes.

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

DECISION HISTORY

In May 2021, City Council adopted CC32.6 - Award of Negotiated Request for Proposal Ariba Document 2305234907 to Various Suppliers for the Provision of Arboricultural Services at various City of Toronto locations. This included authorization for the General Manager, Parks, Forestry, and Recreation to enter into, and execute, agreements with various service suppliers.
http://app.toronto.ca/tmmis/viewAgendaItemHistory.do?item=2021.CC32.6

At the February 16, 2021 meeting the Audit Committee adopted AU8.6 - Getting to the Root of the Issues: A Follow-Up to the 2019 Tree Maintenance Services Audit. In a motion approved by Audit Committee the City Manager was directed to report back to the May 31, 2021 Audit Committee meeting on ways to ensure adequate performance measures and oversight of all City tree maintenance service contracts. In April 2021, City Council adopted AU8.6 including the motions from Audit Committee.
http://app.toronto.ca/tmmis/viewAgendaItemHistory.do?item=2021.AU8.6

In May 2019 City Council adopted AU2.4 Review of Urban Forestry - Ensuring Value for Money for Tree Maintenance Services. Several recommendations were directed to the General Manager, Parks, Forestry and Recreation to address issues raised by the Auditor General with respect to tree maintenance services contracts.
http://app.toronto.ca/tmmis/viewAgendaItemHistory.do?item=2019.AU2.4

COMMENTS

The Auditor General's report, "Getting to the Root of the Issues: A Follow-Up to the 2019 Tree Maintenance Services Audit" included a number of recommendations to support improved contract management and oversight of tree maintenance services contracts in the City. In particular, the City Manager was directed to identify ways to ensure adequate performance measures and oversight of all tree maintenance service contracts and report back to the Audit Committee. This report responds to that request, and identifies the approach the City is taking to strengthen management and oversight of all contracts across the City, including those related to tree maintenance services.

Approaches to Strengthen Tree Maintenance Services Contract Oversight and Management

Performance Measures

The City will be replacing its aging work management system (Toronto Maintenance Management System (TMMS)) with a centralized asset and work order Enterprise Work Order Management System (EWMS). Parks, Forestry and Recreation, is one of four divisions implementing the IBM Maximo EWMS in stages. The current stage includes the implementation of the Urban Forestry branch of PFR.

It is anticipated that the launch of IBM Maximo will occur in Q1 2022 for Urban Forestry, with the completion of the implementation for this branch by the end of 2022. The implementation and rollout of IBM Maximo will enhance contract management measures to improve tree maintenance crew oversight and improve productivity and operational efficiency. Capturing the daily work information electronically will enable Urban Forestry to run reports and analyze data to assess time spent performing tree maintenance work and time spent on supporting activities which will inform performance measures, allocation of work and expected outcomes. The data analysis will also allow for the development of benchmarks that will be included in future arboricultural services procurements.

Crew Oversight

Several approaches are in place to provide enhanced crew oversight for tree maintenance services, including Forestry Performance Inspection Reports and physical observations.

Forestry Performance Inspection Reports (FPIRs)

- Forestry Operations staff currently conduct unannounced on-site inspections and quality control reviews as part of the FPIR process.
- PFR has enhanced front line and vendor oversight by recruiting nine additional Forestry Forepersons to perform FPIRs and daily log reviews, which consist of using detailed GPS reports, photo documentation, and other supporting evidence. Applicable guidelines have been updated and all Forestry Forepersons have completed updated training to ensure the quality and consistency of their work. The new staff have begun mentorship in the field and are being evaluated through the term of their placement in this role.
- The requirement for vendors to provide live GPS access for hourly rate price schedules in the new contracts, will further support the crew oversight.
- This enhanced quality control oversight model has resulted in doubling the number of daily log reviews completed to an average of 100 daily logs over a two week period, including at least one from every vendor and City crew, when compared to the volume reviewed prior to the release of the Auditor General's report in February 2021. In addition, Forestry Forepersons are required to perform weekly on-site crew inspections. Requirements for inspections are clear and consistent to ensure quality oversight of crews.

Physical Observations

- PFR has established a contract with a third-party service provider, for the purpose of conducting physical observations of contracted tree maintenance crews, effective April 2021.
- The physical observation contract is managed by Management Services, an administrative oversight section within PFR, to provide segregation of duties for an additional layer of oversight.
- The addition of physical observations as part of crew oversight will confirm if contracted tree maintenance crews are completing work as documented in daily logs and GPS records.

Guards Against Payment for Work Not Stipulated in Contracts or for Work Falsely Reported

Through implementation of new procedures, enhanced information is recorded on daily logs and supporting evidence is required to validate times crews report on their daily log such as:

- the centralized parked car call log which documents all instances where work cannot be completed due to the presence of legally parked vehicles
- photo evidence submitted by tree maintenance crews which is required for all instances where parked vehicles interfere with the completion of work
- the emergency hold-off log which documents approvals to crews requesting an emergency hold-off

The above information, along with previous requirements of work orders and tow slips enhance the crew oversight process to aid in guarding against payment for work not stipulated in contracts or work that is falsely reported which is further enhanced by the physical observations that have begun.

In February 2021 letters were issued to the three tree maintenance services vendors from the General Manager, PFR to advise that the City has terminated the payment for two, 15 minute breaks in accordance with contract terms. Also, payment of breaks was removed from the 2021 NRFP, at the recommendation of the Audit Committee. Vendor tree maintenance crews have been accurately documenting breaks on their daily logs based on a review of logs submitted in the past 30 days and the payment of breaks is now the responsibility of the vendor.

To ensure additional contract and payment oversight, the invoice verification process has been assigned to Management Services. In addition, based on review and reconciliation of logs, GPS and other documents PFR will not issue payments where discrepancies are noted or for work that was found to not be completed as documented.

Termination and performance leverage clauses in contracts

The new tree maintenance services contracts, approved by City Council in May 2021, commencing July 1, 2021 have termination provisions which can be used if the vendors fail to perform. In addition, there are performance securities in place (5% of award to a maximum of $500,000) which can be drawn upon to recover any costs related to the Vendors failure to meet their obligations under the contract. Regular meetings will be held with the Vendors under the new contracts to review performance and adherence to contract terms.

In February 2021, emergency meetings between PFR and the contracted tree maintenance services vendors were held to review the findings of the Auditor General's report and to state the City's expectations of conduct and contract compliance for vendors working for the City. The expectations were also documented in a Letter of Expectation and provided to each tree maintenance services vendor in March 2021 by the General Manager, PFR. The letter highlighted that in accordance with contract provisions, vendors will be held accountable for compliance with all applicable health and safety regulations and provisions, accurate documentation of the daily logs, including the reporting of all breaks and lunches, adherence to the updated Towing Guidelines procedure, and clear direction that the full crew complement begins and ends their shift at their assigned yard per the contract terms.

PFR is monitoring the performance and productivity issues identified by the Auditor General, along with other crew-related complaints, and will take further follow-up action as necessary. Crew performance will continue to be monitored as part of the new contracts. Increased on-site inspections and quality control reviews of tree maintenance crews informs follow-up action, where necessary.

Future Procurement

Additional items that may be considered in future procurements and discussed in future market soundings include:

- Additional ways to include past performance scores into future procurement evaluations;
- Ensuring that contract terms are not cost-prohibitive for smaller suppliers, to the extent that it is commercially reasonable; and
- Approaches to award contracts to increase the number of suppliers awarded work.

Enhancing Contract Management and Oversight Across City Divisions

A further recommendation in the above noted audit report is to implement additional supports and greater accountability City-wide for effective monitoring and management of significant outsourced contracts including, key controls to aid in effective contract management, a structured approach to documenting contracting risks, and an independent compliance review process. This recommendation emphasizes and reinforces previous recommendations and Council motions. Specifically, most recently:

Year	Report Name	Recommendation/Motion
2019	"Audit of Interface Invoice Payments - Improving Contract Management and Payment Processes"	Recommendation: The City evaluate the feasibility of establishing a Centralized Contract Management Unit/Centre of Excellence to look after City-wide contracts.
2020	"Audit of Winter Road Maintenance Program - Phase One: Leveraging Technology and Improving Design and Management of Contracts to Achieve Service Level Outcomes"	Motion: Policies and/or processes be recommended for implementation that would provide for review and audit of both in-house and contracted services within each City Division that improve accountability and outcomes.

To ensure that these Auditor General recommendations and Council motions related to contract management are implemented, the City must strengthen its oversight and accountability. This can be achieved by developing the necessary contract management processes based on best practices and ensuring that staff have the required knowledge to consistently implement them.

Work Underway

Staff have set up an initial working group to start to address the recommendations and enhance contract management in the City. The initial working group consists of staff from the City Manager's Office, Internal Audit, Financial Control and Process Improvement (FCPI) and Purchasing and Materials Management Division (PMMD). Additional Divisions will also be invited to participate.

The working group will help:

- Establish a governance structure to oversee the development of a contract management framework and ensure it is supported;
- Develop a Corporate Contract Management Policy that provides direction to staff;
- Provide recommendations on the establishment of a Contract Management Office or Centre of Excellence to ensure compliance with and provide continuous review and improvement of requirements and help develop the appropriate business case to create this structure; and
- Establish the roles and responsibilities of the Divisions within the City and determine how validation of proper contract management will be performed and by whom.

To support this work, PMMD as part of its own procurement transformation, has entered into a contract with Ernst and Young (E&Y). This contract, approved by City Council in December 2020, includes key deliverables related to contract governance including the creation of processes for Supplier Relationship Management and Contract Management as well as the development and delivery of related training material.

The Supplier Relationship Management (SRM) work will provide a standardized performance and risk based approach to manage supplier relationships, based on the supplier segment. Key processes include:

- Governance and oversight
- Supplier segmentation
- Performance and risk management
- Onboarding and off-boarding

As a part of this work, a playbook will be developed to include the following for each SRM process step: inputs, outputs, roles and responsibilities, templates and SAP Ariba integration points.

The Contract Management (CM) work will be tailored to the City of Toronto and provide the best practices for developing and managing different types of contracts. It will include a process to categorize contracts based on factors such as spend and risk profile to determine the specific contract management processes required. For example, contracts with higher spend and higher risk profiles would require more extensive contract management processes such as monitoring and documentation. The key processes that will decrease contracting risk and increase service delivery include:

- Governance and oversight - including roles and responsibilities of all major stakeholders
- Contract risk assessment process - to determine the risks associated with contracting that are used to develop key terms and conditions and monitoring requirements
- Performance metrics development - a process to develop Key Performance Indicators (KPIs) for the Vendor and the City based on the risk assessment and contract terms and conditions
- Monitoring and reporting mechanisms - including inspections, reviews and reporting on KPIs. Also, the creation of centralized reports to aid in future procurements and continuous improvement

A CM playbook will be developed to include the following for each CM process step: inputs, outputs, roles and responsibilities, templates and SAP Ariba integration points. The CM playbook, including all of the above key process, will inform what the Divisions should consider when they initiate a new procurement process and in the development of the contract with PMMD and Legal Services to ensure that the contract is built properly and that it will facilitate proper contract management.

E&Y will be looking to enable the reporting requirements through integration with the PMMD technology roadmap, with respect to SAP Ariba (SLM and CLM modules). The playbook will also delineate between requirements for both centralized and de-centralized contract management. Once complete, E&Y will develop training materials, train specific staff and perform train the trainer sessions so that training can continue once E&Y's contract is complete.

To ensure that the overall governance and the CM playbook is tailored to the City's specific requirements, it will require support from key Divisional staff to understand the current contracting environment, Divisional issues, control gaps and root causes, distinctive contracting requirements and best practices in use. Understanding the current contracting environment will allow the creation of effective and standardized contract management procedures.

At a high level it is anticipated that the playbooks and the training material will be completed by Q4, 2021. Roll out of training will take place thereafter.

As the project continues further reporting will be provided on the status of implementation.

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