

Amendments to Non-Competitive Procurements for Fire and Life Safety Vendors

Date: April 12, 2021

To: General Government and Licensing Committee

From: Executive Director, Corporate Real Estate Management, Chief Procurement Officer, Purchasing and Materials Management Division

Wards: All

SUMMARY

The purpose of this report is to seek authority for the Executive Director, Corporate Real Estate Management to amend the contract value of five (5) non-competitive procurements with fire and life safety vendors providing service to the City of Toronto. At the onset of the COVID-19 pandemic in March 2020, the Fire and Life Safety Program Office began to oversee the fire and life safety systems of Children Services and Shelter Support and Housing Administration. Unfortunately, the vendors of record for both divisions were terminated for non-compliance with the Ontario Fire Code. These terminations affected five (5) divisions in total, and required Corporate Real Estate Management to increase the scope of its non-competitive agreements to ensure the safety of City buildings.

Corporate Real Estate Management is currently developing a competitive solicitation with the Purchasing and Materials Management Division for the provision of fire and life safety inspection services that is expected to be issued to the marketplace in the second quarter of 2021, with an anticipated contract start date September 2021. The request to General Government and Licensing Committee to amend the value of these contracts will allow for continuity of service, until the competitive solicitation is awarded.

General Government and Licensing Committee approval is required in accordance with Municipal Code Chapter 195, Purchasing, where the current request exceeds the Chief Purchasing Officer's authority of the cumulative five year commitment limit for each vendor under Article 7, Section 195-7.3(D) of the Purchasing By-law or exceeds the threshold of \$500,000 net of Harmonized Sales Tax allowed under staff authority as per the Toronto Municipal Code, Chapter 71, Financial Control, Section 71-11.1.

RECOMMENDATIONS

The Executive Director, Corporate Real Estate Management, and the Chief Procurement Officer, Purchasing and Materials Management Division recommend that:

1. The General Government and Licensing Committee, in accordance with Section 71-11.1C of the City of Toronto Municipal Code Chapter 71 (Financial Control By-law) grant authority to amend:

a. Blanket Contract Number 47022051 issued to Chubb Edwards, Utc Fire & Security to provide fire and life safety inspection, testing and maintenance service for all City of Toronto Divisions by an additional amount of \$250,000 net of Harmonized Sales Tax (\$254,400 net of Harmonized Sales Tax recoveries), increasing the value from \$1,250,000 to \$1,500,000 net of Harmonized Sales Tax (\$1,526,400 net of Harmonized Sales Tax recoveries);

b. Blanket Contract Number 47022278 issued to Forest City Fire Protection LTD. to provide fire and life safety inspection, testing and maintenance service for all City of Toronto Divisions by an additional amount of \$100,000 net of Harmonized Sales Tax (\$101,760 net of Harmonized Sales Tax recoveries), increasing the value from \$1,500,000 to \$1,600,000.00 net of Harmonized Sales Tax (\$1,628,160 net of Harmonized Sales Tax recoveries);

c. Blanket Contract Number 47022277 issued to JD Collins Fire Protection Company to provide fire and life safety inspection, testing and maintenance service for all City of Toronto Division by an additional amount of \$540,000 net of Harmonized Sales Tax (\$508,800 net of Harmonized Sales Tax recoveries), increasing the value from \$1,750,000 to \$2,250,000 net of Harmonized Sales Tax (\$2,289,600 net of Harmonized Sales Tax recoveries);

d. Blanket Contract Number 47022052 issued to Viking Fire Protection Inc. to provide fire and life safety inspection, testing and maintenance service for all City of Toronto Division by an additional amount of \$250,000 net of Harmonized Sales Tax (\$254,400 net of Harmonized Sales Tax recoveries), increasing the value from \$1,500,000 to \$1,750,000 net of Harmonized Sales Tax (\$1,780,800 net of Harmonized Sales Tax recoveries); and

e. Blanket Contract Number 47022865 issued to Vipond Fire Protection Inc., to provide fire and life safety inspection, testing and maintenance service for all City of Toronto Division by an additional amount of \$1,000,000 net of Harmonized Sales Tax (\$508,800 net of Harmonized Sales Tax recoveries), increasing the value from \$1,000,000 to \$2,000,000 net of Harmonized Sales Tax (\$2,035,200 net of Harmonized Sales Tax recoveries).

FINANCIAL IMPACT

The amendments of the current blanket contracts for the extended period from March 31, 2021 to August 31, 2021 result in an increase across all contracts of \$2,136,960 net of all taxes and charges (\$2,174,570 net of Harmonized Sales Tax recoveries) from \$7,000,000 net of all taxes, to a total value of \$9,100,000 net of all applicable taxes and charges (\$9,260,160 net of Harmonized Sales Tax recoveries).

There is no incremental 2021 budget impact as funding in the amount of \$9,260,160 net of Harmonized Sales Tax recoveries is available in the 2021 Council Approved Operating Budget for Corporate Real Estate Management (CREM) for the Fire and Life Safety Services under FA100-30.S and FA100-130.S, GL 4424 and 4431.

The breakdown by contract / vendor is summarized in Table 1 below.

Table 1: Contact Amendment Summary (all values are net of Harmonized Sales Tax recoveries)

Vendor Name	Original Value	Amended Value	Amended Value	Total Requested Additional Value	Total Contract Value
Chubb Edwards, Utc Fire & Security	\$500,000 (March 22, 2019)	\$848,678 (February 20, 2020)	\$1,272,000 (July 22, 2020)	\$254,400	\$1,526,400
Forest City Fire Protection LTD.	\$500,000 (July 15, 2019)	\$1,017,600 (February 20, 2020)	\$1,526,400 (July 22, 2020)	\$101,760	\$1,628,160
JD Collins Fire Protection Company	\$500,000 (July 15, 2019)	\$1,017,600 (February 20, 2020)	\$1,780,800 (July 22, 2020)	\$508,800	\$2,289,600
Viking Fire Protection Inc.	\$500,000 (March 22, 2019)	\$1,017,600 (February 20, 2020)	\$1,526,400 (July 22, 2020)	\$254,400	\$1,780,800
Vipond Fire Protection*	\$500,000 (April 1, 2020)		\$1,017,600 (October 5, 2020)	\$1,017,600	\$2,035,200
Total	\$2,500,000	\$3,901,478	\$7,123,200	\$2,136,960	\$9,260,160

The Chief Financial Officer and Treasurer has reviewed this report and agrees with the financial impact information as identified in the Financial Impact section.

DECISION HISTORY

At its meeting July 7, 2020, the General Government and Licensing Committee adopted GL14.21 " Extension of Non-Competitive Contracts for Fire and Life Safety Vendors due to COVID-19 Emergency," which provided an update on the City's response to the COVID-19 pandemic and the expanded Fire and Life Safety services, and the increased contract demands and funding required to maintain compliance with the Ontario Fire Code within City Facilities.

<http://app.toronto.ca/tmmis/viewAgendaItemHistory.do?item=2020.GL14.21>

At its meeting of October 29 and 30, 2019, the City Council adopted GL8.8 " Update on Fire and Life Safety at the City of Toronto and Non-Competitive Agreement with Building Reports Canada for the Provision of Fire and Life Safety Tracking and Compliance Software" and received an update on the status of fire and life safety compliance within the City of Toronto, provided direction to report annually to the General Government and Licensing Committee on the status of the Auditor General's recommendations, provided direction to City of Toronto agencies and corporations to submit information, on an annual basis and for the Fire and Life Safety Program Office to provide Open Data Toronto with the necessary inspection information.

<http://app.toronto.ca/tmmis/viewAgendaItemHistory.do?item=2019.GL8.8>

At its meeting of May 21, 2019, the General Government and Licensing Committee adopted GL5.14 "Interim Status Report on Fire and Life Safety," which provided an update on the City's work to address the Council-adopted recommendations put forth by the Auditor General in 2018.AU13.11 "Raising the Alarm: Fraud Investigation of a Vendor Providing Life Safety Inspection Services to the City of Toronto," including the establishment of a City-wide Fire and Life Safety Program Office, an independent audit of 10 percent of the City's building portfolio, the development of standard operating procedures, contract improvements, and the promotion of a culture of life safety at the City.

<http://app.toronto.ca/tmmis/viewAgendaItemHistory.do?item=2019.GL5.14>

At its meeting of July 23, 2018, City Council adopted 2018.AU13.11 "Raising the Alarm: Fraud Investigation of a Vendor Providing Life Safety Inspection Services to the City of Toronto" and issued multiple directions to the General Manager, Facilities Management and other City staff to improve the management and delivery of fire and life safety service at City buildings. In adopting the item, City Council directed the General Manager, Facilities Management to report back to City Council annually on the level of fire and life safety compliance.

<http://app.toronto.ca/tmmis/viewAgendaItemHistory.do?item=2018.AU13.11>

COMMENTS

In 2018, Corporate Real Estate Management began to carry out a series of investigation into its third party fire and life safety service providers, in response to the Auditor General's investigation "Raising the Alarm: Fraud Investigation of a Vendor Providing Life Safety Inspection Services to the City of Toronto" (see item 2018.AU13.11).

The investigations resulted in the decision to change some fire and life safety service providers. In 2019, the Government and General Licensing Committee approved the request by Corporate Real Estate Management to award six emergency non-competitive procurements, following the termination of vendors that resulted from the investigations. The scope of the non-competitive procurements covered the services provided by the past vendors, and provided the Corporate Real Estate Management the necessary time to form the Fire and Life Safety Program Office, that is ultimately tasked with managing fire and life safety in all City of Toronto buildings.

COVID-19 delays the issuing of a competitive solicitation

In early March 2020, the Fire and Life Safety Program Office began supporting the City's response to COVID-19, along with all City divisions. As a result, the development of the solicitation was put on hold, and the scope of the non-competitive procurements was expanded to assist with fire and life safety of City buildings in relation to the City's COVID-19 response. Specifically, the vendors worked with Toronto Fire Service to convert the community centres into emergency shelters, and to open the Emergency Worker Childcare Centres. Staff have restarted work on a competitive solicitation for the provision of fire and life safety inspection services that is expected to be issued to the marketplace in the second quarter of 2021, with an anticipated contract start date of September 2021.

Non-compliance of vendors during COVID-19 requires extension of non-competitive procurements

During the COVID-19 response, the Fire and Life Safety Program Office worked very closely with Children's Services and Shelters Support Housing and Administration as the City converted building use as part of its emergency response to the pandemic. Converting the building use on a temporary basis required that the Fire and Life Safety Program Office conduct a comprehensive inspection of the fire and life safety systems for each site, and a review of the historic inspection, testing and maintenance records in order for occupancy permits to be issued.

In conducting the inspections and reviewing the records, serious inconsistencies in the inspection documentation became evident, prompting the Fire and Life Safety Program Office to investigate the inconsistencies. The investigation determined the fire and life safety systems had been neglected, risking the safety of the occupants. The vendors were ultimately terminated, necessitating further use of the non-competitive procurements to rectify the deficiencies and bring the fire and life safety systems of the buildings in compliance with the Ontario Fire Code. The impact was magnified as the two vendors had contracts with five (5) City divisions (Children's Services, Economic Development and Culture, Parks, Forestry and Recreation, Shelter Support and

Housing Administration, and Toronto Water). Approximately four hundred buildings were affected.

The extraordinary circumstances first identified through the Auditor General's investigation and further exacerbated by COVID-19, have driven the requirement to rely on non-competitive procurements to ensure continuity of services at this time. Over the past six (6) months all buildings previously serviced by the terminated vendors have been re-inspected and are now integrated into the Fire and Life Safety Program Office's oversight. The Office has worked extensively with all divisions to rectify the outstanding deficiencies and provide inspections, tests and maintenance services that are compliant with the Ontario Fire Code.

The Fire and Life Safety Program Office is working with the Purchasing and Materials Management Division and Legal Services to have both vendors included on the non-compliant vendor watch list and suspended from performing work in City of Toronto for a five year period.

While the termination of the two vendors and the rectification of their deficient work has further delayed the development of the competitive solicitations of fire and life safety inspection service provisions city-wide, the development of the solicitation is in its final stages and is scheduled to go to market in the second quarter of 2021.

Conclusion

The extension of the five (5) non-competitive procurements will ensure the safety of City buildings, while at the same time, ensure the City releases a robust solicitation for fire and life safety inspection services.

The Fair Wage Office has reported that the above six (6) vendors included in this report have indicated that they have reviewed and understand the Fair Wage Policy and Labour Trades requirements and have agreed to comply fully.

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