

Contract Award of Negotiable Request for Proposal No. Doc2795975900 for the Trenchless Rehabilitation of Watermains (CIPP Structural Lining)

Date: April 12, 2021

To: Infrastructure and Environment Committee

From: General Manager, Toronto Water and Chief Procurement Officer, Purchasing and Materials Management

Wards: All

SUMMARY

The purpose of this report is to advise on the results of Negotiable Request for Proposals (nRFP) Doc2795975900, Contract No. 21TW-CTS-02CWD for the Trenchless Rehabilitation of Watermains (CIPP Structural Lining) at various locations across the City of Toronto in 2021, 2022 and 2023, and to request the authority to award the nRFP to Fer-Pal Construction Ltd (Fer-Pal) in the amount of \$63,565,193 net of all taxes, including 10% contingency plus an annual escalation adjustment of three (3) percent in Phase 2 and Phase 3 (2022 and 2023) of the contract to account for commodity and labour price adjustments specified in the nRFP (\$64,683,941 net of HST recoveries, \$71,828,688 including HST).

This nRFP is the first strategic sourcing initiative for Cured-In-Place-Pipe (CIPP) lining of watermains under the Purchasing and Materials Management Division's Category Management and Strategic Sourcing. Strategic Sourcing is a collaborative effort between various City Divisions and Purchasing and Materials Management Division (PMMD) to plan and execute sourcing strategies based on analysis of the supplier market, industry constraints, market data, and volume/type of work. Negotiation with potential contractors, consolidation of spend, creating efficiencies within the procurement lifecycle, and collaboration with the supplier community are all hallmarks of effective strategic sourcing. PMMD has been working with a number of other Divisions to conduct strategic sourcing initiatives since 2019.

As a result of this Watermain CIPP lining strategic sourcing initiative, the City successfully secured a contract for \$3,942,353 (net of HST and contingencies) or 6.4% below the pre-solicitation engineering estimate. This represents an average annual cost savings of \$1,314,117 (net of HST and contingencies).

RECOMMENDATIONS

The General Manager of Toronto Water and the Chief Procurement 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 General Manager of Toronto Water to negotiate and enter into agreements with Fer-Pal Construction Ltd. having submitted the highest scoring compliant Proposal and having met the specifications in conformance with the nRFP Doc2795975900 requirements, in the amount of \$63,565,193 net of all taxes, including 10% contingency (\$64,683,941 net of HST recoveries, including contingency), all in accordance with the terms and conditions as set out in the nRFP and any other terms and conditions satisfactory to the General Manager, Toronto Water and in a form satisfactory to the City Solicitor.

FINANCIAL IMPACT

The total amount to award nRFP Doc2795975900 is \$63,565,193 net of all taxes, including 10% contingency (\$64,683,941 net of HST recoveries, including contingency). The engineering estimate for this project was \$67,901,781 net of all taxes, including 10% contingency \$69,096,852 (net of HST recoveries, including contingency).

Funding is available in the Toronto Water 2021 Approved Capital Budget and 2022-2030 Approved Capital Plan. Funding details are provided in Table 1 below (all values are net of HST recoveries).

Table 1: Projected Cash Flow for nRFP Doc2795975900

	Account		
Year	CPW543-04	CPW544-15-25	Total
2021	\$11,961,575.25	\$688,231.45	\$12,649,806.70
2022	\$16,958,143.76	\$1,292,212.21	\$18,250,355.97
2023	\$19,900,164.11	\$1,897,522.34	\$21,797,686.45
2024	\$7,584,329.96	\$1,181,518.81	\$8,765,848.77
2025	\$2,620,752.99	\$599,489.84	\$3,220,242.82
Total	\$59,024,966.07	\$5,658,974.65	\$64,683,940.72

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

DECISION HISTORY

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 January 2, 2020, Bid Award Panel granted authority to the Chief Procurement Officer, Purchasing and Materials Management, to enter into an agreement with WSP (WSP Canada Group Limited) for the provision of Watermain Rehabilitation and Cathodic Protection Program Management, being the highest scoring Proponent meeting the requirements of Request for Proposal No. 9117-19-7089. A copy of the Decision Document can be found at:

<http://app.toronto.ca/tmmis/viewAgendaItemHistory.do?item=2020.BA61.3>

COMMENTS

Background

Category Management and Strategic Sourcing

The City's Purchasing and Materials Management Division (PMMD) introduced a Category Management and Strategic Sourcing approach in 2018 to secure the best value for the City within various categories of spend.

Category management is a systematic and disciplined approach to procurement, of which strategic sourcing is a component. Strategic sourcing relies on the analysis of information about supplier markets and anticipating volumes and dollar value of purchases (i.e. leveraging the City's purchasing power) to find the best possible value in the marketplace and to strategically meet the City's requirements. Negotiation with suppliers, periodic assessments of supply transactions to understand City's consumption patterns and identifying how to maximize value for money are hallmarks of effective strategic sourcing, and are reflected in this procurement event.

Strategic Sourcing for Structural Lining of Watermains

Category Selection for Strategic Sourcing:

Construction and Maintenance is one of the categories under Category Management at the City, and can be segmented into a number of sub-categories, such as linear construction (e.g. roadwork, watermain and sewer replacement, trenchless lining etc.), vertical construction and engineering services.

Of these sub-categories, rehabilitation of existing watermains delivered through Cured-In-Place-Pipe (CIPP) lining technology was identified as an appropriate candidate for Strategic Sourcing due to the following factors:

- There is a relatively stable volume of work approved by Council each year, which provides a degree of certainty to the marketplace.
- The City issues approximately four (4) CIPP watermain CIPP lining contracts annually, valued at less than \$20,000,000 each, and with a relatively short construction durations of between six (6) to twelve (12) months. Reducing the frequency with which the City issues CIPP lining solicitations would create efficiencies in resources (i.e. reduced staff time and elapsed time required to advertise, issue, receive, review, and award the tenders).

Sourcing Strategy for CIPP Lining of Watermains

In 2020, a team comprising of staff from PMMD, Toronto Water (TW), and EY, with support from Legal Services, developed a strategic sourcing strategy for CIPP lining of watermains, which focused on optimizing City resources and increasing cost competitiveness. Key components of the sourcing strategy included:

- Extension of the contract duration from one (1) year to three (3) years in order to increase category attractiveness through the assurance of work. In addition to the increased productivity achieved through the full use of the construction season, contractors who have a guarantee of work, can more easily maintain a given level of equipment and retain the labor resources required to deliver against the work. These benefits and their associated cost savings ultimately reduce risk and motivate a reduction in bid prices for contractors.
- Securing competitive pricing with limited information on location or detailed designs for Phase two (2) and three (3). In this multi-year approach, the scope of the watermain CIPP lining for future Phases (2022 and 2023) was still under development and therefore cost was secured by developing bid items based on road, material, and watermain classifications. Estimated quantities were then applied against each classification to secure pricing for unknown future locations.
- Utilizing a Negotiable Request for Proposals (nRFP): In conventional tenders and RFPs, there is limited flexibility to engage with Proponents in a collaborative way during the procurement process. As such, the City utilized a nRFP in order to: (i) develop an opportunity to recognize the contractors' difference in experience and quality of delivery through technical proposal evaluations; and (ii) facilitate engagement with Proponents in a collaborative way during the procurement process through the use using direct negotiations with the highest scoring Proponent.
- Use of a standardized price adjustment mechanism to account for inflation, commodity and labor cost changes over the term of the contract.

In 2019, as part of the strategic sourcing strategy, the City conducted a series of meetings with major lining contractors across North America (market soundings) for the purpose of better understanding market dynamics, industry trends and supply constraints, in addition to validating the impact of potential sourcing strategies under consideration by the City. The participants' feedback confirmed that the strategic sourcing approach would be accepted by the marketplace and that a larger volume of

guaranteed work through multi-year contracts would likely result in cost reductions for both the City and contractors.

Anticipated benefits of Sourcing Strategy:

As a result, the City identified the following anticipated benefits from the execution of the above-mentioned sourcing strategy:

- **Capital Cost Reduction** – Securing more competitive pricing through increased contract value increases buying power. Recognizing the City's proven record of delivering cost savings on similar projects, the project team estimated that the strategic sourcing approach would result in a cost reduction of five percent (5%) vs. the pre-solicitation engineering estimate. Through the successful execution of the strategy, the City ultimately delivered \$3,942,352 in cost reduction or 6.4% below the pre-solicitation engineering estimate (an average of \$1,314,117 annually).
- **Use of Full Construction Season** – Allowing additional time to formalize the construction programs for years 2022 and 2023 by removing the need to tender separately for each year ensures the full construction season can be 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 2022 and 2023 program years.
- **Optimize Use of City Resources** – By reducing the number of solicitations issued to market, the annual effort by PMMD and Toronto Water staff is expected to be reduced by approximately 200 hours annually.

Negotiable Request for Proposal (nRFP) Process

The nRFP Doc2795975900 was issued on January 19, 2021, with a closing date for submissions of February 12th, 2021. In total, there were two (2) addenda issued during the posting period of this nRFP. The scope of work to be delivered as set out in the nRFP included the structural lining (using CIPP technology) and commissioning of watermain at various locations across the City of Toronto. The work locations span across the City and excludes the downtown core due to the increased complexity of these locations.

Proponents were requested to submit Proposals demonstrating their ability to meet or exceed experiential and technical requirements while offering high quality service at their best price. The Proponent who scored highest on the combination of technical and pricing criteria would be invited to enter into direct contract negotiations, which would become the basis for award.

The nRFP made it clear that the City was under no obligation to award any contracts should the proposals fail to satisfy the City, and the City at its sole discretion could decide not to award

Market soundings conducted prior to the development of the sourcing strategy confirmed that a major category constraint was limited competition (i.e. a limited number of qualified suppliers due to market dynamics that exist within this category). A combination of the relatively new CIPP technology that has yet to be adopted by the majority of large municipalities in Canada (i.e. low demand), a consolidated supplier market that has experienced vertical integration as a means of increasing efficiency, the City's stringent material and experience requirements, and finally, a relatively limited supplier capacity, have been driving factors behind limited competition within this category and more specifically, for this solicitation. As a result, the City received a proposal from a single firm, Fer-Pal Construction Ltd. (Fer-Pal), in response to the nRFP. The negotiation strategy for this solicitation was adjusted accordingly and the strategic sourcing plan for future procurements within this category will be further refined taking into consideration these market constraints in an effort to increase competition.

Evaluation, Contractor Selection & Negotiation Process

A formal Evaluation Committee was convened for the purpose of reviewing the proposals received from the Proponent. 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 could be issued a rectification notice which identified the deficiencies and provided an opportunity to rectify the shortcoming(s) by a specified date. No rectification notices were required during this stage as Fer-Pal was deemed to have satisfied the mandatory submission requirements and therefore proceeded to Stage 2.

Stage 2: Technical Proposal Evaluation

In stage 2, which is worth 40% of the overall total score, each of the Proponents were to be evaluated by an evaluation team, against non-price related criteria including but not limited to operational capacity, resource availability, past performance experience with similar work and size of contracts, reference checks, and finally commitment to diversity. Concurrently, a separate technical evaluation team from WSP, was to also evaluate the technical specifications of the material and lining process outlined by each Proponent in their proposals. Only Proponents that achieved the minimum score threshold of 70% in addition to the minimum requirements of all individual evaluation criteria, would proceed to Stage 3 - Pricing Proposal Evaluation. Upon completion of Stage 2 evaluations, it was determined that Fer-Pal exceeded all of the required thresholds and therefore advanced to Stage 3.

Stage 3: Pricing Evaluation

In stage 3, which is worth 60% of the overall total proposal score, the price evaluation was conducted in accordance with the methodology set out in the nRFP. After the completion of Stage 3, all scores from Stage 2 (40% of the total score) and Stage 3 (60% of the total score) were to be added together and the Proponent submissions would be ranked in descending order of Total Scores. According to the nRFP, up to the

top three (3) ranked Proponents would then be invited to enter into Stage 4 - Commercially Confidential Meetings (CCM) and submit a best and final offer (BAFO).

Stage 4: Commercially Confidential meetings (CCM) and BAFO

The purpose of Stage 4 was to assist Proponents in better understanding the areas of potential improvement of their individual proposals (i.e. both technical submissions and pricing), and allow them the opportunity to revise and resubmit their proposals prior to re-ranking Proponents for selection into Stage 5 - Contract Negotiations. Upon review of the technical submission documents (i.e. material and lining process), the City determined that there were no technical clarifications required with Fer-Pal's proposal during CCMs, and that all required discussion topics were related to clarifications of risks and assumptions on Fer-Pal's pricing submission. Given that Fer-Pal was the only Proponent responded to this nRFP, clarifications for re-evaluation and re-ranking was not required and the City exercised its discretion to proceed directly to Stage 5 - Negotiations.

Stage 5: Contract Negotiations

Contract negotiations were held with Fer-Pal as set out in the nRFP with a focus on clarification of scope assumptions, reduction of risk to both contractor and the City, and addressing potential unbalanced bid items. 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.

Upon conclusion of Negotiations, Toronto Water staff compared the final price against the pre-solicitation engineering estimate of \$61,728,892 (net of all taxes, excluding contingency). The recommended contract award of \$57,786,539 (net of all taxes, excluding contingency) is 6.4 percent, or \$3,942,353 lower than the pre-solicitation engineering estimate and exceeds the anticipated benefit of five (5) percent by \$855,908.

Upon award, the City will enter into a 3-year Agreement encompassing three (3) phases representing 2021, 2022 and 2023 construction years, with Fer-Pal. Each phase will have an associated Work Package provided to the contractor prior to the start of each year and will include list of locations, technical specifications, construction durations during its execution. The Legal Agreement will govern and be in effect during the execution of all three (3) Phases.

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.

CONTACT

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SIGNATURE

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