

Tree Maintenance Contracts (July 2023) – Increasing Competition and Performance Measurement

Date: November 16, 2021

To: Infrastructure and Environment Committee

From: General Manager, Parks, Forestry and Recreation, Chief Procurement Officer and City Manager

Wards: All

SUMMARY

The purpose of this report is to respond to Councils direction numbers 1, 8 and 29 of item AU8.6 "Getting to the Root of the Issues: A Follow-Up to the 2019 Tree Maintenance Service Audit", adopted with amendments at the April 7 and 8, 2021 City Council meeting.

Part A of this report addresses Council direction number 1 and 29 requesting an update on a cross-divisional and agency review of the delivery of insourced and outsourced environmental services, including forestry, horticulture, parks, and other outdoor maintenance. The objective of the review is to improve service, program design, organization, oversight, value, efficiency, procurement, and contract and resource management and the feasibility of City of Toronto staff providing tree maintenance services.

Part B of this report addresses Council direction number 8, to provide an update on the structure of the next Arboricultural Services Request for Proposal with a view to increasing competition and performance measurement.

RECOMMENDATIONS

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

1. City Council receive this report for information

FINANCIAL IMPACT

There are no financial impacts arising from this report.

Any incremental costs and/or cost savings as a result of implementing recommendations associated with the Tree Maintenance Services Audit have been included in the 2022 and future budget submission for Parks, Forestry and Recreation through the annual budget process.

The Chief Financial Officer and Treasurer have 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.

<http://app.toronto.ca/tmmis/viewAgendaItemHistory.do?item=2021.CC32.6>

In April 2021, City Council adopted AU8.6 - Getting to the Root of the Issues: A Follow-Up to the 2019 Tree Maintenance Services Audit. Motions 1, 8 and 29 are addressed in this report.

<http://app.toronto.ca/tmmis/viewAgendaItemHistory.do?item=2021.AU8.6>

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. .

<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.

<http://app.toronto.ca/tmmis/viewAgendaItemHistory.do?item=2019.AU2.4>

COMMENTS

Part A - Cross-divisional and agency review

The City Manager's Office, in consultation with the General Manager, Parks, Forestry and Recreation (PFR) initiated a project for the cross-divisional and agency review of the delivery of insourced and outsourced environmental services, including forestry, horticulture, parks, and other outdoor maintenance earlier this year. Part of this work includes scope to review the feasibility of City of Toronto staff providing tree maintenance services. A negotiated Request for Proposal (nRFP) was issued in August, 2021 for consultants to undertake this work. The six-member evaluation team is currently reviewing the proposals that have been received and a proponent is expected to be finalized in November 2021. It is anticipated that this review will be complete by December 31, 2022.

Part B - Next Arboricultural Services Request for Proposal

City Council directed the General Manager, PFR and the Chief Procurement Officer (CPO), in consultation with the City Manager, to commence work as early as possible on the RFP process for the awarding of contracts to commence July 1, 2023, with a view to increasing competition and performance measurement, and to report on the results of that work.

Contract Improvements to date

PFR awarded new arboricultural services contracts in May 2021. The procurement process aimed to increase competition with the objective of increasing the number of vendors. New structures are also in place that increase performance measurement. Increasing competition encourages vendors to closely evaluate their prices and offer innovative solutions in their bid packages to win contracts. Healthy competition is central to ensuring the City secures the most value from its vendors. Increased performance measurement provides information to ensure services being delivered meet expectations, identify under-performance early to enable corrective actions and serves to improve communication feedback loops. PFRs accomplishments to date include:

Increased Competition

- **Market Soundings** engaged supplies to increase the number of bids and vendors
- **Fairness Monitor** ensured fair procurement process vetted by third party
- **New procurement process** used negotiated Request for Proposal enabling PFR to evaluate technical merits and negotiate with vendors
- **New pricing structures** made bidding more accessible to additional vendors in the marketplace. A mix of unit rate and hourly rate work (19 percent unit rate/81 percent hourly rate) and unit rate contracts of smaller geographical sizes was used.

Performance Measurement

- **Service Level Agreements** are included in the contract to address operation and service delivery deficiencies and performance
- **Increased staff oversight** has resulted in the doubling of the number of daily log inspections
- **Physical Observation** of crews through third party provides key data and information which is reported to vendors with the goal of improved service outcomes
- **Compliance Meetings** held on a regular basis with vendors to review performance and issues including but not limited to findings related to crew observations, deficiencies, and time management enable better communication and feedback to vendors, monitoring of corrective actions and identification of trends over time
- **New/updated guidelines** are used to set structure and expectations for work (Daily Work Activity Report, Forestry Performance Inspection Report, Towing, Hydro Hold-off)
- **New tracking spreadsheets** are used to track and monitor work and contract requirements (Centralized parked car call log, emergency hold-off log)

- **Third level invoice review** utilizing Management Services, a branch within PFR, to review selected final invoices provides another level of internal verification prior to invoice payment
- **Enhancing technology** including a new electronic daily log and continuing progress on the Enterprise Work Order Management System (EWMS) enables improved performance measurement through data collection to analyze trends and productivity

Progressive Improvements for 2023 contracts - Increasing Competition

PFR will continue to build on the achievements made through the May 2021 awarded contracts with the goal of continuing to increase competition using the following methods:

Conducting Market Soundings

Market soundings will be conducted in early 2022 by Purchasing and Materials Management Division (PMMD) in consultation with PFR. This method will engage suppliers to share information regarding the various procurement approaches; seek market feedback on the potential approaches and solicit inputs to consider alternative service delivery models and provide participants with a background understanding of the work and its unique characteristics.

Market sounding was used in 2019 to increase competition and understand the constraints and challenges that impact vendor's ability to submit proposals. Through this process, seven vendors were part of the market sounding and the learnings incorporated into the procurement process resulted in the City receiving six bids for its nRFP, doubling the typical number of bids the City receives for Arboricultural Services.

Retaining Fairness Monitor

The City will engage a Fairness Monitor for the next procurement. Award of the current Arboricultural Services contracts included the use of a Fairness Monitor. The Fairness Monitor concluded that the nRFP process was conducted in a fair, open and transparent manner. Ensuring a fair, open and transparent process will serve to increase competition.

Utilizing the nRFP and enhancing Terms and Conditions

The City will use a nRFP for the next procurement for Arboricultural Services work. The nRFP allows for enhanced competition as bids are non-binding, terms and conditions can be negotiated and qualitative factors can be considered, including pricing. Vendors are assessed using a combination of technical merits and pricing which are weighted. Historically, Request for Quotations were developed for Arboricultural Services work which resulted in contracts being awarded to vendors based on lowest price meeting specifications.

Additional items that will be assessed to increase and improve competition include:

- Performance security requirements; smaller vendors may not be able to afford high valued letters of credit to secure contracts
- Insurance requirements; smaller vendors may not be able to afford insurance premiums associated with the typical insurance requirements of the City which are higher due to the risk profile of the City
- Separate, smaller, procurement documents to simplify the bidding process for vendors
- Seasonal price schedules, where feasible, to attract suppliers who may have less work in the winter months
- The split between the technical and pricing score to determine what is most beneficial to attracting competition
- Increasing the lead time between awarding contracts and the implementation of contracts to give smaller suppliers opportunities to obtain the necessary resources

In addition, PMMD will conduct a pre-bid training session with the marketplace to educate them on the procurement process and scope of work requirements.

Progressive Improvements for 2023 contracts - Increasing Performance Measurement

PFR will continue to build on the achievements made through the May 2021 awarded contracts with the goal of continuing to increase performance measurement using the following methods:

Enhancing Service Level Agreements (SLA)

PFR included SLA's as part of the current Arboricultural Services contracts to implement fines for not meeting specific requirements of the contract. Based on learnings from the first few months of the 2021-awarded contracts, PFR will consider expanding the SLAs for the next procurement. New items currently under consideration include fines for:

- Not providing by-law enforcement crews within the appropriate timeframes (by-law enforcement hourly rate)
- Not meeting monthly unit rate production levels on time (unit rate)
- Not sending work packages within the appropriate timeframes (unit rate)
- Not correcting equipment deficiencies or completing re-work within the appropriate timeframes (hourly and/or unit rate)
- Poor arboricultural work (example: over-pruning) (unit and hourly rate)
- Fines for excessive yard times (hourly rate)

SLAs will be used to enhance performance measurement and will be reviewed with vendors as part of regularly scheduled compliance meetings.

Increasing unit rate contracts

PFR will shift additional contracted work to unit rate structured contracts for the next procurement cycle. Unit rate contracts shift some of the administrative burden of

performance measurement onto the vendor. The incorporation of appropriate SLA's enhances PFR's due diligence on ensuring contract terms and conditions are met regarding performance levels. Although moving to unit rate contracts is advantageous, PFR still requires hourly rate contracts to be able to quickly and efficiently respond to reactive work and extreme weather events, therefore it is suggested to continue with a hybrid approach, but increase the amount of unit rate contracts, where feasible.

Continuing with Physical Observation

PFR will consider ongoing physical observation requirements for the next procurement cycle. In 2021, PFR retained an external surveillance firm to perform physical observations of vendor crews with the goal of identifying daily log inconsistencies and unproductive activities. The contract requires that photos and continuous time stamped video footage be captured for the assigned crews. PFR's Management Services team analyzes the logs and video evidence on a weekly basis and ensures that identified issues are escalated. The continuation of physical observation is another tool available to enhance performance measurement and to ensure vendors are complying with the terms and conditions of the contracts.

Advancing the Enterprise Work Management System (EWMS)

The configuration of the Maximo solution under EWMS is intended to meet requirements addressing enhanced performance measurement of contracts. It will enable hourly rate contracts to shift to digital daily logs, monitoring of trends and assist in the definition of expected outcomes and related performance measures.

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ATTACHMENTS

Attachment 1

Progressive improvements to increase competition and performance measurement

Award Year	2019	2021	2023
Increasing Competition			
Procurement Type	RFQ	nRFP	nRFP
Duration of Contract	1 year + 1 optional 1 year renewal period	2 years	2 years + 3 optional 1 year renewal periods
Seasonal winter contract (where feasible)			✓
# Awarded Price Schedules	1	6	6-7 (estimated)
# Bidding Options	15	28	28-36 (estimated)
Unit Rate Price Schedules by smaller geographical regions		✓	✓
Lead time award to start of contract	< 1 month	1 month	Aiming for 6 months
# Bidders	3	6	TBD
Market Soundings		✓	✓
Fairness Monitor		✓	✓

Award Year	2019	2021	2023
% Hourly/%Unit Rate Contracts	100%/0%	80%/20%	65%/35% (estimated)
Increasing Performance Measurement			
SLA's	5	7	>10
# Weekly QC inspections	25	50	50
Physical Observation Contract		✓	✓
Regular Compliance Meetings		✓	✓
Third level invoice oversight		✓	✓
Electronic work management system			✓
Multiple Procurement documents			✓