REPORT FOR ACTION

Contract Award of Negotiable Request for Proposal Document 3166773834 for the Construction of Watermains

Date: May 12, 2022
To: Infrastructure and Environment Committee
From: Chief Engineer and Executive Director, Engineering and Construction Services and Chief Procurement Officer, Purchasing and Materials Management
Wards: All

SUMMARY

The purpose of this report is to advise of the results of the Negotiable Request for Proposal Document 3166773834 for the construction of watermains at various locations across the City in 2022, 2023 and 2024 and to request the authority to award two (2) separate contracts:

a) Service Area A (Scarborough, East York and North York Districts), to 2489960 Ontario Incorporated in the amount of $48,819,787.41 net of HST recoveries ($54,212,224.62 including all taxes and charges, $47,975,420.02 net of HST); and

b) Service Area B (Etobicoke and North York Districts), to 2489960 Ontario Incorporated, in the amount of $43,801,693.34 net of HST recoveries ($48,639,852.08 including all taxes and charges, $43,044,116.88 net of HST).

This is the third strategic sourcing initiative in watermain construction through the Purchasing and Materials Management Division's Category Management and Strategic Sourcing Team. Strategic sourcing is part of the City's category management approach to procurement. It relies on analyzing information about the supplier market, anticipated volumes and dollar value of purchases. Negotiations with suppliers and assessments of supply transactions are hallmarks of effective strategic sourcing.

As a result of this strategic sourcing approach, the contract pricing after negotiations represents a reduction of 9.1% and 10.6% for Service Area A and Service Area B, respectively, compared to the pre-solicitation engineering estimates.

RECOMMENDATIONS

The Chief Engineer and Executive Director, Engineering and Construction Services and the Chief Procurement Officer, Purchasing and Materials Management recommend that:

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 Chief Engineer and Executive Director, Engineering and Construction Services to negotiate and enter into agreements under terms and conditions satisfactory to the Chief Engineer and Executive Director, Engineering and Construction Services and in a form satisfactory to the City Solicitor with:

a) 2489960 Ontario Incorporated, for Service Area A, in the amount of $47,975,420.02 net of all taxes and charges ($54,212,224.62 including HST, $48,819,787.41 net of HST recoveries) inclusive of contingencies and price escalations; and

b) 2489960 Ontario Incorporated, for Service Area B, in the amount of $43,044,116.88 net of all taxes and charges ($48,639,852.08 including HST, $43,801,693.34 net of HST recoveries) inclusive of contingencies and price escalations; where

2489960 Ontario Incorporated submitted the highest scoring compliant proposal and met the specifications in conformance with the Negotiated Request for Proposal Document Number 3166773834.

FINANCIAL IMPACT

Award of Negotiated Request for Proposal Doc. 3166773834-Service Area A

The total amount to award Service Area A is $47,975,420.02 net of all taxes ($48,819,787.41 net of HST recoveries. The engineering estimate for this project was $51,272,647.33 net of all taxes ($52,175,045.92 net of HST recoveries).

Funding is available in the Toronto Water 2022 Approved Capital Budget and 2023-2031 Approved Capital Plan and in the Transportation Services 2022 Approved Capital Budget and the 2023-2031 Approved Capital Plan. Funding details are provided in Table 1 below (all values are net of HST recoveries).

Table 1: Projected Cash Flow for Negotiated Request for Proposal Document 3166773834 (Net of HST Recoveries)

Account	2022	2023	2024	2025	Total
CPW542-27-02	$12,190,204.29	$8,417,878.05	$12,096,190.01	$3,051,335.80	$35,755,608.15
CPW544-23-02	$4,338,797.77	$2,592,872.56	$3,149,166.28	$331,287.94	$10,412,124.55
Total for Toronto Water	$16,529,002.06	$11,010,750.61	$15,245,356.29	$3,382,623.74	$46,167,732.70
CTP315-07-485	$124,823.44	$1,289,675.46	$836,687.03	$159,772.90	$2,410,958.83
CTP315-09-540	$-	$-	$-	$241,095.88	$241,095.88
Total for Transportation Services	$124,823.44	$1,289,675.46	$836,687.03	$400,868.78	$2,652,054.71
Total	$16,653,825.50	$12,300,426.07	$16,082,043.32	$3,783,492.52	$48,819,787.41

Award of Negotiated Request for Proposal Doc. 3166773834-Service Area B

The total amount to award Service Area B is $43,044,116.88 net of all taxes ($43,801,693.34 net of HST recoveries). The engineering estimate for this project was $47,461,831.53 net of all taxes ($48,297,159.76 net of HST recoveries).

Funding is available in the Toronto Water 2022 Approved Capital Budget and 2023-2031 Approved Capital Plan and in the Transportation Services 2022 Approved Capital Budget and the 2023-2031 Approved Capital Plan. Funding details are provided in Table 2 below (all values are net of HST recoveries).

Table 2: Projected Cash Flow for Negotiated Request for Proposal Document 3166773834 (Net of HST Recoveries)

Account	2022	2023	2024	2025	Total
CPW542-27-03	$11,467,297.64	$7,305,987.38	$11,278,716.54	$2,787,909.41	$32,839,910.97
CPW544-23-03	$2,995,548.28	$1,944,488.62	$2,921,924.88	$309,897.81	$8,171,859.59
Total for Toronto Water	$14,462,845.92	$9,250,476.00	$14,200,641.42	$3,097,807.22	$41,011,770.56

Account	2022	2023	2024	2025	Total
CTP315-07-486	$275,453.70	$1,101,814.82	$927,219.94	$231,804.98	$2,536,293.44
CTP315-09-541	$-	$-	$-	$253,629.34	$253,629.34
Total for Transportation Services	$275,453.70	$1,101,814.82	$927,219.94	$485,434.32	$2,789,922.78
Total	$14,738,299.62	$10,352,290.82	$15,127,861.36	$3,583,241.54	$43,801,693.34

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

DECISION HISTORY

At its meeting of June 10, 2020, Infrastructure and Environment Committee granted authority to the Chief Procurement Officer to enter into an agreement with 2489960 Ontario Incorporated, for the construction of watermains at various locations across the City in 2020 and 2021, being the highest scoring proponent meeting the requirements of Request for Proposal Document 230486942 A copy of the Decision Document can be found at:
http://app.toronto.ca/tmmis/viewAgendaItemHistory.do?item=2020.IE13.2

At its meeting of May 23, 2019, Infrastructure and Environment Committee granted authority to the Chief Procurement Officer to enter into an agreement with 2489960 Ontario Incorporated, for the construction of watermains at various locations across the City of Toronto In 2019, 2020 and 2021, being the highest scoring Proponent meeting the requirements of Request for Proposal Document 230486942. A copy of the Decision Document can be found at:
http://app.toronto.ca/tmmis/viewAgendaItemHistory.do?item=2019.IE5.1

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.

COMMENTS

Background

Category Management and Strategic Sourcing

The City's Purchasing and Materials Management Division introduced a Category Management and Strategic Sourcing approach in 2018 and 2019, 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, anticipated volumes and dollar value of purchases to leverage the City's purchasing power, and to find the best possible value in the marketplace to meet the City's requirements. Negotiation with suppliers and periodic assessments of supply transactions to understand what the City is receiving and how to maximize value for money are hallmarks of effective strategic sourcing, and are reflected in this procurement event.

The anticipated continued benefits of taking this strategic sourcing approach are as follows:

- Capital Cost Reduction – Securing 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 a potential cost reduction of 8% using this procurement approach.
- Use of Full Construction Season – Allowing additional time to formalize the construction programs for 2023 and 2024, by removing the need to tender separately for that year ensures the full construction season is utilized.
- 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 2023 and 2024 program years.
- Optimize Use of City Resources – By reducing the number of solicitations issued to market, the annual effort by Purchasing and Materials Management and Engineering and Construction Services staff is expected to be reduced by approximately 400 hours.

Strategic Sourcing for Watermain Construction

Construction and maintenance is one of the categories under Category Management at the City. The Construction and Maintenance Category can be segmented into a number of sub-categories, such as linear roadwork, watermain replacement and vertical construction.

One of these sub-categories, standalone watermain replacement, was identified as an appropriate candidate for strategic sourcing because:

- There is a relatively stable volume of planned work by Toronto Water and approved by Council each year, which provides a degree of certainty to the marketplace.
- The City issues approximately ten (10) watermain construction contracts annually, each typically valued at less than $8,000,000, with a relatively short construction duration of between six (6) and twelve (12) months.
- Reducing the frequency with which the City issues watermain replacement tenders saves time (staff time and elapsed time required to advertise, issue, receive, review and award the tenders) and resources.
- Standalone watermain replacement is a standardized predictable scope that can be priced for most locations with a lesser degree of risk for the contractor.

Based on the above, an evaluation team consisting of staff from Purchasing and Materials Management, Ernst & Young LLP, Engineering and Construction Services, Toronto Water and Transportation Services, with support from Legal Services, developed a strategic sourcing strategy in 2019 and 2020, that focused on increasing the duration of watermain replacement contracts, with the aim of optimizing City resources and increasing cost competitiveness. In respect of the latter, contractors who have multi-year work certainty will be able to maintain a given level of equipment and labour and may, in turn, be motivated to reduce their bid prices. Our experiences with the first two contracts were positive. The main benefits observed were: reduced staff effort in annual tendering; construction was able to start early in the year resulting in early completion of work, with no carryovers; and the review by and input received from the contractor on the early stages of design resulted in efficiencies during construction reducing costs and construction schedules.

A typical contract tender for watermain construction includes detailed engineering designs for all locations included in the tender, supporting information on existing conditions and a pricing form, listing all required items and quantities of work to be completed under the contract. The multi-year approach includes detailed engineering designs and associated supporting materials for all year one projects and only quantity estimates for the subsequent year(s) because engineering design work is still under way.

The benefits and validation of this approach were demonstrated through the award of the first Negotiated Request for Proposal (RFP 4204-19-5019) for the construction of watermains at various locations across the City on May 23, 2019. This work was completed within the specified working days with an overall cost saving of 8.4% below the pretender engineering estimate was realized. Further, the contractor's performance was good and consistently cooperated in solving problems as they arose.

This experience was repeated in the second Negotiated Request for Proposal (Document 230486942) for the construction of watermains, at various locations across awarded on June 10, 2020. The work has now been completed with an overall cost saving of an estimated 19% below the pretender engineering estimate, and a positive work experience with the contractor.

Based on the experience with the above-referenced similar contracts the following decisions were made in the preparation of the Negotiated Request for Proposal associated with this report:

- Continue to ensure that contractors have the demonstrated management and financial resources, sufficient equipment and labour, and experience necessary to successfully deliver the projects and volume of work planned.
- Given market volatility, which affects costs and pricing on multi-year contracts, continue to use an annual price adjustment mechanism to account for inflation and commodity price changes over the term of the multiple-year contract. The unit prices for year 2 and year 3 will be adjusted using an annual blended index, comprised of Industrial Product Index (IPPI, Plastic/Rubber) and the Construction Union Wage Rate index as defined by Statistics Canada.
- Continue to use contract language, which ensures acceptable contractor performance before the City approves each subsequent year of work.

Negotiable Request for Proposals Process

Negotiated Request for Proposal Document 3166773834 was issued on January 27, 2022, with a closing date for submissions of March 4, 2022. The scope of work includes the construction and commissioning of watermains, roadwork associated with the watermain replacement projects at various locations across the City, separated into two Service Areas, which would be awarded as individual contracts (one for each Service Area). The Service Areas span across the City outside the downtown core, with Service Area A covering Scarborough, East York and part of North York Districts and Service Area B covering Etobicoke and part of North York Districts. The work includes portions of Toronto Water's state of good repair watermain capital program and Transportation Services' state of good repair local road rehabilitation capital program for the years 2022, 2023 and 2024.

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.

As per the Negotiated Request for Proposal, 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.

At the time of closing, responses were received from the following three (3) firms:

- 2489960 Ontario Incorporated
- Four Seasons Site Development
- Sanscon Construction Limited

Evaluation, Contractor Selection & Negotiation Process

A formal Evaluation Committee was convened for the purpose of reviewing the proposals received from the three (3) proponents.

The evaluation process consisted of four (4) 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 all three (3) proponents were deemed to have satisfied the mandatory submission requirements and therefore proceeded to Stage 2.

Stage 2: Technical Proposal Evaluation

Each of the proponents were evaluated against non-price related criteria including, but not limited to technical qualifications, operational capacity, resource availability, and reference checks on past performance. The Stage 2 – Technical Proposal Evaluation was scored out of 20 points. Out of the three (3) proponents that were evaluated in this stage, two (2) proponents, 2489960 Ontario Incorporated and Four Seasons Site Development, met the overall minimum threshold score outlined in the Negotiated Request for Proposal of 60% (18.2 and 13.0 out of 20 points for 2489960 Ontario Incorporated and Four Seasons Site Development, respectively) and the minimum requirements of all individual evaluation criteria and therefore advanced to Stage 3.

Stage 3: Pricing Proposal Evaluation

The price evaluation was conducted in accordance with the methodology set out in the Negotiated Request for Proposal. After the completion of Stage 3, all scores from Stage 2 (representing 20% of the total score) and Stage 3 (representing 80% of the total score) were added together and the Proponent's submissions were ranked in descending order of their total scores. According to the Negotiated Request for Proposal, the highest scoring proponent would be invited to enter into negotiations. Given the scoring results of the Negotiated Request for Proposal, the City proceeded with negotiations with 2489960 Ontario Incorporated and Four Seasons Site Development, who submitted the highest scoring proposals.

Stage 4: Concurrent Negotiations and Best and Final Offer

The best and final offer negotiations included a commercial and confidential meeting with each of the proponents separately, followed by a period in which they could revisit their pricing proposal and resubmit their final pricing offer. The proponents that were invited at this Stage were required to execute a non-disclosure agreement prior to participation.

During the concurrent negotiation sessions, the City provided each proponent with additional information (gap analysis) in order to seek proposal improvements in each Proponent's best and final offer submission. At the end of the best and final offer period, both proponents submitted their final pricing offer for both service areas.

City staff compared the proposals to the pre-solicitation engineering estimate for each Service Area:

- The proposals submitted by 2489960 Ontario Incorporated for Service Areas A and B, respectively, were lower than the engineering estimate and represented value for the City in line with the objectives of the Strategic Sourcing initiative.

- The proposals submitted by Four Seasons Site Development for Service Areas A and B, respectively, significantly exceeded the engineering estimate. Given the cost reduction objectives of this Strategic Sourcing Procurement, City staff could not justify proceeding with a recommendation for a contract award to Four Seasons Site Development.

Service Area A

Engineering and Construction Services staff compared the final price against the pre-solicitation engineering estimate for Service Area A of $52,576,430.11 (net of all taxes). The recommended contract award to 2489960 Ontario Incorporated of $47,795,420.02 (net of all taxes) is approximately 9.1 percent lower than the pre-solicitation engineering estimate. As the proposal represented value for the City, consistent with the objectives of the Strategic Sourcing initiative, the City was satisfied with its negotiation efforts.

As a non-binding procurement process, the terms and conditions of the Negotiated Request for Proposal 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 award, the City will enter into an Agreement with 2489960 Ontario Incorporated. Work will be allocated in three (3) work packages, which are expected to be issued annually in each of 2022, 2023 and 2024. Each year's program of work will consist of a unique work package containing the list of locations, geotechnical reports, design drawings, contract time and other relevant documentation.

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.

Service Area B

Engineering and Construction Services staff compared the final price against the pre-solicitation engineering estimate for Service Area B of $48,194,202.62 (net of all taxes). The recommended contract award to 2489960 Ontario Incorporated of $43,044,116.88 (net of all taxes) is approximately 10.6 percent lower than the pre-solicitation engineering estimate. As the proposal represented value for the City, consistent with the objectives of the Strategic Sourcing initiative, the City was satisfied with its negotiation efforts.

As a non-binding procurement process, the terms and conditions of the Negotiated Request for Proposal 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 award, the City will enter into an Agreement with 2489960 Ontario Incorporated. Work will be allocated in three (3) work packages, which are expected to be issued annually in each of 2022, 2023 and 2024. Each year's program of work will consist of a unique work package containing the list of locations, geotechnical reports, design drawings, contract time and other relevant documentation.

Based on the past successful performance by 2489960 Ontario Incorporated on this type and similar annual volume of work, staff are confident that, as a joint venture, they have the necessary resources to successfully undertake the work associated with the two (2) contracts.

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.

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