

Amendment to Purchase Order Number 6054910 with Deloitte LLP for Provision of Tax Recovery and Tax Advisory Services for Accounting Services

Date: August 26, 2024

To: General Government Committee

From: Acting Director of Accounting Services and Chief Procurement Officer

Wards: All

SUMMARY

The purpose of this report is to request the authority to amend Purchase Order Number 6054910 issued to Deloitte LLP for commodity tax recovery and tax advisory services.

In 2023, the City entered into a Customer-Supplier Agreement for Payment Recovery Services with Deloitte LLP pursuant to Master Agreement OECM-2019-347-02 between Deloitte LLP and Ontario Education Collaborative Marketplace. Under the contract with the City, Deloitte LLP is entitled to receive a commission fee of fifteen percent (15%) of the total tax recoveries that it earns for the City.

As a result of the tax recoveries earned to date that are significantly greater than our historical experience, the commission payable to Deloitte LLP has exceeded the current purchase order value. Therefore, an amendment is being requested to facilitate payment for the excess commissions earned to date and also for the commissions that are expected to be earned over the remaining contract term, which expires on February 28, 2025.

The total value of the purchase order amendment being requested is \$1,600,000 net of all applicable taxes and charges (\$1,628,160 net of Harmonized Sales Tax Recoveries), revising the current purchase order value from \$400,000, net of all applicable taxes and charges (\$407,040 net of Harmonized Sales Tax Recoveries) to \$2,000,000 net of all applicable taxes and charges (\$2,035,200 net of Harmonized Sales Tax Recoveries).

RECOMMENDATIONS

The Acting Director of Accounting Services and Chief Procurement Officer recommend that:

1. The General Government 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 Purchase Order No. 6054910 issued to Deloitte LLP to increase the value by \$1,600,000 net of all applicable taxes and charges (\$1,628,160 net of Harmonized Sales Tax recoveries) revising the current purchase order value from \$400,000 net of all applicable taxes and charges (\$407,040 net of Harmonized Sales Tax recoveries) to \$2,000,000 net of all applicable taxes and charges (\$2,035,200 net of Harmonized Sales Tax recoveries).

FINANCIAL IMPACT

The commission fees payable to Deloitte LLP are funded directly from the tax recovery revenues earned by the City for the services being provided under this contract.

The current purchase order value of \$400,000 net of all applicable taxes and charges was determined based on estimated total recoveries of \$2,666,667 over the duration of the contract ($\$2,666,667 \times 15\%$). The total estimated recoveries were based on actuals achieved from historical contracts for similar services.

The City has earned approximately \$7.5 million in tax recoveries to date from the services rendered by Deloitte LLP under this contract and, as a result, has commissions payable to Deloitte LLP of approximately \$1.1 million ($\$7,500,000 \times 15\% = \$1,125,000$). The tax recoveries were claimed on the City's GST/HST return for the December 2023 reporting period and were received in full from the Canada Revenue Agency (CRA) on May 2, 2024. A summary of the total tax recoveries earned to date is provided under Attachment 1.

The amendment being requested in this report will increase the total value of the current purchase order by an additional \$1,600,000 net of all applicable taxes and charges (\$1,628,160 net of Harmonized Sales Tax recoveries) for the excess commissions earned to date beyond the original purchase order value (i.e., $\$1,125,000 - \$400,000 = \$725,000$), and also for additional commissions that may be earned by Deloitte LLP over the remaining contract term, which expires on February 28, 2025. This will revise the current purchase order value from \$400,000 net of all applicable taxes and charges (\$407,040 net of Harmonized Sales Tax recoveries) to \$2,000,000 net of all applicable taxes and charges (\$2,035,200 net of Harmonized Sales Tax recoveries).

The commission fees payable to Deloitte LLP in 2024 will be fully funded by the 2024 tax recovery revenues earned as a result of the services provided by Deloitte LLP in accordance with this contract. The commission fees payable in 2025 will be funded by the expected 2025 tax recovery revenues. There are no budget implications to the additional commission fees payable.

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

DECISION HISTORY

The City entered into a Customer-Supplier Agreement with Deloitte LLP effective August 14, 2023, and issued Purchase Order No. 6054910 on September 28, 2023, with a value of \$400,000 net of all applicable taxes and charges (\$407,040 net of Harmonized Sales Tax recoveries).

The Customer-Supplier Agreement with Deloitte LLP leverages on the Ontario Education Collaborative Marketplace Master Agreement (OECM-2019-347-02). The Ontario Education Collaborative Marketplace is a trusted not-for-profit partner for the province of Ontario's education sector, broader public sector entities, provincially funded organizations and other not-for-profit organizations which offers a comprehensive choice of collaboratively sourced and competitively priced products and services.

The Chief Procurement Officer concurs that the City is able to leverage the Ontario Education Collaborative Marketplace agreement on the basis of Section 195-6.6 of the Purchasing By-law "Procurement of same goods and services as public body". The City utilized the supplier listing, performed an evaluation of the suppliers and entered into an agreement directly with Deloitte LLP, who was one of the three awarded suppliers on the Ontario Education Collaborative Marketplace Master Agreement. The current active Ontario Education Collaborative Marketplace Master Agreement expires on February 28, 2025. Suppliers under the Ontario Education Collaborative Marketplace Master Agreement are to provide an in-depth analysis of the City's payment transactions to provide commodity tax recovery and advisory services.

COMMENTS

The City supplements its expertise and resources in the area of commodity taxes through regular contact with a professional GST/HST consultant to assist with the review of transactions to ensure that commodity tax recoveries are being maximized and help ensure that the Excise Tax Act is being applied correctly. In addition, any changes to the tax legislation, technical publications, or case law that may be relevant to the City are identified by the consultant so that they can be built into the City's administrative processes. The City has previously engaged Deloitte LLP and other tax service providers to carry out these commodity tax recovery services.

The Deloitte LLP Commodity Tax division is comprised of 17 partners and directors with diverse qualifications and extensive experience in interpreting, challenging, and applying tax legislation, coupled with a strong working relationship with CRA officials. As part of the services they provide, Deloitte LLP explores unique tax planning and recovery concepts by leveraging their expertise of the Excise Tax Act and utilizing proprietary models to develop defensible tax strategies and positions that maximize tax savings for the City.

Based on these services, Deloitte's LLP Commodity Tax division has enabled the City to earn approximately \$7.5 million in tax recoveries to date. The tax recoveries were claimed on the City's GST/HST return for the December 2023 reporting period and were received in full from the Canada Revenue Agency (CRA) on May 2, 2024. A summary of the total tax recoveries earned to date is provided under Attachment 1.

Deloitte LLP stands behind their tax recovery services by managing and responding to audit inquiries from the CRA on behalf of the City concerning the tax recovery strategies and positions taken. In the event that a CRA audit denies the City's position on a tax recovery that was earned through Deloitte's services, Deloitte LLP will in turn refund the related commission paid to them by the City.

A crucial component of the tax recovery services is the transfer of knowledge and expertise to City staff, which shares insights into the root causes of recoveries and related tax positions that can then be applied by City staff to similar future transactions and introduces best practices for process improvement.

CONTACT

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SIGNATURE

Mark Rozic
Director (Acting), Accounting Services Division

Geneviève Sharkey
Chief Procurement Officer

ATTACHMENTS

Attachment 1 - Summary of the HST Recoveries Earned to Date