

Litigation Arising from the Rehabilitation of Section 1 of the F.G. Gardiner Expressway (Jarvis Street to Cherry Street) - Supplier Suspension Status Update

Date: October 8, 2025

To: General Government Committee

From: Chief Procurement Officer and Chief Engineer and Executive Director,
Engineering and Construction Service Division

Wards: All

SUMMARY

On April 7, 2025, the General Government Committee had requested the Chief Procurement Officer, with Engineering and Construction Services, to report directly to the April Council meeting with a recommendation regarding the potential suspension of WSP Canada Inc. from City contracts and subcontracts. Suspension was not recommended at that time by the Chief Procurement Officer and the Chief Engineer and Executive Director, Engineering and Construction Services ("ECS").

Further on April 23, 2025, Council instructed the Chief Procurement Officer to notify WSP of its proposed suspension, following the Supplier Suspension Procedure, and report back to the General Government Committee on whether WSP should be suspended from bidding on or being awarded future City of Toronto contracts.

Since then, and in accordance with the established Supplier Suspension Procedure, the CPO and staff from ECS, in consultation with Legal Services, have continued to recommend that WSP Canada Inc. ("WSP") maintain its eligibility to participate in City procurement opportunities. Suspension is not warranted under the Supplier Suspension Procedure and taking into account the scope of work currently being undertaken by WSP and their overall performance on City contracts.

RECOMMENDATIONS

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

- 1) The General Government Committee receive this report for information.

FINANCIAL IMPACT

There is no financial impact resulting from the adoption of this report.

DECISION HISTORY

At its meeting on April 23, 2025 Council directed the Chief Procurement Officer to advise WSP of the proposed basis for its suspension, provide WSP with 30 days to respond to the communication and to report to the General Government Committee in accordance with the requirements of the Supplier Suspension Procedure with a recommendation as to whether WSP should be suspended from being eligible to bid on or be awarded any City of Toronto contracts as a supplier of goods and/or services or as a subcontractor to such a supplier and, if so, for how long.

<https://secure.toronto.ca/council/agenda-item.do?item=2025.GG20.12>

At its meeting on April 7, 2025, the General Government Committee directed the Chief Procurement Officer, in consultation with the Chief Engineer and Executive Director, Engineering and Construction Services, to report directly to the April 23, 24 and 25, 2025, meeting of City Council.

<https://secure.toronto.ca/council/agenda-item.do?item=2025.GG20.12>

COMMENTS

Background

This report outlines the review undertaken by the Chief Procurement Officer in accordance with the direction from the Council on April 23, 2025.

Procurement Bylaw & Supplier Suspension Procedure

The City's procurement processes are governed by Toronto Municipal Code, Chapter 195, Procurement (the "Procurement Bylaw"). Article 13 Supplier Code of Conduct of the Procurement Bylaw sets out standards for ethical business practices, transparency, and accountability.

The Supplier Suspension Procedure requires that decisions to suspend must be evidence-based, proportionate, and follow a transparent and fair process.

The Supplier Suspension Procedure contemplates that, where Council is considering suspension of a supplier, the supplier will receive advance notification inviting it to respond with any additional information within 30 days, and the Chief Procurement

Officer and relevant Division Head will report to the appropriate Standing Committee with a recommendation. In accordance with Chapter 27, Council Procedures, a supplier would have an opportunity to depute at the committee meeting.

In this case, after the April 23, 2025 Council meeting, in order to determine whether it was appropriate to recommend that WSP be suspended, ECS and Purchasing and Materials Management Division ("PMMD") reviewed the number and scope of existing contracts WSP has with the City, consulted with staff within ECS and other City divisions overseeing WSP projects, and invited WSP to provide information in response to the motion under consideration, as summarized below.

Analysis

The City has 84 active contracts, including rosters that result in additional work assignments, with WSP, across multiple City Divisions. ECS conducted outreach to City divisions holding the WSP contracts in April to assess WSP's performance on current and past projects. The feedback received from operational staff confirmed that WSP continues to meet overall expectations in its active work for the City. Based on this due diligence, ECS submitted a recommendation to the CPO in April not to proceed with suspension.

In addition to ECS's outreach, PMMD reviewed WSP's performance under the Contractor Performance Evaluation Procedure. The evaluation, based on defined, transparent metrics, yielded a positive score, suggesting that suspension is not warranted.

Since the April Council meeting, ECS completed a second review of WSP's performance. This involved an assessment of current and past performance of 33 contracts performed with our Bridges and Expressways, Major Infrastructure and Linear Underground – Basement Flooding Protection Program. The second analysis confirmed that WSP's work is acceptable and consistent with the work of other engineering consultants. Under the Supplier Suspension Procedure, suspensions should be based on a balanced review of whether the supplier's conduct presents a risk to the City's valid commercial or business interests. The analysis conducted by ECS has confirmed that WSP's conduct does not present risk to the City's valid commercial or business interests.

WSP continues to meet overall expectations in its active work with the City. While some contracts have experienced issues, these are being addressed effectively at the staff level through contract management, and discussions are ongoing regarding how WSP can be responsive to the City's concerns. City Planning and Development Review staff have also noted a contractual disagreement with WSP regarding the North York Centre Secondary Plan Review. This issue is currently being managed by the Divisions. In addition, given the vast scale of WSP's operations and services, none of the same staff who work on the Gardiner projects were engaged on this contract.

In addition, the City may require WSP to provide a mitigation plan so that staff involved in disputed issues do not provide services on future contracts if directed by the City. Such a protocol was implemented for procurements under Gardiner Section 2. WSP is a
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large corporation with a global presence. It has ample resources available to ensure that there would be no resulting adverse impacts on professional services provided to the City.

In April 2025, Council asked staff to report on the potential suspension of WSP in the context of a report on the status of an action filed by the City against WSP related to the Rehabilitation of Section 1 of the F.G. Gardiner Expressway (Jarvis Street to Cherry Street). This litigation has not concluded. The City alleges that known design errors during this project, which were addressed during construction, increased the costs of the project to the City; this is an outstanding issue to be resolved, and WSP indicated that it is responding to this claim in good faith and is committed to finding an amicable resolution.

The CPO wrote to WSP on August 29, 2025, advising it that the General Government Committee would be considering the CPO recommendation with respect to whether to suspend it, that she did not intend to recommend suspension, and invited WSP to respond with any information that it thought relevant to the CPO review. WSP responded by letter dated September 29, 2025, a copy of which is attached for Council's reference. In their letter, WSP noted that it has more than 170 active projects with the City and that it greatly values its business relationship with the City. WSP stated that, given the large number of active projects it currently has with the City, it is not unusual for certain contract-related disagreements to arise, and it works with City staff in good faith to resolve such issues as they arise.

Based on the above factors, ECS and the CPO continue to recommend to the General Government Committee that WSP not be suspended from being eligible to bid on and be awarded any City contracts, either as a supplier of goods and/or services or as a subcontractor to such a supplier.

Conclusion

Following a review of the current situation, including WSP's performance history, the City of Toronto's procurement policies, the Supplier Suspension Procedure and Chapter 195 of the Municipal Code, the Chief Procurement Officer does not recommend suspending WSP Canada Inc. Instead, continued monitoring and engagement with the supplier should be pursued to address any concerns and ensure compliance with contractual obligations.

CONTACT

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SIGNATURE

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Chief Procurement Officer

Jennifer Graham Harkness, P.Eng.
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ATTACHMENTS

Attachment 1 - WSP Letter - September 29, 2025
Attachment 2 - Schedule 'A' - Project List for City of Toronto