



STAFF REPORT INFORMATION ONLY

Procurement Process Presentation

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| Date: | February 25, 2015 Resubmitted April 29, 2015 |
| To: | TTC Board |
| From: | Chief Executive Officer |

Summary

The Materials and Procurement Department is responsible for all procurement, with the exception of Petty Cash purchases, plus the sale of all items declared surplus, including scrap metal. Materials and Procurement is also responsible for the inventory planning, warehousing and distribution of all repetitively purchased items which we stock to provide material specifically to the operating areas throughout the TTC.

The TTC has formalized procurement policies and internal procedures to manage the procurement process and the presentation will highlight some of those processes.

Financial Impact

This report has no financial impact.

Issue Background

TTC typically provides a summary of the procurement process at the TTC to every new Board to provide Board members with a better understanding of the processes followed prior to being requested to approve procurement reports.

Accessibility/Equity Matters

This report has no accessibility or equity issues.

Comments

The intent of this presentation is to provide sufficient information for the Board to better understand the level of detail included in the procurement process, when the Board reviews reports for procurement authorization.

Contact

Jim Lee, Head of Materials and Procurement

Attachments

Procurement Process Presentation



PROCUREMENT PROCESS

April 2015





Procurement Groups Within Materials & Procurement (M&P)

- **Purchasing & Sales**
 - Purchase of Goods & Services for Inventory and Non-Inventory Items
 - Sale of Vehicles (Revenue & Non-Revenue)
 - Sale of Scrap Metals





Procurement Groups Within Materials & Procurement (M&P)

- **Project Procurement**
 - Purchase of Construction Services
 - Design/Engineering Services
 - Supply & Install Engineered Equipment
 - Purchase of Revenue & Non-Revenue Vehicles
 - Major Project Purchases (Wireless Project, Information Technology Systems, such as Systems Applications and Products (SAP), Computer Aided Dispatch (CAD)/Automatic Vehicle Location (AVL), Contracting Out Services, etc.)





Procurement Types

- Competitive – More than 1 company competing
- Sole Source – Only 1 company approved/known (Revised)
- Single Source – More than 1 company known but special circumstances exist subject to substantiation (Revised)





The Requirement

- Prior to preparing a Request for Bid package, M&P:
 - Reviews commodity packages to determine opportunities to joint purchase with City of Toronto or Province





Bid Document (Tender vs Proposal)

Tender

- Well Defined Requirements
- Generally Price Driven

Proposal

- Less Defined Requirements Performance Specification
- Qualitative Evaluation
- Price Evaluation of those companies that qualify





Bid Document (Tender vs Proposal)

Structured Multi Phase Bid Process

- Specialized requirements with Limited Potential Bidders
 - Revenue & Non-Revenue Vehicles, including Workcars
 - Special Track Work





Communications During Bid Process

- TTC Procurement Policy – A Single Point of Contact Through M&P From Issue of Request To Award “Blackout Period” and all communication is coordinated through the single point of contact identified in the Bid Documents
- TTC prohibits lobbying during the procurement process (issuance of a request to award).





Communications During Bid Process

- City of Toronto Municipal Code, Chapter 140 (Lobbying) provides that:

Lobbyists shall not communicate in relation to a procurement process except as permitted by applicable procurement policies and procurement documents.





Communications During Bid Process

- Unless expressly stated to the contrary in a TTC Bid Document (Request), an individual cannot “lobby” a TTC Commissioner during the Procurement Process
(Chapter 140, City of Toronto Municipal Code and TTC Procurement Policy)
- Blackout period applies to TTC Commissioners





Communications During Bid Process

- M&P Co-Ordinates Replies To Bidders
- M&P Issues Addenda To All Bidders For Changes
- Ensure All Bidders Receive Same Information
- Communication with Bidders during a bid period is controlled by the M&P representative assigned to the specific bid or designate
- Games Bidders May Play
 - Incumbents using existing contract as excuse to ask Questions
 - Calling Several Employees





Tender/Proposal Law – Based on Supreme Court of Canada (Ron Engineering decision)

- Ron Engineering Submit Bid based on a Request for Tenders
- Bid period closes.
- Bidder claims error after bid opening - price is incorrect
- No Apparent error on the face of the bid
- Requests withdrawal of its bid without penalty





Tender/Proposal Law

- Supreme Court of Canada Decision (1983)
- Withdrawal of bid denied
- No error that is apparent of the face of the bid
- Decision has created the basis for the law of tendering & competitive bidding in Canada.





Tender/Proposal Law

- TTC's past experience – TTC v. Gottardo:
- Similar To Ron Engineering
- Gottardo submits a bid – pricing made public
- Claimed an error with its pricing after public opening
- TTC's position - no error apparent on the face of bid
 - Difference between Gottardo's bid and 2nd low was not unreasonable
 - Difference between Gottardo's bid and TTC's Engineer's estimate was also reasonable
- Gottardo requested that its bid be withdrawn





Tender/Proposal Law

TTC v. Gottardo:

- TTC attempted to award contract
- Gottardo refused to enter into Contract B
- TTC sued Gottardo for breach of Contract A and made a claim on its Bid Bond
- At Trial: TTC loses and appeals
- Court of Appeal: Trial Judge's decision overturned - Gottardo's bid did not contain an error obvious on the face of its bid and it could not withdraw its bid.





Bid Evaluation

- Commercial Evaluation – M&P
- Technical Evaluation, if required – Customer
- Qualitative Evaluation, if applicable – Customer & M&P (may include others)
- On some large projects, independent fairness advisor may also be used to ensure the integrity of the procurement process.
- Evaluators sign a Conflict of Interest Declaration form to ensure that no conflict exists or that any potential conflict is clearly stated prior to evaluation of bids.





Proposal Evaluation (Primarily Design Contracts)

- Submission Requirements **MUST** Be specific to the Need
- Evaluation Criteria **MUST** Be Disclosed in Bid Document
- Any Weighted Criteria **MUST** Be Established Prior To Closing, Including Weighted Pricing, if Applicable





Proposal Evaluation

- Team Established For Review, In Advance
- Team Reviews Submissions
- Team Consensus Rating Established Per Criteria
- Best Qualified Bidders Shortlisted





Proposal Evaluation

- Two Envelop Process
- Qualitative Evaluation First
- Establish Shortlist (Qualified Only)
- Open Pricing
- Evaluate Pricing Based On Bid Document (Generally Weighted Price 30%)





Proposal Evaluation

- Corporate Qualifications/Experience
- Team Qualifications/Experience (Resumes)
- Methodology, If Applicable





Bid Evaluation

- Valid Bid Form
- Demonstrated Work History
- Compliance With Requirements:
 - Commercial
 - Technical





Bid Evaluation

Exceptions

- Exception to a requirement
- TTC has a published list/policy of the most common errors made within a submission and the response (automatic rejection or not). The list is available through the TTC website
- [https://www.ttc.ca/TTC Business/Materials and procurement/Bid Irregularities.jsp](https://www.ttc.ca/TTC_Business/Materials_and_procurement/Bid_Irregularities.jsp)

Qualification

- Clarify a requirement





Bid Evaluation

Errors or Omissions

- Must Be Apparent on the face of the bid to be considered
 - Example, bid bond equal to at least 10% of bid price, but when calculated is only 9.5%.





Bid Evaluation

Errors or Omissions

If:

- Price Incomplete Or Ambiguous
- Failure To Sign Form of Bid
- Failure To Acknowledge All Addenda (unless the failure does not have a material impact on the intent of the contract)
- Failure to submit/meet all mandatory requirements

Then:

- Bid Unacceptable





Bid Evaluation

Errors Or Omissions

If:

- Obvious Arithmetic Errors & Bid Document Allows
- Immaterial Omissions (EG. Phone Number)
- Information Included But Not In Correct Location

Then:

- Bid Acceptable





Bid Evaluation

- Staff evaluates Bids, as submitted
- Open for acceptance as submitted based on the stated validity period





Evaluation Results

Acceptable Bid

- Submission is complete and in accordance with Bid Documents
- Meets all mandatory requirements
- Acceptable references (establishing that the Bidder has performed work of a similar size and nature)





Recommendation for Award (Contract B)

- Lowest Cost/Best Value (qualified) compliant submission
 - Some exceptions to this rule. For example, the standard Bid Documents contain a provision that if a Bidder has received a poor performance rating from the TTC on another TTC contract, TTC reserves the right not to recommend the Bidder for award of a future contract.





Authorization

- Based on Commission's Authorization For Expenditures And Other Commitments Policy
- Construction Contracts are awarded at a contract price but staff are now including a contract change allowance based on experience to better inform the Board.
- Consultant requirements are generally upset limit contracts with releases based on approved work plans.





Authorization

- The purchase of day-to-day operating parts includes a contingency value as the awarded contracts are based on estimated quantities. The expenditure is based on actual use.





Process Consistency

- Process Consistent & Non-Arbitrary
- Protects Integrity/Fairness Of Procurement
- Eliminates Bias or Favouritism (Real Or Perceived)





Process Consistency

- Sometimes costs more on individual purchase to ensure integrity/fairness
- Avoid establishing poor/subjective process
- Affects future decisions
- Ensures Bidding community knows and understands the rules and requirements and that each bidder will be given a fair and equal opportunity
- Best value for TTC in long run





Summary

- Provides TTC with the products & services required to operate the transit system
- Provides open access to TTC business
- Fair to all that participate
- Protects the TTC from costly litigation





Customer/M&P Responsibilities

After Award

- All changes **MUST** be appropriately documented
- All changes **MUST** be appropriately authorized
- Document, Document, Document





Audits

- All contracts are subject to audit
- Audits are ongoing every year
- Only way to verify compliance with hourly rates





Contract Standards

- Contract Documents Committee
- Best Practises using other models from City/Province/other Municipalities





Construction Estimates

- Established using Professional Engineers of Ontario/TTC Guidelines
- Construction Estimates Conducted using accumulated data from previous contracts





Outreach Efforts

- Regular Meetings with the City of Toronto for Joint Purchasing
- Working with Province to take advantage of Vendor of Record Program
- Working with City of Toronto for Public Advertising
- Reviewing Province of Ontario Public Advertising





Outreach Efforts

- Construction Industry
 - Ontario Construction Secretariat
 - Ontario General Contractors Association
- Consulting Engineers of Ontario
 - Alternative Pricing Strategies





Outreach Efforts

- Member of Ontario Public Buyers Association
- Work closely with City of Toronto to compare processes & share information
- Working with Original Equipment Suppliers to improve relationships
- Share procurement information with other public transit organizations;
 - New York/Washington/Chicago/Mississauga/Ottawa/York Region/Montreal/Province of Ontario
- Encourage debriefings for unsuccessful bidders





Continuous Improvement

- Exploring alternative contracting strategies
 - Construction Management
 - Design/Build
 - P3
- Comparing TTC standards to others
- Learn from previous contract/claims





Continuous Improvement

- Procurement Policy under Review
- Possible Changes being considered:
 - Negotiating with three low bidders
 - Challenges to the Procurement Process
 - Significant price variances in bids
 - Unsolicited Proposals
 - Best and Final Offer





Challenges

- Increasing Quality Bid Submissions for Construction
 - Looking at root causes with industry
 - Could consider open shop contracting
- Specialized Material/Equipment (limited suppliers)
 - Rail
 - Work Cars
 - Vacuum Trucks

