

Appendix 1: Sequence of Events**Formal Bid Protest by Almon Equipment Ltd. regarding Procurement No. PRC002556 for the Supply and Delivery of Flexible Traffic Bollards**

Event	Date
Request for Tenders (RFT) issued	October 8, 2020
Almon emailed the buyer requesting review of alternate product	November 11, 2020
Buyer responded to Almon with incorrect information	November 12, 2020
Bidding closed	November 17, 2020
During bid review, an email was sent to Almon requesting clarification of their product	December 10, 2020
Almon responded with additional information	December 10, 2020
Letter (attached) issued to Almon; bid rejected due to non-compliance with specifications. Almon provided with standard 3 day notice period to raise any questions	January 18, 2021
Letter (attached) received from Almon, pointing out error and requesting that the City reconsider its decision to reject the bid	January 20, 2021
Letter (attached) issued to Almon acknowledging error and that the DEFLEX product has been reviewed and does not meet specifications and the rejection of their bid stands	January 27, 2021
Letter (attached) received from Almon requesting that the City either accept their bid or cancel and reissue the bid call	January 28, 2021
Letter (attached) issued to Almon reiterating the City's position and that, if unsatisfied, Almon may make a Formal Bid Protest before City Council, in accordance with City Policy # 03-06-08 Bid Awards and Bid Protests.	March 8, 2021
Almon registered their Formal Bid Protest with Legislative Services and will appear before General Committee on April 14, 2021	March 11, 2021

January 18, 2021

Almon Equipment Ltd.
E-mail: mike@almon.ca

Re: NOTICE OF BID DISQUALIFICATION
Procurement No: PRC002556 – Supply and Delivery of Flexible Traffic Bollards

Dear Mr. Ale

Thank you for your bid on the above mentioned procurement. Your bid has been reviewed and it is not acceptable to the City.

A number of items in the manufacturer specifications are inconsistent with the specifications outlined in the Bidder Info Package:

- Bidder Info Package specifications require only 2 – Your bid manufacturer's specifications show 4 reflective strips
- Bidder Info Package specifications require 42" – Your bid manufacturer's specifications show a height of 48"
- Bidder Info Package specifications require 2.375". – Your bid manufacturer's specifications show an outer diameter of 3.5"
- Bidder Info Package specifications require a pinched top, "short squeeze" (not capped) – Your bid manufacturer's specifications show a capped top
- Bidder Info Package indicates each bollards having a set of 4 Lag Screws, 4 Washers, and 4 Plugs. Your bid manufacturer's specifications indicate only three 3 lag bolts, 3 washers, and no plugs

Further, the product does not have a reactive spring assembly that rebounds to upright when struck, as per Bidder Info Package specifications.

As a result, the bid received from Almon Equipment Ltd. has been disqualified on this occasion, in accordance with the City's Standard Instructions with states that:

In accordance with the City's Bid Openings and Bid Irregularities Policy (03-06-02):
"...The Manager must reject a bid with a Major Irregularity without further consideration..."
The City's policy for Bid Openings and Bid Irregularities can be found by following [this link](#).

Should you have any questions, please direct them in writing to the undersigned no later than 4:00 p.m. on Thursday, January 21, 2021.

Yours truly,
Erica Edwards, Manager Materiel Management – External Services
Tel: 905-615-3200, ext. 5238
Email: Erica.edwards@mississauga.ca



January 20, 2021

Erica Edwards
 Manager Materiel Management – External Services
 City of Mississauga
 905-615-3200 ext. 5238
Erica.edwards@mississauga.ca

RE: Notice of bid disqualification – Procurement No: PRC002556 – Supply and Delivery of Flexible Traffic Bollards

Dear Ms. Edwards,

We are in receipt of your letter dated January 18, 2021 regarding the disqualification of our bid with respect to the above noted Procurement Call.

In review of your letter, there is no incorporation or mention of the responses that were sent to your colleague Maria Torres on December 10th, 2020 in response to her request to Almon for clarifications.

The product that is being offered does not fail to meet the City specifications but rather exceeds the specifications translating into a product that will last longer, cost less and increase public safety.

Additionally, the product is Canadian made and have been in service in Canadian conditions for over a decade.

The clarification responses that Almon sent are as follows:

- o Manufacturer specifications show 4 reflective strips, Bidder Information Package specifications require only 2
 - **ALMON RESPONSE** -The DEFLEX has 4 embedded Diamond Grade sheeting, 3"high on a 3.5"dia. delineator. Specification has 2 surface mount Diamond Grade sheeting on a 2.375"dia delineator, we are more than twice as visible than the other because we have a larger diameter and twice as more reflective strips. If required we can make them with only 2 reflective bands and we will still be more visible. Comparing the two delineators, the specification lists a minimum of $2.375'' \times 3'' = 7.125\text{in}^2$ per stripe. The DEFLEX offers 10.5in^2 per stripe. With 2 stripes per delineator there is a visible area of 14.25in^2 on the minimum specification whereas

45 RACINE ROAD TORONTO, ONTARIO M9W-2Z4
TEL (416) 743-1771 FAX (416) 747-9940

the DEFLEX offers 21 in². At no additional cost Almon is offering to double that visible area to 42 in². This represents an increase in visibility of each delineator by 295%.

o Manufacturer specifications show a height of 48", Bidder Information Package specifications require 42"

- **ALMON RESPONSE** - Our delineator is 48" high and offers better visibility for trucks, buses, SUVs. the Quebec government made their channelizer 1,200mm (48") in height to increase visibility at night (retroreflection capacity) for large vehicles especially in city environment (On top of having 4 Diamond Grade Sheeting). The 42" is specified because no one offered 48" before although it provides 6" more visibility of retroreflection of light from the vehicles headlights to the driver's eyes when approaching the delineators. The 48 inches exceeds the minimum in the specification,

o Manufacturer specifications show an outer diameter of 3.5", Bidder Information Package specifications require 2.375".

- **ALMON RESPONSE** - The minimum specification of 2.375 diameter included in the bid package is being exceeded with the post that we are supplying. By increasing the overall diameter slightly we are increasing visibility of the delineator which provides superior safety. The larger diameter delineators are more visible than the 2.375 diameter delineators.

o Manufacturer specifications show a capped top, Bidder Information Package specifications require a pinched top, "short squeeze" (not capped)

- **ALMON RESPONSE** - The DEFLEX is a one piece blow molded HDPE delineator, There is no top cap on the delineator it is sealed and free of sharp edges and possible snag points.

o Does the unit have a reactive spring assembly that rebounds to upright when struck, as per Bidder Information Package specifications?

- **ALMON RESPONSE** - The DEFLEX is manufactured in one piece in a way that it always comes back to its original position even after 200 impacts, under any weather conditions, especially Canadian winters. There are no hard parts that could puncture tires and they will not damage vehicles on impact. The city of Montreal amongst other Canadian cities have been using the DEFLEX for over 10 years now. As an example of the reliability of the DEFLEX, the City of Montreal has ordered 15,000 delineators in 2020 alone. We meet NCHRP-350 and will finalize the NTPEP testing in 2021 due to weather conditions at the time of testing (as an FYI they stopped the testing after 150 impacts looking to prove that the DEFLEX can withstand 200 impacts at 50 MPH/h)

o The Bidder Information Package indicates each bollards having a set of 4 Lag Screws, 4 Washers, and 4 Plugs. The manufacturer's specifications indicate only three 3 lag bolts, 3 washers, and no plugs.

- **ALMON RESPONSE** - The DEFLEX is specifically designed to have only 3 holes and to withstands 200+ impacts using 3 lag screws and 3 washers. The specification posts are required to

withstand a minimum of 50 impacts. If required we can provide plugs to fasten the traffic bollards at no additional cost. This increases the speed of installation and reduces the number of holes that have to be made.

The DEFLEX is an equivalent product that exceeds the minimum specifications in the tender package. The DEFLEX has been in use year round for over 10 years in Canada and is made in **CANADA**, not the USA or China.

Additional note – with a quantity of 5000 bollards with 3 bolts needed instead of 4 there is a massive savings on the installaiton. Instead of having to drill 20,000 holes to install the 5,000 bollards, with the DEFLEX the City would only be required to drill 15,000 holes. With an average of 5 mins per hole (including drilling, cleaning, placing anchor, fastening bolt etc.) this translates into a manpower savings of approximately 415 hours or 10+ weeks for the installation crew on-site time. This savings is coming with an increase in durability as well. The product is rated for over 200 hits as opposed to 50 hits

In Summary:

Increased visibility of the product with more reflective stripes at no addiitonal cost. An increase of 295% visibility at night

Increased life cycle with a proven track record and design to withstand 400% of the hits versus the specified product (200+ hits versus 50)

A significant cost savings of 26% per unit and approximately \$75k on 5000 units.

A significant savings on the installation needing only 3 bolts instead of 4 and saving 415 on-site hours for the installation crews.

DEFLEX is rated for 200 hits as opposed to 50 hits.

With the increased visibility, lifespan and savings this is a superior product and will undoubtably provide increased safety on the roadways in Mississauga.

Below is a link to the video showing the crash tests of the DEFLEX. We are also able to provide a sample if you like to aid with the selection process.

https://trafficinnovation-my.sharepoint.com/:v:/g/personal/v_amatuzio_traffic-innovation_com/EeyGwVW-NZxKrrnqN-kOoUUB4l4T_ec7n5W-FXeXPGkP6g?e=ZVCv0A

Prior to the tender closing Almon requested to send information and obtain approval as per the tender document (refer to Section 2 on page 13 and 14). When Almon requested to send specifications for prior approval in early November we received a response back from Ms. Torres to just upload in section 3 (document) and not to send any specifications for approval prior to tender closing. This is contradictory to the procurement call document which clearly states to send alternatives for approval prior to close for approval.

Almon respectfully requests that you either reconsider and accept our bid as the lowest qualified bidder or cancel the tender and reissue the call and allow for alternatives to be approved prior to closing.

Sincerely,

A handwritten signature in blue ink, appearing to read 'Marc Ally', with a large, stylized flourish extending from the end.

Marc Ally
Vice President Operations
Almon Equipment Ltd.

January 27, 2021

Almon Equipment Ltd.
E-mail: mike@almon.ca

Re: Procurement No: PRC002556 – Supply and Delivery of Flexible Traffic Bollards

Dear Mr. Ale;

Thank you for your letter dated January 20, 2021. I have reviewed your concerns and the additional information sent on December 10, 2020. The City's decision to reject the bid received from Almon Equipment Ltd. remains unchanged; however, we offer the following response:

The City's specifications are for a product that, in the City's opinion, best suits its needs. The Deflex 2020 product bid by Almon does not meet the specifications stated in the RFT. As noted in our letter of January 14, 2021, there were a number of non-compliances in your bid. The City's specifications include a product with a reactive spring assembly. In our experience, this feature has proven to be effective and efficient for maintenance and replacement.

Had the City agreed to remove its requirement for a reactive spring assembly, or change any of its specifications, it would have needed to issue an addendum so that all potential bidders were working with the same information. The City cannot change its specifications after bid closing, and it is not able to accept a bid that does not fully comply with its specifications. Having received acceptable bids through the current procurement process, we are required to award the contract to the lowest, acceptable bidder.

We regret the miscommunication during the bidding process and apologize for the inconvenience caused; however, the City would not have amended its specifications to include alternate products that do not have a reactive spring assembly.

I hope the foregoing satisfactorily addresses your concerns. We have refrained from awarding the contract to allow time to address your concerns. We will be proceeding with the award process on Friday, January 29, 2021.

Yours truly,
Erica Edwards, Manager Materiel Management – External Services
Tel: 905-615-3200, ext. 5238
Email: Erica.edwards@mississauga.ca



January 28, 2021

Erica Edwards
Manager Materiel Management – External Services
City of Mississauga
905-615-3200 ext. 5238
Erica.edwards@mississauga.ca

RE: Notice of bid disqualification – Procurement No: PRC002556 – Supply and Delivery of Flexible Traffic Bollards

Dear Ms. Edwards,

We are in receipt of your letter dated January 27, 2021 regarding the disqualification of our bid with respect to the above noted Procurement Call.

In review of your letter we appreciate and acknowledge your comments regarding the addendum for approved alternatives, however there still should have been the opportunity to submit and seek approval for our product as per the procurement document. Almon requested to send documentation for the approval prior to the close and by the City foregoing the procedure which is stated in the document was procedure for approval of alternatives was not followed by the City.

The comments regarding the spring assembly, however, fail to provide a safer product to the public and do so at a higher cost to the taxpayers of the City. The spring assembly unit requires routine maintenance to perform properly and can be compromised by external conditions such as snow, salt and ice. Without the routine maintenance being done, the spring assembly will not work properly and poses a potential safety hazard to motorists and the public in general as it could become a projectile.

The DEFLEX, as stated in our previous communications, has a spring engineering into the product which does not require routine maintenance.

In the procurement document it is stated that:

“Equivalent Product is meant to allow similar or identical products to accomplish the same benefits in satisfying the requirements. This must be shown and clearly indicated”

45 RACINE ROAD TORONTO, ONTARIO M9W-2Z4
TEL (416) 743-1771 FAX (416) 747-9940

Almon has DELFEX posts in stock that are ready and available for staff to inspect and test the equipment.

Lastly, as mentioned in our previous communications the product we are offering represents a significant savings to the City for a superior product that will outlast and outperform the other bollard. The DEFLEX is also Canadian made and made with the climate and year round conditions of Canada in mind, not the southern USA.

Almon respectfully requests that you either reconsider and accept our bid as the lowest qualified bidder or cancel the tender and reissue the call and allow with a specification that does not sole source the opportunity.

Sincerely,



Marc Ally
Vice President Operations
Almon Equipment Ltd.



City of Mississauga
Materiel Management
Corporate Services Department
300 City Centre Drive
Mississauga ON L5B 3C1
www.mississauga.ca

March 8, 2021

Almon Equipment Ltd.
E-mail: mike@almon.ca

Re: Procurement No: PRC002556 – Supply and Delivery of Flexible Traffic Bollards

Dear Mr. Ale;

Thank you for your letter dated January 28, 2021. The City's decision to reject the bid received from Almon Equipment Ltd. remains unchanged; however, we offer the following response to points raised in your letter:

- 1. In review of your letter we appreciate and acknowledge your comments regarding the addendum for approved alternatives, however there still should have been the opportunity to submit and seek approval for our product as per the procurement document.**

We regret the miscommunication during the bidding process. In view of it, staff conducted a detailed review of the DEFLEX product to determine its acceptability as an alternate product. If the product had been acceptable, we would have cancelled the current procurement process to allow Almon, and other potential bidders of alternate products, to bid on a different specification. However, upon review, staff determined that the DEFLEX product does not meet the City's needs, which are consistent with the Ontario Provincial Standard Specifications (OPSS) and The Road Authority (TRA) as described below.

- 2. The comments regarding the spring assembly, however, fail to provide a safer product to the public and do so at a higher cost to the taxpayers of the City.**

The City's specification is consistent with the OPSS 705, which defines a bollard as "a tubular plastic marker installed vertically for the purpose of channelizing traffic or delineating roadside features in temporary or permanent applications. The tubular post is securely fixed to the ground surface by hinged (flexible) connection to a solid base. When impacted by a vehicle, the post has the ability to bend 90° from vertical and self-restore following impacts."

TRA identifies products that are in-line with Ontario Provincial Standards, including OPSS 705. Of the list of compatible products, the majority are comprised of a post, base, and hinge combination. TRA identified three compatible products that would bend at the flexible plastic post. However, all identified flexible plastic posts (with the exception of one) have a base unit that is separate from the post, allowing for ease of replacement. The exception, Pexco City Post EAC, is produced as a

single continuous piece, but is altogether a unique product as the post is embedded directly into the ground and therefore has no base.

Accordingly, the standards indicated in the OPSS allow for different products to be used within Ontario. However, none of the examples provided by TRA show a combined non-detachable base and post unit, similar to the DEFLEX post.

- 3. Lastly, as mentioned in our previous communications the product we are offering represents a significant savings to the City for a superior product that will outlast and outperform the other bollard. The DEFLEX is also Canadian made and made with the climate and year round conditions of Canada in mind, not the southern USA.**

The City considers the OPSS and the specified product to be appropriate for our use. The two-piece construction of the specified product is cost beneficial for maintenance.

- 4. Almon respectfully requests that you either reconsider and accept our bid as the lowest qualified bidder or cancel the tender and reissue the call and allow with a specification that does not sole source the opportunity.**

The bid submitted by Almon is non-compliant and is unacceptable to the City. We would not have changed our specification, at any time, in favour of a product that is not similar in style to those identified by TRA in reference to OPSS 705. Accordingly, there is no basis for cancelling the current procurement processes and we cannot accept Almon's bid.

In summary, we regret the miscommunication during the bidding process and apologize for the inconvenience caused. We have conducted a detailed review and determined that the City's original specification is appropriate for the City's needs and that the DEFLEX product does not meet the specification.

If you are not satisfied with the information provided, you may make a Formal Bid Protest before City Council. In this event, you must notify me of your intent to register a Formal Bid Protest within five (5) working days of the date of this letter.

Please refer to City Policy # 03-06-08 Bid Awards and Bid Protests: <https://web.mississauga.ca/wp-content/uploads/2018/11/09161813/03-06-08-Bid-Awards-and-Bid-Protests.pdf>

Yours truly,

Erica Edwards, Manager Materiel Management – External Services

Tel: 905-615-3200, ext. 5238

Email: Erica.edwards@mississauga.ca