

City of Mississauga

Corporate Report



Date: May 14, 2024 To: Chair and Members of General Committee	Originator's files:
From: Raj Sheth, P.Eng, Commissioner of Corporate Services	Meeting date: June 5, 2024

Subject

Formal Bid Dispute by Ibrahim Nassri Trading Inc. O/A Snow Wrangler RE: PRC004192 – Landscape Maintenance and Services for the Mississauga Transitway

Recommendation

That procurement no. PRC004192 proceed with award to the lowest, compliant bidder, as outlined in the report dated May 14, 2024, from the Commissioner of Corporate Services titled "Formal Bid Dispute by Ibrahim Nassri Trading Inc. O/A Snow Wrangler RE: PRC004192 – Landscape Maintenance and Services for the Mississauga Transitway".

Executive Summary

- A Request for Tender (RFT) was issued for works associated with landscape maintenance for the Mississauga Transitway.
- The City included mandatory requirements related to experience, health & safety, financial stability, and membership with an industry related association.
- A bid was received by Ibrahim Nassri Trading Inc. O/A Snow Wrangler (Snow Wrangler) that did not meet the mandatory requirement for membership with Landscape Ontario for the last two (2) years and was disqualified in accordance with City Policy No. 03-06-12 Bid Review and Evaluation – High Value Acquisitions.
- Snow Wrangler is making a Formal Bid Protest in accordance with City Policy 03-06-08 Bid Awards and Bid Protest to dispute the City's disqualification of their bid.
- Staff do not recommend accepting the bid submitted by Snow Wrangler as the RFT document was clear regarding the City's requirement and the consequence of not meeting that requirement.
- The RFT process included a question period that permitted Snow Wrangler to submit any concerns regarding the City's requirements. No questions were received by Snow Wrangler to that affect.
- The bid resulted in a bidder that is compliant with the City's mandatory requirement.

Background

The City issued a RFT for works associated with landscape maintenance for the Mississauga Transitway. The RFT was posted on April 4, 2024, and closed on April 22, 2024.

The City includes a question period in all its tendering processes. The purpose of the question period is to allow bidders to ask questions about the specifications, express concerns around any requirements and to communicate with the City any possible changes that may need to be addressed so that all necessary review and action can be undertaken prior to the closing date.

The question period for this project ended April 17, 2024, and there were 10 questions related to the work, none of which were from Snow Wrangler. At no time during the tendering period was a concern or question posed regarding the City's mandatory requirement for membership with Landscape Ontario included in the RFT document.

There were ten (10) bids received and subsequently checked for compliance to the City's RFT mandatory requirements, which included:

- (1) The bidder must be readily available to undertake Contract requirements.
- (2) The bidder must demonstrate it has undertaken, within the last three (3) calendar years and/or current year, similar projects of scope and size. At least one (1) reference must be from a municipality or other government body.
- (3) Acknowledgement that the bidder has not been charged with a violation of ESA, OHSA, have not been in default of contract requiring surety involvement and are not in bankruptcy proceedings.
- (4) The bidder must demonstrate it has a minimum of five (5) years experience in the last ten (10) years, servicing accounts with similar scope and size of the City or larger.
- (5) The bidder must have specific experience performing horticulture maintenance at heights.
- (6) Must be a member in good standing with Landscape Ontario, for at least the last two (2) years.

Snow Wrangler failed to meet item (6) and did not provide proof of membership with Landscape Ontario for the last two (2) years, instead only provided proof of membership since 2023. The City permitted Snow Wrangler to provide additional back up to outline proof of membership, however, Snow Wrangler was once again unable to demonstrate membership for the last two (2) years. The City conducted further due diligence and contacted Landscape Ontario directly, to which it was confirmed that Snow Wrangler held membership from September 2019 to September 2021; and May 2023 to present.

During the period of October 2021 to April 2023, Snow Wrangler was not a member of Landscape Ontario.

Landscape Ontario is the Province's premier horticultural trades association. To be a member of the association, companies must meet the following basic criteria:

1. They must have 2 sponsors (other members).
2. They promise to abide by a published Statement of Conduct, Principles and Ethics.
3. They must have appropriate insurance.
4. They must demonstrate experience through pictures of job sites (maintenance and installation sectors).
5. They must have an Exterminators License (lawn care).

It is imperative that the City hire experienced, qualified suppliers to undertake City projects. As a result, membership in trade associations, along with various certifications, provide the City with reassurance that we are engaging with suppliers capable of undertaking the work.

The City rejected Snow Wrangler's bid in accordance with City Policy No. 03-06-02 Bid Review and Evaluation – High Value Acquisitions and the RFT terms and conditions.

The procurement process is currently on hold, pending resolution of Snow Wrangler's bid protest.

Comments

Snow Wrangler claims that they have been a member in good standing with Landscape Ontario since 2018, however after contacting Landscape Ontario, it was confirmed that Snow Wrangler was in fact not a member for the last 2 years consecutively.

Staff provided Snow Wrangler with explanation as to its decision, referring to City policy and the bid document.

The bid submitted by Snow Wrangler is non-compliant and is unacceptable to the City. In a Contract A process, the City is legally bound to reject non-compliant bidders. Failure to do so puts the integrity of the procurement process in question. Staff followed proper Policy and Procedure when handling the disqualification and there is no basis for not proceeding to award to the lowest, compliant bidder.

Financial Impact

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

Conclusion

Snow Wrangler's bid is non-compliant and in being non-compliant, staff have no choice but to follow Policy and the public tendering laws and disqualify the bid accordingly.

Staff do not recommend deviating from standard practice.

Attachments

Not Applicable.



Raj Sheth, P.Eng, Commissioner of Corporate Services

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