



REGIONAL MUNICIPALITY OF WOOD BUFFALO

CAPITAL PROJECTS COMPETITIVE AND SINGLE SOURCE PROCUREMENT INTERNAL AUDIT REPORT



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1. BACKGROUND

As a public sector organization, the Regional Municipality of Wood Buffalo (“RMWB” or the “Municipality”) must ensure its procurement processes support the achievement of the principles of public procurement and compliance with relevant trade agreements. The principles of public procurement are defined as:

- Openness – all qualified vendors have an equal opportunity to compete for RMWB business and there are no geographically-based obstacles to competition
- Fairness – non-discriminatory tendering processes are used by RMWB, from writing contract specifications to evaluating and awarding contracts
- Transparency – information pertaining to RMWB procurement processes can be easily obtained and is understood by potential vendors
- Accountability – the Municipality ensures its procurement processes are efficient and effective
- Integrity – bidders can rely on the information disseminated by RMWB, information is dependable and free of ambiguities, bidders have a clear understanding of the requirements of a competitive procurement and how they will be evaluated
- Economy - everyone associated with the public procurement process or directly responsible for public funds avoids fraud, waste and abuse of public resources (e.g. resulting in over specifications of required goods, unreasonably high prices for substandard goods, collusion with other bidders, etc.)
- Competition – procurement requirements are widely disseminated increasing the chances of a good market response and the process is not manipulated for the benefit of any organization or individual.

The Supply Chain Management Department (“SCM”) of RMWB is responsible for managing and/or coordinating procurement activities for all RMWB departments. SCM works with departments to procure goods and services for the Municipality through “*accountable, fair, open and transparent processes in accordance with relative trade agreements*”.¹ Since 2015, competitive procurement awards at the Municipality have averaged \$231 million per year.

The Engineering and Environmental Services Department (“Engineering”) manages the planning, design and construction of municipal infrastructure to provide for the health, safety and satisfaction of citizens while ensuring the sustainability of the environment for future generations. Engineering also provides engineering related services to internal municipal departments and external organizations as required.

Procurement at RMWB is governed by *Administrative Procedure: Fin-190 Supply Chain Management Administrative Procedure* (“FIN-190”). FIN-190 outlines the responsibilities of SCM, which include, but are not limited to:

- Managing all procurement activities for operating departments except the Engineering Department
- Coordinating procurement activities within the Engineering Department
- Ensuring that all procurement documentation is completed and properly authorized
- Maintaining the complete inventory of contract documents from creation to closure
- Assisting departments in the development of procurement plans
- Approving RFx² documents prior to public release

¹ http://www.rmwb.ca/Municipal-Government/municipal_departments/SCM.htm

² An acronym that means “request for x” with x representing any of the competitive processes the RMWB uses to obtain information for the procurement of goods, services or construction including a request for tender (“RFT”), request for proposal (“RFP”), non-

- Approving all procurement and contracts in accordance with the Municipality's Delegation Order
- Ensuring compliance with applicable trade agreements³.

RMWB has also developed Standard Operating Procedures ("SOPs") for procurement that were last reviewed, updated and implemented in November 2014 and cover the complete procurement cycle from needs identification to vendor performance evaluation. Procurement at the Municipality must comply with FIN-190 and the SCM SOPs.

2. OBJECTIVES AND SCOPE

RMWB requested MNP LLP ("MNP") conduct two internal audits on its competitive procurement processes.

The first audit, Procurement – Capital Projects and Single Source Internal Audit ("First Audit"), began in December 2017 with the draft report issued on February 20, 2018. The objectives of the First Audit were to determine if effective controls and oversight were in place for project scope creation, tender packages and contracts to limit change orders and claims⁴, and establish appropriate contingencies and cash allowances. In addition, we reviewed a sample of single source⁵ procurements to determine if the use of single source was justified and appropriately approved.

The Competitive Procurement Evaluation Process and Project Evaluation Internal Audit ("Second Audit") was initiated in March 2018 with the final report issued on April 25, 2018. The Second Audit was conducted to determine whether the competitive procurement evaluation process at the Municipality, in relation to capital project construction, was conducted in a consistent manner and in accordance with the aforementioned seven fundamental principles of public procurement noted above. The objectives of the Second Audit were to determine if effective processes and controls were in place for the:

- Development, review and approval of mandatory requirements included in RFx documents
- Development, documentation and communication of evaluation plans for proponent submissions
- Development, review and approval of evaluation criteria and scoring methodologies contained in RFx documents
- Documentation of the results of the evaluations of proponent submissions
- Oversight and approval of the evaluation of proponent submissions.

In addition, we conducted an in-depth assessment of two (2) recently completed capital projects to determine if the contracts were awarded to the most suitable proponent and if the delivered project aligned with the initial scope included in the RFx document.

The internal audit reports for the First and Second Audits were combined into one report. This report contains a summary of our key findings and recommendations from both audits.

contract request for proposal ("NRFP"), request for prequalification ("RFPQ" or "PQR"), request for information ("RFI") or request for expression of interest ("RFEI").

³ Trade agreements include New West Partnership Trade Agreement, Canadian Free Trade Agreement, Canada-European Union Comprehensive Economic and Trade Agreement.

⁴ RMWB defines claims in its contracts as any one or more of the following: claims, demands, losses, consequential damages, costs, liabilities, damages, lines, encumbrances, actions, suits or proceedings, whether first party or third party, together with legal costs on a solicitor and his own client full indemnity basis.

⁵ Single sourcing – applies to purchases where more than one vendor is available to perform the required work or supply the required goods; however, the selection of a single firm is in the best interest of the Municipality (*SOP 8: Non-competitive Selection*).

3. APPROACH

MNP began with developing leading practice criteria for competitive procurement for public sector organizations in relation to the audit objectives and assessed processes and controls at the Municipality against those criteria. We also:

- Obtained and reviewed background information on competitive procurement at RMWB to establish an understanding of the processes that should be in place as outlined in guiding documents such as SOPs, templates, sample contracts, procurement trend analyses, organizations charts, etc.
- Interviewed eighteen (18) RMWB representatives to obtain an understanding of the processes actually in place to procure goods and services related to capital projects.
- Selected and reviewed a sample of forty (40) competitive procurements files from 2013 to 2017, ranging in value from \$35,342 to \$44 million and totaling \$235 million. The objective of the file review was to determine if SOPs related to objectives of the Internal Audits were followed. Included in the review of 25 competitive procurement files were change orders associated with each project to determine if the change orders were documented and approved appropriately (i.e. approved by the appropriate authority prior to commencement of work), and a review of the statement of work included in the RFX for each project to determine if they were written in such a way that the mutual expectations of the resulting contract were adequately described.
- Selected a sample of nine (9) single source procurements from 2016 to 2017 and assessed whether the use of single source was justified and approved appropriately.
- Conducted interviews with five (5) contractors who participated in the competitive procurement process at the Municipality and four (4) industry representatives to obtain their perspective on RMWB procurement processes and identify issues and areas for potential improvements.

To complete the in-depth assessment of the two (2) selected capital projects, MNP obtained and reviewed the complete project construction files maintained by Engineering for both projects. We also interviewed representatives from Engineering to obtain information on capital management processes in place at RMWB. Using the two (2) projects selected for review, we assessed the alignment of capital project management processes in place at RMWB with leading practices and identified opportunities for improvement. More specifically, we evaluated the success of the two projects in terms of safety, quality, cost and schedule.

4. FINDINGS – FIRST AUDIT

Based on our assessment, we determined the Municipality has processes in place that, if complied with, should reduce/prevent:

- the number and impact of change orders and claims relating to capital projects
- inappropriate use of contingencies and cash allowances
- underbidding on projects
- single source procurement.

However, based on the results of our file review and interviews conducted with RMWB representatives, the required processes are not applied consistently. More specifically, we determined the following:

- SCM and Engineering employees do not consistently follow procedures outlined in the SOPs for competitive procurement.
- Documentation maintained on file (i.e. shared drive) to support key decisions and activities is lacking. Examples included but are not limited to the review and approval of project specifications by the procuring department; development and approval of RFx documents, mandatory requirements, evaluation criteria, scoring methodologies, etc.; coordination of responses received from proponents and development of the follow-up addendum; distribution of minutes from pre-bid meetings held with proponents; and scoring of submissions by individuals and groups.
- Evaluation plans are not prepared at RMWB even though *SOP 6 – Competitive Bids* requires their preparation.
- Evaluators are required to acknowledge their commitment to upholding the principles of public procurement, including, but not limited to disclosing potential conflicts of interest before taking part in the procurement process. However, evaluators are not required to formally confirm they are conflict free in relation to an RFx.
- Cash allowances have been included in RFx documents for miscellaneous expenses rather than limiting the allowance to specific items.
- Contingency amounts in the capital project procurement files reviewed by MNP ranged from 10% to 43% of the contract value – a range of values from \$15,000 to \$3.8 million. Support for the proposed contingency was not included with the purchase order request and for all but one file tested, the justification was simply to “mitigate associated risks”.
- There were seven (7) change orders identified in our review that were submitted and approved after the work was completed by the contractor. The total value of the seven (7) change orders was \$672,000 and ranged in value from \$4,900 to \$264,000.
- The SCM – Non-competitive Selection/Change Order Approval form does not require employees to document whether a contingency was included as part of the original purchase order value and/or if the proposed change order should be covered by the contingency.
- Single source procurement at the Municipality is not conducted in accordance with its SOP. Of the sixty-six (66) single source procurements reported by SCM from 2016 to the time of the review, SCM determined that thirty (30) were submitted for approval after the work was completed. The rationale submitted for single source procurement did not always provide a comprehensive explanation to justify how the non-competitive procurement was in the best interest of the Municipality.

5. FINDINGS – SECOND AUDIT

The Municipality does not have appropriate processes and controls in place for the development, review and approval of mandatory requirements⁶ contained in RFX documents, evaluation plans, evaluation criteria and scoring methodologies. The results of competitive procurement evaluation activities are also not consistently documented. As a result, the oversight and approval of evaluation activities can be improved. Key findings are as follows:

- Mandatory requirements are often spread throughout request for tenders instead of being summarized in a single section.
- Mandatory requirements established for competitive procurement at RMWB were the same for each type of procurement (i.e. requirements are not tailored and/or consider technical requirements) and did not focus on those criteria that are truly essential to a particular procurement.
- There was insufficient documentation of the review by SCM to evidence if the bids were compliant with the mandatory requirements.
- There was no evidence of consultation and agreement between SCM and the procuring department on development and approval of evaluation criteria, as well as the weighting of those criteria that were to be used for the proposed procurement.
- There was also no evidence that the evaluation criteria reflected the type, complexity and size of the proposed procurement; rather, RMWB generally used the same evaluation criteria repeatedly.
- Documentation of the Evaluation Committee's scoring was inconsistent. Inconsistencies were noted in sign-off of individual and consensus scoring results by the evaluators, provision of the rationale for scoring results by evaluators, and review and sign-off of scoring results by SCM.
- RMWB does not provide formal training to its employees on procurement processes and requirements and, as a result, individuals tend to learn informally from coworkers.

With respect to our evaluation of safety, quality, cost and schedule related to the two projects we examined, one project was generally a success. The Contractor, the Engineering Consultant and the RMWB Project Manager all performed well. On the contrary, the second project was not successful as the RMWB Project Manager, the Engineering Consultant and the Contractor failed to keep the project on schedule and within budget. In addition, there was a claim paid on this project to the Contractor. This is a significant omission in light of the fact the claim should have been disputed and very likely not paid, as the amount should have been covered by warranty. It appears that the RMWB representatives involved with this claim lacked sufficient technical knowledge internally, and did not receive support from the Engineering Consultant, in order to reject paying this claim.

6. RECOMMENDATIONS – COMPETITIVE AND SINGLE SOURCE PROCUREMENT

To improve competitive and single source procurement at the Municipality, we recommend the Municipality:

- Review and update SCM SOPs to determine if revisions are required to better reflect actual processes and controls that are in place, while aligning them with leading practices. For example, RMWB should determine if formal Evaluation Plans are required to guide the assessment and scoring of proponent submissions.

⁶ Mandatory requirements are the essential requirements that a proponent must have / demonstrate in order to complete the work proposed in the RFX. Mandatory requirements include such items as experience of proposed project personnel, safety certificates, required insurance, etc.

- Improve the documentation of key decisions, activities and approvals throughout the entire competitive procurement process.
- Develop and deliver formal training to all employees involved in the competitive procurement process.
- Develop and deliver formal training to Council Members on RMWB procurement related obligations under trade agreements.
- Include cash allowances in RFx documents only for specific expenses (i.e. miscellaneous cash allowances should not be permitted).
- Have Evaluation Committee members responsible for assessing bids formally confirm and document that they are conflict free in relation to the assessment of procurement submissions to ensure the evaluation is unbiased.
- Implement processes to prevent the use of change orders and single source procurement for work that has already been completed (e.g. requesting approval for non-compliance with policies, training and/or disciplinary action).
- Require formal documentation of the:
 - determination of contingency amounts as part of the purchase order approval process
 - approval to use contingency amounts as part of the change order process
 - reconciliation of remaining balances of the contingency amounts on a regular basis.
- Develop mandatory requirements for inclusion in RFx documents that are tailored to reflect the requirements that are truly essential to the goods or services being procured and include business or technical requirements that support the efficient and objective assessment of proponent qualification and experience (e.g. minimum qualification or experience of proposed personnel).
- Include all mandatory requirements in one section of the RFx document where possible and clearly state whether information to assess compliance with mandatory requirements needs to be provided upfront (i.e. upon submission of the bid) or upon award.
- Weight evaluation criteria in terms of procurement type, complexity and size. For example, a proposed procurement with a simple, clearly defined scope of work include evaluation criteria more heavily weighted towards price. Proposed procurement with highly complex or vaguely defined scopes of work should include evaluation criteria weighted toward business requirements (e.g. project understanding, methodology, similar experience, etc.).
- Request proponents provide at least three references for previous, similar work completed. SCM should contact the references, confirm the details contained in the proponent's submission and validate the quality of the project and vendor for which/whom the reference was provided. SCM should forward the results of the reference checks to the Evaluation Committee for consideration in the overall evaluation.
- Ensure that the assessment of bids against the mandatory requirements is documented, as well as reviewed by an appropriate authority, and, where a proponent does not meet the mandatory requirements, the proponent is disqualified and the submission is not further evaluated.

From our consultation with contractors and industry representatives, improvements in competitive procurement are possible in the following areas:

- Contractor Knowledge
 - Additional information is required by contractors regarding RMWB trade agreement obligations, whistleblower policies, preparing successful bids and obtaining vendor debriefs.

- Contractor Consultation
 - To better align the Municipality's procurement requirements with contractors' capabilities, RMWB should conduct briefing sessions with contractors to present its current capital plan and obtain industry input on project delivery, procurement/contracting strategy and estimated timing for each project.
- Transparency
 - Improvements are needed in the clarity of information provided in RFx documents in relation to evaluation criteria, evaluation criteria weighting and scoring methodologies.
 - The Municipality needs to post the successful bidders and award values to Alberta Purchasing Connection ("APC") on a timelier basis.
 - If a proponent submits a price for an RFx that is significantly lower than the estimated cost of the project and/or the prices in other submissions, evaluators should conduct other procedures to ensure the proponent is capable of delivering the project as described.
- Process Efficiency
 - RMWB should stagger posting of opportunities to APC, where possible, to provide contractors with more time to prepare qualified submissions.
 - To reduce the amount of time associated with the competitive procurement process, RMWB should consider pre-qualifying contractors for a pre-defined period of time (e.g. three years) to deliver Municipal projects across various disciplines, such as water and sewer, bridges, roads, etc.

7. RECOMMENDATIONS – PROJECT EVALUATIONS

Although our scope did not include evaluating the management of projects, we identified opportunities to improve project management activities and have also made the following recommendations:

- Updating the Project Manager Handbook to ensure all required guidance on capital project management is included.
- Improving the documentation maintained within project files, such as information on safety, quality, request for information, final contractor evaluations, and daily field construction reports.
- Increasing the monitoring of the quality of work by the contractor on an ongoing basis by the RMWB Project Manager. The addition of an Inspection Test Plan ("ITP") for future projects would be of value. This plan would summarize all the required testing required by the project specifications and detail who was responsible for ensuring that accurate testing and documentation was done. The ITP, once completed, would provide a record of all the quality tests and documentation for a project in one place.
- Including safety accountability in every request for tender contractor package and request for proposal consultant package.
- Providing training to Engineering employees on key safety requirements such as the authority to shut down a construction project due to safety concerns.
- Holding "lessons learned" meetings at the completion of each project and ensuring learnings are incorporated into future projects.
- Ensuring request for proposals for Engineering Consultants include requirements for specialized experience (e.g. fusion welding) when required.
- Implementing a "discipline-based" qualification system for contractors using the pre-qualification system noted above.
- Requiring consultation with the Engineering Consultant and the RMWB Legal Department to ensure claims are valid and not covered under warranty. Subject matter advice should also be obtained if necessary.

8. LIMITATIONS

MNP has not independently verified any of the information provided to us and makes no representations as to the veracity or authenticity of the information.

MNP reserves the right to review any or all of the information included in or referred to in this Report and that which may become known to us after the date of this Report. Should it be considered necessary, MNP may subsequently revise any or all of this Report.

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MNP would like to thank those individuals involved in the completion of these engagements for their time, cooperation and patience in answering a myriad of questions and providing supporting documentation and information - without the participation and thoughtful contributions of all involved, this Report would not be possible.

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