

MEMO

To: Alain D. Muise, CAO
From: Hans Pfeil
Date: May 13, 2020
Re: Wedgeport Wastewater Improvement – Phase 3 RFP Opening – Legal review

This Memo is prepared to inform about the received bids for the Wedgeport Wastewater Improvement Program Phase 3 and the outcome of the legal review by our Solicitor, Real Boudreau.

We had prepared a Memo on April 14th, 2020 and reported about the opening process and findings of the opened bids. Due to missing documents and submission requirements of two proponents we had recommended to have the bids reviewed by our own Solicitor, Real Boudreau.

We received the following legal advice:

1. Beaini & Associate Engineers Ltd:
 - a. Proof of insurance was missing – RFP was clear that it was a mandatory requirement and we have reasons to disqualify considering fairness and consistent procurement to other bidders.
 - b. Missing Addendum verification form – created a base of a potential contract and is considered an important document, we have reasons to disqualify considering fairness and consistent procurement to other bidders
 - c. Submit Technical and financial submissions in separated files – technicality and not too relevant to our RFP

We recommend disqualifying this proposal due to the issues listed under a. and b. The financial value of this submission appears to be at \$101,000 + HST but the submission sheet contained too many errors to confirm this amount. We estimated this value by subtracting the listed HST from the total amount at the bottom of the submission sheet.

2. ABLE Engineering:
 - a. Missing statement of confidentiality – clear act of omission and non-compliant with the terms of the RFP
 - b. Missing formal letter of Acknowledgement of the terms of the RFP – clear act of omission and non-compliant with the terms of the RFP

We recommend disqualifying this proposal due to the clear issue of severe omission and disregard of potential contract binding requirements in two accounts. The financial value of this submission appears to be \$78,980 + HST as per submission sheet.

3. EXP

- a. The original bid is exceeding the Budget by more than 15% - we reviewed their financial proposal and the total bid price includes provisional work tasks and they're indicating to be open for discussion of the financial proposal.
- b. The submission was considered in full compliance with all terms and requirements of the RFP.
- c. The project manager revised the financial submission as per our request. We requested to remove the scope of section 4.10. as we are prepared to take this over in-house at significant lower cost. The revised financial value is estimated at \$98,990 + HST and only 7.5% over budget. This would be considered acceptable within the industry guidelines and best practice.

We recommend to accept the revised submission and move forward with contract negotiation and start the project with EXP considering that they're the only eligible bidder for this project.

The Public Works Team is available to answer any questions regarding these recommendations.

Kind Regards,

Hans Pfeil

Director of Public Works, Municipality of Argyle

The following Bids have been received:

Proponent	Received at	Opening comments	Eligible for Evaluation
exp	April 9, 2020 @ 2:49pm	Submission was on time, All 7 requirements fulfilled and considered a complete submission as requested.	yes
Peter Beaini & Associates	April 9, 2020 @ 1:49pm	Submission was on time, documents were not separated and submitted as a word file. Missing proof on insurance and did not submit the Addendum verification form. Submission has technicalities but no apparent legal issues are noticeable. The missing addendum verification form may be the only legal binding document and needs to be reviewed by our solicitor.	Need legal review
ABLE Engineering	April 9, 2020 @ 1:34pm	Submission was on time, Their submission is missing two important items, one is the statement of confidentiality is missing and the other one is their acknowledgement of all terms and conditions of the RFP is missing as well. These two items could have severe legal implications and need to be reviewed by our solicitor.	Need legal review

So far, our understanding is that the RFP is giving room for staff to follow up with proponents in order to resolve questions or request clarifications about the content of the proposal during the evaluation period. Based on the missing submission details of two proponents we would recommend having our solicitor review the RFP document and compare the submission to that and provide recommendations to us if we can accept all proposals as eligible for the evaluation and potential award process.

Let me know if you have any questions.

Regards,
Hans Pfeil – Director of Public Works – Municipality of Argyle