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DURHAM/YORK RESIDUAL WASTE ENVIRONMENTAL ASSESSMENT PRE-QUALIFICATION OF THERMAL WASTE TREATMENT TECHNOLOGY VENDORS

(Regional Council at its meeting on April 19, 2007, referred the foregoing report to staff for a further report to the next Solid Waste Management Committee meeting on May 9, 2007. The communication from the Regional Municipality of Durham (April 18, 2007) also be referred to the Committee)

The Solid Waste Management Committee recommends the following:

1. Recommendation 1 contained in the following report, April 3, 2007, from the Commissioner of Transportation and Works be adopted; and
2. The following additional recommendations 2 and 3 be adopted as follows:
 2. Staff be directed to pursue an option to provide for a minority private sector ownership stake with Durham Region staff prior to the finalization and release of the Request for Qualifications.
 3. The proposed anti-lobbying clause (*Attachment 2*) be referred back to staff for further clarification to be provided to Council on April 19, 2007.

1. RECOMMENDATION

It is recommended that Council endorse the issuance of a Request for Qualifications by Durham Region for vendors of thermal waste treatment technologies using the principles for complete submission requirements and anti-lobbying as described herein (*see Attachments 1 and 2*).

2. PURPOSE

The purpose of this report is to describe the process of pre-qualifying vendors of thermal waste treatment technology in the context of the joint Durham/York Residual Waste Environmental Assessment. The pre-qualified vendors will then be eligible to participate in a future Request for Proposal for implementation of a thermal waste treatment facility.

3. BACKGROUND

On April 21, 2005, Regional Council adopted Clause 1 of Report No. 3 of the Solid Waste Management Committee to initiate a partnership with Durham to jointly undertake a Residual Waste Environmental Assessment Study.

On June 23, 2005, Regional Council adopted Clause 1 of Report No. 4 of the Regional Commissioner of Transportation and Works authorizing the Region to enter into an agreement with Durham to jointly conduct the Durham/York Residual Waste Environmental Assessment Study.

On June 22, 2006, Regional Council adopted Clause 1 of Report No. 4 of the Solid Waste Management Committee identifying the preferred and alternative thermal waste treatment technologies and authorizing staff to proceed with the Environmental Assessment process.

4. ANALYSIS

At the completion of the site selection phase of the Environmental Assessment, presuming that the project proceeds as planned, it will be necessary to prepare submissions for regulatory approvals. The regulatory approvals applications will be required to contain information that is specific to the technology and equipment proposed for the energy from waste facility. The major components of energy from waste technologies are proprietary and differ significantly from vendor to vendor. As a result, it will be necessary to pre-qualify, select and engage a preferred vendor in advance of preparation and submission of the regulatory approval applications. The following describes the vendor pre-qualification process.

4.1 Pre-qualification Process and Roles

York and Durham are jointly participating in the pre-qualification of energy from waste technology vendors. It has been agreed that, to facilitate the organized completion of work tasks, Durham shall assume the lead role for procurement related activities associated with this phase of the Environmental Assessment Study, all of which will be carried out in accordance with the Region of Durham Purchasing Bylaw 68-2000. As such, York and Durham's staff will be seeking approval of the various steps of the procurement processes from both Regional Councils. York and Durham are developing an approach to ownership and contracting for the proposed facility, which will be brought forward in a separate report to the Committees and Councils of both Regions. The ownership and contracting approach to be approved by Councils will be integrated into the Request for pre-Qualification and any subsequent Request for Proposal. The following summarizes the primary roles and responsibilities of Durham and York in the context of vendor pre-qualification:

- Durham:
 - Preparation of the Request for pre-Qualifications document.
 - Retention of a Fairness Monitor to provide oversight of the Request for Qualifications and any subsequent Request for Proposal process.
 - Notification and issuance of the Request for Qualifications.
 - Operation of the Request for Qualifications process and receipt of submissions.
- York:
 - Contribution to preparation of the Request for Qualifications document.
 - Review of the Request for Qualifications document.
 - Participation in and provision of assistance with respect to the conduct of the Request for Qualifications process as may be needed.
- Joint responsibilities:
 - Evaluation of submissions.
 - Recommendation of qualified proponents for inclusion in the subsequent Request for Proposal.

4.2 The Request for Qualifications

Key components of the Request for Qualifications include the following:

- Introductory information and instructions to proponents.
- Evaluation criteria (*see Attachment 1*).
- Terms of Reference including:
 - Background information regarding the Durham/York Environmental Assessment process.
 - Identification of the project objectives and schedule.
 - Definition of the scope and term of work/services required.
 - Up to 25 years operating period.
 - Submission requirements.
- Standard terms and conditions.
- Anti-lobbying clause (*see Attachment 2*).

The evaluation criteria (attachment 1) and submission requirements are proposed such that only vendors with proven capabilities and proposed proven technologies will qualify.

4.3 Evaluation of Submissions

Submissions will be received by Durham Region. An evaluation committee will be established. The evaluation committee may include, but is not limited to, the following:

- Equal representation from York and Durham in each of the following areas:
 - Procurement;
 - Financial;

- Technical;
- Legal; and
- Advisory consultants.

The evaluation committee will review and score the Request for Qualifications submissions in accordance with the criteria documented in the Request for Qualifications. The evaluation process will be monitored by a Fairness Monitor.

The firms/consortia with the top scoring submissions will be recommended to York and Durham Councils for inclusion in the subsequent Request for Proposal process.

4.4 Next Steps

Pre-qualified vendors would then be eligible to participate in a future Request for Proposal process for implementation of the joint Durham/York energy from waste facility. Council authorization will be sought prior to issuance of the Request for Proposal, which is planned to be released to pre-qualified vendors in December 2007 and closing in April 2008. In January 2007, the Joint Waste Management Group asked staff to advance this schedule. Staff will update Committee and Council on this matter as the options for optimization of the schedule are defined and evaluated.

5. FINANCIAL IMPLICATIONS

Costs associated with the Request for Qualifications process include services to be provided by the Environmental Assessment Study consultant team as well as the services of a Fairness Monitor. The Regions have agreed in principle to share the costs of a Fairness Monitor equally.

The Environmental Assessment Study consultant team will contribute to preparation of the Request for Qualifications and the evaluation of submissions. Evaluation is expected to be accomplished primarily through review of information submitted by prospective proponents, but may also require due diligence field inspections, dependent upon the submissions received. The approved budget for the Environmental Assessment Study consultant team includes allowances for provision of these services.

Durham Region has recently completed a review of proposals to retain a Fairness Monitor to oversee, monitor and report on the procurement process. As the procurement lead, Durham has retained KPMG Consultants as the Fairness Monitor, the cost of which is \$50,000 for the Request for Qualifications phase of the project. York Region's share of this cost is 50 percent. The draft 2007 capital budget for this project includes sufficient funding.

6. LOCAL MUNICIPAL IMPACT

The process of vendor pre-qualification has no direct local municipal impacts other than the potential for local firms having an interest in participating in the Request for Qualifications / Request for Proposal process. Given the international availability of the proprietary energy from waste technologies, the pre-qualification is by necessity an open process, without local bias.

7. CONCLUSION

It is recommended that Council endorse the issuance of a Request for Qualifications by Durham Region using the principles for evaluation criteria, submission requirements and anti-lobbying as presented herein. Staff will make future recommendations to Council regarding the results of the Request for Qualifications and seeking authorization to proceed with issuance of a Request for Proposal.

For more information on this report contact Neil MacDonald, Engineer, of the Solid Waste Management Branch at extension 5713 in the Transportation and Works Department.

The Senior Management Group has reviewed this report.

(The attachments referred to in this clause are included with this report.)