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OWNER'S ENGINEER COST OPINION EVALUATION PROCESS FOR PROJECTS UNDER \$1,500,000

The Rapid Transit Public/Private Partnership Steering Committee recommends the following:

- 1. The presentation by Susan Tuckey, Chief Financial Officer, York Region Rapid Transit Corporation, be received; and**
- 2. The recommendations contained in the following report, June 5, 2008, from the Vice-President, York Region Rapid Transit Corporation, be adopted:**

1. RECOMMENDATIONS

It is recommended that:

1. Council approve the Owner's Engineer Cost Opinion Evaluation Process for standalone projects under \$1,500,000 for York Consortium 2002 proposals for preliminary engineering work programmes estimated at a cost of less than \$1,000,000, and for design/build, contracts estimated to cost of less than \$1,500,000.
2. Council authorize the Vice-President, York Region Rapid Transit Corporation to execute contracts that have been subjected to the Owner's Engineer Cost Opinion Evaluation Process, for an amount not to exceed \$500,000 (net of GST) per contract, in a form acceptable to staff and legal counsel, subject to budget approval.
3. Council authorize the Regional Chair and Clerk to execute an amendment to the Going Forward Agreement to include the Owner's Engineer Cost Opinion Evaluation Process.

2. PURPOSE

The purpose of this report is to seek Council approval for a refined process for evaluating and awarding contracts related to the York Rapid Transit Plan, for smaller scale standalone works for which York Consortium 2002 has right of first opportunity, as provided under the Going Forward Agreement.

3. BACKGROUND

Although not specifically stated in the Going Forward Agreement, the Owner's Engineer Process was contemplated for large-scale preliminary engineering work; ie. over \$10 million, while the Cost Confidence Process was contemplated for large-scale design-build work; ie. over \$100 million. These processes have proven to work well for the large-scale programmes for which they were intended. However, on smaller scale work programmes, such as for the preliminary engineering work for Cornell Terminal and the Markham Civic Mall, or the construction of additional stations in Cornell or at Jefferson Sideroad, the process of establishing a shadow bid can be time consuming and costly. To deal with this, staff has identified a simplified process for undertaking standalone smaller scale preliminary engineering and construction projects.

4. ANALYSIS AND OPTIONS

A simplified bid evaluation process is needed for smaller scale standalone projects that still ensures value for money

At the time the Going Forward Agreement was finalized, the York Region Rapid Transit Corporation and the Region had only awarded large, comprehensive work programmes and capital projects. Since that time, a number of smaller projects and work programmes have been advanced to take advantage of funding opportunities, as well as address municipal interests. Having used the Going Forward Owner's Engineer and Cost Confidence processes on smaller scale work projects, staff has identified refinements to the process for smaller scale projects to reduce time and effort without compromising value for money.

The Owner's Engineer and Cost Confidence Process both require a substantial amount of effort on the part of the Owner's Engineer to prepare a shadow bid or independent cost estimates, regardless of the scale of the work programme. As well, when differences arise between the proposal given and the Shadow Bid/independent cost estimate, the process to reach a resolution can be labour, time and cost intensive when lengthy reconciliation sessions, and potential arbitrations or expert panels are involved, often delaying the award and commencement of work.

While complex and/or large scale projects still require this level of rigour and effort to ensure value for money, less complex and smaller scale, standalone projects would be served through the Owner's Engineer Cost Opinion Evaluation Process.

Once the scope of work has been defined by the Owner's Engineer and understood by York Consortium 2002, the Owner's Engineer prepares its own cost estimate for the work. The Owner's Engineer compares their cost estimate with the York Consortium 2002 bid proposal and assesses every cost discrepancy through discussions and

clarifications with York Consortium 2002. The Owner's Engineer then prepares a final cost opinion and negotiates a final price for the contract work.

Under this proposed bid evaluation process, an inability to reach agreement on price would still allow the Region to go directly to public tender/Request for Proposal

Under the proposed Owner's Engineer Cost Opinion Evaluation Process, an inability to reach agreement on price would allow the Region to go directly to public tender/Request for Proposal without arbitration or an expert panel.

Complex projects, regardless of estimated costs, would continue to employ the two processes as described in the Going Forward Agreement

The proposed processes are captured in *Council Attachments 1 and 2*. *Council Attachment 1* addresses design/build projects, while *Council Attachment 2* addresses preliminary engineering work programmes. In both instances, regardless of the estimated value of the work, should the Owner's Engineer determine that the type of work is too complex to render a Cost Opinion, the Region and York Consortium 2002 would then follow the broader Owner's Engineer or Cost Confidence processes, as set out in the Going Forward Agreement.

Estimated cost limits for the proposed process are \$1,500,000 for design/build projects, and \$1,000,000 for preliminary engineering work programmes

Work programmes estimated to cost under \$1,000,000 and \$1,500,000 for preliminary engineering and design/build projects, respectively, are being recommended for the Owner's Engineer Cost Opinion Evaluation Process, as illustrated in *Council Attachments 1 and 2*. The limit for design/build work programmes is higher than that for preliminary engineering, because York Consortium 2002 design/build project bid submissions of this size typically include construction cost components that are subcontracted through public tender and would not require additional cost evaluation.

For work programmes that do not fall under the categories of preliminary engineering or design/build, for which York Consortium 2002 has right of first opportunity, it is recommended that these same limits apply: for works involving the public tendering of subcomponents of the programme, the \$1,500,000 limit would apply; for those that are done without subcontracting work to parties outside of York Consortium 2002, the \$1,000,000 limit would apply. The communications strategy for the system at large, would fall into this latter category.

This Owner's Engineer Cost Opinion Evaluation Process has been tested on the Enterprise Drive preliminary engineering work programme bid proposal and was found to be effective. Award of the Enterprise preliminary engineering work programme is the subject of a separate report on this agenda.

5. FINANCIAL IMPLICATIONS

The cost opinion process is expected to result in a savings of 20 to 30% in both time and effort compared the the full shadow bid process

A comparison of estimated time and effort was undertaken for two projects: one using the full shadow bid process and the other using the Owner's Engineer Cost Opinion process. The analysis suggests that a savings of 20 to 30% in the Owner's Engineer's effort could be achieved by using this streamlined process.

The Owner's Engineer's team also believes that the same level of savings could be achieved for design/build or construction projects.

The number of projects to be evaluated through the Owner's Engineer Cost Opinion is not expected to exceed seven projects per year

The Owner's Engineer Cost Opinion would generally be used for small work programs not contemplated at the time a broader work program was defined and awarded. Standalone work programmes that needs to be initiated in advance of the original plan would fall into this category.

Examples of construction projects that would fall into the category of the Owner's Engineer Cost Opinion are additional Phase 1 Vivastations in corridors that are not in the first phase of rapidway construction.

6. LOCAL MUNICIPAL IMPACT

There are no local municipal impacts associated with this report.

7. CONCLUSION

The experience gained through the York Region Rapid Transit Corporation evaluation and award processes as defined in the Going Forward Agreement among the Region, York Region Rapid Transit Corporation and York Consortium 2002, suggests that time and cost benefits would be achieved by using a refined process for smaller scale, standalone projects.

Staff recommends that an Owner's Engineer Cost Opinion Evaluation Process outlined in *Council Attachments 1 and 2* be used to evaluate York Consortium 2002 bids for design/build work that is estimated to cost under \$1,500,000, and for preliminary engineering work estimated to cost under \$1,000,000. Any negotiated pricing discussions occur amongst the Owner's Engineer, York Region Rapid Transit Corporation and York Consortium 2002, without lengthy reconciliations and the potential additional involvement of arbitrators or expert panels. In the event that agreement on a price cannot be reached, the Region will have the right to procure the work through a public tender/Request for Proposal process.

The recommended Owner's Engineer Cost Opinion Evaluation Process has been tested on preliminary engineering work on Enterprise Drive. Staff is confident that the refined process will demonstrate value for money, while providing a more streamlined and less costly approach to the evaluation and award process. The analysis suggests that a savings of 20 to 30% in the Owner's Engineer's effort could be achieved by using this streamlined process.

The Owner's Engineer Cost Opinion Evaluation Process acknowledges that complex projects or work programmes, regardless of cost, would continue to employ the processes as set out in the Going Forward Agreement.

For additional information please contact Mary-Frances Turner, Vice-President, York Region Rapid Transit Corporation at (905) 886-6767 ext. 2226.

The Senior Management Group has reviewed this report.

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