



REPORT TO

CORPORATE SERVICES, STRATEGIC PLANNING AND PROPERTY COMMITTEE

CAPITAL PROJECTS TENDER PROCESS UPDATE (ALL WARDS)

*"I can do all this through Him who gives me strength."
Philippians 4:13 (NIV)*

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INFORMATION REPORT		

Vision:

*At Toronto Catholic we transform the world through
witness, faith, innovation and action.*

Mission:

*The Toronto Catholic District School Board is an inclusive
learning community uniting home, parish and school and
rooted in the love of Christ.*

*We educate students to grow in grace and knowledge to
lead lives of faith, hope and charity.*



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A. EXECUTIVE SUMMARY

This report reviews updates to the tendering process for major Capital projects to conform to the Broader Public Sector Procurement Directive (BPS) and to address issues with contractor performance when contracts are awarded on the basis of lowest bid price only. Although contractors are always prequalified for Capital projects, this does not ensure contractor quality and performance where significant time has elapsed since the contractor prequalification for a project, and/or for complex projects requiring superior project and schedule management skill.

Criteria other than bid price to be considered on a project-by-project basis to determine the successful bidder are: Construction Management Plan; Preliminary Project Schedule and narrative illustrating a clear understanding of the complexities and challenges of the project and how delays will be mitigated; qualifications of site and office personnel; and qualifications and similar project experience of roofing, masonry and millwork sub-contractors. Low bid price retains the largest weighting, at 75 or 80 points out of 100.

For large, complex projects these measures will ensure that bidders have taken into account project conditions that will affect the project schedule, that they have selected the best available major sub-trades and that their best personnel will be assigned to the project and thereby ensure the Board receives the best value for the money spent on construction.

The cumulative staff time required to prepare this report was 12 hours

B. PURPOSE

The purpose of this report is to update Trustees on changes to the evaluation of bids for major Capital projects recently implemented to help ensure value for construction dollars and in particular improve contractor performance in meeting required timelines for project completion and reducing inflated change order pricing.

C. BACKGROUND

1. The TCDSB issues tenders for Capital projects only to prequalified general contractors who must carry prequalified mechanical and electrical sub-contractors. Prequalification is a good construction practice to ensure that

the quality and skills of the contractor align with the complexity and management requirements of the projects. Requests for Prequalification are publicly advertised to ensure all qualified contractors have the opportunity to submit and be considered.

2. Prequalification criteria include experience with school construction and proven performance in managing the construction schedule, verified by references. Qualifications are submitted using the *CCDC 11 Contractor's Qualification Statement*, provided by the Canadian Construction Documents Committee, is a standard form for obtaining information on capacity, skill and experience of contractors bidding on building construction projects.
3. Qualifications submitted via the CCDC 11 are scored according to an approved criteria matrix by an evaluation committee consisting of Board Facilities staff and the architect(s) and engineers retained for the projects. As this is a very resource-intensive process, contractors are often prequalified for a group of projects that are expected to be tendered within a particular time frame.
4. For any concerns arising during the tendering process Board staff solicit legal advice from a procurement specialist at Miller Thompson LLP, who also prepares and regularly updates the Board's Supplementary General Conditions to the standard CCDC construction contract and Instructions to Bidders.
5. On June 2, 2015 Associate Directors' Council approved the prequalification of twenty (20) general contractors for five (5) elementary school additions under \$10M and ten (10) general contractors for one (1) secondary and four (4) elementary school replacements or additions over \$10M, as well as mechanical and electrical sub-contractors for the ten projects. The prequalification invitation is included as Appendix A.
6. Of the ten projects included in the 2015 prequalification, three (3) have been completed and three (3) are currently under construction and approaching completion.
7. Tendering of four (4) of the projects was delayed until summer/fall of 2017, due to Ministry of Education funding approvals (St. Clement and St. Augustine additions), site acquisition and Site Plan Approval issues (St. John the Evangelist and St. Joseph Morrow Park replacement schools).

D. EVIDENCE/RESEARCH/ANALYSIS

1. With a delay of two years from prequalification until tendering, the qualifications of some contractors prequalified in 2015 may have changed. Some of the contractors for the six projects completed or underway have not performed as well as expected, particularly in terms of mitigating delays and meeting the scheduled completion date.
2. Competent scheduling by contractors is critical for school construction projects. Failure to meet the scheduled completion date often has significant consequences for the Board and the affected school communities. Students have to be accommodated for a longer period of time in sub-standard facilities, sometimes in split campuses, and leasing and transportation costs for temporary accommodation put significant strain on the Board's budget.
3. The low bidder on a Capital project often reduces their profit margin to a minimum in order to secure the job with the expectation that they will be able to increase the profit margin through inflated prices for Change Orders. The consultant and sub-consultants as well as staff review all change order quotations, but negotiations with contractors to reduce these quotes are extremely time-consuming, can lead to additional consulting fees and delays to the project and cause considerable strain on relationships and the success of the project.
4. Bid prices also may not reflect the actual cost of doing the work if the bidder has not carefully reviewed the project conditions, particularly if phasing and/or working on a restrictive site is required. In these cases, the contractor often will also submit an initial project schedule that is not feasible given the project conditions, and then will attempt to claim costs for delays when the schedule cannot be met.
5. In 2011, the Ontario Ministry of Finance issued the Broader Public Sector Procurement Directive (BPS) designed to ensure that publicly funded goods and services, including construction, are acquired through a process that is open, fair and transparent. The Board subsequently updated its Purchasing Policy to reflect the BPS requirements.
6. Prior to the BPS, TCDSB Instructions to Bidders, and those of many other Owners, included a clause stating "*The Owner may reject the lowest or any*

bid or part of any bid,” without specifying the criteria on which a low bid would be rejected, and a clause stating “The Owner reserves the right to award the Contract to the bidder which submitted the bid which, in the Owner’s sole discretion, provides the best value to the Owner based on the criteria described in the Bid Documents.” With the implementation of the BPS, low bids cannot be rejected on the basis of undisclosed criteria, and, evaluation of selection criteria must adhere to a strict process that is also disclosed in the tender documents.

7. The BPS allows for selection of bids on the basis of other criteria in addition to price and sets out clear rules for developing and specifying evaluation criteria, evaluation process disclosure, the evaluation team and the evaluation scoring matrix. Following release of the BPS, the TCDSB Instructions to Bidders template was revised in 2012, in consultation with Miller Thompson LLP, to include formatting for requesting project specific submissions in addition to price, description of the evaluation process and a scoring matrix template.
8. The revised 2012 Instructions to Bidders template and scoring matrix provides a mechanism to help ensure contractor quality and performance where **significant time has elapsed since the contractor prequalification** for a project, and/or for **complex projects requiring superior project and schedule management skill**, while maintaining a fair and transparent bidding process and ensuring the Board receives the best value for the money spent on construction.
9. Under the guidance of the procurement specialist at Miller Thompson LLP, four criteria crucial to the success of Capital projects, other than price, have been developed for the four projects noted above where tendering was delayed until two years after the prequalification of general contractors. Two of these projects are also complex projects involving large civil works (Metrolinx super culvert at St. John the Evangelist, underground parking and municipal road widening at St. Joseph Morrow Park) and sensitive timelines.
10. The evaluation criteria and points allocated to each are as follows:

Criteria	Points
Bid price	75* – 80
Construction management plan	5
Preliminary schedule and narrative illustrating clear understanding of the complexities and challenges of the project and how delays will be mitigated	5 – 10*
Qualifications of site and office personnel	5
Qualifications and similar project experience of roofing, masonry and millwork sub-contractors	5
Maximum Points Available	100

* Higher points assigned to schedule for complex projects

11. Points awarded for the bid price are calculated according to the formula:
Lowest price/bidder's price x total points available for price (75 or 80);
with the lowest bidder receiving the maximum points for price.

Points for the other criteria are awarded by Evaluation Team consensus based on assessment of the thoroughness and quality of the responses. The Evaluation Team includes the TCDSB Project Supervisor, the architect retained by the Board for the project and one other professional, either Facilities staff person or outside consultant.

E. METRICS AND ACCOUNTABILITY

1. In order to avoid long delays between prequalification of contractors and tendering of projects, going forward, prequalification will be carried out for individual projects, rather than groups of projects, except where there is certainty that projects will be tendered very close together.
2. Future general contractor prequalification will follow more stringent scoring and higher cut-off scores to ensure better quality going into the tender process.

3. With timely prequalification and more stringent scoring, for simple projects under \$10M, in most cases, a good result can be expected with bid price as the only criteria for contract award.
4. For larger, more complex projects requiring superior project and schedule management skill, prequalified bidders should be required to submit for evaluation project specific information (that is not included in prequalification submissions) to ensure that they have taken into account in their bid price project conditions that will affect the project schedule, that they have selected the best available major sub-trades and that their best people will be assigned to the project.
5. By assigning a total value of 20-25% for non-monetary criteria, with the bid price still receiving a much larger weight of 75-80%, the message sent to bidders is that Board expects high quality, but the lowest bid price is still the most likely to be awarded the contract if all bidders put their best team forward and are diligent in reviewing the project conditions as outlined in the tender documents.
6. Board approval is required for capital project budgets, appointment of the architect, and award of construction contracts. Ministry of Education approval is required for projects that exceed the project budget at time of tender. Each capital project carries a minimal contingency allowance, in the range of 3% to 5%, to cover additional project costs.

F. IMPLEMENTATION, STRATEGIC COMMUNICATIONS AND STAKEHOLDER ENGAGEMENT PLAN

1. As part of the next pre-qualification process for future capital projects, an information session will be held by the Board's Procurement department to provide potential contractors with information regarding the tendering criteria. This information is will also be made available on the Board's web site.

G. CONCLUDING STATEMENT

This report is for the consideration of the Board.