

Stephen Bauld, Manager of Purchasing
Louis Shallal, CIO

City of Hamilton, City Hall
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December 3rd, 2002

Dear Louis & Stephen,

I'm addressing this letter to the both of you as the topic involves a "cross-pollination" between purchasing and IT, so my apologies in advance if it is more appropriate to one or the other.

As you may know, in September 2001 I submitted a MFIPPA freedom-of-information request to receive a copy of the City's Computer Systems awarded tender (from earlier in 2001). In part, this was done as a "test" of my viewpoints regarding the type of information that should be made publicly available, as we had discussed when we had a chance to meet in person earlier this year. You may recall that I personally feel that contracts and tenders involving City spending should be made publicly accessible and subject to full disclosure and transparency. I am pleased that my viewpoints were shared by the Information & Privacy Commissioner's office, that discounted the City's arguments against release and ruled in October that the tender should be publicly released in full.

I would now expect that the City's policies with regard to RFP disclosure in general will be realigned to conform to the ruling (order MO-1559), but as you indicated in our meeting this is something for the elected representatives to determine and act upon. As such, I will be taking your advice and raising the issue in the near future with some City Councillors for consideration.

The main purpose of this letter is to briefly discuss the Computer Systems RFP itself, and raise some concerns that arose from my inspection of that document. (I should note that such 'public inspection' is exactly the reason some people oppose releasing documents such as this, but I have strongly argued that fear of uncovering embarrassments or errors through transparency is most certainly not a valid rationale for restricting access.)

Given that the Computer Systems RFP from March 2001 was indicated to be an 18 month contract, I would assume that you will soon be looking to issue a new RFP. Obviously I am not aware if your approach has changed from the type of bidding and review process previously used, so I will instead just focus on the issues with the 2001 Tender (Ref # C6-1-01) that came to my attention.

To get to the point, it is my opinion that the way this contract has been interpreted has resulted in a failure by the vendor to provide the levels of pricing indicated in the RFP response, and so either purposefully or unintentionally costing the City as much as \$200,000.00 more than should have been the case.

There are a few things I should point out up front:

- The scale here is clearly not similar to that of, say, the Toronto/MFP Leasing issue; however, as a percentage of the total business involved, I feel it is significant.
- The issue of fairness, in particular to the other bidders and potential bidders in the future, is of very high concern.
- I should make it quite clear that my own background includes considerable involvement in the Computer reseller business, and also as a past vendor to the City itself when I was a co-owner of JMG CompuShopper (later JMG CompuSmart) up to 1999. I also have a residual involvement as a part “owner” of the off-lease equipment returns of City leases up to December 1999 (equipment now being returned by the City). However, since 2000 I have had no involvement in any ownership, paid or consultancy capacity with any computer reseller or supplier, and as such the comments I make here are entirely my own as a citizen and taxpayer of Hamilton. It is also important to note that my comments here do not reflect any organization that I involved with, such as the Chamber of Commerce or the Hamilton Public Library Board.
- Notwithstanding the above, my experience as a computer reseller and supplier to the City from 1985 to 1999 provides me a wealth of insight to the ‘industry’ perspective, and allow me to review the RFP with some level of proven expertise.

The core issue is that the Computer Systems RFP requires that each bidder submit pricing on specific items as indicated in the RFP document, but that during the term of the contract they provide different items at different prices.

This is inherent in the nature of the computer industry; product lifecycles are often 90 days or less, and official public sector pricing changes monthly (sometimes even more often). The City’s approach to this issue was to indicate that vendors must provide product throughout the contract “in accordance with the published ‘Ontario Public Sector Pricing’ in effect at the time of purchase/lease”. This approach on its own is a failure, as the RFP selection process is still done by using a comparison of specific unit prices provided with the bid.

The issue with the winning proposal provided by Telecom Computer is that the specific comparison prices and the actual published Public Sector Pricing do not match; in nearly every case, Telecom provided unit pricing that was well below the published official pricing.

Alone, this would not be a problem, if one fact held true: Throughout the contract, the vendor would have to provide the same “below published pricing” discount. Such a guaranteed discount level would make the initial RFP review of unit prices reasonable and satisfactory.

This has not, however, been the case. Over the past year in my role as a volunteer and board member with various community agencies and organizations I have been exposed to the pricing the City is paying for new systems under this RFP, and in each case I have seen the price being charged has been the full published official pricing – no discounts given.

While it is true that the prices I saw were only a tiny subset of the pricing and purchasing activity for the past 18 months, if one were to extrapolate the issue to the entire contract then the costs are significant. It would only take a quick review for you to determine whether or not the pricing that I saw was indicative of the pricing levels throughout the contract (ie, comparing the pricing charged to the official published manufacturer pricing for any given month).

The RFP submission does state that *“In the case of this proposal, special bid pricing has been offered by HP and Compaq”*. The implication is that such special pricing would exist throughout the term of the proposal (and contract). In the winning bid submission, Telecom provided a copy of the Hewlett Packard Official Public Sector Pricing lists in effect at the time of the bid. (Note that the RFP mentions that Compaq and Toshiba published price lists were also provided with the RFP, however those were not in the documentation provided by the City in response to the FOI request; as such I’ve used only the HP data available.)

This provides the ability to directly determine the level of discount that the bid submission implied for all product categories. To illustrate this, I have attached a chart summarizing the unit pricing from the bid, in comparison to the official published pricing provided with the bid.

As you can clearly see, the unit prices detailed in the accepted bid indicate an average discount of 11.12% off of the published public sector price lists. This discount should have been applied throughout the entire contract.

Based on the expected dollar amount of this contract according to Council minutes, and estimates of when model changes may have occurred, this missing discount amounts to approximately \$ 200,000.00 in over-billing to the City of Hamilton.

As I stated earlier in this letter, my concerns are both for the cost to the City’s taxpayers of this excess pricing, and also for the lapse in fairness that this creates in the RFP process. “Net Cost” of unit prices was the most significant single factor in the RFP analysis chart used by the City, and the spread created by Telecom’s score of 76.25 (out of 100) versus competitors in the range of 11.25 to 66.25 was without question the essential deciding factor of the RFP selection process. With 4 potential suppliers within a 60-point range in total rankings, the RFP could easily have been awarded to another supplier if the pricing element was more fairly evaluated; in fact, if we remove the “Net Cost” comparisons and assume that every supplier would have provided product at published public sector prices, then Telecom in fact ranked second in the selection review, and would not have been awarded the contract.

I appreciate your taking the time to read this letter and listen to my concerns. I respectfully leave it in your hands to decide what, if any, action or comment is appropriate for the contract that is just expiring. I state no opinion about whether the misleading bid pricing was intentional or accidental, however there is no questioning that the possible cost to the City may have been significant. I do admit that I myself was quite surprised to find such a large potential misrepresentation in the winning bid. However, I think it is essential that future bid evaluation and performance monitoring take this information into account, and not let such a lapse in fairness and over-billing occur again.

Should you have any questions about the information I presented here or the results of my analysis of the RFP, please do not hesitate to contact me. I would be pleased to provide more details; in particular, email is a very quick and convenient way to reach me.

Yours Sincerely,

George Geczy.