



CITY OF HAMILTON
PUBLIC WORKS DEPARTMENT
Hamilton Water Division

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| TO: | Mayor and Members General Issues Committee |
| COMMITTEE DATE: | July 4, 2016 |
| SUBJECT/REPORT NO: | Residential Protective Plumbing Subsidy Program (3P Program) (PW11056(i)) (City Wide) (Outstanding Business List Item) |
| WARD(S) AFFECTED: | City Wide |
| PREPARED BY: | Andrew Grice 905-546-2424, Extension 1461 Shane McCauley 905-546-2424, Extension 1020 |
| SUBMITTED BY: | Andrew Grice Director, Water & Wastewater Operations Public Works Department |
| SIGNATURE: | |

RECOMMENDATION

- (a) That the Residential Protective Plumbing Program (3P) Guidelines as outlined in Appendix “A” to report PW11056(i) be approved;
- (b) That Appendix ‘1’ to the Water and Wastewater Infrastructure Support Community Improvement Plan by-law 13-080 be replaced with the guidelines as outlined in subsection (a) above;
- (c) That the revised 3P program and guidelines come into effect as of July 18, 2016;
- (d) That work approved under the existing 3P program be eligible for reimbursement under the existing 3P program Guidelines for a period of 60 calendar days from July 18, 2016 and;
- (e) That the City of Hamilton maintains a list of five prequalified contractors (“Successful Applicants”) to perform 3P program work where requested by property owners within the City of Hamilton in accordance with the provisions of Request for Prequalifications C14-08-16.
- (f) That the Outstanding Business List item related to “Residential Protective Plumbing Subsidy Program (3P Program)” be identified as complete and removed from the list.

EXECUTIVE SUMMARY

During the General Issues Committee (GIC) meeting on March 23, 2016 committee discussed the Residential Protective Plumbing Program (3P) and directed staff to:

“Review the feasibility of implementing Option 1 (as outlined in Report PW11056(h)) with respect to the Residential Protective Plumbing Subsidy Program (3P Program), and report back to the General Issues Committee”.

Option 1 as outlined in Report PW 11056(h) was to create a “Contractor Roster Model”. The intention of this model was to pre-qualify contractors to perform work associated with the 3P program and control program costs. The model would also provide greater control of quality of work and program advertising while avoiding a contractual relationship between the City and the contractor.

Staff from Hamilton Water, Legal Services, and Procurement worked together to create a Request for Prequalification (RFPQ) model to meet the above mentioned objectives. The RFPQ was issued on May 10, 2016 and closed on May 27, 2016. Twenty-four (24) submissions were received with the lowest price for a backwater valve installation being \$1,221 and the highest price being \$2,875. The mean price was \$1,500.

In order to create a competitive process and maintain an economy of scale the RFPQ stated that the five (5) applicants who meet the mandatory requirements and have the lowest price would be selected and included on the City’s list of pre-qualified contractors.

Based on the current five (5) qualified contractors with the lowest quotes the price will range from \$1,221 to \$1,350 for a complete BWV (Back Water Valve) installation which includes the assessment, CCTV (Closed Circuit Television) inspection, BWV, downspout disconnection, as well as clean up and restoration with concrete. The permit cost (\$228) remains an additional cost that is covered under the program.

The 3P Guidelines (attached as Appendix A) have been revised to support this revised program model. In addition an updated Assessment Form has also been created to ensure greater consistency and value (attached as Appendix B). Significant program changes include the prequalification of contractors, the elimination of three quotes, an updated grant structure and a contractor code of conduct.

If the revised 3P program guidelines and pre-qualified contractors list is approved, the main concern relates to ensuring that property owners understand that these are not City contractors and that the property owners and not the City are hiring them to do the work. Any contractual obligation is between the property owner and the Contractor who they choose. Staff are currently developing communication and outreach material that addresses this concern.

It is recommended that the revised 3P program and Guidelines come into effect on July 18, 2016. Staff will reach out to property owners who have requested information on the 3P program in the last 6 months and who have not already had a backwater valve installed to let them know about the program changes.

**SUBJECT: Residential Protective Plumbing Subsidy Program (3P Program)
(PW11056(i)) (City Wide) - Page 3 of 9**

The recommendations contained in this report support the Mission Statement of the Public Works Business Plan "Innovate Now" - "Provide safe, strategic and environmentally conscious services that bring our communities to life".

Alternatives for Consideration – See Page 8

FINANCIAL – STAFFING – LEGAL IMPLICATIONS

Financial:

Based on the information submitted in the RFPQ process, property owners will be able to receive the same benefits as under the current program at a 30% - 35% cost reduction. This reduction represents approximately 400 to 600 additional backwater valves that can be installed within the existing \$2.5M annual program budget.

Staffing:

The proposed changes to the 3P program create a revised process and it is unclear as to how much staff involvement will be required. Staff will be needed to maintain the list and/or revise the list should any Successful Applicant be disqualified from doing the work or voluntarily withdraw from doing the work. In addition, the City will have the right to remove a Successful Applicant from the list if it determines that the Successful Applicant is in breach of certain "code of conduct" requirements contained in the RFPQ. It is believed that Hamilton Water will be able to manage the program within the existing staff complement. However, a review of staffing requirements will be included in the next 3P Program annual update to committee.

Legal:

In accordance with the provisions of the RFPQ, the City does not have a contractual relationship with any of the pre-qualified contractors/Successful Applicants. Any contractual relationship is between the property owner and the Successful Applicant the property owner has selected to perform the work under the 3P program. All payments under the 3P program will continue to be made to the property owner and not the Successful Applicant.

The 3P Guidelines have been revised to reflect the model of maintaining a list of pre-qualified contractors/Successful Applicants and are required to be included in the Water and Wastewater Infrastructure Support Community Improvement Plan by-law 13-080.

HISTORICAL BACKGROUND

On December 8, 2015 Audit, Finance & Administration Committee received report AUD15033 "Performance Audit Report 2015-07 - Protective Plumbing Program (Value for Money Audit) – City Wide". At that meeting committee put forward a motion:

- (a) That for all Residential Protective Plumbing Program grant applications received by the City on or after December 14, 2015, the grant amount be capped to a maximum of \$1,500;
- (b) That any applicant to the Residential Protective Plumbing Program be required to submit one written quote with their grant application; and;

**SUBJECT: Residential Protective Plumbing Subsidy Program (3P Program)
(PW11056(i)) (City Wide) - Page 4 of 9**

- (c) That all required documentation with respect to the Residential Protective Plumbing Program, be adjusted to reflect subsections (a) and (b) above.

This motion was defeated by council on December 9, 2015 and referred back to staff to review and recommend options for changes to the protective plumbing program.

Council expressed their desire for staff to explore creative options for the program that will reduce the costs associated with the work being performed by contractors while still making it possible for property owners to obtain a backwater valve without having to contribute to the cost, outside of paying their regular water and wastewater rates.

In a report (PW11056(h)) to Audit Finance and Administration Committee (AF&A) on March 7, 2016 staff explored four (4) different options in consultation with Legal Services, Risk Management, Finance, and Procurement. This report was referred to the March 23, 2016 General Issues Committee (GIC) meeting where the following four (4) options were discussed:

- (a) Developing a “Roster” of contractors who are qualified to do the work and have agreed to perform the works at a fixed rate that would be bid on by the contracting community. Property owners would still be responsible for selecting their contractor from the approved list and be responsible for deciding whether or not they want to have a backwater valve installed.
- (b) Possibly expanding the City’s contract with Service Line Warranties of Canada (SLWC) to include aspects of the 3P program.
- (c) Issuing a Request for Proposal (RFP) to manage the marketing, customer service and contractor coordination of the 3P program.
- (d) The City takes on the work related to the 3P program through hiring contractors to do the work and manages all aspects of the program including marketing and customer service concerns. This option has been reviewed in the past and was not recommended due to the possible liability issues; however it will be revisited as part of this process.

Committee directed staff to review the feasibility of implementing Option 1, and report back to the General Issues Committee. The intention of this model was to pre-qualify contractors to perform work associated with the 3P program and control program costs. Staff would gain greater control of quality of workmanship and contractor advertising material. At the same time the model would maintain the contractual relationship between the property owner and the contractor limiting the risk to the City.

Staff from Hamilton Water, Legal Services, and Procurement have worked together to create an RFPQ (Request for Prequalification) model that is unique and completely new for the City. The RFPQ was issued on May 10, 2016 and closed on May 27, 2016. Twenty-four submissions were received with the lowest price for a backwater valve installation being \$1,221 and the highest price being \$2,875. The mean price was \$1,500.

POLICY IMPLICATIONS AND LEGISLATED REQUIREMENTS

On March 27, 2013 council passed By-law No. 13-080 to adopt the Water and Wastewater Infrastructure Support Community Improvement Plan (CIP). Attached to the CIP were the 3P guidelines. An amendment to the CIP is not necessary to revise the guidelines.

RELEVANT CONSULTATION

The following City Departments / Divisions have been consulted and involved in the review of the 3P program:

- City Manager's Office: Legal Services
- Planning & Economic Development: Building Services
- Corporate Services: Procurement

ANALYSIS AND RATIONAL FOR RECOMMENDATION

The 3P program which was originally created in October of 2009 has undergone a number of changes and improvements in order to adapt to changing circumstances. In June of 2015 staff identified a new business model that began to be adopted by a number of contractors. This new model was based on three contractors working together to share quotes in order to get around the three quote process. The intent of the three quotes was to increase competition in the market place, and for property owners to get professional advice from three different contractors to help them make an informed decision. By contractors working together in this fashion the value of the 3 quote process was lost.

A number of contractors hired people to complete door-to-door solicitation as well as telemarketing to get property owners to commit to work and sign three quotes before talking with a qualified contractor. City staff began to receive a number of calls from concerned residents about the marketing practices of these organizations. Staff responded to these concerns in a number of ways including, media releases, mail out notifications and by reaching out to specific contractors to address their advertising practices.

In addition to the concerns around marketing practices, staff also began to receive an increase in complaints related to the quality of workmanship. Hamilton Water staff worked together with the Building Division to address these concerns. Both Hamilton Water staff and City Building inspectors went above and beyond their normal duties to help property owners deal with their concerns.

Staff performed an analysis of what they believed the actual costs associated with completing a backwater valve installation would be; taking into consideration the material and labour costs as well as a reasonable profit margin. That analysis led staff to believe that the work could be done for between \$1,200 and \$1,500 without any additional costs to the property owner. In addition, a "Value for Money Audit" was conducted by Corporate Audit Services in 2015 that also indicated that program costs

**SUBJECT: Residential Protective Plumbing Subsidy Program (3P Program)
(PW11056(i)) (City Wide) - Page 6 of 9**

could be reduced; and recommend that Hamilton Water recommend different funding options including a cost sharing option.

A report outlining four (4) different options was deliberated at the March 23, 2016 General Issues Committee (GIC) meeting. Committee directed staff to review the feasibility of implementing a "Contractor Roster Model" to achieve the following:

- (a) Pre-qualify contractors to perform work under the 3P program;
- (b) Control the cost of work being completed;
- (c) Create more rigor and controls over quality of workmanship and advertising;
- (d) Ability to remove contractors who failed to meet program requirements
- (e) Avoid a contractual relationship between the City and the prequalified contractors;
- (f) Avoid taking on additional risk for work undertaken by property owners under the program.

Staff from Hamilton Water, Legal Services, and Procurement have worked together to develop and release a Request for Prequalification (RFPQ) document. The RFPQ was issued on May 10, 2016 and closed on May 27, 2016. Twenty-four (24) submissions were received with the lowest price for a backwater valve installation being \$1,221 and the highest price being \$2,875. The mean price was \$1,500.

Significant program changes that are being recommended include the following:

Pre-Qualified Contractors

The City on behalf of the property owners pre-qualifies five (5) contractors to perform the work associated with the 3P program. These contractors through a competitive process (RFPQ) submit a single price to complete a backwater valve installation, which includes an assessment, disconnection of downspouts, as well as site clean-up and restoration with concrete. They also must meet certain mandatory requirements including licensing and experience. The term of the pre-qualified contractors list is for three (3) years with an optional extension year.

Elimination of the Three (3) Quote Process

By utilizing a competitive process the need for obtaining three quotes would no longer be necessary. In addition the revised assessment form requires that a Master Plumber or Master Drain Layer review the completed assessment with the property owner prior to undertaking any work; therefore, the property owner will be in a better position to make an informed decision.

Option to select a different contractor or perform the work themselves

It is recognized that in some cases property owners may wish to complete the work themselves or have a different contractor who is already doing other work complete the backwater valve installation. With this in mind, an option has been created where the property owner is eligible for a \$500 grant for a successful backwater valve installation that passes inspection should they choose to do the work themselves or have someone

**SUBJECT: Residential Protective Plumbing Subsidy Program (3P Program)
(PW11056(i)) (City Wide) - Page 7 of 9**

other than the 5 pre-qualified contractors complete the work. This option provides additional flexibility and options for property owners, while at the same time not adversely affecting the RFPQ process.

Contractor Code of Conduct

As part of the RFPQ process contractors agreed to a prescribed code of conduct. That code of conduct addresses integrity and professionalism, timeliness and quality of work, pressure sales tactics, dispute resolution, as well as advertising practices. Failure to abide by the code of conduct will result in their being disqualified from being on the pre-qualified list and their place on the list being filled by the next qualified contractor with the lowest price. This code of conduct will need to be monitored and managed by Hamilton Water staff.

Grant Structure

The grant for a successful backwater valve installation will be based on the price submitted by each of the 5 pre-qualified contractors. That one price would include the backwater valve, assessment, disconnection of downspouts and restoration including concrete.

Where an assessment has been completed and the property owner decides not to proceed with the work for any reason, a provision has been made to provide a grant amount of \$300 for the completion of the assessment including CCTV (closed circuit television) inspection. Where a property owner is interested in just having their downspouts disconnected (without a backwater valve) a grant amount of \$40/downspout is also available.

While there has been relatively few “new” sump pump and pits installed through the existing 3P program an option has been made as part of the new program guidelines. If a property owner is installing a new sump pump and pit in conjunction with a backwater valve they are eligible for a maximum \$2,000 grant. Grants will continue to be paid solely to the property owners.

The cost of the building permit is eligible for reimbursement above the different grant amounts.

Enhanced Assessment Process

A more prescriptive assessment process has been created that requires contractors to:

- (a) Complete a thorough assessment including sketches of the existing drainage system.
- (b) Outline exactly what is included, as well as what is not included in the work being proposed. This is to detail any additional costs not covered by the 3P program such as additional plumbing and any restoration work not covered under the program such as replacing carpet, tiles, etc.
- (c) The assessment must be reviewed with the property owner by the licensed Master Plumber or licensed Master Drain Layer prior to the property owner deciding to have any work completed and prior to the permit being taken out.

**SUBJECT: Residential Protective Plumbing Subsidy Program (3P Program)
(PW11056(i)) (City Wide) - Page 8 of 9**

- (d) The CCTV now must also include an inspection of the sewer lateral out to the property line and not just the internal drainage system. This enhancement has the potential to reduce costs associated with the Sewer Lateral Management Program (SLMP) where the two programs may overlap.

The RFPQ that was issued outlined all of the proposed program requirements and included copies of the proposed 3P guidelines and revised assessment form allowing the contracting community to bid appropriately. Language in the RFPQ process precludes contractors from “walking away” from work that may be more difficult or costly than others. Should it be determined through an investigation by City staff that a contractor is doing this, they will be removed from the City’s list and replaced with another contractor.

By adopting the revised 3P program guidelines and implementing the pre-qualified contractor list staff feel the following benefits will be realized:

- (a) A reduction in grant cost of between 30% and 35% while increasing customer value.
- (b) No reduction in services or program benefits to property owners.
- (c) More control over quality of workmanship, contractor behaviour.
- (d) Greater consistency in service provided to property owners

Potential Concerns

If the revised 3P program guidelines and RFPQ process is approved, the main concern will be with ensuring that property owners understand that these are not “City” contractors. The property owner and not the City is hiring them to do work. Any contractual obligation would be between the property owner and the contractor they choose. As this process is new there is a risk that the City could be seen as being responsible for the contractual arrangement between the contractor and the property owner. Staff have attempted to address this concern through language contained in the RFPQ, the program guidelines and the assessment form. Staff believe that with enhanced communications and outreach around this program this concern can be managed.

As mentioned in the staffing section of this report, it is unclear what the resource requirements will be required to manage the program under this new structure, including how much time will need to be spent monitoring and auditing contractor activity and addressing customer issues. It is anticipated that Hamilton Water will be able to manage the program with existing staff but resourcing requirements will be evaluated after the new program has been in operation for 12 months.

ALTERNATIVES FOR CONSIDERATION

Alternative #1

Committee could choose to cap the grant amount at \$1,400 while leaving the existing program guidelines as is. This amount is at the high end of the 5 lowest qualified quotes received through the RFPQ process.

**SUBJECT: Residential Protective Plumbing Subsidy Program (3P Program)
(PW11056(i)) (City Wide) - Page 9 of 9**

Staff believe that one of the greatest benefits of using the RFPQ process is gaining some control over contractor activity by being able to remove a pre-qualified contractor from the list in certain prescribed circumstances, thereby helping to ensure customer satisfaction. Therefore staff are not recommending this option at this time.

Alternative #2

Committee could chose to amend the revised 3P guidelines and re-issue the RFPQ removing the limit of having only 5 prequalified contractors.

Staff believe that the competitive pricing that was obtained through the current RFPQ process is because there was a limit of 5 contractors. Removing this limit impacts the economies of scale and staff believe prices would increase. Staff feel that five (5) contractors is sufficient to manage the workload and at the same time provide greater control over quality of workmanship and contractor behaviour. Therefore, staff are not recommending this option at this time.

ALIGNMENT TO THE 2012 – 2015 STRATEGIC PLAN

Strategic Priority #1

A Prosperous & Healthy Community

WE enhance our image, economy and well-being by demonstrating that Hamilton is a great place to live, work, play and learn.

Strategic Objective

- 1.5 Support the development and implementation of neighbourhood and City wide strategies that will improve the health and well-being of residents.
- 1.6 Enhance Overall Sustainability (financial, economic, social and environmental).

Strategic Priority #2

Valued & Sustainable Services

WE deliver high quality services that meet citizen needs and expectations, in a cost effective and responsible manner.

Strategic Objective

- 2.2 Improve the City's approach to engaging and informing citizens and stakeholders.
- 2.3 Enhance customer service satisfaction.

APPENDICES AND SCHEDULES ATTACHED

Appendix A – Residential Protective Plumbing Guidelines

Appendix B – Residential Protective Plumbing Assessment Form