

## To Councilor Powers and Public Works Committee Members

I would like to thank the committee for allowing me an opportunity to present the concerns that I have in the specifications and tender process and award. I apologize for not being able to clearly articulate my concerns as I was very nervous and there is a language barrier I'm sure was evident during the F&A presentation and my answers provided thereafter.

### Introduction

Defeo's Auto Service Ltd. has been in business in Hamilton for 16 years and offers a very comprehensive range of services. Our staff of highly trained tradesmen includes 6 licensed truck and coach technicians, 2 apprentice technicians and 3 certified welders all operating out of a 12,000 sq. ft. fully equipped modern facility in the heart of Hamilton. Our facility is 2.5 acres fully compounded with electronically controlled access and 24 hour video surveillance. Defeo's offers 3 fully equipped on site mobile service vehicles, 2 for truck road service and one for complete mobile welding service. All units are available 24/7 on call at your service. We have enjoyed a working relationship with the City of Hamilton for the past 11 years.

### Purpose of this Document

This is in response to the request from the Audit, Finance and Administration committee meeting requesting to put in writing the issues around contracts C12-05-10 (Various Heavy Duty Truck and equipment Services) and contract C12-06-09 ( Car and Light Duty Truck Services)

1. To bring attention to inadequacies in the tender process for both the Heavy Truck tender as well as Car and Light Truck tender both in the tender documents and specifications themselves as well as the selection process and award.
2. To identify unclear meanings in the tender documentation/qualifications and award process (Define meaning of **Mandatory**)
3. To bring to the committees attention evidence of misspending of tax dollars we have identified as a contractor for the City of Hamilton in the context of the award and the inefficiencies created by increasing the costs to transport vehicles from a work location in the outer areas of the municipality to a repair shop far away (i.e. vehicle breakdown in Flamborough and having to be driven or towed to Stoney Creek)
4. To clarify some points during the F&A discussions : Communications with City Staff

- (a) In regards to receiving no response from **Purchasing** staff (Leslie Parker-Bowen) since my original inquiry dated May 6<sup>th</sup> 2010 until I made the request to speak to the Audit, Finance and Administration committee (Nov. 2010), I stand by my statement as I did not hear back from the **Purchasing** staff (Ms. Parker-Bowen nor Angela Mastandrea or Mr. Rick Male) until Jan 2011.

The meeting Mr. Hill (**Fleet** Manager) and Mr. Tom Kagianis (**Fleet** staffer in attendance) mentioned during F&A meeting that occurred after my written letter/e-mail to Ms. Leslie Parker-Bowen dated May 6<sup>th</sup> 2010 was not for the purposes of discussing the tenders but was for the purpose of discussing billing rates for the 1 ton trucks and Zamboni repairs **NOT** the Tenders....although we did discuss some of the issues regarding the tenders but it was in the context of general discussions.

**NOTE: The tenders (pg # 3) under COMMUNICATION NOTICE are very specific that any additional information or questions are to be submitted in writing to the Purchasing Buyer ( Ms. Leslie Parker-Bowen) in addition under Instructions to Bidders (pg. # 12) Clause 9 refers to communicating with Purchasing staff NOT fleet staff.**

As an aside Mr. Hill was to get back to us (Serge Defeo and John Foot ) in regards to the billing rates but as of this date we have still received no reply.

- (b) The issues and concerns I raised were in regards to the Mandatory requirements is specific to C12-05-10. Various Heavy Truck and Equipment Services tender and this is the contract that was agreed between Rick Male, Angela and myself at our meeting in February that should be re-issued as they agreed at the F&A meeting could have been written better and incorporate some of the suggestions by myself (Specify equipment i.e. Zamboni's, 1 ton trucks,)as well as (Award by geographic location to avoid additional costs to city for travel time similar to C12-06-09), etc.  
The C12-05-10 is the contract that should be re-issued.

5. To point out non factual statements made by City staff during the F&A discussions

- (a) That there was not a pre-qualification requirement of these tenders (C12-06-09) Please note the attached RERQUEST FOR PREQUAILIFICATION.
- (b) That there are no Vendor Performance issues with the Bidder awarded the contract C12-05-10

## Truck Tender Deficiencies Contract #C12-05-10

1. Scope of Work ( Page 5 paragraph #2 ) states. “The City Of Hamilton invites submission of bids from ***Qualified Bidders.***” (This statement would indicate that the following services requested would be available.) Services ***will*** include but are not limited too.
  - Emission test
  - MTO inspection
  - Oil Filter an Lubrication Service type B
  - Brake Service
  - Air conditioning Service
  - Steering and Driveline Service
  - Hydraulic Service
  - Plow and Equipment Service ( *Note this service would be primarily welding and some hydraulic service*)
  - Garbage Packer Body Service ( *Note this service would be primarily hydraulic and some welding service*)
  - Ariel Truck and Equipment Service
  - Welding and Fabrication Service

At the time of Bid submission Defeo’s Auto Service Ltd. had all of the above required Services that the City of Hamilton specified the ***Qualified Bidder*** required. The lowest bidder did not have **Emission test capability, Hydraulic Service or Welding Fabrication Service** and still doesn’t to our knowledge.

### **2. Specifications ( page 60 section #2 Regulatory Compliance )**

*Mandatory Requirements* for successful bidders required the following

- City of Hamilton Garage License
- Moe waste generator registration number or qualified sub contractor
- ***Current Ontario MOE Drive Clean Test Facility Registration Number***
- ***Current Ontario MOE Drive Clean Repair Facility Registration Number***
- Current Motor Vehicle Inspection Station License
- Waste Oil Storage and Recycling
- A/C Recovery Recycling and Disposal
- Antifreeze Recycling
- Must have 24/7 service capabilities
- Must have minimum of 4 licensed 310T Class Technicians
- Must have capacity to store vehicles inside or have minimum 6ft perimeter fence
- Scanning Equipment for up to 2008 model year
- Mig welding
- ***Aluminum Steel Welding***
- 3 ton overhead crane
- Electric Welder
- ***Tig Welder***

- **Mobile Mechanical Service**
- **Mobile Welding Service**
- Air Conditioning Service
- **In House Mobile Hydraulic Services**

The services in bold print above indicate the **Mandatory Services** the Company awarded the bid did not have at bid award and still does not have at this time.

Defeo's Auto Service feels that the proper protocol to insure all bidders met the mandatory requirements under issuance of contract C12-05-10 would have been to conduct a **Pre Qualification Bid ( as was the case in contract C12-06-09) to insure all those planning to bid had all the Mandatory requirements listed above.** If the bidder did not have the required services he would then be disqualified from bidding.

The City Purchasing Division was inconsistent in that for the Car and Light Truck Contract # C12-06-09 they did require a Pre Qualification in order to bid on the Car and Light Truck tender. The Heavy Truck tender had no such Pre Qualification.

***NOTE: at Bid Submission Defeo's Auto Service was one of the companies bidding on this contract ( C12-05-10) that had all 21 of the mandatory required services Mandated by The City of Hamilton.***

### **3. Staff Qualifications and Specifications ( page 63 section 7 paragraph 2 )**

This section states ***"All welding work will be performed by shielded metal arc welders to A.W.S. code B2.1-1-016-94R standard"***

The City of Hamilton Tender C11-88-09- Mobile Welding and Fabrication for Parks would not allow this standard. When we submitted our bid qualification for this tender with the A.W.S. standard we were told this welding standard was not recognized by the City.

The City of Hamilton Purchasing Department insisted we must have the Canadian Welding Bureau Designation. (C.W.B.). Had we not obtained this designation at significant cost to our company we would not have been able to perform welding work for the City Parks Department.

If Tender C11-88-09 required this **higher** standard for welding in parks for such things as railings and fences should it not be considered best practice to insist on the same standard for welding on Trucks and Equipment that in some cases would have hydraulic pressures exerted on it in excess of 2500lbs per square inch.

The City allowed the lower Standard for the Truck Tender which is not consistent with there previous stated policy as applied to the parks welding contract C11-88-09 as a requirement

Also none of the bidders of Contracts C12-05-10 or C12 -06-09 has Certified Welders on Staff only Mechanics with some experience welding. It should also be noted that The City of Hamilton Fleet Services Department also has no Qualified or Certified Welders on Staff.

Defeo's Auto Service again is the only bidder that has both A.W.S. designation as well as C.W.B designation for welding. The C.W.B. accreditation includes the Facility, the Welders which have to be Tested every 2 years and the Welding Supervisor who also had to be tested and accredited and the Facility and procedures are subject to periodic audit by the Canadian Welding Bureau Officials.

### **Sub Contracting**

There are several areas within the contract C12-05-10 that mentions sub contracting i.e. pg # 56 within the Form of Tender section under Occupational Health and Safety it speaks to a *Quote "I/we confirm that I/we have both a written occupational health and safety policy and program to implement that policy, and that all of our employees, **subcontractors** and any other persons performing the Work are appropriately trained, licensed and certified, as required to perform the Work"* can be construed to imply that any and all sub contractors if the intention was to allow subcontracting... should be included and their qualifications and license's and health and safety work plans/policies should have been submitted.

Under General Conditions (pg 36) Clause 6 Occupational Health and Safety speaks to the same issues above.

Under General Conditions (pg 31) Clause 5.2 it speaks to *Quote " Where substantial portion of the work to be done under the Contract is to be carried out by **a subcontractor**, the City may require the Successful Bidder to furnish the same evidence as provided under subsection(1)"*

I would suggest that if the intent was to allow for subcontracting that these provisions would have followed and the portions of the work and Health and Safety plans/procedures would have been submitted as part of the bid.

### **Garbage Packers and Organic Green Bins**

In response to a question during the F&A discussions as to whether there have been any other issues with contracts, I stated that there had been and it related to the request by City Collections staff and Fleet staff to investigate the mechanical tipping devices used for lifting the bins for disposal of the green cart contents.

On September the 30<sup>th</sup> 2009 myself, my welding supervisor (Mike D'Agata) , Pat Tompkins and Kevin (waste collection Supervisors), Gary McKechnie (Fleet Superintendent) attended an on site investigation in the Rosedale area of the City.

The purpose of this investigation was to investigate if the mechanical lifting device may have been contributing to the release of the green bins into the hopper compaction area of the collection vehicle and potential cracking of the bins by the lifting device.

It was observed by those investigating that the speed of the lifting device was a contributing factor of the bins being ejected into the compaction compartment. This was due to the conclusion by investigators that the speed control device (pressure regulator) was possibly tampered with by collection staff and this was the most likely collective conclusion.

In discussion with the on site collections staff when asked "Why are the bins been lifted so fast as to cause the bins to be ejected into the "hopper" and the response was "I don't know I'm not a mechanic"

I asked the operator "why they were not recovering the green bins from the hopper before crushing them in the hopper" and the response was "I don't see anything".

I then asked the operator "how long has this has been going on" and the response was "for a while"

I asked the operator "how many bins have you lost today "and the response was "32 today and 26 yesterday" and he didn't know how many previously they 'lost "due to these problems.

There were no observations or evidence of the bins being cracked due to the lifting device

As we were conducting the on site investigation, all in attendance observed a city waste pick up truck full of green bins delivering replacement green bins.

The truck was taken back to our shop and the regulator was reset to manufacturer specifications and the regulator was relocated on the truck body to prevent tampering of the regulator speed and the lifting device was modified by adding extension plates as a "stop device" to accommodate for the weight of the bins and the centrifugal force causing the bins from tipping over into the compaction compartment.

It was the conclusion of the investigators that if the regulators are left at the manufactures specification settings and not adjusted or tampered with to in increase the speed that the problems would be resolved.

If you require any additional information or clarification please do not hesitate to contact me.

Sincerely Yours,

A handwritten signature in black ink, appearing to read 'S. DeFeo', written in a cursive style.

Sergio DeFeo  
President