

Deputation – Sandy Annunziata
Item 9A – Vendor Award: Window and Façade Reconstruction
at 33 Coatsworth Crescent
BIFAC Public Meeting – November 2, 2023

Committee members,

For the record, my Name is Sandy Annunziata, I am the Principal of Para Pro Forma Consulting, located at 111 Niagara Blvd, Fort Erie ON.

Mr Chair, Board members and Staff, Thank you for your attention to this important matter and the opportunity to work with you in addressing this concern.

I will state for the record that I have done my best to omit the names of identifiable individuals and private sector companies, but this does involve a Procurement matter that I feel compelled to raise in an effort to make more transparent the important work of this committee. All of my material has been gathered from public documents, available on multiple websites. For anything else, I fully understand my right to access documents through Freedom of Information legislation and plan on exercising that resource. Unfortunately, I am not privy to confidential documents that may shed light on the concerns that I raise here.

My intention is to raise awareness not impugn anyone's reputation or integrity.

Respectfully, A situation has been brought to my attention where a successful bid has been awarded. It was not the lowest bid. While I fully understand that in certain procurements, lowest bid is not the only criteria, But in this situation I raise 2 issues

1. Why should the taxpayers of this city pay millions of dollars more for a project when they shouldn't have to.
2. The competency, the relevant experience and skill set of those making these decisions, needs to be questioned in a thoughtful but sometimes provocative manner. Doing so encourages transparency and accountability.

I'll begin with the latter issue as I feel it's more systemic in nature, while the former, wasting taxpayers money, is the ultimate consequence of this decision.

The Procurement Award Committee Charter, has been modeled after its Parent piece of Policy. The City of Toronto, Procurement Processes Policy, January 2017

In Section 12 of that Policy, under Evaluation Team, the Evaluation Team shall include division staff members with the relevant experience to evaluate bidders of proponents submissions.

Our first issue is a deep concern. We contend that throughout the 2023 year, the Procurement Awards Committee was not capable of fulfilling its Charter responsibilities due to the unprecedented number of position vacancies. Interim appointments, new hires, staff turn over, political turnover, Governance restructuring, policy reforms and in our opinion low bench strength. We have questions concerning the makeup of the PAC during the 2023 year and whether the PAC's evaluation responsibilities were impacted by critical position vacancies and a shuffling of the deck of key position not necessarily qualified in matters of procurement.

But don't take my word for it, simply recount what this Committee was saying As early as January of 2023. Impacts were being felt, as articulated in the January 27, 2023 Public Meeting Minutes of the Building Investment, Finance and Audit Committee

Quote...Mr. Meagher was available to answer questions of the BIFAC. Highlights of the discussion include:

- The Committee noted that there are several outstanding action items on the list related to procurement from almost a year ago, and asked for an update on their status.
- It was noted that with the resignation of the former Chief Financial Officer, there has been added pressure and workload for senior leadership in

Finance, which has limited their ability to report back on matters listed on the action item list in a timely manner...end quote.

I will submit, it wasn't just the CFO. There are example after example of low bench strength throughout the Public minutes of almost every committee. But with respect to Procurement, we do not believe the threshold set out in the PAC Charter, specifically, with respect to Committee governance, make-up, relevant experience of Members, was sufficient to meet a standard that encouraged a fair and transparent procurement process.

Another troubling example is the Position of Senior Director of Procurement Strategy. So vital is this position that this individuals authority is embedded in every procurement recommendation. In fact, out of the 6 stated REASONS FOR RECOMMENDATIONS: the first being

"1. The Senior Director of Procurement has recommended the award as being conducted in a fair and transparent manner and in compliance with the terms of a competitive procurement call, and applicable procurement policies, procedures, and protocols;"

That is a powerful endorsement statement. In our opinion it is no longer impactful because of the 2023 climate of absentee leadership in that position. To include it on any award recommendation report to this committee, we believe is disingenuous.

We cannot find any attendance of this individual in almost every committee meeting minutes where a tender as been awarded. The only language we found was a Canadian Architecture Quote in September 12, 2022, the minutes of September 8, 2022 BIFAC meeting and a December 8, 2022 BoD meeting. The individual that held the title of Senior Director of Procurement Strategy was Albert Koke

The next time we see that title attached to a name isn't until minutes of June 23 2023 BIFAC in Report BIFAC 2023-71 Strategic Procurement Update Authored by Lily Chen with a footnote of staff contact Joanne Bourne-James Senior Director Procurement (Acting). Her current position is Manager Sourcing.

In every procurement awards committee report or recommendation, it is Allen Murray, VP facilities management or Darren Meagher General Counsel, Corporate Secretary.

This position, although named in the PAC charter as one of 7 Members, has been vacant the entirety of 2023. We know this because of Numerous Job Site postings where it was listed in March/April of 2023, and only filled in September of this year. And we know that because of a Linked in profile update for Hanna Barakat Senior Director Strategic Procurement. We look forward to her procurement experience, decision making and contributions to the Organization and wish her all the best.

The PAC Committee is responsible for evaluating bid submissions and identifying Qualified contractors/vendors. In the normal course of proceedings of any Council, committee or Board of directors meeting, we would expect to see who the members are, who is in attendance, any other participants, if quorum is achieved. How members voted. Etc etc. we believe those minutes particularly for 2023 should be made public because it speaks to the competency of the PAC and its responsibility in upholding the values of its Charter. Presently that reporting mechanism is woefully inadequate in providing accuracy, transparency and accountability.

Building on the concept of bench strength across the organization, Was the Vice President of Facilities Manager placed in an acting role as Senior Director Strategic Procurement? If so, where are the minutes and the Board resolution reflecting that decision? We cannot govern by decree, or fiat or through ad hoc policy. The PAC is a creature of the board and as such, only through Board resolution does it have any authority. The PAC Charter respecting PAC membership is very clear. In Board policy Update June 2021, Board Policy Update of 2022. PAC, Membership does not include the Vice President of Facilities Manager. Yet in every procurement awards committee report or recommendation, it is Allen Murray, VP facilities management putting forward the recommendation. (Darren Meagher General Counsel, Corporate Secretary)

As a matter of fact, only in a General Counsel memo in May 2023, is there a specific recommendation to add an 8th member to the PAC, in addition to the Senior Director Strategic Procurement, that being the Vice President of Facilities Manager. As best as we can determine, that recommendation was received by BIFAC, in June 2023 and was to be presented to the Full TCHC Board for ratification in July. Again, we have no knowledge of that recommendation being accepted, and ratified by the Board. But again, we wish Allen Murray best of luck in his expanded procurement responsibilities.

Rules are in place to ensure matters of importance are treated with great reverence. A level playing field isn't just a platitude, it is the foundation of the procurement process. If the expectation is ALL proponents follow ALL the rules ALL the time, then we would demand the same accountability from the rule makers. These events , taken in their totality, have the systemic effect of eroding trust. Trust in a process that should be above reproach. Yet here I am approaching you

This leads to many questions about protocol, and process and following the rules. Have unauthorized individuals exceeded their authority by involving themselves in procurement decisions they have not been authorized to participate in or undertake?

Have individuals, although not recognized as members of PAC in any capacity through any Board resolution, played a role in procurement decisions while also being exempt from Evaluation Team responsibilities?

Have any individuals signed a conflict of interest declaration for each procurement evaluation they have participated in?

These are questions that demand transparency. Transparency for taxpayers, transparency for Contractors, transparency for the 1000's of skilled workers that rely on job opportunities through a fair and uncompromised procurement process.

The second point that I would like to raise concerns the propriety of the pre awarding process.

In a 3 stage process for the RFP at 33 Coatsworth Members of the PAC evaluation committee Interpreted the submissions of a proponent and voted to disqualify that Proponent.

The Proponent vigorously disagrees with that assessment and interpretation and the damaging effect of being characterized as unqualified within the scope of this project. Within long standing procurement process policy and with a reasonable opportunity for a competitive process, that may have resulted in considerable savings for the taxpayers of the City, why wasn't the proponent given the opportunity to cure a submission or expand on an answer that may Have been ambiguous. If the evaluators questioned the veracity of an answer submitted during the qualification process why wasn't that consideration given? Low bench strength?

I have also confirmed that No one from PAC, BIFAC, TCHC has had any contact with the unsuccessful proponent since the closing of the bid on June 3. Despite attempts to inquire about how they did but unfortunately received an automated response, "no information to share. The only way they learned about the impending award was when they downloaded today's Agenda on Oct 27th. For 4 months, having their bonding and security financing locked up, labour and materials committed for the potentiality of a contract award, only to never get an update. Low bench strength?

This is not how you treat valued partners in the skilled trades and construction community. Not only was the proponent deemed non compliant and therefore unsuccessful, they were not contacted and given the opportunity to exercise their rights to question, dispute, lodge a formal enquiry.

(Cite City of Toronto Procurement Process Policy which serves as the template for all other Procurement policies of which Agencies, Boards and committees have been actively adopting, the same reflective language to better align across the organization)

But even more troubling, the winning proponent, in our opinion, was given the opportunity to meet with and discuss bids that were still open, active and not yet closed. OR they were given the opportunity to meet with PAC Members prior to and during the actual awarding process. Did those meetings unfairly influence PAC decisions? Did a meeting about one project, suddenly turn into a sales pitch for the next project? With so many projects being awarded, did the conversation of labor capacity, bonding capability and sourcing materials occur? We don't know, but what we do know is this, other bidders were not given the same opportunity. And either real or perceived, this created an unequal, unfair process, Contrary to the PAC Charter.

So how did they do this? They did this through multiple bids that overlapped. For example....in three consecutive bids,

RFQ 23048-PP

March 6 (Open)

April 25 (Closed)

May 12 (Meeting)

RFQ 23100-PP

April 6 (Open)

May 16 (closed)

June 5 (Meeting)

RFP 23045-

April 3 (Open)

June 3 (Closed)

August 17 (Meeting)

Where was the Executive leadership to point this unfair practice out? Again No Senior Director of Procurement strategy and defections and turnover in executive leadership roles precisely during this time.

While all this was happening, coincidentally, the one proponent who benefited from this unequal access and possible direct or indirect influence was successful in all 3 2023 bids. To put this in context. Within 4 months, one bidder was successful in 3 bids totaling \$39,784,463.

It may just be an incredible coincidence, but given the numerous irregularities that I've indicated, I believe it warrants further scrutiny, further review, and fulsome comprehensive answers to the questions I have raised in this public forum. From what I have indicated, the PAC has contravened no less than 5 Guiding Principles contained in the TCH Procurement Policy.

- A) Compliance with ALL applicable laws, regulations, by-laws, policies and trade agreements.
- B) C)Open, fair and transparent procurement that affords equal access to all qualified vendors
- C) E)Achieving best value for Toronto Community Housing for the expenditure of public funds through consideration of full range of procurement formats and the adoption of commercially reasonable business practices.
- D) G)Effective balance between accountability and transparency and efficiency
- E) H)Adherence to the highest standard of ethical conduct.

I would respectfully ask this committee to undertake 2 specific actions directly following my delegation.

1. Defer any ratification of Agenda Item 9A - BIFAC:2023-116. Report: BIFAC: Vendor Award: Window and Façade Reconstruction at 33 Coatsworth Crescent, Request for Proposal ("RFP") 23045-PP until the Senior Director of Procurement Strategy advises on a remedy. Despite the protestations of staff that this is a time sensitive project

that needs immediate action, the forecast for completion is 24 months. And the issues I've raised will have long standing considerations if not addressed now.

2. Commit to undertaking a thorough review of the questions I've raised respecting the process, the personnel on the PAC for the entirety of 2023. As I've mentioned previously, this may be a case where staff turn over, changes in leadership, Governance restructuring, policy reforms, interim appointments, position vacancies created low bench strength that compromised the integrity of specific Procurement processes during 2023. If you find that is the case, you have a fiduciary responsibility to go about correcting those deficiencies and quite possibly revisiting certain procurement awards.

Thank you for your time and I wish all of you my best.