

Resort Village of Elk Ridge
Agenda

October 22, 2024 at 4:30 pm – Special Meeting – Elk Ridge Resort

1. **Call to Order** – The Mayor called the meeting of Council to order.
2. **Approval of Agenda:**
3. **Adoption of Minutes:**
4. **Declaration of Conflict of Interest:**
5. **Delegations Scheduled:**
6. **Public Hearings:**
7. **Public Acknowledgements:**
8. **Business Arising from Minutes:**
9. **New Business:**
 - 9.1 ICIP Procurement Strategy
10. **Motions:**
11. **Administration Reports:**
12. **Financial Report**
13. **Reading of Bylaw(s):**
14. **Notice of Motion:**
15. **Inquiries:**
16. **In camera:**
17. **Information Items/Correspondence:**
18. **Adjournment**

PROCUREMENT ADVISORY ON ICIP WATER TREATMENT PROJECT PENTELSA ENGAGEMENT STATUS REPORT

Background and Context

Purchasing Strategy and Compliance: The ICIP Program requires that contracts be awarded in a way that is fair, transparent, competitive, and consistent with value-for-money principles, or in a manner otherwise acceptable to Saskatchewan, and if applicable, in accordance with the Canadian Free Trade Agreement, international and domestic trade agreements.

- A. **Research Actions Taken.** I summarize the key actions I have taken with respect to understanding the ICIP expectations with respect to Purchasing Strategy and Compliance:
- a. I have reviewed the following Saskatchewan provincial policies and guidelines that provide insight as to the expected practices related to the ICIP requirements:
 - i. ICIP Awarded Contract Policies and Procedures;
 - ii. Best Value Procurement Policy;
 - iii. Government Procurement Policy;
 - iv. Government of Saskatchewan Procurement Guide;
 - v. Procurement Quick Reference Guide;
 - vi. Procurement Plan Template;
 - vii. RFP Consecutive Negotiations Template and Users Guide;
 - viii. Purchasing Act, 2004 and
 - ix. Purchasing Regulations.
 - x. Resort Village of Elk Purchasing Policy.
 - b. I have reviewed some past RFP packages for Water Treatment Plant Upgrades (via Sasktender.ca);
 - c. I reached out to the ICIP Compliance Authority and Purchasing Advisor for the Saskatchewan Municipalities Association, Carl Macdonald;
 - d. I have had several follow-up meetings with Carl Macdonald and the Kinetic GPO;
 - e. I reached out to a number of other Villages in Saskatchewan, but have not heard back;

- B. Key Findings.** I have analysed and synthesized the information from the above research activities, in specific context of awarding contract to an engineering firm for the pending Water Treatment Plant Upgrade project:
- a. I found no major disconnects between The Resort Village Purchasing Policy, Provincial Purchasing Regulations, Government Policy, and the ICIP Awarded Contract Policies and Procedures;
 - b. The Purchasing Regulations and ICIP Award Contract Policy (“ACP”) allow the following five approaches for awarding a contract:
 - i. Tendering (i.e. RFP process). Tendering must be done in accordance with provincial policies and guidelines. This is the current procurement strategy and approach assumed within our agreed to Letter of Engagement for Procurement Assistance dated September 26, 2024.
 - ii. Sole Source. I have concluded that the RV Water Treatment Plan Project (WTPP) is not eligible for sole source. Any effort to implement a Sole Source Procurement Strategy would require Infrastructure for Canada (“INFC”) approval;
 - iii. Advance Contract Award Notice (“ACAN”). ACAN is a public notice indicating to the supplier community that a department or agency intends to award a good, service or construction contract to a pre-identified supplier, believed to be the only one capable of performing the work, thereby allowing other suppliers to signal their interest in bidding by submitting a statement of capabilities. If no other supplier submits a statement of capabilities that meets the requirements set out in the ACAN, the contracting officer may then proceed with awarding the contract to a pre-identified supplier. A number of municipalities post ACAN notices on the sasktender.ca sites for waterworks and sewage works projects. However, I have concluded that because Elk Ridge Utility has not established a consistent engineering partner for its past work, the Resort Village of Elkridge would be required to execute a Request for Supplier Qualification or Request for Information process in order to meet the eligibility requirements for ACAN.
 - iv. Group Purchasing Orders (Standing Offers). The Resort Village has a membership, through SUMA, with Kinetic Group Purchasing Organization (Kinetic GPO). The INFC accepts Group Purchasing Orders, awarded under a Standing Offer of a previously tendered GPO process, as meeting the requirements for the ICIP program. I have verified this verbally and in writing with the ICIP Compliance

Authority and Purchasing Advisor for the Saskatchewan Municipalities Association, Carl Macdonald. I have also discovered that a Standing Agreement has been established with Associated Engineering, in August 2024. Associated Engineering (“AE”) competed with 148 other engineering providers, including BCL and KGS, for providing 12 categories of engineering services to GPO members, including Water and Wastewater Services (Category 10). I have been told that GPO members receive a discount on the engineering services, but I have yet to see the details of the magnitude of the discount outlined in the Master Agreement.

- v. Own Force Labour. Own force labour means the RV staff execute the work related to engineering, project management and procurement of the WTPP. Own Force Labour costs are ineligible for the IFIC, unless pre-approved by the INFC. Given that the Resort Village of Elkridge does not have an engineering or project management department, Own Force Labour is not an applicable procurement solution.

C. **Conclusion.** Based on my review and assessment of the applicable Purchasing Policies and Regulations I conclude the Resort Village could adopt utilize the Tendering Process or Group Purchasing Organizing as a means to getting best value for the WTPP. I rejected the ACN process as a potential Purchasing Strategy for the Resort Village because pursuing this approach would require exploring the market through a either an RFI or RFQ process which would take 8-12 weeks, which would be the same as approaching the market with an RFP.

D. **Recommendations.** Based on the Findings and Conclusions I outlined in this report I recommend that Administration and Council adopt the following Procurement Strategy.

- a. Put the existing Tendering approach on hold and explore forming a Procurement Contract with Associated Engineering, under the Standing Offer agreement with Kinetic GPO. Should Associated Engineering not be able to assemble a team or negotiate an approach that is acceptable to the Resort Village the option to tender still exists. The primary benefit for doing this approach is as follows.
 - i. Compliance. The GPO Procurement Strategy and Associated Engineering are fully compliant with the ICIP Policy requirements. This means the Resort Villag of Elkridge or Associated Engineering would be less susceptible to subsequent audits of their procurement process and need less oversight of the procurement process used by the engineering firm itself. Non-compliance to the

ICIP Procurement Policy by the winning engineer is a serious risk, that can be mitigated should Associated Engineering be found adequate by Council.

- ii. Potential for Cost and Schedule Savings. There is only potential upside in cost and time savings for taking this approach. Tendering processes are time consuming and expensive for all parties which will drive up the cost. The GPO allows us to skip 8-10 weeks in tendering process and go directly to negotiations of the scope, the approach, team, estimate, and terms – with previously agreed to discount which has been vetted against 148 other competitors (and 8 finalists). I believe that engaging Associated Engineering (AE) through this approach is the best opportunity for accelerating the award of work before the 2024 Christmas break and mobilizing a project team early in the New Year, which puts the Resort Village in a better position to complete the project by the March 2027 completion date.
- iii. Staff Engagement. The GPO process allows the Resort Village to engage staff and other experts early in the scoping meetings and negotiation processes.
- iv. Uncertainty of Tendering. KGS Engineering, BCL, and AE were the main suppliers of interest for the tendering process. Should the tendering process be executed, without consideration of the GPO, then it is highly probable (as pointed out by the ICIP Procurement Advisor) that AE would be the winning engineering firm based on qualifications, experience and risk alone – however, the Resort Village would be ineligible for the pricing discounts offered under the GPO.
- v. Value Add Opportunities. Outside of the WTP, the Utility and Resort have multiple capital projects that require execution (e.g. reservoir expansion, lift station upgrades, lagoon expansion and upgrades, roads, etc.). Associated discounts would be applicable to over 12 categories of projects, all which have been deemed compliance to Provincial Procurement policies.

E. Issues and Risks. The key issues and risks with the proposed Procurement Strategy are as follows:

- a. **Negative Perceptions as GPO Process Is Unfamiliar to Community.** I anticipate that many in our community will be unfamiliar with the benefits and processes associated with most of Municipal/Provincial Procurement Strategies and Tools, including the GPO Process. To be fair, the Joint

Committee for Amalgamation of the Resort Village and Utility missed the opportunities and benefits of the Procurement process and especially those associated with a GPO. Had it known about the GPO Process, it would have probably articulated as a benefit to the amalgamation process. Having said that, traditional, “Tendering Processes” are likely the easiest for people to understand as being a “fair and competitive process” and as a result Council may be required to get a deeper understanding of the process and its benefits. As such, I provide some reference material for Council to review about the process, as well as give option for Council to have a meeting with the Kinetic GPO representatives, should they want to do so.

- b. Change Order to Letter of Engagement with Pentelsa for Procurement Advisory (Sept 26, 2024). I have analyzed the Letter of Engagement and there is no change in the Nature of Services, but a change order would be needed to describe the change in deliverables:
 - i. The current deliverables would be unchanged:
 - Research Competitive Bid Policies and Process (Provincial, Federal, Municipal)
 - Gather, Refine Project and Business Requirements (i.e. Scope, Business Needs)
 - ii. The current deliverables would need to be deleted:
 - Develop and approval of Bid List and Evaluation Criteria
 - Produce Initial Draft of Request for Proposal (“RFP”)
 - Facilitate Initial Review and Revisions of RFP
 - Compile documents and final edits of RFP, including facilitating necessary approvals
 - Facilitate Review of Proposals and Award to Contractor
 - iii. The following deliverables would need to be added:
 - Facilitate engaging Associated Engineering and RV Staff in scoping effort
 - Facilitating scope of work terms and cost of contract such that they are acceptable to both parties (i.e. Resort Village and Associated Engineering).
 - Facilitate Review of Purchasing Contract under GPO Standing Agreement
 - iv. Potential Impact to Engagement Fees. I am not anticipating a reduction in my fees as I would be replacing the time estimated required for a tendering process with a contract formation process,

which was not in scope of the Engagement Letter. However, if the contract were to be signed by both AE and the Resort Village by November 29, I would gladly forgo the \$1,875 fee payment for December 13 as the whole point of the GPO exercise was to save time and money. I believe this would be beneficial to all parties.

Reference Materials:

- A. ICIP Awarded Contract Policies and Procedures
- B. Kinetic GPO video – explains how process is compliant as well as the cost and time savings
- C. Working together – high level overview on who Kinetic GPO is and the benefits of being a member
- D. NCPP RFP Tracking – an interesting read about RFP costs issued by NCPP (National Cooperative Procurement Partners - North America's premier association for cooperative procurement)
- E. Compliance Verification Email, Carl Macdonald

Procurement Strategy – Supplemental Background Information and Context

I estimate that the Engineering, Procurement and Project Management contract in question is estimated to be approximately \$217,000. This assumes the total value of the work is \$1,085,000. My understanding that this estimate was provided to the Resort Village by BCL in 2023 in response to the attempting to finalize the details of the Ultimate Recipient Agreement.*

Based on historical norms for Water Treatment Plants the Cost Breakdown for the Project can be distributed into following components:

Cost Distribution Estimate

- Engineering and Design: 15%
- Equipment and Materials: 60%
- Construction: 20%
- Project Management: 5%

Based on the above “rule of thumb” I have estimated that the contract value for the Engineering and Project Management work for the Water Treatment Plant would be 20% of \$1,085,000 = \$217,000. A 5% swing in contract fees would be about \$11,000 or 1% of the total cost of the project. The selected engineering company would also be like be assigned the role and responsibilities of “procurement agent” for the Resort Village and stewarding the procurement of materials, equipment, and construction for the other elements of the project which amount to 80% of the costs (~\$868,000). This means the procurement function within the firm plays a very important part in ICIP compliance, schedule risk management, and cost efficiencies.

*This is the number in the Ultimate Recipient Agreement (URA) which is the agreement between the Province and Resort Village. This agreement is the rule book

that prescribes the “rules” of project scope, value and execution. The URA specifies that the maximum Total Eligible Expenditures approved for the Water Treatment Upgrade Project is **\$1,085,000**. As per the IBA, the total financial Contribution (by Provincial and Federal authorities) is not to exceed **seventy-three and thirty-three hundredths per cent (73.33%)** of the Total Eligible Expenditures up to a maximum of **\$795,631**.*

Investing in Canada Infrastructure Program Awarded Contract Policies and Procedures

POLICY:

As outlined in Section 7 of the Investing in Canada Infrastructure Program (ICIP) Ultimate Recipient Agreement, the Ultimate Recipient will ensure that Contracts will be awarded in a way that is fair, transparent, competitive and consistent with value-for-money principles, or in a manner otherwise acceptable to Saskatchewan, and if applicable, in accordance with international and domestic trade agreements. These trade agreements, include, but are not limited to: *the Canadian Free Trade Agreement, the New West Partnership Trade Agreement, and the Canada-European Union Comprehensive Economic and Trade Agreement.*

For information on procurement and trade obligations, please contact:

- Carl Macdonald, Procurement Advisor with the Saskatchewan Urban Municipalities Association (SUMA) at 306-525-4395 or munprocurement@suma.org
- Amanda Kozak, Member Purchasing Advisor with the Saskatchewan Association of Rural Municipalities at 306-761-3722 or akozak@sarm.ca
- Information on procurement policies and procedures can be found on the Priority Saskatchewan website at www.saskbuilds.ca (refer to Priority Saskatchewan tab at top of page).

Records may be requested in support of inspection and audit as outlined in Section 10 d) of the Ultimate Recipient Agreement. Records that may be requested include, but are not limited to, tendering documents, bid proposals, and procurement policies.

This Awarded Contract Policies and Procedures document should be given to your engineers and/or contractors so they are fully aware of the conditions.

REQUIREMENT:

A completed Awarded Contract Checklist must be submitted to the Ministry of Government Relations for contractors and suppliers that will provide total estimated goods and/or services of \$30,000 or more on your project prior to the reimbursement of costs claimed on a Request for Payment. The checklist must be signed by the Mayor, Reeve, CEO, Administrator, or any authorized delegate.

Please note that the checklist is only required one time for each contractor/supplier.

OTHER INFORMATION:

Sole Sourcing:

Non-competitive contracts that fall under the following criteria are eligible and do not require approval from Infrastructure Canada (INFC):

- Costs are related to ineligible activities or are otherwise not included in the Total Eligible Costs for a project;
- Contract is for construction or goods and is \$40,000 or less; or
- Contract is for service and is \$100,000 or less.

Sole sourcing for the following must be approved in advance by INFC:

- The contract is for less than \$500,000;
- The contract is with a public sector entity;
- The contract can only be performed by one person or entity;
- The contract is entered into by an Indigenous ultimate recipient;
- The contract is entered into with an Indigenous organization/governing body, and there is a benefit to an Indigenous community; or
- The contract addresses a state of emergency that has been declared.

Non-competitive contracts that do not fall within any of the above will require federal Treasury Board approval. Obtaining Treasury Board approval is a lengthy and resource intensive process that may take several months and will require a strong rationale for the non-competitive procurement process as well as more complex and in-depth information requirements.

Advanced Contract Award Notice:

Instead of Sole Sourcing, recipients can post an Advanced Contract Award Notice (ACAN). The ACAN must be posted on SaskTenders for a period of no less than 10 business days. ACAN is a practice that is accepted by Canada and is also a less administratively heavy and quicker option with less risk of delays or rejection. Information is available on the federal government's website regarding this practice: [Chapter 3 - Procurement strategy | CanadaBuys](#).

Group Purchasing Order:

Kinetic/Central Source is a Group Purchasing Organization (GPO) that SUMA has an agreement with for its membership. It is a standing offer, that has been tendered according to provincial and national procurement standards, that municipalities can acquire services from.

INFC has reviewed and accepts this specific procurement process and does not consider it a sole source contract as:

- The work is not carried out by the Group Purchasing Organization but is contracted out by the company.
- Requests for work are publicly tendered requests for Standing Offers, which have been determined to be eligible.
- Requests for work follow similar procedures as RFPs, with seeking a minimum threshold for quality, service, experience. The only discernable difference is that a 3-year contract is signed with the successful applicants, instead of on a per-project basis. This allows for easier and cheaper completion of infrastructure projects in the community.

Own Force Labour:

Own-force labour costs require pre-approval from INFC. In requesting to use Own-Force Labour, the recipient needs to demonstrate the following to INFC:

- The Own-Force Labour costs are not otherwise ineligible under the program.
- The employee is engaged in work that would otherwise have been contracted out by the recipient for a project.

- The requested costs are Incremental:
 - Costs are associated with extra hours worked by an employee as a result of the project (e.g. overtime).
 - Costs are associated with backfilling the position of an employee who is assigned to the project or hiring a new employee.
- Due to unique circumstances, it is not economically feasible to tender a contract for the work:
 - There is a lack of private sector capacity to undertake the work (e.g. in a very remote community).
 - The work involves proprietary or specialized infrastructure or equipment that requires specific knowledge or skill.

If there are any questions relating to these policies or procedures, please contact the Ministry of Government Relations.

From: Carl Macdonald <carl@kineticgpo.ca>
Sent: October 10, 2024 10:37 AM
To: Clint Austin
Cc: Nicole Wieser
Subject: RE: Associated Engineering Partnership for ICIP Program

Hi Clint,

It was a pleasure speaking with you today and happy to help with any questions your council has on this or any program we have. Before I get into a synopsis of the conversation, let me introduce you to the Business Development Manager for Saskatchewan, Nicole Wieser. Nicole is located in Calgary and is a very strong resource for our Saskatchewan members. Second, for your information, your Kinetic GPO member ID is# 12256. You may need this when speaking with Associated Engineering. I would recommend Michael Walker but will let Nicole make that suggestion.

With regards to the compliance of our programs, we run each competition with a singular focus on Compliance to every trade agreement our membership is held to. Because Kinetic GPO is a national GPO, we are required to follow more than just the New West Partnership Trade Agreement and the Canadian Free Trade Agreement. This is a responsibility which is not taken lightly as many of our members are extremely large in scope and will audit our process on occasion. From the largest municipalities across the country, to provincial governments, hospitals and health associations, our membership spans across the entire broader public sector.

Here in Saskatchewan I have been tasked by three ministries (Government Relations, Saskatchewan Builds and Procurement as well as Trade and Export Development) to be the compliance person for your grant funding questions. There are absolutely no concerns from those issuing the grant funds as to whether our programs are compliant so the Resort Village of Elk Ridge can feel confident that if they were to engage with Associated Engineering through our program, they will get:

1. An accelerated process to get to the spend decisions
2. Full compliance within our program
3. Reduction in price by taking advantage of the discount offered
4. A very engaged supplier partner
5. Support from Kinetic GPO

I hope this helps but if you require a further discussion to be had with your council or anyone for that matter, we are available to have that discussion as well.

Thanks for the call and look forward to speaking again soon.

Carl Macdonald, SCMP, CSCL/CSCMP, CPM
Kinetic GPO

Director of Contracting & Compliance
Offices in Cambridge, ON and Regina, SK
Office: 306-525-4395

Kinetic GPO conducts procurement in a fair, open, and transparent manner compliant with the International and Regional Trade Agreements, as well as the Ontario Broader Public Sector ("BPS") Procurement Directive.

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From: Clint Austin <clintaustin@shaw.ca>

Sent: October 10, 2024 10:05 AM

To: Carl Macdonald <carl@kineticgpo.ca>

Subject: Associated Engineering Partnership for ICIP Program

Hi Carl,

As per our conversation, could you send me the details regarding Associated and how they can be used to satisfy the Procurement requirements for the ICIP program.

Thanks

Clint