
Subject: Electronic Bond Procedure Audit

Report to: Audit Committee

Report date: Monday, February 13, 2023

Recommendations

1. That staff **BE DIRECTED** to implement the recommendations in Appendix 1 of Report AC-C 2-2023, respecting e-Bond Procedures Audit Report.

Key Facts

- The purpose of this report is to present internal audit findings and recommendations on electronic bond review and acceptance procedures in the Procurement department.
- Overall, the internal control environment within the e-Bond receipt and acceptance process is effective and no significant issues were identified during the audit.
- To strengthen the control environment further, Internal Audit recommends that Procurement should develop a procedures document clarifying internal processes used to administer bid irregularities.

Financial Considerations

There are no immediate budgetary considerations associated with this report. It is anticipated that some of the recommendations may have an implementation cost associated with them. If management chooses to pursue the recommendations then all costs will be funded through the regular annual budget process.

Analysis

Niagara Regional Council, at its meeting held on August 25, 2022, discussed concerns raised by a bidder with the Region rejecting their bid submission, as the e-Bond uploaded to the bidding system was not in an electronically verifiable/enforceable format. The purpose of the audit was to review the procedures in place at the Region to receive, review and accept electronic bonds submitted by the bidders. The audit tested whether communication protocols to the bidders through Bids and Tenders™ portal and request for tender document are adequate and performed a benchmarking survey on language used in RFTs issued by other municipalities/regions.

Alternatives Reviewed

No other alternatives were reviewed at this time.

Relationship to Council Strategic Priorities

Internal Audit along with related audit functions such as Value-for-money (VFM) audits and compliance reviews were identified and approved within the current Council's Strategic Priority – Sustainable and Engaging Government. The goal of this strategic initiative is a commitment to high quality, efficient, fiscally sustainable and coordinated core services through enhanced communication, partnerships and collaborations with the community.

Other Pertinent Reports

None

Prepared by:

Hari Vemuri, CPA, CISA
Manager, Internal Audit

Recommended by:

Todd Harrison, CPA, CMA
Commissioner/Treasurer
Corporate Services

Submitted by:

Ron Tripp, P.Eng.
Chief Administrative Officer

This report was prepared in consultation with Bart Menage, Director, Procurement & Strategic Acquisitions.

Appendices

Appendix 1 Internal Audit Final Report

Appendix 2 Internal Audit eBond Procedure



Internal Audit

Electronic Bond Procedure Audit

Operating Unit: Niagara Region

Date of Audit: September – November 2022

Auditors: Hari Vemuri, Manager, Internal Audit

Distributed To: Niagara Region Audit Committee
Ron Tripp, Chief Administrative Officer
Todd Harrison, Commissioner, Corporate Services
Bart Menage, Director, Procurement and Strategic Acquisitions
Donna Gibbs, Director, Legal Court Services

Date Issued: November 21, 2022

EXECUTIVE SUMMARY

BACKGROUND AND SCOPE

The Regional Municipality of Niagara (Niagara Region) invites prospective bidders to submit bids for various projects/initiatives through the bids&tenders™ website. Each tender may include a requirement that the bid submitted by the bidder includes a bid bond and a digital agreement to bond in an electronically verifiable/enforceable (e-Bond) format to be accepted by the Region. Niagara Regional Council, in its meeting on 25 August 2022, discussed concerns raised by a bidder on the Region rejecting their bid submission, as the e-Bond uploaded to the bidding system was not in an electronically verifiable/enforceable format. Based on these discussions, Internal Audit performed a review of the procedures in place at the Region covering the following areas:

- Procedures in place to receive, review and accept electronic bonds submitted by the bidders
- User interface and notifications received by the bidder when submitting bid documents in 'bids and tender' system used by the region
- Instructions provided to the bidders through Request for Tender (RFT)
- Benchmark & comparative analysis on language used in RFTs issued by other municipalities/regions

Limitation to the scope: Internal Audit did not conduct an audit of procurement, bidding process or vendor performance management. The audit scope was limited to the review of procedures in place to receive, verify and accept an e-Bond submitted by the bidder along with bid documentation.

While the process to transition from physical bid bonds to e-bond was underway, the Pandemic hastened Procurement's transition to full eBidding and commencing in April 2020, manual verification of the seal and wet signatures on the physical bond paper were replaced with an online verification of digital signatures and validity of the contents of the bonds. In 2022, 30 procurements projects publically posted on the eBidding site included a requirement for eBonds. 95% of the e-Bonds uploaded by the bidders were accepted and the rest were disqualified, as the bond uploaded by the bidder was unverifiable.

e-Bonds Received	e-Bonds Accepted	e-Bonds Rejected
110	104 (~95%)	6 (~5%)

Project bid references including number of bonds received and disqualified are presented in Appendix II.

INTERNAL AUDIT FINDINGS

Overall, the internal control environment within the e-Bond receipt and acceptance process is effective. No significant issues were identified during the audit. We noticed the following positive practices during the course of the review:

- Based on the sample we selected, we noted that a standardized internal process is used while evaluating the validity of an electronic bond by the staff
- Procurement transitioned from manual to electronic bidding process which resulted in reduced turnaround times, improved transparency and efficiency in bid evaluation process

We recommend the following process improvements:

Observation		Rating
1	Procurement procedure document should clarify the internal processes to administer bid irregularities when verifying e-Bonds submitted by the bidders	Low
2	As a part of continuous quality improvement practices, we recommend a review of the standard RFT issued by the Niagara Region with comparable municipalities if language can be improved further to <ol style="list-style-type: none">address common misconceptions on file uploads; andprovide authentic sources to obtain additional information on security standards and common industry practices to use e-Bonds and electronic documents	Advisory

We do not recommend deviations or creating policy exceptions from the published practice of verifying the e-Bonds as per its issuer guidelines to protect the integrity and objectivity of the procurement process. To improve the transparency of the bid evaluation process, Management should consider publicly disclosing the evaluation and rejection criteria for e-Bonds and other common errors/issues that bidders should be aware of while uploading the bid documents into the bids&tenders™ website in the form of procedures/guidelines. We appreciate the assistance and co-operation from the Director of Procurement and Strategic Acquisitions, and their team during the course of this audit.

OBSERVATION AND RECOMMENDATION

The following is the observation from the audit along with recommendation and Management's Action Plan to address the issue. See Appendix I for the risk ranking justification.

1. Absence of procedures to administer bid irregularities		Rating: Low	
<p>Section 27(a) of the Procurement By-law (issued in 2019) states that the Procurement and Strategic Acquisitions will maintain procedures to administer bid irregularities. During the review, we noticed that internal procedures to handle bid irregularities in various scenarios are not developed and updated by Procurement. We understand that the procedures document is in the process of development and recommend that it should include a section on bid irregularities.</p>			
Impact	Medium	Likelihood	Unlikely
<p>Implication: Tender documents state that any bids submitted by a bidder without performance, materials and/or labor bond (uploaded in electronic verifiable format) will be dis-qualified. Standardized approach in handling such exceptions would avoid legal and reputational damage to the Region. Further, it would be in line with the by-law's objective of ensuring objectivity and integrity in purchasing process.</p>			
<p>Recommendation: Management should ensure that the procurement procedures include standard protocols on dealing with bid exceptions including in cases where the bidder submits (not an exhaustive list of exceptions):</p> <ul style="list-style-type: none"> • Incorrect amounts/details on the bond documents • Incorrect file format (pdf file which is unsecure, large uploads, edited copies, etc.) • Scanned copies of bid documents • Lack of clear instructions on how to verify the e-Bond 			
<p>Management Action Plan:</p> <p><i>Background:</i> In additional to Section 27(a), the Bid Irregularities section of the current By-law also states that each Bid Solicitation document issued by the Corporation will outline irregularities with Bid Submissions that may lead to the disqualification of a Bid, or may require corrective action to take place in order to make the Bid compliant; that each irregularity may change from time to time and the listing of Bid irregularities and responses in a Bid Solicitation document is not intended to be a comprehensive listing of all irregularities</p> <p>The process for administering irregularities arising from Bids shall be in the first instance, in accordance with the provisions of the Bid Solicitation and in the event, the Bid Solicitation</p>			

1. Absence of procedures to administer bid irregularities

Rating: Low

does not provide a full answer to the irregularity in question, then in accordance with the procedures maintained by Procurement and Strategic Acquisitions.

In May 2019, Procurement and Strategic Acquisitions developed the Agent Toolkit (“the procedures”) designed to provide guidance and instruction in the administration of any Bid Solicitation.

Action Item: Procurement will undertake a complete review and update of the following two procedural instruction sections: Non-Compliant Bid Bonds (Nov 2019) and the Bid Security and Agreement to Bond (January 2022).

Person Responsible: Bart Menage, Director,
Procurement & Strategic Acquisitions

Planned Completion Date: Q2-2023

BEST PRACTICES/ADDITIONAL OBSERVATIONS

Observation #1 – Strengthening language in the tender documents

Internal Audit conducted a benchmarking survey of the language used by various municipalities around use of e-Bond in the purchasing process and compared with the language used by the Niagara Region. Results are as follows:

#	Language on e-Bond requirements	Niagara	Halton ¹	Oshawa ²	Hamilton ³	Vaughan ⁴
1	e-Bond is mandatory	✓	✓	✓	✓	✓
2	A bid security shall include such terms, be in a form, be executed appropriately and be provided by an issuer authorized to do business in the province of Ontario, satisfactory to the Region in its reasonable discretion	✓	✓	✓	✓	✓
3	Remains valid for at least irrevocability period	✓	✓	✓	✓	x
4	Results of verification process must provide clear, immediate printable indication that document is unaltered and true	✓	✓	x	✓	x
5	Instructions to access and verify the e-bond should be included	✓	✓	✓	✓	✓
6	Scanned PDF, certified cheques, bank draft, money order, etc. are not accepted as bid deposit	x	✓	x	✓	✓
7	Bond should comply with criteria of Surety Association of Canada	✓	✓	✓	✓	✓
8	The version submitted by the Tenderer must be verifiable by	x	✓	x	x	x

¹ <https://haltonregion.bidsandtenders.ca/Module/Tenders/en/Tender/Detail/57d5c2b9-c0be-4e54-9300-82ecf3f84542>

² <https://oshawa.bidsandtenders.ca/Module/Tenders/en/Tender/Detail/0a9daa15-6e68-4163-97fa-442ba11cfb2a>

³ <https://hamilton.bidsandtenders.ca/Module/Tenders/en/Tender/Detail/693fa7c2-bfa1-4c18-bf6a-a168bdb7cc73>

⁴ <https://vaughan.bidsandtenders.ca/Module/Tenders/en/Tender/Detail/8b1196bf-db80-4faa-af56-e83af791edaa>

<p>the Owner with respect to the totality and wholeness of the bond form, including the content, all digital signatures, and all digital seals with the Surety Company, or an approved verification service provider of the Surety Company.</p>					
<p>9 The bidder and its surety company should refer to the e-bonding information on the Surety Association of Canada’s website which includes: (a) Checklist of industry requirements for e-bonding solutions which sets out requirements for digital bonds (b) A list of third parties that provide on-line surety digital bond services such as mobile bonds or Xenex enterprises. The city does not endorse or promote any third party digital service provider</p>	<p>x</p>	<p>x</p>	<p>x</p>	<p>x</p>	<p>✓</p>

We understand and appreciate the rigorous process in place at the Region to perform a periodic review of the standard language used in legal documents, which in some cases, also includes a review by Procurement Law Office. Further, some of the municipalities presented above might not be comparable with Niagara Region based on the size and complexity of procurement practices.

Recommendation

As a part of continuous quality improvement practices, we recommend considering a review of the language that appears in the standard RFT issued by the Niagara Region with comparable municipalities. Further, we recommend adding relevant wording from #6, 8 and 9 above, if they add context and/or clarity to the bidders.

Management Action Plan (Optional)

Person Responsible	Person Responsible: Bart Menage, Director, Procurement & Strategic Acquisitions	Completion Date	Q3-2023
---------------------------	---	------------------------	----------------

Background: Since 2015, Niagara Region has acquired and adopted its bid templates from the foremost authority on public procurement; the Procurement Law Office. Amendments which updated the Bid Security sections occurred in June 2022 (the standard procurement templates) and September 2022 (the Niagara Peninsula Standard Contract Document – NPSCD)

The following is the updated language which addresses the verification process:

- The results of the verification process must provide a clear, immediate and printable indication that the document uploaded is the true document and has not been altered (including the content, all digital signatures and all digital seals).
- Niagara Region may conduct the verification immediately or at any time during the life of the bond and at the discretion of Niagara Region with no requirement for passwords or fees.
- Bonds failing the verification process will not be considered valid and the bid will be rejected.

Action Item: Procurement notes that despite the relatively low occurrence of non-compliance associated with unverifiable eBonds, it would be a prudent action to re-review the proposed language of the Surety Association of Canada, and further consult with the Procurement Law Office (the provider of our templates) to discuss whether subsequent amendments to template language should be considered/implemented.

APPENDIX I - RATING SCALE

Each observation is ranked based on its impact on the Region and the likelihood.

Exhibit A: Likelihood Rating

Rating	Definition
Likely	<ul style="list-style-type: none"> • History of regular occurrence of the event. • The event is expected to occur in most circumstances.
Moderate	<ul style="list-style-type: none"> • History of occasional occurrence of the event. • The event could occur at some time.
Unlikely	<ul style="list-style-type: none"> • History of no or seldom occurrence of the event. • The event may occur only in exceptional circumstances.

Exhibit B: Impact Rating

Rating	Definition
CRITICAL	Requires immediate action by Senior Management to avert a severe/disastrous risk event in the near-term. Internal controls are deemed ineffective, absent or poorly designed. Management Actions Plans (MAP's) are to be implemented immediately to mitigate risk of substantial financial losses, business interruption, loss of reputation and/or environmental, public health & safety risk.
HIGH	Requires prompt action by Management to avert, reduce or transfer a major risk event. Internal controls are deemed ineffective, absent or poorly designed. MAP's should be implemented to mitigate the risk of financial losses, loss of reputation, address fraud issues or legal/regulatory non-compliance.
MEDIUM	Requires timely actions by Management to reduce risks to a low level. Internal controls are deemed ineffective or poorly designed. Management action is required, but is not immediate. Moderate financial losses, temporary/minor reputational impairment, lesser potential for fraud or regulatory non-compliance may occur without timely MAP's.
LOW	Management actions are recommended to address the weaknesses identified. Internal controls are operating effectively or partially address the control objective; however they may be poorly designed and/or operational inefficiencies exist which may result in an opportunity for improvement. Low risk events may cause operational inconvenience or minor financial losses.
Advisory	A finding that does not have a risk impact but has been raised to highlight areas of inefficiencies or good practice. Management may or may not implement the suggested action plans.

Exhibit C: Overall Rating

Likelihood	Impact			
	Low	Medium	High	Critical
Likely	Medium	High	Critical	Critical
Moderate	Low	Medium	High	Critical
Unlikely	Advisory	Low	Medium	Medium

APPENDIX II – 2022 PROJECT LEVEL DETAILS ON BONDS RECEIVED AND DISQUALIFIED

Date Closed	# Bonds	Disqualified Bonds	Project Number
14-Jan-2022	5	1	2021-T-230
14-Feb-2022	2	0	2022-T-3
15-Feb-2022	3	0	2022-T-4
28-Feb-2022	5	0	2021-T-285
3-Mar-2022	2	0	2022-T-11
7-Mar-2022	3	1	2021-T-288
22-Mar-2022	3	0	2022-T-13
25-Apr-2022	4	0	2022-T-34
29-Apr-2022	3	0	2022-T-37
17-May-2022	3	0	2022-T-61
18-May-2022	4	0	2021-T-174
25-May-2022	6	0	2022-T-42
26-May-2022	3	0	2022-T-23
8-Jun-2022	6	0	2021-T-292
27-Jun-2022	4	0	2021-T-249
27-Jun-2022	3	0	2022-T-89
7-Jul-2022	3	1	2022-T-92
22-Jul-2022	5	0	2022-T-135
28-Jul-2022	2	0	2022-T-112
2-Aug-2022	2	0	2021-T-250
10-Aug-2022	2	0	2022-T-80
16-Aug-2022	3	0	2022-T-106
22-Aug-2022	6	0	2022-T-76
29-Aug-2022	2	0	2022-T-19
21-Sep-2022	10	2	2022-T-24
3-Oct-2022	10	1	2022-T-169
9-Nov-2022	2	0	2022-T-189
17-Nov-2022	2	0	2021-T-287
29-Nov-2022	1	0	2022-T-192
30-Nov-2022	1	0	2022-T-91
Total	110	6	

Audit Report

E-Bonds Procedure

Background & Scope

Background

Scope was designed to cover the issue from two distinct viewpoints:

- Internal Procedures - Procedures in place to receive, review and accept electronic bonds submitted by the bidders
- External Communication
 - User interface and notifications received by the bidder when submitting bid documents in 'bids and tender' system used by the region
 - Instructions provided to the bidders through Request for Tender (RFT)
 - Benchmark & comparative analysis on language used in RFTs issued by other municipalities/regions



Scope

Niagara Region invites prospective bidders to submit bids for various projects/initiatives through the bids & tenders™ website. Each tender may include a requirement that the bid submitted by the bidder includes a bid bond and a digital agreement to bond in an electronically verifiable/enforceable (e-Bond) format to be accepted by the Region. Niagara Regional Council, in its meeting on 25th August 2022, discussed concerns raised by a bidder on the Region rejecting their bid submission as the e-Bond uploaded to the bidding system was not in an electronically verifiable/enforceable format. Based on these discussions, Audit performed a review of procedures in place to receive and accept e-Bonds



Audit Summary

Overall Rating: Effective

The internal control environment within the e-Bond receipt and acceptance process is effective. No significant issues were identified during the audit. During 2022, 30 projects were approved where bonds were required and 95% of e-Bonds submitted by the bidders for these projects were accepted.

e-Bonds Received	e-Bonds Accepted	e-Bonds Rejected	Reason
110	104 (~95%)	6 (~5%)	Unverifiable bonds were uploaded by the bidder

1

Audit Finding

Procurement procedure document should clarify the internal processes to administer bid irregularities when verifying e-Bonds submitted by the bidders for scenarios like:

- Incorrect amounts/details on the bond documents
- Incorrect file format (pdf file which is unsecure, large uploads, edited copies, etc.)
- Scanned copies of bid documents
- Lack of clear instructions on how to verify the e-Bond

Finding



Observation

1

Section 27(a) of the Procurement By-law (issued in 2019) states that the Procurement and Strategic Acquisitions will maintain procedures to administer bid irregularities. During the review we noticed that internal procedures to handle bid irregularities in various scenarios are not developed and updated by Procurement. We understand that the procedures document is in the process of development and recommend that it should include a section on bid irregularities.



Risk



Standardized approach in handling irregularities identified in bid bonds would avoid legal, and reputational damage to the Region and be in line with the by-law's objective of ensuring objectivity and integrity in purchasing process.



Response

Bid irregularities will be addressed according to the bid solicitation provisions. If the provisions do not fully address the irregularity, then they will be resolved according to procurement procedures. Procurement will undertake a complete review and update of the following two procedural instruction sections: Non-Compliant Bid Bonds (Nov 2019) and the Bid Security and Agreement to Bond (January 2022).


Responsibility: Director, Procurement & Strategic Acquisitions

Planned Completion Date: Q2 2023

Process Improvement

Best Practice

1

 Internal Audit conducted a benchmarking survey of the language used by various municipalities around use of e-Bond in the purchasing process and compared with the language used by the Niagara Region. Other municipalities had the following language which we recommend the Management should review and adopt all or part of the language, as necessary, to bring further clarity to the bidders

- Scanned PDF, certified cheques, bank draft, money order, etc. are not accepted as bid deposit
- The bidder and its surety company should refer to the e-bonding information on the Surety Association of Canada's website which includes checklist of industry requirements for e-bonding solutions and list of third parties providing online surety digital bond services
- The version submitted by the Tenderer must be verifiable by the Owner with respect to the totality and wholeness of the bond form, including the content, all digital signatures, all digital seals, with the Surety Company, or an approved verification service provider of the Surety Company.



Response

Procurement will consider the recommendations outlined herein and further review the recommended language from the Surety Association of Canada to identify any opportunities to strengthen and bring greater clarity to our template language