



**STAFF REPORT
ACTION REQUIRED
with Confidential Attachment**

**Procurement Authorization
McNicoll Bus Garage Design-Build – Contract MN1-1**

Date:	December 20, 2016
To:	TTC Board
From:	Chief Executive Officer
Reason for Confidential Information:	The report involves the security of the property of the municipality or local board and contains advice that is subject to solicitor-client privilege, including communications necessary for that purpose.

Summary

The purpose of this report is to obtain authorization for the award of Contract MN1-1 McNicoll Bus Garage Design-Build to Buttcon-Eastern Joint Venture (BEJV) in the amount of \$141,589,000.00, inclusive of all taxes, on the basis of submitting the lowest priced qualified proposal.

The procurement process consisted of a Request for Pre-Qualifications (RFPQ) followed by the issuance of a Request for Proposals (RFP); both processes were overseen by a Fairness Monitor. Through competitive procurement processes, TTC retained Stantec Consulting Ltd. to provide engineering design support, DLA Piper Canada as outside legal counsel, and J.D. Campbell and Associates as Fairness Monitor for the project. Each of these organizations has demonstrated experience in design-build project delivery.

The work for McNicoll Bus Garage Design-Build includes the supply of all labour, equipment and materials necessary to design and build a new bus garage facility to maintain and operate 250 forty-foot-buses, which is scheduled to achieve functional readiness by the second quarter of 2020.

Award of this contract will allow TTC to obtain the bus storage and maintenance space it requires to partially alleviate over-capacity issues at its existing bus garages to support current and future levels of bus service.

Recommendations

It is recommended that the Board:

1. Receive the information as set out in the confidential attachment; and authorize that the information provided remain confidential in its entirety as it contains information or communications that are subject to solicitor-client privilege;
2. Authorize award of Contract MN1-1, McNicoll Bus Garage Design-Build to Buttcon-Eastern Joint Venture (BEJV) in the amount of \$141,589,000, inclusive of all taxes, on the basis of the lowest priced qualified Proposal; and
3. Authorize exercising the following specified options for the items directed by City Council on August 25, 2014, noting that these amounts will be included in a future project budget request:
 - a. An upset limit amount of \$800,000 to provide a green roof area in excess of the Toronto Green Standard requirements; and
 - b. An upset limit amount of \$250,000 to provide installation of rooftop photovoltaic cells.

Financial Summary

Funds are included in the 2016-2025 Capital Budget under item 3.9 Buildings & Structures, McNicoll Bus Garage, which was approved by City Council on February 17, 2016 and additional funds for the specified options will be requested in a future Capital Budget request, as required.

The Chief Financial & Administration Officer has reviewed this report and agrees with the financial impact information.

Accessibility/Equity Matters

The proposed facility will meet AODA requirements for accessibility.

Barrier-free access to the McNicoll Bus Garage (MBG) will be provided from the street to staff washrooms, lockers, amenities and offices by means of doors located on the ground floor of the building and an elevator.

Decision History

On April 30, 2014, the TTC Board received for information a staff report titled “Status of Planning Activities for the McNicoll Bus Garage”.

http://www.ttc.ca/About_the_TTC/Commission_reports_and_information/Commission_meetings/2014/April_30/Agenda/index.jsp

http://www.ttc.ca/About_the_TTC/Commission_reports_and_information/Commission_meetings/2014/April_30/Reports/McNicoll_Bus_Garage_Status_of_Planning_Activities.pdf.

On August 19, 2014, the TTC Board approved the McNicoll Bus Garage Draft Environmental Project and authorized submission of the Environmental Project Report (EPR) to the Ministry of Environment. The Board also directed staff to:

- Explore the possibility of creating a continuous property for the Scarborough Chinese Baptist Church by transferring their parking lot to the TTC employee parking lands;
- That the TTC maximize its greening initiatives and attempt to minimize its environmental impact of the McNicoll Garage by including specific items in its design; and
- That staff discuss the project with the Toronto Board of Health to ensure there are no community health issues and to bring back the result of the discussion to the TTC.

http://www.ttc.ca/About_the_TTC/Commission_reports_and_information/Commission_meetings/2014/August_19/Minutes/index.jsp

On August 25, 2014, City Council approved the McNicoll Bus Garage Draft Environmental Project Report and authorized submission of the Environmental Project Report (EPR) to the Ministry of Environment. City Council also:

- Requested the CEO to report back on details of proposed mitigations to demonstrate all MOE requirements will be satisfied, as well as reporting on consultation with Toronto Public Health;
- Reiterated the TTC Board's August 19, 2014 directives regarding greening initiatives; and
- Requested the TTC to hire a third party consultant with cultural competencies to undertake all further community consultation at the McNicoll Bus Garage.

TTC received the Minister's Notice to Proceed with Transit Project on July 27, 2015.
<http://app.toronto.ca/tmmis/viewAgendaItemHistory.do?item=2014.PG35.23>

On November 17, 2014, the Toronto Board of Health adopted a motion asking the Medical Officer of Health to assess the health impact of the TTC McNicoll bus garage on the neighbourhood population based on best available evidence from both the TTC and the community, and to provide findings to the Toronto Transit Commission and the community. (On May 15, 2015, the Medical Officer of Health advised TTC's Chief Executive Officer that their assessment found "the impact resulting from the future operation of the proposed McNicoll Bus Garage would be minimal and it is unlikely that any adverse impacts on human health would be encountered.")

<http://app.toronto.ca/tmmis/viewAgendaItemHistory.do?item=2014.HL34.15>

On March 10-11, 2015, City Council approved the TTC's 2015 Recommended Capital Budget, which includes \$181 million for the MBG project.

<http://app.toronto.ca/tmmis/viewAgendaItemHistory.do?item=2015.EX3.4>

On September 21, 2015, Executive Committee requested the City Manager, in consultation with the Chief Executive Officer, TTC, to report to Executive Committee on a complete financial analysis and cost breakdown of the expenditures for the proposed \$181 million TTC MBG approved by City Council, and to conduct an examination of project delivery options, and the costs of similar garages in other jurisdictions.

<http://app.toronto.ca/tmmis/viewAgendaItemHistory.do?item=2015.EX8.38>

On April 18, 2016, Executive Committee adopted a motion to receive the City Manager's report addressing the directives of the September 21, 2015 Executive Committee meeting.

<http://app.toronto.ca/tmmis/viewAgendaItemHistory.do?item=2016.EX14.3>

Issue Background

Transit ridership on the TTC System has grown in each of the previous 10 years.

To meet the growing travel demand by bus and to provide partial capacity relief at the existing bus garages, an additional bus garage is urgently needed. A new garage in north Scarborough will partially address capacity issues and will also lead to operational efficiencies, as some buses currently servicing Scarborough are being maintained in the west end of the city. This leads to many out-of-service hours for the transfer of buses to and from their routes.

As a result, TTC is proposing to construct a new bus garage to maintain and store 250 vehicles (forty-foot equivalents) and it also will be equipped to support the new articulated buses. The bus garage will be located at McNicoll Avenue and Kennedy Road. The garage will include:

- Indoor storage for 250 buses;
- Transportation office;
- 2 service lines with exterior wash system;
- Bus cleaning area;
- Maintenance offices;
- Repair Bay, including 14 hoists (8 articulated & 6 standard), 2 inspection pits, paint shop, body shop with 2 bays (1 with hoist);
- Degrease room with hoist;
- Materials receiving, storage and distribution area;
- Appropriate building systems (HVAC, plumbing, electrical, communications, etc.) including a centralized building automated controls system; and

- Employee amenities (washrooms, locker rooms, lunch room/cafeteria and parking) appropriate for 3 shifts.

Additionally, the TTC Board at its August 19, 2014 Meeting and City Council at its August 25, 2014 Meeting moved motions to include several greening features beyond the original project scope and budget, which are included as follows:

- Provision of a Green Roof in Excess of Toronto Green Standard requirements: The base design-build Proposal price does not include the provision of green roof area beyond the 50% coverage required by the Toronto Green Standard. Unit pricing was provided for this item as a specified option. The recommended Proposal indicates that the maximum achievable green roof coverage is approximately 54% and this difference requires a project budget increase of approximately \$800,000.
- Maximizing Tree Canopy On Site: The recommended Proposal follows the City of Toronto's guideline for Greening of Surface Parking Lots, and addresses project specific design objectives from City Planning, resulting in the provision of hundreds of new trees across the garage property. This scope is included in the base price of the design-build Proposal.
- Minimizing or Eliminating Storm-water Runoff from the Site: Rainwater will be managed through a number of surface features such as bioswales (in conformance with the Guideline for Greening of Surface Parking Lots) and underground stormwater storage structures. This scope is included in the base price of the design-build Proposal.
- Installation of Rooftop Photovoltaic Cells: A solar transpired wall (solar-thermal system) is included in the base price of the design-build Proposal to satisfy the Toronto Green Standard requirement to generate 5% of on-site energy needs through renewable sources. The base price of the design-build Proposal does not include provision of photovoltaic cells (solar-electric system), but unit pricing was provided for this item as a specified option. To install a 20 kW solar array requires a project budget increase of approximately \$250,000.

Comments

The procurement process consisted of a RFPQ followed by the issuance of a RFP; both processes were overseen by a Fairness Monitor.

Stantec Consulting Ltd. (Stantec) was retained by TTC through a competitive procurement process to provide engineering design support for this project, including development of the indicative facility design and creation of all technical requirements documents. Stantec has extensive previous experience in design-build and P3 project delivery. Stantec's experience both as an owner's representative and as a design-build team member was key in guiding their work to ensure TTC's project documents were balanced and reflected current industry best practices. Stantec was the designer for the Metrobus Terminal Facility in St. John's Newfoundland.

TTC retained DLA Piper Canada (DLAP) through a competitive procurement process as outside legal counsel. DLAP was responsible for developing the project's Design-Build Agreement, advising on structure and language for the pre-qualification and RFP documents, and facilitating commercial meetings with the Proponents. DLAP has extensive Design-Build and P3 project experience in multiple jurisdictions across Canada, including Ontario. DLAP previously developed project documents for a Design-Build-Finance-Maintain bus garage project in Calgary.

J.D. Campbell and Associates was retained by TTC through a competitive procurement process to provide Fairness Monitoring services for the RFP process, including oversight of all communications between the TTC and Proponents, review of all RFP related documentation prior to issuance to Proponents, attendance at all meetings with Proponents and preparation of a final report. J.D. Campbell and Associates has extensive experience as a Fairness Monitor providing oversight for design-build and P3 project procurements, including the Bus Transit Maintenance Facility in Barrie.

Request for Pre-Qualification Process

On April 23, 2015, a RFPQ was publicly advertised on the MERX website and TTC's website. Submissions were to be evaluated against a pre-established set of evaluation criteria by an evaluation panel consisting of members from multiple TTC departments including: Construction, Engineering, Materials & Procurement, Capital Programming, and Safety & Environment. The RFPQ process was overseen by a third party Fairness Monitor who confirmed that the TTC administered the process in accordance with the RFPQ documents and processes represented therein and in accordance with TTC's evaluation guidelines.

In accordance with TTC policy, all Respondents were advised that the entity responsible for the construction work would require a valid Certificate of Recognition (CORTM) issued by the Infrastructure Health and Safety Association in the Province of Ontario at the time of RFP issuance.

Respondents meeting all the mandatory requirements (including being CORTM certified in the Province of Ontario) and scoring a total qualitative rating of at least 70% would be considered to be pre-qualified, with the three top ranked Respondents being selected to participate in the subsequent RFP process.

The process described that the remaining qualified Respondents would be considered to be reserve parties that could be invited to participate in the RFP process at a later time, should one of the three top ranked Respondents withdraw within 1 month of the date of the RFP issuance.

Five companies submitted pre-qualification submissions for evaluation by the TTC. Following the evaluation of their submissions, the following five Respondents were ranked as follows, based on their evaluation scores:

1. PCL Constructors Canada Inc. (PCL),
2. EllisDon Civil Limited (EllisDon)
3. Buttcon Eastern Joint Venture (BEJV)
4. Bondfield Construction Company Limited (Bondfield)
5. Graham Construction and Engineering LP (Graham)

Bondfield and Graham had not achieved CORTM certification in the Province of Ontario and therefore were not eligible to receive the RFP at the time of issuance. As a result, only PCL, EllisDon and BEJV were pre-qualified to participate in the RFP process.

Request for Proposals Process

On February 29, 2016, PCL, EllisDon and BEJV were invited to download the RFP from MERX. Seven Addenda were issued during the proposal period. The Proposal validity expires on February 24, 2017.

A Fairness Monitor, John Campbell of J.D. Campbell and Associates, was retained to provide an independent third party observation to ensure that the procurement process was performed in accordance with the requirements set out in the RFP and to ensure fairness and transparency during this process. The Fairness Monitor has completed a report attached as Appendix A confirming the fairness of the process based on their observations. It is noted that the Fairness Monitor is available to attend debriefing meetings if requested by Proponents.

Pre-Proposal Meeting

On March 21, 2016, the TTC conducted a pre-proposal meeting to discuss the RFP timetable, the evaluation process, the process for submitting requests for information (RFI) and to allow Proponents to ask questions regarding the RFP. All three Proponents and the Fairness Monitor attended the pre-Proposal meeting.

Commercially-Confidential Meetings

The Procurement processes provided mechanisms for confidential discussion between TTC and the Proponents regarding aspects of the commercial and technical requirements. Commercially-confidential meetings were scheduled to take place at pre-determined dates for all three Proponents individually. These meetings took two primary forms:

- Commercial Meetings (CMs) provided a forum for TTC to receive and discuss comments, including proposed changes from Proponents. TTC would then determine if any revisions would be made to the Design-Build Agreement (DBA) and issue addenda to incorporate accepted changes.

- Design Presentation Meetings (DPMs) provided a forum for Proponents to update TTC on design progress, seek clarification on technical matters, and receive TTC's interim feedback on whether the design was progressing toward technical compliance. Proponents were advised that the technical information provided during DPMs would not be taken into consideration in the evaluation of Proposals.

Proponents were also provided the option to request ad-hoc meetings to discuss specific issues that might arise between pre-scheduled CMs and DPMs.

On March 11, 2016, PCL submitted for TTC's review potential concerns that they had identified regarding specific sections of the DBA, and requested an ad-hoc meeting.

On April 1, 2016, TTC Legal, DLA Piper (TTC's legal consultant), the Fairness Monitor, Senior Contract Administrator and members of the Project Team attended the ad-hoc meeting with PCL. During this meeting, PCL requested that TTC revise the requirements as identified on their letter of March 11, 2016. At the conclusion of this meeting, TTC staff indicated to PCL that their feedback would be considered; however, to ensure fairness, any revisions to the DBA required feedback from all Proponents. TTC referred to a published deadline of April 26, 2016 for all Proponents to submit proposed revisions to the DBA in accordance with the process described in the RFP. The Fairness Monitor concurred with TTC's approach to PCL's request.

First Round of Design Presentation Meetings – April 12-14, 2016

On March 29, 2016, TTC issued meeting requests for the DPMs to the three Proponents. The requests were accepted and the meetings were scheduled as follows:

- BEVJ – April 12, 2016
- PCL – April 13, 2016
- EllisDon – April 14, 2016

All three Proponents attended the DPMs as scheduled by the TTC and provided an update on their design progress, sought clarification on technical matters, and received TTC's interim feedback on whether their design was progressing toward technical compliance. None of the Proponents expressed any objections to the technical requirements that would have prevented them from continuing with the RFP. The Fairness Monitor attended all three meetings to ensure that the RFP process was being followed and that all Proponents had the same information from the TTC.

Submission of Comments on the Design-Build Agreement

The RFP required that Proponents submit their proposed revisions to the DBA along with an explanation as to why the proposed revision was being requested by April 26, 2016 for

review and consideration by the TTC. All three Proponents submitted their proposed revisions for review by the TTC by the required deadline.

First Round of Commercial Meetings – May 16 - 19, 2016

On May 6, 2016, TTC issued meeting requests for the CMs to the three Proponents. The requests were accepted and the meetings were scheduled as follows:

- PCL – May 16, 2016
- BEJV – May 18, 2016
- EllisDon – May 19, 2016

On May 10, 2016, staff received notice of PCL's withdrawal from the RFP pursuit. TTC indicated to PCL that a review of their DBA comments had been completed in accordance with the timetable included with the RFP and discussion was anticipated to take place at the scheduled CM of May 16, 2016. PCL did not give TTC the opportunity to respond to the requested revisions to the DBA and incorporate comments from all Proponents via the issuance of an addendum. The May 16, 2016 date was instead used as an exit meeting with PCL.

TTC staff, TTC's legal consultant and the Fairness Monitor agreed that PCL's request represented a deviation from the established RFP process and schedule, while the other two Proponents continued to follow the process as outlined.

BEJV and EllisDon attended the CMs, as scheduled by the TTC, in order to discuss comments and suggest changes to the DBA after which the TTC determined if any of the revisions were to be made via the issuance of an addendum. The Fairness Monitor attended the two meetings and confirmed that the RFP process was being followed and that all Proponents had the same information from the TTC.

Second and Third Round of Design Presentation Meetings

On April 14, 2016, TTC issued meeting requests for the second DPMs to the two remaining Proponents. The requests were accepted and the meetings were scheduled as follows:

- EllisDon – May 31, 2016
- BEJV – June 7, 2016

On June 29, 2016, TTC issued meeting requests for the third DPMs to the two remaining Proponents. The requests were accepted and the meetings were scheduled as follows:

- EllisDon – July 26, 2016
- BEJV – July 27, 2016

Both Proponents attended the second and third DPMs, as scheduled by the TTC. They provided an update on their design progress, sought clarification on technical matters, and received TTC's interim feedback on whether the design was progressing toward technical compliance. None of the Proponents expressed any objections to the technical requirements. The Fairness Monitor attended all meetings and confirmed that the RFP process was being followed and that all Proponents had the same information from the TTC.

Second Submission of Comments on the Design-Build Agreement

Following the review of the revised DBA issued via addendum on July 11, 2016, the Proponents were requested to submit their proposed revisions to the DBA along with an explanation as to why the proposed revision was being requested by August 17, 2016 for review and consideration by the TTC. Both BEJV and EllisDon submitted their proposed revisions for review by the required deadline.

Second Round of Commercial Meetings – August 24 - 25, 2016

On August 5, 2016, TTC issued meeting requests for the CMs to the two Proponents. The requests were accepted and the meetings were scheduled as follows:

- BEJV – August 24, 2016
- EllisDon – August 25, 2016

BEJV and EllisDon attended the CMs as scheduled by the TTC to discuss comments and suggested changes to the DBA, after which the TTC would then determine if any revisions would be made via the issuance of an addendum. The Fairness Monitor attended the two meetings and confirmed that the RFP process was being followed and all Proponents had the same information from the TTC.

Evaluation of RFP Proposals:

Technical submissions from both Proponents were received by the specified deadline of September 16, 2016.

It was pre-determined that the evaluation process for the Proposals would consist of seven steps which were detailed in the RFP. For reference, a flow chart of the RFP Evaluation Process is attached to this report as Appendix B.

Step 1 – Mandatory Requirements – Technical

Step 1 consisted of the review of each Proposal to determine if the mandatory submission requirements were provided and that all of the forms were completed correctly. In the event that any deficiencies in their Proposal were found, Proponents would be given the opportunity to rectify these issues in order to fill any minor gaps identified in the Mandatory Requirements.

Both Proposals were subjected to a number of compliancy reviews for items such as commercial compliancy, inclusion of mandatory requirements, page limits, changes to pre-qualified entities, and declared conflicts of interest. The process allowed for rectification of minor issues. Both Proposals included some supporting reports, calculations and diagrams in excess of the page limits. In consultation with TTC Legal, DLA Piper and the Fairness Monitor, it was determined that where both Proponents submitted similar additional information, these documents would be evaluated. Where only one party provided these documents, the information would not be considered for the evaluation. As a result, BEJV's attached Seismic Site Class Determination report and EllisDon's Acoustical Design Summary were excluded from the Proposals for the purposes of the technical evaluation.

Additionally, EllisDon included with their Proposal a large attachment entitled "*Self Reporting Checklist and Blacklined Mark-ups for Schedule 12 – Design and Construction Technical Requirements*". Given that the RFP did not indicate that Proponents had the ability to submit proposed revisions to the technical specifications, legal opinion was sought to determine if these proposed mark-ups would result in EllisDon being deemed to be non-compliant. Upon review of the RFP submission requirements by DLA Piper and with concurrence of TTC Legal and the Fairness Monitor, it was determined that the evaluation could proceed, but the attachment would be excluded from EllisDon's technical Proposal and would not be considered in the evaluation.

On October 7, 2016, EllisDon was notified that TTC would exclude the section of the Proposal entitled "*Self Reporting Checklist and Blacklined Mark-ups for Schedule 12 – Design and Construction Technical Requirements*", as these did not meet the requirements set out in the RFP. TTC stated that it would base its evaluation solely on submission requirements stated in the RFP and reminded EllisDon that their financial submission was to be based on the requirements as set out in the RFP documents. They were also advised that any proposals that alter the technical requirements were required to be submitted as Innovations along with their Financial Submission in accordance with the RFP.

EllisDon and BEJV were determined to have met the requirements of Step 1 and continued to Step 2 of the evaluation process.

Step 2 – Review of the Proposal Submission Form (Technical)

Upon completion of Step 1, Proposals were reviewed to ensure that there were no changes to the entities that were pre-qualified and to assess any declared conflicts of interest by the Proponents in their submission.

Staff confirmed that the Proposal Submission Forms (Technical) submitted by both EllisDon and BEJV did not state any changes to the entities that were pre-qualified and nor did they declare any conflicts of interest. As such, the requirements of Step 2 of the evaluation were met and EllisDon and BEJV continued to Step 3 of the evaluation process.

Step 3 – Review of the Technical Submission – Pass/Fail Test

Upon completion of Step 2, Proposals were evaluated to assess the Pass/Fail Criteria as detailed in Appendix C – Evaluation Criteria Summary. Proposals that failed to achieve a Pass for any of these criteria were to be disqualified and not evaluated further. These pass/fail criteria represented seven high level aspects of the design, considered critical to TTC, and were required to be demonstrated by both Proponents.

EllisDon and BEJV's technical Proposals were reviewed and it was determined that their submissions achieved a "pass" in all of the seven pass/fail criteria. EllisDon and BEJV's submissions continued to Step 4 of the evaluation process.

Step 4 – Review and Scoring of the Technical Submission – October 19 – 21, 2016

Upon completion of Step 3, Proposals were evaluated and scored by the evaluation team in accordance with the evaluation criteria and pre-determined weighting detailed in Appendix C - Evaluation Criteria Summary. In order to be considered qualified, Proposals were required to achieve a minimum score of 70% in each individual category and an overall score of 75%.

Proposals were evaluated by: Construction, Materials & Procurement, Capital Programming, Plant Maintenance, Bus Maintenance, Bus Transportation Departments and two representatives from Stantec Consulting Ltd. (representing the engineering design consultant). In addition, a representative from the City of Toronto's Engineering and Construction Services Branch was included on the evaluation team.

The Fairness Monitor attended all the sessions during which both Proposals were being evaluated and confirmed that the consensus meetings were conducted in a fair and transparent manner and the evaluation process, as detailed in the RFP, was followed. The Fairness Monitor's confirmation that the evaluation process was fair and equitable is outlined in the attached Appendix A – Fairness Monitor's Report.

BEJV achieved the minimum overall score of 75% and achieved the minimum score of 70% on each of the ten evaluation categories. As such, BEJV was considered to be

qualified and their financial submission was to be evaluated in accordance with the evaluation process.

EllisDon achieved the minimum overall score of 75% but failed to achieve the minimum score of 70% in one of the ten evaluation categories (Functional Plan and Industrial Systems and Components). As a result, EllisDon was not considered to be qualified and their Proposal was not evaluated further.

The Proponents were not notified of the Step 4 results prior to the financial submission.

By submitting a technical Proposal, both Proponents were required to submit a financial submission as outlined in the RFP. Proponents were advised throughout the process that the TTC would not communicate to a Proponent whether or not they had achieved the minimum scores.

Step 5 – Mandatory Requirements – Financial

Step 5 consisted of the review of each financial submission to determine if the mandatory submission requirements were provided and all of the forms had been completed correctly. In the event that deficiencies in their Proposal were found, Proponents were given the opportunity to rectify these issues in order to fill any minor gaps identified in the Mandatory Requirements.

Financial submissions were received by TTC on October 27, 2016 from both EllisDon and BEJV. Only the envelope containing the financial submission from BEJV was opened and reviewed, since the Technical Proposal from EllisDon did not achieve the minimum required score.

BEJV's financial submission was reviewed in accordance with Step 5 of the evaluation process. Staff determined that all the mandatory submission requirements were provided and that all of the forms had been completed correctly, and that no rectifications were required. BEJV continued to Step 6 of the evaluation process.

Step 6 – Review of the Proposal Submission Form (Financial)

Upon completion of Step 5, the BEJV financial submission was reviewed to ensure that there were no changes to the entities that were pre-qualified and to assess any declared conflicts of interest by the Proponents in their submission that could have arisen since the Step 1 of the evaluation process.

BEJV's financial submission forms were reviewed in accordance with Step 6 of the evaluation process. Staff determined that the financial submission forms did not state any changes to the entities that were pre-qualified and that they had not declared conflicts of interest. BEJV continued to Step 7 of the evaluation process.

Step 7 – Review of the Financial Submissions and Ranking of Proponents

Upon completion of Step 6, the process required that the financial submissions be reviewed from those Proponents that met the requirements of Steps 1 to 6 above and that the Proponent having submitted the lowest Base Proposal Price for all the work would be identified as the Preferred Proponent.

The pricing information for Future Works and Innovations was also required to be submitted in a sealed envelope. The RFP process required that the TTC open only the envelope containing the Future Works and Innovations pricing submitted by the Preferred Proponent. These items require review and analysis in consideration of functionality, project budget, schedule impact, and other factors in consultation with the Design-Builder. Staff will identify the recommended innovations and/or future works for acceptance where a benefit is demonstrated.

As a result of being the sole Proponent who satisfactorily met the requirements of Steps 1 through 6 of the evaluation process, BEJV's financial submission was opened and evaluated and they have been identified as the Preferred Proponent and are recommended for award of the Contract.

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Attachments

- Appendix A – Fairness Monitor's Report
- Appendix B – RFP Evaluation Process Flow Chart
- Appendix C – Evaluation Criteria Summary

APPENDIX A

JD CAMPBELL & ASSOCIATES

**Toronto Transit Commission
McNicoll Bus Garage Design, Build RFP Project**

Fairness Monitor's Report

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Table of Contents

1.0	EXECUTIVE SUMMARY.....	2
1.1	INTRODUCTION	2
1.2	FINDINGS	3
1.3	OUTCOME	4
1.4	REPORT ORGANIZATION	4
2.0	WORDING OF THE RFP DOCUMENT	5
2.1	APPROPRIATE PRACTICE	5
2.2	FINDINGS	5
2.3	DESCRIPTION OF PRACTICE	5
3.0	COMMUNICATION AND INFORMATION TO PROPONENTS	10
3.1	APPROPRIATE PRACTICE	10
3.2	FINDINGS	10
3.3	DESCRIPTION OF PROCESS	10
4.0	CONFIDENTIALITY/CONFLICT OF INTEREST.....	12
4.1	APPROPRIATE PRACTICE	12
4.2	FINDINGS	12
4.3	DESCRIPTION.....	13
5.0	THE EVALUATION PROCESS.....	14
5.1	APPROPRIATE PRACTICE	14
5.2	FINDINGS	14
5.3	DESCRIPTION OF PRACTICE.....	14
5.4	OUTCOME	18
6.0	DEBRIEFING AND DOCUMENTATION	18
6.1	APPROPRIATE PRACTICE	18
6.2	DESCRIPTION OF PROCESS AND FINDINGS	19

1.0 Executive Summary

1.1 Introduction

This Report presents our findings for the Toronto Transit Commission's (TTC) McNicoll Bus Garage Design-Build RFP Project. In our capacity as Fairness Monitor, we reviewed the communications, evaluations, and decision-making associated with the RFP process with a view to ensuring fairness, objectivity, transparency, and adequate documentation.

This procurement was preceded by an RFQ process to select 3 top scoring Proponents to continue on to the RFP stage. The scope of this report focusses on the RFP process only.

The Project objective was to acquire a state of the art transit operations and maintenance facility to accommodate 250 buses for the TTC. The facility will include: heated indoor storage capacity for 250 buses, a green roof, crippled bus parking, service bays and cleaning lanes, a maintenance garage and offices. The exterior functional areas will include: on-grade car parking, roads and paved areas for cars and the transit operations, diesel and fluids tank farms, refuse and recycled materials storage compounds, land scaping and water management facilities.

Our role, as Fairness Monitor was to review the TTC's procurement from the creation of the RFP to the selection of the Preferred Proponent. This monitoring entailed:

- Appropriateness of the RFP document from a fairness perspective;
- Consistency of Proponent treatment;
- Adherence of TTC staff and external advisors to conflict of interest and confidentiality requirement;
- Consistent information to Proponents and monitoring of Proponent meetings;
- Security of proposals and evaluation documents;
- Qualifications of the review teams;
- Objectivity and diligence respecting the submission review and evaluation process;

This Report is based on our first-hand observations of the processes used, a review of the procurement documents and information provided by the Project Team. It was prepared for the staff of the TTC. This Report is, in no manner, to be considered a legal opinion.

1.2 Findings

As Fairness Monitor we can attest to the fact that;

- The RFP laid the foundation for a fair and equitable procurement process;
- During the open period, all Proponents were treated consistently and in accordance with the stipulations of the RFP;
- TTC staff and external advisors adhered to conflict of interest and confidentiality requirement;
- Submission reviews and evaluation were conducted using only the process and criteria stipulated in the RFP.

During the RFP process the following issues were given particular attention:

- **Communication** – The procurement documents were distributed to those who pre-qualified for this opportunity through successful competition in the previous RFQ process. A schedule was provided which identified a series of meetings, site visit and submission dates. The TTC showed flexibility throughout the process striking a balance between keeping the project on track while allowing consideration of Proponent requests for appropriate time within which to meet requirements.

One Contact person was identified with whom Proponents were to communicate.

- **Proponent Meetings** – A common Proponent Meeting was held along with a series of individual Proponent commercially confidential meetings. The purpose of the Proponent meetings was to receive Proponent feedback on the RFP's Project Agreement and to allow discussion and clarification of technical issues, particularly areas of non-compliance in the Proponents' evolving technical designs. The approach taken to the management of these meetings was consistent with that which had been defined in the RFP and ensured that no one Proponent received an informational advantage.
- **Site Visits** – Opportunity was provided for Proponents to visually inspect the site. For both Proponent meetings and site visits, Proponents were informed that questions requiring official response needed to be asked in writing.
- **Conflict of Interest** – Project members were bound by employment or contract obligation and were required to sign a confidentiality and conflict of interest declaration form. Proponents were also required to declare conflicts.
- **Confidentiality and Security of Documents** – Steps were taken to ensure that procurement materials and proposals were kept secure. To our knowledge, no inappropriate information about the RFP documents, or the evaluations, was communicated to Proponents.

- **Incumbent Advantage** - Due diligence was done to ensure that no vendor had access to confidential information through past association with the TTC that might have represented an undue advantage. All relevant background and operational information was shared in the procurement documents;
- **Full Disclosure** - The RFP and draft Project Agreement, contained full description of deliverables, terms and conditions, evaluation process and background information such that adequate proposals could be created;
- **Consistency of Format** – Wording in the RFP and the use of forms, encouraged Proponents to submit their submissions in a like manner to aid consistent evaluation;
- **Reserved Rights** – While the reserved rights for the TTC, as detailed in the RFP, gave broad latitude to act in an arbitrary manner, our observation of the evaluation process was such that no unfair actions were taken;
- **Evaluator Qualifications** – Project staff provided assurance that members of proposal review teams had been selected for the relevance of their expertise.
- **Debriefings** – Provision was made for the debriefing of Proponents.

1.3 Outcome

- Three Proponents were qualified in the preceding RFQ process;
- One Proponent gave notice of withdrawing from the procurement process part way through the open period;
- Proposals were received from the remaining two Proponents;
- A Successful Proponent was identified on the basis on having submitted the highest scoring proposal. Note that during the negotiations process, TTC staff have provided assurance that no contract will be signed that is not materially compliant and at stated price.

1.4 Report Organization

Each section of this report is organized under the following headings:

- **Appropriate Practice** – A description of elements of good practice that would apply in any RFP process. These elements serve as a benchmark.
- **Findings** – Fairness Monitor's summary on whether or not this aspect of the procurement process met the standard of procedural fairness.
- **Description of Process** – A description and comment on the procurement process as observed by the Fairness Monitor.

2.0 Wording of the RFP Document

2.1 *Appropriate Practice*

The wording of the RFP needs to be such that the full scope of services to be performed is clearly and specifically detailed. The likelihood and magnitude of any follow-on work (contract extension) should be noted. The Proponent's necessary qualifications and the conditions under which the services are to be provided should also be made explicit. Mandatory Requirements are required to be stated in terms of pass/fail. Sufficient response time and information should be provided to permit those unfamiliar with The TTC and its business requirements to prepare. Also, the terms and conditions of the engagement need to be clear. Evaluation criteria must be stated in explicit terms. To aid in evaluation, instruction should be such that Proponents will provide information which can be evaluated in a consistent manner.

It is also important that the rules of the RFP and negotiations process be clear to ensure fairness, avoid misunderstanding and to give all involved a clear documentation of both their rights and obligations. Additional topics to be covered include:

- Submission amendment or withdrawal;
- The rights of the TTC;
- The evaluation process;
- The sample agreement components;
- The negotiations process.

2.2 *Findings*

The RFP provided the basis for a fair procurement process. A number of its attributes are described to provide context.

2.3 *Description of Practice*

Overview

The RFP outlined the objectives, background, purpose, timelines, definitions, design/construction deliverables, terms/conditions, reserve rights, applicable law, proposal submission instructions and selection/evaluation process.

Substitutions

The RFP made provisions for Proponents that needed to substitute Proponent team members from the preceding RFQ process. The TTC reserved the right to make a judgement on their comparable value.

Proposal Security

Proponents were required to provide a Letter of Credit or a Bid Bond for \$5,000,000.

Evaluation

Step 1 – Mandatory Requirements – Technical

Step 1 consisted of the review of each Proposal to determine if the mandatory submission requirements were provided and all the forms were completed correctly. In the event that deficiencies in their Proposal were found, Proponents were given opportunity, to rectify these issues in order to fill any minor gaps identified in the Mandatory Requirements.

The Mandatory Requirements were:

- (a) All printed and electronic copies of the Technical Submission in English;
- (b) The delivery of the Proposal Submission Form (Technical) and the Team Member Declaration for each Team Member;
- (c) The delivery of the Proposal Security; and
- (d) The delivery of the number and type of copies of the Proposal required.

Step 2 – Review of the Proposal Submission Form (Technical)

Proposals were to be reviewed to ensure that there were no changes to the entities that were pre-qualified except those pre-approved by the TTC and to assess any declared conflicts of interest.

Step 3 – Review of the Technical Submission – Pass/Fail Test

Seven of the Technical Evaluation criteria were of a pass/fail nature. Proposals that failed to achieve a Pass in any of the seven pass/fail criteria were to be automatically disqualified. These criteria were:

- (a) Minimum design capacity of 250 FFE buses to be measured as follows:
 - (i) indoor bus storage to accommodate 225 FFE buses as set out in Schedule 12 Part 2 Appendix F - Space Data Sheets;

- (ii) outdoor cripple bus parking stalls to accommodate 25 FFE buses;
 - (iii) 23 repair bays as set out in Schedule 12 Part 2 Appendix F - Space Data Sheets; and
 - (iv) 2 service lanes as set out in Schedule 12 Part 2 Appendix F - Space Data Sheets.
- (b) Environmental Project Report commitments are satisfactorily addressed.
- (c) The Site is configured such that the building shields the Mon Sheong Long Term Care facility from the fuelling operation (i.e., the service line is on the east side of the building).
- (d) The setback for flammable fluid tanks is not be less than 3.0 x the minimum distance stipulated in the *Flammable Liquids Bulk Storage Regulations*, C.R.C., c. 1148, provided that the setback for Class III flammable fluid tanks shall not be less than 1.8 x the minimum distance stipulated in the *Flammable Liquids Bulk Storage Regulations*, C.R.C., c. 1148.
- (e) The minimum clear width of a drive lane shall not be less than 10.0 meters.
- (f) The Site entrance/exit is located off Milliken Boulevard, near the north end of the Site.
- (g) There is a commitment to achieve Substantial Completion no later than July 1, 2019.

Step 4 – Review and Scoring of the Technical Submission

In order to be considered qualified; Proposals were required to achieve a minimum score of 70% in each individual category and an overall score of 75%.

The evaluation criteria and their weighting were:

A. Project Approach

1) Project Management Plans	10
2) Contract Baseline Schedule	7

B. Design and Construction

1) On and Off-Site Development, Infrastructure and Circulation	20
3) Functional Plan, and Industrial Systems and Components	15
4) Architectural Systems and Components	8
5) Structural Systems and Components	8
6) Mechanical Systems and Components	10
7) Process Systems and Components	10

8) Electrical, Communication and Security Systems, and Components	8
9) Energy Conservation	4
TOTAL	100

A table was provided that asked the Proponent to submit descriptive material that was specifically linked to the requirement to demonstrate capability to meet the evaluation criteria. In certain instances, page limits were employed.

Step 5 – Mandatory Requirements – Financial

The financial submissions were to be reviewed to determine if the mandatory requirements had been met and all the forms were completed correctly. In the event that deficiencies in their Proposal were found, Proponents were to be given opportunity, to rectify these issues in order to fill any minor gaps.

Step 6 – Review of the Proposal Submission Form (Financial)

Proposals were to be reviewed to ensure that there were no changes to the entities that were pre-qualified and to assess any declared conflicts of interest that could have arisen since the Proposal submission of Step 1. Note that there was a delay in time period between the requirement to submit the technical proposal vs the financial submission.

Step 7 – Review of the Financial Submissions and Ranking of Proponents

The mandatory requirements for the Financial Submissions consisted of; a) the Proponent having submitted in English. and (b) the delivery of the Proposal Submission Form (Financial) from Attachment D.

During this review, Proponents were to be given an opportunity to rectify deficiencies in their Financial Submissions in order solely to fill any minor gaps identified.

The Proponent that submitted the lowest Base Proposal Price for all the work was to be identified as the Preferred Proponent. Proponents were also required to provide pricing for Future Works and Innovations. Such material was required to be submitted in a sealed envelope. The TTC was to only open this envelope submitted by the Preferred Proponent.

Reasons for Disqualification

The RFP set out the reasons for disqualification.

Negotiations

The RFP contained a draft of the Project Agreement. This was included to provide the Proponents with a full understanding of future contractual requirements. This document was also the subject of discussion between the TTC and Proponents that could lead to refinement at the discretion of the TTC.

The submitted design was preliminary in nature. It was recognized that, while the TTC could hold the Proponent to all submitted elements, that it was in both party's interests to allow some flexibility as the design elements were further refined. It was made clear, however, that the Successful Proponent would be required to sign a contract that was substantively the same as the draft Project Agreement and that the TTC would not agree to design refinement that included an increase to original price.

Debriefs

The RFP offered unsuccessful Proponents an opportunity for a debriefing on the strengths and weaknesses of their proposal.

3.0 Communication and Information to Proponents

3.1 *Appropriate Practice*

Provision should be made in the RFP document for Proponents to ask questions of clarification of the TTC during the posting period. There needs to be one point of contact for such communication. This ensures that all Proponents receive the same information and that any attempts to sway the outcome are effectively controlled. Indeed, Proponents should be warned that it is not acceptable to contact other TTC personnel associated with the procurement during the course of the process.

Proponents need a reasonable amount of time to submit questions. If the RFP is complex, a Proponents' meeting can be held to provide further background information and to answer questions related to the RFP. An electronic Data Room can also be provided to ensure that all Proponents have the background necessary to submit appropriate proposals.

It is common in the scoring of the proposals for staff to ask questions of clarification of Proponents. In asking such questions, it is important that the TTC not coach the Proponent to the "correct" answer and to treat Proponents in a consistent manner. In allowing for such clarifications, it is also important that information relevant to all Proponents be shared with all.

3.2 *Findings*

In our role as Fairness Monitor, we found that the management of these considerations was appropriately dealt with.

3.3 *Description of Process*

One Point of Contact

Provision was made in the RFP documents for one source of information for the procurement process. Proponents that wanted additional information were instructed to submit their questions in writing.

Distribution

The procurement documents were distributed to those who had pre-qualified for this opportunity through successful competition in the previous RFQ process. The MERX electronic service was used to distribute materials including addenda.

Vendor Meeting

A voluntary meeting was held for the qualified Proponents to initiate the RFP procurement process. This was an opportunity to explain important elements of the RFP including the nature of planned commercially confidential meetings and the submission process.

Commercially Confidential Proponent Meetings

The RFP indicated that one-on-one meetings with individual Proponents would be held. A prime purpose of such meetings was to discuss suggested amendments to the Design-Build Agreement. Other meetings focussed on technical issues and provided opportunity to discuss requirements and provide feedback on the level of compliance of proposed solutions as they were being developed. The Fairness Monitor was present at these meetings for audit purposes.

It was made clear in the RFP that, unless provided in writing, any statement that TTC officials made in such meetings would not amend the RFP or Project Agreement. The meetings were intended to provide an opportunity for the sharing of information. They were not for evaluation purposes. All discussions were informal and not binding.

Addenda and Proponent Questions

The RFP indicated that Proponents were allowed to submit questions of a general nature as well as "Commercially Confidential" questions. TTC answers to general questions were to be provided to all Proponents. Answers to "Commercially Confidential" questions were to be kept confidential. The TTC reserved the right to make the judgement. If a question which had been posed as being "confidential", was deemed by the TTC to be "General", the Proponent was given the opportunity to withdraw the question or to have the answer shared with all.

All three Proponents submitted numerous questions that they considered to be both commercially confidential and general. As Fairness Monitor we reviewed the responses to these questions. We found that both types of questions were handled in a manner that was consistent with the wording of the RFP. The answers did not appear to favour one Proponent over another, and decisions on the confidentiality of answers appeared to be based on the commercially proprietary nature of the issue at hand.

Seven Addenda were posted for the RFP. As Fairness Monitor, we reviewed these Addenda before being issued and were assured by Project staff that the

changes to the RFP were not artificially restrictive and were based only on business need.

Ineligible Persons

A list of ineligible persons was provided. Proponents were directed not to communicate directly with them due to their close involvement in the RFP process.

4.0 Confidentiality/Conflict of Interest

4.1 *Appropriate Practice*

During the writing of the RFP, information should be shared with non-team members only on a need-to-know basis. All information requests should be channelled through the Project Coordinator, in writing, and all responses need to be documented.

Proper attention needs to be paid to the confidentiality and security of proposals. The use of documents needs to be carefully managed, including access to copies of the proposals and evaluation materials. All proposals when they arrive need to be time stamped and placed under lock and key. All original copies of the proposals need to be stored separately in a locked file to prevent tampering and their copying prohibited.

Best practice would have all members of the evaluation team sign confidentiality agreements pertaining to the evaluation process and information contained in the proposals. Instructions, should be given to the evaluators to keep all documents under lock and key unless in use. This includes both proposals and evaluation sheets.

A decision needs to be taken regarding whether to allow evaluators to take this material home to work on after regular working hours. Doing so facilitates the evaluators being able to complete their work in a timely manner but has an inherent risk of loss of materials. This is particularly true if public transportation is used.

4.2 *Findings*

In our role as Fairness Monitor, we found that the management of these considerations was appropriately dealt with. To our knowledge, no information about the RFP (during development), the proposals and/or evaluation was communicated in any form to persons not directly involved with the process. We

know of no instance in which a proposal, or any information generated in the evaluation process, was not kept secure and confidential.

4.3 Description

Security of Proposals Evaluation Documents

The Project Team took steps to ensure that all procurement related documents in their possession remained secure and confidential. The orientation session for evaluators stressed the importance of doing so.

Use of Forms, Declarations and Contract Provisions

All TTC employees who were members of the RFP development process, or who acted as evaluators, were bound by the stipulations of their employment relationship. All evaluators also signed confidentiality and conflict of interest forms.

The technical consultants used on the project had conflict of interest and confidentiality provisions built into their contract obligations.

Present / Past Proponent Involvement

Project staff provided assurance that no Proponent, had obtained confidential information, or information not usually made available to the public, that would have given them an undue competitive advantage in this RFP process.

RFP Proponent Provisions

The RFP contained a standard Conflict of Interest clause that required the Proponent to declare any conflict. It also restricted communications, or collusion, between Proponents relating to the RFP documents.

There was a prohibition against lobbying and contacting others that could be perceived as being in a position of influence or having had access to confidential information (ineligible persons). A specific list of firms was provided in this regard.

5.0 The Evaluation Process

5.1 *Appropriate Practice*

All Proposals received must be evaluated objectively and diligently. Such evaluation must be based on the requirements specified in the RFP only. Appropriate practice includes ensuring that:

- Compliance requirements of a pass/fail nature are used;
- No one individual has undue influence;
- Common proposal review and scoring sheets are used;
- Roles of all involved are clear and evaluators properly trained;
- The process is properly documented;
- Questions of clarification for the final submission are not used to allow Proponents to introduce new information;
- Reasons for disqualification are provided.

5.2 *Findings*

As Fairness Monitor, I found the evaluation and review process to have been consistent with the process as described in the RFP. I noted no instance of bias, undue influence, lack of due diligence and documentation or any other factor that represented a risk to fairness.

5.3 *Description of Practice*

Withdrawal of a Proponent from the RFP Process

Early in the open period one of the three Proponents provided the TTC with a list of high level concerns they had with the procurement documents. Using the commercially confidential meeting format, all Proponents were given the opportunity to meet with the TTC to discuss issues of concern. A meeting was held with representatives of the particular Proponent that had expressed concern. No other Proponents took advantage of this opportunity to meet with representatives of the TTC.

While this Proponent continued on for a time with the procurement process, they later gave notice of withdrawal, the main reason being “the risk profile being passed to the Proponents and the uncertain contractual language”.

While a final meeting was held with this Proponent to further discuss these concerns, their decision to withdraw was confirmed.

The procurement process, including evaluation thus proceeded with the two remaining Proponents.

Clarity of Role and Training

There was an orientation session provided for all TTC staff and agents who were to be involved in evaluation to explain the process and to provide an understanding of why it was important that the appropriate steps be followed.

Topics covered included:

- Project background and overview;
- Roles and responsibilities;
- Need for confidentiality and treatment of conflict of interest;
- Evaluation and review steps;
- Use of forms;
- Group meetings and procedures;

Management of Undue Influence

At no point in the process were decisions affecting the outcome of the evaluation process to be made by one individual. All final decisions, at each stage, were to be signed off by evaluation committee members.

Common Scoring Sheets

Common evaluation forms were developed for each stage of the proposal review. The use of these forms and summary sheets for team results helped ensure that the submissions would be judged on the same basis making consistency of treatment much easier. They also were designed to aided appropriate documentation.

Evaluation

See Section 2.3 for a description of the evaluation structure.

Mandatory/Compliance Review

Proponents were reviewed for completeness and for compliance with the mandatory and other requirements of the RFP.

Upon review, it was determined that one of the Proponents had failed to submit the required power of attorney by joint ventures. A rectification notice was issued and was subsequently complied with by the Proponent to supply this documentation.

A Proponent included an attachment with their proposal in which they self identified instances of non-compliance in their proposal. Such latitude to include such material was not provided for in the RFP process. Given that this attachment was beyond the page limit requirements of the RFP, TTC, with the concurrence of legal advice and that of the Fairness Monitor, ignored this section for evaluation purposes. The TTC, however, did make note of it and responded to the Proponent reminding them that their financial submission, to be valid, needed to be based on the requirements and content of both the RFP and Project Agreement. It was understood by the TTC Project Team that should this Proponent be deemed the Successful Proponent that no agreement would be signed with the Proponent unless it was materially compliant and at submitted cost.

The evaluation process also required TTC to review the Proponents' technical proposal to ensure that the page limitations identified in the RFP were adhered to. The evaluators noted the following issues:

- The Contract Baseline Schedule section contained a page limitation, however the RFP did not address the fact that a diagram was requested which is not typically considered to be part of the narrative. Both Proponents submitted a separate schedule beyond the page limit including this diagram. Because both Proponents made the same interpretation, the decision was made not to exclude the schedule for purposes of evaluation.
- The Architectural Systems and Components section contained a page limitation for the narrative. The RFP, however, requested that Proponents submit a summary of space areas and a Building Code Analysis Report. Both Proponents exceeded the page restriction when this additional material was included. Because both Proponents made the same interpretation, the decision was made not to exclude the schedule for purposes of evaluation.
- Energy Conservation section stated a page limitation of 2 pages for the narrative, however the RFP did not address the fact that an Energy Model report was also requested to be submitted. Because both Proponents made the same interpretation, the decision was made not to exclude the schedule for purposes of evaluation.
- In several other instances both Proponents submitted material above page limit. This material was not considered for evaluation because no ambiguity had been found in the instructions given in the RFP.

Staff confirmed that the Proposal Submission forms submitted by both Proponents did not state any changes to the entities that were pre-qualified nor did they declare conflicts of interest.

Technical Pass/Fail Criteria

Both Proponents achieved a “pass” in all the seven pass/fail criteria for the technical evaluation.

It was determined, however, that only one of the two Proponents achieved the minimum score of 70% for each of the criteria in the technical evaluation process. This meant that only one Proponent qualified to be considered for the Financial submission portion.

Financial Review

The financial submission for the remaining Proponent was reviewed. It passed the mandatory submission requirements, all forms were completed correctly and no rectifications were required. It was also determined that this submission did not state any changes to the entities that were pre-qualified nor did they declare conflicts of interest. Thus, this Proponent was deemed to be the Preferred Proponent and was recommended for award of the Contract.

Process Considerations

During the individual evaluations, evaluators were asked to do their work independently.

For the consensus evaluation subcommittees were used with varying membership. In each instance the subcommittee was responsible for the evaluation of all proposals for the subset of evaluation criteria assigned to them. At no point were there less than 3 evaluators to review each proposal section.

It was agreed that no substitutions would be allowed for committee members and that the group evaluations would not take place unless all committee members were present and had completed their individual evaluations. This helped to promote fairness, completeness and consistency.

It was determined that scoring the proposals for the rated criteria would be accomplished by means of a consensus score. An attempt was made to encourage committee members to move to scores that were within a narrow range. In the consensus meeting, if there was a significant variance between individual evaluator scores further discussion was held before a final decision was made.

The Fairness Monitor attended the consensus meetings of the evaluation committee. Based on observations of the process I found no instance in which evaluation criteria were used other than those that had been identified in the RFP. The participants came prepared to engage in meaningful discussion. Participants recognized the value of the group discussion and did not rush to a final decision. The evaluators were ready to adjust their individual scores given reasoned argument. No one individual was in a position to unduly influence the entire process given that there were six evaluators involved. While instances of divergent scores were identified, and discussed, there was no undue pressure to conform to the group opinion.

5.4 Outcome

- Three Proponents were qualified in the preceding RFQ process;
- One Proponent gave notice of withdrawing from the procurement process part way through the open period;
- Proposals were received from the remaining two Proponents;
- One of the Proponents failed to meet the requirement that they attain a score of at least 70% in all sections of the technical evaluation;
- A Successful Proponent was identified on the basis on having submitted the highest scoring proposal. Note that during the negotiations process, TTC staff have provided assurance that no contract will be signed that is not materially compliant and at stated price.

6.0 Debriefing and Documentation

6.1 Appropriate Practice

The unsuccessful Proponents should be offered a debriefing session. Care needs to be taken to ensure that the successful Proponent's right to privacy regarding proprietary information of a commercial nature is protected as is stipulated under relevant legislation.

The Project Manager is responsible for developing summary notes on the evaluation committees' scores and the rationale for the awarding of those points. These notes form the basis for the debriefing session.

The TTC should retain all relevant documentation for possible reference or audit. The TTC's records retention policy/procedures should be followed. Relevant material includes:

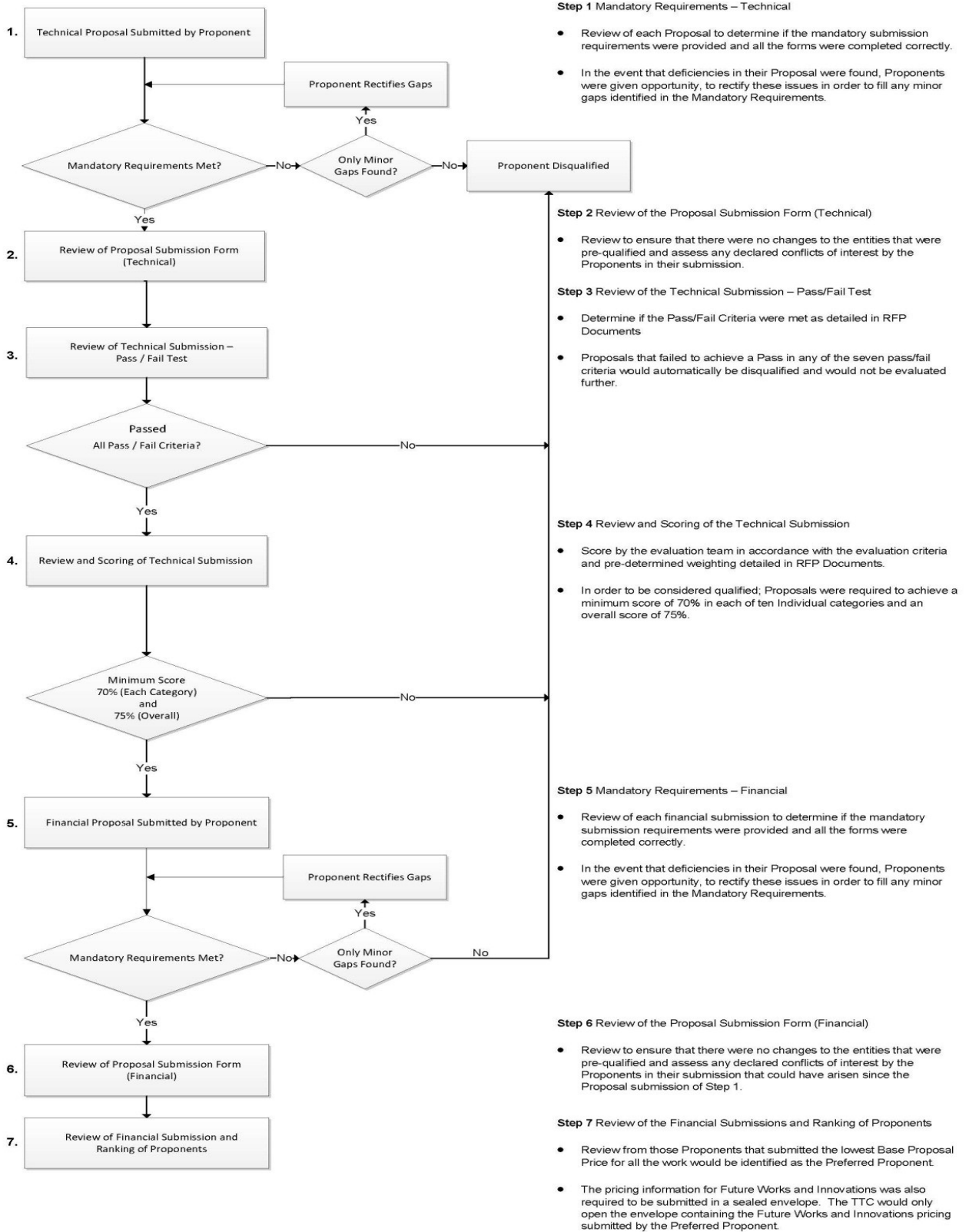
- File Index;
- Text story overview;
- RFQ/RFP documents;
- history of development and vendor communication;
- schedule;
- posting;
- meeting/site visit presentation and notes;
- Addenda to RFQ/RFP and PA;
- Proponent communications;
- Commercially Confidential Meetings;
- Training/Evaluation guides;
- Evaluation and review forms;
- Submissions;
- RFIs and Clarifications;
- COI Declarations/issues;
- Evaluation sheets;
- Evaluation reports and committee sign off;
- Major issues and how they were handled;
- Outcome and Recommendations.

6.2 *Description of Process and Findings*

The RFP indicated that debriefings would be provided to unsuccessful Proponents upon request. The Fairness Monitor's report was submitted before debriefings were completed.

APPENDIX B

Proposal Evaluation Process



APPENDIX C - Evaluation Criteria Summary

Pass/Fail Evaluation Criteria

The Pass/Fail Criteria for the Technical Submission are as follows:

1. Minimum design capacity of 250 FFE buses to be measured as follows:
 - a. indoor bus storage to accommodate 225 FFE buses as set out in Schedule 12 Part 2 Appendix F - Space Data Sheets;
 - b. outdoor cripple bus parking stalls to accommodate 25 FFE buses;
 - c. 23 repair bays as set out in Schedule 12 Part 2 Appendix F - Space Data Sheets; and
 - d. Two (2) service lanes as set out in Schedule 12 Part 2 Appendix F - Space Data Sheets.
2. Environmental Project Report commitments are satisfactorily addressed.
3. The Site is configured such that the building shields the Mon Sheong Long Term Care facility from the fuelling operation (i.e., the service line is on the east side of the building).
4. The setback for flammable fluid tanks is not be less than 3.0 x the minimum distance stipulated in the Flammable Liquids Bulk Storage Regulations, C.R.C., c. 1148, provided that the setback for Class III flammable fluid tanks shall not be less than 1.8 x the minimum distance stipulated in the Flammable Liquids Bulk Storage Regulations, C.R.C., c. 1148.
5. The minimum clear width of a drive lane shall not be less than 10.0 meters.
6. The Site entrance/exit is located off Milliken Boulevard, near the north end of the Site.
7. There is a commitment to achieve Substantial Completion no later than September 30, 2019.

Qualitative Evaluation Criteria and Associated Weighting

The evaluation categories for the qualitative evaluation and associated weightings are as follows:

1. Project Management Plans	10%
2. Contract Baseline Schedule	7%
3. On and Off-Site Development, Infrastructure and Circulation	20%
4. Functional Plan, and Industrial Systems and Components	15%
5. Architectural Systems and Components	8%
6. Structural Systems and Components	8%
7. Mechanical Systems and Components	10%
8. Process Systems and Components	10%
9. Electrical, Communication and Security Systems and Components	8%
10. Energy Conservation	4%
Total:	100%