



## Attachment #3

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Mr. Carlo Casale  
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April 29, 2008

### **Re: Meter Replacement and Automated Meter Reading System Selection Process— Interim Report**

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Dear Mr. Casale:

The City of Toronto (“City”) retained KPMG LLP (“KPMG”) to monitor from a fairness perspective the City’s process to select a private partner for the planned Meter Replacement and Automated Meter Reading System. The procurement process was managed by the City with the assistance of EMA Inc. (“EMA”).

The procurement process undertaken by the City involved one phase:

- Request for Proposals (“RFP”)

This letter summarizes KPMG’s findings and conclusions regarding the monitoring of the RFP stage for this procurement to the date of this letter. It presents an overview of the process and our observations to date, KPMG’s scope of work and fairness principles, which all serve as the basis for the analysis and conclusion.

The scope of the engagement is limited to the commencement of our involvement in December, 2007 and the conclusion of the procurement process, namely when a decision is ratified by City Council.

This interim letter covers the events that have occurred between the commencement of our involvement and the date of this letter. A final report will be issued to the City at the conclusion of the procurement process.

## **I Overview of the Process**

On January 2<sup>nd</sup>, 2008, an RFP was issued to the market with regard to the Meter Replacement and Automated Meter Reading System. This was the second RFP to be released for Meter Replacement and Automated Meter Reading System, following an earlier procurement which was cancelled. The RFP solicited statements of qualifications from interested parties to qualify and had a closing date of February 27<sup>th</sup>, 2008.

As part of the RFP, proponents were to submit their technical proposals and their financial proposals in separate envelopes to facilitate separate technical and financial evaluations. The financial proposals would remain sealed until the finalization of scoring of the technical evaluation.

On February 8<sup>th</sup>, 2008 an information meeting was held for all proponents that had been issued the RFP. At the beginning of the meeting a record of attendance was taken. During the information meeting, an overview of the RFP was presented, and proponents were given an opportunity to ask questions. The questions were, where possible, responded to by the City at the information meeting. All questions were recorded and a questions and answers document was issued to all proponents that had requested the RFP, not solely those in attendance at the meeting.

On February 27<sup>th</sup>, 2008 an information meeting regarding bonding was held for all proponents. This was held as a number of questions were being asked by separate proponents regarding the City's bonding requirements. The City retained an external advisor to ensure that the requirements were the true requirements of the City and that the bonding requirements were available within the industry. During the meeting, an overview of the City's bonding requirements was presented, and proponents were given an opportunity to ask questions' relating to the City's bonding requirements and submission expectations.

Between the RFP issue date of January 2<sup>nd</sup>, 2008 and the RFP deadline, five addenda were released. These addenda contained answers to questions submitted by proponents and notified proponents of changes to the RFP documents.

During the addenda process, extensions to the RFP closing of February 27<sup>th</sup>, 2008 were issued to all proponents in with the final extension to March 17<sup>th</sup>, 2008 being issued in Addendum #5. These extensions were provided to allow the proponents additional time to prepare their technical submissions and to attain the bonding requirements requested by the City.

The City, with the assistance of EMA, established and finalized an evaluation process and evaluation criteria prior to the RFP closing. The evaluation process was to include the following individuals:

Evaluation Teams	Team Members	Team Role
Bid Review Committee	Carlo Casale (Toronto Water) Alex Marich (Toronto Water) Michael Gouthro (Legal Services) Elaine R. Holt (Legal Services)	<ul style="list-style-type: none"> <li>Responsible for deciding if a proposal containing irregularities is valid</li> </ul>
Opening Committee	John McNamara (Purchasing) Andy Nanjad (Purchasing)	<ul style="list-style-type: none"> <li>Responsible for opening proposal envelopes at the appropriate times and evaluating the mandatory proposal requirements</li> </ul>
Evaluation Panel	Carlo Casale (City of Toronto) Peter Douchanov (City of Toronto) Rick Rawlison (City of Toronto)	<ul style="list-style-type: none"> <li>Responsible for conducting review and official scoring of</li> </ul>

	Cosmo Donato (City of Toronto) Sue Macdonald (City of Toronto)	technical/management and financial proposals
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The proposals were evaluated under the following six step process:

**Step 1:** Mandatory Criteria Evaluation – proponents were required to submit and execute a number of forms provided to them in the RFP. The Bid Review Committee assisted if any irregularities in the mandatory criteria were present

**Step 2:** Technical Scoring by the Evaluation Panel – For those proponents that had passed Step 1, the Evaluation Panel would review the technical submissions against pre-established criteria and develop draft scores. The Evaluation Panel would develop individual scores that would be aggregated and averaged with supporting comments. The evaluation score was calculated out of 60. Proposals achieving the minimum required 50% (i.e. 30) of the technical evaluation would proceed to the next step of financial proposal evaluation. Those proposals not achieving a score of 50% on their technical proposal would not proceed to Step 3 and their financial proposals would be returned unopened. Financial proposal evaluation (Step 3) would commence when the Evaluation Panel has agreed to their final technical scores.

**Step 3:** Financial Proposal Evaluation – The Opening Committee would conduct a review of the documents in the financial envelope to ensure all financial proposal mandatory requirements have been met. In the event of an irregularity, the matter would be referred to the Bid Review Committee for a decision on whether the proposal would still be valid. Members of the Evaluation Panel would evaluate the financial proposals of the proponents passing the minimum technical scoring requirement of 50%. The financial score was calculated out of 40 points. The proponent with the lowest price would be awarded a score of 40. Higher priced proponents would be awarded points on the basis of a percentage of the price against the lowest proponent’s price. In addition to the scoring of the financial proposals, the proponent’s price would be compared to the business case price which was constructed by City staff prior to the RFP being issued.

**Step 4:** Evaluation of combined Technical and Financial Proposal scoring – The technical score and financial scores would then be aggregated to determine a total evaluation score out of 100. Based on the final combined scores, the proponents would be ranked, with the highest ranked proponent being identified as the preferred proponent.

**Step 5:** Authorization would then be required from City Council before proceeding to negotiations with the preferred proponent.

**Step 6:** Negotiations – The City would then commence negotiations with the preferred proponent.

On March 17<sup>th</sup>, 2008, the extended RFP closing date, proposals were received from two proponents as follows:

- 1 Neptune
  - Submitted both technical and financial proposals

## 2 Asplundh (VSI)

- Submitted both technical and financial proposals

## 3 Elster Metering

- Submitted a technical proposal

All proposals were received before the submission deadline.

In addition to the three proposals received, the City received a non-bid letter from Itron, which detailed their concerns regarding the mandatory Terms and Conditions that the City was requesting. Additionally, the City received a letter from Badger which indicated that they were part of one of the other proposals which had been received. The City intends to issue a formal response to Itron at the end of the procurement.

On March 17<sup>th</sup>, 2008 immediately after the RFP closing, the mandatory criteria screening of the technical proposals was conducted by the Opening Committee. Of the three proponents, two passed the Mandatory Criteria Evaluation, Neptune and Asplundh. The third proposal from Elster Metering was deemed by the Opening Committee to be non-compliant as the submission did not contain the required technical information and the mandatory forms required to be submitted.

With the proponents identified, the confidentiality and conflict of interest's forms were completed by all evaluators and relevant staff of the City and its consultants prior to the commencement of the evaluation and all members were cleared by the City as having no conflicts of interest.

On March 18<sup>th</sup>, 2008, the proposals were distributed to the Evaluation Panel for preliminary scoring. Between the periods of March 18<sup>th</sup> and April 2<sup>nd</sup>, 2008, the individual Evaluation Panel members reviewed the Technical submissions and created individual draft scores in line with the evaluation marking system developed in the evaluation process. The Evaluation Panel issued one set of clarification questions to both proponents prior to the evaluation meetings. The responses to these questions were received during the evaluation meetings.

On April 3<sup>rd</sup> to 7<sup>th</sup>, 2008, the Evaluation Panel met to discuss their individual draft scores for each technical proposal evaluation section. Additionally, during the Evaluation Panel meetings, technical experts were called in to provide insight into their specific areas of expertise on the proponent's technical proposals. The Technical Screening followed the pre-established evaluation criteria.

Following the Evaluation Panel meetings, the technical scores were finalized and both proponents achieved the minimum score of 30 as mentioned above.

The final step of the evaluation process, the Financial Proposal Evaluation, took place on April 11<sup>th</sup>, 2008. As both proponents had passed step 2 of the evaluation process both price proposals were opened. Both price proposals were below the business case price prepared by City staff. Neptune was awarded full financial marks and Asplundh were awarded a percentage based on the ratio difference between its price and Neptune's.

As per Step 4 of the Evaluation Process, the Technical and Financial scores were aggregated to determine a total evaluation score out of 100. Based on the final combined scores, the proponents were ranked, with the highest ranked proponent being identified as Neptune, the preferred proponent.

## II Scope of Work

In January, 2008, KPMG was engaged by the City to assist in monitoring that a fair process be conducted in the selection of a preferred proponent for the RFP mentioned above. KPMG was to undertake the following:

- Monitor and report on the procurement process; and
- Comment on the fairness of the procurement process.

KPMG's role was solely that of an observer to the procurement process. KPMG did not develop the RFP or participate in the evaluation of the proposals. As the fairness monitor, KPMG's scope did not involve the assessment of the appropriateness of the project's technical requirements and the financial requirements, the evaluation criteria or the proposals. The scope of the engagement was limited from the commencement of our involvement in January, 2008.

KPMG's work was based on the following:

- Review of the RFP document prior to issue;
- Meetings with the City and EMA to discuss the RFP document;
- Review of the evaluation process, evaluation criteria and evaluation tools;
- Review of addenda, and questions and answers issued prior to the RFP deadline;
- Review of clarification questions issued to the proponents;
- Review of the bonding information meeting
- Review of the evaluation documentation;
- Observations of the following:
  - proponents information meeting – February 8<sup>th</sup>, 2008
  - Evaluation of Technical Proposals – April 3<sup>rd</sup>, 2008

Whilst KPMG has reviewed the information provided, KPMG has not audited or otherwise independently verified the accuracy of the information provided.

### III Fairness Principles

KPMG's approach to fairness monitoring of the evaluation processes was based on a set of fairness principles, developed by KPMG, which describe the foundation of a fair and consistent process. These principles have been developed based on KPMG's experience in conducting transaction and procurement processes and monitoring fairness. These fairness principles were discussed with the City at the onset of our assignment, and it was agreed that the fairness monitoring would be based on these principles:

- *Fairness Principle 1* — All potential proponents have the same opportunity made available to them to access information;
- *Fairness Principle 2* — The information made available to proponents should be sufficient to ensure that the proponents have the opportunity to fully understand the opportunity;
- *Fairness Principle 3* — All potential proponents have reasonable access to the opportunity;
- *Fairness Principle 4* — The criteria established in the invitation documents truly reflect the needs and objectives in respect of the project;
- *Fairness Principle 5* — The evaluation criteria and the evaluation processes and procedures are established prior to the evaluation of submissions;
- *Fairness Principle 6* — The evaluation criteria, invitation documents, and evaluation processes are internally consistent;
- *Fairness Principle 7* — The pre-established evaluation criteria and evaluation process are followed; and
- *Fairness Principle 8* — The evaluation criteria and process are consistently applied to all submissions.

In applying these fairness principles, the following guidelines were used to help determine the fairness of the evaluation processes:

- **Variations** — A variance from the Fairness Principles is deemed to have occurred if a circumstance(s), situation(s) or event(s) occurs during the process that is addressed in a manner that is inconsistent with or departs from one or more of the Fairness Principles.
- **Violations - Individual Variations** — A violation from the fairness principles is deemed to have occurred if an individual variance is deemed to have resulted in a process where one or more proponent(s) (potential, successful or unsuccessful) enjoyed a material advantage over any other or conversely, was subject to a material disadvantage and the material advantage or disadvantage affected the results of the process. If so, a *violation* of the Fairness Principles would have occurred and, consequently, the overall process would be deemed to be unfair in that respect.

- **Violations – Collective Variances** — A violation from the fairness principles is deemed to have occurred if an individual variances, when considered collectively, resulted in a process where one or more proponent(s) (potential, successful or unsuccessful) enjoyed a material advantage over any other or conversely, was subject to a material disadvantage and the material advantage or disadvantage affected the results of the process. If so, a *violation* of the Fairness Principles would have occurred and, consequently, the overall process would be deemed to be unfair in that respect.

#### **IV Analysis of Variances**

This section details key circumstances, situations and events that occurred during our review of the entire transaction where significant variances from the Fairness Principles occurred. It is common that processes of this type are subject to numerous variances from the Fairness Principles; in the interests of brevity, we do not present the less significant variances in this report. Each variance, whether presented in this report or not, has been assessed individually and collectively in the context of the overall transaction, as to whether a violation of the Fairness Principles has occurred.

No significant variances or violations have been noted to date.

#### **V Conclusions**

This conclusion is based only on information that we have had made available until the date of this letter. This is subject to change in the future. Any such change will be contained in our final report.

As such, KPMG is satisfied that the evaluation process to date has been fair.

#### **VI Restrictions on Use and Distribution**

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Notwithstanding the foregoing, KPMG expressly authorizes the addressee to share this letter with the rest of the evaluation team and to disclose the conclusions contained within this letter to other individuals within the City of Toronto, without further express written permission.

Comments in this letter are not intended as, nor should they be interpreted to be, advice or opinion of a legal nature. Such matters should be referred to the City's legal counsel.



Should any information, which was not available to KPMG as at the date of this letter, become available subsequently, KPMG reserves the right to review such information and adjust this letter accordingly.

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If you have any questions or require clarification on aspects of this letter, please do not hesitate to contact the undersigned.

Yours very truly,

Will Lipson  
*Managing Director*