

City of Toronto

**Request for Proposal for Pre-Purchase of Pumps / Motors / Drives
{Integrated Pumping Station (IPS) Project – Construction
Contract 3}
RFP No. 9117-20-7154**

**Fairness Monitor's Report
June 16, 2021
FINAL (Corrected)**



TABLE OF CONTENTS

1. Project Highlights	1
1.1 Project Background and Objectives.....	1
1.2 Fairness Engagement Scope of Work.....	1
2. Request for Proposal Process	2
2.1 RFP Evaluation Preparation	2
2.2 RFP Proposal Submission Receipt and Compliance.....	2
2.3 Mandatory Technical Evaluation.....	2
2.4 Rated Technical Evaluation.....	3
2.5 Pricing Evaluation, Supplier Qualifying Statement and Next Steps	3
2.6 Debriefings with Unsuccessful Supplier	4
3. Conclusion	5

1. Project Highlights

1.1 Project Background and Objectives

The City of Toronto (the “City”) issued the RFP for Pre-Purchase of Pumps / Motors / Drives {Integrated Pumping Station (IPS) Project – Construction Contract 3} (the “RFP”) which closed on March 17, 2021.

The Ashbridges Bay Treatment Plant (ABTP) is one of the four wastewater treatment plants operated by the City of Toronto's Water division. It is located at 9 Leslie Street in Toronto's east end, and is one of Canada's largest and oldest wastewater treatment plants with a rated average design capacity of 818 million litres per day (MLD). The ABTP is currently served by the M&T pumping stations. These convey approximately 70% of the inflow to the Treatment Plant and are to be replaced. In addition, two gravity conduits carry flow from the Coxwell Sanitary Trunk Sewer (STS) to the treatment plant headworks.

Construction of the new Integrated Pumping Station (IPS) is comprised of three phases. Phase 1 includes site preparation for both the IPS and the Coxwell Bypass Tunnel. Phase 2 includes screen building excavation, substructure construction, shafts and tunneling. Phase 3 includes pump house excavation and substructure construction, and the ultimate buildout and commissioning of the IPS.

The objective of the RFP was to pre-purchase pumps from an Equipment Supplier for the new IPS Pump House at ABTP. The four pump groups are High Level Interceptor (HLI), Mid Toronto Interceptor (MTI) / Low Level Interceptor (LLI), Wet Weather Flow (WWF) and Dewatering (DW) pumps, including motors, drives, and all associated appurtenances.

The City intends to enter into an Agreement with the Equipment Supplier for the entire scope of the RFP. The term of this Agreement is to be for a period of this Project award until the subsequent award of the General Contractor for Construction Contract 3 for the ABTP IPS Work and execution of a Novation Agreement. The Novation Agreement will have the effect of assigning, novating, transferring and conveying unto the General Contractor all of the City's interest in any Agreement arising out of the Pump Groups Package Pre-Purchase Contract to the General Contractor.

1.2 Fairness Engagement Scope of Work

P1 Consulting was engaged in March 2021, to act as the Fairness Monitor to review and monitor the evaluation and decision-making processes that were associated with the RFP.

In our provision of Fairness Monitor Services, we were responsible for monitoring all aspects of the procurement process in order to provide confirmation that it was conducted in a manner consistent with the RFP, to review the evaluation workbook and process and to confirm that the principles of fairness, openness and transparency were maintained. In our role we were to ascertain whether the following steps were taken to support a fair process:

- Adherence to the processes described in the RFP and evaluation workbook, including the evaluation process;
- Objectivity and diligence during the procurement process in order to ensure that it was conducted in a transparent manner;
- Compliance of participants with strict requirements of conflict of interest and confidentiality during the procurement and evaluation processes; and
- Oversight to provide a process where the Suppliers are treated fairly.

2. Request for Proposal Process

2.1 RFP Evaluation Preparation

P1 initiated the fairness engagement following the RFP submission deadline. The evaluation process and roles and responsibilities of all participants in the RFP evaluation process were documented within the City’s Evaluation Workbook. The Workbook was finalized prior to any activity related to the RFP evaluation being undertaken.

All evaluators participated in a training session in preparation for their role in the process, which was attended by P1. Each evaluator was required to sign a conflict-of-interest declaration, which included a continued commitment to the avoidance of conflicts and respect of confidentiality commitments. Project participants were notified of the appointment of a Fairness Monitor. There were no conflicts identified which prevented a party from participating in the RFP evaluation.

2.2 RFP Proposal Submission Receipt and Compliance

The RFP closing date and time was March 17, 2021, noon. Submissions were received electronically in accordance with the RFP, via the City’s Ariba Bidding System. Submissions were received from the following two (2) Suppliers in advance of the closing deadline:

- Ebara Corporation
- Xylem Canada LP

The City’s PMMD Representative undertook a review to ensure that the Submissions met the mandatory submission requirements. Both Submissions met the completeness and mandatory submission requirements in accordance with the RFP and Evaluation Workbook, and so all evaluation participants were granted access to the Submissions.

2.3 Mandatory Technical Evaluation

The City reviewed the Submissions to determine whether the minimum mandatory technical requirements were met. It was determined that the proposal from Ebara Corporation did not

meet the minimum mandatory technical requirements as set out in the RFP and therefore, was no further evaluated and the Submission declared non-compliant, in accordance with RFP Part 4 – Form B - Section 1.1.2 Mandatory Technical Submission.

2.4 Rated Technical Evaluation

The Evaluation Team undertook the individual evaluation and scoring of the Xylem Canada Submission based on the RFP technical rated evaluation criteria. A group consensus evaluation process followed the individual evaluation on April 6, 2021. The Evaluation Team engaged in a fulsome exchange of views leading to technical evaluation results, which were agreed to by the Team and were summarized in a consensus report. The Evaluation Team performed their roles diligently through the evaluation process.

P1 Consulting attended the consensus meeting and observed that the proceedings were in accordance with the RFP and Evaluation Workbook. P1 confirms that the technical evaluation process was fair, transparent and unbiased. The Xylem Canada Submission proceeded to the Pricing Evaluation stage.

2.5 Pricing Evaluation, Supplier Qualifying Statement and Next Steps

The City opened the pricing for the Submission but encountered a qualifying statement within the Supplier's Pricing Form. In response to the qualifying statement, the City issued a clarification letter requesting the Supplier withdraw the statement and confirm acceptance of the Terms and Conditions of the Contract as set out in the RFP documents. The response from the Supplier reiterated its concerns with the Terms and Conditions, and did not withdraw the qualifying statement. The City invoked a clause from the City of Toronto Procurement By-Law 195-8.5 City Council Authority (subsections C. and E.), in order to request City of Toronto Council's approval to negotiate the Terms and Conditions with the Supplier, with the intent of proceeding to Contract Award. This approach is inconsistent from the established process included within the RFP documents, which included the following provisions:

2.4 Contract Award and Execution

.1 The City intends to finalize the agreement with the top-ranked supplier during the Bid Validity Period. Suppliers are reminded that there is a question and answer period available if they wish to ask questions or seek clarification about the terms and conditions set out in Part 2 (Form of Agreement). The City will consider such requests for clarification at that time, and will not make substantive changes to those terms after the Closing Deadline during the Bid Validity Period.

Addendum 7 - Reminder

This is a reminder that there are no exceptions to the contract and/or specifications as per the call documents. Should there be any questions or clarifications required, suppliers must submit them in writing prior to 'Deadlines for Questions' March 11th 2021. The bids will be rejected if there are any proposals submitted with any conditions or deviations.

2.6 Debriefings with Unsuccessful Suppliers

P1 Consulting cannot comment on the fairness of any debriefing activities as they have not taken place as of the issuance date of this report.

3. Conclusion

Our fairness review was conducted without influence and as of the date of this report, we confirm that we are satisfied that, from a fairness perspective, up to and including the completion of the technical rated evaluation, the processes that we observed related to the RFP for Pre-Purchase of Pumps / Motors / Drives {Integrated Pumping Station (IPS) Project - Construction Contract 3} were conducted in a fair, open and transparent manner.

Should the City proceed with a request for Council approval to negotiate the Terms and Conditions and a subsequent Contract Award under this RFP to Xylem Canada, we note that the contemplated approach is inconsistent with the established process included within the RFP documents.



Stephanie Braithwaite,
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