

Attachment 3: Fairness Monitor Report

FAIRNESS MONITOR'S REPORT

- FINAL -

City of Toronto

Request for Proposals for the Preliminary Design of the Black Creek Class EA Solution and Detailed Design, Construction Services and Post Construction Services for Phase One Works

RFP No. 9117-21-7040

Ariba Doc: 2913757955

RFP Issued: March 29, 2021

Revised RFP Closing: JUNE 8, 2021, at 12:00 P.M. (Local Toronto Time)

REPORT ISSUED: October 13, 2021



**ROBINSON
GLOBAL
MANAGEMENT**

October 13, 2021



Mr. Michael Pacholok
Chief Purchasing Officer
Purchasing and Materials Management Division
City Hall, 18th Floor, West Tower
100 Queen Street West
Toronto, Ontario M5H 2N2

Re: Fairness Monitor Report - Request for Proposals for the Preliminary Design of the Black Creek Class EA Solution and Detailed Design, Construction Services and Post Construction Services for Phase One Works RFP No. 9117-21-7040

Dear Mr. Pacholok,

Background

Robinson Global Management Inc. ("RGM") was retained as the Fairness Monitor for the above-mentioned procurement in November 2020 to oversee the procurement process administered to request prospective Suppliers to submit Bids for Professional Services for Preliminary Design of the Black Creek Class EA Solution and Detailed Design, Construction Services and Post Construction Services for Phase One Works – New Keele Sanitary Trunk Sewer from Humber Sanitary Trunk Sewer to Maryport Sanitary Trunk Relief Sewer. It was the City's intention to enter into an agreement with only one (1) legal entity. The term of the agreement is to be for a period of ten (10) years.

We were retained during the RFP development phase and monitored the RFP open period in-market process, and evaluation process which identified the highest ranked Proponent. This letter details our summarized fairness findings for the RFP process we monitored. Neither RGM nor the individual author(s) of this report, are responsible for any conclusions that may be drawn from this opinion.

For further detail on the above-mentioned process, we recommend that communication be sought from the City of Toronto's RFP contact directly.

Our monitoring was in the capacity as Fairness Monitor and strictly limited to our responsibilities and deliverables listed in the numbered list below. In completing this report, we took the City of Toronto's Procurement Policy, Purchasing By-law, Canadian Free Trade Agreement, and the provisions of the RFP as a standard against which to audit the process.

We have no objections to the recommendation made by the City of Toronto's Engineering and Construction Services Division's, Trunk Sewers & Transmission Mains Unit, and the identified highest scoring Supplier of the administered RFP process.

Fairness Monitor Responsibilities and Deliverables for the RFP included:

1. Attend a kick-off meeting with the City and the City's industry advisor on this project;
2. Review of the RFP – Fairness Monitor is to identify potential inconsistencies or lack of clarity in the RFP and provide feedback to the City within five (5) business days of receipt of the

- documents for review;
3. Review of Evaluation Criteria with respect to clarity and consistency;
 4. Oversee any questions, comments, or communications submitted by potential Supplier and review responses posted via Addendum;
 5. Attending Evaluator Training Session;
 6. Provide advice to the Evaluation Committees and PMMD as requested;
 7. Attend Evaluation Committee evaluation sessions;
 8. Ensure that evaluation scores are accurate, and the documented methodology was adhered to;
 9. Review evaluation results;
 10. Complete and distribute the Final Attest Report;
 11. Attend debriefing sessions related to the RFP as required;
 12. Address any concerns relating to accountability/fairness (monitoring the level of openness, transparency, and competitiveness of the procurement process);
 13. Provide independent assurance of integrity of the procurement process with a signed attest statement for the RFP, as described below;
 14. Present report findings to City Council members, if required, and as required;
 15. Provide evidence and testify in relation to any legal claim that may arise from the procurement process.

A. RFP Development and Issuance

We were retained during the RFP development phase and were given sufficient time to review and provide any applicable fairness feedback on the RFP prior to its issuance. The RFP was issued on March 29th, 2021 and had an original Submission Deadline (closing) of April 27, 2021 at 12pm (Local Toronto Time) and this was amended by way of addendum to the revised Submission Deadline (closing) of June 8, 2021 at 12pm (Local Toronto Time).

1. Addenda and Questions and Answers

Five (5) addenda and questions and answers documents were issued prior to the Deadline for Issuing Addenda date of five (5) working days before Submission Deadline, and we confirm that this period was maintained in accordance with the RFP. The Deadline for Suppliers to submit Questions was ten (10) working days before Submission Deadline and we confirm that this period was maintained in accordance with the RFP. No questions were answered beyond this date.

2. RFP Documents Transparency

The RFP stated all proposal and performance requirements, evaluation criteria and associated weightings of that criteria as required. The RFP further stated the evaluation methodology, proposal evaluation scoring system scale and evaluation approach to be administered during all stages of the evaluation processes.

Where there were minimum scoring thresholds and/or pass/fail requirements for all mandatory requirements evaluation sections, these were disclosed with a clear indication when such thresholds or pass/fail tests would be applied, and the impact that failing to satisfy any of them.

3. RFP Open Period

The RFP designated a single point of contact and explained the process for communication during the open period, and evaluation process. We were given an opportunity to review all responses issued to the market prior to their posting and saw no unresolved matters of fairness to note at the closing of the RFP process.

4. Bidder's Information Meeting

In accordance with RFP Part 1 – Section 1.6, the City held an optional virtual information meeting to allow for greater understanding of the RFP and to provide an additional opportunity for potential proponents to ask questions that they may have. This meeting was approximately one (1) hour in duration. The information meeting provided high level overview including, but not limited to, submission pass/fail requirements, timelines, deliverables and scope. Only administrative questions were answered during the session. Any technical questions raised were asked to be resubmitted in writing in accordance with the procedures set out in the RFP.

5. RFP Time in Market

The RFP open period represented a total of forty-nine (49) business days, and seventy-two (72) calendar days in market for Suppliers to respond to the City's request. We deemed this to be more than sufficient time for qualified Suppliers to prepare and submit compliant proposals. Diligent effort was taken to effectively manage any incumbent advantage, disadvantages, and potential geographical impediments where present in the process from document development through to evaluation process completion. Further, we were not made aware of any matters of this kind being raised during the process.

6. Communication with the Fairness Monitor

The Trunk Sewers and Transmission Mains project team and Purchasing & Materials Management Division (PMMD) representatives (to whom we reported to) took great care to develop detailed evaluation criteria that objectively reflected the legitimate needs of the City, and to produce an RFP. Together, it was our opinion that this resulted in an RFP process and procedures that were clear and could be consistently applied.

B. RFP Evaluation Process

1. Proposal Receipt

Six (6) proposals were received through the City's SAP Ariba online submission system, before the Submission Deadline. No late proposals were received or accepted.

2. Stage 1 – Mandatory Submission Requirements

All six (6) proposals met the mandatory submission requirements and proceeded to Stage 2. Stage 1 was evaluated by the qualified PMMD team on a pass/fail basis.

3. Stage 2 – Mandatory Technical Requirements and Rated Evaluations (85%)

This Stage 2 consisted of only the rated evaluation broken down into eight (8) subsections, and there was no mandatory technical requirements. This Stage was evaluated by the qualified Evaluation Committee, represented by a combination of the City's ECS team representatives. The team members were selected because they had the expertise to critically review, understand and evaluate the proposals against the criteria.

All proposals were scored diligently against these criteria which focused on technical experience, and qualifications to satisfy the City's requirements. Only proposals that received a score of at least 70% (59.5/85 points) for Stage 2 proceeded to the Stage 3 – Pricing Evaluation. Only five (5) proposals proceeded into Stage 3 and the sixth proposal did not.

3.1 Minor Fairness Qualification

Due to some minor transparency and clarity matters with the technical evaluation criteria only discovered post-close during the RFP evaluation that needed to be resolved in order to evaluate the proposals consistently, adjustments were made to allow for a broader interpretation of some criteria, as they may not have been understood as expected by the responding Suppliers. So unfortunately, we the fairness monitor could not confirm that the criteria remained unchanged post-close, however we can confirm that any adjustments to the criteria that were made were all in the interests of the responding Suppliers and to ensure that the City always applied its criteria fairly.

4. Stage 3 – Pricing (15 points)

Once proposals made it to this Stage 3, the City conducted a comparative relative pricing evaluation on the Total Proposed Fee Net (\$), Excluding Contingency of all proposals. The proposal with the lowest Total Proposed Fee Net pricing, received 100% of the available Stage 3 allotted points, and the next highest received a proportional value of points based on its competitiveness with the lowest priced proposal and so on, with the application of a formula shared in the RFP document. Stage 3 – Pricing which was opened and evaluated at this point in the evaluation process and at no time earlier.

After the completion of Stage 3, all scores from Stage 2 and Stage 3 were added together and the proposals were ranked based on their total scores. There was no tie, and the highest ranked Supplier was clearly identified.

C. Evaluation Process Approach and Methodology

1. Evaluator Training Session

Prior to any scoring of proposals beginning, the Evaluation Committee received a mandatory detailed evaluation training by the City's PMMD representatives and the Fairness Monitor. The training covered all aspects of the evaluation process and how to execute the roles and responsibilities effectively and fairly to maintain the integrity of the evaluation process planned. The Evaluation Committee was briefed on the best practices with respect to confidentiality of proposals; conflict of interest; undue influence; scoring and comment procedures; and the retention of documents among other key topics.

2. Conflict of Interest & Confidentiality Management

We are not aware of the existence of any conflict of interest or a breach of confidentiality occurring at any point during the evaluation process. Each evaluation participant (evaluator or otherwise) was required to sign a declaration confirming their understanding of these requirements for disclosure, as it relates to conflicts of interests, and management of evaluation process information, as it relates to confidentiality.

3. Undue Influence Management

No evaluator or other individual exerted undue influence over the process. Each evaluation stage was completed in a sequential order, and with the observance of the City's Evaluation Committee, PMMD representative and the Fairness Monitor. All key evaluation process decisions were made by more than one person and verified by at least one other.

4. Scoring Methodology

Prior to beginning the evaluation process, each evaluator was assigned a specific order of evaluation to ensure that each Proposal was a different evaluator 'first' to assist in leveling out the level of initial scrutiny that each

Proposal received. Then the Evaluation Committee completed the Stage 2 - Rated Evaluation using the established best practice consensus two - step method: firstly, each evaluator, working alone, reviewed, scored with supporting comments, each Proposal in its entirety; secondly, the evaluators met as a group to discuss their findings and, largely relying on their initial comments and Evaluation Committee discussions during each consensus meeting, arrived at a consensus score and comment for each criterion together. The Evaluation Committee ensured that the evaluation aligned with the disclosed RFP requirements, proposal evaluation Scoring Criteria Scale, and maintained the disclosed point weightings.

Each score and comment were discussed thoroughly, agreed to, and verified during the consensus session based on the disclosed proposal evaluation Scoring Criteria Scale from the RFP and the evaluation criteria objectively.

No averaging or rounding of scores took place during this evaluation process at anytime.

All scores were reflected to the second decimal based on a strict application of the Scoring Criteria Scale as represented in the RFP and the associated definitions of that guidance, to allow for transparent verification by the City and the Fairness Monitor.

At the completion of the evaluation process, all calculations were verified by us the Fairness Monitor and there was a clear highest scoring Supplier in accordance with the RFP.

D. Fairness Monitor Attestation

1. Summary of Fairness Findings

In conclusion, we confirm that the highest scoring Supplier of the evaluation process was **Black & Veatch Canada Company**.

We attest that the RFP process was conducted in a procedurally fair, open and transparent manner and in alignment with the requirements, as referenced in the applicable directives, policies, trade agreements and the RFP held by City of Toronto.

We certify that the resulting firm recommended for award was identified through a rigorous and well-documented evaluation process that we oversaw from beginning to end, and therefore we have no reasons for objection to the result produced, from a fairness perspective.

Sincerely,



Andrea Robinson, B.A, LL.M., PMP.
Senior Fairness Monitor, Robinson Global Management Inc.

cc: Doreen Wong, B.A., B.COMM., LL.B.
Senior Fairness Monitor, Robinson Global Management Inc.