



## STAFF REPORT ACTION REQUIRED

### Procurement Authorization – Purchase Four Hundred Forty (440) Low Floor Clean Diesel City Buses

<b>Date:</b>	September 5, 2017
<b>To:</b>	TTC Board
<b>From:</b>	Chief Executive Officer

#### Summary

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This report recommends that the TTC Board authorize an award to Nova Bus, a Division of Volvo Group Canada Inc. (Nova) for the procurement of 440 new forty-foot low floor clean diesel city buses and capital spares (engines, transmissions, axles, radiators) to be delivered in 2018 and 2019.

Three hundred and twenty five (325) buses will be delivered before March 31, 2019, and as such will be eligible for 50% funding as part of the Public Transit Infrastructure Fund (PTIF) program. The remaining 115 buses will be delivered prior to December 31, 2019 but outside of the March 31, 2019 PTIF eligibility timeframe.

In October 2016, a Request for Information (RFI) targeting the international bus manufacturing industry was publically advertised. Responses to that RFI and follow-up meetings, were used to update the TTC's technical specification and commercial terms. In April of 2017, a Request for Proposal (RFP) was publically advertised. The RFP process allowed for concerns of a commercial nature to be discussed and the result of this process was that there were two commercially compliant bids. Technical compliance was evaluated and both submissions were found compliant. The RFP evaluation was overseen by a fairness monitor and the recommended award between the two fully compliant bids was determined by price alone.

#### Recommendations

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It is recommended that the Board:

1. Authorize an award to Nova for the supply of 440 low floor clean diesel buses in the upset limit amount of \$315,525,000.00 on the basis of lowest priced qualified proponent, as follows:

- a. \$294,257,000.00, inclusive of all applicable taxes, for the purchase of 440 buses for delivery in 2018 and 2019.
- b. \$6,250,000.00, inclusive of all applicable taxes, for the purchase of spare parts (engines, transmissions, axles, radiators).
- c. \$15,018,000.00, inclusive of all applicable taxes, to be used as a contingency allowance for maintenance parts, special tools and any contract amendments.

## Financial Summary

The 2017 – 2026 Capital Budget and Plan approved by City Council on February 15, 2017 includes sufficient annual funding in 2018 and 2019 for the supply of 440 low floor clean diesel city buses. Funding for the project is included under 4.11 Purchase of Buses.

Under PTIF, capital projects commenced after April 1, 2016 and completed by March 31, 2019 may receive up to 50% funding of eligible costs. The purchase of new buses meets the criteria for funding eligibility under the program.

The table below details the portion of this award that will be eligible for funding as part of the PTIF program:

<b>Nova Award (\$Millions)</b>	<b>Buses Ordered</b>	<b>Cost Incl. Taxes</b>	<b>City Funding</b>	<b>PTIF Funding</b>
Delivery by March 31, 2019	325	217.3	108.7	108.7
Delivery after March 31, 2019	115	76.9	76.9	0.0
<b>Total Award</b>	<b>440</b>	<b>294.3</b>	<b>185.6</b>	<b>108.7</b>

**Note:** Portions of added award costs (i.e. contingency) will be claimed under PTIF as eligible. Costs and associated funding will be reduced following the application of the HST rebate.

This procurement of 325 buses will bring the total number of buses purchased under the PTIF program to 783 buses. The total amount of PTIF funding applied to the 783 bus purchase will be \$286 million (less HST rebate reduction) or 50% of project costs, as reflected in the approved Capital Plan.

The Chief Financial Officer has reviewed this report and agrees with the financial summary.

## Accessibility/Equity Matters

All buses to be procured are fully accessible and compliant with all federal and provincial regulations. The purchase of the new buses enables TTC to phase out and retire the older fleet which will help improve the reliability of the service and help reduce green house emissions.

## Decision History

At its July 29, 2015 meeting, the Board approved the purchase of 108 buses of which 76 were delivered after April 1, 2016 and are eligible for PTIF funding:

[https://www.ttc.ca/About the TTC/Commission reports and information/Commission meetings/2015/July 29/Reports/Purchase-108 Forty Foot Low Floor%20Clean Diesel-Buses.pdf](https://www.ttc.ca/About%20the%20TTC/Commission%20reports%20and%20information/Commission%20meetings/2015/July%2029/Reports/Purchase-108%20Forty%20Foot%20Low%20Floor%20Clean%20Diesel-Buses.pdf)

At its May 31, 2016 meeting, the Board approved the purchase of 97 buses and all are eligible for PTIF funding:

[https://www.ttc.ca/About the TTC/Commission reports and information/Commission meetings/2016/May 31/Reports/19\\_PAA Purchase 97 Forty Foot Low Floor Clean Diesel City Bu.pdf](https://www.ttc.ca/About%20the%20TTC/Commission%20reports%20and%20information/Commission%20meetings/2016/May%2031/Reports/19_PAA_Purchase_97_Forty_Foot_Low_Floor_Clean_Diesel_City_Bu.pdf)

At its September 6, 2016 meeting, the Board received an information report on the Federal Public Transit Infrastructure Fund (PTIF) which included a list of preliminary projects and purchase of low floor clean diesel buses was included on the list:

[https://www.ttc.ca/About the TTC/Commission reports and information/Committee meetings/Budget/2016/September 6/Reports/2. Federal Public Transit Infrastructure Fund PTIF.pdf](https://www.ttc.ca/About%20the%20TTC/Commission%20reports%20and%20information/Committee%20meetings/Budget/2016/September%206/Reports/2.%20Federal%20Public%20Transit%20Infrastructure%20Fund%20PTIF.pdf)

At its November 30, 2016 meeting, the Board approved the purchase of 285 buses and all are eligible for PTIF funding:

[https://www.ttc.ca/About the TTC/Commission reports and information/Commission meetings/2016/November 30/Reports/12\\_PAA - Purchase 285.pdf](https://www.ttc.ca/About%20the%20TTC/Commission%20reports%20and%20information/Commission%20meetings/2016/November%2030/Reports/12_PAA_-_Purchase_285.pdf)

At its June 15, 2017 meeting, the Board approved a change from the 40% Canadian content to 25% Canadian content, which is in line with the Ministry of Transportation Canadian Content for Transit Vehicle Procurement Policy:

[http://www.ttc.ca/About the TTC/Commission reports and information/Commission meetings/2017/June 15/Reports/9 Canadian Content Bus Procurement.pdf](http://www.ttc.ca/About%20the%20TTC/Commission%20reports%20and%20information/Commission%20meetings/2017/June%2015/Reports/9_Canadian_Content_Bus_Procurement.pdf)

## Issue Background

The TTC operates and maintains a fleet of approximately 2,000 buses. As part of the annual capital budget process, a rolling 10-year bus fleet plan is updated for adjustments made to the service level forecast, implementation of new rapid transit lines and fleet condition.

Bus service requirements continue to increase. Bus boardings increased from 435.5 million in 2015 to 462.8 million in 2016. Some of this increase is due to additional bus service being provided to address the following:

- Late deliveries of new low floor light rail vehicles (LFLRV) – supplemented by buses
- Increased number of city construction projects – supplemented by buses
- Increase in bus service frequency and service hours

The timing of the PTIF program provides a great opportunity to help TTC refresh its aging bus fleet and to meet growing service requirements. In addition to growing service demands, TTC's bus fleet faces various challenges. These include but are not limited to:

- Orion VII Diesel Series 1201 Fleet – concerns regarding emissions recently identified by the Ministry of Environment & Climate Change
- Orion VII Diesel-Electric Hybrid Fleet – high cost of ownership and supply chain issues
- 18-year bus life policy

### Bus Procurement Strategy

The procurement of buses using the PTIF program will address the challenges identified above. Buses procured under this program will be used for a one to one replacement of problematic fleets such as the Orion VII Diesel Series 1201 and the Orion VII Diesel-Electric Hybrids and for fleets that have a high cost of operation. The table in Appendix A illustrates the number of buses for each fleet, the number being retired early, and their age.

The replacement of these fleets through early retirements will also help to position the bus fleet plan for future transition from an 18 year to a 12-15 year bus life, to improve bus availability/reliability and to reduce operating costs.

TTC's experience, as well as that of other large transit properties in North America, indicates that a useful bus life is approximately 12 years. Buses maintained beyond the age of 15 years reduces overall fleet availability/reliability and increases operating costs. Industry best practice, which is supported by the US Federal Transportation Association, recommends the replacement of buses between 12 and 15 years of age.

The graph in Appendix B illustrates the reliability of the TTC fleet of buses at 16-18 years of age vs. the reliability of a 1-3 year old bus fleet. The reliability of the 1-3 year old bus fleet is 26,189 mean kilometers between defects (MKBD) while the reliability of the 16-18 year old bus fleet is only 4,978 MKBD. Therefore the influx of new buses in 2018 and 2019 will greatly improve vehicle availability/reliability and maintenance costs, and help in the transition from an 18 year bus life to a 12-15 year bus life.

## Request for Information

On October 18, 2016, an RFI was publicly advertised on the Merx website. The purpose of this RFI was to identify and obtain information from bus manufacturers who would be interested in participating in future new bus procurement requirements for the TTC. The RFI indicated that the TTC would be seeking input from bus manufacturers that build clean diesel buses that meet Transport Canada certification requirements in order to operate the proposed bus in Canada. A copy of the TTC's current technical and commercial terms were also included in the RFI document.

Respondents were requested to provide information so TTC could perform market analysis to assess and become familiar with the available buses and bus manufacturers with experience in providing 40-foot and/or 60-foot low floor clean diesel buses.

The RFI indicated that only those bus manufacturers whose 40-foot bus model(s) are certified by Transport Canada and registered to operate in Canada (subject to verification by the TTC) would be invited to the next stage of the process.

Thirteen companies downloaded copies of the RFI documents, out of which five submitted a response by the closing date of October 28, 2016.

The eight remaining non-respondents that downloaded the RFI were contacted. Two companies indicated they could not meet the TTC's minimum Canadian content requirement as they are non-Canadian bus manufacturers. The remaining companies downloaded the proposal documents for information purposes only, as they consisted of other transit agencies or suppliers of parts for the bus industry.

The five companies listed below submitted a response:

<b><u>Company Name</u></b>	<b><u>Bus Model</u></b>
*Alexander Dennis (Canada) Inc.	Enviro 500
*BYD Canada Company Limited	Battery Electric K9M, K11M
*Karsan USA LLC	40 ft.
New Flyer Industries Canada ULC	XD35/XD40/XD60
Nova Bus, a Division of Volvo Group Canada Inc.	Nova LFS 40 ft

\*Alexander Dennis (Canada) Inc., BYD Canada Company Limited and Karsan USA LLC's proposed buses did not meet the TTC's specification (i.e. either they were not certified by Transport Canada to be registered and operated in Canada or were not a 40ft/60ft low floor clean diesel city bus) and therefore they were not considered further.

Nova and New Flyer Industries Canada ULC (New Flyer) were the only two respondents whose buses were certified by Transport Canada to be registered and operated in Canada

and as such they were considered compliant and meetings were scheduled with both proponents.

In November/December 2016, meetings were held with both proponents separately and included a number of TTC representatives (Joint Health and Safety representatives from Amalgamated Transit Union Local 113, Bus Transportation, Strategy and Service Planning, Materials & Procurement, Vehicle Engineering, Training, Customer Communications, Customer Experience, Safety and ITS). The meetings were for the purpose of exchanging information regarding the proponents' current product offerings and the TTC's bus requirements to be used in preparation for TTC's future bus procurement.

As a result of the meetings, the information gathered was utilized to incorporate any required revisions to the commercial and technical terms of the specifications to ensure both proponents were able to bid on the RFP.

### Request for Proposal

On April 3, 2017 an RFP was publicly advertised on the Merx website and the TTC's website. Two companies downloaded copies of the proposal documents and both submitted a proposal (Nova Bus and New Flyer) by the closing date of June 22, 2017. During the bid period, six addenda were issued.

The RFP consists of the supply of 440 buses, as well as capital spares (engines, transmissions, axles) for delivery in 2018 and 2019. The buses were broken down into two groups; Group 1 (325 buses), and Group 2 (115 buses), as well as additional capital spares for both groups.

Prior to the closing date, proponents were given the opportunity to submit for review by the TTC any exceptions of a commercial nature, or to identify any requirements that would prevent them from submitting a compliant proposal. Commercially confidential meetings with proponents were held between the TTC and individual proponents to discuss Section 00 72 00 – General Conditions of the RFP.

Proposals were received from Nova and New Flyer and both were reviewed for commercial compliance and both appeared to be compliant. The proposals were then rated by the evaluation team in the presence of a fairness monitor.

Fairness monitors, John Campbell and Sandro Benedetti of JD Campbell and Associates (JDC) were retained by the TTC to provide an independent third party observation to ensure that the procurement process took place in accordance with the requirements established as set out in the RFP and to ensure fairness and transparency during this process. The report provided by JDC (Appendix C) confirms the fairness of the process based on their observations.

The RFP was issued as a two envelope, three step process, for the evaluation of proposals as summarized below:

Step 1 - consisted of the review of the proposals to ensure compliance with the pass/fail criteria. Proponents were required to achieve a pass in all six criteria in order to continue to Step 2 of the evaluation process.

Step 2 - consisted of a qualitative evaluation based on the pre-established evaluation criteria and weighting for technical requirements (60 points) whereby they were required to provide a detailed description including sufficient technical information to describe how the proposed bus will meet the specified technical requirements in each of the areas identified. The other 40 points consisted of a commercial evaluation of GC48 – Warranty and GC49 – Latent Defects.

It was pre-determined that proposals achieving a total minimum of 80 points out of the maximum 100 points available for the qualitative evaluation would be considered qualified and would then have their pricing evaluated.

Step 3 - consisted of the evaluation of pricing for those proponents who successfully completed Steps 1 and 2. The RFP indicated that the pricing envelope would be opened only for those proposals considered qualified by achieving a total minimum of 80 points out of the maximum 100 points available for the qualitative evaluation. The recommendation of award was based on the lowest priced qualified proponent.

Both Nova and New Flyer passed the mandatory pass/fail requirements (Step 1) and qualitative evaluation bar (Step 2) and had their pricing component evaluated (Step 3).

## **Comments**

Nova had the lowest evaluated priced proposal of \$300,500,629.93. A 5% contingency allowance for maintenance parts, special tools and any contract amendments has been added to this total for a recommended upset limit award in the amount of \$315,525,000.00. Nova also confirmed that their production line can deliver all of the Group 1 buses by the March 31, 2019 deadline, and as such they are recommended for award of this contract (Appendix D).

The Agreement to Bond submitted by Nova covers a performance bond and was submitted by Chubb Insurance Company of Canada, who has been verified as a surety company licensed to transact business under the Insurance Act of Ontario. As such they are considered financially capable of performing the work. Nova will be required to execute a performance bond in the amount of \$3,500,000.00. Nova has been providing 40 and 60-foot low floor diesel buses to TTC since 2014 and has performed in a satisfactory manner.

Under PTIF, the federal government has agreed to fund 50% of eligible costs for capital projects commenced and completed between April 1, 2016 and March 31, 2019. With

the procurement of 325 buses, it will bring the total to 783 buses procured by TTC under the PTIF program which saves the TTC and the City of Toronto 50% of the purchase price.

As the TTC is relying on PTIF funding to pay 50% of the portion of each Group 1 bus (325 buses) the successful candidate must be able to supply buses to the TTC by March 31, 2019. If the Group 1 buses are not delivered by March 31, 2019, the TTC will lose the PTIF portion representing 50% of the purchase price of each bus. In order for the proponents to prepare a schedule to meet this objective, they requested a contract start date.

TTC anticipates to award the contract on September 6, 2017 to enable the proponent sufficient time to deliver the buses by the PTIF deadline. It is recommended that the Board authorize the procurement of 440 new forty-foot low floor clean diesel buses to Nova Bus for delivery by 2018 and 2019.

Upon approval of this award a delivery schedule will be developed by Nova to establish the contract delivery schedule. Late deliveries will be subject to the assessment of liquidated damages.

## **Contact**

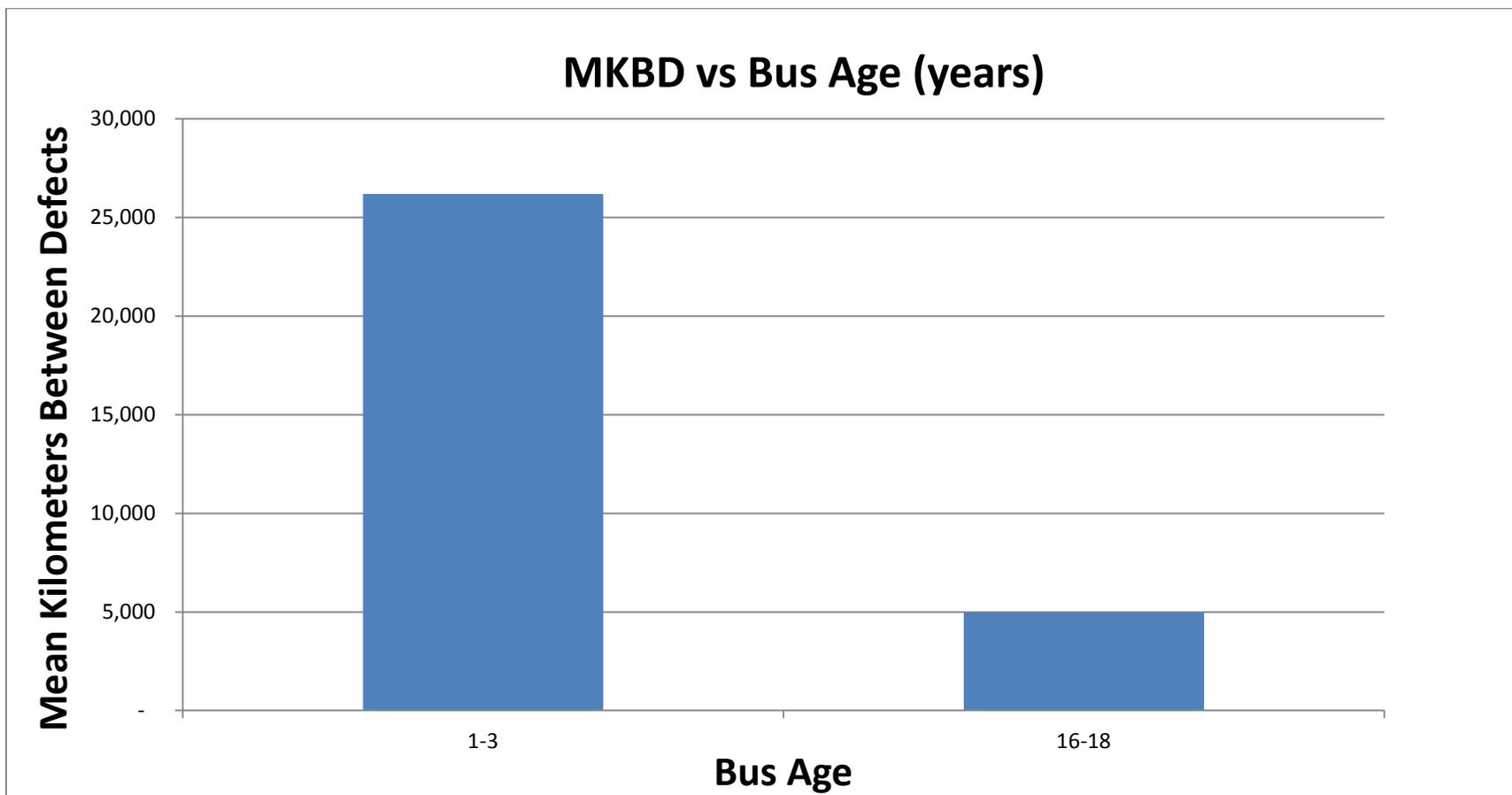
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**Appendix A - Early Retirement Quantities and Age**

Fleet (Type of Bus)	Fleet Total	Age of Bus									Total Retired Earlier than 18 years
		9	10	11	12	13	14	15	16	17	
<b>Orion VII LF DIESEL (1201 A/B/C/D)</b>	<b>482</b>					<b>354</b>	<b>128</b>				<b>482</b>
<b>Orion VII LF CLN DIESEL (1274 C/D)</b>	<b>180</b>						<b>24</b>	<b>80</b>	<b>55</b>	<b>21</b>	<b>180</b>
<b>Orion VII LF Hybrids (1274 A/B)</b>	<b>150</b>					<b>36</b>	<b>28</b>	<b>86</b>			<b>150</b>
<b>Orion VII LF Hybrids 1308 A</b>	<b>223</b>		<b>2*</b>								<b>2</b>
<b>Orion VII LF Hybrids 1308 B/C</b>	<b>188</b>	<b>1*</b>	<b>138</b>	<b>51</b>							<b>190</b>
<b>Orion VII LF Hybrids 1308 A</b>	<b>130</b>		<b>62</b>								<b>62</b>

**\*denotes buses retired early due to severe accidents**

**Appendix B – Vehicle Reliability**



Appendix C – Fairness Monitor Report

***JD CAMPBELL & ASSOCIATES***

**TORONTO TRANSIT COMMISSION**

**SUPPLY OF FORTY FOOT LOW FLOOR  
CLEAN DIESEL BUSES**

**FAIRNESS MONITOR'S REPORT  
NO: P32PL17757**

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## **1.0 EXECUTIVE SUMMARY**

### **1.1 *Introduction***

This report presents our findings and conclusions for the Toronto Transit Commission (TTC) regarding the Request for Proposals (RFP) for the Supply of Forty Foot Low Floor Clean Diesel City Busses.

Our role, as Fairness Monitor was to review the Commission's procurement process from the close of the RFP to the identification of Preferred Proponent. This monitoring included:

- Application of the evaluation criteria;
- Consistency of Proponent treatment;
- Adherence of TTC staff to conflict of interest and confidentiality requirement;
- Security of proposals and evaluation documents;
- Qualifications of the evaluation team;
- Objectivity and diligence respecting the evaluation process;

The role of Fairness Monitor, focused on a monitoring of practices to ensure consistency with the stipulations of the RFP and the TTC's procurement policy. This involved taking the stipulations of the RFP and policy as a standard against which to audit the process. Note that our involvement commenced shortly before the close of the open period just before closing date.

The report is based on our first-hand observations, a review of the RFP and information provided by TTC staff. The report has been prepared for the TTC. JD Campbell & Associates, and the individual author, bear no liability whatsoever for opinions that unauthorized persons may infer from this report.

### **1.2 *Findings***

As Fairness Monitor we can attest to the fact that;

- The evaluation process was consistent with that outlined in the RFP;
- The evaluation criteria and process used were applied in accordance with the stipulations of the RFP;

- All proponents were treated consistently and in accordance with the RFP;
- TTC staff adhered to conflict of interest and confidentiality requirement.

Particular note was made of the following:

- **Communication** – The procurement was advertised on the TTC website and MERX. A single point of contact was identified for Proponents to communicate with. This helped to ensure that all Proponents received the same information;
- **Proponent Meeting** – A Proponent meeting was held to explain key elements of the RFP and to answer Proponent's questions. All Proponents attended and were provided with detailed minutes of the meeting. It was also indicated that only material provided in writing from the TTC's single point of contact could be relied on. Note that individual Commercially Confidential Meetings were also held with the Proponents during the open period to gain feedback on the Sample Agreement. This occurred before the Fairness Monitor was engaged;
- **Conflict of Interest** – Project Team members who would participate in the evaluation of the RFP were bound by employment obligation. Wording in the RFP also required Proponents to declare any such conflicts. Note that towards the end of the open period, a previously scheduled trip was arranged for TTC staff to visit the incumbent Proponent's new manufacturing site. See Section 4.3 on Conflict of Interest of this Report for discussion;
- **Confidentiality and Security of Documents** – Steps were taken to ensure that procurement materials and proposal submissions were kept under lock and key when not in use. To our knowledge, no inappropriate information about the RFP, proposal submissions or the evaluations, was communicated to Proponents;
- **Past Proponent Involvement** – Project staff provided assurance that, while some of the Proponents had provided buses to the TTC in the past, that, in doing so, they had not been privy to confidential information that would have placed them at an undue advantage;
- **Evaluations** – Proposals were first reviewed by TTC Materials and Procurement staff to perform a commercial compliancy review of the contents of the Proposal including ensuring that all documents required had been appropriately submitted. This review was followed by formal consensus meetings where the official scoring with rationale was documented. These sessions were well facilitated;
- **Undue Influence** – Throughout the evaluation process, all decisions were made by more than one person.

### **1.3 Final Outcome**

- Proposals were received from two Proponents.
- Proposals were reviewed for adherence to the RFP's mandatory requirements which both passed;
- Both Proponents were then evaluated for the qualitative categories and were both considered qualified to perform the work;
- A successful Proponent was identified based on the qualified Proponent with the lowest overall price for the requirement.

### **1.4 Continuous Improvement**

As the Report details, this procurement was conducted in an open, competitive and transparent manner. The scope of the Fairness Monitor's responsibilities started at time of engagement at the end of the open period and start of proposal evaluation. Suggestions for continuous improvement are contained in a separate Memo addressed to Procurement staff for consideration as a part of their ongoing review and refinement of practice.

## **2.0 WORDING OF THE RFP DOCUMENT**

### **2.1 Overview**

The RFP provided the framework within which the evaluation process was conducted. A number of its attributes are described to provide context. The RFP outlined the purpose, approach, requirements and evaluation process relevant to this procurement process. Information and instruction was also provided to Proponents on:

- Background and scope of the proposed purchase;
- Procurement process, including the evaluation process as well as the evaluation categories and their weighting;
- Proposed schedule and timing;
- RFP requirements;
- Terms and conditions;
- Instruction on the manner in which submissions should be provided;

- TTC reserved rights;
- Evaluation and disqualification provisions;
- Negotiations (if applicable);

The RFP contained a number of appendices which provided a solid basis for the preparation of an appropriate proposal.

The RFP included definitions which aided common understanding. Other components included: a Form of Proposal and agreement to provide an Agreement to Bond, Agreement to Provide an Irrevocable Letter of Credit (Contract Security). Other topics covered included: proposal submission information, Options List, Alternatives list, General Conditions, Specifications and Contract drawings.

A two-envelope system of proposal submission was used to help ensure the evaluation of pricing information was kept separate from consideration of the rated criteria.

## **2.2 Evaluation**

### Pass/Fail Requirements

The Pass/Fail criteria of the RFP were stated in such a manner that they could be objectively evaluated in a yes/no, comply/non-comply manner. They required the Proponent to submit the following documentation:

1. Agreement to Bond Form or completed Agreement to Provide an Irrevocable Letter of Credit form;
2. Appendix A - Pass/Fail Form;

### Technical Requirements 60%

The Technical criteria were described in Appendix B of the RFP in a detailed manner with each sub-criteria weighted. This portion was weighted at 60% of the of the Rated Evaluation.

### Commercial Blacklines 40%

The RFP contained a Commercial Blacklines form – for GC48 - Warranty and GC49 – Latent Effects. Proponents were allowed to propose revisions to these sections. They were warned, however, that any proposes changes to the General Terms and Conditions of the contract, with the exception of these clauses, would result in disqualification. It was made

clear that the preference of the TTC was that no such changes be proposed. This section was evaluated at 40% of the Rated Evaluation.

#### Threshold

There was an 80% threshold scoring of the rated criteria that needed to be met before a Proponent was determined to be qualified and allowed to proceed to the pricing portion.

#### Pricing

The Pricing Forms Included: base pricing, an alternatives list, an options list and a special options list. Pricing information for Alternatives List, Options List and Special Orders list were not to be used for evaluative purposes but could be subject to negotiations with the successful Proponent.

### **3.0 COMMUNICATION AND INFORMATION TO PROPONENTS**

#### **3.1 *Single Point of Contact***

A provision was made in the RFP for a single point of contact to provide information pertaining to the procurement process. Proponents that required additional information were instructed to submit their questions in writing.

#### **3.2 *Distribution***

The RFP was issued on April 3, 2017 and closed on June 22, 2017. This was considered an appropriate length of time to allow Proponents to appropriately respond.

#### **3.3 *Proponents Meeting***

An information session for Proponents was held. The information provided was general in nature focusing on highlights from the RFP document. Proponent's questions also were entertained. It was emphasized that the answers provided were informal and any official questions should be put in writing and would be responded to. Detailed minutes of the meeting were posted on Merx.

### **3.4 *Proponent Questions and Addenda***

The RFP indicated that Proponents were allowed to submit questions of a general nature as well as confidential questions. Answers to general questions were to be provided to all Proponents. Answers to confidential questions were to be kept confidential. The TTC reserved the right to make the judgement. If a question that had been posed as being confidential was deemed by the TTC to be general, the Proponent was given the opportunity to withdraw the question.

Note that our role as Fairness Monitor did not commence until close to the close of the open period. We have received assurance from TTC staff, however, that communications, including the 6 Addenda, during this period was handled in such a manner that there was no obvious bias in the responses. The answers did not appear to favour one Proponent over another. Decisions on the confidentiality of answers to confidential questions were based on the commercially proprietary nature of the issue at hand.

### **3.5 *Commercially Confidential Meetings***

The RFP contained a “Comments on General Conditions Form” for Proponent feedback during the open period. The submission of this form to TTC was followed by a voluntary Commercially Confidential Meeting with each Proponent. The purpose of these meetings was to allow staff of the TTC to gain a fuller understanding of any issues or suggestions the Proponent might have to modify the General Conditions of the contract language. The TTC reserved the right to decide whether or not to refine its documents in light of such discussion. Any change was to be in the form of an Addenda. Care was also taken to ensure that in these meetings any additional information given to one Proponent was also shared with the other. Note that these meetings took place before the engagement of the Fairness Monitor.

## **4.0 CONFIDENTIALITY/CONFLICT OF INTEREST**

### **4.1 *Security of Proposals Evaluation Documents***

The Project Team took steps to ensure that all procurement related documents in their possession remained under lock and key when not in use.

#### **4.2 Staff**

All TTC staff that participated in the evaluation of proposals were bound by the stipulations of their employment relationship.

#### **4.3 RFP Proponent Provisions**

The RFP contained a standard Conflict of Interest wording that: required the Proponent to declare any conflict; controlled lobbying and warned against collusion. There were also prohibitions against prohibited contacts and gratuities.

#### **4.4 Manufacturer Site Visit**

The TTC has an incumbent vendor that is currently building busses under contract. As part of the management of that existing contract, TTC staff visited that manufacturer's facilities. They did this during the open portion of the RFP when it was known that the incumbent vendor was also a Proponent for the current RFP. As Fairness Monitor my opinion was sought and I advised against the visit. TTC staff recognized the risk to the perception of fairness that such a visit might represent but felt that its timing was important and should not be delayed as deliveries of the current bus delivery schedule maybe impacted without the onsite visit to the production line for the buses. The meeting date had been set for some time, all arrangements had been made and the TTC staff selected were the only ones with the necessary technical expertise to attend. TTC staff did, however, realise the risk to perception of fairness. To assist in its mitigation, the TTC employees and the vendor's staff signed a document that the RFP was not to be discussed. Only the core TTC staff team responsible for the management of this contract were allowed to attend. Note that this team also have a weekly meeting with the incumbent for contract management purposes.

As Fairness Monitor, it was my view that, while the steps taken to mitigate risk were helpful, there still remained a risk to the perception of fairness. During the open period of an RFP, and particularly during the evaluation period, evaluators should not have direct contact with an incumbent Proponent. This responsibility should be delegated to others or meetings delayed.

## **5.0 THE EVALUATION PROCESS**

### **5.1 *Clarity of Roles***

TTC Procurement staff assisted by:

- Managing the evaluation process;
- Ensuring that proper process was followed;
- Tabulating the results;
- Documenting the process.

The evaluation committee consisted of members of the TTC's Vehicle Engineering Departments. They collectively were responsible for:

- Reviewing proposals and conducting a substantial compliance check;
- Allocating individual preliminary rationale;
- Attending group meetings to discuss results;
- Signing off on the documentation/rational concerning group scores.

### **5.2 *Management of Undue Influence***

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

### **5.3 *Common Scoring Sheets***

Common evaluation forms were developed for each stage of the evaluation. The use of these forms helped ensure that the proposals were judged on the same basis making consistency of treatment much easier. They also aided appropriate documentation.

### **5.4 *Consensus Meetings***

The Fairness Monitor attended the Consensus meetings. Based on observations of the process, we found no instance in which evaluation criteria were used, other than those which had been identified in the RFP document. Participants came prepared to engage in meaningful discussion. They recognized the value of such discussion and did not rush to a final decision.

## **5.5 *Review of Compliance***

The RFP allowed for the provision of options and identification of issues of a contractual nature that the Proponent would like to bring up in contract negotiations. It was made clear, however, that the successful Proponents price was required to be based on the submission of a fully compliant bid and that the acceptance of any option of deviation from contract language would solely be at the discretion of the TTC. During the evaluation, issues were noted for such discussion.

## **5.6 *Pricing***

During the consideration of Pricing it was noted that one of the Proponents had included as an Option on an element that should have been included as a part of its base bid. The TTC simply included this price element in the consideration of base pricing.

## **5.7 *Final Outcome***

- Proposals were received from two Proponents.
- Proposals were reviewed for adherence to the RFP's mandatory requirements which both passed;
- Both Proponents were then evaluated for the qualitative categories and were both considered qualified to perform the work;
- A successful Proponent was identified based on the qualified Proponent with the lowest overall price for the requirement.

## **6.0 DEBRIEFING**

### **6.1 *Description of Process***

It is our understanding that the TTC will provide a debrief session if requested. The Fairness Monitor's report was submitted before any requests for debriefings were received.

**Appendix D – Proposal Evaluation Summary**

**Contract Title:**       **Supply of Forty Foot Low Floor Clean Diesel Powered City Buses**

**Proposal No.:**       **P32PL17757**

<b>COMPANY NAME</b>	<b>TOTAL QUALITATIVE SCORE</b>	<b>TOTAL EVALUATED PRICE</b>	<b>RANKING</b>
<b>QUALIFIED PROPONENTS ACHIEVING A SCORE OF 80% POINTS OR MORE BASED ON QUALITATIVE EVALUATION</b>			
<b>Nova Bus, a Division of Volvo Group Canada Inc. (*)</b>	<b>95.90</b>	<b>\$300,500,629.93</b>	<b>1</b>
<b>New Flyer Industries Canada ULC</b>	<b>94.10</b>	<b>\$345,043,455.11</b>	<b>2</b>

**(\*) - Indicates Recommended Proponent**