



**Request for Proposals to
Design-Build-Finance the
Advance Tunnel Contract 2 (Jane to Mt.
Dennis) for
Eglinton Crosstown West Extension**

RFP No. 21-322

Fairness Monitor's Report

December 7, 2022



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1. Project Highlights

1.1 Introduction and Project Background

On December 2, 2021 a Request for Qualifications (“RFQ”) was issued by Infrastructure Ontario and Metrolinx (the “Sponsors”) to seek submissions from Applicants interested in the Advance Tunnel Contract 2 (Jane to Mt. Dennis) for Eglinton Crosstown West Extension Project (the “Project”).

The Project is a part of the Greater Toronto and Hamilton Area (“GTHA”) region’s frequent rapid transit network. The proposed full extent of the corridor extends along Eglinton Avenue West from the western end of the Eglinton Crosstown LRT at Mount Dennis, then north to Toronto Pearson International Airport at Renforth Station. This corridor serves the growing bidirectional travel demand across the region’s urban growth centres and employment hubs of midtown Toronto, downtown Mississauga and the Pearson Airport Area.

The Eglinton Crosstown West Extension will be delivered by way of four main contracts which include an Advance Tunnel Contract (“ATC1”) from Renforth to Scarlett, a second Advance Tunnel Contract (“ATC2”) from Jane to the ECLRT Mount Dennis, an Elevated Guideway (“EG”) contract between Scarlett and Jane, and a final Station, Rail, and Systems (“SRS”) contract to construct the stations, ancillary facilities, tunnel and guideway fit out, and installation and commissioning of all systems. The ATC1 is currently under construction and completion is expected in June 2025. The Advance Tunnel Contract 2 (Jane to Mt. Dennis) Project is to be delivered under the P3 design build finance model. The EG contract will be delivered under the design build model. Both contracts will be procured and constructed in parallel, however will not share the same site at the same time.

1.2 Scope of the Fairness Monitor Engagement

P1 Consulting was retained in November 2021 to perform fairness monitoring services and provide an independent attestation on the RFQ procurement processes. Our mandate is to review and monitor the bid documents and communications, provide advice on best practices, review and monitor the evaluation and decision-making processes that are associated with the RFQ to ensure fairness, equity, objectivity, transparency and adequate documentation throughout the evaluation process. We are also to attend, observe and provide guidance at Sponsor meetings, as well as Applicant briefing sessions. In particular, in our role as Fairness Monitor, we ascertained that the following steps were taken to ensure an open, fair and transparent process:

- **Review of the RFQ and Addenda:**
P1 Consulting reviewed the RFQ and addenda, as required, and all other documents related to the procurement process to ensure that the requirements were met.
- **Review of Requests for Clarification (RFCs), Requests for Information (RFIs) and the Responses:**

P1 Consulting reviewed all RFIs and the responses submitted to the Applicants. P1 Consulting also reviewed any RFCs submitted by the Sponsors along with their responses.

- **Review of Evaluation Criteria and Procedures:**

P1 Consulting reviewed the evaluation criteria and procedures for the RFQ to ensure that the requirements were met.

- **Advice on Best Practices:**

P1 Consulting attended training sessions to ensure that all project team members were provided with briefings on best practices including the principles and duties of fairness, care and protection of confidential information, avoidance and disclosure of conflict of interest, bias and undue influence, scoring procedures and sign-off on individual scoring sheets, preparation, treatment and retention of evaluation documents.

- **Evaluation Meetings:**

P1 Consulting observed and documented evaluation meetings of the submissions, including the consensus sessions of the technical and financial evaluation teams and their presentations to the Evaluation Committee. Additionally, during the evaluation process, we provided verbal and written advice with respect to fairness, objectivity, consistency of process, conflict of interest and confidentiality to ensure strict accordance with the specifications and criteria set out in the RFQ documents.

- **Applicant Interaction:**

P1 Consulting attended and monitored all briefing sessions, presentations, and meetings with Applicants.

All of the tasks above were completed in a manner that was fair, open and transparent.

2. Competitive Selection Process – Request for Qualifications

2.1 Development of the Request for Qualification

P1 Consulting reviewed the RFQ prior to posting for the Applicants and our comments related to fairness were satisfactorily addressed by the Sponsors, prior to issuance. We confirm that, from a fairness perspective, the requirements were clear and the RFQ provided the Applicants a fair process.

2.2 RFQ Open Period Process

Throughout the RFQ open period, the Sponsors responded to the questions from the Applicants and issued addenda to provide greater clarity on the requirements and process. P1 Consulting reviewed all documents that were posted to confirm that they were acceptable from a fairness perspective. A P1 representative attended the Applicant's Meeting held on December 8, 2021. P1 confirms that the proceedings were consistent and in accordance with the RFQ.

2.3 RFQ Evaluation Preparation

The evaluation process and roles and responsibilities of all participants in the RFQ evaluation process was documented within the Evaluation Framework. The framework was finalized prior to any RFQ evaluation activity being undertaken. P1 Consulting reviewed the framework and confirmed that all our fairness comments were satisfactorily addressed prior to the framework being distributed to the evaluators.

The Evaluation Committee (EC), which provided oversight over the evaluation process, and the Evaluation Teams were established in advance of any evaluation activity. All participants in the evaluation process, including evaluators, subject matter experts, and observers were required to participate in a training session in preparation for their role in the process. Each participant 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. Any matters related to actual, potential or perceived conflicts of interests were reviewed and cleared by the Conflict Review Team prior to the individual's participation in the evaluation. There were no conflicts identified which prevented a party from participating in the RFQ evaluation.

The established Evaluation Teams that corresponded to the related rated RFQ submission packages, which included:

- Technical Evaluation Team
- Financial Evaluation Team

2.4 Proposal Receipt

The following two (2) Applicants submitted a proposal for evaluation on or before the RFQ Close/Bid Submission Deadline of February 1, 2022 at 2:00:00 pm Toronto, Ontario Local Time:

- Strabag Inc.
- Acciona-GFL Joint Venture

The Technical Information Package for an Applicant, Eglinton Crosstown Connectors, was received after the Submission Deadline, and therefore, in accordance with the RFQ, their Prequalification Submission was rejected.

2.5 Location of the Submissions

The original RFQ submissions were submitted to the Sponsors using the Electronic Submission and Evaluation System (AWARD).

2.6 Evaluation of the Technical and Financial RFQ Submissions

Each of the members of the Evaluation Teams identified in Section 2.3 undertook an individual evaluation and scoring of RFQ Submissions against the rated criteria, which were based on the Evaluation Categories and Scoring Table included in the RFQ and Evaluation Framework. Subsequent to completion of the individual evaluations, a consensus evaluation process was used to evaluate the RFQ Submissions, using the established evaluation criteria and evaluation rating scales. The participants engaged in a fulsome exchange of views leading to evaluation results, which were agreed to by the evaluators for each Applicant Team. All participants performed their roles diligently throughout the evaluation process.

P1 Consulting attended all of the consensus meetings for the technical and financial RFQ Submissions and observed that the proceedings were in accordance with the RFQ and Evaluation Framework. P1 confirms that the process was fair, transparent and unbiased.

2.7 Clarification Process

Questions of clarification from the Technical, and/or Financial Evaluation Teams were sent to and responded by the Applicants, and all clarifications and their responses were reviewed by the Fairness Monitor. Any relevant fairness issues were received, reviewed and approved by the Fairness Monitor and was addressed to the satisfaction of the Sponsors and the Fairness Monitor.

2.8 RFQ Evaluation Committee Process Approval

As a final step in due diligence related to the RFQ evaluation, the Evaluation Committee reviewed the evaluation results as presented by the Evaluation Team Leads. The EC did not score the RFQ Submissions, but posed questions to clarify and ensure the consistency of the

evaluation results. All questions/concerns were addressed by the Evaluation Leads/Evaluation Teams. To conclude the RFQ evaluation process, the EC approved the recommendation of the Evaluation Teams.

P1 Consulting attended all EC meetings and observed that the proceedings were in accordance with the RFQ and Evaluation Framework and confirm that they were fair, transparent and unbiased.

2.9 **RFQ Final Result**

In accordance with Infrastructure Ontario's policies and the Evaluation Framework, the following Respondents were selected as the Prequalified Parties:

- Strabag Inc.
- Acciona-GFL Joint Venture

3. Competitive Selection Process – Request for Proposal

3.1 Development of the Request for Proposal

P1 Consulting reviewed the RFP prior to it being posted to the two (2) Prequalified Parties and all of our comments related to fairness were satisfactorily addressed by the Sponsors. We confirm that, from a fairness perspective, the requirements were clear and the RFP provided the Proponents a fair process. The RFP was posted on April 22, 2022.

3.2 RFP Open Period Process

Throughout the RFP open period, the Sponsors responded to the questions from the Proponents and issued addenda to provide greater clarity on the requirements and process. P1 Consulting reviewed all documents that were posted to confirm that they were acceptable from a fairness perspective. A P1 representative attended the Proponents Meeting, held on May 3, 2022, along with all Commercially Confidential Meetings (CCMs) and Design Presentation Meetings (DPMs) held with each of the Proponent teams throughout the RFP open period. P1 confirms that for all of these meetings the proceedings were consistent and conducted in accordance with the RFP.

3.3 RFP Evaluation Preparation

The evaluation process and roles and responsibilities of all participants in the RFP evaluation process was documented within the Evaluation Framework. P1 Consulting reviewed the Framework and confirmed that all fairness comments on the document were satisfactorily addressed.

The Evaluation Committee, which provided oversight over the evaluation process, and the Evaluation Teams were established in advance of any evaluation activity. All participants in the evaluation process, including evaluators, subject matter experts, and observers were required to participate in a training session in preparation for their role in the process. Each participant was required to sign a participant undertaking, 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. Any matters related to actual, potential or perceived conflicts of interests were reviewed and cleared by the Conflict Review Team prior to the individual's participation in the evaluation. There were no conflicts identified of which we were aware, which prevented a party from participating in the RFP evaluation.

3.4 RFP Submission Receipt and Compliance

There were two (2) RFP Submission Deadlines for the Project. The Technical Submission Deadline was on September 15, 2022, 3:00:00 pm Toronto, Ontario local time. The following Proponents' Technical Submissions were received on or before the Technical Submission Deadline:

- Strabag Inc.
- Acciona-GIP Joint Venture

The Compliance Team undertook a review to confirm that the Technical Submissions were complete. The team recorded any observations, and proposed RFCs, if required. All associated RFCs were reviewed by P1 Consulting prior to issuance to Proponents for confirmation that they were acceptable from a fairness perspective.

Both Technical Submissions met the completeness requirements in accordance with the RFP and Evaluation Framework, and so evaluation participants were granted access to the Technical Submissions.

The Financial Submission Deadline was November 14, 2023:00:00 pm Toronto, Ontario local time. The following Proponents' Financial Submissions were received on or before the Financial Submission Deadline:

- Strabag Inc.
- Acciona-GIP Joint Venture

3.5 Evaluation of the Technical and Financial Submissions

The Evaluation Teams undertook an individual evaluation and scoring of Submissions against the rated criteria, which were based on the Evaluation Categories and Scoring Table included in the RFP and Evaluation Framework. Subsequent to completion of the individual evaluations, a consensus evaluation process was used to evaluate the Submissions using the established evaluation criteria and evaluation rating scales. Any conflicts between the RFP and Evaluation Framework were addressed satisfactorily from a fairness perspective. The participants engaged in a fulsome exchange of views leading to evaluation results, which were agreed to by the evaluators for each Proponent Team. All participants performed their roles diligently throughout the evaluation process.

The evaluation of the Technical Submissions and Financial Submissions occurred sequentially, with the technical results being finalized prior to any opening of the Financial Submissions.

P1 Consulting attended all of the consensus meetings and observed that the proceedings were in accordance with the RFP and Evaluation Framework. P1 confirms that the process was fair, transparent and unbiased.

3.8 RFP Evaluation Committee Process Approval

As a final step in due diligence related to the RFP evaluation, the Evaluation Committee (EC) reviewed the evaluation results as presented by the Evaluation Team Leads. The EC did not score the Submissions, but posed questions to clarify and ensure the consistency of the evaluation results. All questions/concerns were addressed by the Evaluation Leads. To

conclude the RFP evaluation process, the EC approved the recommendation of the Evaluation Teams.

P1 Consulting attended all EC meetings and observed that the proceedings were in accordance with the RFP and Evaluation Framework and confirm that they were fair, transparent and unbiased.

3.9 Final Result

In accordance with Infrastructure Ontario's policies and the Evaluation Framework, the Evaluation Committee approved the Evaluation Team's recommendation the Evaluation Committee approved the Evaluation Teams' recommendation to identify Strabag Inc. as First Negotiations Proponent.

5. 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, the processes undertaken related to the Advance Tunnel Contract 2 (Jane to Mt. Dennis) for Eglinton Crosstown West Extension Project have been conducted in a fair, open and transparent manner. As Fairness Monitor for this Project, we are satisfied that the Sponsors have followed the procedures in accordance with the applicable RFQ, RFP and policy documentation and that the participants followed the procedures and fairly applied the evaluation criteria.



Jill Newsome
Fairness Monitor, P1 Consulting