

# TORONTO TRANSIT COMMISSION REPORT NO.

**MEETING DATE:** August 19, 2014

**SUBJECT:** STAFF RESPONSE TO ATAO LETTER (CORRESPONDENCE  
C.5 OF THE JULY 23, 2014 BOARD MEETING)

## **ACTION ITEM**

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### **RECOMMENDATION**

It is recommended that the Board direct staff to meet with City Licensing and Standards staff in an effort to resolve any taxi licensing issues which may be impacting the ability of the Contractors to meet the terms of the contracts.

### **FUNDING**

No impact to Operating Budgets at this time.

### **BACKGROUND**

On January 28, 2014, the Board approved the recommendation to award the Accessible Taxi Service Contracts (Wheel-Trans) to four Contractors:

- Associated Toronto Taxi Cab Co-Operative Limited ("Co-op")
- 11455659 Ontario Limited o/a Checker Taxi ("Checker")
- Royal Taxi Inc. ("Royal")
- 1210670 Ontario Inc. o/a Scarborough City Cab ("Scarborough")

Under the Contracts, the TTC pays the Contractor a rate per kilometre of service provided. In accordance with the Request for Bids ("RFB"), each Contractor bid a rate to a maximum of \$3.00 per kilometre for the first year, inclusive of HST and to a maximum of \$3.20 per kilometre in the fifth year of the contract. The Contractor is required to pay the taxi driver a **minimum** of \$2.50 per kilometre, inclusive of HST, in the first year. This minimum rises to \$2.70 per kilometre in the fifth year. The actual rate paid to the driver is negotiated between the driver and the Contractor.

The actual price paid to a Contractor is based on the actual price bid by the specific Contractor, which price could not exceed \$3.00 per kilometre, inclusive of HST, for year 1 of the Contract. The actual bid price was considered as part of a number of evaluation criteria and points were allocated based on a pre-determined formula (which was set out in the procurement documents).

Based on the evaluation criteria (including pricing), the Board approved awarding the four contracts as noted above.

Under the Contracts, each Contractor must provide a minimum of 40 vehicles. The Contracts set out a liquidated damage if the Contractor fails to provide the 40 vehicles. It is calculated based on a prescribed formula.

The start date for service under the new Contracts was July 6, 2014. Scarborough and Co-op did not have the minimum required vehicles as some of their drivers did not report to work in protest of the per kilometre rate being paid to the drivers. Specifically, under the old contracts, the drivers were being paid \$2.86 per kilometre.

Wheel-Trans provided continued service to its customers by providing more bus service, higher use of sedan taxis for ambulatory customers and full utilization of the Accessible Taxis that were available.

On or around, July 30, 2014, the Contractors were able to provide the required number of vehicles under the Contracts.

By letter dated July 21, 2014, the Accessible Transportation Association of Ontario (ATAO) representing the Contractors requested the Board direct TTC staff to meet with the ATAO to discuss possible solutions.

The Board, at its meeting of July 23, 2104, referred the communication to staff to meet with the Contractors and to report back to the August meeting.

## **DISCUSSION**

On July 31, 2014, TTC staff met with representatives of the ATAO and the four Contractors to discuss their concerns and those of the drivers.

While the taxi drivers have returned to work, the ATAO states that, if the matter of the driver rate is not resolved at or before the August Board meeting, the taxi drivers may withdraw their services again.

To resolve the minimum driver rate, the ATAO proposes that the TTC add HST to both the minimum driver rate and the amount paid to the Contractors. This represents a 13% increase over the bid amounts. For example, a Contractor that bid \$3.00 per kilometre (inclusive of HST) would be paid \$3.39 per kilometre. For 2014, this would increase the minimum amount paid to the taxi driver to \$2.82 per km. The impact to the 2015 Wheel-Trans operating budget would be an increase of \$1.9 million.

In addition to the impacts to the budget, there are significant procurement issues to consider. Specifically, opening up the contract and increasing the payment terms changes the initial contract without following a fair and open procurement process. If it was decided to increase the payment terms, staff recommend that the TTC should start a new procurement process to allow for competitive new pricing and to, thereby, ensure that the TTC follows its own processes and maintains a fair and transparent procurement process. It should also be noted that at least one Contractor was able to meet the service requirements.

As recommended by the City's Auditor General, the TTC retained a Fairness Commissioner to oversee the procurement process from final drafting of the RFB document to the selection of the successful proponents. The Fairness Commissioner's final report indicates that he found the process to be fair, objective and transparent. It seems highly unlikely the Fairness Commissioner would support a change to the pricing after the award of the contracts. The TTC could expect that he would change his public report to reflect his concerns.

In the previous Accessible Taxi Service Contracts, the TTC established the rates payable to both the taxi drivers and the contractors. As part of an audit by the City's Auditor General, it was recommended that in order to ensure market competition, the procurement process should be designed to seek competitive pricing. Renegotiating pricing after conclusion of the procurement process would be contrary to the City's Auditor General's recommendation.

TTC staff does not recommend increasing the payment terms in the initial contract or starting a new procurement process in order to increase the payment terms.

During the course of the meeting, the ATAO also stated that the recent changes to the taxi plate licensing system are impacting their ability to retain drivers. Specifically, the Contractors prefer the City maintain the current "W" taxi licenses. "W" taxi licenses were created for taxis providing service to Wheel-Trans. With the recent creation of Toronto Taxi Licences (TTL) some drivers are applying for the TTL and relinquishing the "W" plate. The Contractors encouraged TTC staff to work with the City to ensure that the "W" taxi licences are maintained.

TTC staff recommends that it meets with City Licensing and Standards staff to discuss the possibility of maintaining the "W" licences.

### **JUSTIFICATION**

Given the issues raised by the ATAO and the Contractors in the meeting with TTC staff regarding the "W" taxi licenses, TTC staff recommends that it meets with City Licensing and Standards staff to discuss the maintaining the "W" licences in an effort to provide the Wheel-Trans service based on the existing contract rates.

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August 8, 2014  
18-41

Attachments: Appendix A (Letter from ATAO)



C-5

July 21<sup>st</sup>, 2014

Andy Byford  
Chief Executive Officer  
Toronto Transit Commission  
1900 Yonge Street  
Toronto, Ontario M4S 1Z2

Sent Via Email: [andy.byford@ttc.ca](mailto:andy.byford@ttc.ca)

**RE: Wheel – Trans Accessible Taxi Contracts**

Dear Mr. Byford,

As you may recall, the Accessible Transportation Association of Ontario (ATAO) is an industry association comprised of the brokerages who provide contracted services to the TTC's Wheel-Trans accessible taxi (AT) program.

While there are some who believe that the current job action by AT drivers is simply a matter between contractors and sub-contractors; however, the signatories to the AT contracts are the TTC and our member brokerages. Further, that the terms and conditions were set and approved by the Commission. Given this, we believe that the TTC has a significant role to play in finding a solution to this ongoing situation. We would welcome a formal process to find such a solution for the benefit of all stakeholders, including the Wheel-Trans population.

We are writing today to formally request that at the TTC's July 23<sup>rd</sup> meeting the Commission consider our correspondence and the following motion:

That the Toronto Transit Commission:

1. Direct TTC and Wheel-Trans staff to meet with the appropriate stakeholders in order to find a solution to the current job action; and
2. To report back on the outcomes of these discussions, and where possible, resolutions to the August 19<sup>th</sup>, 2014 commission meeting.

ATAO and its members look forward to the working with you on this important matter.

Sincerely,

**PRESENTED TO  
THE BOARD**

**JUL 23 2014**

Spiros Bastas  
President  
Accessible Transportation Association of Ontario

cc: Chair Maria Augimeri, [Councillor Augimeri@toronto.ca](mailto:Augimeri@toronto.ca) Vincent Rodo, [Vincent.Rodo@ttc.ca](mailto:Vincent.Rodo@ttc.ca)  
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