

TORONTO TRANSIT COMMISSION REPORT NO.

MEETING DATE: June 24, 2014

SUBJECT: Improvements to TTC's Procurement and Project Management
Process – Terms of Reference

INFORMATION ITEM

RECOMMENDATION

It is recommended that the Board receive this report for information.

BACKGROUND

At the May 28, 2014 Board meeting, TTC staff were requested to provide at the June 24, 2014 meeting, the terms of reference for the Ontario Construction Secretariat's Tripartite Working Group detailing the objectives of this initiative. As indicated in the May 28, 2014 Board Report, TTC staff will report back to the Board in 2015 on the progress of the undertakings.

Concurrent with the aforementioned working groups with the trade associations, the TTC has ongoing initiatives and process and document improvements, as stated at the last Board Meeting, in the following areas:

- Alternative forms of project delivery and contracting methods including Construction Management and Design Build.
- Annual solicitation of new product and material suppliers for subsequent Master Specification screening.
- Reduction in quantities of Submittal of requirements—approximately 30% over existing.
- Earlier mobilization following award –approximately 60 days on average.
- Pre-qualification of bidders for various categories of work e.g. subway pump replacement.
- Major upgrades to various Contract Documents including General Conditions, Supplementary Conditions, Bond forms, General Requirements and Master (technical) Specifications.
- Major revisions to key processes e.g. Contractor Performance Reviews

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Attachments: Appendix A
Appendix B

Appendix A

Ontario Construction Secretariat, Central Ontario Building Trades, General Contractors Section of Toronto Construction Association, Toronto Transit Commission

Tripartite Working Groups -Terms of Reference

(Draft – January 19, 2014)

Background

The Ontario Construction Secretariat organized and facilitated a meeting on behalf of the Central Ontario Building Trades, General Contractors Section of the Toronto Construction Association and the Toronto Transit Commission (The Tripartite) on December 6, 2013 with the following stated objectives:

To ensure the efficient and effective procurement, management and delivery of TTC construction projects by:

- Clearly identifying and understanding TTC expectations;
- Identifying issues/opportunities for improvement and;
- Establishing an on-going process to ensure continuous improvement.

The meeting included approximately 30 participants representing all three stakeholders in the tripartite¹ as well as representation from the Ontario Construction Secretariat. A full list of participants, the full agenda for the session and report are all available separately.

A central outcome of the meeting was the convening of 3 Working Groups around the high priority issues and opportunities that were identified. Those Working groups (and associated issues as identified at the December workshop) are as follows:

1. **Decision Making, Issue Analysis & Management Oversight**

- Process Improvements
 - Need for clarification of roles and responsibilities – within the TTC and between TTC and Contractors
 - Who has the financial authority, who is empowered and to what capacity?
 - Lack of clarity impacts schedule and delivery time
 - Is there a need for an escalation matrix?
 - Enhanced communication required
 - Includes design decisions, change requests
- Level of Management Oversight from TTC – “The TTC Experience”
 - Includes supervision, management, oversight
 - TTC perceived to be overly involved in management, oversight
 - Both sides agree TTC ideally is less involved – this is a Contractor role
 - On the other hand, TTC expects high quality – need quality assurance

2. **Engineering and Standards**

- Material Specifications
 - At times specs are out of date – can result in a no bid
 - Example offered – vertical equipment
- Sole Sourcing of Materials
 - Again – may impact bid decision from General Contractors

¹ *Tripartite* in this context refers to the parties with a principle interest in the issues namely organized labour, employers and the TTC.

- Construction Design Standards
 - Earlier Contractor involvement desirable with respect to constructability
 - Consider a design/build model

3. **Pre-qualification Process and Procurement**

- Pre-qualification Process
 - TTC desires to attract a competitive number of bidders
 - Contractors may not bid if there are too many firms pre-qualified – takes significant resources to bid – there is a resource cost that can be significant in preparing bids
 - Consider requirement to bid if a firm is pre-qualified
- Constructability Reviews and Purchase of Design Services
 - Need for high quality design – other public sector Owners have same expectations
 - How to achieve for the TTC projects?
 - Effective use of Design Consultants

The following are proposed Terms of Reference for the 3 Working Groups.

Purpose

The vision for the tripartite process is:

Owners, Contractors and Labour working together delivering high quality construction projects safely, on time and on budget.

Toward this end the objectives of the Working Groups are:

- Clarify priority issues/opportunities from the perspective of the TTC, Contractors and Labour – as identified in the broader tripartite forum;
- Prioritize – the “low hanging fruit”, and those issues that will require longer term efforts
- Develop plans including timelines to address the issues
- Identify desired outcomes with respect to the priority issues
- Develop recommendations/advice – proposed solutions (solutions should result in benefits for Contractors, Labour and the TTC – although the TTC is ultimately the client for construction services)
- Bring those recommendations to the broader tripartite community for discussion, consideration and conclusion – implementation will depend upon the willingness of the parties – that is to say recommendations are just that – not decisions per se.

Scope of Working Group Efforts

Working Groups will meet as required. (Note - an initial meeting of all 3 Working Groups will be convened to launch the work/process). It will be at these meetings where the majority of the work is done – setting priorities, working the issues, identifying actions, providing leadership. From time to time members may be called on to support specific initiatives that are identified (for example – consult with constituents in member communities).

Working Groups will bring the results of their deliberations to the wider tripartite forum for discussion.

The Appendix of this document contains suggested guidelines and principles for effective committee operation.

Composition

Members: Working Group members are volunteers who have agreed to invest time in advancing the issues/opportunities identified. Members were identified at the December meeting and are outlined below. Each Working Group may decide to invite new members to the table – to gain perspective on issues - as issues are identified and discussed.

| Working Group Members |
|--|
| 1. Decision Making, Issue Analysis & Management Oversight TTC – Jane Murray, Jim Lee Contractors –Alexandre Klensch, Steve Aquino, Nuno Da Silva, Claude Parent Labour – James St. John, Steven Martin and Terry Snooks OCS – Sean Strickland |
| 2. Engineering and Standards TTC – Jane Murray and others TBD from TTC Contractors – Stephen Damp, Graham and Claude Parent Labour – TBD by James St. John OCS – Perry Chao |
| 3. Pre-qualification Process and Procurement TTC – Jim Lee, Mike Piemontese Contractors – Rino Rotundo, Arnie Kalnins, Mike Westgate Labour – Paul Hickey, Mike Yorke OCS – Stew Stevenson |

Chair: The Working group will appoint a chair who will manage the operation of the Working Group. On behalf of the Working Group the chair will be responsible for working with the OCS to:

- Provide leadership to the Working Group
- Advance the agenda of the Working Group
- Organize meetings
- Ensure meeting records are kept.

The OCS Secretariat: In line with the OCS mandate, the Secretariat staff will *facilitate* the Working Group process. This means providing certain resources to ensure effective operation (facilitation, logistical support, reporting etc.). An OCS staff person will participate in each Working Group in this capacity.

Term

The term of the Panel and its members will be based upon the needs of the members as well as progress made and will be reviewed periodically.

Appendix

Guiding Principles to Support Effective Operation of the Working Groups

Principle 1 – Equal Access and Effective Participation

- Equal access and effective participation by concerned interests (this entails inclusive process, equal access to information, and understanding of the process by all parties).

Principle 2 – Respecting differences

- Respect for diverse interests and identification of those who should be provided access to provide the needed balance of interests

Principle 3 – Accurate Reporting

- Accurate reporting (i.e., a record of dissenting viewpoints)

Principle 4 – Aiming to Building Consensus

The development of consensus positions is a central role of the Working Groups. This raises important questions about what is meant by consensus, and the way that dissent is incorporated into the process. In this connection, the following guidelines on consensus are suggested as part of the modus operandi for the Working Groups.

- Consensus will be defined based on the Canadian General Standards Board (CGSB) definition as: “*General agreement, characterized by the absence of sustained opposition, to substantial issues by any important part of the concerned interests, and by a process seeking to take into account the views of all parties concerned to reconcile any conflicting arguments. Consensus need not imply unanimity.*”
- For a consensus approach to be successful, people have to participate with an objective of reaching solutions. Flexibility, transparency, accommodation, and compromise are important elements in achieving consensus. It is equally important that people feel comfortable in dissenting, and that everyone is able to express their opinions in a non-threatening environment. *Note 1: Non-persuasive objections are not allowed to indefinitely block resolution of proposals. On the other hand, a proposal that has received one or more persuasive negative objections may require reconsideration by the whole Committee.*
- In cases of dissent or abstention, the onus would be on those members to explain their positions in order to build understanding and to find areas of common ground. All players should know how others stand and why.
- Development of consensus will take time; therefore, realistic expectations are important. For example, it may not be possible to reach conclusions in one meeting – working out compromise takes time. Members may have to take proposals back to their constituents for review, advice, or further consultation. Similarly, it may not be realistic to expect to achieve consensus in all cases. Cases where consensus was not reached will require a full explanation to be articulated in any reports/recommendations. The nature of the dissent will need to be clarified.

Meetings and Agendas

- Meetings will take place on an as needed basis. Face to face meetings are desired; however teleconference meetings may also be appropriate.
- Meeting agendas will be developed based on the direction of the Working Group
- Agendas will be circulated to the members at least seven (7) days in advance of a meeting.

Recording Proceedings

- A record of proceedings from all Working Group meetings will be captured.
- The proceedings shall be circulated to members for review and feedback.

Appendix B

**Central Ontario Building Trades,
General Contractors Section of Toronto Construction
Association, Toronto Transit Commission**

REPORT

**Special Meeting Facilitated by:
Ontario Construction Secretariat**

Metro Toronto Convention Centre, December 6, 2013



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Table of Contents

- Section 1: Setting the Stage..... 4**
 - 1.1 Introduction and Meeting Objective 4
 - 1.2 Purpose of this Report 4
 - 1.3 Rules of Engagement 4
 - 1.4 Opening Remarks..... 4
 - 1.5 TTC Intentions and Expectations 5

- Section 2: Issue and Opportunity Identification..... 6**
 - 2.1 TTC Tripartite Focus Statement 6
 - 2.2 Taking Stock 6

- Section 3: The Path Forward..... 8**
 - 3.1 The Opportunity Agenda 8
 - 3.2 Role of the Working Groups 8
 - 3.3 Governance..... 8
 - 3.4 Next Steps 9
 - 3.5 Closing Comments 9

Setting the Stage

Introduction and Meeting Objective

The Ontario Construction Secretariat organized and facilitated a meeting on behalf of the Central Ontario Building Trades, General Contractors Section of the Toronto Construction Association and the Toronto Transit Commission (The Tripartite) on December 6, 2013 with the following stated objectives:

To ensure the efficient and effective procurement, management and delivery of TTC construction projects by:

- *Clearly identifying and understanding TTC expectations;*
- *Identifying issues/opportunities for improvement and;*
- *Establishing an on-going process to ensure continuous improvement.*

This meeting was convened as a direct result of several conversations between the parties over several months. The meeting included approximately 30 participants representing all three stakeholders in the Tripartite as well as representation from the Ontario Construction Secretariat. A full list of participants and the agenda for the session are available separately.

Purpose of this Report

The meeting included a series of brief and informal framing presentations as well as facilitated discussion. What follows here is a report from the meeting. The report includes a synthesis of key discussion points, decisions and actions. The report is intended as a record of the meeting to be used by the parties in pursuing the aim of ensuring efficient and effective procurement, management and delivery of TTC construction projects.

Rules of Engagement

Following an agenda review and introductions, participants developed the following guiding principles or “Rules of Engagement” for the meeting. These principles were developed in order to set the conversation and in fact overall process up for success:

- Encourage **open and honest participation**
- This is a **safe environment** – share issues and ideas without fear of reprisal
- Issues need to be “**non-personal**” – we are approaching the discussion as colleagues
- There is a need for a **solution orientation** – focus on solutions
- Seek **mutual benefit** in the solutions

Opening Remarks

James St John – Business Manager Central Ontario Building Trades

Jim Vlahos - Director of Labour Relations – General Contractors Section of Toronto Construction Association

Andy Byford – Chief Executive Officer – Toronto Transit Commission

James, Jim and Andy all made opening remarks. They welcomed participants and thanked them for their engagement in the process. The following key messages were noted:

- All expressed their commitment to working collaboratively and ensuring the delivery of high quality construction projects for the TTC safely on time and on budget – it was characterized as a symbiotic relationship

- There was acknowledgement that all three parties in the tripartite have a role to play toward this end – and that changes and improvements may be required – from Contractors, TTC and Labour
- The need for more and on-going communication was highlighted
- The TTC referenced their Corporate Plan which articulates a vision for the Toronto transit system
http://www.ttc.ca/Customer_Service/Corporate_Plan/index.jsp

Sean Strickland – Chief Executive Officer – Ontario Construction Secretariat (OCS)

As noted above the OCS organized and facilitated the meeting on behalf of the Tripartite. Key messages from Sean’s opening remarks included:

- The OCS is a joint Labour/Management partnership that includes the twenty five organized building trade unions (workers) and the signatory contractors (employers) of Industrial, Commercial and Institutional (ICI) construction. The OCS is a facilitator promoting relationships and interactions among its’ component business partners. The OCS supports its partners by identifying common issues and opportunities; performing research to support issue/opportunity analysis including data to assess current and future construction market trends and; bringing the parties together to seek consensus solutions. More details on the OCS can be found at www.iciconstruction.com/
- The OCS facilitates tripartite conversations between Labour, Management and Owners and is pleased to play this role in support of the TTC tripartite process.

TTC Intentions and Expectations

Andy Byford

In a final context setting presentation, Andy shared key intentions and expectations from the TTC as they relate to construction. The following was noted:

- The vision of the TTC is to transform the Toronto transit system to - *A transit system that makes Toronto proud*
- The implication for construction is more and larger projects over the coming years – e.g. subways, new street car houses, station modernization – estimated at up to 9 Billion in projects over the next 10 years
- High quality, safe, on time and on budget projects are the desired outcomes
- The TTC has two major expectations with respect to construction under this mantra:
 - An environment that produces a healthy number of high quality and competitive bidders
 - A “client first” construction delivery attitude from Contractors
- In return Contractors can expect from the TTC:
 - A professional relationship
 - An openness to reducing bureaucracy
 - A dynamic relationship – open and transparent management style both internally at the TTC and externally with Contractors
- The tripartite concept is welcomed by the TTC

Issue and Opportunity Identification

TTC Tripartite Focus Statement

Following opening remarks, participants agreed on the following focus statement. This statement framed the discussion for the day and will remain the focus as the Tripartite process unfolds:

Ensuring the delivery of high quality construction projects for the TTC safely, on time and on budget.

Taking Stock

With the focus statement in view, participants took stock of the current relationship between the TTC, Contractors and Labour. More specifically they discussed the following question:

In order to ensure the delivery of high quality construction projects safely on time and on budget what is going well that we can build upon and where are the opportunities for improvement? What are the issues?

- *From the perspective of the TTC?*
- *From the perspective of Contractors?*
- *From the perspective of Labour?*

The following key messages were noted:

What is going well?

- Safety
 - While it can always be better generally the number of incidents and issues are low
 - Certificate of Recognition (COR) certification is seen as a strength
 - Participation in Committee work is strong
 - Mutual monthly audits are sound
- The Tendering Process
 - Generally open and quick
 - There has been an improvement in communication around this process
- Pride in the Job
 - Contractors and Labour take pride in the legacy projects that have been undertaken by the TTC
 - Feeling of contribution to the City
- TTC Staff Engagement
 - Recent change that encourages more TTC Staff to be on site seen as a positive – communication, relationship building
- Procurement
 - Consideration of alternate delivery models (e.g. Wilson Yard) a positive change
 - Will encourage more bidders
- TTC Financial Position
 - Virtual zero risk of non-payment
 - Large capital budget intentions – (estimated at 8 – 9 billion over the next 10 years)
- Contractor Methodologies
 - Considered generally to be well managed and innovative

- Rule Clarity
 - “We may not like them, but they are clear”
 - Both tendering and construction

Where are the opportunities for improvement?

2. Process Improvements – Decision Making and Issue Analysis
 - Need for clarification of roles and responsibilities – within the TTC and between TTC and Contractors
 - Who has the financial authority, who is empowered and to what capacity?
 - Lack of clarity impacts schedule and delivery time
 - Is there a need for an escalation matrix?
 - Enhanced communication required
 - Includes design decisions, change requests
3. Level of Management Oversight from TTC – “The TTC Experience”
 - Includes supervision, management, oversight
 - TTC perceived to be overly involved in management, oversight
 - Both sides agree TTC ideally is less involved – this is a Contractor role
 - On the other hand, TTC expects high quality – need quality assurance
4. Material Specifications
 - At times specs are out of date – can result in a no bid
 - Example offered – vertical equipment
5. Sole Sourcing of Materials
 - Again – may impact bid decision from General Contractors
6. Pre-qualification Process
 - TTC desires to attract multiple bidders on projects -- they are presently receiving only one or two bids on certain projects
 - Contractors may not bid if there are too many firms pre-qualified – takes significant resources to bid – there is a resource cost that can be significant in preparing bids
 - Consider pre-qualifying firms with a requirement to bid a project
7. Improved Design
 - Earlier Contractor involvement desirable with respect to constructability
 - Consider a design/build model
 - TTC is funded by the public sector – therefore must be perceived as open, transparent, competitive
 - Need for high quality design – other public sector Owners have same expectations
 - How to achieve for the TTC projects?
 - Effective use of Design Consultants

The Path Forward

The Opportunity Agenda

The issues identified above were organized into three thematic “Work Packages” that will be the subject of further discussion in Working Groups. These areas are considered priorities at this stage of the process.

| Thematic Area | Working Group Members |
|---|---|
| 1. Decision Making, Issue Analysis & Management Oversight <ul style="list-style-type: none">Includes Item # 1 and Item # 2 of section 2.2 | TTC – Jane Murray, Jim Lee Contractors – Bryan Arnold, Steve Aquino, Nuno Da Silva, Claude Parent Labour – James St. John |
| 2. Engineering and Standards <ul style="list-style-type: none">Includes Item # 3 and Item # 4 of section 2.2Also includes design construction standards (component of Item # 6) | TTC – Jane Murray and others TBD from TTC Contractors – Stephen Damp, Graham and Claude Parent Labour – TBD by James St. John |
| 3. Pre-qualification Process and Procurement <ul style="list-style-type: none">Includes Item # 5 of section 2.2Also includes constructability reviews and purchase of design services (component of Item # 6 above) | TTC – Jim Lee, Mike Piemontes Contractors – Bryan Arnold, Arnie Kalnins, Mike W. Labour – Paul Hickey, Mike Yorke |

Role of the Working Groups

This will be clarified in the Terms of Reference but generally the role will be:

- Further clarify the issues/opportunities
- Prioritize – the “low hanging fruit”, and issues that will require longer term efforts
- Identify desired outcomes with respect to the priority issues
- Develop recommendations/advice – proposed solutions
- Solutions should result in benefits for Contractors, Labour and the TTC
- Ultimately however – the TTC is the client for Construction services
- This is an Advisory Committee – proposed changes/recommendations will be implemented at the discretion of the implicated party

Governance

The process will be managed overall by Jim Vlahos (Contractors), James St. John (Labour), Andy Byford (TTC) and Sean Strickland (OCS). Regular conference calls will be initiated.

Next Steps

| Action Item | Leadership & Deadline |
|--|--|
| 1. Develop Terms of Reference for the Working Groups and circulate to all for feedback, finalize | OCS January 31 |
| 2. Finalize Working Group participants | Jim, James, Andy December 25, 2013 |
| 3. Convene initial Working Group Meetings | TTC Working Group Members January 31 |
| 4. Provide Written Status Report <ul style="list-style-type: none">• Progress• Emerging priorities | Working Groups to the OCS for circulation to all February 28 |
| 5. Convene full TTC Tripartite meeting <ul style="list-style-type: none">• Report on progress from Working Groups• Consider emerging recommendations and next steps | OCS End April |

Closing Comments

In a final round table discussion participants expressed that the meeting had been of value and achieved the desired outcomes. The meeting was characterized as a good start to a longer term process. There was good participation from the senior leadership level – TTC, Contractors and Labour. There was momentum built today, however follow-through will be important. There is a need to stay focused on the goal.