

Sent by Email (Monica.Silaghi@infrastructureontario.ca)

September 23, 2022

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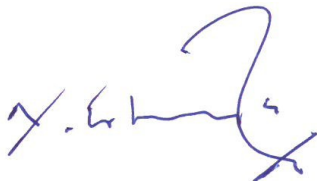
Attn: Mr. Michael Inch - Vice President, Procurement

Re: **Progressive Design-Build Stations, Rail and Systems for the Scarborough
Subway Extension, Request for Proposal No. 20-249
Report by Fairness Monitor**

Dear Michael,

Please find attached our Report.

Sincerely,
For and on behalf of
Lakeland Consulting Inc.



Arif Ghaffur BSc (Hons), FRICS, PQS(F), MCI Arb
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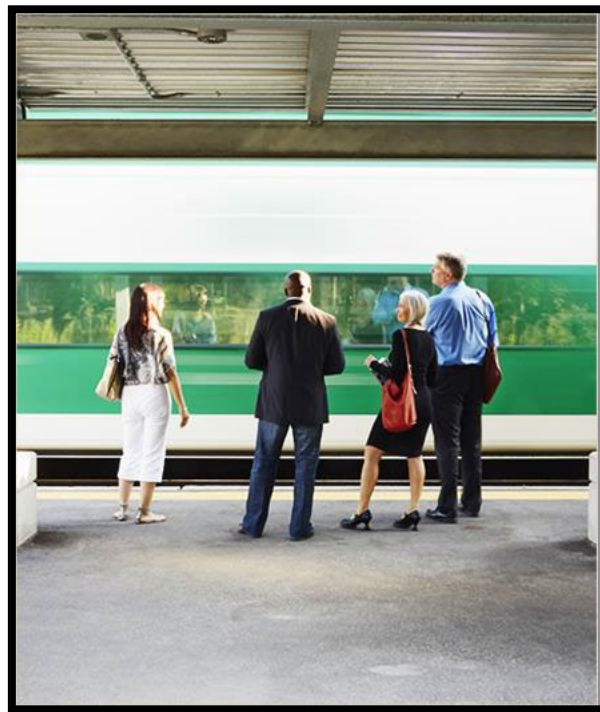


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Attachment: Report by Fairness Monitor

Copy: File

Progressive Design-Build Stations, Rail and Systems for the Scarborough Subway Extension



Report by Fairness Monitor

Arif Ghaffur BSc (Hons), FRICS, PQS(F), MCI Arb
Fairness Monitor

Don Solomon B.A., C.A.T.
Fairness Monitor

Revision History

Date of Issue	Issued to	Status & Changes
September 23, 2022	Vice President, Procurement, IO	Draft
September 23, 2022	Vice President, Procurement, IO	Final

If this Report is changed after the Date of Issue, all such changes will be identified in the Revision History.

Table of Contents

1.0	Project & Mandate	1
2.0	Request for Proposal	1
3.0	Key Aspects of RFP	1
4.0	Participation	1
5.0	RFP Communications	2
6.0	Updated RFP	3
7.0	All Proponents' Meeting	3
8.0	Commercially Confidential Meetings	3
9.0	Draft Proponent Document Submissions	3
10.0	Evaluation Framework	3
11.0	Evaluation Training	4
12.0	Receipt of RFP	4
13.0	Completeness Review	4
14.0	Redaction of Submissions	5
15.0	Clarification of Proposals	5
16.0	SME Review	5
17.0	Technical Consensus	5
18.0	Commercial Consensus	6
19.0	Evaluation Committee I	7
20.0	Collaborative Behavioural Assessment	7
21.0	Evaluation Committee II	8
22.0	Report Card	9
23.0	Findings and Conclusions	9

- 1.0 Project & Mandate:** The Progressive Design-Build (PDB) of the Stations, Rail, and Systems for the Scarborough Subway Extension (“the Project”) is being undertaken by Metrolinx and Infrastructure Ontario (“the Sponsors”). Lakeland Consulting Inc. (“Lakeland” or “the Fairness Monitor”) has been engaged by Infrastructure Ontario (“IO”) as Fairness Monitor to:
- a) **Monitor** the Sponsors’ conduct during the procurement process to ensure i) an open and transparent procurement process is followed; ii) all applicants are treated fairly; iii) the process is in conformity with confidentiality and conflict of interest requirements; and iv) evaluation criteria and procedures are defined and applied fairly, objectively, and free of bias; and
 - b) **Observe** all stages of the procurement process, including i) attending meetings with Applicants/Proponents; ii) reviewing all procurement related documents; iii) addressing conflicts of interest; iv) monitoring evaluation activities; v) reviewing fairness issues; and vi) submitting a formal report at the concluding phases.
- 2.0 Request for Proposal:** The Fairness Monitor reviewed RFP documents (drafts and final), as requested by IO. Our comments and observations helped inform updates to the Request for Proposal. Version 1.0 of the RFP document was posted on February 8, 2022 (“RFP”).
- 3.0 Key Aspects of RFP:** The RFP document included “Schedule 1 – RFP Data Sheet” which sets out specifics, including name of client; project description; signing parties to the Development Phase Agreement; Timetable; Fairness Monitor; Confidentiality Agreement; and Proposal Submission Instructions.

The RFP Data Sheet also provides details in respect of the Contact Person; Proponents’ Meeting; Commercially Confidential Meetings; Questions, Clarifications; Prohibited Contacts; Conflict of Interest and Ineligible Persons; and Proposal Fee.

- 4.0 Participation:** Participation was limited to the following prequalified parties:
- Proponent #1: SRS Transit Partners
 - Proponent #2: KSX Integrated Design-Builders
 - Proponent #3: Scarborough Transit Connect

See also our report of December 14, 2021, regarding the qualification process.

Changes to the composition of Proponent Parties were permitted and evaluated in accordance with the RFP. As Fairness Monitor, we reviewed the documentation of these decisions.

5.0 RFP Communications: Communications with Proponents were conducted through a web-based procurement solution called AWARD®.

During the RFP phase of the procurement process, Addenda, Notices, and answers to Proponents' Requests for Clarification were issued after the initial posting of the RFP on February 8, 2022, as follows:

- Addendum No. 1 – March 8, 2022
- Addendum No. 2 – April 1, 2022
- Addendum No. 3 – April 8, 2022
- Addendum No. 4 – April 20, 2022
- Addendum No. 5 – April 20, 2022
- Addendum No. 6 – May 18, 2022
- Addendum No. 7 – April 20, 2022
- Addendum No. 8 – May 25, 2022
- Addendum No. 9 – May 25, 2022
- Addendum No. 10 – May 27, 2022
- Addendum No. 11 – June 3, 2022
- Addendum No. 12 – June 10, 2022
- Addendum No. 13 – June 17, 2022
- Addendum No. 14 – June 17, 2022
- Addendum No. 15 – June 22, 2022
- Addendum No. 16 – July 6, 2022
- Addendum No. 17 – July 11, 2022
- Addendum No. 18 – July 14, 2022

The following is noted:

- a) **Notices:** During the RFP open period, the Sponsors also issued 20 Notices that did not amend the RFP to Proponents. These contained administrative or logistical information. As Fairness Monitor, we reviewed all communications before release.
- b) **Requests for Clarification:** During the RFP open period, the Sponsors responded to 141 requests for information from Proponents. When discussing sensitive information, the Proponents had the option of requesting that RFC's be responded to in confidence rather than generally, to all Proponents. Before responding, the Sponsors' reviewed these requests for confidentiality and determined whether confidential responses were merited, or Proponents should be asked to re-submit their questions in such a way as to avoid exposing sensitive information so that the response could be shared with all Proponents. As Fairness

Monitor, we reviewed all communications from the Sponsors before release.

6.0 Updated RFP: Updated versions of the RFP were issued as follows:

- Version 2.0 – April 19, 2022
- Version 3.0 – June 10, 2022
- Version 4.0 – July 14, 2022

7.0 All Proponents' Meetings: The Fairness Monitor reviewed the presentation ahead of the All Proponents' Meetings, which were held virtually on February 15, 2022, and April 21, 2022. Proponents were required to pre-register for these sessions and IO recorded participants.

8.0 Commercially Confidential Meetings: A series of commercially confidential meetings (CCM's) was held with each Proponent during the RFP open period to facilitate communication as follows:

- Legal/ Commercial CCM's – 3
- In Market Strategy Sessions – 3
- Topic Meetings – 3
- Ad Hoc Meeting (on demand) – 1
- Executive Ad Hoc Meeting (on demand) – 1

Agendas were received from Proponents and the Sponsors took care to organise their response in advance of these meetings. Time was equally allocated. Attendance was limited and the Sponsors chaired the meetings to maintain control of them. The Sponsors strove to provide equal consideration to all Proponents. Breakout rooms were organized for the Sponsors to have off-line discussions. The order of Proponents was changed from one set of meetings to the next in the interest of equity. Information of general application was shared with all Proponents and Addenda were issued to provide equal opportunity to all Proponents to submit Proposals diverging from the original RFP requirements when desirable, divergent innovations were presented during CCM's.

9.0 Draft Proponent Document Submissions: A few weeks before RFP close the Proponents were invited to submit for review by the Sponsors a draft of their proposed company structures for the development phase of the Project and a draft of their proposed design agreements. In accordance with the RFP, the Sponsors reviewed these documents for conformity with the RFP requirements and returned feedback to the Proponents. As Fairness Monitor, we reviewed the outgoing communication.

10.0 Evaluation Framework: The Proposal evaluation consisted of the following steps:

1. Compliance Review of the RFP Proposal Technical Submissions

2. Review of the RFP Proposal Submission Form and Applicable Declarations
3. Review and Scoring of the RFP Proposal Technical Submissions
4. Compliance Review of the RFP Proposal Commercial Submissions
5. Review and Scoring of the RFP Proposal Commercial Submissions
6. Establishing an RFP Proposal Initial Score
7. Review and Scoring of the Collaborative and Behavioural Assessment
8. Establishing a Final RFP Proposal Score
9. Ranking the Proponents

An Evaluation Framework setting out the process and guidelines for the evaluation was issued by Infrastructure Ontario. The Fairness Monitor received and reviewed the Evaluation Framework along with the accompanying evaluation worksheets.

The Evaluation Framework provides sections setting out: a) an overview, b) participants in the evaluation process, c) pre-evaluation procedures, d) evaluation steps and procedures, e) other evaluation procedures, f) definitions and interpretations, and g) accompanying appendices.

- 11.0 Evaluation Training:** The Fairness Monitor received and reviewed the evaluation training presentation. This was followed by an orientation session on July 21, 2022, which was attended by representatives of the Sponsors and the Sponsors' consultants. Attendees included those required to evaluate proposals and to write subject matter expert (SME) reports on parts of the technical submissions. IO recorded attendance.

The evaluator training addressed, *inter alia* a) evaluation framework and process documents, participant structure, roles/responsibilities, c) evaluation and scoring, d) evaluation tools, procedures and considerations, e) confidentiality, f) conflicts and interests, and g) next steps.

- 12.0 Receipt of RFP:** The deadline for submission of RFP Proposals was July 26, 2022, via AWARD. After closing, AWARD makes available a summary of the submissions, received from the Applicants. The following two (2) submissions were received:

Applicant Team	Applicant Lead(s)
SRS Transit Partners	Dragados Canada Inc., Acciona Infrastructure Canada Inc.
Scarborough Transit Connect	Aecon Group Inc., FCC Canada Ltd.

- 13.0 Completeness Review:** The Completeness review of the RFP Proposal Technical Submissions was conducted July 26-28, 2022, by the Completeness Review Team. Both submissions passed the review and were released to the respective team members for

individual review commencing July 29, 2022.

The Completeness review of the RFP Proposal Commercial Submissions was conducted August 25-26, 2022, by the Completeness Review Team. Both submissions passed the review and were released to the respective team members for individual review commencing August 26, 2022.

- 14.0 Redaction of Submissions:** To preserve the integrity of the evaluation and mitigate unfair advantage or disadvantage to the Proponents, IO redacted those portions of the RFP Proposal Technical Submissions that exceeded the page limits specified in the RFP before releasing them to the Technical Evaluation Team. The Fairness Monitor reviewed the proposed redactions before they were completed.
- 15.0 Clarification of Proposals:** During the course of the evaluation and, in accordance with the RFP, IO requested clarification of the Proponents' submissions. The Fairness Monitor reviewed the proposed requests before they were released.
- 16.0 SME Review:** To assist the Technical Evaluation Team with their evaluation, committees of Subject Matter Experts (SME's) reviewed parts of the RFP Proposal Technical Submissions and provided comments for the TET. The Fairness Monitor reviewed the reports before release to ensure that the SME's had not scored the submissions, performing a shadow evaluation.

On August 9, 2022, the SME reports were presented to the Evaluation Committee for approval before release to the Technical Evaluation Team. This meeting was attended by the Evaluation Coordinators (Qassim Dada, Rebecca Zebeljan), the Fairness Monitor (Antoine Aurelis, Lakeland Consulting), the leads of the SME teams (Jared DeLong and Tarek Kanaan), several supporting SMEs, and the Technical Evaluation Team members, as well as the Evaluation Committee (Arsalan Zargar, Mark Ciavarro, Gabriela Sauter and Alessandra Lionzo). The Evaluation Committee authorized release of the SME reports to the TET.

- 17.0 Technical Consensus:** At the completion of individual evaluations, the Technical Evaluation Team consensus meetings were held on August 19, 22 and 23, 2022 virtually, using Microsoft Teams. Sponsor representatives attended in their capacity as evaluators and procurement personnel. The following were the attendees at the Technical Consensus Meeting:

Technical Evaluation Team (Design and Construction):

- Jeff Morrison (Team Lead – IO)
- Amy Chan (Evaluator – Metrolinx)
- Jozef Harapi (Evaluator – Metrolinx)
- Arad Mohagheh (Evaluator – Metrolinx)

The following also attended in a non-evaluating capacity:

- Qassim Dada (Evaluation Coordinator – IO)

Technical Evaluation Team (Project Management & Controls):

- Sara Maltese (Team Lead – IO)
- Anahita Sadafi (Evaluator – IO)
- Jason Hourtovenko (Evaluator – Metrolinx)
- Christopher Rayment (Evaluator – Metrolinx)

The following also attended in a non-evaluating capacity:

- Rebecca Zebeljan (Evaluation Coordinator – IO)

The purpose of the meetings was for the TET to discuss the strengths and weaknesses identified by the individual Evaluators in each Proposal with respect to the Technical Criteria stated in the RFP, and to come to consensus on the final strengths, areas of improvement, and scores.

Each evaluator arrived at the consensus meetings having performed a thorough individual evaluation of both RFP Proposal Technical Submissions and participated actively in the discussion. The evaluators understood and were qualified to evaluate the material. They did not rely unduly on the SME reports and no individual exercised undue influence over the process. The evaluators confined the evaluation to the criteria stated in the RFP and gave equal scrutiny as well as equal consideration to both Proponents.

During detailed consensus sessions spanning across the three days, the technical scores and consensus notes were recorded in the AWARD system by the TET Lead. Fairness Monitors (Bill Mocsan and Don Solomon, Lakeland Consulting Inc.) were present during all the Technical consensus meetings.

18.0 Financial Consensus: The Financial Evaluation consensus meeting was held virtually and similarly attended by representatives of the Sponsor on August 31, 2022, using Microsoft Teams. The following were the attendees at the commercial consensus meeting:

Commercial Evaluation Team:

- Florence Au (Financial Evaluation Team Lead – IO)
- Ahmed Khan (Evaluator - Metrolinx)

The following also attended in a non-evaluating capacity:

- Rebecca Zebeljan (Evaluation Coordinator – IO)

The purpose of the meetings was for the Financial Evaluation Team to discuss the strengths and weaknesses identified by the individual Evaluators in each Proposal with respect to the Commercial Criteria stated in the RFP, and to agree on a pass/fail score for commercial requirements as well as a calculated numerical score for the Proponent's fee for Overhead and Profit.

Each evaluator arrived at the consensus meetings having performed a thorough individual evaluation of both RFP Proposal Commercial Submissions and participated actively in the discussion. The evaluators understood and were qualified to evaluate the material. No individual exercised undue influence over the process. The evaluators confined the evaluation to the criteria stated in the RFP and gave equal scrutiny as well as equal consideration to both Proponents.

During the detailed consensus session, the commercial scores and consensus notes were recorded in the AWARD system by the Financial Evaluation Team Lead. A Fairness Monitor (Don Solomon, Lakeland Consulting Inc.) was present during Financial Evaluation Team consensus meeting.

- 19.0 Evaluation Committee II:** The Fairness Monitor received the technical and financial presentations for the purpose of the Evaluation Committee meetings, which were held on August 25, 2022 (technical) and August 31, 2022 (commercial). These meetings were attended by the Evaluation Coordinators (Qassim Dada, Rebecca Zebeljan), the lead of the technical evaluation teams (Jeff Morrison and Sara Maltese), the lead for the financial evaluation team (Florence Au), as applicable as well as the Evaluation Committee (Arsalan Zargar, Mark Ciavarrro, Gabriela Sauter and Alessandra Lionzo).

During the Evaluation Committee meetings, presentations were made by the Technical Evaluation Team Leads (Jeff Morrison and Sara Maltese) and the Financial Evaluation Team Lead (Florence Au). The Evaluation Committee conducted due diligence in accordance with the evaluation framework. During these meetings, approval was sought from the Evaluation Committee to accept the results of the evaluation teams.

The consensus evaluation results, and each Applicant's ranking were then tabled in a detailed evaluation summary. As part of the process of dialogue and due diligence, the Evaluation Committee was provided with the narrative under the heads of "strengths" and "areas of improvement" detailed in the evaluation summary to enable the Evaluation Committee to gain a better understanding of the outcome of the technical evaluation and financial evaluation results.

A Fairness Monitor (Don Solomon – Lakeland Consulting Inc.) was present during the Evaluation Committee meetings as required by the Evaluation Framework.

- 20.0 Collaborative Behavioural Assessment:** Based on the ranking of the Proponents at the end of the Technical and Financial Evaluations and, in accordance with Section 7.5 of the RFP, the Evaluation Committee directed that both Proponents proceed to the next step in the evaluation, the collaborative behavioural assessment ("CBA").

The CBA was conducted in person on September 7, 8, 12, and 13, 2022, with the CBA Evaluation Team consensus meeting taking place on September 16, 2022. The following persons participated as evaluators in the CBA:

CBA Evaluation Team:

- Walter Trisi (Evaluator - Metrolinx)

- Scott Plaxton (Evaluator – for Metrolinx)
- Lindsay Lashley (Evaluator - Metrolinx)
- Lukasz Koziol (Evaluator - Metrolinx)
- Martin Leslie (Evaluator – for Metrolinx)
- Jenny Matharu (Evaluator – Metrolinx)
- Dominic Tiano (Evaluator – Toronto Transit Commission)
- Antonella Nicaso (Evaluator – City of Toronto)
- Perla Castro (Evaluator – IO)

The following also attended in a non-evaluating capacity:

- Rebecca Zebeljan (Evaluation Coordinator – IO)
- Qassim Dada (Evaluation Coordinator – IO)
- Mark Ciavarro (Observer – Metrolinx)
- Gabriela Sauter (Observer – IO)
- Duncan Golding (BTTC – Third-party Facilitator)
- Georgina Smales (BTTC – Third-party Facilitator)
- Georgina Murphy (BTTC – Third-party Facilitator)

The purpose of the meetings was for groups of evaluators to participate in a series of group exercises with selected individuals from the Proponent teams and evaluate individually and then in a consensus meeting the extent to which their behaviour was collaborative or not.

The evaluators received extensive training in preparation for the CBA. Evaluators were required to make extensive individual notes after each exercise and to score the Proponent team on its behaviour at the end of its two-day session. The evaluators confined the evaluation to the criteria stated in the RFP as well as the behaviours identified during their training, performed their work diligently and gave equal scrutiny as well as equal consideration to both Proponents. Neither the third-party facilitator, BTTC, nor any other individual, exercised undue influence over the process. The results and supporting comments were recorded by BTTC and IO.

During the consensus evaluation, the CBA scores and comments were recorded by IO as well as BTTC. A Fairness Monitor (Don Solomon, Bill Mocsan, Antoine Aurelis, Syed Lowtun and Marc Oosthuizen of Lakeland Consulting Inc.) was present during all exercises and CBA scoring.

21.0 Evaluation Committee III: The Fairness Monitor received the presentation for the purpose of the Evaluation Committee meeting, which was held on September 21, 2022. This meeting was attended by the evaluation coordinator (Rebecca Zebeljan), the lead of the CBA team (Perla Castro) and the Evaluation Committee (Arsalan Zargar, Mark Ciavarro, Gabriela Sauter and Alessandra Lionzo).

A presentation was made by the CBA evaluation team lead (Perla Castro). The Evaluation Committee conducted due diligence in accordance with the evaluation framework. Approval was sought from the Evaluation Committee for the results of the







CBA evaluation as well as for the results of the procurement overall. The Evaluation Team accepted the results of the CBA assessment.

Based on the final scores, the Evaluation Committee identified Scarborough Transit Connect as the higher ranked Proponent and therefore the Shortlisted Proponent, which would be invited to execute the Draft Development Phase Agreement with the Sponsors.

A Fairness Monitor (Don Solomon – Lakeland Consulting Inc.) was present during the Evaluation Committee Meeting and provided a verbal report to the Evaluation Committee, as required by the Evaluation Framework.

- 22.0 Report Card:** Based on the above, the Fairness Report Card below summarizes our findings for the Progressive Design-Build Stations, Rail and Systems for the Scarborough Subway Extension, Request for Proposal No. 20-249.

Fairness Report Card

Item	Events attended, processes monitored, and documents reviewed	Fairness	
		Pass	Fail
1	Review of RFP documentation including updates & addenda		
2	Review of Q&A, Notices, RFIs and Responses		
3	Commercial, Technical, CBA and Evaluation guidelines for Evaluators		
4	Submissions Receipt and Completeness Review		
5	Technical Evaluation, Commercial Evaluation and CBA Evaluation Consensus Meetings		
6	Evaluation Committee Review and Approval		

- 23.0 Findings & Conclusion:** As Fairness Monitors for the Centre for Progressive Design-Build Stations, Rail and Systems for the Scarborough Subway Extension, Request for Proposal No. 20-249, it is our professional opinion that the entire RFP process was conducted in accordance with the Project RFP. Further, the following is the result of a fair, open, transparent, and consistent RFP process:

Shortlisted Proponent: Scarborough Transit Connect

END OF REPORT