

**MANAGEMENT REPORT TO METROLINX**

<b>Report Title:</b>	<b>Transit Procurement Initiative (TPI) Transition to Metrolinx</b>					
<b>Report Number:</b>	CS 08-012	<b>Date to Board:</b>	June 13, 2008	<b>Date to Committee:</b>		
<b>Report To:</b>	<input checked="" type="checkbox"/> BOARD		<input type="checkbox"/> ADVISORY COMMITTEE <input type="checkbox"/> AUDIT COMMITTEE <input type="checkbox"/> GOVERNANCE COMMITTEE <input type="checkbox"/> HUMAN RESOURCES COMMITTEE <input type="checkbox"/> TECHNICAL ADVISORY GROUP <input type="checkbox"/> OTHER:			
<b>Report Referred From:</b>	Follow up from April 25, 2008 board meeting					
<b>Author(s):</b>	Kim Lambert	<b>Telephone:</b>	416-874-5905			
		<b>E-mail:</b>	kim.lambert@metrolinx.com			
<b>Item Class:</b>	IN CAMERA	<input type="checkbox"/>	DECISION	<input checked="" type="checkbox"/>	INFORMATION	<input type="checkbox"/>

**1.0 RECOMMENDATION:**

*RESOLVED:*

**THAT** the Board approve the Chair sign the approval to post on MERX the Request for Proposal for Transit Buses and the three vehicle specifications, one for each of the three bus types, in accordance with the key principles outlined in report CA-08-012; and

**THAT** the Board approve the Chair to enter into the 2009 Master Agreement between Metrolinx and the Supplier selected through the Request for Proposal evaluation process in accordance with the key principles outlined in report CA 08-012; and

**THAT** the Board direct the CEO to transition the Transit Procurement Initiative to Metrolinx from the Ministry of Transportation effective June 16, 2008 as outlined in report CA-08-012 , thereby fulfilling its obligations under clause 8 (1) (a) of the *Greater Toronto Transportation Authority Act*.

## 2.0 PURPOSE & EXECUTIVE SUMMARY:

This report requests that the Board direct the CEO to transition the Transit Procurement Initiative to Metrolinx from the Ministry of Transportation (MTO) effective June 16, 2008. The Ministry of Transportation has agreed to fund the TPI project until March 31, 2009. Metrolinx staff will include in the 2009-2010 RbP submission a request for ongoing funding of the TPI program. MTO has agreed that the two staff currently managing the project be seconded to Metrolinx to continue the management of the project. A third staff person, who has been performing the duties as the project engineer, will be on contract to Metrolinx to continue to perform those duties. It requests that the Chair sign the approval to post the Request for Proposal (RFP) for Transit Buses on MERX; and that the Chair be provided with approval to sign the Master Agreement between Metrolinx and the Supplier for the 2009 TPI. Further, the report provides information on the overall procurement process, the RFP process including evaluation of proposals and the contract award of the Master Agreement. **The report also cautions the Board members and staff respecting the prohibition against contact with the bidders.**

## 3.0 BACKGROUND:

At its April 25, 2008 board meeting, the Board passed the following resolution:

***THAT** the Board direct staff to enter into negotiations with the Ministry of Transportation (the "MTO") on the timing of the transition of the Transit Procurement Initiative (TPI) to the Corporation; and*

***THAT** staff report to the Metrolinx Board at the May 23, 2008 board meeting with a detailed transition plan, including a financial and staffing strategy; and*

***THAT** the Board approve the Chair entering into the 2009 Governance Agreement with MTO and participating municipalities in accordance with the key principles outlined in report CS 08-006 and on terms and conditions necessary or desirable to clearly define the parties' respective roles and responsibilities and to give effect to transitional arrangements pending the future transfer of the TPI to the Corporation.*

## **2009/10 Transit Procurement Initiative**

### **Moving Forward - 2009 Transit Procurement Initiative**

As indicated in the April 25<sup>th</sup> Board Report, to date MTO has reported that 20 transit systems have expressed an interest to participate in the joint procurement initiative for 2009-2010 including all of the municipalities who participated in 2007 and 2008. In order to ensure delivery of buses in 2009, MTO and the municipal partners are following the timelines indicated below:

#### **Timelines**

- Early June/08: MTO to issue Request for Information (RFI) on draft Request for Proposal (RFP) and the draft vehicle specification for feedback from potential vendors
- June/08: Governance Agreement signed by participating municipalities, MTO, Metrolinx
- Mid-June/08: Refine RFP based on results of feedback from potential vendors
- Early July/08: Metrolinx to post final RFP for the 3 vehicle specs on MERX
- Sept/08: Evaluate proposals
- Oct/08: Award contract and Master Agreement signing
- Late spring/early summer 2009: Bus deliveries

Metrolinx intends to adhere to these projected timelines to ensure that the buses can be delivered as soon as possible after municipalities receive budget approval in 2009. Transit systems prefer to take delivery of new buses prior to September as ridership decreases over the summer and older vehicles can be retired.

#### **Procurement Process**

The TPI process is guided by the Governance Agreement between Metrolinx and the partner municipalities, as approved by the Board on April 25, 2008. This agreement details the roles and responsibilities of all parties.

The following are the key principles of the joint procurement:

- Procurement process is to be fair, open and competitive
  - A Fairness Commissioner has been retained by the MTO to oversee each stage of the procurement process – posting of RFI and draft vehicle specifications on MERX to obtain feedback from bus manufacturers, posting of final RFP and vehicle specifications on MERX, question and answer period, information

session with Suppliers prior to RFP closing date, evaluation process and debriefing sessions with unsuccessful bidders.

- Proposals are to be evaluated versus using a low bid approach in order to ensure value for money
- The contract will be awarded to the proponent with highest overall score
- Other interested transit systems are able to participate after the contract has been awarded subject to Supplier capacity and other criteria as outlined in the Governance Agreement

### **RFP Process**

In June, 2008, MTO will issue the Request for Interest (RFI) on the draft Request for Proposal (RFP) and the draft vehicle specification which will be posted on MERX to enable interested bus manufacturers to provide feedback to ensure that the procurement is open and fair. The RFP and vehicle specification will be refined based on the results of the feedback from potential vendors (mid-June 2008).

In July 2008, Metrolinx will post on MERX the RFP and three vehicle specifications, one for each of the three bus types:

- 40-foot low floor urban diesel transit bus;
- 30-foot low floor urban diesel transit bus; and
- 40-foot low floor hybrid diesel-electric transit bus.

Prior to the submission deadline, an information session will be held with interested bus manufacturers to address any questions or concerns they may have. The questions and answers provided at that session will be posted on MERX.

Interested suppliers will be provided with a one month Question and Answer period following the posting of the final documents. All questions and answers will be posted on MERX.

### **Rules of the RFP Process**

Proponents cannot negotiate the terms and conditions of the RFP and/or the Master Agreement and/or the Municipal Bus Purchase Agreements.

Proponents who submit conditions, terms, options, variations or contingent statements to the terms set out in the Master Agreement, either as part of its proposal or after receiving notice of selection, will be disqualified.

There is to be no communication with potential bidders after the RFP has been posted. All questions/concerns must be directed to the RFP Contact provided in the RFP in writing by e-mail on or before the deadline for questions.

All Board Members and Metrolinx staff are to be cautioned against communicating with potential bidders to ensure there is no actual or perceived interference on the part of the Metrolinx Board even if their municipality is not a participant in the bidding process. Should any contravention to this process occur, the Fairness Commissioner has advised that this will result in the disqualification of the bidder/proposal.

Proposals must be submitted at the location set out in the RFP on or before the Proposal Submission Deadline. Proposals submitted after this point in time will be deemed late, disqualified and returned to the Proponent.

### Evaluation of Proposals

A rigorous four-stage evaluation process is used to evaluate the proposals. Compliance with each stage of the review is necessary in order for a proposal to proceed to the next stage of evaluation.

Stage 1 ensures mandatory corporate requirements have been met; Stage 2 ensures mandatory technical requirements have been met; and, Stage 3 is the scoring of rated criteria. Once the evaluation team signs off on their scores for Stage 3, the sealed price envelope (Stage 4) is opened and scored.

### Contract Award

The contract (Master Agreement) would be awarded by Metrolinx to the proponent with the highest overall score based on the recommendation of the Steering Committee. The Master Agreement, between Metrolinx and the Supplier, would identify the general terms and conditions as well as the:

- delivery times for transit buses
- base vehicle specification
- costing for base bus
- pricing for additional options

The term of the Master Agreement will be for one year (2009), with an option year (2010). Metrolinx would have responsibility for managing the Master Agreement.

The Master Agreement entitles the Supplier to an exclusive arrangement up to December 31, 2009 for the provision of buses to those municipalities that have signed a Governance Agreement with Metrolinx and a Municipal Bus Purchase Agreement (MBPA) with the Supplier. As participating municipalities are not parties to the Master Agreement Metrolinx would have the responsibility for all obligations under the Master Agreement and would manage this contract on behalf of the participating municipalities.

It is anticipated that the Master Agreement will be executed on or around October 2008 and that municipalities will place orders for buses in 2009 once individual Municipal Council approval has been received. The final date for municipalities to place orders with the Supplier will be March 31, 2009 for delivery of buses in 2009 and March 31, 2010 for delivery of buses during 2010.

Each municipality would then enter into a sub-agreement called the Municipal Bus Purchase Agreement directly with the supplier identifying their specific needs:

- number of buses
- delivery times
- specific vehicle options as provided in the bid

#### **4.0 DISCUSSION:**

##### **Proposed Transition Date**

It should be noted that The *Greater Toronto Transportation Authority Act, 2006*, Section 8, Duties of the Corporation, has been proclaimed giving Metrolinx the authority to:

- (a) co-ordinate, negotiate and manage the planning, design, development and acquisition, by purchase, lease or otherwise, of local transit system vehicles, equipment, technologies and facilities and related supplies and services on behalf of any municipality in Ontario;
- (b) establish, in consultation with municipalities and other persons that operate local transit systems in Ontario and suppliers, specifications and common standards for local transit system vehicles, equipments, technologies and facilities and related supplies and services; and
- (c) facilitate the financing for any of the activities described in clause (a) on behalf of the owners of local transit systems.

Metrolinx may perform its duty under clause (a) by procuring local transit vehicles, equipment, technologies and facilities and related supplies and services on behalf of a municipality or by facilitating the procurement of such vehicles, equipment, technologies and facilities and related supplies and services by a municipality.

Provided the Board approves the TPI report at the June 13<sup>th</sup> Board meeting, staff recommend that the proposed effective date of the transition be June 16, 2008. Staff from Metrolinx and MTO have been meeting to identify the most appropriate timing and mutually agree with the proposed June 16, 2008 as a transition date. Following board approval, the Chair will be signing the Governance Agreement on behalf of Metrolinx and the participating municipalities and the RFP is to be posted on MERX in late June, 2008. This transition date allows for the same party to issue the RFP, participate in the evaluation of the submissions and to execute the Master Agreement with the successful Proponent.

Upon Board approval of the proposed June 16, 2008 transition date, Metrolinx will formally issue a letter to the MTO and the partner municipalities to inform them of the transfer.

## **5.0 FINANCIAL MATTERS:**

The Ministry of Transportation has agreed to fund the salary and wages, benefits and related operating expenses for the Transit Procurement Initiative until March 31, 2009. Metrolinx staff will seek permanent funding through the 2009-2010 Business Planning Process for this initiative for the current and expanded mandate of the project.

## **6.0 HUMAN RESOURCES MATTERS:**

Two staff will be seconded from the Ministry of Transportation (Project Manager, Team Lead) to continue to perform their duties related to the TPI project to ensure continuity and no delay in the project timing and deliverables. In addition, a third employee who has been performing the duties of the Project Engineer will be retained under contract by Metrolinx.

## **7.0 ENVIRONMENTAL MATTERS:**

Bidders must declare that the proposed Bus complies with or exceeds all applicable Canadian Federal and Ontario Provincial regulations, codes, standards, permits, approvals, authorizations, and other requirements (collectively, "Regulations") in effect at the date of manufacture, including but not limited to, CMVSS, CSA, the Ontario HTA and Ontario Regulation 629 as modified by Ontario Regulation 184/96, s.2. The Bus must be designed and manufactured in accordance with all applicable emergency egress, fire safety and smoke emission regulations including, but not limited to, CMVSS 217 and CMVSS 302. The Bus must be compliant with all Canadian Federal and Ontario Provincial regulations with respect to engine exhaust emissions.

The engine for the 2009 orders must be certified for and compliant with year 2007 Canadian Federal Emission Standards. The engine for the option year (2010) must be certified for and compliant with year 2010 Canadian Federal Emission Standards.

Bidders must provide Statements and any available supporting documentation to demonstrate that the engines are certified and compliant with the year 2007 (or 2010 for the option year) EPA/Canadian Federal Emission Standards with the RFP submission. If the 2010 certified results are not available at the time the RFP is submitted, they are to be supplied as soon as they are available.

## 8.0 COMMUNICATION MATTERS:

An issues management plan, with corporate messages and Questions and Answers, will be developed to coincide with the posting of the RFP. Prior to announcing the awarding of the contract, Metrolinx staff will prepare a communications plan which focuses on creating communications products that highlight Metrolinx's action-oriented agenda and its leadership role in creating a better transportation system. Notice will also be provided to other government ministries of the transfer of the staff and procurement process relating to the TPI.

## 9.0 LEGAL MATTERS:

The *Greater Toronto Transportation Authority Act, 2006*, Section 8, Duties of the Corporation, has been proclaimed. The Governance Agreement and preliminary drafts of the RFP, Master Agreement and MBPA have been reviewed by Metrolinx legal staff. As the proposed issuer of the RFP and signatory to the Mater Agreement, Metrolinx will be responsible for all related contractual and other legal responsibilities. Retention and reliance on a fairness advisor during the procurement process is intended to manage this risk. The proposed RFP makes it clear that Metrolinx has no obligation to purchase buses which under the MBPA remains the sole responsibility of the individual municipalities.

## 10.0 CONCLUSION:

Staff recommend that the Board approve the effective date of June 16, 2008 for the TPI transition from the Ministry of Transportation to Metrolinx. Further staff recommend that the board authorize the Chair to enter into the necessary agreements to fulfill duties of the corporation as set out in Section 8 of the *Greater Toronto Transportation Authority Act, 2006*.

Respectfully submitted,

Approved for Submission to the Board



---

Kim Lambert, Executive Lead,  
Corporate Affairs



---

W. Michael Fern, CEO

**Appendices:**

None attached
---------------

**Staff & Others  
 Consulted:**

Name	Telephone
Mary Martin General Counsel and Corporate Secretary	416-874-5915
Vince Mauceri General Manager Transportation Operations and Technology	416 874-5944
Colleen Bell General Manager Community Relations and Initiatives	416 874 5942

**Notifications:**

Name	Mailing or E-mail Address

**Special Instructions:**

--