



**Request for Proposals to  
Design-Build-Finance the  
Brampton Courthouse Addition Phase 2 (“BCA  
II”) &  
Toronto Region Bail Centre (“TRBC”) Project**

RFP No. 20-075

**Fairness Monitor’s Report**

February 22<sup>nd</sup>, 2021



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## 1. Project Highlights

### 1.1 Introduction and Project Background

On January 14<sup>th</sup>, 2020 a Request for Qualifications (RFQ) was issued by Infrastructure Ontario (IO) to seek submissions from Applicants interested in the Brampton Courthouse Addition Phase 2 Toronto Region Bail Centre Project (the "Project").

The existing Brampton Courthouse is the busiest courthouse in the province. To address the current courtroom pressure, a project to build an addition to the existing courthouse building was approved in FY 2016-17. Construction began in February 2017 and is due for completion in December 2019. To minimize financial impact, a two-phase approach was taken. Phase 1 involved the construction of a six floor addition, and fit-out of the basement and floors 1 and 2. Phase 1 is due to be completed shortly.

Phase 2 involves the fit-out of the remaining shelled floors of the addition, floors 3, 4, 5 and 6 (approx. 97,000sq.ft), and the partial renovation of the existing courthouse (approx. 13,000sq.ft) and adjacent Land Registry building (approx. 15,000sq.ft) to alleviate operational pressures. Furthermore Phase 2 will provide an expansion to the underground judicial parking to provide new parking spaces (approx. 11,000sq.ft). Total area of project scope is approximately 136,000 sq.ft.

The Toronto Region Bail Centre (TRBC) will be accommodated within the existing leased courthouse facility at 2201 Finch Avenue West in Toronto. The TRBC will accommodate all adult bail operations when all other court operations from across the GTA (9 locations) move to NTC in Spring 2022.

The scope of the TRBC project involves the renovation/modification of select spaces within the existing courthouse building, including Unit 29 which is a separate unit within the existing building but is not contiguous with the court location, to accommodate all adult bail operations. This includes the renovation of administration space, the addition of in-custody interview cubicles, and other minor modifications to support the new bail centre and provide digital connectivity to other locations. Total area of project scope is approximately 30,400 sq.ft. including Unit 29.

### 1.2 Scope of the Fairness Monitor Engagement

P1 Consulting was retained in January 2020 to perform fairness monitoring services and provide an independent attestation on the RFQ and RFP 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 and RFP 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 Proponent 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, RFP and Addenda:**  
P1 Consulting reviewed the RFQ, RFP 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 Proponents. 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 and RFP 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 and RFP documents.
- **Proponent Interaction:**  
P1 Consulting attended and monitored all briefing sessions, presentations, and meetings with Proponents.

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 Proponents a fair process.

### 2.2 RFQ Open Period Process

Throughout the RFQ 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 Applicant's Meeting held on January 21st, 2020. P1 confirms that for all this meeting 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, 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 28<sup>th</sup>, 2020 at 2:00:00 pm:

- Pomerleau
- Brampton Courthouse Constructors

## 2.5 **Location of the Submissions**

The original RFQ submissions were submitted to the Sponsors using the Electronic Submission and Evaluation System (AWARD). Background Information Documents are available in a secure document e-room (Accellion), the "E-Room".

## 2.6 **Evaluation of the Technical and Financial RFQ Submissions**

Each of the members of the sub-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 Proponent 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 (EC) reviewed the evaluation results as presented by the evaluation sub-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/sub-teams. To conclude the RFQ evaluation process, the ERC approved the recommendation of the Evaluation sub-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:

- Pomerleau Inc.
- Brampton Courthouse Constructors

### **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 August 17<sup>th</sup>, 2020.

#### **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 Initial Proponents Meeting, held on August 24<sup>th</sup>, 2020, 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**

The RFP Submission Deadline was on December 18<sup>th</sup>, 2020 at 2:00 pm. RFP submissions were received in accordance with IO's electronic submission process in AWARD. All RFP Submissions were received in advance of the Submission Deadline from the following pre-qualified Proponent Teams:



- Trans/FORM (formerly Pomerleau Inc)
- Brampton Courthouse Constructors

The Compliance Team undertook a review to confirm that the Submissions were complete, and that the Mandatory Criteria were met. 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.

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

### **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 and accepted the final consensus scores. The results will be presented for Executive Level approval.

## 4. 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 Brampton Courthouse Addition Phase 2 Toronto Region Bail Centre 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.



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