

Overview Report

Request for Proposals Process and Requirements from the City of Ottawa for OLRT Project – Stage 1

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DISCLAIMER

Please note that in accordance with the Commission’s Rules of Procedure, the statements in this Overview Report may be challenged or supplemented through evidence led before the Commission or submissions made to the Commissioner. The Commissioner will consider all the evidence entered in the Commission’s public hearings in determining the weight to be ascribed to anything contained in the Overview Report.

1. Scope of Overview Report

1. The purpose of this overview report is to discuss some aspects of the RFP process under which the OLRT Project was procured.

2. RFP Timeline

2. The following timeline summarizes the process for the RFP as set out in Schedule 1 to the Request for Proposals.¹

Date	Key Event
October 27, 2011	RFP issued
November 23, 2011	Deadline for comments on Project Agreement Version 1.0
January 6, 2012	Deadline for written pre-qualification submission on vehicles and train control
January 20, 2012	Response issued to written pre-qualification submission regarding vehicles and train control
April 10, 2012	Deadline for comments on updated Project Agreement Version 2.0
August 24, 2012	Release of final RFP/Project Agreement
September 10, 2012	Deadline for general submission
October 1, 2012	Deadline for final submission

3. In addition, several meetings would be scheduled between November 29, 2011, and August 2012, as set out in Schedule 1 of the RFP.² These meetings were between each Proponent and the City/Ontario Infrastructure and Lands Corporation (IO). The meetings were:
 - a. Design Presentation and feedback Meetings (DPMs)
 - b. Commercially Confidential Meetings (CCMs)
4. In addition, Proponents could provide written requests for clarification or comment.
 - a. Proponents submitted Requests for Information (RFIs) on a Commercially Confidential or not confidential basis. RFIs allowed Proponents to seek

written clarification on aspects of the RFP. The City’s response to RFIs that were not commercially confidential were available to all Proponents.

- b. Proponents also submitted “White Papers”, commercially confidential reports that made suggestions on various aspects of the RFP including Project Specific Output Specifications.

3. Structure and Content of the Request for Proposals

- 5. The RFP³ was issued on October 27, 2011 and followed Infrastructure Ontario’s procurement best practices.⁴ A summary of the RFP schedules is shown below. A list of relevant documents, their titles, and their document identification can be found at [Appendix A](#).

RFP Component	Key Content
Request for Proposals (Version 4.1) ⁵	<ul style="list-style-type: none"> • Overview of RFP process • Outline of the rules of the procurement including requirements of the Proponents to support the integrity of the procurement • Outline of the evaluation process • Outline of the period for which the price in proposals is valid
Schedule 1: RFP data sheet ⁶	<ul style="list-style-type: none"> • Overview of the project • Timetable • Outline of additional geotechnical investigations • Details of design and bid, submission, and coordination fees
Schedule 2: Design Consultation Process ⁷	<ul style="list-style-type: none"> • Outline of the process for the design consultation process prior to the General Submission Deadline, including arrangements for feedback • Initial Design Presentation Meetings (8 for each Proponent) with the option to schedule additional meetings • Requirements to provide written submissions in advance of Design Meetings. For example, Design Presentation Meeting 1 required a preliminary response about vehicles including for compliance with the Canadian Content Policy
Schedule 3: Submission Requirements and Evaluation Criteria ⁸	<ul style="list-style-type: none"> • Details of responses required as part of the final RFP response. The following are some examples of requirements: • The Technical Submission Requirements would require responses of 1500 or more pages⁹ • Financial Submission Requirements set out how the Proponent would finance the project, secure its risks, prove affordability, and develop its financial model and related price¹⁰ • Innovation Submission Requirements set out the technical and financial requirements for Proponents that opt to submit Innovation Submissions¹¹

RFP Component	Key Content
	<ul style="list-style-type: none"> Criteria and method for evaluating proposals¹²
Schedule 4: Proposal Submission Form ¹³	<ul style="list-style-type: none"> Confirmation and acknowledgement by the Proponent that the Proposal is binding and prepared in accordance with RFP requirements
Schedule 5: Proponent Team Member Declaration ¹⁴	<ul style="list-style-type: none"> Individual declarations for lead entities in preparing the bid
Schedule 6: Price Submission Form ¹⁵	<ul style="list-style-type: none"> Template to support calculation of the price as net present value (NPV) for purposes of Financial Evaluation
Schedule 7: Administrative Checklist ¹⁶	<ul style="list-style-type: none"> Checklist to see the Submission is complete
Schedule 8: Standby Letter of Credit ¹⁷	<ul style="list-style-type: none"> Template document to be entered into for provision of a letter of credit
Schedule 9: Form of Project Agreement ¹⁸	<ul style="list-style-type: none"> This was a draft Project Agreement, subject to amendments during the in-market period, and negotiation once a preferred Proponent was selected.
Schedule 10: Preliminary Service Plan ¹⁹	<i>Subject to separate review</i>

4. Overview of RFP Provisions

6. The sections below describe provisions regarding:
- a. General Terms of the RFP
 - b. Other RFP Parties
 - c. Geotechnical risk
 - d. Affordability Criteria
 - e. Technical requirements
 - f. Milestone Payments
 - g. Potential Extensions

General Terms of the RFP

7. Three prequalified Proponents who had completed the Request for Qualification (RFQ) process were invited to respond to the RFP. The shortlist of three was selected from five respondents to the RFQ.

8. The RFP outlined a process for Proponents to submit written comments to the City, including suggesting edits to the Project Agreement. Changes were at the discretion of the City.
9. There was a requirement for the Proponents to confirm that in assembling their bid material they had conducted due diligence investigations.
10. If the City or IO requested, the Proponents were also required to verify or validate any information they submitted during the bid.
11. Unsuccessful Proponents were eligible for up to \$2 million of fees.²⁰ Fees were to be split across different aspects of the bid preparation process. Payment of the fees were subject to the unsuccessful Proponents meeting certain conditions.

Other RFP Parties

12. Infrastructure Ontario (IO) was identified as the party managing the RFP process on behalf of the City. The City retained final decision-making authority for all matters related to the RFP. (See Overview Report: Role of Infrastructure Ontario in the OLRT Project.)
13. A Fairness Commissioner - PPI Consulting Limited - was appointed. The Fairness Commissioner's role was to monitor, provide expert procurement advice, and to ensure that all processes were conducted in accordance with the provisions of the RFP, from the time of the RFP release to the selection of the Preferred Proponent.

Geotechnical Risk²¹

14. Geotechnical risks are risks associated with earth materials within the project site. The RFP allowed the Proponent to select from three geotechnical risk allocation profiles. This risk ladder was added to the RFP during the in-market period in response to Proponent input:
 - a. **Geotechnical Risk Profile No. 1:**
 - i. Proponent assuming all geotechnical risk.

- b. **Geotechnical Risk Profile No. 2:**
 - i. Proponent assuming the first \$10 million of risk.
 - ii. Proponent and the City each sharing 50% of the risk between \$10 million and \$140 million.
 - iii. Proponent assuming all risk greater than \$140 million.
 - c. **Geotechnical Risk Profile No. 3:**
 - i. Proponent assuming the first \$10 million of risk.
 - ii. Proponent and the City each sharing 50% of the risk between \$10 million and \$140 million.
 - iii. The City assuming all risk greater than \$140 million.
15. All Geotechnical Risk Profiles required the Proponents to accept some geotechnical risk. Risk profile 1 had the Proponent accept 100% of the geotechnical risk. Risk profiles 2 and 3 required the City to assume 50% of the risk between \$10 million and \$140 million. The third option limits the Proponent's geotechnical risk liability at \$75 million.
16. The RFP process incentivized accepting geotechnical risk. A Proponent's financial submission was adjusted for the purposes of Affordability and Financial Evaluation based on the Geotechnical Risk Profile selected by the Proponent:
- a. **Geotechnical Risk Profile No. 1:** an addition of \$60 million to the affordability ceiling and a credit of \$80 million against the Proponent's total net-present value (NPV) for the purposes of evaluation.²²
 - b. **Geotechnical Risk Profile No. 2:** a credit of \$40 million against the Proponent's total NPV for the purposes of evaluation.²³
 - c. **Geotechnical Risk Profile No. 3:** No amendment.²⁴
17. A Proponent who selected Geotechnical Risk Profile 3 (with the capped risk) would not be evaluated if any other Proponent had submitted an affordable bid and had selected Geotechnical Risk Profile 1 or 2.

Affordability Criteria

18. The RFP set out an affordability envelope (or maximum price) whereby proposals were required to have a capital cost not exceeding \$2,075,505,852. The capital cost calculation included direct capital costs (i.e., cost of construction work and the rental of equipment), as well as transaction costs and financing charges.²⁵

19. Any proposals that were outside the affordability envelope—after adjustments based on the Proponent’s decision regarding geotechnical risk assumption—would not be considered further if any other bid was both within the affordability envelope and had selected Geotechnical Risk Profile 1 or 2.

Technical Requirements

20. The RFP set out technical requirements for the OLRT Project. These included minimum technical standards and requirements for the light rail vehicles (LRVs) and control systems.²⁶
21. The LRVs were also required to comply with the *Canadian Content for Transit Vehicle Procurement Policy* issued by the Ontario Ministry of Transportation in 2008, as required by the Provincial Contribution Agreement.²⁷ The Canadian Content Policy requires 25% of the total final costs to the manufacturer, less any applicable taxes, to consist of Canadian content.²⁸ To satisfy this requirement, the final costs to the manufacturer needed to be directly related to the transit vehicle manufacturing process, distribution, and acquisition.²⁹

Milestone Payments

22. To reduce financing costs, the RFP required the Proponents to select Eligible Milestone Events – interim construction events, whose certified completion would trigger a payment from the City. Payment by the City would be released following certification by an Independent Certifier.
23. Unlike traditional Milestone Payments that are tied to the handover of substantially complete facilities for occupancy and use, the RFP proposed Eligible Milestone Events that were based on achieving completion, or a defined percentage of completion of certain works or stages of Works.
24. The RFP permitted Proponents to select up to 12 of 19 Eligible Milestone Events. For each Milestone Event proposed, the proponent had to:
 - a. maintain at least \$250 million of private capital in RTG at all times; and
 - b. ensure that no more than 80% of the capital works were paid for through the Milestone Payments.

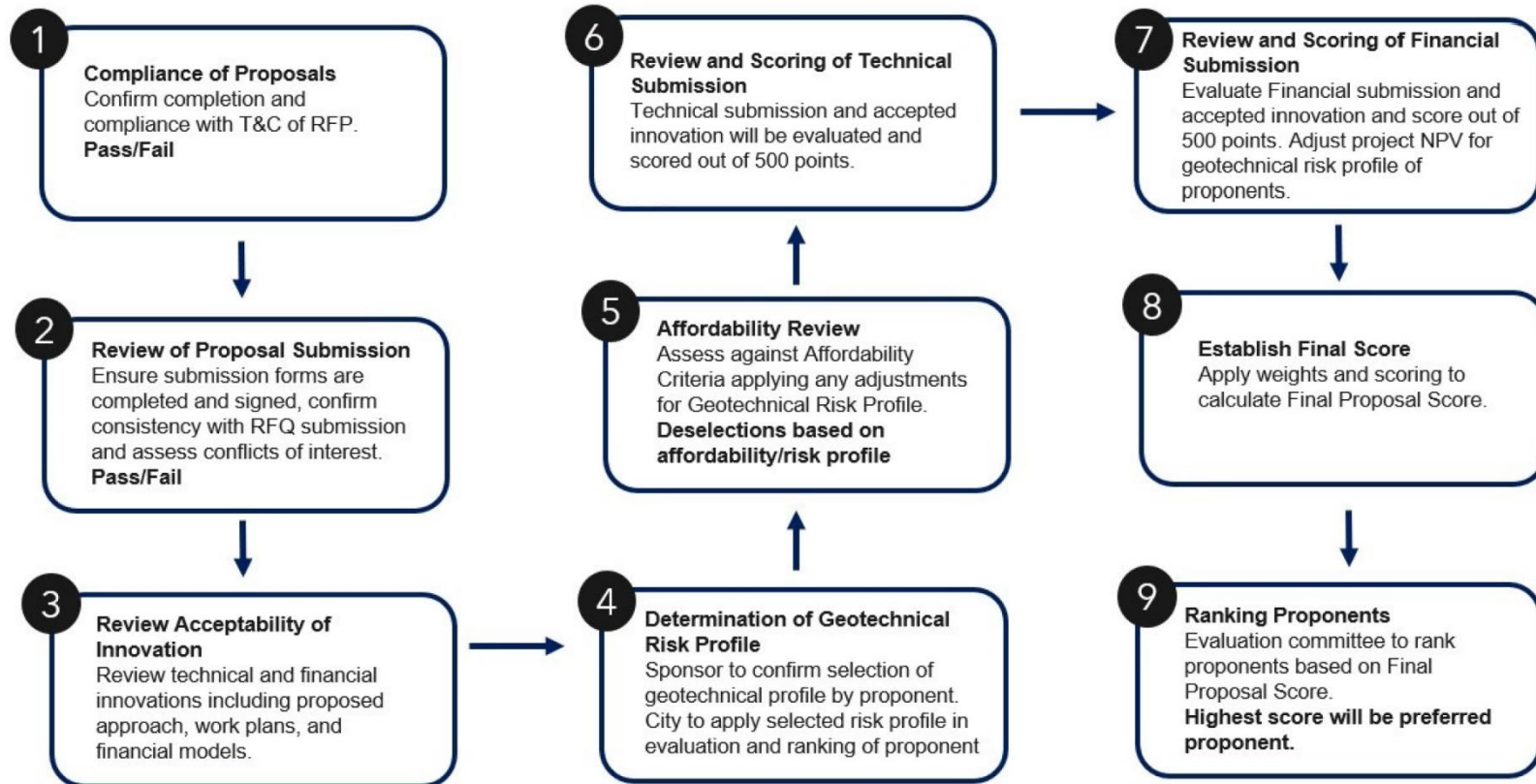
25. The Proponents were also able to propose additional Eligible Milestone Events.
26. The RFP allowed for the details of the Eligible Milestone Events to be negotiated further after the preferred Proponent was identified.

RFP Addressed Potential Extensions

27. A draft of the Project Agreement was Schedule 9 to the RFP. A draft version of Schedule 38 to the Project Agreement was included in the RFP and set out a potential variation process for extensions and additional phases.³⁰

5. Evaluation Process and Criteria

28. The RFP set out a process for evaluating bids in 9 stages. An overview of the evaluation process is shown below. The overview includes the abbreviations: T&C (terms and conditions) and RFQ (request for qualification).



29. Responses to the RFP were scored out of 1000 points. The proposed price represented 45% of the points.³¹ Technical and Financial Evaluations occurred separately in silos, by independent teams, so that the Technical evaluations and Financial Evaluations were wholly independent of each other. In the event some but not all bids met the Affordability Criteria noted earlier, compliant bids were assessed based on a priority matrix, discussed below.³² A breakdown of the evaluation criteria is shown below.

Proposal Forms	Technical Submission		Financial Submission
<p>Proposal Submission Forms: Not Scored</p> <ul style="list-style-type: none"> • Representations and warranties confirming submission and compliance with terms and conditions (T&C) mentioned in RFP <p>Regulatory frameworks: Not Scored</p> <ul style="list-style-type: none"> • Declaration of conflict of interest and unfair advantage 	<p>General Technical Submission: 75 points</p> <ul style="list-style-type: none"> • Project management plan • Risk management plan • Design and construction schedule • Project sustainability <p>Construction Submission: 100 points</p> <ul style="list-style-type: none"> • Construction management plan • Traffic and transit management plan • Communication plan <p>Maintenance and Rehabilitation Submission: 75 points</p> <ul style="list-style-type: none"> • Construction management plan • Approach to maintenance services, asset management and preservation, and handover maintenance • Unit rates for Maintenance change instruction • Lifecycle replacement/refurbishment schedule 	<p>Design Submission: 250 points</p> <ul style="list-style-type: none"> • Utilities, geotechnical, drainage, urban design, etc. • Guideway • Tunnel • LRT systems and vehicles • Stations • Maintenance and storage facility (MSF) • Consultation plan • Output specifications assumptions and variance analysis <p>Energy Submission: Not Scored</p> <ul style="list-style-type: none"> • Energy efficiency – Maintenance and storage facility (MSF) • Energy efficiency – Traction <p>Operations Matters Submission: Not Scored</p> <ul style="list-style-type: none"> • Annual driver hours target letter as required by the Project Agreement 	<p>Net Present Value: 450 points</p> <ul style="list-style-type: none"> • Analysis of the financial model and NPV calculation provided by the Proponent <p>Quality of Proposed Financing: 50 points</p> <ul style="list-style-type: none"> • Achievability and robustness of the financing plan • Stability of the financing structure

Proposal Forms	Technical Submission		Financial Submission
		<ul style="list-style-type: none"> • Operational performance simulation • Traffic and transit management plan – bus rapid transit (BRT) network • Traffic and transit management plan – Lanes 	

6. Key Requirements of the Affordability Review

30. As shown on the diagram earlier, Step 5 in the RFP set out the process for determining whether bids were affordable. The Affordability Review was based on an assessment of capital costs and a requirement for these costs not to exceed \$2,075,505,852 (not including any adjustment for geotechnical risk).
31. The capital cost calculation included direct capital costs (i.e., cost of construction work and the rental of equipment), as well as transaction costs and financing charges. The calculation included looking at the quantum of the following:
 - a. All Milestone Payments
 - b. The Revenue Service Availability payment
 - c. Projected private capital invested at the Revenue Service Availability Date.
32. Therefore, the affordability envelope had to account for all costs incurred by the Proponent prior to the Revenue Service Availability Date, including financing, transaction costs, and mobilization of the maintenance function.
33. The price evaluation used a net present value (NPV) approach across a number of different cost lines that took into account both the payments that the City would be expected to make to the Proponent as well as allowances to reflect costs to the City of different delivery approaches.
34. If any Proponent presented a proposal that meets the Affordability Criteria, and had a Geotechnical Risk Profile No. 1 or No. 2, then bids not meeting the Affordability Criteria would not be evaluated.

7. Canadian Content Requirements

35. Section 12.2(20) of the RFP defines the “Canadian Content Policy” as the *Canadian Content for Transit Vehicle Procurement Policy* issued by the Province of Ontario’s Ministry of Transportation in September 2008. That policy required that a minimum of 25% of the vehicles meet the requirements for Canadian content (as defined in the *Canadian Content for Transit Vehicle Procurement Policy*). The RFP and Project Agreement included several provisions related to the Canadian Content Policy requirements, including:
- a. Requirement for a Canadian Content Certificate to be issued;
 - b. Design development meetings discussing how the Canadian content requirements would be achieved; and
 - c. A requirement for the Technical Submission part of the RFP to set out the approach to achieving compliance.

8. Geotechnical Risk Profile

36. The sections below provide an overview of how Geotechnical Risk was factored into the RFP Process:
- a. Risk analysis
 - b. Impact on affordability review
 - c. Impact on price evaluation.

RFP Geotechnical Risk Analysis

37. During the RFP, the City undertook “Additional Geotechnical Investigations” to assist the Proponents to understand and evaluate the geotechnical risk. These Investigations included 27 boreholes as well as soil and rock testing.³³
38. The Proponents additionally conducted their own borehole testing.
39. The RFP provided three different options for Proponents for the assumption of geotechnical risk. These Geotechnical Risk Profiles provided different divisions of risk if a geotechnical risk materialized.³⁴

Geotechnical Risk	Party's Risk Share					
	Geotechnical Risk Profile 1		Geotechnical Risk Profile 2		Geotechnical Risk Profile 3	
	City	Project Co	City	Project Co	City	Project Co
\$0 to \$10M	0%	100%	0%	100%	0%	100%
\$10M to \$140M	0%	100%	50%	50%	50%	50%
>\$140M	0%	100%	0%	100%	100%	0%

Impact on Affordability Review³⁵

- 40. The RFP provided that the affordability envelope would be increased by \$60 million for any Proponent who accepted Geotechnical Risk Profile 1. The ceiling of the Affordability Criteria was adjusted to offset the Proponent accepting responsibility for the materialization of geotechnical risk. The City would gain cost certainty at a fixed price. If the risk was retained, the City would have been required to reserve its own contingency.
- 41. The Proponent's selection of a Geotechnical Risk Profile impacted how their bid was reviewed and evaluated, as summarized in the table below:

	Geotechnical Risk Profile 1	Geotechnical Risk Profile 2	Geotechnical Risk Profile 3
Affordable	Priority 1	Priority 1	Priority 2
Unaffordable	Priority 2	Priority 2	Priority 3

If all bids were affordable, the Priority 1 bids would be assessed first. If bids were affordable but selected Geotechnical Risk Profile 3, or were unaffordable and selected Profile 1 and 2, they would be reviewed as a Priority 2. If the bid was both unaffordable and selected Geotechnical Risk Profile 3, it would be considered as a Priority 3.

Impact on Price Evaluation³⁶

42. The selection of each Geotechnical Risk Profile also had an impact on the evaluation of the Proponent's NPV. The following adjustments were made:
- a. **Geotechnical Risk Profile No. 1:** \$80 million dollar reduction
 - b. **Geotechnical Risk Profile No. 2:** \$40 million dollar reduction
 - c. **Geotechnical Risk Profile No. 3:** No reduction.³⁷
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NOTES

¹ City of Ottawa and Infrastructure Ontario. *Schedule 1 to Request for Proposals*. (IFO0010824)

² Ottawa/IO. *Schedule 1 RFP*. (IFO0010824)

³ City of Ottawa and Infrastructure Ontario. *Request for Proposals - Ottawa Light Rail Transit Project*, August 30, 2012. (COM0000298)

⁴ Infrastructure Ontario and City of Ottawa, Amending Agreement between Ontario Infrastructure and Lands Corporation and City of Ottawa, September 26, 2013. (COM0000233)

⁵ Ottawa/IO, *Request for Proposals*. (COM0000298)

⁶ Ottawa/IO, *Schedule 1 RFP*. (IFO0010824)

⁷ City of Ottawa and Infrastructure Ontario. *Schedule 2 to Request for Proposals - Design Consultation Process*. (IFO0001874)

⁸ City of Ottawa and Infrastructure Ontario. *Schedule 3 to Request for Proposals - Submission Requirements and Evaluation Criteria*. (COW0148233)

⁹ City of Ottawa and Infrastructure Ontario. *Schedule 3-1 to Request for Proposals - Technical Submission Requirements*. (COW0148233)

¹⁰ City of Ottawa and Infrastructure Ontario. *Schedule 3-2 to Request for Proposals - Financial Submission Requirements*. (IFO0001776)

¹¹ City of Ottawa and Infrastructure Ontario. *Schedule 3-3 to Request for Proposals - Innovation Submission Requirements*. (IFO0010312)

¹² City of Ottawa and Infrastructure Ontario. *Schedule 3-4 to Request for Proposals – Proposal Format and Evaluation*. (COW0148231)

¹³ City of Ottawa and Infrastructure Ontario. *Schedule 4 to Request for Proposals - Proposal Submission Form*. (IFO0010819)

¹⁴ City of Ottawa and Infrastructure Ontario. *Schedule 5 to Request for Proposals - Proponent Team Member Declaration*. (IFO0010820)

- ¹⁵ City of Ottawa and Infrastructure Ontario. *Schedule 6 to Request for Proposals - Price Submission Form*. (COW0141216)
- ¹⁶ City of Ottawa and Infrastructure Ontario. *Schedule 7 to Request for Proposals - Administrative Checklist*. (IFO0010821)
- ¹⁷ City of Ottawa and Infrastructure Ontario. *Schedule 8 to Request for Proposals - Standby Letter of Credit*. (COW0148226)
- ¹⁸ City of Ottawa and Infrastructure Ontario. *Schedule 9 to Project Agreement - Key Individuals*. (MHH0000261)
- ¹⁹ City of Ottawa and Infrastructure Ontario. *Schedule 10 to Request for Proposals - Preliminary Service Plan*. (IFO0010823)
- ²⁰ Ottawa/IO, *Schedule 1 RFP*, p. 20. (IFO0010824)
- ²¹ Ottawa/IO, *Request for Proposals*, section 6.3.4. (COM0000298)
- ²² Ottawa/IO, *Request for Proposals*, sections 6.3.5(2)(a), 6.3.6(2)(a). (COM0000298)
- ²³ Ottawa/IO, *Request for Proposals*, section 6.3.6(2)(b). (COM0000298)
- ²⁴ Ottawa/IO, *Request for Proposals*, section 6.3.6(2)(c). (COM0000298)
- ²⁵ Ottawa/IO, *Schedule 3-2 RFP*, section 2.22. (IFO0001776)
- ²⁶ Ottawa/IO, *Schedule 3-1 RFP*, section 5.4. (COW0148233)
- ²⁷ City of Ottawa and the Ontario Ministry of Transportation. *Contribution Agreement for the City of Ottawa Light Rail Transit Project*, section 6.1(c). (COM0001313)
- ²⁸ Ontario Ministry of Transportation. *Canadian Content for Transit Vehicle Procurement Policy*, section 2, September 1, 2008. (IFO0006808)
- ²⁹ MTO, "Canadian Content Policy", section 3. (IFO0006808)
- ³⁰ City of Ottawa. *Schedule 38 to Project Agreement - Extension and Additional Phases*. (BDO0027830)
- ³¹ Ottawa/IO, *Schedule 3-4 RFP*, pg. 7. (COW0148231)
- ³² Ottawa/IO, *Request for Proposals*. (COM0000298) The meaning of "Affordability Criteria" is set out in Section E, Subsection 2.22 of *Schedule 3-2 RFP*. (IFO0001776)
- ³³ Ottawa/IO, *Schedule 1 RFP*, section 3.5.4. (IFO0010824)
- ³⁴ Ottawa/IO, *Schedule 1 RFP*, section 6.3.4. (IFO0010824)
- ³⁵ Ottawa/IO, *Request for Proposals*, section 6.3.5. (COM0000298)
- ³⁶ Ottawa/IO, *Request for Proposals*, section 6.3.6. (COM0000298)
- ³⁷ Ottawa/IO, *Request for Proposals*, section 6.3.6(2)(a)-(c). (COM0000298)

Appendix A: Relevant Documentation on the RFP Process

RFP Components

Document Title	Document ID
Request for Proposals (Version 4.1)	COM0000298
Schedule 1: RFP data sheet	IFO0010824
Schedule 2: Design Consultation Process	IFO0001874
Schedule 3: Submission Requirements and Evaluation Criteria	COW0148233
Schedule 4: Proposal Submission Form	MHH0002140
Schedule 5: Proponent Team Member Declaration	BDO0026886
Schedule 6: Price Submission Form	COW0141216
Schedule 7: Administrative Checklist	IFO0010821
Schedule 8: Standby Letter of Credit	COW0148226
Schedule 9: Form of Project Agreement	COM0000245
Schedule 10: Preliminary Service Plan	COW0105615

Other Relevant Documents

Document Title	Document ID
Canadian Content for Transit Vehicle Procurement Policy	IFO0006808
Schedule 38: Extension and Additional Phases	BDO0027830
Concept Report Industry Review Meetings (Capital Transit Partners)	STV0000059
Project Management Plan—Tunney's Pasture to Blair (Capital Transit Partners)	STV0000015