

August 17, 2020

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**Attention:** Tony Casale  
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**Subject:** **Final Fairness Report**  
**Fairness Advisory Services for Residential And Multi-Residential Waste Management**  
**Collection RFP**

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## Introduction

### Project Background

The City of Markham issued a Request for Proposal 089-R-19 ("RFP") on June 4, 2020 to procure a Service Provider for the City's Residential and Multi-Residential Waste Management Collection.

### Fairness Services

The City of Markham ("City") engaged OPTIMUS | SBR as Fairness Advisor to act as an independent and impartial third party to observe, monitor, provide oversight and report to confirm that the procurement process undertaken by the City demonstrated openness, transparency and impartiality throughout, and ensure that it adhered to the process set out by the City in the RFP and all applicable policies and practices.

The scope of our services was intended to ensure that:

- a. the City met the fairness and transparency requirements established in the applicable RFP and other related policies of the City;
- b. the evaluation criteria and evaluation procedures were defined and applied in accordance with the RFP and other related policies of the City;
- c. all proponents were treated consistently in the evaluation process and in accordance with the RFP;
- d. the City's personnel adhered to its conflict of interest and confidentiality requirements; and

- e. throughout the procurement process, we would monitor and report immediately to the City's RFP Waste Project team on any known or perceived contraventions of the requirements established in the applicable RFP and other related policies of the City, that may have negatively impacted on the fairness or transparency of the procurement process.

Throughout the duration of the engagement, we provided the following Services and Deliverables:

- f. Reviewed the RFP and all associated procurement documents including Addenda, Requests for Information, and related solicitation materials prior to their issue;
- g. Reviewed evaluation materials, including the Evaluation Guidelines to guide the implementation of the evaluation procedures as set out in the RFP, the individual Evaluator Scoresheets and Evaluator training deck in advance of the evaluation of the proponent submissions to ensure that the requirements and processes outlined in the RFP were met;
- h. Monitored Evaluation Committee meetings in their deliberations of the initial proposals and subsequent interview stage of the evaluation process, and provided verbal comments where appropriate that sought to ensure all proposals were evaluated on an equitable basis and in accordance with the RFP;
- i. Attended and monitored the initial Information Meeting and Stage 3 presentation interviews with proponents;
- j. As requested by the City, reviewed and provided comments to written communications with proponents (i.e. Addenda, RFIs, notices, questions of clarification, etc.) as well as responses from proponents prior to their issue to proponents and the Evaluation Committee respectively; and
- k. At the conclusion of the RFP process, prior to this Final Report, prepared an Interim Fairness Report to the City as to whether the RFP process was carried out in accordance with the applicable RFP criteria and the principles of openness, fairness, consistency and transparency.

Optimus SBR was engaged for the duration of the project, and therefore was able to observe and monitor the entire procurement process, from prior to the issuance of the RFP to the final evaluation and selection of the Top-Ranked Proponent to ensure that fairness was maintained throughout.

## Overview of the Procurement Process

The RFP phase commenced with the issuance of the RFP to potential proponents through the City's Bids & Tenders Portal on June 4, 2020 and led to the receipt of Proposals by the RFP closing deadline of 3:00 PM (EDT) July 9, 2020.

A non-mandatory Information Meeting was held on June 16, 2020 to provide a summary of the project background and objectives and the procurement process and give interested vendors an opportunity to ask

questions in the open forum. The meeting agenda and presentation materials were reviewed in advance by the Fairness Advisor, who also attended the meeting.

Between the RFP issue date and the Submission Deadline, three (3) Addenda were released. The Addenda contained responses from the City to questions submitted by vendors and documented any amendments to the RFP. The Addenda were reviewed by the Fairness Advisor prior to their issue and confirmed that there were no fairness-related concerns with the proposed responses to proponent questions.

On or prior to the Submission Deadline of 3:00 PM (EDT) July 9, 2020, submissions were received in the manner designated by the RFP from the following four (4) Proponents:

- Ferrovial Services Canada Ltd.
- GFL Environmental Inc.
- Halton Recycling Ltd. (dba Emterra Environmental)
- Miller Waste Systems Inc.

The Proposals were evaluated based on a four-stage process:

#### Stage 1: Compliance with Mandatory Evaluation Criteria

During this Stage, each Proposal was reviewed by the Procurement Division representative to confirm that all the necessary information and documentation to satisfy the requirements of the Mandatory Evaluation Criteria were included in the Proposal. If necessary, the City would issue a rectification notice identifying any deficiencies and providing the Proponent an opportunity to resolve the deficiencies within the Rectification Period. Proposals that satisfied the Mandatory Evaluation Criteria moved to Stage 2.

#### Stage 2: Technical Response Evaluation

The City evaluated each compliant Proposal based on the rated criteria as set out in Schedule C of the RFP. Proponents needed to achieve a minimum of 70% of the points available (49/70) with respect to eleven (11) categories, including one related to "References and Past Performance". Any Proposal that failed to meet the stated threshold was disqualified and not evaluated further. The Fairness Advisor reviewed the Reference Forms prior to the checks conducted by the Procurement representative and selected member(s) of the Evaluation Committee.

The evaluated scores for each Proponent were based on consensus agreement by the Evaluation Committee comprised of business and technical representatives from the City.

#### Stage 3: Interview

Senior representatives of the Proponents who scored a minimum of 70% following Stage 2 were invited to participate in an interview process to provide clarification and demonstrate an understanding of the Work (as defined in the RFP) and all aspects of the Proponent's Proposal. The results of this Stage 3 were used to verify the appropriateness of the evaluation of the Proponent's Proposal as a part of Stage 2 and to allow the

Evaluation Committee to revisit and revised the Technical Evaluation scores as necessary, using the same evaluation criteria and weighting.

The Fairness Advisor reviewed the proposed questions to each of the Proponents and attended all the interviews and the subsequent review and adjustment of Proponent scores by the Evaluation Committee where a re-evaluation and an adjustment were deemed appropriate.

Following the completion of Stage 3, the Evaluation Committee finalized the Technical Evaluation score for each Proposal. Proponent submissions needed to achieve a minimum score of 75% (52.5/70) to advance to Stage 4.

#### Stage 4: Financial Evaluation

The Stage 4 Financial Evaluation was based on the “Total Probable Cost” of a Proponent’s Proposal, determined by Unit Prices submitted on the Bid Form issued with the RFP. The Total Probable Cost was also determined based on three different possible Blue Box Program transition scenarios (and corresponding likelihoods provided for each scenario) for each year of the Contract Term.

The Proposal with the lowest Total Probable Cost received the maximum score of 30 points. The score for the remaining Proposals were calculated as follows:

$$= (1 - [(X - Y)/Y]) \times 30, \text{ where } X = \text{Total Probable Cost, and } Y = \text{Lowest Total Probable Cost}$$

As noted, the maximum score available for this Stage was 30 points.

## **Results of the Procurement Process**

As noted previously, by the close of the RFP, there were four (4) Proponent submissions, all of which passed the Stage 1 - “Mandatory Evaluation Criteria” prior to distribution to the individual Evaluators and advanced to the RFP Stage 2 - “Technical Evaluation”.

As a result of the Evaluation Committee consensus process, three Proponents, Ferrovial Services Canada Ltd., GFL Environmental Inc. and Miller Waste Systems Inc. met the minimum technical score of 70% required to advance to Stage 3 – “Interview”. The fourth Proponent, Halton Recycling Ltd. (dba Emterra Environmental), did not pass the minimum score threshold and was not evaluated further.

Following the Interview Stage, two (2) Proponents qualified to move to the final RFP Stage 4 – “Financial Evaluation”. Ferrovial Services Canada Ltd. did not achieve an overall minimum technical score of 75% and thus did not qualify for Stage 4.

The Fairness Advisor observed and confirmed that the pricing submissions for all Proponents, including Halton Recycling Ltd. (dba Emterra Environmental) and Ferrovial Services Canada Ltd., remained unopened in the City’s “Bids & Tenders” system until completion of the Stage 3 evaluation.

Following the Financial Evaluation, the final order of ranking of the two qualified Proponents was:

1. Miller Waste Systems Inc.
2. GFL Environmental Inc.

## Observations and Findings Relevant to Fairness Principles

Procurement Principle	Measures Taken in this Procurement Initiative
<b>Openness</b>	<ul style="list-style-type: none"> <li>RFP documents contained no barriers to prospective proponents</li> <li>RFP posted on the City of Markham's Bids &amp; Tenders Portal site</li> <li>Response period allowed sufficient preparation time for proponents, including Qs&amp;As</li> </ul>
<b>Fairness</b>	<ul style="list-style-type: none"> <li>RFP submission and technical requirements contained no bias for or against any prospective proponents, including the incumbent Service Provider</li> <li>All proponents were treated equitably regarding access to information, communication and response to questions</li> <li>Evaluation criteria and process matched to RFP requirements</li> <li>RFP submissions deemed non-compliant (i.e. not meeting the Mandatory Requirements) followed appropriate process in accordance with the RFP</li> <li>Evaluation Committee efforts were diligent and consistent</li> <li>Sufficient time was provided for Individual scoring by Evaluation Committee members and scoresheets were received by the Procurement representative prior to consensus evaluation sessions</li> <li>Consensus evaluation and scoring was based on the written submissions in accordance with the evaluation criteria outlined in the RFP documents.</li> <li>Proposals not meeting the required minimum threshold scores for each Stage were disqualified and not advanced to the subsequent Stage</li> <li>Final selection of the Top-Ranked Proponent followed the predetermined selection criteria in the RFP</li> <li>Fairness Advisor attended all meetings with Proponents and the Evaluation Committee consensus evaluation sessions</li> </ul>
<b>Consistency</b>	<ul style="list-style-type: none"> <li>Processes stated in RFP documents were followed throughout</li> <li>Evaluators were briefed on the evaluation process, the criteria, and their responsibilities</li> <li>Similar information in Proposals was scored in a similar manner</li> <li>Proposals were scored consistently against pre-determined criteria and the Evaluation Committee reached a consensus score through vigorous group discussion for each criterion and for each submission</li> </ul>

Procurement Principle	Measures Taken in this Procurement Initiative
Transparency	<ul style="list-style-type: none"> <li>• Evaluation criteria and process were documented clearly in the RFP</li> <li>• Draft Form of Contract (Terms and Conditions) was included in the RFP</li> <li>• Proponents had direct access by e-mail to the designated Contact Person to submit questions related to the RFP – both administrative and technical</li> <li>• Each evaluator involved in the evaluation process attended an orientation session and signed an agreement to preserve confidentiality and to identify any actual or potential conflicts of interest</li> <li>• Consensus evaluations and scoring were documented in official records and signed-off by all evaluators</li> <li>• Fairness Advisor attended all briefings, and evaluation sessions to observe the procurement process, help facilitate robust discussion and verify results</li> </ul>

## Fairness Attestation

As the Fairness Advisor for the City of Markham's Residential and Multi-Residential Waste Management Collection procurement process, Optimus SBR confirms that from our review of the procurement documents and observance of the related activities, the procurement was conducted in accordance with the process set out in the RFP and all applicable policies and procedures as well as the principles of openness, fairness, consistency and transparency. We are not aware of any procurement issues that emerged during the process that would have impaired the fairness of this initiative.

Optimus SBR appreciates this opportunity to contribute to the work of the City of Markham. We particularly wish to note our appreciation for the cooperation, diligence, and professionalism of all of the RFP Waste Management Project team and Procurement Division staff during the course of this engagement.

Optimus SBR



Fairness Monitor  
Greg Dadd  
Principal, Procurement and Fairness Advisory Services