

TORONTO TRANSIT COMMISSION REPORT NO.

(Re-submitted November 21, 2012)

MEETING DATE: October 24, 2012

SUBJECT: WIRELESS NETWORK IN THE SUBWAY SYSTEM

ACTION ITEM

RECOMMENDATION

It is recommended that the Commission:

1. Authorize the award of a contract to Broadcast Australia Pty Ltd. (BA), for the Wireless Network in the Subway System project, for a fixed fee payable to the TTC in the amount of Twenty Five Million Dollars (\$25,000,000.00) over a twenty (20) year term. In addition, BA will pay the TTC an additional \$8,000.00 (plus applicable taxes) for design review cost, per TTC existing and planned sixty one (61) underground subway stations.
2. Create the position of "Project Manager – Wireless Communications" to manage and coordinate all design and installation activities associated with the project.

FUNDING

Sufficient funds, in the sum of \$250,000.00 were also included in the TTC's budget under account #1946-8251 ND Cellular Network Program, for the creation and start-up of a project team, authorized by the Commission at its July 14, 2010 meeting.

BACKGROUND

In December 2009, a Request for Pre-Qualification (RFPQ) for the design, supply, installation, hosting and maintenance of a wireless network in the TTC's subway system (including tunnels and station platforms) was publicly advertised on the TTC's website.

The RFPQ stated that subsequent to the selection of the pre-qualified potential proponent(s), the TTC may participate in a Structured Multi-Phase Bid Process (SMPBP) with the pre-qualified proponent(s) which allowed discussions with the qualified proponents to establish terms and conditions that should allow all qualified proponents to compete for this project.

The RFPQ determined the following potential qualified proponents:

- Bell Mobility (Bell);
- Extenet Systems (Extenet); and
- Broadcast Australia Pty Ltd. (BA)

At the July 14, 2010 Commission meeting, staff was directed to proceed with the SMPBP, and subsequently issue a formal Request for Proposal (RFP) to the three potential qualified proponents.

In September 2010, meetings were held with the three qualified bidders to explain the SMPBP and to provide the technical and commercial documents for their comments.

From October, 2010 to March, 2011 meetings were held with each of the three qualified bidders to address comments received and to finalize the RFP document and to work on a carrier agreement to address concerns expressed by one of the smaller carriers.

In March 2011, the TTC sought an external firm with expertise in telecommunications contracts, through a competitive process and retained Stikeman Elliott LLP (Stikeman) to assist in drafting a Telecommunication Network Agreement (TNA) and to ensure all requirements of the Canadian Radio-Television Telecommunication Commission were addressed. In addition, in June 2011, a Fairness Monitor (FM) with PPI Consulting Limited was hired through a competitive process to ensure that the subsequent procurement process for the formal RFP would be carried out in a fair and transparent manner.

At its meeting of December 14, 2011, the Commission directed staff to ensure that the TNA contained a non-discrimination provision requiring that every wireless carrier be given equal access to the wireless network.

At the February 29, 2012 Commission meeting, staff submitted a report to the Commission, which was deferred to the March 30, 2012 Commission meeting, confirming that the TNA included a provision related to ensuring that equitable non-discriminatory access is provided to all wireless carriers.

DISCUSSION

The RFP for the “Wireless Network Services in portions of the TTC’s Subway System” was issued to the three pre-qualified proponents on May 10, 2012 along with the FM and closed on September 20, 2012.

The term of the contract is for a twenty (20) year period from the date of execution of the contract with an option to extend for one additional term of five (5) years at the sole discretion of the Commission.

The RFP listed a minimum fixed annual fee of \$250,000.00 (to cover the TTC's project management costs related to this project), and provided an option for the proponents to offer additional compensation on a competitive basis above the \$250,000.00 payable to the TTC, for the term of the contract. Furthermore, a design review fee of \$8,000.00 per subway station is listed to be charged to the successful proponent to recover the TTC's internal costs associated with the design review process.

The RFP identified a requirement for prototype installation by the successful proponent at a minimum of two (2) subway stations prior to approval by TTC for system-wide implementation. This is required to ensure any interference concerns with the TTC's operations for the test system are properly dealt with by the successful proponent, failing which the TTC may cancel the test and the contract.

The RFP also states that the successful proponent will be given twelve (12) months from execution of the TNA to establish a contract with sufficient wireless carriers. If after 12 months, the successful proponent is unable to contract with sufficient wireless carriers, the successful proponent may have a further twelve (12) month extension to seek an interested third party to accept the transfer of the wireless network and an assignment of this contract. The successful proponent shall be deemed to have sufficient wireless carriers contracted if it has contracted with a wireless carrier or wireless carriers that have at least 60% of the wireless subscribers within the City of Toronto.

As the commercial and technical requirements of the RFP were developed jointly with the three pre-qualified proponents through the SMPBP, as well as an external law firm Stikeman which possesses prior experience in developing such agreements, and with the involvement of the FM to oversee the entire process from the fairness point of view, the evaluation of the RFP was strictly based on which proponent offered the highest fixed annual fee for the term of the contract.

On June 26, 2012, Extenet advised staff that it has decided not to submit a bid in response to this RFP due to its commitments on other projects.

Bell's proposal contained several exceptions which are considered unacceptable to the TTC and as a result, its proposal is considered non-compliant. In addition, Bell's proposed compensation to the TTC is significantly lower than the compensation offered by BA (see Appendix A for details).

BA's proposal did not state any exceptions or qualifications and its proposal is considered acceptable (see Appendix A for compensation offer).

The FM has confirmed that the TTC's procurement process was conducted in a fair, open and transparent manner.

JUSTIFICATION

To further enhance the transit experience of TTC's customers and to receive much needed revenue, it is requested that the Commission approve the award of the contract for the Wireless Network in the Subway System project to Broadcast Australia Pty Ltd.

October 19, 2012

22-11-2

Attachment: Appendix A

APPENDIX A

WIRELESS NETWORK IN THE SUBWAY SYSTEM

<u>COMPANY</u>	<u>OFFER</u>
* Broadcast Australia Pty Ltd.	\$25,488,000.00
** Bell Mobility Incorporated	\$ 5,488,000.00
* Recommended for award	
** Commercially non-compliant	