

**Infrastructure Ontario's Progressive Procurement P3  
Q&A  
October 2021**

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**Q. Why are you introducing this new procurement strategy?**

Three principal factors drove the decision to introduce a new procurement approach to facilitate the delivery of infrastructure projects in Ontario:

- I. Ability to attract more competition in a busy market on large and complex projects.
- II. Affordability constraints necessitating more collaborative design development with greater potential for value engineering; and,
- III. Market participants' expressed concern about the level of risk transfer to the private sector, as Proponents are required to submit fixed price bids at the RFP stage, based on early designs.

**Q. How is the Progressive Procurement P3 Strategy different from a traditional P3?**

The strategy fosters collaborative development of project requirements, design, pricing and risk management before entering into a final contract for the design and construction of the asset. The approach involves:

- I. Selecting a qualified private sector Development Partner;
- II. Jointly developing and optimizing the functional project scope, design, risks, and pricing during a Development Phase; and,
- III. Concluding the Development Phase with the execution of a project agreement that would govern construction, financing and if applicable operations of the project.

**Q. When will the Progressive Procurement P3 Strategy be used?**

The Progressive Procurement P3 Strategy will initially apply to hospital and other social infrastructure projects, where appropriate, based on the features of the project (size, complexity, physical and/or geographic constraints, etc.).

**Q. Will there be any difference in the resources required to bid?**

Proponents will not be required to develop detailed designs during the RFP period, nor will teams be required to demonstrate commitments for financing. The time and cost of developing bids, as well as the number of resources required, is therefore expected to be significantly reduced.

**Q. Who can participate?**

The Development Partner will include expertise from various disciplines (e.g. construction, design, facilities management and equity) and will be required to demonstrate an ability to deliver a holistic project solution.

The Development Partner will be competitively selected, through an RFP process, based on:

- I. The composition, competencies and experience of the Development Partner team members;
- II. The proposed approach to conducting the Development Phase and pricing the project, including a schedule of how the prospective Development Partner will achieve disclosed milestones; and,

III. The proposed fixed price for services during the Development Phase.

**Q. How does the Progressive Procurement P3 Strategy address the concerns the market has raised about traditional P3s?**

The market has raised concerns about the level of the risk transferred to the private sector by virtue of committing to a fixed cost at the end of the RFP stage, based on preliminary designs. They have also raised concerns about the appropriateness of the transfer of certain project risks over the construction and operations phases. The Progressive P3 Procurement Strategy aims to address these concerns by facilitating a collaborative environment for the development of designs, the identification, mitigation, pricing and/or allocation of risks and the transparent development of cost estimates, before entering into a fixed price Project Agreement.

**Q. How is this different from the progressive approaches applied in other jurisdictions?**

While there are many similarities between the Progressive Procurement P3 Strategy and progressive models applied in other jurisdictions, the P3 model currently applied in Ontario was the starting point for the development of the Progressive Procurement P3 Strategy. Progressive and/or collaborative elements were incorporated where necessary to address the objectives of the model.

**Q. How is IO selecting the appropriate model and procurement strategy for projects?**

IO conducts a procurement options analysis to help inform an ultimate recommendation to government. In addition, government has internal processes to compare and contrast different model options. IO recommends a delivery option that best matches the key objectives of that project.

**Q. What is the criteria that is used to select projects for the Progressive Procurement P3 Strategy?**

The approach will be recommended for projects where there are benefits of incorporating a collaborative environment for the development of designs along with the identification, mitigation, pricing and/or allocation of risks, and the transparent development of cost estimates, before entering into a fixed price Project Agreement. Project complexity, budget and market interest are some of the drivers that impacted the decision to use a Progressive Procurement P3 Strategy for a particular project.

**Q. Did IO investigate the British Columbia Model of Progressive Design Build and Design Early Works approach in their review of processes?**

Yes, IO completed a full jurisdictional scan to inform our commercial principles, including looking at British Columbia's approach.

**Q. Will IO be signatory to the Development Agreement?**

Yes, the intent is for IO to be included as a signatory.

**Q. Will there still be an honorarium offered for unsuccessful proponents?**

Yes, a proposal fee will be offered to help offset pursuit costs.

**Q. Will a 'break fee' be offered in the event of a project being cancelled or if the owner chooses to proceed with an alternate proponent?**

A 'break fee' is not being contemplated.

**Q. At what stage would IO decide on the preferred development partner? Would IO work with more than one development partner?**

The preferred development partner will be named following RFP evaluation. IO may retain rights to resurrect negotiations with the 2nd ranked team, if IO and the preferred development partner are unable to execute the development agreement. The intention is to proceed through the development phase with a single development partner.

**Q. Is IO expecting to deploy progressive procurement strategies in the Transit Industry (GO Expansion OnCorridor, subway extensions, etc.)?**

The upcoming IO pipeline will reflect the latest approved delivery models for IO's projects. Some subway projects, such as the Scarborough Subway Extension – Stations, Rails and Systems (SRS) project, have been issued (RFQ) as a progressive DB. Metrolinx and IO are continuing to assess the optimal delivery models for other projects in the subway portfolio.

**Q. Will the Development Co be able to name themselves as a FM Provider?**

Yes, there is no restriction to having Development Co be constrained in nominating itself or related companies as the FM provider. The FM selection criteria is still in development.

**Q. What are the implications of this new model on the Energy Guarantee?**

The Energy Matters approach is not expected to be materially amended under the progressive approach. We anticipate having the FM provider provide an energy target, similar to a standard P3. We are open to suggestions on how to improve the overall approach to energy matters in the Project Agreement.

**Q. Does this approach foresee a jointly prepared risk schedule and "shared" risk allocation model notwithstanding an eventual lump sum approach?**

The collaborative process is anticipated to facilitate an open discussion for the identification, mitigation, pricing and/or allocation of risks. To the extent that some risks are better shared or taken back by the Contracting Authority, we would consider those options following an analysis of the quantum of risk and potential contingency associated with risk transfer.

**Q. Will healthcare equipment be procured as part of the project and in scope for the maintenance and lifecycle obligations?**

At least some of the equipment would be procured, maintained, and life cycled as part of the project.

**Q. During the RFP stage, what level of design and construction costing will there be?**

During the RFP stage, the Proponents will have to price their design effort and the other obligations of the Development Co during the Development Phase. The pricing of the actual Construction, Maintenance, and Lifecycle activities will have to be developed collaboratively during the Development Phase.

**Q. What is the evaluation criteria for the Development Phase RFP? How much is the fixed price considered in the evaluation?**

The technical evaluation is projected to be worth 75% of available points. Financial evaluation is projected to be 25%. The precise score breakdown and requirements are being developed and will be reflected in the RFP.

**Q. Who is leading the Development Phase - is it the constructor or the design team?**

The RFP will define an Applicant Lead role. We will not necessarily prescribe who the lead is but will rather describe the characteristics expected of the Applicant Lead. The Development Co team is at liberty to define who their "lead" is and will be guided by the requirements of the RFP.

**Q. Will the budgets for the Development Phase be set to allow full market fees for architectural and building design?**

The private sector will bid the fixed price for the Development Phase. The selected Development Co will be paid accordingly during the Development Phase.

**Q. What is the role of data and tech in Stages 3, 5, and 6? Has IO outlined these in a detailed document?**

We anticipate Development Co to lead the process. It will be up to them to propose the right approach and platform to be employed during the Development Phase to optimize the process in Stage 3 (Refer to the presentation) and it is expected to be data driven on complex projects. We believe that the tools employed will bring value to Project Co during Stage 5 and 6.

**Q. Like in a standard P3, will Development Co be responsible for, in its sole discretion, selecting lenders, equity, third-party advisors, operators, designers, sub trades and suppliers? And, will Development Co be responsible for the terms and conditions upon which we engage and work with these key partners?**

Development Co has full autonomy in who it names as part of its team for the parties evaluated in the RFP submission. Additionally, Development Co will have full discretion over the terms and conditions under which it engages its key partners. The one exception relates to the agent for financing, where IO will retain approval rights, given that IO is retaining financing risk. In addition, IO is looking to have an active role with the Financial Advisor (FA). The bond agent may also act as the FA as we expect more efficient pricing if the services are bundled. The objective is to ensure that the financing was optimized, leaving IO with a need to have some comfort that the FA team acted in the best interests of the Project. We are open to discussing this point in more detail.

**Q. When will the Equity, Lenders and Facility Management service provider be decided in the process?**

The Development Agreement will outline the process to add those parties.

**Q. How will IO work collaboratively with Development Co to maintain a level of transparency?**

The rules of engagement, work breakdowns and pricing disclosures will be contained in the Development Agreement. IO will require a level of detail to get comfortable with pricing, given the absence of the standard NPV evaluation approach. All parties will have to commit to the final work plan and work collaboratively to achieve the anticipated milestones and outcomes.

**Q. How will IO work collaboratively with Development Co and satisfy itself with respect to schedule in a negotiated process?**

IO and Development Co are mutually motivated to work together to achieve project objectives. A series of working groups and workshops will be set up for the Sponsors and Development Co to work together on design, technical, commercial and pricing issues.

**Q. How will the teams be selected for Stage 2?**

Proponents will proceed through CCMs and submit fixed development fee, and technical proposals. Evaluation of final proposal submissions will be reviewed in order to select a single Development Partner to participate in the Development Phase. The final financial and price proposals will carry a maximum weight of 25% of the total available points, while the final technical proposals will carry a weight of 75% of the total available points.