



PUBLIC EXCLUDED

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Committee Passenger Transport Committee
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Contract with Toll New Zealand for the Supply of Wairarapa Passenger Cars

1. Purpose

The purpose of this paper is:

1. to inform and update the Committee on progress for the provision of 18 railway passenger cars for Wellington to Masterton services.
2. recommend to the directors of Pringle House to select Toll NZ for the provision of 18 railway passenger cars based on the remanufacture of ex British Rail Mk II (MkII) carriages.

2. Public Excluded

Grounds for exclusion of the public under section 48(1) of the Local Government official Information and Meetings Act 1987 are:

That the public conduct of the whole or relevant part of the proceedings of the meeting would be likely to result in the disclosure of information for which good reason for withholding exists. (i.e. to enable any local authority holding the information to carry on, without prejudice or disadvantage, negotiations (including commercial and industrial negotiations).

Interest protected:

- Greater Wellington Regional Council (GW)
- Toll NZ Consolidated Limited (Toll)

All are parties to the contract negotiations of the 18 railway passenger cars.

3. Significance of the decision

The content of this report is the result of the Council's consultation with the public which took the form of submissions being made on the proposed LTCCP amendment and proposed 2005/06 Annual Plan. The proposed changes to the LTCCP and proposed 2005/06 Annual Plan triggered section 76(3)(b) of the Local Government Act 2002 and triggered the Councils own policy on significance. Reports 05.150 and 05.151 outline the submission process and analyse the submissions the Council received. The formal submission process undertaken by the Council complied with the decision making and special consultative procedures set out in sections 76 to 70 and 83 to 85 of the Local Government Act 2002.

4. Background

4.1 Request for Tenders

During December 2004, GW issued a Request for Tender (RFT) for the supply of 18 No. railway passenger cars to be supplied in 3 identical train consists (6 carriages each) to operate train services between Wellington and Masterton. A budget of \$26.42 million was agreed for the contract. GW would procure the new cars and lease them to Tranz Metro Wellington at a 'peppercorn rent' for them to be used solely on the Wellington to Masterton Services. As agreed previously with Council, the cars would be procured by a wholly owned subsidiary of GW.

The specification required the provision of: 324 seats, catering, information services, and facilities for the disabled. The specification required the tenderer to advise on the most appropriate and efficient location of the generator for the train's electrical supply within each train consist.

4.2 Tender Evaluation

On 30 March 2005, GWRC received 3 tenders in response to its RFT from the following organisations.

- Daewoo International Corporation (Daewoo) of Korea
- Hai-Phong Railway Compartment Company (HRCC) of Vietnam
- Toll NZ Consolidated Limited (Toll) of New Zealand

Toll's tender proposed the use of re-built MkII carriages, essentially a development of the S Cars currently operating the Capital Connection service. These would be manufactured in Dunedin at their Hillside facility. However, to ensure they complied with seating capacity and provided an adequate amount of luggage space their base bid (which a price was provided for) was for a 7-car consist, with the 7th car being a dedicated generator (to supply electricity for the other cars) and luggage car. They did submit a technical offer for a 6-car consist (this had the generator in one of the passenger cars as requested in the RFT) but not a price. They also provided an option for fitting new bogies from China as opposed to using refurbished bogies, which was their base design.

Daewoo's bid proposed the use of brand new cars based on their standard export design.

HRCC's bid proposed the use of brand new cars based on an existing Vietnam Railway design.

The tenders were evaluated using an adapted Land Transport New Zealand Methodology, the Price Quality (Simple) Method. GW officers evaluated the tenders, under the scrutiny of a probity auditor from Audit New Zealand, with external legal and technical support from Phillips Fox and Lloyds Register. Non-price evaluation attributes were as follows

- Track Record
- Technical Specification and Skills
- Relevant Experience
- Resources
- Management Skills
- Methodology

Daewoo's tender was quickly eliminated due to the proposed cars not being compatible with the New Zealand railway track and loading gauge.

Presentations were made by Toll and HRCC during May and a number of clarification questions were raised by the evaluation team.

Following the presentations and responses to the clarification questions being received, the HRCC bid was also rejected as being unacceptable in the two attributes of Resources and Methodology.

With the elimination of 2 bidders, only Toll was left as an acceptable bidder, but with the issue of only providing a price for a 7-car consist. However, as stated above, Toll had demonstrated that they could offer a compliant 6-car consist. Given this, the evaluation team agreed that the alternative 7-car arrangement was acceptable to open the price envelope since it provided a number of attractive improvements over the 6-car consist.

The price envelope for the Toll 7-car tender was found to be within the agreed budget of \$26.42 million. GW commenced negotiations with Toll with the following specific actions:

1. To obtain from Toll the price for the 6-car consist.
2. To identify the advantages and disadvantages of procuring new bogies.

4.3 Negotiations and Design Clarification

During the negotiations, Toll confirmed the following prices.

18 Cars delivered as 6-Car Consists (Fitted with refurbished bogies) \$25.4 million.

21 Cars delivered as 7-Car Consists (Fitted with refurbished bogies) \$26.1 million.

18 Cars delivered as 6-Car Consists (Fitted with new bogies) \$27.3 million.

In addition to this, the interior layout of the cars was reviewed to ensure the provision of adequate passenger facilities and an adequate number of seats within the 6-car consist. The present layout provides 332 seats versus a specification requirement of 324.

Whilst new bogies do provide for a reduction in maintenance costs, this would not be achieved until at least year 20 of operation. Election of the new bogie option would also require the Council to allocate and seek additional funding, since the price exceeds the existing budget allocated. Given these facts, and that the new bogie option increases the delivery timescale, admittedly by only 2 months, the option of new bogies is not preferred to the refurbished bogie.

The 6-car consist fitted with refurbished bogies fully meets the requirements of the Council's Specification. The price also allows for the procurement of large capital spares which are estimated to be in the region of \$1.0 million. Additional luggage vans and generator vans can be 'spot hired' from Toll as and when required.

4.4 The China Option

Subsequent to the tenders noted above, Toll submitted in early August a proposal for new carriages sourced from China (produced by CNR) with an estimated price of \$25.9 million. Following the Passenger Transport Workshop in August, Transport Division Officers have investigated the probity, legal, technical and project management issues around this new offer.

5. Investigations into the China Option

5.1 Probity Risk – Audit New Zealand

Audit New Zealand was consulted on the new offer. They stated that they were concerned about the late submittal of this option and would need to undertake a further review if it was decided to take the option forward to a full tender review.

5.2 Probity and Legal Risk

The Council's legal advisors were consulted on this matter, particularly with regards to the structure of the original Request for Tender and the Land Transport Management Act. They stated that, Land Transport New Zealand would need to be consulted on the matter and approval sought from their Board for a change to the procurement process under the Land Transport Management Act. They further added that since the proposed alternative was not submitted at the time of tender closing date and thus not been evaluated alongside the other tenders, taking this alternative forward could disadvantage the other tenderers. As the other tenderers had not had the additional time or

opportunity to submit any alternatives, it may now be a requirement to re-open the tender and give the rejected tenderers a similar period of time to prepare a new tender.

5.3 Technical and Project Management Review

The project and technical capability of the Toll/CNR offer has been considered with the assistance of external consultants. The key findings are:

- CNR's lacks a track record in delivering vehicles to export markets and indeed Toll's has a lack of experience in managing the procurement of new vehicles.
- Investigations have demonstrated that CNR can produce a satisfactory level of quality, but Health and Safety is not at a level to be found in a 'Western' country.
- A CNR vehicle has not as yet demonstrated a 35 year life, a key requirement for a new vehicle.
- Project management would be compromised by communication difficulties between Toll and CNR and a lack of risk management processes. Toll themselves have admitted that communication is an issue as a lot of the documentation they receive is in Chinese.
- To address some of the above issues, increased project/contract management costs would be incurred by the Council. This is estimated to be in the region of \$2.5M, as opposed to around \$500K for supervising the contract at the Hillside facility in Dunedin.

6. Conclusion

6.1 China Option – High Risk

In conclusion, the Officers have determined that the revised China Option would pose serious project and technical management risk to the Council. Even without these issues, to avoid probity risk, the Council would have to invite the other tenderers to submit revised bids and in this situation the tenderers should be given 8 weeks to submit a revised bid. This combined with the longer delivery lead time would mean the existing old vehicles remaining in service for approximately a further 2 years.

The remanufactured Mk II option fully meets the requirements of the Council's Request for Tender and it is a proven product. Project management support costs will be low due to local manufacture and supervision from the Officers. A final recap of how risk will be managed for this option is in the next section. On the other hand, the China option presents a high level of risk to the Council in its first rail procurement.

6.2 Risk Management

Payment for the Mk II cars would be on the following basis:

- Delivery to Wellington Depot – 90% per Car
- Preliminary Acceptance – 7.5% per Car
- Final Acceptance – 2.5% per Car

This payment profile significantly reduces the risk exposure since GW will not be making any payments until virtual full completion of the cars. [Note: Typically on a new train contract it is normal to make significant payments to the train manufacturer far in advance of taking delivery. This increases the credit risk to the procuring agency.] Delivery of the first Mk II consist will be 14 months from contract signing, with the second and third consist being delivered 17 and 19 months respectively.

Design Risk – This is minimised through the Mk II vehicle being a development of the Capital Connection cars and the SA/SD cars which operate in Auckland. Whilst not being ‘cutting-edge’ design, they are reliable and design ‘know-how’ has been gained by Toll over the last 10 years. GW will also employ a consultancy to review the details of the design at an early stage in the project.

Production Risk – Toll would manufacture the Mk II vehicles at their Hillside facility. Reference again to other recent projects has demonstrated that they can provide cars to a prerequisite level of quality. GW will employ a consultant to inspect the vehicles at key points in the production process to ensure that the production standards are met.

Delivery Risk – Always a key risk on a capital programme, this could be affected by the workload at the Hillside Facility. GW Officers will address this issue by holding regular project management reviews with Toll and ensuring that a risk management process is maintained throughout the contract.

Price Risk – This will be mitigated by the use of a fixed price contract. The present specification is highly comprehensive and any changes would be subject to a thorough investigation and approvals process.

7. Communication

No communication is required at this stage.

8. Recommendations

That the Committee recommends that Council:

1. *receive the report.*
2. *note the content of the report.*

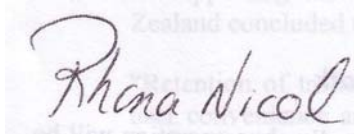
3. *recommend to the directors of Pringle House to select Toll NZ for the provision of 18 railway passenger cars based on the remanufacture of ex British Rail Mk II carriages.*

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