



## School Bus Procurement Q and A - March 6, 2013

### 1) **Coulter Osborne Task Force Recommendations:**

The only industry-specific review of procurement of student transportation was completed by the Hon. Coulter Osborne in January 2012. In his final recommendations he called for an Independent Review.

**Question** – If the Chair of the Task Force was compelled by evidence of concerns with implementation of one-size-fits-all RFPs, why has the government shelved these recommendations?

### 2) **Risk of Creating Monopolies:**

Many school bus companies have one customer – the local consortia – and have been compelled to purchase vehicles that are sole-purpose vehicles. Based on recent experience with RFP awards, consortia are awarding routes to only 2 or 3 school bus companies, for very large geographic areas. When a transportation consortia RFPs all of their routes at the same time, local companies that lose are put out of business overnight. Experience in Sudbury, Florida, and Europe, demonstrates concern with the loss of local competition through RFP.

**Question** - Is the Minister concerned that school busing will be dominated by local monopolies – and cost taxpayers more - once the competition is eliminated?

### 3) **Concerns for Safety:**

School busing has, historically, been the safest form of transportation on our highways, with school buses being 16x safer than any other form of transport, based on accidents per 100,000 kms. Given the Ministry's move to RFP in the past 5 years, the safety record of large operators (independent and multinational) have plummeted (several with letters of warning on their MTO records), while smaller family-owned operators retained their investment in safety (consistently scoring near-perfect marks on their CVOR rating.)

**Question** - Is the Minister aware that the RFPs conducted to date typically have only allocated 5 out of a total of 100 points to an operator's **actual** safety record, as demonstrated by the Ministry of Transportation's CVOR record?

### 4) **Systemic Bias Against Small Operators:**

Although some independent operators have been successful in some RFPs, many more independent operators have lost everything and still more have walked away from their businesses. As many as 100 rural companies would have been wiped out in 2013 if it were not for legal challenges that stopped seven (7) consortia from issuing flawed RFPs. Operators have found it difficult and risky to bid on RFPs because the work is unknowable (total discretion of award reserved by the consortia, requiring operators to bid blindly) or zones created that disadvantage existing operators.

**Question** - Is the Minister aware that in RFPs, routes spread across wide geographic areas are often bundled together? This prevents small operators based in rural communities from effectively competing, because of the risk they will be awarded routes far away from their facilities, which they cannot operate profitably.

### 5) **Local Market Conditions:**

In order to determine the most appropriate form of competitive procurement, Ministry of Education guidance, in the form of B and SB memos, has directed consortia and boards to conduct an assessment of local market conditions, to determine whether RFPs are in fact the most appropriate mechanism. Unfortunately, this important step has not been undertaken by single consortia.

**Question** - Is the Minister aware that consortia are ignoring the government's direction to consider local market conditions and the contributions of rural operators to their communities when designing a procurement process?

(Con't)

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**Local Market Conditions (Con't)**

**Question** – Is the Minister aware that consortium wishing to consider options other than RFP feel threatened by the Ministry, and fear the loss of extra funding that comes with going to RFP?

**6) Openness and Transparency a Casualty of RFPs:**

Prior to RFPs, the Ministries of Finance and Education maintained a website that reported the rates paid to all operators on a school board by school board basis. Since late 2011, this website has been shut down, and no information is available about rates paid. Additionally, the Ministry pushed boards to create consortia which are incorporated, such that they are outside of the jurisdiction of information requests under MFIPPA.

**Question** - Was it the intention of the government to put \$800,000,000 of taxpayer spending outside of the scrutiny of the legislature and elected trustees?

**7) Justice Tranmer Decision re BPS Accountability Act:**

School bus operators have been forced to take their concerns with RFPs to court. On December 3, 2012, Justice Tranmer issued a decision that effectively determined that the RFP of Student Transportation of Eastern Ontario (STEO) was not a lawful procurement, and that school boards could not expect the protection of S.22 of the BPS Accountability Act. This law suit is now proceeding to trial in June, and the STEO school boards have paid costs of \$87,000 so far. Seven (7) RFPs have been stopped until the courts look at the issues of fairness and accountability.

**Question** – Is the Minister aware of the flawed and incomplete analysis and misinformation that is being revealed through the injunctions and law suits, which suggest the RFPs are pointed in the wrong direction for this industry?

**8) Alternative Forms of Competitive Procurement:**

RFPs are but one form of competition that may be used to “test the market” and ensure value for money. School bus operators support the need for competition, but believe other alternatives are more appropriate to the school bus industry. This view is held by large and small operators alike.

**Question** – Why has the Ministry not evaluated other forms of competitive procurement, given the final report of the Coulter Osborne Task Force, learnings from the legal challenges, and the growing evidence of the negative impact to the safety and affordability of the school bus industry?

**9) A United School Bus Industry Calls for An Independent Review**

Large and small operators alike - even companies who have won RFPs - are speaking out against the process. The Ontario Chamber of Commerce passed a resolution, and members of the Rural Ontario Municipal Association (ROMA) expressed their concerns to MPPs. The Ministry’s own consultants, PPI and Dijon Group, are publicly sharing their concerns with examples of flawed documents, destructive contract terms, and disregard for a fair evaluation of alternatives.

**Question** – How much more evidence does the government need before it will take the advice of its own Task Force and undertake an independent review of appropriate and legal procurement options for school bussing?

Respectfully submitted,

Steve Hull  
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