

ORBA-MTO Quarterly Meeting Minutes

Date: December 8, 2022

Time: 10 a.m. to 1 p.m.

Location: MTO CETI Complex, 95 Arrow Road, North York

ORBA ATTENDEES	ORGANIZATION	MTO ATTENDEES
Kevin Machej	President, ORBA	Neil Zohorsky
Andrew Weltz	BAUER Foundations Canada	Michelle McGrath
Mario Villeneuve	Villeneuve	Jasan Boparai
Michael McSweeney	ORBA	Michelle Pasqua
Andrew Hurd	ORBA	Janet Leader
Brianna Puigmarti	ORBA	Brandy Duhaime
		Jennifer Graham Harkness
		Emily Frazer
		Heather Evoy

	Item	Lead
1.	Welcome/Introductions	All
2.	Review of previous minutes/action items Minutes were reviewed and ORBA requested one minor change— James McVeety was removed from the minutes as an attendee.	MTO
3.	<p>Capital Program Update</p> <ul style="list-style-type: none"> • MTO is expecting to fully spend its budget this year. • The last two quarters have had lower tendering volume and values then originally projected, mainly due to acceleration of the highway capital program in advance of the 2022 election. Another factor is project readiness, which is usually the primary cause of our variances • The initial estimate of the total fiscal 2022/23 tendering value was \$1.5-1.8 B, with current projections at \$1.01-1.2 B. • MTO is expecting 55-67 tenders in Q4 (Jan-Mar 2024). MTO will also be releasing its Ontario Highways Program update shortly. • ORBA expressed concerns about the tendering shortfall and stated the need to have project certainty and some idea for project pipeline so contractors can plan for the upcoming 	MTO

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	<p>season.</p> <ul style="list-style-type: none"> • MTO confirmed that the tendering variance will not impact the 22/23 spending, as the annual budget also funds carryover work from prior years, including P3 projects. • MTO is taking action on contract tendering, confident about the Q4 projections, and working to ensure that the projects advanced bring the greatest value to the province. 	
4.	<p>Procurement Models</p> <ul style="list-style-type: none"> • ORBA continues to express some frustration at the Contracts & Documents committee about the size of DB minor projects, specifically DB Minor B, where no stipend applies. Pre-engineering services are costly, and this is the biggest concern. • MTO asked for more specific information regarding these upfront costs. • This item will be taken back to C&D to look at in further detail. 	MTO/ ORBA
5.	<p>Steel Indexing</p> <ul style="list-style-type: none"> • Adhoc MTO/ORBA Committee has some challenges to discuss including administrative requirements for administering the index and how to confirm quantities. • The working group is moving forward with a 10% threshold and are working to get this index ready to benefit/support the 2023 construction season tenders. • MTO is reviewing expanding the use of the fuel and AC index and will be prioritizing early review of items with the highest fuel consumption rates and high AC volumes. Not all additional operations will be implemented immediately. • MTO has updated DB contracts so that AC Index will be opt-in, for projects meeting warrants (contracts with more than 5000T 	MTO

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	asphalt and contracts longer than 24 months with more than 1000T asphalt)	
6.	<p>Maintenance Updates</p> <ul style="list-style-type: none"> • Based on the meeting with HMC, the timeline for the upcoming contracts has been staggard by approximately one month to ensure that contractors are informed about the outcome of a procurement before tender close of the next procurement. MTO has also adjusted the equipment vintage requirements for year-1 to accommodate challenges related to the increased lead time to procure new equipment. • There is a new level of service standard (ON Trans-Canada) for winter maintenance on Highways 11 and Hwy 17 with 12 hours bare pavement target. The new level of service will be included as requirement in future contracts and as target in existing contracts, pending further discussions with maintenance contractors • MTO has been advertising contracts for pavement markings as standalone/ separate contracts with shorter term of two years. There has been ongoing paint price volatility and MTO plans to use shorter duration contracts until the price stabilizes. • There is an industry wide shortage of AZ and DZ drivers that is impacting the availability of snowplow operators. Contractors are part of a working group to develop approaches and potential solutions for this issue. 	MTO
7.	<p>Pandemic – Future Contract Language</p> <ul style="list-style-type: none"> • Draft language is still under review and will be included in the update to the GCs. MTO will not address productivity explicitly in this provision. There has been no change to principle from the last version, with MTO ensuring language is consistent with Treasury Board direction • This language is being advanced in other contract forms across different levels of government. MTO will continue consultation 	ORBA/MTO

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	<p>with Infrastructure Ontario (IO) and Metrolinx on pandemic language used in contracts.</p> <ul style="list-style-type: none"> ORBA members claim many issues with loss of productivity. Still under review by ORBA members. Won't address productivity but ORBA will continue to consider/pursue productivity if it can be demonstrated. GCs will be updated for future pandemic language. 	
8.	<p>Provincial Claims:</p> <ul style="list-style-type: none"> MTO attached the most recent claims analysis package: 76 claims resolved in 2022-23, including 5 covid claims. ORBA is concerned with the slow turnover rate of claims. It seems that solutioning of issues is not happening proactively at the field level. MTO stated that proactive resolution and sharing of information at the field-level is recommended for early intervention to avoid lengthy claims. Committee discussed the new staff across all industries. How can we strengthen competency of staff on both sides to solve problems proactively? The committee discussed ideas like mentoring and job shadowing to support knowledge sharing and growth of all team members. Biggest issue contributing to claim aging is contractors not providing the pertinent information to support claims. This slows down the review and analysis by MTO when claims are elevated through the dispute resolution process. 	MTO
9.	<p>Utility Locates</p> <ul style="list-style-type: none"> ORBA has provided two submissions on the utility locates review. ORBA asked if there was internal dialogue happening at MTO on this issue. 	ORBA

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	<ul style="list-style-type: none"> MTO was not aware of any ongoing work in this area. 	
10.	<p>Meeting for MTO/ORBA—Metrolinx</p> <ul style="list-style-type: none"> ORBA is asking for a similar format to the executive meetings with Metrolinx. Stakeholders are not given access to Metrolinx to discuss issues and pipeline, in the same way as MTO. 	ORBA
11.	<p>General Conditions Update</p> <ul style="list-style-type: none"> MTO will begin Phase 1 for the update of the GCs. This will begin with consolidating all already implemented SPs into an updated version of the GCs. Phase 2 will include looking at key areas of concern. ORBA will have the opportunity to contribute. 	MTO
12.	<p>OPSS 127 Rates</p> <p>Alain provided the MTO update:</p> <ul style="list-style-type: none"> MTO and ORBA have been working together to review the rates and prepare for the 2023 review. The timeline is February ORBA review, March comments, April publishing. ORBA will reach out to equipment suppliers that are refusing to provide pricing. 	MTO
13.	<p>Terms of Reference</p> <ul style="list-style-type: none"> ORBA and MTO will work to develop a ToR for all joint committees. This will be posted on the TCP for the public. 	MTO/ORBA
14.	<p>New Contract Management Services Update</p> <ul style="list-style-type: none"> There will be a shutdown on February 13th of the old WBCMS to make way for the new CMS system. Migration of information is underway, starting first with current and upcoming contracts. MTO will be providing some training, more details coming. ORBA asked if MTO would provide a session at the annual summit. MTO agreed. 	MTO

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15.	<p>Excess Soil</p> <ul style="list-style-type: none">• ORBA is looking to provide sessions with contractors/MTO/municipalities/MECP. There has been reluctance from MTO without understanding the intended scope of session.• ORBA will be producing some plain language fact sheets and project flow charts (A-B) to send out to members.• MTO advised that the specification has been revised to reflect the requirements of the regulation that had been paused and will be in effect in January. Specification reflects regulatory requirements and will be posted on the TCP in the coming days.• MTO continues to work with ORBA to coordinate information sharing opportunities	ORBA
16.	<p>Cross Slope Specification</p> <ul style="list-style-type: none">• MTO is looking to apply the new specification on future contracts for construction tolerance. A new version of the spec was reposted. It applies primarily where major reconstruction is taking place on a contract, or the contract involves major resurfacing with multiple machine passes. Specification has not been included in tenders yet. The new spec will not be applied to every contract.• The committee discussed the possibility of a joint bulletin, with slides similar to the presentation given at ORBA's President's Tour. MTO agreed to send out a letter with a summary to highlight key elements of the specification that were highlighted at the fall ORBA President's Tour.• ORBA is concerned with the specification because of the potential lack of constructability in some areas, and the repair requirements to bring an area into conformance with the specification.	MTO

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17.	Housekeeping: MTO/ORBA Triannual Exec Meeting— TBD for 2023 ORBA to send suggested dates based on board meetings.	
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