



# Gateway program

Contractor engagement summary report

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# Contractor engagement summary report

## 1. Executive summary

The Gateway Program is a subset of the broader [Greater Vancouver Gateway 2030 Strategy](#) which includes roughly 40 projects with a cumulative value of approximately \$3 billion. In May and June 2020, the Vancouver Fraser Port Authority reached out to the local contracting community to solicit feedback regarding procurement delivery models and commercial, technical, and COVID-19 related strategies and risk considerations for projects planned to start construction in 2021 and 2022.

The primary objectives of the contractor engagement is to raise industry awareness of the upcoming procurement opportunities and to consider industry feedback and insights when finalizing delivery models and developing procurement packages for the projects across the Gateway Program. It is anticipated that this will ultimately assist the port authority in collaborating with industry to more effectively deliver these important trade-enabling projects that also bring substantial environmental and community benefits across the region. The purpose of this report is to summarize the findings and feedback received during the contractor engagement process as well as provide responses to questions posed to the port authority.

The most common item identified by respondents as influencing effective delivery was related to risk transfer on the projects. In general, key areas of focus in the responses recommended that the port authority and its project partners limit risk transfer relating to: environmental permitting, utilities, third party agreements, geotechnical conditions, property acquisition, and the risks associated with the evolving situation due to COVID-19.

We thank everyone who participated in the contractor engagement process and value the input received. The port authority is committed to developing and implementing industry leading procurement practices in delivering these projects that comply with applicable law and internal policies and procedures. Your feedback has allowed the port authority to learn more and/or confirm its understanding of the industry's ideas, preferences and concerns for consideration as the port authority continues to plan for the delivery of the Gateway Program.

## 2. Background

The Vancouver Fraser Port Authority, as part of its mandate to facilitate Canada's trade objectives, is working with partners and stakeholders on infrastructure projects across the region. These projects will ensure the efficient movement of goods on the regions road and rail networks, reduce the impacts of trade growth on the environment and surrounding communities, and deliver significant improvements relating to safety, congestion, community access and general livability.

### **About the Vancouver Fraser Port Authority and the Port of Vancouver**

The Vancouver Fraser Port Authority is the federal agency responsible for the stewardship of the Port of Vancouver, Canada's largest port. Like all Canada Port Authorities, we are accountable to the federal minister of transport. Our mandate is to enable Canada's trade through the Port of Vancouver, while protecting the environment and considering local communities.

The port authority is structured as a non-share corporation, is financially self-sufficient and does not rely on tax dollars for operations. Our revenues come from port terminals and tenants who lease port lands, and from port users who pay various fees (such as harbour dues). The profits collected are reinvested into port-related infrastructure.

The port authority has jurisdiction over the use of port land and water, which includes more than 16,000 hectares of water, over 1,500 hectares of land, and approximately 350 kilometres of shoreline. Located on the southwest coast of British Columbia in Canada, the Port of Vancouver extends from Roberts Bank

and the Fraser River up to and including Burrard Inlet, bordering 16 municipalities and intersecting the asserted and established traditional territories and treaty lands of several Coast Salish First Nations.

The port authority is taking a lead role in delivering several infrastructure gateway projects throughout the lower mainland over the next five (5) years, with a cumulative value of nearly \$1 billion.

**Projects planned to start construction in summer/fall 2020 include:**

- Mountain Highway Underpass Project in the District of North Vancouver
- Commissioner Street Road Realignment Project on port authority land adjacent to Vancouver

**Projects planned to start construction in mid/late-2021 to mid-2022, with potential for procurement to start as soon as late summer/fall of this year include:**

- Kennedy Overpass in Pitt Meadows
- Harris Underpass in Pitt Meadows
- Holdom Overpass in Burnaby
- Portside Overpass in Richmond
- Portside Road extension on port authority land adjacent to Richmond
- Fraser Surrey Port Lands Transportation Improvements Project in Surrey

**Projects in study phase and subject to partner funding include:**

- Coquitlam Rail Corridor Improvements
- Westwood Rail Crossing Improvements

### **3. Contractor engagement process**

In March 2020, the port authority established a dedicated webpage to host project information anticipated to be of interest to the design and construction industry, such as anticipated delivery models and procurement timing for the projects. This webpage was used to facilitate an open and informative engagement process with industry, to solicit early feedback and advice for consideration prior to initiating procurements for projects targeting construction commencement in 2021 or later.

Two questionnaires were published and the port authority sought feedback from May to July 2020. The first questionnaire had six categories; procurement, commercial, technical, property, COVID-19, and general. The second questionnaire asked follow-up questions from the initial round of engagement, with an emphasis on questions related to consideration of a progressive design-build delivery model for the Portside/Blundell Road Improvements Project. The project information provided includes general details, technical fact sheets, and drawings for each of the projects, to supplement the more general public engagement materials available at [portvancouver.com/infrastructureprocurement](https://portvancouver.com/infrastructureprocurement). Contractors were also provided the opportunity to prepare and submit their own questions in confidence for port authority's consideration.

Ten local contractors participated in the first round of engagement and five participated in the second round. All participants had experience delivering road and rail projects, and provided detailed responses to both questionnaires.

Participants were advised that the engagement process with industry was not a procurement process, nor would it form any part of a subsequent procurement process.

## 4. Key findings and themes

Contractors demonstrated a high level of interest in all projects, while noting factors such as delivery model selection, procurement process, timing of the projects, and risk allocation would influence their pursuit of the projects. An element that drives project selection for contractors is fair and optimal risk allocation, with many suggesting risk clarity and transfer to be fully transparent as early as possible in the procurement process (e.g. inclusion in the RFQ document). Contractors indicated key risk categories and allocation for consideration by the port authority in advancing the projects include environmental permitting, utilities, third party agreements, geotechnical conditions, property acquisition and uncertainties relating to COVID-19.

### 4.1. Procurement and delivery model selection risks

#### Procurement phase durations for delivery models

Contractors were asked about their preferences on the durations for a request for qualifications (RFQ) and request for proposal (RFP) under design-build (DB), progressive design-build (PDB) and early contractor involvement (ECI) delivery models.

*What we heard:*

- RFQ
  - A two-month response period was considered adequate for all delivery models.
- RFP
  - Most contractors indicated a four months RFP period to be too short for DB proposal submission.
  - Some contractors indicated six months as being more reasonable, with most suggesting the duration to reflect the complexity and value of the project.
  - For PDB or ECI delivery models, contractors indicated a two month response period as being sufficient

#### Bidders meetings and workshops

Contractors were asked for ideas on making bidder and in-confidence meetings more effective.

*What we heard:*

- Generally, contractors emphasized that clarity around project objectives, scope, expectations, timelines, and direction to be the key factor in conducting effective bidders and in-confidence meetings.
- Contractors suggested that the meetings should provide meaningful information and insight to risks that are not easily communicated through RFQ/RFP documents instead of repeating the information already shared.
- Many contractors suggested that designers, engineers and key project individuals be present in meetings to allow concerns about permits to be addressed by relevant experts.
- One contractor suggested sufficient time be left for questions during meetings to allow contractors to clarify any assumptions that may impact the price.
- All agreed that the general responses and advice be shared with all shortlisted contractors participating in the process with the exception of competitive advantage considerations by design build respondent to be kept in confidence.

#### Demonstrating contractors experience in evaluation review

Contractors were asked how they can best demonstrate their experience in the evaluation process.

*What we heard:*

- Many contractors supported a qualification phase to shortlisting proponents based on experience and understanding of the project. Strong emphasis was placed on the experience of the project core team, which many recommended include an experienced traffic engineer, geotechnical engineer, environmental engineer or manager, and quality manager.
- Many contractors suggested that contractors could demonstrate sustainability and quality experience by having a good quality management system, in addition to an experienced quality manager with record of delivering Envision projects.
- Generally, all suggested that contractors should demonstrate history working with Indigenous groups on previous projects, with relevance to anticipated Indigenous group participation in the applicable Gateway Program project.

**Procurement process**

Contractors were asked for their recommendations that will help ensure an effective, efficient, and competitive procurement process.

*What we heard:*

- Procurement processes should include a rigorous pre-qualification process, informative bidders' workshops to discuss project risks, and in-confidence meetings to discuss contractor innovations or best value approach.
- Procurement process should follow the guidelines of the Canadian Design-Build Institute and have an evaluation matrix that includes both a technical and financial evaluation.
- A fair and transparent evaluation based on the understanding of risks.
- A desire to move away from technical compliance and low bid to a more weighted evaluation that incorporates other project objectives.
- Contractors strongly recommend a reasonable stipend to compensate for pursuit costs.

**Contractor's experience delivering projects with early contractor's involvements**

Contractors were asked to share their experience and suggestions regarding Early Contractor Involvement (ECI) and Progressive Design-Build (PDB) delivery models.

*What we heard (ECI) projects:*

- Mixed responses were provided in terms of delivering the Gateway Program projects through an ECI delivery model.
- Limited experience in the transportation sector with experience concentrated to a select few contractors.
- Some commented that ECI projects as offering better value, cost, schedule and indigenous engagement, while reducing conflict and increasing collaboration resulting in day-to-day innovation.
- Some contractors commented that ECI would be best suited for large scale projects (\$500M) and indicated that it is not currently very popular in the Canadian transportation infrastructure industry, which may limit the competitiveness of the procurement.

*What we heard (PDB) projects:*

- Many contractors suggest a 40-60 percent design progression is adequate to determine a best-value fixed price design-build contract, with appropriate consideration given to risk and contingency allocations to enable accurate cost estimating.
- Evaluation criteria should consider the proponent team's design-build experience (consultant and contractor) including scope and scale of past projects as well as consideration for team partnering and collaboration.
- Technical evaluation criteria should include experience on road/rail improvement projects, engagement with stakeholders, indigenous group engagement, specific geotechnical challenges of the project, specific traffic challenges of the project, and understanding of the complex nature of agreements of the project.

**Port authority's feedback on procurement risks and delivery model selection:** *We will consider all suggestions and recommendations in our procurement approach and delivery model selection, in line with the project's needs and constraints – and in compliance with the port authority's internal procurement policy and procedures. In addition, we will offer RFQ/RFP debriefing sessions and welcome continuous feedback and recommendations from participants for consideration in future projects.*

## 4.2. Commercial risks

### **Willingness and interest in participating in RFQ and RFP stages of procurement process for various projects**

The response we received was positive around project timelines and contractors expressed high interest in participating in procurement processes for multiple projects, regardless of the delivery model selected.

### **Effective risk allocation and transfer**

We asked contractors to recommend how responsibility and risks should be allocated for the key project permits that may require long lead times.

*What we heard:*

- Pre-mitigate risks where possible was noted by all contractors.
- Responsibility for the permits should be assigned to the party with the greatest ability to manage those specific permits.
- Respondents generally accepted the need for contractor involvement in these permits, but still wanted them progressed as much as possible prior to an RFP award to limit risk.
- Many contractors expressed that permitting acquisition process is best managed by having some level of early involvement of the design-build team.
- Many contractors suggested that the port authority advance long-lead authorizations and permits and retain a level of risk ownership over key areas including environmental and regulatory permitting, utilities, changes in law, and geotechnical conditions.
- Maintain or share any risk outside the contractor's control or that cannot be reasonably estimated at the time of procurement.

### **Incentives and penalties mechanisms in avoiding delays and ensuring early delivery**

Contractors were asked to provide recommendations on whether penalties and incentives would be an effective mechanism to encourage delivery of a project prior to the identified funding deadlines.

*What we heard:*

- Contractors do not generally support the use of penalty clauses in contracts.
- Contractors emphasized that a good relationship with the client is the key factor in achieving completion prior to delivery deadlines.
- Participants generally agreed that incentives can be an effective mechanism to avoid delays.
- Some contractors indicated that penalties or liquidated damages increase the risk for the contractor, which drives up the submitted RFP price.
- Contractors suggest that if incentives and penalties are to be included, they would recommend:
  - Matching incentive values to those of penalties;
  - Capping liquidated damages;
  - Negotiating them into the contract after award; and
  - Offering cash incentives on an escalating scale.

**Port authority feedback on commercial risks:** *Risk transfer and allocation for projects will be based on project-specific constraints and opportunities.*

### 4.3. Technical risks

#### Ground investigation and geotechnical risk

We asked contractors to recommend any additional ground investigation (in addition to what was shared in our supporting technical sheets with the questionnaire) that should be carried out prior to procurement of each project.

*What we heard:*

- Ground water contamination testing should be completed on all sites.
- At a minimum, provide a borehole at each proposed foundation location as well as other areas with new construction of embankments, walls, road, or key utility relocations.
- Consider detailed validation of existing utility locations.

#### Advance works

Contractors were asked to comment on the proposed advance works and recommend other potential activities/scope that could create additional value and efficiencies if it was completed prior to the selected contractor commencing.

*What we heard:*

- Strong support for the port authority to complete long-lead time activities such as relocation of major third-party utilities, permitting, archaeological investigation work, relocation of impacted buildings, and geotechnical work in the form of advance work prior to the completion of the procurement process.
- One contractor suggested that the port authority consider completing design of the advance works and tendering as a Design-Bid-Build package.

**Port authority feedback on technical risks:** *We will review advance work opportunities suggested by contractors for each project specifically, in line with the project's specific requirements and schedule, and may amend the proposed advance works, as applicable.*



## 4.4. Property risks

### Temporary property acquisition

We asked contractors to comment on what temporary property acquisitions should be completed prior to awarding a design-build contract and how contractors would like to be involved in acquiring lay-down areas.

*What we heard:*

- Contractors suggested that the port authority work with various landowners (CP, municipalities, private, etc) to find suitable land to facilitate effective construction (laydown, yard sites, etc.).
- Contractors agreed with the proposed approach for the various lay down area sizes recommended for each project as presented in the questionnaire's supporting materials.
- One contractor suggested that the port authority could request contractors to indicate the cost benefit of additional temporary lands during the RFQ.
- Many suggested that the required temporary property acquisitions should be completed prior to the design-build contract award.

**Port authority feedback:** *In line with project requirements, the port authority intends to develop a project specific property acquisition strategy in consultation with impacted landowners to minimize property acquisition risks for each project – including the identified temporary needs of the contractor. The acquisition approach and further details are intended to be shared with the shortlisted proponents during the RFP phase.*

## 4.5. COVID-19 strategy and risks

### Contractor strategy to deal with the evolving COVID-19 situation

We asked contractors to detail their COVID-19 strategy with respect to bidding and construction of projects.

*What we heard:*

- Contractors indicated that they have developed stringent COVID-19 safety protocols and procedures (both on site and in offices) that are continuously updated to reflect the evolving situation.
- Strategies are generally focused on close collaboration with the client to ensure critical work continues efficiently, and cost and time implications are understood and communicated to all parties involved.
- Various response plans tailored for working from home, working from office and working from sites have been prepared that detail and implement varying levels of physical distancing measures, capacity reductions in common spaces, PPE requirements, physical barriers, and site screening and safety measures – in line with the advice and ongoing updates provided by health authorities.

### Risks and opportunities during bidding and construction under COVID-19 restrictions

We asked contractors about the specific COVID-19 risks in relation to the supply chain of materials and availability of labour.

*What we heard:*

- Contractors indicated that they have adjusted to the stage 2 COVID-19 restrictions in British Columbia (in place at the time of the questionnaires); however, the situation is evolving and further restrictions could result in additional risks.

- The key risks foreseen in bidding is the inability to receive fixed quotes for materials for 12 months or greater, inadequate pricing, and inability to measure site efficiency due to implementation of new safety measures.
- Present risk is limited and manageable as robust and diverse supply chains have been established, unless offshore steel and materials are required to remain competitive which could increase risk related to international supply chain dependability.
- Offshore supply chain risks could be mitigated by providing optional domestic supply pricing during the RFP stage.
- The risks foreseen during construction are associated with a ‘second wave’ of COVID-19 in the region that could create a labour supply shortage. Future mandated restrictions and/or lockdowns and additional safety measures would impact project planning and execution.

**Port authority feedback:** *The port authority would like to reassure contractors that project risks associated with COVID-19 and the delivery of these projects will be considered as part of the procurement and at the time of procurement given the evolving circumstances.*

## 5. Questions and answers

In addition to the feedback we heard, we also received many questions, generally in relation to procurement. Below are our responses to the questions we received during the engagement.

It should be noted that the responses provided below are general in nature, and are not intended to be specific to any particular Vancouver Fraser Port Authority procurement. The port authority may elect to adjust and vary practices in response to the unique objectives and requirements of each procurement, and to align with any changes to the port authority policies over time.

	Questions from the contractors	Response
1.	Can the port authority confirm the amount of the security deposit?	The amount of the security deposit will be determined on a project-by-project basis and provided in the respective procurement documents.
2.	Will the port authority provide the draft Design-Build Agreement, identifying the risk transfer, as part of the RFQ package to ensure proponents are aware of the terms prior to expending significant effort to develop a response package?	<p>At this point in time, we plan to include a draft risk transfer sheet or summary in the RFQ that will outline the anticipated allocation of risks between the parties.</p> <p>The competitive selection process for the RFQ will include opportunities for respondents to pose questions to the port authority about the proposed risk allocation.</p> <p>The draft design-build agreement will be provided to shortlisted respondents in the RFP phase of the selection process.</p>
3.	Will the port authority be providing stipends for these projects? If so, can the port identify the stipend for each project? Would the honorarium be increased if these projects were packaged?	At this point in time, we anticipate that stipends will be provided for design-build procurements. The amount of the stipend will be determined by the overall scope of the procurement, whether single or combined projects, and will be provided in the procurement documents.

4.	<p>We request that the port authority schedule a general session to discuss commercial and contract terms with the industry prior to releasing the procurements.</p>	<p>Depending on the particular project and for the specific design-build procurement, the port authority may hold an introductory project meeting shortly after RFQ issue for those interested in pursuing that opportunity. This forum may provide opportunities for discussion on project-specific scope, technical requirements, and possible commercial terms under consideration (eg. risk allocation strategy).</p> <p>The RFQ procurement process will also include the typical Q&amp;A opportunities for potential respondents to pose questions to the port authority throughout the response period.</p>
5.	<p>Will the port authority provide an open process for distributing full tender results?</p>	<p>The port authority will not disclose our full evaluation breakdown to all participants.</p> <p>The port authority's current practice is to offer a debriefing to unsuccessful respondents if requested, and include areas where their response performed well and potential areas for improvement.</p> <p>Debriefings will be specific to the individual respondent and information pertaining to any other respondent or the successful proponent(s) will not be disclosed.</p>
6.	<p>Will the port authority provide each proponent feedback through a debrief?</p>	<p>Refer to our response for Question 5.</p>
7.	<p>We would like the port authority to consider a process that allows contractors to present contractual terms and conditions of concern. This could be accomplished by including a portion within the RFP process that asks contractors for their exceptions. Indemnity language has been a specific concern with a number of clients in the province and Canada at large and we welcome the opportunity to discuss these concerns with the port.</p>	<p>Any opportunities for proponents to meet with the port authority or raise questions during the RFP phase about these commercial matters will be as set out in the procurement documents for the particular project.</p> <p>We do not anticipate offering interested parties an opportunity to review and provide their feedback on the port authority's proposed contractual language for a particular project(s) prior to the commencement of the procurement process.</p>