GATEWAY PROJECT – PORT MANN / HIGHWAY 1
Evaluation of Technical Submittals

Report of the Fairness Reviewer

April 14, 2008

I was retained by the Ministry of Transportation as the Fairness Reviewer for the Port Mann / Highway 1 Project (the "Project"). As such, I am to report on whether the procurement process for the Project is conducted in a manner that is fair to proponents, including whether there is material compliance with and fair implementation of established procurement and decision processes.

I have previously reported on evaluation of the responses to the Request for Qualifications. This is my report on the processes followed with regard to evaluation of technical submittals received in response to the Request for Proposals. (I have not yet reported on workshops and other meetings with proponents, other processes for communication with proponents during the period leading up to the submittals, specific issues in which I have been consulted, or other matters not related to the evaluation of technical submittals.)

Evaluation Manual and Criteria

During the weeks leading up to receipt of the technical submittals, a team of Project staff and consultants developed an Evaluation Manual, setting out in writing the details of how submittals would be received, compared against the requirements of the RFP, and evaluated for substantial compliance with the RFP. The team included persons who participated in development of the RFP and the concession agreement, with expertise in appropriate areas.

As part of the Manual, the team developed criteria for evaluating each aspect of the submittals. The criteria for each submittal section were developed by sub-teams of persons with expertise in the relevant disciplines. As well, all the criteria were reviewed and discussed by the full team. The team specifically directed itself to ensure that each evaluation criterion related to a particular requirement of the RFP, that all information required by the RFP would be evaluated, that all sections of the submittals would be subjected to similar levels of scrutiny, and that sub-teams would consult with other sub-teams in a manner that would ensure each submittal was internally consistent.

I attended various meetings of the team during development of the evaluation criteria. The meetings were well-attended, and all members appeared to have fully informed themselves with regard to the RFP, the draft concession agreement, the topic meetings held with proponents to that time, and the various directions and information given to proponents.

The EDDC, working with an external examiner who had not been involved in the process to that point, met to critique the form and substance of the proposed criteria before they were finalized. I observed that there was a rigorous and detailed review, and that the EDDC did not hesitate to reject and require replacement of work product that it considered inadequate, particularly where proposed criteria were not fully rooted in the requirements of the RFP, or where the requirements of the RFP were not fully-reflected in the evaluation criteria. The external examiner's comments were noted and acted upon.

In addition to the evaluation criteria, the Evaluation Manual included direction on general issues such as confidentiality, relationship review and conflict of interest; security measures for custody of and access to responses during the evaluation period (including secure premises, restrictions on use of electronic devices and internet access in the secure premises, arrangements for recording access to the premises and the submittals, and the like); and statements as to standards and methodology, a timeline, procedures to be followed in checking references, and forms and procedures for obtaining from proponents any necessary clarification of information in the submittals.

The final Evaluation Manual, including the evaluation criteria, was approved by the evaluators as well as the EDDC, and reflected the consensus of the group with regard to the intended objectives, criteria and methodology of evaluation.

Evaluation

Prior to commencement of the evaluation, the Relationship Review Committee considered the details of any relationships among members of respondent teams, and members of the evaluation team. The Project has retained a Conflicts of Interest Adjudicator for related issues. I observed that the pre-determined processes established in this connection were followed.

I attended the receipt of submittals and confirmed the timely receipt of three submittals, which were checked for completeness as described in the Evaluation Manual. I attended the evaluation premises several times over the period of the evaluation, and observed that the provisions of the Evaluation Manual relating to security and confidentiality, communicating with respondents, communication among members of the team, and other matters, were also followed.

Each submittal included information as to the respondent team's experience, track record and capacity for its proposed design, and was evaluated by numerous sub-teams. Each sub-team had primary responsibility for a particular aspect of the RFP, and included persons with expertise in the subject-matter, assisted by professional advisors as needed. Appropriate resources were provided for the evaluation, including offices and meeting rooms, electronic and communications equipment.

I had access to all of the submittals and to the evaluation premises at all times. I was informed of meetings, and was copied on all correspondence with respondents. I attended various meetings as I considered necessary, including informal discussions of various sub-teams, meetings of the team leads, and meetings of the leads with the EDDC and with the external examiner. I observed that:

- Each team member was familiar with all the submittals, the RFP and the draft concession agreement.

- The sub-teams used the criteria set out in the Evaluation Manual to evaluate each submittal, including pre-determined cross-checking among the sub-teams to ensure an integrated review, while focusing on the specifics of what evidence within the submittals supported the conclusions reached.

- Sub-teams obtained clarifications as necessary from the respondents using the process set out in the Manual. The team concerned itself with ensuring that questions were asked only where necessary to obtain the level of detail required by the RFP, and that the same question was asked of all proponents where the same issue arose in more than one submittal.

- Team members discussed and instructed themselves from time to time on issues as to consistency and fairness in the evaluation and in communications with respondents.

- There was full participation in group discussions and meetings; team members were open to persuasion with regard to issues that arose, but did not hesitate to express their own opinions. In meetings with the EDDC and the external examiner, evaluators presented cogent explanations for positions they adopted, but were open to questions and ideas about their conclusions.

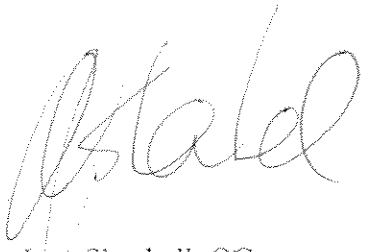
- The EDDC asked questions to confirm that the Evaluation Manual had been followed as to both the pre-determined procedures and standards, and the evaluation criteria.

All the evaluators on each sub-team subscribed in writing to the conclusions of that sub-team.

I am satisfied that the Evaluation Manual represented a comprehensive plan for the receipt and evaluation of the submittals, and that the plan was reasonable and fair in both process and substance. Based on my observations I am satisfied that the evaluation was carried out in accordance with the plan, and that the results of the evaluation reflect the conclusions of an unbiased team of expert evaluators after careful consideration of the submittals.

As a result I conclude that the evaluation of technical submittals has been conducted in a manner that is fair to Proponents, and that there has been material compliance with and fair implementation of established procurement and decision processes.

Signed and dated at Vancouver, April 14, 2008.



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Fairness Reviewer