

B.C. MINISTRY OF TRANSPORTATION AND INFRASTRUCTURE

Kicking Horse Canyon Project - Phase 4 RFQ Process

Report of the Fairness Reviewer

Introduction

I was retained as Fairness Reviewer for the Kicking Horse Canyon Project - Phase 4 (the "Project"). My mandate is to act as an independent observer with respect to fairness of implementation of the Project's competitive selection process, and report to the Project Board.

This is my report on the procurement process to date including evaluation of Responses submitted in relation to the Project's Request For Qualifications (the "RFQ").

Fairness Protocol

Before publication of the RFQ, the Project team developed a fairness protocol to govern discussions with Trans-Park Highway General Partnership, the concessionaire operating an existing section of the highway, to ensure the concessionaire and its affiliated entities would not have any unfair advantage over other Respondents in connection with the Project. I had the opportunity to comment on the protocol before it was finalized. I was satisfied that the protocol set out a reasonable and fair measures to resolve the fairness concerns arising from the discussions with the concessionaire.

RFQ and Evaluation Handbook

The RFQ was published in September, 2019, requesting interested persons to submit Responses describing their experience, track record and capability relevant to the Project. The RFQ included details about the Project, the information required, the format for submissions, and a summary of the criteria for evaluation of Responses.

After publication of the RFQ, the Project team held a meeting for prospective Respondents to provide an introduction to the Project and an opportunity for questions. In addition, Project staff answered written questions submitted by potential respondents. I observed that the introductory meeting, written questions and other communications were handled consistent with the processes described in the RFQ.

The Project Team prepared a detailed Evaluation Handbook describing the responsibilities of all evaluation participants, and setting out:

- procedures for review of relationships of evaluators to identify and manage potential conflicts
- procedures for receipt of Responses, and security measures for handling of Responses
- the method for evaluating Responses, with scoring guidelines, procedures and methods
- methods for communicating with Respondents during the evaluation

and other matters. I was satisfied that the Evaluation Handbook described a reasonable basis for evaluation of Responses, consistent with the RFQ.

Responses to RFQ

Three Respondents filed Responses to the RFQ by the closing time. I monitored the processes for receipt and initial completeness review and confirmed that the processes set out in the Evaluation Handbook were followed. During the evaluation period I attended at the evaluation premises at various times and observed that the processes described in the RFQ and the Evaluation Handbook continued to be followed.

A Relationship Review Committee conducted a process to elicit details of relationships among members of Respondent teams, and members of the team evaluating Responses, to ensure that evaluators were free of bias with regard to any Respondent. I observed that the process established in the Evaluation Handbook for relationship review was followed.

Evaluation

During the evaluation period, I had access to all the Responses and the evaluation premises at all times. I reviewed all correspondence between the Project team and Respondents. I was invited to all meetings of the evaluation teams at which scoring and ranking of Responses were discussed, and I attended a selection of those meetings.

Each Response was reviewed by teams of evaluators with responsibility for specified aspects of Responses – Package 1, Design-Builder, Design, Construction, and Indigenous Participation / Apprenticeships, Training & Development. Members of each evaluation team had appropriate expertise to evaluate the assigned material. Teams had appropriate resources including meeting rooms, electronic equipment, and access to expert advisors. The team leads consulted with each other periodically to discuss aspects of the Responses that were relevant to more than one team. Each evaluation team provided a report setting out a recommended scores for their assigned area of each Response, with a detailed rationale. Each team's rationale and scores consisted of the consensus view of all the team's members.

Before finalizing their recommendations, each of the evaluation teams met with a Due Diligence Committee, which tested the processes followed by the teams, the rationales for conclusions, and the work product. The Evaluation Committee also met with the evaluation teams, and satisfied itself as to each team's methods, rationales, and consistency. The Evaluation Committee then discussed the recommendations, and approved final scores.

I observed that:

- Before commencing work, all evaluation participants received an orientation to the Evaluation Handbook, including evaluation procedures and standards.
- Periodically during their work, evaluators discussed various matters set out in the Evaluation Handbook, including issues as to consistency and fairness.
- All evaluators were familiar with each of the Responses, such that each member could discuss and comment on details of the Responses in meetings. All evaluation team members participated fully in debating appropriate scoring of Responses.

- Clarification questions were asked of Respondents as the Evaluation Committee considered necessary, following the procedures set out in the Evaluation Handbook.
- Due Diligence Committee members were thorough in their questioning and testing of conclusions reached by the evaluation teams, and the teams appropriately considered feedback received on their work.
- Scoring results represented the consensus of the entire Evaluation Committee.

Based on my observations, I am satisfied that the final scores approved by the Evaluation Committee are properly based in the requirements and measures described in the RFQ and the Evaluation Handbook.

Conclusion

The Project team has occasionally sought my advice on specific questions. I have also periodically offered advice or comments on matters of fairness. In each such case, I have been satisfied with the handling of my recommendations.

I am satisfied that the procurement processes of the Project in relation to the RFQ have been reasonable, and have been fairly implemented by the Project team.

Signed and dated at Vancouver, December 10, 2019.

A handwritten signature in blue ink, appearing to read 'J. Shackell', written in a cursive style.

Jane Shackell, QC
Fairness Reviewer