

BC MINISTRY OF TRANSPORTATION AND INFRASTRUCTURE

Surrey Langley Skytrain Project – Systems and Trackwork Contract RFP Process

Report of the Fairness Reviewer

INTRODUCTION

I was retained as Fairness Reviewer for the Surrey Langley Skytrain Project – Systems and Trackwork Contract (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.

I reported previously on the Request For Qualifications phase of procurement. The Project team has now completed evaluation of submissions filed by Proponents in response to the Project’s Request For Proposals (the “RFP”); this is my final report.

RFP PROCESS

The RFP was issued in April, 2023 to the Proponents selected through the RFQ process. The RFP included detailed submission requirements, forms of agreements to be signed by the successful Proponent, a summary of the process and criteria for evaluation of Submittals, and other terms of the competition.

After publication of the RFP, the Project team provided information to Proponents in accordance with processes outlined in the RFP, including operating an electronic data room, responding to written requests and questions, and conducting meetings with Proponents including workshops and topic meetings. I reviewed all written communications between the Project team and Proponents, and I or my delegate attended most of the meetings. I was satisfied that the Project team conducted these processes in accordance with the RFP, that the Proponents received equal access to the same information, and that Proponents’ enquiries were addressed appropriately.

EVALUATION

The Proponents filed Technical Submittals prior to the deadline specified in the RFP; the Proponents subsequently were invited to, and did, file Financial Submittals prior to the required deadline. In addition, the Project team conducted an interview with each Proponent shortly after the Technical Submittal deadline.

A. Interviews The Proponent interviews consisted of discussion between each Proponent and members of the Evaluation Committee, based on a series of questions that was common to both interviews. The interviews were observed by several advisors to the Evaluation Committee, each with expertise in the Project.

Members of the Evaluation Committee evaluated the behaviours of each Proponent during the interview, based on criteria determined in advance; the observers provided input for consideration by the Evaluation Committee. I attended both the interviews and the Evaluation Committee meeting at which the results were evaluated, and I was satisfied that the evaluation criteria were carefully considered and consistently applied, and that the final scores represented the consensus of the Evaluation Committee.

B. Submittals All Submittals were reviewed and evaluated by numerous teams of evaluators, each with expertise in the subject matter covered by the portion of Submittals for which that team was responsible. Each team reported its consensus observations and recommendations to the Evaluation Committee. The Evaluation Committee oversaw the process, and reached its own consensus on all final evaluation results, taking into account the work of the evaluation teams.

Evaluation Manuals: Before Technical Submittals were received, and again before Financial Submittals were received, the Evaluation Committee approved a detailed Evaluation Manual for each set of Submittals, setting out:

- procedures for receipt of, and access to Submittals;
- procedures for review of evaluators' relationships to eliminate potential conflicts;
- responsibilities of all participants in the evaluation;
- methods for communicating with Proponents during the evaluation;
- method and procedures for evaluating Submittals;
- worksheets to assist evaluators to record observations and conclusions consistently;

and other matters. I reviewed and commented on each Evaluation Manual in draft, and was satisfied that the final version set out a reasonable basis for evaluation of Submittals, consistent with the RFP.

Closing and Completeness Reviews: I monitored the closing time for Submittals, and confirmed that the Project team followed the processes set out in the relevant Evaluation Manual for receipt and initial completeness review of Submittals.

Relationship Reviews: Before evaluators gained access to Submittals, a Relationship Review Committee conducted a process consistent with the Evaluation Manual to elicit and consider details of relationships among members of Proponent teams and the evaluation team, to ensure that all evaluators were free of bias.

Orientation: Before commencing work, all evaluators participated in an orientation at which the Evaluation Committee highlighted various aspects of the Evaluation Manual, including methods for evaluation, standards related to confidentiality and security, consistency, my role as Fairness Reviewer, and other matters.

Evaluation Process: During the evaluation, I and my delegate had access to the Submittals and the evaluation participants. I was informed of all meetings, and reviewed all correspondence between the Project team and Proponents. I observed that the Project team followed the processes for access to documents outlined in the Evaluation Manuals. I and my delegate talked with the evaluation teams, and attended most of the meetings related to evaluation including meetings of the evaluation teams; meetings of the teams with their advisors, the Due Diligence Committee and the Evaluation Committee; and meetings of the Evaluation Committee.

Each evaluation team had access to expert advisors, and the opportunity to obtain clarification from Proponents where necessary. All questions issued to Proponents were first approved by the Evaluation Committee, to ensure consistency and compliance with the RFP. I observed that the processes described in the Evaluation Manuals were followed for all communications between the Project team and Proponents.

A Due Diligence Committee and the Evaluation Committee reviewed the work of all evaluation teams and their recommendations. The Due Diligence Committee and the Evaluation Committee tested the process followed and the conclusions reached by evaluation teams for internal consistency, for grounding in the considerations specified in the RFP, and adherence to the Evaluation Manuals. The Evaluation Committee had final responsibility for the outcome of evaluations and for scoring.

I and my delegate observed that all evaluators were familiar with the details of each Submittal, and participated fully in discussions of their areas of responsibility; also that the conclusions reached by the evaluation teams, and by the Evaluation Committee, were unanimous and were based on thorough consideration of the Submittals.

CONCLUSIONS

Throughout the RFP process, the Project team ensured that:

- I received copies of all correspondence between the Project team and Proponents (including requests by Proponents for information, and requests by the Project team for clarification of Submittals);
- I had full access to all Submittals, and the opportunity at any time to speak with Project staff including managers, evaluators and advisors;
- I was invited to attend all meetings held by the Project team with Proponents, meetings of evaluators and meetings of the Evaluation Committee (including those at which proposals were discussed and evaluated). I attended such meetings, personally and through my delegate, as I considered necessary to carry out my role.

During the RFP process, I observed that the Project team discussed as necessary and instructed itself appropriately on matters related to fairness. Periodically, I was asked for, or offered, advice and comments on fairness issues. In each such case, the Project team considered my advice and I was satisfied with the resolution of the matter.

Based on all the foregoing, I am satisfied that the procurement process as described in the RFP was fair and reasonable, and that the Project team fairly and reasonably implemented and complied with that process.

Signed at Vancouver, March 18, 2024

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

Jane Shackell, KC
Fairness Reviewer