

EVERGREEN LINE RAPID TRANSIT PROJECT

Final Report of the Fairness Reviewer

I have acted as Fairness Reviewer for the Evergreen Line Rapid Transit Project (the "Project") throughout the procurement process to date. My mandate is to act as an independent observer, and report to the Project Board on whether the Project team has materially complied with the procurement and decision processes set out in the Project's Request For Proposals ("RFP"), and implemented those processes in accordance with reasonable standards of fairness as established by the RFP.

In 2010 I reported on the RFQ for the Project, and in July 2012 I provided an interim report on the evaluation of technical submittals received under the RFP. The Project team has now completed evaluation of Advance Interest Rate Submittals, and Financial Submittals. This is my final report.

RFP / COLLABORATIVE PROCESS

The RFP was issued in November, 2011 to the three Proponents selected through the RFQ process. The RFP included details of the technical requirements of the project, the form of the project agreement intended to be signed by the successful Proponent, the required format and content of Proposals, a summary of the process and criteria for evaluation of Proposals, and other terms of the competition.

After release of the RFP, Project staff held an information meeting for all bidders, followed by several rounds of meetings and workshops with individual Proponents, for discussion and mutual consultation about the requirements of the RFP and the Project Agreement, the expectations of Proponents and the Province, and specific topics of concern. I attended or monitored most of those meetings, and was satisfied that:

- meetings were attended by Project staff with appropriate expertise and authority to address questions raised by Proponents
- the team ensured that all Proponents were provided with the same information about the project, in a timely manner
- meetings were conducted in consistent fashion for all three Proponents
- meetings were conducted in accordance with the RFP, including its requirements related to confidentiality, restrictions on communications with Proponents, and other matters.

In addition, the Project team conducted various meetings with Thales, to finalize the terms of the Base Supply Contract. I attended a selection of those meetings, and observed that the Project team made fairness of the procurement process central to its discussions with Thales.

Throughout the RFP period, the Project team also managed an electronic data room with various documents relevant to the Project, and answered written questions from Proponents. I monitored the data room periodically, and reviewed all communications between the Project team and Proponents. I observed that questions submitted to the Project and requests for information were answered consistently, and in accordance with the process described in the RFP.

EVALUATION

Proponents' responses to the RFP were submitted in various phases. The first major submittal was a Technical Submittal that set out the Proponent's plans for the technical aspects of the Project, the second was a set of Advance Interest Rate Submittals, and the last was a Financial Submittal that detailed each Proponent's plans for financing the Project. These submittals were evaluated by separate teams of evaluators with appropriate expertise.

Evaluation Manual: Before each set of Submittals was received, the Project team produced a detailed Evaluation Manual setting out:

- procedures for receipt of Submittals, and security measures for custody of and access to Submittals (including secured premises, restrictions on copying, restrictions on use of electronic devices, etc.);
- procedures for review of relationships of the evaluators to eliminate potential conflicts;
- the responsibilities of all participants in the evaluation, including individual evaluators, evaluation team leads, expert advisors, the Evaluation Committee and the Evaluation Due Diligence Committee;
- methods for communicating with Proponents during the evaluation;
- the method and procedures for evaluating Proposals.

and other matters. Each Evaluation Manual was prepared with assistance from evaluators and advisors with expertise in the various aspects of the RFP requirements related to the particular Submittals. I reviewed each Evaluation Manual and was satisfied that it set out a reasonable basis for evaluation of the related Submittals, consistent with the RFP.

Closing and Completeness Review: All Proponents filed Technical Proposals in response to the RFP; after completion of the evaluation, two were invited in accordance with the RFP to provide Financial Submittals. I monitored the closing time for each set of 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, as well as secure storage and confidentiality of documents.

Relationship Review: Before any evaluators were permitted 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 members of the evaluation teams, to ensure that evaluators were free of bias.

Orientation: Before starting their work, all evaluators attended an orientation meeting at which the Evaluation Committee highlighted various aspects of the relevant Evaluation Manual, including the methods for evaluation, and standards related to confidentiality, security, consistency, and other matters.

I note for completeness that the AIRS submittals were all evaluated by the same small team, so that no separate orientation process was required for evaluators. As well, since the AIRS submittals revealed no new particulars of Proponent team members, no fresh relationship review was required on receipt of each AIRS submittal.

Evaluation Process: During each evaluation, I had access to all the Submittals and the evaluation premises at all times. I was informed of all meetings, and reviewed all correspondence between the Project team and Proponents. I attended a selection of the meetings related to the evaluation and talked with the evaluators. I observed that the processes for security and access to documents outlined in the Evaluation Manual were followed by the Project team.

Each set of Submittals was evaluated by persons with relevant expertise in the RFP requirements related to those Submittals. The teams were provided appropriate physical and equipment resources for the evaluation, and had available expert advisors. The evaluators developed questions as needed to obtain clarification and supplemental information from Proponents where necessary for the evaluation; all such questions were reviewed by the Evaluation Committee prior to release, to ensure consistency in approach, and compliance with the RFP. I observed that the processes described in the Evaluation Manual were followed for all communications between the evaluation teams and the Proponents.

In the course of the evaluation, evaluation teams met with the Evaluation Committee to review the work and comments of evaluators. The Evaluation Committee reviewed the methods used by evaluators as well as their substantive comments, to satisfy itself that the evaluators' work was conducted in accordance with the RFP and the Evaluation Manual, that the evaluation criteria were applied consistently to all Submittals, and that members of the evaluation teams were unanimous in their conclusions and recommendations. The Evaluation Committee also obtained certain additional 'peer review' studies as an additional measure to confirm conclusions about some aspects of the Submittals.

Throughout the evaluations, the Evaluation Committee and team members met periodically with the Due Diligence Committee, which thoroughly reviewed the work of the evaluation teams, and asked numerous questions to test the analysis and conclusions reached, for consistency of approach, for reasonableness, and for compliance with the RFP.

Following discussion with the evaluators, the Evaluation Committee prepared reports on evaluation of the Submittals. I observed that all members of the Evaluation Committee were familiar with the Submittals and participated fully in discussions, and that conclusions of the Evaluation Committee were unanimous.

CONCLUSION

Throughout the RFP process, the Project team has ensured that:

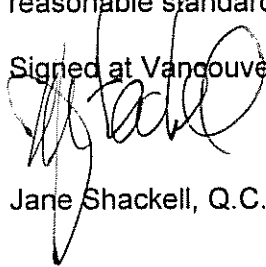
- I had the opportunity to provide input on the contents of Project documents (including evaluation materials).
- I received copies of all correspondence between the Project team and Proponents (including requests for information from Proponents, and requests by the team for clarification concerning submittals).
- I had full access to all Submittals, to the premises where Submittals were received and evaluated, and the opportunity at any time to speak with Project staff including managers, evaluators and advisors.

- I have been informed of and invited to attend all meetings held by the Project team with Proponents and with Thales, internal team meetings, meetings of the evaluation teams and Evaluation Committee (including those at which proposals were discussed and evaluated), and meetings of the Due Diligence Committee. I attended such meetings as I felt were necessary to carry out my role.

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

Based on all of my observations above, I am satisfied that the Project team has implemented and complied with the procurement and decision processes set out in the RFP, in accordance with reasonable standards of fairness.

Signed at Vancouver, September 20, 2012.



Jane Shackell, Q.C.