

GATEWAY PROJECT – SOUTH FRASER PERIMETER ROAD

Evaluation of Technical Submittals

Report of the Fairness Reviewer

February 1, 2010

I was retained by the Ministry of Transportation as Fairness Reviewer for the South Fraser Perimeter Road Project (the “Project”). As such, I am to report on whether procurement processes and decisions related to the Project are fair, reasonable and appropriate; and whether those processes and decisions are reasonably implemented and materially complied with by the Project team.

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.

RFP Process

Since issuance of the RFP, the Project team has operated an electronic data room, held numerous topic meetings with proponents, responded to several hundred requests from the proponents for specific information, and issued various notices to all proponents concerning significant issues. These processes were conducted in accordance with the procedures described in the RFP. I have observed that:

- meetings are attended by Project staff with appropriate expertise and authority to answer questions in the relevant area
- in-person meetings are conducted by Project staff in a consistent manner with each proponent
- consistent information is presented by the Project to all proponents, whether in topic meetings or in writing, at the same time
- there is an avenue for ‘Commercial-in-Confidence’ discussions with proponents, where necessary and appropriate

I have had full access to the correspondence between Project staff and the proponents, and have attended various topic meetings. Project staff have occasionally asked for my comments or input, and in each such case I have observed that my comments were appropriately handled.

I provide the foregoing as background to this report (which relates primarily to the evaluation of technical submittals), because the proponents’ development of their technical submittals was informed in part by the exchange of information with the Project team, thus the fairness of the evaluation is impacted by processes followed at earlier stages.

Evaluation Manual

Before receipt of the technical submittals, the Project team developed an evaluation Manual, setting out in writing the details of how submittals would be received, compared against requirements of

the RFP, and evaluated for substantial compliance with the RFP. Among other matters, the Manual included procedures detailing how the Project would:

- ensure confidentiality security of the submissions (including secure premises, restrictions on use of electronic devices and internet access in the secure premises, arrangements for access to the premises and submittals, and similar matters)
- review and evaluate relationships between members of the evaluation team and members of proponent teams
- divide the evaluation work among various evaluators
- carry out any required reference checks
- communicate with proponents to clarify aspects of their submissions

The Manual also included worksheets to be completed by each group of evaluators as a record of their work. The worksheets set out all of the submission requirements, and required evaluators to set out what evidence they considered, and their opinion as to whether each submission substantially satisfied the requirements of the RFP.

Among other matters, the Manual specifically directed evaluators to consult with each other across disciplines, to ensure that submittals were internally consistent and that all information supplied by proponents was duly considered.

Both the Manual and the worksheets emphasized and repeated the evaluation criteria set out in the RFP; that is, that the evaluation must consider whether each submittal substantially satisfies the requirements of the RFP and demonstrates that the proponent is capable of performing as concessionaire and delivering the Project, and has a good understanding of the Project.

Before the Manual was finalized, it was reviewed by the Evaluation Due Diligence Committee. Comments made by that Committee were reflected in the final version of the Manual.

Evaluation

Before the evaluation started, the Project team held an orientation meeting with evaluators to discuss the intended approach, and the contents of the Manual, including the role of the Fairness Reviewer. The evaluation criteria set out in the RFP was again reviewed. The team specifically directed itself that the evaluation would not compare submittals against each other, but would evaluate each on its own merits. In addition, the team emphasized that all submittals must be subjected to similar levels of scrutiny by all evaluators.

Also before commencement of the evaluation, the Relationship Review Committee obtained declarations of all members of the evaluation team as to their relationships with members of proponent teams. As a precaution, all persons not on the evaluation team but who worked on the floor of the building where the evaluation site was located, were also ‘cleared’. The Project retained a Conflicts of Interest Adjudicator to consider any related issues. I observed that the processes described in the Manual in connection with relationship review were followed.

Each submittal was evaluated by numerous sub-teams. Each sub-team had primary responsibility for a particular aspect of the RFP, and included persons who participated in development of the RFP and the Concession Agreement, with expertise in areas appropriate to the submission requirements, and with experience in conducting evaluations. Each sub-team had assistance from additional experts as they considered necessary. Physical facilities, equipment and administrative support were also provided to the evaluators as needed.

I attended at the Closing Location on the Technical Submittal Deadline date, and confirmed the timely receipt of three submittals, which were checked for completeness as described in the Manual. I attended the evaluation premises several times during the period of the evaluation, and observed that the requirements of the Manual relating to procedural matters were followed. I also observed that members of the evaluation team devoted appropriate time and attention to the evaluation, which was conducted in part during the Christmas holidays.

I had access to all 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 among the team, meetings with the evaluation committee, and meetings of the evaluation committee (and the evaluators) with the EDDC. I observed that:

- Each team member was familiar with details of all the submittals, the RFP, the draft Concession Agreement, and the information provided to proponents through topic meetings and the ‘RFI’ process.
- Team members were alive to issues of fairness in the evaluation, and to my role. They freely sought my advice where they considered it necessary or appropriate to do so. They carefully considered my input when it was given, whether at my own instance or in response to a specific request.
- The sub-teams applied the approach set out in the Manual to evaluate each submittal, including cross-checking among sub-teams to ensure an integrated review, while focusing on the specifics of evidence within the submittals that supported the conclusions reached.
- Sub-teams obtained clarifications as necessary from the proponents, using the process set out in the Manual. The evaluation committee ensured 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.
- The evaluation committee held discussions with all sub-teams to ensure that all evaluators were consistently applying the standard for evaluation set out in the RFP and the Manual.
- Evaluators presented detailed support for their conclusions, both in writing and in meetings with the evaluation committee and the EDDC. All evaluators on each sub-team subscribed in writing to the conclusions of that sub-team.

- 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.

I am satisfied that the Manual represented a comprehensive plan for receipt and evaluation of the technical submittals, and that the plan was fair, reasonable and appropriate. Based on my observations I am satisfied that the Project team completed the evaluation in compliance with the plan in all material respects.

Signed and dated at Vancouver, February 1, 2010.

Jane Shackell, QC
Fairness Reviewer