

**SEA TO SKY HIGHWAY PROJECT  
FINAL REPORT #4 OF THE FAIRNESS REVIEWER  
THE HONORABLE W. J. WALLACE, Q.C.,  
TO THE PROJECT EXECUTIVE BOARD  
DATED THE 16TH DAY OF MARCH, 2005**

**SEA TO SKY HIGHWAY PROJECT  
FINAL REPORT #4 OF THE FAIRNESS REVIEWER  
THE HONORABLE W. J. WALLACE, Q.C.,  
TO THE PROJECT EXECUTIVE BOARD  
DATED THE 16TH DAY OF MARCH, 2005**

1. BACKGROUND

In my previous reports I expressed my opinion, as Fairness Reviewer, on the following processes:

Report #1 - (May 7, 04) The process referable to the Competitive Selection of the short-list (3) of Respondents.

Report #2 – (July 23, 04) Sunset Beach to Lions Bay Design Build.

Report #3 – (January 17, 05)

- The process referable to the development of the criteria and selection requirements of the Final Request for Proposals (R.F.P.) and Addenda thereto.
- The process related to the development of an Evaluation Methodology and Evaluation Manual as well as the training associated with the implementation of the Evaluation Process itself.

It is now my responsibility to submit my opinion, as Fairness Reviewer, of the process whereby the respective Proposals of the Respondents were reviewed, evaluated and scored and the Preferred Proponent selected. (R.F.P. Section 4.2.3)

## 2. RECEIPT AND CONTROL OF PROPOSALS

On January 10<sup>th</sup>, 2005 Submittal A (technical) proposals were delivered to the Project office as follows:

- Sound Highway Development Construction (Sound) – (9 boxes)
- Black Tusk Highway Group (Black Tusk) – (23 boxes)
- S2S Transportation Group (S2S) – (10 boxes)

On January 17<sup>th</sup>, 2005 Submittal B (financial and commercial and DBFS) proposals were delivered to the Project office as follows:

- Sound Highway Development Construction (5 boxes)
- Black Tusk Highway Group (7 boxes)
- S2S Transportation Group (9 boxes and 1 binder)

I attended the project office on both occasions to witness the date and time and procedure respecting the delivery of the packages. Upon arrival each proponent was escorted into a room where the boxes were unloaded. The logistics coordinator marked on each box the date and time received. A receipt was issued and was signed by the deliverer, EMT Logistics coordinator and myself, as Fairness Reviewer.

The room was then sealed until after closing time. The official clock was marked as such and the receiving office doors were locked for a period of 15 minutes after closing. Afterwards the rooms were unsealed and one proponent proposal at a time was delivered to the Mandatory Submissions Chairperson.

Two Submission B parcels were inadvertently delayed and were delivered by one of the proponents shortly after the time posted for delivery had expired. The two packages were examined as to whether or not the material they contained was new information or information that in any way amended or added to the information that was previously received from the Proponent before the closing time had expired. A page by page comparison with the packages delivered by the proponent before the time closure had expired revealed that the material in the two boxes contained duplicate copies of that which had been previously filed within the posted closure time. I attended the office at the time the comparison was made between the late delivered material and that which had been previously filed.

*Accordingly in my opinion the contents of all three Proposals were received before the closure time in accord with the procedures set out in Section 5.0 of the Evaluation Manual and the inadvertent late filing of two packages did not affect detrimentally, or otherwise, the fairness of the Evaluation Procedure.*

### 3. FOLLOWING RECEIPT OF PROPOSALS

Appropriate disclosure forms, declaring the absence or presence of a possible relationship or conflict of interest that might inhibit or prejudice a fair unbiased evaluation, were executed by all team members participating in the Evaluation Process. The declarations were reviewed by the Relationship Review Committee (RRC) for clearance or rejection.

*In my opinion the implementation by the Evaluation Management Team (EMT) of the procedure for avoiding potential conflicts of interest and relationships set forth*

*in the RFP and Evaluation Manual gave me satisfactory assurance that it was very unlikely in the circumstances that the evaluations would, or could be detrimentally affected by the presence of any improper conflict of interest or relationship. I also noted that proper measures, taken to ensure the Security and Confidentiality of the evaluation procedures, were put in place and implemented.*

#### 4. MANDATORY SUBMISSION REQUIREMENTS REVIEW (MSR)

Following receipt of the Proposals, the MSR Team reviewed the contents of Submittal A and Submittal B of each Proponent to confirm the presence of the required documents, plans, files, etc. in the submissions and the overall completeness of each of the Proposals.

The EDDC determined that the Proposals of two of the three Proponents met the Mandatory Submission Requirements of the RFP. However the Province considered that Sound Highway Development Consortium (“Sound”) Proposal, did not meet the requirements of the RFP necessary to be considered eligible for the scored evaluation. This is reflected in the correspondence between the Province (January 31) and Sound (February 4<sup>th</sup>). As a consequence of this ruling the scored evaluation was restricted to the proposals of the other two Proponents.

*In my opinion the proper procedure for reaching the above conclusion and for the ruling itself was in accord with the terms of the RFP.*

## 5. MINIMUM PERFORMANCE REQUIREMENTS (MPR)

In conjunction with the MSR review, the MPR teams also conducted a MPR evaluation of Sound's Proposal. The three Proposals were then reviewed to ascertain whether they met the MPR.

The MPR Evaluation Team assessed each submission against the evaluation criteria provided in the RFP. In carrying out this function the teams submitted clarification questions to each of the Proponents to elucidate aspects of their respective Proposals. (approx 88 clarifications to Black Tusk, 61 to S2S and 56 to Sound) A conclusion reached by the Evaluation Teams was that the Sound Proposal did not comply with the criteria of the RFP but that the other two Proponents met the minimum performance requirements.

## 6. SCORING EVALUATION

As a result of Sound's Proposal failing to meet the mandatory requirements of the RFP, the scored evaluation of the Proposals was confined to those of Black Tusk and S2S.

The evaluation organization chart (see Report #3, page 9) sets out the six subcommittees which had the responsibility to evaluate and score the Proposals in the following areas, namely:

- Safety
- Mobility
- Construction Traffic Management
- Handback Value

- Environment
- Commercial and Financial

The members of each sub-committee were chosen for their experience in the particular subject area for which they were responsible. Appropriate measures were implemented to ensure Security and Confidentiality requirements associated with the evaluation were strictly maintained.

I had the opportunity to visit the teams during their evaluation assessments and attend their meetings with the EMT and EDDC to review their Team reports.

*I formed the opinion that these were very skilled professional teams whose members were dedicated to performing their evaluation assessments fairly and accurately on the basis of the contents of the respective Proposals and the relevant RFP criteria. I concluded that these objectives were attained in their Final Reports*

The review of the Evaluation Reports by the EDDC, involved in depth questioning of the team leaders and other team members respecting the rationale for their conclusions and the validity of their assessment of the information upon which their conclusions were based. Following this intensive analysis and review, the teams finalized their reports.

This process of investigating, analyzing, assessing and cross checking the information contained in the respective Proposals with the criteria in the RFP, enabled each of the sub-committees to develop conclusions with respect to which all team members expressed their concurrence.

I noted that the time and energy spent by the team members, the sub-committees and the committees on this evaluation phase of the project was very extensive, demanding and stressful, requiring constant consideration and cooperation of all participants (particularly in view of the time restraints under which the evaluation committees had to operate).

*According for the reasons set out above, it is my opinion the participants in the evaluation process performed their respective duties with professional care and diligence and accomplished an evaluation of the Proponents' proposals by a process that was open, fair, objective, unbiased and in accord with the criteria contained in the RFP.*

## 7. BOARD DECISION

On March 2, 2005 I attended the meeting of the Project Executive Board (the "Board") when the EDDC presented the Board the results of the evaluation analysis with supporting reports and its recommendation that the S2S Transportation Group be selected as the Preferred Proponent.

After discussion and questions to the EDDC, the recommendation was accepted by the Board (unanimously) and an appropriate motion to that effect was passed recording the decision.

## 8. CONCLUSION



*It is my opinion that the 'process', leading up to and including the selection of S2S Transportation Group as the Preferred Proponent, was a fair, impartial and unbiased process which was implemented appropriately.*

A handwritten signature in black ink, appearing to read 'W.I. Wallace', written over a horizontal line.

Hon. W.I. Wallace, Q.C  
Fairness Reviewer