

**SEA-TO-SKY HIGHWAY IMPROVEMENT PROJECT - DBFO  
REPORT #1 OF THE FAIRNESS REVIEWER  
THE HONOURABLE W.J. WALLACE, Q.C.  
TO THE PROJECT EXECUTIVE COMMITTEE  
DATED THE 7<sup>TH</sup> DAY OF MAY, 2004**

Pursuant to a service contract executed on the 29<sup>th</sup> day of March 2004 between Partnerships British Columbia Inc. and myself I have undertaken, in participation with Mr. Ted Hughes, Q.C., to act as a Fairness Reviewer for the Sea-To-Sky Highway Improvement Project. My responsibilities are described in detail in the Terms of Reference (Schedule "A" of that contract).

**Terms of Reference**

Pursuant to the Terms of Reference, to provide assurance to proponents in the competitive selection process, I am obliged to ascertain whether or not this selection criteria and the process have been clearly described and followed and to provide an objective opinion as to the fairness of the competitive selection process insofar as the Request for Qualifications (RFQ) is concerned.

**Process:**

Subject Matter:

The Sea-To-Sky Highway Improvement Project involves a design, construction, financing, operation and maintenance contract (DBFO). It embraces six major concerns:

- technical specification and minimum acceptable design criteria
- construction responsibilities
- operation and management responsibilities
- project management responsibilities
- financial deliverability
- legal requirements

Prior to my engagement as a Fairness Reviewer a Registration of Interest (ROI) had been issued in January 2004. The ROI informed the private sector of the nature of the DBFO project, of the business model proposed for the project and of the selection process to be implemented.

Procedures were arranged for the provision of other information at the request of any interested party.

A considerable number of firms registered their interest in participating with the project. The process accordingly moved to the following stage:

**Request for Qualifications Stage (RFQ):**

The Request for Qualifications for DBFO Arrangement dated March 3, 2004 was provided to all parties who had registered their interest in the project.

Five parties responded the Request for Qualifications by filing submissions.

Evaluation of the five submissions was undertaken by the Evaluation Teams in order to recommend a preferred short list of three Respondents who successfully demonstrated their experience, capability and capacity to complete the design build component of the DBFO project on time and on budget, and to operate, maintain and rehabilitate the highway over the term of the DBFO agreement (2.2.1).

At this stage my responsibility is concerned with the process by which a short list of three Respondent Teams are selected from the five Respondent Teams.

At all times I had complete access to the meetings of the Due Diligence Committee and the Sub-committees as well as access to the documentation, minutes of meetings and other information relating to the Evaluation Process. I took advantage of this opportunity and attended those meetings of the Due Diligence Committee and other Sub-committee meetings and examined such documents as I considered were pertinent to carrying out my responsibilities of Fairness Reviewer.

## Evaluation

Appendix B of the Request for Qualifications for DBFO Arrangement dated March 3, 2004 concerns “submission guidelines and evaluation criteria”. A submission format is annexed thereto which informs the Respondent Teams of those factors which the Evaluation Team considers relevant to the completion of the DBFO project. The factors in the format refer specifically to the criteria set forth in the Request for Qualifications and constitute the matrix upon which the respective submissions will be evaluated. Section 2.1, Appendix B provides:

The submissions will be evaluated in accordance with the evaluation matrix shown in Table B2.1.

Table B2.1

### Evaluation Matrix

| <u>Evaluation Criteria</u>                            | <u>Weighting (%)</u> |
|---|----------------------|
| <i>Technical Evaluation</i>                           |                      |
| Respondent Team                                       | 10                   |
| Project Management Experience                         | 17                   |
| Design Experience                                     | 12                   |
| Construction Experience                               | 17                   |
| Operation, Maintenance, and Rehabilitation Experience | 14                   |
| <br>  |                      |
| SUB-TOTAL   | 70                   |
| <br>  |                      |
| <i>Financial/Commercial Evaluation</i>                |                      |
| Financial Experience and Capacity                     | 28                   |
| Legal Advisory Experience                             | 2                    |
| <br>  |                      |
| TOTAL   | 100                  |

The Submission Format enables each Respondent to prepare its submission in a manner which should result in each Respondent addressing the same material issues and required project criteria in the same order.

The Due Diligence Committee reviewed and considered at length the Evaluation Process in its entirety and in particular with regard to the criteria and guidelines set forth in the RFQ to ensure that the information provided the Respondents upon which they were to base their submissions and be evaluated was in conformity with the designated criteria contained in the RFQ and that each Respondent received the same information.

Each Respondent had delivered its submission for evaluation before the deadline of April 6, 2004. Each Respondent Team was invited to, and did, make an oral presentation to the Evaluation Committee at which the Finance and Technical Sub-committees attended. After the presentations were concluded, questions from the Sub-committee members were addressed to the Respondents for clarification of their respective submission. The presentations each lasted approximately two hours.

***In my opinion, the information provided each Respondent as to the required format of each submission and the opportunity for each Respondent to present and highlight their respective submissions ensured fair, open and equal treatment of each Respondent.***

### **Sub-Committee Teams**

The Sub-committees of the Evaluation Committee, namely the Technical Team and Financial/Commercial Team, were composed of experts who are highly qualified professionals in their particular area of specialization (I had the opportunity to review their respective curriculum vitae). The Relationship Committee reviewed the disclosure statements of the Evaluation Team members and where there was a concern respecting a possible conflict the matter was referred to the Conflicts of Interest Adjudicator. The recommendation of the Conflicts Adjudicator in such circumstances was followed.

**Due Diligence Meeting – April 27, 2004**

The Technical Evaluation Team attended the Due Diligence Committee meeting to present the results of its evaluation of the Respondents' submissions. The Technical Team members reviewed in detail how they evaluated the relevant components of each Respondent submission and the rationalization for the weight, or score, they allotted to the respective submissions. In reaching their conclusion they stated they had considered the written submissions, the verbal presentation to the EC panel, the answers to the panel's questions and checked the references made available to them by the Respondents. The Technical Team members after a full discussion among themselves declared that they had reached a consensus on their evaluation and the consequent scoring to be allotted to each Respondent submission. The members individually affirmed that the conclusions expressed in the report were unanimous.

**Due Diligence Meetings – Wednesday, April 27, 2004 and Thursday, April 28, 2004**

The Financial/Commercial Team attended both the above meetings of the Due Diligence Committee. At both meetings the Team was questioned in depth by the members of the DDC as to the facts which formed the basis of their respective evaluations as well as the rationalization for the Teams' weighting, or scoring, of the various elements of each Respondent's submission. After considerable discussion the Financial/Commercial Team members expressed their unanimous conclusion of the evaluation of the respective Respondent's submissions and the weight, or scoring allotted by the team to each Respondent.

**Summary**

The Respondents all had the same material upon which to base their submissions. They all had to satisfy the same criteria. They were all given the same opportunity to respond. There were no restrictions imposed upon them in this respect, other than relevance and the time available for each to respond. The submissions were carefully analyzed by professional competent teams. Their conclusions reflected that analysis. A consensus as to the evaluations was reached by the

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respective Evaluation Teams. In summary, the process both in its format and implementation was designed to enable the evaluators to score each component of the respective responses in accordance with the requirements and criteria contained in the RFQ. The short-listed selected is the result of that process.

### **Opinion**

*As a result of monitoring the implementation of the Competition Selection Process I am in a position to and do declare, unequivocally, that, in my opinion, the evaluation and selection process of the short list of Respondents has been implemented impartially, fairly and without bias or discrimination. No party has been given an advantage over another. Further, in my opinion, the Competitive Selection Process has been applied consistently according to the Evaluation Criteria contained in the RFQ.*

W.J. Wallace, Q.C.