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April 6, 2005

VIA FACSIMILE 387-6431

Ministry of Transportation and Highways
940 Blanshard Street
Victoria, BC

Attention: John Dyble, Assistant Deputy Minister

VIA FACSIMILE 356-2222

✓ Partnerships BC
3rd Floor, 707 Fort Street
Victoria BC V8W 3G3

Attention: Steve Hollett

Dear Sirs/Mesdames:

Re: Partnerships BC re: Okanagan Bridge

Further to the terms of my engagement as Fairness Auditor for the Okanagan Lake Bridge Project, I enclose my Final Fairness Auditor's Report.

I trust that you will find it in order, and please feel free to contact me if there are any questions or you require anything further from me.

Yours very truly,

SWADDEN VIRGIN & YOUNG


Jian M. Young
JMY/jw

OKANAGAN LAKE BRIDGE PROJECT

REPORT OF THE FAIRNESS AUDITOR ON THE PROCUREMENT PROCESS

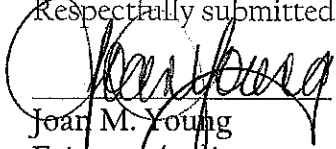
April 6, 2005

To: Project Board, Okanagan Lake Bridge Project
(Dan Doyle, Larry Blain, Frank Blasetti and Sheila Taylor)

This report covers the following issues:

1. The scope of the review;
2. The purpose of the review;
3. The framework for the review;
4. A statement that the review has been conducted in accordance with this framework;
5. Explanatory details regarding the variables which affect the review;
6. Project Background and Monitoring Activities by Fairness Auditor;
7. Recommendations to improve process for future procurements;
8. Any qualifications on the endorsement of the process; and
9. A statement that the Fairness Auditor has fulfilled the terms of her engagement in order to express an opinion;
10. Findings in the form of an opinion whether the process appears to have been undertaken in accordance with fairness principles expressed or implied in the procurement documents.

Respectfully submitted:


Joan M. Young
Fairness Auditor

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SCOPE OF REVIEW

I was retained in March 2004 to act as the Fairness Auditor for the Okanagan Lake Bridge Project. My role is to satisfy myself on the overall fairness of the procurement process associated with the Okanagan Lake Bridge Project.

Prior to my engagement, the Province issued both a Request for Expressions of Interest ("REOI") and, following that stage, a Request for Qualifications ("RFQ"). These two stages were intended to set out information regarding the project to the private sector and to invite those parties both interested and qualified in a variety of project specific areas to participate in the procurement process.

My engagement covers the evaluation of the responses to the RFQ, the Request for Proposals and the Best and Final Offer stages.

The terms of engagement dated April 8, 2004 state that as Fairness Auditor I was asked to do the following:

To act as the Fairness Auditor for the Okanagan Lake Bridge Project to provide arm's length advice to the Project Management Team and independent assurance to the Project Board for the Project as to the fairness and appropriateness of project management activities related to the procurement process to the Okanagan Lake Bridge Transaction.

1. In advance of key procurement process decisions being finalized, the Fairness Auditor shall meet with the Project Director and other members of the Project Management Team to:
 - a. receive information updates and review project documents;
 - b. ask any questions that the Fairness Auditor deems necessary to test the logic, fairness, and merit behind decision-making activities and processes; and
 - c. at the request of the Project Director, provide confidential advice and perspective similar to that provided by an internal auditor.
2. In advance of key procurement process approvals being finalized by the Project Board, the Fairness Auditor shall report verbally and in confidence to the Executive Steering Committee as to whether the Fairness Auditor is satisfied that:

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- a. the processes and decisions developed by the Project Management Team in delivering those materially complied with by Project Management Team in delivering those aspects of the project.
 - b. those processes and decisions have been reasonably implemented and materially complied with by the Project Management Team in delivering those aspects of the project.
3. At the end of the engagement the Fairness Auditor shall provide the Executive Steering Committee with a written opinion / audit report summarizing her activities and her findings. This document shall be subject to disclosure at the discretion of the Executive Steering Committee.

The role of the Fairness Auditor is not to validate the Evaluation Committee's recommendation of the selected proponent; but rather is to provide oversight and assurances regarding the processes applied in making the recommendation.

PURPOSE OF REVIEW

The purpose of my review is to provide arm's length advice to the Project Management Team and independent assurance to the Project Board for the Project as to the fairness and appropriateness of project management activities related to the procurement process to the Okanagan Lake Bridge Transaction.

FRAMEWORK FOR REVIEW

At each stage of the procurement process covered by my engagement, I undertook the following review activities in order to meet the terms of my audit:

- (a) Review standards for handling of documents, security of documents, procedures for clarifying or rectifying errors by the owner and/or proponents,
- (b) Conduct a review of all documentation issued by Partnerships BC and/or the Province of British Columbia to proponents including all procurement documents and addenda;
- (c) Ascertain whether each proponent was provided with access to the same information as other proponents for the purposes of responding to the various procurement stages;

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- (d) Ascertain whether Evaluation Criteria was established in advance of evaluations being undertaken;
- (e) Ensure that adequate measures for avoidance of conflict of interest, unfair advantage and confidentiality were established and adhered to in the procurement process as well as procedures for resolving issues which may arise during the procurement process;
- (f) Obtain information regarding rulings made by the Conflict of Interest Adjudicator to ascertain whether the recommended course(s) of action have been fully implemented;
- (g) Review the Evaluation criteria proposed for the various stages of the RFP and BAFO stages to determine that they were reasonably and rationally connected to the stated Project objectives;
- (h) Review all responses submitted by proponents to ensure an adequate familiarity with the terms of the responses in order to undertake the Fairness Audit;
- (i) Ensure that appropriate records regarding verbal and written contact with proponents were prepared and retained;
- (j) Meet with Due Diligence Committee to discuss their observations of the procurement evaluation process;
- (k) Meet with the Legal Advisor to the project to discuss any legal issues or impediments identified during the project which would impact on the fairness of the procurement activities;

REVIEW CONDUCTED IN ACCORDANCE WITH THIS FRAMEWORK

My review was conducted within the framework for review set out above.

EXPLANATORY DETAILS

None.

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PROJECT BACKGROUND AND MONITORING ACTIVITIES OF FAIRNESS AUDITOR

The Okanagan Lake Bridge, one of the few floating highway bridges in North America, was completed in 1958, extending Highway 97 from Kelowna to communities in the South Okanagan. The existing three-lane bridge is 880 metres long with a lift span for marine traffic at the east end and a causeway at the west end. At both ends of the floating section there are 53-metre transition spans which connect the fixed land piers to pontoons which can move in three directions. There are 10 reinforced concrete pontoons, each 15 metres wide by 61 metres long and 4.5 metres high. The bridge has been instrumental in the growth of the central Okanagan including communities and neighbourhoods on the west side of Okanagan Lake. It is the only bridge to cross Okanagan Lake and it is an essential part of the Okanagan regional transportation system. While the bridge primarily serves Kelowna, the largest city in the Okanagan and a popular tourist destination, it also became a key link for traffic to and from the Lower Mainland when the Okanagan Connector was completed in 1990.

Partnerships BC, on behalf of the Province of British Columbia (Ministry of Transportation & Highways) initiated a competitive process in 2003 for the design, building, financing and operation ("DBFO") for the replacement of the existing Okanagan Lake Bridge and improvement of the approaches and associated roadworks, on the basis of performance-based payments, as well as the removal of the existing structure after completion of the new crossing.

The requirements of the project are to design, construct, finance and operate a new five lane, toll free Okanagan Lake crossing. The concessionaire will also be responsible for the ongoing operation and maintenance of the existing bridge and infrastructure until the new crossing is complete. The term of the agreement between the proponent and the Province is 30 years, with the lifecycle of the new structure to be 75 years. The concessionaire will be paid on the basis of performance ratings for safety, access to open lanes, traffic volumes and customer satisfaction.

A. *Appointment of Fairness Auditor*

The role of Fairness Auditor is to provide oversight on the procurement process to ensure that the process for selecting a preferred proponent is open, fair and equitable. A Fairness Auditor also provides advice on issues which may arise during the procurement process which could impact on the overall fairness of the process.

A Fairness Audit follows four phases of the procurement process:

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1. Before closing of the procurement process;
2. After closing of the procurement process;
3. Procurement Evaluation Stage; and
4. Post Procurement Evaluation.

As stated above, the role of the Fairness Auditor is not to validate the Evaluation Committee's recommendation of the selected proponent; rather, it is to provide oversight and assurances regarding the processes applied in making the recommendation.

B. Procurement Process for Okanagan Lake Bridge Project

The procurement process involved several phases including the following:

- Request for Expressions of Interest stage ("REOI")
- Request for Qualifications stage (RFQ)
- Request for Proposals stage ("RFP")
- Optional Best and Final Offer stage ("BAFO")

C. Request for Expressions of Interest

The Request for Expressions of Interest ("REOI") was issued on October 26, 2003 with a closing date of November 25, 2003 requesting interested parties to submit their qualifications in any of the following areas: Design Capability, Construction Capability, Operations and Management Experience, Previous or Current Ownership, Capacity to Invest Equity, or Infrastructure Financing Experience.

As a result of that process, several parties with expertise in a wide variety of enterprises were qualified to move to the next stage of the procurement process. 35 Expressions of Interest were received by the Province and 30 companies were invited to proceed to the next stage.

D. Request for Qualifications

On December 30, 2003 the Province issued the Request for Qualifications stage. The stated objective of this stage of the procurement process was to identify up to four qualified proponents to be invited to move to the Request for Proposals stage.

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The RFQ Stage

RFQ Proponents are required to respond to the Commercial Evaluation Criteria...and the Technical Evaluation Criteria.... Every RFQ Proponent must be, or must include in its team, an Interested Party who has been accepted by the Province as eligible to respond to this RFQ. RFQ Proponents will be short listed in accordance with this RFQ and only those short listed RFQ Proponents will be invited to participate in the RFP stage. It is the intention of the Province to short list up to four RFQ Proponents at the end of this RFQ stage.

During this phase of the procurement process two teams were formed: one on the commercial side and one on the technical side. Each had relevant experience in the fields they were being asked to assess. Each team had members and/or advisors from both the public and private sectors. The backgrounds of the various members and advisors included business, engineering, finance, road/bridge construction from within government, Partnerships BC and private sector firms.

Each advisor was required to execute both a Relationship Disclosure form and a Confidentiality/Conflict of Interest declaration in advance of access to any information or proposals received in response to the RFQ. Each evaluator was also provided with guidelines for evaluation standards including what information could be relied on in the review and evaluation process, confidentiality requirements, relationship disclosure, document handling, standards for undertaking reference checks of proponents, how to seek clarifications from proponents, and steps to be taken in the event of a need to disqualify a proponent. Evaluators were also advised of the appointment of the Fairness Auditor and of the Conflict of Interest Adjudicator for the project. An internal review process was established for identifying potential conflict or similar issues upon submission of the required documents from the various team members. Staff were also provided with an opportunity to speak with a ministry advisor regarding potential conflict issues.

An Evaluation Manual was developed based on the evaluation criteria set out in the RFQ. On the technical side each party was evaluated on a weighted score of its quality, currency and quantity of technical experience in relationship to the technical requirements of the project. On the commercial side the parties were evaluated on the basis of criteria such as project management and public-private partnerships understanding, corporate identity and structure, capacity to invest equity, infrastructure financing experience, and insurance and bonding.

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Five proponent teams, comprising up to 15 companies, submitted responses on or before the March 10, 2004 deadline. I attended a Technical Subcommittee meeting, as well as the Evaluation Committee meetings on April 30, 2004 and May 4, 2004 as an observer. I was satisfied that the project activities associated with this phase of the procurement were carried out fairly, and verbally advised the Evaluation Committee of this conclusion.

E. *Request for Proposals*

From the five proponent teams in the Request for Qualifications process, three proponents were invited to proceed to the Request for Proposals stage ("RFP"). In alphabetical order they were:

1. Bouygues Travaux Publics
2. Okanagan Bridge Group (led by Flatiron Constructors)
3. SNC- Lavalin Inc.

The RFP was issued in June 2004. All Proponents were required to provide written guarantees of confidentiality before the Proponents were provided with confidential information about the project, including access to the Draft Concession Agreement and project specific information in the electronic "Data Room". A number of Addenda were issued over the course of the RFP stage, and each proponent was provided with the Addenda.

Informational meetings were held with each of the proponent groups with representatives of Partnerships BC and the Province of British Columbia to discuss general issues regarding the project, the RFP process and the role of the Fairness Auditor. I was invited to and did attend meetings in Vancouver on June 29 & 30, 2004 to observe the proceedings.

During the course of the summer and fall of 2004, the procurement evaluation teams were re-assembled. A number of meetings were held between representatives of the Province and each of the proponent teams. All proponents were provided with the opportunity to access the Province's advisors for the purposes of "in confidence" meetings. Proponents were also provided with the opportunity to ask questions regarding the project. These questions were distributed to appropriate members of the ministry teams for answers on a "no names" basis so that the Province did not know the identity of the proponent asking the question. The questions and answers were subsequently published to all proponents.

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The Province and Partnerships BC also provided access to a confidential "Data Room" which allowed all proponents to gain identical information for the purposes of both understanding the nature and scope of the project, and to ensure that appropriate due diligence was carried out by proponents before submitting their proposals to the Province.

Deadlines were originally established for the submission of proposals. During the course of the RFP phase, changes were made to the deadlines. I am satisfied that these decisions were done fairly and not to the advantage of any particular proponent.

As with the RFQ stage, each of the Province's and Partnership BC's advisors and staff were required to execute both Confidentiality and Conflict of Interest Declarations as well as Relationship Disclosure forms in advance of gaining access to information associated with the Project or with confidential proponent information. A number of disclosures were reviewed by the Conflict of Interest Adjudicator and, in some cases, restrictions were placed on the use of a particular advisor or in some instances "Chinese Walls" were required to be instituted. When such restrictions were recommended by the Conflict of Interest Adjudicator, the Legal Advisor to the Project and designated ministry staff were involved in ensuring that measures were put in place. I am satisfied that these rulings by the Conflict of Interest Adjudicator appear to have been followed by the various staff or advisors in question.

Pursuant to the terms of the RFP, proposals were required to be submitted to Partnerships BC by December 1, 2004 (technical proposals) and December 13, 2004 (commercial proposals). Two proposals were submitted to the Province in response to RFP. During the RFP stage Bouygues Travaux Publics withdrew from the process. The RFP stage proceeded with two proponents, Okanagan Bridge Group and SNC-Lavalin.

A completeness review was undertaken by two Partnerships BC staff to ensure that each proponent had complied with the mandatory submission requirements of the RFP Instructions. After this review was completed, the various advisors were provided with access to the proposals (either technical or commercial, as appropriate) for the purposes of the sub-committees' evaluation. The proposals were located in a secure and separately demised location in Victoria. Each person having access to the proposal documents was required to be cleared by the Conflict of Interest Adjudicator before gaining access to the documentation. Restrictions were placed on members of the various sub-committees, advisors and Evaluation Committee members regarding discussions of evaluation results within the evaluation space to ensure that each sub-committees' work was carried out

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independently without access to information from other sub-committees to avoid the potential for bias in the review. Additional restrictions on copying information or taking it out of the evaluation space were established.

A Due Diligence Committee was established to provide oversight of the day to day evaluation activities. Members of that committee were present during the evaluation process and provided a report to the Project Board at the end of the RFP process regarding their observations. No issues were identified by the Due Diligence Committee to the Project Board.

During December 2004, I was invited to and did attend a number of the sub-committee meetings and briefings with the Evaluation Committee. On December 22, 2004 I attended lengthy meetings with the Okanagan Bridge Group and SNC-Lavalin Inc. to observe their presentations to the Province and Partnerships BC regarding their respective proposals. On December 23, 2004, I attended as an observer to the meeting of the Evaluation Committee. I can report that the evaluators appeared to be conducting all of their evaluations in accordance with the criteria set out in the evaluation manual and applying relevant considerations in their areas of expertise to the issues facing the various evaluation committees.

During the course of this process it became clear that there were deficiencies in the draft Concession Agreement which made the opportunity of reaching financial and commercial close with either proponent unlikely to occur. Advice was sought from the Legal Counsel to the Project. The Evaluation Committee sought the advice of the Fairness Auditor regarding its proposed course of action. On December 30, 2004 a lengthy meeting with the Project Board took place. It was decided to invoke section 9.12 of the RFP Instructions to allow the Province to amend the restrictions on "mark-ups" to the form of the draft Concession Agreement required to be submitted as part of the RFP.

I attended the Project Board meeting and provided comments on the various solutions being proposed to the Project Board, as well as a verbal report on the fairness of the project management activities to date. I advised the Project Board that I was satisfied with the overall fairness of the process to date. I also advised the Project Board that it was my view that the Province had been acting in good faith in providing the form of draft Concession Agreement but that a material flaw had been identified by the proponents in terms of their ability to finance and insure the agreement as proposed. While changes made to the requirements of the RFP post-submission closing date would normally be considered to be unfair, I was of the view that it was not unfair to amend the process at this stage based on the very specific circumstances of this project. In particular, the fact that the proponents had each

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independently identified material deficiencies in the draft Concession Agreement which would lead to problems in reaching financial close and insuring the project led me to conclude that the Province should not be precluded from amending the requirements in the RFP. I agreed that it was open to the Province to, in essence, correct the flaw identified by the proponents and allow the project to move forward on this basis.

The decision was then made to amend the restriction to "mark-ups" to the draft form of Concession Agreement pursuant to the terms of the RFP Instructions which permitted changes and to proceed to invite the two remaining proponents to proceed to the "Best and Final Offer" stage. A de-briefing meeting was held with each proponent, which the Fairness Auditor did not attend, to explain the results of the RFP evaluation process.

The Fairness Auditor was also contacted by telephone by a member of the public who was concerned about the fairness of the project because one of the proponents was allegedly involved in a business arrangement with the West Bank Indian Band for the construction of a band office (unrelated to the construction of the Okanagan Lake Bridge). The information provided by the member of the public did not provide any information regarding actual improprieties on the part of the proponent. The RFP documentation specifically set out that:

RFP Proponents may enter into discussions and reach agreement with the West Bank First Nation on any matter related to their proposals. Each RFP Proponent by submitting a Proposal agrees that it will not enter into any agreement with the West Bank First Nation that prevents or restricts directly or indirectly any other RFP Proponent for dealing with or entering into an agreement with the West Bank First Nation in any way. RFP Proponents should make initial contact with the West Bank First Nation through the Contact Person. The Province may reject any proposal from an RFP Proponent who acts contrary to this paragraph.

Moreover, the West Bank Indian Band was not listed as a Restricted Party in the procurement process nor was it part of the evaluation process. I invited the member of the public to address his concerns in writing, but no further contact was forthcoming. Accordingly, I was of the opinion that no fairness issue arose in the circumstances.

Overall, I was satisfied with the fairness of the procurement process at the RFP stage and I advised the Project Board of this conclusion verbally at the December 2004 Project Board meeting.

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F. *Best and Final Offer Stage*

After the meeting of the Project Board in late December 2004, meetings were held with Okanagan Bridge Group and SNC-Lavalin to discuss the results of the RFP stage, the amendments to the draft Concession Agreement and some changes in the risk transfer with the Province agreeing to accept design risk for the bridge.

Best and Final Offer instructions were issued to the Okanagan Bridge Group and SNC-Lavalin on January 31, 2005. As part of these instructions it was anticipated that two forms of Concession Agreements would be issued: one which incorporated the Province's design (with design and other risk being borne by the Province) and one in which the Concessionaire was responsible for the full design and related risk for the project. On February 14, 2005 the draft Concession Agreements for the Concessionaire's design and the Province's design, plus additional design and specification instructions for the Province's design alone were issued.

Key features of the BAFO process included:

- Ability of proponents to select whether they use the existing Province design with limited design risk transfer ("dBFO") or whether they vary the design and accept the risk ("DBFO").
- Ability of Proponents to mark up required changes to the BAFO Concession Agreement.
- Ability of Proponents to select different financing structures which may offer different levels of commitment and timeframes to close.
- Ability of Proponents to offer alternative proposals. Alternative proposals that are acceptable to the Province will be evaluated on the same basis as conforming proposals.
- Protection for the Province through a BAFO Security Deposit (\$1m), negotiation of a binding Selected Proponent Agreement and a subsequent Selected Proponent Security Deposit (\$5m).

Between the date of the issuance of the BAFO Instructions and the date for submission of BAFO Proposals each of the proponents had the opportunity to meet confidentially with the Province's advisors for the purposes of discussing both technical and commercial/legal issues. The purpose of the meetings was to allow BAFO proponents to discuss, in advance and in confidence, acceptable mark-ups to the proposed Concession Agreements and to discuss acceptable technical solutions and designs for the crossing.

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Following on the deadline for submission of BAFO submissions on March 21, 2005 a completeness review was undertaken at the Vancouver offices of Partnerships British Columbia. Two representatives of Partnerships BC were in attendance at their Vancouver office to receive BAFO submissions. Both proponents submitted proposals before the deadlines set out in the BAFO instructions. In total three proposals were received; one proponent submitted a single conforming proposal and the other submitted a conforming proposal and an alternate proposal. At the time of submission a BAFO completeness review was completed and the submissions were cleared for distribution to the evaluation committee including the technical subcommittee and the commercial / legal / financial subcommittees.

Each person having access to the BAFO submissions was required to execute confidentiality and conflict of interest agreements as well as a relationship disclosure form prior to that individual being permitted access to any of the BAFO submission information. Each person having access to the proposal documents was required to be cleared before gaining access to the documentation. As with the earlier stages of the procurement, on an "as needed" basis updated reviews of potential conflicts and relationships were undertaken by the Conflict of Interest Adjudicator. The Conflict of Interest Adjudicator gave several rulings regarding the use of "Chinese Walls" for some of the private sector advisors. When such restrictions were recommended by the Conflict of Interest Adjudicator, the Legal Advisor to the Project and designated ministry staff were involved in ensuring that measures were put in place. I am satisfied that these rulings by the Conflict of Interest Adjudicator, when made, appear to have been followed by the various staff or advisors in question.

One copy of each proposal was kept in a secure and locked area in the Vancouver office of Partnerships BC during the evaluation period. The remainder of the proposal documents were transported to Victoria in the custody of the two Partnerships British Columbia employees and were secured in a locked and separately demised evaluation room located adjacent to Partnerships British Columbia's offices in Victoria. Security measures were established which included a protocol on the use of laptop computers with restrictions on copying proponent's proposals onto computer hard drives, limits on sending information over the internet, restrictions on photocopying and faxing, document destruction protocols, and document control logs.

Further restrictions were placed on members of the various sub-committees, advisors and Evaluation Committee members regarding discussions regarding evaluation results within the evaluation space to ensure that each sub-committees work was carried out independently without access to information from other sub-committees to avoid the potential for bias in the review. The evaluation space in Victoria was

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separated into two areas with the technical evaluation being done in one part of the office and the commercial / legal and financial analysis being done in another part of the office. As part of the evaluation protocol, each of the members of the various subcommittees were not provided with access to information or proponents' materials in connection with the other areas of evaluation, with limited exception. On a practical level, this meant that the technical evaluation was separate and confidential from the commercial / legal evaluation, which in turn was separate from the financial evaluation. At certain points during the subcommittees' work it was necessary for there to be consultation between the chairs of the various subcommittees.

I am satisfied that to the extent that there was consultation between the various subcommittees there was no inadvertent or intentional disclosure of information other than that which was legitimately required for the purposes of evaluation and within the pre-determined criteria for permissible disclosure. In particular, I am satisfied that the information regarding the analysis of the net present value of the various proposals received was kept confidential and not available to any of the subcommittees with the exception of the financial subcommittee until it was appropriately disclosed in the final stages of the evaluation process.

During the course of the evaluation process the various subcommittees met to discuss their analysis of the various proposals received. I was invited to attend and did sit in on a number of meetings of the technical, legal/commercial, and financial subcommittees. During the course of these subcommittee meetings I was present to observe the proceedings and can report that the evaluators appeared to be conducting all of their evaluations in accordance with the criteria set out in the evaluation manual and applying relevant considerations in their areas of expertise to the issues facing the various evaluation committees.

During the course of the evaluation process there were a number of briefings by the various subcommittees to the evaluation team which comprised two representatives from the Ministry of Transportation and Highways and one representative from Partnerships British Columbia. I was advised of those briefing sessions and was present at the majority of them.

As well, a series of lengthy Evaluation Committee meetings were held in the morning and the afternoon/evening of March 31, 2005. A final meeting was held on the morning of April 1, 2005. I was present for each of the full Evaluation Committee meetings. A comprehensive discussion was held, with each of the Evaluation Committee members having the opportunity to discuss their views of the quantitative and qualitative merits of each of the proposals. The Evaluation

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Committee then determined that the Alternative Proposal submitted by one of the proponents did not meet the requirements of the Province as set out in the BAFO Instructions. The Evaluation Committee undertook a comparative analysis between the two remaining proposals.

Each of the evaluation teams was required, under the terms of the BAFO instructions and the evaluation manual which was developed out the BAFO instructions, to provide reports to the evaluation committee which considered a number of issues. In their respective verbal reports and associated documentation, the sub-committees appear to have reasonably addressed the evaluation criteria required to be addressed.

The evaluation committee, in reviewing all of the technical, commercial / legal, and financial information, made assessments based on both quantitative considerations as well as qualitative considerations. I had the opportunity to question the basis upon which the quantitative risk adjustments were made both to the technical and to the commercial, legal, and financial aspects of each of the proponents' submissions. I was permitted to ask any questions that I deemed necessary to test the logic, fairness and merit behind the assumptions that were used to make risk adjustments to the net present value of the proposals. I am satisfied that the basis upon which the adjustments were made appear to be based on relevant considerations appropriate to the technical risks, legal risks and financial risks in the various proposals received. Similarly the assessment of the qualitative differences between the proposals also appears to have been reasonably connected to the relevant technical, legal and financial criteria for evaluation.

Both proponents were required to answer additional questions after submission of their proposals. The BAFO instructions expressly provided in Section 3.4 as follows:

The Province may request clarification or rectification of BAFO Submissions or request further information from or enter into discussions with one or both BAFO Proponents for any reason including to ensure that all BAFO Submissions are responsive to the BAFO Submission Requirements and to ensure that all aspects of the BAFO Submissions are fully described as the BAFO Evaluation Committee may advise. The Province may also carry out discussions with BAFO Proponents separately and may request individual presentations from BAFO Proponents. If the Province considers necessary or appropriate, the Province may request updated Commitments and Approvals from either or both of the BAFO Proponents. The Province may proceed with the evaluation of a BAFO Submission or reject a BAFO Submission, if the RFP Proponent fails to respond to requests for clarification, rectification or information within the time specified in the request or the response does not

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adequately satisfy the reasons for the request, or fails to provide the necessary information or the BAFO Proponent fails to make a presentation or does not enter into discussions with the Province as requested; or the BAFO Proponent fails to provide Commitments and Approvals that are updated as requested by the Province.

Section 3.5, which dealt with non-compliance, also gave the Province certain rights to seek further information, clarification or rectification from BAFO proponents. That section states that:

If, in the Province's opinion, a BAFO Submission does not meet the BAFO Submission Requirements, the Province may request clarification or rectification of the BAFO Submission and, failing satisfactory clarification or rectification, may terminate the evaluation process and reject that BAFO Submission forthwith. If, in the Province's opinion, a BAFO Submission is obscure or contains a defect or fails in some way to comply with any requirement of these BAFO Instructions that, in the opinion of the Province, is not material, the Province may waive the obscurity, defect, or non-compliance and accept the BAFO Submission as submitted or request further discussion, clarification or rectification before further considering the BAFO Submission. The Province may determine: what is material in the context of a BAFO Submission; whether to reject any BAFO Submission; whether to waive any obscurity, defect, or failure to comply; whether to request discussion, clarification and rectification; and, the adequacy and acceptability of any clarification or rectification submitted by or discussed with a BAFO Proponent. The Province is not bound by industry custom or practice in the exercise of its discretion.

During the evaluation of the BAFO submissions, a number of clarification questions, requests for additional information and rectification requests were made of both proponents. Telephone conference calls were held with each proponent regarding the clarification and rectification process.

In the case of one proponent I formed the opinion that the nature of the clarifications and rectifications sought by the evaluation sub-committee was outside of that permitted by the terms of the BAFO Instructions. The Fairness Auditor notified the Evaluation Committee members of the concerns and met with the Chair of the Commercial Sub-committee and the Legal Advisor to the Project to discuss the issues. It was determined ultimately that the questions to the proponent would be re-stated, and that the answers previously submitted would be sealed (as they had already been received by the Contact Person) and not distributed to the Evaluation

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Team or the subcommittee members. New clarification questions were issued to the Proponent. A teleconference was held with the proponent, at their request, with the Fairness Auditor present to explain the Fairness Auditor's ruling regarding the clarification process. Revised clarification questions and answers were received and distributed to the appropriate evaluation committee members. I am satisfied that ultimately no unfairness resulted to either proponent in connection with this issue.

I am also satisfied that to the extent that each of the proponents was required to provide clarifications or consider rectifications to their technical proposals that they were appropriately sought, except as set out above, and within the terms of the BAFO Instructions which permitted the Province to seek clarification or rectification of those submissions which did not meet the BAFO Submission requirements.

RECOMMENDATIONS TO IMPROVE THE PROCESS FOR FUTURE
PROCUREMENTS

I would recommend that future procurement processes include a provision in the Relationship Disclosure and Conflict of Interest forms which specifically asks evaluators and advisors about any "financial" interest in the various companies or parties involved in the procurement opportunity. I am of the opinion that the forms, as constituted in the initial phases of the procurement, were not clearly worded with regard to disclosure of "financial" interests. While the concept of staff or advisors not having financial conflict of interests was implied, a more clearly worded document would be more useful and fair to those participating in evaluation processes. It would also provide greater comfort and assurances for the Province and Partnerships BC in ensuring a fair and unbiased process. The form was amended at the final stage of the procurement process the Fairness Auditor's suggestion, but the various team members did not all execute the revised document before evaluation commenced.

I would also recommend that a standard form of Confidentiality and Conflict of Interest/Relationship Disclosure be adopted for all projects involving the Province of British Columbia and Partnerships BC. In the interest of having consistent standards for public servants and others advising the Province and Partnerships BC, uniform standards for documentation would be helpful. There were several differently worded documents used during the two year span of this project as well as ones which were different from other P3 projects.

I would make a final recommendation that executed documents be dated stamped upon receipt and that complete documents be retained, not simply the signature page. Upon my review of the completed Conflict of Interest Declarations,

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Relationship forms and Confidentiality Agreement, the vast majority of them were not dated stamped and in some cases, only the actual signature page had been retained instead of the complete form.

ANY QUALIFICATIONS ON THE ENDORSEMENT OF THE PROCESS

My review has been based on my own review of documentation; my discussions with the Evaluation Committee and the various sub-committees; my observations of the activities of the Evaluation Committee, their sub-committees and professional advisors in their internal meetings; my discussions with the Due Diligence Committee and the Legal Advisor to the Project; and my observations of meetings with each of the proponents during informational meetings as well as "commercial in confidence" meetings. I have reviewed a sampling of project related documentation, but not all documents created by each and every staff member or advisor.

My audit findings are based on the assumption, which I have no reason to believe is an incorrect assumption, that I have been provided access to all relevant information in connection with the project and that I have been advised of all key project management meetings and decisions.

FINDINGS

I am satisfied that the overall procurement process associated with the Okanagan Lake Bridge Project has been conducted in a fair manner and in accordance with the procedures established in the Request for Qualifications, Request for Proposals and Best and Final Offer stage. In my view, the project management activities have been conducted in accordance with good practices for procurement processes. To the extent I have noted some matters in my comments and suggestions for improvements, they were resolved reasonably or did not materially impact on the overall fairness of the procurement process. At all stages, those individuals participating in the procurement activities appear to have been conducting themselves professionally, with integrity and absence of bias, and in accordance with the standards for evaluation that were established for the procurement process.

I am satisfied that the recommendation of the Evaluation Committee presented to the Project Board on April 1, 2005 represented the unanimous opinion of the Evaluation Committee. I am not aware of any reason why the Project Board should not proceed with the final stages of the procurement.

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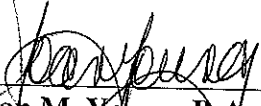
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FULFILLMENT OF AUDIT TERMS

I confirm that I have fulfilled the terms of my engagement based on the activities described you above. The process appears to have been undertaken in accordance with fairness principles expressed or implied in the procurement documents.

Respectfully submitted,



Joan M. Young, B.A., LL.B.
Fairness Auditor

Dated at Victoria, BC this 6th day of April, 2005

Swadden Virgin & Young
Barristers & Solicitors
#107- 645 Fort Street
Victoria, BC, V8W 1G2