

**SEA TO SKY HIGHWAY PROJECT  
REPORT #3 OF THE FAIRNESS REVIEWER  
THE HONORABLE W.J. WALLACE, Q.C.,  
TO THE PROJECT EXECUTIVE BOARD  
DATED THE 17<sup>th</sup> DAY OF JANUARY, 2005**

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I. BACKGROUND

In my role of Fairness Reviewer I delivered my first report to the Project Executive Board on 7<sup>th</sup> day of May 2004 wherein I expressed my opinion that the evaluation and selection process respecting the selection of the short listed respondents (Sea to Sky, Sound, Black Tusk) was carried out impartially, fairly, and without bias or discrimination. It is now my responsibility to:

- Review the process (including the documentation, workshops, topic meetings, and other procedures) leading to the development of the criteria and selection requirements which constitute a formal and final Request for Proposals (R.F.P.).
- Review the process pursuant to which the Proposals received, are evaluated and the selection of the Preferred Proponent is determined, and to review the implementation of that process.
- To report my opinion as to whether or not the processes were implemented fairly and impartially and that the Responses to the R.F.P. were evaluated consistently without bias or discrimination, according to the designated criteria and selection requirements set forth in the Request for Proposals (R.F.P.).

## II GENERAL

The Sea to Sky Highway Improvement Project, involving as it does the obligation to Design, Build, Operate, Maintain and Rehabilitate the Highway over a 25 year period was recognized by all parties to be a major undertaking of great complexity necessitating extensive pre-construction in-depth planning.

At the commencement and throughout this process the Proponents were reminded of my responsibility as Fairness Reviewer, as stated above, and they were advised that if any person or team had then, or in the future, any concerns about the fairness of any element of the process leading to the selection of the Preferred Proponent, they were invited to discuss with me, in confidence, any such concerns at a time and place convenient to such person or team. – There has not been any response to this invitation to this date.

The necessity of all parties concerned in the process to maintain confidentiality with respect to all aspects of the process was stressed at all times and confidentiality undertakings setting out the obligations of the parties in this respect were executed by those participating in the process.

The process leading to the selection of the Preferred Proponent, in order to reflect fairness, (i.e. achieve a “level playing field”) was structured to incorporate the following principles:

- That the same information respecting the Project, its nature, requirements, conditions, etc. be released to all proponents at the same time.
- That the proponents should have the same opportunity to access the same information – to seek clarification and explanations generally and specifically – to view the site – to have access to any and all of the information relevant to the Project assembled by the

Province. This latter objective was facilitated by the creation of a “Project Data Room” to which each proponent had authorized access.

- That the criteria and other selection requirements upon which proposals were to be evaluated be the same for all proponents and be clearly set forth in the R.F.P. in a readily understandable format and that ample opportunity for clarification be available to all proponents.
- That the process maintain confidential and security safeguards appropriate to the nature of the information being assembled.

*In my opinion the process, as structured for this project, did incorporate the above general principles.*

### III. PROCESS RELATED TO THE PREPARATION OF THE REQUEST FOR PROPOSALS (R.F.P.)

I should note at this point that throughout the implementation of the process I had full access to all meetings and documentation and I took advantage of this opportunity by attending the workshop meetings, topic meetings and other relevant meetings and discussions as well as by examining the pertinent documents created during the period leading up to the selection of the preferred proponent.

I turn now to the following procedures which were adopted to facilitate each proponent’s opportunity to acquire an in-depth understanding of the many aspects of this complex project:

- A general information meeting (“kick-off meeting”) was held on May 26, 2004 at which an overview of the competitive selection process, the R.F.P., the Data Room was presented, and more detailed information on the payment mechanism, the project

agreement, traffic management, design and construction as well as operations and maintenance, was presented.

- Tour of the site: On May 27, 2004, representatives of each of the three short listed proponents, together with the members of the Province Team, participated in a tour of the Sea To Sky Highway Project corridor. I observed ample opportunity was afforded the members of the various proponent teams to stop and visually examine portions of the highway corridor that were of particular interest to them and to discuss with the Province Team members those aspects of the highway corridor that were particularly significant to the DBFO undertaking.
- The criteria and selection requirements were set out in detail in four Volumes of the draft R.F.P. issued on July 26, 2004 to the proponents, for discussion purposes. Each of the three short-listed proponents thereby received the same comprehensive statement of the proposed project to analyze, consider and seek clarification thereof through a broad consultative process which included the holding of a general information meeting - a series of 5 workshops and some 20 topic meetings on subjects selected by the proponents. As well the proponents could, and did, request information (Some 500 R.F.I.'s) and did engage in extensive question and answer exchanges (Q and A).
- Workshops were designed to enable the proponents to raise, in confidence, concerns they may have respecting the terms of the R.F.P. and their response thereto. In each of June, July, September, October and December of 2004 three day-long workshops were held at which each proponent was allocated the exclusive use of one day per session to present its concerns representing any aspects of the proposed R.F.P. and to receive clarification of its terms, to propose amendments and generally to discuss the implementation of the project. At each workshop I observed that there was a full comprehensive discussion of the

issues raised by the proponents. Issues that could not be immediately resolved were referred to be dealt with later by written response. The same opportunity to raise and address any pertinent issues was clearly available to each of the 3 proponents.

- Over the six month period following the delivery of the draft R.F.P., and pursuant to requests from the proponents, some 20 topic meetings were held at which a variety of subjects were discussed, clarified and, if appropriate, reconsidered with a view to possible amendments of the draft R.F.P.

The subjects reviewed and discussed at the Topic Meetings included among others, the following:

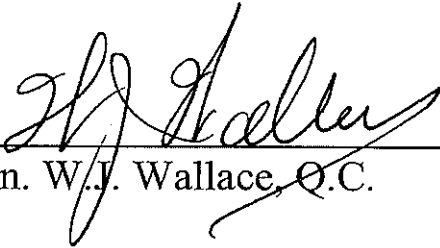
- Geotechnical Issues
  - Squamish First Nations
  - Highway and Structural Design
  - Traffic Management
  - Environmental Issues
  - Lil'Wat First Nations
  - O&M and Rehabilitation, Safety & Mobility and Environmental
  - Quality Management System Requirements
  - Payment Mechanism
  - Travel Time Modeling
  - Scoring & Submission Requirements
  - Highway Design
  - Utilities
  - Insurance & Bonding
- As a consequence of this consultative process, amendments were made to the draft R.F.P. reflecting the concerns expressed by the participants. These amendments were incorporated in the revisions of the R.F.P. by way of 10 composite addenda which incorporated some 300 amendments and the proponents each received the

amended R.F.P. The R.F.P. and addenda were delivered to all proponents. On the 23 day of December 2004.

### **SUMMARY**

*In my opinion the development of the Final R.F.P., because of the consultations and exchange of expert advice during its preparation, including input from the three proponents, resulted in the formulation of a final R.F.P. with respect to which the proponents had every opportunity to question, seek clarification, and to understand the consequence of its terms. Accordingly in my opinion the final R.F.P. was a fair and transparent document developed in an open consultative manner as a consequence of which each proponent had equal opportunity to determine the terms and nature of any proposal they would decide to submit in response to the final R.F.P.*

Dated at Vancouver this 16 day of January 2005.



Hon. W.J. Wallace, Q.C.

#### IV. PROCESS RELATED TO THE DEVELOPMENT OF AN EVALUATION METHODOLOGY, AN EVALUATION MANUAL AND THE ORGANIZATION AND TRAINING OF THE EVALUATION TEAMS AND EVALUATION COMMITTEES

##### BACKGROUND

It is clear from a review of the documentation that the Province Team recognized from the commencement of this unique complex project that it would require that there be a vigorous, comprehensive, transparent and impartial evaluation process developed and implemented to ensure the selection of the appropriate Preferred Proponent.

##### THE CREATION OF AN EVALUATION MANUAL:

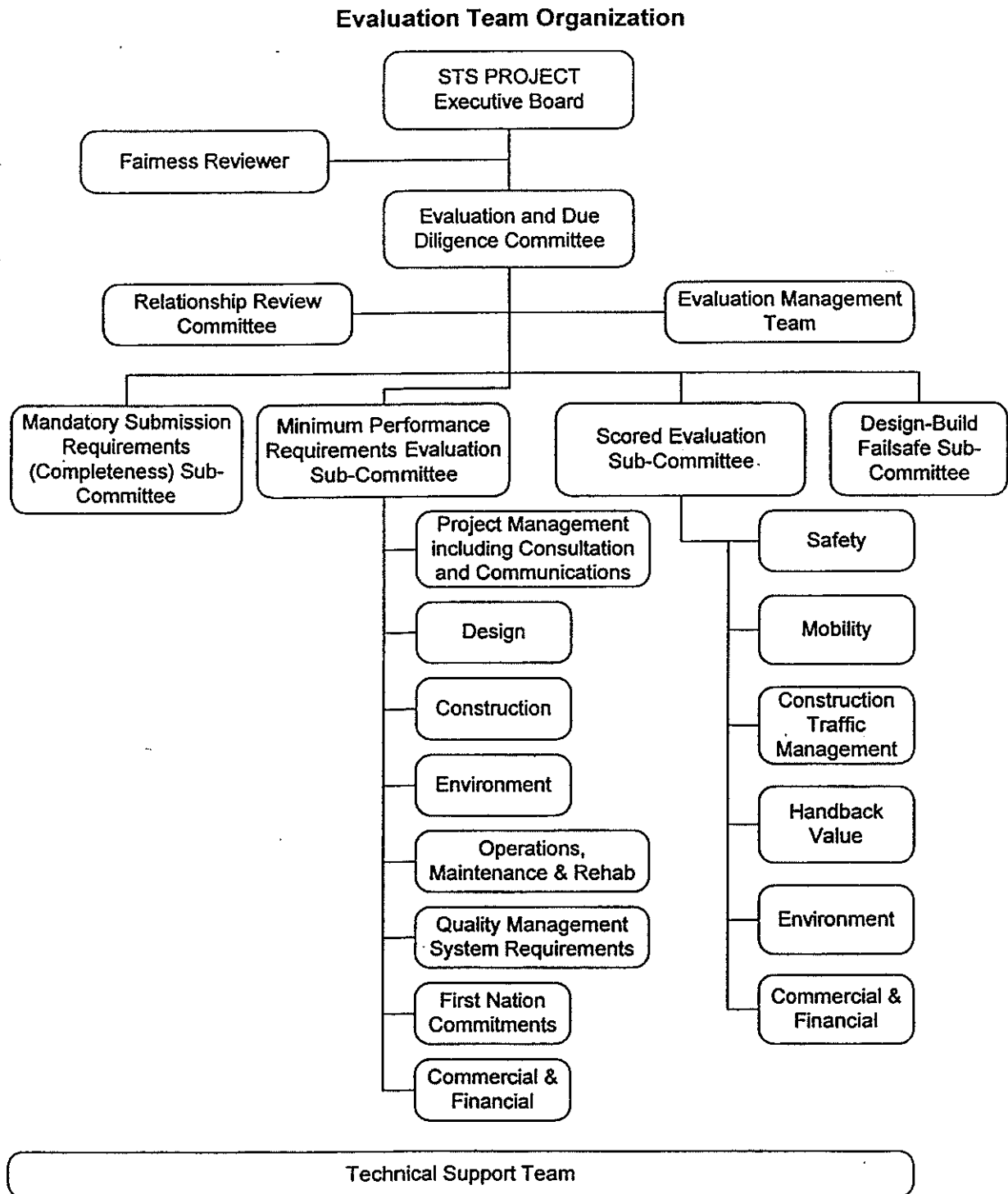
An Evaluation Manual was created by the Province over a period of some 6 months. It sets out the structure and procedure to be used as general guidelines by the evaluation teams in their evaluation of the Proponents Proposals. This Manual was the product of an in-depth consultation with the Proponents which included Workshops, Topic Meetings, responses to Request for Information (RFI) and Question and Answers (Q&A) series.

I have examined the Manual extensively. It sets out the general guidelines for those participating in the evaluation process. The following Organization Chart depicts how the evaluation process has been designed to proceed from the original evaluation by designated teams to a review of such evaluation by specific sub-committees, to further review by the EDD Committee and final review before the Sea to Sky Executive Board.



## Evaluation Team Organization

The organization of the DBFO Project evaluation teams is as follows:



The roles and responsibilities of the Board, the committees, and the teams are set out in detail in sections 2, 3 and 4 of the Evaluation Manual.

I have had the opportunity to attend various briefing sessions held with the Evaluation Teams where I observed the parties engaged in an in-depth discussion of their respective concerns.

The requirements contained in the Evaluation Manual respecting Security, Confidentiality, Relationships and Conflicts of Interests were implemented in the manner specified. A Relationship Review of the Team Members was conducted and any concerns with respect to possible conflicts were resolved in accordance with the directions contained in the Manual. Only the Team Members who are cleared by the Relationship Review committee were permitted access to the evaluation working space.

#### COMMITTEE AND TEAM MEMBERS:

A review of the qualifications (CV's) of the members of the respective Evaluation Teams and Committees reveals that they had the required expertise, skills and experience to conduct the evaluations which were designated to their respective teams and committee.

Training sessions were held at which there was comprehensive discussions of the respective roles and responsibilities, both generally and individually, of the team members and specifically of the team leaders.

The core Team Leaders declared that they had read and were familiar with the Final R.F.P. and its addenda and the Contract and Schedules thereto.

The EDD Committee held review meetings on January 6 and 7 – 05 with the team leaders of each evaluation team at which the respective

team leaders were required to present their Teams evaluation methodology report and, where appropriate, their scored evaluation methodology.

The team leaders were examined by the EDDC members present as to their understanding of the R.F.P and the ten addenda thereto and as to their readiness to implement the evaluation of their assigned areas of responsibility.

It was apparent to me, from the information provided by the team leaders, that the teams extensive preparation and their written methodology reports had prepared the teams to perform their respective roles and responsibilities with professional skill and competence.

In the result the combination of the training, planning and the professional skills of the teams, and the committee members created an evaluation task force extremely well qualified to carryon their evaluation roles and responsibilities in accordance with the terms and criteria specified in the R.F.P. and addenda thereto.

## ***SUMMARY***

***The process preparatory to the actual evaluation of the proposals, including the organization and training of the Committees and Team Members, the designation of their roles and responsibilities, was developed in an open fair and unbiased manner.***

***As a result of my examination of the relevant documents, in particular the R.F.P. and addenda and the Evaluation Manual and Evaluation Methodology and my attending of various meetings concerned with the planning, training and general organization of the evaluation process, it is my opinion that the process incorporated the principles of fairness set forth in the R.F.P. and provided a structure whereby each of the preferred proponents proposals would be evaluated in a fair unbiased***

*way in accord with the evaluation criteria and selection requirements contained in the R.F.P.*

Dated at Vancouver this 17 day of January 2005.

A handwritten signature in cursive script, appearing to read "W.J. Wallace", written over a horizontal line.

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