

Monthly Report to the CRD from the Fairness and Transparency Advisor

October 2015

This report provides a summary of the FTA’s activities for the Core Area Sewage Treatment Project for the period from **September 26^h to October 28th**.

FTA Activities

Monitoring Role

During this period, the FTA continued to review and monitor upcoming meetings of the various committees, flagging any potential issues associated with transparency, impartiality, or fairness. In this capacity, the FTA also reviewed minutes and live webcasts of committee meetings.

Through monitoring upcoming committee meetings, the FTA raised an issue with staff regarding the agenda for the October 22nd Technical Oversight Panel meeting. The FTA questioned whether two items listed on the agenda for the closed portion of the meeting met the criteria for a closed meeting in accordance with the *Community Charter*¹.

The matter was brought to the attention of staff but time constraints affected our ability to fully address the issue. The FTA is unable to confirm whether changes were actually made to the agenda or whether the items actually met the requirements for a closed meeting, as there was insufficient time between receipt of the agenda by the FTA, initial comment on it, and the actual TOP meeting. Discussions are on-going with staff to strengthen processes related to working with the FTA in advance of meetings.

Other Activities

Complaints

A significant aspect of the FTA’s mandate and role is to screen and (if eligible) review submitted complaints regarding the wastewater planning process. The table below summarizes the FTA’s activities in this capacity.

September - October 2015 Complaints Statistics

Number of applications received	1
Number of “eligible” complaints	1
Number of decisions rendered	1
Number of Complaints previously reported	1

As indicated in the table, one formal complaint was received, screened and reviewed (in part) during this reporting period. This brings the number of formal complaints received by the FTA to date to 2. A summary of the recent complaint and the FTA’s decision is provided below.

¹ “Motion to close the meeting in accordance with the *Community Charter* Part 4, Division 3, 90(1) (e) acquisition, disposition or expropriation of land or improvements, if the board considers that disclosure could reasonably be expected to harm the interests of the regional district and (j) information that is prohibited, or information that if it were presented in a document would be prohibited, from disclosure under section 21 of the Freedom of Information and Protection of Privacy Act.”

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Complaint #392738

The FTA received notice of complaint no. 392738 (“the complaint”) on Saturday, October 17th and proceeded with screening the complaint.

Summary of complaint:

The complainant raised several issues related to overall project timelines and scope of the Phase 2 costing analysis. The central issue raised focussed on the accuracy of the type of costing estimate to be provided by Urban Systems; and whether the change in class of estimate (from magnitude estimates of accuracy of +/- 50% to +/- 15% to 25%), as proposed, deviates from agreed-upon Terms of Reference for the Engineering and Costing Analysis.

Specifically, the complainant’s questions were:

1. Does the proposed change from use of Class B estimates to use of Class D estimates result in a fundamental change to the costing analysis?;
2. If the proposed change represents a fundamental change to the project costing analysis, must this change be approved by the CRD Board as a specific revision to the Terms of Reference?; and
3. If approved, should this change be publically announced as soon as possible in order to inform on-going consultations?

Summary of findings:

The final decision on the complaint was issued by the FTA on Wednesday, October 21st and later posted to the CRD website.

The FTA found that the order-of-magnitude accuracy range of the costing estimates presented by Urban Systems in Technical Memo No. 1 was a clear departure from the agreed upon Terms of Reference for the Engineering and Costing Analysis. The FTA found that the CALWMC should turn their minds to this change in order to:

- a. Make a determination as to whether or not it is an acceptable change;
- b. Provide clear direction on how they wish the consultants to move forward; and
- c. Determine how and when this information will be communicated to the public.

Complaint follow-up:

Following the submission of the FTA’s decision, the complainant contacted the FTA to discuss the timing of the posting of the decision and whether it would be on the agenda of the October 28th CALWMC meeting. The complainant expressed concern that the FTA’s report may be “received for information” without timely resolution on the issue raised. The FTA followed up with CRD staff to ensure that the complaint would in fact be on the agenda for the October 28th CALWMC meeting and was assured that the issue would be fully discussed by the Committee at the meeting.

Other Issues Raised by the Public

On September 30th, the FTA received an email - not a formal complaint - from a member of the public asking that the FTA advance a particular position as it relates to substantive aspects of treatment options. The FTA responded on October 1st that the role is prohibited from advancing any particular interest and suggested that the individual avail themselves of the delegation process at CRD (and committee) meetings and/or forward the issue to the Chair of the CALWMC. No such formal complaint was received in relation to this matter.

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A separate concern from another member of the public was brought to the attention of the FTA on October 10th. The concern was emailed directly to Director Helps and copied to four other members of the CALWMC and the FTA. Specifically, the concern raised was with respect to the composition of the Technical Oversight Panel. The individual was advised of the proper process to submit a complaint via the website link provided to them. The concern was shared with all members of the CALWMC, with personal identifiers of the individual removed. A formal complaint was not filed for FTA review.

The FTA considered whether to launch an own-initiative investigation of the issue of composition of the TOP. After review, the FTA determined this issue did not provide sufficient grounds to launch an own-initiative investigation. There was no compelling – *prima facie* – evidence presented that the issue of composition met any of the following grounds to launch an investigation:

1. A serious issue, (one which has the potential to undermine the decision) where there is sufficient evidence in support of a breach of process or legislated requirement;
2. A systemic issue (e.g., a series of complaints that suggest a more fundamental or underlying problem that needs attention); or
3. Where an intervention has the potential to result in a stronger decision or fairer process or in an overall improvement in the standard of administrative conduct.

Activities Summary

Activity	Hours Worked
Setting up procedures	0.5
Monitoring	3.7
Meetings	4
Complaints	24.3
Other admin	15.8
Total	48.3

Provided in the table below is a summary of the FTA's Project hours devoted to each of the abovementioned tasks.

September - October 2015 Activities

The total number of hours to be billed for this period (spanning the period of September 26th to October 28th) is 48.3.