

## Case Number: 397206

The mandate of the Fairness and Transparency Advisor (FTA) is to ensure that various processes associated with the Core Area Sewage Water Treatment project are fair, transparent, impartial and objective. In this capacity, the FTA is an observer of, and commentator on, process. The FTA has no power to impose remedies.

## BACKGROUND

### The Issues as Raised in the Complaint:

The complainant alleges that the cost estimates contain unexplained and significant inconsistencies.

### Specific issues raised in the complaint:

The complainant has identified various discrepancies between the approach used to develop the estimates for the new project and the approach used for the previous (2011) project bid prepared on McLoughlin for liquid treatment. The complainant states that these discrepancies have not been adequately addressed and 1) reflect issues that make the new cost estimates untrustworthy, and 2) unless clarified before the January 27 CALWMC meeting may result in a decision regarding the McLoughlin site that is based on inaccurate information.

Specific issues identified in the complaint are as follows:

- a) That there is **no adequate explanation for the difference between the old project bid** for water treatment **and the higher new project estimate;** (
- b) Staff compared the old bid to part (not all) of the new project estimate;
- c) The difference in capacity between the (higher capacity) old project bid and the (lower capacity) new project estimate was not addressed by staff;
- d) There is a discrepancy between the 8-year construction cost contained in the new project estimates and staff statement that the construction period will be 5 years; and,
- e) It is not possible for the public to compare the “soft costs” of the new project estimate against the old project bid because the latter is not available to the public (thus failing the transparency test).

## FINDINGS

The issue of costing is of critical importance for the project and is central to the decision facing the CRD.

The role of the FTA includes reviewing the procedural aspects of the production of cost estimates but does not include providing a critique of the substantive aspects of the financial projections. Given the importance of costing to the success of the project, I believe it is important to review the procedures used to develop the cost estimates insofar as they relate to the interactions of Urban Systems with the Technical Oversight Panel and / or through the public engagement process. This is intended to address the complainant's first issue of whether the current cost estimates can be considered trustworthy. Secondly, I will address the question of whether discrepancies between the previously developed cost estimate for McLoughlin and the current cost estimates must be resolved.

### Issue 1: The Process – Broadly Speaking

A fair and transparent process for developing cost estimates (the interactions between Urban Systems and the TOP) would be expected to include the following elements:

- Urban Systems would provide detailed explanations to the TOP on their methodology for costing;
- This methodology would follow standard practice (or best practices) in the industry;
- The substantive aspects of the costing would be provided in writing to the TOP;
- The TOP would have an opportunity to discuss and openly debate the veracity of the estimates;
- The overall costing process would include other mechanisms for review and comment;
- The TOP would have an opportunity to question Urban Systems on any aspects of the estimates and;
- In the end, the TOP would be able to make a recommendation to the CALWMC.

These are explored below.

#### **That Urban Systems provided detailed explanations to the TOP on their methodology for costing;**

*As discussed in Urban Systems technical memo, "[e]ngineering and financial feasibility studies are iterative. Each issue or design element undergoes scoping, testing, refinement and costing... Phase 2 for the Core Area has been aided by multiple teams and committees, each looking to significantly contribute towards option sets: collaboration with the Technical Oversight Panel, Westside Technical Staff, Eastside Technical Committee and the Technical and Community Advisory Committee has improved the option sets."*

Urban Systems provided a description of the factors to be considered in the costing process. Costing considerations included capital cost breakdown, pump station costs, piping costs, outfall costs, revenue sources, and life cycle costing from 2015 to 2045. Urban Systems' methodology included the use of Class D estimates.

Importantly, Urban Systems points out that that the cost estimates would be based on the experience database developed by Carollo and Urban Systems (i.e., not on any previous liquid wastewater management plan bids or studies conducted in the region).

**That this methodology follows standards practice (or best practices) in the industry;**

In discussions with Urban Systems, I am informed that the process used was consistent with standard industry practice. The costing methodology follows best practice for the engineering-municipal industry. Phase 2 work included comparing conceptual sewage treatment and resource recovery option sets, their relative levels of service and associated operating and capital costs. The costing approach, it is argued, meets the terms of reference, is consistent with other LWMPs in BC and aligns with the previous phases of the LWMP carried out by CRD.

It was also pointed out that securing senior government funding means that following treasury board guidelines for cost estimating is not only consistent with the options-evaluation nature of the project but it helps CRD submit a revised funding application with cost estimates that meets the funder's needs. Specifically, representative design projects (eg Phase 2) should be developed in unit cost analysis format (such as cost per square meter) based on a comprehensive list of project requirements (ie scope) and assumptions. Cost estimates prepared by urban systems and Carollo meet these standards.

**That the substantive aspects of the costing were provided in writing to the TOP;**

Minutes of the TOP meetings on November 24, 2015, show that the TOP were presented with full cost estimates on all options in Urban Systems' *Technical Memo #3*. TOP meeting minutes of December 15, 2015 indicates that TOP members reviewed Revision 1 of *Technical Memo #3* submitted by Urban Systems, and again on January 11, 2016.

**That the TOP had an opportunity to discuss and openly debate the veracity of the estimates;**

Minutes of the TOP meetings on December 8, 2015, December 15, 2015, January 5, 2016, and January 11, 2016 show that TOP members discussed, made comments and provided direction to Urban Systems regarding making revisions to costing details in *Technical Memo #3*.

**That the overall costing process included other mechanisms for review and comment;**

The deliberations on costing issues between Urban Systems and the TOP are open to public scrutiny through public meetings (unless otherwise restricted by law). Not only does the TOP review and comment on the cost estimates, the public can as well. Such scrutiny applies to the public meetings of the TOP and meetings of the CALWMC at which the TOP Chair, in representing the Panel, responds to questions and requests for information from the Core Committee.

**That the TOP has opportunity to question Urban Systems on any aspects of the estimates**

The process used by the TOP, as evidenced through the minutes and reports to the CALWMC, is one in which Urban Systems submits reports to the TOP and the TOP provides comment on issues to be addressed. The record suggests that the interactions between the TOP and Urban Systems has been extensive and reflects a thorough iterative process of deliberating and reflecting on the cost estimates. The evidence reveals that in this process to date, the TOP has met with the consultants to review and

comment on no less than 6 documents<sup>1</sup> produced by the consultants, which include details of the costing process and estimates. Review of the TOP meeting minutes since September 2015<sup>2</sup> shows that the TOP has met with members of the consultant team at least 11 times to review and discuss aspects of the costing process.

### **TOP has been able to comment / offer recommendations to the CALWMC**

The costing process is an iterative one and no final recommendations have yet been made to the CALWMC. As an on-going process through deliberations and discussions and with Urban Systems as well as through submission of reports, the TOP has been bringing forward comments, questions and recommendations to the CALWMC related to the viability of proposed options. These questions and recommendations are based on the TOP's review of the consultant's work to date, and the TOP's considered review of options (e.g., technologies, vendor proposals, etc.). TOP comments and recommendations to the CALWMC are still forthcoming, including those which Urban Systems is incorporating into revised Technical Memo #3 on the life cycle costing of each considered option set.

### **Conclusion**

In short, I find that the deliberative process between Urban Systems and the TOP as well as the CALWMC was one characterized by fairness and transparency. Their technical memos laid out in detail how they would do the costing (the methodology) and both the TOP and the CALWMC had opportunity to review, comment, and either support it (TOP) or approve (CALWMC). Both groups had opportunity to dissect the figures in presence of Urban Systems and to request further work (as evidenced through requests made at the December 2<sup>nd</sup>, 9<sup>th</sup> as well as January 11<sup>th</sup> meetings.

### **Issue 2: Differences between the old project bid and the new cost estimates**

The complaint raises several specific issues with regard to the technical costing process:

1. That there is **no adequate explanation for the difference between the old project bid** for water treatment **and the higher new project estimate**;
2. Staff compared the old bid to part (not all) of the new project estimate;
3. The difference in capacity between the (higher capacity) old project bid and the (lower capacity) new project estimate was not addressed by staff;
4. There is a discrepancy between the 8-year construction cost contained in the new project estimates and staff statement that the construction period will be 5 years; and,
5. It is not possible for the public to compare the "soft costs" of the new project estimate against the old project bid because the latter is not available to the public (thus failing the transparency test).

In essence these points raise two questions related to the fairness and transparency of the costing process: 1) whether an unambiguous explanation of the differences between the previous and current costing approaches is required, and 2) whether documentation concerning previous project costing should be publicly available.

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<sup>1</sup> These documents include Technical Memo 1, 2, and 3 (various iterations); the draft outline for Technical Memo 4; a recent report on 3 additional option sets for consideration; and a recent report on flow assumptions. The TOP has also worked with the consultants to review various vendor presentations / proposals.

<sup>2</sup> Based on a review of the TOP minutes for the 20 meetings held between September 14 and January 12.

The current costing process is a product of decisions made by the CRD in 2014 to being a new, independent and objective process to develop options to address sewage treatment in the region. In my opinion, the fairness and transparency of the current process does not depend on the ability of staff or contractors to explain the differences between the costing methodology currently being used and those of previous attempts to resolve the wastewater treatment issue. It is critical, however, that any options currently under consideration have a consistent costing methodology applied. The CALWMC may choose to revise the number of sites or technologies that form the options under consideration, and the public must be able to fairly compare the estimated costs of all options.

There is no debate that the approach used to develop the estimated cost of the previous McLoughlin project is different than the approach used to provide estimates for the options currently under consideration. Discussions with Urban Systems and CRD staff indicate that the cost estimate for the previous McLoughlin project was a “construction” cost estimate and as such, focused only on construction costs. The estimates more recently provided by Urban Systems are more comprehensive – program based estimates – which include costs which were not included in the construction bid.

The budget cost factors outlined in *Technical Memorandum #1* include many items that are not conventionally included in hard bids (like the previous costing for McLoughlin), including:

- construction/project contingency;
- engineering fees;
- CRD administration, project management and miscellaneous and,
- interim financing and cost escalation to mid-point of construction.

These factors combine to create the program budget which is much greater than a contractor’s bid.

The CALWMC has indicated an interest in being able to explain the differences between the previous McLoughlin project costs and the costs associated with the current options. In the CALWMC meeting of December 9, 2015, the committee directed staff and consultants “to provide accurate wastewater costing **based on the previous bid**” [emphasis added]. A resulting report was presented during the CALWMC meeting of January 13, 2016, which included a cost comparison table.

The Cost Comparison table compares three budgets:

1. The previous Liquid Waste Management Plan Budget Estimate (2010);
2. The RFP bid price for the liquid treatment component (2014); and
3. Urban Systems’ current project estimate (2015) – Option 1A.

The table intends, in part, to highlight the different elements included in the different estimates. In particular, “soft costs” (i.e., contingencies, financing, engineering and administration were “rolled into” the system component items in the 2010 budget and 2015 cost estimate, but were not part of the RFP bid price as tendered bids may include a contingency but typically do not include other soft costs.

The information provided to explain the differences may or may not satisfy CALWMC or members of the public; it does not satisfy the complainant. CALWMC may choose to pursue this explanation further in the interests of clear communication with residents. However, as stated earlier, the fairness and transparency of the current process does not hinge on the ability to compare the current costing methodology with that used in previous initiatives. Therefore, although it may be useful for documentation concerning previous project costing to be publicly available, I do not find that it is necessary in order to ensure the fairness and transparency of the current costing process.

## Conclusion

On the facts on the record, I do not find that there are significant concerns with the process used to establish the current cost estimates. The methodology used by Urban Systems is transparent and available for all to question. I see no evidence of any denial of due process as it relates to questioning any aspect of the costing exercise or results.

The complainant has requested that the estimates for the current options be revised before material is distributed to the public. I have not found evidence of a substantive error. Absent such evidence, it is my view that the relief sought is unreasonable. What should matter is the veracity of the existing numbers. The cure in this instance would potentially derail the entire process; and at this point, I am not convinced that there is a grievous error that has been committed or if there is an error, that it will not be captured in the next phase of public consultations.

In the final analysis, I am of the view that the consultation should proceed as planned and that any error or inconsistencies can be aired as part of the planned process going forward. That I did not accede to the complainant's proposed remedy does not detract from the opportunity to clarify these issues going forward.