

DECISION

Case Number: 396328

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 raises a concern related to the timely availability of key reports and documents. Specifically, the complainant points to the CALWMC's next scheduled meeting, (January 13th) for which key documents which will inform the discussion are not yet available to the public.

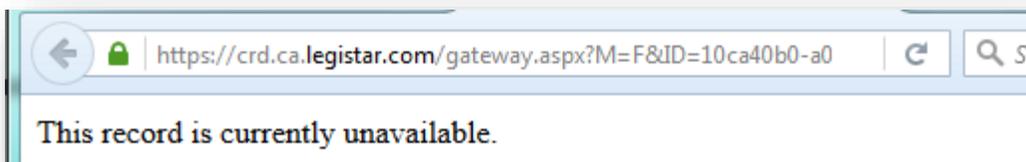
As such, the primary issue is with respect to the timely release of public information in advance of CALWMC meetings.

FINDINGS

The FTA did review the public record and finds that the CALWMC's agenda for January 13th includes several items under "Committee Business".

There are four items "*to be received for information*"; and five items for decision by the CALWMC. In support of these various agenda items are over twenty documents.

Each of these documents could be obtained through a hyperlink embedded in the agenda, except for two. Rather, the following error message appeared when attempting to use the hyperlinks for two of the documents:



These two documents appear under "*Follow Up to Technical and Financial Information Requests*". One document is the *Follow Up Staff Report* and the other is a Memo ("Appendix C"); these are the two documents subject of this complaint.

In discussions with CRD staff, the FTA was informed that while these documents were not accessible through the regular hyperlinks embedded in the agenda for a period of time (discussed further below), the documents were available within the agenda package itself (a 424 page PDF document). When opening the CALWMC agenda from the relevant page on the CRD website, the entire 424 package opens at once. In review of the agenda's content, the FTA found the *Follow Up Staff Report* on pages 37 to 41 of the PDF, and Appendix C on pages 150 to 152.

Why did this Occur?

Further communications with CRD staff indicated that the issue was one of a technical nature. The CRD notes that the agenda (including all reports and attachments) was originally posted on the website on Friday January 8th. On Monday January 11th, CRD staff needed to replace these two documents in the agenda package, and so the PDF file was replaced. The CRD's information management system failed to update the links to the two documents in question after replacing the agenda package. Although the hyperlinks for those two documents were not functional for approximately 24 hours, the agenda and all the related materials (including all of the attachments) was continuously available and accessible as a single package. The FTA notes that the issue raised has now been addressed; these documents can now be obtained through the hyperlinks provided.

The FTA notes that it has been standard procedure that documents to be considered at committee meetings be made available through embedded hyperlink. This enables the public to access information more effectively and avoids the onerous task of sifting through hundreds of pages of project documentation. Clearly this approach was well utilized again for this agenda package, with no apparent issues associated with over 30 documents made accessible through hyperlinks.

The CALWMC Process and Community Consultation

The CRD, through the CALWMC, has committed to a fair and transparent decision-making process as it relates to the selection of a wastewater treatment option for the area within its jurisdiction.

This commitment is evidenced by the creation of the Technical Oversight Panel whose mandate it is to offer independent oversight of the options feasibility and costing process; through public commitments made to engaging with the public; and finally through the creation of a Fairness and Transparency Advisor. In addition, the Project Charter commits to “[d]evelop and implement the project in a transparent manner and **engage the public throughout the process**” [emphasis added].

Engagement is an interactive process between the decision maker and internal and external stakeholders, so that those stakeholders have a role in informing the decision at hand. It encompasses a wide variety of activities along a continuum, from information sharing, to consultations, to the co-construction of alternatives.

There is no single definition of what constitutes transparency or a single method for measuring it. For the purposes of this decision, transparency comprises not only the disclosure of information, but also the accessibility, comprehension, and use of this information by the public. Transparency, as such, requires that the public can acquire, understand, and use the information that it receives from the decision maker. An integral aspect of transparency then is the availability and sharing of information.

Information sharing refers to processes of providing information to create awareness and to educate on an issue. Information must be relevant; complete; and timely. The availability of timely information not only improves the transparency of the process, but also increases the likelihood of participation of stakeholders in the process by keeping stakeholders well informed about the issues under consideration.

In this instance, it appears that all of the information related to the CALWMC agenda was, in fact, available in a timely fashion. Although newcomers to the website and CALWMC agenda may not have been aware that all materials were accessible as part of the agenda package, the disruption was to relatively few documents for a relatively brief period of time. That said, the FTA has made no determination as to the relative importance of the documents affected.

Conclusion

As mentioned above, although the hyperlinks were temporarily not functional for the two documents in question, the FTA was able to locate the relevant reports as part of the agenda package, and the hyperlinks were re-established within 24 hours. The FTA is not aware of whether the complainant contacted CRD staff to enquire about locating the documents.

As a result, I find that the processes related to the January 13th CALWMC meeting are adequate with respect to fairness and transparency. It would be difficult to find that the procedural fairness was diminished as a result of this technical difficulty or that the capacity of the CRD to deliver a fair process was limited by the temporary inoperability of the hyperlinks. This does not, in my opinion, call the procedural fairness of decision making into question.

It would, however, be advisable for the CALWMC to take the temporary challenges in accessing these documents into consideration with respect to any decisions or recommendations that may be made on the basis of these documents at the January 13th CALWMC meeting.