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s.13; s.17

Ministry of Finance
BRIEFING DOCUMENT

To: Honourable Carole James
Minister of Finance
and Deputy Premier

Date Requested: June 28, 2019
Date Required: July 8, 2019

Initiated by: Chris Dawkins
A/Assistant Deputy Minister
Policy and Legislation Division

Date Prepared: July 2, 2019

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Director, Real Estate
Financial and Corporate Sector
Policy Branch

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Cliff #: 383181

TITLE: s.13

PURPOSE:

(X) FOR INFORMATION

Executive Director approval: _____

ADM approval: _____

DM approval: _____

DATE PREPARED: July 2, 2019

s.13

TITLE:

ISSUE:

BACKGROUND:

Section 56 of the *Real Estate Services Act* (RESA) gives the Superintendent of Real Estate (Superintendent) the ability to designate contraventions of specific rules as being subject to administrative penalties. The discipline process for administrative penalties is different from the process set out elsewhere in the legislation. Where the usual discipline process involves a hearing with a discipline panel and may result in penalties of up to \$250,000 for an individual licensee (\$500,000 for a brokerage), the administrative penalty process was created as more of a "ticketing" regime with maximum penalty amounts set at \$50,000.

Prior to the changes to RESA in 2016, the rules that were subject to administrative penalty were set out in the regulations. They established a maximum penalty of \$1,000. As the administrative process was established as a "ticketing regime," designated contraventions were generally limited to technical, minor infractions (e.g. requirements for displaying a licence and requirement to provide a mailing address for delivery).

Following the 2016 amendments, the maximum penalty amount was raised to \$50,000 and the Superintendent was able to move the existing designated contraventions to the rules. The legislation also gives the Superintendent the ability to establish penalty amounts that are different for first and subsequent contraventions. The current administrative penalty amounts set out by the rules are:

- \$625 for a first contravention;
- \$1,250 for a second contravention; and
- \$2,500 for a third or subsequent contravention.

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s.13

Ministry of Finance

BRIEFING DOCUMENT

To: Lori Wanamaker
Deputy Minister of Finance

Date Prepared: July 9, 2019

Initiated by: Mark Liedemann, President &
CEO, Partnerships BC
and Jim Hopkins

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Cliff #: 383390

TITLE: Review of Performance Security Packages for
Design-Build Finance (DBF) Projects

PURPOSE: To provide an overview of the Province's direction regarding review of Performance Security Packages from proponents participating in Design-Build Finance Project procurements.

FOR INFORMATION

BACKGROUND:

Performance security packages are an essential part of all infrastructure projects. In past procurements with private financing, proponents have submitted their performance security packages, along with their price, with their financial submission. At that point in time, the private lenders have already satisfied themselves that the performance security package meets their needs. After the financial submission is received, the Province assesses whether the performance security package meets the needs of the Province, who is also funding the project's costs during the construction period. In a previous procurement (Evergreen Line), Provincial Treasury did not believe that the performance security package provided by the preferred proponent was robust enough. The Province eventually decided to proceed with the originally proposed performance security package after additional internal analysis considered the cost benefit of additional security offered by the preferred proponent (in the absence of any competitive tension).

Provincial Treasury and Partnerships BC agree that a new process should be implemented to avoid a repeat of the Evergreen Line experience. For the Pattullo Bridge Replacement Project and the Broadway Subway Project we have designed a multi-stage security review process which takes place prior to the financial submission; this provides the Province with earlier insight into proponent's proposed performance security packages and the ability to provide feedback to proponents about which elements of the performance security packages are and are not acceptable. Further, this allows the Province and proponents to be more confident that the performance security package submitted with the financial submission meets the needs of the Province.

DISCUSSION:

For projects that include private financing, performance security provides the Province and lenders with instruments and/or tools to ensure that a given project is completed according to the terms of the original contract.

Performance security for the Province in a project with private financing can include:

- Private finance
- Parental company guarantees
- Performance bonds
- Letters of credit
- Insurance

One of the key terms in a contract is the 'limit of liability' clause, which stipulates the limit on any damages that the proponent will be obligated to pay under the contract.

- For the Pattullo Bridge Replacement Project^{s.17}

s.17

- For the Broadway Subway Project, ^{s.17}
s.17

While the limits of liability differ on both projects due to their characteristics, each also contains a well-defined Base Performance Security Package, as set out in Table 1 below. The table also compares the two proposed security packages to the security received from the Evergreen Line proponent.

Table 1: Base Performance Security Packages

Base Performance Security Package	DBF Contract Value (\$m)	Parent Company Guarantee	Surety Bonds	Private Financing (at 6 months)	Adjusted Total**
Pattullo	s.17				
Broadway					
Evergreen	s.17; s.21				

s.17

The main difference in the proposed base security package between the two projects is the amount of surety bonds that have been requested as a percentage of the overall contract value. The Broadway project has a lower percentage required^{s.17}, but a higher overall dollar amount of bonds^{s.17} as the project is double the value of the Pattullo Bridge Replacement DBF contract. The view of Provincial Treasury’s Risk Management Branch is that^{s.17}

s.17

It should be noted that Moody’s assesses the ‘market’ terms for a constructor liability cap for a construction project to be in the range of 30% to 50% of the contract price¹, supported by adequate performance security.

The process that Partnerships BC and Provincial Treasury have agreed to for reviewing security proposals is three optional submissions before the financial submission, whereby proponents can demonstrate their ability to meet the Base Performance Security Package as well as submit Alternate Performance Security Packages. The three submissions are:

- Initial Security Package Review Submittal Deadline
- Follow-up Security Package Review Submittal Deadline
- Final Security Package Review Submittal Deadline

¹ Source: Moody’s “Construction Risk in Privately-Financed Public Infrastructure Projects” (2014)

Current key dates for each of the two procurements are summarized in Table 2 below.

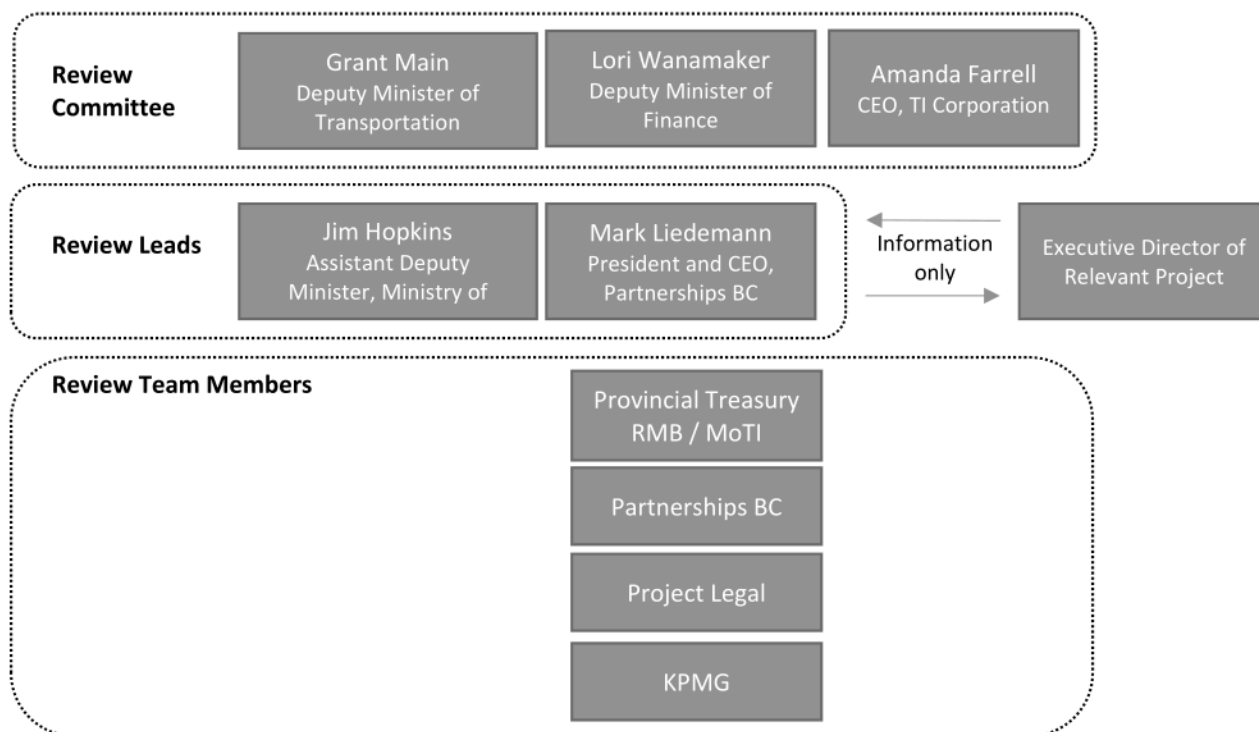
Table 2: Anticipated Timetable for the Competitive Selection Processes

Activity	Pattullo Bridge Milestone Dates	Broadway Subway Milestone Dates
RFP Issued	February 14, 2019	June 24, 2019
Initial Security Package Review Submittal Deadline	May 16, 2019	Week of September 30, 2019
Follow-up Security Package Review Submittal Deadline	July 25, 2019	November 22, 2019
Technical Submittal Deadline*	11:00 AM local Vancouver time on August 29, 2019	11:00 AM local Vancouver time on January 31, 2020
Final Security Package Review Submittal Deadline	Fall 2019	11:00 AM local Vancouver time on February 28, 2020
Invitation to Submit a Financial Submittal	Fall 2019	Spring 2020
Financial Submittal Deadline	Fall 2019	Spring 2020
Announcement of Preferred Proponent	Fall 2019	Spring 2020

**Date by which the technical component of submittals must be received by the Province*

Upon receipt of one of the three Performance Security submissions, they are reviewed by a team of reviewers according to a review handbook, which was drafted by Partnerships BC, with input from Provincial Treasury and Risk Management Branch. The handbook includes the purpose, principles & guidelines, roles and responsibilities, the review process & protocol and template materials. The objective is to provide feedback to each proponent that their Base Performance Security Package and any Alternate Performance Security Packages are or are not acceptable to the Province.

The organizational structure of the review is summarized in Figure 1 below. The ultimate decision-making group is the Review Committee. The analysis of the Base and Alternate Performance Security Packages will be presented to the Review Committee by the Review Leads.

Figure 1: Typical Performance Security Review Team**Security Review Updates**

In May 2019, the Pattullo Bridge Replacement Security Package Review Team received one package from one proponent for the Initial Security Package deliverable. The package, while ultimately incomplete, offered an opportunity to begin a dialogue with the proponent on adjustments that could be made to the Performance Security offering. Due to the incomplete nature of the submittal, the Initial Security Package was not shared with the Review Committee.

The Follow-up Security Package deliverable is due on July 25, 2019 for the Pattullo Bridge Replacement Project, and the Broadway Subway Project will receive its Initial Security Package during the last week of September.

If complete submissions are received, the Review Leads intend to share the details of the submittals with the Review Committee upon receiving the Follow-up Security Package for Pattullo Bridge Replacement Project. It is expected that the Review Committee will be engaged a week after the July 25th Follow-up Security Package deliverable.

Ministry of Finance
BRIEFING DOCUMENT

To: Lori Wanamaker
Deputy Minister of Finance

Initiated by: Rob Lore
Sr. Project Management Analyst
Divisional Projects, Rev. Division

Date Prepared: June 25, 2019

Ministry
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Revenue Division

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Cliff #: 383175

TITLE: Launch of New Online Form for Reporting Suspected Tax Evasion

PURPOSE:

(X) FOR INFORMATION

DATE PREPARED: June 25, 2019

TITLE: Launch of New Online Form for Reporting Suspected Tax Evasion

ISSUE: To provide the public with a new, digital method of engagement for reporting suspected tax evasion.

BACKGROUND:

The Revenue Division's Underground Economy Working Group (RDUEWG) oversees BC's Underground Economy Strategy. RDUEWG is coordinated by Public Information and Corporate Services Branch (PICS) and is comprised of experienced auditors and tax compliance administrators who work to support the success of the strategy's initiatives. To align with the strategy that calls for expanding tax compliance "reporting by third parties for early detection of underground economic activity," RDUEWG has developed an online form for the public to report suspected tax evasion easily and anonymously from their mobile device or personal computer.

Currently, the public reports suspected tax evasion through a toll-free phone line (approximately 70 calls annually), generic email inboxes or phone lines dedicated to managing general information requests pertaining to specific tax programs.

The introduction of this online form is a concrete deliverable born out of the Ministry of Finance Business Plan directive to “*provide a range of service channels including additional e-service and self-service options to improve customer service....*”.

DISCUSSION:

The tips form is similar to what is in place in other comparable tax jurisdictions, including Saskatchewan, Canada (Canada Revenue Agency) and Washington State.

A privacy impact assessment has been completed to ensure privacy standards and regulations are adhered to with respect to processing tips received through the online form.

Anticipated benefits from launching the tips form:

- improved digital experience for citizens trying to provide information to the Revenue Division;
- increased quantity and quality of audit leads or criminal investigations; and,
- improved coordination of internal information sharing on tax evasion risks across different tax programs.

PICS will conduct a review of the tips form in 6 months to assess whether and to what extent these benefits have been achieved.

Lori Wanamaker
Deputy Minister of Finance

Date