

立法會
Legislative Council

LC Paper No. CB(1)1022/01-02
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by the Administration)

Ref: CB1/PS/2/00/1

Legislative Council
Panel on Transport

**Subcommittee on matters relating to the
implementation of railway development projects**

**Minutes of meeting on
Thursday, 6 December 2001, at 8:30 am
in Conference Room A of the Legislative Council Building**

Members present : Hon Miriam LAU Kin-ye, JP (Chairman)
Ir Dr Hon Raymond HO Chung-tai, JP
Hon LAU Kong-wah
Hon Andrew CHENG Kar-foo
Hon TAM Yiu-chung, GBS, JP
Hon Abraham SHEK Lai-him, JP
Hon Tommy CHEUNG Yu-yan, JP
Hon Albert CHAN Wai-yip
Hon LEUNG Fu-wah, MH, JP
Hon WONG Sing-chi

Member absent : Hon CHAN Kwok-keung
Hon LAU Chin-shek, JP
Hon LAU Ping-cheung

Public officer attending : **Agenda item IV**
Transport Bureau

Mr WAN Man-lung
Principal Assistant Secretary for Transport

Clerk in attendance : Mr Andy LAU
Chief Assistant Secretary (1)2

Staff in attendance : Ms Cindy CHENG
Senior Assistant Secretary (1)1

I Confirmation of minutes and matters arising

(LC Paper No. CB(1)402/01-02 - Minutes of meeting held on
16 November 2001)

The minutes of the meeting held on 16 November 2001 were confirmed.

II Terms of reference

(LC Paper No. CB(1)472/01-02(01) - Proposed terms of reference of
the Subcommittee)

2. The proposed terms of reference of the Subcommittee as set out in LC Paper No. CB(1)472/01-02(01) was endorsed.

III Items for discussion at the next meeting

(LC Paper No. CB(1)472/01-02(02) - List of outstanding items for
discussion)

3. Members agreed to discuss the Northern Link project at the next meeting. Members also agreed that if the Administration did not have any updated information to brief members on the project at this stage, the Panel should follow up on the progress update of the KCR West rail project instead.

IV Sha Tin to Central Link

(LC Paper No. CB(1)472/01-02(03) - Information paper provided by the
Administration; and
LC Paper No. CB(1)466/01-02 - Background brief on Shatin to Central
Link prepared by the Legislative
Council Secretariat)

4. With the aid of Powerpoint, the Principal Assistant Secretary for Transport (PAS for T) briefed members on the bidding programme of the Sha Tin to Central Link (SCL) and the assessment criteria used in the comparison of the bidding proposals from the two railway corporations. He said that the criteria were categorized into technical and financial aspects carrying equal importance. Two separate panels were formed to carry out the related assessment. For the technical aspect, the panel was

Action

led by the Transport Bureau with representatives from the Finance Bureau, Highways Department, Planning Department, Lands Department, Environmental Protection Department and Transport Department. As for the financial aspect, the panel was led by the Finance Bureau with representatives from the Transport Bureau, and assisted by Highways Department, Planning Department, Lands Department and financial consultants. Regarding the result of the bidding programme, he said that a decision had yet to be made. It was expected that the result would be announced later this year or early next year.

(Post-meeting note: A set of presentation materials was subsequently issued to members vide LC Paper No. CB (1)522/01-02.)

Non-Conforming Proposals

5. Noting that Non-Conforming Proposals (NCPs) put forward by the railway corporations were not factored into the assessment, Ir Dr Raymond HO queried that this would preclude the consideration of the alternative design put forward by the losing corporation which might have merits over the selected one. Further, as NCPs were not considered at the first instance, it would be a waste of resources for the bidding corporations to prepare and submit NCPs under such circumstances. The Chairman also asked if similar arrangement was adopted for other public works projects.

6. Mr CHENG Kar-foo enquired whether the Administration would require the winning corporation to implement the NCP put forward by the losing corporation if the NCP of the latter was found to be performing better than the selected one prepared by the former in terms of quality of service such as the provision of additional stations at Whampoa, Hin Keng and Tsz Wan Shan .

7. PAS for T replied that whilst "alternative designs" put forward by bidders would be considered in some public works projects, it was considered not appropriate to extend this to "alternative proposals" for the SCL project. He explained that the Administration had drawn up a Project Brief for the SCL, which laid down its essential requirements, so that the two corporations had a common basis to prepare their bidding proposals. Whilst the bidders might also submit NCPs, they would not be considered before the assessment of the Conforming Proposals (CPs) had been completed. This would ensure that the choice of the corporation to undertake the SCL project was based on an equitable, like-for-like basis. After the selection of the corporation to be

Action

awarded the SCL project, the NCPs submitted by that corporation only would be evaluated, and considered further only if the NCPs performed better than the CP.

8. Ir Dr Raymond HO reiterated that NCPs put forward by bidding corporations might even outperform the CPs in terms of both financial and technical aspects. Without an independent assessment panel free from Government's intervention, the final selection might not represent the best design available.

Assessment of bidding proposals

9. Mr LAU Kong-wah pointed out that the general public had been pressing for the early completion of the Tai Wai to Diamond Hill Link, the provision of additional stations at Hin Keng, Tsz Wan Shan and Whampoa, and the setting of a lower fare for the SCL. He enquired about the difference of the bids put forward by the two railway corporations in terms of the said factors.

10. PAS for T replied that he could not disclose the details of the bids put forward by the two railway corporations. But in general, a higher score would be awarded to the corporation which could deliver the project within a shorter timeframe. On the provision of additional stations at Hin Keng, Tsz Wan Shan and Whampoa, he advised that these were outside the scope of the CP. The Administration would discuss further with the winning corporation in due course. Regarding the proposed fare level for the SCL, he said that this would certainly bear an important weighting in the course of assessment. A higher score would be given to the corporation which proposed to charge a lower fare for the SCL.

11. Mr CHENG Kar-foo remarked that the timely completion of the Tai Wai to Diamond Hill link was essential to relieve the anticipated congestion at Tai Wai Station, particularly after the opening of the Ma On Shan to Tai Wai Rail Link (MOS Rail). He was concerned about the completion time gap between the MOS Rail and the Tai Wai to Diamond Hill link, and enquired about the actions to be taken by the Administration in requesting the winning corporation to speed up the related work.

12. PAS for T said that the Administration was aware of the concern of the members. In assessing the tender proposals, a higher score would be given to the corporation that could complete the railway earlier. He however advised that the proposed timeframe to complete the Tai Wai to Diamond Hill Link by 2008 was already very tight, given that the SCL operator had to complete all the required

Action

procedures such as land acquisition, environmental protection procedures and legal matters. The operator should commence works as early as possible in order to ensure timely delivery of the project.

13. Mr CHENG Kar-foo expressed disappointment to the Administration's reply and said that in view of the significant role played by the Tai Wai to Diamond Hill Link, the Government should require the successful bidder to tie in the completion date of the Tai Wai to Diamond Hill Link with the MOS Rail.

14. Ir Dr Raymond HO enquired whether the Administration had ever considered splitting up the SCL project into different projects and grant the development rights for individual projects to different railway corporations, particularly when both corporations failed to meet the tendering requirements in whole or in part. This might also help speed up the delivery of different sections of the SCL.

15. PAS for T stated that the Government was equally concerned about the timely delivery of the SCL project. However, there would be interface problem if the SCL project was undertaken by two different railway corporations. According to the Railway Development Strategy 2000, it would be more preferable to award the tender to a single operator. However, the successful bidder might choose to involve the other corporation in the project should it consider desirable. Ir Dr Raymond HO did not agree that operation by different corporations might cause undue inconvenience to the public provided a good interface would be in place.

16. Mr CHENG Kar-foo remarked that at present, all rail harbour crossing service was operated by MTR Corporation Limited (MTRCL). To ensure competition, consideration should be given to allowing another railway corporation to operate the Fourth Rail Harbour Crossing. PAS for T replied that the prime consideration of the Administration was to ensure that the corporations would have a level playing field in bidding for the SCL project. To achieve this, the corporations were required to submit bids in accordance with the requirements as set out in the Project Brief so that the choice of the corporation could be based on an equitable, like-for-like basis. This was in line with the principle of fair competition. Regarding the competition between the two rail operators in the provision of rail harbour crossing service, PAS for T said that it was not a factor considered by the Administration in the assessment process.

17. Referring to the interfaces with adjacent railways and interchanges' convenience and stations' accessibility, Mr CHENG Kar-foo opined that if the SCL

Action

project were granted to KCRC, there would be an added advantage for residents on Hong Kong Island to interchange with the East Rail for journeys to the Mainland. He asked whether this would be a deciding factor for the assessment.

18. PAS for T replied that the two railway corporations had their own edge in terms of interchanges' convenience and stations' accessibility, and interfaces with adjacent railways. These would affect the ridership and revenue projections, and, in turn, the rate of return and the level of funding support required from Government. The Administration would need to consider all relevant factors before a decision could be made.

19. Mr Abraham SHEK was concerned about the excessive property developments undertaken by the railway corporations along railway alignments which had upset the private sector. He enquired whether there was any restrictions in this regard. PAS for T replied that the granting of property development rights above railway stations and depots was indeed a kind of Government support which aimed at financing the development of railway projects. In general, a corporation would receive a lower score if it required more land from Government.

20. Mr LAU Kong-wah opined that the final scores given by the two assessment panels should have been finalized at this stage. He enquired whether the recommendation of the assessment panels was final and Government would adhere to it without any further consideration. He also remarked that the Administration would owe the general public an explanation if the corporation which proposed to charge a lower fare for the SCL failed to obtain the development right for the project in the end.

21. PAS for T replied that Government would normally follow the recommendation of the assessment panels. Deviation from the recommendation, if any, would require detailed explanation. Likewise, there might be possibility for the Administration to award the development right for the SCL to a corporation which proposed to charge a higher fare. In that case, the Administration would also need to justify on its own decision.

22. Mr Abraham SHEK could not accept the Administration's refusal to disclose the weighting of individual assessment criteria to potential bidders and members. In his view, such information should have been disclosed at the outset to ensure a level playing field for potential bidders. He also considered it not acceptable for the Administration to refuse disclosure of the scores awarded to individual bidders.

Action

23. While appreciating the need for the Government to maintain the confidentiality of information provided to it by the corporations, the Chairman and members requested the Administration to give a rough comparison of the proposals put forward by individual corporations in terms of fare level and delivery timetable for the SCL. PAS for T reiterated that he could not disclose such information as contained in the tenders. However, he said that in the Project Brief, the completion date for the project was set between 2008 and 2011 and higher scores would be awarded to the corporation that could complete the works at an earlier date and charge a lower fare.

Fairness of the assessment process

24. Noting that Government would not discriminate in respect of any corporation in awarding new projects on the basis of Government's shareholding or other economic interests in that corporation, Ir Dr Raymond HO queried how Government could ensure that it would stick to the above principle in the assessment process, particularly in light of the size of the budget deficit this year and the lack of transparency in the selection process.

25. PAS for T advised that the above principle was already specified in the Operating Agreement entered with MTRCL pursuant to the Mass Transit Railway Ordinance and the Project Brief issued to the railway corporations. The Administration would strictly adhere to the said principle in assessing bids from the two railway corporations. There would be clear guidelines for assessment and all records of the selection process would be documented. Since the weighting of individual criteria had been determined prior to the tendering exercise, there was no question of making changes to the selection criteria after the closing date of the tender.

26. Mr Albert CHAN highlighted the inherent problem of the tendering arrangement for the SCL. He pointed out that there was a clear conflict of interest as Government, being the controlling shareholder of MTRCL and Kowloon-Canton Railway Corporation (KCRC), was also acting as a judge for determining which corporation would be granted with the development right for the SCL. The whole process was conducted in a hidden manner without any transparency and monitoring from outside parties. The weighting of the assessment criteria was not disclosed. Some of the assessment criteria used by the Administration were not in line with public interest, for example, the general public might expect a higher degree of Government's subsidy in the course of railway development so as to lower the future fare level. However, on the other hand, Government would prefer the railway

Action

corporations to seek lesser funding support from it. As a result, the final selection might not be in the best interest of the general public.

27. Mr CHENG Kar-foo echoed Mr CHAN's view and said that MTRCL, being a listed company, might have a wider choice of sources of financing than KCRC, a Government wholly-owned corporation. As such, it was unfair to include "funding support required from Government" as a criterion to determine the merits of the proposals put forward by the two railway corporations. Both Mr Albert CHAN and Mr CHENG Kar-foo requested the Administration to tick out this criterion in the assessment process to ensure fairness. PAS for T explained that this criterion was important and drew the similarity of this with the tender sum in a normal works contract. He also said that the Project Brief clearly spelt out this as an assessment criterion.

28. Ir Dr Raymond HO also considered that there was a need to disclose the weighting of individual assessment criteria so that potential bidders could be competed on a level playing field.

29. After deliberation, members agreed that the Chairman should write to the Secretary for Transport conveying members' view on the tendering arrangement for the SCL project. To ensure the assessment was conducted in a fair manner and the final selection could generate the greatest benefits to the general public, members also agreed that the Administration should be invited to brief members at a close meeting on the assessment of the project before a final decision was made by the Executive Council.

(Post-meeting note: A letter was issued by the Chairman to the Secretary for Transport and copied to the Secretary for the Treasury on 6 December 2001.)

30. PAS for T took note of the members' views.

V Any other business

31. There being no other business, the meeting ended at 10.00 am.