

**DEPARTMENT OF TRANSPORTATION  
AND PUBLIC FACILITIES**

OFFICE OF THE COMMISSIONER

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April 22, 2008

Mr. Andrew Niemiec  
Knik Arm Bridge Toll Authority  
550 W. 7<sup>th</sup> Avenue  
Anchorage, AK 99501-3570

Dear Mr. Niemiec:

Randy Ruaro shared with me your March 11 draft project development outline for the Knik Arm Crossing. We appreciate the time and effort you and your staff put into preparing this outline and the thoughtfulness of your approach. We would, however, like KABATA to answer several significant questions before proceeding further with the outline.

We are concerned with the ongoing expenses associated with the planning process for this project. KABATA has spent roughly \$40 million of public funds over several years exploring the possibility of constructing the Knik Arm Crossing through a public-private partnership. The Federal Highway Administration has made it very clear that if the project does not move forward, it will look to the State for repayment of all federal funds spent to date. In addition to the possible payback of federal money, KABATA has spent significant amounts of state funds on the project. The State has a strong interest in making sure all public funds are spent productively. Therefore, the Governor, the Department of Transportation & Public Facilities and the Department of Law would like to fully evaluate the work KABATA has done to date and ascertain the financial risks and other obligations that KABATA and the State must assume for the project to move forward.

To accomplish our evaluation, we would like to review KABATA's request for proposals (RFP) documents in their final form. We ask that KABATA make a written request to the two pre-qualified proposers that they submit to KABATA within fifteen (15) days the final terms they would like included in the RFP. The request should notify the proposers that while the State reserves the right to make technical changes after issuing the RFP,



neither the State nor the KABATA Board is likely to accept any new, significant risks after issuing the RFP.

Alternatively, if Mr. Hemenway and Mr. Kessler's statements are accurate that KABATA has already negotiated the very best terms possible for the State in the current draft RFP, please send a copy of the draft RFP to the Department of Law and the Department of Transportation & Public Facilities commissioners immediately. A cover letter should accompany the draft RFP stating that KABATA staff believes the documents contain the best possible terms for the State and why. The administration will then review the RFP and associated documents with the understanding that the terms are not open to further negotiation.

We further request that KABATA provide the Governor and the departments of Transportation & Public Facilities and Law with an updated risk analysis based on the final draft RFP. The analysis should identify all significant risks to KABATA and the State, provide the likely amount that KABATA or the State may be required to pay under each of the risks should they occur, and an estimate of the maximum amount KABATA or the State may have to pay.

Your analysis should pay particular attention to two risk areas: project delay and guarantees of revenue or traffic flow. As to project delay, we need to know both the likely and the maximum amount of damages either KABATA and / or the State would have to pay a concessionaire if significant government-issued permits are delayed by litigation or any reason whatsoever for as long as three, five, or eight -- or if the permits are never issued at all.

With respect to the revenue guarantee requested by the proposers, we would like to know the cost to KABATA if traffic volumes only reach 75%, 50% or 25% of current projections for each year the revenue guarantee would apply.

We also would like to know whether KABATA anticipates it will cancel the project if potential liabilities from delays or conditions imposed by government permits became too great. If so, what criteria does KABATA expect to use in deciding whether to terminate the project, and what is the likely cost to KABATA and the State from such a termination.

Your analysis should address the possibility that several risk events may occur consecutively. For example, project delays caused by permitting followed by low traffic volumes in early years, with sufficient volumes in subsequent years to require construction of the connection to Ingra-Gambell. Your analysis should therefore contain



a discussion of the maximum exposure KABATA and / or the State would face should multiple risk events occur.

The analysis also should address to what extent project revenues will be available to offset potential liabilities. If you anticipate that any risks might result in liabilities exceeding KABATA's available cash, you should discuss how it might affect the State's other revenue sources.

As to revenues, please state whether the current terms of the RFP allow the State, not KABATA, to receive any share of the toll revenues. If so, when and how much toll revenue could the state receive. If all toll revenues are paid into a trust account or some other similar account, please state which entity is responsible for determining what expenses can be paid from the account and whether the state legislature has any control over the funds. Finally, if the project is successful, is there ever an opportunity for the State or KABATA to receive more funds from the toll revenues than initially allocated.

In addition to the financial risks the proposers want the State and/or KABATA to cover, we are concerned about the project's costs. Please provide updated cost estimates that assume the current rate of inflation in Alaska for the materials and labor needed to build the project continues, the permits are obtained and construction starts in three years (2011). Please also provide separate cost estimate scenarios that assume current rates of inflation for materials and labor, permits are obtained and construction starts in five years and seven years. Your estimates should expressly note whether the costs of the building the Ingra-Gambell interchange are included and whether the costs and responsibility to build the Ingra-Gambell interchange are allocated to the concessionaire, KABATA or the State. If the costs are allocated to KABATA, please describe the funding source KABATA would use to build the interchange.

Finally, we need to see detailed monthly statements of the costs KABATA has incurred for each of the past twelve months and an estimate of KABATA's expected expenses for each of the next 12 months. If you have taken steps recently to reduce your operating expenses please indicate what you have done and the resulting cost reductions.

We continue to urge KABATA to engage and educate the public and the legislature about the project. KABATA should be holding public meetings to review the terms of the RFP, particularly the terms related to tolls, use of toll revenue, minimum traffic and revenue guarantees, and the allocation of risk with the public and the legislature

I believe the answers to these questions will allow the departments of Transportation & Public Facilities and Law to accurately brief the Governor for an informed decision on

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how the State's interests can be protected and best served in the Knik Arm Crossing project.

Sincerely,



Frank T. Richards, P.E.  
Deputy Commissioner  
Highways & Public Facilities

cc: Mike Tibbles, Chief of Staff, Office of the Governor  
Randy Ruaro, Special Staff Assistant, Office of the Governor  
Gordon C. Keith, P.E., Central Regional Director, DOT&PF  
Brian Andrews, Deputy Commissioner, Department of Revenue