

From:

BP Australia Pty Ltd
[as Operator of the Perth JUHI Joint Venture]
GPO Box 5222, Melbourne
Victoria 3001

To:

The Commissioners for the Economic Regulation of Airports
Productivity Commission

via email: airports@pc.gov.au

Monday 25 March 2019

Dear Commissioners

Re: Economic Evaluation of Airports – Productivity Commission Draft Report

The Perth Airport Joint User Hydrant Installation (JUHI) is an unincorporated Joint Venture (JV) comprised of BP Australia Pty Ltd (BP) and Viva Energy Aviation Pty Ltd.

BP, as the Operator of the JUHI JV, would like to respond to Information Request 8.1 as outlined in the Productivity Commission's draft report for the Economic Regulation of Airports that relate to Perth Airport JUHI JV; i.e.,

- *The number of applications for access to JUHI infrastructure that have been successful and unsuccessful over the past 10 years*

- *Details of the JUHI access application process, including the information required from access seekers, time taken for a decision on access to be made and reasons as to why access seekers were unsuccessful*

Application Process & Assessment Criteria

Interested parties wishing to become JUHI JV participants are assessed as per the criteria outlined in the Perth JUHI JV Agreement; Entry of Participants. The JUHI JV can provide the relevant clauses in confidence if requested by the Commission.

In general, the application criteria involve the applicant demonstrating the following fuel quality, operational and financial abilities;

- able to deliver fuel conforming to aviation certification requirements
- able to deliver sufficient fuel to meet its demand requirements
- have access to laboratory testing facilities in relation to fuel quality
- have a quality control manual covering the production and handling of aviation fuel and demonstrate its manual complies with aviation guidelines
- technically able to assume the duties of Operator (if required)
- be capable to provide an intoplane service for its customers
- demonstrate it is insured or financially capable to meet and enter into the global Joint Industry Guidelines (JIG) Indemnification agreements

After receipt and examination of the Applicants' written submission in relation to the above criteria; the JV Operating Committee will notify the Applicant whether it satisfactorily meets the criteria, or provide the Applicant with all necessary particulars so that it may take steps to meet the qualifying criteria.

If the Applicant has satisfactorily met the qualifying criteria then;

- the purchase price for a share in the JUHI assets is evaluated, and
- if the purchase price is acceptable to the Applicant, then they are entitled to become a Participant provided payment is made and the JV Agreement and Indemnification Agreement are executed

[Note: the Perth JUHI JV criteria for Entry of Participants are substantially similar to the Sydney JUHI JV criteria; as published in Annexure A (page 50) of the Sydney JUHI response to the NCC* in relation to BARA's declaration application. The criteria were assessed in 2012 by the National Competition Council (NCC) and deemed not to create a barrier to entry for applicants, page 29 item 4.56**]

The Commissioners have requested the number of successful and unsuccessful applications over the past 10 years. Since 2009, there have been two applications from parties interested to pursue an application to become a Perth JUHI Participant.

These are noted below;

Party A

Letter received from Applicant on 01 June 2010 - the Applicant sent a letter to the JUHI JV advising it wished to join the Perth JUHI JV

Correspondence sent to Applicant on 28 July 2010 - The Qualifying Criteria was sent to the Applicant

Applicant's Response to Qualifying Criteria received on 12 August 2010 - The Applicant's response was brief and details were insufficient for the Operating Committee to make an assessment. The Applicant continued to progress arrangements to satisfy the Qualifying Criteria

Operating Committee Response to Applicant on 8 April 2011 - The Applicant did not elaborate with further details and the Applicant was notified that a further 3 months will be granted for details to be provided as part of their application

Applicant's Response received on 8 May 2011 - The Applicant agreed its initial response was brief and that it will elaborate with further details.

Final Result - The Applicant did not provide any further information.

Party B

Letter received from Applicant on 21 July 2017 - The Applicant requested details on the process to become a Participant.

Correspondence sent to Applicant on 9 August 2017 - A Confidentiality Agreement was sent to the Applicant.

Confidentiality Agreement was executed on 30 August 2017 - the Applicant was also advised that a meeting will be arranged to explain the application process and to progress their application in accordance with the JV Agreement. A meeting (telecon) with the Applicant was arranged for 11th September 2017. This date was unsuitable for the Applicant so it was rescheduled for 18th September 2017. During the meeting the Applicant included an external third party not covered as part of the Confidentiality Agreement; therefore, the JUHI application details were not provided.

Correspondence sent to the Applicant on 20th September 2017 - the Applicant was advised that an urgent jet fuel issue occurred in Auckland (pipeline rupture) and that progression with their application will be impacted whilst this urgent and unprecedented matter was managed. The Applicant acknowledged the notification by return correspondence on 28th September 2017.

Correspondence sent to the Applicant on 13th October 2017 - a revised Confidentiality Agreement to include the external third party was provided to the Applicant and it was executed on 24th November 2017.

December 2017 and January 2018 - issues at Auckland resurfaced and there was no progress with the application during this time

Correspondence sent to Applicant on 02 February 2018 – given the effluxion of time, confirmation was requested from the Applicant whether they are interested to progress their Application. Response and confirmation were received on 01 March 2018.

Correspondence sent to Applicant on 26 March 2018 - the Applicant was provided with the Qualifying Criteria for Entry of Participants on 26 March 2018.

Applicant's Response on 26 March 2018 - on the same day the Applicant acknowledged receipt of the Qualifying Criteria and stated it will respond at its earliest.

Final Result - No further correspondence was received from the Applicant since 26 March 2018.

The Perth JUHI JV trusts this information is beneficial to the Commissioners in relation to the JUHI application process and criteria for assessment as well as details of the two applications it received over the last ten years.

Yours Faithfully

BP AUSTRALIA PTY LTD [as Operator of the Perth JUHI Joint Venture]

Mr. Pat Mezzatesta
Joint Venture Manager

References

- * Sydney JUHI response to NCC in relation to BARA's declaration application
<http://ncc.gov.au/images/uploads/DEJFBASu-002.pdf>

- ** NCC Final Report
<http://ncc.gov.au/images/uploads/DEJFBAFR-001.pdf>