

**CYPRESS REGIONAL HEALTH AUTHORITY AND SASKBUILDS
SWIFT CURRENT LONG TERM CARE PROJECT**

**FINAL REPORT OF THE FAIRNESS ADVISOR ON THE PROCUREMENT PROCESS:
RFP STAGE**

September 9, 2014

To: Steering Committee, Swift Current Long Term Care Project

This report covers the following issues:

1. The scope of the review;
2. The purpose of the review;
3. The framework for the review;
4. A statement that the review has been conducted in accordance with this framework;
5. Explanatory details regarding the variables which affect the review;
6. Project Background and Monitoring Activities by Fairness Advisor;
7. Recommendations to improve process for future procurements;
8. Any qualifications on the endorsement of the process;
9. A statement that the Fairness Advisor has fulfilled the terms of her engagement in order to express an opinion; and
10. Findings in the form of an opinion whether the process appears to have been undertaken in accordance with fairness principles expressed or implied in the procurement documents.

Respectfully submitted:



Joan M. Young, Fairness Advisor

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SCOPE OF REVIEW

I was retained on August 1, 2013 to act as the Fairness Advisor for the Swift Current Long-term Care Project. My role is to satisfy myself on the overall procedural fairness of the procurement process associated with the Swift Current Long-term Care Project.

Cypress Regional Health Authority issued a Request for Qualifications (“RFQ”) for the Swift Current Long-term Care Project on August 14, 2013. The opportunity was posted on the electronic bidding site MERX® and SaskTenders. Five Respondents responded and three were selected to advance to the Request for Proposals (“RFP”) stage. The RFP was issued on November 27, 2013 and closed on June 16, 2014.

My engagement covers the procurement process from the issuance of the RFQ to conclusion of the procurement with the selection of the Preferred Proponent. This Final Report covers the RFP stage of the procurement leading to the selection of the Preferred Proponent.

The terms of engagement state that as Fairness Advisor I was asked to do the following:

- The Fairness Advisor will act as an independent observer with respect to the fairness of the implementation of the Project’s procurement processes.
- The Fairness Advisor will provide advice to the Project team on matters of fairness.
- The Fairness Advisor will be available to proponents to answer queries relating to fairness.
- The Fairness Advisor will provide formal written reports at specific points during the Procurement Process as described below.

It is expected that the activities of the Fairness Advisor will be self-determined but are likely to include the following:

- Review Project RFQ and RFP documentation and comment on whether and the extent to which the process described may potentially cause a fairness issue (recognizing that the Fairness Advisor is not acting as procurement counsel to the Project).
- Observe and/or monitor that consideration, communications, and responses undertaken during the Project RFQ and RFP process and are undertaken in accordance with the RFQ and RFP terms.

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- Observe and/or monitor bilateral discussions and meetings.
- Observe and/or monitor the Project RFQ and RFP evaluation process.
- Observe and/or monitor relevant (as determined by the Fairness Advisor) meetings where proponent comparisons are made and the criteria, weighting and rating systems are applied.

The Fairness Advisor will be:

- Provided full access to all information related to the Project competitive selection processes as the Fairness Advisor decides is required, including documentation, personnel, premises, meetings, reports and minutes;
- Permitted full access to any and all meetings, telephone conferences or other events as, in the discretion of the Fairness Advisor, are appropriate; and
- Kept fully informed by the SaskBuilds Project Director of all documents and activities associated with the Project RFQ and RFP processes.

My role as the Fairness Advisor is not to validate the Evaluation Committee's recommendation of the short-listed Proponents; but, rather is to provide oversight and assurances regarding the processes applied in making the recommendations. The Fairness Advisor may meet these responsibilities by undertaking the steps I feel are most appropriate to meet my mandate.

PURPOSE OF REVIEW

The purpose of my review is to provide arm's length advice to the Steering Committee and independent assurance for the Project as to the fairness and appropriateness of project management activities related to the procurement process for the Swift Current Long-term Care Project transaction.

FRAMEWORK FOR REVIEW

At each stage of the procurement process covered by my engagement, I undertook selected review activities in order to meet the terms of my review. These may include:

- (a) Review standards for handling of documents, security of documents, procedures for clarifying or rectifying errors by the

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- owner and/or respondents/proponents;
- (b) Conduct a review of all documentation issued by SaskBuilds to proponents including all procurement documents and addenda;
 - (c) Ascertain whether each respondent was provided with access to the same information as other respondents for the purposes of responding to the various procurement stages;
 - (d) Ascertain whether Evaluation Criteria were established in advance of evaluations being undertaken;
 - (e) Ensure that adequate measures for avoidance of conflict of interest, unfair advantage and confidentiality were established in the procurement process as well as procedures for resolving issues which may arise during the procurement process;
 - (f) Obtain information regarding rulings made by the Relationship Review Committee and Conflict of Interest Adjudicator;
 - (g) Review the Evaluation criteria proposed for the various stages of the procurement to determine that they were reasonably and rationally connected to the stated Project objectives;
 - (h) Review responses, as necessary, submitted by respondents to ensure an adequate familiarity with the terms of the responses in order to undertake the Fairness Review;
 - (i) Review procedures to ensure that appropriate records regarding verbal and written contact with respondents/proponents were prepared and retained; and
 - (j) Attend select meetings of the Evaluation Committee and/or any subcommittees.

REVIEW CONDUCTED IN ACCORDANCE WITH THIS FRAMEWORK

My review was conducted within the framework for review set out above.

PROJECT BACKGROUND AND MONITORING ACTIVITIES OF FAIRNESS ADVISOR

The Swift Current Long-term Care Project is for the replacement of the Swift Current Care Centre, Prairie Pioneers Lodge, and Palliser Regional Care Centre long-term care

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facilities in Swift Current, Saskatchewan. The Project will replace the three existing long term care facilities, including the adult day program, with one new long term care facility to include 225 long term care beds. The Facility will provide care for the full range of residents' needs including all clinical care and services appropriate for intensive personal or nursing care (Level 3) and extended care (Level 4). The new facility will be built on a 15 acre parcel of land owned by the Cypress Health Region. The long term care facility will be located on a site that will include schools, Cypress Regional Hospital, and the City's recreation facilities including a leisure aquatic centre and an indoor field house.

A. *Appointment of Fairness Advisor*

The role of Fairness Advisor is to provide oversight on the procurement process to ensure that the process for selecting a preferred proponent is open, fair and equitable. A Fairness Advisor also provides advice on issues which may arise during the procurement process which could impact on the overall fairness of the process. Fairness Advisors are typically used in public-private partnerships and, to a lesser extent but with increasing frequency, in other public sector procurements such as design-build procurements where a standard tendering process is not being utilized.

A Fairness Review typically follows four phases of the procurement process:

1. Before closing of the procurement process;
2. After closing of the procurement process;
3. Procurement Evaluation Stage; and
4. Post Procurement Evaluation.

As stated above, the role of the Fairness Advisor is not to validate the Evaluation Committee's recommendation to the Steering Committee of the selected proponent; rather, it is to provide oversight and assurances regarding the processes applied in making the recommendation.

B. *Procurement Process for the Swift Current Long-term Care Project*

This phase of the procurement process involved a Request for Proposals.

C. *Request for Proposals*

The Request for Proposals ("RFP") was issued on November 27, 2013 with an amended closing date of April 30, 2014 for the technical submission, and June 16, 2014 for the financial submission.

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All Proponents were required to agree to certain confidentiality provisions in order to participate in the RFP process. This was a reasonable and fair requirement in my opinion.

The owner held a series of Collaborative Meetings with each of the Proponent teams to discuss the project, provide greater clarification and information regarding the RFP, and to discuss the Proponents' design solutions. The Fairness Advisor attended portions of the January 2014 sessions, and all of the February 2014 and April 2014 sessions with the Proponent teams.

Prior to the closing there were a few minor matters for which I was consulted or my advice was sought by the Project Director and Evaluation Committee. All of the issues raised were addressed to my satisfaction. No Proponent contacted me with any fairness issues.

Three Technical Proposals were received in order at the submission location on or before the deadline. No late submissions were received. Each of the Responses was subjected to a high level completeness review, and no deficiencies were noted. Several clarification questions were issued to each of the Proponent Teams, which were permitted by the terms of the RFP.

An Evaluation Committee and Evaluation Teams were established in advance of the closing date. The Evaluation Committee had the responsibility to evaluate and score the various Proposals based on their review of the Proposals and to recommend to the Steering Committee one Preferred Proponent. Evaluation Teams (i.e., sub-committees for topic specific reviews) were also appointed to assist the Evaluation Committee in their work, although the ultimate responsibility of final evaluation and scoring was with the Evaluation Committee.

Each Evaluation Committee and Evaluation Team member was required to execute a Relationship Disclosure declaration and Confidentiality Agreement in advance of access to any information or proposals received in response to the RFP. An Evaluation Manual was developed for use by both the Evaluation Team and Evaluation Committee in advance of the closing date for the RFP. Training in the use of the Evaluation Manual, including scoring, was provided in advance of the evaluation. Evaluators were also apprised of the appointment of the Fairness Advisor. A Due Diligence advisor was also appointed for the process. An internal review process was established for identifying potential conflict or similar issues upon submission of the required documents from the various Committee members. There were no conflicts identified which prevented any party from participating in the evaluation or review of the RFP proposals.

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The Evaluation Teams (the sub-committees) met over the course of several weeks. The Fairness Advisor was apprised of all meetings.

The Evaluation Committee met on multiple occasions during May and June, 2014 to evaluate the Technical and Financial submissions. After the first stage of the evaluation of the Technical Proposals was concluded, all three Proponents were invited to submit a Financial Proposal. The Financial Submissions remained sealed while the Evaluation Committee scored the Technical Submissions. The scored elements aspect of the evaluation was done independently of the Evaluation Committee knowing the amount of Proponents' financial submittals.

The Fairness Advisor was present for all of the Evaluation Committee meetings and scoring sessions. The Evaluation Committee's scoring was consensus-based. The Evaluation Committee had lengthy discussions about the merits of each Proposal based on the submissions, responses to clarification questions, as well as the comments and analysis done by the Evaluation Teams. The members of the Evaluation Committee clearly understood that the ultimate responsibility for scoring was theirs, although they received advice from the Evaluation Teams on scoring. Each Proponent's Proposal was fully discussed and considered, and the Evaluation Committee applied the pre-determined scoring methodology to the responses with reference to the terms of the RFP. The Due Diligence advisor was involved in an oversight role with the evaluation process and was satisfied with the overall RFP evaluation.

During the course of the evaluation my advice was sought by the Evaluation Committee, and legal counsel advising the Project team, and I was satisfied with the manner in which the issues raised were addressed by the Evaluation Committee.

The Evaluation Committee selected a Preferred Proponent with the highest ranked proposal. The recommendation was in accordance with the criteria set out in the RFP.

The Evaluation Committee's report to the Steering Committee reflected the decisions and scoring I observed in the evaluation process. By my observation, the process followed was in accordance with the terms of the RFP and appeared to be fair, transparent and unbiased.

RECOMMENDATIONS TO IMPROVE THE PROCESS FOR FUTURE PROCUREMENTS

No recommendations are suggested.

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ANY QUALIFICATIONS ON THE ENDORSEMENT OF THE PROCESS

My fairness review has been based on: my own review of selected documentation and records; my discussions with the Evaluation Committee; my attendance during the activities of the Evaluation Committee and Evaluation Teams; answers to questions posed by me and my observations of meetings. I have reviewed a sampling of project related documentation, but not all documents created by each and every staff member or advisor.

FINDINGS

The RFP procurement process associated with this stage of the Swift Current Long-term Care Project has been conducted in a fair manner in accordance with the procedures established in the Request for Proposals stage.

I am satisfied that:

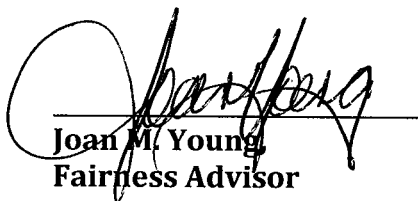
1. The Swift Current Long-term Care Project team members, and their advisors, followed the procedures and fairly applied the evaluation criteria specified in the procurement documents;
2. Where judgment and interpretation were allowed or required, the project team exercised reasonable judgment and made interpretations in a fair and impartial manner; and

I am satisfied that I have been provided with the appropriate access and information to render this fairness opinion to the Steering Committee.

FULFILLMENT OF REVIEW TERMS

I confirm that I have fulfilled the terms of my engagement based on the activities described to you above.

Respectfully submitted,


Joan M. Young
Fairness Advisor

Dated at Vancouver, BC this 9th day of September, 2014