

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

**FIRST REPORT OF THE FAIRNESS ADVISOR ON THE PROCUREMENT PROCESS:  
RFQ STAGE**

**November 21, 2013**

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**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:



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**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 stage.

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 First Report covers the RFQ stage of the procurement leading to the selection of the Three Proponents.

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 the following selected review activities in order to meet the terms of my review:

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

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- (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 were prepared and retained; and
- (j) Attend select meetings of the Evaluation Committee and 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 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

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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 Qualifications.

*C. Request for Qualifications*

The Request for Qualifications ("RFQ") was issued on August 14, 2013 with a closing date of October 9, 2013.

All Respondents were required to agree to certain confidentiality provisions in order to participate in the opportunity, as well as endorse a participation agreement. These were reasonable and fair requirements in my opinion.

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The owner held one webinar at the start of the Request for Qualifications stage for all of the interested parties to learn about the Project. The Fairness Advisor was in attendance at this meeting.

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. One Respondent contacted me with a fairness issue, which, after investigation, I concluded was immaterial and in any event was resolved to my satisfaction. The issue did not affect the fairness of the procurement process or the evaluation.

Five Responses 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 Respondent Teams, which were permitted by the terms of the RFQ.

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 Responses based on their review of the Responses and to recommend to the Project Board up to three Respondents to be invited to the Request for Proposals stage. 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 RFQ. An Evaluation Manual was developed for use by both the Evaluation Team and Evaluation Committee in advance of the closing date for the RFQ. 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 RFQ proposals.

The Evaluation Teams (the sub-committees) met on multiple occasions. The Fairness Advisor was apprised of all meetings and attended selected ones.

The Evaluation Committee then conducted phone interviews with each of the Respondents. The Fairness Advisor attended all of the interviews.

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The Evaluation Committee met on multiple occasions during October, 2013 to evaluate the Responses. Both a vertical and horizontal assessment was done to ensure consistency and fairness of scoring. During the course of the evaluation my advice was sought by the Evaluation Committee, and I was satisfied with the manner in which the issues raised were addressed by the Evaluation Committee.

The Fairness Advisor was present for all of the evaluation meetings and scoring sessions. The Evaluation Committee's scoring was consensus-based. The Evaluation Committee had lengthy discussions about the merits of each response based on the submissions, responses to clarification questions, as well as the comments and analysis done by the sub-committees. 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 Respondent'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 RFQ. The Due Diligence advisor was involved in an oversight role with the evaluation process and was satisfied with the overall RFQ evaluation.

The Evaluation Committee has recommended that three Respondents be selected to advance to the Request for Proposals stage. The recommendation was in accordance with the criteria set out in the RFQ.

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 RFQ and appeared to be fair, transparent and unbiased.

**RECOMMENDATIONS TO IMPROVE THE PROCESS FOR FUTURE PROCUREMENTS**

No recommendations are suggested.

**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.

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**FINDINGS**

The RFQ 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 Qualifications stage.

I am satisfied that:

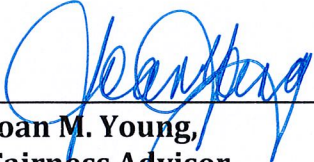
1. The Swift Current Long-term Care Project team members, and their advisors, followed the procedures and fairly applied the evaluation criteria specified in the procurement documents;
2. Where judgment and interpretation were allowed or required, the project team exercised reasonable judgment and made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

  
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**Joan M. Young,**  
**Fairness Advisor**

Dated at Vancouver, BC this 21st day of November, 2013