

**NORTHERN HEALTH AUTHORITY
FORT ST. JOHN HOSPITAL PROJECT**

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

March 19, 2009

To: Steering Committee, Fort St. John Hospital Project

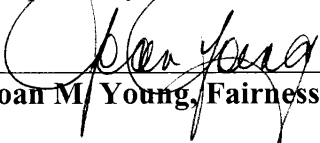
Chair: Larry Tokarchuk (Chair)

Members: Fred Banham, Larry Blain, Kevin Brewster, Eryn Collins, Mike
Hoefler, Kim Frech, Mark Liedemann, Steve Raper, Albert
Sommerfeld, Tom Sparrow, Rick Steele, Becky Temple, Dr. Mark
Thomson, Cathy Ulrich, Scarlett Verjinschi

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; and
9. A statement that the Fairness Advisor has fulfilled the terms of her engagement in order to express an opinion;
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

Heenan Blaikie

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SCOPE OF REVIEW

I was retained in April 2008 to act as the Fairness Advisor for the Fort St. John Hospital Project. My role is to satisfy myself on the overall procedural fairness of the procurement process associated with the Fort St. John Hospital Project.

The Northern Health Authority (“NHA”), in conjunction with its advisors, Partnerships BC, issued a Request for Qualifications (“RFQ”) for the Fort St. John Hospital Project in May 2008. This stage was intended to set out information regarding the project to the private sector and to invite those parties both interested and qualified to participate in the procurement process. In July, 2008, the NHA selected two qualified Respondents to be invited to participate in the next stage of the procurement.

My engagement covers the evaluation of the responses to the procurement process from the issuance of the RFQ to conclusion of the procurement. This Second and Final Report covers the RFP stage of the procurement.

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

1 Role of Fairness Advisor

The Fairness Advisor provides assurance to Partnerships BC and the Northern Health Authority through all stages of the Project Competitive Selection Process that the procurement processes described in the Project Request for Qualifications and Project Request for Proposals are applied fairly according to the terms described therein. And further, by way of reports that are ultimately made public, the Fairness Advisor provides an independent opinion and assurance to the public of this fair application.

2 Scope of Services of Fairness Advisor

The role of the Fairness Advisor will include:

Scope

- The Fairness Advisor will report to the Chair of a Steering Committee composed of senior officials within Northern Health Authority and Partnerships BC, overseeing the Project.

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- 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 appointment will commence immediately and will continue until the completion of the Project Competitive Selection Process at the end of the Project Request for Proposals evaluation stage. At the discretion of the Chair of the Steering Committee, the Fairness Advisor appointment may be extended to the completion of the Financial Close stage.

Reports

- The Fairness Advisor will prepare and deliver two written reports to the Steering Committee, as follows:
 - (i) a first report at the completion of the selection of the short-listed Respondents under the Project Request for Qualifications, a copy of which will be provided to the Project Director; and
 - (ii) a second report at the completion of the selection of the final Proponent under the Project Request for Proposals process, a copy of which will be provided to the Project Director. If, at the discretion of the Chair of the Steering Committee, the Fairness Advisor appointment is extended to the completion of the Financial Close stage, the second report will be due at the completion of the Financial Close stage.
- The Fairness Advisor's reports will be available to the public after selection of the final Proponent under the Project Request for Proposals Process (first report), and final execution of the project agreement (second report), subject to the applicable legislative requirements (including the *Freedom of Information and Protection of Privacy Act* and regulations). The first report will be made available to Respondents prior to the issuance of the Project Request for Proposals.

Access to Information

The Fairness Advisor will be:

- (a) provided full access to all of the health authority's information related to the Project Competitive Selection Processes as the Fairness Advisor decides is required, including documentation, personnel, premises, meetings, reports and minutes;

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(b) permitted full access to any and all meetings, telephone conferences or other events as, in the discretion of the Fairness Advisor, are appropriate; and

(c) kept fully informed by the Project Director of all documents and activities associated with the Project request for qualification and request for qualification process.

The contact person with the Project team, when and as needed, will be the Partnerships BC Project Director.

Enquiries

- The Project Team, through the Project Director, may invite the Fairness Advisor to provide comment from time to time on issues related to the evaluation processes during the Project Competitive Selection Processes. The Fairness Advisor will not provide any comment or advice on any matter other than fairness.

- During the Project Competitive Selection Processes, the Steering Committee may request comment on proposed action or circumstance related to the administration of the Project Request for Qualifications and the Project Request for Proposals.

None of the above duties of the Fairness Advisor shall be delegated to any other person without the written approval of the Project Director.

My role as the Fairness Advisor is not to validate the Evaluation Committee's recommendation of the selected proponent; but rather is to provide oversight and assurances regarding the processes applied in making the recommendation.

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 to the Fort St. John Hospital transaction.

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FRAMEWORK FOR REVIEW

At each stage of the procurement process covered by my engagement, I undertook the following 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 proponents,
- (b) Conduct a review of all documentation issued by Partnerships BC and/or the Northern Health Authority to proponents including all procurement documents and addenda;
- (c) Ascertain whether each proponent was provided with access to the same information as other proponents for the purposes of responding to the various procurement stages;
- (d) Ascertain whether Evaluation Criteria was established in advance of evaluations being undertaken;
- (e) Ensure that adequate measures for avoidance of conflict of interest, unfair advantage and confidentiality were established and adhered to 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 Conflict of Interest Committee to ascertain whether the recommended course(s) of action have been fully implemented;
- (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 all responses submitted by proponents to ensure an adequate familiarity with the terms of the responses in order to undertake the Fairness Review;

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- (i) Ensure that appropriate records regarding verbal and written contact with proponents were prepared and retained;

REVIEW CONDUCTED IN ACCORDANCE WITH THIS FRAMEWORK

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

EXPLANATORY DETAILS

None.

PROJECT BACKGROUND AND MONITORING ACTIVITIES OF FAIRNESS ADVISOR

There are six provincial health authorities in British Columbia (B.C.), which are the main organizations responsible for local health service delivery in the province. NH is one of the five regional health authorities responsible for delivering a full continuum of health services to meet the needs of the population within its respective region. NH serves more than 310,000 residents (of which 13 per cent are of aboriginal descent), employs, or contracts approximately 7,000 health care professionals and operates three core facilities including the Prince George, Dawson Creek and Fort St. John hospitals. The Fort St. John Hospital is located in the Northeast Health Service Delivery Area and is specifically responsible for the Northeast Health Service Delivery Area. The hospital offers health care services to the northeast region, including all medical and general surgical services, emergency care, ambulatory services, and visiting specialist programs, and also acts as a referral centre for the Peace Liard region. The Peace Liard region is the North Peace area comprising Fort St John, Fort Nelson and Hudson Hope. The South Peace area consists of Tumbler Ridge, Dawson Creek and Chetwynd. Other programs are referred to the Dawson Creek Hospital. These programs include mental health acute beds, orthopaedic surgery and Mat/Child surgical.

A large proportion of the population in the Northeast Health Service Delivery Area is currently 75 years of age or older. NH has the highest projected growth rate of seniors (with a 48 per cent projected growth rate by 2010) making the impact on acute care and need for residential care a concern for the future. The current need for development of new hospital, services and residential care facilities will ensure that

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NH is well-positioned to meet the future population growth and demand in acute care and required health care services.

The purpose of the Project is to design, build, finance and maintain the new 55-bed Fort St. John Hospital, including a 123-bed residential care centre and a services facility at the proposed site located in Fort St. John, British Columbia. The Project Agreement will require the successful Proponent to provide building maintenance and repair services, as well as lifecycle maintenance services for the new Facility for an operating period of 30-years commencing from the anticipated date of occupation. It is anticipated that the successful Proponent will finance approximately 60 per cent of the capital cost of the new Facility (excluding medical equipment).

The purpose of the NHA's Request for Proposals was to invite submissions from the two successful parties arising out of the RFQ stage to participate in the design, build, finance, and maintain ("DBFM") procurement model for the Fort St. John Hospital in the Northern Health region.

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.

A Fairness Review 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.

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B. Procurement Process for Fort St. John Hospital Project

This phase of the procurement process involved a Request for Proposals. The NHA short-listed two qualified proponents who were invited to prepare proposals in response to a Request for Proposals. Both proponents submitted their proposals to the NHA in accordance with the terms of the RFP.

C. Request for Proposals

The Request for Qualifications (“RFP”) was issued on October 17, 2008 with a closing date which was ultimately amended to February 16, 2009 for technical submissions and February 26, 2009 for financial submissions. The Proponents were required to execute a Participation Agreement as a pre-condition to participation in the RFP stage of the procurement process. Although there was delay in both proponents executing the Participation Agreements until mid-way through the procurement, eventually the agreement was agreed to and signed off by both teams.

The RFP was revised after it was issued October 17, 2008 primarily in response to the dramatic shift in the financial world which occurred in the Fall of 2008. Bilateral discussions were held with the proponents regarding the significant increases in both the affordability and availability of capital in the market. Certain changes to the requirements of the RFP were made after its issuance resulting from this turmoil in the financial markets. The most notable changes included a “Project IRR” for the “Affordability Ceiling” for the project, an “Affordability Threshold” concept for the evaluation process and the use of the scope ladder in conjunction with the Project IRR. These amendments were permitted by the terms of the RFP. Although it is unusual and often ill-advised to change a substantive clause in the RFP after issuance, both proponents were invited to comment on the changes before they were made. I had lengthy discussions with the NHA and PBC regarding the proposed changes. I am satisfied that the amendments did not raise any fairness issues and both proponents had an opportunity to fully participate in the RFP notwithstanding the changes.

During the course of the procurement, the advice of the Fairness Advisor was sought relating to changes to dates, changes to the RFP, changes to key team members, the nature of the Bilateral proponent meetings and other issues. To the extent I offered advice or recommendations, it was followed.

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Bilateral sessions were held between the proponents and the NHA and its advisors. The Fairness Advisor was in attendance at all meetings to ensure that the sessions were conducted in accordance with the terms of the RFP.

One proponent informally raised two issues relating to the fairness of certain events during the procurement. I invited submissions from the proponent in order to assess their concerns, but the proponent did not pursue the matter. In the circumstances, I view that these concerns were unfounded in terms of any procedural or substantive unfairness to the proponent who raised them.

Prior to the closing date extensive training sessions were held with all of the consultants and Evaluators to ensure that they were familiar with the Evaluator's Handbook and the general principles for conducting a fair evaluation. Training sessions were held on February 2, 3, 6, 11 and 13, 2009 conducted by a representative of Partnerships BC.

All of the RFP submissions (both technical and financial) were received in order at the submission location on or before the deadline. No submissions were rejected. Two previously qualified teams submitted responses addressing (1) design and construction, (2) financial and commercial, and (3) facilities management. Each of the two submissions was subjected to a completeness review, and no deficiencies were noted. The Fairness Advisor had an opportunity to review both proposals. The sub-committee required clarification from both proponents and a series of written questions were sent to the parties. After consultation with the Fairness Advisor, one previously issued clarification question was withdrawn by the NHA.

A number of internal staff and private sector advisors were assembled for the purpose of evaluating the submissions. Various sub-committees were formed: a Completeness Review Team, Design and Construction Team, a Commercial and Financial Team and a Facilities Management Team. Each of these teams reported to an Evaluation Committee which had the responsibility to evaluate and score the various proposals based on the comments of the sub-committee teams and provide a recommended Preferred Proponent to the Steering Committee. Each Evaluation Committee team member and sub-committee member was required to execute a Relationship Disclosure declaration, Data Room Agreement (if they wanted electronic access to documents) and Confidentiality Agreement in advance of access to any information or proposals received in response to the RFQ.

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Security measures were established to ensure that no information from the various proposals was available to anyone who had not been cleared for access. The proposals were kept in locked facilities in the four evaluation locations.

Evaluators were also advised of the appointment of the Fairness Advisor for the project. An internal review process was established for identifying potential conflict or similar issues upon submission of the required documents from the various team members. All conflicts were either cleared or the individual was not permitted to be part of the evaluation. Sufficient documentary records have been kept to record the management of this aspect of the Evaluation process.

An Evaluation Manual for the RFP Stage was developed based on the evaluation criteria set out in the RFP and was finalized before the closing date for submissions. The evaluation was based on criteria set out in the RFQ. There was a "Pass/Fail" benchmark for meeting the Affordability Ceiling. I was provided with a draft of the Evaluation Manual in advance of the evaluation meetings. Each of the teams was also provided with an opportunity to review the draft manual, to provide comments and to make changes before the closing date for RFP. Eventually all evaluators were provided with a final form of manual before the evaluation began and this manual formed the basis of the scoring done by the Evaluation Committee. All the evaluators had to attend training regarding their roles and the use of the Evaluation Manual before being able to participate in the scoring process.

The Evaluation Committee held proponent presentation meetings with the two proponent teams in Fort St John on March 4, 2009 which the Fairness Advisor attended. I also attended the Evaluation Committee meeting in person on March 16, 2009 in Fort St John as an observer. A robust discussion was held, and each team member had an unfettered opportunity to discuss the relative merits and weaknesses of each proposal. My observation is that each proponent was provided with a fair evaluation of their proposals in accordance with the parameters of the RFP. Scoring was done and a report was prepared.

I am satisfied that each of the two Respondent teams was provided with a fair opportunity to have their proposal considered by the Evaluation Committee in accordance with the terms of the RFP. The evaluation criteria were applied consistently and in accordance with the pre-determined evaluation criteria in the Evaluation Manual.

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The Evaluation Committee did not require any specific advice of the Fairness Advisor during this phase of the procurement. General advice was provided on the procurement process as noted previously.

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

There are no issues of note requiring any commentary by the Fairness Advisor.

ANY QUALIFICATIONS ON THE ENDORSEMENT OF THE PROCESS

My fairness audit review has been based on my own review of selected documentation and records; my discussions with the Evaluation Committee; my observations of the activities of the Evaluation Committee; 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.

My review findings are based on the assumption that I have been provided access to all relevant information in connection with the project and that I have been advised of all key project management meetings and decisions.

FINDINGS

The RFP procurement process associated with this final stage of the Fort St. John Hospital 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. NHA, PBC and their advisors followed the procedures and fairly applied the evaluation criteria specified in the procurement documents and subsequent documents;
2. Where judgment and interpretation was allowed or required, the project team exercised reasonable judgment and made interpretations in a fair and impartial manner; and
3. To the extent that amendments to the process were permissible, that decisions with respect to amendments were made in a fair and impartial manner;

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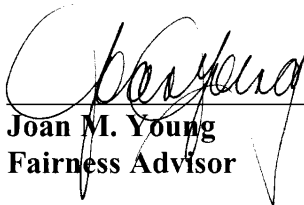
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I am satisfied that I have been provided with the appropriate access and information to render this fairness opinion to the Steering Committee.

FULFILLMENT OF AUDIT 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 Victoria, BC this 19th day of March, 2009

Heenan Blaikie LLP
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