

Fairness Advisor Interim Statement
for
The Province of Newfoundland and Labrador

in support of the procurement process for

Corner Brook
Long Term Care Project
RFQ # 10114

March 23, 2017

Submitted to:

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Purpose

The purpose of this interim report is to provide observations of the Fairness Advisor and an interim Opinion of Assurance with respect to the process to date for the Government of Newfoundland and Labrador's Corner Brook Long Term Care (CBLTC) Project procurement process.

This interim report covers the period from the engagement of the Fairness Advisor (February 22, 2017), through to the Province's completion of the evaluation and ranking of the written Submissions received from Respondents in response to the Request for Qualifications (RFQ) #10114, and the conduct of due diligence Reference Checks by the Province.

Introduction

RFP Solutions Inc. was engaged as the Fairness Advisor to oversee the competitive procurement process for the design, construction, financing and maintenance of a long-term care facility located in Corner Brook, Newfoundland and Labrador, along with certain wider site works (the Corner Brook Long Term Care (CBLTC) Project) for the Province of Newfoundland and Labrador.

The procurement is being undertaken in partnership between the Province's Department of Transportation and Works, the Department of Health and Community Services and agencies of the government including the Western Regional Health Authority.

This procurement is being undertaken via a two (2) stage procurement process, consisting of a first-stage Request for Qualifications (RFQ) (RFQ#10114), and a planned second-stage Request for Proposals (RFP) to be issued to those Respondents pre-qualified as a result of the RFQ stage ("Proponents").

This report outlines the activities within the procurement process undertaken to date by the Province, and provides the observations of the Fairness Advisor associated with each.

Methodology and Activities of the Fairness Advisor

In all respects, the Fairness Advisor serves as a neutral (non-voting) and objective third-party during the procurement process, with no interest, financial or otherwise, in the outcome of the evaluation exercise other than ensuring that an open, fair and transparent process was followed.

The following Principles of Fairness were used in the conduct of this mandate and in arriving at our Opinion on the fairness of this process to date:

1. **Transparency** – the process is open and accessible to all participants;
2. **Integrity** – the process is undertaken in accordance with what is ethically right and proper;
3. **Equality** – all Respondents are subject to the same rules and opportunities;

4. **Neutrality** – all Respondents are treated with an absence of bias or favouritism;
5. **Consistency and Compliance** – All Respondents are assessed in accordance with the solicitation and applicable legislation, policy and regulations; and
6. **Objectivity** – All observations and assessments are evidence-based.

Solicitation Period

RFQ #10114 was developed and issued by the Province on January 20, 2017, with a closing date and time of 2:00 pm Newfoundland Time, February 20, 2017.

During the solicitation period, the Province issued three (3) Addenda to the RFQ, to respond to questions raised by potential Respondents, as well as to clarify the Respondent submission requirements.

In preparation for the closing of the RFQ, evaluation workbooks, an evaluation manual and orientation training were developed and delivered to the members of the Evaluation Teams.

Five (5) Submissions were received by the Province in hard copy by the closing date and time, and were retained, unopened, in a secure location at Provincial offices.

The services of the Fairness Advisor were engaged on February 22, 2017, following the closing of the solicitation period of the RFQ.

To familiarize itself with the Province's articulated requirements, the Fairness Advisor reviewed the published RFQ and the three (3) Addenda, as well as made inquiries of the Project team to confirm the specific process, structure and plans for the conduct of the RFQ evaluation. The Fairness Advisor reviewed the evaluation workbooks, evaluation manual and orientation training materials that had been prepared, to verify their concordance to the published RFQ documents. The evaluation materials reflected the requirements, criteria, and process as set out to Respondents in the RFQ, and included a comprehensive confidentiality, non-conflict of interest and security protocol. The Fairness Advisor provided feedback to the Province on the need to include a standardized rating scale to support the consistent application of the published criteria. The Province was receptive to the Fairness Advisor's feedback and established a clear and standardized rating scale for use by the Evaluation Teams. No fairness issues were observed.

Submission Opening

The Submission envelopes were opened by the Evaluation Process Management and Completeness Evaluation Team. The Fairness Advisor monitored the opening of the Submission envelopes for each Respondent and the conduct of the Completeness Review of Submissions. The Submission Opening and Completeness Review were conducted in accordance with the RFQ and Evaluation Manual, and no fairness issues were observed. One (1) Respondent did not submit the requested electronic copy of its Submission within its submitted Package. The Province consulted with the Fairness Advisor and legal services, and confirmed that the

Submission could still be considered, and an electronic copy requested from the Respondent, as the hard copy Submission prevails, in accordance with the RFQ.

At the conclusion of the Completeness Review, all five (5) Submissions were determined to be eligible to proceed to further evaluation.

Financial information submitted by Respondents was provided to the Province's Procurement Advisor (EY) for analysis to support the conduct of the Financial Capacity Evaluation. As set out in the RFQ, Respondents had the option to submit financial information for analysis, pursuant to a Non-Disclosure Agreement (NDA). Two (2) Respondents opted to provide information in this manner for portions of their proposed Team. Financial Capacity information submitted pursuant to the NDA was kept in its sealed envelopes, and provided directly to the Procurement Advisor, together with the balance of the Financial Capacity information submitted by Respondents.

Following the opening of the Submissions, when the identities of the Respondent Teams and proposed Key individuals were known, the Province implemented the Relationship Review process, requiring each member of the evaluation process to identify any existing or previous relationships with any of the submitting Respondents, identified Team members, or Key individuals named in the Submissions. This information was reviewed by the Province's Relationship Review Committee, and reviewed by the Fairness Advisor. The Province was very forthcoming with information, and no fairness issues were identified.

After the completion of the Relationship Review for the Evaluation Teams, copies of the Submissions were provided to the members of the Evaluation Teams, to begin their individual reviews and assessments on the basis of the Rated Criteria of the RFQ. The Province consulted with the Fairness Advisor on its process for handling, shipment and storage of the Submissions (electronic and physical copies). No fairness concerns were noted.

Evaluation of Written Submissions

The rated evaluation of written Submissions was undertaken by three (3) Evaluation Teams:

- a) Design-Build – RFQ sections 2.1, 2.4, and sections 3.1-3.4;
- b) Services – RFQ sections 2.2, 2.4, and sections 4.1-4.2; and
- c) Financial – RFQ sections 2.3, 2.4, and section 5.1.

The Evaluation Teams were comprised of representatives from each of the partner organizations for the Project, and facilitated by a representative of the Province's Procurement Advisor. The Financial Evaluation Team included representatives of the Procurement Advisor and a representative of the Province).

Each Evaluation Team was responsible for the review and scoring of their respective RFQ sections, with all Teams responsible for review and scoring of the proposed Team Lead (Key individual) on section 2.4.

The members of each Evaluation Team first completed an independent review of each Submission and convened an Evaluation Team meeting to identify any clarifications required on Submissions in order to complete their independent assessments. The Fairness Advisor attended each Evaluation Team meeting. At the conclusion of each Team meeting, it was determined that no clarifications were required at this time. No fairness concerns were observed.

The members of each Evaluation Team completed an independent assessment of each Submission, following which each Evaluation Team convened to complete a consensus evaluation on their RFQ sections.

The Fairness Advisor was present to observe all consensus discussions and decisions. All evaluators came to the consensus meetings well prepared, having completed thorough individual reviews and assessments. All evaluators participated actively and equally in the consensus meeting discussions and decisions. The consensus Evaluations were conducted in a fair and consistent manner and in accordance with the Evaluation Criteria published in the RFQ.

During the Services Evaluation Consensus meetings, two (2) clarifications (one (1) each for two (2) Submissions) were identified as required to enable the Evaluation Team to complete their consensus. The Fairness Advisor had the opportunity to review the Clarification questions documented by the Evaluation Team, and to review the responses received by the Province. No fairness issues were identified.

Following the conclusion of the Evaluation Team consensus meetings, the Fairness Advisor was provided the opportunity to review the consolidated Evaluation outcomes and comments from each Evaluation Team. The recorded outcomes were an accurate record of the consensus decisions and comments of each Evaluation Team.

After the conduct of the Evaluation Team consensus meetings, the results of each Evaluation Team's consensus were presented to the members of the Evaluation Committee; comprised of representatives from each of the partner organizations for the Project. Each Evaluation Committee member had completed an independent review of each Submission prior to the Evaluation Committee meeting. Each Evaluation Team's outcomes and associated comments were presented in sequence (one Evaluation Team at a time), and each Respondent Submission was reviewed in sequence (one Submission at a time). During the review of each Respondent's Submission, the members of the Evaluation Committee raised questions relative to the evaluation criteria and its application to the content of the Submissions, and confirmed the scoring and outcomes for each Submission. In addition, the Evaluation Committee, reached consensus on the score and comments for section 2.4 Team Lead, based on the input provided from the three (3) Evaluation Teams. The Fairness Advisor monitored the conduct of the Evaluation Committee meeting discussions and determinations. The deliberations and determinations of the Evaluation Committee was consistent with the criteria as published in the RFQ, and undertaken in a fair and consistent manner.

At the conclusion of the Evaluation Committee's consensus meeting, it was determined that the four (4) highest ranked Submissions would be eligible for further consideration, with the fifth Submission being set aside from further consideration. No fairness concerns were observed.

Following the conclusion of the Evaluation Committee's meeting, the Fairness Advisor was provided the opportunity to review the consolidated Evaluation outcomes. The recorded outcomes were an accurate record of the consensus decisions of the Evaluation Committee.

Following the completion of the Evaluation Committee's review and determinations, the Province conducted due diligence reference checks with one (1) Project reference for each of the four (4) remaining Respondents; focused on the experience of the Team Lead organization and Key individual of the Respondent's Team. The Fairness Advisor was consulted on the process to be used for the conduct of the reference checks, and reviewed the reference questions to be asked of each reference. The Fairness Advisor provided feedback to the Project team on the reference questions and process to support the consistency of each reference check conducted, which was duly considered and incorporated by the Province into the process. Each reference check was conducted by phone, facilitated by the Province's Procurement Advisor, and attended by the Province's Evaluation Process Management representative. Notes were kept of each reference's response to the questions. The Fairness Advisor attended each reference call. Each reference was asked a consistent series of questions. At the conclusion of the reference checks, the Province identified that the references had confirmed the Submission contents, and no concerns were identified. The record of each reference was provided to the Fairness Advisor for review, prior to its dissemination to the members of the respective Evaluation Teams for review.

Current Status

The process and outcomes of the RFQ evaluation will be presented to the Steering Committee for review and decision as to the short-list of Proponents eligible to be invited to the second-stage RFP.

Interim Opinion

The Fairness Advisor hereby provides the following unqualified interim assurance statement concerning each and all of the activities for the Province of Newfoundland and Labrador's Request for Qualifications for the Corner Brook Long Term Care (CBLTC) Project (RFQ#10114) undertaken to date:

It is our professional opinion that the Closing, evaluation and due diligence processes associated with RFQ#10114 have been carried out in a fair, open and transparent manner, in compliance with the Province's procurement policies and the RFQ (#10114).



For RFP Solutions Inc.
Steve Johnston
Managing Director
Fairness Advisor

March 23, 2017

Date