

**BOARD OF EDUCATION OF SCHOOL DISTRICT No. 39 (VANCOUVER)
KITSILANO SECONDARY SCHOOL PROJECT**

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

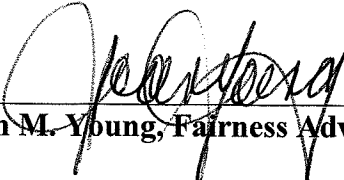
September 12, 2012

To: Project Board, Kitsilano Secondary School 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; 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

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SCOPE OF REVIEW

I was retained on May 8, 2012 to act as the Fairness Advisor for the Kitsilano Secondary School Project. My role is to satisfy myself on the overall procedural fairness of the procurement process associated with the Kitsilano Secondary School Project.

The Board of Education of School District No. 39 (Vancouver) issued a Request for Qualifications ("RFQ") for the Kitsilano Secondary School Project on May 18, 2012. The opportunity was posted on the electronic bidding site BC Bid®.

The project is a design-build partnership model designed to maximize private sector innovation and expertise. The RFQ stage is 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. The intention of the Vancouver Board of Education is to select up to three qualified Respondents to be invited to participate in the next stage of the procurement.

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.

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

1. The Fairness Advisor will report to the Chair of the Project Board, which is composed of senior officials within Vancouver Board of Education, Ministry of Education, the Ministry of Transportation and Infrastructure, and Partnerships BC overseeing the Project.
2. The Fairness Advisor will act as an independent observer with respect to the fairness of the implementation of the Project's procurement processes.
3. The Fairness Advisor will provide advice to the Project team on matters of fairness.
4. The Fairness Advisor will be available to proponents to answer queries relating to fairness.
5. The Fairness Advisor will provide formal written reports at specific points during the Project competitive selection process.

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Access to Information

6. The Fairness Advisor will be provided full access to all of the Vancouver Board of Education's information related to the Project Competitive Selection Processes as the Fairness Advisor decides is required including documentation, personnel, premises, meetings, reports and minutes;
7. The Fairness Advisor will be permitted full access to any and all meetings, telephone conferences or other events as, in the discretion of the Fairness Advisor, are appropriate; and
8. The Fairness Advisor will be kept fully informed by the Partnership BC's Project Director of all documents and activities associated with the Project Request for Qualification and Request for Proposals processes.

Enquiries

9. The Project Team, through the PBC 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 of the procurement process.
10. During the Project Competitive Selection Processes, the Project Team may request comment on proposed action or circumstance related to the administration of the Project Request for Qualifications and the Project Request for Proposals.
11. The Fairness Advisor will be available to proponents to answer queries relating to fairness.

My role as the Fairness Advisor is not to validate the Evaluation Committee's recommendation of the selected Respondents; but rather is to provide oversight and assurances regarding the processes applied in making the recommendation. The Fairness Advisor may meet these responsibilities by undertaking the steps she feels are most appropriate to meet her mandate.

PURPOSE OF REVIEW

The purpose of my review is to provide arm's length advice to the Project Board and independent assurance for the Project as to the fairness and appropriateness of project management activities related to the procurement process for the Kitsilano Secondary School Project 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 Vancouver Board of Education and Partnerships BC 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 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 responses, as necessary, submitted by proponents to ensure an adequate familiarity with the terms of the responses in order to undertake the Fairness Review;
- (i) Ensure that appropriate records regarding verbal and written contact with proponents 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

Kitsilano Secondary School has approximately 1,500 students in Grades 8 to 12, and 125 full and part time staff. Another 650 students are registered in extra-curricular activities and 800 adult students in Continuing Education and Heritage Language programs. The current buildings date back to 1927, with additions in 1957 and 1973.

The approximately 18,000 square metres school replacement project will be a neighbourhood learning centre that will provide specialty classrooms and fitness, arts and library facilities. Key features of the three story replacement school include the construction of a new academic wing; an all-weather playing field; three gymnasiums; a 350-seat theatre; green space for student learning; and space designed for individualized support and collaborative group work. A key element of the project is the preservation of the main historical facade that dates back to 1927. The 1,500 students in Grades 8 to 12 will benefit from the new 21st century learning environment that will be designed to achieve Leadership in Energy and Environmental Design (LEED) Gold certification.

The design principles for the new school include:

- Create a model 21st century school;
- Protect and enhance the school spirit and sense of place;
- Plan for sustainability;
- Ensure a safe and secure school facility;
- Improve the health and well-being of the entire school community;
- Create stronger connections with the Kitsilano War Memorial Community Centre;
- Plan the school with a Neighbourhood Learning Centre;
- Respect the 1927 Heritage Block;
- Provide great outdoor space;
- Plan for implementation and fiscal visibility; and
- Plan to minimize phasing and construction time;

The RFQ is a competitive process that invites teams to indicate their interest and qualifications to design and build the Project. VSB expects to shortlist up to three Design-Build teams, which will then be invited to respond to a Request for Proposals (RFP). VSB will choose the successful winning team by spring 2013, with design-build activities commencing immediately thereafter. The replacement school will be completed in time for the September 2017 school year.

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The total cost of the project is expected to be in the range of \$55-60 million.

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 Project Board 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 Kitsilano Secondary School Project

This phase of the procurement process involved a Request for Qualifications. The intention of Vancouver Board of Education was to short-list up to three qualified respondents who will be invited to prepare proposals in response to a Request for Proposals.

C. Request for Qualifications

The Request for Qualifications ("RFQ") was issued on May 18, 2012 with a closing date of July 4, 2012 requesting interested parties to submit their qualifications for the project. A public Bidder's Information session was held on May 30, 2012 which I attended. A tour of the subject building was held for potential Respondents. All Respondents were required to agree to certain confidentiality provisions in order to participate in the opportunity. This was a reasonable and fair requirement in my opinion.

The RFQ had minor revisions and clarifications during the RFQ stage, which amendments were permitted by the terms of the RFQ. In my view there was no unfairness in the amendments made.

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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 Respondents contacted me with any fairness issues.

Ten submissions were received in order at the submission location on or before the deadline. No late submissions were received. Each of the ten submissions was subjected to a high level completeness review, and no deficiencies were noted. Several minor clarification questions were issued to Respondents, which were permitted by the terms of the RFQ. All clarification questions were answered by the Respondents.

An Evaluation Committee was 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 the selection of up to three Respondents to proceed to the next stage of the procurement. Evaluation Teams (i.e., sub-committees for technical and financial reviews) were also appointed to assist the Evaluation Committee in their work, although the ultimate responsibility of 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 and of the Conflict of Interest Committee for the project. 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 was based on the published criteria, including weighting, set out in the RFQ. An Evaluation Manual was developed with the approval of the Evaluation Committee based on the criteria in the RFQ.

The Evaluation Committee determined that it did not need to hold interviews with Respondents in order to evaluate the responses. Reference checks were performed and this information was provided to the Evaluation Committee. This process was appropriate and fair.

The Evaluation Teams met on multiple occasions. The Fairness Advisor was apprised of all meetings and attended selected ones.

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The Evaluation Committee met on a preliminary basis on August 7, 2012 to receive the initial report from the Evaluation Team lead. Further direction was provided to the Evaluation Team regarding their work for the Evaluation Committee. The Evaluation Teams completed the additional work. The Evaluation Committee then held in depth evaluation sessions on September 4 and 6, 2012 to complete their evaluation by reviewing each of the ten proposals individually. Both a vertical and horizontal assessment was done to ensure consistency and fairness of scoring. 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 of the 10 Respondents' qualifications based on their submissions, responses to clarification questions, as well as the comments and analysis done by the sub-committee. Each team's response was fully discussed and considered, and the Evaluation Team applied the pre-determined scoring methodology to the responses with reference to the terms of the RFQ.

The Evaluation Committee scored and ranked all ten teams, and has recommended that the top three scoring teams be invited to the Request for Proposals stage. The Evaluation Committee's report to the Project Board reflects 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; 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 RFQ procurement process associated with this stage of the Kitsilano Secondary School Project has been conducted in a fair manner in accordance with the procedures established in the Request for Qualifications stage.

I am satisfied that:

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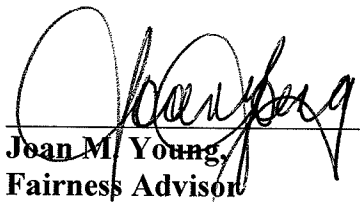
1. The Kitsilano Secondary School Project team members, and their advisors, followed the procedures and fairly applied the evaluation criteria specified in the procurement documents and subsequent documents;
2. Where judgment and interpretation was allowed or required, the project team exercised reasonable 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;

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

FULFILLMENT OF REVIEW TERMS

I confirm that I have been 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 12th day of September, 2012