



**OAK BAY HIGH SCHOOL
REPLACEMENT PROJECT**

**REPORT OF THE FAIRNESS ADVISOR
REQUEST FOR PROPOSALS PHASE**

June 19, 2013

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REPORT OF THE FAIRNESS ADVISOR – RFP PHASE

Introduction

This report presents my findings and conclusions as Fairness Advisor for the Request for Proposals (“RFP”) phase of the procurement process for the Oak Bay High School Replacement Project. The Fairness Monitor previously reported on the Request for Qualifications (“RFQ”) phase of the Project on October 21, 2012.

The Board of Education of School District No. 61 (Greater Victoria) (the “School District”) utilized a two stage procurement process to identify a Preferred Proponent to enter into a Design-Build Agreement (DB Agreement”) for a new 1300 student secondary school as a replacement for Oak Bay High School on the existing Cadboro Bay Road site, including additional space for a Neighbourhood Learning Centre and a performing arts facility (“the Project”).

The first phase of the procurement process was the Request for Qualifications (RFQ) phase which was intended to shortlist Respondents, based on pre-established evaluation criteria. Those shortlisted Respondents proceeded to the Request for Proposals (RFP) phase, wherein they submitted binding proposals and the School District evaluated their proposals and selected a Preferred Proponent.

Bill Larkin, P. Eng., B Larkin & Associates Ltd., was engaged by the School District to serve as the Fairness Monitor for the RFQ Phase, and as Fairness Advisor for the RFP Phase of the procurement. The role of the Fairness Advisor is disclosed in Section 10.12 of the Request for Proposals (the “RFP”) which states:

“The Owner has appointed Bill Larkin (the “Fairness Advisor”) to monitor the Competitive Selection Process. The Fairness Advisor will provide a written report to the Owner that the Owner will make public.

The Fairness Advisor will be:

- (a) provided with full access to all documents, meetings and information related to the evaluation processes under this RFP that the Fairness Advisor, in its discretion, decides is required; and*
- (b) kept fully informed by the Owner of all documents and activities associated with this RFP.*

Proponents may contact the Fairness Advisor directly with regard to concerns about the fairness of the Competitive Selection Process.”

The role of the Fairness Advisor is to monitor the selection of the Preferred Proponent, ensuring that the evaluation and selection follows the procedures established by the School District. The Fairness Advisor is to assess whether the procedures were followed reasonably, consistently, diligently and without bias, in a manner that well-informed people would consider to be fair, and to report his findings to the Board of Education.

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Request for Proposals

Based on the RFQ submissions received and subsequent clarifications, three Respondents - Bouygues Building Canada Inc.; Farmer Construction Ltd.; and Yellowridge Design Build Ltd. - were determined to have best demonstrated their capacity to undertake the Project, their team strengths, qualifications and experience.

The three shortlisted Proponents were invited to respond to the Request for Proposals, dated February 4, 2013.

The RFP described the RFP procurement process and timelines, provided a description of the scope of work and key project issues, identified the affordability ceiling requirement, submission requirements, a description of the evaluation process and criteria, and a draft design-build agreement. The RFP document clearly identified the opportunity, and provided proponents with the information they needed to prepare a proposal.

All relevant information associated with the Project was available to the Proponents in an electronic “data room”. No issues were identified by Proponents with access to this information.

All communication with the School District was with the Contact Person identified in the RFP.

The RFP document allowed for collaborative meetings with the Proponents for the purpose of discussing in private the viability of their Proposal with knowledgeable representatives of the School District prior to the submission of Proposals, and for the purpose of discussing any other commercially sensitive issues relating to their Proposal. Feedback at these meetings was not binding, and Proponents were advised to submit an Enquiry to formally confirm any feedback. If required, Proponents could request an addendum to the RFP documents clarifying or amending provisions. All three Proponents took advantage of these meetings. The meetings were held generally based on a pre-determined schedule provided in the RFP, with Proponents allowed to schedule additional topic meetings on an “as-required” basis in order to prepare their proposal. At these meetings, Proponents set the agenda. No Proponent was denied the opportunity for a meeting. All meetings were held in an appropriate manner.

A number of addenda and clarifications were issued to Proponents during the Proposal preparation period, mostly as a result of the collaborative meetings.

Proponents were provided the opportunity to review and comment on the Initial Draft Design-Build Agreement document included in the RFP before the Final Draft Design-Build Agreement, dated April 25, 2013, was issued on April 26, 2013.

Adequate time was afforded the Proponents to prepare their Proposals. Three Technical Submissions were received prior to the Time for Technical Submissions of 11:00 AM on May 7, 2013.

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The RFP Evaluation

The evaluation of the RFP responses was completed by a Project Evaluation Committee appointed by the School District. The Project Evaluation committee utilized the advice of competent advisors making up a Technical Team, a Scored Element Team, and a Financial Team to assess the respective components of the Proposals.

Members of the RFP Evaluation Committee and the Technical, Scored Elements and Financial teams received appropriate instruction on their respective roles for the evaluation process prior to undertaking the evaluations. An Evaluation Manual was provided to each evaluator, which outlined the evaluation organization and roles and responsibilities, document security protocols, the relationship review process, and the evaluation process in a form consistent with the published criteria and process in the RFP.

Each evaluator signed Confidentiality Agreements and Acknowledgment of Evaluator Responsibilities and also underwent a relationship review prior to commencing evaluations. All individuals were cleared to participate in the evaluation process in advance of receiving access to the RFP responses.

All proposals were kept in a secure room with controlled access. All evaluators carried out their review in the secure room.

The RFP evaluation process included:

- (1) A completeness review to confirm that each of the Proposals met the mandatory requirements and included required submittals, as set out in the RFP.
- (2) An evaluation by the Technical Team to confirm that the Technical Submission of each Proposal met the material requirements of the Final Draft Design-Build Agreement. As part of the evaluation, clarification questions were issued to all three Proponents. The technical evaluation was forwarded to the Evaluation Committee, following which all three Proponents were invited to provide a Financial Submission and to agree to address all Material Non-Compliances.
- (3) A scored elements evaluation of the Technical Submissions, in accordance with the RFP, was undertaken by the Scored Element Team. Points assigned to each Technical Submission following the Scored Elements evaluation were multiplied by a pre-established value per point to determine the Dollar Value Adjustment outlined in the RFP. The Scored Element Team then presented their findings to the Evaluation Committee.
- (4) An evaluation of financial submissions received before the Time for Financial Submissions of 11:00 AM on June 18, 2013. The Financial Team determined that the submissions were complete. The Nominal Cost of each Proposal was adjusted by deducting the Dollar Value Adjustment from the Scored Element evaluation to identify the Adjusted Nominal Cost of each Proposal.

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Following this evaluation process, the Proposal submitted by Farmer Construction Ltd. was determined by the Evaluation Committee to have offered the lowest Adjusted Nominal Cost and was designated the highest-ranked Proposal. Farmer Construction Ltd. was recommended by the Evaluation Committee to be the Preferred Proponent.

I observed that the Project Evaluation Committee and their evaluation teams carried out the evaluation of proposals in compliance with the RFP. Evaluators were consistent, unbiased, objective and diligent.

As of the date of the writing of this report, confidential debriefing sessions have not been conducted with the unsuccessful Proponents.

Findings

I am satisfied that I have been provided full access to all documents, meetings, information and activities related to the procurement process. The Fairness Advisor was in attendance at all Proponent collaborative meetings. The Fairness Advisor attended the Technical Team feedback meeting and the Scored Element Team feedback meeting with the Evaluation Committee. The Fairness Advisor reviewed the Financial Evaluation with the Financial Team Chair. The Fairness Advisor attended the teleconference for the final Evaluation Team meeting to consider the Financial Team report and recommend a Preferred Proponent.

Based on my review of the Project Evaluation Committee's adherence to the procedures and criteria set out in the RFP and the evidence of reasonable and unbiased judgement exercised by the Project Evaluation Committee and their evaluation teams in the evaluation of Proposals submitted in response to the RFP, I have concluded that the submission of each Respondent was evaluated fairly and consistently.

Respectfully submitted on June 19, 2013.



Bill Larkin, P. Eng.

B Larkin & Associates Ltd.