

Swadden Virgin & Young

Writer's Direct Line: (250) 381-9575
Assistant's Line: (250) 381-9321

September 19, 2005

Partnerships BC
3rd Floor, 707 Fort Street
Victoria BC V8W 3G3

Attention: Steve Hollett

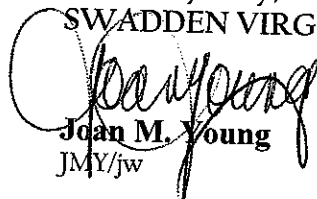
Dear Sirs/Mesdames:

Re: Northern Sport Centre Project
Fairness Audit

I enclose my Fairness Audit on the RFQ stage for the Executive Committee.

If there are any questions regarding my report or further information is required, please do not hesitate to contact me.

Yours very truly,
SWADDEN VIRGIN & YOUNG


Joan M. Young
JMY/jw

NORTHERN SPORT CENTRE PROJECT

REPORT OF THE FAIRNESS AUDITOR ON THE PROCUREMENT PROCESS

September 19, 2005

To: Executive Committee, Northern Sport Centre Project
(Cliff Dezell - *Chair*, Dr. Charles Jago, George Paul, Sharon Cochran, Tom Madden and Steve Hollett-*Non Voting*)

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 Auditor;
7. Recommendations to improve process for future procurements;
8. Any qualifications on the endorsement of the process; and
9. A statement that the Fairness Auditor 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 Auditor

NORTHERN SPORT CENTRE PROJECT REPORT OF THE FAIRNESS AUDITOR ON THE PROCUREMENT PROCESS

September 19, 2005

Page 2

SCOPE OF REVIEW

I was retained in June 2005 to act as the Fairness Auditor for the Northern Sport Centre Project. My role is to satisfy myself on the overall fairness of the procurement process associated with the Northern Sport Centre Project.

Prior to the procurement and my engagement as Fairness Auditor, a Market Sounding was held with selected members of the construction, development and other relevant sectors to discuss the opportunity for development of the Northern Sport Centre Project. Out of this process, the procurement model was designed. Subsequently, the Northern Sport Centre Ltd. ("NSCL"), in conjunction with its advisors, Partnerships BC, issued a Request for Qualifications ("RFQ") for the Northern Sports Centre Project. 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. It was envisioned that the RFQ stage would lead to two possible outcomes: Early Partnering with one Respondent, or Strategic Partnering with two or three Respondents. It was also open to the NSCL to terminate the process if it was not satisfied with the quality of the responses from the private sector.

My engagement covers the evaluation of the responses to the procurement process from the issuance of the RFQ to conclusion of the procurement.

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

The Fairness Auditor will act as an independent observer and will provide arms length advice to the project team and independent assurance to the Executive Committee as to the fairness and appropriateness of project management activities related to the procurement process. At the end of that process (including if the process is terminated) she will provide an independent opinion as to whether the project team faithfully and fairly carried out this process, with respect to the terms set out in the procurement documents (i.e. RFQ and RFP). Specifically, the Fairness Auditor will do the following:

1. During the procurement process, provide the Executive Committee with advice. The Fairness Auditor may provide advice to the Committee as she feels appropriate, and the Committee may seek advice as needed. Where the Executive Committee seeks advice, it is expected to have a bearing on the following issues: interpretation regarding a procedural step or application of an evaluation criterion; or the appropriateness of an amendment to the process and

**NORTHERN SPORT CENTRE PROJECT
REPORT OF THE FAIRNESS AUDITOR ON THE PROCUREMENT PROCESS**

September 19, 2005

Page 3

the consistency of the amendment with provisions set out in the procurement documents under which amendments can be made.

2. In advance of key procurement process decisions being finalized, the Auditor shall meet with the Chair of the Executive Committee and other members of the project team to:

- a. Receive updates and review project documents;
- b. Ask any questions the auditor deems necessary to test the logic, fairness and merit behind decision-making activities and processes;
- c. At the request of the Executive Committee Chair, provide confidential advice and perspective on the procurement process; and
- d. At the request of the Executive Committee Chair report verbally and in confidence as to whether she is satisfied the project team has fairly implemented and materially complied with the relevant procedures or evaluation criteria.

The key approvals are expected to be:

- a. The selection of short listed proponents from the Request for Qualification (RFQ) stage, or a decision to discontinue the process at this stage;
 - b. Selection of a lead proponent from a Request for Proposals (RFP) stage, or a decision to discontinue the process at this stage; or
 - c. Conclusion of negotiations, or a decision to negotiate with another proponent or to discontinue the process upon failure of negotiations.
3. At the conclusion of the procurement process, the Chair of the Executive Committee will ask the Fairness Auditor to provide a written opinion to the Executive Committee addressing the following matters:
- a. the extent to which PBC, Northern Sport Centre Ltd. and their advisors followed the procedures and fairly applied the evaluation criteria specified in the procurement documents and subsequent documents;
 - b. the extent to which, where judgment and interpretation is allowed or required, the project team exercised judgment and made interpretations in a fair and impartial manner; and
 - c. to the extent that amendments to the process were permissible, that decisions with respect to amendments were made in a fair and impartial manner;

**NORTHERN SPORT CENTRE PROJECT
REPORT OF THE FAIRNESS AUDITOR ON THE PROCUREMENT PROCESS**

September 19, 2005

Page 4

This document will be subject to disclosure at the discretion of the Executive Committee.

The Fairness Auditor shall be:

1. provided full access to all information related to the procurement processes as the Fairness Auditor decides is required, including documentation, personnel, premises, meetings, reports and minutes; and
2. kept fully informed by the Chair of the Executive Committee, or his delegate, of all documents and activities associated with the procurement processes.

My role as the Fairness Auditor 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 Executive Committee and independent assurance for the Project as to the fairness and appropriateness of project management activities related to the procurement process to the Northern Sport Centre transaction.

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 audit:

- (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 Sport Centre Ltd. 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;

**NORTHERN SPORT CENTRE PROJECT
REPORT OF THE FAIRNESS AUDITOR ON THE PROCUREMENT PROCESS**

September 19, 2005

Page 5

- (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 Adjudicator 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 Audit;
- (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 AUDITOR

The purpose of the Request for Qualifications was to invite submissions from interested parties to participate in a DBFO (design, build, finance, operate) procurement model for the Northern Sport Centre Project at the University of Northern British Columbia, in Prince George, British Columbia. Community leaders and representatives of sport user groups from the City of Prince George, Northern BC, and UNBC developed a plan on how Prince George and the North could realize

NORTHERN SPORT CENTRE PROJECT

REPORT OF THE FAIRNESS AUDITOR ON THE PROCUREMENT PROCESS

September 19, 2005

Page 6

the full potential of the 2010 Olympic Winter Games in British Columbia. The resulting concept was the Northern Sport Centre. It is seen as an opportunity to bring together athletes, coaches, and communities to foster a distinctive culture of excellence by integrating sport and education.

The key objectives of the NSC are to establish a regional centre that will attract and assist in retaining students and athletes in the North, and to provide a significant economic stimulus for the City of Prince George and Northern BC through future sport hosting opportunities. It is expected that the NSC, through its location on the UNBC campus and planned programming, will strengthen Prince George's role as a post-secondary education centre and provide opportunities for citizens of the North to pursue sport and education in their home region. The NSC is expected to contribute to the growth and development of Prince George and the surrounding region by supporting sport tourism and providing a lasting legacy to the 2010 Olympic Games and 2010 Paralympic Games.

To assist in the delivery of the Project, a new company was incorporated, Northern Sport Centre Limited ("NSCL"), which is owned jointly by the City and UNBC. The Board of Directors is appointed by both the City and UNBC and has representation from the community. NSCL retained Partnerships BC to manage the procurement of the Project.

The vision for the Project is a facility that will bring athletes, coaches and communities together to foster a distinctive culture of excellence by integrating sport and education. It is expected that the Project will:

- Provide a sport and recreational facility for the City of Prince George and UNBC that provides equivalent athletic and recreational opportunities to those offered in other communities;
- Develop into a regional centre that will attract, and assist in retaining, students and athletes in the North;
- Promote the integration of education, health, sport and wellness for the North; and
- Enhance existing competitive and recreational sport facilities in the City of Prince George.

In fulfilling this vision, the Northern Sport Centre will meet the following objectives:

NORTHERN SPORT CENTRE PROJECT

REPORT OF THE FAIRNESS AUDITOR ON THE PROCUREMENT PROCESS

September 19, 2005

Page 7

- Address regional and university needs for competitive sport, and recreational and wellness programs through the provision of a range of opportunities, programs, and services.
- Provide a focal point for the growth and development of local and regional sports communities, including athletes, parents, coaches, and officials.
- Support the ongoing development of Nordic sports through the development of a Nordic Sport Centre of Excellence.

A. *Appointment of Fairness Auditor*

The role of Fairness Auditor 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 Auditor also provides advice on issues which may arise during the procurement process which could impact on the overall fairness of the process.

A Fairness Audit 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 Auditor is not to validate the Executive Committee's recommendation of the selected proponent; rather, it is to provide oversight and assurances regarding the processes applied in making the recommendation.

B. *Procurement Process for Northern Sport Centre Project*

The procurement process involved one phase:

- Request for Qualification (RFQ)

C. *Request for Qualifications*

The Request for Qualifications ("RFQ") was issued on June 29, 2005 with a closing date of July 29, 2005 (later amended to August 5, 2005) requesting interested parties to submit their qualifications and vision for the project. An electronic data room was

**NORTHERN SPORT CENTRE PROJECT
REPORT OF THE FAIRNESS AUDITOR ON THE PROCUREMENT PROCESS**

September 19, 2005

Page 8

open to the public. All Respondents had access to the electronic data room, at their discretion. A bidders' meeting was held in Prince George on July 13, 2005.

The RFQ was revised in minor ways after it was issued on June 29, 2005 including a change to the closing date for submissions. These amendments were permitted by the terms of the RFQ and to the extent there were amendments they did not materially benefit any one Respondent over another and were not otherwise substantively or procedurally unfair.

As a result of the RFQ process, four teams submitted responses:

1. Bird Team
2. NSC Partners
3. Northern Legacy Alliance
4. Northern Sport Centre Consortium

All of the submissions were received in order at the submission location on or before the deadline. No submissions were rejected. Each of the four submissions was subjected to a "high level" completeness review, and no initial deficiencies were noted. It was later noted that one respondent submitted proof of insurability with an obvious typographical error regarding the quantum of the insurance. Pursuant to the terms of the RFQ set out in Section 10.11 *Clarification of Submissions*, NSCL requested that the respondent remedy the minor defect noted. I am satisfied that no unfair advantage accrued to any of the other respondents through the use of this remedial power.

A number of internal staff and private sector advisors were assembled for the purpose of evaluating the submissions. Two teams were formed: an Evaluation Committee which had an advisory role to provide technical analysis and advice to the decision making Executive Committee, and an Executive Committee which had the responsibility to evaluate and score the various proposals. Each team member was required to execute a Conflict of Interest declaration and Confidentiality Agreement in advance of access to any information or proposals received in response to the RFQ. I had the opportunity to review all of the records relating to this procedural requirement and am satisfied that these protective measures were fully implemented at the appropriate time in the procurement process.

Evaluators were also advised of the appointment of the Fairness Auditor and of the Conflict of Interest Adjudicator 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. As a result of several

NORTHERN SPORT CENTRE PROJECT REPORT OF THE FAIRNESS AUDITOR ON THE PROCUREMENT PROCESS

September 19, 2005

Page 9

disclosures made in the Conflict of Interest declarations, rulings were sought from the Conflict of Interest Adjudicator. In the case of employees and representatives from the City of Prince George, one of the respondent team members also had ongoing contractual arrangements with the City. The Conflict of Interest Adjudicator provided a ruling regarding the potential for conflict of interest in the event of a dispute arising between the City and respondent in the course of the ongoing contractual relationship, and how it was to be addressed during the timeframe of the evaluation. I am satisfied that the team members followed the ruling of the Conflict of Interest Adjudicator and that there was no instance in which any of the team members would have been required to withdraw from the evaluation.

An Evaluation Manual was developed based on the evaluation criteria set out in the RFQ. The evaluation was based on a combination of criteria scored on a "Pass/Fail" basis as well as rated criteria. I was provided with a draft of the Evaluation Manual in advance of the evaluation meetings and had the opportunity to test the rationale behind the scoring criteria and to ask questions as I deemed necessary to understand the methodology for scoring and how it related to the stated goals and objectives of the project. Each of the teams was also provided with an opportunity to review the draft manual, to provide comments and to make changes. 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 Executive Committee.

Reference checks, in accordance with the process described in the RFQ, were undertaken. A written script of questions was prepared to ensure uniformity of questions and the references were questioned by telephone by a representative of PBC. References contacted were those individuals or companies identified by the respondents themselves in their responses. Each of the Executive Committee members was provided with the reference check summary for each respondent in advance of the August 19, 2005 Executive Committee meeting.

I attended a lengthy Evaluation Committee meeting on August 18, 2005 in Prince George as an observer. Each of the Evaluation Team members had a full opportunity to discuss the proposals and to examine the responses with reference to evaluation criteria such as financial capability, strategy and vision, demonstrated experience, and organization and structure. A report was prepared for the use of the Executive Committee regarding the strengths and weaknesses of each response. However, no actual scoring was done.

On August 19, 2005 the Evaluation Committee met with the Executive Committee to submit its report on the four responses to the RFQ. I was present for the entire meeting. The Executive Committee subsequently held a lengthy and vigorous

**NORTHERN SPORT CENTRE PROJECT
REPORT OF THE FAIRNESS AUDITOR ON THE PROCUREMENT PROCESS**

September 19, 2005

Page 10

discussion on the relative strengths and weaknesses of the various proposals and how each of them responded to the requested information set out in the RFQ. The Fairness Auditor also attended this meeting as an observer. Each Executive Committee member approached their task with interest and had obviously spent time in advance to familiarize themselves with the contents of the four responses. The proposals were all scored on a consensus basis. Each of the four proposals passed the mandatory pass/fail sections.

In coming to consensus scores on the rated criteria, the Executive Committee determined that two of the four proposals had superior proposals in comparison to the other two. However, a number of Executive Committee members expressed the view that clarifications were required from both proponents before a final recommendation could be made to the NSCL Board regarding the recommended outcome (early partnering with one proponent versus strategic partnering with two or more proponents in a Request for Proposal phase).

Presentation meetings were held on August 30, 2005 in Prince George with the Executive Committee. The two highest ranked Respondent teams were invited to make a presentation of their proposals and to answer clarification questions which had been provided in writing to each of the teams in advance of the meetings. The Fairness Auditor was present for each of these meetings.

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

The Executive Committee also had the benefit of legal advice throughout the procurement, and I am satisfied that there are no known legal impediments to proceeding with the procurement as contemplated.

The advice of the Fairness Advisor was sought informally on a variety of occasions. To the extent that my advice was sought, I am satisfied that Evaluation Committee and Executive Committee adhered to the advice provided.

Ultimately, it was recommended that Northern Sport Centre Consortium be invited to proceed to the early partnering stage. In my view it is open and both procedurally and substantively fair for the NCSL Board to proceed with the early partnering process with one Proponent as recommended by the Executive Committee. This outcome was stated as possibility in section 8.1.1 of the RFQ documents where it was provided that "up to three Respondents" would be invited to participate in the next

**NORTHERN SPORT CENTRE PROJECT
REPORT OF THE FAIRNESS AUDITOR ON THE PROCUREMENT PROCESS**

September 19, 2005

Page 11

stage. The option of proceeding at an early stage to partner with one respondent only was expressed to the interested parties as one of the potential outcomes of the RFQ process.

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

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

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 and the Executive Committee; my observations of the activities of the Evaluation Committee, the Executive Committee and professional advisors in their internal meetings; answers to questions posed by me and my observations of meetings with the Respondents. I have reviewed a sampling of project related documentation, but not all documents created by each and every staff member or advisor.

My audit 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 overall procurement process associated with the RFQ for the Northern Sport Centre Project has been conducted in a fair manner and in accordance with the procedures established in the Request for Qualifications stage.

I am satisfied that:

1. PBC, Northern Sport Centre Ltd. 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 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;

**NORTHERN SPORT CENTRE PROJECT
REPORT OF THE FAIRNESS AUDITOR ON THE PROCUREMENT PROCESS**

September 19, 2005

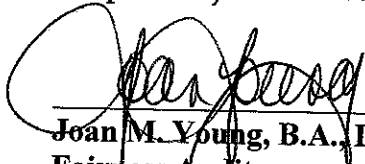
Page 12

I am satisfied that I have been provided with the appropriate access and information to render this fairness opinion to the Executive Committee and to the NSCL Board of Directors.

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, B.A., LL.B.
Fairness Auditor**

Dated at Victoria, BC this 18th day of September 2005

Swadden Virgin & Young
Barristers & Solicitors
#107- 645 Fort Street
Victoria, BC, V8W 1G2