

ABBOTSFORD LAW COURTS PROJECT

REQUEST FOR PROPOSALS

Final Report of the Fairness Advisor

INTRODUCTION

I was retained in 2017 as Fairness Advisor for the Abbotsford Law Courts Project (the “Project”). My mandate is to act as an independent observer with respect to fairness of the implementation of the Project’s competitive selection process, and report to the Project Board.

I reported previously on the Request For Qualifications phase of procurement, and provided a brief update to the Project Board in January, 2018, on completion of the evaluation of Technical Submittals filed in response to the Project’s Request For Proposals (“RFP”). This is my final report as of February 20, 2018, when the Project team has completed evaluation of all Submittals.

RFP / COLLABORATIVE PROCESS

The RFP was issued in June, 2017 to the three Proponents selected through the RFQ process. I had the opportunity to review the draft RFP before its publication, and comment on its contents. The RFP included detailed technical requirements, details of the project agreement to be signed by the successful Proponent, the required format and content of Submittals, a summary of the process and criteria for evaluation of Submittals, and other terms of the competition.

Data Room / RFI Process: The Project team operated an electronic data room with various documents relevant to the Project, and answered written requests for information from Proponents. I monitored the data room periodically, and reviewed all written communications between the Project team and Proponents.

Meetings: After release of the RFP, Project staff held an introductory meeting for all Proponents, followed by several rounds of meetings with individual Proponents for discussion and consultation about the requirements of the RFP and Project Agreement, the expectations of the parties, and specific topics of concern. The Project team also managed site tours and testing, and requests of Proponents for communications and/or meetings with various third parties.

I was invited to all meetings between the Project team and Proponents, and I attended or monitored most of the meetings. I was satisfied that:

- meetings were attended by Project staff with appropriate expertise and authority to address Proponents’ questions;
- all Proponents were provided with the same information about the Project;
- meetings were conducted in consistent fashion for all three Proponents; and
- meetings were conducted in accordance with the RFP, including requirements as to confidentiality, restrictions on communications with Proponents, and other matters.

EVALUATION

All three Proponents filed Technical Submittals prior to the deadline specified in the RFP. On completion of the evaluation of Technical Submittals, all three Proponents were invited to, and did, submit Financial Submittals prior to the deadline specified.

All Submittals were evaluated by several teams of evaluators, each with expertise in particular subject matter included in the Submittals. Specifically, four teams of technical experts evaluated various aspects of the Technical Submittals (Project Co Management, Design and Construction, Services, and Scored Elements), and a separate team of financial experts reviewed the Financial Submittals. In each case the teams reached consensus among themselves, and reported their conclusions to the Evaluation Committee which had overall responsibility for the evaluation.

Evaluation Handbook: Before the Technical and Financial Submittals were received, the Evaluation Committee approved a detailed Evaluation Handbook setting out:

- procedures for receipt of Submittals, and security measures for custody of and access to Submittals (including securing premises where copies were held, restrictions on copying and electronic transmission, etc.);
- procedures for review of evaluators' relationships to eliminate potential conflicts;
- the responsibilities of all participants in the evaluation;
- methods for communicating with Proponents during the evaluation;
- the method and procedures for evaluating Proposals;
- worksheets to enable all the evaluation teams to record their conclusions in a consistent manner;

and other matters. I had the opportunity to review and comment on the Evaluation Handbook, and I was satisfied that it set out a reasonable basis for evaluation of the Submittals, consistent with the RFP.

Closing and Completeness Reviews: I monitored the closing time for each set of Submittals, and confirmed that the Project team followed the processes set out in the Evaluation Handbook for receipt and initial completeness review of Submittals.

Relationship Reviews: Before any evaluator was permitted access to Submittals, a Relationship Review Committee conducted a process consistent with the Evaluation Handbook to elicit and consider details of relationships among members of Proponent teams and the evaluator, to ensure that all evaluators were free of bias.

Orientations: Before commencing work, all evaluators attended an orientation meeting at which the Evaluation Committee highlighted various aspects of the Evaluation Handbook, including methods for evaluation, standards related to confidentiality and security, issues of fairness (including the role of the Fairness Advisor), and other matters.

Evaluation Process: During the evaluation of each set of Submittals, I had access to the Submittals and the evaluation premises at all times. I was informed of all meetings, and reviewed all correspondence between the Project team and Proponents. I observed that the Project team followed the processes outlined in the Evaluation Handbook. I talked with the evaluation teams, and attended a selection of the meetings related to each evaluation including meetings of the evaluators with the Due Diligence Advisor and the Evaluation Committee, and meetings where evaluation conclusions were discussed.

Each evaluation team had access to expert advisors as needed, and had the opportunity to obtain clarification from Proponents where necessary to the evaluation. All questions issued to Proponents in the course of the evaluation were first approved by the Evaluation Committee, to ensure consistency and compliance with the RFP. I observed that the processes described in the Evaluation Handbook were followed for all communications between the Project team and Proponents.

Evaluators met with a Due Diligence Advisor and also with the Evaluation Committee to review their work and recommendations. The Due Diligence Advisor and the Evaluation Committee tested the conclusions reached by the evaluation teams with regard to internal consistency, and grounding in the considerations specified in the RFP and Evaluation Handbook. The Evaluation Committee carefully considered the recommendations of each of the evaluation teams, and had final responsibility for the outcome of the evaluation.

I observed that all evaluators were familiar with the details of each Submittal, and participated fully in discussions of their areas of responsibility; also that the conclusions reached by the evaluation teams, and by the Evaluation Committee, were unanimous and were based on thorough consideration of the Submittals.

CONCLUSIONS


Throughout the RFP process, the Project team ensured that:

- I had the opportunity to provide input on Project documents;
- I received copies of all correspondence between the Project team and Proponents (including requests by Proponents for information, and requests by the Project team for clarification of Submittals);
- I had full access to all Submittals and the evaluation premises, and the opportunity at any time to speak with Project staff including managers, evaluators and advisors;
- I was invited to attend all meetings held by the Project team with Proponents, as well as meetings of the evaluation teams and of the Evaluation Committee (including those at which proposals were discussed and evaluated). I attended such meetings as I considered necessary to carry out my role.

During the RFP process, I observed that the Project team discussed as necessary and instructed itself appropriately on matters related to fairness. Periodically, I was asked for, or offered, advice and comments on fairness issues. In each such case, the Project team considered my advice and I was satisfied with the resolution of the matter.

Based on my observations above, I am satisfied that the procurement process as described in the RFP was fair and reasonable, and that the Project team fairly and reasonably implemented and complied with that process.

Signed at Vancouver, February 21, 2017.

A handwritten signature in blue ink, appearing to read 'J. Shackell', written in a cursive style.

Jane Shackell, QC