



FAIRNESS MONITOR'S REPORT

City of Toronto

Negotiated Request for Proposal (nRFP) for General Contractor Services for the
New Etobicoke Civic Centre
RFP SAP Ariba No. Doc3768637145

RFP Issued: January 10, 2023

Revised RFP Closing: MAY 10, 2023, at 3:00 PM (Local Time)



**ROBINSON
GLOBAL
MANAGEMENT**

September 18, 2023

Tanvir Ahmad (Tan)
Sr. Manager, Category Management & Strategic Sourcing
Purchasing & Materials Management Division
100 Queen Street West
Toronto, Ontario M5H 2N2



**Re: Negotiated Request for Proposal (nRFP) for General Contractor Services for the New Etobicoke Civic Centre
RFP SAP Ariba No. Doc3768637145**

Dear Mr. Ahmad,

Background

Robinson Global Management Inc. ("RGM") was retained as the Fairness Monitor for the captioned procurement in April 2022. Our primary role is to provide an assessment of the procurement process for the New Etobicoke Civic Centre, confirming that it has been carried out in a fair and objective manner. As per the RFP, the selected Vendor(s) will be requested to enter direct Contract negotiations to finalize an agreement with the City for the provision of the deliverables.

We were retained during the RFP development phase. We monitored the RFP open period in-market process as well as the evaluation process to identify the highest ranked Vendor. This letter summarizes fairness findings. Neither RGM nor the individual author of this report is responsible for any conclusions that may be drawn from this opinion. For further detail on the process, we recommend that information be sought from the City of Toronto's RFP contact directly.

We provided the deliverables as listed below, taking the City of Toronto's Procurement Policy and Purchasing By-law, the Canadian Free Trade Agreement, and the provisions of the RFP as the standard against which to audit the procurement.

Fairness Monitor Deliverables for the RFP included:

1. Attend a kick-off meeting with the City and the City's industry advisor on this project;
2. Review the solicitation documents – Fairness Monitor is to identify potential inconsistencies or lack of clarity in the document and provide feedback to the City within ten (10) business days of receipt of the documents for review;
3. Review Evaluation Criteria with respect to clarity and consistency; Attend Meetings Re: Evaluation Weighting and Criteria; and Provide advice to the Selection Committee and Purchasing & Materials Management Division (PMMD) as required;
4. Attend the bidder's Information Meeting (if required);
5. Review any questions, comments, or communications submitted by potential Proponents and proposed review responses to be posted via Addendum; provide feedback on any concerns for clarity and consistency;
6. Attend any Commercial in Confidence Meetings (if required);

7. Attend Selection Committee evaluation sessions;
8. Review evaluation results to ensure that evaluation scores are accurate and, the documented methodology is adhered to;
9. Prepare a draft report regarding the Procurement Process (Negotiated-RFP) and present to Selection Committee prior to providing Final Attest Report;
10. Address comments/issues raised by Selection Committee prior to finalizing report;
11. Complete and distribute the Final Attest Report (which should be 1-2 pages in length); and,
12. Attend debriefing sessions related to the Negotiated-RFP as required.

We have no objections to the recommendation made by the City of Toronto's Corporate Real Estate Management Division identifying the highest scoring Vendor.

A. RFP Development and Issuance

We were retained during the RFP development phase and were given sufficient time to review and provide fairness comments on the RFP prior to its issuance. The RFP was issued on January 10, 2023, and the initial submission deadline was March 7, 2023. The revised submission deadline was May 10, 2023, at 3:00 P.M. (Toronto Time).

1. *Open Period, Addenda, Questions and Answers*

The RFP designated a single point of contact and explained the process for communication during the open period and evaluation process. We were given an opportunity to review all communications between vendors and the City prior to their posting. There are no unresolved matters of fairness to note in those communications.

The revised deadline for questions from vendors was 10 business days before closing, April 26, 2023, and we confirm that questions were not accepted after this date. No questions were answered beyond this date, and no questions raised were unanswered. Two series of 16 addenda were issued – for a total of 32 addenda – before the revised deadline for issuance of addenda, five business days before closing, May 3, 2023.

Based on the communications we reviewed, we have no fairness comments to note with regards to the open period exchanges that occurred.

2. *Transparency of RFP Documents*

The RFP stated all bid and performance requirements, submission requirements, evaluation criteria, stages of evaluation and the associated weightings of the criteria as required. The RFP further stated the evaluation methodology, bid evaluation scoring system scale and evaluation approach for all stages of the evaluation processes. Where there were minimum scoring thresholds and/or pass/fail requirements for mandatory requirements, these were disclosed with a clear indication as to when and how such thresholds or pass/fail tests would be applied, and the impact that failing to satisfy any of them would have on a bid's ability to move forward in the evaluation process.

3. *RFP Time in Market*

The RFP open period, after extensions requested by vendors and granted by the City, was 120 calendar days (four months), sufficient time to permit qualified vendors to prepare compliant bids.

The use of an electronic tendering system for issuance of documents and receipt of documents created efficiencies and maintained the security of documents during this part of the process.

4. Communication with the Fairness Monitor

Working with the Fairness Monitor, the Corporate Real Estate Management project team and PMMD representatives took great care to develop detailed evaluation criteria that objectively reflected the legitimate needs of the City, and to produce an RFP that was clear and precise RFP as well as susceptible to consistent application.

B. RFP Evaluation Process

1. Bid Receipt

Two bids were received through the City's SAP Ariba online submission system before the submission deadline:

- EllisDon Corporation
- Multiplex Construction Canada

No late bids were received or accepted. Our fairness monitoring team monitored the entire evaluation process that followed the closing and all results of each evaluation process stage as detailed below.

2. Stage 1 – Mandatory Submission Requirements

In accordance with this evaluation stage and its provisions, both bids met the mandatory submission requirements and proceeded to the Stage 2 - Rated Criteria Evaluations. Stage 1 was evaluated by the PMMD team on a pass/fail basis. Our Fairness Monitor reviewed the summary evaluation results of this process and communications and had no fairness comments to note on the completion of all evaluation activities and findings of compliance. All bids passed this evaluation stage.

3. Stage 2 – Technical Proposal Rated Criteria Evaluation (100 points)

Stage 2 consisted of only the technical proposal rated criteria evaluation as broken down into 10 subsections. This Stage was evaluated by Selection Committee composed of staff of the City's Corporate Real Estate Management Division. The team members possessed the experience and qualifications to evaluate the submissions against the rated criteria – which were the only standard for the evaluation. Several subsections stipulated mandatory minimum scores:

- i. Subsection 1 – Company Profile & Operational Capacity (5/100 points)
- ii. Subsection 2 – Organizational Technical Capabilities & Experience (15/100 points – minimum 10.5 points)
- iii. Subsection 3 – Proposed Project Team Qualifications & Expertise, Organizational Chart (15/100 – minimum 10.5 points)
- iv. Subsection 4 – Work Plan & Deliverables (20/100 points – minimum 14 points)
- v. Subsection 5 – Schedule Management (10/100 points)
- vi. Subsection 6 – Budget & Cost Management Approach (10/100 points)
- vii. Subsection 7 – Material Supply Chain Management Plan (10/100 points)
- viii. Subsection 8 – Project Information/Data Security Plan & Process (5/100 points)
- ix. Subsection 9 – References (6/100 points)
- x. Subsection 10 – Social Procurement and Diversity (4/100 points)

Ellis Don's bid satisfied the minimum scoring thresholds of Stage 2. Multiplex fell short of the threshold for Subsections 2 and 4. In accordance with RFP Section 2.1.2., the City decreased the threshold for Subsections 2 and 4 so that at least two vendors qualified to progress to Stage 3 Pricing Evaluation.

4. Stage 3 – Pricing Evaluation and Ranking (100 points)

At Stage 3, the city opened the price submissions of the two vendors. After verifying that the submissions were compliant, pricing was scored according to a relative pricing formula, as follows:

$$\text{Lowest Total Bid Price} \div \text{Vendor's Total Bid Price} \times 100 = \text{Vendor's Total Bid Price points}$$

Each vendor received a Stage 3 score out of a maximum 100 points and both bids were ranked based on their Stage 3 score exclusively. Multiplex was ranked first and EllisDon, second.

5. Stage 4A – Vendor's Alternative List and Commercially Confidential Meeting

In Stage 4A, the City opened and reviewed the Vendor's Alternative Lists proposed by the two vendors. The Alternative Lists consisted of itemized proposals from the vendors to change the deliverables and offer credits against the Total Bid Price in return. As part of its review and in accordance with RFP Section 2.1.4., the City communicated with the shortlisted vendors to clarify and define the scope of the changes to the deliverables associated with the credits offered. The Fairness Monitor reviewed all the communication between the City and the Vendors. After assessment of the Vendor's Alternative Lists for suitability to the City's needs, the City prepared a consolidated, approved Alternative List for which both vendors were required to offer itemized credits in a revised price form prepared by the City.

6. Stage 4B – Best and Final Offer (BAFO)

In Stage 4B, both vendors submitted their BAFO using the revised price form that incorporated the City's consolidated and approved Alternative List. The BAFO submissions were then evaluated according to the formula specified for Stage 3 and ranked. The rankings did not change from Stage 3: Multiplex was ranked first and EllisDon, second.

7. Stage 5: Contract Negotiations and Award

The Fairness Monitor has not been involved in Stage 5.

C. Evaluation Process Approach and Methodology

1. Evaluator Training Session

Prior to the evaluation of bids, the Selection Committee as well as subject matter experts available for advice to the committee received a mandatory detailed evaluation training session by PMMD and the Fairness Monitor. The training covered all aspects of the evaluation, including how to execute evaluators' and SME's roles and responsibilities effectively and fairly. The Selection Committee was briefed on best practice with respect to confidentiality of bids; conflict of interest; undue influence; scoring and comment procedures; and, the retention of documents, among other topics.

2. Conflict of Interest & Confidentiality Management

We are not aware of the existence of any conflict of interest or a breach of confidentiality occurring at any point during the evaluation. Each evaluation participant (evaluator or otherwise) was required to sign a declaration confirming their understanding of these requirements for disclosure, as it relates to conflicts of interests, and management of evaluation process information, as it relates to confidentiality.

3. Undue Influence Management

No evaluator or other individual exerted undue influence over the process. Each evaluation stage was completed in a sequential order as indicated in the RFP documents, with the oversight of the City's Selection Committee, PMMD and the Fairness Monitor. All key evaluation process decisions were made by more than one person and verified by at least one other.

4. Scoring Methodology

The Selection Committee completed the Stage 2 - Rated Criteria Evaluations using the best practice two - step method: firstly, each evaluator, working alone, reviewed and scored, with supporting comments, each bid in its entirety; secondly, the Selection Committee met as a group to discuss their findings and, with reference to their initial comments, arrived at a consensus score for each criterion together. The Selection Committee also recorded notes justifying each consensus score. The Selection Committee ensured that the evaluation adhered to the disclosed RFP criteria and scoring criteria scale as well as the point weightings for each criterion. Each score and associated comment were discussed thoroughly and agreed to. Applying their knowledge and experience, the Selection Committee relied only on the submissions for information, comparing the content against the criteria on the RFP, and used the RFP scoring scale to allocate a score.

At the completion of the evaluation process, all calculations were verified by us the Fairness Monitor.

D. Fairness Monitor Attestation

In conclusion, we confirm that the first-ranked vendor is Multiplex Construction Canada:

We attest that the RFP process was conducted in a procedurally fair, open and transparent manner and in alignment with the requirements of applicable directives, policies, trade agreements and the RFP.

We certify that the first-ranked vendor was identified through a rigorous and well-documented evaluation process that we oversaw from beginning to end. With respect to fairness considerations, we approve the outcome of the process.

Please let me know if you need more information.

Sincerely,

Don Solomon, B.A., Cert. Arch. Tech.
Senior Fairness Monitor, Robinson Global Management Inc.

cc: Andrea Robinson, B.A., LL.M., Q.Arb., PMP.
Senior Fairness Monitor, Robinson Global Management Inc.