



ONTARIO POWER AUTHORITY

FAIRNESS ADVISOR'S REPORT

REQUEST FOR PROPOSALS
FOR UP TO 1,000 MW OF
COMBINED HEAT AND POWER
GENERATION IN ONTARIO

OCTOBER 25, 2006

Submitted by
Knowles Consultancy Services Inc.
3660 Hurontario Street
6th Floor
Mississauga, Ontario L5B 3C4
Tel No: (905) 804-1958
Fax No: (905) 804-9327
Email: canada@jrknowles.com

TABLE OF CONTENTS

EXECUTIVE SUMMARY.....	3
1.0 Introduction	5
2.0 Role of Fairness Commissioner.....	6
3.0 Background.....	7
4.0 RFP Document.....	8
5.0 RFP Consultation Strategy	12
6.0 Adequate Time to Prepare a Proposal.....	16
7.0 Adequate Communication to Proponents.....	17
8.0 Adequate Notification of Changes in Requirements.....	18
9.0 Confidentiality and Security of Documents.....	19
10.0 Qualifications of the Evaluation Team	21
11.0 Compliance with the Process	22
12.0 Objectivity Respecting the Evaluations.....	24
13.0 Proper Use of Assessment Tools	26
14.0 Conflict of Interest	27
15.0 Conclusions	28
Appendix A – OPA Information Session Protocol	29

EXECUTIVE SUMMARY

This report presents our findings and conclusions as Fairness Commissioner for the Request for Proposals for Up To 1,000 MW of Combined Heat and Power Generation in Ontario (CHP RFP). This is a final report on the CHP RFP process. We were engaged in November 2005 and have been involved in an advisory capacity during the finalization of the RFP document and throughout the evaluation process.

The Fairness Advisor acts as a neutral, disinterested and independent monitor for the procurement process. We reported directly to the project manager responsible for the CHP RFP process.

In our opinion the CHP RFP was not written in an unduly restrictive manner and the evaluation process was transparent to Proponents. All of the evaluation criteria were clearly stated and objectively justified, and the process for applying the criteria was also clearly stated in the CHP RFP.

We believe that the individual information sessions conducted with Registered Participants were conducted in an appropriate manner. All Registered Participants were afforded the same opportunity to meet with the OPA and to communicate matters of interest about their Contract Facility, or Contract Facilities, to the OPA. Both the Registered Participants and OPA complied with the Information Session Protocol, which set out the rules for conducting the sessions. Changes to the CHP RFP as a result of the individual information sessions were objectively justified and enhanced the clarity and transparency of the CHP RFP.

Proponents had 89 business days (a day other than Saturday, Sunday or a Statutory Holiday) and 128 calendar days from the initial release of the final CHP RFP to the Proposal Submission Deadline to prepare Proposals in response to the CHP RFP. In our opinion, the amount of time Proponents had to respond to this RFP was adequate given the size and complexity of the undertaking.

We are not aware of any discussions about any Proposal or its evaluation among anyone except the evaluators, those supporting the evaluators, counsel, and us. All members of the evaluation team signed confidentiality agreements and declarations of no conflict of interest pertaining to the evaluation process and information contained in the Proponents' Proposals. To our knowledge, no information about the Proposals or evaluation was communicated in any form to persons not directly involved with the evaluation process.

We are satisfied that the Proposal contents and all information generated in the evaluation process was kept secure and confidential at all times.

None of the evaluation team members participated in the individual information sessions that were held with the OPA and Registered Participants prior to the Proposal Submission Deadline. All the evaluators were qualified to undertake the evaluation of the Proposals and we have no concerns about their qualifications.

We are satisfied that the evaluation of the Proposals was conducted strictly in accordance with the process set out in s. 3 of the CHP RFP. We detected no bias or favoritism towards or against any particular Proponent. The Proposals were evaluated strictly against the evaluation criteria published in the CHP RFP. A record of the consensus scores reached and reasons for the scores was maintained and kept by the evaluation team chair at the sessions.

1.0 INTRODUCTION

This report presents our findings and conclusions on the conduct of the Request for Proposals for Up To 1,000 MW of Combined Heat and Power Generation in Ontario (CHP RFP). We were engaged in November 2005 and have been involved in an advisory capacity during the finalization of the RFP document and throughout the evaluation process.

Our report addresses the following aspects of the RFP process:

- Wording of the RFP document;
- Consultation Strategy
- Adequate communications to Proponents;
- Adequate notification of changes in requirements;
- Confidentiality and security of Proposals and evaluations;
- Qualifications of the evaluation team;
- Compliance with the process;
- Objectivity and diligence respecting the evaluations;
- Proper use of assessment tools; and,
- Conflict of Interest.

The following sections in this report elaborate on these aspects of the CHP RFP process. Capitalized terms in this report have the same meaning as capitalized terms in the CHP RFP.

This report is based on our own observations of the process and representations about the process made to Knowles Canada (Knowles) by the Ontario Power Authority (OPA). This report was prepared for the specific purposes of the OPA. Neither Knowles nor the individual authors of this report bear any liability whatsoever for opinions unauthorized persons may conclude from this report.

2.0 ROLE OF FAIRNESS COMMISSIONER

The OPA conducts its procurements in a manner that will withstand the test of public scrutiny, encourage competition and reflect fairness in the spending of funds. The OPA encourages competition among Proponents by affording Proponents with equal and open access to OPA procurement opportunities.

To provide the vendor community with the confidence that that the contemplated procurement is conducted in a fair manner that is consistent with the above-mentioned principles, the OPA may retain the services of a Fairness Advisor to monitor the process and to advise it on matters that pertain to the fairness of the RFP process. The Fairness Advisor acts as a neutral, disinterested and independent monitor of the procurement process. We reported directly to the project manager responsible for the CHP RFP process.

3.0 BACKGROUND

On June 15, 2005, the Ontario Minister of Energy directed the Ontario Power Authority to commence several procurement processes, including one for up to 1,000 megawatts (MW) of high efficiency combined heat and power generation projects across Ontario, including industrial co-generation, renewable, and district energy projects (the “Ministerial Directive”).

The CHP RFP is the first step in fulfilling the Ministerial Directive with respect to high efficiency combined heat and power projects, and it invited interested parties to submit Proposals for high efficiency combined heat and power generating facilities located in Ontario that affect supply or demand in the interconnected electricity grid in Ontario by delivering firm and reliable supply to either the IESO-Controlled Grid, a Local Distribution Company or an End User.

A proposed project must either be (i) a District Energy Facility, or (ii) a Natural Gas-Fired or By-product Fuel-Fired Industrial Cogeneration Facility, or (iii) a Renewable Fuel-Fired Industrial Cogeneration Facility.

In order to respond to the CHP RFP any interested party must have become a Registered Participant in the process. Only Registered Participants were eligible to submit Proposals in response to the CHP RFP. The details of the registration process are set out in s. 1.3 of the CHP RFP.

4.0 RFP DOCUMENT

The main issue from our perspective was ensuring a fair and transparent evaluation process. The RFP document had to accomplish three tasks:

1. Clearly identify and describe the full scope of work required by Proponents;
2. Provide Proponents with the information they needed to prepare a Proposal; and
3. Clearly set out evaluation criteria and the process for applying them.

In achieving these objectives, the evaluation criteria had to be developed such that they were not biased for or against any particular Proponent and that undue advantage was not given to firms with previous experience with the OPA. Mandatory requirements could not be so narrowly developed to unduly restrict participation in the competitive process, e.g., restricting use of certain technologies, geographical location, professional designations, etc. Sufficient response time and information had to be provided to permit those unfamiliar with the OPA and its process to prepare.

We are satisfied that the RFP stated all the evaluation criteria used in the evaluation process, and provided an appropriate process for consistently and fairly evaluating the Proposals, was not written in an unduly restrictive manner, and was not biased towards any particular Proponent.

Section 1 – Introduction, introduced the RFP to Proponents and provided contextual background information. The RFP clearly stated in s. 1.3 Becoming a Registered Participant that any interested party needed to become a Registered Participant, and described the process for becoming a Registered Participant.

Section 2 – Deliverables, described the Deliverables and the types of contracts for the CHP RFP Deliverables. Proponents with Natural Gas-Fired Industrial Co-generation Facilities or District

Energy Facilities were required to enter into a CHP Contract for the provision of the Deliverables. Proponents with Renewable Fuel-Fired Industrial Cogeneration Facilities or By-Product Fuel-Fired Industrial Cogeneration Facilities were required to enter into a CHP Power Purchase Agreement (CHP PPA). Pro forma versions of each contract were provided to Proponents, and each was described in Appendix A of the CHP RFP. The contracts required a Supplier to develop, construct and operate its proposed Contract Facility for a term of 20 years.

Section 3 – Evaluation of Proposals set out the evaluation criteria and the process for applying these criteria to the Proposals. There was both a mandatory and rated component to the evaluation of Proposals to the CHP RFP by the Proponents. The RFP set out a three stage evaluation process:

- **Stage 1 - Mandatory Requirements** – In this first stage of the process, Proposals were screened to determine compliance with all of the Mandatory Requirements. These Mandatory Requirements were set out in s. 3.2 of the CHP RFP and consisted of mandatory submission requirements as well as Mandatory Technical Requirements that a proposed Contract Facility had to comply with. Proposals not satisfying the CHP RFP Mandatory Requirements would be set aside and disqualified for further evaluation, subject to the OPA's reserved rights. The mandatory criteria were stated objectively, which permitted an objective determination of compliance with each Mandatory Requirement;
- **Stage 2 - Rated Criteria** – In this stage the Proposals were scored by applying the Rated Criteria. These Rated Criteria were set out in s. 3.4 of the CHP RFP, and pertained to Contract Facility Maturity, Contract Facility Risk Mitigation, Host Facility Risk Mitigation, Proponent Team Experience, and the Financial Plan. Proponent Team Experience and Financial Plan criteria had minimum point thresholds, which a Proposal had to meet or exceed in order for the Proposal to advance in the evaluation process. Furthermore, Proposals had to meet or exceed a specified total point threshold for all of the Rated Criteria in Stage 2. Proposals not meeting the total point threshold were disqualified and not evaluated further. The points allocated to each rated criterion were fully disclosed in the CHP RFP, as well as guidelines for the allocation of the rated points by the OPA for each criterion.

Stage 2 was worth 100 points available for the evaluation. In our opinion, the Stage 2 evaluation was very transparent to Proponents; and,

- **Stage 3 – Economic Bid Evaluation** – This was the stage where the Evaluated Cost of each Proposal would be evaluated. The Evaluated Cost of each Proposal would be calculated using the Proposal Fixed Capacity Payment (District Energy Facilities and Natural Gas-Fired Industrial Cogeneration Facilities) or Contract Price (for By-Product and Renewable Fuel Fired Industrial Cogeneration Facilities), and other parameters provided by Proponents in their Economic Bid Statements such as Contract Heat Rates, declared CHP Credits, Earliest Restatement Date, etc. The economic model provided with the RFP would be used to calculate Evaluated Cost of each Proposal, which essentially would calculate the cost of each Proposal net of market revenues that the proposed Contract Facility would have earned under a set of different electricity price and fuel price scenarios built into the economic model. The Evaluated Cost would then be adjusted based on the Stage 2 Rated Criteria point score to yield an Adjusted Evaluated Cost. Section 3.5.2.2 detailed how the Evaluated Cost would be adjusted. Proposals would then be selected on the basis of their Adjusted Evaluated Cost. The Proposals competed in one of three Streams in this part of the evaluation: District Energy Facilities (Stream 1); Natural Gas-Fired or By-Product Fuel Fired Industrial Cogeneration Facilities (Stream 2); or Renewable Fuel-Fired Industrial Cogeneration Facilities (Stream 3). Each stream had its own Notional Procurement Target in terms of megawatts of Contract Capacity. Proposals would be ranked in ascending order of Adjusted Evaluated Cost within each Stream and would be selected if the cumulative Contract Capacity of Proposal and that of those prior to it in the ranking were less than or equal to the Notional Procurement Target. Provision was made for those Proposals not selected in the Streams to be placed in a Generic Pool of Proposals, where the Proposals would be ranked based on Adjusted Evaluated Cost, and selected to make up any shortfall if the Notional Procurement Targets were not met within the Streams.

Section 4 - Terms and Conditions, set out the terms and conditions of the RFP Process. This section contained information and instructions related to the RFP timetable (s. 4.1.1), a process

for the issuance of addenda (s. 4.1.2), submission instructions for the Proposals (s. 4.1.4), reserved rights of the OPA (s. 4.1.11), restrictions on communications (s. 4.1.15), etc. In s. 4.1.4.2 Proponents were instructed to submit their Proposals only in the prescribed manner. Furthermore, Proponents were instructed to place their Economic Bid Statements (pricing information) in a separate, sealed, opaque envelope.

Appendices A to R of the CHP contained the submission forms that formed part of the Mandatory Requirements, as well as provided additional information to Proponents. Appendix F contained the Financial Questionnaire, which summarized the financial information that a Proponent needed to submit, and Appendix G contained the Technical Questionnaire, which summarized the technical information that the Proponents had to submit. We note that Appendix M provided a description of the CHP Credit provision in the CHP RFP, Appendix N described in detail how the Proposal's Evaluated Cost would be calculated, and Appendix O set out a very detailed sample calculation of how a Proposal's Adjusted Evaluated Cost would be calculated.

In our opinion, the CHP RFP was not written in an unduly restrictive manner and the evaluation process was transparent to Proponents. All of the evaluation criteria were clearly stated and objectively justified, and the process for applying the criteria was also clearly stated in the CHP RFP.

5.0 RFP CONSULTATION STRATEGY

The CHP RFP was a rather large and complicated undertaking for both the OPA and the Proponents. In order to reduce the complexity and risk for Proponents and OPA alike, the OPA embarked on a Proponent consultation strategy. The OPA also has a goal to engage its stakeholders in these processes. In our experience this is a rather common process for large, complex procurement initiatives.

Once an interested party became a Registered Participant it was entitled to an individual information session to discuss its proposed Contract Facility with the OPA. The purpose of these individual information sessions was to provide each Registered Participant with an opportunity to meet with the OPA and to discuss the CHP RFP process, the form of CHP Contract or CHP PPA, as applicable, and, on a confidential basis, the technical elements of its proposed Contract Facility. These information sessions were offered only to Registered Participants and only as an aid to their understanding of the CHP RFP and the form of CHP Contract or CHP PPA. Any information presented by the Registered Participants during these sessions was not be evaluated if the Registered Participant becomes a Proponent to the CHP RFP unless that content is presented in its Proposal. An interested party was required to become a Registered Participant for each one of the Contract Facilities for which it might submit a Proposal in response to the CHP RFP.

Prior to the first information session being held, a Protocol for Individual Information Sessions was circulated to the Registered Participants by the OPA, which is contained in Appendix A of this interim report (“Information Session Protocol”). We reviewed this protocol in advance and advised the OPA that these were appropriate rules for the conduct of the information sessions.

The purpose of the Information Session Protocol was to establish a set of rules for the conduct of the sessions. The protocol set out the following rules for the sessions:

- The role of Fairness Advisor as a monitor and moderator of the sessions;
- OPA representatives would not be evaluators and there would be no verbatim recording of the sessions so that the Registered Participants could speak freely without fear of prejudicing any Proposal submitted in response to the CHP RFP;

- No presentation materials could be used¹;
- Each party was free to make whatever notes they wanted;
- The sessions were not intended to pre-approve or vet any Proposal;²
- The OPA would treat information about the Contract Facility as confidential, but information from the OPA to the Registered Participant that pertained to the process would be shared with all Registered Participants; and,
- Registered Participants were cautioned not to discuss the price of any Proposal since this might prejudice the evaluation of the Proposal.

Between May 19 and June 12, 2006, the OPA conducted a total of 28 information sessions with Registered Participants. There were 19 Registered Participants for the CHP RFP. A number of interested parties were proposing more than one Contract Facility, hence the difference in the number of Registered Participants and the number of information sessions held since Registered Participant had to register each proposed Contract Facility separately. The information sessions were scheduled by the OPA with Registered Participants on a first come, first served basis. No Registered Participant who wanted an information session was denied one. One Registered Participant did not elect to have an information session with the OPA.

The information sessions were held in OPA office in Toronto, Ontario. The same three representatives of the OPA met with Registered Participants each time. As Fairness Advisor we moderated the sessions. Each session was one hour in duration.

At the start of each session the Information Session Protocol was read to the Registered Participants and they were asked if the protocol was understood and whether there were any questions about it. All Registered Participants acknowledged receipt of the protocol in advance and that they understood the rules set out in the protocol. In some instances the protocol was not reviewed at the start of the session if the Registered Participant had previously conducted a session for one of its other Contract Facilities and where the Registered Participant acknowledged that it understood the protocol.

¹ This requirement was changed to no presentation materials could be left with the OPA, but could be referred to during the meeting.

² With the exception of the application of the Useful Heat Output, which was pre-approved for each Registered Participant.

The sessions were conducted informally in the sense that each Registered Participant was free to set the agenda for the session and could raise whatever matters that it wished. In general, the matters that were raised dealt with the RFP requirements and the CHP Contract or CHP PPA. For some matters, the OPA felt that it was in a position to respond directly to the Registered Participant, whereas for others the OPA reserved comment and requested that the Registered Participant submit a written question via the www.ontarioelectricityRFP.ca website. In some instances we believed that the information shared with a Registered Participant was information that ought to be shared with all Registered Participants and a notice was posted on the www.ontarioelectricityRFP.ca website to do this. The OPA kept a detailed log of matters raised by the Registered Participants and when all the information sessions were over a number of changes were made to the CHP RFP via addenda. We reviewed these changes to the CHP RFP and we believe that they were objectively justified and enhanced the clarity and transparency of the CHP RFP.

All Registered Participants without exception and the OPA complied with the Information Session Protocol. Prior to each session the OPA communicated two revisions to the protocol. Firstly, the prohibition on presentation materials was clarified as an instruction to Registered Participants not to leave presentation materials with the OPA, and that such materials could be referred to during the sessions provided that they were collected by the Registered Participant and not left with the OPA. Secondly, since a Contract Facility needed to have an acceptable Useful Heat Output, the OPA decided prior to the commencement of the first information session to pre-approve each Registered Participant's Useful Heat Output in advance so that Registered Participants were not left in the dark on this important aspect of their Proposal. At the end of all the sessions an email was sent by the OPA requesting that Registered Participants submit their proposed Useful Heat Output(s) for the Contract Facility for the OPA to approve, or not, as the case might be. We were informed subsequently that the Useful Heat Outputs for all the Registered Participants' Contract Facilities were approved.

During each session the OPA informed each Registered Participant that it would be sending out an email requesting that the Registered Participant provide certain information about its proposed connection point to the IESO-controlled electricity grid, the End User or LDC. The OPA

indicated that this information was needed for planning purposes only and that it would not be evaluated as part of the Proposal.

Also during each session the OPA stressed to each Registered Participant that the onus was on them to demonstrate whatever the rated evaluation indicated that must demonstrate. The OPA invited Registered Participants to include as much substantiating information as they felt was necessary to substantiate these responses to the rated evaluation criteria. The OPA also requested that Registered Participants organize their Proposals so that information could be found more easily by the evaluators. A notice to this effect was posted the www.ontarioelectricityRFP.ca website for the benefit of the Registered Participant that did not request an information session.

In summary, we believe that the individual information sessions held with Registered Participants were conducted in an appropriate manner. All Registered Participants were afforded the same opportunity to meet with the OPA and to communicate matters of interest about their Contract Facility, or Contract Facilities, to the OPA. Both the Registered Participants and OPA complied with the Information Session Protocol, which set out the rules for the conduct of the sessions. Changes to the CHP RFP as a result of the individual information sessions were objectively justified and enhanced the clarity and transparency of the CHP RFP.

6.0 ADEQUATE TIME TO PREPARE A PROPOSAL

Proponents required sufficient time to prepare Proposals in response to the CHP RFP. The larger the scope of an RFP and more complex it is, the longer the time that should be provided for Proponents so that they can understand the RFP requirements, assimilate the information in the RFP, conduct whatever research they deem necessary, consult legal counsel and arrange financing for their projects, etc.

The draft CHP RFP was issued on 17 January 2006. The final CHP RFP was released on 12 April 2006 and the Proposal Submission Deadline was 17 August 2006. Proponents had 89 business days (a day other than Saturday, Sunday or a Statutory Holiday) and 128 calendar days from the initial release of the final CHP RFP to the Proposal Submission Deadline to prepare Proposals in response to the CHP RFP. From release of the draft CHP RFP to the Proposal Submission Deadline, Proponents had 150 business days and 214 calendar days to prepare their Proposals. In our opinion, the amount of time Proponents had to respond to this RFP was adequate given the size and complexity of the undertaking.

7.0 ADEQUATE COMMUNICATION TO PROPONENTS

It was important that all Proponents had timely access to the same and adequate information about the RFP and the associated process at the same time.

All communication with Proponents was done through the www.ontarioelectricityRFP.ca website ("Dedicated Website"). The Dedicated Website had functionality to support posing questions by Proponents, Registered Participants and interested parties, and provision of responses by the OPA. Any information that would potentially identify a Proponent was removed from a question before the question and answer was posted to the Dedicated Website. All CHP RFP-related documents were posted to the website in electronic format for convenient downloading by Proponents, including the economic model in MS-Excel format.

In s. 4.1.15 Prohibited Communications, Registered Participants (all Proponents had to be Registered Participants) were cautioned against contacting the media and other specified individuals and entities set out in s. 4.1.15. We are aware of only one occasion where a Proponents breached this prohibition, and the OPA notified the Proponent that such communications were prohibited and no further incidents occurred. There were a number of media reports about proposed Contract Facilities prior to the Proposal Submission Deadline, however, these reports did not attempt to promote any of the Contract Facilities and were more of an informational nature. We note that Proponents were encouraged via the Rated Criteria to engage in public consultation about their proposed Contract Facilities and that it is normal for the local media to cover such events and to report on them.

Following Proposal submission and during the Proposal evaluation process, questions of clarification were asked of several Proponents as part of the evaluation process. We monitored this request for clarifications process. All Proponents complied with the process outlined by the OPA in its questions of clarification. All communications were confirmed in writing, either by fax or e-mail.

8.0 ADEQUATE NOTIFICATION OF CHANGES IN REQUIREMENTS

All Proponents received the same and adequate notification about changes to the RFP requirements. The use of the Dedicated Website facilitated such communication.

There were three CHP RFP, CHP Contract and CHP PPA addenda issued. All of these addenda were posted to the Dedicated Website in electronic format for downloading by Proponents. Addendum #3 to the CHP RFP was issued after the 31 July 2006 deadline for posting Addenda. The OPA believed that s. 3.4.1.1(c) needed to be clarified as this criterion likely affected all Proponents equally, since it was a matter of clarity, and consequently, we advised the OPA that there were no fairness concerns in it exercising its reserved right under s. 4.1.3 to issue a late addendum. We did not see any reason for the OPA to grant an extension in time since the addendum did not increase the scope of the Proponent's work.

9.0 CONFIDENTIALITY AND SECURITY OF DOCUMENTS

All Proposals and evaluation documents were kept strictly confidential and in secure locations. Documents relating to the CHP RFP process were also kept secure. During development of the CHP RFP, the draft documents were circulated only to those who were working on the document or who were reviewing and commenting on the document.

The Proposals were kept in a locked storage facility at the OPA office in Toronto, Ontario. Evaluation documents were also stored in the same secure location. The contents of the Proposals were only known to the evaluation team members, those supporting the evaluation team, legal counsel and the Fairness Advisor.

The evaluators were required to sign a confidentiality agreement, which was an undertaking to keep the contents of the Proposals and any information related to the evaluation process confidential. This undertaking survives past the end of the evaluation process.

Evaluators were permitted to remove Proposals from the OPA office and were instructed in the proper care and handling of confidential information in their custody. We are aware of no Proposals leaving the evaluator's custody. All deliberations of the evaluation team were conducted behind closed doors at the OPA office in Toronto, Ontario or at the offices of the OPA's legal counsel.

The Proponents' Economic Bid Statements were always kept either at the Bank of New York (location where Proposals were submitted) or later, in a locked cabinet at the OPA offices in Toronto. The Economic Bid Statements were kept in their original sealed envelopes until the Stage 3 – Economic Bid Evaluation was conducted. No one was permitted access to these Economic Bid Statements until Stage 3.

We are not aware of any discussions about any Proposal or its evaluation among anyone except the evaluators, those supporting the evaluators, counsel, and us. To our knowledge, no information about the Proposals or evaluation was communicated in any form to persons not directly involved with the evaluation process.

We are satisfied that the Proposal contents and all information generated in the evaluation process was kept secure and confidential at all times.

10.0 QUALIFICATIONS OF THE EVALUATION TEAM

The evaluation team members had the appropriate knowledge and expertise to review and evaluate the Proposals. The evaluation team for Stages 1 and 2 consisted of five individuals with knowledge of the energy sector in Ontario. The team members were drawn from the OPA, Independent Electricity System Operator (IESO), the Ontario Energy Board (OEB), and an external consultant. A separate team from an investment bank retained by the OPA undertook the evaluation of the Financial Plan and Host Financial Strength for Stage 2. Two individuals from the OPA conducted Stage 3.

All evaluators had reviewed the RFP and familiarized themselves with the evaluation tools prior to commencing their evaluation of the Proposals. A training session was held to explain the evaluation process and evaluation tools to the evaluators, which we attended.

The evaluation team was advised by external counsel to the OPA. Counsel provided advice only and did not participate in the scoring of any Proposal.

None of the evaluation team members participated in the individual information sessions that were held with the OPA and Registered Participants prior to the Proposal Submission Deadline.

All the evaluators were qualified to undertake the evaluation of the Proposals and we have no concerns about their qualifications.

11.0 COMPLIANCE WITH THE PROCESS

In order to ensure a fair process, the rules established for conducting the procurement and published in the CHP RFP were followed and applied equally to all Proponents.

Eight (8) Proposals were received by the Proposal Submission Deadline. The OPA conducted an initial completeness check of the Proposals before they were distributed to the evaluation team for their review. All Proposals received were complete. One Proponent had placed an unsealed copy of its Economic Bid Statement in each copy of its Proposal. Section 4.1.4.2 Submission Requirements clearly required that only a single original Economic Bid Statement be submitted in a separate sealed, opaque envelope. The OPA, in consultation with us, had a staff member not involved in the evaluation remove the Economic Bid Statement and place it in the locked cabinet with the other Proponents' Economic Bid Statements. The OPA accepted the advice and removed the Economic Bid Statement copies from the Proposal copies for this Proponent.

The evaluation team conducted an initial screening as part of Stage 1 – Mandatory Requirements set out in s. 3.2 of the CHP RFP. One Proposal failed to satisfy a Mandatory Requirement and was disqualified from the process.

Seven Proposals were advanced from Stage 1 to Stage 2. In Stage 2 – Rated Criteria the Proposals were subjected to an evaluation against the Rated Criteria set out in s. 3.4 of the CHP RFP. The seven Proposals satisfactorily met or exceeded the minimum individual and total point thresholds set out in s. 3.4 of the CHP RFP, and were advanced from Stage 2 to Stage 3 – Economic Bid Evaluation. The evaluation of the Financial Plan and Host Financial Strength was conducted by a separate evaluation team from an investment bank retained by the OPA. This evaluation was done in a separate physical location. The contents of each Proposal's Financial Plan was extracted from each Proposal during the completeness check and was only disclosed to the evaluation team evaluating the Financial Plan and Host Financial Strength.

Stage 3 – Economic Bid Evaluation consisted of opening the Economic Bid Statements and inputting each Proponent's proposed Contract Facility economic parameters into the economic

model and then running the model. The Evaluated Costs from the economic model were adjusted for the Stage 2 scores, and then the Proposals were ranked within the Streams based on their Adjusted Evaluated Costs. Each of the Streams was under-subscribed so the Notional Procurement Targets did not eliminate any Proposal. The OPA elected not to apply the Uniform Price Limit or the Stream Specific Adjusted Evaluated Cost Threshold, so all Proposals in Streams 1 and 2 were selected. There were no Proposals in Stream 3.

We are satisfied that the evaluation of Proposals was conducted strictly in accordance with the process set out in s. 3 of the CHP RFP.

12.0 OBJECTIVITY RESPECTING THE EVALUATIONS

The Proposals received were evaluated objectively and diligently, as evaluators owed a duty of care to Proponents to do so. We attended all evaluation sessions and we are satisfied that there was no external pressure placed on the evaluation team with regard to the evaluation of any Proposal. We are satisfied that all Proposals were objectively evaluated against the evaluation criteria published in s.3 of the CHP RFP.

As we have stated in Section 4.0 of this report, Proposals were subjected to a three stage process for evaluation. The Stage 1 - Mandatory Requirements was essentially a determination that the Proposals met certain submission requirements and that the proposed Contract Facilities met certain other Mandatory Technical Requirements. These criteria were objectively stated and this permitted an objective determination of compliance.

For the Stage 2 - Rated Criteria, evaluators individually read the Proposals and evaluated Proponents' Proposals against the Rated Criteria set out in s. 3 of the CHP RFP. Each evaluator read the Proposals in a different, randomized order. This was done for two reasons. Firstly, it promotes individual evaluation since no two evaluators would be reviewing the same Proposal at the same time. Secondly, it reduced any bias that might occur had all the evaluators read the same Proposal first since the first few Proposals read often tend to anchor an evaluator's expectation on what to expect from subsequent Proposals. This in turn affects how they evaluate the later Proposals.

The OPA decided that evaluators would use the consensus approach to scoring Proposals in Stage 2 after they had read and individually scored each Proposal. Once the individual scoring was completed, the evaluation team met as a group to discuss the individual scoring and to decide on a group consensus score for each criterion.

On two occasions the evaluators met for the Stage 2 – Rated Criteria consensus evaluation sessions. The purpose of the consensus sessions was to have the members of the evaluation

team arrive at a consensus score for each Proposal. We attended the consensus scoring sessions as an observer of the process. We detected no bias or favoritism by the evaluators during their participation in the consensus evaluation sessions, and no external pressure was brought to bear on the evaluation team. We observed that each Proposal was subjected to same evaluation process, which consisted of applying the evaluation criteria in s. 3.4 using the evaluation process set out in s. 3.

For Stage 3 – Economic Bid Evaluation, the seven Proposals passing Stage 2 had their Economic Bid Statements opened and the economic parameters for each Proposal were input into the economic model. The results of the economic model were independently checked by the OPA’s economic consultant for the RFP. We also independently checked the Stage 3 results from the economic model. The Evaluated Cost for each Proposal was adjusted by its Stage 2 score using the process set out in s. 3.5.2.2. of the CHP RFP. The Stage 3 evaluation team ranked the Proposals based on Adjusted Evaluated Cost in each of Streams 1 and 2 (there were no Stream 3 Proposals). All Proposals in each Stream were selected.

In summary, we detected no bias or favoritism towards or against any particular Proponent. The Proposals were evaluated strictly against the evaluation criteria published in the CHP RFP. A record of the consensus scores reached and reasons for the scores was maintained and kept by the evaluation team chair at the sessions.

13.0 PROPER USE OF ASSESSMENT TOOLS

Assessment tools used by the evaluators to evaluate the Stage 1 - Mandatory Requirements, Stage 2 – Rated Criteria, and Stage 3 – Economic Bid Evaluation were based on the published evaluation criteria in the CHP RFP. We reviewed all the evaluation tools and we are satisfied that they accurately reflected the published evaluation criteria.

14.0 CONFLICT OF INTEREST

For the procurement to be fair there had to be no conflict of interest between the evaluators and the Proponents and between the Proponents and anyone involved in planning or conducting the procurement. Proponents must also not have had access to confidential information of the OPA as it pertains to the procurement.

Proponents were required to disclose and declare any actual or potential conflict of interest, which included by definition any knowledge of confidential information of the OPA. None of the Proponents indicated any actual or potential conflicts of interest.

Prior to the start of the evaluation process, evaluation team members, as well as those who were supporting and advising them, were informed of the requirement to disclose any actual or potential conflicts of interest. Each evaluator was asked to sign a declaration that they were not in a potential or actual conflict of interest in undertaking their role in the process. The OPA informed us that all the evaluators signed this declaration.

15.0 CONCLUSIONS

In summary, based on our review, we are satisfied that the CHP RFP process was conducted in a procedurally fair, open, and transparent manner. All Proposals received were evaluated against the evaluation criteria published in the CHP RFP. We detected no bias either for or against any particular Proponent in the application of the evaluation criteria. Evaluation criteria were applied objectively based on the criteria published in the CHP RFP.

APPENDIX A – OPA INFORMATION SESSION PROTOCOL



Protocol for Individual Information Sessions – CHP RFP

The purpose of Individual Information Sessions is to provide Registered Participants with an opportunity to discuss the CHP RFP process and the Contract with the OPA's project team. The protocol/rules for the sessions are as follows:

1. The Fairness Advisor will monitor and moderate all sessions.
2. The Fairness Advisor will render a report on the conduct of the sessions.
3. All OPA attendees will not be evaluators for the CHP RFP.
4. No verbatim recording of the sessions
5. No hand outs or visual aids.
6. OPA and the Registered Participants may record notes for their own purposes, however no distribution between the OPA and the Registered Participants will be permitted.
7. Sessions are solely for clarification purposes and are not an approval or pre-vetting activity. No "sales" presentations or pitches will be permitted.
8. OPA will have the right to make public any new requirements or processes resulting from the sessions that affect all bidders, which will be posted on the RFP website in form of generic, anonymous questions or comments, as well as via Addenda.
9. Any new information provided by the OPA to a Registered Participants will be made available to all Registered Participants.
10. No discussion will be permitted with respect to matters dealing with the price submission for a project, in particular the Economic Bid Statement with the exception to clarifications of Contract terms and conditions affecting financial considerations.