



**SASKPOWER**  
**REQUEST FOR QUALIFICATIONS**  
**FOR A**  
**NATURAL GAS PEAKING FACILITY**  
**INQUIRY No. CO/597**

**FAIRNESS REVIEW**

**DECEMBER 19, 2008**

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## EXECUTIVE SUMMARY

This report presents our findings and conclusions as Fairness Advisor for Request for Qualifications process for a Natural Gas Peaking Facility ("RFQ"). The purpose of this RFQ was to qualify Respondents for any subsequent Request for Proposals (RFP) process that the Saskatchewan Power Corporation ("SaskPower") might initiate. This is a final report on the RFQ process. We were engaged in August 2008 and provided advice on the drafting of the RFQ document prior to its issuance and monitored and observed the evaluation process.

The Fairness Advisor acted as a neutral, disinterested and independent monitor for the procurement process. We were not part of the RFQ development or evaluation teams. We reported directly to the SaskPower project manager responsible for the RFQ process.

We are satisfied that the RFQ stated all the evaluation criteria used in the evaluation process, and provided an appropriate process for consistently and fairly evaluating the submissions. The RFQ was not written in an unduly restrictive manner, and was not biased towards any particular Respondent. The evaluation criteria were objectively justified in that they assessed the experience of the Respondents to develop, construct and operate a similar generation facility and the Respondents' financial capability.

All RFQ-related documents were posted to the generation procurement website. All questions received and answers given were also posted to that same website. We reviewed all questions received and answers posted. Any information identifying an Respondent was removed by Saskpower prior to posting the question and answer. The RFQ also provided an email address for Respondents or interested parties to communicate with Saskpower at any time during the process. Questions received and Saskpower answers were also posted to the generation procurement website.

All the evaluators were qualified to undertake the evaluation of the submissions and we have no concerns about the qualifications of any of the evaluators. All of the evaluators executed declarations stating that they were not in a position of actual or potential conflict of interest with regard to fulfilling their duties as evaluators.

In summary, we detected no bias or favoritism towards or against any particular Respondent. No external pressure was brought to bear on the evaluators during their deliberations. The submissions were evaluated strictly against the evaluation criteria published in s. 4.2 of the RFQ.

## 1.0 INTRODUCTION

This report presents our findings and conclusions as Fairness Advisor for Request for Qualifications process for a Natural Gas Peaking Facility ("RFQ"). The purpose of this RFQ was to qualify Respondents for any subsequent Request for Proposals (RFP) process that the Saskatchewan Power Corporation ("SaskPower") might initiate. This is a final report on the RFQ process. We were engaged in August 2008 and provided advice on the drafting of the RFQ document prior to its issuance and monitored and observed the evaluation process.

Our report addresses the following aspects of the RFQ process:

- Wording of the RFQ document;
- Adequate communications to Respondents;
- Adequate notification of changes in requirements;
- Confidentiality and security of submissions and evaluations;
- Qualifications of the evaluation team;
- Compliance with the process;
- Objectivity and diligence respecting the evaluations;
- Proper use of assessment tools;
- Conflict of Interest; and,
- Debriefings.

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

This report is prepared for the specific purposes of SaskPower. Any other person that wishes to review this report must first obtain the written permission of SaskPower and Knowles Canada ("Knowles"). Knowles or the individual authors of this report bear no liability whatsoever for opinions unauthorized persons may conclude from this report. This report is intended to be read as a whole document.

## **2.0      ROLE OF FAIRNESS ADVISOR**

SaskPower conducts procurement in a manner that stands the test of public scrutiny, encourages competition and reflects fairness in the spending of public funds. Competition among Respondents is encouraged through open processes that afford vendors equal access to SaskPower procurement opportunities.

To provide the vendor community with the confidence that the contemplated procurement is conducted in a fair manner that is consistent with the above-mentioned principles, SaskPower has retained the services of a Fairness Advisor to monitor the process and to advise it on matters that pertain to the procedural fairness of the procurement process.

The Fairness Advisor acted as a neutral, disinterested and independent monitor for the procurement process. We were not part of the RFQ development or evaluation teams. We reported directly to the SaskPower project manager responsible for the RFQ process.

### **3.0 BACKGROUND**

The purpose of the RFQ was to identify potential private sector partners with the interest and capability to help meet Saskatchewan's increasing electrical supply needs by developing and operating a natural gas-fired peaking facility to provide peaking generation to SaskPower pursuant to a power purchase agreement (the "Project").

The successful proponent emerging from the future RFP, if undertaken, would be responsible to construct, own, operate and maintain the natural gas-fired peaking generation facility ("Facility"). The Facility would be a natural gas fuelled "single cycle" gas turbine (SCGT) generation facility with a total nameplate generation capacity of approximately 100 MW. SaskPower would be responsible to provide the site for the Facility. The successful RFP proponent would be responsible to ensure facility will be in commercial operation no later than December 1, 2011. SaskPower and successful proponent would enter an exclusive, long-term power purchase agreement (anticipated to have a 20-year term). The details terms and conditions of the power purchase agreement will be included in the subsequent RFP, if undertaken. The Facility would be used for the exclusive benefit of SaskPower during the term of the power purchase agreement. It is anticipated that SaskPower would supply the natural gas for the Facility.

The RFQ process was designed to identify qualified Respondents who has an interest in the Project and who had the necessary experience and financial capacity to develop, own, operate and maintain a natural gas-fired peaking facility. The RFQ set out the minimum experience and financial qualifications that any Respondent needed to meet to become qualified to respond to any subsequent RFP.

## 4.0 RFQ DOCUMENT

As Fairness Advisor, our main task was to provide advice to Saskpower on ensuring a fair and transparent evaluation process. The RFQ document had to accomplish three tasks:

1. Clearly identify and describe the nature of the opportunity;
2. Provide Respondents with the information they needed to prepare a submission in response to the RFQ that set out their qualifications; and
3. Described the necessary and desirable qualifications for successful Respondents and clearly set out these 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 Respondent. Mandatory requirements could not be so narrowly developed to unduly restrict participation in the competitive process. Sufficient response time and information had to be provided to permit those unfamiliar with Saskpower and its procurement processes to prepare a submission.

We are satisfied that the RFQ stated all the evaluation criteria used in the evaluation process, and provided an appropriate process for consistently and fairly evaluating the submissions. The RFQ was not written in an unduly restrictive manner, and was not biased towards any particular Respondent. The evaluation criteria were objectively justified in that they assessed the experience of the Respondents to develop, construct and operate a similar generation facility and the Respondents' financial capability.

Section 1 Introduction, described the opportunity, and provided background information for Respondents. Section 2 Business Unit, Corporate Group or Department, identified for Respondents that Saskpower's Purchasing

Department has issued the RFQ in response to a request from Saskpower's Planning, Environment and Regulatory Affairs (PERA) department. Section 3 Purpose, identified the purpose of the RFQ and established that Respondents were free to withdraw their submissions at any time. Section 4 Evaluation and RFP Outcome, described the evaluation criteria that would be applied to evaluate submissions and the process to be followed for the evaluation. Section 4.1 of the RFQ that only those Respondents that were qualified under the RFQ would be invited to respond as Respondents to any subsequent RFP. Section 4.2 stated that Respondents' submission would be rated on the basis of the their experience and financial capacity, with 2/3 of the total points allocated to experience and 1/3 of the total points allocated to financial capacity. Approximately five (5) Respondents would be qualified for the RFP stage of the process. Section 5 Information Requested, set out the information that Respondents were required to submit in response to the RFQ. Section 6 Preferred Submission Format, set out the desired format for submissions and how the information in the submission was to be organized. Section 7 Questions, established a protocol for Respondents to ask questions of Saskpower about the RFQ. Section 8 Submission, set out the process for submitting responses to the RFQ. Section 9 RFQ Addenda, established that the RFQ could be changed by issuing Addenda. Section 10 Anticipated Timeline, set out the timetable for the RFQ including the Closing Date for Submissions, Notification of Qualified Respondents, and debriefing dates for unsuccessful Respondents. Section 11 Confidentiality of Respondent Information, established that the information in the Respondents' submissions would remain confidential, unless otherwise authorized by law. Appendix A - Project Details and Information Requested, contained more detailed background and contextual information and provided more detail on the evaluation criteria that would be applied to evaluate the submissions. Appendix B - Qualification Questionnaire, contained a series of questions for questions to answer in their submissions.

In our opinion the evaluation process was transparent to Respondents. The evaluation criteria and process was clearly stated in the RFQ. The evaluation

criteria were objectively justified and the evaluation process for applying these criteria was clearly set out in the RFQ.

## **5.0 ADEQUATE TIME TO PREPARE A SUBMISSION**

Respondents required sufficient time to prepare submissions in response to the RFQ. The larger the scope of the RFQ and more complex it is, the longer the time that should be provided for Respondents so that they can understand the RFQ requirements, assimilate the information in the RFQ, conduct whatever research they deem necessary, and prepare a response to the RFQ.

The RFQ was issued on 29 September 2008 (“Issue Date”) and closed on 5 November 2008 (“Submission Date”). Respondents had 25 clear business days (a day other than the Issue Date, Closing Date, Saturday, Sunday or a Statutory Holiday) and 36 clear calendar days (any calendar day other than the Issue Date and Closing Date) to prepare submissions in response to the RFQ. There were no requests from Respondents to extend the Submission Date. In our opinion, the amount of time Respondents had to respond to this RFQ was adequate given the size and complexity of the undertaking.

## 6.0 ADEQUATE COMMUNICATION TO RESPONDENTS

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

A Saskpower press release on 29 September 2008 announced the release of the RFQ and publicly announced where interested Respondents could find the document on the Saskpower generation procurement website (<http://generationprocurement.saskpower.com>). Section 7 of the RFQ instructed Respondents that any Addenda were publicly available at Saskpower's generation procurement website. In s. 7.1 of the RFQ Respondents were requested to relay questions a nominated Saskpower contact person. We are aware of no instances where an Respondent failed to comply with this instruction.

All RFQ-related documents were posted to the generation procurement website. All questions received and answers given were also posted to that same website. We reviewed all questions received and answers posted. Any information identifying an Respondent was removed by Saskpower prior to posting the question and answer. The RFQ also provided an email address for Respondents or interested parties to communicate with Saskpower at any time during the process. Questions received and Saskpower answers were also posted to the generation procurement website.

## **7.0 ADEQUATE NOTIFICATION OF CHANGES IN REQUIREMENTS**

All potential Respondents received the same and adequate notification about changes to the RFQ requirements.

There were no Addenda issued. Saskpower did notify all registered Respondents on 29 October 2008 that the Submission Date was to change from 3 November 2008 to 5 November 2008 on

Questions by Respondents and answers by Saskpower were periodically posted to the generation procurement website for Respondents. All questions were rendered anonymous for posting so that the Respondents were not identified.

## **8.0 CONFIDENTIALITY AND SECURITY OF DOCUMENTS**

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

Submissions and associated evaluation documents were kept in secure locations at all times. The submissions were kept at Saskpower offices in Regina, until they were distributed to the evaluators. Evaluation documents were also stored in secure locations at Saskpower offices. The contents of the submissions and identities of the Respondents were only known to the evaluation team members, those supporting the evaluation team, and the Fairness Advisor.

Evaluators were permitted to take submissions they were evaluating to their individual offices, but at all times the documents were under the care and control of the evaluators. All deliberations of the evaluation team were conducted behind closed doors at a location in Regina.

The evaluators, and those supporting the evaluators, who were Saskpower employees, or Crown employees, were bound to keep all RFQ-related information confidential by virtue of their employment contracts. External evaluators or advisors were required to sign a confidentiality agreement, which was an undertaking to keep the contents of the submissions and any information related to the evaluation process confidential. This undertaking survived past the end of the evaluation process.

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

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

## **9.0 QUALIFICATIONS OF THE EVALUATION TEAM**

The evaluation team members had the appropriate knowledge and expertise to review and evaluate the submissions. An evaluation team composed of six (6) members, five (5) from Saskpower, one (1) from the Crown Investment Corporation (“CIC”) and an external consultant. All of the evaluators had energy industry experience and backgrounds.

All evaluators had reviewed the RFQ and familiarized themselves with the evaluation tools prior to commencing their evaluation of the submissions. A training session was held to explain the evaluation process and evaluation tools to the evaluators. We attended this training session as an observer.

In summary, all the evaluators were qualified to undertake the evaluation of the submissions and we have no concerns about the qualifications of any of the evaluators.

## **10.0 COMPLIANCE WITH THE PROCESS**

In order to ensure a fair process, the procedures and process established for conducting the procurement and published in the RFQ were followed and applied equally to all Respondents. We are of the opinion that the evaluation process outlined in the RFQ was complied with by the evaluators.

Eight (8) submissions were received by Saskpower prior to the Submission Date in response to the RFQ. We attended the evaluation consensus sessions and the submissions were evaluated strictly against the evaluation criteria published in the RFQ.

The evaluation team subjected each submission to an evaluation of the demonstrated corporate and employee experience, which was worth 20 points. When this was completed each submission was subjected to an evaluation of the demonstrated financial capacity, which was worth 10 points. This weighting of points was consistent with the weighting set out in s. 4.2 of the RFQ.

We are satisfied that the evaluation of the submissions was conducted in accordance with the process set out in s. 4 of the RFQ by applying the evaluation criteria set out in s. 4.2 of the RFQ.

## **11.0 OBJECTIVITY RESPECTING THE EVALUATIONS**

The submissions received were evaluated objectively and diligently, as evaluators owed a duty of care to Respondents 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 submission. We are satisfied that all submissions were objectively evaluated against the evaluation criteria published in s. 4.2 of the RFQ.

Each evaluator read the submissions in a different, randomized order. This was done for two reasons. Firstly, it promoted individual evaluation since no two evaluators would be reviewing the same submission at the same time. Secondly, it reduced any bias that might occur had all the evaluators read the same submission first since the first few submissions read often tend to anchor an evaluator's expectation on what to expect from subsequent submissions. This in turn affects how they may evaluate these later submissions.

Saskpower decided that evaluators would use the consensus approach to score each submissions. The consensus evaluation meetings were held after the evaluators had completed their individual evaluations. We attended these consensus meetings and detected no bias or favoritism by the evaluators during their participation in the consensus evaluation sessions.

In summary, we detected no bias or favoritism towards or against any particular Respondent. The submissions were evaluated strictly against the evaluation criteria published in s. 4.2 of the RFQ. A record of the consensus scoring reached and reasons for the compliance determinations was maintained and kept by the evaluation team leader.

## **12.0 PROPER USE OF ASSESSMENT TOOLS**

Assessment tools used by the evaluators to evaluate the submissions had to reflect accurately the evaluation criteria set out in s. 4.2 of the RFQ. We reviewed all the evaluation tools and we are satisfied that they accurately reflected the published evaluation criteria.

## **13.0 CONFLICT OF INTEREST**

For the RFQ process to be fair the evaluators could not be in a position of actual or potential conflict 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, as well as those supporting the evaluators, was asked to execute a declaration that they were not in a potential or actual conflict of interest in undertaking their role in the process. Prior to the commencement of the evaluation of the submission one evaluator did disclose that he was in a potential conflict of interest by virtue of an immediate relative's employment with a Respondent. The individual stepped aside and did not serve as an evaluator. Saskpower appointed a replacement evaluator. All the evaluators, as well as those who were supporting and advising them, executed the no conflict of interest declaration.

## **14.0 DEBRIEFINGS**

As of the date of this report, some debriefings for unsuccessful Respondents have been conducted. Each was given specific feedback only on the evaluation outcome for their submission.

## **15.0 CONCLUSIONS**

In summary, based on our review, we are satisfied that the RFQ was conducted in a procedurally fair, open, and transparent manner. All submissions received were evaluated against the evaluation criteria published in the RFQ. We detected no bias either for or against any particular Respondent in the application of the evaluation criteria. The evaluation criteria published in the RFQ were applied objectively to each submission.