



National Capital Commission Redevelopment of LeBreton Flats Project

NCC File No. RETD-2015-01

**Fairness Monitor
Interim Report**

April 19th, 2016



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Attestation of Assurance

As the Fairness Monitor for the National Capital Commission **Redevelopment of LeBreton Flats Project**, we confirm that the procurement processes we have participated in to date have been conducted in compliance with the principles of openness, fairness and transparency and in a manner consistent with the solicitation documents. Furthermore, we are not aware of any issues that would impair the fairness of this project. Thus, we certify that, in our opinion, the procurement processes to date have been conducted in an open, fair and transparent manner.

P1 Consulting

A handwritten signature in blue ink, appearing to read "Louise Panneton".

Louise Panneton

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1.0 Introduction

P1 Consulting Inc. (P1 Consulting or Fairness Monitor) was engaged by the National Capital Commission (NCC) to act as the Fairness Monitor to review and monitor the communications, evaluations and decision-making processes associated with the competitive process for the **Redevelopment of LeBreton Flats Project (“Project”) Request for Proposals (“RFP”)** in order to ensure that it is conducted in a fair, open and transparent manner. Our mandate included reviewing the procurement documents and communications; providing advice on leading practices; reviewing and monitoring the evaluation; ensuring the adequacy of the documentation and overseeing the decision-making processes that were associated with the competitive process to ensure fairness, equity, objectivity and transparency. Our scope included:

- Ensuring that the Project RFP stage of the Competitive Process were undertaken in a fair, open and transparent manner and in accordance with the applicable policies, documents and agreements;
- Assuring the consistent application of the evaluation criteria and evaluation procedures of the NCC in accordance with the Project RFP and applicable policies of the NCC;
- Ensuring that all Proponents were treated consistently in the evaluation process and in accordance with the Project RFP; and
- Ensuring that the NCC personnel and external advisors adhered to the NCC’s conflict of interest and confidentiality requirements.

The purpose of the RFP is to ultimately select a Successful Proponent to develop the site, using a competitive process in which prequalified proponents are to submit a development proposal in the form of a business case. The primary objective of this process is to leverage public lands to enhance the attractiveness of the National Capital by attracting a new public anchor use(s) and bringing lively civic life back to this historic capital district. Subject to the terms and conditions of the RFP, the NCC intends on selecting a “preferred proponent” with whom to engage with and start negotiations. The competitive process ends either after the NCC cancels it, or once approval is obtained from the Governor-in-Council.

As Fairness Monitor, we attended, observed and provided guidance to the NCC as more specifically described herein. In particular, in our role as Fairness Monitor, we ascertained that the following steps were taken to ensure a fair, open and transparent procurement process:

- compliance with the procurement policies and procedures;
- objectivity and diligence during the procurement process;
- compliance of participants with requirements related to conflict of interest and confidentiality during the process; and
- oversight during the process in order to ensure that all proponents were treated fairly and equally.

Louise Panneton, Oliver Grant, Jillian Newsome, Steve McLean and Benoit Raymond were the members of P1 Consulting who acted as Fairness Monitor throughout the procurement process.

2.0 Scope of the Fairness Monitor

In addition to providing general fairness monitor services, P1 Consulting performed the following discrete tasks identified in Section 2.1 to 2.6 below. P1 Consulting’s findings, with respect to whether each of these tasks was conducted in a fair, open and transparent manner, are also indicated.

2.1 Review of Procurement Documentation

In our role as Fairness Monitor, we received, reviewed and accepted from a fairness perspective, copies of the draft and final RFP documents and the final procurement documents prior to their release. All Requests for Information (RFIs) and their responses were reviewed from a fairness perspective. As addenda were issued, P1 Consulting also received, reviewed and accepted copies of those addenda documents and reviewed them from a fairness perspective, prior to their release. Specifically our review of the Request for Proposals (RFP) prior to issuance to the prequalified proponents was to identify potential inconsistencies or lack of clarity and provide feedback to the NCC. The review included:

- Reviewing and analyzing the evaluation criteria and sub-criteria, the weights attached to the criteria and scoring methodology set out in the procurement documents, to ensure full disclosure of information, and determine that the evaluation process is appropriate. Identify, with rationale, any potential vulnerability;
- Reviewing the procurement documentation for ambiguity and consistency; and
- Reviewing for procurement documentation for bias for or against any vendor.

2.2 Review of Communication with the proponents

As the Fairness Monitor, we observed all communications, including written and verbal communications, between the NCC and the prequalified proponents to ensure that the prequalified proponents were treated in a consistent manner.

2.2.1 Verbal Communication

Where the NCC scheduled presentations that were available for all bidders to attend, we attended, and at times presented in (e.g. to clarify our role) the presentations.

Further to that, the RFP allowed for Commercially Confidential Meetings, that is, individual meetings between the Proponents and the NCC. We reviewed and contributed to the NCC's protocols for the Commercially Confidential Meetings, which were guidelines that ensured that the NCC would treat the Proponents in a consistent manner and that a fair approach to feedback and discussion was employed. We participated in internal training sessions with the NCC staff to ensure that the protocols were understood and would be adhered to.

We attended and monitored all Commercially Confidential Meetings with the Proponents and are satisfied that they were conducted in a fair manner.

We attended and monitored the Public Consultation process, including the two (2) day Public Exhibition from January 26th to January 27th and are satisfied that they were conducted in a fair manner.

2.2.2 Written Communication

With respect to written communication, we were responsible for reviewing all Notices, Addenda, and Communique to ensure they were clear, unambiguous and free from bias. We reviewed all RFIs, in order to ensure and confirm:

- Whether the information in the question was commercially confidential in nature, and if so, ensuring the response was fair (e.g. no general information was included in the response)
- Whether the response required a change to the procurement documentation; and
- Whether the response was clear, unambiguous and free from bias.

Additionally, we reviewed all Requests for Clarification (RFC) to ensure that:

- No new information related to the Proponent's submission was requested or received; and
- The question was clear, unambiguous and free from bias.

2.3 Evaluation Process

2.3.1 Evaluation Manuals

Prior to the commencement of the evaluation processes for the RFP, the NCC developed an Evaluation Framework, which documents the governance structure, methodology and approach to the evaluation process. Prior to finalising the Evaluation Framework, we reviewed and commented on the draft document, to ensure appropriateness, accuracy, completeness, and consistency between the methodology established in the Guide with the requirements, evaluation criteria and methodology described in the procurement documents.

2.3.2 Evaluation Training

All Evaluation Participants, Evaluation Committee Members and the Subject Matters Experts, attended evaluation training prior to participating in the RFP evaluation process to ensure that they understood the objectives of and the approach to the evaluation. We reviewed and contributed to the training material and attended all evaluation training sessions.

2.3.3 Submission Closing

The NCC implemented a process related to Submission Closings (for the RFP Submissions) to ensure that they were conducted in a fair manner. We reviewed and approved the process for the Submission Closings to confirm that the process was followed, and that there were no issues, from a fairness perspective.

2.3.4 Evaluation Meetings

We attended all internal evaluation meetings where Evaluation Participants met for consensus discussions and where Evaluation Participants presented their results through the established governance structure.

2.3.5 Evaluation Results

Throughout the evaluation process, and at the end of the process, we reviewed and validated the results to confirm that they were consistent with what we observed.

2.4 Meetings

P1 Consulting attended Project Team meetings, as directed by the NCC, for the purpose of observing and providing guidance or advice on the proposed processes and issues related to the Project.

In addition to ongoing project team meetings, the following meetings were held in the context of this project, with the Fairness Monitor in attendance:

- Commercially Confidential Meetings
- Evaluator orientation sessions
- Evaluator consensus sessions
- Proponent Presentation to Evaluation Team and Subject Matter Experts

2.5 Conflicts of Interest

A conflict of interest refers to situations in which personal, occupational or financial considerations may affect or appear to affect the objectivity or fairness of an individual. The Fairness Monitor must ensure that project participants who are involved in the Competitive Process identify and resolve any real, perceived or potential conflict of interest.

The NCC established a Relationship Review Committee (RRC) who received, analysed and developed a determination related to declared conflicts of interest. We participated in the RRC and were satisfied that any declared conflicts were managed and there were no concerns from a fairness perspective.

Every Subject Matter Expert (SME) and Evaluation Committee Member signed a duly completed Conflict of Interests form.

2.6 Confidentiality

The Fairness Monitor ensured that project participants who were involved in the Competitive Process adhered to the confidentiality policies provided by the NCC. As Fairness Monitor, P1 Consulting reviewed and provided input into such policies, and ensured that the relevant project participants have signed them.

During the evaluation phase, the Fairness Monitor reviewed and provided input into the development of the NCC guidelines with respect to receiving, storing, distributing and reviewing submissions in order to protect the commercial confidentiality of the Proponents.

All persons involved in the process have signed Non-Disclosure Agreement forms to ensure confidentiality. These include, NCC staff, SMEs, consultants working on the file (i.e., translators, technicians, and others) as well as elected officials, and Aboriginal Groups that participated in confidential briefings prior to the public consultations.

3.0 Requests for Qualifications Process

P1 Consulting did not participate in the Request for Qualifications (RFQ) process.

Based on RFQ Submissions, the NCC selected four (4) qualified Respondents to be invited to participate in the next stage of the Competitive Process (CP), the Request for Proposals stage, the purpose of which will be to select a Successful Proponent to enter into an agreement with the NCC.

3.1 RFQ Selection Result

The following four Respondents were selected as pre-qualified Proponents in accordance with the process defined in the RFQ:

1. Claridge Homes
2. Devcore Group
3. Focus Equities
4. RendezVous LeBreton Group

4.0 Request for Proposals Process

The NCC issued a Request for Proposals (RFP) on April 17th, 2015 inviting the four (4) pre-qualified Proponents to participate in the RFP process.

The RFP process followed the evaluation framework developed by the NCC.

On December 15, 2015, the submission deadline, the NCC received two (2) proposals (the “RFP Submissions”). The RFP Submissions were submitted by the DCDLS Group (formerly the Devcore Group) and the Rendez-Vous LeBreton Group.

4.1 Evaluation Structure

In the presence of the Fairness Monitor, an administrative review of both RFP Submissions was conducted by the NCC Evaluation Committee Secretary to ensure both RFP Submissions were administratively compliant and met the mandatory requirements.

An Evaluation Committee, comprised of five (5) members with specific expertise, reviewed the RFP Submissions and evaluated the RFP Submissions using the evaluation criteria and scoring grids set out in the RFP and Evaluation Framework.

Louise Panneton was the Lead Fairness Monitor and Oliver Grant was the Fairness Monitor. They or their delegates (P1 Consulting) attended and monitored all of the Evaluation Committee meetings as observers.

The Evaluation Committee received input from Subject Matter Experts (“SME”). The NCC enlisted SMEs from the NCC, City of Ottawa, and external experts from the private/academic sector to address the following fields of expertise:

- Decommissioning Strategies;
- Sustainability Strategies;
- Transportation Plan;
- Servicing Plan;
- Economic Development;
- Financial Assessment; and
- Business Terms

The Evaluation Committee also received a copy of the Public Consultation on the Redevelopment of LeBreton Flats – Draft Report.

4.2 Rated Review

The compliant proposals were reviewed by the Evaluation Committee. The Fairness Monitor concluded that the review was performed fairly and in compliance with the Evaluation Framework.

4.3 Clarification Process

Questions of clarification from the Evaluation Committee and/or the Subject Matter Expert teams were sent to and responded by the Proponents, and all clarifications and their responses were reviewed by the Fairness Monitor. The responses were taken into consideration during the evaluation. Any relevant fairness issues were received, reviewed and accepted by the Fairness Monitor and were addressed to the satisfaction of the NCC and the Fairness Monitor.

4.4 RFP Debriefing Process

[Note: To be offered to the successful and unsuccessful proponents following award of the RFP]

4.6 Location of Submissions

Some of the Evaluation Committee were provided electronic copies of the RFP Submissions. It is our understanding that all such copies are to be returned to the NCC once the RFP process is concluded. The remainder of the RFP Submissions (soft and hard copies) were securely stored at NCC's office.

4.7 Observations on RFP Process

The project team from the NCC and the Evaluation Participants undertook their respective roles diligently. They responded positively to all fairness comments and questions and there were no unresolved issues.

5.0 Conclusion

As the Fairness Monitor for the Project, and to the extent that we have been involved in the RFP Process, we certify, in our opinion that the Competitive Process was undertaken in a fair, open and transparent manner.



Louise Panneton
Fairness Monitor

c.c.: Oliver Grant
Fairness Monitor