



Request For Qualification

RFQ 05-02-2005

Fairness Auditor

SUMMARY OF KEY INFORMATION

1. Closing Date and Time: June 2, 2005 at 2:00 p.m. local time ("Closing Date")
2. Issuing Office: Purchasing Department
British Columbia Ferry Services Inc.
12800 Rice Mill Road
Richmond BC
V6W 1A1

Attention: Linda Borden, Purchasing Manager

Respondents may contact the Contact person in writing with any questions. BC Ferries reserves the right to distribute any questions and answers to all Respondents.

Contact Person: Linda Borden
Fax: (604) 277-0483
Email: linda.borden@bcferries.com

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1 INTRODUCTION

1.1 Overview

British Columbia Ferry Services Inc. (“BC Ferries”) invites firms or individuals with experience providing Fairness Auditor services to respond to this Request for Qualifications (the “RFQ”).

The purpose of this RFQ is to develop a list of qualified individuals who have an interest in providing Fairness Auditor services through the various stages of a complex respondent selection process, culminating in the execution of a project agreement. The overall objective is to ensure the process is fair, open, and transparent.

1.2 Background

In April 2003, BC Ferries was transformed from a Crown corporation into an independent, commercial organization under the Company Act. The new structure gives our company the means to grow a healthy, sustainable business in support of our mission:

To provide a safe, reliable and efficient ferry service which consistently exceeds the expectations of our customers and communities, and creates value for the shareholder.

The legislation that established BC Ferries – Coastal Ferry Act, includes a requirement for BC Ferries to prepare and carry out a plan to:

- seek additional or alternative service providers to provide, under contract, franchise agreement or otherwise, ferry services on the designated ferry routes serviced by the ferry operator in an effort to reduce the costs of providing those services on those designated ferry routes.

Our inaugural plan titled “Additional or Alternative Service Providers Plan – First Performance Term” has been filed with the BC Ferry Commission and can be found on the websites of both BC Ferries and the BC Ferry Commission.

When BC Ferries decides to seek additional or alternative service providers (“ASPs”) we feel it is important to provide assurances to respondents, BC Ferry Commission, and users that the process we follow is fair and transparent. This is especially important because when BC Ferries decides to seek out additional or alternative service providers it intends to compete against the other providers.

In any project, the Fairness Auditor will be an important participant. The Fairness Auditor will receive direction from the Director Business Development.

In addition to the Fairness Auditor, BC Ferries intends to retain other professionals who will make important contributions to support implementation of the “Additional or Alternative Service Providers Plan”.

A Legal Advisor will provide legal advice throughout any project and will prepare the contract that will be negotiated with the successful respondent.

If and when a Fairness Auditor is selected to work on a particular project the Fairness Auditor will be required to sign a Confidentiality Agreement, a Conflict of Interest Agreement and a Non-Compete Agreement. The Confidentiality Agreement requires that for the duration of the contract the Fairness Auditor (and its team) shall ensure there will be no communication in respect to the project with anyone outside the project team, except where such communication is required to complete the Scope of Work.

The Conflict of Interest Agreement requires the Fairness Auditor (and its team) to identify any conflict of interest through past or present business relationships in respect to the project with any member of a bid team, once identified. Any identified potential conflict of interest will be deemed a “reviewable” potential conflict of interest, such conflict of interest to be remedied so as to eliminate the actual or perceived conflict. If the conflict may not be remedied, the selected Fairness Auditor will be replaced.

The Non Compete Agreement prohibits the Fairness Auditor from working with another company or individual in conjunction with responding to a bid issued by BC Ferries to provide ferry services in BC. This prohibition is for a period of 5 years from the end of the most recent Fairness Auditor Engagement.

1.3 The List of Fairness Auditors

Based on an assessment of the Responses to this RFQ, BC Ferries intends to establish a List of Fairness Auditors.

BC Ferries with input from the BC Ferry Commission may, in its discretion, and from time to time use the List of Fairness Auditors to identify Fairness Auditors with relevant expertise in connection with specific projects involving Additional or Alternative Service Providers.

There is no obligation whatsoever on BC Ferries to:

- contact any one or more Fairness Auditors on the List; or
- to ask any one or more Fairness Auditors to enter into any Contracts.

The List is expected to be in place for a period of approximately four years from the original advertising date of this RFQ. The List may be updated and extended by BC Ferries at such time or times in the discretion of BC Ferries.

BC Ferries may, in its sole discretion and from time to time:

- extend the period during which the List is valid;
- request or permit one or more Fairness Auditors to submit additional information, including updated experience, availability and fee information;
- update the List at any time by adding new Fairness Auditors and removing Fairness Auditors from the List;
- Update the List based on revised eligibility criteria.

Fairness Auditors named to the List should promptly notify the Contact Person in writing of any material changes to the information contained in their Response. BC Ferries may, but will not be obligated to, update the List, at any time, in its discretion, to reflect such changes.

BC Ferries shall each have the right, at its discretion, to:

- select Fairness Auditors to enter into one or more Contracts directly from the List;
- develop and implement processes and criteria for identifying, classifying, selecting and retaining Fairness Auditors;
- invite any or all of the Fairness Auditors on the List to participate in competitive processes for one or more Contracts;
- develop shortlists of Fairness Auditors in connection with specific tasks and projects and invite the short-listed Fairness Auditors to compete for one or more Contracts in connection with the tasks and projects;
- employ other means or mechanisms to identify prospective Fairness Auditors, external to the List, or otherwise engage process auditors external to the List, in connection with any project or task;

- screen Fairness Auditor candidates for conflicts of interest and bind them to strict confidentiality obligations.

2 NATURE OF ENGAGEMENTS

2.1 Purpose and Description of the Engagement

The Fairness Auditor will provide independent monitoring of the entire transaction process, which includes the work to prepare all procurement documents, issuing the bid documents, bid closing, and evaluation stages. In addition the Fairness Auditor will monitor the activities in the process to execute the project agreement to ensure that they are implemented in a manner consistent with a competitive process which is conducted in an open, fair and transparent manner.

2.2 Timeframe for the Engagement

BC Ferries currently anticipates the each project will go through three distinct procurement phases:

- Request for Expressions of Interest
- Request for Qualification
- Request for Proposals

The length of the phases will vary depending on the nature of the project, but it is expected to be in the range of 16 to 21 months for each project.

2.3 Terms of Reference

The following are a suggested terms of reference. The final terms of reference will be agreed upon with the Fairness Auditor based on the specifics of the proposed procurement and concerns of key stakeholders.

The Fairness Auditor will act as an independent observer and will provide arms length advice to the project team and independent assurance to BC Ferries, BC Ferry Commission and interested Alternative Service Providers as to the fairness and appropriateness of project management activities related to the procurement process. At the end of that process (including if the process is terminated) the Fairness Auditor will provide an independent opinion as to whether the project team faithfully and fairly carried out this process, with respect to the terms set out in the RFQ. Specifically, the Fairness Auditor will do the following:

1. During the procurement process, provide the Director Business Development, and BC Ferries Senior Executive Management (“Sr. EMC”), if appropriate, with advice. The Fairness Auditor may provide advice to the Director Business Development, Sr. EMC as deemed to be appropriate. In addition the Director Business Development, and Sr. EMC may seek advice as needed.
2. In advance of key procurement process decisions being finalized, the Auditor shall meet with the Director Business Development and other members of the project team to:
 - a. Receive updates and review project documents;
 - b. Ask any questions the auditor deems necessary to test the logic, fairness and merit behind decision-making activities and processes;
 - c. At the request of the Director Business Development, provide confidential advice and perspective on the procurement process; and
 - d. At the request of the Director Business Development report verbally and in confidence as to whether the Fairness Auditor is satisfied the project team has fairly

implemented and materially complied with the relevant procedures or evaluation criteria.

The key events are expected to be:

- a. The decision to carry on with the procurement process following the Request for Expression of Interest Stage, or a decision to discontinue the process at this stage;
 - b. The decision to qualify or not to qualify respondents from a Request for Qualification stage (RFQ) stage, or a decision to discontinue the process at this stage;
 - c. Selection of a lead respondent from a Request for Proposals (RFP) stage, or a decision to discontinue the process at this stage;
 - d. Conclusion of negotiations, or a decision to negotiate with another respondent or to discontinue the process upon failure of negotiations.
3. At the conclusion of the procurement process, the Director Business Development will ask the Fairness Auditor to provide a written opinion to the Sr. EMC addressing the following matters:
- a. the extent to which BC Ferries and their advisors followed the procedures and fairly applied the evaluation criteria specified in the RFEI and subsequent documents;
 - b. the extent to which, where judgement and interpretation is allowed or required, the project team exercised judgement and made interpretations in a fair and impartial manner; and
 - c. to the extent that amendments to the process were permissible, that decisions with respect to amendments were made in a fair and impartial manner.
4. During the procurement process, respondents will be able to bring grievances to the Fairness Auditor for review.

The Fairness Auditor shall be:

1. provided full access to all information related to the procurement processes as the Fairness Auditor decides is required, including documentation, personnel, premises, meetings, reports and minutes; and
2. kept fully informed by the Director Business Development, or his delegate, of all documents and activities associated with the procurement processes.

None of the above duties of the Fairness Auditor shall be delegated to any other person without the written approval of the project's authorized contact person.

The information obtained by the Fairness Auditor in the performance of the duties is commercially sensitive and shall at all times be treated as confidential and privileged.

2.4 Scope of Work

The Fairness Auditor will provide services, related to the above Terms of Reference, through the following stages of the proposed transaction process:

- preparation of procurement documents
- bid period
- bid closing
- bid evaluation process
- Respondent feedback process
- review of financial submissions
- notification of Respondents
- execution of Project Agreement

During these stages, the Fairness Auditor will provide such services to include, but not be limited to the following:

Meetings: attend meetings with BC Ferries as directed, for the purpose of observing and providing guidance on the proposed processes related to ASP transaction in question.

Advice on Best Practices: ensure that all BC Ferries' project team members are provided with briefings on best practices including the principles and duties of fairness, care and protection of confidential information, avoidance and disclosure of conflict of interest, bias and undue influence, scoring procedures and sign-off on individual scoring sheets, preparation, treatment and retention of evaluation documents.

Respondent briefing and Debriefing Sessions: attend and monitor all briefing sessions with potential respondents and respondent debriefing sessions.

Review of Bid Documents: review the bid documents, and, as required, other documents related to the procurement process.

Evaluation Meetings: observe, facilitate and document evaluation meetings of initial and resubmitted bid submission, and provide verbal and written comments with respect to: fairness, objectivity, consistency of process, conflict of interest, confidentiality, in the evaluation of bids, ensuring strict accordance with the specifications and criteria set out in the bid documents.

Interim Reporting and Report: monitor and document, at points in the procurement process identified at the outset of the Engagement, issues raised, solutions arrived at, and actions required and taken to ensure consistency with the approved objectives. The interim reports will be made publicly available.

Final Report: prepare a final report for BC Ferries and to other parties, as BC Ferries may direct, at the conclusion of the procurement process to accompany the recommendation of the selected respondent, as to whether and how the procurement process has complied with fairness, openness and transparency requirements. The final report will be made publicly available.

Note:

Meetings: The nature of any Engagement demands that in the normal course of completing the Engagement, the Fairness Auditor will be required to convene numerous meetings, and will attend meetings convened by others, some on short notice. As a result, Respondents must be based within the Lower Mainland or Southern Vancouver Island.

It is important that the scope and cost of Fairness Auditor services be in proportion to the size of the ASP project. Some could be large, with a contract value well in excess of \$100 million dollars and others could be much smaller, contract value \$25 million. BC Ferries would like to agree on a fixed price fee for Fairness Auditor services for each project based on its size and complexity.

The Fairness Auditor will prepare minutes for all meetings convened as a part of this Engagement, and will distribute the minutes within five business days to a list of individuals identified by BC Ferries.

2.5 Deliverables

The Fairness Auditor will be responsible for preparing at the end of the Engagement, a report to record the Fairness Auditor's activities through the procurement, respondent selection, financial negotiation, and agreement execution process in a manner that can be used as a guide for future ASP projects.

3 SELECTION CRITERIA FOR LIST ELIGIBILITY

A typical Fairness Auditor candidate possesses the experience and reputation that would make them a credible mediator or arbitrator of a complex commercial dispute.

BC Ferries wishes to identify prospective Fairness Auditors with experience and knowledge directly relevant to either alternative service delivery and/or marine transportation.

3.1 Mandatory Criteria

The following are mandatory requirements. Responses not clearly demonstrating that they meet the following will be excluded from the initial evaluation process.

- 1) Response received at the Response Location before the Response Time.
- 2) Response in English and not sent by facsimile or email.
- 3) Substantially comply with the Response format and content requirements stated herein.
- 4) Response includes a cover letter signed by the person(s) authorized to sign on behalf of and bind the Respondent to statements made.
- 5) Based within the Lower Mainland or Southern Vancouver Island.

3.2 Desirable Criteria

Respondents will be considered for eligibility on the basis of the information presented in the Response and in any subsequent clarifications and reference checks. Preference will be given to those who demonstrate that they meet all or the majority of the following criteria:

- 1) Reputation appropriate to the role of Fairness Auditor, including references provided.
- 2) Broad commercial or professional knowledge and experience.
- 3) Knowledge and experience relevant to procurement practices.
- 4) Experience with or understanding of ASD Models.
- 5) Knowledge and experience relevant to British Columbia labour/political conditions.
- 6) Knowledge and experience relevant to the marine transportation sector.

4 RESPONSE DELIVERY, FORMAT, & CONTENT REQUIREMENTS

To ensure each Response receives full and consistent consideration, all Responses should conform to the following delivery, format, and content requirements.

BC Ferries does not make any representation, warranty or guarantee as to the accuracy of the information contained in this RFQ or issued by way of addenda. It is the Respondent's responsibility to avail themselves of all the necessary information to prepare a submission in response to this RFQ.

4.1 Delivery

Responses are to be submitted by hand, mail or courier to the Response Location before the Response Time. Responses submitted by facsimile or by email will not be accepted.

Each Response is to be delivered in a package or envelope clearly labelled with the "RFQ Title", "Contact Person", and "Response Location" all as shown below. The name and mailing address of the Respondent should also be clearly shown.

The Response Location is:
Purchasing Department

British Columbia Ferry Services Inc.
12800 Rice Mill Road
Richmond BC
V6W 1A1

RFQ Title is "05-02-2005"

Response Time is 2:00 pm local time, June 2, 2005.

Contact Person is Linda Borden
Fax (604) 277-0483
E-mail: linda.borden@bcferries.com

4.2 Format

Each of the five (5) complete copies of the Response should be in on single sided 8.5" x 11" paper. Where practical, text should be 1.5 x spaced and not smaller than 11-point typeface.

4.3 Content

Each Response should include the following elements in the sequence described:

A. Respondent Information Summary: This should provide the following information about the Respondent (individual or firm):

1. Name, mailing address, telephone number, and email address.
2. Corporate and government affiliations, appointments, and positions held within the last five (5) years.
3. Describe the Respondent's business and/or professional knowledge and experience relevant to;
 - (a) marine transportation infrastructure development or operations & services projects (if any),
 - (b) market sectors other than transportation (if any),
 - (c) British Columbia economic & business conditions,
 - (d) government or private sector procurement practices, and
 - (e) planning and implementation of ASD models (if any).
4. Any additional information or experience that may potentially be relevant to the selection of the Respondent as a Fairness Auditor.
5. The name, title, employer and telephone number of three (3) references who can and will verify information in the Response and attest to the character and reputation of the Respondent. Also include a brief description of any past work done for the reference.
6. The Respondent's (individual and firm) quoted daily rates.
7. The Respondent's willingness to negotiate a fixed fee arrangement.
8. The Respondent's estimated cost range to complete a small and large project. Note BC Ferries is not looking to hold individuals or firms to the ranges presented, rather we are trying to gain an understanding from service providers what they feel is an order of magnitude cost for Fairness Auditor services. A small project would be one with a contract value of \$25 million and a large project would be one in excess of \$100 million.

9. Approach and willingness to tailor the services of the Fairness Auditor to different sized ASP projects.
10. The Respondent's geographic location.
11. Availability to attend a workshop in Vancouver on June 15, 2005.

The Respondent Information Summary for a single individual should not exceed ten (10) pages. In the event that a firm would like to qualify multiple Fairness Auditors the corporate description of the firm and experience should be limited to 5 pages with a maximum of 5 pages per individual to a total maximum of 30 pages.

B. Curriculum Vitae - a current resume describing the Respondents (individuals only) relevant experience (maximum 3 pages). This should include education achieved, relevant Engagement summaries and years of work experience.

5 SUBMISSION EVALUATION

Evaluation of Responses will be by an Evaluation Committee formed by BC Ferries and may involve external parties. Any external parties will be required to sign a Confidentiality Agreement before reviewing Responses.

5.1 Clarifications

The Evaluation Committee may, in its discretion, request clarifications and additional information from any Respondent and for that purpose may contact any Respondent. The Evaluation Committee may, but is not obligated to, consider any such clarifications and additional information in its assessment of a Response against the evaluation criteria. The Evaluation Committee is neither obligated to request clarifications or additional information from any or all Respondents nor to submit the same questions to any or all Respondents.

5.2 Reference Checks

The Evaluation Committee may, in its discretion, contact some or all of the references listed in each Response to verify the information provided in each Response and to conduct reference checks. The Evaluation Committee will not notify Respondents before reference checks are undertaken. The Evaluation Committee may contact people aside from the reference list provided by respondents to verify the information in each response. The Evaluation Committee may include the replies to references checks in the evaluation of Responses.

5.3 Review and Classification

An Evaluation Committee will assess each response against the desirable criteria and the Respondent will be classified on the basis of the information presented in the Response and in any subsequent clarifications and reference checks.

5.4 Respondent's Meeting

There is no Respondent's meeting anticipated at this time. All parties who return the completed Receipt Confirmation Form will be advised by the Contact Person if a Respondent's Meeting is scheduled.

6 GENERAL TERMS AND CONDITIONS

6.1 No Contract

This RFQ is not an agreement to purchase goods or services, and BC Ferries is not obligated to enter into any contract or agreement as a result of this RFQ, or the creation of the List. No legal relations, or legal obligations, of any kind whatsoever, will arise from this RFQ, and by responding to this RFQ a Respondent affirms and agrees with the provisions of this RFQ including the provisions of this Section.

Notice in writing to a Respondent that it has been identified as a Fairness Auditor will not constitute a Contract, an agreement to purchase goods or services, or any agreement whatsoever.

6.2 Respondents' Expenses

Respondents are solely responsible for their own expenses in preparing a Response and for subsequent negotiations or competitions arising from or in connection with any Contract, if any.

6.3 No Liability

There will be no liability on the part of BC Ferries to any Respondent for any claims, including without limitation, for costs, damages, or loss of anticipated profit, incurred by the Respondent arising from or in connection with preparing the Response, this RFQ, or any other matter whatsoever.

6.4 Amendments to and Cancellation of Process

BC Ferries reserve the right to modify the terms of this RFQ at any time in its sole discretion. This includes the right to cancel this RFQ or any List Fairness Auditors at any time without entering into any Contracts.

6.5 Ownership of Responses

All documents, including Responses, submitted to BC Ferries become the property of BC Ferries. Documents will be received and held in confidence by BC Ferries.

RECEIPT CONFIRMATION FORM

**RE: REQUEST FOR QUALIFICATION
FAIRNESS AUDITOR
RFQ 05-02-2005**

Please complete this form and return **WITHIN 3 WORKING DAYS** to:

British Columbia Ferry Services Inc.
Purchasing Department
12800 Rice Mill Road
Richmond, BC V6W 1A1
Attention: Linda Borden
Fax Number: (604) 277-0483

COMPANY: _____

ADDRESS: _____

CITY: _____ POSTAL CODE: _____

CONTACT PERSON: _____ TITLE: _____

PHONE NUMBER: _____ FAX NUMBER: _____

EMAIL ADDRESS: _____

I have received a copy of the above noted document.

A. _____ We **will** be submitting a response.

_____ We **will not** be submitting a response.

B. I authorize BC Ferries to send further correspondence concerning this RFQ by the following method.

Courier Collect:

Mail:

Fax:

SIGNATURE: _____ TITLE: _____ DATE: _____

**FAILURE TO RETURN THIS FORM WILL RESULT IN
NO FURTHER COMMUNICATION REGARDING THIS RFQ.**