PRP International, Inc.

Fairness Advisory Services

Final
Fairness Report

Renewable Energy Supply
Phase III
Request for Proposal

Ontario Power Authority
March 10, 2009

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I. Background:

The Request for Proposals (RFP) for approximately 500 MW of Renewable Energy Supply Phase III ("RES III RFP"), issued August 22, 2008, as amended, established the process and schedule requirements for Registered Participants to submit RES III Proposals to OPA for evaluation and determination of Selected Proponent(s). The objective of the RES III RFP was to secure approximately 500 MW of renewable energy supply projects that would meet a Commercial Operation Date of not later than December 31, 2012. OPA designed the RFP to permit the award of multiple contracts subject to the number of Proposals and Transmission Screening in the Evaluation Process, and the terms and conditions of the RFP.

II. Fairness Advisor Role:

PRP International, Inc. was appointed the Fairness Advisor for the RES III RFP. Peter Sorensen performed the duties of the Fairness Advisor with standby and as required technical assistance from Wayne J. Oliver of Merrimack Energy Group, Inc.

In performing the Fairness Advisor role, a fairness framework was established for the RFP which provided a reference for assessing the OPA "fairness" objectives and execution of the RFP for a competitive, fair and transparent procurement transaction. This framework is illustrated in the graphics attached in Schedule A, to this report.

The Fairness Advisor was actively involved in monitoring the conduct of the RFP from a period prior to the release of the RFP on August 22, 2008 through to the conclusion of the evaluation process, on or about November 27, 2008. The key activities of the Fairness Advisor were:

- Reviewing the RFP prior to its release and the addenda issued during the bidding period,
- Attending public technical information sessions for bidders/Registered Participants,
- Observing the one-on-one confidential individual information sessions between a Registered Participant and an OPA interview team,

- Participating in the orientation and training of the evaluation team,
- Monitoring the consensus deliberations of the evaluation team,
- Observing the debriefing of results to Proponents, and
- Reporting on the fairness advisory role.

The scope of the Fairness Advisor role concluded with the results of the evaluation process being submitted to the OPA Project Manager for the RES III RFP.

III. Observations (of the Evaluation Process):

Preparation for Evaluation of Proposals:

Guidelines and Protocols:

OPA developed guidelines and protocols for the conduct of the evaluation of Proposals, in consultation with their legal advisor and the Fairness Advisor.

Technical Evaluation Team Orientation:

As part of the evaluation team's preparation for evaluating the Proposals, the team received presentations on:

1. RES III Objectives;
2. The RFP and the Evaluation Process (Stages 1 to 4);
3. The role of the Fairness Advisor; and
4. The detailed evaluation criteria and schedule.

The evaluation team reviewed the materials and convened a session to discuss their responsibilities and evaluation methodology. The team validated the criteria and methodology prior to receiving any Proposals for evaluation.

OPA Evaluation Management and Decision Process:

Consistent with the RFP, OPA established a framework for managing the evaluation phase and the subsequent senior management consideration

of the Selected Proponent(s) report from the evaluation team. Key functions and activities included:

1. An overall OPA project manager being responsible for the conduct of the RFP and evaluation phases,
2. Certain key management involvement, with as required legal advice, where circumstances in the evaluation process might warrant the possibility of the RFP reserved rights of OPA being invoked, and
3. Upon receipt of the evaluation team report, a management due diligence and final decision making process.

Structure of the Evaluation Process:

The Evaluation Process consisted of four (4) stages:

1. Evaluation of the Mandatory Requirements (including the steps for Receipt and logging of Proposals and Completeness Review)
2. Rated Criteria (including Mandatory Compliance and Technical Proposal Evaluation),
3. Economic Bid Evaluation (including the Transmission Screening requirements), and
4. Determination of recommended Selected Proponents.

The OPA contracted with an external third party to be responsible for receiving Proposals and logging the time the Proposals were received.

Ms. Gia DeJulio, Manager, Generation Development (OPA Project Manager for the RES III RFP) conducted the Completeness and Mandatory Compliance Review of the Proposals received with Ms. Sheri Bizarro, Procurement Analyst and the Fairness Advisor in attendance. Ms. DeJulio and Ms. Bizarro acted as the OPA Project Team for the evaluation and selection process. Legal advisors from the firm Stikeman Elliott LLP were responsible for reviewing and advising the OPA Project Team on the legal completeness and compliance with the Proposal Security and related Proposal completeness requirements.

A five (5) person Technical Evaluation Team was constituted with three members from different groups within OPA (with no evaluator being from Generation Development) and one from the Independent Electricity System Operator. An independent consultant served as the chairperson of the Technical Evaluation Team.

Conduct of the Evaluation and Determination of Selected Proponents:

The following summary represents substantively the conduct of the Evaluation Phase.

Stage 1:

Proposals Received:

Twenty-three (23) Proposals were received; all prior to the deadline set out in the RFP

Completeness Review:

All Proposals were reviewed for completeness and the submission of Proposal Security. Twenty-one (21) Proposals were complete and submitted to the Evaluation Team for evaluation. Two (2) Proposals were determined to be unqualified Proposals and not meeting the Submission requirements thus being disqualified and not considered further in the evaluation phase.

Mandatory Compliance:

The Evaluation Team determined that nineteen (19) Proposals met the mandatory criteria and undertook the evaluation of the Proposals against the Rated Criteria and subsequently the Economic Bid Statement Evaluation. Two (2) Proposals were determined to not meet all of the Mandatory criteria and were disqualified and not considered further in the evaluation phase.

Stage 2:

Rated Technical Evaluation:

The Evaluation Team determined that all nineteen (19) Proposals passed the minimum score required in the rated criteria evaluation. The team reached consensus on the score allotted to each Proposal.

Stage 3:

Transmission Screen and Price Statement Evaluation:

The OPA Project Team, augmented by OPA transmission specialists, using a spreadsheet model, computed the Evaluated Proposal Price, screened, evaluated and concurred with the ratings for each Proposal based on the respective Price Statements. In accordance with the transmission screen criteria and Stage 3 steps, ten (10) Proposals were set aside as a result of the Transmission Screen. Six (6) Proposals had Evaluated Proposal Prices within the Adjusted Price Ceiling and were ranked lowest to highest price per MWh. Three (3) Proposals were set aside in Step 3, as a result of having an Evaluated Proposal Price above the Adjusted Price Ceiling.

Stage 4:

Final Stack and Selected Proponents:

The OPA Project team ranked the six (6) Proposals from the lowest price per MWh to highest and concurred that these six (6) Proposals be recommended to the OPA management and Board of Directors to become Selected Proponents for contract awards.

IV. Findings on the Results of the Evaluation Process:

With respect to the three (3) "fairness" objectives for a competitive, fair and transparent procurement transaction, the following findings are made:

Competitive:

The scope of the RFP was open to all projects of renewable energy supply technologies located in Ontario and the guiding principles were clearly articulated to potential bidders and Registered Participants in the RFP, including the provision of detailed transmission grid maps. The eligible projects were also well defined and subject to discussion during public technical information sessions and confidential individual information sessions.

The terms and conditions of the RFP and the Contract were clearly defined and subject to discussion during public technical information sessions and confidential individual information sessions. Two (2) Addenda were issued and 165 questions and answers were provided in the first period and another 118 questions and answers in the second were provided during the bidding period.

Accordingly, twenty-three (23) Proposals were submitted by fourteen (14) Registered Proponents in response to the RFP resulting in a competitive RFP.

Fair:

The fairness framework ascribes three (3) primary attributes to a 'fair' objective: objectivity, competency, and consistency.

With respect to objectivity:

- all personnel assigned to this RFP had assigned roles and responsibilities and operated on the principle of "need-to-know only for your specific role", i.e. members of the OPA Interview Team for the Confidential Individual Information sessions were not on the Technical Evaluation Team and the Technical Evaluation Team members were not engaged in prior activities during the evaluation process, e.g. the receipt of Proposals, the Completeness Review, etc.
- each evaluation team member also provided a written confirmation of "no conflict of interest" – one (1) potential evaluator was replaced upon review of the submitted Proposals to assure no perception of any real or perceived conflict of interest on the team, and
- the decision protocols, including the OPA management role, were clearly set out in the RFP by way of the terms and conditions, as well as the detailed evaluation process.

With respect to competency, the OPA team demonstrated a thorough understanding of their role and responsibilities as well as the purpose and process for the RFP. Additionally, OPA was supported by qualified external legal advisors, technical advisors and outside participants for the evaluation team.

With respect to consistency, the OPA team demonstrated consistency in its consultation with potential bidders and Registered Participants, the conduct of the RFP, including the process of issuing Addenda to the RFP and the Contract, and the conduct of the evaluation process.

Accordingly, the conduct and result of the RES III RFP is judged to have been done in a fair (objective, competent and consistent) manner.

Transparent:

With respect to transparency, the RFP, the Contract and related communications (public technical information sessions, confidential individual information sessions, etc.) clearly:

- stated the requirements for becoming a Registered Participant, for eligible Projects and for compliant Proposals,
- set out and described the evaluation process, the criteria and the stages for determining the qualification and ranking of Selected Proponents, as well as the conditions for award of Contract(s) by OPA,
- set out the decision roles, e.g. the position and role of the OPA contact person, the evaluation team, OPA management and Board of Directors, and
- set out the process rules for the conduct of the RFP, e.g. the Schedule, the reserved rights of OPA, the Proposal requirements, the Contract, and the question and answer process.

Accordingly, the conduct of the RES III RFP is judged to have been carried out with a high degree of transparency.

V. Proponent Debriefings:

Following the announcement of contract awards to six (6) Proponent Projects, OPA offered all Proponents a debriefing for their project(s) on the results of the evaluation process. A consistent level of debriefing was provided each Proponent.

VI. Conclusions:

PRP International, Inc., the Fairness Advisor, concludes that OPA conducted the evaluation of the twenty-three (23) Proposals received for the RES III RFP in accordance with the terms and conditions, the evaluation process, and the mandatory, rated and economic bid statement criteria, as disclosed in the RFP.

Accordingly, PRP International, Inc. affirms its judgment on the conduct of the evaluation and selection process of the RES III RFP:

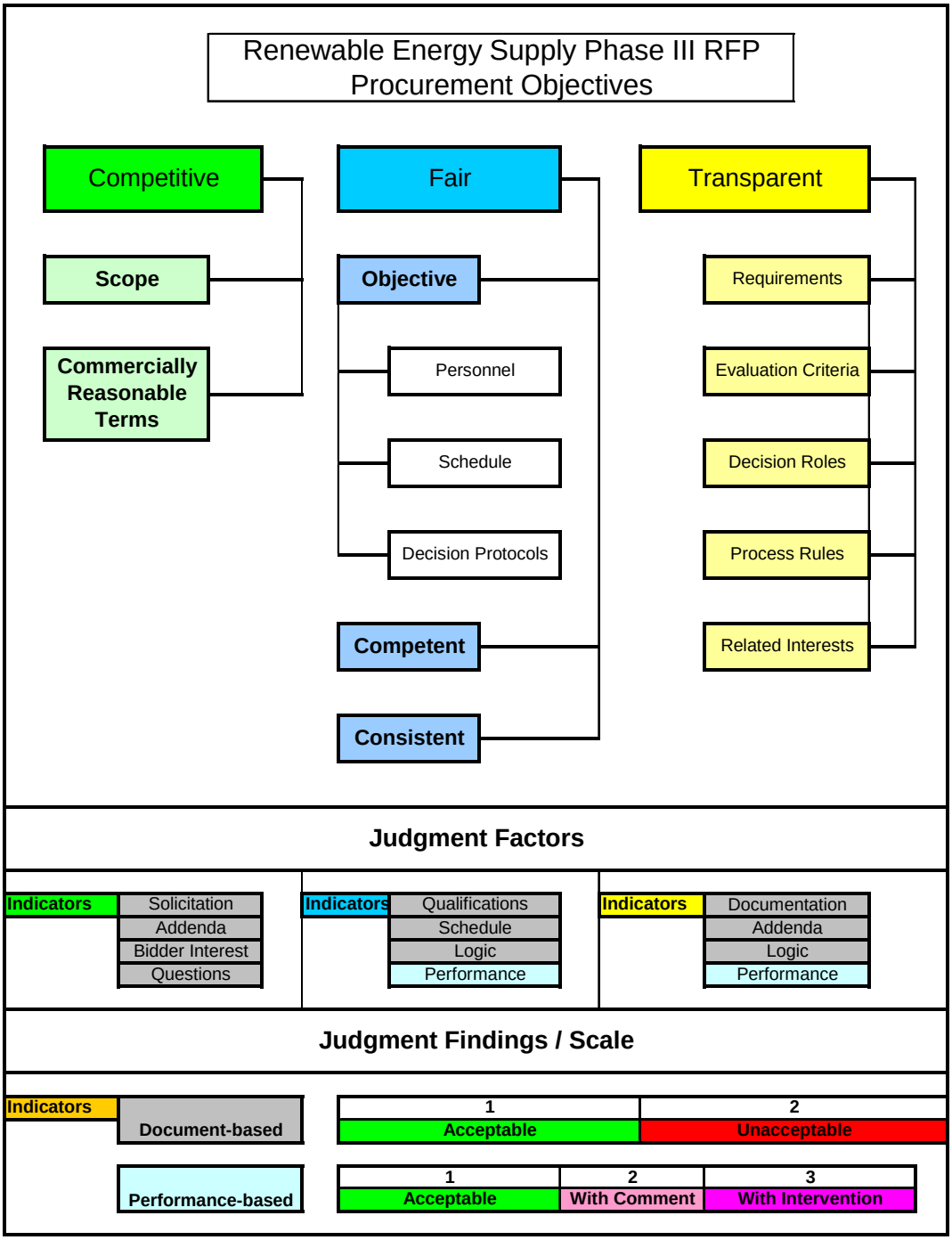
> "It is the judgment of PRP International, Inc., as the Fairness Advisor, that following the completion of the evaluation phase (Stages 1 through 4), the determination of the Final Stack of Proponents as listed hereunder was made in a fair (objective and competent) manner and consistent with the evaluation and selection processes set out in the RFP, issued August 22, 2008, and as amended by Addendum Number 1 and Number 2, issued October 10 & 17, 2008, respectively."

Proponent Name (Project Title)	**Contract Capacity (MW)**
Kruger Energy (Kruger Energy Chatham Wind Project)	**101.2**
Renewable Energy Systems Canada (RES) (Talbot Windfarm)	**99.0**
Renewable Energy Systems Canada (RES) (Greenwich Windfarm)	**99.0**
Raleigh Wind Power Partnership (Raleigh Wind Energy Centre)	**78.0**
SKYPOWER Corp. (Byran Wind Project)	**64.5**
Gosfield Wind Limited Partnership (Gosfield Wind Project)	**50.4**

Yours truly,
PRP International, Inc.

Peter Sorensen
President

Schedule A: Fairness Framework



FAIRNESS FRAMEWORK		
ATTRIBUTES Elements *Sub-Elements*	Framework descriptors of procurement best practices for the achievement of a competitive, fair and transparent transaction(s).	Outcome
COMPETITIVE	A procurement transaction which attracts and retains a minimum of 3 bidders through to the bid closing and into the final stage of evaluation resulting in the selection of winning bidder(s).	√
Scope Requirements	The scope of the requirement is generally appropriate for the industry sector involved resulting in competitive interest.	√
Commercially Reasonable Terms	The contractual terms and conditions are generally appropriate for the industry sector involved and the scope of the requirement.	√
FAIR	To be fair and seen to be fair is a measure of the attributes and behaviours related to objectivity, competency and consistency.	√
Objective	The development and execution of the management and decision making related to the determination of an outcome from the bidding process is objective as measured by the people, timing and decision logic attributes.	√
Personnel	Conflict free; multi-disciplined representation; and trained evaluators reasonably familiar with the requirements and the process to select a winning bidder(s).	√
Schedule	Timing is equitably allocated for the development of the RFP, the bidding period, the evaluation and selection/approval periods of the transaction. Changes are based on unbiased positions and a "no change" period prior to the bid closing date is included.	√
Decision Protocols	Decision protocols are established prior to receipt of bids and are relevant, appropriate and enforceable by the evaluators and decision makers.	√
Competent	All key individuals involved in the transaction have the requisite knowledge, understanding and abilities to carry out their respective duties.	√
Consistent	The process management framework and all key individuals are guided and capable of applying the process logic and their judgments in a consistent and equitable manner in all circumstances.	√
TRANSPARENT	Transparency involves the willingness and the practices of providing all relevant and impartial information disclosures during the transaction and includes the adherence to the attributes outlined below.	√
Requirement	The solicitation and supporting documents are clear, unambiguous and fully disclosed to the parties that require them.	√
Evaluation Criteria	The evaluation criteria is clear, relevant, useable and available to the bidders and evaluation teams prior to bid closing time (at the prescribed level of disclosure for	√

FAIRNESS FRAMEWORK		
ATTRIBUTES Elements *Sub-Elements*	Framework descriptors of procurement best practices for the achievement of a competitive, fair and transparent transaction(s).	Outcome
	the respective parties, e.g. bidders - levels 1 and 2, and evaluators - level 1, 2, and 3.)	
Decision Roles	Clear and appropriate decision logic (tree) with roles and responsibilities is disclosed to bidders; and key individuals involved in the evaluation and selection processes have been determined and provided training prior to the close of the bidding period or before commencement of evaluation duties.	√
Process Rules	The transaction terms and conditions are clearly disclosed in the solicitation documents to bidders; and a process management framework is disclosed and available internally to all key individuals involved in the transaction.	√
Related Interests	Where existing suppliers or other interests have been previously and materially associated with the new requirement and bidding transaction, such interests are fully disclosed to bidders and any past information related to a previous supplier's activity is warranted to other bidders or independently reviewed.	N/A

Schedule B: Fairness Report(s)

REPORT Number 1: Confidential Individual Information Sessions

Report of the Fairness Advisor
Registered Proponent Interview Phase

I. Background:

The Renewable Energy Supply III (RES III) Request for Proposal (RFP) of August 22, 2008, as amended, established the process and schedule requirements for Registered Proponents (Proponent) to elect to meet with OPA on a confidential basis, during the Individual Information Interview Phase.

II. Observations:

Preparation for Registered Proponent Interviews:

OPA outlined the objectives and protocols for the conduct of the interviews in the RFP.

Structure of Interviews:

The RFP provided for one (1) hour interview session for each Project proposed by a Registered Proponent. The principal objectives for the sessions were to:

- Identify obvious errors in the RFP and Contract,
- Identify and clarify any perceived deal breaker terms
- Clarify and simplify language
- Identify loopholes,
- Assure a balanced and objective criteria for evaluation purposes, and
- Generally, enable a confidential and constructive dialogue between OPA and a Registered Proponent for mutual understanding and clarification of desired outcomes and solutions.

The OPA interview team consisted of Ms. Gia DeJulio, Manager, Generation Procurement and Ms. Sheri Bizarro, Procurement Analyst. The team also included Mssrs. Chris MacIntyre, Associate, and Richard Duffy, Associate, from Stikeman Elliot LLP, the legal advisor to OPA. These team members would not participate as members of the Technical Evaluation Team and the information acquired during the sessions was intended for the sole purpose of improving and finalizing the RFP and Power Purchase Agreement prior to the last day for addenda to the RFP or Contract (October 10, 2008).

The Fairness Advisor, Peter Sorensen was present and observed each interview session.

Each party was responsible for recording the discussions. No verbatim transcript or minutes of the sessions were taken. No handouts or exchanges of material were permitted among the parties. Proponents were encouraged to submit details or subsequent questions or comments to OPA through the RFP website Question & Answer vehicle for Registered Proponents.

Conduct of the Interviews:

The following summary represents substantively the conduct of the sessions with the Registered Proponents:

- A brief introduction started each session, including a short comment by the Fairness Advisor that his role was to observe and not participate in the session.
- All sessions were conducted face-to-face at the OPA office in Toronto during the scheduled time for the interviews, e.g. from September 12 to 19, inclusive. In one session, a Proponent had a fellow team member participate via teleconference.
- The same OPA team participated in the sessions with the Legal Advisors rotating for certain sessions.
- All Proponents structured and managed their allotted time (60 minutes). Proponents generally focused on comments and observations related to three (3) general areas:
    1. the application of the Mandatory and Rated Criteria;
    2. clarifications and intent of certain sections in the RFP and Contract; and
    3. Project eligibility, e.g. different technologies, transmission limits.

- All sessions were concluded within the allotted 60 minutes.
- All sessions were conducted consistently and in accordance with the established protocols communicated to parties. There were no requirements for the Fairness Advisor to intervene in the conduct of any session. There were no challenges or objections posed by any Registered Proponent to the conduct of the sessions.
- During one (1) session the Fairness Advisor was requested to comment on the Prohibited Communications provision of the RFP (s. 2.6.2) and in responding the Fairness Advisor concluded that the situation under discussion would violate the intent of the RFP section.

Results of the Interview Phase:

Following the conclusion of the Individual Information Interviews, OPA issued Addendum #1, October 10, 2008. This Addendum provided amendments to the RFP and Contract which responded to a number of common observations by Registered Proponents. The following summary is provided for illustrative purposes only and is not intended to observe on every change:

- Stage 3.2 – Mandatory Requirements:

  Clarification, completeness, editing and/or consistency amendments, e.g. addresses for site location, Contract Facilities on lands governed by the Indian Act, Resource Availability Data, Solar technology project requirements.

- Stage 3.3 – Rated Criteria:

  Clarification, completeness, editing and/or consistency amendments, e.g. Proposals will not only be evaluated on the respective progress continuum but also the other requirements of each criteria, submission requirements for Projects that may not fall under Provincial Environmental Assessment requirements, and criteria for solar projects.

- Stage 3.4 – Evaluation and Selection Process:

  Clarification, completeness, editing and/or consistency amendments, e.g. Transmission Limits and Proposal screening process.

- Appendices:

  Clarification, completeness, editing and/or consistency amendments, e.g. where required certain Appendices were updated for consistency with amendments within the RFP, certain Definitions were amended.

- Addendum #1 – RES III Contract:

  Clarity and policy amendments, e.g. Early COD, Environmental Attributes.

A second Addendum was issued October 17, 2008 to correct an error in Addendum #1.

III. Conclusions:

PRP International, Inc., acting the Fairness Advisor, concludes that OPA:

1. set out objective protocols for Registered Proponent interviews,
2. conducted the interviews with each and all Registered Proponents in a consistent and fair manner,
3. considered diligently the comments and questions presented through the interview phase and rendered decisions that were consistent with the stated RFP mandate and objectives and the interview objectives and protocols, and
4. where required, made amendments to the RFP and Contract that were not inconsistent or inappropriate in the circumstance with the OPA objectives for achieving a competitive, fair and transparent procurement.

Accordingly, PRP International, Inc. renders the following statement:

"It is our judgment that OPA, with respect to the conduct the of Registered Proponent Confidential Individual Interview phase of the RES III RFP, has made determinations for the identified issues and comments that are in accordance with the RFP objectives and terms and are not inappropriate or inconsistent with achieving a competitive, fair and transparent procurement."