



# FAIRNESS ADVISOR'S FINAL REPORT

Independent Electricity System Operator

Request for Qualifications for the Procurement of Long-Term Electricity  
Reliability Services

RFQ Name: IESO LT1 RFQ

RFQ Issued: June 3, 2022

Closing: June 30, 2021, 3:00:00 PM EDT

Revised Closing: August 11, 2021, 4:00:00 PM EDT

**REPORT ISSUED: December 21, 2022**



**ROBINSON  
GLOBAL  
MANAGEMENT**

December 21, 2022



Ms. Sheri Bizarro  
Supervisor, Resource Acquisition and Contracts  
Independent Electricity System Operator  
120 Adelaide Street West, Suite 1600  
Toronto, Ontario, Canada  
M6H 1T1

**Re: Fairness Advisor Report to the Independent Electricity System Operator for the Request for Qualifications for the Procurement of Long-Term Electricity Reliability Services**

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Dear Ms. Bizarro,

Robinson Global Management Inc. ("RGM") was retained as the Fairness Advisor (FA) for the above-mentioned procurement process on May 3, 2022, to oversee the Long-Term Electricity Reliability Services procurement portfolio processes being administered by the Independent Electricity System Operator ("IESO").

## **A. Fairness Advisor Report Purpose and Background**

### **1. Fairness Advisor Scope**

We were engaged to provide Fairness Advisory Services to support procurements related to IESO's Resource Adequacy Framework (the "Services") which includes assistance with the Long-Term Request for Qualifications and Request for Proposal procurement processes for the Long-Term and Expedited procurement processes (collectively the "Procurement") from the development of solicitation documents until contract execution. Our role has been and continues to be, to ensure that the IESO is in compliance with the relevant procurement processes and laws and to ensure that all potential proponents are treated consistently and fairly. In the event that the IESO is directed to, or proceeds with, alternate or additional procurement processes to support the Resource Adequacy Framework, the IESO may request the same Services as those described above from RGM. To date, RGM has monitored the RFQ Open Period, Evaluation and Prequalification Notification processes of the procurement.

This letter details our summarized fairness findings for the RFQ processes we monitored. Neither RGM nor the individual author(s) of this report, are responsible for any conclusions that may be drawn from this opinion. For further detail on the above-mentioned process, we recommend that communication be sought from the IESO's Resource Acquisition and Contracts contact directly. RGM reported to the IESO Resource Acquisition and Contracts Department at all times and provided our fairness comments both in writing.

In completing this report, we took the IESO's policies and procedures, BPS Procurement Directives

and Interim Measures, Canadian Free Trade Agreement (CFTA), Comprehensive Economic and Trade Agreement (CETA), Canada – European Union (EU), and the provisions of the RFQ as a standard against which to audit the process.

We have no objections to the recommendations made by the IESO's Resource Acquisition and Contracts Department as it relates to the identified prequalified parties invited to participate in the IESO's future Long-Term and Expedited Request for Proposal (RFP) processes.

Our monitoring and advice were in the capacity as Fairness Advisor and strictly limited to our responsibilities and deliverables listed on the following page.

**2. *The FA's responsibilities and deliverables for the RFQ included:***

1. Advising on, and monitoring, the procurement process for the acquisition of resources required as part of the procurement.
2. Performing activities including (but not limited to) the following tasks:
  - a. Supporting the procurement process – from design to contract award – reviewing materials and providing advice and comments on documents and processes including (but not limited to): The Request for Qualifications (“RFQ”); the Request for Proposal (“RFP”); form of agreement(s); evaluation process(es); and selection criteria.
  - b. Participating in all aspects of the procurement process, including (but not limited to):
    - i. Monitoring communications between the IESO and potential proponents;
    - ii. Attending any information sessions that the IESO may hold for potential proponents;
    - iii. If applicable, monitoring and facilitating any confidential individual information sessions between proponents and the IESO;
    - iv. Monitoring responses to inquiries from interested parties or potential proponents during formal question and answer periods;
    - v. Participating in orientation and training sessions for evaluations; and
    - vi. Monitoring the evaluation process.
  - c. Providing a written report that attests to the fairness observed during the entire procurement process (the “Fairness Report”) and submit to a designated IESO recipient within four (4) weeks of concluding an evaluation process.
    - i. The format of the Fairness Report, including the determination of key subject areas, will be mutually agreed to between the IESO and FA.
    - ii. The Fairness Report will be completed independently by the FA and submitted to a designated IESO recipient upon completion. For certainty, to maintain the integrity of the engagement, the FA will not seek input from the IESO and the IESO will not provide guidance or suggest edits to the Fairness Report at any time.

### 3. *Long-Term 1 Procurement RFQ Purpose and Background*

As per section 1.2 of the RFQ, “after more than a decade of strong supply, Ontario is entering a period of emerging electricity system needs, driven by increasing demand, the retirement of the Pickering nuclear plant, the refurbishment of other nuclear generating units, as well as expiring contracts for existing facilities.”...“As described in the 2022 Annual Acquisition Report published on the IESO’s website in April, 2022 (“AAR”), one of the mechanisms intended to support the IESO’s resource adequacy initiatives is a Long-Term Request for Proposals (the “LT1 RFP”), which is intended to acquire capacity services to meet system reliability needs from New Build Electricity resources starting in 2027 or earlier”...

“A complimentary mechanism outlined in the AAR is an expedited procurement process for New Build Electricity resources able to commit to commercial operation in 2025 (the “Expedited Process”). As set out in the AAR, the IESO is seeking to procure approximately 2,500 MW of Electricity reliability services from New Build Electricity resources through the LT1 RFP, measured on an effective capacity basis. The Expedited Process will seek to acquire a minimum of 1,000 MW of additional effective capacity.” ... “The successful proponents of the LT1 Contract will be a capacity-style contract with a target term start date of May 1, 2027.” ... “The successful proponents of the Expedited Process are expected to enter into a form of contract based on the LT1 Contract, with a firm commitment to achieve commercial operation by May 1, 2025.”

This LT1 RFQ process has identified through several specific mandatory requirements the prequalified parties whom the IESO has invited to participate in either the Long-Term RFP or Expedited RFP process. As stated in the RFQ, “This LT1 RFQ will establish Qualified Applicants for two categories of Long-Term Reliability Projects based on the nameplate capacity of potential Long-Term Reliability Projects. Each Long-Term Reliability Project will be categorized as either:

- (a) a Long-Term Reliability Project with a nameplate capacity which is equal to or above 1 MW but less than 5 MW (each a “Small-Scale LT1 Project”); and
- (b) a Long-Term Reliability Project with a nameplate capacity which is equal to or above 5 MW, subject to a maximum of 600 MW (each a “Large-Scale LT1 Project”).”

## B. RFQ Open Period Process

### 1. *RFQ Open Period*

The RFQ was issued on June 3, 2022, and the Submission Deadline was June 30, 2022. The duration that the RFQ was in the market, excluding weekends and holidays was twenty (20) business days. This was the period where the potential Applicants were provided to understand the RFQ requirements, respond to and submit Submissions to the IESO through the established specified IESO email LT.RFP@ieso.ca.

Though the RFQ Open Period was only twenty (20) business days, which on its own is a shorter period of time to both understand, seek necessary advice and be responsive to the RFQ requirements, it is our opinion that the fact the IESO completed a draft RFQ issuance and

stakeholder feedback process, on similar requirements assisted potential Applicants to understand the final RFQ process to gain some additional time to organize their teams, and their Submission approaches.

We were retained prior to the RFQ being issued; however, we were not provided an opportunity to review and provide comment on the RFQ documents until they were issued during the RFQ Open Period due to time constraints on issuance commitments previously made. This being said, we were extended time to review and provide any applicable fairness feedback on the RFQ documents prior to the Submission Deadline for the IESO's consideration. After reviewing our feedback, a decision was made by the IESO not to incorporate any of our fairness feedback, and all matters raised were left unresolved through the RFQ Submission Deadline.

***Minor Qualification #1:***

The IESO was unable to invite and receive fairness feedback on the final RFQ documents prior to issuance, due to time constraints.

In future we recommend that the Fairness Advisor be given an opportunity to review the RFQ documents prior to their issuance so that any fairness, transparency and openness matters can be fully resolved in the documents prior to issuance.

***Minor Qualification #2:***

The unresolved fairness and transparency matters included corrections to the RFQ template that we recommend be made, and other matters were those that in our view would provide additional clarity on the future RFP processes regarding proposed project and adjustment matters between processes, particularly as significant questions were raised on this area during the RFQ Open Period.

The above minor qualification aside, in our opinion none of the unresolved RFQ documents fairness feedback effected the process of the RFQ, nor the prequalified parties identified.

**2. *Questions and Addenda***

The RFQ document indicated that potential Applicants should review and present any questions at least five (5) business days prior to the deadline for issuing addenda specified in the schedule, which was June 23, 2022. Most questions received by the IESO were submitted by the required June 17, 2022. However, the IESO allowed and responded to questions received after this date, and all questions received beyond the deadline were answered. The IESO issued three (3) questions and answers (Q&A) batch releases in total, with the final Q&A being released after the initial addendum deadline, which was amended to June 28, 2022, which was within only two (2) days prior to the Submission Deadline. The IESO issued one (1) addendum by the deadline for issuing addenda date of June 23, 2022. The RFQ Submission Deadline was not amended at any time.

As communicated at the time, we do recommend that when Q&A or Addendum deadlines are adjusted, that the corresponding Submission Deadlines, should also be amended which is an established best practice. This allows the market of potential Applicants sufficient time to review



and make any necessary adjustments to their Submissions should this be needed. As the RFQ did not clearly stipulate a deadline when Q&A responses would be provided by the IESO, and only an addenda release deadline was communicated in the documents, the IESO was aligned with its own documents to issue Q&A's up until the Submission Deadline, which is not a best practice.

In future we recommend that a deadline for both the release of Q&A's and addenda be stipulated so that Applicants know when they should assume no further information that they need to consider when preparing their responses will be released. The determination of whether adjustments may be required when there is a late issued Q&A or Addenda can only be made by the potential Applicants, so it is always best when adjusting any deadlines to also adjust any other naturally corresponding deadlines. Our understanding from the IESO is that this feedback will be considered in future processes.

### **3. Applicant RFP Engagement Webinar Meeting**

In accordance with RFQ, section 2.5 Communications (c) ii, the IESO held an optional virtual Applicant Engagement Webinar on June 9, 2022, to allow for greater understanding of the Long-Term RFP, goals and objectives of the procurement process and to provide an additional opportunity for potential Applicants to ask questions that they may have on the processes to occur after the RFQ. This meeting was approximately four (4) hours in duration. This meeting served as an information session about the upcoming RFP and not a meeting intended to provide clarity to the RFQ submission requirements or processes.

Our Fairness Advisor monitored this meeting and had no fairness comments to note with regards to the communications that occurred during the meeting, or on any communications shared thereafter that we were privy to as it related to this meeting.

### **4. RFQ Transparency**

The RFQ stated the process overview, communication protocols, qualification submission evaluation requirements, specified terms and conditions, the process and submission timeline information, required prescribed forms for submission, and the applied glossary of terms, as required for transparency. The RFQ further stated the assessment factors of each evaluated criterion to ensure that all Applicants had the clarity required to review whether their submissions could satisfy the RFQ requirements prior to submission.

Where there were pass/fail requirements for all mandatory requirements evaluation sections, these were disclosed with a clear indication when such pass/fail tests would be applied, and the impact that would be applied if an Applicant failed to satisfy any of them; and that these shall remain unchanged during the RFQ evaluation process. Our fairness team were able to confirm that all requirements remained unchanged post RFQ closing.

## **C. RFQ Evaluation Processes**

### **1. RFQ Closing**

Seventy-eight (78) submissions were received by IESO, however not all were timely.

## **2. Stage 1 – Completeness Requirements (PASS/FAIL)**

In accordance RFQ section 3.1, each Qualification Submission will pass or fail this Stage 1 depending on whether the qualification submission is complete and contains all documents, forms and declarations required by Section 2.7 of the LT1 RFQ. All submissions must be complete in all respects at the time of submission. This evaluation was completed by the qualified IESO procurement staff, who were tasked with evaluating the completeness review and assessing matters for clarification when raised throughout the process, with advice from us, the Fairness Advisor, the Legal advisor or from approved internal resources.

Eight (8) proposals were identified for disqualification due to a discovered failure to satisfy at least one of the following stated requirements:

- Late submitted application after the Submission Deadline
- Signature of Commissioner of Oaths was missing from required declarations
- Evidence of Commercial Operations was missing from required forms
- Application submission was withdrawn; or
- Late Fee application payment submitted

As a result of the above confirmed matters, the eight (8) submissions which contained these failures, did not proceed forward in the evaluation process, including late submission, regardless of requirements completeness. Forty-four (44) of the submissions that successfully passed the Stage 1 evaluation process were Expedited Long-Term RFQ submissions. Twenty-six (26) of the submissions that successfully passed the Stage 1 evaluation process were Long-Term RFQ submissions. We reviewed all failures and passes from a fairness perspective and were able to verify all Stage 1 results.

## **3. Stage 2 – Team Member Mandatory Requirements (PASS/FAIL)**

This evaluation was conducted by the qualified IESO staff that formed the evaluation team that completed the entire Stage 2 and 3 evaluation process. The team members were selected because they had the expertise to critically review, understand, and evaluate the submissions against the pass/fail criteria provided in the RFQ documents.

In accordance with RFQ section 3.2, in the Stage 2 process, each submission that passed Stage 1 was evaluated based solely on the specified Large-Scale Team Member Experience, and the Small-Scale Team Member Experience requirements which Applicants needed to pass to proceed forward in the evaluation process. The IESO's assessment was based on the information provided in the completed Prescribed Forms and the Qualification Submission.

At the completion of the Stage 2 evaluation process, of the forty-four (44) Expedited Long-Term submissions, thirteen (13) submissions failed to satisfy the mandatory requirements in this evaluation, and thirty-one (31) submissions successfully proceeded to the Stage 3 evaluation process. Of the twenty-six (26) Long-Term submissions, two (2) submissions failed to satisfy the mandatory requirement in this evaluation, and twenty-four (24) Long-Term submissions successfully proceeded to the Stage 3 evaluation process. We reviewed all failures and passes from a fairness perspective and were able to verify all Stage 2 results.

#### **4. Stage 3 – Evaluation of Entity Development Experience (PASS/FAIL)**

The Stage 3 evaluation process was based on the Applicant's ability to satisfy the RFQ section 3.3 Large-Scale Entity Development Experience Threshold and Small-Scale Entity Development Experience Threshold requirements which were assessed on a pass/fail basis. We reviewed all failures and passes from a fairness perspective and were able to verify all Stage 3 results.

#### **5. Stage 4 – Determination of Eligibility (CONFIRMATION of FINAL RESULTS)**

The Stage 4 evaluation process involved a final review and identification of all RFQ submissions that were determined to be eligible under RFQ section 3.4 to submit proposals for one or more Large-Scale LT1 Projects or Small-Scale LT1 Projects were identified as Qualified Applicants. Of the 78 received by the IESO, Applicant 55 were deemed Qualified Applicants. We reviewed all failures and passes from a fairness perspective for all stages of evaluation and were able to verify all Stage 4 results.

### **D. Evaluation Process Approach and Methodology**

#### **1. Evaluator Training Session**

Prior to the start of evaluating submissions, the evaluation IESO team received a mandatory detailed evaluation training was provided by the IESO's procurement representatives and the RGM Fairness Advisor. The training covered all aspects of the evaluation process and how to execute the evaluators' roles and responsibilities effectively and fairly to maintain the integrity of the process planned. The evaluators were briefed on the best practices with respect to confidentiality of submissions; conflict of interest; undue influence; secure management of the submissions; and preparing their individual evaluations and comments.

#### **2. Conflict of Interest & Confidentiality Management**

We are not aware of the existence of any conflict of interest or a breach of confidentiality occurring at any point during the evaluation process. All perceived matters were brought to our attention, reviewed, assessed and resolved if and where present.

#### **3. Undue Influence Management**

No evaluator or other individual exerted undue influence over the process. Each evaluation stage was completed in a sequential order, and with the observance of IESO's Procurement representatives and us, the Fairness Advisor. All key evaluation process decisions were made by more than one person and verified by at least one other. The multi-layer to reviewing decisions and live monitoring of evaluation process matters allowed the IESO to ensure that decisions had the benefit of verifications and validation.

#### **4. Scoring Methodology Relating to Stage 2 and 3 Evaluations**

The evaluations occurred between July 2022 to August 2022.



The evaluation team completed the Stage 2 and Stage 3 evaluations using the established best practice consensus two - step method: firstly, each evaluator, working alone, reviewed, and evaluated with supporting comments, each Applicant submission in its entirety; secondly, the evaluators met as a group, for each of the Expedited and Long-Term evaluation prequalification evaluations for each stage.

We witnessed the evaluators discuss their individual findings and while largely relying on their initial comments, and the evaluation team discussions which occurred during each consensus meeting, arrived at a consensus evaluation assessment and comment for each criterion. The two (2) evaluation teams which completed their duties throughout Stages 2 and 3 for each stream of submissions, always maintained a team of three (3) members.

The evaluation teams ensured that their evaluation aligned with the disclosed evaluation requirements, submission evaluation methodology, glossary of terms disclosed, and maintained the disclosed criteria throughout the processes, as stipulated in the RFQ.

All evaluation results were transparently verified by IESO Procurement representatives and us, the Fairness Advisor, who monitored the consensus meetings to ensure

## **E. Fairness Advisor Attestation**

### **1. Debriefing Process**

In accordance with the IESO's RFQ section 2.9 – Debriefing, RFQ Applicants who were not identified as Qualified Applicants were offered a debriefing on their submission.

The IESO held these single debriefing meetings with each RFQ Applicant that requested one, for thirty (30) minutes each, in which the IESO staff and our Fairness Advisor were participated in delivering the rationale and comments prepared by the evaluators which resulted in the Submission not being deemed Qualified and explaining what could have been done to improve the Submission's results.

The debriefings provided were transparent and consistent with the process stipulated in the RFQ in which clear feedback and responsiveness to questions was conveyed.

### **2. Summary Fairness Findings**

In conclusion we attest that the RFQ process was conducted in a procedurally fair, open and transparent manner and in alignment with the applicable directives, policies and trade agreements.

With exception to the qualifications for future improvement we have outlined in this report all other matters have been fully resolved if or when indicated. In our view, while these qualifications were not resolved prior to RFQ closing due to the IESO's RFQ timing, the impacts of them were greatly reduced through the concerted efforts of the IESO's Procurement staff who acknowledged the matters, and where possible mitigated their impact on the transparency of the process and treated all Applicants even-handedly at all times.

We certify that the Qualified Applicants identification process was generated through rigorous and well-documented evaluation processes that we oversaw and have no reasons nor objections to the results produced, from a fairness perspective.

As a result of the IESO's evaluation process, the Qualified Applicants for both the Expedited LT1 – RFP and the LT1 – RFP processes, for either their large scale or small scale projects, were notified in writing, as were the Unsuccessful Applicants who were not shortlisted. Given our monitoring of the RFQ process, we confirm that the Qualified Applicants were the fifty-five (55) Applicants that had satisfied all applicable requirements to do so.

Sincerely,

A handwritten signature in black ink, appearing to read 'Andrea Robinson', with a stylized flourish extending to the right.

Andrea Robinson, B.A, LL.M., Q. Arb., PMP.  
Senior Fairness Advisor, Robinson Global Management Inc.

cc: Don Solomon, B.A., CERT. ARCH.TECH.  
Senior Fairness Advisor, Robinson Global Management Inc.

Doreen Wong, B.A., B.COMM., LL.B., CRIO., PMP.  
Senior Fairness Advisor, Robinson Global Management Inc.