

**Partnerships BC and Vancouver Island Hospital
Authority**

Royal Jubilee Hospital Patient Care Centre

**Report of the Fairness Advisor on the
Selection of Qualified Candidates after
the Qualifications Phase of the Project**

1. Introduction

(a) The Fairness Team

ADR Chambers Inc. was selected as the Fairness Advisor through a competitive selection process. Hon. Roger Kerans, Hon. Ben Casson, QC, and Barry Vogel, QC, for designated as the team for this task.

(b) General Comments

First, let us emphasize what is **not** the task of the fairness advisor. The task is not to establish the selection procedures, not to make or suggest the selection, and not to offer legal opinions about the duties of anybody in the process. The task rather is to offer an assessment about the procedures established by the RFQ and the carrying out of those procedures by Partnerships BC and VIHA. Our task was to assess whether the procedure, in its design and in its execution, was one that reasonable and well-informed people would consider to be fair.

It is beyond our capacity and our task to investigate any possible criminal behaviour, or breaches of confidentiality or non-disclosed conflicts of interest that in any way might affect or appear to a reasonable person to affect any decisions made.

(c) Designated Task of the Fairness Advisor

“ . . . at such times and in such manner as the (Fairness Advisor), exercising the professional standard of care, skill and diligence required under this agreement, considers appropriate, provide the Services, including without limitation advice, assistance, assessment, evaluation and review services, in such manner as the Contractor considers will promote the best interests of PBC and the Vancouver Island Health Authority and in such manner as to ensure that all aspects of the Royal Jubilee Hospital Patient Care Centre Project are carried out in a manner that is fair, and that is free of unauthorized disclosure of confidential information, of unfair advantage, and of actual or perceived conflicts of interest. “*(Taken from Contract dated April 25, 2007)*

(d) Respondents’ Relationships Review

The Request for Qualifications provided for input from the Conflict of Interest Adjudicator in the area of Relationship Disclosure. Our contract does not provide that we monitor his activity, which in our view is a reasonable approach as he himself is independent and qualified. We did however undertake to monitor compliance with any conditions he suggested to meet the test of elimination of a reasonable apprehension of bias, and which were accepted or endorsed by Partnerships BC and VIHA. This is an ongoing obligation, on which we will report at the end of the project, unless special circumstances require a special report.

e) Consultative Role

Our contract provides that we may be consulted about proposed actions by Partnerships BC and VIHA. This often happened, but we limited our comment to what we might say about a proposed course of action in a public report, or to point out what a Respondent may argue.

2. The Request for Qualifications

The formal Request for Qualifications (RFQ) followed what is now a well-known form. It offered a reasonable opportunity to the Respondents to be fairly assessed as to their qualifications.

The RFQ spelled out a schedule for the preparation and evaluation of the Submissions, which was changed later to accommodate requests by Respondents and others. Requests were dealt with reasonably, and a reasonable schedule was offered.

We have had an opportunity to review all of the material pertinent to the process, which included the RFQ, the Addendum, the Submissions, the qualifications of the Evaluation Teams, the Evaluation Manual, the reports of the Evaluation Teams, and other documents pertaining to the process.

3. Compliance with requirements of RFQ

a) Communications

The RFQ provided for communication by email only. This term is, in this age, fair and reasonable. The RFQ named Catherine Silman as Contact Person, and she forwarded email to the appropriate officer and had a process that, when appropriate, gave limited access to confidential communications. The Team reviewed all email, and found Submissions were reasonably prompt and appropriate. We are pleased to report that no Respondent in these communications sought any improper advantage, and none was given. There were no confidential communications.

One Respondent after filing its Submission to the RFQ sought leave to replace a small portion of its Submission because that portion, it was said, was mistaken in fact. We were consulted and advised that the fair thing to do is to permit the Respondent to make the change, because the Respondent had an implied duty under the RFQ to tell the truth, and there was no disadvantage to other Respondents in that approach.

All requests for clarification of the RFQ were promptly and reasonably dealt with.

b) Receipt of Submissions

Four Submissions were supplied, all in a timely fashion, and were accepted as being in compliance with technical requirements.

c) Evaluation Manual

We reviewed the Manual as it was revised. It offered a reasonable and fair basis for selection, and honored the terms of the RFQ

d) Evaluation Team

The membership in the Team and the method of operation complied with the RFQ.

e) Evaluation.

We monitored the entire process, and noted a special effort to comply with the terms of the RFQ. Counsel for Partnerships BC and VIHA met with the Evaluation Committee and warned them to follow strictly the terms of the RFQ and the Evaluation Material.

The evaluators seemed to take reasonable care and consideration, and there was no discouragement of dissent. Nor was there any bullying or lobbying, or any hint of a careless approach, undue influence, collusion or bias. When assessment pertained to

specific individuals in a Respondent Team, there was discussion of past personal experience, and comment was to the point. (This sort of assessment is appropriate and in keeping with the intent of the RFQ so long as there is no conflict of interest and concerns expressed are reasonable, as they were.) In the end, all members of the Committee agreed with each assessment.

The requests for clarification were reasonable and adequately clear, and Submissions were appropriate.

We also monitored the meeting of a “steering committee” comprised of VIHA officials named to make a decision on VIHA's behalf. They discussed the Evaluation Report at length and unanimously accepted the recommendation of the Evaluation Team.

In sum, the Evaluation of the Submissions met the criteria of fairness, openness, transparency and integrity.

We congratulate all members of the Evaluation Team for the high degree of professionalism displayed throughout.

f) Debriefing

As provided in the RFQ, an offer was made to de-brief Respondents, and all accepted, except one of the successful Respondents. The scheduling was reasonable, and the de-briefings evenhandedly and fairly reported to each Respondent the strengths and weaknesses of its submission as assessed by the Evaluation Committee.

DATED this 7th day of July , 2007.

ADR Chambers Inc.

Per: _____
The Hon. Roger P. Kerans