

Belaney, Tanyann FIN:EX

From: Lowe, Elizabeth MTIC:EX
Sent: Thursday, June 19, 2014 4:09 PM
To: Pilling, David FIN:EX
Subject: RE: VCRP

Categories: Red Category

No problem, Dave.

As an evaluator, I didn't know any of the proponents or their backgrounds until I read their proposals. When reading the Rainmaker proposal, I noted the recent work history in the evaluation handbook notes I was making as part of my individual review. When we began the consensus meeting, the first point I raised was this work history – I asked Mike and David about their relationship to the individuals named in the Rainmaker proposal, and whether or not they had any input or knowledge of the RFP that wasn't available to other proponents.

Mike and David explained that their relationship with Rainmaker was strictly business, as it was with other proponents (remember that they had worked with all but one proponent before). I was told that although the individuals in the Rainmaker proposal were former employees, that they had not had any input into the RFP nor could they have inadvertently gained access to any information before it was available to everyone. The work that they were doing for the ministry at the time the RFP was being developed was separate from the work the Contractor would be doing. They were not consulted for any information contained in the RFP. Based on this explanation, I was satisfied that there was no real conflict of interest, but I was concerned about a perceived conflict.

I explained to Mike and David that if Rainmaker were successful (noting that we had not yet begun our consensus evaluation), other proponents may feel that they had an advantage or inside knowledge based on their employment status. Mike told me that in this line of business, the vendors all know of one another, and the expertise of the individuals named in most of the proposals would be known by the other proponents. He felt that if Rainmaker was successful, it was unlikely that anyone would feel the individuals named were not qualified for the work, and that he was confident that he could demonstrate no actual conflict of interest existed, given how he had conducted the entire RFP process (from planning to award).

Based on this, we went forward with our consensus evaluations, noting that the evaluators only considered the information contained in proposals – what they knew about individuals named in all proposals was not evaluated unless it was included in the proposals.

I should also point out that from the time I was involved in the RFP, I worked solely with Mike and David. I started with a draft solicitation document that a previous contractor had written, which was changed significantly. I drafted the evaluation handbook, which was only sent to Mike and David for comments, edits and feedback. We finalized the handbook just prior to the RFP closing, before we knew who had submitted a proposal.

Let me know if you need anything else. Thanks,

Liz Lowe | Director, Advisory Services | Procurement Services | Shared Services BC
p: 250-387-7316 | **e:** elizabeth.lowe@gov.bc.ca | **m:** PO Box 9476, Stn Prov Gov, Victoria BC V8W 9W6

From: Pilling, David FIN:EX
Sent: Thursday, June 19, 2014 2:15 PM

To: Lowe, Elizabeth MTIC:EX

Subject: VCRP

Liz, thanks for your feedback on the call. As a follow up can you clarify the mitigation steps the Committee took, once it became aware that there might be a perceived conflict. I know you spoke to this but I didn't get all of it.

Thanks!

Dave

David Pilling, LLB | Chief Procurement Officer | Procurement Governance Office | Office of the Comptroller General
Ministry of Finance | T: 250 387 8189 | E: David.Pilling@gov.bc.ca | W: <http://www.fin.gov.bc.ca/ocg/pgo/pgo.htm>

Belaney, Tanyann FIN:EX

From: Blaschuk, Michael MTIC:EX
Sent: Wednesday, June 25, 2014 3:05 PM
To: Lowe, Elizabeth MTIC:EX
Cc: Pilling, David FIN:EX; Greer, David MTIC:EX
Subject: Re: VCRP - s.15 - Follow Up Questions

David

I made the decision to exclude s.22 Although I did not know that s. intended to bid I believed that given the situation there was a possibility of s.2 bidding and I believed it was prudent to remove s.2 from any involvement in this tender and avoid any potential conflict of interest.

Michael Blaschuk
ADM Real Property - Shared Services BC
Ph. 250-893-3327

On Jun 25, 2014, at 1:00 PM, "Lowe, Elizabeth MTIC:EX" <Elizabeth.Lowe@gov.bc.ca> wrote:

Hi, David. The only information I can provide to these questions is that I received no correspondence from any Proponent asking about a potential conflict of interest. All I had were the questions that were answered in Addendum No. 1.

Thanks,

Liz Lowe | Director, Advisory Services | Procurement Services | Shared Services BC
p: 250-387-7316 | **e:** elizabeth.lowe@gov.bc.ca | **m:** PO Box 9476, Stn Prov Gov, Victoria BC V8W 9W6

From: Pilling, David FIN:EX
Sent: Wednesday, June 25, 2014 12:32 PM
To: Greer, David MTIC:EX; Lowe, Elizabeth MTIC:EX
Cc: Blaschuk, Michael MTIC:EX
Subject: VCRP s.15 - Follow Up Questions

Hello all, here are some final follow up questions for you; more clarification than anything:

1. Who made the decision to exclude s.22 from the contract/RFP process? When?
2. Did s.22 capacity as a contractor, inform Liz, as the government contact, about a possible, potential or actual conflict? If so, when?
3. Did s.22 capacity as an auxiliary employee, report the possible, potential or actual conflict to his supervisor? If so, when?

As a reminder, the PGO VCRP policy requires our office to complete its information gathering by June 30 and report out to the complainant by July 22, 2014.

Thank you again for your cooperation.

Regards,

David Pilling, LLB | Chief Procurement Officer | Procurement Governance Office | Office of the Comptroller General
Ministry of Finance | T: 250 387 8189 | E: David.Pilling@gov.bc.ca | W: <http://www.fin.gov.bc.ca/ocg/pgo/pgo.htm>

Belaney, Tanyann FIN:EX

From: Pilling, David FIN:EX
Sent: Monday, July 14, 2014 10:44 AM
To: Ahmed, Sarf MTIC:EX
Cc: Greer, David MTIC:EX
Subject: FW: VCRP - s.15 PGO VCRP 1415-001

Sarf, our office reviews and reports on complaints submitted to it under the Vendor Complaint Review Process (<http://www.fin.gov.bc.ca/ocg/pgo/VCRP.htm>). Recently, we received a complaint (the Complaint) from s.15 in connection with RFP# ON-002467 (the RFP). The Complaint alleges, among other things, that s.2 s.22 was in a conflict of interest when, as an s.22 employee of the government, he responded to the RFP through s.2 company Rainmaker Realty Solutions Corp. (the Conflict).

As part of my review, I am following up on a question posed to David Greer: Did s.22 in s. capacity as an s.22 employee, disclose the Conflict (real, potential or perceived) to you as a supervisor before he submitted his proposal in response to the RFP? If no, did he disclose the Conflict at anytime after his proposal was submitted but before the contract was awarded to his company?

I appreciate your cooperation as we move through our process. If you have any questions, please do not hesitate to call.

Regards,

David Pilling, LLB | Chief Procurement Officer | Procurement Governance Office | Office of the Comptroller General
Ministry of Finance | T: 250 387 8189 | E: David.Pilling@gov.bc.ca | W: <http://www.fin.gov.bc.ca/ocg/pgo/pgo.htm>

From: Greer, David MTIC:EX
Sent: Monday, July 14, 2014 10:04 AM
To: Pilling, David FIN:EX
Subject: Re: VCRP - follow up

I haven't. Give him a shout. He's in Vancouver today as well.

From: Pilling, David FIN:EX
Sent: Monday, July 14, 2014 10:00 AM
To: Greer, David MTIC:EX
Subject: RE: VCRP - follow up

Dave, have you heard from Sarf as to whether s.2 disclosed the real/potential/perceived conflict to him and when? If not, I will follow up with him today.

Thank you.

David

From: Greer, David MTIC:EX
Sent: Friday, June 20, 2014 3:02 PM
To: Pilling, David FIN:EX
Subject: RE: VCRP - follow up

s.22 supervisor was s.22 and I'm not sure if s.22 did or not. We didn't talk about it as I was brought on to the evaluation team quite late into the game, when it was determined that I would be running the shop here. So s.22 didn't even really know I was involved.

I'll get back to you later on the services as it's a longer answer and I have to run to a meeting. So you need this today or is Monday OK?

From: Pilling, David FIN:EX
Sent: Friday, June 20, 2014 2:56 PM
To: Greer, David MTIC:EX
Subject: RE: VCRP - follow up

Dave, a couple more questions for you:

- Did the s.22 employee disclose the issue of a conflict (or potential conflict) to you or s.22 supervisor (assuming this was s.22 before s.22 submitted the proposal?
- Can you give me a brief summary of how the services to be provided under the RFP were similar to those s.22 had as an s.22 employee. Just looking for high level stuff.

Thanks, again.

Dave

From: Greer, David MTIC:EX
Sent: Thursday, June 19, 2014 3:48 PM
To: Pilling, David FIN:EX
Subject: RE: VCRP - follow up

Answer is yes I would have had contact with s.22 I can't remember if I did with any of the other proponents, not formally at any rate.

From: Pilling, David FIN:EX
Sent: Thursday, June 19, 2014 3:40 PM
To: Greer, David MTIC:EX
Subject: RE: VCRP - follow up

Issued Feb 19, Closed March 12.

From: Greer, David MTIC:EX
Sent: Thursday, June 19, 2014 3:24 PM
To: Pilling, David FIN:EX
Subject: RE: VCRP - follow up

Can you refresh me on the dates? I assume so, but not about the RFP. It was not discussed between us.

Liz worked on the RFP and she consulted with me on the type of work we did and what skill sets we needed.

From: Pilling, David FIN:EX
Sent: Thursday, June 19, 2014 3:18 PM
To: Greer, David MTIC:EX
Subject: VCRP - follow up

Dave, quick follow up question. Did you have any contact with [redacted] during the RFP process (from issuance to selection)?

Cheers,
D

David Pilling, LLB | Chief Procurement Officer | Procurement Governance Office | Office of the Comptroller General
Ministry of Finance | T: 250 387 8189 | E: David.Pilling@gov.bc.ca | W: <http://www.fin.gov.bc.ca/ocg/pgo/pgo.htm>

Belaney, Tanyann FIN:EX

From: Armstrong, Ashley MTIC:EX
Sent: Tuesday, September 2, 2014 3:14 PM
To: Pilling, David FIN:EX
Cc: McEwan, Colin MTIC:EX; Lavine, Teri MTIC:EX
Subject: RE: DRAFT RESPONSE: (336633) Vendor Complaint - s.15 File PGO VCRP 1415-001
Attachments: 20140902145703.pdf

Sent on behalf of Colin McEwan

Hi David,

Please see the attached Ministry Recommendation and Action Plan.

Thank you,

Ashley Armstrong | Executive Administrative Assistant to Colin McEwan
Office of the Assistant Deputy Minister and EFO | Corporate Services
E209 – 4000 Seymour Place | Victoria, BC V8W 9V1
Ph: 250 952-7636 | **BB:** 250 920-9158 **e:** ashley.armstrong@gov.bc.ca

From: Pilling, David FIN:EX
Sent: Monday, August 18, 2014 3:06 PM
To: McEwan, Colin MTIC:EX
Subject: FW: (336633) Vendor Complaint s.15 File PGO VCRP 1415-001

Hi Colin, are you able to provide the Ministry's action plan and dates before the end of the month? Once that is done, all we need is confirmation that the work is done (by the date), following which the file can be closed.

Please let me know if there is anything we can do to help on this.

Thank you again, for your assistance.

Regards,

David Pilling, LLB | Chief Procurement Officer | Procurement Governance Office | Office of the Comptroller General
Ministry of Finance | T: 250 387 8189 | E: David.Pilling@gov.bc.ca | W: <http://www.fin.gov.bc.ca/ocg/pgo/pgo.htm>

From: Pilling, David FIN:EX
Sent: Monday, July 21, 2014 3:24 PM
To: McEwan, Colin MTIC:EX
Subject: FW: (336633) Vendor Complaint s.15 - File PGO VCRP 1415-001

Colin, attached are our recommendations per our discussion and the report. At your convenience, please complete and return the high level action items the ministry will take in response to the recommendations. I have proposed 6 months as a follow up but feel free to adjust that as necessary.

Regards,

David Pilling, LLB | Chief Procurement Officer | Procurement Governance Office | Office of the Comptroller General
Ministry of Finance | T: 250 387 8189 | E: David.Pilling@gov.bc.ca | W: <http://www.fin.gov.bc.ca/ocg/pgo/pgo.htm>

From: Pilling, David FIN:EX
Sent: Monday, July 21, 2014 2:58 PM
To: s.15
Cc: McEwan, Colin MTIC:EX; Boyd, Wes MTIC:EX
Subject: (336633) Vendor Complaint s.15 - File PGO VCRP 1415-001

s.15 please find attached our report under the Procurement Governance Office, Vendor Complaint Review Process.

Regards,

David Pilling, LLB | Chief Procurement Officer | Procurement Governance Office | Office of the Comptroller General
Ministry of Finance | T: 250 387 8189 | E: David.Pilling@gov.bc.ca | W: <http://www.fin.gov.bc.ca/ocg/pgo/pgo.htm>

Belaney, Tanyann FIN:EX

From: Greer, David MTIC:EX
Sent: Thursday, June 19, 2014 3:48 PM
To: Pilling, David FIN:EX
Subject: RE: VCRP - follow up

Categories: Red Category

Answer is yes I would have had contact with s.2 I can't remember if I did with any of the other proponents, not formally at any rate.

From: Pilling, David FIN:EX
Sent: Thursday, June 19, 2014 3:40 PM
To: Greer, David MTIC:EX
Subject: RE: VCRP - follow up

Issued Feb 19, Closed March 12.

From: Greer, David MTIC:EX
Sent: Thursday, June 19, 2014 3:24 PM
To: Pilling, David FIN:EX
Subject: RE: VCRP - follow up

Can you refresh me on the dates? I assume so, but not about the RFP. It was not discussed between us.

Liz worked on the RFP and she consulted with me on the type of work we did and what skill sets we needed.

From: Pilling, David FIN:EX
Sent: Thursday, June 19, 2014 3:18 PM
To: Greer, David MTIC:EX
Subject: VCRP - follow up

Dave, quick follow up question. Did you have any contact with s.2 during the RFP process (from issuance to selection)?

Cheers,
D

David Pilling, LLB | Chief Procurement Officer | Procurement Governance Office | Office of the Comptroller General
Ministry of Finance | T: 250 387 8189 | E: David.Pilling@gov.bc.ca | W: <http://www.fin.gov.bc.ca/ocg/pgo/pgo.htm>

PGO VCRP 1415-001
Questions and Answers

Conference Call: June 19, 2014 @ 1:00-2:00

Attendees: Michael Blaschuk, ADM RPD, MTICS; David Greer, E/D Release of Assets for Economic Generation, MTICS; Liz Lowe, Director, Advisory Services, MTICS

- Purpose of VCRP – to demonstrate accountability, commitment to continuous improvement, to mitigate tendencies to litigate.
- Scope is limited to policy and procedures; does not include review of evaluation criteria or evaluation. We will also look at ministry policy and procedures to see if they are adequate to address the issues.
- Process: interview (to get the ministry's side, to fill in gaps, to address the different components of the complaint), draft report shared, share recommendations, final report.

PSA

Employment status and dates – s.22

MTICS – RP

Complaint # 1 – Conflict of Interest – s.22 – by virtue of s. 22 position, was s. 22 in a conflict when s. 22 submitted s. 22 proposal? And did the ministry confer on s. 22 any unfair advantage.

Complaint #2 – Conflict of Interest – Two members of Evaluation Committee had a direct reporting relationship with s.22

Policy, Standards and Legal Requirements

1. Standards of Conduct:

-*Conflicts Test* - A conflict of interest occurs when (1) an employee's private affairs or financial interests are in conflict, or could result in a perception of conflict, with the employee's duties or responsibilities in such a way that (2):

- the employee's ability to act in the public interest could be impaired; or
- the employee's action or conduct could undermine or compromise:
 - the public's confidence in the employee's ability to discharge work responsibilities, or
 - the trust that the public places in the public service.

-If in Conflict, must disclose.

-Examples(see standards)

2. Policies:

- 6.3.1.11 – Ministries must not bestow a favour on, or grant preferential treatment to, any prospective contractor.
- 6.3.2.a.3 – An employee who is exposed to an actual perceived or potential conflict of interest in relation to a proposed solicitation must disclose the matter to his or her supervisor. If there is a conflict, the supervisor must remove the employee from the particular contract situation... Any suspected conflicts must be investigated and resolved.

3. RFP Language s. 3 – Proposals will not be evaluated if the Proponent has a conflict.

Questions (Red = Ministry Responses)

A. Background of Program Area

-Purpose of program? Looking for expertise in disposition and FN negotiations to support strategic asset sale

-What was s.22 role in the program before he retired? What was the reporting relationship at that point? Oversaw whole program. Reported to s.22
s.22 MB didn't assume responsibility until May 2014

-What was s.22 role in the program as an s.22 What was the reporting relationship? A subset of s previous role.

-Were there similarities between the work s.22 did as an employee, s.22 and the contracted services? Yes. The contract work

-When was the decision made to contract the services? Why? Did the government not have expertise in-house? January. Decision was made by MB

-Who else was involved in the program? What were their roles?

-Who was involved in the decision?MB

-Did s.22 disclose s conflict (to s supervisor) before the submission of s proposal? [Awaiting Answer]. Supervisor:s.22

-Working relationship with s.22 What was reporting relationship between the two. s reported to s.22 s.22 reported to s.22

-Confirm s.22 employee. Confirmed

-Who was involved in development of RFP, criteria? Independent Contractor developed the draft. Was a mitigation measure given the potential for conflict "if s.22 bid. Liz Lowe worked on the final draft

-Did s.22 work influence the development of the criteria? No. It's likely s. knew that the RFP was being prepared but was not involved

-What was Liz's role?
Advisor

B. Procurement/Evaluation Committee

-Was s.22 an employee when the decision was made to contract? Yes

-Was s.22 an employee when the RFP was posted? Yes

-Was it posted on BC Bid? Yes

-Was s.22 an employee when the successful proponent was announced?
Successful proponent announced April 4. s.22 employee until May 2.

-Was there any contact by DG or MB with s.22 during any phase of the RFP, negotiations phase?? Yes, with DG, but RFP was not discussed.

- Did DG/MB consider this a conflict? They saw it as a potential conflict which is why they engaged a contractor to prepare the RFP. They thought there could be a perceived conflict

-Was a conflict ever disclosed/report/discussed? To whom? Yes, at the committee

-Was a conflict disclosed to Liz (gov;t contact) yes

-What was done to mitigate:

(a) for s.22 conflict Independent contractor hired. No discussions with s.22 on the matter.

(b) for evaluation committee's conflict. Objective criteria

Ministry policy and processes

Ministry policy?

Ministry process?

Ministry awareness?

Complaint #3 – Unfair Advantage

Questions

- any merit to this complaint? No
- Ministries response? If conflict, don't need to address this complaint.

Complaint #3 – Failure to Disclose

Questions

- The method of evaluation is not under review, but failure to disclose where it may result in unfairness would be.
- Vendor alleges a lot of failures to be transparent.
 - (a) & s.22 was not a restricted party under s. 3 of the RFP (conflicts)
 - (c) It is normal practice to apply unequal weightings to the evaluation subcriteria
 - (d) Rainmaker was not aware of the mechanisms.
 - (e) Experience of Each project lead was required. Each lead would be evaluated, per the RFP. s.15 said they had two Project Leads, so the score had to be averaged.

Complaint #4 – Inappropriate Evaluation – Ministry allocated weight to elements addressing real property negotiations when the RFP clearly states that real property dispositions will be completed through contract brokers.

Questions

- Government's response?
- RFP was about disposal and FN negotiations
 - s. 15 didn't have the expertise
- Mtcs doesn't always use brokers
- was clear in RFP that negotiation and disposal skills (not acquisition) was central to the service. s. 15 didn't have this.

Complaint #5 – Failure to Fully Answer Questions #1 & 2 in Addendum #2.

Questions

- Government's response.
- Government answered this.



**PROCUREMENT GOVERNANCE OFFICE
VENDOR COMPLAINT REVIEW PROCESS
PGO VCRP # 1415-001**

Ministry Recommendations and Action Plan

Ministry: Ministry of Technology, Innovation and Citizens Services

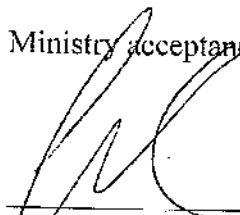
Complainant: Resolve Real Property Expertise

Procurement Reference: RFP# ON-002467 - Strategic Real Estate Services

OCG Recommendation	Ministry Action Plan	Follow Up date
1. Develop procedures (checklists, etc.) and guidance to support staff in identification, disclosure and mitigation of conflicts of interest	The Ministry will: <ul style="list-style-type: none">• Ensure that the issue of potential conflicts of interests are considered and documented on the ministry checklist and in procurement guidelines document• Include links to the Standards of Conduct for Public Service Employees Engaged in Government Procurement Processes in the ministry policies and procedures documentation	(proposed, January 2015)
2. Communicate/Raise awareness of the procedures and guidance.	The Ministry will: <ul style="list-style-type: none">• Ensure current and future communication streams (regular meetings, website, training, etc.) include references to documentation and training available for procurement policies and procedures	“ “

.../2

Ministry acceptance of recommendations and approval of Action Plan:



Colin McEwan, Assistant Deputy Minister and Executive Financial Officer,
Ministry of Technology, Innovation and Citizens Services

Date: Sept 2, 2014

pc: Teri Lavine, Chief Financial Officer and Executive Director, Corporate Services,
Ministry of Technology, Innovation and Citizens' Services