

September 27, 2000

Ms. Shelley Ewart-Johnson
Deputy Minister of Health and Wellness
Alberta Health and Wellness
22nd Floor, Telus Plaza
10025 Jasper Avenue
Calgary, AB T2P 3E9

Dear Ms. Ewart-Johnson:

Department of Health and Wellness - Review of the Surgical Services Contract Approval Process

As you are aware, we reviewed the documented surgical services contract approval process established by the Department of Health and Wellness.

The following observations and recommendations arising from this review are now presented for your information and attention.

Scope of Review

The scope of our engagement included a review of the documented contract approval process established by the Department of Health and Wellness (the “Department”) with a view of assessing the extent to which the process addresses significant issues and mitigates risks associated with the assessment and approval process of contracting organizations. Special consideration was given to the information requirements of the Minister of Health and Wellness pursuant to Section 8 of the Health Care Protection Act and other relevant legislation.

The Department has established a process that will result in a recommendation to the Minister on whether to approve an agreement submitted by a health authority. As part of this process, health authorities are required to provide the Minister with a proposal package including a copy of the proposed surgical facility contract for review. The Department developed assessment criteria, contracting guidelines and proposal submission guidelines that will be used in the process. In addition, the Department developed and documented the Surgical Services Proposals Assessment Plan that describes the review and approval process (the “Process”) that will be used to provide recommendations to the Minister.

We have completed our review of the documented Process at the Department. During our review the documented Process was modified. The latest copy we reviewed is dated August 29, 2000. As the Process developed by the Department of Health and Wellness was not in operation at the time of our review, the ability to test its overall effectiveness in terms of actual results was not possible. The review was conducted pursuant to Section 19 of the Auditor General Act. This section of the Auditor General Act gives the Auditor General the authority to undertake a review of management control systems and report observed instances where they are inadequate.

Introduction

A health authority may contract for insured medical services provided the requirements of the Health Care Protection Act (the “Act”) are met. Section 8 of the Act stipulates that a health authority must send to the Minister of Health and Wellness (the “Minister”) a copy of the proposed surgical facility contract for the Minister’s approval. The Minister can either:

- (i) approve the contract outright,
- (ii) approve the contract subject to any terms and conditions the Minister considers appropriate,
- (iii) refuse to approve the contract.

However, the Minister will not approve a proposed contract unless the Minister is satisfied that the provisions of Section 8(3) of the Act are met. The Section 8(3) provisions are:

The Minister shall not approve a proposed agreement unless the Minister is satisfied

- (a) *that the provision of insured surgical services as contemplated under the proposed agreement would be consistent with the principles of the Canada Health Act (Canada),*
- (b) *that there is a current need and that there will likely be an ongoing need in the geographical area to be served for the provision of insured surgical services as contemplated under the proposed agreement,*
- (c) *that the provision of the insured surgical services as contemplated under the proposed agreement would not have an adverse impact on the publicly funded and publicly administered health system in Alberta,*
- (d) *that there is an expected public benefit in providing the insured surgical services as contemplated under the proposed agreement, considering factors such as*
 - (i) *access to such services,*
 - (ii) *quality of service,*
 - (iii) *flexibility,*
 - (iv) *the efficient use of existing capacity, and*

- (v) *cost effectiveness and other economic considerations,*
- (e) *that the health authority has an acceptable business plan in respect of the proposed agreement showing how the health authority will pay for the facility services to be provided,*
- (f) *that the proposed agreement indicates performance expectations and related performance measures for the insured surgical services and facility services to be provided, and*
- (g) *that the proposed agreement contains provisions showing how physicians' compliance with the Medical Profession Act and by-laws as they relate to conflict of interest and other ethical issues in respect of the operation of the facility will be monitored.*

Matters Arising from our Review

1. Guiding Principles

We recommend that overarching principles, based on legislation, be included as part of the documented Process to guide decision-makers, including the Minister, when they are required to use discretion in making decisions concerning proposed surgical services contracts.

The Department has established and documented principles governing the Process itself. The principles established are consistent with those designed to guide a contracting process. We support these principles of objectivity, credibility, transparency and balance.

While the established assessment criteria are based on the principles found in Section 8(3) of the Act, and one would assume that decisions will be made based on these criteria, we believe that overarching principles should be documented to guide decisions when discretion is required.

As previously indicated, the Minister has three options respecting whether to approve a proposed contract. The Act also provides that the Minister will not approve a proposed contract unless the Minister is satisfied that the provisions of Section 8(3) of the Act are met. The assessment criteria focus on those specific issues only.

If the Minister is satisfied with those specific issues, he *may* approve a proposed surgical facility contract, but he is not required to do so. In our opinion, if the Minister is satisfied with those specific issues, he retains an element of discretion in determining whether to approve the proposed contract or whether to impose conditions for approval. His discretion should be exercised in accordance with the overarching principles. Further, discretion exercised by anyone participating in the Process should be based on the overarching principles arising from legislation.

From a review of the *Health Care Protection Act*, the *Regional Health Authorities Act* and the *Cancer Programs Act*, we have identified the following examples of principles that we believe will be useful to decisions makers, including the Minister, in the assessment and review process:

1. Pursuit of excellence in the health system in Alberta. This principle includes the following considerations:
 - a) Enhancement and improvement of accessibility to surgical services for Albertans, which includes:
 - i) identification of current needs for the surgical service;
 - ii) projection of future needs for the surgical service;
 - b) Efficient delivery of publically funded surgical services;
 - c) Quality of publically funded surgical services which includes:
 - i) high standards;
 - ii) best practices;
 - iii) effective patient outcomes; and
 - d) Ethically provided surgical services;
2. Public benefit provided by performance of surgical services at private surgical facilities.
3. Preservation of Alberta's publicly funded and publicly administered health system through compliance with the following principles:
 - a) public administration;
 - b) comprehensiveness;
 - c) universality;
 - d) portability; and
 - e) accessibility.

2. Due Diligence

We recommend that further consideration be given to the level of due diligence required to enable the Minister to discharge his responsibilities. We further recommend that assurances be obtained on the effectiveness of due diligence processes at health authorities when reliance is to be placed on them.

Due diligence represents the actions of those charged with obtaining adequate assurance with respect to specific matters. Due diligence would include, for example, independent verification of assertions, corroborating information presented with information obtained

from other sources, and obtaining representations with respect to information put forward by another party.

Both the Minister and health authorities are assigned certain responsibilities with respect to entering into and enforcing surgical facility contracts. The division of responsibility gives rise to the issue of the respective roles of health authorities and the Minister in this process. In particular, to what extent may the Minister rely on due diligence undertaken by the health authority and to what extent must the Minister either undertake an independent process of due diligence or seek assurances with respect to the process of due diligence undertaken by a health authority?

While each regional health authority is undoubtedly concerned about the health care system of Alberta as a whole, its primary focus is on health care within its own region. However, the Minister is required to consider the impact of the proposed surgical facility contract on the health care system of Alberta as a whole. This view is consistent with the preamble to the Act, which establishes the goals of excellence in the health system in Alberta and accessibility of health services to Albertans. As a result, the Process developed to assist the Minister in determining whether to approve a specific contract should include due diligence in respect of surgical facility contracts with a wider perspective than might be undertaken by individual health authorities.

The Act requires that the Minister must be satisfied with respect to specific issues relating to a surgical facility contract before he gives his approval. Further, the Minister is given the authority to refuse to approve a proposed surgical facility contract or to approve a proposed surgical facility contract, subject to any terms or conditions the Minister considers appropriate. And, the Minister has the authority to withdraw or amend the designation of a surgical facility under a variety of circumstances, including contravention of the surgical facility contract. In our view, the Minister's responsibilities cannot be satisfied simply by reliance on a health authority without the Minister obtaining assurances on the due diligence processes at a health authority.

Consideration should be given to the nature of information received from health authorities in order to facilitate due diligence on behalf of the Minister. In particular, the Department should initially focus on information and due diligence considerations relating to performance expectations and measures, standards of care, conflict of interest, and support for expected public benefit.

The nature of information relating to the Process will be addressed more fully under a separate recommendation.

Given the tight deadlines under which all participants are working, there is a risk that established policies and practices at regional health authorities may not, as yet, be formally revised to address specific issues relating to contracting for surgical services. This risk should be considered when planning to place reliance on the established policies and practices at health authorities.

In summary, we acknowledge that the establishment of the Process itself reflects an element of due diligence on behalf of the Minister. However, we believe that further consideration should be given to the level of due diligence required as part of the Process and that the due diligence processes be documented. Similarly, a determination should be made on the extent to which reliance on the health authorities due diligence processes is warranted, and the nature of assurances required should also be documented as part of the Process.

3. Performance Measures

We recommend that the Department consider the extent to which consistent outcome expectations and related performance measures for particular surgical services, in both surgical and public facilities, are required to enable the Minister to evaluate and approve surgical facility contracts.

Pursuant to the Act, surgical facilities contracts are to indicate performance expectations and related performance measures for insured surgical and facility services. The assessment criteria provide that relevant, appropriate and verifiable performance measurements such as mortality rates, complication rates, wait times, volume of service etc. are to be specified in the contract. However, they do not prescribe standard performance expectations and measures to be included in each surgical facilities contract.

The Department should determine whether performance expectations and measures are required on a Province-wide basis, on a regional basis or on an individual contract basis. In our view, Provincial performance expectations and measures are required in the longer-term. If Provincial performance expectations and measures were established for specific surgical services and if the Minister also required that such outcome expectations and related performance measures be applicable to the public facilities providing such services, the Minister would be able to compare outcomes between various surgical facilities and those from public facilities. This would assist the Minister in determining whether particular surgical facility contracts should be renewed. It would also assist in the assessment of future contracts by providing standard criteria against which to measure such contracts. In the absence of standard Provincial performance expectations and measures, it may be difficult for the Minister to undertake evaluation of performance under surgical facilities contracts on a consistent basis.

4. Contracting and Proposal Guidelines

We recommend the assessment criteria be revised to include the requirements of the contracting and proposal guidelines.

While the Department has provided its Contracting Guidelines and Proposal Submission Guidelines to the health authorities, compliance with those Guidelines is not expressly included as a criterion for assessment. The assessment criteria currently address the provisions of Section 8(3) of the Act, however the Process should also result in an overall assessment of compliance with the contracting and proposal guidelines. As a result,

compliance with the guidelines issued by the Department should be expressly included in the assessment criteria.

5. **Assessment Criteria Described in Quantitative and Qualitative Terms**

We recommend the assessment criteria be described in quantitative and qualitative terms whenever possible.

As discussed earlier, the Minister is required to consider the impact of surgical service contracts on the health care system of Alberta as a whole. We have concerns as to whether the Process permits consistent evaluation and approval of surgical facility contracts in this context. The documented Process currently describes the analysis to be performed on individual proposal submissions only. Further, such analysis will presumably be based, to a large extent, on information supplied by health authorities. And, the nature of the information received from individual health authorities may differ.

It is important that all criteria used in the Process be predetermined and described, as much as possible, in quantitative or qualitative terms. The removal of ambiguity will assist when determining whether specific criteria are met, and should result in the receipt of information that is comparable among health authorities.

Based on the information received from the initial submissions from health authorities, the Department should be able to identify if any gaps in information exist. However, based on our review of the assessment criteria, we believe the Department should initially focus on improving criteria relating to performance expectations and measures, standards of care, conflict of interest, best practices, and support for expected public benefit including:

- Access
- Quality of care provided
- Flexibility
- Efficient use of existing capacity, and
- Cost effectiveness

The format of the assessment criteria follows the requirements of Section 8(3) of the Act, and it is evident that considerable work was performed by the Department to develop the existing assessment criteria. However, we have identified, in bold italicised text, potential changes to the assessment criteria included in Contracted Insured Surgical Services, Ministry Assessment Criteria - Appendix A.

We also provide the following comments for your consideration.

The issue of conflict of interest is of particular importance. We understand that some of the surgical facilities that propose to contract with health authorities may have shareholders or employees who are also providers of services in the public system either as employees or physicians with medical staff privileges.

While the Act refers specifically only to physicians and the Medical Profession Act, we believe that this issue is equally applicable to compliance by dentists with the Dental Profession Act and bylaws and that this should be added to the assessment criteria. In addition, the Process does not specifically address potential conflicts of interest in relation to the members of the Department's proposal assessment team, the independent third party reviewer, or members of the Department's executive team.

Further, given the significance of the conflict of interest issue, the Department should work with health authorities toward a common goal of ensuring that all health authorities' conflict of interest bylaws, policies and practices are beyond reproach. This initiative would not only boost public confidence, it would directly address the legislative requirements relating to the issue of conflict of interest and should assist the Minister if he is required to withdraw or amend a designation of a surgical facility pursuant to Section 18(5) of the Act.

We recognize that there are some criteria for which it may be difficult initially to establish quantitative or objective qualitative measures. For example, access is a multifaceted issue for which objective data is available for certain facets (eg. number of surgical procedures performed and number of patients on waiting lists), but not for others (eg. persons requiring the contracted service being able to access the service providers on a fair and equitable basis.) Another example is the difficulty of prescribing quantitative or objective qualitative criteria in respect of the quality of professional and other services provided for specific surgical procedures. In such cases, it may be useful to initially define the goals to be achieved until quantitative and qualitative measures are established.

6. Role of Third Party Reviewer

We recommend that the Department document how it will incorporate in the Process the results of the work performed by the third party reviewer.

We understand an independent third party has been engaged to validate the rationale used in arriving at recommendations concerning the proposed contracts. However, it is not evident what role the third party's assessment will have on the decision of whether to approve a specific Surgical Contract. Neither is it clear how or by whom action will be taken on the results of the third party's assessment.

For the purpose of transparency, these responsibilities should be documented as part of the Process.

Other Matters

We provide the following comments for your consideration.

1. Individual Responsibilities of the Proposal Assessment Team

The Process requires that a proposal in respect of approval of a surgical facility contract is to be assessed by the Proposal Assessment Team at the Department and that the Proposal Assessment Team is to arrive at a recommendation by consensus. However, the documented process does not specify the particular responsibilities of each member of the Proposal Assessment Team. As the members of the Proposal Assessment Team are to be drawn from different disciplines, it is to be expected that specific members of the team will have primary responsibility for review of certain aspects of the proposal, as well as responsibility for review of the proposal as a whole.

2. Continuous Improvement in the Process

A plan is in place to evaluate the Process at the end of the project to see what improvements can be made for future submissions. The opportunity always exists to go back to the first submission and improve it based on the learning in the system. Accordingly, we believe that a continuous improvement process should be built into the Process itself so that the “system” learns as it progresses through the various stages of the Process.

Consideration should also be given to improving the tools used in the process. For example, the worksheets that will be used to capture the results of individual assessments could be improved to facilitate individual assessment at the detailed criteria level.

We would appreciate being advised of the action taken or proposed to address these recommendations. We would like to thank senior management and staff for the courtesy and co-operation extended to us during the review.

Yours truly,

[Original Signed by Peter Valentine]

Peter Valentine, FCA
Auditor General

NS/DW/lt
Encl.

c: The Hon. Gary Mar, MLA, Minister of Health and Wellness
Mr. Rai Batra, Assistant Deputy Minister, Finance and Health Plan Administration

The Office of the Auditor General's comments are identified in bold italicized text.

SCHEDULE "A"

CONTRACTED INSURED SURGICAL SERVICES

MINISTRY ASSESSMENT CRITERIA

A health authority that wishes to enter into an agreement with an owner/operator of a surgical facility for the purpose of providing insured surgical services shall provide the Minister with the proposal accompanied by a copy of the proposed agreement for the Minister's approval. This document outlines the legislated criteria that the Ministry will use in assessing the proposals:

<i>Documents Submitted</i>	<i>Proposal</i>	<ul style="list-style-type: none"> • <i>Proposal for contracted services is consistent with the Guidelines for Proposals for Contracted Insured Surgical Services</i>
	<i>Contract</i>	<ul style="list-style-type: none"> • <i>Surgical Facility Contract is consistent with the Guidelines for Health Authorities on Contents of Contracts with Surgical Facilities</i>

Legislated Requirements [Section 8(3) (a) to (g) of <i>the Health Care Protection Act</i>	Description	Assessment Criteria
<p>(a) that the provision of insured surgical services as contemplated under the proposed agreement would be consistent with the principles of the <i>Canada Health Act</i> (Canada).</p>	<p>Public Administration:</p> <ul style="list-style-type: none"> • Administration of the health care insurance plan must be <i>administered and operated</i> on a non-profit basis by a public authority. • <i>Public authority must be responsible to the provincial government.</i> • <i>Public authority must be subject to audit of accounts.</i> <p>Comprehensiveness:</p> <ul style="list-style-type: none"> • All medically necessary hospital 	<ul style="list-style-type: none"> • Surgical facilities are contracted by publicly administered Health Authorities (HAs) to deliver specific insured services, which are part of the publicly funded, publicly administered system. • <i>Nothing in contract permits charges to patients</i>

Legislated Requirements [Section 8(3) (a) to (g) of <i>the Health Care Protection Act</i>	Description	Assessment Criteria
	<p>services and medically required physician services and surgical – dental services provided must be insured.</p> <p>Universality:</p> <ul style="list-style-type: none"> All residents are entitled to public health insurance coverage on uniform terms and conditions. <p>Portability:</p> <ul style="list-style-type: none"> Agreement deals with provision of services in Alberta. No more than 3 months waiting period for eligibility for services in Alberta. <p>Accessibility:</p> <ul style="list-style-type: none"> Residents must have reasonable access to medically necessary hospital, and medically required physician and surgical-dental services on uniform terms and conditions without financial or other barriers. 	<p>for medically necessary or medically required services.</p> <ul style="list-style-type: none"> Nothing in contract is inconsistent with the eligibility of all persons entitled to benefits under the Alberta Health Care Insurance Plan to medically necessary hospital and medically required services provided by the facility on uniform terms and conditions. No queue jumping or other priorities. Nothing in the contract is inconsistent with the entitlement of all patients, including those from outside Alberta, to be treated in accordance with the Canada Health Act and existing inter-provincial reciprocal billing agreements. Contract requires that uniform terms and conditions based on medical needs will apply to access. Access to service and equity of access will be maintained or improved, considering: <ul style="list-style-type: none"> Volume of service to be provided.

Legislated Requirements [Section 8(3) (a) to (g) of <i>the Health Care Protection Act</i>]	Description	Assessment Criteria
		<ul style="list-style-type: none"> • Expected waitlists and wait times. • <i>Provision in contract</i> that there will be no facility fee to patients. • <i>Provision in contract</i> that there are no patients' charges for medically necessary services. • The contracted service must not adversely affect the timely provision of service within the region, including protection of equitable access to the service based on medical needs. <p><i>[COMMENT - How will equitable access be measured?]</i></p> <ul style="list-style-type: none"> • The contract strictly complies with the <i>Health Care Protection Act</i> and Regulations relating to sale of enhanced medical goods and services and non-medical goods and services, <i>including requirement for completion of a statement of disclosure and agreement by patient to pay for such goods and services.</i> • The contract prohibits the surgical facility owner/operator to provide preferential access to services to any person based on: <ol style="list-style-type: none"> 1. Payment of money or other valuable consideration; 2. Payment for Enhanced Medical or Non-medical Goods and Services; 3. Provision of an uninsured surgical service. <p><i>[COMMENT - For ongoing evaluation purposes how will this be monitored?]</i></p>

Legislated Requirements [Section 8(3) (a) to (g) of <i>the Health Care Protection Act</i>	Description	Assessment Criteria
		<ul style="list-style-type: none"> Contract prohibits the sale of non-medical goods and services as a condition for sale of enhanced medical goods and services.
<p>(b) that there is a current need and that there will likely be an ongoing need in the geographical area to be served for the provision of insured surgical services as contemplated under the proposed agreement.</p>	<p>Demonstrated Need:</p> <ul style="list-style-type: none"> The proposed agreement should be based upon a demonstrated need for the service during the term of the agreement. 	<ul style="list-style-type: none"> Proposal describes for geographical areas to be served: <ul style="list-style-type: none"> Current need for the surgical services in the geographical area (“Historical”); and Why there is likely to be an ongoing need for surgical services in the geographical area (“Projected”). Proposal establishes how the contract will meet the Historical and Projected service volumes.
<p>(c) that the provision of the insured surgical services as contemplated under the proposed agreement would not have an adverse impact on the publicly funded and publicly administered health system in Alberta.</p>	<p>Risks relating to the Operator:</p> <ul style="list-style-type: none"> The proposal must disclose ownership information to enable assessment of any adverse impact on the publicly funded health system, including financial risks, performance risks and potential legal liability . 	<ul style="list-style-type: none"> Sufficient information is provided in the proposal to indicate who owns the facility and controls business decisions. Satisfactory evidence is provided in the proposal to establish that the contracting party has the financial resources and strength to undertake its obligations under the contract or that suitable security has been provided in respect of performance by the contracting entity. Satisfactory evidence is provided in the proposal to establish that the contracting party has the qualifications, skills and resources to provide the contracted services. Satisfactory evidence is provided in the

Legislated Requirements [Section 8(3) (a) to (g) of <i>the Health Care Protection Act</i>	Description	Assessment Criteria
		<i>proposal to establish that the contracting party has a good and ethical reputation.</i>
	<p>Risk of Dependency:</p> <ul style="list-style-type: none"> The proposal must identify the risk of dependency that may result from the contractual relationship and outline mechanisms to ensure the continued ability to deliver service in public facilities. 	<ul style="list-style-type: none"> The health authority has a plan for managing risks that can result from the facility being a sole or significant supplier of the surgical service to the health authority. At a minimum, the plan should address the following: <ul style="list-style-type: none"> The extent to which the region will retain the internal ability to provide the service. The nature of short and long-term alternatives, if any, to the contracted service agreement. Description of a contingency plan for the delivery of services in the event of service disruption. (e.g. labour dispute). Description of the process to handle termination of the contract, including a reasonable notice period and the contingency plan for the delivery of services in the event of termination.
	<p>Workforce Risks:</p> <ul style="list-style-type: none"> The health workforce available to the public must continue to have the ability and expertise to deliver medically necessary services in the overall health system. 	<ul style="list-style-type: none"> Satisfactory evidence of the health authority's ability to meet its staffing needs considering the following: <ul style="list-style-type: none"> The impact of staff moving from public facilities to contracted facilities. Whether the proposal is expected to attract new providers to the region.

Legislated Requirements [Section 8(3) (a) to (g) of <i>the Health Care Protection Act</i>	Description	Assessment Criteria
		<ul style="list-style-type: none"> Whether surgeons/<i>dentists</i> are members of regional medical/<i>dental</i> staff and/<i>or members of administration</i> of the health authority.
	<p>Other Factors:</p> <ul style="list-style-type: none"> Any other factors with the potential to adversely affect the publicly funded and publicly administered health system are identified. 	<p>The Proposal discusses other factors such as:</p> <ul style="list-style-type: none"> Programs, if any, for continuing education of staff in surgical facilities are identified. Surgical facility involvement, if any, in health authority programs for teaching and research is described. <i>How patients for the surgical facility are to be selected and whether “creaming of patients” can occur.</i>
<p>(d) that there is an expected public benefit in providing the insured surgical services as contemplated under the proposed agreement, considering factors such as</p> <p>(i) access to such services,</p>	<p>The consideration of the following factors contributes to an overall assessment of public benefit <i>in providing the insured surgical services as contemplated under the proposed contract</i></p> <p>Access:</p> <ul style="list-style-type: none"> The contracted service must maintain or improve the timely provision of service within the region, including protection of equitable access to the service. <i>Provision of a service not available in the public system.</i> 	<ul style="list-style-type: none"> Evidence that volume of service and expected wait lists/ wait-times will be maintained or improved by creating capacity in the public system to provide other services <i>or otherwise.</i> The contract provides for a reasonable approach to manage access to the type of surgical services the facility will provide.

Legislated Requirements [Section 8(3) (a) to (g) of <i>the Health Care Protection Act</i>	Description	Assessment Criteria
		<ul style="list-style-type: none"> • See the Assessment Criteria under 8(3)(a) – Accessibility
(ii) quality of service,	<p>Quality:</p> <ul style="list-style-type: none"> • The standard of health services, covering dimensions of quality discussed below, available in a surgical facility must be at least equal to those available in public facilities and must be in accordance with generally accepted medical practices. • The quality of health services can be assessed along several dimensions including the following: 	<p>[COMMENT - Need information of standards applicable in public system so Minister can compare to standards of care to be provided by surgical facility.]</p> <p>[COMMENT - How are applicable “generally accepted medical practices” to be determined by the Minister.]</p>
	<p>Safety</p> <ul style="list-style-type: none"> • Processes must be in place to ensure the same standards of safety as present in public facilities. 	<ul style="list-style-type: none"> • Contract requires compliance with regulations under the <i>Public Health Act</i>, (e.g., infection control). <p>[COMMENT - Will compliance be required with provision of the Operation of Approved Hospitals Regulation such as:</p> <ul style="list-style-type: none"> • section 18 - Surgical Care; • section 19 - Anaesthetics; • section 22 - Operating Room; and • section 23 - Tissues removed at operation?] <ul style="list-style-type: none"> • The contract includes provisions to report to the HA and CPSA any critical incidents, such as mortality, major surgical complications, infections, unexpected hospitalization, etc.

Legislated Requirements [Section 8(3) (a) to (g) of <i>the Health Care Protection Act</i>	Description	Assessment Criteria
		<ul style="list-style-type: none"> • The contract requires that surgical facilities will be part of regional quality assurance and monitoring activities.
	<p>Appropriateness</p> <ul style="list-style-type: none"> • The right services provided at the right time in the right way in the most suitable setting. 	<ul style="list-style-type: none"> • Care guidelines (e.g., care maps, clinical practice guidelines) for services at a contracted surgical facility are consistent with those applicable in public facilities. <p>[COMMENT - Need to identify the applicable care guidelines so performance expectations are clear.]</p>
	<p>Acceptability</p> <ul style="list-style-type: none"> • Patient and family satisfaction with service must be no less than satisfaction with services in public facilities. 	<ul style="list-style-type: none"> • Contract requires that a patient and family concerns resolution process within the contracted facility will be coordinated with the HA's internal concerns resolution process, where appropriate. • Role and responsibility of HA and contracted facility relating to clinical and non-clinical patient and family concerns are specified in contract. • The contract includes a process for monitoring and reporting patient satisfaction with services provided. • The HA will monitor reported patient concerns and satisfaction rates and compare with patient satisfaction reports for the same services provided in public and other private facilities.

Legislated Requirements [Section 8(3) (a) to (g) of <i>the Health Care Protection Act</i>]	Description	Assessment Criteria
	<p>Effectiveness</p> <ul style="list-style-type: none"> Client outcomes must be at least equal to those for similar services delivered in public settings. 	<ul style="list-style-type: none"> The contract includes provision for regular reporting to the HA on outcomes related to the service delivered by the surgical facilities. <p><i>[COMMENT - Should the contract require certain specified minimum measurable outcomes?]</i></p> <p><i>[COMMENT - Should the Minister require certain standard reporting requirements on specified outcomes, so that outcomes of facilities may be compared? Should the Minister require the same reporting from public facilities?]</i></p>
	<p>Continuity</p> <ul style="list-style-type: none"> Clients of surgical facilities must be provided with the same level of co-ordinated, uninterrupted service across the continuum of care as clients receiving the same services in public facilities. 	<ul style="list-style-type: none"> The contract outlines responsibility for pre or post-surgical care. The proposal includes a plan for effective and coordinated delivery of pre or post-surgical care, taking into account: Emergency transfer of patients to public facilities, if required. Transmission of necessary diagnostic, treatment and care information to those responsible for pre-surgical and ongoing care. The size and capacity of surgical facility to support continuum of care. <p><i>[COMMENT - Number and qualification of staff should also be a consideration as there are</i></p>

Legislated Requirements [Section 8(3) (a) to (g) of <i>the Health Care Protection Act</i>	Description	Assessment Criteria
		<i>potential risks for HA and Minister if staff not qualified or available to perform contracted surgical services.]</i>
	Best Practices.	[COMMENT - This is a goal set out in the preamble of the Act. What assessment criteria should be established to ensure that the proposed contract will result in the application of best practices?]
(iii) Flexibility,	<ul style="list-style-type: none"> The contracting option should lead to greater service flexibility for the health authority. 	<ul style="list-style-type: none"> HA has identified the extent to which public benefits may be realized from freeing up its resources (e.g. O.R. time) to deliver other surgical services.
(iv) the efficient use of existing capacity.	<ul style="list-style-type: none"> Consideration of existing excess capacity. 	<ul style="list-style-type: none"> Evidence that HA has considered existing internal capacity in the decision to contract out and why contracting out provides a more efficient use of existing capacity.
(v) cost effectiveness,	<ul style="list-style-type: none"> Cost effectiveness analysis is a systematic method for comparing the costs of alternative means of achieving the same benefits. [COMMENT - Should require a process that permits comparisons with other private providers of surgical services in a surgical facility.] HA has demonstrated that the contract is a cost-effective alternative based on sound methodology and information that can be independently verified. 	<ol style="list-style-type: none"> Option of contracting out when there is excess capacity in the public hospital: <ul style="list-style-type: none"> The proposal estimates the net incremental cost of opening up the unused capacity. The proposal estimates the full cost of contracting out, including the incremental cost of administering the contracts. The proposal compares the net cost saving/additional cost of contracting out to opening excess capacity.

Legislated Requirements [Section 8(3) (a) to (g) of <i>the Health Care Protection Act</i>	Description	Assessment Criteria
		<p>2. Option of contracting out when there is no excess capacity in the public hospital.</p> <ul style="list-style-type: none"> • The proposal estimates the net incremental cost of building, commissioning and operating a facility to provide the access that would be created through contracting. • The proposal estimates the full cost of contracting out including the incremental cost of administering the contracts. • The proposal compares the net cost savings/additional cost of contracting out to building a new facility.
		<p>3. Option of contracting out for part of the needed capacity and partly opening up existing unused capacity.</p> <ul style="list-style-type: none"> • The proposal estimates the net incremental cost of building, commissioning and operating a facility to provide access that would be created through contracting. • The proposal estimates the full cost of contracting out including incremental cost of administering the contracts. • The proposal estimates the net incremental cost of opening up the unused capacity. • The proposal compares the net cost savings/additional cost of contracting out to building, commissioning and operating a new facility.

Legislated Requirements [Section 8(3) (a) to (g) of <i>the Health Care Protection Act</i>	Description	Assessment Criteria
Other economic considerations	<ul style="list-style-type: none"> • Agreements may be entered into for a variety of reasons relating to tangible and intangible benefits. Tangible and intangible benefits may justify the cost. • The health authority has used a sound basis and reasonable assumptions in developing an economic rationale for the proposal. 	<ul style="list-style-type: none"> • The proposal identifies the basis and assumptions used to determine relevant costs of options. • The basis and assumptions used can be verified by an independent third party from data and information available.
	<ul style="list-style-type: none"> • HA has identified all significant risks and processes to manage those risks. • Processes to assess continued benefit in the long run. 	<ul style="list-style-type: none"> • HA has identified contingency plans in the event of non-performance by the contractor. • HA has identified risks relating to: <ul style="list-style-type: none"> • Financial strength of contractor; • Human and other resources of contractor; • Experience of Management in provision of quality surgical services; adequacy of public liability insurance. • Patient access. • HA has processes to ensure that defined dollar and/or volume ceilings on agreements are not exceeded. • The proposal promotes innovation in service delivery.

Legislated Requirements [Section 8(3) (a) to (g) of the Health Care Protection Act	Description	Assessment Criteria
(e) that the health authority has an acceptable business plan in respect of the proposed agreement showing how the health authority will pay for the facility services to be provided, and	Sustainability – Acceptable Business Plan <ul style="list-style-type: none"> • HA would be able to sustain the option of contracting out within available resources. • The arrangement with service providers will be included in the HA business plan. 	<ul style="list-style-type: none"> • The proposal estimates the impact of contracting on the HA’s resources, including a clear statement of direct and indirect costs. • The proposal discusses the options available to the health authority when resources are constrained. • The HA has sufficient available financial resources to sustain the contract over the term of the contract.
(f) that the proposed contract indicates performance expectations and related performance measures for the insured surgical services and facility services to be provided.	<ul style="list-style-type: none"> • The proposed contract includes performance expectations, performance measures, and processes for monitoring agreed to performance expectations. 	<ul style="list-style-type: none"> • The contract specifies specific performance expectations to ensure that public benefit is realized. At a minimum include specific expectations in respect of access, quality of service and cost effectiveness. • The contract specifies relevant, appropriate and verifiable performance measurements.(e.g. mortality rates, complication rates, wait times, volume of service etc.) to monitor contractor’s performance. • Process to monitor results against agreed expectations has been defined and incorporated into the contract .
(g) that the proposed contract contains provisions showing how physicians compliance with the <i>Medical Profession Act</i> and by-laws as they relate to conflict of interest and other ethical issues in	<ul style="list-style-type: none"> • Mechanisms should be in place to monitor HA’s board members, staff and physicians' compliance with conflict of interest and other ethical requirements. 	<ul style="list-style-type: none"> • Evidence that processes are in place and have been followed to ensure compliance with conflict of interest by-laws and guidelines.

Legislated Requirements [Section 8(3) (a) to (g) of <i>the Health Care Protection Act</i>	Description	Assessment Criteria
respect of the operation of the facility will be monitored.	<ul style="list-style-type: none"> The proposed contract contains provisions to monitor showing physicians' compliance with the <i>Medical Profession Act</i> and related by-laws on conflict of interest and other ethical issues. 	<p>[COMMENT – Need for identification of conflict of interest and other issues respecting physicians and dentists.]</p> <ul style="list-style-type: none"> <i>Requirement to submit adequate disclosures of any conflicts to establish if any breaches have occurred.</i> <i>Consideration of whether there exists any conflict of interest in respect of a proposed contract by any members of HA, or its agents, senior officers or employees.</i> <i>Consideration of whether conflict of interest guidelines applicable to Alberta Health & Wellness have been breached.</i>
Legislated Requirements [Section 9 of the Health Care Protection Act.]	<i>Amendment or Renewal.</i>	<ul style="list-style-type: none"> <i>Contract provides that no amendment to or renewal of an approved contract is effective until it is approved by the Minister.</i>
Legislated Requirements [Section 10 of the Health Care Protection Act.]	<i>Assignment, transfer, change of ownership.</i>	<ul style="list-style-type: none"> <i>The contract prohibits assignment or transfer without the prior written consent of the Minister.</i> <i>The contract prohibits a change in ownership of the surgical facility without the prior written consent of the Minister.</i> The contract <i>incorporates</i> a process to monitor changes in ownership and business decision making. The contract <i>incorporates provisions requiring</i> the approval of the Minister <i>prior to</i> proposed changes in ownership that result in a change of control.

	Description	Assessment Criteria
Legislated Requirements <i>[Section 24 of the Health Care Protection Act.]</i>	Inquiries and Inspections.	<ul style="list-style-type: none"> • Contract provides for Minister to make inquiries into management and affairs of facility, inspect facilities and examine records required to carry out responsibilities under Health Care Protection Act.
Other Contractual Requirements.	Reporting requirements.	<ul style="list-style-type: none"> • Contract provides for contractor to provide specified information that will permit evaluation of surgical services in surgical facilities on an ongoing basis.
	Confidentiality of Patient Information.	<ul style="list-style-type: none"> • Contract provides for compliance with FOIPP and Health Information Act (upon proclamation) and requires that operator provide assistance with requests for information under this legislation.
	Indemnification by Contractor.	<ul style="list-style-type: none"> • Contract provides for indemnification of HA and Minister for breach of contract or harm or injury to patients.
ADDITIONAL ASSESSMENT CRITERIA	Accreditation of Surgical Facility (section 21).	<ul style="list-style-type: none"> • Confirmed accreditation prior to approval of contract.
	Underlying principles of the Health Care Protection Act: <ul style="list-style-type: none"> • Pursuit of excellence in the health system in Alberta; 	<ul style="list-style-type: none"> • Overall the proposed contract is consistent with underlying principles of the Health Care Protection Act.

	Description	Assessment Criteria
	<ul style="list-style-type: none">• <i>Public benefit provided by performance of surgical services at private surgical facilities;</i>• <i>Preservation of Alberta's publicly funded and publicly administered health system;</i> <i>and</i>• <i>Transparency of the process.</i>	