



Report of the Auditor General of Canada to the Legislative Assembly of Nunavut—2012

Procurement of Goods and Services



Office of the Auditor General of Canada
Bureau du vérificateur général du Canada

OAG-BVG

Ce document est également publié en français et en Inuktitut.

ᑕᓐᓇ ᑎᑎᓕᓐᑕᑭᓕᓕᓐ ᐱᑕᓐᓇᑭᓐᓇ ᐱᓂᑎᑕᓐ

© Her Majesty the Queen in Right of Canada, represented by the Minister of Public Works and Government Services, 2012.

Cat. No. FA3-81/2012E-PDF
ISBN 978-1-100-20088-0





Auditor General of Canada
Vérificateur général du Canada

To the Honourable Speaker of the Legislative Assembly of Nunavut

I have the honour to transmit herewith my report on the audit of Procurement of Goods and Services to the Legislative Assembly of Nunavut in accordance with the provisions of section 48 of the *Nunavut Act*.

Yours sincerely,

A handwritten signature in black ink, appearing to read "Michael Ferguson".

Michael Ferguson, FCA

OTTAWA, 28 February 2012

Table of Contents

Main Points	1
Introduction	3
Focus of the audit	5
Observations and Recommendations	6
Procurement framework	6
Key elements of the procurement framework are in place, but some elements need to be improved	6
Qulliq Energy Corporation needs to formalize the contracting rules that it applies	8
Awarding of contracts	9
All competitive contracts for Community and Government Services and the majority for Qulliq Energy Corporation's capital projects were awarded according to the rules	10
Nunavut Housing Corporation was missing key documentation to support the award of half of its competitive contracts	10
All three entities had weaknesses in the awarding of sole-source contracts	11
Improvements are needed in contract award by all three entities	16
Administration of contracts	16
Some significant controls are not applied in all three entities	16
Community and Government Services and Nunavut Housing Corporation ensured that goods and services were received	18
Qulliq Energy Corporation did not have evidence that key controls were applied	19
Improvements are needed in contract administration by all three entities	21
Entity information	21
Contract information needs to be managed better by the corporations	21
Awarding of scheduled medical travel contracts	22
Contracts were awarded according to the evaluation process rules for the 2008 and 2011 contracts by Community and Government Services	22
NNI Policy	23
The policy is not applied consistently	23
Common causes of non-compliance	25
Several causes contribute to non-compliance with procurement rules	25
Conclusion	26
About the Audit	27
Appendix	
List of recommendations	30

Procurement of Goods and Services

Main Points

What we examined

Procurement is the way the Government of Nunavut acquires a wide range of goods and services to deliver government programs to its people and maintain government operations.

Departments and territorial corporations of the Government of Nunavut are responsible for defining their procurement requirements; however, while corporations are responsible for their own procurement of goods and services, Government of Nunavut departments are limited in what they can procure independently. The Department of Community and Government Services is considered the Government's main contracting authority for the procurement of goods and most services.

We examined whether the procurement framework of the Government of Nunavut is designed so that contracts are awarded in a process that is fair and open, and administered according to key elements of relevant authorities. We also examined whether a sample of contracts awarded by three Government of Nunavut entities were awarded and administered according to the Government's procurement framework. We selected the three entities—Community and Government Services; Nunavut Housing Corporation; and Qulliq Energy Corporation—based on their levels of contract spending, their responsibilities, and interest expressed by the Legislative Assembly. In addition to our sample of contracts, we audited the awarding of contracts for scheduled medical travel in 2008 and in 2011, which were of particular interest to the Legislative Assembly.

Audit work for this report was substantially completed on 7 November 2011. Further details on the conduct of the audit are in **About the Audit** at the end of this report.

Why it's important

The three entities we examined spent a total of about \$207 million in 2010–11 on contracts for goods and services to support the delivery of their programs. The Government of Nunavut's objective for procurement is to promote competition and carry out contracting in an open, fair, and transparent process. It is important that procedures be

in place to support this objective and also that contracting be carried out according to the Government's procurement framework.

What we found

- The Government of Nunavut has an appropriate procurement framework in place. It contains the key elements required to procure goods and services in an open and fair manner and to administer contracts in accordance with applicable contracting rules. This includes, for example, clearly defining situations where sole-source (non-competitive) contracting is permitted as well as contract monitoring. However, there is a need for clearer direction and timely training on applying the NNI Policy consistently. In addition, Qulliq Energy Corporation has not formalized the procurement framework that it applies.
- Community and Government Services followed the rules in awarding the competitive contracts we reviewed. However, Nunavut Housing Corporation was missing key documentation to support the awarding of half of its competitive contracts we looked at. Qulliq Energy Corporation followed the rules in awarding competitive contracts for capital projects but not contracts for other goods and services. All three of the entities had weaknesses in the awarding of sole-source contracts. Qulliq Energy Corporation lacked evidence that key controls were applied; it does not have the information it needs to manage the contracts adequately. Not awarding and administering contracts according to the rules can affect the confidence Nunavummiut have in the system and impact the value for money obtained by the Government of Nunavut.
- The Government of Nunavut has contracts with airlines to provide regularly scheduled flights for Nunavummiut requiring non-emergency medical assistance. The scheduled medical travel contracts we examined were awarded according to the contracting rules.
- In our view, the weaknesses we observed have several causes in common, some of which we had also found in previous audits of the Government of Nunavut. These include a lack of capacity. For example, entities with more procurement expertise and capacity had better results in the awarding and administering of contracts. A lack of such expertise and capacity impacted entities' ability to properly manage the awarding and administration of contracts.

The entities have responded. The entities agree with all of the recommendations. Their detailed responses follow the recommendations throughout the report.

Introduction

1. Procurement is the way the Government of Nunavut acquires a wide range of goods and services required to deliver government programs to its people and to maintain government operations. The location of Nunavut and its communities has an impact on the availability of goods and services, as well as on the costs and timeliness of the delivery of goods and services.
2. A variety of contracts are used to meet the Government of Nunavut's procurement requirements (Exhibit 1). These range from contracts that precisely define the deliverables to be provided to a specific client by a specific date to other contracts for less specific or well-defined needs.
3. In the 2010–11 fiscal year, Government of Nunavut departments awarded and spent about \$506 million (including approximately \$163 million spent on fuel) on contracts. This amount does not include spending by territorial corporations or by the Legislative Assembly (Exhibit 2). Corporations report their contract spending separately from the Government of Nunavut; these figures are not

Exhibit 1 Examples of Government of Nunavut contracts

Publicly tendered contracts—A publicly tendered contract is a competitive contract that is open to the general public. A **Request for Proposal (RFP)** is used when the Government of Nunavut is not sure what is wanted and is looking for ideas, suggestions, and recommendations on a project. A **Request for Tender (RFT)** is used when the Government knows exactly what it is looking for and is seeking the best price to do that specific job.

Invitational contracts—An invitational process can be used to award a contract within a set dollar threshold. RFT and RFP documents are sent only to selected contractors or suppliers, but any other qualifying contractor or supplier can request the documents and submit a bid or proposal. A “restricted invitational” process can also be used in which documents will not be sent to bidders who have not been invited, and bids will not be accepted from them. The Deputy Minister or the President must approve the use of this method. By virtue of the Nunavummi Nangminiaqtunik Ikajuuti Policy (NNI Policy), all RFPs and RFTs up to \$25,000 should be restricted to Nunavut-based vendors where there is sufficient competition (for example, three or more capable and available vendors).

Sole-source contracts—A competitive bidding process is not followed in the case of sole-source contracts. A sole-source contract is entered into by going directly to one specific contractor or supplier in circumstances where criteria set out in the *Government Contract Regulations* are met.

As and When Contracts—As and When contracts are contracts where the total value of the contract can be calculated by multiplying units of work by a fixed unit price. These contracts can also be referred to as “Unit Price Contracts.”

Source: Government of Nunavut Contracting Procedures Manual, 2nd Edition, 2010

reported in a consistent manner to allow comparison between corporations or with the Government departments.

4. Government of Nunavut departments and corporations are responsible for defining their procurement requirements; however, the departments are limited in what they can procure independently. The Department of Community and Government Services (CGS) is the main contract authority for the procurement of goods and most services for the Government of Nunavut. Departments can do their own procurement for sole-source contracts, for goods and services under \$5,000, and for services not covered under the authority of CGS or other specified contract authorities. Departments are responsible for administering and managing the results of contracts, other than those for construction, which CGS is responsible for. Corporations are responsible for their own procurement of goods and services and are not required to go through CGS. Corporations are also responsible for administering and managing the results of contracts.

5. The foundation of the Government of Nunavut's contracting is the competitive bidding process, required to be followed whenever possible. Government of Nunavut departments and corporations publicly advertise their contracting needs, inviting contractors to submit bids or proposals in response. Government of Nunavut officials evaluate the submissions according to cost and other predetermined criteria, including requirements under the NNI Policy. The contract is typically awarded to the bidder who can provide the best value for money to the Government. Once the contract is awarded, it is

Exhibit 2 Awarding and spending on contracts excluding fuel and leases

Entity	2009–10	2010–11
Government of Nunavut departments	\$309 million	\$343 million
Community and Government Services (primary contract authority for the Government of Nunavut)	\$82.8 million	\$92.4 million
Nunavut Housing Corporation	\$75.9 million	\$87.6 million
Qulliq Energy Corporation	\$22.3 million	\$26.8 million (estimated)
Other territorial corporations	Not publicly disclosed	Not publicly disclosed

Sources: Government of Nunavut Procurement Activity Report, 2009–10 and 2010–11; Nunavut Housing Corporation Contracting Report, 2009–10 and 2010–11; Qulliq Energy Corporation—Lease, Contract and Procurement Activity Report, 2009–10; information provided to the Office of the Auditor General by the entities.

monitored, as required, for progress and compliance with the terms and conditions of the contract. This includes, as appropriate, authorizing and making payments.

Focus of the audit

6. We examined whether the procurement framework for the Government of Nunavut is adequately designed and the contracting activities for selected Government entities were managed and carried out according to key elements of relevant authorities (see paragraph 11). To assess the way that contracts are awarded and administered, we focused our audit on three entities—Community and Government Services, Nunavut Housing Corporation, and Qulliq Energy Corporation. In addition to the contracts included in the samples, we also audited the awarding by Community and Government Services of contracts for scheduled medical travel (2008 and 2011).

7. These entities were selected based on the level of contract spending, responsibilities, and interest from the Legislative Assembly. In February 2011, our Office received two requests from the Commissioner of Nunavut. The first request was to conduct an audit of the Government's evaluation and award process for a Request for Proposal (awarded in 2008) related to a standing offer agreement for medical travel on scheduled airlines. The second request was to conduct an audit of Qulliq Energy Corporation's practices, including procurement, leasing, and human resource management. We were also asked, by the Government of Nunavut, to carry out a review of all Nunavut Housing Trust project-related expenditures and the validity of all estimates to complete the project. Given that we do only one performance audit of the Government of Nunavut each year, and in an effort to address the Government's requests, we included both corporations as well as the scheduled medical travel contracts in our audit of procurement.

8. Our conclusions about management practices and actions refer only to those of Government of Nunavut and corporation employees. Similarly, the rules and regulations we refer to apply only to these individuals and not to contractors. We did not audit the records of contractors. Consequently, our conclusions do not pertain to any practices that contractors followed or to their performance.

9. More details about the audit objectives, scope, approach, and criteria are in **About the Audit** at the end of this report.

Observations and Recommendations

Procurement framework

10. A procurement framework is designed to ensure that contracts for goods and services are awarded in an open and fair manner and administered according to applicable laws, regulations, and policies. Such a framework establishes the rules set out by government and is designed to ensure that government staff clearly understands their roles and responsibilities.

Key elements of the procurement framework are in place, but some elements need to be improved

11. The Government of Nunavut procurement framework is governed by the Government's *Financial Administration Act*, the Nunavut Land Claims Agreement—Article 24, and the *Government Contract Regulations*. In addition, the Government of Nunavut Financial Administration Manual, Nunavummi Nangminiaqtunik Ikajuuti Policy (NNI Policy), Contracting Procedures Manual, and contracting guidance provide more specific direction on how departments are to carry out procurement.

12. We examined the procurement framework to determine whether it is designed so that contracts for goods and services are awarded in an open and fair manner and administered according to key elements of relevant authorities.

13. We found that the procurement framework contains the key elements required to procure goods and services in an open and fair manner and to properly administer contracts. For example, the framework outlines rules on when sole-source contracting is permitted as well as on contract monitoring.

14. We also found that the procurement framework has been revised over time. For example, the 2000 Government of Nunavut Contracting Procedures Manual was updated and re-issued in 2010, providing more direction and details on items such as the criteria under which sole-source contracts are permitted and the requirements for bid security. In addition, the 2005 *Government Contract Regulations* were updated in 2011, providing more details about the required process for procuring goods and services. These updated documents are evidence that the procurement framework is evolving and being improved.

15. **NNI Policy.** The NNI Policy is aimed at implementing the Government of Nunavut's obligations under Article 24 of the Nunavut

Land Claims Agreement. As part of this audit, we examined compliance with key elements of the policy. Our findings, discussed in paragraphs 73-76, indicate that the application of the policy is inconsistent across and within the entities we examined. Our recommendation to improve the application of the policy is at paragraph 77.

16. Guidance on the procurement framework. Guidance is a key component in ensuring compliance with the procurement framework. We examined whether the Government of Nunavut provides adequate guidance to staff on procurement, including training.

17. We found that adequate guidance is available through the Contracting Procedures Manual and various reference guides issued by Community and Government Services. Training on Government and general contracting procedures is available to all Government of Nunavut departments and corporations, through Community and Government Services. However, entity officials mentioned the lack of training. It is the responsibility of the departments and corporations to ensure that staff receive adequate training. Providing regular training to staff is critical given the high level of turnover of staff and the lack of procurement specialists carrying out contracting duties in the corporations. Without sufficient training, there is a risk that contracts may not be awarded according to the rules. Some of our findings suggest that reinforcement of the rules through training would be beneficial to ensure that contracts are awarded and administered according to the rules.

18. Recommendation. Community and Government Services, Nunavut Housing Corporation, and Qulliq Energy Corporation should

- determine the training on procurement rules and procedures needed by staff,
- ensure that the training is provided in a timely manner, and
- provide the training when staff assume new responsibilities or when there is a change in the procurement framework and its application.

Community and Government Services' response. *Agreed. Community and Government Services will continue to offer training to all Government of Nunavut departments. Community and Government Services will encourage departments to participate in procurement training offered. Community and Government Services will continue to work with the NNI Secretariat to develop training tools to ensure that the NNI Policy is better understood by program departments.*

Nunavut Housing Corporation's response. *Agreed. The Corporation is currently completing an internal organizational review that has identified the need for dedicated contracting and procurement staff in order to ensure that the Corporation's procurement needs are met and comply with the rules. The Corporation is dedicating resources to train and provide direction to District Office contract authorities and is continuing to recruit for its vacant Head Office Contract Coordinator position. Joint training opportunities with Community and Government Services, Qulliq Energy Corporation, and other Government of Nunavut entities will be pursued as part of a formalized training program. As well, the Nunavut Housing Corporation has been working closely with the NNI Secretariat and Community and Government Services to establish consistent application of the NNI Policy.*

Qulliq Energy Corporation's response. *Agreed. Working with Community and Government Services, the Corporation will organize training that encompasses the common law principles as well as procurement rules and procedures. Training will be provided to the Board of Directors, senior management, and all budget holders. Training will also be provided to any new and existing staff who assume new responsibilities or when there is a change to the Corporation's procurement framework. Initial training will begin in April 2012 and will be ongoing.*

Qulliq Energy Corporation needs to formalize the contracting rules that it applies

19. The Financial Administration Manual, which outlines contracting rules, applies to Government of Nunavut departments. It also applies to public agencies whose primary funding is appropriated by the Legislative Assembly, which includes Nunavut Housing Corporation.

20. However, the Financial Administration Manual does not necessarily apply to Qulliq Energy Corporation, as less than half of its funding comes from the Legislative Assembly. Nevertheless, the Corporation is still expected to follow a set of contracting rules and to be explicit about what those rules are.

21. Qulliq Energy Corporation has not developed its own set of contracting rules, and senior management informed us that until it does, the Corporation is using the Government of Nunavut contracting rules. We noted that this decision has not been formalized or approved by the Corporation's Board of Directors. We believe that it is important to approve and document this decision to avoid any confusion among the Corporation's staff. For example, we found an instance where Qulliq Energy Corporation was using an internal procurement policy that had not been approved by the Corporation and was not in line with the Government of Nunavut procurement framework.

22. Recommendation. Qulliq Energy Corporation should define the contracting rules that it will follow and have them formally approved by the Corporation's Board of Directors. These rules should be communicated to all Corporation staff involved in awarding and administering contracts. Related training should also be provided.

Qulliq Energy Corporation's response. *Agreed. The Corporation's internal procurement committee will prepare for the President and Chief Executive Officer a recommended set of procurement policies and procedures to be presented to the Corporation's Board for approval. The procurement rules will rely on the Financial Administration Act and the Financial Administration Manual, where applicable, with modifications to meet the needs of a revenue-generating Crown utility. Internal policies and procedures will be developed for implementation based upon the procurement framework developed and approved by the Corporation's Board. The Corporation will continue to follow Government of Nunavut contracting methods in the interim. Policies will be developed by March 2012, with corresponding procedures developed by June 2012. Staff will receive training on the Corporation's policies and procedures in June 2012, and training will be ongoing.*

Awarding of contracts

23. The Government of Nunavut's procurement framework is based on securing goods and services for the Government and for Nunavummiut (people of Nunavut) through a contracting process that is open, fair, and transparent. Contracts for goods and services must be awarded according to the applicable laws, regulations, and policies to enable departments and corporations to demonstrate that they have awarded contracts in an open and fair manner.

24. We examined the award process for a sample of contracts for goods and services from the 2009–10 and 2010–11 fiscal years in the three entities we examined. Overall, our sample contained contracts for construction, goods, and various services such as consulting. We examined these contracts to determine whether Community and Government Services, Nunavut Housing Corporation, and Qulliq Energy Corporation awarded contracts for goods and services according to key elements of relevant authorities, such as the Government of Nunavut's *Financial Administration Act*, *Government Contract Regulations*, and *Contracting Procedures Manual*. More specifically, we examined whether

- the procurement method that was selected facilitated competition and obtaining best value;

- the evaluation and negotiation process that was followed was open, fair, and transparent; and
- contracts were approved and awarded according to delegated authorities and prior to any work starting.

All competitive contracts for Community and Government Services and the majority for Qulliq Energy Corporation's capital projects were awarded according to the rules

25. We reviewed 35 competitive contracts for Community and Government Services (CGS) with a total value of about \$131 million dollars. This included contracts that CGS procured for itself and on behalf of other departments. We reviewed 17 competitive contracts in Qulliq Energy Corporation (QEC) with a total value of about \$18 million dollars.

26. We found that all CGS contracts and almost all QEC capital project contracts were awarded according to the evaluation process rules. For example, we found evidence that procurement processes were followed, such as tender opening or evaluation committees and evaluation criteria for requests for proposals, and that bids and proposals were evaluated fairly.

27. In Qulliq Energy Corporation, we found that 3 of the 17 competitive contracts were awarded using a procurement method that is not permitted by the rules without the President's approval. In one of these cases, a restricted invitational process was used to buy goods valued at \$1.5 million and was not properly authorized.

Nunavut Housing Corporation was missing key documentation to support the award of half of its competitive contracts

28. We reviewed 11 competitive contracts awarded by Nunavut Housing Corporation, with a total value of about \$46 million. We found that only 5 of the 11 contracts awarded through a competitive process were issued according to the requirements of the Government's procurement framework. The main reason for non-compliance was insufficient evidence that the evaluation process was carried out adequately. For example, in some cases, records of tender bids or proposals were not in the files. We also found an instance where an incorrect method for awarding contracts was used, and where a Request for Proposal did not contain any evaluation criteria as required by the *Government Contract Regulations*. However, we did not find any cases where work began prior to awarding the contract.

29. Recommendation. Nunavut Housing Corporation and Qulliq Energy Corporation should comply with the rules for awarding competitive contracts as set out in the procurement framework.

Nunavut Housing Corporation's response. *Agreed. As noted in its response to the recommendation at paragraph 18, the Corporation is taking steps to address its lack of contracting and procurement expertise and capacity in its five office locations. The Corporation recognizes the importance of ensuring all contract file documentation is complete.*

Qulliq Energy Corporation's response. *Agreed. The Corporation will arrange for procurement training for all procurement staff and budget holders in April 2012. The Corporation will comply with the Government of Nunavut competitive contracting rules until such time as the procurement and contracting framework is developed and approved by the Corporation's Board. Further, the Corporation will hire an internal auditor by May 2012. Reporting to the Corporation's Board, the internal auditor will assist the Board and senior management in the effective discharge of their responsibilities, focusing on operational, financial, and process reviews of all operations and identifying key issues and opportunities for improvement. The internal auditor will conduct risk assessments and prepare practical recommendations to improve the application of accounting, financial, and other operating controls, and promote compliance with established policies, plans, and procedures.*

All three entities had weaknesses in the awarding of sole-source contracts

30. Whenever possible, contracts for goods and services are to be awarded using a competitive process. However, there are some situations where a competitive process is not possible or does not represent the best value to the government. In these cases, the decision to use an exception to competitive bidding must be fully justified. The Government of Nunavut's Procurement Activity Reports show that the volume of sole-source contracts has been decreasing over the last three years. Exhibit 3 describes the requirements for sole-source contracts.

31. We reviewed a sample of sole-source contracts in each of the three entities: 13 in Community and Government Services, worth \$2.2 million; 12 in Nunavut Housing Corporation, worth \$5.5 million; and 12 in Qulliq Energy Corporation, worth \$3.3 million. We examined whether the rationale for awarding sole-source contracts complied with one of the three requirements outlined in the *Government Contract Regulations*, whether there was a valid justification in the file, and whether the use of the sole-source method

was approved by the Deputy Minister or President. When one or more of these criteria were not met, we concluded that the contract did not comply with the rules.

Exhibit 3 Requirements for sole-source contracts

The *Government Contract Regulations* allow the contract authority to award a contract without a competitive process based on one of three well-defined requirements in the case of sole-source contracts.

- a) the goods, services, real property, or construction at issue in the contract are urgently required and delay would be injurious to the public interest;
- b) only one party is available and capable of performing the contract; or
- c) the value of the contract will not exceed
 - \$25,000, in the case of a contract for architectural or engineering services, or
 - \$5,000, in the case of any other type of contract.

Further, when a sole-source process is used, the contract authority is required to justify this decision and obtain Deputy Minister (or equivalent) approval for contracts over \$5,000.

Source: *Government Contract Regulations*, 2005 and 2011; Government of Nunavut Contracting Procedures Manuals, 2000 and 2010

32. With respect to the sole-source contract files we examined, we determined that

- Community and Government Services did not award 4 of 7 sole-source contracts procured for itself and 3 of the 6 awarded on behalf of other departments, according to the rules;
- Qulliq Energy Corporation did not award any of its 12 sole-source contracts we examined according to the rules; and
- Nunavut Housing Corporation awarded only 1 of the 12 sole-source contracts we examined according to the rules.

33. Community and Government Services. We found that two of the Department's four non-compliant contracts procured for itself did not have a valid justification on file for use of a sole-source contract. We also found one instance where the use of a sole-source method was approved after the contract was awarded, and one instance where the method was not approved at all. In addition, we found that for two of the sole-source contracts we examined, work began before the contract was awarded.

34. The Contracting Procedures Manual states that the use of the sole-source method must be approved by the Deputy Minister for contracts over \$5,000. However, in cases where Community and Government Services procures on behalf of other departments,

the manual is not explicit on whether the sole-source justification is to be approved by the initiating department or by Community and Government Services. The common practice has been that the initiating department decides whether to use a sole-source contract.

35. In two of the six files we examined, there was no valid justification for sole-sourcing the goods. In these cases, Community and Government Services informed us that the files were processed because they contained sole-source approval from the initiating department. It indicated that it is working with other departments to decrease the use of sole-source contracts. While we encourage Community and Government Services to continue these efforts, we believe there is a need to also clarify if the current practice is in line with the Government of Nunavut procurement framework.

36. Recommendation. In order to meet its commitment to reduce the use of sole-source contracts, Community and Government Services, in collaboration with other departments, should identify ways to ensure that sole-source contracts are used only when the sole-source method is permitted. Community and Government Services should also seek clarification regarding whether the current practice is in line with the Government of Nunavut procurement framework.

Community and Government Services' response. Agreed. Community and Government Services will continue to work with all departments and encourage them to take advantage of the training offered on the Government of Nunavut procurement processes and the proper use of sole-source contracting. The Department will work with the Department of Finance to ensure clarity concerning sole-source authority in the procurement framework.

37. Nunavut Housing Corporation. For the most part, Nunavut Housing Corporation uses sole-source contracts to hire consultants they are familiar with to carry out regular work not done because of unfilled positions. For example, it hires consultants to perform financial work or technical experts to provide building expertise. In these cases, Corporation officials maintain their interpretation that using sole-source contracts to hire consultants falls under the “permitted” exceptions—that is, the consultant is urgently needed and delaying hiring of the consultant would be injurious to the public interest, or the consultant is the only one available to do the job. Although the Corporation informed us that there are very few consultants who have experience working in the territory or have good knowledge of the Corporation’s processes, this rationale was not enough to support the premise that the consultants hired were the only

option for the contracts we examined. Similarly, while we recognize the need to hire consultants to increase the Nunavut Housing Corporation's capacity to deliver its programs, we were not provided with adequate rationale for why the consultants were urgently needed and why a competitive process to hire them would be injurious to the public interest. The Corporation informed us that it disagrees with our assessment of its rationale to use sole-source contracts in these cases.

38. Although the Corporation's process of hiring consultants may fill human resource gaps, it also creates some potential problems. For example, because many consultants have multiple or successive contracts with the Corporation, it puts the Corporation at risk of establishing an employer-employee relationship with consultants. If such a relationship is created, the Corporation could be exposed to a significant liability for such things as pension or health benefits and employer contributions. Further, this does not facilitate competition as access to these contracts is limited.

39. We found that one of the Corporation's contracts we examined was not approved by the appropriate delegated authority. We also found that work on four of the contracts started before the contracts were signed. The Corporation informed us that this could be due to logistical challenges in Nunavut, such as location and weather. While we recognize that such situations may occur, we expected to see evidence, such as email correspondence from both parties, confirming agreement to formally enter into the contract as soon as possible. However, the Corporation could not provide us with any evidence of communication between the parties. Without a signed contract when the work begins, there is a risk that the parties will not be adequately protected in case of contract disputes.

40. Qulliq Energy Corporation. We found that Qulliq Energy Corporation awarded sole-source contracts primarily on the basis that only one firm could perform the work. However, there was little or no evidence to support this. For example, we found no documentation on file showing that efforts had been made to confirm that other companies could not do the work or provide the goods. We also found that the sole-source method was not properly approved for almost all the contracts in our sample. We found one instance where work started before a sole-source contract was awarded.

41. Recommendation. Community and Government Services, Nunavut Housing Corporation, and Qulliq Energy Corporation should comply with the rules for awarding sole-source contracts set out in the procurement framework.

Community and Government Services' response. Agreed. Community and Government Services will continue to improve processes to ensure compliance with the procurement framework.

Nunavut Housing Corporation's response. Agreed. As noted in the Corporation's response to the recommendation at paragraph 18, the Corporation is taking steps to address its lack of contracting and procurement expertise and capacity in its five office locations. The Corporation recognizes the importance of ensuring that all contract file documentation is complete. The Corporation also recognizes the importance of including sole-source substantiation documents in all contract files to ensure that the rationale behind the decision to use a sole-source contract is evident. The Corporation has adopted the Office of the Auditor General's recommended practice of treating software maintenance and support sub-agreements as sole-source contracts. The Corporation continues to actively pursue the recruitment of vacant positions in order to reduce its dependency on use of sole-source contracts for consultants to fulfill those roles, and recognizes the risk of continuing such practices on a long-term basis. In order to mitigate these risks, the Corporation is in the process of establishing standing offer agreements to provide technical inspection and financial management services. The Corporation has adopted the practice of including in its contracting files written confirmation of verbal and email direction to initiate contracts when logistics prevent physical signing of contract documents prior to the contract commencement date.

Qulliq Energy Corporation's response. Agreed. The Corporation will arrange for procurement training for all procurement staff and budget holders in April 2012. The Corporation will comply with the Government of Nunavut sole-source contracting rules until such time as the procurement and contracting framework is developed and approved by the Corporation's Board. This will include ensuring that sole-source contracting is only carried out in the appropriate circumstances and is appropriately documented and approved. Further, the Corporation will hire an internal auditor by May 2012. Reporting to the Board, the internal auditor will assist the Board and senior management in the effective discharge of their responsibilities, focusing on operational, financial, and process reviews of all operations and identifying key issues and opportunities for improvement. The internal auditor will conduct risk assessments and prepare practical recommendations to improve the application of accounting, financial, and other operating controls, and promote compliance with established policies, plans, and procedures.

Improvements are needed in contract award by all three entities

42. The Government of Nunavut has established rules aimed at facilitating competition in an effort to obtain best value for the Government. When entities do not follow the rules in place, such as using the wrong procurement method, achievement of this objective is limited. Further, properly documenting contract files demonstrates that the appropriate processes have been followed and that decisions are supported. Our observations on awarding of contracts demonstrate that further improvement is needed in both these aspects by all three entities.

Administration of contracts

43. The Government of Nunavut's procurement framework outlines contract management and administration practices that are key to ensuring that contractors have fulfilled their contractual obligations and that the Government has received the goods and services it paid for.

44. We examined the administration of a sample of contracts for goods and services from the 2009–10 and 2010–11 fiscal years. Our sample included a subset of those contracts we examined for awarding contracts (paragraphs 23 to 40). We examined these contracts to determine whether Community and Government Services, Nunavut Housing Corporation, and Qulliq Energy Corporation administer contracts for goods and services according to key elements of the procurement framework.

45. We tested basic controls that are essential for the proper administration of contracts. More specifically, we examined whether

- funds were certified as available before a contract was entered into,
- receipt of goods and services was properly monitored and approved,
- payments were properly authorized only when there was evidence that goods and services were received,
- contract change orders were properly approved and managed, and
- files were properly maintained and documented.

Some significant controls are not applied in all three entities

46. **Certification of funds.** An important element of sound management is to ensure that sufficient uncommitted funds exist in an approved budget to cover the amount of a contract. This requirement

is set out in the *Financial Administration Act*, which states that no contract should be entered into unless both an expenditure officer and accounting officer certify that there are sufficient uncommitted funds for the activity.

47. We assessed whether the entities had certified, by way of signature, that funds were available before entering into a contract. We found that for all three entities, the necessary approvals were not in place prior to entering into the majority of the contracts we examined. Entity officials indicated that they did check to see if sufficient uncommitted funds were available prior to awarding a contract. However, while checking for funds may provide some assurance about the availability of funds, it does not constitute a certification of funds (by way of signature) as required by the *Financial Administration Act* and the Financial Administration Manual. Without certification, the entities increase the risk of spending more than their approved budgets. In Nunavut Housing Corporation, this risk is reduced because the President and Chief Financial Officer are highly involved in the process. (See the recommendation at paragraph 55.)

48. Change orders. The Financial Administration Manual explains that change orders should be issued only under special circumstances to change a contract price. The change order must indicate why the change is necessary. However, the change order must not increase the scope of the contract and the price change must not exceed the monetary limits of the financial signing authority of the responsible financial officer. We reviewed the files for the selected contracts to determine whether the change orders complied with the Financial Administration Manual.

49. In all three entities, we found that none of the change orders issued fundamentally changed the scope of the contracts. We found that Community and Government Services documented the reasons why a change order was necessary and that Qulliq Energy Corporation also documented the reasons in most of its contracts in our sample. Nunavut Housing Corporation did not document the reasons for change orders in one third of its contracts we examined.

50. We tested whether the price change of the change orders was within the signing authority of the responsible financial officer. We found that the related wording in the Financial Administration Manual could lead to different interpretations of how this requirement should be complied with. In particular, it is not clear if the price change is the cost of additional work required or the revised overall price of the contract. As a result, it is not clear what level of signing authority

is required. In our view, the Department of Finance needs to clarify how this requirement of the Financial Administration Manual should be applied. Without this clarification, there is a risk that the entities would not comply with the requirements for approving change orders.

51. Recommendation. The Department of Finance should clarify the definition of “price change” as it relates to change orders. This information should be communicated to entities to ensure a common understanding.

Department of Finance’s response. Agreed. The Department is currently revising its contracting directives in the Financial Administration Manual and will include a clarification of the definition of “price change,” as it relates to change orders, in these revisions. The revisions are currently expected to be in effect during the first half of the 2012–13 fiscal year.

Community and Government Services and Nunavut Housing Corporation ensured that goods and services were received

52. The *Financial Administration Act* requires that, before payments are made to a contractor, an expenditure officer must certify that goods and services were supplied and received according to the terms and conditions of the contract. Subsequently, an accounting officer must certify that the amount of the payment is accurate and that the payment should be made. The Financial Administration Manual also requires contract payments to be accurate and in accordance with the contract. For the contracts in our sample, we looked at whether the three entities monitored these contracts (for example, receipt of goods or progress on services rendered), approved the receipt of goods and services, and authorized payment for the contracted goods and services.

53. We found that Community and Government Services ensured that goods and services were received and properly authorized for payment in all contracts. For example, **segregation of duties** was maintained for all the contracts.

54. We found that Nunavut Housing Corporation also ensured that goods and services were received. Delegated authority was respected for certifying the receipt of goods and services and for authorizing payment; however, we found that for about half of the contracts, the accounting authority signed on the expense vouchers prior to the expenditure authority. According to the Financial Administration Manual, as the accounting authority signature authorizes release of funds, it should be done only after the expenditure authority signature, which certifies receipt of goods and services. Authorizing payments to

Segregation of duties—A practice whereby no individual in an organization has control over two or more parts of a process and that is intended to reduce the risk of fraud and unauthorized transactions.

contractors before obtaining the required certification that goods and services have been received increases the risk that the Corporation may be paying for goods that have not been received or services that have not been rendered. Nunavut Housing Corporation informed us that although the signatures were not done in the correct order, payments were not made before both required signatures had been obtained and receipt of goods and services was verified.

55. Recommendation. Community and Government Services and Nunavut Housing Corporation should comply with the contract administration rules set out in the procurement framework.

Community and Government Services' response. Agreed. Community and Government Services will continue to improve processes to ensure compliance with the procurement framework. Community and Government Services has created new processes and forms to address the approval process for construction and service contracts. The new forms and flow will match the process for goods' purchase orders, which addresses the certification of funds issue.

Nunavut Housing Corporation's response. Agreed. The Corporation is working to identify solutions to address the constraints inherent in its existing financial software that affect the ease and timeliness of contract administration. The Corporation has adopted the practice of ensuring that detailed rationale is included on all change orders. The Corporation now ensures that the accounting authority signs on expenditure documents only after the expenditure authority's signature is obtained.

Qulliq Energy Corporation did not have evidence that key controls were applied

56. We found that Qulliq Energy Corporation ensured that goods and services were received for just over half of the contracts we examined. However, to comply with the Financial Administration Manual, the Corporation also needs to ensure that a delegated authority has signed to indicate the receipt of goods and services. This person has the important role of ensuring that terms and conditions of a contract are met before payments are processed. We found that the Corporation has not established this fundamental control of financial management.

57. We found that payments were properly authorized by way of signature of the appropriate delegated authority in 20 percent of the files we examined but not in 25 percent of the files. For the remaining files, the Corporation did not have evidence that this key control was applied.

58. The Corporation does not manage its administrative information by contract. For example, it does not know how much it has paid against each contract, or how much work remains to be done for each contract.

59. We are concerned that the Corporation does not have this basic information needed to adequately manage the contracts it has awarded. Without this information, the Corporation is at risk of not getting what it has contracted for, or paying for goods or services it has not received.

60. The Corporation informed us that it is facing capacity issues related to the award and administration of its contracts. Unless and until the Corporation addresses these issues, its ability to implement the recommendations contained in this report will be hampered.

61. **Recommendation.** Qulliq Energy Corporation should administer its contracts in accordance with the rules by

- certifying that funds are available before entering into a contract;
- documenting on file when and why change orders are issued and approving them within the signing officer's authority;
- ensuring that goods and services are received and properly approved for payments;
- ensuring that its contract administration allows the Corporation to know the amount of money paid against the contract at all times; and
- ensuring that files are properly maintained and documented.

***Qulliq Energy Corporation's response.** Agreed. The Corporation will ensure that in this fiscal year, processes and procedures are put in place to ensure that funds are certified as available before a contract is entered into, goods and services are received and properly authorized for payment, and contract files are properly documented. The Corporation will comply with the Financial Administration Manual with respect to change orders until such time as the corporate procurement and contracting framework is developed and approved by the Corporation's Board. Training on the above-noted processes and procedures will be given to Corporation staff and budget holders in April 2012. Further, the Corporation's contract information is being reviewed for more effective ways to manage administrative information, including payments made against a contract. New approaches will be implemented by July 2012.*

Improvements are needed in contract administration by all three entities

62. The Government of Nunavut has established rules that are critical to ensuring that contractors have fulfilled their contractual obligations and that the Government has received the goods and services it paid for. Our observations highlighted weaknesses in contract administration, including non-compliance with the rules.

Entity information

Contract information needs to be managed better by the corporations

63. During our audit, we found errors in the 2009–10 procurement reports tabled by Nunavut Housing Corporation and Qulliq Energy Corporation in the Legislative Assembly. When using these reports to select our sample of awarded contracts, we found instances where contracts were incorrectly coded as being competitively tendered when they were actually sole-source contracts. We also found the same for lists of contracts provided to us for the 2010–11 fiscal year. In our selection of 52 contracts within the corporations for the 2009–10 and 2010–11 fiscal years, we found that 9 sole-source contracts had been misclassified. Information provided to the Legislative Assembly was therefore incorrect and under-represented the actual number of sole-source contracts.

64. **Recommendation.** Nunavut Housing Corporation and Qulliq Energy Corporation should improve the management of their contract information so that the information is readily available and facilitates accurate public reporting.

Nunavut Housing Corporation's response. *Agreed. The Corporation's 2009–10 Contracting Report had mistakenly reported two contracts as having been tendered that had in fact been sole-sourced. For 2010–11, the Corporation has corrected its contracting report prior to tabling to indicate software maintenance sub-agreements as being sole-source contracts, rather than an extension of the base software supply contract. As such, the Corporation was responsible for three of the nine sole-source contracts reported by the Office of the Auditor General as being misclassified: two in 2009–10 and one in 2010–11 that was corrected prior to tabling. The Corporation recognizes that contract files should be able to stand alone and has taken steps to improve its processes for the filing and archiving of procurement documentation.*

Qulliq Energy Corporation's response. *Agreed. The Corporation's contract information is being reviewed for more effective ways to manage administrative information, including payments made against a contract. New approaches will be implemented by July 2012.*

Awarding of scheduled medical travel contracts**Contracts were awarded according to the evaluation process rules for the 2008 and 2011 contracts by Community and Government Services**

65. Medical travel is a key component of the health care structure in Nunavut. While basic health services are provided in most communities, patients requiring more care need to be flown to the Iqaluit hospital or other medical facilities outside Nunavut. Contracts with the airlines to carry medical travel passengers are quite substantial—about \$33 million in the 2010–11 fiscal year, which represents about 12 percent of the Department of Health and Social Services budget.

66. As indicated in paragraph 7, the Office agreed to examine the award process for a scheduled medical travel Request for Proposal (RFP) awarded in 2008. In addition, because another RFP for scheduled medical travel was likely to be signed during our audit (the 2008 contracts were about to expire), we decided to audit the award of the 2011 RFP also. In both cases, we audited only the process for awarding contracts.

67. 2008 contracts. In the fall of 2007, the Department of Health and Social Services requested that Community and Government Services conduct a competitive procurement process for medical travel on scheduled airlines. Community and Government Services issued an RFP in October 2007. The contracts were awarded in March 2008, for three years starting 1 April 2008, with an option to extend the contracts for two one-year periods. Winning bidders were awarded market shares to provide services in the three regions. We examined the award process to determine whether the contracts were awarded according to key elements of relevant authorities.

68. We found that the contracts were awarded according to the evaluation process rules. For example, there were clear evaluation criteria in the RFP. An evaluation committee reviewed the proposals, and market shares to airlines were awarded accordingly.

69. 2011 contracts. In early 2011, the Government of Nunavut decided to not extend the 2008 contracts with the airlines for another year and instructed Community and Government Services to issue a new RFP. The RFP was to include Government employees' duty-related travel. However, recognizing that the process would not be finalized before the 1 April 2011 deadline, an extension was granted. We examined the 2011 award process to determine whether the contracts were awarded according to key elements of relevant authorities.

70. We found that the contracts were awarded according to the evaluation process rules. For example, proposals were evaluated fairly and there was adequate documentation on file supporting the decisions made. However, while the airlines were notified that they had been successful, the contracts were signed three months after the airlines started operating under the new terms of the contracts. Without a signed contract in place, there is a risk that the parties will not be adequately protected in case of contract disputes.

NNI Policy The policy is not applied consistently

71. The NNI Secretariat, within the Department of Economic Development and Transportation, is responsible to facilitate and coordinate the implementation of the NNI Policy. The policy states that qualified, Inuit-owned, local, or Nunavut-based businesses get a favourable bid adjustment of up to 21 percent (7 percent each for Nunavut, Inuit, and local businesses, when applicable) when competitive bids are evaluated. In order to qualify as a Nunavut-based or Inuit-owned business, the business must be listed in the Government of Nunavut's NNI Registry and Nunavut Tunngavik Incorporated (NTI) respectively. To qualify for the local adjustment, the business must be located in the community where the work will be carried out. In addition, a training plan is required for tenders and proposals that have a labour component over \$300,000 and for maintenance contracts when the cost is estimated to exceed \$250,000.

72. We examined a subset of 43 contracts from our contract award sample for the three entities to determine whether they complied with the key elements of the NNI Policy. We looked at whether there was evidence that the businesses were listed in the applicable registry and whether a training plan, when applicable, was submitted.

73. For the majority of these contracts eligible to have an NNI favourable bid adjustment in Nunavut Housing Corporation and in Community and Government Services, we found little evidence on file of verification that the businesses were listed in the required registries. Officials informed us that this verification is completed but not always documented.

74. Further, for the majority of contracts in all three entities, we did not find the required labour training plan, where applicable. Officials told us that one reason this requirement is not enforced is the lack of guidance on what constitutes an acceptable training plan.

75. Based on our review of bid adjustments by the entities, we found that the NNI Policy is not applied consistently across the entities and even within the entities. There are various reasons for this inconsistency—for example, variation in the acceptance and use of information supplied to the entities by the bidders. Further, we found that training was not consistently provided to officials.

76. In some instances, we found that the policy was applied incorrectly or incompletely. For example, Qulliq Energy Corporation does not monitor bonuses for meeting Inuit labour threshold requirements or penalties for not meeting the requirements. Without ensuring that applicable bonuses and penalties are paid, there is little incentive for contractors to meet these requirements.

77. **Recommendation.** The Department of Economic Development and Transportation, in collaboration with the entities, should ensure that the NNI Policy is applied consistently by providing clear direction on how bidders' information is to be used in the bid adjustment and by providing timely training to those who apply the policy.

Department of Economic Development and Transportation's response. *Agreed. With regard to training plans, the NNI Secretariat is taking steps to address them and will work with the parties to improve the enforcement of this requirement. Further, a draft generic training plan template has been produced by the NNI Secretariat and provided to Community and Government Services. The NNI Secretariat will continue to work with officials in the Government of Nunavut to ensure compliance with the directions for the application of the NNI Policy as described in the Government of Nunavut Contracting Procedures Manual, 2nd Edition, and in the NNI Policy. The NNI Secretariat will also continue to work with Community and Government Services to develop and provide related training tools and clarification, including the appropriate use of bidder's/ proponent's information to properly calculate bid adjustments. These efforts will be enhanced by the work to be carried out by the new NNI Policy Implementation and Accounting Analyst, who is tasked with monitoring the implementation of the NNI Policy. This will include ensuring that the Policy is implemented properly at all stages of the public procurement process, both in tenders and proposals, and will include checking for appropriate calculations of Inuit labour bonuses and penalties.*

Common causes of non-compliance

Several causes contribute to non-compliance with procurement rules

78. Based on our audit findings and our discussions with senior management and officials in the three entities, we identified several causes that contribute to the lack of compliance with the procurement rules. We had made recommendations in our past chapters on some of these issues.

79. Misinterpretation of the rules. We found that some aspects of the rules were not followed because they seemed to be misinterpreted (for example, NNI Policy and certification of funds). In our view, the Government needs to identify the causes of misinterpretation of these rules and then determine a course of action to address the problem (for example, providing more training to staff).

80. Capacity. In its previous reports to the Legislative Assembly, the Office of the Auditor General noted that the lack of capacity has hampered the Government's ability to deliver some programs and perform certain tasks. This issue applies to procurement-related tasks as well. The high turnover of staff contributes to the capacity problem. Further, we found that when staff have not properly documented their files, it is difficult for the entities to provide evidence that proper processes were followed.

81. Where the expertise and capacity exists, we found better results in awarding and administering contracts. However, when procurement duties have been added to employees' regular duties, it makes it difficult to identify who is responsible and accountable for the good functioning of procurement activities. In our view, given the large amount of money being spent on contracting, having dedicated procurement positions responsible for all types of contracts in each corporation would help to ensure that the entities' procurement needs are met and that contracts comply with the rules.

82. Training. While training is offered to departments and territorial corporations, we found that there is no mandatory training related to awarding and administering contracts. The level of training in the three entities varies considerably. In our view, while on-the-job training is an option, formal mandatory training would be more appropriate in an environment where entities are understaffed.

Conclusion

83. We found that the Government of Nunavut's procurement policy framework is designed to allow contracts for goods and services to be awarded in an open and fair manner. The framework also provides sufficient guidance to allow contracts to be administered according to key elements of relevant authorities. However, improvement is required in some areas, such as clearer direction and timely training on application of the NNI Policy.

84. In auditing the entities' sampled contracts, we assessed whether contracts were awarded and administered according to the key elements outlined in paragraphs 24 and 45.

85. Community and Government Services, the main procurement arm for the Government of Nunavut, awards competitive contracts appropriately, but there are weaknesses in how it awards sole-source contracts. It complies with most of the contract administration rules.

86. Nunavut Housing Corporation was missing key documentation to support the award of half of the competitive contracts we examined. There are significant weaknesses in how it awards sole-source contracts, but it complies with most of the contract administration rules.

87. While Qulliq Energy Corporation awards contracts for capital projects appropriately, we found significant and pervasive weaknesses in both the awarding of other types of contracts and in administration of the contracts we sampled. Because the Corporation does not manage its administrative information by contract, it lacks sufficient evidence to demonstrate that it carried out key controls.

88. We identified several common causes of the weaknesses that we observed. Some of these were identified in our previous audits of the Government of Nunavut, such as a lack of professional expertise and capacity. In proceeding with a course of action to address these causes and weaknesses, the Government of Nunavut can move forward in making the necessary improvements to the awarding and administration of its procurement contracts.

About the Audit

All of the audit work in this report was conducted according to the standards for assurance engagements set by The Canadian Institute of Chartered Accountants. While the Office adopts these standards as the minimum requirement for our audits, we also draw upon the standards and practices of other disciplines.

Objectives

The overall objective of our audit was to determine whether the procurement policy framework for the Government of Nunavut is adequately designed, and the contracting activities for selected Government entities were managed and carried out according to key elements of relevant authorities.

The sub-objectives of our audit were to determine whether

- the Government of Nunavut's procurement policy framework is designed so that contracts for goods and services are awarded in an open and fair manner and their administration is done according to key elements of relevant authorities;
- selected Government of Nunavut entities awarded contracts for goods and services according to key elements of relevant authorities; and
- selected Government of Nunavut entities administered contracts for goods and services according to key elements of relevant authorities.

Scope and approach

We audited a selection of 100 contracts for goods and services (including construction) for the 2009–10 and 2010–11 fiscal years. The samples were based on high-dollar value contracts and some that were selected randomly (sole-source contracts). The contracts represent a total of about \$208 million procured by the three entities, and they include contracts awarded through several procurement methods, 37 of the contracts were sole-source contracts. Due to the volume of contracts, representative samples were not used.

Following are key details of our samples:

- **Community and Government Services (procuring for itself).** We selected 12 contracts for each fiscal year. The samples were taken from the Government of Nunavut's Procurement Activity Report for 2009–10, and information for 2010–11 provided to us. The total value of these contracts was about \$51 million.
- **Community and Government Services (procuring for others).** We selected 12 contracts for each fiscal year. The samples were taken as described above. The total value of these contracts was about \$83 million.
- **Nunavut Housing Corporation.** We selected 12 contracts for the 2009–10 fiscal years and 11 contracts for 2010–11. The samples were taken from the Corporation's contracting report for 2009–10, and information for 2010–11 provided to us. The total value of these contracts was about \$52 million.

- **Qulliq Energy Corporation.** We selected 15 contracts for the 2009–10 fiscal year and 14 for 2010–11. The samples were taken from the Corporation’s contracting report for 2009–10, and information for 2010–11 provided to us. The total value of these contracts was about \$22 million.

We did not include leases, standing offer agreements, or contract extensions in our samples. We also excluded contracts for the purchase of bulk fuel and liquor.

In addition to the contracts included in the samples, we also audited the awarding of contracts (2008 and 2011) for scheduled medical travel that were of particular interest to the Legislative Assembly.

We audited the sample contracts to assess whether Community and Government Services, Nunavut Housing Corporation, and Qulliq Energy Corporation awarded and administered contracts for goods and services according to key elements of relevant authorities.

We reviewed the Government of Nunavut’s laws, regulations, policies, and guidance on procurement to determine whether its procurement policy framework is designed so that contracts for goods and services are awarded in an open and fair manner and administered according to key elements of relevant authorities.

We also interviewed officials from each of the three entities that we selected sample contracts from, as well as from the Department of Finance, NNI Secretariat, and Nunavut Tunngavik Incorporated.

Criteria

To determine whether the procurement policy framework for the Government of Nunavut (GN) is adequately designed and the contracting activities for selected Government entities were managed and carried out according to key elements of relevant authorities, we used the following criteria:	
Criteria	Sources
The Government of Nunavut’s procurement policy framework is designed so that contracts for goods and services are awarded in an open and fair manner and their administration is done according to key elements of relevant authorities.	<ul style="list-style-type: none"> • GN <i>Financial Administration Act</i> • GN <i>Government Contract Regulations</i>, 2005 and 2011 • Nunavut Land Claims Agreement—Article 24 • GN Financial Administration Manual • Nunavummi Nangminiaqtunik Ikajuuti Policy (NNI Policy) • GN Contracting Procedures Manual, 2000 and 2010 • GN guidance documents
Community and Government Services, Nunavut Housing Corporation, and Qulliq Energy Corporation award contracts for goods and services according to key elements of relevant authorities.	<ul style="list-style-type: none"> • GN <i>Financial Administration Act</i> • GN Financial Administration Manual • GN <i>Government Contract Regulations</i>, 2005 • NNI Policy • GN Contracting Procedures Manual, 2000 and 2010

To determine whether the procurement policy framework for the Government of Nunavut (GN) is adequately designed and the contracting activities for selected Government entities were managed and carried out according to key elements of relevant authorities, we used the following criteria: (continued)

Criteria	Sources
Community and Government Services, Nunavut Housing Corporation, and Qulliq Energy Corporation administer contracts for goods and services according to key elements of relevant authorities.	<ul style="list-style-type: none"> • GN <i>Financial Administration Act</i> • GN <i>Government Contract Regulations</i>, 2005 • GN Financial Administration Manual • NNI Policy • GN Contracting Procedures Manual, 2000 and 2010

Management reviewed and accepted the suitability of the criteria used in the audit.

Period covered by the audit

The audit covered the period from 1 April 2009 to 30 April 2011. Audit work for this report was substantially completed on 7 November 2011.

Audit team

Assistant Auditor General: Ronnie Campbell

Principal: Michelle Salvail

Director: Jo Ann Schwartz

Alexandre Boucher

Herman Kahlon

Sean MacLennan

Maria Pooley

For information, please contact Communications at 613-995-3708 or 1-888-761-5953 (toll-free).

Appendix List of recommendations

The following is a list of recommendations found in the report. The number in front of the recommendation indicates the paragraph where it appears in the report. The numbers in parentheses indicate the paragraphs where the topic is discussed.

Recommendation	Response
<p>Procurement framework</p> <p>18. Community and Government Services, Nunavut Housing Corporation, and Qulliq Energy Corporation should</p> <ul style="list-style-type: none"> • determine the training on procurement rules and procedures needed by staff, • ensure that the training is provided in a timely manner, and • provide the training when staff assume new responsibilities or when there is a change in the procurement framework and its application. (11–17) 	<p>Community and Government Services’ response. Agreed. Community and Government Services will continue to offer training to all Government of Nunavut departments. Community and Government Services will encourage departments to participate in procurement training offered. Community and Government Services will continue to work with the NNI Secretariat to develop training tools to ensure that the NNI Policy is better understood by program departments.</p> <p>Nunavut Housing Corporation’s response. Agreed. The Corporation is currently completing an internal organizational review that has identified the need for dedicated contracting and procurement staff in order to ensure that the Corporation’s procurement needs are met and comply with the rules. The Corporation is dedicating resources to train and provide direction to District Office contract authorities and is continuing to recruit for its vacant Head Office Contract Coordinator position. Joint training opportunities with Community and Government Services, Qulliq Energy Corporation, and other Government of Nunavut entities will be pursued as part of a formalized training program. As well, the Nunavut Housing Corporation has been working closely with the NNI Secretariat and Community and Government Services to establish consistent application of the NNI Policy.</p> <p>Qulliq Energy Corporation’s response. Agreed. Working with Community and Government Services, the Corporation will organize training that encompasses the common law principles as well as procurement rules and procedures. Training will be provided to the Board of Directors, senior management, and all budget holders. Training will also be provided to any new and existing staff who assume new responsibilities or when there is a change to the Corporation’s procurement framework. Initial training will begin in April 2012 and will be ongoing.</p>

Recommendation	Response
<p>22. Qulliq Energy Corporation should define the contracting rules that it will follow and have them formally approved by the Corporation's Board of Directors. These rules should be communicated to all Corporation staff involved in awarding and administering contracts. Related training should also be provided. (19–21)</p>	<p>Qulliq Energy Corporation's response. Agreed. The Corporation's internal procurement committee will prepare for the President and Chief Executive Officer a recommended set of procurement policies and procedures to be presented to the Corporation's Board for approval. The procurement rules will rely on the <i>Financial Administration Act</i> and the Financial Administration Manual, where applicable, with modifications to meet the needs of a revenue-generating Crown utility. Internal policies and procedures will be developed for implementation based upon the procurement framework developed and approved by the Corporation's Board. The Corporation will continue to follow Government of Nunavut contracting methods in the interim. Policies will be developed by March 2012, with corresponding procedures developed by June 2012. Staff will receive training on the Corporation's policies and procedures in June 2012, and training will be ongoing.</p>
<p>Awarding of contracts</p>	
<p>29. Nunavut Housing Corporation and Qulliq Energy Corporation should comply with the rules for awarding competitive contracts as set out in the procurement framework. (25–28)</p>	<p>Nunavut Housing Corporation's response. Agreed. As noted in its response to the recommendation at paragraph 18, the Corporation is taking steps to address its lack of contracting and procurement expertise and capacity in its five office locations. The Corporation recognizes the importance of ensuring all contract file documentation is complete.</p> <p>Qulliq Energy Corporation's response. Agreed. The Corporation will arrange for procurement training for all procurement staff and budget holders in April 2012. The Corporation will comply with the Government of Nunavut competitive contracting rules until such time as the procurement and contracting framework is developed and approved by the Corporation's Board. Further, the Corporation will hire an internal auditor by May 2012. Reporting to the Corporation's Board, the internal auditor will assist the Board and senior management in the effective discharge of their responsibilities, focusing on operational, financial, and process reviews of all operations and identifying key issues and opportunities for improvement. The internal auditor will</p>

Recommendation	Response
<p>36. In order to meet its commitment to reduce the use of sole-source contracts, Community and Government Services, in collaboration with other departments, should identify ways to ensure that sole-source contracts are used only when the sole-source method is permitted. Community and Government Services should also seek clarification regarding whether the current practice is in line with the Government of Nunavut procurement framework. (34–35)</p> <p>41. Community and Government Services, Nunavut Housing Corporation, and Qulliq Energy Corporation should comply with the rules for awarding sole-source contracts set out in the procurement framework. (33, 37–40)</p>	<p>conduct risk assessments and prepare practical recommendations to improve the application of accounting, financial, and other operating controls, and promote compliance with established policies, plans, and procedures.</p> <p>Community and Government Services’ response. Agreed. Community and Government Services will continue to work with all departments and encourage them to take advantage of the training offered on the Government of Nunavut procurement processes and the proper use of sole-source contracting. The Department will work with the Department of Finance to ensure clarity concerning sole-source authority in the procurement framework.</p> <p>Community and Government Services’ response. Agreed. Community and Government Services will continue to improve processes to ensure compliance with the procurement framework.</p> <p>Nunavut Housing Corporation’s response. Agreed. As noted in the Corporation’s response to the recommendation at paragraph 18, the Corporation is taking steps to address its lack of contracting and procurement expertise and capacity in its five office locations. The Corporation recognizes the importance of ensuring that all contract file documentation is complete. The Corporation also recognizes the importance of including sole-source substantiation documents in all contract files to ensure that the rationale behind the decision to use a sole-source contract is evident. The Corporation has adopted the Office of the Auditor General’s recommended practice of treating software maintenance and support sub-agreements as sole-source contracts. The Corporation continues to actively pursue the recruitment of vacant positions in order to reduce its dependency on use of sole-source contracts for consultants to fulfill those roles, and recognizes the risk of continuing such practices on a long-term basis. In order to mitigate these risks, the Corporation is in the process of establishing standing offer agreements to provide technical inspection and financial</p>

Recommendation	Response
	<p>management services. The Corporation has adopted the practice of including in its contracting files written confirmation of verbal and email direction to initiate contracts when logistics prevent physical signing of contract documents prior to the contract commencement date.</p> <p>Qulliq Energy Corporation's response. Agreed. The Corporation will arrange for procurement training for all procurement staff and budget holders in April 2012. The Corporation will comply with the Government of Nunavut sole-source contracting rules until such time as the procurement and contracting framework is developed and approved by the Corporation's Board. This will include ensuring that sole-source contracting is only carried out in the appropriate circumstances and is appropriately documented and approved. Further, the Corporation will hire an internal auditor by May 2012. Reporting to the Board, the internal auditor will assist the Board and senior management in the effective discharge of their responsibilities, focusing on operational, financial, and process reviews of all operations and identifying key issues and opportunities for improvement. The internal auditor will conduct risk assessments and prepare practical recommendations to improve the application of accounting, financial, and other operating controls, and promote compliance with established policies, plans, and procedures.</p>
<p>Administration of contracts</p> <p>51. The Department of Finance should clarify the definition of "price change" as it relates to change orders. This information should be communicated to entities to ensure a common understanding. (50)</p>	<p>Department of Finance's response. Agreed. The Department is currently revising its contracting directives in the Financial Administration Manual and will include a clarification of the definition of "price change," as it relates to change orders, in these revisions. The revisions are currently expected to be in effect during the first half of the 2012–13 fiscal year.</p>

Recommendation	Response
<p>55. Community and Government Services and Nunavut Housing Corporation should comply with the contract administration rules set out in the procurement framework. (46–54)</p>	<p>Community and Government Services’ response. Agreed. Community and Government Services will continue to improve processes to ensure compliance with the procurement framework. Community and Government Services has created new processes and forms to address the approval process for construction and service contracts. The new forms and flow will match the process for goods’ purchase orders, which addresses the certification of funds issue.</p> <p>Nunavut Housing Corporation’s response. Agreed. The Corporation is working to identify solutions to address the constraints inherent in its existing financial software that affect the ease and timeliness of contract administration. The Corporation has adopted the practice of ensuring that detailed rationale is included on all change orders. The Corporation now ensures that the accounting authority signs on expenditure documents only after the expenditure authority’s signature is obtained.</p>
<p>61. Qulliq Energy Corporation should administer its contracts in accordance with the rules by</p> <ul style="list-style-type: none"> • certifying that funds are available before entering into a contract; • documenting on file when and why change orders are issued and approving them within the signing officer’s authority; • ensuring that goods and services are received and properly approved for payments; • ensuring that its contract administration allows the Corporation to know the amount of money paid against the contract at all times; and • ensuring that files are properly maintained and documented. (56–60) 	<p>Qulliq Energy Corporation’s response. Agreed. The Corporation will ensure that in this fiscal year, processes and procedures are put in place to ensure that funds are certified as available before a contract is entered into, goods and services are received and properly authorized for payment, and contract files are properly documented. The Corporation will comply with the Financial Administration Manual with respect to change orders until such time as the corporate procurement and contracting framework is developed and approved by the Corporation’s Board. Training on the above-noted processes and procedures will be given to Corporation staff and budget holders in April 2012. Further, the Corporation’s contract information is being reviewed for more effective ways to manage administrative information, including payments made against a contract. New approaches will be implemented by July 2012.</p>

Recommendation	Response
<p>Entity information</p> <p>64. Nunavut Housing Corporation and Qulliq Energy Corporation should improve the management of their contract information so that the information is readily available and facilitates accurate public reporting. (63)</p>	<p>Nunavut Housing Corporation's response. Agreed. The Corporation's 2009–10 Contracting Report had mistakenly reported two contracts as having been tendered that had in fact been sole-sourced. For 2010–11, the Corporation has corrected its contracting report prior to tabling to indicate software maintenance sub-agreements as being sole-source contracts, rather than an extension of the base software supply contract. As such, the Corporation was responsible for three of the nine sole-source contracts reported by the Office of the Auditor General as being misclassified: two in 2009–10 and one in 2010–11 that was corrected prior to tabling. The Corporation recognizes that contract files should be able to stand alone and has taken steps to improve its processes for the filing and archiving of procurement documentation.</p> <p>Qulliq Energy Corporation's response. Agreed. The Corporation's contract information is being reviewed for more effective ways to manage administrative information, including payments made against a contract. New approaches will be implemented by July 2012.</p>
<p>NNI Policy</p> <p>77. The Department of Economic Development and Transportation, in collaboration with the entities, should ensure that the NNI Policy is applied consistently by providing clear direction on how bidders' information is to be used in the bid adjustment and by providing timely training to those who apply the policy. (71–76)</p>	<p>Department of Economic Development and Transportation's response. Agreed. With regard to training plans, the NNI Secretariat is taking steps to address them and will work with the parties to improve the enforcement of this requirement. Further, a draft generic training plan template has been produced by the NNI Secretariat and provided to Community and Government Services. The NNI Secretariat will continue to work with officials in the Government of Nunavut to ensure compliance with the directions for the application of the NNI Policy as described in the Government of Nunavut Contracting Procedures Manual, 2nd Edition, and in the NNI Policy. The NNI Secretariat will also continue to work with Community and Government Services to develop and provide related training tools and clarification, including the appropriate use of bidder's/proponent's information to properly calculate bid adjustments. These efforts will be enhanced by the work to be carried out by the new NNI Policy Implementation and Accounting Analyst,</p>

Recommendation	Response
	<p>who is tasked with monitoring the implementation of the NNI Policy. This will include ensuring that the Policy is implemented properly at all stages of the public procurement process, both in tenders and proposals, and will include checking for appropriate calculations of Inuit labour bonuses and penalties.</p>