



OFFICE OF THE PROCUREMENT OMBUDSMAN



PROCUREMENT PRACTICES REVIEW

PROFESSIONAL SERVICES ONLINE

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PROMOTING FAIRNESS, OPENNESS AND TRANSPARENCY IN FEDERAL PROCUREMENT

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Introduction

1. The 2005 Federal Budget contained a directive to streamline and consolidate purchasing Government-wide, to better leverage its buying capacity and achieve volume discounts from fewer suppliers who were already listed on existing methods of supply. To implement the commitment to monitor and address the impacts on small and medium-sized enterprises (SMEs), the Office of Small and Medium-sized Enterprises (OSME) was created within Public Works and Government Services Canada (PWGSC) in order to assist such firms with access government contracts.
2. The budget moved to provide PWGSC the sole authority to establish various methods of supply through the use of Standing Offers (SOs) or Supply Arrangements (SAs) to consolidate government purchasing. It then became mandatory to use those SOs and SAs for 10 commodities, which include Information Technology (IT) and non-IT professional services. Through this consolidation, those suppliers already qualified under SOs and SAs were left in a better position to do business with the Federal Government. Suppliers who were not already on those lists would not be considered for the mandatory commodities until a SO or SA would be re-tendered. In 2005, most SOs and SAs were awarded with options to extend their duration on an annual basis and possibly for multiple years, thus precluding those who had not qualified from participating in a portion of government procurement.
3. Informatics Professional Services (IPS) Marketplace was launched in 1995 as a regional level automated procurement tool for IT services. This tool was developed to provide a window for the procurement of IT services by departments and to open up the Federal Government's informatics market to a wider supplier base. In response to the mandatory use of SOs and SAs for 10 commodities, the IPS Marketplace was expanded in 2005 to include non-IT professional services categories. It became a procurement vehicle which could be used to award contracts valued below the North American Free Trade Agreement (NAFTA) threshold (currently \$76,600). The name of the system changed from IPS Marketplace to Professional Services Online (PS Online). The expanded tool was then rolled out nationally in 2006 as a rules-based automated purchasing tool.
4. OSME's website states: "Smaller businesses are also concerned about accountability in the procurement system, as well as PWGSC plans to consolidate the supply base and drive volume price discounts." It also states PWGSC "introduced the Professional Services Online supply tool nationally to provide increased access for SMEs providing professional services." When suppliers are not able to qualify for one of the other methods of supply PWGSC has made available for professional service contracts, they have been told they should

register¹ for PS Online to be eligible for contracts below the NAFTA threshold. This is particularly true for SMEs, who may not meet all the requirements of a particular SO or SA.

5. According to the PS Online website “PS Online is a method of supply equivalent to a Supply Arrangement. It cuts down on the competitive procurement process to a minimum of 5 working days by fax and a minimum of 10 working days by mail compared to the 15-40 days it takes if using MERX®. It also provides access to small and medium enterprises to market their services.” PS Online presents an opportunity for small suppliers to register at any time.
6. To pre-qualify, suppliers must meet four mandatory criteria and sign a Trading Partner Agreement. The four criteria are: suppliers must have a registration number, either an HST number or as a registered company; have been in business a minimum of one year; provide a human resource plan which ensures they have the necessary resources; and provide three relevant projects as experience. There are approximately 2,500 suppliers on the tool’s database.
7. Currently, there are approximately 1,400 departmental ‘Users’ enrolled in PS Online who are a mixture of procurement officers and Responsibility Center Managers. Government employees become users following approval of their supervisor and attending PWGSC’s 1.5 hour training course. This course covers how to conduct a search, as well as the appropriate use of PS Online relating to the Assessment Framework.

Why it Matters

8. Since the creation of the Office in 2008, OPO has heard from new entrants to government procurement it is difficult to access and understand procurement processes.
9. OPO recognizes that through its very existence, the creation of PS Online has promoted openness in federal public procurement. However, OPO is also of the belief the mere existence of a tool is not enough and effective use of the tool is of critical importance. Through this review, OPO seeks to understand how PS Online works and whether or not it is an effective tool for first time entrants, contributing to greater fairness, openness and transparency in procurement.

¹ During this review, PWGSC recently changed the terminology for suppliers and departmental users who register for PS Online. Suppliers now “pre-qualify” rather than register and departmental clients now “enroll” rather than register. OPO will use the current terminology in this report.

10. This review is intended to raise awareness and understanding of the PS Online method of supply for suppliers and departmental users.

Focus of the Review

Review Objectives

11. To assess the extent to which:

- PWGSC manages PS Online according to relevant policies and procedures; and
- Selected departments make use of PS Online.

All in support of the principles of fairness, openness and transparency of the procurement practices.

Scope and period of the Review

12. The review covered files from fiscal years 2009-2010 and 2010-2011 and consisted of two lines of enquiry:
13. **Line of Enquiry 1.** The first Line of Enquiry focused on PWGSC management of the tool and how departments and agencies use the PS Online tool to enhance fairness, openness and transparency. OPO selected the following departments for inclusion in Line of Enquiry 1: Health Canada (HC), Public Health Agency of Canada (PHAC), Aboriginal Affairs and Northern Development Canada (AANDC), Industry Canada (IC) and the Parole Board of Canada (PBC).
14. **Line of Enquiry 2.** The second Line of Enquiry looked at large departments and agencies that OPO expected would be using PS Online, but who had made very few searches on the system and issued very few (if any) contracts using this tool. The following departments were included for this Line of Enquiry: the Canada Revenue Agency (CRA)²; Correctional Services Canada (CSC); Department of Finance; and the Canadian Food Inspection Agency (CFIA).

² Although CRA was included in the original scope of this review, CRA informed OPO during the process “CRA enjoys the same ability to run a limited tender up to the NAFTA threshold under [their] own legislated authority”.

Review Methodology

PWGSC

15. PWGSC is responsible for the establishment and availability of the PS Online tool for both departments and suppliers. OPO reviewed the procedures carried out by PWGSC as part of its monitoring the usage of PS Online by user departments. OPO identified PWGSC's ongoing assessments of how specific users used PS Online as the key function for managing this tool. OPO reviewed how the assessments of departmental practices were applied to ensure adherence to contracting policies.
16. OPO reviewed all the recent assessment reports pertaining to departments selected for Line of Enquiry 1 to see whether PWGSC prepares compilation reports by department and notes common areas of non-compliance and how they impact on the fairness, openness and transparency. OPO also inquired as to what, if any, follow-up work PWGSC does with the departments to ensure the actions as set forth in the management action plans in response to the assessments have been implemented.
17. In addition to reviewing PWGSC's assessments, OPO interviewed PWGSC managers on other aspects of managing of PS Online, such as how:
 - users are informed of its requirements;
 - monitoring of the pre-qualification process is done; and
 - improvements in the training for PS Online is handled.

OPO also sought views from OSME concerning PS Online.

Departments and Agencies

18. OPO expected the review of departments would have appropriate procedures to monitor and manage the performance of PS Online.
19. OPO was provided 28 contract files from the five departments selected for Line of Enquiry 1. The review was confined to contracts issued during the fiscal year ending March 31, 2010, and the first six months of fiscal year 2010-2011. The files were selected to coincide with the period after the most recent PWGSC assessments were performed.
20. OPO reviewed the files to:
 - understand how departmental activities are managed under PS Online, including the implementation of the Corrective Action Reports prepared in response to the PWGSC assessments; and

- find effective practices in departments related to PS Online which could enhance fairness, openness or transparency and could be shared with all federal departments and agencies.
21. OPO enquired as to what aspects of PS Online as a procurement tool the departments favour or not, and whether they had any suggestions for improvements to the tool.
22. For Line of Enquiry 2, OPO enquired as to the reasons the selected departments made limited use of PS Online, and how this may impact on the fairness, openness or transparency towards suppliers, especially those who could not qualify for other instruments. OPO also enquired as to what other methods of procurement were used to contract for professional services under the NAFTA threshold and their reasons for doing so.

Suppliers

23. OPO contacted suppliers identified from the departmental PS Online files reviewed, both from amongst those who won the contract and those who had bid but did not win the contract. OPO asked these suppliers for their perspectives and comments on the usefulness of PS Online and its fairness, openness and transparency. OPO contacted all 30 suppliers identified as bidders in the contract files reviewed and received responses from 22 of them.
24. Most of these suppliers had been successful in obtaining contracts. They were a mix of firms: the smaller ones typically were a single consultant with associates, and had a single expertise such as editing, employment equity or job description writing; the larger firms supplied a range of specialized professional services such as management consulting, executive training, or IT. Nearly all the firms were repeat bidders and therefore experienced at being successful and unsuccessful at being awarded contracts.

Review Observations

1. PS Online pre-qualification process works well

25. As noted earlier, PS Online was created to increase access to federal government professional services contracts. In the view of private sector organizations, this created an implicit expectation among SMEs that when they pre-qualify on PS Online, any work valued below the NAFTA threshold for the relevant mandatory commodities would be open to them.

26. OPO expected PWGSC would have a process in place to address concerns and suggestions from suppliers. This would include issues related to the pre-qualification process, as pre-qualification is the first step to obtaining access to government procurement. OPO questioned PWGSC and suppliers to gauge the appropriateness of the pre-qualification process, and their level of satisfaction with it.
27. None of the suppliers OPO contacted for this review thought the pre-qualification process was unfair. Suppliers informed OPO they generally liked or did not have any issues with the pre-qualification process which enables them to bid on government contracts. It normally takes less than two weeks to pre-qualify under PS Online. PWGSC also informed OPO they receive few if any complaints relative to the pre-qualification process. OPO asked OSME whether it had received any complaints related to the PS Online pre-qualification process. OSME responded it had received no complaints.
28. Most of the smaller suppliers had a favourable view of PS Online as they were unable to qualify under the requirements of the SOs and SAs. Some suppliers told us PS Online was being used less in recent years, was not well known, and had fallen out of favour. Some told OPO they considered the other procurement tools problematic, particularly Temporary Help Services (THS). Other suppliers concluded the availability of other tools which can also be used under the NAFTA threshold has made PS Online somewhat redundant.

2. Some aspects of the PS Online tool could be improved

29. Considering PS Online is one of the main entry points for SMEs, in order to determine whether it is actually providing an effective and open avenue for them to obtain government business, it is vital PWGSC understand the PS Online usage.
30. OPO expected PWGSC would have management systems and procedures in place to ensure the procurement of professional services covered by PS Online enhance access, competition and fairness.
31. For PWGSC to acquire this understanding, it would need to collect data on the use of PS Online, including the number of contracts entered into by departments resulting from its use. This information could be used to find out why certain departments were making little use of PS Online, and take appropriate action. Without knowing if or how PS Online is being used, PWGSC cannot determine whether PS Online is providing an effective opportunity for SMEs to obtain government professional services contracts.
32. OPO observed PWGSC does not fully manage the performance of PS Online. It has no system in place to capture data on the number and dollar value of contracts

awarded by departments using PS Online. Although the tool does record the number of queries or searches, PWGSC does not track how many searches are done for each individual contract. PWGSC estimated about \$20 million of professional services are purchased annually, but this figure is based on unsubstantiated amounts provided by departments. Lacking these types of information, PWGSC cannot work with departments to ensure optimal usage of the tool, including promotion of the tool to those departments not using it.

33. Likewise, four (HC, IC, AANDC and PHAC) of the five federal organizations reviewed in Line of Enquiry 1 did not keep track of the number or the dollar amounts of contracts awarded using PS Online. As the contract is the main output of the PS Online tool, such data is essential to any analysis of performance.
34. PWGSC also had no system to capture and analyze data to determine the efficiency of PS Online. It does not analyze how much time is spent by its staff to administer PS Online and the cost of administering the tool. PWGSC has two individuals dedicated to managing PS Online by providing procurement and service support to a user community of approximately 3900 users (federal departments and suppliers) and potential users. Separate from these two resources, PWGSC has an assessment team of three individuals conducting assessments for PS Online, in addition to supporting activities on the assessments of other procurement tools, and other procurement related activities. These individuals report to one manager. PWGSC does not estimate the overhead costs or the costs in the departments, or compare total costs to other procurement tools.

3. Inconsistent use of PS Online limits openness

35. Departmental procurement officers work in a high-paced environment with many demands on their time. They must react to demands from program managers to engage in contracts in a timely manner. To provide effective service, they often have to decide amongst a myriad of procurement methods and tools to best meet the needs of their departmental programs.
36. In order for PS Online to provide SMEs access to government business, it is important for departments to know how and when various procurement tools are to be used and use them consistently in accordance with contracting policies and regulations.
37. OPO expected departments or PWGSC would have prepared either a policy and/or procedures to assist procurement officers in deciding the most efficient and effective means of procurement for different types of contracts, while supporting the principles of fairness, openness and transparency.

38. When OPO asked departmental procurement officers how they decide which procurement tool to use, they indicated they rely on their experience and judgment in deciding on the tool depending on the requirements of the contract.
39. The views of procurement officers for departments using PS Online varied. While some preferred PS Online for procurement under \$25,000, others used different procurement tools they felt served them more effectively.
40. Some suppliers told OPO the array of tools for procuring professional services was confusing, and from their perspective, departmental staff often did not understand which one might be best applied to which procurement.
41. When OPO questioned the departments selected for Line of Enquiry 2 about their reasons for making limited use of PS Online, they said they have the choice of which method of supply to use and other tools meet their needs.
42. The impact of departments and agencies inconsistently using the tool is it defeats the main purpose of providing an open way of doing business with government to those suppliers of professional services with no other available method of supply. In particular, if departments are not using PS Online, this limits the openness of this important entry point to government contracts for SMEs.

4. PWGSC Assessments that monitor the use of the PS Online tool by departments could be more effective.

43. **PWGSC's Assessments of PS Online.** In its May 2006 Status Report on the Canadian Fire Arms Program, the Office of the Auditor General (OAG) identified practices where IPS Marketplace, the forerunner to PS Online, was misused. The OAG recommended "(PWGSC) should review how client departments use the contracting tools it has developed. It should be able to provide assurance that its tools are not being used to circumvent contracting policies and regulations." PWGSC responded that it is taking corrective measures including: "the training of users on accountabilities, policies, processes, increased monitoring and reporting of usage; and, where appropriate, restricting use of the tool". The House of Commons Standing Committee on Public Accounts echoed the OAG recommendation. In response, PWGSC developed and implemented an Assessment Framework to monitor certain tools.
44. OPO expected PWGSC would have a mechanism in place to monitor and/or assess how client departments use PS Online.
45. An important exercise PWGSC implemented for managing the tool is the assessment of individual user accounts. These assessments use detailed templates and methodically review adherence to a number of policies relating to the whole procurement process up to contract award.

46. OPO was provided with a copy of the PWGSC Assessment Framework and process which was developed to ensure PS Online is being used appropriately by departments. This process includes follow up assessments to ensure departments are meeting the intent of PS Online with respect to fairness, openness and transparency. OPO reviewed the procedures followed by PWGSC in carrying out its monitoring role.
47. The first stage of the assessment process involves all departments. The second and subsequent stages involve: all new federal department users; randomly selected federal department users assessed in the previous calendar year whose reports contained anomalies; and previously assessed federal department users where a follow-up assessment has been recommended.
48. In summary, the PWGSC assessment process reviews:
 - whether contracts respect the NAFTA and GCR thresholds;
 - the solicitation, the evaluation criteria and process;
 - the selection methodology;
 - contract administration; and
 - if breaches in policy occurred, e.g. contract splitting.
49. The detailed templates used by the assessors also cover all aspects of the procurement process for initiating a contract. This includes not only looking at departmental procurement files to see how PS Online search tool is used for acquiring names of prospective suppliers, but also areas such as:
 - the preparation of the Statement of Work (SOW);
 - the consistency of the SOW with the mandatory and point rated criteria;
 - the evaluation of proposals;
 - the selection of the winning bidder;
 - file documentation; and
 - security verification.
50. During the course of the review, OPO found the PS Online website provides a checklist of required documentation for PS Online procurement files. However, procurement officers informed OPO the training did not cover such matters and was focused mainly on the search tool.
51. The aspects reviewed by PWGSC ensure contracting regulations are being adhered to. OPO's review of the assessment framework revealed the assessment work covers departmental procurement files in a thorough manner and the assessors prepare a detailed report of their assessment of individual files.

52. The major areas of non-compliance PWGSC identified in their assessments relate to general policies rather than how the tool is used:
- Missing documentation on the file, e.g., SOWs or PS Online search results;
 - Inconsistencies with the evaluation criteria and the evaluation and selection methodology;
 - No documentation on file to justify invoking the “under \$25K” GCR exception to soliciting bids;
 - Amendment value exceeds 50% of original contract value.
53. The PWGSC assessors, in collaboration with the individual departmental procurement officer being assessed, prepare Corrective Action Reports (CARs) addressed to the officer. These reports intend to address deviations on a contract by contract basis. The procurement officers normally agree to the suggested actions. However, PWGSC does not follow-up on all CARs. Rather, follow-up is conducted on randomly selected federal department users assessed in the previous calendar year whose reports contained anomalies, and previously assessed federal department users where a follow-up assessment has been recommended.
54. PWGSC assessments cover some key aspects of contracting regulations and policies, however, OPO’s review of the documentary evidence provided by PWGSC indicated the potential for monitoring and improving the performance of the PS Online tool may not be fully utilized. OPO’s review observed the results of the individual assessments are not summarized for the whole department assessed and a report is not provided to the executive responsible for procurement of the department. Also, the CARs are not rolled up and a departmental management action plan is not asked for or prepared.
55. During the course of this review, PWGSC began considering changing the way assessments are conducted, to a coordinated approach involving the groups who monitor the other professional services procurement tools. The group which monitors PS Online informed OPO it is considering consolidating the assessment results and directing them to the executive responsible for procurement. This would allow the executives responsible for procurement to consider applying the assessment recommendations to all of their procurement, thereby improving the fairness, openness and transparency of not only PS Online procurement but of procurement by other means as well.
56. **Departments’ use of assessments.** PWGSC assessments are an important management tool for ensuring compliance with policies and regulations. As such, OPO expected departments would take advantage of the assessments to ensure PS Online is not being used to circumvent contracting policies and regulations.

57. OPO expected that in the sample of procurement files reviewed the same areas of non-compliance found during the recent assessments would not be present. OPO looked to see if the departments who had been assessed by PWGSC had prepared action plans to ensure compliance on subsequent contracts assessed. It is to be noted the individual users assessed by OPO in the samples files were not necessarily the same users PWGSC had assessed.
58. Most of the departments OPO reviewed did not summarize the assessment observations and recommendations and disseminate the information to all their procurement officers who have the ability to use PS Online. In fact, in four (HC, IC, AANDC and PHAC) of the five federal organizations OPO consulted, the executives responsible for procurement were not aware of the recent assessment results. While individual users of PS Online had prepared corrective action plans, the departments are not taking advantage of the opportunity to apply lessons from the assessment results more broadly which would lead to enhancements in fairness, openness and transparency through improved reporting and training. Many of the lessons learned, such as the need for better documentation, would also apply beyond the PS Online tool.
59. In assessing whether corrective action had taken place in areas of non-compliance, OPO found some of the same areas of weaknesses that had been raised by the PWGSC assessments persisted. Taking action on the PWGSC assessments is important as it is one method of ensuring procurement practices demonstrate better adherence to the principles of fairness, openness and transparency.

5. PWGSC plans to reinvigorate the tool

60. Most of the departments OPO reviewed held a prevailing view that PS Online was being neglected by PWGSC as other mandatory tools such as Task-Based Informatics Professional Services and Task & Solutions Professional Services have been implemented in the past few years that can be used instead.
61. PWGSC officials informed OPO there is no intention to eliminate PS Online. PWGSC considers it an important tool to provide SMEs with an opportunity to do business with the government.
62. PWGSC also informed OPO it is in the process of updating the current system in order to encourage more departments to use PS Online. To make the tool more accessible, PWGSC also intends to incorporate PS Online data into an overall procurement initiative called the Centralized Professional Services System (CPSS). CPSS is “a multi-phased initiative aimed at providing Federal Government Departments and Agencies a centralized system to procure professional services.”

63. The proposed changes for professional services are part of PWGSC's draft "Professional Services National Procurement Strategy 2011-2014 Review". Among the stated objectives of this new strategy will be an increase in access to government business for suppliers, standardization and simplification of processes, and enhanced transparency and monitoring.
64. The draft Professional Services National Procurement Strategy proposes PS Online will be the single supply arrangement for professional services procurements up to the NAFTA threshold; the existing range of services will likely be expanded; data will be more easily generated under the proposed changes; and PWGSC plans to consult suppliers and departmental procurement officers as it moves forward with changes to professional services procurement in general, including PS Online.
65. At the commencement of this review, PWGSC did not have procedures or a guide to assist procurement officers with choosing which procurement tool best suited their needs, nor had the departments OPO interviewed. During the course of the review, PWGSC developed and published a decision tree, which should resolve some of the concerns expressed by both suppliers and users.

Conclusion

66. PWGSC claims PS Online is, on the one hand, an open entry point for suppliers to gain initial access to the government market place, and on the other, a tool which provides departments with a faster procurement process for relatively low dollar value professional services. However, this review indicates PWGSC management of the PS Online tool has some gaps. For instance, it:
 - has not formally stated the objectives of PS Online;
 - does not measure whether PS Online addresses the concerns of suppliers for a reasonable vehicle for having fair access to government business; and
 - does not measure whether it is efficiently meeting the needs of departmental users for a faster tool than other available procurement tools.
67. It thus cannot know if it is succeeding through PS Online in effectively providing to SMEs the expected entry-level access to government contracts and a means to acquire the experience necessary to compete for other methods of supply.
68. Departments and agencies are using PS Online inconsistently or not at all. Despite the fact PWGSC considers PS Online as a key entry point for SMEs of professional services, it does not monitor its usage by departments or its efficiency. Some departmental representatives as well as a number of suppliers ignore PS Online because they believe it is being neglected. Although PWGSC has

proposed draft plans to upgrade and expand the tool, this could be better communicated to departments and suppliers.

69. PWGSC performs detailed assessments of departmental users' contracting files to ensure compliance with government contracting policies and regulations. However, it does not consolidate the information from the assessments by department nor provide it to the executive responsible for procurement. In the past, PWGSC has not used the assessment results to establish areas for improvement which could assist in its management of the PS Online tool. However, through the assessment process, PWGSC informed OPO it has identified possible improvements for PS Online, which ideally, will be reflected in CPSS. PWGSC could also use assessment information to improve its training for PS Online users, which would also enhance fairness, openness and transparency. Departments could use assessment results, whether consolidated by PWGSC or not, to ensure their practices comply with contracting policies and regulations.

Recommendations

1. PWGSC should: continue with its plans to update the systems supporting PS Online in order to make it easier for departments to use the tool; continue in its efforts to minimize the overlap regarding the methods of supply that may be used for professional services, and consult with suppliers and the departmental procurement community as they make changes to the PS Online tool.
2. PWGSC should optimize the benefits of its assessments of departmental PS Online files by: summarizing the results; communicating overall results to departmental management; and making appropriate refinements to its training of departmental users.
3. PWGSC should: set guidelines for PS Online processing time; include indicators to assess PS Online performance; and assist departmental users in improving their compliance.