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AUDIT REPORT

ON PROCUREMENT
AND CONTRACTING ACTIVITIES

Audit Services Division

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Approved by Chief Public Health Officer
on November 8, 2007

Canada 

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Executive Summary

The audit of procurement and contracting activities was conducted in accordance with the approved internal audit plan for 2006 – 2007.

The objective of the audit was to provide Public Health Agency of Canada (PHAC) Management with the assurance that contracting and procurement activities and processes were being administered with due diligence and were compliant with relevant government-wide policies and procedures. The audit was carried out during the period of March to July 2007.

We examined the Management Control Framework (MCF) in place to monitor procurement and contracting activities within PHAC. A review of the processes undertaken by personnel directly involved in procurement and contracting activities was also undertaken. The audit included an examination of procurement documents and contracts issued between April 1, 2005 and December 31, 2006 and included samples from the National Capital Region (NCR) and all the Regions and Laboratories. During this period, PHAC entered into just over 9,300 contracts with a total value of \$183M. A review of acquisition card usage was excluded from the audit scope as the Office of the Auditor General recently conducted an audit of acquisition card transactions in three departments, (which included Health Canada, who continues to provide services to PHAC in this area), and reported that they did not identify any losses or abuse of public funds.

Conclusion

Overall, the results of the audit revealed that current processes and procedures provide management with a reasonable level of assurance that PHAC is meeting the intended objectives of government contracting policy. However, we have noted areas that require management's attention.

Management Framework

Under the current organization structure, there is no specific unit or organization within PHAC which takes ownership of the function. This responsibility would normally include ongoing monitoring of the procurement/contracting activities and providing management with assurance that the function is performing as intended and in compliance with the Government Contracting Regulations.

The role of the CRCC should be reviewed. The Contract and Requisition Control Committee (CRCC) provides an effective review function but it does not consider all high risk or high profile contracting.

In addition to assigning specific responsibilities for the function, there is a need to develop policies, procedures and guidelines specific to PHAC to ensure that the procurement and contracting activities are carried out as required.

Monitoring and Proactive Disclosure

Currently the only high-level reporting of PHAC's contracting activities is limited to the TBS proactive disclosure reporting requirements. While the overall process is systematic and contains rigorous stages of verification and various levels of approvals it does not provide a complete picture of the activity within the Agency. Systematic reporting is required to assist in monitoring contracting and procurement activities.

Contracting and Procurement Method

Closer attention to the requirements of the Temporary Help Services call-ups is needed to ensure compliance with government policy and procedures. The proper maintenance of all procurement and contract files needs improvement to ensure that relevant documentation is available for review purposes.

Management Response

PHAC Management agrees with our findings and recommendations. The Agency management action plan is presented at the end of this report as Appendix "B".

1.0 Background

In October 2006, the Executive Committee approved the Agency Risk-Based Audit Plan (2006-2009). The plan identified contracting and procurement activities as an audit project for 2006/2007.

The Agency has a spending budget of approximately \$500M per year of which a high percentage is expended under contractual arrangements. During the 21 month period from April 1, 2005 to December 31, 2006 the Agency issued the following contracts:

Contracts	Quantity	Value
Over \$10K	2,254	\$157M
Under \$10K	7,052	\$ 26M
Total	9,306	\$183M

PHAC Procurement by Type - April 1, 2005 to December 31, 2006

Type	Quantity	Value
Supply Arrangements	403	\$68,495,070
Call-ups Against Standing Offers	2,816	\$34,239,104
Temporary Help	286	\$7,389,580
Purchase Orders	2,238	\$3,693,390
Long Form Contracts	659	\$48,078,536
Short Form Contracts	2,854	\$17,786,241
Other i.e. ILA, MOU	50	\$3,729,116
TOTAL	9,306	\$183,411,038

2.0 Introduction

In June 2003, Treasury Board Secretariat (TBS) issued a revised policy on contracting. The objective of government procurement contracting is to acquire goods and services and to carry out contracting in a manner that enhances access, competition and fairness and results in best value or, if appropriate, the optimal balance of overall benefits to the Crown and the Canadian people. The Policy states that Government contracting shall be conducted in a manner that will:

- stand the test of public scrutiny in matters of prudence and probity, facilitate access, encourage competition, and reflect fairness in the spending of public funds;
- ensure the pre-eminence of operational requirements;
- support long-term industrial and regional development and other appropriate national objectives, including Aboriginal economic development; and

- comply with the Government's obligations under the North American Free Trade Agreement, the World Trade Organization - Agreement on Government Procurement and the Agreement on Internal Trade.

Also, in 2005, fundamental changes were introduced to the way the Government of Canada purchases goods and services in keeping with the government's commitment to deliver services smarter, faster and at a reduced cost. Departments must now use a PWGSC standing offer to buy a number of goods and services.

3.0 Audit Objectives

The overall objective of this audit is to provide PHAC Management with the assurance that contracting and procurement activities and processes are being administered with due diligence and are compliant with pertinent government-wide policies and procedures.

More specifically, the objectives of the audit are to review and assess if the procurement and contracting practices of the Agency are conducted in a manner that:

- complies with Government policies related to procurement and contracting;
- results in best value or the optimal benefits for the Agency;
- stands the test of public scrutiny in matters of prudence and probity, facilitates access, encourages competition and reflects fairness in the spending of public funds;
- ensures due diligence of the contracting and procurement activities and processes within PHAC; and,
- ensures the pre-eminence of operational requirements.

The audit was carried out during the period March to July 2007. The audit consisted of a review of related policies, procedures, guidelines and processes, the conduct of interviews with departmental officials, the examination of procurement and contracting files and a review of the contracting and financial databases.

4.0 Scope of Audit

The scope of the audit encompassed a review of the management practices, system of internal controls, policies, and procedures pertaining to the administration's contracting and procurement practices and their compliance with established policies and procedures.

More specifically, the scope included an examination of:

- Management control framework of the procurement and contracting function;
- Assessment of risks such as recurring suppliers, amendments, sole source contracts, as well as the centralized and decentralized approach;
- Contracting responsibilities in service areas (decentralized approach to contracting);
- Contracts, issued on a sole source basis and through the competitive process, categorized as either contracts, purchase orders, and/or standing offers and supply arrangements, including consulting and professional service contracts;
- Delegation of authorities and thresholds;
- Monitoring and reporting mechanisms;
- Training and guidance provided to managers;
- Contracting performance evaluation and related mitigating activities;
- Compliance of the PHAC administration's practices and documentation pertaining to but not limited to: delegation of contracting authority, contract initiation, contract posting, contract evaluation, contract tendering, awarding of contracts, accounts payable, contract amendments, contract administration (including: dispute resolution, contract performance, contract close out, and records management);
- Assessment of the value for money principle and its application in our contracting practices; and
- Best practices that can be applied to PHAC administration.

The audit scope included an examination of procurement documents and contracts issued between April 1, 2005 and December 31, 2006 and samples from the National Capital Region and all the Regions and Laboratories. During this period, PHAC entered into just over 9,300 contracts with a total value of \$183M.

A sample of 88 contracts (51 over \$10K and 37 Temporary Help Services) were examined in detail. The sample was based on a combination of a statistical and judgmental sampling methodology. The judgmental sample was selected to ensure that high risk contracts were included. The contracts were examined with a focus on ensuring that the:

- a) appropriate contracting process had been followed;
- b) files contained the proper documentation; and
- c) contracts complied with TB policies and directives.

The audit team also obtained a data base of all contracts under \$10K from which a statistical and judgmental sample was selected. The judgmental sample was selected to ensure that possible instances of contracting irregularities (e.g. contract splitting) were included. Potential instances were investigated through a review of the contract files and the supporting documentation. A separate Audit Report has been prepared for contracting under \$10,000 to document the findings.

We excluded from our sample the examination of non-contractual arrangements such as Interdepartmental Letter of Agreement (ILA) with another Federal Department or Agency, Memorandum of Agreement or Understanding (MOA or MOU) with other levels of Government (Provincial, Territorial or Municipal) and Collaborative Arrangement (CA) with one or more third parties working together cooperatively on a project.

A review of acquisition card usage was also excluded from the audit scope as the Office of the Auditor General recently conducted an audit of acquisition card transactions in three departments, (which included Health Canada, who continues to provide services to PHAC in this area), and reported that they did not identify any losses or abuse of public funds.

5.0 Approach and Methodology

The audit was conducted in accordance with the Treasury Board's *Policy on Internal Audit* and the Institute of Internal Auditors' *International Standards for the Professional Practice of Internal Auditing*, except that no external assessment was performed to demonstrate that PHAC's internal audit function was in compliance with the *IIA Standards and Code of Ethics*.

Interviews were conducted with staff directly involved with the procurement of goods and services. These included interviews with the Director, Resource Management and Operations, Branch Managers of Business Operations, Senior Administration Officers and subordinates, a CRCC reviewer and members of Health Canada's Procurement and Contracting Division (PCD). Lines of enquiry were prepared for interviews carried out.

The following information has been reviewed:

- Treasury Board's Contracting Policy;
- PWGSC New Buyer's Guide;
- Presentation to the Senior Management Board (Sept. 16, 2006) by PCD (formally Materiel Management Division) of Health Canada;
- Organization Charts and Delegation Document;
- Position descriptions for staff in the contracting activities (Manager and admin Officer);
- Lists of responsibilities carried out by the Division Administrative Officers and the Branch Coordinators (Finance, HR and Admin Services);
- Detailed procedures for the CRCC reviewers for PHAC;
- Health Canada Contract Review Process (April 1, 2006);
- Study of Non-Contractual Agreements for PHAC (dated December 8, 2006);

- Relevant schedules to the Memorandum of Understanding between Health Canada (HC) and PHAC for Planning, Financial Services, and Common Services;
- Reports on contracts under the pro-active disclosure requirements as displayed on the PHAC Internet site; and
- Annual Procurement plan for 2006-2007.

Detailed audit criteria are attached as Appendix "A".

Since the creation of PHAC in September 2004, a Memorandum of Understanding (MOU) with Health Canada has been in place for various services and specifically for contracting. PCD provides the following support for contracting of goods and services:

- Reviews incoming requisitions (e.g. appropriate authority, support documentation, completeness of specifications, accuracy of financial data) at the request of PHAC;
- Contacts suppliers and sales representatives for competitive price-and-availability quotations, evaluate same against PHAC specifications;
- Provides specialized high risk procurement advice, guidance and support;
- Liaises with PWGSC on behalf of PHAC, as requested by PHAC;
- Posts Advance Contract Award Notices (ACANs) and Notice of Proposed Procurements (NPPs) on the Government Electronic Tendering System (GETS);
- Establishes a separate bid receipt process as part of the competitive contracting process; and
- Provides various procurement planning services.

Within PHAC, the contracting for goods and services has been decentralized to the Branches. The contracting process begins with the Cost Centre Manager (CCM) who decides that, in order to meet operational requirements, the contracting of goods or services is required. The CCMs have the authority to enter into contracts on behalf of PHAC within their delegated financial signing authority limits and are accountable for the administration of each contract they sign. An initial request, statement of work or description of the goods, is forwarded to the divisions Administration Officer (AO), usually via an e-mail.

The AO determines which is the best method for acquisition of the goods or services. This information is recorded in the Contract Requisition and Reporting System (CRRS).

Contract Requisition and Reporting System (CRRS)

The CRRS is an integrated system that supports the internal Contract and Requisition Control Committee (CRCC) in its work as the risk-based contract review process as described later in this section.

CRRS links together the contract financial information of SAP, the Agency's central financial system. All information regarding a specific contract is maintained in CRRS as an audit trail.

The key features of CRRS include:

- Workflow control mechanisms that ensure contracts undergo a review and approval process before being awarded to suppliers;
- An automated e-mail function that notifies the next person in the approval process that there is a contract documentation awaiting approval;
- A common electronic storage area; and
- A reporting facility for management decision-making and for access to information requests.

The following types of contracting/procurement activities are not recorded in CRRS:

- Temporary Help Services contracts, as there is a government-wide system for contracting and reporting for these services;
- PWGSC purchase orders (9200) under \$10K, although for commitment purposes, these are recorded in SAP;
- Interdepartmental letter of Agreement (ILA) with another Federal Department or Agency;
- Memorandum of Agreement or Understanding (MOA / MOU) with other levels of Government (Provincial, Territorial or Municipal); and
- Collaborative Arrangement (CA) with one or more third parties working together cooperatively on a project or activities and where the cooperation entails sharing resources, costs, effort benefits and risks.

It should be noted that as of June 15, 2007 there will be changes to the process that will require MOA, MOU and CA document types to be processed through CRRS.

Contract and Requisition Control Committee (CRCC)

PHAC has established a Contract and Requisition Control Committee (CRCC) which forms the foundation of the risk-based contract review process. It currently reviews all contracts over \$10,000 (including non-contractual arrangements). Excluded from their review are Call-ups against Standing Offers, including those for Temporary Help Services (942s) and requisitions sent directly to PWGSC (9200s).

The CRCC for PHAC reviews contract for the NCR and the Laboratories in Winnipeg and Guelph. Contractual requirements for the six PHAC regional offices are submitted to CRCCs chaired by the Health Canada Regional Senior Financial Officers, who are responsible for the final approval of contractual documents from a risk perspective.

The CRCC chairperson has initiated the documentation of the PHAC CRCC function as part of the Financial Management Control Framework project. These draft procedures

are being used by CRCC staff and have been presented to the Finance Community at a retreat held in December 2006. However, these have not been officially approved by PHAC. Also, Health Canada had previously (April 1, 2006) prepared detailed procedures for their CRCC to follow.

The Administration Officers at the division level report, usually through a Senior Administration Officer (SAO) at the Directorate level, to one of the four Managers, Branch Business Operations. The AOs are also tasked with responsibilities for human resources and financial activities. The SAO and Managers are usually involved in the procurement process on requests from the AOs.

6.0 Audit Findings

Management Control Framework (MCF)

Under the MOU with Health Canada, PHAC relies heavily on the services of HC's Procurement and Contracting Division; in particular, for the provision of advice on procurement and contracting activities. The MOU specifies the types of services which are provided, but in the absence of specific service level agreements, it is difficult for PHAC to have the assurance that all services are provided as per the terms of the MOU.

Under the current organization structure, while responsibility for the function rests with the DG Administrative Services, the day-to-day ownership of the function has yet to be developed. This responsibility would include ongoing monitoring of the procurement/contracting activities and providing management with the assurance that the function is performing as intended and in compliance with the Government Contracting Regulations.

Procurement and contracting services are provided to the Cost Centre Managers and/or contracting authorities by approximately sixty Administration Officers operating in all Branches throughout the Agency. Because of the decentralization of the function, it becomes more important for the Management Control Framework to be able to effectively monitor the function activities. Our comments on the lack of effective monitoring and the absence of reporting information are provided in greater detail under separate observations.

We noted that roles and responsibilities for the procurement and contracting function are not generally well defined. For example, in the work descriptions of Admin Officers, there was only a general reference to the contracting and procurement functions. Through interview it was determined that Admin Officers have not all availed themselves of any specialized training relating to their responsibilities for contracting and procurement.

Managers are required to take a half-day introductory training course in procurement and contracting in order to receive their financial delegations. Although there are dedicated procurement and contracting staff at a few locations throughout PHAC, due to their specialized requirements, these procurement and materiel management specialists work rather independently and are fully involved in supporting specific Programs.

The following table illustrates where these specialists are deployed.

Summary of PHAC Procurement Specialists (PGs)		
Location	Role	Number
Winnipeg	Direct procurement, shipping & receiving, warehousing and asset management support to the National Microbiology Laboratory	3
Ottawa	Direct procurement, shipping & receiving, warehousing and asset management support to the National Emergency Stockpile System (NESS). Involves 1300 distribution points and nine warehouses.	4
Ottawa	Direct procurement advice and support to the Centre for Infectious Disease Prevention and Control	1

When renewing the MOU with HC, PHAC Management would have an opportunity to assess alternatives to the current situation. This assessment may include the possibility of establishing a PHAC materiel management unit with delegated ownership and responsibility for overseeing the day-to-day activities of the procurement and contracting function.

Recommendation #1

We recommend that the Director General, Administrative Services clearly assigns responsibility for the day-to-day operations of the procurement and contracting function, that he establish monitoring activities to ensure that the necessary information is available for decision making.

Management Response

We agree with the comment and recommendation. The position of Director, Assets and Materiel Management, has been classified and is in process of being filled. We expect the new Director in this position in early Fall 2007. The Director will be responsible for the day-to-day procurement operation and will include ongoing monitoring of the procurement/contracting activities, to provide the necessary assurance of Government Contracting Regulations compliance. Furthermore, the Director will ensure standardized application of the contracting and procurement functions throughout the Agency. He/she will ensure appropriate training of Administrative Officers as well as managers.

As far as the Corporate Services provided by Health Canada, PHAC has regular discussions on the level of services provided. PHAC's

Administrative Services has launched a survey to evaluate the satisfaction level amongst its users. The results will be known in early Fall and pending results and the cost analysis, the establishment of a PHAC materiel management unit with delegated ownership and responsibility for overseeing the day-to-day activities of the procurement and contracting function will be seriously considered.

Agency Specific Policies, Procedures or Guidelines

PHAC relies on applicable government policies, regulations and legislation relating to contracting and procurement. As yet there are no Agency specific policies, procedures and guidelines formally approved by PHAC management. In addition, there is no mechanism to maintain and distribute policies, procedures and guidelines and ensure that they are promulgated to all staff involved in procurement activities.

Agency specific contracting procedures would provide an outline of the various procurement and contracting vehicles available to meet identified needs. It would also outline roles and responsibilities as well as the procedures to follow for each contracting method. Customized policies and procedures would also help to ensure that procurement and contracting activities are processed accurately, consistently and in compliance with Government Contracting Regulations and potentially speed up the learning curve for new employees. Such procedures could also provide managers and staff with more comprehensive information to better exercise their accountabilities, such as a checklist that outlines which documents are to be retained in a contract file and information on health and safety, insurance and intellectual property concerns.

Recommendation #2

We recommend that the Director General, Administrative Services address the need to develop policies, procedures and guidelines specific to PHAC to ensure that the procurement and contracting activities are carried out in accordance with the government policies, regulations and legislation.

Management Response

We agree with the comment and recommendation. Until recently, the Agency has been relying on Health Canada's policies and procedures available on PHAC's intranet under the Ellie Administrative Procedures - Policy Centre. In the past, this electronic service seemed to be sufficient, however with the rapid evolution of the Agency, several specific issues not covered by Health Canada's Policy Centre came into light and were most of the time dealt in an ad hoc fashion. The development of appropriate policies, procedures and guidelines specific to PHAC will be a priority for the new Director, Assets and Materiel Management. While the start of this task is expected for fall of 2007 with an anticipated completion in August

2008, its completion will depend on a number of factors, such as the timing of the start of the new Director, Assets and Materiel Management. We will report the progress of its implementation to the Audit Services Division on a regular basis.

Monitoring of Contracting Administration and Reporting Processes

There is no specific monitoring of PHAC's procurement and contracting activities other than the preparation of the proactive disclosure reports for TBS. The internal CRCC is the only mechanism to identify, assess, manage and appropriately respond to matters relating to the contracting or procurement of services and goods. Its role excludes contracts under \$10,000, call-ups, including Temporary Help Services, (942s) and PWGSC requisitions (9200s).

We found no evidence, other than the existence of the CRCC, that there was a process in place to identify high risk contracts. We were presented with a draft procurement planning document that could form the basis of such a process if adopted formally within the Agency.

Line managers and their Admin Officers receive some limited internally generated information, not intended for the purpose of controlling the ongoing performance of the contracting process.

The monitoring of contracting administration and reporting processes must be improved to demonstrate that contracting activities are consistent with policies and requirements. The current reporting process provides useful information for tracking the financial aspects of contracting reports. However, there is a need to improve the reporting of the contract characteristics. There is also a need to monitor contracting activity more closely to safeguard against situations such as contract splitting and employee-employer relationships.

A key element in the effective administration of contracting requires that processes be in place to ensure that contracting practices comply with policy requirements. Management oversight should serve to ensure that matters related to contracting are identified.

Recommendation #3

We recommend that the Director General, Administrative Services develop an effective mechanism to identify, assess, and manage the day-to-day procurement and contracting activities.

Management Response

We agree with the comment and recommendation. Low dollar value contracts (under \$10,000.) were considered a low risk to the Agency and therefore not monitored as closely as higher risk items. As far as Temporary Help Services: given that suppliers have to be registered with Public Works Government Services Canada (PWGSC), the Agency considered its uses also as a low risk to the organization. Nevertheless, with the arrival of the new Director, Assets and Materiel Management, best practices on monitoring all contracting activities including low value dollar contract will be implemented. In the meantime, we will give serious consideration for implementing an electronic report to managers detailing the contracting activities for their cost centres. The implementation could be completed by December 2007.

Periodic Activity Reports

Management requires quality information to effectively exercise its oversight role. If management is to monitor contracting activities, it must have access to accurate periodic reports. It would be very useful for management to be aware of, not only the numbers of contracts, but more importantly, the types of contract entered into. Such useful reporting information would include the number of sole sourced and ACANs contracts versus the number of traditional competitive contracts.

Proactive Disclosure

High-level reporting of PHAC's contracting activities is limited to the TBS proactive disclosure reporting requirements. Departments are required to disclose on their Web sites all procurement contracts valued at \$10,000 or more, including GST/HST, committed by or on behalf of their respective institutions, including PWGSC contracts. From our review of the processes used to compile the data for the Proactive Disclosure report, we have concluded that the overall process is systematic and contains rigorous stages of verification and various levels of approvals. There was one exception in that the reporting of contract information for the second quarter of 2005/2006 included about 200 contracts for which the value was not reported. It appears that the omission of this vital information was not noticed and reported which indicates that these reports are not monitored and, in particular, not used by PHAC management.

Although CRRS has an interface with SAP and has all the necessary features to provide the full historical background on all long form contracts over \$10K (PS1) initiated since Oct 19, 2005, no periodic activity reports are prepared for Senior Management's review.

Recommendation #4

We recommend that the Director General, Administrative Services develop a system of regular reporting that summarizes departmental

contracting activities (cost centre, division, directorate and branch). These periodic reports would include details on the number of contracts, dollar value, percentage of competitive versus non-competitive and the number and value of amendments.

Management Response

We agree with the comment and recommendation. As indicated in our management response to recommendation #3, we will be implementing a preliminary electronic report that will include most of the information made in Recommendation #4. A review of the present system's capacity and an evaluation of the costs of implementing the necessary modifications to the present accounting and reporting system (SAP System) will be completed by the end of the fiscal year.

File Documentation

Efforts are made to award and manage contracts in relation to best value, open access, fairness and transparency. However, these efforts are not consistently supported by documentation on file. The contracting function is very much decentralized and we had difficulty in obtaining contract files which contained all the required documentation i.e., a complete audit trail containing information necessary to withstand public scrutiny. Files are maintained in several locations. The Admin Officers are expected to maintain the "master" file. Currently the contracting authorities (program managers) maintain files as well as the CRCC (for the process up to approval only).

For those contracts for which entry into CRRS is mandatory, there is sometimes supplemental and relevant documents including; sole source justification, approval forms, statements of work or specifications, contract and amendments. But more importantly, there is a history of the contract approval from initiation to final approval which allows a reviewer to observe the chronological process.

In our review, we noted that there were gaps in the available information on the actual contract/payment files in providing complete information for an adequate audit trail. Contract files should provide a complete audit trail containing details on matters such as options, decisions, approvals, amendments and identifying the officials or authorities who made them.

These documents are needed to ensure that key elements of the control framework are in place and comply with applicable policies and guidelines. Contract justification, approval forms, statements of work or specifications, amendments, proofs of security and evaluations on contractor performance are notable examples.

Recommendation #5

We recommend that the Director General, Administrative Services develop and implement a contracting checklist to ensure that all pertinent steps in the contracting process have been followed and that the contract files contain all the required documentation, including evidence of sole-sourcing justification.

Management Response

We agree with the comment and recommendation. We are aware of the existence of several “unofficial” checklists a legacy of the Agency’s past. Branches have made effort to standardize these checklists. However, the Agency has been relying on Health Canada’s Materiel Management Intranet - Contracting and Procurement site to ensure that all pertinent steps and necessary documentation are included as evidence in cases of contract under \$10,000.

We will endeavour to develop and formally implement the appropriate contracting checklist. This action should be completed by the end of December 2007.

Procurement and Contracting Activities – Results of File Testing

The number of significant or material infractions discovered was low, even though many files were selected for review because they were high risk. Overall, there were a high percentage of files which were materially compliant with policy, with the exception of call-ups for THS. There were two relatively minor instances of contract splitting: one appears to be to avoid the limit on a Standing Offer and the other one is an apparent effort to keep a sole source contract under \$25,000. There was one instance where the supplier appears to have been paid \$25,000 at year end prior to the provision of the deliverable.

As part of the judgmental sample, two major drug files were selected for review: Tamiflu and Influenza Virus Vaccine. Only amendments fell within the audit period selected. These two major contracts were initiated under the auspices of Health Canada, were supported by Treasury Board submissions and have been processed entirely through PWGSC. The amendments met all of the criteria of our file review.

Temporary Help Services(THS) Call-ups

Through interviews and file review, we noted that there is minimal attention paid to the requirements of the PWGSC THS Call-ups for Temporary Help Services. Primarily the lowest bidder was not used or contacted. Also there were few examples of multiple bids or CVs requested, little evidence of stated requirements and the THS “sheets” were not retained as required. Files, in general, were not well documented.

An analysis of the database of call-ups against Standing Offers for Temporary Help Services for the period under review revealed that there were 286 call-ups made with a value of \$7.4 million, allocated among 44 vendors. However, the top three vendors received 115 call-ups worth \$3.8 million in contracts, or 52% of the total. Better management of the Temporary Help Services Standing Offers would enhance fairness and transparency and contribute to obtaining better value. Currently, while such Standing Offers are awarded to relatively large numbers of suppliers, work is concentrated with a few firms with little consideration of cost differentials. This means that premiums may be paid for work of similar quality and that work is not awarded in a fashion that is open, fair and transparent.

During our file review we noted several situations where call-ups had been issued to the same individual, without a perceptible break in service. These situations far exceeded the \$89,000 limitation on the maximum call-up limit. These situations raise the risk of creating employer / employee situations and also contravene the contracting regulations of the government.

This situation can be remedied quite easily as there is a relatively small number of staff who initiate call-ups for temporary help services. Proper training of key people and the introduction of simple monitoring should rectify the situation.

The impact of these deficiencies indicates that PHAC may be paying more than is necessary for these types of services.

Recommendation #6

We recommend that Administrative Officers involved in processing Temporary Help Services call-ups pay closer attention to the requirements of the process and retain relevant information on file, in particular, records of decisions taken.

Management Response

We agree with the comment and recommendation. We noticed in the audit observation confirming that the Agency is compliant in most cases in the area of procurement and contracting activities. However, the Temporary Help Services (THS) Call-ups seem to be a specific area of improvement for PWGSC requirements. THS represents a large expense at the Agency and we agree with audit observation that while several call-ups seem to be concentrated to few suppliers a better training of the relatively small number of staff who initiate call-ups for temporary help services could remedy to the situation.

We also believe that standardized training should be implemented throughout the Agency is necessary. A specific training program will be set up before the end of the fiscal year to correct the situation.

Contractor Performance

Contractor performance needs to be evaluated at the completion of each contract. Contract files need to be documented in such a way that all options, decisions, approvals and justifications are clearly documented to ensure that the contract met the terms of reference and addressed the identified requirement. Contract disputes were dealt with appropriately.

Recommendation

See recommendation 5.

Contract and Requisition Control Committee

The Agency has established a Contract and Requisition Control Committee (CRCC) which functions as a detailed review process rather than a formal challenge mechanism. In addition, the CRCC does not review all contracts, such as call-ups against Standing Offers (942s), Temporary Help Contracts, PWGSC requisitions (9200s) and contract under \$10,000. While the role of the CRCC is generally understood, PHAC has adapted the HC model and should put in place PHAC adapted terms of reference. This is timely as PHAC is considering repatriating the CRCC regional contract approvals from the Regional Senior Financial Officers of HC.

A formal challenge mechanism would help to determine whether the proposed work is actually required from a business perspective (i.e., not a year-end initiative is directly related to the mandate and mission of PHAC). It is also possible that other centres of responsibility within PHAC have already carried out work that will satisfy the requirement. Such a review can look at more general considerations, depending on the circumstances such as whether the responsibility centre is the appropriate one to handle the work proposed (i.e., information or communications related requirements initiated by other Branches).

Decisions made by these review units need to be recorded and available for subsequent internal audits and for the periodic audits or evaluations conducted by the Auditor General or by the Treasury Board Secretariat. Departmental officials appointed to review contracts must include the appropriate senior full-time financial officer as the chairperson in all cases. Others could come from disparate program areas to ensure balance. The appropriate senior departmental personnel officer needs to be included in the review of contracts for the services of individuals, and the appropriate senior materiel officer when materiel or materiel-related services are reviewed. Those in a possible conflict of interest situation are to declare themselves and be replaced.

Summaries of the contract review proceedings should be provided regularly to deputy heads so that they can determine whether their delegated signing powers are being properly administered.

The review methodology would normally address such basics as:

- Is the proposal within the contracting authorities' legislative mandate?
- Are funds available?
- Are the competitive requirements of the regulations observed?
- Are the departmental signing authorities observed?
- Does the proposal have legal clearance where required? and
- Is the proposal in line with government policies on bilingualism, employment equity, conflict of interest, etc.?

Recommendation #7

We recommend that:

- a) The Director General, Administrative Services redefine the role and responsibilities of the existing Contract and Requisition Control Committee with the intention of establishing a formal challenge mechanism to review contracts recommended by the “custodian” of the function.
- b) A record of CRCC decisions should be maintained.

Management Response

We agree with the comment and recommendation. The CRCC's Terms and Reference will be reviewed taking into account the audit observation concerning mainly the challenge function, the extent of the review (including the lower value amount), transmittal of official records of decision and reporting requirements.

To achieve success, support from the Executive Committee (EC) will be required. New and revised Terms of Reference will be submitted to the EC for formal approval and appropriate communication to all staff will be made.

It is to be noted that in preparation for the Planning Network Retreat held in May, Finance drafted a brochure entitled "Contract Requisition and Control Committee (CRCC)". The document detailed the role, responsibilities and procedures of the CRCC.

7.0 Conclusion

Overall, there is a reasonable level of assurance that PHAC is meeting the intended objectives of the government contracting policy. There is a need to assign specific responsibility for the function to ensure that ongoing activities are properly monitored and better file housekeeping is required. In addition, there is a need to develop policies, procedures and guidelines specific to PHAC and to pay closer attention to the requirements of the Temporary Help Services Call-ups.

Meeting the Intended Objectives of Government Contracting Policy

The results of the audit revealed that current processes and procedures provide management with a reasonable level of assurance that PHAC is meeting the intended objectives of government contracting policy. High dollar, high profile contracting is generally forwarded to PWGSC for processing, minimizing Agency risk. Also, major contracts are reviewed by the Procurement and Contracting Division of HC and the Contract and Requisition Control Committees of HC and PHAC.

Acknowledgements

We wish to express our appreciation for the cooperation and assistance afforded to the audit team by management and staff during the course of this audit.

Appendix A: Audit Criteria

Criteria
<p>1. PHAC's policies, procedures and guidelines should be consistent with applicable government policies, regulations and legislation relating to contracting and procurement:</p> <ul style="list-style-type: none"> • Policies, procedures and guidelines should be formally approved by PHAC management; • There should be an effective mechanism to maintain and distribute policies, procedures and guidelines; • Policies, procedures and guidelines should be promulgated to all staff involved in procurement activities; and • An evaluation function is used to ensure the continuing relevance of contracting policies.
<p>2. The accountability framework for PHAC's contracting activities should be clearly and adequately defined, assigned, and exercised, and be commensurate with prescribed contracting and financial authorities and responsibilities:</p> <ul style="list-style-type: none"> • Roles and responsibilities for contracting activities should be documented and communicated.
<p>3. Internal communication, awareness, and training for completing contracting activities within PHAC should be consistent and sufficient to ensure that all parties involved are fully aware of their roles and responsibilities and are completely exercised:</p> <ul style="list-style-type: none"> • Contracting staff should be trained and developed in a way that supports the Agency and their career objectives.
<p>4. Monitoring of PHAC's contracting activities should be reliable and sufficient for departmental management to adequately identify, assess, manage and appropriately respond to matters relating to the contracting or procurement of services and goods:</p> <ul style="list-style-type: none"> • Line managers and procurement staff should receive adequate information to control the ongoing performance of the contracting process.
<p>5. Contracting information processing systems should be used to the fullest extent possible to meet management information needs. Reporting to management should be comprehensive, consistent and timely:</p> <ul style="list-style-type: none"> • A contracting reporting system should exist that provides line management and contracting staff with accurate and timely information on contracting activities should exist; • The adequacy of the CRRC should be assessed; and • A periodic activity report should be prepared for Senior Management's review.
<p>6. Key risks should be identified, assessed and managed:</p> <ul style="list-style-type: none"> • A mechanism should be in place to identify high risk contracts; • High risk contracts should be assessed to determine that they comply with contracting regulations; and • Where there are concerns with high risk contracts, there should be a mechanism in place to effectively address these concerns.
<p>7. Contract work descriptions or specifications should be fairly defined in terms of clear outputs, or performance requirements and lack of bias, and estimates for the required work identified and the appropriate level of approval obtained before bids are solicited and contracts awarded:</p> <ul style="list-style-type: none"> • The need should be defined in a way that clearly links to the objectives of the organization;

<ul style="list-style-type: none"> • There should be a detailed and clear statement of specifications including such things as specification standards or requirements with respect to performance, time, service and cost; and • The requirement should be defined in terms of performance and results that can support a cost-benefit analysis.
<p>8. An appropriate contracting and procurement method, and strategy which includes those contracts arranged by Public Works Government Services Canada on behalf of Responsibility Centre Managers, should be selected consistent with departmental policies and procedures, and justifications provided for exceptions to the Government Contracts Regulations and trade agreements where applicable:</p> <ul style="list-style-type: none"> • There should be an assessment of alternatives to meet the requirement, complete with availability information and time and cost estimates; • A risk approach should be used to determine the most cost-effective alternative; • A cost-benefit analysis of alternatives should be completed; • Contracting should be established as the best means to meet the requirement; • The user's request adequately explains reasons for sole-source selection or any other exceptions to the bidding process; • The user's request should be properly authorized, certifying that unencumbered funds are available to meet the proposed expenditure; • There should be evidence that the procurement process assessed whether the procurement should be competitive or non-competitive; • Call-ups against Standing Orders should be properly authorized according to the delegations of authority; • Clear evaluation criteria and contract selection methodology should be used that is appropriate to the estimated value of the contract; and • Proper methods should be used to evaluate tenders.
<p>9. Formal challenge/review mechanisms should be in place to ensure that contracting and procurement risks are minimized and delegated signing authorities are being properly administered:</p> <ul style="list-style-type: none"> • A contract review and control committee should be in place with clear terms of reference; • There should be listings of all contracts reviewed by the CRCC; and • There should be a record (minutes) of decisions made by the CRCC.
<p>10. Contracts should be managed in accordance with the agreed terms of time, cost, performance, and Financial Administration Act compliance:</p> <ul style="list-style-type: none"> • The contracting Authority should ensure that all time frames are met; • The contracting Authority should ensure that all required deliverables are provided; and • Invoices are accurate and should be properly approved to certify receipt of goods or service.
<p>11. Contractor performance should be evaluated at the completion of each contract. Contract files should be documented in such a way that all options, decisions, approvals and justifications are clearly documented:</p> <ul style="list-style-type: none"> • The contractor performance should be evaluated to ensure that the contract met the terms of reference and addressed the identified requirement; • Contract disputes should be dealt with appropriately; and • The contract files should be reviewed to ensure that the process has complied with the policy and regulations and that the file contains all the required documentation in order to withstand public scrutiny.

Appendix B: Management Action Plan

Recommendation	Management Response	Officer of Prime Interest	Target Date
1. We recommend that the Director General, Administrative Services clearly assign responsibility for the day-to-day operations of the procurement and contracting function, that he establish monitoring activities to ensure that the necessary information is available for decision making.	Agree with the recommendation. With the appointment of the new Director, Assets and Materiel Management, the responsibility will be assigned.	Director General, Administrative Services	November 2007
2. We recommend that the Director General, Administrative Services address the need to develop policies, procedures and guidelines specific to PHAC to ensure that the procurement and contracting activities are carried out in accordance with the government policies, regulations and legislation.	Agree with the recommendation. A Policy Centre for PHAC will be implemented. Policies, procedures and guidelines specific to PHAC on procurement and contracting activities will be a priority.	Director, Assets and Materiel Management	August 2008
3. We recommend that the Director General, Administrative Services develop an effective mechanism to identify, assess, and manage the day-to-day procurement and contracting activities.	Agree with the recommendation. Assessment of best practices will be completed. Choice of tools will depend on existing system and costs of modifications. Implementation of an electronic reporting tool will be seriously considered.	Director, Assets and Materiel Management	December 2007
4. We recommend that the Director General, Administrative Services develop a system of regular reporting that summarizes departmental contracting activities (cost centre, division, directorate and branch). These periodic reports would include details on the number of contracts, dollar value, percentage of competitive versus non-competitive and the number and value of amendments.	<p>Agree with the recommendation. Assessment of best practices will be completed. Choice of tools will depend on existing system and costs of modifications.</p> <p>A review of the present system's capacity and an evaluation of the costs of implementing the necessary modifications the SAP System will be completed by the end of the fiscal year. The result of the studies will determine the choice of the reporting system.</p>	<p>Director, Assets and Materiel Management</p> <p>Director, Assets and Materiel Management</p>	<p>December 2007</p> <p>March 2008</p>
5. We recommend that the Director General, Administrative Services develop and implement a contracting checklist to ensure that all pertinent steps in the contracting process have been followed and that the contract files contain all the required documentation, including evidence of sole-sourcing justification.	Agree with the recommendation. An official checklist will be developed and implemented throughout the Agency.	Director, Assets and Materiel Management	December 2007

<p>6. We recommend that Administrative Officers involved in processing Temporary Help Services Call-ups pay closer attention to the requirements of the process and retain relevant information on file, in particular, records of decisions taken.</p>	<p>Agree with the recommendation. Appropriate training will be provided to Administrative Officers responsible for THS Call-ups.</p>	<p>Director, Assets and Materiel Management</p>	<p>December 2007</p>
<p>7. We recommend that: a) The Director General, Administrative Services redefine the role and responsibilities of the existing Contract and Requisition Control Committee with the intention of establishing a formal challenge mechanism to review contracts recommended by the “custodian” of the function. b) A record of CRCC decisions should be maintained.</p>	<p>Agree with the recommendation. a) New Terms of Reference will be presented to the Executive Committee for approval. b) CRCC will be advised to keep formal record of decisions.</p>	<p>a) + b) Director General, Administrative Services and Director, Assets and Materiel Management</p>	<p>a) December 2007 b) September 2007</p>