

Audit of Contracting

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***Audit and Evaluation
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Report Clearance Steps

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Acronyms used in the report

\$K	thousand dollars
ADM	Assistant Deputy Minister
CMC	Canadian Meteorological Centre
EC	Environment Canada
ETC	Environmental Technology Centre
FAA	Financial Administration Act
FMA	Financial Management Advisor
HQ	Headquarters
IP	Intellectual Property
LPO	Local Purchase Order
Merx	National electronic bidding and information service
MSC	Meteorological Service of Canada
NCR	National Capital Region
OGD	Other Government Department
PDP	Professional Development and Certification Program
PG	classification group of staff working purchasing and supply
PNR	Prairie and Northern Region
PO	Purchase Order
PVM	Place Vincent Massey
PWGSC	Public Works and Government Services Canada
PYR	Pacific and Yukon Region
SOW	Statement of Work
TB	Treasury Board
TBS	Treasury Board Secretariat

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Executive Summary

Departmentally, the manner by which Environment Canada (EC) conducts its contracting activities creates a range of high, medium and low amounts of risk for the organization. Risk is defined as a graphic in Figure 1 on the following page referencing Treasury Board (TB) documentation; the degree of risk is determined by a combination of impact and likelihood. High risk areas require priority management attention and effort; medium risk calls for some management effort whereas low involves acceptance and monitoring of risk. Collectively, contracting activities pose a medium risk for EC.

Overall, the organization needs to improve risk management as well as introduce a service culture whereby EC managers become clients, who receive contracting advice and services, exhibit increased satisfaction while adhering to the policy context in which contracting operations are conducted.

The high risk items occur with respect to:

- organizational structure, expertise and non-reporting within Dorval (MSC).

Medium risk areas constitute:

- insufficient training of both contracting professionals as well as EC managers;
- insufficient financial controls to check for and control over-payment and over-amendment of contracts;
- functional direction needs strengthening along with improved policy documentation.

Low risk areas are evidenced by:

- incomplete audit trail in many contracts;
- some Treasury Board policy specifications are not fully being addressed.

Figure 1: Graphic about Risk

Managing Risk

IMPACT	RISK MANAGEMENT ACTIONS		
Significant	Considerable management required	Must manage and monitor risks	Extensive management essential
Moderate	Risks may be worth accepting with monitoring	Management effort worthwhile	Management effort required
Minor	Accept risks	Accept but monitor risks	Manage and monitor risks
	Low	Medium	High
	LIKELIHOOD		

Risk in Audit of Contracting

IMPACT	RISK MANAGEMENT ASSESSMENT		
Significant			
Moderate		<ul style="list-style-type: none"> •insufficient training of both contracting professionals as well as EC managers •insufficient financial controls to check for and control over-payment and over-amendment of contracts 	<ul style="list-style-type: none"> •organizational structure, expertise and non-reporting within Dorval (MSC)
Minor		<ul style="list-style-type: none"> •some Treasury Board policy specifications are not fully being addressed •incomplete audit trail in many contracts 	<ul style="list-style-type: none"> •functional direction needs strengthening along with improved policy documentation
	Low	Medium	High
	LIKELIHOOD		

1. Introduction

The Departmental Audit and Evaluation Committee initially approved the audit of contracting in their 2000-2001 Plan. Due to higher priorities and resourcing constraints, this audit was conducted in 2001-2002. Contracting is an important vehicle for delivering on departmental programs. In addition to a required periodic assessment of departmental compliance with Treasury Board policies, it is important to examine how contracting is delivered as a service to programs.

The report is organized as follows. The introduction sets the context, scope and methodology. The report concludes with a précis of the observations followed by a set of recommendations. The findings of the audit are presented in Appendix 1 under four main headings: management framework, management of the contracting process, compliance, and evaluation issues.

Objectives

This audit combines the elements of both audit and evaluation into a single project to examine contract administration in the Department. Essentially, the objectives of this audit are:

- to assess the extent to which the administration of contracts in EC is done according to governmental and departmental regulations and policies; and
- to assess the extent to which EC uses contracts appropriately to achieve results from the process.

Scope and Methodology

This project focuses on contracts and not on acquisitions by credit cards, Local Purchase Orders (LPOs), standing offers nor temporary help arrangements.

Contracts are most frequently used for acquiring services for programs and are initiated and managed by the department whereas standing offers and temporary help arrangements are usually negotiated through Public Works and Government Services Canada (PWGSC). There have already been other audit projects directed towards use of credit cards and LPOs. It should be noted that both credit cards and LPOs should only be used to acquire low value goods and services and maintenance and repair services where no intellectual property is involved.

The study covered HQ and regional contract activities:

- HQ Services;
- main Regional Offices.

RESULTS OF PREVIOUS AUDITS

Contract management and administration has been the object of various audits and reviews across the government and in Environment Canada. This audit plan takes into account these studies. A number of other federal departments have carried out work in this area and their reports also form a base of information for both issues and methodologies.

AUDIT AND EVALUATION METHODOLOGY

Information on contracting was downloaded from Merlin (EC's tool used for tracking financial information). This was used to create a stratified random sample of contracts for further analysis. A sample size of 109 contracts or 2% of the contracts issued in 2000 - 2001 fiscal year was selected. Findings were tabulated and are reported based on a national sample. Regional managers were debriefed on matters relating to their particular region at the time of our visit.

A total of 42 interviews with headquarters and regional staff involved with contracting addressed questions associated with the contract process, management, administration training as well as client service, functional guidance, and regional operations. In addition, departmental representatives (i.e. people who have initiated a contract) as specified in the sample contracts were surveyed; of these, 46 departmental staff/managers responded and thus provided insights on the process and service dimensions.

Context

CONTRACTING IN ENVIRONMENT CANADA

The Financial Administration Act (FAA) and the Public Works and Government Services Act provides the legislative authority to contract. The Treasury Board Secretariat (TBS) is responsible for issuing policies and procedures for contracting in the federal government; Public Works and Government Services Canada acts as the procurement authority for the Government and is responsible for improving the overall efficiency of the contracting process as well as providing advice and contracting services. Individual departments are responsible for following established policies and procedures, ensuring that staff with delegated contracting authority exercise it with prudence and probity and for having proper reporting systems in place.

According to the *Main Estimates 2000-2001*, Environment Canada has an operating budget of some \$571 million dollars, ranking 19th out of 23 federal departments in annual funding.

Although contracting (purchasing goods, services, construction) accounts for some 24% of Environment Canada's financial resources (\$139 million dollars) it

is a mere 1.5% of the total \$9.4 billion federal contract dollars spent in 2000. Environment Canada ranks 12th among the 76 federal departments and agencies listed in the *2000 Purchasing Activity Report* in terms of dollars spent overall in contracting and 20th in the number of contracts let (4,551) in 2000. In terms of the total value of contracts under \$25K, EC ranked 14th spending some \$32.7 million; and ranked 12th in spending \$106 million on contracts above \$25K. Given these figures, this department is not a dominant player and thus generally poses a low risk on a government-wide basis.

Overall, the contracting process is centralized and channelled through the appropriate HQ or regional administrative groups. The responsibility centre managers, who are initiators of contracts, are responsible for ensuring that contracting is carried out in a fashion whereby value for money is obtained including good contract management and control processes.

2. Improvements to Service Delivery and Recommendations

The department has a number of best practices with respect to contracting; these are outlined in the following points:

- there are good plans for professional development and training of staff;
- departmental training initiatives are being planned;
- there are many independent best practices for conveying information about contracting;
- there is generally good contract screening across the department;
- there were no contracts outside the scope or mission of the department;
- overall, there were good statements of work descriptions;
- best practice in NCR to document market rate.

The interviews revealed opportunities for improvements and when coupled with the findings creates a series of recommendations.

To set the context it is important to reflect on the statement below:

“Purchasing’s role is just as important. The trouble is that it is often unstated. Purchasers are the custodians of public policy related to procurement....In my opinion, public agencies need to ensure that the critical role of purchasing is valuable part of their culture, not an impediment. Not doing so wastes resources and undermines the agency’s effectiveness” (Michael Asner, 2001)

The recommendations are structured by two categories of Management Framework, and Management of the Contracting Function.

MANAGEMENT FRAMEWORK

Recommendation 1

The contracting delivered at CMC-Dorval needs attention as the Meteorological Research Branch's contracting needs are being delivered without verification and monitoring by a professional in contracting (PG). In addition, this section delivering such service does not enter its contracts into the PO module as required departmentally both for purposes of due process and for departmental reporting. This poses undue and unnecessary risk for EC and needs immediate attention. Some actions have already been initiated by the FMA-MSO after her briefing but there must be greater clarity as to the monitoring and overall contracting guidance and functional direction. Management Services, Ontario Region has initiated some actions as to provision of functional direction to CMC.

The Assistant Deputy Minister, Meteorological Services of Canada, with guidance from his Financial Management Advisor, in conjunction with the Director, Management Services, Ontario must ensure that the roles and responsibilities of all units involved in contracting be clarified and consolidated with a single unit responsible for all contracting at CMC-Dorval. Consideration should be given to ensuring a professional classification (PG) of the operational level providing such service. As well, the source of functional direction should be documented. Corrective actions should be undertaken as soon as possible in the coming months.

Management Response

The Assistant Deputy Minister Meteorological Service of Canada agrees with the recommendation and is taking measures to implement it. A PG operational level position has been written and classified. Staffing action has commenced with a competition poster to be issued at the end of August with the expectation that the process will be completed in October. This position will be responsible for all contracting at CMC-Dorval.

The source of functional direction for contracting has now been clarified. The Management Services Branch of Ontario region is providing functional direction to CMC-Dorval as well as to the administrative officer in the Meteorological Research Branch Dorval. All contracts for Meteorological Research Branch Dorval are now being entered in the procurement module by the procurement unit in Downsview.

Recommendation 2

It was found that there are limited departmental policies or procedures in place as departmental policies had been eliminated in the early 1990's adopting full TBS contracting policies. The operational guidance to regions is limited "due to limited resources", yet HQ is charged with the role of functional direction; thus there is a need to actively strengthen this role. Having a strong functional direction will permit not only guidance of the contracting community to address the challenges and complexity of contracting but also profit from the proposed training developed by HQ. HQ must adopt a more proactive departmental leader position. Their Policy shop must support the position of the Director more effectively. A team approach should be considered as it would have greater depth as well as regional buy-in. It would also not vest all experience in a single individual position. To expand the team, there is an opportunity to engage the regions as nodes of expertise or for specific development or specialized topics such as Letters of Agreement versus a formal contract. This would result in all parties contributing to a collective learning environment. The focus would ensure common interpretation and consistency of practice nationally with respect to TB policies on contracting.

There must also be an increase in a service culture within contracting while still respecting the Treasury Board policies.

The reason for managers to engage in contracting is to use it as a means to achieve a program outcome. Contracting must adopt part of this in their operations and assessments. Contracting staff must be open and provide a consulting and advisory function. "There needs to be a balance between rigour and flexibility. If you advise clients that there is only one way to do something then eventually they will find alternate routes and bypass your area." (Comment by a contract manager). One of the important elements must be information kits to clients on the contracting process and information requirements. There should also be service standards for levels of service as already begun in the Québec Region.

Director of Materiel Management and Contracting should increase functional direction and capacity to guide policy implementation in the context of the Management Services Review. As well, the Director should implement and monitor service standards for the contracting function.

Management Response

(a) We agree with the reference concerning increasing functional direction and capacity to guide policy implementation within the context of the Management Services Review (MSR). The recommendation in the MSR was to amalgamate the procurement policy function with Finance policy. In view

of the audit recommendation to strengthen the contracting policy function, the MSR recommendation has been reviewed with a decision to leave this function within Administrative Services and Environmental Management Directorate (ASEMD), where the source of expertise currently resides. The ASEMD organization is being reviewed to determine the optimal placement of this function.

(b) The ASEMD was recently successful in obtaining additional resources for a three year period through the allocation of the 15% support services allocation. One additional position will be allocated to the procurement policy function.

(c) Service standards already exist for the Materiel Management Branch activities including Procurement and Contracting Services in the NCR. However, in view of the increased complexities of contracting in the last couple of years, these standards will be reviewed and updated by March 31, 2003. Additionally effort will be undertaken to develop service standards nationally.

(d) Increased training of clients in the area of contracting will be provided. A departmental training program was developed in 2001/02 and given to a number of audiences across the country. We will be asking EMB to make the course mandatory for all managers with signing authority starting in fiscal year 2002/03. We will also be working on incorporating this in all departmental orientation programs.

A Guide to Contracting is being prepared for Managers as well as Administration Officers. ASEMD will incorporate regional best practices and tool kits in an information kit to be distributed by March 31, 2003.

Recommendation 3

Contracting is a profession (PG) which requires skilled and qualified individuals in light of increasing complexities in contracting. The training and formal accreditation must increase with initiatives such as the EC training program for departmental contracting specialists which is consistent with the Professional Development Program and Certification Program for Procurement, Materiel and Supply Managers in the Federal Government. Our findings revealed that staff were concerned about their training opportunities and that management also recognised the increasing complexity of the contracting process. Given that changes to contracting have been accelerating, actions must be undertaken shortly as any improvements will only be cumulated over a several year timeframe. All Directors of Finance and Administration or equivalents overseeing contracting must ensure to upgrade staff, as appropriate, and ensure that there is an annual training plan for individuals in procurement. The specialised buyer community is limited to a population of about some forty staff. In the long term the contracting community must operate by staff based on competencies.

All Directors of Finance and Administration or equivalents overseeing contracting must ensure that there is an annual training plan referring individuals in procurement for specific training outlined in the EC training program. This should occur at their annual performance review. To assist the Director, Materiel Management and Contracting in providing national co-ordination and direction, information about training should be provided regularly by the contracting units to the Director.

Management Response

(a) In the NCR, a training plan is prepared for all procurement and contracting staff annually. The ASEMD, in collaboration with the Regional Directors of Finance & Administration, will be monitoring the training progress of the Department's Materiel Management employees to ensure proper development and certification in accordance with the Federal Government Professional Development and Certification Program and the Department's own training program.

(b) With respect to the \$25K delegation for goods, the Financial Services Directorate recently issued a Bulletin outlining the new delegations. The Materiel and Contract Management Branch will follow with a bulletin clarifying the delegation and outlining the training requirements.

Recommendation 4

Risk management must be adopted by the contracting function. If there are only limited resources then greater attention must be focused on the high value high risk contracts. Not all contracts need equal monitoring; attention should be diverted to the high risk items – “ need to bring the right balance between getting the job done and doing the job right.” (Comment by a contract manager). There are increasing demands and complexities such as questions associated with intellectual property, Canada Labour code changes, tracking revenue generation, green procurement, and aboriginal suppliers. There is clearly a need to take risk-based decisions as to how to best allocate scarce resources.

All managers responsible for the contracting function must lead by adopting risk management to their operations. This should be outlined in annual operational plans or departmental policies and procedures. This should occur in tandem with the Modern Management Action Plan's implementation for the department and the department's Risk Management Framework.

Management Response

The ASEMD will develop an appropriate risk management framework for contracting. This framework will be incorporated onto the departmental contract training program.

MANAGEMENT OF THE CONTRACTING PROCESS

Recommendation 5

Managers need to be advised on what they need for undertaking contracting. Contracting is but one of a suite of options to achieve a desired outcome or “to do the job” (staffing, contracting, standing offers, temp help, casual employment, LPOA, acquisition cards). The implications of using these and the differences between them must be clearly explained and understood. This is a higher than need be risk area; managers need training, options and understanding of the implications of employer/employee relationships.

There is a need for a tool/ template for knowing what is required in: a statement of work, security levels, intellectual property clauses, milestone definition, avoiding employee/employer relationships, and sole-source justification. There are a number of training guides/ information kits in existence nationally that could be used. Since there is only one policy position there is opportunity for much greater use of common resources; there is no need to build all the tools in one unit; maximize the existing investments in training, demos and Web sites already developed. The key will be to collate existing efforts into a collective tool/product and ensure wide dissemination and delivery.

Currently there is a defined suite of courses that EC Management Council must attend. This does not include contracting nor financial authority. Consideration to expanding this mandatory course list should be given. Only managers who have received sufficient training should be granted the commensurate privileges; retention of the privileges should be conditional upon appropriate use.

The Director, Materiel Management and Contracting in concert with the Directors of Finance and Administration or equivalents overseeing contracting and in conjunction with the Director General, and Directors of Human Resources as well as the Senior General Counsel of Legal Services must ensure that a *course outlining the relationships* between staffing, contracting, standing offers, temp help, casual employment, LPOA, acquisition cards be developed and delivered. As well, tools or templates about contracting should be developed and delivered.

The ADM Human Resources and Service Innovation in consultation with the Director General of Administration and the Director General of Human Resources should examine the viability of increasing the *mandatory course requirements* for Management Council Members to include contracting and financial authorities.

This initiative must respect the deadlines established by the Management Services Review process.

Management Response

- (a) In addition to the action identified in 2(d) above, the ASEMD has recently issued a Bulletin on Employer/Employee Relationships incorporating the input of the Regions. Ontario Region has issued a guide on Staffing vs Contracting and the ASEMD will be further elaborating and issuing a national document.
- (b) The NCR Procurement and Contracting Division will create a library containing sample templates of Statements of Work to assist their clients. These templates will be offered to the regions when available.
- (c) The deadlines established in the MSR are currently being revised. This action plan will adhere to any of the revised deadlines.

Recommendation 6

There are some procedures outlined in the Treasury Board policy for contracting that are not being addressed by EC contracting activity as a whole. These constitute non-compliance with policy but are low risk areas such as: documenting reasons for having the contract in terms of EC mission and not using internal resources; and having a formal post contract evaluation process. The existing procedures carried out by EC should be assessed as to their utility and significance in terms of compliance to policy. If there are grounds for questioning them then Treasury Board should be consulted and, if deemed as not operationally significant, then these should be documented in a departmental policy. This must be assessed in the broader context of departmental risk management.

The Director, Materiel Management and Contracting in concert with the Directors of Finance and Administration or equivalents overseeing contracting should discuss the EC contracting policy exceptions, approach Treasury Board as necessary, and outline these exceptions in a departmental policy document. In addition, such a document should address those policy areas that may need to be supplemented but specifically apply only to this department. This should be undertaken by March 2003.

Management Response

All areas of non-compliance will be reviewed and documented. Discussions will be undertaken with Treasury Board and any exceptions incorporated into the Risk management Framework by March 31, 2003. The need for a post contract evaluation process will be reviewed within the context of establishing an Alternative Dispute Resolution mechanism.

Additional Management Comments:

- The accuracy and completeness of the Environment Canada data in MERLIN referred to in the report relies heavily on data input by the users. If data is inaccurate, reporting will be inaccurate. Materiel Managers should be continually monitoring the accuracy of this data and providing re-training as appropriate.
- The Audit Report makes reference to contracting arrangements made by managers and paid through Accounts Payable, bypassing the formal contracting process. It is the Department's policy that no contract request will be processed after the fact; that is, after the contractor has already started the work. The Manager is then forced to approach Accounts Payable for payment. Both the Finance and Administration Directorates have made all possible efforts to correct the situation with limited success. The most appropriate mechanism to correct this situation is through increased training and awareness. Senior management will be asked to support more mandatory training in the contracting process and to consider disciplinary measures for abuses.

The report makes mention of an incomplete audit trail. The implementation of the Management Services Review (MSR) recommendation to integrate Procurement and Accounts payable in the NCR, should both streamline the process and ensure a complete central repository of contract

Appendix 1: Findings of the Audit of Contracting

I Management Framework

MANAGEMENT DIRECTION

Roles and Responsibilities

At HQ, the Materiel and Contract Management Branch led by the Director reports to the Director General of Administration. The functions of the Branch with respect to contracting are twofold: 1) to provide functional direction to the contracting function and, 2) to administer contracting services for the National Capital Region (NCR).

There is inadequate and incomplete functional direction from headquarters.

The Materiel Policy and Systems Section of the Materiel and Contract Management Branch has the responsibility to provide functional direction and guidance on the contracting process, and delivers on systems and policy department wide. There are other functions performed by Materiel and Contract Management but comments here pertain exclusively to contracting activities. Currently, the individuals involved with contracting in the Policy and Systems Section include the Chief, one Officer position whose task consists of analyzing policy and developing guidelines for EC, and one Officer who looks after systems, such as the procurement module, and provides training for Discoverer, an Oracle-based system for producing reports, and Self-Serve, a system which enables managers to do some of their own procurement. There are also other officers who oversee Assets and Fleet Management, fixed assets module, and one resource is allocated to temporary help arrangements.

For any new policy, or changes in policy, usually from TB or PWGSC, a bulletin is drafted and sent to the regional chiefs and is posted on the Administration website. There have been 5 bulletins posted between April 2000 and March 2001; these bulletins supplied limited additional guidance and practical interpretation. Such products are inadequate in fostering national consistency and cohesion.

An annual conference, which the contracting community finds useful, as well as monthly tele-conference calls with regions provide a degree of cohesion and connectiveness. The policy function has limited links with operational contracting procedures. There have been reductions in the policy staff since Program Review and the remaining resources have indicated they must work on other priorities rather than spend time updating policy. Thus, there is less time to

devote to supply guidance and consolidate contracting practices across the department.

There are limited departmental standards or procedures developed by NCR operations which could be shared or for national reference/use.

In the interviews with operational contracting staff, 7 out of 26 individuals said they received guidance from the Director of Material and Contract Management, while 7 individuals said they received little or no leadership or direction from Headquarters. The remaining 12 either contacted other individuals at HQ/NCR, or did not have a specific contact for guidance at HQ. Having the majority of HQ and regional interaction resting principally with one individual rather than the unit may present a future weakness.

The contracting unit at PVM is working on a manual for contracting intended to inform managers as to the specific requirements for issuing a contract and thus reduce the need to repeatedly and individually explain the requirements for a SOW.

Self-serve is being promoted by HQ to allow managers to obtain routine goods and services.

The Procurement Self Serve Module (PSSM) is a web-based end-user driven procurement system designed for simple purchasing activity, and is easily accessible from any desktop. The current spending thresholds when using this system are: goods up to \$5K and Short-form contracts for services up to \$25K as well as call-ups against standing offers up to \$25K. There are also a number of limitations and restrictions which apply. The Policy and Systems Branch is responsible for monitoring the system. The tool is not intended to perform all the functions of Merlin but only allows a manager to obtain routine goods and services. In the NCR, approximately 20 administration officers have received the training in the Fall of 2001. The Director of Materiel and Contract Management's vision would be to expand its use to 400 users. Although the Regions have reserved software licenses, there is currently little interest in the Regions for giving the managers access to the system as they are reluctant to giving out such delegation. Among the significant advantages of the self serve module is that it generates an electronic LPO, and still allows the flexibility for managers to do their purchasing through the buyers when needed. This would also ensure that the LPOs are recorded in the main departmental database which currently does not occur automatically electronically.

There is a lack of clarity around the increased goods acquisition from \$5 to \$25 K pending.

As a department, Environment Canada has been granted an increased delegation authority for the acquisition of goods from \$5 K to \$25 K. The

increased delegation has not been implemented and consequently the Delegation of Financial Signing Authorities and Designation Order Instrument has not been updated. According to a memo signed by the Director General, Administration and Environmental Management Directorate, the increased delegation is to be implemented initially to the levels of Regional Directors General, the Regional Director of Finance and Administration and departmental Materiel Managers and contracting officers before granting a broader delegation to managers. There are mixed reactions from contracting managers and buyers on the issue of increased delegation. Some are of the opinion that not having to go to PWGSC will increase efficiency. Others are concerned about the co-ordination and implementation of this new policy, and feel that the challenge is in the building of a capacity and expertise within that manager's community.

MONITORING AND REPORTING

Treasury Board requires that all departments report their purchasing activity including contracts on a calendar basis annually. These are published in the yearly Purchasing Report. Such reporting has been audited in recent years by the Office of the Auditor General and subsequent improvements have been made. This reporting, though providing valuable federal overviews of purchasing, does not explicitly indicate the inclusions and exclusions of the purchasing activities contained in these reports (e.g. exclude cancelled contracts, include LPOs) which may lead to reporting inconsistencies between departments. In fact, the validity of the reporting is brought into question by Treasury Board itself when it stipulates that:

"The Purchasing Activity Report was derived from data provided by the reporting entities specified below. Since the data is not audited, no warranty or other legal assurance as to the truth, accuracy or completeness of any of this information is stated or can be implied. Any person making use of this information for any purpose whatsoever does so entirely at his/her own risk, and the Crown shall have no liability whatsoever. This report covers government purchasing activities for the period January to December 2000 inclusive."

The department has been complying with the TB reporting requirement and has supplied data on an annual basis. However, work needs to be done on improving the quality of the data supplied.

Only limited comment can be made on the completeness and accuracy of the EC data. It is known that for the purposes of this purchasing report LPOs are called for to be included in their governmental tabulation; but yet only a small portion of the department's LPOs are entered into the EC system used to supply the report's input data.

The majority of contracts are duly processed in the system, however exceptions were discovered.

At the departmental level the monitoring of contracting performance is done through the Merlin financial system which includes a module specifically on Purchasing Orders which requires that contracts be recorded for financial commitment, tracking, reporting as well as for payment purposes. In theory all contracts must be entered into this module to ensure their ability for payment. However, exceptions are possible whereby creation and payment of contractual arrangements can be made directly through Accounts Payable. This has permitted some contractual arrangements to be processed, paid and by-pass the scrutiny and policy checks of the contracting unit staff. In the NCR, only when the paperwork for these contractual arrangements is being done after-the-fact, a justification for this exception is required to Accounts Payable. However, this by-pass has allowed other activity outside of any checks and results in a loop-hole in the process.

There are several groups involved with contracting at the Meteorological Service of Canada and their interrelationships are quite complex. The Canadian Meteorological Centre has two contracting units in Dorval neither of which has a PG classified staff. There is one contracting unit headed by a Chief and one staff to handle part of the contracting requirements of the Dorval facility. This unit reports to the Atmospheric Environment Prediction Directorate headed by a Director General who has line authority over contracting. This contracting unit services all units, except for the Meteorological Research Branch (MRB). It is unclear who is responsible for providing functional direction to this group. Another contracting service is independently supplied to the Meteorological Research Branch. This Dorval-MRB unit undertakes contracting but has no Merlin module access; and also has no control through a contracting officer (PG). For this group too, it is unclear who is responsible for providing functional direction on contracting.

During the course of this audit, the need to adjust this latter non-conforming unit was recorded. At an initial briefing of this finding the Financial Management Advisor of MSC was advised.

The range and complexity of reports output by the Merlin module system can generate apparent inconsistencies in the retrieved data.

For example, some of the reports are based only on summarized data captured by the Purchasing order header, whereas others are based on the individual transaction/ line data entry levels. This can result in different summary tabulations from “apparently” the same dataset. The reason and significance of this variation can only be appreciated by a highly experienced system user/manager. The issue of appreciating, understanding and properly using the reporting will be accentuated in the coming years, now that the user community

has recently acquired new capability to retrieve and analyze their input data through Discoverer, a user friendly interface. It will likely put an increased demand on advisory services from the Policy and Systems unit at HQ.

There was no evidence to show that the information retained in the Purchasing Order Module was used to improve or advance buying opportunities.

There is very limited use of most of the information captured in the PO Module. In some regions, the Module is used to track multiple contracts with the same contractor. Acquisition of goods of over \$5K has to be channelled through PWGSC, although there is authority to increase this to \$25K. The delegation of authority to acquire smaller value items resides with managers through LPOs or credit cards and thus is handled through dispersed authorities with no interpretative analyses.

There is no annual or regional interpretative reporting on contracting containing commentary on trends and patterns of purchasing.

The required annual reporting to Treasury Board could form the impetus for an interpretative report and may also result in closer data inspection. Information and data can only improve if it is analyzed and tangibly used in decision-making.

For internal workload monitoring, some regions, such as Pacific and Yukon, have instituted a monthly workload reporting system for each contracting staff member as an internal control and for management purposes.

HQ did report that they had undertaken a series of cyclical compliance checks, focusing on units and regions on a periodic basis. Their most recent check was on the Pacific and Yukon region in 1999. Their intent is to resume this periodic check cycle once this audit is completed.

Most of the performance assessment for contracting is done on an exception reporting basis.

Reporting occurs where there is a complaint or a potential significant irregularity. To date this department has received few formal complaints, and there have been only a few investigations of contracting irregularities in the last few years. Some of the financial audit work done by the former Review Branch over the past several years, has pointed to specific weaknesses and recommended corrective action. These were dealt with through the recommendations/management response cycle and subsequent follow-ups.

PEOPLE AND THE WORKING ENVIRONMENT

There are good plans for professional development and training of staff.

In the fall of 1998, a Materiel and Supply Management Steering Committee (MSMSC) was formed to develop a standardized, government-wide professional development program for its community. Many accomplishments have been and continue to be achieved in pursuit of this goal, including the furthering of this work with the establishment in September 2000 of a Treasury Board Secretariat Program Management Office to bring a full-time dedicated focus to the development and implementation of the Professional Development and Certification Program (PDP), advancing the efforts accomplished by the community through the MSMSC.

The Professional Development and Certification Program is a key human resource renewal initiative in procurement reform, a fundamental project under the federal government's Modern Comptrollership strategy. The program is designed to enhance the skills, professionalism and value-added contribution of procurement, materiel management and real property community across government in the delivery of programs and services to Canadians and the organizations in which they are employed.

In order to ensure that all stakeholder interests are considered and balanced during the development and implementation of the government-wide PDP, TBS has been working in partnership with the community and key stakeholders which are represented in two organizations, the Professional Development Advisory Committee (PDAC), and the Continuous Learning Working Group (CLWG). The priorities for the two committees include Procurement Reform, the development of an exemplary workforce and recruitment, retention and continuous learning. EC Materiel Management has membership on both committees demonstrating the department's involvement and currency with respect to professional development.

Departmental training initiatives are being planned.

A training program for EC contracting specialists was developed by the Director, Materiel and Contract Management. The proposed 19 day training program for the departmental contracting specialists is consistent with the Professional Development Program and Certification Program for Procurement, Materiel and Supply Managers in the Federal Government (PDP). Specific courses from the PDP were selected as a mandatory training requirement for EC contracting specialists to be in a better position to handle the more complex contracting in the federal government.

Feedback from the certification information sessions with the members of the Professional Development Advisory Committee (PDAC) and the Continuous Learning Group in February 2001 reflect some of the same concerns as the contracting specialists at EC, including the importance of the certification in making them professionals, certification as a means to achieve standard knowledge, and more training available through a continuous learning environment.

There are entry level training courses but no advanced level or customized training.

The Director, Materiel and Contract Management recognizes the need for improvements to training. With the implementation of the various trade agreements, the policy on Intellectual Property, the Access to Information Act, the government's open policy on contracting, the increased potential for complaints and litigation, as well as increased contracting delegation up to \$ 4 million, it is imperative that a commensurate training be provided to all our contracting specialists.

The following information about training from a contracting staff's perspective was obtained from our interviews. Out of 26 contracting staff, 17, *or almost two thirds stated that the training was not sufficient*, 9 out of 26, or 35% said it was adequate - out of these 9, more than half were taking courses privately through PMAC (Purchasing Management Association of Canada).

The most common responses as to what is needed in the area of training were: more customized training to government and particularly EC, more advanced training, clarification of TB direction for PG certification/development, standardized training on the contracting process, training on North American Free Trade Agreement, WHMIS (Workplace Hazardous Materials Information System), aboriginal aspects and Health and Safety.

There is uneven national access to appropriate training.

According to the interviews, some courses were not available in the Regions, or not available in French in the Québec Region.

A look at 5 courses identified in the proposed Departmental Training Program and included in the Continuous Learning Course Catalogue indicates the following availability of 5 courses: 2 courses - French version only offered in the NCR and the course was not offered in all Regions; 1 course not offered at all in French, and only available in two regions; 1 course offered in all regions, in both languages where required; and 2 courses were only offered in the NCR, in English and in French. This shows that all training is not universally available to all EC staff; some of this inequality could be offset by granting staff extra time and travel for acquiring some of the training.

During the conduct of this audit, Legal Services had started a series of three-day workshops for managers about contracting. These were offered throughout the department at Headquarters as well as in regional offices. Due to the timing of the workshops in relation to the on-going work of this audit, a complete assessment of this particular initiative could not be fully incorporated into the analysis.

Staff at the PVM location of the NCR voiced concerns on the *lack of adequate advanced courses about contracting*. In addition to the lack of training, the lack of standardised templates, information kits to managers and guidance on the common interpretation of procedures and policy clauses.

II Management of the Contracting Process

GUIDANCE TO MANAGERS AND TRAINING MATERIAL

Beyond providing training and educational opportunities to the professional buyer, there is also a related but independent need to inform and provide tools to managers using contracts as one of their program delivery tools. When program managers are contracting for services, the buyers may give advice to managers on the Statement of Work (SOW), providing them with suggestions to ensure that the SOW clearly states the requirements for the work to be performed. They may advise them on when to go sole-source versus competitive. Buyers may also assist the managers with the evaluation criteria and selection methods. However, the onus is on the responsible manager or departmental representative to write the SOW and to decide on the winning bid. The buyers verify that the process is in compliance with all regulations.

An important aspect of the contracting process involves the initial decision on whether to contract at all. In the client survey conducted for this study, **over 93% of the managers (40/43) highly endorsed having instruction as to options and implications on ways to achieve their 'desired outcome'**. This would include examining the suite of options from contracting, to standing offers, LPOs, to acquisition cards; as well, from staffing to temporary help to casual employment. To date no such consolidated training or guidance is available.

There are a number of vehicles being used to provide information to managers about contracting. The intranet is a good tool and communications vehicle for outlining the procedures and policies for managers. Many of the regional offices have developed or are in the process of enhancing their respective Finance and Administration intranet sites to include useful information for managers who wish to know more about contracting. However, in the client survey, 70% of the respondents did not find that the reference materials on the region's intranet site

were helpful to them due to lack of appropriate content. The information posted on regional sites varied greatly.

There are many independent best practices for conveying information about contracting.

Our findings revealed that the Pacific and Yukon finance site was particularly interesting and complete, as it includes various pieces of information in an attractive and simple, user-friendly format. For example, a manager will find the following contracting information: statement of work guidelines, a description of evaluation criteria which may be used, and guidelines for evaluating proposals. A 'Purchasing Guidelines and Tip Sheet' takes the manager through important facts concerning financial authorities and spending limits and briefly discusses the Financial and Administration Act sections. This document covers contracting tools, gives general guidelines and considerations on purchasing, talks about employer/employee relationships, ethics, and even summarizes the responsibilities of the Materiel Management team.

Other excellent initiatives, either completed or in draft form, for providing guidance to managers include various training modules. These range from a comprehensive training manual on contracting authority and the purchasing process prepared by an individual in Dorval's finance office, to a course dealing specifically with the client service aspect of contracting, prepared under contract in the Québec region, to various presentations on the basics of contracting for services, prepared by the Montreal Office, NCR, and the Atlantic Region. In the Ontario Region they have decided to partially address training by raising the issue with their three senior clients (ADM, MSC, Regional Director General of Ontario Region, and the Executive Director, National Water Research Institute) and by sending a series of bulletins to the ADM, MSC and the MSC Director Generals, the Regional Director General, Ontario Region, and the Regional Directors, the Executive Director National Water Research Institute and the Institute Branch Directors as well as their financial and administrative officer network of the senior Finance and Administration staff reporting to these program managers. The Prairie and Northern Region have centralized their purchasing operations in Edmonton and have not delegated out services acquisition to managers, thus have less of a need to train managers. There is an annual visit to the major sites; they are mostly using tools developed by OGDs. At Headquarters, Legal Services in conjunction with the Director Materiel and Contract Management Branch have developed a course on the legal aspects of contracting. This course has been delivered across the country with great success.

There is a lack of coordination and sharing of information.

The above is not an exhaustive list of the various initiatives which are happening across the country. Many benefits can be realized with the minimum effort

needed in everyone having joint use or access to the training materials. Benefits include avoiding duplication, encouraging consistency, and fostering better overall co-operation across the department.

PLANNING THE PROCESS

The analysis of planning focused on the criteria that:

Planning for the contracting process should be integrated within the departmental planning process.

There is inadequate attention to planning and, planning activities are not nationally consistent.

The amount of planning for the contracting function is very limited, as the work is driven by the requests received from the programs. For this reason, most units have no formal plan for contracting. In some regions there is some consultation between line management and contracting on planning. Certain known operations which are cyclical such as field activities, the sea lifts (PNR), and providing an annual supply for Sable Island (Atlantic) are known to generate extra demands on the contracting unit. There is some level of planning done for the purchase of vehicles in order to meet Alternative Fuels Act requirements.

In PYR, an operational plan based on modern management is prepared in conjunction with Finance. As well, an internal monitoring plan for contracting activities delegated to the client specifies recommended action for cases of non-compliance. In the Québec Region although there is some operational planning done in the context of Finance and Administration services, the practice is to work in a reactionary mode to meet client needs.

Though contracting can not be a completely planned activity as it responds to external demands for service, there is an opportunity for deflecting the amount of work by educating the manager community as well as advising on process and providing tools to assist.

IMPLEMENTING THE PROCESS

The roles and responsibilities of contracting staff and of line management are generally known but are not documented.

In our client survey to managers, 39 out of 46, or almost 85% of the respondents agreed that their roles and responsibilities with respect to the contracting process were clear. However, when asked whether they had a good knowledge and understanding of the procedures and processes, only 29, or 63% of the respondents agreed. This further strengthens the earlier finding about the

generally ineffective policy communication at a corporate level. The degree of unclarity is summed up well by a new departmental employee who comments that:

“I strongly suggest that an orientation program be implemented to all personnel within one month of hiring to ensure they understand how the paper flow works. I have had to find out mostly by trial and error, and wasted a lot of people’s time and patience (including my own) by trying to understand this system. If I return to the private sector, this will be one of the major reasons! “

There are contracting units with a high demand and a low resource allocation.

Amongst the highest volume of contracts per buyer (including requisitions forwarded to PWGSC for processing) are Downsview and PVM. Please see top buyers list summaries in Appendix 2 and table below. Resources in those groups are seriously stretched to provide the requested services. Departmentally, the five buyers located in Downsview, Burlington and PVM carry out some 990 small value contracts representing 45% of total number of departmental transactions. For the larger contracts, again departmentally there are just five buyers located in Downsview, PVM and ETC handling 144 contracts representing about two thirds of the total departmental contracting in that dollar range. This means that the other half of the work is handled by as many as 21-35 people across the contracting community.

Contracts ≤\$25K of 5 top buyers

# contracts	\$K Value contracts	Total EC # contracts	Total EC \$K value of contracts
993	15,000	2159	26,891

Contracts >\$25K of 5 top buyers

# contracts	\$K Value contracts	Total EC # contracts	Total EC \$K value of contracts
144	10,724	215	15,241

Though authority to contract has been delegated to managers, managers and the supporting administrative officers may not have the necessary knowledge and expertise required to by-pass contracting and operate independently. This creates a certain element of unnecessary risk to the department.

CONTROLLING THE PROCESS

Post-contract evaluation

Citing Section 9 of the TB Contracting Policy,

“The analysis necessary to achieve best value should not be confined to the actual procurement process; it should begin in the planning and appraisal of alternatives and continue through the definition of requirements which would include assessment and award criteria, evaluation of sources, selection of contractor, preparation, negotiation, execution and award of contract, contract administration and **post-contract evaluation.**”

EC’s contracting experts have told us that there is no systematic post-contract evaluation being conducted and they suspect that the managers do not formally evaluate the contractors either.

A formalized process for getting the managers to evaluate contractors was started in the Ontario Region, with little success. Some buyers indicated that the unsatisfactory contractors were known, but there was no official or centralized recording of such information. The argument was also made that we cannot legally refuse a bidder based on a past unsatisfactory performance, therefore questioning the utility and purpose of recording contract performance. It was suggested that perhaps periodic checks could be made on larger contracts, to minimize risk. If post-contract evaluation were instituted, the process would have to be very simple, and our legal services would have to be consulted to find out the legal implications of having a performance database on contractors.

In our client survey, 67% of managers indicated that they were interested in having a performance evaluation of contractors for future reference.

There is inadequate management of risk within the contracting function.

There are concerns voiced by senior management at Headquarters that contracting is becoming more and more complex when one includes intellectual property and free trade regulations, and with the delegation to MSC increased to \$4M. The following questions arise: are the staff skilled enough; are all the regulations and policies documented, and; are managers sufficiently trained?

If there are only limited resources then greater attention and priority must be focused on the high value high risk contracts. Not all processes need equal monitoring; attention should be devoted to the higher risk items. There is clearly a need to take risk-based decisions as to how to best allocate scarce resources.

Some guidance on this can be gleaned from modern management; PYR is using this modern management in structuring their annual operational plan.

III Compliance

In this section, the details and process of contracting within Environment Canada are examined. Government contracting policies stipulate that certain requirements should be met in the acquisition of goods, services and construction. To carry out the audit, a set of criteria were established against which the process was examined; the general criteria categories were as follows:

- Contract screening
- Work description
- Sole source justification
- Competitive process
- Intellectual property
- Authorization for spending authority and financial controls

In over 100 contract files checked there was non-compliance throughout in the tracing of the audit trail.

Contracting policy stipulates that records have to be kept so that a complete audit trail could reconstitute the decisions and authorizations. The degree of imperfection will also have comments under the specific sections below. Some of the more global issues associated with contracting is that it is like many operations working in a combination of digital and paper environments making information management and audit trail reconstruction that much more challenging. Contracting also involves three distinct groups, the manager/client, the contracting officers/buyers and the financial processing element. The operations of each group are interdependent but yet independent of each other and thus documentation is not connected.

There is generally good contract screening across the department.

It is required by TB policy that the reason to undertake a contract be clear and describe the service function that will be delivered. Overall our findings indicate the reason to undertake a contract is clear or implicit in virtually all the contracts. Such is contained or implied in the written statement of work.

Reviewing the need for the contract and perhaps advising on the means to achieve the desired end result is an important service function that the contracting office can provide. This can be a positive advisory and consultative role for contracting officers supplied to managers. They can help advise on how to avoid pitfalls, provide logistical support and, as needed, challenge the manager on their proposals. It was found that on several occasions the

questioning of the contract terms resulted in a finer tuned and less expensive end product. There were value-added benefits found in using the services of a PG to be a member of an evaluation proposal team.

There is room to improve client servicing.

When a relationship between a client and a service-provider is built-up between the managers being served and the contracting units, there is confidence and credibility of the contracting function as a constructive advisor. Their role must be to help with the delivery while ensuring that actions taken respect rules, regulations and legalities. This approach of being part of the solution is reflected in the results of the client survey. It found that 67% (31 out of 46 respondents) were satisfied with the quality of services and the value added advice from their contracting units. Though the majority were satisfied, there is clearly some room for improvement to increase the level of satisfaction. Unfortunately the structure and size of the national survey does not permit valid attribution to specific units or regions.

EC does not formally document on every contract why internal resources could not be used as required by TB policy's requirements identification.

The policy on contract screening also specifies that it should be determined whether the requirement could be met using internal resources.

“Contracting authorities are to ensure that contract files include...of the need to contract instead of using the staffing process.”

Except for one screening contract form that is used in the Atlantic Region, no other group has formally implemented this step. However, the department does have annual resource plans for Branches/Directorates levels; such plans, however, are high level and may indicate volume but no details on specific planned contracting. These are not shared with contracting units; the value and utility of sharing high level plans can be questionable.

There were no contracts outside the scope or mission of the department.

The criteria also suggest that what is contracted should be linked to the objectives of the department. Given the latitude and diversity of operations, it is impractical to examine such requirements in any meaningful fashion. This check is not formally documented in the department; only if a PG sees something way out of the ordinary he/she will react. Again, although annual resource plans may exist, these are not submitted and associated with individual contract processing. Annual performance evaluations of individual managers can serve as a control

point for inappropriate contracting actions when evaluating results and effectiveness of their budgetary decisions.

There are also criteria for contracting with former civil servants that are designed to ensure fairness in selection and compensation. Through interviews with contracting officers, our findings reveal that this was really only an issue in the post-program review era but in recent years has not posed problems. Only one case was cited whereby through the intervention of the contracting office, the proposed per diem rate of a former executive was reduced from some \$2K to some \$.6K. In terms of knowing whether someone is a former public servant, the contracting officers must largely rely on the information provided by managers. Sometimes peripheral knowledge is available to the contracting officers about ex-employees but there is no source by which to verify such information. One solution that has been proposed by some offices is to have the managers specifically sign the section as to formal employee status on the contract request form.

Overall, there were good statements of work descriptions.

The examination here focused on the work description and specifications having defined clear outputs and the performance requirements. This is the area where contracting offices can scan for and tighten vague deliverables, milestone and delivery dates, and/or payment schedules. The findings showed that most statements of work were complete; interviews with contracting officers noted that this was an area where their influence could be tangible. The audit evidence for influencing changes largely relies on interviews. As expected there was little paper evidence tracking record of changes to draft statements of work. In cases where there were multiple bids received, *many had some documentation but a complete documentation trail of bids was not universally available* in the cases examined.

In the majority of cases where sole source contracts were used, the justifications were present but weak.

In cases where the value is under \$25K and is directed to one supplier, the department's practice has been to include a justification for selecting sole source contracting though none is mandatory according to TB policy. If the contract value is over \$25K, sole source contracting must meet one of the three following conditions: pressing emergency, not in the public interest to solicit bids, or a single unique supplier. However, the documentation or argument presented in the justification for some sole source contracts appeared to be incomplete or was weak. In our sample, some 48 contracts were sole source and 21 of these (44%) had poor or no sole source justification. Our sample of contracts had 4 sole source contracts above a value of \$25K. Their justifications were not particularly strong nor tied to the exception categories. A well articulated reason for sole source contracting should be present; the contracting office can have a

significant influence in challenging the selection or justifiably requesting a strengthened justification statement.

Best practice in NCR to document market rate.

In cases where sole source is used for contracting, good practices and criteria suggest there should be an inspection by management as to the market rate for the contracted services and attestation that the delivery is sensitive to and reflective of market rates. For most files of contracts, there was no reference to favoured market rates, but as well for most files there appeared to be no evidence of unreasonable rates being charged. *Only in the NCR is there a clause specified by the supplier that the letter of offer to the Crown is at the best market rate. This is a sound approach and could be considered as a best practice, universally.*

COMPETITIVE PROCESS

Audit trail for competitive process incomplete.

When the contracts have gone to a competitive process and bids have been solicited, it has been suggested that the competition may yield in savings of 10-15% in the final contract price (ref: Merx, *Summit Magazine*, December 2001). To ensure that the bid process both respected fairness and competitiveness, there is a need to ensure integrity of this process. Thus, a number of steps need to be undertaken and documented, namely, the bid receipt process, bid rating, evaluation of tenders, selection of the winning bidder if not the lowest bid, as well as notification letters to bidders. Our findings showed that most of the trail is complete but not in all categories and in all cases. Most often, the ratings were not on file. It could be presumed that such information may be retained by the evaluating manager; this was not confirmed. Another frequent exception was the lack of letters to the losing bidders which were not on file.

There were cases where bids were sought on smaller value contracts (considerably less than \$25K; e.g. Quebec region obtained bids on a \$5K contract); their evaluation process may not have been as formal. Given that these may have been done outside of formal Merx posting and comprise a cost estimate from several firms, they may not be necessarily recorded in our database system as “competitive” if not so indicated by the buyer, yet did follow a degree of competitiveness.

Generally, the department has been using Merx postings for contracts ranging from \$10K or greater; or some organizations (e.g. units within Environmental Technology Centre) have been directly using the services of PWGSC for contract servicing. *On occasion, the departmental Merx posting by the*

contracting office which is part of the audit trail was not recorded within the contract file.

Competitive process takes time.

Beyond the fact that contracts over \$25K are to be processed on a competitive basis, one of the influencing factors in choosing between sole source and the competitive process contract is the elapsed time factor. A known sole source supplier can be contracted in 1-2 weeks whereas the competitive process is a minimum 5 weeks with up to 6-7 not uncommon. Given financial deadlines and work planning considerations, the time factor is of concern to managers, especially when trying to rapidly advance a deliverable. In addition, the competitive process puts an onus on companies to invest in formal responses to the Request for Proposal process, which can disadvantage a smaller enterprise in investing in bid preparation. The more formal process certainly has its advantages in the larger value contracts. Interestingly what the system has viewed as small, that is under \$25K, has not increased in over a decade while the cost of living has been increasing; thus what is considered as small contracts has in fact decreased.

The implementation of the new policy on intellectual property was carried-out inconsistently and remains unclear.

The department went through a turbulent time when the new intellectual property policy was proclaimed and implemented in 2000. The policy represented a 180 degree change in the handling of Intellectual Property (IP) where rights were previously, by default, held by the Crown rather than contractors; in the new policy the Crown could, only by exception, retain such rights. As well, departments of the Crown were to record and report such exceptions.

The generic clauses about IP which have been drafted for insertion into contracts have been extensive and represent 6-7 pages of additional text. This has resulted in problems: in understanding how to apply IP by both the contracting and managerial communities; questions and reluctance by some contractors to understand and accept these new complex clauses; a disproportionate increase in the length of contracts (i.e. short contracts can have fewer pages than the IP clauses); difficulties for Merlin to handle the required text and adjust clauses. Legal services of the department has recognized the overly complex nature of these clauses. One suggestion by the contracting community has been to apply the IP clauses in a three tier system whereby their complexity is related to the contract value grouping according to perhaps multi-million, under multi-million to 100K; and those below 100K. However, that has not been the central agency approach.

Despite courses, training and knowledge remain a concern according to the results from the managers survey. Less than 40% of the managers knew about

the IP course but those who did attend found it informative but not necessarily easy to understand. At the time of the survey only 20% knew of the complementary course offered by Legal Services. Those who had attended the training found the session informative and easy to understand. Subsequent to the survey, the course provided by Legal Services has been offered to all regions and HQ thus one could expect the knowledge in this subject to have increased substantially.

The decision on the retention of IP really rests with the managers while respecting the Treasury Board Policy on IP. The contracting units are an advisory unit that can supply advice and ensure the issuance of the appropriate legal document. There is still some lack of clarity within the contracting community on the use of and understanding of IP.

AUTHORIZATION FOR SPENDING AUTHORITY AND FINANCIAL CONTROLS

Contracts must also be administered in accordance with government financial procedures and appropriate control practices. We examined contracts according to criteria including:

- i. dated and signed contracts were on file
- ii. no billed work or invoicing before contract start date
- iii. no advance payments without special TB approval
- iv. signed section 32 - authorization to spend
- v. financial coding recorded
- vi. invoices match contract payment terms
- vii. approval of section 34 - acceptance of deliverable
- viii. approval of section 33 - authority to pay
- ix. section 33 and 34 signatures not the same (separation of duties)
- x. amendments approved by section 32
- xi. amendments are inappropriate or exceed delegation

There was non-compliance with spending authority and financial controls.

The findings can best be structured by each criterion:

- i. The signed paperwork for contracts was located for nearly all contracts across the department. Signed copies of contracts were not always in a contract file but found in its complementary finance file (e.g. NCR and Ontario - Downsview). Only in the Atlantic region are the finance and contracting information held in a joint file. In the Ontario - Downsview, there were some files where complete signatures were not on either file.
- ii. Universally, in the sample contracts inspected, no billed work or invoicing took place before the contract start date.

- iii. The sample also revealed no requests to Treasury Board for issuance of advance payments but there were 2 cases of advance payment. One involved a Letter of Agreement which some interpret as being outside of contracting per se and another where travel monies were advanced and then later reimbursed for required NGO delegates to attend a consultation.
- iv. The managers' did not always sign off a formally designed signature block entitled section 32 but in all cases, it was evident that the contracting was being carried out in response to a client request. In the case of a portion of Ontario - Dorval (MRB), the paper forms were referring to out-of-date signing authorities of the earlier FAA.
- v. Our findings from the sample contracts reviewed, showed that the financial codes were universally present on all paperwork. This is not surprising given that all subsequent data entry stages are dependent upon assigning expenditures to a budgetary allocation. The audit did not assess quality of coding.
- vi. Across the department, it was found that in most cases what was invoiced matched the contract payment terms in terms of amounts and payment scheduling. Two files showed over-billing as to what was shown in the contract and should have had payment stopped and a contract amendment required.
- vii. In all cases there was a signature accepting the deliverable and authorizing payment to proceed. In some cases these sections were not labelled as section 34 but there was clear authorization for deliverable acceptance.
- viii. Verification of signatures for section 33 were much more difficult to find; these were implied and associated with the batch processing of invoices through the Merlin system. The actual signatures generally were not present, but were implied by the fact that the process of payment was proceeding in batch processing. In Ontario - Burlington the finance office introduced a best practice of a contract fly sheet which shows some tombstone contract information and tracks the contract payments. PNR records contain similar paperwork. This was proved most useful for the audit verification.
- ix. As to the separation of section 33 and 34 signatures, given the difficulty with obtaining section 33, it again can only be implied that the separation does occur. Given that the section 34 authorization is in the department's program area and that 33 signatures reside in the finance payment processing, it is reasonable to expect no conflict in this area.
- x. Contract amendments did occur but there were not that many. In our sample 19 amendments occurred which constitutes 17% of contracts sampled. Here the importance of the challenge role of the contracting office is underlined in an effective and thorough review of the statement of work of the original contract and the proposed amendments. Again, the managers' signatures did not always appear in a formally designed signature block entitled section 32 but in all cases, it was evident that the contracting was being carried out in response to a client request.
- xi. As to inappropriate amendments, there was some evidence of potential contract splitting. There were four cases located in Ontario-Downsview,

Quebec, and NCR when amendments appeared to constitute a potential split; there were two cases where an over-amendment above the amount allowable was done.

IV Evaluation Issues

One of the objectives of the study was to assess the extent to which EC uses contracts appropriately to achieve results from the process.

CONTRACTING FUNCTION/SERVICE

Given that individual departments are responsible for following established policies and procedures, there is a requirement for staff with delegated contracting authority to exercise it with prudence and probity and for having proper reporting systems in place. Ultimately, the Deputy Minister via the appropriate senior official (ADM) is accountable; depending on degree of transgression, it can result in the revoking of signing authority at a managerial or senior official level. Given that EC has a high, several medium and several low risk areas within the functioning of contracting, this could result in impacts ranging from a negative annual assessment of individual managers to political embarrassment.

Managing any process offers latitude as to the degree of risk taking that is allowed. Strictly following prescribed processes stipulated for contracting policy work as risk avoidance systems, always ensuring that all steps are always undertaken. There are currently two parallel but potentially conflicting philosophies involved i.e. management-by-results versus management-by-process. Contracting has this duality of function 1) to ensure that legislation, policies and procedures are respected; 2) provide a service function to the clients (program managers or their alternates) to help deliver their requirements and thus aid in program delivery. Policies and regulations can be seen by some as impediments to meeting the needs of programs in that they could be seen as obstacles to getting the job done.

The findings show that a client service-provider relationship could help with the delivery while ensuring that actions taken respect rules, regulations and legalities.

Despite the necessity to follow due process, contracting must also serve as part of the program delivery solution. The client survey found that 67% (31 out of 46 respondents) were satisfied with the quality of services and the value added advice from their contracting units. However, one third of the community being served were not satisfied, there is clearly some room for improvement.

Coupled with roles and responsibilities are lack of formal documentation of process so that requirements at all stages are known by clients and contracting officers alike. Clarification of the inputs to the required stages would furnish a common understanding and interpretation. While some groups provide excellent guidance and training, our findings revealed that there are many valuable but disconnected efforts department-wide; there are limited efforts to unite such initiatives. Given that the entire department is operating under a common Treasury Board policy, there is a significant opportunity to share best training practices and best documentation of procedures and templates. This could involve a review and adoption of existing best practices on a departmental level. For example, the use of the Dorval contracting manual and the reference to PYR Web site are but two initiatives where gains could easily and readily be achieved for the benefit of all parties departmentally. The sharing of specific interpretative bulletins such as produced by Ontario region could also result in departmental gains.

EFFECTIVENESS OF OPERATIONS

There are contracting units/ individuals with a high demand and a low resource allocation. As pointed out earlier, five buyers located in Downsview, Burlington and NCR carry out about half the volume of transactions and half of the value of the amounts of contracts. This shows that the workload of some groups and individuals needs to be reviewed and re-balanced. ***The department is carrying unnecessary risk in such high concentration.*** The simple volume of work may prejudice the quality of service as well as potential for errors, delays in processing requests, and possibly the reason for incomplete records.

The Table in Appendix 3 shows the number and value of contracts by contracting office (including requisitions forwarded to PWGSC for processing) . An efficiency computation by volume of activity by number of staff by office to analyze of operations was not done and would be subject to serious calculation errors as the staff complement in some regions has been quite dynamic in the 2000-01 sample year. Nonetheless, these figures show that the NCR and the Ontario regions are high volume and high value players. Their staff complements may not be commensurate with the demands.

OFFICIAL LANGUAGES

The interviews reported there were no problems operationally in working with both official languages. There is a clear recognition that postings of terms of reference on the Merx System must be in both languages. At times this is achieved through the use of qualified technical translators which can be in short supply (noted at HQ) when other major legislation is simultaneously underway. A potential concern that was noted was the necessity of having bilingually

competent evaluation boards of the incoming bids; this is an area to be addressed by the project authority or program manager and outside the activities undertaken by contracting units themselves.

RISKS RELATED TO EVALUATION

One item needs attention here is the servicing of clients by contracting units; the current level of service leaves one third of those surveyed as not pleased. This needs correction as the department moves to obtain a more effective role from its administrative and service functions.

The second area of concern is the apparent concentration of contracts in the hands of the few. Of a community of 74 of which 26 are recognized contracting professionals, 5 staff carry out about one-half of the contracting for EC. Clearly this is disproportionate and needs to be urgently addressed. This can not be viewed as a sustainable situation. This volume could introduce significant errors as well as result in staff burnout.

Appendix 2: Contract by Top Volume/Value Buyers & Contracting Unit

(including requisitions forwarded to PWGSC for processing)

Contracts >\$25K

Buyer	Contracting Unit	Value	Number of contracts
Buyer 1	Ontario - Downsview	\$4,072,208	67
Buyer 2	NCR - ETC	\$3,003,327	21
Buyer 3	NCR- PVM	\$1,651,764	26
Buyer 4	NCR- PVM	\$1,110,902	22
Buyer 5	NCR- PVM	\$885,900	8
TOTAL		\$10,724,101	144

Contracts ≤\$25K

Buyer	Contracting Unit	Value	Number of contracts
Buyer 1	Ontario-Downsview	\$5,789,896	377
Buyer 2	NCR-PVM	\$3,126,572	226
Buyer 3	NCR-PVM	\$2,981,173	171
Buyer 4	Ontario-Burlington	\$1,683,136	134
Buyer 5	NCR-PVM	\$1,427,843	85
TOTAL		\$15,008,620	993

Appendix 3: Contracts by Regions/ Services

(including requisitions forwarded to PWGSC for processing)

Regions/ Services	Less than 25K		Greater than 25K		Totals	
	Number	Total Value	Number	Total Value	Number	Total Value
Atlantic	127	1,132,853	10	548,957	137	1,681,810
Québec	128	957,744	7	959,293	135	1,917,037
Ontario	234	2,767,843	12	619,086	246	3,386,929
MSC	354	5,846,525	62	3,758,537	416	9,605,062
Total Ontario	588	8,614,368	74	4,377,623	662	12,991,991
Terrasses de la Chaudière						
Corporate Services	86	1,358,538	5	285,860	91	1,644,398
Corporate Offices	7	89,145	1	165,000	8	254,145
Policy and Communications	110	1,567,817	11	580,876	121	2,148,693
Total TLC	203	3,015,500	17	1,031,736	220	4,047,236
Place Vincent Massey						
Environmental Conservation	361	5,014,679	39	2,584,216	400	7,598,895
Human Resources Directorate	14	157,035	1	42,000	15	199,035
Environmental Protection	290	4,382,466	50	4,631,760	340	9,014,226
Total PVM	665	9,554,180	90	7,257,976	755	16,812,156
Total National Capital Region	868	12,569,680	107	8,289,712	975	20,859,392
Prairie and Northern	369	2,650,361	13	937,287	382	3,587,648
Pacific and Yukon	79	966,815	4	128,560	83	1,095,375
Total	2159	26,891,821	215	15,241,432	2374	42,133,253