



OFFICE OF THE PROCUREMENT OMBUDSMAN



PROCUREMENT PRACTICE REVIEW

FOLLOW-UP REPORT

2009-2010 PROCUREMENT PRACTICE REVIEWS

OTTAWA

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*PROMOTING FAIRNESS, OPENNESS AND TRANSPARENCY IN FEDERAL
PROCUREMENT*

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Table of Contents

MAIN POINTS.....	II
WHAT WE REVIEWED	II
WHY IT'S IMPORTANT	II
WHAT WE FOUND.....	II
INTRODUCTION	1
OBJECTIVES	1
SCOPE, METHODOLOGY AND TIMING OF THE FOLLOW-UP	2
ASSESSMENT OF IMPLEMENTATION OF DEPARTMENTAL ACTIONS.....	3
CHAPTER 1: CONSTRUCTION CONTRACT AMENDMENTS	3
<i>Improvements have been made to processes for construction contract amendments.....</i>	<i>3</i>
CHAPTER 2: DEPARTMENTAL VERIFICATION OF SUPPLIERS' RECORDS TO VALIDATE CONTRACT PAYMENTS.....	6
<i>The updating of the Cost Audit Program was proceeding and departments were considering</i>	
<i>when to use the audit provision.....</i>	<i>6</i>
CHAPTER 3: PROCUREMENT STRATEGIES BID EVALUATION AND SELECTION METHODS.....	9
<i>New procurement instruments and improved documentation for Graphic Design Services.....</i>	<i>9</i>
CHAPTER 4: ENVIRONMENT CANADA – REVIEW OF PROCUREMENT PRACTICES RELATED TO MANAGEMENT	
CONSULTING AND OTHER PROFESSIONAL SERVICES	12
<i>Substantially completed actions should improve procurement processes</i>	<i>12</i>
OVERALL CONCLUSION	14
ANNEX A – OPO RECOMMENDATIONS AND DEPARTMENTAL RESPONSES	15
ANNEX B – ACRONYMS	18

Main Points

What We Reviewed

1. In our second year of operation (2009-2010), the Office of the Procurement Ombudsman (OPO / the Office) conducted four procurement practice reviews which contained recommendations relating to the fairness, openness and transparency of federal procurement practices. The following review reports were issued in 2010:

Chapter 1: Construction Contract Amendments

Chapter 2: Departmental Verification of Suppliers' Records to Validate Contract Payments

Chapter 3: Procurement Strategies Bid Evaluation and Selection Methods

Chapter 4: Environment Canada - Review of Procurement Practices Related to Management Consulting and Other Professional Services

Two other reports were published in 2010. These were studies and, as they did not contain recommendations, they were not included in the scope of this follow-up.

2. In March 2012, OPO asked the fifteen departments and agencies included in the scope of these reviews to provide information about actions taken in response to the recommendations from reviews they were implicated in.
3. The purpose of our follow-up exercise was to determine whether organizations had assessed our recommendations and taken actions or developed plans to improve their procurement practices. For each of the recommendations included in our reviews, we assessed the information received from these organizations for reasonableness and credibility. This report provides a summary, as well as specific examples, of progress on implementing changes in response to our recommendations.

Why It's Important

4. There are three main reasons why reporting on progress made on the implementation of OPO recommendations is important. First, it informs interested stakeholders of specific actions organizations have taken to improve the fairness, openness and transparency of their procurement practices. Second, by sharing information on changes being implemented by the departments and agencies whose practices were reviewed, we can facilitate the introduction of similar improvements in other federal organizations. Lastly, this information on the nature and extent of the changes being introduced in response to our recommendations provides OPO with indications of the usefulness of our reviews.

What We Found

5. The Office is generally encouraged by the departments' and agencies' continued commitment to improving their procurement practices. The organizations assessed OPO recommendations for the review(s) in which they were implicated,

and provided information on their respective plans and actions taken. While many of the actions were completed there were other planned actions that were not finalized. The Office is pleased with the extent of the co-operation received in conducting this follow-up.

6. In the case of the review of *Construction Contract Amendments*, the departments took action in response to the recommendations in the review. Once fully implemented, these actions should improve the management framework and file documentation for construction contract amendments, which should in turn assist departments in their decision-making processes. Improved documentation standards for procurement files should also better demonstrate the process is fair, open and transparent; and increase the confidence of suppliers in the procurement of construction by the federal government. Finally, policies have been implemented which provide direction on amendments; roles and responsibilities of staff have been better defined; and training was being updated to ensure staff better understand the process.
7. Regarding the review of *Departmental Verification of Suppliers' Records to Validate Contract Payments*, departments and agencies took action to determine when the audit provision in contracts should be used. However, not all had developed criteria on when to invoke the provision and execute an audit. Also, Public Works and Government Services Canada (PWGSC) was continuing its efforts to update the Cost Audit Program. PWGSC cleared the backlog of outstanding audits, and was taking steps to improve transparency by ensuring senior management was informed of the results achieved and lessons learned. However, we note the reporting of summary results to senior management was delayed due to changes in the Cost Audit Program's environment (i.e. the closing of Audit Services Canada). Once implemented, these renewal actions should improve the transparency of the program and lead to improved accountability.
8. With respect to the review of *Procurement Strategies Bid Evaluation and Selection Methods*, which focused on graphic design services, PWGSC has taken steps to reduce the complexity of the bid evaluation and selection methodologies for graphic design services. PWGSC informed us a new Request For Standing Offer / Request For Supply Arrangement clearly defined the evaluation criteria and supplier selection methodology. Multiple standing offers and supply arrangements were established as a result. The other implicated departments, Transport Canada, Human Resources and Skills Development Canada, and Natural Resources Canada, all indicated they had taken steps to improve the documentation of their graphic design services procurement files. Taken together, these actions should address the issues raised in our report related to the procurement of graphic design services by the federal government.
9. Finally, with regards to the review of *Procurement Practices Related to Management Consulting and Other Professional Services*, Environment Canada indicated it was taking steps to address the concerns raised. While not yet complete, the steps proposed by Environment Canada should improve file documentation, ensure the justification of amendments and clarify the process used for engaging members for situations similar to those for the Committee for the Status of Endangered Wildlife in Canada.

10. An overview of OPO's recommendations, as well as the responses and progress departments and agencies provided for this follow-up, are included in Annex A of this report. Annex B of this report includes a list of acronyms used for ease of reference.

Introduction

11. The Office published the following reports in June 2010:

Chapter 1: Construction Contract Amendments

Chapter 2: Departmental Verification of Suppliers' Records to Validate Contract Payments

Chapter 3: Procurement Strategies Bid Evaluation and Selection Methods

Chapter 4: Environment Canada - Review of Procurement Practices Related to Management Consulting and Other Professional Services

Chapter 5: Study on Methods of Supply Standing Offers and Supply Arrangements

Chapter 6: Study on A Management Approach to Vendor Performance

12. Chapters 1-4 listed above contained recommendations and were therefore included in this follow-up report. Chapters 5-6 were studies and, as they did not contain recommendations, were not included in the scope of this follow-up report. Some of the recommendations were directed to a single department that had primary responsibility for the procurement practices under review (e.g. recommendations in Chapter 4). Where the reviewed practices fell within the responsibility of more than one federal organization, the recommendations were intended to be considered by all deputy heads.

Objectives

13. The objectives of this follow-up to the 2009–2010 reviews were to determine:

- whether the departments included in the scope of our reviews assessed the recommendations against their own practices;
- whether action plans were prepared, approved, and responded to our recommendations;
- what action had been taken on each recommendation and the extent to which each action had been completed; and,
- whether the departments used the good practices cited in the reviews to improve their own procurement practices.

14. OPO expected departments to have introduced changes to improve their procurement practices, with or without formal action plans.

Scope, Methodology and Timing of the Follow-up

15. OPO asked all 15 departments and agencies included in the scope of the 2009–2010 reviews to report on changes implemented or planned as of May 4, 2012 as a result of the recommendations in these reviews. This report reflects action taken as of this date. The only exception is the National Research Council (NRC). When we initiated the follow-up, the NRC indicated it was in a major transition involving a review of all its processes, including procurement. It stated it would be very difficult to participate and requested we defer our follow-up of its actions. As such, this report reflects actions taken by NRC as of February 25, 2013.
16. The approach used for this follow-up exercise differs from our procurement practices reviews. For this follow-up exercise, the assessment of progress made on our recommendations was compiled from departmental self-assessments and assertions regarding their plans and actions. For each of the recommendations, we reviewed the information provided to us for overall reasonableness and credibility. We did so by:
- verifying whether any contradiction existed between departmental progress report statements and other available information such as the information in the review;
 - analyzing the departments' responses to understand how their actions address our recommendations and whether departments plan to monitor the results and effectiveness of these actions or changes; and
 - seeking clarification, as required, to ensure a clear understanding of the information reported by departments.

Although we received and reviewed some supporting documentation for the changes made by departments, we did not request evidence to support all the assertions made.

17. This report consists of an overview of the departmental assertions regarding their progress in implementing changes in response to the recommendations and good practices cited in the reviews. The information from departments provides a basis on which to assess the usefulness of our reviews and allows us to report on departmental assessments of progress made to enhance the fairness, openness and transparency of federal procurement.

Assessment of Implementation of Departmental Actions

Chapter 1: Construction Contract Amendments

Improvements have been made to processes for construction contract amendments

Summary of the 2009-2010 Review Findings

18. The Office conducted this review because of the government's intention, at the time of the review, to inject billions of dollars into the Canadian economy through stimulus spending on infrastructure.
19. For many years, PWGSC was the principal purchaser of construction services for the federal government, and other departments had limited or no responsibility for construction contracts. This changed in the years leading up to the 2009-2010 review, as other organizations had been given increased responsibility for managing construction contracts and amendments.
20. PWGSC was the main department involved in the review because it was still the major player in the construction and management of real property. The other departments and agencies reviewed were: Parks Canada, the Royal Canadian Mounted Police (RCMP), and the Department of Fisheries and Oceans (DFO)¹.
21. At the time of the review PWGSC had developed detailed procedures, tools and training programs to manage the risks associated with construction contract amendments. The RCMP had developed a number of detailed policies and procedures related to construction contracts, but had limited internal guidance on how to handle construction contract amendments. Parks Canada's draft policies had been adapted from the PWGSC management framework for construction contract amendments. DFO policies and procedures on construction contract amendments were found to be inadequate.
22. The review revealed, with the exception of PWGSC, many files in the selected departments and agencies were incomplete and critical information was missing. The framework for the management of construction contract amendments was not well developed outside PWGSC. OPO concluded other departments and agencies would benefit from adopting PWGSC policies and procedures for construction contract amendments and adjusting them to fit within their own environment and risk factors.

¹ Only specific regions in certain departments were reviewed

23. The recommendations in this review were grouped under the following headings:

Management Framework

- ensure a management framework for construction contract amendments, which includes the identification of roles and responsibilities, is in place and accessible to all personnel engaged in the process;
- review internal processes for managing construction contract changes and compare with other federal organizations, in order to learn from and share best practices;
- ensure the individuals involved in construction contracting have appropriate knowledge and training in the commodity;

File Review

- ensure files are complete and decision-making processes are identifiable; and
- ensure monitoring and reporting capabilities are adequate.

Summary of Responses to OPO Recommendations

Management Framework

24. In the 2009-2010 review PWGSC was cited as a model for other departments to emulate, therefore not all of the recommendations were addressed to PWGSC. The three other departments have taken steps to address concerns the Office cited in the review. DFO developed policies for the entire construction process and not just construction contract amendments. For example, a draft Construction Policy and Procedures Manual has been developed, including defined roles and responsibilities. These policies were expected to be implemented by June 2012. The RCMP developed guidelines for amendments to construction contracts, and indicated these would be available on its internal Web site in August 2012. Regionally, process maps outlining the procurement processes and responsibilities of RCMP staff have been developed and training has been provided. Parks Canada prepared a policy document, incorporating PWGSC practices, which describes construction change orders.
25. DFO, the RCMP and Parks Canada each indicated they participate in the Treasury Board Advisory Committee on Contracts where information is obtained on construction and other types of contracts. This information is later shared with procurement staff. It was intended that participation in this committee would facilitate the sharing of best practices and provide the opportunity to learn from other organizations with similar challenges.
26. These three departments also responded to the need for more flexibility in dealing with requirements for changes to contracts in a timely manner. DFO made it easier for vendors and employees to access documents that mirror PWGSC forms. It also adjusted its delegated authorities to give contracting authority for low dollar value contracts to specific specialists. Parks Canada is looking at the

advantages of utilizing an approval process similar to PWGSC's Pre-Approved Amount for Anticipated Amendments for Authority for its construction contracting process. The RCMP stated that after analyzing its construction contract amendment statistics, it felt there was no need to implement PWGSC's construction changes process. Its analysis showed less than 25% of construction projects in the past three years have required an amendment, and no claims have been raised by any contractors regarding delays due to long approval times for amendments.

27. All four departments in the review (DFO, Parks Canada, the RCMP and PWGSC) recognized the need to develop training specifically for construction procurement and contract management staff. DFO and PWGSC worked with the Canada School of Public Service (CSPS) to consider developing courses for their staff. In DFO's case, training was developed and delivered to staff. In PWGSC's case, it stated its initiative with CSPS did not move forward as CSPS concluded there was insufficient demand for additional courses as some departments had their own internal training programs. However, PWGSC continued to offer their "Construction Contract Management" course as required. Parks Canada provided training to its procurement officers in 2009 and the RCMP was in the process of strengthening its capacity in construction procurement, with a priority on professional development and training.

File Review

28. The three departments to whom these recommendations applied (DFO, Parks Canada and the RCMP) took steps to develop a list of key documents required to support the decision-making processes for construction contract amendments. At DFO, responsibility centre managers and project authorities began using a detailed checklist which cites documents that are required in contracting files. This list of documents was included in its draft Construction Contracting Policy and Procedures Manual. Parks Canada issued file content guidelines. The RCMP has a contracting management framework in its Property Management Manual which it planned to make available on line for employees in August 2012. The Manual was being updated in the spring of 2012 to include guidelines and templates for construction contract amendments.
29. While the departments had not yet developed the capability to capture and report on a key data element (types of construction amendments), all indicated they were making progress in this area. DFO's financial system tracked the number of contract amendments and, in the future, it plans to have its system capture categories of construction contract changes. Parks Canada developed tracking tools for monitoring construction change orders which it was testing in its western region. It intended to continue to adapt and expand these tools based on the recommendations contained in the review, but was not able to generate statistics on the types of contract changes or the number of amendments. The RCMP was in the process of updating its policies and procedures for construction contracts as well as standardizing the application of a risk management plan to help keep better statistics for the performance and management of these contracts. Its internal system was able to track and report on the number of amendments to contracts, but not the category.

Conclusion on Follow-up to Chapter 1: Construction Contract Amendments

30. The departments had taken steps to implement actions in response to the recommendations in the review, although not all planned actions were completed at the time of our follow-up. These actions included improvements to both the management framework (including defining roles and responsibilities) and documentation of the construction contract amendment process which, when fully implemented, should improve this process. Once in place the ability to monitor and report on categories of construction amendments should also assist departments in their decision-making processes.

Chapter 2: Departmental Verification of Suppliers' Records to Validate Contract Payments

The updating of the Cost Audit Program was proceeding and departments were considering when to use the audit provision

Summary of the 2009-2010 Review Findings

31. At the time of the 2009-2010 review, the Government of Canada purchased goods and services worth approximately \$14 billion per year. Given the volume and value of these contracts, there were a number of risks the Government had to manage, including the risk of incorrect payment, and the need to later recover overpayments. One of the ways the Government managed these risks was to incorporate an audit provision in contracts.
32. While most contracts contained an audit clause, those most at risk were large cost-reimbursable contracts because the specific price to be paid to the supplier was not known at the time the contract was signed. This is due to the fact the amount to be paid on these types of contracts must be calculated based on a number of factors such as: the actual costs of materials, parts or subcontract work; the number of hours of labour at a fixed rate; or a volume or demand that will vary with time.
33. The 2009-2010 review looked at whether procurement managers were effectively using departmental verification of suppliers' records (i.e. invoking the audit provision) to ensure correct payments. The review included the following eight departments and agencies: PWGSC, National Defence, Foreign Affairs and International Trade, Agriculture and Agri-Food Canada, Canadian Heritage, the National Research Council of Canada (NRC), the Public Service Commission, and the Canadian Nuclear Safety Commission (CNSC).
34. All eight organizations reviewed used a standard audit provision in their contracts that were not covered by the PWGSC Cost Audit Program. While not always invoked, the review found they were used like an "insurance policy" and their existence may have had a deterrent effect and helped to prevent the overcharging of the government in the first place. The review noted such a provision would not be effective unless suppliers knew there was a chance of the clause actually being invoked. All eight organizations, including PWGSC, said although most contracts contained an audit clause, procurement managers had not performed

any formal audits, inspections, or examinations of suppliers' records during the period of the review for contracts that did not fall under the auspices of the Cost Audit Program.

35. For large cost-reimbursable contracts, PWGSC used a Cost Audit Program to validate that payments for goods and services were appropriate and assisted the contracting officer in determining a final value for such contracts. This was done by utilizing Audit Services Canada, a special operating agency within PWGSC, to conduct the cost audits. The review noted PWGSC had undertaken a renewal of this program to make it more relevant and effective. PWGSC was carrying out an action plan to implement improvements. During this renewal, the number of audits of cost-reimbursable contracts had decreased, and mandated or required audits for cost-reimbursable contracts had become backlogged. PWGSC recognized the problem and had allocated additional resources to clear the backlog.
36. Our review also noted PWGSC had made good progress in revising its approach to cost-reimbursable contracts. The renewal involved a risk assessment methodology, and added a measure of accountability through improved reporting to a senior management committee (Directors General level) under the Assistant Deputy Minister, Acquisitions Branch. The review concluded OPO was impressed with the efforts of PWGSC to strengthen the relevance, efficiency and effectiveness of its Cost Audit Program.

37. OPO recommended:

Cost Audit Program

- a (Director General level committee) of PWGSC should monitor the implementation of the updated action plan and report progress to senior management on a frequent basis; and
- summary level reporting of the Cost Audit Program results should be prepared and made available to the public.

Utilization of the audit provision

- departments should include a guideline as to how and when to use the audit provision for contracts that do not fall under the auspices of the Cost Audit Group at PWGSC and are of a cost-reimbursable nature.

Summary of Responses to OPO Recommendations

Cost Audit Program

38. PWGSC indicated it was continuing to make progress on the updating of the Cost Audit Program. The backlog of more than 100 audits that existed at the time of the review was cleared. At the time of the follow-up, there were 56 cost audits in progress.
39. To improve the accountability of the Cost Audit Program renewal, PWGSC transferred responsibility for the renewal to a new senior management committee

within Acquisitions Branch. To improve the transparency, the Cost Audit Program was asked to report on its activities to this senior management committee and provide an annual report which would summarize results achieved and lessons learned. Due to changes related to the closing of Audit Services Canada, the reporting of progress and results from Cost Audit Program to a new Acquisitions Branch management committee was delayed until the 2012-2013 year. This new committee was to decide what information about the program would be reported.

Utilization of the audit provision

40. All eight organizations looked at their account verification strategies. The contracts required to be managed (for cost-audit purposes) by the Cost Audit Program within PWGSC were large, complex, and cost reimbursable in nature. Other smaller contracts were managed, for the same purposes, within the individual departments. While seven departments have account verification processes, only CNSC has performed a cost audit of supplier records since the original review.
41. The Department of Foreign Affairs and International Trade addressed our recommendation with detailed criteria and procedures on when it would use the audit clause, but it has not had to invoke the clause in the past two years. Agriculture and Agri-Food Canada indicated it had a robust account verification strategy which identifies higher risk or higher dollar payments for pre-payment verification. However, it had not identified any contracts where it audited a supplier's records. Canadian Heritage indicated contracts that could benefit from an audit would be referred to the appropriate section by the Contracting and Materiel Management Directorate, but it had not conducted any contract audits during the follow-up period.
42. The Department of National Defence indicated it had taken steps to incorporate guidance on using the audit provision in its Procurement Administration Manual. The target completion date was June 2012. PWGSC determined its internal contracting activities that do not fall under the auspices of its Cost Audit Program do not result in contracts of a cost-reimbursable nature. Therefore, its Contract Management Guide was revised to remove reference to the section on "Initiating and Audit of Cost-reimbursable Contracts". The CNSC stated it would continue to invoke the audit clause on a case by case basis as recommended by the Chief Financial Officer, or as directed by its Office of Audit and Ethics. The CNSC also indicated an audit of supplier's records had recently been completed, but the results were not yet available as they had not been tabled with their audit committee.
43. The Public Service Commission indicated it would be updating the audit clause it includes in service contracts in June 2012. It updated its training sessions to include information on how and when to apply the right to audit, inspect, or examine the cost information of contractors. In 2011, NRC established a Contract Review Committee responsible for the review and/or challenge of proposed contracts, and to ensure contracting policies are being followed. NRC indicated it is currently developing appropriate mechanisms to identify threshold risk factors

stating when and how to exercise audit clauses of both supplier and revenue generation contracts. This is planned for completion in the spring of 2013.

Conclusion on Follow-up to Chapter 2: Departmental Verification of Suppliers' Records to Validate Contract Payments

44. While the updating of the Cost Audit Program was still ongoing, PWGSC indicated it continued to take steps to improve the accountability and transparency of the program. While we recognize such efforts can take time, we were told at the time of the 2009-2010 review PWGSC had undertaken a renewal of the Cost Audit Program. While the closing of Audit Services Canada has delayed the renewal efforts, we are concerned these efforts continue to be ongoing. Once in place, these renewal efforts should help to improve government contracting processes for large cost-reimbursable contracts.
45. The departments with contracts that do not fall under the auspices of PWGSC's Cost Audit Program (because they are not large cost-reimbursable contracts) have taken steps to define the circumstances under which they would invoke the audit provision. However not all have developed detailed criteria for when to do so. The use of this provision, as well as invoking it as appropriate, should enhance the procurement practices for smaller cost-reimbursable contracts.

Chapter 3: Procurement Strategies Bid Evaluation and Selection Methods

New procurement instruments for Graphic Design Services and improved procurement file documentation

Summary of the 2009-2010 Review Findings

46. In the original review we observed government departments used procurement plans that addressed operational needs and proposed methods of solicitation, bid evaluation and supplier selection, as well as the identification of key risks and mitigation strategies to support the effective acquisition of goods and services. A clearly defined procurement plan provided the foundation for the effective management of decisions that take place throughout the procurement process.
47. Some suppliers, in particular the Association of Registered Graphic Designers of Ontario, had expressed concerns about the complexity and ambiguity of the bid evaluation and selection methods, which led them to question the fairness, openness and transparency of the government's procurement practices.
48. The 2009-2010 review assessed the policies and practices relating to competitive procurement planning and corresponding solicitation, bid evaluation and selection methods relevant to the purchase of graphic design services. The review focused on three supply arrangements². Two of these were set up by PWGSC and one by Transport Canada.

² A supply arrangement allows departments to solicit bids and award contracts from a pool of pre-qualified suppliers, for requirements defined in the arrangement.

49. The Office selected a sample of 39 files where one of the three supply arrangements was used for contracts undertaken between June 2006 and January 2010. The sample was drawn from the contracting data in three departments identified as significant purchasers of graphic design services: Human Resources and Skills Development Canada (HRSDC), Natural Resources Canada (NRCan) and Transport Canada. PWGSC was the common service procurement provider for HRSDC and Natural Resources Canada. All four of these departments had defined roles and responsibilities for specific procurement activities.
50. Overall, the policies and guidance related to the procurement planning of the supply arrangements reviewed supported the principles of fairness, openness and transparency; reflected the requirement to achieve best value; and allowed for the development of effective and efficient procurement plans.
51. Two of the three supply arrangements were supported by procurement plans. PWGSC had prepared the plans on behalf of HRSDC and Natural Resource Canada. Transport Canada, which issued its own supply arrangement, did not have a formal supporting procurement plan.
52. The complexity and diversity of the bid evaluation and selection methodologies used for these supply arrangements caused confusion for suppliers. The three departments had similar requirements for graphic design services but used different detailed methods of evaluation and selection. The review found the NRCan Requests For Supply Arrangement lacked clarity in the description of mandatory and rated requirements resulting in numerous questions from suppliers. Regarding the Transport Canada supply arrangement, the review noted a number of instances of confusing information contained in the solicitation document.
53. The requirements included in the Request For Supply Arrangements for graphic design services ensured suppliers who were issued supply arrangements had the capacity to perform a range of such services in accordance with established quality standards.
54. The review also found graphic design services were performed in accordance with the terms of the contracts, with clearly defined requirements and detailed lists of deliverables. The methodology used for awarding these contracts was heavily weighted toward quality over price. The three supply arrangements for graphic design services were based on adequate strategies and plans to support the development of effective and efficient bid solicitation, evaluation and selection methods.

55. OPO encouraged PWSGC to include the following key areas in its development of a new method of supply for graphic, Web, and exhibit and display design services:

- develop a streamlined standard method of supply, to the extent feasible, to purchase graphic design services within the government;
- ensure clearly defined bid evaluation and supplier selection methods;
- ensure projected business volumes are supported by a proper analysis of departmental needs.

56. OPO also recommended there be adequate documentation in procurement files in support of decisions made.

Summary of Responses to OPO Recommendations

57. PWGSC indicated new standing offers³ and supply arrangements for graphic design had been in place and available for use by all Federal Departments since August 2010. National Master Standing Offers for graphic design services are used for requirements under \$25,000 while supply arrangements are used for requirements above that amount, but the latter may be used for contracts below \$25,000 at the discretion of the client users. The Request For Standing Offer/ Request For Supply Arrangement documents used to set up these procurement vehicles clearly defined the evaluation criteria and supplier selection methodology. Although analysis of business volume was not performed, PWGSC stated the new vehicles were able to accommodate graphic design requirements, regardless of level of demand.

Improved Procurement File Documentation

58. All four departments reviewed took steps to address the recommendations related to having adequate documentation in the procurement files.

59. Transport Canada indicated it reminded staff during a regular staff meeting about the importance of including adequate documentation in procurement files. Files were also randomly monitored by the Chief, Contracting Operation.

60. Human Resources and Skills Development Canada stated it developed evaluation templates, selection templates, and checklists to facilitate documentation in procurement files. It also developed step-by-step process pages, which link to essential documents and templates throughout the procurement process. Finally, the department provided training to staff that emphasized documentation requirements.

61. Natural Resources Canada (NRCan) indicated it had taken a number of steps to improve documentation in procurement files. It implemented procurement documentation protocols and conducted training for clients and procurement officers with an emphasis on minimum documentation requirements. NRCan also

³ A standing offer is not a contract but an offer from a supplier to provide readily available goods or services, when requested, at prearranged prices.

undertook a number of initiatives to improve the overall quality of their procurement. This included seeking the endorsement of its Procurement Review Board of procurement strategies for complex requirements and creating a unit with a contract quality assurance role. Lastly, with few exceptions, contracts or call-ups worth more than \$25,000 must go through NRCan's Shared Services Offices Procurement group.

62. PWGSC indicated it performed an audit and review of 171 contracts. A lessons learned document was provided to procurement officers. PWGSC confirmed its Contract Management Guide, Procurement Policy, Supply Manual, Contract Management Checklist and Attestation Form addressed concerns related to contract documentation.

Conclusion on Follow-up to Chapter 3: Procurement Strategies Bid Evaluation and Selection Methods

63. The departments reviewed took steps to improve the documentation in procurement files. Furthermore, PWGSC took steps to reduce the complexity of the bid evaluation selection methodologies for graphic design services, an issue which was central to suppliers of these services. These steps should improve the government's procurement practices for acquiring this type of service.

Chapter 4: Environment Canada – Review of Procurement Practices Related to Management Consulting and Other Professional Services

Substantially completed actions should improve procurement processes

Summary of the 2009-2010 Review Findings

64. In 2007, a supplier made a formal complaint to the Canadian International Trade Tribunal alleging Environment Canada (EC) showed favouritism toward another company in the award of a contract. The Tribunal reviewed the case and recommended EC re-evaluate the complainant's submission. In December 2008, the supplier brought the complaint to OPO. After some discussion, OPO and EC agreed a review would be carried out using a collaborative approach, and EC hired an external firm to conduct a procurement audit.
65. The scope of the EC audit included all phases of the procurement process specific to "Management Consulting and Other Professional Services". The audit consisted of a judgmental sample of the 15 files related to the firm in question and 50 files selected on a statistical basis related to this expenditure category within EC. OPO staff reviewed the objectives, scope and methodology of the audit and was satisfied with the work performed by the external audit firm. The external auditors concluded there was no evidence EC had shown favouritism toward any firms in the proposal evaluation and contract award process during the period examined.
66. OPO used the audit findings as the basis for the review report and concurred with the findings and recommendations of the audit. The audit noted documentation was incomplete in some of the sampled files. In other files, amendments were not

properly justified. In OPO's view, without properly documented forms and complete reports, EC could not demonstrate compliance with either the Treasury Board *Contracting Policy* or PWGSC policy requirements relating to the documentation of files (EC follows the PWGSC Supply Manual).

67. One of the contracts selected in the sample related to the Committee on the Status of Endangered Wildlife in Canada (COSEWIC). The review report noted the process used for engaging members for COSEWIC did not meet the requirements of the Treasury Board *Contracting Policy*, which requires departments to use MERX as the official site for submissions, nor did it meet any of the four criteria for directed contracts.
68. OPO made recommendations to improve file documentation, ensure all amendments are properly justified, and obtain a resolution about the process used to engage the co-chairs of the COSEWIC.

Summary of Responses to OPO Recommendations

69. Environment Canada (EC) indicated it took action to address the issues raised in this review. Its action plan in response to OPOs' recommendations (as well as those in the independent audit report) was reviewed by its External Audit Advisory Committee in June 2010. All of the planned initiatives were in progress at the time of this follow-up, with planned completion dates of July 2012. In order to address the recommendations regarding the lack of documentation in procurement files, EC informed OPO it was modifying bid evaluation instructions. Draft bid evaluation instructions had been developed and were being used in some regions, with national implementation planned for July 2012. A new Director of Procurement had also been appointed.
70. EC indicated it was addressing the issue of ensuring amendments were properly justified and processed prior to contract expiry. Contracting officers were reminded to ensure rationales to amend contracts are included in the contract file. EC stated this requirement would be formally documented as part of its procurement renewal initiative. EC also indicated its Procurement Review Board was being revamped and will include increased monitoring capacity.
71. With respect to the process used to engage the co-chairs for legislative bodies such as the Committee on the Status of Endangered Wildlife in Canada, EC informed OPO it had discussions with the Treasury Board of Canada Secretariat and PWGSC regarding potential options. EC indicated that, after lengthy consultations with legal services, a recommended approach was being considered which would respect the various legislative obligations. This process for engaging members of COSEWIC was expected to be finalized by July 2012.

Conclusion on Follow-up to Chapter 4: Environment Canada – Review of Procurement Practices Related to Management Consulting and Other Professional Services

72. EC had taken steps to address the issues raised in the 2009-2010 review. While the actions had not been completed, the steps proposed by EC should improve file documentation, ensure justification of amendments and clarify the process for engaging members for situations similar to those for the Committee on the Status of Endangered Wildlife in Canada.

Overall Conclusion

73. The fifteen departments and agencies included in the scope of our 2009-2010 reviews assessed OPO's recommendations and provided information on their respective plans and actions. Each organization provided an update on actions taken to improve its procurement practices.
74. Given the reviews were completed two years ago, we expected most of the actions would have been completed by the time of this follow-up. While many were completed other actions were not finalized. We encourage the departments to monitor the progress of any outstanding actions and complete these actions within a reasonable period of time.
75. The Office appreciates the extent of cooperation received during this follow-up and was generally satisfied with the progress made by participating departments in improving the fairness, openness and transparency of the assessed procurement practices.

Annex A – OPO Recommendations and Departmental Responses

OPO Recommendations	Departmental Progress
<p>Chapter 1: Construction Contract Amendments</p> <p>OPO recommended that:</p> <ul style="list-style-type: none"> • Sound policies and procedures for the management of construction contract changes that are sufficiently detailed to provide guidance and direction for personnel involved in the process to be developed, and that a matrix of roles and responsibilities be included within the policies and procedures. • All government organizations involved in the procurement of construction services participate in the Treasury Board Advisory Committee on Contracts-Construction in order to share best practices and learn from other organizations with similar challenges. • Organizations that are developing independent policies and procedures for the management of construction contracts follow the example of Parks Canada and adapt the PWGSC documents rather than starting afresh. • The organizations should: <ul style="list-style-type: none"> • carry out a risk assessment to determine their organization's level of comfort with the delegation of a limited amount of contract amendment authority to the project or property manager; and/or • consider adapting other PWGSC contract amendment pre-approval processes for their purposes. • All departments and agencies involved in construction contracting work, including PWGSC, work in partnership with the Canada School of Public Service (CSPS) to develop training programs to be designed and delivered to construction procurement and contract management personnel. • Departments and agencies develop a list of key documents to support the decision- 	<p>DFO, the RCMP and Parks Canada indicated they have implemented or planned changes including guidelines and policies for construction contract changes. DFO and the RCMP have also created a matrix of roles and responsibilities.</p> <p>DFO, the RCMP and Parks Canada indicated they participate in the Treasury Board Advisory Committee on Contracts-Construction meetings.</p> <p>DFO adapted PWGSC documents for their construction policy and procedures while RCMP had already adopted PWGSC templates.</p> <p>DFO has implemented changes allowing for easier access to certain documents for vendors and employees, and changed their Low Dollar Value delegation authorities. Parks Canada was investigating and reviewing the merits of adapting the PWGSC model for an organization of its size.</p> <p>The RCMP stated that after analyzing their construction contract amendment statistics, there was no need to implement PWGSC's construction changes process.</p> <p>DFO and Parks Canada consulted with CSPS and provided training to their procurement specialists. PWGSC consulted with CSPS but insufficient demand stopped delivery. The RCMP will be consulting with PWGSC to develop their training programs.</p> <p>DFO made changes to its construction contracting policy and forms while Parks Canada issued file</p>

<p>making processes in construction contract amendments. These key documents must then be included in all contract files to improve transparency in the contract amendment process</p> <ul style="list-style-type: none"> Construction contract changes be categorized and organizations develop the capability to generate reports on the types and numbers of contract amendments in order to analyse trends and improve processes. 	<p>organization content guidelines. The RCMP was changing its Property Management Manual to include guidelines and templates for construction amendments.</p> <p>The RCMP and DFO have the ability to report on number of construction amendments, and will work towards being able to report on their categories in the future. Parks Canada developed tools to track construction contract changes; however, it was not keeping statistics on types or number of amendments.</p>
<p>Chapter 2: Departmental Verification of Suppliers' Records to Validate Contract Payments</p> <ul style="list-style-type: none"> As part of their account verification risk mitigation strategies, departments and agencies should include a guideline as to how and when to use the audit provision for contracts that do not fall under the auspices of PWGSC's Cost Audit Group and are of a cost-reimbursable nature. The DG Council in the Acquisitions Branch of PWGSC should monitor the implementation of the updated action plan and report progress to senior management on a frequent basis. In order to strengthen transparency and enhance the deterrent effect of cost audits, summary level reporting of the Cost Audit Program results should be prepared and made available to the public. 	<p>DFAIT indicated it created a detailed set of criteria and procedures to determine when and how the clause is to be used for cost reimbursable contracts. Agriculture and Agri-Food Canada, Canadian Heritage, and CNSC stated they were using pre-payment, invoicing, or case-by case verification to determine when to invoke the audit clause. PSC indicated it was updating its audit clause for service contracts and has updated its training on how and when to invoke this clause. DND declared it will incorporate this guidance in its Procurement Administration Manual, while PWGSC was reviewing its cost audit framework to determine good practices. NRC is currently developing appropriate mechanisms to identify when and how to exercise audit clauses of supplier contracts.</p> <p>Responsibility for the oversight and client accountability for the Cost Audit Program now rests with a new senior management committee within the Acquisitions Branch of PWGSC. PWGSC indicated the backlog of over 100 audits had been cleared and regular reporting to senior management has resumed after changes in the program caused delays.</p> <p>PWGSC indicated regular summary reports will be prepared for the senior management committee; however the reporting was delayed until 2012-2013.</p>
<p>Chapter 3: Procurement Strategies Bid Evaluation and Selection Methods</p> <ul style="list-style-type: none"> For the departments involved in the review, there should be adequate documentation in procurement files in support of decisions 	<p>NRCan, HRSDC, PWGSC and Transport Canada indicated they have taken steps, ranging from reminders of the importance of documentation</p>

<p>made. The level of documentation should be commensurate with the risks for the particular procurement.</p> <ul style="list-style-type: none"> • OPO encouraged PWGSC to include the following key areas in its initiative to create a new method of supply for graphic, Web, and exhibit and display design services: <ul style="list-style-type: none"> • A streamlined standard method of supply, to the extent feasible, to purchase graphic design services (GDS) within the government • Clearly defined bid evaluation and supplier selection methods • Projected business volumes supported by a proper analysis of departmental needs. 	<p>standards & monitoring, developing checklists/templates, and training to emphasize documentation requirements. PWGSC indicated it performed an internal review of 171 contracts with lessons learned documents provided to staff.</p> <p>PWGSC indicated that new procurement instruments for graphic design have been in place and available for use by all Federal departments since August 2010.</p> <p>PWGSC stated the new "Request For Standing Offer" / "Request For Supply Arrangement" clearly defines evaluation criteria and supplier selection methodology.</p> <p>PWGSC indicated its instruments were able to accommodate GDS requirements regardless of demand and were aided by statistics which departments provide.</p>
<p>Chapter 4: Environment Canada – Review of Procurement Practices Related to Management Consulting and Other Professional Services</p> <p>Environment Canada should:</p> <ul style="list-style-type: none"> • revise the letter to evaluators, as well as the Web site instructions and the "Guidelines for Evaluating Proposals" to clearly outline the minimum standards of documentation and ensure that these are adhered to. • ensure that all amendments are properly justified and processed prior to contract expiry dates • obtain from Public Works and Government Services Canada and the Treasury Board of Canada a resolution on how to process transactions similar to those related to the Committee on the Status of Endangered Wildlife in Canada (COSEWIC) transactions in light of legislative obligations. 	<p>Environment Canada (EC) indicated it was modifying its current one page bid evaluation to include detailed instructions for evaluators, as well as establishing a file documentation standard for ease of information retrieval.</p> <p>Contracting Officers have been reminded to ensure rationales to amend contracts are included in the contract file. A sampling of amendments will be done on a regular basis to ensure compliance as well as increased monitoring capacity of EC's Procurement Review Board.</p> <p>EC indicated after consultations with legal services, a recommended approach was being considered which would respect the various legislative obligations.</p>

ANNEX B – Acronyms

<u>CNSC</u>	Canadian Nuclear Safety Commission
<u>CSPS</u>	Canada School of Public Service
<u>COSEWIC</u>	Committee on the Status of Endangered Wildlife in Canada
<u>DFAIT</u>	Department of Foreign Affairs and International Trade
<u>DFO</u>	Department of Fisheries and Oceans
<u>DG</u>	Director General
<u>EC</u>	Environment Canada
<u>GDS</u>	Graphic Design Services
<u>HRSDC</u>	Human Resources and Skills Development Canada
<u>NRC</u>	National Research Council
<u>NRCan</u>	Natural Resources Canada
<u>OPO</u>	Office of the Procurement Ombudsman
<u>PWGSC</u>	Public Work and Government Services Canada
<u>RCMP</u>	Royal Canadian Mounted Police