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Internal Audit and Evaluation Division - TBS Contracting Process

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Internal Audit and Evaluation Division - TBS Contracting Process

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TBS Contracting Process

September 28, 2005

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1. Executive Summary

Background

The government strives to create an open, fair and transparent federal procurement system that is accessible and attains best value for tax dollars spent. The current direction in government includes strengthening Public Sector Management; part of the strengthening involves tightening measures to control costs to ensure the government has the flexibility to meet the priorities of Canadians and ensure that there is adequate disclosure so that the Canadians are better able to hold their Government to account.

Treasury Board Secretariat's (TBS) contracting processes are key management processes supporting its role and mandate. During the fiscal year ended 2003/2004, TBS had 2,900 active contracts with an approximate value of \$61 million.

This audit was identified in the risk based audit plan that was approved by the TBS Internal Audit and Evaluation Committee.

Audit Objectives and Scope

The objective of the internal audit of the TBS Contracting Processes was to provide Secretariat management an independent audit of the TBS contracting processes vis-à-vis policy requirements and to identify areas for improvement.

The scope of this audit focused on assessing the TBS contracting processes from initiation of contract request through to contract closure including financial controls, monitoring, contract management and reporting. The audit assessed procurement approaches available to TBS fund centre managers ranging from non-competitive contracting for less than \$25,000 to large competitive contracts.

Observations and Recommendations

During the course of the audit, we found that there was no effective senior management planning and oversight function providing a corporate and longer term view of contracting. We also found that there was not a standard approach to contracting practices across the Secretariat. The higher-level observations and recommendations are summarized below. Detailed findings and recommendations are included in section 3 of this report. The management response to the detailed recommendations can also be found in this section.

The report's observations and recommendations are layered; supporting a change in culture and management responsibility for contracting, flowing down to specific operational adjustments that should be made.

Roles and Responsibilities

- Roles and responsibilities of the key stakeholders in the contracting process were not well defined to provide strong management oversight across TBS. There were gaps and overlaps in who should have been ensuring compliance to policy and monitoring the contracting process.
- There was minimal oversight by TBS management of contracts where there was a policy requirement to use Public Works and Government Services Canada (PWGSC).

We recommend TBS adopt a strengthened centralized model for procurement and contract management. Roles and responsibilities of all key players need to be refined to strengthen controls, monitoring and oversight activities.

We recommend that there be controls in place to ensure that there is a senior level review for contracts greater than \$10,000.

We further recommend that TBS management oversight of contracts processed through PWGSC be strengthened to include mandatory approval of contract and contract amendments by the TBS Contract Review Committee.

Policies and Procedures

- There were no internal TBS contracting directives to complement the government-wide contracting policy.
- There were a number of compliance issues with the Treasury Board Contracting Policy in the area of contract administration and documentation. There were also control deficiencies over contract approval and amendment processes.
- Approval of invoices was not always timely.
- Contract closure did not follow a consistent approach. There was incomplete documentation on file.

We recommend that TBS adopt their own contracting directives to be used in conjunction with the government-wide TB Contracting Policy.

We recommend that contract oversight and review be strengthened and clarified. The compliance role, primarily the responsibility of Material Management Section needs to be strengthened by improved contract approval and amendment processes, and reporting and monitoring of contracts.

We recommend that contract documentation and closing processes be standardized and tools and checklists adopted to assist TBS fund centre managers to ensure contracts have been completed and value delivered.

We recommend that the controls in place to support the verification of financial signing authorities for Section 32 and 34 of the Financial Administration Act (FAA) be strengthened.

Planning

- There was a lack of long-term planning for procurement and contracting. Time horizons for most fund centre managers were short term with no focus on the larger strategic picture. There was also a lack of adequate contract planning by fund centre managers with respect to the time required to process a procurement request.

We recommend that contract planning should be included as part of the annual business planning process and done with enough lead time to meet business needs.

We recommend services required on a frequent and ongoing basis across TBS should be identified and considered for consolidation or supply arrangements that may result in better value and less administrative burden.

Reporting and Monitoring

- Fund centre managers and material management staff did not have the tools necessary to monitor or control vendor performance and must rely on informal methods.
- There was a lack of key performance indicators for contracting and procurement against which to measure performance. Systems did not provide timely financial information and lack information for TBS-wide contract management.

We recommend a systematic approach to monitoring vendor performance be implemented to improve control and management of suppliers.

Contracting Practices

- There was a high volume of transactions that used non-competitive approaches with minimal monitoring and management by TBS of the effectiveness of these contracts. Contract amendments were significant in number when the non-competitive approach was used.
- We found instances where, although policy was followed on an individual basis, examined as whole, or in subsets, there were contracting practices that raised questions. For example, amendments are allowed according to the policy, however, multiple amendments to non-competitive contracts leads to the question of whether the contract ought to have been originally let competitively (for a higher value). Similarly, while the policy allows for non-competitive contracts when less than \$25,000, multiple non-competitive contracts for the same service and/or to the same vendor may have indicated a larger competitive contract could have been done.

We recommend that TBS establish key performance indicators to be used to assess contracting and procurement performance (e.g. number of contracts by vendor, by procurement method, number of contracts amended). Organizational-wide oversight of the TBS contracting processes needs to be measured and monitored.

2. Introduction

2.1. Background

The government strives to create an open, fair and transparent federal procurement system that is accessible and attains best value for tax dollars spent. The current direction in government includes strengthening Public Sector Management; part of the strengthening involves tightening measures to control costs to ensure the government has the flexibility to meet the priorities of Canadians and ensure that there is adequate disclosure so that the Canadians are better able to hold their Government to account.

Treasury Board Secretariat's (TBS) contracting processes are key management processes supporting its role and mandate. During the fiscal year ended 2003/2004, TBS had 2,900 active contracts with an approximate value of \$61 million.

TBS's Guide for Managers and Internal Audit: Monitoring Procurement and Contracting stipulates that procurement and contracting are elements that should be addressed within a department's overall management control framework (MCF). The effective operation and implementation of a MCF depends on the requirements of the procurement processes, the governing statutes, regulations and policies, the training and development of departmental staff, public expectations, and the interpretation of what constitutes a fair and transparent procurement process. In addition, depending on the size of an organization, the nature of its business and the complexity of the way in which procurement is used in its operations, the comprehensiveness and complexity of the MCF and its key enablers will vary considerably. For example, the larger the department, the more likely that formal processes and procedures will have been put in place and will have been formally articulated. On July 28, 2004, the Internal Audit and Evaluation Committee gave its approval for the conduct of this audit.

2.2. Objective

The Treasury Board Contracting Policy states: *"The objective of government procurement contracting is to acquire goods and services and to carry out construction in a manner that enhances access, competition and fairness and results in best value or, if appropriate, the optimal balance of overall benefits to the Crown and the Canadian people".*

Specifically the objectives of the audit were to:

- Determine if TBS's contracting practices were appropriately managed; in consideration of value for money in contracting;
- Identify areas of risk within the process for which controls should be in place to mitigate; and
- Identify any issues of non-compliance to TB and TBS's policies and guidelines.

2.3.Scope

The audit assessed the TBS contracting process from initiation of contract request through to contract closure including financial controls, monitoring, contract management and reporting.

The audit assessed the following procurement vehicles available to TBS managers:

- **Traditional Non-Competitive** – TBS defines these as contracts for amounts less than \$25,000. Letters of Agreements are included under this process; which represents contracts for less than \$10,000.
- **Traditional Competitive** – TBS defines this process as contracts greater than \$25,000 handled with competitive bidding processes through targeted vendor selection or open bidding using the MERX Open Bidding System. These contracts are processed internally at TBS.
- **Call-ups** – This procurement process utilizes contracting terms under Public Works and Government Services Canada (PWGSC) Standing Offers where contracting is handled by PWGSC. A standing offer is an offer from a potential supplier to supply goods, services or both, on the pricing basis and under the terms and conditions stated in the standing offer.
- **PWGSC Competitive Contracts** – TBS defines this contracting process as contracts handled with PWGSC using competitive, open bidding processes.
- **Other** – A significant number of contracts for goods and services are handled through use of purchase orders with material suppliers and contracts with service providers of temporary help.

See Appendix 3 for a breakdown of the number of contracts by type for fiscal years 2001/2002 through to 2003/2004.

2.4. Criteria

The criteria used for this audit were based on generally accepted criteria and covered the following key contracting elements of the contracting policies, publications and directives^[1]:

- **Authorities and Roles and Responsibilities** – Authority had been delegated and is carried out with prudence, and in accordance with delegation instruments.
- **Best Value** – Contracting out was the more cost-effective means of program delivery when the knowledge, expertise, resources or facilities required were not available in-house. There was clear identification of requirements and resulting assessment/analysis (not necessarily cost based).
- **Bidding and Selection** – Bids had been solicited, except where it was not possible, practical, or cost effective, pursuant to Section 6 of the Government Contracts Regulations.
- **Review Mechanism** – Appropriate review mechanisms for management oversight and monitoring were in place so that value for money was achieved in the utilization of resources from an overall management and decision-making perspective.
- **Contract administration** – Contracts were managed to ensure successful execution in terms of time, cost and performance.
- **Financial considerations** – Compliance with Sections 32, 33, and 34 of the Financial Administration Act.
- **Documentation** – Procurement files were complete.

During the course of the audit the audit criteria identified above were evaluated against the end-to-end contracting process.

2.5. Approach and Methodology

Approach

The approach taken to conduct the audit included the following steps:

- Identified and documented the TBS contracting processes including key controls.
- Selected a small judgemental sample of contracts from April 2001 to September 2004 representing various types, risks (complexity, size, non-competitive, competitive) and TBS sectors. The contracts were completed or in-progress, and were assessed for their compliance with the guidelines stipulated in the TBS contracting policies and publications.
- Evaluated the TBS contracting process project against audit criteria and best practices.
- Identified areas for improvement for the contracting process project.
- Based on the above steps, practical recommendations were developed and communicated to the Material Management Section management.

Methodology

The audit team conducted research of TB policies and TBS guidelines as well as external best practices for contracting. Based on the research, audit criteria were identified by the audit team and subsequently reviewed and approved by the Internal Audit and Evaluation Committee.

The audit team interviewed key members of the Material Management Section (MMS), fund centre managers, members of the Contract Review Committee and financial management/accounts payable.

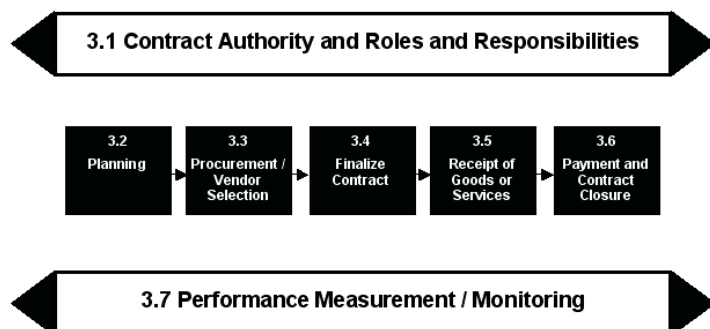
A judgmental sample of 47 contracts was chosen from the period April 2001 to September 2004. Refer to Appendix 3 for a breakdown of the type of contracts included in the sample. The sample was reviewed for assessing compliance with TB Contracting Policy as well as TBS contracting guidelines. Preliminary findings were presented to key staff in the MMS.

3. Observations, Findings and Recommendations

In Figure 1 we have presented an overview of the TBS Contracting Process. A process chart mapping our key activities, controls and audit criteria is also included as Appendix 1. Our audit evaluated the effectiveness of the

end-to-end process against the audit criteria. Our findings are presented according to the process overview in the remaining sections of the report.

Figure 1- TBS CONTRACTING PROCESS



[Display full size graphic](#)

3.1. Contract Authority and Roles and Responsibilities

At the time of the audit, TBS Material Management Section (MMS) provided procurement and contracting support centrally for the majority of transactions. PWGSC assisted TBS fund centre managers (FCMs) in large competitive bids and call-ups under PWGSC standing offers. FCMs conducted contracting based on their respective budget authority and experience in contracting. TBS management control and oversight of contracting is provided primarily at the Contract Review Committee (CRC) and Secretary level for approval of contracts on a transaction-by-transaction basis.

Delegations and authorities are defined in the TB Contracting Policy by establishing contracting limits for departments and for PWGSC.

3.1.1. Observations

Roles and Responsibilities were not well defined, not clearly communicated, and not understood across the department. There were gaps and overlap in who should ensure compliance to policy and monitor the contracting process.

3.1.2. Findings

Authorities

Our file review covered the period of April 2001 to September 2004. Through examination of the files in our sample which included contracts that fell within both TBS and PWGSC authorities, we determined that there were no issues with respect to contracting authorities.

The financial signing authority matrix was revised in July 2004 and approved in September/ October 2004. The revised version outlines FCMs' responsibility in terms of commitment authority, contracting and procurement authority and expenditure initiation and contract performance authority. This represents an improvement in direction for contracting and procurement as the former version of the matrix did not have a specific section for contracting and procurement authority.

The audit included a review of the process followed for verification of Section 32 of the FAA. Section 32 was signed by the FCM and entered into the system for the majority of commitments by MMS. The control deficiencies noted in this area included:

- Signatures were not verified against the signature authority cards as MMS felt that there was no practical manner in which to do so because the process for verification was manual and not yet available on-line.
- MMS did not have the ability to verify or know dollar availability of FCMs' budget as budgets were entered in the system at the Branch level.
- Although a financial signing authority matrix existed, MMS only verified FCMs' names against the appropriate fund center number on the matrix when they did not recognize the individual's name.

Roles and Responsibilities

During our audit we were unable to identify who, if anyone, was providing the TBS wide challenge role and monitoring function for contracting and procurement. The roles of MMS and CRC were not clear. There was overlap and duplication between the functions of CRC and MMS in that both were ensuring compliance with policy. For the most part there were no significant high risk compliance issues found, however, despite being compliant with policy there were some contracting practices identified that were not good business practices (e.g. multiple amendments). There was no clear responsibility assigned for reviewing contracting practices to ensure that good business practices were followed.

The following were the actual roles as identified in our audit of the main players in the procurement and contracting processes.

Material Management Section (MMS)

MMS acted primarily as subject matter expert on the TB Contract Policy and its application at TBS. MMS acted as a facilitator supporting FCM during the contracting and procurement process. MMS provided support and advice only when they were asked to do so; they were not proactive in providing tips and services to those involved in the procurement process.

Contract Review Committee (CRC)

According to the Terms of Reference (TOR) of CRC, its role was primarily to provide a TBS oversight function for contracts, and provide recommendations to the Secretary. The TOR did not indicate any responsibility for assessing value for money with regards to contracting. During the review there was no indication that CRC offers advice or reviews the procurement strategy (e.g. make/buy) chosen by FCMs. CRC approval was sought just prior to committing the funds and completing a written contract, which was after the majority of the procurement activity has been completed.

The CRC lacks the authority of a departmental contracting policy to provide a greater challenge role on contract requests. There was a gap between the written TOR and how the CRC operates. However, it should be noted that the TOR was relatively new and not all activities had been implemented. Some examples of gaps that we observed include:

- Minutes provided to the Secretary for approval provided little detail pertaining to CRC discussion;
- Annual meetings to discuss trends had not been held;
- No evidence of 'Reviewing best practices';
- Membership was not sufficiently senior; and
- CRC approval was usually not documented in files and relied on informal communication.

Fund Centre Manager (FCM)

Although experienced FCMs seemed to have a good understanding of their own roles and responsibilities versus those of MMS and CRC, training for contracting and procurement for less experienced managers was not intensive. There could have been misinterpretation of policy because information and guidance was not readily accessible and there was limited knowledge that the information was available.

The Secretary

In December 2003 the government increased scrutiny of government spending through an expenditure review and ordered detailed scrutiny of all expenditures in the three months following. TBS responded by requiring Secretary Level approval, a temporary control, for all expenditures greater than \$10,000. It is our understanding that at the time of writing this report Secretary Level approval is no longer required, however, it existed during the audit period and therefore our observations include reference to it.

Due to the high volume of contracts this control had not been working efficiently and was causing delays in the contracting process.

3.1.3. Recommendations

We recommend TBS strengthen its centralized model for procurement and contract management by clearly defining and documenting internal procurement and contracting processes. As part of strengthening the centralized model, the roles and responsibilities of all of the key players need to be re-defined to ensure that there are clear accountabilities in order to reinforce controls, monitoring and oversight. Where applicable, the use of standardized tools and templates should be provided and enforced.

TBS should create their own internal departmental directives that complement the government-wide contracting policy and are particular to the Department's structure and business practices.

There is a need for senior level review, whether it is done through CRC or another committee.

The following are our recommended roles for the main players involved in the procurement and contracting process.

Material Management Section (MMS)

MMS's role as the centralized procurement function needs to be broadened and strengthened. According to leading practices^[2] a centralized procurement function should adopt the following:

- Setting and maintaining procedures, standards and best practices;
- Educating and communicating policy and standards;
- Acting as an internal purchasing agent or consultant;
- Monitoring vendor usage;
- Overseeing TBS's use of standing offers;
- Handling TBS-wide sourcing for frequently used services;
- Providing trend analysis and monitoring with a corporate view;
- Developing and monitoring key performance indices;
- Providing an intermediary role in service delivery between TBS and PWGSC; and
- Providing proactive support and information.

Contract Review Committee (CRC)

CRC should play a corporate contracting oversight role. Using a risk based approach evaluating criteria (e.g. contract amount, vendor selection, type of contract, project initiative) the CRC should evaluate the risk of the contract. Based on its assessment, CRC should act as a filter forwarding contracts deemed to be high risk through for senior management approval.

Fund Centre Managers (FCMs)

FCMs should be responsible for the management of the contract including the monitoring of timelines and budgets. Vendor performance and evaluation should be the responsibility of the FCMs. FCMs should be proactive in obtaining the necessary training to ensure that they have current knowledge on contracting compliance.

TBS Secretary / Senior Management

Contracting should be included in the annual business plans of fund centers. Senior management should have a mechanism for challenging these contract plans to ensure they are achieving value for money. The review process should promote objectivity and independence. Senior level oversight is also required for contracts deemed to be high risk by the CRC.

Management Response

Procurement and contracting remain highly centralized within TBS. With the exception of goods and services purchased using acquisition cards, all goods and services contracting is done through the Material Management Section (MMS).

The Material Management Section has developed procedures that are linked to the signing authorities documentation. Policy changes, best practices and developments in the procurement and contracting field are regularly communicated through client Infosessions, and presentations on contracting have been provided to the Admin Community Network and other groups upon request.

The Material Management Section provides advice and guidance on all aspects of procurement and contracting, and acts as a liaison between the client and PWGSC as required.

Under the current procurement reform initiative, the use of standing offers for certain commodity groups has become mandatory. MMS provides information on the availability and use of standing offers with TBS.

While strategic sourcing is primarily a PWGSC responsibility, opportunities for better handling of frequently used commodities or specific services are identified to PWGSC.

Material Management will develop key performance indicators (KPI) and monitor performance in order to provide enhanced management information including trend analysis. KPI's will be developed by April 2006.

The TBS Contract Review Committee currently plays a corporate contracting oversight role by ensuring that TBS contracting activity is carried out in compliance with the policies and laws governing procurement and contracting. Contracts considered high risk, or those not considered compliant, are rejected or referred to senior management as necessary. There is currently no formal method of determining contracts that may be high risk, other than the compliance test. The CRC membership currently includes administrative staff, policy analysts, functional specialists and executives. The membership will be reviewed to determine if changes would be beneficial. In addition, the Committee will hold an annual meeting to discuss trends and best practices.

Funds Centre Managers are responsible for contract management. Training on contract management is included in the mandatory Financial Management training for funds centre managers. Vendor performance evaluations should be conducted by FCM's. A vendor performance checklist has been developed by Material Management, and managers will be encouraged to complete vendor evaluations for all service contracts.

3.2. Planning

Fund centre managers (FCMs) are the initiators of procurement activities and have the authority to acquire goods and services based on their budget authorities. Decision criteria include alignment with TBS priorities, planning scope of work and effort, resourcing and procurement strategies.

3.2.1. Observations

Some FCMs only did short term planning with no focus on the larger strategic picture.

3.2.2. Findings

FCMs' planning for procurement and contracting was often short term. Some FCMs indicated that they are bound by the budgeting process and sometimes they did not know their allocations well in advance, making it difficult to plan ahead. We were told by FCMs that since the staffing process often took months to process they resorted to short term personal service contracts because they were easier and faster. This lack of forward planning and resource management may not have resulted in best value. In addition, our file review showed that short-term contracts for professional services sometimes needed to be amended to extend the services due to the length of time it was taking to enter into a competitive contract for these same services.

The following are some examples of planning related inefficiencies that came out in our audit:

- There was a significant volume of contracts for French language training. During 2003.2004 there were 135 contracts for these services. Due to the overhead and costs of setting up individual contracts, there may be an opportunity for efficiency gains and cost reductions through a consolidated contract. We were told that the Human Resources Division tried to set up a standing offer; however, due to frustration with the process and length of time taken with PWGSC, they cancelled the process.
- FCMs indicated that they felt the length of time required to complete a request for proposal (RFP) and award a contract through PWGSC was uncertain. During the course of this audit we were unable to identify and find published PWGSC service level standards, which made it difficult for FCMs to manage the procurement process. In addition, we noted one case where an amendment to a short term professional contract was required due to delays in the RFP process. The PWGSC procurement officer on the file changed with no notification to TBS. According to documentation on file several e-mails were sent by TBS to the procurement officer requesting status with no response.
- MMS sometimes receives last minute requests that place an administrative burden on MMS and create pressure to push contracts through the process quickly. In our file review we found a case where a contract presented to MMS from an FCM for processing was received by MMS within one day of the requested start date for the contract.

3.2.3. Recommendations

Services required on a frequent and ongoing basis across the department should be identified and considered for consolidation; which may result in better value and less administrative burden. For example, TBS should consider looking at the demand for French Language training to see if there are possible efficiencies and cost-savings through better planning and consolidation.

As mentioned before, contract planning should be included in the annual business plan for the fund centres.

Where not identified in the annual plan, contract requests should allow for the administrative time required for MMS, CRC, and senior level approval. Last minute contracts should be discouraged, but if required, there should be an exception process in place to handle them.

In addition, in the absence of service levels with PWGSC, more rigorous planning and monitoring of the procurement process should be the responsibility of MMS acting on behalf of FCMs for contracts involving PWGSC.

Service level standards for MMS need to be validated, communicated and monitored.

Management Response

Procurement reform initiatives under the direction of PWGSC include strategic sourcing and the identification of commodities and services that would benefit from consolidation. Language training has been identified to PWGSC as an example of a commodity that could be better managed through strategic sourcing.

Service standards have been developed and communicated for some procurement and contracting activities. While it is difficult to develop standards for higher dollar value or complex procurement due to the number of variables involved, information on estimated lead times has been developed and was recently communicated to clients during the mid-year review process.

3.3. Procurement/ Vendor Selection

The TB Contract Policy outlines a number of different vendor selection activities that vary depending on the contract type and requirements. These activities range from informal vendor evaluation and selection of sole source contractors for low dollar contracts less than \$25,000, to full technical and financial evaluation of competitive bids and large competitive bidding through PWGSC.

3.3.1. Observations

The approach to procurement and vendor selection did not appear to be systematic; and rather was reflective of the knowledge of the particular FCM who initiated the contract.

There was no monitoring of usage and performance of vendors. Informal control is achieved through knowledge of MMS staff. FCMs and MMS did not have the tools necessary for performance tracking.

3.3.2. Findings

TBS's current structure has allowed managers flexibility within the policy. It appeared that as long as the procurement vehicle/ vendor selection was within policy, it was accepted without conducting an evaluation of whether the procurement method was the best method under the circumstances.

For contracts less than \$25,000 there was a tendency to use vendors multiple times. For the year 2003/2004, 17 vendors account for 170 of the 800 contracts.

In addition, in our sample of contracts, there was evidence that MMS/CRC asked for justification of vendor selection for contracts less than \$25,000. This was documented on the request forms submitted to the CRC, and was completed for all files reviewed. However, some justifications lacked substance, and there was no evidence suggesting that any challenges were made by the CRC or MMS. Examples from our sample included the following justifications with no further elaboration provided:

- Contractor chosen due to previous work done (on a continuing project); and
- Contractor was qualified.

Also our sample provided evidence in one case where a Request for Proposal (RFP) was sent out to four vendors allowing them three days to respond. The review of the file indicated that only one vendor was successful in submitting a proposal. MMS indicated an RFP should allow a minimum of 10 to 15 days for a response. Furthermore, the Contract Policy states, "*the objective of government procurement contracting is to acquire goods and services and to carry out construction in a manner that enhances access, competition and fairness and results in best value....*". Giving the vendors three days to respond does not support the policy's objective.

3.3.3. Recommendations

MMS should have a larger involvement in the vendor selection process and a more systematic approach to vendor selection needs to be adopted.

Where the estimated expenditure does not exceed \$25,000, Section 6 of the *Government Contracts Regulations* permits the contracting authority to set aside the requirement to solicit bids. To ensure good value for money and to increase transparency, any use of the exceptions to the bidding requirement should be fully justified on the contract file. MMS/CRC should tighten the internal procedure for justifying vendor selection for

contracts that were not competitive. Greater detail and scrutiny of the reasons for selecting a particular vendor should be included on file.

Procedures should be established to conduct periodical reviews of a sample of contracts from the total population in order to provide quality assurance during the contracting process (particularly for contracts just below the competitive and NAFTA thresholds).

MMS should create standards for a process timeline when releasing RFPs to ensure adequate responses for RFPs are obtained (e.g., number of days required for allowing bidders to respond to RFP).

Management Response

The Material Management Section and the Contract Review Committee have increased scrutiny on vendor selection. The current expectation is that a sound rationale will be provided for vendor selection for all contracts over \$10,000. Furthermore, for competitive contracts not subject to open bidding, managers are asked to provide a rationale for the selection of the invitees.

It should be noted that under procurement reform and strategic sourcing initiatives, the number of vendors used will decrease rather than increase.

Recommended timelines for bid solicitations have been developed and are included in the contracting procedures that are linked to the Signing Authorities documentation.

3.4. Finalize Contract

Contracting activities vary by type of procurement process. MMS is involved, at a minimum, to prepare contracts, terms and conditions of the contract and establish the commitment in the TBS financial system. At the time of the audit TBS management oversight included Contract Review Committee's (CRC) approval and Secretary approval of all contracts greater than \$10,000.

3.4.1. Observations

There were a number of low risk compliance issues with TB Contracting Policy in the area of contract administration and documentation. There are also control deficiencies over the contract approval and contract amendment processes.

3.4.2. Findings

Contract Review and Approval

During the period of time covered by the audit, the Secretary provided Contract approval and oversight for expenditures greater than \$10,000. The Contract Review Committee was set up to provide on-going review and approval for all TBS contracts. We observed the following practices that impact the effectiveness and efficiency of this key management control:

- During the audit period Secretary approval became a bottleneck in the contracting process due to the volume of contracts greater than \$10,000. In addition, the control point was too late in the process; at this point substantial resources had already been used in the procurement process.
- TB Contracting Policy (Section 11.1 - Review Mechanism), encourages contracting authorities to form a challenge mechanism that includes the appropriate senior financial officer as the chairperson. As it is currently configured, the Contract Review Committee cannot adequately provide this function because its membership has been delegated downwards to individuals who may not be senior enough to possess knowledge of TBS wide operations, or have the authority to challenge contract requests.

Amendments

The TB Contracting Policy provides guidelines on when amendments are appropriate. The policy states that, *"contracts should not be amended unless such amendments are in the best interest of the government because they save dollars or time or because they facilitate the attainment of the primary objective of the contract"*. Service contracts less than \$25,000 issued non-competitively can be amended by \$50,000.

For fiscal year 2003/2004 there were approximately 800 contracts with an original amount less than \$25,000. Approximately 20% of these contracts were amended to increase the dollar value of the contract. MMS provided little guidance on what constitutes an acceptable level of amendments.

There was minimal control over contract amendments. In interviews with MMS staff, it was determined that requests for amendments were not denied as long as they were within limits of policy. Being within policy did not necessarily mean that it was good contract management to continuously amend and extend contracts.

During the course of our audit we were unable to identify clear guidelines on appropriateness of amendments. We saw contracts less than \$25,000 being amended over the competitive thresholds. MMS indicated that if the amendments increase the original contract amount by more than 50% they would challenge it. However, this is not a formally documented procedure. Other than the Secretary himself, it did not appear that anyone has the authority to reject a contract amendment.

We were unable to find any formal analysis, reporting or tracking of contract amendments other than an empirical list. One implication of this was that there was no ability to track trends, practices and follow-up on risks identified. Amendments were also seen in multiple cases for large competitive contracts.

Compliance with TB Contracting Policy

In our audit sample, we found 13 files with compliance issues involving various TBS branches. The compliance issues were mostly administrative in nature and the audit assessed these issues at a moderate level of risk for TBS. The vendors for each contract were all different. All but one of these files were non-competitive contracts less than \$25,000. The contracts created throughout the audit period (2001-2004). Description of these compliance deficiencies are summarized as follows:

- Contract signature date by authorized fund centre manager was completed after the contract start date on the contract and/or amendments.
- File documentation indicating that dates on amendments were retroactive to reflect the work period.
- No contract dates beside signatures of authorized parties made it difficult to determine when the contract became valid.
- Evidence that the work was completed, invoiced, and paid for after contracts had expired.
- Work commenced with only verbal contracts in place.
- One contract was issued non-competitively for under \$25,000 when required services and actual dollar value was estimated by the vendor to be in excess of \$25,000; this contract was later amended. It appears that this is an isolated case where the FCM did not have a good understanding of the policy and therefore thought it was acceptable to recommend an amount below the estimated amount in order to facilitate the contracting process.

3.4.3. Recommendations

We recommend that TBS strengthen its internal controls over compliance with contracting policies and procedures, particularly by FCMs. Contracting administration needs to be strengthened by the FCM in the following areas:

- Requests for contracts need to be completed well enough in advance for timely processing which result in dates that coincide with work.
- Mandated use of a checklist in each contract file that clearly describes the required contents of the file and required approvals on the contract.

The compliance role played by MMS needs to be strengthened. It should be MMS's responsibility to be the educator, challenger and monitor of performance of process and compliance.

MMS should perform the final review of the contract to ensure there are no compliance issues (e.g., dates coincide; all signatures and dates are provided).

Compliance issues that arise need to be dealt with in a timely manner with an escalation process if necessary.

Rules related to reporting and approval of contract amendments, need to be strengthened and clarified. It must be communicated throughout the department that the use of amendments is not always an effective contracting approach.

There is a need for improved tracking, monitoring and approval of contract amendments.

We recommend that procedures be established to conduct periodical reviews of a sample of contracts (particularly contracts just below the competitive and NAFTA thresholds) in order to provide assurance that contract compliance is improving.

Management Response

A contract checklist will be developed and used by materiel management staff to ensure that all relevant documentation is provided. Effective April 1, 2006, the checklist will be completed and attached to all contract requests being referred to the Contract Review Committee for consideration. It should be noted that the due date for contract request to be considered by the committee will need to be moved up.

Contract amendments are currently an area subject to enhanced scrutiny by the Materiel Management Section and the Contract Review Committee.

3.5. Receipt of Goods and Services

FCMs are responsible for Section 34 Approval under the FAA. TB's Account Verification Policy is in place to *"ensure that accounts for payment and settlement are verified in a cost-effective and efficient manner while maintaining the required level of control"* [3]. Section 34 is certification that the goods or services identified in the contract and subsequently invoiced for have been received. Section 34 must be completed prior to payment.

3.5.1. Observation

Processing of invoices was not always timely.

3.5.2. Findings

Delays in the approval and processing of invoices have resulted in delays in payment and interest charges to TBS. There was no formal tracking of outstanding invoices awaiting manager approval for prompt processing.

3.5.3. Recommendations

At the time of this audit it was indicated that the Accounts Payable section had started following up with FCMs when invoices are not approved on a timely basis. We recommend that they continue ensuring that follow-up is done on a timely basis and that they validate, monitor and communicate their service standards.

Management Response

A new accounts payable process has been developed and is currently in the implementation stage. The process will enhance tracking and follow-up on invoices, and reduce payment delays and interest charges.

3.6. Payment and Contract Closure

Independent verification of invoices was conducted by the TBS Accounts Payable section when payment was processed. The Accounts Payable section is required to verify that Section 34 (FAA) has been completed and that the authorization was authentic (verify signature against delegation of authority matrix). Contract closure activities include final payment to suppliers, release of commitments in the TBS financial systems and archiving contract documentation.

3.6.1. Observation

The process for decommitment of funds and contract closure did not follow a consistent approach. Accounts Payable personnel had authority to exceed authorized amounts. Accounts Payable personnel were not verifying Section 34 (FAA) signatures against authorization documents.

3.6.2. Findings

Interviewees indicated that there was no efficient way to verify FCM signatures for Section 34 of the FAA. According to the TB Account Verification Policy there is a requirement for signatures to be verified at least on a sample basis. At the time of this audit there was no sampling being done.

In many cases, there was no indication of de-committing the funds at the end of the contract. This could result in errors such as duplication of payments or payments being made towards the wrong contract. Funds may be de-committed during the year using one of the following processes:

- By sending the last invoice marked 'final' to Accounts Payable section;
- By decommitting funds during the year end processes; and,
- By request from FCM.

In addition, by not de-committing funds on an ongoing basis throughout the year the funds are overstated and a lot of unnecessary year end work is required that should have been maintained throughout the year; also funds are not available for reallocation.

There were no formally documented procedures for payment against invoices that exceed the contract amount. We understand there is a policy being drafted that formalizes these practices.

The approach taken to close a contract was not well defined and systematically applied across TBS. Vendor and contract files were maintained both by FCM and MMS in paper format. MMS did not have formal procedures for what documentation is required to be on file, but believes FCM and MMS staff are aware of what belongs in the file. Through training courses, MMS assisted FCM with documentation requirements that should be maintained in files.

Some of the documentation that we expected to see but was not found in the examined files included:

- Details supporting the business requirement and the sourcing strategies;
- Copies of proposals received in both MMS and FCM files; and
- Copies of final deliverables maintained by the FCM.

Documentation (e.g. e-mails) on file were often sporadic and incomplete which made it difficult to use the files for assessing the end to end procurement/contracting process in terms of value for money and efficiency of contract administration.

3.6.3. Recommendations

Practical controls need to be in place that support Section 32 and Section 34 requirements. For example:

- FCMs should be responsible for contract management and required to manage and follow up with the Accounts Payable section on the de-commitment of funds at contract completion for contracts that the FCM is responsible for.
- Procedures need to be developed and communicated for the handling of overpayments, including reporting and monitoring instances of overpayment.
- In accordance with the TB Account Verification Policy, Accounts Payable should test signatures on a sample basis.

The Contract Closure process needs to be standardized and tools and checklists adopted to assist FCM to ensure a contract has been completed and value delivered. The following should be included to ensure proper contract closure:

- Standardized documentation checklists should be included in all contract files maintained by FCM and MMS. The checklist should include all pertinent contents that would stand the test of public scrutiny.
- Deliverables should be maintained in the FCM file or preferably in electronic format (e.g. RDIMS). In cases where the deliverable is not a tangible item, the manager should document the nature of the services in the file. This should be done in tandem with the performance review.
- Education and awareness sessions should be conducted on a regular basis for administrative staff and managers on contract management.

FCMs should ensure that complete documentation is in the file before it is closed. However, file documentation should commence during the planning stage and continue throughout the duration of the contract. MMS should assist FCMs by providing templates and advice. Contract files should stand the test of public scrutiny at any time throughout the contracting process.

Management Response

The Materiel Management Section has provided information sessions on contract management, and developed a checklist for use by Funds Centre Managers to assist them in completing their files.

Procedures are currently being developed for overpayments. In addition, it is anticipated that by providing additional information on contract management, the number of instances of overpayments will be reduced significantly.

3.7. Performance Measurement

Performance measurement includes reporting and monitoring contracting processes. Current activities reported on include vendor usage, contract spending by contracting sub-process (e.g. non-competitive contract) and contracts greater than \$10,000 (proactive-disclosure).

3.7.1. Observations

There was a lack of key performance indicators (KPIs)^[4] for contracting and procurement against which to measure performance. Systems did not provide timely and complete financial information for efficient and effective contract management.

3.7.2. Findings

There was little performance reporting of the TBS Contracting Process being carried out at the corporate level. We found data gathering of basic contract information such as key vendors, number of contracts, and type and value of amendments was absent or not systematically reported and monitored.

Contracting was delegated and carried out at the FCM level and there appears to have been a lack of systematic sharing of best practices across the Secretariat. There was a significant amount of administrative burden due to the use of multiple small contracts across the organization units for similar services. FCMs operated in silos and there was no analysis of the contract population to identify trends and whether the best contracting practices were being used.

The financial systems did not provide management with the information it needs to manage contracting effectively. Reporting on data such as contract expiry dates and contract payment status was limited and cumbersome.

There was no standard approach to monitoring contracts. There was no consistent FCM management of contracts. Some FCMs managed contracts using independent systems to keep track of their contracts.

3.7.3. Recommendations

We recommend that TBS establish KPIs to be used to assess contracting and procurement performance (e.g. number of contracts, number of contracts amended). Organizational-wide oversight of TBS contracting processes needs to be measured and monitored.

The MMS oversight role needs to be strengthened including establishment of performance targets for contracting. MMS needs to provide oversight of vendor usage, contracts processed through PWGSC as well as compliance with TBS contracting procedures.

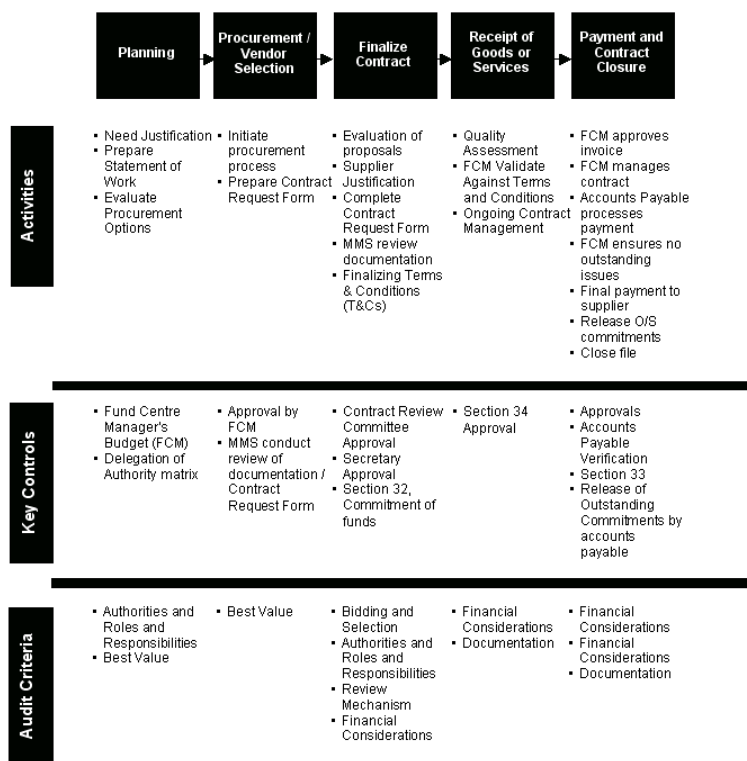
Independent quality assurance reviews should be established to confirm that best value is assessed during the contracting process.

Management Response

The Materiel Management Section will work with the Contract Review Committee to develop KPI's and establish performance targets for contracting. MMS and the Contract Review Committee will formalize the monitoring of vendor usage. However, it should be noted that under Procurement Reform, strategic sourcing may result in business being consolidated under fewer vendors.

Appendix 1: TBS Contracting Process Map

TBS CONTRACTING

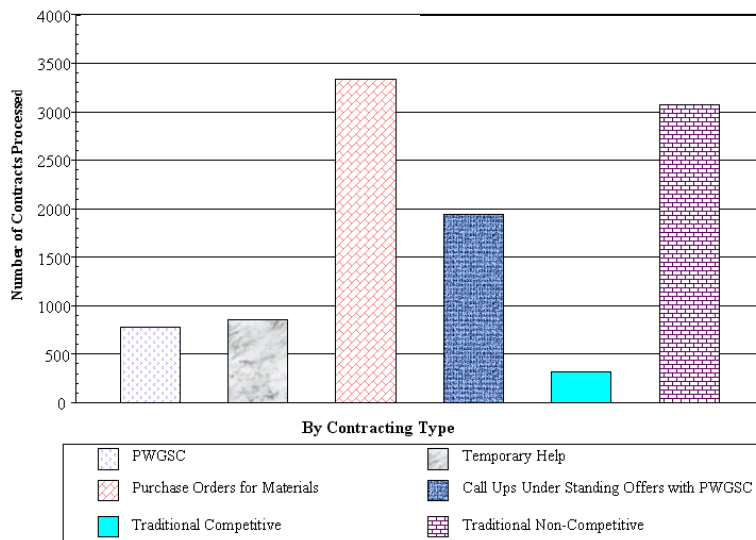


[Display full size graphic](#)

Appendix 2: List of Interviewees

Interviewee	Position/Title
Gary Doucet	Architecture, Standards and Engineering
Pierre Boucher	Senior Director, Architecture, Standards and Engineering
Gabriel Najjar	Senior Financial Analyst – Accounting Services
Mary Lee Bragg	Senior Advisor, Policy & Strategic Planning, OLB
Marie Grenier	Financial and Administrative Officer , EAMSS - Assistant Secretary's Office
Zivana Pavic	EAMSS - Assistant Secretary's Office
Dennis Kam	Acting ADM – Corporate Services Branch
Pierrette Pratt	Manager, Strategic & Business Planning
Bob Mornan	Executive Director, Chief Information Officer
Ivan Blake	Executive Director, Comptrollership Modernization Directorate (CMD) - Executive Director's Office
Kelly Boville	Project officer
Gilles Bisailon	Director, Public Service Human Resources Management Agency of Canada, Administration
Mike Giles	Head of Procurement and Asset Management

Appendix 3: Number of Contracts Processed



[Display full size graphic](#)

[1] Treasury Board Contracting Policy

[2] Organizing the Procurement Function by Andrew Bartels, Forrester June 10, 2004

[3] TBS's Account Verification Policy

[4] Examples of KPI: Reports on: -number of contracts compared year to year (by type and purpose), number of amendments compared year to year, number of contracts with compliance issues etc.