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# Standing Committee on Public Accounts

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Chair: Mr. John Williamson





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• (1540)

[*Translation*]

**The Chair (Mr. John Williamson (New Brunswick South-west, CPC)):** Good afternoon, everyone.

I call the meeting to order.

Welcome to meeting number 103 of the House of Commons Standing Committee on Public Accounts.

[*English*]

Today's meeting is taking place in a hybrid format, pursuant to the Standing Orders. Members are attending in person in the room and remotely using the Zoom application.

As a reminder, all comments should be addressed through the chair.

[*Translation*]

Pursuant to Standing Order 108(3)(g), the committee is resuming its consideration of the Auditor General's 2024 report 1, entitled "ArriveCAN," which was sent to the committee on Monday, February 12, 2024.

[*English*]

I would like to welcome our witnesses.

From the Office of the Auditor General, we have Andrew Hayes, deputy auditor general, and Lucie Després, director. It's good to see you both again.

From the Office of the Procurement Ombudsman, we have Alexander Jeglic, procurement ombudsman, and Derek Mersereau, acting director, inquiries, quality assurance and risk management.

Mr. Hayes and Mr. Jeglic, you will each be given a maximum of five minutes for your opening remarks, after which we will proceed to rounds of questions.

Mr. Hayes, as is custom, you'll begin first, please.

[*Translation*]

**Mr. Andrew Hayes (Deputy Auditor General, Office of the Auditor General):** Mr. Chair, thank you for again inviting us to discuss our audit report on ArriveCAN.

I would like to acknowledge that this meeting is taking place on the traditional unceded territory of the Algonquin Anishinabe people.

Joining me today is Lucie Després, who was the director on the audit.

This audit examined whether the Canada Border Services Agency, the Public Health Agency of Canada and Public Services and Procurement Canada managed all aspects of the ArriveCAN application in a way that delivered value for money. I'll focus my remarks today on our findings related to the contracting practices.

We found many shortcomings in the Canada Border Services Agency's management of contracts. Essential information was missing from awarded contracts, such as clear deliverables and the qualifications required of workers. When we looked at invoices approved by the CBSA, details about the work performed and who did the work were often missing. This contributed to our conclusion that the best value for money wasn't achieved.

[*English*]

In our examination, we saw little documentation to support how and why the Canada Border Services Agency initially awarded GC Strategies the ArriveCAN contract through a non-competitive process. Only one potential contractor submitted a proposal, and that proposal did not come from GC Strategies.

Also concerning, we found evidence that GC Strategies was involved in the development of requirements that were used when the agency later moved to a competitive process to award a \$25-million contract for work on the ArriveCAN app. The requirements were very specific and narrow. This gave GC Strategies an advantage that other potential bidders did not have.

Although the procurement ombudsman's review and our audit did not have the same scope, we have similar findings and recommendations as they relate to documenting the assessments and the decisions made in the awarding of contracts. We both found that basic contracting rules were simply not followed.

This concludes my opening statement. We would be pleased to answer any questions the committee may have.

Thank you.

• (1545)

**The Chair:** Thank you very much.

I'll turn to Mr. Jeglic.

Mr. Jeglic, you have the floor for five minutes, please.

**Mr. Alexander Jeglic (Procurement Ombudsman, Office of the Procurement Ombudsman):** Perfect. Thank you.

I'd like to begin by acknowledging that the land from which I am joining you is the traditional unceded territory of the Algonquin Anishinabe people.

[Translation]

Mr. Chair, committee members, thank you for inviting me here today.

My name is Alexander Jeglic. I appreciate the opportunity to appear before this committee to shed a light on the findings of my office's recent report on procurement practices of federal departments pertaining to contracts associated with ArriveCAN.

[English]

With me today is Derek Mersereau, acting director of inquiries, quality assurance and risk management.

I'd also like to acknowledge my esteemed colleagues from the Office of the Auditor General, who have undertaken a review of this topic and shared the results of their findings in recent weeks.

[Translation]

My office is independent from other federal organizations, including Public Services and Procurement Canada.

[English]

I submit an annual report to the Minister of Public Services and Procurement Canada, but the minister has no influence over my reports or reviews, and all my activities are concluded at arm's length from PSPC and other federal organizations.

[Translation]

Specifically, our legislative mandate has three components.

First, we review complaints from Canadian suppliers about the awarding of federal contracts below \$33,400 for goods and \$133,800 for services.

The second component of our mandate consists of reviewing complaints respecting the administration of contracts, regardless of dollar value.

[English]

Third is alternative dispute resolution services that Canadian businesses and departments can utilize to resolve contractual disputes. The process is voluntary, and my office's certified mediators assist parties in resolving disputes in a cost-effective and timely manner without resorting to litigation. There are no dollar-value thresholds associated with our mediation services.

Fourth, we review the procurement practices of federal departments to assess fairness, openness, transparency and consistency with laws, policies and guidelines, which led to my review of the ArriveCAN-related contracts.

On November 14, 2022, the House of Commons Standing Committee on Government Operations and Estimates, OGGO, adopted a

motion recommending that my office conduct a review to assess whether contracts awarded by departments in relation to the ArriveCAN application were issued in a fair, open and transparent manner, and whether contracts awarded on a non-competitive basis were issued in compliance with the Financial Administration Act, its regulations and applicable policies and procedures.

Once my office was able to establish reasonable grounds, as per our regulatory requirements, the review was launched in January 2023. As per its legislated deadline, my office completed the review of ArriveCAN contracts on January 12, 2024.

[Translation]

The report was published online on the Office of the Procurement Ombudsman's website on January 29, 2024.

[English]

My office completed a review of 41 competitive and non-competitive procurement processes and resulting contracts, contract amendments and task authorizations or service orders, under which work was performed for the creation, implementation and maintenance of ArriveCAN. The review does not include subcontracts, as these are beyond the legal authorities of my position.

CBSA was the client department for all 41 contracts. These contracts were established for CBSA by PSPC, Shared Services Canada and CBSA under its own contracting authority.

Regarding competitive procurement practices leading to the awarding of contracts, all 23 solicitations reviewed were issued under a PSPC supply arrangement. Overall, solicitation documents were clear and contained information potential bidders required to prepare a responsive bid. For the most part, solicitations, solicitation amendments and responses to questions from potential bidders were appropriately communicated, and bids were evaluated and contracts awarded in accordance with solicitation documents. However, mandatory criteria used in one solicitation, leading to the awarding of a \$25-million contract, were overly restrictive and favoured an existing CBSA supplier.

My office has identified issues related to the achievement of best value in many procurements. For 10 of the 23 competitive procurements reviewed, the use of overly restrictive median bands in the financial evaluation of bids stifled price competition and resulted in rejection of some otherwise high-quality bids.

In roughly 76% of applicable contracts, resources proposed in the winning bid did not perform any work on the contract. This is known as a bait and switch. When TAs, or task authorizations, were issued under these contracts, the supplier offered up other resources, but not the individuals who had been proposed in order to win the contract.

• (1550)

Files for non-competitive contracts included written justification for awarding a contract through a sole-source process based on the exceptions to competition provided by the government contracts regulations. Reasons were cited for not competing these contracts: They were necessary due to the need being a pressing emergency or due to only one supplier being capable of performing the work.

Insufficient records maintained by Shared Services Canada raised questions as to whether certain service orders under the GC Cloud Framework Agreement followed appropriate procurement practices. There was no documented procurement strategy for work associated with ArriveCAN, and multiple service orders issued to one supplier were treated as separate, unrelated requirements despite the fact that all were associated with ArriveCAN.

A majority of the files reviewed were for professional services contracts through which work was authorized under a TA. Overall, documentation of TAs used for ArriveCAN was complete and, for the most part, properly authorized. However, 20 of the 143 TAs reviewed did not include specific tasks, including descriptions of the activities to be performed.

Resources authorized to work on a contract with TAs must be assessed by the business owner before a TA is issued to ensure the individual meets evaluation criteria for the resource category, as specified in the contract. There were no assessments for more than 30 resources named for ArriveCAN-related TAs.

Overall, amendments to the contracts reviewed were appropriate and in line with the contracting policy.

As the client department, CBSA was responsible for the proactive publication or public disclosure of contract information on the Open Government website for the contracts reviewed. Information was not proactively published for 17 of 41, or 41%, of contracts reviewed. In these 17 cases, the original contract or one or more contract amendments were not available on the Open Government website. This result runs counter to broader government commitments to transparency and strengthened accountability within the public sector.

**The Chair:** Mr. Jeglic, I'll have to stop you there, but I'm sure you'll get lots of follow-up questions. I appreciate it. I gave you a little extra time.

We're turning now to Mrs. Block.

You have the floor for six minutes.

**Mrs. Kelly Block (Carlton Trail—Eagle Creek, CPC):** Thank you very much, Mr. Chair.

Thank you to our witnesses for joining us today.

I'm not a regular member of the public accounts committee. Rather, I serve on the government operations and estimates com-

mittee and had the opportunity to hear from both of you in the very recent past.

After your appearance at the government operations and estimates committee, Mr. Jeglic, the Auditor General tabled her report. In it, she found that GC Strategies was involved in the development of the criteria for the contract, which you termed in your report—and mentioned again today—as “overly restrictive and favoured this existing CBSA supplier”.

Two weeks ago, I sent your office a letter regarding this new discovery in the Auditor General's report related to the \$25.3-million contract awarded to GC Strategies back in May 2022. As I indicated in my letter, I wanted your office and you to investigate these findings and verify who allowed this private contractor to sit at the table and develop the criteria for a contract they were obviously going to win.

Will you undertake to investigate these findings and table the results with this committee?

**Mr. Alexander Jeglic:** Thank you for the question and the letter.

In addition to your letter, there was a commitment made to the OGGO chair that we would follow up after looking at bait and switch more broadly. These are ongoing discussions within the office.

As I have mentioned at committee, one of the factors we must consider is reasonable grounds and who is best situated, ultimately, to conduct the review. I must admit we were troubled by that additional disclosure made in the OAG report, and we're trying to determine whether we're best positioned to conduct a secondary analysis or whether there are other authorities better placed to do that analysis.

However, we will certainly respond to your letter in due course. Again, I appreciate the fact that you followed up.

• (1555)

**Mrs. Kelly Block:** You're welcome.

What we heard for the first time at committee, from you, was the whole idea of bait and switch when it comes to task authorizations—identified resources being switched out. Of course, we've been given the reasoning: At times, given the timeline of a project, an RFP is put out and the project begins, and some resources may not be available. However, in your report, you noted that 76% of resources did no work identified in those task authorizations.

Was there an audit done? Should there be an audit done to determine whether these resources were at the same skill level, were higher or were lower?

**Mr. Alexander Jeglic:** That's essentially what I alluded to in the first answer. That is absolutely something we're considering doing—not just specific to ArriveCAN, but on a much broader scale—to determine how prevalent the practice is.

As I mentioned at the OGGO committee, the fact that it has a name is indicative that it's a troubling practice. I have to admit that upon reconsideration, I'm even more troubled by the 76%. It's something I'd happily discuss in further answers.

**Mrs. Kelly Block:** Thank you very much.

In your report, you also described the alarming lack of documentation across the ArriveCAN contracts. Was there a specific department responsible for documentation that failed to collect and file it, or was this a problem across the departments mentioned, namely the CBSA, PSPC and PHAC?

**Mr. Alexander Jeglic:** A fair answer is that there were documentation issues across all. We've recently conducted procurement practice reviews of all three of those departments and seen prevalent documentation issues that extend beyond ArriveCAN. As a result, we will be following up.

I'll mention again at this committee that we follow up on all of our reports two years after to determine whether, in fact, the recommendations were implemented. We made a recommendation to the CBSA in relation to documentation practices, which we intend to follow up on shortly. That will address the CBSA. Again, PSPC and Shared Services, equally, have recommendations made associated with documentation practices, which we intend to follow up on.

**The Chair:** You have one minute.

**Mrs. Kelly Block:** Great.

Following up on the recommendations, we have obviously heard departments rightly say they accept the recommendations that have been made by the procurement ombudsman and the Auditor General to make improvements to those processes. I think we've even seen some answers to those recommendations.

Have you seen anything put in place that will actually ensure that what happened with ArriveCAN never happens again?

**Mr. Alexander Jeglic:** I think I'll piggyback on the last question around documentation, because that's the first issue that needs to be addressed immediately. I have witnessed some direct implications of the ArriveCAN recommendations, meaning witnesses appearing before this committee and other committees speaking to their commitment to make changes immediately that are already having an impact.

I will say I'm impressed by the seriousness with which the recommendations are being taken. It seems like the actions are effective. However, time will tell.

**The Chair:** Thank you very much. That is your time.

We're going now to Mr.—

**Ms. Jean Yip (Scarborough—Agincourt, Lib.):** Chair, I have a point of order.

• (1600)

**The Chair:** What's the point of order?

**Ms. Jean Yip:** On the notice of meeting, there's time allocated for the different sections. It would be helpful for the committee to know how the time is being used.

**The Chair:** The intention is to run this for approximately two hours. Should we finish early for any reason, we will then go to the line-by-line, but it is not the chair's prerogative or plan to keep us here beyond the allocated two hours.

**Ms. Jean Yip:** How long will the first section run?

**The Chair:** We were going to do four rounds, which is customary. Is that good? Okay.

We'll turn now to Mr. Chen.

You have the floor for up to six minutes, please.

**Mr. Shaun Chen (Scarborough North, Lib.):** Thank you.

Procurement Ombudsman, paragraph 29 of your report—you have alluded to this today—reads, “In 76% of the applicable contracts, some or all of the resources proposed by the successful supplier did not perform any work on the contract.” To get some further clarity on this finding, changes were made to the resources in 76% of the contracts between the time of the contract being awarded and the task authorization. Is this allowed in the rules for certain cases, yes or no?

**Mr. Alexander Jeglic:** Yes and no.

**Mr. Shaun Chen:** Yes and no. Okay.

I'm hearing that in some cases—exceptional cases, perhaps—it is possible. Is the main issue you have with this that this type of situation happens far too frequently?

**Mr. Alexander Jeglic:** I'll give you a general answer and then I'll give you an ArriveCAN-specific answer.

The general answer is yes, the frequency with which this happens is a problem. Also, you have to look at the specifics in this circumstance, which is why I find it offensive. It's because the structure of the evaluation criteria was heavily weighted towards the technical component. There was a 70% premium based on the technical component, which was primarily an assessment of the resources. Ultimately, some or all of the resources didn't perform tasks. Essentially, there are criteria with which you're selecting the preferred proponent to deliver on the services, but they're being selected for a reason that they don't ultimately deliver on. That's troubling.

We talked about this in the best value section, but it has a cascading impact. It starts with the seventy-thirty selection methodology, which diminishes the value of price. I'll refer to it as bait and switch. Then you have the bait and switch. The resources on which you're ultimately selecting the preferred proponent are switched out of the process. Then you have this “median bands” issue on the already limited 30% price. That really restricts the value of the price component. As a result, you're selecting the preferred proponent based on criteria that are not playing out in material fact. That's what makes it so offensive.

**Mr. Shaun Chen:** Did you find any evidence that resources or subcontractors who were paid for the work were not performing the work?

**Mr. Alexander Jeglic:** That is something I want to clarify, and I did clarify that at the OGGO committee. That is not what I'm saying in the report. It's not that the work was not performed; it's that 76% of the time some or all of the workers who were identified in the proposal did not perform the work. I think the troubling component is that those were the predominant selection criteria for identifying who the preferred proponent should be.

**Mr. Shaun Chen:** We are aware that PSPC is tightening the rules, as you recommended in your report.

Regarding the roles you examined, when a substitution is made, the incoming resource has to have the same or similar qualifications as the one originally listed. Is that correct?

**Mr. Alexander Jeglic:** That's what should happen in practice, but that's not what we saw. We saw no correlation between the resource in the bid and the resources provided in the task authorization. Had that happened, I think it would have given us comfort that we were getting the same or better value. We never saw the replacement link the resources provided to the qualifications of the resource that was not delivering on any service. That's where I think there was a disconnect.

**Mr. Shaun Chen:** You're saying they might have been as qualified but that was not clearly documented, and you don't have proof for that.

**Mr. Alexander Jeglic:** That wasn't the metric against which they were tested. They were tested based on the mandatory criteria and the minimum point rating. There was no testing against the criteria of the individuals who bid on the proposal.

• (1605)

**Mr. Shaun Chen:** In terms of controls around these types of swaps, what are they? Do they exist? Are there situations where they can be justified?

I hear your point that if a bid is being evaluated on certain criteria that are specific to who is performing that work and ultimately they don't perform it, that raises issues. There must be controls through which these processes can unfold or not. Can you elaborate on that?

**Mr. Alexander Jeglic:** What Public Services and Procurement said in their response is that perhaps they should look at evaluating other criteria. Instead of evaluating the resource that ultimately isn't performing the service, there are other criteria that should be looked at to determine who the preferred proponent should be. That's one issue.

The second issue is that if we know this is a practice, then perhaps de-emphasizing the price is not the right approach, because if in the end you get a resource that's closer to the mandatory or the minimum rating, I think price should matter much more.

**Mr. Shaun Chen:** That's fair.

**The Chair:** Very quickly, Mr. Chen, go ahead if you have a last question.

**Mr. Shaun Chen:** There is a saying that the outcome is most important. Would you say that in this situation, there was not the best value for money?

**Mr. Alexander Jeglic:** We didn't do a value-for-money analysis, but we did say that there was value lost with the way the procurement was structured, so it wasn't the best value.

**The Chair:** Thank you very much.

[Translation]

Ms. Sinclair-Desgagné now has the floor for six minutes.

**Ms. Nathalie Sinclair-Desgagné (Terrebonne, BQ):** Thank you, Mr. Chair.

I want to thank the witnesses for being here.

Welcome to the committee, Mr. Jeglic.

I just want you to confirm or deny my statements about the role of Public Services and Procurement Canada. First, its role is to establish procurement processes for the various departments and Crown corporations. Second, it must follow up with client departments to ensure that these processes are used and monitored. Is that right?

[English]

**Mr. Alexander Jeglic:** Exactly. In these 41 cases, they were the contracting authority in 30 instances.

[Translation]

**Ms. Nathalie Sinclair-Desgagné:** Okay.

The report describes the ArriveCAN case and notes a number of issues. We now realize that these types of issues, such as poor documentation, as you confirmed earlier, aren't limited to the Canada Border Services Agency. The contracts awarded to Amazon Web Services and Microsoft Canada revealed the same shortcomings in the monitoring of procurement processes at Shared Services Canada. Is that right?

[English]

**Mr. Alexander Jeglic:** Yes.

[Translation]

**Ms. Nathalie Sinclair-Desgagné:** If ArriveCAN is just a sample of the situation in the federal government, does this mean that the ArriveCAN case is just the tip of the iceberg, and that the issue is more widespread in a number of departments?

[English]

**Mr. Alexander Jeglic:** Documentation is certainly an issue that's prevalent. The point I would like to make is this: At what point can you start making negative inferences associated with the lack of documentation? Is there a lack of documentation because of poor record-keeping practices, or is there something else going on? I can't answer that question because I don't know, but it is frustrating in my role to come to a finding that I don't have the necessary information to make that determination.

[Translation]

**Ms. Nathalie Sinclair-Desgagné:** In your role, you must also determine whether there have been any email exchanges. For example, in the case of ArriveCAN, you had to determine whether a specific person appeared to have stepped in to show preference to a consulting firm or, at the very least, to a certain company. We certainly couldn't call GC Strategies or Dalian a consulting firm. If a public service employee showed preference to these companies and if this affected the documentation, you would repeat this. As an ombudsman, your job is also to understand the reasons for the lack of documentation.

Is it possible to go further than simply noting a lack of documentation?

• (1610)

[English]

**Mr. Alexander Jeglic:** That's the comment I made about negative inferences. Where there's a gap in documentation at a critical moment in time, yes, of course I can say there's a lack of documentation and leave it there. However, what I'm suggesting is that at some point, negative inferences need to be taken.

The way we've written our report is that we try to draw some of these negative inferences in. Where there's a dispute between PSPC and CBSA about the applicability of one of the government contracting regulations exceptions, there's a back-and-forth happening, and at that critical moment when they're coming to some type of agreement as to whether it should or shouldn't apply, there's a lack of documentation. What ultimately led one organization to see the situation from the same eyes or the same lens as CBSA? That's where the documentation is lacking.

We wrote that section specifically with the negative inference in mind that something clearly happened. I cannot infer too strongly because I don't know, but we certainly allege the facts in a way that leads the reader to believe clearly something happened that we can't identify.

[Translation]

**Ms. Nathalie Sinclair-Desgagné:** That's fine, thank you.

In your report, you referred to a number of companies. The Auditor General's report also talks a great deal about GC Strategies, of course. That said, other companies saw a significant increase in the number of contracts awarded, such as Dalian, and received several million dollars in the case of ArriveCAN.

Have you noticed any behaviour at Dalian similar to the behaviour that you saw at GC Strategies?

[English]

**Mr. Alexander Jeglic:** We did not. We mention certain suppliers by name because those were specific contracts that caught our attention. We named the supplier by name and included the value of the contract just to give a quantum for the reader to understand the implicated parties. For GC Strategies, there was a higher incidence of issues in those contracts. That's why they were identified in the report.

Specific to Dalian, the notation made in our report does not align necessarily with some of the other witness testimony they provided at the OGGO committee. The notation we make about Dalian is that they were a participant in a process where perhaps participating suppliers were made to believe that potentially two contracts would be issued, but in that instance only one contract was issued. It's a question of transparency to the supplier community to make sure people aren't wasting their time.

[Translation]

**Ms. Nathalie Sinclair-Desgagné:** In your opinion, apart from Dalian, could other companies, in specific cases as you noted, interfere in the procurement process and participate in the drafting of calls for bids that ultimately benefit the companies in question? Would other companies like GC Strategies behave in the same way?

[English]

**Mr. Alexander Jeglic:** I just want to be clear that we were made aware of this additional fact through the OAG report. That was concerning to us.

Your question is whether it's possible for someone else to embed themselves in the federal government in such a way that they influence the outcome. Absolutely it's possible. Every supplier that's embedded within a government department will have access to certain documentation, but to see it done in the manner that was found in our report and found in the OAG's report is particularly troubling.

For the supplier community it causes concerns, because if there was any belief this was happening, the fact that you now see in two reports that this, in fact, did happen is discouraging from a supplier community standpoint.

[Translation]

**The Chair:** The time is up.

[English]

Thank you very much.

Now we have MP Gazan, who is joining us virtually. Nice to see you today.

You have the floor for up to six minutes, please.

**Ms. Leah Gazan (Winnipeg Centre, NDP):** Thank you so much. It's nice to visit this committee today and substitute for my good colleague Blake Desjarlais.

This is for the Office of the Procurement Ombudsman.



Concerning is right. Your department's report on emergency procurement highlighted the common challenges to procurement and services in an emergency such as COVID-19, as we are currently witnessing.

By the way, before I go on, I want to highlight the good work of my NDP colleague Gord Johns, who brought forward the motion to commission the report. As we know, it has shed tremendous light on many of the issues being discussed today and certainly all over the news. We know this was an extremely important step for what we're doing today, which is to get more clarity around what happened with ArriveCAN.

Circling back, the Auditor General, when bringing forth this report, commented, "An emergency does not mean that all the rules go out the window, and that departments and agencies are no longer required to document their decisions and keep complete and accurate records." This is really troubling and very concerning.

In your department's report, you identified certain steps in a national emergency that the government has to take. There's a need for flexibility, centralizing, and ultimately relying on non-competitive contracting to save time and resources. However, the Auditor General is absolutely on point here. An emergency does not mean a disregard for rules and accountability. This is troubling.

Was the non-competitive process justified in this situation, when it was done so poorly and resulted in a heightened lack of transparency and a waste of resources?

• (1615)

**Mr. Alexander Jeglic:** The invocation of the emergency exception under the government contracting regulations was in fact justified. The way the supplier was ultimately selected is a question that I believe this committee has asked about and certainly the OGGO committee has asked about. Again, in that circumstance it's a little less clear why that specific supplier was selected to perform these directed or sole-sourced contracts under the exception. However, the application of the exception itself is correct.

I will thank you for drawing attention to the emergency procurement report. We wrote it during the pandemic to help procurement officials navigate some of the complexities associated with emergency procurement, which we knew to be a very difficult time for the procurement community. I don't want that to be glossed over either. Many of these procurement officials were working day and night to deliver important goods and services for Canadians.

I want to acknowledge that this work was incredibly important, but with the ArriveCAN issue specifically, we did note there were irregularities associated with documentation practices in the selection of the vendor that was ultimately delivering.

**Ms. Leah Gazan:** I hope it doesn't appear that I am putting down the hard work of our civil servants, but in this particular case, we know there were weak financial records at a time when we were running deficits. This is a total, colossal waste of taxpayer dollars. We also know that because of this, external resources were used. This increased the cost, and it did not, in turn, affect efficiency.

Do you think this could have been avoided if, instead of contracting out to different agencies that seemed to be problematic, more support to the public service was given?

**Mr. Alexander Jeglic:** Really, that was the determination made by the CBSA, so I can't comment on their internal capacity to deliver these specific services. Obviously, they made the determination that they could not. I'm in no position to question whether, in fact, they could have delivered internally, as opposed to hiring external resources.

**Ms. Leah Gazan:** Would you say that as a going-forward practice, one of the strategies could be to ensure there are enough human resources internally so we don't end up having these issues in the future?

**Mr. Alexander Jeglic:** Separately from this committee, I think it has been well understood that there is a gap in the IT expertise available, not just in the public sector, but in the private sector as well, which I think has been spoken about on a number of occasions. That being said, I'm not in a position to comment as to whether the right approach is to retain more internal resources.

**Ms. Leah Gazan:** Would you say, as I indicated, that it was done so poorly it resulted in a heightened lack of transparency and a waste of resources? Do you have any sense of how much of the resources were wasted and how much we could have saved if it had been done properly?

• (1620)

**Mr. Alexander Jeglic:** That question is probably better positioned for the Office of the Auditor General because that's closer to the scope of the OAG review. That being said, of course this could have been done better in many regards, particularly with documentation.

You mentioned transparency a number of times in your question. I think that's fundamentally what's causing so much of the concern. There was very little transparency associated with many of these procurement processes, and it's causing people to ask questions that will now go unanswered because there's no documentation demonstrating why decisions were taken.

**The Chair:** Thank you very much. That is time.

We're beginning our second round.

Mr. Genuis, you have the floor for five minutes, please.

**Mr. Garnett Genuis (Sherwood Park—Fort Saskatchewan, CPC):** Today, the RCMP commissioner confirmed that the police are investigating the arrive scam scandal. We're increasingly seeing that the NDP-Liberal government's arrive scam scandal was costly, corrupt and criminal.

I want to start with questions for the Auditor General.

**Some hon. member:** Oh, oh!

**Mr. Garnett Genuis:** I'm perplexed by the fact that Liberals are laughing in response to this line of questions. There's nothing funny about this. Some \$60 million of taxpayers' money was wasted, with corruption, bid-rigging and RCMP investigations. I think people who are struggling under the burden of taxes, which are paid for this kind of waste and corruption, don't find it funny either.

Deputy Auditor General, have you communicated with the RCMP? Have they asked for documentation? What kind of information have you been able to provide them?

**Mr. Andrew Hayes:** Before our report was submitted to Parliament on February 12, we spoke with the RCMP to make them aware that our report was coming. We did signal to the RCMP at that time that if they were interested in receiving information from us, we would be happy to share it in response to a production order. We wrote to the RCMP afterwards confirming the same.

**Mr. Garnett Genuis:** I have a similar question for the procurement ombudsman.

Have you communicated with the RCMP? Have you been providing information in relation to your work and your findings?

**Mr. Alexander Jeglic:** We have not had any communication with the RCMP. At the time that it became public information that the RCMP may consider investigating, we considered what the appropriate steps would be. We felt the best thing we could do was put our report on the public record as quickly as possible so the information could be made known to the RCMP. We also made comments to that effect before the OGGO committee.

**Mr. Garnett Genuis:** Sticking with the procurement ombudsman, were you surprised by the RCMP announcement today, based on the work you've done?

**Mr. Alexander Jeglic:** I want to answer this as factually as possible. It's in addition to everything else that we've learned, so based on the information contained in our report and the documentation we saw, I would answer yes, I'm surprised. However, based on all the other additional information, including information that was provided by the OAG, I'm not surprised.

**Mr. Garnett Genuis:** In light of everything you know at this point, you're not surprised by the investigation.

**Mr. Alexander Jeglic:** I'm reluctant to say.... It's difficult for me to have a view on anything we didn't review because I didn't do the review. That's why I made the comment in the way I did. Certainly, we rely heavily on the work of the OAG, and when there are factual findings that there were communications between the supplier and the department that led to the supplier ultimately providing restrictive criteria, that is highly troubling.

**Mr. Garnett Genuis:** It's highly troubling in the sense that it wouldn't surprise you the RCMP would be investigating that.

**Mr. Alexander Jeglic:** That's correct.

**Mr. Garnett Genuis:** To go back to the Auditor General's team, were you surprised by the confirmation from the RCMP today or not surprised, based on what you know so far?

**Mr. Andrew Hayes:** Based on the fact that the RCMP had already signalled they were examining the allegations raised by Botler, which involve many of the similar individuals involved in

ArriveCAN, it's not surprising to me that they would take a broader look at the matters before them.

**Mr. Garnett Genuis:** Both of your reports deal with a rigging of the process—in different ways, actually—but I think we see, at various points, a rigging of the process in GC Strategies' favour. Would the rigging that your reports identify constitute criminal activity?

• (1625)

**Mr. Andrew Hayes:** I'll start with this one.

The concerns we raised were really about public servants undertaking activities that gave GC Strategies an advantage, whether it's in the non-competitive context, where GC Strategies hadn't even provided a proposal but won the first contract, or in the competitive process, where there was GC Strategies' involvement in setting the requirements. Those, to us, are concerns. They raise questions about whether there was bias or unfair advantage, but whether it's criminal is really a matter for the RCMP.

**Mr. Garnett Genuis:** Would you like to comment on whether the rigging component specifically appears to be criminal?

**Mr. Alexander Jeglic:** I will answer in the same way that my colleague finished. Now that there actually is an investigation, I think any commentary around criminality is inappropriate. Let the RCMP make that determination.

**The Chair:** Thank you very much. That is your time, Mr. Genuis.

I'll now turn to Ms. Khalid.

You have the floor for five minutes.

**Ms. Iqra Khalid (Mississauga—Erin Mills, Lib.):** Thank you very much, Chair.

Thank you to the witnesses for being here today. I really appreciate it.

I have a couple of things. I'll turn to the ombudsperson first.

Does your report allege corruption by public servants?

**Mr. Alexander Jeglic:** There are no direct allegations of corruption in the report. As I said, our report is intended to be factual in nature. We don't identify individuals; we identify procurement practices, which is the nature of the review. If, by virtue of some of the practices we identified, it results in a secondary review, that's not a bad thing.

**Ms. Iqra Khalid:** Does your report allege any political interference by any minister or any elected official?

**Mr. Alexander Jeglic:** No, it does not.

**Ms. Iqra Khalid:** Thank you for that.

I really appreciated your recommendations and your findings. I thought they were reasonable, practical and actionable. Can you give us a bit of a rundown as to what actions have been taken, based on those findings and recommendations, so far? What do you think the government needs to do further?

**Mr. Alexander Jeglic:** Essentially, what you would have seen in our report is the proposed management action plan on behalf of all three departments. In terms of me being able to comment on what has been implemented to date, we've done no testing, but as I mentioned, we will do a follow-up two years after to ensure that each one of the 13 recommendations has been assessed for whether it has been fully implemented or not.

**Ms. Iqra Khalid:** In the past, you have expressed some frustrations about the lack of action on your recommendations. Do you want to comment a little as to what your expectations are with these recommendations?

**Mr. Alexander Jeglic:** I wouldn't say that I'm frustrated by the lack of compliance with the recommendations. I will say that the purpose of our follow-up examinations is to ensure compliance. The main goal for our office is to make the procurement system work better for everyone, so we always make recommendations with that in mind. The ArriveCAN circumstance is no different. The intention behind each one of the recommendations is to improve the process.

I appreciate that you recognize the practicality behind the recommendations, because we have identified what we think are some fixable problems. I also know, as part of other questions, that there are larger-scale issues that I still think go unaddressed by some of the recommendations.

**Ms. Iqra Khalid:** In those recommendations, I really appreciate that you outlined that PSPC needs to play a better oversight role. In fact, you have a whole section in the report on it.

I want to turn to an example you provided with respect to emergency issues and their management within the procurement world. You talked about the way hurricane Katrina was dealt with. Can you perhaps expand on that a bit and on its comparison to COVID-19 procurement in Canada?

**Mr. Alexander Jeglic:** To be completely honest with you, I hadn't been made aware that the emergency procurement piece we had written about would come up today. Specifically on the hurricane Katrina example, I'd prefer to provide you a written answer, just to make sure it's factually accurate.

**Ms. Iqra Khalid:** Thank you. I really appreciate that.

We talk about transparency and the need for efficiency within our public procurement system and about how relationships work with contractors who are perhaps embedded in the system or who have built trust within the procurement system in our country. What is the number one thing, very practically, that you think we can do to make sure these kinds of issues don't happen going forward?

• (1630)

**Mr. Alexander Jeglic:** As a basic element, when contractors are embedded within government departments, we should never fall prey to the notion that we are all the same when we're in the same working environment. Always be mindful of the fact that these individuals have a different incentive, a different role. Therefore, when they are being made privy to information, you must be mindful of the fact that these are not employees; these are private contractors who are incentivized to continue to win government business. To protect the fairness of the process, you must always maintain this at the heart of all decisions and in how you include them in

discussions and interact with them. There's a reason they're defined as consultants and not as employees.

**Ms. Iqra Khalid:** Thank you.

**The Chair:** You have time for a brief question, Ms. Khalid, if you want.

**Ms. Iqra Khalid:** I have a very brief question.

With respect to the Lobbying Act and PSPC employees retiring, do you think we need to revisit the Lobbying Act to address some of these challenges?

**Mr. Alexander Jeglic:** While I like to answer all question as directly as possible, I think commenting on the Lobbying Act is probably beyond the parameters of my mandate.

**The Chair:** Thank you very much.

[Translation]

Ms. Sinclair-Desgagné, you have the floor for two and a half minutes.

**Ms. Nathalie Sinclair-Desgagné:** Thank you, Mr. Chair.

I would now like to talk about the nature of certain contracts awarded in a non-competitive process. Your report notes that a number of contracts were awarded on a non-competitive basis.

Can you explain the theoretical justification for awarding contracts on a non-competitive basis? I know that there are standards based on contract amounts. I believe that a contract under \$25,000 can normally be awarded on a non-competitive basis. However, for contracts over \$25,000, a number of companies must be invited to bid. For contracts over \$100,000, other rules apply. I'm going from memory. As a former consultant, I remember the rules. Personally, I strictly adhered to them.

When is it normal to award a contract on a non-competitive basis?

Ideally, what proportion of its contracts should a government award on a non-competitive basis?

[English]

**Mr. Alexander Jeglic:** I want to make clear that having a directed or sole-source contract is absolutely within the rules in certain circumstances. It's specifically contemplated in the government contracts regulations in section 6. There are four specific examples that are considered appropriate, the first being for emergency circumstances, which we did look at. We found it to be an appropriate allocation of the exception.

The second is the monetary thresholds you mentioned. Those were somewhat recently updated, so it's \$25,000—I'm generalizing here—for goods and \$40,000 for services.

The third exception is if it's not in the public interest. An example of that is the correlation among the national security aspects.

The fourth is if there is only one supplier capable of doing the service. There are some sensitivities associated with identifying only one supplier capable of performing it, because I think sometimes it became “it’s the only supplier we know” as opposed to the only supplier that truly can. The Treasury Board has quite a comprehensive document with seven questions that need to be asked and answered before invoking the last exception associated with only one supplier being available.

All that said, these are exceptions that are absolutely acceptable. They are captured in the government—

[*Translation*]

**Ms. Nathalie Sinclair-Desgagné:** That wasn’t the point of my question, but my time is up.

**The Chair:** Yes, sorry.

**Mr. Alexander Jeglic:** I apologize.

**The Chair:** You’ll get another turn.

[*English*]

Ms. Gazan, you have the floor again for two and a half minutes, please.

• (1635)

**Ms. Leah Gazan:** I know I asked how much we would have saved if this had been done properly. Could I ask the Auditor General’s office to provide the committee with that information?

Moving on to my next question, the OAG commented previously that PSPC co-signed task authorizations by the CBSA, which increased time and resource commitments without adding new tasks or deliverables. Costs and time commitments increased, but the net benefit remained nil.

So many concerns are being brought up about costs and expenses that should have never happened. In fact, in the report, you noted, “In 76% of the applicable contracts, some or all of the resources proposed by the successful supplier did not perform any work on this contract.” Internal resources and limited outsourcing would fix this issue. Do you agree with this? If so, could you please elaborate?

**Mr. Alexander Jeglic:** If you’re suggesting that there would be no need to outsource any work, then the bait and switch issue would go away in the sense that you’re not doing any procurement. However, in terms of additional internal resourcing addressing the notion of resources being put forward by suppliers, I’m not sure that I see the correlation between the two.

**Ms. Leah Gazan:** We see a pattern in procurement, certainly with this government and the former Conservative government, of hiring outside consultants to do work they’re not doing, rather than building the internal capacity and supporting folks who are working in the system with HR practices and hiring. Would you agree that if we stopped as much outsourcing as we currently do and instead invested in building a robust public service, we would be saving money?

**Mr. Alexander Jeglic:** Unfortunately I can’t comment on monetary savings, but the premise that if you had more internal resources you would be less reliant on external consultants is a fair assumption.

**Ms. Leah Gazan:** Okay.

Can I pass—

**The Chair:** Thank you. That is your time.

**Ms. Leah Gazan:** I’m sorry. Thank you.

**The Chair:** You will have another turn or two.

Mr. Genuis, you have the floor for five minutes, please.

**Mr. Garnett Genuis:** Thank you, Chair.

Mr. Jeglic, would you expect ministers to be briefed on large procurement items like this? Is that part of the best practice? Is it plausible that this process could have unfolded with no ministers knowing anything? Did you find evidence about the inclusion of ministers or their staff in these conversations?

**Mr. Alexander Jeglic:** The involvement of political actors in the procurement process is problematic. There should be no involvement from political actors.

Once a procurement process is set in motion, it’s very important to follow the rules set out. If an evaluation process is ultimately designed to determine who the successful supplier is, there should be no involvement from political actors.

In terms of external briefings, I would hope those briefings happen in such a way that there is no direct involvement of any politician in an active procurement process.

**Mr. Garnett Genuis:** That’s the best practice you described of what should happen. In this case, the absence of records makes it hard to know what did happen. Do you have insight on whether best practice was followed here?

**Mr. Alexander Jeglic:** You’re correct that there’s documentation missing, but we saw no evidence of any political actors interfering in any of the procurements, based on the documentation we were able to see.

**Mr. Garnett Genuis:** Okay, so it’s based on what you’re able to see, but the absence of documentation makes it uncertain.

**Mr. Alexander Jeglic:** Right. Going—

**Mr. Garnett Genuis:** Is that correct?

**Mr. Alexander Jeglic:** I was going to say yes, absolutely.

• (1640)

**Mr. Garnett Genuis:** Okay.

As we go through this process, we are finding out more, based on your report, about what happened, when it happened and where. There remains a gap as to why. Why were documents either not created or destroyed? Why were processes rigged? Why was there such a desire within government to fit the square peg of GC Strategies into this round hole for an IT project that they had no expertise on? Do you have any reflections, based on the work you did, about why the government proceeded in this fashion?

I'd be curious to hear from both Mr. Jeglic and the Auditor General's office.

**Mr. Alexander Jeglic:** Again, that's the troubling component, as you cannot come to a conclusion as to why certain things were done.

I'm sure I share the frustration of the Auditor General's perspective, in that the findings are difficult to make when you don't have sufficient information to make a finding. The observations we made and the recommendations associated with those observations and findings were based on the documentation that was available.

Certainly we do spend time trying to identify what possible issues could have arisen. Even specific to the \$25.2-million contract that was awarded to GC Strategies, I think there were some abnormalities that still warrant further discussion.

What was disclosed in the Auditor General's report was something we weren't aware of—that the supplier was involved in developing these restrictive criteria. At the same time, we also noted that 40 participants were eligible and 10 identified an interest in participating in the process. It's a bit unclear why none of those 10 parties participated in the process, even though they identified having an interest in participating. Again, there's a question there in our minds that remains unanswered.

**Mr. Garnett Genuis:** I'll just jump in.

Somebody did something here that was totally wrong. They must have had a reason, but we don't why.

I'm going to give the tail end of my time to Mrs. Block, who had a follow-up question.

**The Chair:** You have 40 seconds.

**Mrs. Kelly Block:** It probably segues quite well with what my colleague was just asking.

I just want to make sure, Mr. Jeglic, that I understood your response to my question regarding the correspondence I sent to your office, and even your answer just now. Are you confirming that the AG's report and the findings regarding GC Strategies mean that this remains an open file for further discussion or investigation with your office?

**Mr. Alexander Jeglic:** A report is considered final; however, there are ongoing discussions within the office on components of the report that we're still looking into.

Your letter did prompt further discussions as to additional facts that we were made aware of after the finalization of the report. Whether that generates a whole secondary review I can't comment on yet because we've not done the analysis. However, I will say, as

I answered before, there is the secondary issue of the bait and switch review that we're also actively contemplating—

**The Chair:** Thank you. I appreciate it. We're over the time. I know you said that previously, so I am going to rope that off there.

We're turning now to Mrs. Shanahan.

You have the floor for five minutes, please.

**Mrs. Brenda Shanahan (Châteauguay—Lacolle, Lib.):** Thank you very much, Chair.

I was afraid that I had missed important elements of our hearings by not being present last week. My apologies to all my colleagues.

I am very happy to be here today, and I greatly appreciate the testimony we are hearing not only from our deputy auditor general, Mr. Hayes, but also from the procurement ombud, Mr. Jeglic.

It's very important to the public accounts committee that we have a clear understanding of the procurement process and the fact that it is independent of all political interference. Indeed, that is what you have seen to date, albeit that there were other issues happening that were of great concern.

Last week, I was with the Canada-Africa Parliamentary Association in Tanzania, and there is great interest from parliamentarians there about our public accounts committee, how we work with independent officers of Parliament and how we proceed with our work.

I am glad to see that PSPC has suspended the task authorization authority for all 87 departments and agencies that it contracts for when it comes to IT professional services. I think we agree that IT is definitely a very problematic area of procurement, not just for the CBSA and the companies involved in ArriveCAN, but for everybody. PSPC is doing this until it signs new agreements that incorporate the rule changes that you have suggested.

First, I'd like to get your reaction to this. It seems very dramatic, but do you feel that it's appropriate?

• (1645)

**Mr. Alexander Jeglic:** It's certainly aligned with what we saw with CBSA. That's why we made the recommendation we did.

We didn't request that they do so for all other departments and agencies, but I think they would have a better vantage point based on their interactions with other departments and agencies that weren't subjected to this review.

Am I happy with the outcome? I'm happy that they've complied with the recommendation. In terms of the need to add additional departments and agencies, I can't comment on that.

**Mrs. Brenda Shanahan:** That was the kind of question I would have liked to put to PSPC. Unfortunately, they were here one day and not permitted to provide their testimony, and I missed the subsequent meeting. It was definitely a concern of mine that the oversight did not seem to be adequate, even during that emergency period.

I see that a number of your recommendations deal with document retention. It seems to me there should be a system with a fail-safe, that it has to happen.

PSPC says that it introduced a new electronic procurement system last year that will ensure all documents are kept together, rather than having to rely on public servants attaching emails to the right files. That does seem a little ad hoc.

Have you had a chance to evaluate this new system and do you think it will be helpful?

**Mr. Alexander Jeglic:** We have not been able to review the new system. We've received briefings on this system and some of its capabilities at its early stages and throughout implementation.

Do I think it will assist in documentation? Absolutely. Can I comment on its effectiveness? I cannot.

The one thing I will say is that there was a change. Before, the rule that would apply to most federal government contracting was something called the Treasury Board contracting policy. That has since been phased out. Effective May 2022, there was a phase-in period of one year.

The new directive makes clear, based on roles and responsibility, who has the obligations associated with documentation. It makes clear that the documentation obligation lies with the contracting authority. The contracting authority, as I mentioned, in 30 of these instances, was PSPC. In seven instances it was Shared Services and in four instances it was the CBSA itself.

I saw Derek indicating that he wanted to add something and I feel like I've been dominating the conversation.

**Mr. Derek Mersereau (Acting Director, Inquiries, Quality Assurance and Risk Management):** In relation to the new system PSPC referred to, it's an SAP Ariba system. I will note that the \$25-million contract awarded to GC Strategies was issued through that system. This is how we were able to know there were 40 eligible suppliers to bid, and that's where we saw the information that 10 indicated they had an interest in bidding but didn't.

As you can see, there are still issues associated with that procurement process. It sounds good and can improve practices, but the system itself won't lead to all the improvements that have to happen.

**The Chair:** Thank you very much.

Leading our third round is Mr. Nater.

You have the floor for five minutes.

**Mr. John Nater (Perth—Wellington, CPC):** Thank you, Mr. Chair.

Thank you to our witnesses for joining us today.

I will begin with a quick comment, having read the procurement ombud's report and the Auditor General's report and having heard testimony at this committee and at OGGO.

It's frankly shocking that an agency falling under the Public Safety portfolio has allowed such a culture to be established, where documentation isn't in existence. It's shocking that successive Liberal ministers have allowed this to come to fruition without a meaningful change coming from the top. I offer that as a comment off the top.

The concept of embedded contractors within CBSA and various other departments has been brought up as well. I would be curious to know whether the procurement ombud is aware of other situations within CBSA where embedded contractors are actively working and could have an influence on procurement contracts.

• (1650)

**Mr. Alexander Jeglic:** Specifically, are we aware of other embedded contractors at CBSA? The answer is no. That doesn't mean there aren't other embedded contractors. I would suggest there likely are.

In terms of insulating them from having a repeat of these types of issues, I think everyone across the procurement community is now acutely aware of some of the risks and pitfalls associated with having these embedded contractors and in particular having them involved as projects evolve.

**Mr. John Nater:** Would your office have the capacity to undertake a review of all contracts at the CBSA specifically related to information technology?

**Mr. Alexander Jeglic:** This is where I'm going to make my plea.

I've said this before. Our office has an incredibly important mandate. I think the work the office does adds significant value in all four areas I highlighted in my opening remarks. There are 27 employees within my office and they've been under incredible strain, if I'm being honest, for a fairly significant amount of time. While I acknowledge absolutely that there is a need for us to continue the work we're doing, I'm a bit reluctant to openly acknowledge.... I think people would be kicking me under the table if they thought I was going to say we can undertake another review.

In addition to the regulation, I think there are some practical realities. I have put forward a request for additional funding to allow us to undertake some of these reviews. We received one-time funding last year to undertake both this review and that of McKinsey, but it's a one-year funding allocation that expires at the end of this fiscal year.

To answer your question, we could absolutely consider it. Can I tell you definitively that we would do it? I cannot.

**Mr. John Nater:** I appreciate that.

I would offer as commentary that it's interesting how the government was able to find \$80 million for the arrive scam app but can't find enough money to properly source a procurement ombud. That's pretty disappointing.

With the CBSA having gone through extensive studies by both the Auditor General's office and the procurement ombud, would you suggest that now may be the time for Treasury Board to revoke the delegated procurement authority the CBSA currently possesses?

**Mr. Alexander Jeglic:** It would be unfair for me to make that comment.

We had the opportunity to make recommendations. I think the recommendations we made reflect what we saw in the report at the time. We didn't suggest that Treasury Board revoke the contracting authority of the CBSA in its entirety.

I will say this. The previous member highlighted one of the recommendations with a real consequence, which is the authority for the CBSA to issue task authorizations on their own account. That's a significant recommendation. I anticipate seeing positive results. It will encourage the CBSA to regain their authority by acting in a diligent and appropriate manner.

**Mr. John Nater:** Mr. Hayes, do you have any perspective from the OAG?

**Mr. Andrew Hayes:** The CBSA has provided an action plan in response to our recommendations. I think it's important to give the CBSA an opportunity to fix the weaknesses we have identified. I would also say that as much as it is important to have controls in place, it is dangerous to over-control because you can grind everything to a halt.

I think it will be important for us as the OAG to follow up on the recommendations in the action plan that the CBSA has submitted.

**The Chair:** Be very brief, Mr. Nater.

**Mr. John Nater:** Thanks, Chair. I'll leave my 10 seconds for another round.

**The Chair:** The chair thanks you.

Ms. Yip, you have the floor for up to five minutes, please.

**Ms. Jean Yip:** Thank you.

Thank you for coming yet again, Mr. Jeglic.

Your first two recommendations have to do with the median bands for prices. These are measures to avoid contractors who lowball their prices in order to win the contract and then jack up their prices halfway through the job, when it is too late to stop.

Can you speak about the factors that you consider when deciding what the right balance is between finding the best price and finding one that won't change halfway through the job?

• (1655)

**Mr. Alexander Jeglic:** The issue we had with the median bands was that a change was made with the formulation that originally or normally happens—that's the median price plus 30% or minus 20%—for acceptable financial offerings. What ended up happening here was an alteration in the band, and it became....

I'm sorry. Have I misspoken?

**Mr. Derek Mersereau:** No. That's correct. It was set to minus 10%.

**Mr. Alexander Jeglic:** Yes. It was set to minus 10%.

There is a problem in the sense that the clause meant to address this issue was geared towards the previous amount. Therefore, if someone made a competitive price offering, there was no opportunity for them to validate their price point and suggest that they could in fact deliver the services at that price point. In essence, it de-emphasized or de-incentivized people from bidding low. There was a higher incentive for them to bid high because it was less risky. If you sat outside of those bands, you would receive a zero financial score.

You alluded to the reason this methodology was implemented. One was to prevent lowball offers. What that circumstance would present is someone bidding at a price so low that when the task authorization is requested, no resources are provided by that supplier because they're not able to do so at that price point. That would cause time-wasting and frustration on the part of the department or agency.

I would suggest that the median bands issue was meant to address this lowball issue. It was a valid attempt, I think. In execution, it certainly didn't play out as anticipated. As a result, it has had some unintended consequences, which we noted to be that in four instances, competitive-priced bids were given zero point allocations, with no opportunity to rectify or explain the price, and were therefore not considered, even though on the technical side they were very strong.

**Ms. Jean Yip:** I'd like to talk about the changes that were made to resources in 76% of the contracts between the time of contract award and the task authorization. Is this allowed under the rules for certain cases? Does it happen frequently?

**Mr. Alexander Jeglic:** This is a good question. It's in relation to whether we can give you baseline data. We have no baseline data by which we can tell you that 76% is more or less than the baseline data. I will say that 76% strikes me as incredibly high. If we find the baseline data to be any higher than 76%, then I will have a very different opinion on how significant this issue is. If this is an outlier and the baseline turns out to be much lower, I think it's indicative of something somewhat unique to ArriveCAN. Without doing the review, it's a bit difficult for me to comment.

That being said, is it within the rules? As mentioned in a previous question, it's the frequency with which this is happening that causes the concern. If it were just happening on a one-off basis—there's a significant time lag, the contract is awarded, months or even a year goes by and those resources are no longer available—then yes, there is a mechanism by which they can and should be replaced in those circumstances. However, where it looks and starts to feel like a business practice of identifying the best resources in the hope that this allows a specific vendor to obtain the contract, and they have no intention of providing those resources in the performance of the work, then I think it is problematic.

**Ms. Jean Yip:** Did you find any evidence that resources or sub-contractors were paid for work that was never performed?

**Mr. Alexander Jeglic:** That's another important clarification. That was not something we identified in our report. Unfortunately, in some circumstances that's how it was reported, but that's not, in fact, what we found.

**Ms. Jean Yip:** Okay—

**The Chair:** Be very brief, Ms. Yip.

**Ms. Jean Yip:** This is with regard to the action plan. Have you received responses from PSPC? Has it met the timeline implementation?

**Mr. Alexander Jeglic:** The responses included in the report were the actual management action plan responses. We don't comment on the action plan until we do the follow-up.

Ultimately, what you see in our report is how PSPC, Shared Services and the CBSA responded to our recommendations and what they suggested they will put in place to respond to our recommendations. In terms of me being able to comment on their effectiveness, I wouldn't be able to truly do that until after we do our follow-up review.

• (1700)

**The Chair:** Thank you very much.

[*Translation*]

Ms. Sinclair-Desgagné, you have the floor for two and a half minutes. You'll also have another turn after that.

**Ms. Nathalie Sinclair-Desgagné:** Thank you, Mr. Chair.

I'll pick up on my previous question right away.

We heard your criteria for awarding contracts on a non-competitive basis. We're familiar with these criteria. This isn't the issue. My question concerned the proportion of these contracts within the government.

By 2023, with the pandemic over, an emergency exception could no longer be invoked. Financial reasons aren't at stake either. We're seeing contracts over \$100,000 awarded on a non-competitive basis.

Is it normal that, under these circumstances, departments such as Public Services and Procurement Canada have awarded 27% of their contracts, or over a quarter of their contracts, through a non-competitive process?

In other words, is it normal for the government to have awarded 7,600 contracts on a non-competitive basis in 2023 alone?

[*English*]

**Mr. Alexander Jeglic:** I apologize for not answering your question more directly.

In terms of the frequency with which this has been happening more recently, outside of the pandemic, I will refer back to part of my answer. There were certainly contemplated exceptions in that the frequency with which those exceptions were invoked depended on the circumstance. I hope the frequency with which the emergency exception is invoked is greatly diminished over time.

During the pandemic—

[*Translation*]

**Ms. Nathalie Sinclair-Desgagné:** I can confirm that more and more contracts are being awarded on a non-competitive basis, even since the end of the pandemic. If a number of these contracts were awarded during the pandemic, even more were awarded in 2023. The exception for emergencies no longer applies.

Why are even more contracts being awarded on a non-competitive basis?

[*English*]

**Mr. Alexander Jeglic:** I would love to answer that question as directly as possible, but again, not having done a review in this area, I would be speculating as to why that might be happening.

I think the first thing I would want to know is specifically which exception is being invoked to allow that to happen. If it's because of a low dollar value, I'll note we wrote a paper on economies of scale and fiscal efficiency associated with when one should direct a contract for low dollar value threshold procurements. If it's for the other three exceptions, being that there's only one supplier, I think it would be troubling to learn that the frequency with which that exception is being invoked has escalated. However, again, I don't know that to be a fact.

[*Translation*]

**Ms. Nathalie Sinclair-Desgagné:** Okay. However, you can confirm that this should be a minority of cases.

[*English*]

**Mr. Alexander Jeglic:** It has to meet the requirements of the regulations.

I'm not trying to skirt your question. I don't want to create a volume assessment. If it meets the exception and it's appropriate, it should be invoked.

[*Translation*]

**Ms. Nathalie Sinclair-Desgagné:** However, not just any exception can be invoked.

[*English*]

**Mr. Alexander Jeglic:** Exactly.



[Translation]

**The Chair:** Thank you.

[English]

Ms. Gazan, you have the floor for two and a half minutes. You'll have an additional turn after this one.

**Ms. Leah Gazan:** Thank you so much.

I want to build on what I was asking before, because it seems that with the outsourcing the way it is, it's impossible to hold these companies accountable. It almost seems like it would be easier to invest in training the public service to fill this gap, rather than make the same mistake over and over again with the same results.

We've heard of many private companies being untrustworthy and being unreliable resources to undertake the work. This was according to the Auditor General, who said it's impossible to determine the actual cost. It is concerning because, again, these are taxpayer dollars and we should know and be able to very clearly confirm costs related to government spending.

To the Office of the Auditor General, in your recommendations in report 1 on ArriveCAN, you highlighted that procurement decisions "did not support value for money" and that government departments did not document due diligence. I'll ask you this again. Did a breakdown in internal public service capacity cause this issue? What were your key findings and opinion in this regard?

• (1705)

**The Chair:** You have about a minute. If you finish before, that's fine. It's just so you know.

**Mr. Andrew Hayes:** Thank you.

What we highlighted in our report was a continued reliance on external resources. At the outset of the pandemic when there was an emergency, the Canada Border Services Agency determined that it needed external resources. What we would have expected is an analysis along the way to identify whether it could reduce its reliance on external resources. We included an exhibit in the report that showed the difference between the reliance on external resources and internal resources.

We also put out some numbers about the average per diem cost. The daily cost of external resources was \$1,090, whereas the average daily cost for an equivalent IT position in the government was \$675. That's a little more than \$400 difference, which reinforces the point that it's important to a look at when you can reduce your reliance on external contractors.

**The Chair:** Thank you. That was well done.

Next we're turning back to Mrs. Block.

I know I cut off an answer that I think you were in the process of hearing, but it was repetition. It's over to you for five minutes, please.

**Mrs. Kelly Block:** Thank you very much, Mr. Chair. I appreciate the diligence you are demonstrating in keeping us to the time we have been given.

Mr. Jeglic, I'm going to come back to you.

Throughout the course of our study on ArriveCAN, we have identified what I would say are extensive issues with scrutinizing subcontractors. In fact, we've learned from departments that the scrutiny of subcontractors is far less than for contractors. The Office of the Auditor General made it very clear to us at their appearance at OGGO that their mandate restricts their ability to audit subcontractors, especially relating to value for money.

Does this issue of the inability to scrutinize perhaps even the volume of times that subcontractors are used concern you? Do you have the ability to make any recommendations on how to implement more oversight of subcontractors in government contracts?

**Mr. Alexander Jeglic:** I will answer the question backwards in the sense that we hear from subcontractors specifically within our office about issues they're experiencing with the prime contractor. They're looking for our services in hopes that we can help them. Unfortunately we cannot. We have limitations similar to those of the OAG.

That being said—and again, I didn't make this recommendation—by listening to much of the testimony here and before the OGGO committee, I see there is a need for more transparency associated with monies from the federal purse that flow down to subcontractors. I understand there are obviously privity-of-contract issues associated with information shared between the primes and subcontractors and sub-subcontractors, but I think when you're involved in federal government contracting, there is an obligation of transparency.

While I couldn't make that recommendation because it wasn't appropriate given the parties subjected to this review, it's certainly an issue that I think warrants a significant analysis to see whether it's possible. I think it would help address some of the issues that we're seeing.

**Mrs. Kelly Block:** Thank you very much.

I'm going to turn now to Mr. Hayes and the Office of the Auditor General.

At a previous meeting, I noted the Auditor General's report mentioned that CBSA had added a firm to a task authorization under GC Strategies rather than contracting the firm directly. When I asked if you knew who that firm was, you said at the time you didn't. Then you provided me with the answer at the very end of the meeting, and I think KPMG was the firm that had been added to a task authorization form of GC Strategies.

Since this company was not approached to do the work and was added to a task authorization form to become a subcontractor for GC Strategies, were you able to determine the value for money of their work? I'm suspecting maybe not because they were a subcontractor. Can you comment on whether or not it would have been cheaper for CBSA to contract this firm directly rather than making them a subcontractor of GC Strategies? Doesn't that have the appearance of providing GC Strategies with an additional cut?

• (1710)

**Mr. Andrew Hayes:** It was a confusing situation, quite frankly. Having a subcontractor the agency identified put through the GC Strategies contract meant that the terms and conditions of the contract with GC Strategies applied, meaning they got their finder's fee for having a subcontractor even though it was the agency that identified the resource.

Ultimately, to the nub your question, I think it cost more because they shouldn't have had to pay for GC Strategies' portion of that. They could have just paid KPMG for it if they had put a contract directly in place with KPMG.

**Mrs. Kelly Block:** Thank you very much.

**The Chair:** Thank you very much, Mrs. Block.

We're turning now to Ms. Bradford.

You have the floor for five minutes, please.

**Ms. Valerie Bradford (Kitchener South—Hespeler, Lib.):** Thank you very much.

As you know, this particular topic has been examined extensively. This is our fifth meeting, and it was referred to OGGO. As it has been examined extensively, it's getting hard to come up with new questions.

I just want to get your take, Mr. Jeglic, from the opposite perspective, on one posed to the Auditor General's office earlier.

The Auditor General's report noted that Public Services and Procurement Canada "challenged the Canada Border Services Agency for proposing and using non-competitive processes for ArriveCAN and recommended various alternatives." From your perspective of procurement, why did they do that?

**Mr. Alexander Jeglic:** If you're asking why they might have challenged the processes, it's likely due to.... Again, I feel a little reluctant to comment on things that were not in our report and were found in the OAG report. I will say that, likely, there were inconsistencies in what CBSA and PSPC thought were best practices for the road forward on that specific contract.

Do I think that's a normal occurrence? Yes, absolutely. I think there are times when there are differences of opinion between the business owner and the contracting authority on what methodology should ultimately be used. However, I think the contracting authority should also have a very significant say in ultimately making the determination.

**Ms. Valerie Bradford:** In your opening statement, you mentioned that there were overly restrictive requirements. Of course, we know that's because GC Strategies made them. Those overly re-

strictive requirements precluded pretty much anyone else from being competitive at all and even being able to bid.

Why was this allowed? Why were they allowed to come up with what were clearly overly restrictive requirements that would eliminate anyone else right from the very beginning?

**Mr. Alexander Jeglic:** It's a frustrating kind of circumstance in the sense that it should have been caught. I think it's a circumstance where everyone who was involved likely had more obligations on them than they acted on.

What we found unusual, though, which we've been discussing since the finalization of the report, is the idea that even when it was made competitive—and it was made competitive to 40 suppliers, 10 of which indicated an interest to participate—not one of the suppliers challenged the restrictive nature of the requirements. To me that's baffling, particularly given that 10 of them expressed an interest. Either the community of suppliers accepted that this process was geared to a specific supplier or something else happened that I can't even hypothesize on.

However, I will say that these requirements were drafted in such a way that, having the benefit of all the information, they now seems even more restrictive than they would have if you were involved in the process, because you might not have been aware of the three previous contracts that had been delivered by that supplier if you were within PSPC. You may not have been aware of the exact circumstances of those contracts.

As I said, though, when they're as restrictive as these were on their face—it doesn't take any technical expertise to identify that these are heavily restrictive criteria—I expect PSPC to catch and push back on these types of criteria in the future.

• (1715)

**Ms. Valerie Bradford:** You more or less answered my next question, because given your mandate, suppliers are supposed to complain to you if they feel the bidding process is unfair. Isn't that right?

**Mr. Alexander Jeglic:** Absolutely.

**Ms. Valerie Bradford:** It's a mystery why no one brought this up as a concern to you, given that it clearly did look like the bar was pretty high and only one particular company met it. Is that correct?

**Mr. Alexander Jeglic:** I'll just say one point of clarification. We cannot review complaints from suppliers until the contract is awarded. In this circumstance, it would have been too late. However, there is another organization, called the Canadian International Trade Tribunal, that may have the authority to review any types of procurement-related issues in advance of or prior to contract awards, like overly restrictive criteria.

However, the first step in that process is for a supplier to step forward and challenge it by way of clarification or questions during the live process. As I said, I find it baffling that not a single one of those suppliers did so.

**The Chair:** Thank you very much.

That is the time, I'm afraid.

**Ms. Valerie Bradford:** I just have one more, and maybe he can send the answer in, because I think it's really important.

**The Chair:** Sure.

**Ms. Valerie Bradford:** Do you have any suggestions for changes to the legislation so this can be precluded and they can identify it during the process rather than after the process when the contracts are awarded and it's too late?

**The Chair:** Be brief, please.

**Mr. Alexander Jeglic:** I just want to clarify that. Are you referring to our legislation and regulations?

**Ms. Valerie Bradford:** That's right.

**Mr. Alexander Jeglic:** I think it's very important that we have complementary jurisdiction with the Canadian International Trade Tribunal. We have a very good relationship with them to ensure that suppliers have a recourse mechanism available to them. In this circumstance, I think the appropriate recourse mechanism would have been through the Canadian International Trade Tribunal.

**Ms. Valerie Bradford:** Thank you.

**The Chair:** You're very welcome.

Mrs. Kusie, you have the floor for five minutes.

This begins our fourth and final round.

It's over to you.

**Mrs. Stephanie Kusie (Calgary Midnapore, CPC):** Thank you very much, Mr. Chair.

Thank you very much to our witnesses for being here today.

I want to thank you all for your work in bringing to light so much of the mismanagement of the Liberal government with regard to the arrive scam scandal. I was speaking in the House today on this issue, and it's evident from the evaluations of both of your offices that there is very little positive, if anything at all, to say about the ArriveCAN application. Again, I thank you both very much for your work.

Mr. Jeglic, in November 2021, you had a report on the CBSA. You stated in the report that your office, the OPO, "observed instances where CBSA failed to disqualify non-compliant bids, and awarded at least 1 contract to a non-compliant bidder. File documentation was also found to be incomplete and of significant concern in several files." You recommended that they needed "to document every decision of business value", and the CBSA agreed to do this by June 2022.

Certainly, there's been a lot of water under the bridge since then. Based on this most recent report of yours, do you feel these recommendations were followed?

**Mr. Alexander Jeglic:** I'm sure the CBSA is not looking forward to our follow-up review, because one of the things we will be looking at is specifically the recommendation about documentation.

That being said, the scope period was slightly different, obviously, for that review. It was 2018 to 2020. That predates the pandem-

ic, so it identifies the seriousness of the documentation deficiencies at the CBSA. Also, you'll note that in the report—thank you for bringing it up—we identify the seriousness associated with the issue and specifically say that the procurement file documentation was "incomplete and of significant concern". It was back in 2021 that this was ultimately released. To give you the specific date, it was November 9, 2021.

To say that they were unaware of their documentation practices I think would be inappropriate. What I think the work of this committee and other committees has done is elevate the importance of my office and the work done by the Office of the Procurement Ombudsman. This is not to say that the recommendations were not taken seriously, because they were, but there's an additional enhanced scrutiny associated with the work of our office by parliamentary committees, which I think will result in stronger and swifter action.

• (1720)

**Mrs. Stephanie Kusie:** That's excellent news. I'm also very pleased to see your office elevated through the heeding of advice and information, as well as your colleagues to the left of you.

We've seen a lack of documentation in three different agencies: the Canada Border Services Agency, the Public Health Agency of Canada and Public Services and Procurement Canada. You mentioned a lack of compliance. How do you think, then, compliance is ensured?

**Mr. Alexander Jeglic:** The way we ensure compliance is by conducting follow-up reviews. We allow for the elapsing of two years. We find that to be a sufficient amount of time to allow departments and agencies to react to the recommendations being made, and then we do a secondary review.

The nature of the review depends on what we see, but it is something we specifically contemplate doing. Then we issue report cards that speak to whether the recommendation has been complied with or not.

**Mrs. Stephanie Kusie:** I have said several times, both in live broadcasts and within the House, that to me, the most concerning thing about the arrive scam is that it's a microcosm of how this government has operated everything, with its mismanagement and lack of oversight.

In your opinion, is the lack of documentation a systemic issue throughout all federal departments or would it be specific to these departments, based on your analysis?

**Mr. Alexander Jeglic:** I talk about baseline data, and this is one area where we have baseline data. We've done over 17 reviews of departments and agencies, the highest value and volume departments and agencies. I would say the number one issue—if not 1(a), maybe 1(b)—is documentation. This is not unique to these three departments. This is a struggle across the federal government.

This needs to be taken seriously. As I said, I think the work of this committee and the OGGO committee to spotlight the seriousness of the documentation deficiencies will actively and rapidly address the deficiencies.

**The Chair:** Thank you very much.

We're turning now to Mrs. Shanahan.

You have the floor again for five minutes, please.

**Mrs. Brenda Shanahan:** Thank you very much, Chair.

I find it very interesting to get the procurement side of this equation. Although it's not the usual purview of this committee, it is certainly clarifying a number of different things for me and reassuring me that indeed there are review procedures in place.

I have a question for Mr. Jeglic.

Do you work with the Auditor General's office in any way? Do you collaborate in any way?

**Mr. Alexander Jeglic:** My colleague Derek Mersereau is probably best positioned to explain exactly how we collaborated with the Auditor General's office on our review.

Maybe I'll turn it over to Derek.

**Mr. Derek Mersereau:** Sure.

Just briefly, our review was independent from the Auditor General's review, but early in the process.... Alex mentioned that we launched it in January 2023, and we had a preliminary discussion around the same time. They had just announced that they were going to be conducting their audit, so we had a preliminary meeting.

Then there were, I believe, three meetings throughout the year where we just had touchpoints with the two teams. Toward the end, we did share a copy of our report with the Auditor General, but we completed independent projects.

**Mrs. Brenda Shanahan:** Thank you for that.

I imagine the expertise is irreplaceable, even though I understand that the ombud's office is more lightly staffed than the Auditor General's office.

I would like to clarify one thing before I turn to the deputy auditor general. It's about the 76% of contractors who some say didn't do any work. We're hearing in the House that it sounds like they were paid and didn't do any work.

I know you've done so several times already, but for the record, is it an incorrect statement by the leader of the official opposition that 76% of contractors who worked on ArriveCAN didn't do any work? This is a serious situation and not speaking honestly about it shows, I'm sorry to say, how little the official opposition cares about this issue.

• (1725)

**Mr. Alexander Jeglic:** I just want to clarify.

I believe the quote you provided said "worked on". I think the issue is that 76% of people got paid and had not done any work. That's the thing we did not say in our report. The bait and switch issue is that 76% of the time, some or all of the named resources were switched out and did not deliver any services. However, there were replacement resources provided that did the work and were paid for the work.

**Mrs. Brenda Shanahan:** Thank you very much for making that clear. Indeed, it's more important for us to understand what this bait and switch is all about, because this is how the gaming of the bidding system happened, which is a very worrisome thing to learn about. Certainly, the incorrect statements made about your report do not do anything to help us improve things going forward.

I'd now like to turn again to the deputy auditor general about PSPC and its role.

Apparently, they did ask the CBSA to run a competitive process and were ignored. Is this normal? Is this something that happens routinely?

**Mr. Andrew Hayes:** I don't think I can comment on how routinely it happens. It is concerning that officials from PSPC proposed some options to create competition, but it wasn't received that way from the CBSA's perspective. I believe there has been a request for information on that—the documents from PSPC—and I think the committee will be interested in seeing that.

**Mrs. Brenda Shanahan:** Very good.

Just to repeat the question I asked earlier about the suspension of the task authorizations that PSPC put forward, is this something the Auditor General's office sees as a welcome development?

**Mr. Andrew Hayes:** What we see as really important in that initiative is that there's a focus on trying to get better specificity and detail in the task authorizations. We support that.

I would just reiterate that while there are controls, processes, laws and policies, it is problematic to layer on too many processes and controls. It can grind things to a halt. The business of government still needs to be able to move.

**The Chair:** Thank you very much. I'm afraid that is time.

[*Translation*]

Ms. Sinclair-Desgagné, you have the floor for two and a half minutes.

**Ms. Nathalie Sinclair-Desgagné:** I have a question that should be easy for you to answer, Mr. Jeglic. In terms of procurement, are there any constraints when it comes to employing the same two people for multiple contracts simultaneously within different departments? Is there a rule against this type of procedure?

[*English*]

**Mr. Alexander Jeglic:** Is there a constraint about employing two people at the same time? I'm not sure I fully appreciate....

[*Translation*]

Could you repeat the question?

**Ms. Nathalie Sinclair-Desgagné:** I'll start again.

Is there a rule against entering into a contract at the Department of Agriculture and Agri-Food, for example, with two people who also secure a Treasury Board contract at the same time, and both contracts are paid at per diem rates?

[English]

**Mr. Alexander Jeglic:** There is no rule preventing that from happening.

[Translation]

**Ms. Nathalie Sinclair-Desgagné:** Shouldn't there be a rule to ensure that the right people are doing the right jobs for the government?

[English]

**Mr. Alexander Jeglic:** I think the question is associated with the integrity of the suppliers. They make attestations. They have to provide a certain documentation. If the concern is that they're doing work simultaneously with two departments and are billing twice for the same work, they have to make attestations in regard—

• (1730)

[Translation]

**Ms. Nathalie Sinclair-Desgagné:** I'm not necessarily talking about doing the same job, but simply billing twice for the same day's work.

[English]

**Mr. Alexander Jeglic:** Right, and that's what I'm saying. In the time sheets they provide, they would have to indicate the time spent on a specific contract. If they were not disclosing accurate time sheets, that would be a breach of their contractual obligations. There are rules preventing that from happening, absolutely.

[Translation]

**Ms. Nathalie Sinclair-Desgagné:** Okay. So there are rules.

Who is, or should be, doing the necessary audits?

[English]

**Mr. Alexander Jeglic:** That's a difficult question in the sense that there is no level of coordination between departments for them to ultimately know if a supplier is working simultaneously among multiple departments. I would suggest that is in fact happening.

Perhaps, if you'll allow, I'll give a plug for a global vendor performance management framework across the federal government so that information is shared about the performance of suppliers across the entirety of the federal government. It's something I've actively been pushing for.

I know that Public Services and Procurement has been implementing a vendor performance management framework within the department, and it is looking to pilot more ambitious pilots in the future. I think that will allow for information to be shared with other departments and agencies with respect to one supplier that acts with one department and perhaps behaves well or poorly. That would address the concern you've raised.

[Translation]

**The Chair:** Please wrap up quickly.

**Ms. Nathalie Sinclair-Desgagné:** I don't even know what to say. It's so obvious that this type of thing should have been implemented a long time ago.

Isn't Public Services and Procurement Canada responsible for carrying out these types of audits? If Public Services and Procurement Canada works with two client departments and contracts with the same two-person company, how come no one in the department realizes that the government is paying twice for people who, ultimately, won't even do the work?

Why aren't these types of audits being done already?

[English]

**Mr. Alexander Jeglic:** It's a good question. If PSPC is the contracting authority in both instances, then they would likely have that information.

**The Chair:** That was a good answer. I'm going to stop you right there. I pledged not to drive this much past our two hours.

Of course, if any member wants to pick up on that, they're welcome to.

Ms. Gazan, you have the floor for two and a half minutes, please.

**Ms. Leah Gazan:** I just want to touch on the federal contracting program for indigenous businesses.

One of the contractors on behalf of the CBSA—Dalian—was procured and hired non-indigenous suppliers to do the work despite the contract being issued under the TBIPS supply agreement and being open to qualified indigenous suppliers under the procurement strategy for indigenous business. I find it very disturbing that the CEO of Dalian noted in another committee meeting that they did not need to hire indigenous suppliers and that the rules were very bendable in this case, which is concerning. Is this supporting equity or not? Are indigenous people being used to get contracts? This to me seems very unethical, as a personal aside.

I know from your report that six bids were received from qualified indigenous suppliers. Five of them were highly qualified and received maximum points on the technical component. What were your key findings in this area? I want you to explain why indigenous businesses and contractors were ignored despite being compliant. What do you think can be done to fix this issue? Programs are put in place for a reason. Clearly people are finding loopholes. Could you respond to those three questions?

**Mr. Alexander Jeglic:** Specifically with regard to the citation and the report, the issue you've identified is an issue of transparency. That specific solicitation said up to two contracts would be awarded, but it was quite clear in the communications between the departments that the intention was to award only one. We added that additional observation because the incentive was to encourage participation by indigenous businesses. They received high participation from indigenous businesses based on the prospect of awarding two contracts, but ultimately only one was awarded.

We put that in there specifically for transparency purposes. It's very important to be clear with suppliers what the true intentions of the contract are. If departments knew only one was going to be awarded, they rightly should have indicated so.

In terms of your reference to the procurement strategy for indigenous business, I just want to read you the requirement associated with joint ventures. It states that 51% of the ownership and control of the joint venture must belong to an indigenous business, and at least 33% of the total value of the work must be performed by an indigenous business contractor or by a combination of that contractor and other indigenous—

• (1735)

**Ms. Leah Gazan:** With the understanding that it has to be 51% indigenous-owned—

**The Chair:** Be very brief, Ms. Gazan.

**Ms. Leah Gazan:**—this is another example of a clear failure in accountability. What can be done going forward to ensure that money that is to go towards indigenous business actually lands in the hands of indigenous people?

**The Chair:** I'm going to ask for a written response, please. We're over our time, unless it's very brief.

**Mr. Alexander Jeglic:** The answer lies in the audits performed by ISC. These are self-certifications made by the suppliers. Indigenous Services Canada can audit the certification processes. I would encourage it to do so. It's also something we're looking at in our long-term review plan.

**The Chair:** Thank you very much.

I turn now to Mr. Viersen, joining us online.

You have the floor for five minutes, please.

**Mr. Arnold Viersen (Peace River—Westlock, CPC):** Thank you, Mr. Chair, and I want to thank the witnesses for being here today.

I want to go back to Mr. Jeglic about GC Strategies helping to set the criteria for the contract it later received.

Can you explain that just a bit more?

**Mr. Alexander Jeglic:** I don't want to deflect the question, but that was, ultimately, a finding that came from the OAG's report. That wasn't something we saw directly. I'd certainly be prepared to offer my views, but I'd prefer that the starting point be the Office of the Auditor General, if that's okay.

**Mr. Arnold Viersen:** Well, we have them here.

Go ahead, Mr. Hayes.

**Mr. Andrew Hayes:** Yes, thank you.

This was a concerning finding for us in this report. As the procurement ombudsman said earlier at this meeting, it is not uncommon for suppliers to be engaged with people in departments and agencies. What has to be protected, though, is the integrity of procurement processes, in particular making sure an advantage isn't achieved by a contractor working with people who are establishing future procurement processes.

In this case, the contractor was involved and had knowledge of particular requirements that ultimately made it into the request for proposals in the competitive contract. That, in our view, should not happen.

**Mr. Arnold Viersen:** They were basically getting a proposal that would only fit the company. Is that essentially what you're saying?

**Mr. Andrew Hayes:** There is a risk that this is exactly what happened. What we say in our report is that the requirements for that contract were very restrictive, and I think the procurement ombudsman found the very same thing.

In our view, whether or not it was directly for them, it does have the impact of chilling competition and discouraging other bidders. The procurement ombudsman spoke about the fact that it was perplexing that 10 bidders had expressed interest but did not ultimately submit a bid.

**Mr. Arnold Viersen:** It seemed like the government, or the bureaucracy, recommended KPMG to fulfill part of the contract that it had signed with GC Strategies. Can you shed a bit more light on that? Is this part of the same contract they had been part of setting the criteria for, and the bureaucracy was then providing them with somebody who could actually fulfill that contract?

**Mr. Andrew Hayes:** In the case you're discussing, I addressed this a bit earlier, but if my answer was unclear, I'll say there was a contract in place with GC Strategies, and officials from the Canada Border Services Agency identified that KPMG could provide some work that would be helpful. Instead of having a contract directly with KPMG, KPMG became a subcontractor for GC Strategies.

Ultimately, we're concerned with the way that happened. The agency was finding the resources for the contractor, and ultimately the government paid too much because GC Strategies ended up getting a finder's fee for that work.

• (1740)

**Mr. Arnold Viersen:** GC Strategies got a finder's fee for a company the bureaucracy provided. They were paid a finder's fee for a company they never found. Is that correct?

**Mr. Andrew Hayes:** Essentially, that's the concern we have.

**Mr. Arnold Viersen:** Folks back home talk to me all the time and ask what's going to happen. There seems to be a clear case of negligence in the least. Are there any ramifications for the people involved in making these decisions? The RCMP can lay criminal charges. We've had people come here and say, "Well, I wasn't in the job before."

What is a possible remedy regarding some of the people who were in these jobs and made some of these decisions?

**Mr. Andrew Hayes:** There are a number of angles to that. There are a few processes under way, whether it's the internal investigation at CBSA or the RCMP looking into allegations. We've had members of the senior public service speak about the fact that onuses can be retracted if they are justified. I believe that officials from Public Services and Procurement Canada talked about the possible recovery of amounts. Whether that can be achieved on the information that's available is an open question. Those are some of the recourses that may be available.

**The Chair:** Thank you very much.

That is your time, Mr. Viersen. I understand you'll be joining us on this committee. We welcome you.

**Mr. Arnold Viersen:** Thank you.

**The Chair:** Also, congratulations on the recent addition to your family.

**Mr. Arnold Viersen:** Thank you, Chair.

**The Chair:** We're turning now to Ms. Khalid.

You have the floor for five minutes, please.

**Ms. Iqra Khalid:** Thank you very much, Chair.

I'll start with Mr. Hayes and Mr. Jeglic.

In her report, the Auditor General concluded that CBSA, PHAC and PSPC "did not manage all aspects of the ArriveCAN application with due regard to value for money." There have been some steps taken since November to address the issues with that value for money piece, but I'm hoping we can dig into that a bit more.

I know that delegated authorities have been taken away from departments and agencies and that new rules, agreements and training are being put into place. Are you able to talk about how that will address this specific concern of value for money?

We'll start with Mr. Hayes and then go to Mr. Jeglic.

**Mr. Andrew Hayes:** I would start by saying that some of the concerns we had about not getting best value for money may not be addressed by some of these changes. In particular, the heavy reliance on external resources without having an analysis of how to reduce that reliance is an important finding from our report.

I would also say that consistently requiring resources at the highest levels under a task authorization raises questions about value for money.

Finally, the practice of extending contracts or adding time without changing the level of effort won't, to us, be addressed by some of the changes being proposed.

**Mr. Alexander Jeglic:** We didn't do a value for money analysis, but we did have a section of our report that spoke to "best value" specific to procurement. We made recommendations specifically as to how they could remedy that, and this goes back to one of the answers I provided, which starts with the selection methodology of seventy-thirty: 70% technical, 30% price. Obviously, increasing the price component would be a starting point.

There was also the discussion around the "median bands" and the need to make sure that the lower threshold is expanded, and only in exceptional circumstances where it's justifiable and you can explain why you would want to limit it further. That's another recommendation we made that I think would enhance best value.

Also, on the replacement of specific individuals, I'll go back to the concept that you should at least achieve the quality of service you pay for. The 76% ties directly into that concept, so diminishing the number of resources that are replaced would also speak to best value.

In terms of following up on our recommendations, I do see there being improvements associated with best value in procurement.

● (1745)

**Ms. Iqra Khalid:** Thank you. I really appreciate that.

I know that our member from the NDP wasn't able to get all of her answers to the questions she had asked, so you can take some time to address some of the challenges she had outlined as well. I did like her questions.

**The Chair:** Ms. Gazan, one of your colleagues on the Liberal bench is offering you two minutes.

**Ms. Leah Gazan:** I heard. That's great.

I asked about indigenous procurement. There seems to be an issue of accountability around indigenous procurement. There's a whole issue of accountability in procurement, like knowing the amount spent that could have been saved internally.

Going back to the hiring of indigenous folks, how can that be mitigated so that programs designed for equity actually go to the people they're supposed to go to, who in this case are indigenous people?

**Mr. Alexander Jeglic:** To take you back to what I responded, albeit very briefly, in terms of who bears responsibility for ensuring that this is in fact happening, I would note there is a self-certification process involved for indigenous suppliers. They have to retain information that would support self-certification, but it's Indigenous Services Canada that has the right to audit the statements being certified by indigenous businesses to ensure that it is in fact indigenous businesses benefiting as intended under the procurement strategy for indigenous business.

**Ms. Leah Gazan:** It seems to me that a lot of levels of bureaucracy are interfering with ensuring accountability in these programs, particularly because we're talking about hiring in one ministry and having to be overseen in another ministry. It seems like an impossible bureaucracy for maintaining accountability.

**Mr. Alexander Jeglic:** Indigenous Services Canada has an exclusive mandate in this area. Regardless of which department or agency the indigenous supplier is contracted under, these certifications can be audited by the same department, so there is continuity. I think it's a question of how frequently these audits are performed. That's something, perhaps, that could be asked of the Department of Indigenous Services.

**Ms. Leah Gazan:** That concerns me because we're dealing with accountability and transparency issues in one area, and it seems like we also have accountability and transparency issues in other areas.

I'll go back to a former question I asked, and I'll ask it of the Auditor General.

The Auditor General indicated that it's impossible to determine the total cost for ArriveCAN. Do you agree that wouldn't have happened had there been more regulatory mechanisms in place? I ask that because I find it disturbing that it's impossible to determine the total cost.

**The Chair:** Mr. Hayes, you have the last word on this. I turn it over to you.

**Mr. Andrew Hayes:** I think the best way to explain this is to use the words the Auditor General herself used: There was a "glaring disregard" for basic financial management practices.

When public funds are being spent, there should be clear and concise records showing exactly what those public funds are being used for and who approves them. It should be easy to follow the dollar all the way through the financial system and out to the contractors, and that wasn't done in this case. Quite frankly, what should happen is the record-keeping practices should be greatly improved at the CBSA in order to address the glaring weaknesses we found.

• (1750)

**The Chair:** I want to thank our witnesses for coming in today. We appreciate it. I know we were here a little longer than expected because of the votes, so we thank you for your patience.

Without further ado, I adjourn the meeting. I'll see you all here Thursday.

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