



OFFICE OF THE PROCUREMENT OMBUDSMAN



PROCUREMENT PRACTICE REVIEW

FOLLOW-UP REPORT ON THE 2012-2013 PROCUREMENT PRACTICE REVIEWS

OTTAWA
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PROMOTING FAIRNESS, OPENNESS AND TRANSPARENCY IN FEDERAL PROCUREMENT

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Main Points

What We Reviewed

1. In 2012-2013, the Office of the Procurement Ombudsman (OPO) conducted two procurement practice reviews:
 - *Review of the Procurement Practices for the Acquisition of Specific Subject Matter Training Services by the Canada School of Public Service; and*
 - *Review of Procurement Practices for the Acquisition of Temporary Help Services by the Canada School of Public Service.*
2. In April 2015, OPO asked the Canada School of Public Service (CSPS / the School) to provide information regarding actions taken in response to, respectively, the Management Action Plan (MAP) prepared by the CSPS in response to the findings from the *Training Services* review and the Procurement Ombudsman's recommendation from the *Temporary Help Services* (THS) review.
3. The purpose of the follow-up exercise was to determine whether the CSPS considered and took action, or developed plans, in response to its MAP and the Procurement Ombudsman's recommendation. In this regard, OPO assessed the information provided by the CSPS for overall reasonableness and credibility. This report provides a summary, as well as specific examples, of progress made by the CSPS in implementing the MAP from the *Training Services* review and in responding to the recommendation from the THS review.

Why It's Important

4. There are three main reasons why reporting on progress made in response to the Procurement Ombudsman's recommendations and issues identified in the review reports are important. First, it informs interested stakeholders of specific actions organizations have taken to improve procurement practices. Second, by sharing information on changes being implemented by the organizations whose practices were reviewed, OPO facilitates other federal organizations' ability to introduce similar improvements where applicable. Lastly, the information on the nature and extent of responses to the recommendations provides an indication of the usefulness of OPO's reviews in promoting fairness, openness and transparency in federal procurement.

What We Found

5. OPO is encouraged by the CSPS' commitment to improving procurement practices. The CSPS considered the Procurement Ombudsman's recommendation and provided the associated plans and actions taken. In addition, action was taken by the CSPS on its MAP.
6. Regarding the review of *Training Services*, the CSPS advised OPO it has taken action in response to its MAP. The CSPS prepared a Procurement Plan to address procurement requirements. It initiated a number of actions in order to expand the list of potential

suppliers of training services. It established a Procurement Review Committee to monitor contracting activities. In addition, it approved procurement guidelines and processes and improved training for all procurement staff.

7. With respect to the THS review, the CSPA advised OPO it has addressed the recommendation. The CSPA has implemented a series of measures to strengthen management control and oversight by limiting contracting authority, establishing a Procurement Review Committee to provide oversight of contracting activities, requiring procurement officers to complete a checklist for THS procurements, and establishing a peer-to-peer review process.

Introduction

8. OPO published the following reports in June 2012 and March 2013:

- *Review of Procurement Practices for the Acquisition of Specific Subject Matter Training Services by the Canada School of Public Service; and*
- *Review of Procurement Practices for the Acquisition of Temporary Help Services by the Canada School of Public Service.*

Objectives

9. The objectives of this follow-up to the 2012–2013 reviews were to determine:
 - whether the CSPA considered the recommendation made by the Procurement Ombudsman in the THS review with respect to its procurement practices;
 - whether action plans were prepared, approved, undertaken and responded to the recommendation;
 - what actions have been undertaken on the MAP developed by the CSPA in response to the THS review, and the extent to which each action had been completed and monitored; and
 - whether the actions have resolved or are expected to resolve the issues raised.
10. OPO expected the CSPA to have introduced changes to improve its procurement practices.

Scope, Methodology and Timing of the Follow-up

11. OPO requested the CSPA provide information on actions implemented or planned as a result of the recommendation as well as the actions taken based on the MAP stemming from the 2012-2013 reviews. This report reflects actions taken as of July 2015.
12. The approach used for this follow-up exercise differs from OPO's procurement practices reviews. The assessment of progress made against the recommendation and actions related to the MAP was compiled from the CSPA's self-assessments and assertions regarding the CSPA plans and actions. For the recommendation and status of implementation of the

MAP, OPO reviewed the information provided for overall reasonableness and credibility. This was done by:

- verifying whether any contradiction existed between the CSPS progress report statements and other available information such as the publicly accessible information found on the internet and information in the review;
- analyzing the CSPS's responses to understand how its actions address the recommendation and whether it plans to monitor the results or effectiveness of these actions or changes; and
- seeking clarification, as required, to ensure a clear understanding of the information provided by the CSPS.

13. This report consists of an overview of the CSPS's assertions regarding progress in implementing changes in response to the recommendation and actions cited in the reviews. The information from the CSPS provides a basis on which to assess the usefulness of OPO reviews and allows OPO to report on the progress made by the CSPS to enhance the fairness, openness and transparency of its procurement practices.

Assessment of Implementation of CSPS Actions

Review of Procurement Practices for the Acquisition of Specific Subject Matter Training Services by the Canada School of Public Service

Summary of Review Findings

14. In 2012, OPO analyzed 12 contracts awarded to a supplier from June 2009 to June 2011 in order to determine whether the award of these training contracts was fair, open and transparent.

15. The review found:

- The CSPS entered into repetitive sole-source contracts with a specific supplier, which was a violation of the CSPS Contracting Policy;
- The award of contracts constituted contract splitting which was a breach of the Treasury Board Contracting Policy;
- Similar wording was used in all sole-source justifications for the supplier in question and other justification did not establish the supplier's unique skills and was therefore insufficient for subsequent contracts. None of the justifications addressed the CSPS' requirement for managers to explain why it is not considered cost-effective to solicit bids competitively;
- There was no evidence to demonstrate price support was initially verified, nor subsequently substantiated; and
- Not all procurement and contracting checklists were fully completed and/or contained answers that were questionable. This eliminated the benefits that should be derived from using the checklists.

16. The Procurement Ombudsman concluded, among other things:

- The CSPS had not abided by its own policy to ensure a rotation of qualified suppliers were invited or its policy to invite three suppliers who could submit a proposal;
- The CSPS did not fully disclose the requirement for the award of a specific contract;
- The CSPS did not respect its duty to reject non-compliant bids; and
- Checks and balances in the Management Control Framework did not operate as intended, which left the CSPS vulnerable to the perception that a specific supplier was favoured and the system was manipulated to obtain the services of a pre-determined supplier.

17. There were no recommendations in the review; nevertheless, the CSPS took the initiative to develop a MAP to address the issues in the report, in which it committed to undertake the following actions:

- Adoption of an integrated planning approach for the procurement of the training services to assist the CSPS in identifying the appropriate procurement vehicle;
- Use of a Request for Information to expand the list of the potential suppliers qualified to deliver the training;
- Strengthen the quality assurance function by establishing a Procurement Review Committee to monitor contracting activities;
- Review the CSPS Contracting Policy and Desk Guide; and
- Training of responsibility centre managers to increase its understanding of procurement processes (including the evaluation process).

Summary of Response to OPO Report

18. The CSPS response stated it has taken action on all five actions identified in the 2012 report. The following paragraphs summarize the actions taken by the CSPS.

19. For the 2015-2016 fiscal year, the CSPS indicated it developed a “functional procurement plan” which includes all foreseen procurement requirements.

20. The CSPS stated it is expanding the list of potential suppliers by using the following strategies:

- Industry consultation;
- Departmental Standing Offers posted on the Federal Government’s electronic tendering service (buyandsell.gc.ca); and
- Use of Public Works and Government Services Canada’s (PWGSC) standing offers and supply arrangements for training services.

21. CSPS informed OPO it has taken steps to strengthen its quality assurance function. In 2012, the Deputy Minister established the Procurement Review Committee (PRC) to monitor contracting activities at the School. Delegation of contracting authority for activities such as approval of call-ups against standing offers and associated amendments is limited. Additionally, prior to submitting contractual agreements for approval, the School’s

Procurement and Contracting Unit performs a peer-to-peer review of each file using a checklist of key controls.

22. Procurement guidelines and processes have been prepared and were approved by the School's Vice President Corporate Management Committee in July 2015. The Guidelines provide guidance on many aspects of contracting, such as: roles and responsibilities; planning; sole sourcing; use of PWGSC's mandatory procurement vehicles; and bid evaluation criteria.
23. The CSPS informed OPO that mandatory training was provided to all managers and staff involved in procurement processes at the School. The CSPS also stated the PRC monitored staff participation in these training sessions.

Conclusion on Follow-up to Review of Acquisition of Training Services by the CSPS

24. The CSPS stated it has taken actions against its MAP to address and mitigate the issues identified in the report on *Training Services*, which OPO published in 2012. These actions include preparation of a Procurement Plan, expanding the list of potential suppliers, establishment of a Procurement Review Committee, preparation and approval of procurement guidelines and processes, and providing training for all procurement staff. Implementation of these actions should improve the fairness, openness and transparency of the acquisition of training services at the CSPS.
25. The Procurement Plan was dated February 2015 and is applicable to the 2015-2016 fiscal year. The Procurement Guidelines and Process document was approved and implemented on July 21, 2015.

Review of Procurement Practices for the Acquisition of Temporary Help Services by the Canada School of Public Service

Summary of Review Findings

26. In 2012-2013, OPO reviewed six CSPS contracts awarded to Temporary Help Services (THS) agencies for the services of two consultants, awarded to two companies that proposed those consultants' services. OPO also did a review of eight comparative CSPS contracts under the same THS contracting vehicle.
27. The review noted concerns with the six contracts for the services of the two specific consultants:
 - The CSPS did not always follow Treasury Board Contracting Policy and Guidelines;
 - The CSPS did not properly define or tender its requirements;
 - The CSPS awarded contracts to suppliers whose bids did not meet requirements; and
 - There was a lack of documentation on the files.

The Procurement Ombudsman concluded there was sufficient evidence to suggest the two consultants at issue were favoured.

28. The review raised the following concerns regarding the eight comparative contracts:
- The CSPS did not always follow contracting policies and guidelines;
 - The CSPS did not properly complete, or define, its requirements;
 - The CSPS awarded contracts to suppliers whose bids did not meet the requirements; and
 - There was a lack of documentation on the files.
29. The review noted issues in the comparative sample files similar to those found in the original six files. This indicated a pattern of procurement practices that raised concerns from a fairness, openness and transparency perspective.
30. The Procurement Ombudsman recommended the CSPS review, update as required and fully implement the CSPS's management control framework to ensure it respects internal and Treasury Board contracting policies and requirements.

Summary of Response to OPO Recommendation

31. The CSPS stated it has implemented the following series of measures to strengthen management control and oversight:
- The delegation of contracting authority was limited only to the Deputy Minister, Vice Presidents (VPs) and the Chief Information Officer;
 - A Procurement Review Committee comprised of the School's VPs was established to provide ongoing oversight on all contracting activities, including the review of proposed contracts prior to award. The CSPS informed OPO the Procurement Review Committee meets regularly (weekly if required) to monitor contracting activities at the School.
 - A checklist is required to be completed by procurement officers to ensure compliance with all key contracting controls for every contract prior to award.
 - A peer-to-peer review process for every contract prior to award has been implemented. This peer-to-peer review provides a level of assurance key controls are being adhered to.

Conclusion on Follow-up Review of Procurement Practices for the Acquisition of Temporary Help Services

32. The CSPS stated it has implemented a series of measures to strengthen management control and oversight by limiting contracting authority, establishing a Procurement Review Committee, requiring procurement officers to complete checklists and establishing a peer-to-peer review process. Implementation of these measures should improve the fairness and openness of the acquisition of Temporary Help Services at the CSPS.

Overall Conclusion

33. The CSPS assessed the recommendation and actions from two 2012-2013 procurement practices reviews and provided information on its respective plans and actions.
34. OPO is encouraged by the fact the CSPS has responded to the recommendation and taken steps on its MAP regarding its procurement practices. Implementation of associated actions should improve the procurement practices at the CSPS related to the acquisition of training services and Temporary Help Services.
35. OPO appreciates the extent of cooperation received during this follow-up exercise and is satisfied with the progress made by the CSPS in improving the fairness, openness and transparency of the assessed procurement practices.

Annex A – OPO Recommendations and CSPS Responses

Acquisition of Training Services by the Canada School of Public Service	
OPO Recommendations	CSPS Response
<p>While there were no specific recommendations in this review, the comments provided by the CSPS in the original review stated the CSPS had developed an Management Action Plan to address the issues in the report, including:</p> <ul style="list-style-type: none"> • Adoption of an integrated planning approach for the procurement of the subject matter training to assist the CSPS in identifying the appropriate procurement vehicle; • Use of a Request for Information to expand the list of the potential suppliers qualified to deliver the subject matter training; • Strengthening of the quality assurance function and expansion of the monitoring system; • A review of CSPS’s Contracting Policy and Desk Guide; and • Training of responsibility center managers to increase their understanding of procurement processes (including the evaluation process). 	<p>For fiscal year 2015-2016, the School implemented an integrated business planning process, which includes the development of a functional procurement plan inclusive of all foreseen procurement requirements.</p> <p>The School uses various approaches to expand potential suppliers to deliver training. These approaches include:</p> <ul style="list-style-type: none"> • When deemed appropriate, industry consultation (or letter of interest) are issued to inform procurement strategies; • Departmental Standing Offers, posted on the Government electronic Tendering System “Buy and Sell”; and • Use of the PWGSC’s Standing Offers (SO) and Supply Arrangements (SA) for Learning Services. <p>In December 2012, the Deputy Minister established the Procurement Review Committee (PRC). The PRC is comprised of the School’s VPs.</p> <p>The PRC provides a challenge for proposed contracts and recommends approval to the Deputy Minister. The PRC also provides oversight over all contracting activities.</p> <p>Delegation of contracting authority is limited: VPs and the School’s Chief Information Officer have delegated authority to approve call-ups against standing offers and associated amendments, and any amendments which do not include additional funding, such as date extensions or replacement of resources.</p>

	<p>Prior to submitting contractual agreements for approval, the Procurement Contracting Unit performs a peer-to-peer review of each file using a checklist of key controls.</p> <p>The School has approved Procurement Guidelines and Process which is intended to provide Guidance to School staff on contracting policy requirements, contracting guidelines and process.</p> <p>The following mandatory training was provided to Managers and staff in procurement processes at the School:</p> <ul style="list-style-type: none"> • Procurement 101 (an internal course which covers all 4 phases of the procurement cycle); and • An adapted version of the School’s course: Contract for Services (M404). <p>Evaluation Guidelines were established and communicated to School staff through the School’s intranet.</p>
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Acquisition of Temporary Help Services by the Canada School of Public Service

OPO Recommendation	CSPS Response
<ul style="list-style-type: none"> • CSPS should review, update as required and fully implement the organization’s management control framework to ensure it is respecting internal and Treasury Board contracting policies and requirements. 	<p>To reduce the risk of improper contracting and to ensure that all contracting activities are consistent with the appropriate policies, the School implemented a series of measures to strengthen management control and oversight:</p> <ul style="list-style-type: none"> • Delegation of contracting authority was reduced to Deputy Minister, Vice Presidents (VPs) and the Chief Information Officer level; • A Procurement Review Committee comprised of the School’s VPs was established to provide ongoing oversight over all contracting activities; including review of proposed contracts prior to award;

	<ul style="list-style-type: none">• A checklist of all key contracting controls has been implemented to document verification of compliance for every contract prior to award; and• A peer-to-peer review process for every contract and prior to award has been implemented. This peer-to-peer review provides a second level review of adherence to key controls.
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