

Government of the Northwest Territories

Response to the Standing Committee on Government Operations Report on the Review of the Report of the Auditor General on Contracting for Goods and Services in the Northwest Territories

February 2010

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Introduction

The Government of the Northwest Territories (GNWT) acknowledges the time, effort and commitment provided by the Standing Committee on Government Operations' (SCOGO) Review of the Report of the Auditor General on Contracting of Goods and Services in the Northwest Territories. It is also appropriate to acknowledge the work of the Office of the Auditor General of Canada (OAG) in the conduct of this audit.

Senior Management considers both the internal audit function, performed by the Internal Audit Bureau and performance audits conducted by the OAG to be important tools for management to improve government operations. Senior Management, in collaboration with the OAG, identified contracting for goods and services as an area for audit as we wanted an independent assessment of how well our processes were working. A significant amount of government funding is expended obtaining goods and services to assist in the delivery of programs.

The OAG found that the GNWT has a procurement policy framework that for the most part ensures fairness and transparency in the procurement process. There were some compliance issues found in the award and administration of contracts that should be addressed, and that more active monitoring of compliance and management of risk should be undertaken.

Consideration of SCOGO Recommendations

The GNWT has considered SCOGO's recommendations together with those of the OAG. This response contains a detailed response to each of the Committee's recommendations. Appendix 1 provides a summary of responses and actions taken with regard to the recommendations of the OAG.

Dispute Mechanism

The Auditor General found that, while the contracting and policy and legislative framework provides appropriate direction and guidance related to procurement of goods and services, the GNWT has not set up an independent dispute body as required under the Agreement on Internal Trade. The Standing Committee has made the following recommendation related to this finding:

Recommendation 1

SCOGO recommends that the Department of Finance:

- ***establish an independent dispute resolution mechanism to be integrated with the existing in-house process; and further***

- *ensure that an explanation of this process be provided to potential suppliers and contractors not only in procurement documents but also in promotional materials such as press releases.*

Response

The Agreement on Internal Trade (AIT) to which the GNWT is a signatory prescribes the dispute mechanism that must be made available to the parties who are engaged in procurement activities with the government. The AIT requires that the GNWT attempt to resolve any disputes directly with a potential vendor. If the dispute cannot be resolved satisfactorily, the potential vendor can then lodge their concerns with a designated contact within GNWT. Should the dispute remain unresolved the GNWT initiates a process to strike an independent review panel. The GNWT currently follows this process, however to date, no disputes have been filed that were not resolved in the first stage.

To ensure the process is consistent across the GNWT, a single contact for all GNWT procurement will be established for disputes that cannot be resolved at the Department level. The contact will be within the Department of Public Works and Services (PWS), Procurement Services Division which provides procurement advice across the GNWT. In addition, all disputes that are not resolved at that level can be taken to the Office of the Comptroller General, where an independent person or body will be engaged to investigate the dispute. This will ensure the process is consistently followed and all procedural aspects of the AIT process are complied with.

Standard GNWT procurement documents are being modified to reflect this change and they reference additional information that will be provided to the supplier community through the PWS web site. These changes will also be brought forward to the GNWT Procurement Council to ensure these revised processes are communicated to GNWT employees.

GNWT Policy Framework

The Auditor General expressed concern about the cumbersome nature of the GNWT's policy framework. Procurement is guided by several Regulatory and Policy instruments that must be considered when undertaking a procurement action. Employees are guided by the Contract Regulations, AIT, Business Incentive Policy, Negotiated Contracts Policy, and FAM policies and guidelines.

SCOGO has made the following recommendation related to this finding:

Recommendation 2

SCOGO recommends that the GNWT:

- a) consolidate its policy and guidance on contracting into one easily accessible document that links all information necessary to award and administer contracts including incentive and preference agreements;**
- b) foster the activities of the Procurement Council;**
- c) provide procurement and contract specific administration training.**

Response

PWS maintains a comprehensive Procurement Guidelines Manual on their web page. This is available to all GNWT employees and the public. It provides a comprehensive guide to conducting procurement activities and provides reference to and procedures related to the diverse policy framework of the GNWT. To date these guidelines have been in the nature of support that Department's could choose to refer to. The FAM policy on procurement 3301 is being revised to direct Departments to follow the guidelines.

This will obligate Departments to follow a common set of comprehensive guidelines which provide a single reference to guide employees through the procurement process. The guidelines do not replace existing policy but rather provide a comprehensive guide that integrates all of the GNWT policy elements.

An interdepartmental committee, chaired by the Comptroller General will be struck to monitor and maintain the Procurement Guidelines. They are being updated to incorporate any unique processes that may exist in some Departments. In addition, there are some areas that will be added to the guidelines to ensure that they are comprehensive.

The activities of the Procurement Council will continue to be supported and fostered. The Council will continue to be chaired by a representative of PWS.

PWS continues to offer its in-service "Procurement Contracting Workshop". Participation in training across the GNWT is actively promoted. The Department regularly trains 40 to 80 employees a year. This training effort will continue.

Performance and Quality Assurance

As highlighted by SCOGO, the majority of issues observed by the Auditor General were in the area of contract administration rather than contract award. Of note is that while 57 percent of contracts had one or more errors related to their administration, no one type of error was pervasive across contracts. In examination of the errors detected by the Auditor General, of 2520 attributes examined for 120 contracts, 2381 were

compliant, which is a 95.5 percent compliance rate. From a risk tolerance perspective, this points to relatively low risk to the GNWT.

SCOGO has made the following recommendation related to this finding:

Recommendation 3

SCOGO recommends that the Department of Finance:

- a) develop an innovative, cost-effective means to review procurement and contract administration practices against established risk tolerances;***
- b) consider including tolerance standards and performance in the Business Plan; and***
- c) persisting in recruitment to fully staff the audit division.***

Response

The responsibility for establishing the policy base associated with procurement and contract administration rests with the Department of Finance and the Financial Management Board (FMB). The FMB under section 4 of the *Financial Administration Act (FAA)* is given the authority to act on all matters related to financial management and financial administration of the GNWT. Under Section 12 of the *FAA*, the Comptroller General is responsible for establishing and maintaining systems and procedures related to the financial administration of the GNWT. These responsibilities are carried out through the issuance of a combination of directives and policies. The policies are codified in the FAM.

The Internal Audit Bureau provides internal audit services across the GNWT and reports through an Audit Committee made up of several senior managers of the GNWT. It conducts periodic compliance audits to assess compliance with legislation, regulations, and other statutory requirements, as well as adherence to sound management practices.

It is the responsibility of Ministers and Deputy Ministers of Departments to ensure the GNWT policy is complied with. Departments have varying degrees of capacity to establish ongoing monitoring a reporting of procurement and contract administration practices.

The GNWT agrees with the merits of measuring and comparing procurement and contract administration practices against risk tolerance limits. The obvious challenge is the resources required to establish an ongoing monitoring capacity which could include a reporting system to measure and report on practices. At this point the necessary resources are not in place to implement such a practice.

However, as we move forward, the GNWT will take this approach into consideration when it is developing shared services centres for finance and procurement. The possibility of building in the necessary capacity to ensure ongoing quality assurance and reporting will be closely examined.

With respect to staffing, the Internal Audit Bureau continues to work closely with the Department of Human Resources to fully staff its positions. Two additional indeterminate employees will be starting work in February 2010. This will reduce the vacancies to three positions which are currently being filled on a casual basis.

The Office of the Comptroller General recently met with the Canadian Institute of Chartered Accountants and has initiated the process to become certified as a training office for Chartered Accountants. This will enhance the Department of Finance's ability to attract people wishing to pursue an accounting career and will benefit both the Internal Audit Bureau and other areas with Finance.

OAG Recommendation	GNWT Response	Action Taken or Planned
<p>16. The Government of the Northwest Territories (GNWT) should update and improve the accessibility and availability of its guidance on contracting to make it easier for GNWT staff to use.</p>	<p>Agreed. The policy guidance on contracting for the Government of the Northwest Territories (GNWT) currently rests in the Government Contract Regulations and within a number of sections of the Financial Administration Manual (FAM). The current arrangement does not concisely consolidate the rules for contracting into a single guide or source. Doing so would assist employees in ensuring that they are meeting the requirements as established by the GNWT. In addition, the implementation of the new financial system will help to standardize some of the business processes associated with contracting for goods and services.</p>	<p>FAM 3301 is being revised to refer to Public Works and Services Procurement guidelines as the procedures to be followed by GNWT Departments.</p> <p>The Guidelines will be updated to include any unique processes that may be followed in specific departments.</p> <p>An interdepartmental committee chaired by the Comptroller General will be responsible for maintaining the Guidelines.</p> <p>The System for Accountability and Management (SAM) went into production at the beginning of September 2009. The system and business processes around the system requires a requisition to be entered before goods and services are purchased, and requires the entry of contract (Purchase Order) information into the system before payments can be made.</p>
<p>25. The Department of Finance should reinforce awareness of the requirements for delegation of contract authorities and enhance monitoring to ensure that such delegations are being made in accordance with applicable laws, regulations, and the Government of the Northwest Territories policies.</p>	<p>Agreed. Financial Administration Manual (FAM) sections 1801 and 1802 outline the authorities and requirements related to the delegation of powers. There is a need to reinforce these through increased awareness within Departments and monitoring by the Office of the Comptroller General. Steps are underway to ensure that authorities are consistently delegated from Ministers to Deputy Ministers. As part of the implementation of the new financial system process, FAM 1801 and 1802 will be revised to clarify the requirements associated with delegation of authority as well as to reinforce the monitoring mechanisms of the Comptroller General.</p>	<p>Ministers delegated their authority under the <i>Financial Administration Act (FAA)</i> to designate expenditure and accounting officers to Deputy Ministers .</p> <p>FAM 1801 has been revised to clarify the process for designating financial officers and delegating financial authorities. Required forms have been updated.</p> <p>FAM 1802 has been revised to clarify the roles of various financial officers named in the <i>FAA</i> and Regulations.</p> <p>Effective April 1, 2010 Departments will submit details of delegations to the Office of the Comptroller General.</p>

Recommendation	GNWT Response	Action Taken or Planned
<p>30. The Department of Finance should implement an independent contract dispute resolution mechanism, as required by the Agreement on Internal Trade, that will have the ability to address complaints not resolved through existing departmental processes.</p>	<p>Agreed. The Government of the Northwest Territories is a signatory to the Agreement on Internal Trade. Procurement documents will be modified to identify that contact point, as required under Article 513 (Complaint Procedures—Provinces), for filing disputes related to the application of the Agreement on Internal Trade.</p>	<p>Standard contracting documents will be modified and to reflect the requirements of the Agreement on Internal Trade.</p> <p>A Vendor Complaint Process has been developed and a document outlining the process is being prepared. It will be distributed and made available on the PWS website.</p> <p>GNWT employees will be instructed on the process.</p>
<p>78. Departments should strengthen their processes and practices to ensure that all contracts for goods and services are administered in accordance with applicable laws, regulations, and policies.</p>	<p>Agreed. Management believes that better communication of those requirements through a more concise set of rules (as addressed under a previous recommendation) as well as increased monitoring of delegation of authorities will increase compliance with existing laws, regulations, and policies.</p> <p>Increased training and orientation for procurement staff and managers engaged in competitive purchasing will be considered.</p>	<p>As noted above FAMs 1801 and 1802 have been revised to clarify and increase responsibilities related to financial authorities. FAM 3301 is being revised to clarify the procurement process.</p> <p>Public Works and Services provides specific training on procurement. This is available to all Departments. In 2009-10 over 40 employees were trained. This was down from previous years in part due to staff involvement in the GNWT financial system replacement project.</p> <p>The Main Estimates include funding for planning the implementation of a shared services procurement organization that would facilitate the standardization and management of the GNWT's procurement function</p> <p>The Main Estimates include funding for planning the implementation of a financial shared services organization. A shared services organization would facilitate the standardization and management of the GNWT's contract administration processes.</p>

Recommendation	GNWT Response	Action Taken or Planned
<p>85. The Comptroller General and the departments of Public Works and Services, Health and Social Services, and Transportation should strengthen their quality assurance processes that monitor adherence to applicable laws, regulations, and policies in the awarding and administration of contracts. This strengthening should include the establishment of risk tolerances against which actual performance can be measured.</p>	<p>Agreed. Increased emphasis on monitoring and quality assurance is necessary to reduce the risk of non-compliance in the administration of contracts. A review of authorities and responsibilities will be undertaken to ensure that appropriate mechanisms are in place and assess the resource requirements necessary to strengthen monitoring and quality assurance processes.</p>	<p>We will conduct a review of authorities and responsibilities and assess the resource requirements necessary to strengthen monitoring and quality assurance as part of the development of a shared services procurement and financial shared services organizations.</p>