



Audit of Contracting Processes

Office of Audit and Ethics

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Executive Summary

Background

Contracting and procurement activities are essential to support the Canadian Nuclear Safety Commission (CNSC) in achieving its objectives, and are also subject to a high level of public scrutiny across the federal government. A key CNSC challenge is to establish contracting and procurement policies and practices that are flexible enough to meet organizational needs, but that are also fair, open and transparent.

The Contracting and Administration Division (CAD) within the CNSC is under the responsibility of the Corporate Services Branch. CAD, which manages the CNSC's contracting and procurement activities, has responsibilities that include creation of contracting strategies, development of tools (such as training and guidelines for program managers), and management and processing of all CNSC contracts and purchase orders.

A follow-up audit of contracting and procurement was approved in the CNSC's 2011–12 *Risk-Based Audit Plan* and was completed in 2011. Based on the results of that audit, it was determined that an additional examination on the CNSC contracting processes would be conducted.

Objectives and scope

The objective of the audit was to determine if the management controls in place are effective in ensuring compliance with the CNSC's contracting policies, guidelines and procedures.

The audit focused on contracting and procurement activities for the period from September 1, 2010 to August 31, 2011.

Approach

The audit approach consisted of the following: a review of relevant CNSC procedures governing the administration of contracting activities; interviews with various CNSC employees involved in contracting activities; and a review of contract files for evidence of controls

Audit findings

The audit found that effective controls are in place to safeguard against the creation of employer-employee relationships with contractors. This conclusion was based on the service contract files examined, interviews conducted, standard contractor clauses used in contracts, and available training and guidelines.

In the case of contracts with former public servants, the Office of Values and Ethics also provides an independent review of contracts. This mitigates the risk

of bias with former public servants.

The examinations also revealed that the CNSC's practices on administering and exercising delegated authorities under section 34 of the *Financial Administration Act* (FAA) were compliant with the applicable legislation, policies and directives. Furthermore, there was no evidence of contract splitting.

However, documentation and justification of selection approach require additional attention for non-competitive contracting. Moreover, the examination revealed that improvements are needed in the processes and controls to manage contract amendments. Lastly, oversight of vendor selection and monitoring processes by Contract and Administration Division should be strengthened.

Conclusion

The audit found that the requirements of the *Treasury Board Contracting Policy* related to contract administration are being complied with. These requirements are related to employer-employee relationships, former public servants, contract splitting, and the provisions found in section 34 of the FAA.

However, the audit also found that all stakeholders (i.e., CAD, as well as CNSC managers) need to strengthen their overall application of the contracting process. Specific areas that require improvement are contract amendments and vendor selection, as well as the documentation of how non-competitive contracts are justified and substantiated.

1. Introduction

1.1. Background

Contracting and procurement activities are essential to support the Canadian Nuclear Safety Commission (CNSC) in achieving its objectives, and are also subject to a high level of public scrutiny across the federal government. A key CNSC challenge is to establish contracting and procurement policies and practices that are flexible enough to meet organizational needs, but that are also fair, open and transparent. The *Treasury Board Contracting Policy* strongly recommends both periodic and ongoing independent oversight of contracting activities.

The Contracting and Administration Division (CAD) within the CNSC is under the responsibility of the Corporate Services Branch. The responsibilities of CAD, which manages the CNSC's contracting and procurement activities, include creating contracting strategies, developing tools (such as training and guidelines for program managers), and managing and processing all CNSC contracts and purchase orders.

A follow-up audit of contracting and procurement was approved in the CNSC's 2011–12 *Risk-Based Audit Plan* and was completed in 2011. Based on the results of that audit, it was decided to conduct an additional examination of the CNSC's contracting processes.

1.2. Objective and scope

The objective of the audit was to determine if the management controls in place are effective in ensuring compliance with the CNSC's contracting policies, guidelines and procedures.

The audit focused on contracting and procurement activities for the period from September 1, 2010 to August 31, 2011. During this period of examination, the CNSC issued \$24.7 million in contracts for goods and services.

1.3. Analysis of risks

Based on our risk assessment during the planning phase, as well as the requirements of the *Treasury Board Contracting Policy* and the CNSC *Contracting Policy*, the following risks in the contracting process were identified:

- risk of inconsistent practices in providing clear justification for use of non-competitive sole-source contracts

- risk of not complying with competitive bidding practices or contracting authorities, by contracting using a series of lower contract amounts with one vendor in order to avoid threshold limitations (contract splitting)
- risk of personal conflicts of interest, where managers may make contracting decisions for their own personal benefit

Audit criteria were established to assess the adequacy of controls in place to mitigate these potential risks.

1.4. Audit criteria

The audit criteria for contracting processes are based on key management controls put in place for ensuring compliance with the Treasury Board and CNSC contracting policies, guidelines and procedures. The processes and controls of administering and planning contracting activities are the focus of this audit. Appendix A provides a description detailed audit criteria by line of enquiry.

1.5. Approach and methodology

The audit approach consisted of the following: a review of relevant CNSC procedures governing the administration of contracting activities; interviews with various CNSC employees involved in contracting activities; and a review of contract files for evidence of controls. Audit steps included:

- conducting interviews with selected individuals from the Corporate Services Branch
- reviewing contracting and procurement processes, policies, standards, and newly implemented procedures
- testing a sample of contract files for evidence of proper documentation
- reviewing supporting documentation, trend analysis and analytical reviews in regards to contracting activities
- assessing the adequacy of processes and internal controls in place

One hundred and ten contract files, amounting to \$6.4 million and that had been issued during the period of examination (between September 1, 2010 and August 31, 2011), were judgmentally selected for examination based on the risk analysis. This selection represented 9% of total contracts (1,235 contract files) and 26% of the total contract value (\$24.7 million in goods and services) for the same period. The selected sample comprised 29 competitive and 81 non-competitive contract files.

Contracts files were assessed against the following criteria:

- sole-source justification for non-competitive contracts (33 contracts)
- justification for contract amendments (26 contracts)
- evidence that contracts had not been split (37 contracts)
- controls when contracting with former public servants (5 files)
- controls to prevent employer-employee relationships (6 files)
- appropriate approvals/authorities under section 34 of the FAA (25 files)

The audit was conducted in accordance with the *Internal Auditing Standards for the Government of Canada*. A practice inspection has not been conducted.

1.6. Statement of assurance

To support the accuracy of this report's findings and conclusions, as well as to provide an audit level of assurance, audit procedures were conducted and sufficient and appropriate evidence was gathered. The findings and conclusions are based on a comparison of conditions, as they existed at the time of the audit, against pre-established audit criteria that were agreed on with management. The findings and conclusion apply only to the entity examined, and are valid for the scope and time period covered by the audit.

2. Findings and Recommendations

Management controls are in place and continue to be effective in ensuring compliance with the CNSC contracting policies, guidelines and procedures.

Treasury Board policies and regulations require the CNSC to have appropriate safeguard mechanisms in conducting procurement activities. These mechanisms ensure that management controls deemed important are in place and function effectively. Our risk assessment of contracting processes revealed several potential risks related to the contracting processes, specifically in the planning and the administration of contracting activities.

Further to this risk assessment, the following contracting processes and controls were examined:

- Contracts comply with CNSC and *Treasury Board Contracting Policy* requirements, specifically those related to employer-employee relationships, contract splitting, use of former public servants and fairness in vendor selection.
- Evidence of sole-source justification for non-competitive contracts exists, and financial thresholds have been respected.
- Contract amendments are justified and documented.
- Under a contractual arrangement, the work to be done and the timeframe are clearly described in the statement of work or the description of requirements.

2.1. Contracting and procurement planning

Audit criterion: Contracting and procurement planning for non-competitive contracts

The purpose of this criterion is to ensure that all elements of the contractual process (from initiation of the requirement to contract payment) are completely and properly documented in the procurement files. This entails that all decisions made during the procurement process are well documented, and the rationale for using non-competitive processes is justified.

Findings:

The *Treasury Board Contracting Policy* and the *Government Contracts Regulations* require bidding and selection processes to follow competitive approaches. However, the Treasury Board's policy allows exceptions, where the competitive process to solicit bids may be set aside. These include:

- a pressing urgency in the public interest

- an estimated expenditure that does not exceed \$25,000
- work of a nature such that it would not be in the public interest to solicit bids
- a contract that can only be capably performed by one specific person or firm

The *Treasury Board Contracting Policy* also requires the contract file to include a full justification for not soliciting through a competitive process, in order to qualify for such an exception.

Under the requisition process, CNSC managers who request contracts must provide a contract request form. This form includes a requirement to provide detailed documentation of the rationale for sole-source non-competitive contracts valued at less than \$25,000. It also has a checklist of questions for non-competitive contracts valued above \$25,000.

The audit examined 33 non-competitive contract files under \$25,000 for which an exception to the *Treasury Board Contracting Policy* was invoked. It was noted that 6 of the 33 non-competitive contracts examined did not have adequate documentation in the contract files to justify a non-competitive approach. Documented rationale either stated that the contractor was “unique” or that the contract was “of low dollar value”, but not provide further justification. The audit also noted that 4 of the 33 did not have the requestor’s requirements (contract request form or email) in the contract file.

In summary, there was a lack of consistent documentary evidence on file for 6 of 33 (18%) non-competitive files tested.

Recommendation 1:

The Director of CAD should ensure that appropriate documentation and justification are provided when choosing a sole-source (non-competitive) procurement strategy, and that evidence of this is retained in the contract file.

Management response and action plan:

Contract Management Services (CMS) has been taking a more active role since the period covered by this audit. CMS has since challenged several managers on their procurement strategy because of concerns expressed by the Contract Review Committee. Contracting officers are now expected to discuss several issues with managers who request contracts, including justification of their selected procurement strategy. Those elements of discussion/justification will be retained in the contract file.

2.2. Contract administration

Audit criterion: Contract administration

Contract administration activities are conducted to ensure compliance with

applicable government policy and regulations, as well as to ensure that contracts are executed according to their terms and conditions.

During the planning phase of this audit, the risk of not complying with Treasury Board and CNSC contracting policies was identified in service contracts. The testing of the adequacy of controls focused on the following contract risk areas: a) employer-employee relationship; b) contract with former public servants; c) contract amendments; d) contract splitting; e) fairness in vendor selection; f) evidence of compliance with section 34 of the FAA; and g) vendor/supplier verification.

Findings:

a) Employer-employee relationship

Section 4.1.9 (b) of the *Treasury Board Contracting Policy* states that, with respect to contracting for services, contracting authorities must “ensure that an employer-employee relationship will not result when contracting for the services of individuals in accordance with criteria established by the Canada Customs and Revenue Agency and pertinent court rulings”.

A contract for services may – over a period of time – lead to a work situation that may constitute an employment arrangement and an “employer-employee relationship”, according to both the *Public Service Employment Act* and common law.

Indicators of an employer-employee relationship include: payment of employee benefits to the contractor, reimbursement to a contractor for tools and equipment, and no authority for the contractor to subcontract or hire other persons.

CNSC contracting and purchasing guidelines provide clear direction that contracts cannot be used as a means to hire additional staff. These guidelines also highlight the risk of creating an employee-employer relationship.

The CNSC’s risk management framework for procurement and contracting identified potential employer-employee relationships (between the CNSC and contractors) as a low-risk area. Key controls against such relationships include standard contractor clauses for all service agreements, as well as contracting officers’ reviews of service contracts with small businesses (specifically, for instances of work arrangements that may constitute an employer-employee relationship). Finally, CAD recently created a checklist to assess the risks of employer-employee relationships, which is to be completed by contract officers and included in the contract file.

Interviews with CAD management and officers validated the conclusion that adequate controls are in place to mitigate the risk of creating employer-employee relationships. Managers are provided training on criteria governing an employer-employee relationship through the CNSC’s “Management Fundamentals” training module on contracting activities. CAD also follows the criteria established by the Canada Customs and Revenue Agency and pertinent court rulings. These requirements are included in the CNSC’s operating procedures and guidelines

for contracting and purchasing.

The audit team also tested a sample of 6 contract files taken from an identified selection of 17 temporary-help service contracts. These 6 contracts were examined to assess if the CNSC has contracted for services that could create a risk of a potential employer-employee relationship. The auditors searched the terms of the contracts for conditions that may have been seen as an employer-employee relationship (i.e., financial terms, duration, nature and statement of work).

Based on the service contract files examined and interviews conducted, the audit found that the CNSC has effective controls in place to safeguard against creating an employer-employee relationship.

b) Contracts with former public servants

Contracting with former public service servants is considered a risk area that requires appropriate safeguards and procedures to ensure that contracting rules are respected.

Due diligence is to be exercised, to ensure that there is not a public perception of bias in contracting with these individuals.

The *Treasury Board Contracting Policy* outlines rules for contracting with former public servants. The policy requires Treasury Board approval of competitive contracts greater than \$100,000 and non-competitive contracts greater than \$25,000.

Interviews with contracting officers and managers revealed that CAD follows the Treasury Board's policy on contracting with former public servants. Key elements of control include the use of a standard clause that contractors must follow to certify compliance with Treasury Board policies, and an independent review of all contracts with former public servants by the Ethics Officer. For all files, the CNSC's CAD must also complete a checklist of requirements.

We observed that the application of this Treasury Board policy, as an operating procedure, is well documented in the CNSC's contracting and purchasing guidelines.

Lastly, the audit examined 5 of 26 contracts entered into with former public servants during the period of examination. We spoke with the Ethics Officer about her consultations with contracting officers, and noted that evidence of these consultations was not consistently documented in each file.

However, it appears that when the CNSC contracts the services of former public servants, that its policy requirements are effective, understood and being followed.

c) Contract amendments

The *Treasury Board Contracting Policy* states that contracts should be properly administered to avoid unanticipated amendments, except to change the scope of the work. In this regard, the policy dictates that every effort should be made to ensure adequate initial funding and planning, so as to avoid the need for amendments to change the design, specifications or quantity of deliverables. Furthermore, this policy states that, although the *Treasury Board Contracts Directive* allows for amendments, contracts should not be amended unless such amendments are in the best interest of the government.

The processes of the CNSC's Contract Management Services (CMS) clearly state that contract amendments should be justified and defensible in the context of the applicable CNSC and Treasury Board contracting policies. Approval of the Chief, CMS, is also required for any contract amendment that exceeds more than 50% of the original contract value.

During the risk assessment phase for this audit, the contract amendment processes were considered to be one of the highest risk areas for audit considerations. The auditors examined whether amendments were fully justified by the appropriate authority, and properly documented in the contract file. The Finance and Administration Directorate is also required to proactively disclose all contracts with amendments greater than \$10,000 on the CNSC Web site. These are reported quarterly and presented to the Contract Review Committee and to the CNSC president.

The audit also examined a sample of 26 contract files with amendments, representing 7% of 427 amendments processed during the period of examination. These amendments were categorized as financial amendments and administrative amendments. Administrative amendments affect changes in deliverables (e.g., timeline extension), and financial amendments change the dollar value of an existing contract.

The audit results are as follows:

- **Lack of sufficient justification:** It was found that 5 of the 26 files (19%) representing contract amendments did not have adequately documented rationale to justify an amendment.
- **Exceeding general guideline for 50%:** It was found that 5 of the 26 (19%) amendments did not meet the practice of limiting the amendment's value to no more than 50% of the original contract value. It was observed, however, that financial authorities were followed, and that senior management exercised proper authority where amendments exceeded project authorities.
- **Amendment changed contracting category:** The audit also found that 6 of the 26 (23%) amendments changed the original contract category from less than \$25,000 to a contract greater than \$25,000. Although the CNSC's guidelines on the delegation of financial and contracting authorities allow for amendments up to \$10,000 for non-competitive contracts, contracts with such amendments could be perceived as

contracts issued to avoid competitive processes. The audit did not find any evidence indicating that the examined contracts avoided the competitive process.

In summary, there was a lack of documentation consistently included in all contract files.

Recommendation 2:

The Director of CAD should:

- raise awareness among program managers of the importance of carefully planning and documenting procurement strategies, and the justification for contracts and amendments
- closely monitor amendments made to contracts to ensure they are fully justified and properly documented by requesters and that they meet requirements of the *Treasury Board Contracting Policy*

Management response and action plan:

Procurement planning is part of the “Management Fundamentals” training program. The issue is also constantly raised and discussed with management across the CNSC via various forums, ad hoc presentations to management and branch/divisional team meetings. The CMS team will continue to promote and increase awareness throughout the organization, to improve the CNSC’s overall procurement and contracting regime.

Since the risk management framework for contracting was introduced in May 2011, amendments have been closely monitored by CMS. CMS has also developed a “request for amendment” form, which asks managers to provide a justification/rationale. Beyond these improvements, we will modify our process to ensure that amendments are fully justified and properly documented, by implementing the following review structure:

- 1) The Chief, CMS, will review all amendments that increase the original value of a contract by 25% or more.
- 2) The Director of CAD will review all amendments that increase the original value of a contract by 50% or more.

d) Contract splitting

The *Treasury Board Contracting Policy* states that “contracting authorities must not split contracts or create contract amendments in order to avoid obtaining either the approval required by statute, the *Treasury Board Contracts Directive* or appropriate management approval within the department or agency.”

According to CAD’s contracting and purchasing guidelines, it is strictly forbidden to split a requirement in two or more parts in order to circumvent contracting procedures.

During the risk assessment phase, contract splitting was considered a risk area

that requires appropriate oversight.

Interviews with contracting officers and managers revealed that CAD follows contracting and purchasing guidelines requirements on contract splitting. Moreover, both the Contract Review Committee (CRC) and CAD performed oversight of contracting activities, including quarterly reporting on contracts and contract amendments.

The audit also examined contract files where there were recurring vendors. Excluding standing offers for good and services through Public Works and Government Services Canada (PWGSC), this represented approximately 350 contracts, of which 10% were sampled for review of recurring contracts and risk of contract splitting. Our examination of 37 files revealed no evidence of contract splitting.

Based on interviews with CAD representatives, the review of the policy, contracting and purchasing guidelines, and the sample files examined, the audit found no evidence of contract splitting.

e) Fairness in vendor selection (favouritism)

The *Treasury Board Contracting Policy* is fundamentally based on enhancing access, competition and fairness when contracting and on delivering best value to the Government of Canada. The section addressing consulting and professional services states: "Repeat commissioning of a firm or individual without competition should not become a practice, even if the value of the contract is under the mandatory threshold for the calling of bids."

In order to assess this criterion, the audit selected expense categories (such as language training, printing services, computer equipments, management consulting and office furniture), which captured different types of expenditures in relation to 1,235 contracting files. These files were assessed for any possible favouritism that resulted from contracting activities.

Our analysis revealed that the majority of the contracts related to printing services, language training, management consulting, computer equipment, computer parts and office furniture were awarded using mandatory PWGSC procurement vehicles under competitive bidding (i.e., PWGSC standing offers and supply arrangements). The use of vendors under these procurement vehicles follows PWGSC requirements.

However, in the case of language training services, the audit analyzed contracts issued for language training expenditures during the audit period and determined that 86% of the contracts had been awarded to three vendors. The first vendor had been awarded 35% of contracts, the second vendor 25% of the contracts and the third vendor 26% of the contracts for language training. It should be noted that the CRC had also expressed concerns that approximately 75% of the language training contracts are shared between three suppliers. The CRC has recommended implementing a competitive process for the award of one or more standing offers related to language training. Until the CNSC has completed this competitive process, the CNSC has recommended that no single supplier receive

contracts representing more than 25% of the total value.

Recommendation 3:

The Director of CAD should:

- strengthen monitoring and oversight of vendor selection
- ensure that non-competitive (sole-source) contract files adequately document the vendor selection process used

Management response and action plan:

Similar to the response to recommendation 1, Contract Management Services (CMS) has taken a more active role since the period covered by this audit. CMS now verifies the history of contracts issued to the proposed vendor. The CRC has also reviewed contract activity on a vendor-by-vendor basis for the past year. Under new contracting rules, files must include a vendor selection justification for requirements over \$10,000. They must also comply with the Treasury Board Secretariat's *Contracting Notice 2007-04* (seven questions to be completed and kept on file) for sole-source contracts over \$25,000. To reflect this, CAD is in the process of updating its contract request form, where managers must provide justification for vendor selection regardless of value. This ensures the justification will be adequately documented.

f) Contracts payments are made in accordance with terms and conditions of the contract and section 34 of the *Financial Administration Act*

Pursuant to section 34 of the *Financial Administration Act* (FAA) and the Treasury Board *Policy on Delegation of Authorities*, signing authorities are delegated to the CNSC and various levels of management, enabling them to administer and manage expenditures (contracts) under their jurisdiction.

The administration of section 34 of the FAA was appropriately documented in the CNSC *Delegation of Financial and Contracting Signing Authorities*.

We observed that the CNSC's "Management Fundamentals" training program is available and offered to managers who have obtained delegations of authority and cover procurement, contracting and finance authorities.

We also examined 25 of our total 110 competitive/non-competitive contract files for evidence of original invoices and proper section 34 requirements (signature and evidence that the invoices were approved in accordance with contract terms and conditions).

We observed that contract files and invoices contained proper financial coding, including the commitment number and contract number associated to the responsibility centre where the expenditures were initiated. We also observed that invoices had evidence of approval by proper authorities. Lastly, we observed that specimen signature documents were properly completed, updated and signed by the manager having the delegated authority

In summary, we found the CNSC's practices on administering and exercising

delegated authorities under section 34 of the FAA were compliant with the applicable legislation, policies and directives.

g) Vendor/supplier verification

Section 34 of the FAA requires responsibility centre managers with delegated authority to complete a verification and certification that the goods and services supplied by vendors meet contract terms and conditions and performance requirements, before finance processes an invoice for payment.

For this criterion, the audit team – with the assistance of the CAD staff – selected five suppliers, in order to verify the completeness and validity of transactions associated with the performance of the respective contracts. The audit involved a gap analysis that examined CNSC records and compared them with those of vendors. The analysis of vendor records included invoices and time sheets issued by vendors and validated by the CNSC managers.

The analysis also included a review of the accounting records of vendors in relation to the selected contracts. To that end, the audit concluded that the documentation provided by the vendors supports the performance, contract terms and financial or payment terms of the selected contracts. The files selected also revealed that the invoices had been properly authorized by CNSC managers, and that validation was conducted by CNSC finance officers before payment was made.

Overall the audit found no evidence of lack of certification pursuant to section 34 of the FAA.

3. Conclusion

The audit found that the *Treasury Board Contracting Policy* requirements in relation to contract administration are being complied with, with respect to employer-employee relationships, former public servants, contract splitting, and the provisions found in section 34 of the *Financial Administration Act*. However, the audit also found that the application of the contracting process by all stakeholders (the Contracting and Administration Division, CNSC managers) needs to be strengthened overall. Specific areas to be improved are contract amendments, vendor selection, and the documentation of justification and substantiation for non-competitive contracts.

Appendix A – Detailed Audit Criteria

Line of enquiry: Contracting and procurement verification is performed to ensure contracts can withstand the scrutiny of the public and comply with <i>Treasury Board Contracting Policy</i> and the <i>CNSC Contracting Policy</i> .	
Audit criterion	Audit sub-criterion
2.1 Contracting and procurement planning for non-competitive/competitive contracts	<p>Rationale for use of non-competitive processes is justified and well documented.</p> <p>Contracting follows competitive bidding processes.</p>
2.2 Contract administration – Contract administration activities are conducted to ensure that they comply with applicable government policy and regulations	<p>Employer-employee relationship: Evidence of guidelines, training and tools to mitigate the risk.</p>
	<p>Contracting with former public servants: Independent review of all contracts with former public servants by the Office of Values and Ethics. Use of checklist of requirements and controls that must be completed by the Contracting and Administration Division (CAD) for all files.</p>
	<p>Contract amendments: Controls examined included whether amendments were fully justified by the appropriate authority and properly documented in the contract file.</p>
	<p>Contract splitting: CAD follows CNSC contracting and purchasing guidelines requirements on contract splitting. The Contract Review Committee (CRC) and CAD performed oversight of contracting activities, including quarterly reporting on contracts and contract amendments.</p>
	<p>Fairness in vendor selection (favouritism): CAD and the CRC conduct ongoing oversight of vendors and recurring contracts.</p>
	Contract payments are made in

Line of enquiry: Contracting and procurement verification is performed to ensure contracts can withstand the scrutiny of the public and comply with <i>Treasury Board Contracting Policy</i> and the <i>CNSC Contracting Policy</i> .	
Audit criterion	Audit sub-criterion
	<p>accordance with section 34 of the <i>Financial Administration Act (FAA)</i>: Section 34 of the FAA was appropriately documented on the CNSC delegation of financial and contracting signing authorities. Invoices had evidence of approval by proper authorities. Specimen signature documents were properly completed.</p> <p>Vendor/supplier verification: Documentation provided by the vendors supports the performance, contract terms and financial or payment terms of the selected contracts. Invoices are properly authorized by CNSC managers, and validation was conducted by CNSC finance officers before payment was made.</p>

Appendix B – Overview of Audit Recommendations and Management Action Plans

Recommendation 1: The Director of the Contracting and Administration Division (CAD) should ensure that appropriate documentation and justification are provided when choosing a sole-source (non-competitive) procurement strategy, and that evidence of this is retained in the contract file.		
Unit responsible	Management response	Timeline
CAD	Contract Management Services (CMS) has been taking a more active role since the period covered by this audit. CMS staff have since challenged several managers on their procurement strategies because of concerns expressed at the Contract Review Committee. Contracting officers are now expected to discuss a number of issues with the managers, including justification for the selected procurement strategy. Those elements of discussion/justification will be retained in the contract file.	

Recommendation 2: The Director of CAD should: <ul style="list-style-type: none"> • raise awareness among program managers of the importance of carefully planning and documenting procurement strategies, and the justification for contracts and amendments • closely monitor amendments made to contracts to ensure they are fully justified and properly documented by requesters and that they meet requirements of the <i>Treasury Board Contracting Policy</i> 		
Unit responsible	Management response	Timeline
CAD	<p>Procurement planning is part of the “Management Fundamentals” training program. The issue is also raised regularly and discussed with management across the CNSC via various forums, ad-hoc presentations to management and at branch/divisional team meetings. The CMS team will continue to promote and increase awareness throughout the organization, to improve the CNSC’s overall procurement and contracting regime.</p> <p>Further to the introduction of the risk management framework for contracting in May 2011, amendments are closely monitored by CMS. CMS has also developed a request for amendment form, which asks managers to provide justification/rationale for contract amendments. Beyond those improvements, we will modify our process to ensure that amendments are fully justified and properly documented, by implementing the following review structure:</p> <p>1) The Chief, CMS, will review all amendments that increase the original value of a contract by 25% or more.</p>	

	<p>2) The Director of CAD will review all amendments that increase the original value of a contract by 50% or more.</p>	
<p>Recommendation 3: The Director of CAD should:</p> <ul style="list-style-type: none"> • strengthen the monitoring and oversight of vendor selection • ensure that non-competitive (sole-source) contract files adequately document the vendor selection process used 		
Unit responsible	Management response	Timeline
CAD	<p>Similar to the response for recommendation 1, CMS has been taking a more active role since the period covered by this audit. CMS now verifies the history of contracts issued to the proposed vendor. The Contract Review Committee has been examining contract activity on a vendor-by-vendor basis for the past year. Under the new contracting rules, files must include a vendor selection justification for requirements over \$10,000 and comply with TBS <i>Contracting Notice 2007-04</i> (seven questions to be completed and kept on file) for sole-source contracts over \$25,000. To reflect this, CAD is in the process of updating the contract request form, where managers must provide justification for vendor selection regardless of value. This will ensure the justification is adequately documented.</p>	

Appendix C – Glossary of Terms

competitive contract

A contract where the process used for the solicitation of bids enhances access, competition and fairness, and assures that a reasonable and representative number of suppliers are given an opportunity to bid.

non-competitive contract

Any contract for which bids were not solicited or, if bids were solicited, for which the conditions of a competitive contract were not met.

contract

An agreement between a contracting authority and a person (or firm) to provide a good, perform a service, construct a work, or to lease real property for appropriate consideration.

contract amendment

An agreed-upon addition to, deletion from, correction or modification of a contract.

contract splitting

The practice of unnecessarily dividing an aggregate requirement into two or more smaller contracts, thereby avoiding or circumventing controls on the duration of assignments or contract approval authorities.

former public servant

Any former member of a department as defined in the *Financial Administration Act*, a former member of the Canadian Forces or a former member of the Royal Canadian Mounted Police.

employer-employee relationship

An employment arrangement, between a service-requesting party and a service provider who have entered into a contract, which resembles the typical relationship between an employer and an employee. Such a relationship should not be created when contracting for the services of individuals, based on criteria established by the Canada Revenue Agency and pertinent court rulings. If such a relationship is created, the contracting department may be found liable for claims to pension and other benefits.

standing offer

An offer from a potential supplier to supply goods, services or both, on a stated pricing basis and under defined terms and conditions.