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Chair

The Honourable Diane Marleau

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• (0905)

[English]

The Chair (Hon. Diane Marleau (Sudbury, Lib.)): Seeing that we have quorum, I'm going to call the meeting to order.

As the members know, we have before us today the Procurement Ombudsman, Mr. Minto, from the Office of the Procurement Ombudsman. With him is his assistant, Oriana Trombetti.

Mr. Minto has been before committees previously. He knows the procedure very well. As a matter of fact, I've met him before.

We'll give you 10 minutes, whatever time you'd like, to make a presentation, and then we'll open it to questions.

[Translation]

Mr. Shahid Minto (Procurement Ombudsman, Office of the Procurement Ombudsman): Thank you, Madam.

Good morning, everyone.

[English]

Members of the committee, thank you for inviting me here today.

I welcome the opportunity to discuss the mandate and activities of the Office of the Procurement Ombudsman. My colleagues and I are grateful for the confidence shown in us and look forward to the challenges and opportunities that lie ahead.

As you've introduced, this is my colleague, the deputy ombudsman, Oriana Trombetti. Ms. Trombetti is a member of the bar of Ontario and has been working with the federal government for several years, primarily with the Department of Justice, in positions of increasing responsibility. Prior to joining our office she occupied the position of general counsel and associate head of Transport Canada's legal services.

Madam, perhaps the best way to start is by telling you a little bit about myself. I am a chartered accountant and a certified fraud examiner. I have a master's degree in political science and a professional degree in law. I worked for 28 years at the Office of the Auditor General of Canada, including 14 years as assistant auditor general. During that time I had the privilege of working with and learning from four auditors general, including the current Auditor General, Sheila Fraser. I was involved in the audits of some 25 government departments, agencies, and crown corporations, and in the preparation of more than 100 reports, many of them related to government procurement.

In July 2005 I accepted an executive interchange assignment with Public Works and Government Services Canada to set up the risk

management function. As chief risk officer, I was a member of the executive committee and reported directly to the deputy minister. I was not involved in day-to-day operations, but I managed the department's risk management, ethics, fraud investigations, and internal disclosure programs until September 2007.

After competing in a nationally advertised selection process, I was appointed Procurement Ombudsman designate last September. On May 5 of this year, following the coming into force of the Procurement Ombudsman regulations, I was appointed the Procurement Ombudsman by an order in council.

As you know, the Federal Accountability Act envisaged the appointment of a Procurement Ombudsman who would operate at arm's length from government departments to promote fairness, openness, and transparency in federal procurement processes. The office's mandate, as spelled out in the act, is fourfold.

First is to conduct reviews of the procurement practices of departments and agencies and develop recommendations designed to strengthen the fairness, openness, and transparency of government procurement. We intend to do some benchmarking and to identify and report on procurement best practices and success stories. This is the proactive part of our mandate.

Second is to respond to complaints from Canadian suppliers related to contract award and contract administration. For complaints regarding the award of contracts, our mandate is limited to contracts worth up to \$25,000 for goods and up to \$100,000 for services. There are no dollar-value restrictions on our ability to address complaints about contract administration.

The office is also required to establish an alternative dispute resolution process. This should enable the government and suppliers to avoid costly litigation when disputes arise.

Finally, the Governor in Council or the Minister of Public Works and Government Services may direct the office to perform any other duties or functions related to the procurement practices of government departments.

The mandate provided for in the act is further articulated in the regulations. While our mandate covers the vast majority of departments, under section 3 we are precluded from conducting procurement practice reviews or investigating complaints regarding contract awards or contract administration in respect of the Canadian Security Intelligence Service or staff of the Senate and House of Commons.

Under section 2, the Procurement Ombudsman does not have the authority to review complaints or offer an alternative dispute resolution process for problems that arose prior to May 1, 2008, the day the regulations came into force.

And since our mandate is linked to the agreement on internal trade, we have no authority to deal with certain complaints about contract awards relating to specific types of contracts or entities excluded from the agreement.

During consultations on the development of the regulations, we were advised by government officials that our mandate does not extend to the procurement of accommodations through leasing, lease-purchase, or outright purchase. Since then we have become aware that the CITT, the Canadian International Trade Tribunal, is examining whether its jurisdiction extends to leasing. This determination will obviously have an impact on our mandate. We are also seeking independent legal advice on this issue.

The Procurement Ombudsman does not have the mandate to overturn or change any government decision. However, we can and we will make recommendations. In my view, this is not a weakness, but a source of strength. We will succeed only if we can convince our stakeholders that we are neither lobbyists for suppliers nor apologists for the government.

Ultimately, this means we have to gain the confidence and trust of both the supplier community and public servants involved in the procurement process. To do that, we need to be seen as independent, neutral, professional, knowledgeable, and a helpful office that responds quickly to supplier complaints and makes practical, doable, and affordable recommendations designed to strengthen the procurement practices of government departments.

Since my appointment last September, my colleagues and I have been working to create such an organization. I am pleased to report that we are now ready to carry out the full extent of our mandate. We have assembled a strong, multidisciplinary team with expertise in procurement, investigations, review, and communications. We have developed standards, practices, methodologies, criteria, benchmarks, and performance measures to ensure that our work is done with due care and rigour and will stand the test of public scrutiny.

We also intend to post the result of our work on our website so that suppliers and the procurement community can benefit from lessons learned.

My colleagues and I have also developed a business model and technology-based links that will enable full and easy access to our services by suppliers. Particular attention has been paid to ensure accessibility by small and medium-sized enterprises.

Government procurement rules are complex, and suppliers, especially small and medium-type enterprises, frequently do not know who to contact or how to proceed when a problem arises. They may not understand procurement and contracting jargon. In the worst case, they may not believe the explanation they receive from a department or agency due to a lack of trust. They may also be concerned that lodging a complaint will hurt their business down the road. These are issues that can and should be addressed through a proper complaint-handling process. Our philosophy is that suppliers have a right to complain when they believe something has not been

done properly, and their complaint should be fully and independently investigated. Good complaint handling can transform and improve the procurement process, making it more transparent to Canadians.

Our intent is to create a strong quality assurance function to ensure that investigative and practice review reports and recommendations are based on sound factual evidence and meet the highest professional standards. Through these and other actions we hope to be seen as an independent, neutral, professional organization that will carry out full and impartial investigations.

To help lay the groundwork for good relations and gain the trust of stakeholders, we have met with about 25 deputy ministers to date, as well as with several representatives of the supplier community. We have also met with ombudsmen from the federal and other levels of government to learn about their operations and best practices. It is important that duplication and overlap with other procurement oversight bodies be avoided. To that end, we have held a number of meetings with officials of the Treasury Board Secretariat and the Office of the Auditor General, and we have consulted with the Canadian International Trade Tribunal. In addition to confirming that our roles and mandates are distinct but complementary, these meetings have enabled us to establish a solid basis for future business relationships with these organizations.

There is one last issue we would like to touch upon today, and it is a key one. How do we ensure that the Office of the Procurement Ombudsman operates, and is seen to operate, in an independent manner and at arm's length from the government?

The government has already taken a number of steps to ensure the independence and viability of the office. As mentioned earlier, I was selected through a nationally advertised competitive process, and the appointment was made through an order in council. In addition, reasonable start-up and operational budgets have been provided. The Federal Accountability Act stipulates that the ombudsman will submit an annual report to the Minister of Public Works and Government Services, who in turn is required to table our report in Parliament within 15 days.

As required by the act and regulations, upon finalization, we will provide copies of our reports relating to procurement practice reviews and complaint investigations to the Minister of Public Works, as well as to the ministers of the relevant departments. However, we are not an officer of Parliament and we were not set up as a separate entity under the Financial Administration Act.

The Office of the Procurement Ombudsman receives its funding through a Public Works appropriation. As a result, the Deputy Minister of Public Works has accountabilities for the management of public funds, property, and human resources, and his role as chief accounting officer extends to the office. To ensure the independence needed by the office to carry out its operations, a memorandum of understanding has been signed by me and the Deputy Minister of Public Works and Government Services. This MOU clearly identifies and respects our distinct roles and responsibilities.

• (0910)

We have also taken additional steps to ensure our independence. For example, following discussions with the Department of Justice, we have made arrangements to acquire our own legal advice. We prepare and issue our own communication packages without pre-clearance from the government. We are also responsible for all our internal audits and our own risk management. All services provided to us under the terms of the MOU with Public Works will be at our request and will be on a fee basis.

Madam Chair, members of the committee, as you can see, this is a unique situation. While we have a great deal of flexibility on administrative matters and complete independence on program issues, we are a part of the executive branch. However, we are confident the provisions of the Federal Accountability Act and the procurement ombudsman regulations, supplemented by the MOU and the other measures I mentioned, will allow us the required independence while respecting other realities.

In closing, I'm greatly encouraged by the support we have received from the supplier community and by the fact that senior government officials, including those of Public Works, Justice, the Treasury Board Secretariat, and PCO, have demonstrated a lot of goodwill in providing strong support for the setting up of the office.

The task before us is challenging but not impossible. The Government of Canada, after all, does spend several billion dollars annually on goods and services and enters into approximately 400,000 contractual arrangements each year. My colleagues and I feel truly honoured and privileged to be part of this ongoing effort to help strengthen the confidence of Canadians in the fairness, openness, and transparency of government procurement.

We would welcome any questions the committee might have at this time. However, I should advise that our mandate is to implement the sections of the Federal Accountability Act and related regulations. We do not have a policy-making role. Therefore, we may not be able to answer questions about policy, about the development of the Federal Accountability Act, or the procurement ombudsman regulations. Aside from commenting on the operational aspects of the regulations, our office was not involved in any policy discussions, and consequently we cannot speak to them.

Thank you very much.

• (0915)

The Chair: Thank you, Mr. Minto.

We'll go to Mr. Holland.

Mr. Mark Holland (Ajax—Pickering, Lib.): Thank you very much, Madam Chair, and thank you very much, Mr. Minto, for appearing before us today. Congratulations on the work you've done so far.

I do think the work your office is undertaking is extremely important, but I do have some concerns. We know there are a number of companies that have dealings with the federal government that have concerns about procurement. Some of those have been shown to be quite valid. We know we have a lot of small and medium-sized businesses that are finding it very difficult to access the federal government and participate in the procurement process.

They feel they're being left out. That comes to the point you identified towards the end of your presentation as being key, which is on the independence of your office. Certainly, I would have liked to see your position being one of an officer of Parliament, but unfortunately that's not the way it was set up.

My concern is that you're going to be operating under the minister. I understand there's a memorandum of understanding, but given the fact that you're under the minister and you're within Public Works, how do we get around the fact that a lot of people who have procurement concerns are going to look at this and say that the person they'd go to with complaints is in the same department they have concerns about? In other words, you're under the same minister as the department they're complaining about. How do we get around that? How can you assure people your independence will be in place?

Mr. Shahid Minto: Madam Chair, it's a question we've been obsessed with from day one, ever since September 10, when I was appointed. Our first task was to ask, how do we have not just the optics of being independent, but also be truly independent? If we are going to gain the trust of suppliers, they have to see us as being independent and we have to act in a manner that's independent.

Let me just correct one small thing. I do not report to the Deputy Minister of Public Works; I report to the Minister of Public Works and the deputy reports to the Minister of Public Works. And the Minister of Public Works has a unique responsibility in our system for the procurement of all goods and services across the government.

Now, the reality of life is that the money we receive does come through a Public Works appropriation—\$5 million is about what we receive. Public Works does over \$2.2 billion in appropriations. For practical purposes, it really did not make sense for us to have a totally separate vote on an appropriation. It didn't make sense for me to set up and use money for administrative purposes, to have a payroll section and an accounts payable section. I can use the services of Public Works, but we will use them at our request, at our discretion, and we will pay for each one of those services. So the administrative side is an issue. So the administrative side is an issue.

The second thing you have to remember as far as resources are concerned is that if you want to influence or control anybody's work, practically speaking, you have to control their resources. If you can control the resources and the budgets, you can do that.

The money we have received is in a special arrangement with Treasury Board. The Department of Public Works cannot access our funds; they cannot reduce our funds. We can't, and will never, go to the Department of Public Works to ask for money. If we need more money, we will go to Treasury Board. So there is a third party looking at the resources.

The MOU we signed with the Deputy Minister of Public Works states very clearly that it is the intention of the Federal Accountability Act that we operate at arm's length. It respects all of those things.

The critical things on which we wanted to have independence included the legal function, as we wanted to get our own legal advice. We did not want to go to the same people who were giving legal advice to the department on procurement.

We clearly wanted to have our own communications function. It may just so happen at some stage that one of our reports, or something, may be critical of the government. So we could not be in a situation where that report had to be pre-cleared by the government. We have made those arrangements.

And we'll do our own auditing.

So we have a great deal of flexibility on both the program side and....

Now, as far as reporting to the minister is concerned, let me just clarify that. The law states very clearly that there are points on which we have to interact with the minister. One, we have to give him our annual report. Then within 15 days he tables my report in Parliament. It's not his, with due respect to the minister.

The second issue here is that when we finish our complaint review and the report is finalized, we will send him a copy and we will send a copy to any other minister who is concerned. That's how it works. Similarly, if we do a practice review, when it's finished we will give a copy.

On a day-to-day basis, there is no interaction with the minister. We are fully and completely accountable in deciding what to do, where to do it, when to do it, and how to report it.

So I think that in the totality of things, given the reality that we are not an officer of Parliament, given the reality that we weren't set up as a separate organization under the Financial Administration Act, this is perhaps the best we could do.

● (0920)

Mr. Mark Holland: I appreciate that, and I understand that you're going to have limitations, given how the office was created, and that you have to work as best you can within those limitations. I think it is unfortunate that it was set up the way it was, because I think you're constantly going to have to be fighting that. I appreciate the answer you gave; I think it's very sincere, but it's something you're going to have a continual effort at, because I've already heard this; people are concerned that if they have concerns about Public Works and procurement, they have to go an individual who works under the auspices of that same department.

The other concern I have, and to which I could maybe turn for a second, is the recent revelation that there are certain areas that are going to be left out of your mandate, CSIS for one and Parliament for another. I think this was a development of great concern for a number of us, because there doesn't seem to be a great deal of logic behind it. For example, with CSIS, we could apply the same logic to the Department of National Defence. Why, if there are secrecy concerns with respect to these contracts, wouldn't those be equally present within the Department of National Defence?

I'm wondering if you can speak to those exemptions. Were you aware of them before they were recently revealed to us? What are your feelings about those limitations on your office?

Mr. Shahid Minto: Let me start by saying that the reason the exceptions are there is really a policy issue and not an issue on which we were consulted. The exceptions are not contained in the Federal Accountability Act, as debated in Parliament, but in the regulations that were made later.

Mr. Mark Holland: Just stop for a second. So you were not consulted at all on them. Was this a surprise to you, when you found out recently that these exemptions—

Mr. Shahid Minto: The regulations were put out for public debate; they were published somewhere in the middle of December. We commented on them strictly from how we would operationalize the regulations. A separate interdepartmental committee was set up to look at the policy and legal aspects. So we were not asked, and it was not our business to comment on the policy aspects.

You mentioned the DND stuff. What we intend to do for DND is ensure...the people who were handling these transactions in DND are public servants also, and the way DND protects itself is making sure they have the appropriate security clearances and the training.

Mr. Mark Holland: I appreciate that you don't want to comment on the policy aspect. You were able to comment on it when there was this process, but you weren't advised in advance of this decision.

My concern is that if you're going to have independence from the government, if you're going to have the opportunity to fully exercise your duties, is this not a first example of how the government is placing restrictions on your ability to do your job? I can't make any sense of this. Isn't this an opportunity to say that if you're going to be an independent officer, you need to be able to have a full rein here to be able to look into areas of concern and to be able to examine all elements of procurement?

Mr. Shahid Minto: Madam Chair, I think we have to clarify one thing. Our job is to implement the mandate. The development of the mandate was done by Parliament and on a delegated authority basis by the government officials. We were not part of the process of the development of the regulations, and people who were in charge made a policy decision at that time that because we had to implement the mandate, they wanted to keep it separate.

● (0925)

Mr. Mark Holland: This is my point around exemptions. As opposition parties I think we were concerned with these exemptions. We're obviously going to have to try to push to get those exemptions changed. I understand that puts you in a difficult position. The concern I have around the office is that it places it in Public Works, and then we get restrictions like this. Important work needs to be done, but the walls are closing in on you and eliminating your ability to examine certain areas.

The Chair: Thank you, Mr. Holland.

Madame Bourgeois.

[Translation]

Ms. Diane Bourgeois (Terrebonne—Blainville, BQ): Thank you, Madam Chair.

Good morning, Mr. Minto. I am sorry that I am a bit late.

I read your CV and I noted with interest that you have occupied various positions, some of which were with the Auditor General. This is why I put my trust in you.

I would like to come back to some questions my colleague put to you, because I really want to understand your role. If I understood you correctly, your office was created pursuant to the Federal Accountability Act. You have not received a full mandate to audit all the procurements that come through Public Works.

Am I right?

[English]

Mr. Shahid Minto: Let me try to clarify two things.

We are not primarily set up as an audit office. We are not going to do audits. We reserve the right in some cases where things look really bad to either ask for an audit or even do one ourselves, but our mandate is to do procurement reviews, which are significantly different from the auditing mandate. The auditing mandate, of course, is with the Auditor General of Canada and with the internal audit departments. They have to provide assurance based on audit-based methodology. We will be using something slightly different.

Do we have the mandate to look at every contract? The mandate, you have to remember, is split into three or four sections. As far as practice reviews are concerned, where we think we will have the most value, where we think we will prevent problems from happening, we have a complete mandate to look at any transaction of any nature, any contract, any practice, in any department, except the ones that are specifically excluded.

[Translation]

Ms. Diane Bourgeois: Nevertheless, if I understand correctly, there is already a limit beyond which you cannot go. You were clearly told that you cannot review the procurement of accommodations through leasing, lease-purchase or outright purchase. This excludes two huge items right from the start.

Am I right?

• (0930)

[English]

Mr. Shahid Minto: The limits we have, and specifically the limit Mr. Holland was talking about, that CSIS is excluded and that Parliament is excluded.... When the Federal Accountability Act was passed, one section of the Federal Accountability Act allowed the government to develop regulations that could limit the departments we could go to.

The Federal Accountability Act that was discussed specifically had an amendment in it, under which they were allowed to define which departments we could go to and which we couldn't go to.

The second issue to remember is that the CITT already had amended where people could go with complaints on the larger contracts—anything over \$100,000 for services, anything over \$25,000 for goods. So our mandate was to fill the void that was there, fill a gap that was there that the CITT could not cover. The limitation on the dollars we can deal with are only for contract awards; they are not for complaints about contract administration. In

the proactive part of our mandate, where we will do practice reviews, there is no limitation except for the departments that are excluded.

I have to come back and say these are policy matters. Why were they there? Who thought of them? What was the discussion? We were not part of that, and I can't really comment on that aspect.

[Translation]

Ms. Diane Bourgeois: I do find this rather peculiar. You say that this is a political issue. Let me give you an example: \$122,000 for drafting the 2007 budget. Normally, had you been in that position, would you have had to review the awarding of this contract?

[English]

Mr. Shahid Minto: We would have looked at the awarding if there was no dollar limitation on us. We would have looked at the awarding of the contract if somebody had complained to us. It is not automatic that the ombudsman would look at every contract. We would look at contracts in response to complaints.

One part is when somebody says, "I didn't get this contract; These people got it and there was something going on". The second part is we would do this proactive review in all government departments. We may take a contract like that, or any other contract, and say, "It looks like there's a systemic problem here. If they can do something like this in one contract, you'd better go and see if it's because of a system problem, a lack of training, or if there is some interference somewhere." And then we would go back and look at the systems and processes for that department to see what went wrong. But it's over our dollar limit. Our dollar limit for services is \$100,000. This is \$122,000, so the complaint would go to CITT.

[Translation]

Ms. Diane Bourgeois: I find it difficult to understand the extent of your powers. I feel that I have before me—and I mean no offence—an ombudsman who has been told to deal only with small ordinary contracts and not with anything beyond a certain limit, because this category requires full powers. Besides, your budget comes from PWGSC.

On page 4 of your presentation, it says:

During consultations on the development of the regulations, we were advised by government officials that our mandate does not extend to the procurement of accommodations through leasing, lease-purchase or outright purchase.

This is important. Last year, we discussed lease assignments and leasing. These things are costly to taxpayers. We realize that the leasing will be more expensive for Treasury Board and for taxpayers than the cost of keeping our own buildings. Nonetheless, you do not have a mandate to look into that! This is really somewhat peculiar.

You say that you will try... In fact, on page 5 of your statement, it says, and I quote:

Ultimately, this means we have to gain the confidence and trust of both the supplier community and public servants involved in the procurement process.

This is not a joke! You have more or less power and you will try to gain their confidence. It might also be good to gain the confidence of parliamentarians.

I simply want a clear definition of your role. If your role is of no use, I want to hear it stated. If that is the case, perhaps the parliamentarians could eventually broaden your role.

• (0935)

[English]

Mr. Shahid Minto: Thank you, and thank you for raising this really very important question. It's a very important issue for our office, as to the limitations and extent of our mandate.

As a body that was created through an act of Parliament, let me say there are two kinds of ombudsmen. One, they are purely administrative appointments. They're appointed by either the minister or by a deputy minister through a policy declaration of that department. Second are the legislated ones.

My mandate is legislated, so it was discussed by Parliament. The regulations are made pursuant to the Federal Accountability Act, so it also has the same force as law. The mandate can't be changed readily, and it can't be interfered with once Parliament has approved it.

On the question of leases, when we had our discussions, and we were doing a consultation because we wanted to develop some systems and some processes of how we would deal with complaints relating to leases, we were told, and this is a really technical point, that the definition of procurement deals with the procurement of goods and services and construction contracts. Leases—the acquisition or procurement of accommodation through leases—were neither a good nor a service nor a construction contract, and therefore we had no jurisdiction over them. It was a technical definition.

Parts of our mandate mirror the mandate of the CITT. It's only recently that we have become aware that the same issue has gone to the CITT and they're considering the jurisdiction part. My understanding is that they will be providing a determination by about June 12, and we will follow that very closely because that will have an impact on us.

The Chair: *Merci beaucoup.*

Mr. Kramp.

Mr. Daryl Kramp (Prince Edward—Hastings, CPC): Thank you, Madam Chair.

Welcome to both Mr. Minto and Mr. Trombetti. I don't think there's a parliamentarian in the House who doesn't welcome the opportunity to have these services of your office made available.

On a number of occasions we are all subject to concerns from either companies and/or citizens who don't feel they've had an opportunity to adequately either have their concern registered and/or have their request evaluated. As an example, I'm right beside the air transport capital of Canada, Trenton, and with the amount of appropriations and disbursements that go out of there, both the regular maintenance as well as capitalization, I've heard a number of concerns echoed and raised by both small and large...

I'm well aware, of course, that in the past we've had an avenue through the trade tribunal for our larger ones, whereas a lot of our small or medium enterprises didn't have this facility and/or the

availability through which to echo their concerns, so I'm delighted to see this in place.

It is my understanding, obviously, that this is a role given to you—not given, but obviously earned by you and your staff—by Parliament. Is that correct? This is an act of Parliament.

Mr. Shahid Minto: The mandate was provided through the Federal Accountability Act and my appointment was through an order in council.

Mr. Daryl Kramp: The one thing I'm having a little bit of difficulty with—with the greatest respect to my colleagues across the table, and in particular the critic for Public Works—is that all of the regulations were posted for this in the *Canada Gazette*. There was ample time given—as a matter of fact, I understand that time was extended—for opportunities to comment or put in suggestions. I understand there were well in excess of 100 comments and suggestions for the designation and/or the purpose and the structure for this, including independent business associations, the Canadian Association of Defence...a multiple number of parties, and yet there didn't appear to be any deputation from our opposition across the floor with regard to the content.

Now we have a situation where they are not necessarily pleased with everything, but they didn't offer any comment on the original structure of that. Do you find that a little bit difficult to accept?

Mr. Shahid Minto: Madam Chair, I find it very difficult to comment on that. That's purely a political issue, with due respect. You people have a lot more expertise in this area than I do.

• (0940)

Mr. Daryl Kramp: I can appreciate that. What I would like to say is before.... A lot of people have the understanding that they could simply go to a vehicle when they had a concern, but if you were a small or medium enterprise, could you give the parameters or the benchmarks where previously there could be some access and it was either denied or there was no availability, versus what will now be available under your tutelage?

Mr. Shahid Minto: If people who had contracts under \$25,000 for goods or under \$100,000 for services had a complaint, if they had some concerns, or if they had not been given enough information about the awarding of a contract, the best they could do was either go back to the department about which they had the complaint to discuss it with them or else go sue. They went through evidence.

The CITT did not have the mandate to deal with their concerns at that time, so there was no independent third party to go to. When we were talking to suppliers, one of the things that came back to us again and again was the importance of having a neutral, independent professional body look at complaints.

Many times, the complaint really is not a complaint initially but only an inquiry, because people really don't understand why they didn't win a contract. Until somebody gives them a good debriefing and explanation, they don't know how they're going to win the next one. But if you don't deal with the inquiry in a proper manner, it becomes a complaint, and then it becomes a bigger complaint.

So they did not have a place to go to; they do have one now.

Mr. Daryl Kramp: Thank you.

Whenever we mention to our constituents who have a problem or a concern or a situation—and I've had a few on this, as I imagine most of my colleagues have—that we're bringing forward solutions, that we're going to fix this, that we've come in with a procurement officer and a department ombudsman and they are going to actually deal with this situation, most people roll their eyes and say, "That's fine. Here we are, we're going to get some solutions from our government years down the road"—in two, three, four, five, six, or ten years, and sometimes it's not even adopted.

Where are you and your department right now in terms of a state of readiness? When will you be able to proceed, and when will we be able to expect service out of your offices?

Mr. Shahid Minto: As of May 1 we were ready to go. We spent two or three months preparing. We worked very hard to make sure that the day the regulations came out we were ready to hit the street running, and we were.

Let me talk about rolling eyes. I've been in the procurement oversight business for 30 years. I did not take this job as a job. We have to put something back into the system. I had the experience. There's a window of opportunity here to improve the transparency and fairness of the process. That's the reason I'm here.

Let me say very clearly that nobody, but nobody, should have any questions about our determination to do the fullest that our mandate requires. We will do that.

Mr. Daryl Kramp: Might I just say thank you for taking on the challenge. There will be some interesting challenges that we'll all face, but we're very pleased to see you here finally.

Mr. Shahid Minto: Thanks.

The Chair: Thank you.

Mr. Angus.

Mr. Charlie Angus (Timmins—James Bay, NDP): Thank you.

I'm very pleased to have you come before us this morning. I certainly think the role of a procurement ombudsman is essential, first in guaranteeing transparency and second in being able to address complaints before they spiral out and we end up getting hit with costly lawsuits. I think from your background that you have the expertise to do this.

My question is about the limitations on your office—\$25,000 for goods, \$100,000 for services. We've had complaints in contracts into the millions and the hundreds of millions of dollars. Are we to assume that those will continue to spiral out the way they normally do and end up in court?

Mr. Shahid Minto: If the complaints are about the awarding of the contract, then suppliers have a place to go to complain about it, the CITT. If the complaints are about a systemic problem.... For example—let me be a little specific here—if a supplier comes to us and says, "I was not awarded this contract and we think something happened with the evaluation process", and the contract is for \$10 million, clearly it is not in our mandate to do an investigation based on that claim at all. But we want to hear about this, because if we hear two or three of these, we may think there's something wrong in the evaluation process in a department. We would then go back and do a practice review of the evaluation processes of that department,

whether it's Public Works or Transport or Health or DND, or whoever is involved, and take a look.

We do not have the power to overturn a government decision. We could not get back to the supplier and say, "You should have been awarded the contract", but we will look at the root causes of the situation and we will work with the deputy minister to make sure this thing is never repeated. That's where our value added will come.

•(0945)

Mr. Charlie Angus: I would love to have that value added.

My concern is that when we're talking about domestic contracts, I don't see how CITT would have a role. It's international, is it not? And also, since it's not in your mandate to look at it.... You're telling me you'd look at it if you had two or three complaints, but it's not within your mandate, so I don't see how you'd be able to enforce anything.

Mr. Shahid Minto: I have to clarify that the CITT also administers the AIT, so there is a domestic role. I will not speak for them. I'm sure they're coming later.

But the important thing, sir, is that there are three parts to this mandate. On the part that deals with investigation of a complaint relating to our board, you are correct, there is a dollar limitation on that. But there is no limitation on the part that deals with procurement practices, except for the couple of departments that are excluded. There is absolutely no limitation on what I can do or where I can go, and we intend to use that quite seriously. The third part, of course, is where people get into disputes. We can offer them an alternative dispute resolution process instead of expensive litigation. Where the relationship with the government and the supplier suffers, we will offer them mediation. If both parties agree, we will go that route.

Mr. Charlie Angus: Again, I have to get back to these limits—\$100,000, say, for construction. I spent some time in construction. I won't say I was the world's best drywall tapper, but I did the job, and I know that \$100,000 won't buy you very much in the kinds of buildings we're dealing with. We're looking at contracts in the millions for construction, and yet \$100,000...what's that, fixing a window?

I just can't see why these kinds of manacles are put on your ability to examine the big contracts that are being awarded where the big disputes are.

Mr. Shahid Minto: These dollar limits were part of the Federal Accountability Act, and for me to start questioning them now is to question the will of Parliament. Parliament debated and approved that.

My job is to implement the act. My job is not to question the basis of approval. So with due respect, as I said at the beginning, there are some policy issues I can't get into.

Mr. Charlie Angus: You did mention that occasionally you will probably have to release something that's critical of the government. That will happen if you're dealing with procurement problems. Who vets the communiqués you release? You're under the minister.

Mr. Shahid Minto: Let's be very clear on this one. We are only under the minister in the sense that we send him our final reports.

Mr. Charlie Angus: Have you been authorized? The Auditor General told us that her office had been told to send communications through the PMO to be vetted first. Are you able to send out a press release tomorrow, based on information you have, or does it have to go through the Prime Minister's channels?

Mr. Shahid Minto: We've had discussions with government officials in the central agencies. It is our very clear understanding that we will not be vetting anything through anybody. Pre-clearance will not be required. We will not do any pre-clearance, let me say that.

Let's be practical. What will happen is that as a courtesy, if other people are mentioned in a press release, we will send them an advance copy as a courtesy only, but that's the final copy. If they make comments, it's our decision what we do with those comments. I am not aware of a requirement. And to date, I've had two appearances. I've gone before the Senate committee and I'm here. We've had other issues. I have had no request nor an imposition of any pre-clearance.

Mr. Charlie Angus: Because you had previous experience as the chief risk officer, and we are dealing with the larger issues of procurement, could I pick your brain for a minute on your experience there? That was where issues like the fairness monitoring program were first brought in. How does that work? Is that something that can be brought in? Is there a threshold where it becomes mandatory? How does that work?

• (0950)

Mr. Shahid Minto: I don't speak on behalf of the department, but I can speak a little on this from my own experience, and also because it's a very important tool relating to the fairness of the process.

When I became the chief risk officer, I was aware that occasionally the department was using fairness monitors on certain projects, and I liked the idea. I thought it was an excellent idea: we could get somebody from the outside, a *Good Housekeeping* seal of approval on the stuff, and it works.

We looked around and found out that it was being done on an ad hoc basis. There was no policy at that time, so the first thing we developed was a standards criteria policy. I come from a background in the Auditor General's office where everything has to be done to standards and with rigour. So the first thing we did was develop a policy. We developed standards, and in those we developed some thresholds. There were some thresholds over which (a) you had to justify not having one, and (b) there was another one over which you had to have one.

An hon. member: What would that threshold be?

Mr. Shahid Minto: I could get you a copy of the policy. The only reason I hesitate is that there were some revisions being made lately and I don't want to give you information that's out of date.

The other thing we wanted to do, and it was very important, was that once we got the policy.... We realized there were only a couple of people out there who could do fairness monitoring and they were retired Public Works people. The last thing we wanted was a recently retired Public Works person to come in and take a look at the file, so we started developing a market. We went and talked to industry and we developed that capability. To me, it was one of the most successful tools to ensure fairness in large projects. If I had my druthers, I would say on all large projects there has to be a really, really strong reason not to use one.

Mr. Charlie Angus: Thank you very much.

[Translation]

The Chair: Ms. Folco.

Ms. Raymonde Folco (Laval—Les Îles, Lib.): Thank you, Madam Chair.

Mr. Minto, you see that around this table, and especially on this side, the questions being put to you are not aimed at you personally, but are trying to get at the fact that your mandate is very severely limited.

I would like to ask a question regarding small and medium enterprises. SMEs are strongly affected by your mandate because the maximum value of goods and services that you are allowed to deal with mainly involves small enterprises, given the fact that the large enterprises rarely deal with contracts of \$25,000, or \$100,000 services. Therefore, it seems to me that most of your activity in this field will have to do with small companies.

On the other hand, experience tells me that small and medium enterprises all over Canada are largely owned by immigrants or by members of cultural communities. It is important for them to have access to federal government contracts as well as to your services. In your presentation, you said that you had set up a functioning model with technological links.

How will this work? Have you paid specific attention to immigrants? Of course, this does not have to do with immigrants only, but it has to do with the Canadian population as a whole. Have you looked at this specific aspect, given its great importance for small and medium enterprise?

[English]

Mr. Shahid Minto: Madame, there are four issues that have been raised.

Just on the first one, I was an auditor for 28 years. One of the first things you develop as an auditor, and then it gets better as time goes on, is a very thick skin. I don't take any of these things personally. Thank you; there are no problems there at all.

Ms. Raymonde Folco: I just wanted to make sure of that.

Mr. Shahid Minto: I'm quite used to that. I've appeared before these committees many times, so there's no problem.

On the limitations, as I said, the limitations are in the Federal Accountability Act. There's not much we could do with it, but I'll tell you what we did do. If you go back to the first draft of the regulations that were published, which was back in December of last year, you will find that the first draft said—and I'm only giving you one example of the many comments put in—suppliers had only 10 days after the award of the contract to lodge a complaint. We looked at that and said that may work for large companies that have legal people, that have finance people, that are always monitoring this, but for the small companies that have only a handful of people, how is this practical? One of the suggestions we put in and fought very hard for was that this 10 days should be extended to a minimum of 30 days. After the 30 days, if there is some event beyond the control of the supplier, then I should have the jurisdiction to extend it another 90 days. The government accepted both of these recommendations.

A lot of the comments we put in, in response to the regulations—we had a volume of comments—were designed to say that given the inherent limitations that Parliament has imposed here, how do we make this more friendly for small businesses? That was always in our minds. That's one example.

There were so many other examples where we simplified the information required and the rest of the things.

For the SMEs, certainly we're aware that for the contract award part of our mandate, they are our main stakeholders. For contracts under \$25,000 and under \$100,000, they will come to us. We have developed a technology whereby if somebody wants to complain to us, they can, of course, (a) walk in if they happen to be here, (b) use the 1-800 number, (c) use the website, which has a form they can fill in very easily with two clicks, and they can send us in the information, or (d) they can send us an e-mail. We will get back to people within 24 hours.

● (0955)

Ms. Raymonde Folco: How do they know you exist?

Mr. Shahid Minto: That's the thing. We have now developed an outreach program. The reason you haven't heard about it is simply that we couldn't put it out until the regulations were there. We are going to use the services. Let me be quick. Members of Parliament, you are all going to get little booklets in your offices about the services of the Procurement Ombudsman, which we hope you will send out and your staff will use to deal with it. That's my number one thing.

Second, we are going to the business associations and sharing all these booklets with them.

Third, we are going to be participating in a lot of industry conferences, putting out articles and magazines in a lot of industries. I have been speaking extensively in a lot of association meetings, so we have a very comprehensive program. I'm not going to call it advertising, but we have a knowledge program for people who don't know where to go or how to do it. We are linked to the Canada website. We are linked to the website for Treasury Board. We have links on the website of Public Works. So it's two clicks and you're

onto our website. The site we're creating, which will be fully operational in a week, will be very user friendly.

Now, for the immigrant community—and I'm one of them, so I am sensitive to that—we will work with OSME. There is a group in Public Works called OSME, and they have a lot of regional presence. We do not have regional offices. The way we work with them is that when they do their presentations, we would like them to share with their constituents the information about our office. They will be handing out some of our pamphlets, and—who knows—we may go and speak at some of their functions. If there are immigrant groups, business groups, or other groups that are having some functions, I'd be delighted to go and speak to them. We're very much conscious of this outreach thing. We really want to do it. We want to go out and deal with these groups.

Ms. Raymonde Folco: Thank you so much.

Can I just ask you what OSME is?

Mr. Shahid Minto: It's the Office of Small and Medium Enterprises. It's part of the acquisitions branch in Public Works.

The Chair: Thank you very much.

Madame Faille.

[*Translation*]

Ms. Meili Faille (Vaudreuil-Soulanges, BQ): Currently, very small enterprises do not necessarily belong to people who can afford to spend vast amounts of time on the awarding of contracts. If they do not get a Public Works contract, life must go on and they have to look for other contracts. Time is money. Indeed, arguing or trying to find out why an application was not accepted takes an enormous amount of time.

We know that going to the Canadian International Trade Tribunal is very expensive. Small companies are not likely to come before this tribunal, this is done by companies looking for bigger contracts. They can resort to it when there is a clear case of injustice and when they are sure to win.

Are you ready to receive complaints as of now?

● (1000)

[*English*]

Mr. Shahid Minto: The answer to the last question is absolutely. We've been prepared to receive complaints from the 1st of May. The legal limitation on that is that the issue about which you are complaining must have happened after the 1st of May. The government did not backdate it; it's a forward-looking act. That's one part of it.

The second part of this is that I can't comment on the CITT expense. The CITT will be here, I'm sure, and they'll talk about it.

But can I just emphasize two things about our services? One, there is absolutely no fee for our services. We do not charge for doing a complaint investigation. So there is no charge for coming to us to lodge a complaint. Second, there are no lawyers required and no legal fees. There is nothing in our business model that requires anybody to bring a lawyer with them. I have nothing against lawyers; I have a degree in this area. All I'm saying is that would complicate and make the process long and expensive, and that's not part of it.

For long-drawn-out complaints, we will offer an alternative dispute resolution mechanism in which you don't have to go to court and have a long-drawn-out process. And we're hoping that both the supplier and the government will take us up on this.

[Translation]

Ms. Meili Faille: Fine.

You say that there are no costs. I understand that this is a service that you want to offer. The problem for the small companies is time. Time is money, and the time they will spend in explaining and debating their case will not be available for getting other contracts. For contracts under \$25,000, will the government delay its awarding of the contract during the time it takes for your office to deal with a complaint?

[English]

Mr. Shahid Minto: Let me explain and clarify this again.

There are two sides to the contract. The people have signed legal obligations here. And let me just be very emphatic about this: we are not lobbyists for suppliers. We are not apologists for the government, but we are not lobbyists. We have to look at it very neutrally, because this is a legal paper that you have signed. There are rights and obligations on both sides, and just because you didn't get a contract and somebody else did, it doesn't mean that there was some problem with it, that there was some hanky-panky with it or something underhanded about it. Somebody has to win and somebody has to lose. The nature of the business is that whoever loses will always have a complaint, so we will deal with it very neutrally. Perhaps the complaint is based on very good grounds and perhaps it isn't, and we will look at it from that point of view.

[Translation]

Ms. Meili Faille: I imagine that you have begun planning the review of certain departments. Do you have any indicators? I am trying to understand the famous 2007 budget contract from the Minister of Finance, where the method of awarding many contracts below \$25,000 was used. Ultimately, the department awarded a \$122,000 contract for the drafting. How will you go about monitoring the different departments and ensuring that this situation never occurs again? What data do you exchange with the different departments?

[English]

Mr. Shahid Minto: This is a very important question and a very interesting question intellectually.

Part of the problem we face is trying to get information from government on how many departments issue what kinds of contracts, who's under \$25,000 and who's over \$25,000, who is sole-source, who issues an ACAN, and who does what. Everybody has to ask

really careful questions here, because the information you get back can be on a fiscal-year basis, a calendar-year basis, or, if the last 20 months look good, you could get a 20-year thing. So it depends on who you ask and what you ask about. It's very precise.

The government has a lot of databases that we are clued in to. Right now we're in the process of analyzing those databases. The Department of Public Works has done this as part of the way forward. We are now also looking at it from our own point of view to see who's done that, and we will monitor the trends. Our selection of which contracts and practices to look at will be based on a number of considerations: known problems, interest to parliamentarians, our own experience with them, and the statistics we get out of the procurement activities.

We're going to put those criteria on our website for everyone to see.

•(1005)

The Chair: Thank you very much.

I want to make sure everybody knows that some representatives from the CITT will be appearing before this committee on Thursday. So we'll be able to ask them those questions that you haven't been able to answer.

Mr. Albrecht.

Mr. Harold Albrecht (Kitchener—Conestoga, CPC): Thank you, Madam Chair.

Thank you, Mr. Minto, for being here today.

I applaud your wisdom in not addressing the political issues that have been raised a number of times today.

I want to comment to the other side that these regulations were registered in the *Canada Gazette* on December 22. There were all kinds of opportunities for input. If there really was the kind of interest there should be in this legislation, they would have raised their concerns at that time.

I'd like to go back to the differences between the CITT and the ombudsman in terms of what they're going to be looking into. The CITT has existed for a number of years and has always had the ability to look into disputes over \$25,000. We're now finally getting a system in place that will deal with those that before had no method of being addressed unless they wanted to enter costly litigation processes. It's important for Canadians to understand that.

Can you tell me roughly how many contracts fall under the \$25,000 range? Do you have a guesstimate in terms of numbers, or perhaps a percentage?

Mr. Shahid Minto: I've seen various numbers. We haven't validated any of them, but we're talking about hundreds of thousands—not 10,000 or 20,000. We're talking about \$1 billion to \$2 billion worth. The majority of the contracts issued by the Government of Canada are for under \$25,000—in that range. The dollar value, of course, is much smaller. But individual transactions—things that affect the majority of Canadians on a day-to-day basis—are in there. They're very much a part of my mandate.

Mr. Harold Albrecht: So there's the potential for a pretty huge workload on your part, with the number of contracts being awarded, not necessarily the dollar amount.

Mr. Shahid Minto: There is the potential, and our challenge is to do really well in our practice reviews. It's a bit like health care. You can either put a lot of medicine and money into fixing people's symptoms or you can say, "You should be exercising more, eating better, and doing more prevention". We'd rather put a lot more money into the prevention part. If we can get that right, there should be much fewer reasons for people to complain. That's the balance we want to bring.

Mr. Harold Albrecht: During one of your responses to a question, you mentioned that you're open to going out and speaking to business groups, and so on. Would you be willing to speak to the Chamber of Commerce?

Mr. Shahid Minto: I'd be absolutely delighted to talk about our mandate.

Mr. Harold Albrecht: I think there's a large gap in knowledge for many small and medium-sized enterprises in terms of even knowing they have accessibility to government contracts. So it would be good.

Mr. Shahid Minto: A large part of our mandate is to prove the transparency of government procurement. The way to do that is to simplify the government processes and explain to people that things they think are complicated may not be that complicated. There is a better way. I'd be very delighted to contribute.

Mr. Harold Albrecht: I was very pleased to hear you say that as you work through the process and your input, your primary goal at all times is to make it easier for small and medium-sized enterprises. That is your number one goal, and that's to be applauded. Thank you very much for that.

•(1010)

The Chair: Thank you.

Madame Bourgeois.

[*Translation*]

Ms. Diane Bourgeois: Mr. Minto, how many small and medium Canadian enterprises deal with the government? Are there many of them?

[*English*]

Mr. Shahid Minto: There are very many. This data is available at Public Works. I don't keep the data. They are the owners of that data, they manage that data, and that's the department you should get the data from. If you want, on behalf of the committee I could contact them to see what I can get, but they keep that data.

[*Translation*]

Ms. Diane Bourgeois: I would like to compare the percentages. Among all the contracts concluded by Public Works and Government Services Canada, how does the percentage of small and medium enterprises compare to the percentage of big companies?

[*English*]

Mr. Shahid Minto: I fully appreciate your reasons for doing that and your need for it, but it's really an operational manager's

responsibility to create and maintain that database, not mine. If you want, I could contact Public Works and pass the request on to them.

[*Translation*]

Ms. Diane Bourgeois: It does not matter. We will try to get them.

The contracts for National Defence are drafted by Public Works. If I understand correctly, whatever Public Works does for National Defence is beyond your control and supervision.

Is that correct?

[*English*]

Mr. Shahid Minto: Madam Chair, two points need clarification here.

One is, we have to remember that Public Works is the contracting arm of the government. The procurement process is much bigger than just contracting. The procurement process starts up front when somebody has a need for something and defines the need.

That's where it starts. Then you get into specifications, then a procurement strategy, and then you come to contracting. Then somebody has to accept those things. And then, as we do now, we have long-term maintenance of contracts; that contract administration continues.

Public Works is only in the middle, doing this part, the procurement strategy, as well as the contracting part.

Second, we have to remember that for the smaller contracts we talk about, Public Works is not issuing the majority. The majority of the smaller contracts are issued by other departments. There's an intent now to pass more of those out to the departments. Public Works may not even be the contracting authority for a lot of the business we are going to look at.

It's very important to note that I am not the ombudsman for Public Works; I am the ombudsman for procurement for the federal government, a lot of which is done outside Public Works through delegated authorities of the minister.

[*Translation*]

Ms. Diane Bourgeois: Let us suppose that Public Works needs accommodations for some given department and sends out invitations to tender. If there happens to be some difficulty in interpreting a bid, would this come into your hands, if the person turned to the ombudsman?

[*English*]

Mr. Shahid Minto: Here, the dollar limitations would kick in. If it's over \$100,000 for services or if it's over \$25,000 for goods, you go to the CITT if you have a problem with the award of the contract. If you have a problem when the contract has already been awarded....

I'll give you an example. We get calls from people asking where their cheque is, as they didn't get it. That's contract administration. Irrespective of the amount of the contract, we will deal with that.

So it depends on the amount; that's the structure of the act that you passed. If it's over \$25,000 for goods or over \$100,000 for services, you go for the contract award to CITT.

As I said before, we want to hear about that complaint. We want to hear about it because there may be a systemic problem in that department, and we want to go and look at the systems and processes. How could it happen? And if it happened here, could it happen elsewhere? How do we prevent it from happening? That's our role.

[Translation]

Ms. Diane Bourgeois: I am asking this because a small company on the North Shore submitted a tender for leasing accommodations. Public Works needed accommodations for a part of a department. The contract amounted to \$54,000. This involved a small, ordinary company on the North Shore whose owner is not wealthy. However, it turned out that the contract was poorly drafted, and impossible for an ordinary person to understand. Something went wrong.

What happens in a case like that?

•(1015)

[English]

Mr. Shahid Minto: Really, I don't mean to complicate your life here, but remember you're talking about a lease, and as defined by the government, this is the hole in the bucket, I think. As defined by the government, a lease is more procurement that I can look at. I understand. This person's only thing now is either to go back to the person he's complaining about or to go to court. There is no independent third party to go to.

[Translation]

Ms. Diane Bourgeois: Mr. Minto, this is where I see a problem. Of course, financially robust companies that go after the big contracts can go before the Canadian International Trade Tribunal. However, an owner of a small company is afraid of standing up for his rights before a department, because he does not want to be brushed aside and because he has to get other contracts in order to make a living. The North Shore is not a wealthy region, after all. A company in a small place outside the large centres cannot stand up for its rights, because it is not included in your mandate and because its contract is not large enough. Moreover it cannot afford to go to the Canadian International Trade Tribunal.

Do you see the problem I have with your job description?

[English]

Mr. Shahid Minto: Madam Chair, I don't mean to be argumentative here, but we have to remember that the specific example you gave me dealt with leasing, and I answered it for the leasing thing. But if the same constituent had a problem supplying desks for \$66,000, or chairs, or some good or other service, of course we would deal with it. He doesn't have to come to our office; he can just send us an e-mail or make a telephone call or go on our website. It's not a lot of money. It's not a lot of interruption, and in the majority of cases we've dealt with so far, we've been able to make four phone calls and resolve the matter. Everything doesn't require a full-blown investigation.

[Translation]

Ms. Diane Bourgeois: If it was not a lease-back, but some kind of outright sale for \$54,000, you would not be able to deal with it. Moreover, the company owner cannot turn to the Canadian International Trade Tribunal.

[English]

Mr. Shahid Minto: Yes.

[Translation]

Ms. Diane Bourgeois: Are you going to deal with those cases? Can we refer them to you immediately?

[English]

Mr. Shahid Minto: No, what I said is if it's for services under \$100,000, we would. If it's for goods under \$25,000, we would. If it's over \$25,000, it goes to the CITT. That's the law you passed. The Federal Accountability Act clearly stipulates that. My job is to implement that law, not to question it.

The Chair: I want to ask you a question myself.

We know in the past there have been some issues with contracting. When Public Works goes to tender for an agency of record—say, for publicity or advertising for a certain department—what would your role be in that? As you know, the agency of record then gets a series of small contracts, but I'm wondering, if there are complaints, and the agency of record has a contract but doesn't know the value.... It's for a certain length of time. There have been some problems in those areas in the past.

Mr. Shahid Minto: Madam, I have been involved myself in reviewing some of those, from the sponsorship, for example.

Let me just say that my mandate relating to the award of the contracts is linked to the AIT, the Agreement on Internal Trade. One of the exemptions in that is for advertising, so if it is strictly a problem where somebody wants to complain about the award of an advertising contract, I can't deal with it.

However, the first part of the mandate, which deals with practice reviews, has no link with the AIT. It is general—all practices for all kinds of procurements—and clearly, except for the exempted departments, you could look at that, and we would take a great deal of interest in looking to see how they're managed. It is a sensitive area. We are aware of the interest parliamentarians have in it. We're aware of the interest the public has in it. When we do our planning, that's going to be a major input into our planning.

The Chair: Thank you very much.

I believe Madame Faille has a short question.

•(1020)

[Translation]

Ms. Meili Faille: Yes, I have only one or two brief questions.

Does your mandate include contracts awarded by PWGSC for publicity and government surveys?

[English]

Mr. Shahid Minto: As I was just explaining, Madame, the previous contracts that have already gone were prior to May. They're gone.

[Translation]

Ms. Meili Faille: What about the next ones?

[English]

Mr. Shahid Minto: The contracts award would not be under our purview because the AIT has an exemption. But in our practice reviews, we would have the opportunity to look at how departments develop these contracts.

[Translation]

Ms. Meili Faille: Some people felt that they were adversely affected because they thought that they would be able to do this kind of work. Unfortunately, the government has developed policies that favour the awarding of contracts to single suppliers.

In such cases, could a person who says they can do this kind of work come to complain to you, starting on May 1?

[English]

Mr. Shahid Minto: I'm a little surprised that you would think the government is fostering a policy of going for sole-source. I think the foundation of government procurement is equal access to all Canadians. If there are exceptions to that, we would be interested in hearing about it. If somebody comes to us, we will deal with it appropriately.

[Translation]

Ms. Meili Faille: Let me give you a concrete example. As an MP, I have met with engineering companies that had mandates for water purification in the past. In my region, the centre of excellence for water purification includes a school and has vast expertise in building water purification systems. They are specialized in urban engineering. Contracts were being awarded for detention centres. The engineering services normally had access to them and they were able to bid. For the past few years, they have seen their access to such contracts dwindling, be it for maintenance or for consultancy services. All the contracts are drafted in a way that excludes them. Moreover, the ones who currently get the contracts are the big engineering companies in urban centres or other parts of Canada. I have seen a tendency to draft contracts so as to favour their awarding to suppliers. Nothing says that these are single suppliers, but the contracts are drafted in a way that excludes small companies.

In such cases, can they come to see you? Will they be limited by financial considerations? In some cases, as my colleague Mr. Angus mentioned, the construction contracts are large.

[English]

Mr. Shahid Minto: Certainly in the last few years the Department of Public Works has shifted its business model from having hundreds and hundreds of standing offers to having either regional master standing offers or national standing offers for repetitive types of business—buying desks, light bulbs—and that's been a shift.

There's a policy issue here of whether that shift should happen or not. That's a separate thing. Our thing is whether at the time they issued these standing offers they did it in an open, fair, and transparent manner and whether the terms of these standing offers properly are enforced as they go through.

As a result of that, there has been significant market adjustment, I have no question. But the people who locally supply printers or other

things are finding that some adjustments have to be made to the market.

[Translation]

Ms. Meili Faille: In some cases, when contracts are awarded, we see that we get can better prices in the regions. Nevertheless, contracts are awarded for the higher prices.

Besides, the contracts stipulate that the provider must be able to provide the human resources in order to carry out the contract. In many cases, the supplier to whom the contract was awarded does not have the resources he needs to carry out the contract. Those suppliers who are discriminated against by this *sine qua non* condition imposed on granting contracts have no other choice than to complain to the Canadian Trade Tribunal, which is very expensive. You could perhaps look into this aspect of the contracts. Some provisions effectively exclude small companies. One of the contract's provisions clearly indicates that the supplier commits to providing the resources needed to do the work and that he has said resources. But in fact, this is not true. What can he do in such a situation?

• (1025)

[English]

Mr. Shahid Minto: There are two issues.

I'm surprised about the concern as to how much it costs to go to CITT. My understanding was you didn't even need a lawyer to go to CITT, but you could talk to them about their processes.

On the second issue, I understand fully that SMEs have a problem when the breadth of a requirement is so large. These are small businesses who can't meet \$50 million requirements. I understand that. The second thing I understand is that when it says you have to supply goods all across Canada and you have only established in one little office some place, you have an office in Gatineau here and you have to supply something to Winnipeg, you have a problem with an SME, and if it's a.... My understanding is that the department has taken some action to rectify those things. My understanding is that the department is finding ways to do some vertical slices so that you don't have to bid on the whole requirement but parts of the requirement. But that's an understanding based on what I hear. We have not verified that.

The last issue you raised was really important. You said that if there's a mandatory requirement that the contractor must have the manpower and he doesn't have the manpower but he gets the contract, well, I'm sorry, the evaluation was not done properly. Please come and talk to us. Clearly, if it's a mandatory requirement, it has to be met before the contract can be awarded. What does happen is that your understanding or somebody's understanding of that mandatory requirement may be that he has to have employees rather than access to subcontractors. There are technical things that are involved here. It's not that straightforward usually.

[Translation]

The Chair: Thank you.

Ms. Bourgeois, there was a question you wanted to ask before the end of the meeting.

Ms. Diane Bourgeois: I would like to raise two issues and make a brief comment.

Mr. Minto, is choosing typically Canadian businesses important for you? There are many American companies that have subsidiaries that they call Canadian, here in Canada. Are you going to ensure that contracts are granted, to the greatest extent possible, to Canadian businesses?

Second, do you speak French? A little?

Finally, I would like to wish you good luck in your position. I think that you will need it.

Mr. Shahid Minto: I understand you very well, I am bilingual.
[English]

It's just that if you want to have a spontaneous conversation, I have to go back to the language I have the facility to have a spontaneous conversation in.

[Translation]

Ms. Diane Bourgeois: I understand. I just wanted to make sure.
[English]

Mr. Shahid Minto: Let me come back to the issue.

Our purpose in life, really, is to help people get their business, to help them solve their issues over here. We are not here to ensure that any particular person gets a contract. We are here to ensure that the contracts are awarded in a fair, open, and transparent manner.

My constituents, the people who can complain to me, are all Canadian suppliers. The act says that. It's defined in a way that American suppliers cannot come and complain to me. You must have a place of business in Canada to come to the procurement office.

The second issue, and this is important also, is that we are a trading nation. These are policy issues, but we are a trading nation. We have to give access to our trading partners through our contracts if we are going to get access to their market. Those are considerations people have looked at: is the market out there 15 times bigger than ours? I'm not passing judgment on that, but I'm saying those are part of the judgments and information people deal with when you're saying "only Canadian". If you're going to give

contracts to only Canadians, fine, but then they'll give contracts to only Americans.

I don't have a view on it, but I simply make that comment as a concerned citizen.

[Translation]

Ms. Diane Bourgeois: I wanted to raise that issue because, all prices being equal, Canadian products are just as good as the products of American subsidiaries. Take for example the famous water heaters that were installed in the National Defence buildings. There was a similar case where an American subsidiary was chosen over a Canadian company. I think that we have to play a protective role, if you will. I just wanted to ensure that you think this is an important issue and that you can make that recommendation.

● (1030)

[English]

Mr. Shahid Minto: The honest answer is that I could not recommend a policy matter. I can recommend how to implement a policy and how to better implement a policy, but the foundation of the policy is somebody else's responsibility.

The Chair: Thank you, Mr. Minto. Thank you for coming before us. We wish you well in your job, and hopefully you can help a lot of small contractors and keep the peace among them all.

Mr. Shahid Minto: Thank you.

The Chair: Before we close the meeting, I just want to remind the committee that we will be receiving members from the CITT on Thursday.

After today sometime, our researchers will be sending around a draft report on passport services. I'd like you to have a look at that, because on the following Tuesday we will look at that draft report.

The following Thursday we will be having before us the Departments of National Defence and Public Works and Government Services with regard to procurement.

Thank you. The meeting is adjourned.

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