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—
Chair

The Honourable Shawn Murphy

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• (1530)

[English]

The Chair (Hon. Shawn Murphy (Charlottetown, Lib.)): I call to order the 11th meeting of the Standing Committee on Public Accounts.

On behalf of all committee members, I want to welcome everyone here. This meeting is called pursuant to the Standing Orders to deal with chapter 3, "Contracting for Professional Services—Public Works and Government Services Canada", of the December 2008 *Report of the Auditor General of Canada*.

The committee is very pleased to have with us this afternoon the Auditor General, Sheila Fraser. She's accompanied by assistant auditor Ronnie Campbell and Tedd Wood, principal. From the Department of Public Works and Government Services we have François Guimont, Deputy Minister and accounting officer, and he's accompanied by Daphne Meredith, associate deputy minister. On behalf of the committee, I want to welcome everyone.

We'll start right away, and we'll ask the auditor for her opening comments.

Ms. Sheila Fraser (Auditor General of Canada, Office of the Auditor General of Canada): Thank you, Mr. Chair. We are pleased to be here to discuss chapter 3 of our December 2008 report, entitled "Contracting for Professional Services—Public Works and Government Services Canada". As you mentioned, I'm accompanied today by Ronnie Campbell, assistant auditor general, and Tedd Wood, principal, who were responsible for this audit.

To help deliver its programs, the department uses the professional services of consultants such as accountants, lawyers, architects, engineers, specialists in data processing, and other technical and professional experts. The department spends over \$1 billion annually on contracts for the services of consultants. It is essential that officials in the department protect the interests of the crown by adhering to key principles of contracting that promote competition, fairness, and transparency. This requires sound processes with an appropriate segregation of duties monitored to ensure that they are followed consistently.

[Translation]

We had two objectives in conducting this audit: first, to examine if Public Works and Government Services Canada complied with appropriate rules and policies in awarding contracts for professional services; and, second, how well the department manages these kinds of contracts.

In our audit we found that 95 percent of the publicly tendered contracts and 96 percent of the sole source contracts that we looked at were awarded in compliance with the rules. Based on this finding, Mr. Chair, we concluded that these contracts were awarded in a fair, open, and transparent manner.

In the management of contracts after they were awarded, we found that there was an administrative deficiency or weakness of some kind in 30 of the 37 transactions examined—that is, the department's management controls were not properly applied. Although no single type of problem was pervasive, the significant number of problems indicates that the controls are not enforced consistently. For example, in some cases, contracts were amended after they were awarded, significantly changing their nature and value; in other cases, the department did not fully enforce the terms and conditions of contracts.

In several cases, the same departmental official who initiated the procurement for services also certified that the services were received. A fundamental internal control is the separation of duties. Combining these duties is also contrary to the Treasury Board's Policy on Delegation of Authorities, which requires that each of the tasks be carried out by separate individuals.

Public Works and Government Services Canada also had many, long-term contractual arrangements with some individuals and companies that could create an employer-employee relationship and a risk of liability to the government.

• (1535)

[English]

In three cases, there was evidence indicating that the contractor who was awarded the contract had been involved in developing the search criteria or had written the statement of work for the contract. In a fourth case, the department used the services of a consultant to assist in developing the request for proposals while at the same time the consultant was subcontracted to the firm that bid on and was awarded the contract. When we brought this issue to the department's attention, senior management issued a comprehensive directive outlining roles and responsibilities. Each case we present here represented a conflict of interest and a violation of the government's policy that contracting be fair, open, and transparent.

Mr. Chair, the department's performance in contract award is encouraging. I am also pleased to report that the department has accepted our recommendations aimed at improving quality and compliance in contract management. They have created a framework that is intended to address our concerns. We have looked at this framework and believe that it should, if implemented, make a difference in how PWGSC administers its contracts.

Your committee may want to ask the departmental representatives for details about the management action plan. You may also want to ask them to explain the progress the department has made in implementing that program.

Mr. Chair, that concludes my opening remarks. We would be pleased to answer any questions the committee members may have.

Thank you.

The Chair: Thank you very much, Ms. Fraser.

We'll now hear from Monsieur Guimont, the Deputy Minister of Public Works and Government Services Canada.

[*Translation*]

Mr. François Guimont (Deputy Minister and Deputy Receiver General for Canada, Department of Public Works and Government Services): Mr. Chairman, members of the committee, thank you for this opportunity to appear before you today.

With me is Daphne Meredith, our associate deputy minister.

PWGSC spends more than \$1 billion a year on contracts for professional services. In observing the legislation, regulations and policies governing contracting, our contracting officers make every effort to promote competition, fairness and transparency.

The Auditor General's work has given us important insight into how we conduct our work in this area.

We are pleased that the Auditor General found that PWGSC awarded publicly tendered contracts correctly in 95% of cases and sole-sourced contracts in 96% of cases.

Furthermore, we welcome the Auditor General's conclusions and recommendations as they relate to contract administration. More importantly, she noted that the issues were not of a systemic nature.

[*English*]

We are addressing her observations with respect to a lack of rigour in the administration of contracts. We want to ensure that our contract administration achieves the same high standards as our contract awards.

We have taken a department-wide approach, which is embodied in a comprehensive action plan that has been tabled with the committee. This departmental action plan addresses all the recommendations contained in the chapter and was developed in full consultation with the OAG. The implementation of this action plan is substantially complete, with the remaining elements to be fully implemented by the end of April 2009, in a month from now.

The action plan focuses on the development of a contract management control framework that identifies the elements that are key to sound contract management and lays out how they should be

addressed. These actions apply across the department and include the integration of governance processes to provide oversight and ensure accountability; identification of key controls to prevent and detect identified risks related to managing consultants and administering contracts; identification of risk mitigation measures to manage identified risks; integration of best practices to ensure that our contract management control framework is best in class; development of guidance on procedures, as well as tools and templates, to help ensure consistency and quality in contract management; and finally, training on and communication of this guidance to help ensure that it is understood and applied.

As well, we are putting in place an ongoing program to monitor key contract requirements and ensure high-quality consistent contract administration department-wide. Through this program, the department will be able to identify potential areas of concern and follow up accordingly.

The basic elements for success have now been assembled: a solid framework; an ongoing monitoring program; and as the last ingredient, the training and development of our staff.

• (1540)

[*Translation*]

In 2006, as part of Treasury Board policy, managers and executives were required to validate their knowledge regarding the essentials of managing in the public service, which includes material management and contract management. At that time, we had identified 1,331 managers and executives that required this validation. By December 2008, 1,700, or 100% of managers and executives had validated their knowledge, which included new recruits.

In conclusion, Mr. Chair, I am satisfied that the work carried out by the OAG has helped us move to the next level of quality management and it supports us in getting the fundamentals of the department right by continuously improving our performance.

I welcome your questions.

The Chair: Thank you very much, Mr. Guimont.

[*English*]

For the first round, seven minutes, Ms. Ratansi.

Ms. Yasmin Ratansi (Don Valley East, Lib.): Thank you very much.

And thank you all for being here.

As an accountant and auditor, a person who has worked both in the private and public sectors, I can appreciate that the government does need to balance the need for hiring full-time people versus contracting. In any terms, \$1 billion is a lot of money. I am glad to see from the Auditor General, in the samples she has utilized for the publicly traded contracts, that a 95% range seems to be a good range.

My concern is on the sole source contracts and the administrative deficiencies indicated on page 10 of her report.

I would like to ask some questions of you, Monsieur Guimont. How many of your managers are trained in financial accounting? How many understand the requirements for conflict of interest, return on investment, etc.? How large is your staff? How do you manage these things? It is critical that we get the best return on investment, but you need to balance your department's needs with a lot of other issues.

If you could give me some idea, I would like to proceed to the next question.

Mr. François Guimont: Thank you for the question.

We have about 14,000 people in the department. They are a combination of full-time equivalents and term employees. So overall it's about 14,000; it varies, as you may imagine. Our cadre of professionals is roughly separated between about 60% in Ottawa and 40% in the region. We have a number of individuals performing different tasks in various areas.

I'm putting emphasis on this because the department, unlike other departments, is not as homogeneous. Our business lines are quite different. The translation bureau is a very separate, very unique, and very specialized line of business if I compare that, for instance, to acquisition branch, which carries on procurement, or our real property branch, which deals with leasing of buildings and things of that nature.

My response to your question with respect to how many are accountants is that it varies. I do have quite a number of accountants in certain areas. I have them in RPB, the real estate group of the department.

•(1545)

Ms. Yasmin Ratansi: No, I'm sorry, I asked how many are familiar with the Financial Administration Act. You do not have to be an accountant to be familiar with that, but it's critical that you know that.

Mr. François Guimont: Okay, I was going to get to that point.

Going back to my remarks, the bottom line is that since the Accountability Act was put in place there has been a requirement for people to go through self-evaluation, training, and testing with respect to three functions: materiel management, financial administration, and human resources. This is what we call *la dotation, donc* staffing.

In my case, the 1,700 people in the department who have those three responsibilities, or one of those responsibilities, have been essentially certified or tested as having the right skills and knowledge to operate vis-à-vis the legislation under which they operate. They don't need to be accountants or specialists, but in order to be delegated authorities they need be certified. In order to be able to sign under sections 34, 33, and 32, they have to have gone through that training.

Ms. Yasmin Ratansi: Fair enough.

How many consultants does Public Works employ?

•(1550)

Mr. François Guimont: I don't have this information right now. I can give you a for instance. I prepared for that. The reason, frankly, is that we haven't been tracking the number of consultants we have across the department.

In the case of the IT branch, which is one of the largest users of professional services, I have data here that shows that as of September 8, we had about 1,800 employees, and of that number, I see that for 2008-09 about 892 were professional services employees.

On that point, there's always a challenge in having professional services people carrying work. And the challenge can be in the areas picked up by the Auditor General. But also, the knowledge aspect can be a challenge for me as a manager; that is, the contractor carries out the work, does the work correctly, but then the contractor leaves. This knowledge loss can be a challenge through time.

I have asked the manager responsible for the information technology services branch to have a better equilibrium between the full-time employees being staffed in that branch versus the number of people carrying out work through professional services. He has a plan. The ratio has already been reduced by 22% and there is another 20% to be reduced this fiscal year, so we are trying to rebalance the number of people we refer to as full-time equivalents versus the number of professional services carrying out work—which is good work, but I want to make sure we have the right balance.

Ms. Yasmin Ratansi: And you brought it to the right point, where I want to ask you a question from previous experience.

In the province of Ontario we had Andersen Consulting doing IT work. You brought it to the IT concept, and that's where I want to ask you the question about where the risks are in balancing the IT consultants who come in, do their work, and who are expected to transfer their knowledge, but that doesn't happen.

If I look at some of the remarks the Auditor General has made, there are consultants who stay there for the long term. When they become long-term, how do you gauge their value in terms of what you pay them as consultants or as part of your contracting agreements versus what they would have been paid had they been a full-time employee? There is always this offset balance, because the consultant's contract keeps on extending itself; it goes overboard. One went from \$46 million to \$81 million. So how do you balance that need for transparency, for oversight, to ensure that you do not get into this perpetual consulting?

And once you give me the answer, I want from the Auditor General the risks involved to government on those issues.

Thank you.

Mr. François Guimont: Thank you for your question.

The advantage of having professional services people coming in, in my line of business, is that it allows you, when the work is completed, to not have the person on board. So it's a quick response. Instead of gearing up your organization to the point where you have too many people for the work at hand, it allows you to get the job done, keep your core in place, and when the job is completed you can resume with the normal body of individuals you have.

Ms. Yasmin Ratansi: But is the knowledge transfer taking place?

Mr. François Guimont: I will totally agree with you that it is a challenge, unless you agreed in the process or you planned for a contract where the intellectual property of what is being produced is transferred to you, as we have done in the case of a contract related to spend management across the Government of Canada. The work was done by a consultant, the work was done and paid for. The actual tool, which we refer to as a spend cube, which allows us to understand and comprehend how spending is done in government, is the property of the Government of Canada. So the knowledge transfer took place there.

The issue often is that while that tool in that example was given to us—it is ours, we can utilize it—with some task contracts you may not get what is in the head of the person who did the work. That's the challenge. That's different from the actual product being either an IT program of some kind or a manual. You're going to get the manual, you're going to get the IT program functioning correctly, but you may not get all the knowledge contained in the person who developed the tool. That sometimes is the challenge, and I acknowledge that. There's no question.

The Chair: Thank you very much.

Ms. Ratansi, thank you.

Ms. Yasmin Ratansi: The Auditor General was going to respond on this risk.

The Chair: Does she want to respond?

Ms. Sheila Fraser: I would just add, Mr. Chair, to what the deputy minister said. There are two risks I'd like to point out.

One we had mentioned in the chapter. It's the risk of the creation of an employer-employee relationship, which brings a number of consequences with it and which I think could be fairly serious if you have contractors who were there for a very long period of time, depending on how you had set up the contract and how they carry out the work. They shouldn't be, for example, in the government telephone directory. There are basic things like that.

The other one is that especially in IT contracts there is a risk of creating a dependence upon a contractor. With government having several very old and complex systems and contractors who have worked on them for many years, the only people who may actually really know how those systems work are the contractors. You can create, I think, an undue reliance and, in fact, at times be held hostage by professionals in that regard, so it's important to establish what is an appropriate level of contracting.

I think there will always be a need for contracting, be it specialized services to respond to peak demands or in fact even in the way government departments are funded, in that they don't have long-term funding and will opt to have contracts they can terminate

if needed. But it's important to establish what is that appropriate level of contracting.

The Chair: Thank you very much.

Madam Faille, *sept minutes, s'il vous plaît.*

[*Translation*]

Ms. Meili Faille (Vaudreuil-Soulanges, BQ): Thank you.

I would like to thank the Auditor General for her last remarks.

I've done some research on your reports and assessments of the Department of Public Works and Government Services. With regard to contracts for services, I even went back as far as 1995, and I found that you make certain recommendations on a periodic basis. In particular, you've made recommendations on major information technology projects, and you've written that they should be divided up for better management. Before proceeding with the implementation of major projects, the government should conduct cost-effectiveness studies entailing specific and measurable objectives, and do a full analysis of options, benefits, costs and risks, as well as an implementation plan.

I'm asking you this question because, a little earlier, the deputy minister referred to approximately \$1 billion of contracts for services. However, in 2007-2008, an initiative was launched—he can probably tell us about it—providing for a strategy for service contracts, a convergence of IT service contracts. The presentation was made on March 5, 2008. I have a presentation by Mr. Buhr on that. Information to the effect that a request for proposals was issued in the spring for a contract estimated at \$1 billion circulated within the industry.

Was your office consulted on that matter? Were you asked to comment on the awarding of contracts worth more than \$1 billion?

• (1555)

Ms. Sheila Fraser: No, nor was that part of the contracts that we looked at in the context of this audit.

Ms. Meili Faille: I'm asking you the question because, since you appeared before the committee, a business was the subject of one of your studies. Section 3 of your report states that there are often problems in the awarding of contracts and that amendments made to contracts often don't correspond to the initial contract provisions. When you do a search on your recommendations since 1995—so nearly for the past 10 years—it appears that a number of people fear that contracts will become impossible to manage and that access to government contracts will be increasingly restricted to large businesses. There will obviously be amendments to contracts of this kind, which are multi-year agreements.

How are they managed? Would you approve of the government's attempt to do business with a single supplier for systems administration? Perhaps you have some recommendations to make to us.

Ms. Sheila Fraser: When the member referred to information technology projects, he was referring instead to the development of highly complex information systems spread over a number of years. In those cases, we indicated that the best practices in the industry revealed that it was preferable to divide those at times enormous projects into smaller projects and to establish criteria enabling us to determine whether or not we should continue.

There is a difference between developing an information system and a long-term contract for services. I believe you are referring to service supply contracts. It's up to the government to make those choices, which are virtually policy choices, and to determine how it wishes to organize the supply of services. We expect it to conduct an analysis of advantages and disadvantages, but if it issues a request for proposals for services over a number of years, we wouldn't make any comments, provided the analysis was done and the contract award process was conducted in accordance with the rules.

Ms. Meili Faille: All right.

How much time do I have left?

[*English*]

The Chair: You have a minute and a half.

[*Translation*]

Ms. Meili Faille: My question is for Public Works. Did you conduct that kind of cost-benefit study? Did you decide to issue a request for proposals?

Mr. François Guimont: I'm going to start with the last question, Mr. Chairman.

The decision hasn't been made. The study you're referring to is underway. I'm talking about a study to determine whether a consolidation of our networks would make sense in economic, technical and other terms. The parameters you've stated are those we are studying.

Mr. Chairman, we've conducted a number of consultations with the industry, which have not necessarily been completed. They were in January, February and last December, if I remember correctly.

• (1600)

Ms. Meili Faille: Can you forward the videocassettes of those meetings and the transcripts of the presentations that were made to committee members?

Mr. François Guimont: I don't believe there were any videocassettes, but if we have any minutes, I'll be pleased to forward them to you.

Mr. Chairman, a commitment was made to the committee on

[*English*]

main estimates that we would be giving the committee, because they've been looking at this question.

[*Translation*]

They looked into this matter and decided that we would give them the business case. The business case, which I expect to receive shortly, must be made public and forwarded to the committee. We will be pleased to forward it to you as well, if you wish.

[*English*]

The Chair: Before we go to Mr. Christopherson, I want to formalize the undertaking. Would two weeks be sufficient time to provide the information to the committee?

Mr. François Guimont: If you are in agreement, I will undertake to check when the actual business case will be ready. It will go through the proper quality assurance control, which I'm sure you will understand. Then we can make it available to both committees quite simply, as it was a commitment we made to the other committee.

The Chair: Madame Faille.

[*Translation*]

Ms. Meili Faille: You can nevertheless provide us with the results of the consultations and make public the videocassettes of the February 11 meeting, in particular.

Mr. François Guimont: If any public documents are available, Mr. Chairman, we will forward them to you. If that's the case, I will do it as soon as possible, after they're translated—

[*English*]

The Chair: Will two weeks be sufficient?

[*Translation*]

Mr. François Guimont: That should be feasible, in English and in French.

[*English*]

The Chair: Thank you very much.

Mr. Christopherson.

Mr. David Christopherson (Hamilton Centre, NDP): Thank you very much, Chair, and thank you all for being here today.

I found this report left me not being my usual self—

Some hon. members: Oh, oh!

Mr. David Christopherson: —and I want all my Conservative colleagues to do up their seat belts because, you know, man bites dog.

It's a great report, I have to tell you, on balance. I'm not 100% sure why we made it a priority to bring it in, but here you are. When I get reports of findings of 95% and 96% acceptance and no real systemic problems elsewhere, I think this is a good report. The system works. So I want to congratulate the deputy on a good report. There are a few problems and we'll get into that as we go along, and we'll have a broader discussion—and I want to join in that broader discussion—about where we're going with IT. Again, on balance, it's a good report.

I must say, Deputy, I was very pleased with the action plan. My sense was that you took this very seriously and sat down and scoured it, nailed everything down to make sure someone was responsible, that there was feedback. You've given us hard deadlines. I haven't heard anything in your language or your opening comment that suggests anything other than your acceptance of some of the criticism that's there, and you accepted the findings. Now, I grant you, it's easier to do when it's a good report, but that does not take away one bit from the reaction that I have to your activities on this and the work of the Auditor General. Canadians should feel good that not everything is a mess. Even the Tories can't screw everything up.

Some hon. members: Oh, oh!

Mr. David Christopherson: I want to move on, though, to this broader discussion.

I haven't heard the term used yet, and I'm not up on this yet, so my first question is very much a shotgun approach, trying to get some understanding. The term "body shops" has been used. First of all, could somebody talk about that term and exactly what that means, and what does it pertain to? Maybe the Auditor General could help there.

Ms. Sheila Fraser: Thank you, Chair.

Essentially the term "body shop" is used for agencies that place people into positions or on contracts, and their sole function is to do that. It's not, for example, like an IT firm that will do contracting and consulting and they have built up an expertise to be able to do that consulting. These are people who will take in contracts, and they can place everything from a clerk to an IT specialist. The organization itself doesn't possess any particular expertise except to be able to place people.

Mr. David Christopherson: You said they built up expertise, and of course one of the concerns I've heard is that by building up that expertise, it's very difficult for smaller consultancies or new consultancies; and as people are losing their jobs in traditional places, they're trying to find new jobs. How much of a problem is it for every Canadian who would be qualified to do this to have an honest chance at bidding and succeeding? Or do these body shops build up such expertise at getting contracts that, really, if you're not one of their flock, you're just not going to get in?

•(1605)

Ms. Sheila Fraser: I don't know, quite honestly, Chair, if I can actually answer that. I think we saw that there was a fair and competitive process when there were requests for services. So if people are following the request for service proposals that are out there, they should be able to contract, and that's why it's important to make sure that those specifications and all the rest of it are actually done independently, objectively.

The deputy may want to add something to that.

Mr. François Guimont: I think Madam Fraser gave a very accurate description of what a body shop is. In my simplest term, I would say that very often the people who are part of those companies would rather be working at something specific, so that's what they're very keen on. To be part of a consortium that allows them to work where the company essentially gets the contract, it's

almost like expertise. They're very good at getting the contract, bidding, and they deploy the right skills. The people part of the company wants to work, as opposed to dealing with bids, so it's a good symbiotic relationship that, if done correctly, gives the right outcome.

Mr. David Christopherson: Thank you for that.

Perhaps by virtue of the media being here or this being an open meeting, if anyone feels they're not able to play anymore because it's just lined up for these expert body shops, maybe we'll hear back from them to see if there's a problem in that regard.

Also, Auditor General, you mentioned that departments could—and I wrote the words down—find themselves with an "undue reliance" on the contractors, but I didn't hear any real discussion about how you avoid that. What are the issues you use to determine whether or not...? And—I guess to the deputy—do you find yourself ever reaching in and hiring these people full-time because you find there is such an ongoing need, and they really do have you behind the eight ball, so it's in the best interest of government to hire these folks?

Some thoughts, please.

Ms. Sheila Fraser: I would start by saying it is important for the department to assess the nature of the contracts, how long people have been there, and whether they possess a certain expertise that no one else has. The department needs to assess if they have knowledge, for example, of a system that nobody else has and then work with that person to try to bring that knowledge in-house so that you have a bit of a safeguard. The example is always this: what happens if that person gets hit by a bus? It comes back to analyzing the risks around that and then trying to mitigate those risks to the extent that you can perhaps bring them in-house.

With most of these people, if they are contracting, it's because they want to be contractors. So it's trying to analyze it—

Mr. David Christopherson: We've heard the opposite from the deputy, of course, who said that most people who are on contract would like to get inside if they could.

Ms. Sheila Fraser: I'm not sure that's what he said. I think what he said is that they would rather be working on the projects—

Mr. François Guimont: Yes, working on the projects.

Ms. Sheila Fraser:—rather than bidding on contracts and doing all the contract administration.

Mr. David Christopherson: I'm sorry. I thought he meant they would prefer to be inside the department working on them all the time.

Ms. Sheila Fraser: That's why they work with these placement organizations rather than doing it on their own.

Mr. David Christopherson: Right, okay.

Mr. François Guimont: If I may, it's a very valid question. From my perspective, if you look at the department, our attrition rate is about 9% per annum, 9%. That's about 10%. Multiply that by five years. That's 50%, 12,000 or 14,000 people. That's a lot of people leaving.

The point I want to make is that we have a very comprehensive strategy to hire people, not massively, just to replace the people we need to do a good job. We're not only looking for young employees who are capable coming out of university; we also have a so-called mid-career entry program hiring priority. These mid-career people could be people who are in the private sector with five, six, seven, ten years of experience, and we would like to see these folks applying for our jobs through the competitive process. They are welcome to come.

I don't have the statistics right now for how many of these people we normally get, but our doors are not only open to the younger generation; they are also open to those people who have capacity and capability. Walking in, they may not know all the rules and procedures, but they have a working knowledge of what their responsibilities will be very quickly and they can be productive. That certainly is a priority for us.

• (1610)

The Chair: Thank you very much, Mr. Christopherson.

Mr. Saxton, for seven minutes.

Mr. Andrew Saxton (North Vancouver, CPC): Thank you, Mr. Chair.

Thank you all for coming here today. I'm glad to see that my honourable colleague on the other side is not himself today. It was a pleasant change.

Some hon. members: Oh, oh!

Mr. Andrew Saxton: It's not that you are not pleasant otherwise, David, but you're more pleasant today than I've seen for a while.

Some hon. members: Oh, oh!

Mr. David Christopherson: Take the shovel out of his hand, will you?

Mr. Andrew Saxton: Now they are all in a good mood.

I'm pleased to see that we have a pretty comprehensive action plan in front of us here today. Thank you for providing that. The action plan lays out the department's response to the second part of the Auditor General's report dealing with the administration of contracts.

Before I get there, I want to briefly touch on the awarding of contracts, because I do believe this is a good-news story. In the past there have been major problems with Public Works, and it's very rewarding to see that changes have been made.

Looking back to your report of 2003, you had some strong words to say about the awarding of contracts, words such as "little regard for Parliament" or for the "contracting rules and regulations". In this report we see, and I quote:

The tendering process was therefore conducted in a fair and open manner.

...

...we found that 96 percent of the contracts that PWGSC awarded on a sole source basis complied with the appropriate legislation, regulations, and policies; consequently, we concluded that they were awarded in a fair, open, and transparent manner.

That is a significant change from the 2003 report.

Auditor General, is it a fair assessment to say that we have seen a significant improvement with the awarding of contracts, and could you elaborate on this improvement?

Ms. Sheila Fraser: Thank you, Chair.

I would say we were very pleased with the results of this audit as well, which shows that Public Works is managing its contracts for professional services. The awarding of those is as one would expect, and they are doing it very well.

Reference has been made to the 2003 report. I would just caution that the comments we made were related to a very specific program, and in fact, in that report we indicated that one of the problems was that the program was managed outside the normal processes of Public Works. I don't remember the exact words, but we did say in the report that there were actually pretty rigorous control systems in place and that if the program had been managed through those systems and practices in that department, we questioned if the irregularities we found would have occurred. It is very important not to generalize the audit finding around the sponsorship program to the whole management within the Department of Public Works. We tried to be very clear at the time and since then that it was not a reflection of the way public servants in Public Works did business, and that was what in fact made it so unusual at the time.

Mr. Andrew Saxton: Thank you.

Now, with regard to the administration of contracts, you have recommended that PWGSC needs to "develop and implement a framework to ensure quality and compliance". Are you satisfied with the contract management control framework as proposed by PWGSC, and does it address your concerns?

Ms. Sheila Fraser: Yes, Chair. As I mentioned in my opening remarks, we have been consulted and have reviewed the framework. We believe it addresses all of our concerns and, if implemented, should certainly deal with the issues that we found in the audit on contract management.

Mr. Andrew Saxton: Thank you.

Now I have a question for Mr. Guimont. First of all, congratulations on your gold star for awarding contracts.

Can you let us know the areas of the framework that have been completed and for which we can see results in a timely manner?

Mr. François Guimont: With your agreement, Mr. Chairman, I will ask Madame Meredith to answer this question.

The only point I would make on the gold star is that if I could put it in the bank and cash it in due course, I would appreciate it.

Some hon. members: Oh, oh!

Ms. Daphne Meredith (Associate Deputy Minister, Department of Public Works and Government Services): Thank you, Mr. Chair. It's my pleasure to answer this question. I'm doing so because I chair the committee in the department that oversees procurement. It's a committee that was established in 2007, and we are adjusting our activities as we determine the best way to approach oversight of procurement in the department, knowing how important it is to the department.

In the Auditor General's report, of course, the reference is made to more than a billion dollars in professional services contracting. But in total, we contract for about \$2.3 billion in terms of goods or construction or professional services. It is obviously a huge area of effort in our department and therefore worthy of a good control framework.

I have a committee, as I mentioned, of which the ADMs responsible for each of the branches are members. That governance structure is an important component of the framework and has been in place since 2007.

There are several elements of this framework to which Mr. Guimont referred. One of them is a solid management information system. This is something we invested in heavily as a department—it's approaching \$40 million, actually—over the past couple of years. We now have an SAP-based system that we call SIGMA. We feel it's a very high-standard system that allows us to impose financial controls and allows for proper materiel management.

Mr. Guimont referred to the training and control of delegations in our department. He said 1,700 people in our department who are given delegations have had the training and are certified to use them. That's a very important aspect of our control framework as well; it also is in place.

We have established guidance for our employees. This is an area in which we've been very active over the past several months, especially since we received the report, because we recognize that contracting is not child's play. It's complicated, for good reasons, given the money involved and the complexity and the need to derive the best value we can from taxpayers' dollars. If you counted the number of guidance documents in this area of government, you might be surprised. By my count, there are about nine statutes that relate to procurement or contracting, there are the contracting regulations, there are 15 or more Treasury Board policies or directives that relate to contracting or procurement. There's a lot of guidance, let's say, to the individual employee who is trying to put this together and manage well. We invested time and effort to do a good comprehensive guide that leads them through how to apply the rules and supports them in the process. We have checklists—tools to help them—that we've issued. We have approved this guidance. We have issued it in the department as a support mechanism and we are going to now be running training sessions for all of our managers across the country, starting in May on the west coast and in Ottawa.

Further to that, we also have a monitoring mechanism. At the beginning, at least, we will be doing a review of 200 contracts per year, 50 per quarter, reviewing the files to determine whether they have addressed some of the issues that were raised in the Auditor General's report. We will be reviewing the results of that monitoring

in my committee on a quarterly basis, using it as a tool to measure how well we're doing.

So I believe we have all of the elements in place now to see continuous improvement in this area.

● (1615)

The Chair: Thank you, Mr. Saxton.

There are just a couple of issues I want to cover before we start the second round.

Monsieur Guimont, on the procurement ombudsman, can you tell the committee how it's working and what changes it has made in your particular department?

Mr. François Guimont: You've probably had the pleasure of meeting Shahid Minto, who was with the department before and through a selection process has become the ombudsman for the department. He has a team with him. He reports directly to the minister; he does not report to me. Administratively, he's part of the department, so we have a relationship through service level agreements for HR management, financial management, and things of that nature. I put emphasis on this because the ombudsman is truly an ombudsman, separate, reporting to the Minister of Public Works and Government Services.

With respect to his work, his mandate deals with contracts that are below the threshold of \$25,000. He also has power and responsibilities to carry out investigations if need be. He has the capacity to do that as well. We meet with him regularly. I'm speaking a bit about his business, but we have quite an ongoing relationship because I can glean a fair amount of information from him, which is useful to me in my administration. He's been dealing with complaints. I don't have the numbers; it's not my line of business.

I must admit, Madam Meredith, I was positively surprised that he's not swamped with complaints, but he obviously has work coming his way. Frankly, for me, the ombudsman doing his work—as I say, he's independent—also allows me to be better in the work I'm doing.

One last point I would make, Mr. Chairman, is that his function, as per the Federal Accountability Act and regulations, does not preclude me from having a function to also resolve disputes, and I do have that. If you are an outsider, you can either access the department to get satisfaction with a complaint you have or go directly to the ombudsman and the CITT, if the threshold is there, etc. That's the way things are operating.

I would say, generally speaking, it has been very good. He's going to be, if I remember, filing his first report just before the summer, which will outline essentially what it is that he's been doing over his first year of mandate.

•(1620)

The Chair: Another issue I want your thoughts on, Monsieur Guimont, is the whole issue of risk acceptance and risk management. There have been many people in the last number of months, including Mr. Tellier and Mr. Mazankowski, making the comment that the public service, because of the advent of rules and ombudsmen, has become too risk averse, and as a result things are being gummed up, it's slow, things aren't getting done that perhaps should get done. It puts you in an awkward position. You come with a good report, everything is good, and congratulations...then you get other people saying that you're not making enough mistakes. I'm sure you're following this discussion very carefully. It is an issue and it has to be managed by you.

As the accounting officer, can you comment to this committee just how you view the whole issue of reasonable risk acceptance and proper risk management?

Mr. François Guimont: Yes, thank you for your question.

I refer often to intelligent risk-taking, which is essentially the point you're making references to. Mr. Chairman, in the department, because of the recent history around it, our people can be quite cautious, and frankly, they are cautious for the right reasons. We're dealing with taxpayers' cash. When it's not that, we're dealing with competitions, where people want to have a fair shake to access these contracts. Ideally, our people should be quite serious and they are serious about the business.

I find that if you want to create the right balance between intelligent risk-taking and risk management, Madam Meredith and I, with the framework we have, will create the conditions for people to feel more comfortable in assuming their responsibilities. Deep inside, I believe our people want to do the right thing. There will always be exceptions, and when they are caught we deal with them. Setting that aside, people walk in in the morning and they want to do a good job.

Often—and I think Madam Meredith said it—there are a lot of things coming our way, various acts and regulations, policies and procedures, and all that. This is frankly where I value the work of the Auditor General. I look at this as a recipe for me simply to apply the right ingredients and create what we need to do in order to get better. That's what the framework did. For me, risk—risk assessment, risk management, the issue of intelligent risk-taking—has to be taken in the context where people with the right framework will assume risk. It's just that when they don't know, they make mistakes, and then they don't feel good about it. Certain issues that were picked up in various files.... At PW they want to do the right thing, and when they know they've made a mistake they don't feel good about it. Our responsibility is to create the right conditions for people to assume the risk correctly, and I think we've done that.

•(1625)

The Chair: Thank you very much.

We're now going to start the second round, colleagues, and we're going to go to Ms. Crombie for five minutes.

Mrs. Bonnie Crombie (Mississauga—Streetsville, Lib.): Thank you, Mr. Chairman.

It's nice to see you again, Madam Auditor General.

I think my question is to Public Works and Government Services Canada. I apologize for missing the first part of the meeting, as I was called away.

I want to go back to the sole source suppliers and contractors, which are, by definition, awarded typically in specific areas. You've probably already discussed planning, design, renovation, restoration, architecture, engineering, and so on. I want to understand the process better and why it would not be in the public interest to solicit competitive bids in those specific areas.

Mr. François Guimont: I was simply going to start by saying that this is out of the regulations we have and the guidance we take from the Treasury Board. I don't want to start putting it on someone else, but those are essentially the parameters we're given to execute. This is not a policy set by the department. That's the point I want to make. I'll say that a priori.

I find that, frankly, sole source probably has its purpose. It's quite obvious from the guidance or parameters or regulations that have been set. You can see that this \$25,000 threshold is pretty low, and it has been \$25,000 for quite a few years. It goes back to 1982 or 1986; I forget. It has not been augmented. The point I'm making is that there is obviously a feeling that for anything above that, competition is important. People should have a fair shake to see and get the contract, yet you want to give some flexibility for smaller-value work so it can go more quickly.

It's the balance, Mr. Chair, between process and getting the outcome. That's the first point I would make.

The other parameters were probably simply set, again, to provide for some flexibility. If it is unique, if it's an emergency, you can sole-source. We have been given some flexibility—not only us, but the departments, because they have authorities as well—but the bar is high, because a priori, people want to be able to say that there has been a transparent, open, and fair process and that people had a chance to bid.

Mrs. Bonnie Crombie: Is there a preferred supplier list, and how do you become a preferred supplier? Are these contracts ever sent out to open bid? Do the same contractors always bid? And finally, what makes you eligible to bid?

Mr. François Guimont: We have various procurement tools. We call them that. I don't want to bore you with the terminology, because it can be pretty technical, but you probably have heard of something called a standing offer. If it's a standing offer, if I just give you that as a for instance, it says so: standing offer.

So it's a group of companies. There was a pre-competition, so people were selected based on parameters and criteria. People put their names forward, the names of the companies, and they made the list for certain things—goods or services, for example. They also provided a list of prices, meaning that they have promised to give that good or that service at that amount of dollars. Normally we have a standing offer for a period of time, so it is static in time.

So you've made the list. It's a pre-competed instrument. For me, as a taxpayer and as an administrator of the public purse, I know that the value will be a fixed value for a period of time. Now, it may vary. It may be for three years or one year. We can have a price refresh if we feel that it's fair to do so.

When you are on the standing offer list, you do not have a contract with the government. You have been pre-selected. So that's good. You've made a list. And on behalf of Public Works or another department, another department can have access to the company for that purpose at that price. It's a quick, fair, transparent, and above-board way of getting an outcome or product, good, or service. I'm just giving you that as a for instance.

We have different instruments like this that exist. There are not a whole bunch, and it's always the same principle. Whether we call it a supply instrument, a standing offer, or a contract with task authorization, the principle is the same. What is the purpose and what are the selection criteria? A competition is run, people make the list, and then people can access the list for work to be done or goods to be obtained.

Mrs. Bonnie Crombie: Okay. I have just a couple of more questions.

Ms. Sheila Fraser: Could I just add, Mr. Chair, that we have an exhibit in the audit report, exhibit 3.1, that outlines the various procurement approaches?

• (1630)

Mrs. Bonnie Crombie: Also, how much authority or decision-making ability would someone on contract have?

Mr. François Guimont: It varies, and there's no simple answer. Let me explain.

It varies between goods and services. As an example, going from memory, the delegation between our minister and the department for services is up to \$2 million to that department, to that minister. That delegation to that department can be brought down. And it's the same thing for our minister. He has a right to sign for certain contracts, as an example, of up to \$20 million for a contract. Above that threshold, he has to go to Treasury Board.

The highest instance for approval of contracts or sub-elements of a contract is the Treasury Board. The second highest element is the minister. After that, it's me, and it goes down. As you go down, the number goes down, and there's a point where it doesn't go down anymore. There's a level where, if you are not one of the 1,700 managers and you haven't been trained and certified, you cannot have a delegation, because you can't exercise contracting authorities under the Financial Administration Act.

That's the way it works, and the numbers vary. It's all prescribed, and certain things are fixed between the Treasury Board and the minister. And within the department, a minister can exercise a

delegation down. The same thing applies to me; I can give a delegation, or I can withdraw a delegation.

The Chair: Thank you very much, Ms. Crombie.

Mr. Kramp, for five minutes.

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

Welcome to all.

I think we can honestly say that there should be some sincere thanks and gratitude to both levels of participants here. Obviously, at the urging of the Office of the Auditor General and with the adherence of Public Works and Government Services, it's a clear demonstration that government should work and can work. I appreciate the fair comments of my colleagues across the floor. Even though I sit on the government side, I can assure you that if this were a damning report, I would join the chorus of criticism as well. But congratulations to all.

There's not a lot here that I'm going to go on about, other than a few small points I would like a little bit of clarity on. Perhaps you could give some guidance on these.

If there is an occasional blip, when something isn't done right and it's either in error or in breach of a contract and the government hasn't been well served by it, how do you decide when and where to try to seek recompense from a person who has unduly taken advantage of the government? In other words, when do you get involved legally? Do you have a threshold on which you act if you've lost \$25,000, for example, or if a contractor has not been in accordance with his contract, and you've overpaid by \$100,000? Where do you try to get the money back, and what process do you use?

Mr. François Guimont: Thank you for the question. I will give a two-level answer.

The first and very direct one is that following the work we carry out, if an audit of the contract shows that the billing was done inaccurately, we will take action to recoup the money. That's just the way it is. If, for instance, we have paid a consultant for work done, which was asked for and was carried out and we're satisfied with it, but the authority for it was not very clear, we're not going to recoup that money. The work was done and value for the crown was obtained, but the vehicle or instrument was wrong. Then that's our problem and we'll try not to do it again.

When we need to recoup the money on the basis of over-billing or something that was wrong, we will do it. Obviously, if the work was done and things were done correctly, the legal advice we have is that we have no case to go back to it.

The other point I would make is in terms of the performance of companies. We do have a vendor performance policy. The vendor performance policy, which is publicly available, essentially guides us in terms of behaviour. In the same way as contractors are expecting a certain behaviour from public servants, and can expect it and can get it, we are also expecting certain behaviour from contractors, for two reasons: the protection of the crown's interest and, secondly, a level playing field. A contractor should be contracting and behaving correctly vis-à-vis the terms and conditions of a contract and deliver what it ought to be delivering. The vendor performance policy, therefore, allows us to take measures against the company if need be, based on the performance of that company vis-à-vis the contract.

• (1635)

Mr. Daryl Kramp: And the threshold? Obviously you're not going to spend \$100,000 in legal fees on a \$10,000 contract. Or would you? I'm just wondering if there is some level.

Mr. François Guimont: No, not in the vendor performance policy. Frankly, I understand your point. The way we would look at it is on a one-off basis, but frankly, I would never diminish or ignore the value of also giving a signal. The quantum is important, but it's also to be understood, outside and inside, that situations that are not correct will not be ignored.

Mr. Daryl Kramp: If you had an unscrupulous contractor and obviously had dealings that were not satisfactory, is that contractor eliminated from future bidding?

Mr. François Guimont: I will go back to the earlier point I made, Mr. Chairman, that the vendor performance policy allows us to take measures, including barring of a company for a period of time. It has been done in the past for certain contracting activities. It's not only about forbidding a company from operating; there can be other measures as well, but it can go as high as barring or preventing the company from operating for a period of time.

Mr. Daryl Kramp: Thank you.

On another point, one of the things we've heard about every now and then, of course, is a contract changing in nature a number of times. Then, of course, the extras come in at a huge cost overrun. In cases like this—and obviously the contract amendments or the proactive disclosure would have to come out—what's the current state of the policy regarding proactive disclosure for contracts that have this kind of variance?

Mr. François Guimont: Thank you for the question.

This element has been picked up by the Auditor General, and rightly so. A new disclosure policy came out in 2004. Before that, we were disclosing against another policy. We were doing it, but no question about it, there was confusion in the department on the requirement to disclose task authorizations versus the full value of the contract. People knew they had to disclose the value of the contract above the threshold of \$10,000. That was understood.

What was not clear in their minds was whether they had to, against that contract, disclose the task authorizations one after the other. Some people did. The majority did not. That's been clarified with the Treasury Board. We're now compliant with full disclosure of the task authorizations, the amendments, and the full value of the contract.

The Chair: Thank you, Monsieur Guimont.

I believe the Auditor General has a comment to make on that.

Ms. Sheila Fraser: Just to add to that point on contract amendments, it was interpreted, I think, under the policy that they did not have to be disclosed, and departments were not disclosing them. Subsequent to this, that has been changed and contract amendments are now being disclosed.

The Chair: Thank you, Mr. Kramp.

Monsieur Desnoyers, *cinq minutes, s'il vous plaît.*

[Translation]

Mr. Luc Desnoyers (Rivière-des-Mille-Îles, BQ): Thank you, Mr. Chairman.

Your report states:

In three cases, there was evidence indicating that the contractor who was awarded the contract had been involved in developing the search criteria and had written the statement of work for the contract. In one of the cases, the department used the services of a consultant to assist in developing the request for proposal while, at the same time, the consultant was subcontracted to the firm that bid on and was awarded the contract.

Do we know the value of that contract? Can you tell us that?

[English]

Mr. Tedd Wood (Principal, Office of the Auditor General of Canada): Mr. Chair, the second contract has an original value of \$16 million.

[Translation]

Mr. Luc Desnoyers: Were there any other contracts of that kind with high values? We're talking about three contracts.

• (1640)

Ms. Sheila Fraser: When we raised that case, the department did a search and review of all contracts to ensure that there were no other similar cases. Perhaps our deputy minister can talk about that.

Mr. François Guimont: Thank you, Ms. Fraser. We didn't wait to conduct a review. The Auditor General told us that it was important to determine whether there were any other potential conflicts of interest. So we essentially took a sample. Moreover, the person responsible for the file is here. We started with 500 contracts. Then we did a review of 50 of them. I emphasize that we used review parameters, as opposed to audit parameters. I was pleasantly surprised to find that, as I remember it, for at least 95% of the contracts, there were no third parties of a company. That's a good thing. I wanted to know whether that was common or exceptional. That wasn't very common. The people who prepare the contract specifications are often departmental people.

In addition, we knew that a consultant had been involved in one way or another in the specifications or part of the work on 28 of the 50 sample contracts, if I remember correctly. The analysis done revealed no conflict of interest. Measures had been taken to minimize the number of conflicts of interest or to ensure that there weren't any.

Lastly, I would like to emphasize that the Treasury Board policy permits a consultant to assist someone in preparing the specifications for a contract, provided certain measures are taken. Those measures essentially consist in full disclosure of any conflicts of interest. There is very clear documentation on the Treasury Board's expectations when someone decides to ask an outside third party to assist these people in preparing the specifications of a contract.

Mr. Luc Desnoyers: I have another question on the employer-employee relationship. Can anyone tell us how many employees are hired by subcontractors? We're told that 14,000 persons work for the department. How many in total work for subcontractors? Do we have an idea of that?

Mr. François Guimont: I don't have that figure, but I'll be pleased to try to find it for you. We're going to see what the limits of my system are. I understand your question: you want to understand the ratio.

Mr. Luc Desnoyers: That's correct.

Mr. François Guimont: I'd like to say briefly—

Mr. Luc Desnoyers: I simply want to finish my question.

Mr. François Guimont: Go ahead.

Mr. Luc Desnoyers: Indeed, it's a matter of ratio, but we also have to look at the terms of the contracts. We're talking about conflicts and significant risks. The Auditor General's report states, and I quote:

PWGSC has developed practices to reduce the risk of creating an employee-employer relationship in awarding a contract; however, the department does not formally monitor whether the same consultant had been retained through a series of consecutive contracts within branches.

In the meantime, have any checks been done of labour laws and the collective agreements of professionals in the federal public service? There is a high risk of having an employer-employee relationship, and that's important. I want to emphasize that because this is an environment that I know very well. The terms of these contracts become a major and significant risk. I'd like to know the terms of the contracts or whether the risks are significant, as is mentioned in the report. It's important to know them, so that the risk can be thoroughly analyzed.

Mr. François Guimont: Mr. Chairman, I can give you some statistics on that. I don't know how much work that will require; so it would perhaps be a little unfair to promise that you'll be receiving them in one or two weeks. I know what you want. I'm going to take steps to provide them, and I believe that this information will be useful to me as well. We're on the same wavelength in that sense.

[*English*]

The Chair: Okay. You can file that with the clerk of the committee, and that will be distributed to all members.

Merci beaucoup, monsieur Desnoyers.

Mr. Shipley, you have five minutes.

Mr. Bev Shipley (Lambton—Kent—Middlesex, CPC): Thank you very much, witnesses, for being here again. As my colleague said, it's refreshing to have a good Auditor General report and your comments about the significance of working closely with the Auditor General, to help go along with your action plan, your management plan, your procurement.

I'm new on the committee, and I think departments sometimes work in silos. I'm trying to figure out how we can transfer some of those comments, but mostly some of the action plans that have been put together. You can just change some of the wording. If they're development plans for departments, how can the government take those and transfer the ones we can use to other departments? Regardless of who we are around this table, we quite honestly want government to be looking after our public dollars. We're taxpayers also.

You have so many employees—14,000, I think. It was interesting for me to understand the sequence of events in procurement: the Treasury Board, the minister, and Public Works. The 1,700 trained people will also have jobs to do.

Mr. Guimont, you talk about a 9% turnover and the number of contracts that come due each year. I'd be interested in understanding how the contracts are awarded. That goes back to the assurance that we want to see public dollars spent well. What are some of the challenges your staff face in managing those contracts so there is accountability and transparency to the general public? We often just hear about the other side of it. We're spending so many dollars, so how do you make it accountable?

As we move into this next section and away from Public Works into our infrastructure, this is going to be a significant issue.

• (1645)

M. François Guimont: If you don't mind, Mr. Chairman, I will allow Madam Meredith to answer, since she is chairing the procurement oversight committee.

Ms. Daphne Meredith: Thanks very much, Mr. Chair.

To your first comment about the observation that often government departments can seem to be siloed, disconnected from each other, I think that can be the case. Our accountability to Parliament is quite separate.

But we do meet with colleagues. As one example, I chair a group of assistant deputy ministers who come from a number of other departments, small and large. We talk through issues of procurement, including in that discussion our best practices. So we do have some avenues—and through the Treasury Board Secretariat as well, committee work—where we have an opportunity to share best practices. So we're not completely isolated from one another.

In terms of the challenge—especially given employee turnover—of how you ensure a very high standard in ensuring fair, open, and transparent awarding of contracts and contract administration, I would point to, in our case, the creation of this framework, something that's logical and systematic, and something that, as an important component, has the guidance for individual employees who are involved in awarding contracts or administering them.

To my earlier point, we are ambitious in the use of our tax dollars, whether for getting the goods and services we need to run programs or whether for greening or SME involvement. Yet we really need to focus on ensuring that the way the contracts are awarded is fair, open, and transparent.

I will speak to our contracting officers and the process they go through to ensure that fairness is there. They are assiduous about ensuring that opportunities are publicly posted, in our case on the MERX system. They are assiduous about ensuring we have evaluation committees for defining the criteria that will determine who wins a contract and that the people chosen to participate on committees have no conflicts of interest. That's precious to us.

We need to make sure that each bidder is treated fairly, in the sense that we can't be giving privileged information to any one bidder. They're very careful about that. Any unsuccessful bidder is given the right to a debriefing after the award to ensure they understand the reasons they did not win. They're not given such a briefing before the evaluation is done, of course, because that might allow for bid repair. We have a highly professional and well-trained staff who ensure the rigour is done.

And then, of course, we have the posting of awards of contracts, according to the proactive disclosure policy of the Treasury Board Secretariat. All of that is transparent as well. There is a lot of rigour in place to ensure fairness, openness, and transparency.

• (1650)

The Chair: Thank you very much, Mr. Shipley.

Mr. Christopherson, five minutes.

Mr. David Christopherson: Thank you, Mr. Chair.

I have a couple of matters, just to follow up on the body shop stuff. I'm curious. How much of a premium is there in hiring a contract person as opposed to hiring a staff person?

This is to the deputy.

Mr. François Guimont: I understand the question. I just don't have the answer. It's a very straightforward question; I just don't know.

Daphne Meredith, I don't know if you would have an answer to that.

Mr. David Christopherson: I would accept having something forwarded to me, Mr. Chair. I understand.

The Chair: Before we move on, he may not know the answer because he wouldn't know, necessarily, how much the body shop paid the people involved.

Are you able to give an answer, Ms. Meredith?

Ms. Daphne Meredith: Not a comparative answer.

From the Auditor General's report we have a sense of what some of the daily rates were for individuals on these contracts. As I recall, for some of the higher-end work it ranged from \$800 to \$1,100 per day. You'd have to do the math and figure out what the equivalent would be for a government employee. But then, of course, as Mr. Guimont pointed out, part of the reason for hiring those people is for flexibility, so that you're paying them only for the time you use them, not a full year's salary.

Mr. David Christopherson: No, I understand the principle of the extra; I just wondered what it was.

The Chair: Just to finalize that, could you get back to him with the information you have? All right.

Mr. David Christopherson: Thanks, Chair. I appreciate that.

Have you had many union grievances in this area—in other words, the union claiming that some jobs should be full-time rather than being contracted out? It's a natural tension.

Mr. François Guimont: I would say that the department has gone through, and is going through, a business transformation. We are going through a business transformation. I'll give you an example.

We used to do a lot of building maintenance. Now we have a contract with SNC-Lavalin ProFac. They carry out the work in our buildings. This was done in full consultation with our unions. It is working very well.

Frankly, on this business transformation that we're doing, I made reference to the 9% attrition we're going through every year. It's not only about shedding people, it's about transforming. But we try to offset the change in business delivery with attrition so that we don't impact individuals.

The second point I would make, and this can be tested, is that we have a very professional and very good relationship with our union folks. As to the number of grievances, I don't know if Madam Meredith has that, but I can get it for you. I understand it's specifically about the issue of professional services versus work that could be done by....

I'll look and see if I have the data, and I will provide that to the chair.

Mr. David Christopherson: All right. We'll wait to receive that, then.

Page 18 of the Auditor General's report, under 3.62, reads as follows:

In three cases, there was evidence that the incumbent contractors had participated in developing the search criteria or the statement of work for contracts that were subsequently awarded to them. This is a conflict of interest and does not comply with the policy that contracting be fair and open.

I've already acknowledged that there aren't huge systemic problems or trend lines. My question on this one was that when I read it, I thought, you know, given the complexity of everything you're dealing with and all the things you've done right, how can it be that something so obvious could happen when there are a number of steps here. There are a number of steps; it's not a one-off incident.

I know you can't give me a pointed one, and I give you the opportunity to walk me through the park because it's my last question. But I'm just curious. In such a complex department as you run, where—to repeat myself—so many things are so right, how could there be this kind of blatant...? In this sea of competency and professionalism, you have this one sore toe sticking out. How is that? Help me understand how you get examples like that when everything else is going so well.

•(1655)

Mr. François Guimont: Thank you for the question.

Mr. Chairman, I said earlier on that Treasury Board guidelines allow for the use of external help in putting requests for proposals together, or some assistance, for reasons of either workload or complexity. That's the point you made—complexity. It has to be done in a very structured fashion. This is where I think the OAG looked at this and felt that in this case, the way the people were involved was a conflict of interest.

In one case, there was a conflict of interest declaration made, but it was not to the right level. The Treasury Board provides a framework for that, and we did not follow that framework. The Auditor General picked that up, and she's right.

Mr. David Christopherson: In other words, it's a screw-up?

Mr. François Guimont: Well, you know, it's simply.... I made references to the review we carried out. It's a lesser number of cases.

People are driven by wanting to do the right thing for an outcome. They need some help and assistance, and they have to think it through. But it's not sufficient to think it through. My point is that you have to document what it is you're doing. You have to get the proper disclosure agreement if you need to have one. You have to have legal services review it. You have to make it in line with what Treasury Board is suggesting.

If you have the right parameters, probably it is less of an issue. When it is not with the right parameters, you do have an issue.

The Chair: Thank you, Mr. Christopherson.

Mr. Weston, for five minutes.

Mr. John Weston (West Vancouver—Sunshine Coast—Sea to Sky Country, CPC): Mr. Chair, I was looking at more than \$1 billion a year in contracts for professional services. I hearkened back to a time many years ago when I wore a different hat as an international lawyer working in Asia. I recall that we were contracting for a certain Southeast Asian country. We provided a report on work permits for foreign nationals in that country. I handed a report I had done very proudly to my colleague, who was from that host country. He took my report, held it for a minute, and said, "Not heavy enough." I'm glad to see that you're not grading your professional services on that kind of one-instrument basis.

I listened closely to your opening remarks, Mr. Guimont. In English, you wrote, "We are pleased that the Auditor General found that PWGSC awarded publicly tendered contracts correctly in 95% of cases and sole-sourced contracts in 96% of cases." In French, you were even more effusive. You said, "*Nous sommes ravis.*" I think there's a consensus that things are going very well.

To prepare for this meeting, I looked back at the 2003 report, which has already been referred to. In that report of November 2003, chapter 3 does focus on the sponsorship program, as you said, Ms. Fraser. In case there are some practices here that could be replicated, let me just quote something and see what we've done to move forward in such an astonishingly good way.

Back in 2003, it was written: "From 1997 until 31 August 2001, the federal government ran the Sponsorship Program in a way that showed little regard for Parliament, the *Financial Administration Act*, contracting rules and regulations, transparency, and value for money". Skipping a little bit, we come to this: "Oversight mechanisms and essential controls at Public Works and Government Services Canada failed to detect, prevent, or report violations."

So things have improved since. I would appreciate hearing first from you, Mr. Guimont, and then from you, Ms. Fraser. What has happened? What were the practices? Could you identify perhaps three things that have improved? It's a good-news story, and I want to make sure we understand the good news.

Mr. François Guimont: I'll start by saying that as a manager and as the accounting officer for the department, I always make a distinction between mistakes and wrongdoing.

Wrongdoing is not good, and I'll let Madam Fraser speak to that issue. I don't think we're dealing with wrongdoing issues here; it was mistakes. Some mistakes were made, and we want to learn from mistakes. We should be in a continuous improvement mode. That's the thing. If you find something, I welcome that. When we felt that the assessment she had carried out was complete, I didn't wait; we just started working on it. This is the continuous improvement mentality, and it permeates the organization. We're working on getting our fundamentals right. That's being best of class. It's a pretty simple philosophy.

The framework that Madam Meredith described is meant to put that together. It's almost like looking at a framework that had bits and pieces here and there; through her work, it has now been assembled.

The dog has a head. It's called governance. Then there's the body. It's the body of things that we have. I don't want to call it the tail, but we're going to be doing monitoring. I believe I have a very good framework, and I believe my people will want to do the right thing—I'm convinced of that—but the monitoring keeps things in perspective.

We're going to be doing, as she described, a sample of 200. That's not nothing; it's 200 repeatedly. We're going to find other things. We're going to go at it in a continuous improvement mode. I think this framework, with the employer-employee relationship guide, is as comprehensive as it can be. I guarantee we'll find bits and pieces, and we're going to go at them, correct them, and continuously improve.

I'm putting big emphasis on monitoring. Monitoring is a big deal because it allows you to see where you are in real time.

• (1700)

The Chair: Thank you.

You have one more question, Mr. Weston.

Mr. John Weston: I was hoping Ms. Fraser might answer from her perspective.

Ms. Sheila Fraser: As I mentioned earlier, I don't think the results of the 2003 audit should be extrapolated to the whole department. The system of management within that program was unique and very unusual. We mentioned in the audit at the time that it was outside all the normal processes of Public Works. If this audit that we've just completed had been done then, I don't know what the results would have been, but I'm almost convinced we would not have found the really bad results we found in that particular program.

Mr. John Weston: It wouldn't have been—

Ms. Sheila Fraser: I don't think an audit on professional services contracting would have had the kinds of results that we had in the audit of the sponsorship program. That's why the sponsorship program was so unusual at the time.

That being said, though, I think the government is paying much more attention to management than it did years ago. The deputy has already alluded to some of the things that are being done. There is much more training for people; there are self-assessments. There's the management accountability framework, which assesses performance in management issues. The requests for action plans by parliamentary committees, the efforts to find out what departments are actually doing, the introduction of departmental audit committees—these and other factors have put more rigour into management, and people are paying more attention to it.

The Chair: Ms. Ratansi.

Ms. Yasmin Ratansi: I'd like to ask a few technical questions of the Auditor General and then ask a few more of PWGSC's Monsieur Guimont.

Madame Fraser, the sample that you did of 43 contracts, do you know what the total value of the contracts was?

Ms. Sheila Fraser: I'm afraid I don't have that. If the committee wishes, we could get it for you.

Ms. Yasmin Ratansi: No problem.

With respect to sole source contracts, there were some categories required. Out of the 69 that were completed with conditions, do you know which category they fell into—whether they were the under \$25,000, whether they were architectural engineering, whether they were CIDA, whether there was only one person capable? Do you have that breakdown?

Ms. Sheila Fraser: I don't have the exact breakdown, but we looked at all contracts over \$10,000, and most would have been between \$10,000 and \$25,000, so these would have fallen into the first exception.

Ms. Yasmin Ratansi: My third question is to Madame Meredith. I think you brought to our attention that there is a MERX system that people can use. When that was a system that the provincial government also used, a lot of the bidders were complaining that it was a very cumbersome process. They couldn't go on to the system. They had to do a lot of paperwork. Has it improved? Do you hear about problems? Is the ombudsman now getting complaints? Is it his or her job to do that sort of investigation?

• (1705)

Ms. Daphne Meredith: I think it's primarily the job of our Office of Small and Medium Enterprises. We have an office that operates in Ottawa, in the national capital area, as well as offices across the country, in every province. This is a network that allows us to hear from businesses. Medium-sized enterprises go up to 500 employees, so that covers a good number of our suppliers. We hear when they are having trouble accessing our contracts, whether it's a problem with the public tendering system—which is MERX in this case—or other aspects of our procurement, and we work through those issues. I think I can say that there are improvements continuously being made. There are some things that we can't change in the short term, so we look for improvements over the longer term. But we are in constant communication with small and medium enterprises, and we're certainly open to making changes in the best way we can.

Ms. Yasmin Ratansi: With respect to sole source contractors, I believe you have a list available on your data bank. Is that how you access them, or can they register themselves on the MERX database?

Ms. Daphne Meredith: Typically, on that system, we inform suppliers of government buying opportunities. So it's us going to them with our intention to buy something.

Ms. Yasmin Ratansi: But if it's professional services, what then?

Ms. Daphne Meredith: We have special mechanisms. There are different types of systems that can be used. One is called Professional Services Online, and there are other special avenues for gaining access to suppliers.

Ms. Yasmin Ratansi: I have one last question. You have a departmental action plan—the contract management control framework. Could you tell me how I read this? I am a person who knows Gantt charts. I'm trying to figure it out. I'm looking at your action plan, and I'm just curious to know how I should read it. This way? That way? How does the grid meet?

Ms. Daphne Meredith: I imagine that you're looking at a multi-coloured grid?

Ms. Yasmin Ratansi: No, I'm actually looking at a little asterisk, which says "Procurement oversight." It would probably cover governance, control, risk management, monitoring, reporting, but I'm not comfortable as to what it would do and how it would do it and who would do it and...do you know what I'm talking about?

This grid in the action plan—I'm just curious as to how I'm supposed to read it.

Ms. Daphne Meredith: I think what we're saying is that we have certain actions or elements, whether it's our committee or whether it's the guide, and we're mapping it against each part of the framework. So if you read across the top, you see the elements of the framework. And I guess the framework—

Ms. Yasmin Ratansi: On the vertical side.

Ms. Daphne Meredith: On the vertical are actual things that we're doing, things that we have in place, and we're mapping it against what we consider to be a robust management framework.

We have, in a sense, an easy mapping of those elements to a construct that the Auditor General referred to earlier, which is called the management accountability framework, something the Treasury Board Secretariat uses to look at the departmental management.

The Chair: Okay, we're going to move on. Thank you very much, Ms. Ratansi and Ms. Meredith.

Mr. Young, five minutes.

• (1710)

Mr. Terence Young (Oakville, CPC): Thank you, Chair.

Monsieur Guimont, thank you for being here today.

I think that at 14,000 FTEs, if you were a company, you would be one of the biggest companies in Canada. So I'm looking at the numbers here. You have 9% attrition a year; 60,000 contracts a year, I'm told; and so 5% to 6% without full compliance—I think it's a tiny differential. I think congratulations are in order, because there's always an element of human error. In response to Mr. Christopher's question, there's always going to be an element of human error when people work long hours and are multi-tasking, etc. I'm also cheered that no problem was pervasive, which indicates error as opposed to systematic issues.

But I've been in business over 30 years. I've been on the other side applying to MERX and helping clients apply to MERX, and some businesses, I think you must know, find it a little bit onerous, a little difficult to get through, and they just give up. You'll get better quotations and more competitive bids if more businesses apply, obviously. And I should say I suspect that's why the body shops exist, because they specialize in knowing how to fill out the applications and do business with government.

Is there a way that you're able to help new applicants get through this RFP process without giving out your standards?

Mr. François Guimont: Yes.

Before I answer this, I'll say that one day, because I heard about MERX, I said, "Can I have a demo, see what it looks like on the screen?" I had a demo, and frankly, I thought it worked pretty well.

But it's a site that has a fair amount of information, and you have to file in the information. And all of a sudden, where I am, with the capacity I have, I tried to transpose myself into an SME, small or medium-sized enterprise, where you have five people and you have your screen, and all of a sudden I said, "Okay, I can see myself in it, because it's a good tool, frankly, and operates well, but are there improvements that can be made?"

We had discussions. My understanding is that there had been what we call instalments done by the company operating MERX with a view to simplifying or helping. So again, they are also in continuous improvement within the realm of what the contracts allow us to do, and that's been done through the input that we get through the so-called OSME office, the Office of Small and Medium Enterprises. So that's the way we're kind of operating, but—

Mr. Terence Young: Do your people who work with you or for you ever call small businesses and say, "How are you finding the process?" or "Have you ever tried the process, and if not, why not?"

Mr. François Guimont: Yes, we do that, and it's quite impressive. As Madam Meredith said, we have regional offices, we have the central office of OSME, and the number of phone calls this small core of people dealing with OSME—they're like the face of Public Works, the government, vis-à-vis the small and medium-sized enterprises—it's in the thousands of phone calls. And I just use "the number" or "phone calls" to imply there is a dialogue: how can I do this, what can I do? So there's a fair amount of interaction.

Mr. Terence Young: The second question I'd like to ask concerns the RFP process. There are sometimes perfectly legitimate reasons in an RFP process where, as soon as the contract is awarded, the needs of the organization change, and you have to be fair to those who participate in the process. But at the same time, you have to leave a little flexibility in to change the terms and perhaps even the value of the contract. The Attorney General has said they're concerned about this.

Is there any flexibility built in to meet the needs of the organization, to get a better value when the needs change?

Mr. François Guimont: That's a good question, Mr. Chairman, and the answer falls into two areas.

The first one—frankly, Madam Fraser and her team picked it up—is that good planning should allow you to try to think ahead as much as possible when you put your contract in place, so you have the right headings as well as the right threshold money-wise. You should be in the ball park. What it means is, frankly, when your contract is fresh you should be able to be in business for a while.

All things are not perfect, so I go to my second point, which is the point you're making. By the same token, amendments to a contract, both in terms of threshold and the areas covered, are a possibility. But there is a very fine equilibrium between doing it within the parameters of what is considered to be the core of the contract—quantum and direction, I'll code it like that—versus tipping to the other side, where you're essentially creating a new contract, where you are essentially preventing other people from bidding because you have now morphed the contract into something bigger or more expensive, and there is no threshold to that. This is a combination of common sense and legal advice, and we do it. I'm quite comfortable with it, and it's a call you make every time.

But I would like to think that one should always, as much as possible, get things right at the start, with a bit more thinking and planning, and make the adjustments as opposed to the other way around, which is to go fast and make a lot of adjustments. I don't think that is the right combination.

• (1715)

The Chair: Thank you, Mr. Young.

Madame Faillie, deux minutes.

[*Translation*]

Ms. Meili Faillie: We talked about strategies for delivering shared computer services. In response to a question from my colleague, you answered that you were transforming the management of federal office building maintenance contracts. Does that also apply to IT services?

When you have to manage the challenge of resource attrition as a result of employee departures, do you automatically turn to the industry?

Mr. François Guimont: No, not automatically. Within the department, I have a standard IT services management function. Public Works and Government Services has its own systems.

[*English*]

The Chair: Go ahead.

[*Translation*]

Mr. François Guimont: One of the responsibilities of the chief information officer, or CIO, is to manage our IT needs. He is also responsible for shared services options. Here are a few places that we're exploring: Data centres, Networks, the networks you mentioned, and Desktop management, desktop computers. These are some examples.

Is it possible to manage these networks and information centres and desktop computer purchases differently? That always has to be based on a business case. We can't simply say that it's a good idea and that we should do it. I wait for the business case that shows whether it's reasonable to do it. At that point, we'll issue a proper request for proposals. From the outset, a business case always has to support the proposed direction.

Ms. Meili Faillie: I have a departmental document. Do your deadlines still stand?

Mr. François Guimont: I don't have that document, Mr. Chairman. I would say that, in the case of networks, the deadline for getting the business case was the end of March. We're

nearly at the end of March, and I haven't had any news from my manager on that matter. We'll be dealing with that in the coming weeks. We'll be completing it shortly.

Ms. Meili Faillie: You'll submit it to us as soon as you have it?

Mr. François Guimont: As I previously mentioned.

The Chair: Thank you very much, Ms. Faillie.

[*English*]

I have one quick question for Mr. Guimont. Is everything running smoothly with your internal audit and will you be compliant next Wednesday on the regulations?

Mr. François Guimont: Do you mean having external members in place?

The Chair: Yes.

Mr. François Guimont: Yes, I am compliant. I am chairing that committee. I have three external members.

If I may, Mr. Chairman, I only want to clarify something so that I'm not misleading the committee. The procurement ombudsman annual report will be tabled by September 2009. I had said June, but it's September, after the summer.

The Chair: I want to thank you very much on behalf of the committee. I want to thank everyone for being here today.

Before we ask for concluding remarks, I want to point out to the committee members that on Thursday of this week, at 3:30 p.m., we will have the auditor back before us. We're dealing with governance of small federal entities.

I also want to point out to the committee that we have the materials prepared by the Canadian Comprehensive Auditing Foundation on federal audit committees or all audit committees. That will be circulated to you later this week. I urge you to read them. They're great materials and will help you in your roles and duties as members.

Having said those comments, I'm going to ask Ms. Fraser if she has any concluding comments.

Ms. Sheila Fraser: Mr. Chair, I would like to thank you and the members of the committee for your interest in this audit. We are pleased that the results were generally favourable, certainly as to contract awards, and that the department, in particular Mr. Guimont, has taken our recommendations very seriously and has put in place an action plan to deal with them.

• (1720)

The Chair: Mr. Guimont, do you have any final comments you want to make to the committee?

Mr. François Guimont: I would simply say, Mr. Chairman, that I appreciate the input from the committee. I always welcome it. We're not going to let it go. We want to continuously improve and get our fundamentals right.

Thank you.

The Chair: I want to again thank you for your appearance.

The meeting is adjourned.

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