

9.**HEALTH -
PROCUREMENT****BACKGROUND**

9.1 Government's procurement activities are governed by Nova Scotia's Policy on Government Procurement (Procurement Policy) and the Government Purchases Act. The policy applies to all departments, agencies, boards and commissions. The Minister of Transportation and Public Works is responsible for promoting and implementing the policy through the Procurement Branch of the Department.

9.2 The Procurement Policy was issued January 1, 1996 and revised January 26, 2001. It provides guidelines for procurement in various situations including tendering, sole sourcing and alternative procurement practices. The objective of the policy statement is to establish and maintain a high level of confidence in the procurement process by ensuring that all public sector procurement is carried out in an open, fair, consistent, efficient and competitive manner. Under certain conditions, exemptions from the policy's requirements are permitted. Situations where exemptions have been approved by a department's Deputy Minister are required to be reported by the respective department to the Department of Transportation and Public Works (DT&PW) (see Exhibit 9.2). The policy also requires a report listing alternative procurement transactions to be prepared by the Procurement Branch and provided to the Minister of Transportation and Public Works.

9.3 During the current year, we performed an audit of the Department of Transportation and Public Works Procurement Branch (see Chapter 14 of this Report). During that audit, we found cases where the Alternative Procurement Reports prepared by the Procurement Branch for the Minister of Transportation and Public Works were incomplete and inaccurate. We also found errors in recording of procurement transactions in the accounts payable cycle of the Province's Corporate Financial Management System (CFMS). The Department of Health (DOH) is the largest government department and we decided to audit that Department to allow us to gain a better understanding of procurement practices at the department level. This Chapter presents the results of our work at the Department of Health.

9.4 During 2002, the Department of Health's senior management requested the Corporate Internal Audit Division of the Department of Finance to review and document the current Procurement and Accounts Payable processes, to note opportunities for improvement and to provide recommendations to enhance the efficiency and effectiveness of these processes. We reviewed the report from that review (dated March 27, 2002) and found that it confirmed many of our findings and observations.

9.5 The term *procurement* applies to the purchase of final consumer goods or services and not such costs as service fees, salaries, grants and assistance. During the period covered by our audit (approximately 22 months - April 2000 to February 2002), DOH's procurement of goods and services amounted to approximately \$56 million.

RESULTS IN BRIEF

9.6 The following are our principal observations from this audit.

- We found several instances where the Department of Health was not compliant with the requirements of the Provincial Procurement Policy or its internal policies. We recommend that the Department complete and implement its reorganization of the procurement function and take measures to achieve compliance with the related policies.
- In our detailed testing of procurement transactions, we found that 14 of 37 items in our sample were neither tendered nor appropriately exempted under the alternative procurement practices section of the Procurement Policy.
- Policies require that purchase orders be approved at the time of procurement to provide proper approval of the transaction and the vendor's price. We found that purchase orders are being initiated after the date of purchase rather than before. We recommend that the Department of Health prepare, approve and issue purchase orders at the time when the order is placed.
- The Department has not established processes to ensure all alternative procurement transactions are properly approved by the Deputy Minister, documented and recorded in the Province's Corporate Financial Management System, and reported to the Minister of Transportation and Public Works on a timely basis. We found that the report to the Minister of Transportation and Public Works was incomplete and excluded 16 of 26 items we examined which followed alternative procurement practices at the Department of Health. We recommend that the Department of Health develop an adequate process to approve, document and report alternative procurement transactions.

AUDIT SCOPE

9.7 The objectives for this audit were to determine whether:

- the Department of Health complies with the Government Procurement Policy, particularly alternative procurement practices;
- the Department of Health has a system for approving and reporting alternative procurement transactions; and
- the reports produced by the Department of Transportation and Public Works Procurement Branch, on the Department of Health's alternative procurement transactions, are complete and accurate.

9.8 The criteria used to evaluate the alternative procurement practices of the Department were taken directly from the Provincial Procurement Policy and are set out in Exhibit 9.1.

9.9 We tested a sample of procurement transactions for compliance with procurement policies. We reviewed invoices, purchase orders, Alternative Procurement Practices Report recommendation forms and reports. We also interviewed senior management and supervisory staff responsible for procurement at the Department of Health.

PRINCIPAL FINDINGS

Organization of Procurement Function

9.10 The Chief Financial Officer has responsibility for procurement within the Department of Health. The procurement section consists of the Director of Office Services, a procurement officer and two others. A recent review by the Department of Finance's Corporate Internal Audit Division (see paragraph 9.4) determined that there are problems with the work flow and efficiency during processing of transactions, and recommended changes to the organizational structure and physical layout, aligning responsibilities more directly under the accounts payable divisional management. We support these changes and encourage management to complete the implementation.

Recommendation 9.1

We recommend that the Department of Health complete its reorganization of the procurement function.

Lack of Purchase Orders and Purchase Requisitions

9.11 The intention of issuing an authorized purchase order is to provide the supplier with a description of goods or services to be delivered and terms of payment. The purchase order is an effective control over the ordering function only if it is prepared during the ordering process. When goods are received, reference to the purchase order ensures the quantity, quality and price of the goods being delivered meet the agreed upon criteria. Without a purchase order, there is no documented record of the agreement between the government and supplier, and no related approval.

9.12 We examined a sample of 37 purchase orders and compared the invoice dates with the dates of the corresponding purchase orders. We concluded that 30 of 37 of our sample purchase orders were produced after the date of the invoice. It appears the goods or services in these cases were procured by telephone or e-mail without a purchase order. The purchase order was prepared after the goods were received and invoiced to meet a technical requirement in the CFMS system which enables payment of a supplier only where there is a purchase order. This process does not result in effective control over the procurement function.

9.13 The Corporate Internal Audit Division at the Department of Finance noted a similar finding in their report (see paragraph 9.4) which stated "...in the Department of Health most POs [purchase orders] are generated after the goods/services have been received and the invoice has been received". (p. 15)

Recommendation 9.2

We recommend that the Department of Health issue appropriate purchase orders at the time goods and services are ordered. The purchase orders should be properly approved and issued at the time the order is placed.

9.14 In many procurement systems, a purchase requisition must be completed by the individual requesting the goods or services. The requisition is then forwarded to the procurement officer who uses it to complete the purchase order. Our tests indicated that the Department of Health does not complete a purchase requisition in most cases. We believe that such requisitions would help to ensure that purchase orders are appropriately prepared and used.

9.15 Completion of purchase orders subsequent to the delivery and invoicing of goods defeats the efficiencies and controls offered through the CFMS procurement module. The module includes the ability to record commitments under one contract. The system will automatically track individual invoices against the purchase order and commitment. If a purchase order is not created at the appropriate time, the system loses its ability to track the related items.

Extensive Use of Alternative Procurement Exemptions

9.16 The alternative procurement process begins when a department and the Procurement Branch jointly decide there is only one suitable supplier or it is not practical to invite tenders for that good or service. Situations deemed unpractical for tendering are listed in Section 8 of the Provincial Procurement Policy. In all, there are 19 circumstances listed in the Section where alternative procurement practices could be used for procurement transactions (see Exhibit 9.2). Examples include emergencies, compromising confidentiality, goods and services only supplied by one supplier and exceptionally advantageous circumstances.

9.17 The Procurement Policy requires the requesting Deputy Minister or equivalent to recommend alternative procurement practices in specific cases. The 1996 Procurement Policy required the Deputy Minister to seek approval from the Priorities and Planning Committee. The January 26, 2001 Procurement Policy eliminated the previous requirement and requires the Procurement Branch and the requesting department to jointly identify the best means of satisfying the need. Once agreed, the requesting department and Procurement together must seek approval to proceed from the requesting department's Deputy Minister. Latitude also exists in cases of non-agreement for the Deputy Minister to approve the alternative procurement. The approval is to be documented by completing an Alternative Procurement Practices Report form which requires the signature of the Deputy Minister, and forwarding a copy to the Procurement Branch.

9.18 Our audit found that the Department of Health is not compliant with the requirements of the Province's Procurement Policy dealing with alternative procurement practices. We tested a sample of 37 procurement transactions totaling \$26.2 million. Of the 37 items, 11 (\$2.9 m) were tendered through the Department of Transportation and Public Works, 12 (\$22.2m) were supported by properly authorized Alternative Procurement Practices Report forms and 14 (\$1.1m) were neither tendered nor supported by such Report forms.

9.19 The Alternative Procurement Practices Report form should be completed prior to purchase to ensure proper approval by the Deputy Minister of a deviation from the Procurement Policy. We found that 5 of 12 forms were not completed until after the purchase was made and the invoice was received.

9.20 The most commonly cited reason for following alternative procurement practices was "*to ensure compatibility with existing technology.*" Such an exemption is sometimes required in an Information Technology environment where the continued use of certain software or hardware is essential to the continued operation of a department. However, alternative procurement should not be used to increase the amount purchased from a supplier who originally won the proprietary position through a tender. This may be an indication that the tender did not adequately cover the requirements of the project. Further, this practice means subsequent purchases from the proprietary vendor will not be subject to a competitive process and there is no assurance that value for money is obtained.

Recommendation 9.3

We recommend that the Department of Health ensure that exemptions under Section 8 of the Procurement Policy (i.e., Alternative Procurements) are appropriately approved and documented on an Alternative Procurement Practices Report form prior to placement of the order for goods or services. The completed forms should be submitted to the Department of Transportation and Public Works.

Inadequate Reporting from DOH to DT&PW

9.21 The Procurement Policy states that the Deputy Minister is responsible to ensure that all Departmental procurements are properly documented and recorded in the Province's Corporate Financial Management System. All alternative procurement transactions are required to be reported to the Minister of T&PW on a regular basis.

9.22 As noted in paragraph 9.18 above, we found that only 12 (\$22.2 million) of 26 (\$23.3 million) alternative procurement transactions tested were supported at the Department of Health by properly authorized Alternative Procurement Practices forms.

Inadequate Reporting to the Minister of T&PW

9.23 The Department of Transportation and Public Works is charged with the responsibility of reporting all of the Province's alternative procurement transactions to the Minister of T&PW. According to the Government Purchases Act, the Minister of T&PW is responsible for all purchases, but certain duties are delegated to the Departmental Deputy Ministers. The reporting is a key accountability mechanism.

9.24 Our audit included a comparison of alternative procurement transactions recorded within the Department of Health with those reported by DT&PW. We found the report produced by DT&PW to be incomplete and inaccurate. Only 10 (\$1.1 million) of 26 alternative procurement practices transactions tested were included on a report completed by DT&PW.

9.25 DOH Procurement and DT&PW Procurement Branch personnel are in regular contact as the Procurement Policy requires considerable collaboration on procurement activities and sharing of documents. However, we found that the Department of Health does not receive a copy of the Alternative Procurement Practices Report prepared by the Procurement Branch for the Minister of DT&PW. We believe the Department of Health should receive this report and review it for completeness and accuracy.

Recommendation 9.4

We recommend that the Department of Health regularly receive a copy of the report prepared by the Procurement Branch of the Department of Transportation and Public Works for the Minister. The Department of Health should review the report for completeness and accuracy.

9.26 Under Section 13 of the Provincial Procurement Policy, Procurement Branch staff, the Department of Transportation and Public Works, through Corporate Internal Audit of the Department of Finance, and the Auditor General all have authority to complete an audit on all procurement activities. Procurement Branch staff do not have a formal audit program and presently only perform reviews on some procurement transactions. Internal audit have completed an audit of

the current procurement/accounts payable processes versus the processes recommended under CFMS. Neither the Procurement Branch nor Internal Audit have audited alternative procurement practices and the completeness and accuracy of the Alternative Procurement Practices Report produced by DT&PW.

Recommendation 9.5

We recommend that the Procurement Branch and/or Corporate Internal Audit perform periodic audits of exemptions under Section 8 of the Procurement Policy (Alternative Procurement transactions) at the Department of Health to assist the Department in achieving compliance with the Procurement Policy and to assist DT&PW in preparing complete and accurate reports.

CONCLUDING REMARKS

9.27 The Procurement Policy clearly states that the “*Government of Nova Scotia is committed to...being accountable for procurement decisions*”. Good accountability requires proper approval of exemptions under Section 8 - Alternative Procurement Practices, and reporting to the Minister of Transportation and Public Works according to the Policy. The Department of Health needs to improve its practices in this area.

9.28 The Province has extensive policies in the procurement area, and the Corporate Financial Management System incorporates many good control features. These controls are only effective if they are applied properly. We found instances where the Department of Health was not compliant with either the Department’s own internal procurement policies or the Provincial Procurement Policy. Similarly, purchase orders were not properly used to control all purchase transactions.

9.29 During the year, the Department of Health requested the Corporate Internal Audit Division of the Department of Finance to perform a review of its purchasing practices. This is evidence of the Department’s desire to improve practices in this area. The Department has indicated that it plans to address all of these issues and we encourage management to do so expeditiously.

*Exhibit 9.1***AUDIT CRITERIA**

- 1) Departmental procurement polices should be consistent with the Provincial Procurement Policy.
- 2) Applicable provisions of the Government Procurement Policies should be complied with by departments.
- 3) There should be a process to enable management to monitor and ensure that all procurements made by the Department are properly documented and recorded in the Province's Corporate Financial Management System.
- 4) There should be a system to ensure that reviews of procurement transactions are carried out on a regular and timely basis by the Department.
- 5) All alternative procurements should be reported to the Procurement Branch.
- 6) For alternative procurements, there should be an approved recommendation from the Deputy Minister of the requesting Department (post January 26, 2001), or an approved recommendation from Priorities and Planning Committee (post January 1, 1996).
- 7) Alternative procurement processes should meet the circumstances described in Sections 8.1 to 8.19 of the Government Procurement Policy (see Exhibit 9.2).
- 8) An alternative procurement practices report should be completed by the Procurement Branch on a regular basis and forwarded to the Minister of T&PW.
- 9) The Procurement Branch alternative procurement report should be complete and accurate.

Exhibit 9.2

**EXTRACT FROM PROVINCE OF NOVA SCOTIA POLICY
ON GOVERNMENT PROCUREMENT
JANUARY 26, 2001**

8. Alternative Procurement Practices

Departments wishing to make use of an Alternative Procurement Practice, with the exception of an emergency situation, are to consult with the Procurement Branch to identify the most appropriate means by which to proceed with the satisfaction of the requirement. If in agreement, the Department and Procurement Branch will make a joint request to the Deputy Minister of the requesting Department who will then approve or reject the recommendation. In case or cases of a disagreement between the Department and the Procurement Branch the Department may present the proposed Alternative Procurement to their Deputy Minister for consideration and decision.

It is the Deputy Minister's responsibility to ensure that all procurements made by their Department are properly documented and recorded in the Province's Corporate Financial Management System.

Procurement processes other than those described in this policy statement may be used in circumstances such as those described below. Such processes are not to be used for the purpose of avoiding competition or to discriminate against specific suppliers. Each instance requires the prior approval of the appropriate Deputy Minister. These circumstances are:

- 8.1 an unforeseeable situation of urgency or emergency where the good, service, or construction requirement cannot be obtained by means of open procurement procedures
- 8.2 a situation where tendering could reasonably be expected to compromise government confidentiality, cause economic disruption, or otherwise be contrary to the public interest
- 8.3 to ensure compatibility with existing products; to recognize exclusive rights, such as exclusive licenses, copyright, and patent rights; or to maintain specialized products that must be maintained by the manufacturer or its representative
- 8.4 where, for technical reasons, there is an absence of competition, and the goods or services can be supplied only by a particular supplier and no alternative or substitute exists
- 8.5 the procurement of goods or services for which there is a statutory monopoly that is controlled by a supplier
- 8.6 the purchase of goods on a commodity market
- 8.7 work to be performed on or about a leased building, or portions thereof, that may be performed only by the lessor
- 8.8 work to be performed according to the provisions of a warranty or guarantee
- 8.9 the procurement of a good or service to be developed in the course of and for a particular contract for research, experiment, study, or original development, but not for any subsequent purchases

Exhibit 9.2 (Cont'd)

- 8.10 the purchase of goods under exceptionally advantageous circumstances such as bankruptcy or receivership, but not for routine purchases
- 8.11 the procurement of original works of art
- 8.12 the procurement of subscriptions to newspapers, magazines, or other periodicals
- 8.13 processes that foster the development of minority businesses
- 8.14 processes that foster the development of sheltered workshop programs
- 8.15 goods intended for resale to the public
- 8.16 goods and services from persons with disabilities, philanthropic institutions, or through employment equity programs
- 8.17 services of expert witnesses, specifically in anticipation of litigation or for the purpose of conducting litigation
- 8.18 medical services for persons in the care and custody of the Province
- 8.19 procurement of goods or services from another level of Government

DEPARTMENT OF HEALTH'S RESPONSE

While the Department generally agrees with the findings of this chapter, I would like to comment on progress the Department has achieved in this area.

First of all, it is apparent to the management of the Department that the findings from our procurement process were the result of lack of understanding of provincial procurement policy as opposed to disregard to the policy. To eliminate this situation the Department is developing a Procurement Training Module with staff of the Department of Transportation and Public Works that clearly identifies the roles and responsibilities for line staff with the Department of Health, the Procurement Section of the Department of Health, and the Procurement Section of the Department of Transportation and Public Works. Staff training sessions will begin prior to the last quarter of 2002/03.

The Department would also like to note that we have completed Recommendation 9.1; the re-organization of the procurement functions. As well, it is our belief that as a result of our progress to date, and the above introduction of the training module, we will be fully compliant with the Provincial Procurement Policy.

Thank you for the opportunity of commenting on this chapter of your report.
