



Aboriginal Affairs and  
Northern Development Canada

Affaires autochtones et  
Développement du Nord Canada

## **Aboriginal Affairs and Northern Development Canada**

### **Internal Audit Report**

#### **Audit of Contracting (excluding exceptional contracts)**

**Prepared by:**

**Audit and Assurance Services Branch**

**November 2011**

**CIDM # 3913031**

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## ACRONYMS

AASB	Audit and Assurance Services Branch
AANDC	Aboriginal Affairs and Northern Development Canada
ACAN	Advance Contract Award Notice
CFO	Chief Financial Officer
TB	Treasury Board
TBS	Treasury Board Secretariat
FAA	Financial Administration Act
LDV	Low Dollar Value
RBAP	Risk-Based Audit Plan
RCM	Responsibility Center Manager
PWGSC	Public Works and Government Service Canada
MAMD	Materiel and Asset Management Division

## KEY DEFINITIONS

Advance Contract Award Notice	<p>Departments and agencies post a notice, for no less than fifteen calendar days, indicating to the supplier community that it intends to award a good, service or construction contract to a pre-identified contractor. If no other supplier submits, during the fifteen calendar day posting period, a statement of capabilities that meet the requirements set out in the ACAN, the competitive requirements of the government's contracting policy have been met.</p> <p>If other potential suppliers submit statements of capabilities during the fifteen calendar day posting period, and meet the requirements set out in the ACAN, the department or agency must proceed to a full tendering process on either the government's electronic tendering service or through traditional means, in order to award the contract.</p>
Standing Offer:	<p>An offer from a potential supplier to supply goods, services or both, on the pricing basis and under the terms and conditions stated in the standing offer. A separate contract is entered into each time a call-up is made against a standing offer.</p>
Supply Arrangement:	<p>A supply arrangement is a procurement vehicle that enables a department or agency to solicit bids from a pool of pre-screened suppliers. A supply arrangement is not a contract, and neither party is legally bound by the agreement.</p> <p>A supply arrangement establishes a framework that permits the</p>

expeditious processing of legally binding contracts for goods or services. Supply arrangements include a minimum set of terms and conditions that apply to each resultant contract. These include ceiling per diem rates by resource category for each pre-qualified supplier.

- Low Dollar Value contract      Aboriginal Affairs and Northern Development Canada (AANDC) Low Dollar Value (LDV) contracts are up to a maximum value of \$10,000 CDN (GST/HST inclusive). Amendments are not permitted. Use of LDV service contracts should not be used if there is any possibility that the contract could exceed the \$10K CDN limit. The maximum for LDV Service contracts at AANDC was reduced in November 2009, from \$15,000 to \$10,000.
- Sole source contract:            A sole source contract may be selected for reasons including low dollar value, regulated prices, best interest of, or value to, the government, or national security. In instances of a sole source requirement, only one supplier is solicited. One of the fundamental principles of federal contracting is openness and the practice of providing potential suppliers with opportunities to submit bids for government contracts. For this reason, when departments choose a non-competitive procurement strategy it must be fully justified and recorded.
- Competitive contract            A contract where the process used for the solicitation of bids enhances access, competition and fairness and assures that a reasonable and representative number of suppliers are given an opportunity to bid by giving either public notice, using electronic bidding methodology, possibly supplemented by traditional bidding procedures, of a call for bids for a proposed contract or in accordance with limited tendering reasons set out in the trade agreements, or, in accordance with the exceptions to bidding or by giving public notice, using traditional bidding procedures (such as a suppliers' list, etc.) and in a manner that is consistent with generally accepted trade practices, of a call for bids for a proposed contract.
- Non-competitive contract:        A contract where bids were not solicited or, if bids were solicited, the conditions of a competitive contract were not met.

# EXECUTIVE SUMMARY

## ***Background***

This audit of contracting was included in the 2011-2012 to 2013-2014 Risk-based Audit Plan approved by the Departmental Audit Committee on February 22, 2011. It was identified as a high priority audit on the basis that contracting is financially material given the magnitude of goods and services contracts procured and that it can be subject to intense public scrutiny.

In recent years, government contracting and purchasing practices have come under increased public scrutiny, becoming the subject of various reports by the House of Commons Committee on Public Accounts, as well as the Auditor General of Canada.

Contracting and purchasing of goods and services in Aboriginal Affairs and Northern Development Canada (AANDC) represents a significant operational expenditure. Within our audit sample period of April 2009 to June 2011 there were over 14,000 goods and services contracts undertaken, totaling \$515 million.

Significant changes to procurement and contracting practices have been introduced in recent years, including:

- Implementation of the Procurement Officer FAA section 41 approval and sign-off in June 2010; and,
- Revision of the maximum for Low Dollar Value (LDV) Service contracts in November 2009, from \$15,000 to \$10,000.

The AANDC Materiel and Asset Management Division (MAMD) are responsible for the overall management and delivery of contracting and procurement services across all sectors and regions of the Department. The MAMD is headed by a Director who is supported by a range of procurement staff at HQ and in the regions. The Director of MAMD reports to the Chief Financial Officer (CFO) who has corporate-level responsibility for all matters relating to departmental assets, materiel and procurement.

AANDC delivers contracting and purchasing services through both headquarters (HQ) and regional procurement staff, who are responsible for:

- Monitoring goods and services transactions to ensure compliance with Treasury Board (TB), Public Works and Government Services Canada and departmental policies;
- Managing contracting and purchasing systems;
- Processing transactions that fall outside of Responsibility Centre Managers' (RCM) delegated authorities;
- Providing RCMs and staff with:
  - advice and guidance and operational support regarding the procurement process; and,
  - procurement policy, process and systems training.

RCMs have been delegated authority to award low dollar value (i.e. below \$10,000) service contracts, in accordance with existing purchasing guidelines. They also process call-ups against standing offers awarded by the department.

RCMs play a significant role in a number of contracting processes, including:

- Defining the contracting need;
- Participation in the request for quote and request for proposal process; and
- Assurance that contracts are delivered as expected based on monitoring of the contract terms and conditions.

### ***Audit Objective and Scope***

The objectives of the audit were to:

- Provide assurance over the adequacy and effectiveness of the management controls supporting the processing of goods and services contracts and that goods and services are procured in a manner that is in compliance with Treasury Board (TB) and departmental policies and procedures and applicable laws and regulations such as the Financial Administration Act (FAA); and,
- Verify that a sample of contracts was completed in compliance with relevant contracting policies, regulations and guidelines from TB and AANDC.

The scope of this audit covered the timeframe from April 1, 2009 to June 30, 2011. The audit included contracting processes for procuring service and goods. Excluded from the scope were contracts under the exceptional contracting limits authority. Acquisition Cards and contracts AANDC administers for other entities.

The audit scope included testing over processes and transactions at HQ as well as three regional offices (British Columbia, Northwest Territories, and Ontario). The regional offices in scope were selected based on volume of contracts, overall dollar value of contracts, and complexity of contracting and procurement practices.

### ***Observed Strengths***

Throughout the audit fieldwork, both Procurement Officers and RCMs stated that improvements have been made in the development of procurement processes, tools and training due to effective leadership of HQ Procurement. Positive steps have been made and progress continues. Progress to date has resulted in several positive observations, recognizing that it had been necessary to improve procurement and contracting practices within the department to address the findings from the 2006 Contracting Audit report.

### ***Statement of assurance***

In our professional judgment, sufficient and appropriate audit procedures have been performed and evidence gathered to support the accuracy of the conclusions reached and contained in this report. The conclusions were based on observations and analyses of the situations as they existed at the time against the audit criteria. The conclusions are only applicable for the Audit of Contracting. The evidence was gathered in accordance with the International Standards for the Professional Practice of Internal Auditing.

### ***Conclusion***

Several improvements have been made in the development of procurement processes, tools and training to address the findings of the 2006 Contracting Audit Report.

Management controls supporting the processing of goods and services were generally found to be effective; however, some areas where improvements are required were noted in contract monitoring, governance arrangements, and continuous improvement.

With respect to compliance with TB and departmental policies, procedures and regulations, improvements are required in the areas of contract file storage and retrieval, contract monitoring, contract support documentation requirements and delegated signing authorities.

## **Recommendations**

The audit team identified areas where management practices and processes could be improved, resulting in 6 recommendations. The Audit and Assurance Services Branch recommends that:

The Chief Financial Officer should ensure that:

- Contracts are retained and tracked appropriately for retrieval purposes such that they can be retrieved when required, particularly for those contracts that are current. The CFO should task the Director of MAMD with following up on the four contract files that could not be located during the audit in order to determine the reasons that they are missing. (Recommendation #1).
- The following monitoring issues are addressed:
  - a) a process of regular review and analysis is implemented (e.g. at least quarterly, in addition to the annual report on procurement) of all contracts to identify potential instances of policy non-compliance, wrongdoing or application of inappropriate contracting activities and/or areas for potential improvement;
  - b) follow-up on anomalies detected and, where relevant, report them to a suitable governance committee and include them in the annual report on procurement;
  - c) clarify the roles and responsibilities of RCMs in regards to monitoring of contracts, provide them with additional training and guidance to ensure standardization of monitoring activities and that appropriate documentation to support the monitoring activity is retained. (Recommendation #2).
- Consideration is made to reconvene the Contracting and Procurement Board to ensure that there is adequate monitoring of procurement and contracting activities across the department, with full regional representation. This should be undertaken following an initial review of the Board's purpose and terms of reference to determine whether the Board can remain useful with a well understood purpose and that it can provide strategic oversight and direction (Recommendation #3).
- Contracting requirements are met:
  - a) ensure that all staff are made aware of and apply the correct method of contracting to safeguard AANDC's contracting interests and to ensure compliance with procurement policies and procedures;
  - b) the CFO clearly communicates contract documentation requirements to RCM's and Procurement Officers and ensure that the following documentation are retained on file:
    - 1) sole source justification where required;
    - 2) an appropriate statement of work or requirements description;
    - 3) appropriate evidence to support FAA S32 requirements; and
    - 4) appropriate evidence of security clearance verification.
  - c) ensure that the contracting process cannot proceed until all required documentation is retained on file;

- d) action is taken to resolve the contract negotiations with the vendor in the regional office and follow-up on any potential contract splitting. (Recommendation #4)
- All contract files retain appropriate evidence to support FAA signatory requirements, that approvals and appropriate segregation of duties. This entails:
  - a) FAA requires that approvals are made in accordance with delegated authority limits, and that there is an effective process for identifying and rejecting those that are non-compliant
  - b) if the process or other circumstances do not allow adequate segregation of duties, alternate control measures should be implemented and documented. (Recommendation #5)
- Clear communication and relevant additional training is provided to Procurement Officers and RCMs regarding new developments and continuous improvements. This includes:
  - a) service standards and the identification of an appropriate process for the tracking, monitoring and reporting of performance against the agreed service standards highlighting and taking action against areas whereby performance does not meet the standards; and
  - b) Aboriginal procurement targets to the AANDC procurement and contracting community and to provide guidance on the type of monitoring and tracking that is required for reporting purposes. (Recommendation #6).

# 1 INTRODUCTION AND CONTEXT

## 1.1 Contracting

This audit of contracting was included in the 2011-2012 to 2013-2014 Risk-based Audit Plan approved by the Departmental Audit Committee on February 22, 2011. It was identified as a high priority audit on the basis that contracting is financially material given the magnitude of goods and services contracts procured.

In recent years, government contracting and purchasing practices have come under increased public scrutiny, becoming the subject of various reports by the House of Commons Committee on Public Accounts, as well as the Auditor General of Canada.

Contracting and purchasing of goods and services in Aboriginal Affairs and Northern Development Canada (AANDC) represents a significant operational expenditure. There were over 14,000 goods and services contracts undertaken, totaling \$515 million, within our audit sample period of April 2009 to June 2011.

Significant changes to procurement and contracting practices have been introduced in recent years, including:

- Implementation of the Procurement Officer FAA section 41 approval and sign-off in June 2010; and,
- Revision of the maximum for Low Dollar Value (LDV) Service contracts in November 2009, reducing the amount from \$15,000 to \$10,000.

AANDC delivers contracting and purchasing services through both headquarters (HQ) and regional procurement staff, who are responsible for:

- Monitoring goods and services transactions to ensure compliance with Treasury Board (TB), Public Works and Government Services Canada and departmental policies;
- Managing contracting and purchasing systems;
- Processing transactions that fall outside of Responsibility Centre Managers' (RCM) delegated authorities;
- Providing RCMs and staff with:
  - advice and guidance and operational support regarding the procurement process; and,
  - procurement policy, process and systems training.

### RCMs

RCMs have been delegated authority to award LDV service contracts using the LDV purchasing tool, in accordance with existing purchasing guidelines. RCMs also process call-ups against standing offers awarded by the department.

Role of RCMs in the contracting process:

- Defining the contracting need such as the statement of work, nature and scope of work and deliverables, specifications of good, estimated costs and timeframes;
- Participation in the request for quote and request for proposal process;

- Development of selection and evaluation criteria;
- Determination of the appropriate procurement methodology in consultation with procurement staff;
- Management of the contract; and,
- Assurance that contracts are delivered as expected based on monitoring of the contract terms and conditions.

## **2 AUDIT OBJECTIVES AND SCOPE**

### **2.1 Audit Objective**

The objective of this audit was to provide senior management with assurance over a selection of contract management controls.

Specifically, the objectives of the audit were to:

- Provide assurance over the adequacy and effectiveness of the management controls supporting the processing of goods and services contracts and that goods and services are procured in a manner that is in compliance with TB and departmental policies and procedures and applicable laws and regulations (FAA); and,
- Verify that a sample of contracts entered into from April 1, 2009 to June 30, 2011 was completed in compliance with relevant contracting policies, regulations and guidelines from TB and AANDC.

### **2.2 Audit Scope**

The scope of this audit covered the timeframe from April 2009 to June 2011. The audit includes contracting processes for procuring service and goods excluding exceptional contracting limits authority, which were covered in a separate audit. The audit scope also included testing over processes and transactions at headquarters (HQ) as well as in three regional offices (British Columbia (BC), Northwest Territories (NWT), and Ontario (ON)). These regions were selected based on volume of contracts, overall dollar value of contracts, and complexity of contracting and procurement practices.

The audit considered key controls over the management of various contracting processes (i.e. low-dollar contracts, sole-source contracts, competitive contracts, and larger Standing Offers and Supply Arrangements). The audit also included consideration of relevant Treasury Board Core Management Controls with respect to governance, stewardship and accountability.

The criteria used during the audit were based on TB's Contracting Policy and AANDC departmental policies and procedures as well as applicable laws and regulations (e.g. Financial Administration Act (FAA)).

Additional elements considered to be out-of-scope were Acquisition Cards and contracts administered by AANDC for other entities. These contracts relate to organizations that are audited by the Small Agency Financial Action Group such as:

- Canadian Northern Economic Development Agency (CanNor);
- First Nations Statistical Institute (Crown corporation); and,

- Specific Claims Tribunal Canada.

### **3 APPROACH AND METHODOLOGY**

The internal audit of contracting followed the Standards for the Professional Practice of Internal Auditing as per the Institute of Internal Auditors (IIA) and the standards and requirements set out in the Treasury Board Policy on Internal Audit.

Sufficient and appropriate audit procedures have been conducted and evidence gathered to support the audit conclusion provided and contained in this report.

The principal audit techniques used included:

- Interviews with key individuals at the Procurement Officers and RCMs as well as with selected Finance representatives;
- Undertaking of field work within HQ and within three regions (ON, NWT and BC);
- Review of relevant documentation related to contracting, reporting, policies, procedures templates and guidelines;
- Evaluation of the system of internal controls, risk management and governance with respect to procurement and contracting; and,
- Conduct of a detailed examination of a sample of contracts to test for compliance with key controls arising from the TB Contracting Policy and other relevant AANDC policies.

The approach used to address the audit objectives included the development of audit criteria against which observations, assessments and conclusions were drawn. The audit criteria developed for this audit are included in Appendix A.

#### Sampling strategies

For the purposes of the examination of contracts, a statistically valid sample was selected covering the period of audit scope of April 1, 2009 to June 30, 2011. The sampling strategy considered the following factors: coverage across fiscal years; a cross-section of differing contract types/methods, and coverage at both HQ and a selection of regional offices. The sample selected comprised of 30 contracts at HQ and 10 contracts within each of the 3 regional offices selected (ON, NWT, BC), for a total of 60 contracts.

### **4 CONCLUSION**

Several improvements have been made in the development of procurement processes, tools and training to address the findings of the 2006 Contracting Audit Report.

Management controls supporting the processing of goods and services were generally found to be effective; however, some areas where improvements are required were noted in contract monitoring, governance arrangements, and continuous improvement.

With respect to compliance with TB and departmental policies, procedures and regulations, improvements are required in the areas of contract file storage and retrieval, contract monitoring, contract support documentation requirements and delegated signing authorities.

## 5 OBSERVATIONS AND RECOMMENDATIONS

Based on a combination of the evidence gathered through the examination of documentation, analysis and interviews, each audit criterion was assessed by the audit team and a conclusion for each audit criterion was determined.

Throughout the audit fieldwork, both Procurement Officers and RCMs stated that improvements have been made in the development of procurement processes, tools and training due to effective leadership of HQ Procurement that strive towards continuous improvement of procurement within the department. Progress to date has resulted in several positive observations, with management having taken the following key steps (although recommendations are raised in some instances against these to ensure continued progress):

- Centralization of FAA S41 signing authorities (with the exception of LDV contracts of less than \$10,000);
- Addition of key staff in senior positions within the Materiel and Asset Management Division (MAMD);
- Development of a Procurement Renewal Strategy;
- Presentation of an Annual Procurement Report to the Finance Committee for year ending March 31, 2011;
- Development of Service Standards; and,
- Development of training events and training plans.

Where a significant difference between the audit criterion and the observed practice was found, the risk of the gap was evaluated and used to develop a conclusion and to provide recommendations for improvement. Observations and recommendations for corrective actions are included below.

### 5.1 Contract File Storage and Retrieval

#### 5.1.1 Contract File Storage and Retrieval

For the purposes of this audit, a sample of 60 contract files was selected for the period under review in order that detailed testing could be undertaken with respect to compliance with TB policy.

AANDC was unable to locate and provide the contract files relevant to four contracts within HQ. These missing contracts totaled \$1.08M. This is a significant finding. Contract files should be readily available to help ensure the adequate use of public funds, provide support and evidence of FAA delegated approvals, demonstrate transparency, fairness and appropriateness in contracting arrangements, including the selection of contractors and competitive bidding processes, as well as providing support and a point of reference for all matters related to the contract. Without these files it is not possible to determine if the contracts were in compliance with relevant contracting policies, regulations and guidelines from TB and AANDC.

#### **Recommendation #1:**

The Chief Financial Officer should ensure that all contracts are retained and tracked appropriately for retrieval purposes such that they can be retrieved when required. The CFO should task the Director of MAMD with following up on the four contract files that could not be located during the audit to determine the reasons that they are missing.

## **5.2 Contract Monitoring**

### **5.2.1 Monitoring Activities by Material and Asset Management**

With the number of contracts being created within AANDC (volume and dollar value) being significant and given the requirement for the demonstration of transparency and fairness in contracting activities, there is a requirement for regular monitoring and analysis of activity.

For the year ended March 31, 2011, the Director of MAMD presented an Annual Procurement Report to the Finance Committee which provided a great deal of statistical information (volume, spend, amendments, transactions, types of transactions, etc.). No formal monitoring, however, is performed on a periodic basis which includes an in-depth analysis of trends and potential issues. For example, analysis is not undertaken, nor is information provided, on the following:

- Use of the LDV contracting process (currently a \$10,000 limit), which could identify instances where formal contracting via competitive processes, standing offers or supply arrangements would be more appropriate, particularly if there are instances whereby numerous LDV contracts are placed with the same vendor;
- Analysis of contracting method, which could identify instances whereby the incorrect method of contracting was used, e.g. if/where purchase orders were used instead of formal written contracts;
- Analysis of contracts being made near the limit for sole source contracting (\$25,000 limit), which could identify instances where there could be numerous contracts being made for the same vendor, for the same services, at just under \$25,000 each. This could identify instances of contract splitting or instances where contracting via competitive processes, standing offers or supply arrangements would be more appropriate if collectively the total contract value is in excess of \$25,000; and,
- Analysis of amendments, which could indicate instances whereby initial contracts were sole sourced and made at lower dollar levels (e.g. under \$25,000), but where subsequent amendments results in a total contract value that should have been subject to a competitive tendering process or where authorization levels are exceeded.

The lack of regular monitoring and analysis of activity increases the risk of failing to detect issues with respect to non-compliance, wrongdoing or inappropriate contracting activities.

### **5.2.2 Monitoring Activities by Responsibility Centre Managers**

RCMs monitor contracts to ensure that invoice amounts match contract amounts and payments are in accordance with contract terms and conditions and deliverable schedules. During audit testing, it was noted that the method of performing and documenting monitoring activities varied in approach depending on the RCM.

In 21 out of 56 cases (38%), there was no evidence provided to document monitoring of the contracts to ensure that milestones are achieved and adherence to the terms and conditions of the contract. 16 of the instances were in HQ and five in the regional offices. In a few cases, the RCM evidenced monitoring of the contract using Excel spreadsheets which tracked payment status and other financial information.

In addition, AANDC failed to locate and provide the contract files for four contracts selected within the sample, all of which were from HQ.

If contracts are not appropriately monitored, there is an increased risk of the lack of adherence to the terms and conditions of the contract.

## **Recommendation #2:**

The Chief Financial Officer should:

- a) implement a process of regular review and analysis (e.g. at least quarterly, in addition to the annual report on procurement) of all contracts to identify potential instances of policy non-compliance, wrongdoing or application of inappropriate contracting activities and/or areas for potential improvement;
- b) follow-up on anomalies detected and, where relevant, report them to a suitable governance committee and include them in the annual report on procurement;
- c) clarify the roles and responsibilities of RCMs in regards to monitoring of contracts, provide them with additional training and guidance to ensure standardization of monitoring activities and that appropriate documentation to support the monitoring activity is retained.

## **5.3 Governance**

### **5.3.1 Contracting Governance Committees**

To ensure effective oversight, monitoring and reporting on all aspects of procurement and contracting, appropriate governance arrangements should be in place to provide direction, challenge and accountability to the overall processes. The governance structure for procurement and contracting at AANDC is adequately designed; however, it was noted that the Contracting and Procurement Board has not met since May 2010. Audit testing results indicated that:

- The Procurement Review Committee generally meets on a weekly basis and is attended by the Manager of Procurement and the team leaders (at HQ);
- The next level of governance is the Contracting and Procurement Board, which is chaired by the Chief Financial Officer. It has a mandate to provide oversight to procurement and contracting activities, and provide advice and direction on procurement and contracting issues that have a department-wide impact. It was noted that this group has not convened a meeting since May 2010. As noted in the Contracting and Procurement Board's Terms of Reference, the Board is to include representation from both HQ and regional procurement functions as well as representation from corporate services, which, in turn, would enable inclusion and transparency in all matters pertaining to procurement and contracting across the department. The Terms of Reference indicate that the Board is to meet quarterly;
- The Director of MAMD presents an Annual Report on Procurement to the Finance Committee. The 2010/11 report provided a great deal of statistical information (volume, spend, amendments, transactions, types of transactions, etc.); a report of this nature and statistical depth has not been provided for senior management consideration in previous years; and,
- The Director of MAMD has recently presented the 2010/11 Procurement Renewal Strategy to the Operations Committee.

Without effective governance through the Contracting and Procurement Board, there may be insufficient oversight, challenge, input and advice with respect to department-wide procurement and contracting activities

**Recommendation #3:**

The Chief Financial Officer should consider reconvening the Contracting and Procurement Board to ensure that there is adequate monitoring of procurement and contracting activities across the department, with full regional representation. This should be undertaken following an initial review of the Board's purpose and terms of reference to determine whether the Board can remain useful with a well understood purpose and that it can provide strategic oversight and direction.

**5.4 Contracting Requirements****5.4.1 Justification for Sole Source Contracts**

There is a requirement that all non-competitive (sole source and LDV) contractual arrangements should be justified and that the justification be documented. For 13 out of the 29 contracts (45%) within the audit sample that related to sole source contractual arrangements, the audit found instances (all for contracts of less than \$25K) where there was no evidence of justification on file to support the sole source arrangement. Eight of the instances were in HQ and five in the regional offices.

In addition, AANDC failed to locate and provide the contract files for four contracts selected within the sample, all of which were from HQ.

Without appropriate supporting sole source justification documentation retained on file, there is an increased risk of non-compliance with relevant policies and procedures, lack of support for the selection of the contractor, and inappropriate use of funds.

**5.4.2 Statement of Work and Requirements Description**

There is a requirement to include a statement of work (SOW) or requirements description in each contracting file. In ten of the 56 samples (18%), a formal SOW or requirements description was not included in the contract file. Four of the instances were in HQ and six in the regional offices. This information is essential as it forms the basis of the contract and outlines the work to be carried out, the objectives to be attained, estimated costs, and the time frame.

In addition, as previously noted, AANDC could not locate and provide the contract files for four contracts selected within the sample, all of which were from HQ.

Without appropriate documentation of the statement of work or a requirements description, there is increased risk that the contract and related deliverables will not meet the needs and expectations of AANDC.

**5.4.3 Lack of Documentation Supporting FAA S32**

There is a requirement that contracts can only be created once it has been confirmed that sufficient financial resources are available to enter into the contract and that this has been verified by an individual with delegated FAA Section 32 (S32) signing authority.

The audit found that, while contract files were generally found to be in compliance with the relevant requirements, the following instances of non-compliance were noted in audit testing:

- 18 instances out of 56 (32%) whereby FAA S32 sign off could not be confirmed on the contract file (e.g. the FAA S32 form was missing from the file and, in the case of LDVs, the FAA S32 sign off was not clearly evidenced). Eleven of the instances were in HQ and seven in the regional offices; and,

- Four instances (25%) whereby the FAA S32 approval for amendments could not be confirmed on the contract file out of a total of 16 amendments tested (two in HQ and two in the regions).

These results are in addition to the four contract files from HQ that could not be located.

Without retaining evidence on the contract file demonstrating that the appropriate delegated authority indicated their approval in accordance with FAA requirements, FAA compliance cannot be assured and there is a risk of inappropriate contractual activity.

#### **5.4.4 Selection of Contracting Method**

There is a requirement for contracts to be undertaken in accordance with the most appropriate contracting method. For example, there are instances whereby sole sourcing is the most appropriate method, where a standing offer or supply arrangement should be used, the application of the LDV approach, where an ACAN should be used to justify a sole source arrangement that is in excess of the general sole source limit of \$25,000, and where a full competitive bidding process is required.

Testing found three instances out of 56 (5%) where the method of contracting used was not the appropriate method. The three instances are as follows:

- A contract for temporary help at HQ was created using the LDV process, rather than using the appropriate mandatory PWGSC contractual arrangement;
- One instance in a regional office where a Purchase Order (PO) was used to secure the services of a construction contractor instead of using a justifiable sole source arrangement, standing offer or competitive bidding process (there were numerous payments made to this contractor that were each just below the \$25,000 limit for sole sourcing); and,
- One instance in a regional office whereby a contract was in place with a contractor that was subject to a takeover (i.e. change in ownership), but where a PO was used to procure the services with the new business owner rather than creating an amendment or creating a new contract to account for the name change and to re-confirm contract terms and conditions. (It was noted that contract negotiations are underway with involvement from legal services to resolve this issue and that currently no payments are being made to the new contractor).

In addition, as previously noted, AANDC failed to locate and provide the contract files relevant for four contracts selected within our sample, all of which were from HQ.

Without evidence that the most appropriate contracting method was used, there is a risk that the transparency and fairness of the contracting process could be subject to challenge and/or be in breach of relevant policies and procedures.

#### **5.4.5 Security Clearance**

For all contractors there is a requirement for AANDC to establish, obtain and approve appropriate and relevant security clearance levels, if applicable, prior to the commencement of work. This is recorded on the Security Requirements Check Lists (SRCL) form.

The audit found that, for eight samples (five in HQ, three in the regional offices) out of 33 contracts (24%) where security clearances were required, there was no confirmation on the contracting file that the appropriate clearances had been obtained prior to contract commencement.

In addition, AANDC failed to locate and provide the contract files for four contracts selected within our sample, all of which were from HQ.

Without evidence of the security requirements check, it is not possible to determine if such a check has occurred. If security clearance is not confirmed prior to contract commencement there is an increased risk of inappropriate access to documentation.

**Recommendation #4:**

The Chief Financial Officer should:

- a) ensure that all staff are made aware of and apply the correct method of contracting to safeguard AANDC's contracting interests and to ensure compliance with procurement policies and procedures;
- b) clearly communicate contract documentation requirements to RCM's and Procurement Officers and ensure that the following documentation are retained on file:
  - 1) sole source justification where required;
  - 2) an appropriate statement of work or requirements description;
  - 3) appropriate evidence to support FAA S32 requirements; and
  - 4) appropriate evidence of security clearance verification.
- c) ensure that the contracting process cannot proceed until all required documentation is retained on file;
- d) take action to quickly resolve the contract negotiations with the vendor in the regional office and follow-up on any potential contract splitting.

## **5.5 Delegation of Signing Authority**

### **5.5.1 FAA S32, S41 and S34 Signed Without Appropriate Delegation**

There is a requirement:

- that all contracts be created only once it has been confirmed that sufficient financial resources are available to enter into the contract and that this has been verified by an individual with delegated authority to approve such under FAA S32 requirements.
- for the individual entering into the contract on behalf of the Minister to have an appropriate level of delegated authority under FAA S41.
- for the individual who confirms that goods/services were received in accordance with contractual expectations and who approves the subsequent invoice for payment processing to have an appropriate level of delegated authority under FAA S34.

The audit found that, while in most cases contract files were found to be in compliance with FAA delegated authority requirements, several instances of non-compliance were noted in audit testing:

- Three instances out of 56 (5%) (all in HQ) whereby FAA S32 approval was made by individuals who did not have delegated authorities;
- One instance out of 56 (2%) in a regional office where the contract file did not contain a signature as evidence of FAA S41 delegated approval;
- One instance out of 56 (2%) in HQ whereby the FAA S34 approval signature was made outside of the individual's delegated authority; and,
- Five instances out of 56 (9%) whereby the FAA S34 approval signature could not be confirmed as AANDC could not locate the relevant evidence.

These findings need to be taken into consideration in addition to the four contracts files from HQ that AANDC was unable to locate.

Without retaining evidence on the contract file demonstrating that the appropriate delegated authority indicated their approval in accordance with FAA requirements, there is an increased risk of FAA non-compliance and/or inappropriate contractual activity.

### **5.5.2 Segregation of Duties**

The Directive on Delegation of Financial Authorities for Disbursements states that the following functions should be segregated: authority to enter into a contract (transaction authority); and, certification of the receipt of goods and the provision of services according to FAA S34. The directive also includes a statement that if the process or other circumstances do not allow such segregation of duties alternate control measures should be implemented and documented.

The audit found that, in 12 instances out of 56 (21%), appropriate segregation of duties between FAA S41 and FAA S34 signing authorities was not evident (seven in HQ, five in regional offices).

In addition, as previously noted, AANDC failed to locate and provide the contract files for four contracts selected within our sample, all of which were from HQ.

It was also noted that, in accordance with the LDV process design, some RCMs have the authority to enter into a contract and the authority to sign off on FAA S34, without any additional oversight or monitoring at the contracting stage.

Lack of segregation of duties increases the risk that an individual may misappropriate assets and conceal this misappropriation and/or that inappropriate use of funds may occur and not be detected.

#### ***Recommendation #5:***

The Chief Financial Officer should ensure that all contract files retain appropriate evidence to support FAA signatory requirements and appropriate segregation of duties. This entails:

- a) FAA requires that approvals are made in accordance with delegated authority limits, and that there is an effective process for identifying and rejecting those that are non-compliant
- b) if the process or other circumstances do not allow adequate segregation of duties, alternate control measures should be implemented and documented.

## **5.6 Continuous Improvement**

### **5.6.1 Service Standards**

During 2010/11, the Director of MAMD developed and implemented a set of service standards for the contracting process. The service standards set out the processing time expectations for sole source contracts, the Advance Contract Award Notice process, the procurement of services between \$25K and \$2M, the creation of a departmental standing offer, and the process for a call-up against a departmental standing offer.

As the completion of the development and publication of the service standards is relatively new (completed December 2010) a process for the tracking, regular monitoring and reporting of performance against the stated service standards has not been fully developed and the process for the comparison of results against expected performance has not yet been put in place..

## 5.6.2 Aboriginal Procurement Objectives

The Procurement Strategy for Aboriginal Business works to help Aboriginal firms do more contracting with all federal government departments and agencies and assists Aboriginal businesses to gain access to the overall procurement process.

While the Government of Canada has not set fixed targets for increased contracting with Aboriginal business, Departments that purchase more than \$1 million annually are currently establishing their own performance objectives for increased procurement with Aboriginal suppliers.

From our interviews with Procurement Officers and RCMs, individuals involved in procurement and contracting activities are aware that they are encouraged to contract with Aboriginal firms where possible; however, they were not aware of specific Aboriginal procurement targets for AANDC and do not track or monitor these targets. This observation is similar to a finding reported in the 2006 AANDC Audit of Contracting and Purchasing which indicated that procurement staff was unaware of departmental aboriginal procurement targets.

### ***Recommendation #6:***

The Chief Financial Officer should provide clear communication and relevant additional training to Procurement Officers and RCMs regarding new developments and continuous improvements. This includes:

- a) service standards and the identification of an appropriate process for the tracking, monitoring and reporting of performance against the agreed service standards highlighting and taking action against areas whereby performance does not meet the standards; and
- b) Aboriginal procurement targets to the AANDC procurement and contracting community and to provide guidance on the type of monitoring and tracking that is required for reporting purposes.

## 6 MANAGEMENT ACTION PLAN

Recommendations	Management Response / Actions	Responsible Manager (Title)	Planned Implementation Date
<p>1. The Chief Financial Officer should ensure that all contracts are retained and tracked appropriately for retrieval purposes such that they can be retrieved when required, particularly for those contracts that are current. The CFO should task the Director of MAMD with investigating the four contract files that could not be located during the audit in order to determine the reasons that they are missing.</p>	<p>Two of the missing files have been found. The Director of Materiel and Asset Management Division (MAMD) will further investigate and look for the other 2 missing contract files, which were requested for the audit. Processes for file management and storage will be updated: files for all contracts valued over \$10K in the NCR will be maintained centrally beginning with FY 2011-12. Similar procedures will be instituted in the regions. File standards for contracts valued at \$10K or less will be communicated to RCMs. In addition, MAMD has begun to clean up its files and archive them to make more room for current contracting files.</p> <p>MAMD identified these types of issues and included remediation measures as one of the action items in the Procurement Renewal Strategy presented to Departmental Operations Committee in November 2010</p> <p>It is important to note that in prior fiscal years, managers processed and maintained departmental procurement files for all call-ups. Therefore, MAMD had to rely on the managers to obtain the missing files, two of which were found.</p>	<p>Director General MAMD</p>	<p>April 2012</p>
<p>2. The Chief Financial Officer should:</p> <p>a) implement a process of regular review and analysis (e.g. at least quarterly, in addition to</p>	<p>a) MAMD will implement an improved quality control framework, review the existing workflow processes, and identify and implement process improvements as part of its Procurement Renewal Strategy.</p>	<p>Director General MAMD</p>	<p>September 2012</p>

<p>the annual report on procurement) of all contracts to identify potential instances of policy non-compliance, wrongdoing or application of inappropriate contracting activities and/or areas for potential improvement;</p> <p>b) follow-up on anomalies detected and, where relevant, report them to a suitable governance committee and include them in the annual report on procurement;</p> <p>c) Clarify the roles and responsibilities of RCMs in regards to monitoring of contracts, provide them with additional training and guidance to ensure standardization of monitoring activities and that appropriate documentation to support the monitoring activity is retained.</p>	<p>b) As part of an improved quality control framework, reviews of Low Dollar Value (LDV) contracts will be reinstated in order to assess compliance within the RCM community. Results of LDV reviews will be communicated to the affected RCMs and their ADMs, and recommendations such as additional training will be made. Serious anomalies will be brought to the attention of the CFO for remediation or sanction. In addition, the LDV information currently included in the Annual Procurement Report will be supplemented with key results from LDV Reviews.</p> <p>c) Departmental RCMs will be advised on the quality control framework requirements, their accountability and responsibility regarding contracts, and consequences.</p> <p>RCMs whose LDV practices are identified as problematic will be required to undertake additional training or awareness session(s) within 6 months of the review or risk losing their contracting delegation. Where feasible, training material will be focused to respond to RCMs needs. An effort will also be made to</p>	<p>Director MAMD</p> <p>Director MAMD</p>	<p>April 2012</p> <p>April 1, 2012</p>
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	link procurement training to financial authorities by making training for RCMs mandatory via an on-line course		
3. The Chief Financial Officer should consider reconvening the Contracting and Procurement Board to ensure that there is adequate monitoring of procurement and contracting activities across the department, with full regional representation. This should be undertaken following an initial review of the Board's purpose and terms of reference to determine whether the Board can remain useful with a well understood purpose and that it can provide strategic oversight and direction.	MAMD identified this issue prior to the audit and included it as one of the action items in the Procurement Renewal Strategy presented to Departmental Operations Committee in November 2010. The Director of MAMD will undertake a review of the role and function of a Procurement Review Board and will make recommendations to the CFO.	Director MAMD	June 2012
4. The Chief Financial Officer should: a) ensure that all staff are made aware of and apply the correct method of contracting to safeguard AANDC's contracting interests and to ensure compliance with procurement policies and procedures;	a) In addition to its existing training offerings in HQ and Regions, MAMD will develop mandatory training in procurement for all administrative staff (on-line course). MAMD will continue to review current on-line procurement documentation with a goal of streamlining the information and making it more accessible to RCMs. In addition, a Procurement and Contracting Desk Guide will be introduced. This condensed document will prove to be an easy to read and short reference tool, which will provide an overview and the basics of contracting procedures within the department.	Director MAMD	April 2012



<p>c) ensure that the contracting process cannot proceed until all required documentation is retained on file;</p>	<p>MAMD and Security Services, allow enough time for Procurement and Security to conduct appropriate review and prepare contract clauses, and take immediate action if and when security violations or breaches are detected.</p> <p>c) All requests for contracts that are now sent to HQ Contracts are reviewed by our triage officer to ensure that all documentation is received before being assigned. Additionally, the quality control review of LDV contracts will provide feedback and highlight any discrepancies to RCMs regarding their contracts.</p> <p>Instructions on the “perfect file” have been given to MAMD procurement officers. These guidelines will provide clear direction as to what documents must be retained in the contract file, and where they should be located within the file. This will also be rolled out to the regions and RCMs in the future.</p>	<p>Director General MAMD</p>	<p>April 2012</p>
<p>d) Take action to quickly resolve the contract negotiations with the vendor in the regional office and follow-up on any potential contract splitting.</p>	<p>d) Regional procurement officers will be encouraged to contact the Procurement Services section as soon as they become aware of any perceived conflict with a contractor. RCMs are encouraged to do the same. MAMD will continue to run periodic reports on sole source contracts in order identify potential problems vis à vis the Government Contracting Regulations. Problematic issues, depending on their nature, frequency and materiality, will be highlighted to Senior Management.</p>	<p>Director MAMD</p>	<p>December 2011</p>

<p>5. The Chief Financial Officer should ensure that all contract files retain appropriate evidence to support FAA signatory requirements and appropriate segregation of duties. This entails:</p> <p>a) FAA requires that approvals are made in accordance with delegated authority limits, and that there is an effective process for identifying and rejecting those that are non-compliant</p> <p>b) If the process or other circumstances do not allow adequate segregation of duties, alternate control measures should be implemented and documented.</p>	<p>a) MAMD will work with CFO partners to obtain access to Specimen Signature Cards. HQ Contracts will, on risk-based approach, review signatures on requests valued over \$10k, to ensure compliance with delegated authorities. No compliant requests will be returned to RCMs.</p> <p>b) MAMD will advise Regional Procurement people and managers through a combination of teleconferences and bulletins of the requirement for segregation of duties and will also monitor the compliance.</p>	<p>Director General MAMD</p> <p>Director MAMD</p>	<p>April 2012</p> <p>April 2012</p>
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<p>6. The Chief Financial Officer should provide clear communication and relevant additional training to Procurement Officers and RCMs regarding new developments and continuous improvements. This includes:</p>	<p>MAMD will develop a systematic approach to advising RDGs of pending changes.</p>	<p>Director General MAMD</p>	<p>April 2012</p>
<p>a) service standards and the identification of an appropriate process for the tracking, monitoring and reporting of performance against the agreed service standards highlighting and taking action against areas whereby performance does not meet the standards; and</p>	<p>a) MAMD has established service standards, posted them on the Intranet for client information, and begun to track against them through its triage function. The standards will be given more prominence through ExpressInfo and will be fully rolled out to the regions in 2012. Reviews against standards will be used to determine appropriateness of the standards and to identify service gaps.</p>	<p>Director MAMD</p>	<p>January 2012</p>
<p>b) Aboriginal procurement targets to the AANDC procurement and contracting community and to provide guidance on the type of monitoring and tracking that is required for reporting purposes.</p>	<p>b) MAMD will work with the Procurement Strategy on Aboriginal Business (PSAB) program to find ways to increase the use of Aboriginal Supplies and to communicate AANDC's targets to both RCMs and procurement staff. Coding and reporting options will be explored in order to better capture reporting information for aboriginal procurement targets. AANDC routinely posts set-aside RFP processes on the government electronic bidding system and MAMD staff, as a normal practice, challenge managers to determine if their requirements can be met by an aboriginal supplier. Also, MAMD uses aboriginal standing offers wherever feasible.</p>	<p>Director MAMD</p>	<p>December 2011</p>

## Appendix A: Audit Criteria

The following audit criteria were developed during the planning phase of the audit and included relevant criteria to address specific risks identified in the planning phase.

Audit Criteria		Conclusion
<b>Objective:</b> Assurance over the adequacy and effectiveness of management controls supporting the processing of goods and services.		
1.1	Adequate governance/oversight exists over contract and procurement-related activities.	Moderate Issues
1.2	Authority, responsibility and accountability for the procurement and contracting process are clearly defined and communicated.	Well Controlled
1.3	Employees are provided the necessary tools and training to support their contracting responsibilities.	Controlled
1.4	Monitoring mechanisms are in place to ensure compliance with financial management and procurement policies and authorities.	Controlled
1.5	Relevant and reliable information on contracting/ procurement activities is developed and reported to stakeholders in a timely manner.	Moderate Issues
1.6	Processes and practices are in place to identify and implement continuous improvements to the procurement and contracting process.	Moderate Issues
<b>Objective:</b> Goods and services are procured in a manner that is in compliance with TB and departmental policies and procedures and applicable laws and regulations (FAA).		
2.1	Requirements are clearly articulated and defined.	Moderate Issues
2.2	Contracts and amendments are approved for expenditure initiation and for FAA Section 32 where sufficient funds are available.	Moderate Issues
2.3	Tendering and bid selection is fair, open and transparent, complies with policy requirements, and is documented.	Moderate Issues
2.4	Contracts comply with TB contracting authority limits.	Minor Issues
2.5	Contracts include all relevant terms and conditions and documentation is appropriately maintained.	Moderate Issues
2.6	The contract receives FAA Section 41 approval by all relevant parties prior to the commencement of work.	Minor Issues
2.7	Contracts are appropriately administered including monitoring the contract, the receipt and acceptance of deliverables, the monitoring of financial performance and resolving vendor issues.	Moderate Issues
2.8	Amounts for goods and services received are accurate and approved by a delegated authority.	Moderate Issues