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## Final Report

2013-709

Audit of Vendor Performance and Corrective Measures

September 18, 2014

Office of Audit and Evaluation





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## **MAIN POINTS**

- i. Public Works and Government Services Canada (PWGSC) is the Government of Canada's common service provider for procurement services, offering federal organizations a broad base of procurement solutions such as specialized contracts, standing offers, and supply arrangements. The Government of Canada procures goods and services valued at approximately \$25.6 billion annually, of which \$16.5 billion (64%) is procured through the PWGSC Acquisitions Branch.
- ii. The Acquisitions Branch has the mandate to provide timely, value-added acquisitions and related common services to federal organizations. Thus, it has the authority and responsibility to manage and administer their contracts in a manner that ensures that they are successfully executed in accordance with the agreed terms of time, cost and performance. This responsibility is outlined in the Treasury Board *Contracting Policy*.
- iii. While management of vendor performance related to the discharge of terms and conditions in a contract is critical, there is also a stewardship responsibility to take action to prevent future problems based on a vendor's past performance. We determined that there is no government-wide policy directing PWGSC, as contracting authority, or other government departments, as project authority or contracting authority under their own delegation, to manage vendor performance on an ongoing basis.
- iv. Because PWGSC shares responsibility for the procurements it conducts with client departments (the project authority), it also shares responsibility for vendor performance with these same departments. PWGSC has no authority over client departments to require them to assume their part in the responsibility for vendor performance. This is one of the biggest challenges to achieving the objectives related to the management of vendor performance, particularly in the absence of centrally driven requirements directed at project authorities.
- v. In recognition of its role in managing vendor performance related to contracts which it awards, PWGSC developed the *Vendor Performance Corrective Measure (VPCM) Policy*. The policy provides direction to contracting officers of PWGSC, as contracting authority. The implementation of this policy was supported by training and communications activities directed at the contracting officer, but ongoing activities could be improved. Activities have been generally reactive and ad hoc in nature, rather than proactive and comprehensive. Implementation was also supported by the development of processes and procedures for issuing corrective measures. However, we found gaps in these processes and procedures and inconsistent application of them. The information system used to track vendor performance issues needs to be enhanced to fully support implementation of the policy. Finally, it is not clear the information system was consistently consulted by contracting officers prior to contract award.

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- vi. Recognizing that collaboration with project authorities is critical to the success of managing vendor performance, and that there is no requirement for project authorities to collaborate, we expected that Acquisitions Branch would make efforts to engage clients, through training and communications activities. Although individual contracting officers may liaise with project authorities, we found that little coordinated effort has been directed at these activities. Further, we found that under the current policy framework, Acquisitions Branch's ability to share vendor performance information (contained in the information system) with other government departments is limited.
  
- vii. When the policy was developed, it recognized certain commodities or industries could benefit from an industry/commodity-specific vendor performance program in place of the policy. At the time the policy was developed, two such programs existed. We expected that Acquisitions Branch would engage contracting officers, clients and vendors to consider whether other commodity groups or industry sectors could benefit from specific programs. We found little engagement has been directed to this purpose.
  
- viii. Given the role of PWGSC's Acquisitions Branch as the primary contracting authority for the Government of Canada, managing vendor performance is an important activity. When vendor performance information is adequately gathered and shared, the Acquisitions Branch, as contracting authority, can use the information to make informed future contracting decisions. The collection and use of meaningful past vendor performance information is critical to ensuring that the Branch does business with vendors who have a history of delivering on contractual obligations. Further, there are a number of consequences to unmanaged poor vendor performance. For example, poor vendor performance can increase costs to the Branch as well as clients. By contracting with non-performing vendors, contracting and project authorities would need to invest resources to resolve performance related issues (which may include terminating the contract and reissuing the solicitation), and the client's operations may be interrupted. Furthermore, vendors, who have not performed their duties on past contracts, may continue to be awarded contracts by the Branch which may be viewed as unfair and could impact the Branch's relations with the supplier community.

## **Management Response**

Management has had the opportunity to review the Chief Audit and Evaluation Executive's report, and agreed with the conclusions and recommendations. Management also developed a Management Action Plan to address these recommendations.

## **Recommendations and Management Action Plan**

**Recommendation 1 (high priority):** The Assistant Deputy Minister, Acquisitions Branch, should develop and implement a comprehensive, ongoing training and communications plan regarding the VPCM Policy that engages all stakeholders involved in the procurement process, including contracting officers and clients (both internal and external to PWGSC).

**Management Action Plan 1.1:** Develop a Comprehensive Communication and Engagement plan that details how stakeholders, including contracting officers, PWGSC Branches and client departments will be informed / trained on responsibilities related to the VPCM Policy. This Plan will identify:

- Ways to improve how changes to the VPCM Policy are communicated;
- Training to ensure that stakeholders (PWGSC and client departments' contracting communities) are made aware of the VPCM Policy. For example, the VPCM Policy allows for the creation of industry/commodity-specific vendor performance processes and procedures when applicable. Any training developed or provided would include reference to this flexibility; and,
- The best way to train / communicate on the proper use of the Vendor Information Management System to ensure data integrity.

**Management Action Plan 1.2:** Communicate / engage in accordance with the Plan (1.1) including the following communication efforts and leaning tools:

- Policy, Risk, Integrity and Strategic Management Sector's (PRISMS) GCPEDIA "nuggets" (for example communicating clarifications to the Policy as mentioned below).

**Recommendation 2 (high priority):** The Assistant Deputy Minister, Acquisitions Branch, should ensure that comprehensive procedures for the management of vendor performance and issuance of corrective measures are revised and implemented across the Acquisitions Branch sectors and regional acquisitions offices to ensure consistency and timeliness. This should be supported by a comprehensive training and communications plan that engages all stakeholders. Furthermore, the Assistant Deputy Minister should ensure that, for instances where contractual obligations are not met and it is outside the

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scope of the Vendor Performance Corrective Measure Policy, there is a process in place that is consistently followed to capture vendor performance information.

**Management Action Plan 2.1:** Review policy and address:

- Issue of timeliness: the tracking, recording and follow-up of corrective measures will be clarified in the Policy and time limits set-out. A Policy Notice will be issued.
- Issue of consistency in assessment: outline principles of assessment / evaluation in order to provide guidance to procurement personnel in determining the appropriate level of impact of an incidence of poor performance on government operations.

**Management Action Plan 2.2:** Communicate the changes to stakeholders (Dec. 31, 2014) and provide training. A new web based learning tool (webinar on VPCM Policy) will be created and kept evergreen and will allow maximum accessibility both inside and outside PWGSC.

**Management Action Plan 2.3:** Review and update existing processes related to the monitoring of VPCM Policy activities to ensure that standing offers and supply arrangements are being rescinded as required in a timely fashion.

**Management Action Plan 2.4:** Review the 1996 Vendor Performance Policy, for the purpose of determining where in the policy the instructions can be clarified and rendered more functional by applying the instruction and / or tools developed under the 2011 VPCM Policy. If necessary, the Supply Manual will be amended and all changes will be communicated to all stakeholders and supported by training sessions.

**Recommendation 3 (high priority):** The Assistant Deputy Minister, Acquisitions Branch, should ensure that vendors, who are sanctioned, are not awarded contracts, standing offers and call-ups and supply arrangements. In addition, we encourage Acquisitions Branch to continue to resolve multiple record issues in the Vendor Information Management System.

**Management Action Plan 3.1:** Immediate Action- In addition to actions already taken to reduce multiple records, a Plan will be developed to determine how to correct multiple records in the Vendor Information Management System. This Plan will identify the project lead and provide timelines for completion.

**Management Action Plan 3.2:** Immediate Action- Procedures will be enhanced to ensure that all sanctions are inserted in the Vendor Information Management System as soon as they are approved.

**Management Action Plan 3.3:** Longer Term- The Automated Buyer Environment is scheduled to be replaced Dec. 31, 2016. The replacement system will allow, among other things, a better automated approach to managing vendor



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performance and thus replace the Vendor Information Management System. This development will significantly help ensure that vendors, who are debarred, are not awarded contracts, standing offers, call-ups or supply arrangements.

**Recommendation 4 (moderate priority):** The Assistant Deputy Minister, Acquisitions Branch, should engage stakeholders, as part of the communication and awareness activities or development of National Procurement Strategies, to consider the appropriateness of additional industry/commodity-specific vendor performance processes and procedures. In addition, the Assistant Deputy Minister should ensure that oversight over the development of additional programs exists.

**Management Action Plan 4.1:** Communication and awareness plans for existing and future National Goods and Services Procurement Strategies will include the possibility of additional industry/commodity-specific vendor performance processes and procedures.

**Management Action Plan 4.2:** If determined to be beneficial, and contingent on risk, additional industry/commodity-specific vendor performance processes and procedures would be created as part of National Goods and Services Procurement Strategies implementation plans.

## **INTRODUCTION**

1. This engagement was included in the Public Works and Government Services Canada (PWGSC) 2013-2018 Risk-Based Audit and Evaluation Plan.
2. Procurement for the Government of Canada is carried out in a decentralized manner. Individual departments can award contracts under their own authorities for services, and under certain authorities for goods and construction as delegated by the Minister of Public Works and Government Services. Individual departments make purchases through the use of these authorities and make purchases of varying values through their authorized use of procurement instruments put in place by PWGSC. The role of PWGSC as a common service provider for both mandatory and optional acquisition services for the Government of Canada is elaborated in the Treasury Board *Common Services Policy*.
3. The mandate of PWGSC's Acquisitions Program is to provide timely, value-added acquisitions and related common services, in an open, fair, and transparent manner, for clients who serve Canadians and the federal government. The Program offers federal organizations a broad base of procurement solutions such as specialized contracts, standing offers, and supply arrangements. A specialized contract is a procurement that is unique or specific to a certain commodity, client or area. Standing offers provide an administrative agreement with suppliers at pre-arranged prices or pricing methods, with set terms and conditions for a specified period of time. The terms and conditions of standing offers permit federal organizations to place a call-up (order) against them. A supply arrangement is a non-binding arrangement between the Government and a pre-qualified supplier that allows departments to solicit bids and award contracts from a pool of pre-qualified suppliers for a specific requirement within the scope of the supply arrangement.
4. The Government of Canada procures goods and services valued at approximately \$25.6 billion annually, of which \$16.5 billion is procured through the Acquisitions Program. The Acquisitions Program is delivered by the Acquisitions Branch ("the Branch") and regional acquisitions offices. Throughout the report the term "Acquisitions Branch" will be used generically to include headquarters and all PWGSC regional acquisitions offices (unless indicated otherwise).
5. Given the role of PWGSC's Acquisitions Branch as the primary contracting authority for the Government of Canada, managing vendor performance is an important activity. When vendor performance information is adequately gathered and shared, the Acquisitions Branch, as contracting authority, can use the information to make informed future contracting decisions. The collection and use of meaningful past vendor performance information is critical to ensuring that the Branch does business with vendors who have a history of delivering on contractual obligations. Further, there are a number of consequences to unmanaged poor vendor performance. For example, poor vendor performance can increase costs to the Branch as well as clients.

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By contracting with non-performing vendors, contracting and project authorities would need to invest resources to resolve performance related issues (which may include terminating the contract and reissuing the solicitation), and the client's operations may be interrupted. Furthermore, vendors, who have not performed their duties on past contracts, may continue to be awarded contracts by the Branch which may be viewed as unfair and could impact the Branch's relations with the supplier community.

6. Although there are no legislative requirements or formal Treasury Board policies on vendor performance, the Treasury Board *Contracting Policy* states that “contracting authorities should manage and administer their contracts in a manner that ensures that they are successfully executed in accordance with the agreed terms of time, cost and performance.” In addition, for consulting and professional services contracts, the Policy states that “on completion of the contract, the contracting authority should evaluate the work performed by the consultant or professional.”
7. As part of good contract management practice, vendor performance information is expected to be captured and used for future contracting decisions. Contracting officers and client departments need to work collaboratively and have shared responsibilities with regards to contract management and tracking of vendor performance information. PWGSC's Supply Manual states that “contracting officers should also keep themselves informed about such things as the proposed contractor's performance history, financial situation and practices, before recommending a contract award. It also means keeping up to date with a contractor during the performance of a contract.” Regular communication between contracting officers and clients is considered essential to vendor performance management.
8. Management of vendor performance has been on the PWGSC agenda for a number of years. In 1991, the Office of the Auditor General reported that PWGSC had no system to record and report on vendor past performance. The Auditor General recommended that PWGSC investigate the feasibility and cost effectiveness of revisiting its computer system to include information related to vendors' past performance.
9. In early 1995, in response to the Office of the Auditor General report, the Branch implemented the Automated Buyer Environment suite of applications, which included the Vendor Information Management System (a database to record and share vendor information). Subsequently, the Branch developed the Vendor Performance Policy (“the 1996 Policy”), which was implemented on September 1, 1996.
10. While the 1996 Policy was based on sound principles, it was infrequently applied by the Branch. Corrective measures for contractors with poor performance had been rarely applied. The reasons for which, as identified by the Branch, included: concerns over personal legal consequences of taking action against vendors; perceived ambiguity as to individual roles and responsibilities; discretion in deciding what

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constituted a major instance of poor performance; and an unstructured process for applying corrective measures.

11. Due to the infrequent application of the 1996 Policy by the Branch, the Deputy Minister requested that Acquisitions Branch revise the approach for vendor performance. Between 2007 and 2010, a new approach was developed by the Branch, in consultation with the Treasury Board Secretariat, and approved by the Deputy Minister. It was decided to develop a common core policy for vendor performance, where Acquisitions Branch was the contracting authority. It was also decided that, when necessary, to support industry/commodity-specific approaches, the policy would allow sectors/regions to develop a customized or tailored program to meet their needs.
12. On June 29, 2011, Acquisitions Branch implemented the new *Vendor Performance Corrective Measure* (VPCM) Policy, following an extended trial period from November 4, 2010 through June 28, 2011. The VPCM Policy applies only to the Branch as a common service provider for transactions under its contracting authority. It does not apply to other contracting officers within PWGSC including the Materiel Management Directorate of Finance and Administration Branch. The VPCM Policy focuses on poor vendor performance that results in either terminations for default on contracts or call-ups against standing offers or conditional contract amendments. Building upon the 1996 Policy, the VPCM Policy aimed to clarify roles, responsibilities and processes; eliminate conflicting and confusing messaging; standardize processes and methodology; and, integrate vendor performance with procurement risk management as a whole.

**Vendor performance** refers to the action taken by a vendor to meet its contractual obligations in delivering goods or providing services, including construction. It does not encompass vendor conduct, which relates to criminal activities referenced in PWGSC's *Code of Conduct for Procurement* (such as bid rigging and fraud). A **corrective measure** is a condition or limitation placed on a vendor's ability to contract with PWGSC in the future on the basis of PWGSC's assessment of the vendor's ability to deliver on its contractual obligations.
13. Under the Supply Manual, a contract can be terminated for default if a vendor: fails to make progress, so as to endanger performance of the contract; fails to perform any provision of the contract; fails to deliver the goods or perform the services within the time specified in the contract; or becomes bankrupt or insolvent. In addition, the VPCM Policy identifies a conditional contract amendment as an amendment to a contract that is made for operational reasons in lieu of a termination for default because of poor performance.
14. To provide flexibility in managing vendor performance, as with the 1996 Policy, the VPCM Policy also allows for the customization of industry/commodity-specific performance evaluation criteria. It recognizes that sectors/regions may establish their

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own vendor performance programs for evaluating vendor performance and determining appropriate measures to apply for specific commodities or commodity groupings. While the VPCM Policy focuses exclusively on terminations for default and conditional contract amendments, if established, the industry/commodity-specific vendor performance program is to be applied in place of the Policy. Industry/commodity-specific vendor performance programs can provide mechanisms for systematically evaluating vendor performance on every eligible contract/call-up and performance information may be used for future contract decisions. Currently, there are two industry/commodity-specific programs that exist within PWGSC: real property contracting and translation services.

15. Application of the VPCM Policy involves a number of internal and external stakeholders within PWGSC and other government departments/agencies, such as contracting authorities, clients and vendors (see Exhibit 1). The Director General, Policy, Risk, Integrity and Strategic Management Sector (PRISMS), in the Acquisitions Branch, is responsible for the application of the Policy. The Acquisitions Branch Management Committee is to provide a national perspective for the oversight and strategic direction on the application of the Policy and on vendor performance issues in general for Acquisitions Branch. The real property industry/commodity-specific program is managed by the Real Property Contracting Directorate, Commercial Acquisitions and Supply Management Sector in Acquisitions Branch. The translation service industry/commodity-specific program is managed by the Linguistic Service Division, Services and Technology Acquisition Management Sector in Acquisitions Branch, together with the Translation Bureau (Acquisitions and Directory Services).
16. The Acquisitions Branch carries out procurement activities as contracting authority for its clients, which includes other government departments and agencies, and branches/regions within PWGSC when the procurement exceeds the client's delegated authority. Where the procurement is within the client's delegated authority, the client has the option to act as its own contracting authority.

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**EXHIBIT 1**

**Roles and Responsibilities of Stakeholders in the Vendor Performance and Corrective Measures Process**

<b>Role</b>	<b>Responsibilities</b>
Treasury Board of Canada Secretariat	<ul style="list-style-type: none"> <li>• Develops government-wide management policies and standards (such as the <i>Contracting Policy</i>) and oversees their application.</li> </ul>
PRISMS (Acquisitions Branch)	<ul style="list-style-type: none"> <li>• Develops, reviews, and revises the VPCM Policy based on best practices and lessons learned.</li> <li>• Provides guidance and oversight in support of the VPCM Policy.</li> <li>• Coordinates the VPCM process within Acquisitions Branch.</li> </ul>
VPCM Coordinator (PRISMS, Acquisitions Branch)	<ul style="list-style-type: none"> <li>• Reviews instances of terminations for default and conditional contract amendments to ascertain whether or not the VPCM Policy is applicable.</li> <li>• Enters corrective measures and notes in the Vendor Information Management System (e.g. effective date and scope of corrective measure).</li> <li>• Informs standing offer and supply arrangement authorities of corrective measures on vendors to ensure relevant standing offers and supply arrangements are rescinded.</li> </ul>
Acquisitions Branch Management Committee (Acquisitions Branch)	<ul style="list-style-type: none"> <li>• Provides a national perspective with regards to the management of vendor performance.</li> <li>• Provides advice on and/or discusses means to improve the effectiveness of the VPCM Policy and the development of industry/commodity-specific vendor performance programs.</li> <li>• Receives notification of intent to apply a corrective measure, as a result of the application of the VPCM Policy.</li> </ul>
Contracting Officers (Contracting Authority within Acquisitions Branch)	<ul style="list-style-type: none"> <li>• Performs all aspects of a procurement:               <ul style="list-style-type: none"> <li>○ define the requirements,</li> <li>○ develop a procurement strategy,</li> <li>○ prepare and issue a solicitation, evaluates bids/offers and selects successful suppliers,</li> <li>○ award contracts/standing offers/supply arrangements, and</li> <li>○ post-award management.</li> </ul> </li> <li>• Monitors compliance with the terms and conditions of the contract (shared responsibility with the client)</li> <li>• Addresses concerns, with regards to the contract, raised by clients, and works with vendors to resolve</li> </ul>

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	<p>issues.</p> <ul style="list-style-type: none"> <li>• Completes and submits the VPCM Assessment in instances of terminations for default and conditional contract amendments.</li> <li>• With regards to the real property contracting industry/commodity-specific vendor performance program, contracting officers (within Real Property Contracting Directorate, Acquisitions Branch): <ul style="list-style-type: none"> <li>○ Uses the SELECT database to generate a list of qualified vendors based on procurement requirements and opportunity points (which are partly calculated using scores from past performance evaluations).</li> </ul> </li> <li>• With regards to the translation services industry/commodity specific vendor performance program, contracting officers (within Linguistic Services Directorate): <ul style="list-style-type: none"> <li>○ Uses the Supplier Information Management System to generate a list of qualified vendors based on procurement requirements and past performance evaluation scores.</li> </ul> </li> </ul>
<p>External client * For the purposes of this audit, 'external clients' refers to Project Authorities and, Technical Authorities, who are not within PWGSC ( i.e. other government departments and agencies)</p>	<ul style="list-style-type: none"> <li>• Monitors work of the vendor and receives the contract deliverables.</li> <li>• Monitors compliance with the terms and conditions of the contract (shared responsibility with the contracting officer).</li> <li>• Informs contracting officer if goods and services are not in accordance with the contract.</li> </ul>
<p>Internal client * For the purposes of this audit, 'internal clients' refers to Project Authorities and, Technical Authorities, who are within PWGSC (i.e. PWGSC Branch)</p>	<ul style="list-style-type: none"> <li>• Monitors work of the vendor and receives the contract deliverables.</li> <li>• Monitors compliance with the terms and conditions of the contract (shared responsibility with the contracting officer).</li> <li>• Informs contracting officer if goods and services are not in accordance with the contract.</li> <li>• With regards to the real property contracting industry/commodity specific vendor performance program: <ul style="list-style-type: none"> <li>○ Project Managers (Real Property Branch) complete evaluations on the vendor's performance and record results on SELECT.</li> </ul> </li> <li>• With regards to translation services industry/commodity specific vendor performance</li> </ul>

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	<p>program:</p> <ul style="list-style-type: none"> <li>○ Quality Controllers (Translation Bureau) complete evaluations on the vendor's performance. The results are recorded in the Supplier Information Management System.</li> </ul>
Other entities that assume Contracting Authority themselves (i.e. Materiel Management, PWGSC, or other government departments/ agencies)	<ul style="list-style-type: none"> <li>● Performs all aspects of a procurement (within their respective delegated authority): <ul style="list-style-type: none"> <li>○ define the requirements,</li> <li>○ develop a procurement strategy,</li> <li>○ prepare and issue a solicitation, evaluates bids/offers and selects successful suppliers,</li> <li>○ award contracts/standing offers/supply arrangements, and</li> <li>○ post-award management.</li> </ul> </li> <li>● Monitors compliance with the terms and conditions of the contract (shared responsibility with the client)</li> <li>● Addresses concerns, with regards to the contract, raised by clients, and works with vendors to resolve issues.</li> </ul>
Vendor	<ul style="list-style-type: none"> <li>● Provides goods and services to government departments/agencies while adhering to the terms and conditions set forth in contracts, standing offers, and supply arrangements.</li> <li>● Fulfills contractual obligations.</li> <li>● Reports issues that may impede on their ability to meet contractual obligations to the contracting officer and to the client.</li> </ul>

**FOCUS OF THE AUDIT**

17. The objective of this internal audit was to determine whether Acquisitions Branch has developed and implemented an effective management control framework to assess vendor performance to support contracting decisions and implement corrective measures.

18. The audit focused on contracts, standing offers, and supply arrangements where Acquisitions Branch was the contracting authority. The contracting authority is responsible for the management of the contract and any changes to the contract must be authorized in writing by the contracting authority. The client is the representative of the department or agency for whom the work is being carried out under the contract and is responsible for all matters concerning the technical content of the work under the contract.

19. The audit assessed the policy framework; training, communication and engagement; processes and procedures; and vendor performance information systems, within the



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Acquisitions Branch from the period of June 29, 2011 (effective date of the Policy) through September 30, 2013. However, the audit also reviewed relevant documents prior to the effective date of the Policy for background and supplementary information purposes. The contracts put in place by PWGSC's Materiel Management, Finance and Administration Branch were excluded from the audit as the VPCM Policy applies only to the Acquisitions Branch as a common service provider for transactions under its authority. The Materiel Management Directorate is responsible for procurement services to employees of PWGSC.

20. More information on the audit objective, scope, approach and criteria can be found in the section "About the Audit" at the end of the report.

### **STATEMENT OF CONFORMANCE**

21. The audit conforms with the *Internal Auditing Standards for the Government of Canada*, as supported by the results of the quality assurance and improvement program.
22. Sufficient and appropriate audit procedures have been conducted and evidence gathered to support the accuracy of the findings and conclusions in this report and to provide an audit level of assurance. The findings and conclusions are based on a comparison of the conditions, as they existed at the time, against pre-established audit criteria that were agreed on with management. The findings and conclusion are only applicable to the entity examined and for the scope and time period covered by the audit.

## OBSERVATIONS

### POLICY FRAMEWORK

23. A policy framework, in the procurement context, refers to key legislation, regulations, as well as Treasury Board Secretariat and PWGSC policy instruments, which together create the legislative and policy environment that shapes all procurement activities conducted by PWGSC's Acquisitions Branch. Key elements of this framework serve as the basis for the processes and procedures for the management of a vendor performance program.
24. We expected to find that departmental policy instruments have been developed, and are consistent with Treasury Board's contracting policies, to support the Department as contracting authority in the management of vendor performance and corrective measure activities. We also expected to find that roles and responsibilities for both contracting officers and clients defined in departmental policy instruments are consistent with Treasury Board's contracting policies.

### No Government-wide Policy on Vendor Performance Exists

25. We found that there are no legislative requirements or formal Treasury Board policies on vendor performance. Initial discussion on development of a government-wide policy on vendor performance took place with the Treasury Board Secretariat in 2004, however, at present time there is no government-wide policy.
26. The Treasury Board *Contracting Policy* provides direction to contracting officers on the administration of procurement activities. We note that it states: "Contracting authorities should manage and administer their contracts in a manner that ensures that they are successfully executed in accordance with the agreed terms of time, cost and performance." However, the Treasury Board *Contracting Policy* is silent on the clients' role in managing vendor performance when PWGSC is the contracting authority.
27. When departments contract for temporary help services themselves using standing offers developed by PWGSC, the *Contracting Policy* specifically states that "contracting authorities should provide Public Works and Government Services with a summary of those firms which consistently are unable to supply personnel as well as instances in which performance was less than satisfactory, including cases when persons called up under standing offers were rejected because of inadequate performance." Although it is recommended for the department to provide feedback, it is optional. Furthermore, we were advised by Acquisitions Branch that although departments are encouraged to complete a Client Satisfaction Report, it is often not completed due to reasons such as: completion of the report is not mandatory; the contracting officer may not be the user of the services themselves and therefore does not have the information to complete the form; departments may fear repercussions

from providing negative feedback; and departments may not see value in providing feedback.

28. As there is no government-wide policy on vendor performance and roles and responsibilities are not well defined in the Treasury Board *Contracting Policy*, there is no overall approach to vendor performance management within the Government of Canada. As noted below, Acquisitions Branch has developed a policy that addresses PWGSC's responsibilities for vendor performance when Acquisitions Branch is the contracting authority. However, PWGSC has no authority over the clients that use its contracting services and there is no policy that covers other government departments when they act as their own contracting authority. The Office of Audit and Evaluation has communicated this gap to the Comptroller General of Canada.

**Acquisitions Branch has developed and implemented a Branch Policy, but does not have the authority to require clients to provide feedback on vendor performance**

29. To discharge PWGSC's stewardship accountabilities as contracting authority, in September 1996, Acquisitions Branch developed the *Vendor Performance Policy* ("the 1996 Policy"), which was consistent with the Treasury Board *Common Service Policy*. In June 2011, Acquisitions Branch implemented the new VPCM Policy, which replaced the policy created in 1996. The VPCM Policy recognizes the importance of vendor performance management and the need to use past vendor performance information to inform future contract decisions.
30. The VPCM Policy contains the roles and responsibilities of contracting officers. The PWGSC's Supply Manual contains a matrix which identifies that monitoring compliance with the terms and conditions of the contract is a shared responsibility between the contracting officer and client. Although the Manual recognizes that roles and responsibilities for vendor performance are shared amongst stakeholders (i.e. contracting officers and clients), we found that department policy instruments are only used as reference material by clients and confirmed that Acquisitions Branch does not have the authority to require feedback on vendor performance.
31. Successful application of the VPCM Policy requires participation by contracting officers and clients. However, objectives and priorities may differ between contracting officers and clients. Since the Branch does not have the authority to require clients to provide vendor performance information, the communication and sharing of information between these stakeholders has not been easily established.

**Acquisitions Branch is in the process of restructuring its governance structure to improve oversight of vendor performance activities**

32. Governance is the combination of processes and structures implemented by management to direct, manage and monitor the activities of an organization toward the achievement of its objectives. A foundation for governance includes the

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establishment of a committee structure to provide oversight on the effective delivery of the Branch's vendor performance management activities. The presence of an oversight body is important to ensure that management's direction, plans and actions are appropriate and responsible.

33. Within the Branch, we expected to find appropriate oversight of vendor performance management activities (e.g. corrective measure cases, advice on the development of industry/commodity-specific vendor performance programs etc.). We also expected to find clearly defined oversight roles and responsibilities.
34. We found that oversight of vendor performance could be enhanced. During the period of the audit, the Acquisitions Branch Management Committee was responsible for monitoring vendor performance management activities. Specifically, the mandate and overall goal of the Committee was to provide an opportunity for the Directors General of Acquisitions Branch to engage in discussion on horizontal and vertical management issues and topics affecting the Branch. To this end, a Terms of Reference was prepared in April 2012 to enable the Committee to provide a national perspective for the oversight and strategic direction on the application of the VPCM Policy and on vendor performance issues in general for Acquisitions Branch. Members included the Directors General from each sector within the Branch. The Director General, PRISMS, Acquisitions Branch, is the Chair of the Committee.
35. Five meetings have occurred since the VPCM Policy was implemented (for the period within our scope). The Terms of Reference identified that the Committee is responsible for providing advice on the development of industry/commodity-specific vendor performance programs. However, based on our review of the records of decision, we determined there has not been discussion on the development of vendor performance programs.
36. During the course of the audit, we were advised by PRISMS that the Branch was in the process of reviewing its governance structure. In April 2014, the Policy Committee assumed the responsibility that the Acquisitions Branch Management Committee had related to the VPCM Policy. The Policy Committee provides guidance, identifies risks, monitors and communicates the strategic directions of the Acquisitions Program with respect to procurement policy, including the VPCM Policy. Members of this committee include: the Director General, PRISMS; Senior Director, Acquisition Strategy and Relations Directorate; one director appointed by each sector and region; and the Manager, Strategic and Business Communications (Communications Branch). We found that the Terms of Reference for the Policy Committee is silent with respect to the role of the development of industry/commodity-specific vendor performance programs.
37. Strengthening oversight will assist in ensuring appropriate direction is provided to achieve the objectives of the Policy.

## **TRAINING AND COMMUNICATION**

38. Training and communication encompasses all activities, by the Branch, aimed at promoting the importance of vendor performance management and communicating respective roles and responsibilities. In order for all employees involved in procurement to exercise their responsibilities, it is essential for them to understand what is expected and to have the knowledge to effectively perform their duties.
39. Two-way communication and collaboration with key internal and external stakeholders, such as clients, is vital to ensuring that all parties are aware and understand the expectations related to vendor performance management, and that each party's respective needs, constraints and risks are understood and managed.
40. We expected Acquisitions Branch would provide the necessary information, instruction, and training, on an ongoing basis, to ensure that contracting officers understand their roles and responsibilities, and have the necessary knowledge and skills to support the discharge of their responsibilities relating to vendor performance. In addition, we also expected Acquisitions Branch, as a principal procurement service provider for the Government of Canada, to engage clients to promote the VPCM Policy, and facilitate the sharing of information on vendor performance and best practices, since their participation is critical to the successful implementation of the Policy.

### **Training and communications activities to promote awareness of the importance of vendor performance management and the related roles and responsibilities to contracting officers can be improved**

41. Responsibility for coordinating, promoting, and directing vendor performance management training and communication activities for contracting officers falls under PRISMS.
42. We found training and communications activities have occurred during the implementation of the VPCM Policy, however these have been generally reactive in nature. Although there was no comprehensive training and communication plan in place, some measures have been taken by PRISMS to promote and raise awareness of the VPCM Policy to contracting officers within Acquisitions Branch.

43. The VPCM Policy is readily available on the Policy and Guidelines section of PWGSC's Buy and Sell website. Furthermore, we were informed that the VPCM Coordinator and policy advisors provide advice to contracting officers on an ad hoc basis, and are available to provide training when requested. PRISMS has indicated that they are currently developing Procurement Information Modules, for contracting officers, to address various policies within the Branch, including a module for the VPCM Policy. The Module will be posted on GCPedia, in December 2014.

**Case Study 1:** In 2013, the VPCM Coordinator identified that there was some confusion within the Branch regarding the difference between a conditional contract amendment and a normal contract amendment, during the review of instances of terminations for default and conditional contract amendments. Specifically, the VPCM Coordinator found 13 cases out of 27 conditional contract amendments that should have been coded as a normal contract amendment by contracting officers, from June 29, 2011 to March 28, 2013. In March 2013, PRISMS presented this issue to the Acquisitions Branch Management Committee. To mitigate the risk of incorrectly coding a normal contract amendment as a conditional contract amendment, the VPCM Coordinator or policy advisor verifies the validity, on a weekly basis, of any conditional amendment with the contracting officer. However, the VPCM Coordinator and policy advisor do not verify whether a normal amendment should have been issued as a conditional amendment. Also, we were advised by employees within Acquisitions Branch that the understanding of the difference between a conditional contract amendment and a normal contract amendment is still an ongoing issue.

44. We found limited ongoing training to contracting officers concerning vendor performance management. A module on the VPCM Policy has been added to the "Introduction to Procurement" course that is offered by Acquisitions Branch, generally to new staff. There have also been approximately 10 interactive Policy training sessions held with contracting officers between November and December 2010, however enrolment in the training sessions held in 2010 was voluntary. In October 2012, training related to the VPCM Policy was provided to new procurement Intern Officers. Other than this, no other formal training was provided during the scope of our audit.

45. We also found limited ongoing communications activities. Communication sessions were provided to the Client Advisory Board in October 2011 and Informatics Professional Services Advisory Committee in February 2012

**Case Study 2:** Although contracting officers are aware that the VPCM Policy is applicable to contracts where PWGSC Acquisitions Branch is the contracting authority, there is some confusion amongst contracting officers surrounding whether the Policy is applicable to standing offers and supply arrangements. In particular, one division within Acquisitions Branch developed a standing offer with the requirement to evaluate the vendor's performance with implications of possible sanctions, based on their understanding that the VPCM Policy did not apply to call-ups against standing offers. According to PRISMS, the VPCM Policy applies to standing offers where call-ups have been terminated for default or a conditional amendment has been issued. Further, it also applies to contracts awarded against a supply arrangement, where a conditional amendment has been issued or a termination for default has occurred and where Acquisitions Branch is the contracting authority.

46. A lack of ongoing training and communication to contracting officers regarding the VPCM Policy can contribute to confusion within the Branch and as a result, lead to an inconsistent approach being taken. Improvements to training and communication would help ensure that employees have the awareness, knowledge and skills necessary to support the discharge of their responsibilities relating to the management of vendor performance.

#### **Communication, training, and engagement of clients is limited**

47. We found that the VPCM Policy had not been actively communicated to clients nor has any training been provided to engage clients to collaborate in achieving the objectives of the VPCM Policy. As a result, clients may be unaware that they have a responsibility to inform PWGSC's Acquisitions Branch, as contracting authority, of vendor performance issues. It is PRISMS's view that the VPCM Policy should be promoted by individual contracting officers to clients. However, contracting officers are not always aware that it is their responsibility to promote the VPCM Policy to their clients, as the VPCM Policy and training material provided to them does not highlight this responsibility.
48. We were advised that some contracting officers take an active role in assessing vendor performance by confirming with the client whether the good or service was delivered in accordance with the contract. However, we were informed by contracting officers that it can be difficult to gather vendor performance information from clients, as some clients will try to handle issues on their own, or they are not aware they have to advise the Branch of issues. In other cases, the contracting officer is advised of the issue after the good or service was accepted by the client. The difficulty in gathering feedback on vendor performance from the client is exacerbated by the fact there is no government-wide policy that requires client feedback and Acquisitions Branch does not have formal authority to gather feedback.

49. Enhanced communication and training would help elicit the collaboration of clients, which would allow better management of vendor performance and would also support the development of best practices and lessons learned that would help to improve existing processes. Additionally, by not obtaining vendor performance information from clients, poor performing vendors could continue to receive contracts, which could result in unfair situations for other vendors which could impact the Acquisitions Branch's relations with the supplier community. It could also increase costs to the Branch as well as clients, limit the Branch's ability to derive value for money, and lead to Canadian International Trade Tribunal challenges.

**Case Study 3:** During the course of the audit, we found one example, for the procurement of USB keys, which highlights the importance of feedback from clients. Although the goods were not delivered according to the mandatory requirements per the statement of work, the client did not advise the contracting officer. The original contract was for the procurement of stainless steel USB keys for a client department. However, the client accepted the delivery of plastic USB keys, and had certified with the PWGSC contracting officer that it had received the goods in accordance with the contract. Subsequently, a vendor with a losing bid was made aware that the client had accepted goods contrary to the requirements of the contract, and proceeded to file a complaint with the Canadian International Trade Tribunal against PWGSC, the client department, and the winning vendor for compensation for lost opportunity. The Tribunal determined that PWGSC and the client department should compensate the complainant for lost opportunity by an amount equal to the estimated profit of the winning tender divided by the number of bids. The information available publically through the Tribunal identified the amount of \$7,373 as compensation. We were informed that the lessons learned from this situation and the performance information of the vendor, who provided the plastic USB keys, were not shared across the Acquisitions Branch.

### **Sharing of information on vendor performance merits consideration**

50. We also found that Acquisitions Branch does not share information on vendor performance with clients. Furthermore, there is no government-wide system available to share vendor performance information. In October 2011, PRISMS provided a VPCM Policy update to the Client Advisory Board. The Acquisitions Branch's Client Advisory Board is a pivotal forum for the discussion of procurement related news and issues. Its mandate is to provide a forum between PWGSC and client departments and agencies for PWGSC to present updates, solicit input, and discuss future procurement activities, transformation and strategic initiatives. Membership is open to all client departments and agencies that may be affected by procurement-related initiatives and activities, and is at the Director or Senior Procurement Manager level. During the October meeting, clients advised PRISMS that there did not appear to be a



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coordinated approach to have vendor information brought to the procurement community's attention when vendors have performance issues. It was agreed by members of the Board that follow up would occur by PRISMS with respect to the issue of: (1) sharing the Acquisitions Branch's Vendor Information Management System with client departments; (2) determining if a broader Government of Canada approach is a step that could be taken with the Treasury Board Secretariat's guidance; and (3) sharing of information on an ongoing basis (re: lessons learned from PWGSC or other departments with similar policy).

51. [\*]. We were advised by PRISMS that without formal authority over other government departments and agencies, once vendor performance information and lessons learned are disseminated widely, Acquisitions Branch would have little control over any further distribution. In terms of determining whether a broader Government of Canada approach is a step that could be taken, we were informed by Acquisitions Branch that initial steps had been taken with the Treasury Board Secretariat. However, as it is outside the mandate of the Branch, the broader approach has not advanced past the initial discussion stage.
52. As part of good contract management practice, vendor performance information across the Government of Canada should be captured, shared and used to inform future contract award decisions. However, without a government-wide policy on vendor performance, the Acquisitions Branch's ability to share vendor performance information with client departments is limited.

### **PROCESSES AND PROCEDURES**

53. Processes and procedures are part of the control framework for managing vendor performance and corrective measure activities. A process is a specified series of actions, acts or operations, which have to be executed in order to obtain the same result under the same circumstances and ensure compliance with the VPCM Policy requirements. A procedure is a fixed, step-by-step sequence of activities or course of action that must be followed to correctly perform vendor performance and corrective measure tasks.
54. Documented processes and procedures are important so that stakeholders are aware of their duties and functions. These processes and procedures are fundamental in ensuring that procurement and vendor performance management is performed in accordance with applicable laws, trade agreements, as well as government and departmental policies.
55. Between June 29, 2011 (effective date of the VPCM Policy) and September 30, 2013, there were 152 contracts and standing offers that were terminated for default or conditionally amended by Acquisitions Branch. Specifically, 113 were terminated for default, 14 were partially terminated for default and 25 were conditionally amended. Based on our analysis of the 152 contracts or call-ups under standing offers that were terminated for default or conditionally amended, the VPCM Policy applied to 63

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cases, the transaction date predated the effective date of the VPCM Policy for 25 cases (discussed below), the industry/commodity-specific vendor performance program applied to 49 cases (discussed below), and there were 15 coding errors (e.g. cases where a normal amendment was incorrectly coded as a conditional contract amendment). Out of the 63 cases where the VPCM Policy applied, four corrective measures were issued. The remaining 59 cases did not result in a corrective measure, as determined by the contracting officer and approved by the Director and Director General (of the applicable Acquisitions Branch sector/region). In these instances, the vendor was informed that the Branch reserves the right to take the performance history of all contracts with terminations for default and conditional amendments into consideration if another termination for default or conditional contract amendment occurs on other contracts.

56. We expected that for instances of poor performance, resulting in a termination for default of a contract/call-up or conditional contract amendment(s), processes and procedures for corrective measures are established and consistently applied. Specifically, we expected to find:
- i. documented processes and procedures, including a definition of what constitutes poor performance;
  - ii. guidance on vendor performance evaluation;
  - iii. guidance relating to standing offers and supply arrangements;
  - iv. timely application of the process and procedures; and
  - v. consistent application across the Branch and regions.

### **Processes and procedures for issuing corrective measures are in place, however, improvements are required to ensure consistency and timeliness**

57. The VPCM Policy contains documented processes and procedures, with flowcharts to guide the contracting officer. Furthermore, the VPCM Coordinator position was created to track, record and follow up on terminations for default/conditional contract amendments, and tools were created to help document and assess vendor performance (such as the VPCM Assessment form, template letters etc.). The VPCM Policy defines poor performance as anything less than full performance of a contract by a vendor that results in either a termination for default or a conditional contract amendment. The Policy also allows for other performance records not related to instances of termination for default or conditional contract amendment(s), to be recorded for other significant issues. However, the Policy does not define what constitutes a significant issue.
58. We found that there was no guidance in the VPCM Policy or related process and procedure documents, for contracting officers on how to evaluate vendor performance. The VPCM Coordinator authorizes the contracting officer to complete a VPCM Assessment form. The VPCM Assessment form is used to rate the impact of the performance issues and to determine if the vendor should receive a corrective measure. However, there is no guidance as to what should be considered a low,

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medium, or high impact when evaluating the vendor. Although the VPCM Assessment form is approved by the Director and Director General (of the applicable Acquisitions Branch sector/region), we were advised by employees in Acquisitions Branch that it is difficult to evaluate vendor performance and it can be left to interpretation. Therefore, we could not assess whether the 59 cases, discussed in paragraph 56, (which were applicable to the VPCM Policy) should have resulted in a corrective measure.

### *Assessments and Corrective Measure Cases under the VPCM Policy*

59. The VPCM Coordinator is responsible for informing the authorities of relevant standing offers and supply arrangements to rescind standing offers and supply arrangements for cases where a vendor receives a corrective measure. As noted above, there were four corrective measures that occurred during the period in our scope, all of which were issued by the Western Region. Out of the four corrective measures issued, three standing offers should have been rescinded. We found that two of three relevant standing offers were not rescinded. If a standing offer is not rescinded, departments/agencies using PWGSC standing offers would not be aware that call-ups against the standing offer are prohibited and vendors, that are debarred, could continue to receive call-ups. We obtained reports on call-ups made against the standing offers that should have been rescinded, and found that during the period of the corrective measure, no call-ups were issued.
60. Relating to the timely application of the process and procedures, we noted that there were delays with entering corrective measures in the Vendor Information Management System and with receiving the VPCM Assessment form. Specifically, we found that one corrective measure (out of four) was added in the System eight days after the corrective measure came into effect. Another corrective measure was added three days after it came into effect. During these three days, a standing offer was awarded to the vendor that should not have received the award due to an active corrective measure. Based on our analysis of the information used by the VPCM Coordinator to track VPCM activities, on average, it takes six months from the VPCM Coordinator authorizing the contracting officer to complete the VPCM Assessment form to the VPCM Coordinator receiving a completed form. In an effort to resolve the issue, the Director General, PRISMS, formally communicated to other Branch Directors General/Regional Directors General regarding outstanding assessments on two occasions: once in March 2012 and again in December 2012. However, there is no routine follow-up and efforts to improve timeliness have been met with limited success, as 13 of 24 VPCM Assessments (54%) remained outstanding five months after PRISMS's last follow-up. Since the VPCM Coordinator prevents multiple assessments for the same vendor from being completed concurrently, a single delayed assessment would delay all other assessments for the same vendor.
61. We found that the regions had varying approaches with respect to offering specific guidance and procedures to its contracting officers. The Western Region had issued a regional directive that identifies specific procedures to be followed when a default

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situation occurs. In addition, we were informed that the Western Region Business Advisory Unit assists contracting officers in applying the VPCM Policy and that these measures help ensure consistency in determining the vendor's rating on the VPCM Assessment form within the Western Region. We were advised that although some regions have a similar process in place as the Western Region (i.e. Pacific and Atlantic), they have not issued formal regional directives. The lack of a uniform approach amongst contracting officers may lead to inconsistent application of the Policy.

62. The vendor performance and corrective measure processes and procedures could be enhanced. Although documented processes and procedures with respect to the vendor performance process existed, additional guidance is required to ensure VPCM Assessments and corrective measures are completed consistently and in a timely manner.

*Assessments and Corrective Measure Cases under the 1996 Policy*

63. For transactions issued prior to the effective date of the VPCM Policy, the provisions of the previous 1996 Policy apply. Thus, we expected to find the process under the previous 1996 Policy to be applied, in instances where the solicitation date occurred prior to the effective date of the VPCM Policy.

64. According to a tracking tool maintained by the VPCM Coordinator, there were a total of 25 cases of terminations for default and conditional contract amendments, where the VPCM Policy did not apply as the solicitation date was prior to the effective date of the Policy. We found that in all 25 cases, no corrective measures were imposed on the vendor per the previous 1996 Policy.

65. General processes and procedures are contained in the VPCM Policy; however, when the previous 1996 policy applies, it is not followed by contracting officers. Thus, vendors with poor performance may continue to be awarded contracts from the Government as there is no sanction imposed.

**Case Study 4:** During the course of the audit, one case came to our attention where a vendor was paid \$1 million to provide submarine equipment for the Canadian Navy's submarines, but was unable to deliver on a key deliverable. As a result, the contract was terminated for default. However, the previous 1996 Policy was not applied, and no note was recorded in database of vendor information. Therefore, the vendor's performance history relating to this situation would not be available to inform future contracting decisions.

*Assessments and Corrective Measure Cases under Industry/Commodity-Specific Programs*

66. We performed an analysis of the 49 cases where the contracting officer indicated that the termination for default/conditional contract amendment was covered by an industry/commodity-specific vendor performance program. Based on our analysis, we found two cases where a termination for default was incorrectly deemed to be covered by an industry/commodity-specific vendor performance program. One case was related to metalworking machinery and the other case was related to interpretation services. The existing industry/commodity-specific vendor performance programs are related to construction, architecture and engineering contracts (i.e. real property contracting) and text translation services (i.e. translation services). Those cases were not applied under the existing industry/commodity-specific process or the VPCM Policy. As a result, the vendor's performance was not assessed.

### **INFORMATION SYSTEMS**

67. The establishment of an automated mechanism to record and disseminate vendor performance information aids the Acquisitions Branch's ability to use vendor performance information to inform future contracting decisions.
68. The VPCM Policy states that general information on the nature and extent of performance problems identified during the contract and post contract phases should be used during the pre-contractual phase. Thus, we expected to find:
- i. information systems/tools in place that facilitate the capturing and sharing of accurate and complete vendor performance information;
  - ii. documented procedures on how to use the information system;
  - iii. vendor performance information being used by contracting officers for future contracting decisions; and
  - iv. automated controls to prevent awarding contracts, or issuing standing offers or supply arrangements, to vendors with an active corrective measure.

### **Information systems and tools exist, however they could be strengthened to better facilitate future decisions**

69. There is an information system to facilitate the capturing and sharing of vendor performance information. According to the VPCM Policy, the Vendor Information Management System is to be used to record corrective measures. Other performance records, not related to corrective measures, can also be recorded in the System for other significant issues.
70. We were advised by the Vendor Information Management System administrator that the System is a legacy system, and that many vendor records (active and inactive) have accumulated within it since it was put into service in 1995. We were informed

by the administrator that it is common for there to be multiple records in the System for the same vendor. Multiple vendor records in the System could cause a contracting officer to verify the wrong vendor record and award a contract, or issue a standing offer or supply arrangement to a vendor with a corrective measure. We were also informed by the administrator that the Acquisitions Branch is aware of this issue and has been actively moving towards an approach that will uniquely identify vendors and reduce multiple records.

71. Resolving multiple record issues in the information system will help ensure that the contracting officer does not mistakenly award a contract, or issue a standing offer or supply arrangement, to a vendor with a corrective measure.

**Vendor performance information may be used to inform future contracting decisions, but its consistent use cannot be verified**

72. The VPCM Policy requires contracting officers to check the Vendor Information Management System prior to awarding a contract, or issuing a standing offer or supply arrangement, to ensure that the vendor does not have an active corrective measure. However, we found that there is no documented procedure on how to use the information system, in particular relating to explaining how to search for the record of a corrective measure.
73. In addition, the Office of Audit and Evaluation was not provided with sufficient evidence to indicate that information in the System is being used consistently to inform contracting decisions. Interviews conducted revealed that some contracting officers overlooked checking the Vendor Information Management System prior to awarding a contract, or issuing a standing offer or supply arrangement. Furthermore, the System does not automatically prevent a vendor with an active corrective measure from receiving a contract, standing offer, or supply arrangement as there is no automated control.
74. For the VPCM Policy to be effective, it is important for all contracting officers to check the Vendor Information Management System and ensure that multiple vendor records do not exist prior to awarding a contract. In the absence of an automated control, it is the only manner in which contracting officers would be advised whether or not a vendor has an active corrective measure in place.

## INDUSTRY/COMMODITY-SPECIFIC VENDOR PERFORMANCE PROGRAMS

### **There has not been active engagement to enable the development of additional industry/commodity-specific vendor performance programs**

75. During the development of the VPCM Policy, the Branch recognized the difficulty of applying a single policy that was relevant and applicable to the wide range of industry/commodity needs. Thus, the VPCM Policy included a framework to assist Acquisitions Branch sectors/regions in developing industry/commodity-specific processes to manage vendor performance. Contracting officers within the Branch

#### **Real Property Vendor Performance Program:**

SELECT is a database of approved suppliers providing construction, architectural and engineering services as well as related maintenance and consulting services that supports the Real Property group in the issuance of non-public awards. Upon completion of a contract, a Contractor Performance Evaluation Report Form is completed by the project manager to evaluate both the quality of project deliverables and the manner in which they were delivered. Vendors are awarded contracts on a rotational basis. Rotation logic is affected by opportunity points, which are added or taken away based on evaluation results. Both good and poor performance will affect rotation.

were to determine the scope of customization for their respective commodities, define what constitutes performance issues, and develop a specific process and procedure that was relevant to a sector and its commodities. In addition, in 2009, piloting industry/commodity-specific vendor performance programs was also identified as a next step of implementing the VPCM Policy in a presentation deck to the Deputy Minister. As such, we expected that Acquisitions Branch would engage contracting officers, clients and vendors, as part of the communications and awareness activities or development of National Procurement Strategies, to consider whether other commodity groups or industry sectors could benefit from specific vendor performance programs.

76. Although the VPCM Policy recognizes that sectors and regional acquisitions offices within Acquisitions Branch may establish their own vendor performance processes and procedures, and a pilot project was identified as a next step by the Branch, we found that no PWGSC industry/commodity-specific processes and procedures have been established since the Policy's implementation on June 29, 2011. Only two industry/commodity-specific vendor performance programs exist, both within PWGSC, and both programs were already well established, prior to both the VPCM Policy and the previous 1996 Policy. The two existing industry/commodity-specific vendor performance programs assist Acquisitions Branch in improving client service, ensuring that vendors perform their contractual obligations in a fully satisfactory manner, improving the performance of vendors, ensuring the use of qualified vendors, and establishing and maintaining a continuous record of vendor performance for future contracting decisions.

77. We were advised by PRISMS that it is Acquisitions Branch's preferred approach to make use of the VPCM Policy, with the provision that if circumstances exist within a given commodity-specific area that renders the VPCM Policy incompatible with the manner in which that specific commodity is procured, there may be a need to develop an industry/commodity-specific vendor performance programs. If the VPCM Policy does not work for a specific sector, region or commodity, it is up to the sector/region to advise PRISMS, who would then assist in establishing an industry/commodity-specific approach. We were also informed that PRISMS does not actively engage contracting officers in the development of

**Translation Services Vendor Performance Program:**

When a translated text is delivered, performance evaluations are completed centrally by a Quality Controller (senior level translator), using a predefined evaluation form. Each evaluation ranks a vendor's work in relation to three satisfaction indicators: quality, meeting the deadline, and presentation. The Supplier Information Management System is used to track vendor performance. Data from each evaluation is entered into the System. On a daily basis, the System automatically calculates the satisfaction indicators for all vendors pertaining to work done over the past 12 months. Invitations to tender are to be issued only to vendors who meet the minimum 90% threshold.

industry/commodity-specific vendor performance programs. Related to this, we also found that training provided by Acquisitions Branch to contracting officers focused on revisions to the process under the VPCM Policy (i.e. terminations for default/conditional amendments), rather than communicating the option of developing industry/commodity-specific vendor performance programs where appropriate.

78. We were advised by Acquisitions Branch Managers and Supply Team Leaders that industry/commodity-specific vendor performance processes and procedures would add value for particular commodities, such as temporary help services and clothing. Furthermore, some managers and Supply Team Leaders were unaware of the ability to develop industry/commodity-specific processes and procedures.

79. We noted that there is opportunity to engage contracting officers, clients and suppliers through the Branch's Category Management Initiative. The Category Management Initiative examines how PWGSC manages its responsibilities for a distinct group of goods and/or services, which results in comprehensive National Procurement Strategies. A national procurement strategy defines the strategic framework under which a good or service will be managed. The national strategies aim is to improve, upon implementation, how the Government of Canada procures goods and services. As part of the development of a strategy, Acquisitions Branch conducts formal consultations with government departments and vendors. Once a strategy is finalized, all contracting and contract management activities are to be done in accordance with the strategy.



80. Without active engagement with Acquisitions Branch contracting officers, clients and vendors regarding the ability to develop industry/commodity-specific vendor performance programs, Acquisitions Branch may be missing opportunities to improve the overall management of vendor performance when it is the contracting authority. The VPCM Policy will continue to serve to mitigate procurement risks; however, its efficacy may not be optimal for nuances of different commodities/regions and vendors who perform poorly. Given the benefits of the two existing industry/commodity-specific vendor performance programs, Acquisitions Branch could strengthen vendor performance management by taking the lead and supporting development of additional programs, where appropriate. When developing industry/commodity-specific vendor performance programs, Acquisitions Branch could look to best practices of the two existing programs, relating to the how information is captured, shared and used.

## **CONCLUSION**

81. There is currently no government-wide policy on vendor performance. As PWGSC does not have the authority to enact government-wide policy regarding vendor performance, efforts taken by Acquisitions Branch will remain limited in its effectiveness in mitigating procurement risks for the Government of Canada. The Office of Audit and Evaluation has communicated this gap to the Comptroller General.

82. We found that a management control framework for managing vendor performance and corrective measure activities exists, however, weaknesses have been noted which impact its effectiveness. They include: a lack of formal authority over clients, limited training, communication and engagement of contracting officers and clients, inconsistent adherence to established processes and procedures, and limited capturing and sharing of vendor performance information.

83. The VPCM Policy is an Acquisitions Branch policy, and therefore is only applicable to contracting officers within Acquisitions Branch. Without formal authority to require feedback from clients on vendor performance information, the Branch's ability to gather information on vendor's performance is limited.

84. Although there have been measures taken by PRISMS to promote and raise awareness of the VPCM Policy within the Acquisitions Branch, these efforts occurred mainly during the implementation stages of the Policy, and were targeted at Acquisitions Branch staff within PWGSC. In addition, since attendance was optional, a small portion of Acquisitions Branch contracting officers benefited from the training available.

85. Gathering vendor performance information from clients (both internal and external) and sharing vendor performance information and best practices was limited due to the

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fact that the Branch does not have authority to require feedback and client engagement did not occur.

86. Acquisitions Branch has taken steps to build upon lessons learned to strengthen its current policy on vendor performance. These steps include the definition of poor vendor performance, the addition of the role of a VPCM Coordinator, and the requirement of VPCM assessments to be completed.
87. There was no guidance to assist contracting officers in evaluating vendor's performance and contracting officers were not well informed of the scope of the Policy. Limited guidance can lead to inconsistent approaches being taken throughout the Branch, by contracting officers, and to inconsistent application of the Policy. As a result, the effectiveness of the Policy is limited. Furthermore, in situations where the 1996 *Vendor Performance Policy* was applicable, it was not being followed. Thus, information on vendor performance would not be captured for instances where the contractor failed to deliver on its contractual obligations.
88. Information systems and tools exist to capture vendor performance information, however we were unable to conclude whether information is used for future contracting decisions.
89. Since the VPCM Policy's implementation in June 2011, additional industry/commodity-specific processes and procedures have not been developed. Given the benefits of the existing industry/commodity-specific processes and procedures, additional industry/commodity-specific processes and procedures may be beneficial.
90. Additional improvements are necessary to ensure effective and long-term improvement of vendor performance management at PWGSC. Vendor performance and corrective measures have a wide-ranging impact on government procurement activities. The development and implementation of an effective vendor performance program is crucial to support the accountability of PWGSC.

## MANAGEMENT RESPONSE

Management has had the opportunity to review the Chief Audit and Evaluation Executive's report, and agreed with the conclusions and recommendations. Management also developed a Management Action Plan to address these recommendations.

## RECOMMENDATIONS AND MANAGEMENT ACTION PLAN

**Recommendation 1 (high priority):** The Assistant Deputy Minister, Acquisitions Branch, should develop and implement a comprehensive, ongoing training and communications plan regarding the VPCM Policy that engages all stakeholders involved in the procurement process, including contracting officers and clients (both internal and external to PWGSC).

**Management Action Plan 1.1:** Develop a Comprehensive Communication and Engagement plan that details how stakeholders, including contracting officers, PWGSC Branches and client departments will be informed / trained on responsibilities related to the VPCM Policy. This Plan will identify:

- Ways to improve how changes to the VPCM Policy are communicated;
- Training to ensure that stakeholders (PWGSC and client departments' contracting communities) are made aware of the VPCM Policy. For example, the VPCM Policy allows for the creation of industry/commodity-specific vendor performance processes and procedures when applicable. Any training developed or provided would include reference to this flexibility; and,
- The best way to train / communicate on the proper use of the Vendor Information Management System to ensure data integrity.

**Management Action Plan 1.2:** Communicate / engage in accordance with the Plan (1.1) including the following communication efforts and leaning tools:

- PRISMS GC PEDIA "nuggets" (for example communicating clarifications to the Policy as mentioned below).

**Recommendation 2 (high priority):** The Assistant Deputy Minister, Acquisitions Branch, should ensure that comprehensive procedures for the management of vendor performance and issuance of corrective measures are revised and implemented across the Acquisitions Branch sectors and regional acquisitions offices to ensure consistency and timeliness. This should be supported by a comprehensive training and communications plan that engages all stakeholders. Furthermore, the Assistant Deputy Minister should ensure that, for instances where contractual obligations are not met and it is outside the scope of the Vendor Performance Corrective Measure Policy, there is a process in place that is consistently followed to capture vendor performance information.

**Management Action Plan 2.1:** Review policy and address:

- Issue of timeliness: the tracking, recording and follow-up of corrective measures will be clarified in the Policy and time limits set-out. A Policy Notice will be issued.
- Issue of Consistency in Assessment: outline principles of assessment / evaluation in order to provide guidance to procurement personnel in determining the appropriate level of impact of an incidence of poor performance on government operations.

**Management Action Plan 2.2:** Communicate the changes to stakeholders (Dec. 31, 2014) and provide training. A new web based learning tool (webinar on VPCM Policy) will be created and kept evergreen and will allow maximum accessibility both inside and outside PWGSC.

**Management Action Plan 2.3:** Review and update existing processes related to the monitoring of VPCM Policy activities to ensure that standing offers and supply arrangements are being rescinded as required in a timely fashion.

**Management Action Plan 2.4:** Review the 1996 Vendor Performance Policy, for the purpose of determining where in the policy the instructions can be clarified and rendered more functional by applying the instruction and / or tools developed under the 2011 VPCM Policy. If necessary, the Supply Manual will be amended and all changes will be communicated to all stakeholders and supported by training sessions.

**Recommendation 3 (high priority):** The Assistant Deputy Minister, Acquisitions Branch, should ensure that vendors, who are sanctioned, are not awarded contracts, standing offers and call-ups and supply arrangements. In addition, we encourage Acquisitions Branch to continue to resolve multiple record issues in the Vendor Information Management System.

**Management Action Plan 3.1:** Immediate Action- In addition to actions already taken to reduce multiple records, a Plan will be developed to determine how to correct multiple records in the Vendor Information Management System. This Plan will identify the project lead and provide timelines for completion.

**Management Action Plan 3.2:** Immediate Action- Procedures will be enhanced to ensure that all sanctions are inserted in the Vendor Information Management System as soon as they are approved.

**Management Action Plan 3.3:** Longer Term- The Automated Buyer Environment is scheduled to be replaced Dec. 31, 2016. The replacement system will allow, among other things, a better automated approach to managing vendor performance and thus replace the Vendor Information Management System. This

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development will significantly help ensure that vendors, who are debarred, are not awarded contracts, standing offers, call-ups or supply arrangements.

**Recommendation 4 (moderate priority):** The Assistant Deputy Minister, Acquisitions Branch should engage stakeholders, as part of the communication and awareness activities or development of National Procurement Strategies, to consider the appropriateness of additional industry/commodity-specific vendor performance processes and procedures. In addition, the Assistant Deputy Minister should ensure that oversight over the development of additional programs exists.

**Management Action Plan 4.1:** Communication and awareness plans for existing and future National Goods and Services Procurement Strategies will include the possibility of additional industry/commodity-specific vendor performance processes and procedures.

**Management Action Plan 4.2:** If determined to be beneficial, and contingent on risk, additional industry/commodity-specific vendor performance processes and procedures would be created as part of National Goods and Services Procurement Strategies implementation plans.

## ABOUT THE AUDIT

### Authority

This engagement was included in the Public Works and Government Services Canada (PWGSC) 2013-2018 Risk-Based Audit and Evaluation Plan.

### Objective

To determine whether Acquisitions Branch has developed and implemented an effective management control framework to assess vendor performance to support contracting decisions and implement corrective measures.

### Scope and Approach

This audit covered the period from June 29, 2011 (effective date of the VPCM Policy), to September 30, 2013. However, the audit also reviewed relevant documents prior to the effective date of the Policy for background and supplementary information purposes.

The audit focused on contracts/standing offers/supply arrangements where Acquisitions Branch was the contracting authority. The contracting authority is responsible for the management of the contract and any changes to the contract must be authorized in writing by the contracting authority. The client is the representative within PWGSC or other government departments/agencies for whom the work is being carried out under the contract and is responsible for all matters concerning the technical content of the work under the contract.

The audit conforms with officials in the *Internal Auditing Standards for the Government of Canada*, as supported by the results of the quality assurance and improvement program.

Interviews were conducted with officials within Acquisitions Branch and clients within PWGSC, the Department of National Defense and Shared Services Canada. Relevant processes and documentation were also examined.

Based on analysis of the information and evidence collected, the audit team prepared audit findings and conclusions, which were validated with the appropriate managers. The report was then presented to the Assistant Deputy Minister, Acquisitions Branch for acceptance and tabled at the Audit and Evaluation Committee meeting for recommendation for approval by the Deputy Minister.

## **Criteria**

The criteria used to assess vendor performance management and corrective measure activities within Acquisitions Branch were derived from the results of a detailed risk assessment and were informed by the Treasury Board Secretariat's *Audit Criteria related to the Management Accountability Framework: A Tool for Internal Auditors*, the Treasury Board *Contracting Policy*, relevant PWGSC procurement policies, and the PWGSC Supply Manual.

The criteria were as follows:

- **Policy Framework:** A Policy framework for vendor performance exists and allows Acquisitions Branch to manage vendor performance for contracts it puts in place.
- **Training and collaboration:** Training, communication, and awareness programs are in place to promote the importance of vendor performance management, awareness of roles and responsibilities, existence of procedures, and collaboration with other stakeholders to improve management of vendor performance.
- **Processes and Procedures:** Processes and procedures are established by Acquisitions Branch, and they are consistently applied by Acquisitions Branch (contracting authorities, Vendor Performance Corrective Measure coordinator) and clients (project authorities) to support the management of vendor performance and corrective measures activities.
- **Vendor Performance Information:** There is a mechanism in place to capture, share, and use vendor performance information to make contracting decisions by the contracting authority.

## **Audit Work Completed**

Audit fieldwork for this audit was substantially completed on April 29, 2014.

## **Audit Team**

The audit was conducted by members of the Office of Audit and Evaluation, overseen by the Director of Procurement Audit and under the overall direction of the Chief Audit and Evaluation Executive.

The audit was reviewed by the quality assessment function of the Office of Audit and Evaluation.