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Final Report

2014-709 Audit of the Initiation Phase of the New Bridge for the St. Lawrence Corridor (NBSLC) Project

May 14, 2015

Office of Audit and Evaluation



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MAIN POINTS

What we examined

- i. Montreal's Champlain Bridge (the bridge) is one of the busiest bridges in Canada, with nearly 60 million vehicles and \$20B in Canada-U.S. trade crossing the bridge each year. The bridge, which opened in 1962, is managed by Jacques Cartier and Champlain Bridges Inc., (JCCBI), a federal Crown Corporation. In 2013, a JCCBI commissioned engineering study found that, even with planned maintenance and repairs to the Champlain Bridge, it was quickly approaching the end of its useful life. The engineers' report recommended that the replacement of the bridge be expedited, so as to ensure uninterrupted use of the crossing.
- ii. In December 2013, the government announced an accelerated timeline for the construction and completion of a new bridge for the St. Lawrence, to replace the Champlain Bridge. The announcement called for the new bridge to be open by the end of 2018, three years earlier than originally planned. The new bridge was to be delivered through a public-private partnership procurement approach.
- iii. Infrastructure Canada and Public Works and Government Services Canada (PWGSC) worked in consultation with each other to obtain the necessary funding and project approvals for the New Bridge for the St. Lawrence Corridor (NBSLC) Project. Due to the cost of the project and the accelerated timelines for completion, as part of the formal project and funding approval process, both PWGSC and Infrastructure Canada committed to carry out audit work related to each department's respective role in the NBSLC project.
- iv. PWGSC's role relates to its responsibilities as the Contracting Authority for the main NBSLC project, as well as for the related project undertaken at Nun's Island in support of the main project. These responsibilities rest with PWGSC by virtue of the Department's delegated authorities for the procurement of goods and services on behalf of the Government. In this respect, PWGSC carried out contracting activities on behalf of the federal organizations that have acted as Project Authorities for the various elements of the NBSLC project and the related project at Nun's Island, including Infrastructure Canada, Transport Canada and JCCBI.
- v. The Audit examined PWGSC's role as Contracting Authority for the initiation phase of the NBSLC project. This included all contracts awarded by PWGSC prior to the issuance of the Request for Proposal for the main bridge contract on July 21, 2014, as well as for contracts for the related project undertaken at Nun's Island in support of the main bridge project.

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Why it is important

- vi. As the purchasing arm of the Government of Canada, PWGSC has the dual role of supporting federal departments and agencies in the achievement of their objectives, while at the same time ensuring sound stewardship of public funds on behalf of Canadians.
- vii. The Audit examined whether PWGSC has effectively exercised this dual role. To do this, the Audit assessed whether Fairness Monitors were appropriately and consistently utilized to ensure that fairness, openness and transparency in its procurement activities for the project. It also assessed whether PWGSC had applied sound risk management and contract monitoring / oversight to effectively and efficiently procure the goods and services required for the main NBSLC project and the related project at Nun's Island.

What we found

- viii. The audit found PWGSC appropriately discharged its responsibilities for managing the procurement processes for the goods and services required in the initiation phase of the main NBSLC project and the related project at Nun's Island.
- ix. We found PWGSC respected Government procurement principles, such as fairness, openness and transparency in these procurement processes. Departmental procurement officials engaged Fairness Monitors consistently and in accordance with the PWGSC Policy on Fairness Monitoring.
- x. We also found PWGSC managed the procurement risks associated with the contracts appropriately. We found the Department followed established risk management processes for procurement in managing the contracts awarded in the initiation phase of the project. Though we identified opportunities for improvement related to some areas of risk management, we concluded that these did not impact the overall management of procurement risks applied to the contracts.
- xi. Finally, we found the Department took appropriate steps to ensure that the procurement activities for the contracts awarded in the initiation phase of the project were subject to appropriate monitoring and oversight. In its role as Contracting Authority, PWGSC guided the activities of the various Project Authorities to ensure that the procurements were conducted as effectively and efficiently as possible, and to ensure that the Project Authorities respected Government procurement principles.
- xii. The audit also identified opportunities for improvement outside the scope of the engagement related to PWGSC's Policy on Fairness Monitoring. These have been communicated to Departmental management in support of continuous improvement.

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Management Response

The Quebec Region accepts the conclusions of the audit. We will continue to work with PWGSC program sectors to implement any changes required in relation to Risk Management provisions of the Supply Manual and the Departmental policy on Fairness Monitoring.

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INTRODUCTION

1. This engagement was included in the Public Works and Government Services Canada (PWGSC) 2014-2018 Risk-Based Audit and Evaluation Plan.
2. In 2011, Jacques Cartier and Champlain Bridges Inc. (JCCBI) commissioned an engineering study which concluded that even with repairs, the Champlain Bridge was quickly approaching the end of its useful life and should be replaced as soon as possible. In response, the Government of Canada approved a bridge replacement project and, as part of the 2013 Economic Action Plan, confirmed an investment of \$70 billion dollars for various infrastructure projects, including the replacement of the Champlain Bridge in Montreal. The Government also announced a new, accelerated timeline for the delivery of the new bridge through a public-private partnership* by the end of 2018, three years earlier than originally planned.
3. The direction announced by the Government led to Infrastructure Canada and Public Works and Government Services Canada (PWGSC) working collaboratively to obtain the necessary approvals to proceed with the project. Due to the cost of the project and the accelerated timelines for completion, as part of the formal project and funding approval process, both PWGSC and Infrastructure Canada committed to carry out audit work related to each department's respective role in the NBSLC project. For Infrastructure, this relates to its role, as of February 2014, as the Project Authority responsible for the overall delivery of the NBSLC project. For PWGSC, the audit clauses relate to its role as the Contracting Authority for the NBSLC project.
4. As such, since February 2014, Project Authority for the NBSLC project has rested with the Minister of Infrastructure, Communities, and Intergovernmental Affairs. This transfer of authority for the bridge project from Transport Canada established Infrastructure Canada as the lead organization and Project Authority responsible for overseeing and managing the NBSLC project. Infrastructure Canada also has responsibility for setting the budget for project activities and for ensuring that the budget allocated to the NBSLC project is appropriate to meet requirements throughout the NBSLC project lifecycle. As Contracting Authority, PWGSC works in an integrated fashion with Infrastructure Canada and the other Project Authorities to provide a coordinated approach to conducting the necessary procurement for the both related preparatory projects and the main NBSLC project. When the procurement of the main bridge contract is complete, PWGSC will continue to support Infrastructure Canada in the ongoing administration of the contract with the successful proponent, and Infrastructure Canada will be responsible for the ongoing management of the contract for the construction and operation of the new bridge.

* Public - Private Partnerships (P3s) are a long-term, performance-based approach to procuring public infrastructure where the private sector assumes a major share of the risks in terms of financing and construction and ensuring effective performance of the infrastructure, from design and planning, to long-term maintenance. (Source: PPP Canada website)

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5. To support this integrated approach, the Deputy Ministers of Transport, Infrastructure and Communities and PWGSC formed a Deputy Ministers Governance Committee (DMGC) to provide senior level oversight of the project. The DMGC is the senior decision-making and oversight body for the NBSLC project and is co-chaired by the departments' Deputy Ministers. The committee receives status updates on items such as the proponent selection processes, negotiations, land acquisitions, project timelines, risk management strategies, communications and other major issues relevant to the NBSLC project. Notwithstanding the coordinated approach to the governance of the project, Infrastructure Canada retains overall accountability for the project meeting established requirements and for the project being delivered on time and on budget.
6. PWGSC's role in the projects conducted in the initiation phase of the project was to manage the procurement activities on behalf of the Project Authorities. As Contracting Authority for the main NBSLC project and the related project at Nun's Island, PWGSC has the responsibility of procuring goods and services on behalf of Infrastructure Canada and other Project Authorities, who have responsibilities for various aspects of the larger NBSLC project. The Project Authorities for the various contracts examined include:
 - Transport Canada, the original Project Authority, which was responsible for the delivery of the NBSLC project until responsibility was transferred to Infrastructure Canada in February 2014;
 - Infrastructure Canada, the current Project Authority, which is responsible for the overall delivery of the NBSLC project as of February 2014; and
 - Jacques Cartier and Champlain Bridges Inc. (JCCBI), which is responsible for the delivery of projects relating to the existing Champlain Bridge, the Île des Sœurs (Nun's Island) Bypass Bridge and their related real property assets.
7. The roles and responsibilities of the Project Authority and Contracting Authority are described in PWGSC's Supply Manual, which contains policies and procedures, as well as references to acts and directives, for the public procurement of goods, services and construction. The roles and responsibilities outlined in the Supply Manual provide the basis for a division of accountabilities related to procurements conducted in support of federal departments' projects. However, the Supply Manual is also clear that each procurement and resultant contract is different. As such, it affords PWGSC and the Project Authority the flexibility to specify alternate divisions of roles and responsibilities, specific to the requirements of a particular procurement, in the form of a memorandum of understanding.
8. This was the case with the procurement activities examined by the audit, for which PWGSC developed Memoranda of Understanding with the various Project Authorities to ensure a common approach to the contracting for the main NBSLC project and the related project at Nun's Island. In total, there were 45 contracts, valued at approximately \$93M, awarded under PWGSC's contracting authorities for

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preparatory work and the supporting project undertaken at Nun's Island during the initiation phase of the NBSLC project.

9. For these procurements, the memoranda of understanding with the various Project Authorities establish the roles and responsibilities in the procurement process. They also serve to establish the human resource requirements, as well as their related costs, for the procurement components of the various projects. These MOUs further confirm the overall responsibility for managing the projects with timeline and budgets as resting with the Project Authorities. As the Contracting Authority for the planning and preliminary elements undertaken in support of the main bridge project, PWGSC Quebec Region had the primary responsibility for procuring goods and services on behalf of the Project Authorities. As such, the Quebec Region Acquisitions Directorate and the Regional Director General, Quebec Region were responsible for ensuring that the required contracting was conducted in accordance with all applicable legislation and policies, and in support of the accelerated timelines for the replacement of the Champlain Bridge.

FOCUS OF THE AUDIT

10. Prior to the commencement of the Audit, PWGSC's Office of Audit and Evaluation and Infrastructure Canada's Audit and Evaluation Branch met to ensure a coordinated approach to fulfilling the audit requirements. These meetings established that Infrastructure Canada's audit work would focus on their role as Project Authority for the NBSLC project, while PWGSC's audit work would assess the Department's role as Contracting Authority for the procurements related to the preparatory work conducted in the initiation phase of the project, as well as for contracts related to the project undertaken at Nun's Island in support of the main bridge project. This phase involved procuring goods and services related to the preparatory work required to deliver the main project for the construction of the new bridge. This included requirements such as: consulting services to develop the business case for the project; engineering services for the preliminary plans and specifications for the new bridge; environmental assessments of anticipated impacts on the surrounding land, air and water; and the design and construction of a temporary causeway bridge between Montreal and Nun's Island.
11. The contracts awarded in the initiation phase of the project support the achievement of the main bridge project's goals by ensuring that all of the required preparatory requirements are met prior to the commencement of the construction of the new bridge. As such, the Audit focused on whether PWGSC had effectively exercised its dual role of supporting its clients, and ensuring that sound stewardship was applied in awarding and managing the contracts entered into as part of the initiation phase of the project.

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12. To assess this, the Audit examined whether there was: consistent and appropriate use of Fairness Monitoring in awarding the contracts; appropriate application of risk management processes in the procurement of the goods and services; and, appropriate monitoring / oversight of the contracts in accordance with PWGSC's responsibilities as Contracting Authority for the main NBSLC project and the related project at Nun's Island.
13. As part of the Audit's examination phase, we conducted file testing on a sample of 10 judgmentally selected contracts out of the 45 contracts issued as part of the initiation phase of the project (contract information as at October 29, 2014). These 10 contracts make up approximately \$91M of the \$93M (98%) in contracts that were awarded by PWGSC. We examined these 10 contracts to determine whether:
- appropriate risk management processes were applied in the procurement of the contracted services; and,
 - appropriate monitoring / oversight exists over contract award and contract administration by PWGSC Acquisitions Branch, in its capacity as Contracting Authority for the NBSLC contracts, and as outlined in the MOUs for the construction of the New Bridge for the St. Lawrence Corridor (NBSLC) Project and the related project at Nun's Island.
14. As part of the testing for the Fairness Monitoring component, we examined five contracts that engaged a Fairness Monitor, and judgmentally select five additional contracts that did not engage an Fairness Monitor to determine whether:
- the rationale and criteria used for engaging/not engaging Fairness Monitors were in accordance with the PWGSC Policy on Fairness Monitoring, the PWGSC Supply Manual and the PWGSC Guideline on Fairness Monitoring.
15. The Audit was conducted in accordance with the Institute of Internal Auditors' *International Standards for the Professional Practice of Internal Auditing*.
16. 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

17. The Audit conforms to the *Internal Auditing Standards for the Government of Canada*, as supported by the results of the quality assurance and improvement program.
18. 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

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applicable to the entity examined and for the scope and time period covered by the Audit.

OBSERVATIONS

FAIRNESS MONITORING

19. In its role in managing acquisitions on behalf of federal organizations, PWGSC is responsible for ensuring government procurement is conducted in an open, fair, and transparent manner, while enabling its client Departments to deliver on their programs and services to Canadians. The Department has developed a robust acquisitions program to help ensure the achievement of its procurement objectives. Occasionally, it is prudent for the Department to utilize independent Fairness Monitors to provide additional assurance over its procurement processes. It is in this context that the Office of Audit and Evaluation assessed the Department's use of Fairness Monitors for procurements relating to the initiation phase of the project.

20. The program began in 2005, and was directed at providing assurance that the Department's large and / or complex procurement activities were being conducted in a fair, open and transparent manner. In 2009, the scope of the Fairness Monitoring Program was expanded in the Policy to apply to all departmental procurement. According to the Policy, an assessment for Fairness Monitoring coverage is mandatory for procurements that are sensitive, material or complex, as determined by a Branch-level risk assessment. A Fairness Monitoring coverage assessment is also mandatory for procurements subject to ministerial or Treasury Board approval. Non-mandatory (i.e. optional) coverage assessments are used for any other engagement when an enhanced assurance of fairness, openness and transparency is desired. Only the assessment activity becomes mandatory given the conditions described above. The actual use of a Fairness Monitor in providing independent assurance over a PWGSC procurement process is never mandatory.

21. As such, we expected Fairness Monitors would have been engaged for the NBSLC contracts in accordance with the PWGSC Policy on Fairness Monitoring, the PWGSC Supply Manual and the PWGSC Guideline on Fairness Monitoring. We expected the use of Fairness Monitors would have been conducted using the processes and tools established for the Program. Further, we expected the Fairness Monitoring function would be applied consistently in awarding the NBSLC contracts.

Fairness Monitoring processes and policy requirements are clear and consistently followed when Fairness Monitoring is deemed warranted

22. We found criteria for the application of the Policy and related processes were developed and communicated throughout the Department, and separately to Acquisitions Branch staff through the Supply Manual. The Fairness Monitoring page on the Department's intranet site includes links to the Policy, as well as various tools and guides for use in applying the Program requirements.

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23. In addition, our assessment of the contracts for which a Fairness Monitor was engaged found this had been done in accordance with requirements. For example, all files examined which made use of Fairness Monitors had documents on file (5/5) which demonstrated:

- the approved forms and processes for Fairness Monitoring assessments were used;
- the scope and methodology employed in Fairness Monitoring engagements were included in all reports; and
- the Fairness Monitors' final reports and signed attestations of no fairness deficiencies being observed and / or unresolved were received.

All documentation and communication related to Fairness Monitoring activities was kept on file with either the Fairness Monitoring and Business Dispute Management Directorate at PWGSC headquarters or the Quebec Regions Acquisitions Directorate.

24. As a result, we concluded Quebec Region Acquisitions Directorate, and the Fairness Monitoring and Business Dispute Management Directorate at PWGSC headquarters, effectively applied the Policy and processes to the contracts which made use of Fairness Monitors.

Policy requirements and processes are not sufficiently clear for when Fairness Monitoring is deemed unnecessary

25. Our internal assessment of requirements under the Policy, as well as interviews with both Acquisitions Branch and Fairness Monitoring and Business Dispute Directorate staff, suggest the wording of the Policy could be strengthened as it was not always clear when Fairness Monitoring Coverage Assessments are required.

26. Specifically, the Policy currently requires “*a mandatory assessment for Fairness Monitoring coverage for...departmental activities subject to ministerial or Treasury Board approval*” without specifying whether the requirement is equally applicable to all such contracts in cases where approval is being sought for multiple contracts simultaneously or all contracts related to a project when the approval is for the project.

27. Our examination of five contracting files which did not make use of Fairness Monitors included three contracts that were competitively awarded, one sole-sourced contract, as well as one call-up against a standing offer. Since Fairness Monitoring is intended to provide an assessment of competitive contracting processes, our assessment focused primarily on the three (3) competitively awarded contracts. The sole sourced contract and the call-up contract were assessed to establish whether those procurement approaches seemed reasonable and were appropriately supported by documentation in the contracting files. In both cases we found they were.

28. We noted the Policy and its related processes require that when the decision to engage a Fairness Monitor is made, the justification for this decision is to be documented on

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an approved Fairness Monitoring Coverage Assessment form (PWGSC-TPSGC 587). However, when the decision is made to not engage a Fairness Monitor, there are no specific requirement to justify this decision. More specifically, Fairness Monitoring Coverage Assessment forms were used when Fairness Monitoring coverage was deemed warranted in advance, rather than to assess whether or not Fairness Monitoring should be used. In the three cases examined, the decisions to not engage Fairness Monitors were documented in hand-written notes to the contracting files.

29. Further, while the Policy and its related processes require Assistant Deputy Minister-level approval of a decision to engage a Fairness Monitor, they are silent on appropriate approval levels for the decision to not make use of Fairness Monitors. In the three cases examined, the decisions to not engage Fairness Monitors were verbally approved by Quebec Region Acquisitions Directorate management in the Quebec City office, in discussions with the contracting officers. The contracts for which the Quebec Region Acquisitions Directorate made the decision to forego the use of Fairness Monitors were for dollar values within the Chief of Procurement's delegated authority limits and were seen to represent lower levels of risk.
30. The use of Fairness Monitors by Quebec Region Acquisitions Directorate in awarding contracts for the main NBSLC project and the related project at Nun's Island was carried out consistently and in accordance with the Policy and related guidance on Fairness Monitoring. As PWGSC is responsible for the Fairness Monitoring Program, the observations related to guidance when Fairness Monitors are not engaged were communicated to Departmental management.

RISK MANAGEMENT

31. Risk management processes are applied to procurement activities to ascertain the level of risk to the Government of Canada when it enters into contracts and to develop risk mitigation strategies directed at reducing procurement risks. In managing procurement risk, government departments seek to reduce the risks that their contracting will not achieve its intended objectives.
32. In its capacity as the Contracting Authority for the contracts awarded in the initiation phase of the project, PWGSC was responsible for procurement risk management activities. Acquisitions Branch has developed formal and proactive processes for ongoing risk management in contracting activities. These processes are directed at ensuring that both the Project Authority's requirements are met and that PWGSC's contracting activities are conducted with integrity by effectively managing procurement risks.
33. As such, we expected procurement risk assessments for NBSLC contracts would be conducted in accordance with the Treasury Board Framework for the management of risk, the Acquisition Program Risk Assessment Framework, and the PWGSC Supply Manual. In addition, we expected risks associated with the contracting process would

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be identified and assessed and mitigation measures would be identified accordingly. Further, we expected identified risks would be monitored over the life of the contracts and that mitigation measures would be updated as needed.

Assessments of procurement risk and procurement complexity were included in all contracting files

34. All contracting files that we examined had identified and assessed risks in accordance with requirements established in the PWGSC Supply Manual for the management of procurement risks (10/10 files). The Procurement Risk Assessment Tool developed by PWGSC's Acquisitions Branch was used to assess risk and each contained appropriately identified risk scores and levels of risk complexity, as required by the PWGSC Supply Manual. In addition, the completed Procurement Risk Assessment formed part of approval documents in every contracting file we examined, as required. The Audit also found the majority of files assessed (9/10 files) had identified risk responses and contained evidence of risk responses being enacted, as applicable (exceptions noted in paragraphs 37 to 39).
35. In addition, we found risk mitigation strategies identified by the Procurement Risk Assessment Tool had been undertaken by Quebec Region Acquisitions Directorate, when and as required. In cases where changes occurred or amendments were required after the original Procurement Risk Assessment was completed, an updated Assessment was found in the contracting file, as required.
36. Further, we found all files (10/10) had been submitted for verification under the provisions of PWGSC's Integrity Framework, including the incomplete contracting file. While not technically part of Acquisitions Branch's risk management processes, the PWGSC Integrity Framework does provide a measure of mitigation against risks relating to contracting with suppliers that don't respect applicable laws.

Gaps were noted related to requirements to assess and document residual risks

37. Though we found procurement risk management requirements had generally been met in all of the contracting files we assessed, we noted a gap related to the assessment of residual risks. Supply Manual requirements indicate procurement risks should be re-assessed after risk response measures have been applied, and the residual risks should be discussed in the procurement approval document (section #3.1.10). While we found the approval documents in all contracting files contained descriptions of risk events and risk mitigation measures, the required re-assessment and summary of residual risks could not be identified.
38. In addition, we identified one contracting file which did not include a documented risk response, as required by the Procurement Risk Assessment Tool. The Procurement Risk Assessment Tool requires a risk response be developed for procurement risks which exceed a given risk score. In this one file, the risk in

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question had been properly identified and assessed, but the required risk response activity was not identified in the contracting file, even though its risk score required a risk response. We noted, however, the file was otherwise found to be generally compliant with risk management requirements.

39. Though we identified the gaps noted above, we found risk management of the contracts awarded in the initiation phase of the NBSLC project was generally conducted in accordance with requirements. Further, the risk management of these contracts was conducive to PWGSC satisfying its dual role of supporting its clients contracting requirements and ensuring sound stewardship in procurement on behalf of Canadians.

MONITORING AND OVERSIGHT

40. As the procurement arm of the Government of Canada, PWGSC has a leadership role in federal procurement, and the Department is responsible for managing the contracting process on behalf of federal departments and agencies procuring goods or services above their delegated authority limit. PWGSC also has an important contributing role to play in ensuring federal departments and agencies are able to fulfill their responsibilities as Project Authority. As part of this, PWGSC is expected to provide monitoring / oversight of the Project Authority's role in the procurement process. Monitoring / oversight serves to support the client in meeting its legislative, policy and program requirements and it helps to ensure sound stewardship over procurement activities.
41. PWGSC, as the Contracting Authority for these contracts, was responsible for monitoring and overseeing the contracts from the Contracting Authority perspective to ensure that Transport Canada, Infrastructure Canada and JCCBI's requirements for the project were met and that these contracting activities were well-aligned to Government of Canada priorities. This responsibility applies to the 45 contracts awarded in the initiation phase of the main NBSLC project and the related project at Nun's Island.
42. As such, we expected PWGSC's role as the Contracting Authority for the main NBSLC project and the related project at Nun's Island would be clearly defined and documented to support appropriate monitoring / oversight of the contract award and contract administration to ensure compliance with relevant policies and regulations by both the Project Authority and the contractor. We also expected PWGSC would have exercised its role as Contracting Authority in a manner consistent with the Treasury Board *Contracting Policy*, as well as relevant Departmental policies, procedures and guidelines, and the MOUs for the main NBSLC project and the related project at Nun's Island.

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PWGSC's role was clearly defined and appropriately documented, and included appropriate roles relating to monitoring / oversight of contract award and administration

43. PWGSC's Supply Manual provides a generic description of procurement roles and responsibilities for PWGSC and its clients in procuring goods and services. It also provides for the option to develop alternate division of roles and responsibilities, by way of a written agreement, to provide more procurement-specific arrangements to better reflect the requirements of a given procurement.
44. Contracting authority responsibilities for the initiation phase of the project were carried out by the Quebec Region Acquisitions Directorate. As such, the Region was responsible for the contracts relating to surveying services, property appraisals, advisory services for project management, technical advice services and environmental services. In support of its role, Quebec Region Acquisitions Directorate developed MOUs which established and clarified roles and responsibilities for PWGSC and the various Project Authorities from the outset of the project. Though it was not part of the scope of our audit, we noted these memoranda were subsequently communicated to Acquisitions Branch staff at PWGSC headquarters and formed the basis for the national level MOUs with Infrastructure Canada for the main bridge contract.
45. We reviewed the roles and responsibilities of both the Contracting Authority and the Project Authorities as described in the MOUs to ensure they were consistent with the Treasury Board *Contracting Policy*, as well as relevant PWGSC policies, procedures and guidelines. We concluded that they were.
46. We found the roles and responsibilities of Quebec Region Acquisitions Directorate and PWGSC headquarters were clearly established and were conducive to effective and efficient oversight of the contracts awarded. We were provided with documentation which demonstrated coordination and division of responsibilities between regional staff and the NBSLC Directorate at PWGSC headquarters. As noted above, contracting responsibilities for the initiation phase of the project were held by the Quebec Region Acquisitions Directorate, with PWGSC headquarters providing input and support as needed. As such, the two groups have worked somewhat independently in accordance with their individual mandates and accountabilities, and have engaged each other per established Acquisitions processes, when and as required. For example, the contracting files contained written communications that demonstrated that Quebec Region Acquisitions Directorate employees had engaged PWGSC headquarters to conduct enhanced risk assessments, to conduct legal services reviews, and to perform assessments of contract cost.
47. As a result, we concluded PWGSC's role was appropriately documented, the division of roles and responsibilities between Quebec Region Acquisitions Directorate and PWGSC headquarters was sufficiently clear, and the descriptions of roles and

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responsibilities included appropriate monitoring / oversight of contract award and administration. We also concluded that the roles and responsibilities as defined were conducive to effective and efficient monitoring / oversight of the contracts.

PWGSC has discharged its role as Contracting Authority in accordance with established requirements and the MOUs with the Project Authorities

48. Our examination of Quebec Region Acquisitions Directorate's contracting files included steps to assess whether PWGSC had discharged its role as Contracting Authority in accordance with the requirements described above, as related to the monitoring / oversight of the contracts awarded in the initiation phase of the project.
49. All contracting files that we assessed were found to be compliant with PWGSC's Supply Manual requirements, as well as the various MOUs with the Project Authorities for the NBSLC project (Infrastructure Canada, Transport Canada and JCCBI) as it relates to monitoring / oversight from the Contracting Authority perspective. The relevant contracting files within Quebec Region Acquisitions Directorate all contain records of communication and activity that demonstrate monitoring / oversight of contract award and administration. For example, all files contained evidence that PWGSC consulted with the Project Authorities in developing tender documents to suit technical specifications for the solicitation. There was also evidence that PWGSC coordinated the evaluation of submissions on behalf of the Project Authorities and documented consensus on successful bids.
50. Further, the contracting files included communications demonstrating engagement of Quebec Region Acquisitions Directorate with the Project Authorities for the on-going monitoring of contract administration. This included monitoring of project delivery progress in consultation with the client prior to PWGSC recommending payment of contractor invoices, as well as providing guidance and support related to contract amendments, as required.
51. Our assessment of the contracting files in the Quebec Region Acquisitions Directorate and other relevant documents found that the region had appropriately discharged its responsibilities for monitoring / oversight of the contracts awarded in the initiation phase of the project in accordance with established requirements.

CONCLUSION

52. PWGSC's has a dual role of procuring goods and services on behalf of its client, while at the same time ensuring sound stewardship of public funds on behalf of Canadians. To determine whether PWGSC had successfully carried out this dual role, we assessed whether risks related to PWGSC's role in the contracting process for the Initiation Phase of the New Bridge for the St. Lawrence Corridor (NBSLC) Project were managed through governance and risk management processes.

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53. We found PWGSC had managed the risks related to PWGSC's role in the contracting for the Initiation Phase of the New Bridge for the St. Lawrence Corridor (NBSLC) Project through governance and risk management processes.
54. The Department made appropriate use of Fairness Monitoring in accordance with the requirements under the Policy. We found the Quebec Region Acquisitions Directorate had followed established criteria and processes applicable to when fairness monitoring was deemed warranted. In each of the five contracts we assessed that had made use of Fairness Monitors, we found the correct documentation had been completed and approved according to Fairness Monitoring policies.
55. Further, the risk management for the contracts awarded in the initiation phase of the main NBSLC project and the related project at Nun's Island was generally conducted in accordance with requirements. The contracting files we examined had identified and assessed both risk level and risk complexity, and had included discussions of risk in the procurement approval documents, in accordance with the Risk Management provisions identified in the PWGSC Supply Manual. The majority of these files had also identified risk responses and contained evidence of risk responses being enacted, as applicable. We noted some gaps related to Supply Manual requirements to assess residual risks, as well as a missing risk response in one of the contracting files we examined. However, we concluded that these gaps did not impact the overall effectiveness of the management of procurement risks to the contracts.
56. We found PWGSC had adequately exercised its role as Contracting Authority in conducting monitoring / oversight of activities related to contract award and administration. PWGSC's roles and responsibilities had been documented in Memoranda of Understanding (MOUs) with the various Project Authorities for the contracts (Infrastructure Canada, Transport Canada and JCCBI). Our examination of the contracts found PWGSC had acted in accordance with its MOUs with the various Project Authorities and Supply Manual requirements, in relation to monitoring / oversight for both awarding and conducting ongoing administration of the contracts. Quebec Region Acquisitions Directorate's contracting files were found to contain evidence that PWGSC: had worked with the Project Authorities in developing tender documents for solicitations; had coordinated the evaluation of submissions in cooperation with the Project Authorities and documented consensus on successful bids; and had worked in cooperation with the Project Authority to administer the contracts.
57. As part of our audit, we also noted weaknesses in the Policy on Fairness Monitoring and related instruments. Specifically, we found the Policy was not sufficiently clear in its scope related to mandatory assessments and did not provide sufficient guidance related to processes and approvals required for when Fairness Monitors are not engaged. As PWGSC is responsible for the Fairness Monitoring Program, these observations have been communicated to Departmental management.

MANAGEMENT RESPONSE

The Quebec Region accepts the conclusions of the audit. We will continue to work with PWGSC program sectors to implement any changes required in relation to Risk Management provisions of the Supply Manual and the Departmental policy on Fairness Monitoring.

ABOUT THE AUDIT

Authority

This engagement was included in the Public Works and Government Services Canada (PWGSC) 2014-2018 Risk-Based Audit and Evaluation Plan.

Objective

To determine whether risks related to PWGSC's role in the contracting process for the Initiation Phase of the New Bridge for the St. Lawrence Corridor (NBSLC) Project are managed through governance and risk management processes.

Scope and Approach

This audit covered contracts issued by PWGSC in the period from March 2012 to July 21, 2014, on behalf of Transport Canada, Infrastructure Canada and Jacques Cartier and Champlain Bridges Inc. as Project Authorities for various elements of the larger NBSLC project. These contracts were related to preparatory requirements for the delivery of the NBSLC project, such as consulting services to develop the business case for the project, engineering services for the preliminary plans and specifications for the new bridge, environmental assessments of anticipated impacts on the surrounding land, air and water, and the design and construction of a temporary causeway bridge between Montreal and Nun's Island.

Prior to the commencement of the Audit, PWGSC's Office of Audit and Evaluation and Infrastructure Canada's Audit and Evaluation Branch held meetings to ensure a coordinated approach to meeting the audit requirements which the two departments had committed to. These meetings established that Infrastructure Canada's audit work would assess the overall project and contract management related to the main contract for the NBSLC project. PWGSC's audit work would assess the procurement processes used to conduct the preparatory work conducted in the initiation phase of the project.

The Audit scope included PWGSC's role as Contracting Authority for contracts awarded by PWGSC Quebec Region Acquisitions Directorate as part of the initiation phase of the NBSLC project, and for the related project undertaken at Nun's Island in support of the main project. The initiation phase included over 45 contracts, valued at approximately \$93M, for the design, consulting and other preparatory work, leading up to the issuance of the Request for Proposal on July 21, 2014. The Audit scope was determined based on PWGSC's duties and functions as the Contracting Authority for the NBSLC project, as well as its role as outlined in the approval documents and MOUs for the NBSLC project.

To test regional controls, we judgmentally selected the 10 contracts out of the 45 contracts related to the initiation phase of the NBSLC project and the related project

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undertaken at Nun's Island (based on contract value at contract award – contract information to July 21, 2014 provided by PWGSC Acquisitions Branch and Quebec Region Acquisitions Directorate). These 10 contracts made up approximately \$91M of the \$93M (98%) in contracts that have been awarded, where PWGSC was the Contracting Authority. The files were assessed to determine whether PWGSC had consistently assessed risks as part of the procurement process, and whether adequate monitoring / oversight had been conducted over the selected contracts. For the Fairness Monitoring component, we judgmentally selected and reviewed five contracts that had engaged Fairness Monitors and five contracts that had not to determine the validity of the assessment and criteria used for engaging or not engaging the Fairness Monitor, as well as consistent application thereof. At the end of the examination phase, the audited organization was requested to provide validation of the findings.

This audit was conducted in accordance with the Institute of Internal Auditors' *International Standards for the Professional Practice of Internal Auditing*.

Based on analysis of the information and evidence collected, we prepared audit findings and conclusions which were validated with the appropriate Regional officials. The Director's Draft Report was then drafted and provided to the Regional Director of Acquisitions for review and validation. Comments on this Director's Draft Report will be used to draft the Chief Audit and Evaluation Executive's Draft Report, which will be sent to Regional Director General 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 the monitoring and oversight, risk management and use of Fairness Monitoring were based on the Treasury Board Secretariat's Management Accountability Framework, as well as applicable Departmental policies and guidelines.

The criteria were as follows:

1. Fairness Monitoring

Fairness monitors were engaged for NBSLC contracts in accordance with the PWGSC Policy on Fairness Monitoring, the PWGSC Supply Manual and the PWGSC Guideline on Fairness Monitoring, as evidenced by:

- 1.1 Established criteria are in place to determine when fairness monitoring for a contract should be utilized;
- 1.2 The fairness monitoring function is being consistently utilized amongst the NBSLC contracts.

2. Risk Management

A formal and proactive approach with respect to ongoing risk management of the procurement process is in place, as evidenced by:

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- 2.1 Procurement risk assessments for NBSLC contracts are conducted in accordance with the Treasury Board Framework for the management of risk, the Acquisition Program Risk Assessment Framework and the PWGSC Supply Manual; and
- 2.2 Risks associated with the contracting process were identified, assessed and mitigation measures identified accordingly. Risks are monitored over the life of the contracts and mitigation measures are updated as needed.

3. Monitoring/Oversight

Adequate monitoring / oversight exists over contract award and contract administration by PWGSC Acquisitions Branch, in its capacity as Contracting Authority for the NBSLC contracts, and as outlined in the MOUs for the construction of the New Bridge for the St. Lawrence Corridor (NBSLC) Project, as evidenced by:

- 3.1 The role of the Contracting Authority is documented and includes appropriate monitoring / oversight of the contract award and contract administration to ensure compliance with relevant policies and regulations;
- 3.2 Roles and responsibilities of the Contracting Authority and Project Authority are consistent with the Treasury Board *Contracting Policy*, as well as relevant Departmental policies, procedures and guidelines, and are discharged in accordance with them, as well as the MOUs for the Construction of the New Bridge for the St. Lawrence Corridor (NBSLC) Project; and,
- 3.3 Roles of the Quebec Region and the NBSLC directorate at headquarters are clearly defined to ensure an effective and efficient oversight of the contracts

Audit Work Completed

Audit fieldwork for this audit was substantially completed from January 26, 2015.

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.