

Internal Audit of Federal Government Consulting Contracts Awarded to McKinsey & Company

From: Innovation, Science and Economic Development Canada

March 2023

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1.0 Conformance with professional standards

This internal audit was conducted in conformance with the International Standards for the Professional Practice of Internal Auditing.

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Director General and Chief Audit Executive

Audit and Evaluation Branch

Innovation Science and Economic Development

2.0 Executive summary

2.1 Key findings

Overall, the audit found that the Innovation, Science and Economic Development Canada (ISED) contracts awarded to McKinsey between January 1, 2011 to February 7, 2023 were considered to be awarded in a manner that is open, fair and consistent. The key findings per objective are summarized below.

Objective 1: The integrity of the procurement process was maintained and consistent with the Values and Ethics Code for the Public Sector and the Directive on Conflict of Interest

- The Ministers and their staff respected the requirements of the Conflict of Interest (COI) Act as it relates to their involvement in the contracting process.
- Contracts involving Former Public Servant services were justified, documented, and approved as required.
- COI requirements were included as part of the Non-Disclosure Agreements signed by each contract bid Evaluator.

Objective 2: Procurement was conducted in a fair, open and transparent manner, consistent with the Treasury Board policy in place at the time

- Expenditure initiation and section 32 of the Financial Administration Act were documented and performed by individuals with the appropriate delegated authorities.
- A statement of work was defined prior to vendor selection and contract award. Bid selection method and evaluation criteria were outlined in an open, fair, and transparent manner in the bid solicitation document before the Request for Proposal was issued.
- Bids were evaluated in accordance with the terms and conditions of the solicitation.
- There was no evidence of contract-splitting, and supporting documentation was provided detailing what services were included in the price.
- Contracts were signed by individuals with the appropriate delegated authorities and copies of the signed contracts were on file.
- Contracts and amendments were issued before services were received. Contract amendments were justified, substantiated, and approved by authorized officers.
- There is evidence that there was oversight and performance monitoring to ensure that the delivery of services met the provisions of the contract in terms of quality of services.
- 2018 and 2020 contracts were proactively disclosed within the Open Government of Canada Directory.
- A recommendation was issued regarding the implementation of controls to ensure that procurement files are documented to include all elements of a contract's lifecycle. This includes bid evaluations, any challenge function undertaken when changes occur in the evaluation

process, security requirements and validations, as well as documentation related to approved invoices.

Objective 3: The procurements were conducted in a manner consistent with the organization's internal processes and control frameworks

- Procurement activities were conducted in a manner consistent with ISED's internal processes and control frameworks, including approvals from governing bodies in place.
- Invoice payment and Section 33 of the Financial Administration Act was recorded, signed and approved by appropriate delegated authority, and in a timely basis after the invoice was received.

3.0 Background

Procurement in the Government of Canada (GC) is subject to the Directive on the Management of Procurement (and the now rescinded Contracting Policy prior to May 13, 2021)¹, which has as its objective to ensure that procurement of goods, services and construction obtains the necessary assets and services that support the delivery of programs and services to Canadians, while ensuring best value to the Crown. As a result, among others, procurements are expected to enable operational outcomes, to be subject to effective governance and oversight mechanisms, to be fair, open, and transparent, and to meet public expectations in matters of prudence and probity.

The Prime Minister has tasked Minister Fortier, as President of the Treasury Board (TB), along with Minister Jaczek, Minister of Public Services and Procurement, to undertake a review of contracts awarded to McKinsey & Company (McKinsey). On February 8, 2023, the Office of the Comptroller General (OCG) requested from government organizations, by February 15, 2023, a list of all contracts with McKinsey dating back to January 1, 2011, as well as related information on these. For those organizations that have been the technical authority or entered into any such contracts, the OCG has directed the Chief Audit Executives (CAEs) of these organizations to conduct a formal independent internal audit of the related procurement processes, with results to be reported to the OCG by March 22, 2023.

In December 2022, the Office of the Procurement Ombudsman (OPO) conducted a Procurement practice review of ISED, which had for objective to determine whether ISED's procurement practices pertaining to evaluation criteria and selection plans, solicitation documents, and evaluation of bids and contract award, supported the principles of fairness, openness and transparency. A total of five recommendations were made to ISED related to communications on the selection process, retention of documentation, and guidance, training, and oversight process and review mechanisms (see Appendix D for lines of inquiries and recommendations).

4.0 Audit objectives and scope

The objectives of the audit were to determine the following for all scoped-in contracts with McKinsey:

- The integrity of the procurement process was maintained consistent with adhering to the Values and Ethics Code for the Public Sector and the Directive on Conflict of Interest;
- The procurements were conducted in a fair, open and transparent manner consistent with the Treasury Board (TB) Policy that was in place at the time (Contracting Policy or the Directive on the Management of Procurement); and
- The procurements were conducted in a manner consistent with the organization's internal processes and control frameworks (i.e., consistent with procurement management frameworks, financial controls, security controls).

The scope of the audit focused on the examination of the procurement practices for all competitive and non-competitive contracts ² with McKinsey that were awarded (i.e., signed) by the organization between January 1, 2011, and February 7, 2023 ³.

The audit did not assess:

- All contracts with any entity other than McKinsey.
- All contracts awarded (and signed) outside of the audit period.
- Compliance with any other policy instrument, laws and/or regulations not specifically mentioned in this audit report.

A total of three competitive contracts were awarded by ISED to McKinsey between January 1, 2011, to February 7, 2023. For all three contracts, the competitive process used consisted of a request for bids from a limited number of businesses based on selection criteria, as defined by the Treasury Board Contracting Policy, which was in effect at the time these contracts were awarded.

5.0 Approach

The OCG provided all departments with an audit plan and audit work program to ensure consistency of coverage across the GC. While the OCG developed the objectives, scope, audit criteria, and audit work program for use by departments involved, audit findings and recommendations were developed independently by ISED's internal audit function. The approach followed by ISED was in alignment with the approach described in the OCG audit plan and audit work program. To ensure the integrity and objectivity of the audit work, this audit was conducted only by public servant internal auditors subject to the Global Internal Auditing Code of Ethics of the Institute of Internal Auditors.

The Internal Audit Directorate (IAD) was mandated by the OCG to review all McKinsey contracts signed with ISED from January 1, 2011, to February 7, 2023, and assess whether the agreements were fair and transparent.

Contract Title (Number)	Project Authority	Year Awarded	Contract Duration	Contract Amount (after taxes)	Procurement Strategy	Purpose of Contract
Canada's Manufacturing Sector – Global Perspective (5025992)	Industry Sector	2013	February 22, 2013 to April 19, 2013	\$400,000	Competitive	Providing ISED with an analysis of manufacturing international trends and to identify the trends' impacts on Canada's manufacturing activities on the global market.
International Economic Analysis and Growth Studies on Six High Growth Strategic Sectors (3516378)	Industry Sector	2018	January 4, 2018 to December 14, 2018	\$452,000	Competitive	Identify global emerging trends specifically linked to economy-wide horizontal issues for six strategic sectors.

Contract Title (Number)	Project Authority	Year Awarded	Contract Duration	Contract Amount (after taxes)	Procurement Strategy	Purpose of Contract
Global Analysis of Economic Stabilization and Recovery in High Growth Sectors (3518165)	Industry Sector	2020	June 3, 2020 to March 31, 2021	\$2 988 497.44	Competitive	Provide strategic global analysis to support government action to execute economic policy interventions and a robust recovery for Canadian industrial sectors.

For the contract awarded to McKinsey in 2013, following IAD's request to review all documentation related to this contract, only a copy of the amended contract was on file. This was due to ISED's retention policy where the retention period for documentation related to the acquisition of assets and services is of six (6) years or until the case is closed following ISED's Records Management Classification Map for Paper and Electronic Files, which was last updated in 2022 in the context of the return to the workplace.

2013 Contract: Canada's Manufacturing Sector – Global Perspective

The contract's objective focused on providing ISED with an analysis of manufacturing international trends and to identify the trends' impacts on Canada's manufacturing activities on the global market. The contract's scope was to 1) assess international manufacturing trends while taking into account various factors influencing the global market and 2) assess these international trends' effects on Canada's main manufacturing sectors. The total value of this contract was \$400,000 after taxes.

2018 Contract: International Economic Analysis and Growth Studies on Six High Growth Strategic Sectors, namely, Agri-Food, Advanced Manufacturing, Health/Bio-Science, Digital Industries, Clean Resources, Clean Technology

The first contract's objective was to identify global emerging trends specifically linked to economy-wide horizontal issues for six strategic sectors. The second objective aimed to improve Canada's strategic sectors performance assessment based on results from global case studies and to identify opportunities for transformational change. The project's scope involved conducting research, analysis, assessments and reports on the six identified high growth strategic sectors, including sectoral and technological summaries. The total value of this contract was \$452,000 after taxes.

2020 Contract: Global Analysis of Economic Stabilization and Recovery in High Growth Sectors

In response to the global COVID-19 pandemic, subject-matter experts were sought to provide strategic global analysis to support government action to execute economic policy interventions and a robust recovery for Canadian industrial sectors. The contracting process was initiated in April 2020 and a contract was signed June 3, 2020. Subsequent to the initiation of this contract the Federal Government committed to establishing an Industry Strategy Council mandated to provide formal insights and recommendations for recovery efforts in key sectors. ISED leveraged the use of the established contract to provide support to the Council. This included actively developing and presenting various technical analysis and research to the Council such as health measures analysis other countries have undertaken to re-open their economies, economic recovery scenario modelling for the Advanced Manufacturing, Agri-Food, Health and Biosciences sectors, and international approaches to understand sectoral pressures and cross-sector strategic directions. Due to the increased level of work, two amendments were made to this contract in order to deliver on the Industry Strategy Council's integrated work plan. The total value of this contract and its amendments was \$2,988,497 after taxes.

6.0 Findings and recommendations

(See [Appendix C](#) for breakdown of findings by criteria)

6.1 Findings for objective 1: integrity of the procurement process

Criteria 1: Public servants and Public Office Holders ensure that the integrity of the procurement process is maintained and consistent with the Values and Ethics Code for the Public Sector and the Directive on Conflict of Interest.

There are specific requirements when Public Servants and Public Office Holders are involved in a procurement process. This involvement would include outlining the requirements needed through the Statement of work, assessing the bids received based on the requirements and to effectively monitor the progress of the contract, etc. As part of this, conflict of interest and values and ethics must be assessed for those implicated in the bidding process, including when the requirements are developed to the time bids are received to ensure that evaluators and those implicated in the assessment process are objective, and free from bias.

Conclusion

On an overall basis, the audit noted that Public Servants involved in the contract services and Public Office Holders exercised their role in a manner consistent with the Values and Ethics and Conflict of Interest requirements.

Ministers and Staffs

Following a review of the contracts, the audit team noted no indication that any of the Ministers responsible for Innovation, Science and Economic Development Canada or their officers were involved in any of the contracting processes in scope.

Public Servants

ISED has a Values and Ethics Code which sets out values and expected behaviours, including requirements to prevent and disclose conflicts of interest during and post-employment. There are processes in place for disclosing and resolving conflicts of interest, and disclosures are tracked and monitored by the department's Values and Ethics Office. As part of ISED's procurement practices, a Non-Disclosure Agreement form is used to ensure that values and ethics components are understood. Through the review of the Non-Disclosure Agreements (NDAs), the audit team identified two statements in reference to conflict of interest obligations:

- Evaluator must ensure they are free from bias during assessment; and
- Evaluators must not give an unfair advantage over a specific bid.

For the contracts awarded to McKinsey in 2018 and in 2020, completed NDA forms were on file and signed by each evaluator prior to the receipt and assessment of the bids.

Former Public Office Holders

To ensure there is no conflict of interest through the bidder's resource team, the audit team noted that the Corporate and Materials Management (CMM) team included relevant stipulations within the Request for Proposals where bidders must identify any former public officer holders that are within their respective bids.

Through testing performed, the audit noted that for the contracts awarded to McKinsey in 2018 and in 2020, there was no evidence of a Former Public Office Holder as part of the bids received. For the contract awarded to McKinsey in 2013, the audit team was not able to perform the test procedures above given that the documentation fell outside ISED's retention period of six (6) years for documentation related to the acquisition of assets and services.

Criteria 2: Contracting with Former Public Servants and Former Public Office Holders is performed with integrity in accordance with the Directive on Conflict of Interest, Conflict of Interest Act and procurement policy instruments.

To ensure that there is no apparent conflict of interest from the bidders, proposals must identify Public Servants and Public Office Holders that are included in the resource team and whether they are in receipt of a pension and/or have undergone a one-year cool off for Public Office Holders. These are normally stipulated in the Terms and Conditions of the Request for Proposal and a checklist needs to be completed by each bidder.

Conclusion

Overall, it was found that contracting with Former Public Servants and Former Public Office Holders were performed with integrity, in accordance with the Directive on Conflict of Interest, the Conflict-of-Interest Act and the procurement policy instruments.

Former Public Servants

For the contracts awarded to McKinsey in 2018 and 2020, bidding documents did include sufficient information on disclosing whether Former Public Servants were part of the bids, including the requirements to disclose as part of 4.5.5 of TB's Procurement Directive.

Former Public Office Holders

To ensure there is no formal conflict of interest through the bidder's resource team, the audit team noted that the CMM team included relevant stipulations within the Request for Proposal where bidders must identify any former public office holders that are part of the resources being bid.

Through testing performed, the audit noted that, for the contracts awarded in 2018 and in 2020, there was no evidence of a Public Office Holder that was included as a proposed resource as part of the bids received.

For the contract awarded to McKinsey in 2013, the audit team was not able to perform the test procedures above given that the documentation fell outside ISED's retention period of six (6) years for documentation related to the acquisition of assets and services.

6.2 Findings for objective 2: fairness, openness, and transparency, in line with applicable policy

Criteria 1: Procurement: non-competitive – There is documentation to support the justification for non-competitive procurement contracts in accordance with section 6 of the Government Contract Regulations.

The following criteria is non-applicable as all contracts in scope were awarded via competition.

Criteria 2: Procurement: Competitive – Bid evaluation criteria were provided on Request for Proposal (RFP) documents and were used for contractor selection in an open, fair and transparent manner.

As part of the competitive bid process, the procurement officer works closely with the evaluators and reviews all documentation supporting the decision made prior to awarding the contract. Additionally, the procurement officer is expected to play a challenge function to ensure that the statement of work is fair and transparent, and that the assessment of the bids is done in an objective and consistent manner.

Conclusion

Overall, bid evaluation criteria were defined in Request for Proposal (RFP) documents and were used as part of the bid selection process. Opportunities were identified to ensure the consistency and documentation of the evaluation process.

Bid Selection Method and Review over RFP Documents

The audit team reviewed the documentation related to the RFPs for contracts awarded in 2018 and 2020 and confirmed that the elements of the Statement of Work (SoW), including the objective, deliverables and timelines aligned with the complexity and nature of the work to be provided to ISED. Additionally, further review of the questions received from bidders and the evaluation of unsuccessful bids did not yield an assessment that the SoW was potentially unfair or restrictive.

Through testing performed, the audit team noted that, for the 2018 and 2020 contracts, the bid selection method and criteria included within the RFPs were sufficiently reviewed by the procurement officer to ensure they were fair and transparent. There was evidence of the review of the SoW and related correspondence between the procurement officer and the evaluators prior to the issuance of the RFP on file.

Bid Evaluations

Through testing performed on the contracts awarded to McKinsey in 2018 and in 2020, the audit noted the following observations:

- The individual evaluation forms were completed, retained on file, and demonstrated that the bids were assessed against the requirements outlined in the Request for Proposal;

- There was sufficient evidence to conclude that the contracts were granted to the highest ranked bidder; and
- The assessment process was aligned with the process requirements of a Request for Proposal.

In addition to the above, the audit noted that for the 2018 contract with McKinsey, the Evaluation Consensus Forms retained in the procurement file for the assessment of the three proposals received were not signed by individual evaluators, and the Evaluation Consensus Form for the proposal received from McKinsey did not include the total score for the point-rated requirements.

For the contract awarded to McKinsey in 2020, the procurement file included documentation supporting the bid assessment such as the Consensus Evaluation Form and the related checklists. However, only one of three evaluators signed the Consensus Evaluation Form.

Additionally, for the contract awarded in 2020, through a review of the procurement file, the audit team noted that the contract award decision was changed during the evaluation process. It was determined that while there were procedural anomalies in the assessment, the rationale to revisit the initial evaluation was included as part of the procurement file and the change was authorized by the procurement authority.

This observation was also recently identified by the Office of the Procurement Ombudsman (OPO) when conducting a procurement practice review of Innovation, Science and Economic Development (ISED) Canada, which had for objective to determine whether ISED's procurement practices pertaining to evaluation criteria and selection plans, solicitation documents, and evaluation of bids and contract award, supported the principles of fairness, openness and transparency (see Appendix D for lines of inquiries and recommendations).

For the contract awarded to McKinsey in 2013, the audit team was not able to perform the test procedures above given that the documentation fell outside ISED's retention period of six (6) years for documentation related to the acquisition of assets and services.

Recommendation 1

CMM should implement controls to ensure that procurements files are documented to include all elements of a contract's lifecycle, including bid evaluations, challenge function undertaken when changes occur in the evaluation process, security requirements and validations, as well as documentation related to approved invoices.

Criteria 3: Contract Management – Contracts and contract amendments were approved prior to the receipt of any services or the expiration of the original contract and supporting documentation is retained on file. Documented monitoring and certification of the delivery of services was implemented.

As part of the contracting cycle, it is expected that contracts and contract amendments are approved prior to the receipt of any services or the expiration of the original contract. An amendment can be used when additional factors arise, such as increase in scope, work, or objective. As part of this, there is an expectation that the amended contract includes sufficient documentation related to the justification of the amendment, including relevant signatures with those with appropriate delegation, and elements such as security requirements are re-assessed.

Conclusion

Overall, contracts and amendments were approved prior to the receipt of any services or the expiration of the original contract. The audit noted that there was no evidence of contract-splitting, and there was oversight to monitor performance and ensure that the delivery of services meets the provisions of the contract in terms of quality and delivery of services. There is an opportunity to ensure that security requirements are defined, and that sufficient documentation is retained to assess the security requirements of contracts are actively being met.

Contract Award

The audit noted that all contracts and related amendments were signed by appropriate delegated authorities prior to the expiry dates of the original contracts. Additionally, the audit team noted that the deliverables were received within the duration of each amendment as defined in terms of each of the respective contracts.

An analysis was performed to assess whether there is potential for contract splitting for any of the three contracts, and given the unique statement of work defined for the contracts and the year each contract was awarded in, the team concluded that there was no evidence of contract splitting.

Security

For the contract awarded in 2018, security requirements were included in the Request for Proposal documentation, where the expectation was that resources would have reliability security clearance supported by a completed Security Requirements Checklist. However, there was no evidence on file that the security requirements for the resources proposed were confirmed with Security Personnel to ensure that the security clearance for the proposed resource was valid.

There were no security requirements for the contract awarded to McKinsey in 2020.

Contract Amendments

The audit team noted that there were two contracts that included amendments during the scope of the audit: the contract awarded in 2013 had one amendment, and the contract awarded in 2020 had two amendments.

For the contract awarded to McKinsey in 2020, the initial value of the contract was of \$452,000 after taxes. Following the signature of the original contract, the Industry Strategy Council was created, where subject-matter experts were tasked to identify the scope and depth of COVID-19's impact on industries and inform the government's understanding of specific sectoral pressures. McKinsey was enlisted to support the mandate of the Industry Strategic Council. In addition to the published report on economic recovery over the six large sectors identified by the Council, which included over 700 interviews conducted with small and medium enterprises across the country, McKinsey provided research materials highlighting economic responses to COVID-19 across the globe to the Council. The procurement file for this contract included supporting documentation on the justification and substantiation to support the two amendments. The file was supported by communications between the Deputy Minister and the Chief Financial Officer on the value of the contract to ensure value-for-money and alignment with the required deliverables, including the various phases of the Council. These discussions occurred after the contract was awarded and prior to an amendment.

Additionally, there was evidence that these amendments were presented, as prescribed by ISED's procurement and oversight processes, to the Investment and Experimentation Oversight Committee (IEOC) for additional consideration and approval prior to their signature.

For the contract awarded to McKinsey in 2013, the audit team was not able to perform the test procedures above given that the documentation fell outside ISED's retention period of six (6) years for documentation related to the acquisition of assets and services.

Recommendation

See [recommendation 1](#)

Criteria 4: Certification Authority (section 34) - Certification authority is performed by someone with the delegated authority to do so, is accomplished in a timely manner and verifies the correctness of the payment requested (Section 34 of the Financial Administration Act).

As part expenditure management, invoices should be received based on the agreed upon timelines prescribed within the contract. Additionally, once invoices are received, the Project Authority should review the invoice to ensure that the deliverables and services provided are valid and in accordance with the terms of the contract. Once completed, the Section 34 of the Financial Administration Act (FAA) is provided, and the invoice is then sent for payment.

Conclusion

Invoices provided included all relevant details over which to match against the deliverables and the services that were provided. However, the audit team was not able to attest whether invoices were signed by appropriate delegated authorities as the documentation was not received.

The audit team identified the following number of invoices for contracts and amendments in scope:

- 2 Invoices for the 2013 contract;
- 5 Invoices for the 2018 contract; and
- 3 Invoices for the 2020 contract.

As part of the testing of the certification authority performed by an individual with the delegated authority to support the correctness of the payment requested and the timely payment of the invoices, the audit team noted the following observations:

- For the 3 invoices related to the 2020 contract, the certification authority was performed by someone with the delegated authority on the invoices to support the correctness of the payment requested and the timely payment of the invoices as per S.34 FAA.
- For the 5 invoices related to the 2018 contract, only one certified invoice was on file. The team was therefore not able to assess whether the remaining invoices were reviewed and signed by an appropriate delegated authority under S.34 FAA
- For the 2 invoices related to 2013 contract, these were not on file as they fell outside ISED's retention period of six (6) years for documentation related to the acquisition of assets and services.

Recommendation

See [recommendation 1](#)

Criteria 5: Proactive Disclosure – Contracts, including amendments, valued at over \$10,000 meet minimum proactive disclosure requirements.

Proactive Disclosures

As per the Section 5.1.6 of the Treasury Board Contracting Policy, contracts who meet the threshold of \$10,000 must be proactively disclosed on the Government of Canada Directory within a reasonable timeframe.

All three contracts awarded by ISED to McKinsey between January 1, 2011, to February 7, 2023 were above the threshold of \$10,000 and were subject to proactive disclosure.

Through testing performed, the audit team noted that the contracts awarded to McKinsey in 2018 and 2020 contracts were proactively disclosed on the open Government directory that listed both original contracts and amendments.

The contract awarded to McKinsey in 2013 and its amendment were not disclosed as part of the Open Government directory. The audit team noted that this was due to the retention policy in place and documents not being retained following changes to the departmental website and the transition to the Open Directory, where some records were not migrated from the archived site.

6.3 Findings for objective 3: The procurements were conducted in a manner consistent with the organization's internal processes and control frameworks (i.e., consistent with procurement management frameworks, financial controls, security controls).

Criteria 6: Procurements are conducted in a manner consistent with your departmental internal processes and control frameworks.

As per ISED's departmental procurement processes, additional controls are in place, including whether Intellectual property (IP) rights are actively identified and attested, Section 41 of the Financial Administration Act (FAA) signature from the delegated contracting authority, Section 33 of the FAA approval in a timely manner within the Information Financial Management System (IFMS) to ensure timely payment, and Investment and Experimentation Oversight Committee (IEOC) approvals based on contractual threshold (i.e. contracts above \$250,000).

ISED's Internal Processes

For the above noted tests, the team noted that ISED's internal processes were followed. More specifically:

- IP rights for the 2018 and 2020 contracts were identified and addressed. The 2013 contract was not assessed due to the documentation not being received.
- All payments were made and recorded in the departmental IFMS after the date they were approved by appropriate Section 33 delegated authority.
- IEOC approvals were received for all contracts and their related amendments.

7.0 Management response

The findings and recommendations of this audit were presented to management of Innovation, Science and Economic Development Canada. The audit report was reviewed and recommended for approval by Innovation, Science and Economic Development Canada's Departmental Audit Committee to the deputy head for approval.

Management has accepted the audit findings and has developed an action plan to address the recommendations (see appendix B for management action plan). The identified actions are scheduled to be completed by June 30, 2023. Innovation, Science and Economic Development Canada's Departmental Audit Committee will be engaged in the monitoring of the implementation of this action plan, in line with the department's standard internal audit processes. If additional issues or recommendations are found following the results of the external reviews by the Office of the Procurement Ombudsman and/or the Auditor General, Innovation, Science and Economic Development Canada will update the management action plan to incorporate these.

The Deputy Head of Innovation, Science and Economic Development Canada approves this report, including the management action plan.

Simon Kennedy
Deputy Minister
Innovation, Science and Economic Development Canada

8.0 Appendix A: Audit criteria

Audit Objectives	Criteria	Criteria Sources
1. The integrity of the procurement process was maintained and consistent with adhering to the <u>Values and Ethics Code for the Public Sector</u> and the <u>Directive on Conflict of Interest</u>	1. Public servants and Public Office Holders ensure that the integrity of the procurement process is maintained and consistent with the <u>Values and Ethics Code for the Public Sector</u> and the <u>Directive on Conflict of Interest</u> .	<u>Conflict of Interest Act</u> - Part I <u>Directive on Conflict of Interest</u> - 4.2.16, 4.17.3 <u>Values and Ethics Code for the Public Sector</u> – Integrity section (3) <u>Contracting Policy</u> (before May 13, 2022) – 4.2.12, 10.8, 11.1.1, 12.4 <u>Directive on the Management of Procurement</u> 4.2.2, 4.3.2
	2. Contracting with Former Public Servants and Former Public Office Holders is performed with integrity in accordance with the <u>Directive on Conflict of Interest</u> , <u>Conflict of Interest Act</u> and procurement policy instruments.	<u>Conflict of Interest Act</u> – Part I, Part III (35, 36) <u>Directive on Conflict of Interest</u> - 4.2.16 <u>Values and Ethics Code for the Public Sector</u> – Integrity section <u>Contracting Policy</u> (before May 13, 2022) – 4.1.9, 4.2.20, Annex C, schedule 5 <u>Directive on the Management of Procurement</u> (after May 13, 2022) 4.5.5, 4.6.4, 4.10.1.7
Note: On April 11, 2019, the contracting limits for organizations and PSPC were updated to reflect a 25% increase to account for inflation (see <u>Appendix C</u> of the <u>Contracting Policy</u>).		

Audit Objectives	Criteria	Criteria Sources
2. The procurements were conducted in a fair, open and transparent manner consistent with the TB Policy that was in place at the time (<u>Contracting Policy</u> or the <u>Directive on the Management of Procurement</u>)	1. Procurement: non-competitive – There is documentation to support the justification for non-competitive procurement contracts in accordance with section 6 of the Government Contract Regulations.	<u>Contracting Policy</u> (before May 13, 2022) – Sections 10.2.1, 10.2.6, 10.5, 10.7.30, and Appendix C <u>Directive on the Management of Procurement</u> (after May 13, 2022) – 4.3.1, 4.3.2, 4.3.5 (4.1.1 <u>procurement framework</u> should include detailed requirements) <u>Contracting Policy Notice 2007-4 – Non-Competitive Contracting</u> <u>Government Contract Regulations</u> [Current to January 25, 2023] – Section 6
	2. Procurement: Competitive – Bid evaluation criteria were provided on Request for Proposal (RFP) documents and were used for contractor selection in an open, fair and transparent manner.	<u>Contracting Policy</u> (before May 13, 2022) Sections 4.1.2; 4.1.4, 4.1.9; 16.1.2; 10.5; 10.7; 10.8; 11.1 and 11.3, Appendix J <u>Directive on the Management of Procurement</u> (after May 13, 2022) – 4.1.1, 4.3.1, 4.3.5 (4.1.1 <u>procurement framework</u> should include detailed requirements)
Note: On April 11, 2019, the contracting limits for organizations and PSPC were updated to reflect a 25% increase to account for inflation (see <u>Appendix C</u> of the <u>Contracting Policy</u>).		

Audit Objectives	Criteria	Criteria Sources
	<p>3. Contract Management – Contracts and contract amendments were approved prior to the receipt of any services or the expiration of the original contract and supporting documentation is retained on file. Documented monitoring and certification of the delivery of the services was implemented.</p>	<p><u>Contracting Policy</u> (before May 13, 2022) – Sections 4.2.10; 11.2; 11.3; 12.3; 12.4.1; 12.9, Appendix H 2.6, <u>Directive on the Management of Procurement</u> (after May 13, 2022) – 4.3.1, 4.3.5 (procurement framework should include detailed requirements on contract management), 4.10.6 <u>Policy on security</u>, Appendix A A.6</p>
	<p>4. Certification Authority (section 34) - Certification authority is performed by someone with the delegated authority to do so, is accomplished in a timely manner and verifies the correctness of the payment requested (Section 34 of the <u>FAA</u>).</p>	<p><u>Directive on Delegation of Spending and Financial Authorities</u> [2017-04-01] – Sections 4.1.11, A.2.2.1.1 to A.2.2.1.3, A.2.2.1.7 to A.2.2.1.9. <u>Financial Administration Act</u> [2018-03-18 current to] – Section 34</p>
	<p>5. Proactive Disclosure – Contracts, including amendments, valued at over \$10,000 meet minimum proactive disclosure requirements.</p>	<p><u>Contracting Policy</u> (before May 13, 2022) – Section 5.1.6 <u>Directive on the Management of Procurement</u> (after May 13, 2022) – Appendix C <u>Guidelines on the Proactive Disclosure of Contracts-Canada.ca</u> Section 4.1 (amended April 1, 2022). <u>Proactive Disclosure on Contracts, Guidelines on</u> [previous version] – Section 4.1 <u>Access to Information Act</u> (86-1).</p>
<p>Note: On April 11, 2019, the contracting limits for organizations and PSPC were updated to reflect a 25% increase to account for inflation (see <u>Appendix C</u> of the <u>Contracting Policy</u>).</p>		

Audit Objectives	Criteria	Criteria Sources
3. The procurements were conducted in a manner consistent with the organization's internal processes and control frameworks (i.e., consistent with procurement management frameworks, financial controls, security controls)	1. Procurements are conducted in a manner consistent with your departmental internal processes and control frameworks.	<u>Contracting Policy</u> (before May 13, 2022) <u>Directive on the Management of Procurement</u> (after May 13, 2022)
Note: On April 11, 2019, the contracting limits for organizations and PSPC were updated to reflect a 25% increase to account for inflation (see <u>Appendix C</u> of the <u>Contracting Policy</u>).		

9.0 Appendix B: Management Action Plan

Recommendation	Management action	Area responsible	Expected deliverables per action	Expected completion date
<ul style="list-style-type: none"> ISED's Contracting and Material Management Division (CMM) should implement controls to ensure that procurements files are documented to include all elements of a contract's lifecycle, including bid evaluations, challenge function undertaken when changes occur in the evaluation process, security requirements and validations, as well as documentation related to approved invoices. 	<p>The findings of this audit generally align with recommendations made by the Officer of the Procurement Ombudsman (OPO) in Fall 2022. The OPO review included one of the McKinsey contract that was also in scope as part of the Internal Audit of Federal Government Consulting Contracts Awarded to McKinsey & Company. While ISED notes that this particular case took place during the COVID period and transition to hybrid, the recommendation is valid to ensure processes are as rigorous as possible. A management action plan was developed to address the recommendations from the OPO review; the plan also aligns with the recommendation from this report. This includes implementing a peer review function, developing and providing enhanced</p>	Corporate Management Sector	<ul style="list-style-type: none"> Conduct peer review for all contracts above \$1M Conduct peer review for all new procurement officers for a period of 6 months Review and strengthen current training material Training all procurement officers on revised training material Procurement file completeness checklist included in all procurement files and safeguarded in the GCDOCs 	<p>June 30, 2023</p> <p>Completed</p> <p>Completed</p> <p>Completed (Q4 of 2022-23); and ongoing for new procurement officers</p> <p>June 30, 2023</p>

Recommendation	Management action	Area responsible	Expected deliverables per action	Expected completion date
	training to procurement officers, and developed checklists for each file to ensure all of the supporting documentation is completed and saved in the departmental information management system (i.e. GCdocs). All of these actions have been accepted and are either completed or in the implementation phase.			

10.0 Appendix C: Breakdown of findings

Audit criteria	Audit assessment (Compliant, Partially Compliant, Not Compliant, Unable to assess, Not applicable)*	Rationale for assessment
Audit objective 1: The integrity of the procurement process was maintained and consistent with adhering to the <u>Values and Ethics Code for the Public Sector</u> and the <u>Directive on Conflict of Interest</u>		
1. Public servants and Public Office Holders ensure that the integrity of the procurement process is maintained and consistent with the <u>Values and Ethics Code for the Public Sector</u> and the <u>Directive on Conflict of Interest</u> .	Compliant	<ul style="list-style-type: none"> • The Ministers and their staffs respected the requirements of the Conflict of Interest (COI) Act as it relates to their involvement in the contracting process. • COI requirements were included as part of the and Non-Disclosure Agreements signed by each evaluator. • Contracting involving Former Public Servant services were documented and approved.
2. Contracting with Former Public Servants and Former Public Office Holders is performed with integrity in accordance with the <u>Directive on Conflict of Interest</u> , <u>Conflict of Interest Act</u> and procurement policy instruments.	Compliant	
<p>*Legend (defined by the Office of the Comptroller General):</p> <ul style="list-style-type: none"> • Compliant: Compliance was 100%. • Partially compliant: There were a limited number of less significant compliance issues observed. • Not compliant: There was a high level of non-compliance noted; or there was a small number of significant issues. • Unable to assess: The audit team was unable to assess a criterion. • Not applicable: The criterion was not applicable. 		

Audit criteria	Audit assessment (Compliant, Partially Compliant, Not Compliant, Unable to assess, Not applicable)*	Rationale for assessment
Audit objective 2: The procurements were conducted in a fair, open and transparent manner consistent with the TB Policy that was in place at the time (<u>Contracting Policy</u> or the <u>Directive on the Management of Procurement</u>)		
1. Procurement: non-competitive – There is documentation to support the justification for non-competitive procurement contracts in accordance with section 6 of the Government Contract Regulations.	Not applicable	<ul style="list-style-type: none"> Contracts were awarded following a competitive process.
<p>*Legend (defined by the Office of the Comptroller General):</p> <ul style="list-style-type: none"> Compliant: Compliance was 100%. Partially compliant: There were a limited number of less significant compliance issues observed. Not compliant: There was a high level of non-compliance noted; or there was a small number of significant issues. Unable to assess: The audit team was unable to assess a criterion. Not applicable: The criterion was not applicable. 		

Audit criteria	Audit assessment (Compliant, Partially Compliant, Not Compliant, Unable to assess, Not applicable)*	Rationale for assessment
2. Procurement: Competitive – Bid evaluation criteria were provided on Request for Proposal (RFP) documents and were used for contractor selection in an open, fair and transparent manner.	Partially compliant	<ul style="list-style-type: none"> • A statement of work was defined prior to vendor selection and contract award, and bid selection method and evaluation criteria were outlined in an open, fair, and transparent manner in the bid solicitation document before the Request for Proposal was issued. • Bids were evaluated in accordance with the terms and conditions of the solicitation. • Contracts were signed by individuals with the appropriate delegated authorities and copies of the signed contracts were on file. • A recommendation was issued related to the implementation of controls to ensure that procurements files are documented to include all elements of a contract's lifecycle, including bid evaluations, security requirements and validations, challenge function undertaken when changes occur in the evaluation process, as well as documentation related to approved invoices.

*Legend (defined by the Office of the Comptroller General):

- Compliant: Compliance was 100%.
- Partially compliant: There were a limited number of less significant compliance issues observed.
- Not compliant: There was a high level of non-compliance noted; or there was a small number of significant issues.
- Unable to assess: The audit team was unable to assess a criterion.
- Not applicable: The criterion was not applicable.

Audit criteria	Audit assessment (Compliant, Partially Compliant, Not Compliant, Unable to assess, Not applicable)*	Rationale for assessment
<p>*Legend (defined by the Office of the Comptroller General):</p> <ul style="list-style-type: none">• Compliant: Compliance was 100%.• Partially compliant: There were a limited number of less significant compliance issues observed.• Not compliant: There was a high level of non-compliance noted; or there was a small number of significant issues.• Unable to assess: The audit team was unable to assess a criterion.• Not applicable: The criterion was not applicable.		

Audit criteria	Audit assessment (Compliant, Partially Compliant, Not Compliant, Unable to assess, Not applicable)*	Rationale for assessment
3. Contract Management – Contracts and contract amendments were approved prior to the receipt of any services or the expiration of the original contract and supporting documentation is retained on file. Documented monitoring and certification of the delivery of the services was implemented.	Partially Compliant	<ul style="list-style-type: none"> • There was no evidence of contract-splitting, and supporting documentation was provided detailing what services were included in the price. • Contracts and amendments were issued before services are received, and contract amendments were justified, substantiated, and approved by authorized officers. • There is evidence that that was oversight and performance monitoring to ensure that the delivery of services met the provisions of the contract in terms of quality of services. • 2018 and 2020 contracts were proactively disclosed within the Open Government of Canada Directory. The 2013 contract could not be retrieved due to ISSED's retention policy and the migration of the new Directory being done only after the contract date. • A recommendation was issued related to the implementation of

*Legend (defined by the Office of the Comptroller General):

- Compliant: Compliance was 100%.
- Partially compliant: There were a limited number of less significant compliance issues observed.
- Not compliant: There was a high level of non-compliance noted; or there was a small number of significant issues.
- Unable to assess: The audit team was unable to assess a criterion.
- Not applicable: The criterion was not applicable.

Audit criteria	Audit assessment (Compliant, Partially Compliant, Not Compliant, Unable to assess, Not applicable)*	Rationale for assessment
		controls to ensure that procurements files are documented to include all elements of a contract's lifecycle, including bid evaluations, security requirements and validations, challenge function undertaken when changes occur in the evaluation process, as well as documentation related to approved invoices.
<p>*Legend (defined by the Office of the Comptroller General):</p> <ul style="list-style-type: none"> • Compliant: Compliance was 100%. • Partially compliant: There were a limited number of less significant compliance issues observed. • Not compliant: There was a high level of non-compliance noted; or there was a small number of significant issues. • Unable to assess: The audit team was unable to assess a criterion. • Not applicable: The criterion was not applicable. 		

Audit criteria	Audit assessment (Compliant, Partially Compliant, Not Compliant, Unable to assess, Not applicable)*	Rationale for assessment
4. Certification Authority (section 34) - Certification authority is performed by someone with the delegated authority to do so, is accomplished in a timely manner and verifies the correctness of the payment requested (Section 34 of the <u>FAA</u>).	Partially compliant	<ul style="list-style-type: none"> • For the 3 invoices related to the contract awarded in 2020, the certification authority was performed by someone with the delegated authority on the invoices to support the correctness of the payment requested and the timely payment of the invoices as per S.34 FAA. • For the 5 invoices related to the contract awarded in 2018, one S.34 FAA certified invoice was on file. • A recommendation was issued related to the implementation of controls to ensure that procurements files are documented to include all elements of a contract's lifecycle, including bid evaluations, security requirements and validations, challenge function undertaken when changes occur in the evaluation process, as well as documentation related to approved invoices.

*Legend (defined by the Office of the Comptroller General):

- Compliant: Compliance was 100%.
- Partially compliant: There were a limited number of less significant compliance issues observed.
- Not compliant: There was a high level of non-compliance noted; or there was a small number of significant issues.
- Unable to assess: The audit team was unable to assess a criterion.
- Not applicable: The criterion was not applicable.

Audit criteria	Audit assessment (Compliant, Partially Compliant, Not Compliant, Unable to assess, Not applicable)*	Rationale for assessment
5. Proactive Disclosure – Contracts, including amendments, valued at over \$10,000 meet minimum proactive disclosure requirements.	Compliant	<ul style="list-style-type: none"> 2018 and 2020 contracts were proactively disclosed within the Open Government of Canada Directory. The 2013 contract could not be retrieved due to ISED's retention policy and the migration of the new Open Government of Canada Directory.
Audit objective 3: The procurements were conducted in a manner consistent with the organization's internal processes and control frameworks (i.e., consistent with procurement management frameworks, financial controls, security controls)		
<p>*Legend (defined by the Office of the Comptroller General):</p> <ul style="list-style-type: none"> Compliant: Compliance was 100%. Partially compliant: There were a limited number of less significant compliance issues observed. Not compliant: There was a high level of non-compliance noted; or there was a small number of significant issues. Unable to assess: The audit team was unable to assess a criterion. Not applicable: The criterion was not applicable. 		

Audit criteria	Audit assessment (Compliant, Partially Compliant, Not Compliant, Unable to assess, Not applicable)*	Rationale for assessment
1. Procurements are conducted in a manner consistent with your departmental internal processes and control frameworks.	Compliant	<ul style="list-style-type: none"> • Invoice payment and Section 33 of the Financial Administration Act was recorded, signed and approved by appropriate delegated authority, and in a timely basis after the invoice was received. • Procurement activities were conducted in a manner consistent with ISED's internal processes and control frameworks, where there was sufficient approvals from governing bodies that were granted based on defined contractual thresholds.
<p>*Legend (defined by the Office of the Comptroller General):</p> <ul style="list-style-type: none"> • Compliant: Compliance was 100%. • Partially compliant: There were a limited number of less significant compliance issues observed. • Not compliant: There was a high level of non-compliance noted; or there was a small number of significant issues. • Unable to assess: The audit team was unable to assess a criterion. • Not applicable: The criterion was not applicable. 		

11.0 Appendix D: Procurement practice review of Innovation, Science and Economic Development Canada – December 2022

This review was undertaken to determine whether ISED's procurement practices pertaining to evaluation criteria and selection plans, solicitation documents, and evaluation of bids and contract award, supported the principles of fairness, openness and transparency. To make this determination OPO examined whether ISED's procurement practices were consistent with Canada's

obligations under applicable national and international trade agreements, the Financial Administration Act and regulations made under it, the Treasury Board Contracting Policy (TBCP), and, when present, departmental guidelines.

Line of enquiry (LOE)	Recommendation (R)
LOE1: To determine whether evaluation criteria and selection plans were established in accordance with applicable laws, regulations and policies	R1: ISED should establish a mechanism to ensure mandatory criteria and scoring schemes for point rated criteria are clearly communicated in solicitation documents.
LOE2: To determine whether solicitation documents and organizational practices during the bid solicitation period were consistent with applicable laws, regulations and policies	R2: ISED should review its RFP templates to ensure clear and internally consistent instructions are communicated to bidders. R3: ISED should establish a mechanism to ensure that all relevant communications with suppliers are properly documented and retained on the procurement file. R4: ISED should establish a process to ensure that applicable award notices are published within required timeframes following contract award.
LOE3: To determine whether the evaluation of bids and contract award were conducted in accordance with the solicitation	R5: ISED should update its procurement guidance and training and implement an oversight process and review mechanisms to ensure that evaluations are carried out in accordance with the planned approach specified in the solicitation, and that contracts are not awarded to non-compliant bidders.

Footnotes

- 1 On April 11, 2019, the contracting limits for organizations and PSPC were updated to reflect a 25% increase to account for inflation (Appendix C in the Contracting Policy).
- 2 Per the Policy on the Planning and Management of Investments, a contract is defined as "A binding agreement entered into by a contracting authority and a contractor to procure a good, service or construction."
- 3 See Appendix A for criteria and criteria sources.

Date modified:

