



1999-642 Final Report

**Audit of Construction Contracting
Practices in the National Capital Region**

ARC Meeting: 2000-02-01



Public Works and
Government Services
Canada

Travaux publics et
Services gouvernementaux
Canada

Audit and Review

Vérification et Examen

Canada

1999-642 Audit of Construction Contracting Practices
Final Report

Table of Contents

| | |
|--|---|
| Executive Summary | 1 |
| 1 Introduction | 4 |
| 1.1 Authority for the Project | 4 |
| 1.2 Objectives | 4 |
| 1.3 Scope | 4 |
| 1.4 Background | 4 |
| 2 Issues Examined | 5 |
| 3 Findings, Conclusions and Recommendations | 6 |
| 3.1 Bid Solicitation | 6 |
| 3.2 Bid Evaluation | 6 |
| 3.3 Other | 7 |
| Conclusions | 8 |
| Recommendations | 9 |

Executive Summary

Authority for the Project

This audit was included in the 1999/00 Audit and Review Plan approved by the Audit and Review Committee (ARC).

Objectives

To determine the extent to which construction contracting practices within the National Capital Region (NCR) comply with Government Contracts Regulations, central agency policies/guidelines, departmental policies/guidelines, trade agreements, applicable legislation, and approved sectoral/regional practices, thereby reflecting prudence and probity.

Scope

The scope of the audit included contracting practices employed by the Real Property Contracting Directorate (RPCD) of Supply Operations Services Branch (SOSB), from receipt of the requisition to contract close out. Although all "cradle to grave" activities were reviewed, emphasis was given to sourcing, bid solicitation and evaluation, the change order process, and use of contracting authorities. As Real Property Services Branch (RPSB) influences the contracting process, particularly with respect to change orders (amendments), RPSB project files were also reviewed as part of the audit.

Both competitive and non-competitive construction contracts awarded since April 1997 were examined, excluding Architectural and Engineering Consultant Agreements and maintenance contracts.

Background

The objective of government contracting is to acquire goods and services, and to carry out construction, in a manner that enhances access, competition and fairness, and results in best value or, if appropriate, the optimal balance of overall benefits to the government and the Canadian people. Government policies, guidelines and processes have been designed with a view to achieving this objective in a cost-effective manner.

A review of construction contracting practices was conducted this fiscal year due to the high profile of construction contracting in general, as well as the need to determine the extent to which issues raised in recent Audit and Review Branch activity exist in other areas.

**1999-642 Audit of Construction Contracting Practices
Final Report**

Key Findings

With some exceptions, contracting for construction has been conducted in compliance with applicable government contracting policies/practices, trade agreements and legislation. Moreover, it was noted that both RPCD and the RPSB Change Order Office established at Headquarters have strengthened the process, providing assurance that contracting practices are appropriate while attempting to balance RPSB Project Managers' needs. The main exceptions are noted below, by category.

Bid Solicitation Process

- In all but one case, mandatory requirements were not summarized within the bid solicitation document. Use of such summaries is a best practice within SOSB aimed at ensuring a clear understanding of the mandatory criteria among potential bidders.
- Questions arising during the bid period were usually directed to the RPS Project Manager and answers were not distributed to all bidders. This practice could result in a potential bidder gaining a competitive advantage by receiving information, in response to a question, that may be relevant to other firms, thereby affecting fairness.

Bid Evaluation Process

- RPCD evaluation of bids against mandatory criteria were not documented on the contract files. Such documentation is seen as essential to demonstrating consistency and integrity in the process.

Conclusion

With some exceptions, the audit findings provide assurance to management that construction contracting within the NCR is being conducted by RPCD, with support from RPSB, with integrity and in compliance with applicable policies, legislation, and trade agreements. The principles of transparency, equity, prudence, and probity could be further strengthened by addressing the exceptions noted above.

The audit also identified a number of issues of an administrative nature which have been communicated to the responsible Director General by way of a management letter.

Recommendations

It is recommended that the Assistant Deputy Minister, Supply Operations Service Branch:

1. *review and make appropriate revisions to the current process used for handling questions and answers during the bid period so that the principle of fairness is strengthened;*
2. *strengthen the bid evaluation process by summarizing mandatory criteria within each bid solicitation document and ensuring the results of bid evaluations are documented on file.*

1 Introduction

1.1 Authority for the Project

This audit was included in the 1999/00 Audit and Review Plan approved by the Audit and Review Committee (ARC).

1.2 Objectives

To determine the extent to which construction contracting practices within the National Capital Region (NCR) comply with Government Contracts Regulations, central agency policies/guidelines, departmental policies/guidelines, trade agreements, applicable legislation, and approved sectoral/regional practices, thereby reflecting prudence and probity.

1.3 Scope

The scope of the audit included contracting practices employed by the Real Property Contracting Directorate (RPCD) of Supply Operations Services Branch (SOSB), from the time contracting personnel were made aware of a construction contract through a requisition or other means until the time the construction project was completed and the contract file closed.

In terms of transactions, this project applied a compliance methodology to contract files for construction contracts awarded since April 1997. Both competitive and non-competitive construction contracts were included in the scope. Architectural and Engineering Consultant Agreements and maintenance contracts were not examined.

1.4 Background

The objective of government contracting is to acquire goods and services, and to carry out construction¹, in a manner that enhances access, competition and fairness, and results in best value or, if appropriate, the optimal balance of overall benefits to the government and the Canadian people. Government policies, guidelines and processes have been designed with a view to achieving this objective in a cost-effective manner.

A review of construction contracting practices was conducted this fiscal year due to the high profile of construction contracting in general, as well as the need to determine the extent to which issues raised in recent ARB activity exist in other areas.

¹ The Glossary of the Supply Manual defines construction contracts as: "A contract entered into for the construction, repair, renovation or restoration of any work except a vessel and includes: a contract for the supply and erection of a prefabricated structure; a contract for dredging; a contract for demolition; or a contract for the hire of equipment to be used in or incidentally to the execution of any contract referred to in this definition."

**1999-642 Audit of Construction Contracting Practices
Final Report**

2 Issues Examined

The audit examined contracting practices relating to the entire procurement process. As such, the audit issues pertain to the extent to which the various phases of the contracting process, from requisition to contract administration, were conducted appropriately and in compliance with government policy, trade agreements, and applicable legislation:

While all "cradle to grave" activities were reviewed, the Preliminary Survey Phase of the audit identified certain areas warranting audit emphasis. The Detailed Examination Phase therefore focused on the following aspects of the contracting process: sourcing, bid solicitation, bid evaluation, the change order (amendment) process, and use of contracting authorities.

Twenty-four (24) construction contracts awarded since April 1, 1997 were randomly selected for review during the Detailed Examination Phase, ranging in dollar value according to the following value class intervals:

| | \$25K-\$60K | >\$60K-\$100K | >\$100K-\$1M | >\$1M-\$10M | >\$10M | TOTAL |
|---------------------------|-------------|---------------|--------------|-------------|--------|-------|
| Contracts Reviewed | 4 | 4 | 8 | 6 | 2 | 24 |

Of the 24 contracts reviewed, 14 were awarded subsequent to implementation of a new Change Order approval process on February 1, 1999.

Each contract was reviewed in detail through examination of the associated RPCD and RPSB files as well as follow-up interviews with Contracting Officers and Project Managers.

The audit findings are presented in the following section according to the above-mentioned issues.

3 Findings, Conclusions and Recommendations

3.1 Bid Solicitation

3.1.1 In all but one case, mandatory requirements were not summarized within the bid solicitation document. Use of such summaries is a best practice within other areas of SOSB and helps ensure that all potential suppliers have a clear understanding of what is required.

3.1.2 Questions and answers arising during the bid period were usually not distributed to all bidders. Instead, the standard practice for construction contracting has been to issue addendums when questions result in changes to solicitation documents. Questions received during the bid period that did not result in changes to the solicitation documents were not distributed to the other potential bidders.

3.2 Bid Evaluation

3.2.1 In all 17 cases involving the competitive process, RPCD's administrative review of bids to ensure compliance with mandatory criteria/requirements was not supported by a summary checklist indicating the results of the review for each bid. Summarizing such reviews provides assurance that they were conducted consistently and completely.

3.2.2 While interviews and RPSB file reviews confirmed that RPSB conducted a technical review of the lowest bid, RPCD files usually did not contain documentation indicating RPSB's "go ahead" to award each contract based on such review. A memo or note to file indicating the results of the technical review is considered by the audit team to be a key step in ensuring due process prior to contract award.

**1999-642 Audit of Construction Contracting Practices
Final Report**

3.3 Other

3.3.1 In its review of relevant policies and procedures, the audit team noted that the Supply Manual does not contain construction contracting policy nor specific exceptions to SOSB policy. While Best Practices are being used within RPCD to ensure contracting staff have appropriate guidance, incorporating the main construction contracting policies and exceptions in the Supply Manual would ensure awareness among contracting staff in the NCR and the Regions as well as suppliers.²

² The Supply Manual is accessible to suppliers and the general public.

Conclusions

With some exceptions, the audit findings provide assurance to management that construction contracting within the NCR is being conducted by RPCD, with support from RPSB, with integrity and in compliance with applicable policies, legislation, and trade agreements.

Some of the findings suggest, however, that the principles of transparency, equity, prudence, and probity could be further strengthened. The current practices in place with respect to handling bidder questions and answers is the most significant, in that there is increased risk of a potential bidder gaining a competitive advantage by receiving information, in response to a question, that may be relevant to other firms. Other findings point to the need for more complete contract file documentation, particularly with respect to the evaluation of bids against mandatory and technical criteria. With respect to the evaluation of mandatory criteria, it is felt that a checklist which summarizes the results of RPCD's review would help ensure consistency in the process.

While not a policy requirement, summarizing mandatory requirements within Bid Solicitation documents is seen by the audit team as a useful practice in that it helps ensure that suppliers have a clear understanding of what is required.

It was also noted that the Supply Manual does not reference the various policies and exceptions unique to construction contracting. In due course, it is suggested that SOSB revise the Supply Manual accordingly, so that a clear understanding among existing and future procurement staff, contractors, and the general public is maintained. However, it is also recognized that this activity may not be a priority at this time due to resource constraints.

As a final point, the audit identified a number of issues of an administrative nature which have been communicated to the responsible Director General by way of a management letter.

**1999-642 Audit of Construction Contracting Practices
Final Report**

Recommendations

It is recommended that the Assistant Deputy Minister, Supply Operations Service Branch:

1. *review and make appropriate revisions to the current process used for handling questions and answers during the bid period so that the principle of fairness is strengthened;*
2. *strengthen the bid evaluation process by summarizing mandatory criteria within each bid solicitation document and ensuring the results of bid evaluations are documented on file.*

