
Report on 2006 Cross Government Procurement Review

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Full Report

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Executive Summary

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Internal Audit & Advisory Services

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Abbreviations

3CMB	Corporate Compliance and Controls Monitoring Branch
CPPM	Core Policy and Procedures Manual
IAAS	Internal Audit & Advisory Services
NOI	Notice of Intent
PCMP	Procurement and Contract Management Training Program
PGO	Procurement Governance Office
SFO	Senior Financial Officer

Executive Summary

Background

The Procurement Governance Office, (PGO), in carrying out its responsibility for a framework to monitor and report compliance with corporate procurement policy, requested that Internal Audit & Advisory Services (IAAS) develop and implement a process to regularly assess cross-government compliance with corporate procurement policy.

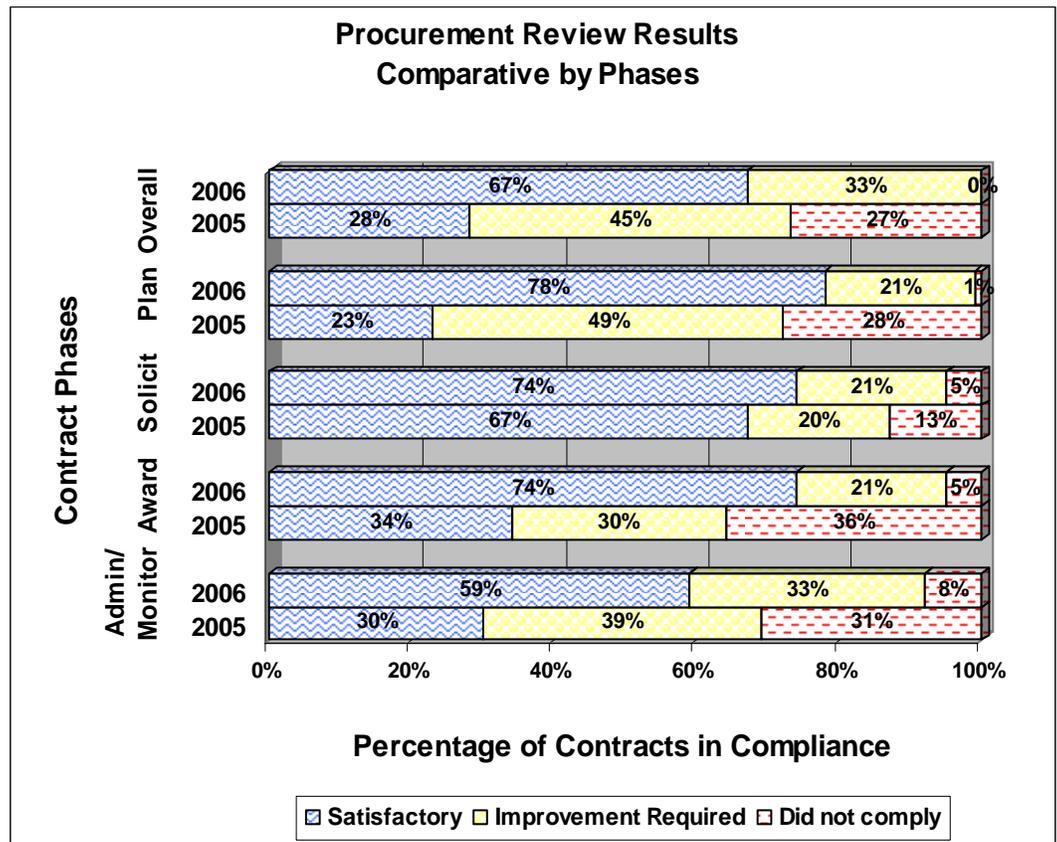
This was the third cross-government review of contracts performed by IAAS. In this project, we reviewed a risk-based, judgemental (non-statistical) sample of 85 contracts in place during the ten-month period from January to October 2005, from 18 government ministries/entities (four ministries were excluded due to recent work completed or planned). We assessed the level of compliance within the four phases of procurement - planning, solicitation, award, and administration and monitoring.

It is important that ministries adhere to government procurement policy. The objectives of the policy are: to enable required support for ministry program delivery to the public; to provide fair and open access to vendors for government procurement opportunities; and, to provide good value for taxpayers. Non-compliance puts at risk government's ability to achieve these objectives. In addition, non-compliance places government at risk from the subsequent potential consequences of litigation by unsuccessful proponents, and retaliatory action from other jurisdictions under provisions of trade agreements, including the Agreement on Internal Trade.

Overall Assessment

Each of the past two reviews has shown progressive improvements in compliance with contracting policies over the previous years, and the 2006 review showed significant improvements across government in compliance with contracting policies. This year's improvements were most evident in the number of contracts that received a satisfactory compliance assessment. All of the contracts reviewed achieved at least 50% compliance with the evaluation criteria and therefore, no contracts were in the "did not comply" category, as evidenced by Chart 1 below.

Chart 1¹



Good practices were adopted by ministries within the last year that have or will increase compliance with the Core Policy and Procedures Manual (CPPM) procurement policies. Two examples of significant good practices include: the launch by the Ministry of Children and Family Development of a procurement website that includes a toolkit with information, templates and links to procurement related legislation and procurement policies and procedures; and the Ministry of Employment and Income Assistance developed a ministry-wide Request for Qualifications and subsequent bidder list for frequently required services.

Of the contracts reviewed, 33% (28 contracts) were assessed as “compliance improvements required”, compared to 45% in the prior review. Some of the common areas for improvement across these contracts are lack of cost/benefit analysis and post-contract evaluations, and misunderstanding about solicitation requirements and contract amendments.

¹ For a description of the performance ratings, see page 9.

Planning

This review saw an increase in compliance for the planning criteria. 78% of contracts satisfactorily complied with the planning criteria, as compared to 23% in the prior year.

The increase in compliance with the planning policies was particularly evident in ministry documentation – all of the contracts reviewed, supported the respective ministry service plans. In addition, there was a significant improvement over the last review in the extent to which planned contract value closely matched actual contract value.

As in the last review, the best contract performance was in the area of management of contractor relationships. Ministries generally understand what constitutes an employer/employee, rather than a contractor, relationship.

Although ministries have significantly increased their compliance with the cost/benefit analysis policy, this remains an area for improvement as less than half of the contracts that require an analysis contained the needed components.

Solicitation

The 2006 review resulted in a small increase in the number of contracts achieving a “satisfactory” rating in this category compared to the 2005 review.

Ministries continue to actively avoid conflicts of interest achieving a 98% compliance rate with the criteria in this group. In addition, all ministries had controls in place to aid in the identification of a conflict of interest.

There was a small improvement (8 percentage points) this year in the use of pre-qualified bidders lists. This included using a Request for Qualifications process to advertise the opportunity for inclusion on the bidders list, and specifying how vendors would be selected from the established lists. However, 18% of the time we were unable to conclude if the selected vendor was on the pre-qualified list as the bidders’ lists in these cases were not retained on the file.

Areas for improvement include the use of notices of intent to direct award – they were posted on BC Bid in only half of the cases where required by policy. There was also a decrease in compliance with the requirement to annually update the pre-qualified list for projects potentially over \$100,000.

Award

Significant improvements have been noted in the area of direct award of contracts. Most (92%) of the directly awarded contract files contain the justification for utilizing a direct award. Three-quarters of the directed contracts were awarded using the allowed exceptions within CPPM. This is a significant increase (28 percentage points) compared with last year's review.

Areas for improvement include retaining appropriate documentation of the selection and award process on file. 15% of the contract files did not contain sufficient documentation to justify the award. When proper documentation for contractor selection was in the file, almost all of the contracts (97%) met the contractor selection criteria.

Another area for improvement is contract amendments. 30% of amended contracts included extension provisions in the planning documents, but this was not carried forward into the solicitation documents.

Administration and Monitoring

The 2006 review found a significant increase in compliance compared to the 2005 review. However, the 59% compliance level is the lowest compliance level of the four contract management phases we reviewed.

Examples of good practices include more clearly defined deliverables; evidence that deliverables are fulfilled; an appropriate person acting as qualified receiver; and linking contract payments to the completion of deliverables.

Areas for improvement include advance payments, contract monitoring, and post-contract evaluation.

Concluding Remarks

The significant improvements in compliance noted within our 2006 sample are attributable to a number of factors, particularly the PGO and the Procurement Council work to improve procurement practices; the Corporate Compliance and Controls Monitoring Branch monthly review of contract payments; the delivery of the Procurement and Contract Management training Program (PCMP) launched in 2005; and the incorporation of lessons learned from the two prior reviews conducted by IAAS.

Our recommendations in the main body of the report can be summarized into the following three broad categories:

1. ensuring greater compliance with government procurement policy (recommendations #2, 3, 4 and 6);

2. PGO and Procurement and Supply Services providing guidance to ministries to address areas which have historically demonstrated lower rates of compliance (recommendations #5 and 7);
3. PGO raising awareness at the ministry level of PCMP training and other procurement resources that are available (recommendations #1 and 8).

The results of this review have been discussed with the PGO and the Comptroller General who are in agreement with our observations and recommendations.

We also want to acknowledge the PGO for taking the steps to launch and deliver the award winning PCMP, along with the other two PCMP sponsoring agencies – Procurement and Supply Services in the Ministry of Labour and Citizens' Services, and Learning Services in the Public Service Agency. We understand that PCMP is already having a significant positive impact on government procurement, and should continue to do so in the longer term.

We would like to thank the ministry contract co-ordinators, contract managers and procurement staff for their cooperation and assistance provided to us during this review. We would also like to thank the Comptroller General and the Senior Financial Officers for their inputs.

David J. Fairbotham
Executive Director
Internal Audit & Advisory Services

February 21, 2007

Introduction

The Procurement Governance Office (PGO) is responsible for government procurement policy. One of its specific responsibilities is the development and implementation of a framework to monitor and report compliance with corporate procurement policy. This is accomplished primarily through reviews by Internal Audit & Advisory Services (IAAS) and Corporate Compliance and Controls Monitoring Branch (3CMB). In 2003, PGO requested that IAAS develop and assist in implementing a process to regularly assess cross government compliance with corporate procurement policy.

This was the third cross-government review of contracts performed by IAAS. It included general service, consulting and IT contracts in place during the ten-month period from January to October 2005. In addition, we reviewed other contracts awarded to the vendors in our sample between January and December 2004.

In 2005/06, the ministries awarded close to 24,000 contracts with total payments of \$4.0 billion.

Purpose

The purpose of the 2006 review was:

- to reinforce procurement policy expectations across government;
- to provide ministries and PGO with an indication of significant procurement compliance issues prevalent across government, to create opportunities for compliance improvement;
- to provide ministries and PGO with feedback on potential corporate policy revision and refinement opportunities; and
- to compare compliance results with those achieved in the previous reviews.

Approach

We requested contract documentation from individual ministries in November 2005 and completed the initial contract reviews in March 2006.

As with the prior reviews, we selected a risk-based, judgemental (non-statistical) sample of 85 contracts to ensure that the sample included:

- known risk areas (e.g., direct awards, dollar values close to authorization limits);
- a cross-section of ministries;
- general service, consulting and IT contracts;
- a variety of procurement methods (open competition, vendors selected from pre-qualified lists, direct invitation to quote and direct awards); and
- a range of dollar values, including high-value contracts.

The 2006 review included changes in the following areas from the 2005 review:

- the ministries in the **contract population**;
- the **validation process** undertaken with ministry staff to confirm our preliminary audit observations; and
- the **unit of measure** for reporting.

Contract
Population

All ministries were included in the review except for the following four. The ministries of Attorney General, Public Safety and Solicitor General, and Community Services, were excluded as IAAS had recently conducted a separate contract review for these ministries. A contract review is currently underway at the Ministry of Tourism, Sports and the Arts, leading to their exclusion from the cross government review.

2006 Validation
Process

For the 2006 review, we increased our contact with the ministries. After our initial review of the documentation provided, where required, we requested additional information and documentation from the contract managers. We also gave summary sheets for each contract, listing our assessment of what was done well, areas for improvement, criteria that were not met and any significant documents that were not made available to us. This information was provided to the ministry contract co-ordinators, requesting feedback. After revising for feedback received, we provided ministry-specific observations to each ministry Senior Financial Officer (SFO).

Unit of Measure

The results of the first two reviews were reported based on overall percentage of compliance achieved for the entire sample reviewed as a whole. This approach did not enable the identification of the compliance level of individual contracts. Thus, we were able to comment on the overall results for a ministry or the government, but we did not comment on the level of compliance for individual contracts.

This year, we have reported the number of contracts (as a percentage of the total) that have achieved one of the following three broad compliance ratings for each of the areas reviewed (i.e., planning, solicitation, award, administration and monitoring):

- **satisfactory** – individual contracts that achieved at least 80% compliance with the criteria reviewed;
- **improvements required** – individual contracts that complied with at least 50% but less than 80% of the review criteria;
- **did not comply** – individual contracts that scored less than 50% compliance.

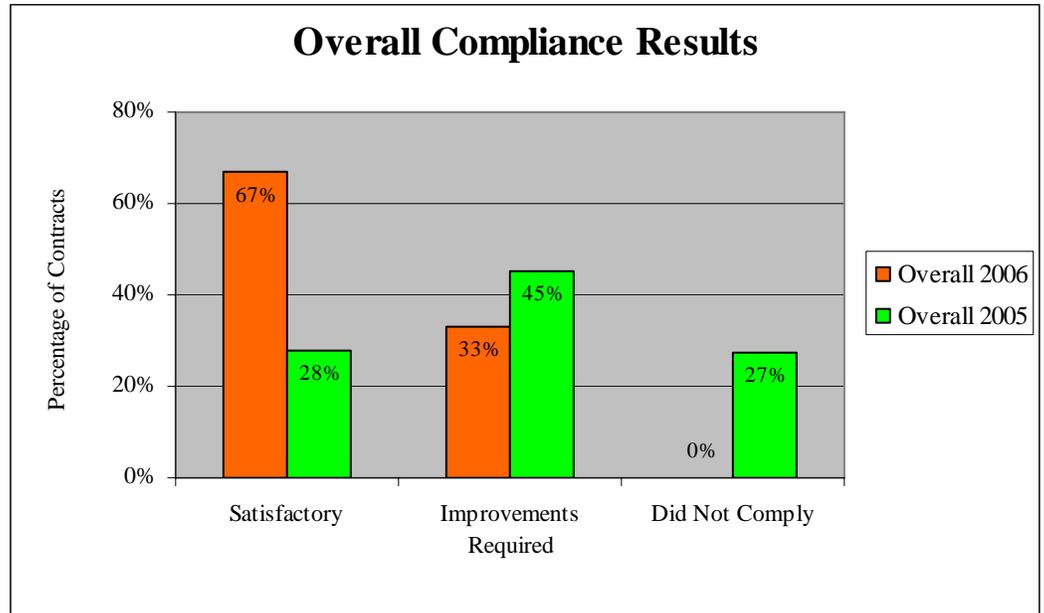
We believe that this method of reporting provides better feedback on how well contracting is being performed.

In the charts in the main body of this report, we have restated our 2005 results to make the results of the two reviews comparable. Furthermore, to allow comparison to the previous report, we have in Appendix A, shown the results from both this and the prior review using the prior review's method of reporting.

Detailed Observations and Recommendations

The 2006 review showed significant improvements in compliance with contracting policies. These improvements were most evident in the number of contracts that received a satisfactory compliance assessment, as seen in the chart below.

Chart 2²



All of the contracts reviewed achieved at least 50% compliance with the evaluation criteria and therefore, no contracts were in the “did not comply” category.

The significant improvements in compliance noted within our 2006 sample are likely the result of the following initiatives:

- PGO’s work with ministries: to improve procurement practices including sharing of best practices and other information at the Procurement Council, ongoing guidance to ministries regarding procurement policies, and, development, improvement and clarification of procurement policies;

² This year, all contracts complied with at least 50% of the criteria, so the percentage of contracts shown as Did Not Comply is 0%. In the following Report Sections, (Planning, Solicitation, etc.) “Did Not Comply” percentages are shown as some contracts did not meet 50% of the criteria in those specific areas.

- 3CMB monthly review of contract payments, providing ministries with information on potential areas for improvement;
- incorporating lessons learned from the two prior reviews conducted by IAAS into procurement practice;
- the February 2005 launch, and subsequent delivery, of the Procurement and Contract Management training Program (PCMP), consisting of 20 courses which provide comprehensive training in all aspects of procurement for government employees;
- the April 2005 development of a Purchasing Handbook of procurement procedures by the Ministry of Labour and Citizens' Services; and
- the August 2005 reinforcement of Standards of Conduct for Public Service Employees Engaged in Government Procurement Processes.

Examples of
Good Practices

Significant developments in good practices adopted by ministries within the last year that have increased or will increase compliance with the Core Policy and Procedures Manual (CPPM) procurement policies include:

- Launch by the Ministry of Children and Family Development of a procurement website that includes a toolkit with information, templates and links to procurement related legislation and procurement policies and procedures.
- Development by the Ministry of Employment and Income Assistance of a ministry-wide Request for Qualifications and subsequent bidder list for frequently required services. This list has been shared with other ministries.

We endorse PGO's encouragement of ministry management and staff to engage in PCMP course completion and certification as appropriate, and to consider including PCMP courses/certification as requirements for positions with significant procurement responsibilities.

Government-
wide Areas for
Improvement

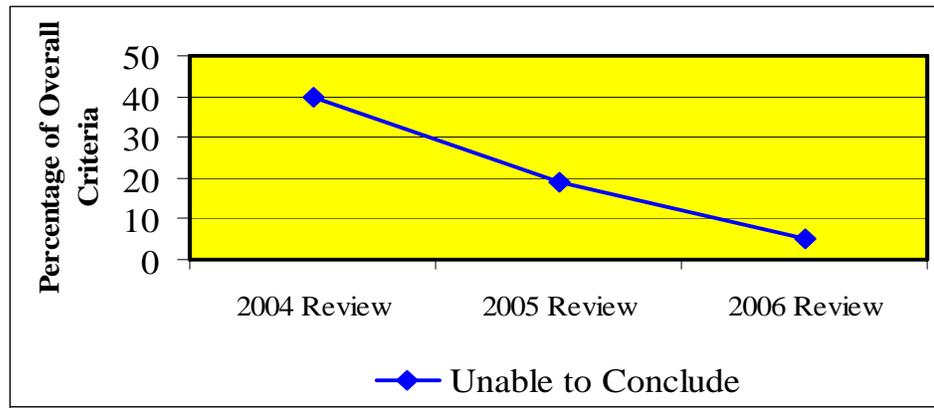
Of the contracts reviewed, 33% (28 contracts) were assessed as "compliance improvements required". Some of the common areas for improvement across these contracts are (discussed in greater detail later in the report):

- Lack of, or uncertainty of what to include in, cost/benefit analysis and post-contract evaluations;
- Misunderstanding about solicitation requirements and contract amendments.

Documentation

Due to better initial documentation provided by the ministries, this review, when compared to our previous reviews, has seen a dramatic decrease in the number of criteria on which we were unable to conclude.

Chart 3 – Percentage Unable to Conclude

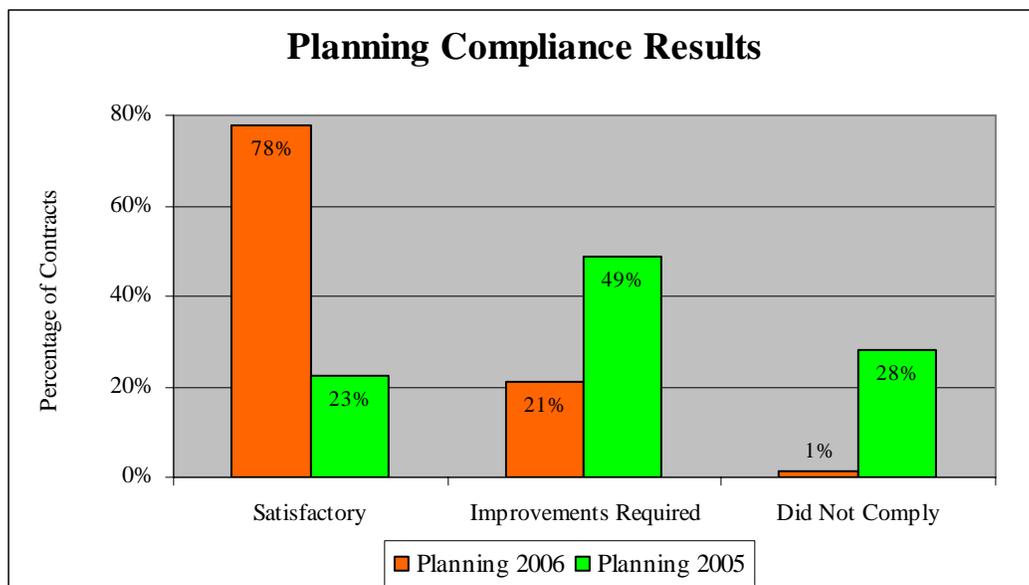


The increase in documentation availability is likely attributed to 3CMB’s contract reviews. As part of their periodic review of contracts, 3CMB provides the ministries with a list of documents expected in contract files.

1.0 Planning

The 2006 review saw an increase in compliance for the planning criteria. 78% of contracts satisfactorily complied with the planning criteria, as compared to 23% in the prior year.

Chart 4



1.1 Good Practices

Procurement Planning

The increase in compliance with the planning policies was particularly evident in the ministry planning documentation – all of the contracts reviewed supported the ministry service plans. In addition, there was a significant improvement over the last review in the extent to which planned contract value closely matched actual contract value.

Contractor Relationships

The management of contractor relationships was the best performed criteria group again this year. Ministries generally understand what constitutes an employer/employee, rather than a contractor, relationship. Seventeen of the eighteen ministries/entities reviewed achieved over 92% compliance in this area.

1.2 Areas for Improvement

Cost/Benefit Analysis

Although ministries have significantly increased their compliance with the cost/benefit analysis policy, less than half of the contracts that required an analysis contained the needed components.

The continued challenge with completing a cost/benefit analysis may be a result of misunderstanding the depth of analysis required or the lack of guidance on the completion of a cost/benefit analysis.

A cost/benefit analysis should reveal whether the expected benefits of the contract outweigh the estimated costs, both financial and non-financial; and whether the service could be provided more economically in-house.

We are informed that the PCMP courses include significant information on how to develop a business case, including a cost/benefit analysis. The PCMP resource library includes a suggested format for all aspects of a business case and other aids such as check lists.

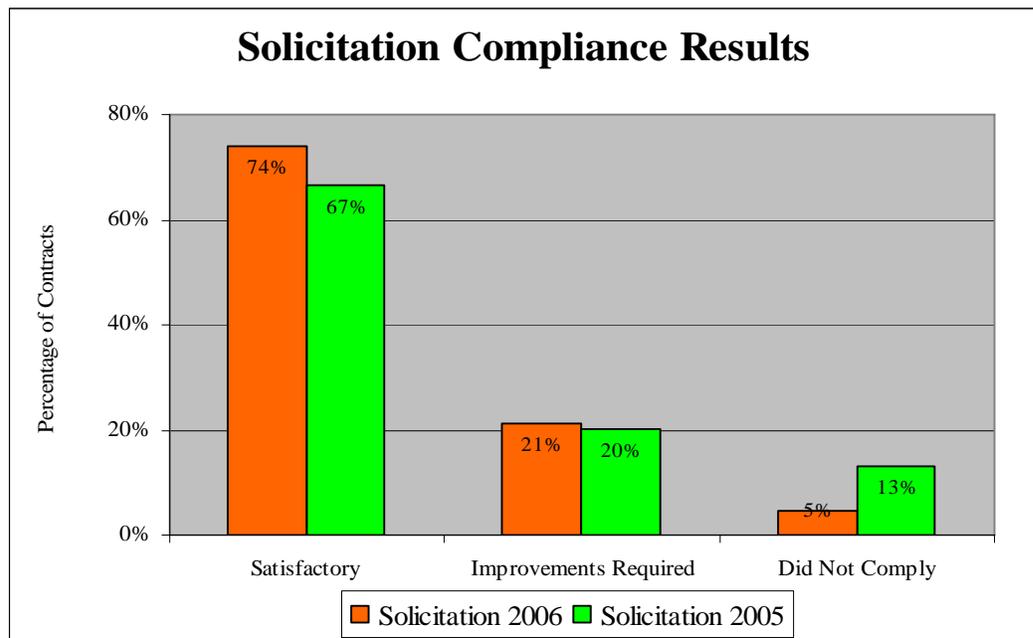
Recommendation

(1) It is recommended that PGO communicate and raise awareness about the availability of the PCMP procurement resources, particularly as they relate to cost/benefit analysis.

2.0 Solicitation

The 2006 review resulted in a seven percentage point increase in the number of contracts achieving a “satisfactory” rating in this category, as compared to the 2005 review. However, use of notices of intent to direct award, and disclosing multi-year contracts, two of the five review areas, saw a decrease in the number of contracts complying.

Chart 5



2.1 Good Practices

Ministries continue to actively avoid conflicts of interest achieving a 98% compliance rate with the criteria in this group. In addition, all ministries had controls in place to aid in the identification of a conflict of interest.

2.2 Areas for Improvement

Notice of Intent (NOI)

Ministries are required to post a NOI when directly awarding contracts above \$25,000 for goods and \$50,000 for services and construction, to confirm that there is only one vendor able to provide the good, service, or construction. Exceptions to the requirement to post a NOI are included in policy.

Our review indicated that a NOI was posted on BC Bid for only half of the contracts where required by policy.

Posting a NOI confirms that the contracted vendor is the only contractor currently capable of providing the service or goods. This will help protect ministries from allegations of favouring one contractor, as well as demonstrating that the ministry is receiving the best price available.

Subsequent to our review, policy has been updated to clarify the purpose of a NOI and the conditions under which a direct award may be made.

Recommendation

(2) It is recommended that Contract Managers be more diligent in reviewing the allowable exceptions to ensure that NOIs are posted on BC Bid (ensuring greater compliance with policy).

Pre-Qualified Bidders Process

There was a small improvement (8 percentage points) this year in the use of pre-qualified bidders lists. This included using a Request for Qualifications process to advertise the opportunity for inclusion on the bidders list, and specifying how vendors would be selected from the established lists. However, 18% of the time we were unable to conclude if the selected vendor was on the pre-qualified list as the bidders' lists in these cases were not retained on the file.

In addition, there was a decrease in compliance (14 percentage points) with the requirement to annually update the pre-qualified list for projects potentially over \$100,000. One contract, originally awarded for \$200,000 based upon a Request for Qualifications, was re-awarded twice using a Notice of Intent rather than a fully competitive process. To be fully compliant with policy, the Request for Qualifications should have been updated each year, and if done, may have attracted other potential contractors.

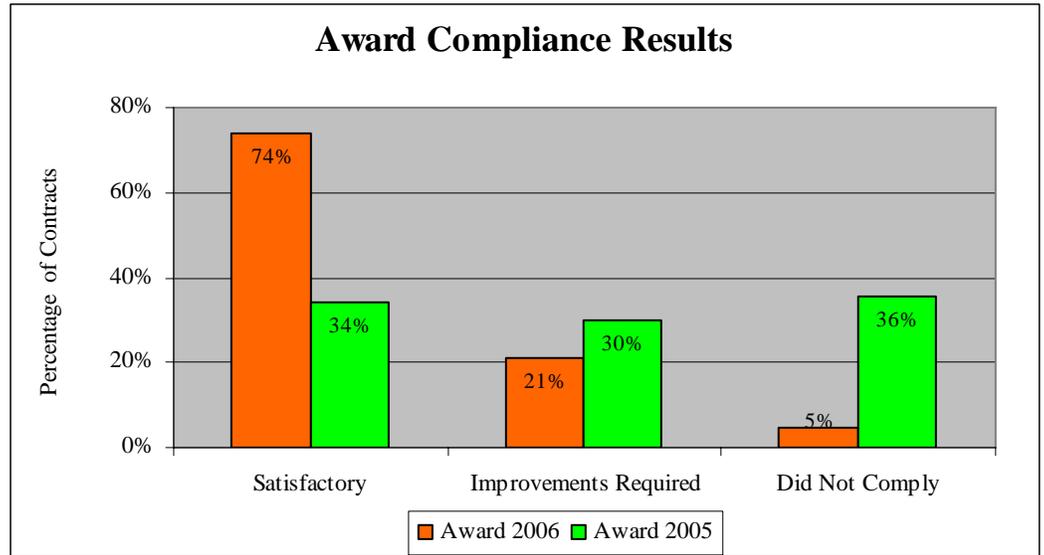
Recommendation

(3) It is recommended that ministries keep a copy of the pre-qualified list in the contract award file, and that pre-qualified lists for projects potentially over \$100,000 are updated annually (ensuring greater compliance with policy).

3.0 Award

The number of contract awards that were assessed as “satisfactory” in this category, has more than doubled over the past review.

Chart 6



3.1 Good Practices

Significant improvements have been noted in the Government's appropriate use of direct awards and standard contract forms. In addition, the review has shown an increase in compliance (to 93%) in ensuring that a formal contract is in place prior to the contractor undertaking contract work.

Many of these increases are likely a result of ministries requiring additional documentation evidencing contract approval. Although varying in format, the process generally requires the contract manager to document the rationale for awarding a contract, including the method and reasons for the solicitation process.

3.2 Direct Awards

Most (92%) of the directly awarded contract files contain the justification for utilizing a direct award. Three-quarters of the directed contracts were awarded using the allowed exceptions within CPPM and are therefore justifiable. This is a significant increase (28 percentage points) compared with last year's review where less than half of the directed contracts were justifiably awarded within the allowable exceptions.

As part of this review, we asked contract managers to complete a survey on the reasons ministries direct award. The most common reasons indicated are:

- operational considerations as contemplated by the CPPM allowable exceptions – 25%, (consistent with policy);
- contract was less than \$25,000 – 20%, (consistent with policy);
- contractor has been used before with good results – 18%, (not consistent with policy);
- not enough time to go to tender as the service/good was needed right away, but can't be justified as an emergency – 18%, (not consistent with policy).

In addition, we asked for suggestions on methods to increase compliance with the direct award policy. Generally the comments focused on simplifying the solicitation process for smaller dollar contracts through the use of request for qualification and bidders lists or requests for clearer guidelines on the informal processes (e.g., telephone quotations and the level of documentation required) that are already allowed within policy. PGO could take these suggestions into consideration during their next policy review.

3.3 Areas for Improvement

Contractor Selection

Of the contracts that were competed, 15% of the contract files did not contain sufficient documentation to justify the award (compared with 37% from the prior review). Documentation of the selection process is good business practice and could also be valuable for dispute resolution (including possible litigation).

The process for evaluating proposals for a \$600,000 contract raised the perception that the proposals were not appropriately evaluated. The ministry has subsequently reviewed its project and contract management processes, implemented stronger oversight and improved the segregation of duties over these processes.

When proper documentation for contractor selection was in the file, almost all of the contracts (97%), met the contractor selection criteria.

Recommendation

(4) It is recommended that ministries maintain documentation of the process used to select contractors, including evidence that evaluation criteria were established prior to soliciting for the services and that they were applied consistently to all submissions (ensuring greater compliance with policy).

Inappropriate
Contract
Amendments

CPPM requires that the planning process consider the potential of a contract amendment for extensions, and if the possibility exists, including this potential in both the solicitation process and the contract.

Our observations for contract amendments (which contained extensions of time and/or dollar value increases) reviewed included the following:

- 30% of amended contracts included extension provisions in both the planning and solicitation documents (consistent with policy);
- An additional 30% of amended contracts included extension provisions in the planning, but not the solicitation, documents (not consistent with policy).

Recommendation

(5) It is recommended that PGO and Procurement and Supply Services provide ministries guidance on the use of amendments versus the use of new contracts. In addition, ministries consider, in the planning process, the likelihood of extending the contract and if the potential exists, include this in the solicitation and contract documentation.

Inappropriate
Contract
Subdivision

Subdivision of a major project into two or more sub-components and contracts is acceptable if it is disclosed in the planning and solicitation documents, and if it receives the appropriate level of approval. Projects are not to be subdivided to avoid requirements of policy. If these conditions are not met, contract subdivision may result in:

- potential exclusion of vendors that would have bid if the whole project scope was disclosed within the solicitation process;
- an expense authority going over their designated limit; or
- avoidance of the requirement to compete contracts in excess of \$100,000 nationally.

The results of our review show that less than 50% of the contracts that were subdivided disclosed the subdivision in the solicitation documents.

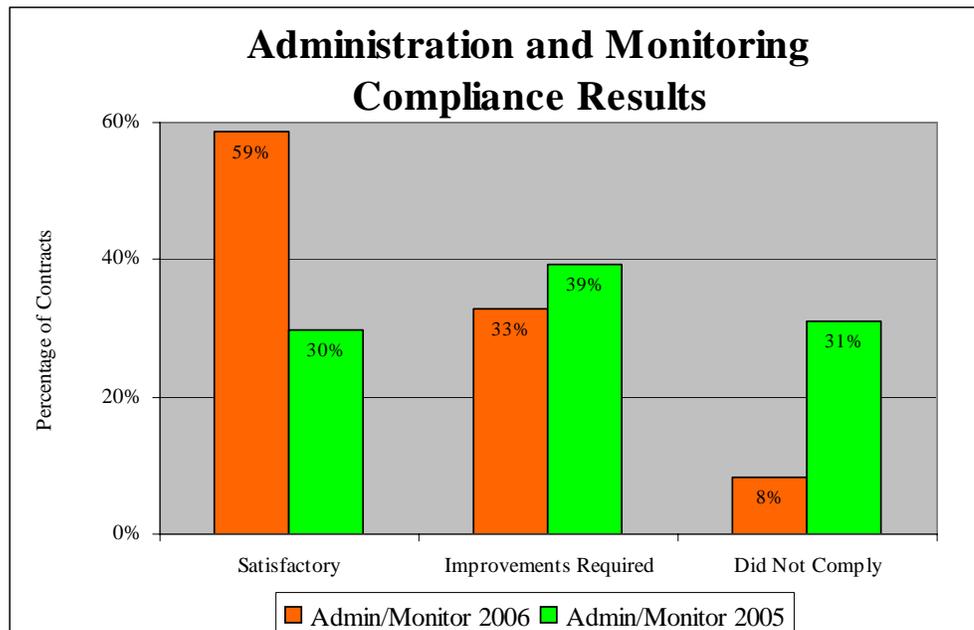
Recommendation

- ⁽⁶⁾ It is recommended that ministries appropriately disclose subdivided projects in the solicitation documents, and seek approval based on the combined value of the contracts (ensuring greater compliance with policy).**
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4.0 Administration and Monitoring

The 2006 review found a significant increase in compliance in this category, compared to the 2005 review. However, the 59% compliance level is the lowest compliance level of the four contract management phases we reviewed. Eight percent of the contracts reviewed met less than 50% of the administration and monitoring criteria reviewed and are therefore reflected in the “Did Not Comply” category in the graph below.

Chart 7



4.1 Good Practices

The criteria for clear, explicit and quantifiable contract deliverables and performance measures showed increases in compliance, largely resulting from improved documentation on contract monitoring practices. Some examples of best practices with contract deliverables and performance measures include:

- more clearly defined deliverables;
- evidence that deliverables are fulfilled;
- an appropriate person acting as qualified receiver; and

- linking contract payments to the completion of deliverables.

4.2 Areas for Improvement

Advance Payments

Two of the contracts reviewed included advance payments, but did not contain appropriate clauses to protect the Province.

Advance payment clauses should identify a process to repay the advance and/or pursue recovery if goods/service are not received or other conditions not met. Contracts should also clearly indicate the applicable interest rate for unearned payments.

Recommendation

(7) It is recommended that PGO, in consultation with other stakeholders, develop standard clauses for contracts containing advance payments, to mitigate risks.

Contract Deliverables/ Contract Monitoring

As indicated in Chart 7, ministries have improved the monitoring of contracts by nearly 30 percentage points when compared with last year's review. In particular, there was better documentation of monitoring within the contract files.

However, there is room for improvement. Contract Managers rely on the contractor's reports as evidence of their monitoring, but often do not document the ministry's own assessment of progress or feedback to the contractor. Documentation of the ministry feedback is important to maintain a history of the contractor's performance for post-contract evaluation or when the management of a contract is transferred to another individual. In addition, evidence of good contract monitoring practice would also assist in demonstrating ongoing direction to the contractor in the event of a dispute regarding quality or deliverables.

CPPM requires that "ministries must ensure timely and consistent monitoring of the contractor's performance as the assignment progresses in accordance with the terms and conditions of the contract". This could be accomplished by including the monitoring process within the contract terms. Over one quarter of the contracts reviewed did not define the process for providing feedback to the contractor.

As the PCMP curriculum includes a course on administering and evaluating contract performance which addresses contract monitoring and performance measurement, we are optimistic about improved future performance in this area.

Post Contract
Evaluation

CPPM requires a post contract evaluation for all contracts in excess of \$50,000. In the 2005 review, only one-third of the required post-contract evaluations were completed. In the 2006 review, a little over half of the contracts over \$50,000 had a post-contract evaluation within the file.

A post-contract evaluation provides valuable contractor performance information to other areas of the ministry. It can also indicate if the contractor provided good value for the service provided.

Recommendation

- (8) It is recommended that PGO communicate and raise awareness about the availability of the PCMP procurement resources for contract monitoring, performance measurement and post contract evaluation.**
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Appendix A – 2006 Review Results Restated Using 2005 Unit of Measure

	2005 RESULTS			2006 RESULTS			Percentage Increase (Decrease)		
	Criteria Met	Criteria Not Met	Criteria Unable to Conclude	Criteria Met	Criteria Not Met	Criteria Unable to Conclude	Criteria Met	Criteria Not Met	Criteria Unable to Conclude
Overall Performance	63	17	20	84	11	5	33	(35)	(75)
Planning	60	17	23	88	7	5	46	(59)	(77)
Solicitation	76	12	12	84	11	5	11	(8)	(58)
Awards	60	18	22	87	6	7	45	(67)	(68)
Admin. & Monitor	62	21	17	80	16	4	29	(24)	(76)