

# The big fix

by Patti Magee

## Comments on the contemplated changes in federal procurement

**M**OST STAKEHOLDERS agree that the federal procurement system needs fixing; it is cumbersome, inflexible and lacking strategic focus.

Parliamentary Secretary Walt Lastewka and his taskforce are to be commended for taking on the daunting task of reform. Their mandate (announced December 2003) is to recommend how procurement could be carried out across the federal government in a simpler, less costly manner, have a strong ethical foundation, ensure value from a “whole of government” perspective, effectively support socio-economic priorities, and be transparent, accountable and fiscally responsible.

Lastewka’s *Concept Paper*, released in September 2004 – the culmination of 10 months of across-the-country consultations and an extensive review of myriad statutes, regulations, policies, audit reports, and academic literature – reflects the taskforce’s vision for improving procurement. The paper’s recommendations are premised on Public Works and Government Services Canada (PWGSC) becoming a mandatory common service for goods, services and construction contracting, buttressed by a well-defined governance structure, a revitalized commodity management regime, more proactive contract administration, improved supplier relations, and properly qualified and accredited procurement specialists – the latter recommendations being fundamental to reforming procurement.

One would expect that the recommendations would have been informed by a

rigorous analysis of the costs versus benefits (per the Treasury Board (TB) *Common Services Policy*) of establishing and sustaining a common service, and extensive consultations with program departments and central agencies like Treasury Board Secretariat (TBS). Rather, the recommendations respond to symptoms and not root causes, leaving the reader to question why reform can only be achieved through the establishment of a mandated organization.

In terms of governance, while the need to clarify responsibilities and accountabilities is timely (and a recurring theme of recent Auditor General audits), the rationale for recommending that PWGSC have responsibility for management control, policy, and service delivery is not sound. This segregation of duties raises concerns about oversight and, with all management controls located in the service delivery organization, introduces additional risk. It also does not recognize that TBS is responsible, on behalf of TB, for the general management (including policy development) of the government.

The recommendation to manage procurement “corporately” is welcome, although treating it as a program with one Minister responsible is inconsistent with current efforts to integrate accountabilities for program management and financial management. Procurement is not a program but a management function, like human resources and finance; it supports program departments, who support Canadians through various programs.



That said, establishing an advisory board to “provide input on the strategic direction of procurement,” coupled with the establishment of the Government of Canada Marketplace (GoCM) as the single portal through which procurement tools would be available across government, should contribute towards a more corporate approach. However, procurement tools should be preferred choices and not mandatory. The GoCM, if appropriately situated, should act as an enabler of cost reductions and efficiency gains. What is not clear though, is how the GoCM, or the proposal for PWGSC to collect data on behalf of the government, square with the government’s plan to move to an enterprise resource planning (ERP) system to provide consolidated information and facilitate an

enterprise approach to the management of procurement across government.

The paper borrows heavily from private sector practices in formulating many of its commodity management recommendations. Much can be gleaned by examining private sector management practices, but there are fundamental differences between the private and public sector. Chief among these are public interest considerations associated with providing “public goods” such as defence, security and health. While large private sector organizations may buy more in terms of dollars, they don’t have the breadth of commodities. The government, however, purchases a broad range of goods and services – from detector dogs and marijuana, to expert witnesses for taxation court cases and safety inspections of federally-regulated nuclear sites. The scope and complexity of commodities, coupled with the requirement to ensure that long-term industrial and regional development and other appropriate national objectives are supported, and to enhance access, competition and fairness, add a dimension to the government’s commodity management activities not present in the private sector.

The asset-centric focus of the recommendations and the “commodification” of government procurement, do not reflect the multi-dimensional nature of government procurement or the need to be responsive to unique program requirements, which essentially drive procurement requirements. A “one size fits all” solution, while perhaps appropriate to commercially available goods and services that cut across departments, might not always be appropriate to satisfy special program requirements or complex services contracting requirements, like total service solutions and systems integration projects.

This asset-centric focus is also evident in the proposal to use strategic investment plans to identify government-wide procurement needs. According to TBS, this plan – still at the conceptual stage – is designed to align a department’s capital assets (defined as tangible and intangible assets material in value) with departmental objectives and strategic outcomes. Although the plan might provide useful intelligence, this must be tempered by the limitations of the plan – the majority of goods requirements (which are below

\$1M) and services initiatives won’t be included. Also, in reality, departments don’t necessarily know with certainty what their procurement needs will be for a given year since programs are multi-faceted and the environment fluid. Reliable procurement forecasts will require a change in management culture across government and changes to the current planning cycle.

On a positive note, many of the commodity management recommendations recognize the importance of value for money, e.g., the proposal to provide business guarantees (which deserves further examination, including the statutory and funding implications). Also, establishing more master arrangements like standing offers makes sense for commercially available goods and services, but only where a cost/benefit analysis validates that this is the best way to secure value for money. Commodity management decisions must be supportable in terms of the total cost of supply, i.e., the total lifecycle costs of the product and the cost to government of the procurement.

Essentially, the cost of the procurement process must be appropriate in relation to the value and complexity of the procurement. Mandatory use of PWGSC standing offers may not provide departments the needed flexibility to meet program needs using other means to acquire goods and services, such as acquisition cards. Acquisition cards can be effective for satisfying immediate operational requirements and sometimes for getting better prices at the local level (a recent audit by the US General Accounting Office found that some departments were able to negotiate discounts off the General Services Administration (GSA) Schedule prices).

Successful commodity management depends on an in-depth knowledge of specific commodities and industry sectors. Contracting officers must know their markets – the trends, opportunities, threats, pricing, etc. – and also how big a player the government is and whether its actions can influence the market. They must know how products are evolving when determining the type and length of agreement to put in place. Successful commodity management also depends on more effective corporate management and delivery of standing offers by PWGSC, including rationalizing the various arrangements



currently in place and improving the method of determining which is the most effective way to procure a good or service (supply study practices).

The recommendations on working with suppliers, together with the commodity management recommendations, point to an attempt to re-define what constitutes competition. Increasing the use of pre-qualification and avoiding competitions where suppliers have little chance at winning are valid ideas, but the proposal to limit the number of suppliers to government and to establish long-term relationships with key suppliers has barriers to entry and other economic implications – particularly for small and medium enterprises (SMEs) – and departs from the

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long-standing practice of providing equal access to government business. And the proposal to require ISO certification, a costly proposition, is also cause for concern. These recommendations must be examined in the context of the implications for SMEs. Canadian statistics on SMEs point to their important contribution to our economy. In the past several years the US government, recognizing that substantially fewer small businesses were receiving contracts, has made a concerted effort to un-bundle contracts to increase contracting opportunities for SMEs. According to the US Office of Management and Budget, small businesses “bring innovation, creativity, competition and lower costs to the federal table.”

Some companies have found that a reduced supplier base permits them to focus on supplier relationships, but it is not clear how a reduced supplier base will necessarily improve supplier relations for the federal government, particularly since many other factors come into play in government.

Establishing the principle that doing business with the government is a privilege and not a right is long overdue. To do so requires a significant change in culture, particularly at the political level. Tying performance to access to future business, for example, should partially address the need to find constructive ways to deal with poor-performing suppliers. The US pub-

lishes the names of sanctioned suppliers, however, this is not necessarily an appropriate deterrent for Canada. Consider instead a strengthened vendor performance policy, adopted government wide. A successful supplier performance policy is predicated on proactive contract administration and on the will to resist political advocacy, i.e., to impose sanctions and stick with them. Proactive contract administration will, for PWGSC, require a change in culture and a willingness at the highest levels to dedicate the right people in the right numbers to this labour-intensive but value-added activity.

The negative impact of Canadian International Trade Tribunal (CITT) decisions in terms of contributing to the risk adverse

climate in government, not to mention the associated increased costs, cannot be overstated. That said, it is not evident how the establishment of a separate dispute resolution mechanism for contract award disputes would facilitate a less risk-adverse approach to government procurement, reduce costs, or improve supplier relations. It is also not clear how this would square with the statutory mandate of the CITT.

The human resource management recommendations appear to address the needs of another aspect underpinning procurement reform – the people doing the work. Program managers do require a basic understanding of procurement to be

should continue to lead this initiative, with PWGSC playing an active role. While the government needs to recruit new qualified procurement staff, it also needs to upgrade the skills of existing staff.

PWGSC has a critical mass of procurement and commodity expertise, but the recommendations fail to address the role the department could play as provider of standardized processes and tools, such as best practices and templates. In Western democracies common service organizations like the US GSA operate as an optional common service, providing master agreements and other tools, in a decentralized procurement system. Individual departments and agencies are permitted to make their own choices but at the same time are held to account for their procurement decisions.

The concept paper does not make a convincing case for why procurement reform can only be accomplished by having one organization responsible for procurement. PWGSC is still re-building its own capacity after the program review exercise of the 1990s, and other departments are concerned about its ability to handle the additional responsibilities recommended in the paper. At the end of the day, a more rigorous analysis of the costs/benefits and the risks (guided by TB's integrated risk management framework) needs to be conducted to determine how the government should organize itself so that procurement meets program needs while reducing costs, securing value for money, and supporting socio-economic priorities. In the meantime, PWGSC could

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able to appropriately define their requirements, effectively manage contracts, and properly exercise their authorities under the *Financial Administration Act*.

For procurement specialists, minimum qualification standards, together with mandatory training and accreditation requirements, will contribute to professionalizing the practice of government procurement, and ensuring that practitioners have the skills and knowledge necessary in today's environment. TBS, through its professional development and certification program,

implement a number of the recommendations without any change in mandates or the legislative and regulatory framework, only a change in PWGSC's strategic focus and allocation of its resources.

At any rate, consistent ministerial support will be required for any new direction. Stay tuned. *mm*

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