



**What can we
learn
from
Ontario's eHealth
procurement process?**

by Andrew Miller

The recent news about how Ontario's eHealth has conducted some of its procurement is disturbing to many. More than \$15 million in consulting contracts were awarded without a competitive process. Those in the private sector are thinking, "What is the big deal? We do that all of the time." However, public sector organizations, like eHealth, spend tax payers' money and are subject to scrutiny that private companies cannot imagine. So even though, in the case of eHealth, we are talking about only \$15 million in contracts for an organization that is responsible for a budget of over \$700 million per year, it is a big deal.

This article will provide you with background information on what eHealth did and why, and what can be learned from the situation. Hopefully the pointers offered for going forward will bring some comfort to those in the public sector that may be unsure of what they can and cannot do within the scope of public procurement.

Before going any further, it is important to clear up some of the facts that many publications have forgotten about, chose to conveniently ignore, or

did not know about. I will discuss some of these in more detail later in the article:

- Government procurement policies allow for awarding of contracts without competition in specific circumstances and urgent need is one of those circumstances;
- The eHealth Board of Directors and its CEO inherited an organization that had spent more than \$650 million over the previous 5 years with virtually nothing to show for it and had a reputation as an ineffective organization; and
- They brought on consultants with experience in implementing electronic health records and the rates that they paid are the going rates for top consultants in any field. They needed the best to get eHealth back on track.

A typical competitive process takes a minimum of 2-3 months, depending on the size and scope of the engagement. By going to competitive tender for every initiative, many smaller, easier to implement initiatives would be delayed by weeks if not months. It is for this reason that most procurement policies have a provision that allows an organization to engage services for urgent needs where it is in the public's best interest to bypass the competitive process. This, of course, only applies when companies being awarded the untendered contracts are compliant with identified requirements and the companies are qualified to do the work. These provisions usually have an approval process where backup documentation is required.

In my view, the eHealth officials were well within the scope of their responsibilities to exercise these provisions to begin work quickly on their mandate of implementing electronic health records quickly and properly. I don't think anyone can argue against the fact that eHealth needed to make some successful strides quickly, and were given a mandate to do so. The executives at eHealth were trying to make up for

the ineffectiveness of eHealth's predecessor organization, the Smart Systems for Health Agency (SSHA), by moving forward with conviction and strategic direction. It will be interesting to see how (and if) eHealth can recover from this period of bad publicity resulting from scrutiny of some of its procurement practices and continue its mandate of reducing wait times and moving to electronic patient records.

I will not disagree that some of the procurement guidelines were relaxed in some of the decisions made by eHealth and that generally, a competitive tendering process provides the best benefit for the buying organization. Competitive tendering processes will certainly make the environment more transparent; it is, however, much more time-consuming and labour intensive. Unfortunately, the actions of the organization has caused the public to shift their focus from the objective of eHealth and ways to make the eHealth organization more effective to the "\$1.65 coffee and doughnut."

So what could eHealth have done to avoid this situation? Here are three things eHealth officials could have done:

1. Ensured that there was backup documentation to justify why they were single sourcing from these consulting companies. This would include the level of experience, any unique expertise and the specific value that these companies have, their ability to implement more quickly than others as well as the impact of having to wait to make a decision as compared to starting immediately;
2. Been more transparent and formal about what the consultants were being hired to do. This would have required more specific documentation on scope of responsibilities, accountabilities, desired outcomes, etc.; and
3. Spent more time ensuring support from the various stakeholders, including the

Ontario Ministry of Health and Long-Term Care. This would have raised any issues earlier in the process and possibly avoided the controversy that ensued. It certainly would have helped to avoid the finger-pointing and blame game that is going on now.

What can we learn from this controversy?

- Be transparent in your decision-making and know the policies that you need to follow. This is applicable for any organization, but especially important for organizations funded by the public sector.
- Have backup documentation for all decisions that you make in case they are disputed. This means that you should always assume that you are going to need to justify the decision to someone, so be prepared.
- Know the environment that you are in and adjust to it. Make sure your primary stakeholders are on board and be aware of the public perception of what your organization is doing.

Moving forward, the eHealth situation has brought the subject of public procurement to the forefront of people's minds. Unfortunately, it is

not something that a lot of people know about ... they just read the bad press and come to think of it as yet another scandal ... yet more bad management and waste by ineffective governments. Public sector procurement staff are so scrutinized and so quickly condemned for their actions that consequently it could soon become difficult to attract people into these positions. After all why should we expect people to choose to work in an environment where they are often publicly berated and blamed for everything, and often without the full facts being known or understood?

There is a balance to everything. I think that Ontario's eHealth situation has shown that we are sometimes too quick to react before finding out the facts. That does not bode well for the eHealth organization, which has already spent too much money and is too far behind schedule.

The key point is to remember that any buying decision made in the public sector will need to be justified to someone. As long as you have a defensible position and the appropriate documentation, you will be able to justify the decision that was made and how it was made. 

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