

## Spotlight on sole sourcing

*Procurement Ombudsman encourages heightened transparency in order to improve openness and fairness of non-competitive procurement*

submitted by Claude Dubois

According to a recent study performed by the Office of the Procurement Ombudsman (OPO), it is important that transparency be heightened to compensate for the diminished openness and fairness that occurs when contracts are awarded without competition – also referred to as non-competitive, sole source or directed contracts. During the course of the study, the office consulted with four federal government organizations, one professional association and three industry associations. As well, OPO performed a literature review in order to assess the current situation.

The study found that although competition is the norm in federal procurement, one of the four main exceptions when bids do not have to be solicited is when the estimated value is below \$25,000. The study revealed that over the last ten years, approximately 90 percent of all procurement contracts were below \$25,000. In 2008, while some of these under-\$25,000 contracts were competed, more than 200,000, roughly 60 percent, were awarded to a preselected supplier without competition.

OPO's study examined the perceived benefits and risks to balancing efficiency and effectiveness with fairness, openness and transparency, when directing contracts under \$25,000.

### **Transparency measures lacking impact**

In the course of the study, OPO reviewed some of the federal government's transparency commitment measures such as proactive disclosure, proper documentation and public sector procurement training.

Created in 2008 as part of the *Federal Accountability Act*, the Office of the Procurement Ombudsman (OPO) is an independent organization with a government-wide mandate with an objective to strengthen the fairness, openness and transparency of federal procurement.

The study looked at departmental proactive disclosure information. Proactive disclosure was introduced by the federal government in 2004 as one of a series of measures meant to strengthen public sector management and was to provide a modern, real-time information system to track spending and provide an appropriate tool for effective scrutiny and decision-making. The study revealed that information is not consistently reported, is not detailed enough for conducting a meaningful analysis, and, therefore, appears as an impediment to effective public scrutiny needed to ensure transparency.

Another transparency measure lies in properly documenting the reasons for not competing a contract. "Previously concluded in other OPO reports, this study repeats the ongoing problem that is plaguing the government's transparency duties," said Gilles Pineau, a spokesperson for OPO. He also noted that, "If procurement decisions are poorly documented, the effectiveness of transparency is weakened as a


***Fairness:*** the practice of providing equal treatment to all current and potential suppliers;

***Openness:*** the practice of providing to all potential suppliers the opportunity to submit bids for government procurement; and

***Transparency:*** the practice of providing information to Canadians in a timely manner that facilitates public scrutiny of the decisions made and actions undertaken.

compensating measure for the diminished fairness and openness associated with directed contracts.”

Another transparency stumbling block raised by the report is that many federal public service project managers, who have authority to approve contracts, lack the procurement training to mitigate the risks to transparency and fairness for their procurement processes.

The full study report is found on the OPO website: <http://opo-boa.gc.ca/rpt-pub-eng.html>. For more information or to provide comment on the report, please contact the OPO at 1-866-734-5169. 

Claude Dubois is the communications advisor for the Office of the Procurement Ombudsman.

## New Procurement Ombudsman appointed

by *Summit* staff

In mid-December 2010, the Minister of Public Works and Government Services Canada announced the appointment of Frank Brunetta as the new procurement ombudsman, effective January 4, 2011.

Since 1978, Brunetta has worked in the public service, most recently serving as assistant deputy minister of the Departmental Oversight Branch, for PWGSC. Previous to this, he worked at the Canada School of Public Service and at Agriculture and Agri-Food Canada as director general, Special Initiatives and director general, Audit and Evaluation Branch. Brunetta holds a master's degree in Public Administration (MPA) from Harvard University and is a graduate of the Queen's University Program for Public Executives.

The procurement ombudsman is responsible for:

- reviewing and recommending new departmental procurement practices to ensure greater fairness, openness, and transparency;
- reviewing complaints from Canadian suppliers respecting the award of a contract for acquisition of goods below the value of \$25,000, and services below the value of \$100,000 and the administration of a contract, regardless of dollar value; and
- ensuring the provision of an alternate dispute resolution process at the request of each party to a contract.

Since inception, the Office of the Procurement Ombudsman has reviewed and responded to more than 1,000 complaints, conducted several practice reviews and facilitated contract disputes between suppliers and government departments. 