

## Chapter 3

### Section 3.13

# Supply Chain Ontario and Procurement Practices

## 1.0 Summary

The process of procuring goods and services by the Government of Ontario is intended to be open, fair and transparent. The Government spends an average of \$3.5 billion annually on procuring goods and services. (This does not include spending on the construction of capital assets, such as highways and buildings.)

The individual government ministries across the Province independently make decisions on what goods and services they require. The Treasury Board Secretariat (Secretariat) is responsible for updating and maintaining the rules and best practices for procurements that are laid out in the Ontario Public Service Procurement Directive (Directive). The ministries are required to follow these procurement requirements.

According to these requirements, ministries must first source goods and services from arrangements of preferred suppliers. These suppliers have been selected through a competitive process by Supply Chain Ontario (SCO) to ensure that the ministries are receiving the best price for quality goods and services. The ministries select preferred suppliers to bid on their procurement contracts, and the winning supplier(s) provides the goods, services or consultants. For some goods and ser-

vices, such as office supplies and courier services, SCO selects a single preferred supplier for all the ministries to use in order to get the lowest price through bulk purchasing.

The largest preferred supplier arrangement is IT Consulting Services. This service allocates, based on need, either internal IT staff or external IT consultants to ministries. It is managed by the Secretariat. The ministries make a request to the Secretariat for their IT staffing, which the Secretariat first tries to fill with internal employees. If none are available, it will help ministries find external IT consultants with the required expertise.

Overall, we found that ministries are following the procurement requirements and that procurement of goods and services is mostly competitive, fair and cost-effective. For example, based on our testing we found that most ministries properly planned and acquired their procurements competitively. In addition, ministries mostly received goods and services at the contract price. However, we did find examples where the procurement requirements were not followed. Non-compliance can increase ministries' risk of not receiving value for money from awarded contracts. We also noted that the government is not taking full advantage of bulk buying opportunities and may be forgoing associated price discounts. In addition, we noted that a shortage of internal IT staff is resulting in an

overreliance on more costly external IT consultants. We further noted some weaknesses in how ministries procure IT consultants that leave the process vulnerable to fraud.

Some of our specific findings are as follows:

- **Supply Chain Ontario (SCO) manages preferred supplier arrangements effectively.**

We found that preferred supplier arrangement files were complete, awards were justifiable and the process was fair and done competitively according to the procurement requirements.

- **SCO lacks information to identify bulk buying opportunities.** SCO does not have ready access to ministries' procurement information because there is no centralized electronic database. For example, it can tell whether a supplier received a payment of \$500,000, but does not know if the payment is for one contract or 10 contracts, the duration of the contract, or what good or service was purchased. Without this information, SCO cannot proactively identify new bulk buying opportunities that could potentially reduce future costs.

- **A shortage of internal IT staff has led to an overreliance on costly consultants.** Over the past two years, the ministries' approximately 3,200 requests for IT staff have been filled about 90% of the time by external consultants. The Secretariat, which oversees IT staffing, estimates that a consultant costs \$40,000 more annually than a permanent employee. Part of the extra costs of using consultants is the middleman fee paid by the ministries to the preferred supplier for placing a consultant.

- **Best practices over the procurement of IT consultants are not always followed.** We found weaknesses in how ministries procure IT consultants. Consultants are hired without in-person interviews, payments to consultants can be authorized by the same person who hires them, and the Secretariat that processes

these payments does not perform any additional review to ensure payments are legitimate. Because of these control weaknesses, the risk exists that the ministries may not always be selecting the most qualified candidate. For example, a senior manager at a ministry created and hired a phantom consultant. Over a period of several months, the senior manager approved the phantom consultant's invoices and pocketed \$150,000 for himself. The Secretariat has still not implemented internal controls to prevent this situation from recurring.

- **The new online procurement system is not widely used due to design concerns.**

In 2014, SCO implemented a new online procurement system intended to make the bid process more efficient and paperless. It was designed to conduct tenders online. However, concerns with the system, such as limiting the number of characters in data fields where suppliers input their bids, impact the bidding process. As a result, suppliers continue to submit paper bids that are assessed manually. In 2015/16 only about 146, or 32%, of 458 total tenders were conducted using the system. About 100 of the 146 were for complex tenders. Bids for another 145 complex tenders were still handled in paper form and reviewed manually. SCO intends to make use of the system mandatory by January 2017.

- **Suppliers are charged higher fees under the new online procurement system.** New system user fees charged to suppliers are two-and-a-half times higher than those charged before the new system was implemented. The increase in fees has raised the concern that small businesses could be discouraged from bidding on government contracts.

This report contains 12 recommendations with 20 action items to address our audit findings.

## MINISTRIES AND SECRETARIAT RESPONSE

The Ministry of Government and Consumer Services (MGCS) and Treasury Board Secretariat (TBS) are in agreement with the recommendations made in this report.

We recognize the importance of ensuring that public sector procurement processes uphold the principles of fairness, openness and transparency. We agree that non-compliance with these principles can increase the risk of not achieving value for money.

Efforts by both MGCS and TBS will continue to focus on making Ontario's procurement processes more efficient and effective. We are committed to driving cost savings by enhancing bulk buying opportunities and ensuring the cost effective use of consultant services. We will continue to promote electronic tendering as a way to remove barriers for suppliers while ensuring the system design meets the highest of standards and remains open, fair and transparent to all suppliers.

We would like to acknowledge the efforts of the Auditor General and her staff in conducting this audit. The recommendations will support MGCS and TBS in ensuring that ministries can deliver the highest quality services to Ontarians by getting the right products, at the right time, in the right place, and in accordance with our policies and processes.

## 2.0 Background

### 2.1 Procurement Process

The Government of Ontario's ministries spend on average about \$3.5 billion annually on a variety of goods and services such as consulting services, courier services, office supplies and furniture and wireless devices.

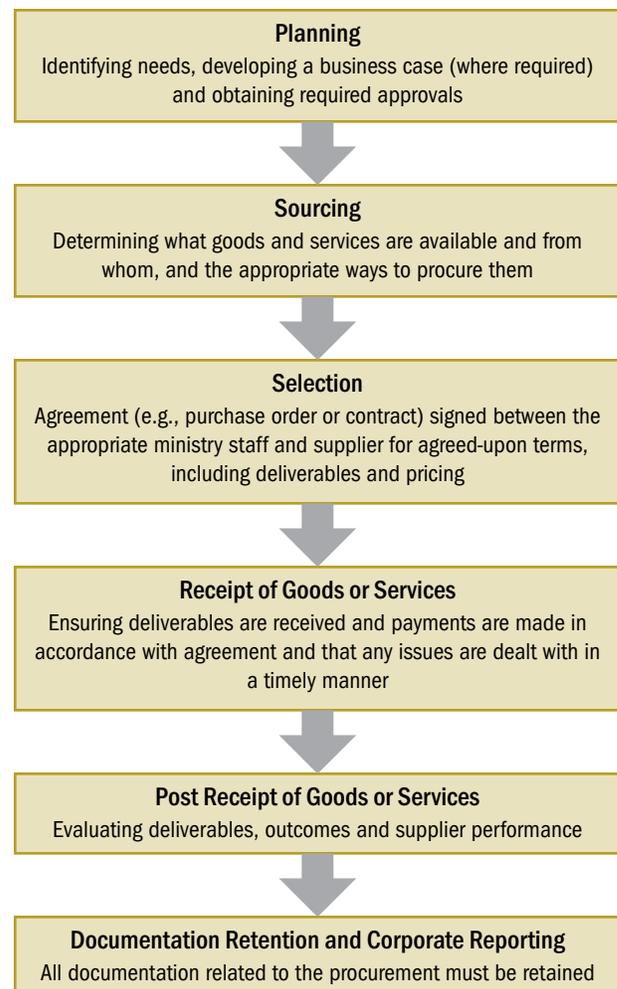
The procurement process has been designed for ministries to receive the best value for money when buying goods or services in a way that is fair and transparent for both the ministries and suppliers. As shown in **Figure 1**, the procurement process used by ministries involves six stages.

#### 2.1.1 Procurement Requirements

The Ontario Public Service Procurement Directive (Directive) lays out the requirements, responsibilities and best practices that all government ministries must follow when making their procurements. Throughout this report we refer to the contents of the Directive as procurement requirements.

**Figure 1: The Procurement Process**

Prepared by the Office of the Auditor General of Ontario



The core principles of the procurement requirements are:

- Value for money—ministries should procure goods and services only after they have considered their needs, alternatives and timing.
- Supplier access—suppliers must be treated equally and fairly, and have open access to compete for government business.
- Management oversight—procurement should be responsibly managed through the right systems, policies and processes.

The Treasury Board Secretariat (Secretariat) is responsible for developing and updating the procurement requirements. Deputy Ministers are responsible for ensuring that their ministries follow the procurement requirements. Deputy Ministers are also responsible for establishing the systems, policies and procedures within their ministries that are necessary to achieve this.

Supply Chain Ontario (SCO) is responsible for ensuring that the Ontario Government receives the best value when procuring goods and services. SCO is a division of Ontario Shared Services within the Ministry of Government and Consumer Services (MGCS). SCO's main responsibilities are to:

- create and manage arrangements with preferred suppliers;
- provide expert advice to ministries on procurements; and
- manage the Ontario Tenders Portal—online procurement system that ministries use to post their needs for goods and services and then receive and evaluate bids.

## 2.2 Procurement Steps

According to the procurement requirements, when ministry staff need to procure goods or services they first must check whether they can address their need using available internal resources, either within the ministry or across government. **Appendix 1** lists these resources and the ministries that provide them.

If goods or services cannot be obtained this way, then a ministry's next step is to determine whether required goods and services can be procured from preferred suppliers. Depending on the dollar value of the goods or services required, ministries must obtain quotes from a minimum number of preferred suppliers. For many common goods and services, such as courier services and office supplies, SCO has arrangements with a single preferred supplier that the ministries have to use.

If preferred suppliers do not offer what a ministry needs, then the ministry can proceed with buying goods or services on the open market. As shown in **Figure 2**, there are four steps in the procurement process.

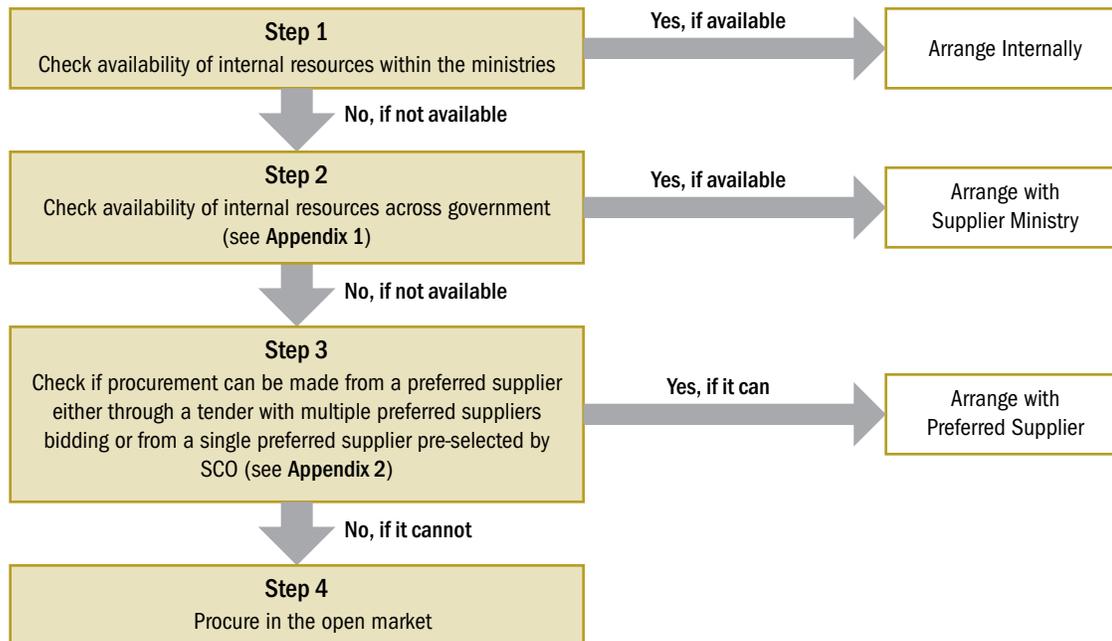
## 2.3 Procurement Methods

The procurement requirements outline the methods that ministries must use to procure goods and services, including:

- A **preferred supplier arrangement** is established centrally by SCO through a competitive process that authorizes one or more qualified supplier(s) to provide goods or services routinely required by government to all ministries for a defined period of time, with specific terms and conditions, including pricing. Ministries must use preferred supplier arrangements if available.
- The **invitational competitive** method is when a ministry invites a select number of suppliers to bid on an opportunity.
- The **open competitive** method is when all suppliers in the market can bid to provide goods or services.
- The **non-competitive** method is used under specific circumstances, such as when procurements need to be done urgently, or relate to public safety issues or confidential matters. In such circumstances, ministries can bypass some rules and procure directly from their chosen specific supplier.

**Figure 2: Overview of Steps in the Procurement Process**

Prepared by the Office of the Auditor General of Ontario



Different rules apply to procurement of goods versus consulting services. These rules are very specific. Generally, the procurement rules ministries must follow depend on the value of the procurement and if it is made through an arrangement with preferred suppliers or in the open market.

## 2.4 Preferred Supplier Arrangements

The purpose of setting up arrangements with preferred suppliers is to save ministries time, effort and the cost of negotiating their own separate arrangements with each supplier. The arrangements are also intended to provide the ministries across the government with discounts on the goods and services due to their large volume of purchases. SCO is responsible for setting up arrangements with preferred suppliers, and managing and renewing the contracts.

As of September 2016, SCO had 62 arrangements for certain types of goods and services, with 1,082 potential preferred suppliers. We list the arrangements and the number of suppliers in

**Appendix 2.** Within these 62 arrangements there are three consulting arrangements for 686 suppliers, and 59 arrangements for 396 suppliers.

Arrangements with preferred suppliers have already been established competitively by SCO. As a result, the ministries are able to limit the number of preferred suppliers they select to bid on goods or services.

As a way to reduce costs through bulk purchasing, some arrangements, such as for courier services and office supplies, are made with only one supplier. SCO awards a contract to one supplier that is capable of supplying the goods or services across all ministries, usually for a period of three to five years. As previously mentioned, ministries must use this supplier. When this contract expires, SCO goes back to the open market to then establish a new contract arrangement.

Consulting arrangements such as the one for IT Consulting Services are made with many preferred suppliers (for example, IT consulting, with 291 suppliers). These suppliers then compete for contracts tendered by the ministries.

## 3.0 Audit Objective and Scope

Our audit objective was to assess whether the government's process for procuring goods and services is open, fair and transparent. We examined whether:

- goods and services were acquired by ministries in accordance with mandated policies contained within the Ontario Public Service Procurement Directive; and
- Supply Chain Ontario (SCO) has effective systems, information and procedures in place to establish cost-effective preferred supplier arrangements and to support ministries in obtaining the best value for their procurement spending.

Senior management at SCO reviewed and agreed with our objective and associated criteria.

Excluded from the scope of our audit are procurements of goods and services related to the construction of infrastructure capital assets. See **Chapter 3.10** of this Annual Report for our audit of the awarding of transportation infrastructure capital assets construction contracts at the Ministry of Transportation.

To find out whether ministries are following the Ontario Public Service Procurement Directive (Directive), we used financial information from the government's financial accounting system to analyze the government's 2014/15 expenditures. We then selected the following 10 ministries:

- Ministry of the Attorney General;
- Ministry of Community Safety and Correctional Services;
- Ministry of Education;
- Ministry of the Environment and Climate Change;
- Ministry of Finance;
- Ministry of Government and Consumer Services;
- Ministry of Health and Long-Term Care;
- Ministry of Natural Resources and Forestry;

- Ministry of Tourism, Culture and Sport; and
- Treasury Board Secretariat.

The Government of Ontario does not maintain procurement information centrally in electronic format. Such information exists at different ministries, sometimes only in paper format at different locations scattered across the Province, where the procurement originated.

For each ministry, we then reviewed a sample of payments related to different categories of goods and services. Our sample size was derived based on the relative amount that each ministry spent in 2014/15. For each of the samples, each ministry then provided us with pertinent procurement documentation. We reviewed this documentation to assess ministries' compliance with the Ontario Public Service Procurement Directive.

We also spoke with staff involved in the procurement process at each of these ministries. Each of these ministries also completed our questionnaire about preferred supplier arrangements and SCO's procurement advisory services.

We interviewed key personnel at the Treasury Board Secretariat (Secretariat) who are responsible for updating the Directive and who manage the government's IT Consulting Services preferred supplier arrangement. As well, we reviewed a sample of IT consulting procurements to assess whether they were conducted in accordance with the Directive.

We researched how procurement is done by other comparable provincial governments and the federal government, and spoke with staff at the Treasury Board Secretariat (TBS) Quebec and Public Services and Procurement Canada/Government of Canada about the way they manage their procurement process.

In planning our audit, we also reviewed reports published by Internal Audit at the Ministry of Government and Consumer Services and the Ministry of the Attorney General.

## 4.0 Detailed Audit Observations

### 4.1 Ministries Are Mostly Following Procurement Requirements

Overall, we found that ministries follow the procurement requirements. Procurement of goods and services in our sample was mostly competitive, fair and cost-effective. For example, most ministries properly planned and acquired the procurement competitively. In addition, ministries mostly received the goods and services at their contracted price. However, we did find some examples where the procurement requirements were not followed fully. Non-compliance with procurement requirements increases ministries' risk of not receiving value for money on awarded contracts.

Specifically, we found situations where:

- certain ministries did not accurately estimate the quantity or value of goods and services that they needed and therefore used an incorrect procurement method;
- certain invitational procurements were not as competitive as required;
- certain non-competitive procurements should have been handled in a competitive manner;
- ministries paid for goods or services prior to the receipt of these goods or services; and
- bid evaluation documents could not be located.

We also consistently saw that ministries were not completing suppliers' performance evaluations after the receipt of goods or services. The Province does not have a supplier performance rating database for ministries to track suppliers' poor past performance so that this information can be factored into future supplier selection decisions.

#### 4.1.1 Ministries Are Compliant with Procurement Methods Although Estimating the Value of Goods and Services Can Be Improved

The procurement requirements state that goods at or greater than \$25,000 and services at or greater than \$100,000 must be procured through an open competitive process, meaning that all interested suppliers in the open market can bid on the opportunity. For procurements below these values, ministries can limit the number of bidders.

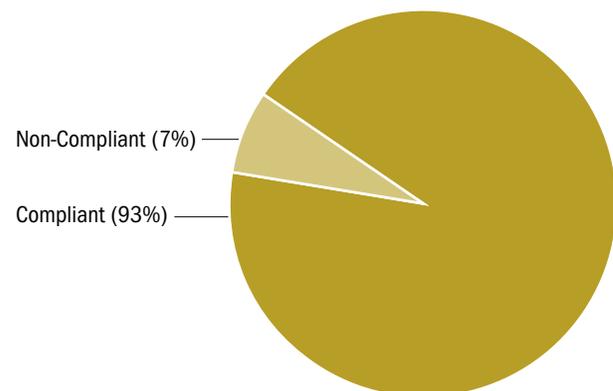
When ministries procure goods or services, they first need to plan the procurement by deciding what goods or services they need, estimate the value of these goods or services and then obtain required internal approvals to proceed with the procurement. Failure to properly estimate the value of the procurement can result in the ministry following the wrong procurement method. Estimating the wrong quantity can result in procuring an insufficient amount of goods or services and later being forced to procure these goods non-competitively.

As shown in **Figure 3**, we found that in over 90% of samples that we reviewed, ministries properly planned their procurements.

However, we did find that ministries need to do a better job at estimating the costs of their required goods and services to ensure that they select the procurement method that can achieve the most

**Figure 3: Ministries' Compliance with Procurement Method**

Prepared by the Office of the Auditor General of Ontario



value for money. Some examples where this was not done are as follows:

- The cost of services was estimated to be \$80,000, which allowed the ministry to limit the number of bidders. The ministry received only one bid of \$115,000. If the estimate had been set at \$100,000 or higher, the ministry would have been required to procure the services through an open competitive process and may have obtained better value for money.
- The ministry's estimate was \$77,000, but the lowest received bid was almost twice that amount at \$149,000. Once again, if the estimate was \$100,000 or higher this procurement would have been done through an open competitive process.
- The ministry competitively awarded a contract to a consultant for \$112,000. One month later, and before the contract was signed, the ministry increased the scope of this procurement by \$63,000 to \$175,000. If the ministry had done a better job at estimating the full scope of the consulting assignment it could have procured all services at once, potentially at a lower total price.
- The ministry competitively procured several parts for specialized equipment from a supplier for \$92,000. Before signing a contract with the winning bidder, the ministry realized it needed to procure more parts. As a result, it signed a contract with the winning supplier for \$226,000, therefore procuring the additional parts non-competitively.
- The ministry increased an original contract worth \$2.9 million to purchase up to 600 specialized devices and associated yearly maintenance fees to \$4.7 million and 939 devices without proper justification or documentation.
- The ministry twice extended a consulting contract, from \$84,000 to \$144,000 and then to \$167,000, without sufficient levels of approvals.

## RECOMMENDATION 1

In order to ensure that the correct procurement policy is followed and value for money is obtained on all procurements, ministries should take more care in estimating the costs of their required goods or services to ensure that they use the correct procurement method.

## MINISTRIES AND SECRETARIAT RESPONSE

On behalf of the ministries, the Ministry of Government and Consumer Services (MGCS) agrees with this recommendation and will establish a reference group comprised of Chief Administrative Officers (CAO Reference Group) drawn from across government, to identify opportunities to enhance compliance with procurement policy. We will also leverage existing forums, including the Procurement Community of Practice, to guide ministries towards available training, tools and templates and to seek their input regarding additional requirements needed to support more effective procurement planning and estimating contract values.

### 4.1.2 Ministries Are Generally Complying with Invitational Procurement Requirements

Ministries can limit the number of bidders when they procure from preferred suppliers, depending on the dollar value of the procurement. **Figure 4** shows procurement requirements for procuring from preferred suppliers.

As shown in **Figure 5**, we found that in over 95% of samples we reviewed, the ministries followed the procurement requirements and invited the correct number of preferred suppliers.

However, we did find examples where the value of the procurement warranted a more competitive approach. The exceptions we found included:

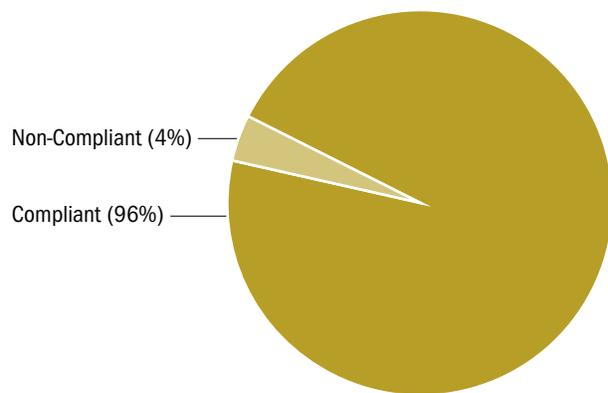
## Figure 4: Invitational Procurement Requirements

Prepared by the Office of the Auditor General of Ontario based on the Ontario Public Service Procurement Directive

Procurement Value	Procurement Requirements
Less than \$25,000	Ministries may invite one or more preferred supplier(s).
\$25,000 up to but not including \$250,000	Ministries must invite three or more preferred suppliers.
\$250,000 up to but not including \$600,000	Ministries must invite five or more preferred suppliers.
\$600,000 or greater	Ministries must invite all preferred suppliers that offer the good or service.

## Figure 5: Ministries' Compliance with Invitational Procurement Requirements

Prepared by the Office of the Auditor General of Ontario



- For two procurements valued at more than \$600,000 each, the ministry in one case invited only seven preferred suppliers, and in the other only five. For these two procurements it received one and two bids respectively. In both cases, in accordance with procurement requirements, the ministry should have allowed all preferred suppliers that offer this good or service to bid on these opportunities.
- For a procurement valued at \$500,000, the ministry invited only three preferred suppliers to bid, instead of inviting the required minimum of five suppliers. Only one bid was received.

By not opening these procurement opportunities to the appropriate number of suppliers, these ministries limited the competitiveness of these procurements and might not have received value for money.

## RECOMMENDATION 2

In order to ensure that value for money is obtained on all invitational procurements, the ministries should ensure that the required number of preferred suppliers are given the opportunity to bid on providing the required goods or services.

## MINISTRIES AND SECRETARIAT RESPONSE

On behalf of the ministries, the Ministry of Government and Consumer Services (MGCS) agrees with this recommendation and will utilize the CAO Reference Group, noted in the response to Recommendation 1, as well as existing forums to identify opportunities to enhance compliance with procurement policy. We will also ensure that, when communicating the availability of new and renewed preferred supplier agreements to the ministries, that ministries are reminded of their policy requirements.

### 4.1.3 Ministries Are Generally Compliant with Non-Competitive Procurement Requirements

Ministries have an obligation to ensure that taxpayers receive good value from purchasing decisions the ministries make. A competitive procurement process helps to achieve this because it can give a ministry a range of options when choosing the supplier that provides the highest quality goods or services at the lowest price. When a ministry

## Figure 6: Conditions for Non-Competitive Procurements

Prepared by the Office of the Auditor General of Ontario based on the Ontario Public Service Procurement Directive

Most Common Conditions When Ministries Can Procure Goods or Services Non-Competitively
• There is an urgency and the ministry does not have the time to conduct a competitive procurement.
• The goods or services are related to a confidential matter.
• Using a competitive process could interfere with the government's maintenance of security or order.
• Only one supplier is qualified to meet the ministry's requirements due to compatibility issues or exclusive rights.
• A competitive procurement was conducted but the ministry did not receive any qualified bids.

buys from just one pre-selected supplier without that supplier competing to provide the goods or services, the ministry cannot be certain that it is achieving the best value for money.

However, there are conditions where the procurement requirements allow ministries to procure non-competitively from a single supplier. The most common ones are listed in **Figure 6**. When ministries procure non-competitively they must justify their decision and document their reasons for using a non-competitive process.

In our sample, we noted only a small number of non-competitive procurements. Overall, these were well documented and met the allowable conditions shown in **Figure 6**. However, we noted some exceptions. For example, a ministry did not justify or document two non-competitive procurements, one to purchase approximately \$100,000 worth of video and audio editing services and another worth about \$800,000 to design, assemble and print a report.

### RECOMMENDATION 3

In order to ensure that the use of non-competitive procurement is defensible if questioned, the reasons for its use should be adequately documented.

### MINISTRIES AND SECRETARIAT RESPONSE

On behalf of the ministries, the Ministry of Government and Consumer Services (MGCS) agrees with this recommendation and will utilize the CAO Reference Group, noted in the response to

Recommendation 1, as well as existing forums to identify opportunities to enhance compliance with procurement policy. In addition, MGCS will develop a strategy to promote its training program to ministries that emphasizes requirements around non-competitive procurement and promotes procurement best practices and related tools.

### 4.1.4 Ministries Are Generally Compliant with Contract Payment Terms

Contracts that ministries sign with suppliers contain terms that describe when and what goods or services must be provided and when ministries are required to pay for these goods or services. The procurement requirements state that ministries must follow payment terms contained in their contracts with suppliers. These terms usually require ministries to pay suppliers only after goods are delivered or services rendered.

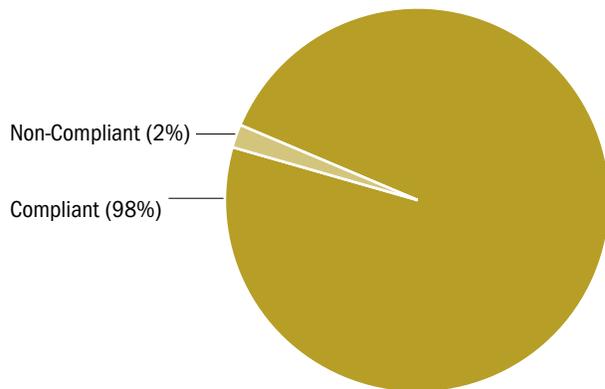
As shown in **Figure 7**, we found that in almost all of the samples we reviewed, ministries followed the payment terms stated in their contracts.

However, we noted a few exceptions:

- A ministry in one case paid a supplier upfront the full contract amount of \$400,000. This payment was made just one day after this contract was signed. In another case with the same supplier, the ministry paid \$90,000 before services were provided and earlier than required. The total value of the contract in this case was also \$400,000. The ministry

**Figure 7: Ministries' Compliance with Contract Payment Terms**

Prepared by the Office of the Auditor General of Ontario



also paid another supplier the full contracted amount of \$300,000, just six weeks into a 12-month contract, once again paying much earlier than required.

- A ministry paid \$66,000 earlier than it had to and before services were provided. The payment was made just one week after a \$200,000 contract was signed.
- In another ministry, we found a case where the procurement cost was overestimated and the ministry paid more than it had to. This procurement was estimated to cost \$159,000. However, the winning bid was only \$132,000. Without any changes to the winning bid, the ministry awarded a contract for \$159,000 to the supplier and paid \$28,000 that it did not need to.

#### RECOMMENDATION 4

In order to ensure that the procured goods are received as expected and services are rendered, payments should only be made in accordance with contract terms, which usually require payment after the goods are received or services rendered.

## MINISTRIES AND SECRETARIAT RESPONSE

On behalf of the ministries, the Ministry of Government and Consumer Services (MGCS) agrees that this is an area that warrants ongoing attention. MGCS and Treasury Board Secretariat (TBS) are collaborating on a project designed to improve both the government's financial system and associated business processes, policies and practices—including practices around payments made to businesses contracted to provide goods and services to ministries.

Implementation of improvements as a result of these initiatives will result in increased system and business process controls and maximize the use of purchase orders and automated process workflow. We will work with ministries to implement these changes and provide tools that ensure payments are made in accordance with contract terms.

MGCS will also continue to provide ongoing learning and training to ministries to reinforce best practices and address any identified knowledge or skill gaps.

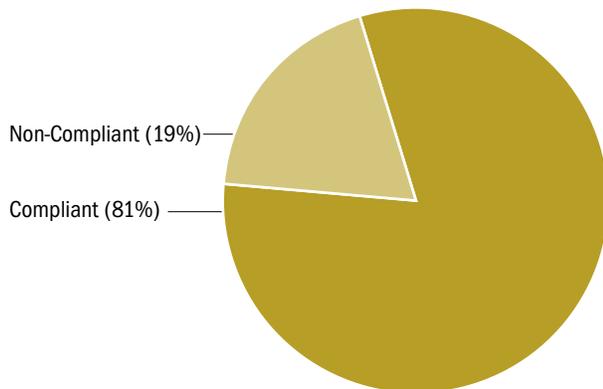
### 4.1.5 Ministries Can Improve Their Compliance with Procurement Documentation Requirements

The procurement requirements state that ministries must document all their procurement-related decisions. Procurement documentation should be both sufficiently detailed and easy to comprehend to demonstrate that the ministry conducted the procurement according to the procurement requirements and that the contract was awarded to a supplier that best meets the terms and conditions of the assignment.

As shown in **Figure 8**, although we found that in over 80% of samples we reviewed, documentation was sufficient for us to determine that the procurement was done according to procurement requirements and the contract was awarded to

### Figure 8: Ministries' Compliance with Procurement Documentation Requirements

Prepared by the Office of the Auditor General of Ontario



the best supplier, this was not the case in almost 20% of our samples. Most of these exceptions were procurements of consulting services. They included five procurements worth between \$160,000 and \$960,000. Without proper documentation, we were unable to determine whether these contracts were awarded to the best-value consultants.

#### RECOMMENDATION 5

In order to ensure that there is evidence to defend, if questioned, that contracts are awarded to winning suppliers, ministries should ensure that all documentation related to procurements is completed and retained.

#### MINISTRIES AND SECRETARIAT RESPONSE

Records management is a responsibility of all Ontario Public Service (OPS) staff and one that the government takes seriously. Records management training is available to all OPS staff. The Ministry of Government and Consumer Services will develop a strategy to further promote this training program to ministries and will work with the CAO Reference Group, as noted in the response to Recommendation 1, to enhance compliance with procurement policy.

#### 4.1.6 Supplier Performance Not Tracked

A supplier's past performance can provide an indication of potential future performance. The procurement requirements state that ministries must evaluate and document a supplier's performance following the completion of the contract. In our review, we found that none of the ministries sampled were following this procurement requirement.

Developing a framework and information system to support this is important so that lessons learned can be leveraged to make better future procurement decisions.

#### RECOMMENDATION 6

In order to ensure that ministries receive highest quality goods and services, ministries should:

- ensure that performance evaluations are completed for each supplier;
- develop and implement a fair and transparent process for considering past supplier performance when making new procurement decisions; and
- assess ways in which this information can be stored centrally in electronic form.

#### MINISTRIES AND SECRETARIAT RESPONSE

On behalf of the ministries, the Ministry of Government and Consumer Services (MGCS) agrees that supplier performance management is an important part of contract management and successful procurement outcomes.

MGCS and Treasury Board Secretariat agree with this recommendation and are developing a new model to collect and utilize supplier performance management information for Information Technology consulting services. This new model will be piloted in select ministries and will be assessed for more broad application across the OPS. MGCS will also research and assess procurement models that incorporate past supplier performance scores into future procurements.

## 4.2 Supply Chain Ontario Manages Preferred Supplier Arrangements Appropriately—Opportunity for More Arrangements

### 4.2.1 Preferred Supplier Arrangements Procured Fairly, Openly and Competitively

SCO is responsible for creating and managing arrangements with preferred suppliers. The purpose of these arrangements is to save ministries the time, effort and cost of procuring on their own in the open market and to provide discounts through bulk buying opportunities. For example, SCO informed us that when it renewed preferred supplier arrangements for office supplies and copy paper, the government realized an average price discount of about 80% and 60% respectively compared to market price.

Arrangements with preferred suppliers are usually made for three to five years. During this time suppliers agree to sell to ministries goods or services at set prices and quality. When these arrangements expire, SCO renews them. SCO can also create new arrangements when it identifies new bulk buying opportunities. To ensure that the government obtains the best value, arrangements with preferred suppliers are renewed or created through an open competitive procurement process.

We selected a sample of arrangements that SCO renewed between 2012 and 2015. Our sample included arrangements for things such as consulting services, courier services, shredding services, groceries and office products. We reviewed whether these arrangements were established according to the procurement requirements in a fair and open manner and gave equal access to all potential suppliers.

We also reviewed bid evaluation documents to determine how SCO selected the winning supplier. Based on our review, we found that preferred supplier arrangement files were complete, awards were justifiable, and the process was fair and done competitively according to the procurement requirements.

### 4.2.2 Bulk Buying Opportunities Not Fully Realized

We estimated that in 2015/16 ministries spent about \$3.5 billion on goods and services. This large amount of spending creates bulk buying opportunities and associated price discounts. For the government to take advantage of discounts, SCO needs to know what and how ministries procure. Using this information it could then identify new bulk buying opportunities to create additional preferred supplier arrangements.

SCO does not have direct access to ministries' procurement information. As discussed previously, ministries do not store such information centrally. Rather, it exists at each ministry, sometimes only in paper format, at different locations scattered across the Province, where the procurement originated.

The only information stored centrally that SCO can access is in the government's financial accounting system. However, the government's financial accounting system only contains information about the amount paid by a ministry to a supplier over a specific time period and the type of category the payment relates to.

For example, from the government's financial accounting system, SCO can tell whether a supplier received payment of \$500,000, but not whether this payment relates to one contract or 10 contracts, the duration of the contract, what specific good was purchased or service provided, the quantity of that good or service, and if the supplier is a preferred supplier.

Because of this, SCO has not been able to proactively identify new bulk buying opportunities that may generate additional price discounts for the Province. Instead, its primary focus is on renewing existing arrangements with preferred suppliers.

However, ministries are able to identify and inform SCO about goods or services that they think could be procured at discount prices in bulk. In their questionnaire responses, ministries told us they think there are additional opportunities to procure goods and services such as ergonomic assessment services, first aid/CPR training, translation

services other than French and security installation services. Preferred supplier arrangements for these goods or services do not currently exist. SCO is not aware of all the goods and services that ministries frequently procure in large quantities. Information from the ministries will help them do this.

A consulting report commissioned by SCO and received in 2015 identified procurement best practices, including bundling of related goods and services, which could allow the government to take advantage of additional bulk buying opportunities. The report also noted that SCO is not applying these best practices. In 2015/16, preferred suppliers reported to SCO that ministries bought about \$460 million worth of goods and services from them. This is only about 13% of the \$3.5 billion that they spend each year on goods and services. Therefore, it is likely that there are opportunities for the government to take advantage of additional bulk buying.

### RECOMMENDATION 7

In order for Supply Chain Ontario to explore new bulk buying opportunities that could lead to additional cost savings, it should work together with ministries to:

- identify goods or services that ministries currently procure that are suitable for such opportunities; and
- identify ways in which in the future it can have access to complete and accurate information about what and how ministries procure.

### MINISTRIES AND SECRETARIAT RESPONSE

We support the Auditor General's observation that new bulk buying opportunities should be explored to generate additional savings. The Ministry of Government and Consumer Services (MGCS), through Supply Chain Ontario, has launched a multi-year strategic sourcing and category management strategy to

enable the identification of further bulk buying opportunities.

The strategy will include a procurement spend analysis that will help identify new bulk buying opportunities and provide a methodology to undertake spend analyses more regularly.

MGCS will continue to work with Treasury Board Secretariat to explore opportunities to gain more complete and accurate insight into the government's procurement spending.

## 4.3 New Online Tendering System Not Widely Used

The procurement requirements state that ministries are to use the online tendering system managed by SCO for all open competitive procurements with a value at or above \$25,000 for goods and at or above \$100,000 for services.

On April 1, 2014, SCO replaced its old tendering system by competitively procuring a new system for the Ontario Tenders Portal. The new system was implemented with the intention of making the tendering process more efficient through a streamlined and paperless evaluation process, especially for the more complex procurements where bids contain vast amounts of paper documents. SCO did not pay anything for the new system. Rather, the provider of this system makes money by charging suppliers a fee for using the Ontario Tenders Portal.

We found that almost two-and-a-half years after post-implementation, this new system has not been as widely adopted to evaluate suppliers' bids as originally anticipated by SCO. Ministries use the system to post all of their tenders. However, suppliers continue to submit bids in paper form that need to be evaluated manually. Many of these bids contain large amounts of paper documents, which are the kind of bids that the new system was implemented to handle.

When SCO implemented the new system, it intended to evaluate all bids using this system by June 2015. When we reviewed how many bids were evaluated using the new system, we found that in

2014/15, out of 470 tenders only about 1.3%, or six tenders, were evaluated using the new system. Bids for the remaining tenders were submitted in paper form and were evaluated manually.

In 2015/16, the usage of the new system increased to about 146, or 32%, of 458 total tenders that year, but we noted that only about one hundred of these were complex tenders. Bids for another 145 complex tenders were still handled in paper form and reviewed manually.

### 4.3.1 Concerns Raised Regarding System's Design

To speed up the adoption of the new system to evaluate bids, in January 2016, SCO stated that it intends to use this system to evaluate bids on tenders it assists ministries with starting in January 2017. There are, however, serious concerns that a poor design of this system inhibits ministries from properly evaluating suppliers' bids on complex tenders and is impacting the fairness, openness and transparency of these complex tenders.

In December 2015, a Fairness Commissioner (an individual who presides over a procurement to ensure it is done in a fair, open and transparent way) wrote to SCO saying that the system's poor design does not allow bid evaluators to do the required level of due diligence on complex procurements. The Fairness Commissioner has been involved in a number of ministries' tenders since 2003. His concerns stemmed from his involvement in a number of complex tenders conducted in 2015/16. The Fairness Commissioner found that the system restricts suppliers from inputting some bid information. This limits their ability to be fully transparent. The Fairness Commissioner also had concerns that some automatic system features used to evaluate bids do not take into account non-tangible bid evaluation criteria such as quality, approach and creativity, and that this could compromise the fairness of complex tenders.

These concerns were echoed by senior executives from two other ministries who expressed to SCO similar concerns about the new system.

To deal with shortcomings of the new system, ministries must develop manual alternatives to ensure tenders are done in a fair, open and transparent way by having suppliers submit parts of their submissions in paper form.

## RECOMMENDATION 8

Supply Chain Ontario should identify and resolve all system issues that prevent any tender from being done in a fair, open and transparent way.

## MINISTRIES AND SECRETARIAT RESPONSE

The Ministry of Government and Consumer Services (MGCS) agrees that system issues should not prevent any tender from being conducted in a fair, open and transparent manner.

Working with its current service provider, MGCS has resolved, and continues to work to resolve, issues identified as potential system barriers.

We will continue to seek feedback from our own procurement specialists, ministry buyers and businesses using the system to identify and resolve issues to ensure the system can support both simple and more complex procurements.

### 4.3.2 Suppliers Now Charged Higher Bid Fees

We also found that the new bid fees charged to suppliers are two and half times higher for unlimited access than those charged before the new system was implemented.

Prior to the implementation of the new system, suppliers had an option to either pay to the previous system supplier an annual fee of \$203.40 to have unlimited access to view all government procurements, or pay \$39.95 to view just one. The old system did not permit suppliers to submit bids

electronically and suppliers were not charged for submitting paper-based bid. When the new system was implemented, fees changed and increased. Suppliers can view all government procurements for free, but must now pay an annual fee of \$750 to submit bids or \$300 to submit just one bid. We compared these new fees with those charged in other jurisdictions: Quebec, British Columbia and the federal government. We found that Quebec and the federal government do not charge any fees, and that fees in British Columbia are much lower, at an annual fee of \$150. Representatives from Quebec and the federal government told us that they do not charge fees because such practice can discourage small businesses from bidding on government contracts.

### RECOMMENDATION 9

In order to determine the impact of access fees on small businesses for the online procurement system, Supply Chain Ontario, together with ministries, should review whether Ontario's fees discourage small businesses from bidding on government contracts. The results of this review should be factored into future decisions.

### MINISTRIES AND SECRETARIAT RESPONSE

The Ministry of Government and Consumer Services agrees with this recommendation and has launched an initiative to measure various metrics related to the use of the Ontario Tender Portal to track how many businesses are downloading tender documents and submitting bids electronically. All businesses that access the tender portal are now invited to complete a survey on the electronic tendering process, including identifying the reasons why they may not submit a bid. This data will be used to inform future electronic tendering process enhancements.

## 4.4 Shortage of Internal IT Staff Has Led to a Dependency on More Costly External IT Consultants

IT Consulting Services is the government's largest preferred supplier arrangement both in terms of the number of suppliers and taxpayer monies spent. As of September 2016, there were about 291 preferred IT consulting service suppliers. In 2015/16, the government paid these suppliers about \$170 million, and in the year prior to that about \$160 million.

Suppliers are added to this arrangement by SCO. However the actual procurement from this arrangement, together with internal government IT employees, is managed centrally by the Treasury Board Secretariat (Secretariat). When ministries need IT assistance, they ask the Secretariat to provide them with an IT employee or, if none are available, help them select preferred suppliers from whom they can procure consultants.

The procurement requirements discourage continuous reliance on consultants. In most instances, continued reliance is more expensive and permits a consultant to gain a monopoly on a particular kind of work. Ideally, consultants should only be used on a short-term basis to fill highly skilled, specialized roles. The Secretariat has a complement of over 200 internal permanent IT employees to fill ministries' IT staffing requests to reduce the government's need to hire IT consultants. It also manages the procurement and evaluation of IT consultants.

We found that a shortage of internal IT employees has resulted in dependency on the use of IT consultants. The Secretariat estimates it costs the government more than \$40,000 extra on an annual basis for each consultant used in place of a permanent IT employee. Another reason why the cost of using consultants is higher is because of fees paid to preferred suppliers who provide the consultants.

We noted that the Secretariat does not have a sufficient number of internal IT employees to fill all ministries' requests. As a result, ministries rely excessively on external IT consultants. We reviewed the number of ministry requests for IT support

that are filled by permanent IT staff and found that in 2014/15, less than 10%, or 125 of the 1,809 ministry requests for IT help, were addressed by permanent IT employees. The remaining 90% were addressed by external consultants. For 2015/16, the ratio was about the same: only 116 out of 1,456 requests were filled by internal IT employees.

A review done by the Secretariat found that during 2013/14, almost 20% of all consultants were doing ongoing, operational-type support activities that could have been done by permanent IT employees. Given that a consultant costs an estimated extra \$40,000 annually, and given that about 20% of all consultants are doing the work that can be done by permanent employees, the Province could potentially save about \$10 million annually if it increases its IT staff complement and reduces its dependency on external IT consultants.

### RECOMMENDATION 10

In order to ensure that IT consulting services arranged for ministries by the central IT group in the Treasury Board Secretariat are cost-effective, the Secretariat should:

- finalize its review and conclude that it is appropriate to reduce the use of external IT consultants and increase the use of permanent IT employees; and
- set a target for the number of permanent employees it needs and work toward meeting this target.

### MINISTRIES AND SECRETARIAT RESPONSE

Treasury Board Secretariat (Secretariat) acknowledges the recommendation of the Auditor General and agrees to address these recommendations by implementing the following:

- A review has been completed for the Information & Information Technology (I&IT) organization for 2013/14 and 2014/15. Based on this review, the Secretariat received

approval to convert 96 IT consultants to full-time employees.

- There is the potential to convert additional IT consultants to full-time employees as we continue to analyze the movement of IT projects from development to sustainment, in consultation with our ministry partners.

### 4.4.1 Middleman Agencies Add to Cost of Consultants

Preferred suppliers are not the IT consultants who do the actual work but are, in most cases, agencies that act as middlemen. These agencies bid on ministry contracts and supply consultants with the requested IT skills that the ministries are looking for. **Figure 9** illustrates the process. The Secretariat pays a fee to these agencies each time it places an IT consultant with a ministry.

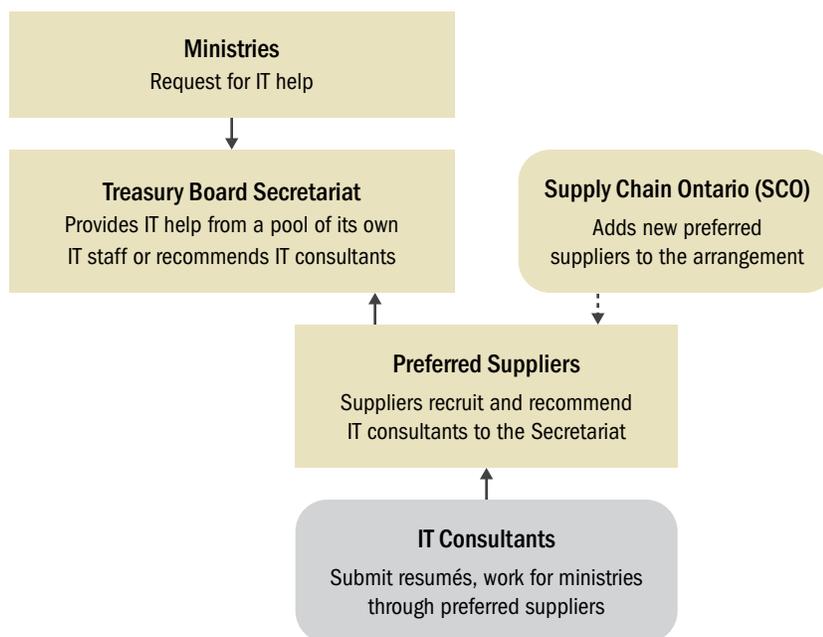
Ministry staff evaluate the consultants recommended by the agencies and decide whom to hire, and in many cases the ministries repeatedly renew these contracts. For each renewal, ministries are again charged a fee on top of what is paid to the consultants for actual work done.

In 2015, the Secretariat conducted a review of the rates the government pays for IT consultants. It found that they were 10% higher when compared to market rates paid by similar large private institutions, such as banks. Based on this market rate review study, the Secretariat calculated a one-time estimated potential cost savings of \$22.5 million over the two fiscal years 2016/17 and 2017/18 if it could pay these lower per diem rates.

Although the Secretariat told us that it is working on reducing consultant rates, it is not looking at the fees charged by the middleman agencies. These fees are not shown separately on invoices submitted by the middleman agencies. We wanted to find out how much these agencies charge on top of what consultants are paid so we could find out how much this costs the government annually. The Secretariat could not tell us this information either, because it has not asked agencies to explain what they charge.

**Figure 9: How IT Consultants Are Supplied to Ministries**

Prepared by the Office of the Auditor General of Ontario

**RECOMMENDATION 11**

In order to ensure that the Ontario Government's ministries procure IT consulting services in the most economical and cost-effective way, the Treasury Board Secretariat, together with Supply Chain Ontario, should:

- determine the impact of middleman fees charged by preferred suppliers on IT consultant rates paid by the government;
- use this information together with other information about consultants' market rates to (as part of the internal/external IT consulting review noted in Recommendation 10) study and recommend the most economical and cost-effective way for the government to procure IT consulting services; and
- periodically continue to monitor that the government is receiving the most competitive IT consulting rates.

**MINISTRIES AND SECRETARIAT RESPONSE**

Treasury Board Secretariat (Secretariat) and the Ministry of Government and Consumer Services (MGCS) acknowledge and agree that IT consulting services must be acquired in the most economical and cost-effective way. To that end, we are working together to develop a strategy for the next generation of the IT consulting services preferred supplier arrangement for implementation in October 2017. In doing so, the Secretariat and MGCS are assessing recommendations made in a 2016 study of the current acquisition model, best practices in other jurisdictions and the private sector, and factoring in industry consultations. In the interim, work is already underway, such as using market-based consulting rates as a way to establish ceiling costs for IT projects that preferred suppliers bid on.

## 4.5 Weak Controls and Oversight over Procurement of IT Consultants

We found that ministries are not following their own best practices when hiring IT consultants. This includes not properly evaluating applicants through in-person interviews and reference checks.

### 4.5.1 Controls over the Procurement of IT Consultants Are Not Followed

Ministries are not always following best practices, such as conducting in-person interviews, to evaluate and select IT consultants. Because of this they may not always be selecting the most qualified candidate. This also creates opportunities for fraud.

The Secretariat has developed best practices for ministries to follow when hiring IT consultants. These best practices are there to help ensure that ministries select the most qualified candidates. We list some of the more important best practices in **Figure 10**.

We found that ministries are not always following these best practices set out by the Secretariat. In our testing we found that:

- in some cases, there have been fewer than three ministry staff involved in the evaluation and selection of consultants;
- in one case, a consultant was involved in the evaluation and selection process of another consultant;
- in some cases, consultants with whom ministries did not have previous experience were hired without an in-person interview; and

- in many cases documentation to support at least one reference check was missing.

In the majority of files we reviewed, we also found that the ministry person who authorized payment requests from the agency was involved in the hiring of its IT consultant. If only one person is involved in hiring an IT consultant, this person can hire a consultant and no one else checks that the consultant actually does any work. The Secretariat, which processes payments made to agencies providing the IT consultants, does not review them or question any anomalies, such as a high number of days or hours billed by consultants in a short period of time. The Secretariat assumes approved payments are correct.

The situation creates opportunities for fraud. Our audit noted a situation where a senior manager at one ministry was aware of these internal control weaknesses and proceeded to create and hire a phantom consultant. The senior manager created a fake resumé and sent it to a preferred supplier. The resumé matched the skills that the manager was looking for. Based on the resumé, the preferred supplier unknowingly recommended the phantom consultant to the senior manager, who hired him from a list of candidates. Over a period of several months, the senior manager approved the phantom consultant's invoices that billed for every day of the month and pocketed about \$150,000 for services never rendered.

When we discussed this situation with senior management at the Secretariat, they told us that they became aware of this fraud in 2014, some time after the senior manager left the ministry for another job. However, our review showed that the

### Figure 10: Treasury Board Secretariat's Best Practices for Hiring IT Consultants

Prepared by the Office of the Auditor General of Ontario based on the Ontario Public Service Procurement Directive

Best Practices for Hiring IT Consultants
• At least three individuals should be involved in the evaluation and selection process.
• Only government employees should be evaluating and selecting consultants.
• In-person interviews should be conducted with each qualified candidate, unless one candidate is clearly more suitable and the ministry has had prior experience with this consultant.
• At least one reference should be contacted for the successful candidate.

Secretariat has not addressed the control weaknesses that allowed this fraud to take place. Nor have they investigated whether any other cases of fraud have occurred. The Secretariat's senior management have also not discussed this issue with their staff so that they could implement preventive measures to detect any such potential payments in the future.

## RECOMMENDATION 12

In order to ensure that ministries select the most qualified IT consultants and opportunities of fraud are reduced, the Treasury Board Secretariat should:

- work together with ministries to ensure that they follow the Secretariat's best practices when hiring IT consultants;
- review all payments to IT consultants for any anomalies; and
- verify the existence of IT consultants working for the ministries.

## MINISTRIES AND SECRETARIAT RESPONSE

Treasury Board Secretariat (Secretariat) agrees with this recommendation and will be implementing the following:

- The Secretariat will enhance current processes by ensuring that best practices are shared with ministries as part of the hiring process of IT consultants;
- The Secretariat will improve controls for validating payments to IT consultants by ensuring adequate segregation of duties and addressing potential anomalies;
- The Secretariat will work with ministry partners to look at strengthening the hiring of IT consultants through a review of verification and identification controls, which may include enhanced security screening, social insurance number validation and in-person interviews; and
- The Secretariat has engaged the Ontario Internal Audit Division to review current processes and validate enhancements implemented for the acquisition of IT consultants and make recommendations where processes can be further strengthened.

## Appendix 1: List of Government's Internal Resources

Prepared by the Office of the Auditor General of Ontario, based on the Ontario Public Service Procurement Directive

Name of Service	Supplier Ministry
Advertising	Ministry of Government and Consumer Services
Arrangements for Non-Scheduled Air Travel	Ministry of Natural Resources and Forestry
Banking Services	Ministry of Government and Consumer Services
Government Telephone Directory	Ministry of Government and Consumer Services
Government-Wide Employee Human Resources Information System	Ministry of Government and Consumer Services
Insurance	Ministry of Government and Consumer Services
IT Help Desk	Ministry of Government and Consumer Services
IT Support	Ministry of Government and Consumer Services
Large Items Waste Disposal Services	Ministry of Government and Consumer Services
Legal Services	Ministry of the Attorney General
Medication and Medical Supplies	Ministry of Health and Long-Term Care
Non-Commissioned Opinion Polls	Ministry of Government and Consumer Services
Passenger Vehicles Acquisition and Disposal Services	Ministry of Transportation
Payroll and Benefit Services	Ministry of Government and Consumer Services
Purchase of Space and Time in the Domestic Media	Ministry of Government and Consumer Services
Realty Services	Ontario Infrastructure Lands Corporation
Staff Recruitment Advertising	Ministry of Government and Consumer Services
Translation Services	Ministry of Government and Consumer Services and Ministry of the Attorney General
Travel Services	Ministry of Government and Consumer Services
Voice Telecommunication Equipment and Audio Conferencing	Ministry of Government and Consumer Services

## Appendix 2: Preferred Supplier Arrangements Managed by SCO

Source of data: Supply Chain Ontario

Type of Good or Service	# of Arrangements	# of Suppliers
Administrative services	3	4
Cleaning supplies	1	1
Consulting		
• IT Consulting Services	1	291
• Management Consulting Services	1	271
• IT Project Consulting Services	1	124
Copy paper	1	1
Courier services	1	1
Dairy products	1	5
Employee support (including employee assistance program, relocation support and mediation services)	3	20
Event staging equipment and technical support	1	9
External audit services	1	15
Fuel (including for aircraft)	3	12
Groceries (including dry and frozen foods, kitchen supplies and fresh bread)	2	2
Laboratory supplies and services (including hazardous waste collection)	3	7
Learning and development services (including executive coaching and French fluency evaluation)	3	137
Office seating and furniture supply and installation	1	5
Office supplies	1	1
Paging/mobile devices and services	1	5
Research services and subscriptions (including market research, policy formulation and evaluation, and program development)	2	33
Security services (including security assessments, training, staffing and screening)	3	16
Software solutions, IT security products and software licences	13	54
Staffing services (including temporary help and recruitment support)	2	45
Travel services (including airfare, rail fares, car rental and accommodation at government rates)	8	9
Vehicle purchasing, upgrades, disposal and related maintenance	5	14
<b>Total</b>	<b>62</b>	<b>1,082</b>