



# Yukon Legislative Assembly

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## **STANDING COMMITTEE ON PUBLIC ACCOUNTS**

### **Public Proceedings: Evidence**

**Thursday, January 16, 2025 — 1:00 p.m.**

Chair: Currie Dixon

## **STANDING COMMITTEE ON PUBLIC ACCOUNTS**

**Chair:** Currie Dixon

**Vice-Chair:** Kate White

**Members:** Scott Kent  
Hon. Richard Mostyn  
Hon. John Streicker (substituting for Hon. Jeanie McLean)

**Clerk:** Allison Lloyd, Deputy Clerk

**Witnesses:** **Office of the Auditor General of Canada**

Karen Hogan, Auditor General

Nathalie Robertson, Director

**Department of Highways and Public Works**

Tracy Allen, Deputy Minister

Richard Gorczyca, Assistant Deputy Minister, Corporate Services

Katie Munroe, Director

**EVIDENCE****Whitehorse, Yukon****Thursday, January 16, 2025 — 1:00 p.m.**

**Chair (Mr. Dixon):** I will now call to order this hearing of the Standing Committee on Public Accounts of the Yukon Legislative Assembly.

The Public Accounts Committee is established by Standing Order 45(3) of the Standing Orders of the Yukon Legislative Assembly. This Standing Order says: “At the commencement of the first Session of each Legislature a Standing Committee on Public Accounts shall be appointed and the Public Accounts and all Reports of the Auditor General shall stand referred automatically and permanently to the said Committee as they become available.”

On May 17, 2021, the Yukon Legislative Assembly adopted Motion No. 11, which established the current Public Accounts Committee. In addition to appointing members to the Committee, the motion stipulated that the Committee shall have the power to call for persons, papers, and records and to sit during intersessional periods.

Today, pursuant to Standing Order 45(3) and Motion No. 11, the Committee will investigate the Auditor General of Canada’s performance audit report on procurement and contracting. I would like to thank the witnesses from the Department of Highways and Public Works. I believe that the deputy minister, Tracy Allen, will introduce these witnesses during her opening remarks, so I won’t do so.

I would also like to welcome the officials from the Office of the Auditor General of Canada who are present today. They are Karen Hogan, Auditor General, and Nathalie Robertson, Director.

I will now introduce the members of the Public Accounts Committee. I am Currie Dixon, the Chair of the Committee and the Member of the Legislative Assembly for Copperbelt North. To my left is Kate White, who is the Committee’s Vice-Chair and the Member for Takhini-Kopper King. To her left is the Hon. John Streicker, Member for Mount Lorne-Southern Lakes, who is substituting for Committee member Jeanie McLean. To his left is Scott Kent, Member for Copperbelt South. Finally, behind me is the Hon. Richard Mostyn, Member for Whitehorse West.

The Public Accounts Committee is an all-party committee with a mandate to ensure economy, efficiency, and effectiveness in public spending — in other words, accountability for the use of public funds.

The purpose of this public hearing is to address issues with the implementation of policies, whether government services were effectively and efficiently delivered, and not to question the policies of the Yukon government itself. In other words, our task is not to challenge government policy but to examine its implementation.

The results of our deliberations will be reported back to the Legislative Assembly.

To begin the proceedings, the Auditor General will make an opening statement. The deputy minister will then deliver remarks on behalf of her department.

Following the opening statements, Committee members will ask questions. As is the Committee’s practice, the members devise and compile the questions collectively. We then divide them up among the members. The questions that each member will ask are not their personal questions on a particular subject but those of the entire Committee. After the hearing, the Committee will prepare a report, including any recommendations that the Committee wishes to make. This report will be tabled in the Legislative Assembly.

Before we start the hearing, I would like to ask that questions and answers be kept brief and to the point so that we may deal with as many issues as possible in the time allotted for this hearing.

I would also ask that Committee members and witnesses wait until they are recognized by the Chair before speaking. This will keep the discussion more orderly and allow those listening on the radio or over the Internet to know who is speaking.

We will now proceed with the Auditor General’s opening statement.

**Ms. Hogan:** Mr. Chair, I am pleased to be here today to discuss our report on procurement and contracting in Yukon, which was presented to the Assembly in November 2024. Joining me today is Nathalie Robertson, the Director who is responsible for this performance audit.

I would like to begin by respectfully acknowledging all the Yukon First Nations and that this meeting is taking place on the traditional territories of the Kwanlin Dün First Nation and the Ta’an Kwäch’än Council.

Procurement and contracting are used to support the Government of Yukon in delivering programs and services to all Yukon residents. The government purchases goods, like auto parts and road signs, as well as services, including building construction, roadway maintenance, and transportation to remote locations.

In this audit, we wanted to know whether the Yukon government created a competitive procurement environment and made decisions that resulted in value for money for Yukoners. We examined whether the Department of Highways and Public Works reported on the outcomes of the procurement policy. We also examined a representative sample of 53 contracts across 16 organizations and an additional 10 contracts with values of \$250,000 or more.

Overall, we found that the government was not monitoring the results of its procurement and contracting activities, including whether value for money was achieved. It also had not identified the information needed to report on outcomes.

The organizations fell short of creating a competitive environment for Yukon First Nations and local businesses, despite the Yukon government’s commitment to increase opportunities to access government contracts. A competitive environment would also increase value for money. We found that just over half of the contracts in our sample did not create this competitive environment.

We also found instances where work had started before a contract was signed. On the 10 high dollar-value contracts we looked at, we found one contract valued at \$2 million where

work had started almost a full year before the contract was signed. This contract was also awarded without a competitive process. In our sample of 53 contracts, there were four instances where work had begun before a contract was signed.

As part of its oversight role, the Department of Highways and Public Works provided Yukon government organizations with advice on planned procurements that had the potential to contravene the policy. During the period of our audit, the department was consulted on almost 300 procurement processes. Its advice was not accepted by departments in over a third of these consultations. We were concerned that there was no mechanism to allow the department to analyze outcomes or report on instances where its advice was not followed.

Ultimately, the Government of Yukon has committed to key principles of transparency and accountability as part of its procurement policy. These principles are sound but must be used to achieve a stronger economic future for local businesses and Yukon First Nations.

Mr. Chair, this concludes my opening statement. We would be pleased to answer any questions the Committee may have.

**Ms. Allen:** Thank you, and good afternoon, everyone. My name is Tracy Allen and I am the Deputy Minister of Highways and Public Works. I appreciate the opportunity to be here today to speak to the Auditor General's report on procurement and contracting within the Government of Yukon. I am also pleased to be joined by the Assistant Deputy Minister of Corporate Services, Richard Gorczyca, and the director of Transportation Engineering and former director of Procurement, Katie Munroe.

Procurement is an essential part of the services we provide as a government, and the way we conduct our procurement processes directly impacts the daily lives of many Yukoners.

Our procurement processes and efforts span a wide range from acquiring parts for heavy-equipment repairs to vehicles, computers, and maintenance materials and to managing the procurement of large-scale projects such as building a brand new school. No matter the size of the purchase, adherence to the principles of openness, fairness, and transparency is paramount. These principles guide us in responsibly using government funds while ensuring that the procurement process remains clear and accessible to all vendors. Through effective procurement, we create stability for local businesses, support new ventures, and foster a more inclusive economy while delivering value for money. In the last year alone, we have awarded over 7,100 contracts valued at close to half a billion dollars.

We also recognize the potential of procurement as a tool for creating meaningful partnerships and advancing reconciliation. One of the key ways we are proud to be achieving this is through the Yukon First Nation procurement policy. This policy has positioned us to be at the forefront of Indigenous procurement in Canada. From its inception, the policy has been groundbreaking. Unlike traditional policies drafted by a single government, the Yukon First Nation procurement policy was co-developed with Yukon First

Nations and their development corporations. All 14 Yukon First Nation governments were invited to contribute and collaborate, and many have worked closely with the Government of Yukon to shape the policy we have today. This level of collaboration on a policy was unprecedented for our government and has been a defining feature of the Yukon First Nation procurement policy.

In the three years since its implementation, this policy has already delivered tangible results. Tools such as the Yukon First Nation business registry and bid value reductions have helped direct opportunities to First Nation businesses, ensuring that these benefits stay close to home. With more than 125 businesses now listed in the registry, participation continues to grow, expanding economic opportunities for everyone. We are also keeping a close eye on how the market responds to this policy through the Monitor and Review Committee, which includes representation from industry, Yukon First Nations, and the Government of Yukon. The role of this committee is to analyze the data, monitor outcomes, and provide recommendations to ensure continuous improvement within the Yukon First Nation procurement policy itself.

The Yukon First Nation procurement policy goes beyond economic growth; it is a framework for fostering equity and building meaningful partnerships. As a key step toward reconciliation, this policy benefits all Yukoners by promoting collaboration and shared economic opportunities. Through initiatives such as community development agreements, the policy has created avenues for partnership and local economic development.

One example is with the Whitehorse airport replacement project, which includes two agreements with the Kwanlin Dün First Nation and one with Ta'an Kwäch'än Council. These agreements have been tailored to maximize socio-economic benefits such as employment, subcontracting, training, workforce development, and business opportunities to each First Nation. While the project is still ongoing, it has opened the door for these Yukon First Nation businesses to play a key role in one of the Yukon's biggest infrastructure projects, and we remain committed to refining our procurement practices to align with both reconciliation and economic progress.

But improving procurement is not something we can do on our own, and it requires ongoing dialogue with those who are directly affected by these processes: our stakeholders and our vendors. Their feedback is essential for shaping the policies that we implement, and we greatly value their insights. That is why we are proud and work closely with organizations such as the Yukon Contractors Association, the Whitehorse Chamber of Commerce, and multiple First Nations. These partnerships provide us with valuable feedback that helps us refine and improve our approach on a continual basis.

Audits as well play a major role in identifying areas for improvement and holding us accountable. I want to take a moment to thank the auditors for their thorough efforts and valuable insights. We accept all of the recommendations by the Auditor General and have already begun to make progress on implementing our responses as laid out in a December 2024 work plan. We have also reached out to the local business

community for their feedback on this plan. This input will help us find practical solutions that reflect the needs of those most impacted by our procurement policies.

While the audit did not identify any instances of non-compliance with the procurement policy itself, it did highlight the need for improved documentation — a critical area that we are actively working to address. Clear, accurate, timely records are essential to ensure that we can demonstrate that our procurement activities are fair, transparent, and accountable. Good documentation also demonstrates we are following the procurement policy, fostering competition, and delivering value for money.

The audit highlighted the importance of having proper filed documentation and signed contracts in place before work begins. In response, the department introduced new measures in October 2024, including guidance and training for staff on the need for and importance of — and how to keep — complete and accurate procurement documentation from start to finish.

We will continue to work closely with the Yukon government organizations to find areas for improvement and enhance compliance and accountability.

The audit also recommended that we strengthen processes for managing conflicts of interest. While the Government of Yukon already maintains a values and ethics code, an oath of office, and a conflict-of-interest policy, we plan to go further. We will be working with other departments to introduce a system where all officials involved in a procurement and contract management project are required to declare any potential conflicts of interest that may arise in the course of contracting activities.

The audit also called for improved data collection to conform without any doubt that our procurement activities promote competition and provide value for money. Enhanced reporting measures are equally important, particularly in tracking procurement policy outcomes and identifying risks.

As outlined in the action plan, we will work with the Yukon government organizations to set up data collection and reporting practices and define clear metrics to evaluate these outcomes on a regular basis. We will be establishing benchmarks for key performance indicators to measure the success of the policy and we will enhance the performance measurement framework for the Yukon First Nation procurement policy and formally report on the procurement and contracting activities across the government as a whole.

Outside of this audit's scope, we will also initiate an independent review of the procurement policy to identify areas for improvement and ensure that it aligns with best practices across the country.

The audit further highlighted the need to track whether procurement advice is being followed by other Yukon government organizations and whether the contracts are meeting their goals. In response, we have begun to collaborate with these organizations to analyze whether the advice provided is being implemented and assess outcomes. By creating a robust process for oversight, trend analysis, and activity monitoring, we aim to better align with policy

objectives and ensure that contracts fulfill their intended purposes.

In conclusion, I want to reiterate that we take the recommendations of the audit seriously and view them as an opportunity to strengthen our procurement processes.

I am very proud of the team at the Procurement Support Centre for their hard work and dedication to transparency and continuous improvement. We recognize that there is always room for growth and we are committed to making the necessary changes.

With the insights from this audit and the questions put forward today, we look forward to refining our processes and ensuring that we continue to deliver the best results for Yukoners.

**Chair:** Before we proceed with questions, I will note for those listening that the Committee has received two documents that are available on the Committee's website in advance of today's hearing. One is entitled *Audit Action and Implementation Plan 2024 & Report on Progress*, which was submitted by the Department of Highways and Public Works. The second one is a document entitled *Yukon Bureau of Statistics' response to the questions of the Standing Committee on Public Accounts of the Yukon Legislative Assembly*.

Those documents are available on the Committee's website and may be referred to in the course of today's questions.

With that, we will continue with questions from the Committee.

**Ms. White:** The first questions are for the officials from the Office of the Auditor General of Canada.

Why did you choose to audit Yukon procurement? Can you please elaborate on your process?

**Ms. Hogan:** My office has a rigorous process to determine what audits we do every year and, to have a work plan going forward, we try to keep that work plan nimble. We tend to plan a couple of years out. The process includes understanding what is important to MLAs and to Yukoners, and we look at the risk that the public service says they are facing. We have discussions with senior officials, and then we also monitor Government of Yukon activities so that we can maintain a potential list of audits.

The reason we selected this audit — there were many of them — included the many changes to the Yukon procurement policy, the importance of procurement in developing a robust economy for Yukoners, the number of contracts — there is a high number of contracts in government — as well as recent interest that we have seen in procurement in other jurisdictions, whether federally or in other territories. We felt that it was the right time to do an audit here and provide some advice to the public service.

**Ms. White:** Have you previously audited procurement in the Yukon and, if so, when? How did this audit compare?

**Ms. Hogan:** This was our first audit of procurement and contracting across the Government of Yukon. That being said, we do look at elements of contracting in other audits. We would look at some contracting in our financial audit, which happens on an annual basis, and we would also have looked at

procurement in a specific audit. For example, in 2013, we looked at the Yukon Hospital Corporation, so we would have looked at procurement and contracting in that context.

How does this audit compare to the other instances where we have looked at contracting? Well, in a financial audit, we would focus mostly on the accuracy of the recording of a contract, making sure that payments are accurately reflected and properly recorded where they should be versus looking for value for money and outcomes when we do a performance audit.

I guess that the last thing I would offer as different is that this was a very general one. We wanted to have a broad lens across the Yukon government, whereas other audits might have specifically looked at an individual project. So, this was meant to be broader and higher level to provide advice to improve outcomes in general.

**Hon. Mr. Streicker:** The following questions are about the methodology in the representative sample.

What criteria did you use to choose which projects to review to make it a representative sample? Have you used this methodology with other audits in the Yukon or elsewhere, and how confident are you in the results?

**Ms. Hogan:** We do have data scientists who are permanently in our office. We consult them on every audit when it comes to looking at sampling. Sampling is commonly used in every audit that we do. The first thing that we did — in terms of what our methodology was to make this a representative sample — is that we needed to identify the full population during our audit period. Our audit period covered April 2019 to January 2024. There were a little over 47,000 contracts in that group.

Once we had the population, our first criteria was to ensure that the sample would reflect the broader population of contracts across the government. So, we selected a representative sample in order to allow us to make observations that could be generalized across the entire population of contracts.

We specifically designed a sample in a way that would reflect the proportion of contracts distributed across the 16 organizations. That's called "proportionally stratified sampling". And what we were doing here, for example, would be: If one organization had half of the contracts in a sample or in the population, then they should have half in our sample as well; right? So, we wanted to stratify according to the distribution that already existed.

The second criteria that we applied on top of that was to ensure that the sample included a contract from every department, even those that would have had very few contracts, so that did require us to identify and replace some contracts.

Now, all of the contracts with both criteria were done through random selection, and a random selection ensures that there is no bias. We didn't intentionally select a contract for any reason whatsoever, and it's meant to keep the sample really representative of the whole population.

The third part of your question was: How confident are we in the overall results? Well, we are very confident. We follow Canadian auditing standards and, as I said, we have a specialist

in statistical sampling who follows our team throughout the whole process.

Canadian auditing standards require us to gather sufficient and appropriate audit evidence, and we only conclude once we have that gathered.

Then, finally, I think the last part of your question had to do with — have we used this methodology in other places? As I mentioned in my opening remarks, we do apply sampling methodologies regularly in all our audits, whether they be financial or performance audits.

As a professional audit office, we rely on the science of statistics. In the audit context, we have to tailor that science to answer or address the criteria or the question that we are trying to get at. That was a little technical, but hopefully that helped you understand our methodology.

**Hon. Mr. Streicker:** Can you explain the methodology for determining 53 as a sample size?

**Ms. Hogan:** The methodology that we used to determine the sample of 53 is a form of sampling that is called "attribute sampling". In attribute sampling, there are typically two outcomes or two values. For example, was a contract provision met or was it not? So, it's very binary. That is attribute sampling.

According to statistical science, there were five factors that we had to use to determine the sample size, so to determine the 53. First is the population size. As I mentioned, it is a little over 47,400 contracts that were in the population over our audit period. The second item is the confidence level. So, at what confidence do we want our sample to be able to represent the population? So, we did that at a 90-percent confidence level. The third element is the margin of error. We set our margin of error to no greater than 10 percent.

Statistical sampling allows you to either do one-sided or two-sided margins of error. We chose a one-sided margin of error. Finally, the last element is the error rate in the population. Obviously, that is unknown in advance, so you have to make sure that you pull a large enough sample size in order to compensate for that. We do use a sampling software to support us, so it is then put through a sampling software in order to determine the actual number of sample items.

We tailor our audit approach to conclude against our criteria, as I mentioned before, and we try to find an efficient and effective way to minimize the burden on both the entities that we audit and our audit team. I think that it is important to recognize that our audit perspective is not the same as other applications of statistics. There is no one-size-fits-all approach to sampling. So, with every audit, we do sit down with our statistical expert and determine the right sampling method.

I do consider that both are viable — one-sided and two-sided margins of error — but in our case here, we chose the one-sided margin of error.

**Hon. Mr. Streicker:** The next question has at least been partly answered, but I will ask it just for completeness' sake.

On page 19 of the report, you describe the sample of 53 contracts being representative and state that — quote: "This sample was sufficient in size to conclude on the sampled population with a confidence level of no less than 90% and a

margin of error (confidence interval) of no greater than +10 percent.” Normally, margins of error are listed as plus or minus. When you stated “+10 percent”, what does this mean?

**Ms. Robertson:** As the Auditor General said in her previous response, while there were many viable options, we chose to use the one-sided margin of error, which is the typical approach in audit. Audit is concerned about how high an error or non-compliance level could be and whether it exceeds an allowable or material limit. This is the upper bound of a margin of error.

Using the one-sided margin of error allowed us to understand the nature and content of contract files while minimizing the impact on the government organizations in requesting additional contract file documentation and allowing our office to deliver a report that is adding value.

The plus 10 percent means that we are confident that the true measure of error across the population is not more than 10 percentage points higher than the rate found in our sample. A confidence level of no less than 90 percent means that if we repeated the sampling exercise 100 times, at least 90 times, we should achieve the same result.

It’s important to note that our contract file review was only one aspect of our audit. The other important component was auditing the monitoring by the government to understand if procurement and contracting activities were meeting the intended outcomes of the policy.

**Hon. Mr. Streicker:** In the methodology, you also indicated that when considering the 47,041 contracts across government, you wished to make sure to sample contracts from each of the 16 Yukon government organizations.

I know that you also spoke about this earlier — or the Auditor General did — but how did you go about sampling across the 16 Yukon government organizations, and how did these strata impact the sample size you chose?

**Ms. Robertson:** The Auditor General previously spoke about the approach we used to select the sample and our use of stratification. We designed the sample in such a way as to reflect the proportions that exist for the 16 Yukon government organizations in the total population of 47,041 contracts. This is called “proportionally stratified sampling”. We randomly sample within each of the 16 strata — in this case, the 16 government organizations — until we reached the number necessary for each stratum. Using a stratified approach does not change the overall sample size, and this approach allowed us to conclude on the overall population.

**Mr. Kent:** Which organizations external to government did you consult with on this audit? How is their input reflected in the final report?

**Ms. Hogan:** So, my office often does this in various audits. We think it’s important to reach out to interested and affected parties and understand what they think is important. As I mentioned, we even use that as a data element as we do audit selection in general.

In this case, the input that we received informed the scope and the focus of the audit that we carried out. We provided a list of the seven organizations to the Committee

in writing, so I wasn’t intending on listing them, here but they were provided to Committee members in advance.

**Mr. Kent:** Was there any evidence of fraud identified in the audit?

**Ms. Hogan:** The question around fraud is something that we always ask senior management in every audit. We expect that they will make us aware of any actual, alleged, or expected instances of fraud. Now, none were brought to our attention at all during the course of the audit. We do re-ask those questions throughout the audit. As a result of our procedures, we found no instances of fraud as well.

**Mr. Kent:** What percentage of the contracts reviewed did not adhere to the procurement policy?

**Ms. Robertson:** You saw that we examined procurement processes and contracts against key elements of the policy. All 53 contracts follow the Government of Yukon procurement policy thresholds for direct award, invitational tender, and open tender; however, we found that 27 of the 53 contracts did not create a competitive environment or provide value for money, which are core principles of the policy.

**Hon. Mr. Mostyn:** I would like to welcome all participants this afternoon to this Chamber.

Did you find any conflicts of interest in the contracts you reviewed, and was there any suggestion of perceived conflict of interest?

**Ms. Hogan:** We found no real or perceived conflicts of interest in the contracts that we sampled and reviewed during the audit. I think there is a self-declaration in the public service in Yukon, but it isn’t sort of a regular thing. That’s why we issued a recommendation to actually put a mechanism in place over and above that self-declaration of conflicts of interest that happens in the public service really linked to procurement — that any individual who might be involved in a procurement should sit back and think. In many cases, perceived is worse than actual conflict of interest, but is there something that they should be making others aware of? This is a best practice that we see in other jurisdictions, and as I mentioned in my opening remarks, procurement has been an important element in many audits across many jurisdictions this past year or so, and conflicts of interest can be avoided or deterred by having this proactive self-declaration process, and that’s why we issued a recommendation.

**Hon. Mr. Mostyn:** How did you determine to evaluate the Yukon government on things outside the procurement policy, such as the definition of a “competitive environment”?

**Ms. Hogan:** When we start an audit, the first thing we do is we sit down and gain an understanding of the policies and guidance available. All of the criteria that we establish and hold departments to exist in policies or guidance, so we do not hold people to things outside. We might make recommendations about best practices, but it is meant to hold the government to their own commitments.

During the planning stage, the governments then sign off and agree on: Yes, this is the criteria which you will hold us to before we begin the audit. In the Government of Yukon’s procurement policy, while the words might not all appear — “competitive environment” — it does include the principles

that are meant to achieve a competitive environment, so it says: increasing opportunities for local businesses and Yukon First Nations to secure Government of Yukon contracts as well as building a stronger economic future for Yukoners. We chose to call that a “competitive environment” in our report, but it is those principles that were the underpinning cornerstone of that expectation.

**Hon. Mr. Mostyn:** Why did you choose not to evaluate contracts based on chapter 22 treaty obligations as outlined as a policy objective in this audit?

**Ms. Robertson:** The office recognizes the importance of chapter 22 and the treaty obligations and recognizes the link between the Yukon First Nation procurement policy and chapter 22.

Chapter 22 is about economic development measures, which encompass much more than procurement and contracting. Our audit objective focused on whether a competitive environment was created and whether procurement and contracting decisions resulted in value for money for Yukoners. Both of these elements support objectives outlined in the Yukon First Nation procurement policy.

**Chair:** The sample contracts were in some cases extremely small. Why did you audit such small dollar-value contracts? Would you recommend that departments invest time and energy in full competitive procurements for low dollar-value contracts?

**Ms. Robertson:** So, 94 percent of the contracts during our audit period had a value of less than \$50,000. Because we did representative sampling, as a result, our sample included a majority of small dollar-value contracts. We found that all the contracts followed the policy-directed acquisition threshold.

The decision on thresholds to be included in policy is one that should be made by policy-makers. As per our recommendations, we highlight the importance of having a process clearly defined to ensure consistency and ensure that these decisions are documented.

**Chair:** Did the Yukon First Nation procurement policy play a central role in the audit?

**Ms. Robertson:** The Yukon First Nation procurement policy was not the main focus of the audit; however, the objectives of our audit, the creation of a competitive environment and decisions that resulted in value for money for Yukoners, do align with the key principles of the Yukon First Nation procurement policy.

**Chair:** Were there any findings on how the government managed risks related to the implementation of the Yukon First Nation procurement policy?

**Ms. Robertson:** As previously answered, the Yukon First Nation procurement policy was not part of the focus of our audit, and therefore, we have no specific findings on how the government managed this policy. More generally, we found that the Department of Highways and Public Works was not monitoring or reporting on government-wide risk relating to procurement and contracting activities.

**Ms. White:** Did all 53 contracts meet their stated deliverables?

**Ms. Robertson:** All 53 contracts that we sampled met their stated deliverables.

**Ms. White:** Could you please walk us through what criteria you use to assess each audited contract?

**Ms. Robertson:** The criteria used to assess the contracts were the same. The policy-directed acquisition method, based on the type and dollar value, would have determined the specific detail that we examined. In paragraph 23, we outlined the criteria that we used to assess for a competitive environment. Based on the policy and the guidelines, we looked at whether dollar thresholds for acquisition method in the Government of Yukon procurement policy were followed. Market research evidence was present in the contract files. Documentation supported the selection of bidders as part of an invitational tender where applicable.

Northern experience and Yukon First Nation participation measures were part of the evaluation criteria for competitive processes where applicable. In Exhibit 5, we outlined the value-for-money elements we reviewed to assess economy, efficiency, and effectiveness. These included: whether a competitive environment was created, the deliverables met the stated need, the deliverables were received, contract monitoring of Yukon First Nation participation measures had taken place, and whether non-performance was managed.

**Ms. White:** Of the 53 contracts audited, how many did not meet the criteria, and was there a pattern in the concerns you noted?

**Ms. Robertson:** Value for money was not demonstrated for 27 of the 53 contracts selected using representative sampling. This was because a competitive environment was not created in these instances. Specifically, we found that these contracts did not have the documentation that demonstrated that market research was undertaken before the contract award. There was no discernible pattern, since the 27 were across various entities.

**Ms. White:** How many of the 27 contracts that did not demonstrate value for money were issued during the global pandemic? Did you assess whether the pandemic had an impact on those contracts?

**Ms. Robertson:** Sixteen of the 27 contracts — 59 percent — that did not demonstrate value for money were issued during the global pandemic. While the OAG did not specifically assess whether the pandemic had an impact on these contracts, we did not notice a specific trend relating to the timing of these contracts. A number of contracts that were compliant were also during the pandemic period.

**Ms. White:** What is the dollar value of the 27 contracts? How many were less than \$50,000? Can you please provide a breakdown?

**Ms. Robertson:** The total contract value for the 27 contracts was \$149,598 and change. All 27 contracts were less than \$50,000. They were across 11 organizations, and I believe the department will be providing details on the specific lists.

**Hon. Mr. Streicker:** Referring to paragraphs 10 and 11, why did the audit focus on value for money as opposed to whether or not the procurement policies of the Government of

Yukon were achieving the key principles stated in the procurement policy itself?

**Ms. Robertson:** The Government of Yukon procurement policy includes nine principles as stated in the purpose statement of the policy, which include efficiency, economy, and effectiveness to obtain maximum benefits with the resources available for public procurement and building a stronger economic future for Yukoners. We use value for money to embody these two statements.

**Hon. Mr. Streicker:** When assessing value for money for small contracts in the Yukon, did you consider the cost of staff time, advertising, and other factors? How would you suggest balancing efficiency and competitiveness? Finally, what is your advice on how to define when a competitive process is warranted?

**Ms. Hogan:** The costs of staff time and advertising are really normal operating costs for the government, so we did not take those into account during our audit when we did those assessments. We did adjust, however, our expectations when there were low dollar-value contracts. So, if a formal competitive process wasn't required, then we didn't look for the level of documentation with the level of rigour that you would see in a formal process.

In some of these instances, file documentation was reviewed to determine if the decision to proceed with a particular vendor was justified. We were looking for market research having been done, and this took on many forms. At times, it was a handwritten note, and sometimes it was a short e-mail or a list of places that were called with prices. We took whatever was in the file and we adjusted our expectations for that.

We noted in our report that there were instances where market research did take place, and officials had told us that, but they did not document it. That's why we do encourage that documentation is always needed to support and demonstrate accountability and transparency.

The balance of efficiency and competitiveness is one that I think is best defined by the Government of Yukon. You said that with the thresholds that you put in a policy, but having a clear process and expectation for what that means for all the departments is a good way of ensuring consistency and transparency. That's usually worked out through guidance or through training — so, just making it clear so that you can see every department doing the same thing.

A decision as to when a competitive process is warranted is a policy decision that should be determined by the government. It could include things like the dollar-value thresholds or the types of goods being purchased and so on. I think it's the things that should be included in a policy and not things that I would comment on. I will comment on how you apply that policy, but I think it is really left to policy-makers to make all those decisions.

**Chair:** I will note now that all subsequent questions are directed to the Department of Highways and Public Works unless periodically mentioned by members of the Committee asking the questions that they will be directed to the OAG.

**Mr. Kent:** This first question is similar to one we just asked the Auditor General, but I will ask it of the department.

What is the dollar value of the 27 contracts that did not demonstrate value for money? How many were less than \$50,000? Can you please provide a breakdown?

**Ms. Allen:** The 27 contracts, as noted by the Auditor General, that did not demonstrate value for money totalled \$149,598.46. All of these contracts were less than \$50,000.

In terms of a breakdown by department, one was from the Liquor Corporation, one was from the Public Service Commission, one from the Justice department, 15 were from Highways and Public Works, two were from Health and Social Services, one was from French Language Services, one was from Executive Council Office, one from Environment, two from Energy, Mines and Resources, one from Education, and one from Community Services. None of the 27 contracts exceeded \$27,000.

**Mr. Kent:** What are the main objectives of the *General Administration Manual*, GAM 2.6, procurement policy?

How does the Yukon government promote these objectives in its procurement?

**Ms. Allen:** The broad objectives of the procurement policy are to promote fair, open, and transparent procurement. These objectives guide the responsible management of public funds while supporting the ongoing delivery of services to Yukoners and economic growth across the Yukon.

Fairness begins with accessibility, which is why we have introduced the Yukon Bids and Tenders online platform to make it easier for businesses to participate in procurement. Clear pricing and regular updates help businesses prepare stronger bids and promote transparency in our procurement activities. The Yukon First Nation procurement policy supports reconciliation and economic equity by encouraging participation by Yukon First Nation businesses.

Tools like the Yukon First Nation business registry and bid value reductions encourage partnerships between businesses and Yukon First Nations, ensuring that benefits stay within the territory. Regional economic development exceptions, or REDs, also create opportunities exclusively for local businesses. Since 2018, 57 contracts worth \$28.6 million have been awarded through REDs.

The Procurement Support Centre is currently developing a suite of tools that will support Yukon government departments to make more informed, sustainable choices when purchasing goods and services. For example, departments will be encouraged to buy goods with certified eco-labels that signify that the item is environmentally friendly. We will also be updating procurement processes and policies based on feedback from businesses, such as the recent updates made to bid value reduction measures.

Training programs and events, like the reverse trade show, keep businesses informed about the procurement processes and opportunities, and performance reviews and industry working groups are key to helping us to refine our methods and address concerns. We are also committed to working closely with all industry and First Nation partners as we strive to continually improve and meet our procurement objectives.

**Mr. Kent:** For the next couple of questions, I believe that the deputy minister did touch on these, but I will ask her and perhaps give her a chance to expand on them.

The first one is: What is the department doing to help small businesses participate in procurement? How are you creating competitive environments on low dollar-value contracts?

**Ms. Allen:** We recognize the vital role that small businesses play in driving our local economy, and we are committed to helping businesses thrive through our procurement processes. To make participation easier, as mentioned, we have implemented the Bids and Tenders system, which allows businesses to submit bids online. This greatly reduces barriers and improves on paperwork errors. It improves on the geographic challenges, making procurement more accessible to everyone. It has also streamlined processes and minimized bid rejections, creating a fairer and more efficient experience for businesses.

To encourage competition, we regularly forecast and publish tenders early, giving businesses ample time to prepare and plan their bids. For low dollar-value contracts, we often use invitational tendering to create a competitive environment by inviting a number of potential contractors to submit a proposal.

Where possible, we also unbundle large projects into multiple contracts, allowing smaller or local contractors to take on achievable portions.

Some examples of contracts that have been unbundled include services to support environmental priorities, cleaning services, running workshops, and creating promotional materials. When contracts are anticipated to be below the threshold for open tendering, we consider local preference by inviting Yukon businesses exclusively.

The procurement policy explicitly states that procurement authorities should prioritize Yukon businesses and First Nation suppliers for direct contract awards whenever possible and practical. We also offer free training sessions, including our annual reverse trade show and industry conference. These are annual events for Yukon businesses where they can connect with government staff and learn about upcoming opportunities as well as gain a better understanding of the overall procurement process.

Through REDs, as previously mentioned, we prioritize Yukon businesses by restricting certain tenders to local qualified companies. Since 2018, Yukon businesses have competed for and secured 60 Yukon-exclusive government contracts, totalling over \$29 million, in manufacturing, construction, and consulting, and in the last fiscal year alone, we have awarded three projects to Yukon businesses totalling over \$1.2 million.

Through all these initiatives, we are not only simplifying the procurement process but ensuring that Yukon businesses have support and opportunities that they need to succeed.

**Mr. Kent:** How is Highways and Public Works working with the industry to ensure ongoing transparency in government procurement?

**Ms. Allen:** Highways and Public Works ensures ongoing transparency by maintaining close and regular communication with our key industry partners. We work

closely with many of the partners, including the Yukon Contractors Association, Whitehorse Chamber of Commerce, Yukon First Nation Chamber of Commerce, and Council of Yukon First Nations.

In addition to ongoing discussions with these organizations, we have a number of committees, working groups, and sub-working groups comprised of industry and First Nation and Yukon government representatives to address specific initiatives. These working groups and committees work collaboratively on a number of procurement-related matters and support an open dialogue and continuous improvement of the procurement process.

Through these efforts, the practice has remained transparent, responsive, and aligned with industry and First Nation partner needs.

**Mr. Kent:** How do departments grant procurement authority to their staff? Is there mandatory training? How is that training tracked?

**Ms. Allen:** To grant Government of Yukon employees the signing authority to enter contracts and approve expenditure of funds, the completion of mandatory training courses is required. For staff to access Bids and Tenders and issue procurements, the Procurement Support Centre mandates the completion of six mandatory training courses and an assigned user code of conduct before the accounts can be set up.

These training courses ensure that staff are properly equipped with the necessary knowledge and skills to carry out procurement activities responsibly and in compliance with the policy. The completion of these courses is tracked by the Government of Yukon to ensure that all staff members have the proper qualifications before being granted procurement authority.

**Hon. Mr. Mostyn:** I'm now going to turn our attention to the First Nation procurement policy. How does the Yukon government manage risks related to the implementation of the Yukon First Nation procurement policy? What documentation is used? Is it consistent across all government departments?

**Ms. Allen:** The Yukon First Nation procurement policy is a vital part of how we build partnerships with Yukon First Nation governments and support economic development. To ensure the policy's success, we manage risks through careful planning, monitoring, and support.

The policy provides guidance on such matters as: defining what qualifies as a "Yukon First Nation business", setting realistic procurement targets, and ensuring that communities are meaningfully involved in projects. Training also plays a crucial role in managing risks. We work with departments to understand how to apply the policy correctly and increase the effective use of the policy as a whole.

Training is offered to procurement authorities and suppliers through online learning and scheduled workshops. Departments are also required to track their procurement activities under the policy, and regular reporting helps us to measure performance and identify potential issues early, allowing us to address them properly.

Ongoing review of the Yukon First Nation procurement policy is another key element of risk management, and that is

done, as previously mentioned, through the Monitor and Review Committee, which meets at least once a month to review and gather feedback on the policy.

Through this work, we can ensure that we stay on track and adapt to any emerging challenges. Highways and Public Works also provides centralized support through the Procurement Support Centre, offering tools, templates, and expert advice to ensure consistency across departments.

To support accountability, the tools include procurement planning templates, risk registers, and evaluation reports. These tools help to manage challenges and meet the policy goals. We also maintain the Yukon First Nation business registry to confirm business eligibility, and departments submit annual reports on their compliance and progress.

Finally, recognizing that departments have varying levels of expertise, we are continually working on and improving training, updating resources, and encouraging collaboration between teams with differences in experience and project size. These efforts ensure that we maintain and manage risks effectively while making sure that the policy achieves its goal.

**Hon. Mr. Mostyn:** How do you advise other departments on the implementation of the Yukon First Nation procurement policy?

**Ms. Allen:** When the Yukon First Nation procurement policy was first implemented, there were training videos created to help departments understand the policy, and these resources are maintained and available for ongoing reference.

In addition to the training videos, we provide internal guidance documents known as “operational requirements” and additional guides to assist departments in applying the policy.

Highways and Public Works continues to provide clear communication and support with all departments through implementation processes by including and updating information through regular newsletters, drafting guidance documents offering step-by-step advice for departments, implementing training courses and ensuring that staff have the proper knowledge and tools, and holding sessions in person and online on topics related to the policy, depending on the subject matter.

This approach ensures that departments have the resources they need to successfully implement the Yukon First Nation procurement policy and it fosters a consistent, well-informed application throughout government.

**Hon. Mr. Mostyn:** Finally, what feedback has the department received regarding the Yukon First Nation procurement policy and meeting chapter 22 treaty obligations?

**Ms. Allen:** Our government is committed to honouring the commitments of chapter 22, and the Yukon First Nation procurement policy is one example of how we are putting those commitments into action. This policy is designed to prioritize meaningful economic opportunities for Yukon First Nation businesses and communities in our procurement process. By doing so, it respects treaty obligations and supports reconciliation and builds economic growth for the longer term.

The development of this policy was and continues to be a collaborative effort with Yukon First Nations, and I cannot stress that enough. Their ongoing input and support are

invaluable in ensuring that the policy reflects the spirit and intent of the *Umbrella Final Agreement*. This is not a one-time effort; it is an ongoing process, and we will continue to work closely with Yukon First Nations and industry partners to gather feedback and receive recommendations for such continued improvement.

The collaborative review ensures that we are always striving to do better and successfully implement the policy. We are also planning on commissioning an external review of the Yukon First Nation procurement policy later this year that will take a comprehensive approach, evaluating the policy’s effectiveness, implementation, and overall outcomes.

**Chair:** We will move on to the findings and recommendations of the auditor’s report. The key facts and findings section, page iv, states: “Of the 47,041 contracts awarded by the Government of Yukon, 94% were for amounts under \$50,000. Contracts equal to and over \$250,000 represented 1.4%.” Service contracts below \$50,000 can be direct awarded. How many directly awarded contracts from 2019-20 to 2023-24 had a value of just under \$50,000? Is the department tracking directly awarded contracts just under \$50,000 to ensure that they are receiving value for money?

**Mr. Gorczyca:** According to the public contract registry, between 2019 to 2024, approximately 135 directly awarded contracts had a value just under \$50,000. The majority of these contracts were awarded to registered Yukon businesses. All direct-award contracts are tracked in the system, where they are created and managed by the respective contracting department.

As outlined in the action plan, the department will establish metrics to measure procurement outcomes, which includes value for money. Additionally, the Procurement Support Centre will develop reporting processes to highlight key metrics such as contracts approaching the \$50,000 threshold. These metrics will be reported to senior officials in the contracting departments.

**Chair:** In reference to paragraph 16, how are northern experience and First Nation participation measured in the evaluation process? How do departments track commitments around this in the bidding process to ensure that they are met during the execution of the contract?

**Mr. Gorczyca:** Within the procurement policy, evaluation criteria for value-driven procurement may include assessment of northern experience and knowledge as well as First Nation participation. First Nation participation can be used to evaluate how the contract can promote local capacity, economic development, and reconciliation. Northern experience will evaluate a company’s previous experience and/or understanding of working in a northern environment. Every competitive procurement also includes a bid value reductions form. When the commitments are made during the bidding process, those commitments are formalized in the contract. Throughout the life of the contract, reporting is required to track and ensure that these commitments are being met, allowing for ongoing monitoring of progress. This structured approach ensures that commitments made during the bidding process are upheld and that the contract remains in

compliance with the established goals for First Nation participation.

Departments are responsible for ensuring that these commitments are met, and any discrepancies are addressed promptly through regular contract reviews and updates. Consequences for non-compliance may include monetary holdbacks, legal action, and contract termination.

**Ms. White:** So, paragraph 23 on page 9 states: “We reviewed the contract files to determine whether a competitive environment had been created. We assessed whether a competitive environment was created on the basis of the following elements: Dollar thresholds for acquisition method in the Government of Yukon Procurement Policy were followed; Market research evidence was present in the contract files; Documentation supported the selection of bidders as part of an invitational tender, where applicable; Northern experience and Yukon First Nations participation measures were part of the evaluation criteria for competitive processes, where applicable.”

So, are the four elements listed here a part of the government’s criteria for issuing contracts? Are there other criteria? As a follow-up to that, how are those criteria documented or measured?

**Mr. Gorczyca:** The four elements listed are part of the Government of Yukon’s criteria for issuing contracts. The procurement authorities must consider them when making contract decisions; however, not all of these elements are always required, depending on the contract type and threshold. For example, if issuing a direct-award contract, First Nation participation measures may not be required, as well as in circumstances where a manufacturer can provide proof that there is only one supplier able to provide a product or service in the territory.

There are additional criteria that need to be considered, but which requirements apply will depend on the type of contract and specific circumstances. For instance, for a construction project over \$1 million, a performance bond is required.

The overall goal is to ensure a fair and competitive procurement process, but the specific requirements are tailored to suit different contract types and values. Looking ahead, we are working to further document competitiveness in our procurements. We plan to establish a benchmarking process that will review departmental contracts and procurement records. This initiative will make sure that departments are properly documenting decisions following established standards and utilizing market research effectively.

**Hon. Mr. Streicker:** My question is about market research for the Office of the Auditor General.

Based on paragraph 25, what was the Office of the Auditor General looking for in terms of market research?

**Ms. Robertson:** When looking for market research, we kept in mind the requirements for an invitational or open tender process. In the start of the planning phase of the audit, we looked at a sample of files and we identified different types of evidence, including such things as whether there was availability for the good or service — for example, was more than one type of good or service available? We looked at

whether there was a search done for various suppliers — for example, an Internet search or a tendering process — the evidence of informal quotes — for example, for low dollar, which could be a telephone conversation that was recorded or an e-mail exchange — potential interest in the vendor community — for example, if there was an official request for information, a request for an expression of interest.

Some of the documentation that we looked for was more formal, depending on the nature of the tendering process. For example, in that case, it would have been a receipt for bids or proposals. Others were informal — for example, e-mails or notes to file in the case of a low-dollar direct award.

**Hon. Mr. Streicker:** Does the responsibility to conduct market research fall to Highways and Public Works or to the contracting department, from your perspective?

**Ms. Allen:** Under the Government of Yukon’s procurement policy, the responsibility for conducting market research falls to the department or division managing the procurement process.

The contracting department is generally responsible for gathering information to ensure that the procurement process is competitive, fair, and aligned with the policy. Market research in this context could involve activities like reaching out to suppliers, reviewing past contracts, analyzing market conditions, use of local knowledge, and consulting with stakeholders.

In our action plan, we aim to improve the market research process documentation by working with all departments to develop options for improving evaluation processes and templates.

**Mr. Kent:** Among my questions, two questions are with respect to paragraph 28 on page 10 of the audit.

For Highways and Public Works officials, when and how does HPW procurement provide advice to contracting departments, and is advice provided at all stages — for example, the tendering, review, and award stages?

**Ms. Allen:** HPW procurement provides advice to contracting departments on an as-needed and ongoing basis to support their procurement authorities throughout the procurement process. Operational requirements have been developed to clarify roles and responsibilities on various topics that also provide additional guidance for departments at each stage of the procurement process.

In a competitive procurement process, there are specific steps where the Procurement Support Centre provides oversight, particularly through the Bids and Tenders platform. This ensures that the process is being followed correctly and consistently.

The Government of Yukon’s procurement policy also establishes processes that allow for request for analysis of procurements. When needed, the Procurement Support Centre can review individual requests and provide recommendations based on the request.

Overall, advice can be provided through the stages of procurement — including planning, tendering, and awarding — to ensure that compliance, transparency, and effective decision-making are applied.

**Mr. Kent:** Is there any policy imperative or direction for contracting departments to follow the advice of HPW procurement, or is it simply at the discretion of the contracting department? If there is a policy imperative or direction, what is it?

**Ms. Allen:** Government policy does not require contracting departments to follow the advice of HPW procurement but ensures that HPW's recommendations are formally considered as part of the decision-making process.

Procurement authorities, however, must seek mandatory advice in the form of a request for an analysis of procurement — or RAP — submission when they intend to engage in any of the non-standard procurement situations listed in the policy. This may be for reasons such as: giving a contract directly to a specific company — for example, a direct award — without a competition above a certain dollar limit; issuing a change order above the invitational threshold; or using an alternative procurement process or an evaluation process that does not include price as an initial criterion.

In the submission, the procurement authority must provide reasons as to why it is necessary to use the non-standard procurement method. The Procurement Support Centre then reviews the request for the analysis of procurement and provides written recommendations to the deputy minister of the contracting department.

The contracting deputy minister does have the discretion to agree or overturn these recommendations, as they have the final decision-making authority for their area. Overturning recommendations must be commuted to the Deputy Minister of Highways and Public Works in writing.

Overall, while the policy allows contracting departments to make their own decisions, it does establish a clear process to ensure that HPW's procurement expertise is considered and that decisions are thoughtful and transparent.

**Hon. Mr. Mostyn:** Does Highways and Public Works procurement track how often its advice is ignored by the contracting department? If so, how is it tracked?

**Ms. Allen:** Highways and Public Works procurement tracks each request for analysis of procurement when the recommendation is provided. This tracking helps ensure that Highways and Public Works is aware of recommendations being considered and the decisions ultimately being made by the contracting departments. The information is recorded by HPW, allowing for easy reference and review of all recommendations.

The information helps to monitor how HPW's recommendations are ultimately being decided upon and helps to ensure that departments are accountable for the decisions they make in response to the guidance. This year, the department has received 97 requests for analysis of procurement, which represents less than one percent of all contracts issued.

**Hon. Mr. Mostyn:** I believe that the deputy has touched on this in one of her previous answers, but I'll continue.

When a contracting department explicitly ignores the advice of Highways and Public Works procurement, is it

required to provide rationale? How is that rationale documented?

**Ms. Allen:** As previously mentioned, deputy heads of contracting departments have the authority to consider whether to accept a recommendation made by HPW's procurement office during the request for analysis of the process. While rationale can be provided for not accepting a recommendation, it is not mandatory. However, this is an area we are reviewing as part of the action plan in response to the audit and we are considering how to improve documentation and accountability moving forward. We will be exploring options to ensure that clear and consistent rationale is provided by departments to ensure transparency when decisions are being made to consider but ultimately not accept HPW's procurement advice.

**Hon. Mr. Mostyn:** Are there standards around the provision and acceptance of advice given by Highways and Public Works procurement to contracting departments? If not, are there plans to create standards, and how will they be tracked?

**Mr. Gorczyca:** As mentioned by Ms. Allen, the procurement policy does not require contracting departments to follow the advice of HPW procurement. While the HPW Procurement Support Centre gives advice and recommendations, departments have the full autonomy to make their own decisions that fall under the policy but potentially against the recommendation.

Supplementing the procurement policy, there are guidance documents known as "operational requirements" related to the request for analysis of procurement. These operational requirements outline the roles and responsibilities of Yukon government departments and HPW's Procurement Support Centre throughout the request for analysis of procurement process. The operational requirements also provide specific guidance to departments about when a request for analysis of procurement is required. HPW procurement tracks each request for analysis of procurement where a recommendation is provided. However, this is an area that we are actively reviewing.

As part of our action plan in response to the audit, we are exploring the creation of enhanced standards for providing and accepting procurement advice.

**Hon. Mr. Mostyn:** On page iii, it notes that the Office of the Auditor General found 110 instances out of 291 consultations where the department's advice was not followed. Can you provide some examples of the type of advice provided but not followed? How will this be addressed going forward?

**Mr. Gorczyca:** The 110 instances identified by the OAG where advice was not followed generally relate to direct-award requests that were above \$50,000 and issuing a change order to a direct-award contract that would put the total contract value above the direct-award threshold. When such requests are submitted, the Procurement Support Centre assesses the evidence provided to determine if it aligns with the procurement policy and applicable trade agreements. If sufficient evidence cannot be provided to justify the request, the Procurement Support Centre may recommend not proceeding with the direct award or change order; however,

deputy heads of the contracting departments have the authority to consider but ultimately not accept these recommendations and proceed based on unique operational circumstances or situations.

Moving forward, we intend to provide additional clarity and guidance by reviewing and improving processes as part of the action plan in response to the audit and are considering ways to ensure that clear rationale and documentation are provided when advice is not followed, promoting greater accountability and transparency.

**Chair:** The following questions are in relation to a section of the audit referred to as “After-the-fact contracts”.

In paragraph 29, the report states that auditors found five instances of contracts that were signed after work had started.

The first question is for the OAG. You conclude that: “Given that 4 of these contracts, or 8%, were part of the 53 contracts that were selected using representative sampling, this issue is also present in the broader population of contracts in the Government of Yukon.” Based on your review, is this practice a breach of any legislation, regulation, or policy?

**Ms. Hogan:** So, when a signed contract isn’t in place, it could expose the government to possible risks, and one of those could be issues with elements of the contract — so you might not be able to enforce deliverables without having a signed contract in place. The procurement policy highlights the importance that the *Financial Administration Act* should be followed, and that act states that you need to have sufficient money in a vote before a payment can be made and that proposed payments have to be in accordance with the contract.

So, while it’s not a requirement to physically have a contract, having one facilitates carrying out those elements of the *Financial Administration Act*, but the act, in my view, highlights the importance of having a signed contract before work begins.

**Chair:** Turning to the department, can the department explain how this outcome would be possible? Under what conditions or procurement rules is work able to begin before a contract is signed? Is this a common practice or an oversight?

**Ms. Allen:** The responsibility for the performance of contracts, including when they are issued or signed, falls within the responsibility of each procurement authority in the department.

To fully understand all the possible instances that lead to work commencing before a signed contract is in place, we will review the past instances where the OAG has noted that this has occurred. As previously mentioned in the audit report, the OAG notes that, in eight percent of the contracts, it was found that contracts were signed between two weeks and four months after work under the contracts had started.

While this shows that the majority of contracts are signed before work commences, HPW will be looking into the matter further and, as part of the action plan, will investigate situations where work started before a contract was officially in place to determine conditions and rationale that led to this practice.

**Chair:** Is work being done without a contract a violation of any law, regulation, or policy? Does HPW procurement

provide advice to contracting departments about contract extensions?

**Ms. Allen:** Entering a contract, as noted by the OAG, without proper authorization may constitute a breach under the *Financial Administration Act*, as it lacks necessary mechanisms to facilitate the payments. There are situations where contracting departments may need advice, and this can occur at multiple stages throughout the procurement process.

If HPW is involved early in the procurement planning process, the advice would focus on the contract’s full duration, what is needed when, and ensure that any potential extensions or continuation of work are included in the procurement documents.

In cases where the department is already under contract and needs extension, the advice is based on existing contract terms, policy standards, and any relevant precedents to guide the extension process.

**Chair:** A final question for the OAG on this section — in paragraph 29, you conclude that in none of these cases were payments made until a signed contract was in place. If so, does this represent any breach of legislation, regulation, or policy?

**Ms. Robertson:** The *Financial Administration Act* states that payments be in accordance with the contract. If a contract is not signed and fully executed, there’s a risk that payments are not in accordance with the contract. We were pleased to see that no payments were made until contracts were signed.

**Ms. White:** So, recommendations and responses — the report makes five recommendations, and the Department of Highways and Public Works has agreed to all five. I’ll note that question 46 was: When will you be developing a written work plan that outlines timelines and actions to respond to all the recommendations? I note that it has been submitted.

**Ms. Allen:** As noted, we have developed a high-level action plan to address the audit recommendations, with each action accompanied by clear timelines and specific steps. Implementation of this plan is already underway. We are actively providing departments with enhanced guidance on procurement file documentation requirements to strengthen our compliance and transparency.

To make sure that the approach is well-informed and inclusive, we have also shared the action plan with key stakeholders, seeking their feedback on the proposed next steps. Stakeholders include the Whitehorse Chamber of Commerce, Yukon First Nation caucus, and Yukon Contractors Association. We have also created working groups across the various government departments to implement the audit recommendations.

**Ms. White:** Paragraph 30 recommends — and I quote: “The Department of Highways and Public Works, in cooperation with the Yukon government organizations required to adhere to the policy, should implement processes or controls to ensure procurement decisions are documented and contracts are signed before work begins.” What actions will be taken to address this recommendation? What are the timelines for this work?

**Ms. Allen:** We understand the importance of properly documenting procurement decisions and ensuring that contracts are signed before work begins.

To address this recommendation, we have issued new processes and checklists to guide the departments that outline procurement file requirements. We are also working closely with all departments to review processes and further develop framework and training that ensures that key decisions are documented at critical stages of the procurement process.

Additionally, we are conducting a root-cause analysis to understand why a limited number of contracts are sometimes signed off after work starts. From this, we will create a plan to address and prevent these occurrences moving forward. We intend to complete these actions by late summer of 2025.

**Hon. Mr. Streicker:** Paragraph 31 states, “Since June 2021, for competitive tenders, bid evaluators had to declare any conflicts of interest. However, we found that as part of the procurement or contracting process for both direct awards and competitive tenders, there was no mechanism in place in Yukon government organizations that required conflict-of-interest declarations or certifications by contract managers or project managers for specific procurements and contracts. Conflict-of-interest certifications minimize risks of inappropriate procurement practices.”

How is this being dealt with internally? Have there been any accusations of actual or perceived conflicts of interest? If so, how are they investigated by the government, and how is it being reported?

**Ms. Allen:** The Government of Yukon has a comprehensive ethical framework, as previously mentioned, that includes a values and ethics code, an oath of office, a directive on post-employment restrictions, and a conflict-of-interest policy. Each department is responsible for ensuring that employees have declared any real or perceived conflicts. Any allegations of real or perceived conflicts are addressed by the relative department in accordance with the processes under the policies.

As mentioned in the action plan, additional guidance was issued in October to all departments, which includes declaring any conflicts of interest, lack of conflict, and ensuring that it is documented appropriately in the procurement and contract files.

**Hon. Mr. Streicker:** From paragraph 32, there is the recommendation that: “The Department of Highways and Public Works, in cooperation with Yukon government organizations, should implement a process to be followed by officials involved in procurement and contracting processes requiring disclosure and certification of real or perceived conflicts of interest and should retain results of the process in the procurement file.”

What specific actions will be taken with respect to this recommendation, and what are the timelines for this work?

**Mr. Gorczyca:** In October of 2024, the Department of Highways and Public Works issued updated guidance to all departments to improve procurement file documentation. The guidance requires conflict-of-interest declarations from all

participants in the pre-tender phase, which will be kept in the procurement files.

This declaration will align with the Yukon government’s existing values and ethics policies. We are actively reviewing feedback from stakeholders, including the Yukon Contractors Association, to refine our approach. Their feedback highlighted the need for ongoing monitoring, training and support, and consequences for non-compliance. We will be looking at ways to see how this can be incorporated into our action plan.

**Mr. Kent:** Paragraph 35 makes the following recommendation: “The Department of Highways and Public Works should identify the required data to collect, and Yukon government organizations should collect the data and should monitor and formally report whether procurement and contracting activities are creating a competitive environment and achieving value for money.”

How is the department determining what data should be collected? What is the timeline for HPW to establish data collection and reporting practices and define metrics that determine how a competitive environment was created and if value for money was achieved?

**Mr. Gorczyca:** Our department is focused on establishing clear data collection and reporting practices as well as defining metrics to evaluate how we create a competitive environment and deliver value for money. By the end of 2025, we aim to: collaborate with all government departments to develop a proposal for improved approaches to achieving policy objectives; refine the performance measurement framework to align with policy measures, incorporating input from stakeholders and Yukon First Nation governments; define new metrics to better measure procurement outcomes; and develop a benchmarking program with clear reporting timelines to improve data collection and sharing on procurement policy goals. These actions will provide a clear, transparent process for tracking and reporting procurement outcomes, helping us meet policy objectives and deliver value for Yukoners.

**Mr. Kent:** For the Office of the Auditor General: What does the OAG contemplate in the recommendation to “formally report...”?

**Ms. Hogan:** That recommendation is in a section of the report about monitoring and tracking the outcomes of the policy. Policies typically have lots of mechanics in them, and those are easy to track and monitor, but when you want to take it above that and look at the outcomes, having a report — whether it be used and given to officials within the Yukon government or be used by the Legislature — if it’s focusing on outcomes, it can be used to serve as updates to the policy, to identify if there are areas that should be improved but, more importantly, to not only say that we issued a thousand contracts but that those thousand contracts resulted in increased business in First Nations or local communities — so, really, to take it that next step and show the outcomes.

We feel that it should be done in a formal way — and not just done and left in a file somewhere — and then be used by individuals to maybe even inform training that might be needed if you see that outcomes aren’t being achieved.

**Mr. Kent:** I guess now, to follow up with the Department of Highways and Public Works, what sort of formal reporting is contemplated by the department's response?

**Ms. Allen:** The formal reporting will be based on a performance measurement framework and will include reports on key areas. Some examples include the number of procurements by department, type of work, and procurement method; reduction in project bids; number and value of contracts by fiscal year, department, and type of work; information on procurement analysis requests and whether advice was followed or overturned; data on regional economic development procurements and contracts; details about outreach activities, such as community sessions and training for suppliers; and information on expected process improvements.

**Hon. Mr. Mostyn:** Here we are in the lightning round, the last five questions.

What key performance indicators does Highways and Public Works procurement currently review? How are these currently tracked and measured?

**Ms. Allen:** Some of the key performance indicators, or KPIs, that are currently reviewed in HPW procurement include: bid value reductions that are applied to tenders; the number of Yukon First Nation businesses included in standing-offer arrangements and/or qualified source lists; information from the Yukon First Nation business registry; contracts awarded to Yukon First Nation businesses; the number and percentage of Yukon First Nation businesses responding to procurements; and awarded contracts and their values.

Quantitative data is tracked through the system, where it is entered, downloaded, and analyzed, along with other related data sets. For qualitative data, we gather insights through surveys, stakeholder and administrative feedback, or through our records.

Over the past few years, we have focused on creating the framework, identifying indicators, and collecting the data. Since the Yukon First Nation procurement policy is new, there was no baseline data initially. However, we are now regularly reviewing and analyzing the data to track its progress.

**Hon. Mr. Mostyn:** My last formal question of the afternoon: Paragraph 40 states that the auditors found that the Department of Highways and Public Works had not conducted a review of the outcomes of the Government of Yukon procurement policy and associated procurement practices in 2024 as required after five years of implementation of the policy. When will the review be conducted, how long is it expected to take, and will it be done internally, or are you engaging an Outside consultant to conduct it?

**Ms. Allen:** The Government of Yukon is required under the procurement policy to conduct a review of the outcomes of the policy and procurement practices within five years of the policy approval date — by 2024. This requirement is established in section 12(4)(c) of the policy.

The Yukon First Nation procurement policy was approved in 2021 and similarly requires the Government of Yukon to conduct a periodic evaluation of the Yukon First Nation procurement policy every five years. The first review to be carried out for the Yukon First Nation procurement policy is by

2026. We intend to start the policy review later this year and will align the reviews of both the original procurement policy and the Yukon First Nation procurement policy to complete them at the same time. This way, we will streamline our efforts and those of industry and First Nation partners.

The review will be conducted by an independent third party and will take place after all the audit recommendations from this audit have been implemented. It is anticipated that the review will take a broad holistic assessment of the overall effectiveness of the policy's implementation and outcomes.

**Chair:** Paragraph 41 of the audit says, "We found that the Department of Highways and Public Works had started early reporting on the Yukon First Nations Procurement Policy. Specifically, the department had publicly released reports containing statistical information in 2022 and 2023. Examples include the number of contracts awarded to Yukon First Nations businesses and bids with a component for Yukon First Nations labour. The reports did not include outcomes; an example of an outcome could be the achievement of the Yukon First Nations Procurement Policy objectives, one of which is to contribute to the achievement of equality of outcomes for Yukon First Nations people."

Are there plans to incorporate outcomes into future reporting on the Yukon First Nation procurement policy? How will this be done?

**Mr. Gorczyca:** There are plans to incorporate outcomes into future reporting on the Yukon First Nation procurement policy. The policy is still relatively new, and over the past few years, the focus has been on building baseline data to better assess whether the desired outcomes are being achieved. Incorporating outcomes will be part of our ongoing efforts to evaluate the policy's effectiveness, and how this is done may be influenced by the upcoming five-year independent third-party review, as required by the policy.

As the framework develops, we will ensure that future reports include a clear picture of both the data and outcomes of contracts as they relate to the policy's objectives. We will also be working with the Monitor and Review Committee to determine how outcomes will be incorporated into reporting. Their insights will guide how we track and communicate progress.

We have seen some early success of the policy, such as the Yukon First Nation business registry currently having over 140 verified Yukon First Nation businesses. Between April 1, 2023 and March 31, 2024, \$55.6 million has also been awarded through contracts to Yukon First Nation businesses.

**Chair:** Paragraph 43 of the audit recommends, "The Department of Highways and Public Works should identify the information it needs to collect to report on procurement policy outcomes, including risks."

The department's response to the recommendation in paragraph 43 states that Highways and Public Works will initiate an independent review of the procurement policy by 2026. What is the scope of the independent review of the procurement policy? Why is it two years late to start the review?

**Ms. Allen:** As previously stated, the reason for starting the review by 2026 rather than earlier is to align the five-year review of both the original procurement policy and the Yukon First Nation procurement policy. Further, given the audit by the Office of the Auditor General in 2024, we intend to combine both reviews into one process after we have implemented the recommendations from the auditor.

This review will then focus on evaluating performance of the policies and outcomes, including identifying any other risks and areas for improvement.

**Chair:** Paragraph 47 states — quote: “To promote accountability and transparency, the Department of Highways and Public Works should report on whether the advice provided to other Yukon government organizations about proposed procurement processes that would contravene the Government of Yukon Procurement Policy was accepted and whether such contracts achieved their intended purpose. The Department of Highways and Public Works should monitor for trends and adjust policies and processes as required.”

What is the timeline for the actions outlined in the department’s response?

**Ms. Allen:** In response to the recommendation, we have outlined a timeline for actions that will promote ongoing accountability and transparency in the procurement process. By the end of 2025, we aim to collaborate with all departments to review and develop options to improve procurement evaluation processes and templates, establish monitoring and review cycles with input from stakeholders, and monitor and report on how these procurement in contracts are evaluated and reported on during these cycles.

These steps will help make sure that the procurement processes are regularly assessed, trends are identified, and policies are adjusted as needed to improve effectiveness and compliance.

**Chair:** That concludes the predetermined questions that the Committee had provided to witnesses in advance of the hearing. Now we will open the opportunity for Committee members to ask further follow-up questions.

**Ms. White:** In question 24, when it talked about what the main objectives of the *General Administration Manual*, GAM 2.6 are, the deputy minister said “fair, open, and transparent procurement” processes. One of the criticisms that I’m sure I’m not the only one who has heard, for example, from contractors is that there used to be the public opening of bids, and that has stopped. Repeatedly, I am asked: Why did that process stop, and when will it start again?

So, my question to you is: Why did the public opening of bids stop, and when will it start again?

**Mr. Gorczyca:** The implementation of the Bids and Tenders system coupled with the application of bid value reductions has created an environment where the bid value reductions could, if publicly opened — bid value reductions that are applied after — affect the outcome, so that would be the reason why the public opening is not in place right now.

**Ms. White:** I am not a contractor, so I have questions that there may be clear answers to.

Because that process doesn’t happen with the public bid openings, is there an opportunity — once they have been opened and calculated — or the ability for public questions or for challenges from contractors who weren’t awarded those?

**Mr. Gorczyca:** The bid prices are posted publicly once finalized, and there is an opportunity for bidders to request a debrief post-tender opening.

**Mr. Kent:** I have just a quick follow-up on my colleague’s question. Mr. Gorczyca mentioned that the public bid openings were changed because of the bid value reduction, but it is my understanding and my recollection that the First Nation procurement policy and those BVRs came in after that change was made with respect to the public bid openings. I just wanted to clarify that with the witnesses.

**Mr. Gorczyca:** I will follow up in writing to that question.

**Mr. Kent:** Paragraph 28, which we touched on earlier, does talk about that almost \$2-million contract — the higher value contract. This is the one between Health and Social Services and the Yukon Hospital Corporation. In there, Highways and Public Works states that Yukon Health and Social Services chose not to follow their advice on doing market research and going out to a competitive bid. Did they provide reasons for not choosing to follow that advice, and are those reasons available publicly?

**Ms. Allen:** I cannot speak to this, as it is a contract under the authority of the Department of Health and Social Services, and that question should be directed to them for further clarification.

**Mr. Kent:** The progress report that Highways and Public Works provided says that the review of the procurement policy will be finished by, I believe, December 2026. I am just wondering if, with that review, there will also be a review of the First Nation procurement policy, or is that separate?

**Ms. Allen:** The intent is to combine a review of the First Nation procurement policy as well as the overall procurement policy.

**Mr. Kent:** I am just curious how often you are anticipating updating that progress report. How are you intending to make it public? Will you publish it on your website? This is the overall progress report on the recommendations of the OAG, not specific to the procurement policy review. Are you going to publish that on the website or provide it to the Committee?

**Ms. Allen:** We are still assessing in terms of the frequency and the timeline of what would make sense for a regular reporting cycle. We certainly don’t want to report if something is still in progress and there is nothing to report. That being said, once the actions have been completed, we will make public a final response to all of the actions and what has been done.

**Mr. Kent:** I have one final question and it’s with respect to tenders or contracts that are heard by the Bid Challenge Committee. You may or may not have this information, but I am curious if there is somewhere public where I can find the statistics and perhaps the decisions rendered by the Bid

Challenge Committee on how many contractors sought out that route.

**Ms. Allen:** I would have to take that as a follow-up question.

**Ms. White:** In question 37, where we were talking about the policy imperative or direction for contracting departments to follow the advice of HPW, I wanted to know this: If a department chooses not to accept the advice, are the outcomes of the contracts evaluated for efficacy or measured against the HPW recommendation?

For example, out of the 109 where recommendations were made and not accepted, is there follow-up to see whether or not the decision of that department was better than the recommendation from HPW?

**Ms. Allen:** Currently, there isn't a post-contract review follow-up by HPW in those situations, as it is the responsibility of the contracting department. However, that is one of the things that we are looking at in the response to the OAG recommendations.

**Chair:** I'll follow up on that as well. So, the deputy minister and Mr. Gorczyca both indicated that the departments must formally consider the advice of HPW procurement, but they are not mandatory to accept it. The deputy minister also indicated that they are considering making that advice mandatory, but that's something you are considering currently. Then the deputy minister included a note that, I believe, in the last year you had received 97 requests for advice.

I just want to confirm: Was that 97 in the past year or 97 in the audit period that we're talking about?

To be clear, it was in response to question 38, if you are reviewing your notes.

**Ms. Allen:** It is the fiscal year, not for the duration of the audit.

**Chair:** You had both indicated that you track when departments do and do not accept the advice. Of those 97 requests in the past year, how many departments accepted the advice of HPW procurement?

**Ms. Allen:** I would have to take that as a follow-up.

**Chair:** Okay. So, you know that there are 97, you do track whether or not that advice is accepted, but you don't have that information today as to whether or not it was accepted. Okay.

In previous years, do you track when the advice is accepted and not accepted, or is that a new practice?

**Ms. Allen:** Yes, we do track that annually.

**Chair:** So, I think the Committee would be interested to know: Over the past several years, how frequently do departments ignore the advice of HPW procurement? That's something I'm sure we'll be interested in hearing more about going forward.

The department also indicated that you're considering making mandatory the advice of Highways and Public Works procurement. Does the department feel that this should be mandatory?

**Ms. Allen:** At this time, the department is committed to reviewing and doing an analysis of why, if, and when those are not followed and the impacts of that. So, we do want to gather

feedback from all of our stakeholders before we make any sweeping policy changes that will cause other unintended consequences or effects.

**Chair:** Is the department able to tell us the pros and cons of making that advice mandatory as opposed to a decision as to whether or not the procurement authority can accept it or not?

**Mr. Gorczyca:** We are yet to evaluate the merits of that proposal — the pros and cons — so we don't have that information here today to provide.

**Ms. White:** Just in following up to the tracking of recommendations being accepted or rejected from procurement, knowing that they are recognized or tracked, is that information formally available? If it's not available now, just going back to questions 51 and 52, the Auditor General suggests that, when we talk about formal reporting, whether it was a report that was tabled to the Assembly — that Public Accounts made available on the website — one of the questions I have is: When we talk about that formal reporting, will that be publicly available? When HPW looks back at the year in review, including recommendations made for procurement, et cetera, is there consideration or contemplation about making that a formal process and making that available publicly?

**Ms. Allen:** Well, we are looking at a variety of things, and that is one of the considerations as we review the action plan, but again, we want to thoroughly consult with all of our stakeholders to fully understand the impacts before we institute.

**Hon. Mr. Streicker:** Just on this question about when advice is not taken, have you had an opportunity to look back over the past several years and just see — you won't have the numbers today, but have you noticed any trends in this?

**Ms. Allen:** We don't have that information available at this time.

**Chair:** I would like to return to question 35, which was the question about the responsibility to conduct market research. The question was whether or not it is the responsibility of HPW procurement or the individual department procuring. Can I ask the deputy minister, I believe it is, to repeat the answer to that? I am not sure I heard a clear answer as to whose responsibility it actually is.

**Ms. Allen:** Under the Government of Yukon's procurement policy, the responsibility for conducting market research falls to the department or the division managing the procurement process.

**Chair:** Thank you. Any others?

The final one I have is just going back to the joint review of both the First Nation procurement policy and the procurement policy more generally. I believe I heard you say, in response to my colleague, that they would be completed by December of 2026; is that correct?

**Ms. Allen:** Yes.

**Chair:** Okay, any other questions?

Before I adjourn this hearing, I would like to make a few remarks on behalf of the Standing Committee on Public Accounts. First of all, I would like to thank all the witnesses who appeared. I would also like to thank the Office of the Auditor General of Canada for their work on the audit report.

Transcripts of this hearing and documents provided by the department will be available for the public to consult on our webpage: [yukonassembly.ca/committees/PAC](http://yukonassembly.ca/committees/PAC).

Today's hearing does not necessarily signal the end of the Committee's consideration of government procurement and contracting in Yukon. The Committee may follow up with departments on the implementation of the commitments made in response to the recommendations of the Auditor General and of the Committee itself. This could include additional public hearings at some point in the future.

With that, I would again thank all those who participated in and helped organize this hearing. I now declare that this hearing is adjourned.

*The Committee adjourned at 2:48 p.m.*