

**Fifth Session - Fortieth Legislature**  
**of the**  
**Legislative Assembly of Manitoba**  
**Standing Committee**  
**on**  
**Public Accounts**

*Chairperson*  
*Mr. Reg Helwer*  
*Constituency of Brandon West*

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**Fortieth Legislature**

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**LEGISLATIVE ASSEMBLY OF MANITOBA  
THE STANDING COMMITTEE ON PUBLIC ACCOUNTS**

**Monday, December 14, 2015**

**TIME** – 2 p.m.

**LOCATION** – Winnipeg, Manitoba

**CHAIRPERSON** – Mr. Reg Helwer (Brandon West)

**VICE-CHAIRPERSON** – Mr. Matt Wiebe (Concordia)

**ATTENDANCE** – 11 **QUORUM** – 6

*Members of the Committee present:*

*Hon. Messrs. Dewar, Gerrard*

*Messrs. Friesen, Helwer, Jha, Ms. Lathlin,  
Messrs. Maloway, Marcelino, Martin, Pedersen,  
Wiebe*

*Substitutions:*

*Mr. Martin for Mr. Schuler*

**APPEARING:**

*Mr. Norm Ricard, Auditor General*

**WITNESSES:**

*Hon. Greg Dewar, Minister of Finance*

*Mr. Jim Hrichishen, Deputy Minister of Finance*

*Hon. Steve Ashton, Minister of Infrastructure  
and Transportation*

*Mr. Ron Weatherburn, Acting Deputy Minister  
of Infrastructure and Transportation*

**MATTERS UNDER CONSIDERATION:**

*Auditor General's Report–Annual Report to the  
Legislature, dated March 2014*

*Chapter 10–Waiving of Competitive Bids*

*Auditor General's Report–Follow-up of  
Recommendations: Waiving of Competitive Bids,  
November 2015*

\* \* \*

**Mr. Chairperson:** Good afternoon. Will the Standing Committee on Public Accounts please come to order.

This meeting has been called to consider the following reports: Auditor General's Report–Annual Report to the Legislature, dated March 2014,

chapter 10–Waiving of competitive bids; Auditor General's Report–Follow-up of Recommendations: Waiving of competitive bids, November 2015.

**Committee Substitution**

**Mr. Chairperson:** For the committee's information, pursuant to our rule 85(2), I would like to note the following substitution for this afternoon's meeting: Mr. Martin for Mr. Schuler.

\* \* \*

**Mr. Chairperson:** Are there any suggestions from the committee as to how long we should sit this afternoon?

**Mr. Blaine Pedersen (Midland):** I would suggest we sit 'til 4 p.m., two hours, and then review.

**Mr. Chairperson:** Is that the will of the committee? [Agreed]

Are there any suggestions as to the order in which we should consider the reports?

**Mr. Pedersen:** Global.

**Mr. Chairperson:** Is that the will of the committee? Global? [Agreed]

Thank you. Would the ministers and deputy ministers and assistant deputy ministers 'plea'–please join us at the table.

Thank you. Now, I've been informed that Mr. Vigfusson, who is the Deputy Minister of Infrastructure and Transportation, is unable to appear this afternoon. Therefore, is it the will of the committee to allow Mr. Weatherburn to appear in place as the acting deputy minister? [Agreed]

Thank you. So we can ask, then, for the ministers and deputy ministers to introduce your staffs that you have brought with you today, and we could probably start with Mr. Hrichishen.

**Mr. Jim Hrichishen (Deputy Minister of Finance):** Thank you, Mr. Chairman. I'm joined here today by Richard Burelle, he's the director of Procurement Services branch; Lynn Zapshala-Kelln, secretary to Treasury Board; and Darcy Rollins, who's the manager with Treasury Board Secretariat.

**Mr. Chairperson:** Mr. Weatherburn, could you introduce any staff that you brought with you today?

**Mr. Ron Weatherburn (Acting Deputy Minister of Infrastructure and Transportation):** I'm by myself.

**Mr. Chairperson:** Okay. Thank you.

Does the Auditor General, Mr. Ricard, wish to make an opening statement?

**Mr. Norm Ricard (Auditor General):** I do, Mr. Chair, with respect to our follow-up, but, first, I would like to introduce the staff that are with me today. Behind me here are Erika Thomas, who is the principal responsible for our original audits and for the follow-up; and Jonathan Stoesz, who worked with Erika on both the audit and the follow-up.

And can I proceed to my opening comments?

**Mr. Chairperson:** Yes, you may. Thank you.

**Mr. Ricard:** Okay. Mr. Chair, in March 2014, we issued our report on the waiving of competitive bids. The report included 25 recommendations. For the most part, our recommendations dealt with strengthening procurement policies and the role of the Procurement Services branch, ensuring fair value was obtained, effectively monitoring compliance with procurement policies, improving documentation practices, and ensuring public disclosure of untendered contracts was complete, timely and accurate.

Approximately a year after reports are issued, we initiate a follow-up to assess the implementation status of our recommendations. In July 2015, we requested progress reports for the recommendations included in over 20 audits, including our report on the waiving of competitive bids. Statuses were requested as of June 30th, 2015. While we plan to issue an annual follow-up report early in the new year, at its October 5th, 2015 meeting, the Public Accounts Committee, by resolution, recommended that we issue our follow-up report on the waiving of competitive bids audit by November 13th, 2015. While this date proved to be too aggressive, I am pleased that we were able to release our report to the Legislative Assembly on December 1st.

Because of the committee's interest in up-to-date progress information, we assessed the status of these recommendations as of October 30th, 2015. Our follow-up report lists each recommendation, organized first by its implementation status and then by the entity to which it was directed. With respect to

certain recommendations, we provided additional information to clarify implementation status, to highlight select actions or planned actions, or to identify opportunities to further enhance departmental actions.

We determined that eight of our 25 recommendations have been implemented, and that significant progress has been made in implementing a further eight. While much work remains to be done, Mr. Chair, I believe that reasonable progress is being made to address the issues noted in our report.

Thank you.

**Mr. Chairperson:** Thank you, Mr. Ricard.

Now to the deputy ministers.

Mr. Hrichishen, do you have an opening statement?

**Mr. Hrichishen:** I do, and I will provide a statement on behalf of Finance and on behalf of my colleague, Mr. Ron Weatherburn, ADM of Engineering and Operations Division, who is acting for Deputy Minister Lance Vigfusson.

On October 5th, this committee recommended that the Auditor General complete the follow-up of previously issued recommendations related to chapter 10, Waiving of competitive bids, in the March 2014 annual report to the Legislature. It is important that departments use the competitive tendering process as much as possible. This ensures the interests of the public are protected. Untendered contracts increase the risk of procurement improprieties. We must work towards ensuring that strong and effective policies on untendered procurements are developed to mitigate the risk. Further, the Province wants to ensure that the policies are complied with by all those involved in procurement.

As part of the follow-up review, the Auditor General, through inquiry, analytical procedures and discussions with management, has concluded on the plausibility of the status of the 25 recommendations from the March 2014 report. I'm pleased to inform the committee that, as of October 30th, 2015, eight of the 25 recommendations are implemented.

Of significance, Treasury Board Secretariat has begun requiring a financial overview form be completed and signed by the departmental executive financial officer, and that it accompany all Treasury Board submissions. The financial overview form contains a section on competitive procurement, which must be completed when goods and services

requiring Treasury Board approval are not competitively tendered. The section requires the documentation of the actual consultation with Procurement Services board.

Procurement Services board now requires that purchase orders for contracts greater than \$1,000 be entered into SAP. Doing this necessitates inputting the contract amount. SAP is used to generate the proactive disclosure report on all contracts greater than \$10,000. Procurement Services branch has made public access to untendered contracts available on the Internet.

\*(14:10)

In addition, out of the remaining 17 recommendations, we are pleased to note the October 30th assessment has concluded that the Province has additionally made significant progress on eight of the recommendations. For example, Procurement Services branch has amended the PAM, Procurement Administration Manual, to require departments to make public their intent to award a contract over a set amount; working—it's working on ways to require departments and SOAs to analyze and document, before the contract is signed, how the price quoted on an untendered contract represents fair market value; implemented a risk-based process to monitor compliance with policies on the waiving of competitive bids; developed and implemented a communication strategy to ensure that department and SOA officials are aware of and understand the PAM requirements; added a new section on ethical procurement and has amended various other sections of the PAM.

Procurement Services branch is finalizing a governing principles of procurement document. Once the governing principles are approved, Procurement Services branch will prepare a detailed plan for updating the PAM. Treasury Board Secretariat has completed a jurisdictional review of delegated authorities for untendered contracts during emergency events and has reviewed whether the threshold for the reporting of untendered contracts is consistent with the disclosure objectives. With the passage of BITSA and the contract disclosure regulation, Treasury Board Secretariat has established a disclosure threshold of \$10,000 for contracts.

We will continue to make progress on all the recommendations by the OAG going forward. I agree, certainly, with Mr. Ricard's remarks today that

much work needs to be done, and we're committed to doing that.

I would like to acknowledge the OAG's continued professional and collaborative relationship with the Department of Finance and Infrastructure and Transportation.

In closing, I would like to acknowledge the Auditor General and his staff for completing this report and accommodating the resolution of the Public Accounts Committee.

**Mr. Chairperson:** Thank you, Mr. Hrichishen.

And, Mr. Weatherburn, your comments were included in Mr. Hrichishen's report?

**Mr. Weatherburn:** Yes, they were.

**Mr. Chairperson:** Thank you.

Now, before we proceed, I would like to inform those who are new to this committee of the process that is undertaken with regards to outstanding questions. At the end of every meeting, the research officer reviews the Hansard for any outstanding questions that the witness commits to provide an answer and will draft a questions-pending-response document to send to the deputy minister. Upon receipt of the answers to those questions, the research officer then forwards the responses to every PAC member and to every other member recorded as attending that meeting. At the next PAC meeting, the Chair tables the responses for the record.

Therefore, I am pleased to table the responses provided by the Deputy Minister of Finance, the Deputy Minister of Infrastructure and Transportation and the Auditor General to all the questions pending responses from the October 5th, 2015 meeting.

These responses were previously forwarded to all the members of this committee by the research officer, and thank you to the deputy ministers and their staff for getting those answers to us prior to this meeting. Obviously, it's important to have those answers before we consider the follow-up report, and I appreciate your ability to do that, so thank you.

Now, before we get into questions, I would like to remind members that questions of an administrative nature are placed to the deputy minister and that policy questions will not be entertained and are better left for another forum. However, if there is a question that borders on policy and the minister would like to answer that question

or the deputy minister wants to defer it to the minister to respond to, that is something we would consider.

The floor is now open for questions, but before I jump into that, I would like to thank the Auditor General and his staff for getting this report to the committee. We're in a bit of uncharted territory, and we made a request of your department, and you were able to fulfill that request, so I 'appreciate'-appreciate that ability. And, perhaps, in continuing with that, can you tell us—I guess the committee on the record here—when you release a report of this nature, what is the process that goes through prior to tabling it so the committee is more aware of the—what happened with your office and with the Minister of Finance's office?

**Mr. Ricard:** If you're speaking specifically about the follow-up on the waiving, the way the resolution was worded made it necessary for me to follow my regular process in terms of tabling—having the report tabled in the Legislative Assembly.

The Public Accounts Committee does have the ability to request an audit, a special audit, section 16 audit from our act. In six—section 16 requires that I then provide the requesting body, whether it be the Minister of Finance, the Lieutenant Governor-in-Council or the Public Accounts Committee, a copy of the report.

I had initially thought that I could provide the committee with the report directly, but the resolution was worded in such a way that it's set to be released to the Legislative Assembly by the 13th. That's in part what caused—that timing, I didn't quite—that nature of the request, I didn't quite pick up on the October 5th meeting, so the—it—I was ready on the 13th with the final draft, but I needed to provide the minister with his two-week—like, according to my act, any report that I table in the Leg. has to be provided to the minister, and the minister has to be provided with a two-week review and comment period. So I had to respect that two-week period, and that's what it caused it to be tabled on the 1st of December instead of the 13th of November.

So the process, it does take a while because we, in this case, we printed in-house. Sometimes we would have to send it out to a printer, which would cause another two-week delay, but, in this case, it was just—they were very compressed time frames to begin with.

**Mr. Chairperson:** Thank you, Mr. Ricard.

So, to the deputy minister, Mr. Hrichishen, so then it was provided to you for your two weeks' notice, and I guess that is covered in an act. Is there a chance that you could have turned that over faster for this committee or—Mr. Ricard has a response?

**Mr. Ricard:** Just to clarify: It's the minister, not the deputy minister that has a two-week statutory review period.

**Mr. Chairperson:** Okay. So then to the minister, you had two-week statutory to review this.

Is that something that you needed two weeks for? You could've returned it to the committee earlier, or it's just that we had to take that two weeks?

**Hon. Greg Dewar (Minister of Finance):** We felt that the two weeks was necessary to review it and ensure that the reports met the expectations of this committee.

**Mr. Chairperson:** Thank you, Mr. Dewar.

So back to you, Mr. Ricard. During a normal report—you have some out that are—will be coming to the House and to this committee—is there a different process you follow up in terms of going back and forth with the departments prior to release?

**Mr. Ricard:** We tend to follow a consistent process. Now, I'll just walk you through it quickly if—to make sure I capture everything you're interested in.

When we complete our audit, we internally draft a report. The assistant Auditor General would get first, you know, review—the opportunity to review it. Once the assistant Auditor General has a version of the report that they're satisfied with, they would provide it to myself, who would then again go through a bit of a review process. Once I'm satisfied with the report, that's when we issue it initially to the department. We try to issue it at the closest to the programming level; so it would be at the executive director, assistant deputy minister level.

We typically—or we try to give those individuals three weeks to review and meet with us to talk about any of the concerns they might have. Subsequent to those discussions, we would, to the extent that we felt necessary, make edits to the report and provide the revised draft to the deputy minister. There, again, we would give the deputy—allow the deputy two, three weeks to review, and we make ourselves available to the deputy to discuss any draft report or any issue that they might have. If they don't want to meet with us to discuss or don't feel it necessary, we

do at the same time, ask them for the formal response from the department.

\* (14:20)

Once we get the written—or the formal response, we integrate it into the document, and then we forward it to the minister responsible and—the ministers and the Minister of Finance (Mr. Dewar), as it turns out. The ministers have the two-week review period before we can consider the report finalized. So, if we have—if we get any response from the minister requesting a change or expressing a concern, we would address that concern, provide the minister with a revised draft, all within the two-week review period, I would hope, and then once that period is over, we go to print—can take a week and a half, two weeks, and then we either table it, we provide it to the Speaker for tabling if the House is in session, or we release it intersessionally. Did that address your specific point?

**Mr. Chairperson:** Thank you, Mr. Ricard. Yes, I think you and I have spoken about how the process is, and I thought it was important for the committee to have an idea of what happens behind the scenes before we actually see the report, that it is not the first time that the minister nor the deputy has seen the report. You've been working on this together with them in order to get the text correct.

So, had we not asked for this report, then I assume it would have been released in January of 2016. Is that correct, Mr. Ricard?

**Mr. Ricard:** The difficulty we are now going to be facing as an office is because of the communication ban as a result of the upcoming election, which, I understand, takes place—or begins on January 19th. We will not be in a position to table our follow-up report on all the other audits that we did prior to that date, so we are left—and as an office, we do not like to issue any report during the communication ban because it doesn't give the department or the minister an opportunity to make a public statement about it. So we will be withholding any further reports or issuance of reports until after the election.

**Mr. Cameron Friesen (Morden-Winkler):** I just have a follow-up to the Auditor General about the question that was just posed by the Chair, and so I'm just inviting just a further clarification of this, because if I just compare our discussion today to, you know, the original report that we're considering today, one of the reports is exactly the first chapter

on tendering, which was part of the March 2014 compilation of individual reports to the Legislature.

So, in 2014, the Auditor General's office issued, in tandem, a number of reports for consideration, and some of those we have now had under consideration of this committee. It was a decision to undertake a different strategy in respect of the 2015 reports, but I believe that earlier in the year the Auditor General had used language like in the summer or in the fall, and more recently I have seen language pertaining to by the end of December. And today, the Auditor General makes reference to the fact that, actually, there will not be any further reports forthcoming for the 2015 year.

So I'm just inviting this clarification: Will there still be a report coming before the end of December, and then the Auditor General is referring separately to other chapters that will then be under the ban because of the upcoming election?

**Mr. Ricard:** Yes. What we've done is we've abandoned the compendium approach to issuing reports on a one-off basis when they're ready to go public.

In terms of any reports that we anticipate issuing prior to the communication ban, there is one audit that we will be issuing. It's the audit on—the official title I can't recall, but it's on the department's management of its outcomes related to Aboriginal education. That report will be issued not before Christmas, but in January.

And what I was referring to in terms of—it's the follow-up report that we won't be able to issue. The compendium for the follow-ups, we won't be able to issue prior to January 19th.

**Mr. Friesen:** I just want to refer to an email in which we have a response from the Auditor General office, and this looks like it's an email that was received in August. It does indicate at that time that there would be chapters that would be presented in November or December, one of those chapters on the management of Keeyask process costs and the effects of agreements with First Nations and then a separate chapter on the Province's management of an agreement with one First Nation, as well as a third chapter on the East Side Road Authority.

So could the Auditor General just clarify that these will not be chapters that will now be released before the year end 2015?

**Mr. Ricard:** Yes, because of delays in finalizing each of those three reports, they will not be issued prior to the communication ban.

**Mr. Friesen:** Yes, a follow-up question on that.

Just referring to another email that indicates—and it's just—this is just correspondence that's going back and forth between our party and the Auditor General's office. And I realize that, sometimes, these reports—these are moving targets and dates change and, as you have made reference to today, a lot of the work with respect to the Auditor General's work is liaising and getting reports back and updates from departments, and those are the things that I know that the AG's office waits on.

But I see, as well, that in this email it indicates that in early January the AG's office will also be issuing a report on improving educational outcomes for K-to-12 Aboriginal students. Now is that the—this is the chapter that the Auditor General spoke of, now can you just clarify that?

**Mr. Ricard:** That is exactly the chapter I was talking about. I just couldn't recall the official name of it.

**Mr. Friesen:** Could I ask, as well, then, when it comes to these three—other reports that will now not be disclosed prior to the publication ban is there material—are there materials that the Auditor General's office was waiting for that hadn't been received, or could he comment on the reason why those chapters, which were committed to be released before the end of the year end, will now not be released?

**Mr. Ricard:** No, there is no material that we're waiting on. The reason is—purely sits with me. I—after assuming my new role in June I just haven't been able to catch up to the year draft reports that have been coming across my desk, and I don't like to release any report until I am completely satisfied with the issues presented and the clarity of the issues communicated. So it's more of an internal delay than information not being provided to the office.

**Mr. Friesen:** To the Auditor General: could the Auditor General comment on why the January 19th date is important for his office?

**Mr. Ricard:** As I understand it after that date, which is the start of a communication ban, departments can't then publically comment on the release of a report. And it strikes us as inappropriate or—it's better if the department—if the government can comment on the report to provide the public with their take

on it and their commitment to implementing the recommendation. So, without that ability, it strikes me as a little unfair.

**Mr. Chairperson:** Mr. Friesen, is there more along this line or are we going into reports or?

**Mr. Friesen:** Yes, sorry, I don't want to prolong this discussion, but it does have bearing for this committee because it does have the next number of months of reports, you know, at stake. So I'll just ask the Chair's indulgence for one follow-up here.

So just to be clear then, the Auditor General is not indicating that the January 19th date poses any particular problem for the AG office, but the challenge arises in that he would like to allow government departments the opportunity to comment and then that comment would fall inside of those dates that, effectively, do not allow government department's to comment. Is that the specific sensitivity here?

\*(14:30)

**Mr. Ricard:** Yes, from my perspective as I—there's nothing that prevents—that would otherwise prevent us from making a public statement during the communication ban, but what typically happens when we release a report is the department also releases a press release in response to it and have many questions from the media that they address as well as myself. So it's—it would be—to me, it would be—what would happen if I was to release a report in February is the media would be asking me—I would have an opportunity to put my perspective in the public forum, but the department would not.

**Mr. Matt Wiebe (Concordia):** So I—we'd have to check the Hansard, but I do distinctly remember when we had a discussion about the follow-up reports that the comment came from the Auditor General saying that these reports were up against this crunch, this timeline, and that at that time, I understood it, that they wouldn't be ready by the January 19th deadline.

Now, so I don't know, again, if that ended up on the record, but I do remember hearing that at a committee. And actually, I thought the way that I understood our recommendation or our request of the Auditor General to speed up the follow-up specifically that we're looking at today, that it was actually exactly because of this. Because we couldn't be sure that it would be ready in time, and this was a way for the committee to prioritize one chapter.

I guess I wanted to ask the Auditor General whether there was—whether the prioritization of the individual—or the individual follow-up, whether that had any impact on the—otherwise on the timeline of releasing the rest of the report and whether there would have—you know, that maybe would have allowed the other report to be done in time or whether it had no impact at all.

**Mr. Ricard:** I would say it had no impact because the follow-up process involves a great number of different individuals in the office. It's the—we try, to the extent possible, to use the principals and the auditors that were involved in the original audit to conduct a follow-up. So it engages, you know—it could be a team of up to 15 to 20 people working on it at any one time. You know, so it—you know, speeding this one up, I don't think impacted our ability to issue the report, the follow-up report on the other 20, prior to the end of the year.

It was a stretch goal on our part. If you'll recall, the last two follow-ups that we've issued have been in May. That's been something that I've found very dissatisfactory. I wanted to issue the follow-up reports in January. But it's proven to be a bit of a challenge to get all the work done in time in the fall and to get the reports cleared to make that goal come. But it's what we're continuing to work on.

We had hoped with this version to issue the ones that we had ready. If we couldn't get them all ready, we had hoped to issue, like, a volume 1 of 2. But as it turns out, there weren't enough that were ready, so we decided to—I decided to just pull the plug on the entire thing and just issue it after, hopefully in early to mid-May. I have to see the tabling process, how that works right after an election.

**Mr. Friesen:** I thank the Auditor General for his providing that information, and we understand we're here to consider the follow-up report, but this has been helpful in understanding the processes of the office. And, as a committee, of course, a number of people already today have expressed their thanks to you and your officials for responding to our resolution to complete this report and have it ready for us. And so we do appreciate that. We understand that there is an effect in your office, and we understand that your resources are not infinite. But we appreciate the work that has been done to get this committee to see this follow-up report today.

I will then direct my question to you on the follow-up report. And the first comment I would make is that, of course, you indicate in the follow-up

that eight of the 25 recommendations around untendered contracts are considered to be implemented. So that would represent 32 per cent. Now, we have to understand that this work proceeds from the March 2014 report to the Legislature, so this report is, you know, approaching two years old.

I would ask for the Auditor General's comment on the level of completion and ask him to comment about does he feel like this is, considering the time frame, an acceptable level of completion of recommendations?

**Mr. Ricard:** I think it's important to first note eight, like, as you mentioned, eight of the recommendations have been implemented and, in our view, for a further eight, significant progress has been made. So that represents 16 of the 25 where significant progress or complete resolution is in place. That leaves nine where there is—in progress.

So, from our perspective, you know, it's been 18 months since we issued the recommendation. We are cognizant that the department is dealing with many issues and many other priorities. We purposely indicate in our follow-up work that we don't assess the adequacy of departmental efforts to address the recommendations. We consider that to be more a role for the Public Accounts Committee to decide if the department has applied enough resources and enough effort to the recommendations. Personally, I found that 16 out of 25 at our first follow-up was reasonable progress. Should it have been 20 out of 25? I don't know.

We were—in doing the follow-up, I must say we were—trying to find the right word here—I will say satisfied, or we were impressed by the intent and the purposefulness with which the department was addressing our recommendations. So, in terms of, you know, the effort, we—like I say, I think it's reasonable progress.

**Mr. Friesen:** I thank the Auditor General for that response. I want to ask him if he would just define significant progress. I know it is a term that he used to describe progress made on eight of the recommendations, and we will go over some of those things. I wanted to ask if he would just clarify what constitutes significant progress.

**Mr. Ricard:** Well, I wish I had a specific set of criteria for you, but I don't. It's pretty much judgment on my team's part and on my part. We look at the effort that was put to the recommendation, the intent of the recommendation. We look at the actions that

were completed and the importance of the action in respect of the recommendation. There might still be, you know, a considerable amount of work to be done, but if the action was foundational and, you know, an important step forward, we might land on significant progress.

**Mr. Friesen:** And, following from that, so if I look at page 2 and 3 of your follow-up report, eight of the recommendations you're considering implemented, eight of them the department's making significant progress, then should we conclude that we have unsatisfactory progress on nine other of those recommendations?

I'm just asking for that clarification because those are not recommendations to which you have attached the term significant progress. I'm asking just for a general comment before we specifically ask about some of these recommendations.

**Mr. Ricard:** So you'll note in the report we don't comment on satisfactory progress in any way. In my opening comments I talked about that I felt it was reasonable progress. I think it would be unfair to say that, for the ones that—where there isn't significant progress or where we haven't highlighted as significant progress, that there isn't satisfactory progress. We didn't assess it for that. We just purely tried to give the committee a better sense than here's 17 recommendations in progress. We wanted to give the committee a better understanding or appreciation for the degree of effort that went into implementing those 17 outstanding recommendations.

\*(14:40)

And, from our perspective, again bearing in mind that this is a review and not an audit, so we can't—I can't speak to—as I could if we were doing an audit on the extent to which the—each of the other recommendations is implemented. But I do task my review team to look at the recommendations to understand, you know, what's being done, what's being planned, and from that information, we make a judgment call on the significance of the effort and the significance of the progress on that recommendation.

**Mr. Friesen:** And just following from that, you used the term foundational when you talked about some of the recommendations where you've seen significant progress. I'm asking about those other nine remaining recommendations. We know that all recommendations of an Auditor General report are not created equal; some of these, it's a much more

difficult thing to implement in scope, sometimes in resources. Are there—of those remaining nine that did not fall into the category of either completed or significant progress at this point, are there, of those nine, some that are also foundational in terms of their scope or size or importance?

**Mr. Ricard:** There probably are a couple. I would identify recommendation No. 1 as being what I would consider a high priority recommendation for which we don't think there's been significant progress.

The other two that I considered to be high-significance recommendations but for which there hasn't been significant progress, in our judgment, would be recommendation 16 and recommendation 20. And 16 is that the department executive finance officers randomly review higher risk procurement transactions to ensure internal controls function properly. To us, that's a key recommendation. And 20 is that all departments enforce their requirements to use a purchase order in SAP for all purchases of goods and—of goods over \$2,500 and services over five.

You'll note on No. 20 we do have a OAG comment there that talks about—they've changed the process to require purchase orders for all purchases over \$1,000, but in our original audit, requiring it and making it happen are two separate things. And the recommendation was make it happen, because at the time of our original audit, there was a requirement that all purchases over \$2,500 be put to a purchase order and it wasn't occurring. So changing the rule to \$1,000 is not going to make that happen necessarily, so that's where we had a comment where in the end we say, in our view, to increase compliance executive financial officers will need to actively enforce purchase order use.

**Mr. Chairperson:** Mr. Friesen? Oh, sorry, Mr. Ricard, you have another?

**Mr. Ricard:** No, that was—I just wanted to make sure I had no other high-priority audit—recommendations that weren't also considered significantly progressed, and I do not.

**Mr. Friesen:** I thank the Auditor General for that response, and it helps committee members to also focus on areas. If it's a priority for the AG office, then we know it should also be a priority for us as members of this committee.

I turn my attention, then, to the deputy minister for Finance. And I'll ask him first of all—and I

understand we have, you know, another department representative as well, but I would like to ask him, in respect of specifically the three recommendations just referred to by the Auditor General, No. 1, No. 16 and No. 20, which the Auditor General characterized as high priority and did not include those on his significant progress list, I'm asking for the Deputy Minister of Finance to respond. How does he feel the progress is coming along? Should it be coming along more quickly, and, if so, what is being done to marshal resources in that direction?

**Mr. Hrichishen:** That is a very good question. We are, of course, disappointed that we haven't achieved these objectives. It's our commitment to fulfill the objectives set out in front of us by the Auditor General. We support them, we agree with them, and we'll continue to work towards them.

We're pleased that we've made the progress that we have but, as it was said, resources are finite. That doesn't mean we shouldn't try, and I'm—again, having said that, I'm pleased that we have gotten this far, we have to continue down that road and, ultimately, honour our commitment to put in place the processes and procedures and protocols that'll allow the auditor's valuable recommendations to be implemented.

So, in respect of the individual items raised by the Auditor General—in respect of No. 1, recommendation No. 1, in response to a number of other recommendations outlined in the OAG report, in recognizing the need to obtain more comprehensive information to facilitate the review and assessment for the practices outlined in this OAG recommendation, we have instituted a requirement that all contracts with a value greater than \$1,000 be recorded in SAP. With this new process, departments are required to provide a rationale for the type of procurement process they have chosen. This information is now available to Procurement Services branch through standard reporting and provides the basis to determine what, if any, amendments are required in the PAM and whether or not further guidance to departments on improving procurement practices are required.

The assessment will occur over the remainder of this fiscal year. That is our plan, that's our strategy, and we will have a recommendation for changes to the PAM expected in the new fiscal year. That is our plan, our projected approach, and we're working towards that.

In respect of the EFOs and reviewing high-risk transactions, recommendation No. 16, Procurement Services branch are in the progress of updating and enhancing the purchasing administration manual, which will require executive financial officers to closely monitor procurement activity through monthly reporting requirements. In addition, the new PO threshold—purchasing order threshold—of \$1,000, as well as the requirement to identify the nature and terms of the PO in SAP in advance, will enable departments to monitor and identify any higher risk procurement transactions through our SAP system and to address any issues in a timely manner.

In respect of No. 20, the recommendation for departments and SOAs, the recommendation that departments enforce the requirement to use a purchase order in SAP: with the recent introduction of the requirement for all contracts greater than \$1,000 to be entered into SAP, this requirement is implemented to a degree; however, communication and monitoring of the business-case field must be implemented effectively. The OAG basically has said we must do a better job. And we'll continue to work towards that. Perhaps we can work with in conversations with the Auditor General's office as we develop this plan, something that would satisfy what is, I think, a fairly straightforward, elementary goal to enforce what processes we have put in place.

\* (14:50)

**Mr. Friesen:** I thank the deputy minister for that response. It provides a good starting place.

I would like to refer, then, specifically to the first recommendation, which is included on page 3 of the follow-up report, and this is under that work-in-progress title. And I'm just trying to understand a little bit more about this process that is currently under way: A process, if I heard the deputy minister correctly, which will conclude in March at the end of this fiscal year. So that would tell us that there is still an excess of three months left in this consultative period of time in which we understand that departments are being contacted.

I'm just trying to understand a little bit more of the nature of the work that is being done at this time. We all understand the reason for it, because this—it underscores the Auditor General's original recommendation that we—that if you're using procedure of procurement practices, other than obtaining competitive bids, you have got to substantiate that, and those practices must be

consistent and they must be fair and they must be reasonable.

So this is the work that's, I imagine, is going on now. Now, I noticed in the follow-up report, the Auditor General's Office had listed, you know, if the practices are reasonable, they want it amended in the Procurement Administration Manual, in the PAM. And then if not reasonable, we recommend the work, they say, to develop acceptable practices for the situation in question.

So, with that backdrop, what is the work that's being undertaken right now specifically within departments? It says that the PSF-PSB is in the process of identifying departmental practices. Let me ask this question to perhaps clarify: What departments have reported back already—or, are there departments that have fully considered this work? If so, could you name them? Are there departments that are still in process? If so, could you name those and then just indicate what—mechanically, what things are being done to substantiate this work?

**Mr. Hrichishen:** Those proactive steps are being taken throughout the contract review process, this process that you inquire about, to address any issues that are identified with departments. In the case where practice is reviewed and is proven to have merit, an amendment to the purchasing administration manual may be initiated, and as we noted, those would be in the new year.

Now, the monthly monitoring that was referred to is, in fact, the monthly monitoring of the contracts that are now within SAP, and that information is now being collected in a rigorous way. Unfortunately, that system has only been in place for a couple of months now, so our capacity to assess the information, to say there are problems here, there are no problems here and what the nature of those challenges are, we haven't reached that point yet and that is why we've indicated it's our intention to complete that assessment early in 2016.

We are now checking compliance with the new rules, the new tendering reporting. We continue to be diligent in reviewing this information, but we have not reached a conclusion. We'll continue to study, and I can report that we have not found, I would say, a material amount of transgressions so, but before I make any commitment that that is the conclusion, I will just have to say that time will tell and we'll continue the monitoring process.

**Mr. Friesen:** I thank the deputy minister for that response. Now, when the deputy minister speaks of the monthly monitoring—I'm just inviting a clarification here—I think he's referring to interim measures to make sure that on a go-forward basis, things are being done safely and reasonably—using language from the Auditor General's report—so that, at whatever point, we have implementation of totally new procedures or verified procedures in the PAM. Until that point, we're not waiting until that moment to have a high level of assurance that things are being done reasonably.

Is that what the deputy minister means when he talks about monthly monitoring?

**Mr. Hrichishen:** Yes, the information that we're looking at is the monthly information that is put up on the disclosure—the proactive disclosure system. So, as that information is updated monthly, we will, on a very hands-on way, assess whether the appropriate protocols have been implemented and take action.

And I just also want to add that it's, generally speaking, the philosophy of our department that continuous improvement is a way we operate. So, in fact, we will not come to a point in time where we will simply sign off on this and then step away. We'll continue to monitor this even if the auditor is in agreement that we've achieved that objective. We will continue to work to improve it and ensure that there's no—to use the word—transgressions in respect of what the departmental obligations are.

**Mr. Friesen:** On this same subject, still dealing with recommendation No. 1, then, are there multiple steps that will make up this process in order to comply with the Auditor General's recommendation? See, this is all written in our follow-up report as being in the process of identifying departmental practices, which is what the deputy minister spoke of.

I guess what I'm getting at is, is there a step 2 that will follow this first initial step that concludes, hopefully, at the end of the fiscal year? If so, what's that step 2? And then, out of this process, is there a practice or a process that will ensue by which best practices are then determined, and then those changes made in the Procurement Administration Manual? Is that a—the process? If so, yes or no? And, if not, please correct me.

\* (15:00)

**Mr. Hrichishen:** Speaking to my colleagues here, the process is one of—where we're engaged in now

is really in a first phase of this work: collecting information; analyzing it in terms of the procurement practices; where necessary or where possible, taking proactive measures if we feel that something could be addressed immediately and looking at certain practices now in light of the recommendations of the Auditor General.

Once we have this information and can assess it along these lines, we will look at certain areas that we can address, whether that's through changing practices or changing the PAM to ensure that there's clarity. And as much as we would like to succeed here, I think the key ingredient here is communicating to all the departments that they must—they are obliged to follow those things. So it's more than just an assessment. It's communication and reinforcement to government purchasing bodies.

**Mr. Friesen:** I thank the deputy minister for that answer. And I would agree with him; it's a question of communication, but then, also, to borrow language from the Auditor General, it is also that issue of active enforcement. It is the back and forth and holding departments to that high standard that will be determined, and I think that's where the process went off the rails previously, that there—you know, either that the communication, perhaps, was not all that it should have been, the enforcement maybe was not as clear as it should have been, and the document itself needed to be modernized. So, of course, we as a committee welcome the modernizing of this document.

Just a further question on the actual PAM then, the Procurement Administration Manual. At this point in time, then, we do not have a date at which the updated PAM would be available. I guess that's a date in the future. Do we have—is there a copy now that includes changes that have been made that would be available, if not today, soon, to members of this committee so that we could see if there are changes ongoing or changes that have already been contemplated?

**Mr. Hrichishen:** The Procurement Administration Manual itself is 600 pages. It's a large document. However, in response to the question we can provide detail around what changes have been made so far, I would say over the last six months to a year—not entirely sure—but changes that have been made in response to the recommendations of the Auditor General to improve the current system. So those changes over the last year I'd be pleased to provide to the committee, Mr. Chairman, if that's acceptable.

We've also, just as an example, we have changed an entire chapter of the PAM in respect of the new procurement reporting system. So some of the changes are small some are quite large. We have a plan to refresh PAM. The plan, we believe, would be available for internal discussion and review early in 2016, perhaps in January 2016. I would also add that, by its nature, the PAM is a living document. It is — always must be responsive to changes in processes, changes in legislation, changes in interprovincial agreements or what have you. So it is an ongoing process by which we maintain that document.

We can provide the document, if you wish, in its entirety as well.

**Mr. Friesen:** We probably would take both, if possible. As members of this committee, we could probably discuss, later on, how many copies we'd like to receive. But I appreciate the gesture, especially in respect of the willingness to provide a copy of what changes have been made going back one year. That would be very helpful.

\*(15:10)

I want to direct my next question on the recommendation No. 16 and move our attention to page 5 of the Auditor General's follow-up report. And I agree with the Auditor General's assessment that these are high-priority items, because they get to some of the heart of the concerns that the Auditor General cited in the original report, waiving of competitive bids, when it went—when it came to, you know, reviewing transactions and ensuring that internal controls were working as they were supposed to.

So I would like to begin our discussion there. I am noting that the recommendation of the Auditor General was that the department executive financial officers randomly review higher risk procurement strategies to ensure that these controls are functioning. I would like to ask the deputy minister how those higher—how those random reviews are taking place and on what frequency and by whom?

**Mr. Chairperson:** Thank you, Mr. Hrichishen, and with respect to PAM, before we get into your answer, I'm sure members would be comfortable with a digital copy as opposed to a paper copy, rather than 600 pages of paper.

**Mr. Hrichishen:** We are going one better in a certain respect, relative to the recommendation of the auditor, and that is, rather than having a sample or trying to assess high-risk and choosing only those

contracts to look at, we have a systemic review. In fact, we're looking at all of them.

The—every EFO is provided with, and is asked to review monthly, their monthly report which is provided to—or, is disclosed in the proactive-disclosure process. We do not require a physical sign-off of the EFOs to these reports but, pending conversations with my officials, I'm not entirely sure why we could not and institute that as a way of addressing the specific recommendation of the auditor for EFO assessment.

As well, our Procurement Services branch reviews, every month, the reports—or, has started under the new system. And PSB does take a risk-based focus. The principal focus of their review is untendered contracts, at the moment, and so we will continue with that. Again, how specifically we can meet our commitment to honour the auditor's recommendation, we'll continue working on that, and perhaps some discussions are in order on the specific options.

**Mr. Friesen:** Just before I ask my next question, I'm just asking for a clarification. We labour in an environment of endless acronyms. I'm just wondering—I should probably know, could the deputy minister remind me, EFO? *[interjection]*

**Mr. Chairperson:** Mr. Hrichishen.

**Mr. Hrichishen:** Oh, pardon me. Sorry, Mr. Chairman. It's Executive Financial Officer.

**Mr. Friesen:** Thank you for that clarification.

My question is to the Auditor General. Because the recommendation that the AG office had made through this follow-up report—or, sorry, through the report itself—was that the EFOs—I can use that term now—randomly review higher-risk procurement transactions, my understanding would have been that that individual in that function would have been specifically tasked with looking for that. I understand why, in some ways, you'd think a systemic review would be a better—a higher threshold.

I'm just asking for the Auditor General to comment, though, without that executive financial officer specifically looking for that, in lieu of what has happened in departments before, and so many contracts by government that, when investigated, didn't make the mark, does this actually represent, in the Auditor General's mind, an improvement over the original recommendation; the idea of systemic review over higher risk review. Randomly.

**Mr. Ricard:** You know it's a little unclear to me what is intended by a systemic review.

To get a report with all of the contracts that were issued, and whether they were tendered or not tendered is one thing. What we were recommending in 16 is that, to me, would be from that listing of contracts that were issued, that they look at the higher risk ones—and untendered contracts are always in the category of higher risks, certainly the higher dollar untendered contracts—but that they then go to the file or the procurement record to ensure that the guidelines as set out in PAM were indeed followed, and that the intent of the requirements were followed, not just that the papers were prepared, but that the intent of the policy direction was adhered to. That's what we're getting at in 16.

So it's unclear to me, when the deputy minister speaks of the doing one better with a systemic review, I don't know what's entailed in a—what the EFO would be looking for and doing in a systemic review.

**Mr. Friesen:** I understand that the deputy minister has a number of functions here and I know he's conferring with his officials, but I am going to invite him to comment back on the statement made by the Auditor General because it's my concern, as well, as a committee member here, that the mandate seems much larger in a systemic review. I'm thinking about the sheer number of contracts that would have to be gone through. So could the deputy minister say a little more about why, in his mind and the minds of senior departmental officials, this exceeds the threshold outlined in recommendation 16 by the AG?  
\* (15:20)

**Mr. Hrichishen:** The review by EFOs is, by no means, restricted to simply validating or assessing all the contracts that are entered into the system by their departments. They can, and they should, assess on a risk-basis untendered contracts, sole-source direct awards, in the same manner that Procurement Services branch also does that. Having said that, the—one of the reasons that this recommendation is not considered implemented is because we have work to do, and we'll continue to do that. Again, the current system is fairly new, and we want to see how it works and ensure that the proper communications are put in place to EFOs and that the system is—does prove its worth, as we anticipate it will.

**Mr. Friesen:** I noted the deputy minister's use of that term, communication. I go back to that statement of

the Auditor General on page 434 of the original report where he says it's unlikely that the PSB's communication effort has been sufficient to ensure that policy is effectively delivered. And we understand that communications can fall short.

I understand what the deputy minister's saying. I'm—when I go back to the original chapter in the 2014 report under why it matters, the Auditor General spells out that during the 18-month audit period, 18—over 1,800 of over 2,100 untendered contracts were not—there was problems with them: not disclosed within the one-month period; there were other problems with when they were disclosed, not disclosed for reasons other than timing. It was the case, then, that the Auditor General concluded that untendered contracts in that 18-month audit period totalled at least \$274 million. The Auditor General, in that place, makes reference to 2,133 untendered contracts.

So, while I understand that there is intent, I understand, I believe, why it is that the Auditor General's report would've included a specific recommendation for an executive financial officer to operate in that kind of watchdog role where they randomly review—because I think that by saying you will do it comprehensively, my concern—and I would imagine the concern of other committee members—would be something is going to get lost along the way by attempting to do so much that real original recommendation may not get done.

I guess what I'm just asking the deputy minister to do is to briefly reflect and to respond to say: Does he believe that perhaps more could be done to accommodate a random review as it was initially recommended by the Auditor General or is he satisfied that this will do the trick?

**Mr. Hrichishen:** This will not do the trick. We have to look for further improvements and with our objective of meeting the recommendations of the auditor.

**Mr. Friesen:** I'm going to skip ahead to recommendation No. 20, and then after that, I just have a bit of comment about recommendation 12. But I wanted to focus on this one area as well, where the Auditor General said this constitutes a high priority and in the area in which significant progress was not cited. So this is the area in which all departments are enforcing the requirements to use a purchase order for all purchases of goods over \$2,500 and services over \$5,000. Now this is where the Auditor General

indicated that executive financial officers will need to actively enforce purchase order use.

Perhaps just to change things up a bit, I'll pose my question to the assistant deputy minister who is here from MIT—no, actually, it's not the assistant deputy minister; the title—yes, yes, it's the assistant deputy minister, thank you. Thank you for being with us this afternoon.

I would like to ask him to comment: What will this look like in MIT? How does an EFO actively enforce purchase-order use to avoid going where it has gone before in departments? Just asking for his comments on that.

**Mr. Weatherburn:** Well, that's a far-reaching question for our department and for every department, I would think.

The EFO has jurisdiction over the department and as far as expenditures go, so it goes a long ways. First, they oversee the procurement for all the different branches and so on and give guidance and advice. As far as the untendered contracts go and anything else that reports up to Treasury Board, they have sign-off on all of those before they go forward, and if they have concerns, they go back to the individual area or branch or division and ask for additional comments or provide their concerns. So, if they do have concerns, they can basically stop the process there before moving forward and giving—and give recommendations to the various managers and directors.

**Mr. Friesen:** The 2014 recommendations—this was, of course, you know, written there and it's a relatively simple request when it comes to the government's reporting mechanisms that the reason for not tendering a contract be recorded in the government's system and in the follow-up report. Now the AG noted that significant purchases were still being made, absent the proper information being recorded, and that better enforcement was required.

So I'm just trying to—I'll just invite the Auditor General to perhaps then say: Is it that simple or is there something we're missing here? What does active enforcement look like when it comes to this, and does he have anything to add to the comments just made by the acting deputy minister?

**Mr. Ricard:** I would suggest that active enforcement would include, you know, our expectation under recommendation 16 like it's part of your overseeing if you're coming across a transaction that didn't have a purchase order, not just letting it go but following it

up and understanding why the purchase order wasn't issued and advising staff to—you know, reminding staff of the policy of the requirement.

\* (15:30)

But I would certainly connect it heavily to recommendation 16, just as I would connect recommendation 15 to recommendation 16 because we talk about what would an executive financial officer do. Well, I would think very much in line with what the PSB individual would do, and that's what recommendation 15 is. And they talk about finalizing their compliance review and reporting protocol, so those could be very useful to an EFO in reviewing their own transactions, their own department's transactions. I would argue, on a test basis—

**Mr. Chairperson:** Maybe following up on that, Mr. Ricard, in your experience, is there a reconciliation process between purchase orders and contracts? And, if there is a discrepancy in the amounts, is that followed up in the departments?

**Mr. Ricard:** To our knowledge, it is not reconciled. I'm not even sure if they know the full amount of un-PO'd transactions. But that would certainly be a question for the department.

**Mr. Chairperson:** So, Mr. Hrichishen, is there a reconciliation process between purchase orders and the final contract amounts? And, if there is a difference or discrepancy, what occurs?

**Mr. Hrichishen:** I'm advised that the purchase order, the invoice and the verification of goods received must all match before an invoice is processed. So within the SAP enterprise control system, there is, in fact, an alignment that's required on these amounts.

**Mr. Chairperson:** Thank you.

**Mr. Friesen:** This stems directly from the Auditor General's language that talks about ensuring that internal controls function properly.

I'm asking this question to the deputy minister. In a letter from 2013, received as a result of a freedom of information request, there is a letter that goes out from the assistant deputy minister for Corporate Services, Department of Finance, to all deputy ministers and department EFOs. And it indicates that the Auditor General is conducting their waiving of competitive bids examination. This letter is from 2013, and it talks about the LBIS previous system that we've had in place, that one place in the Legislature where you could look up untendered

contracts. But the letter makes reference to a non-public folder, and it described it as a holding place for items entered into the UTC system, and it says it's pending approval.

Can the deputy minister for Finance indicate, at that time, how many contracts would it be in the non-public folder, and why would they be there instead of publicized? *[interjection]*

**Mr. Chairperson:** Mr. Hrichishen?

**Mr. Hrichishen:** Forgive me. The date of that letter was when?

**Mr. Friesen:** The date of the letter is January the 17th, 2013. Recipients: all deputy ministers and all department EFOs and from the assistant deputy minister for Corporate Services Division, Department of Finance.

**Mr. Hrichishen:** I regret that I'd have to take that as notice. I do not know the answer to that question.

**Mr. Friesen:** Just to clarify, and I realize this is new information for the committee, but it's directly on the subject. Is the deputy minister saying that he's unaware of the existence of a non-public folder as a holding place for items entered into the UTC system and pending approval, it says here, or is he saying he just does not have—he doesn't want to comment on the letter at this time? Is he aware of the non-public folder?

**Mr. Hrichishen:** So I'm not aware of this folder. I would speculate that it may be a holding area, possibly, for information before it's loaded up, but I—that would just be speculation on my part.

**Mr. Friesen:** And I ask for your patience, Mr. Chair, because I do have a few more questions that I think will clarify this. The letter goes on to indicate that a recent review has revealed that some departments have stale-dated untendered contracts sitting in the non-public folder. So they make reference to stale-dated contracts sitting in the non-public folder. And the letter says, given that the OAG will be reviewing these items and might have questions, Finance recommends that departments review their non-public items and develop explanations of why they are still there.

So I know that the deputy minister is not in possession of this letter, but I'm reading directly from it, that January 17th, 2013 letter. It seems to be two issues. There's the existence of the non-public folder, but there's additionally the fact that a review indicates that departments are allowing stale-dated

contracts to sit there in a non-public folder rather than transferring them where they can be seen. And, of course, we know we had considerable conversations the first time the original report was here at committee about the fact that too few untendered contracts were making their way to the reporting mechanism, which at the time was the library.

So my question to the Deputy Minister of Finance is, can he speculate on why departments would have stale-dated contracts sitting in a non-public folder when Finance is strongly recommending—that's the language used here—that they put it in the right place and develop explanations of why they're still there?

**Mr. Hrichishen:** Yes, I will speculate, and I will speculate that it is related to the conclusion of the Auditor General when in his report—on page 410 of his original report he said that management and administrative practices need to be stronger, that several management and administrative weaknesses cause performance problems, and he cites a number of these, including inefficient and error-prone processes to enter information into the public access database. So I will speculate it is that failing that has led to the backlog of this information. Again, I'm guesstimating that this is the correct explanation.

\*(15:40)

**Mr. Friesen:** So coming up to current, does the deputy minister for Finance know of—are there currently stale-dated untendered contracts that would be found in the UTC system, and if so, could he indicate what number of stale-dated untendered contracts might be there?

**Mr. Hrichishen:** Everything that we have right now has been reported.

**Mr. Friesen:** Okay, the deputy minister says everything they have has been reported. But we have clearly here, knowledge that a system existed, or exists still, by which information was received, first placed in the non-public folder, which would answer a lot of questions we had in the first committee, but then conferred to a public folder at some point in time.

Now, there's an exhortation here from a senior official that departments get their act together and move those contracts into the public folder. So I'm just going to ask for a clarification from the deputy minister: Is he saying there is no longer a practice in departments—with the new UTC system, there is no

differentiation between non-public and public? At the moment an untendered contract is received, it's put up and available for viewing by the public? Is that the clarification he can provide?

**Mr. Hrichishen:** Untendered 'contrents' and tendered contracts are treated the same in the new system.

**Mr. Friesen:** I thank the deputy minister for that response, but it doesn't ask the—answer the question I'm asking.

The deputy minister says that they are treated the same. But I'm asking about the existence of the use of a non-public and public folder system. I'm just speculating here that even if they were treated the same, contracts that were tendered and untendered, could still be in some kind of a non-public and then public folder system. Is such a system in effect?

And if the deputy minister just could also answer this question: I asked about the number of stale-dated untendered contracts that would be currently in UTC, but I would also like to ask, and this might be something he needs to take under advisement, but for the number of stale-dated untendered contracts that would have been in a non-public folder at the time of this letter on January 17th, 2013.

**Mr. Hrichishen:** The current system that was implemented on September 28th has no holding folder or similar arrangement as far as I know. And I will endeavour and take as notice to see if we can find that information for you in respect of the number of stale-dated untendered contracts as of the time that memo—letter—memo was written.

**Mr. Chairperson:** Thank you, Mr. Hrichishen.

So, if a department wanted to sit on a contract, what's preventing them from doing so? If they have an untendered contract—it's been issued, it's been fulfilled—what would prevent them from entering it into the system? Is there something that will guard against that?

**Mr. Hrichishen:** To clarify, Mr. Chair, you mean now, under the current system?

**Mr. Chairperson:** Yes, under the current system. I want to make sure that we don't run into this type of a situation, because someone will find another way to sit on a contract.

**Mr. Hrichishen:** The answer is simply that without a purchase order, no one gets paid. There's no contract in the standard sense of the contract.

**Mr. Chairperson:** Thank you.

**Mr. Friesen:** There's only one other thing I want to refer to in this letter; it's a question I want to ask of the acting deputy minister for MIT, who's here today. I notice that, at the end of this same letter, the letter goes on to say that, please note in the coming months the LBIS untendered contracts system ownership will be moved from Finance to Procurement Services branch, MIT, and that the move is expected to help the Province's approach to untendered contract reporting and accountability.

I want to ask the acting deputy minister, who's with us today: Why was this undertaken, because we all understand now, of course, that the contract system has been moved back into Finance? In 2013, it was moved into PSB, MIT. The rationale given was that it would improve reporting and accountability. Why was it moved to PSB, and why was it moved back to Finance more recently?

**Mr. Weatherburn:** Originally, the information was being compiled and inputted into the system by the Deputy Minister of Finance's office. An internal audit and review suggested—or recommended that this function go to the experts in procurement, so that's when the decision was made at that time to put it under Procurement Services branch, that at that point was within MIT. It still stayed and is still staying as to this day under Procurement Services branch, but the entire branch moved to the Department of Finance.

\* (15:50)

**Mr. Friesen:** So, as a follow-up to that response that's been provided, there's a second letter on a freedom of information request, April the 10th, 2014, from the secretary of Treasury Board—Treasury Board Secretariat to all deputies. And this letter is a follow-up of the previous one. It talks about the fact that the OAG has released the report on the waiving of competitive bids, and it also indicates that the Treasury Board, Department of Finance and PSB and MIT are in the process of reviewing procurement policies with respect of the recommendations. And then it reminds all deputies that they must follow procurement practices. It reminds all deputies that the PAM outlines the circumstances when it's appropriate, and it's—it outlines a number of other things. And then it asks simply, at the bottom, that deputy ministers reply and confirm their understanding of tendering and disclosure expectations.

Now, my question has to do with this second letter of April the 10th, 2014. Basically, the letter would make it clear that conflicts can arise and it's important for deputies to have the information. I'm asking for the acting deputy minister to speculate on if a conflict of interest could arise when both a deputy minister and an organization authorized to oversee the procurement processes within government report to the same minister, especially when it comes to waiving a competitive bid.

**Mr. Chairperson:** Mr. Friesen, to which—

**Mr. Friesen:** To the assistant—the acting deputy minister for MIT.

**Mr. Weatherburn:** MIT follows a pretty strict tendering process, not unlike all the other departments, and there are rules that govern how we procure goods and services. It's over—a lot of it is overseen by the Procurement Services branch as a secondary look, if you will.

The question, whether there's a conflict there, there's certainly—as I said, we follow all the rules in the tendering practices that we follow and procure the vast majority of our things by open bid. There's also, anything that's not following that, such as untendered contracts and so on, do have other processes to follow, including Treasury Board authorizations and so on that then go outside the department.

**Mr. Friesen:** Mr. Chair, I'm just going to anticipate you're about to interrupt these proceedings to indicate the time is almost elapsing, but I consulted with some of the committee members, and we believe that if there'll be agreement to extend the proceedings 'til—for another half an hour to conclude at 4:30, we might be able to bring the business of this committee to a close.

**Mr. Chairperson:** Is there will of the committee to extend—

**An Honourable Member:** Fifteen minutes.

**Mr. Chairperson:** I hear 15 minutes. Is 15 minutes the will of the committee?

**Mr. Chairperson:** Honourable Dr. Gerrard?

**Hon. Jon Gerrard (River Heights):** I think if we can review it in 15 minutes, I was hoping to be done by 4 o'clock, but I haven't even started questions yet, and I understand that—

**Mr. Wiebe:** If I can maybe just suggest that we can say half an hour, and if we're done before half an hour, we wouldn't want to extend things beyond the natural amount of time we need, so.

**Mr. Chairperson:** Is it acceptable to go 'til 4:30, and revisit at that time? *[Agreed]*

Thank you.

**Mr. Gerrard:** Just to—a few questions about some of the recommendations which were either in process or not implemented at this point. One deals with the tendering around emergency events. I understand that there are some conditions one might put forward, example, snow clearing budgets where contracts can be tendered without knowing precisely how much snow clearing is going to be done based on the winter ahead, and that that sort of planning could potentially also be used in the area of floods when quite often we have indications there may be a flood even in the fall but certainly normally by February. I wonder, there's a recommendation, which is recommendation 4, deals with tendering under emergency conditions. I gather it's still under review or is processed, but I'd just like an explanation of, you know, why there aren't at least some instances where there can be tenders in advance.

**Mr. Weatherburn:** As a matter of fact, we already do a lot of that for emergency work for snowplowing and other types of work. We have a bid hourly list for—that we put out each year for all different types of contracts, be it for graders or loaders and things like that. We're using that same list for our emergency-type requirements where we need a contractor to come out and work for a few days or a few weeks, if you will. So we're already doing that, and it's considered a tendered process and we take the lowest person on the list that's available at the time.

We also are working on, as you mentioned, further information related to emergency purchases and so on, and we're working on prequalified lists of allowed vendors and so on for such events that we would need additional things.

**Mr. Gerrard:** That's good to hear, and it would seem to me that, you know, there's potential to resolve some of the issues around that progress.

My next question relates to recommendation No. 9, and, in this recommendation, it is the Treasury Board Secretariat amend the General Manual of Administration's, GMA, definition of contract to match the Procurement Administration Manual

definition. It's difficult for me to understand why this is such a difficult process and has not been completed in a year and a half, so maybe an explanation is in order?

**Mr. Hrichishen:** With respect to recommendation No. 9, we expect to have this completed by January 31, 2016; it will be part of several updates to the GMA which are currently under review.

**Mr. Gerrard:** Yes, I'm pleased to hear that proceeding, still not sure that I understand why it's taken a year and a half but—to amend a definition.

Okay, let me move to No. 12, which is the recommendation which deals with a search engine on public Internet access. You know, it's my experience that when you put a document in PDF format that it's actually readily searchable, and I don't understand why this is such a big problem because a lot of the documents are put in PDF format. And, you know, why again has it taken a year and a half to figure out how to put a search engine here?

\* (16:00)

**Mr. Hrichishen:** The advent of the online disclosure tool for us is a significant improvement in the timeliness, accuracy, accessibility and comprehensiveness of the contract information. We will continue for—to look for ways to make it even better. As this has been online for less than three months, we have not developed further plans, at this time, to undertake major changes to the site. We're not entirely sure, at this stage, of the time and the effort and the cost of improving the search engine. However, we are committed to looking for ways to improve that and to provide a more fulsome capacity for the search function within the database.

I would hope that this could be done in the first half of 2016 and we have—we acknowledge the issues raised by the Auditor General and take those seriously and in consideration of the next steps forward here. So, again, it is fairly nascent in respect of what we've done so far—a major improvement, but I think it—there's a capacity for us to make it better.

**Mr. Gerrard:** Is it provided as a PDF document, or what sort of a document is it?

**Mr. Hrichishen:** No, the old contracts—we'll call it the untendered contract disclosure system—are provided as PDFs. The new proactive disclosure system is not provided as PDFs; it's a searchable database.

**Mr. Gerrard:** Well, I know that there's lots of search engines for databases and I hope that the government is going to be able to provide a solution reasonably quickly.

On the next one, I want to ask a question is on No. 14, and this relates to—that the public service board "improve guidance on the documentation for untendered procurement transactions in the PAM by clearly specifying which documents are mandatory and requiring reasons for waiving discretionary documents."

I'm just wondering what the reason is that, in 18 months, this has not been resolved.

**Mr. Hrichishen:** Procurement Services branch is developing specific information to include in the PAM, detailing required documentation in cases of untendered contracts. In addition, the recent introduction of the requirement for all contracts greater than \$1,000 to be entered into SAP ensures, through the use of mandatory data elements, that this critical information is captured at the time of contract creation.

Enhancements to SAP include mandatory selections of key data elements such as the sourcing of method used, which is to say tendered, direct award, sole source, emergency; the rationale for selecting the method; and the full history leading up to the decision. These process improvements directly address a number of the concerns raised by the Auditor General and provide critical information for the record of procurement and support the effective review and approval of high-risk procurement.

The PAM has been updated with information related to creating a complete record of procurement, which includes a checklist outlining the most common elements to be included. Further steps will be taken in the PAM refresh in 2016.

**Mr. Gerrard:** So there's still some steps to take, but it's moving, albeit slowly.

On number—recommendation No. 16, there's a reference to the higher risk procurement. How does the government define higher risk and how do you categorize the procurement as being higher risk as opposed to not being higher risk?

**Mr. Hrichishen:** So, beyond the colloquial higher risk, I would say that the higher risk in this context is untendered contracts, specifically the sole-source and the direct-award contracts. I might suggest that the higher risk term could be addressed by the auditor, as

it was used in the auditor's report, but I don't want to take liberties.

**Mr. Gerrard:** Perhaps the auditor could address that issue.

**Mr. Ricard:** It's certainly, like, higher risk procurement transactions, from our perspective, can include—certainly would include untendered contracts. They would also include significant dollar contracts. They could include contracts to where there's a pattern of going to the same vendor, tendered or not. Could include high-profile purchases, purchases that are in the public eye and under public scrutiny.

Those are the only ones that I can think of off the top of my head, but that's, you know, the—when we indicate in a review higher risk procurement transactions, really, in our minds, the Procurement Services branch, being the procurement experts, would be in the best position to clearly identify what's a high-risk procurement, so we put it forward in that light.

**Mr. Gerrard:** I thank the Auditor General, and looks like the Auditor General has thrown it back to you to provide a bit of working definition, so I'll leave that with you.

I'd like to move to No. 17, and this is the recommendation that Treasury Board develop an administrative policy development framework. I would have thought this might be—putting in place a framework might be one of the first things instead of one of the last things. Maybe one of the deputy ministers could comment about, you know, where this is and why it was left to the last instead of the first.

\* (16:10)

**Mr. Hrichishen:** In respect of No. 17, Treasury Board Secretariat has significant and ongoing communications with departments on contracting policies and reporting requirements, and those will continue and, in fact, accelerate with activities by PSB in the new year to, essentially, train up people involved in procurement in departments.

Treasury Board Secretariat is also developing further systematic administrative policy communication protocols. The example that was given to me was a SharePoint site with dedicated departmental representatives to ensure the conversations occur, that communications are in effect and, ultimately, to ensure effective development and

dissemination of policy changes to the appropriate audiences. We expect those will be piloted in the first half of 2016.

**Mr. Gerrard:** Thank you. It would be—I mean, you've provided a number of details, but it's the overall administrative framework which is really being requested here. And, you know, it would be good to have Treasury Board present that overall framework in a more systematic way, perhaps, in the future.

Let me move to recommendation No. 19. This is the Department of Finance, consulting with the Procurement Services branch, use the SAP system. What proportion of contracts are now being entered into the SAP system?

**Mr. Hrichishen:** With the release of the new system, all contracts in excess of \$1,000 are entered into the SAP system.

**Mr. Gerrard:** Okay, so the SAP system now seems to be widely used, we could say.

Number 20, I'm having a little bit of trouble understanding what I heard earlier on. I understand that, in—when the SAP is used, that you actually have to align the various pieces and you have to include a purchase order. But the Auditor General says that significant purchases are still being made without purchase ordered.

If all these contracts are using SAP, how can we still have contracts without purchase orders?

**Mr. Hrichishen:** To clarify that the SAP system has always been used for contracts. What we have done is formalize the process where a purchase order is required in order to honour a contract.

**Mr. Gerrard:** So what proportion of contracts now have purchase orders?

**Mr. Hrichishen:** The contracts under \$1,000 do not require a purchase order, and I do not have the information on what percentage of our total contracts that category represents. I will undertake to do so, or our best estimate as to what that number is.

**Mr. Gerrard:** Yes, of the contracts over \$1,000, what proportion now have purchase orders?

**Mr. Hrichishen:** I'm advised I can say 100 per cent—cannot say 100 per cent. The policy requires that all contracts in excess of \$1,000 have a purchase order; however we have initiated our control and verification procedures with the new system. I am uncertain as to when I could have more detail

perhaps from our assessment and verification for the committee.

The—we believe the breaching of this requirement would be due to human error, and I cannot estimate at this time how effective we've been at ensuring that people are conscious of this obligation and fulfill that obligation. I would like to think that it is very small as a percentage of total transactions.

**Mr. Gerrard:** I—maybe there is a way in the system to make that a mandatory component of what has to be done just like a lot of other things which are done online.

Let me move on to recommendation 22, that the Treasury Board Secretariat develop a list of organizations that need to comply with the PAM. It would seem to be that that should be fairly straightforward and I'm not clear why that's not been done in 18 months, so maybe you could explain.

\*(16:20)

**Mr. Hrichishen:** The list has been developed, but further work is needed to refine it, verify it and determine the best way to ensure that it's clear, accessible and easily maintained. It will be incorporated into the Procurement Administration Manual.

**Mr. Gerrard:** Recommendation No. 25, that the departments and special operating agencies review and update the operating charters because, for example, some charters contain references to out-of-date material in the General Manual of Administration. And it would seem when there's out-of-date material like that, that you need a way to make those changes without having to take 18 months to be able to do that. So just maybe you'd comment on that.

**Mr. Hrichishen:** The recent amendments to the Special Operating Agencies Financing Authority, otherwise known as SOAFA, have been passed. These amendments will allow for housekeeping changes to an S.O.A.'s operating charter and management agreement to be reviewed and approved by Treasury Board and Cabinet through the annual Estimates process; to be amended as a result of a reorganization of government departments or programs; or to be updated to incorporate approved operational policy changes, such as approved changes to the General Manual of Administration or the Financial Administration Manual. Previously, as

you noted, changes of this nature required approval of the Lieutenant Governor-in-Council.

**Mr. Gerrard:** In recommendation 6, there's a reference to a document, the Fair Market Value–Methodologies and Tools. When will that document be available?

**Mr. Hrichishen:** The document remains in draft, with an expected completion in early 2016. Once completed, it will be placed in the Procurement Administration Manual for internal reference. I believe it has been shared with the Auditor General's office. I do not have a copy with me. But, once we land on the specific document, I would be—if you believe it's useful, I'd be pleased to provide it to you, to the Public Accounts Committee.

**Mr. Gerrard:** Yes, as a digital form, that would be quite useful, thank you, so that we could have a look at it.

That's the end of my questions. Thank you very much for your responses.

**Mr. Friesen:** I have one question as a follow-up to the deputy minister for Finance. In his discussions with Dr. Gerrard—or another member of this committee, he had indicated that—we were talking about which databases are now searchable and not searchable. I was—I'm asking for a clarification because the—to my understanding that the database in the library here, the reading room just next door to our committee room today, is still downloadable. So my question to the deputy minister is: What is the last time that that system, the LBIS system, was updated with new information?

**Mr. Hrichishen:** The information on the LBIS system, as it's been called, is unavailable as of December 1st in the system. However, the information is provided on a PSB website. That information will be provided, I would suggest, indefinitely. There is a link from the LBIS website to the PSB website so that individuals, when they attempt to find that information, are unsuccessful, they are directed to the website, where PSB keeps

that information in a PDF format, and can access it there.

**Mr. Chairperson:** Seeing no further questions, does the committee agree that we have completed consideration of chapter 10, Waiving of competitive bids, of the Auditor General's Report—Annual Report to the Legislature, dated March 2014?

**Some Honourable Members:** Agreed.

**An Honourable Member:** No.

**Mr. Chairperson:** I hear a no.

Shall the Auditor General's Report—Follow-up of Recommendations: Waiving of competitive bids, November 2015 pass?

**Some Honourable Members:** Pass.

**An Honourable Member:** No.

**Mr. Chairperson:** I hear a no. This report is not passed.

That concludes the business before us. Before we rise, it would be appreciated if members would leave behind any unused copies of reports so they may be collected and reused at the next meeting.

Thank you to the Auditor General and staff, to the Vice-Chair Mr. Wiebe, and Minister of Finance (Mr. Dewar), the Deputy Minister Hrichishen and staff, the minister for MIT, and the Acting Deputy Minister Weatherburn, committee members, Clerk, researchers, page, Hansard staff, recording staff.

So Merry Christmas and happy holidays to everyone.

The hour being 4:28, what is the will of committee?

**Some Honourable Members:** Committee rise.

**Mr. Chairperson:** Committee rise.

**COMMITTEE ROSE AT: 4:28 p.m.**

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