



Alberta Justice and Solicitor General Contracting for External Services Follow-up

November 2018

About this Audit

When conducting the 2016 audit, we found Department of Justice and Solicitor General processes did not have clear and effective guidelines for programs to follow when requesting funding and preparing business cases to support their need to engage external contractors.

In the 2016 audit, we examined processes followed by one of the department's contractor areas: the Office of the Chief Medical Examiner (OCME)¹ program for transporting deceased rural Albertans to its Calgary or Edmonton medical examination facilities. We found that the OCME frequently used non-contracted transporters, contrary to its policy to use only pre-qualified vendors under contract for transporting deceased rural Albertans.

Our 2016 audit was centered on the OCME; however, our report resulted in one recommendation directed toward the department as a whole (business case guidelines) and one for the OCME program (using pre-qualified contract vendors). For this follow-up audit, we decided to broaden our scope to more fully examine the department's pre-qualification contractor processes. Accordingly, we included two additional support areas within the department using pools of pre-qualified contractors: Gladue report writers, plus court reporters and transcript preparers. See Appendix A, which provides an overview of these two programs: OCME rural transportation and pre-qualified contracting.

Audit Objective and Scope

The objective of our audit was to determine whether the Department of Justice and Solicitor General had implemented our two July 2016 recommendations on external contracting for business services, including contracts for transporters of deceased rural Albertans, and contingency provisions for the use of non-contracted vendors². We consider a recommendation to be implemented if the deficiencies we originally identified have been resolved.

The department's management agreed with the suitability of the audit criteria associated with meeting the above objective, as well as our decision to include Gladue report writers, court reporters, and transcript preparers, in the scope of programs to be examined that are contracting for business services on a pre-qualified basis.

What We Examined

We examined the business case guidelines and several business case information packages presented to the department's contract review committee to evaluate implementation of our 2016 recommendation for significant, new, external contract-services requests.

For our 2016 recommendation involving external services obtained from pre-qualified contracted vendors, we examined the design of the pre-qualification evaluation processes leading up to a contract being offered to an applicant, signing the contract and inclusion on the roster of program vendors that can be used. We tested

¹ The OCME operates within the Justice Services division of the department.

² *Report of the Office of the Auditor General—July 2016*, page 19.

payments for the specified program services, checking that an appropriate invoice had been received that was supported by a valid pre-qualified contract. We also reviewed any allowable exception provisions for situations when an approved vendor was not available to provide the needed services on a cost-effective and timely basis.

For our business case audit testing, we examined business cases and contract review committee minutes from the 18 months ended June 30, 2018. For our pre-qualified contracting tests, we examined pre-qualified vendor contracts, service request and completion forms, and invoices and payments data from the year ended February 28, 2018.

We did not examine internal controls associated with incoming service requests and scheduling, service quality or payment approvals, and processing for any of the department programs. When examining contracts and pre-qualified rosters, we did not verify qualifications or other requirements met by the approved vendors.

We conducted our field work between January and July 2018 and substantially completed our audit on September 5, 2018.

Conclusion

Based on our findings obtained in completing audit procedures between January and July 2018, we conclude that the Department of Justice and Solicitor General has implemented our 2016 recommendations, having:

- developed business case guidelines and required business cases to be used for significant external-services-contract requests
- improved and complied with pre-qualified contractor requirements for specified program services

Why this Conclusion Matters to Albertans

Good contracting practices contribute to cost-effective operations and reduce the risk of the department not getting the level or quality of service that meets its standards. The use of business cases and pre-qualified contractor programs contributes to Albertans having access, if needed, to cost-effective justice services

Findings and Recommendations

Business Cases for Contract Requests—**recommendation implemented**

Context

As outlined in our 2016 report, a business case for a contract should include:

- a clear description of the need for the contract
- evidence of stakeholder consultation
- risk assessment and mitigation plans
- financial analysis

Much of the department's contracts and procurement work involves monitoring existing contracts, term extensions of existing contracts, and renewal competitions for ongoing service needs. There are also new contract requests, which is the area where we examined a sample of proposals that required business case submissions to the department's contract review committee.

Criteria: the standards of performance and control

The department should have external-services-contract processes that include guidelines specifying:

- business case requirements to be included with a contract request
- circumstances when a business case is not required for a contract request
- decision-making authority for contract requests that include or do not include a business case

Our follow-up audit finding

Key Finding

The department has developed business-case guidelines.

Business cases were prepared for use by the department's contract review committee to consider significant new external-services-contract requests.

We found that the department has developed business-case guidelines that set \$75,000 as the threshold for new contract proposal significance. Contract funding requests in excess of \$75,000 now require a fully developed business case as part of the information package presented to the department's contract review committee. Lesser value contract requests require supporting documentation that is less comprehensive than the business case requirements.

We found that the business cases examined in our audit sample were prepared within the framework of the department's new business-case guidelines. Each significant funding request and the accompanying business case were discussed at a contract review committee meeting prior to approval.

Using Pre-qualified Contract Vendors—**recommendation implemented**

Context

In this follow-up performance audit, we built on our initial audit work that was centered on the OCME and its rural deceased-body transportation program. In addition to examining improvements in the OCME program, we also looked at two other programs using pre-qualified contracts for service delivery and as cost-control tools: Gladue report writers and court reporters and transcript preparers.

Appendix A explains the rationale for maintaining rosters of pre-qualified vendors and provides an overview of the department programs mentioned above. Some cost information is included for programs, each of which operates within the department's annual \$1.4 billion budget. The appendix provides insights on several programs operating within Alberta's justice system.

Criteria: the standards of performance and control

The department, its divisions and programs should have external-services-contract guidelines specifying circumstances when:

- pre-qualified contract vendors are to be used to provide business services
- business services may be obtained from non-contracted vendors

Our follow-up audit findings

Key Findings

The OCME complied with its pre-qualified contractor use policy for rural body transportation. The use of non-contracted vendors was limited to situations where excessive costs and time delays would be incurred in using pre-qualified contractors or when special services were required.

The department was complying with its policy of only using pre-qualified contractors for:

- Gladue report writing
- court reporting and transcript preparation

Since our 2016 audit, the OCME has increased the number of pre-qualified rural body transportation contractors. This has reduced the potential need for using non-contracted vendors and has allowed the OCME investigators to strictly adhere to the OCME policy of using vendors on pre-qualified regional vendor lists. The use of non-contracted vendors was more appropriately limited to situations where excessive costs or time delays would result from using a pre-qualified contractor. There remain situations where advance pre-qualified contract arrangements for deceased body transportation are not feasible (e.g., for body removals in remote locations, such as mountain areas; for drownings that first require search teams of divers, also sometimes in remote locations).

We found that the specialist nature of Gladue report writing and court reporting and transcript preparation work, combined with the inherent ability to schedule these types of work, meant that only pre-qualified contractors are used in these programs. For transcript preparation, we found compliance with the policy to only use pre-qualified contractors for internal department requests as well as for external requests.

Appendix A: Programs Overview

Pre-qualification and Contracting of Vendors

The purpose of pre-qualifying and contracting certain groups of vendors is to control costs where skills-specific services are needed, but the volume, timing, or location where the services are needed is unpredictable. For these types of services, it is beneficial to maintain a pool or roster of pre-qualified vendors so that when needed, the services can be provided in a timely and cost-effective manner. If the services are infrequently needed, costs are kept to a minimum. The costs are controlled because pre-qualification type contracts do not guarantee the extent to which individual vendors will be contacted to provide services. If contacted, the specialty services can be promptly provided in accordance with the terms of the contract, which includes a preset fees schedule.

The pre-qualified contracts will be with individuals or companies. The contracted business may operate with one or more individuals authorized to carry out the contracted services as pre-qualified resources (independent contractors or employees) under the contract. In advance of being offered a contract, each business and the individuals seeking to provide services will be screened by an evaluation team based on criteria relevant to the service needs. Once the ability to meet the service standards is established, there will be a set of additional requirements to be met before the contract can be executed (e.g., criminal record and driver abstract checks, signing confidentiality agreements, and providing documentation of appropriate insurance).

In this follow-up performance audit, we examined three key operating areas in the Department of Justice and Solicitor General that used pools of pre-qualified contracted vendors.³

Transportation of deceased rural Albertans

The OCME's legislated forensic, pathology, toxicology and other scientific activities are directed at sudden, unexpected or unexplained deaths, including those involving police investigations and, potentially, legal proceedings. Procedures can range from file reviews of medical records to full autopsies. The OCME uses contracted body transportation vendors (most are funeral homes) to safely and respectfully move people who have died. In addition to the Calgary and Edmonton contracts, there are pre-qualified contracts with body-transportation service providers in almost all reasonably populated areas of Alberta.

Each year, approximately 20,000 people die in Alberta. Of these, the nature, timing, and circumstances surrounding the deaths warrant approximately 4,000 having some level of post-mortem medical examination. In recent years, approximately 1,700 deceased Albertans were annually transported from rural areas for medical examination, at a cost of \$1.65 million per year.⁴

³ The program overviews are presented to inform Albertans, providing context and background on the Department of Justice and Solicitor General pre-qualified and contracted vendor programs examined in this follow-up performance audit. The program information was summarized from publicly available department sources and our audit file.

⁴ The OCME pays for the transportation of a body from the scene of death in Alberta to the nearest OCME office, and the outward return to the next of kin's chosen funeral home (up to the same distance as the trip from the scene of death).

Gladue report writing

Gladue reports are prepared at the request of judges on a pre-sentencing basis to assist Indigenous people in obtaining fair and culturally sensitive treatment in the justice system. The reports derive from a 1999 Supreme Court of Canada decision involving an accused woman named Jamie Gladue. Each report helps tell the personal history of an Indigenous offender to a judge and the courts. It will outline socio-economic circumstances and include any history with residential schools, child welfare, abuse experienced, addiction, and substance abuse.

Gladue report writer applicants will be evaluated on their demonstrated experience working with multi-barrier Indigenous groups, their knowledge of various Indigenous communities in Alberta, and their writing skills. In the interests of report quality and limiting travel expenses, there are writers with pre-qualified contracts in almost all regions of Alberta with reasonably populated Indigenous communities.

In recent years, approximately 700 Gladue reports were prepared annually, at a cost of \$950,000 per year.

Court reporting and transcript preparation

Court reporters are present for some (relatively few, only high level⁵) courtroom proceedings to document the words spoken in real time. Transcripts for those and other proceedings may subsequently be prepared, on request, using audio files.⁶ Some transcripts are also prepared from interview audio or video files provided by police service investigators.

The department maintains separate contracts for court reporters (credentials include legislatively established academic and professional membership qualifications⁷) and transcript preparers (qualifications are experience based). Most court reporters also have a transcriptionist contract.

Transcript requests may be internal (e.g., from judges, court staff, crown prosecutors, or others in the department) or external (e.g., from defense and other lawyers, media, or members of the public). The fee charged is the amount paid for the transcript preparation, unless the transcript was already generated from an earlier request, in which case a lower, per page copy fee will be charged. The legislatively approved transcript preparation fee schedule is based on character counts (i.e., keystrokes) and requested turnaround time for completing the transcript; a higher fee is charged for a transcript prepared within two days or a week, compared to a thirty-day delivery request.

In recent years, approximately 18,000 internally and externally requested transcripts were prepared annually, at a cost of \$4.5 million per year, including court reporter fees.

5 A certified court reporter is present when required for Alberta Court of Queen's Bench trials or requested by the presiding justice. A lower court judge may also request the presence of a court reporter, though department representatives advised that this rarely occurs

6 All Alberta courtroom proceedings are recorded. The Department of Justice and Solicitor General has a system for cataloging and retaining the recorded audio files. The final transcript from a session that has a court reporter present is generally quicker to prepare and will be of higher quality compared to a transcript prepared solely from the audio file (e.g., there will likely be fewer sections of the transcript where the dialogue is inaudible). Transcript requests will specify whether the whole courtroom session or just specific segments will be transcribed.

7 Court reporter qualifications include successfully passing Alberta and Canadian shorthand/court reporter examinations and being registered in good standing under the *Alberta Shorthand Reporters Regulation Alberta Regulation 197/1996*.