



House of Commons
CANADA

Standing Committee on Government Operations and Estimates

OGGO • NUMBER 044 • 3rd SESSION • 40th PARLIAMENT

EVIDENCE

Tuesday, December 14, 2010

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Chair

The Honourable John McKay

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•(0850)

[English]

The Chair (Hon. John McKay (Scarborough—Guildwood, Lib.)): Colleagues, I see a quorum, so we can commence our meeting.

To open the meeting I want to welcome our witnesses, Madame Trombetti and Mr. Hollander, and thank them both for coming this morning.

Before I turn it over to witnesses, I want the record to note that *The Hill Times* says this is the best committee on the Hill. Apparently that has nothing to do with the fact that Mr. Martin is a member of the committee and the votes were loaded by the NDP staff. I prefer to believe the narrative that we have the best clerk and the best staff on the Hill and that's why we are the best committee.

Mr. Ed Holder (London West, CPC): If I may, Chair, the quality of the chair certainly is—

An hon. member: In question.

Some hon. members: Oh, oh!

The Chair: I won't open it for debate on the quality of the chair.

I'm going to ask Madame Trombetti to speak and then turn to Mr. Hollander.

Mr. Hollander, can you hear us all right?

Mr. Stephen Hollander (Program Coordinator, Economic Crime Studies, Centre for Forensic and Security Technology Studies, British Columbia Institute of Technology): Yes, sir, I certainly can.

The Chair: That's good. Thank you.

It was very generous of you to come in at 5:45 in the morning where you are. Thank you for that. I understand you've also taken time off your vacation to come. So again, we appreciate that.

Madame Trombetti, please.

Ms. Oriana Trombetti (Deputy Procurement Ombudsman, Office of the Procurement Ombudsman): Mr. Chair, members of the committee, thank you for inviting us to be here today and for the continued interest that you have shown in the Office of the Procurement Ombudsman's work towards strengthening the fairness, openness, and transparency of federal government procurement.

Pending the appointment of a new procurements ombudsman, I have been tasked, as deputy procurement ombudsman, with specific responsibilities to ensure the continuity of the office. These are

interim measures, as a competitive process to find a replacement was initiated in the spring following the announced retirement of the first procurement ombudsman, Mr. Shahid Minto, after a very long and distinguished career in the public service.

With me today is Paul Morse, who is currently the principal responsible for the reviews of procurement practices in departments and agencies.

I welcome the opportunity to meet with you today to discuss recent activities of our office, and in particular the subject of construction contracts. The mandate of our office is to review the procurement practices of departments to assess their fairness, openness, and transparency, to make recommendations for improvement, to review specific complaints regarding contract award and contract administration, and to provide alternative dispute resolution services for contractual disputes. The legislation also provides that the procurement ombudsman shall perform any duty or function respecting procurement practices of departments that may be assigned by order in council or by the Minister of Public Works and Government Services.

Our office became fully operational in May 2008. The foundation of the office rests on a core set of basic principles, two of which are independence and neutrality.

Not only does our office have a legislated mandate, which can only be changed by Parliament, but we have taken other steps to ensure our independence in our day-to-day operations. For instance, we have entered into a memorandum of understanding with the Department of Public Works, where we obtain core corporate services on a fee-for-service basis. We are responsible for our own risk management, communications, and legal services. We also decide which procurement practices to review unless specifically asked by the minister. Once our annual report is finalized, it is given to the minister and then tabled in Parliament.

Neutrality is also one of our core principles. We are neither a lobbyist for suppliers nor an apologist for government departments. Our aim is to stimulate discussions and to ensure that there is a balanced understanding of interests and concerns of government, suppliers, and parliamentarians.

Under our mandate to review complaints about contract award and contract administration, we have responded to 1,093 contacts since May 2008. Of those, approximately 67% were procurement-related.

Many complaints we receive are about contract award; however, they do not meet the criteria for review under the ombudsman regulations. This means we cannot carry out a formal investigation. What we do instead is follow our business model, which encourages suppliers to discuss their issues with us and allows us the opportunity to help them resolve quickly their issues through informal means.

Both suppliers and government officials benefit from a collaborative approach. As procurement processes continue in a timely manner, quality is not compromised and the parties maintain a good working relationship for future procurement contracts. If an informal approach does not work and the complaint meets the criteria set out in the procurement ombudsman regulations, we proceed with a formal investigation. To date, we have completed approximately seven formal investigations.

We apply the same approach to our mandate, to provide alternative dispute resolution services for contractual disputes. We try to resolve the issues through informal means before proceeding with the formal process. Since May 2008 we have had 16 requests, and of those, approximately 60% have been handled informally. We strive to ensure that our stakeholders know that we exist and are aware of the services we provide. We focus our outreach on both government and supplier communities. We have attended a variety of workshops, conferences, and other events to raise awareness of the office and the services it provides. We have also met with national procurement associations, industry associations, other ombudsman offices, and regional offices of government departments to discuss areas of mutual interest.

Under our mandate to review departmental procurement practices to assess fairness, openness, and transparency, we have completed nine reviews and two studies since May 2008.

There's one review in particular that we carried out this past year that we think will be of interest to this committee. It is a review of procurement practices of departments and agencies with regard to construction contract amendments known as change orders.

By its nature, construction is risky. To minimize the impact of these risks, contracting and project authorities alike must ensure that a sound management framework is in place to manage the construction contract amendment process.

Public Works and Government Services was a participant in this review, because it is the major player in the construction and management of real property for the Government of Canada and until recently the principal purchaser of construction services for all federal government departments and agencies, other than the Department of National Defence.

Our review also included regional offices of Fisheries and Oceans, Parks Canada, and the Royal Canadian Mounted Police, as those departments have now taken on a greater role in purchasing their own construction services.

We found that Public Works and Government Services Canada has identified the risks associated with construction contract amendments, and has developed detailed procedures, tools, and training programs to manage these risks. Contract amendments are made with the same care as new contracts. The department's framework is designed to promote fairness, openness, and

transparency, and to protect the public purse while complying with government-wide rules for contract amendments.

We recommended to participants in this study that policies and procedures be sufficiently detailed to provide guidance and direction for personnel involved in the process, and that a matrix of roles and responsibilities be included within the policies and procedures.

We were also concerned that participants in our review did not build into their systems sufficient flexibility, as Public Works has done, to respond to requirements for contract changes in a timely manner. They were at risk of claims for delay from the contractor, as well as irregularities and non-conformance with their own procedures. We recommended that they carry out risk assessments and consider adapting Public Works and Government Services contract amendment pre-approval processes.

Keeping statistics on the categories and types of contract changes and number of amendments provides useful indicators of performance, as well as identifiers of systemic problems in the planning and management of construction contracts. We recommended that the organizations reviewed develop a capability to generate reports on this in order to analyze trends and improve processes.

Having provided you with some information about our office, its mandate, and a procurement practice review related to the issues raised in these hearings, I must clarify that our office has not reviewed any contracts to renovate buildings on Parliament Hill, or the contract awarded to LM Sauvé.

In closing, I would like to thank the dedicated staff of the Office of the Procurement Ombudsman for their efforts. They work diligently every day in all they do to improve the confidence of Canadians in the fairness, openness, and transparency of public procurement.

My colleague and I welcome any questions the committee may have.

Thank you.

● (0855)

The Chair: Thank you, Madame Trombetti.

Mr. Hollander, you have ten minutes.

Mr. Stephen Hollander: Thank you, sir.

In the procurement process the objective of the purchasing organization is to get the best value for money—the best possible work at the lowest possible cost. To this end, governments and large organizations establish formalized procurement processes involving competitive tendering in many instances. These formalized processes will have controls built into them to ensure that the employees of the organization act in the best interests of the employer.

Effective as these systems may be, they inevitably leave some margin of vulnerability to procurement fraud. By procurement fraud I mean largely the deliberate overcharging of the customer by the supplier, often in connivance with corrupt employees or agents of the victim organization. The factors that give rise to these vulnerabilities are numerous, but the following are the three chief ones.

First, controls can often be circumvented by employees acting in collusion with one another or with external actors. Second, senior managers often have the authority to override controls at crucial decision points. Third, as control systems become increasingly bureaucratic and complex, a point of diminishing returns is reached beyond which any further complexity or bureaucracy actually gives rise to an increase in the opportunities to commit fraud. The vulnerabilities to fraud exist at every stage of the process, as we shall now see.

I direct the committee's attention to slide three in the package I have provided and I trust your learned clerk has supplied to members. Is that correct?

● (0900)

The Chair: Yes, it is. Thank you.

Mr. Stephen Hollander: In slide three, we see that the procurement process is divided into clearly defined stages. The break points between the stages will vary from one organization to another, but the important point for my purpose today is that each stage carries particular risks of fraud.

In the needs identification stage, the objective of the corrupt employee or agent is to establish a need for expenditure where none exists or to exaggerate the amount of expenditure required with the intention of passing the benefit on to the preferred supplier. Some of the ways this can be done in the needs identification stage are shown in slide four of your bundle. I would point out, as we look at this slide and at the subsequent slides, that many of the actions listed need not be done by somebody who was very high up in the organization. Some of these actions could be taken by people who are at a decidedly junior level.

In the second stage, the development of statements of work and specifications, the objective is to ensure that insofar as possible the specifications will match the resources or product of a favoured supplier or that the supplier can be awarded the business through a non-competitive or sole-source mechanism. Some of the ways this can be done are shown in slides five and six. Again, one need not necessarily be senior in the organization to do some of these actions.

At the pre-qualification stage, the objective is to restrict the trawl of potential suppliers in a way that will favour the preferred one. If you take a look at slide seven, you'll see some of the ways this can be done.

In the solicitation phase, the objective is to ensure that the favoured vendor is successful by limiting or sabotaging the competition. There are numerous ways this can be done and has been done in the past. This is covered off in slides eight and nine.

When it comes to evaluating the bids and proposals, the objective is to ensure the work will be awarded to the favoured vendor. If a selection interview was part of the process, the interview will be used by the corrupted employee for the purpose of discrediting

competitors and shining a bright light on the favoured vendor. I've shown some ways this can be done in slides 10 and 11.

As we approach the end of the process, we arrive at the negotiation stage, and the objective at the negotiation stage is to provide a second chance to steer business to the favoured vendor and to sweeten the pot. I've shown how this can be done in slide 12.

At the contract award stage, the corrupt employee or agent will work to release the favoured and by now successful vendor from penalties, audit clauses, and other provisions for contract or accountability that would normally appear in a contract. Another objective at this stage is to prepare the ground for overcharges in the work that will be performed in the future.

Once the contract has been formally awarded, the vendor is now in a position, often without any collusion with corrupt employees inside, to engage in fraudulent actions that will increase the profit at the expense of the victimized purchaser.

I've included some notes on measures that may help to prevent this type of abuse, but I believe that my allotted time is close to expired. I'd be pleased to take any questions that members of the committee might have.

The Vice-Chair (Mr. Chris Warkentin (Peace River, CPC)): Mr. Regan, for eight minutes.

Hon. Geoff Regan (Halifax West, Lib.): Thank you very much, Mr. Chair.

I would be interested at some point, if we have time, to hear some of your suggestions, Mr. Hollander, about what some possible solutions there are to this and how you prevent it, particularly in view of the fact that you said if you have too many rules you actually increase the risk of fraud. Am I correct in understanding that?

Rather than allowing you to give the full exposé in terms of how we can prevent it, perhaps you can provide me a fairly brief answer.

● (0905)

Mr. Stephen Hollander: Controls have their place and we must have them, but controls can be circumvented by collusion, or by senior management overriding them.

With regard to the complexity, there is a point where the system becomes so complex that the opportunities for fraud are increased. For instance, there's what's known as the downstream effect. If you have too many people involved, and if one corrupt employee is successful in committing a crime, the people downstream will not be aware that anything is wrong. For example, at the pre-solicitation phase, a corrupt employee could remove the entries for qualified vendors from the database, so that the vendors don't get the request for proposals or the call for tenders. If the trawl has been restricted this way, so that only the favoured vendors and some obviously unqualified ones get the RFPs, the people who are responsible for bid evaluation won't know this, and they'll proceed as if everything were correct

As to methods of prevention, there is the segregation of duties. There is also the performance of parallel checks and critical points. For instance, prior to the issue of a request for proposal, an independent person reviews the log of changes to the database to make sure no changes have taken place that shouldn't have. Also at this stage, an independent agency performs a background check on the short list of bidders and their senior management and directors.

Hon. Geoff Regan: That is an interesting point. The focus of our committee has been the renovation of the West Block and the allegations that someone rigged the bid. The suggestion was that the LM Sauvé company hired Mr. Gilles Varin to help them get the contract. They ended up getting the contract after paying something between \$118,000 and \$140,000. Is this the kind of thing you're talking about?

Mr. Stephen Hollander: If there had been anything adverse in the background of the Sauvé construction company, presumably a background check would have discovered it. We're talking about a reasonable due diligence here. We're talking about looking at things like court records to see if the company has been in and out of court a lot. One would look at complaints registered with workers' compensation as well as open source information about possible organized crime connections. This is the sort of thing you would do if you were looking to enter into a business relationship using your own money.

Hon. Geoff Regan: In this case, there is evidence of an organized crime connection that wasn't uncovered, so it's not clear that there was much of a check in advance.

Let me ask you another question. Is it legal to have an agreement whereby a contractor hires someone and the payment to that person depends upon obtaining a contract? This appears to be what has happened between Mr. Sauvé and Mr. Varin.

Mr. Stephen Hollander: I am not a lawyer, so I'm afraid I can't give you a legal opinion.

Hon. Geoff Regan: Do you have any more comments, Mr. Hollander?

Mr. Stephen Hollander: No.

Hon. Geoff Regan: Ms. Trombetti.

• (0910)

Ms. Oriana Trombetti: I can't give you an answer on that either.

Hon. Geoff Regan: Ms. Trombetti, are you aware of the RCMP investigation into this affair?

Ms. Oriana Trombetti: Yes, I am.

Hon. Geoff Regan: Has the RCMP contacted you to ask for your advice, ask for information? Are you doing any investigation of this matter?

Ms. Oriana Trombetti: No, they have not contacted us, and we have not been tasked with doing any investigation of this matter.

Hon. Geoff Regan: Do you have the intention to investigate this? If so, why? If not, why not?

Ms. Oriana Trombetti: I have specific responsibilities, as I indicated, as the deputy procurement ombudsman. I do not have the authority at the present time under the legislation to initiate a practice review of this matter, or an investigation of this matter.

That could be done upon the appointment of a new procurement ombudsman, depending on whether that individual would like to investigate this matter or not. It is the procurement ombudsman who has the authority to initiate a review.

Hon. Geoff Regan: Okay. That doesn't leave us a whole lot, Mr. Chair.

I think I'll go back to Mr. Hollander and ask him a question. In the case where we have officials insisting to us that there was no influence, they didn't talk to Mr. Varin, who is the alleged unregistered lobbyist, how do we investigate this? How do we uncover whether there's wrongdoing or not?

Mr. Stephen Hollander: The usual way we would do this is to start off at the latest phase, which in this case is the contract was in effect and the work was being done, and work our way back through the documentation to find out where it effectively went off the rails.

Now, in this case I understand, and please correct me if I'm wrong, that the successful bid was the lowest of the ones submitted and that it was so low that people were scratching their heads and wondering how this could be.

Is this correct?

Hon. Geoff Regan: My understanding is that they were concerned about the number on the bid. It was \$2 million below other bids, and one wonders how that happened.

An hon. member: It wasn't \$2 million—

The Chair: We're getting into a bit of a debate between members, and Mr. Regan's time is up.

Maybe there will be an opportunity to come back on this at another point.

[Translation]

Mr. Lemay, you have eight minutes, please.

Mr. Marc Lemay (Abitibi—Témiscamingue, BQ): Thank you, Mr. Chairman.

Mr. Hollander, thank you for being with us so early this morning, Vancouver time. It is not your fault, but I would have greatly appreciated hearing you at the beginning of this inquiry. Indeed, the elements that you are bringing forward are very interesting and would probably have guided our questions to the various witnesses differently.

On page 5 of your presentation, you talk about the "Development of statements of work and specifications". Do you believe that there could be room for various abuses if the restrictions set out are so specific to the contract that, in the end, there could be only be one bidder?

I am trying to understand, because witnesses told us that the renovation work for West Block was so specific, complex and particular that the number of potential bidders would be limited. I would like you to explain to me the difference between this point: "Defining specs/SOW to fit the products and capabilities of a single contractor ("Tailoring")", and what we were told by the architects, with regard to the difficulty, the complexity, etc.

I would like to hear your comments in this regard.

• (0915)

[English]

Mr. Stephen Hollander: It certainly is possible for a construction project to be so intricate and so involved that only a certain number of companies would have the resources—human and otherwise—to undertake it. This is one of the reasons you have a pre-qualification stage.

But it would be possible—I understand that it didn't happen in this case—for an employee or agent of the purchaser to define the requirements so specifically and with the objective in mind that only one company would be able to do it. For instance, I have seen situations in the case of the purchase of a product—an electronic product—where the specifications were essentially word-for-word the specification sheet of the manufacturer. In situations like that it becomes quite obvious that the specifications were tailored to direct the work to that manufacturer.

In the instant case, I believe there were in fact a number of qualified bidders, and the work was awarded to the lowest responsible bidder. Again, I could be wrong on this, but this is what I get from reading the newspapers, which of course are never wrong about anything.

[Translation]

Mr. Marc Lemay: For example, could the person giving the orders, the architect responsible for the job, restrict the scope of the project to such an extent that there would only be one bidder capable of doing the work, as you were mentioning earlier? If that contractor is the only one capable of doing the work, then he or she could set conditions, impose specifications or money issues, to such an extent that there would be no way of avoiding fraud.

[English]

Mr. Stephen Hollander: Certainly if there is only one possible source of supply, then that supplier is in a position to drive a hard bargain. It would presumably be fraudulent if the specifications need not have been that rigorous. Again, it becomes to a certain extent a matter of supply and demand.

[Translation]

Mr. Marc Lemay: I read your document very carefully, I read your notes and I listened to you. In your opinion, who should be responsible for ensuring the quality of the contractors for a job such as the renovation of West Block, which is a very complex project, as we have been told? Should there be preselection? If so, who should do this? How should this preselection be carried out in order to avoid abuse and possible attempts at corruption?

[English]

Mr. Stephen Hollander: Presumably the agency responsible for letting the contract, the agency responsible for procurement—which is to say, identifying potential sources of supply—would have a database of the various suppliers and would have their capabilities noted in terms of equipment, personnel, past work that had been done, and other indicators that would indicate their capability to do work of various types and complexity. When it came to qualifying people to submit tenders, the qualified people would be selected on that basis.

Again, before the request for proposals or the call for tenders went out I would recommend that there be a certain due diligence done to make sure you weren't going to be buying a bag of snakes.

• (0920)

[Translation]

Mr. Marc Lemay: Thank you, Mr. Hollander.

I will now move on to the representative from the Office of the Procurement Ombudsman. After having heard Mr. Hollander, do you believe that you have the capability to oversee, in accordance with the specifications Mr. Hollander has just mentioned, the work that the rehabilitation of the building could entail: the awarding of contracts, the supervision of the contracts awarded? Do you believe you have the necessary capabilities, were a complaint to be tabled with your office in this regard?

[English]

Ms. Oriana Trombetti: Yes, we do. We have an interesting mandate. Part of our mandate is to review the practices and processes and tools and procedures that government departments use to procure goods and services, including construction services, so we can certainly undertake a practice review in this area. More particularly, we can undertake a practice review that looks at how departments develop specifications.

[Translation]

Mr. Marc Lemay: Thank you.

The Chair: Thank you, Mr. Lemay and Ms. Trombetti.

[English]

Mr. Calkins, for eight minutes, please.

Mr. Blaine Calkins (Wetaskiwin, CPC): Thank you very much, Mr. Chair.

Mr. Hollander, Madame Trombetti, Mr. Morse, thank you for joining us here this morning.

I'm going to begin my line of questioning with Mr. Hollander. Thank you for getting up so early and joining us by video conference and taking time away from your vacation. It sounds to me almost as if you're a member of Parliament, with that kind of schedule.

I'm going to ask you some fairly direct questions. I have a bit of experience, particularly from the project management side of developing software applications, so I know all about the change management process, and you identified that as one of the areas where corruption and collusion can certainly take place.

You've given us some pretty astounding information here in the slides about where this could go. I'm going to ask you, from an overall perspective, the distance between being at the top, such as a senior-level bureaucrat—and I'm focusing mostly on the Government of Canada, because that's what my role here as parliamentarian is. I'm assuming you look to both government and private sector procurement when you do your studies. Is that right?

Mr. Stephen Hollander: That's correct, sir.

Mr. Blaine Calkins: Looking at it from a government perspective, when I was in charge of procurement, for example, when I worked for the Province of Alberta, for anything over a couple of hundred dollars, at my level of decision-making, I had to get at least three different quotes in order to purchase something. Taking a look at multi-million-dollar projects, that's quite complicated, and when we take a look at defence, that's a whole other ball of wax altogether.

The degree of separation between a senior manager, who we often talk to here as parliamentarians, and all of the layers down inside the bureaucracy of a department you say opens up a whole opportunity for corruption and collusion to happen. I'm going to ask you, do you think the penalties we have in Canada for fraud and collusion are strong enough to act as a deterrent?

Mr. Stephen Hollander: Here, once again, this is a bit above my pay grade, because criminology isn't my field. I would say that if there were a decent chance that the people who did this sort of thing would get caught, and if there were a decent chance that if caught they would be convicted and sentenced, the deterrent factor should be fairly significant. I would think that what has to be done, really, is what some of my colleagues call "raising the pavement". Let me explain what I mean by that.

If we had been having coffee and we decided to take a walk down Rideau Street and I asked you to walk right along the edge of the curb, heel to toe, you could probably do that fairly briskly. If, instead of walking along the edge of the curb, you were walking along the edge of a platform 20 feet high, you'd probably walk more deliberately and more carefully. It's the same skill set, if you see what I mean, and the same sense of balance, but the consequences of failure would be considerably greater. So if we could say confidently that yes, we have these penalties in place and people who do wrong will suffer these penalties, my own view, for what it's worth, is that this should be a pretty good deterrent.

• (0925)

Mr. Blaine Calkins: In your studies, do you think the Government of Canada or any of the agencies that you've studied, through the experiences that you've had, have significant or relevant enough forensic investigative authorities or forensic investigative qualifications to detect fraud and collusion?

Mr. Stephen Hollander: I believe they do to the limited extent that they can, but if we take a look at fraud detection and fraud reporting overall, one of the things we find is that the internal mechanisms aren't really the best ones around and the most effective ones around.

If I could direct your attention to your bundle again—and I hope you don't mind me referring to this repeatedly—we can look at the initial detection of fraud in government agencies in Canada. This is slide number 27, and the source of this information is a booklet that was put out, a report by the Association of Certified Fraud Examiners. It's available in English and French, and I did provide the link to your learned clerk, so I don't know if you have this or not. In any case, if you take a look at the way that fraud is initially detected by government agencies, in 48% of the fraud cases that were investigated, the source of the information was a tip. If you take a look at internal audit, it detected only 28% of these cases in the first instance.

So in my view, the best way of getting a handle on this problem would be not necessarily by beefing up our internal detection mechanisms but by encouraging and promoting the employees of an organization and the employees of vendor organizations to blow the whistle if they have the opportunity, because what we're doing here is availing ourselves of the knowledge of people who are right up front and who know what's going on. My view, as a former public servant, is that people who are in the public service are aware of what's going on. They by and large want to do the best job they can for the people of Canada. They resent it when people cut corners. They resent it when people do wrong. If there were a mechanism available to them to report without getting their own heads cut off, many of them would.

Mr. Blaine Calkins: That's quite helpful. So beefing up whistleblower legislation is the lesson to be learned from your expertise.

I have one last question, and then I hope I have enough time to go to Ms. Trombetti. When it comes to collusion, usually it has to happen when there's trust between two or more employees conspiring to a certain end. Do you think there is enough movement within and between departments? Even though you might keep them at the same pay grade, if you keep people moving around, that sometimes makes it more difficult. Do you have any recommendations for this committee along those lines, either to flatten the organizational structure to make the distance between a low-level decision-maker and a higher level...and/or to move staff around sufficiently to prevent collusion? Would that be a useful policy for Public Works to look at?

Mr. Stephen Hollander: Well, certainly employee rotation is a good policy in principle. What happens often in practice is that you lose out on the benefit of people's expertise, so you have to weigh out whether the gain is worth the loss, and this is a judgment that management has to make.

The Chair: Thank you, Mr. Hollander, and thank you, Mr. Calkins.

Mr. Hyer, go ahead for eight minutes, please.

Mr. Bruce Hyer (Thunder Bay—Superior North, NDP): Thanks very much.

Good morning.

Ms. Trombetti, first of all, I apologize for my lateness because of the weather, so I may be asking questions that have been asked or go over things that have already been discussed. If I do so, you can tell me.

Firstly, do you believe that the process of awarding contracts for renovating the parliamentary buildings was adequate, and if not, in your opinion, how could it best be improved?

• (0930)

Ms. Oriana Trombetti: I mentioned during our opening statement that our office has not had an opportunity to review this particular contract, so we cannot express an opinion on it.

Mr. Bruce Hyer: In general, do you feel that the processes for procuring these kinds of contracts need improvement, and if so, what are some key areas where improvement could best be made?

Ms. Oriana Trombetti: Again, during the opening statement we talked a bit about construction contract amendments. Our office did a practice review in this area. We looked at a framework that Public Works and Government Services has. We also understand that other government departments now are acquiring delegated authority to acquire their own construction services, and some of the recommendations we made are contained within that practice review: that those particular agencies—Fisheries and Oceans, Parks Canada, and RCMP—adopt the same framework that Public Works has implemented in managing construction contract amendments.

Mr. Bruce Hyer: Do you feel that the current systems are fair, open, and transparent? And again, building on your last response, are there ways in which, if you don't think they're where they need to be or go, what specific steps could be taken to make them better?

Ms. Oriana Trombetti: Our office has done a number of practice reviews, and generally we have found that the systems, processes, and practices are aimed at promoting fairness, openness, and transparency. Of those practice reviews, though, we have looked at specific areas and we have made recommendations that could foster improvement.

I'll use as an example—and relate it to some of the discussion that's going on here this morning—a practice review that the office conducted on oversight in government departments. This was one of the practice reviews that we conducted in the first year, and we chose to go into nine departments, I believe it was, to see how they manage oversight and whether or not they have an oversight committee looking at the contracts they're awarding. Again, I would invite you to read it. It's on our website.

We found there that oversight committees do exist. We made some recommendations for improving those oversight committees—in particular, ensuring that contracts that are of high dollar value or create more risk for the particular government department be presented to those oversight committees so that an appropriate challenge function could occur.

Mr. Bruce Hyer: Particularly in the area of making sure that a single supplier or a particular supplier is not favoured, what mechanisms are there to make sure that kind of favouritism does not occur, in the general sense, in procurement policies?

Ms. Oriana Trombetti: I'm sorry. Can you rephrase your question?

Mr. Bruce Hyer: To put a finer point on the previous question—

Ms. Oriana Trombetti: You're talking about sole-source contracts—

Mr. Bruce Hyer: Or where there is competitive bidding. What protective mechanisms are in place to make sure that a particular supplier is not favoured?

Ms. Oriana Trombetti: In the area of sole-source contracts, the government uses something called an “advance contract award notice”, which is a notice that goes out to the supplier community advising that a particular contract is going to be awarded to a particular supplier. That advance contract award notice is intended to ensure that there are no other suppliers who can provide the same service, and it provides an opportunity for someone who feels they can provide the service to come forward and challenge the award or make their case.

Mr. Bruce Hyer: My last question to you, Ms. Trombetti, is perhaps not within your mandate or within your field of expertise, but I'm going to ask it anyway. Are there any mechanisms in the procurement process dealing with the quality of projects, not just the fairness of the bidding process? The area I'm particularly interested in is environmental sustainability.

My office is in the West Block. I'm going to miss it when I have to go. I love it despite its shortcomings. It has always seemed to me that there's an incredible opportunity there to make it a demonstration project through these renovations for environmental sustainability, with things like solar panels on the roof, either for hot water heating or for electrical generation; the opportunity, with the huge lawn we have in front of the Peace Tower, to do shallow geothermal, where we could do heating and cooling and make it 40% or 50% more efficient than other methods and show many of us across Canada a way, if we ever get our ecoENERGY program back, that could make things more sustainable.

Is that at all part of the procurement process, to ensure that the kinds of policies we give lip service to—to move towards lowering greenhouse gases and increasing conservation efficiency—are included in such contracts?

● (0935)

Ms. Oriana Trombetti: I'm going to ask my colleague Paul Morse to respond to this question.

Mr. Paul Morse (Senior Advisor, Procurement Practices Review, Office of the Procurement Ombudsman): Thanks for the question, Mr. Hyer.

Yes, sir, there is an order in council, I think it's from 2004, that instructs people in government that sustainability should be taken into account in all operations. So anything, whether it's procurement or other operations, is supposed to be taken into account. Public Works and Government Services Canada has a separate directorate called the Office of Greening Government Operations that is trying to lead that effort across government. For example, when standing-offer commodities are being looked at and so on, that Office of Greening Government Operations would have some input into the commodity team and try to promote sustainability in the types of products that are being selected.

Mr. Bruce Hyer: Mr. Morse, how do parliamentarians or the general public access those kinds of thoughts or discussions? Is there a mechanism for people to check on whether those initiatives have been taken and to review them and make comments?

Mr. Paul Morse: I know the Commissioner of the Environment and Sustainable Development has issued a number of reports where that sort of thing has been referred to. The Office of Greening Government Operations has a bit of its own reporting, but there's not an awful lot of monitoring, as far as I know.

The Chair: Thanks, Mr. Hyer. Unfortunately, your eight minutes are up.

Mr. Bruce Hyer: Thanks very much.

The Chair: Okay.

[Translation]

Mr. Coderre, you have five minutes.

Hon. Denis Coderre (Bourassa, Lib.): A big five minutes! Thank you, Mr. Chairman.

Ms. Trombetti, I am trying to understand. We are going to do a little exercise together. The former ombudsman was Mr. Minto, am I correct?

[English]

Ms. Oriana Trombetti: Yes.

[Translation]

Hon. Denis Coderre: He left because he was retiring.

[English]

Ms. Oriana Trombetti: That's correct.

Hon. Denis Coderre: That's correct?

Ms. Oriana Trombetti: Yes.

Hon. Denis Coderre: Okay.

[Translation]

It was just a retirement; he was not told that his time was up?

[English]

Ms. Oriana Trombetti: No, he was not told to leave. He announced his retirement in January of 2010. It was a planned retirement after a long career.

[Translation]

Hon. Denis Coderre: The PMO has nothing to do with it.

[English]

Ms. Oriana Trombetti: No.

Hon. Denis Coderre: We'll see.

[Translation]

Unless I am mistaken, you stated that you cannot investigate. You are aware of what is going on, you know that the RCMP is doing an investigation on LM Sauvé's famous contract, but you are not involved in that at the present time. Is that it?

[English]

Ms. Oriana Trombetti: That's correct.

[Translation]

Hon. Denis Coderre: Does that also mean that, because you are in an acting position, you are unable to deal with that matter?

[English]

Ms. Oriana Trombetti: That's correct. I'm exercising the powers of the deputy procurement ombudsman to ensure the continuity in the office, but I cannot exercise the powers of the procurement ombudsman that derive from the legislation.

[Translation]

Hon. Denis Coderre: If I am employed by the government and I do not want to see this file dealt with, that means that you are going to have a pretty good interim job for a good while. That means that, as long as you are in this acting position, no one, at your level, will be able to deal with this matter.

[English]

Ms. Oriana Trombetti: I have been informed that an appointment will be made shortly, so this should no longer be an issue for the office.

[Translation]

Hon. Denis Coderre: Yes, but you are aware that in the government, when people say "shortly", that can take some time. You have a month, you have a date...

[English]

Ms. Oriana Trombetti: Imminently.

[Translation]

Hon. Denis Coderre: You have the month, you have the date, but you do not have the year, is that it?

A member: In 2014.

The hon. Denis Coderre: In 2014?

[English]

Ms. Oriana Trombetti: Let me rephrase that. It's imminent. The appointment is imminent.

[Translation]

Hon. Denis Coderre: That could be done, because it was done for the auditor general.

[English]

Procurement is not just an issue of construction; it's also the issue of national defence or IT or... There are several issues, and I've asked the Auditor General to look at defence procurement because I think there are a lot of flaws there.

But regarding that, if I as a member of Parliament am saying to you that we believe you should take a look at that—because, as Mr. Hollander said, we might have a lot of questions to ask, and if the RCMP is there, it would be appropriate that the ombudsman would have to take a look at that—can I do that, or you cannot do anything as interim?

● (0940)

Ms. Oriana Trombetti: As interim, I cannot launch a review of construction procurement practices. We can start to gather the information, we can start to do some research, but I have no authority to launch a practice review on this matter.

[Translation]

Hon. Denis Coderre: I would like you to do one. In light of all that we have seen since the beginning, I am requesting this of you officially, on behalf of the official opposition — and if others wish to join me, be my guests. I believe it would be appropriate to do so. If only for that reason — and we are pleased that you are here today —, I would ask you to launch such a review. Must I write you a letter or await the imminence of the appointment of the next ombudsman?

[English]

Ms. Oriana Trombetti: Well, you can certainly send our office a letter, and we will do what we can in the interim.

Upon the appointment of the new procurement ombudsman, in my capacity as deputy I would brief on what's happened and brief on your request, and then it would be up to that person to exercise his or her authority to launch a practice review under the legislation.

[*Translation*]

Hon. Denis Coderre: In that case, we will be sending you a letter.
[*English*]

Mr. Hollander, the issue regarding LM Sauvé is that it seems it had been changed three times before we provided the contract. You said you can play with those contracts; it doesn't have to be at the top level, but at the junior level you can make some changes.

How would you react if you had that kind of information, that we changed the contract three times? Do you see the possibility of certain fraud that could happen there?

Mr. Stephen Hollander: I am not sure what you're referring to, sir. Are you referring to change orders that were issued after the contract was finalized?

Hon. Denis Coderre: No. The contract was finalized afterwards, but it seemed that within weeks there were some changes, and if we hadn't changed that, that enterprise wouldn't have had that contract.

The Chair: Mr. Hollander, could you answer briefly? Thanks.

Mr. Stephen Hollander: Very briefly, I would have to have more information about the nature and extent of the changes in order to answer that question.

[*Translation*]

The Chair: Madam Bourgeois, you have five minutes, please.

Ms. Diane Bourgeois (Terrebonne—Blainville, BQ): Thank you, Mr. Chairman.

I will begin with Ms. Trombetti, and then move on to Mr. Morse.

I would first like to make a comment. I find it quite odd that, in your opening remarks, the opening statement for the Office of the Procurement Ombudsman, you have so many good things to say about PWGSC. We know that PWGSC has always had trouble managing risks. As a matter of fact, it was exposed by the auditor general of Canada. We can list the files. We could, for example, talk about the computer processing file with regard to small and medium-size companies, that this committee studied.

I therefore find it odd that you have so much praise for PWGSC which, it would appear, made some efforts. However, I am wondering to what extent you are not in a conflict of interest for the simple reason that you have agreements with PWGSC and your hands are tied.

When...

[*English*]

Ms. Oriana Trombetti: Can I reply to that?

[*Translation*]

Ms. Diane Bourgeois: No. That was one of my comments.

On page 2 of your document, you say that you decide which procurement practices to review. Given the mind-boggling amount of money that is going to be spent to repair the government

buildings, would it not have been judicious to examine the procurement practices that were used in the case of this work? Did no red light come on: we are talking about \$5 to \$7 billion dollars?

● (0945)

[*English*]

Ms. Oriana Trombetti: Yes. In fact in our planning exercise—we have been doing them since May 2008—that issue did come up. We have a number of factors we consider when we are deciding which practice reviews to do. We have resources to take into account. We have areas of risk. We have what the Auditor General is already looking at; we consider that because we want to avoid duplication. We consider what the Comptroller General of Canada is looking at, again because we want to avoid duplication. We look at Canadian International Trade Tribunal decisions to determine what areas are of particular interest.

Since others were already looking at that issue, we decided not to look at that. But again, there were other considerations in our planning and our decision-making for the practice reviews we have conducted over the last two years.

We are a young office, so it could be that we'd look at something like that in the future. But at the time, decisions were made based on a number of considerations.

[*Translation*]

Ms. Diane Bourgeois: Thank you, Madam Trombetti.

We heard Mr. Hollander's evidence this morning. I did not know Mr. Hollander. We should perhaps have heard him at the beginning of our work on this issue.

Given the information that he has provided us, do you think it would be possible for your office to work with Mr. Hollander to audit and do a more in depth examination of the contracts that have been granted for West Block?

[*English*]

Ms. Oriana Trombetti: I won't tie the hands of the next procurement ombudsman, but it is a possibility that Mr. Hollander can be contracted to provide some expert advice to our office.

[*Translation*]

Ms. Diane Bourgeois: Mr. Hollander, the committee heard a certain Duff Conacher, who told us that it is legal for ministers to intervene in the contracting process by virtue of Treasury Board policy itself. In his opinion, it is even very easy for a minister to intervene in the contract awarding process, while all the while avoiding any responsibility or accountability.

Are you in agreement with those two statements?

[*English*]

Mr. Stephen Hollander: Once again, you're asking me for a legal opinion, which I am afraid I'm not qualified to give. If the gentleman who gave that testimony was qualified to give it, then of course I would accept it.

The Chair: Mr. Warkentin, for five minutes.

Mr. Chris Warkentin: Thank you, Mr. Chair.

To follow up with you, Mr. Hollander, I guess everyone is entitled to their own opinion, so the matter that was just talked about was simply the opinion of an individual and not one based on fact.

Anyway, I do want to correct a little bit of information. One piece of information that we've heard from members opposite is that changes to the pre-qualifications that were made to the bid documents favoured the person who received the bid. In one case that is the fact. In the other case it actually made it more difficult for the person who got the contract to get the contract, and the only change that was made in reference to the person who received the contract was that it allowed the general contractor to do some of the masonry work themselves.

Simply put, the change that benefited the Sauvé contract was that the Sauvé company would undertake the masonry work themselves rather than hiring somebody outside of their own firm to do it. Obviously, LM Sauvé was known for its capacity to undertake large masonry contracts. It is important that this be on the record.

I'm wondering, Ms. Trombetti, whether any evidence has come to your attention or if anybody has brought evidence to you that would indicate there was some type of political intervention in the renovation contracts of West Block.

Ms. Oriana Trombetti: We have no such evidence.

Mr. Chris Warkentin: Mr. Hollander, I wonder if you have any evidence of any political interference or intervention in the renovation contracts of West Block.

Mr. Stephen Hollander: I haven't been following the case in any great detail. While it's certainly possible, I could also see how it could very well have been done without any political interference. So I would need more evidence.

• (0950)

Mr. Chris Warkentin: Have you any evidence that would lead you to believe that there was political intervention in the renovation contracts of West Block?

Mr. Stephen Hollander: All I know is what I read in the media. The only evidence I have in that regard is the same that you would have, sir.

Mr. Chris Warkentin: Yes, and that's exactly the point. We don't have any evidence of political intervention on the renovation contracts of West Block.

Certainly we appreciate both of the testimonies we've heard here today. We do appreciate the contributions that you've made, because it is important that governments at all levels undertake a review of the practices as they relate to contracting to ensure that taxpayers are always getting the best price and the best value for money.

I wonder if we might go through some of the suggestions. Many of the suggestions, Mr. Hollander, that you've made this morning are actually suggestions the department and the government have undertaken to put into place. Obviously there was a desire and a need to ensure transparency and to elevate the assurances to the taxpayer that no wrongdoing was being undertaken within government

departments. As a result of the Federal Accountability Act, many of the provisions that you're suggesting have actually been undertaken.

Specifically, many of the different points in which you believe that some wrongdoing might take place wouldn't really apply to this particular study. You specify that in determining whether a project should go ahead, that may be an opportunity for an intervention of some wrongdoing.

In this case, there is no question that West Block is falling down. There really are not many who would question the legitimacy of the need for the restructuring of the masonry of the West Block.

I am wondering, as it relates to the study that we have in hand today, if you have any suggestions that aren't covered off by the Federal Accountability Act or things we should look at as we move forward to ensure everything is in place. Every government wants to ensure that taxpayers are getting the best value for money, but we want to keep on the topic at hand today as well.

Mr. Stephen Hollander: Thank you.

As alluded to earlier, the matter of whistleblowing and strengthening the whistleblowing piece would go a good way toward helping the situation we now have. I realize that we have the integrity commissioner, but also I believe the Auditor General recently found that the way the legislation had been implemented was a bit problematic. Some beefing up there may be necessary.

Quite frankly, if a person is going to report adversely on their own department, they're taking a risk and they know they're taking a risk. If they're going to take that risk they have to be assured, among other things, that the matter they bring forward is going to be taken seriously and followed up on. If they see a situation where, according to the Auditor General's report, this wasn't the case—you have the legislation and the bureaucracy in place, but their effectiveness is close to nil—nobody will want to take the chance.

The Chair: Thank you, Mr. Hollander.

Mr. Regan is next, for five minutes.

Hon. Geoff Regan: Mr. Warkentin has said there's no evidence. If there's no evidence, why was Mr. Varin paid \$140,000? If there's no evidence, why is the RCMP investigating? If there's no evidence, why did Mr. Côté—an assistant to the Minister of Public Works at the time, Mr. Fortier—meet with Mr. Sauvé? If there's no evidence, why was Mr. Sauvé asked to organize a fundraiser for the Conservative Party?

Mr. Hollander, don't these issues raise red flags?

Mr. Stephen Hollander: If the committee will indulge me, I can speak hypothetically, divorcing ourselves from any particular instance.

Suppose that a contractor believed I had political influence—which I certainly do not—and came to me and asked me to arrange for a contract to be directed to him, and he'd make it worth my while. I could say, "Certainly, I'll need some front money to grease some wheels—\$100,000 to \$150,000 would help". I take the individual's money and come back to him a couple of weeks later. I say that the fix is in and he needs to lowball his bid. Bring it in even below his own cost, and we'll see to it that he's going to be right, because once he has the contract the change orders will come through and they will be very lucrative. As a matter of fact, I think anybody who has worked in construction will be able to say that the real money is in the extras.

What happens then could be very interesting, because I could also say that when these change orders start coming through I want 3% off the top, plus—once he gets the contract, in order to reward me—I want him to pay off some of my political debts by holding a fundraiser. All right. Now, this could be done, but here's an interesting twist to the situation.

Suppose I took the contractor's money and didn't do anything for him. I just took the money, folded it in half and put it in my pocket. I never visited anybody of any importance. I just brought him back the message.

He puts in a bid that's below his own costs—shockingly low. Naturally he's going to get the contract. He thinks I helped him out, so he's going to hold the fundraiser for me. He gets the contract. If the change orders start coming in, he's doing well. He pays me my 3% and I do well. Win, win.

If the change orders don't come in, too bad. I still have my \$140,000 front money. The contractor may be disappointed, but he can't exactly go to the police and say he gave money for a bribe and didn't get what he was paying for.

So this is one of a number of possible scenarios. Again we are divorcing ourselves from any particular case.

•(0955)

Hon. Geoff Regan: Yes, this is hypothetical.

I'd like to come back to the case at hand. In fact, in the case at hand Mr. Varin did arrange a meeting with the minister's.... One of the key elements you've missed in your hypothetical compared to this one is that we have an assistant to the minister of the department responsible meeting with the person. We have the person not so much offering to organize a fundraiser as being told, or being urged or encouraged, that it would be a good idea, as a thank you for receiving the contract, to organize a fundraiser for the Conservative Party. Isn't that quite different from what you've just described?

Mr. Stephen Hollander: Apart from the meeting with the assistant, not really. You remember that I did allude to saying that you're going to pay off my political debt by holding a fundraiser for me.

Hon. Geoff Regan: What about when we include the fact that you had the assistant to the minister dating a person who had ties to the Hells Angels, the fact that the Hells Angels also had infiltrated LM Sauv , and the fact that Varin was paid all this money? Does that pass the smell test? Shouldn't we be concerned about that? Wouldn't that have caused you to want to see an investigation?

The Chair: Be very brief on the smell test, Mr. Hollander.

Mr. Stephen Hollander: This is one of the things that should have been looked into before the request for proposals went out. This should have been done when you had the short list. Do the due diligence, and indeed, make sure that you aren't going to be putting your foot into that kind of trap.

The Chair: Thank you, Mr. Hollander.

We'll go to Mr. Holder, for five minutes.

Mr. Ed Holder: Thank you very much, Chair.

I'd like to thank our guests for their testimony today. It's rather interesting. I'm not sure whether you're here a little too early or a little too late in the process. But I do appreciate the comments.

I find this to be a very compelling series of dialogues.

I'd like to remind colleagues, if I can, as an opening comment, that actually the Office of the Procurement Ombudsman was created by this government back in 2006, and it was precisely to reinforce Canadians' confidence in the procurement process. I've had the opportunity to meet Mr. Minto. I want to remind colleagues as well, so that there's no confusion about this, that his retirement was totally voluntary and well deserved, if I might say. We thank him for his service in that regard.

If I might, Ms. Trombetti, you were hoping to provide a comment after my colleague from the Bloc asked a question related to the potential for conflict of interest as it relates to Public Works. I'm moved by your comments. You said in your testimony that neutrality is one of the core principles, that you're neither a lobbyist for suppliers nor an apologist for government. And that resonates with me. You asked for that opportunity to respond. Could I give you that opportunity, please, to respond now?

•(1000)

Ms. Oriana Trombetti: Thank you very much.

Yes, I wanted to respond that in fact Public Works and Government Services has figured prominently in many of our practice reviews. They don't always get the praise they received in that particular practice review. We're interested in looking at facts and what they tell us. In that particular practice review, dealing with construction contract amendments, yes, in fact Public Works got high marks. They have a great framework in place. In other areas perhaps they need some improvement, and we have made those comments as well.

Mr. Ed Holder: Could I ask you very directly, then, because I think this speaks to the heart of it, whether the Office of the Procurement Ombudsman has a conflict of interest with Public Works?

Ms. Oriana Trombetti: No, it does not have a conflict of interest with Public Works.

Mr. Ed Holder: May I ask you, in your expert testimony, has it ever?

Ms. Oriana Trombetti: No. We've set it up in a way that we preserve our independence and our neutrality. The procurement ombudsman reports to the minister for the purposes of delivering an annual report to the minister, which she then tables in the House.

We pay for our services from Public Works. We have our own legal services, as well. We do not obtain legal services from the Department of Justice, as the Department of Public Works and Government Services does. We have our own in-house counsel. We prepare our own communications products.

Most importantly, the hallmark of our independence is that we can choose what we want to look at. We have that ability, through the legislation, to choose those practice reviews, those areas where we believe we need to be examining documents, talking to people, and looking at processes. This is what we believe.

We are totally independent, and we operate that way.

Mr. Ed Holder: I appreciate that you've not had a practice review of the situation as it relates to the West Block. But based on what you have seen or observed and on your experience thus far, do you have any sense of whether there's been any bid-rigging associated with the awarding of this contract?

Ms. Oriana Trombetti: We have not looked at the contract at all. I've only reviewed the testimony of the witnesses from Public Works. We have not looked at the documents.

Mr. Ed Holder: Based on your review of that testimony, do you have any comments?

Ms. Oriana Trombetti: No. I would prefer to look at the documents before we express an opinion.

Mr. Ed Holder: I think that's fair.

Mr. Hollander, you appear to be very learned in these matters. I agree with my colleague from the Bloc that it would have been compelling to have had you here at the front end. Your information seems to be a how-to manual on how to corrupt a process or how to find interventions to foil wrongdoing. I thought your presentation was extremely good.

It's rather interesting that Mr. Sauv , unlike some others, had no sub-contractors to inflate the price. That could have been part of the reason for a lower bid. That's my sense of it.

Is there any indication, from what you've read, of bid-rigging in the awarding of this contract?

Mr. Stephen Hollander: Bid-rigging is something specific. It is a situation where the contractors who have been asked to bid on a contract will agree among themselves which one is going to get it. It's a form of anti-competitive practice. I don't have any reason to believe that this was the case here.

• (1005)

The Chair: Thank you, Mr. Hollander and Mr. Holder.

[Translation]

Madam Bourgeois, you have five minutes, please.

Ms. Diane Bourgeois: Thank you, Mr. Chairman. My questions are for the representatives of the Office of the Procurement Ombudsman.

In your 2009-10 report, you note "two recurring problems that call for immediate attention by senior government officials: lack of essential procurement documentation, and poor communications between government representatives and the supplier community".

Mr. Hollander, however, told us that preventive measures should be put in place and, more particularly, that there should be segregation of duties when a contract to be granted by the government is being studied. Inasmuch as you are saying that officials should talk to each other, set up a committee and discuss the contract, Mr. Hollander is saying that these tasks must be segregated.

What do you think of that? Your positions are at both extremes.

[English]

Ms. Oriana Trombetti: The comments I made about oversight committees and discussions do not take away from my observation that everything needs to be documented. At an oversight committee, presumably there would be an agenda, minutes of the meeting, and records of discussions and decisions.

[Translation]

Ms. Diane Bourgeois: Mr. Hollander, in the case of several contracts entered into by Public Works, that are presently the subject of legal action before the Canadian International Trade Tribunal or other court procedures, what was observed is that changes had been made to the original contracts or specifications by public servants working in committee. Committees of public servants for example administer tests or impose specific requirements.

You are saying that the segregation of duties would be a partial solution to the problem. Could you explain that?

[English]

Mr. Stephen Hollander: In this case, I was talking about separating the responsibilities within the procurement and purchasing process. For instance, I talked about the individual who developed the specifications not having the authority to make changes to the contractor database. I also talked about the individuals who have the authority to make additions.

Have I answered your question?

[Translation]

Ms. Diane Bourgeois: Yes, absolutely. It is much appreciated. It is perhaps a detail for you, but it is an extremely important element in several files.

I would like to come back now to Ms. Trombetti, from the Office of the Procurement Ombudsman.

You say that, in response to your concerns, Public Works Canada prepared a detailed action plan with established deadlines and put an ethics program in place.

I imagine that in your office you have this ethics program and this detailed action plan that was presented to you. Would it be possible to provide it to the committee?

[English]

Ms. Oriana Trombetti: Absolutely. In fact, I should inform the committee that this year we're going back and looking at the practice reviews that we did in year one and determining to what extent the recommendations that we have made have been implemented by departments. Certainly we can give you a copy of the action plan, and we would be happy to share that review with the committee when it is complete.

[Translation]

Ms. Diane Bourgeois: That therefore means, to pursue...

[English]

Ms. Oriana Trombetti: I believe that the Public Works and Government Services Canada action plan is on their website.

• (1010)

[Translation]

Ms. Diane Bourgeois: It is on its site; we will verify that.

Because it is very important — to follow up on the suggestion made by my colleague — that you be able to see how things are done, study the contracting activity of PWGSC, in comparison with the contracts entered into for the renovation of government buildings. We will try to check, based on PWGSC's action plan, to see if everything fits with the action plan that they put forward and that you have apparently seen, examined and certified.

Thank you, Mr. Chairman.

The Chair: Madam Bourgeois, thank you for your question.

[English]

Mr. Hyer, you're new to the committee, but it looks like you're going to get the last five minutes.

Mr. Bruce Hyer: Thank you, Mr. McKay.

Good morning, Mr. Hollander. It seems to me that perhaps the most useful thing I can do, given that you've gotten up early to share your time and expertise with us, is to give you a platform to tell us what you think would be the most useful. The only prelude to that that I'd make is a suggestion, but don't feel bound by it.

Do you have any feelings you'd like to add to what you've already said about what mechanisms are good or bad or need amending to deter potential wrongdoing and to get us good value for good projects in an honest and open process?

How about I give you the remaining four and a half minutes to tell us whatever you choose to tell us.

Mr. Stephen Hollander: Thank you very much for the latitude your question allows, sir.

As I've mentioned, one of the most effective deterrents is a reporting mechanism, a whistleblower hotline.

Now, one of the things we have to realize is that when a fraudster considers whether he's going to commit a wrongful act, he considers very carefully the possibility that he or she may get caught, and the

greater the possibility that the person will get caught, the less the chance that they're going to do what they had intended to do. I've already referred you to the fact that most of the cases where fraud was investigated and found were brought to the attention of the agency by means of tips. This is on slide 27. We know that having a whistleblower hotline can be a very effective way of reducing losses.

I would direct your attention at this point to slide 29 in your bundle. We see that where there are hotlines available, the percentage of cases of fraud that are initially detected by tips is 47%, nearly half, whereas if there's no employee reporting mechanism or external reporting mechanism, only about 34% of the fraud cases get reported by tips at first instance. So having the hotline in place raises the pavement considerably.

If we take a look at slide 30, we see that hotlines also have an effect on median fraud losses. In organizations that have a hotline, the median fraud loss is just a little over \$90,000 for a typical fraud case. In institutions where there is no hotline, the median fraud loss per case was \$197,000 and change. So having a hotline in place reduces your loss, and it also shortens the duration of an ongoing fraud.

If you take a look at the following slide, you'll see that in organizations that had a hotline, their experience was that a fraud would go undetected for about 18 months. In the case of organizations that had no hotline, a fraud would go undetected typically for two years.

So having a mechanism in place is important, and the mechanism should probably be a phone line so that you have the human interaction, because this is important in this type of situation. It should be supported by a trained investigative staff, by a good research and intelligence function, and by an appropriate case-management process.

In addition, the existence of the mechanism should be supported by, first of all, employee awareness, so employees know what conduct is acceptable, what conduct isn't acceptable, and how to report it. And finally, there has to be a mechanism in place to ensure that any reprisal taken against an employee for blowing the whistle in good faith is going to meet with strong and fast punishment to make sure that employees will feel reasonably comfortable in blowing the whistle and doing the right thing for the people of Canada.

• (1015)

The Chair: Thank you, Mr. Hollander.

Unfortunately, that's the end of our time.

On behalf of the committee I want to thank Mr. Morse, Madame Trombetti, Mr. Hollander.

For those of you who celebrate Christmas, *Joyeux Noël*. For those of you who don't, *Bonne Fête*.

This has been actually very helpful to the committee's deliberations. Again, thank you for your time.

I'm going to suspend for a couple of minutes while we go in camera.

[Proceedings continue in camera]

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