PART 3.12

SERVICE NL

GOVERNMENT PURCHASING AGENCY
- PUBLIC TENDER ACT EXCEPTIONS
Executive Summary

The Government Purchasing Agency (the Agency) is responsible for both procurement of goods and services for government departments and oversight of public sector procurement. As the centralized procurement unit for the Government of Newfoundland and Labrador, the Agency conducts its procurement activities in accordance with the Public Tender Act (the Act). The Agency derives its operational authority from the Government Purchasing Agency Act which places “immediate management and control” with the Chief Operating Officer of the Agency. The Agency reports to the Minister of Service NL.

Although the Act makes public tendering a requirement when acquiring goods or services, the Act does specify instances when tenders are not required. These instances are commonly referred to as "tender exceptions”.

The Act stipulates that the Chief Operating Officer is responsible for reporting certain types of tender exceptions to the Speaker of the House of Assembly.

The Act provides the Chief Operating Officer with the ability to review “…the grounds on which a government funded body determined that a tender was not required to be invited…” As well, the Agency has developed internal guidelines that specify how to conduct procurement audits and assess the appropriateness of tender exceptions.

Our review of Public Tender Act exceptions identified issues with regard to:

- Reporting of tender exceptions;
- Review and adjudication of tender exceptions; and
- Conducting risk-based audits and follow-up audits.

Reporting of Tender Exceptions

We found that instances of late, non-complaint reporting of tender exceptions by government funded bodies are not being adequately addressed by the Agency.
Review and Adjudication of Tender Exceptions

Our review of the process used by the Agency to review and adjudicate public tender exceptions revealed:

- Inappropriate application of the tender exceptions by government funded bodies;
- Inadequate adjustments of tender exceptions by the Agency; and
- The process for sending letters of opinion from the Agency to government funded bodies is not in compliance with the Act or internal Agency policy.

Conducting Risk-based Audits and Follow-up Audits

We found that risk-based audits or follow-up audits, as required by Agency guidelines, are not being conducted.

Background

Agency Overview

The Government Purchasing Agency (the Agency) is responsible for both procurement of goods and services for government departments and oversight of public sector procurement. As the centralized procurement unit for the Government of Newfoundland and Labrador, the Agency conducts its procurement activities in accordance with the Public Tender Act (the Act). The Agency derives its operational authority from the Government Purchasing Agency Act which places “immediate management and control” with the Chief Operating Officer of the Agency. The Agency reports to the Minister of Service NL.

The Act defines a government funded body to include the following types of entities:

- all government departments;
- a company in which not less than 90% of the issued common shares are owned by the Crown;
Government Purchasing Agency - *Public Tender Act* Exceptions

- a corporation established by an Act which the corporation is made an agent of the Crown (Nalcor Energy and its subsidiaries, and the Research & Development Corporation of Newfoundland and Labrador are exempt from the *Act*);

- a municipality or local service district under the *Municipalities Act*, the City of Mount Pearl, the City of St. John’s and the City of Corner Brook;

- a school board established under the *Schools Act*;

- an agency or authority of the Province;

- a hospital included in the Schedule to the *Hospitals Act*, and

- a board, commission, corporation, Royal Commission or other body listed in the Schedule to the *Act*.

**Organization**

The Agency is comprised of four divisions:

- Procurement;

- Audit;

- Contracts, Systems and Supplier Development; and

- Planning and Administration.

The Agency has a total staff of 46, as shown in Figure 1.
Figure 1

Government Purchasing Agency
Organizational Structure

The Audit Division (the Division) is responsible for assisting in the promotion of the accountability and proper application of procurement legislation throughout the public sector. The Division derives its direction from its Auditing Training Manual (the Training Manual). According to the Training Manual, the Division is responsible for a number of activities, including:

- auditing purchases made by government funded bodies;
- reporting tender exceptions to the House of Assembly in accordance with the Act; and
- reviewing the basis on which government funded bodies determine that a tender is not required.
Public Tender Exceptions

Section 3. (1) of the Act states that: “Where a public work is to be executed under the direction of a government funded body or goods or services are to be acquired by a government funded body, the government funded body shall invite tenders for the execution or acquisition.”

Although the Act makes public tendering a requirement when acquiring goods or services, the Act does specify instances when tenders are not required. These instances are commonly referred to as "tender exceptions”.

Table 1 details the tender exceptions specified within section 10 of the Act that are required to be reported to the Speaker of the House of Assembly.

Table 1

Government Purchasing Agency Tender Exceptions
Detailed in Section 10 of the Act

<table>
<thead>
<tr>
<th>Public Tender Act Exception</th>
<th>Description</th>
</tr>
</thead>
<tbody>
<tr>
<td>3(2)(b)</td>
<td>Where the estimated cost of a work or acquisition is not more than $25,000, exclusive of tax and it appears to the head of the government funded body that tenders do not need to be invited.</td>
</tr>
<tr>
<td>3(2)(d)</td>
<td>In the case of a pressing emergency, where the delay resulting from inviting tenders would be injurious to the public interest.</td>
</tr>
<tr>
<td>3(2)(e)</td>
<td>Where the dealer, supplier or contractor providing the work or acquisition is the only source for that work or acquisition.</td>
</tr>
<tr>
<td>3(2)(i)</td>
<td>Where the work or acquisition is for an economic development purpose in the opinion of the Minister of Innovation, Business and Rural Development and subject to the approval of the Lieutenant-Governor in Council.</td>
</tr>
<tr>
<td><strong>Public Tender Act Exception</strong></td>
<td><strong>Description</strong></td>
</tr>
<tr>
<td>-------------------------------</td>
<td>----------------</td>
</tr>
<tr>
<td>3(2)(j)</td>
<td>Where, in the opinion of the head of the government funded body, inviting a tender would not result in the best value. Approval by the Lieutenant-Governor in Council required.</td>
</tr>
<tr>
<td>4(1)(b)</td>
<td>Where the rental value of the space is no more than $30,000 exclusive of Goods and Services tax, and it appears to the head of the government funded body that, given the nature of the lease, it is not advisable to invite tenders.</td>
</tr>
</tbody>
</table>
| 4(1)(d)                       | There is an urgent need for the government funded body to:  
- vacate existing space and insufficient time is available to invite tenders; or  
- vacate existing space because continued use of the space is deemed injurious to employees or the public. |
| 4(4)                          | A lease for space that was originally publicly tendered and contains a provision for a renewal option may be renewed with the approval of the Treasury Board, providing the area of the renewed space is less than or the same as the space leased in the original lease. The area of space held under a lease may be reduced with the approval of the Treasury Board:  
- in accordance with the terms of the original lease; or  
- where the terms do not exceed the fair market value for that leased space. |
| 4(5)                          | A lease for space that was not originally publicly tendered or that was originally publicly tendered without a provision for a renewal option and a lease for an increase of the area of leased space may be renewed or entered into with the approval of the Lieutenant-Governor in Council:  
- in accordance with the terms of the original lease; or  
- on terms where the terms do not exceed the fair market value for the leased space. |

Source: *Public Tender Act*
Table 2 compares the total annual tender exceptions, as detailed in section 10 of the Act, reported to the Speaker of the House of Assembly for the period April 1, 2007 to March 31, 2012. Table 2 also details the exceptions as a percentage of the total annual expenditures.

### Table 2

Government Purchasing Agency
Annual Tabled Tender Exceptions, as Detailed in Section 10 of the Act, as a Percentage of Total Annual Expenditures
For the Years Ended March 31

<table>
<thead>
<tr>
<th>Fiscal Year Ended March 31</th>
<th>Total Tender Exceptions $</th>
<th>Number of Tender Exceptions</th>
<th>Total Expenditures $</th>
<th>Tender Exceptions as a % of Total Annual Expenditures</th>
</tr>
</thead>
<tbody>
<tr>
<td>2008</td>
<td>89,009,725</td>
<td>1,268</td>
<td>5,703,522,000</td>
<td>1.56%</td>
</tr>
<tr>
<td>2009</td>
<td>86,818,768</td>
<td>1,285</td>
<td>6,281,561,000</td>
<td>1.38%</td>
</tr>
<tr>
<td>2010</td>
<td>87,528,405</td>
<td>1,459</td>
<td>7,329,353,000</td>
<td>1.19%</td>
</tr>
<tr>
<td>2011</td>
<td>132,843,331</td>
<td>1,725</td>
<td>7,539,302,000</td>
<td>1.76%</td>
</tr>
<tr>
<td>2012</td>
<td>102,770,186</td>
<td>1,471</td>
<td>7,809,344,000</td>
<td>1.32%</td>
</tr>
</tbody>
</table>

Source: Contracts Reported By Government Funded Bodies Without Tender Invitation, as provided by the Government Purchasing Agency and the Report on the Program Expenditures and Revenues of the Consolidated Revenue Fund.

The Government is proposing new legislation to replace the Public Tender Act. The Procurement by Public Bodies Act was introduced in the 47th General Assembly and received first reading on March 5, 2012.
Objectives and Scope

Objectives
The objectives of our review were to determine whether:

- instances of contract awards without tender invitation, as permitted by section 10(1) of the Act, were reported to both the Chief Operating Officer of the Agency and the House of Assembly within the specified reporting time requirements noted within the Act and Regulations;

- the Agency reviewed and challenged the basis upon which government funded bodies determined that a tender exception was valid;

- the Agency monitored the procurement environment for risk factors to assist in the development of an annual risk-based audit schedule; and

- the Agency conducted follow-up audits of government funded bodies.

Scope
Our review was completed in December 2012 and covered the period April 1, 2007 to March 31, 2012.

We selected a sample of 67 reported tender exceptions and reviewed each item for legislative compliance and to assess the level of adjudication performed by the Agency. Our review also included interviews with Agency officials and an analysis of relevant legislation, policies and procedures.

Detailed Observations

This report provides detailed findings and recommendations in the following sections:

1. Reporting of Tender Exceptions
2. Review and Adjudication of Tender Exceptions
3. Conducting Risk-based Audits and Follow-up Audits
1. Reporting of Tender Exceptions

Overview

The Act allows government funded bodies to execute a public work or acquire goods and services without an invitation for tenders under specific circumstances. In such instances, the government funded bodies are required, under section 8 of the Public Tender Regulations (the Regulations), to submit documentation to the Agency giving the reasons why a tender was not invited. This submitted documentation is referred to as a “Form B”.

Government funded bodies are comprised of all government departments and all other government organizations (hereinafter referred to as “non-departmental bodies”) within the government reporting entity with only two exceptions (Nalcor Energy and its subsidiaries and the Research & Development Corporation of Newfoundland and Labrador).

Section 8 of the Regulations requires non-departmental bodies to submit Form Bs to the Agency “…within 30 days of the awarding of the contract…” Furthermore, section 10. (1) of the Act requires the Chief Operating Officer of the Agency to submit a report detailing all Form B related exceptions to the Speaker of the House of Assembly for tabling “…within 30 days after receipt of notification of the awarding of the contract…” or “…if the House of Assembly is not then in session, within 30 days from the opening of the next session.”

Our review indicated the following issues with the reporting of tender exceptions.

Form Bs not submitted to the Agency on time

Of the 67 Forms Bs sampled, 48 were submitted by non-departmental bodies. Of the 48 non-departmental Forms Bs reviewed, we noted 26 instances of late submissions. These late submissions ranged from 26 to 382 days.

Discussions with Agency officials indicated that the Agency does not track instances of non-compliant submissions of Form Bs. Furthermore, the Agency does not communicate instances of late Form B submissions to the heads of the applicable non-departmental bodies.

By not notifying non-departmental bodies in instances when Form Bs are submitted late, the Agency is failing to promote proper application of procurement legislation within the public sector, thereby diminishing the timeliness and relevancy of the information being reported to the House of Assembly.
**Form Bs are reported late to the Speaker of the House of Assembly**

When the House of Assembly is in session, the Agency has 30 days from receiving a Form B to report the exception to the Speaker of the House. We would expect the Agency to have a system in place for reporting Form Bs that would achieve compliance with the Act. However, our review revealed that the Agency waits until the end of the month before preparing a draft exception report for internal review and approval by the Director of Auditing; thereby increasing the likelihood of not getting Form Bs to the Speaker of the House of Assembly within 30 days. Our sample testing identified 10 instances of late Form B submissions to the Speaker of the House of Assembly.

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**Form Bs not date stamped**

As previously indicated, the Act and Regulations stipulate two deadlines relating to the reporting of tender exceptions. We would expect the Agency to date stamp every Form B upon receipt to ensure compliance with the reporting requirements contained within the Act and Regulations.

Of the 67 Form Bs sampled, 30 were not date stamped; thereby reducing our ability to assess for reporting compliance.

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**Recommendations**

The Government Purchasing Agency should:

- inform heads of the non-departmental bodies when Form Bs are submitted late;
- institute a system for reporting Form Bs that achieves compliance with the Act; and
- ensure that Form Bs are date stamped upon receipt.

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**2. Review and Adjudication of Tender Exceptions**

**Overview**

When a Form B is received from a non-departmental body, the Agency will then forward the Form B to the Audit Division.

When a Form B is received from a government department, the Agency will forward the Form B to a procurement officer. The procurement officer will assess the validity of the tender exception, and if satisfied, will authorize the purchase order within Government’s Financial Management System. The Form B is then forwarded to the Audit Division.
The Audit Division will review the exceptions for completeness and then input the information into a database. After all Form Bs for the month have been verified for accuracy, completeness and clarity, a summarized, monthly exception report is prepared and submitted to the Speaker of the House of Assembly for tabling.

Table 3 details the number of tender exceptions reported to the Speaker of the House of Assembly for the period April 1, 2007 to March 31, 2012.

<table>
<thead>
<tr>
<th>Public Tender Act Exception</th>
<th>Form Bs Submitted</th>
</tr>
</thead>
<tbody>
<tr>
<td></td>
<td>2008</td>
</tr>
<tr>
<td></td>
<td>#</td>
</tr>
<tr>
<td>3(2)(b)</td>
<td>32</td>
</tr>
<tr>
<td>3(2)(d)</td>
<td>144</td>
</tr>
<tr>
<td>3(2)(e)</td>
<td>1,065</td>
</tr>
<tr>
<td>3(2)(i)</td>
<td>1</td>
</tr>
<tr>
<td>3(2)(j)</td>
<td>4</td>
</tr>
<tr>
<td>4(1)(b)</td>
<td>14</td>
</tr>
<tr>
<td>4(1)(d)</td>
<td>4</td>
</tr>
<tr>
<td>4(4)</td>
<td>4</td>
</tr>
<tr>
<td>4(5)</td>
<td>0</td>
</tr>
<tr>
<td>Total</td>
<td>1,268</td>
</tr>
</tbody>
</table>

Source: Contracts Reported By Government Funded Bodies Without Tender Invitation, as provided by the Government Purchasing Agency and the Report on the Program Expenditures and Revenues of the Consolidated Revenue Fund

Table 3 indicates that over 80% of all submitted Form Bs are “sole source” exceptions.
During our review, we identified issues in the following areas related to the review and adjudication of tender exceptions:

A. Review of Tender Exceptions  
B. Adjudication of Tender Exceptions

### 2A. Review of Tender Exceptions

Our review of Form Bs indicated that government funded bodies did not always apply section 3(2)(d) of the Act, the pressing emergency exception, appropriately. Of the 67 Form Bs reviewed, 13 were categorized as a pressing emergency and, in 6 of the 13 instances, we considered that rationale to be inappropriate. For example:

- **Anti-virus software ($72,664.53):** this pressing emergency exception was approved by the head of the non-departmental body on March 25, 2010 and related to the renewal of an anti-virus software license agreement that expired on March 31, 2010. In our view, the entity purchasing the software license had sufficient opportunity prior to the expiry of the current anti-virus software, and should have issued a tender.

- **Audio visual equipment for the 2009 Royal Visit ($33,700):** the department was aware of the visit and had sufficient time to invite a tender;

- **Staff relocation services ($10,752.28):** the department cited that there was “not enough time for public tender due to start date of employment”, yet the department was still able to obtain three quotes, raising doubt on the validity of the emergency; and

- **Meeting space and meals for departmental training sessions at a local St. John’s hotel ($20,544.63).** As per the Form B, by the time the department realized that the original meeting place would not be able to accommodate all of the training participants, there was insufficient time to issue a tender. This shortened time period meant that only one of the hotels in the local area could accommodate the department’s training space requirements. In our view, the department should have conducted more upfront planning so as to better predict the number of course participants. Furthermore, the Form B did not explain how a deferral of the training sessions in order to allow for a tender to be called would be “injurious to the public interest”.

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**Inappropriate pressing emergency exceptions**
Government Purchasing Agency - Public Tender Act Exceptions

**Economic development exception missing Ministerial opinion**

Section 3(2)(i) of the Act provides for a tender exception for economic development. The exception is only valid when the Minister of Innovation, Business, and Rural Development and the Lieutenant-Governor in Council are of the opinion that the work is required for economic development purposes. Our sample identified one economic development exception. Upon review of the exception, we discovered there was no documentation to support the opinion of the Minister of Innovation, Business and Rural Development.

**Inappropriate sole source exceptions**

Our review indicated that government funded bodies did not always apply section 3(2)(e) of the Act, the sole source exception, correctly. Of the 67 Form Bs reviewed, we found 48 instances where the sole source exception was reported and in 5 of these 48 instances, we would consider the rationale to be inappropriate. For example:

- In all of the five instances the contract awards were for electronic black/whiteboards for educational purposes ($288,497), however, the sole source exemption for the awards was based on a specific brand of product, rather than unique product attributes.

**2B. Adjudication of Tender Exceptions**

The Audit Division is responsible for seeking clarifications on Form Bs in instances when the rationale is not clearly stated.

Our review indicated the Division did not always seek clarification. Of the 67 Form Bs sampled, we identified 42 instances where further clarification was required, yet the Division did not seek a further explanation. Also, our review indicated the Agency files did not contain sufficient documentation to fully substantiate the reasoning why the stated tender exceptions were warranted. By not seeking clarification in instances where it is required, Agency oversight and accountability related to the reporting and adjudication of tender exceptions is diminished.

**Non-compliant reporting of letters of opinion**

As per section 10. (2) of the Act, “The Chief Operating Officer of the Government Purchasing Agency may review the grounds on which a government funded body determined that a tender was not required to be invited…..and express his or her opinion to the head of the government funded body with respect to the sufficiency of the grounds for not inviting a tender.”
Consequently, the Agency does conduct periodic reviews of submitted tender exceptions. The Training Manual provides further direction on the challenge process:

“During the review process, if it is determined that further information is needed to assess the conditions under which a contract was awarded, a formal Challenge letter is forwarded to the head of the government-funded body or designate requesting additional documentation and/or meeting. The information obtained during the investigation process is evaluated with information previously received to determine whether an opinion will be given. Opinion letters are sent to the head of the government funded body and a copy is forwarded to the Chief Operating Officer.”

Sending both the pre-review challenge and final opinion letters to the heads of the government funded bodies provides the Agency with the opportunity to directly communicate any identified issues relating to the application of the tender exception legislation to the individuals ultimately in charge of the purchasing environment.

We reviewed a sample of Agency-issued opinion letters and discovered that the Agency is not sending either the pre-review challenge letters or final opinion letters to the heads of the government funded bodies. Our review indicted that the letters are being sent to either the Managers of Supply Chain Management or to the Director of Financial Services.

This chosen method of reporting by the Agency is not in compliance with the Act or its own Training Manual and diminishes the level of accountability within the government-wide procurement environment.

**Recommendations**

The Agency should:

- improve its clarification and adjudication procedures of Form Bs;
- ensure files possess sufficient documentation supporting both the adjudication process and the rationale supporting the tender exception; and
- address both the challenge and opinion letters to the heads of the government funded bodies.
3. Conducting Risk-based Audits and Follow-up Audits

Overview

According to the Training Manual, when developing its annual audit strategy, the Audit Division must develop a “Risk Based” audit schedule by assessing the purchasing activities of the government funded bodies.

We would expect the Agency to have developed a risk-based audit strategy to focus on the areas that possess the greatest risks to the public sector purchasing environment. A risk-based strategy would start with first identifying the key risks.

We would expect the following key risk factors to be monitored and factored into the annual risk-based audit schedule:

- late submissions of Form Bs to the Agency;
- instances where the contract award date noted on the Form B is before the authorization/signing date by the head of the government funded body;
- instances of incomplete Form Bs;
- higher number of reported exceptions; and
- instances of questionable application of the tender exceptions noted in the Act.

At the completion of an audit, the Training Manual requires that the Audit Division conduct a follow-up audit within two years. Follow-up audits provide opportunities for the Agency to evaluate whether recommendations have been implemented by the government funded bodies and to promote compliance with the Act.
Government Purchasing Agency - *Public Tender Act Exceptions*

**No risk-based auditing**

Discussions with officials in the Audit Division revealed that the Division does not follow a risk-based audit methodology. Consequently, the Division is not tracking the key risk factors related to the reporting of tender exceptions and incorporating these factors into the annual audit strategy.

For example, in a review of 67 Form Bs submitted by government funded bodies, there were 23 incidences identified where the contract was awarded prior to the head of the body authorized the Form B. Although this is not required by legislation, it does demonstrate a heightened risk for non-compliance. Discussions with Agency staff indicated that the Division is not tracking incidences where the contract award date is before the date the Form B is signed.

By not considering or incorporating the risk factors relevant to the tender exception process into their audit methodology, the Division diminishes its ability to promote the proper application of procurement legislation throughout the public sector.

**No follow-up audits being conducted**

Our review indicated the Division is not conducting follow-up audits. As a result, the Agency is not properly evaluating the corrective actions of the government funded bodies where audits have been completed; thereby limiting its ability to measure compliance with procurement legislation.

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**Recommendations**

The Agency should:

- develop a system for monitoring the key risk factors pertinent to the application and reporting of tender exceptions;

- incorporate these risk factors into the development of an annual risk-based Audit Schedule; and

- conduct follow-up audits after the initial audit to determine compliance.
Agency’s Response

1. Reporting of the Tender Exceptions

Form B’s not submitted to the Agency on time - The responsibility for ensuring Form B’s are submitted to the Agency for reporting to the House of Assembly lies directly with the head of the government-funded body. Upon receipt of a Form B the Agency records the information and at the end of the month compiles a report for submission to the House of Assembly. The Agency has formally reviewed this process in the past and has notified the heads of the government-funded bodies on instances of late submission and their requirements under the legislation. The Agency believes this supports an accountable and open process.

Form B’s are reported late to the Speaker of the House of Assembly - As Form B’s are received by the Agency, the information is entered into its database and monthly reports for the House of Assembly are compiled. Reports that have been compiled when the House is not in session are submitted within 30 days after the opening of the House in accordance with the legislation. Reports continue to be compiled monthly when the House is in session and reported the following month. This practice has been on-going since the inception of exception reporting in 1987 and provides for a timely and accountable reporting process.

Form B’s not date stamped - This is an administrative detail that does not affect the timeliness of the reporting in accordance with the legislation. The Agency’s records indicate that there is verification on the file as to when the Form was received at the Agency.

2A. Review of Tender Exceptions

Inappropriate use of pressing emergency exceptions - Heads of government-funded bodies are responsible for the acquisition of goods and services in accordance with the Public Tender Act and Regulations. The Agency is made aware of acquisitions made by government-funded bodies without a tender call, after the acquisition has been made, through the reporting of the Form B. It is the responsibility of the Head of the government-funded body to assess the appropriateness of the use of the exception. The Agency conducts reviews of exceptions to determine if those exceptions are necessary. An opinion with respect to the sufficiency of the grounds for not inviting a tender will be provided to the government-funded body if deemed necessary.
**Economic development exception missing Ministerial opinion** - The approval to use the economic development exception - 3(2)(i) is obtained through the opinion of the Minister of Innovation Business and Rural Development (formerly Innovation Trade and Rural Development) subject to Lieutenant Governor in Council approval. This is a formal process directed by government and the Agency views any exceptions that use the economic development exception under this formal process.

**Inappropriate use of sole source exceptions** - As with above, the heads of government-funded bodies are responsible for the acquisition of goods and services in accordance with the Public Tender Act and Regulations. It is the responsibility of the Head of the government-funded body to assess the appropriateness of the use of the exception. The Agency conducts reviews of exceptions to determine if those exceptions are necessary and will offer an opinion to government-funded bodies with respect to the sufficiency of the grounds for not inviting a tender if it deems it necessary.

**2B. Adjudication of Tender Exceptions**

**Insufficient challenging of exceptions** - In accordance with the Public Tender Act the Agency may review the grounds on which a government-funded body determines that a tender was not required. The Agency reviews Form B’s that are submitted by government-funded bodies and requests further information from these entities where, in its professional opinion, it is deemed necessary. The Agency does formally challenge exceptions where required. Based on its procurement expertise the Agency is satisfied that all exceptions are challenged where appropriate.

**Non-compliant reporting of letters of opinion** - The Agency issues letters of opinion to officials within the organization who have been delegated procurement authority by the head of the government-funded body. This allows for issues to be addressed immediately by the entity to ensure any required action is taken in a timely fashion. The Agency considers this to be in accordance with the spirit and intent of the Act.

**3. Conducting Risk-Based Audits**

The Agency performs audits of government-funded bodies within its legislative responsibility to determine whether an entity has issued tenders where required and if tenders were not issued to determine whether these acquisitions were reported in accordance with the Public Tender Act.
The Agency breaks down government-funded bodies into larger and smaller bodies. The larger government-funded bodies are reviewed regularly especially those which traditionally have a greater amount of funds expended. Additionally, the Agency reviews smaller bodies in a regular schedule to determine compliance to the Act.

Since these audits are performed often the opportunity exists to determine whether past recommendations have been followed and to what degree and to follow up with government-funded bodies on proper procurement procedures if necessary.