

REVIEW OF:

Direct Award Procurement

Table of Contents

Section	Page No.
Executive Summary	1
Introduction.....	2
Purpose, Scope and Approach	4
1.0 Planning.....	5
1.1 Planning Process.....	5
1.2 Planning Information.....	6
1.3 Planning Tools	6
2.0 Pre-Awarding and Awarding.....	8
2.1 Direct Award Justification.....	8
2.2 Notice of Intent.....	11
2.3 Conflict of Interest.....	12
2.4 Employer-Employee Relationship	13
3.0 Contract Management and Close-out.....	14
3.1 Performance Monitoring	14
3.2 Performance Evaluation	15
3.3 Procurement Data and Reporting.....	16
4.0 Procurement Oversight.....	17
Appendix 1- Summary of Recommendations	18
Appendix 2- Abbreviations	19

Executive Summary

A competitive process is the standard method for conducting procurement in the Government of British Columbia as a means of driving efficiencies, obtaining the best value for money and ensuring fair outcomes. Procurement opportunities may be directly awarded without a competitive process in exceptional circumstances, when appropriate justification is provided.

Internal Audit & Advisory Services (IAAS) carried out this review to assess whether ministry direct award procurement activities were consistent with the Core Policy and Procedures Manual (CPPM) and the ministries' internal guidelines and procedures.

This review examined 67 directly awarded contracts, totalling \$5.98 million from three ministries: Ministry of Finance, including Government Communications and Public Engagement, Ministry of Forests, Lands, Natural Resource Operations and Rural Development, and Ministry of Citizens' Services.

Overall, we identified opportunities for ministries to better align with the CPPM and best practices, and to strengthen internal policies and practices to support and guide staff. For example:

- **Procurement planning** was generally insufficient to demonstrate accountability of public money.
- **Direct award justification** was not consistently supported with reasonable and sufficient documentation.
- **Performance monitoring** was not consistently included in contracts or was not tracked to demonstrate that deliverables were achieved.

In addition, we found that procurement decisions did not consistently align with the CPPM, reflecting gaps in understanding by staff regarding appropriate practice. Strengthening training and conducting risk-based monitoring could help identify and address some of these gaps in staff procurement knowledge and compliance.

While this review focused on a selection of ministries, our recommendations are relevant across Government and we encourage other ministries to consider enhancing their procurement processes. We would like to thank the ministry staff and central agencies, who participated in and contributed to this review, for their cooperation and assistance.



Stephen Ward, CPA, CA, CIA
Executive Director
Internal Audit & Advisory Services
Ministry of Finance

Introduction

The Government of British Columbia (Government or Province) spends over \$7 billion procuring a wide variety of goods and services each year. It is in the best interest of all British Columbians that procurement achieves value for money.

The Core Policy and Procedures Manual (CPPM) outlines the principles of fair and open public sector procurement for ministries: competition, demand aggregation, value for money, transparency and accountability.

The CPPM contains policy for all phases of procuring goods and services.

Figure 1: Procurement Lifecycle



Source: IAAS, adapted from the CPPM

The CPPM includes principle-based management practices that focus on outcomes, so requirements in the manual are written broadly. To supplement the CPPM, ministries may create more detailed policies and procedures. Within ministries, procurement activities are often decentralized and carried out by staff in program areas. Each ministry is ultimately responsible for ensuring compliance with the CPPM and their own internal policies and procedures.

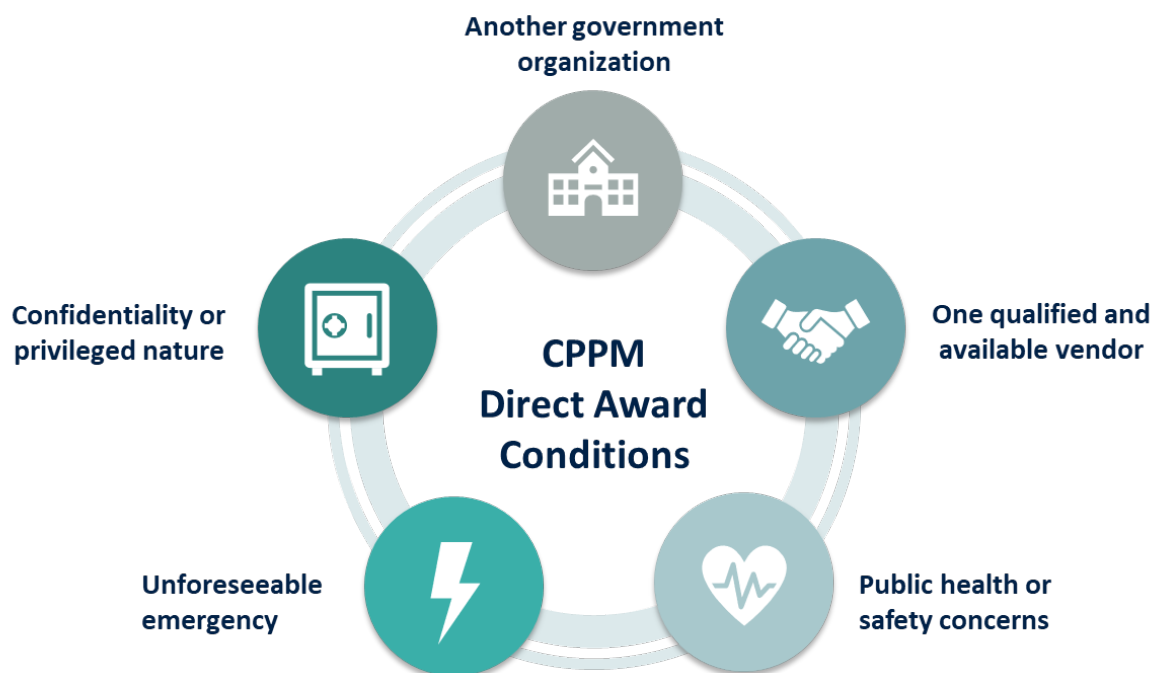
The Province has also developed supplemental good practice guidance and templates that are optional for ministries to use. These resources are made available through the BC Bid Resources website.

Ministries are expected to use a competitive procurement process to acquire goods and services, such as obtaining quotes or posting opportunities on **BC Bid**. However, contracts may be directly awarded without a competitive process where one of the following exceptional conditions applies, as described within the CPPM Chapter 6:

BC Bid is a marketplace where public sector organizations advertise opportunities for goods and services contracts. It is operated by the Procurement Services Branch, Ministry of Citizen's Services

Find out more: [BC Bid website](#)

Figure 2: CPPM Direct Award Conditions



Source: CPPM 6.3.3.a.1

In accordance with the CPPM, ministries are responsible for documenting the rationale, or the circumstances, that supports the use of one or more of the above direct award conditions.

Purpose, Scope and Approach

The purpose of this review was to assess whether the direct award procurement activities were consistent with the CPPM and the ministries' internal guidelines and procedures throughout the procurement lifecycle.

This review focused on the following areas:

- policies, guidance and training;
- procurement planning;
- rationale and documentation to support the direct award condition;
- performance monitoring and reporting; and
- other matters that arose over the course of the review deemed appropriate by the review team.

We selected three ministries for this review: Ministry of Finance, including Government Communications and Public Engagement; Ministry of Forests, Lands, Natural Resource Operations and Rural Development; and Ministry of Citizens' Services.

The review approach involved:

- interviewing ministry's key staff and other Government stakeholders;
- reviewing Government procurement policies and procedures; and
- reviewing a sample of 67 directly awarded contracts for 2017/18, totaling \$5.98 million.

The review was conducted by Internal Audit & Advisory Services, Ministry of Finance and fieldwork was completed in February 2020.

We have provided each organization with recommendations to help align their practices with the relevant internal policies and the CPPM.

1.0 Planning

When the need to procure goods and services is identified, ministries are expected to ensure the best value to Government by conducting procurement planning which involves:

- defining the specific needs and requirements for the goods and services;
- identifying business owners, stakeholders and the associated risks;
- analyzing estimated costs and alternative options; and
- obtaining appropriate approvals to proceed to contract.

We reviewed planning activities to determine whether the ministries conducted and documented their planning steps and key decisions.

1.1 Planning Process

Planning sets out the intended procurement strategy before any significant procurement actions are performed.

Before proceeding to solicitation, the plan must be approved by an appropriate authority. The intent of this initial approval is to ensure that the ministries recognize procurement needs, consider alternative options and impacts, and have sufficient funds. Subsequent approvals are required at key procurement phases, such as when the contract is finalized.

We found that ministry templates do not distinguish between the planning and awarding phases, so it was difficult to establish a sequence and timeline for the approvals. As a result, we were unable to verify whether the ministries took appropriate steps and obtained approval from an expense authority prior to proceeding with the procurement opportunity. In addition, we found examples where procurement planning documents and initial contracts were signed after the contract term ended, which indicates that the ministry committed to the vendor without formal approvals in place.

The procurement process can be complex for staff to navigate and each phase requires various considerations and decision points. Ministries should set clear processes and guidelines for each phase to enhance transparency of the procurement decisions and the use of public funds.

Recommendation:

- (1) **Ministries should establish clear processes and guidelines for procurement planning and awarding by defining key considerations and decisions for each phase, including documenting appropriate approvals prior to undertaking any procurement.**

1.2 Planning Information

Fully documenting the planning process, rationale and decision-making is important to help ensure procurement provides the best value for Government.

We found that ministry planning templates require staff to provide limited details related to the procurement. The templates do not require project background details, potential impacts and risks, alternative options to acquiring services, and other strategic and operational considerations. The templates primarily include a series of checklists which do not allow for sufficient contextual information to fully understand and support procurement decisions.

Establishing an adequate record of key decisions and contextual information also aligns with the Chief Records Officer Directives and Guidelines, Directive CRO 01-2019: Documenting Government Decisions. Periodically reviewing and updating internal planning templates, as well as standardizing processes will help improve contract file documentation. The templates must be clear, user-friendly and require comprehensive information to support the procurement decisions.

Recommendation:

- (2) **Ministries should review and update planning templates to include the requirement for contextual information that appropriately supports procurement decisions.**

1.3 Planning Tools

Cost-benefit analyses are important during planning to demonstrate that value for money will be achieved. Ministries are required to complete a cost-benefit analysis for service contracts over \$100,000, as stated in the CPPM; however, these were not completed for about 90% sampled contracts over the threshold.

BC Bid Resources have made a variety of additional planning tools available to help ministries plan for their procurement. Some of these tools include templates and guidance for developing a business case, needs assessment or cost estimates. Although these tools are optional, Government suggests using these tools as a “good practice” when ministry-specific tools do not exist.

For the samples we reviewed, ministries generally did not use the available planning tools. For instance, cost estimates were not completed for nearly 70% of sampled contracts. Each of our sample ministries referenced the BC Bid Resources website in their guidance documentation; however, the ministries had not established clear direction regarding when or how staff should use the planning tools.

BC Bid Resources provides procurement tools and templates; as these are optional to use staff are unlikely to use them without further instruction. There is an opportunity for ministries to better communicate baseline expectations on the use of available planning tools and templates.

Recommendation:

- (3) **Ministries should provide guidance regarding the expectations to use planning tools, including cost-benefit justifications and cost estimates.**

2.0 Pre-Awarding and Awarding

After an expense authority approves the procurement planning documents, the ministry selects a vendor through a competitive process or directly awards a contract. At this stage, the direct award justification should be documented with supporting evidence, and the contract terms and conditions are finalized.

We reviewed ministry documents to determine whether the direct award conditions selected for our samples were reasonably supported and sufficiently documented. In addition, we reviewed how ministries managed risks related to conflicts of interest and employer-employee relationships.

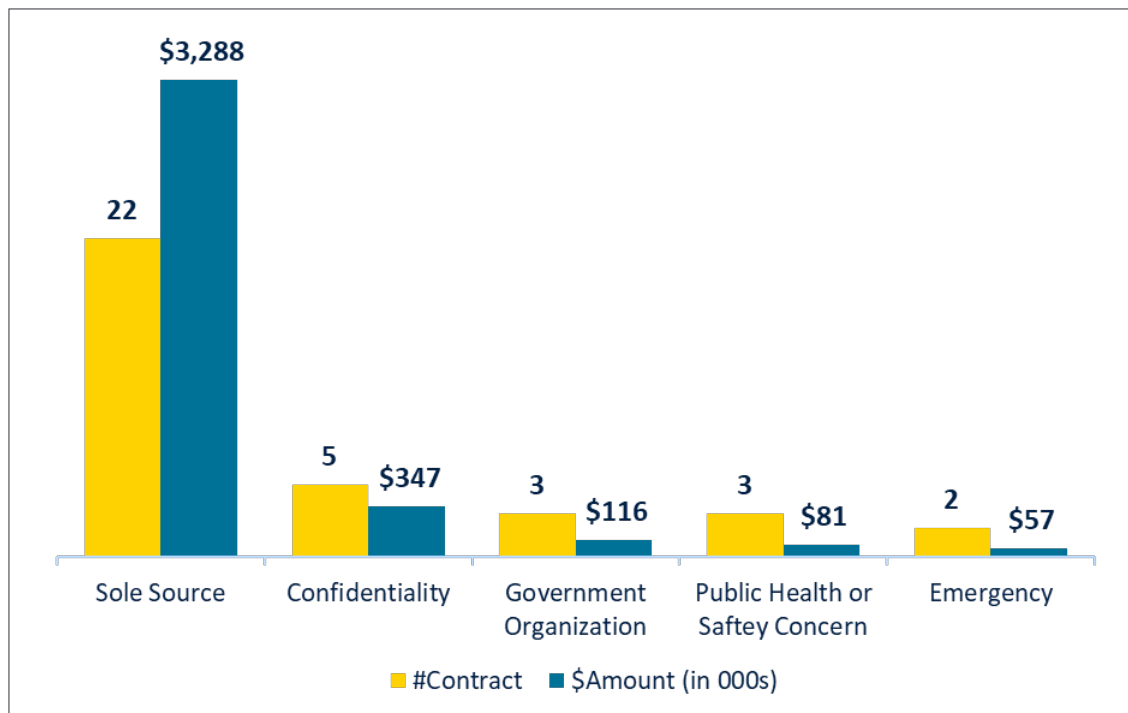
2.1 Direct Award Justification

The CPPM states that to ensure procurement activities are fair and open, they should be competed, wherever practical. Ministries may directly award a contract under the following exceptional circumstances and should clearly document the rationale to support the decision:

- **Another Government organization** – Ministries can direct award without competition to other Government organizations.
- **One qualified and available vendor (sole source)** – Direct awards are permitted when the ministry can prove that only one vendor is qualified and available to provide the goods and/or services.
- **Public health or safety concerns** – Ministries may determine that a competitive process would interfere with their ability to maintain security or protect human, animal, or plant life or public health.
- **Unforeseeable emergency** – Ministries may directly award due to ‘unforeseen’ emergency situations and the requirements for emergency purchase orders.
- **Confidential or privileged nature** – A situation may arise where a public, open competitive solicitation would compromise Government’s confidentiality, cause economic disruption, or negatively impact the public interest.

Figure 3 shows the number (and total dollar value) of contracts in our sample that used each of the direct award conditions permitted under the CPPM, representing 65% of the total sampled amount.

Figure 3: Sampled CPPM Direct Award Conditions



Source: Corporate Finance System data

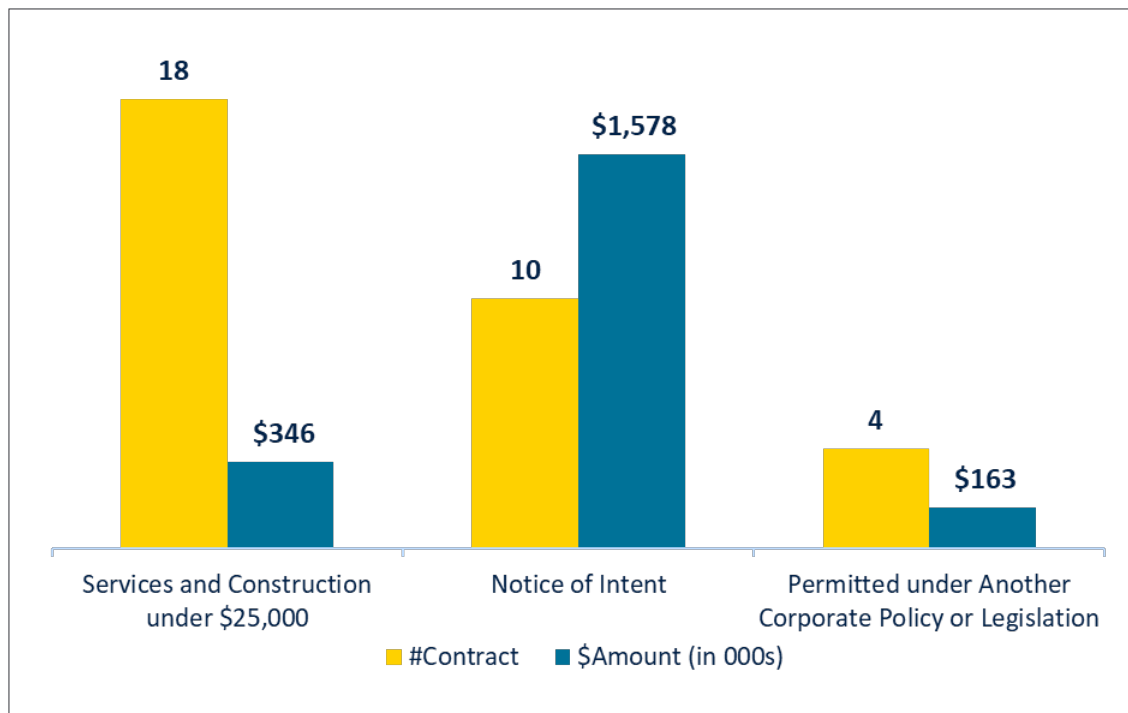
For about 70% of the samples we reviewed, ministries did not provide reasonable supporting information to justify the direct award condition that was selected. For instance, before using the sole source exception, ministries should perform due diligence, such as a request for information, expression of interest, or other market research, to support that there is no other vendor available in the market. It was not evident that ministries had performed such due diligence to support the sole source justification prior to awarding a contract.

In addition, ministries used direct award conditions that are not explicitly permitted in the CPPM, but are currently available as drop-down options in the Corporate Financial System (CFS):

- services and construction under \$25,000;
- permitted under another corporate policy or legislation; and
- notice of intent (NOI), when sole source cannot be strictly proven.

Figure 4 shows the number (and the total dollar value) of contracts in our sample that used direct award conditions that are not explicitly permitted under the CPPM, representing 35% of the total sampled amount.

Figure 4: Sampled Other Direct Award Conditions



Source: Corporate Finance System data

These conditions likely originated from historical policy and decision-making, and it is unclear why they have remained available options for ministries. Currently, these three conditions represent a significant proportion of ministry direct award conditions and there is no guidance regarding their appropriate use; for instance:

- the 'services and construction under \$25,000' condition was often interpreted as a threshold to direct award without justification;
- the 'permitted under another corporate policy or legislation' condition was used without evidence of the applicable policy or legislation that may allow direct awards; and
- the sampled NOIs were posted to support sole source rationale without first performing due diligence to determine whether other vendors were available.

In addition, the ministries' internal templates include these options to aid procurement data entry process in the CFS; however, this creates more confusion without specific guidance.

The Ministry of Finance is responsible for the CFS and is aware of, and working to resolve, this issue. In the meantime, ministries should ensure that internal templates are aligned with the CPPM conditions and provide clear guidance to reduce the use of conditions that are not permitted in the CPPM.

Directly awarded contracts bypass the open, competitive processes that promote transparency and accountability of public money, so it is important to use appropriate conditions and ensure that justifications are reasonable and defensible.

Recommendations:

- (4) Ministries should provide guidance regarding the expectations for adequate documentation to support a direct award contract, including rationale and evidence to warrant the direct award condition used.**
- (5) Ministries should ensure that internal templates and forms are aligned with the direct award conditions stated in the Government's Core Policy and Procedures Manual.**

2.2 Notice of Intent

According to the CPPM, ministries must post a NOI when it cannot be strictly proven that there is only one vendor who can provide the goods or services valued over \$10,000 and \$50,000, respectively. The purpose is to inform the market of the procurement opportunity, and to provide potential vendors with the opportunity to challenge the proposed contract. A NOI is not a direct award condition prescribed in CPPM 6.3.3.a.1 and should be posted after the ministry performs some due diligence to research whether other potential vendors may exist in the market.

For ten samples reviewed, NOIs were posted to support sole source rationale without first performing appropriate due diligence to determine whether other vendors were available. Relying on the market response imposes undue responsibility on the market participants, whereas the responsibility should be on ministries to actively seek the best value for money.

We found that two NOIs reviewed did not include key information such as project background, purpose, and qualification criteria to assess a potential vendor. For instance, one NOI stated that selecting a new vendor would result in project delays, low-quality products, and additional costs instead of detailing the services or skills required to challenge. This type of language combined with insufficient information potentially discourages other vendors from pursuing the proposed contract. It would be considered good practice for ministries to conduct a periodic review of NOIs to ensure that the information is impartial and unbiased.

Further, we were unable to verify whether the NOIs we reviewed encountered any objections or how they were addressed. Clear documentation of NOI outcomes is a good practice that promotes transparency of the procurement process.

Recommendations:

- (6) **Ministries should ensure that due diligence is performed, prior to posting a notice of intent.**
- (7) **Ministries should provide guidance regarding the process for responding to notice of intent objections and fully documenting closing outcomes.**

2.3 Conflict of Interest

The CPPM and the BC Government Standards of Conduct require proactive disclosure of any actual, perceived or potential **conflict of interest** situations.

Currently, there is no explicit requirement for ministries to confirm and document that conflict of interest has been considered for directly awarded contracts. However, it is good practice for ministries to document that they have evaluated this potential risk through, for example, including conflict of interest considerations into a procurement template or checklist.

The Standards of Conduct define a **conflict of interest** as a situation where an employee's private affairs or financial interests are in conflict, or could result in the perception of conflict, with the employee's duties or responsibilities.

Find out more:
[Conflict of Interest Guidelines](#)

For the contracts sampled, it was not evident that potential conflict of interest situations were considered during the contract awarding phase. Furthermore, we reviewed seven contracts that were directly awarded to former employees who used to work in the same program areas. While not prohibited, directly awarding a contract to a former employee could be perceived as preferential treatment. To mitigate these risks, ministries should ensure that appropriate review and approval processes are followed prior to awarding a contract.

Recommendation:

- (8) **Ministries should include a requirement for staff to document that there is no actual, perceived or potential conflict of interest and consider if additional review and approval is required prior to directly awarding a contract to former employees.**

2.4 Employer-Employee Relationship

The CPPM states that contracts must not result in the vendor occupying an ongoing organizational position as it creates a risk of an employer-employee relationship. Every vendor engaged by the Government must be independent and operating at arm's length from the Government. The distinction between 'employee' and 'vendor' is important because there are potential implications to employers associated with withholding taxes and benefits, which are not applicable to vendors.

It can be challenging to assess whether an employer-employee relationship has been created, so the Government has established criteria to assist staff with the determination. We found that seven samples potentially established 'employer-employee relationships' due, in part, to the following circumstances:

- former employees were engaged as vendors to work in the same or similar capacity as their previous employee positions; or
- vendors were engaged to backfill positions that are normally carried out by a regular employee.

Before awarding a contract, ministries should analyze the working relationship to determine if the contract terms and conditions indicate an employer-employee relationship and document the factors considered.

Recommendation:

- (9) **Ministries should ensure that contracts do not establish an employer-employee relationship.**

3.0 Contract Management and Close-out

Managing a contract involves not only making payments but also monitoring performance and progress on deliverables as set out in the agreement. At the end of the contract term, contracts should be evaluated to determine whether objectives and deliverables are met.

We reviewed supporting information to substantiate whether performance was monitored, and deliverables were reasonably met as stipulated in the agreement.

3.1 Performance Monitoring

The CPPM requires ministries to ensure timely and consistent monitoring of the vendor's performance throughout the contract term. Establishing reasonable and measurable monitoring terms enables ministries to evaluate the overall performance of the vendor. It also helps measure progress towards achieving contract deliverables and objectives. We found that 44% of the sampled contracts did not include measurable and reasonable monitoring terms and 60% did not have evidence of monitoring.

We also identified an absence of guidance or expectations to assist staff with establishing monitoring terms and ensuring performance is tracked throughout the contract term. There is an opportunity for ministries to encourage consistent monitoring practices by creating guidance based on contract risk, duration, or dollar value.

Recommendations:

- (10) Ministries should clearly document expectations for contract monitoring to help promote consistency.**
- (11) Ministries should ensure that contracts include monitoring terms, and performance is appropriately tracked throughout the contract term.**

3.2 Performance Evaluation

Documenting contract outcomes is an important closing-out practice to determine whether the procurement achieved value for money. For about 35% of the samples reviewed, we were not able to conclude whether the contract deliverables were met due to a lack of documentation.

In particular, the CPPM requires ministries to complete post-completion evaluations for contracts valued over \$50,000; however, these evaluations were not completed for 60% of contracts reviewed over that threshold. We also found that post-completion evaluation templates do not include performance evaluation of internal staff, which is considered a good practice according to BC Bid Resources. Comprehensive evaluation provides learning opportunities that internal staff can apply to future procurement projects.

Recommendations:

- (12) Ministries should strengthen the contract closing process to clearly indicate whether the procurement project achieved the deliverables and outcomes set out by the agreement.**
- (13) Ministries should ensure post-completion evaluations are completed that evaluate both vendors and internal staff.**

3.3 Procurement Data and Reporting

External and internal reporting promotes openness, fairness and transparency in the conduct of Government business. The preparation of data for reporting starts with accumulating accurate, consistent and complete financial information in the CFS.

We reviewed procurement information to determine whether contracts were accurately reflected in the CFS and disclosed in accordance with **Directive 03-2016: Directly Awarded Contracts**.

Directive 03-2016: Directly Awarded Contracts requires all ministries to disclose monthly summaries of directly awarded contracts in Open Information.

Find out more: [Directive 03-2016](#) and [Open Information](#)

- Eleven directly awarded contracts were not reported in Open Information in accordance with Directive 03-2016.
- Eight contracts were incorrectly coded as direct awards in the CFS; however, the contracts were awarded through competitive processes.

Furthermore, we found that the CFS procurement data did not reflect accurate information for approximately 35% of samples in one or more areas of contract start/end dates, direct award conditions or contract dollar values. Ineffective data management compromises reporting integrity and the ability to carry out relevant data analytics. Procurement data should be consistent, up-to-date and reliable in order to provide a valuable source of insight and guide future procurement decisions.

Recommendation:

- (14) **Ministries should ensure the accuracy and completeness of procurement data and appropriate disclosure of direct awards.**

4.0 Procurement Oversight

Procurement is a complex, multi-faceted process that is driven by operational needs and requirements. As such, procurement activities in ministries are often decentralized and carried out by program areas with minimal involvement by the ministries' corporate services departments.

We identified examples where procurement decisions did not align with the CPPM, reflecting gaps in understanding by staff regarding appropriate practice. Each ministry we reviewed had procurement specialists or a similar function who provided support and guidance; however, they generally did not conduct documentation reviews or other types of oversight. In addition, we found that two ministries had not established regular procurement training to ensure that staff knowledge and practices were current and compliant with the CPPM and internal guidance.

Decentralized procurement activities with limited training, corporate monitoring and oversight can make it challenging to identify potential risks and gaps in procurement practices. Implementing risk-based monitoring could help staff learn from real-time feedback, as well as inform where further training and guidance may be required.

A risk-based monitoring approach could involve periodically reviewing a sample of procurements based on risk, such as contract duration, dollar value, or procurement method. Specifically, a ministry could closely examine a sample of direct award justification documents and supporting evidence (e.g. evidence of market research prior to selecting sole source or NOI conditions).

Strengthening training and conducting risk-based monitoring could help identify and address some of these gaps in staff procurement knowledge and compliance.

Recommendations:

- (15) Ministries should conduct risk-based monitoring activities to identify potential gaps in procurement practices.**
- (16) Ministries should deliver periodic procurement training using the results from monitoring activities and regularly circulate updated internal guidance.**

Appendix 1- Summary of Recommendations

1	Ministries should establish clear processes and guidelines for procurement planning and awarding by defining key considerations and decisions for each phase, including documenting appropriate approvals prior to undertaking any procurement.
2	Ministries should review and update planning templates to include the requirement for contextual information that appropriately supports procurement decisions.
3	Ministries should provide guidance regarding the expectations to use planning tools, including cost-benefit justifications and cost estimates.
4	Ministries should provide guidance regarding the expectations for adequate documentation to support a direct award contract, including rationale and evidence to warrant the direct award condition used.
5	Ministries should ensure that internal templates and forms are aligned with the direct award conditions stated in the Government's Core Policy and Procedures Manual.
6	Ministries should ensure that due diligence is performed, prior to posting a notice of intent.
7	Ministries should provide guidance regarding the process for responding to notice of intent objections and fully documenting closing outcomes.
8	Ministries should include a requirement for staff to document that there is no actual, perceived or potential conflict of interest and consider if additional review and approval is required prior to directly awarding a contract to former employees.
9	Ministries should ensure that contracts do not establish an employer-employee relationship.
10	Ministries should clearly document expectations for contract monitoring to help promote consistency.
11	Ministries should ensure that contracts include monitoring terms, and performance is appropriately tracked throughout the contract term.
12	Ministries should strengthen the contract closing process to clearly indicate whether the procurement project achieved the deliverables and outcomes set out by the agreement.
13	Ministries should ensure post-completion evaluations are completed that evaluate both vendors and internal staff.
14	Ministries should ensure the accuracy and completeness of procurement data and appropriate disclosure of direct awards.
15	Ministries should conduct risk-based monitoring activities to identify potential gaps in procurement practices.
16	Ministries should deliver periodic procurement training using the results from monitoring activities and regularly circulate updated internal guidance.

Appendix 2- Abbreviations

CFS	Corporate Financial System
CPPM	Core Policy and Procedures Manual
Government or Province	Government of British Columbia
NOI	Notice of Intent