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The 29th Legislature
Second Session

Standing Committee
on
Public Accounts

Justice and Solicitor General

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Second Session**

Standing Committee on Public Accounts

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Standing Committee on Public Accounts

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Philip Bryden, QC, Deputy Minister

Suzanne Harbottle, Acting Assistant Deputy Minister, Justice Services

Gerald Lamoureux, Assistant Deputy Minister, Corporate Services

8:30 a.m.

Tuesday, November 8, 2016

[Mr. Fildebrandt in the chair]

The Chair: Good morning. I'll call the meeting of the Public Accounts Committee to order and welcome everyone in attendance. I'm Derek Fildebrandt, the MLA for Strathmore-Brooks and chairman of the committee.

I'll ask that members, staff, and guests joining the committee at the table introduce themselves for the record, beginning to my right.

Mr. S. Anderson: My name is Shaye Anderson. I'm the deputy chair. I'm the MLA for Leduc-Beaumont.

Ms Goehring: Good morning. I'm Nicole Goehring, MLA for Edmonton-Castle Downs.

Ms Babcock: Erin Babcock, Stony Plain.

Ms Miller: Good morning. Barb Miller, MLA, Red Deer-South.

Ms Luff: Morning. Robyn Luff, Calgary-East.

Mr. Malkinson: Brian Malkinson, MLA for Calgary-Currie.

Mr. Westhead: Cameron Westhead, MLA for Banff-Cochrane.

Dr. Turner: Bob Turner, Edmonton-Whitemud.

Mr. Dach: Good morning. Lorne Dach, MLA for Edmonton-McClung.

Mr. Lamoureux: Gerald Lamoureux, ADM, corporate services.

Ms Harbottle: Suzanne Harbottle, acting ADM, justice services.

Mr. Bryden: Good morning. Philip Bryden, deputy minister, Alberta Justice and Solicitor General.

Dr. Brooks-Lim: Good morning. Elizabeth Brooks-Lim, Acting Chief Medical Examiner.

Mr. Shorter: Good morning. Mike Shorter from the office of the Auditor General.

Mr. Saher: Merwan Saher, Auditor General.

Mr. Cyr: Scott Cyr, MLA, Bonnyville-Cold Lake.

Mr. Barnes: Drew Barnes, MLA, Cypress-Medicine Hat.

Dr. Massolin: Good morning. Philip Massolin, manager of research and committee services.

Mrs. Sawchuk: Karen Sawchuk, committee clerk.

The Chair: We've also got members joining us via teleconference. Mr. Gotfried, Mr. Fraser, Mr. Hunter, would you please introduce yourselves for the record.

Mr. Gotfried: Richard Gotfried, MLA, Calgary-Fish Creek.

Mr. Hunter: Grant Hunter, MLA, Cardston-Taber-Warner.

The Chair: Is Mr. Fraser on the line? Okay.

I'll note for the record that Ms Babcock is substituting for Ms Renaud.

A few housekeeping items to address before we turn to the business at hand. The microphone consoles are operated by

Hansard staff, and there is no need to touch them. Audio of committee proceedings is streamed live on the Internet and recorded by *Hansard*. Audio access and meeting transcripts are obtained via the Legislative Assembly website. Please turn your phones to silent.

I would advise the committee that I have one item for discussion under other business. Are there any additions or changes to the agenda as distributed? Seeing none, would a member move that the agenda for the November 8, 2016, meeting of the Standing Committee on Public Accounts be approved as distributed? Moved by Mr. Malkinson. Any discussion? All in favour? Opposed? On the phones? Carried. All right.

Do members have any amendments to the November 1 minutes as distributed? If not, would a member move that the minutes of the November 1, 2016, meeting of the Standing Committee on Public Accounts be approved as distributed? Moved by Ms Miller. Discussion? All in favour? Opposed? On the phones? Carried.

I will now welcome our guests from the Ministry of Justice and Solicitor General, here today to speak to the contracting of transporters of deceased rural Albertans, which the Auditor General addressed in his report of July 2016. Members should have the committee research document prepared by research services, the Auditor General's briefing document as well as the updated status of Auditor General recommendations document submitted by the Ministry of Justice and Solicitor General.

I'll now invite ministry officials to provide opening remarks not exceeding 10 minutes. Then I'll turn it over to the Auditor General for his comments. You have the floor.

Mr. Bryden: Thank you very much, Mr. Chair. As I mentioned, my name is Philip Bryden, and I'm the Deputy Minister of Justice and Deputy Solicitor General. I have a number of people from my staff here today: Gerald Lamoureux to my far left; Suzanne Harbottle; Elizabeth Brooks-Lim; and in the audience Brad Wells, our senior financial officer, and Van Repchinsky, our director of procurement services.

I'm here to provide an update on the department's response to the two recommendations made by the Auditor General in July of 2016 concerning the transportation of deceased individuals by contractors working for the office of the Chief Medical Examiner, or OCME, in rural Alberta. While the recommendations arose out of the contracting of a transporters of deceased rural Albertans audit, they'll apply to all future procurement projects, so they aren't just restricted to this particular issue, but they apply more generally. We are committed in our ministry to ensuring that procurement processes are consistent, just, and transparent, and I would like to thank the Auditor General for reviewing this matter and helping us achieve our objectives more effectively.

Under the Fatality Inquiries Act the OCME's role is to conduct an investigation when a death occurs in circumstances identified in the act. This typically is when people die suddenly or their death can't be explained, but it also includes when prisoners die or children in care die. People who die under these circumstances are transported to OCME facilities, either in Edmonton or in Calgary. To ensure that bodies are treated properly and respectfully, the OCME awards contracts to professional transportation organizations, and outside of Edmonton and Calgary these are typically funeral homes. Currently one company is used to provide services for both Edmonton and Calgary, and a request for proposals process was carried out before that contract was awarded.

In rural areas the way that companies that provide these services are organized means that the ministry has to use many different companies in order to obtain body transportation services. The contract ensures that rural organizations can meet an established

level of performance and follow processes that ensure that evidence is secure. There will be circumstances in which we're dealing with homicides and we have to preserve evidence for prosecutions associated with those homicide cases, ensure that services are provided by employees who have an approved criminal record check, and that we're able to obtain those services on a 24/7 basis. These are the rural services that the Auditor General referred to in his recommendations.

Implementation of his recommendations is well under way. Let me begin with the first recommendation, which was that the ministry have clear and effective guidelines on when business cases are required in procuring external services. Our ministry procures a wide range of goods and services, some of them relatively routine, some of them rather specialized, some of them rather expensive, some of them not so much. What we're doing is establishing guidelines for when a business case must be provided to support a contract request, including the critical information that has to be included in the business case. We expect the guidelines to be finalized and approved for implementation in the fourth quarter of 2016-17.

In the meantime our contract review committee, or CRC, requires that proposed service contracts of \$75,000 or greater be supported by a business case, and that wasn't the case in the particular contract that the Auditor General audited. The business case should address four required elements: a clear description of the need for the contract; evidence of stakeholder consultation, so one of the recommendations was that it's useful to talk to vendors and, obviously, users about the contract terms that are needed and appropriate; a risk assessment and mitigation plans – if there are problems, what do we do? – and a financial analysis.

The CRC terms of reference are being updated to reflect best practices, lessons learned from previous projects within the department and from other departments, and the procurement accountability framework manual. The framework is consistent with trade agreements and requirements that are found in Treasury Board directives, and this approach will enhance the transparency and accountability of the procurement processes.

8:40

It brings me to the department's response to the Auditor General's second recommendation. That recommendation dealt more specifically with PQRs. Our procurement services have implemented procedures for other prequalification requests, or PQRs. In response to the recommendations PQRs will, first of all, identify a date by which only prequalified contractors are eligible to provide services during the normal course of business; secondly, include a clause identifying that the ministry may engage services from a nonprequalified vendor when there are extenuating circumstances; and thirdly, identify what the extenuating or unforeseen circumstances would be.

In relation to the OCME specifically, procurement services in the OCME issued notifications to prequalified vendors and contractors that previously provided body transportation services in Alberta, and those notifications were sent out in July of this year. They stated that effective September 30, 2016, the OCME will only use nonprequalified vendors in extenuating or unforeseen circumstances, more specifically where there is irregular extraction or transportation circumstances in order to avoid excessive cost or delays in transportation, in order to deal with extraordinary events such as mass fatalities, in order to accommodate the wishes of the next of kin for the return of the deceased person, and other extraordinary or unforeseen circumstances as determined by the OCME.

For example, one of the exceptions that might apply is in a case where the family wants a particular funeral home to transport the deceased person back to the location where they're to be buried or cremated, and we try to accommodate the wishes of the family in those circumstances. Another exception could be made if there were an extraordinary need to transport a body from an inaccessible location such as a mountainside during winter. We might have to helicopter somebody in, so we would use a company that we wouldn't normally contract with in those kinds of circumstances.

To help provide consistent services, the OCME is working towards having prequalified contractors in place for areas that are about a hundred kilometres apart, and this enables local contractors to support local communities. We want to move to this ideal model as quickly as we can, but ultimately we're limited by the number and location of interested and qualified contractors. There are currently 32 prequalified contractors, and 25 vendors are currently in the process of joining the list. The OCME provides its death investigators, typically the police, with an updated list of prequalified vendors on a weekly basis, and this ensures that the department follows a rigorous process.

Investigators are also instructed to fully document occasions when a nonprequalified vendor is used so that we can ensure that they're following the guidelines. To further enhance the department's processes, a new PQR . . . [A timer sounded] May I conclude this observation?

The Chair: Yes.

Mr. Bryden: . . . for rural body transportation will be issued in January of 2017.

In conclusion, I'd like to thank the Auditor General once again for his review, and he will be reviewing at a later date our compliance with his recommendations. Thank you.

The Chair: Thank you.

We will now call upon the Auditor General, Mr. Saher, for his remarks.

Mr. Saher: Thank you, Mr. Chairman. My comments are to do with Justice and Solicitor General, office of the Chief Medical Examiner, contracting transporters of deceased rural Albertans, an order that we reported at page 19 of our July 2016 report. The purpose of the audit was to assess whether the department had adequate systems to first develop the prequalification request and contracts for rural transporters and, secondly, to enforce the terms and conditions of those contracts. We concluded that the department did not have clear and effective guidelines on when business cases are required in procuring external services, and we also concluded that there were no effective guidelines on what information should be included in a business case, all with the result that the department cannot effectively evaluate requests to procure external services.

We also concluded that continued use of noncontracted vendors in the ordinary course of business exposed the department to unnecessary risk. We made two recommendations, and the deputy minister has just spoken to his department's response.

Thank you very much.

The Chair: Thank you, Mr. Saher.

I will open the floor to questions from members. We'll be continuing with the time allotment format for questions. Our committee clerk has copies of the time allotment chart on hand for any members who wish to have one.

We'll begin with eight minutes for the Official Opposition.

Mr. Cyr: Thank you, Mr. Chair. Again I'd like to thank the ministry for sitting and bringing some answers to a real concern that was brought forward by the Auditor General. I'd like to specifically start with the \$100,000 threshold that was set.

Mr. Bryden: If I recall correctly, it was a \$75,000 threshold, Mr. Cyr. Maybe you're talking about something a little bit different?

Mr. Cyr: Okay. It's a \$75,000 threshold. Now, just so that I can understand here, for a trip for one of these funeral homes it's \$300 plus mileage, something like that?

Mr. Bryden: I think that's right, yeah.

Mr. Cyr: I'm curious: why do we have to set that at such a high number when we're sitting at \$300? Are they doing that many trips that we would need to have such a high number?

Mr. Bryden: The total contract is in the range of \$1.3 million. Is that correct? So when you look at the global number of body transportations that we would be involved in in the run of a year, \$75,000 is not that high a number. We reach that threshold quite easily.

Mr. Cyr: So you would have one of your funeral homes . . .

Mr. Bryden: No. The \$75,000 limit is to say that when we're putting out a PQR, a procurement request for prequalified vendors, the total of the contract would be in that \$75,000 range, but no single vendor would necessarily hit the \$75,000 threshold.

Mr. Cyr: How many of your vendors actually hit \$75,000?

Mr. Bryden: Almost none, I would have thought.
Liz, do you know?

Dr. Brooks-Lim: From my recollection, there is potentially one, and it's most likely to be the sole-source contractor for the cities of both Edmonton and Calgary because they cover both cities. Their coverage, I believe, would hit the \$75,000 mark for the year, yes.

Mr. Cyr: I guess my question is: we've set a number that is so high that we're not going to be requiring business cases? So that I understand.

Mr. Bryden: No. Sorry. Gerald, do you want to . . .

Mr. Lamoureux: The \$75,000 is really based around the trade agreements that we have, and up to \$75,000 you have some flexibility as to how you can proceed. We use that \$75,000 as a threshold whenever we go out and do a contract, so if we're doing a contract for \$100,000 for – I don't know – an IT system, we would do some kind of procurement process for it. When we talk about the \$75,000, it's not just specifically with the transportation of decedents; it's with respect to all of our contracts.

Mr. Bryden: And the \$75,000 isn't per vendor; it's for this type of contract. We want to be able to contract with an array of vendors, and we want a fair system where we're contracting using the same mechanism for everybody, so we developed these prequalification requests.

8:50

Mr. Cyr: Okay. So right now we're not prequalifying everybody that we're using. It seems like we've got a real problem here if we're tendering – and I'm trying to understand this – a mass contract and saying that you need to be prequalified in order to do

the contract unless there's a family request or hard-to-get-to locations.

Mr. Bryden: Or the different exceptions that we have laid out in the contract. For example, there may not be a funeral home in Fort Chipewyan, or there may not be a funeral home that wants to qualify under our contract. But if someone dies in Fort Chipewyan and they're in the circumstances under the act, we have to get that person's body here to Edmonton for the OCME to conduct an autopsy. So in those circumstances we would end up having to use somebody who wasn't prequalified. But if we have an opportunity – and the OCME has been trying to develop prequalified vendors across the province, and, as I indicated earlier, we have some 30-odd now, and we're working with another 25 vendors – ideally, we'd like people across the province.

Mr. Cyr: Thank you.

Now, being Justice and Solicitor General, isn't it odd that you guys don't have guidelines across your entire ministry, some sort of, I guess, template to start with that would be implemented? You'd think that liability would be one of your biggest concerns, and to have this kind of blow up in our face in 2012 and taking this long to implement seems to be a real problem.

Mr. Bryden: I think it's fair to say that our contracting processes needed improvement, but I don't think the Auditor General was suggesting that we never use business cases. What we needed were guidelines to identify when we're going to use a business case and when we weren't. What we're working on is what those guidelines should be. We engage in a large number of contracts, and some of them are pretty small, and some of them, obviously, are pretty big, so we're trying to develop a set of systems that enable us to say: when do we want to use a business case? What does the content of the business case have to be? The Auditor General's recommendation has been very helpful in this respect.

Mr. Cyr: It sounds like Service Alberta has broken ground in this area. Why does it seem like your ministry has to, I guess, go through the entire process again when it appears that you're just going to be using Service Alberta's procedure for procurement? It took four years to implement something that was already designed?

Mr. Lamoureux: Really, it's a matter of consistency. We have a contract review committee. We're one of the first departments to put that in place. They review all contract requests, and one of the things they do look for is a business case. They ask if one has been prepared. The presentations that are done at the CRC talk about the purpose of the project. They talk about risk mitigation. There is some discussion of a financial analysis. So it's really bringing some rigour and some better record keeping of what's been presented and the basis for that presentation.

Mr. Cyr: Has that slowed the process down a lot?

The Chair: I'm sorry. That's time.

Eight minutes for government members.

Dr. Turner: Thank you, Mr. Chair. Thank you very much to the ministry staff and to the Auditor General for actually bringing all of this to light. I think that this is one of the most important things that we in the government can be doing, making sure that government operations are done in a transparent and open way and can be basically trusted by the people of Alberta to be providing good value for what we're procuring. It is good news that the Department of Justice has listened and accepted the recommendations provided

by the Auditor General and is taking action to remedy mistakes that were made by the previous administrations.

First, I'd like to ask a general question about the changes that have been implemented. We've heard some of these, but I think this is the most important issue here. I'm obviously biased since I'm asking the question. I want to know how these changes are actually going to prevent what happened in the past and that we can assure Albertans that the transport of deceased persons is being done in an efficient and effective way.

Mr. Bryden: I think that the major difference we're seeing is developing a broader base of prequalified vendors so that in most instances we will be able to use prequalified vendors. There will continue to be exceptions in the situations that I've identified, but in those situations people who are prequalified will know in advance: well, these are the situations where you can be guaranteed that you'll be eligible to provide these services, and these are the situations where we may have to use people who are not prequalified.

Dr. Turner: Okay. Thank you for that answer. It is reassuring.

I'm most interested in knowing what kind of ongoing monitoring and tracking processes – and I think the Auditor General had some of these same questions. What is the process that we're going to be using to track the implementation of this plan ongoing?

Mr. Bryden: Gerald, can you answer that?

Mr. Lamoureux: At the moment we're developing templates for business cases and when they're going to be used. That's based on the standards that have been set by Service Alberta. But, in the same way, if I've got a million-dollar project, the business case I'm going to be looking for is going to be different than one that's \$100,000 and one that's \$50,000, so we're working out some of those nuances. That's one of the pieces of work that's taking place right now. There are a few other things to just finalize some of our policies and make sure that we're consistent with the procurement framework that was put in place recently.

Dr. Turner: Thank you.

Mr. Bryden: In terms of body transportation we will be going out with a new PQR early in 2017.

Ms Miller: Thank you, Chair. The Auditor General noted in his report that the department had not developed an effective business case for the need for prequalified contracts. He stated on page 19 in his report that the "guidelines on preparing business cases [were] undocumented and ambiguous." Accordingly, I'm very grateful to hear that the department is developing guidelines and a contracting process that the AG has recommended. I was curious, though: as the department continues with their work to develop guidelines regarding when a business case is required and what is included in the business case, will the department be looking at other ministries' practices or looking at other jurisdictions to identify best practices?

Mr. Lamoureux: Yeah. We'll be building our practices and our templates around Service Alberta's standards as well as some consultations with some of the major departments that do a lot of contracting like Human Services.

Ms Miller: Thank you.

Mr. Malkinson: Thank you very much, Mr. Chair. To our guests, thank you so much for being here this morning. Looking through

the report, you know, given that much of the Auditor General's report looks at the prequalified contract requirement and the implementation of this process by the department, I want to understand a little bit more about the prequalification request process. Like, what was the process for a company to get on the prequalified resource list?

Mr. Lamoureux: Liz, are you good to answer this, or do you want me to?

9:00

Dr. Brooks-Lim: Certainly. The PQR process is posted on the procurement website. A vendor can apply directly to be a vendor for the OCME. The vendor fills out the relevant paperwork, within which, for example, currently there are stipulations around the maintenance of a vehicle that would be in good enough service to provide the necessities for the OCME's work, that the staff that work within the organization have clear criminal records checks, those sorts of details within the application process. The vendor applies. The application is reviewed by a team in-house at the OCME initially. We have a manager in place who is in charge of the contracts just for body transport and focuses on making sure that the applications are reviewed in a timely manner so that they can then be passed on to procurement, who can then proceed with the relevant paperwork required to make that vendor part of the list.

If there is additional information that is required, because the process can be quite lengthy, with various different stipulations, we can also ask the vendors for more information to help assist with their application because we do want as many vendors as possible who have fulfilled the needs of the PQR to be on the books so that we can call them.

Mr. Malkinson: Perfect. Thank you very much.

You mentioned staff checks, vehicle maintenance. What would be some of the other requirements that a company must meet in order to be on the prequalified resource list?

Dr. Brooks-Lim: Sorry. What are the other stipulations?

Mr. Malkinson: What are some examples of some other requirements that a company must meet in order to be on the prequalified resource list?

Dr. Brooks-Lim: I'm trying to remember the PQR from memory. There are currently stipulations regarding the experience of the company, too, in being able to provide this sort of service, the number of years they've been in practice, and whether they would be able to provide a 24/7 service to the OCME, along those lines.

The Chair: Thank you.

Mr. Malkinson: That was good timing.

The Chair: Five minutes for the third party. Mr. Gotfried and Mr. Fraser.

Mr. Gotfried: Thank you, Mr. Chair, and thank you to our guests today for the hard work and good work that they do on behalf of Albertans. I think we owe a debt of gratitude to many of our public servants.

I think that most of the issues have been addressed here, and thank you very much to all of our team for the research. I guess my comment as much as a question is that I would hope that we can move more towards a very businesslike procurement process, that we can be very transparent both internally and externally, and that we can ensure that the qualified vendors that are brought in are also

not only qualified but that we also try and keep the costs in control for Albertans and ensure that that is the case.

One of my questions with respect to the services provided, I guess – and I think it may have already been asked – is on the prequalifications. Are we also ensuring that the drivers and service providers are bonded? I heard that they are given a criminal check, but is there a bonding compliance requirement for that as well?

Ms Harbottle: I think that was a requirement at one time, but that is not currently the requirement. There is a requirement that there be criminal record checks for all of the owners and operators and the employees. There is also a requirement that any subcontractors that the vendor uses must also comply with any conditions that apply to the original contractor.

Mr. Gotfried: That's great. Again, I'm hopeful that we can incorporate these.

I guess my only comment is that I hope that as we move forward with this, we can find out that the compliance is to the Service Alberta regulations and that a proper process is in place. Again, you know, there are some very important issues and protection of the best interests of Albertans that need to be met here. I know that you're all focusing on that. It just seems to me that we do need to drive towards having those businesslike processes in place, again not just for how things are handled but for the costs that are associated with that.

Mr. Chair, with that, it's a little harder to engage from the phones here. I'm going to cede the rest of my time and stand by and participate in the discourse as required going forward.

Thank you.

The Chair: Thank you, Mr. Gotfried. If you do decide to come back at any time, just inform me, and we'll reinsert you into the rotation.

Eight minutes for the members of the Official Opposition.

Mr. Cyr: Thank you, Mr. Chair. Just a quick question for the Auditor General. Recently the department came under scrutiny for allegations of political interference on the issuing of contracts. Was this something you saw in your audits? Were there, I guess, concerns from your department that there was interference?

Mr. Saher: I assume you're referring to this particular matter that we reported on in July. On page 24 of our report there is a paragraph at the bottom which is headed Significant Negative Reaction from Transporters to the First Posted Contract. In that section we set out what the department did, and just for the record I'll summarize.

There were a number of outcomes from this reaction. The then Minister of Justice and other senior department officials met with association representatives to hear members' concerns. Several working sessions between senior department managers, the OCME, the procurement unit, and industry representatives were held at which the parties discussed and agreed to revisions to the contract's terms and conditions. Thirdly, the department replaced the first contract with a second, revised contract on November 14, 2014. The revised contract came after five individual contracts had been signed with rural transporters under the terms of the initial posting.

We were satisfied that that was a rational response by the department to the situation it found itself in. The situation it found itself in, in our opinion – and, again, I'll quote directly from the report – was:

A satisfactory business case would have helped the OCME identify the transporters' concerns beforehand. Instead, various department staff had to spend considerable time and effort over several months to listen to and deal with the concerns.

That process of dealing with the concerns was characterized in the media, certainly, as political interference. We looked at it from a practical point of view and came to the conclusion that it's our view that what the department did to deal with the situation it found itself in – and I'll repeat: because it didn't follow a good business process – and what it did to try to recover from that situation was rational and proper.

Thank you.

Mr. Cyr: For the ministry: does the ministry still involve itself within the contract process in that office?

Mr. Bryden: You know, we would have procurement people who would be involved in putting out the next PQR, that's going to be coming out in January. I think one of the useful lessons from the OCME's report is that it's important for us, when the business case is put together, to be contacting vendors to see whether the requirements that we think might be useful are problematic from their standpoint. So we'll be having more of a dialogue with vendors around those types of issues, and that will form part of the business case, that will then inform the PQR that's going forward.

Mr. Cyr: So is the OCME even involved in the contract process?

Dr. Brooks-Lim: Absolutely. The OCME has been very heavily involved with the creation of the new PQR, which is due to come out next year, in, hopefully, January 2017. The input from the department per se has been a close and collaborative working relationship with procurement, who have been advising us on the changes that we've been suggesting, and so far none of the changes that the OCME have suggested to the new PQR have been – what's the word I was going to choose? – avoided or changed or stopped by procurement. It's been a good working, collaborative relationship, with advice given to us as to how to write a contract, as it were.

9:10

Mr. Cyr: So will the ministry step back once this process is established and allow the OCME to take over, or will you always be directly involved in this process on a go-forward basis?

Mr. Bryden: I would think, from the way Dr. Brooks-Lim has described procurement practices going forward, they would be ones where we would have, if you will, a user like OCME or it could be, you know, another unit in the ministry that says: we want to procure certain kinds of services, certain kinds of equipment. Our procurement people would work with them to make sure that Albertans were getting value for money, that we were working with potential vendors, that we'd scoped out what was the right set of stipulations in the contracts, and the unit that would be seeking the goods or services would be developing a business case. That would be reviewed by our contract review committee.

So there would be an ongoing relationship between the OCME or any other unit that was trying to procure goods and services and Gerald's unit and our contract review people to make sure that we were complying with all of the necessary rules, that Albertans were getting good value for money, and that vendors' concerns were addressed and being treated fairly.

Mr. Cyr: Has your department always had a relationship in regard to this, and if so, did it fail in its job, then, in this specific case?

Mr. Bryden: I would say that we've always had a relationship in terms of procurement. As you go back in time, if we had a do-over, we would do things differently now than we did at the time. The

Auditor General has been very helpful in pointing out the shortcomings of the way that we handled the process initially. I think we wouldn't do the same thing now that we did when that first PQR went out.

The Chair: Twenty seconds.

Mr. Barnes: Just quickly, I'm concerned a little bit about the request process and the unnecessary risk other than financial risk. When you're doing your business plans, how do you consider the risk in addition to financial risk?

Mr. Bryden: Well, you try to anticipate what could go wrong and try to identify contingency plans. Obviously, we identified the fact that we weren't going to be able to cover the entire province with qualified vendors, so we needed to anticipate: what are the circumstances where we're going to use somebody who isn't a qualified vendor? That's what we've tried to do in the notice that went out earlier this year. That's just fair to the contractors, and it creates transparency and consistency.

Mr. Barnes: Okay.

The Chair: Thank you.

We're on to government time now. Eight minutes for government members.

Mr. Malkinson: Thank you, Mr. Chair. I'm just going to finish on a question I had just to follow up from our previous discussion. How many companies have applied for the prequalified resource list currently?

Ms Harbottle: There are 32 who are already prequalified, and there are another 25 that are in the process of qualifying.

Mr. Malkinson: Thank you.

That was my last point before we ran out of time in the previous round.

The Chair: It's all yours.

Mr. Dach: Thank you, Mr. Chair. I'm quite interested in this topic. I'd like to thank both the members of Justice and Solicitor General's team as well as the Auditor General himself and his team member for coming here today. I am interested in it because I've had some previous exposure to the whole topic of the transport of the deceased, because before her retirement my mother worked in a funeral home for many years. I know the dignity and great care and devotion to ensuring the dignity of the deceased that the funeral home operators take throughout the whole process, and that includes the transport of the deceased. So I've known of that first-hand through my mother's experience working in a clerical capacity in a funeral home.

I do know that historically a lot of the transportation decisions were made more on an ad hoc basis. There weren't really prescribed and detailed regulations that dictated who was hired to transport a body, so the move to prequalified vendor-contractors is something that I applaud.

I did want to specifically ask and get some details about noncontracted transporters while I focus on this topic. On page 26 of the Auditor General's review it provides some details about noncontracted transporters that are still being used for services. I was wondering, if it would be possible, if the department could provide us with an update with respect to that, noncontracted transporters still being used.

Mr. Bryden: Certainly. I've addressed this in my opening remarks. In July of this year we sent out a notice to the vendors to identify the circumstances in which we would continue to be using nonprequalified vendors. That notice states that we would only use them in extenuating circumstances, as determined by the OCME, such as irregular extraction or transportation circumstances, avoiding exorbitant costs or delays in transportation, extraordinary events giving rise to mass fatalities, accommodating the wishes of the next of kin for the return of the deceased, or other extraordinary or unforeseen circumstances.

We're trying to be transparent with our prequalified vendors about when we're going to be having to use people who are not prequalified. The death investigators, who have the list, understand the circumstances, and when they're not using a prequalified vendor, they have to document what the circumstances were that led them to use a vendor who wasn't prequalified. The example I gave was, you know, that if there's a death on a mountainside in winter, we may not be able to get a funeral home to get up there to get a body. We may need to use a helicopter or some other kind of vendor. We would document that. Likewise, when we're returning a body for burial or cremation, we allow the family to say, "I'd rather use this service as distinct from another service," and that service may not be a prequalified vendor. We respect the family's choices in that respect.

Mr. Dach: All right. A related question I have: as we move into requiring only prequalified vendor-contractors, with the noted exceptions, I was wondering if there are still any companies that have previously provided transportation services but that have not applied for prequalification. Are there some companies that have sort of dropped out?

Mr. Bryden: Liz, do you know that?

Dr. Brooks-Lim: Yes. There are a number who have, yes. We're hoping that they will reconsider and come onboard with the new PQR that's going to be posted in January 2017.

Mr. Dach: All right. Supplemental to that, on page 20 of the report the Auditor General states, "Many transporters were dissatisfied with the first posted contract because of a... lack of prior consultation... with industry." Now, we know that consultation is essential in creating good public policy. Consequently, has the ministry taken any steps to find out if those vendors have concerns that could be addressed?

9:20

Dr. Brooks-Lim: Certainly. There is a careful balance that the OCME acknowledges between listening to a vendor community and allowing too much influence from a vendor community to write a PQR contract, as it were. There's a careful balance that we acknowledge. We have engaged with the vendor community. We've spoken to the Alberta Funeral Service Association on two or three occasions this year already to listen to their concerns about the first contract and the current contract, and we've taken those considerations into perspective with the needs of the OCME whilst we have considered the rewrite of the PQR for January.

Mr. Dach: All right. Lastly, I understand that there was a range of concerns about companies that were previously contracted for these services, including complaints about companies that have employed persons with criminal backgrounds. Have any safeguards been put into place to address this specific concern?

Mr. Bryden: Liz.

Dr. Brooks-Lim: Yes. As part of the first, I believe, and the current, the second contract that is in place, there is a very clear stipulation that the owner-operators and the individuals who perform the body transport must have a criminal record check, which is looked into, and if there's a situation whereby, unfortunately, there is something within a criminal record check, whether it be the owner-operator or whether it be the individual who performs a transport, it is within the remit of the OCME to refuse the use of that vendor because the work that we undertake, obviously, has very strong forensic implications.

Mr. Dach: One curiosity question, too. You mentioned a couple of times, Mr. Bryden, about extraction from difficult circumstances, one of them being helicopter extraction. I didn't really realize that Justice and Solicitor General would be involved in that rather than emergency services. Is there co-ordination there? How does the payment work?

Mr. Bryden: I think we'd be dealing with people who – we deal with dead bodies as distinct from rescuing people.

The Chair: Due to the change in the third party I'll give another round of eight minutes to both sides. Eight minutes to the Official Opposition.

Mr. Barnes: Okay. Thank you, Mr. Chair. I just want to go back to the situation about developing a business case. Where's the department at on the guidelines, you know, when we want to make sure that we have a business case, as the Auditor General pointed out with one of his recommendations? Are we clear on the rules for who can make a decision not to require a business case and in what circumstances? I understand – it was mentioned – that with the noncontracted removal of a body it has to be filed in writing after, but what are all the circumstances that in a bigger way will make sure that this is protected?

Mr. Bryden: In a general sense we want to have all of these requirements in place by the fourth quarter of 2016-17 and approved.

But let me ask Gerald to give you a bit more detail on the questions that you've addressed.

Mr. Lamoureux: We're working on the policy, and I expect to see that we'll have a draft by the end of this month, that will then be vetted by our senior financial officer, our contract review committee, then our executive team, and finally the deputy for sign-off. Ideally that will happen early in the fourth quarter.

With respect to the question of who makes the decision that a business case is not required, I think we would try to identify specific exception cases, and outside of those standards it would go to the deputy minister for a decision.

Mr. Barnes: Okay. Thank you.

Also, it was suggested on a go-forward basis that you should determine and include in prequalified vendor listings the date after which you'll only use contracted vendors. Do you have such a date? As part of that question I'm wondering: you know, with the 32 that are on the list now and the 25 that you're talking to, do we have any gaps in terms of emergency services? Do we have any gaps in terms of parts of rural Alberta?

Mr. Bryden: Let me answer the first part, and I'll ask Liz to answer the second part. We sent out a notice towards the end of June of this year letting our prequalified vendors know that as of September 30, 2016, we would only use nonprequalified vendors in the specified

circumstances that I identified a moment ago in response to Mr. Dach's question. So as of September of this year we're only using prequalified vendors except in those particular circumstances.

In other PQRs – I mean, this principle applies not just to body transportation contracts but to other kinds of situations where we would be using PQRs in the future – we will build that into the requirements that we set out when we're putting PQRs forward.

Liz, do you want to speak more specifically to the individual vendors?

Dr. Brooks-Lim: Certainly. We are in some ways very limited by the static nature of the business. We cannot, for example – well, we can hope that there might be a vendor in the far northwest of the province in the rural areas, but we're limited by the location of the funeral homes and the vendors and how far they can travel. With the current number of vendors that we have, we do have an area towards the north and west side of the province which is relatively underserved. We don't have a large number of vendors in that region.

For example, in those circumstances it would be prudent for us to contact a noncontracted local vendor in that far northwestern corner in the current situation rather than expect a vendor that's five hours away from the site of death to travel there to pick up a decedent and then travel back. Not only would the distance travelled be more costly, but in these rural death settings the investigators that we use are usually the RCMP. That would be – to expect an RCMP officer to wait at a death scene for over five hours would be a misuse of their time. So there's a need in the northwestern part of the province, for sure, at the moment.

Mr. Barnes: Okay. Thank you.

Information included in the business cases is also an area of concern that the Auditor General has highlighted. Doctor, when you spoke about the back and forth between vendors and getting that right for the request for proposal, it made me think of when I've talked to some of my constituents who were concerned about a couple of things, age requirements on vehicles and access to the facilities in Calgary and Edmonton. I'm hoping – have you guys addressed this situation? – that as you develop your business case, you will have the opportunity to ensure that, you know, Albertans are protected, taxpayer value is there, but our service providers are listened to as well.

Dr. Brooks-Lim: Absolutely.

Mr. Barnes: Thank you.

That's it for me.

The Chair: Two minutes.

Mr. Cyr: Thank you. I would love to ask a question about the nonqualifieds again. Our qualifieds have to go through a long, lengthy procedure of questions. The nonqualifieds: are they just exempt from that? If so – you mentioned criminal checks, and you mentioned safe for the roads – when you sign off on one of these nonvendors, are we signing off on unsafe people and vehicles on the roads?

Dr. Brooks-Lim: Not to undermine the concept of a contract, which has stipulations that state that you must have a vehicle that is worthy and that you must have staff who've had a criminal record check.

In the instance where we have to use a noncontracted vendor, it is a last resort for us, and they're on occasions that we are hoping are relatively rare. However, the vendors that we do contact are

professional organizations whose accountability and integrity are essential to the long running of their business. Most of the vendors that we utilize are, for example, long-standing funeral homes or transporters that we've used historically in the past, prior to the development of a contract, and we have had no significant issues within the institutional memory of our office with these vendors. We use them because we must in these unusual situations.

Oftentimes, as we've mentioned and as the deputy minister has mentioned, if we need to utilize a helicopter to extract somebody or we need to ask for the use of a local fire brigade to extract somebody, we are using a noncontracted vendor, but we are using professional organizations who have accountability and integrity written into their business model. We have to rely on that at this point in time, but, yes, it's a . . .

9:30

The Chair: Thank you.

Eight minutes for government members.

Ms Luff: Thank you, Mr. Chair. I just want to thank everyone for being here today, and I think you've done a really good job of going over where you're going with the case for the business plan and your plans moving forward and clarifying all the areas around noncontracted vendors and what the situations are when we would be using those. Those were most of what my questions were around. I just want to say that I appreciate that you've done a very good job explaining to us where you're headed going forward.

I just have a bit of a process question, I suppose. The AG mentioned this morning in his briefing that when you were addressing the concerns from the report of the Auditor General in your report, you look at establishing guidelines as to when a business case must be provided and say that that will be happening by the fourth quarter of 2016-2017 and then also mention establishing guidelines related to who can make the decision as to when a business case is not required, and then that recommendation will be addressed by March 2017.

Given that those two things sort of go together – they seem to be part and parcel of the same process – I'm just curious as to why they were perhaps addressed separately and why they're not sort of all rolled into one process going forward.

Mr. Bryden: I think they are all rolled into one process going forward. It's just that we use different terminology. The fourth quarter of '16-17 and March of '17 have the same end date. We're hoping to be done with this process earlier than March of '17. As Gerald was mentioning, we think that we should be done by January, but, you know, to anticipate unforeseen circumstances, we just described it as the fourth quarter of '16-17.

Ms Luff: Okay. So it's fair to say that you would expect that all of these processes will be in place by the end of the fourth quarter of '16-17?

Mr. Bryden: That's right.

Ms Luff: All right. Awesome. Thank you.
I think that's all I have.

The Chair: Mr. Turner.

Dr. Turner: Thank you, Mr. Chair, and again thank you to the ministry. I actually want to follow up on questions by my colleague Mr. Dach and, actually, comments that were made by Mr. Bryden about the importance of dealing with the transport of deceased persons in a respectful way. I have a question – and perhaps the CME can help in response to this – related to how your department

is dealing with, really, what's an evolving situation in our province. We have a very diverse population now: multicultural, with recent immigrants. I'm particularly interested, in a spirit of reconciliation, in the TRC situation, in how we're dealing with the particular concerns around a deceased person in the FNMI – First Nations, Métis, and Inuit – cultures. How are we being respectful to the cultural differences that exist there?

Mr. Bryden: Liz, can you answer that?

Dr. Brooks-Lim: Certainly. We do all that we can to address any sort of cultural, religious, or personal sensitivity that any family member of a decedent may have. Our investigator teams are, if I were to speak, outstanding at ensuring that any sort of wishes or requirements that are made by a family are discussed with our medical examiner teams, and we do all that we can to acknowledge differences in beliefs regarding, particularly, these decedents, how they are handled and also how quickly we can have these bodies returned to families.

It's a difficult trade-off sometimes between the work that we must perform versus some of the wishes of individual families because of the different cultural beliefs, but we do all we can to marry the two together so that we have the work that we need done completed as per our mandate under the Fatality Inquiries Act. But, at the same time, we are extremely respectful of the differences in opinions and spirituality and just differences that individuals may have culturally regarding death.

Dr. Turner: I really do appreciate that. I'm appreciative of those remarks. It's certainly the right approach.

I have a specific question about the prequalification requests. Has any of that sort of sentiment been put into the prequalification process, about whether the contractors would be able to provide that kind of responsiveness?

Dr. Brooks-Lim: There's nothing specifically that I can think of immediately that is in the new PQR or in the current PQR that addresses these issues directly. It's more of an operational issue in that should it arise at the time and our investigators are made aware of that, we can speak to our vendor community with regard to body transportation. There have been instances, for example – and this would be an example of a nonqualified vendor being utilized for transport – where certain communities may ask whether they can personally transport their own family member. It rarely occurs, but we do acknowledge this. If it is in a safe environment and the family has said that they wish to personally transport their loved one – we have had these requests made – I have allowed them during at least my tenure, yes.

Dr. Turner: Thank you very much.

The Chair: All right. At this time we'll end regular time allocation and sort of just open it up for questions from the floor. I'll recognize questions. Mr. Cyr.

Mr. Cyr: Thank you again. Now, I'd like to go back to this committee that you've formed to review the contracts. Will you be reporting on the extent of the use of noncontracted companies internally, and will you be tracking if these noncontracted companies are actually exceptional or not, like how many and where, so that you can see if this is a problem that is developing within the Justice department?

The reason I'm bringing this up is that I don't see any good reason why anybody would want to prequalify or qualify. It looks like we're at 30 per cent right now, so unless there's some sort of

motivation to qualify, nobody, in my opinion, will. So how are you going to do that? I understand if it's a one-time vendor that's used every five years – right? – but it seems to be significant at this point. I think that somewhere we're looking at, well, according to this, 32 and another 25. Is that out of, like, a hundred different . . .

Mr. Bryden: There would be 95 vendors, and we would have 30 qualified, so roughly a third qualified and a little bit under a third who are working towards qualification. I would have said that that would indicate that the majority of vendors think it's worth while to engage in the prequalification process. It's a little bit hard to determine why the other 30 wouldn't. Maybe they think it's not worth doing the paperwork because they don't get that much work from us.

Liz, do you have insights in terms of why vendors wouldn't prequalify?

Dr. Brooks-Lim: From the meetings that we've had already with the Alberta funeral association, the feedback that we received regarding the current stipulations in the contract, particularly ones that were seen to be quite severe on the workings of the actual companies, has been acknowledged in the current draft form of the new PQR, that we're going to be releasing in 2017. There are going to be some changes in the contract that we feel, from the OCME's perspective, from listening to the vendor community, will make the PQR process a lot more appealing – that's probably the best word to say – and something that we hope that they will become more onboard with.

9:40

As to the question regarding the tracking in-house: yes, we are currently doing that. We've only just moved, as mentioned, as of September 30 this year, to only using contracted vendors unless in exceptional circumstances, and obviously with people still coming onboard and applying for the PQR currently, as you've mentioned and as you've noticed, there are going to be gaps in our service area. But as those gaps start to fill up, we will hope that the vendor community will realize that we are aiming to only use contracted vendors unless in very exceptional circumstances. We are charting these exceptional circumstances to see where the main issues are and to see how many vendors we do have to use in these exceptional circumstances. It is something we are doing in-house currently.

Mr. Cyr: My question is to the Auditor General. This in-house, or internal, reporting: what suggestions would you think are important that the OCME would implement in order to make that successful?

Mr. Saher: Well, I think Dr. Brooks-Lim has just indicated an important process matter, that the OCME is charting its use of noncontracted vendors, because I think that with any process where you have an exception, it's good practice to see how often the exception is being used because you're trying to establish whether the exception has in fact become the rule. I think it was very interesting to hear that the so-called exceptions to the rule are being tracked, and I assume they're being tracked to make business decisions on whether those exceptions should continue to be exceptions or whether or not attempts should be made to try to qualify a larger number of organizations on the grounds that they are in fact being used regularly.

So I think that what we just heard was good process. Certainly, when we do our follow-up audit, it's something that we would naturally look at in a new process: who can authorize exceptions to the process and to what extent, what volume of exceptions are there,

and how is that information being used within the department to make good business decisions?

Mr. Bryden: If I could add something, Mr. Saher. By respecting the choices of individual families in terms of returning the deceased person, there will probably continue to be exceptions. That isn't so much a business decision from us as a reflecting desire to respect the wishes of family members in terms of deceased persons. We may never get to, you know, a tiny percentage of exceptions because of that, but if we track that phenomenon and we can explain that this is why we're not getting 100 per cent coverage, I think that will help at least to ensure that we're transparent about what we're doing and why we're doing it.

The Chair: Mr. Cyr.

Mr. Cyr: Thank you, Mr. Chair. Now, you've created a new procurement committee, or you've got a procurement committee. With the, I guess, new way of dealing with these contracts, are we going to see a considerable slowdown in the tendering of contracts, being as they need to be vetted by your ministry now?

Mr. Bryden: We've been using contract review committees for some time. I don't see the processes that the Auditor General has recommended as ones that require us to take a lot more time in terms of contracting. It's more being more thoughtful and mindful of, you know, identifying the kinds of considerations that we ought to be taking into account in deciding what conditions we want to put into contracts or prequalification requests. But I wouldn't see the process being delayed unusually as a result of that.

Mr. Cyr: Well, the thing is . . .

The Chair: I'm sorry about that. I think we're going to have to wrap it up here.

I'd like to thank officials from the Ministry of Justice and Solicitor General for the presentation today and for responding to our committee members' questions. We ask that any outstanding questions be responded to – I think we don't have any questions today, but if members have follow-up questions that they wish to submit, please submit them through the committee clerk.

As members are aware, NorQuest College is scheduled to attend the committee meeting scheduled for Tuesday, December 6. The Auditor General has suggested that the Ministry of Advanced Education be invited to participate alongside NorQuest, and I have forwarded the suggestion to the deputy chair and Mr. Gotfried for their input as well. Are members in agreement with that suggestion? If so, would a member be prepared to move a motion in that respect, that

the Standing Committee on Public Accounts invite the Ministry of Advanced Education to attend the December 6, 2016, meeting with NorQuest to address financial systems in place to prevent potential fraudulent activity and privacy breaches.

Moved by Dr. Turner. Any discussion? All in favour? Opposed? On the phones? Carried.

Our next meeting is Tuesday, November 22, with the ministries of Education and Infrastructure on systems to manage the school building program. The meeting is scheduled from 8:30 to 10, and the premeeting briefing is at 8.

I'll call for a motion to adjourn. Moved by Mr. Westhead. Discussion? All in favour? Opposed? On the phone? Carried.

[The committee adjourned at 9:47 a.m.]

