# **HANSARD**

## **NOVA SCOTIA HOUSE OF ASSEMBLY**

## **COMMITTEE**

ON

## **PUBLIC ACCOUNTS**

Wednesday, April 17, 2024

## **RED CHAMBER**

**Government Procurement Process and Practice** 

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## **Public Accounts Committee**

Lorelei Nicoll (Chair)
Danielle Barkhouse (Vice Chair)
Tom Taggart
John A. MacDonald
Melissa Sheehy-Richard
Braedon Clark
Susan Leblanc
Lisa Lachance
Nolan Young

[John A. MacDonald was replaced by Larry Harrison.] [Melissa Sheehy-Richard was replaced by John White.] [Tom Taggart was replaced by Hon. Trevor Boudreau.]

#### In Attendance:

Kim Langille Committee Clerk

James de Salis Administrative Support Clerk

> Gordon Hebb Chief Legislative Counsel

Mike MacPhee Deputy Auditor General

#### **WITNESSES**

### Department of Service Nova Scotia

Joanne Munro - Deputy Minister

Chris Mitchell - Chief Procurement Officer

### Department of Public Works

Peter Hackett - Deputy Minister

Mark Peachey - Chief Engineer, Highway Programs

Gerard Jessome - Chief Executive of Engineering, Building Infrastructure

Don Maillet - Executive Director, Highway Engineering and Construction

Tonya McLellan - Executive Director

### Build Nova Scotia

David Benoit - President and CEO



# HALIFAX, WEDNESDAY, APRIL 17, 2024

#### STANDING COMMITTEE ON PUBLIC ACCOUNTS

9:00 A.M.

CHAIR Lorelei Nicoll

#### VICE CHAIR Danielle Barkhouse

THE CHAIR: Order. I'm calling the meeting to order. As you know, this is the Standing Committee on Public Accounts. My name is Lorelei Nicoll. I am the MLA for Cole Harbour-Dartmouth and Chair of the Committee.

I will now ask for people to introduce themselves, starting with the member closest to my left.

[The committee members introduced themselves.]

THE CHAIR: I will let the person to my left introduce himself.

GORDON HEBB: Gordon Hebb, Chief Legislative Counsel.

And the person on my right.

KIM LANGILLE: Kim Langille, Committee Clerk.

THE CHAIR: Take note that we also are reminding everyone to put their phones on silent. We have members from the Auditor General's Office present as well.

Today we have on the agenda officials from the Department of Service Nova Scotia, the Department of Public Works, and Build Nova Scotia with respect to Government Procurement Process and Practice.

I'll ask each of our witnesses to introduce themselves, starting with the member to my left.

[The witnesses introduced themselves.]

THE CHAIR: I understand you have other members of your staff sitting behind you. Do you wish to acknowledge them? You will in your notes?

On that, I will open it up to notes and who wants to speak. Giving opening remarks, Deputy Minister Peter Hackett.

PETER HACKETT: Good morning, everyone, and thank you for the opportunity to be here this morning. As I mentioned earlier, I am Peter Hackett, Deputy Minister of Public Works. I am joined here today by Gerard Jessome, our Chief Executive, Engineering for Building Infrastructure; Mark Peachey, our Chief Engineer for Highway Programs; Don Maillet, Executive Director of Highway Engineering and Construction; and Tonya McLellan, Executive Director of Building Infrastructure.

At the Department of Public Works, one of our greatest responsibilities is building and maintaining public highways, roads, bridges, government buildings, courthouses, and museums. Advancing these important projects is a big job, and like many of our provincial department counterparts, we regularly depend on the province's procurement system to access the goods and services we need to pull these projects together.

Over the last few years our economy and economies around the world have experienced a major shift. We have seen significant inflation, labour shortages and supply train disruptions. There are only so many workers, there are only so much building materials and as our population grows, building hospitals, schools, homes and other projects becomes harder for everyone involved, both in the public and private sectors. These challenges push us to examine how we deliver our projects to ensure that we get them done and we get value for Nova Scotians.

In some cases that means change. Recently I sat before this committee and talked about how we can stage highway projects rather than doing them section by section. This phasing isn't just for highway projects, it's an approach we can adopt to increase market competitiveness by creating smaller packages that will allow a greater number of firms to submit proposals for our work.

When we still can't get what we need from the market we have the option to value engineer our proposals or postpone them and wait for better conditions. We have options and they all follow the rules set out in the Public Procurement Act. That's one of the great and most misunderstood aspects of procurement, the flexibility it gives departments to overcome challenging market conditions while still providing value and transparency for Nova Scotians. We know Nova Scotians rely on our work and we are committed to providing the infrastructure they need.

Thank you and I'll pass it over to my colleague, Deputy Minister Munro, for her brief opening remarks as well.

THE CHAIR: Deputy Minister Munro.

JOANNE MUNRO: Good morning and thank you for inviting us here today. With me I have Chief Procurement Officer Chris Mitchell, and behind us is Najah Ibrahim, our operations director for construction, goods, and services.

Our procurement services team works with partners in municipalities, universities, education, and the health sector to help them meet their goals. It can be everything from textbooks for students, scrubs for nurses, computers for offices, or more specialized and technical, like mechanical and engineering support for our complex health care infrastructure projects.

Our staff specialize in procuring many different commodities, so they understand the markets. They're able to offer advice on how to get the best value within the specified timeline. Along with the experts in the Department of Intergovernmental Affairs, they provide advice on both procurement as well as trade agreement compliance. Ultimately, it's our partners who know their needs best. We are there to support and advise them on what they can do, not tell them what to do.

Having a centralized procurement model has worked extremely well for Nova Scotians. Since 2015, this centralized approach has generated savings of more than \$554 million by the end of fiscal year 2022-23, and more to come. In the 2022-23 fiscal year alone, the Province saved more than \$75 million through this approach.

One thing I'd like to note is that our procurement staff aren't involved in all aspects of purchasing. For example, the Department of Public Works leads land purchases. They are also able to procure items needed for emergencies - for example, repairs to bridges or highways damaged due to floods. Purchasing is very different depending on what you're buying, and while the Province has economies of scale in some things like office supplies and heating fuel, we are no different from private sector customers in others.

Infrastructure is a challenging market right now for a number of reasons, including pent-up demand during the pandemic and our increasing population. There is high demand

for construction projects and the contractors that deliver the services necessary to complete those projects. That means that a project we might have been able to get several competitive bids on in an RFP process just a few short years ago might attract only a single bid, or perhaps no bids at all.

With that, I'd be happy to take your questions.

THE CHAIR: As is customary, we have 20 minutes per caucus. We will go to MLA Clark for the Liberal caucus first.

BRAEDON CLARK: Thank you, everybody, for being here this morning. I appreciate your time. Just a question that I believe will probably be for Deputy Minister Munro and Mr. Mitchell. This has come up in Budget Estimates and other Public Accounts Committee meetings as well.

I just wanted to clarify the decision-making points, I guess, when it comes to alternative procurement. If a department wants to move forward with an alternative procurement, they would run that by - for lack of a better phrase, perhaps - the procurement team there, and then the Department of Service Nova Scotia would make a determination as to whether or not they think that's appropriate.

At the end of the day, the decision of whether to proceed with an alternative procurement is within the individual departments, even if there might be a disagreement over whether or not that would be the right path forward. Do I have that correct?

JOANNE MUNRO: I'll start, and then maybe Chris can jump in. Alternative procurements definitely are legitimate, via the trade agreements for all provinces and territories. There are those 23 exemptions that we've talked about before. Where the process is, we have a guide that departments use in putting together what they feel is no benefit to go to market because of whatever circumstances they're dealing with.

They go through and they complete the process for alternative procurement, and they then submit it into the procurement team, where there is an assessment to look at the 23 exemptions and how they relate or don't relate to the trade agreement. Then they're either supported by the procurement team because they align to the trade exemption, or they're not supported. That's called unsupported.

Then that does come, because we know our colleagues and our partners have many, many pressures and things to balance in looking to deliver on their goals for Nova Scotians. We are there to support and advise, but at the end of the day we all have commitments and goals to deliver for Nova Scotians.

On that point, I would like to say that alternative procurement, even before COVID - numbers are around 180 alternative procurements for government departments, and about

I guess 80 for Nova Scotia Health, but those are the standard numbers that we have seen over the course of a number of years, excluding COVID. There is a process, and I'll ask Chris to talk to a bit more of the detail.

THE CHAIR: Mr. Mitchell.

CHRIS MITCHELL: That was pretty good. To boil it down, the answer is yes. We recommend based on our review of the trade agreement, and that's supported or unsupported, but ultimately the authority to approve going ahead with that lies with the department that put in the alternative procurement request.

BRAEDON CLARK: I know that the determination is made by the individual department. I appreciate that clarification. I just wanted to ask about the development or the alternative procurement around the YourHealthNS app, which was originally a \$12 million contract. It's been extended and added to since then, a five-year contract signed in March 2023. The question of whether or not it has value to the health care system in general I suspect is a question for the Nova Scotia Health Authority, but in that case, going to back to that original alternative procurement, what was the Department of Service Nova Scotia's view on that sole-source contract? Was that seen as a good idea or not? Did the department give an opinion on that particular alternative procurement?

JOANNE MUNRO: What I can say is that that was done under an alternative procurement agreement with Nova Scotia Health in place already with EY. I guess from my perspective we weren't involved in that particular one. That was done during COVID, so maybe I should defer to Mr. Mitchell to answer any further questions.

CHRIS MITCHELL: I think there's been a bit of conversation regarding how we got to the actual alternative procurement in that situation. Ultimately, we support it. The question about whether we should have been included earlier in the process is still up for discussion, but it was supported.

BRAEDON CLARK: That leads to another question, which the AG has talked about in some reports, which is mission creep, I could say, on alternative procurements, and the EY one is a good example of that. As you say, it did start during COVID but has grown substantially since that time. I don't know if I have the numbers exactly right, but somewhere in the range of \$18 million is in the back of my mind here. Is that standard practice? What is the department's view on that sort of thing, where you have one alternative procurement that starts as one fairly narrow project and then balloons or expands over time beyond what the original scope would be? Is that standard practice, or should departments come back to a baseline and start over, rather than adding pieces on that might not be related in any way, or very tangentially, to what the original concept was?

JOANNE MUNRO: This certainly came up through the OAG audit, so we appreciate the work that the Auditor General has done for us. This was one of the three for

the Department of Service Nova Scotia that we accepted, so on that note I'll defer to my colleague for further comment.

[9:15 a.m.]

CHRIS MITCHELL: The recommendation that the deputy minister is referencing is that the Auditor General suggested that whenever there's an extension to an alternative procurement, it should come back. We should create a process where that can come back to the procurement organization to re-review or re-evaluate whether the circumstance is still the correct circumstance, and whether in fact the alternative procurement still exists or whether it should go to market. We're in the process now - we have a deliverable of that a little bit later in the year - to have those come back now and be actually evaluated by the procurement team, to re-establish whether in fact it's still an alternative procurement, and if it is, if the circumstance originally selected is still a viable circumstance for that extension that you're asking about.

BRAEDON CLARK: A question around the level or dollar value, I guess I should say, of alternative procurements. As you say, Deputy Minister Munro, the absolute number maybe hasn't changed that much year over year, but the dollar value has in some cases. I wonder, does the Department have a perspective on where the Province should be in terms of alternative procurements? How do we know when we're going too far on this? Nobody disputes that they are necessary at times. I agree with that, of course. I'm just wondering, does the Department have a view on - are you comfortable with the level of alternative procurements that are being used right now, in terms of the dollar value, in particular, not just the number that are being given out?

JOANNE MUNRO: Certainly, we see alternative procurements go up and go down. I do have the numbers, on the numbers of procurements. Last year we did 820 contracts, and 129 of those were government departments - or of the 820, 129 of those were alternative procurements for government departments. For the Nova Scotia Health Authority there were 120; that was last year.

We do have some dollar value, and then I'll ask my colleague to elaborate if there is anything to elaborate on. Of the \$1 billion in RFSQs last year for the Province, about \$0.19 billion of that was awarded. Call it 12 per cent, 15 per cent of dollar value that was under alternative procurement.

CHRIS MITCHELL: Maybe if I could just add a little bit of colour commentary. Alternative procurements, as we've been through a couple of different - first in Estimates and also the last time here at Public Accounts, it's not in argument whether alternative procurements are valid ways to go ahead and do it. I think what's interesting here, and Deputy Minister Munro touched on it a little bit, is how many alternative procurements we do this year versus last year. While it's interesting to see the relativeness, and in fact the numbers from 2017 to today - with the exception of the COVID-19 year in the middle of

that - would indicate that in both the government and in the health sector, we've pretty much averaged the exact same volume of alternative procurements in each one of those years. It ranges 250 to 260 a year in both of those combined.

What's interesting though is the circumstances that the market - and Deputy Minister Hackett touched on this in the beginning - the circumstances in the market are different today. We have many, many smaller firms being bought up by larger firms, which is driving us to a limited amount of competition in many of the instances. The other part that is really interesting to note is that of the alternative procurements that we have, more and more of them are negotiated alternative procurements.

What that means is although the trade agreement allows us to not go to the market through a competitive process, and to go down to a single vendor, that doesn't eliminate the requirement and the ability to do a considerable amount of negotiations after the fact, of down-selecting to that single vendor. The numbers have remained the same. The validity of alternative procurements being an actual reason for limited competition has remained valid. The fact of the matter is, we're getting good value out of the contracts that are coming out of that alternative procurement.

BRAEDON CLARK: Mr. Mitchell touched on competition, or lack thereof in some cases, which is obviously a really, really important factor in terms of value for money and outcomes. I believe the next couple of questions would be for Mr. Benoit, related to the HI and QEII redevelopment which is certainly the largest capital project we've ever undertaken in Nova Scotia, from a dollar value and an impact value, I would argue as well. As we know, there is a non-competitive outcome now. We had one bidder at the end of the day for that project.

How do we assess value for money in that case, when we're dealing with a project of total cost that begins with a B for sure and a 5 per cent increase on budget when we're doing - a connector road might be one thing. No offense to my friends at the Department of Public Works, but when you're talking about 5 per cent on \$3 billion or \$4 billion, that's a big dollar figure. How do we assess value for money in that case, and if we don't feel that we are getting value for money necessarily, what recourse do we have when we only have one bidder and we're committed to the process?

THE CHAIR: Mr. Benoit.

DAVID BENOIT: I think I would be remiss if I didn't give a bit of a shout-out to the Healthcare Infrastructure division that's working extremely hard, not just on that project but across all the health care projects across the province. These are major intergenerational investments, and so that team works day in and day out - and when I say that I mean it literally; in order to make sure that they are delivering on the best value for Nova Scotians - but it isn't just them who allow for that best value to be obtained. I think what's important to recognize - and Mr. Mitchell touched on it as well - is that there's a

whole process to this. Part of the process includes value engineering, it includes the negotiations that we're talking about, and those elements, while sometimes they can take time in order to have a discussion with the proponent, they're critical in making sure that the outcome is where we would like it.

I would remind that while we do have one proponent, the whole process started out as a competitive bid. We started down that road, so it remains a considered competitive process. We did have one of our proponents that withdrew from the process, and that does happen from time to time across the country and in really complex, difficult projects. We are certainly - we feel very confident in not just our ability, but also the abilities of our consultants, which help us to make sure that we're getting that best value. They're providing independent assessment and evaluation of the different designs of what they expect to see, based on real-world market conditions.

Those market conditions have changed significantly, as has been mentioned many, many times prior to today, but they are using that information, and these consultants are they have access to information from across the country. It isn't just about Nova Scotia; they also look across the country, and in some cases where it's appropriate and makes sense, around the world, in order to help benchmark and make sure that we're getting the best value for Nova Scotians in every one of our projects.

THE CHAIR: MLA Clark has indicated he wants to ask further questions. MLA Clark.

BRAEDON CLARK: Mr. Benoit, I just wanted to ask you quickly about the budget as well. We've asked the Minister of Health and Wellness about this also, and I'm just curious: Does Build Nova Scotia have a budget figure somewhere on the total cost of the project? If so, when will that be finalized and made public for Nova Scotians?

DAVID BENOIT: As I was saying, it's about best value for Nova Scotians, so it isn't just about the budget. It's about what is going to get delivered, what timeline is it going to get delivered. As you look at a major project, you've got the three key elements: you've got budget, schedule, and scope, and it's managing those three in order to deliver the best value for the best cost over the best time.

The team is constantly in that discussion, and because of the nature of the facility being a hospital and the complexity of that being significant, we need to touch base with a whole bunch of stakeholders, including clinicians, in order to make sure that we're getting the right delivery. That process is ongoing and continues to move forward, and it remains in that open procurement and the collaborative process, certainly with our builder, and so we are working very hard to make sure we get the lowest price with the best scope in the shortest time possible.

BRAEDON CLARK: Is it fair to say at this point in time - today, at least - there is no final budget or timeline for the completion of the total project? I know it's phased and there are a whole bunch of moving parts, and you may have timelines or budgets for more immediate things, but I'm talking about the whole thing. Today, does there exist a timeline and a dollar figure at which we can say, "We'll be done on this quarter of whatever year, and it will cost approximately this much?" Do we have that at this point?

DAVID BENOIT: The short answer is that this is the process we're in. We're doing Wave 1, which is the most urgent needs of the health care system. We expect that to conclude toward the end of 2024, and that's when we'll be able to say, "This is the final design, this is the cost, and this is the schedule." That's the process we're working through right now in developing those three parameters.

BRAEDON CLARK: If I understand you correctly, Mr. Benoit, the goal is that by the end of this year, 2024, we will have those precise figures, or as precise as they can be. I know it's always a moving thing, but by the end of this year, we should have fairly detailed numbers on cost and timeline for the overall project. Is that right? By the end of this year?

DAVID BENOIT: Yes. Just to clarify - for Wave 1. Yes.

BRAEDON CLARK: How many waves are there?

DAVID BENOIT: We'll have to cast our minds back to December 15, 2022, when the announcement was made that we were pivoting on the HI and that we were making it into waves. Part of that effort was about planning Central Zone. That work has been ongoing, planning Central Zone. That isn't just the HI site. It includes all the capabilities that the Central Zone would need. The team is working, and has been working over the last year, to put together the broader plan of how these capabilities should be and where they should be situated, and what capabilities are actually required. The future stuff that will be at the HI site, and the things that will be also in Central Zone, are all part of that plan. That's being developed right now.

THE CHAIR: Time has ended for the Liberal caucus. We'll move now for the next 20 minutes of questions from the NDP caucus. MLA Lachance.

LISA LACHANCE: I wanted to follow on a bit about process. I appreciate having heard a bit about the walk-through in terms of proposals come from departments, you decide if they're supported or unsupported, and then ultimately, it's departments that make decisions. When a proposal is unsupported, what reasons would you provide to the department to explain why it's unsupported?

THE CHAIR: Deputy Minister Munro.

[9:30 a.m.]

JOANNE MUNRO: I'll defer to my colleague.

THE CHAIR: Mr. Mitchell.

CHRIS MITCHELL: It would depend on the circumstance. For example, if somebody were to suggest that there was no other competition, if we were to do some research and determine that there were one or two other firms that had a similar kind of product, then we would unsupport that request for that particular alternative procurement circumstance.

If they made an argument that said that they wanted to get - for continuity or compatibility, if you like - but we did a review with them and determined there was a certain number of items that they already had, and that there were other vendors who could sell something easily plug-and-play or compatible, then we might unsupport for that reason as well.

It really depends on the circumstance that they put forward. I think I could say that in all instances we would work with the department that put that in to determine if in fact there was a circumstance it could fit - not hunting for one, not go to market, but to determine whether there's a different way. A lot of times, people don't have as good an understanding of the Alternative Procurements circumstance guide as we would like them to have.

Oftentimes there's a back and forth to determine - ultimately, if they can't demonstrate the reasons that are laid out in the trade agreement for why they're unable to go to market competitively, that's when we would return an unsupported or not supported.

LISA LACHANCE: When you respond to a department with an unsupported analysis of an alternative procurement arrangement, what are the potential impacts of that? Is there a complaint process that other organizations could engage in? What happens next after you've said, "We don't support this, but here you go, department," and the department goes ahead?

JOANNE MUNRO: What would then happen is, if it's unsupported, it would be driven by a vendor complaint to go through either legal or trade challenges. That's their prerogative.

The team does have a complaint process, and I'll let Mr. Mitchell elaborate on that. There is a process, and we would look to see how many times we have been challenged with an unsupported. Since we became a shared service back in 2015, to date we have not had a trade or a legal challenge on an unsupported file that went to market.

CHRIS MITCHELL: Allow me to rephrase that because I think it's important. As soon as the alternative procurement is unsupported, it's returned to the department that submitted it. They have a few options they can then take. As was determined early in the comments here, the deputy ministers of those departments take in everything from legal opinions to financial and political opinions. This is but one of the pieces of information. Unsupported doesn't necessarily mean they will not go ahead with opening a contract with the firm they had identified in the alternative procurement.

The complaints piece - Deputy Minister Munro is correct. There is a complaints process that we have, and it's laid out in our Sustainable Procurement Policy. An unsupported alternative procurement does not necessarily drive a complaint. What a complaint would come from is if a vendor, as an example, did provide a submission to an RFX or an RFP and was unhappy with the way the thing went, they could lodge a complaint.

An alternative procurement process does not necessarily lead to a complaint. The numbers that Deputy Minister Munro indicated - that we have not been legally or trade argued successfully on a complaint since 2015 - are true. I would say that is a result of our being incredibly careful with when we go to market, how we go to market, or if we don't go to market because of our review as to whether an alternative procurement circumstance is valid.

The fact that we haven't been litigated against is not a perfect one for one, but it's a good indicator that we've been doing a good job in making sure we take to market those things that we should. When we do take them to market, we do them in accordance with the way we have designed the RFP.

LISA LACHANCE: I appreciate that perspective. When I hear that no complaints have been brought forward since 2015 - almost a decade at this point - I wonder if the process is fair and accessible. Have you evaluated this? How does it compare with other jurisdictions? While I think we all want government procurement to be fair and transparent and thus have the process done right, it would seem unusual that there hasn't been a complaint.

JOANNE MUNRO: We must go back to what our job is. Our job is to help our department colleagues and our partners to deliver on their goals for Nova Scotians. I would change our language from "complaint" to "challenge" with an alternative procurement that has been unsupported. As we've talked about, departments need to take in a lot to assess their next steps when there is an unsupported ALTP.

I will defer to my colleague on the fairness but it is open to all proponents in any particular space and the fact that when we go forward and it's gone to market unsupported, there's obviously a real rationale and there's either been no uptake or availability in the

market and we just know in the last couple of years that it has been a very challenging market. To elaborate on that, maybe I'd ask my colleague.

CHRIS MITCHELL: To be a bit clearer, when I say there haven't been any challenges, there have been no legal court challenges, there have been no trade challenges. There have been complaints. In fact, in any given year between 2015 and now, we would receive between two to five vendor complaints, and that's complaints to either procurements which the Province has taken to the market or they could represent complaints to municipalities taking things to the market or other institutions for which those vendors can provide a complaint to the chief procurement officer. We set up a board to do that review.

To the MLA's point, it would seem odd if we hadn't heard any in the last 10 years. We do see them. They go from a low of probably a couple a year to maybe as high as three or four. They are all done, reviewed. A response goes back to the complainant as to what the results of that review uncovered.

It's not a litigative process so it doesn't deal with matters of significant disagreements in fact or significant legal challenge. What it does is it is designed to take a look at the process, determine if there are some things we can improve the next time the process goes around. A letter goes back to the complainant who always retains the ability to take a legal challenge if they like. That's the part which we are indicating there has been no legal challenge to date that has gone to court.

LISA LACHANCE: In earlier response to some of the Liberal questions, you noted that there had been 129 alternative procurement agreements in the past year by government departments and 120 by the Nova Scotia Health Authority. I'm wondering: of those, what percentage of those were unsupported?

JOANNE MUNRO: All those alternative procurements were supported.

LISA LACHANCE: Just to clarify, in the past year there were no unsupported alternative procurements - or decisions delivered.

JOANNE MUNRO: I don't think we track the unsupported alternative procurements because once they are unsupported, they go back to the department and then there, departments actually decide not to go forward with it. I know my colleague has said that many a time. The decision then lands with the department and the circle back is not there. They can decide not to go forward. I know that happens a lot - I don't have those numbers - or they'll decide to move forward because of other factors.

LISA LACHANCE: Maybe I'll just try and get to this question in another way. Of the alternative procurement applications that you review from departments, what percentage would you say you return with a determination of unsupported? JOANNE MUNRO: I'll ask my colleague to respond.

CHRIS MITCHELL: It's an interesting question because it's one of the points which we've been having conversations with the Auditor General about. They were very interested in finding out how many unsupported there are. As you can imagine, when they come in and they are unsupported, the activity at that point for my team stops for a moment in time. We return them to the department and then if the department decides to go ahead and it's below the dollar values which we would take to market, the next time we could possibly know about that is when a purchase order has been cut and we have to create some form of validation in the background. In an unsupported, we don't currently track them. One of the things we're working on with the Auditor General is, is there value in that? That's an open question we're working on now.

LISA LACHANCE: Just to clarify, I understand the process that once it goes back to the department it's up to the department to what they do with the information. Surely out of your office you know how many supported or unsupported letters you've sent to departments. No? Do you have a percentage in your mind of how many are unsupported?

CHRIS MITCHELL: At this time we do not track unsupported alternative procurements, so I can't tell you if the 129 times that government created a contract as a result of an alternative procurement, how many had come in, gone through a process of review, and been returned as unsupported. We do not currently track that information.

LISA LACHANCE: I do think this would be an important part of understanding how the process is working, to understand for your department and division how many things are coming forward to you that in fact are unsupported. I think it could inform further clarifications to policy; it could inform things like training. You referenced people's familiarity with the guide, and it would probably lessen the workload of your division if people were understanding the guide better, and thus not resulting in having unsupported decisions. I think that would be really important information.

You mentioned negotiated alternative procurements, and I'm wondering if that is a formal part of the policy and if you know - again, of these numbers from last year, 129 government, 120 Nova Scotia Health Authority - how many of those in the end became negotiated as alternative procurements.

THE CHAIR: Deputy Minister Munro.

JOANNE MUNRO: My colleague, Mr. Mitchell, will answer.

THE CHAIR: Mr. Mitchell.

CHRIS MITCHELL: First, for the question just prior to this, unsupported Al-Ps, the other thing to understand is that often when they go back unsupported - and you heard

Deputy Minister Hackett mention this - they turn into RFPs. A department might ask a question about, Is this an alternative procurement circumstance that's valid? If it goes back as unsupported, no, it's not. Oftentimes, they reassess the time requirements and we take them to the market as an RFP.

Sorry, I got stuck on the question before. Your most recent question?

LISA LACHANCE: What I was interested in was: How many are negotiated alternative procurements?

CHRIS MITCHELL: The answer is that the terminology negotiated are alternative procurement is one that we use as far as in an alternate procurement - as I mentioned, the only difference between an alternative procurement and an RFP is that there's no go-to-market to down-select to whoever the highest bidder was. In an RFP, you've skipped that step and as a result of a bona fide circumstance, you've gone to that particular vendor, but there's a great deal of contract negotiation that still exists in that. That's done very often in coordination between a department and my team because we are there to help them through negotiations in the RFP process, so it just makes perfect sense that we would still be there to help them in the contract negotiation part that comes out as a result of an alternate procurement award as well.

LISA LACHANCE: I'd like to shift and look specifically at one of the exemptions that the Auditor General had highlighted. The health and social services exemption is used - and the Auditor General of course warned it could lead to being used inappropriately to avoid procurements' need to undergo a competitive process. I'm wondering if you can tell us a bit, if you have the numbers, how many times has this specific exemption been used last year or in years prior? Your department accepted the recommendation to define a policy and process for this exemption and set a target of just one month from now. Can you let us know the progress on that revision?

THE CHAIR: Deputy Minister Munro.

JOANNE MUNRO: To respond to how many times we've used it, we've used it very few times. As we've talked about in a previous visit to PAC, the health and social services exemption is language in the CFTA right across the country, and then each province works within their process and policy to set out the parameters like an alternative procurement. That work is under way, and yes, we have obviously accepted that OAG recommendation. We need to work very closely with IGA - Intergovernmental Affairs - on that because of the trade requirements.

We do want to be helpful to departments when they look at that exemption because they still will be coming in. There still will be discussion and dialogue as to whether there is alignment to that or not. Work continues, and I'll ask my colleague to talk about where we are in those discussions. [9:45 a.m.]

THE CHAIR: MLA Lachance has indicated they wish to ask another question.

LISA LACHANCE: Perhaps Mr. Mitchell will answer this. I wanted to understand if you'll meet your target of one month from now, in terms of the development of this policy.

JOANNE MUNRO: Yes, we will.

LISA LACHANCE: As well, in response to the Hogan Court report, your department said it would add a conflict-of-interest declaration to the alternative procurement form for the approver by April 1st. Has this happened?

JOANNE MUNRO: Yes, the form has been amended. We're now just in implementation mode to get it up on the system, et cetera. I do believe that's accurate.

THE CHAIR: They're nodding in the room. MLA Lachance.

LISA LACHANCE: I'll try to ask a question that can possibly be answered within a minute and a half. In the Auditor General's 2023 Financial Report, there were six ongoing control weaknesses identified in the department, one related to the vendor management policy. Has the vendor management policy been updated?

JOANNE MUNRO: I'll ask my colleague, Mr. Mitchell, to respond.

CHRIS MITCHELL: It's still under way. The answer is we've been working with our federal colleagues and our HRM colleagues to ensure that the vendor community gets a same look and feel to vendor management that - whether they're in a contract management situation with the province, the federal government, or the municipal area. We have the bones of that created. We have the structure that we're looking at created, but it has not been implemented yet.

LISA LACHANCE: I think the commitment for that was Spring 2024. Will that still happen in the Spring?

CHRIS MITCHELL: It is likely we will be in a next draft, but whether we are going to be actually implemented and out doing vendor management with the vendor community, probably not. We will be also working with them to try and ensure that they're aware of what's coming from that vendor management system from the Province of Nova Scotia.

THE CHAIR: The time has ended for the NDP caucus. We will now go into 20 minutes with the PC caucus. MLA Young.

NOLAN YOUNG: I'm wondering if you can tell me: How does the market for construction projects differ from what it was like five years ago?

PETER HACKETT: I'll start, and I can give it over to my colleagues who are more specific in those areas, in their construction areas. If you go back five years, before COVID, the market was always pretty much the same. It didn't really go up a lot. We didn't have a lot of demand. Our budgets were much smaller than they are today. We were able to get projects out and deliver those projects.

We had a fair number of vendors who would bid on those projects, so competition was good, the value was good, and the predictability was good. We knew that interest rates were staying pretty normal, inflation was staying pretty normal. What we would estimate as a bid for a price, we were pretty close to what our bids were.

This had really been like that for a long time. I've been with the department for over 25 years, and it was sort of like that a lot. Sometimes it even went down the other way and we didn't have a lot of bidders because we just didn't have a lot of work. Now it's changed. Since COVID, the market around the world has changed. The demand for things like housing, schools, hospitals, and public infrastructure like roads and transportation has just increased, obviously here in Nova Scotia, but all through Canada, North America, and other parts of the world. It is a big change. It is a big challenge. Then on top of that, because of marketing conditions, we've also had population growth, which is going on everywhere.

The demand for public infrastructure has gone up significantly in five years, and it's gone up significantly in 10 years. We haven't seen this any time before this. It is quite a challenge for us. Trying to find people to do the work for us internally and to find the contractors and the bidders has been challenging. Trying to keep those numbers and costs down has been challenging, as well. I don't know, Mr. Jessome, if you want to add some comments to that.

GERARD JESSOME: I think Deputy Minister Hackett summed it up well. The pandemic has thrown us a knuckleball, so we've been adjusting to that market.

We all heard about the supply issues early in the pandemic. Steel, I can remember, was a difficult one, as the escalation of steel prices increased significantly over a short period. That had settled out, but other materials used in building construction escalated in price throughout subsequent years.

It's been challenging to get a handle on that. We employ cost consultants who keep an eye on the market and gauge what's happening across the country to help us provide better estimates and better budgets for projects. That has been a challenge, but we're working towards that challenge and working with a team to get us there and to continually work that, going forward.

As Deputy Minister Hacket suggests, the labour market is challenging as well. Government has done a lot of initiatives to get more people encouraged in skilled trades. We're working towards that, and we'll get there. It's a good problem to have. We're working on it.

NOLAN YOUNG: As a tradesperson, I lived out west for many years. I've seen all kinds of market conditions and the costs varying from several million dollars to several billion dollars. I hear it's looking almost like it was in Alberta with the demand here. I'm wondering if you can tell me how grouping similar projects together helps government get better value.

PETER HACKETT: There are several things for that, depending on the project. Large projects are difficult to group together, such as a school. You have one school in one area. They are probably one-offs.

We group together a lot of our highway projects for a number of reasons. They can get you better pricing, and you don't have to pay the mobilization costs twice. There are a lot of fixed costs that would come with one project that can be distributed over another project.

The volume of amount of materials you would have in a project such as crushing gravel, making asphalt, or even in concrete - that volume will drop prices down as well. If you can group projects together, it allows vendors to - say it's two or three projects, the cost of the overall is still going to be higher than one project, but it would be lower than the three together. The issue is that the more you can group some of these things together, the more you're going to get in volume, and the more you're going to cut back on some of those fixed costs. Then you'll get some competitive bids as well.

If contractors must move around the province two or three times to the same location, that's going to cost you money, whether it's in mobilization costs, transportation costs, housing costs, or food costs - those sorts of things. If you can get a contractor planted on site and doing a number of projects, it'll drop the price down.

NOLAN YOUNG: I think Mr. Benoit might have had something to add but I'll throw a question out first: Are all types of construction projects equally challenging right now?

PETER HACKETT: I'm going to start off with Mr. Jessome, and then I'd ask Mr. Maillet. Mr. Jessome does vertical building infrastructure, and Mr. Maillet does highway infrastructure. Mr. Benoit may add to that as well.

GERARD JESSOME: On the building infrastructure side, we're having challenges on all our projects. We're working to overcome those challenges as we go forward. It's a different world to build a building.

We see developers - the city here in Halifax and across the province - we see a lot of development, which is great to see. We have to work within that development to find solutions to overcome these challenges. On the building side we're definitely seeing many challenges, but we're working to overcome these challenges. Definitely on the building side we're seeing many challenges, but we're working to overcome those challenges.

THE CHAIR: Mr. Benoit.

DAVID BENOIT: If I could just step back two questions, the only thing I'd add to Mr. Jessome's and Deputy Hackett's comment about the environment is that there is this level of work right across the country, so everybody is making these large, strategic infrastructure investments - it isn't just across this country, it's across North America and around the world. That adds an extra complexity to that environment.

On the bundling question, you know, it is about competitive value, so whether we bundle small or bundle big, it's all about trying to drive the best value and the best value for Nova Scotians, from those three parameters: time, project scope, and cost.

The last thing I would say on the last question is that in the health care realm, it was already complex and complicated before COVID. It's become even more so now that you've got layering demands. As the builder, this is really about the Department of Health and Wellness and NSHA, but the needs that are required in these facilities are now quite different in a way than they were before because of the impact that COVID had and the understanding now of the possible ways that - sorry, everyone always understood how viruses spread - the things that we're thinking of putting in place now are as a result of lessons learned out of COVID.

The other thing is that we also understand that as we build this vertical infrastructure, it isn't just for today, it's for the next 50 years, so how do we make sure it's still relevant and providing the service that it needs to do in 50 years time?

THE CHAIR: Mr. Maillet.

DON MAILLET: To reiterate Deputy Hackett's comment about labour, post-COVID we've seen a sharp decline in labour forces, skilled trades, so the contractors and even ourselves struggle with having the proper number of individuals to do the work.

With regards to executing projects, of course we always have our challenges around timelines associated with regulatory approvals, and of course utilities and stuff specific to challenges. We do manage that risk, and we execute the projects to the best of our abilities.

NOLAN YOUNG: Do you have anything other to add on why we are seeing delays on projects like highways and the transitional care project?

PETER HACKETT: For highways, I'll ask Mr. Maillet to answer that, and transitional care would be Mr. Benoit.

THE CHAIR: Mr. Maillet.

DON MAILLET: Delays, yes. Of course, timing of tender calls can cause delays, depending on what time of the year you call a bridge, for example, in the sequence of construction. Your typical road construction, of course, we do have to abide by the regulatory approval process and the utility relocation process.

Every now and then, you do have a little bit more extended time to get some of that done, and of course you do have to deal with a contractor. Sometimes they do have other projects to finish in a certain amount of time as well, so you have to work with them, and sometimes they get behind because of weather. Last Summer, of course, we saw a lot of our forces leave our construction sites to go to help with the storm that occurred in July. We see a couple of things like that specifically to those issues.

NOLAN YOUNG: Would an RFP solve that by having a defined completion date? Would it mean that projects would be done more quickly?

PETER HACKETT: Yes, I can probably answer that. Many of our projects do have defined completion dates. They do have what we would call "liquidated damages" in those projects.

It's difficult in current times, as you mentioned earlier. About five years ago, those did have impacts, because there was enough time for contractors to do that work. There wasn't that much work in the industry out there, so they did work. Liquidated damages work, select dates to be completed work, but we still do that.

The problem now is that a lot of contractors have to bid in. They'll try to bid in the damages and the projects may not get done on the day you want them to get done. We're trying to figure out a way to overcome that. There are ways you can do it. You can do different types of projects. You mentioned bundling and trying to stretch projects and completion dates out a little further and some of the demands on those. There are also some ways you can do it with putting in bonuses. We try to get jobs done earlier, try to give incentives to get the projects done earlier.

We're working through some of those now because we haven't really seen a lot of this before where the projects aren't getting done on our completion dates because there's just so much work. We're trying to find some other solutions to try to get the contractors either held accountable to those dates or try to figure out a better way to get them delivered on time or try to speed them up a little bit further.

THE CHAIR: MLA Barkhouse.

[10:00 a.m.]

DANIELLE BARKHOUSE: I hear this a lot from taxpayers, whether my constituent or not. They ask me, what is preventing government from just hiring their own staff and doing the job themselves? This could go to any of the departments.

PETER HACKETT: I'll start off and then my colleagues can add to where their specific areas are. In our highway section, we do have in-house staff who do the highway work - it's critical work to be done. We fill potholes and fix signs and fix bridges throughout the Summer. We have a lot of snowfall and snow and ice control. A lot of our folks do that in house, and we do use private contractors to help us throughout the year as well.

On the construction side and building, these are a lot of projects. We would need a lot of people, and we would need a lot of skilled labour. Our projects are very defined, particularly in the health care and education sector - and the justice area. Most in industry take a while to do. They're complex. They take time. To have people internally to do that, you'd need a lot of people. Right now, I think the market is very competitive. I know it's hard to find skilled labour out there. A lot of the contractors are professional. They know the work. They know the work better than us. I think if you went to trying to build up internally, it would cost a lot of money and I don't know if it would be that efficient.

I'll also ask my colleagues to join in a little bit on that and see what their thoughts were.

GERARD JESSOME: Deputy Minister Hackett summed it up very well. I think it's just the amount of work that we do. On the Department of Public Works side, we manage the projects from an owner perspective for the government to make sure they keep within budget and on schedule. We work with builders who are experts in the field who have a lot of experience to accomplish that work. We're very happy with that model. I think we work well with industry and industry works well with us. I think they're the experts. We left the building to them, and we manage it with them.

THE CHAIR: Did Mr. Maillet wish to weigh in if he has something different to say?

DON MAILLET: I guess I could, sure. Our maintenance forces, specifically on the highway side, are quite busy in the Summertime to try to fix the potholes, do the brushcutting, do the shoulder repairs, do the sign repairs, and all that stuff we need to maintain our roads. Some of the bigger capital projects are very labour intensive, very equipment intensive - specialized equipment, asphalt plants, asphalt spreaders, rollers. We don't have that equipment internally. We can't even compete with the efficiencies that the private industry has on that specific work.

DANIELLE BARKHOUSE: That actually goes along with the same line that I tell people. They say alternative procurement is a competitive process, but I would like to know a little bit more about how it can be competitive without an RFP.

JOANNE MUNRO: I will have my colleague jump in as well to give a perspective. We talked about the alternative procurement process being a legitimate procurement tool that needs to be used on occasion. We know that it helps on so many - especially in this market, too, when we're actually putting RFPs on the street and not getting any responses or one response. When you get into an alternate procurement, I think the word "negotiated" is actually what happens. We actually sit down with the proponent at the time - who's been singled out, who wants to contribute. The negotiations start and that's the process, to drive value with an alternative procurement and with the particular proponent. It's the phraseology, really, but I'll ask my colleague Mr. Mitchell to elaborate.

THE CHAIR: Mr. Mitchell.

CHRIS MITCHELL: I think as we've all demonstrated, we do five or six times as many RFPs compared to the alternative procurement numbers. It's always in the best interests of the departments, as well as the Department of Health and Wellness. They've always got the idea that going to market is the way to guarantee, if you like, the best possible competitive advantage.

Alternative procurement circumstances define when going to the market isn't the best way. When you're looking to buy a sixth thing that you already have five of, and you want to buy it from the same person who sold you the first five, going to the market to find somebody else to sell you the sixth one, or to get a different sixth one, doesn't make any sense at all. Those are the kinds of circumstances that drive us to the alternative procurement decision.

The forfeiting, if you like, of going to market in an RFP was made as a result of there being no competition, or it doesn't make sense to go and find that competition. As Deputy Minister Munro has laid out, once that decision is made, the majority of the benefit is then in the negotiation with the company you've selected as a result of that alternative procurement circumstance.

THE CHAIR: MLA Barkhouse, with less than two minutes.

DANIELLE BARKHOUSE: I want to ask a little bit about value engineering and when that has been successful when bids for tenders have come in way over budget.

THE CHAIR: Deputy Hackett.

PETER HACKETT: I'm going to ask my colleague, Gerard Jessome, to answer that question.

THE CHAIR: Mr. Jessome.

GERARD JESSOME: Thank you very much for that question. It's a topic that's near and dear to my heart because it's a process where all people involved in that project sit down around a table to work out some technical aspects. The contractor or design consultant, our client department, and our team that's working on that project work around the table to work on technical aspects of that project, where we can lower costs and get a little more in line with our budgets. It's a really good collaborative process.

An example of that is a school we're building here in Halifax, St. Joseph's-Alexander McKay. We went through that, and it was a little bit over a Class A budget and a little bit over our budget, so we worked with the contractor, who was very cooperative, we worked with our client departments and our architect to look at the technical systems in that school and to see if there was any way that we could save some money and get more in line with our budget.

One of those, as an example, was the exterior wall system. We used an exterior wall system that we had used on many schools or buildings in the past. Very comfortable with that exterior wall system, inspects great.

THE CHAIR: Isn't it such in life that when the heart of the matter you get excited about, your time runs out. We are now going to go to the second line of questioning, beginning with the Liberal caucus. Each caucus will have 11 minutes. MLA Clark.

BRAEDON CLARK: Just a question, probably for the Department of Public Works folks, around the additional exit that was added to the Highway 104 project near Broadway, Pictou County, between Exits 27 and 29. It was a \$9 million project. I think it was announced in August or October, I was just looking. Why was an alternative procurement used for that - or will be used, obviously it hasn't been completed yet - will be used for that project?

THE CHAIR: Mr. Maillet.

DON MAILLET: Broadway is affiliated with the P3 project. We have a fairly thorough project agreement with DNA. A lot of that's got to do with maintenance of the project as well. There are a lot of intricacies as to what binds us through that process with the project call. We felt at the time that it was better to negotiate that work with the project call and to proceed with that work through that group.

BRAEDON CLARK: Mr. Maillet, perhaps you could answer this, as well. If that exit wasn't originally in the project design, I am wondering what changed to have that added as of last year?

DON MAILLET: On a conceptual basis, like when the project was initially discussed from a planning perspective, there was always talk about possibly having two interchanges constructed. At the onset of the project when we went through procurement, we decided not to. As the project grew and as time went on, we felt the need that this would be the right thing to do at the time, given the resources were there and given the substantial completion was almost done on the original project. It was a good time to have an add-on to the project to have it completed.

BRAEDON CLARK: We had a chance - I think it was last year - to drive up. We were in Antigonish for an out-of-town caucus, and it was great to drive that new highway. That is something I had some exposure to from the beginning and then in different - after I left government, as well, and now back to see it. It's a great project that legitimately saves people's lives. Congratulations on that. It is a beautiful brand-new highway. It was great to see.

Mr. Benoit, I want to ask about a couple tenders that were cancelled on the waterfront, not far from where we are now. One is related to the former NovaScotian Crystal building, and one is related to a former Tourism Nova Scotia building. There were tenders posted for those in 2022 for a competitive open bid. We received information through a FOIPOP request that there were talks with bidders on both of those properties. Both of those bids were cancelled at some point, and I am not sure why. I am wondering if you could give me some information as to why those two bids on those buildings were cancelled after there had been at least some initial discussions with bidders on them.

THE CHAIR: Mr. Benoit.

DAVID BENOIT: There are times when bids end up getting cancelled. Apart from these two particular ones, sometimes the government intends to do something, goes in with good faith in order to track the bidders, proponents go through the discussion, but in the end we end up having to cancel them. There could be lots of different reasons for that. Maybe I will focus now on the two specific ones that you had talked about. It really is unfortunate that it was the same proponent in both cases. That was coincidence.

The first one, the NovaScotian Crystal building, was while the Crown review was under review, so I wasn't in the chair, and I don't have access to all the reasons, data, or information they would have had in order to make their decision, so I can't really speak on that one. What I did know at the time was there was a lot of uncertainty with the Crown review, how it would unfold, and what would be the result.

The second one, the Visitor Information Centre, was just after Build Nova Scotia had been established and just after I came in as the CEO. We had just gotten word that the Visitor Information Centre was moving out. The team looked for the opportunity: "Is there something we could do with this building?" So we launched the business development opportunity. Unfortunately, we were unable to conclude it and one of the things we are

doing now is looking at the strategic assets of not just the land, but also the properties on the waterfront.

[10:15 a.m.]

The waterfront, I think everyone could agree, is one of the most visited destinations in Nova Scotia. I get comments all the time about how beautiful and how amazing it is. That didn't happen by accident. That happened because a strategic plan was developed. Now it is time to update that strategic plan. Putting more things on the waterfront without having that plan in place puts us into risk, not just with the waterfront but with the people who we would engage - our proponents. I would not want to be in a place where suddenly we're saying, "Well, okay, you know what? The greater good is required to use this thing for something else, and now you have to move out," or something like that. That would be tragic to do.

We're in the process of looking at that waterfront and updating that plan from - that helped us to achieve where we are, to make sure that we can continue to evolve.

THE CHAIR: MLA Clark would like to ask another question.

BRAEDON CLARK: Mr. Benoit, do I take from your answer that those two sites in particular - is it Build Nova Scotia's intention to re-tender for those at some point? Or is it kind of unclear what's going to happen to those two sites, as of today?

DAVID BENOIT: It's all part of that. What does the waterfront look like? How do we develop the waterfront and continue to move it forward? It will be part of that plan. When we have that finalized, we'll be able to do know what we're going to do with those two specific sites, along with all the rest of the assets and all the property that's down there.

BRAEDON CLARK: When are you hoping to have that waterfront plan complete?

DAVID BENOIT: It is a thing that we're kicking off now. The need for it was identified - I probably should have identified it earlier, to be perfectly frank with you, but it's identified now. The team is working on it.

As far as an actual date goes, we're progressing it over 2024. We're working as quickly as we can. It isn't the only thing we're doing, of course. We've got all sorts of other projects that we're trying to deliver on. The team is working as fast as they can on each of these efforts.

BRAEDON CLARK: Perhaps Deputy Minister Munro or Mr. Mitchell might be able to answer this one best. Obviously, cancelled contracts are not ideal for anybody. Bidders spend money, time, and effort to make submissions, and department staff time is

used as well. Do we know what proportion of projects actually end up getting cancelled? Do we have that data at all, whether it's a year basis, or even a ballpark, roughly?

THE CHAIR: Deputy Minister Munro.

JOANNE MUNRO: We don't track that data at this point in time. No, we don't.

BRAEDON CLARK: Just to touch on an earlier question from MLA Lachance, which was a good one. I wonder, does the department feel that it might be useful going forward to start tracking the statistics on approved versus not-approved ATIPs? I think that would be, I assume, not difficult to do. I think it would be helpful for us to at least get a sense of whether it's a one-in-twenty thing or a one-in-two thing, and the differences in between. Is that something you think could be done?

JOANNE MUNRO: I like that, ATIPs. (Interruption) That's actually easier to say.

We're going to take that away. I can see the value in that, and I think there have been some conversations that we've had internally about it. Certainly open to that, yes.

THE CHAIR: MLA Clark, you have less than 30 seconds.

BRAEDON CLARK: Less than 30 seconds - shot clock.

Thank you, everybody, for being here and for answering the questions. I really appreciate it. Procurement doesn't always get the shine that it deserves, I think, but it's a really important topic with real implications for government and for Nova Scotians. Thank you all for your time today.

THE CHAIR: We move on to the NDP caucus. MLA Lachance.

LISA LACHANCE: Thank you to MLA Clark for setting up my first question really well, which is about public procurement being different than private sector procurement for a number of reasons. One of them is the desire to achieve value for money, to make sure that things being built are safe and meet other objectives, like accessibility, but also things like economic development and supporting the development of folks who can bid on different types of contracts - that sort of thing. I think there's a range of public policy objectives for public procurement.

Listening to the description of the changing market - which is very real here, it's very real across the country - I'm wondering if there has been consideration in the procurement policy, or probably in the Department of Service Nova Scotia, around what other tools government could use to enhance the public procurement process, maybe increase the number of folks who can bid on things, other types of structures like standing offer arrangements.

I'm just wondering more broadly: How are we taking what's happening in the market and considering how to meet the objectives for the money that we spend on behalf of Nova Scotians?

THE CHAIR: Deputy Minister Munro.

JOANNE MUNRO: I know my colleague is biting at the bit on this one, but what I want to make clear for the members of the table is that of our public procurement - which I talked about; 820 contracts last year, but well before that in savings of \$544 million since 2015 - in our tracking, 74 or 75 per cent of that goes to Nova Scotian firms. We are tracking to do more and more with Nova Scotian firms, even below the threshold limits of the free trade agreement. We are very focused on it as a driver for economic development in the province.

We do work very closely with our colleagues to support and advise accordingly, but we do see opportunity to do more and more with Nova Scotian diverse suppliers and those who might be underrepresented or find public procurement challenging or scary. I think there's something that we can do, but I'm going to let my colleague respond.

THE CHAIR: Mr. Mitchell.

CHRIS MITCHELL: Thanks very much for the question because it's exciting. Procurement is doing all the things you just mentioned. We're continually reaching out to the diverse small vendors. We've done numerous community outreach in there and found out that the majority of those firms are in the five people or less, do less than \$500,000 annually in their sales, so they're really good opportunities for us to create policy, to push business from government into those diverse communities, for certain.

It's also on the vendors who sell to us. The social and economic benefits of either getting bids from additional people who might not otherwise, as the deputy minister mentioned. We do a considerable amount of community outreach to ensure - we run reverse trade shows in order to demystify or create a sense of confidence for small vendors in Nova Scotia that we really are a good place to come and do business with. We're fair. We pay our bills. We do all the things that doing business with public versus private companies is a good idea.

All of those are rolled up into what we put into our sustainable procurement policies in order to try to create the conditions that allow government to be aware of those kinds of vendors who would like to sell to government, to do the outreach, to get those vendors interested in coming to government, and in all of those cases, creating the circumstances that allow us to create some advantage for them where we can. It's great, and it's work that's ongoing and has been for quite awhile.

LISA LACHANCE: Deputy Minister Munro, you mentioned 75 per cent going to Nova Scotia firms. I'm just wondering if that's a percentage of contracts or the dollar value going to Nova Scotia firms, and I'm wondering if you could talk a bit more about your diverse supplier engagement. Do you have some numbers at this point in terms of Indigenous vendors, African Nova Scotian vendors? How do you track that information?

THE CHAIR: Deputy Minister Munro.

JOANNE MUNRO: I've got answers to your first two. The 74 per cent is dollar value, and of the RFPs awarded, 91 per cent go to Nova Scotia firms. On the other question, I'll defer to my colleague.

CHRIS MITCHELL: The answer specific to the Indigenous and the African Nova Scotian is really unique. It's really fascinating because we have done I think three surveys - I could be wrong, it could be two or it could be four but I believe it's three - and we've gotten great feedback from them, everything from asking questions like, How do we confirm an African Nova Scotian business versus one which, sadly, might claim to be in order to get the benefit but isn't really?

We're working with them on everything from creating a registry with government, which would allow them to self-regulate who designates - as in that case - an African Nova Scotian or an Indigenous firm, and then getting feedback from them about the types of products, goods, and services that they create currently and would feel as though there's a market to sell them to government.

I don't have the specifics of how many businesses. I know we've done some work in the past that has actually collected some of that. We did receive a bit of hesitancy from those businesses of wanting to be on a database. The federal level example would be to allow them to create and maintain that database themselves and so have autonomy and ownership of that. We would just have the departments made aware of what that registry is about, who they could actually touch from a vendor community perspective and then we'll need to look at shaping some policy which drives the procurement requirements to those areas, based on some discussions about their ability to fill the desire from government for what kind of results you would like to obtain from that sort of focusing of the procurement effort.

I think right now there's a considerable amount of interest in ensuring that everything we've done - Deputy Minister Munro mentioned dollars spent in the past fiscal year, 74 per cent to what we define as a Nova Scotia local business, but 91 per cent of the contracts awarded by quantity in the last fiscal year went to Nova Scotia firms.

I think it was in this question, but it may have been in the one before, that puts us on a very good point comparative to our provincial counterparts on both sides of us - the

federal part as well - so we're doing really well. The fact is that Nova Scotia vendors have a great product and we're getting it out to them.

LISA LACHANCE: I have some questions for the Department of Public Works and specifically regarding the Auditor General's report on Hogan Court. In that, the Auditor General recommended that your department sign contracts with private sector partners prior to work commencing. I believe the department has accepted that recommendation but the target to do this is not set until 2025. I'm wondering if you can talk about why that can't be done quicker.

PETER HACKETT: We do have a process in place to move forward to get that done by 2025, as it said in there. I am going to put it over to Gerard Jessome as he worked on that particular part of the Auditor General's report.

GERARD JESSOME: Yes, this process is ongoing. Improvements are being made all the time regarding a quicker finalization of contract documents. In a building construction project, the current finalization of plans is signatures on all red seal documents, which is all the design drawings, all the specifications. It's quite a lot of documents to sign for one particular project.

We refined that. Now it's all digital so the turnover for those signatures is much quicker than it had been in the past. We're continuing to improve to ensure that we meet the objectives of the Auditor General.

THE CHAIR: MLA Lachance with a minute left.

LISA LACHANCE: In the MOU that was signed between Nova Scotia Health Authority and Cresco, why was it signed with this developer and not the property owner? Where did that decision come from to sign that?

PETER HACKETT: That contract would have been with the Nova Scotia Health Authority, not with the Department of Public Works, so we wouldn't be able to answer it. You'll have to ask them.

LISA LACHANCE: I do understand that the Department of Public Works was tasked with preparing a cost estimate for leasing the property but that the Nova Scotia Health Authority contracted an external consultant. I'm just wondering why it wasn't done in house in the end.

THE CHAIR: Deputy Minister Hackett, 20 seconds.

PETER HACKETT: I think that would be a question for the Nova Scotia Health Authority as well, why they decided to go down that road. If we provided them with a cost estimate and they did something different, that would be their decision.

[10:30 a.m.]

THE CHAIR: Your time is up. We will go to the PC caucus for the next 11 minutes. MLA White.

JOHN WHITE: You talked earlier about the advantages of bundling projects together and how that makes them more attractive to bidders. I'm curious if there are times when pulling a project apart, breaking it into smaller phases, is the right decision?

PETER HACKETT: We've done that on many projects in different ways. I guess sometimes we have to do that based on the budget. We may get bids in that are over our budget, or we think that we can get a better price by breaking it up. We've done that on not many, but we've done it on the highway side, and some on the building side.

I'm going to just ask Don Maillet if he wants to talk a little bit about the highway side. We've had a few contracts that have come in and we decided to change them up a little bit.

DON MAILLET: We often have to look at the market and the size of the project that you actually have to procure based on what the capacity is in the industry as well. Sometimes bundling fairly large projects is conducive to the larger constructors. We've got to be careful how we bundle and when we bundle.

For example, on our major capital projects, we would probably be looking at the phasing of the project, and we would look at the type of work that's out there. For example, we would bundle a couple of bridges for efficiencies, a certain section of the subgrade, and then in the latter parts of the project, we'd probably release the paving.

We do - and we did - bundle a couple of bridges last year that we thought we would be successful in getting. We got limited bids on it, and with that project specifically, what we did is actually cancel the project. It was up in Colchester County. We cancelled, we rebundled smaller projects, got more bidders, and saved some money on that. In instances like that, we realize after the bid closes that it's way beyond our engineer's estimate, and we re-group and we re-think, and we do cancel and re-bundle.

JOHN WHITE: You're not building structures. I know that you're building, but you're building communities. That's how I think of it. That's why I asked that question. It's really a preamble into Glace Bay Hospital. Glace Bay Hospital serves Reserve Mines, Donkin, Port Morien, Birch Grove, Dominion, New Waterford. It's a huge area. When I think about that, I know there's a big project coming there. We have it bundled as a project.

I'm curious about something like that. Realizing that where I live is so far out, we're not used to this kind of construction. I understand the supply chain issues and construction and everything else. I'm wondering: Does the location of the project within Nova Scotia,

does that matter - such as experiencing higher pricing, and if so, why? I kind of think it's because we're not used to that kind of construction. We're just not equipped for it. I don't know if my question is clear.

PETER HACKETT: You are correct when you said we're building communities. That's what public infrastructure does. We are very broad in what we build, from highways to schools to hospitals to justice centres to public buildings and all kinds of little things in between. We do that right across the province, and it's important because it's important to get the projects right. It's important to probably get the projects for the communities right.

As I mentioned earlier, we're in a situation of growing population and bigger demands, such as our hospital projects and our education projects and new highways. We also have old infrastructure. We have to make sure that our old infrastructure is getting its attention as well for those communities.

That does become an issue because right across the province, depending on where you are, the bidding can be a little trickier, the cost can be trickier because of things like materials, labour, bringing people in to do projects, housing, feeding your staff, and things like that, depending upon where you are and where those contractors are.

In some cases, like on the highway side, there are contractors right across the province. Sometimes the bidding is better and there is more competition. On the building side - I know Mr. Jessome and Mr. Benoit are having some difficulties in some parts of the province on their projects. They're just trying to get the right pricing and the right bidding because of the area.

Maybe Mr. Benoit could talk a little bit about the situation in Cape Breton.

DAVID BENOIT: I think just to add onto what Deputy Minister Hackett said, we do see variances throughout the province. It could be based on the number of contractors who are in the area, the ones who are interested in doing the work, the complexity, and the style of the work.

I want to connect it to your last question. You start to ask yourself, in the value engineering part of this, which is invaluable in trying to make sure that you deliver the best value for Nova Scotians - that whole process of value engineering. Do we unbundle? Do we pull stuff apart? Do we put things together in order to attract competition? It is about competition. Why do we want competition? To get the best price. Why do we want the best price? If we can get something, then it provides good value for Nova Scotians.

We continue to work, as you had already mentioned, on the four main health care projects in Cape Breton. Those continue in process.

JOHN WHITE: I realize you have a young labour force that doesn't have that kind of experience in Cape Breton. That is a fact. That's what we're seeing. I get that. Nothing inspires a community more than seeing new construction. That's why I asked the question in that way.

I'm going to pass it over to MLA Boudreau in the interest of time, given the questions.

HON. TREVOR BOUDREAU: I'm a late fill-in today, but I certainly have a couple of questions. I'm going to revert to the alternative procurement process and just a few questions with respect to that.

I just wanted to know if there are really any safeguards in place to prevent misuse of alternative procurement practices. What kind of safeguards would you have to make sure that things are done properly?

JOANNE MUNRO: When you talk about safeguards, I think that we're all driven to deliver on the goals for Nova Scotians. Each leader of each department has deliverables for Nova Scotians and our government as well.

When you talk about safeguards, alternate procurements are a legitimate process and part of the Canadian Free Trade Agreement that all provinces partake in. They are used and are an integral part of how we drive value for Nova Scotians and deliver on the projects and requirements of each of the departments.

Our job is to support our departments in delivering, fundamentally, for Nova Scotians. We are the strategists. We advise and we counsel on how best to do that and also bringing in the requirements of the trade agreement to ensure that we go the best way to market or not - again, with the focus of driving value for Nova Scotians.

At the end of the day, it is through a negotiated process that we use alternative procurements. Our procurement team is in lockstep with departments to support them in those discussions and negotiations. When you talk about a safeguard, it is really about the principle and the drive value for Nova Scotians at the end of the day. It is a legitimate tool that we have in our procurement tool box.

I'd ask my colleague, Mr. Mitchell, to also elaborate from the technical perspective.

CHRIS MITCHELL: I think the only piece I would add is that the Auditor General identified that the two areas where they felt concern was either the client who was indicating an alternate procurement requirement or the evaluation part which was done inside a procurement and that there could be a conflict of interest.

One of the recommendations which we've agreed to is, on the alternative procurement form going forward, both the person at the requesting end who is looking to have an alternate procurement or deems that to be the right circumstance, as well as the reviewing entity. My organization will indicate on the form that they have no conflict of interest in that situation. It's not a question of whether they actually decided not to go to market because of the company that was being selected. They'll indicate now - not that they haven't had that as a part of their responsibility, just in the terms of their employment, but now it will be clear on each individual alternative procurement form that there's a conflict of interest indicated - doesn't exist in that particular case.

TREVOR BOUDREAU: Further to this conversation on safeguards, but also just ensuring transparency and fairness in an alternative procurement process, how does the government ensure that there's that transparency and fairness when doing that?

JOANNE MUNRO: All alternative procurements - ALTPs - are posted 72 days after a contract is signed. There are exceptions to that; I'll point you to Numbers 2, 17, and 23, one of those being confidentiality. As part of the trade agreement, that would not be posted. The majority are posted on the public site 72 days after contract.

THE CHAIR: That ends the line of questioning. You can all relax now. I ask the two deputy ministers if you have any closing remarks that you would like to provide, Deputy Minister Munro going first.

JOANNE MUNRO: Thank you very much, everybody, for your questions today. It's always a privilege to be able to come to the committee, although stressful, and it does take some time to prepare. Hopefully we answered your questions. I would like to take the opportunity to publicly thank my colleague Mr. Mitchell and the entire procurement team for the absolutely great work that they do, and there's a lot of work that they do in driving value for Nova Scotians. Publicly, thank you to our chief procurement officer and thank you to the procurement team, who are just stellar in their roles.

THE CHAIR: Deputy Minister Hackett.

PETER HACKETT: Thank you to the committee for having us today. As my colleague said, it's always a privilege to come here. I seem to be here a lot, which is fine. It's always good.

I do want to echo the same thing to our staff at the Department of Public Works. I think the public has to realize that we have a lot of big projects, a lot of small projects, a lot of projects in our department. We have a lot of great staff, a lot of conscientious staff, who try to deliver these projects on time, on budget, and to the best quality we possibly can for the people of Nova Scotia. I just want to say thank you to all of them because they are there day and night to put these projects out there. They want to make sure that they

get the best value for Nova Scotians. They're very conscientious of the work they do. I just want to say thanks to all of our staff who put the work in every day.

THE CHAIR: Not to say no one else can give closing remarks. They're all nodding "no," so I thank you very much for being here today. It was very informative. We'll end this part of the meeting.

We will take a recess while they leave.

[10:43 a.m. The committee recessed.]

[10:47 a.m. The committee reconvened.]

THE CHAIR: Order. I am calling the recess over. We're all back here. As you've seen in your package, there's quite a bit of correspondence so we're going to deal with that first. We received one from the Department of Public Works. It said additional information was requested from the February 7<sup>th</sup> meeting, so I just wondered if anyone wanted to discuss that letter in particular.

Not seeing anyone indicating so, I will move to the next group of correspondence. There's been quite a few. One, a Jessica Bouchard email that's all on the violence in schools. One from her, one from Paula Richardson, Susan Leblanc, Braedon Clark, and Laura Fawthrop. That would be it. I just wondered if there's any discussions on it.

I saw MLA Young first and I'll go to him.

NOLAN YOUNG: Just regarding the report and stuff, I think there was an all-out campaign of emails that I got. This isn't our report, this is an Auditor General report, so I'm going to ask for some input on it. I haven't seen the report. We take our recommendations from the Auditor General, based on the recommended witness list.

I understand the committee is able to choose whatever witnesses, but the practice has been that we take advice from the Auditor General report, which we would not have seen. I'm just wondering if it's possible that the Auditor General's department may be able to weigh in with their opinion, whether an amendment to the witness list would be appropriate.

THE CHAIR: Mr. MacPhee.

MIKE MACPHEE: Good morning. As it relates to an amendment to the decided witness list, we really do want to refrain from weighing in on who should partake at the witness stand on this one. Point taken on the fact that you haven't seen the report. It's difficult to make these decisions, we totally understand that. However, we will be

refraining from getting involved in making recommendations on who should be sitting before you on that public session.

Again, we've sought the input from many parties involved in this audit and it's really up to the committee to determine who they deem appropriate to come and speak to the report.

Obviously, we have, through our fieldwork, surveyed educators at RCEs. Their information will be incorporated into our report. That's all I can really say at this point. I will leave it at that and pass it back to the committee to make a decision on.

THE CHAIR: Follow-up, MLA Young?

NOLAN YOUNG: Just a quick one. I'm just asking, when you delivered your report, was the NSTU part of the recommended witness list that you would have provided?

MIKE MACPHEE: I just want to clarify that we never really weigh in and make definitive recommendations on who should be a witness. That's up to the subcommittee to make a decision on. We're there to provide our input. The Auditor General would have done that. Ultimately, it's a committee decision on who they want to bring forward to have as a witness.

THE CHAIR: MLA Lachance.

LISA LACHANCE: Obviously MLA Leblanc and I weighed in on this issue. I take quite seriously the 754 emails that I have received from people asking to reconsider this and to include teachers' voices. We've looked at the recent Nova Scotia Teachers Union survey that shows that 84 per cent of teachers have considered quitting in the past five years, and 42 per cent of those cited the rising levels of violence. I know that when I go door to door in my constituency, the concerns around violence in schools are top of mind for folks.

I think we all agree that this is a critical topic and that it's really time to get hold of it and understand the issue better. Thus, at this Public Accounts Committee meeting, I don't see how we can have that full discussion without having teachers' voices at the table, and the NSTU is that teachers' voice.

We continue to feel very strongly that we need to hear from folks on the front lines, and that that will enrich our discussion and allow us to have a better deliberation of the issue.

THE CHAIR: Do you have anything more to say?

LISA LACHANCE: I will move a motion to add the Nova Scotia Teachers Union to the list of witnesses for the committee meeting that reviews the Auditor General report on violence in schools.

THE CHAIR: The motion is on the floor. I have other speakers. MLA White.

JOHN WHITE: As a 20-year teacher, I totally understand why teachers want to be heard on this one. I get that. I do understand - I'm a substitute on this committee. I thought that this committee was dealing with the Auditor General's reports and only those witnesses were recommended.

I just want to be on record as saying: If not on this committee, then I do want to hear teachers' voices. I think I can support your motion.

THE CHAIR: MLA Clark.

BRAEDON CLARK: Very briefly, I've spoken on this. My correspondence is in the package as well. I certainly would support the motion to add NSTU, and I'm glad to hear the comments of MLA White as well. I think it's a very good outcome, if we can get there, to have teachers added. Obviously they have a critical voice in this issue.

THE CHAIR: MLA Young.

NOLAN YOUNG: I think it's not the best practice to be deviating from some of the recommended witnesses. But as there's a motion on the floor, as there seems to be a lot of interest in adding them - again, I haven't seen this topic. I don't know the contents of it. I don't know the recommendations.

I'd like to make an amendment to the witness list and also add PSAANS. There's an educational leadership table that includes the department, the union, and the public-school administrators, so if we're going to add extra witnesses, I'd like to add them as well.

THE CHAIR: We have to vote on the amendment first, so we'll vote on the amendment first.

All those in favour? Contrary minded? Thank you.

The motion is carried.

Now you vote on the amended motion. MLA Lachance.

LISA LACHANCE: I want to walk through - we voted on my amendment at NSTU - my motion. Have we caught up? I didn't know if that would also be an amendment. I just want to make we're all caught up.

THE CHAIR: It's your motion with his amendment, so now it's the amended motion that you put on the floor. All those in favour? Contrary minded? Thank you.

The motion is carried.

I want to read for the public record that, at the last meeting, it was agreed that the associate deputy minister, Cathy MacIsaac, was going to attend our meeting on April 24<sup>th</sup> on behalf of Deputy Minister MacKinnon for the Department of Community Services. It was agreed to make the decision public at last week's meeting because it was in camera, so I'm saying it publicly.

The next item on the agenda is MLA Taggart's motion that was left on the floor at the April 3<sup>rd</sup> meeting. I see MLA Young.

NOLAN YOUNG: As MLA Taggart's not here today, most of the questions that were asked at that committee went back to the accountants or the lawyers. They sent advice, and they weren't at the meeting. I do feel it would be important to reconvene at a future date. However, after the meeting on the April 3<sup>rd</sup>, there would have been a complaint filed by the former association. We're not looking to impede any of that process at all, so at this moment I would ask for unanimous agreement to withdraw that motion.

THE CHAIR: There's a motion on the floor to withdraw this item off the agenda. All those in favour? Contrary minded? Thank you.

The motion is carried.

Now there's a discussion for our next meeting - it's April 24<sup>th</sup>. That's to put it on the record, the clerk is whispering in my ear. I want to acknowledge the clerk and thank her for all the work she's doing. A little silent partner over here. If there's no more official business, this meeting is adjourned.

[The committee adjourned at 10:57 a.m.]