

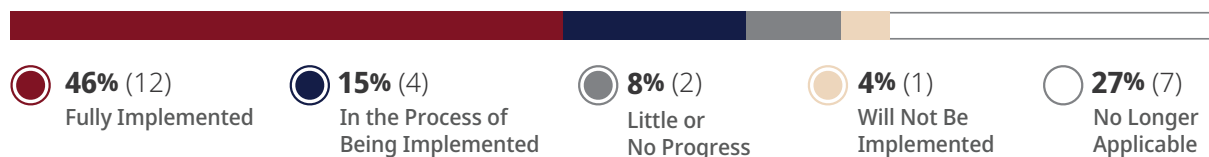
## Follow-Up on the 2022 Performance Audit:

Treasury Board Secretariat  
Supply Ontario  
Ministry of Health

# COVID-19 Contracts and Procurement

## // Overall Conclusion

### 26 Recommended Actions



The Treasury Board Secretariat (TBS), Ministry of Health (MOH) and Supply Ontario (SO), which since our 2022 audit has taken over personal protective equipment (PPE) procurement responsibilities from the Ministry of Public and Business Service Delivery, as of August 31, 2024, have fully implemented 46% of actions we recommended in our **2022 COVID-19 Contracts and Procurement audit**. Progress has been made in implementing an additional 15% of the recommendations.

TBS, MOH and SO have fully implemented recommendations such as requiring the expected date of procurement to be identified as part of the notification for emergency procurements under the Ontario Public Service Procurement Directive (Procurement Directive), and assessing and updating the dollar thresholds in the Procurement Directive with consideration for inflationary increases and thresholds in other jurisdictions. In addition, they have fully implemented recommendations that include establishing a process to continuously review the Procurement Directive, and requiring the use of the Vendor Performance Management Framework under the Procurement Directive, including the formal documentation of the roles and responsibilities by each ministry.

However, TBS, MOH and SO have made little progress on 8% our recommendations including to require that ministries document what safeguards they must use to prevent bias and perceived and actual conflicts of interest during the procurement process for all non-competitive procurements.

The status of actions taken on each of our recommendations is described in this report (see **Appendix** for more details).

## // Status of Actions Taken on Recommendations

We conducted assurance work between April 1, 2024, and August 31, 2024. We obtained written representation from TBS, MOH and SO, which took over PPE procurement responsibilities from the Ministry of Public and Business Service Delivery, that effective October 4, 2024, they have provided us with a complete update of the status of the recommendations we made in the original audit two years ago.

### 1. Most COVID-19 Procurements Complied with the Ontario Public Service Procurement Directive

In our audit, we found that ministries were able to procure goods and services in unforeseen situations of urgency (emergency exception) without prior Treasury Board/Management Board of Cabinet (TB/MBC) approval, but ministries were to promptly notify the Secretary of TB/MBC of the procurement activity.

We found that prompt notification was not done for 11% of all emergency COVID-19 procurements by ministries between March 2020 and March 2022, which resulted in TBS not always having accurate information on COVID-19 spending during this period.

#### **Recommendation 1: Action Items 1 and 2**

So that it can effectively perform its oversight function during unforeseen situations of urgency, we recommend that the Treasury Board Secretariat:

- require the expected date of procurement to be identified as part of the notification for emergency procurements under the Ontario Public Service Procurement Directive (Procurement Directive); and
- remind ministries of the requirement to submit a notification within a specified and reasonable time when a contract or purchase order is issued for emergency procurements under the Procurement Directive, and provide guidance of what is considered reasonable.

Status:  Fully implemented.

## Details

We found that in August 2023, TBS updated the notification template for emergency procurements (a non-competitive procurement conducted without TB/MBC approval due to an unforeseen situation of urgency). The updated notification template requires ministries to specify the intended start and end dates of service contracts or the targeted delivery dates for goods. Additionally, we found that in August 2023, TBS updated the guidance provided to ministries conducting emergency procurements on the government's Intranet page. Specifically, the guidance details that ministries undertaking emergency procurements must complete a template notification memo and submit it to TBS as soon as they know of their need to procure.

## 2. The Ontario Public Service Procurement Directive Has Not Been Updated Since 2014

In our audit, we found that ministries are required to obtain TB/MBC approval before entering into contracts if the contract exceeds established dollar values, but these thresholds have not been updated since 2014.

### Recommendation 2: Action Items 1 and 2

To provide relevant information and guidance in the Ontario Public Service Procurement Directive (Procurement Directive), we recommend that the Treasury Board Secretariat:

- assess the dollar thresholds in the Procurement Directive, and update them with consideration for inflationary increases since the thresholds were first established and the thresholds in other jurisdictions;
- establish a process to continuously review the Procurement Directive, such as every three years, so that information continues to be relevant, including roles and responsibilities;

Status:  Fully implemented.

## Details

We found that TBS updated the Procurement Directive in September 2023 and April 2024. Previously, ministries were required to use a competitive procurement process for goods exceeding \$25,000 and for services exceeding \$100,000. In September 2023, TBS assessed and adjusted the dollar thresholds in the Procurement Directive and increased these thresholds to \$30,300 and \$121,200, respectively, which aligns with those within domestic trade agreements, such as the Canadian Free Trade Agreement (an agreement between federal, provincial and territorial governments). In addition, TBS added to the Procurement Directive a responsibility to review the Procurement Directive on a regular basis.

### **Recommendation 2: Action Item 3**

- conduct an overall review of the Procurement Directive within the next year.

**Status:**  **In the process of being implemented by March 31, 2025.**

### **Details**

TBS informed us that it plans to complete a comprehensive review of the Procurement Directive by March 31, 2025.

## **3. A Total of \$66 Million of Personal Protective Equipment (PPE) Expired, Was Damaged or Became Obsolete and Required Disposal**

In our audit, we found that MOH and Ministry of Public and Business Service Delivery had a combined total of \$66 million of PPE that expired, was damaged, or became obsolete and was written off as of March 31, 2022.

We also found that the Ministry of Public and Business Service Delivery expected to have a large stockpile of over 100 million N95 respirators by March 2030 (worth \$81 million) due to a large purchase commitment made to attract the establishment of domestic manufacturing facilities.

Additionally, we found some excess inventory is being held in case of a future surge in demand, but the Ministry of Public and Business Service Delivery needs to further develop a plan for potential uses if the surge does not occur.

### **Recommendation 3: Action Items 1, 2, 3 and 4**

To manage the inventory of personal protective equipment (PPE) that the Ministry of Public and Business Service Delivery (Business Service Delivery Ministry) is contractually committed to purchase from domestic manufacturers, and to minimize storage costs, we recommend that the Business Service Delivery Ministry:

- semi-annually (at a minimum) update its forecast of PPE usage and compare this to its required purchases, to anticipate what excess inventory will need to be distributed to other sectors or organizations before expiry;

- co-ordinate with the Ministry of Health and Ontario Health (on behalf of hospitals) so that the portion of PPE inventory held by the Business Service Delivery Ministry for the health sector is incorporated into the Ministry of Health's and hospitals' inventory management plans;
- work with other health-care and non-health-care, ministries and the broader public sector (including long-term-care homes and school boards) to identify ways to use forecast excess inventory; and
- distribute inventory in accordance with the identified plans, including any forecast excess inventory.

**Status:**  **Fully implemented.**

## Details

We found that SO, an Ontario Crown agency that was established in 2020 to centralize procurement across the public sector, in 2022 assumed responsibility for managing the supply chain and procurement for PPE from the Ministry of Public and Business Service Delivery. Since then, SO has established forecasting models that are continuously updated to predict PPE consumption for all public-sector entities. The models can be adjusted to reflect changes in workforce size, consumption patterns or epidemiological conditions. In addition, the model tracks the government's contractual commitments to purchase PPE from domestic manufacturers as part of its tracking of estimated inventory levels so that the PPE can be distributed based on first expiry.

Furthermore, since December 2022, SO has been communicating with hospitals and other health organizations about upcoming PPE expiry. This initiative aims to distribute PPE that is close to expiration to reduce waste.

We also found that all public-sector health entities have been onboarded to the PPE Supply Portal. This portal allows entities to order PPE from the Province's centralized PPE stockpile as part of their regular inventory management planning. Excess PPE inventory is identified through the PPE demand and supply planning process and used to fulfill orders made by health-care providers. The forecast PPE demands of different sectors, such as health, long-term care and schools, are also part of this process.

Additionally, since November 2023, SO has been working to integrate PPE stockpile supplies into hospital inventories. Hospitals that have not yet incorporated the PPE stockpile into their inventory systems are being actively contacted by SO to facilitate this integration.

## 4. Better Co-ordination When Purchasing Similar Goods and Services Would Have Allowed the Province to More Effectively Respond to COVID-19 at a Lower Overall Cost

In our audit, we found that similar goods and services were procured separately by different ministries and the broader public sector at the same time.

We also found that Ontario Health and the Ministry of Education entered into separate contracts for mobile COVID-19 testing vendors and did not co-ordinate the selection of testing locations. About \$18.7 million of \$32.3 million was paid for underutilized mobile testing services at locations where more individuals could have been tested at the same cost.

Additionally, we found that the Ministry of Education operated clinics on a walk-in basis, so appointment information was not collected by the Ministry to proactively identify locations with little testing demand. These clinics were underutilized, testing at between 2% and 7% of the potential capacity on average, instead of being made available to other priority groups with a co-ordinated effort at the same cost.

### Recommendation 4: Action Item 1

So that spending on COVID-19 testing sites is cost-effective, we recommend that the Ministry of Health co-ordinate all COVID-19 testing to reflect the consolidated needs of the Ministry of Education, Ontario Health, and Public Health Units in the future.

Status:  No longer applicable.

### Details

We found that the MOH wound down the operations of all standalone COVID-19 testing sites as of March 31, 2024. Consequently, MOH is no longer anticipating future funding for standalone COVID-19 testing sites. This termination of standalone testing operations, and the subsequent transition of COVID-19 testing into regular health-care settings, means that there will be no need for further co-ordination or consolidation of standalone testing needs or costs across different ministries and government agencies.

### **Recommendation 5: Action Items 1, 2 and 3**

To maximize the benefit to the public of future contracted COVID-19 testing resources, we recommend that the Ministry of Health:

- regularly collect and assess data on the performance of testing sites, including on the number of appointments compared to site capacity, and the number of swabs collected by the site;
- use this data to make decisions on future COVID-19 testing options, site operations and any need to contract for additional sites; and
- negotiate future contract terms that allow for the cost-effective early termination of the contract or cancellation of testing sites, and take such action when the above analysis justifies its use so that the Province does not pay for excessive unused services.

Status:  **No longer applicable.**

### **Details**

We found that due to decreased demand for COVID-19 testing, MOH shut down all standalone COVID-19 testing sites as of March 31, 2024. MOH informed us that the majority of contracts for COVID-19 testing services were held by Ontario Health, which regularly collected and assessed data on site performance and monitored the volume of individuals accessing services to optimize testing resources and delivery. Starting in November 2022, Ontario Health negotiated contracts with the sites that included clauses that allowed for the cost-effective early termination or cancellation of agreements with these sites.

## **5. Use of Emergency Exception to Non-competitively Procure Contracts Was Appropriate in Most Cases, Except for Certain Vaccination Clinic Contracts**

In our audit, we found that between January 2021 and January 2022, the Ministry of the Solicitor General entered into several non-competitive vaccine clinic contracts, and their rationale was that a competitive process would take over six months.

### **Recommendation 6: Action Item 1**

So that competitive procurements are encouraged and can be conducted in a timely manner in unforeseen situations of urgency, we recommend that the Treasury Board Secretariat modify the Ontario Public Service Procurement Directive to allow for shorter minimum bid response times (less than the current minimum of 30 days) for open competitive procurements with contract values above \$548,700 for better alignment with the policies used in other Canadian provinces.

Status:  **Will not be implemented.**

#### **Details**

We found that TBS, based on advice from Ontario government supply chain operations, trade policy and trade legal experts, has decided that the minimum bid response time of 30 days is being maintained to balance timely delivery and efficient response from the vendor pool.

### **Recommendation 7: Action Item 1**

So that procurements are made free from bias and perceived or actual conflicts of interest, we recommend the Treasury Board Secretariat update the Ontario Public Service Procurement Directive to require that ministries document what safeguards they must use to prevent bias and perceived and actual conflicts of interest during the procurement process for all non-competitive procurements.

Status:  **Little or no progress.**

#### **Details**

TBS told us that during its comprehensive review of the Procurement Directive, scheduled for completion in March 2025 (see **Recommendation 2, action 3**), it will consider including requirements for ministries to document the safeguards to prevent bias and perceived or actual conflicts of interest for non-competitive procurements.



## 6. Better Monitoring of Usage Is Needed to Promote Equal and Fair Distribution When Supply of Rapid Antigen Tests Is Limited

MOH led the distribution of free rapid antigen tests to eligible workplaces starting in November 2020 so employers could screen employees for COVID-19.

In our audit, we found that MOH did not request employee numbers from large organizations to confirm the quantity of tests ordered was reasonable based on the provincial health guidance testing frequency at that time. Local Chambers of Commerce and Boards of Trade collected this information before fulfilling requests from small- and medium-sized organizations.

We also found MOH did not monitor that large organizations reported results for tests used prior to fulfilling requests for more tests.

### Recommendation 8: Action Items 1, 2 and 3

To provide equitable access to COVID-19 testing resources in the future when needed, we recommend that the Ministry of Health implement the following controls for future orders under a program with requirements that would be similar to the Provincial Antigen Screening Program:

- require and ensure that all organizations report their number of employees;
- compare the number of employees against the requested number of tests to monitor that organizations' orders correspond to public health guidance; and
- follow up on variances and use this information to determine whether further distribution of product is needed.

Status:  No longer applicable.

### Details

We found that as of June 30, 2023, MOH reduced eligibility to the Provincial Antigen Screening Program due to lower rates of COVID-19, high vaccination rates and decreased demand for rapid antigen tests. As a result, organizations (other than health-care providers, congregate living settings and high-risk populations) became ineligible to order rapid antigen tests as of June 30, 2023. In spring 2024, the Ministry urged the remaining eligible sectors such as health-care providers and congregate living settings to order rapid antigen tests while supplies in the provincial stockpile lasted. MOH and SO informed us that they continue to monitor supply and demand for rapid antigen tests and that any future purchases would be based on testing eligibility policy defined by the Chief Medical Office of Health.

## 7. Risk of Contracting with Poor Performing Vendors Because Vendor Performance Assessments Are Not Documented Prior to Entering into New Contracts

In our audit, we found that ministries did not formally document vendor performance when the contract was completed. For example, the Province's prior history with a vendor was used as part of the Ministry of the Solicitor General's justification to contract with the same vendor; however, the Ministry did not obtain feedback on the vendor's performance during its contracting process.

We also found the Ministry of Public and Business Service Delivery contracted with a vendor for transportation services and the contract had performance improvement clauses, but the terms were not enforced by the Ministry (such as requesting evidence of market rates being charged to the Ministry as part of review meetings).

### Recommendation 9: Action Item 1

So that vendor performance is assessed and taken into consideration for future procurements, we recommend that the Treasury Board Secretariat and Ministry of Public and Business Service Delivery:

- require the use of the Vendor Performance Management Framework under the Procurement Directive, including the formal documentation of the roles and responsibilities by each ministry;

Status:  Fully implemented.

### Details

We found that in September 2023, TBS updated the Procurement Directive to specify the requirement for ministries to review and measure the vendor's performance. The Procurement Directive, located on the government's Intranet, also includes a link to the Vendor Performance Management Framework, which was developed in 2020 as a resource to assist ministries with their vendor performance management activities.

### **Recommendation 9: Action Item 2**

- implement a method for sharing Vendor Performance Management Scorecards across ministries for all vendors that ministries contract with as part of the assessment being completed in response to the recommendation from the Office of the Auditor General of Ontario's 2016 Annual Report of Supply Chain Ontario and Procurement Practices.

**Status:**  **Little or no progress.**

### **Details**

We found that the Ministry of Public and Business Service Delivery and Procurement is conducting research on leading practices from other jurisdictions regarding vendor performance management and to determine the best way to share vendor performance information. The results of this work will inform the Ontario Public Service approach to support sharing vendor performance information with Ontario Public Service buyers. The results of this work will also inform TBS's comprehensive review of procurement rules, scheduled for completion by March 2025.

### **Recommendation 10: Action Items 1, 2 and 3**

To promote continuous improvement in current and future contracts for transportation services, we recommend the Ministry of Public and Business Service Delivery:

- conduct a pricing review as part of the quarterly review meetings with the vendor and use this information to inform further discussions and pricing negotiation;
- work with the vendor to develop a corrective action plan if key performance indicators do not meet targets for consecutive periods; and
- include these best practices in future contracts.

**Status:**  **In the process of being implemented by December 31, 2024.**

### **Details**

We found that as part of the quarterly review meetings with the vendor, SO (who assumed responsibility for this contract from the Ministry of Public and Business Service Delivery) has been requesting evidence of market price rates to conduct regular invoice price reviews.

Since our 2022 audit, SO has continued to monitor the key performance indicators within the contract. Between the audit in 2022 and July 2024, there were no instances identified where the vendor's poor performance led to key performance indicators not being met for two consecutive

periods, and therefore it has not been necessary to develop a corrective action plan (a corrective action plan would be only necessary if key performance indicators were not met). However, Supply Ontario continues to engage with the vendor on a regular basis for ongoing review of operations.

Additionally, during our follow-up, we found that SO has become responsible for a logistics contract that MOH previously held. Since SO now manages two logistics contracts, it plans to complete a comparative pricing review of shipping rates offered by the two transportation providers by the end of 2024. SO intends to use the results of this review to inform further pricing discussions with the vendor and will implement best practices in its procurement process and future contracts.

## **8. Requirements under the Interim Measures of the Procurement Directive Were Unclear During the Pandemic**

In our audit, we found that centralized procurement reporting information, required under the Interim Measures of the Procurement Directive and meant to support the Province in moving toward a centralized supply chain for the public sector, was not collected during the COVID-19 pandemic.

### **Recommendation 11: Action Item 1**

So that the Treasury Board Secretariat and the Ministry of Public and Business Service Delivery obtain the necessary information for Ontario to move toward a centralized supply chain process as part of the Interim Measures of the Ontario Public Service Procurement Directive, we recommend that the Ministry of Public and Business Service Delivery initiate reporting requirements similar to those under the Interim Measures and collect procurement information across the ministries and, where applicable, the broader public sector.

**Status:**  **Fully implemented.**

### **Details**

We found that in late 2022, TBS initiated reporting requirements similar to those under the Interim Measures and began collecting annual procurement plans from all ministries. These procurement plans are submitted in advance of the fiscal year and list planned procurements. Additionally, ministries report procurement activity through the annual procurement plans and the procurement activity report for trade reporting.

On November 27, 2023, SO was directed to drive procurement planning across the broader public sector. At the time of our follow-up, SO was gathering procurement plans from the broader public sector to support centralized procurement initiatives.

### **Recommendation 12: Action Items 1 and 2**

To improve compliance with the requirements under the Interim Measures of the Ontario Public Service Procurement Directive, we recommend that the Ministry of Public and Business Service Delivery:

- review the Interim Measures on procurement requirements, including those conducted using the emergency exception, and update them for clarity if necessary; and
- provide guidance to the ministries (including the Ministry of Health) on how procurement requirements under the Interim Measures should be followed in both emergency and non-emergency situations.






**Status:**  **Fully implemented.**

### **Details**

We found that in September 2023, TBS reviewed and updated the Interim Measures of the Procurement Directive to enhance clarity. For instance, additional guidance was added to the Operational Flexibility section of the Interim Measures to specify that ministries can proceed with procurement provided that appropriate approvals are obtained, including any exemptions from the Directive, and the necessary reporting has been submitted to SO. Additionally, the section of the Procurement Directive that addresses situations of unforeseen urgency, such as emergencies, was updated to include a link to the template that must be used for the required notification process.

## // Appendix

### Recommendation Status Overview

	# of Action Items	Fully Implemented 	In the Process of Being Implemented 	Little or No Progress 	Will Not Be Implemented 	No Longer Applicable 
Recommendation 1	2	2				
Recommendation 2	3	2	1			
Recommendation 3	4	4				
Recommendation 4	1					1
Recommendation 5	3					3
Recommendation 6	1				1	
Recommendation 7	1			1		
Recommendation 8	3					3
Recommendation 9	2	1		1		
Recommendation 10	3		3			
Recommendation 11	1	1				
Recommendation 12	2	2				
<b>Total</b>	<b>26</b>	<b>12</b>	<b>4</b>	<b>2</b>	<b>1</b>	<b>7</b>
%	100	46	15	8	4	27