

Chapter 7 Highways—Selecting Contractors for Roadworks

1.0 MAIN POINTS

A considerable portion of Saskatchewan’s provincial highway system is mature. Each year, the Ministry of Highways pays contractors over \$500 million to design and determine specifications for building and repairing roads, and to rehabilitate, preserve, or expand them.

The Ministry refers to building and repairing roads as roadworks. Roadworks can take considerable time and money, with individual contracts up to \$50 million.

As of January 2021, the Ministry had effective processes to fairly select contractors for roadworks costing over \$100 thousand, including:

- Setting clear specifications for the required roadworks
- Using procurement methods consistent with the policies of the central agency responsible for overseeing public procurement (SaskBuilds Corporation)
- Selecting and approving winning bidders based on pre-established criteria

Undertaking fair procurement of roadworks services increases the likelihood of the Ministry selecting the most suitable bidder, achieving the intended results, and not paying more than intended or necessary.

2.0 INTRODUCTION

This chapter reports the results of our audit of the Ministry of Highways’ processes to fairly select contractors for roadworks costing over \$100 thousand.¹ For purposes of our audit, roadworks include the following types of services on highways, thin-membrane surface highways, twinning and passing lanes, rural roads, and bridges:²

- | | |
|---------------------|--------------------------------|
| ➤ Bituminous mixing | ➤ Rubber asphalt crack sealing |
| ➤ Culverts | ➤ Seal coating |
| ➤ Grading | ➤ Stockpiling |
| ➤ Micro-surfacing | ➤ Surface mixing |
| ➤ Road construction | ➤ Surfacing |

Roadworks do not include services on airplane runways.

¹ The audit did not include Ministry spending on municipal roads. The Ministry has an agreement with the Saskatchewan Association of Rural Municipalities (SARM) to administer the Municipal Roads for the Economy Program. SARM provides grants for rural municipality roads.

² www.sasktenders.ca/content/public/Search.aspx (5 November 2020).



2.1 Ministry Responsibility for Contracting for Roadworks

The Ministry of Highways is responsible for managing the provincial transportation network, including design, construction, and maintenance of roads as described in *The Highways and Transportation Act, 1997*.³ The network consists of 26,335 km of highways. It operates and maintains 709 bridges, more than 62,000 culverts, 16 northern airports, 12 ferries, and one barge.⁴

The Ministry routinely engages consultants to design and determine specifications for roadworks, and contractors to rehabilitate, preserve, or expand them. The Ministry signs approximately 200 contracts for roadworks each year.

Figure 1 shows the Ministry expects to spend \$585 million on roadworks in 2020–21.^{5,6,7} It spent \$512.9 million on roadworks in 2019–20.

Figure 1—Ministry Spending on Roadworks for 2019–20 and 2020–21

	Actual 2019–20	Estimated 2020–21
	(in millions)	
Preservation of transportation system	\$ 113.2	\$ 116.9
Infrastructure and equipment capital	399.7	468.1
Total	\$ 512.9	\$ 585.0

Source: Ministry of Highways and Infrastructure, *Annual Report for 2019–20*, p. 27, Government of Saskatchewan, *2020–21 Estimates June*, p. 79, and www.saskatchewan.ca/government/news-and-media/2020/may/06/capital-funding (05 March 2021), Province of Saskatchewan Order in Council 68/2021.

2.2 Impact of Roadworks on Saskatchewan’s Economy

Saskatchewan’s economy relies on the provincial highway network to transport its goods and services. A considerable portion of Saskatchewan’s provincial highway system is mature requiring significant spending on roadworks each year. Roadworks can take considerable time and money, with individual contracts up to \$50 million.

Similar to other Canadian provinces, Saskatchewan has a relatively compressed season in which to complete roadworks in the spring and summer (prior to freezing). Having a compressed work season affects the number of contractors potentially available to carry out the work.

Unforeseen delays due to weather and underground conditions (e.g., sandy or rocky areas) may occur. Not having effective processes to amend contracts may result in spending public money without proper approval.

Using open, transparent, and unbiased processes minimizes the risk of the Ministry not treating potential bidders fairly. Fairness depends on:

- Clearly communicating needs

³ *The Highways and Transportation Act, 1997*, ss. 3, 4, and 9.

⁴ Ministry of Highways and Infrastructure, *Annual Report for 2019–20*, p. 3.

⁵ www.saskatchewan.ca/government/news-and-media/2020/may/13/highways-stimulus-package (05 March 2021).

⁶ The Ministry has estimated stimulus spending of \$68.7 million in 2020–21 and \$231.9 million in 2021–22 on roadworks.

⁷ Government of Saskatchewan, *2020–21 Estimates June*, p. 79.

- Involving the appropriate staff (e.g., engineer, consultant) in the process
- Clearly articulating evaluation criteria
- Giving potential bidders appropriate access to respond to proposals (e.g., public competition, follow trade agreements)
- Using unbiased processes for awarding contracts⁸

Not clearly identifying its business need for roadworks before choosing a bidder increases the risk of bidders not having a clear or sufficient understanding of needs. Not undertaking fair procurement of services increases the risk of not selecting the most suitable bidder, not achieving the intended results, paying more than intended or necessary, and not receiving the best value. This in turn increases the risk of incurring additional resources (time and dollars). In addition, sub-standard or incomplete work may affect the safety of the roads or pose safety hazards. Furthermore, unfair procurements, perceived or real, could damage the reputation of the Government.

3.0 AUDIT CONCLUSION

We concluded that the Ministry of Highways had effective processes to fairly select contractors for roadworks costing over \$100 thousand for the period ended January 31, 2021.

Figure 2—Audit Objective, Criteria, and Approach

Audit Objective: The objective of this audit to assess whether the Ministry of Highways has effective processes for the period ending January 31, 2021, to fairly select contractors for roadworks costing over \$100 thousand.

Audit Criteria:

Processes to:

1. **Define the need and specifications for required services**
 - Define, in sufficient detail, the need for services
 - Define procurement specifications to encourage open and fair competition
 - Select an appropriate procurement approach based on cost, size, and complexity of the services required and relevant trade agreements (e.g., pre-qualified bidders, open bid)
 - Fairly communicate specifications of the services required and evaluation criteria
2. **Choose contractors fairly**
 - Evaluate potential interested contractors (bidders) using pre-established criteria
 - Document rationalized decision for contractor selection
 - Obtain appropriate approval to engage the selected contractor
 - Communicate selection decision to bidders
3. **Sign appropriate agreement with the selected contractor within reasonable timeframe**
 - Confirm contract provisions (e.g., services, period, compensation, termination) align with services required
 - Minimize use of extensions, follow-up contracts, or changes to the agreement
 - Finalize contract within reasonable timeframe of selecting contractor
 - Obtain appropriate approval of agreement and subsequent changes

Audit Approach:

To conduct this audit, we followed the standards for assurance engagements published in the *CPA Canada Handbook—Assurance* (CSAE 3001). To evaluate the Ministry of Highways' processes, we used the above criteria based on our related work, reviews of literature including reports of other auditors, and consultations with management. The Ministry's management agreed with the above criteria.

⁸ Government of Saskatchewan, *Procurement Guide* (July 2020).



We examined the Ministry's plans, policies, and procedures relating to fairly selecting contractors for roadworks. We interviewed Ministry and SaskBuilds staff responsible for selecting contractors and consultants. We tested samples of contractor procurements that the Ministry procured in 2019–20 and 2020–21, and bid requests, bid evaluations, approvals, and contracts. In addition, we used an independent consultant with subject matter expertise in the area to help us identify good practice and assess the Ministry's processes.

4.0 KEY FINDINGS

4.1 Works with Central Agency Responsible for Procurement

The Ministry of Highways works with the central agency responsible for ministry procurement when contracting for roadworks.⁹

SaskBuilds Corporation is a central agency responsible for overseeing public procurement. It advises on, and recommends to ministries and other provincial agencies the appropriate methods for public procurement.¹⁰

As a Ministry, Highways must follow SaskBuilds' policies and requirements. In addition, it must follow provincial legislation related to procurement (e.g., *The Best Value in Procurement Act, 2015*; *The Purchasing Act, 2004*; *The Public Works and Services Act*).¹¹

We found the Ministry has a clear understanding of its roles and responsibilities in contracting for roadworks vis-à-vis those of SaskBuilds, and of SaskBuilds' procurement requirements. See **Figure 3** for brief summary of the Ministry of Highways' and SaskBuilds' roles in contracting for roadworks.

Figure 3—Brief Summary of Roles in Contracting for Roadworks Procurements

Process	Ministry's Role	SaskBuilds' Role
Procurement Requirements	<p>Determines procurement method after consideration of trade agreements and SaskBuilds requirements (e.g., open tender, pre-qualified tender)^A</p> <p>Determines procurement requirements including scope, budget, design, specifications, and planned schedules</p> <p>May hire consultants to determine the project design and specifications</p> <p>Determines criteria to evaluate bids (evaluation criteria)</p> <p>Documents key information in the bid request</p>	<p>Not directly involved</p> <p>May give advice on appropriate procurement method</p>

⁹ SaskBuilds is responsible for integrating, coordinating, and prioritizing infrastructure planning and delivery for most of the Provincial Government.

¹⁰ SaskBuilds, *Annual Report for 2019–20*, p. 4.

¹¹ For example, *The Purchasing Act, 2004* requires procurement of supplies by obtaining competitive bids for the supplies; combining the requirements of public agencies for common or similar supplies; obtaining the best value; considering price, quality, delivery, service, warranty, or other factors; and acquiring supplies at rates and on terms and conditions conducive to the economic and environmental well-being of Saskatchewan (section 4(1)). *The Public Works and Services Act* requires the Minister to call for tenders by public advertisement or other public notice for the construction or alteration of all public works to be contracted by the Minister (section 9(1)). The Minister does not have to do this if there is urgency in the work (section 9(2)).

Process	Ministry's Role	SaskBuilds' Role
Procurement Process	<p>Approves specifications and procurement method (e.g., tender)</p> <p>Approves subsequent changes to bid request (e.g., addendums to bid specifications)</p> <p>Provides SaskBuilds with responses to bidder questions</p>	<p>Advertises public competition on SaskTenders^B</p> <p>Sends the bid request to interested potential bidders</p> <p>Communicates with interested bidders subsequent changes to bid request, if any</p> <p>Provides bidders with Ministry's responses to questions</p> <p>Receives bid responses</p>
Bid Evaluation	Maintains database of information and provides to SaskBuilds	<p>Evaluates bid responses based on previously established and communicated evaluation criteria</p> <p>Consults with the Ministry as needed</p> <p>Recommends the winning bidder to the Ministry</p>
Contract Award	<p>Approves SaskBuilds to engage selected bidder</p> <p>Approves contract</p>	<p>Communicates winning bidder to successful and unsuccessful bidders</p> <p>Gives successful and unsuccessful bidders an opportunity to debrief</p>

Source: Adapted from information provided by the Ministry of Highways and SaskBuilds (05 March 2021).

^A The Ministry, in conjunction with SaskBuilds, issues a tender bid request to the prequalified contractors in specific categories (e.g., asphalt concrete paving, roadway improvements). We refer to these as pre-qualified tenders.

^B SaskTenders is the primary gateway for public sector tender notices for Saskatchewan (www.sasktenders.ca) (24 March 2021).

Working with the central agency responsible for procurement reduces the risk of the Ministry using a procurement method that does not align with trade agreements, or missing standard communication to bidders.

4.2 Standard Specifications for Roadwork Services Available

The Ministry of Highways maintains up-to-date and documented standard specifications for its various types of roadworks (e.g., pavements, thin membrane).

Standard specifications are technical requirements for roadworks (e.g., bridge widths, pavement requirements, and standard quality tests).

The Ministry uses either its engineering staff or hires consultants to design and determine standard specifications for planned roadworks.

The Ministry actively consults with industry to keep its specification and procurement processes current. It regularly participates in various sub-committees such as:

- Tri-Party Technical Roadway Sub-Committee – This sub-committee discusses changes to roadworks specifications as they arise. It meets two to four times a year. It includes representation from the Ministry, the Association of Consulting Engineering Companies – Saskatchewan, and the Saskatchewan Heavy Construction Association.
- Tri-Party Best Value Procurement Sub-Committee – This sub-committee discusses best value procurement, including tendering and bidding. It meets every few months. It includes representation from the Ministry, the Association of Consulting Engineering



Companies – Saskatchewan, SaskBuilds, and the Saskatchewan Heavy Construction Association.

From our review of sub-committee minutes and terms of reference, we found each sub-committee's purpose, recommended membership, and frequency of meetings are clear. We also found the Ministry primarily uses the Tri-Party Technical Roadway Sub-Committee to communicate information to the industry regarding updates to specifications. For example, in 2020, the sub-committee discussed specifications around third party testing for asphalt/emulsions, asphalt concrete, and traffic accommodation.

The Ministry makes its numerous roadworks manuals available publicly online on its website to encourage open and fair competition.¹² These include:

- Twenty-seven Ministry manuals many of which are relevant in whole or in part to roadworks activities (e.g., design manuals, construction manuals functional standards for rural highways, standard test procedures manual). The Ministry last updated its Standard Specifications Manual in January 2021. This Manual sets out specifications such as the scope of a contract, dispute resolution, and site occupancy.
- Guidance and templates specific for contractors and consultants on various subjects. They include specifications for manufactured materials (last updated February 2008), bonds, contract administration, bridge design and construction, information on bidding on Ministry projects, standard practice bulletins providing specific direction on technical matters (e.g., applying prime coats to roadways) or standard contract provisions or practices (e.g., process for final payment).
- A schematic setting out its project management process.¹³

To help potential and existing contractors and consultants be aware of updates to manuals and templates, the Ministry maintains and publishes a *Doing Business with the Ministry Change Log*.¹⁴ We found the log provides an easily understandable summary of changes the Ministry makes to published information. It sets out the effective date of change, manual impacted, and nature of the change.

We found the specification manuals cover the complete roadbuilding process and areas of guidance align with good practice (e.g., includes standard quality testing procedures for asphalt, details such as type and quality of required construction materials).

Having well-established processes helps the Ministry make sure its specifications to contract for roadworks align with good practice.

4.3 Strategic Capital Plan Defines Need for Roadworks

The Ministry of Highways had adequate processes to identify required roadworks and set standard specifications.

¹² www.highways.gov.sk.ca/business (15 March 2021).

¹³ [www.highways.gov.sk.ca/Doing%20Business%20with%20MHI/Project%20Management/Enterprise%20Work%20Breakdown%20Structure%20\(May%202015\).pdf](http://www.highways.gov.sk.ca/Doing%20Business%20with%20MHI/Project%20Management/Enterprise%20Work%20Breakdown%20Structure%20(May%202015).pdf) (15 March 2021).

¹⁴ www.highways.gov.sk.ca/business (15 March 2021).

The Ministry uses its approved strategic capital plan to set out its need for required roadworks. It updates this plan annually. In addition, twice a year, the Ministry makes public a list of roadworks projects it plans to tender in the next few months.¹⁵ It calls these bi-annual lists public tender releases.

We found the strategic capital plan set out contract descriptions, capital program, and capital plan year. We found the published list of planned roadwork projects sets out the project description, type of work (e.g., safety improvement, culvert replacement), location, planned advertisement and tender close dates, and estimated quantities required.

For 34 tenders for procurement of roadworks tested, we found the Ministry:

- Identified and documented the need for 32 roadworks projects within its strategic capital plan. Each project included a detailed contract description (e.g., control section to rehabilitate, preserve, or expand the highway network) and planned construction year.

For the two projects not included in the strategic capital plan, we determined this to be reasonable as they were expense related (e.g., purchase of aggregate).

- Documented 28 projects on public tender releases.

We found it reasonable that the other six projects were not included on public tender releases as they related to other situations (e.g., projects using stimulus funding announced after the 2020–21 spring public tender releases, or for emergency items like designing culvert replacements).¹⁶

Having well-established processes to identify upcoming roadworks projects and being transparent about them helps keep potential bidders informed. Publishing this information helps the Ministry treat all potential bidders fairly. Regularly published information about upcoming roadwork projects helps potential bidders decide if they will be interested in them and allow them to be ready to respond to open tenders.

4.4 Applicable Procurement Methods Used

The Ministry of Highways uses procurement methods for roadworks consistent with SaskBuilds' requirements and trade agreements. That is, for roadworks procurements over \$100 thousand, the Ministry uses either a pre-qualified tender or open tender.

For each roadwork tender falling within the eight categories set out in **Figure 4**, the Ministry, in conjunction with SaskBuilds, issues a tender bid request to the pre-qualified contractors. We refer to these as pre-qualified tenders.

¹⁵ Government of Saskatchewan. www.saskatchewan.ca/government/news-and-media/2020/september/01/highways-fall-tender. (1 September 2020).

¹⁶ The Government of Saskatchewan uses stimulus funding to cause activity to support economic growth.

**Figure 4—Pre-Qualified Contractors and Eligible Roadwork Categories**

The Ministry annually pre-qualified contractors to help expedite its roadwork procurement. Each year, the Ministry, in conjunction with SaskBuilds, issues a request for supplier qualifications to invite prospective respondents to be eligible to provide the Ministry with services for upcoming roadwork projects in the following eight categories:

- Asphalt concrete paving
- Granular surfacing
- Earthwork and open cut culvert installation
- Culvert boring, tunnelling, or ramming
- Aggregate processing (both small and large scale)
- Hauling
- Supply of equipment and labour, or miscellaneous works
- Roadway improvements

Source: Adapted from information provided by the Ministry of Highways and SaskBuilds (05 March 2021).

From January to June 2020, the Ministry limited eligibility of pre-qualified contractors to bid on contracts that are a maximum of \$1.5 million. After June 2020, the Ministry removed this threshold. We found not having a threshold is consistent with some other Canadian jurisdictions (e.g., British Columbia).

In June 2020, the Ministry issued a request for supplier qualifications with the intent to prequalify contractors for the 2020–21 roadwork season. We found it followed SaskBuilds processes to select the contractors for the 2020–21 roadwork season.

The Ministry uses open tenders. Open tenders offer an equal opportunity as they allow anyone to submit a tender to supply the goods or services required (e.g., construct a highway).

The Ministry considers trade agreement thresholds in selecting appropriate procurement methods (see **Figure 5**), and knows which sections are applicable to roadworks.

Figure 5—Relevant Trade Agreements in Effect During 2020–21

- Agreement between the Government of Canada and the Government of the United States of America
- Agreement on Internal Trade (Canadian Free Trade Agreement)
- Canada – European Union Comprehensive Economic and Trade Agreement
- Comprehensive and Progressive Agreement for Trans-Pacific Partnership
- New West Partnership Trade Agreement
- World Trade Organization Agreement on Government Procurement

Source: Adapted from information provided by the Ministry of Highways and SaskBuilds (05 March 2021).

The Ministry has an adequate method to determine posting time for tender bid submissions. It varies the length of posting timing depending on the complexity of the bid request, and whether the Ministry included the project in a public tender release. For pre-qualified tenders, SaskBuilds emails bid requests to the relevant pre-qualified contractors. Whereas for open tenders, through SaskBuilds, it posts its tenders exclusively on the SaskTenders website.¹⁷

¹⁷ www.sasktenders.ca (15 March 2021).

For 34 tenders for roadworks tested, we found the Ministry:

- Used a tender method that aligned with relevant authorities (e.g., trade agreements), and SaskBuilds requirements (e.g., advertise on SaskTenders website, sends bid requests to potential bidders).
- Approved the tender method consistent with the Ministry's delegation of authority policy in effect.

The Ministry's delegation of authority policy outlines approval of all tender types (e.g., open tender, pre-qualified tender). We found the Ministry uses its contract management IT system to obtain approval of the tender method.

Selecting an appropriate method to tender required roadwork services allows the Ministry to treat interested contractors equitably and fairly, and obtain the best value when spending its resources.

4.5 Roadworks Tender Specifications Clear and Approved

The Ministry of Highways sets clear requirements for individual roadworks that it plans to issue an open tender. Requirements include scope, budget, design, specifications, and planned schedules.

The Ministry uses its standard specifications for roadworks to guide its determination of the design and technical specifications for a specific project. It may also hire consultants to assist in this process.

The Ministry developed evaluation criteria consistent with SaskBuilds' expectations (include consideration of past performance scores, safety, relevant experience, local knowledge community benefits, and financial costs). As part of the development of evaluation criteria, the Ministry uses the Tri-Party Best Value Procurement Sub-Committee to gain the input of industry on general evaluation criteria for roadworks tenders with Saskatchewan Heavy Construction Association and the Association of Consulting Engineering Companies–Saskatchewan. We found the sub-committee discussed changes to the Ministry's roadworks evaluation criteria during meetings in 2020 (e.g., using a three-year average performance evaluation score for contractors).

The Ministry uses a checklist to verify it attaches all necessary documents to the tender bid request package (including all required provisions, specifications) and to check whether they align with SaskBuilds' requirements.

Consistent with SaskBuilds' requirements, the Ministry includes its requirements along with criteria to evaluate the procurement in its tender bid request package. For 34 tenders for roadworks tested, we found:

- For each, the Ministry approved specifications before initiating the procurement process, which is consistent with its delegation of authority policy.
- For each, the tender bid request package included expected contents such as approved specifications and evaluation criteria.



- For each, the specifications included were not overly restrictive (e.g., allowed multiple bidders to respond).
- For each, SaskBuilds gave all potential suppliers the same information, including the specifications, at the same time.
- For 33 of 34 tenders, the tender bid request package included sufficiently detailed and comprehensive specifications. For one of the 34 tenders, the Ministry inadvertently missed including a requirement for maintaining appropriate insurance coverage in the specifications included in the bid request. For this procurement, we found the Ministry approved a change to the specifications of the contract after it had selected the successful bidder.

Our analysis of the 75 contract changes we tested found the reasons for the change to be reasonable based on our review of contract documentation and discussions with management. Of these 75 changes:

- Fifty-one related to material or scope changes.¹⁸ For example, changes due to unanticipated soil conditions, more required materials, additional work (e.g., culvert).
- Seventeen included other changes such as changed testing procedures, project schedules, or insurance coverage.
- Seven changes related to COVID-19 protocols the Ministry expected the contractor to follow.

We found, of these 75 changes, 27 items did not change the contract value, 4 decreased the contract value with the remaining 44 increasing the contract value between less than 1 percent and 75 percent, with an average increase of 7 percent. For 38 of the 44 contracts with an increase in contract value, the increase was less than 10 percent of the original contract value.

Having clearly defined specifications and complete tender bid request packages increases the likelihood of the Ministry obtaining complete competitive bids in order to select winning bidders to achieve best value.

4.6 Selection of Bidders based on Pre-established Criteria

The Ministry of Highways selects bidders based on the results of SaskBuilds' evaluation of proposals from bidders to its tenders and bid requests for roadworks procurements.

SaskBuilds has a well-defined process for evaluating bidders' proposals in response to competitions posted on SaskTenders and bid requests sent to pre-qualified vendors, and recommending a winning bidder. It makes its policies and guides readily available to potential suppliers on the SaskTenders website.¹⁹ We found the Ministry was aware of the SaskBuilds' policies and guidance related to evaluating proposals.

¹⁸ Scope change refers to a change in a project after contract signing due to changing requirements of the project for items such as changing the size of the project, the requirements of the project or the specifications of the project.

¹⁹ www.sasktenders.ca/Content/Public/KnowledgeCentre.aspx (15 March 2021).

For each competition, SaskBuilds provides interested bidders for roadworks with the same tender bid request package (e.g., bid request, evaluation criteria, answers to clarification questions, addendums to bid requests). For open tender competitions, it posts the package on SaskTenders. For pre-qualified tenders, it emails the package to applicable pre-qualified contractors.

For each competition, SaskBuilds uses a selection committee to evaluate proposals against the pre-established evaluation criteria, and recommend the winning bidder based on best value. It requires participants on a committee to consider and declare any possible conflicts of interest. Each selection committee consists of at least two SaskBuilds' staff.

For each of the 34 tenders for roadworks tested (nine pre-qualified tenders, 25 open tenders), we found SaskBuilds:

- Used the evaluation criteria set out in the bid request package to evaluate bids
- Used a selection committee with expected composition, and left evidence of the committee considering potential conflicts of interest, and appropriately addressing declared conflicts, if any
- Used consistent and reasonable calculations and formulas in its evaluation spreadsheet for the purpose of quantifying the results of the evaluation of bidders, and selecting the winning bidder
- Recommended a winning bidder to the Ministry based on the bidders who scored the highest using the evaluation criteria
- Maintains sufficient documentation on decisions for bidder selection (i.e., evaluation spreadsheets, recommendation of award memos)

For the 34 tenders for roadworks tested, we found the Ministry selected:

- Thirty-three of 34 tenders based on SaskBuilds' recommendation of the winning bidder. For one procurement, the Ministry selected the bidder with the second highest score. In this instance, the highest scoring bidder and the Ministry agreed that the highest scoring bidder did not have the capacity to deliver the contract on time because the bidder won two other Ministry contracts with similar deadlines.
- Each winning bidder within a reasonable time—between one and 29 business days after the bid closed. We found these timeframes reasonable given the nature, and complexity of the procurement, and the extent of subcontracting.

To identify the risk of potential preferential treatment of bidders, we looked for any correlation between the number of times the Ministry selected a particular bidder compared to the total contract dollars awarded. Our analysis of the Ministry's winning bidders did not find any correlation. The Ministry selected the bidder with the highest evaluation score (i.e., best value).



Having clearly defined evaluation processes helps the Ministry fairly select interested contractors and consultants for roadworks at the best value. Adequately documenting the evaluation of bid responses minimizes the risk of disputes with bidders.

4.7 Appropriate Approval of Winning Bidders

The Ministry of Highways appropriately approved winning bidders for roadworks consistent with its delegation of authority policy.

The Ministry's delegation of authority sets out who can approve winning bidders and contracts, and the size of contracts they can approve. In general, the larger the dollar value of a contract, the higher level of approval is required. For example, the Deputy Minister must approve contracts for contractors for roadworks where the contract is over \$1 million and the winning bidder is \$500 thousand different from the Ministry's estimate.

The Ministry uses its contract management IT system to obtain approval to hire the winning bidder. The IT system automatically advises the individual with the authority to review and approve the winning bidder. The individual documents the review and approval directly in the IT system.

For each of the 34 tenders for roadworks tested, we found the contract management IT system showed the Ministry approved the winning bidder before advising SaskBuilds to communicate the results to all bidders, and followed its delegation of authority policy.

We also found, for each of the 34 tenders for roadworks tested (nine pre-qualified tenders, 25 open tenders), SaskBuilds announced the contract award notices promptly through SaskTenders or email to pre-qualified bidders. It provided to both successful and unsuccessful bidders with a consistent message, and gave all bidders an opportunity to debrief (e.g., discuss why the bid was unsuccessful/successful). For these procurements tested, no bidders threatened or pursued litigation against the Ministry.

Appropriate approval to enter into a contract with the winning bidder allows management to confirm specifications of the roadwork, along with timing and accountability.

4.8 Suitable Contracts for Roadworks in Place

The Ministry of Highways consistently uses standard contract templates when drafting and finalizing contracts for roadworks with consultants. For roadworks with contractors, it uses the signed bid submission of the selected bidder.

The Ministry has developed standard contract templates for the different types of services (e.g., consulting services) that include key provisions (e.g., required services, schedule, compensation for delays, and process for contract changes). For contractors, the Ministry uses the signed bid submission of the selected bidder as the contract. For consultants, it uses a professional services agreement.

We found the signed bid submission indicates the bidder's recognition and acceptance of the provisions included in the bid request package. We also found the Ministry's

professional services agreement template included all of the key provisions (e.g., required services, schedule, and processes for contract changes).

The Ministry documented its signing authority for approval of changes to contracts, including when the design does and does not change.

The Ministry has an adequate process and policies to approve contracts and subsequent changes to these contracts consistent with its policy (i.e., before commencement of work).

For each of the 34 tenders for roadworks tested, we found:

- The Ministry properly approved the contract prior to commencement of the work and within a reasonable period (i.e., between the same day as notifying the winning bidder and 35 days later). SaskBuilds advised the winning bidder that the Ministry awarded it the contract and noted the remaining documents to provide (e.g., bond forms and insurance forms). SaskBuilds also communicated the timeframe to finalize the contract.
- The Ministry and winning bidders appropriately approved the contract and subsequent changes, if any. All of the contracts included required provisions (e.g. required services, schedule of quantities, specifications around extra work). The Ministry approved the contracts in accordance with its delegation of authority policy.

The Ministry made changes to 23 of the tendered contracts we tested. For these 23 contracts with subsequent changes, we found:

- For each, the changes were approved consistent with the Ministry's delegation of authority policy
- For 22 of the 23, the reasons for the changes seemed reasonable (e.g., adding requirement for a COVID-19 onsite officer). For one contract, as noted in **Section 4.5**, the Ministry made a change for a provision it inadvertently missed in the original bid request

Following its policies for contracts helps the Ministry procure the services it needs to design, construct, and maintain roads.

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