

ANAO Submission to the Senate Finance and Public Administration Reference Committee - Inquiry into Commonwealth procurement procedures - paper procurement

This submission focuses on the ANAO's role in auditing Commonwealth entities procurement activities through performance audits. In line with the terms of reference for the inquiry, the submission outlines the recent progress made by the ANAO to address the recommendations in the Finance and Public Administration References Committee's report, Commonwealth procurement procedures (tabled 17 July 2014). The Committee made three recommendations towards the ANAO for consideration during the course of the next procurement-related audit:

- review the operation of the revised Commonwealth Procurement Rules (CPRs), particularly relating to the assessment of financial and non-financial costs and benefits (recommendation 8);
- undertake an assessment of the application and implementation of relevant procurement-connected policies (recommendation 13); and
- assess the competencies of agencies' procurement officers (recommendation 15).

The ANAO examines the expenditure of public money through procurement activities as part of the performance audit program. Since the tabling of the Committee's report, the ANAO has maintained this focus and has taken steps to address the recommendations of the Committee. Audit Report No. 48 2014-15, *Limited Tender Procurement* was the first procurement-related audit conducted by the ANAO after the Committee's report was tabled. An audit of the Indigenous Opportunity Policy, a procurement connected policy Audit Report No. 1 2015-16, *Procurement Initiatives to Support Outcomes for Indigenous Australians* was also conducted. Further procurement related audits are underway.

Procurement audit activity

ANAO audits of procurement typically include consideration of the operation of the procurement framework as well as entity performance against the requirements of the framework. Over the past six years the ANAO has tabled a number of cross entity audits which have directly examined aspects of procurement. In addition, a number of ANAO audits have examined procurement as part of a broader program or project audit. Recent cross entity audits are listed below.

Report Title	Year	Report No.
Procurement Initiatives to Support Outcomes for Indigenous Australians	2015-16	1
Limited Tender Procurement	2014-15	48
Establishment and Use of Multi-Use Lists	2013-14	54
Establishment and Use of Procurement Panels	2011-12	31
Direct Source Procurement	2010-11	11

Operation of the revised Commonwealth Procurement Rules (CPRs)

A key element of ANAO procurement audits has involved assessing how entities have determined value for money as set out in the CPRs. Most of the above audits have identified shortcomings with respect to entities' application of the CPRs for a significant proportion of procurements examined. The audits have found that entities needed to employ more competitive procurement processes, better document value for money assessments and obtain appropriate approvals. In particular:

- Audit Report No. 48 2014-15, *Limited Tender Procurement* found that entities' approaches, to varying degrees, were not fully effective in satisfying the procurement principles, including value for money and fair and open competition.
- Audit Report: No.54 2013-14 *Establishment and Use of Multi-Use Lists* identified that the majority of procurements examined did not meet the requirements of the CPRs and as a result did not promote effective competition; and
- Audit Report No.11 2010-11, *Direct Source Procurement* identified that for the majority of direct source procurements examined it was not evident that the requirements for limited tender had been met.

The revised CPRs which came into effect from 1 July 2014 require that when conducting procurement, officials *must* consider the relevant financial and non-financial costs and benefits of each tender submission. While the Limited Tender Procurement audit (the first procurement audit tabled after the Committee's recommendation was made) considered value for money, it could not examine entities' application of the revised CPRs. The reason for this was that the audit reviewed a sample of entities' limited tender procurements which were published on AusTender from 1 July 2013 to 30 June 2014, prior to the introduction of the revised CPRs. The ANAO is currently undertaking a procurement related audit which will examine compliance with the revised CPRs in detail.

Procurement-connected policies

The application and/or implementation of relevant procurement-connected policies (PCPs) has been examined in two recent cross entity audits.

In Audit Report No. 1 2015-16, *Procurement Initiatives to Support Outcomes for Indigenous Australians*, the ANAO found that while the policy intent to leverage better Indigenous outcomes from Australian Government procurement activity has been clear, the implementation frameworks have not facilitated the effective delivery of outcomes sought. Key factors in this respect include:

- the limited role given to procuring entities to drive and monitor outcomes resulting from supplier actions, and
- the weak reporting arrangements which have hindered the ability of the Department of the Prime Minister and Cabinet (PM&C) and Department of Finance (Finance) to analyse activity and provide advice to government on the outcomes achieved under the Indigenous Opportunities Policy or the Indigenous Business Exemption.

The ANAO also found that based on available information, the participation of Indigenous businesses in the broader context of government purchasing is very limited. The Indigenous Opportunities Policy was replaced by the Indigenous Procurement Policy effective from 1 July 2015. The ANAO made three recommendations to assist PM&C and Finance to better implement, monitor and report on initiatives seeking to increase opportunities for Indigenous Australians through government procurement.

In the Limited Tender Procurement audit the ANAO observed there was little documented evidence that entities had considered whether the required goods or services were subject to procurement connected policies. The supporting documentation for most of the procurements reviewed contained a generic statement to the effect that the proposed procurement process was consistent with the Commonwealth's policies and in particular the CPRs. With the exception of two procurements, the ANAO found that none of the remaining procurements examined contained specific reference to the policies.

Competencies of entities' procurement officers

The Limited Tender Procurement audit considered whether central procurement unit (CPU) officials had relevant expertise to enable them to carry out their role efficiently and effectively, and in compliance with entity and government requirements. The audit found that while CPU officials in the audited entities were not required to have qualifications to fulfil their roles they generally held procurement qualifications and/or had relevant procurement experience.

Previous ANAO audits have also commented on the benefits of entities maintaining a CPU to provide specialist advice and support when procurement responsibilities are devolved within the entity.¹ The Limited Tender Procurement audit found that even though CPUs had conducted reviews, not all of the procurements examined by the ANAO met the conditions in the CPRs. This suggested that in some instances, entity officials and delegates had not fully understood the practical application of the Australian Government's procurement framework, including the need to encourage competition in procurement processes. Given the findings identified in this audit the ANAO considered there was scope for entities to strengthen their review arrangements and made a recommendation in this regard.

¹ For example, in ANAO Audit Report No.11 2010–11 Direct Source Procurement, the ANAO found greater levels of compliance with the then Commonwealth Procurement Guidelines where an entity required CPU involvement in decisions to direct source higher value procurements, pp. 121–122.