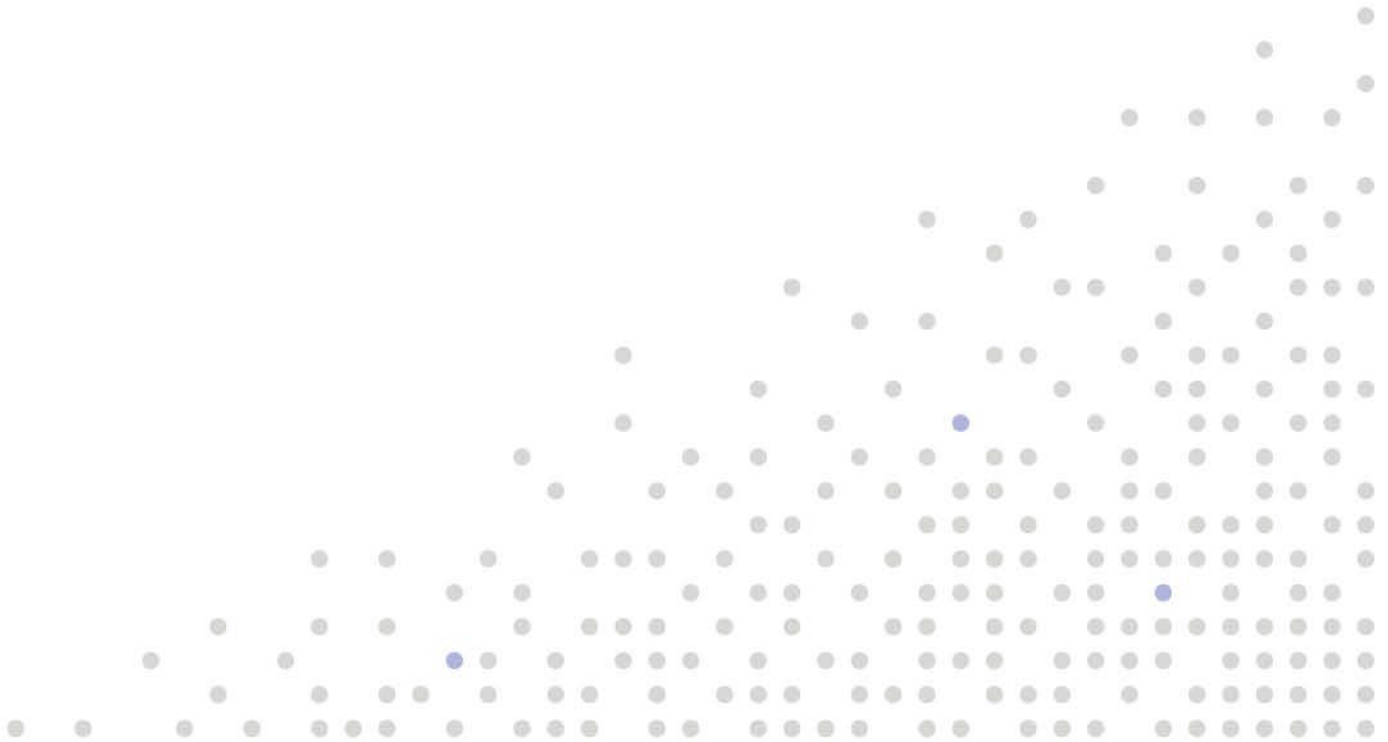




Australian Government
Department of Finance



Department of Finance

**Submission to the
Joint Committee of Public Accounts and Audit
Inquiry into the contract management frameworks operated by
Commonwealth entities**

August 2024

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Introduction

The Department of Finance (Finance) acknowledges the important role that contract management plays in achieving value for money outcomes in Commonwealth procurement.

As policy stewards of the Commonwealth procurement framework, Finance is committed to supporting the development of a positive procurement and contract management culture across the Commonwealth. Finance undertakes regular reviews of procurement policies, contract management guidance material and other web-based support, to ensure they remain fit for purpose. The role of steward also encompasses engagement, advisory functions and leading contract management capability uplift initiatives to Commonwealth entities, along with procurement initiatives. In addition to the stewardship role, Finance regularly engages with businesses to understand procurement pain points to ensure the framework is fit for purpose and make it easier to do business with the Commonwealth.

The contract management phase is where the value for money that is identified in the procurement is realised. Poor contract management can result in a loss of that value for money for the Commonwealth, whereas successful contract management will drive the realisation of value for money.

Finance welcomes the opportunity to make a submission to the inquiry.

The Commonwealth procurement framework

The Commonwealth procurement framework reflects the Australian Government's expectations for procurement and contract management activities. The Commonwealth procurement framework applies to all non-corporate Commonwealth entities (NCEs) and prescribed corporate Commonwealth entities (CCEs) listed in section 30 of the *Public Governance, Performance and Accountability Rule 2014* (PGPA Rule).

Under the *Public Governance, Performance and Accountability Act 2013* (PGPA Act), the use of and accountability for public resources is devolved to agencies and their Accountable Authorities. This provides Commonwealth entities with the flexibility to meet their purpose and achieve their business objectives. Each entity is responsible for its own contract management functions in a manner that ensures the efficient, effective, economical and ethical use and management of public resources.

Finance led contract management guidance for officials

A key element of the support that Finance provides to entities is through web-based guidance. Finance's guidance details procurement and contract management policy and process information and advice that Commonwealth officials can use to inform their contract management activities, deliver best practice and ensure their activities are not inconsistent with the Commonwealth procurement framework. Finance is currently refreshing its guidance to provide additional support to officials undertaking contract management.

Finance is responsible for the [Australian Government Contract Management Guide](#) (the Guide). The Guide provides Commonwealth officials with an understanding of best practice when undertaking contract management with guidance that is applicable to a wide variety of contracts. The Guide provides information to help officials achieve value for money and

identifies different levels of complexity for contracts based on their characteristics and risk profiles. The key activities and considerations for different contract types are clearly identified and sequenced using different phases. Within each phase is listed the key activities and considerations for officials to assist them in managing their contracts effectively. For example; documentation requirements, escalation points, sources of risk, seeking appropriate legal advice and supplier performance management. Finance is currently in the process of updating the Guide with additional content including guidance addressing supplier performance management, ethical behaviour and maintaining value for money when considering contract evaluations and extensions.

Finance recognises the complexity officials face in managing contractual arrangements. To support entities and officials, Finance has developed a series of contractual clauses, with guidance linked to each clause. These clauses increase consistency in the types of clauses the Commonwealth is using, making it simpler for entities and officials to manage contracts and reducing the burden on suppliers contracting with the Commonwealth through the use of standard terms.

The Commonwealth Contracting Suite (CCS) is designed to create uniformity across Commonwealth contracts. The use of the CCS is mandatory for procurements under \$200,000 (GST inclusive) for all non-corporate Commonwealth entities except where a relevant exemption applies (as outlined in Resource Management Guide 420) and is encouraged for procurements valued between \$200,000 and \$1,000,000 (GST inclusive). Commonwealth corporate entities are also encouraged to apply the CCS.

Finance has also developed the Commonwealth ClauseBank, which is a repository of pre-drafted contract terms that can be used within existing contract templates or in bespoke contracts by Commonwealth entities when appropriate. The repository encourages greater consistency in contracting practices and minimises legal costs for both the entities and suppliers.

Finance led procurement and contract management capability uplift initiatives

Finance engages with Commonwealth entities on contract management matters via a range of mechanisms, including face to face meetings, regular newsletter style communication and meetings. Communication with entities is tailored based on the communication mechanism, recent events (including any recent Australian National Audit Office audit findings) and particular key messages requiring transmission.

Bringing together senior members of key Commonwealth entities, Finance has established the Chief Procurement Officers Round Table (CPORT) to discuss issues related to Commonwealth procurement and to test potential policy impacts with stakeholders. The meetings have been a valuable mechanism for creating broader discussion on challenges and opportunities that are impacting Commonwealth procurement. The Terms of Reference for CPORT were recently expanded to include contract management as a focus.

Engagement targeted at all levels of Commonwealth officials occurs through the Commonwealth Procurement and Contract Management Community of Practice (CoP) which is hosted by Finance. The CoP brings together government procurement officials to promote collaboration and knowledge sharing as well as ensuring officials are kept updated on

procurement policy, guidance, systems and tools. Currently, the CoP has over 1,000 members and meets every two months with agendas focused on the latest issues and points of interest from within the Procurement and Contract management space. Previous CoP topics have focused on achieving and maintaining value through the contract management process.

Finance also provides dedicated advice and support for contract management through the Procurement Agency Advice inbox.

Finance has developed and delivers procurement and contract management basics courses as part of its Commonwealth Procurement and Contract Management Training Suite available on the APS Academy's APSLearn. These courses are available free of charge to all APS officials and provide general guidance such as the importance of stakeholder engagement and performance management as part of active contract management, with an emphasis on achieving value for money through the contract management phase of procurement.

These training programs are offered both in-person and online, to address different learning and development needs of officials. As of 1 August 2024, Finance has delivered 42 contract management basics training sessions to 1,805 officials. Future offerings are in development and will incorporate e-learning and short form courses, including courses that will deepen contract management expertise across the APS.

Through the Centre of Procurement Excellence, Finance engages with Commonwealth contract management officials providing the opportunity to participate in capability uplift initiatives. Annually, Finance conducts the Commonwealth Procurement and Contract Management Capability Self-Assessment Survey (the Survey). By completing the Survey, entities are provided with a dashboard report which displays procurement and contract management capability maturity across a range of categories, giving entities a view of opportunities for capability uplift. Entities can also compare their procurement capability to other entities of similar size and procurement profile. The collective results of the Survey provide Finance the opportunity to target training and capability uplift initiatives to identified areas of opportunity more broadly across the Commonwealth procurement cohort.

Another key capability uplift initiative from Finance is the Commonwealth Procurement and Contract Management Awards for Excellence (the Awards). The Awards showcase the important role procurement and contract management plays in delivering services and outcomes for government, the business community and the Australian public. Past award recipients have demonstrated internal capability uplift in contract management and how it has been leveraged effectively as a component of procurement to deliver value for money.

Compliance with the Framework

While Finance is responsible for maintaining the Commonwealth procurement framework, it does not have a role in enforcing compliance with the Framework or overseeing contract management. This is the responsibility of the entity undertaking the procurement and administering the resulting contractual arrangement. The Accountable Authority is responsible under the *PGPA Act* for internal entity audit practices and assurance activities to meet the needs of their entity. The Australian National Audit Office (ANAO) as part of their compliance program, conducts audit on Commonwealth procurements to ensure entity

compliance with the Commonwealth procurement framework and appropriate contract management activity.

Contract management-related audit reports and findings drive Finance's engagement activities, capability uplift and policy development. Finance shares key ANAO findings with entities for broader consideration, updates broader procurement guidance for all entities and seeks to work with impacted entities on addressing findings. This includes supporting the impacted entity with specific assistance, implementing initiatives and guidance to address identified issues, and improving capability across the Commonwealth through highlighting ANAO findings in capability uplift activities (including Community of Practice and training sessions).

Finance responds to systemic concerns about compliance by building capability, developing improved guidance, clarifying expectations or, in some cases, making changes to the Commonwealth procurement framework.

Finance conducts regular outreach sessions with Commonwealth entities. The sessions are tailored to the entity (including what areas of an entity attend the meetings) and update procurement officials on developments in the Commonwealth procurement framework and related policies, provide advice and guidance to support procurement teams, and provide the opportunity for the entity to raise any issues with Finance.

Conclusion

Finance is committed to supporting best practice in contract management across the Commonwealth. To support the nature of the Commonwealth procurement framework, Finance's role focuses on providing guidance and advice, coordinating activities across the Commonwealth and developing and maintaining tools to support officials undertaking contract management activities.

Finance will continue to review the Commonwealth procurement framework and its program of activities to support the delivery of value for money outcomes through procurement and contract management for the Commonwealth.