



Australian Government

Department of Finance

EXECUTIVE MINUTE

on

JOINT COMMITTEE OF PUBLIC ACCOUNTS AND AUDIT

REPORT No. 498

'Commitment issues' - An inquiry into Commonwealth procurement

General comments

On 23 August 2023 the Joint Committee of Public Accounts and Audit tabled *Report 498: 'Commitment issues' - An inquiry into Commonwealth procurement*.

The inquiry had a particular focus on the matters contained in, and related to, the following five Auditor-General reports:

1. *No. 6 (2021-22) Management of the Civil Maritime Surveillance Services Contract;*
2. *No. 15 (2021-22) Department of Defence's Procurement of Six Evolved Cape Class Patrol Boats;*
3. *No. 30 (2021-22) Procurement of the National Capital Authority;*
4. *No. 42 (2021-22) Procurement of Delivery Partners for the Entrepreneurs' Programme;*
and
5. *No. 5 (2022-23) Digital Transformation Agency's Procurement of ICT Related Services*

The Report made 19 recommendations. Recommendations 1 – 10 and 17 are directed to the Department of Finance (Finance).

The Finance response to Recommendations, 5-10 and 17 are detailed in this Executive Minute.

A Government Response is required for Recommendations 1 to 4 and will be addressed separately.

Recommendation 5

The Committee recommends that the Department of Finance amend its guidance to Commonwealth entities to recommend that, where an entity engages in significant or complex procurement activity:

- *the entity's audit committee should increase its scrutiny of procurement risks and internal procurement controls commensurate with the scale and risk of the procurements, and*
- *the entity's internal audit program should provide assurance over the conduct of those procurements.*

Response:

Agreed

Accountable Authorities are responsible for establishing an audit committee and determining the functions their audit committee is to perform. Finance will refresh guidance to recommend that Accountable Authorities should consider how audit committees could better assist in the scrutiny of procurement processes within an entity.

Recommendation 6

The Committee recommends that the Department of Finance write to the accountable authorities of Commonwealth entities with guidance on how to use probity advisers, and reminding them of their obligation to manage probity in a thorough and consistent manner when conducting procurements.

Response:

Agreed

Finance has guidance on its website relating to probity and ethics in procurement, available at: <https://www.finance.gov.au/government/procurement/buying-australian-government/ethics-and-probity-procurement>.

Finance is in the process of refreshing its suite of procurement guidance and will include new and enhanced resources to provide additional support to entities for their procurement activities. This project includes updating existing probity guidance and Finance will communicate the release of this updated guidance material with entities, including via direct communications with accountable authorities.

Recommendation 7

The Committee recommends that the Department of Finance amend its guidance on the use of panels to make it explicit that:

- *a separate value for money assessment must still be undertaken when conducting a procurement from a panel, even though value for money has been considered when forming the panel, and*
- *panel procurements should involve multiple competing tenders from panel members, with sole-sourcing from a panel generally considered inadequate to demonstrate value for money.*

Response:

Agreed

In 2022, the Commonwealth Procurement Rules were updated to encourage officials to approach multiple potential suppliers from a panel to encourage competition.

Finance has guidance on its website relating to procuring from a panel available at: <https://www.finance.gov.au/government/procurement/buying-australian-government/procuring-panel-panels-101>, detailing that value for money should be demonstrated with each engagement.

Finance is in the process of a whole-of-guidance refresh that will include additional resources to support entities in their procurement activities, including guidance material on the establishment and management of panel arrangements and considerations for refresh mechanisms in panels.

In the 2023-24 Budget, the Government committed to increase transparency on AusTender by requiring procuring officials to report the number of suppliers invited to participate in the procurement process, including from panels.

Recommendation 8

The Committee recommends that the Department of Finance require panel procurements to facilitate ongoing competition and foster new entries to markets, by requiring:

- *panels to be refreshed at regular intervals, for example, at least once every two years and at least before a panel is extended; and*
- *an ability for new entrants to seek to be listed on the panel, at any time where possible or at least periodically during the life of the panel.*

Response:

Agreed with qualification

Recently established Whole of Australian Government (WoAG) panel arrangements, such as the Management Advisory Services Panel and the People Panel, contain provisions to enable them to be refreshed at regular intervals.

As part of the whole-of-guidance refresh, guidance is being developed to support entities in considering refresh mechanisms in their panels. Finance will recommend that entities consider the inclusion of a periodic refresh capability, taking into account the specific purpose of the panel, length of panel arrangement and business needs, when establishing new panel arrangements.

Finance is committed to undertaking regular refreshes of the MAS Panel and People Panel. A refresh of MAS Panel Phase 1 (Financial Services) has commenced, and a refresh of Phases 2 (Corporate Services) and 3 (Commercial Services) is expected to approach the market in August 2024. A refresh of the People Panel Phase 1 (Recruitment and Search Services) is expected to approach the market in March 2024.

Whilst Finance supports regular refresh opportunities for panels, we do not support an “always open” approach, where suppliers can apply at any time. As part of any refresh, it is important to understand the current utilisation of the panel – adding new suppliers to a panel where utilisation is low is not a preferred outcome for procurers or suppliers.

Recommendation 9

The Committee recommends that the Department of Finance amend the reporting requirements on AusTender to ensure it is clear for every procurement:

- *how many suppliers were invited to submit quotes for a procurement, including when procuring from panels and standing offers as recommended by the Australian National Audit Office in its audit of the Digital Transformation Agency; and*
- *reasons for any amendments or variations to a contract, by standardising the relevant field to produce more structured data.*

Response:

Agreed

Finance agreed to previous recommendations to increase transparency on the number of suppliers invited to quote. Under the Buy Australian Plan, the Government will increase transparency by improving AusTender, requiring procuring officials to report their justification for exercising contract variations or extending contracts, and further information will be required regarding the procurement process, such as reporting the number of suppliers invited to participate in the procurement process.

Recommendation 10

To facilitate a greater level of transparency in procurement, the Committee recommends that the Department of Finance exercise greater curatorial oversight over the information on AusTender, by, among other things, ensuring data is consistent, properly structured, and easily accessible, and by making standard format reports available to prospective tenderers.

Response:

Agreed

Since 2018, Finance has:

- Significantly improved data quality and access to procurement information for entities, potential suppliers and the public; this has included reviewing and correcting over 360,000 contract notices.
- Implemented a new data analytics capability and has released a range of reports that are available publicly at [AusTender Help and Information](#).
 - The reports increase transparency and accountability through providing greater insights into whole of government and entity level procurement trends and behaviours.
- Consolidated information and guidance on the reporting requirements into [Resource Management Guide 423 - Procurement Publishing and Reporting Obligations \(RMG 423\)](#)

Finance will continue to release further public information reports as they are developed. Finance welcomes any suggestions for further public information reports through the Feedback function at www.tenders.gov.au or by email at tenders@finance.gov.au

Recommendation 17

The Committee recommends that the Department of Finance report back to the Committee within six months of the tabling of this report with the outcomes of its review of its Commonwealth procurement guidance, including a list of changes made to the guidance as a result of the review.

Response:

Agreed

Finance will report back to the Committee six months after the tabling of this response.

Signed by



Jenny Wilkinson
Secretary of Department of Finance
18 January 2024