

Joint Committee of Public Accounts and Audit – 2 March 2011

Introductory Comments

Introduction

The Department of Finance and Deregulation (Finance) is responsible for the development and maintenance of the Australian Government Procurement Framework. Procurement is the means by which agencies acquire the goods and services needed to deliver Government programs and services.

2. To indicate the scale and scope of Australian Government procurement, in 2009-10 about 81,000 contracts (above \$10,000 in value), worth nearly \$43 billion, were awarded to some 17,000 suppliers, by 105 *Financial Management and Accountability Act 1997* Departments and agencies (agencies) and a number of *Commonwealth Authorities and Companies Act 1997* bodies.

3. Agencies are required to report each of those contracts on AusTender, the Australian Government's procurement information system. AusTender provides centralised publication of Australian Government business opportunities, annual procurement plans, multi-use lists and contracts above \$10,000 in value awarded by Australian Government agencies.

Value for Money

4. Value for money is the tenet of Government procurement. Value for money aims to deliver efficient, effective, economical and ethical use of Commonwealth resources, and ensures that procurement decisions are not inconsistent with policies of the Commonwealth.

5. Achieving value for money requires a comparative analysis of all relevant costs and benefits of each proposal throughout the whole procurement cycle. A value for money assessment is a comparative analysis of all relevant costs and benefits of each proposal, including:

- fitness for purpose;
- the performance history of each potential supplier;
- the relative risk of each proposal;
- the flexibility to adapt to possible change over the lifecycle of the property or service;
- financial considerations including all relevant direct and indirect benefits and costs over the whole procurement cycle; and
- the evaluation of contract options (for example, contract extension options).

6. Value for money also takes into account the costs involved in the procurement process. Procurement processes should be commensurate with the value, complexity and risk of the goods and services being acquired.

Procurement Framework and Contract Reporting

7. The Procurement Framework operates on a devolved model under which Chief Executives are responsible for the management of their agencies, while being required to act *'not inconsistently'* with other Government's policies. The obligations established by our Free Trade Agreements are such policies. Government procurement elements of the Free Trade Agreements are incorporated in the *Commonwealth Procurement Guidelines* (CPGs).

8. One element of the Free Trade Agreements relates to reporting the Procurement Method for goods and services procured. This requirement relates only to those goods and services that cost or are likely to cost more than \$80,000, including GST. Note that AusTender data indicated that, for the 2009/10 financial year, approximately 59,000 or 73 percent of the contracts awarded were below the \$80,000 threshold. While these accounted for nearly three-quarters of the number of contracts awarded, they accounted only for about 4 percent of the value of the contracts.

9. The three Procurement Methods, subject to the \$80,000 threshold and prescribed in the Mandatory Procurement Procedures (MPPs) of the CPGs are:

- Open Tendering which involves publishing a request for tender on AusTender and evaluating all compliant submissions;
- Select Tendering which involves a procurement through one of three approaches: a two stage process (where potential suppliers are shortlisted following an Expression of Interest process sought through an open approach to the market); selection from a multi-use list; or selection from a list of potential suppliers with a specific licence or ability to meet a legal requirement that is essential to the procurement; and
- Direct Sourcing which involves a procurement process based on approaching and receiving responses directly from one or more suppliers; it can be used only for procurements where it is specifically allowed under paragraph 8.33 of the CPGs and where the value and reasons for the direct source are documented (Refer paragraph 8.34 of the CPGs).

10. Subsequent to the implementation of the Australia United States Free Trade Agreement, which among other things introduced the \$80,000 threshold for open tendering, many agencies established panels of standing offers. This may be seen as a response to the low threshold, with a view to reducing the cost of procurement processes for areas of recurring purchases. In this way, a single procurement process can be used for multiple procurement events. This reduces supplier

tendering costs and improves agency value for money by removing the need to continually approach the open market for the same good or service.

11. Procurements from panels for goods and services also represent procurement better practice as panels can only be established through open or select approaches to the market. No panel can be established through a 'Direct Sourcing' approach.

12. The procurement reporting of contracts established through panel arrangements has led to a degree of confusion in agencies. The confusion arises as the action taken by the purchasing officer may be perceived to be a direct approach to the supplier(s) on the panel, leading to incorrect reporting of the procurement method on AusTender as a Direct Sourcing approach.

13. The choice of direct sourcing as a procurement method is consistent with the Procurement Framework:

- For procurements that are outside the MPPs, including those valued below \$80,000; and
- Where provided for in the CPGs as detailed in Paragraph 8.33.

14. In addition to the above, there are 16 exemptions to the MPPs that are detailed in pages 40 and 41 of the CPGs, for which direct sourcing is allowed and may be the most appropriate Procurement Method. These exemptions were agreed during the development of the Australian United States Free Trade Agreement and extended to more recent Free Trade Agreements. (See Attachment A)

15. As is the case for all procurement, the agency must be reasonably satisfied that value for money will be achieved when selecting a Direct Source approach.

16. Overall, the Procurement Framework provides agencies with flexibility to determine which Procurement Method best meet the needs of the procurement in line with value for money outcomes.

Audit Report Findings

17. The Audit Report identifies a range of issues in the way agencies conduct procurements. In particular, the Audit Report indicates the need for:

- better documentation explaining the reasons for undertaking direct source procurement approach;
- improved cost estimation skills when a proposed procurement is being considered; and,
- Finance to review the clarity of the CPGs, including classification of procurement methods, specifically Direct Source and Select Tender procurements.

18. Finance welcomes the Audit Report and its findings, and notes that the Audit conveys the challenges faced by officials when procuring goods or services. Finance is in the process of reviewing the clarity of the CPGs, including better explanation of classification of Procurement Methods. It also includes a review of the supporting procurement Guidance, with a view to rationalising and better targeting such Guidance. Consultation with agencies has commenced in this respect.

19. Additionally, Finance considers that procurement capability - that is skills, competency and experience - needs to be improved to promote better compliance in agencies with procurement requirements. In this respect, Finance has introduced a range of initiatives, many of which were initiated before the Audit Report, but are adjusted to take account of changes in policies and areas in which compliance with the CPGs can be improved. These initiatives include:

- Procurement Foundations Seminars – and introduction to the Procurement Framework (held 4-5 times a year);
- Procurement Discussion Forum (held about every 6 weeks);
- Agency visits;
- Procurement Update (a weekly update on the procurement component of the Finance website);
- Procurement Newsletter (issued monthly); and
- Working with key agencies to ensure availability of Certification 4 and degree courses dealing with procurement.

20. To garner high level support for improving procurement capability, a Senior Procurement Officers Reference Group was established in 2009 to provide strategic input to delivering a high-performing Procurement Framework for the Australian Government and to assist in identifying areas requiring attention.

Closing

21. Finance worked closely with the ANAO as the Report and Recommendations were developed, and is working to address the findings and implement the relevant recommendation of the report. The actions above provide an indication of the amount of effort that Finance is giving in this area.

22. Ultimately, Finance is working for better procurement processes, less complexity and less red tape. The aim is to deliver a Procurement Framework for the Australian Government that delivers efficient, effective, economical and ethical use of Commonwealth resources, and value for money.