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Strengthening  
government  
procurement:  
Lessons from our  
recent work



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# Strengthening government procurement: Lessons from our recent work

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# Auditor-General's overview

E ngā mana, e ngā reo, e ngā karangarangatanga maha o te motu, tēnā koutou.

Each year, central government organisations spend about \$52.5 billion procuring infrastructure, goods, and services. Local government organisations also carry out substantial procurement activities.

All public organisations should be competent in carrying out procurement activities. Doing public procurement well is critical to maintaining public trust and ensuring that New Zealanders get the best possible outcomes from this significant spending.

For these reasons, my Office has carried out a multi-year work programme looking at how well the public sector manages procurement. This report brings together the findings of that work since 2018 and highlights the areas where I consider most improvement is needed.

## **Procurement planning is essential**

Public sector staff are often under pressure to make decisions quickly and show tangible actions. Good procurement planning doesn't need to stand in the way of action.

Many of the matters I have recently raised about procurement processes could have easily been avoided by allowing more planning time at the outset to consider how to get the best ultimate outcome for the public. In my Office's work, we often see that this foundational step is significantly underinvested in or treated as a compliance exercise. Without adequate planning, procurement processes can be delayed, cost more, fail, or later be challenged.

Planning needs to be proportionate to the scale, impact, and complexity of the procurement, and informed by a good understanding of what is to be procured, the market, the risks, and the best approach.

## **Well-managed conflicts of interest support integrity**

Conflicts of interest are common in New Zealand.

Where there is poor management of these conflicts (either real or perceived), serious issues can arise. Poorly managed conflicts can create a perception that procurement processes are unfair and lack integrity. Given this, managing conflicts of interest is a critical area for the public sector to get right.

My Office is frequently asked to look into situations where the people involved in a procurement are thought to have an inappropriate interest in the outcome of the procurement, including at ministerial level. Too often in this work we see inadequate systems to identify conflicts of interest, conflicts of interest not being managed, or conflicts of interest being managed poorly.

There are well-established approaches to managing conflicts, including my Office's own guidance. Public organisations should have a robust approach to identifying and managing risks from actual, potential, or perceived conflicts of interest. This underpins the integrity of public sector procurement decision-making. It is an area all public sector leaders should focus on getting right in their organisations.

### **Transparency matters**

Transparency helps support trust and confidence in the way public procurement is carried out. However, balancing transparency with confidentiality requirements in a procurement process can be challenging.

Much of my Office's published work involves explaining the facts of a situation that have been unclear or not publicly available. Public concerns about integrity can be reduced when organisations clearly set out the processes followed, the results of decisions, and the reasons for making decisions.

When my Office examined 246 examples of urgent emergency procurement from six organisations (between June 2018 and July 2022), we found that only 6% of those procurements published the required contract award notice on the Government Electronic Tender Service. Others have made similar findings about non-urgent procurement processes. We have also seen examples of procurement processes modified after they had begun, and unclear records of reasons for deciding on successful tenderers.

I am encouraged to see that data and transparency is one of three focus areas in the 2022 New Zealand Government Procurement Strategy.<sup>1</sup> Sustained effort will be needed to ensure compliance with the current rules and good practice.

### **Contract management**

Effective contract management ensures that suppliers are delivering what has been paid for and intended outcomes are being achieved. An initially well-run procurement process can be undermined by a lack of monitoring of contract performance, terms, and conditions.

<sup>1</sup> New Zealand Government (2022), *Procurement for the future: New Zealand Government Procurement Strategy July 2022*, at [procurement.govt.nz](https://procurement.govt.nz).

In my Office's inquiry work, we often see cases of relatively small procurements (approved under policy exemptions) expanding into large procurements, incurring significant spending which would normally have required more robust processes. When senior staff are involved in approving such expansions to cost and scope, the public are particularly interested to know the reasons for this and whether it reflects on the integrity of public sector leadership. We also see in our audit work significant areas for improvement in contract management more generally.

### **Supply chain resilience**

Many of the public services that we rely on to keep us safe, protect our livelihoods, and help us recover after an emergency are supported by strategic suppliers. These suppliers provide goods and services that are critical to the delivery of public services and are not easily replaced. In recent years, there have been a number of emergencies that have highlighted issues with supply chain resilience.

In 2021, we found a lack of system-wide visibility of strategic suppliers to government. This makes it difficult to identify and manage the risks of disruption to critical services and to build resilience into these supply chains.

Actions in the New Zealand Government Procurement Strategy provide an opportunity to improve risk management and the system-wide visibility of strategic suppliers. This could support organisations to build a more strategic and resilient supply chain for the public sector and avoid the common "panic then forget" response to emergencies.

### **Applying the principles of good procurement**

There is extensive and well-considered guidance available for the public sector on how to do procurement well. This guidance is supported by five principles for good procurement.<sup>2</sup>

When dealing with an emergency or looking to innovate, it is likely that the guidance will not always be applicable. In situations where the guidance doesn't directly apply, organisations need to consider how they can continue to uphold the principles of good procurement.

Innovation and new ways of working are critical to an effective and efficient public service. New ways of working with NGOs, community providers, and other suppliers are a key part of improving public services and providing value for money. However, some new and innovative types of procurement have not been widely adopted because staff were not encouraged to take them up or were not confident on how to do it well. In these situations, staff may have been concerned

<sup>2</sup> See "Government procurement principles", at [procurement.govt.nz](https://procurement.govt.nz).

that they would be criticised for operating outside of the rules, even if they were acting within the principles of good procurement.

It is therefore important that those involved in procurement understand the principles of good procurement and are confident applying them in new situations and in times of pressure. It is also important that leaders support them to do this and accept that not all innovation will be successful. If done with integrity, alongside applying good procurement principles, procurement will be consistent with the public's expectations on how public money should be spent.

### **Improving public sector procurement**

Because of my Office's role, we are usually involved where things have not gone to plan rather than when they have. Although this report highlights matters for improvement, we often see public sector procurement that is well-managed and meets the integrity standards that the public expect.

However, many of the issues I have raised are long standing. Our findings repeatedly demonstrate a failure to apply existing procurement policy or adopt best practice. Good procurement does not need to be slow. Done well, it can enable innovation and support value for money.

A refreshed leadership focus on the key elements of good procurement will be essential for making the improvements that are needed. To support this, we have provided questions for leaders to consider in Appendix 1 of this report.

Although the Ministry of Business, Innovation and Employment is a system leader with responsibility for procurement across central government, all senior leaders should lead by example. The tone and expectations set at the top of an organisation are crucial to integrity, promoting good practice, and demonstrating what is seen as acceptable when managing procurement.

I encourage all leaders of public organisations to consider the matters raised in this report and to invest in opportunities for improvement in their organisations.



John Ryan  
Controller and Auditor-General | Tumuaki o te Mana Arotake

22 May 2024



# Key elements of good procurement

- 1.1 When public organisations procure goods and services, they are spending public money to provide infrastructure, facilities, and services for the public. It is important that New Zealanders can trust public organisations to get the best possible outcomes from this spending and to carry out procurement with competence and integrity.
- 1.2 Public sector procurement is supported by a framework of responsibilities, requirements, and guidance. Despite this, we regularly see weaknesses in some of the most fundamental elements of procurement. These weaknesses risk damaging trust and confidence in the public sector and can lead to poor outcomes from public spending.
- 1.3 In this Part, we discuss the key elements of good procurement and note examples from our multi-year work programme on procurement.

## Principles for good procurement

- 1.4 The New Zealand Government procurement framework is made up of the Government Procurement Rules (the Rules),<sup>3</sup> the Government Procurement Charter, a set of procurement principles, and a range of information and guidance.
- 1.5 The Rules are mandatory for government departments, the New Zealand Police, the New Zealand Defence Force, and most Crown entities. All other public organisations, including local government, are encouraged to follow the Rules and to comply with the principles. The Government Procurement Charter sets out the government's expectations for how organisations should carry out procurement to achieve value for money.
- 1.6 Individual chief executives and governing bodies are responsible for putting the Rules and other requirements and guidance into practice through their own organisation's procurement activities.
- 1.7 The Ministry of Business, Innovation and Employment, through its business unit New Zealand Government Procurement, is the system leader for government procurement. Its role is to help deliver better public value and wider cultural, economic, environmental, and social outcomes by lifting procurement capability and performance.
- 1.8 In July 2022, New Zealand Government Procurement released a national procurement strategy that focuses on delivering value for New Zealand through strengthening data and transparency, stronger accountability, collaboration, and leadership, and developing and maintaining capability.
- 1.9 The strategy's vision is for New Zealand's procurement system to be fair, transparent, inclusive, and efficient.

<sup>3</sup> See [procurement.govt.nz](https://procurement.govt.nz).

1.10 The Rules state:  
*Good practice isn't just mechanically applying the Rules, it's about developing a strong understanding of all the aspects of the procurement lifecycle and skilfully applying these to deliver the best results.*<sup>4</sup>

1.11 Our own guidance on procurement also states that public organisations should carry out procurement in a principled way. In our view, accountability, fairness, and openness are three fundamental principles that public organisations need to focus on at all stages of procurement. We discuss these below.

### **Accountability**

1.12 Public organisations need to be accountable for their procurement decisions and be able to give complete and accurate accounts of how they have used public money. Keeping appropriate records to support key decisions in the procurement process is essential to both transparency and accountability.

1.13 Our work has highlighted the need for public organisations to have effective and appropriate governance arrangements throughout any procurement process. This is to ensure that responsibilities and accountabilities for decision-making are clear, including how they relate to the ultimate outcome being sought.

1.14 When a school establishment board contracted a trust to provide management services in 2018, we did not see reliable evidence from the time about how the board calculated fees, developed a scope of work, approved payments, or actively managed services. It was not clear whether the board understood exactly what it was paying for. In addition, the board could not give the public or other stakeholders confidence that the services it paid for were delivered and priced appropriately.<sup>5</sup>

1.15 In 2019, we concluded an inquiry into the former Waikato District Health Board's procurement of online information technology services. The Board was seeking an innovative way to deal with the challenge of providing health services to remote and rural communities, with projected costs of \$16 million over two years that subsequently increased to \$26 million.

1.16 Due to the significance of the project and concerns that the Board itself had raised about it, our view is that greater oversight was warranted.<sup>6</sup> This could have been either at Board level or through some other form of governance structure.

<sup>4</sup> New Zealand Government (2019), *Government Procurement Rules* (4th ed.), page 10.

<sup>5</sup> Controller and Auditor-General (2021), *Inquiry into management fees paid by South Auckland Middle School and Middle School West Auckland in 2018*, at oag.parliament.nz.

<sup>6</sup> Controller and Auditor-General (2019), *Inquiry into Waikato District Health Board's procurement of services from HealthTap*, at oag.parliament.nz.

## Fairness

- 1.17 Public organisations have an obligation to act fairly and reasonably. They must be, and be seen to be, impartial in their decision-making.
- 1.18 Being fair to all suppliers is one of the Government's procurement principles. All suppliers in a procurement process should have access to the same information at the same time and be given the same opportunities to seek additional information.
- 1.19 In our audit and assurance work, we saw a particularly problematic example where a supplier had been involved in drafting tender documentation and had also submitted their own tender for the work. This supplier gained an unfair advantage over other suppliers who had not had any input into the tender documentation.
- 1.20 In other work, our inquiry into Callaghan Innovation's procurement processes for its Start-up programme identified issues of fairness that undermined the procurement process. These involved the transparency of due diligence processes, and the sharing of due diligence reports without appropriate reason or process.<sup>7</sup>
- 1.21 Fairness is also important for New Zealand's international reputation. In 2018 and 2019, the Ministry of Transport considered two competing proposals to deliver the Auckland light rail project. Concerns were raised with us that this was not consistent with the Rules and could damage international market confidence in the Government's procurement practices. Our view was that while such an approach was possible, the value, risk, and complexity of this particular procurement required a well-considered procurement approach to provide trust and confidence that the process was being carried out appropriately.<sup>8</sup>

## Openness

- 1.22 Public organisations should also act in a way that is, and is seen to be, transparent.
- 1.23 Openness supports accountability and helps support trust and confidence in the way that public organisations procure goods and services. Public concerns about procurement integrity can be reduced when organisations clearly set out and make available the details of the processes followed, the results of procurement decisions, and the reasons for making decisions.
- 1.24 Much of our work referenced in this report stems from public concerns raised about procurement processes where the facts of a situation have not been easily available. Most recently, we reported on services procured by the University

7 Controller and Auditor-General (2023), *Inquiry into Callaghan Innovation's procurement process*, at [oag.parliament.nz](https://oag.parliament.nz).

8 Controller and Auditor-General (2020), "Auckland light rail City Centre to Māngere project", at [oag.parliament.nz](https://oag.parliament.nz).

of Waikato where we found the absence of an explanation of the need for the procurement, and the process followed made it difficult for the public to have assurance that \$1.1 million of public money had been appropriately spent.<sup>9</sup>

### **Robust policies and practices give effect to the principles**

- 1.25 As noted, good procurement is based on the principles of accountability, fairness, and openness. Public organisations should ensure that their procurement policies, practices, and procedures connect to these principles and provide clear guidance to staff on how to put them into practice.<sup>10</sup> Policies should set out at a high level what staff should do and why they should do it, and provide appropriate guidance for them to follow.
- 1.26 Policies and practices should also be reviewed regularly to reflect changes in the organisation's operating environment and expectations of good practice.
- 1.27 As part of our annual audits in 2021/22, we assessed the procurement policies of a sample of public organisations that are required to follow the Rules. Of the public organisations assessed, we found that 19% had policies that were out of date and referred to outdated versions of the Rules. A further 68% of public organisations we assessed had policies that needed to be improved to be fully compliant with the Rules (based on changes to government policy since 2019).

### **Applying principles to emergency procurement**

- 1.28 When responding to emergencies, such as a pandemic or natural disaster, public organisations might need to procure goods and services quickly for things that they were not able to plan for. We saw many examples of public organisations using the emergency procurement provision in the Rules in response to the Covid-19 pandemic.<sup>11</sup>
- 1.29 We do not expect perfect compliance during an emergency, but we do expect where compliance can't be done at the time that attention will be given to procurement requirements as soon as possible after the initial response. During emergencies, public organisations are still accountable to the public and to Parliament for the money they spend.
- 1.30 To help maintain accountability for emergency procurement, public organisations should continue to apply the principles of good procurement practice. This

9 Controller and Auditor-General (2024), "Procurement of services by the University of Waikato", at [oag.parliament.nz](https://oag.parliament.nz).

10 For example, Controller and Auditor-General (2022), *Putting integrity at the core of how public organisations operate*, at [oag.parliament.nz](https://oag.parliament.nz).

11 Controller and Auditor-General (2020), *Ministry of Health: Management of personal protective equipment in response to Covid-19* and Controller and Auditor-General (2023), "Managing public funding in an emergency response or recovery", at [oag.parliament.nz](https://oag.parliament.nz).

includes fully recording each procurement (including the rationale for the use of emergency provisions), the key decisions made, approvals, and transparency of the procurement outcome.

- 1.31 Given recent experience, there is also the opportunity for public organisations to anticipate the risk which might arise from future emergency procurement and prepare policies to address them. This might include detailing specific decision-making delegations for emergency procurement, establishing consistent record-keeping requirements for emergency procurement decisions, and establishing requirements to publicly report emergency procurements.
- 1.32 In emergencies some procurement risks can be heightened, such as fraud and conflicts of interest. It is important to assess and manage these risks. More observations and guidance are included in our 2023 articles on managing public funding in an emergency response or recovery.<sup>12</sup>

### Managing conflicts of interest

- 1.33 Effectively managing conflicts of interest is critical for upholding the principles of accountability, fairness, and openness. If a real or perceived conflict exists and is poorly managed, the public's trust and confidence in the integrity of the process can be undermined.
- 1.34 Regardless of how a conflict arises, there is a risk of creating an unfair advantage or improperly influencing the decision-making process. Even if this does not happen, the perception that it could have can be damaging to an organisation's reputation. Managing perceptions is just as important as managing actual conflicts of interest.
- 1.35 We expect public organisations to have a well-structured approach to identifying and managing any risks from actual, potential, or perceived conflicts of interest for all stages of a procurement process. We expect to see a framework for managing conflicts of interest, which includes declarations from all those involved in the process, a register of declared interests, and actions that are to be taken to manage declared conflicts. This should apply to all staff or advisors involved in a procurement process. The conflicts of interest management process should be revisited when staff get involved partway through a process or if individual circumstances change.
- 1.36 We saw examples of good practice in managing conflicts of interest in our audit and assurance work. These included public organisations with structured, well-managed processes that apply to all staff and contractors. People were required to

<sup>12</sup> Controller and Auditor-General (2023), "Managing public funding in an emergency response or recovery" and "Getting it right: Supporting integrity in emergency procurement", at [oag.parliament.nz](https://oag.parliament.nz).

regularly update their conflicts of interest declarations, which were entered into a register, and specific mitigations were agreed to manage each conflict.

- 1.37 Some of the best examples were where public organisations had given dedicated attention to conflicts of interest through their procurement planning and the way conflicts were identified and managed. In one instance, a public organisation had proactively sought information from tender respondents on the composition of their teams, including subcontractors and individual staff. In this way, the organisation's staff and contractors were fully informed when considering possible sources of conflict.
- 1.38 However, we also see public organisations not doing enough to manage conflicts. This includes not documenting conflicts of interest and mitigation strategies or not adequately considering risks arising from the conflict. For some, there is no evidence that mitigations have been reviewed, agreed, or acknowledged, or mitigations are considered too late in the process or are inadequate.
- 1.39 In our 2021 inquiry into management fees paid by a school establishment board, a conflict arose because the board contracted a trust to carry out management services where the trust and the board had the same members. The board had not taken steps to manage this conflict and was unable to provide assurance that its decision to engage the trust, and the management fees paid, were not influenced by the personal interests of the members.<sup>13</sup>
- 1.40 In another inquiry in 2019, a councillor at Westland District Council had a conflict of interest because people close to them stood to gain financially from work procured by the Council. Although the councillor had declared a conflict of interest, it was not adequately managed. The councillor's close involvement in the procurement process was of particular concern because they negotiated and entered into contracts with people they had a conflict of interest with. As a result, there was concern within the community about the fairness of the Council's contracting processes and whether the contracts were awarded based on personal connections rather than merit.
- 1.41 The role of elected members is to govern, not to manage or take on operational roles. Elected members need to understand the difference and when they are crossing a line. In this case, Council staff should have managed the procurement process without the councillor's involvement.<sup>14</sup>
- 1.42 The Ministry of Health risked a perception of bias, and ultimately a loss of trust and confidence, due to the way it managed conflicts of interest for the people

<sup>13</sup> Controller and Auditor-General (2021), *Inquiry into management fees paid by South Auckland Middle School and Middle School West Auckland in 2018*, at oag.parliament.nz.

<sup>14</sup> Controller and Auditor-General (2019), *Inquiry into procurement of work by Westland District Council at Franz Josef*, at oag.parliament.nz.

involved in selecting a provider for Covid-19 saliva testing services. In 2021, the organisation's guidelines for managing conflicts of interest in procurement were brief and provided minimal practical guidance on how to manage conflicts of interest. Four of the five people on the selection panel declared a conflict, but the plans for managing each conflict were too generic. There was also no consideration of the significant number of conflicts across the selection panel, which together risked undermining confidence in the procurement process as a whole.<sup>15</sup>

- 1.43 Our guide *Getting it right: Managing conflicts of interest in procurement* provides common scenarios from a range of sectors and suggests ways to help avoid, mitigate, and manage conflicts.<sup>16</sup>

## Strengthening procurement capability

- 1.44 We continue to see a need for public organisations to strengthen procurement capability.
- 1.45 New Zealand Government Procurement and public organisations both have a role in building procurement capability across the public sector. In aid of this, New Zealand Government Procurement provides online training for government procurement and property professionals.
- 1.46 Public organisations have told us that they want New Zealand Government Procurement to be a centre of excellence for procurement. They would like to see New Zealand Government Procurement employing staff with senior experience and expertise to provide effective procurement guidance and leadership.<sup>17</sup>
- 1.47 One area where we saw a need for public organisations to improve their capability is in assessing and managing risks associated with strategic suppliers. Strategic suppliers provide goods and services that are critical to the delivery of public services and are not easily replaced.
- 1.48 We found in 2021 that public organisations have different levels of experience and capability with strategic supplier risk management, and need to ensure that senior leaders and governing bodies have the information they need to manage risks. Similarly, we did not see how the government was identifying and mitigating the risks from strategic suppliers who provide services to multiple public organisations.<sup>18</sup>

15 Controller and Auditor-General (2021), "Response to concerns about the Ministry of Health's procurement for Covid-19 saliva testing services", at [oag.parliament.nz](https://oag.parliament.nz).

16 Controller and Auditor-General (2022), "Getting it right: Managing conflicts of interest in procurement", at [oag.parliament.nz](https://oag.parliament.nz).

17 Controller and Auditor-General (2019), *Using "functional leadership" to improve government procurement*, at [oag.parliament.nz](https://oag.parliament.nz).

18 Controller and Auditor-General (2021), *Strategic suppliers: Understanding and managing the risks of service disruption*, paragraph 3.34, at [oag.parliament.nz](https://oag.parliament.nz).

## Procurement capability in local government

- 1.49 Procurement capability can be a particular challenge in local government. Although councils undertake significant procurement, they often have few staff dedicated to it. Smaller councils tell us that they often struggle to maintain the capability needed to carry out their procurement activities.
- 1.50 Some councils bring in specialist procurement staff when required – for example, to support a large one-off procurement. Councils also collaborate and share insights on procurement through formal structures (such as through shared services across multiple councils), regional working groups and forums (such as the Local Government Strategic Procurement Group), and less formally when required.<sup>19</sup> We encourage all councils to look for opportunities to collaborate and share knowledge about procurement.
- 1.51 In their 2021-31 long-term plans, councils were proposing a combined capital expenditure programme of \$77.2 billion over the next 10 years.<sup>20</sup> With councils planning significant infrastructure investment, having appropriate procurement strategies and following effective procurement practices will be critical.
- 1.52 We have already seen some councils taking innovative approaches to help achieve their capital expenditure programmes. This includes steps to improve their procurement policies and practices, as well as their business case processes, to enable better project prioritisation and delivery. This should help councils deliver their long-term plans.

## Independent assurance

- 1.53 For major, complex, or high-risk projects, public organisations should consider appointing an independent probity auditor at the beginning of the procurement process. Opening a procurement process to scrutiny by an independent specialist can give confidence to governors and market participants that procurement processes have been carried out fairly and to good practice standards.
- 1.54 In 2019 we saw that the Department of Corrections demonstrated good probity management when it needed to rapidly build more prison accommodation. For the initial contract, the Department followed good practice, including advertising the contract on the Government Electronic Tender Service,<sup>21</sup> applying the Rules to the procurement process, and engaging an independent probity auditor to be present at key stages during the process and to provide real-time assurance.

19 Controller and Auditor-General (2020), "Local government procurement", at [oag.parliament.nz](https://oag.parliament.nz).

20 Controller and Auditor-General (2022), *Matters arising from our audits of the 2021-31 long-term plans*, at [oag.parliament.nz](https://oag.parliament.nz).

21 The Government Electronic Tender Service is a free online service designed to promote open and fair competition for New Zealand Government contract opportunities. The Government Procurement Rules require public organisations to list contract opportunities on the Government Electronic Tender Service.



- 1.55 When the Department needed more accommodation to be built, it did not readvertise the work but extended the contract it already had. The Department had made sure that this approach was still consistent with the Rules and took steps to show that appropriate judgements and risk assessments had been applied to the decision to extend the contract.
- 1.56 The Department also supported the principle of accountability by documenting the results of this work and the judgements that were applied in deciding to extend the contract. This document was authorised by the person who held the delegated authority.<sup>22</sup>
- 1.57 In contrast, when the Ministry of Health was procuring Covid-19 saliva testing services in 2021 it did not prepare a procurement plan nor formally engage an independent probity auditor. Although the Ministry did seek some probity advice, it was informal and took place after the evaluation panel had been formed and had evaluated the tenders. Appointing an independent probity advisor at the start might have helped the Ministry to ensure that sufficient planning had been done to better manage potential conflicts of interest in a way that aligned with best practice.<sup>23</sup>
- 1.58 Over a number of inquiries we have carried out on procurement matters, there is a recurring theme of not getting advice at the right time to support good procurement practice and good procurement outcomes.

22 Controller and Auditor-General (2019), "Department of Corrections' procurement of rapid deployment of prison accommodation", at [oag.parliament.nz](http://oag.parliament.nz).

23 Controller and Auditor-General (2021), "Response to concerns about the Ministry of Health's procurement for Covid-19 saliva testing services", at [oag.parliament.nz](http://oag.parliament.nz).

# 2

## Key stages of procurement

- 2.1 New Zealand Government Procurement defines the three overarching stages of procurement as:
- plan (what you need to do before approaching and selecting a supplier);
  - source (how to get quality responses from the right suppliers); and
  - manage (how to manage the contract once it's under way).<sup>24</sup>
- 2.2 Some principles and aspects of good procurement, such as fairness, apply throughout the whole procurement process. There are also elements of good practice that apply more specifically to the separate stages.
- 2.3 In this Part, we discuss the findings from our work about each of these three stages.

### Plan

- 2.4 Planning is the foundation of good procurement, and like any foundation needs to be in place before procurement activity begins. A lack of proper planning in the early stages of a procurement can lead to issues later. Allowing enough time for proper planning can help ensure that the procurement:
- is aligned to organisational strategy;
  - will deliver value for money and achieve its intended outcomes;
  - is appropriately approved; and
  - complies with internal and external requirements, including the Government Procurement Rules (the Rules).
- 2.5 Planning should clearly set out the scope and risks of a procurement, the outcomes being sought, and the resourcing and approval processes needed. Planning should include documented analysis of available options, assessing the relative merits and identifying and justifying the preferred option. This helps to understand how and why decisions were made.
- 2.6 Planning is the stage to consider what procurement approach will support the best outcomes. This is particularly important as new commissioning approaches and other ways of delivering services develop. In our 2023 report on Whānau Ora, we found that the public sector has been slow to make progress on using whānau-centred approaches, even when there is a clear mandate to do so and the approach will potentially achieve better outcomes.<sup>25</sup>
- 2.7 In our assurance reviews, a significant percentage of the procurements we looked at between mid-2019 and mid-2022 were inadequately planned. This was further reinforced when we examined procurement as part of our annual audits of public organisations.

<sup>24</sup> New Zealand Government Procurement, "Guide to procurement", at [procurement.govt.nz](https://procurement.govt.nz).

<sup>25</sup> Controller and Auditor-General (2023), *How well public organisations are supporting Whānau Ora and whānau-centred approaches*, at [oag.parliament.nz](https://oag.parliament.nz).

- 2.8 Some of the common weaknesses we saw included:
- inadequate or no procurement planning;
  - procurements approved without the right authority;
  - inadequate consideration of risks;
  - failure to comply with internal policies; and
  - poor or no justification for relying on an exemption from the Rules.

### Aligning procurement with strategy

- 2.9 Good planning starts with a sound understanding of what the procurement aims to achieve. Before going ahead with procurement activities, we expect public organisations to understand the type, value, and risks of the goods and services they are looking to procure. If procurement is integral to a public organisation's overall work, the organisation should have a procurement strategy that is aligned to its organisational strategy.
- 2.10 Through our work, we have seen examples of good procurement that were clearly aligned to strategies and had good measures to assess whether key objectives were met.
- 2.11 When we looked at the Inland Revenue Department's Business Transformation programme in 2018, we saw that Inland Revenue had changed its procurement approach to better focus on relationships with suppliers and contract outcomes. The new approach was aligned to Inland Revenue's overall vision for the programme and was more flexible to ensure that procurement met the objectives it was seeking to achieve.<sup>26</sup>
- 2.12 In 2021, our work found that having a clear procurement strategy for vaccines put the Government in a strong position when it wanted to purchase vaccines for Covid-19. The Government needed to commit to purchasing vaccines while the vaccines were still in a trial phase. The procurement strategy was designed to increase the chances of securing advance purchase agreements for several potential vaccines. The strategy helped the Government to procure four different vaccines, including an additional supply for the Pacific countries the Government had committed to support.<sup>27</sup>
- 2.13 In contrast, when Tauranga City Council agreed to build a new car park, it did not have a business case for the project. Elected members had not settled on a final design or intended outcome for the project before the procurement started. According to the Council's procurement policy, the starting point for

<sup>26</sup> Controller and Auditor-General (2018), *Inland Revenue Department: Procurement for the Business Transformation programme*, at [oag.parliament.nz](http://oag.parliament.nz).

<sup>27</sup> Controller and Auditor-General (2021), *Preparations for the nationwide roll-out of the Covid-19 vaccine*, at [oag.parliament.nz](http://oag.parliament.nz).

the procurement should have been a risk assessment. This risk assessment did not happen, and there was no written procurement plan for the project. After receiving expert engineering advice about serious seismic design issues with the building's design, Tauranga City Council decided to abandon the project after already spending \$19 million on it.<sup>28</sup>

### Identifying and mitigating risks

- 2.14 Through our work we frequently see insufficient consideration of procurement risks at the planning stage.
- 2.15 We often find that risk analysis has been carried out as a compliance activity, with not enough thought given to the specific risks of the procurement. Planning documents provide the opportunity to acknowledge risks from the outset (such as the risks of using a new supplier), record risks, and design and implement mitigation strategies.
- 2.16 In local government, some councils are aiming to achieve broader outcomes with their procurement activity, such as supporting local employment. If elected members want to prioritise local suppliers, or suppliers that pay a living wage, councils should consider how to incorporate those objectives into their procurement policies and processes at the outset.<sup>29</sup>
- 2.17 As well as the risks of individual procurements, public organisations should consider their procurement risks more broadly. As a general principle, public organisations need to be transparent about their strategic risks, including strategic supplier risks, and provide appropriate oversight of risk management. This includes having adequate processes in place for reporting strategic supply risks to senior leaders and governing bodies, and the actions undertaken to mitigate risks as appropriate.<sup>30</sup>

### Appropriate records

- 2.18 Good record-keeping supports good procurement. Timely record-keeping in the early stages of procurement planning helps to ensure that procurement is aligned with organisational policies.
- 2.19 Clear and accessible records allow the public to have assurance that the procurement decision was well-considered and an appropriate process was followed. When the records for a procurement are not complete, the public can lose confidence in how the organisation is using public resources.

28 Controller and Auditor-General (2021), "Tauranga City Council car park building project", at [oag.parliament.nz](https://oag.parliament.nz).

29 Controller and Auditor-General (2020), "Local government procurement", at [oag.parliament.nz](https://oag.parliament.nz).

30 Controller and Auditor-General (2021), *Strategic suppliers: Understanding and managing the risks of service disruption*, at [oag.parliament.nz](https://oag.parliament.nz).

- 2.20 In 2019 the University of Waikato directly procured services that had, by October 2023, seen about \$1.1 million paid to the contractor. In that case, we did not see clear records documenting the reason for the services, why the provider who was selected was the only or best-placed provider to deliver those services, and why the amount paid to the provider was appropriate. The absence of records addressing these matters, as required by the University's own procurement policies, makes it difficult for the public to have assurance that public money has been appropriately spent.<sup>31</sup>

### Source

- 2.21 Sourcing involves going to the market and selecting a preferred supplier. The principles of accountability, fairness, and openness are important at this stage to ensure that all potential suppliers have the same opportunities and information they need to tender for the contract, and that important decisions are supported and documented.

### Receiving and evaluating submissions

- 2.22 The way that organisations manage and evaluate tender responses from potential suppliers is central to the principle of fairness. Public organisations should have a clear process for recording all submissions, how and when responses have been received, and how they were assessed.
- 2.23 In our assurance reviews and annual audit support work, we saw examples of good practice in tender close activities. These included effective processes and controls to ensure that responses were recorded and processed accordingly, and evidence and approvals to show whether submissions met any specific requirements before being evaluated.
- 2.24 Along with managing any conflicts of interest, evaluating submissions is one of the highest procurement risk areas for public organisations. During this stage, public organisations decide which tenders, if any, best meet their requirements based on agreed and documented criteria. The evaluation process ultimately determines whether the organisation will get the best outcome possible from the responses received. Appropriate documentation is important to show that a robust process was followed.

31 Controller and Auditor-General (2024), "Procurement of services by the University of Waikato", at [oag.parliament.nz](https://oag.parliament.nz).

- 2.25 We saw good practices from public organisations for documenting evaluations. Some examples included:
- applying an evaluation guide that had been tailored to the procurement process and included “what good looks like” for evaluation criteria rather than a generic rating scale;
  - providing guidance and training for evaluators before submissions closed;
  - maintaining a clear separation between different roles in the evaluation process (in particular, between those running the procurement process and those evaluating tenders); and
  - using specialised software to record evaluation scores and comments, to help moderate and agree on each of the evaluation scores.
- 2.26 However, some of the tender closing practices we looked at needed improvement. Examples of poor practice include:
- having no documentation or process for receipting or storing submissions;
  - having no review of compliance with any pre-conditions (or no record of one) before submissions are evaluated;
  - accepting submissions that did not follow stated requirements, with no explanation;
  - accepting late submissions with inadequate documentation or approvals;
  - not recording all submissions as part of the receipting process and overlooking valid submissions; and
  - not having considered how to address matters that may arise during evaluation.

### **Communications during the tender period**

- 2.27 Communication with prospective suppliers during the tender period needs to be carefully managed. Public organisations should document the controls they have in place for tender communications and submissions to ensure that all interested parties have fair, confidential, and timely access to information. Communication is also an important factor in market and supplier confidence.
- 2.28 In our assurance reviews, we saw that managing communications with respondents often was an area of good practice.
- 2.29 For example, one public organisation had comprehensive protocols and used an electronic file-sharing tool and a communications log to carefully manage how and when information was shared with respondents. This ensured that all respondents were treated fairly.

## Exemptions from open tendering

- 2.30 In some situations, public organisations can be exempt from open tendering. This is covered by the Rules.<sup>32</sup> Where an exemption applies, it is important that organisations clearly record the reasons for the exemption.
- 2.31 For example, an exemption from open tendering can apply when, for technical reasons, there would be no real competition during an open tender process. We saw this exemption applied when Wellington City Council procured structural engineering services for the repair of Wellington Central Library. The Council considered that a direct procurement using a closed tender process was the best option because one supplier held unique technical knowledge that would have meant there would have been no real competition during an open tender.
- 2.32 Wellington City Council took appropriate steps to consider how it wanted to strengthen the library, engaged the market about how that solution might be delivered, selected the provider in line with the Rules, and documented its decision. That is good practice, even though, like other local authorities, the Council was not required to follow the Rules.<sup>33</sup>
- 2.33 In another example, the Ministry of Health applied an exemption from open tendering to procure an immunisation register for Covid-19, on the basis that it was an emergency. The Ministry sought retrospective approval for this approach, as allowed by the Rules.
- 2.34 Our work has also identified situations where better consideration is needed of the whole-of-life value of the goods or services being procured before moving to direct sourcing for seemingly smaller-value contracts.
- 2.35 In early 2023, we wrote about the direct procurement of consultancy services for the Levin landfill by Horowhenua District Council. When the consultants were first engaged the expected costs were a maximum of \$20,000. The initial work led to further work which was undertaken by the same consultants. Eventually the consultants were paid nearly \$900,000 for services in relation to the landfill. The procurement approach did not adhere to the Council's procurement policies given the total potential contract value over time.<sup>34</sup>
- 2.36 Under the Rules, public organisations are required to publish a contract award notice on the Government Electronic Tender Service. Publishing contract award notices supports transparency and is particularly important when a procurement was not openly advertised.

<sup>32</sup> Exemptions from the requirement to openly advertise an opportunity are covered by Rule 14.

<sup>33</sup> Controller and Auditor-General (2022), "Project Te Matapihi: Structural engineering services for the central library", at [oag.parliament.nz](https://oag.parliament.nz).

<sup>34</sup> Controller and Auditor-General (2023), "Engagement of consultants by Horowhenua District Council", at [oag.parliament.nz](https://oag.parliament.nz).

- 2.37 This aspect of compliance needs considerable improvement. In our work on emergency procurement, 94% of emergency procurements we examined from six agencies between June 2018 and July 2022 did not publish a contract award notice on the Government Electronic Tender Service.<sup>35</sup>

### **Setting up panels of suppliers**

- 2.38 One way that public organisations can manage procurement is by setting up a panel of suppliers. This is a list of suppliers that have been pre-selected and have agreed to the terms and conditions of supply.
- 2.39 To get the best outcomes from panels of suppliers, public organisations need to:
- be confident that a panel is the best procurement option; and
  - follow the Rules when setting up and using panels.
- 2.40 In 2020, we surveyed public organisations that are mandated or encouraged to comply with the Rules about their use of supplier panels. Nearly all the organisations that responded were using all-of-Government panels for some goods and services, and just under half had also set up their own supplier panels.
- 2.41 After the survey, we looked in more depth at the way four public organisations were using their own supplier panels. All four public organisations needed to improve how they managed relationships with suppliers.
- 2.42 The public organisations needed to be more transparent about the nature and level of procurement going through each panel. This involves sharing information, such as who else is on the panel, upcoming work, and who has been awarded work.
- 2.43 The organisations also needed to improve how they monitored each panel's performance. This should include monitoring supplier performance, considering whether a panel is achieving intended benefits, and identifying where improvements are needed.<sup>36</sup>

<sup>35</sup> Controller and Auditor-General (2023), "Getting it right: Supporting integrity in emergency procurement", at [oag.parliament.nz](https://oag.parliament.nz).

<sup>36</sup> Controller and Auditor-General (2020), "Getting the best from panels of suppliers", at [oag.parliament.nz](https://oag.parliament.nz).



## Manage

- 2.44 Procurement does not end when a contract is signed – the final stages of the procurement include managing contracts and relationships with suppliers and ensuring that the outcomes and benefits of the procurement are achieved.
- 2.45 Good contract management helps to ensure that suppliers are delivering what has been agreed and paid for and helps organisations assess whether the procurement has achieved value for money.
- 2.46 Examples of good contract management practices that we have seen in our work include:
- good policy direction and guidance about contract management expectations and requirements;
  - clear roles and responsibilities at each contract stage, with evidence of reviews and approvals such as checklists and guidance;
  - robust monitoring and review processes to manage the receipt and review of contract reporting and help monitor supplier performance;
  - regular supplier meetings to discuss performance, address concerns, and share intelligence relevant to the contract; and
  - documentation of these meetings, with documentation provided to all parties.

## Supplier management

- 2.47 In our 2021 performance audit of strategic suppliers, we heard that suppliers considered good relationship management important for achieving procurement outcomes, getting the best value, and managing risks. However, suppliers also told us that many public organisations take a more transactional approach instead of a relationship-based one.<sup>37</sup>
- 2.48 In 2018, we saw that Inland Revenue has regular meetings with its most important suppliers to discuss the supplier's performance based on feedback from Inland Revenue staff, which it uses to identify risks and areas for improvement.
- 2.49 Staff at Inland Revenue told us that this approach helps to get the best performance from suppliers and identifies problems before they become serious.<sup>38</sup> Suppliers told us that they see value in this open, regular, and structured way of working, for similar reasons.
- 2.50 In our 2020 report about network outcome contracts at New Zealand Transport Agency Waka Kotahi, we saw that Waka Kotahi ensured that it had regular

<sup>37</sup> Controller and Auditor-General (2021), *Strategic suppliers: Understanding and managing the risks of service disruption*, at oag.parliament.nz.

<sup>38</sup> Controller and Auditor-General (2018), *Inland Revenue Department: Procurement for the Business Transformation programme*, at oag.parliament.nz.

engagement with suppliers through the management and governance structure that provides oversight of the contracts. Within this structure, Waka Kotahi and suppliers work together to monitor performance, manage risks, and build effective relationships. We found that this approach was becoming more effective over time.<sup>39</sup>

### Contract management

- 2.51 We have also seen cases where contract management needs to be improved. In our annual audit support work between mid-2019 and mid-2022, 61% of the 150 procurements that we looked at needed to improve their contract management. These included cases where:
- there were no contract management plans for significant contracts;
  - there was no contracts register or system to track important details for contracts;
  - contract extensions were offered without sufficient supporting information to demonstrate clear consideration of the reasons for an extension;
  - contracts and/or variations were agreed verbally, or were not fully signed by both parties before work began;
  - services were provided under an expired contract;
  - public organisations were not measuring supplier performance;
  - public organisations were not providing formal written feedback to suppliers about poor performance; and
  - there was a lack of reporting, advice, or escalation to management about risks or performance issues.
- 2.52 It is not uncommon when managing procurement for there to be reasons to extend contracts. In such situations though, careful consideration needs to be given to maintaining the elements of good procurement. The extension and rollover of contracts without proper consideration can create many of the same issues already covered in this report.
- 2.53 There is significant room for improvement in the way that many public organisations manage contracts. Even simple improvements such as a comprehensive contract register would support more trust and confidence in public sector procurement and help to ensure that public organisations are getting good value when they spend public money.

<sup>39</sup> Controller and Auditor-General (2020), *New Zealand Transport Agency: Maintaining state highways through Network Outcomes Contracts*, at [oag.parliament.nz](https://oag.parliament.nz).

# Appendix 1

## Questions for leaders

We encourage governors and senior leaders to consider these questions about key elements of procurement in their organisation. This is not intended as a comprehensive checklist, but rather the elements of good practice that we see are often missing in public procurement.

Questions to consider
Are your procurement policies up to date and aligned with public sector expectations?
Does your organisation have the right capability to allow you to comply with your policies and carry out the range of procurement you do?
Does your senior leadership team (and/or governors) receive regular reporting on procurement activities, value for money, contract management, and assurance that policies are being complied with?
Do you have comprehensive conflict of interest systems and processes to support procurement activities?
Do you understand who your strategically important suppliers are, and are there adequate plans in place to maintain service delivery in the event of an emergency or supplier failure?
Have you considered likely procurement activities in an emergency and how you will maintain process integrity in those circumstances?
Have you developed guidance and support for staff looking to carry out innovative procurement outside normal rules and processes?
Are you meeting public reporting requirements on your procurement activity?

# Appendix 2

## Our procurement-related publications, 2018 to 2024

<b>Performance audits</b>
<i>Using “functional leadership” to improve government procurement</i>
<i>New Zealand Transport Agency: Maintaining state highways through Network Outcomes Contracts</i>
<i>Strategic suppliers: Understanding and managing the risks of service disruption</i>
<i>Inland Revenue Department: Procurement for the Business Transformation programme</i>
<i>Preparations for the nationwide roll-out of the Covid-19 vaccine</i>
<i>How well public organisations are supporting Whānau Ora and whānau-centred approaches</i>
<b>Follow-up reports</b>
<i>Response to our recommendations about maintaining state highways</i>
<i>Responses to our recommendations about strategic suppliers</i>
<i>Responses about our functional leadership recommendations</i>
<b>Articles</b>
<i>Getting the best from panels of suppliers</i>
<i>Local government procurement</i>
<i>Getting it right: Managing conflicts of interest involving council employees</i>
<i>Getting it right: Supporting integrity in emergency procurement</i>
<b>Inquiries</b>
<i>Inquiry into procurement of work by Westland District Council at Franz Josef</i>
<i>Inquiry into Waikato District Health Board’s procurement of services from HealthTap</i>
<i>Department of Corrections’ procurement of rapid deployment of prison accommodation</i>
<i>Inquiry into Alpine Energy Limited’s decision to install solar equipment at a senior executive’s house</i>
<i>Auckland light rail City Centre to Māngere project</i>
<i>Inquiry into the University of Auckland’s decision to purchase a house in Parnell</i>
<i>Tauranga City Council car park building project</i>
<i>Engagement of consultants at Queenstown Lakes District Council</i>
<i>The Ministry of Health’s procurement of a national immunisation system</i>
<i>Response to concerns about the Ministry of Health’s procurement for Covid-19 saliva testing services</i>

*Inquiry into management fees paid by South Auckland Middle School and Middle School West Auckland in 2018*

*Project Te Matapihi: Structural engineering services for the central library*

*Engagement of consultants at Horowhenua District Council*

*Inquiry into Callaghan Innovation's procurement process*

**Other**

*Introducing our work about procurement*

*Ministry of Health: Management of personal protective equipment in response to Covid-19*

*Procurement and contract management: Lessons from the tertiary sector (Audit New Zealand)*

**Good practice guides**

A range of good practice guidance for procurement, contract management, and managing conflicts of interest can be found at [oag.parliament.nz](https://oag.parliament.nz) and [auditnz.parliament.nz](https://auditnz.parliament.nz).



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