



Government of **Western Australia**
Department of **Education**

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Enquiries :

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Dear Dr Buti

Thank you for your correspondence dated 4 December 2018 inviting the Department of Education to provide a submission to the inquiry into public sector contract management practices.

Attached is the Department of Education's response.

Yours sincerely

Lisa Rodgers
Director General

13 MAR 2019

Att.



Department of Education

SUBMISSION to the *Public Accounts Committee* Inquiry into public sector contract management practices.

CONTRACT PROFILE

The Department of Education (the Department) is a large consumer of goods and services to provide for its operational needs and to support over 800 schools and school sites. Last year the Department awarded approximately 160 new contracts for purchase of goods or services each with a value of \$50 000 or more, and manages about 490 current contracts collectively valued at just over \$1 billion.

A large proportion of the Department's spend on goods and services is by schools that typically purchase a high volume of low value goods, equipment and classroom supplies sourced from a range of service providers through Government or Department contracts. The Department has a small number of large value contracts that deliver services such as school maintenance (eg. lawn mowing, gardening), Information and Communication Technology and pastoral care. The value is high due to the number of schools to which the services are provided rather than the complexity of the contracts.

Building and maintenance works for new and existing schools are undertaken on behalf of the Department by the Building Management and Works division of the Department of Finance (BMW). Accordingly, contracts for building and maintenance works are established and managed by BMW, with the Department's role in these arrangements limited to that of the client.

In addition, the Department has one Public Private Partnership Agreement for the construction, maintenance and facilities management of eight schools. The Department is the contract manager only for the maintenance and facilities maintenance part of the Public Private Partnership Agreement.

CONTRACT MANAGEMENT PRACTICES

The Department has in place a number of contract management and procurement practices that address the relevant terms of reference in the Public Accounts Committee inquiry.

A. The policy frameworks that currently govern public sector contract management in WA

- The Department complies with whole-of government policy when establishing and managing new contracts. In particular, the key documents that provide the framework for procurement and contract management within the Department are:
 - Policy:
 - *State Supply Commission (SSC) policies* – provide best-practice framework for buying goods and services and managing those arrangements:
 - *Open and Effective Competition Policy*

- *Value for Money Policy*
 - *Probity and Accountability Policy*
 - The SSC Partial Exemption issued to the Department under the *State Supply Commission Act 1991* in respect of the supply of goods and services necessary for its operation.
 - *Delivering Community Services in Partnership Policy* (DCSP Policy) – provides the framework for partnering with the not-for-profit sector in delivery of human services to help support vulnerable and disadvantaged Western Australians.
 - Treasurer's Instructions:
 - (TI) 321 Personal Use of Credit Cards – incorporating reporting requirements for the Annual Report (TI 903);
 - TI 820 for the registration of delegated authorities and contracts valued at \$50 000 and above, and all exemptions from supply policies.
 - Legislation:
 - *Corruption & Crime Commission Act 2003*;
 - *Criminal Code Act Compilation Act 1913*.
- The policies require contracts to be established and managed to ensure:
 - value for money
 - probity and accountability
 - open and effective competition
 - sustainable procurement.
- The policies cover:
 - buying of goods and services, including those under a Common Use Agreement (CUA) or a Department of Education Contract;
 - contract management, including the requirement to have a contract management plan for contracts with an estimated value of \$5 million and above;
 - establishment and management of community service agreements; and
 - disposal of goods.

B. The extent to which compliance with these frameworks is monitored and reported

- The Department complies with the above frameworks by monitoring and reporting as follows:
 - Contract initiation and award arrangements are governed by the Procurement Administrative Schedule and Business Rules, including a delegation framework and review procedures requiring independent review and endorsement before approval for the initiation of contracts.
 - Contract change management (variations, extensions, novations, terminations etc.). and review procedures require independent review and endorsement before approval for the variation of contracts valued \$50 000 and over.
 - Approval levels for establishing and managing contracts are based on the total estimated contract value or variation value, (the higher the value, the higher the officer level required to approve). Estimated contract or variation values are based on the life of the contract, and are inclusive of GST.
 - A dedicated directorate (Commercial Services) is responsible for governance and probity of procurement processes and contract management. Commercial Services must be involved in the contract planning, development and management stages for all Department contracts valued \$50 000 or more. The Department of Finance must be involved for all purchases, exemptions and contract variations \$250 000 and above.

- Business cases must be prepared for any open market contracts \$250 000 and above and must address the contract management arrangement. Business cases are endorsed by Commercial Services before being signed by the authorised delegate. As part of that review Commercial Services ensures the contract management arrangements are appropriate for the value and complexity of the contract.
 - Procurement, evaluation and contract management plans and variations must be submitted for endorsement to the State Tender Review Committee (STRC) for contracts and the Community Services Procurement Review Committee (CSPRC) for community service agreements valued \$5 million and above.
 - Exercising of endorsement, authority or delegation must be clearly documented for all procurement processes.
 - Approval must be obtained from the Department's Program Governance Group for community service agreements under the DCSP Policy prior to initiating a contract.
- The Department has strategies that include internal audit reviews that evaluate the governance over contract establishment and management. All audit activity is formally reported to the Department's Audit Committee.

The Department's audit and review programs and activities include:

- annual audits of compliance with SSC policy requirements, as required under the SSC partial exemption. This audit examines procurement transactions where contracts or purchases were made valued \$50 000 and above, including purchases from Common Use Arrangements and community service agreements formed under the DCSP policy; and
 - audits of specific contracts to ensure contract management is undertaken in accordance with the contract terms and appropriate due diligence, and auditing of the performance of the contractor is undertaken by the contract manager.
- The School Compliance Program comprises regular reviews of internal controls to assess relevance, adequacy and effectiveness, and includes:
 - dedicated teams who provide advice, support and professional development to schools on procurement matters;
 - newsletters detailing current school management issues, including procurement and contract management;
 - the school compliance program that reviews 50 schools per financial year, with those schools not subject to a compliance review are required to complete a control self-assessment questionnaire;
 - preventative and detection strategies, for example, sampling of transactions; and
 - adopted control practices to minimise corruption, for example segregation of duties in data entry, vendor maintenance and in the function of payments.

C. The effectiveness of these frameworks in fostering robust contract management practices and capacity within agencies

- The policy framework focuses attention on robust contract management practices. The Department finds some challenges in achieving effective contract management practices due to the skills and experience of some contract managers, and the difficulty in managing contracts where services are delivered in a wide geographical area. The Department endeavours to combat this in a number of ways:
 - Facilitating personnel development through:

- collaboration between Business Units, conducting internal education and training sessions for staff, and incorporating requirements in policy;
- finance system (Oracle iProcurement) training and online learning modules;
- face-to-face induction programs for new principals and school administration staff;
- school and Department-specific newsletters on topical procurement and contracting issues and updates, normally issued each month; and
- support of staff attending government training programs for procurement conducted by the Department of Finance and other professional development programs.
- Contract managers must involve Commercial Services in the contract planning, development and management stages for all Department procurements valued \$50 000 or more.
- Seeking support from school-based staff for certain contract management tasks that are best undertaken at a school level. For example, confirming the provision of services to the school and reporting poor performance to the contract manager.
- The Department has recently commenced work on developing a Department-specific contract management framework to better support and guide contract management. This framework will build upon the proposed whole-of-government contract management policies and framework. This will provide clarity around the role and responsibility of the contract manager and reinforce the importance of effective contract management.

D. The processes by which contract management expertise and good practice within individual agencies is identified, developed, and shared across the WA public sector

- The Department has a dedicated directorate (Commercial Services) that supports contract establishment and management. This directorate is the centre of expertise for contract management in the Department. It supports contract managers through provision of training, and specific advice and support for contracting issues and disputes.
- The Department collaborates with a number of agencies as follows:
 - From time to time the Department has shared information about its contracts and contract management with other agencies undertaking similar procurements.
 - Department employees are currently part of a number of contracting and procurement working groups, in particular the Contract Management Interdepartmental Steering Group convened by the Department of Finance.

E. The processes and instruments available to ensure agencies can effectively allocate and manage commercial and performance risks on major contracts

- The Department's major process for managing risk in developing contracts is the mandatory involvement of Commercial Services for all purchases valued \$50 000 and over and use of Department of Finance templates and guides throughout the procurement process. Commercial Services supports contract managers to evaluate risk and vendor performance in the following ways:
 - Assessing risk according to the complexity and value of the contract.
 - Undertaking a full procurement process risk assessment using appropriate tools involving key stakeholders during the contract establishment phase of significant or strategic contracts.
 - Undertaking a risk assessment of the products and/or services being purchased and determining contractual mechanisms to manage those risks.

- Completing due diligence and all negotiations with the preferred Respondent where applicable and ensuring any amendments to the General Conditions of Contract do not create an unacceptable level of risk.
- Reviewing any available contract extension options to determine whether the options should be exercised.
- All high value and complex Department contracts have a designated contract manager to ensure management of the contract on a daily basis. The contract manager team is provided with expert support and guidance by the Commercial Services directorate as required.
- All Goods and Services contracts established by the Department use the Department of Finance General Conditions of Contracts. In addition, the Department uses the templates and guides created by the Department of Finance to undertake its procurement processes. Where appropriate, these documents have been tailored to suit the Department's context.
- The Department is currently rolling out an online contract establishment and management system. This system will be the key tool for managing contract and performance risks of major contracts. It will enable greater visibility of the performance of contract management and provide a system to record all activities undertaken as part of managing a specific contract.

F. Ways to improve or enhance contract management performance across the sector

- Contract management performance across the sector can be enhanced through:
 - developing agency-centric guidance, including specific, agency-appropriate actions and practice standards linked to internal controls;
 - enhanced record keeping and administration, including reviews of the achievement of value for money and that the delivery of goods/services remain consistent with the terms of contract;
 - randomised compliance and performance audits and forensic checks to detect poor management, misconduct and potential contract fraud;
 - increasing the support and training offered by the Department of Finance for contract managers;
 - providing more opportunities for cross-agency knowledge-sharing of contract-management processes, which could occur through formal working groups and informal networking opportunities; and
 - developing systems to support the contract-management function, particularly where contracts are for a number of years and a number of changes in contract managers may be anticipated.