



INDUSTRY  
CAPABILITY  
NETWORK  
New Zealand

**Understanding Public Sector Procurement Processes  
a Supplier's Guide to the Procurement of ICT Goods and Services**

# **AN INTRODUCTION TO PUBLIC SECTOR PROCUREMENT**

**Booklet 1**

## **CONTENTS**

Opening Statement .....	2
Preface .....	3
Governing Framework .....	4
The Procurement Life Cycle Model .....	6
Glossary of Common Procurement Terms .....	7



## OPENING STATEMENT

The opening statement from the “Recommendations of the ICTX Working Party” 04/05:

“Transparency of procurement process is a key-enabling objective to the effective use of Government ICT spend as a tool for growth.

A more transparent process causes growth by lowered supply cost, lowered procurement cost, improved risk management, more capable suppliers, better local support of procurers, more innovation, more collaboratively focused innovation, market innovation and increased export returns from increased international leadership in certain solution areas. It is possible to cause growth by adding purpose to the approach, without adding cost.

The Working Party observed that while the existing Government Procurement Guidelines were sound, there appeared to be wide variances in how they were understood, interpreted and applied. Furthermore the Guidelines were largely invisible to industry suppliers.”

The Working Party findings were further confirmed by a 2005 series of successful workshops for ICT vendors on “Selling to Government”. Feedback from these workshops confirmed the value suppliers gained from understanding the policies and processes followed by public sector agencies in their procurement of ICT goods and services.



## PREFACE

This booklet series has been developed by the Industry Capability Network to assist suppliers of information and communications technology (ICT) services in the public sector.

It is intended to provide a practical understanding of the policies, rules and processes that agencies follow when undertaking the procurement of ICT goods and services. By understanding these policies, rules and processes suppliers are able to communicate with agencies in a more informed manner and are better positioned to respond to an agency's requirements.

Whilst every effort has been made to ensure these booklets reflect current best practice, readers should refer to the Ministry of Economic Development web site [www.med.govt.nz](http://www.med.govt.nz) for current government procurement policy and rules.

These booklets have been developed in parallel with the training material taught to public sector procurement practitioners as part of the Ministry of Economic Development's procurement training programme.

### Structure of the Booklets

- Booklet 1 provides an introduction to the framework governing public sector procurement and the procurement life cycle model
- Booklets 2 to 6 detail the activities and processes that occur within each of the five phases of the procurement life cycle model:
  - Planning
  - Requesting and Receiving Offers
  - Evaluation of Offers
  - Contract Award
  - Contract Management

### Procurement Life Cycle Model

This diagram shows the five phases of the procurement life cycle model.



## GOVERNING FRAMEWORK

While New Zealand does not have any legislation or regulations governing public sector procurement, there is a framework based on policy, rules and guidelines that set out expectations and some constraints. This framework consists of the following.

- *Government Procurement Policy*

New Zealand's Government Procurement Policy is based on the commercial principle of best value for money through competition, including full and fair opportunity for domestic suppliers. The policy does not include domestic preference or discrimination against foreign suppliers. The responsibility for procurement procedures and decisions is devolved to the individual departments or agencies.

Notwithstanding that devolved responsibility, there are rules and guidelines that guide departments in terms of their obligations with respect to advertising open tenders and notifying the awards of contracts. These are detailed below.

- *Government Mandatory Rules for Procurement by Departments*

These Rules set out mandatory standards and procedural requirements for the conduct of procurement by government departments (defined for this purpose as the "public service departments" listed in the Schedule to the State Sector Act 1988, plus the New Zealand Defence Force and the New Zealand Police). The Rules reflect and reinforce New Zealand's established policy of openness and transparency in government procurement. Other state sector agencies are encouraged to apply these rules in their own procurements.

- *Procurement – A Statement of Good Practice, June 2001. Office of the Controller and Auditor-General*

The initial Statement of Good Practice was issued by the Office of the Auditor-General in 1995 titled "Good Practice for Purchasing by Government Departments". This initial statement was revised in 2001 and reissued as "Procurement – A Statement of Good Practice". A further review of the Statement is currently underway.

The document is not a set of rules, but is described as a statement of good practice. It suggests that each public entity use the Statement as a benchmark for its own procurement policy and procedures, and as a guide to what its own procurement manual should contain.

- *Treasury Guidelines for Contracting with Non-Government Organisations for Services Sought by the Crown, 2003*

These Guidelines are for departments and Crown entities as they manage their contracting and other funding arrangements with non-government organisations (NGOs). The guidelines are aimed at contracting for the provision of services ("outputs") with NGOs, or otherwise providing funding to NGOs. They are not intended to cover the routine purchase of inputs. On that basis they are generally not applicable to the purchase of ICT goods and services, however they do form part of the overall governing framework for public sector procurement in New Zealand.



- Government3 (Govt3)

Govt<sup>3</sup> is a programme for agencies to improve the sustainability of their activities. The programme works with agencies to give practical effect to the government's sustainability policies such as the Sustainable Development Programme of Action, the National Energy Efficiency and Conservation Strategy, the Climate Change Programme and the New Zealand Waste Strategy.

While not currently part of the governing framework on procurement in the same way as the above policy, rules and guidelines, many government departments have signed up to Govt<sup>3</sup> and are integrating the objectives of this programme into their own agency procurement policies and practices. This will result in increased consideration of sustainability and sustainability measures in the purchase of goods and services, including ICT.

## THE PROCUREMENT LIFE CYCLE MODEL

The procurement life cycle model provides a pictorial perspective of the public sector procurement process.



The model consists of five phases:

- **Planning** (*Booklet 2*): The planning phase is the core thinking phase. This is where the agency is engaged in defining its need, conducting market analysis, justifying the decision to procure (business case), and developing the procurement plan and procurement methodology. From the supplier's perspective, this is a very important phase as it is the time during which it can engage in open dialogue with the agency as it looks to understand the market and formulate its thinking around its requirements
- **Requesting and receiving offers** (*Booklet 3*): This phase covers the development of the Request for Offer from the market, advertising, the management of questions of clarification, closing and the receipt of offers
- **Evaluation of offers** (*Booklet 4*): The evaluation of offers phase covers the evaluation process. This booklet describes the evaluation process as well as providing a brief discussion on several different evaluation methodologies
- **Contract award** (*Booklet 5*): This booklet covers the approval process and the negotiation and development of the contract
- **Contract management** (*Booklet 6*): This is the final booklet in the series and covers contract management, including some management tools

Each booklet also looks at some of the agency's ethical considerations and risks relevant to that particular phase of the procurement life cycle.

It is important to note that while the procurement life cycle is presented as a linear function, much of the planning for each of the phases occurs in phase 1. For example, Booklet 3 on requesting and receiving offers discusses some different Request for Offer models, however it is during the planning phase that the actual approach to market method will be decided.

# GLOSSARY OF COMMON PROCUREMENT TERMS

## A

---

### accountability framework (state sector)

The legislative framework that establishes a range of accountability requirements over state sector activities. The framework is wide ranging and includes machinery of government laws, rights-related laws and commercial laws, specific accountability legislation which is reinforced by parliamentary and judicial oversight mechanisms, as well as rules of common law and a range of administrative requirements.

### agreement

The term “agreement” is often used interchangeably with the term “contract”.

It refers to the written document (also known as the “contract”) in which the contractual relationship and respective obligations as agreed between the parties are recorded.

However, **in law**, the term contract has a specific meaning that does not necessarily apply to all agreements.

### assignment

When someone other than the contractor legally assumes the contractor’s rights and obligations. See also sub-contracting in this glossary.

### audit trail

The documentation associated with the contracting activity. An audit trail provides a reviewer (or auditor) with sufficient documentation to form a complete view of how the contract has been planned, let and managed.

A complete audit trail includes planning records, as well as procurement and selection documentation, a record of negotiations and the contract itself, and the contract implementation trail such as all the correspondence with the provider, reports, payments and variations.

## B

---

### business case

In this context, a document that argues the costs and benefits of procuring a good or service. It usually contains a list of options.

### business owner

The person who holds responsibility for the outcomes being contracted for.

## C

---

### **competitive bids**

Where more than one provider competes to win the contract to provide the goods or services. The term covers quotes as well as both open and closed Requests for Tender/Proposal.

### **compliance costs**

Costs incurred (usually by the provider) in order to comply with processes (usually required by the buyer agency) during the procurement life cycle.

Compliance costs are most frequently associated with meeting procurement requirements, reporting, and pre/post-funding processes imposed on the contractor.

### **conflict of interest**

When an employee and/or panel member has an interest in an activity (or decisions about an activity) in their own right (e.g. either a personal or commercial interest) that may conflict, or may be perceived by others to conflict, with the interests of the buyer agency.

In the contracting context, conflicts of interest most frequently occur when an employee and/or panel member involved in awarding a contract has a personal or family link with an individual or organisation bidding to win those contracted services. In such cases the perception may easily arise that decisions were not made impartially or without access to “inside information”.

### **contract**

The term “contract” is often used interchangeably with the term “agreement”. It refers to the written document in which the contractual relationship and respective obligations as agreed between the parties are recorded.

However, in law, the term “contract” has a specific meaning. It is a legally binding agreement entered into by two or more people, where each assumes obligations to the other. By “binding”, it is meant that the parties to the agreement or contract agree that they are legally bound to fulfil their obligations – the agreement is intended to be legally enforceable in a court.

### **contract closure/completed contract**

The process of closing a contract, where the relationship with the provider is ended on the date of the contract expiry.

### **contract expiry**

The date on which the obligations of the contractual parties come to an end as set out at the beginning of the contract (unless the contract specifies otherwise in survival clauses). See also Contract Term.

### **contract for services**

Independent contractors have contracts for services. A contract for services often states what is to be achieved but gives the contractor freedom as to how this is to be



achieved. Contractors invoice the agency for the work completed (including GST) and are responsible for paying their own income tax, ACC levies and GST returns.

**contract manager**

The person(s) or role(s) designated to manage the contract process, particularly in the contract management phase.

The contract manager should be documented and referred to in the contract as the person to whom all correspondence is to be directed.

**contract monitoring**

The process of monitoring the contractor's ongoing performance against the obligations detailed in the contract. Monitoring mechanisms can be both formal and informal, but usually always include the receipt and analysis of contractor reporting.

**contract of service**

An employer/employee relationship. Individual employment agreements and collective agreements under which staff are employed are contracts of service.

**contract term (or duration)**

The period the parties have agreed to be in the relationship, being the time between the commencement of the contract and its expiry.

**contract value**

The total dollar value of the contract over the course of its life, exclusive of GST. This contract sum is as specified in the contract document, and will not necessarily be the per financial year sum (e.g. a contract of \$100 over three calendar years will have a contract value of \$300).

**crown entities**

Legal entities that are established for the purpose of delivering services or performing activities for the Crown e.g. a school.

**D**

---

**delegated financial authority**

The authority to commit expenditure by a manager in the buyer's agency as stated in the buyer agency's financial delegations.

**deliverables**

Another term for the goods, services or outputs to be produced by the contractor and delivered to the agency.

**draft contract**

Any contract or agreement that has not been signed and dated (i.e. executed) by all parties to the contract.



## due diligence

In its widest sense, the process by which the buyer is reassured that the provider is capable of delivering, and has the capacity to deliver, the goods or services for which they are tendering. The process varies according to the tenderer, circumstances, size of contract and risks, but may include reference checks, site or client visits, governance assurance checks and/or security checks.

Formal due diligence is a financially oriented checking process verifying the accuracy of the vendor's representations as to its financial status and viability.

## E

---

### emergency procurement

A procurement necessary due to an unforeseen circumstance and where the good or service is required immediately in order to maintain or restore a critical service.

### EOI/ROI

An Expression (or Registration) of Interest. EOI/ROI is a notification from potential suppliers that they are interested in providing the goods and services. It is lodged in response to the agency's open request for EOIs/ROIs. EOIs/ROIs are used for shortlisting suppliers from whom Requests for Proposal (RFPs) or Requests for Tender (RFTs) will normally be invited.

### escalation procedures

Agreed procedures on how, when and to whom to escalate the management of an issue or disagreement between the contracting parties, which are activated in the event of the contractor and contract manager being unable to resolve the difference themselves.

They generally involve the documentation of the issue and steps taken to address it, reporting on the issue upwards as well as consulting with technical specialists as necessary (e.g. finance, legal) and may result in formal written instructions to the contractor.

### evaluation criteria

The criteria used to assess the strengths and weaknesses of potential providers at the selection phases of the contract.

At a high level, these generally include cost or value for money, compliance with the terms and conditions (contractual and technical) of the procurement process, quality dimensions of service or product, supplier capability, and fit with the sector.

### evaluation panel

The group of people who evaluate proposals or tenders and make recommendations as to whom the contract(s) should be awarded. Their roles and responsibilities are defined in a specific document that also covers conflict of interest and the evaluation process.

**extension**

Continuing with or “rolling over” existing contractual terms and conditions with the current contractor for a further period. It is put into effect by taking out a contract variation to the existing contract.

**expired contract**

When the term within which the parties had to meet their obligations has passed. An expired contract is no longer enforceable.

**G**

---

**GETS**

The Government Electronic Tendering Service; a free service managed by the Industry Capability Network. Refer to [www.gets.govt.nz](http://www.gets.govt.nz).

**I**

---

**input**

A “factor of production” used to produce an output e.g. time, travel, telephone calls, computer equipment or rental accommodation.

See also Outcomes and Outputs.

**intellectual property**

A broad term that describes the ownership rights in creativity or innovations that can be protected and traded, similar to the way physical property can be owned. Intellectual property can be divided into two categories:

1. Industrial property (e.g. patents, trademarks, industrial designs)
2. Copyright

See also *Licensing/Rights to Use*.

**J**

---

**joint funding**

Where several government agencies agree to collaborate to achieve a joint legal agreement with a provider and each agency contributes some funding to that end.



## L

---

### **letter of intent**

A letter given to the provider by the agency indicating an intent to enter into a contract. It may specify work the contractor can perform, and under what terms, in the period before the contract is finalised.

### **licensing/rights to use**

Agreements giving others the right to use material in which the copyright is vested in another.

## M

---

### **memorandum of understanding**

A mutually agreed written document between parties that confirms their shared understanding of, and commitment to, principles and objectives in the document. It is not intended to be a binding or legally enforceable agreement. It usually does not involve an exchange of funds for services but sets out agreed protocols or ways and behaviours of working.

### **migration**

Also known as succession, what happens at the completion, termination or expiry of a contract if the activity is to continue. This may include the transfer of the activity from one provider to another or the transfer of the activity "in-house".

### **moderation process**

The process used to reach a panel consensus on a set of evaluations by individual panel members.

### **monopoly provider**

Also called "sole source" provider, the only person or organisation in the market with the capability to provide the goods or services sought.

### **multi-stage procurement process**

A pre-qualification process (Registration of Interest (ROI)) for shortlisting suppliers from whom Requests for Proposal/Tender (RFPs/RFTs) will be invited.



## N

---

### negotiation plan

A documented plan as to how the contract manager will negotiate with the preferred provider(s), including any negotiation parameters. This is signed off by the approving manager/business owner.

### non-government organisation

The Treasury defines these organisations as communities, voluntary organisations, Maori iwi and hapu organisations, together with for-profit organisations where government organisations contract with them for the delivery of outputs.

## O

---

### on-signing payments

A payment made to a contractor at the point of signing a contract and in advance of receipt of any services. Such payments are rare, and made where the contractor has set-up costs they are unable to meet or is required to make some investment in capability or capacity before beginning work.

### open and closed tenders

A tender is either “open”, which is when all possible suppliers are invited to tender, or “closed”, where only some of the possible suppliers are invited to tender.

### outcomes

The benefits for the people or communities from their involvement in the programme. For example, “families and communities engage in education”. They are defined in the Public Finance Act 1989 as the “impacts on, or consequences for the community of the outputs delivered by the government”.

See also Outputs and Inputs.

### outputs

The goods or services that are produced by a department, Crown entity, Office of Parliament or other body or person. They are products of the programmes or activities.

See also Outcomes and Input.

### outsourcing (or contracting out)

The situation where the agency arranges for someone else, on its behalf, to perform a task or deliver a service that the agency would otherwise do itself.



## P

---

### payment schedule

The detail of payments to be made to the provider on certain dates or within certain timeframes. It includes, in addition to timings, any prerequisites such as payment on contractor invoice, completion and acceptance of milestones.

### performance

The achievements to be delivered, which are measured against defined goals, standards or criteria that are normally set out in the First Schedule of the contract.

### performance measurement

The ongoing measurement of results expected of the programme/contract.

### performance measures

The objective measures whereby the achievement of the contract deliverables and purpose can be measured. They are set out in the contract and in many cases will include outcomes as well as output measures.

## Q

---

### quality assurance

Although usually planned and systematic, quality assurance includes all actions taken to ensure that standards and procedures are adhered to and that delivered products or services are fit for purpose.

## R

---

### renewal

Re-tendering or re-letting the contract through a competitive process. It may result in the contract being awarded to either the current or a new contractor, and this may be either with or without amendments to the existing contract conditions, services and/or price.

### reporting

The reporting required of contractors to the agency, of which the content, timing and frequency are specified in the contract.

### review

A reflective capacity involving looking back in order to make improvements moving forward. It incorporates processes such as gathering information about the contracting process and contract implementation, measuring results, making assessments or appraisals, analysing these findings and drawing conclusions for the future practice of the contract.

**RFI**

A Request for Information is not a procurement method i.e. it is not a request for offers from the market. It is a formal request for information only, and is a tool that can be used as part of undertaking market analysis and developing the agency's requirements. The RFI should not be used as the basis for the selection of a supplier.

**RFP**

A Request for Proposal seeks formal proposals from providers to a set of specifications and criteria, but does not include a defined or pre-determined solution, allowing the respondent some flexibility in approach i.e. what and when are specified, but not how.

**RFQ**

A Request for Quotation for a price for specified goods or services

**RFT**

A Request for Tender seeks formal tenders from providers to a clear set of specifications and criteria within an already defined solution, allowing the respondent little flexibility as to the manner in which the service will be fulfilled i.e. what, when and how are specified.

**risk**

The chance of something unplanned happening that will have an impact upon the objectives for any business, activity, project or task. Risk is measured in terms of consequences and likelihood.

**ROI**

A Registration (or Expression) of Interest. ROI/EOI is a notification from potential suppliers that they are interested in providing the goods and services. It is lodged in response to the agency's open request for ROIs/EOIs. ROIs/EOIs are used for shortlisting suppliers from which Requests for Proposal (RFPs) or Requests for Tender (RFTs) will normally be invited.

**roll-over**

See Extension.

**S**

---

**selective procurement**

The process of undertaking procurement without calling for competing quotes or tenders, also known as "sole source" procurement. An individual supplier is simply invited to submit a proposal or quote to provide the required goods and services.

**specification**

A description of the services (or goods) the agency requires. Specifications may be Functional, Performance Oriented, Technical or a combination of all three.

**sub-contracting**

The contractor sub-lets part of the contractual work but maintains the legal responsibility for performing the services. See also Assignment.

**succession**

Also known as migration, what happens at the completion, termination or expiry of a contract if the activity is to continue. This may include the transfer of the activity from one provider to another or the transfer of the activity “in-house”.

**syndicated procurement**

A programme under which state sector agencies are able to collaborate in the procurement of commonly used goods and services e.g. office products, motor vehicles, fuel, photocopiers, travel management services. Under this programme agencies are able to join existing contracts for the supply of these goods and services.

**T**

---

**tender process**

Often used generically as the process of requesting offers (either as a Request for Proposal (RFP) or Request for Tender (RFT)), receiving and evaluating offers (either proposals or tenders) and awarding a contract.

**termination**

Ending the contract before its expiry date. Termination provisions are generally open to either party in the event of a breach of obligations and failure to remedy that. A contract usually also contains some process “rules” around notice of termination and payment.

**treasury NGO guidelines**

Guidelines for contracting with non-government organisations (NGOs) for services sought by the Crown, written by the Treasury. MOE contracting guidelines reflect the principles and suggestions in the Treasury document.

**V**

---

**value for money**

A factor of best outcome for total cost, and is not necessarily the lowest cost.

**variation**

Contract variation is the process of varying the contract terms and conditions (including service specifications) during the course of the contract term and before the expiry date.