



Draft Report

Inquiry into Government Procurement Stage 1

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Reviewing the terms of reference

Reviewing the terms of reference, most procurement practitioners would identify number seven as being the subject in which they would be most interested.

There is no shortage of opinions about how the procurement process might be managed better.

What is lacking is a coherent plan to create frameworks in which the procurement process can deliver better outcomes for the South Australian economy. In highlighting the significance of one of seven terms of reference, I am conscious that I am marginalizing some of the other terms of reference. Terms of reference number one, number two and number four seem to be focused on efficiency and compliance. Numbers three, five and six seem to be focused upon the environment within which procurement decision making occurs.

The first comment I would make when I looked at the contents page is that a draft report containing 250 pages is a large document! And most readers will default to the executive summary. This is a shame as the scale of the evidence that has been acquired is obviously substantial. But as a casual reader, I can't help but feel that some of that some of the conclusions have got lost in the sheer scale of the evidence.

Key messages

On page 10 in the section entitled **key messages** the report identifies four working conclusions.

I can only signal my support for all four of these conclusions.

The final sentence on page 10 reads as follows.

“At this early stage, and subject to testing in the remainder of stage one and stage two, the commission sees potential for significant reform recommendation in its two final reports. This seems to me to be promising, especially if the recommendations can be structured in a way which is systemic and lends itself to a coherent change program.

Executive Summary

When I read section five of the executive summary on page 13 I smiled as many readers will have done. These comments could be applied to public sector procurement at any time in the past 30 years and in any location within Australia or outside. I mention this not to diminish the value of the bullet points listed in point five, but rather to highlight the scale of the challenge involved in trying to change or address these issues.

My perception is that businesses have very little insight into the complexity of public sector procurement, and in particular do not appreciate the importance of managing risk in the procurement process. The issues raised are not the consequence of incompetence, at least in my opinion. They are the consequence of systemic structures designed to protect the reputation of the public service in general, and departments and ministers in particular, from public opprobrium if and when a procurement goes wrong and ends up on the front page of the Adelaide Advertiser.

The section on page 14 entitled **value for money** correctly identifies that there is an opportunity to develop more explicit guidance on what is value and how it might be managed throughout the procurement process. My own suggestion is that other jurisdictions have adopted a procurement organizational methodology called category management.

It would seem to me to make sense that that South Australia identify champions or category managers for specific ranges of goods and services, and task those officers with developing model definitions of what is value for money for both simple and complex acquisitions within each category.

As an example, I supported the New Zealand transport agency in reviewing whether the procurement processes delivered value for money in building roads. The tender evaluation criteria for road building was weighted 70% to price and 30% to non price factors. Does that make sense? Does that make sense? Is that appropriate? Econometricians will quote a figure for a number of jobs created per kilometre of motorway and road building is often used as a means of stimulating the economy. I think that there is a case to be made for the weighting of price and non price factors to be 180 degrees the wrong way around!

Whatever the choices, it would seem to me to make sense for category managers to review their categories develop qualitative and quantitative models of what is value for money in their category and have those strategies endorsed by the government of the day.

On page 15 in the executive summary, under the heading **compliance focus**, the statement is made “The commission observes the State the State Procurement Board’s agenda seems predominantly focused on compliance work. It is not clear to the commission at this point, why this is the case.”

There are three broad organizational designs for the procurement process in large multi-site organisations; centralization, decentralization or a centre led Action Network. Some jurisdictions have clarified the latter model (by far the most common) and describe it as a centrally enabled departmentally led solution. This may well appease competing interest groups but it doesn't alter the point that the scarcity of procurement expertise makes it very difficult for the central body to empower departments and agencies without exercising some scrutiny on what they are doing.

If I can I can add some value to your executive summary under the section entitled compliance focus I might challenge you by asking which part of government is accountable and champions outcomes from the procurement process?

Of course, the answer is straightforward. Principal officers, (typically agency chief executives) is the answer. Great. If we ask the Jerry Maguire question, (“Show me the money”) what metrics, which KPIs and which reports provide evidence that chief executives secure outcomes from the procurement process that represent value for money for taxpayers?

You might wish to consider not so much that the State Procurement Board is compliance focused but rather that no one appears to lie in bed at night bed worrying about outcomes from the procurement process.

Under point eight in the executive summary on page 20 there is a heading **industry participation policy**. As part of the narrative on page 22 is the following statement.

“A recurring theme in the Commission's view from businesses and government agencies has been the limited knowledge of many government agencies regarding local businesses and their capabilities.”

Even though I am not resident in South Australia, I have attended a meet a buyer event arranged by the industry advocate. There can be no question these events can be well structured and beneficial for both buyer and supplier. I think the experience in New Zealand is that the events work best when organized like speed dating, in which face time is allocated to potential suppliers as an initial step in opening up a dialogue.

Section 10 within the executive summary, **conclusions and next steps** on page 24 seemed to me to identify succinctly a range of key issues that are more important than compliance. The executive summary appears to be about 14 pages long and the content that is included on page 24 under the section conclusions and next steps may be lost in the exploration of a range of other issues which in my opinion are less important. I can I can imagine publishing the document involved a Herculean effort to meet the deadline but I can't help but wonder if more time would have allowed for better editing and increased prominence to the issues raised under Section 10 conclusions and next steps.

Draft recommendations

When I turned to draft recommendations on page 25 of the report I must I must admit I flicked from draft recommendation to draft recommendation looking for something of more substance. I can imagine that complex issues that you uncovered do not easily lend themselves to simplistic recommendations at this stage. However, the inclusion of these two issues seemed to me to be a distraction from the content I had just read on page 24

Overview of issues and evidence

Page 48 listed a large number of issues raised by business. The sheer volume of issues makes it hard to engage with the detail. But I will make some comments as a casual reader

2.2.1 page 50.

The exploration about the use of panels especially on page 51 is very important. Over 70% of businesses reported winning less tenders than expected through panels, and a clear preference for certain providers. Too many members on the panel, purchasing off panels, dormant panels with no work. I have reviewed a number of panels for other jurisdictions and it is clear that open panels may be used as a device to maintain the illusion of competition, while secondary procurement processes are undertaken with less visibility. There needs to be greater transparency about panel management. There is a technology solution adopted by most local authorities in Australia, which is a proprietary tool called VendorPanel. While I will declare an interest that I know the company founder I will point out the absence of a common technology solution across state government departments makes it very hard to monitor panel management.

VendorPanel is a tool that is widely used across the public sector and indeed might be the second most commonly used tool across public sector procurement in Australia after Microsoft Excel but does not appear to be widely used in the South Australian state government. Tools like this would give visibility the South Australian state government of which suppliers are actually being engaged in secondary procurement processes and their success rate. This would seem to me to be an important means of giving visibility to which suppliers on panels are engaged in secondary procurement processes and more importantly which are not.

2.2.2 page 51

The majority of full time procurement officers act as police officers enforcing procurement governance in my experience. These are the officers who set standards in terms of probity and while it would be a false dichotomy to claim that probity is the enemy of market engagement, it is clear that the default position for most public officers is to minimize the level of dialogue with potential suppliers sometimes at all stages of the procurement process but in particular when tenders are imminent.

The question the commission may wish to address is how can public sector officers engage in a dialogue with suppliers that both transparent and offers equal opportunity to all potential participants but which also meets the needs and expectations of businesses?

Again, referring to the practice across the Tasman I understand that some tender briefings are videoed and placed on YouTube or other video sharing sites, so that even if potential suppliers could not attend a briefing they can still listen to the guidance that is given.

You may wish to consider for complex procurements mandatory contents for tender briefings in particular exploring the decision making criteria and the business problem that the acquisition is designed to solve.

Imagine whether in PowerPoint or whether in video that that content was placed in a way that was accessible to all potential tenderers? It might not allow the dynamic of a question and answer session where two human beings are sat across a desk, but it would fulfil the requirement to ensure that public sector officers shared information in a way that was equitable and allowed maximum opportunity for non incumbents to bid.

2.2.3 on page 53.

My experience is that more and more tenders involve an uncertain scope combined with a fixed price. Nothing is more likely to drive up cost and introduce a risk premium into the tender price, than the use of a fixed price associated with the scope of works which is poorly defined.

A simple solution here is to create an expectation amongst officers approving acquisition plans that if the pricing methodology involves a fixed price, this should only be associated with a scope of works which is clearly defined.

And if only a part of the scope of works can be defined, only that part should be subject to a fixed price and the balance subject to unit rate pricing. Of course, agencies are risk averse. It is their role to keep the minister off the front page of the Adelaide Advertiser!

2.2.4

I thought the data on page 55 about the number of hours to prepare to bid for contract was excellent. You might wish to reflect upon the opportunity to juxtapose the amount of time spent to get on a panel with the apparent dearth of opportunities that many tenderers report. Even though they got on a panel, the question of how participants in secondary procurement processes are identified is one which can be a mystery, and it should not be.

2.2.5

Buried away on page 56 is the following quotation.

“Acquisition plans are written by budget holders, (project owners) with little involvement from procurement specialists. Good procurement outcomes start from the initial planning exercise, which must be undertaken well and with a commercial perspective in mind, informed by rigorous market analysis and with a focus on building relationships with the relevant business sectors pre tender”

I salute whoever contributed this quotation!

You might wish to reflect upon the implications of the first sentence’ “acquisition plan are written by budget holders”. An obvious question to ask is if acquisition plans are written by non full time procurement practitioners, what are the full time procurement practitioners doing? What contribution do they make to acquisition plans?

Why is the most important part of the procurement process being undertaken by people whose functional role is outside procurement? I was working with one government department and I asked a junior member of staff to keep a time log of her activities. About 30% of her total time was trying to track down invoices that had arrived into the department that did not quote a purchase order number and therefore could not be routed to the appropriate officer for approval. She spent time on the phone trying to find out to whom the invoice should be forwarded. This is a failure related activity and could not have been rewarding for the member of staff.

An obvious question to ask is if procurement officers whose full time role is to contribute to the procurement process, are not writing acquisition plans what is their contribution to this key activity?

I doubt very much they're chasing up suppliers to try and find out where to route invoices. But I can think of no more value adding contribution than shaping acquisition plans

2.2.6

On page 57 the report says businesses report frustration with delays and lack of communication from public authorities. They consider that public authorities are not motivated to make quick decisions or adhere to original timeframes.

I think this is a symptom rather than a cause. The cause is poor planning and unrealistic expectations and perhaps also the low status of procurement staff within most departments and agencies. It is a truism that bid evaluation processes often take two to three times as long as stakeholders have allowed for in their original procurement planning. As this happens regularly, it is a complete mystery as to why officers are so optimistic about how quickly bids can be evaluated.

The driving force behind the time spent on bid evaluation is the commitment to be scrupulously fair to be transparent, and to have a defensible rationale as to why one supplier was successful as opposed to another. The question for the Commission is the marginal value of each extra day spent on bid evaluation.

One option for you to consider is the use of sensitivity analysis. When the initial scoring of tenders has been completed, it should be possible to ask the chair of the evaluation panel to conduct a sensitivity analysis using as a rule of thumb for example 10%. If a 10% change in the scoring of tenders would not change the identity of the winning bidder, there may be a case for truncating the evaluation processes. If on the other hand, a 10% change scoring would have a significant impact on the identity of the successful bidder more effort may be expended on validating that initial scoring is correct.

The Commission might wish to reflect upon the time taken to evaluate tenders and explore if there may be a metric showing estimated time to complete tender evaluation compared with actual time to complete tender evaluation. Just as you have identified some norms for the amount of time that suppliers spend on completing tenders you might wish to consider requiring departments or agencies to report data on the actual time taken between receipt of tenders and notification of the successful bidder. This could be refined by comparing that duration with the originally planned duration. The results would make for interesting reading

2.2.7

Deliberate desegregation of contracts is a double edged sword. On the one hand, there is no question that this would increase the opportunity for participation of small and medium sized enterprises. But it would also increase this workload involved in coordinating service provision.

It is my view that contract management is the least well managed of all aspects of the procurement process in South Australia. And so adding new suppliers increases complexity through having multiple suppliers involved in service delivery, especially small suppliers who may require greater monitoring and or support. This can only be achieved if there is a commensurate increase in supervision on the client side. This seems to me highly unlikely to happen, as there is inadequate supervision currently

2.4.6

2.46 on page 64 mentions probity without referencing the impact upon communication between buyers and suppliers. Some stakeholders fear internal audit challenge and others hold mistaken about when you can and cannot engage with suppliers.

Demystifying probity and striking a balance between avoiding corruption and achieving equality of opportunity for suppliers should be a key recommendation of the Commission

Information request 2.1

On page 64 the question is asked 'what issues have not been incorporated in chapter two? What is their significance?

I found this hard to answer because of the absence of a coherent structure to organize the preceding content. As an example, I have I have designed and executed many procurement benchmarks to assess the quality of the procurement process in public and private sector organizations.

Benchmarking frameworks usually have dimensions similar to the following :

1. Role and contribution of procurement
2. Governance and controls
3. Organization and relationships
4. Procurement processes
5. People and capability
6. Knowledge and information systems.

Most Business Excellence frameworks include some variant of these dimensions. I found it hard to identify what was what was included as so much content is provided. You might consider prioritizing or organizing the content in a more user friendly way.

To use my suggested framework, there is a great deal of focus in the first 60 pages of the draft report about governance and processes, in particular the ease of bidding. However, the misalignment of the procurement process with expectations and needs of business is driven by a risk averse culture which is in turn a consequence of the perceived role and contribution of the procurement process to government.

Procurement is perceived as a transactional process concerned with tenders governance, quotations, purchase orders and invoices and as such is afforded low status. The quality of procurement planning is poor and so many procurement projects are rushed. Some are not advertised in advance. When the tenders are received, tender evaluation processes take longer than expected. And sometimes the whole project is abandoned because the outcomes of the tender process were completely unexpected to the officers who conducted the project, as they had not themselves undertaken sufficient research prior to initiating the procurement project.

The root causes of these symptoms are not contained in governance. My recommendation, however conceited it may be, is that you consider adopting a unifying framework to organize the results so that instead of being evidence driven, the next iteration of this report is recommendations driven

3.2.1

In Section 3.2.1 on page 93 is the following statement

“The lack of information and/or oversight on all South Australia government procurement activity limits the government's ability to develop deliver, measure and evaluate Strategic Procurement objectives.”

The reality is that you could delete the words “South” and “Australia” and this paragraph would be true in every jurisdiction across the world. You might wish to ask how have we reached the state in which in which Basware (used to pay invoices) is the single example of a consistent (technology) solution to an across Government procurement challenge?

My view is this. For the last 25 years, the State's procurement framework has lacked a clear vision of what it could contribute to the realization of the business priorities of the government of the day. This is due to a lack of professional representation This is due to a lack of professional representation at both departmental level or at the centre of the state government.

Solution vendors peddle quick fixes and claim savings from instituting procurement solutions. But in truth the claimed benefits are very rarely realized in the scale or time scale promised. And they most certainly would not be realized within South Australia. However, if you set a professional procurement a challenge to reduce expenditure across the state by 5%, what would they recommend?

I suggest some permutation of the following

1 Demand management

This is a role for business managers to explore whether we actually need that expenditure and whether it could be managed in a different way

2 Procurement organisation

Faced with a demanding target, most organizations would disempower junior and middle managers from making procurement plans and instead centralize the procurement process both to seek consistency / coordination and to apply procurement expertise above a certain threshold.

3 Reverse Auctions

SA Tenders is clearly a useful facility and many procurement practitioners use a platform to use reverse auctions to automate the procurement process. There is no question that much of the State's spend portfolio does **not** lend itself to online auctions. But that proportion that does should be submitted to online reverse auctions

4 Post offer negotiation

Given the inability of so many clients to specify exactly what they want, it would seem obvious to recommend that post offer negotiation be adopted. Provided government personnel are appropriately capable, it is an obvious way to achieve value for money. The dialogue between the State and businesses can be optimized in terms of securing business outcomes and providing an exchange of ideas (albeit a little late in the process)

I'm sure other factors could be added to the list this list. However, you may wish to reflect on the fact that at the moment, the absence of any procurement leadership over the past years has led to a situation where government struggles to identify what it spends, with whom, upon what

Information Request 3.1

On page 96 is information request 3.1

“Does the State Procurement Boards value for money and procurement guideline include appropriate and sufficient information and advice is to enable procurement practitioners to determine and apply value for money in government procurement?

What additional information or guidance should be provided to facilitate the application and achievement of best value for money in the procurement process? “

My answer is this there should be a de minimis threshold set beneath which value for money should be judged on a case by case basis following the State Procurement boards guidelines. Above the threshold chosen, whether in terms of value or complexity category managers should develop model definitions of value for money, including complex and simple acquisitions, that are customized, tailored or otherwise adapted to the specific characteristics of the category they buy.

As an example, In SA Health there is a category manager for the acquisition of medical equipment. It would seem entirely appropriate that all of life costs, effectiveness, price, service, maintenance, warranty, consumables support are all factors to be considered in defining value for money. And the officer best able to make that judgment is the category manager, suitably endorsed by senior officers and/or the Minister or their delegate.

It is reasonable to identify the top 50 categories that are spent across government and develop detailed definitions of value for money above a certain threshold, including model tender evaluation criteria, and have those definitions endorsed not just by senior officers and perhaps by the government of the day. This would seem to me to be a mechanism to particularise understanding the value for money rather than generalizing it.

Information Request 3.2

Commission information request 3.2 is on page 100. It asks what information or data that is currently captured, recorded under reported could be leveraged and used to provide a better understanding and oversight on government procurement.

The Shared Services team, as I understand it, includes analysts who undertake spend analysis. In my opinion, this unit has the potential to not only identify opportunities within contracts negotiated by shared services, but also extend the service to the spend of departments and agencies. The reasons why this might not have happened in the past are part cultural and part financial (if Shared Services charges a fee for that service)

It may be instructive to reflect to upon what would happen if budgets were cut across the whole sector by 5%. Chief executives would want advice on where opportunities may exist to reduce expenditure that own resources may not have the expertise to identify. This might include off contract procurement, expenditure not subject to procurement arrangements, or transactions not supported by purchase orders etc. Whatever opportunities may be found through analysing the data it seems to me that funding the Shared Services team in order to generate opportunities and provide them on a non fee basis to Chief Executives would add enormous to the sector as a whole.

The second question within commission information request 3.2 is what information data that is not currently recorded under reported should be and could be captured, reported and analysed.

I've recently reviewed the reports of the Victorian Government procurement board and there is no metric to measure the effectiveness of the procurement process. As an example, imagine departments are asked to report on the cost of full or part time, full time equivalent posts engaged in the procurement process in each of the following stages

- purchase order generation
- invoice payment
- tendering and tender evaluation
- contract management

Chief Executives could be asked to calculate the cost of the procurement process as a percentage of the total spend under management. This would yield interesting comparisons from department to department. It would also reveal to what extent chief executives understand who is involved in the procurement process. This challenge is likely to be a lot easier in departments like SA Health or DPTI as they have greater visibility of who is involved. That is an efficiency measure and an effectiveness measure would measure the value of benefits realized from the procurement process as a ratio of the cost of realizing those benefits.

Some procurement consultancies use a measure called return on supply market assets or ROSMA. Of course, measuring price savings is not the only measure of value for money. But it might concentrate the minds of some chief executives who are accountable for their procurement process in their public authorities to quantify what benefits they believe cash releasing or non-cash releasing have been generated by the procurement process.

This would seem to me to be a useful way of a useful way of migrating the focus of chief executives from compliance onto the outcomes or at least the outputs of the procurement process.

Information request 3.5

On page 109, information request 3.5 the question asks

“Has the commission provided an accurate portrayal of the current focus towards compliance and what specific improvements or reforms would address the compliance focused and provide opportunities the application of strategic planning and initiatives?”

I will declare a potential conflict of interest in that I used to provide services as lead reviewer. I will agree that the burden of acquiring information was significant simply because for most public authorities, the idea of demonstrating that that procurement frameworks, resources and processes were appropriate for their spend portfolio was not something that they were used to doing.

Consequently, when they were periodically asked to assemble evidence to show that their procurement processes were appropriate for their spend portfolio it became a time-consuming project. I would make the observation that if the process is streamlined it may reduce the burden on the public authority, but may also undermine the whole focus of the exercise, which is to identify whether the public authority is compliant with the State Procurement Act and to identify and agree opportunities for improvement.

Information request 3.6

“What are considered to be the specific procurement or procurement related skills or capabilities that are lacking in the SA public service”

Again, I will declare a potential conflict of interest as I designed and undertook the review of capability commissioned by the State Procurement Board a couple of years ago and may be involved at some future date and delivering capability uplift services to public authorities within South Australia. I am therefore conflicted.

However, in order to provide some guidance there are five topics that I would list that I imagine a case could be made for many others.

Firstly, **market research**. Most public sector officers in all jurisdictions undertake desktop research only. And the consequences are well evidenced by the comments in your own report. The ability to understand the scale and importance of the public authority in relation to the market is a key attribute of an informed buyer. And this should be a focus of future capability development initiatives.

Secondly, I have read many acquisition plans. And I found the overwhelming majority to be formulaic, perfunctory and lacking any real coherence. It seems that the authors have adopted a copy and paste approach to populating templates largely derived from business cases or other background documents without evidence and clear thought about how to engage with the supply market in order to achieve the required business outcomes. So the second opportunity is to develop an **understanding of acquisition planning**, beyond completing templates, by copying and pasting data from antecedent documents.

Thirdly, **negotiation**. I have used the example of a 5% cut in budgets as being the sort of burning platform that doesn't appear to exist in the state government. And the point is that if the state government wanted to identify a quick way of securing costs down or cost out a more intensive

dialogue with suppliers after the receipt of tenders, it's the most obvious way. This would clearly raise issues for internal auditors and probity advisors. And although I have previously suggested that good probity is not mutually exclusive from an effective dialogue with suppliers, there is no question that negotiation needs quarantined dialogues that adhere to minimum standards. It also needs internal auditors and probity advisors to recognize that intensive post offer dialogues with suppliers can be conducted legally and effectively to deliver value for money. And the officers participating in those processes need to be appropriately trained in probity but should not avoid the opportunity just because they fear subsequent audit.

Fourthly, **contract management**. Not much more to be said on this!

Finally, what is **commercial acumen**? How can officers construct approaches to market in ways which are aligned to the needs and expectations of industry and are more likely to secure better outcomes? This is an intangible definition and one which I understand is an umbrella term, which addresses all of those things that suppliers would wish that public sector staff involved in the procurement process possessed

The second part of the question in information request 3.6 on page 111 reads

“To what extent public authorities make use of the capability development strategy initiatives offered by the State Procurement Board”

An obvious answer is to ask an apparently straightforward question, “how many of your staff are involved in contract management?” I would be surprised if any public authority could answer that question (other than perhaps in shared services). The question for a commission is if chief executives do not know which staff are involved in contract management, or indeed how many staff are involved in contract management, what are the chances that they can identify their capability needs or address those needs? I have reviewed the position descriptions of staff who are part time contract managers and I have yet to find any reference to contract management within their position description, irrespective of what proportion of their role contract management activities occupy.

You might wish to consider some threshold of percentage of the job roles time involved in contract management that triggers the mandatory inclusion of contract management capabilities within the post’s position description.

At my prompting, the State Procurement Board introduced a suggestion that staff involved in contract management be required to attend a training course in contract management every 36 months.

You might wish to consider a parallel requirement that staff involved in writing acquisition plans are required to attend training costs and acquisition plans every 36 months, or indeed more often.

In terms of what types of initiatives would build capability, contemporary approaches de-emphasise training courses and instead emphasizes the value of learning on the job through studying networking, and peers. It seems to me that many officers default to copy and pasting previous procurement projects as a way of short circuiting the administrative burden of writing acquisition plans, evaluation plans, and other procurement related documents.

An obvious way to try to build capability is to maintain a library of exemplars or good practice documents centrally so that officers can draw as a template a document which has elements of good practice rather than plagiarizing a document which is already mediocre

Information request 3.7

“How accurate in the commission’s portrayal of these themes? What suggestions for reforms to the system could address them and improve the overall contribution of government procurement to the state's performance?”

My own view is that public authorities have sought and been granted a high degree of autonomy to manage their own procurement operations. An under resourced central team has conspicuously failed to act as a centre of excellence and as a consequence that is why disparities in resourcing and capability across departments which are not necessarily linked to the complexity or challenge of the spend portfolio.

The most obvious answer to 3.7 is that the State Procurement Board needs to be replaced by Chief Procurement Officer with a strong mandate to deliver better outcomes and that departments and agencies are empowered to manage secondary procurement processes, but that the procurement process is essentially centralized under strong functional leadership.

This is unlikely to be popular as it would clearly result in a loss of “control” for public authorities. But I can’t see that public authorities can point to a track record of success evidencing how effective the current arrangements have been.

Information request 4.1

On page 127 information request 4.1 asks

“What actions including better understanding of probity requirements would increase knowledge of an engagement with the marketplace and potential suppliers in the planning process?”

Imagine that there was a single central database of potential suppliers maintained perhaps in shared services, but at least available to every public authority. Imagine a database showed the basic financial information about the supplier in terms of sales, perhaps some basic ratios, the ACN and ABN, also which panels the supplier was on. Imagine that that information also included the hit rate of success, the success rate of the supplier in secondary procurement processes.

This would avoid some of the duplication of effort for suppliers in submitting information and would also begin to allow visibility of the scale of the State as a proportion of sales of some of their key suppliers. This would seem to me to be a potential step forward, and some of the maintenance of the data such as insurance certificates, could be maintained by the supplier.

Secondly, “what type of information on supply capability and performance would be most beneficial to public authorities in their engagement with the market?”

I have seen a variety of performance review mechanisms in particular, in the construction sector, where periodic reviews, perhaps quarterly of contractor performance, are maintained and centrally aggregated, at least in other jurisdictions. You might wish to reflect on the absence of a library of common key performance indicators across the state. A supplier may be being delisted from one

panel in one public authority for poor performance, while simultaneously being added to a panel and another public authority within the state.

The reasons why this would happen are the fragmentation of support records and the absence of consistency in creating a library of common key performance indicators. In truth we should be able to compare suppliers not only in this period of time against a previous period of time, but we should be able to compare different suppliers in the same panel against other suppliers. It is not clear to me that this information is available, or that the basic infrastructure of a library of KPIs or a system to acquire share the data exist.

Information request 4.2

On page 128 is information request 4.2. I would urge the Commission to explore a method of procurement called **Competitive dialogue**. It would seem to me to harness everything that industry and stakeholders are looking for. In some respects, this is a contemporary label for what used to be called pre-tender planning. However, the key issue is that there are a number of quarantined dialogues with potential bidders, before tenders are issued. In a time poor environment, this would seem to me to allow the sort of engagement with industry that many of the tenders who have submitted to the commission have claimed is lacking.

Once again, the stakeholders least likely to support this are the audit and probity professionals who would have concerns about the leakage of information. Competitive dialogue is used by mature procurement functions. For example, in the UK and in New Zealand. The Commission might wish to consider endorsing this method of procurement for complex acquisitions and establishing a champion to promote awareness, understanding and participation in competitive dialogue.

In particular, assuming that dialogues are quarantined, it addresses the issue of innovation through allowing suppliers to shape the client's understanding of what potential solutions exist. And provided specifications are not written in a way which diminishes competition or compromises commercially sensitive information. Competitive dialogue would appear to me to be the most appropriate way forward for complex acquisitions across the state.

Information request 4.3

On page 136, is information request 4.3. My experience of software vendors is that they promise that their solution will lead to significant benefits but are rarely willing to warrant those benefits will be realized. One solution that as a cloud solution is relatively simple to implement is called VendorPanel. Noting that I have met the CEO of the company, I have no other commercial arrangement with the firm.

I would suggest that the Commission explores VendorPanel and similar solutions to identify what would be the benefits across government of getting all of the state panels onto vendor panel and consolidating in a single place supplier information and performance upon secondary procurement processes

Information request 4.4

On page 137 is information request 4.4. I feel I am conflicted in respect of this information request as I myself deliver training and coaching in negotiation. Based on my own observations, a shared services team is capable of planning and executing complex negotiations. It may be that there are other cells across government, where there are capable negotiators. But negotiation expertise is not widely distributed. For this reason, I do not recommend that direct negotiation is undertaken by people for whom negotiation is not part of their competency set as the results are unlikely to be satisfactory. They are competent negotiators in government and complex negotiations should be undertaken by those officers

Information request 4.5

On page 138 the question asks about giving feedback post tender to suppliers. My experience of receiving post offer feedback is that it is usually of poor quality. Information is sanitized to the point where it's very hard to identify opportunities for improvement.

An obvious opportunity is to identify against each tender evaluation criterion at least one opportunity for improvement.

I understand the reticence of public sector officers to engage in relative comparisons. And I think that is good practice. But it would be useful to identify what we could do differently next time, as opposed to “we scored you 68 out of 100 in terms of your proposed work methods”

Information request 4.6

Page 138. There was a time when I might have been motivated to develop unsolicited proposals to government, I no longer bother. Not worth the effort

Information request 4.7

“What sort of information is important in being able to manage contracts effectively”?

Most contract managers rely on performance reports from suppliers. If you imagine how the state might reduce the burden on suppliers, it would be to identify a common library of key performance indicators so that performance reports did not need to be customized for every single department or agency with whom the supplier deals.

Another question I would ask is “how many hours are spent on contract management in a year?” and calculate that as a percentage of the contract value. This might include the frequency of contract reviews and also periodic reviews of whether the contract has actually delivered realized benefits aligned to the original acquisition plan.

Where contracts are extended exercising an optional extension period, it would appear to me to be appropriate to identify the rationale as to why the contract is being extended. It is a common experience across the public sector that contract extensions are triggered due to lack of resource to re-initiate a procurement process rather than because the contractor is performing especially well.

The question is asked in 4.7. “How can this information be used at the system level to inform better contract management and public authorities?” The key priority for me is the resourcing of contract management. And a start in that process would be a census of how many staff are involved in

contract management and what proportion of their time is spent on contract management. I noted on page 164 under the heading **Strategic Procurement**, the Commission has stated the following.

“The Commission has not been provided with many examples of broad procurement strategies by public authorities or category purchasing strategies are developed in agencies such as SA Health, and DPTI. The integration of procurement strategies and public authorities is not common practice. The Commission has observed a paucity in procurement related indicators published by public authorities or a published link between broad agency objectives and procurement activity.”

I salute you for making these statements.

And you may wish to reflect on the contrast between public authorities bemoaning the effort required to comply with the State Procurement Boards review processes and their desire for greater autonomy and the ability to make their own choices, with what appears to be a failure to assume responsibility for measuring either the existence or the effectiveness of procurement strategies upon their own business outcomes.

On page 165 under the heading **Training** is the following statement.

“Based on this State Procurement boards advice and the OCPSE data, it appears that only 10% of the total State Procurement cohort undertook any procurement related training that is recorded by the State Procurement Board. Public Authorities indicate the number of staff with formal procurement related qualifications or accreditation is very low. There appears to be an asymmetry between the relatively small numbers of staff that are trained or have recently undertaken procurement related training and the training and development offerings made available through the State Procurement board. “

Again, I will highlight this as a nugget of insight which is in danger of being lost in a sea of less important data. That is a saying “If you think education is expensive, wait till you try ignorance”

Panels

On page 171 is table 4.5 which I have to say is remarkably informative. Again, I should declare a conflict of interest in respect of the Procurement Services panel. But I smiled when I saw the percentage of business won by the top three businesses at 0.2%

As somebody who spent many, many hours filling in questionnaires about a range of topics in order to get on the panel, to see that there are two suppliers on the panel 82 suppliers on the panel and that the top three suppliers by value have got less than half a percent of the panel value tells its own story.

As a commission you might wish to ask under what circumstances should open panels be allowed? What is the purpose of open panels? And how can dormant suppliers or suppliers who've won no business be allowed to remain on a panel? For what purpose?

Information request 4.13.

“The Commission seeks advice on what information is important to collect to monitor and assess the effectiveness of panel arrangements. Under what circumstances it is efficient and effective to appoint a sole provider. From a panel after a second round selection process, and best practice examples of using panels to promote small business growth and value for the state”

It is hard to avoid the view that open panels are a cosmetic solution. An obvious opportunity is to cull from panels suppliers who are not winning business after they have been afforded an opportunity to try and increase their business.

This may involve identifying who is being selected for secondary procurement processes and mandating that each secondary procurement process includes at least one supplier that has not previously been engaged by the client. If after a certain period for example six months a supplier has won no business, it is not clear to me in whose interests it is to keep the supplier on the panel.

Those stakeholders selecting suppliers for secondary procurement processes should be required to demonstrate on what basis they chose the suppliers especially if they have included an incumbent. Panel management is a topic in its own right and it is hard to give a coherent answer in a few sentences. My response would be that based on my own undertaking of benchmarking of different solutions, suppliers and clients prefer closed panels because there's a greater likelihood of business eventuating.

Secondly, panels involving ceiling rates that specifically anticipate secondary procurement processes do not attract value for money in the initial quotation process, because suppliers include a contingency that they yield during the secondary procurement process when clients are able to commit to volume.

The question asked in 4.13, under what circumstances it is efficient and effective to appoint a sole provider is easily answered. Whereas at state level, the state cannot commit to a supplier of travel or office supplies, at departmental level that commitment could be made in order to secure additional benefits and routinely is made.

Information request 4.14

One option is to distinguish Metro Adelaide and non Metro Adelaide in terms of procurement solutions. This increases complexity and may reduce the leverage of the state. However, it may also allow greater engagement with small and local enterprises.

Table 5.4

On page 198 is table 5.4. Again, I would highlight this as a nugget which might well serve as a great starting point to discuss the state of procurement within South Australia. There are two potential interpretations of figure 5.4. The most charitable is to suggest that the spend portfolio within Premier and Cabinet is so different to all of the other public authorities that they definition of value for money has been customized, tailored or otherwise adjusted to reflect the complex nature of acquisitions within Premier and Cabinet.

However, a disinterested bystander might then ask, are the acquisitions of Premier and Cabinet more complex than Health SA or DPTI? The answer is clearly no. And this raises the question of whether there is an alternative explanation as to the variance across the state?

And of course, the relative importance of personal preference is hard to prove. I would interpret 5.4 as follows. There are three classes of decision. The first is DPC which appears to be heavily focused on non price factors. The second is DHS, which appears to be almost overwhelmingly focused on price factors. And the third class is the relatively minor variances of all other departments, somewhere between 58% and 84% of all projects being made on the basis primarily of price

But there is no pattern. And there should be.