

VICTORIA

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Victorian  
Auditor-General

# Contracting and Tendering Practices in Selected Agencies

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Victorian Auditor-General's Office  
*Auditing in the Public Interest*

The Hon. Robert Smith MLC  
President  
Legislative Council  
Parliament House  
Melbourne

The Hon. Jenny Lindell MP  
Speaker  
Legislative Assembly  
Parliament House  
Melbourne

Dear Presiding Officers

Under the provisions of section 16AB of the *Audit Act 1994*, I transmit my report on  
*Contracting and Tendering Practices in Selected Agencies*.

Yours faithfully



DDR PEARSON  
*Auditor-General*

21 June 2007

# Foreword

After employee costs, the next greatest expenditure for the Victorian Government is the procurement of goods and services. This is of the order of \$14.8 billion annually.

This audit sought to provide assurance that contracting and tendering practices in selected Victorian public sector agencies complied with government policy and procedures, were in line with good procurement practice, and delivered the expected procurement outcomes for the public sector and the community.

A set of 15 contracts were examined and assessed against 6 key procurement stages. For 2 stages – the identification and analysis of procurement needs and the use of tendering approaches consistent with procurement policies and guidelines – conformance was uniform.

However, in the other key procurement stages audit found scope for significant improvement, particularly in the area of monitoring and evaluating contractor performance. Further, inadequate documentation of procurement was a common shortcoming. Where contracts had been re-tendered, there was evidence of improved practice, indicating that procurement standards are improving.

The audit also concluded that there was scope for improvement in elements of the whole-of-government Construction Supplier Register.

Finally, by setting out good practice criteria for key procurement stages, this report makes a positive contribution to the further improvement of contracting and tendering practices in the Victorian public sector.



DDR PEARSON  
*Auditor-General*

21 June 2007

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# 1 Executive summary

## 1.1 Introduction

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Purchasing in the Victorian public sector involves significant annual outlays. Spending on goods and services is typically the largest item for agencies after employee costs. In 2005-06, public sector expenditure on goods and services was \$14.8 billion.

When done well, the procurement of goods and services has a positive impact on the delivery of government programs, services and capital projects by providing quality resources, at the right price, when they are needed. When done poorly, purchasing gives rise to several types of risk. The process may not be fair or transparent. There may be inadequate competition, leading to reduced value-for-money for the Government and the community. Providers of goods and services may face unnecessary costs from poorly managed processes. Or the process, and the subsequent management of the purchase, can fail so thoroughly that the goods and services are not provided.

Given the importance of purchasing and the inherent risks, sound management of purchasing is a key goal for the Government and the community. This audit seeks to provide assurance that contracting and tendering practices in selected agencies comply with government policy and procedures<sup>1</sup>, and deliver the expected outcomes for the public sector.

The audit examined:

- a sample of 64 contracts from selected agencies to determine whether guidelines for contracts and tenders were being followed
- a selection of 15 of the sampled contracts against good practice for 6 key stages of procurement to determine how well the procurement was conducted.

Audit examined contracts from the Education, Justice, Human Services and Infrastructure portfolios. These portfolios were chosen because they represent a significant percentage of the State's expenditure, and transact a large number of contracts.

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<sup>1</sup> The policies and guidance material included the policies of the Victorian Government Purchasing Board, procurement guidelines issued by the Department of Treasury and Finance, the *Project Development and Construction Management Act 1994* (PDCM Act), Ministerial Directions No.1 and 2 under the PDCM Act, the *Code of Practice for the Building and Construction Industry* and the *Schools Guidance Manual*. The PDCM Act, Ministerial Directions and the Code of Practice for the Building and Construction Industry are administered by the Department of Sustainability and Environment.

The contracts examined were selected from the Victorian Government Purchasing Board (VGPB) Contracts Publishing System<sup>2</sup>, and from records of schools' contracts maintained by the Department of Education.

They related to procurement by the:

- Department of Education, including government primary and secondary schools
- Department of Human Services, including the Office of Housing
- Department of Infrastructure
- Department of Justice
- Metropolitan Ambulance Service
- Metropolitan Fire and Emergency Services Board
- Victoria Police.

They included contracts for goods and services, as well as construction projects and construction services.

Contracts for large public private-partnership projects or large capital projects were specifically excluded from the sample, because they are more likely to be internally reviewed by departments, or the subject of specific audits conducted by this Office.

## 1.2 Findings

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### Procurement practices for selected contracts

Audit identified 6 key stages of the procurement cycle and good practice within those stages. To do this, audit considered guidance material and policies applicable to Victorian public sector procurement, and procurement reviews and audits previously conducted in Victoria and other jurisdictions. The 15 contracts were assessed against the practices to determine whether the procurement was well conducted.

For all of the contracts examined, agencies had established the necessity to procure the goods or services. Analysis of procurement options, aimed at ensuring that the goods or services and the timing of the procurement met agency needs, had been carried out. All contracts met tendering requirements, i.e. the tendering approach selected was consistent with requirements and the tender process was consistent with procurement policies and guidelines.

For 6 of the 15 contracts there was good practice in each of the 6 key procurement stages examined, i.e.:

- identifying what needs to be procured
- specifying what is to be procured
- meeting tendering requirements

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<sup>2</sup> Under government policy, Victorian public sector departments and Victoria Police are required to post details of all contracts with a value of \$100 000 or more on the VGPB Contracts Publishing System. The contracts posted are not restricted to contracts for goods and services, they also include construction projects and construction services. The VGPB Contracts Publishing System can be found at <[www.tenders.vic.gov.au/CA256AEA00206A7D/webpages/PublicContractsFrameset?Open](http://www.tenders.vic.gov.au/CA256AEA00206A7D/webpages/PublicContractsFrameset?Open)>. For all other agencies, posting of contract details on the system is optional.

- evaluating the bids
- assuring the quality of the procurement process
- monitoring and evaluating contractor performance.

There was scope for improvement in the key procurement stages:

- **specifying what is to be procured.** Twelve of the 15 contracts examined met the standard for this key procurement aspect. For the remaining 3, there were shortcomings in the specification, i.e.:
  - the specification did not specify criteria for evaluating tenders, or
  - the specification did not set out key project and contract management information
- **evaluating the bids.** Five of the 12 contracts that went through this phase were assessed as not meeting good practice. Shortcomings included:
  - no evaluation panel report, or
  - the evaluation report did not contain sufficient information to support the selection made
- **assuring the quality of the procurement process.** Ten of the 15 contracts met this standard. For 5 of the 15 contracts, there was no independent scrutiny of the procurement process, or there was scope for improvement in the assurance arrangements put in place
- **monitoring and evaluating contractor performance.** There was room for improvement in 8 of the 15 contracts. In some cases, performance measures or quality standards were not set out in the specification. This made it difficult for the relevant agency (and audit) to determine whether the contractor had delivered on the contract outcomes. Audit also found instances where contract monitoring arrangements were not used, or documentation to support assessments of contractor performance could not be sighted.

For 9 of the 15 contracts, complete documentation could not be provided to show that important purchasing practices had been conducted. It was unclear whether those practices had been conducted, or whether the agencies were unable to provide documentation because records had not been kept. This was particularly the case for evaluations of tenders. In the absence of complete records, audit is unable to provide assurance that the procurement standards had been achieved. Particularly noteworthy were 3 of the 9 contracts, with a combined value of \$7.5 million, which had incomplete documentation for 3 of the 6 key procurement stages.

Monitoring and evaluating contractor performance was found to be the area with the greatest potential for improvement in the conduct of procurement.



## Construction Supplier Register

The Guide to Tendering Provisions for Public Construction, which is incorporated into Ministerial Direction No. 1–*Tendering Provisions for Public Construction* issued under the *Project Development and Construction Management Act 1994*, outlines “mandatory” and “recommended” criteria for the pre-qualification of contractors and consultants for the Construction Supplier Register (CSR). Audit found that:

- Contractors were assessed against the “mandatory” criteria, i.e. contractors were assessed against criteria relating to occupational health and safety and industrial relations.
- Contractors were assessed against the following “recommended” criteria: financial capability, past work history, organisational capacity and Registered Building Practitioner certification. They were not assessed against other recommended criteria such as resource availability, or environmental management.
- From the documentation examined, it was unclear what criteria were used for pre-qualifying consultants. The criteria used by the CSR for pre-qualification of consultants were not clearly identified on DoI’s website or communicated to users. The Department of Infrastructure (DoI) advised that the criteria used are: qualifications, experience and performance. Information is also sought by DoI on participation in the construction industry, such as membership of relevant industry associations and, where applicable, evidence that a company director, principal or department head holds suitable qualifications and/or certification with appropriate industry bodies.
- Other “recommended” criteria for consultants, including innovative ability, resource availability and environmental management, were not used.

It is important that the CSR prequalification process is rigorous, and that users of the CSR are aware of the criteria actually used for pre qualification purposes. They can then make informed judgments about the extent to which they can rely on the pre-qualification process.

Regular assessment meetings by CSR staff to discuss candidates for pre-qualification, were evident. The assessment meetings are formal and minuted. Recommendations with comments covering financial, occupational health and safety, work history, organisational history and capacity are recorded.

DoI does not actively seek feedback from user departments and agencies on the performance of the pre-qualified suppliers used. Only the Office of Housing provides feedback on supplier performance to DoI, as a matter of course. DoI advised that it has no authority to require CSR users to provide performance feedback.

## 1.3 Recommendations

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### **Procurement practices for selected contracts**

- 1.1 That agencies clearly specify contractor performance standards and key deliverables in tender documentation, and use these to:
  - assess contractor performance before payments are made
  - take account of performance in considering whether to extend or vary contracts or to re-engage contractors.
- 1.2 That agencies maintain reliable records of their procurement activities to support decisions and actions taken.
- 1.3 That the Department of Sustainability and Environment (DSE) review the relevant procurement policies and guidelines under the *Project Development and Construction Management Act 1994* taking into account the recommendations and the good practice examples identified within this report.
- 1.4 That DSE provide guidance and training to agencies on the relevant procurement policies and guidelines.

### **Construction Supplier Register**

- 1.5 That DoI provides to users of the CSR, the criteria used for pre-qualifying consultants.
- 1.6 That DoI works with agencies that use the CSR to identify and address perceived barriers to submitting performance reports.

#### ***RESPONSE provided by Secretary, Department of Education***

*The Department of Education acknowledges the importance of effective procurement practices and the outcomes of this review. The findings of the report will be drawn to the attention of all staff involved in procurement activities to ensure that the department's procurement practices comply with government policy and reflect continuous improvement.*

#### ***RESPONSE provided by Secretary, Department of Human Services***

*I have noted audit's findings that a sample of Department of Human Services' (DHS') contracts highlighted good procurement practice. I have also noted that the audit found that there was scope for improvement in some of the procurement stages for a number of DHS' contracts sampled, in particular the need for improved documentation, assuring the quality of the procurement process, and monitoring and evaluating contractor performance.*

***RESPONSE provided by Secretary, Department of Human Services - continued***

*In respect of the audit of the 2003 Collingwood Estate Security Services contract, your report states on page 25 that the Office of Housing selected 5 tenderers for interview and then assessed whether they met all mandatory criteria, contrary to the request for tender that all complying tenders would be assessed against mandatory criteria and then short-listed tenderers would be interviewed. In response, I have been advised that all tenders were firstly assessed by each panel member against the 3 mandatory criteria listed in the tender brief that included the scoring methodology for the 5 weighted criterion. The 5 tenders that met the mandatory requirements were then assessed against the 5 weighted criteria and interviews were conducted. Upon completion of the interview process, a final assessment of each tender was completed and recommendations made.*

*I should assure you that since the 2003 security services contract, processes for the letting of security and other contractors have been improved. The processes are accredited to Quality Management System Requirements AS/NZS ISO 9001:2000. I note that the audit found the evaluation process for the 2006 tender was more transparent and better documented. A tender evaluation plan was developed outlining the process by which bids were to be evaluated and an evaluation report which set out the membership of the selection panel and the reasons for the selection of the successful tenderer was prepared.*

*DHS is committed to improving its procurement processes. In this regard, it has been developing an Excellence in Procurement Strategy which will further strengthen procurement processes within DHS, including enhanced capability of staff involved in procurement. The areas for improvement audit identified will be included in the development of the Excellence in Procurement Strategy that will be considered by the DHS Executive shortly.*

***RESPONSE provided by Secretary, Department of Infrastructure***

*The Department of Infrastructure (DoI) accepts the Auditor-General's recommendations that are applicable to DoI but notes that the report does not sufficiently acknowledge areas where DoI exceeds the Auditor-General's good practice criteria.*

*DoI complies with Victorian Government procurement policies and procedures, and is committed to a process of continuous improvement in all aspects of contracting and tendering, including contractor performance standards, key deliverables in tender documentation, contractor performance assessment and procurement activity documentation.*

***RESPONSE provided by Secretary, Department of Justice***

*The Department of Justice found the audit process itself to be of assistance and has now put in place enhanced processes in line with the recommendations.*

*The department is satisfied with the information and recommendations contained within the proposed audit report, and does not have any specific comments to contribute.*

***RESPONSE provided by Secretary, Department of Sustainability and Environment***

*I am satisfied that the issues raised in your report, and the 2 recommendations that directly concern the Department of Sustainability and Environment (DSE), can be appropriately addressed by DSE.*

*The 2007-08 work program for the newly established Building Policy Branch within DSE acknowledges the need to review current procurement practices relating to construction, particularly in relation to tendering and standard contracting. Your criteria for good practice in procurement will be used to inform this work.*

*DSE will consult with other departments and agencies to maintain cross-agency coordination of procurement policy and to seek improvements in the standards of practice.*

***RESPONSE provided by Chief Executive Officer, Metropolitan Ambulance Services***

*We recognise that sound management of public sector procurement is of key importance to the Government and the community, and we aim to ensure that our processes meet the highest standards. As one of the agencies selected to be included in this audit, we are pleased that the audit findings reveal the Metropolitan Ambulance Services' contracting and tendering processes as good practice.*

*From our point of view, the proposed report contains information that is correct and the context has been presented fairly. We intend to use this information to support and strengthen our existing contracting and tendering processes.*

***RESPONSE provided by Chief Commissioner of Police***

*Victoria Police acknowledges the audit comments and is striving for continuous improvement in procurement practices. Key recommendations are noted and identified gaps will be closed and embedded into Victoria Police policy, through the Procurement Management Division (PMD).*

*PMD was established in early 2006 with the intention of overseeing procurement policy and procedures within Victoria Police.*

*As part of this process, a review of procurement policies and procedures is currently being conducted, to ensure compliance with the Victoria Government Purchasing Board guidelines.*

*PMD has developed and released a Procurement Education Framework, which will provide employees, who have a delegated authority, appropriate training in good procurement practices.*

*A team managed by Business Information and Technology Services has recently been formed to address contract management, including monitoring/evaluation of contract performance within Victoria Police. The team has the task of sourcing/developing a software package, which will provide a robust contract management system, to ensure compliance with Department of Treasury and Finance relevant legislation and guidelines.*



# 2 Background

## 2.1 Value of purchasing by the Victorian public sector

The Victorian public sector is a major purchaser of goods and services. Spending on goods and services is typically the largest item of agency expenditure after employee costs. Because there is no central repository of expenditure data for the Victorian public sector, or requirement for data to be consolidated, it is difficult to determine the value of public sector expenditure. However, the Victorian Government's *Financial Report for the State of Victoria 2005-06* shows that the value of public sector expenditure on goods and services was \$14.8 billion for the year<sup>1</sup>.

The 2005-06 annual reports of Victorian government departments show that spending on goods and services by government departments was at least \$5.7 billion in 2005-06. Figure 2A shows the breakdown of expenditure by department.

**Figure 2A**  
**Departmental expenditure on goods and services, 2005-06 (\$billion)**

Agency	Value
Department of Education	1 003.4
Department of Human Services	363.2
Department of Infrastructure	3 244.0
Department of Innovation, Industry and Regional Development	63.4
Department of Justice	409.0
Department of Premier and Cabinet	37.5
Department of Primary Industries	142.1
Department of Sustainability and Environment	281.4
Department of Treasury and Finance	68.7
Department for Victorian Communities	133.7
<b>Total</b>	<b>5 746.4</b>

Source: Annual reports of Victorian government departments, 2005-06.

<sup>1</sup> This figure includes government departments, public non-financial corporations, public financial corporations and other government-controlled entities.

The data in Figure 2A represent the minimum value of spending on goods and services by government entities as they exclude the value of purchasing by other public sector entities such as local government, universities, water authorities, hospitals and statutory authorities.

## 2.2 Audit objective

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When done well, the procurement of goods and services has a positive impact on the delivery of government programs, service and capital projects by providing quality resources, at the right price, when they are needed. When done poorly, purchasing gives rise to several types of risk. The process may not be fair or transparent. There may be inadequate competition, leading to reduced value-for-money for the Government and the community. Providers of goods and services may face unnecessary costs from poorly managed processes. Or the process, and the subsequent management of the purchase, can fail so thoroughly that the goods and services are not provided.

Given the importance of purchasing and the inherent risks, sound management of purchasing is a key goal for the Government and the community. This audit seeks to provide assurance that contracting and tendering practices in selected agencies comply with government policy and procedures, and deliver the expected outcomes for the public sector.

The overall objective of this audit was to provide assurance that contracting and tendering practices in selected agencies comply with government policy and procedures, and deliver the expected outcomes for the public sector.

The audit examined:

- a sample of 64 contracts from selected agencies to determine whether guidelines for contracts and tenders were being followed
- a selection of 15 of the sampled contracts against good practice for 6 key stages of procurement, to determine how well the procurement was conducted.

## 2.3 Scope and method

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Audit examined contracts from the Education, Justice, Human Services and Infrastructure portfolios. These portfolios were chosen because they represent a significant percentage of the state's expenditure, and transact a large number of contracts.

The contracts examined were selected from the Victorian Government Purchasing Board (VGPB) Contracts Publishing System<sup>2</sup>, and from records of schools' contracts maintained by the Department of Education.

They related to the procurement by the:

- Department of Education, including government primary and secondary schools
- Department of Human Services, including the Office of Housing
- Department of Infrastructure
- Department of Justice
- Metropolitan Ambulance Service
- Metropolitan Fire and Emergency Services Board
- Victoria Police.

They included contracts for goods and services, as well as construction projects and construction services.

Contracts for large public private-partnership projects or large capital projects were specifically excluded from the sample, because they are more likely to be internally reviewed by departments, or the subject of specific audits conducted by this Office.

Audit:

- examined relevant documents, including business cases, requests for tender, submissions to accredited purchasing units (APUs), tender evaluations, risk management strategies, contracts and monitoring arrangements
- interviewed staff responsible for the procurement activity, and representatives of agency APUs
- examined aspects of the administration of the whole-of-government Construction Supplier Register (CSR), a register of pre-qualified contractors and consultants, because it was a source of supply of consultants and contractors for 10 of the contracts in our initial sample of 64 contracts, and 2 of the 15 contracts selected for further examination.

The audit was performed in accordance with the Australian auditing standards applicable to performance audits, and included such tests and procedures considered necessary to conduct the audit.

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<sup>2</sup> Under government policy, Victorian public sector departments and Victoria Police are required to post details of all contracts with a value of \$100 000 or more on the VGPB Contracts Publishing System. The contracts posted are not restricted to contracts for goods and services, they also include construction projects and construction services. The VGPB Contracts Publishing System can be found at <[www.tenders.vic.gov.au/CA256AEA00206A7D/webpages/PublicContractsFrameset?Open](http://www.tenders.vic.gov.au/CA256AEA00206A7D/webpages/PublicContractsFrameset?Open)>. For all other agencies, posting of contract details on the system is optional.



## 2.4 Audit assistance

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We appreciate the support and assistance of management and staff of the agencies covered in the audit.

## 2.5 Cost of the audit

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The cost of this audit was \$775 000. This cost includes staff time, overheads, expert advice and printing.

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# 3 Procurement practices for selected contracts

## At a glance

### Background

With reference to guidance material and policies applicable to Victorian public sector procurement, and procurement reviews and audits previously conducted in Victoria and other jurisdictions, audit identified 6 key procurement stages and good practice within those stages. Audit assessed 15 contracts against good practice to determine how well the related procurement was conducted.

### Key findings

- For 6 of the 15 contracts, good practice was evident in each of the 6 procurement stages.
- For all of the contracts examined, agencies had established the necessity to procure the goods or services.
- Tendering requirements were met for all contracts, i.e. the tendering approach selected and the tender process were consistent with procurement policies and guidelines.
- There was scope for improvement in 4 of the 6 key procurement stages: specifying what is to be procured, evaluating the bids, assuring the quality of the procurement process, and monitoring and evaluating contractor performance.

### Key recommendations

- 3.1 That agencies clearly specify contractor performance standards and key deliverables in tender documentation, and use these to:
  - assess contractor performance before payments are made
  - take account of performance in considering whether to extend or vary contracts or to re-engage contractors.
- 3.2 That agencies maintain reliable records of their procurement activities to support decisions and actions taken.
- 3.3 That the Department of Sustainability and Environment (DSE) review the relevant procurement policies and guidelines under the *Project Development and Construction Management Act 1994* taking into account the recommendations and the good practice examples identified within this report.
- 3.4 That DSE provide guidance and training to agencies on the relevant procurement policies and guidelines.

## 3.1 Procurement practices

The audit initially examined a sample of 64 contracts against procurement guidelines applicable to those contracts. Our focus was on documentary compliance, specifically whether relevant documentation including business cases, project briefs, tender evaluation reports, contracts, submissions to accredited purchasing units (APUs) and performance monitoring reports had been prepared.

Audit found that the extent to which documentation was available varied. It was not possible to determine, in all cases, whether this was because the necessary procurement aspects had not taken place, or whether the related documentation had not been prepared, or retained. Audit had discussions with contract managers and in many cases, although they informed us that the relevant documentation had been completed, they could not always provide it.

Audit then selected 15 of the 64 contracts for further examination. In selecting the 15 contracts, audit considered the value of the contracts, the tendering methods used, the coverage of agencies involved, and the results from our initial audit of documentation. Figure 3A shows the 15 contracts the audit examined in detail.

**Figure 3A**  
**Contracts examined in detail**

Contract	Agency
Education Services by Royal Children's Hospital Education Institute	Department of Education
Maintenance and Support for MAZE Software	Department of Education
Specialist Technical Support to Schools	Department of Education
Cleaning	Victorian College of the Arts
eMin technical project manager	Department of Human Services
Special program advisor	Department of Human Services
Construction of 2 houses: Dandenong and Doveton	Office of Housing
Construction of 3 houses: Kurunjung and Melton West	Office of Housing
Estate Security Services: Collingwood (2003 – 2006)	Office of Housing
Study of advanced communication functionality of interval meters	Department of Infrastructure
Rail operations interface management services for Craigieburn Rail Project	Department of Infrastructure
Taxation services	Department of Justice
Services for the delivery of the performance management and reporting system	Department of Justice
Provision of debt collection services	Metropolitan Ambulance Services
High visibility garments	Victoria Police

Source: Victorian Auditor-General's Office.

Audit identified 6 key stages of the procurement cycle and good practice within those stages. To do this, audit considered guidance material and policies applicable to Victorian public sector procurement<sup>1</sup>, and procurement reviews and audits previously conducted in Victoria and other jurisdictions. The 15 contracts were assessed against the practices to determine whether the procurement was well conducted.

The 6 key procurement stages identified, along with high-level good practice criteria, are shown in Figure 3B. The criteria were provided to, and discussed with, the agencies responsible for the 15 contracts before the audit examinations were conducted.

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<sup>1</sup> The policies and guidance material included the policies of the Victorian Government Purchasing Board, procurement guidelines issued by the Department of Treasury and Finance, *the Project Development and Construction Management Act 1994* (PDCM Act), Ministerial Directions No.1 and 2 under the PDCM Act, the *Code of Practice for the Building and Construction Industry* and the *Schools Guidance Manual*. The PDCM Act, Ministerial Directions and the Code of Practice for the Building and Construction Industry are administered by the Department of Sustainability and Environment.

**Figure 3B**  
**Key procurement stages and high level good practice criteria**

**1. Identifying what needs to be procured**

An analysis of business need is conducted.

The rigour and content of the analysis is commensurate with the value and risk associated with the items to be procured.

**2. Specifying what is to be procured**

The items being procured are:

- clearly specified in the request for tender or similar documentation (e.g. specification)
- consistent with those identified by the business need analysis.

The criteria for evaluating bids, performance standards, milestones and time frames are specified.

**3. Meeting tendering requirements**

The tender approach selected is consistent with government requirements, e.g. public tender, selected tender, direct offer.

The tender process is consistent with procurement policies and guidelines.

**4. Evaluating the bids**

Evaluation of tenders is transparent, fair and robust.

**5. Assuring the quality of the procurement process**

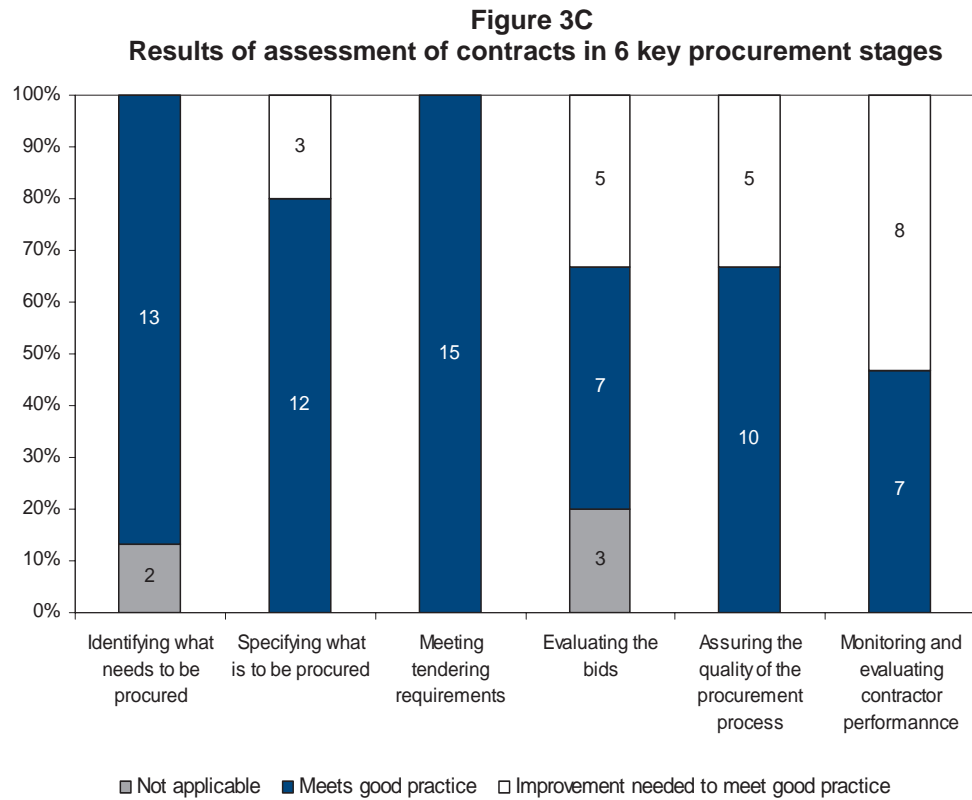
Before awarding a contract, the procurement process is reviewed and assurance provided about procedural compliance and quality.

**6. Monitoring and evaluating contractor performance**

Contractor performance is monitored and evaluated prior to payment or re-engagement to inform appropriate decision-making.

Source: Victorian Auditor-General's Office.

A summary of the results of our assessment of the 15 contracts is shown in Figure 3C.



Source: Victorian Auditor-General's Office.

Audit found that:

- for all of the contracts examined, agencies had established the necessity to procure the goods or services. Analysis of procurement options aimed at ensuring that the goods or services and the timing of the procurement met agency business needs had also been carried out
- all contracts met tendering requirements, i.e. the tendering approach selected was consistent with requirements and the tender process was consistent with procurement policies and guidelines.

There was scope for improvement in 4 of the 6 key procurement stages, i.e.:

- specifying what is to be procured
- evaluating the bids
- assuring the quality of the procurement process
- monitoring and evaluating contractor performance.

## 3.2 Good practice

For 6 of the 15 contracts, good practice was evident in each of the 6 procurement stages examined. The 6 contracts were:

- the provision of services for the delivery of performance management and report system by the Department of Justice (DoJ)
- the provision of taxation services (DoJ)
- the construction of 2 houses in Dandenong and Doveton by the Office of Housing (OoH)
- the construction of 3 houses in Kurunjung and Melton West (OoH)
- the provision of debt collection services by the Metropolitan Ambulance Service (MAS)
- the maintenance and support for MAZE software by the Department of Education (DoE).

Further details are provided below for 3 of the 6 contracts.

### Construction of 3 houses - Kurunjung and Melton West (OoH) Construction of 2 houses - Dandenong and Doveton (OoH)

The (Office of Housing) OoH undertakes a capital works program to provide housing for rental to those eligible for assistance. The 2 contracts audit examined were for the construction of 5 rental houses.

#### Identifying what needs to be procured

The OoH's capital works program is developed following an analysis of housing needs. The need for the houses to be constructed under the 2 contracts audit examined was identified in that analysis.

#### Specifying what is to be procured

What was to be procured was specified in tender documents, which included the Australian Standard AS 2124-1992 contract.

#### Meeting tendering requirements

The design, management and construction of public housing on the capital works program is tendered using suppliers from the Construction Supplier Register (CSR) maintained by the Department of Infrastructure (DoI).

OoH tendered for the construction of 3 houses in Kurunjung and Melton West in February 2005, and 2 houses in Dandenong and Doveton in May 2005.

#### Evaluating the bids

The evaluation of tenders was undertaken by the project consultant.

#### Assuring the quality of the procurement process

As these were construction contracts, they did not require Accredited Purchasing Unit approval. Approval was required from the appropriate delegated staff.

#### Monitoring and evaluating contractor performance

Progress of delivery of each contract was monitored by the project consultant. Both contracts were delivered on time with minor variations of 6 per cent over budget for the construction of the Dandenong and Doveton houses, and 0.7 per cent over budget for the construction of the 3 houses in Kurunjung and Melton West.

Source: Victorian Auditor-General's Office.

## Good practice noted

Examination of the 2 housing construction contracts revealed a number of good procurement practices. For instance:

- prior to obtaining tenders for the construction of the houses, a detailed project cost estimate was developed and a project consultant appointed after seeking 3 quotes from the CSR. The project consultant was responsible for managing the project
- the evaluation of bids was well-documented, using a standard evaluation assessment form
- to ensure that the correct procedures were followed, and that adequate documentation of the procurement process was maintained, the OoH used check lists which were progressively completed and signed by the project consultant and the OoH project manager responsible for the project
- there was regular monitoring of the contract by the project consultant for each contract. There were a number of site meetings which were minuted and included photographs to document progress. All payment and submissions for variations were also reviewed by the project consultant prior to payment by the OoH
- the correct quality assurance sign-offs were made
- an evaluation of the contractor's and consultant's performance was undertaken at the completion of the each project and submitted to DoI (the agency responsible for the CSR).



### Provision of debt collection services (MAS)

Until November 1996, debt collection services for overdue patient transport accounts were provided to the Metropolitan Ambulance Services (MAS) by one company. Following a tender in 1996, MAS appointed 2 contractors to share the collection of debts, for 2 years. The services were re-tendered in 1998. Between 2000 and 2003, the amalgamation of the 2 appointed contractors saw the services again provided by one company.

#### Identifying what needs to be procured

In September 2002, MAS proposed to re-tender the contract, to establish a new 3-year contract, with an option for a further extension of up to 2 years. Tendering allowed MAS to test the competitiveness of its contractor in 2002's market, and to re-introduce a competitive 2-contractor arrangement.

#### Specifying what is to be procured, meeting tendering requirements, and evaluating the bids

MAS undertook a 2-stage tender process. In stage 1, an expression of interest (EOI) was issued and 8 providers were short-listed following an evaluation by a panel against criteria specified in the EOI. In stage 2, the 8 agencies were provided with a detailed request for tender.

#### Assuring the quality of the procurement process

A steering committee was established to review the process and endorse the evaluation panel's recommendation, subsequently approved by MAS' management committee.

#### Monitoring and evaluating contractor performance

In October 2005, prior to the expiration of the contract, a review was conducted to determine whether to re-tender the services, or to exercise the 2-year option. During the period of the contract, performance was monitored by a contract manager. Monthly reports were prepared measuring performance against the performance standards set out in the contract.

Source: Victorian Auditor-General's Office.

### Good practice noted

Audit's review of the debt collection services contract highlighted a number of good procurement practices. These included:

- prior to re-tendering in 2002, MAS considered bringing debt collection in-house, re-tendering the services and establishing new contract(s) or extend the existing contract along with the merits of each option. This analysis and recommendation to re-tender was well-documented in a briefing document to the chief executive officer
- developing an evaluation plan, prior to issuing the request for tender (RFT), outlining the make-up of the evaluation panel, evaluation criteria and responsibilities of the steering committee set up to oversee the RFT and the evaluation process. (The steering committee comprised senior staff from MAS.)
- developing an RFT that clearly outlined the nature of the services; the procurement method and tender process; criteria for evaluating tenders; weightings; and performance requirements
- preparing an evaluation report detailing panel membership, each tenderer's score against the selection criteria; results of reference and viability checks; and the panel's recommendation

- advising and providing unsuccessful tenderers the opportunity for a debrief
- the documentation maintained by MAS was comprehensive. It was clear from examination of the files that the tender process was undertaken in an accountable, open and efficient manner
- regular monitoring by the contract manager with monthly reports prepared measured performance against the standards set out in the contract.
- using performance information in making decisions relating to the extension of the contract.

### 3.3 Scope for improvement

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For 9 of the 15 contracts there was scope for improvement in at least one of the 6 procurement stages.

#### 3.3.1 Specifying what is to be procured

A specification that clearly sets out what is to be procured, the time frames for delivery, criteria to assist selection of the potential supplier, the quality standards for assessing whether the specification is met, and the terms of the engagement, is fundamental to successful procurement.

Twelve of the 15 contracts that audit examined met the standard for this procurement stage. For the remaining 3, there were shortcomings in the specification. They included the following.

#### The specification did not specify criteria for evaluating tenders

##### **Provision of rail operations interface management services for Craigieburn rail project (DoI)**

In January 2005, a request for quotation (RFQ) was provided to 3 potential suppliers from the DoI's Public Transport Division Strategic Advisory Services Panel.

The RFQ was for the provision of rail operations interface management services for the Craigieburn rail project. The RFQ outlined deliverables and requested that the potential suppliers provide a range of information, including available staff, roles and responsibilities, qualifications, professional experience relevant to the conduct of the study, a conflict of interest declaration, and fees and charges. The RFQ did not clearly specify the criteria for evaluating tenders.

All 3 potential suppliers submitted bids. An evaluation report was not prepared.

The Contract Approval Recommendation Report (CARR) submitted to DoI's delegated officer recommending the preferred tenderer, stated that one unsuccessful candidate was "unavailable until May 2005 which was not acceptable to the project", and the other candidate "has good experience but it is not within the Victorian rail environment". The CARR also stated that the preferred tenderer "offered a candidate with extensive knowledge of the rail operating environment, excellent local knowledge and experience and long standing relationships within the Victorian rail environment".

Source: Victorian Auditor-General's Office.

### *Audit comment*

The rail operations interface management services request for quotation (RFQ) did not state a time imperative nor that experience within Victoria was required. Audit was unable to determine how DoI initially selected the 3 potential suppliers from the Public Transport Division Strategic Advisory Services Panel.

DoI advised that:

- panel suppliers considered likely to have access to the specialist resources required were approached to determine whether they were available to undertake the work. Quotations were then invited from 3 potential suppliers
- experience in Victoria was not essential for selection. Appropriate experience in other Australian rail systems would have been acceptable. Relevant experience in Victoria was, however, regarded as valuable.

The Contract Approval Recommendation Report examined by audit indicated that availability and Victorian experience were considered in determining the successful tender. If Victorian experience and availability within a specified period were criteria, this should have informed DoI's initial selection before the RFQ was distributed, and should have been identified in the RFQ.

### **Victorian College of the Arts Secondary School 2001 and 2006 cleaning contracts**

#### **2001 contract**

In 2001, the Victorian College of the Arts Secondary School (VCASS) engaged a cleaning contractor for a 2-year period with fixed yearly payments of \$33 965. In 2003, this contract was extended for a further 3 years.

#### **2006 contract**

In 2006, the VCASS publicly tendered its cleaning contract. Fifteen bids were received ranging in value from \$28 644 to \$107 338. Three contractors were short-listed, reference-checked and interviewed.

Source: Victorian Auditor-General's Office.

### *Audit comment*

Audit's review of files for the Victoria College of the Arts Secondary School 2001 cleaning contract revealed little documentation relating to the engagement of the contractor. There was no evidence of a specification, evaluation of bids or why the contractor was chosen. For the 2003 extension, School Council approval was evidenced.

Given the potential for changed practice, audit also examined the 2006 process. Our discussions with relevant staff and assessment of the 2006 tender documentation revealed that practice had improved since 2001, though it still had shortcomings. For the 2006 process, there was an RFT detailing the nature and scope of cleaning services. However, no criteria were specified. From the documentation provided, audit could not determine how the 3 contractors were short-listed and the successful contractor selected.

## Specification did not set out some key project and contract management information

### Study of advanced communication functionality of interval meters (DoI)

In July 2004, the Essential Services Commission (ESC) mandated the rollout of interval meters for electricity consumers in Victoria. In July 2005, in conjunction with a number of energy industry partners (Department of Infrastructure's partners (DoI's) partners), DoI commissioned a study to assess the costs and benefits of augmenting the ESC's mandated roll-out of interval meters by adding advanced communications functionalities. DoI undertook the procurement to ensure a single coordinated point and conformity with government purchasing guidelines. The study was jointly funded: 50 per cent by DoI and 50 per cent by DoI's partners.

DoI's accredited purchasing unit approved an exemption from open or selective tendering for the study on the grounds that the services could only be supplied by a particular supplier, and that no reasonable alternative or substitute services existed having regard to technical reasons. This position was reached following discussions with the 10 largest electricity retailers and distributors and the ESC. The contractor was awarded a contract capped at \$220 000 (GST inclusive) based on its submitted quotation.

In submitting its price, the contractor indicated that one of the uncertainties with the tender price was "the role of network operators and the extent to which they may be able to assist and provide positive input in identifying and analysing benefits in the area of operational savings".

In November 2005, the contractor sought a variation of \$180 000 due to a number of factors, including:

- unexpected problems in obtaining data from DoI's partners
- the need to source data from third parties to a greater extent than anticipated
- additional forums requested by DoI's partners to address data-gathering issues
- greater intensity required by DoI's partners in the contractor's data-validation activities
- additional advice requested by DoI in relation to completion issues.

DoI and its partners agreed to the request for variation, and co-funded the revised contract value in the same proportion as the initial contract: 50 per cent by DoI and 50 per cent by DoI's partners.

A study report was completed in December 2005 and utilised by the government as the basis for its decision to proceed with its advanced metering infrastructure project (installation of interval meters that record electricity consumption every half hour and can be read remotely).

*Note:* The advanced metering infrastructure project was transferred to the Department of Primary Industries, from DoI, as a result of machinery-of-government changes in December 2006.

*Source:* Victorian Auditor-General's Office.

### Audit comment

The specification for the study:

- did not address the number of meetings or the extent of meetings with stakeholders (electricity businesses). It is unclear whether this was understood or considered by either party at that time
- while it set out the high-level project deliverable (i.e. the interval functionality study), the specification did not set out quality standards, measures for assessing the contractor's performance and project milestones.

The documentation submitted by the contractor in response to the project brief itemised the contractor resources to be used. However, it did not itemise other considerations made in determining the price, including the extent of proposed interaction/meetings with DoI and third parties.

The contractor raised the issue of the role of the network operators at the time of submitting its price. However, there was no evidence that DoI and the contractor considered the impact of this on the contract price or on the successful delivery of the study.

DoI advised that this was a complex study that required the input of a range of stakeholders and was under significant time pressure. Much of the information to be provided by the stakeholders was considered commercial-in-confidence. Stakeholders had an incentive to withhold information if they did not support the rollout of the meters. Scoping and costing the engagement, therefore, involved considerable uncertainties for the contractor and DoI. Given the cost of the rollout of advanced meters, DoI considered it prudent to extend the contract and complete the cost-benefit analysis, rather than proceed with a substantial rollout on the basis of an incomplete cost-benefit analysis.

Audit considers that, notwithstanding the uncertainties, it would have been practical for DoI, and the contractor, to have a clear understanding of the basis of the quote, the quality standards, measures for assessing the contractor's performance and project milestones. This could have assisted DoI to manage the potential risks including the risk that the engagement did not deliver the required deliverables within the established time frame, and to distinguish overruns arising from a lack of cooperation from stakeholders, and from overruns arising from other causes.

Specifying quality standards, measures for assessing the contractor's performance, and project milestones and requiring itemisation of inclusions, would have placed DoI in a better position to contest variations claimed by the contractor.

### 3.3.2 Evaluating the bids

The bid evaluation phase of a procurement process focuses on ensuring that all tenderers are treated fairly, including that submissions are assessed against the same criteria. The process aims to select the most capable tenderer to deliver value-for-money for the agency.

Fair and transparent tendering is a basic standard for public sector procurement, and a clear audit trail that evidences the process provides protection for agencies against criticism that the standard has not been achieved. An evaluation panel report that details the panel membership, procedures and criteria used by the panel in the selection process, and the rationale for selecting the preferred tenderer, is an important part of that evidence. This is reflected in best practice advice provided by the Victorian Government Purchasing Board (VGPB) which states that “each stage of the process – evaluation, recommendation and decision should be comprehensively documented and tied explicitly to the evaluation criteria outlined in the RFT”.

Twelve of the contracts that audit examined involved evaluating bids (the other 3 involved direct offers and, therefore, did not go through this phase). For 7 of the 12 contracts, audit assessed the bid evaluation phase as having met the standard.

Five of the 12 contracts were assessed as not meeting the good practice standard. They included the following.

### An evaluation panel report could not be provided for examination

#### Estate security services - Collingwood, 2003 and 2006 contracts (OoH, DHS)

##### 2003 contract

In March 2003, the Office of Housing conducted a tender for security services for various housing estates. In total, 14 tenders were received for the Collingwood region. The successful tender was awarded a 12-month contract from 1 July 2003, with an option to extend for 2 years. The contract price was \$7.2 million for the 3 years.

##### 2006 contract

The contract was re-tendered in December 2006. Because of the potential for changed practice, audit also examined the 2006 process. Our assessment of the 2006 tender documentation revealed that practice had improved since 2003.

Source: Victorian Auditor-General's Office.

#### Audit comment

The documentation for the 2003 tender for estate security services did not include:

- an evaluation report
- documentation relating to the evaluation panel's deliberations
- details of the membership of the evaluation panel
- details of why the successful tenderer was chosen.

The tender process was outlined in a memo prepared by the OoH subsequent to the evaluation. The memo also summarised the evaluation, indicating that 14 tenders were received and that “after assuring itself that the 5 tenderers selected for interview met all mandatory criteria”, interviews were conducted for the 5 tenderers.

The memo implies that the OoH selected the 5 tenderers for interview and then assessed whether they met all mandatory criteria. This is contrary to the process stated in the OoH's RFT, that all complying tenders would be assessed against mandatory criteria and then short-listed tenderers would be interviewed.

DHS advised that all tenders were assessed by each panel member against mandatory criteria listed in the tender brief. The 5 tenderers that met the mandatory requirements were then assessed against 5 weighted criteria, also specified in the tender brief, and interviewed.

In the absence of an evaluation panel report and other supporting documentation, audit is unable to determine whether the memo or DHSs' account is the more accurate reflection of the process that was followed.

The evaluation process for the 2006 tender was more transparent and better documented. A tender evaluation plan was developed outlining the process by which bids were to be evaluated. An evaluation report was prepared setting out membership of the selection panel and why the successful tenderer was chosen.

### Evaluation panel report did not contain sufficient information to support the selection made

#### High visibility garments, 2003 and 2006 contracts (Victoria Police)

##### 2003 contract

A public tender was conducted in December 2000 for the production and delivery of high visibility safety vests for Victoria Police. Nineteen bids were received from 12 companies. The successful tenderer was awarded the contract for \$248 470. The contract was signed in April 2003. The process took over 3 years as it was the first time that Victoria Police had tendered for these products. The safety vests were required to be trialled and tested before the successful tenderer was selected.

##### 2006 contract

The contract was re-tendered in 2006. Because of the potential for changed practice, audit also examined the 2006 process. Our assessment of the 2006 tender documentation revealed that practice had improved since 2000.

Source: Victorian Auditor-General's Office.

#### Audit comment

There was little documentation relating to the evaluation of the tenders received in the 2003 engagement for high visibility garments. Accordingly, assurance cannot be given that tenders were evaluated using the criteria specified in the RFT.

Because of the potential for changed practice, audit also examined the 2006 process. Examination of the 2006 tender documentation revealed that practice had improved significantly. In particular:

- an evaluation plan was developed setting the evaluation process and the criteria to be used to evaluate bids
- sample garments were provided by all short-listed tenderers. These were tested and evaluated for compliance with the relevant Australian standard and trialled by operational police before a decision was made
- an evaluation report was prepared which included:
  - an assessment and score against the evaluation criteria specified in the specification, for each tenderer



- individual panel member assessments of each tenderer
- reasons why the successful tender was chosen
- identification of risks of using the preferred tenderer and how these would be mitigated.

#### Specialist technical support to schools (DoE)

The Technical Support to Schools Program (TSSP) supplements information communications technology technical support in all Victorian government schools. A public tender for a TSSP panel was conducted in March 2003 to establish a panel of providers of technical support to schools. Appointments were for 2 years from July 2003, with the option to extend for 2 years.

The Department of Education (DoE) received tenders from 149 companies, representing around 1 200 specialist technicians. DoE short-listed the tenderers and forwarded the tender responses for the short-listed technicians to 64 network committees for evaluation. (The network committees, located across the state, comprised representatives from clusters of schools in the local area. They assessed tenders on behalf of schools in their network.)

To assist their evaluations, the network committees were provided with an evaluation guide containing forms, templates and advice on the evaluation of tenders, and handling and storage of tenders, and conflict of interest declarations.

As a result of the evaluations by the network committees, DoE engaged around 300 technicians to provide support in specific areas across the state. The potential cost to the State of the TSSP panel over the 4 years is \$75 million.

Source: Victorian Auditor-General's Office.

#### *Audit comment*

Audit examined the tender evaluations for 6 of the 64 network committees involved in the selection of specialist technical support to schools and found that:

- documentation to support assessments of individual technicians could be provided for 4 of the 6 network committees
- of the 4 network committees where documentation was available:
  - 2 network committees, made their assessments based on criteria specified in DoE's RFT
  - for one network committee, the evaluation criteria differed from the criteria outlined in the RFT
  - the documentation for 2 network committees included little qualitative information to support scoring of technicians and the recommendations made
- for 5 of the 6 network committees, documentation could not be provided to show who conducted the evaluation.

Accordingly, in 4 cases, the basis on which the panel decisions were made and, consequently, whether the process resulted in the correct appointment being made, was not evident in the documentation.



### 3.3.3 Assuring the quality of the procurement process

Independent scrutiny of the procurement process provides a check that appropriate standards and processes are achieved. For procurement that falls under the jurisdiction of the VGPB, departments and nominated agencies are required to establish an APU to oversee tendering arrangements, and to ensure that procurement procedures comply with VGPB policies and guidelines issued by the Department of Treasury and Finance (DTF). In most agencies, a report detailing the procurement process for a specific contract is prepared, and submitted to the APU for approval, before the contractor is engaged.

Ten of the 15 contracts examined were subjected to a process that met the standard. The following case study illustrates the process through which quality was assured, for one contract.

#### Taxation services (DoJ)

In considering the recommendation of the taxation services contract evaluation panel, the Department of Justice's accredited purchasing unit (APU) questioned why the preferred tenderer had been selected over and above one of the unsuccessful tenderers. (The unsuccessful tenderer was not one of the 2 short-listed.)

As a result, the evaluation panel interviewed the unsuccessful tenderer. After reconsidering the tenderer's submission and the interview responses, the panel decided that its initial recommendation stood. The APU then approved the engagement, satisfied that the tenderer had been adequately considered.

Source: Victorian Auditor-General's Office.

For 5 of the 15 contracts, there was either no independent scrutiny of the procurement process, or the arrangements that were put in place had shortcomings. The following cases illustrate these shortcomings.

#### Specialist technical support to schools (DoE)

In June 2003, the Department of Education's accredited purchasing unit was asked to approve the process for the selection of the information communication technology technical support contractors. It was asked to base this approval on a review of the number of network evaluation processes completed at that time. (At that time, 22 of the 64 networks had completed their assessments.)

Source: Victorian Auditor-General's Office.

#### *Audit comment*

At the time, there was an imperative to proceed with the appointments so that schools would have the necessary technical support. However, more effective procurement planning would have ensured adequate time was available to complete the process within the available time frame.

DoE's risk management strategy for the tender identified "inappropriate supplier of services selected" as the number one risk for evaluating tenders, selecting preferred tenderers and awarding the contracts.

The request for the APU to approve the process for selection of the the information communication technology technical support contractors appeared premature given that:

- 42 networks were still to complete their evaluation processes
- there was no quality assurance over the evaluation processes conducted by the individual networks
- network committees did not comprise experts in tender evaluation.

#### Estate security services - Collingwood, 2003 (OoH, DHS)

In its 2003 tender for security services, the Office of Housing (OoH) engaged a probity advisor at the outset to develop a probity plan and to ensure that all aspects of the tendering process were conducted to the probity standards. The probity advisor was also a member of the interview and assessment panel.

The OoH advised that, at the completion of the tender, the probity advisor provided a report confirming all aspects of the tender process had been completed appropriately, and in accordance with Government requirements.

Source: Victorian Auditor-General's Office.

#### *Audit comment*

A copy of the probity advisor's report for the 2003 estate security services process could not be found. The probity advisor was unable to provide a copy of the report for this contract. A check of the tender files held failed to locate a copy of the probity advisor's report.

In the re-tendering of security services in 2006, a probity advisor was also appointed. However, in this instance, the advisor provided advice during the procurement process. He was not directly involved in the evaluation of tenders. The probity advisor also prepared a report that concluded that the tender process was undertaken according to the VGPB probity framework. Audit considered this to be an improvement on the practice followed in 2003.

### 3.3.4 Monitoring and evaluating contractor performance

Regular monitoring of supplier performance is an important element of procurement to ensure that what was to be procured was delivered on time, at the contracted price and according to specified quality. Monitoring includes:

- verifying and validating charges made by suppliers
- monitoring the quality of the goods or services provided
- ensuring that all the benefits anticipated from a particular purchase decision are realised.

Such monitoring and evaluation of performance is particularly important where a decision is required about whether to extend or re-engage a contractor.

Seven of the 15 contracts examined showed good practice in the monitoring and evaluation of contractor performance. There was room for improvement in 8 of the 15 contracts. In some cases, as previously indicated, performance measures or quality standards were not set out in the specification. This made it difficult for the relevant agencies (and audit) to determine whether the contractor had delivered on the contract outcomes. Shortcomings identified in other cases included the following.

### Contract monitoring arrangements were not used

#### Education Services by Royal Children's Hospital Education Institute pre July 2006 (DoE)

##### Pre-July 2006

In January 1999, the Department of Education (DoE) entered into a 6-month funding agreement with the Royal Children's Hospital Education Institute Inc. (RCHEI) to provide educational services to children at the Royal Children's Hospital. DoE subsequently entered into 3 successive contracts to June 2006, valued at \$8.6 million.

Source: Victorian Auditor-General's Office.

##### *Audit comment*

Audit's examination of the monitoring arrangements in the 2003 engagement of the Royal Children's Hospital Education Institute Inc. (RCHEI) revealed that each of the agreements/contracts stipulated a number of reporting requirements. Audit found that DoE had not enforced the reporting requirements.

In July 2006, DoE entered into a 3-year strategic partnership agreement with RCHEI for the period July 2006 to June 2009. This agreement is structured around the satisfactory completion of a number of deliverables. At the time of the audit, RCHEI had submitted reports in line with the requirements of the 2006 agreement. Audit is encouraged by this evidence of a stronger focus on reporting.

#### High visibility garments (Victoria Police)

In April 2003, Victoria Police entered into a contract for the production and delivery of high visibility vests. The contract included a number of standards for monitoring performance of the contractor.

Source: Victorian Auditor-General's Office.

##### *Audit comment*

Audit found that, apart from some limited reporting in the first year of the contract, the performance standards in the 2003 contract were not used by Victoria Police.

The contract was re-tendered in late 2006. At the time of audit, in December 2006, the new contract had not commenced and so audit was unable to review the new monitoring arrangements. The re-tendering is an opportunity for Victoria Police to improve the monitoring of performance under the contract.

## Documentation to support assessments of contractor performance could not be sighted

### eMinisterial technical project manager (DHS)

The Department of Human Services (DHS) operates a range of information technology operating systems across its activities using large-scale packaged software. The eMinisterial system is one such package. It supports ministerial and secretary briefings and correspondence.

In September 2004, DHS commissioned a review to consider replacing eMinisterial. At that time, eMinisterial was not fully rolled-out across DHS. The review recommended that a technical project manager be engaged to scope, cost and manage delivery of the remaining eMinisterial initiatives. Documentation shows that the position was unable to be filled from existing DHS staff.

DHS sourced a list of potential suppliers from the whole-of-government human resources services panel. DHS received 9 tenders. In April 2005, the successful tenderer was awarded a 6-month contract with an option to extend for 12 months. The value of the contract was \$94 631. The contract has subsequently been extended 4 times, increasing the contract value to \$370 906. The contract expired in May 2007.

Source: Victorian Auditor-General's Office.

### *Audit comment*

DHS advised that the contract manager met with the contractor weekly to receive written project updates, and to ensure that the contractor was performing in accordance with the project specification.

DHS advised audit that the contractor was performing well. The files covering the engagement of the eMinisterial technical project manager did not include assessments of the contractor's performance, and therefore the documentation did not support DHS's statement that the contractor was performing well. Brief comments about the contractor's performance were only found in submissions requesting extensions to contract in August 2005 and February 2006.

## 3.4 Conclusion

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From the examination of 15 contracts, audit observed a mix of practice relating to the 6 key procurement stages. Good procurement practice relating to identifying what goods or services needed to be procured was evident. Also tendering requirements were met, i.e. the tendering approach selected, and the tender process, were consistent with procurement policies and guidelines. For 9 of the contracts, however, there was scope for improvement in the key procurement stages, of specifying what is to be procured, evaluating the bids, assuring the quality of the procurement process, and monitoring and evaluating contractor performance. Monitoring and evaluating contractor performance was the area with the greatest potential for improvement.

Some specifications did not identify measures of contractor performance, or clearly identify key deliverables. This affected the ability of agencies to show that contractors had delivered on the specification or had met quality standards. This was most evident in contracts for consultancies.

A common shortcoming was inadequate documentation. Where there is inadequate record keeping, it is not possible to determine whether required practices had been conducted, or whether the agencies simply had not kept records. For 9 of the 15 contracts, complete documentation could not be provided to show that important purchasing practices had been conducted. This was particularly the case for evaluations of tenders. In the absence of complete records, audit is unable to provide assurance that the procurement standards had been achieved. Particularly noteworthy were 3 of the 9 contracts, with a combined value of \$7.5 million, which had incomplete documentation for 3 of the 6 key procurement stages.

It was notable, however, that where contracts had been subsequently re-tendered, there was evidence of improved practice. This strongly indicates that the standard of procurement practice is improving.

The VGPB has in place a suite of policies based on good practice principles for the procurement life cycle. Over the last 3 years, the VGPB policies have been revised to embed good practice strategic sourcing and category management methodologies within Victorian Government procurement. The policies are supported by good practice guidelines developed by the Department of Treasury and Finance, and by tools and templates, including standard form contracts and tender documentation. The VGPB provides training to support the available guidance material.

Subsequent to audit's drafting of this report, DTF reviewed its existing framework and satisfied itself that VGPB policies and associated DTF guidance and training adequately details good practice management for each of the aspects identified as needing improvement in respect of the contracts examined by the audit. DTF advised that the VGPB has an ongoing corporate objective to implement continuous improvement of its policies and DTF guidance material to assist informed procurement decisions and value-for-money outcomes.

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## Recommendations

- 3.1 That agencies clearly specify contractor performance standards and key deliverables in tender documentation, and use these to:
    - assess contractor performance before payments are made
    - take account of performance in considering whether to extend or vary contracts or to re-engage contractors.
  - 3.2 That agencies maintain reliable records of their procurement activities to support decisions and actions taken.
  - 3.3 That the Department of Sustainability and Environment (DSE) review the relevant procurement policies and guidelines under the *Project Development and Construction Management Act 1994* taking into account the recommendations and the good practice examples identified within this report.
  - 3.4 That DSE provide guidance and training to agencies on the relevant procurement policies and guidelines.
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# 4 Construction Supplier Register

## At a glance

### Background

The Construction Supplier Register (CSR) is a whole-of-government register operated by the Department of Infrastructure (Dol). It lists building and construction suppliers pre-qualified as suitable for undertaking public construction works and to provide related consultancy services.

### Key findings

- Dol pre-qualifies contractors using “mandatory” criteria relating to occupational health and safety and industrial relations and “recommended” criteria for financial capability, past work history, organisational capacity, and Registered Building Practitioner certification. Other “recommended” criteria such as resource availability and environmental management are not used for pre-qualification.
- A consultant’s qualifications, experience and performance, participation in the construction industry and evidence of suitable qualifications and/or certifications are assessed for pre-qualification. Innovative ability, resource availability and environmental management are not considered.
- The criteria used by the CSR for pre-qualifying consultants were not clearly identified on the Dol website or communicated to users.
- CSR assessment meetings were regular, formal and minuted. Recommendations with comments covering financial, occupational health and safety, work history, organisational history and capacity were recorded.
- Dol does not actively seek feedback from user departments and agencies on the performance of the pre-qualified suppliers used. Only the Office of Housing provides feedback on supplier performance to Dol as a matter of course.

### Key recommendations

- 4.1 That Dol provides to users of the CSR, the criteria used for pre-qualifying consultants.
- 4.2 That Dol works with agencies that use the CSR to identify and address perceived barriers to submitting performance reports.

## 4.1 The Construction Supplier Register

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The Victorian Government Construction Supplier Register (CSR) is a whole-of-government register operated by the Department of Infrastructure (Dol). It is approved under Ministerial Direction No. 1 *Tendering Provisions for Public Construction* which is issued under the *Project Development and Construction Management Act 1994*. The CSR was established to streamline the process of sourcing suppliers for public construction and to reduce tendering costs to departments and industry. Use of the CSR pre-qualification scheme is not mandatory and departments may choose to use publicly advertised tendering or other procurement processes.

The CSR provides government and approved entities with a list of building and construction suppliers pre-qualified as suitable for undertaking public construction works and/or to provide related consultancy services. Pre-qualified suppliers are categorised as:

- contractors – categorised as commercial and/or residential builders, and by the size of the projects they have the capability to construct
- consultants – including engineers, architects, quantity surveyors and project managers.

At November 2006, 423 contractors and 804 consultants were registered on the CSR.

Public construction activity in Victoria represents a significant contribution to overall building activity. In 2005-06, 2 464 permits were issued for public building work and 7 per cent (or \$1.1 billion) of all building work in Victoria was government-related.

Dol does not routinely collect data on the number or value of projects that source contractors and consultants from the CSR. However, Dol documentation shows that the value of projects that used the register in 2004 was at least \$450 million.

Of our initial sample of 64 contracts, 10 sourced contractors or consultants from the CSR. Of the 15 contracts selected for further examination, 2 used the CSR for this purpose. It was for this reason that audit examined how Dol pre-qualifies contractors and consultants, and how it monitors, reviews and updates the CSR.

## 4.2 Pre-qualification of contractors and consultants

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The *Guide to Tendering Provisions for Public Construction*, which is incorporated into Ministerial Direction No. 1 outlines “mandatory” and “recommended” criteria for the pre-qualification of contractors and consultants for the CSR. Dol’s guidance to contractors seeking pre-qualification also outlines the criteria for assessing applications. The guidance includes those criteria mandated in Ministerial Direction No. 1.



Our discussions with staff responsible for managing the CSR revealed that:

- contractors were assessed against the “mandatory” criteria relating to occupational health and safety and industrial relations set out in Ministerial Direction No. 1
- contractors were assessed against the “recommended” criteria in Ministerial Direction No. 1 for financial capability, past work history, organisational capacity, and Registered Building Practitioner certification
- contractors were not assessed against other recommended criteria of resource availability or environmental management.

From the documentation review it was unclear which criteria were used for consultants. The criteria used by the CSR for pre-qualification of consultants were not clearly identified on Dol’s website or communicated to users. Dol advised that a consultant’s qualifications, experience and performance are assessed for pre-qualification. Information is also sought on participation in the construction industry, such as membership of relevant industry associations and, where applicable, evidence that a company director, principal or department head holds suitable qualifications and/or certification with, for example, the Building Practitioners Board or the Architect’s Registration Board of Victoria.

Other recommended criteria for consultants outlined in Ministerial Direction No.1, innovative ability, resource availability and environmental management, are not used.

It is important that the CSR prequalification process is rigorous, and that users of the CSR are aware of the criteria actually used for pre-qualification purposes. They can then make informed judgments about the extent to which they can rely on the pre-qualification process.

Regular assessment meetings by the CSR staff to discuss candidates for pre-qualification were evident. The assessment meetings were formal and minuted. Recommendations with comments covering financial, occupational health and safety, work history, organisational history and capacity were recorded.

Audit reviewed the material available on the Dol website relating to pre-qualification of contractors and consultants. The criteria used by the CSR for pre-qualification of consultants was not clearly identified on Dol’s website, or communicated to users of the CSR. There is scope for improvement in this aspect.

## 4.3 Monitoring, reviewing and updating the CSR

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Dol advised that it periodically reviews the CSR to ensure that it is up-to-date. Dol’s guidance for the CSR specifies that a supplier’s pre-qualification should be reviewed every 12 months. Its monitoring and review arrangements involve:

- reviewing the financial capacity and capability of pre-qualified contractors annually
- receiving performance reports about pre-qualified suppliers from the Office of Housing (OoH) at the completion of projects, and updating the CSR as necessary

- receiving ad hoc feedback from other departments and agencies which use the CSR to source suppliers
- “refreshing” or updating of pre-qualified consultants’ details periodically. The most recent refresh was in 2005. This resulted in the removal of 327 consultants (28 per cent) from the register
- membership of the OoH Contractor/Consultant Performance Panel
- processing periodic updates from the Australian Securities and Investments Commission (e.g. where a supplier has changed its business name) and reports from credit information brokers (e.g. Dun & Bradstreet).

Since 2005, 479 consultants and 86 contractors have been removed from the CSR because:

- they requested to be removed, or
- they were no longer trading as a business, or
- they did not respond to correspondence from DoI requesting information.

DoI advised that since 2005 no supplier has been removed from the CSR for poor performance.

Audit found that:

- the assessment meetings have a standing agenda item (supplier performance reports and notable incidents) under which any OoH performance report containing “poor” or “unsatisfactory” ratings is considered with reference to relevant performance records maintained in the CSR, to inform the supplier reviews
- DoI does not actively seek feedback from user departments and agencies on the performance of the pre-qualified suppliers used.

During the audit, DoI advised that the only performance feedback arrangement in place is with the OoH. DoI is a member of the OoH Contractor/Consultant Performance Panel. The panel meets regularly to consider supplier performance and agree on action wherever necessary.

The OoH is one of the major users of the CSR and audit acknowledges its regular involvement to update the CSR. Audit also acknowledges the other ways DoI seeks to keep the register updated. However, there remains a need for DoI to obtain feedback on supplier performance from other users.

DoI advised that it has no authority to require CSR users to provide performance feedback. DoI also advised that, as far as it is aware, there has been no formal investigation into the level of performance reporting by departments to the CSR. Some agencies may be reticent to provide performance reports to the CSR. DoI acknowledges that this is a valid area for further discussion between it and agencies using the CSR.

DoI advised that it has developed a performance report module for its CSR online application. The module is about to be circulated to departments for their input, after which a decision about what to deploy will be made.

## 4.4 Conclusion

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The CSR was established to streamline the process of sourcing suppliers (contractors and consultants) for construction works, and to provide a means of reducing the tendering costs to departments and agencies. The criteria used to pre-qualify consultants are not clearly identified on DoI's website or communicated to users. This could mean that users are not fully aware of the basis on which the consultants are pre-qualified.

The absence of feedback on supplier performance from all users reduces DoI's ability to ensure that contractors and consultants listed on the CSR continue to be suitable for undertaking public construction works or to provide related consultancy services.

### Recommendations

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- 4.1 That DoI provides to users of the CSR, the criteria used for pre-qualifying consultants.
  - 4.2 That DoI works with agencies that use the CSR to identify and address perceived barriers to submitting performance reports.
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2006-07

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