

The Auditor-General
Audit Report No.21 2006-07
Performance Audit

Implementation of the revised Commonwealth Procurement Guidelines

Australian National Audit Office

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of Australia 2007

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Canberra ACT
31 January 2007

Dear Mr President
Dear Mr Speaker

The Australian National Audit Office has undertaken a performance audit across agencies in accordance with the authority contained in the *Auditor-General Act 1997*. Pursuant to Senate Standing Order 166 relating to the presentation of documents when the Senate is not sitting, I present the report of this audit and the accompanying brochure. The report is titled *Implementation of the revised Commonwealth Procurement Guidelines*.

Following its presentation and receipt, the report will be placed on the Australian National Audit Office's Homepage—<http://www.anao.gov.au>.

Yours sincerely

A handwritten signature in black ink, appearing to read 'Ian McPhee', is positioned above the printed name and title.

Ian McPhee
Auditor-General

The Honourable the President of the Senate
The Honourable the Speaker of the House of Representatives
Parliament House
Canberra ACT

AUDITING FOR AUSTRALIA

The Auditor-General is head of the Australian National Audit Office. The ANAO assists the Auditor-General to carry out his duties under the *Auditor-General Act 1997* to undertake performance audits and financial statement audits of Commonwealth public sector bodies and to provide independent reports and advice for the Parliament, the Government and the community. The aim is to improve Commonwealth public sector administration and accountability.

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Abbreviations

ANAO	Australian National Audit Office
APP	Annual Procurement Plan
APS	Australian Public Service
CAC Act	<i>Commonwealth Authorities and Companies Act 1997</i>
CPGs	Commonwealth Procurement Guidelines
CSIRO	Commonwealth Scientific and Industrial Research Organisation
Finance	Department of Finance and Administration
FMA Act	<i>Financial Management and Accountability Act 1997</i>
FMG	Financial Management Guidance
MPPs	Mandatory Procurement Procedures
RFT	Request for Tender

Glossary

AusTender	A service that provides the public with information about the Australian Government's procurement activities.
Covered procurement	A procurement, other than one that is specifically exempt, where the value of the property or services being procured exceeds the relevant procurement threshold. Covered procurements must comply with the mandatory procurement procedures of the Commonwealth Procurement Guidelines (CPGs).
Direct sourcing	A procurement process, available only under certain defined circumstances, in which an agency may contact a single potential supplier or suppliers of its choice and for which only a limited set of mandatory procurement procedures apply.
Mandatory Procurement Procedures	A set of rules and procedures, outlined in Division 2 of the CPGs, which must be followed by agencies when conducting a covered procurement.
Open tender process	A procurement procedure in which a request for tender is published inviting all businesses that satisfy the conditions for participation to submit tenders.
Procurement requirements and guidance	The collective requirements and guidance for procurement, as expressed in the CPGs and associated Financial Management Guidance documents, Finance circulars and related material published by the Department of Finance and Administration.
Select tender process	A procurement procedure in which the procuring agency selects which potential suppliers are invited to submit tenders. For covered procurements, a select tender process may only be conducted in accordance with certain procedures and circumstances set out in Division 2 of the CPGs.

Summary and Recommendations

Summary

1. The Australian Government procures annually some \$26 billion of goods and services¹. When undertaking procurement, entities² are required to follow the government's procurement framework, as set out in the Commonwealth Procurement Guidelines (CPGs) and associated guidance material.

2. Revised CPGs took effect on 1 January 2005. Amongst other things, the changes to the guidelines gave effect to the government procurement provisions of the Australia-United States Free Trade Agreement. These changes did not alter the overarching principle of value-for-money, through encouraging competition, accountability and transparency, and the efficient, effective and ethical use of resources. They outlined more specific, government-wide procurement requirements. Key changes were:

- the need to publish annual plans of intended procurements; and
- the introduction of a set of mandatory procurement procedures for procurements over a certain value, including the presumption of open tender.

3. The introduction of the revised CPGs had been foreshadowed earlier in 2004, and the details of the changes were announced later that year. The Department of Finance and Administration (Finance) provided seminars and advice on the new requirements and the Government provided some entities with additional funding to assist in introducing the changes. Individual entities were responsible for implementing the revised CPGs through revision of their own procurement procedures and practices.

Audit objectives and coverage

4. The objective of the audit was to:

- assess, in a selection of FMA Act and CAC Act agencies, how well the revised Commonwealth Procurement Guidelines had been implemented; and

¹ Value of contracts reported on AusTender, for contracts commencing in 2005.

² The CPGs apply to all agencies subject to the *Financial Management and Accountability Act 1997* (FMA Act), and certain bodies subject to the *Commonwealth Authorities and Companies Act 1997* (CAC Act).

- identify any better practice or common problem areas to assist other agencies in their future procurement activities.
5. The audit focused on procurement requirements that had changed as a result of the revised CPGs, rather than being a more general audit of compliance with all procurement requirements.
6. The audit was conducted in the following entities:
- Australian Federal Police;
 - Bureau of Meteorology;
 - Commonwealth Scientific and Industrial Research Organisation (CSIRO);
 - Department of Defence;
 - Department of Education, Science & Training;
 - Family Court of Australia; and
 - National Museum of Australia.

Overall conclusion

7. Audited entities had taken reasonable steps to introduce the revised CPGs. These steps included updating procurement policies, procedures and systems, and providing training to relevant staff. These actions were generally completed progressively during 2005. Entities issued initial Annual Procurement Plans by the due date (1 July 2005), however there was scope to improve the accuracy of the forecast timing of procurements listed in the plans.

8. A selection of procurements were examined for compliance with the revised CPGs. The ANAO found a high degree of compliance with the new requirements where procurements were undertaken by open tender. However, in the majority of cases where direct sourcing was used for procurements, the reason for adopting this approach was not justified and properly documented as required by the CPGs. In addition, many of the contract variations reviewed involved a significant change in scope but were not supported by an assessment to determine that the variation demonstrated value-for-money.

9. Most entities needed to improve the accuracy and timeliness of their public reporting of procurement activities. In some cases entities also needed to improve the practical guidance and support provided to staff with

procurement responsibilities and the documentation of procurement decisions and processes.

10. More broadly, the ANAO considers that entities should review, in the context of the CPGs, how to best manage their procurement to make the most effective use of resources. This could include, for example, ensuring the scope of the initial procurement is sufficient to accommodate future requirements, or implementing organisation-wide procurement arrangements such as panels and standing offers for relevant categories of goods and services.

11. During the audit, the ANAO observed a number of examples of good procurement practice by the audited entities, and some of these are highlighted in the report.

Entities' comments

12. Each of the audited entities and Finance responded positively to the audit report and agreed to each of the recommendations³.

³ Entities' general comments are provided in Appendix 1.

Key Findings

Implementing the revised CPGs (Chapter 2)

13. Planning: The audited entities generally managed the changes to the CPGs as part of normal management responsibilities for procurement and financial management. In most cases, they adopted a straightforward approach to identifying implementation activities, and monitored these through established processes, such as a corporate management committee. In some entities, a more structured approach to identifying tasks, formally allocating responsibility, and specifically monitoring implementation would have been beneficial.

14. Policies and procedures: All entities provided timely advice to staff of the broad requirements of the new CPGs, although there was generally a delay in updating all relevant procurement policies, procedures and systems. This delay was due, to some extent, to the short time from the promulgation of the CPGs in November 2004 to their date of effect, 1 January 2005. Some had developed detailed entity specific guidance for procurement under the new CPGs, while others referred staff to the CPGs available from the Finance website. The ANAO found compliance by staff with the new CPGs was enhanced where relevant staff were provided with tailored, practical guidance and support.

15. Staff awareness and training: The audited entities advised staff of the new CPGs through staff emails and circulars, and updated material was readily available for reference on entity intranets. All entities arranged training in the new CPGs for key procurement staff, usually through attendance at seminars organised by Finance. Some entities, particularly larger ones, also arranged additional training for procurement staff. However, the ANAO found there was generally not a structured approach to identifying staff who needed training or recording whether they received it; and that some staff undertaking procurements were unaware of the new requirements. Accordingly greater attention to awareness and training activities would have been beneficial in some entities.

16. Budget supplementation: The Government allocated a total of \$85 million for the period 2004–05 to 2008–09 to assist in implementing the revised CPGs. Typical uses of the funding by audited entities included providing procurement training to staff, recruiting specialist procurement staff, and covering the cost of additional procurement activity. At the time of

the audit, most of the specific activities had been implemented, although in some entities additional procurement staff had not yet been recruited.

Planning procurement activity (Chapter 3)

17. Annual Procurement Plans: 98 per cent of entities published Annual Procurement Plans for 2005–06 on AusTender by the due date of 1 July 2005. These Plans provide a strategic procurement outlook, as well as details of significant procurements planned for the year to draw business' early attention to potential procurement opportunities. Entities generally indicated the planning process had also been useful for internal management purposes.

18. The audited entities forecast 292 significant procurements for 2005–06. Of those that were due to have been advertised and for which entities could advise the status, 51 per cent had been advertised, and 49 per cent had been deferred or cancelled. This highlights the need for entities to periodically review the status of forecast procurements, and to update Annual Procurement Plans as necessary. Of the seven audited entities, three updated their published Annual Procurement Plan at least once during 2005–06.

19. Assessing procurement requirements: A key step in effective procurement is properly determining the requirement. The ANAO observed that, in a number of cases, the analysis of requirements was too narrowly focussed and did not consider reasonably foreseeable needs. These incomplete requirements led to additional procurement activity and the inappropriate use of direct sourcing and contract variations.

20. Selecting a procurement method: The CPGs apply Mandatory Procurement Procedures (MPPs) to *covered procurements*⁴. CPGs required agencies to estimate the value of procurement by including all taxes, charges and any potential extension options to determine if the value of procurement is above the covered procurement threshold. In all of the procurements reviewed the ANAO found that the entities estimated the value of procurement according to the CPGs.

⁴ Covered procurements are procurements, other than those which the Government has decided are exempt in accordance with Appendix B of the CPGs, which exceed the procurement thresholds specified below:

- \$80 000 for property and services for agencies subject to the *Financial Management and Accountability Act 1997* (FMA agencies);
- \$400 000 for property and services for bodies listed in the *Commonwealth Authorities and Companies Regulations 1997* as subject to section 47A of the *Commonwealth Authorities and Companies Act 1997* (relevant CAC Act bodies); and
- \$6 million for construction services for FMA agencies and relevant CAC Act bodies.

21. The MPPs have a presumption of open tendering as the procurement method, with provision in certain circumstances for select tender or direct sourcing. In many cases of covered procurements, the audited entities used open tender or an appropriate select tender. However, the ANAO found a number of cases where direct sourcing was used outside the permitted circumstances. These included the use of standing offers that had expired or were non-compliant, the claimed use of standing offers that did not exist, inappropriate claims of compatibility or urgency; and significant contract variations and extensions that did not meet the requirements of the CPGs. The ANAO considered entities needed to improve their decision-making processes in cases where open tender was not used.

22. The CPGs also make provision for certain categories of goods and services to be exempt from the MPPs. Fifteen categories of procurement are exempt, such as the leasing or purchase of real property or accommodation, the procurement of research and development services, and procurement by certain intelligence organisations. Although these categories of procurement are exempt from the MPPs, they are still required to adhere to the procurement policy framework. The ANAO found that entities needed to give greater attention to ensuring exemptions comply with the procurement policy framework, and that the procurement process used is documented and approved.

Conducting procurement (Chapter 4)

23. **Ensuring non-discrimination:** The CPGs include a number of requirements aimed at ensuring non-discrimination in procurement. These include avoiding unnecessary requirements in specifications, avoiding inappropriate conditions for participation by vendors, advertising of opportunities on the Australian Government AusTender Internet web-site, and specifying a minimum period for tender responses. These requirements are most relevant where a tender process is used, and in these cases there was a high degree of compliance.

24. **Tender processes:** There was a high degree of compliance with requirements for treating suppliers equally during the tender process. However, in some cases entities had used request for tender clauses relating to the acceptance of late tenders that did not reflect the CPG requirement.

25. **Reporting:** The CPGs outline a range of procurement reporting requirements. Many contracts were either not reported or were reported with

incorrect details. In addition, the CPGs require contracts to be reported within 6 weeks of signing. Across all APS agencies 29 per cent of contracts were not reported on time and in the audited entities between 2 per cent and 92 per cent were not reported on time.

Issues contributing to the effective management of procurement (Chapter 5)

26. Record keeping: The CPGs require entities to keep appropriate documentation of each procurement. The ANAO found that while many of the procurements reviewed had adequate documentation, a significant minority had poor documentation, including a lack of documentation of key approvals.

27. Monitoring and review: A range of procurement information was readily available within audited entities although many entities had not made effective use of this information to identify areas for improvement to strategies and procedures.

28. Effective procurement support: Many of the audited entities had developed comprehensive procurement support arrangements, including the use of computer systems, and access to procedural documentation and specialist advice. However, there was scope to improve procurement arrangements associated with low to medium value procurements. Collectively these procurements involve a significant level of expenditure, and a high proportion of those reviewed departed from required or better practice procurement arrangements.

29. Organisation-wide approaches: A number of the audited entities had, to varying degrees, taken a strategic approach to their procurement, including having long-standing panel and standing offer arrangements. However, a review and update of previous arrangements in the light of the changed requirements may improve the overall effectiveness of procurement activity.

30. Table 1 provides a summary of the key findings arising from the audit in relation to key activities involved in implementing the revised CPGs and conducting individual procurements.

Table 1

Summary of Key Findings

Rating	Activity	Comment
	Implementing the revised CPGs	
✓	Implementation planning	Key activities generally identified and scheduled; scope to improve monitoring and control of the activities as a cohesive project.
✓	Updating of policies and procedures	Key policies promptly updated, but revision of some detailed procedures significantly delayed.
✓	Awareness and training of staff	Most, but not all, relevant staff were aware of the changes and received training.
✓	Use of Budget supplementation	Funds allocated to both specialist procurement areas, and to assist procurement in operational areas; some delays in implementing specific plans and therefore funds not utilised.
	Planning procurement activity	
✓	Annual Procurement Plans	2005–06 Plans published on time, but more updates needed to improve the quality of forecasts of procurements.
✓	Assessing requirements	Scope to improve the assessment of longer term requirements, to avoid repetitive small procurements or inappropriate contract variations.
✘	Selection of procurement method	Improvements required in the consideration and approval of the use of direct sourcing, and to avoid inappropriate contract variations.
	Conducting procurement	
✓✓	Ensuring non-discrimination in approaches to market	High level of compliance with CPGs.
✓	Tender processes	Generally well done; scope to improve some specific practices, including late tender arrangements.
✘	Reporting of completed procurements	Significant under reporting, inaccurate reporting, and late reporting of contracts.

Source: ANAO analysis.

- ✓✓ moderate to high compliance to requirements and good practice
- ✓ reasonable compliance, but scope to improve
- ✘ significant variations from requirements and good practice

Sound and better practices

31. The ANAO identified examples of sound and better practices in the audited entities. These are listed in the table below.

Table 2

Examples of sound and better practice in planning procurement

Theme	
Implementing the revised CPGs	<p>Transitional compliance: One entity had a large number of standing offers in place at the time the revised CPGs took effect. The entity advised users of these standing offers not to utilise them pending a review for CPG compliance; the entity established a team to review all standing offers, fully documented the review findings and advised users which offers could be used.</p> <p>Promulgating changed procurement rules: One entity using a computer based procurement system was able to update the system to reflect the new CPG requirements. As a result, the entity was confident that all staff undertaking procurement were using the correct procedures.</p> <p>Tailored thresholds: When developing revised procurement instructions, one entity carefully considered its procurement needs and tailored the threshold for application of mandatory procurement procedures to its own circumstances.</p> <p>Procurement support: To support appropriate procurement practice, one entity issued a suite of templates for all aspects of procurements, including pro-forma contracts for IT, goods and services, contractors, and consultants; Evaluation Plans, Procurement Plans, RFT requirements, Probity Plans, Probity Presentations, Authorisation Letters, and Reference Checks.</p>
Planning procurement activity	<p>Analysis of requirements: A number entities' business processes enforced the analysis of procurement needs. An effective initial analysis is an important contributor to improved procurement outcomes. As the analysis was used as a basis for subsequent approvals, the analysis was more likely to be entered into the official record keeping system.</p> <p>Reviews of existing pricing: One entity reviewed the value-for-money of optional contract extensions to existing arrangements, based on their knowledge of market conditions. The entity tested the market and achieved a better result than exercising the extension options.</p> <p>Considering future needs: A number of entities carefully considered future needs and provided for possible future contract extensions in the initial contracts.</p>

Theme	
Conducting procurements	<p>Procurement support: A number of entities established specialist procurement units to provide advice and support to operational areas conducting procurement.</p> <p>New panels and standing offers: A number of entities developed panel and standing offer arrangements for commonly used goods and services.</p> <p>Dedicated procurement teams A number of entities utilised dedicated procurement teams to provide the appropriate skills and resources to undertake medium and large procurements. Some smaller entities successfully contracted out one-off large procurements to specialist providers.</p>
Effective management of procurement	<p>Strategic procurement review: One entity had recently undertaken a strategic review of its procurement needs and processes, and as a result initiated a number of procurement reforms such as a central procurement unit and expanding the organisation-wide procurement of commonly used goods and services.</p> <p>Developing procurement capability: A number of entities actively enhanced their procurement capability by emphasising procurement as a career stream, supporting formal training, and making Certificate IV in Government (Procurement and Contract Management) a prerequisite for employment in some procurement positions.</p>

Source: ANAO fieldwork.

Recommendations

The following recommendations are aimed at Commonwealth entities generally, based on findings from the audit work in seven entities.

Recommendation No.1
Para 3.32

The ANAO recommends that, to improve decision making on procurement methods, entities should review, and amend as appropriate, their arrangements for the approval of exemptions from mandatory procurement procedures, and for the approval of direct sourcing of procurements.

Recommendation No.2
Para 4.20

ANAO recommends that, to improve the accuracy, completeness and timeliness of contract reporting, entities should review, and where appropriate improve, their business processes for contract reporting.

Recommendation No.3
Para 5.13

The ANAO recommends that entities undertake targeted quality assurance reviews as an integral part of their procurement activities.

Recommendation No.4
Para 5.15

The ANAO recommends that, having regard to the significance of procurement activity, entities incorporate reporting on procurement activities as an element of management reporting arrangements.

Recommendation No.5
Para 5.21

The ANAO recommends that entities review, and where appropriate improve, the level of support, including training and awareness activities, to staff with procurement responsibilities.

**Recommendation
No.6**

Para 5.25

The ANAO recommends that, to assist in achieving value-for-money, entities should:

- (a) take a strategic approach to procurement activity including assessing opportunities to aggregate some requirements into a single procurement; and
- (b) determine whether there are opportunities to better utilise standing offers and panel arrangements.

Audit Findings and Conclusions

1. Introduction

This Chapter outlines the main changes introduced by the revised Commonwealth Procurement Guidelines and the audit objectives and approach.

The audit approach

1.1 This audit is part of a program of audits that examine business processes that support the delivery of services provided by Australian Government entities. The audit recommendations are framed to have general application, and the audit findings are reported to Parliament in generic terms, without being attributed to particular entities. Where appropriate, references to sound and better practices have been included in this report. In addition to this report, an individual management report was provided to each of the entities examined in the audit.

Context of this audit

1.2 New Commonwealth Procurement Guidelines (CPGs) took effect in January 2005. These guidelines gave effect to Australia's obligations for Government procurement under the Australia-United States Free Trade Agreement. The Agreement requires each governments' procurement to afford the suppliers, goods and services of the other country the same treatment that applies to domestic suppliers, goods and services.

1.3 Under the new CPGs, value-for-money remained the core principle underpinning procurement. Entities continued to be responsible for their own procurement at the entity level.

1.4 The major changes to procurement requirements were:

- the classification of procurements over a specified value⁵ as *covered procurements*, to which mandatory procurement procedures apply;
- a general presumption of open tendering with selective and limited tendering available only in specific circumstances;
- a general ban on requiring Australian sourced products or services to be provided as part of the procurement;

⁵ \$80 000 for agencies governed under the *FMA Act*, and \$400 000 for bodies under the *CAC Act*.

- specifying time limits and other procedures for tender processes;
- specifying the processes for establishing panel arrangements, particularly panels that are used or are proposed to be used for selective tendering; and
- specifying procurement publication arrangements covering such aspects as advertising tender opportunities, advertising pre-qualification processes and public notices on tender awards.

1.5 The CPG arrangements apply to all agencies subject to the *Financial Management and Accountability Act 1997* (FMA Act), and certain bodies⁶ subject to the *Commonwealth Authorities and Companies Act 1997* (CAC Act).

1.6 The mandatory procurement procedures of the CPGs do not apply to certain categories of procurement, such as the leasing or purchase of real property or accommodation, the procurement of research and development services, and procurement by certain intelligence organisations. A full list of exclusions is at Appendix B of the CPGs.

1.7 Twenty entities were provided additional funding by Government to assist in implementing the revised CPGs. A total of \$85 million was provided for the period 2004–05 to 2008–09.

Related audits

1.8 Procurement related issues have been examined in a number of recent ANAO audits, including:

- Audit Report No. 5 2006–07 *The Senate Order for the Departmental and Agency Contracts (Calendar Year 2005 Compliance)*;
- Audit Report No. 27 2005–06 *Reporting of Expenditure on Consultants*; and
- Audit Report No. 57 2004–05 *Purchasing Procedures and Practices*.

1.9 These audits identified a range of procurement activities, including reporting, that required improvement.

⁶ The Government Procurement chapter of the Australia-United States Free Trade Agreement lists 33 CAC Act bodies subject to the CPGs.

Procurement requirements and guidance

1.10 The key document outlining requirements for procurement for Commonwealth entities is the *Commonwealth Procurement Guidelines*, Financial Management Guidance (FMG) No.1. This is supported by FMG No.14 *Guidance on Ethics and Probity in Government Procurement*, and FMG No.15 *Guidance on Procurement Publishing Obligations*. These are supplemented from time to time by Finance Circulars and a range of web-based and printed guidance material issued by Finance. For the purposes of this audit, this set of documents is collectively referred to as *procurement requirements and guidance*.

Audit objective

1.11 The objective of the audit was to:

- assess, in a selection of FMA Act and CAC Act agencies, how well the revised Commonwealth Procurement Guidelines had been implemented; and
- identify any better practice or common problem areas to assist other agencies in their future procurement activities.

Audit approach

1.12 Fieldwork was carried out in the audited entities between February and October 2006. The audit team reviewed relevant procurement policies, procedures and guidelines of selected entities and, where possible, interviewed staff responsible for implementing the CPGs. A sample of procurements was reviewed for compliance with procurement requirements and guidance. The selection of procurements for review focused on specific types of procurement, such as procurements using open tender, procurements of a certain value that did not use open tender, and multiple purchases from a single supplier. Accordingly the findings from the audit cannot be extrapolated to all procurement by the audited entities but may nevertheless provide an indication of whether the CPGs were fully adhered to in other procurements.

Audit coverage

1.13 The audit was conducted in the following entities:

- Australian Federal Police;
- Bureau of Meteorology;

- Commonwealth Scientific and Industrial Research Organisation (CSIRO);
- Department of Defence;
- Department of Education, Science & Training;
- Family Court of Australia; and
- National Museum of Australia.

1.14 Each of the audited entities was provided with a management report detailing the entity-specific audit findings and entity-specific recommendations for improvement, where appropriate, arising from the fieldwork. The entities agreed with the audit findings and advised of actions taken or proposed to address them.

1.15 The audit was undertaken in accordance with the ANAO's Auditing Standards and was completed at a cost of \$373 000.

2. Implementing the revised Commonwealth Procurement Guidelines

This chapter discusses the approach and activities undertaken by the audited entities for the initial implementation of the CPGs, including the allocation of responsibilities for implementation, and monitoring implementation of activities.

Implementation planning

2.1 Finance advised entities of proposed changes to government procurement in June 2004, and issued a series of Procurement Updates providing additional information. A draft copy of the revised CPGs was issued in October 2004 for comment and Finance suggested that entities affected by the changes should prepare for the implementation of the revised government procurement framework, including:

- reviewing and preparing to amend agency Chief Executive Instructions and internal procurement procedures; and
- raising awareness of the changes within agencies⁷.

2.2 Details of the revised requirements were promulgated by Finance in late 2004 and the revised CPGs took effect on 1 January 2005.

2.3 The ANAO assessed whether the entities took a sound management approach to the implementation of the CPGs, including whether responsibilities for undertaking specific activities were clearly allocated, and whether there was sufficient monitoring of implementation activities.

2.4 In each of the audited entities, overall responsibility for the implementation of changes to the CPGs was generally assumed by the head of finance and procurement, or an equivalent position. The ANAO found that the audited entities generally adopted a reasonable approach to implementing the CPGs. The main implementation activities were identified and assigned to the relevant functional areas and managed as part of the day-to-day workload. The implementation activities identified by the audited entities typically included:

- advising staff of the changes to the CPGs;

⁷ Department of Finance and Administration, *Procurement Update No. 3*, October 2004.

- updating policies, procedures and relevant forms and templates;
- arranging training for relevant staff;
- reviewing existing standing offers for compliance with the CPGs; and
- preparations for publishing the 2005–06 Annual Procurement Plan.

2.5 Entities generally did not develop an implementation plan outlining activities to be undertaken to effectively implement the CPGs. Some of the larger entities developed specific project plans for elements of the implementation, such as updating procurement related systems, and reviewing existing standing offer arrangements.

2.6 The status of implementation activities was generally monitored by the audited entities through existing management processes, such as a corporate management committee. However, in entities without an overall check list or plan, this monitoring was of a range of individual corporate activities, and did not provide a cohesive view of the status of CPG implementation. The ANAO considers that a more structured approach for identifying tasks, formally allocating responsibility, and specifically monitoring CPG implementation would have been beneficial in some entities.

Updating procurement instructions and procedures

2.7 The CPGs provide the procurement policy framework within which entities determine their own specific procurement instructions and associated operational procedures. Procurement instructions are brief policy documents, while operational procedures are more detailed and may be provided as a comprehensive procurement manual of several hundred pages. The audit assessed the extent to which the entities' procurement instructions and operational procedures were updated on time and appropriately reflected the CPG provisions.

2.8 Procurement instructions in all the audited entities were consistent with the CPGs and were issued promptly. However, new operational procedures were not issued as promptly. This was due, to some extent, to the short time from the promulgation of the CPGs, in November 2004, to their date of effect, 1 January 2005. Most entities issued updated operational procedures, consistent with the CPGs, during 2005. In some entities new operational procedures had been prepared, but not yet approved and issued at the time of the audit.

2.9 In most of the audited entities, operational procedures expanded on the mandatory procurement procedures outlined in the CPGs and provided an understanding of internal procurement requirements, such as the processes to be followed and all relevant decisions, approvals and authorisations that needed to be obtained. In other cases, the entity's procurement instructions referred staff to the CPGs, without detailing local procedures giving effect to the CPGs. The ANAO considers compliance by staff with the new CPGs was enhanced by the provision of tailored practical procedures and support.

2.10 In most of the audited entities, procurement documentation was disseminated electronically, making it easier for staff to access up-to-date documentation. In one entity, procurement was undertaken through a computer based system. When the system was updated the new procedures were given effect immediately across the entity. In other cases, the audit found instances of hardcopy procurement forms being used that were out of date, resulting in staff making incorrect decisions because they were based on the previous procurement guidelines.

Staff awareness and training

2.11 The audit reviewed the steps taken by the audited entities to provide relevant staff the appropriate awareness and knowledge of the CPGs.

2.12 Most of the audited entities promulgated the changes to the CPGs by issuing a circular to staff, either before or immediately after 1 January 2005. Additional circulars were issued periodically during the year to inform staff of revised internal procurement policies and procedures. In most cases, these circulars and supporting documentation were readily available to all staff through the entity's intranet.

2.13 Finance recognised the need for training of entity procurement staff and for advice and assistance to be available on the new requirements. In late 2004 and during 2005, Finance arranged approximately one hundred seminars on the CPGs that were attended by more than 3 300 people. Finance also arranged a telephone advice service on procurement issues.

2.14 The ANAO found that all the audited entities arranged and encouraged attendance at the Finance seminars for their procurement staff. Entities advised that these seminars were well regarded by staff. In many cases the audited entities provided additional internal training on entity specific procurement changes, arranged awareness raising seminars for staff and senior managers,

and in some cases supported staff who were studying for procurement certificates.

2.15 In most cases, the procurement training was advertised, and interested staff nominated to attend. The ANAO found that in many cases audited entities did not have records of which staff had received training, and more importantly, had not identified those staff who required training. This meant that staff involved in procurement may not have attended any procurement training, increasing the risk of not being aware of the new requirements.

2.16 As discussed later in this report, the audit identified a number of departures from the CPGs where a lack of understanding of the CPG requirements was a contributing factor. Accordingly greater attention to awareness and training activities would have been beneficial in some entities.

Budget supplementation

2.17 The Government allocated \$85.4 million in supplementary funding for the period 2004–05 to 2008–09 to assist a total of 20 entities with implementing the revised CPGs. Of the seven audited entities, five were allocated funds, totalling \$57.5 million over this five year period, as follows:

- Australian Federal Police \$1.6 million;
- Bureau of Meteorology \$1.0 million;
- CSIRO \$4.6 million;
- Department of Defence \$47.4 million; and
- Department of Education, Science and Training \$2.9 million.

2.18 The audited entities indicated that funds appropriated were used in conjunction with existing funds to support the implementation of the revised CPGs. Activities undertaken by the audited entities included:

- recruiting additional staff to support the procurement function, including setting up specialist procurement units;
- revising and developing procurement instructions and procedures;
- assisting in the redevelopment of procurement systems;
- providing procurement training to relevant staff; and
- covering any general additional expenses following the implementation of revised CPGs, such as costs related to the increase in the number of

open tenders and the establishment of panels for procuring goods and services.

2.19 In accordance with general budget arrangements, entities provided supplementary funding were not required to separately account for usage of the funds. Generally, audited entities allocated most or all of the funds to a new or expanded central procurement function, or to discrete implementation activities. In most entities, the planned activities were proceeding as planned. In others, the establishment of specialist procurement teams was behind schedule, due to factors such as competing organisational priorities, and difficulties in recruiting staff with appropriate procurement skills. As a result, delays had occurred in the utilisation of funds received.

2.20 One entity allocated part of the funds to its central procurement function, and the majority of the funds to operational areas as a small addition to their overall budgets to meet any costs associated the new CPGs, such as additional procurement activities.

3. Planning Procurement Activity

This chapter discusses how well the audited entities' procurement planning, from the initial identification of the entities' procurement requirements through to the selection of a procurement method, complied with the revised CPGs.

Annual Procurement Plans

3.1 The CPGs require entities to publish an Annual Procurement Plan. The plans are intended to facilitate early identification by entities of future procurements and draw the attention of businesses to planned procurement by entities for the forthcoming financial year. The CPGs outline the basic requirements of Annual Procurement Plans, and these are expanded on in Financial Management Guidance No. 15: *Guidance on Procurement Publishing Obligations*. Entities are expected to publish an Annual Procurement Plan on AusTender by 1 July each year. The plan should include a strategic procurement outlook, details of significant procurements planned for the year and the procedure for obtaining request documentation.

3.2 All of the audited entities published their first Annual Procurement Plan on AusTender before 1 July 2005. The Plans contained a brief strategic procurement outlook statement, listed major procurements planned for the year and indicated an estimated date of approaches to the market for each procurement. Five of the seven audited entities listed procedures for obtaining request documentation.

3.3 A number of the audited entities, particularly those which had not previously undertaken formal procurement planning, advised the ANAO that they found preparing an Annual Procurement Plan useful for internal management purposes.

3.4 More generally, the ANAO identified that 122 entities published Annual Procurement Plans for the financial year 2005–06; 98 per cent of these were published as required before 1 July 2005⁸.

Updating Annual Procurement Plans

3.5 FMG No.15 *Guidance on Procurement Publishing Obligations* states it would be prudent for entities to update their Annual Procurement Plan to

⁸ Source: ANAO analysis of Annual Procurement Plan publishing details for 2005–06 provided by the Department of Finance and Administration.

include details of newly planned procurement activities and to change inaccurate information. Three of the seven audited entities updated their Annual Procurement Plan during the financial year 2005–06.

3.6 Across the APS, 34 per cent of the entities that published an Annual Procurement Plan issued an update during the year, and on an average they provided two updates during the year⁹.

Accuracy of Annual Procurement Plans

3.7 Annual Procurement Plans should include for each procurement the estimated date of publication of the approach to market. The ANAO assessed the extent to which Plans accurately reflected actual procurement activity during 2005–06.

3.8 Most of the audited entities did not regularly monitor the status of forecast procurements, but on request provided the ANAO status information for many forecast procurements. The status is shown below in Table 3.1

Table 3.1

Status of procurements listed in Annual Procurement Plans

Status of actual procurement activity	Percentage of Procurements
RFT issued within 3 months of forecast date	32%
RFT issued more than 3 months after forecast date	19%
Procurement deferred or cancelled	49%

Source: ANAO, based on status information provided by the audited entities on the procurements listed in their initial Annual Procurement Plans. The percentage is of the 160 procurements which were due and for which status information was available. Information was not available for 89 procurements, and 43 procurements were not due at the time of audit.

3.9 The high proportion of procurements that were late, deferred or cancelled reinforces the importance of entities periodically reviewing the status of forecast procurements and updating their Annual Procurement Plans as necessary, to maintain the usefulness of the Plans to potential suppliers.

Review of 2005–06 Annual Procurement Plans

3.10 Finance conducted a review of 2005–06 Annual Procurement Plans to assess their quality and effectiveness and to examine ways in which they might be improved. Finance found there was a high level of compliance with reporting requirements, that Annual Procurement Plans were generally of a

⁹ *ibid.*

good standard, but there was scope to improve the content of some of the Annual Procurement Plans to make them more informative to potential suppliers. Industry feedback was that the Plans were useful in providing details of planned procurement opportunities; however access could be improved by including a search facility and by notification of updates. Finance advised that its current re-development of AusTender would incorporate these features, and it planned to issue supplementary documentation to assist entities in the preparation and update of future Plans.

Scoping procurements

Identifying requirements

3.11 A key step in undertaking effective procurements is properly identifying the requirements. Identification of requirements can be at the organisational level, and may lead to an organisation-wide arrangement to procure a particular good or service. Although such arrangements were not reviewed in detail as part of the audit, the ANAO observed that most entities had a range of panels and standing offer arrangements designed to meet common procurement needs. In some cases these represented a significant proportion of an entity's procurements.

3.12 The ANAO found that for larger procurements, the entity's requirements were appropriately analysed and the results documented.

3.13 In contrast, the ANAO found that for smaller procurements the quality of the analysis of requirements was variable. In a number of procurements, no documentation was available to demonstrate that any analysis of requirements was completed. In other procurements, the analysis was too narrowly focussed and omitted reasonably foreseeable requirements. This led to the cost of additional procurement activity, or to the avoidable use of direct sourcing to meet immediate operational requirements.

3.14 The ANAO observed that the quality and availability of the analysis of requirements for procurement was significantly improved where the entity's business processes included this as a specific element of the procurement process.

Valuing procurements

3.15 Having set the scope of the procurement, the CPGs require the procurement to be valued, to determine if it is a covered procurement to which

mandatory procedures apply. The CPGs set out detailed guidance on how to calculate the value of a procurement. The guidance covers such issues as the inclusion of a range of taxes and charges, the inclusion of potential extensions and the costing of procurements of uncertain duration.

3.16 The ANAO found a high level of compliance with the guidance for calculating the value of identified procurement requirements. In addition, where the value was estimated as a likely range, entities correctly used the higher value in the range.

3.17 However, as mentioned in paragraph 3.13, the ANAO found a number of cases where the scope of procurement had been significantly underestimated. This resulted in an inappropriate procurement method being selected. Two instances of order splitting were also identified, where the procurement requirement was divided into separate procurements below the threshold for the application of mandatory procurement procedures.

Selecting a procurement method

3.18 The CPGs state:

When undertaking a procurement, agencies need to conduct an appropriately competitive process of a scale commensurate with the size and risk profile of the particular procurement. Government policy specifies that specific procurement procedures are to be followed when the value of the property or services subject to a particular procurement is above a certain threshold¹⁰.

3.19 If the value of a procurement is over the relevant threshold, then mandatory procurement procedures must be followed. Irrespective of the value of a procurement, the process followed must meet the overarching requirements of the procurement policy framework. These overarching requirements include achieving value-for-money, which is enhanced by:

- *encouraging competition* by ensuring non-discrimination in procurement and using competitive procurement processes;
- promoting the use of resources in an *efficient, effective and ethical* manner; and
- making decisions in an *accountable and transparent* manner¹¹.

¹⁰ Department of Finance and Administration, *Financial Management Guidance No. 1 Commonwealth Procurement Guidelines – January 2005*, pp. 11-12. Footnote 3 on p. 11 outlines the covered procurement thresholds.

¹¹ *ibid.* p. 10

3.20 The following sections discuss issues identified in the audit relating to the selection of a procurement method.

Exemptions from mandatory procurement procedures

3.21 The CPGs provide that certain categories of procurement are exempt from the mandatory procurement procedures. Fifteen categories of procurement are exempt¹² including the leasing or purchase of real property or accommodation, the procurement of research and development services, and procurement by certain intelligence organisations. Although procurements in these categories are exempt from mandatory procurement procedures, they are still required to comply with the procurement policy framework and other government policies specified by the CPGs.

3.22 One of the procurements reviewed was appropriately treated as exempt from the mandatory procurement procedures on the basis it was a research project. The decision was appropriately documented. However, the ANAO considers that the agency should have considered and documented how the specific processes adopted met the requirements of the CPGs. For example, to explain why a relatively short open tender period was considered adequate to allow potential suppliers sufficient time to respond.

3.23 Good administration requires that entities should consider, and properly document, the basis on which they are satisfied that the requirements of the CPGs are met by the specific procurement approach adopted. This particularly applies to those procurements exempted from mandatory procurement procedures.

Direct sourcing of covered procurements

3.24 The mandatory procurement procedures for covered procurements have a presumption of open tendering as the procurement method, with provision in certain circumstances for direct sourcing. The CPGs describe direct sourcing as:

a procurement process ... in which an agency may invite a potential supplier or suppliers of its choice to make submissions¹³.

3.25 The CPGs specify that direct sourcing may only be used in circumstances specified in the CPGs, for example:

¹² *ibid* p. 46

¹³ *ibid* p. 43

where, for reasons of extreme urgency brought about by events unforeseen by the agency, the property or services could not be obtained in time under open tendering procedures.

3.26 The CPGs also require that:

for each contract awarded through direct sourcing, agencies must prepare and appropriately file within the agency's central filing system, a written report that includes:

- the value and kind of property or services procured; and
- a statement indicating the circumstances and conditions that justify the use of a procedure other than an open or select tender process¹⁴.

3.27 The ANAO reviewed a sample of covered procurements that were direct sourced. In the majority of these the ANAO considered that the requirements of the CPGs had not been met.

3.28 The most common issue identified was a failure to consider and justify the direct sourcing method. In some of these cases the procurement was undertaken directly with a specific supplier without considering the requirements of the CPGs. In other cases there was no documentation of the reasons direct sourcing was used.

3.29 In a number of procurements, entity staff considered they were appropriately using a standing offer arrangement, but had not confirmed that the approach complied with the CPGs. The ANAO found, for example, the standing offer used had expired or the arrangement had not been established in a way that allowed the offer to be used by the entity concerned.

3.30 In other cases, entities documented and approved direct sourcing on the basis of the need for compatibility with a previous procurement. However, subsequent procurements were substantially larger than the original contract. The ANAO considers that where there is a substantial increase in requirements, entities should fully consider the proposed procurement approach to reduce the risk of being inadvertently or inappropriately tied to a particular supplier.

3.31 In situations where there is a likely future requirement, the ANAO considers it is better practice to structure the initial approach to the market to foreshadow this possibility and to include appropriate provision to extend the contract in the initial contract.

¹⁴ *ibid* p. 45

Recommendation No.1

3.32 The ANAO recommends that, to improve decision making on procurement methods, entities should review, and amend as appropriate, their arrangements for the approval of exemptions from mandatory procurement procedures, and for the approval of direct sourcing of procurements.

Entities' responses

3.33 Each of the audited entities and Finance agreed with the recommendation.

Use of a select tender process

3.34 A select tender process involves issuing an invitation to tender to nominated potential suppliers. When using a select tender process agencies are required to ensure that the process is non-discriminatory. The CPGs permit three methods for conducting a select tender process. In the first two methods:

an initial open approach to the market must be, or have been, undertaken to identify potential suppliers eligible and interested in participating in the select tender process¹⁵.

3.35 In the third method:

invitations can be made to a list of all potential suppliers that have been granted a specific licence or comply with a legal requirement, where the licence or compliance with the legal requirement is essential to the conduct of the procurement¹⁶.

3.36 The ANAO reviewed a sample of covered procurements that used a select tender procurement method. In compliance with the CPGs, these procurements were generally based on utilising a panel established by an open approach to the market. One procurement using a select tender procurement method, however, did not comply with the CPGs, as the suppliers invited to tender were not selected using one of the three permitted methods.

3.37 In the case of construction work, the mandatory procurement procedures apply above a value of \$6 million. The ANAO reviewed several construction procurements which were below the threshold and therefore were not required to follow the mandatory procurement procedures. However, such procurements must meet the requirements of the procurement policy

¹⁵ *ibid* p. 33

¹⁶ *ibid*.

framework. The ANAO found a lack of evidence of the basis on which tenderers were invited to participate in select tenders and of steps taken to properly manage any potential conflicts of interest.

Use of standing offers and panel arrangements

3.38 A number of the audited entities had established standing offer and panel arrangements for commonly used goods and services. Such arrangements are provided for under the CPGs, and can be a cost effective means of procurement. The ANAO reviewed a number of procurements made under panel arrangements and found they were conducted within the requirements of the CPGs. In particular, where there were a range of panel members able to undertake the work, entities generally conducted a select tender.

3.39 A purchase under a standing offer is a new procurement, therefore standing offers used after the introduction of the revised CPG needed to have been established in a way that complied with the CPGs. For example, the offer should have been established through an open tender process that did not discriminate against overseas suppliers. The ANAO found that some entities had not verified that standing offers had been appropriately established before using them. This issue will become less relevant over time as standing offers expire and are replaced by new standing offers established in accordance with the CPGs.

Contract variations

3.40 The ANAO reviewed a number of contract variations to assess whether they complied with the CPGs. Many of them did not comply with the CPGs as the variation involved a significant change in scope, without demonstrating that the variation represented value-for-money.

3.41 The ANAO considers that a significant contributor to this situation was a lack of clarity by the entity about the expected requirements at the time of the original procurement. This, at times, resulted in an unrealistic specification of the terms of the initial contract, and a lack of appropriate contract extension options. Another contributor was an apparent lack of awareness by procuring staff of the requirements of the CPGs.

4. Conducting Procurement

This chapter discusses the compliance of procurement activities with the revised CPGs following selection of a procurement method through to the procurement decision and the subsequent reporting of details of contracts and agency agreements.

Ensuring non-discrimination

4.1 The Australian Government procurement policy framework is non-discriminatory. For covered procurements in particular, this is given effect by CPG requirements to:

- avoid conditions for participation that are inappropriate or arbitrary and would unnecessarily limit competition;
- avoid technical specifications of the goods or services that are inappropriate or arbitrary and would unnecessarily limit competition; and
- publish approaches to market electronically on AusTender.

4.2 The ANAO found a high level of compliance with these requirements.

Tender processes

4.3 For covered procurements, the mandatory procurement procedures require that potential suppliers are treated equally. For example, all suppliers should be provided with the same information, tenders should be lodged in accordance with a common deadline, and be evaluated on a common basis.

4.4 The ANAO found that the procurement processes reviewed in the audited entities generally complied with these aspects of the CPGs.

4.5 However, a number of departures from the CPGs were identified including:

- request for tender documentation allowed the acceptance of late tenders in circumstances broader than those permitted by the CPGs;
- late tenders were accepted in circumstances that did not comply with the CPGs;
- modifications to requests for tender had been made, but the entities had not maintained sufficient records to evidence that all potential tenderers had been informed;

- unsuccessful tenderers not being notified of the procurement decision; and
- documentation was not available for the approval of key steps of the tendering process.

4.6 The ANAO considers entities, that have not already done so, should review their tender procedures and their standard request for tender documentation, in particular clauses relating to late tenders, to ensure compliance with the CPGs.

Reporting contracts and agency agreements

4.7 The CPGs specify a range of procurement reporting requirements, including:

Australian Government policy requires agencies to report all Commonwealth contracts and agency agreements, including deeds of standing offer and amendments to these arrangements, with an estimated liability (including GST where applicable) equal to or over the specified reporting thresholds¹⁷ in AusTender, within six weeks of entering into the arrangement¹⁸.

4.8 The ANAO found many instances of non-compliance with these requirements in the audited entities. These included a significant number of contracts not being reported, the reporting of expenditure as contracts that should not have been reported, the late reporting of contract details, and contract details not being reported in accordance with the definitions set by the CPGs.

Completeness of reporting

4.9 The ANAO checked the reporting of a sample of procurements on AusTender, and compared samples of contract information from sources such as internal systems and public reports issued by the audited entities.

4.10 In a significant minority of cases, contracts were not reported in AusTender. In one entity, the audit identified a systematic problem that had resulted in contracts valued at nearly \$1 billion not being reported. The entity

¹⁷ For *Financial Management Act 1997* (FMA) agencies, the reporting threshold refers to procurement valued at \$10 000 or more. For relevant *Commonwealth Authorities and Companies Act 1997* (CAC Act) bodies, the reporting threshold refers to procurement valued at \$400 000 or more for non-construction and \$6 million or more for construction services.

¹⁸ Department of Finance and Administration, *Financial Management Guidance No. 15 Guidance on Procurement Publishing Obligations*, January 2005, p. 13.

promptly corrected the systematic problem and arranged for the publication of the details of the omitted contracts.

4.11 The ANAO also identified many items reported as contracts in AusTender which should not have been reported. These included funding agreements, individual payments under a contract, and aggregate financial transfers covering payments for a number of contracts.

Timeliness of reporting

4.12 The ANAO found that for contracts published by APS agencies in 2005, 71 per cent were published within the required 6 weeks of contract signing. For the audited entities, the percentage of contracts published on time varied from 8 per cent to 98 per cent, with most being near the APS average of 71 per cent.

Accuracy

4.13 The ANAO found that many of the procurements reviewed were not reported accurately on AusTender. Common errors included:

- reporting the value of individual payments, rather than the total contract value;
- not reporting the correct procurement method. In particular the procurement method for procurements made using a standing offer were often reported as direct sourcing, rather than the procurement method used to set up the standing offer; and
- when reporting details of a contract made under a standing offer, not reporting a reference to the standing offer.

Extent of open tender process

4.14 The mandatory procurement procedures provide that agencies must use open tendering for covered procurements, unless there are mitigating conditions. As the scope for mitigation is limited, the ANAO would expect most covered procurements to be undertaken using an open tender process.

4.15 An analysis of the procurement methods reported in AusTender showed:

- 34 per cent used open tender;
- 19 per cent used select tender;
- 39 per cent used direct sourcing; and

- 8 per cent did not report a valid procurement method¹⁹.

4.16 Notwithstanding the high incidence of reporting errors identified, the ANAO considers that the low percentage of procurements reported as using open tender, and the high percentage of procurements by direct sourcing, casts doubt on the extent of agency compliance in this area.

Accuracy and completeness of contract reporting

4.17 The low compliance with contract reporting requirements is consistent with findings in recent audits, including Audit Report No. 5 2006–07, *The Senate Order for the Departmental and Agency Contracts (Calendar Year 2005 Compliance)* and Audit Report No. 27 2005–06, *Reporting of Expenditure on Consultants*.

4.18 This audit did not review in detail entities' processes for procurement reporting. However, the ANAO observed that in a number of entities, the business processes followed for contract reporting contributed to agencies' difficulties in complying with contract reporting requirements. For example:

- contract reporting being managed centrally but without effective liaison with the area which signed the contract to validate the details needed for reporting;
- contract reporting being carried out in a finance area upon receipt of invoices, leading to a risk of reporting payments rather contracts; and
- separate business processes for registering contracts and for contract reporting, leading to increased costs and possible loss of data integrity.

4.19 These findings suggest that, if they have not already done so, entities should review their underlying business processes and systems used for the reporting of contracts.

Recommendation No.2

4.20 ANAO recommends that, to improve the accuracy, completeness and timeliness of contract reporting, entities should review, and where appropriate improve, their business processes for contract reporting.

Entities' responses

4.21 Each of the audited entities and Finance agreed with the recommendation.

¹⁹ For all 17 339 contracts valued over the threshold for the mandatory procurement procedures and commencing in 2005 for FMA agencies.

5. Issues Contributing to the Effective Management of Procurement

This chapter discusses a number of issues relating to the management of procurement in the audited entities, including record keeping, monitoring and review activities, effective procurement support, and organisation-wide approaches.

Introduction

5.1 The effectiveness of an entity's procurement activities is influenced by a number of factors, including the entity's strategic approach to procurement and its approach to common business processes such as record keeping, the allocation of roles and responsibilities, and monitoring and review. These issues are discussed below.

5.2 The comments and observations made in this chapter are based on the findings of the audit and other procurement related audits conducted by the ANAO.

Record keeping

5.3 The CPGs state:

Documentation is critical to accountability and transparency. It provides a record of procurement activities and how they have been conducted, and facilitates scrutiny of these activities.

Agencies must maintain appropriate documentation for each procurement. The appropriate mix and level of documentation depends on the nature and risk profile of the procurement being undertaken. In all cases, officials need to ensure there is sufficient documentation to provide an understanding of the reasons for the procurement, the process that was followed and all relevant decisions, including approvals and authorisations, and the basis of those decisions²⁰.

5.4 Good record keeping assists entities to:

- meet accountability obligations;
- provide evidence of business conducted and decisions made; and

²⁰ Department of Finance and Administration, *Financial Management Guidance No. 1 Commonwealth Procurement Guidelines – January 2005*, pp. 18

- manage legal and other risks²¹.

5.5 The ANAO also considers that good record keeping can contribute to the efficiency and effectiveness of procurement by facilitating the sharing of procurement procedures, tender documentation, experiences and lessons learned.

5.6 The ANAO found that in one third of the procurements reviewed there were inadequate record keeping practices including:

- records for a single procurement were distributed across several organisation units, such as finance areas, contract units, and business areas. This meant that no one in the entity could readily review the entire procurement process, and that any gaps in procedures or in obtaining approvals were not identified;
- records held by individuals as loose papers or in email systems and not being entered in the entity's official record keeping system; and
- no documentation of key decisions, approvals, and tender activities.

5.7 The inappropriate use of email systems to manage records, is consistent with the findings in Audit Report No. 6 2006–07, *Recordkeeping including the Management of Electronic Records*.

5.8 The ANAO considers that entities should:

- provide training and guidance to staff involved in procurement activities on their record keeping responsibilities, including the records that should be captured in the entity's record keeping systems; and
- consider how to store and index procurement records, to facilitate the re-use, where appropriate, of procurement documentation. For example, this might involve separating re-usable documentation for a procurement process, such as an evaluation methodology, from in-confidence material, such as the completed evaluation.

Monitoring, analysis and review

5.9 The ANAO identified a number of issues through an analysis of information readily available within audited entities. Analyses undertaken by ANAO included:

²¹ ANAO Audit Report No.6 2006–07, *Recordkeeping including the Management of Electronic Records*, p. 33.

- analysing the number and percentage of covered procurements not undertaken by open tender, to assess overall trends and identify the possible incorrect selection, or incorrect reporting, of procurement methods;
- identifying the number of multiple contracts awarded to the same supplier in a short period, to identify possible instances of order splitting to avoid open tendering;
- reconciling contracts details included in one public report (for example the Senate Order for Departmental and Agency Contracts) with other reports such as AusTender; and
- reconciling expenditure details recorded in internal systems with details contained in public reports to assess compliance with reporting requirements.

5.10 Some of the audited entities had undertaken a broad analysis of procurement information and identified areas for procedural and strategic improvement. However, a number of entities did not undertake systematic analysis or review of procurement activities or information to identify potential non-compliance and opportunities for improvement.

5.11 The ANAO considers it would assist entities identify and manage procurement risks to periodically analyse procurement information to identify potential non-compliance, unexpected patterns, or unusual procurements. The results of the analysis could then be used to conduct targeted quality assurance reviews of individual procurements or aspects of procurement and to identify areas or issues requiring additional training or support.

5.12 Given the strategic importance of effective procurement for many entities, the ANAO also considers entities should define their strategic and operational objectives for procurement, set appropriate performance standards and be informed of performance in relation to those standards. For example, entities could set expectations with regard to the use of open tender, the use of standing offers, the accuracy of forecast timings of procurements, and the timeliness of procurement decision-making. Reporting performance against these expectations should then be included in management reports.

Recommendation No.3

5.13 The ANAO recommends that entities undertake targeted quality assurance reviews as an integral part of their procurement activities.

Entities' responses

5.14 Each of the audited entities and Finance agreed with the recommendation.

Recommendation No.4

5.15 The ANAO recommends that, having regard to the significance of procurement activity, entities incorporate reporting on procurement activities as an element of management reporting arrangements.

Entities' responses

5.16 Each of the audited entities and Finance agreed with the recommendation.

Effective procurement support

5.17 An important contributor to effective procurement is for staff allocated responsibility for procurement to have the skills and resources available consistent with the nature, extent and complexity of the procurement.

5.18 A number of audited entities had developed comprehensive procurement guidance material, implemented procurement business processes, and established central procurement units to provide advice and support to operational staff undertaking procurements. In some cases, these units undertook more complex procurements in conjunction with operational areas.

5.19 When undertaking larger procurements entities generally established procurement teams with specified responsibilities and appropriate resources.

5.20 However, given the findings discussed above on issues such as the incorrect use of direct sourcing, inappropriate contract variations and insufficient documentation, the ANAO considers there would be benefit in entities reviewing the nature and extent of support provided to staff with procurement responsibilities. This particularly applies to staff involved in low and medium value procurements. For larger procurements there is generally a strong management focus on the success of the procurement and on providing appropriate resources. In contrast, even though collectively low to medium value procurements often involve significant expenditure, the staff allocated responsibility for these procurements may not have the appropriate skills, or access to sufficient support and resources. In some cases, rather than increasing the procurement skills of staff, it may be more appropriate to simplify the task

of obtaining common goods and services through a standing offer or panel arrangement.

Recommendation No.5

5.21 The ANAO recommends that entities review, and where appropriate improve, the level of support, including training and awareness activities, to staff with procurement responsibilities.

Entities' responses

5.22 Each of the audited entities and Finance agreed with the recommendation.

Organisation-wide approaches

5.23 A number of the audited entities had, to varying degrees, taken a strategic approach to their procurement. Many had long-standing panel and standing offer arrangements for commonly used goods and services, and had promulgated procurement guidance material.

5.24 However, the revised CPGs introduced a number of additional requirements, such as the application of mandatory procurement procedures for covered procurements, which may mean that a review and update of previous arrangements may improve the overall effectiveness of procurement activity. For example, an entity may have had a procurement practice of purchasing goods and services valued at, say \$100 000 by obtaining three quotes. These procurements now require an open tender to be undertaken. In these circumstances, entities may find it more efficient to establish a panel by open tender, and make subsequent individual procurements from panel members.

Recommendation No.6

5.25 The ANAO recommends that, to assist in achieving value-for-money, entities should:

- (a) take a strategic approach to procurement activity including assessing opportunities to aggregate some requirements into a single procurement; and
- (b) determine whether there are opportunities to better utilise standing offers and panel arrangements.

Entities' responses

5.26 Each of the audited entities and Finance agreed with the recommendation.



Ian McPhee
Auditor-General

Canberra ACT
31 January 2007

Appendix

Appendix 1: Entities' responses to the proposed audit report

This Appendix contains any general comments received on the audit report.

Each of the entities selected for audit and Finance were provided with the opportunity to comment on the proposed audit report (or extracts of the proposed report, where applicable) in accordance with the provisions of section 19 of the *Auditor General Act 1997*.

Entities' responses are produced below.

Australian Federal Police

The Australian Federal Police advised as follows:

The Australian Federal Police has considered the report and is in agreement with all report's recommendations.

Bureau of Meteorology

The Bureau of Meteorology advised as follows:

The Bureau of Meteorology is encouraged by the findings of the audit, which acknowledges that a lot of progress has been made to implement the revised Commonwealth Procurement Guidelines. The Bureau also recognises that in order to meet "best practice" objectives, there is scope to effect improvement in a number of areas with regard to business processes and contract reporting. The Bureau of Meteorology agrees with all six recommendations of the proposed report to the Parliament.

CSIRO

The CSIRO advised as follows:

CSIRO agrees with all recommendations and is taking steps to implement the recommendations.

Department of Defence

The Department of Defence advised as follows:

Defence accepts all the recommendations in the report and notes that most have already been addressed or partially addressed. Noting that the audit was supportive of Defence processes in relation to larger procurements and competitive tendering, the focus of the Defence response to the recommendations will be on ensuring that a high level of compliance is also achieved with smaller procurements. This will be pursued through further staff training and awareness, and the introduction of additional management compliance checks.

Department of Education, Science and Training

The Department of Education, Science and Training advised as follows:

The Department has reviewed the proposed report and agrees with all of the report's recommendations.

Department of Finance and Administration

The Department of Finance and Administration advised as follows:

The Department of Finance and Administration (Finance) has reviewed the report in line with our responsibilities for the administration of the Australian Government's procurement policy framework. Finance notes the recommendations in the report and confirms the ANAO's understanding of the content relating to the procurement policy framework.

Finance acknowledges the good practice activities undertaken by the audited agencies as highlighted in the report, in particular the high levels of compliance with the Commonwealth Procurement Guidelines in ensuring non-discrimination in approaches to the commercial market.

Finance acknowledges the report's findings that scope for improvement exists for the accurate and timely reporting of completed procurements. Work is currently underway to improve reporting of procurement outcomes through a single integrated reporting framework which enhances transparency and is a more efficient reporting mechanism for agencies.

Family Court of Australia

The Family Court of Australia advised as follows:

The Family Court of Australia acknowledges the six recommendations in the report and agrees with them without qualification. The Court is currently implementing changes to its processes and procedures that will address the issues highlighted in the report.

National Museum of Australia

The National Museum of Australia advised as follows:

The Museum agrees with all six recommendations of the report.

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