



Department of Transport
Main Roads Western Australia
Public Transport Authority

Transport Ref: MRWA; PTA

PUBLIC ACCOUNTS COMMITTEE

INQUIRY INTO PUBLIC SECTOR CONTRACT MANAGEMENT PRACTICES

Main Roads Western Australia and the Public Transport Authority have been invited to make a submission to the Inquiry into Public Sector Contract Management Practices.

I have approved the attached submissions.

Richard Sellers
Director General

10/2/2019

PORTFOLIO: TRANSPORT – PUBLIC TRANSPORT AUTHORITY

ISSUE: INQUIRY INTO PUBLIC SECTOR CONTRACT MANAGEMENT PRACTICES

a. The Policy Frameworks That Currently Govern Public Sector Contract Management in Western Australia:

What components of the State Supply Commission's procurement policy framework and Treasury's Strategic Asset Management Framework are applicable to the contract management activities of the State's public sector agencies and GTEs?

Policies and Guidelines

The PTA has a comprehensive and robust suite of procurement policies, procedures, guidelines and forms templates, audited quality assured processes and work instructions. Policies, procedures and guidelines are available to all officers via the PTA's intranet.

The PTA operates a centralised procurement model managed by the Finance and Contracts division which is headed up by the Chief Finance Officer (CFO). PTA's procurement policies are all in accordance with the requirements of the State Supply Commission and other (State and Federal Government) policies, the *Financial Management Act 2006* and associated Treasury Instructions:

- TI813 (Variances in Capital Expenditure);
- TI820 (Register of Contracts);
- TI304 Authorisation of payments; and
- TI308 Payment records and Delegation of Authorities limits for signing of contracts and incurring payments.

And will soon be affected by the proposed Security of Payments reforms.

The PTA applies State Supply Commission Policies such as:

- value for money including consideration of other non-cost factors;
- probity and accountability;
- open and effective competition;
- use of mandatory Common Use Arrangements;
- Procurement Planning and Contract Management for contracts valued at \$5m and above; and
- sustainable procurement.

All personnel involved in procurement shall maintain confidentiality of information obtained during the procurement process and ensure they raise and declare any conflict of interest.

The PTA procurement activities align with the PTA's Strategic Plan and Strategic Asset Management Framework.

The PTA has total exemption status under Section 19(1) of the *State Supply Commission Act 1991* which allows the PTA to undertake procurement activities without seeking prior approval from the Department of Finance.

The PTA has a probity advisor in place for all contracts awarded. For low value/low risk contracts, this role is undertaken by in-house professional procurement staff from the Finance and Contracts division and for high value/high risk contracts, by an independent external probity advisor.

The PTA has a dedicated internal Investigation Section which undertakes a wide range of functions relating to fraud and corruption prevention and investigations.

Training

Procurement training and awareness for all PTA officers:

- The Procurement Branch provides regular training to all PTA Divisions. The training course includes conflict of interest, probity and ethics.
- All PTA Officers requesting a new Purchasing Card must complete a PTA Purchasing Card Awareness Online Training Course.
- Procurement training and development needs are also identified through yearly 'My Action Plans'.

All PTA officers are required to complete and then undertake refresher training on a regular basis of the:

- Accountable and Ethical Decision Making Online Training Course.
- Fraud and Corruption Awareness Online Training Course.

Governance Structures

The PTA has a Corporate Executive that oversees governance. Two committees established by the Corporate Executive are the Audit Committee and the Planning and Investment Committee. Both committees are chaired by the Managing Director of the PTA and ensure procurement achieves the desired outcomes whilst maintaining the integrity and accountability of the process.

Executive Meetings

The PTA holds a monthly Executive meeting where projects including contract management, risk and related key performance indicators (KPIs) are tabled and actions noted.

Major Projects

For large projects such as the Forrestfield-Airport Link, Railcar Procurement, SmartRider Upgrade, Yanchep Rail Extension and Thornlie-Cockburn Link, a Steering Group consisting of the Executives including the Chief Executive Officer, Managing Director, other Executive Directors and Treasury representative ensure proper governance of the project including procurement, contract and risk management activities.

A Working Group is also created to focus on the technical aspect of the project ensuring the Strategic Asset Management Framework is followed so that maximum asset value is achieved such as design to enable cost savings down the track.

Good Contract Management

The Transperth Bus Contract management is acknowledged across the public transport industry as one of the best contract management models which has consistently delivered high quality services to the State for more than 20 years. This model manages the outsourced operation of buses to the Bus Contractor including labour, fuel and maintenance, and has built in indexation to various independent indices and transfers the appropriate level of commercial risk (e.g. Industrial Relation issues) to the Bus Contractor.

What other policies currently apply to these activities?

The PTA's contract management activities are also affected or influenced by the following Other Government Policies and Strategy:

- Western Australian Industry Participation Strategy (WAIPS)
- Free Trade Agreements
- Australia-New Zealand Government Procurement Agreement
- Buy Local
- Aboriginal Procurement Policy

The PTA has its own policies that are applicable to contract management, namely the Risk Management Policy, Project Management Policy, Code of Conduct Policy, Public Interest Disclosure Policy and Gifts and Benefits Policy.

As a Rail Transport Operator, the PTA is also governed by the requirements of the *Rail Safety National Law (WA) Act 2015* which is overseen by the Office of the National Rail Safety Regulator.

b. the extent to which compliance with these frameworks is monitored and reported;

How is compliance with these frameworks monitored and reported?

The PTA report against achieved targets for contracting with Aboriginal businesses to the Department of Finance and publish details of contracts awarded on Tenders WA.

The PTA's independent internal auditors and the Office of Auditor General appointed auditors perform selected audits to ensure compliance with these frameworks.

The Manager Procurement monitors purchases by Purchasing Card and reports non-compliance to the CFO.

The Procurement branch ensures compliance to PTA Procurement policies and procedures are met prior to the award of contract or sending a Purchase Order to the supplier.

To what extent do agencies and GTE's comply with monitoring and reporting requirements?

The PTA is compliant with the relevant requirements associated with contract management activities (WAIPS and TIs). As stated above, the PTA conducts internal audits of contract management which is then reported to the PTA's Audit Committee.

Do commercial and legal confidentiality issues inhibit effective reporting on contracts?

No.

c. *the effectiveness of these frameworks in fostering robust contract management practices and capacity within agencies;*

Are the relevant policy frameworks producing desired outcomes?

The brevity of the State Supply Commission Policy framework and the deficiency in policies governing contract management means that agencies would presumably develop their own policy and procedure frameworks to drive contract management activities. The Department of Finance has a resource library on contract management, but this is guidance only and may not be utilised by all agencies.

Are the frameworks clear and easy to follow, or are there aspects that are too onerous?

The State Supply Commission Policy framework is relatively brief in nature and does not explicitly cover the functions of contract management to the extent that agencies would have a comprehensive and robust compliance framework with which to manage contracts. The PTA therefore follows the State Supply framework and supplements this with more detailed procedures (contract management plans).

With respect to the requirements imposed by other agencies (the Departments of Jobs, Tourism, Science and Innovation and Treasury), contract managers/administrators anecdotally find these activities, which are outside the core contract management activities, somewhat onerous.

What is the current standard of contract management across the public sector and among GTEs?

Without a whole of government compliance framework that supports and compels agencies to focus on contract management functions in a consistent, risk based approach, then individual agencies more than likely apply their own frameworks/procedures. It is likely that this results in an inconsistent approach to contract management with some agencies performing contract management functions to a much higher standard than others.

For any shortcomings in contract management identified, what are the underlying causal factors (e.g. capacity-based, cultural etc.)?

The causal factors are typically:

- Lack of consistent or inadequate training resulting in a contract manager/contract officer not having appropriate knowledge, skills and awareness of the requirements to ensure the contractor meets the obligations under a contract.
- Lack of or inadequate policy, procedure/guidance or tools to assist contract managers in understanding their roles and responsibilities.
- Capacity of the contract manager where management of a contract is a peripheral function of a position, thereby not allowing sufficient time/resources to perform the activities required to adequately manage the contract.

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

How is information around best practice principles or examples from better-performing agencies and GTEs identified and disseminated?

There does not appear to be a sharing of good practice across the wider WA public sector. The PTA and the other Transport Portfolio agencies (Main Roads WA and the Department of Transport) hold regular meetings to share information, expertise and good practice on procurement, contract models, key performance metrics etc.

Are there examples showing where this has been effective in improving contract management within a particular agency or GTE?

The PTA and Main Roads have shared contract models and staff resources in project governance (steering groups, working groups), as well as sharing specialist staff in contract management/project management roles.

How are public concerns about transparency and accountability addressed?

The PTA has a grievance process, including a procedure and information on the external PTA website to guide suppliers and others in the lodgement of complaints and grievances, whether these are substantiated complaints and grievances or not. For some key contracts (Transperth Bus Contracts), KPIs and public satisfaction results are published on websites.

e. the processes and instruments available to ensure agencies can effectively allocate and manage commercial and performance risks on major contracts;

What commercial levers are available to the State when formulating its contracts to ensure vendors provide the required level of performance and compliance?

Normal practice, such as bank guarantees are generally used. In the PTA's large Transperth Bus Contracts, a key outcome (patronage) is incorporated into contract payments under an incentive based formula. Similarly, poor performance is managed by a regime of liquidated damages.

Do these levers effectively allocate risk between the State and the parties with whom it contracts?

In various works contracts, if unlimited liability is accepted by a contractor, this does not necessarily result in a fair allocation of risk. This can be better managed under Alliance model contracts which the PTA is typically using for many major works projects. The Transperth Bus Contracts do share risk well.

Are certain levers prone to being under-utilised? If so, why is this the case?

Nil.

Can the State improve the way these levers are used? If so, how?

Combining agencies requirements for common goods or services (outside of the Common Use Arrangements) could give agencies greater buying power; however, this is typically difficult due to the different forms of contracts and delegations of authority for entering into contracts.

f. ways to improve or enhance contract management performance across the sector.

Are there any practices or policies not currently utilised in WA that can improve the current standard of contract management by public sector agencies and GTEs?

- a comprehensive whole of government contract management policy compliance framework should be developed;
- there should be regular independent monitoring and auditing of agencies against the framework;
- an advisory unit with very experienced staff that provides agencies with external support on contract management matters as well as developing studies on best practice contract management across jurisdictions and the State;
- a whole of government approach to contract management training that offers consistency and cohesion; and
- in implementing any framework, it should be acknowledged that the State and many agencies have diverse contracting requirements.

CURRENT AS: 6 February 2019

CONTACT NAME: