Standing Committee on Social Issues: Procurement practices inquiry
Tuesday 2 April 2024
Supplementary Questions

Question	Answer
1. In 2022-23 what was the percentage of **total addressable ICT spent directly with SMEs?**	The Department of Customer Service (DCS) is focused on aligning with the broader strategic directions and priorities of the government, including procurement commitments included in the Small Business Charter, and has not yet published the direct addressable ICT SME spend progress for 2022/23.
2. How do you see the current SME and other social targets for ICT procurement interacting with the election commitment to increase tender weightings to 30 per cent to capture local content, job creation, small business and ethical supply chains?	DCS will work with NSW Treasury and NSW Procurement to support the implementation of this election commitment, including alignment with current ICT Procurement Policies.
3. If most international suppliers use an ABN and have a registered address in Australia associated with that ABN, how easily is it to identify Australian and New Zealand businesses for the purpose of any "local content" or "local supplier" policy? What are the data quality issues likely to affect implementation of such policies?	There is no requirement for international businesses to have a registered address in Australia when applying for an ABN. For businesses with an Australian address Buy NSW cannot determine if the primary business location is overseas. Our current process for businesses with an ABN does not facilitate flagging these businesses as international.
4. What process did the Department undertake to obtain Level 2 Accreditation and when was this granted?	DCS underwent the *accreditation assessment process* to obtain Level 2 Accreditation as set out in the Accreditation Program Requirements for Goods and Services. The process for accreditation assessment is described in Section 4 at https://www.info.buy.nsw.gov.au/policy-library/policies/accreditation-program-goods-and-services-procurement. The Procurement Board granted DCS a Level 2 Accreditation for Goods & Services on 6th October 2020. Prior to that, DCS was granted an interim level 2 accreditation on 18th March 2020. The process DCS followed to obtain the Level 2 Accreditation involved submitting the following:

	• Accreditation Assessment Tool, signed off by the independent assessor, DCS Chief Procurement Officer and DCS Secretary • DCS Procurement Plan • DCS Annual Outcomes Report • DCS Action Plan
5. In your submission (p. 22) you mention that when a NSW government agency such as DCS buys off the Whole of Government arrangements it improves efficiencies as a basic level of due diligence has already been completed and therefore the procurement process can focus on realising the key government objectives a. What is the basic level of due diligence that is already completed? Is it enough? Is it self-declaration? b. What do you understand are the resources available in government to check claims made by potential suppliers in the prequalification stage etc?	a. The procurement process undertaken by ICTDS to establish Whole of Government arrangements includes due diligence checks and assessments which typically entail those described below: • Pre-qualification to mandatory ICT Services Scheme. • Compliance to NSW Procurement Policies, Legislation and Standards including compliance with Procurement Policy Framework, Supplier Code of Conduct, Modern Slavery etc amongst others. • Financial viability of the supplier including proof of required insurances on contract award. • Self-declaration on legal proceedings or Conflicts of Interest • Evaluation against technical criteria which includes supplier's capability to deliver the services, its experience and track record in delivering the services covered under the scope of the relevant Whole of Government agreement and the supplier's compliance with any relevant specifications. • Pricing evaluation as per pre-set evaluation criteria. In addition to the checks undertaken at whole-of-government level, agencies undertake their own checks before entering into a contract. Agencies have the ability to negotiate additional or bespoke requirements that may be specific to a particular agency even though they are procuring products or services under a Whole of Government arrangement. These processes together ensure that the contracts meet the requirements of NSW Government and the agencies. b. DCS may employ various checks depending on the requirements of the project to assess or validate the information provided by suppliers at the prequalification stage such as

	• Validating supplier profiles against verified supplier identifiers available via Buy NSW Supplier hub • Review of supplier financial statements / auditor's reports / credit ratings by credible organisations for assessment of financial viability • Evaluation of supplier responses and supporting documents that demonstrates supplier's ability to meet the requirements of the NSW Government which in turn is incorporated into the Whole of Government arrangement • Clarification queries with suppliers where sufficient evidence has not been provided to substantiate their responses • Reference checks with a supplier's customers • Price benchmarking as a mechanism to establish value for money for Whole of Government agreements / panels.
6. Can you give an example of how DCS has supported supplier innovation through its procurement process?	ICT/Digital Sourcing (ICTDS) is running a project called Innovation Procurement Pathways which is developing supports for innovation procurement (see Question 11 for detail on supports). These supports, including guidance material, templates and advisory services, are tested directly with buying projects in the NSW Government. Three projects have been supported directly so far, with several more receiving ad-hoc advice that shaped program design. The three sandbox projects are: 1. Smart city innovation challenges 2. Revenue Intelligent Automation Systems 3. AI in NSW Planning The services that have been offered, and in some case developed specifically for these projects, and which have proven most beneficial, include: • Early identification of stakeholders, steps & supports • Translating business requirements into a compliant, effective procurement pathway including innovation-friendly tactics

	• Bringing together all key stakeholders to frame problems and shape challenge statements that the market can respond to • Designing test or proof stages and evaluation criteria to ensure they capture information that would be needed for later stages • Advising on decision points and documentation that can be more challenging when the final solution is unknown • Developing and maintaining agile governance structures to help manage uncertainty and complex timelines • Just in time development of guides, templates and written resources wherever gaps arise in current supports • Capturing and sharing insights from past innovation experience and lessons learned across NSW Government
7. In your submission you state that 'Overall Whole of Government arrangements have proven effective in ensuring value for money and compliance to government policies and regulations. a. How has this been measured? How do you know that policies and regulations have been complied with? Who is undertaking this compliance work?	Whole of Government arrangements are broken down into schemes, contracts or panels as outlined in our submission. Each arrangement is given either a status of mandatory or recommended. An example is the Whole of Government ICT End User Devices and Services Contract which has been competitively assessed through an open market tender. This makes it efficient and effective for DCS to use this contract as value for money has already been established. Similar structures are in place with the Whole of Government Performance & Management Services (P&MS) Scheme, Professional Services Purchasing Arrangement (PSPA) and Legal Services Scheme where negotiated capped rates have already been agreed with suppliers. This is effective in achieving value for money as DCS has a clear benchmark when receiving and evaluating quotes, even if directly negotiating. The Corporate Procurement function within DCS undertakes compliance work bi-monthly by randomly selecting contracts to assess whether policies and regulations have been complied with. The results are then published within DCS. There is also an internal audit team that conducts procurement audit across the department. DCS actively monitors the benefits realised through the use of Whole of Government arrangements, as noted in the ICTDS submission.

	Suppliers are required to comply with all applicable policies, codes, standards and legislation. These are incorporated into the Whole of Government Agreements either at the Head Agreement level or individual customer contract level. The compliance is monitored by DCS though reporting and governance processes, and by individual agencies as the owners of customer contracts in the devolved procurement model. This approach is relevant where an agency requires suppliers to provide goods or services in a particular way such that it is able to fulfil its policy obligations.

8. Your submission notes as a key initiative the development of an Executive Dashboard
 	
    a. What elements are reported on this dashboard - aside from expiring contracts, and savings?
 	
    b. How are savings determined? Are these calculated on the short-term? Whose modelling is used and what are the assumptions behind it?
	a) The additional element reported on the dashboard is the requests we receive through our Procurement helpdesk, the nature of the request and how long it takes Corporate Procurement to resolve / answer the request.
	
	b) As part of the self-reporting annual accreditation, there is a requirement to submit an annual outcomes report which include 'Benefits'. The 'Benefits' can either be cost reduction savings (including price or rate reduction, demand management, process optimisation) or cost avoidance.
	
	These savings are calculated over the life of a contract.

9. In the ICTDS submission you refer to 'Future funded roadmap activities', what are 'Future funded roadmap activities'?	Future funded roadmap activities for Buy NSW as outlined in the ICTDS submission include: • A new tenders module with simplified procurement pathways and compliance built-in • Automated contract and standing office disclosure notices for tenders created on the platform • Integration with agency procurement systems through application programming interfaces (APIs) for tender advertising and contract disclosures • Contract disclosure API for consumption by downstream systems eg. finance to connect procurement activity to spend
10. One of the results of the ICT/Digital Sovereign Procurement Taskforce (in 2020 under coalition government) was a commitment: to '30% of ICT procurement addressable spend must be spent on SMEs'.	No. No issues were raised about preferencing SMEs by the previous government. Preferencing of SMEs is allowed under the Enforceable Procurement Provisions (Schedule 3 item 3).

Was any issue or concern raised with you by the then Government about preferring SMEs?	
11. What is Innovation Procurement? Innovation isn't something you procure so what does this mean?	Innovation happens in all organisations, including the private sector. This is especially true in the fast-evolving ICT sector, where government will not always have internal expertise in the latest available technology. One way NSW Government can access that innovation is by buying it, however we first need to know it exists, and are still bound by our obligations around value for money, fairness and transparency.
	Certain procurement practices make it more likely we will uncover innovative solutions to problems, find the best ones and implement them while maintaining probity and compliance with procurement policies. These practices include:
	• using an outcome-focus or a problem statement to approach the market rather than solution-focused technical specifications
	• running one or more tests to provide a safe environment to try unproven technology
	• working more closely with suppliers to uncover unexpected ways to apply technology to solve problems
	• evaluation of diverse solutions that may also be of varying maturity
	• having a clear pathway to implement solutions that meet our needs
	These practices are encouraged by current policies and are used by pockets of the NSW Government like innovation labs and accelerators. However, their adoption is limited due to the skills and time needed to:
	• navigate and make informed choices about risk
	• tailor processes developed for buying established, mature solutions
	• use the full extent of the procurement policy levers in a complex policy landscape
	Innovation procurement pathways is developing a combination of advisory services, self-service resources, adjustments to policy frameworks and running education and awareness activities to overcome barriers to adoption of innovation-friendly procurement practices. The design of

	supports is based on extensive buyer and supplier research, direct testing with NSW Government buying projects in a controlled "sandbox" environment and developing materials directly with practitioners and subject matter experts across all NSW Government portfolios. The practical supports, the first of which are due to be released later this year, will be the first of their kind for innovation procurement globally.
12. How does a supplier apply to be on the Supplier Hub and how are they removed? In what situations would this occur?	To register on Buy NSW a supplier provides basic information about their business. Business information and status is verified with ABR. Verified business identifiers (from third party sources) are then attached to the supplier profiles.

Supplier profiles are removed manually or automatically from the Supplier Hub. Depending on the circumstances the removal can be either temporary or permanent.

Suspended suppliers do not appear on supplier lists. If the select and save list functionality has been used by a buyer they are also removed from this list.

Inactive ABN

All supplier profiles are checked monthly for status. Inactive ABNs are automatically suspended. This suspension is for all Buy NSW applications. Suppliers can reinstate their account if the ABN becomes active again.

Scheme members

There are two circumstances that suppliers can be removed from scheme membership. Removal from a scheme can be done by the scheme owner or Buy NSW administrator (under instruction).

1. Non-compliance with scheme rules. This is a temporary suspension that removes the scheme membership from the supplier but does not remove the supplier from the Supplier Hub.

2. Misconduct – this is permanent suspension that removes the supplier from all schemes and the broader Buy NSW ecosystem. The ABN cannot be registered again on the platform.

Other circumstances

Buy NSW system administrators can also remove suppliers from the platform if requested to do so by agencies. Requests are in writing and suspension is permanent. These suspensions are usually because of corrupt conduct or adverse legal findings.

13. What information do you provide to the Procurement Board regarding your procurement activities?
 	
   a. How often do you provide this information?
 	
   b. When did you last report to the Procurement Board?
 	
   c. Is this different because of the level 2 Accreditation?
	a) DCS provides the following information to the Procurement Board through NSW Procurement:
	
	   I. The list of Emergency Procurements
	
	   II. Self-reporting annual accreditation
	
	   III. The list of consultancy engagements
	
	b) The frequency of how this information is presented to the Procurement Board is determined by NSW Procurement.
	
	In accordance with PBD 2023-05, the Department, as the Whole of Government procurement arrangement owner, is required to report annually on the use of professional services. This includes the ICT Services Scheme and Professional Services Purchasing Arrangement.
	
	In addition to the above, the Department also provides a report on the status of the establishment of Whole of Government ICT agreements. This report is provided quarterly.

14. What records do you keep when you undertake a procurement activity?
 	
   a. How do you keep these records (i.e. in what systems)
 	
   b. Are these records provided to anyone aside from the group undertaking the procurement? If so who are these provided to?
	a) All key documents / records that are used to make decisions throughout a procurement activity are kept. These documents include procurement plans, risk assessments, approved briefing notes, evaluation plans, evaluation reports and supplier performance reports.
	
	TRIM is the official records management system used across DCS to capture records of business activities and decisions. All records relating to a procurement activity are kept in TRIM.
	
	b) These records are provided to the financial delegate who is usually outside the group undertaking the procurement to review and exercise their delegation function of approving contract award.

15. Who do you deal with in Treasury/NSW Procurement when undertaking a procurement process? Who in Treasury/NSW Procurement has oversight of your procurement processes?	DCS has been granted a Level 2 Accreditation by the NSW Procurement Board which means there is no limit on the maximum contract value for procurement of goods and services. DCS can undertake all procurement events in line with approved budgets, financial and procurement delegations. Establishment of Whole of Government ICT agreements may involve Treasury employees however this would typically be in their capacity as potential users/customers rather than for the purpose of providing oversight.

	DCS may also involve NSW Procurement in the establishment of a Whole of Government ICT agreement where there is potential for overlap with procurement schemes managed by NSW Procurement. Again, this involvement would be as a stakeholder with the aim of minimising confusion for potential users of the Whole of Government agreement rather than to provide oversight.

16. Can you walk us through your procurement process?
 	
   a. How do you advertise available opportunities?
 	
   b. When assessing the various applicants what factors do you consider?
 	
   c. How do you apply value for money
 	
   d. Do you take into consideration factors like local content, business size, and social, economic, labour and environment outcomes? Do you weight these? If so what are the weightings and how are these determined
 	
   e. Do you consider ongoing maintenance that may be required as an outcome of a procurement activity?
 	
   f. How do you advise successful and unsuccessful applicants of a procurement outcomes? Are the results published anywhere that is publicly available?
	a) Opportunities are advertised on NSW eTendering, except in situations where Whole of Government scheme rules or policies allows suppliers to be directly engaged up to a certain threshold. In this situation, suppliers are contacted directly. Examples of Whole of Government scheme rules that allows direct engagement is the Performance & Management Services Scheme which allows advanced pre-qualified suppliers that have accepted the standard commercial framework to be directly engaged up to $250,000 (excl. GST).
	
	NSW Government agencies must use mandatory Whole of Government arrangements where these apply.
	
	b) Factors that are considered when assessing applicants differ for each procurement activity. Factors that are generally considered include the following:
	
	   I. Mandatory compliance to all the relevant policies, codes and standards including the NSW Government Supplier Code of Conduct, DCS Code of Ethics and Conduct, SME & Regional Procurement Policy, NSW Government Aboriginal Procurement Policy and Modern Slavery Act
	
	   II. Ability to meet the statement of requirements
	
	   III. Experience
	
	   IV. Transition In/Out plans
	
	   V. Price
	
	c) The above factors are also used to assess value for money where weightings are determined against price and non-price factors. The weightings will differ from each procurement activity however DCS Corporate Procurement encourages the business to set a minimum 30% for pricing and 70% for non-pricing when assessing value for money.

g. What feedback do you provide to successful and unsuccessful applicants?

h. How do you manage contracts while they are active

i. How do you assess the quality of work provided? Who does this?

j. How do you ensure compliance with the terms of the contract and overarching procurement policies and processes?

k. Do you have specialists in different areas of compliance - for example Labour Standards/labour law, OHS?

l. What data do you keep for each procurement process? How do you maintain your data? Do you undertake any data analysis across procurement activities in your agency?

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d) In line with the SME & Regional Procurement Policy, tenders above $3m must include a minimum of 10% non-price evaluation criterion allocated to SME participation and a minimum 10% non-price evaluation criterion that allocates support for NSW Government's economic, ethical, environmental and social priorities. DCS complies with this policy for tenders above $3m.

e) Yes, ongoing maintenance that may be required as an outcome of a procurement is considered. A recent example is the ongoing Request for Proposal for Multi-functional Devices (MFDs) used across DCS where maintenance of devices was factored into the value for money assessment.

f) Successful and unsuccessful applicants are notified through email on the outcome of a tender process. Templates for both successful and unsuccessful letters have been developed to ensure there is a consistent approach of notifying applicants. For contracts above $150,000 (incl. GST), details of the contract are published on the NSW eTendering website.

g) Feedback is provided to unsuccessful applicants upon request. Feedback provided is based on areas (price and non-price criteria) that the applicant was assessed to either not have met the requirements or did not perform well when compared with the successful applicant. Feedback is also provided on how future submissions can be improved.

h) Active contracts are managed by the business or budget holder. They are responsible for holding the supplier accountable to deliver the services outlined in the contract. The DCS Corporate Procurement team supports the management of active contracts through:

   I. Providing advice to the business when requested

   II. Contract Management Plan templates developed to assist the business in managing active contracts. Completion of this template is required prior to the financial delegate approving the contract award

i) The quality of the work is assessed against the key performance indicators or service level agreements in the contract. This is done by the business or budget holder.

j) The DCS Corporate Procurement function undertakes compliance work bi-monthly by randomly selecting contracts to assess compliance with the overarching procurement policies and processes. The results are then published within DCS. There is also an internal audit team that conducts procurement audits across the department.

	k) Yes, we have specialists in different areas of compliance including Labour Standards/labour law and WHS. We also rely on the DCS Legal team to provide advice in this area. l) All key documents / records that are used to make decisions throughout a procurement activity are kept. These documents include procurement plans, risk assessments, approved briefing notes, evaluation plan, evaluation reports and supplier performance reports. TRIM is the official records management system used across DCS to capture records of business activities and decisions. All records relating to a procurement activity is kept in TRIM. Yes, we undertake data analysis across procurement activities within DCS as this is crucial to enable us to understand the baseline/current requirements.
17. How many local businesses and suppliers do you currently engage?	In FY22/23 DCS procured goods and services from 1,389 small & medium enterprise and regional businesses based on data captured in the NSW Procurement SpendCube.