

# PREVENTION in focus

August 2018

## ICT procurement — what are the corruption risks?

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*ICT procurement can be a minefield for procurement panels who are not subject matter experts*

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### *What you should know*

- Procurement within government departments has long been known as a high-risk area for fraud and corruption. Corruption vulnerabilities have been identified at several stages of the procurement process, from initial tendering and selection of preferred suppliers to payment of the successful provider and contract management.
- Procurement related to Information Communication Technology (ICT), with its multi-million-dollar investments and lucrative contracts, has been identified as having particular high-risk vulnerabilities.
- Government employees with specialised knowledge and influence over ICT procurement may be targeted or “groomed” by private entities with a vested interest in the granting of contracts. Some employees may be susceptible to being induced to act corruptly, making them a risk to the integrity of procurement processes.
- The rapid pace of change in ICT capability and product development can create a minefield for procurement panels who may lack the subject matter knowledge to fully understand proposed ICT solutions and whether products offered by providers can deliver on expectations.

This publication seeks to raise awareness, particularly among agency managers and members of procurement panels, of the corruption risks associated with ICT and how to minimise those risks.

It draws on CCC complaints, investigations and research to illustrate what can happen when corruption risks and vulnerabilities are not adequately factored into ICT procurement processes.



**Crime and Corruption Commission**

**QUEENSLAND**

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*Many ICT contracts are categorised as critical business risks due to the high expenditure and the potential consequences of systems failure.*

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## ICT: big business, high risk

The Queensland Government is currently spending over \$1.38 billion on ICT projects across its departments.<sup>1</sup> The high level of spending presents opportunities for private entities within the ICT industry to secure lucrative government contracts.

The consequences of ICT systems failure, coupled with the high expenditure, results in many ICT contracts being categorised as “Critical Business Risks” as outlined in the Queensland Government Procurement Guidelines.<sup>2</sup>

As investigations have shown, government employees with specialised knowledge and influence over ICT procurement may be tempted or induced to act corruptly, making them a risk to the integrity of procurement processes. CCC research indicates some private organisations will use sales tactics to target influential persons within government agencies with a view to building a rapport and influencing procurement processes.

## Why is ICT procurement vulnerable to corruption?

Recent investigations by the CCC have exposed corruption risks associated with government ICT procurement. Factors identified by the CCC as increasing the likelihood of corruption in ICT procurement include:

- Failure of government agencies to engage in adequate planning for significant ICT procurements
- Undeclared relationships between ICT providers and government staff with an influence over the procurement process
- The involvement of government staff in secondary employment that realises a benefit from government ICT contracts
- Specialised staff undertaking procurement activities with no or limited oversight, resulting in no checks and balances at various stages of contracts, and
- Failure of relevant managers to prepare for future supply, with repeated assertions that “urgent” circumstances justify shortcuts in the procurement processes.

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<sup>1</sup> Queensland Government Website, ICT Project Dashboard viewed 7 August 2018

<sup>2</sup> Queensland Government Procurement Guidelines, Department of Housing and Public Works viewed 8 August 2018

## ICT-RELATED COMPLAINTS AND INVESTIGATIONS

Recent corruption complaints involving secondary employment and agency ICT-related expenditure have included:

- Employees registering private businesses of a similar nature to their government functions with a view to receiving outsourced parcels of work
- Employees registering private businesses in friends' or family members' names and influencing the awarding of work to these businesses
- Employees subcontracting themselves to vendors for cash payments, and
- Employees assisting external providers with government contracts using their specialised knowledge and skill, whilst having a secret deal with the contractor.

Recent corruption investigations have shown:

- Failings in procurement practices have allowed internal ICT experts to corruptly recommend providers in which they have an undeclared financial interest.
- Government departments and units of public administration have failed to take basic precautions to ensure that conflicts of interest are declared and explored for the risk they represent to the procurement process.
- Senior agency staff involved in procurement decision making have failed to declare close friendships with vendors who have been awarded lucrative ICT contracts.
- Where relationships have led to corrupt practices some employees have been charged with criminal offences in addition to having their employment terminated.

### Failure of agencies to engage in adequate planning

The technical requirements of significant ICT solutions, combined with the difficulty in addressing uncertainty with project deliverables, mean that any ICT procurement process requires extremely detailed planning. Careful consideration must be given to the following:

- An analysis of the demand and supply market
- Procurement strategy options
- Performance measures and contract management arrangements
- A full risk identification and assessment with attention to the value, complexity and sensitivity of procurements<sup>3</sup> and
- Staff awareness of their obligations to fully disclose any conflict of interest (potential, perceived or actual) they may have in relation to procurement activities.

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<sup>3</sup> Queensland Government Procurement Guidelines, Department of Housing and Public Works viewed 8 August 2018

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*The complexities of ICT procurement require agencies to assess their own capabilities to undertake the planning required.*

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The complexities of significant ICT procurement requires agencies to assess their own capabilities to undertake the planning required. To reduce the risk of analysis errors in the planning process, consideration should be given to seeking specialist technical advice or assistance.

- Experienced subject matter experts, whether internal or external (either from other agencies or private sector professionals), can help reduce the risk of a poor procurement process.
- Procurement committees should take precautions to ensure that potential conflicts of interest are explored between experts, technical advisory committee members and providers when relying on advice to recommend ICT supply. This should be a proactive process rather than relying on individuals to meet their obligations to declare conflicts of interest.

Recent corruption investigations have identified cases where failings in procurement practices have allowed internal ICT experts to corruptly recommend providers in which they have an undeclared financial interest.

### **Undeclared relationships between ICT providers and government staff**

Private ICT professionals often work on numerous projects across government departments and over time develop relationships with government staff. Some government employees also have family and close personal friends connected with private ICT providers.

While these relationships range from low to very high risk in terms of their potential to impact procurement decisions, recent investigations have shown serious failings by government departments and units of public administration to take basic precautions to ensure conflicts of interest are declared and explored for their risk to the procurement process.

Of concern, investigations have uncovered instances where senior agency staff involved in procurement decision making have failed to declare close friendships with vendors who have been awarded lucrative ICT contracts.

Agency employees should be aware of intentional strategies used by some private providers to target them with a view to building a rapport and obtaining an advantage in the procurement process. Where relationships have led to corrupt practices some employees have been charged with criminal offences in addition to having their employment terminated. In cases where the intellectual property of third-party suppliers has been released, costly court action can also ensue and seriously damage the reputation of the agency and persons involved in the process.

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*Agencies must commit to making procurement staff aware of their conflict of interest obligations and increasing requirements for disclosure.*

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It is imperative agencies ensure procurement and contracting practices are transparent, accountable and meet the obligations in accordance with legislation, codes and policies. **The *Public Sector Ethics Act 1994 (Qld)* has clear obligations for employees on declaring and managing conflicts of interest and abstaining from involvement in official decisions which could be compromised by private interests.**<sup>4</sup>

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*Employees who undertake work for a company that undertakes business with their own agency can be criminally prosecuted or disciplined.*

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### Secondary employment connected with contracts

It is sometimes tempting for government employees to try and personally capitalise on ICT-related outsourcing within government departments, particularly when the work is relatively low in cost and below the expenditure thresholds that require an approach to market. Recent corruption complaints involving secondary employment and agency ICT related expenditure have included:

- Employees registering private businesses of a similar nature to their government functions with a view to receiving outsourced parcels of work
- Employees registering private businesses in friends' or family members' names and influencing the awarding of work to these businesses
- Employees subcontracting themselves to vendors for cash payments, and
- Employees assisting external providers with government contracts using their specialised knowledge and skill, whilst having a secret deal with the contractor.

Employees who undertake any work for a company that performs business with their own agency can be criminally prosecuted or disciplined. When assessing employees' applications for secondary employment, relevant managers should gain a clear understanding of the nature of work to be performed and carefully consider the type of work the external company engages in. The *Public Service Act 2008 (Qld)*<sup>5</sup> provides clear obligations on employees to ensure conflicts of interest can be identified and managed in the public interest.

Further information concerning strategies to manage secondary employment risks can be found in the CCC publication: *Conflicting commitments – managing other employment and volunteering*.<sup>6</sup>

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<sup>4</sup> Queensland Government *Public Sector Ethics Act 1994*

<sup>5</sup> Queensland Government *Public Service Act 2008*

<sup>6</sup> Crime and Corruption Commission, *Conflicting Commitments - Managing Other Employment and Volunteering*.

## Shortcutting procurement processes to favour vendors

The Queensland Government Procurement Guidelines acknowledge occasions where it may not be possible or necessary for agencies to approach the supply market. These include genuinely urgent cases or circumstances where there may only be one provider who is capable of supply. However, adopting this course of action or using alternative sourcing strategies exposes agencies to greater corruption risks, as employees may be misleading procurement committees to favour particular suppliers. Where “urgency” is used on a number of occasions as the rationale for approaching one particular supplier despite the existence of a competitive market, agencies should explore what created or is creating the urgency. They should assess the adequacy of probity measures in place to ensure transparent and accountable procurement decision making.

## Conclusions: Lessening the corruption risks in ICT procurement

As part of an ICT procurement process, all agencies should:

- ✓ Ensure procurement and contracting practices are transparent, accountable and meet obligations in accordance with legislation, codes and policies.
- ✓ Have a detailed planning process which includes risk identification and assessment adequate to the level of value, complexity and sensitivity of the procurement.
- ✓ Be alert to the possibilities of “grooming” of staff by potential vendors or other interested parties.
- ✓ Proactively anticipate and explore conflicts of interest, and increase disclosure obligations.
- ✓ Scrutinise applications for secondary employment carefully to identify potential conflicts of interest.
- ✓ Find out how frequently “urgency” is given as a reason for taking shortcuts with the proper procurement process, and why it is happening.

For more information see: [www.ccc.qld.gov.au/corruption-prevention](http://www.ccc.qld.gov.au/corruption-prevention)



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