

# Integrity in procurement decision making: An audit of Queensland Health and other public sector agencies

**Summary audit report**

May 2019



## Acknowledgments

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We also acknowledge the large body of work undertaken by the Office of the Chief Advisor – Procurement, Department of Housing and Public Works, in their publication of a wide range of procurement guidance to assist Queensland Government agencies. The CCC referred to the procurement guidance in this audit.

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## Summary

When Queensland Government agencies approach the market to purchase goods/services, they have a responsibility to obtain value for money. Delivering value for money in procurement is about more than securing the lowest price. Procurement must also advance the government's economic, environmental and social objectives for the long-term wellbeing of the Queensland community.<sup>1</sup>

Each year the Queensland Government spends more than \$14 billion on a wide range of goods/services to support the delivery of frontline services to Queenslanders.<sup>2</sup> The high level of spending presents opportunities for suppliers/contractors to secure lucrative government contracts.

The CCC receives complaints about corrupt conduct from members of the public and public sector agencies. Corruption manifests itself in decision making (for example, related to procurement), significantly more than in any other activity. Furthermore, procurement within Queensland Health has long been known as a high-risk area for fraud and corruption.<sup>3</sup> Employees with specialised knowledge and/or influence over procurement may be tempted or induced to act corruptly, making them a risk to the integrity of the procurement process.

Corruption vulnerabilities have been identified at several stages of the procurement process, from determining the procuring method to initial tendering and selection of preferred suppliers. These vulnerabilities were contributed to by employees' conduct which tends to fall into three main types:

- (i) failing to follow sound processes and practices (cutting corners), because of ignorance, indifference or loss of procedural rigour over time
- (ii) failing to revisit probity at the end of each key stage of the procurement process
- (iii) failing to declare and manage actual, potential, or perceived conflicts of interest at key stages of the procurement and evaluation process.

Queensland Government employees must act in an ethical manner and be aware of the ethical issues they could face when they are conducting procurement activities. Ensuring the proper conduct of procurement serves to:

- facilitate the achievement of value for money
- reduce the risk of the agency being exposed to fraud and corruption, as well as financial loss
- provide potential suppliers/contractors with confidence about fair treatment, with consequential improvements in competition and transparency.

The objectives of the CCC's audit were to:

1. examine whether Queensland's Hospital and Health Services (Health Services) demonstrably achieve value for money from their goods/services procured, and
2. assess how public sector agencies have dealt with allegations about corrupt conduct related to procurement and contracting activities.

### Overview of the findings identified from the audit

We identified 13 areas for improvement across 16 agencies.

#### *Health Services' integrity in procurement decision making*

1. One of the five Health Services had not undertaken a fraud and corruption risk assessment to identify vulnerabilities associated with procurement and contract management.
2. There was considerable variation in the adequacy of procurement and contract management procedures and supporting frameworks in place in the five Health Services audited. It was identified that four of the Health Services had in place partial procedures and supporting frameworks to guide

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1 See Principle 1: Putting Queenslanders first when securing value for money, Queensland Procurement Policy.

2 Backing Queensland Jobs – Queensland Government Procurement Strategy 2017.

3 Allegations of corruption made to the CCC between 1 July 2015 and 30 June 2018.

staff involved in procurement and contract management. The remaining Health Service had no procedures developed to guide its procurement processes.

3. In four of the 16 contracts audited, three of the five Health Services did not employ open and effective competition, meaning they could not effectively demonstrate they had achieved value for money. The CCC did not identify a reasonable suspicion of corrupt conduct. Rather, the actions of staff appeared to have been motivated by a desire to avoid the requirement of adopting a proper procurement strategy as was required to deliver the best procurement outcome for the Health Service.
4. Some individual officers involved in the procurement processes were not ensuring their adherence to probity moved beyond simple compliance to proactively demonstrating integrity. Health Services were also not ensuring that their governance, procedures and processes were robust and properly integrated. For example, not all of the Health Services' evaluation panel members had acknowledged their probity obligations, including whether they had a conflict of interest with any offerors. There was also a failure to revisit probity during the lifecycle of the procurement.
5. Four of the five Health Services did not have a conflicts of interest register for their employees but did have such a register for their senior executives and board members. It is important for the purchasing delegate to check the conflicts of interest register for the procurement and evaluation teams to ascertain that conflicts have been appropriately declared and managed by these teams during the procurement process.
6. One of the five Health Services had deficiencies in the evaluation processes and practices in two of the three contracts audited by the CCC. The evaluation practices observed by the CCC were sometimes unclear, inaccurate and not always justified. We were unable to understand the evaluation methodologies and outcomes reached and, in most cases, the evaluation reports did not fully explain the evaluation processes and discussions.
7. A probity plan or checklist was not prepared for 15 of the 16 contracts audited across the five Health Services. Only one Health Service had prepared a full probity plan for one of the four contracts audited. Probity should be integrated into all stages of the procurement process to ensure that it is managed relative to the value and risk of a particular procurement activity.
8. None of the five Health Services were found to have effectively maintained records of their contract management processes, including decisions made, concerning the 16 contracts audited.

*Other public sector agencies: dealing with complaints about corrupt conduct*

9. One agency had undertaken insufficient investigative inquiries to determine whether the allegations were capable of being substantiated or to determine whether internal controls were adequate. The agency made the decision to "close" a particular complaint about corrupt conduct inappropriately.
10. In six matters across four agencies, the CCC's audit identified that these agencies had failed to prepare an investigation plan to detail the what, why, when and how of the investigation. This had resulted in the agencies not examining the internal controls' adequacy and effectiveness.
11. One of the agencies did not prepare an investigation report, which made it difficult for the CCC to understand the appropriateness or otherwise of decisions made and conclusions reached regarding allegations of corrupt conduct.
12. A decision-maker in one of the agencies did not provide procedural fairness (that is, natural justice through "show cause" proceedings) to the subject officer before imposing a range of performance improvements upon the officer.
13. The CCC's audit made recommendations for two agencies to further strengthen their prevention measures in circumstances where the recommended actions by the agencies did not address the internal control deficiencies.

Agencies responding to this audit acknowledged they needed to improve procedures, supporting frameworks and practices concerning procurement and contracting activities, as well as complaints handling. These agencies planned to implement, or have already implemented, the CCC's recommendations.

## Introduction

Preventing corruption is fundamental to the Crime and Corruption Commission's (CCC's) vision for safe communities supported by fair and ethical public institutions.

The *Crime and Corruption Act 2001* (CC Act) sets out the roles, responsibilities and functions of the CCC relevant to its corruption audits:

- to continuously improve the integrity of, and to reduce the incidence of corruption in, the public sector [section 4(1)(b)]
- to help prevent major crime and corruption (its prevention function) [section 23]
- to raise standards of integrity and conduct in public sector agencies [section 33(1)(a)]
- to investigate<sup>4</sup> and otherwise deal with conduct liable to allow, encourage or cause corrupt conduct, and conduct connected with corrupt conduct [section 33(2)(a)]
- to audit the way a public official<sup>5</sup> has dealt with corrupt conduct, in relation to either a particular complaint or a class of complaint [section 48(1)(b)].

Each financial year the CCC conducts a program of audits to examine how agencies have responded to particular types of complaints, and how robust their complaints management and corruption prevention frameworks are. The CCC also undertakes audits aimed at controlling the risks of corruption.

In 2018–19, the CCC conducted an audit examining how Queensland's Health and Hospital Services ensure their procurement and contracting practices are transparent and accountable, and meet the ethical standards required of officers (e.g. probity and integrity in procurement).

## Reasons for doing this audit

### Probity during procurement

Probity during procurement is concerned with proactively demonstrating that procedures and processes in place are robust and the outcome beyond reproach. Probity requires acting in such a way that there can be no perception of bias, influence or lack of integrity.

Probity should not, however, be used as an unreasonable barrier to undertaking an appropriate and legitimate procurement practice. For example, there are ways to appropriately engage with the supply market and still maintain probity of process. Clear probity guidelines can enable, rather than inhibit, interaction with the supplier and can facilitate more interactive tender processes.<sup>6</sup>

Ultimately it is important that probity of process is observed and is applied relative to the value and risk of the procurement.<sup>7</sup>

Queensland Government employees should be aware that their actions are also subject to the provisions of the *Public Sector Ethics Act 1994*, along with the relevant Code of Conduct applicable to them.

### Queensland Government procurement

It is estimated that each year the Queensland Government spends in excess of \$14 billion on a wide range of goods and services to support the delivery of frontline services for Queenslanders.<sup>8</sup>

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4 Investigate includes to examine or consider, Schedule 2 of the CC Act.

5 A public official is defined in Schedule 2 of the CC Act.

6 *Probity and integrity in procurement*, Office of the Chief Advisor – Procurement, Department of Housing and Public Works 2018.

7 Ibid.

8 *Backing Queensland Jobs* – Queensland Government Procurement Strategy 2017.

The Queensland Procurement Policy applies to the procurement of goods and services by Queensland Government agencies. One of the six principles of government procurement outlined in the Queensland Procurement Policy is that agencies will deliver value for money.

Delivering value for money in procurement is about more than securing the lowest price. Procurement must also advance the government's economic, environmental and social objectives for the long-term wellbeing of the community.

Competition between potential suppliers is an important foundation in achieving value for money. Value for money is more likely to be achieved when opportunities for government business are open to all potential suppliers and the market is tested regularly.<sup>9</sup>

Agencies are to identify the procurement strategy and method (i.e. open, limited or selective) most appropriate to delivering the best procurement outcome. This will be based on an assessment of complexity, scope, opportunities and risks associated with procurement objectives, as well as the level of competition in the supply market.

### **Contract extensions or renewals**

When extending or renewing a contract an agency must demonstrate that this action will also deliver value for money. Renewing a contract without going to market is comparable to deciding that a sole-source procurement will obtain the best value for money, and, like sole-source procurements, can create a perception of favouritism or improper conduct.

### **Corruption and integrity risks**

Corruption and integrity risks associated with procurement and contract management are not limited to large purchases or contracts. In fact, corruption and integrity risks can be higher for goods and services that are relatively low in financial value because low-value items may be subject to a lower level of scrutiny, even though they are purchased more frequently.

In the 2017–18 financial year the CCC received 1 776 allegations involving misuse of authority, which included matters involving conflicts of interest, increasing from 1 678 in 2016–17 (up 6% on the previous year). The number of allegations received in 2016–17 was in turn 40 per cent higher than the number received in 2014–15.

Procurement is one of the top five most common activity types associated with allegations of misuse of authority.

If an agency's procurement practices and contract management are poor they can erode any potential benefit and increase risks, including the potential for corruption.

## **Audit focus**

The objectives of the audit were to:

- examine whether Queensland's Health and Hospital Services are demonstrably achieving value for money from their goods/services contracts, and in their decisions to extend, renew or re-tender their contracts
- assess how appropriately agencies have dealt with allegations of corrupt conduct relating to procurement and contracting activities.

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9 The procurement guide *Supply market analysis* from the Office of the Chief Advisor – Procurement, Department of Housing and Public Works provides practical advice in undertaking supply market analysis.

## Scope of the audit

This audit involved a total of 16 agencies across the following two main scope areas:

- reviewing agency systems for managing procurement and probity risks, and
- reviewing how agency matters were dealt with.

### Reviewing agency systems for managing procurement and probity risks

The first scope area was limited to the five Health Services, as identified in the table below. The selection of the Health Services was informed by the number of contracts identified in QTenders<sup>10</sup> as at 2 July 2018 for Health Services generally.

Hospital and Health Services	
Metro South Hospital and Health Service	Townsville Hospital and Health Service
North West Hospital and Health Service	West Moreton Hospital and Health Service
Sunshine Coast Hospital and Health Service	

The CCC developed a questionnaire for the five Health Services to complete, focusing on governance, risk management and control strategies. We also obtained the Health Services' policies and procedures, and other guidelines relating to their procurement and contract management activities. We reviewed these to ensure the design of the procurement processes and controls within the specific Health Services help reduce broader procurement and corruption risks, as well as support value for money.

The Queensland Procurement Policy, including procurement guidance<sup>11</sup> and other best practice guides, was the base for sound practice against which the CCC examined the Health Services' procurement processes and controls.

The CCC also randomly selected and obtained 16 contracts from the Health Services' contract registers and examined them against the key supporting principles for probity and integrity, as shown below.

Principle	Audit criteria
<b>Fairness and impartiality</b>	No supplier/contractor is given an advantage or discriminated against.
<b>Accountability and transparency of decisions and process</b>	Appropriate records are maintained of all decisions including the processes used. Appropriate records are created for any verbal discussions. <i>The CCC compared the decisions made with the information in conflict of interest declarations and gifts and benefits registers.</i>
<b>Conflict of interest management</b>	Conflicts of interest are declared, including if "nil", in writing. Conflicts of interest are recorded in a central register. Conflicts of interest are appropriately managed.
<b>Managing probity relative to value and risk</b>	Probity self-assessment checklists or probity plans are completed (i.e. relative to value and risk).

This audit did not include contract development and contract award, and purchase to pay (e.g. the process to raise requisitions, purchase orders and process payments).

### Reviewing how agency matters were dealt with

The second scope area was a detailed review of a sample of 21 complaints about corrupt conduct in each of the 12 agencies, as identified in the table below. Information held by the CCC about allegations of corrupt conduct related to procurement activity received by the CCC between 1 January 2016 and 30 June 2018 informed the selection of these agencies.

10 QTenders is a contract disclosure system administered by the Department of Housing and Public Works. Under the Queensland Procurement Policy 2018, all reportable contracts valued at \$10 000 and over are to be disclosed.

11 The Office of the Chief Advisor – Procurement, Department of Housing and Public Works, published a number of procurement guides to help Queensland Government agencies in their procuring of goods/services.



Departments	Councils	Statutory bodies
Health	Logan City	Metro South Hospital and Health Service
Transport and Main Roads	Gympie Regional	Seqwater
	Paroo Shire	Royal Brisbane & Women's Hospital Foundation
	Southern Downs Regional	University of Southern Queensland
	Sunshine Coast Regional	
	Toowoomba Regional	

The CCC's *Corruption in focus – A guide to dealing with corrupt conduct in the Queensland public sector (October 2014)*<sup>12</sup>, specifically Chapter 3 and onwards, was the standard against which the CCC measured the agencies' preliminary inquiries, investigative practices and decisions, as well as the prevention responses. The guide has been designed to be used throughout the public sector and provide practical advice.

- Chapter 3 provides guidance on what happens when complaints are referred to the agency by the CCC to deal with, including what action the agency can take, choosing an investigator, and how to report back to the CCC.
- Chapter 5 discusses the issues surrounding confidentiality, conflicts of interest and procedural fairness.<sup>13</sup> It also provides advice on managing the impact of an investigation on the workplace.
- Chapters 6 to 10 provide information for investigators on how to conduct an investigation into corrupt conduct (e.g. planning, conducting and reporting upon an investigation).
- Chapter 11 gives practical advice to help agencies take advantage of opportunities to prevent, or at least minimise, corrupt conduct in the workplace. It does not attempt to cover the full range of strategies needed to build agency resistance to fraud and corruption, but outlines how prevention activities for the future might be initiated as a result of an investigation or complaint.

Compliance with *Corruption in focus* provided the CCC with the basis for measuring the capacity of agencies to effectively respond to complaints about corrupt conduct.

The audit also examined factors that might have given rise to incidents of corrupt conduct as well as systemic issues related to dealing with complaints of this nature and reducing corruption risks.

## Findings from the audit

The CCC has communicated the findings of its audit to participating agencies, but for the purposes of this summary the CCC does not identify which agencies were involved in each finding. (Note: The use of "Health Service One... Health Service Two..." is not referring to the same agency in each finding.) The intent of this audit summary is to help all agencies in the Queensland public sector improve their investigative and prevention capabilities.

In the five Health Services, there were some elements of a system and process in place to manage procurement and probity risks, however, there is room for improvement to ensure their procurement and contracting practices and decisions can withstand public scrutiny.

The CCC was satisfied that the majority of allegations about corrupt conduct relating to procurement and contract management activities audited were appropriately dealt with.

## Areas for improvement

The audit identified 13 areas for improvement across the two main scope areas.

<sup>12</sup> The CCC has since updated the *Corruption in focus* guide (March 2019) and it is available on our website.

<sup>13</sup> Procedural fairness is also referred to as "natural justice". It is about providing a person who might be adversely affected by a decision with a "fair hearing" before the decision is made. Generally, a fair hearing involves disclosure, providing the officer with a reasonable opportunity to respond, and impartiality.

## 1. Agency systems for managing procurement and probity risks

This section relates to the five Health Services. The CCC focused on the Health Services' corruption risk assessments, control frameworks and risk management strategies for managing procurement and probity risks.

### Risk assessment

The audit found that four of the five Health Services have undertaken a detailed fraud and corruption risk assessment to identify, analyse, evaluate and treat corruption risks associated with procurement and contract management. These agencies understood that corruption risk assessments are key to a successful prevention system and are an important management tool for preventing and detecting fraudulent and corrupt activities.

#### Area for improvement 1 – Corruption risk assessment

One of the Health Services had not undertaken a corruption risk assessment to identify vulnerabilities associated with procurement and contract management. The Health Service advised that to mitigate risk they include fraud awareness training as part of employee inductions, and this training is refreshed annually. The Health Service had also advised that the Internal Audit Unit had identified areas for improvement in procurement processes, which were currently being addressed by the agency.

The CCC considered it was important that the Health Service adopted a systematic and comprehensive approach so that all potential corruption risks are identified, regardless of their source or controllability. Once identified, the agency would be able to prepare effective prevention and detection strategies to mitigate the risks from fraud and corruption.

Risk management is good management practice. It is not an "optional extra" to be considered in isolation. It should permeate the Health Service's activities and become a normal part of doing business.

For further information on corruption risk assessments, refer to the following CCC publications:

- *Managing corruption risks associated with secondary employment* (October 2018)
- *Fraud and corruption control: best practice guide* (March 2018)
- *Effectiveness of Queensland public sector corruption risk assessments* (September 2017).

### Recommendations

Develop an effective fraud and corruption control program that is informed by a comprehensive understanding of the Health Service's risks and vulnerabilities (at least every two years). The procurement and contract management function should be one of the significant areas of risk to explore.

**Note:** In responding to this audit, the Health Service acknowledged they needed to identify the organisation's risks and vulnerabilities, in particular fraud and corruption risks relating to procurement and contracting activities. The Health Service also acknowledged they needed to develop a fraud and corruption control plan documenting the agency's anti-fraud and anti-corruption strategies after conducting a thorough risk analysis and assessment process.

### Governance

Based on the information provided by the five Health Services:

- They demanded an agency-wide cooperation and compliance approach for managing probity obligations throughout the procurement process.
- They had in place some procurement-related training materials for staff involved in procurement activities. The central procurement teams had detailed training for their roles, as required by their position descriptions.

- They had some form of oversight mechanisms in place to identify, analyse and monitor procurement activities across the Health Service. The CCC was informed by the Health Services that they were improving the way their central procurement teams interact with the business areas and ensuring procurement processes and practices are followed.

The audit did identify that roles and responsibilities for relevant stakeholders and staff were not clearly documented in policies and procedures (see below for further information).

### Policies, procedures and processes

The CCC audit showed considerable variation in the adequacy of procurement and contract management procedures and supporting frameworks across the five Health Services.

### Area for improvement 2 – Procedures and supporting frameworks

The CCC identified that, while four of the Health Services had in place procedures and supporting frameworks to guide staff in managing procurement and contract management effectively, further improvements were required to ensure they covered all the key components of a successful procurement process (from low-value and low-risk through to high-value and high-risk).

There was one Health Service that did not have procedures and a supporting framework that was reflective of its procurement and contracting activities.

Based on the above findings, the CCC assessed the maturity of Health Services' procurement and contract management procedures and supporting frameworks as follows:

Health Service	Result	Health Service	Result	Health Service	Result
Health Service One	●○○	Health Service Three	○○○	Health Service Five	○○○
Health Service Two	○○○	Health Service Four	○○○		
<b>Legend:</b>					
○○● <i>Generally achieved</i> – process is documented, thorough and sufficient to ensure consistency across the Health Service.					
○○○ <i>Partly achieved</i> – process is documented. It is unlikely to be thorough, but may help to ensure that processes are followed.					
●○○ <i>No evidence of achievement</i> – process is non-existent or undocumented, and tending to be driven in an ad hoc, uncontrolled and reactive manner by case officers or decision events.					

Health Services should regularly review their procurement and contract management procedures and supporting frameworks against the mandatory policy requirements and guidance provided by the Office of the Chief Advisor – Procurement, Department of Housing and Public Works.

The processes implemented should incorporate probity principles and responsibilities for both staff and contractors.

### Recommendations

Enhance procedures and supporting frameworks to cover the key processes and controls as communicated to the Health Services by the CCC. This will assist officers involved in procurement and contract management to achieve value for money in the procurement of goods and services.

**Note:** The five Health Services have acknowledged the need to improve policies and procedures, and supporting frameworks – specifically, in relation to procurement and contract management.

Health Service One, which did not have procedures and a supporting framework, will be implementing the recommendations.

Health Service Two had tried to strike a balanced approach through its recent alterations to its value thresholds, seeking to ensure all significant procurements (e.g. high-value or high-risk procurements) incorporated all the necessary elements including the Queensland Procurement

Policy and other government objectives. The CCC had communicated to the Health Service that the procedures should cover any procurement, and not just significant procurements.

Health Service Three had reviewed the procurement and contract management framework, policy and procedures, to ensure compliance with the Queensland Procurement Policy and the Queensland Government Contract Management Framework. They are reviewing these further to ensure the CCC's recommendations are addressed.

Health Service Four had indicated to the CCC a commitment to the adoption of best practice standards in the way they manage procurement and probity processes. They have addressed the CCC's recommendations, and the procedures and supporting frameworks are under implementation.

Health Service Five had been putting in place improvements to their procurement processes.

### **Probity in sample of contracts audited**

The CCC's review of the procurement and contract management processes and practices associated with 16 contracts across the five Health Services did not identify any concerns of corruption. The CCC did, however, identify a number of areas for improvement relating to:

- fairness and impartiality
- accountability and transparency of decisions and processes
- conflict of interest management
- management of probity relative to value and risk.

### **Area for improvement 3 – Open and effective competition**

In four of the 16 contracts audited, three of the five Health Services were unable to demonstrate that they had effectively obtained value for money in the procurement of goods/services.

The CCC's review suggested that open and effective competition had not been a feature of these Health Services' procurement practices, contributing to the Health Services being unable to demonstrate that value for money had been achieved in relation to these four contracts.

#### **Case study**

##### **Health Service One**

- The Health Service procured goods/services with a supplier who was part of a panel arrangement with another agency. While it was appropriate for the Health Service to explore the use of a standing offer arrangement<sup>14</sup> (SOA) to purchase goods/services at already negotiated rates and conditions, a supply market analysis<sup>15</sup> was not completed to establish how the preferred supplier represented best value for money for the agency.

##### **Health Service Two**

- The Health Service had been sole-sourcing specified drugs from the same supplier for the last five years. It does not appear that the agency identified the methods used to confirm that the supplier was the only source able to meet the specific need.

##### **Health Service Three**

- A preferred supplier was engaged by the Health Service using another agency's arrangement. While the Health Service did obtain approval from the other agency to use their SOA of preferred suppliers, it did not complete a supply market analysis showing which suppliers from the panel had been chosen and establishing why they represented the best value for money for this agency.
- The Health Service procured three contractors in direct negotiation with a supplier as none of the suppliers approved under its SOA had contractors available. The Health Service sought legal advice to confirm it was able

14 An agreement entered into with one or more suppliers (e.g. panel) to provide goods and services over a set period in accordance with agreed terms and conditions, including price. This agreement would have been through a proper competitive procurement process which complied with the Queensland Procurement Policy.

15 A supply market analysis is intended to develop or update an agency's understanding of market capability and performance in order to make decisions about better practice outcomes. A supply market analysis can, for example, identify comparable substitute goods/services that offer better value for money or are available from less risky supply markets, and identify potential suppliers.

to engage the contractors outside of the SOA, through sole-sourcing. The procurement team failed to keep records of the legal advice or show how value for money would be achieved under the arrangement.

An agency may benefit from accessing an SOA established by other agencies through reduced procurement and associated costs. However, before using another agency's SOA, staff must ensure the goods/services selected have been through a proper competitive procurement process that complies with the Queensland Procurement Policy, and that the conditions of offer and the contract meet the agency's procurement requirements.

Agencies seeking to piggyback<sup>16</sup> on an existing arrangement should consider whether:

- the agency's needs (specified requirements) are within the scope of the existing arrangement
- the agency will achieve value for money by procuring through the other agency's existing arrangement
- the market has changed substantially since the existing arrangement was put in place (e.g. could a better or more suitable offer (e.g. price, conditions) be negotiated? Are there new suppliers in the marketplace?)
- the decision to piggyback is defensible.

In the CCC's view, all suppliers must be given a full, fair and reasonable opportunity to compete for the supply of goods and services to Queensland Government agencies. Direct negotiations for procurement, including several renewals, can create perceptions of favouritism or improper conduct.

Value for money is to be the determining factor under the Queensland Procurement Policy. Also, competition is a key element of the procurement framework. Effective competition requires the use of competitive procurement processes.

#### **Recommendations**

- (a) Promote competition and award contracts in an open, clear and defensible manner.
- (b) Undertake a review of procurement and probity practices within the Health Services, including identifying opportunities to better align practices with the Queensland Procurement Policy.
- (c) For new procurements, identify the procurement strategy and method (open, limited or selective) most appropriate for delivering the best outcome. This will be based on an assessment of complexity, scope, opportunities and risks associated with procurement objectives, as well as the level of competition in the supply market.

**Note:** The three Health Services mentioned above were committed to procedural and practice improvements with an emphasis on probity reflecting their culture and ability to withstand scrutiny, and demonstrate to local communities that they act with integrity, prevent corruption and provide value for money.

Whilst Health Services understood the chosen supplier had the capability to undertake the required work, a supply market analysis was not undertaken to demonstrate same given the extremely short time limitations for completion of the work.

#### **Area for improvement 4 – Probity obligations and conflicts of interest**

The audit identified that not all of the evaluation panel members had acknowledged probity obligations and whether they had a conflict of interest. This included not revisiting probity throughout the lifecycle of the particular procurement.

<sup>16</sup> Piggybacking is where one agency has established a panel and has made the panel or SOA available to other agencies. Piggybacking requires acceptance of the terms and conditions of the existing contract. In piggybacking on an SOA that has been in place for some time, agencies should ensure that such an SOA would still represent value for money.

Evaluation is a process that enables selection of the most appropriate offer. This involves consideration of the nature, value and significance of the goods/services being procured. Evaluation allows the selection of the offer that achieves the best performance for the money being spent.

An evaluation typically involves officers with a range of procurement, financial and technical expertise and end-users.

In Queensland Government agencies, it is recognised that evaluation panel members may have ongoing or previous associations with offerors, either in business or as former employees. These officers are required to undertake procurement with integrity, ensuring probity and accountability for outcomes. This includes ensuring all decisions throughout the entire procurement process are transparent, defensible and well documented, and that decisions are able to withstand public scrutiny.

#### **Case study**

##### **Health Service One**

- All five evaluation panel members completed their probity obligations, that is, declared any conflicts of interest etc., prior to the commencement of the procurement.
- Two of the five panel members did not acknowledge obligations concerning confidentiality and conflicts of interest prior to tendering.
- Three of the five members did not declare whether they had an association with any of the offerors, once offeror identities were known, to ensure that no new conflicts had arisen.
- One of the five members declared a past association with one of the offerors, but there was no record of the discussion by the Evaluation Committee about how this conflict/issue was to be managed.

##### **Health Service Two**

- The evaluation report noted that the three members of the evaluation panel acknowledged and declared any conflicts of interest, however, the CCC was unable to confirm this to be the case as the signed declarations were not provided in the audit file.
- The procurement was managed by Queensland Health's service provider. The service provider may not have provided the Health Service with all information for the CCC's audit. The Health Service has overall governance accountability of the whole procurement process. The service provider has responsibility for providing adequate procurement processes and controls for the Health Service.

##### **Health Service Three**

- One of the four evaluation panel members did not have their acknowledgement of probity obligations witnessed.
- Two of the four members did not properly declare a conflict of interest (e.g. declaring they had "nil" conflicts or having the declaration witnessed).

##### **Health Service Four**

- In one of the four contracts audited for this Health Service, a panel member failed to complete and sign the acknowledgement of probity obligations, including failing to declare the existence or otherwise of any conflict of interest.
- In another contract, neither of the two panel members completed and signed the acknowledgement of probity obligations, including any declaration of conflicts of interest.

Overall, the audit identified that individual officers are not ensuring their adherence to probity moves beyond simple compliance to proactively demonstrating integrity. Health Services are also not ensuring that their governance, procedures and processes are robust and properly integrated.

#### **Recommendations**

- (a) Remind all staff involved in the procurement of goods/services to adhere to probity requirements and check they have considered, declared (including if "None") and signed all necessary documents acknowledging their probity obligations and any conflicts of interest.
- (b) Remind the panel chair and/or facilitators to check that procurement and evaluation teams have completed all required documentation concerning their probity obligations and any conflicts of interest.

- (c) Remind probity advisors to check that procurement and evaluation teams have completed all required documentation concerning probity obligations and any conflicts of interest. The probity advisor's review process should be documented to substantiate that they have performed their duties properly (e.g. by capturing records).
- (d) Detail and clearly set out the behaviour expected of stakeholders and staff involved in a procurement.
- (e) Implement a probity-oriented culture.

**Note:** In responding to this audit, the four Health Services noted they will further improve accountability and transparency through better oversighting of probity obligations and conflicts of interest declarations and management across their organisation. Measures will include providing enhanced education and training to all staff involved in procurement of goods/services and contract management.

Two of the four mentioned Health Services have indicated that the particular procurements were outsourced to a third-party service provider. Although the third-party service provider was required to strictly comply with their agency's processes, some documentation evidencing compliance was not adhered to.

#### **Area for improvement 5 – Conflicts of interest registers**

The audit identified that four of the five Health Services did not have a conflicts of interest register for their employees. These Health Services did, however, have a conflicts of interest register for their senior executives and board members.

Inside the Health Services, each health facility or division was working autonomously to manage and monitor employee conflicts of interest. As a result, the Health Services could not demonstrate a consolidated position in terms of how declared conflicts of interest were being managed and monitored throughout the agency.

It is important for the purchasing delegate to check the conflicts of interest register of procurement and evaluation teams, as there may be conflicts that have not been appropriately declared by team members during a procurement process.

#### **Recommendations**

- (a) Develop a centralised conflicts of interest register that consolidates information from all individual business units and health facilities within the Health Service. The register should include how the conflicts are being managed and the processes implemented to monitor the arrangements.
- (b) Nominate a responsible officer to review and manage the centralised register.
- (c) Maintain the currency of the centralised register (i.e. on a quarterly basis).

**Note:** The four Health Services discussed above acknowledged the recommendations.

#### **Area for improvement 6 – Evaluation scores, reports and sign-offs**

In one of the five Health Services, the CCC noted that the evaluation practices observed in two of the three contracts examined were sometimes unclear, inaccurate and not always justified. The CCC was unable to understand the evaluation methodologies and outcomes reached and, in most cases, the evaluation reports did not fully explain the evaluation processes and discussions.

For example, each panel member assessed the submissions made by the 17 offerors, but did not mark the offerors against the selection criteria, instead recording overall comments and a determination about whether to interview (e.g. shortlist). Seven out of the 17 offerors were shortlisted for an interview. In relation to the seven offerors interviewed, the audit could not locate the interview assessment sheets completed by two of the three panel members for two of the offerors. One of these



offerors was successful in being awarded the contract, and the other was not. The evaluation report did not explain the evaluation methodology and processes, and there was no evidence as to whether a criminal history check was completed. The report also failed to mention probity in the evaluation process.

In another example, the audit identified that the scoring from each of the four panel members was not correctly transferred into the consolidated scores that were then used to work out the average scores for the offerors. The top three offerors were shortlisted. Despite the error, the CCC recalculated the consolidated scores based on the individuals' scoring and came up with the same top three offerors. However, the evaluation report did not describe the full evaluation methodology undertaken by the panel, and was not signed by all panel members involved in the evaluation of the offerors' submissions.

Overall, the above matters represent deficiencies in the Health Service's evaluation processes and practices.

### Recommendations

The Health Service ensure that evaluation panels and facilitators check they have accurately documented their evaluation methodology and results to provide sufficient information for audit or other review. This should include details of how criteria and weightings were decided, and about the evaluation process, including all sign-offs of the evaluation report.

**Note:** The concerned Health Service has acknowledged the findings and recommendations, and is addressing these matters.

### Area for improvement 7 – Probity plans

A probity plan or checklist was not prepared by four of the five Health Services audited. The other Health Service only prepared a full probity plan for one of the four contracts audited.

A probity plan sets out the principles, procedures, systems and processes to be adopted by the procurement and evaluation panel teams in advertising, assessing, selecting and contracting suppliers/offerors for a particular procurement.

The Queensland Procurement Policy requires agencies to integrate probity into all stages of the procurement process to ensure that it is managed relative to the value and risk of a particular procurement activity.

#### Guidance on how various probity considerations can be incorporated

The Office of the Chief Advisor – Procurement, Department of Housing and Public Works has developed a guide on probity and integrity in procurement.<sup>17</sup>

Probity needs to be part of the procurement culture, not a standalone consideration. It is important that both individual officers and government agencies take responsibility for embedding this culture. To put this into practice, both individual officers and agencies should look at the four focus areas:

- fairness and impartiality
- accountability and transparency of decisions and processes
- conflict of interest management
- management of probity relative to value and risk.

The following provides guidance to agencies on how various probity considerations, such as probity plans, can be incorporated as value and risk increase.

For low-value and low-risk...	As value and risk increase...
Use a probity checklist	Consider use of a full probity plan

**Note** – This is intended as a guide only. Agencies are ultimately responsible for deciding how this is implemented relative to the characteristics of their agency.

<sup>17</sup> The *Probity and integrity in procurement* guide is available on the Department of Housing and Public Works website.



Probity plans are a central part of the management of procurement as a means to identify and manage probity risks. The content of a probity plan should be commensurate with the nature, size and risk profile of the particular procurement.

All staff involved in the procurement or project, including any governance committee, advisors and other stakeholders, should be aware of arrangements put in place to preserve the probity of the process and should be provided with a copy of the probity plan.

### **Recommendations**

Manage probity relative to value and risk by preparing a probity checklist or a probity plan (as value and risk increase) for a particular procurement. The probity checklist or plan should be communicated to all key stakeholders and staff involved in the particular procurement, and be revisited at the end of each key stage in the lifecycle of the procurement.

**Note:** In responding to this audit, the Health Services have implemented, or are implementing, prevention responses to address the probity risk in procurement. These include procedural improvements, development of a probity checklist and a procurement checklist for low-value or low-risk procurement with a key focus on including probity requirements.

### **Area for improvement 8 – Contract management framework and practices**

None of the five Health Services were found to have effectively managed the 16 contracts reviewed, relative to value and risk, in areas such as:

- contract set-up – how to initiate and plan the contract management process
- contract management – how to administer and manage contracts
- contract close-out – how to close and transition contracts.<sup>18</sup>

While the CCC audit did not review specific aspects of the contracts (e.g. the terms and conditions, and confidentiality clauses), we considered whether the contracts effectively achieved value for money from the goods/services procured.

The CCC noted a lack of recordkeeping about contract management activities. Key contract activities, as outlined below, are essential controls. They ensure that staff understand the contract, and that records about relevant decisions and the basis of those decisions are maintained, including in relation to approvals and authorisations. The key contract activities are:

- classifying the contract to identify the key actions to focus on for a particular contract
- preparing a contract management plan that contains key information about how a contract will be managed
- preparing a roles and responsibilities matrix that outlines roles and identifies the individuals responsible for various tasks or deliverables
- monitoring the performance of suppliers to ensure that value for money in procurement activities continues to be obtained
- conducting market research to identify why/how value for money will be obtained/maintained by extending or renewing the contract, and what opportunities have been identified to improve value for money under the contract. The example below shows what a decision-maker should consider before extending or renewing a contract.

### **Example**

There are specific sections within a contract extension or renewal checklist that inform the decision-maker about whether the contract extension or renewal will result in value for money. For example:

- What is the anticipated future demand for products or services?
- Is it consistent with/related to the original scope of works/services?

<sup>18</sup> Refer to the Queensland Government Procurement Contract Management Framework, published by the Office of the Chief Advisor – Procurement, Department of Housing and Public Works, for further information.

- Would re-approaching the market result in better value for money?
- Does the contract extension/renewal result in value for money?

The last two dot points require the decision-maker to document what market research they have done, why/how value for money will be obtained/maintained by extending or renewing the contract, and what opportunities have been identified to improve value for money under the contract. The amount of supporting analysis will vary depending on the value and risk of the contract. For example, high-value contracts will require evidence of benchmarking, but low-value contracts may only require basic enquiries like comparing quotes or prices from other suppliers.

The audit identified that two of the five Health Services did not have convincing justifications for extending or renewing contracts. These Health Services did not consider whether other procurement strategies might result in better value for money (or not), for example, by re-testing the market via selective/open offer.

### **Recommendations**

Develop contract management plans, processes and practices (Scaling guide: to the contract classification which is based on value and risk). See the Contract Management Framework, prepared by the Office of the Chief Advisor – Procurement and available on the Department of Housing and Public Works website.

**Note:** One of the five Health Services had contract management tools developed, and is developing an interactive online learning tool around the contract management framework. The CCC anticipates that officers at the Health Service will complete the appropriate tools for the contracts they are managing.

Another Health Service had reviewed the procurement and contract management framework, policy and procedures to ensure compliance with the Queensland Procurement Policy and the Queensland Government Procurement Contract Management Framework. New procurement and contract management frameworks have been developed.

The other three Health Services are addressing the matters involving contract management.

## **2. Dealing with actual complaints**

This section relates to how effectively departments, councils and statutory bodies dealt with the 21 complaint files subject to audit.

### **Statistical results from this audit**

The table below shows how agencies dealt with the 21 complaints.

<b>Processes used to deal with the matters</b>	<b>16</b> Investigation <b>4</b> In-progress <b>1</b> Take no action	<b>Sources of complaints</b>	<b>10</b> Agency's employees <b>6</b> Suppliers <b>4</b> Anonymous persons <b>1</b> Member of the public
<b>Major corruption risks identified</b>	<b>11</b> Conflicts of interest <b>5</b> Perceived favouritism <b>2</b> Lack of accountability <b>2</b> Gifts, benefits or bribes <b>1</b> Secondary employment	<b>Outcomes of investigation</b>	<b>9</b> Substantiated <b>7</b> Not substantiated <b>1</b> Lacks substance or credibility <b>4</b> In-progress
<b>Procurement activities related to alleged conduct</b>	<b>7</b> Tendering <b>8</b> Sourcing to procure <b>3</b> Awarding of contracts <b>3</b> Contract management	<b>Outcomes of discipline process</b>	<b>5</b> Not substantiated <b>4</b> Subject officers resigned <b>3</b> Terminated employment <b>2</b> Reprimand <b>1</b> Forfeiture of a salary increment <b>1</b> Attend specific training <b>4</b> In-progress

## Previous CCC audits

Some of the complaints the CCC reviewed were from agencies that recently participated in other CCC audits. The CCC recognised that, subsequent to those audits, and in response to previous recommendations, these agencies were putting into place processes and practices to ensure they are now investigating complaints appropriately and effectively. For this reason, the CCC did not raise any findings on these agencies' investigative processes and practices in this audit as these improvements were not yet able to be reflected in matters reviewed. However, the CCC recommended further prevention measures for some of these agencies' internal controls in this audit.

## Areas for improvement

The majority of the matters considered in this audit indicated that the selected agencies had been dealing with complaints appropriately. The CCC did, however, identify areas for improvement relating to investigative practices, disciplinary processes and internal controls.

### Area for improvement 9 – Investigative inquiries

The audit identified one agency had undertaken insufficient inquiries before making the decision to "close" a particular complaint (e.g. take no further action). An investigation report was also not prepared for this matter. The CCC was concerned that the investigation may not withstand public scrutiny.

#### Case study

This matter involved four allegations, but only two were assessed as involving corrupt conduct and therefore fell within the ambit of this audit.

It was alleged that the subject officer drafted a new tender, valued at \$100 000, in terms to suit a preferred supplier, and misused funds by unnecessarily replacing an existing system with a new system to favour a single supplier.

In reviewing the file the CCC identified that the case officer dealing with the complaint identified the following relevant questions:

- Was the contract up for renewal and was the decision not to reselect the complainant (i.e. previous supplier) based upon merit selection?
- Was there a current contract with the single supplier covering this matter (or if there was no contract, what sort of arrangement/supply agreement was in place)?
- Were there any issues with the supplier (being the complainant's business) and, if so, was their supply arrangement correctly terminated?

It is not clear from the file material provided whether the case officer ever sought or obtained responses to these questions and, if they did, who answered the questions and what the answers were.

The CCC's audit also identified that the case officer did not create a record of a meeting with the complainant on 22 February 2017 (i.e. no minutes or notes as to the content of that meeting had been created).

The agency apparently sought further information from the complainant advising them that, in the absence of further material, their complaint would be finalised on the basis of insufficient evidence.

The CCC is concerned that the agency made insufficient inquiries independent of the complainant before determining to close the file.

Further, an email from the decision-maker to the case officer acknowledged that an outstanding action item arising from this complaint was the completion of an operational review to identify why they changed the system. However, in the material provided to the CCC there was no record of this review being conducted.

The agency was to conduct sufficient inquiries as to why an incident had occurred and whether the existing internal controls continue to be adequate.

#### Recommendations

- (a) When finalising a matter, consider with reference to the file –
  - (i) whether someone retrieving the file in two years' time will be able to understand the processes applied and the paperwork

- (ii) whether the file is good enough to withstand an audit or management review as it stands.
- (b) The agency be reminded of the importance of gathering and examining appropriate evidence about allegations so matters can be dealt with in a way that promotes public confidence in the administration of the agency.
- (c) Investigate current internal controls and practices that may expose the agency to an identifiable risk of fraud or corruption.
- (d) Prepare and provide a copy of an investigation report for this matter to the CCC as part of the audit's follow-up process.

**Note:** In responding to this audit, the agency agreed with the CCC's findings and recommendations. The agency intended to review and update its investigative procedure to apply to corruption investigations. The agency is currently enhancing internal controls to mitigate any fraud and corruption risk. The agency also intended to undertake forensic review of the investigation and provide a report to the CCC.

#### **Area for improvement 10 – Investigation plan and internal controls review**

The CCC identified six matters across four agencies where there was a failure to prepare an investigation plan to detail the what, why, when and how of the investigation. While this failure did not affect the appropriateness of the outcomes, it did result in the four agencies not conducting a risk assessment of the procurement processes and practices at the end of the investigation to ensure current internal controls continue to be adequate to prevent future incidents.

#### **Recommendations**

- (a) Prepare an investigation plan to detail the investigation (Scaling guide: adequate to the risk, complexity, nature and timing of the investigation).
- (b) Review the adequacy of the internal controls directly impacting on the corruption incident and potentially allowing it to occur, and consider whether improvements are required.

**Note:** Agencies related to this issue have acknowledged the recommendations to the relevant matters audited by the CCC to further strengthen investigative and prevention capabilities. They planned to implement, or have undertaken, improvements to their investigation procedures and processes.

#### **Area for improvement 11 – Investigation report**

The audit identified one matter where an agency did not prepare an investigation report. While this failure did not affect the appropriateness of the outcomes by the relevant decision-maker, failure to prepare a report makes it difficult for interested parties (i.e. the CCC or the Queensland Ombudsman) to understand the appropriateness or otherwise of decisions made and conclusions reached regarding allegations.

In the absence of an investigation report, and to determine how the matter had been dealt with, the CCC had to follow up with the agency to gather further information. This included advice as to whether the matter was ongoing, what evidence had been gathered, and what conclusions had been reached in respect of each of the three allegations.

An investigation report must be prepared at the conclusion of any investigation and should be sufficient to withstand external scrutiny which may be directed towards ensuring the veracity and integrity of the investigation. The agency needs to ensure the report is well structured and supports any findings or recommendations made.

### Recommendations

The agency, in future investigations, prepare an investigation report to detail the investigation and its findings, conclusions and recommendations (i.e. relative to complexity and risk of the allegations). See Chapter 9 – Final report of the CCC's *Corruption in focus* guide.

**Note:** The agency related to this issue has noted the finding and recommendations, and is working towards improving the way they deal with complaints about corrupt conduct.

### Area for improvement 12 – Procedural fairness

In one matter the CCC reviewed it identified that the decision-maker did not provide procedural fairness (i.e. natural justice via “show cause” proceedings) to the subject officer before imposing a range of performance improvements upon him.<sup>19</sup>

Procedural fairness is about providing a person who might be adversely affected by a decision with a fair hearing before the decision is made. Generally, a fair hearing involves disclosure, a reasonable opportunity to respond and impartiality.

While the subject officer was provided with procedural fairness during the investigation, he was not given an opportunity to respond to the disciplinary finding or to the proposed performance improvement actions.

#### Case study

In this matter a senior officer (the subject officer) procured three different services from the same supplier at a total cost of \$25 000. The subject officer had a personal relationship with the supplier.

The subject officer failed to declare and report the conflict of interest to the CEO. As a result, no provisions were put in place to record and manage the conflict appropriately and transparently as part of the procurement processes.

While the appropriate procurement processes appear to have been followed, the subject officer let the process down by not declaring the conflict. The subject officer could have provided the successful supplier with an unfair advantage in the procurement processes by discussing the quotes from the other suppliers.

The subject officer was interviewed on several occasions and claimed that he had never heard of a conflict of interest. This response is of great concern to the CCC, noting the seniority of the subject officer and his long-term employment with the agency.

At the completion of the interviews the subject officer was provided with a copy of the interview notes and given an opportunity to respond to the interview. Although he was shown procedural fairness during the investigation process, he was not given an opportunity to respond to proposed performance improvement actions (e.g. no performance bonus and the removal of financial delegation).

### Recommendations

- (a) The agency apply the civil standard of proof in disciplinary investigations. That is, the allegations must be proved on the balance of probabilities (e.g. the “Briginshaw test”).
- (b) Provide a fair hearing to the subject officer by ensuring the disciplinary process:
  - (i) allows the subject officer a reasonable opportunity to show cause why a disciplinary finding should not be made against them
  - (ii) allows the subject officer a reasonable opportunity to show cause about whether any (or what) disciplinary action should be taken against them, if the disciplinary finding is made against them.

**Note:** In responding to this audit, the agency had amended the relevant policy to include procedural fairness, and confirmed to the CCC that this will be the practice going forward.

<sup>19</sup> Procedural fairness – also referred to as “natural justice” – applies to any decision that can affect the rights, interests or expectations of individuals in a direct or immediate way. Procedural fairness is, at law, a safeguard applying to the individual whose rights or interests are being affected.

### Area for improvement 13 – Corruption prevention measures

The audit identified opportunities for two agencies to further strengthen their prevention measures in circumstances where the recommended actions did not address the internal control deficiencies. In both matters the subject officers misused their position and failed to declare a conflict of interest.

#### Case study

An Evaluation Panel Team was formed in late 2014 for a state-wide standing offer arrangement (SOA) tender process. The subject officer was a member of the six-person Evaluation Panel Team.

All panel members completed an Acknowledgement of Obligations form. This form discusses conflicts of interest and clearly states “...I shall not engage in any activity or obtain an interest likely to conflict with my impartiality in respect of the Panel’s functions. In the event that such activity or interest arises, I shall immediately disclose it to the agency”. The subject officer signed this form acknowledging her obligations as an evaluation panel member.

The SOA was issued to market in June 2015 and closed on 16 July 2015, with submissions received from 47 offerors.

After the offer submission process closed two meetings were scheduled, in September and October 2015, to discuss the evaluation of the submissions. The evaluation report was not signed by all six panel members until January 2016, and was then approved by a procurement delegate in February 2016. Of the 47 offers received, 23 were successful and formed the SOA.

The investigation identified that in March 2016 the subject officer became interested in a career change and made employment inquiries with offerors A and B, who had submitted offers to the SOA tender process.

The subject officer then participated in the evaluation panel meeting that decided on the 23 successful offerors, which included offerors A and B. She subsequently further pursued the employment opportunity with offeror A. She provided no advice about this to her employer until she resigned her position to take up a role with offeror A.

In the above case study, the subject officer failed to notify the panel chair that she was engaging in employment discussions with some of the offerors. The panel chair also failed to ask members, at the evaluation meetings, to revisit their probity obligations and declare if they had, or may have had, a conflict of interest.

Prevention initiatives are not optional. Effective risk management and internal controls are central to good governance, allowing an agency to minimise the costs of corrupt conduct and contribute to the integrity of the public sector.

Some of the strategies the CCC has recommended agencies consider implementing include:

- The evaluation chair asking panel members to revisit their probity obligations at the end of each key stage in the lifecycle of a particular procurement.
- Having a contract condition that prevents suppliers recruiting staff from the procuring agency during the life of the contract, or for a certain period (e.g. 12 months) after it has expired.
- Reminding all staff of their responsibility to declare a conflict of interest (including secondary employment) as soon as it is identified.
- Where an officer has been reminded by a supervisor/other officer to declare a conflict of interest, the supervisor taking ownership of the risk and ensuring the direction is complied with. This can be achieved through reporting it to the Senior Executive Group and/or the CEO for monitoring.
- Implementing the recommendation pertaining to “Area for improvement 4 – Detection control mechanisms” made in the CCC’s recent *Managing corruption risks associated with secondary employment, Summary Audit Report* (October 2018).

#### Recommendations

- (a) Consider and implement the prevention measures as communicated to relevant agencies.
- (b) In each instance where corrupt conduct is detected, the relevant owner of the control should reassess the adequacy of the internal control environment (particularly those controls directly impacting on the corrupt incident and potentially allowing it to occur) and consider whether improvements are required. Where improvements are required, these should be implemented as soon as practicable.

**Note:** The two agencies related to this issue have acknowledged the specific recommendations to the relevant matters audited by the CCC to further strengthen prevention measures.

One of the two agencies believes including a contract condition forbidding suppliers from employing staff from the agency does not balance the interests of the organisation (in respect of its probity obligations) and the interests of the organisation's staff, many of whom will not be involved or even aware of any current procurement activities. The agency did provide further prevention measures requiring any evaluation panel member to specifically declare at each key stage of the procurement lifecycle that there is no other reason which would constitute an actual or perceived conflict of interest which would mean that they should immediately withdraw from the procurement activity.

The other agency had employed a Principal Fraud and Corruption Control Officer to develop and embed a consistent approach to dealing with complaints of corrupt conduct – including to systematically examine the adequacy of internal controls relevant to complaints and, where appropriate, identify opportunities for improvements to these controls.

## Conclusion

The CCC's audit identified a number of areas for improvement in relation to procuring and contracting goods/services and the management of associated corruption risks.

Queensland Government agencies should note that the creation and maintenance of records should cover any procurement in order to comply with all legal requirements, not just with a significant procurement. For example, agencies are required to maintain full and accurate records under the *Public Records Act 2002*. Maintaining appropriate records provides evidence that an agency's procurement processes are legitimate and is an important way of demonstrating accountability and transparency.

Documentation should be sufficient to provide an understanding of why the procurement was necessary, the process that was followed, and all relevant decisions made and the basis of those decisions. In particular, there should be evidence of the reasoning behind any decisions made and the rationale for any departure from established procedures. The CCC is not saying that low-value or low-risk procurements must have detailed documentation. We are saying that the nature and risk profile of the procurement being undertaken will influence the mix and level of documentation required.

A procurement process that is well documented will reduce the likelihood of challenges or, if there is a challenge, enable the agency to provide an explanation for its actions.

With respect to the Health Services, the Department of Health considered the CCC's detailed audit report a valuable resource and have said they will use it in strengthening corruption prevention concerning probity during procurement across Queensland Health. The Department will also use the CCC's audit report to follow up with the five audited Health Services as well as the other Health Services to strengthen their approach to probity in contracting.

Queensland Government agencies must give suppliers wishing to do business with them a reasonable opportunity to do so in an environment of probity and accountability. Staff are responsible for ensuring actual, potential or perceived conflicts of interest are identified, disclosed and managed in accordance with the Queensland Procurement Policy and the agency's procedures and supporting frameworks.

Implementing probity is a reflection of an agency's culture, and demonstrates an agency's preparedness to be assessed on its procurement decisions and its ability to withstand public scrutiny.

Agencies should ensure their procurement and contract management procedures and supporting frameworks are providing clear messages and processes, and comply with the Queensland Procurement Policy.

## Appendix 1: Corruption prevention guide: Lessening the corruption and probity risks in procurement

### #1 Getting advice about potential corruption risk areas

As well as this summary audit report, the CCC has a range of other prevention resources that can assist Queensland Government agencies manage corruption risks. They include:

- Procurement and contract management<sup>20</sup>
- ICT procurement – what are the corruption risks?<sup>21</sup>
- Summary audit reports.<sup>22</sup>

### #2 Getting advice about procuring goods/services including managing contracts

The Office of the Chief Advisor – Procurement, Department of Housing and Public Works has published a range of guidance materials to help Queensland Government agencies manage their procurement and contracting activities effectively and transparently. These guides should be read together. They include:

- Putting Queenslanders first when securing value for money
- Probity and integrity in procurement
- Inviting offers
- Evaluating offers
- Local benefits test
- Managing and monitoring suppliers' performance
- Optimising opportunities for local suppliers
- Supply market analysis
- Use of probity auditors and advisors in procurement
- Queensland Government Procurement Contract Management Framework.

More information about procurement can be found on the Department's website.<sup>23</sup>

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20 <http://www.ccc.qld.gov.au/corruption-prevention/corruption-prevention-advisories>

21 <http://www.ccc.qld.gov.au/corruption-prevention/prevention-in-focus>

22 <http://www.ccc.qld.gov.au/corruption-prevention/audit-plan>

23 <https://www.forgov.qld.gov.au/procurement-guides>







## Crime and Corruption Commission

QUEENSLAND

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