

Complexity and Capability Assessments Guideline

Purpose

The Procurement Governance Policy requires public authorities to undertake a complexity and capability assessment during procurement activity planning, before commencing an individual procurement process and during contract handover.

Complexity and capability should also be reassessed throughout the procurement process and during contract management based on any new information.

This Guideline provides guidance on how to assess the complexity of a procurement and resulting contract and ensure the public authority has the appropriate capability to undertake the associated procurement and contract management activities.

Scope

This Guideline is divided into three parts and covers:

1. Assessing the organisational (holistic) capability of the public authority
2. Developing a public authority's complexity scale, as part of a public authority's internal procurement framework
3. Assessing individual procurement and contract management activities to determine the complexity and capability required to carry out those activities efficiently and effectively.

Part 1 – Assessing the Public Authority's Capability

Procurement capability is about matching the persons, resources, systems and processes to the requirements of a procurement - ensuring sufficient expertise is in place to carry out the procurement and contract management successfully.

Capability refers to both the public authority (including its strategy and outcomes and stakeholders) and the individual (personnel). Assessing a public authority's capability not only ensures the public authority can carry out its procurement and contract management activities effectively and efficiently, but also identifies areas for improvement.

The public authority's capability is comprised of its governance, people, processes, resources, systems and development. Capability is not static and can always be improved. The Public Authority Capability Assessment Tool can be used to assist public authorities to assess their organisational capability. Further information about the key categories of capability is provided over the next section of this Guideline.

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Governance

Public authorities can increase their capability with good governance. This includes, but is not limited to:

- Clear policies which are available to all staff and are reviewed on a regular basis.
- Procurement and contract management policies that are aligned to the strategic direction and objectives of the public authority.
- The annual business or strategic plan of the Central Procurement Unit (CPU), if applicable.
- An organisational structure that includes roles, responsibilities and approval pathways.
- Established relationships with internal stakeholders, with responsibilities identified.
- Policy or procedures for determining procurement risk, linked to the organisational risk profile.
- A scheduled program for internal reviews, with internal audit if applicable, and biennial external reviews.

People

People in the public authority are an important part of procurement and contract management success. Investing in personnel capability increases the public authority's capability. This can include, but is not limited to:

- The skills and experience of the personnel they have as a collective and determining if there are areas that could be improved upon.
- Specific procurement knowledge and experience of their procurement personnel for example:
 - Do they possess specialist knowledge related to the public authority and/or category knowledge?
 - Do they normally procure the same type of goods or services?
 - Do they operate within a centralised or decentralised procurement model?
 - Do the procurement practitioners hold qualifications?
 - Do they coordinate procurement activities and provide specialist advice?
- How public authorities manage the transition of a procurement activity to a contract management activity. For example:
 - When are contract managers consulted in the procurement process?
 - Is there a documented process for transition and handover?
- Specific knowledge and experience of their contract management personnel. For example:
 - Is contract management centralised or supported by a centralised contract management function?

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- Is there an internal network for contract managers?
- If contract management is decentralised, are the public authority's specific requirements included in induction?
- How are contract management skills developed by the public authority?

Processes

Documented procurement processes, that align with best practice or are moving towards best practice, are important in assisting procurement and contract management personnel to comply with the public authority's internal procurement framework and ensure consistency and efficiency across activities. Processes that are easy to understand, well communicated and readily available can contribute to a public authority's capability.

Public authorities which perform many activities with varying complexity can scale processes so that risks are managed, whilst achieving maximum efficiency in the process. Processes and other factors that can contribute to capability include but is not limited to:

- The portfolio of procurement activities performed on a regular basis (to determine the appropriate processes and supporting systems).
- The procurement activity planning process, including strategic analysis of the portfolio of activities in a holistic sense. That is, not just determining the activities which will fall in the following 24 months, but also whether collaborations between public authorities can be increased, or innovation fostered.
- An approval authorisation process that ensures appropriate oversight is provided, without creating overly conservative processes or bottlenecks.
- End-to-end procedures that allow new starters or casual practitioners to manage or contribute to an activity e.g. planning, sourcing and contract management.
- Effectively engaging industry and promoting innovation in procurement activities.
- Post sourcing reviews that consider lessons learned and contribute to continuous improvement.
- Recording and responding to supplier complaints.

Resources

Providing procurement and contract management personnel with the tools they need to complete activities helps to ensure standardisation across activities. A consistent approach assists internal customers to understand what they need to think about and the types of information they need to provide. It can also assist those with an approval authority to more easily understand what they are approving and where to find the information that is important to them. External stakeholders may also benefit, by gaining an understanding of how the public authority will interact with them in a consistent manner.

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Resources that contribute to capability include but is not limited to:

- templates for repetitive tasks such as acquisition strategy, market approaches, evaluation, recommendations, risk assessment, contract management plans and reports
- templates that can be scaled for the complexity of an activity
- tools that are accessible and available to everyone that needs them.

Systems

The right systems can assist public authorities to better manage and monitor their procurement and contract management activities.

Public authorities may benefit from a procurement and contract management system to record and manage complex and strategic contracts (at a minimum). This system/s should contain a process for capturing pertinent procurement and contract management details and making them available to personnel that need it.

An electronic document and records management system (EDRMS) may help a public authority to manage the creation, use, management, storage and disposal of physical and electronic documents and records. The type of EDRMS will depend on the size and complexity of the organisation. The chosen EDRMS will help to ensure accurate records are kept in a central location for all stages of an activity.

Specialised systems can contribute to a public authority's capability. Examples include:

- an online ordering system
- a supplier reporting tool and performance monitoring tool.

Capability Development

As mentioned above, developing personnel can improve the public authority's capability. Public authorities should consider how they monitor and measure the success of the procurement function, identify their strengths and areas for improvement, and how they will increase their capability. The Public Authority Capability Assessment Tool can be used to assist with this process and the public authority's own Capability Development Plan, to be reviewed annually, can be used to capture this information.

In accordance with the Procurement Planning Policy and the Contract Management Policy, the following training is mandatory for public authority personnel (including contracted staff) managing procurement planning and managing contracts. These training requirements should be taken into consideration when assessing the suitability of personnel for procurement and contract management activities following the complexity assessment (see Part 2 for details on the complexity assessment).

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| Training | Frequency | Transactional | Routine | Complex | Strategic |
|--|-----------|---------------|----------|----------|-----------|
| Procurement Planning | | | | | |
| Industry Engagement | 3 years | Optional | Optional | Required | Required |
| Contract Management | | | | | |
| Introduction to Contract Management (or similar) | 2 years | Required | Optional | Optional | Optional |
| Principles of Contract Management (or similar) | 2 years | Optional | Required | Required | Required |
| Advanced Contract Management (or similar) | 2 years | Optional | Optional | Required | Required |

Procurement Services SA has a whole-of-government capability development strategy to help personnel develop their individual capability. Public authorities are encouraged to review the training and capability opportunities and consider what will work best for their people and teams.

Part 2 – Developing the Internal Complexity Scale

The government aims to ensure that procurement and contract management activities are performed in a way that is fit-for-purpose. Consequently, the government has adopted a risk-based approach intended to match the complexity and capability to the desired procurement outcome.

Complexity refers to the level of difficulty involved in procuring a good or service. An assessment of complexity considers a broad range of factors including risk, whole-of-life cost and market dynamics associated with the procurement and contract management activities.

The Procurement Governance Policy identifies that the complexity assessment will classify the procurement and contract management process as either:

- Transactional – low risk procurements/contracts with a value up to and including \$55,000.
- Routine – generally low/medium risk procurements/contracts valued above \$55,000.
- Complex – generally medium risk and higher value (valued above \$550,000) procurements/contracts.
- Strategic – generally high value, high risk procurements/contracts with a high complexity; but some lower value procurements or contracts may be strategic for reasons other than price.

The public authority should assess its portfolio to determine its own complexity scale, as it would to develop its own risk management framework. Public authorities

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should take into consideration factors such as the:

- categories of goods and services it procures on a regular basis (for example, over a 4-year planning cycle)
- quantity and frequency of procurement activities
- level of risks identified and managed in contracts and contract management plans
- maturity and public authority knowledge of the market and the goods and services that are procured
- availability of the procured goods and services
- value of the portfolio of existing contracts and planned procurement activities as a proportion of the public authority's total spend
- level of resources the public authority has to deliver the procurement planning, sourcing and contract management activities in its portfolio
- skill and experience (capability) mix of the personnel available to deliver the procurement planning, sourcing and contract management activities in its portfolio.

A more detailed list of suggested considerations is provided at *Appendix 1*.

Once these inputs are collated, public authorities should determine the key determining factors and a proportionate scale of risk and value for these activities to be measured against. This will become the complexity scale applied to each procurement activity within the public authority. An example complexity scale is provided at *Appendix 2*.

The complexity of the procurement and subsequent contract should be assessed early in the procurement planning process. This assessment helps determine which of the key procurement and contract management steps are performed, and the level of detail required for each step.

The public authority's internal procurement framework should set out the requisite level of effort and detail required for Transactional, Routine, Complex and Strategic procurement activity. This can differ between public authorities. For example, a small public authority, with a small budget may consider software a complex procurement, but a larger public authority may procure such items regularly and consider this a routine procurement.

Once the portfolio of activities is determined, the public authority should determine the capability required to deliver the program of procurement activity and review this each year.

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Part 3 – Assessing Procurement Activity Complexity and Capability (Resource Allocation)

Once the public authority's internal complexity scale is developed, it can be used to perform complexity assessments of individual procurement and contract management activities.

Assess Complexity

The complexity assessment should consider:

- whole-of-life costs as a proportion of public authority spend
- criticality of that good or service to the running of the public authority
- competition for that good or service and the maturity of the market
- impact to market
- customisation of good or service
- confidence that output or outcome can be achieved.

The result of the complexity assessment determines the scale of complexity (i.e. transactional, routine, complex or strategic) of the procurement and contract, and then the requirements of the individual procurement process.

It is important to note the difference between the complexity assessment and the commercial risk assessment¹. Like the commercial risk assessment, the complexity assessment provides opportunities to reduce the risk during the procurement planning phase. It is good practice to consider ways in which complexity can be reduced. An example might be to liaise further with industry prior to approaching the market to ensure that the market is capable of delivering the desired outcome.

Complexity can change throughout a procurement or contract management activity. Complexity should be reassessed during contract handover, particularly if there is a deviation from an approved process, a change to a supplier relationship or performance. These are examples only, and are not exhaustive circumstances.

Assess Capability

The capability required to deliver the identified procurement outcomes should be assessed prior to commencing the procurement activity. For personnel, this can be performed by determining the skill level, experience and availability of the internal resources and any mandatory training that may be required for a particular procurement activity. Factors the public authority may consider to determine whether its personnel have sufficient capability include but is not limited to the:

- experience of that person with similar activities and in what capacity (e.g. lead or

¹ Refer to the *Risk Management Guideline* for more detail.

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- supporting roles)
- complexity of those similar activities
- ability to identify, analyse and manage risk, including procurement and commercial risk
- training that person has undertaken including any related qualifications they possess
- the person's understanding of the business requirement and the market
- and other skills and experience that would be advantageous.

Help from Procurement Services SA

Public authorities can use internal resources or request assistance from Procurement Services SA where there is a skill gap or resource constraint.

If it is determined that a public authority does not have sufficient procurement capability, before proceeding, the public authority is required to seek advice from Procurement Services SA. This may include referring the procurement to Procurement Services SA for oversight and management or engaging external support and expertise.

Procurements can be referred to Procurement Services SA by the respective Central Procurement Unit, Chief Executive, Procurement Governance Committee, a Minister or Cabinet. Procurement Services SA can be contacted at: procurement@sa.gov.au.

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Appendix 1 – Complexity Scale Considerations

The following table provides some prompts to consider when determining a public authority’s internal complexity scale. The result should be a range from low to extreme risk. These questions should be considered:

- at a public authority-level, rather than a single procurement; and
- over the reference period. This is a reasonable time period that would capture infrequent but significant-valued procurement activities, for example, a 4-year or 8-year cycle.

This can be done by reviewing all the contracts in the public authority’s contract register and determining the longest contract term (duration). Compare this against the expected contract terms in the public authority’s Procurement Activity Plan.

| Complexity Category | Type | Considerations |
|---|------------------------|--|
| Whole-of-life (WOL) costs as a proportion of public authority spend | Range | <ul style="list-style-type: none"> • If the public authority collated a list of all the procurement activities performed in the last reference period, what is the range of WOL costs the public authority can expect to approach the market for? <ul style="list-style-type: none"> ○ e.g. between \$2,000 and \$5,000,000. • What is the public authority’s procurement budget? How does the WOL cost of its procurement activities affect the budget? That is, what is considered a significant proportion of budget for one procurement activity? Consider the impact of having to re-approach the market if the procured item is unsuitable. |
| | Majority of activities | <ul style="list-style-type: none"> • Within that range, where do the majority of the procurement activities fall? • Are those procurement activities well-managed and controlled? Do they regularly achieve the desired outcome? |
| | Controls | <ul style="list-style-type: none"> • What controls does the public authority have to manage high cost activities? <ul style="list-style-type: none"> ○ e.g. does the public authority have a well-developed procurement and contract management team with a range of prior experience, training and capability? |
| Criticality of that good or service to the running of the public authority | Range | <ul style="list-style-type: none"> • What is the range of criticality of goods or services to the running of the public authority (or government as a whole)? What would be the impact if that good was not fit-for-purpose or could not be delivered for any reason? <ul style="list-style-type: none"> ○ e.g. supply chain breakdown or supplier insolvency; ○ minor inconvenience to complete shutdown of public authority (or government as a whole). • Are there workarounds that can be applied to keep the public authority (or government as a whole) running? How easy, fast and cheap is it to implement these workarounds until a suitable replacement is found? |
| | Majority of activities | <ul style="list-style-type: none"> • Within that range, where do the majority of the procurement activities fall? • Are those procurement activities well-managed and controlled? Do they regularly achieve the desired outcome? |
| | Controls | <ul style="list-style-type: none"> • What controls does the public authority have to manage critical goods or services? <ul style="list-style-type: none"> ○ e.g. allowing for different supply solutions to achieve the desired outcome; ○ identifying multiple supply sources |



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| Complexity Category | Type | Considerations |
|--|------------------------|--|
| Criticality of that good or service to the external customers / end users / community | Range | <ul style="list-style-type: none"> What is the range of criticality of goods or services to external customers? What would be the impact if that goods or services could not be delivered? <ul style="list-style-type: none"> e.g. vulnerable people at risk of harm (medical, physical, mental) |
| | Majority of activities | <ul style="list-style-type: none"> Within that range, where do the majority of the procurement activities fall? Are those procurement activities well-managed and controlled? Do they regularly achieve the desired outcome? How are external customers engaged or consulted? |
| | Controls | <ul style="list-style-type: none"> What controls does the public authority have to manage these critical services? <ul style="list-style-type: none"> e.g. How do public authorities plan for and prioritise critical goods and services? |
| Competition for that good or service | Range | <ul style="list-style-type: none"> When the public authority makes a purchase, what is the range of competition that it encounters? <ul style="list-style-type: none"> e.g. from many market players, to only one. |
| | Majority of activities | <ul style="list-style-type: none"> Within that range, where do the majority of the procurement activities fall? Does the public authority often buy goods or services that have minimal competition? Are those procurement activities well-managed and controlled? Do they regularly achieve the desired outcome? |
| | Controls | <ul style="list-style-type: none"> Does the public authority have regularly-used practices or tools that manage the risk of less competition? <ul style="list-style-type: none"> e.g. issuing a market approach, even if only one known supplier, to give the appearance of competition; breaking down price into small enough components with enough data to allow sense-checking of price (e.g. requiring prices to contain hours and duration so that the rate can be determined and potentially the risk and contingency allowance). |
| Impact to market | Range | <ul style="list-style-type: none"> When the public authority makes a purchase, what is the range of impact on the market? Is it a large or small buyer in the market? <ul style="list-style-type: none"> e.g. from no noticeable market share, to a majority of the market share. Are suppliers dependent on this public authority's procurement? Does it have the potential to shape or change the competition in the market? |
| | Majority of activities | <ul style="list-style-type: none"> Within that range, where do the majority of the procurement activities fall? Are those procurement activities well-managed and controlled? Do they regularly achieve the desired outcome? |
| | Controls | <ul style="list-style-type: none"> What controls does the public authority have to manage high impact to the market and prevent lessening of competition? <ul style="list-style-type: none"> e.g. contract term (duration), breaking up contracts into discrete scopes for multiple suppliers. |
| Customisation of good or service | Range | <ul style="list-style-type: none"> What is the range of customisation/modification/special handling in the products that are purchased during the reference period? <ul style="list-style-type: none"> e.g. no customisation but some configuration to bespoke solutions. |
| | Majority of activities | <ul style="list-style-type: none"> What is the level of customisation/modification/special handling in the majority of goods or services procured by the public |

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| Complexity Category | Type | Considerations |
|---|------------------------|---|
| | | authority? <ul style="list-style-type: none"> • Are those procurement activities well-managed and controlled? Do they regularly achieve the desired outcome? • Has any customisation of the goods or services detrimentally affected the maintainability of the outcome/output? |
| | Controls | <ul style="list-style-type: none"> • What controls does the public authority have to manage a customised product? <ul style="list-style-type: none"> ○ e.g. well-developed two-stage procurement process to best determine potential suitable innovation; ○ very clear outcome specified which is developed with the industry and internal technical subject matter experts. |
| Confidence that good or service can be delivered | Range | <ul style="list-style-type: none"> • What is the range of confidence that the outcomes or outputs can be delivered? How confident is the definition of the need and inputs? What is the likelihood of scope creep? <ul style="list-style-type: none"> ○ e.g. well-defined scope with high confidence of deliverability to difficult-to-define or not confident a supplier exists who is capable of delivering the outcome or output. • Is the solution readily comparable in the market or is the solution likely to be so innovative that some costs are unknown? |
| | Majority of activities | <ul style="list-style-type: none"> • Within that range, where do the majority of the procurement activities fall? • Are those procurement activities well-managed and controlled? Do they regularly achieve the desired outcome? |
| | Controls | <ul style="list-style-type: none"> • What controls does the public authority use to manage confidence risks? <ul style="list-style-type: none"> ○ e.g. two step procurement process to determine deliverability of outcome or output; ○ significant industry engagement to determine the suppliers with the rights skills even if they do not have the experience; ○ internal technical subject matter expert and experienced and skilled procurement and contract management lead involvement; and ○ managed capability uplift with supplier to lead to delivery (work with potential suppliers to upskill them to either produce outcome or output, or to be successful in the market). |

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Appendix 2 – Complexity Scale

The table below is an example. Public Authorities that use this complexity scale should include factors and examples specific to them.

| Scale | Transactional | Routine | Complex | Strategic |
|--|---|--|--|---|
| Key Defining Factors (examples only) | The goods or services are: <ul style="list-style-type: none"> low risk readily commercially available; able to be readily sourced from numerous suppliers will have a simple specification suitable without any special handling, customisation, modification or adaptation. May require configuration often one-off purchases. low value (valued up to and including \$55,000) Not critical to the operation of the public authority, which could operate reasonably without them | The goods or services are: <ul style="list-style-type: none"> generally low/medium risk; readily commercially available; able to be sourced from numerous suppliers (competitive market) will most likely have a simple specification suitable without any special handling, modification or adaptation. May require configuration frequently procured. may be valued above \$55,000 for large quantities or long-term purchases Not usually critical to the operation of the public authority, which could operate for a reasonable period without them. There may be some inconvenience if the goods or services are delayed. | The goods or services are: <ul style="list-style-type: none"> medium risk commercially available but only able to be sourced from a limited number of suppliers will most likely have a complex specification may require some special handling, customisation, modification or adaptation may include whole-of-government contracts usually important, but not critical, to the operation of the public authority or may be important in managing risks facing the public authority. generally higher value (valued above \$550,000) There would be some impact on the way the public authority operates if the goods or services were delayed, and there could be considerable inconvenience, but this would not usually prevent the achievement of major public authority goals. | The goods or services are: <ul style="list-style-type: none"> generally high value, high risk, high complexity; but some lower value procurements may be strategic for reasons other than price may need to be created or developed specifically for the procuring public authority or require extensive modification or adaptation if commercially available only available from a limited number of suppliers in the market sourced via a complex open tender or staged sourcing approach where business criticality is high, and/or where the good/service is of state significance (may include whole-of-government contracts) may involve delivery of services to a vulnerable client group will have a complex specification often crucial to the achievement of major public authority goals. There would be significant, noticeable and unacceptable impact on the way the public authority operates if the goods or services were delayed. |

