

## 2.0 Guidelines on procurement procedures

### 2.1 Overview

#### Introduction

This chapter sets out general guidelines on the use of the approved procurement procedures contained in this manual, including guidelines on the process for customising and seeking approval for the use of customised procurement procedures.

#### In this chapter

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## 2.2 Introduction

### Definition

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Procurement is broad in scope. The OAG defines procurement as:

*... all the business processes associated with purchasing, spanning the whole cycle from the identification of needs to the end of a service contract or the end of the useful life and subsequent disposal of an asset.*

A procedure is broadly defined as encompassing the actions, processes and conduct that are systematically followed to give effect to something.

In the context of the LTMA, a procurement procedure governs the actions, processes and conduct designed to obtain the best value for money spent that an approved organisation follows when purchasing goods and services to deliver activities that the NZTA has approved for funding.

Once an activity has been selected and funding approved, the procurement procedure provides the guidelines, rules and tools to enable the approved organisation to purchase the required outputs. The procurement procedures in this manual are designed to obtain best value for money spent with regard to the purpose of the LTMA, and to enable competition that is fair and encourage efficient and effective markets.

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### Procurement procedures in this manual

Section 25 of the LTMA requires that the NZTA must approve one or more procurement procedures that are designed to obtain best value for money spent. The NZTA has developed a number of procurement procedures to be used by approved organisations that meet this test. This manual contains these procurement procedures and they have been defined in accordance with the types of activity commonly undertaken in the land transport sector:

- infrastructure
- planning and advice
- public transport services
- public transport fare subsidy schemes.

The approved procurement procedures are set out in detail in chapters 6 to 9 of this manual. Each procurement procedure chapter presents:

- guidelines on assessing the strategic context
- possible delivery models
- possible supplier selection methods
- guidelines on the contractual relationship between the purchaser and supplier(s).

Each procurement procedure has a number of options attached to each component, and approved organisations must follow the rules and guidelines contained in this manual to select the right options that will deliver the best value for money outcome for their procurement activity.

Describing procurement procedures in this way links them directly to the type of activity that is being undertaken, thus providing a clear choice as to which procurement procedure should be used in any given situation. Clearly distinguishing between each of the components enables the process to be broken down into discrete pieces of work, while also allowing for ease of understanding when approved organisations design customised procurement procedures. Using the right components of a procurement procedure for a particular procurement event has a direct bearing on obtaining best value for money spent.

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## 2.2 Introduction continued

### Relationship to other parts of this manual

Every purchasing decision made by an approved organisation must be made on the basis of how best value for money spent can be obtained. To ensure the procurement process works efficiently and effectively to support this objective, approved organisations must make a number of decisions. This manual contains guidelines on what must be considered:

- *Value for money spent* - Chapter 3 defines the approach to value for money and identifies the elements that help obtain value for money. In particular, it addresses how value for money can be obtained by selecting the most appropriate procurement procedure components.
- *Strategic approach to procurement* - Chapter 4 outlines how a strategic approach to procurement will enable approved organisations to use the procurement procedures in this manual to obtain the best value for money spent. The NZTA considers that it is best practice for approved organisations to develop a robust understanding of the strategic context in which they purchase and to document this in a strategy that covers a programme of transport sector procurement activity.
- *Delivery models* - A properly selected and applied delivery model is the foundation of the procurement process. Each procurement procedure sets out the available delivery models and contains guidelines for selecting the most appropriate delivery model for the procurement activity. Refer to chapters 6 to 9 for the procurement procedures.
- *Supplier selection process* - Chapter 5 sets out the process for selecting the supplier(s) for a procurement activity. The guidelines for selecting the method are in each procurement procedure. Refer to chapters 6 to 9 for the procurement procedures.
- *Rules* - Chapter 10 describes in detail the rules that govern procurement.

In most cases, each component of a procurement procedure identified here must be considered when applying a procurement procedure to a particular procurement activity. Due to the nature of the outputs being purchased, the exception is the approved procurement procedure for public transport fare subsidy schemes, which does not include all the components outlined here.

### Relationship to funding approval

The process of activity selection and funding approval is determined by s20 of the LTMA and is set out in the NZTA's *Planning, programming and funding manual*. In the process of formulating an activity, the evaluation process produces estimates of both the benefits or 'value' to be obtained from undertaking the activity as well as the estimated cost. This provides a 'base' value for money estimate from which to analyse the performance of the procurement activity.

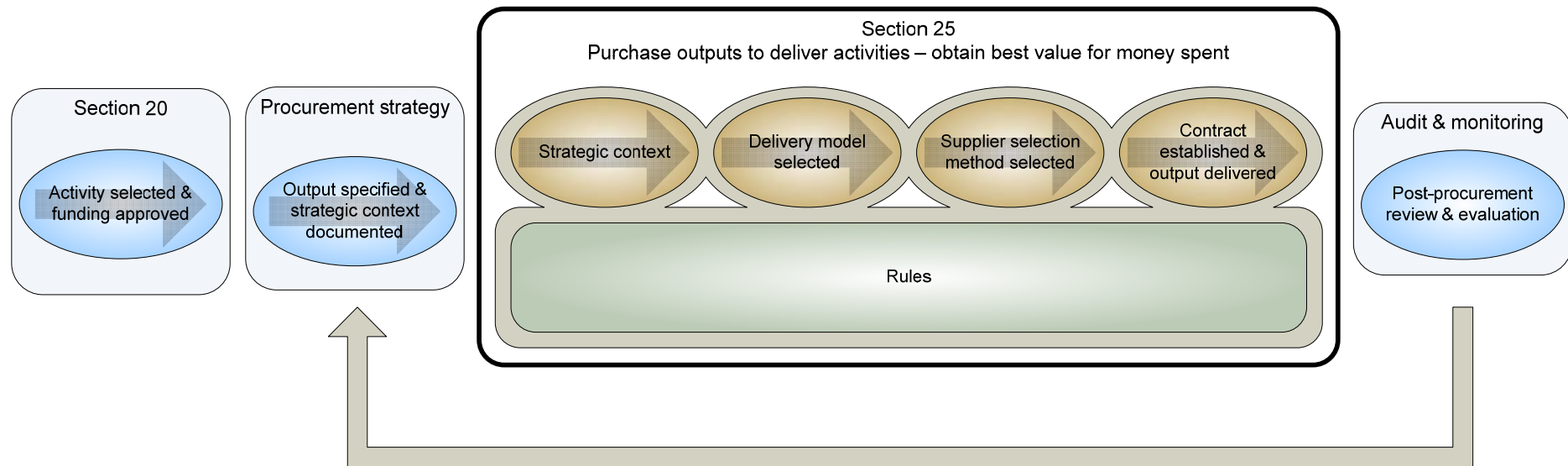
When linking optimal activity selection with the procurement process to deliver that activity, and to improve the value for money from the procurement process, approved organisations should consider:

- What are the benefits or 'value' expected to be produced by the activity?
- When are the benefits or 'value' expected to accrue from the activity?
- Has a whole-of-life value for money approach been taken into account?

The following diagram illustrates that procurement, through an approved procurement procedure under s25, then delivers the activity approved for funding.

## 2.2 Introduction continued

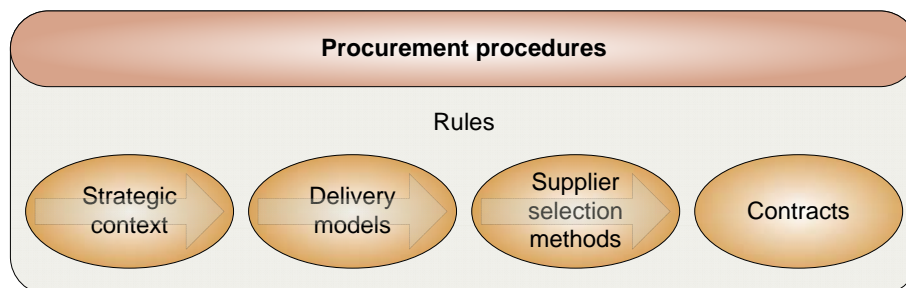
Overall procurement process – from activity selection to output delivery



## 2.3 Structure of procurement procedures

### Introduction

The following diagram provides an overview of how the different components of a procurement procedure relate to one another.



Two important elements influence the detailed design of a procurement procedure:

- the strategic context in which the procurement is undertaken
- the rules that apply to the procurement activity and that vary according to the type of procurement procedure used.

The detailed design of a procurement procedure commences with an evaluation of the strategic context within which the planned procurement is proposed to be undertaken. This is completed by examining the proposed procurement activity with reference to the approved organisation's strategic intent as documented in their procurement strategy.

The rules for a procurement activity govern the operation of the delivery models and supplier selection methods as they are applied to a procurement event.

The strategic context influences the delivery model that is selected to undertake the procurement activity, governing whether the delivery model is straightforward, such as a staged model, or whether the context warrants a more complex form of delivery model, such as a shared risk arrangement. The selection of the delivery model then has a bearing on which supplier selection method is the most appropriate.

### Value for money

The procurement process enables an approved organisation to maintain or enhance the 'value' identified through the s20 process. In this respect, the purpose of procurement is to:

- maintain the value for money outcomes identified by ensuring that the expected value is delivered, the expected quality is provided and the expected cost and time is not exceeded
- where possible, enhance the value for money outcomes identified by enabling the identification of a solution with more value (eg higher quality), or at a lower whole-of-life cost than anticipated in the initial value for money evaluation.

Obtaining the best value for money spent is more likely to occur if a procurement procedure is applied in the systematic manner described above, including an evaluation of the process. Post-procurement review and evaluation is a critical part of following a rigorous process to determine if value for money spent has been maintained or enhanced through the procurement process. The evaluation process should examine the outcomes from the procurement activity against those initially identified during the funding approval process. There should also be a feedback mechanism into the procurement strategy to ensure that it continues to reflect and be consistent with the environment in which the approved organisation operates.

## 2.3 Structure of procurement procedures continued

### **Procurement procedure definitions**

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The definition of each procurement procedure is linked to the type of activity being undertaken. For instance, an activity that has as its primary output the construction of a bridge is primarily a physical works activity, though it will also involve design and project management consultancy services. Therefore, in such a circumstance, the infrastructure procurement procedure must be used.

The following sections define each procurement procedure and the type of activity covered by it.

#### **Procurement procedure 1 – Infrastructure**

The infrastructure procurement procedure covers those activities involving expenditure of NLTP funds on the physical works and professional services for the operation, maintenance, renewal, improvement and construction of new infrastructure.

#### **Procurement procedure 2 – Planning and advice**

The planning and advice procurement procedure covers the selection and engagement of supplier(s) to carry out professional services not directly related to immediate expenditure on physical infrastructure or public transport services.

#### **Procurement procedure 3 – Public transport services**

The public transport services procurement procedure covers those activities involving expenditure of NLTP funds on the purchase of public transport service operations for the carriage of passengers on buses and ferries.

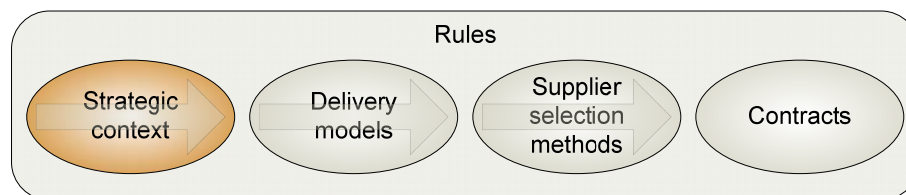
#### **Procurement procedure 4 – Public transport fare subsidy schemes**

The public transport fare subsidy schemes procurement procedure covers those activities involving expenditure of NLTP funds on the purchase of access to fare subsidies.

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## 2.4 Strategic context

### Summary



Before an approved organisation undertakes a procurement activity, it must consider the strategic context to ensure that the proposed approach to delivering the activity is consistent with its strategic intent as documented in its strategy. This is to ensure that the approach to purchasing the outputs is consistent with the approved organisation's strategic approach and that the right delivery models and supplier selection methods are used to maximise the opportunity to obtain the best of value for money spent. The following actions should be considered when assessing the strategic context:

- Reference the application for funding approval under s20 of the LTMA and identify the factors that can influence the achievement of the approved organisation's strategic procurement objectives.
- Determine if the scope and objectives for the procurement activity as set out in the funding application remain relevant.
- Consider how the value identified through the s20 process can be maintained or enhanced.
- Consider activity-related issues, including:
  - What are the risks associated with the activity?
  - Is the activity straightforward or does it contain unusual or uncommon aspects that may increase its complexity?
  - Does the activity offer opportunities for innovation?
  - Can the activity be integrated or coordinated with other activities?
- Consider market circumstances, including:
  - Is there a competitive supplier market available to undertake the activity?
  - Can better value for money be obtained by further developing the supplier market or by undertaking professional services in-house?
  - Does the procurement activity involve a complex process, pose higher risk or require specialist equipment that limits the number of potential suppliers in the market?
  - How does the size of the activity affect the market's capacity to deliver?
  - How does the timing relate to the market situation (ie is the activity being programmed at a time when the market is at capacity)?

## 2.4 Strategic context continued

### Summary continued

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- Assess the capability and capacity of the approved organisation, including:
    - Does the approved organisation possess the skills, experience and capability to manage the procurement process?
    - Does the approved organisation have the necessary resources to deliver the procurement programme?
    - Are the risks associated with the procurement programme or activity understood and able to be managed?
    - Who is best placed to manage the risks?

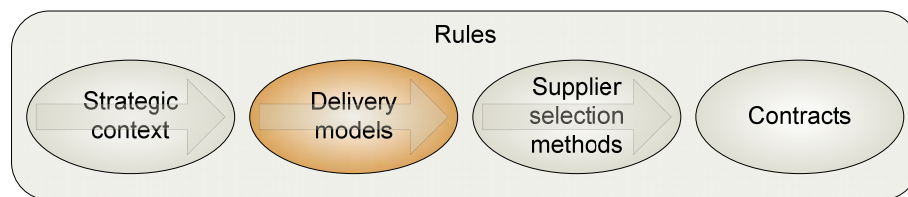
The outcomes from evaluating the strategic context have a direct bearing on the selection of the delivery model. Approved organisations must therefore demonstrate a sound understanding of how each procurement activity fits within their overall procurement programme so that the procurement procedure to be used enables the approved organisation to obtain the best value for money spent.

See chapter 4 *Strategic approach to procurement* for guidelines on developing a strategic approach.

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## 2.5 Selecting a delivery model

### Summary



A delivery model is the form of the relationship established between the purchaser and the supplier(s) to purchase the outputs required to deliver an activity.

This relationship commences when the approved organisation first interacts with the supplier market and finishes when the activity is completed and all contractual arrangements are concluded. It is about defining and putting in place the appropriate structures that establish the relationship between the purchaser, the potential suppliers and the preferred supplier(s).

Different delivery models are available for the four procurement procedures. While there are some overlaps between the procurement procedures, each has its own set of delivery models to be applied to particular activities. The choice of delivery model may change over time for a particular activity. For instance, during the early stages of investigation for a large construction project, a staged model will probably be followed. As the approved organisation moves through the delivery phases, the characteristics of the activity might be such that a design and build (design and implement for public transport) delivery becomes more appropriate.

The objective of this component of the procurement procedure design is to select a delivery model for carrying out the procurement and the delivery of the activity that maximises the potential for obtaining best value for money. Value for money involves obtaining the maximum economic, social and environmental benefits possible from an activity for the lowest overall whole-of-life cost.

Selecting the most appropriate delivery model can reduce the costs associated with purchasing the required outputs. These costs may include the identification and selection of suppliers and contract management costs.

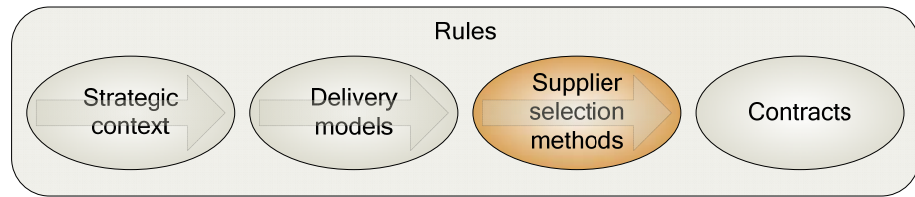
Delivery models help approved organisations obtain value for money by:

- setting the terms under which the required outputs are to be delivered
- allocating risk and control to the most appropriate parties to manage and mitigate those risks.

The specification and choice of the right delivery model for the procurement activity is an important component of a procurement procedure. The specific delivery models available for each procurement activity are provided in the procurement procedures.

## 2.6 Supplier selection methods

### Summary

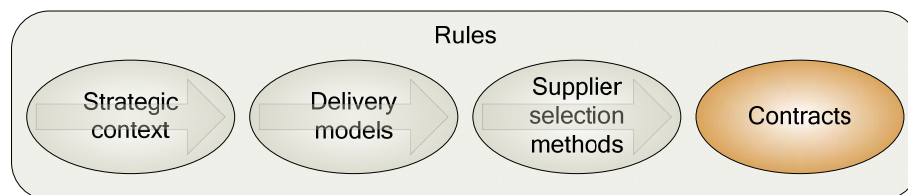


The supplier selection process is the means of obtaining the preferred supplier to deliver the outputs based on best value for money principles. The process is governed by a set of rules combined with a set of supplier selection methods, which enable an approved organisation to select the preferred supplier. Refer to chapter 5 *Supplier selection process* for guidelines on the process of supplier selection.

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## 2.7 Contracts

### Summary



The development of a contract integrates the previous stages and establishes the framework for the delivery of the activity. It also specifies the conditions assigned to the relationship between the purchaser and the supplier(s).

The scope and nature of the contracts used will vary in terms of the goods and services to be purchased and the scale and complexity of the activity.

The procurement procedures in this manual (refer to chapters 6 to 9) contain general guidelines on the factors that influence the scope and nature of contracts.

The form the contract takes to manage and deliver an activity is highly individual to that activity, so the decision on contract form rests with the approved organisation.

This manual contains no specific guidelines on the contract form to be adopted under a procurement procedure. Approved organisations can adopt the form of contract that best suits their procurement circumstances at the time the procurement activity is undertaken.

## 2.8 Customised procurement procedures

### Introduction

A customised procurement procedure is a procurement procedure that includes one or more components (or design details) that cannot be accommodated by the approved procurement procedures in this manual, including any advanced components.

A customised procurement procedure will usually be a one-off procurement procedure.

Where an approved organisation identifies a need for a customised procurement procedure, or is required by the NZTA as a condition of funding to develop a customised procurement procedure, prior approval for the use of the procedure is required from the NZTA under s25 of the LTMA.

To obtain approval for a customised procurement procedure, approved organisations should prepare a procurement procedure statement that:

- describes the proposed procedure
- explains how the proposed customised procurement procedure meets the requirements of s25
- identifies, where applicable, which approved procurement procedure it is based on
- identifies, where applicable, where the proposed procedure is inconsistent with the approved procurement procedure on which it is based
- identifies any relevant rules that will require a variation (refer to chapter 10 *Rules*).

The approved organisation seeking approval for a customised procurement procedure must set down in its application:

- how the procurement procedure is designed to obtain best value for money spent, with regard to the purpose of the LTMA
- whether two or more willing and able suppliers of the required outputs are available
- how fair competition will be enabled among the willing and able suppliers (if two or more exist)
- how the procurement procedure will encourage competitive and efficient markets for the supply of the outputs required.

Where the approved organisation proposes that competition will in some way be limited, then the value for money justification for that decision must be documented.

The NZTA will apply the following tests before approving a customised procurement procedure:

- Is the procurement procedure designed to obtain best value for money?
  - Is fair competition among willing and able suppliers enabled?
  - Are competition and efficiency in the affected supply markets encouraged?
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## 2.8 Customised procurement procedures continued

### Introduction continued

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A procurement procedure must always be designed to obtain best value for money under the requirements of s 25 and, therefore, this test must be met in the affirmative. The NZTA will consider the other two tests but may not require that each of these tests be met in the affirmative. A balance can be struck between value for money and the impact on competitive markets. The value for money benefits of a proposed customised procurement procedure may outweigh any negative impact on the competitive market.

An approved organisation's application for approval of a customised procurement procedure should refer to and if necessary include the approved organisation's endorsed procurement strategy. The application should refer to any relevant material changes to the strategic context that may adversely affect the competitiveness and efficiency of the supplier markets.

The NZTA will consider applications for approval of a customised procurement procedure on a case-by-case basis. The approved organisation must outline the rationale for how a customised procurement procedure will deliver better value for money and how they intend to use the customised procurement procedure.

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