

# Chapter 4

## Achieving value for money in Commonwealth procurement

4.1 This chapter discusses the concerns raised during the inquiry about the interpretation of the value for money criteria in the Commonwealth Procurement Rules (CPRs).

### Assessing value for money

4.2 The CPRs indicate that '[a]chieving value for money is the core rule of the CPRs'.<sup>1</sup> However, the CPRs state that '[t]he price of the goods and services is not the sole determining factor in assessing value for money' and the assessment requires consideration of relevant non-financial as well as financial costs and benefits.<sup>2</sup>

4.3 The CPRs do not provide a definition of value for money. Instead, officials responsible for a procurement 'must be satisfied, after reasonable enquiries, that the procurement achieves a value for money outcome'.<sup>3</sup> Broad requirements are listed:

- encouraging competitive and non-discriminatory processes;
- using public resources in an efficient, effective, economical and ethical manner that is not inconsistent with the policies of the Commonwealth;
- making decisions in an accountable and transparent manner;
- considering the risks; and
- conducting a process commensurate with the scale and scope of the procurement.<sup>4</sup>

4.4 In addition, the CPRs provide a non-exhaustive list of factors to consider when assessing value for money:

- fitness for purpose;
- a potential supplier's experience and performance history;
- flexibility (including innovation and adaptability over the lifecycle of the procurement);

---

1 Paragraph 3.2 of the CPRs, 1 July 2012. As noted in Chapter 2, references in this report are to the CPRs as they were prior to July 2014. Where significant differences exist between those CPRs and the CPRs introduced in July 2014, these will be noted in the committee's report.

2 Paragraph 4.5 of the CPRs, 1 July 2012. The CPRs of July 2014 do not contain the statement that the price of goods and services are not the sole determining factor in assessing value for money. However, paragraphs 3.2 and 4.5 of the CPRs, July 2014, state that financial and non-financial costs and benefits must be considered.

3 Paragraph 4.4 of the CPRs, 1 July 2012.

4 Paragraph 4.4 of the CPRs, 1 July 2012.

- environmental sustainability (such as energy efficiency and environmental impacts); and
- whole-of-life costs.<sup>5</sup>

4.5 The Australian National Audit Office (ANAO) explained how an assessment of value for money should occur:

At a basic level, obtaining value for money for each procurement action requires a comparative analysis of all the relevant costs and benefits of each supplier's proposal throughout the procurement cycle, and is not determined by price alone. It should also consider the whole-of-life costs of the procurement and include consideration of quality and overall fitness for purpose.<sup>6</sup>

4.6 The Department of Finance (Finance) commented that it believes the consideration of non-financial factors is supported by the procurement framework:

[I]n our view, while achieving value for money is the core principle of the CPRs, the procurement framework supports the consideration of non-financial factors and not just the price of goods and services. For example, procurement officials are expected to consider a range of factors during a tender evaluation. These include fitness for purpose, flexibility, environmental impact and whole-of-life costs, rather than simply the supplier with the lowest bid.<sup>7</sup>

### ***Consideration of non-financial factors***

4.7 However, this view from Finance that the consideration of non-financial factors is supported by the procurement framework was not shared by many witnesses who provided submissions or appeared before the inquiry. Witnesses expressed concern that agencies are using a very narrow interpretation of value for money to assess tenders and equating it with cost minimisation. For example, AUSBUY argued:

Australia's policy of value for money appears in practice to be interpreted rather as the cheapest price. This approach costs Australia in the disregard of such issues as intellectual property and failure to meet Australian standards.<sup>8</sup>

4.8 Australian Paper highlighted that the CPRs stated other factors should be considered alongside price:

...the concept of value for money is being applied too narrowly within [FMA Act] Government agencies. As the CPRs state, value for money should encompass a range of considerations including environmental

---

5 Paragraph 4.5 of the CPRs, 1 July 2012. Paragraph 4.5 of the CPRs, July 2014, includes an additional factor, 'the quality of the goods and services', and a new explanation of 'whole-of-life costs' at paragraph 4.6. These revisions are further discussed later in Chapter 4.

6 *Submission 31*, p. 4.

7 Mr John Sheridan, Department of Finance, *Committee Hansard*, 21 March 2014, p. 57.

8 *Submission 44*, p. 3.

---

sustainability, supplier experience and performance, innovation and adaptability and whole-of-life costs.<sup>9</sup>

4.9 SPC Ardmona noted the difficulty of assessing non-financial factors and called on the government to improve consideration and measurement processes:

'Value for Money' calls on government departments and agencies to view both financial and non-financial factors when procuring goods and services. In evaluating the procurement of Australian processed fruit and vegetables, non-financial factors such as food safety, occupational health and safety, fair wages, environment and product quality can be difficult to assess. Lowest price therefore has become the key selection parameter, with less weighting given to the above important non-financial factors. The inability to measure these important factors severely restricts the competitiveness of an Australian manufacturer, as these standards add cost and can lead to the appearance of our products being uncompetitive on price. This is despite the requirement on Australian growers and food manufacturers to adhere to some of the most stringent standards in the world.<sup>10</sup>

4.10 Mr Tony Butler observed a level of inconsistency with the assessment of value for money and indicated that value for money 'is used in some cases to represent an objective and in others (more appropriately) as a basis for comparing alternative outcomes'.<sup>11</sup>

4.11 In terms of how non-financial considerations should be taken into account, the ANAO stated:

They are weighted as part of the procurement process. Each procurement process would be different and would establish criteria before going out to the market to determine what is most important in the value-for-money considerations. But there are broad guidelines in the CPRs about what considerations need to be made.

...

I think it would be different in every case [to assess value for money over the whole life of a procurement] but there are broad parameters that should be considered. What attains the greatest weight in the decision process depends on the circumstances and the need.<sup>12</sup>

#### *Whole-of-life costs*

4.12 Submitters particularly drew attention to the need to determine whole-of-life costs, not just upfront costs, in an assessment of value for money.

---

9 *Submission 17*, p. 4.

10 *Submission 45*, p. 2.

11 *Submission 37*, p. 7.

12 Ms Tracey Martin, Senior Director, Australian National Audit Office, *Committee Hansard*, 21 March 2014, p. 14.

4.13 For example, the CFMEU emphasised that the cheapest price does not equal value for money and that considerations such as whole-of-life costs should be included in any analysis.<sup>13</sup> The CFMEU highlighted examples such as building products:

[W]hole-of-life costs and the fact that the imported products have shorter warranties or less secure warranties does not appear to be adequately taken into account in value-for-money decisions currently.<sup>14</sup>

4.14 The Australian Industry Group reported that there is an undue emphasis on upfront over whole-of-life costs:

The emphasis should be on 'value for money' over the whole life of a product or service and should take into account factors such as risk, reliability and future maintenance costs.<sup>15</sup>

4.15 The importance of whole-of-life costs was acknowledged by the ANAO as were the practical difficulties in conducting that analysis:

The notion of whole of life is very much an important element of the value-for-money equation. Obviously it is creating some practical difficulties for agencies when you are looking at large multi-year procurements as distinct from a small arrangement.<sup>16</sup>

### ***A broader approach***

4.16 Dr Skladzien, representing the Australian Manufacturing Workers' Union, while agreeing with the need to achieve value for money, argued that a more holistic approach is required which includes consideration of the flow-on or multiplier effects of awarding a contract:

It [the narrow interpretation of value for money] totally subtracts from the notion that once you spend the money, the money goes on and does things. It can go to the pockets or shareholders, it can pay labour, it can pay capital or it can do a whole bunch of things. Our view is that with those flow-ons what happens to the money is crucially important to government procurement decisions—or should be crucially important. In order to have a true assessment of the costs and benefits of a procurement decision, we need to know the full costs and benefits of procurement decisions. So if we are faced with a decision between A and B and the contract price is slightly different but A has a huge benefit for the development of technology in

---

13 Mr Travis Wacey, National Policy Research Officer, CFMEU, *Committee Hansard*, 28 April 2014, p. 14.

14 Mr Travis Wacey, National Policy Research Officer, CFMEU, *Committee Hansard*, 28 April 2014, p. 14.

15 *Submission 10*, p. 3

16 Mr Steve Chapman, Deputy Auditor-General, Australian National Audit Office, *Committee Hansard*, 21 March 2014, p. 13.

---

Australia and B does not then those benefits should be taken into account in that decision.<sup>17</sup>

4.17 This view was supported by Mr William Churchill, Communications and Public Affairs Manager, AUSVEG who suggested consideration be given to a local benefits test which would recognise the direct benefits for the community including: employment, tax revenue raised and compliance with Australian workplace laws. Mr Churchill argued that such a test would:

...allow for the assessors to consider the environment we have here in Australia and to measurably apply that to the Australian environment, saying that the preference may be not to discriminate but if we were to source this product from Australia we would be able to see these direct benefits flow through to the community. Certainly that would need to be done in a proper way with proper measurables, but it would be a chance to look at supplying from Australia, which is given no consideration in the current framework. Often, as we are seeing, it is all about price under section 4 [of the CPRs]—it is all about value for money and what is 'value for money'?<sup>18</sup>

4.18 The CFMEU suggested a 'true-value' process to be considered in tender evaluations where:

the onus [is] on the Australian supplier to quantify the return to the community in tax receipts and welfare expenditure saved from continued economic activity associated with local manufacturing and also any benefit to small and medium enterprises associated with continuing local manufacturing.<sup>19</sup>

### ***Constraints***

4.19 Dr Seddon explained that a selection committee reviewing tenders is not able to consider the multiplier effect of a particular tender unless directed to do so by a government policy and such a policy would be 'vulnerable to an accusation that it is a form of local preference'.<sup>20</sup>

4.20 Finance confirmed that additional benefits for the economy such as tax revenue, local employment and concepts such as 'national pride' are not taken into consideration by the CPRs:

[The CPRs] do not take that [tax revenue] into account. The requirements for what can be procured are driven by our free trade agreements, which require us not to take those matters into account.<sup>21</sup>

---

17 *Committee Hansard*, 21 March 2014, p. 44.

18 *Committee Hansard*, 21 March 2014, p. 52.

19 Mr Travis Wacey, National Policy Research Officer, CFMEU, *Committee Hansard*, 28 April 2014, pp 13-14.

20 *Committee Hansard*, 28 April 2014, p. 6.

21 Mr John Sheridan, Department of Finance, *Committee Hansard*, 21 March 2014, pp 60-61.

...

Australia does not have a 'national pride' exemption in any of our free trade agreements and if such a provision was implemented for Commonwealth government procurement it would contravene Australia's obligations.<sup>22</sup>

4.21 Finance stressed Australia's free trade obligations require officials to ensure they do not discriminate on the basis of location, among other things. This means the assessment of value for money cannot include direct consideration or comparison of the multiplier effect of having products made in Australia and benefits such as local employment. Mr Sheridan, representing the Department of Finance, added:

...and my point would be: at what stage would you stop making such assumptions? Would you stop in a local area? Would you go further? Would you look at international trade agreements? How could you make those value-for-money decisions in that broader sense rather than looking at the particular procurement involved? That is the challenge we face.<sup>23</sup>

### ***Areas for improvement***

4.22 The committee put to Finance the level of frustration expressed by witnesses regarding the apparent inconsistency with how the concept of value for money is applied and the lack of transparency regarding the weightings for financial and non-financial factors in each case. Mr Sheridan responded:

I can certainly understand that frustration, but each procurement is done on the basis of essentially a statement of requirements against which the potential tenderers produce a response. An evaluation is made of those things and a delegate essentially is presented with an evaluation of one sort or another that says that this is the relative performance of those people tendering and this is the one that presents the best value for money. The criterion for value for money would quite clearly vary between different sorts of procurements, but those things are made each time and tenderers are given feedback as to why they were not successful.<sup>24</sup>

4.23 The ANAO reported that as a result of its audits, key areas for agencies to improve procurement practices and outcomes include 'better demonstrating and considering value for money when making procurement decisions'.<sup>25</sup> Mr Steve Chapman, Deputy Auditor-General also reported that audits have 'identified that there may be benefit in providing clear and practical guidance to agency staff on specific matters such as value for money and documentation of procurement decisions'.<sup>26</sup>

---

22 Department of Finance, answers to questions on notice, received 1 April 2014, p. 26.

23 *Committee Hansard*, 28 April 2014, p. 50.

24 *Committee Hansard*, 28 April 2014, p. 50.

25 Mr Steve Chapman, Australian National Audit Office, *Committee Hansard*, 21 March 2014, p. 12.

26 *Committee Hansard*, 21 March 2014, p. 12.

4.24 Ms Michelle Melbourne, Chair, Canberra Business Council, also spoke about the lack of transparency around procurement processes. While acknowledging the hard work of the procurement professionals, she felt the system is overly bureaucratic to the detriment of Australian industry. To address this she suggested further work on value for money and transparency:

I think the key for us in what we see here in Canberra and on behalf of Australia is that we are at the forefront of a global market and we want the overseas players to be here. We do not want to lock them out, so we need to be smart about driving Australian industry. We can do that really simply with things like a better definition of value for money and being transparent.<sup>27</sup>

4.25 To provide greater clarity to officers undertaking procurement, Mr Butler also suggested further work be undertaken in relation to the treatment of value for money and to this end, highlighted work in this area by the European Union (EU):

The issues involved have been extensively debated in the EU where there is provision for contracts to be awarded either on price or to "the most economically advantageous offer", from the viewpoint of the contracting entity. The EU's procurement rules are quite different from Australia's, reflecting in part the greater emphasis on competition policy. But there is much to be learned from European experience and the wealth of related literature.<sup>28</sup>

4.26 Mr Butler further explained:

The aim of the European communities was to ensure at least a single market in procurement, so they worked very hard to prevent any country giving preference to its own suppliers as opposed to others. That is still the case. But they do recognise that there are certain social, environmental and other concerns that can be taken into account in procurement, as long as they are applied equally to all tenderers.<sup>29</sup>

4.27 A lack of transparency (for procurement officers and industry) around the assessment of value for money, especially non-financial factors, was a recurring theme throughout the inquiry. The committee therefore notes with interest the following guidance from the European Procurement Regulations:

To ensure compliance with the principle of equal treatment in the award of contracts, contracting authorities should be obliged to create the necessary transparency to enable all tenderers to be reasonably informed of the criteria and arrangements which will be applied in the contract award decision. Contracting authorities should therefore be obliged to indicate the contract award criteria and the relative weighting given to each of those criteria. Contracting authorities should, however, be permitted to derogate from that

---

27 *Committee Hansard*, 28 April 2014, p. 23.

28 *Submission 37*, p. 3. See also *Committee Hansard*, 21 March 2014, pp 7-8; and [www.ojec.com/Directives.aspx](http://www.ojec.com/Directives.aspx) (accessed 19 May 2014).

29 *Committee Hansard*, 21 March 2014, p. 10.

obligation to indicate the weighting of the criteria in duly justified cases for which they must be able to give reasons, where the weighting cannot be established in advance, in particular because of the complexity of the contract. In such cases, they should indicate the criteria in decreasing order of importance.<sup>30</sup>

4.28 Finance informed the committee that the CPRs were last reviewed in 2012.<sup>31</sup> Finance also noted that it is responding to areas for improvement identified in ANAO reports including 'a better definition of value for money [and] a better way of recording procurement decisions...'.<sup>32</sup> Finance advised that this updated guidance will be included in the review of the CPRs currently underway to meet the requirements of the *Public Governance, Performance and Accountability Act 2013* (PGPA Act) which comes into effect in July 2014.<sup>33</sup>

4.29 On 19 May 2014 a draft of the revised CPRs was made available on the Australian Government Procurement Coordinator's blog for comment by 1 June 2014. It was noted that '[f]urther minor amendments to the CPRs may be made prior to finalisation and tabling in Parliament'.<sup>34</sup>

4.30 In the new CPRs which commenced in July 2014, a very minor change has been made regarding record keeping requirements. A new factor, 'the quality of goods and services' has been included in the list of financial and non-financial costs and benefits used to assess the value for money of a procurement. There is also an expansion to the explanation of the concept of 'whole-of-life costs':

Whole-of-life costs could include:

- a. the initial purchase price of the goods and services;
- b. licensing costs (where applicable);
- c. the cost of additional features procured after the initial procurement;  
and
- d. consumable costs.<sup>35</sup>

### ***Committee view***

4.31 The committee understands the frustration expressed by some witnesses in relation to the opacity of the processes used by agencies to assess value for money. It can appear that the concept of value for money is applied inconsistently due to the

---

30 Directive 2014/24/EU of the European Parliament and of the Council of 26 February 2014 on public procurement and repealing Directive 2004/18/EC, paragraph 90.

31 Mr John Sheridan, Department of Finance, *Committee Hansard*, 28 April 2014, p. 38.

32 Mr John Sheridan, Department of Finance, *Committee Hansard*, 28 April 2014, p. 47.

33 Mr John Sheridan, Department of Finance, *Committee Hansard*, 21 March 2014, p. 63.

34 See Procurement Coordinator Blog, *Updating the Commonwealth Procurement Rules*, 19 May 2014, available at: [www.finance.gov.au/blog/2014/05/19/updating-the-commonwealth-procurement-rules/](http://www.finance.gov.au/blog/2014/05/19/updating-the-commonwealth-procurement-rules/) (accessed 21 May 2014).

35 Paragraphs 4.5 and 4.6 of the CPRs, July 2014.



---

lack of transparency around the consideration and weightings given to financial and non-financial factors. In relation to the consideration of non-financial factors, the committee notes the evidence that the flow-on effects of procurement decisions, such as tax revenues and other social and economic consequences are not taken into account.

4.32 The committee notes that better demonstration and consideration of value for money and improved documentation has also been identified by the ANAO as areas for improvement.

4.33 The committee agrees that clearer guidance on the consideration and assessment of value for money is required and that there should be a clear analysis and documentation of relevant factors leading to procurement decisions.

4.34 The committee understands that the Department of Finance is addressing these issues as part of the review of the CPRs taking place in connection with the introduction of the PGPA Act. It notes the revised CPRs released in July 2014, but has reservations that the changes included in that revision do not adequately address the issues raised with the committee. In particular the revisions do not appear to address the ANAO suggestion to provide 'clear and practical guidance to agency staff on specific matters such as value for money and documentation of procurement decisions'.<sup>36</sup>

4.35 In relation to assessing whole-of-life costs, the committee notes the expanded explanation in the revised CPRs containing the list of factors which could be taken into account. However, the committee believes that there should be a methodology developed to facilitate quantification of these and other whole-of-life factors to better inform procurement decisions.

## **Recommendation 7**

**4.36 The committee recommends that the government develop a methodology to quantify the factors used to assess whole-of-life costs.**

4.37 The committee welcomes initial revisions to the CPRs and is pleased to note the consultation process being undertaken by Finance, asking for comments on the revised CPRs but notes the short timeframe. The committee is also not aware whether any further steps, beyond a blog posting, have been undertaken to engage industry.

4.38 The inquiry timeframe did not allow the committee to review and seek feedback from stakeholders on the operation of the revisions to the CPRs or discuss with Finance whether any supplementary material is envisaged. Therefore, the committee believes that during its next procurement-related audit, the ANAO should review the use of the revised CPRs, particularly the assessment of financial and non-financial costs and benefits, and provide an evaluation.

---

36 *Committee Hansard*, 21 March 2014, p. 12.

**Recommendation 8**

**4.39** The committee recommends that during its next procurement-related audit, the Australian National Audit Office review the operation of the revised Commonwealth Procurement Rules, particularly the revisions relating to the assessment of financial and non-financial costs and benefits, and provide an evaluation.