

# Western Australian Auditor General's Report



## Temporary Abbreviated State Procurement Control Requirements



Report 33: 2020-21

30 June 2021

**Office of the Auditor General  
Western Australia**

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***The Office of the Auditor General acknowledges the traditional custodians throughout Western Australia and their continuing connection to the land, waters and community. We pay our respects to all members of the Aboriginal communities and their cultures, and to Elders both past and present.***

WESTERN AUSTRALIAN AUDITOR GENERAL'S REPORT

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**Temporary Abbreviated State Procurement  
Control Requirements**

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Report 33: 2020-21  
June 2021



**THE PRESIDENT  
LEGISLATIVE COUNCIL**

**THE SPEAKER  
LEGISLATIVE ASSEMBLY**

**TEMPORARY ABBREVIATED STATE PROCUREMENT CONTROL REQUIREMENTS**

This report has been prepared for submission to Parliament under the provisions of section 25 of the *Auditor General Act 2006*.

This audit assessed if State government entities were appropriately applying temporary abbreviated State procurement control requirements put in place in response to the COVID-19 pandemic.

I wish to acknowledge the entities' staff for their cooperation with this audit.

A handwritten signature in black ink, appearing to read 'C. Spencer'.

CAROLINE SPENCER  
AUDITOR GENERAL  
30 June 2021

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# Executive summary

## Background

On 27 May 2020, the Minister for Finance announced temporary abbreviated state procurement controls requirements (temporary changes) (Appendix 1) to the State Supply Commission's *Open and Effective Competition Policy and Procurement Planning, Evaluation Reports and Contract Management Policy*.

The temporary changes were in response to the COVID-19 pandemic and were intended to support economic recovery. The State Government's objectives were to:

- reduce the barriers that impede new suppliers from having the opportunity to supply goods or services
- expedite entities' awarding of contracts
- maximise opportunities for local businesses.

The changes initially applied from 2 June 2020 until 31 December 2020. On 11 December 2020, the Government announced that the temporary changes would be extended until 31 May 2021.

## Conclusion

Nineteen of the 25 audited State government entities chose to implement the temporary changes and their subsequent purchases and contract extensions appropriately complied with the requirements.

Based on the responses received from the 25 entities, the temporary changes met the Government's objective of expediting entities' awarding of contracts but there was no indication that it made any material difference to reducing the barriers that impede new suppliers from having the opportunity to supply goods or services. Nor did it maximise opportunities for local businesses.

We also identified that 58% of entities had deficiencies in their procurement controls, not specifically related to the application of the temporary changes. Of particular concern was that in 5 entities, proof could not be provided that staff involved in a selection of procurement decisions had completed declarations of confidentiality and interest. The signing of such a declaration is considered critical as a preventative control to ensure individuals do not participate in procurement decisions where they have a conflict of interest, which could result in improper awarding of contracts and value-for-money not being achieved.

## What we did

The focus of our audit was to assess whether sampled State government entities were appropriately applying the temporary changes as set out above.

We assessed the practices at 25 entities from the period of 1 July 2020 to 31 December 2020 using the following criteria:

- Do entities have appropriate policies and procedures in place to ensure that the temporary requirements are appropriately implemented?
- Are entities adequately controlling contract extensions with local businesses?
- For new purchases or contracts with suppliers entered into during the audit period, are purchases made in compliance with the temporary requirements?

We also asked entities the following questions to determine if Government objectives were met:

1. What do they estimate is the value of supplies/services procured from local suppliers that would, without the temporary rules, probably have been from non-local suppliers?
2. What is their estimate of how much more quickly procurements occurred because of the temporary rules?
3. What was their overall percentage of procurement from local suppliers between 1 July 2020 and 31 December 2020?

We tested 57 new purchases and 35 contract extensions across the 19 entities that applied the abbreviated requirements.

Detailed findings have been reported to audited entities. Their audit committees should follow up to ensure the audit findings are appropriately addressed by management in a timely manner.

This was an independent performance audit, conducted under section 18 of the *Auditor General Act 2006* and in accordance with Australian Standard on Assurance Engagements ASAE 3500 *Performance Engagements*. We complied with the independence and other ethical requirements related to assurance engagements.

The following 25 entities were included in this audit:

Audited entities
Central Regional TAFE
North Metropolitan TAFE
North Regional TAFE
South Metropolitan TAFE
South Regional TAFE*
Department of Planning, Lands and Heritage
Department of the Premier and Cabinet
Department of Transport*
Department of Mines, Industry Regulation and Safety
Department of Local Government, Sport and Cultural Industries
Department of Education
Department of Health
Department of Justice
Department of Finance
Department of Fire and Emergency Services
Department of Communities
Main Roads
Western Australian Land Information Authority (Landgate)*
Public Transport Authority
North Metropolitan Health Service
East Metropolitan Health Service

Audited entities
Health Support Services
Southern Port Authority*
Housing Authority*
Mental Health Commission*

\*Entities that did not apply the temporary changes.

Source: OAG

**Table 2: Entities included in our audit**



# What we found

## Entities that chose to apply the temporary changes did so correctly

Of the 25 sampled entities, 19 made use of the State Supply Commission's temporary changes. We found that:

- for new purchases or contracts entered into during the audit period, the purchases were made in compliance with the temporary changes, however we did identify general deficiencies in procurement controls
- entities were adequately controlling contract extensions with local businesses.

Of the 19 entities, 79% advised that they specifically modified their policies and procedures or sent out formal advice to their staff to communicate the changes. We consider this better practice as it helps to mitigate the risk of the temporary changes potentially not being understood resulting in them being implemented incorrectly or inconsistently. The remaining 21% confirmed they centrally applied the policies as issued by the State Supply Commission.

The key reasons given by the 6 entities for not using the temporary changes were:

- **Southern Regional TAFE:** The TAFE did not feel they needed to use the temporary changes as they were not significantly impacted by COVID-19 due to operating in a regional area.
- **Department of Transport:** The Department has in place existing long term contracts and long term panel arrangements. Additionally, the Department considers it important to give work to a wider range of suppliers to foster competition in the longer term.
- **Western Australian Land Information Authority (Landgate):** Landgate was not immediately or directly impacted by COVID-19, so there was no requirement to make purchases quicker than normal. They did however consider the use of local suppliers when procuring goods and services.
- **Southern Ports Authority:** The Authority already applies the State's "buy local" policies and did not consider it necessary to apply the temporary changes.
- **Housing Authority:** The agency's expenditure mainly relates to housing construction and maintenance works, which is procured under the *Housing Act 1980*.
- **Mental Health Commission:** Temporary changes were not applied because:
  - there was no opportunity to buy from a local business due to sole supplier exemptions requiring direct purchases from overseas suppliers
  - purchases were made under Common Use Agreements
  - there were multiple local businesses capable of meeting the contract requirements or procurement processes began prior to implementation of the temporary changes.

## Fifty-eight percent of entities had deficiencies in their procurement controls

Eleven of the 19 entities where temporary changes were applied had weaknesses in their procurement practices. These deficiencies were not specific to the application of the temporary procurement changes and have been reported to entities as part of their financial audits for the year ending 30 June 2021. These deficiencies may influence the controls

opinion for the individual entities, as illustrated by the previous qualifications on procurement deficiencies discussed in the OAG’s Annual Results Report.<sup>1</sup>

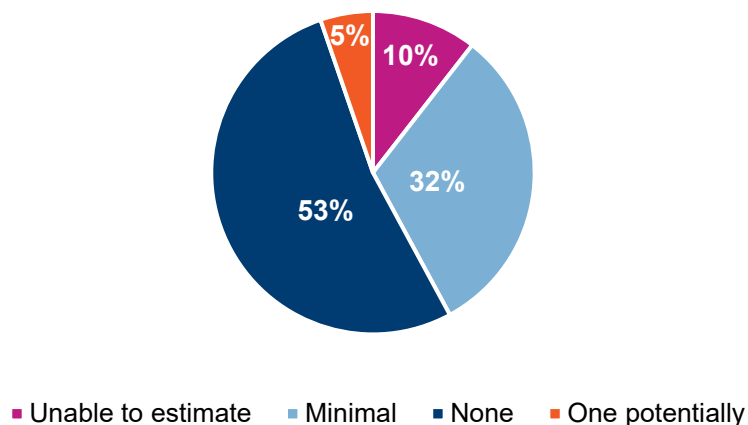
The main deficiencies related to the following matters:

- At 5 entities on a total of 9 occasions, proof could not be provided that staff involved in the procurement decision had completed a declaration of confidentiality and interest. The signing of such a declaration is considered critical as a preventative control to ensure individuals do not participate in procurement decisions where they have a conflict of interest, which could result in improper awarding of contracts and value-for-money not being achieved.
- At 2 entities there were errors or inaccuracies in the contract register. At 1 other entity there was no contract register at all. Failure to have up to date and correct contract information could limit the ability of entities to effectively monitor and manage contractual obligations.
- At 2 entities on a total of 6 occasions there was no evidence of a contractor performance review prior to a contract extension being awarded. In instances where contractors’ work is not reviewed and they are not questioned on their ability to extend contracts, there is a risk the contractor may not have capacity to continue to service and may not be providing services up to the standard required.

### Abbreviated policies did not result in more goods and services being procured from local suppliers

Only 1 entity could identify that the temporary changes may have resulted in a purchase being made locally that otherwise could have been made from a non-local supplier. Most entities (85%) believed it resulted in either no purchases or minimal purchases being made locally that would have otherwise been made from a non-local supplier (Figure 1).

However, it was not possible to determine if a local supplier would have been successful in an open tender process, as would have been required under previous procurement requirements.



Source: OAG

**Figure 1: Extent of temporary changes resulting in more services procured from local suppliers**

<sup>1</sup> Pages 12-14 of *Audit Results Report – Annual 2019-20 Financial Audits of State Government Entities* issued by the Office of the Auditor General on 11 November 2020. Note that not all of the 25 audited entities have a controls opinion in their audit report, so this comment is not applicable to these entities.

When responding to our questions, some entities also referenced that they were already applying the *Western Australian Buy Local Policy 2020*. This policy contains a range of initiatives and price preferences that provide local businesses with an enhanced opportunity when bidding to supply to the Western Australian Government.

### **The temporary changes resulted in faster procurement of goods and services**

Overall, 95% of the entities who applied the temporary changes indicated that it resulted in faster procurement of goods and services. The extent of how much faster did vary substantially given the difference in process between direct purchases, obtaining quotes in writing and a tender process. Many entities indicated that it was difficult to quantify the amount of time, and some noted for particular purchases this ranged from several days up to several months.

### **Approximately 80% of total new procurements and contract extensions were with a local supplier**

Based on our survey of the sampled entities, for approximately 80% that were able to quantify, on average 78% of their new purchases were with a local supplier and 79% of contract extensions were with a local supplier.

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## Recommendations

1. Where there are temporary changes applied to entities' policies and procedures, these changes should be formalised, in order to mitigate the risk of changes not being implemented correctly or consistently.
2. All entities should have appropriate procurement controls in place and implemented to ensure that:
  - a. declarations of interests are made and documented by all involved in procurement decisions, so that any actual, potential or perceived conflicts can be identified and appropriately mitigated or managed in order to support impartiality and best value for money being achieved from public expenditure
  - b. contract registers are kept up to date to ensure entities can effectively monitor and manage contractual obligations
  - c. a review is undertaken of the performance and effectiveness of contractors prior to awarding a contract extension.

## Response from entities

The audited entities generally accepted the recommendations and confirmed that, where relevant they would implement the recommendations.

# Appendix 1: Summary of temporary changes

A summary of the changes applied to the *Open and Effective Competition Policy* is set out below:

Original monetary thresholds <sup>2</sup>	Temporary monetary thresholds <sup>3</sup>	Minimum requirements
Up to \$50,000	Up to \$250,000	<ul style="list-style-type: none"> <li>Public authorities may determine the most appropriate procurement method including direct sourcing, verbal quotations (up to \$50,000) or written quotations based on assessment of the nature of the market, complexity and risk, and process efficiency.</li> <li>Where the total estimated value is \$50,000 up to \$250,000, verbal quotations are not acceptable. The direct source or quotation must be requested in writing and any offer must be received in writing.</li> <li>Appropriate documentation of decisions must be retained.</li> </ul>
\$50,000 up to \$250,000	\$250,000 up to \$500,000	<ul style="list-style-type: none"> <li>Request quotations in writing.</li> <li>Offers must be received in writing.</li> </ul>
\$250,000 and above	\$500,000 and above	<ul style="list-style-type: none"> <li>Open tender through a public advertisement.</li> </ul>

Source: Summary of SSC policy changes June 2020, State Supply Commission website

*The last 2 items in the table above represent competitive processes*

The *Procurement Planning, Evaluation Reports and Contract Management Policy* was also amended to include the option for partially exempt State government entities to vary existing contracts with local businesses for a period of up to 2 years. This option was available for:

- contracts that expire on or before 30 June 2021
- contracts of any value
- panel arrangements, if all contractors are local businesses.

In order to determine if a business is a “local business”, the *Procurement Practice Guidelines* issued by the State Supply Commission, suggests entities consider whether the:

- business maintains a permanent, local operational office and the business address aligns with the business’s marketing, telephone directory or website information
- majority of the contract outcomes will be managed and/or delivered locally
- business employs local people.

<sup>2</sup> Monetary thresholds are based on the total estimated value, including any extension options, and are inclusive of GST

<sup>3</sup> The temporary thresholds apply when there is an opportunity to purchase from a local business and one or more local businesses will be invited to submit an offer. The original thresholds will be applied if local suppliers are not given the opportunity to bid.

## Auditor General's 2020-21 reports

Number	Title	Date tabled
32	Disclaimer of Opinion on Ministerial Notification – Bushfire Centre of Excellence	23 June 2021
31	Improving Prisoner Literacy and Numeracy	23 June 2021
30	Audit Results Report – Annual 2019-20 Financial Audits of Local Government Entities	16 June 2021
29	Information Systems Audit Report 2021 – State Government Entities	16 June 2021
28	Western Australian Public Sector Financial Statements – Better Practice Guide	14 June 2021
27	Opinion on Ministerial Notification – Port Agreements	11 June 2021
26	Audit Results Report – 2020 Financial Audits of Universities and TAFEs	2 June 2021
25	Delivering Essential Services to Remote Aboriginal Communities – Follow-up	2 June 2021
24	Opinion on Ministerial Notification – DPIRD Capability Review	18 May 2021
23	Local Government General Computer Controls	12 May 2021
22	Opinion on Ministerial Notification – Hospital Facilities Services	6 May 2021
21	Regulation and Support of the Local Government Sector	30 April 2021
20	Opinions on Ministerial Notifications – Policing Information	28 April 2021
19	Opinion on Ministerial Notification – Bennett Brook Disability Justice Centre	8 April 2021
18	Regulation of Consumer Food Safety by the Department of Health	1 April 2021
17	Department of Communities' Administration of Family and Domestic Violence Support Services	11 March 2021
16	Application Controls Audits 2021	9 March 2021
15	Opinions on Ministerial Notifications – Tax and Funding Information Relating to Racing and Wagering Western Australia	26 February 2021
14	Opinion on Ministerial Notification – Hotel Perth Campaign Reports	24 February 2021

Number	Title	Date tabled
13	Opinion on Ministerial Notification – Release of Schedule of Stumpage Rates	24 February 2021
12	Grants Administration	28 January 2021
11	COVID-19 Relief Fund	21 December 2020
10	COVID-19: Status of WA Public Testing Systems	9 December 2020
9	Western Australian Registry System – Application Controls Audit	26 November 2020
8	Regulating Minor Pollutants	26 November 2020
7	Audit Results Report – Annual 2019-20 Financial Audits of State Government Entities	11 November 2020
6	Transparency Report: Major Projects	29 October 2020
5	Transparency Report: Current Status of WA Health’s COVID-19 Response Preparedness	24 September 2020
4	Managing the Impact of Plant and Animal Pests: Follow-up	31 August 2020
3	Waste Management – Service Delivery	20 August 2020
2	Opinion on Ministerial Notification – Agriculture Digital Connectivity Report	30 July 2020
1	Working with Children Checks – Managing Compliance	15 July 2020

**Office of the Auditor General  
Western Australia**

7<sup>th</sup> Floor Albert Facey House  
469 Wellington Street, Perth

Perth BC, PO Box 8489  
PERTH WA 6849

T: 08 6557 7500  
E: [info@audit.wa.gov.au](mailto:info@audit.wa.gov.au)  
W: [www.audit.wa.gov.au](http://www.audit.wa.gov.au)

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