

Purchasing Innovation

NZRise's submission on government procurement reform

November 2012

Background

1. Representatives of NZRise met with Ministry of Business, Education and Innovation (MBIE) at the end of June to discuss an approach to providing constructive input into the Ministry's current procurement reform agenda. At that meeting, NZRise and MBIE agreed to jointly conduct a seminar for officials and NZRise members, and other New Zealand ICT businesses. That seminar was held on 17 August, 2012 and comprised 25 officials from central and local government and 35 industry representatives.
2. This paper encapsulates the key themes that were canvassed on the day and includes NZRise's recommendations for how New Zealand government could more effectively procure the creative, innovative solutions that Ministers, the New Zealand public and the local IT industry would like to see delivered.
3. The seminar was conducted in two sessions; the first concentrating on identifying the barriers to innovative procurement in the current environment and the second focussing on identifying solutions and areas in which the policy settings and practices might be improved.

Barriers

4. There was a high degree of unanimity about identifying the key barriers for successfully procuring innovation in the current environment. From all of the discussions at the tables, there emerged six areas of consistent concern. Those were:
 - insufficient early engagement with providers in the procurement process
 - the cost for providers to respond to tenders
 - inconsistent interpretation and application of the procurement rules by agencies
 - expertise resides mostly with providers
 - procurement benefits are not consistently or thoroughly assessed
 - risk is poorly managed
5. Some of these barriers are necessarily interrelated. Nevertheless, they represent the key themes as discussed by participants and validated through the review of the submission by NZRise members.

Early engagement

6. Innovative solutions in digital technologies are most likely to be delivered where there is a sound shared understanding between the purchaser and the provider of the business requirements and the desired outcomes. Engaging with the market early is one of the key means of creating a procurement environment that favours innovation.

7. This early engagement needs to be well structured so that it is fair to providers, but also so that it equitably manages the purchaser's ability to retain control of the process and not inhibit their ability to choose the best provider or solution for their needs.

Response costs

8. Tim Conway made the point during his closing remarks that “government is not a honeypot” and that agencies typically look to mature organizations to fulfil their procurement needs. In looking to procure from similarly bureaucratic institutions, agencies use procurement techniques that require considerable investment in organizational time to respond to. This has the dual effect of eliminating smaller and younger organizations from the market, and also dramatically decreasing the likelihood of the sort of innovation that organizations—in the digital marketplace—are more likely to deliver.
9. There is also insufficient appreciation of scale across procurement projects. An agency website should not be subject to the same procurement process as a large, integrated transactional enterprise application.

Application of the rules

10. The inconsistent interpretation and application of the procurement rules by agencies was cited as a significant barrier to the industry, and acknowledged as one of the key challenges for the MBIE procurement team.
11. A sound understanding of the principles, and how they might be applied in practice, was not uniformly or widely distributed across the government sector.
12. The layering of agency-specific policies on top of the Government's Mandatory Rules for Departments exacerbates this issue and makes it difficult for providers to expect a consistent and transparent approach to the procurement process.

Expertise imbalance

13. Given the fast changing nature of the technology sector, it is inevitable that expertise, especially as it relates to newer and more innovative technologies, will predominantly reside with providers—the specialist implementers of these technologies.
14. Agencies, without early engagement, therefore find it difficult to articulate requirements that acknowledge, or encourage, innovative approaches.

Benefits assessments

15. There is insufficient transparency and rigour around the assessment of benefits from projects *to the taxpayer* and not just to the agency or business unit. The New Zealand IT sector is the second largest exporter and one of the fastest growing. The public sector is a large part of the market and there could be more analysis of, and consideration for, purchasing on the Government's accounts.

Risk management

16. Risk is typically managed the same way across procurement projects, irrespective of the outcomes sought. There is not enough balance between acceptable risk that promotes innovation and a prudent approach to managing taxpayer's funds.

17. Similarly, agencies assess risk poorly. Local companies are often unfairly seen as a higher risk due to size, but this is often mitigated by a commitment to the client, lower fees and more agile approach to projects. These points are not assessed.
18. Instead agencies frequently take the counter intuitive decision to aggregate work and make it more attractive to larger organisations. This increases the risk of failure, capture, long term commitment to high costs etc. The standard mitigation that is also applied is aggressive contract terms which essentially ensure that many projects end up as battlefields and the chance of a collaborative approach is lost right at the initial engagement.

Solutions

19. The proposed solutions explicitly address the barriers, but also include some approaches that would enhance the quality of interactions between providers and purchasers and lead to better outcomes for New Zealanders.

Transparency

20. There was a consistent theme of transparency in almost all of the discussions. New Zealand is rightly adjudged to be the least corrupt country by Transparency International and there was a strong desire to ensure that we continued to maintain that standard. It serves New Zealanders well to have a public sector with high levels of integrity and it is good for our industry to operate in such an environment.
21. New Zealand's procurement policies and practices have over the last several years been adopting a more transparent approach. This was acknowledged and there was a strong desire to see this trend accelerated.
22. The areas in which more transparency would contribute to better, more innovative procurement outcomes were around provider briefings, publication of assessment weightings, debriefings for unsuccessful participants, full publication of contracts once awarded, consistent publication of agency procurement road maps and action plans.
23. There was a very positive response to the recent "Meet the Buyer" session and an encouragement for this program to be repeated and extended.
24. There was also a common view that the Government could appoint an Ombudsman to provide oversight to agency procurement practices.

Governance

25. Joint ownership of the deliverables was cited as a key to creating an environment for innovation. Changing the default governance model so that representatives from the provider(s) were included in the governance of the project is one of the approaches that NZRise considers would provide benefits to projects.
26. This joint ownership would be initiated in the design phase of the project to ensure that the expertise necessary for innovation was developed from the beginning and that, from this stage and each subsequent one, there was the opportunity to transfer knowledge and build capability through the life of the project.

Prototyping and seed funding

27. Agencies seeking innovative solutions should be prepared to co-fund the development of prototypes. In the current environment, where technologies are changing rapidly, lightweight prototyping is a strategically astute way to deliver innovation in a risk-controlled way. It is not equitable, however, to expect that the provider will bear the full cost of that prototyping.
28. This funding of Research and Development also has the potential to yield wider dividends for the New Zealand economy as this process could uncover technologies or applications that have the potential to generate jobs and export potential.

Build capability locally

29. As well as ensuring that there is a knowledge transfer between providers and purchasers, the government's procurement decisions can have a wider impact on local capability. By acknowledging as part of the evaluation criteria the benefits of investing in local industries, the public sector can contribute to a vibrant and sustainable IT sector, one that is increasingly able to generate export dollars in the weightless economy.
30. This criteria would be a macro-economic assessment of the cost and benefits to the taxpayer of each of the solutions.

Inclusivity

31. Just as the Victorian Government has recently moved away from panel contracts, procurement policy here should similarly acknowledge that diversity and inclusivity are the most likely ingredients for innovation and competitiveness. The industry will need to work with officials to agree an approach to improving inclusivity in the selection process..
32. Pre-qualification criteria and regular assessment of the market are one way to ensure that provider lists are current and relevant, and also to reduce the amount of administrative burden on providers when they are engaged in a competitive process.

Education and training

33. MBIE already have a program in place. This could be extended to include, or be complementary with, a similar sort of program for providers.

Conflict

34. One final area of concern that does not readily lend itself to the format of this document is the current structure of the Procurement group in MBIE's funding model. As the majority of the program is funded from a percentage of all-of-government contracts, NZRise believes there is a conflict here; a perverse incentive to favour "one size fits all" approaches to procurement irrespective of the nature of the solutions being procured.
35. While the default approach is to commoditize the services and products being procured through syndicated deals, there is little scope for innovation and creativity.

Recommendations

NZRise recommends that the updated procurement guidelines should include:

1. Increased transparency around provider briefings, publication of assessment weightings, debriefings for unsuccessful participants, full publication of contracts once awarded, consistent publication of agency procurement road maps and action plans.
2. The “Meet the Buyer” program should be repeated and extended.
3. The Government should consider the appointment of an Ombudsman to provide oversight to agency procurement practices. Part of the role would be to ensure that measurement and publication of spending takes place and that the metrics are published to track the effectiveness of procurement spending.
4. The default governance model should include representatives from the provider(s).
5. Agencies seeking innovative solutions should be prepared to co-fund the development of prototypes.
6. The evaluation criteria should include the macro-economic assessment of the cost to the taxpayer of each solution.
7. Procurement policy should acknowledge that diversity and inclusivity are the most likely ingredients for innovation and competitiveness, and officials should work with industry to introduce inclusivity into the selection process.
8. MBIE's education and training should be extended to include, or complement, a similar program for providers.
9. The funding model for MBIE's procurement group should be reviewed to remove the inherent conflict in funding the majority of the function from a percentage of all-of-government contracts.

On behalf of the membership of NZRise,

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