



CORRUPTION AND CRIME COMMISSION

PROMOTING INTEGRITY AND ACCOUNTABILITY - PREVENTING CORRUPTION

Lessons from the Misconduct Risk in Local Government Procurement Report

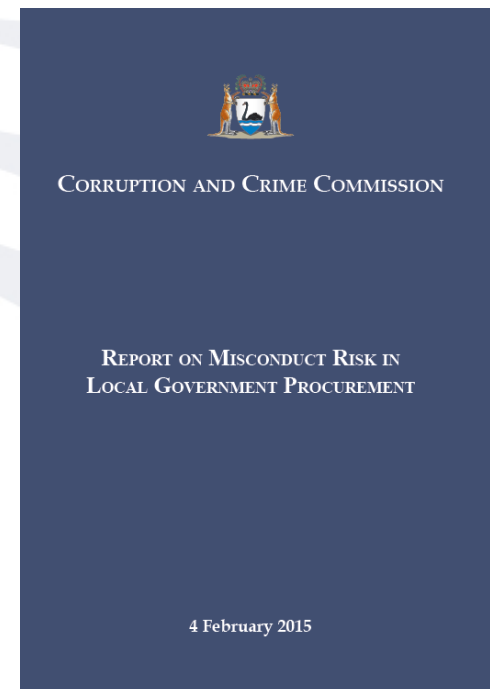
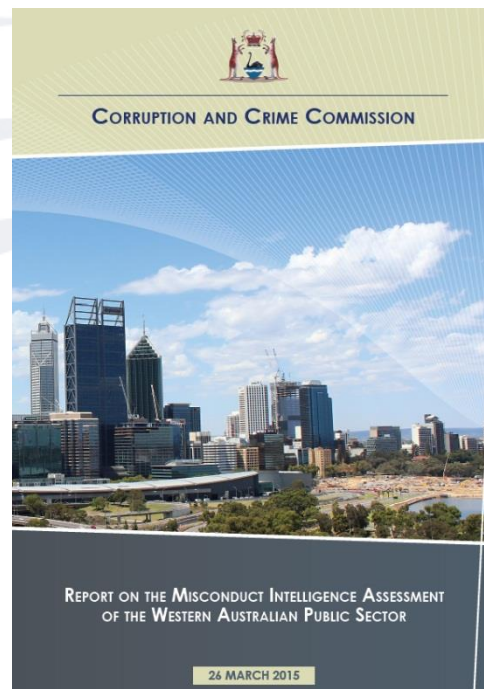
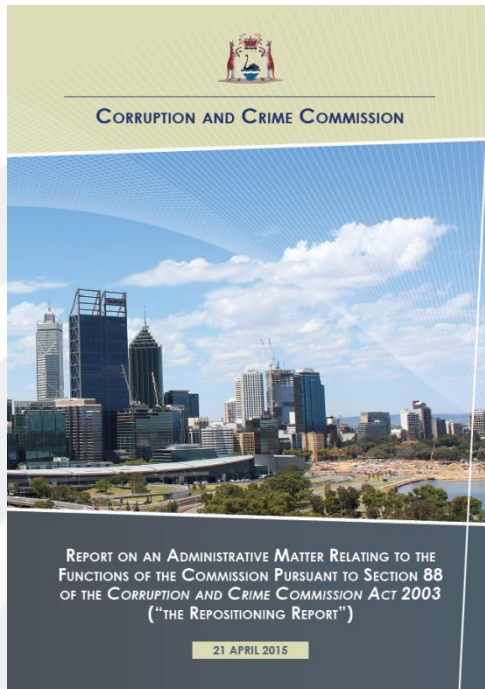
**Presenter: Acting Commissioner
Christopher Shanahan, SC**

**WALGA Best Practice in Procurement
Forum**

13 May 2015

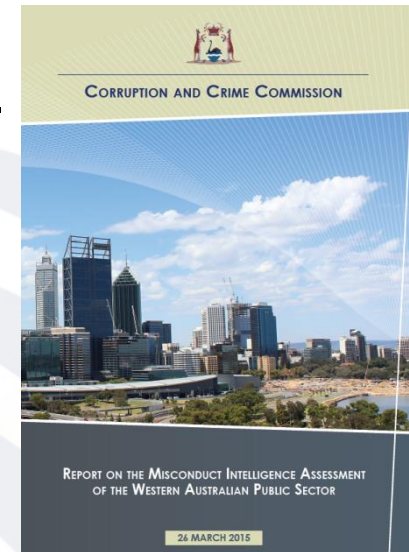
Introduction

- The last three Corruption and Crime Commission reports tabled signal that local government is a strategic priority for the Commission ...



Report on the Misconduct Intelligence Assessment of the WA Public Sector

- Intelligence-gathering and risk assessment exercise.
- Analysis of data from approx. 300 entities.
- Broad picture of WA public sector, including trends/ issues and systemic pressures.
- Identified areas and activities susceptible to corruption threats.



Why local government?

- 2013-2014 Annual Report shows:
 - ❑ **317** allegations - local government authorities
 - ❑ **6,893** allegations - State government authorities
- Why then is the Commission interested in local government misconduct?
 - ❑ Low numbers of reported allegations are misleading
 - ❑ Local government sector is potentially under-reporting
 - ❑ Suggests a lack of awareness and poor systems



Commission investigations

- 2013-2014 – **13** investigations into allegations of serious misconduct in local governments.
- **eight** of those were directed to procurement related misconduct and/or serious flaws in procurement management.



How do we know this?

- Commission's "Misconduct Intelligence Assessment" (MIA) identifies:
 - ☐ Local government agencies - high risk of corruption and misconduct
 - ☐ Procurement - also identified as a high risk activity
 - ☐ *Put together* = one of the highest risk activities in WA public sector

Challenges for local government

- Scale of activity and diversity of services and functions.
- Complex and dynamic operating environment.
- Procurement and contract management intersect with other local government activities.
- Substantial budgets and revenue-raising capacity.
- Outsourced business models.
- Devolution of management of procurement.
- Close and potentially conflicted relationships with industry.



Procurement and contract management

- Increasingly devolved to business areas.
- Political, community or agency-level pressure.
- Regional and remote areas.



Local Government procurement and financial governance processes

- Vulnerable to fraud, corruption and misconduct.
- Lack of misconduct and corruption risk assessment.
- Results in lack of planning about risk mitigation.
- Not required by legislation to undertake mitigating activities.

Procurement-related misconduct risks

- No separation of duties.
- Inadequate supervision.
- Non-existent or inadequate auditing re: purchasing cards and contract administration.
- Inadequate training.
- Inadequate record-keeping.
- Conflicts of interest, secondary employment, gifts not declared.
- Inadequate reinforcement of code of conduct.
- Inadequate reporting and dealing with misconduct allegations.



Key findings of the Commission audits

- Audits in five major metropolitan local governments.
- Absence of risk assessments suggested that the Cities audited had an increased level of exposure to misconduct risk.



Specific financial governance weaknesses in procurement

- Internal audit procedures.
- Lack of separation of duties.
- Tendering and quotation procedures.
- Adherence to procedures, particularly authorisation.
- Education and training about misconduct.
- Dealing with conflicts of interest.

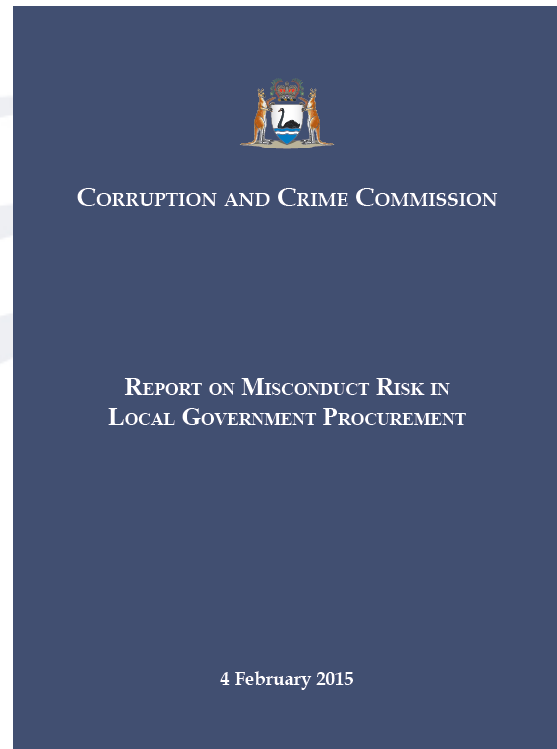


Lessons learned

- Whole-of-sector approach needed.
- Independent and external oversight.
- Lack of risk assessment increases level of exposure to misconduct risk.
- “Designing-out” corruption and misconduct risks essential.



Report on Misconduct Risk in Local Government Procurement



Sources of information to assist

- ☐ The Repositioning Report
- ☐ Report on the Misconduct Intelligence Assessment
- ☐ Report on Misconduct Risk in Local Government Procurement
- ☐ Report on the Review of the Capacity of Local Governments in the Pilbara to Prevent, Identify and Deal with Misconduct
- ☐ www.ccc.wa.gov.au/Publications/Reports/Pages/default.aspx



A State Government Perspective on Procurement Compliance



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Assistant Director

*Procurement Policy & Practice Improvement
Government Procurement*

13 May 2015

A recipe for procurement success

1. **Governance**
2. **Policy and Guidelines**
3. **Skills Development**



1. Governance

The centre-led model

- Each government department is accountable for their purchasing decisions however they must:
 - involve the Department of Finance, Government Procurement, in all procurement activity above \$50 000



1. Governance

- Government departments are accountable for their purchasing decisions however they must:
 - maintain contracts; ‘exemptions’; and contracting authority registers
 - comply with Finance’s reporting requirements
 - maintain purchasing and disposal procedures
 - comply with State Supply Commission policies
 - conduct an audit of their procurement activity once every two years



2. Policy and Guidelines

- **Value for Money**
- **Probity and Accountability**
 - Includes conflict of interest
 - Public Sector Commission requires agencies to offer the Accountable and Ethical Decision Making program to all staff
- **Procurement Planning, Evaluation Reports and Contract Management**
 - Require Procurement Plans and Evaluation Reports to be submitted to State Tender Review Committee where the procurement value exceeds \$5 million
- **Sustainable Procurement**
- **Disposal**



2. Policy and Guidelines

- **Open and Effective Competition policy**

- Purchasing method thresholds to promote competition
- Exemptions from competitive process
- Avoid bias
- Contract period < 5 years
- Public advertisement of tenders (>\$250000)
- Notify unsuccessful tenderers and offer debrief



- **Common Use Arrangement policy**

- Requires agencies to use CUAs where mandatory – most are in the metro area
- Reduces lack of probity in ad-hoc , low value purchasing
- Exemptions allowed

3. Skills Development

Reform led to a push to ‘professionalise’ or raise the profile of the procurement profession

- Central procurement team = easier to identify training needs and better mentoring and knowledge sharing opportunities
- Strategic Procurement degree through Curtin University
- Professional membership encouraged (CIPSA)
- Diploma in Government Procurement and Contracting
- Intensive focus on graduate training through in-house program
- Ad-hoc training on ‘hot topics’ – ‘Masterclasses’





Questions



Government of **Western Australia**
Department of **Local Government and Communities**

Case Studies in Probity and Compliance

Presenter: Jenni Law, Director, Local Government Regulation
and Support, Department of Local Government and Communities



Overview

- **Procurement Issues – Probity Audits**
 - Tender Register – Recoding Information
 - Policies and Procedures – Procurement
 - Delegation – Invitation and Acceptance
 - Procurement Contracts – No tenders
- **Key Legislative Amendments**



Tender Register

- Details regarding tenders not recorded
- Recording consideration for all tenders
- Information on EOIs not recorded
- Information not up to date.



Policies and Procedures

- Infrequent review of existing procurement policies and procedures
- No policies and procedures in place
- Employees not made aware of procurement policies and procedures in place.



Delegation

- No procurement delegations in place
- Poorly drafted instruments of delegation
- Failure to keep proper records of delegations.



Procurement Contracts

- Contracts exceeding tender threshold not tendered
- Poor contract record keeping practices
- Contracts executed without proper authorisation.



Recommended Action

- Review of policies and procedures to ensure:
 - Effective linkages between policies and procedures
 - Clear instructions on application of policies and procedures
 - All policies and procedures to be kept up to date with legislation



Recommended Action (continued)

- Staff training in regard to proper procurement and tender practices
- Delegations for exercising relevant authority
- Implement appropriate record keeping practices
- Amendments to the regulations.



Proposed Legislative Amendments

Key Amendments to Part 4 of the Local Government (Functions and General) Regulations

- Tender threshold increase from \$100,000 to \$150,000
- Purchasing Policy Content
- Clarification of Tender Exemptions
- Provision for Preferred Supplier Panels.



Contact

Stuart Fraser

Principal Advisory Officer

Local Government Regulation and Support

Department of Local Government and Communities

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Website: www.dlgc.wa.gov.au

Local Government Procurement Improvement

Garry Hunt PSM

Chief Executive Officer, City of Joondalup

WALGA Best Practice in Procurement

Wednesday 13 May 2015

Introduction

- 2010 – the City commenced a review of purchasing protocols/procedures with a focus on building projects and then expanded into other areas of procurement.
- 2012 – CCC review was promoted as ‘one thing’ and became ‘something else’ – the standards for the review didn’t align with Australian Standards and were drafted specifically for the CCC.

Outcomes

1. Value that the review could have provided was lost through confusion about the intent and approach – generic commentary in the final report.
2. The City reviewed procurement arrangements and:
 - Initiated a Fraud and Misconduct Risk Assessment – Procurement
 - Revised Staff Induction Program – Code of Conduct
 - Revised our Risk Management Framework
 - Implemented more rigorous review of expenditure through the creation of a Financial Review Taskforce

Lessons Learnt



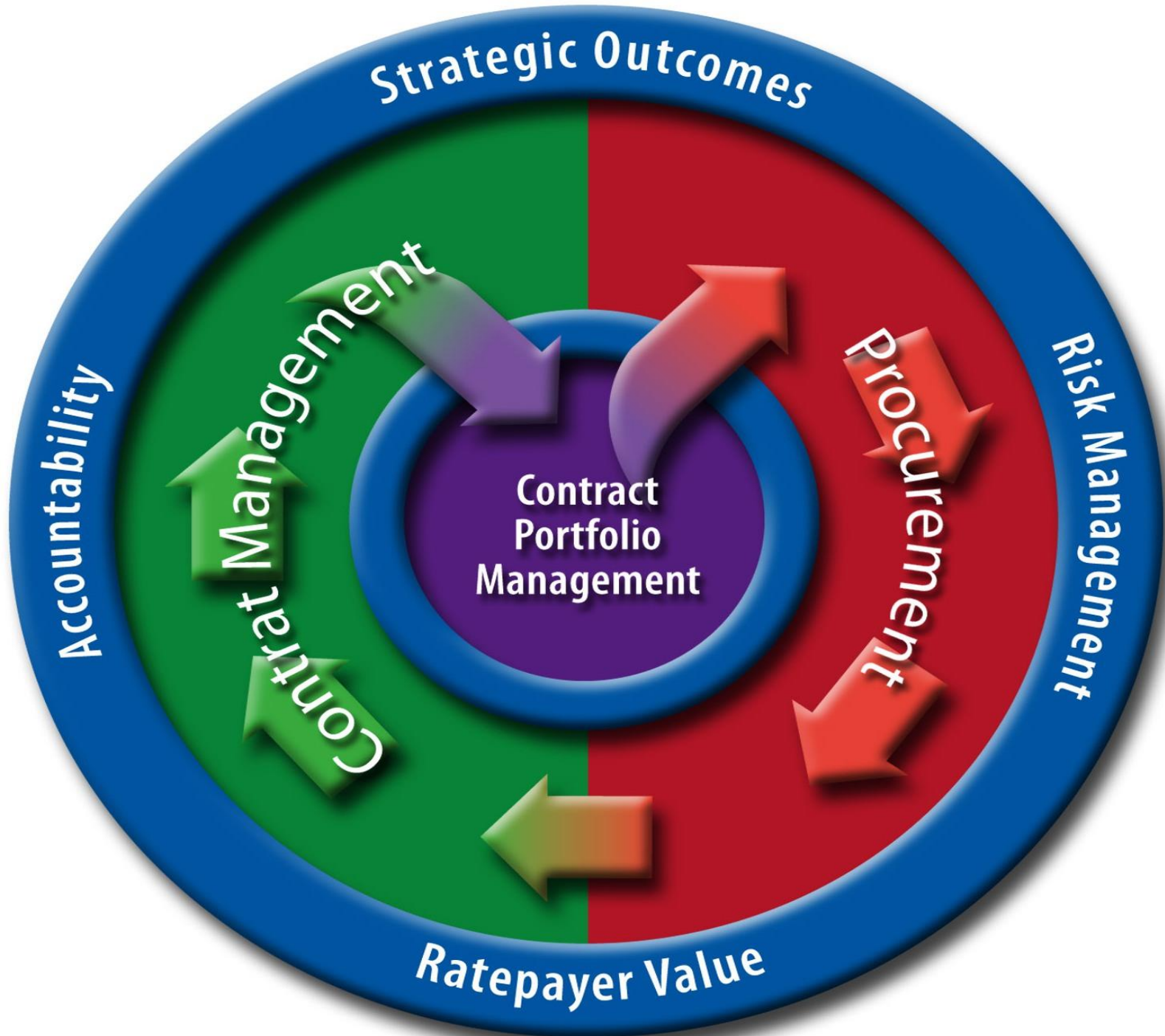
1. Despite best protocols and procedures, regular reviews and testing of systems is imperative.
2. The precursor to the review arose from the City of Stirling issue in 2010. At that time, the City of Joondalup paid close attention to issues and undertook intensive review around building capital works and maintenance programs.
3. Be clear on the scope of any review proposed by external parties like CCC, Department of Local Government and Communities and others.



— *City of* —
Melville

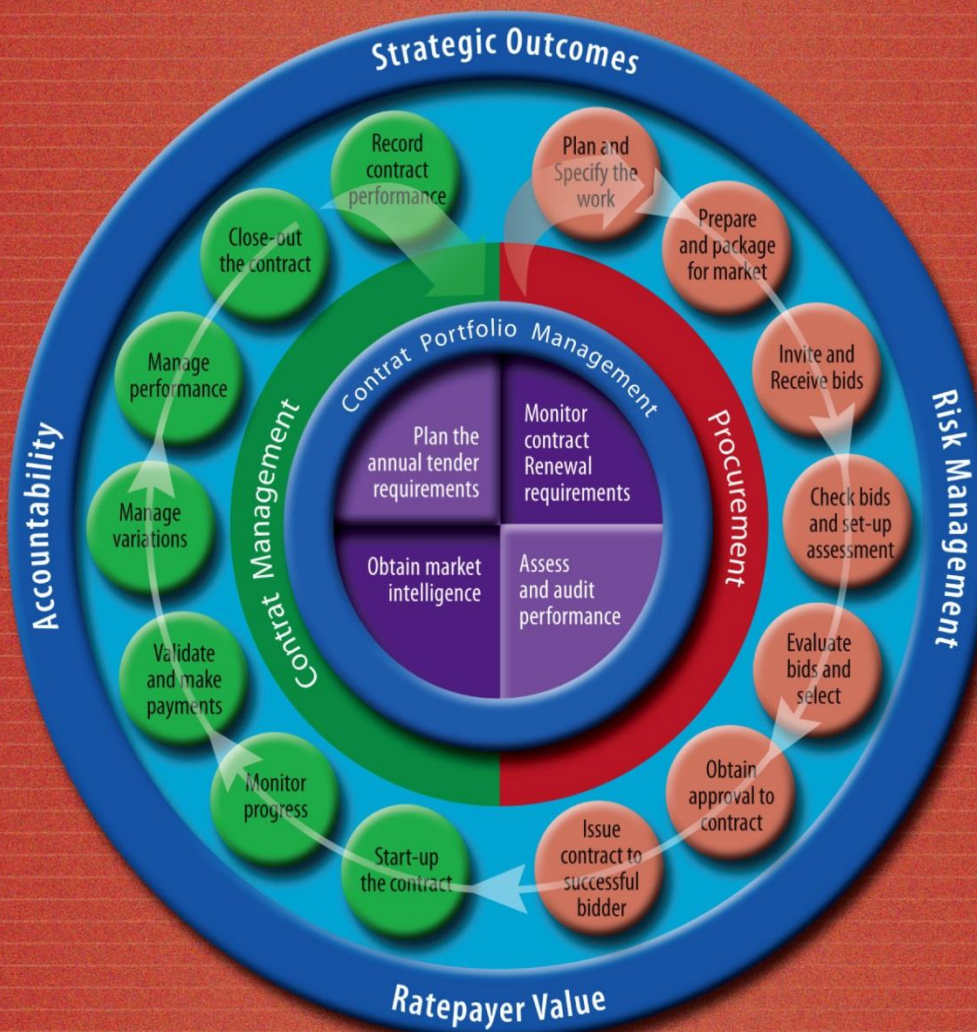
Lessons Learned

- Everyone should have a CATU – multi discipline panel
- Need end to end Contracts – reduce risks and litigation.
- Segregation of duties.
- Ensure clear and rigorous conflict of interest provisions.
- Must have an Internal Audit function.
- Must undertake a risk assessment before the procurement cycle begins.
- Build systems to protect employees and the employer.
- Training linked to financial delegations + City wide ongoing training.
- Link fraud plans to governance frameworks
- Purchase Orders need to match schedule of rates, not generalised.



The Tendering-Contract Management Model

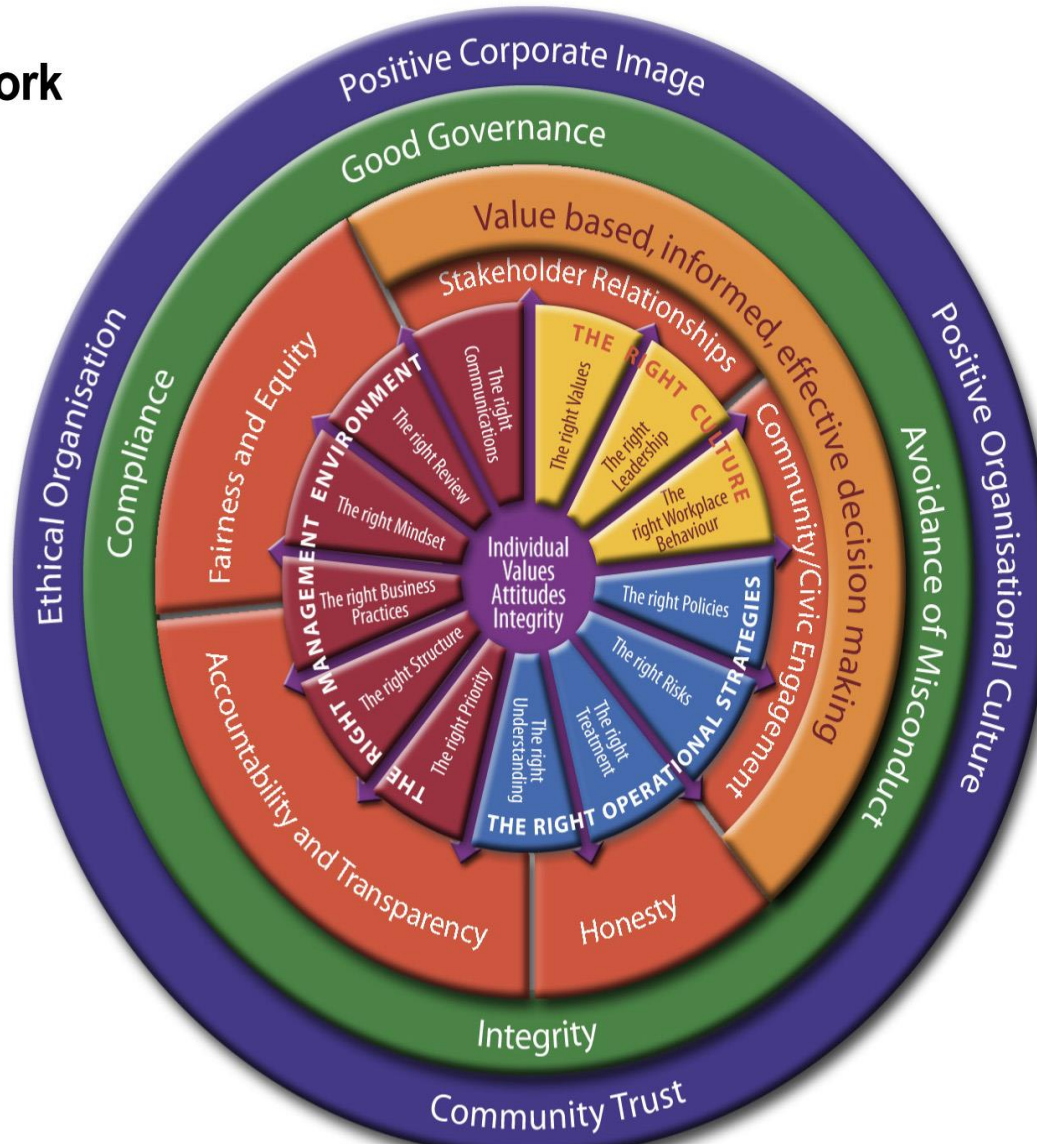
Procurement, Contract Management & Contract Portfolio Management work together to produce effective outcomes





City of
Melville

Governance and Integrity Framework



Strategic Approach for Organisational Wide Risk Management

To be successful risk management should operate through the organisation at all levels, with systems and processes that assist in managing risk effectively. The system should ensure risk information is adequately assessed, reported and used as a basis for decision making and accountability at all relevant organisational levels. The strategic corporate and operational systems and processes for Risk are detailed in the diagram below. Further information on the operational process is outlined in the next page.

Commit and Mandate

Risk Policy Statement
Risk Management Strategy
Audit Plan
Corporate Policies
Procedures Guidelines

Communicate and Train

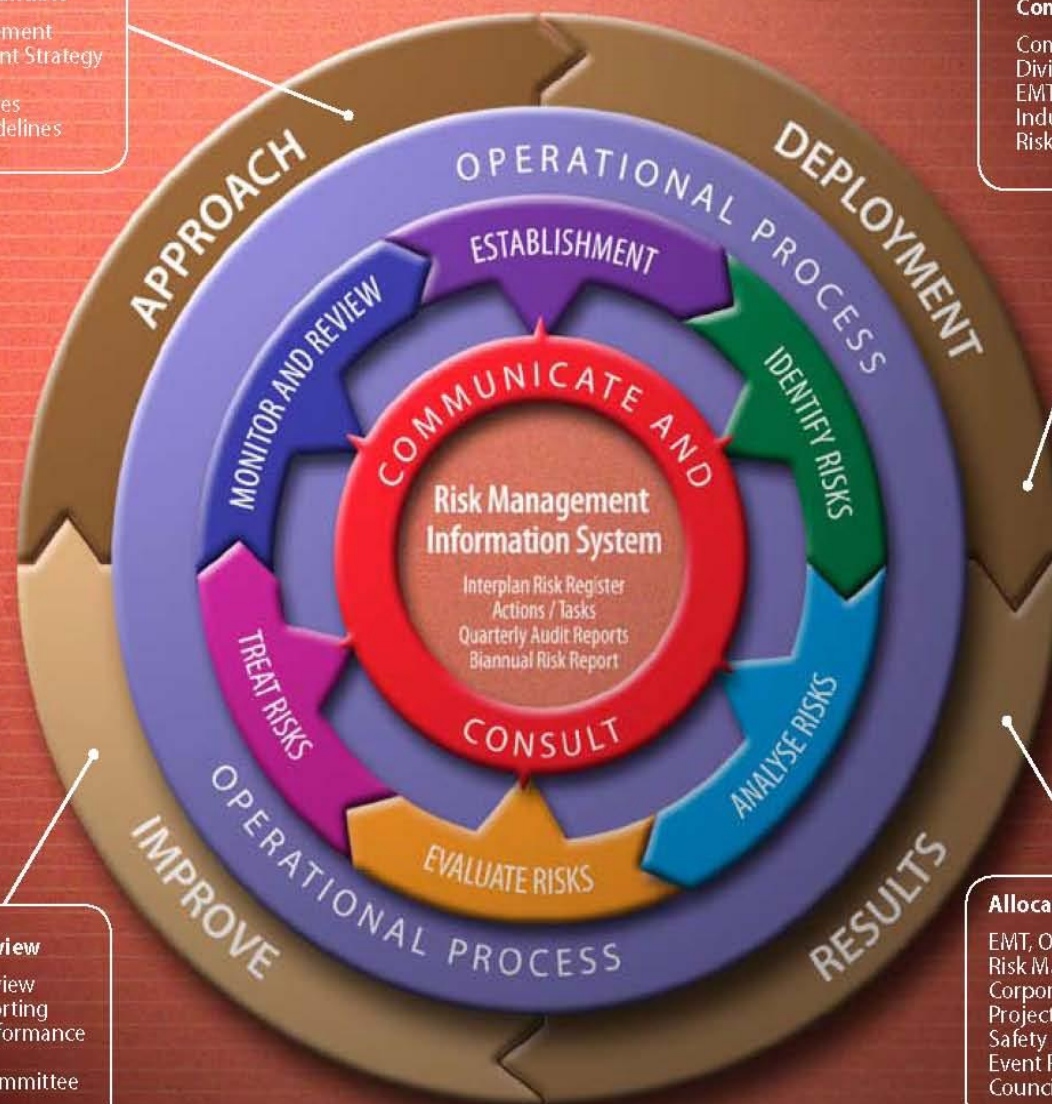
Communication – Team Brief,
Divisional/Team meetings
EMT, OMT and OSH network
Induction/Orientation Training
Risk Management Training

Measure and Review

Internal Audit Review
Interplan KPI reporting
Monthly EMT performance
presentation
Risk and Audit Committee

Allocate, Analyse and Organise

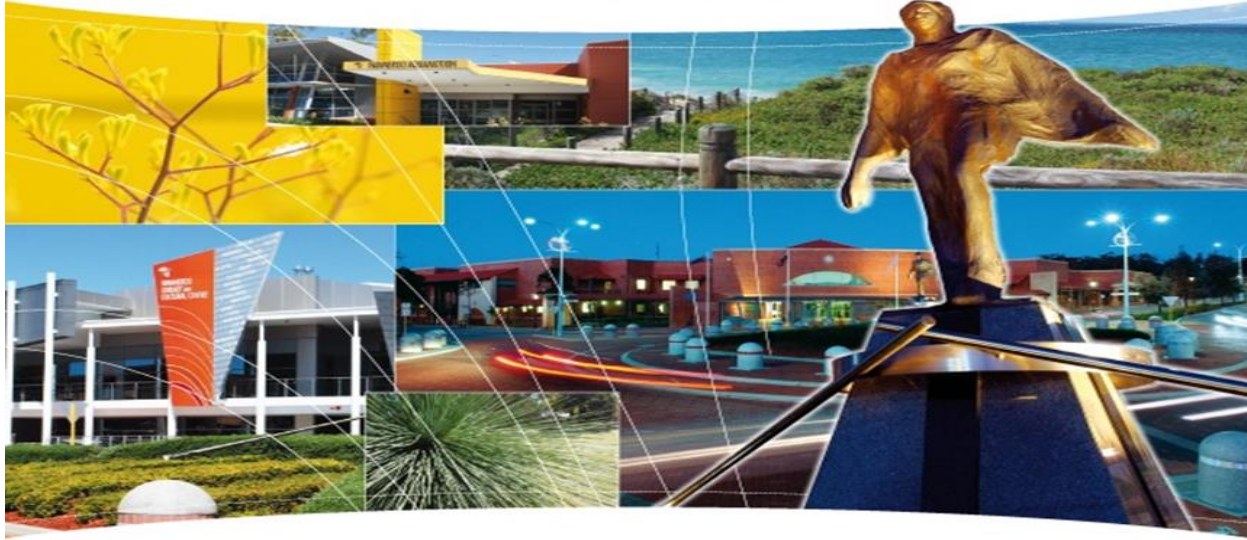
EMT, OMT and Responsible Officers
Risk Management Coordinator
Corporate Planning Framework
Project Management Framework
Safety Management System
Event Risk Assessment and planning
Council Item Template



Issues

- Urgent purchasing needs usually turn into long term legal matters.
- Contracts need to be Value for Money – watch escalation clauses (CPI++).
- One thing to have contract management but we need better management of contracts once let.

Best Practice in Procurement Forum: “Misconduct Risk Prevention Strategies”



Vision & Values

VISION

Building a Future Together

PURPOSE

To make a positive and lasting difference to the community that we serve



Valuing Our People

- We are committed to providing a safe workplace and the development of a healthy, productive, flexible and skilled workforce to adequately resource the organisation.

Team Work

- We build functional relationships and work collaboratively to achieve common goals.

Integrity

- We behave in an honest, open, respectful and accountable manner.

Communication

- We practice clear and timely exchange of information and feedback.

Innovation

- We add creativity and excitement to the workplace and projects we undertake.

Continuous Improvement

- We build capacity by improving our systems and processes.



Procurement Context:

- \$80m expenditure per annum on goods, services and works
- 130 active contracts
- 50+ public tenders annually
- 20,000 purchase transactions
- 1300 active suppliers
- 300 users of the purchasing system



The potential for fraud and misconduct in Procurement is therefore deemed to be high risk.....

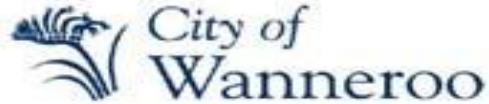
Introduction

- In 2010/11 we had already commenced a review of our procurement practices and updated our Code of Conduct and Purchasing Policy
- Our risk management framework was also in development

What we have done since....

- Closed out the majority of the RSM Bird Cameron CCC audit recommendations
- Established a centre-led procurement team – building capacity and professional expertise
- Risk assessed procurement and contract management activities
- Refreshed the City's Purchasing Policy and associated management procedures
- Introduced a Statement of Business Ethics
- Refreshed the City's Code of Conduct
- Developed a Fraud Corruption, Bribery and Misconduct Policy
- Conducting further forensic testing of procurement activities

Purchasing Policy



Policy Manual

PURCHASING POLICY

Policy Owner:	Corporate Strategy and Performance
Contact Person:	Manager Governance and Legal
Date of Approval:	CS07-12/14

1. POLICY

The City of Wanneroo (the **City**) is committed to delivering best practice in the procurement of goods, services and works that align with the principles of transparency, probity, good governance and comply with the Local Government Act 1995 (the **Act**) and the Local Government (Functions and General) Regulations 1996 (as amended) (the **Regulations**). Procurement processes to be complied with are defined within this Policy.



Education and Training

Training is being rolled out to all purchasers; a “how to purchase” tool helps simplify and explain basic purchasing Policy requirements:



How To Purchase guide for City of Wanneroo

This guide was written by the City of Wanneroo procurement team. It provides simple instructions to ensure you are following our guidelines and rules when purchasing goods or services.

If you need additional assistance, please contact David Best on 08 9405 5810.

GET STARTED >

Fraud, Corruption, Bribery and Misconduct Policy

Key elements and objectives:

- Establish effective control framework
- Eliminate the occurrence and impact of fraud
- Communicate intent and responsibility for fraud management
- Conduct fraud awareness training to reinforce obligations and behaviour

Lessons learnt and advice to others....

- Procurement is a “high risk” area – understand your risk profile
- Understand the strategic importance of procurement particularly around the probity and reputational issues
- Ensure your governance framework for procurement is well structured, documented and understood
- Professional expertise is necessary to lead the procurement function
- Individuals need to understand their obligations under the LG Act, Regulations and Purchasing Policy framework
- Ongoing training and education is vital – seek external assistance to help build capacity and deliver the message where necessary
- Build effective internal controls and ensure ongoing compliance testing and reporting



Best Practice in Procurement Forum




13 May 2015



Procurement compliance
is essential to establishing
a robust framework
to control the risk of
misconduct and fraud



Key findings from the CCC Report:

-  Collaborative prevention focus needed
-  Inadequate compliance assessing
-  Financial governance risks prevalent



Landmark opportunity
to improve procurement
across the sector
by working together







WALGA's Compliance Tools:



Preferred Suppliers

“Whole of sector aggregated buying arrangements”

	139 WA Local Governments & 39 Associates
	45 Panels & 631 Preferred Suppliers
	\$300M Estimated Expenditure 2015/16
	\$45M Estimated Savings 2015/16



WALGA's Compliance Tools:



Preferred Suppliers

“Whole of sector aggregated buying arrangements”







- ✓ Tender exempt
- ✓ Prequalified contract terms & conditions
- ✓ Centralised contract management
- ✓ Avoids duplication
- ✓ Risk mitigation
- ✓ Full regulatory compliance



WALGA's Compliance Tools:



eQuotes – “Most efficient and transparent way to secure quotes from suppliers.”

	User-friendly and efficient
	Access to Preferred Suppliers
	Transparency
	Free Training
	Compliance
	Local Suppliers



WALGA's Compliance Tools:



Procurement Consultancy Service (PCS)



Procurement Compliance Checklist:

A comprehensive online self-assessment tool that provides Members with an instant automated findings report



Procurement Compliance Checklist:



Benefits to Local Government:



Self-checking tool



Compliments audit requirements



Health check



Highlights areas for improvement

Procurement Compliance Checklist:



Benefits to the Sector:



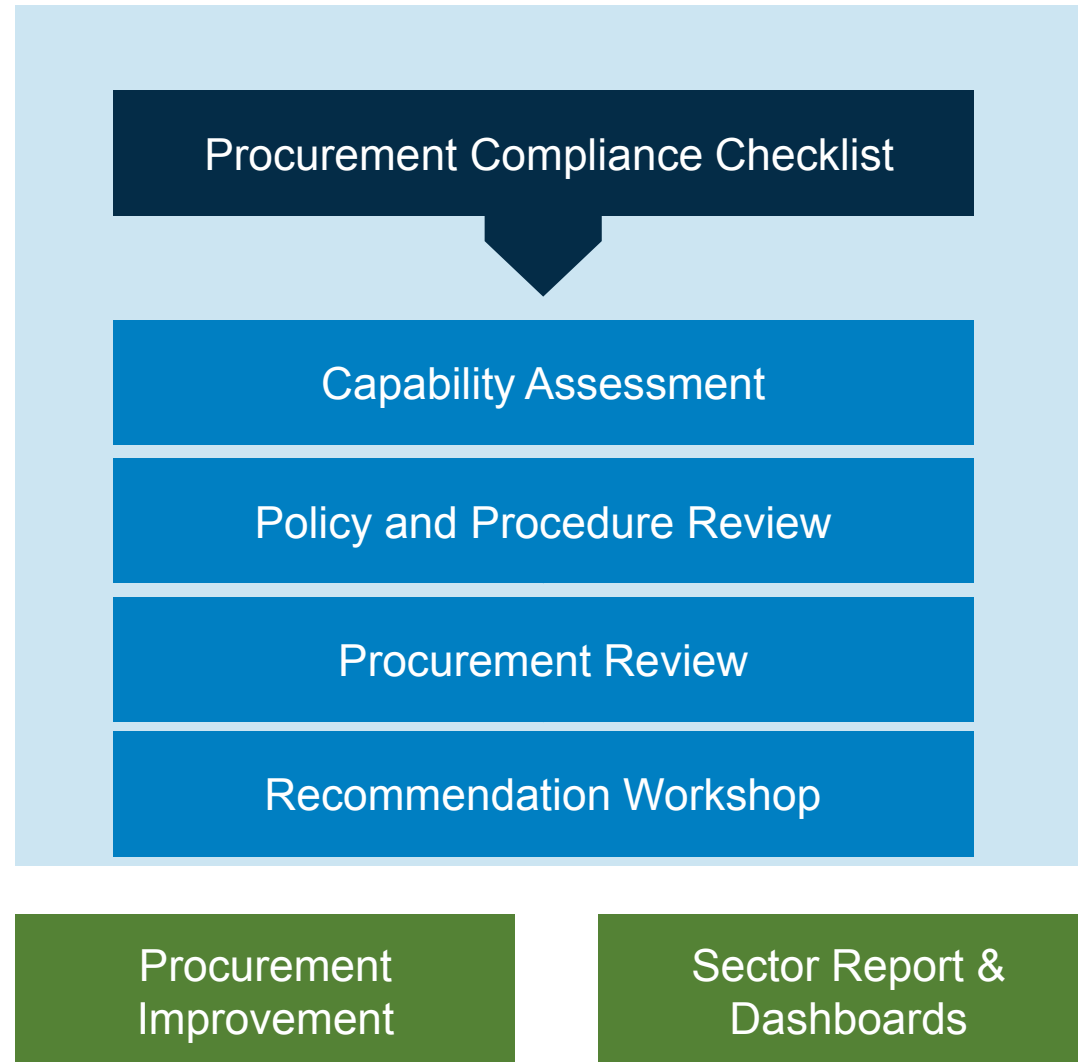
Snapshot of compliance levels






Comparison & benchmarking



Sector-wide improvement strategies



Action:

-  Access to the compliance checklist is *free of charge* to WALGA Members until 30th June
-  CEOs will be emailed access and progress information after the Forum
-  The PCS is available to assist as required



Further information:

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