

Public Values Embedded in Australian Public Works Procurement

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Procurement arrangements for public works are highly contextualized as jurisdictions adapt and respond to local issues and constraints. Policy-makers in Australia at all levels are focused on protecting public values when procuring public works. Public values are shown here to be consistent across Australian jurisdictions, although considerable variety exists in the institutional arrangements that safeguard these values.

Historically, the design, construction management and maintenance of public works in Australia was conducted by in-house staff, occasionally supplemented by external consultants, with almost all construction undertaken by private contractors. For some jurisdictions, some physical construction was undertaken by in-house workforces, but not for large or complex works. 'Contracting out' fundamentally changed the nature of service delivery for government agencies since almost all these tasks became fully outsourced (Australian Public Service Commission, 2003). The resultant marketization of public services (Niskanen, 1998) was driven by a public policy focus on the cost-efficient private provision of public infrastructure. More recently, research has moved beyond assessment of the financial performance of contracting out, with increased focus on the public values that inform such activity (Beck Jørgensen *et al.*, 1998).

When examining public values, researchers avoid a narrow concentration on economic analysis of the costs and benefits of contracting out, and focus instead on what is 'just, right and good' (Fogelin, 1992). Beck Jørgensen and Bozeman (2007) argue that public values include such concepts as accountability, balancing interests, competitiveness, effectiveness, efficiency, listening to public opinion, openness, professionalism, risk-readiness and personal development of employees. They also suggest that such public values are sometimes neglected in contracting out regimes. In reviewing the literature, Charles *et al.* (2008; this issue) suggest that researchers have approached the analysis of public values in three main ways:

- *Universal approaches*, which focus on the normative element of public values.
- *Stakeholder approaches*, where values are seen

as the product of structured interaction between stakeholders.

- *Institutional approaches*, where public values are time, place, culture or circumstance specific.

Charles *et al.* (2008) argue that an institutional analysis of public values typically examines public values, trade-offs and safeguarding mechanisms as an expression of the specific institutional characteristics of a certain sector or country, often by using a comparative research design. This article builds on initial research into institutional arrangements concerning public works procurement in Australia by undertaking a cross-jurisdictional analysis of the public values involved.

This article looks at the institutional arrangements for public works procurement in Australia in terms of the safeguarding of public values. Differences between countries have been demonstrated by other authors, here we show that variations can also occur within a specific country.

Methodology

We carried out a cross-jurisdictional analysis of public values embedded in public works procurement arrangements in Australia. We analysed the key context-specific institutional arrangements identified by Brown *et al.* (2006)—the organizational roles and responsibilities in the procurement process, together with the relevant public policy settings, as a set of examples or cases studies. Treating the procurement arrangements of Australian jurisdictions as a series of cases studies enabled us to understand jurisdictional arrangements in considerable detail (Yin, 2003).

Semi-structured interviewing was the primary data collection strategy, with policy documents used as supplementary sources of

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information. Semi-structured telephone interviews were conducted with senior public servants responsible for capital works procurement policy in every jurisdiction in Australia.

Interviewees were asked to outline the approach to capital works procurement undertaken by their jurisdiction, the main reasons for this approach, and how they thought the approach could be improved. Respondents were given opportunity to provide feedback on preliminary findings in order to check the data, and its interpretation, for accuracy. Triangulation of data collected between interviews and policy documents enhanced the validity of the findings (Stake, 2003). This methodology is cross-sectional and therefore reports the specific time period of 2006.

Scope

The public works procurement policies analysed in this article are focused on the procurement of the construction of new buildings (capital works) valued at more than \$AU100,000 in national and state* jurisdictions in Australia, such as schools, hospitals, office buildings, prisons, justice and police facilities. While a range of other activities could also have been examined—minor works, maintenance, whole-of-life, breakdown maintenance and redundancy management—these are not the focus of this article, nor are procurement policies of specific civil and engineering infrastructure such as bridges, main roads, railways, harbours, and airports. While valid research projects, such activities involve either different stages of the asset life-cycle (such as maintenance and redundancy), or are differing classes of assets (such as railway and roads). They also typically involve a different set of institutional and policy arrangements, at least compared with the procurement of new building works. By examining the institutional arrangements for procuring a specific type of asset (in this case, for new buildings across multiple jurisdictions), similarities and differences between jurisdictions become readily apparent.

Findings

Procurement policy seeks to organize systematically an array of institutions and processes in order to undertake construction projects. While containing a great amount of detail, two key elements of procurement policy

are examined here: procurement policy frameworks and the specific organizational arrangements of clients, central agencies and audit agencies within jurisdictions. No two Australian jurisdictions are identical in their institutional arrangements for capital works procurement. The descriptions that follow are drawn from interview data and policy documents from each jurisdiction. Onerous citation of sources is not undertaken in order to enhance the readability of the text. The reference list contains numerous policy documents which were key data sources, in addition to interviews.

Procurement policy frameworks are complex in order to allow for construction projects to meet requirements for market-derived commercial transactions; maintain public probity through accountability and transparency mechanisms; outline methods for determining the need for the asset, and how the building will enhance the ability of the agency to provide services to the community (New South Wales Treasury, 2004). It is important to note the role of the Australian Procurement and Construction Council (APCC) in relation to the provision of procurement policy advice in Australia. While the APCC does not have executive powers, it provides a forum for 'knowledge sharing, intelligence gathering and has the information networks to draw on for formulating solutions' (APCC, 2008). The APCC has developed a range of policy guidance documents for Australian jurisdictions; adoption of these documents is at the discretion of individual jurisdictions. The jurisdictions analysed here include all states and territories of Australia, including the Commonwealth of Australia—the federal administration: Australian Capital Territory; New South Wales; Northern Territory; Queensland; South Australia; Tasmania; Victoria; and Western Australia.

Three main organizational arrangements were identified for each jurisdiction—the client, who wants and pays for a particular building; the central agency, which establishes the procurement policy for a specific jurisdiction; and the role of an audit body, if any. These organizations undertake differing roles in procurement that are contrasted below, particularly identifying the need for a new building, planning and delivery of building construction.

We identified four main approaches to procurement: 'client managed'; 'client managed and centrally audited'; 'centrally managed'; and 'capability managed' procurement arrangements, which are detailed below.

*There is a technical difference between a state and a territory in Australia, but the term 'state' is used here to refer to both state and territory jurisdictions.

Client-Managed Procurement (Decentralized Approach)

Procurement in this case is the responsibility of clients, with support and policy advice provided by central agencies that must be adhered to. In other words, the procurement of most new buildings is decentralized, while a policy framework is in place to ensure that key risks are addressed, good service delivery outcomes from the process are achieved, and clients are supported in the procurement process. Significant or high-risk projects tend to still be managed by a central agency, or else clients may choose to utilize the experience of a central agency. The reason for this is that projects with greater significance or risk tend to have higher public profiles, and having a centralized delivery of these higher-risk projects is part of the government's risk management processes. This approach is typically used by large jurisdictions with a large volume of projects, and assumes clients have capability to undertake procurement, provided that they follow the policy process. Public values identified by the authors in this approach include: accountability, balancing interests, competitiveness, effectiveness, efficiency, openness, professionalism, risk-readiness, personal development of employees, and user orientation. The institutional arrangements of this approach are summarized in figure 1.

The key distinction of this approach (used in Queensland and Victoria) is that client agencies have a large amount of say in the planning and construction of their buildings. The weakness of this approach is that, despite the best policy advice, government agencies could ignore or be unaware of policies set by central agencies. In addition, some government clients may lack the capability to comply with the policy framework provided, may not choose the best procurement process, or may inappropriately allocate risk to contractors.

Client-Managed (With Centrally-Audited) Procurement

In this approach (used in Tasmania and the Commonwealth of Australia), while clients undertake procurement, this is augmented by a mandatory institutional mechanism that assesses building proposals before work commences. Projects over a certain value, typically \$AU2 million, are reviewed by a parliamentary standing committee before tenders are called for construction, unless exempted by parliament, although other boards and committees can operate at lower thresholds. Often, the deliberations of such committees are open to the

Figure 1. Overview of the organizational arrangements for a client-managed process.

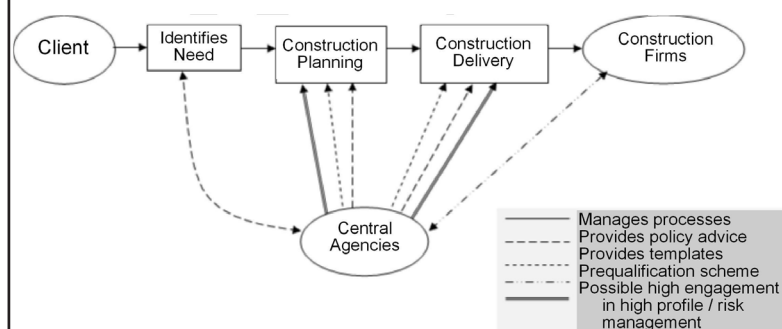
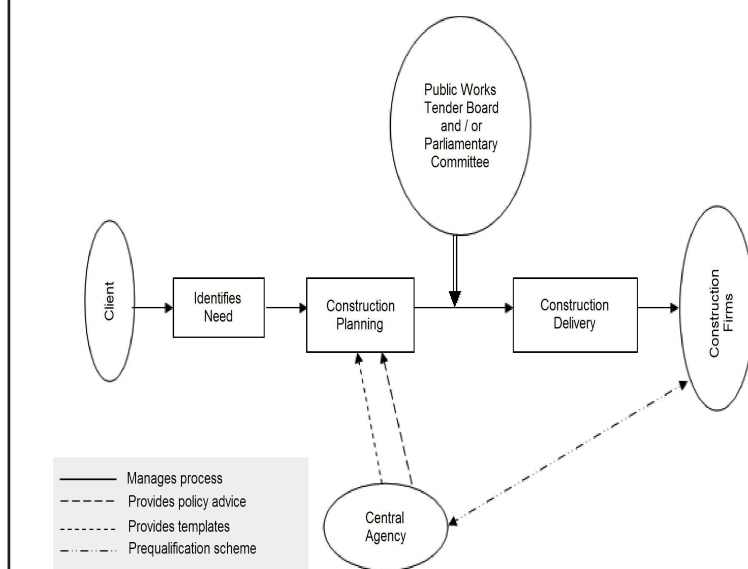


Figure 2. Client manages procurement process, audit authority scrutinizes process.



public, thereby facilitating transparency and public accountability of the procurement of public assets.

While clients are accountable for and can directly undertake the procurement of their own built assets, a mandatory review ensures that buildings are needed, will meet their intended purpose, are cost-effective, and address whole-of-life considerations. Public values identified by the authors in this approach include accountability, balancing interests, competitiveness, effectiveness, efficiency, listening to public opinion, openness, professionalism, risk-readiness, personal development of employees, and user orientation. The institutional arrangements of this approach are detailed in figure 2.

Some jurisdictions have authorities that audit and review procurement processes, although many of these simply constitute another layer of central authority. In Queensland, projects may be reviewed by a parliamentary public works committee however this often occurs *after* the commencement of works, although this is not mandatory.

Centrally-Managed Procurement

A centralized approach to capital works procurement is one in which a single or limited number of government agencies in a jurisdiction are responsible for undertaking capital works projects for the whole of government. When procurement goes beyond certain thresholds, procurement must also be reviewed by procurement boards (Australian Capital Territory, Northern Territory), or even by Cabinet (South Australia). Clients are not permitted to arrange the planning and delivery of new building works on their own. For smaller jurisdictions, this approach is quite pragmatic. Relatively small procurement budgets mean that procurement occurs periodically, and the expertise needs to be centrally located. Western Australia also uses this approach, although for a different reason, as the responsibility to undertake public works is assigned in legislation to specific departments.

The advantages of this approach are that it is consistent as far as local suppliers are concerned, efficient (it prevents unnecessary duplication of resources), and transparent. Against this, centralized approaches can result in central agencies determining the needs of other agencies, which may not be what was really needed. Public values identified in this approach include accountability, balancing interests, competitiveness, efficiency, effectiveness, listening to public opinion,

openness, professionalism, reliability, and risk-readiness. This approach is summarized in figure 3.

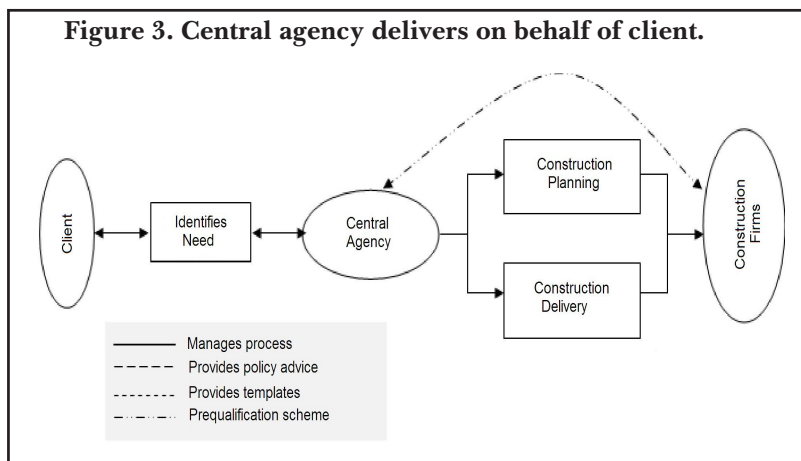
Capability-Managed Procurement

One jurisdiction (New South Wales) took a very different approach to the others, with multiple arrangements in place. Such differentiation arises from an accreditation process that assesses individual government agency's capability to conduct procurement. The main reason for this approach is that some agencies have extensive experience and activity in the procurement of built assets, whereas others lack such expertise and would only procure buildings sporadically. Those that are fully accredited can undertake their own planning and delivery of built assets. For projects valued over \$AU1 million, a centralized 'default procurement system' is provided for those agencies that have not been assessed as having organizational capability in the planning and delivery of capital works projects. Other agencies are accredited to undertake the planning phase, but not the delivery phase. The policy framework has been developed in New South Wales in order to ensure uniformity in the approach to the market, that the project achieves outcomes for the New South Wales Treasury and the client, and that an asset is created within a specified range of performance. Public values identified in this approach include: accountability, competitiveness, effectiveness, efficiency, listening to public opinion, professionalism, and risk-readiness. This approach is summarized in figure 4.

Discussion

Throughout the above, we found four main approaches to procurement policy in Australian governments. In the client-managed procurement approach, clients are responsible for planning and delivering building construction. As a result, there is an assumption that they are capable of doing so, provided they follow the policy advice of central agencies. In client-managed and centrally-audited procurement, there is also an assumption that clients are capable of arranging their procurement since the organizational arrangements permit them to do so; however, a high-level audit is undertaken in order to ensure that policy has been followed. In centrally-managed procurement, there is an implicit assumption that clients lack the capability to procure public works since they are not allocated this role under the policy framework.

Figure 3. Central agency delivers on behalf of client.



Our second major finding was that the implementation of contracting out in Australia was, in effect, a singularly large experiment, a key element of which was that government moved from in-house delivery to delivering capital works at arms' length in relationship with the private sector. It was evident from our interviews that the current arrangements had evolved over time, with many jurisdictions indicating that they had just changed, or were considering future changes to the institutional arrangements or the policy framework. These changes were responses to developments in markets, institutions, and organizational capability in public works procurement.

Third, we found that procurement approaches in Australia had a strong consistency of public values, although the safeguarding mechanisms differ between jurisdictions. Such a finding supports the institutional approach to viewing public values, which argues that safeguarding mechanisms are place and are context specific (Charles *et al.*, 2008).

We have shown here how institutional arrangements for the procurement of public works vary between the various Australian jurisdictions. Cross-case comparison of the various approaches to procurement supports the view that institutional arrangements are time, place and circumstance specific. Interviewees indicated that jurisdictions are continually searching for the best way to undertake procurement for their respective ambit.

We have also demonstrated that institutional arrangements make assumptions

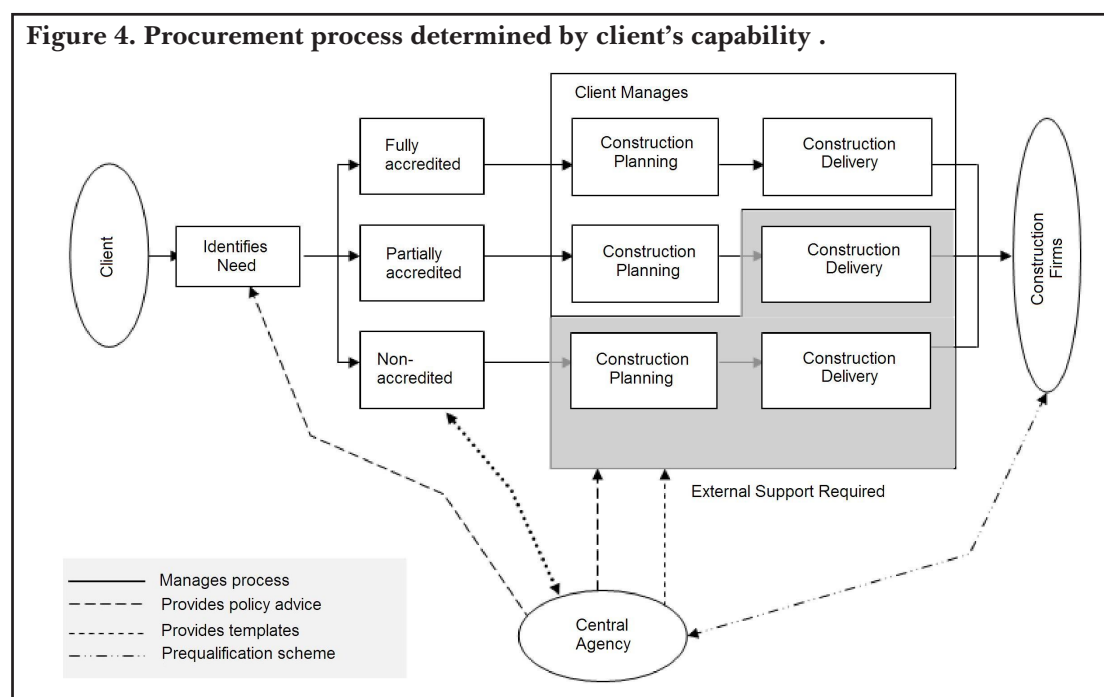
about the capability of clients to affect procurement. An assessment of client capabilities is essential to ensure beneficial outcomes from procurement processes and to safeguard public values. Such an assessment implicitly or explicitly underpins the various institutional arrangements noted in the findings.

Institutional arrangements—particularly public policy and organizational arrangements—can safeguard public values. Government in Australia undertakes multiple roles in the procurement process, and this, together with the policy framework, provides mechanisms for safeguarding public values. Additionally, while governments act to safeguard public values, the mechanisms for doing so vary depending on the institutional arrangements in place. Such variation can occur within a federal system of government, just as it can between different countries.

Such commonality could well be the influence of co-ordinating agencies such as the APCC, which provides policy advice concerning pre-qualification of suppliers, asset management, client skills, procurement reform and sustainable procurement, and a forum for the sharing of ideas (APCC, 2008). Performance-based policy approaches enable agreement on outcomes, yet enable individual jurisdictions to differ with respect to the mechanisms for achieving outcomes. This could explain the consistency in outcomes, while also allowing for differentiation with respect to approaches to procurement.

Alternatively, it may be that this consistency

Figure 4. Procurement process determined by client's capability .



is a result of the focus of the research, which examines the policy intent, rather than the policy implementation. If this is the case, further research is necessary in order to examine the cause of differentiation or homogeneity and whether there is a gap between the policy intent, and the policy implementation. A third reason may be the relatively narrow band of values examined in this article. Further examination of the 70 or more public values in the 'public values universe' (Beck Jørgensen and Bozeman, 2007, p. 359) may elicit a more diffused and differentiated set of outcomes.

Lessons for Practice

First, there is no one single foolproof set of institutional arrangements for public works procurement. Caution should therefore be exercised before adopting the procurement arrangements of differing jurisdictions, without first checking the rationale for such arrangements.

Second, there is a surprising consistency of public values in procurement across Australian jurisdictions: national, state, and territory. This could be the result of the provision of procurement policy advice by the APCC and this would be something that other governments should attempt to replicate. The APCC (Australian Procurement and Construction Council) reports to the Australian Procurement and Construction Ministerial Council (APCMC), comprising federal government ministers with direct responsibilities for procurement and construction matters and has established itself as a national reference point for both government and industry on best practices, principles and emerging issues in procurement, construction and asset management disciplines.

Third, assumptions concerning the capability of clients to effect the procurement of public works appear to be a key element in understanding the differences between various procurement approaches. A key lesson of this study is that governments need to take organizational capability into account when designing safeguarding mechanisms.

Finally, it is clear from the Australian examples that procurement from the private sector does not necessarily entail the loss of public values, provided that appropriate institutional arrangements are in place to safeguard them. Institutional arrangements, such as policy settings and organizational arrangements can—and do—vary between different jurisdictions, while policy intent can remain consistent. ■

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