
New South Wales Auditor-General's Report
Special Report
Agency compliance with the GIPA Act



The role of the Auditor-General

The roles and responsibilities of the Auditor-General, and hence the Audit Office, are set out in the *Public Finance and Audit Act 1983*.

Our major responsibility is to conduct financial or 'attest' audits of State public sector agencies' financial statements. We also audit the Total State Sector Accounts, a consolidation of all agencies' accounts.

Financial audits are designed to add credibility to financial statements, enhancing their value to end-users. Also, the existence of such audits provides a constant stimulus to agencies to ensure sound financial management.

Following a financial audit the Audit Office issues a variety of reports to agencies and reports periodically to parliament. In combination these reports give opinions on the truth and fairness of financial statements, and comment on agency compliance with certain laws, regulations and government directives. They may comment on financial prudence, probity and waste, and recommend operational improvements.

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Performance audits are reported separately, with all other audits included in one of the regular volumes of the Auditor-General's Reports to Parliament – Financial Audits.

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In accordance with section 38B of the *Public Finance and Audit Act 1983*, I present a report titled **Agency compliance with the GIPA Act**.

A handwritten signature in black ink, appearing to read 'Margaret Crawford'.

Margaret Crawford

Auditor-General
17 October 2016

Executive Summary

This report outlines the results of our review of a selection of 13 agencies' compliance with the requirements of Part 3 Division 5 of the *Government Information (Public Access) Act 2009* (the GIPA Act).

Compliance with the GIPA Act

Compliance with the GIPA Act

All thirteen agencies materially complied with the GIPA Act requirements. However, we identified instances of non-compliance with specific requirements.

All agencies we reviewed received qualified compliance review reports.

Controls

Completeness findings

Twelve agencies had not recorded all contracts valued at \$150,000 or more in their contract registers on 12 May 2016.

Timeliness findings

Ten agencies had not entered all qualifying contracts in the Government tenders contracts register within 45 working days of the contracts becoming effective.

Accuracy findings

Four agencies had recorded inaccurate information in the contracts register when compared to the contract.

Class 2 and 3 contract disclosure findings

Five agencies had not fully complied with the additional disclosure requirements for class 2 and 3 contracts.

Policies and procedures

Some agencies had not formally documented their policies and procedures for ensuring compliance with the GIPA Act.

Health cluster agencies

All Health entities' contracts are disclosed in a combined register, which is maintained by Health Share. It is difficult to identify contract information relating to a specific Health entity.

Government tenders website

The Government tenders website does not reflect the current agency and cluster arrangements.

Agencies' understanding of the GIPA Act

The GIPA Act requirements are understood differently across some agencies.

Governance

Governance

The approach to preparing and reviewing the contracts register varies across agencies. The review is often not performed by an independent party.

Compliance with the GIPA Act

We identified instances of non-compliance with the GIPA Act at each agency

The evidence we gathered at all thirteen agencies was sufficient to conclude they had materially complied with the requirements of Part 3 Division 5 of the GIPA Act. However, we identified instances of non-compliance with specific requirements, which resulted in a qualified review conclusion for each agency.

Recommendation

Agencies should implement policies and procedures to ensure they fully comply with the GIPA Act.

Controls

Completeness issues were identified in 12 of the agencies we reviewed

We found some contracts valued at \$150,000 or more were not recorded in the publicly available contracts register for 12 of the 13 agencies we reviewed.

Completeness issues were mainly due to agencies not having adequate controls in place to ensure that all qualifying contracts were recorded in the contracts register.

Recommendation

Agencies should implement adequate controls to ensure all contracts valued at \$150,000 or more are recorded in the contracts register.

Other completeness findings resulted in the following recommendations:

Recommendations

- All contracts should be regularly reviewed, including those with suppliers on the pre-approved suppliers listing, to ensure they are recorded in the register
- Where the exact value of a contract is not known at the time the contract becomes effective, the total contract value should be estimated and disclosed in the register
- Where an agency maintains more than one contracts register, the registers should be reviewed against each other to ensure they are complete
- Where the execution of a contract that an agency is party to, is managed by another party, the agency that executed the contract should ensure the contract is disclosed in its contracts register
- Where an agency adopts the commercial-in-confidence provisions of section 32 of the GIPA Act, this should be adequately disclosed in the register.

Timeliness issues were identified at most agencies we reviewed

We found ten agencies had not entered all qualifying contracts into their published contracts register within 45 working days of them becoming effective.

Recommendation

To ensure compliance with the GIPA Act agencies should implement processes to ensure qualifying contracts are entered into the Government tenders contracts register within 45 working days of the contract becoming effective.

Accuracy issues were identified in some agencies' contract registers

We identified instances where inaccurate information was recorded in four agencies' contract registers when compared to the contracts.

Recommendations

Agencies should implement processes to ensure:

- information entered into the Government tenders contracts register agrees to the contract
- goods and services tax (GST) is included when estimating the total amount payable over the term of a contract.

Some agencies did not include all mandatory disclosures for class 2 and 3 contracts

We identified instances where contract registers did not include the additional information required for class 2 and 3 contracts.

Recommendation

Class 2 and 3 contracts should be identified and the required additional disclosures included in the contract registers.

Some agencies did not have formally documented policies and procedures

Some agencies we reviewed did not have formally documented policies and procedures to ensure they comply with GIPA Act requirements.

Recommendation

Policies and procedures should be in place to ensure agencies comply with the GIPA Act. These should be formally documented with clearly defined roles and responsibilities.

Health agencies' contract registers are combined on the Government tenders website

Health Share publishes contracts for health agencies in a combined contracts register on the Government tenders website.

Health Share identifies the contracts on the Government tenders website by prefixes only, making it difficult for users, including members of the public, to identify which contract relates to which agency.

Recommendation

The Department of Finance, Services and Innovation should work with Health Share to ensure the Government tenders website is amended to better identify contracts relating to cluster reporting entities.

The Government tenders website does not reflect the current cluster arrangements

The Government tenders website does not reflect the current agency and cluster arrangements. Some of the Government's structural changes are not reflected on the website.

Recommendation

The Government tenders website should be reviewed to ensure it reflects the Government's current agency and cluster arrangements.

The GIPA Act requirements are interpreted differently by some agencies

Our review findings demonstrate there is inconsistent understanding of the GIPA Act requirements across NSW government agencies.

Recommendation

The Information and Privacy Commission NSW's (IPC) continued support and guidance to help agencies' understanding of the GIPA Act requirements is necessary and should continue.

Governance

Agencies do not have a common governance approach to managing contract registers

Primary responsibility for managing the GIPA Act requirements and contract registers differed across all 13 agencies we reviewed.

Recommendation

The unit responsible for procurement and/or finance should be responsible for maintaining the contracts register.

Agencies' approach to reviewing the contracts register varied across the clusters

Different departments were responsible for reviewing the agencies' contracts register. In some cases this was the same department that had responsibility for maintaining the register.

Recommendation

The contracts register should be regularly and independently reviewed by governance functions, such as internal audit.

Introduction

GIPA Act requirements

This report outlines the results of our review of a selection of agencies' compliance with the requirements of Part 3 Division 5 of the *Government Information (Public Access) Act 2009* (the GIPA Act). The GIPA Act deals with mandatory disclosure of government contracts with the private sector. It is the responsibility of individual agencies to ensure they comply with the GIPA Act.

Benefits of compliance

A key objective of the GIPA Act is to improve the transparency and integrity of the NSW public sector by authorising and encouraging agencies to proactively release government information to the public. Releasing contract information helps promote:

- good governance, which in turn helps minimise fraud and corruption
- fairness in the way contracts are awarded
- value for money and efficiency.

Compliance with the GIPA Act also helps reduce reputational and organisational risks, and supports an effective internal control framework.

Evidence suggests greater transparency of government contracts with the private sector results in better performance and value for money from outsourced services.¹

The NSW Auditor-General's Report, Volume One 2016 'Areas of Focus from 2015', reported the lack of centralised contract registers was a recurring control issue across the NSW public sector. It recommended agencies establish centralised contract registers, which are regularly reviewed and updated on a timely basis. Maintaining a compliant contracts register is an important element of an effective contract management framework.

Scope of review

The review was performed on thirteen agencies covering each cluster within NSW Government. It was designed to help agencies improve key areas of compliance with the GIPA Act.

The procedures, which included observation, corroborative enquiries and examination of documents, were designed to confirm whether the selected agencies on 12 May 2016 had:

- a government contracts register
- a register designed to meet the requirements of the GIPA Act
- recorded all contracts valued at \$150,000 or more in the register within 45 working days of the contract becoming effective
- published a copy of the register on the Government tenders website - <https://tenders.nsw.gov.au>.

There are inherent limitations in undertaking an engagement of this nature. The work was conducted as a review engagement, not an audit. Consequently the procedures were not designed to detect all instances of non-compliance. The review provides limited assurance and concluded on whether the agencies had complied with the requirements of the GIPA Act.

¹ Mulgan, R. 2015, 'Transparency and the performance of outsourced government services', Occasional Paper no. 5, commissioned by Queensland Office of the Information Commissioner and prepared for the Australian and New Zealand School of Government.

Compliance with the GIPA Act

This chapter outlines the results of our review of agency compliance with the requirements of Part 3 Division 5 of the GIPA Act.

Compliance with the GIPA Act

Observation

All thirteen agencies materially complied with the GIPA Act requirements. However, we identified instances of non-compliance with specific requirements.

Conclusion or recommendation

All agencies we reviewed received qualified compliance review reports.

Recommendation: Agencies should implement policies and procedures to ensure they fully comply with the GIPA Act.

Review conclusions

Each agency had an adequately designed government contracts register

All thirteen agencies we reviewed had government contract registers. These were designed to meet the requirements of section 27 of the GIPA Act.

Section 27 requires agencies to keep a register of government contracts which records information about each contract it has entered into, with a value of \$150,000 or more.

Each agency had published its government contracts register

All thirteen agencies had published their government contracts register at 12 May 2016. The number of contracts published in the registers ranged from four to 104.

Section 35 of the GIPA Act requires agencies to publish a copy of their contracts register on the Government tenders website (or the agency website for a State Owned Corporation).

We identified instances of non-compliance with the GIPA Act at each agency

Recommendation

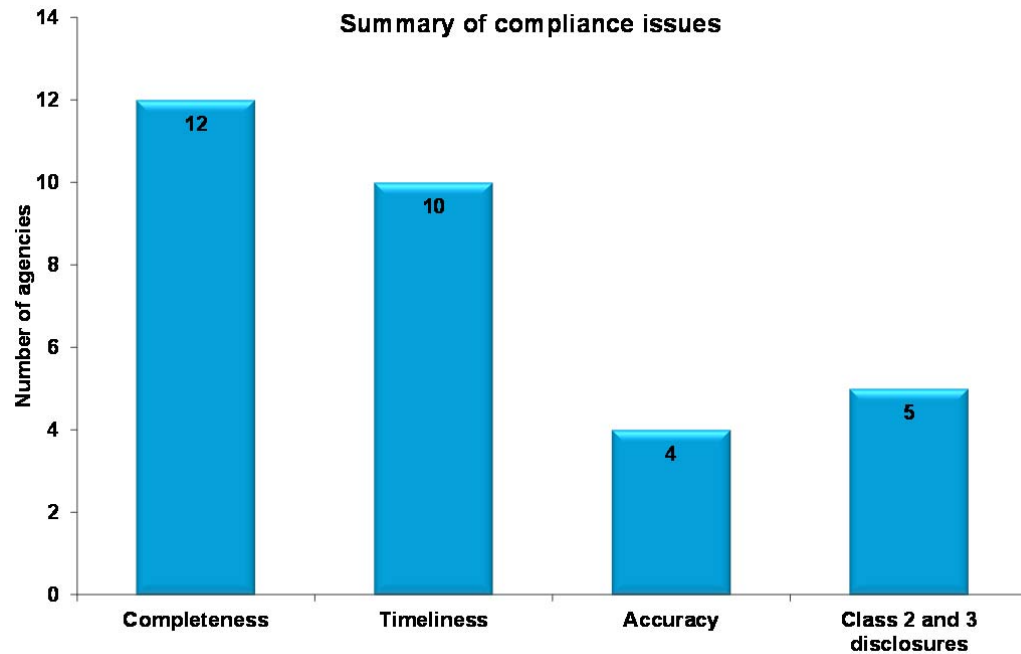
Agencies should implement policies and procedures to ensure they fully comply with the GIPA Act.

The evidence we gathered at all thirteen agencies was sufficient to conclude they had materially complied with the requirements of Part 3 Division 5 of GIPA Act.

However, we identified instances of non-compliance with specific requirements, which resulted in a qualified review conclusion for each agency. We found some or all of the following instances of non-compliance in each review:

- some contracts valued at \$150,000 or more were not recorded in the contract registers (completeness issue)
- some contracts were not entered into the registers within 45 working days of the contracts becoming effective (timeliness issue)
- inaccurate information was recorded in the register when compared to the contracts (accuracy issue)
- some additional information required for class 2 contracts was not disclosed in the register (disclosure issue)
- some copies of class 3 contracts were not included in the register (disclosure issue).

The issues identified by our reviews are summarised by nature below.



The most common findings were where agencies had failed to:

- record all contracts valued at \$150,000 or more in the contract registers
- enter all qualifying contracts in the register within 45 working days of the contracts becoming effective.

The extent of these findings indicates agencies across all clusters have a low level of compliance with some mandatory requirements of the GIPA Act.

Key challenges agencies face in complying with the GIPA Act include:

- ensuring staff are aware of their roles and responsibilities
- ensuring responsible business units communicate effectively with each other
- having adequate systems and tools
- having sufficient resources.

Controls

Appropriately designed controls which operate effectively help agencies comply with the requirements of the GIPA Act.

This chapter outlines findings and recommendations for improvements in controls.

Controls

Observation

Completeness findings

Twelve agencies had not recorded all contracts valued at \$150,000 or more in their contract registers on 12 May 2016. This was mainly due to agencies not having adequate controls in place to ensure all qualifying contracts were recorded in the contracts register.

Some agencies did not record qualifying contracts with pre-approved suppliers in the register.

Some agencies maintained an internal contracts register, which included qualifying contracts that were incorrectly excluded from the published register.

Some contracts were not recorded in registers because the exact contract value was not known at the time the contract was signed.

Some contracts were not included in agencies' contract registers because they contained commercial-in-confidence information.

Some qualifying contracts were not included in agencies' registers because management determined that, despite being party to the contract, the agency was not responsible for executing the contract.

Timeliness findings

Ten agencies had not entered all qualifying contracts in the Government tenders contracts register within 45 working days of the contracts becoming effective.

Accuracy findings

Four agencies had recorded inaccurate information in the contracts register when compared to the contract.

Conclusion or recommendation

Recommendation: Agencies should implement adequate controls to ensure all contracts valued at \$150,000 or more are recorded in the contracts register.

Recommendation: All contracts should be regularly reviewed, including those with suppliers on the pre-approved suppliers listing, to ensure they are recorded in the register.

Recommendation: Where an agency maintains more than one contracts register, the registers should be reviewed against each other to ensure they are complete.

Recommendation: Where the exact value of a contract is not known at the time the contract becomes effective, the total contract value should be estimated and disclosed in the register.

Recommendation: Where an agency adopts the commercial-in-confidence provisions of section 32 of the GIPA Act, this should be adequately disclosed in the register.

Recommendation: Where the execution of a contract that an agency is party to, is managed by another party, the agency that executed the contract should ensure the contract is disclosed in its contracts register.

Recommendation: To ensure compliance with the GIPA Act agencies should implement processes to ensure qualifying contracts are entered into the Government tenders contracts register within 45 working days of the contract becoming effective.

Recommendation: Agencies should implement adequate processes to ensure information entered into the Government tenders contracts register agrees to the contract.

Some agencies exclude goods and services tax (GST) when estimating the contract value.

Recommendation: GST should be included when estimating the total amount payable over the term of a contract.

Class 2 and 3 contract disclosure findings

Five agencies had not fully complied with the additional disclosure requirements for class 2 and 3 contracts.

Recommendation: Class 2 and 3 contracts should be identified and the required additional disclosures included in the contract registers.

Policies and procedures

Some agencies had not formally documented their policies and procedures for ensuring compliance with the GIPA Act.

Recommendation: Policies and procedures should be in place to ensure agencies comply with the GIPA Act. These should be formally documented with clearly defined roles and responsibilities.

Health cluster agencies

All Health entities' contracts are disclosed in a combined register, which is maintained by Health Share. It is difficult to identify contract information relating to a specific Health entity.

Recommendation: The Department of Finance, Services and Innovation should work with Health Share to ensure the Government tenders website is amended to better identify contracts relating to cluster reporting entities.

Government tenders website

The Government tenders website does not reflect the current agency and cluster arrangements.

Recommendation: The Government tenders website should be reviewed to ensure it reflects the Government's current agency and cluster arrangements.

Agencies understanding of the GIPA Act requirements

There is inconsistent understanding of the GIPA Act requirements across NSW Government agencies.

Recommendation: The IPC's continued support and guidance to help agencies' understanding of the GIPA Act requirements is necessary and should continue.

Completeness findings

Completeness issues were identified in 12 of the agencies we reviewed

Recommendation

Agencies should implement policies and procedures to ensure all contracts valued at \$150,000 or more are recorded in the contracts register.

We found some contracts valued at \$150,000 or more were not recorded in the publicly available contracts register for 12 of the 13 agencies we reviewed.

Section 27(1) of the GIPA Act requires agencies to record all government contracts with the private sector valued at \$150,000 or more in their contracts registers.

Completeness issues were mainly due to agencies not having adequate controls in place to ensure that all qualifying contracts were recorded in the contracts register. Other completeness findings are detailed below.

Contracts with pre-approved Government suppliers

Recommendation

All contracts should be regularly reviewed, including those with suppliers on the pre-approved suppliers listing, to ensure they are recorded in the register.

We identified instances where contracts valued at \$150,000 or more with pre-approved government suppliers were excluded from the contracts register. The GIPA Act does not exempt disclosure of contracts with pre-approved government suppliers or those that were not subject to a tender process.

Estimated contract values

Recommendation

Where the exact value of a contract is not known at the time the contract becomes effective, the total contract value should be estimated and disclosed in the register.

Some contracts were not recorded in registers because the exact contract value was not known at the time the contract was signed. For example, some contracts do not include a fixed price as the goods or services to be delivered are volume based. In these cases, the contract may only include a rate per hour or unit as consumption is not known at the outset of the contract. However, in these circumstances, section 28 of the GIPA Act requires agencies estimate the total value of the contract and record this in the register, if the estimate is \$150,000 or more.

Some contracts were not recorded where the original estimated contract value was less than \$150,000, but due to variations, such as an increase in the scope of the work, the value increased to more than \$150,000. Section 33 of the GIPA Act requires variations to qualifying contracts to be recorded in the register.

Consistency between internal and externally published registers

Recommendation

Where an agency maintains more than one contracts register, the registers should be reviewed against each other to ensure they are complete.

We found some agencies maintained an internal contracts register, which included contracts that were incorrectly excluded from the published register.

Whilst differences may legitimately exist between these registers, agencies should review them to ensure all qualifying contracts are published externally.

Identifying which agency should disclose a qualifying contract

Recommendation

Where the execution of a contract that an agency is party to, is managed by another party, the agency that executed the contract should ensure the contract is disclosed in its contracts register.

We found some qualifying contracts were not included in agencies' registers because management determined that, despite being party to the contract, the agency was not responsible for executing the contract.

The GIPA Act applies to every contract with the private sector with a value of \$150,000 or more, regardless of whether the agency is responsible for executing the contract or not.

Commercial-in-confidence provisions

Recommendation

Where an agency adopts the commercial-in-confidence provisions of section 32 of the GIPA Act, this should be adequately disclosed in the register.

We found contracts were not included in agencies' contract registers because they contained commercial-in-confidence information. However, the reasons for the non-inclusion were not disclosed in the registers as required by the GIPA Act.

Section 32 of the GIPA Act exempts commercial-in-confidence contracts or similar provisions within contracts from being disclosed in the Government contracts register. However, in these cases, agencies must disclose why the contracts or provisions have not been included in the register.

Timeliness findings

Timeliness issues were identified at most agencies we reviewed

Recommendation

To ensure compliance with the GIPA Act agencies should implement processes to ensure qualifying contracts are entered into the Government tenders contracts register within 45 working days of the contract becoming effective.

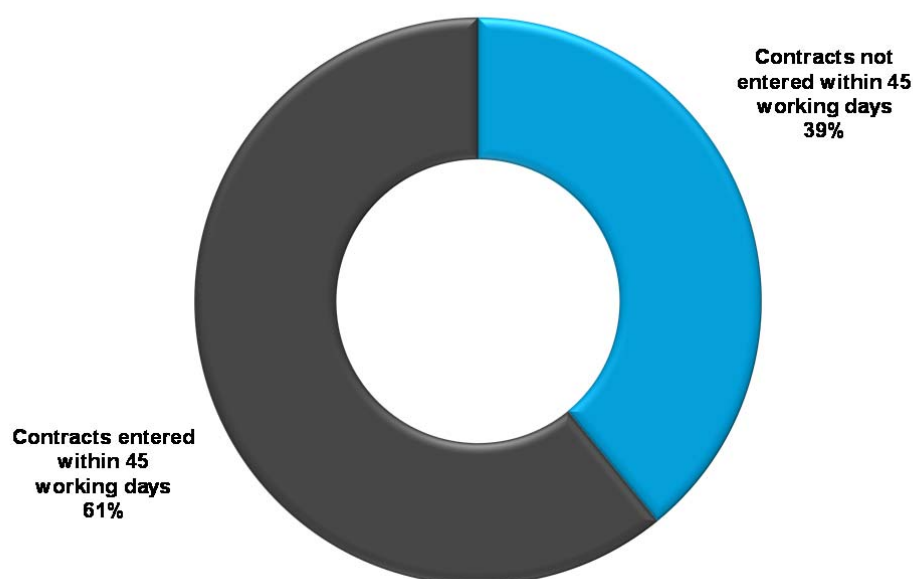
At 12 May 2016, we found ten agencies had not entered all qualifying contracts into their published contracts register within 45 working days of them becoming effective.

Section 27(2) of the GIPA Act requires contract information to be entered into the register within 45 working days of the contract becoming effective. The GIPA Act describes the date a contract becomes effective as:

- the date the contract is entered into by or on behalf of an agency, or
- if the contract contains one or more conditions that must be met before the obligations of the parties under the contract are enforceable, it is the date the conditions were met.

The graph below illustrates the results of our analysis:

Timeliness of publishing contract information



Source: Government tenders website (12 May 2016) (unaudited).

On average, 39 per cent of the contracts in the agencies' published registers were not entered within 45 working days of the contracts becoming effective. On an individual agency basis this percentage ranged from 16 to 80 per cent.

Accuracy findings

Accuracy issues were identified in some agencies' contract registers

Recommendation

Agencies should implement adequate processes to ensure information entered into the Government tenders contracts register agrees to the contract.

We found instances where inaccurate information was recorded in four agencies' contract registers when compared to the contracts. Common inaccuracies included:

- names and business addresses of contractors [s.29(a)]
- duration of the contracts [s.29c]
- details of the projects, goods or services to be provided or real property to be leased or transferred [s.29(d)]
- estimated amounts payable to the contractors [s.29(e)].

The GIPA Act mandates certain disclosures for three classes of government contracts with the private sector. Section 29 details the disclosures required for all class 1, 2 and 3 contracts. Additional disclosures are mandated for class 2 and 3 as discussed in the next section.

Some agencies find estimating the value of a contract challenging

Recommendation

Agencies should ensure goods and services tax (GST) is included when estimating the total amount payable over the term of a contract.

Some agencies included goods and services tax (GST) when estimating the contract value while others excluded it. It is the view of the Information and Privacy Commission NSW (IPC) that the contract value should include GST².

Some agencies were unsure how to treat extension periods in contracts when estimating the contract value and excluded this element from their estimations.

In our view, the contract value should be the estimated amount payable over the life of the contract. If it is likely that extensions will be adopted, the estimate should include an estimate of the payments to be made during the contract extension period.

Class 2 and 3 contract disclosure findings

Some agencies did not include all mandatory disclosures for class 2 and 3 contracts

Recommendation

Class 2 and 3 contracts should be identified and the required additional disclosures included in the contract registers.

We found instances where contract registers did not include the additional information required for class 2 and 3 contracts.

These instances of non-compliance are consistent with the concerns raised by agencies that the additional disclosures are challenging because many contracts are complex and open to interpretation.

We noted of the 7,452 contracts published on the Government tenders website in 2015-16 for all NSW public sector agencies, 92 per cent (6,893 contracts) were published as class 1 contracts. Only 7 per cent included additional class 2 or 3 disclosures.

Better practice recommendations

Policies and procedures

Some agencies did not have formally documented policies and procedures

Recommendation

Policies and procedures should be in place to ensure agencies comply with the GIPA Act. These should be formally documented with clearly defined roles and responsibilities.

Some agencies we reviewed did not have formally documented policies and procedures to ensure they comply with GIPA Act requirements.

The Audit Office's Better Practice Contract Management Framework recommends agencies have a whole-of-agency procurement manual with contract management policies and procedures, which include maintaining a contracts register.

² Learning module 2b: Contracts Registers under the GIPA Act.

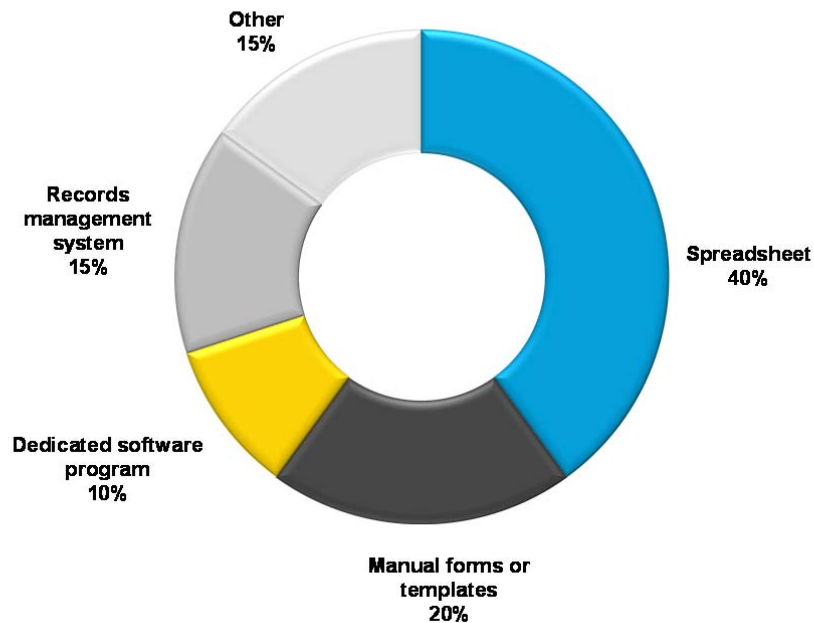
Agencies use various methods to manage contract registers and most are manual

Agencies should review and assess whether their methods of managing contract registers are fit for purpose and cost effective.

Sixty per cent of the agencies we reviewed use spreadsheets or other manual forms or templates to manage their contract register. Twenty five per cent use a records management system or other dedicated software program.

Systems that require significant manual processes and intervention increase the risk of error and non-compliance with the requirements of the GIPA Act.

Methods used to manage the contracts register



Source: Survey responses from agencies (unaudited).

Cluster specific recommendations

Health cluster agencies

Health agencies' contract registers are combined on the Government tenders website

Recommendation

The Department of Finance, Services and Innovation should work with Health Share to ensure the Government tenders website is amended to better identify contracts relating to cluster reporting entities.

Health Share publishes contracts on behalf of the health agencies in a combined contracts register on the Government tenders website. Separate registers are not published because Health Share does not have access to edit the agencies' individual contract registers. As a result the individual registers on the Government tenders website are empty.

Health Share identifies the contracts on the Government tenders website by prefixes only, making it difficult for users, including members of the public, to identify which contract relates to which agency.

Government tenders website

The Government tenders website does not reflect the current cluster arrangements

Recommendation

The Government tenders website should be reviewed to ensure it reflects the Government's current agency and cluster arrangements.

Some of the Government's structural changes are not reflected on the Government tenders website. To ensure the website is fit for purpose and meets users' needs and reporting requirements, the website should be reviewed to ensure it reflects the current agency and cluster arrangements.

The Department of Finance, Services and Innovation (DFSI) is responsible for the design and maintenance of the Government tenders website.

Agencies' understanding of the GIPA Act requirements

The GIPA Act requirements are interpreted differently by some agencies

Recommendation

The IPC's continued support and guidance to help agencies' understanding of the GIPA Act requirements is necessary and should continue.

There is inconsistent understanding of the GIPA Act requirements across NSW Government agencies, including the treatment of:

- GST in the estimated contract value
- contracts with pre-approved government suppliers
- contract extensions when estimating contract values
- commercial-in-confidence provisions
- additional disclosure requirements for class 2 and 3 contracts
- contract effective dates.

The IPC, as the independent regulator under the GIPA Act, also recently identified interpretation issues consistent with these findings and has taken regulatory action to enhance agencies' understanding of the requirements.

Given the number and nature of the findings from our review, the IPC's continued efforts in providing support and guidance to enhance agencies' understanding of the GIPA Act requirements is necessary and should continue.

Governance

This chapter outlines observations, conclusions and recommendations for agencies' governance of and compliance with the GIPA Act.

Governance

Observation

Agencies' approach to preparing and reviewing the contracts register is inconsistent and the review is often not performed by an independent party.

Conclusion or recommendation

Recommendation:

The unit responsible for procurement and/or finance should be responsible for maintaining the contracts register.

The contracts register should be regularly and independently reviewed by governance functions, such as internal audit.

The importance of governance

The Audit Office has issued a 'Best Practice Guide Governance Lighthouse - Strategic Early Warning System'. Agencies can use the principles and the checklist in the guide to identify areas of governance that need attention. One element of the lighthouse deals with effective compliance management, which helps agencies avoid breaching laws and regulations such as the GIPA Act.

An Audit Office Report on Internal Audit and Risk Management in 2012 identified that some agencies do not have a formal, documented regulatory compliance management framework.

Governance responsibilities for contract registers

Agencies do not have a common governance approach to managing contract registers

Recommendations

The unit responsible for procurement and/or finance should be responsible for maintaining the contracts register.

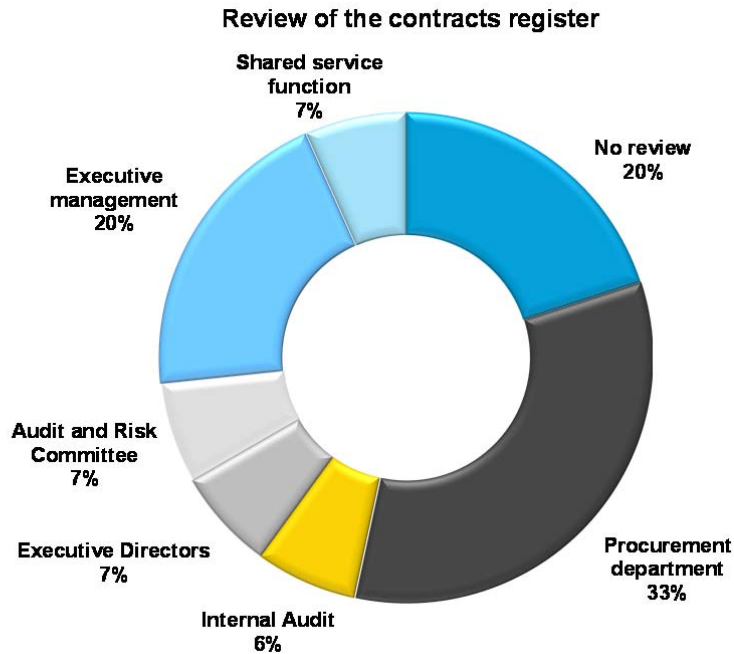
The contracts register should be regularly and independently reviewed by governance functions, such as internal audit.

Agencies do not have a common governance approach on which business units are responsible for managing the contracts register. Primary responsibility for managing the GIPA Act requirements and contract registers differed across all 13 agencies reviewed, varying across the procurement, finance and shared service functions.

In our view the units responsible for procurement and/or finance are likely to be most effective in maintaining the register. The register should be regularly reviewed by governance functions such as internal audit to ensure compliance with the GIPA Act. Internal audit should report its findings to those charged with governance, including the Audit and Risk Committee.

Agencies' approach to reviewing the contracts register varied across the clusters

Agencies were asked who within the organisation reviews the information in their contracts register. The chart below shows the results across the 13 agencies.



Source: Survey responses from agencies (unaudited).

There is no common governance approach across NSW Government agencies as to who reviews the information in their contracts register. Three of the agencies do not have a process in place to review the contract registers.

We observed the procurement department is often responsible for reviewing the agency's contracts register. In some instances, this department also manages the contracts, so there is no independent review.

Eight out of thirteen agencies did not have their contracts register independently reviewed. Only one agency responded that the Audit and Risk Committee reviewed the register.

The Audit Office of NSW's Better Practice Contract Management Framework recommends that in respect of governance, appropriate reporting and oversight practices for contract management should be in place, including oversight outside the business unit that 'owns' the contract. At least once per year the Audit and Risk Committee should review the contract register.

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Making a difference through audit excellence.

Our mission

To help parliament hold government accountable for its use of public resources.

Our values

Purpose – we have an impact, are accountable, and work as a team.

People – we trust and respect others and have a balanced approach to work.

Professionalism – we are recognised for our independence and integrity and the value we deliver.

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