

Contracting with the Government Sector in New Zealand

by Gavin Adlam

The changes to the government sector in New Zealand over the last few years have radically changed the procedures and opportunities available to those who wish to provide goods and services to the government sector. At the same time, there has been a considerable growth in government sector investment in computer systems and services, and no doubt this process will continue. It is therefore important for those in the computer related industries to appreciate the new requirements.

Before the 1987 Government Stores Board operated as a central purchasing agency for a very wide range of goods and services for use throughout the government sector. Many departments were required to procure all of their supplies of certain goods and services through the Government Stores Board, particularly consumables and generic items. In addition, the State Services Commission provided a coordinating role for the acquisition of information technology systems for most government departments, as part of its function of providing advice on management and information systems. In many cases the State Services Commission laid down guidelines, or became involved in the procurement process, to ensure some consistency of approach across the different departments and in an attempt to reduce the exposure of central government to inappropriate acquisition decisions.

During 1986 and 1987 a series of decisions were made in the beginning of a process which is still continuing, radically changing the

relationship between the government sector and private sector suppliers. Over that period a number of major purchasing departments (including the former Post Office, Ministry of Works and Development, Electricity Division, New Zealand Railways and even the Government Computing Service) have been reconstituted as state owned enterprises (SOEs). The new bodies have been formed into companies owned by central government and each is expected to 'operate as a successful business', although still exhibiting 'a sense of social responsibility'. They operate independently of the Government in making purchasing decisions. Some of the operations which were within the Government sector have now been sold to private sector owners (such as Telecom and the Health Computing Service). At the same time, reforms to the state sector mean that each public sector department or other agency has much greater autonomy in its financial management and is responsible for its own purchasing procedures. Within the departments, authorities have often been delegated down to separate regions or service units. There are also structural changes within the health and education areas, creating new service provider organisations responsible for their own purchasing decisions.

From 1987, the Government Stores Board was formed into SOE and named Government Supply Brokerage Corporation NZ Limited. As an SOE, it was required to operate on a commercial basis, which meant recovering its costs, while departments were no longer required to use its

services. In early 1991 it was sold to private sector owners, and now operates as a private company still offering procurement and related advisory services to the government sector, local authorities and other clients. The State Services Commission continues to advise government on operational matters, particularly inter-operability between Government networks, and has published a 'best practice' guide for departmental IT networks.

Although state sector purchasers generally now are free to choose what they buy and from where, and to lay down their own procurement procedures, the government has adopted a policy intended to promote the basic principles of 'value for money', open and effective competition, and full and fair opportunity for domestic industry. In this context, 'domestic' includes Australian suppliers in accordance with the Australia-New Zealand Closer Economic Relations Trade Agreement (ANZCERTA). The policy is expressed in the form of guidelines, rather than prescriptive rules, and is not aimed at favouring domestic suppliers over foreign suppliers in circumstances which do not make commercial sense. However, the guidelines are persuasive in the sense that the chief executives of the various government departments are responsible for carrying out the functions and duties of the department, including the wider policies of the government. In the case of SOEs, not under the same direct accountability provisions, there is still the requirement of social responsibility and the fact that some of their activities are

bound to attract adverse publicity if they disregard the policy guidelines.

The guidelines suggest that purchasing agencies should:

- (a) ensure that potential domestic suppliers are not overlooked;
- (b) communicate with potential suppliers to ensure a mutual understanding of the respective capabilities and requirements;
- (c) publish adequate and timely information about procurement plans, to give domestic suppliers time to plan adequate responses;
- (d) eliminate bias in favour of non-domestic suppliers, and ensure that brokers and consultants do the same; and
- (e) be prepared to debrief suppliers, particularly if unsuccessful, to improve the chance of successful bids in the future.

The government has pointed out longer term 'value for money' advantages in using domestic suppliers, such as quality, lower through-life costs, after sales service, ease of communication, ease of contract administration and dispute resolution and shorter supply lines.

An important practical element in implementing the policy has been the establishment of the New Zealand Industrial Suppliers Office (ISO). The ISO is a part of the Ministry of Commerce, and was established to promote local industry capabilities and maximise competitive local content. With government sector expenditure on information technology running at approximately NZ\$300 million in the 1992/93 year, the ISO wishes to ensure that domestic suppliers get all the opportunities they need to participate equally in supplying that market. The ISO provides some general advisory services on the pro-

urement process to government departments, and has conducted surveys to preview purchasing policies and requirements. With increased decentralisation of government purchasing agencies, advances in the development of GOSIP (the Government (or General) Open Systems Interconnection Profile) which is being worked on as an Australia-New Zealand project, and more knowledge of the functions of the ISO, the office envisages that it will be able to assist suppliers and users to an increasing degree.

One characteristic of the Australian government information technology policy, which does not seem to have been reflected in New Zealand, is the idea of a standard set of conditions for supply contracts. The New Zealand guidelines do include comment on buying practices, such as:

- (a) seeking expressions of interest where specifications are not finalised, or may not precisely match the range of products offered by suppliers;
- (b) allowing sufficient time for the consideration of bids;
- (c) specifying the selection criteria;
- (d) ensuring that the supplementary information is available to all bidders;
- (e) establishing a policy for dealing with late bids.

Even within the guidelines, suppliers can expect a range of different approaches, depending upon the particular department, its policies and its requirements. In some cases, government agencies will issue tender packages with detailed specifications and a draft contract, while other agencies may be prepared to negotiate on the basis of a contract submitted by bidders. The government sector is no exception to the trend, that bidders' agreements are

unlikely to be accepted without question except in the most straightforward circumstances. Some departments, particularly the Defence Department and others which have all traditionally had comprehensive procurement policies and standard contracts, will use tender processes and forms of agreement which have been developed from but are based on those earlier standard documents.

Consistent with the policy of ensuring that domestic suppliers are not put at a disadvantage, suppliers should be able to identify the extent of their domestic content or input. The fact that a product may in part be sourced outside Australasia need not put the supplier at a disadvantage, particularly where adequate service and support is available locally. The ISO can provide details and advice about the way in which the policy guidelines should be implemented, but in general a supplier which can demonstrate a greater level of domestic content is likely to be selected, all other things being equal, ahead of a supplier with little or no domestic content. The New Zealand Ministry of Commerce publishes information about government purchasing in New Zealand, including the government purchasing guidelines and a 'Suppliers Guide'. The Ministry is also responsible for monitoring observance of the policy by purchasing agencies, and for investigating complaints if suppliers feel that they have been unfairly excluded. Enquiries may be directed to the Tariff Policy and Industries Issues Group, Ministry of Commerce, PO Box 1473, Wellington, phone (04) 472 0030, fax (04) 473 8949. ♪

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