

## Book Review - Capital Project Procurement Manual, Public Works Department (NSW), loose leaf binder, \$100.

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The NSW Government's Construction Policy Steering Committee has recently released its Capital Project Procurement Manual, a companion publication to the Government's Total Asset Management Manual.

The new Manual is directed at reform of the construction industry and greater consistency in management practices within the government agencies. It is a comprehensive statement of the manner in which the Government intends to procure construction projects and is an integrated set of guidelines for public sector agencies and for private sector enterprises wishing to do business with the public sector.

The Manual is primarily directed at members of the government construction agencies, providing them with guidance on their future involvement in government construction projects. At the same time, it is essential reading for private sector participants in the industry who are involved in a government construction project.

The Manual is a well presented document, setting out in logical format an overview of the Government's capital investment reform, the key issues in its reform philosophy, the required standards of behaviour and the Government's reform guidelines.

The Manual is divided into 4 sets of papers categorised as "Overview", "Key Issues", "Standards of Behaviour" and "Reform Strands".

The Overview papers provide an overview of the policies, standards and performance measurement procedures being introduced and the linkages between public sector management reforms and the reform of the construction industry. They state the Government's management perspective, reform philosophy, proposed reform process, the management framework that has been put in place and the Government's position in relation to the Total Asset Management Manual.

The Government highlights its significant position in the construction industry (33-40% of the nation's non-residential construction market) and the importance of the industry to the State's economy. The recent Royal Commission has reinforced the Government's view that it should use its power as a major client of the industry and exercise its responsibilities as a regulator in the industry, to bring about changes within the industry, with the long term viability of the State's economy being a priority:

"The Royal Commission and other enquiries rein-

forced that the Government should use its power as the major client of the industry and at the same time exercise its responsibilities as a regulator to bring about changes within the industry.

The Government's wish is that the industry's productivity in New South Wales be lifted by 20% within five years.

That result will enhance New South Wales' economic strength, with substantial flow-on effects to other parts of the national economy which, in the light of the current recession, makes the need for change all the more urgent."

Consequently, the Government is initiating major reforms in public sector management aimed at reducing risk, achieving greater uniformity and achievement of "Best Practice". The initiatives aim for consistency and co-ordination of policies and practices across Government agencies, in particular, by those engaged in dealings on a regular basis with the construction industry.

The Key issues papers state the Government's principles of "Best Practice", "Industrial Relations" and "Anti-fraud Strategies".

The first paper outlines the Government's philosophy necessary to achieve Best Practice. Best Practice is defined simply as "... the best way of doing things" and also as "... the achievement of excellence in performance by an organisation within either a particular class or industry and/or, internationally". It seems the Government intends using the concept to "... to give recognition to an enterprise which has introduced organisational improvements, people management policies and production systems and standards that distinguish its workplace culture and the quality of its output as being superior to others". The benefit is that the Government will "... do business with that enterprise". Public sector organisations will also be required to achieve these standards.

The Industrial Relations paper states the Government's industrial relations strategy for reform. It addresses enterprise agreements, the obligations of participants in the industry to fulfil their legal obligations in managing industrial relations, grievance and dispute settling, voluntary unionism, payment for lost time, over award payments

and the implementation of the industrial relations policy.

The Anti-fraud Strategies paper provides a co-ordinating framework and a ready reference between the relevant Codes and other management procedures, to assist in the prevention of fraudulent behaviour in the industry.

The Standards of behaviour papers state the Government's "Code of Practice", "Code of Tendering" and "Implementation Guidelines for Codes".

As part of the Government's strategy, the Code of Practice establishes principles and addresses standards of behaviour and seeks to promote cultural changes within the construction industry. The Code of Tendering establishes the client's and tenderer's obligations in relation to tendering.

The papers set out the Government's requirements of contractors, consultants, subcontractors, and suppliers and Government agencies, in relation to industrial relations, tendering and commitment to Best Practice.

The paper on Implementation Guidelines for Codes expands on key aspects of the Codes, with the objectives of ensuring uniform implementation by government agencies of the policies and standards. The Government's management framework for implementing these strategies are set out.

The Reform strands are guidelines divided into "Culture, Relationships, Planning and Procedures" and form the bulk of the Manual.

The Culture Guidelines address "Total Client Service", "Workplace Reform", "Benchmarking" and "Quality Assurance". Client Service, for example, involves understanding who is the client, what are the client's needs and what contribution the service provider makes to the realisation of the client's objectives.

The Relationships Guidelines address "General Conditions of Contract", "Partnering", "Alternative Dispute Resolution" ("ADR") and "Roles of Principal and Superintendent".

The General Conditions of Contract guidelines are brief. However, they do identify the Government's intended approach of adopting consistent contractual policies and administration as an integral part of its overall reform objectives.

This is seen as "... pivotal in using the Government's purchasing power to induce industry reform" and leading to increased efficiencies by providing greater certainty to contractors. The contracts currently being used (AS2124-1986 and NPWC3) and numerous diverse special conditions are considered "... too convoluted, user unfriendly, and adversarial in nature".

Reform will be undertaken in two stages - development of a consistent approach to the administration of existing contracts and the development of innovative and non-adversarial documentation and administrative practices.

For the first stage, Allen Allen & Hemsley has been retained by the Government's Construction Policy Steering Committee to review the 6 Government agencies' existing contract documentation and recommended a consolidated approach to be adopted by all the agencies. As

part of the second stage, the Government will trial new forms of contract, such as Allen Allen & Hemsley's new Works and Services Contract, in seeking to develop documentation that supports the Government's reform objectives.

The Partnering guidelines describe a management process to be used by the government agencies to overcome the traditional adversarial and litigious nature of the industry. Partnering uses structured procedures involving all project participants with the aim of defining mutual goals, improving communications and developing formal problem solving and dispute avoidance strategies within the boundaries of a project. The Government's policy, the Partnering concept and process, how it should be documented and implemented and the benefits of Partnering are all stated.

The ADR guidelines describe the management process to be used by the government agencies before any recourse to litigation. The Government's ADR policy, the ADR processes and selection of a process are stated and ADR contract clauses provided, including replacements for clause 45 of NPWC3 and clause 46 of AS 2124-1986.

The Roles of Principal and Superintendent guidelines state standardised definitions for the roles and responsibilities of the Principal and the Superintendent.

The Planning guidelines address "Buildability", "OHS&R Management Systems" and "Project Planning". OHS&R for example, introduces a systematic approach to the management of occupational health and safety in the industry, aimed at substantially reducing the level of accidents and greatly improving productivity.

The Procedures guideline address "Consultant Management" and "Contractor Management", "Procurement System Selection" and "Capital Works up to \$500,000".

Consultants and Contractors Management states common criteria and processes to be used by government agencies for performance based selection and pre-registration of consultants and common performance reporting for contractors. Procurement System Selection states common terminology to describe various most appropriate systems and provides guidance for the selection of the system. Capital Works up to \$500,000 guidelines state the procurement process applicable to minor capital works, to enable government agencies not expert in capital project management to undertake minor capital projects without reference to the State's major construction agencies.

Overall, the Manual is impressive. It is a comprehensive and clear statement of the Government's strategies, the background to the strategies and its intended implementation of the strategies. It should be a practical guide for the government agencies and a useful addition to the library of any private sector organisation or person involved in the construction industry. Although it does not deal specifically with legal concepts (other than ADR and contract conditions), it would also assist construction lawyers to understand government management of future building and engineering projects.

Presumably, this Manual is one signification step in a process to achieve the Government's desired goal of a 20% increase in productivity within 5 years. □