

1.0 Introduction

1.1 Overview

Introduction

This chapter sets out the purpose and structure of the manual, along with the legislative and strategic context within which the NZ Transport Agency (NZTA) undertakes its functions. It also provides an introduction to the guidelines and processes that will help approved organisations to obtain the best value for money spent. The chapter concludes with a general description of procurement and the procurement procedures for land transport activities.

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1.2 Purpose and structure of the manual

Purpose

This manual contains procurement procedures approved by the NZTA under s25 of the Land Transport Management Act 2003 (LTMA) (as amended in 2008). The approved procurement procedures in this manual are available for use by all approved organisations. Approved organisations may use the procurement procedures contained in this manual, subject to any conditions imposed by the NZTA under the LTMA, to purchase the outputs (goods and services) required to deliver activities funded under s20.

The NZTA requires that all approved organisations have a procurement strategy that documents an approved organisation's long-term integrated approach to the procurement of transport sector activities funded under s20 of the LTMA. This will assist approved organisations to comply with the procurement procedures set out in this manual.

If approved organisations wish to use the advanced components specified in this manual, they must obtain the NZTA's written approval under s25 of the LTMA.

In using the approved procurement procedures, all approved organisations must follow the rules set out in this manual, unless the NZTA has approved specific variations.

The manual refers to approved organisations and the same rules apply to the NZTA.

Manual structure

This manual is structured as follows:

- Chapter 1 sets out the legislative and strategic context within which the NZTA allocates resources and undertakes its functions, the roles of the NZTA, approved organisations and other partners, and a general description of procurement and the procurement procedures for land transport activities.
 - Chapter 2 sets out general guidelines on the use of the procurement procedures contained in this manual, including the process for developing customised procurement procedures.
 - Chapter 3 defines the approach to value for money spent and identifies the key elements that help obtain the best value for money spent.
 - Chapter 4 outlines how a strategic approach to procurement will enable approved organisations to obtain the best value for money spent and includes guidelines for developing a procurement strategy.
 - Chapter 5 discusses the supplier selection process.
 - Chapter 6 sets out the procurement procedure for infrastructure.
 - Chapter 7 sets out the procurement procedure for planning and advice.
 - Chapter 8 sets out the procurement procedure for public transport services.
 - Chapter 9 sets out the procurement procedure for public transport fare subsidy schemes.
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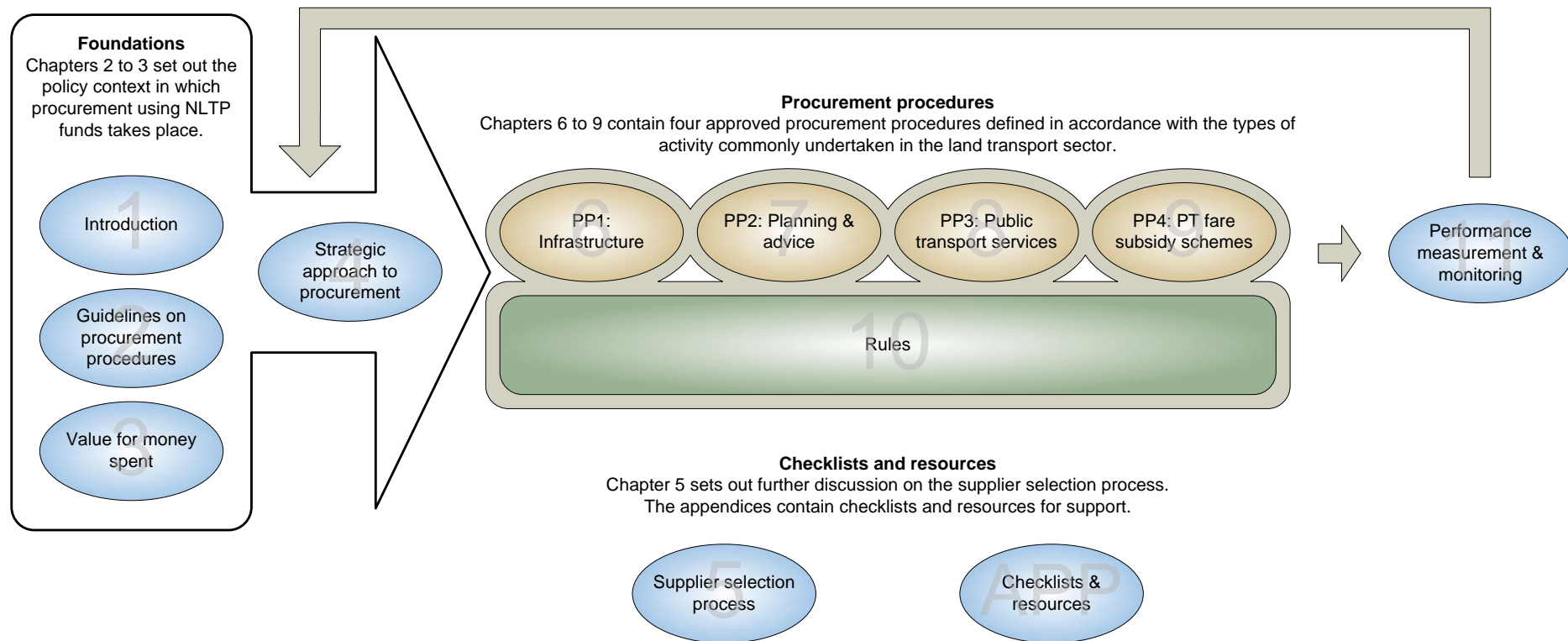
1.2 Purpose and structure of the manual continued

Manual structure continued

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- Chapter 10 details the rules and policies that govern the use of the procurement procedures and enable procurement activity in the land transport sector.
 - Chapter 11 sets out what information the NZTA will collect from approved organisations in order to determine whether procurement procedures are obtaining the best value for money spent.
 - A checklist for a procurement strategy is set out in appendix A.
 - The criteria for selecting a delivery model are set in appendix B.
 - Supplier selection methods are described in appendix C.
 - Decision trees for procurement procedures are provided in appendix D.
 - A checklist for data collection is provided in appendix E.
 - A checklist for procedural audits is set out in appendix F.
 - Names of monopoly suppliers and outputs are listed in appendix G.
 - Terms used in this manual are defined in appendix H.
 - Documents and websites referred to in this manual are listed in appendix I.
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1.2 Purpose and structure of the manual continued

This manual can be looked at as comprising the following three parts: foundations, procurement procedures and checklists and resources.



1.3 Legislative and policy framework

Introduction

Approved organisations must comply with the LTMA. Complying with the requirements, and following the guidelines set out in this manual, will assist approved organisations to adhere to all relevant government policies and legislation in respect of their transport sector procurement activity.

The government provides leadership on procurement through this policy and legislative environment. Legislation, supporting policy and guidance spans several government agencies and is delivered through various channels, as set out below.

Land Transport Management Act 2003

The LTMA sets out the requirements for the NZTA to approve activities for funding (s20) by the NZTA from the National Land Transport Fund (NLTF). Approved organisations must account for the funds they receive through a land transport disbursement account (s24) operated by the approved organisation. All expenditure from the land transport disbursement account must be made with an approved procurement procedure (s25), unless exempt (by or under s26).

This manual is designed to assist approved organisations to comply with the requirements of the LTMA.

Section 25 requires that procurement procedures used by approved organisations be designed to obtain best value for money spent. The following provisions influence procurement from a value for money perspective:

- Procurement procedures must be designed to obtain best value for money spent, having regard for the purpose of the LTMA, which stresses that the land transport system must be affordable, integrated, safe, responsive and sustainable.
- The NZTA must approve procurement procedures designed to obtain the best value for money spent.
- When approving a procurement procedure, the NZTA must also consider the desirability of enabling fair competition and encouraging competitive and efficient markets for the supply of outputs required for funded activities.
- Procurement procedures approved by the NZTA must specify how the procurement is to be carried out.
- Outputs must be purchased from external providers, except for minor and ancillary works, which may be purchased from an internal business unit under certain conditions.
- To reinforce the point that the lowest price proposal received for the provision of any outputs does not always equate to the best value for money spent, s25 ends with a specific provision stating that an approved organisation is not compelled to accept the lowest price proposal. This has important implications when it comes to determining value for money.

Certain expenditure does not have to be made in accordance with an approved procurement procedure and therefore does not have to meet the requirements of this manual. Exempt expenditure is defined in s26 and includes expenditure on administration activity, in-house professional services, emergency reinstatement and public transport services to temporarily replace a registered service that has been withdrawn.

1.3 Legislative and policy framework continued

Public Transport Management Act 2008

The Public Transport Management Act 2008 (PTMA) is designed to give regional councils the tools to develop public transport systems to meet the needs of their communities. The PTMA enables approved organisations to choose how public transport will be provided in their region.

The PTMA requires approved organisations to adopt a regional public transport plan (RPTP) within three years of the PTMA's commencement on 1 January 2009. The purpose of the RPTP is to specify how the approved organisation intends to give effect to the public transport components of the regional land transport strategy and contribute to the purpose of the PTMA in an efficient and effective manner.

The PTMA lists a number of matters that an RPTP must cover, including a description of the public transport services that the approved organisation proposes to be provided in its region, and any policies relating to public transport services in the region.

The PTMA and factsheets may be found online at www.transport.govt.nz/legislation/acts/PublicTransportManagementAct-Factsheets.

Local Government Act 2002

Where the approved organisation is a local authority or a council-controlled organisation, the purchase of goods or services must be consistent with the principles of its enabling legislation, the Local Government Act 2002 (LGA). Under s14 and ss77-81 of the LGA, local authorities are required to:

- act in an open, transparent and democratically accountable manner
- act effectively and efficiently
- undertake commercial transactions in accordance with sound business practice
- resolve any conflicts in an open, transparent and democratically accountable manner
- comply with the requirements of part 6 of the LGA in respect of decision making and consultation.

Approved organisations must ensure that all decisions are robust and defensible, and that ethical and legal considerations are always taken in account.

1.3 Legislative and policy framework continued

Wider government procurement policy

Broad government procurement policy and principles set expectations with regard to how the wider public sector should approach procurement. These principles consist of:

- best value for money over whole-of-life
- open and effective competition
- full and fair opportunity for domestic suppliers
- improving business capabilities, including e-commerce capability
- recognition of New Zealand's international trade obligations and interests.

These support the general principles that all public sector entities should follow, such as compliance with legislation, and meeting public law and ethical considerations.

The Ministry of Economic Development provides a full policy description that can be found in *Government procurement in New Zealand: policy guide for purchasers* (online at www.med.govt.nz/templates/MultipageDocumentTOC____29467.aspx).

Office of the Auditor-General

The Office of the Auditor-General (OAG) provides guidance on procurement through their publication *Procurement guidance for public entities*, which is designed for use by any public entity, as defined in the Public Audit Act 2001 (excluding local authorities and entities under their control).

While adherence to the requirements of s25 of the LTMA is paramount, approved organisations should also ensure consistency with the OAG's *Procurement guidance for public entities* when purchasing activities under the National Land Transport Programme (NLTP). Good practice considerations include:

- developing and implementing clearly articulated procurement policies and procedures
- having regard for the legal implications surrounding procurement, including acting in accordance with existing enabling legislation, along with wider legal and public law considerations
- operating with ethical standards covering confidentiality, disclosure and declarations of interest
- taking into account economic considerations in the procurement process, including total cost of ownership, value for money and market impact
- effectively managing risk throughout the procurement process.

Alignment with OAG guidance is practical and useful should a challenge arise to a procurement process or procedure. Refer to www.oag.govt.nz/2008/procurement-guide/ for further information.

1.3 Legislative and policy framework continued

Sustainability policy principles

Achieving ongoing reliability and quality in the goods and services delivered, as well as ensuring that the resources allocated are used effectively and efficiently, is the basis of sustainability.

Sustainability encompasses minimising the economic, social and environmental costs attributable over the whole-of-life of a procurement process. Guidance on applying the principles of sustainable procurement can be found in the *Australian and New Zealand government framework for sustainable procurement*. The framework sets out four key principles for sustainable procurement:

- Adopt strategies to avoid unnecessary consumption and manage demand.
- In the context of whole-of-life value for money, select goods and services that have lower environmental impacts across their life cycle compared with competing goods and services.
- Foster a viable Australian and New Zealand market for sustainable goods and services by supporting businesses and industry groups that demonstrate innovation in sustainability.
- Support suppliers to government who are socially responsible and adopt ethical practices.

Further details can be found at www.med.govt.nz/upload/50471/anz-framework.pdf.

Selected guidance on environmental sustainability can be found in the following documents:

- New Zealand Energy Efficiency and Conservation Strategy - the LTMA requires the NLTP and RLTPs to take this strategy into account (further details can be found at www.eeca.govt.nz/sites/all/files/nzeecs-07.pdf)
- New Zealand Urban Design Protocol (further details can be found at www.mfe.govt.nz/publications/urban/design-protocol-mar05/index.html)
- New Zealand Waste Strategy (further details can be found at www.mfe.govt.nz/publications/waste/waste-strategy-mar02/).

Administrative law

Approved organisations must also comply with their administrative law obligations in procurement. This involves considerations such as acting fairly and reasonably and ensuring adequate consultation, where required.

1.4 Roles of the NZ Transport Agency and approved organisations

Introduction

The NZTA's primary role in relation to procurement, as required by the LTMA, is to approve procurement procedures that are designed to obtain the best value for money spent.

While the manual refers to approved organisations, the same procurement procedures and rules also apply to the NZTA.

Approval process

The NZTA's role of approving procurement procedures is fulfilled in part by approving the use by approved organisations of the procurement procedures contained in this manual, subject to any conditions imposed by the NZTA. Any conditions for use that are imposed will be linked to ensuring that value for money can be obtained through the use of the procurement procedure(s) by the approved organisation in the circumstances in which they will be applied. This will include consideration of an approved organisation's strategic approach to procurement, in particular any capacity or capability considerations.

Use of the advanced components set out in this manual is subject to the NZTA's written approval under s25. Before the NZTA will approve the use of any advanced components, the approved organisation must satisfy the NZTA that it is capable of using such components to obtain the best value for money spent in the circumstances in which they will be applied.

The NZTA's procurement procedure approval role is further fulfilled by its power to approve customised procurement procedures for situations not addressed in this manual, in response to specific requests from approved organisations. Customised procurement procedures are discussed in section 1.7 *Procurement procedures*.

Detailed design of procurement procedures

The NZTA has approved the procurement procedures contained in this manual on the basis that they are designed to obtain best value for money. When using these procurement procedures, the first step is for an approved organisation to complete the detailed design of the selected procurement procedure (eg document the strategic context and select the delivery model and supplier selection method). These decisions are critical to obtaining the best value for money spent.

This manual contains guidelines and rules to assist approved organisations to make these detailed design decisions and the NZTA will provide support and training towards this end. However, approved organisations must apply appropriate levels of capability and capacity to obtain the best value for money spent outcomes through use of the procurement procedures contained in this manual.

Assistance and advice

One of the NZTA's functions is to assist, advise and cooperate with approved organisations. This manual, with its guidelines, rules and tools, is one of the ways in which the NZTA fulfils this role. In addition to this, the NZTA will work closely with approved organisations to ensure procurement decisions and activities can be managed in ways that maximise opportunities for obtaining value for money.

1.4 Roles of the New Zealand Agency and approved organisations

continued

Assistance and advice continued

The NZTA will provide support and guidelines around the use of this manual, and in particular the development of procurement strategies and the detailed design of procurement procedures.

The NZTA's performance monitoring function will gather and share information to support best practice.

The overall aim is to facilitate continuous procurement practice improvement and capability to obtain the best value for money spent.

1.5 Value for money spent

Introduction

Activity selection, funding and procurement combine to contribute to the delivery of best value for money spent. This involves achieving desired land transport outcomes and quality at the lowest overall whole-of-life cost.

Approved organisations seeking to undertake activities will identify, through the evaluation of activities under s20, the base benefits or 'value' they expect the activities to deliver and what is to be valued.

Section 25 requires that procurement procedures used by approved organisations be designed to obtain best value for money spent. Procurement under s25 should therefore maintain or enhance the 'base' value for money outcomes identified through the evaluation of activities under s20.

The focus of this manual is on the contribution of procurement to obtaining the best value for money spent. When considering best value for money spent, the desirability of enabling fair competition and encouraging competitive and efficient markets for the supply of outputs is relevant under s25 of the LTMA.

Refer to chapter 3 *Value for money spent* for further guidelines.

1.6 Strategic approach to procurement

Introduction

Best value for money spent cannot be obtained if individual procurement activities are managed in isolation. Approved organisations need to approach procurement strategically to ensure that they develop and document a long-term view. This manual offers guidelines on developing a long-term strategic approach to the procurement of an approved organisation's transport sector activities funded under s20 of the LTMA. This strategic approach will be documented in a fit-for-purpose strategy that considers the internal and external environments, including the scale of activities and the nature of competition.

The NZTA considers that it is essential to obtaining the best value for money that all approved organisations have a strategic approach to procurement.

The NZTA requires that the strategic context as it relates to each procurement activity be applied and documented as part of the design and use of a procurement procedure. The NZTA considers that it is best practice for approved organisations to develop a robust understanding of the strategic context in which they purchase and to document this in a strategy that covers a programme of transport sector procurement activity. This will assist approved organisations to comply with the procurement procedures set out in this manual.

Refer to chapter 4 *Strategic approach to procurement*.

1.7 Procurement procedures

Definition

Procurement is broad in scope. In the LTMA sense, it is the actions, processes and conduct employed by an approved organisation when procuring the outputs required to deliver activities. The procurement procedures contained in this manual each deal with a broad range of activities and are expected to encompass the majority of activity across the land transport sector. They begin with the strategic context of a procurement activity, and include establishment of a contract for the required outputs and subsequent management of the relationship with the supplier.

Procurement procedures provide the guidelines, rules and tools that will direct the approved organisation through the actions, processes and conduct of procurement. A procurement procedure encompasses a number of components, each of which guides an approved organisation through the procurement process.

The primary objective of procurement under the LTMA is to obtain best value for money spent. In using a procurement procedure, an approved organisation must have regard to the broad economic, environmental and social purpose of the LTMA, and to the desirability of competition. Enabling fair competition and encouraging competitive and efficient markets are desirable where they serve best value for money.

Procurement procedures in this manual

This manual contains the following procurement procedures:

- infrastructure
- planning and advice
- public transport services
- public transport fare subsidy schemes.

Each procurement procedure chapter presents:

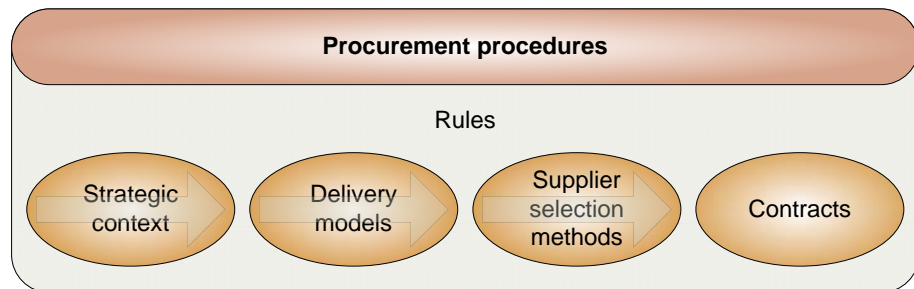
- guidelines on assessing the strategic context
- possible delivery models
- possible supplier selection methods
- guidelines on the contractual relationship between the purchaser and supplier(s).

Each procurement procedure comprises components (including delivery models and supplier selection methods) that all approved organisations may use. These components are the guidelines, tools and methods that enable approved organisations to obtain best value for money outcomes from the procurement activity they undertake.

1.7 Procurement procedures continued

Procurement procedures in this manual continued

The relationship between these components is shown in the following diagram:



The order in which the components are placed represents the process that an approved organisation follows when completing the design of the procurement procedure to be applied to a particular situation. Rules encompass the whole process governing the use of the procurement procedures and relating to the various components.

First, approved organisations must assess the strategic context in which the procurement activity is to take place. The strategic context then informs the selection of the delivery model, which in turn informs the choice of a supplier selection method from which a contract is established to purchase the required outputs. Surrounding each of these components are rules that limit or restrict the choices that can be made.

Each component (eg delivery model or supplier selection method) contains options that allow approved organisations to tailor the procurement procedures. This ensures that the procurement procedure chosen to purchase the outputs is designed to obtain the best value for money spent. Each approved organisation must follow the guidelines and requirements in this manual to select the best options to deliver best value for money.

In addition, each procurement procedure contains a number of advanced components. Advanced components are those that in some circumstances will enable an approved organisation, with the necessary capability and capacity and strategic understanding, to obtain greater value for money spent than they would otherwise achieve. These components give the approved organisations that are authorised to use them greater procurement flexibility.

Throughout the procurement process for each procurement activity, certain decisions and actions must be documented for audit and monitoring purposes. Refer to section 1.8 *Monitoring and auditing*.

Note that the approved procurement procedure for community focused activities is currently on the NZTA's website (www.nzta.govt.nz) and will be added to this manual in the future. Additional procurement procedures approved for use by the NZTA may also be developed and added to this manual in the future.

1.7 Procurement procedures continued

Advanced components

The procurement procedures contain advanced components that provide greater procurement flexibility to the approved organisations authorised to use them. The advanced components are:

Delivery models

- Shared risk.
- Supplier panel.

Supplier selection method

- Quality based (except where the output being purchased is professional services).

Approved organisations must seek the NZTA's written approval under s25 of the LTMA to use any of these advanced components. The NZTA will grant such approval if it assesses that the approved organisation is able to obtain best value for money through the use of advanced components. This assessment may include consideration of the approved organisation's strategic understanding, and its capability and capacity. The NZTA considers that it is best practice, as part of demonstrating the required strategic understanding, capability and capacity, that the approved organisation should have an appropriate procurement strategy. Approval to use advanced components may be granted on a case-by-case basis or as a general approval.

Refer to section 10.5 *Procurement procedure advanced components*.

Customised procurement procedures

A customised procurement procedure may be required where a procurement activity cannot be accommodated by the procurement procedures in this manual. One or more details of its design will go beyond what is provided for within the procurement procedures contained in this manual, including the advanced components.

The need for a customised procurement procedure will usually be identified by an approved organisation but may be required by the NZTA as a condition of funding.

An approved organisation requires the NZTA's written approval under s25 of the LTMA before using a customised procurement procedure.

Refer to section 2.8 *Customised procurement procedures for guidelines* on the design and approval process for customised procurement procedures.

1.8 Monitoring and auditing

Introduction

Through requirements in the LGA and via the development of plans like the long-term council community plans (LTCCPs), local authorities already have considerable experience in developing performance measurement and monitoring systems. The NZTA is responsible for ensuring that the procurement procedures it approves are designed to obtain the best value for money spent, keeping in mind the desirability of fair competition, and competitive and efficient markets.

Chapter 11 *Performance measurement and monitoring* sets out what information approved organisations must provide to the NZTA in order to determine whether procurement procedures are obtaining the best value for money spent and the impact their use is having on fair, competitive and efficient markets. Chapter 11 contains key performance indicators for public transport services.

This performance measurement and monitoring system will evolve over time. Initially, the focus is on a limited number of indicators that reflect the NZTA's priorities, which are based on the requirements of s25 of the LTMA.

The NZTA will use the information it collects to monitor the effectiveness of the procurement procedures, and identify best practice and areas that can be improved. The NZTA will share the information with approved organisations. A key objective of the performance measurement and monitoring framework is to improve decision making and help to continuously improve procurement practice and policy.

Chapter 11 also sets an expectation that approved organisations will establish their own performance measurement and monitoring frameworks, and sets out guidelines for what should be contained in such frameworks.

Refer to chapter 11 *Performance measurement and monitoring* for further information.

1.9 In-house professional services

Introduction

In-house professional services are professional services that are undertaken by an approved organisation's own staff with the approval of the NZTA under s26. These in-house professional services do not require the use of an approved procurement procedure.

An approved organisation's procurement strategy for a programme of work funded from the NLTF must address how professional services will be resourced, including whether to undertake these services in-house. Purchasing the right professional services at the right time, under a sound supply arrangement, is critical to obtaining the best value for money spent. An approved organisation's procurement strategy should provide the strategic context for the decision and support any application for approval sought from the NZTA to undertake professional services in-house.

Refer to chapter 4 *Strategic approach to procurement* for further information on developing and maintaining a procurement strategy.

The detailed policy and processes for undertaking and managing professional services and for claiming financial assistance may be found in section E3.5 of the NZTA's *Planning, programming and funding manual*.
