

# An Approach to Active Procurement

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## Abstract

*The National Health Information Technology Board developed the concept of Active Procurement as a result of approaches made by the Health Information Technology Cluster and others, suggesting that the current modes of procurement in the health sector were impeding progress and innovation. The National Institute for Health Innovation (NIHI) proposed an approach to implementing the principles of Active Procurement consisting of six phases: 1) developing a high level description of the desired outcomes, 2) using this to develop an Expression of Interest, 3) developing a short-list of qualified vendors, 4) selecting a vendor, 5) carrying out an Implementation Planning Study, and 6) Contracting with the selected vendor(s) to deliver the pilot. Active Procurement has now been trialled with facilitation from NIHI for three innovation projects with positive outcomes such as appropriate vendor selection decisions that were made quickly and at relatively low cost. The approach has demonstrated clear benefits for initiatives that require innovation, pilots and/or the need for ongoing collaborative relationships with the vendor. This paper outlines the findings from these initial Active Procurement exercises and sets out a template for the utilisation of the concepts and processes that support Active Procurement.*

## 1. Introduction

In July 2010 the National Health Information Technology Board (NHITB) contracted the National Institute for Health Innovation (NIHI) to trial a procurement approach that had particular relevance to innovation projects, under the banner of 'Active Procurement.' Active Procurement refers to an initiative aimed at enabling faster, more effective and less costly procurement of IT solutions in the health sector, while retaining equitability and auditability. This NHITB initiative was made in response to a widely held view that current processes and procedures in the public health sector for procuring solutions that were enabled by technology, were cumbersome, inappropriate and ineffective and that this was a particular problem for innovation projects that required trialling the solution. NIHI proposed an approach to implementing the principles of Active Procurement and subsequently were contracted to trial the process. Active Procurement has now been applied to three projects:

- Shared Care Planning, in association with National Shared Care Plan Programme and healthAlliance
- Broking services for community e-prescribing, in association with the Safe Medications Management Programme
- Shared Maternity Record of Care, in association with the Maternity Shared Record of Care Programme

These projects were selected specifically because they represented typical innovation initiatives. In no case were the systems being implemented scoped in detail, well proven, or to any significant degree, implemented in New Zealand. In all cases they represented strategic initiatives, with national relevance. In the case of Shared Care Planning and Shared Maternity Record of Care, there are few, if any, relevant examples of the solution being applied within international jurisdictions.

The relatively unproven nature of these projects suggests that the purchasers would not have been able to define in detail the scope of the solution(s) they wanted, but would benefit from actively collaborating with the chosen vendor in developing a more detailed scope and in 'co-managing' the subsequent trial(s). These trials in turn would be used for further refinement of the application systems, the workflows and the clinical practices that would together comprise the overall solution. The trials would be subject to independent evaluation and these evaluations would be used by the whole sector to make more coherent and informed decisions with respect to their strategic and operational to implementations in like areas.

The role of NIHI, as commissioned by the purchasers, was to provide and manage the process of vendor selection. The actual procurement, i.e. the contracting and associated commercial negotiation with the vendor, remained the responsibility of the purchasing organisation. However, NIHI was able to contribute to the development of the thinking

around the requirements, and subsequently helped describe this in their drafting of the Expressions of Interest. NIHI also wrote the scenarios which were drawn upon to illustrate what was required of the solutions and to provide a framework for the demonstrations of the shortlisted vendors. NIHI's role was concluded by the acceptance by the project governance group of the recommendation of a preferred vendor from the selection process.

## 2. Active Procurement Process

As demonstrated in Figure 1, there are six phases to the process:

1. Preparing the ground: developing the Governance model, appointing the Evaluation and Technical Panels and defining the high level requirements
2. Preparing and issuing the Expression of Interest (EoI)
3. Selecting a short list from the vendor responses
4. Selecting the preferred vendor through the use of technical and functional evaluations
5. Conducting an Implementation Planning Study (IPS) with the vendor
6. Following completion of the IPS, agreeing a commercial and contractual framework for the pilots with the vendor

The Active Procurement facilitator (NIHI in these cases) assists in phase 1, manages phases 2, 3 and 4, may or may not be involved in phase 5, and will not be involved in phase 6.

### 2.1. Developing Governance, Appointing the Panels and Agreeing High Level Requirements

While defining a precise scope of work is rarely possible in projects that are seeking genuinely innovative solutions, it should always be possible to define the purpose, strategic implications, constraints, key functions, and desired outcomes of the project. This may be available as a result of pre-work and review of the known literature, or may require structured information gathering workshops on a local, regional or national basis. The key point is that there needs to be a clear governance and committed funding model, which enables the potential vendors to have confidence that there is a process that will lead to a funded trial. This is in contrast the history of many EoIs, which have not gone beyond this exploratory phase.

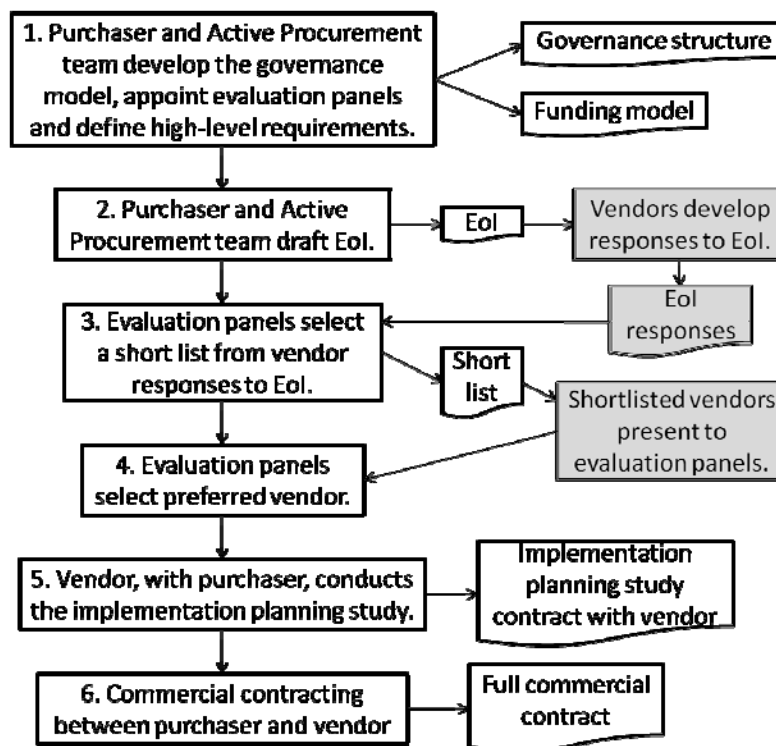


Figure 1 – Active Procurement Process

As part of this Governance structure, the roles and responsibilities of the parties need to be delineated at an early stage. For example in the case of Shared Care Planning, the concept was promoted by the NHITB, there was a properly constituted National Programme Steering Group, with strong clinical representation, the Northern Region were nominated to implement the trials and funding responsibility was shared between the Northern Region (less Northland DHB) and the NHITB.

Once the Governance and funding principles are in place, the facilitator works with the programme to convene the Functional and Technical Evaluation Panels. This is absolutely crucial to the successes of the process. A core group is initially established to refine the requirements for the EoI and make short-listing decisions based on high level success criteria. The initial core group will comprise subject matter experts from the sponsoring organisations (e.g. the NHITB, the DHB and NIHI) and potential end users of the solution.

## **2.2. EoI Preparation**

In each case to date, NIHI worked collaboratively with the partnering organisations to draft the EoI. The EoI comprises a high level description of the desired outcomes, context for the initiative, selection criteria, a description of the process and some basic terms and conditions. A quotation for the solution is not requested as insufficient detail will be available at this point for vendors to do this with any credibility. However, commercial constructs, such as licensing models, references to like implementations etc. are requested. The organisation issuing the EoI may vary according to circumstance. In the case of Shared Care Planning, the EoI was issued by healthAlliance; for e-prescribing and Shared Maternity Record of Care it was issued by NIHI.

## **2.3. Short Listing**

The NIHI appointed Technical Group reviews the responses and reports on such areas as architecture, underlying technology and integration. The Functional Panel evaluates all responses using a template developed by NIHI (see an example in Table 1). The short-listing process is based on developing a visual representation of the collective view of the short-listing panel, to act as a guide to discussion. The qualities of the proposals, any previous experience of the panel with the vendors, the sense that they understood the needs of the pilot, their willingness to adopt a flexible and partnering style approach together with the report from the Technical Panel, are all assessed. In developing the short list focus is put on differences of perspective from within the group. A consensus is sought from discussion and when necessary additional information is sought from a vendor or vendors. Although the process sensibly accommodates any number of shortlisted vendors, logistically three is seen to be the optimum number. In each case to date the short-listing discussion while vigorous and committed, has resulted in a decision based on a 100% consensus of the Panel.

## **2.4. Vendor Selection**

Once a shortlist has been decided upon, the role of the Functional Panel is to look at the totality of the solution and its suitability to work within the envisaged clinical context and to assess the vendor in relation to their culture and commitment. The Technical Panel's role is to take a look deep under the covers of the solution, to be in a position to advise the Functional Panel as to its suitability from a technical point of view.

It is important that the composition of the Functional Panel has a strong clinical bias – e.g. approximately 80% of the Functional Panels to date have been clinically qualified (nurses, GPs, specialists, pharmacists). Although it is helpful to have some panellists that are familiar with the subject matter, invitations may also be issued to people who, while able to be representative of their professions and likely users of the system, have little or no prior involvement with the initiative. Functional Panels have comprised about 12 members on each occasion to date. The Technical Panels to date have featured experts from NIHI and representatives of the National Architecture Group.

In all cases evaluation panel members are offered compensation for their time, although not all to date have taken advantage of this.

The process managers have developed a number of artefacts to assist in the evaluation:

- A briefing for the vendors in relation to process
- A set of scenarios for the vendors to use for their demonstrations
- A briefing on the technical evaluation process
- A briefing for the panel members on what was expected of them
- A scoring template

**Table 1 – An Example of the Traffic Light Approach in EoI Response Assessment**

EOI Response Assessment					
1. The respondent has software to demonstrate.					
2. The respondent demonstrates an understanding of shared care plans.					
3. The respondent recognises the need to work in partnership with clinical teams.					
4. The respondent has the willingness and ability to collaborate and integrate with other suppliers					
Assessor 1					
Criteria	Vendor 1	Vendor 2	Vendor 3	Vendor 4	Vendor 5
1	g	g	g	g	a
2	a	a	g	g	g
3	g	g	g	g	g
4	r	g	g	g	r
Assessor 2					
Criteria	Vendor 1	Vendor 2	Vendor 3	Vendor 4	Vendor 5
1	a	a	g	g	g
2	a	r	g	g	g
3	g	a	a	a	g
4	g	g	g	g	a
Assessor 3					
Criteria	Vendor 1	Vendor 2	Vendor 3	Vendor 4	Vendor 5
1	g	g	g	g	g
2	a	a	a	g	a
3	a	g	g	g	g
4	r	a	g	g	r

(g: Green; a: Amber; r: Red)

The short-listed vendors spend approximately half a day with each panel. The Technical Panel focus on such aspects as adherence to standards, architectural compliance with national strategy, approaches to inter-operability, and security and privacy provisioning. They also note the technical competence and responsiveness of the vendor team. The Functional Panel focus on the demonstration of the vendor’s solution in respect to such aspects as functionality, fitness for purpose, and usability. They also assess the perceived knowledge and experience of the vendors and develop a sense of what they would be like to work with. All perspectives are recorded in the scoring sheets and are then visually represented using a traffic light approach. No attempt is made to weight the various assessment criteria.

Immediately following the final vendor presentation, the Functional Panel is convened to make the selection. Each member records their assessment across the pre-prepared template, with traffic lights and comments. Then the Chair of the Technical Panel presents the results of their evaluation. This had been previously kept from the full panel in order not to bias their assessments. The results of the Functional Panel members’ assessments are then displayed as traffic lights to the full panel using PowerPoint. Each member is initially asked to provide their own perspectives and discussion focuses on deviations from the norm. The Panel then breaks into a led discussion about the relative merits of the proposals. If there are aspects identified that clearly disqualified a vendor, that proposal is put to one side. Strengths and weaknesses are noted and debated. A consensus for final selection is then sought, and if necessary a vote taken. In the three selections completed to date, the final result has been clear cut, although in one case it did require additional information and assurances to be provided by the selected vendor.

## 2.5. Implementation Planning Study

Once the vendor had been informed, they are invited to work with the contracting organisation to develop a more detailed scope. This is an extended piece of work where the vendor, the purchaser and any other relevant stakeholders work together to define as precisely as possible what will be delivered during the trial.

Given these trials are likely to be evaluated, the chosen evaluation organisation may participate in these discussion in order to develop the evaluation strategy in parallel with the definition of scope. Again, it is recognised during these processes that, notwithstanding the preparatory work done at this time, the nature of these innovations mean that there may need to be further changes during the actual trials.

The vendor is paid for their work during this period, probably on an approximate cost recovery basis.

## 2.6. Contracting

It should be noted that during the IPS phase, there is no commitment, apart from an expressed general intent, to contract the vendor to deliver the trial. The purchaser may reserve the right to contract with another vendor with or without a full request for proposal process. However, the commitment on both sides to common goals, the payment of the vendor for work on the IPS and the collaborative IPS environment should engender a culture which is non-adversarial, breeds good human relationship dynamics, and ultimately offers the best chance of a successful pilot.

At the completion of the IPS and assuming it has gone well, the purchaser will enter into commercial and contractual negotiations with the vendor. The vendor has negotiating strength from the investment made in them and their solution by the purchaser. The purchaser has negotiating strength from their option to go back to market. Both sides of the negotiation gain strength from the sense of common purpose and common understanding derived through the IPS.

The section below on lessons learnt refers in more detail to the process in respect to balancing the dynamics of partnership and commercial rigour.

## 3. Ten Lessons Learnt

In each and every trial of NIHI's approach to Action Procurement, the associated governance group involved was very comfortable with the process and happy with the result. By the nature of this initiative however, there have been a number of learnings to be derived from the experience to date, including:

1. Active Procurement is a pragmatic, less time consuming, less costly process for use in selecting a vendor or vendors to work with on an innovation project. It has been proved to be associated with major benefits such as cost savings, speed to implement and most importantly the development and implementation of a collaborative culture.
2. Active Procurement does not imply lack of rigour. All processes are fair, probing and auditable. Vendors, even losing vendors, appreciated the speed, fairness and low investment implied by Active Procurement.
3. Procurement guidelines still require to be adhered to. It is not completely clear to what extent these processes are
  - mandated by statute,
  - following guidelines from such organisations as State Services or the Audit Office or
  - simply assumed from historic practice.

Although reviewing this was outside the scope of these exercises, no substantive indications have arisen to date there are any statutory or procedural problems associated with this approach to procurement.

4. Some tension did arise with one of the procurement agencies about the need for a full Request for Proposal (RFP) at the end of the EoI process. This was waived only after dispensation had been granted by the DHBs concerned. This was in part given on the basis that the DHBs involved needed to reserve the right to go to full RFP after the completion of the trials and prior to a wider deployment. In the event, that this was not considered necessary (following a highly successful trial; no identified competition etc), it has not yet been fully tested whether for DHBs full deployment could proceed without issuing an RFP.
5. It is a significant strength of the process that evaluating participants are representative of their professions and that at least some are not subject matter experts in the field of IT. This enables the typical voice of the end user to be heard. The risk arises that such panellists may ask untutored questions of vendor, perhaps outside the scope of the project or they may give vendors an impression of a lack of understanding of the purpose of the project. This can best be mitigated by very thorough briefing of the panels and guidance from the Chair.

6. The approach to selection is based on arriving at a consensus following Chair led discussion and supported by the traffic light ratings provided by the participants. The idea of a selection based purely on ratings is rejected as being too formulaic, not capable of teasing out the issues and learnings and ultimately less likely to achieve a consensus. The ratings play a part in focusing discussion but not as far as completely determining an outcome. In all cases to date full and true consensus was arrived at – in future cases this may not be possible and it may be necessary to enter into a form of voting or some other impasse breaking approach, unless of course it is evident that no one vendor is sufficiently able to meet the needs of the project.
7. It is important to deal with the vendors in a collaborative and non-adversarial fashion. The concept of innovation partnership needs to be fostered from the beginning and vendors should be given every opportunity to put their case to the best of their ability. This culture then leads naturally into the next stage of Implementation Planning, where active partnership is essential. However, in all cases to date, some special pleading by vendors to be treated differently from their competitors from a process perspective was rejected as having the potential to undermine the equity of the process. Within the limits allowed by procurement agency advice, feedback about performance should be given to all participating vendors.
8. The Implementation Planning Study is intensive, involves many stakeholders and draws upon a great deal of leadership and resources from the vendor. It is essential to gain their full hearted cooperation that there is a clear and committed intention to proceed to trial. However, circumstances beyond the control of the stakeholders may change and lead to the trials not proceeding (or possibly proceeding with another party) and on this basis the vendor should be compensated for their involvement during this phase. Potential IP issues need to be dealt with up front, with a fair solution probably being based on IP being retained by the vendor, but with the vendor recognising the value of the purchaser's contribution to them during the IPS, in the ultimate negotiation around pricing.
9. Evaluation is a key part of innovation and the thinking and planning of the evaluation study should start as early as possible, no later than the commencement of the Implementation Planning Study and should if at all possible follow evidence based frameworks and approaches.
10. The major logistical problem in carrying out Active Procurement lies in the availability of the panellists. This can be partly mitigated by early identification, planning and invitation to participate and partly by being prepared to pay them for their participation. However, the elapsed time taken to complete the process should not be underestimated.

#### **4. Conclusion and Recommendations**

Active Procurement process to selection has produced positive outcomes, including good vendor selection decisions made quickly and at relatively low cost. The approach, fostering active partnership, has demonstrated clear benefits for initiatives that require innovation, pilots and/or the need for an ongoing collaborative relationship with the vendor. It is recommended that the Active Procurement process, described in this paper, now be promulgated to procurement organisations, specifically for innovation based projects. It is also recommended that consideration be given to the wider implementation of at least the principles that underpin Active Procurement for projects that are not primarily focused on innovation.

#### **5. Acknowledgments**

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