Summary

The Health Funding Authority (HFA) contracts for the provision of a specialist sexual health service in the Wellington region. For many years Capital Coast Health Limited (CCH) had provided the service, but CCH decided that it no longer wished to do so.

As a result of receiving CCH's notice of intention to cease providing the service, the Wellington office of the HFA (HFA Wellington) took steps to find a replacement provider. The provider it chose was Wellington Independent Practice Association (WIPA).

We received a complaint in April 1999 from the Hon Annette King MP about the manner in which the contract with WIPA had been let, and we decided to investigate what had taken place.

In summary, our conclusions are that:

- HFA Wellington did not consult with interested parties before determining the specification for the service that it included in the request for proposals. We believe it should have consulted. The request for proposals by which potential providers were invited to submit bids for the service reflected the service then being provided by CCH.
- HFA Wellington applied a proper method of evaluation to the proposals received. However, it did not determine the actual criteria used until after the request for proposals had been issued. Consequently, potential providers did not know the precise criteria against which their bids would be evaluated.
- HFA Wellington had a rationale that tended to dictate the kind of service it wanted to purchase – which differed from the service that CCH had been providing. The documentation given to potential providers did not clearly reflect this rationale.

- HFA Wellington did not document its reasons for selecting WIPA as the preferred provider – other than that WIPA was the top-scoring provider at the short-listing stage of the evaluation and had the most cost-effective proposal.
- After selecting WIPA as the preferred provider, HFA Wellington negotiated with WIPA to provide a service that fitted its rationale. The outcome of the negotiations (and the resulting contract) is that the new sexual health service being provided in the Wellington region is significantly different from the service for which HFA Wellington issued the request for proposals.
- Because HFA Wellington came to the view that it wanted a different service from that described in the request for proposals, an equal opportunity should have been afforded to all potential providers to bid for the revised service. At the least, the four short-listed providers should have had that opportunity.

Introduction

The Reason for this Report

2.001 This report is the result of an investigation we carried out following a complaint in April 1999 from the Hon Annette King MP about the manner in which the Wellington Office of the Health Funding Authority (HFA Wellington) had let a contract for the provision of a specialist[1] sexual health service.

2.002 The Audit Office has a particular interest in purchasing systems. If the processes by which purchases are made are seen as unfair, and if potential suppliers consequently do not have confidence in the tendering systems of public bodies, the result may be less interest in responding to future invitations to tender. As we observe in our guide *Good Practice for Purchasing by Government Departments*, the taxpayer is not well served by poor responses to tenders issued by public bodies.

The Criteria for Our Investigation

2.003 The main source of the criteria for our investigation was the *Contracts and Purchasing Handbook* (the *Purchasing Handbook*) compiled and used by the former Central Regional Health Authority. HFA Wellington was using the *Purchasing Handbook* in the absence of a formal Health Funding Authority replacement. (The HFA now has its own purchasing manual.)

2.004 We accept that the contents of the *Purchasing Handbook* represent sound purchasing practice.

2.005 We also had regard for the guidelines in our *Good Practice for Purchasing by Government Departments*.

1 "Specialist" connotes a health service that is overseen by someone medically qualified in the diagnosis and treatment of sexual diseases.

2.006 Media comment on WIPA being the successful bidder to provide the service was open to the implication that conflict of interest could have been a factor in the decision to select WIPA. We looked particularly for any evidence of a conflict.

Background

2.007 A specialist sexual health service had been provided for a number of years by Capital Coast Health Limited (CCH), based at Wellington Hospital. CCH provided the service under contract to HFA Wellington at a cost of $800,000 a year, including the cost of laboratory tests.

2.008 In accordance with the contract, on 30 November 1998 CCH gave six months notice to HFA Wellington that it intended to cease providing the service.

2.009 As a result, on 12 December 1998 HFA Wellington initiated the purchase of a replacement service by advertising a *Request for Proposals* (RFP) from prospective providers. Prospective providers were invited to obtain the relevant RFP documentation as the basis for their proposal.

2.010 HFA Wellington received seven proposals. Its evaluation of the proposals resulted in the proposals of four prospective providers being short-listed for further examination. In descending order of evaluation scores they were:

Wellington Independent Practice Association (WIPA)

Family Planning Association

Healthcare Aotearoa

Hutt Valley Health Limited.

2.011 Each of the short-listed providers was interviewed, and WIPA was identified as the preferred provider. Discussions were then held with WIPA, and the particulars of the service that HFA Wellington wished to purchase and WIPA to provide were determined.

2.012 On 31 March 1999, the Purchase Board (see paragraph 2.066) approved WIPA as the new provider of the service. On 13 April 1999, HFA Wellington wrote to WIPA to document the agreement for purchasing the service.

The Request for Proposals

Prior Consultation

2.013 The *Purchasing Handbook* states that the HFA has a duty to consult on the purchase of health and disability services. The *Purchasing Handbook* goes on to state that the duty to consult arises out of the obligation to act fairly.[2]

2.014 However, HFA Wellington carried out no consultation before issuing the RFP. The RFP documentation was based on a description of the existing service provided by CCH.

2.015 HFA Wellington told us that, because the RFP essentially described the existing service, there seemed no need to consult. There was also time pressure, in that it was vital for the RFP to be released before Christmas 1998. This timing was necessary in order to allow proposals to be submitted and assessed after Christmas, and to allow the new provider sufficient time to make necessary arrangements before taking up the contract at the end of June 1999.

2.016 While timing is always an issue, extensions can be negotiated. The *Purchasing Handbook* required that when (as in this case) a service is being quitted by the provider, the HFA must within three months of the notice of quitting have developed a consultation plan. Given this obligation, HFA Wellington would have had good grounds to seek a time extension (if this was necessary).

2.017 In our view, HFA Wellington should have undertaken a process of consultation as required by the *Purchasing Handbook*. Because there was no consultation, HFA Wellington had no input from interested parties as to the suitability of either:

- the service as specified in the RFP documentation; or
- the service it has contracted WIPA to provide.

2 In fact, the HFA is under a statutory duty to consult – section 34, Health and Disability Services Act 1993.

2.018 We also think that the failure to consult was an underlying cause of the problems in the later parts of the process to contract a new provider.

The RFP Process

2.019 The *Purchasing Handbook* outlined the RFP process as requiring:

- Preparing the RFP document and advertising for proposals.
- Evaluating the proposals.
- Selecting a preferred provider and negotiating with that provider to finalise details of the service to be provided.

2.020 The RFP documentation stated that the service included:

- provision of assessment, diagnosis, treatment and ongoing management of sexually transmitted diseases (STDs) including HIV/AIDS;
- personal health education/promotion activities;
- referral/liaison with a full range of community, health and welfare services; and
- national health status surveillance activities.

Evaluation Criteria

2.021 The documentation also stated that, in evaluating proposals, HFA Wellington would consider the following factors:

- credibility and competence of proposed staff and management experience in the provision of clinical services;
- philosophy of care;
- ability to provide the full range of services;
- provision of equitable services for the whole Wellington region;
- price proposed and financial viability of the proposal; and
- cost-effectiveness.

2.022 The *Purchasing Handbook* stated that the evaluation criteria should be set out in the RFP, and that the relative importance of the criteria may be indicated. The RFP did not indicate the relative importance of the factors listed above.

2.023 In our view, the "criteria" in the RFP were so broadly framed that it would probably have been difficult to assign them an order of importance.

Service Inclusions and Exclusions

2.024 The RFP documentation said that the service to be provided included:

- a laboratory diagnostic service; and
- a contact tracing service.

2.025 Excluded from the service to be provided (because they were purchased under other arrangements) were:

- primary medical consultations;
- family planning consultations;
- pharmaceuticals; and
- public health promotion services.

Other Information

2.026 Other information given in the RFP was that the budget for the service was about $800,000 (excluding GST), and the deadline for receipt of proposals was 12 February 1999 (later extended to 19 February 1999).

Evaluating the Responses

The Evaluation Process

2.027 Seven providers submitted proposals in response to the RFP.

2.028 A panel of four HFA staff evaluated the responses. The criteria that the panel used are not immediately recognisable as the factors stated in the RFP documentation (see paragraph 2.021) and they:

- were considerably more detailed; and
- were developed after the RFP was issued.

2.029 The evaluation "criteria" in the RFP were topic headings rather than explicit criteria and, as such, were too general to provide much assistance to potential providers. If HFA Wellington had developed its actual evaluation criteria before issuing the RFP – and included them in the RFP together with an indication of their relative importance – providers would have had a better guide as to how to frame their bids.

2.030 HFA Wellington asserts that the evaluation criteria it used were "an elaboration" of the factors in the RFP.

2.031 The total evaluation score available was 200. The four top-scoring short-listed proposals scored as follows:

WIPA	153
Family Planning Association	152
Healthcare Aotearoa	148
Hutt Valley Health Limited	136

Conclusions

2.032 In our view, the evaluation process was compromised in part by:

- HFA Wellington not determining the precise evaluation criteria and their relative importance until after the RFP had been issued; and
- consequently, potential providers not knowing what the precise criteria were.

2.033 Subject to that qualification, HFA Wellington applied a proper method of evaluation and was able to identify four possible providers.

Interviews of the Short-listed Providers

2.034 The evaluation panel interviewed the four short-listed providers over the period 10-12 March 1999. The providers had been written to and asked to discuss specific matters relating to their proposal, including:

- geographic coverage;
- sites;
- availability/accessibility;
- high-risk sections of the population; and
- price/volume information.

2.035 HFA Wellington told us that the purpose of the interviews was for it to:

- ensure that it had understood the providers' proposals;
- clarify any points;
- test the credibility of the providers; and
- give providers the opportunity to answer or rebut any issues identified with the proposal.

2.036 At the interviews the providers outlined their proposals in general terms and then responded to specific issues raised by the panel. The specific issues varied according to the matters that HFA Wellington wanted to discuss with each provider in relation to its proposal.

2.037 We interviewed three of the providers for their perspective on this process. They considered that they had received a fair hearing from the panel, but gained the impression that

HFA Wellington was looking for a different service from that specified in the RFP.

2.038 We were concerned with the suggestion that the panel may have approached its task with a different service requirement in mind to that specified in the RFP documentation, so we raised our concern with HFA Wellington.

The HFA's Interview Rationale

2.039 Paragraphs 2.040-2.048 set out HFA Wellington's response to our concern. It was able to produce little in the way of formal documentary support for the response.

2.040 HFA Wellington was seeking cost-effective proposals for delivering a specialist sexual health service. Some of the key cost-effectiveness and philosophy of care issues for treatment of STDs were:

- Only about one-third of people with an STD were attending the specialist sexual health service. Of the remainder, 50% went to a GP and the rest went to another primary care provider – Family Planning or Student Health Services – even though the specialist service was free and GPs and Family Planning usually were not.
- Only a minority (estimated at 20%) of the people currently using the Wellington sexual health service required the specialist expertise of a secondary service.
- Treatment at an STD clinic for the most common STDs cost the HFA about $130 a consultation, while treatment by a GP cost the HFA about $35 plus laboratory tests. Therefore, every time someone who did not require specialist expertise was seen by the STD clinic there was a net cost to the HFA of more than $80 for no appreciable health gain. If the person went otherwise untreated because of financial barriers, numerous other costs were incurred to the person's health, to society, and to the HFA.
- GPs were not considered to be very well trained in best practice for assessing and treating STDs (as supported by recent research on treatment of chlamydia).

2.041 At the interviews the panel asked questions relating to these issues because an important element of cost-effectiveness was the appropriate targeting of the specialist service to:

- complex or high-risk cases who require specialist attention; and
- those who would otherwise go untreated (such as low-income people, sex industry workers, and people unwilling to use GP services).

2.042 A further consideration was that the contract HFA Wellington had with CCH was for 4,324 first consultations and 4,444 follow-up consultations annually. At the latest count, CCH was providing 4,793 first consultations and 11,781 follow-ups. The HFA was not paying for the excess of follow-up consultations because of the capped nature of the contract. If the contract had not been capped, the HFA estimates that this would have cost it an additional $300,000 a year.

2.043 The HFA saw the ability to control the volume of specialist consultations as a very important consideration in terms of the cost-effectiveness of proposals. Its view was that, to ensure cost-effectiveness, it was essential for providers to have an appropriate philosophy of care – in particular, a philosophy that emphasised and supported treatment at the primary level wherever possible.

2.044 It was this mix of considerations that lay behind the questioning of the providers. HFA Wellington was concerned to establish that each provider correctly understood:

- the proposed number of people to be treated (which was not always clear from the proposals);
- how volume risks would be covered; and
- the cost-effectiveness of the proposed service.

2.045 Given that the RFP stated that *the HFA was seeking to purchase the best value service within the available funds*, HFA Wellington expected the providers to have addressed the issue.

2.046 Using the supplementary information obtained at the interviews, HFA Wellington analysed the costs of the respective proposals and compared these costs (including the cost of laboratory testing) with the providers' expectations

of the number of visits to a specialist health service. The results are shown in Figure 2.1 below.

Figure 2.1
Comparative Costs of the Short-listed Bids

	Family Planning	WIPA	Healthcare Aotearoa	Hutt Valley Health
Annual Price*	$1,147,254	$900,000	$870,000	$850,000
First Consultations	4,000	4,800	2,825	3,600
Follow-up Consultations	4,000	7,200	8,475	4,000
Total Consultations	8,000	12,000	11,300	7,600
Cost per Patient	$286.81	$187.50	$307.96	$236.11
Cost per Consultation	$143.40	$75.00	$76.99	$111.84

*Including the cost of laboratory testing.

2.047 The analysis showed that WIPA had the most cost-effective proposal as well as having the highest score in the formal evaluation process (see paragraph 2.031). WIPA was therefore selected as the preferred provider, although the reasons were not documented.

2.048 HFA Wellington is adamant that the interviews were conducted with an open mind and that it was not seeking a service different to what was specified in the RFP.

2.049 HFA Wellington telephoned WIPA on 15 March 1999 to advise it of the decision and to request a meeting the next day. The other three providers were advised in writing that their bids were not successful.

Our View

2.050 It is possible that the questions the evaluation panel put to the providers relating to the issues described could have been misunderstood to mean that a different service was being sought.

2.051 HFA Wellington, in its concern to obtain the best value service, appeared to apply detailed criteria that the providers responding to the RFP could not have anticipated clearly from the RFP documentation with which they were supplied. Documentation making HFA Wellington's rationale clear would have aided potential providers – perhaps including providers that did not respond to the RFP – in formulating their responses so as to match the HFA's expectations.

2.052 The *Purchasing Handbook* emphasised the importance of documenting all decisions. The reasons for selecting WIPA were not documented – we obtained them by interviewing HFA Wellington staff. This was a specific deficiency in the final evaluation.

Finalising the Service to be Purchased

Negotiations with WIPA

2.053 At the meeting with WIPA on 16 March 1999, HFA Wellington:

- confirmed that it was the preferred provider;
- raised the possibility of sub-contracting parts of the contact tracing service to Hutt Valley Health;
- discussed options for purchasing laboratory services; and
- raised the possibility of making the specialist service more cost effective by improved targeting – which, in HFA Wellington's view, could be achieved by making it easier for people to be seen in primary care.

2.054 WIPA became concerned that it was being asked to provide a service beyond what was specified in the RFP. Such was its concern that (immediately after this meeting) it sought legal advice on whether HFA Wellington could depart from the RFP. The legal advice given to WIPA was to the effect that, because a clause in the RFP reserved the right of HFA Wellington to negotiate with a provider on any matter relating to the service, then it was able to vary the service specifications.

2.055 In our view (as discussed in more detail later), the service specifications for the specialist sexual health service remained, with one exception, much the same. However, combining in one contract the ***specialist*** sexual health service and a new ***primary care*** service created a different service to that described in the RFP.

2.056 Following the meeting of 16 March 1999, both WIPA and HFA Wellington carried out some cost modelling on the various options to see whether the cost of the specialist sexual health service could be reduced and more people could be treated in the primary sector.

2.057 After several more meetings, it was concluded that – to ensure that more people were treated in the primary sector, with the specialist service treating only those actually in need of specialist treatment – an additional patient subsidy for primary health consultations would be needed. The subsidy would allow for free consultations for the diagnosis and treatment of STDs and for free contraceptive consultations.

2.058 The main elements of the new service therefore would be:

- Provision of a reduced specialist sexual health service.
- The HFA would meet the direct cost of laboratory testing services. The RFP said that the provider would have to meet this cost in the first instance. However, the uncertainties associated with establishing the true cost was a major concern for providers because, if actual costs proved to be much higher, the provider would bear the additional cost.
- WIPA would administer a scheme under which the HFA would pay a new patient subsidy for GPs to provide free consultations on matters relating to sexual health and contraception. The free consultations would be available to young people. All GPs and the Family Planning Association are able to participate in this scheme. This new subsidy is expected to cost the HFA $560,000 a year. The RFP said that family planning and GP consultations were excluded from the service to be provided.
- WIPA would run training programmes for GPs wishing to provide this service. The training programmes would aim at improving the knowledge of GPs in the diagnosis and treatment of STDs.

The Service Being Purchased

2.059 The total annual cost of the service being purchased from WIPA is $520,000 – comprising $500,000 for the specialist health service and $20,000 for administering the free primary service.

2.060 The total annual cost to the HFA of the new service (excluding laboratory testing[3]) is $1,080,000 – comprising $520,000 paid to WIPA and $560,000 for the new patient subsidy.

3 Estimated by CCH to be $240,000 a year.

2.061 The HFA is bearing the cost of laboratory testing because of its expectation of a reduced demand on the specialist service. This expectation is predicated on the free GP consultations for young people for sexual health and contraception reducing the number of people with an STD using the specialist service. HFA Wellington also expects that providing guidelines to GPs on the tests that are necessary will reduce the number of unnecessary tests and, thus, the overall cost of testing.[4]

2.062 The HFA has described the new service as helping *to remove artificial divisions between sexual health and reproductive health.* This will be achieved by reducing the specialist service and increasing the free primary service through accredited GPs. The free primary service will include free contraceptive advice and free consultation and diagnosis of sexually transmitted diseases. By integrating a sexual health service with a reproductive health service, the HFA aims to reduce the number of unplanned pregnancies and reduce the incidence of STDs.

Conclusion

2.063 The new sexual health service being provided in Wellington is significantly different from the "specialist" service for which the RFP was issued.

2.064 In our view, an equal opportunity should have been afforded to all potential providers to bid for this revised service. At the least, HFA Wellington should have allowed the four short-listed providers the opportunity to bid for the revised service.

2.065 Arguably, however, had HFA Wellington purchased the first proposal from WIPA – i.e. the provision of a specialist sexual health service as specified in the RFP – any question of unfairness would not have arisen.

4 HFA Wellington has told us that tendering for the provision of laboratory testing has resulted in a reduction to the unit price paid for tests.

Other Matters

Approval of the Purchase

2.066 Internal HFA procedures require that a Purchase Board – consisting of senior HFA staff – must approve all purchasing decisions for amounts over $100,000. The Purchase Board is required to ensure that purchasing decisions are supported by robust analysis. The Purchase Board approved the purchase of the WIPA service on 31 March 1999.

2.067 We reviewed the paper putting the purchase of the new service to the Purchase Board. The paper described in detail the service to be purchased, but it did not describe in any detail the process followed to select WIPA as the preferred provider.

2.068 From the summarised information provided in the paper, the Purchase Board would not have been able to determine that it was being asked to approve the purchase of a service that was significantly different from that described in the RFP. Consequently, it could not have been aware that there was a significant issue of fairness in the process followed.

Conflict of Interest

2.069 Our guide *Good Practice for Purchasing by Government Departments* includes a guideline that staff involved in purchasing decisions must declare any personal interest that may affect – or could be perceived to affect – their impartiality in carrying out any aspect of their work. We interviewed HFA staff about their declaration of any personal interests. We also reviewed files and spoke with staff from the providers that had submitted proposals.

2.070 None of the HFA staff that we interviewed who were involved in the purchase of the service had any personal interest such that it would have been necessary for them to declare it. We did not find that any external influence had been brought to bear to appoint a particular provider.