

# Procurement Planning Policy

## Purpose

This policy outlines the requirements to plan a procurement process (i.e. acquisition strategy) on behalf of the South Australian Government ('government').

Policy requirements are to be applied to all procurements for goods and services, including construction projects valued up to \$165,000.

## Identify the Need

### New or Recurring Needs

The requirement to undertake a procurement process often results from a business case<sup>1</sup> in response to an identified client, community or business need ('the need'). In some cases, multiple procurement processes may be required under one project to achieve the required outcome(s).

Throughout each procurement process, the need will be described as an outcome rather than a specific good or service as far as practicable. This will help to allow the best solution to be determined through the procurement planning and sourcing process, taking into consideration relevant government policies and objectives.

### Stakeholder Engagement

Public authorities will engage with relevant communities, clients, industry/suppliers and other key stakeholders (internal and external to government, including end-users) to clearly define the need or desired outcome(s). The need will be properly scoped and closely aligned to the government or public authority's strategic objectives.

## Planning an Acquisition Strategy

### Use of Established Government Facilities

Before procuring a good or service, a public authority will consider whether its need can be met using an established government facility. Established government facilities are defined as State government owned and managed agencies, organisations, entities or statutory authorities that can provide goods or services to other areas of State government<sup>2</sup>. For example, the provision of training services from TAFE SA.

Where a public authority is satisfied that the need can be met and value for money achieved by using an established government facility, the public authority will:

- develop and maintain appropriate documentation

<sup>1</sup> If the procurement is for a project that meets the definition for 'Public Sector Initiative' as defined by *Treasurer's Instruction 17 Evaluation of and Approvals to Proceed with Public Sector Initiatives*, that process will also be followed.

<sup>2</sup> For the avoidance of doubt, it does not mean local government owned and managed entities, organisations or statutory authorities, or those of other State, Territory or Federal governments.

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- seek approval in accordance with the public authority's financial authorisations frameworks.

### Use of an Established Panel or Other Mandated Contract

Before developing an acquisition strategy, public authorities will identify whether there is an applicable panel or other mandated contract that will meet the need. This may be in the form of an across-government, multi-agency or single agency arrangement.

Where there is an applicable mandated contract, the public authority will:

- only purchase goods or services from the applicable contract in accordance with the specified secondary procurement process (unless the public authority's participation has been deemed as optional or it has been granted an exemption by the establishing authority)
- apply the relevant requirements of the *South Australian Industry Participation Policy* ('SAIPP') and *SAIPP Procedural Guidelines*.

Where an established panel or other mandated contract exists that does not describe the secondary procurement process to be followed, the public authority will ensure relevant procurements are undertaken in accordance with the *Procurement Planning Policy* and the *Sourcing Policy*.

### Estimating the Value of the Procurement

Once the need has been defined, the public authority will use the estimated cost of the required goods or services to estimate the value of the proposed procurement. This includes the total value of any contract extension and other options that may be included and is inclusive of GST.

### Complexity and Capability Assessment (Resource Allocation)

A complexity and capability assessment will be undertaken prior to commencing the procurement process to classify the procurement as either transactional, routine, complex or strategic. This classification will be based on the level of complexity, risk profile and value of the procurement.

Transactional procurements are low risk procurements with a value up to and including \$55,000.

Routine procurements are generally low/medium risk procurements valued above \$55,000.

Complex procurements are generally medium risk and higher value (valued above \$550,000).

Strategic procurements are generally high value, high risk, with a high complexity; but some lower value procurements may be strategic for reasons other than price.

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The complexity and capability assessments will be used to determine the resource commitment required to meet the minimum requirements of a procurement process and achieve the desired outcome(s).

Public authorities may re-assess the complexity of the procurement and capability of allocated resources throughout the procurement process and adjust, as required.

### Establishment of an across-government or multi-agency panel or other mandated contract

Where it is determined that an across-government or multi-agency panel or other mandated contract will achieve the best outcome, the public authority will:

- ensure, where applicable, that establishing an across-government or multi-agency contract is supported across government through a consultative process with affected public authorities
- ensure there is verifiable demand for the anticipated goods or services for the life of the contract
- determine the rules for selecting, adding or removing suppliers
- determine the secondary procurement process and panel rules to be followed (ensuring flexibility and minimal administrative burden in any secondary procurement process) for any purchases from the contract
- ensure that any exemptions from using the contract do not infringe the legal obligations of the contract
- apply the relevant requirements of the *SAIPP* and *SAIPP Procedural Guidelines*
- maximise the opportunity for South Australian business participation in establishing the panel and panel rules
- determine the contract management arrangements.

A mandated across-government contract, whether it be for a new or continuing need, will not be established without approval from the Treasurer prior to approaching the market. The Treasurer may take the decision to Cabinet. Confirmation of this approval to mandate the contract will be documented in the approval to approach the market (i.e. Acquisition Plan, if applicable).

### Supply Market Analysis

#### Market Analysis

Public authorities will analyse the supply market to inform the development of an appropriate acquisition strategy. This includes researching and gathering information about the supply market from which the required goods or service will be sourced.

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The market analysis will assess market capability, capacity and willingness to achieve the desired outcome(s). This should also address the capacity of local industry, and the benefits and opportunities to be achieved through disaggregating supply.

### Supply Chain Analysis

Public authorities will undertake a supply chain analysis to identify the potential supply chain risks for all complex and strategic procurements. Public authorities will assess whether a supply chain analysis is required for a transactional or routine procurement and will undertake the analysis as required.

### Industry Engagement

Industry engagement facilitates transparency and collaboration with the market, whilst identifying innovative opportunities as appropriate to achieve the intended outcome(s).

In planning an acquisition strategy, public authorities will seek to engage with a diverse range of prospective suppliers, including small to medium enterprises (SMEs). The level of engagement will be commensurate with the value, complexity and risk of the procurement activity proposed.

All public authority staff responsible for leading or managing complex or strategic procurements will undertake the Procurement Services SA *Industry Engagement* training every three years.

### Specification Development

A specification (whether it be functional, technical, performance and/or outcomes-based) will be developed by relevant public authority staff with adequate technical skills and applicable knowledge to identify the:

- need
- proposed contract term
- performance standards
- reporting requirements (if any)

for key stakeholders and eventually the market.

Public authorities will ensure that all specifications avoid the use of proprietary standards and specify the requirements in such a way to maximise the opportunity for competitive offers from a variety of suppliers.

### Determining the Market Approach

#### Minimum number of quotes to be sought

The market approach will align to the process outlined in the following table.

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Estimated Cost	Market Approach	Minimum Number of Suppliers Required to be Approached
≤ \$55,000	A minimum of one written quote will be sought.	1
>\$55,000 but ≤ \$550,000	A minimum of three written quotes, with at least one quote from a South Australian business (unless a direct or limited sourcing arrangement (in this case, less than three suppliers) has been approved by the authorised person). If a public authority cannot identify three suppliers with one being a South Australian business to seek a quote from, the procurement will be advertised as an open tender on <i>SA Tenders and Contracts</i> for a minimum period of 14 calendar days (unless a direct or limited sourcing arrangement has been approved by the authorised person).	3
>\$550,000	Open market approach will be used (unless a direct or limited sourcing arrangement has been approved by an authorised person).	Open

### Limiting number of suppliers including direct market approach strategies

Public authorities will not approach less than the minimum number of suppliers required to be approached unless:

- the public authority is procuring directly from an eligible Aboriginal business in accordance with *the SAIPP Procedural Guidelines*
- the good or service can only be supplied by a particular supplier and no reasonable alternative or substitute good or service exists because:
  - the requirement is for a work of art, or
  - an intellectual property monopoly or other exclusive rights exist
- procurements are conducted in line with the South Australian Government’s [Go2Gov program](#)
- purchases are made under exceptionally advantageous conditions that only arise in the very short term, such as from unusual disposals, liquidation, bankruptcy or receivership, but not for routine purchases from regular suppliers
- the risk to public health and safety necessitates a limited approach
- the good or service is being sourced from an applicable panel or other mandated contract in accordance with the agreed rules for use of that contract
- the procurement could not have been foreseen and the timeframes to deliver



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- the Chief Executive of the public authority is satisfied that only a limited number of suppliers have the capability, experience and suitability to meet the public authority's needs and no alternative or substitute exists or for other reasons justified by the Chief Executive of the public authority.

The determination to limit the market will be justified and evidenced by thorough market research and sound knowledge of category/market pricing. A direct or limited market approach will not be chosen for convenience or to avoid competition.

If a direct or limited market approach is permissible and selected, public authorities will still maintain the integrity of the procurement process; and ensure the chosen market approach will deliver the best procurement outcome, achieve value for money, and comply with the *SAIPP*, *SAIPP Procedural Guidelines* and any applicable international obligations i.e. Free Trade Agreements.

### Evaluation Planning

During the planning stage, public authorities will develop an acquisition strategy to achieve value for money through the approach to market. This involves identifying an appropriate evaluation methodology and criteria that will be used to assess the value proposed by each supplier's solution or offer.

The evaluation criteria (either mandatory, weighted or non-weighted) provide a standard against which the public authority will evaluate the quantitative (financial) and qualitative (non-financial) elements of suppliers' offers to identify the best value for money solution.

The evaluation criteria will incorporate requirements in the *SAIPP Procedural Guidelines* and relevant provisions in the *Industry Advocate Act 2017*.

The qualitative evaluation criteria are to be determined by the public authority and modified for each procurement to ensure they are fit for purpose to achieve the procurement objective(s).

The evaluation process will consider whole-of-life costs, where appropriate, when evaluating the cost of a supplier's offer.

For all complex and strategic procurements, an *Evaluation Plan* will be prepared and attached to the acquisition plan.

### Risk Management

Public authorities will undertake a risk assessment for all procurements valued above \$55,000. The risk assessment will identify the:

- identified risk(s) associated with the procurement and the relative goods or service

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- potential impact/consequences of the risk(s)
- likelihood of the risk(s) occurring
- existing controls
- proposed mitigation and/or treatment of the risk(s)
- residual risk rating(s).

The risk assessment will be used to determine the overall risk level of the procurement as part of the procurement planning process. The risk assessment will be commensurate with the value and complexity of the procurement.

For all complex and strategic procurements, a *Risk Management Plan* will be prepared and attached to the acquisition plan.

### Contract Management Planning

#### Performance Measures and Contract Terms

Public authorities will identify appropriate performance measures and contract management arrangements (including contract term and extension options) prior to approaching the market. These details will be identified in the market approach documentation to ensure prospective suppliers are aware of the public authority's expectations. Public authorities will consider relevant requirements in the *SAIPP Procedural Guidelines*.

#### Contract Terms for Certain Not-for-Profit Arrangements

Upon consideration of ongoing budget availability and continuing need, public authorities will, where appropriate, establish longer-term contracts for all transactional and routine procurements with not-for-profit suppliers, where the contract is required for longer than two years and there are no linked funding arrangements with the Commonwealth Government.

The appropriateness of long-term contracts will be assessed on a case-by-case basis and will represent value for money; and be balanced against the potential for new suppliers, whilst also considering the potential to encourage innovation in service delivery and new service models.

#### Insurance

Public authorities will identify the type(s) of insurance and minimum level(s) of coverage to be affected and maintained by each supplier prior to approaching the market.

The key types of insurance cover for the supply of goods and services are:

- Public Liability
- Product Liability

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- Professional Indemnity

The type(s) of insurance required will depend on what is being sourced. However, all suppliers will have a minimum of \$1 million public liability insurance coverage.<sup>3</sup>

The public authority is not required to be named on the supplier's insurance policy.

### Liability Limit

The default liability limit for all low to medium risk procurements that use the *Standard Goods and Services Agreement* or *Standard NFP Sector Funded Services Agreement* will be between one and five times the total value of the contract, as determined by the public authority and based on the risk of the procurement (Global Liability Cap).

Public authorities are encouraged to seek advice from the Crown Solicitor's Office for complex or strategic procurements or where it is not possible to determine the risk level prior to approaching the market.

### Approvals required before approaching the market

A public authority will obtain approval to approach the market from the public authority's Chief Executive (or authorised person) prior to approaching the market.

For routine procurements valued above \$55,000, the approval will (at a minimum) cover:

- the need
- estimated value of the procurement
- procurement objectives and market approach (including evaluation methodology and criteria)
- contract term.

For procurements that have been classified as complex or strategic, approval will be obtained in the form of an acquisition plan. The public authority may tailor the acquisition plan to ensure it is fit-for-purpose for the complexity of the proposed procurement. However, at a minimum, the acquisition plan will document:

- the need
- details of stakeholder engagement
- estimated value of the procurement
- supply market analysis including local industry capacity
- procurement objectives and market approach (including an attached *Evaluation*

<sup>3</sup> Refer to the [South Australian Government Financing Authority](#) website for further details on appropriate insurance coverage and duration.

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*Plan*)

- contract term and contract management arrangements
- risk management strategies (including an attached *Risk Management Plan*)
- any departures from the *Procurement Planning Policy* and/or *Sourcing Policy* (if applicable).

A Chief Executive cannot authorise another person to approve an approach to market that involves a direct market approach to a non-South Australian business with an estimated cost above \$55,000; unless the direct market approach is being conducted under an established panel arrangement, through a secondary procurement process conducted in line with the approved panel rules.

Subject to the approval requirements detailed in the *Sourcing Policy*, the approver of the approach to market may authorise another person to approve the procurement outcome at the time of approving the market approach. This will be clearly documented.