PROCUREMENT GOVERNANCE POLICY

Contents

NOTES:

- Terms used throughout this policy have the same meaning as defined in the *Public Finance and Audit Act 1987*, *Treasurer's Instructions 18 – Procurement,* and the Procurement Glossary.
- All values identified in the framework are in Australian Dollars and are GST inclusive.

The SA Government Procurement Framework

Government procurement has a powerful role in shaping South Australia's economy, business opportunities, and labour market. The South Australian Government is committed to ensuring that maximum benefit to the communities of South Australia (SA) is realised through government spending.

Procurement SA, a branch of the Department of Treasury and Finance (DTF), is responsible for administering a streamlined procurement framework that:

- applies to all South Australian public authorities
- reduces complexity and red tape for suppliers and government
- is outcomes-focused through effective reporting and analytics
- values engagement with industry, clients, and communities
- maximises opportunities for South Australian businesses and workers
- provides Chief Executives with clear accountability and responsibility to determine public authority-specific procurement governance arrangements and processes.

The SA Government Procurement Framework (the Framework) consists of *Treasurer's Instructions 18 – Procurement* and a range of key government policies and schedules that set the minimum government procurement and contract management requirements, commensurate with the complexity (combined risk and value analysis) of the procurement or contract.

Supporting guidance materials and templates are available to assist public authorities design fit-for-purpose procurement processes.

Scope and application of the Framework

The Framework applies to

- South Australian public authorities, as defined by the *Public Finance and Audit Act 1987,* that buy goods and services including construction projects valued up to $165,000.

The Framework does not apply to:

- grants as defined in *Treasurer's Instructions 15 - Grant Funding*
- construction projects valued above $165,000.

Key principles of the Framework

The following **key principles** are reflected throughout the Framework and will be applied as far as possible to each public authority procurement activity.

Value for money in procurement

Public authorities will seek to achieve value for money in every procurement they undertake. If a procurement cannot achieve value for money and deliver the intended outcomes, then that procurement should not continue.

Value for money in procurement is realised when the balance between the value of the procurement and the quality of outcomes procured is acceptable. Value for money can be optimised by seeking ways to enhance the quality of outcomes for minimal additional cost.

- Value of procurement is the combination of:
  - cost of procured goods and services
  - cost of any contractual extensions or other options
  - GST.
- Quality of outcomes is the combination of:
  - how well the goods or services procured can meet the procurement specifications
  - how well the goods or services procurement can meet the procurement need
  - additional benefits/advantages and risks/disadvantages represented by the goods or services.

Creating South Australian jobs and increasing the number of apprentices and trainees

Public authorities will consider the economic benefit of each procurement to the South Australian economy, including the creation of new opportunities and jobs.

Public authorities will maximise opportunities for South Australian businesses by developing an overall approach to industry engagement and applying the South Australian Industry Participation Policy (SAIPP).

Public authorities will seek, where possible, to increase the number of apprentices and trainees involved in projects supplying to government through the selected market approach, evaluation of value for money and performance measures in contracts.

Stimulating innovation and new business

Innovation and new business will be encouraged to improve the way goods and services are delivered. Public authorities will promote this through industry engagement, market research, outcomes-based procurement practices, and the adoption of a continuous improvement mindset in the procurement community.

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Achieving environmentally sensitive, low carbon, socially just outcomes

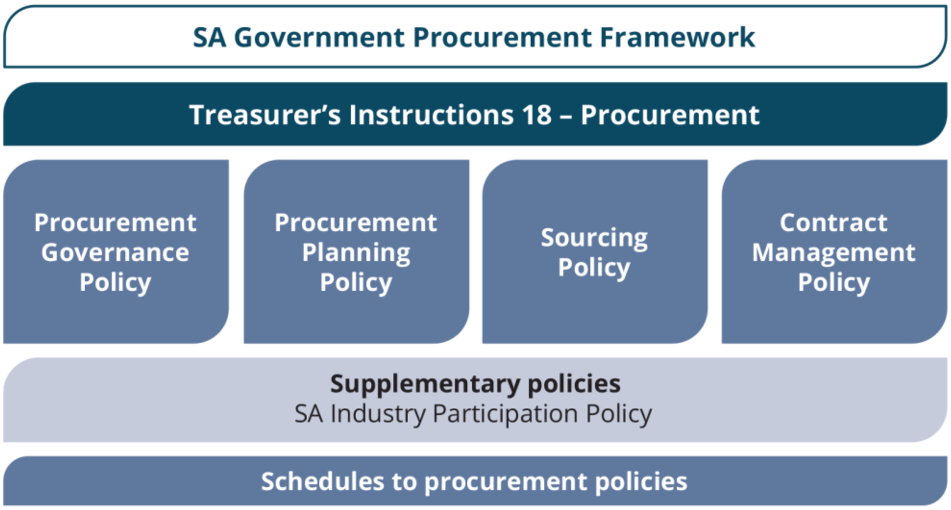
The achievement of environmental, social and governance (ESG) outcomes in government spending is key to building a strong, smart economy. Public authorities will seek environmentally sustainable and socially responsible procurement outcomes and will encourage the pursuit of high standards of governance.

Public authorities will seek to:

- increase engagement with not-for-profit organisations, Aboriginal enterprises, women-owned businesses, social enterprises and Australian disability enterprises
- engage early with stakeholders to put the needs of clients and communities at the centre of procurement and contracting practices
- make procurement staff and suppliers aware of the government's Supplier Conduct Charter for Government, Supplier Conduct Charter for Suppliers, and Supplier Conduct Charter for Sub-contractors.

Structure of the Framework

The Framework consists of *Treasurer's Instructions 18 – Procurement* and a range of key policies and schedules.



In addition to the Framework, government procurements will adhere to all applicable legislation, government policies, instructions, and agreements including, but not limited to:

- The SA Industry Participation Policy (established under the *Industry Advocate Act 2017*)
- State and Commonwealth legislation and international trade agreements
- Treasurer's Instructions, Premier and Cabinet Circulars and Premier's Directions.

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Public authorities will know and understand their obligations, and the consequences of non-compliance, before undertaking any procurement activities. If the Treasurer determines that a public authority is non-compliant with its procurement obligations, the Treasurer may direct that the public authority:

- terminate or suspend the non-compliant procurement process
- align with the existing internal procurement framework of another public authority, until further notice.

International trade agreements

The South Australian Government is a signatory to the Australia and New Zealand Government Procurement Agreement (ANZGPA) and has agreed to comply with Australia's other bilateral free trade agreements (FTAs) and with the World Trade Organisation Government Procurement Agreement (WTOGPA).

The Crown Solicitor's Office is the government's authority with respect to international trade obligations. Chief Executives are responsible for compliance with these obligations. Public officers should note the following key information:

- the ANZGPA applies to all procurements regardless of value
- FTAs and the WTOGPA apply to certain procurements above certain value thresholds undertaken by certain public authorities - the following lists are provided in FTAs and the WTOGPA and should be referred to directly:
  - public authorities that are covered by FTAs and the WTOGPA
  - value thresholds that apply to procurements under FTAs and the WTOGPA
  - procurements that are excluded from FTAs and the WTOGPA.

Operation of the Framework

Framework updates

Changes or additions to existing Framework documents may be implemented from time to time. Public authorities will ensure implementation of and adherence to any changes to the Framework.

Exemptions from policy

Where the Chief Executive of a public authority identifies that there are justifiable reasons why a requirement set out in the Framework cannot feasibly be applied to the public authority or a particular procurement, the Chief Executive may seek an exemption from the Treasurer to vary the effect of the corresponding requirement.

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Responsibilities and accountabilities

The Treasurer

The Treasurer is responsible for setting the rules and policy direction for all government procurement.

The Treasurer may, in accordance with *Treasurer's Instructions 1 – Interpretation and Application*, issue temporary alternative instructions to one or more public authorities modifying the application of the Framework subject to conditions as the Treasurer thinks fit.

Procurement SA

Procurement SA is the government's central procurement branch for all procurements and chief advisor on goods and services procurements. Procurement SA oversees and maintains the Framework including revising and creating documents and continuing policy reform.

Procurement SA leads the procurement profession in the South Australian public sector by:

- undertaking procurement processes on behalf of public authorities (for goods and services only) on a fee-for-service arrangement, as requested
- providing probity advisory services to public authorities
- providing goods and services procurement advice and support to responsible Ministers, Chief Executives, and public authorities, as requested
- reviewing the internal procurement frameworks of new public authorities
- reviewing high value, high risk, or other procurement processes, as requested
- reviewing the findings/outcomes of public authority reporting and biennial internal reviews
- supporting the development and delivery of the government's procurement capability strategy.

Procurement SA also manages the government's Procurement Activity and Reporting System (PARS), publishes a Forward Procurement Plan on behalf of public authorities, and measures and benchmarks public authority procurement performance to identify opportunities for additional value to be obtained. Findings are shared with the Government Procurement Network, senior executive leaders, Chief Executives, and Ministers across government, as appropriate.

Advisory arrangements

The following advisory arrangements support government procurement in SA.

- Procurement Review Committee (PRC): The PRC comprises a small number of senior public officers appointed by the Treasurer. It provides strategic oversight and reviews of public authority procurements that are high risk, high value, or of public interest including:
  - reviewing and endorsing sourcing strategies, acquisition strategies and other documentation for the establishment of across-government contracts, whether for a new or continuing need
  - reviewing unresolved supplier complaints about procurement processes – the PRC acts as review authority for unresolved supplier complaints.

Cabinet, the Treasurer, a Minister, or Chief Executive of a public authority may request that the PRC review any procurement activity or related matters. Alternatively, the PRC can review forward procurement plans to identify procurements it considers require oversight and review. The PRC is not a decision-making body but will endorse submissions or make recommendations to the Treasurer or a Chief Executive.

- Government Procurement Network (GPN): The GPN comprises public authority procurement leaders that gather quarterly to discuss emerging procurement issues. The GPN has a strategic role in the delivery of government procurement outcomes.
- Networks and Communities of Practice (CoPs): Networks and CoPs may be established by Procurement SA to support government procurement capability and practices.
- Industry Advisory Group (IAG): The IAG works together to encourage collaborative partnerships between government and industry sector bodies by identifying opportunities to reduce the complexity and costs of tendering for government work.
- Not-For-Profit Advisory Group (NFPAG): The NFPAG works together to encourage collaborative partnerships between government and the NFP sector by implementing the principles of Premier and Cabinet Circular 044 - South Australian Funding Policy for the Not-for-Profit Sector (PC044).

Chief Executives

Each public authority Chief Executive (or equivalent) is responsible for implementation of, and compliance with, the Framework. The Chief Executive is ultimately responsible for the efficient and effective management of all procurements of their public authority.

The Chief Executive can choose to be supported by a Procurement Governance Committee or Central Procurement Unit based on the public authority's procurement governance structure and procurement profile.

Procurement Governance Committee (PGC)

A PGC will have written terms of reference and will comprise representatives from executive level, senior level officers, and public authority technical staff. Members will have the capability to contribute appropriate management and subject expertise in areas such as risk, financial and project management, strategic planning or information systems.

PGC members will undertake training, from time to time, as required by the Treasurer.

Central Procurement Unit (CPU)

A CPU will have appropriate authority under a public authority's procurement governance arrangements to ensure it can deliver its objectives. Staff will have the capability to contribute appropriate expertise for the scope, nature, and complexity of the CPU's functions.

Public authority internal procurement frameworks

Chief Executives will ensure their public authority has an appropriate internal procurement framework in place, consistent with *Treasurer's Instructions 18.8 – Procurement*. Chief Executives can choose to develop and maintain an internal procurement framework or elect to use the framework of another public authority, consistent with *Treasurer's Instructions 18.9 – Procurement*.

New public authorities will provide a copy of their internal procurement framework to Procurement SA for review and feedback before undertaking any procurement activities.

Unsolicited proposals, disposal of surplus goods, and return of records and information

Public authorities will manage unsolicited proposals, disposal of surplus goods and the return of records and information in accordance with the corresponding Framework schedules.

Minimum requirements of internal procurement frameworks

Internal procurement governance structure

Roles, responsibilities and authorisations including, but not limited to:

- establishment and operations of a PGC or CPU, consistent with this policy
- alignment with another public authority's internal procurement framework, consistent with *Treasurer's Instructions 18.9 – Procurement*
- approving approaches to market, consistent with *Treasurer's Instructions 18.10 and 18.11 – Procurement* and with the Procurement Planning Policy
- approving procurement outcomes, consistent with the Sourcing Policy.

Internal procurement complexity scale

A tailored complexity scale that adapts the following standard government scale to the public authority's risk and spend profile:

- **transactional**: valued up to and including $55,000 and low risk
- **routine**: valued above $55,000 and generally low/medium risk
- **complex**: valued above $550,000 and generally medium risk
- **strategic**: generally high value, high risk and high complexity

Procurements valued greater than $55,000 cannot be classified as transactional. Lower value procurements or contracts may be strategic for reasons other than price.

Emergency procurements strategy

Public authorities with emergency responsibilities will include a strategy for rapid procurements in the early stages of emergencies, consistent with the Emergency Procurement Schedule.

Internal procurement operations

Processes and performance expectations, consistent with the Procurement Planning Policy, Sourcing Policy, and Contract Management Policy, for the management of:

- transactional goods and services procurements and contracts
- routine, complex and strategic goods and services procurements and contracts
- construction procurements, consistent with *Treasurer's Instructions 18.14 – Procurement*.

Documented approaches (e.g. systems, processes, plans) for management of the following:

- contract management, consistent with the Contract Management Policy
- risk management, to safeguard the integrity of procurement processes.
- procurement forecasting, consistent with *Treasurer's Instructions 18.10 – Procurement* and the Procurement Forecasting Schedule
- contract reporting, consistent with *Treasurer's Instructions 18.10 – Procurement* and with the Contract Reporting Schedule
- supplier complaints, consistent with the Supplier Complaints Schedule
- records and information, consistent with the Records and Information Security Schedule
- procurement capability, consistent with this policy and with the Procurement and Contracting Training Schedule
- internal assessment and review of procurement activities and outcomes
- industry engagement.

Internal procurement registers

An authorisation register, consistent with *Treasurer's Instructions 18.12 – Procurement*.

A departure register, consistent with *Treasurer's Instructions 18.12 – Procurement*.

An internal contract register, consistent with the Contract Reporting Schedule.

Internal procurement records

Accurate records of the following will be kept, for all stages of procurement, in a manner sufficient for effective audit or review, and will be provided to Procurement SA, on request:

- **supplier complaints**, consistent with this policy and the Supplier Complaints Schedule
- **procurement capability**, consistent with this policy
- **industry engagement**.

Maintaining internal procurement frameworks

Annual suitability reviews of internal procurement frameworks

Chief Executives will undertake an internal suitability review at least once every financial year to assess the extent to which procurement policies, procedures, and practices are fit for purpose. The outcomes of annual internal suitability reviews do not need to be reported to Procurement SA.

Biennial compliance reviews of internal procurement frameworks

Chief Executives will undertake an internal compliance review every 2 years to assess the extent to which procurement policies, procedures, and practices are effectively implemented.

The review will be independent of the procurement function, supported instead by the public authority's internal audit function or similar. The completion date and any significant findings will be reported in PARS.

Additional reviews of internal procurement frameworks

A review of the internal procurement framework will be triggered if the Framework or public authority undergoes significant restructuring, including but not limited to:

- changes to the Framework
- changes resulting from a MOG process or
- significant change to public authority roles, responsibilities or key senior staff.

Public authority capability and capability support

Chief Executives will ensure their public authority has appropriate expertise, resources, systems and processes to achieve objectives and manage risks in its procurements and contracts including through appropriately skilled staff and compliance with the Procurement and Contract Training Schedule.

If, before commencing or at any point during a procurement, a public authority identifies that it does not have appropriate procurement capability and/or capacity the public authority will, in the first instance, seek advice from Procurement SA.

- Where appropriate, Procurement SA will provide procurement services under a fee-for-service arrangement.
- Public authorities will not engage with external (non-government) procurement support unless Procurement SA agrees that such support is necessary and that the public authority's procedures and conditions for engaging such support are appropriate.
- Where a public authority does engage with external (non-government) procurement support, Procurement SA will not provide additional procurement services, including review or endorsement of the externally-provided services.

Procurements may be referred to Procurement SA by the respective CPU, PGC, Chief Executive, a Minister or Cabinet.