FACT SHEET

Procurement governance, probity and integrity - suppliers

Governance is the system of oversight, direction and agreed standards that guide how an organisation or process operates. Good governance during procurement describes the planned and documented framework of rules, policies and procedures that guide decisions and activities. It ensures outcomes are **transparent** and **ethical**, with strong lines of **accountability** and **probity**. Good governance is also a characteristic of high quality procurement outcomes delivered by suppliers as it is fundamental to managing risk and achieving value for money.

Common factors in all good governance outcomes

Good governance during procurement is supported by documenting and following well-considered procedures and processes and recording all decisions, activities and authorising environments.

Good governance in the delivery of procurement requirements is demonstrated through robust record keeping against established governance models and standards.

What is probity in supplier behaviour?

Probity is the act of being (and of being able to show evidence of being) fair, honest and equitable.

In how procurement is carried out: probity is the fair, honest and equitable process of selecting and working with a supplier to meet a procurement need.

In how procurement requirements are delivered: probity is the fair, honest and equitable behaviour during delivery of a procurement requirement.

What is ethical supplier behaviour?

Ethics are associated with moral duties, principles and behaviours.

In how procurement is carried out: ethical behaviour is the treatment of a procurement need and of suppliers that meets the ethical expectations of stakeholders.

In how procurement requirements are delivered: ethical behaviours is the delivery of requirements that meet the ethical expectations of stakeholders.

What is transparency in supplier behaviour?

Transparency is the sharing of information to enable appropriate scrutiny of actions and outcomes.

In how procurement is carried out: transparency is the equitable and appropriate availability of information to suppliers and the public.

In how procurement requirements are delivered: transparency is the equitable and appropriate availability of information to government and the public.

What is accountability in supplier behaviour?

Accountability is the acceptance of responsibility for actions and decisions.

In how procurement is carried out: accountability is the ownership of decisions and their consequences relating to a procurement outcome.

In how procurement requirements are delivered: accountability is the ownership of decisions and their consequences relating to the delivery of procurement requirements.

Governance failures in procurement - corruption, misconduct and maladministration

Corruption, misconduct and maladministration are all failures of good governance.

Corruption in public administration is defined by the *Independent Commission Against Corruption Act 2012* and includes conduct that constitutes:

- an offence against Part 7 Division 4 of the Criminal Law Consolidation Act 1935
- an offence against the Public Sector (Honesty and Accountability) Act 1995 or the Public Corporations Act 1993
- an offence against the Lobbyists Act 2015, or an attempt to commit such an offence
- being complicit in any of those offences.

Misconduct in public administration is defined by the *Ombudsman Act 1972* as an intentional and serious contravention of a code of conduct by a public officer that constitutes a ground for disciplinary action against the officer.

Maladministration in public administration is defined by the *Ombudsman Act 1972* as conduct that results in irregular or unauthorised use of public money or substantial mismanagement of public resources, or conduct involving substantial mismanagement of official functions including impropriety, incompetence or negligence.

Procurement is vulnerable to all 3 forms of governance failure because it can involve large sums of public money and can be impacted by devolved decision-making, oversight and staff training.

Supplier obligations under the *Independent Commission Against Corruption Act 2012* (ICAC Act)

Suppliers to government are considered public officers under the *Independent Commission Against Corruption Act 2012 (ICAC Act)*:

- public officers include 'a person performing contract work for a public authority or the Crown'
- public authorities are responsible for supplier's who are performing work for them
- the Minister responsible for a supplier is the Minister responsible for the responsible public authority.

The effects of suppliers being considered public officers is that suppliers are subject to all obligations and responsibilities under the ICAC Act including:

- being subject to complaints about public administration
- being subject to the obligation to report reasonable suspicions of corruption in public administration
- being subject to potential disciplinary action by the responsible public authority

Office for Public Integrity South Australia

The Office for Public Integrity (OPI) was established by the Independent Commissioner Against Corruption Act 2012 (ICAC Act) to receive complaints and reports about corruption, misconduct and maladministration in South Australia's public administration and police. OPI can refer reports and complaints for investigation or action to agencies such as:

- Ombudsman SA
- Independent Commissioner Against Corruption
- Judicial Conduct Commissioner.

OPI also oversees public interest disclosures under the Public Interest Disclosure Act 2018 which provides protections for those who make disclosures about public administration or environmental and health matters.

Independent Commission Against Corruption (ICAC)

The Independent Commission Against Corruption (ICAC) investigates and prevents corruption in South Australian public administration. Procurement is vulnerable to being corrupted because it can involve large sums of public money, and be impacted by devolved decision-making, oversight and staff training.

The ICAC Act stipulates obligations of public authorities and public officers in relation to matters which are reasonably suspected of involving corruption, misconduct or maladministration in public administration.

Internal supplier governance

As well as adhering to the expectations of good governance as public officers, public authorities should ensure suppliers have robust internal governance structures and practices to minimise risks to government procurement and contracting outcomes.

All suppliers should be able to demonstrate that their businesses have robust, documented systems for:

- risk management
- document management
- incident, accident and issue management
- internal audit programmes
- staff management and training
- supply chain management
- equipment maintenance
- reporting compliance

Additional governance systems that may apply to suppliers include:

- ISO certifications, such as
  - 9001 - quality management system
  - 45001 – occupational health and safety
  - 14001 – environmental management
  - 27001 – information security
- Compliance with the Modern Slavery Act 2018
- Compliance with the *Corporations Act 2001* climate-related financial disclosures
- Compliance with industry-specific standards and codes of conduct