



**Government  
of South Australia**

State Procurement  
Board

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**Acquisition Planning Policy**

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## 1. Purpose

This policy outlines the State Procurement Board's (Board) mandated requirements and advises on acquisition planning, a key element of undertaking a procurement.

This policy includes information on:

- what acquisition planning is, and when it is required
- why acquisition planning is important
- how acquisition planning efforts depend on the risk and value of a procurement
- the mandated acquisition planning requirements.

## 2. General Principles

The object of the *State Procurement Act 2004* (Act) is to advance government priorities and objectives by a system of procurement for public authorities directed towards:

- a) obtaining value in the expenditure of public money
- b) providing for ethical and fair treatment of participants
- c) ensuring probity, accountability and transparency in procurement operations.

The development of acquisition plans is to have regard to, and be consistent with, these objectives.

All expressions defined in the Act have the same meaning in this policy.

## 3. Policy Statement

Public authorities are required to undertake effective acquisition planning in accordance with the mandated requirements outlined in this policy.

## 4. Policy Scope

This policy applies to all public authorities as defined in the Act.

This policy applies to procurements greater than \$550,000 and excludes procurements valued up to and including \$550,000 undertaken in accordance with the *Simple Procurement Policy*.

All dollar values are GST inclusive.

## 5. Better Customer Charter for Business

The *Better Customer Charter for Business* released in July 2016 outlines the South Australian Government's commitment to being the best public service customer to suppliers and sets out what current and potential suppliers can expect from the government when they bid for procurement opportunities.

The *Better Customer Charter for Business* requires that:

- suppliers be treated fairly, equally and with respect

- documents utilised during the acquisition planning process use clear, simple and easy to understand language
- consistent information is provided to all suppliers
- feedback from the supplier community be used to identify opportunities for improvement
- barriers to good procurement practice are removed.

Other specific elements of the charter have been incorporated into this policy.

## 6. Definitions

*Acquisition planning* is the process undertaken when commencing the procurement acquisition process and includes the development of procurement objectives based on a clear understanding of the business needs, and the inclusion of a market approach which reconciles the business needs with the character of the supply market.

An *acquisition plan* is a document that outlines the procurement methodology and strategy to be undertaken in procuring the required goods or services. This plan is approved by the appropriate approving body/person before the procurement strategy is commenced.

## 7. Acquisition Planning Process

Successful acquisition planning ensures the most appropriate acquisition strategy is selected to meet the public authority's procurement objectives in a timely manner and at an acceptable cost and results in:

- improved management of procurement
- improved risk identification and risk management
- better value for money outcomes
- improved relationships with suppliers.

The rigour of acquisition planning is to be varied in line with the risk and value of the acquisition and needs to commence as soon as possible, so that commercial opportunities can be identified and risks mitigated.

The acquisition planning process consists of three stages:



Each stage is outlined in more detail below.

## 8. Identifying Needs

A clear and justifiable need linked to the public authority's business objectives or procurement strategy needs to be identified. Options to satisfy this need (including non-procurement alternatives) are to be explored to determine whether procurement is the best means to deliver a value for money outcome. There may be an existing contract that can meet the identified need (including across government contracts).

It is important to identify key stakeholders, both internal to the public authority and external, and consult to determine their needs.

Prior to commencing a procurement process, the likely availability of funds needs to be confirmed. For some procurements, a business case may be required to justify the expenditure of funds.

## 9. Planning the Procurement Strategy

When planning the procurement strategy, preliminary analysis of the market is important in order to identify factors that may impact on procurement decisions. A preliminary scoping of procurement requirements to identify outcomes, objectives and logistics/supply chain factors needs to be undertaken.

The time taken to plan, research and analyse a procurement significantly contributes to the identification of the best value for money strategy. As such, it is important to devote greater time, resources and effort in the acquisition planning phase of the procurement process.

The total value of the procurement needs to be estimated for the purposes of assessing requirements of the procurement process (for example procurements valued at greater than \$4.4m have additional requirements) and other financial and logistical requirements.

Public authorities may not be able to forecast future demand, and may rely upon estimates, in which case the best estimated data should be used. Where historical data is available, contract values can be based upon the historical spend against a contract, subject to factoring in pending changes with levels of activity. If there is an optional extension period, even though this is not guaranteed, the procurement value needs to reflect the options.

Public authorities **must** allocate appropriate resources for the procurement process (facilities, information technology, personnel, contractors etc.) to ensure that procurement objectives are achieved and risks managed. It is important that procurement practitioners from the public authority's central procurement area are consulted for the procurement process.

### Market Research and Engaging with Suppliers

Market research addresses the nature of the supply market for the procurement being undertaken and seeks to understand market structure, competition, product availability, suppliers etc. Market research is to be undertaken prior to formulating a market approach and determining a subsequent course of action.

Innovative methods of engaging with potential suppliers are encouraged. For example, public authorities may seek information from, and further discussion with, interested potential suppliers through a briefing and discussion session.

Where appropriate, public authorities may talk to current or potential suppliers who can contribute to specification and strategy development. Alternatively they can engage specialist consultants or industry bodies to provide information on particular commodity or industry sectors, which could be used to inform a business case and any future procurement strategy.

The outcome of this process is for public authorities to have a better understanding of the market and the response they are likely to obtain in a competitive process. Methods such as a Request For Information may also be utilised.

Public authorities choosing to engage in informal discussions (without obligation) with potential suppliers are encouraged to use the *Potential Supplier Engagement Checklist* (Attachment One).

Probity arrangements should not prevent market analysis, and/or discussions with potential suppliers from being undertaken, but care needs to be exercised to ensure that no supplier has, or is perceived to have, received information that provides them with an unfair advantage in a subsequent procurement process. When undertaking market research it is important that potential suppliers are treated fairly and no competitive advantage/disadvantage results from the market research process.

Interactions with the supply market should be undertaken with a representative cross-section of the supply market and not be limited to a few 'favoured' or 'dominant' suppliers. Activities may include attending trade fairs, exhibitions and demonstrations, or by running workshops and conferences.

## 10. Preparing the Acquisition Plan

Acquisition Plans **must** be prepared for procurements valued above \$550,000 by addressing the requirements set out in the *Acquisition Planning* template.

The template is structured as follows:

- |                           |  |
|---------------------------|--|
| 1. Sign Off               | 9. Acquisition Strategy                      |
| 2. Executive Summary      | 10. Probity                                  |
| 3. Acquisition Details    | 11. Evaluation                               |
| 4. Procurement Governance | 12. Public Authority Additional Requirements |
| 5. Market Analysis        | 13. Procurement Timeframe                    |
| 6. Risk Analysis          | 14. Approvals                                |
| 7. Liability              | 15. Recommendation                           |
| 8. Insurance              |  |

The detail and scope of the Acquisition Plan will vary according to the nature risk and value of the procurement being undertaken. Public authorities **must** adopt the template (including headings and detailed requirements) but can add extra details under the relevant heading, as long as these do not contradict other Board policies and guidelines or other aspects of the template. Alternatively, public authorities can include additional information in the template at Section 10 - Public Authority Additional Requirements.

Public authorities are able to brand the acquisition planning template to suit their own internal requirements.

For procurements considered high in risk and/or valued greater than \$4.4 million, a Procurement Risk Management Plan **must** be prepared and attached to the Acquisition Plan.

For all procurements greater than \$4.4 million, public authorities **must** use the Supply Positioning and Supplier Preferencing market analysis models outlined in the *Market Analysis Guideline* to assist with the development of an appropriate acquisition strategy.

It is important that stakeholder input is obtained during the development of the acquisition plan.

## 11. Use of Established Government Facilities

Established government facilities are defined as government owned and managed agencies,

organisations, entities or statutory authorities that are able to provide goods or services to other areas of government. Examples include the provision of training services from TAFE SA, professional and technical services from Rural Solutions SA, the sale of plants from State Flora, and general printing and publishing services from Government Publishing SA.

Where public authorities are satisfied that value for money can be achieved, they are encouraged to source goods and services from an established government facility.

Public authorities are required to develop and maintain appropriate documentation when sourcing goods or services from an established government facility without undertaking a competitive process.

However, if a public authority chooses not to utilise an established government facility by seeking to approach the market for a suitable alternative, they are required to develop an appropriate market strategy in line with procurement policies and processes.

## 12. Industry Participation Policy

The Government's *South Australian Industry Participation Policy* (IPP) outlines various requirements to be applied when undertaking procurements.

Of particular relevance to acquisition planning, the policy states that:

*For all procurements that are likely to require an Industry Participation Plan, agencies are required to involve the Office of the Industry Advocate (OIA) from the initial acquisition planning phase. This involvement can be a phone call, email or for more complex procurements, a face to face meeting. If this planning phase is undertaken prior to the involvement of dedicated procurement staff, the business unit staff involved will need to contact the OIA. During this initial contact, the OIA will need to understand the procurement to be undertaken and will provide advice on how local industry participation can be maximised.*

Further guidance and detail are available in the *South Australian Industry Participation Policy* published by the Office of the Industry Advocate (OIA).

Other policy requirements are documented below.

*For procurements over \$220,000 and under \$4 million (\$1 million in Regional SA), public authorities **must** ensure that a metropolitan or regional ECT is completed and that a **minimum weighting of 15%** is applied as a component of the overall evaluation criteria.*

*For procurements equal to or greater than \$4 million (\$1 million in Regional SA) but less than \$50 million, public authorities **must** ensure that a Standard IPP Plan is completed and that a **minimum weighting of 15%** is applied as a component of the overall evaluation criteria.*

*For procurements of \$50 million and over, public authorities **must** ensure that a Tailored IPP Plan is completed and that a **minimum weighting of 15%** is applied as a component of the overall evaluation criteria.*

*For panel contracts less than \$4 million (\$1 million in Regional SA) public authorities **must** ensure that an ECT is completed for competitive secondary procurement processes above \$33,000 unless otherwise exempted by the OIA.*

For panel contracts equal to or greater than \$4 million (\$1 million in Regional SA), public authorities **must** ensure that:

- a Declaration of Intent is completed as part of the initial panel tender response
- an ECT is completed for competitive secondary procurement processes above \$33,000 and less than \$4 million (\$1 million in Regional SA) unless otherwise exempted by the OIA
- a Standard IPP Plan is completed for any competitive secondary quotes equal to or greater than \$4 million (\$1 million in Regional SA).

For panel contracts with a limited number of suppliers and expected volumes for use are above \$50 million over the panel lifespan, public authorities **must** ensure that a Tailored IPP Plan is completed.

Where requested, public authorities are to assist suppliers to complete the ECT or direct them to the OIA if required.

### 13. Liability

Agencies are required to undertake a risk assessment for all procurements to determine the appropriate risk treatment to be applied.

Low to medium risk procurements that use the *Standard Goods and Services Contract* are to include a default liability limit selected at between one and five times the total value of the contract, as determined by the risk of the procurement (Global Liability Cap).

A minimum of one times the value of the contract is applicable for procurements at the low end of the risk range, with the upper limit of five times the value of the contract for procurements at the higher end of the medium risk range.

For standing offer contracts (e.g. panel contracts), the total contract value is the aggregate value of all purchase orders that have been issued at the time that a claim is made.

The Global Liability Cap applies to all loss, both direct and indirect (consequential) and there are no heads of liability that are uncapped.

Agency chief executives are authorised to approve cap limits outside this range.

Example risks to be considered in arriving at a limit include:

- personal injury including sickness and death
- loss of or damage to tangible property
- infringement of intellectual property rights
- any liability to a third party arising from any negligent or wrongful act or omission of the supplier, its employees, agents or subcontractors, or arising from any breach of the Supplier's contractual obligations to the public authority
- an intentional tort
- a breach of trust
- fraud or dishonesty.

The selected default liability limit is to be reflected in the market approach and contract documents issued.

Suppliers are not required to provide indemnities.

Where a Consultant is being contracted and is a member of an occupational association that has a scheme for limiting the occupational liability of members approved under the *Professional Standards Act 2004 (SA)*, then under the *Standard Goods and Services Contract* the Consultant may choose *either* to have its liability to the Principal for any loss or causes of action arising in relation to the provision of Services limited in the manner provided by the scheme or to have its liability limited under the Global Liability Cap.

Where the Standard Goods and Services Contract is not appropriate, for example, for high risk procurements, the Crown Solicitor's Office is to be consulted to develop a bespoke contract with appropriate liability provisions.

## 14. Insurance

There are three key types of insurance cover for the supply of goods and/or services:

- Public Liability
- Product Liability
- Professional Indemnity

The type(s) of insurance required will depend on what is being procured as outlined in more detail below.

The State is not required to be named on the Supplier's insurance policy and the Supplier is not required to provide a copy of the insurance certificate (including subsequent renewals).

**Public Liability Insurance** covers the Supplier against legal liability for personal injury or property damage arising as a consequence of the Supplier's duty of care to third parties.

Public Liability insurance is required for all goods and/or services procurements.

The minimum level of Public Liability insurance required for low to medium risk goods and/or services procurements is \$1,000,000.

**Product Liability Insurance** covers the Supplier against the legal liability for personal injury or property damage arising as a consequence of the supply of a defective product. Products includes goods sold, supplied, repaired etc. This cover is often included as an addition to Public Liability or can be issued as a separate policy.

Product Liability Insurance is required where the Supplier supplies products under a contract and the required level of cover under the contract is equivalent to the amount of cover held by the Supplier.

**Professional Indemnity Insurance** covers the Supplier against legal liability which may arise out of an act, omission or breach of professional duty in the course of the Supplier's business such as the provision of negligent advice.

Professional Indemnity Insurance is only required where professional advice or services are being supplied (for example, auditing, economic analysis or accounting services, and consultancies).

Where professional services are being contracted, the Consultant must effect and maintain Professional Indemnity insurance during the Agreement at the minimum level of cover required in the ordinary course of the Consultant's business and such cover must continue for three years after the expiry of the Agreement.

Where the procurement risk is deemed high, please contact the Underwriting Insurance Section of SAICORP for advice about appropriate levels of insurance to be held by the supplier.

## 15. Contract Renewals

Where a contract is currently in place, it is important that forward planning is undertaken to ensure that sufficient time is allowed for an appropriate acquisition strategy to be developed, approved and implemented before the contract expires.

Where a contract has not yet expired and does not contain any extension options, it can be extended before expiration by enacting a mutually agreed variation to the contract, in accordance with the *Contract Management Policy*, which provides guidance to assist public authorities to meet a short term need or imperative when this occurs.

Where a contract has expired without an approved variation to extend but the supply of goods and/or services under the expired contract is required to continue for a short time after the expiration, a new interim contract will need to be executed. In such situations, where the supplier/s are willing to continue supply under the same terms and conditions, procurement approval for the extended arrangements may be obtained via the same process used for variations as mentioned above. Although an acquisition plan is not required, the public authority still needs to consider risk and value for money by assessing any negative impact of the extended arrangements on the contract deliverables, price, timeframes and objects of the Act (including value for money outcomes, probity, transparency and accountability).

This option is to be utilised only as an interim measure on the condition that a new procurement process is undertaken within a reasonable time-frame. For longer term extensions and/or those requiring more complex negotiations, an acquisition plan should be used.

## 16. Reasons for Limiting the Number of Suppliers

It may be appropriate, in some extenuating circumstances, to restrict the procurement to one or more suppliers due to the following factors:

- Only a limited number of suppliers with the capability, experience and suitability to meet the public authority's needs and no alternative or substitute exists due to:
  - an absence of competition because of technical reasons (e.g. exclusive licence, proprietary information or protection of patents)
  - the protection of patents, copyrights, or other exclusive rights, or proprietary information.
- Potential suppliers have already been identified in market research, a pre-qualification or EOI exercise.
- No submissions are received in an open market approach process or bids received did not meet the requirements.
- The need for compatibility with existing equipment or services.
- Obligations under warranty or other contractual arrangements require the use of goods

- or services from a particular supplier.
- There is significant public risk or threats to life and property (also refer to the *Emergency Situation Procurement Policy*).
- The item is an original work of an artistic/cultural nature (for example, works of art or artists engaged for a performance).
- A response to an urgent government policy decision is required.
- An unsolicited proposal with very advantageous conditions and appropriate approval is received.
- A prototype is purchased that is intended for limited trial or is developed for a particular contract for research, experiment, study or original development.
- A contract is awarded to the winner of a design contest.

Several issues and questions need to be considered in the development of acquisition plans for limited market approaches involving a single or a small number of suppliers, including:

- Is the proposed supplier/s currently the incumbent? If so, for how long?
- What is the rationale for undertaking a procurement with a limited number of suppliers (based on the criteria provided in the guideline)?
- Explain how this decision was reached (e.g. market research, industry knowledge).
- Can the specification requirement be amended to provide for greater competition? If not, why not?
- What is being done to foster future competition in this area in order to provide more supplier options in the future?
- What would we do if the supplier/s went out of business?
- Does the procurement demonstrate reasonable value in the circumstances and if so, on what basis has this been assessed (e.g. market research, comparisons with other jurisdictions, cost-benefit analysis)?
- What are the key risks in undertaking this procurement with a limited number of suppliers and how they are being addressed?

## 17. Approval of Acquisition Plans

Acquisition plans **must** be approved by the public authority principal officer (or delegate) prior to approaching to the market.

Where the procurement value exceeds the procurement authority of the public authority, Acquisition Plans **must** be submitted to the Board for approval, except when using Across-Government or Lead Agency contracts as discussed in the *Panel Contract Guideline*.

An approval made by the Board in relation to a proposed procurement assumes that the public authority:

- has provided the Board with accurate information (containing no omissions or representations) enabling the Board to make a proper assessment of the proposal
- principal officer remains accountable for the procurement as the Board's decision is based on the recommendation of the principal officer
- has answered all questions or clarified aspects of the proposal, to the Board's satisfaction, where requested by the Board
- will undertake all actions associated with the approval if requested by the Board
- will advise the Board of any material change in the nature or circumstances of the procurement (following approval)

- will undertake the proposal with due process and comply with all relevant Board policies, guidelines or legislation.

In some cases, the approving authority may provide approval subject to certain conditions being met. Where the Board is the approving authority, the Board has the option to approve, approve subject to conditions, or not approve the acquisition plan. The Board may also defer its approval pending the provision of additional information, or determine that its approval is not required.

Where a procurement presents an extremely high level of risk to government (including reputational risk) or where it has a potential across government impact, public authorities may forward the Acquisition Plan to the Board to gain an independent assessment, irrespective of its value.

A higher approving authority may, at its discretion, select any acquisitions, of any value, to review and/or examine to ensure Board policies and guidelines are adhered to and implemented.

As a general rule, funding approval **must** be obtained before procurement approval is sought and obtained. However, in cases where funding approval cannot be obtained prior to the acquisition planning stage, approval of the Acquisition Plan by the delegate or Board will be conditional on obtaining the required funding approval before the market approach is undertaken. This applies to both one stage and two stage market approaches.

A Probity Plan is optional but should be considered for higher value and risk procurements.

Where, in progressing the approved acquisition plan, a requirement deviates from the approved plan, justification for that deviation **must** be documented and the deviation approved in accordance with the *Supplier Selection Policy*.

To ensure that deviations from approved acquisition plans only occur in exceptional circumstances, an effort should be made in the acquisition planning phase to ensure that the acquisition plan reflects the appropriate procurement strategy and process to be undertaken.

A documentary record of all plans, processes and approvals **must** be maintained and be made available for review by the Board on request.

#### Approval of Single Source Procurements

Single supplier sourcing strategies **must** only be made in extenuating circumstances in accordance with the 'Reasons for Limiting the Number of Suppliers'. It is important that the single supplier sourcing strategy is not chosen to avoid competition and that the integrity of the procurement process is maintained.

Acquisition plans that involve a single supplier market approach, within the limits of the public authority's procurement authority, **must be approved by the principal officer**.

Where the procurement value exceeds this limit, it **must** be endorsed by the principal officer before being sent to the Board for consideration. In both situations, this endorsement by the principal officer cannot be delegated.

## 18. Purchase Recommendations

The acquisition plan approver is also responsible for the approval of the purchase recommendation, however, they may delegate this authority at the time of approving the acquisition plan.

For this reason, the acquisition plan **must** clearly identify who will approve the purchase recommendation.

## 19. Further Information

State Procurement Board Secretariat  
Phone: (08) 8226 5001  
Email: [stateprocurementboard@sa.gov.au](mailto:stateprocurementboard@sa.gov.au)  
[www.spb.sa.gov.au](http://www.spb.sa.gov.au)

## 20. Related Policies and Guidelines

SPB Risk Management Guideline  
SPB Panel Contracts Guideline  
SPB International Obligations Policy  
SPB Market Approaches and Contracts Guideline  
SPB Market Analysis Guideline  
SPB Probity and Ethical Procurement Guideline  
SPB Contract Management Policy  
SPB Supplier Selection Policy  
*SA Government Industry Participation Policy*  
DPC Circular PCO33 *Industry Participation Policy*  
*Better Customer Charter for Business*  
SAICORP Government Contracts: A Guide to the Insurance Issues.

## 21. Templates

Acquisition Plan  
Standard Goods and Services Contract

## Attachment One Potential Supplier Engagement Checklist

This Potential Supplier Engagement Checklist is intended to provide guidelines for conducting and documenting informal discussions held with participants (potential suppliers, their representatives and other interested parties).

Name of supplier . . . . .

Name/s of supplier participants . . . . .

Name of public authority participants . . . . .

Date and time of discussion . . . / . . . / . . . . . . . . . . am/pm

Location . . . . .

Nature of procurement being discussed . . . . .

File reference . . . . .

The following statement has been read to all participants before commencing discussions:

- These discussions are for the purpose of (pick one):
  - undertaking research only, are exploratory and will assist in better understanding the nature of the current supply market; or
  - determining what goods or services you may be able to provide to address a potential procurement requirement or to ascertain what may be feasible.
- No commitment is given that these discussions will lead to further processes or activity and the outcomes of these discussions may not be utilised.
- All discussions and information provided and received are confidential and will not be divulged to any other parties outside of government.

All discussions and communication (by telephone, email, verbally or in writing) have been documented to ensure an audit trail. A final report has been submitted to the relevant project coordinator disclosing all communications with participants for probity purposes.

All participants have been treated fairly, ethically and have not been misled.

All conflicts of interest have been resolved before discussions were held.

No benefits, hospitality, invitations or other gifts have been accepted.

All discussions and information provided and received have been treated as confidential and have not been divulged to any unauthorised parties.

Signature of public authority participants (at completion):

.....  
 .....  
 .....

Date . . . / . . . / . . . .