



**Government
of South Australia**

State Procurement
Board

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Procurement Policy Framework

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1. Overview

As part of the State Procurement Board's (Board) role in facilitating strategic procurement, Section 12 of the *State Procurement Act 2004* (the Act) requires the Board to "develop, issue and keep under review policies, principles and guidelines relating to the procurement operations of public authorities". The policy framework sets out the overarching policy for the operation of procurement in the Government of South Australia and includes:

- the governance structure of state government procurement
- requirements of the Act
- key procurement principles which drive government procurement
- the Board's purpose and functions
- Board policies and guidelines that underpin government procurement operations.

2. Scope

This policy framework applies to all public authorities as defined in the Act. Under Section 19(1) (a) of the Act a public authority (including every member or officer of the authority) must comply with any applicable policies, principles, guidelines, standards or directions that are issued or given by the Board.

Prescribed public authorities are not required to comply with policies, principles, guidelines, standards or directions issued by the Board. However, prescribed public authorities are required to comply with any directions that are given by the responsible Minister on the advice or recommendation of the Board. A list of prescribed public authorities is provided at Schedule 1 of the *State Procurement Regulations 2005*.

Additional specific requirements when undertaking procurements with the Not-For-Profit (NFP) sector have been included into relevant Board policies and guidelines. These requirements apply for procurements where NFP organisations form the primary supplier base and are identified in the relevant policy or guideline through the use of a shaded text box.

3. State Government Policy Framework

Various legislation, instructions and/or agreements are applicable to procurement operations. These include, but are not limited to:

- state and commonwealth legislation
- international treaties and obligations
- Treasurer's Instructions
- Department of the Premier and Cabinet Circulars
- South Australian Industry Participation Policy.

Premier and Cabinet Circular (PC) 027 - Disclosure of Government Contracts – outlines the requirements for the disclosure of all contracts, including goods and services contracts.

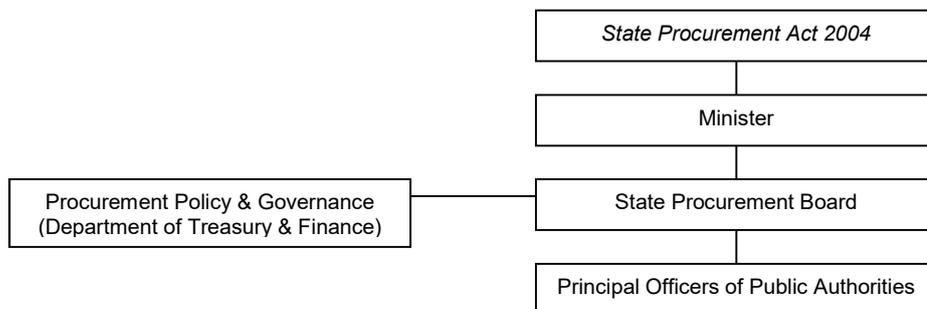
Premier and Cabinet Circular (PC) 044 - South Australian Funding Policy for the Not-For-Profit (NFP) sector - aims to support and strengthen collaborative partnerships between government and the NFP sector. The policy provides a consistent approach to all aspects of funding and sets clear requirements for public authorities.

The South Australian Industry Participation Policy (IPP) is published by the Office of the Industry Advocate (OIA), and outlines various requirements to be applied when undertaking

procurements. The IPP is designed to measure the economic benefit to the State from labour, capital and supply inputs as part of the evaluation process or through direct negotiation.

Appendix 1 details a complete list of all policies and guidelines.

4. State Government Procurement Structure



5. Overview of Roles and Responsibilities

State Procurement Act 2004

The Act outlines the overarching framework that regulates and supports the procurement operations of public authorities across government.

The Object of the Act is to advance government priorities and objectives directed towards:

- Obtaining value in the expenditure of public money
- Providing for ethical and fair treatment of participants
- Ensuring probity, accountability and transparency in procurement operations.

The Act establishes the State Procurement Board, which administers the Act by having regard for, and seeking to further, the Object of the Act.

Minister for Finance

The Minister for Finance (Minister) oversees the administration of the Act and is responsible for ensuring the Board consists of persons who together have, in the Minister's opinion, relevant procurement, commercial or industry experience, expertise or knowledge.

The Minister may also provide directions to the Board, which must be tabled in Parliament.

State Procurement Board

The Board operates strategically in a devolved procurement environment, working collaboratively with public authority principal officers to achieve effective procurement outcomes.

The Board has the following functions under the Act:

- facilitate strategic procurement by public authorities by setting the strategic direction of procurement practices across government
- develop, issue and keep under review policies, principles and guidelines relating to the procurement operations of public authorities

- develop, issue and keep under review standards for procurement by public authorities using electronic procurement systems
- give directions relating to the procurement operations of public authorities
- investigate and keep under review levels of compliance with the Board's procurement policies, principles, guidelines, standards and directions
- undertake, make arrangements for or otherwise facilitate or support the procurement operations of public authorities
- assist in the development and delivery of training and development courses and activities relevant to the procurement operations of public authorities
- provide advice and make recommendations to responsible Ministers and principal officers on any matters relevant to the procurement operations of public authorities
- carry out the Board's functions in relation to prescribed public authorities and any other functions assigned to the Board under this Act.

Policy, Standards & Governance, Chief Procurement Office, Department of the Premier and Cabinet (DPC)

Policy, Standards and Governance, DPC, is the administrative unit responsible for supporting the operations of the Board and the general administration of the Act.

Principal Officers of Public Authorities

The principal officer of a public authority is responsible for the efficient and effective management of the procurement operations of their authority, subject to and in accordance with the policies, principles, guidelines, standards and directions of the Board. This responsibility also extends to delegates of the principal officer.

6. Key Procurement Principles

The Board's policy framework is aimed at ensuring public authorities achieve procurement outcomes which reflect the Object of the Act.

Obtaining Value in the Expenditure of Public Money

Procurement outcomes that deliver the best value in the expenditure of public money ensure the optimal use of government resources. The Board's policy framework promotes procurement practices that will result in best value for money outcomes.

The achievement of value for money can be driven through each stage of the procurement process, from acquisition planning to contract management.

A key principle of value for money is that 'lowest price' does not always represent the best outcome when evaluating alternative offers. When selecting a supplier, achieving value for money involves determining the extent to which the proposed solutions will deliver the optimum combination of whole-of-life cost and quality (non-cost) factors.

Factors which may be considered in assessing value for money include:

- fitness for purpose
- quality
- whole of life costs
- risk/opportunity
- price
- financial and operational soundness
- service, support and warranty
- environmental and sustainability issues

- timeliness
- flexibility
- contribution to government priorities
- efficiency and effectiveness

The achievement of value needs to be considered within the context of creating 'public value'. The achievement of public value within the context of procurement involves both procurement practitioners and procurement processes.

Ethical and Fair Treatment

Providing for ethical and fair treatment of participants refers to conducting all dealings with suppliers in an open, honest and impartial manner and respecting their rights and obligations. Public authorities must seek to ensure this principle is reflected throughout the procurement process, particularly through:

- open and competitive procurement processes (where practicable and appropriate)
- providing suppliers with equal opportunity to supply to government
- straight forward and user friendly market approach documents
- clear and easy to understand evaluation criteria and methodology
- consistent processes and feedback on decisions
- access to a timely and effective complaints process
- effective communication and provision of information to all suppliers.

Probity, Accountability and Transparency

Probity, accountability and transparency refers to ensuring the integrity of the procurement process and actions taken by government employees and/or representatives. All procurement shall be undertaken in a manner that ensures:

- appropriate record keeping and documentation
- the transparency of decisions made
- adherence to the Code of Ethics for the Public Sector and local codes of conduct
- the identification and management of actual or potential conflicts of interest
- the confidentiality of all commercial information
- that public officers are accountable for their actions.

Principles Related to the Not for Profit Sector

The *South Australian Funding Policy for the Not-For-Profit Sector* identifies 29 best practice principles for government and NFP funding relationships across eight categories:

- robust planning and design
- collaboration and partnership
- proportionality
- an outcomes orientation
- achieving value with relevant money
- governance and accountability
- probity and transparency
- community development principles

These best practice principles have been incorporated into Board policy and guidelines where relevant.

7. State Procurement Board Policies and Guidelines

The Board's policies and guidelines are structured under four themes:

- Procurement Governance
- Procurement Reporting
- Government Requirements
- Procurement Process.

Procurement Process

The procurement process is defined as a three stage process:

- Acquisition Planning
- Supplier Selection
- Contract Management

Appendix 2 provides more information on each stage of the procurement process.

The following policies and guidelines focus on the key stages within the procurement process.

Simple Procurement	relates to procurement transactions up to and including \$550,000 (GST Inclusive) and the process to be followed
Supplier Complaints	sets out the complaints process for suppliers and public authorities
Risk Management	provides advice on risk management processes when procuring goods and services.
<u>Acquisition Planning</u> (Stage 1)	outlines requirements and provides advice, in relation to acquisition planning, a key element of undertaking procurement
Panel Contracts	provides information on how to establish and utilise panel contracts
Market Analysis	provides guidance on how to undertake market research and develop an effective procurement strategy
Market Approach & Contract Documents	documents common market approaches undertaken when procuring goods or services and explains market approach documentation required to ensure consistency and appropriateness to the nature of the purchase
<u>Supplier Selection</u> (Stage 2)	relates to the planning and methodology undertaken in selecting suppliers, including evaluation of offers, negotiation and recommending the purchase
<u>Contract Management</u> (Stage 3)	documents preparations, the establishment of contract management arrangements, monitoring and maintaining contract performance, and completing and reviewing contracts.
Disposal	outlines requirements when disposing of goods at the end of the product life cycle

Procurement Governance

Procurement Governance refers to:

- how procurement is structured and organised in the public authority, including roles and responsibilities of staff, delegations, capability and localised purchasing practices
- the Board's assurance and accreditation programs that ensure appropriate and effective governance arrangements are in place.

The Board's policies and guidelines focus on the following key areas within Procurement Governance:

Procurement Authority and Accreditation	Public authorities complete an assessment of their procurement requirements to enable an appropriate level of authority to be determined and the public authority is then reviewed and accredited to undertake procurement operations.
Procurement Assurance Program	The program assesses the performance of each public authority in complying with the Act, Regulations and the required procurement policies, principles, guidelines, standards or directions of the Board.
Procurement Governance	This policy sets out the requirements for public authorities to establish an effective procurement governance framework, including, where appropriate, a Procurement Governance Committee.

Procurement Reporting

Each year, the Board is required to report to Parliament on the administration of the *State Procurement Act 2004* (Section 23), and relies on information provided by public authorities in accordance with the Board's reporting policy and guideline. The information provided enables the Board, and the South Australian Government to monitor and review procurement operations.

Procurement Reporting Policy	Public authorities with a procurement authority greater than \$220,000 must provide an annual report on the year's procurement activities. The Board must, by 30 September each year, deliver to the Minister a report on the administration of the Act and the work of the Board during the previous financial year.
Base Level Procurement Reporting Guideline	Public authorities with a base level procurement authority must provide an annual report of the year's procurement expenditure.

Government Requirements

Government Requirements refer to procurement taking into account the requirements of other across government policies or commitments. The Board's policies and guidelines focus on the following key government requirements:

International Obligations	identifies free trade agreements to which the South Australian Government is a party and relevant obligations
Emergency Situations Procurement	defines appropriate management practices for the procurement of goods and services under an emergency



Sustainable Procurement	explains how to effectively integrate sustainability features and objectives into the procurement process
Probity and Ethical Procurement	advises regarding probity and the ethical procurement of goods and services
Contract Register	sets out the requirements for the establishment of contract registers within all public authorities

Glossary

A glossary of common procurement terms is maintained by the Board to ensure a common understanding of terms related to procurement.

8. Further Information

State Procurement Board Secretariat
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www.spb.sa.gov.au

Appendix 1 – List of Board Policies and Guidelines

Procurement Governance

- Procurement Authority Policy
- Procurement Accreditation Guideline
- Assurance Program Policy
- Assurance Program Guideline
- Procurement Governance Policy

Procurement Reporting

- Board Procurement Reporting Policy
- Base Level Procurement Reporting Guideline

Government Requirements

- International Obligations Policy
- Emergency Situation Procurement Policy
- Sustainable Procurement Guideline
- Probity and Ethical Procurement Guideline
- Contract Register Policy

Procurement Process

- Acquisition Planning Policy
- Market Approaches and Contracts Guideline
- Market Analysis Guideline
- Panel Contracts Guideline
- Supplier Selection Policy
- Contract Management Policy
- Risk Management Guideline
- Simple Procurement Policy
- Disposal Guideline
- Supplier Complaints Policy

Appendix 2 – Procurement Process Stages

The process outlined in this appendix is scalable to the **value** and **risk** of the procurement.

Stage 1: Acquisition Planning

Acquisition Planning broadly consists of three stages outlined below.

1.1 Identify Needs

- Identify clear need linked to the public authority's procurement objectives
- Review options to satisfy this need to determine whether procurement is the best means to deliver a value for money outcome and if a contract already exists that can meet the need
- Identify key stakeholders and undertake internal and external consultation
- Develop and approve a business case (if appropriate)
- Confirm availability of funds.

1.2 Plan Procurement Strategy

- Undertake preliminary analysis of market and preliminary scoping of procurement requirements to identify outcomes, objectives and logistics/supply chain factors
- Consider legislative, policy and probity requirements
- Consult the central procurement area for advice where required
- Confirm and commit resource requirements for the procurement process
- Identify and undertake briefing of potential suppliers as appropriate.

1.3 Prepare Acquisition Plan

- Establish project team/evaluation team including procurement expertise
- Consider risks in the procurement
- For major, strategic procurements, undertake supply positioning
- Finalise and approve acquisition plan.

Stage 2: Supplier Selection

Supplier Selection broadly consists of six stages outlined below.

2.1 Develop Bid Documents including Specification

- Develop specification to identify outcomes, objectives and practical requirements
- Ensure standards of performance and codes of practice, incentives, disincentives and performance measures are in the specification
- Develop the invitation/market approach documents and clarify as necessary
- Obtain relevant approvals to approach market.

2.2 Develop Evaluation Plan

- Develop and approve an evaluation plan, including criteria for evaluation, membership of evaluation team, explanation of selection process
- Address conflict of interest, prior to releasing formal market approach documentation to the market
- Form evaluation team.

2.3 Manage distribution and receipt of bids

- Invite responses selectively or by advertising the requirement in line with acquisition plan
- Undertake briefings and clarification of information with bidders
- Receive, schedule and acknowledge responses and inform all suppliers of the status of their responses through the process
- Deal with late bids and non-conforming bids as appropriate.

2.4 Select preferred supplier/s

- Evaluate bids according to evaluation plan
- Clarify matters arising with bidders
- Prepare a negotiation plan (if required) and conduct negotiations
- Select preferred supplier/s
- Prepare purchase recommendation and obtain approval
- Notify successful supplier/s.

2.5 Develop and formalise contracts

- Negotiate final contract
- Obtain approval to enter into contract and execute final contract documentation
- Commence contract implementation once contract is signed/executed.

2.6 Debrief market and other stakeholders

- Advise internal stakeholders of new contract
- Inform and debrief unsuccessful bidders upon request with feedback on their bids
- Disclose contracts in line with contract disclosure guidelines
- Record the contract on the contract register.

Stage 3: Contract Management

Contract Management broadly consists of five stages outlined below.

3.1 Prepare to manage a contract

- Form contract management team and allocate roles and responsibilities
- Finalise and approve a contract management plan
- Identify contract risks and develop risk management plan.

3.2 Implement a contract management strategy

- Establish information and communication strategies for supplier/s and stakeholders
- Monitor risks during the life of the contract
- Establish and manage relationship with supplier/s and stakeholders.

3.3 Implement the contract

- Develop implementation plan if required and implement the contract in accordance with the contract management plan and/or implementation plan/strategy
- Implement start-up or transition arrangements.

3.4 Monitor and maintain performance of a contract

- Monitor delivery and evaluate key performance indicators to ensure value for money identified in the procurement process is achieved
- Ensure all obligations under the contract are being met
- Manage contract variations and contract extensions
- Negotiate and manage issues relating to the contract
- Maintain communication with all stakeholders on the performance of the contract.

3.5 Complete and review contract

- Review contracts due to expire to determine future requirements
- Finalise, amend, cancel or terminate contract in accordance with contract including management of close-out, renewal or transition to a new contract
- Evaluate the outcomes of the contract and document and explain variances where measures or outcomes are not met in full.