



**Government
of South Australia**

State Procurement
Board

www.spb.sa.gov.au

Simple Procurement Policy

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1. Purpose

This policy outlines the State Procurement Board's (Board) mandated requirements and advises on the procurement of simple goods and services. This policy includes information on the:

- simple procurement process
- specific requirements for determining the number and type of quotes sought
- use of the standard documentation and templates.

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.

In applying these principles to simple procurements, public authorities are to ensure that the process and level of effort is commensurate with the nature and value of the procurement, recognising that unnecessary process creates cost and resource burden.

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

The *South Australian Funding Policy for the Not-For-Profit Sector* identifies 30 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 this policy where relevant.

3. Policy Statement

Public authorities are required to undertake an efficient, timely and cost effective process while ensuring appropriate levels of diligence and accountability 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 up to and including \$550,000 (including construction works up to and including \$165,000¹) and excludes procurements above \$550,000 that are undertaken

¹ The State Procurement Board is only responsible for construction projects up to this value. Refer section 5 of the *State Procurement Regulations 2005* for further information.

in accordance with the *Acquisition Planning Policy*.

There are additional specific requirements when undertaking procurements with the not-for-profit sector. These requirements apply for procurements where not-for-profit organisations form the primary supplier base. These requirements are identified in this policy through the use of a shaded text box.

This policy does not apply to grants as defined in Treasurer's Instructions.

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 simple procurement 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

The *Simple Acquisition Plan* outlines the simple procurement process to be undertaken and is used to seek approval from the delegate before approaching the market.

The *Simple Purchase Recommendation* outlines the evaluation process undertaken and is used to seek approval from the delegate once the preferred supplier has been chosen.

The *Simple Procurement Report* combines elements of the *Simple Acquisition Plan* and *Simple Purchase Recommendation* and outlines the evaluation process undertaken. The *Simple Procurement Report* is also used to seek approval from the delegate once the preferred supplier has been chosen but does not require obtaining approval before approaching the market.

The *Request for Quote* is used to invite suppliers to bid on goods and services and outlines the purchaser's requirements, applicable terms and conditions, the proposed contract and a response form.

A not-for-profit organisation is an organisation that is operating for its purpose and not for the profit or gain (either direct or indirect) of its individual members.

NFP organisations fall within two broad categories:

- charities, and
- other NFP organisations that are not charities, for example: most sporting and recreational clubs, community service organisations, professional and business associations and social organisations.

Charities must register with the Australian Charities and Not-for-profits Commission (ACNC).

(Refer <https://www.ato.gov.au/Non-profit/Getting-started/Starting-an-NFP/>)

7. Procurements up to and including \$33,000

Public authorities are to:

- seek a minimum of one quote in accordance with local public authority procurement procedures
- consider opportunities for small, start-up and Aboriginal businesses operating in South Australia with a view to involving South Australian business
- minimise the effort associated with very low value purchases
- comply with local public authority procurement procedures
- reduce the effort associated with high transaction, high volume purchases by adopting strategies including the use of across government contracts, period contracts, standing orders and the use of purchasing cards.

A simple acquisition plan is not required.

8. Simple Procurement Process (>\$33,000 and up to and including \$550,000)

The simple procurement process follows a three stage process:



Simple Acquisition Planning

Simple acquisition planning consists of:

- defining the requirement (e.g. quantity, quality, delivery, timing)
- consideration of the business need and public value
- assessing other strategies such as utilising existing period contract arrangements
- identifying how to approach the market
- undertaking a risk assessment to consider and address relevant risks
- obtaining financial authorisation
- determining the selection/evaluation process
- developing a written specification to suppliers where appropriate
- determining a time and location for the submission of quotes.

Commercial Focus: Procurements are to be undertaken efficiently and effectively in accordance with good commercial practice.

Splitting a procurement into smaller dollar value elements to avoid approval thresholds or other policy requirements is not permitted.

Stakeholder Engagement with the Not-For-Profit (NFP) Sector

Public authorities and the NFP sector need to work together, wherever possible, when planning and developing procurement strategies to identify the community outcome, or the desired impact or change being sought, and to ensure outcomes are based on community need.

Market Research for the Not-For-Profit (NFP) Sector

When developing procurement strategies, the following community development principles need to be considered:

- consideration of the desired impact or change being sought within the community
- assessing procurements on their impact on improving social, cultural and/or economic outcomes for South Australia
- reflecting a community development approach which builds resilience in the community and the capacity to respond to change and crisis and empowers individuals in the process of development and service delivery.

The service requirements then need to be specified in relevant documentation such as the *Simple Acquisition Plan* or *Simple Procurement Report*.

Record Keeping: Records supporting the purchase need to be maintained and appropriate documentation completed to seek relevant approvals, commensurate with the nature and complexity of the transaction.

Risk Management: Project risks for simple procurements greater than \$33,000 **must** be documented in accordance with the requirements outlined in the Board's *Risk Management Guideline*.

Contractual Documents: For low or medium risk procurements, the *Standard Goods and Services Agreement* is to be used, as far as practicable, for simple procurements greater than \$33,000. For high risk or non-standard procurements, the *Standard Goods and Services Agreement* may not be appropriate. Advice may be required from the public authority's procurement staff on the format of the contract to be utilised.

For low risk procurements up to \$220,000, the *Standard Purchase Order* may be utilised.

For low risk minor construction projects up to \$165,000, the *Minor Works Agreement* may be utilised.

Further information on contracting options is available in the *Market Approach and Contract Documents Guideline*.

Contracting Options with the Not-For-Profit (NFP) Sector

When developing a specific procurement strategy for contracting with the NFP sector, a fee-for-service arrangement is to be used wherever possible. There may be some situations when contracting with a NFP organisation where it may be more suitable to provide up-front block funding.

Determining the Contract Period: Not-For-Profit Sector

In order to provide greater certainty and improve sustainable service delivery, public authorities **must** establish contractual agreements of three years plus three years plus three years (3+3+3) for all NFP procurements longer than two years where appropriate (i.e. where risk is low and there are no linked funding arrangements with the Commonwealth Government).

The appropriateness of long-term contracts needs to be assessed on a case-by-case basis and needs to 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.

In agreeing to award a 3+3+3 contract, reviews need to be undertaken prior to each extension term.

Liability: Public authorities 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 Agreement* or *Minor Works Agreement* 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 Agreement* 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.

For simple procurements up to \$220,000 that use the *Standard Purchase Order*, the Supplier's liability is limited to an amount equal to the value of the goods and/or services purchased under the *Standard Purchase Order*.

Where the *Standard Goods and Services Agreement* or *Minor Works Agreement* is not appropriate, for example, for ICT, multi-agency or high risk procurements, the Crown Solicitor's Office is to be consulted to develop a bespoke contract with appropriate liability provisions. Principal Officers are responsible for approving contract provisions that allocate and manage liability under these types of contracts that are consistent with the public authority's risk assessment. Responsibility for accepting any limitation or exclusion of liability rests with the public authority, and ultimately the Principal Officer.

Insurance: There are three key types of insurance cover for the supply of goods and 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
- is required for all goods and services procurements
- is to be set at a minimum level of \$1,000,000 for low to medium risk goods and services procurements.

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 include goods sold, supplied, repaired etc)
- 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

- is often included as an addition to Public Liability or can be issued as a separate policy.

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
- 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.

Adjusting Approval Templates: When utilising the *Simple Acquisition Plan*, *Simple Purchase Recommendation* and *Simple Procurement Report* template, extra details under the relevant template heading can be added as long as these do not contradict other Board policies and guidelines or other aspects of the template. Additional information can also be added in the template section entitled Public Authority Additional Requirements. Public authorities can brand the templates to suit their own internal requirements.

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

Simple Supplier Selection

Simple supplier selection consists of:

- seeking quotes from suppliers
- evaluating quotes received against evaluation criteria
- clarifying and negotiating the quote as appropriate
- obtaining approval to engage the successful supplier/s
- executing a contract
- debriefing unsuccessful suppliers.

Managing Conflicts of Interest: Any actual, potential or perceived conflict of interest that has the potential to unfairly affect or influence the proper outcome of a decision or process, **must** be identified and managed in accordance with the *Code of Ethics for the South Australian Public Sector*.

Meeting Time-frames: Public authorities are to undertake procurements within the time-frames specified to suppliers and keep suppliers informed of the progress of their quote.

Request for Quote: A *Request for Quote* (RFQ) template is to be used, as far as practicable, for simple procurements greater than \$33,000. The RFQ is to be tailored to the procurement with only the minimum information necessary to fairly evaluate quotes sought.

While there may be circumstances in which the RFQ template is not suitable for a particular procurement, , agencies must in every case apply all of the response questions set out in Part C

Supplier's Response Form ('Section A: General Response') of the template, relating to:

- Supplier Identification
- Supplier Location and Contact
- Insurance Details.

All information received from suppliers is to be treated as confidential.

Simple Evaluation Plan: A *Simple Evaluation Plan* can be used, where required, especially for more complicated and multifaceted simple procurements.

Evaluation Criteria for Not-for-Profit (NFP) Sector Procurements

Procurements involving the purchases from the NFP sector may require specific evaluation criteria.

In particular the following evaluation criteria may be appropriate:

- service delivery model (suitability of methodology to achieve required outcomes)
- organisational experience (demonstrated experience to provide services)
- time-frames (demonstrated ability to meet timeframes in relation to the services)
- qualifications and recruitment of staff
- organisational capacity and quality management system
- level of stakeholder engagement
- engagement with Aboriginal and Torres Strait Islanders or other culturally and linguistically diverse groups
- Industry Participation Policy
- transition management

Debriefing Unsuccessful Suppliers: Unsuccessful suppliers **must** be offered the opportunity to receive feedback on their quote.

Simple Contract Management

Simple contract management consists of:

- ensuring roles and responsibilities for managing the contract have been identified and understood by the relevant parties
- ensuring the contract is effectively implemented and that the supplier delivers the requirements of the contract
- addressing any issues that arise
- processing invoices for payment within 30 days of the supplier's invoice being received by a public authority unless stipulated otherwise in a contract.

Relationship Management – Not-For-Profit (NFP) Sector

Positive working relationships need to be maintained through effective collaboration that supports the needs and interests of NFP organisations and funding recipients. Public authorities need to openly communicate with contracted NFP organisations and work collaboratively, respectfully and flexibly to achieve agreed outcomes.

Contract Register: Public authorities **must** maintain a contract register to record contracts valued at greater than \$33,000 as set out in the *Contract Register Policy*.

Contract Renewals for the Not-For-Profit Sector

Where there is funding certainty, a minimum of six months' notice **must** be provided to not-for-profit organisations regarding whether long term contracts are to be renewed.

9. Simple Procurement Process Requirements

| Threshold and Requirement | Up to and including \$33,000. | Greater than \$33,000 and up to and including \$220,000. | Greater than \$220,000 and up to and including \$550,000. |
|-------------------------------|--|--|---|
| Quotes to be sought | A minimum of one quote must be sought. | A minimum of three written quotes must be sought, with at least one quote from a South Australian supplier (or a supplier based in the region in the case of regional procurement) where possible. | A minimum of five written quotes must be sought, with at least one quote from a South Australian supplier (or a supplier based in the region in the case of regional procurement) where possible. |
| Approval Documentation | Comply with local public authority procurement procedures. An acquisition plan is not required. | A <i>Simple Acquisition Plan</i> template and subsequent <i>Simple Purchase Recommendation</i> template or <i>Simple Procurement Report</i> template must be used and approved by the appropriate delegate. | A <i>Simple Acquisition Plan</i> template and subsequent <i>Simple Purchase Recommendation</i> template must be used and approved by the appropriate delegate. A <i>Simple Procurement Report</i> template cannot be used in lieu of the separate documents. |
| Request for Quote | Comply with local public authority procurement procedures. | The <i>Request for Quote</i> template is to be used, as far as practicable. Irrespective of whether the standard RFQ template is used, agencies must apply all response questions set out in Part C Supplier's Response Form ('Section A: General Response'), relating to: <ul style="list-style-type: none"> • Supplier Identification • Supplier Location and Contact • Insurance Details | |
| Risk Management | Comply with local public authority procurement procedures. | Project risks must be documented and a risk assessment undertaken to determine the default liability cap. | |
| Purchase Order | The <i>Standard Purchase Order</i> can be utilised for low risk procurements. | | Not applicable. |
| Contracts | Comply with local public authority procurement procedures. | For low to medium risk procurements, the <i>Standard Goods and Services Agreement</i> is to be used, as far as | For low to medium risk contracts, the <i>Standard Goods and Services Agreement</i> is to be used, as far as practicable. |

| Threshold and Requirement | Up to and including \$33,000. | Greater than \$33,000 and up to and including \$220,000. | Greater than \$220,000 and up to and including \$550,000. |
|--|--|--|---|
| | | practicable. For minor works construction projects valued up to \$165,000 (GST inclusive), the <i>Minor Works Agreement</i> may be used. | |
| Contracts with the NFP Sector | <p>For all low to medium risk, non-complex service procurements with the NFP sector where up-front block funding is provided to NFP organisations, the Standard NFP Funded Services Agreement must be used.</p> <p>Where payment is based on price schedules and is paid in arrears, the Standard Goods and Services Agreement is to be used.</p> <p>The <i>User Guide: Standard Not for Profit Funded Services Agreements</i> provides information on the contract and how to use it.</p> | | |
| Industry Participation Policy | <p>Public authorities and private parties contracting to the Government of South Australia are required to comply with the South Australian Industry Participation Policy (SAIPP) and the supporting procedural and reporting requirements.</p> <p>Under the SAIPP, all procurements will consider opportunities for small, start-up and Aboriginal businesses operating in South Australia with a view to involving South Australian business in the opportunity through provision of a quote. Public authorities may also focus on a particular region if a contract is to be performed in or near that area for the express benefit of that area.</p> | | |
| Industry Participation Policy - Aboriginal Economic Participation | Public authorities can procure goods and services directly from eligible businesses that provide a value-for-money quote. | | Where there are opportunities, consider applying an Industry Participation Plan and increasing the industry participation weighting above the minimum of 15%, accompanied by tailored measures for Aboriginal participation that are directly relevant to raising economic participation for Aboriginal businesses and employees. |
| Industry Participation Plan | No specific requirements. | No specific requirements. | Public Authorities may choose to optionally apply an Industry Participation Plan for procurements valued above \$220,000 and up to and including \$550,000 (with minimum weighting or increased weighting). |

10. Limiting the Number of Suppliers

The number of quotes sought can be restricted to less than the required number if there are legitimate reasons for limiting the number of suppliers. Reasons include:

- 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
- the need for compatibility with existing equipment or services

- obligations under warranty or other contractual arrangements that require the use of goods or services from a particular supplier
- an absence of competition due to technical reasons (e.g. exclusive licence, proprietary information or protection of patents)
- there is significant public risk or threats to life and property
- the cost of changeover is prohibitive
- the item is an original work of an artistic/cultural nature (e.g. works of art or artists engaged for a performance)
- a response to an urgent government policy decision
- an unsolicited proposal with very advantageous conditions and appropriate approval
- the requirement can be met by an eligible Aboriginal business in accordance with *Part 4.5 of the South Australian Industry Participation Policy – Procedural Guidelines*.

Reasons for Limiting the Number of Suppliers: Not-For-Profit Sector

Collective impact involves a collaborative approach between government, the business sector, the not-for-profit sector and clients to address significant social problems. Where a collective impact approach is operational in any given (geographic or issue-based) area which addresses the purpose for which the funding has been made available, a contract can be negotiated with appropriate not-for-profit organisations if such negotiation is beneficial to the community.

In sensitive policy areas such as domestic violence support or foster care, there may be requirements to contract specific not-for-profit organisations with appropriate experience, skills or organisational alignment to the objectives to be achieved from the procurement. In these cases, directly negotiating with the not-for-profit organisations may be appropriate.

Limiting the number of suppliers in the community services sector may be appropriate where no supplier exists with the necessary skills and there is a need to develop competitive suppliers, or the requirements being sought are so specialised that there is one or limited suppliers with the necessary skills and experience.

In some instances, to ensure service continuity, public authorities may need to retain an existing supplier without openly approaching the market.

In these situations, public authorities **must** assess and document in writing that the supplier is:

- meeting a continuing need
- meeting the agreed service specifications, quality standards and contractual requirements
- operating efficiently and effectively
- actively engaged in continuously improving services to provide the best possible service to the community.

The justification for limiting the number of suppliers **must** be outlined in the relevant *Simple Acquisition Plan* or *Simple Procurement Report* and approved by the appropriate delegate who needs to ensure that limiting the number of suppliers is not due to avoiding competition and that the integrity of the procurement process is maintained.

Public authorities **must** have in place controls to ensure the number of limited supplier procurements are minimised. This may include additional approval or review requirements, for example, through the central procurement unit, or the use of a restricted number of delegates.

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. Further Information

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

13. Related Policies and Guidelines

SPB Risk Management Guideline
SPB Acquisition Planning Policy
SPB Supplier Selection Policy
SPB Contract Management Policy
SPB Market Approach and Contracts Documents Guideline
SPB Probity and Ethical Procurement Guideline
SPB Board Procurement Reporting Policy
SPB Contract Register Policy
South Australian Industry Participation Policy
South Australian Industry Participation Policy – Procedural Guidelines
DPC Circular PC033 Industry Participation Policy
SAICORP Government Contracts: A Guide to Insurance Issues
DPC Circular PC044 South Australian Funding Policy for the Not-For-Profit Sector
User Guide: Standard Not for Profit Funded Services Agreements
User Guide: Standard Goods and Services Agreement



14. Templates

Simple Acquisition Plan
Simple Purchase Recommendation
Simple Procurement Report
Simple Evaluation Plan
Request for Quote
Standard Goods and Services Agreement
Standard Not For Profit Funded Services Agreement
Standard Purchase Order Terms & Conditions
Minor Works Agreement