



Issues Paper

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## **Government Procurement Inquiry**

16 November 2018

# Government Procurement Inquiry

## Make a submission

An electronic submission in Word or PDF format is preferred, along with any supporting documentation containing facts, figures, data or examples:

- through our website facility [www.sapc.sa.gov.au](http://www.sapc.sa.gov.au); or
- via email at [sapc@sa.gov.au](mailto:sapc@sa.gov.au); or
- via post at:  
**South Australian Productivity Commission**  
 GPO Box 2343,  
 ADELAIDE SA 5001

If you would like to discuss how best to communicate with the Commission, the Office of the South Australian Productivity Commission can be contacted at 08 8226 7828.

It is important to emphasise that the Commission has no predetermined views on the matters covered by the inquiry. This issues paper sets out the Commission's understanding of the matters relevant to the inquiry. This starting point is based on its review of selected reports and papers on the topic. This includes public submissions to the South Australia Parliament Statutory Authorities Review Committee's inquiry that is currently underway. Some relevant issues may have been missed or imperfectly understood. Feedback from stakeholders will assist further analysis and review that will contribute to the development of a draft report.

The release of this issues paper supports interested parties and stakeholders to participate in the inquiry into the South Australian Government's procurement policies and processes, by highlighting the key issues as understood by the Commission, and by raising questions to generate feedback.

### Key dates

**31 October 2018**

Notice of inquiry

**16 November 2018**

Issues Paper

**November/December 2018**

Initial public consultation

**18 December**

Submissions to issues paper due

**15 March 2019**

Draft report

**March/April 2019**

Draft report public consultation

**17 May 2019**

Draft report presented to the Premier

**15 August 2019**

Due date for the report being available to the public

### About us

The South Australian Productivity Commission has been established to examine and make recommendations on matters referred to it by government that facilitate productivity growth, unlock new economic opportunities, support job creation and remove existing regulatory barriers.

Our findings and recommendations to government are the primary outcomes of the [Inquiry Process](#).

The Commission invites submissions on the issues paper by 18 December 2018. Submissions may address any of the issues covered by the paper and the terms of reference. The Commission seeks evidence and experience, as well as views, on the matters highlighted in the issues paper. It is also interested to learn of other matters relevant to the terms of reference that may have been misunderstood.

A draft report will be prepared and released to all stakeholders by 15 March 2019. The draft report will be the start of a further round of consultation with stakeholders, following which the Commission will consider all feedback received; finalise its views; and submit its final report and recommendations to the Premier by 17 May 2019. The Commission is required to publish the report within 90 days.

## Confidentiality

Transparency is an important part of the Commission's independent process for gathering evidence and other elements of the inquiry process. It provides confidence to stakeholders that their views have been heard and accurately shows to the wider public the breadth of views and information that have been put to the Commission in reaching its independent conclusions and recommendations. To that end the Commission will publish the submissions that it receives on its website unless you clearly indicate that your submission is confidential or the Commission considers the material to be offensive, potentially defamatory, beyond the scope of the inquiries terms of reference, or an abuse of process.

If you wish to submit material in confidence, please advise us why your submission should remain confidential. We will contact you to discuss what aspects are confidential and what information you are willing to have posted on the inquiry website. We reserve the right to decline your submission if we do not agree with the rationale provided for it to be confidential. Material accepted as confidential will be read only by our Commissioners and staff and will not be referred to in our reports. Later, if we consider the confidential information to be important for conclusions drawn by the Commission, we will seek your permission to refer to it in a form that is acceptable to you. This approach supports the Commission's commitment to transparency, and enables other parties interested in the inquiry to consider contributors' views unless there is a significant reason why those views should not be shared beyond the Commission.

Documents developed and received by the Commission, including confidential submissions, are subject to the *Freedom of Information Act 1991*. That Act gives individuals the legally enforceable right to access documents created and held by the government, subject to some restrictions.

Personal or identifying information should not be included in submissions, e.g. contact details or names of people referred to in submissions. The Commission will try to ensure that all personal contact details are removed from submissions before they are published on our website.

Submissions will remain available on the Commission's website after the conclusion of an inquiry, for an extended period, under Past Inquiries.

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## Definitions

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The following definitions represent the Commission's understanding of the terms based on the documents that have been reviewed.

### Aggregated contract

This is the practice of grouping together contracts for commonly purchased goods and services to harness greater economies of scale when procuring from the market place.

### Direct negotiation

This is a procurement process undertaken by directly approaching and negotiating with one or more suppliers without testing the market. It is usually undertaken when comprehensive market research indicates that there is a limited supply market.

### Principal officer

Generally comprises the chief executive officer of the public authority as declared by the regulation to be the principal officer of the authority. The principal officer is responsible for the efficient and effective management of the procurement operations of their authority, subject to and accordance with the policies, principles, guidelines, standards and directions of the State Procurement Board. This responsibility extends to the delegates of the principal officer.

### Procurement

Procurement refers to the end-to-end process of buying goods and services that begins with defining the need, approaching the market, engaging the supplier/s through to contract management and 'close out' of the supplier, as well as the disposal of the goods.

### Procurement Authority

The authority to approve a proposed course of action, strategy or recommendation relating to procurement (acquisition plan or purchase recommendation) to a specified dollar amount as delegated to a public authority's principal officer by the State Procurement Board.

### Public Authority

In accordance with the *State Procurement Act 2004* a public authority is:

- an administrative unit or other agency or instrumentality of the Crown; or
- any incorporated or unincorporated body-
  - established for a public purpose by an Act; or
  - established for a public purpose under an Act (other than an Act providing for the incorporation of companies or associations, co-operatives, societies or other voluntary organisations); or
  - established or subject to control or direction by the Governor, a Minister of the Crown or any instrumentality or agency of the Crown (whether or not established by or under an Act or an enactment); or
- a person or body declared by the regulations to be a public authority for the purposes of this Act.

The Act states that a public authority does not include those prescribed public authorities in the regulations.

### **Risk Management Plan**

A document that is used to specify the nature and treatment of risks throughout the procurement cycle. The level of detail will be commensurate with the procurement's complexity and value. A risk register may be used to help develop a plan.

### **Value for money**

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 that may be considered in assessing value for money include: fit for purpose; whole of life cost; timeliness; flexibility; price; quality; service support and warranty; efficiency and effectiveness; intangible costs and benefits; and contribution to Government priorities.

# 1. Introduction

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## Purpose and objectives of inquiry

The South Australian Productivity Commission (the Commission) has been asked to evaluate the effectiveness and efficiency of State Government policies and practices for the procurement of goods and services. The scope of the inquiry excludes capital projects and prescribed authorities, e.g. SA Water and the South Australian Housing Trust.<sup>1</sup>

The Commission has also been asked to identify options to improve procurement practices and their impacts on local industry. The terms of reference can be found on the Commission's website at [www.sapc.sa.gov.au](http://www.sapc.sa.gov.au).

Government procurement is a very serious matter. In 2016-17, the purchase of goods and services by the South Australian Government totalled \$4.9 billion on a whole of government basis, comprising 24 per cent of total government expenses.<sup>2</sup> These purchased goods and services underpinned the provision of most public services (e.g. office supplies, police cars, hospital equipment, etc), either by enabling public sector employees to do their work or by contracting to provide public services.

At the same time, goods and services procured from businesses operating in South Australia underpin employment, business activity and investment in the State. Procurement reform offers an opportunity to increase the benefits of public spend through better value for money, improved productivity, and supporting local jobs and industry.

The business sector in South Australia has for several years expressed concern about the public procurement process as having too much red tape, (e.g. delays, cancellation of tenders, and requirements for too much supporting information) for a very uncertain return.

Notwithstanding rounds of reform to the South Australian procurement system, that have included changes to administrative arrangements, related policies such as the Industry Participation Policy, and attempts to cut red tape, several of these concerns have persisted.

The Commission will rely on gaining access to the experience and evidence of all stakeholders including private businesses, industry associations and non-government organisations (NGOs) to better understand those matters. The Commission also expects that some of these issues will be sensitive for stakeholders and will take steps to respect those sensitivities. It also intends to examine experience and evidence relating to the Industry Participation Policy and other policies aimed at encouraging participation by South Australian businesses in procurement.

The Commission will invest a significant effort in understanding the State procurement policies and guidelines, as well as their practical operation within government agencies.

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<sup>1</sup> The 13 public authorities prescribed by the *State Procurement Regulations 2005* are: Adelaide Venue Management Corporation, Architectural Practice Board of South Australia, Construction Industry Training Board, Health Services Charitable Gifts Board, Legal Profession Conduct Commissioner, Local Government Finance Authority of South Australia, Motor Accident Commission, Return to Work Corporation of South Australia, South Australian Forestry Corporation, South Australian Housing Trust, South Australian Water Corporation, Superannuation Funds Management Corporation of South Australia and Urban Renewal Authority.

<sup>2</sup> State Procurement Board, *2016-17 Public Authority Procurement Activity*, <http://www.spb.sa.gov.au/sites/default/files/Att%202%20Public%20Authority%20Procurement%20Activity.pdf> (accessed 22 October 2018).

In addition, the Commission is seeking your views about opportunities to improve the State's procurement system without compromising the various objectives the system is designed to meet. The Commission will also examine experience from other jurisdictions in Australia and overseas and, where relevant, experience in procurement by private sector organisations.

Chapter 2 of the issues paper sets out the Commission's initial understanding of business criticisms of the procurement system; Chapter 3 provides an overview of the South Australian procurement system; and Chapter 4 sets out an initial view of trends in procurement in other jurisdictions.

## 2. Business views and issues

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### Stakeholder practical experience, evidence and views

The Commission has drawn on a wide range of available evidence on business concerns about the South Australian procurement system consistent with the scope of the inquiry. This information includes, amongst other sources, published views from Business SA, the Australian Industry Group, feedback to the Industry Participation Advocate, submissions to South Australian and Commonwealth Parliamentary inquiries, and surveys on the SA Tenders and Contracts website. While most of the issues raised in this chapter relate to matters raised by private businesses, the Commission recognises that the government procures goods and services (eg community mental health services) from NGOs. The Commission intends to include consultation with this sector as part of this inquiry.

Broadly speaking, the issues raised by business stakeholders fall into the following areas:

- the cost of the tender process
- delays and lack of transparency of the tender process
- aggregated contracts
- restricted approach to market
- limited information on pipeline of future work
- poor quality of tender
- focus on immediate cost instead of whole of life cost
- capacity of public authorities to evaluate tenders
- free and fair trade
- delayed payment
- sub-contractor exposure to head contractor failure
- requirements of local industry participation policies

These issues are explored below.

#### Cost of the Tender Process

Business criticisms suggest an excessively labour-intensive process with disproportionate supporting information needed. Concerns raised by businesses include:

- Some agencies still request hard copies instead of electronic lodgement of tender
- Contract terms can be overly punitive or unnecessary to address risks
- Guidance material can be excessive and overly prescriptive, stifling innovation
- Termination and variation clauses can be one-sided
- Contracts are too long
- Insurance, liability and indemnity requirements are not commensurate to the tender
- No effort is made to reduce the demands on businesses that have previously submitted tenders

#### Delays and lack of transparency of the tender process

The SA Tenders and Contracts survey of 2017-18 highlights the following issues:

- 49 per cent of respondents were concerned by the time taken for assessment and award of tenders
- 72 per cent of respondents indicated that communication with businesses is poor, requiring businesses to hold staff and resources while waiting for an outcome.

Businesses were also concerned by:

- Too many tenders being withdrawn
- Excessive number of approvals and governance considering the size of a project
- Delays from chasing up physical signature when electronic means could be used
- Little opportunity for tenderers to engage with agencies and exchange the critical knowledge to put the best application forward

### Aggregated contracts

Aggregated contracts are the practice of grouping together contracts for commonly purchased goods and services to harness greater economies of scale. The broader the scope, the fewer the number of potential suppliers available to compete for the tender. This tends to exclude small and medium size businesses, including those with innovative goods and services, as they do not have enough scale to fill the entire tender.

### Restricted approach to market

Direct negotiation, which is directly approaching, and negotiating with, one or more suppliers without testing the market, means some businesses are excluded from tendering processes. Such arrangements reduce opportunities for small and medium size enterprises and are less competitive than open tender. In 2016-17, 47 per cent of government contracts for goods and services above \$33,000 were done by direct negotiation. In terms of total value, only 7 per cent are completed by direct negotiations. 94 per cent of contracts using direct negotiation are lower value contracts valued between \$33,000 and \$550,000.<sup>3</sup>

Several submissions to procurement inquiries also reported agencies lacking technical expertise or skills in key markets of responsibility, causing poor market analysis and approach to market, resulting in waste and delays.<sup>4 5 6</sup>

### Limited information on pipeline of future work

Businesses are concerned that there is little visibility as to what opportunities may arise in the future. Businesses are often made aware of procurement or acquisition when it is advertised for tender, leaving little time to find solutions to upscale and participate in the process. Other jurisdictions provide information on future work programs.

### Poor quality of tenders

Businesses are also concerned that agencies sometimes go to tender with insufficient preparation. Specifications are not thought through sufficiently, necessitating suppliers to request further information, making the process very inefficient.<sup>7</sup>

<sup>3</sup> State Procurement Board, *2016-17 Public Authority Procurement Activity*, p. 4, 5, <http://www.spb.sa.gov.au/sites/default/files/Att%20%20Public%20Authority%20Procurement%20Activity.pdf> (accessed 22 October 2018).

<sup>4</sup> Professionals Australia, 'Better Infrastructure – Australia needs professional engineers to build better infrastructure', *Submission into the Commonwealth Procurement Framework*, 2016, [file:///C:/Users/sloae01/Downloads/Exhibit%201%20Better%20Infrastructure%20Aust%20needs%20professional%20engineers%20\(1\).pdf](file:///C:/Users/sloae01/Downloads/Exhibit%201%20Better%20Infrastructure%20Aust%20needs%20professional%20engineers%20(1).pdf) (accessed 24 October 2018).

<sup>5</sup> State Procurement Board report on Public Authority Procurement Activity 2016-17.

<sup>6</sup> Office of the Industry Advocate, *Annual report 2017-18*, 2018, p.12.

<sup>7</sup> Ibid 3 p13.

### Focus on immediate cost instead of whole of life cost

Procurement principles require value for money for the life of procurement. Businesses have indicated that there are many cases where it is well applied in South Australia, and several “cases where it could be applied better”.<sup>8</sup>

Businesses assert that contract performance is not being measured post award and most of the compliance effort is currently addressed through the tender process.

### Capacity of public authorities to evaluate tenders

In certain areas, businesses assert that government agencies do not have experience or capability to effectively evaluate complex tenders.<sup>9</sup> The Commission would like to hear further on this matter.

### Free and fair trade

Several submissions to the Commonwealth Parliamentary Inquiry 2017 and the Senate Inquiry 2015 highlighted claims by local industry that they are disadvantaged with international competition because of regulatory factors. Those factors, while necessary to maintain the conditions expected in Australia, are not faced by many of their international competitors. Those examples, while applying to Commonwealth procurement, may also apply to South Australia’s procurement:

- **Quality:** South Australian procurement policies refer to conformity to any applicable Australian Standards or other standards nominated in the purchase order. AUSVEG indicates biosecurity does not apply the same level of scrutiny to imported products at the wharf as it does to local produce. Furniture Cabinets Joinery Alliance, Carroll & Richardson Flagworld and the Australian Industry Group indicate that imported products entering Australia do not comply with environment and safety regulations that are applied to Australian products<sup>10</sup>
- **Environmental sustainability:** local businesses incur costs when meeting their environmental obligations (trade waste, EPA licences, fire levies, etc.), whereas some overseas suppliers are not submitted to such obligations. This is seen as an unfair playing field by Australian suppliers
- Australian suppliers incur additional costs related to high minimum wages, weekend penalty rates, superannuation guarantee levies, accumulation of annual leave, sick leave and personal leave, WHS and workers compensation charges and payroll tax. Rossi Boots indicated “when government contemplate global sourcing, they should allow for cost factors that they impose on local suppliers that are not imposed on the global competitor”<sup>11</sup>
- **Auditing regimes:** Anecdotal evidence suggests that the audits required to verify that standards specified in tenders are met are rarely done for interstate or overseas suppliers, in contrast to local businesses<sup>12</sup>
- SMEs and their representative business organisations like AUSBUY, AUSVEG, the Australian Information Industry Association and the Australian Paper Manufacturers have

<sup>8</sup> Australian Chamber of Commerce and Industry, *Submission into the Commonwealth Procurement Framework*, 28 March 2017, p.2, <https://www.apc.gov.au/DocumentStore.ashx?id=bac40e8-84ca-40e2-9cd0-f27fe5217e70&subId=509420> (accessed 24 October 2018).

<sup>9</sup> Consult Australia, *Submission into the Commonwealth Procurement Framework*, 2017, <https://www.apc.gov.au/DocumentStore.ashx?id=6a3994d7-fdd0-42fc-862d-58d4b5932567&subId=509432> (accessed 24 October 2018).

<sup>10</sup> Parliament of Australia, *Inquiry into the Commonwealth Procurement Framework Final Report*, June 2017, [https://www.apc.gov.au/Parliamentary\\_Business/Committees/Joint/Former\\_Committees/Government\\_Procurement/CommProcurementFramework/Report](https://www.apc.gov.au/Parliamentary_Business/Committees/Joint/Former_Committees/Government_Procurement/CommProcurementFramework/Report) (accessed 14 November 2018).

<sup>11</sup> Rossiter’s Pty Ltd, *Submission to the Commonwealth Parliamentary Inquiry on Government Procurement*, 2016, <https://www.apc.gov.au/DocumentStore.ashx?id=6fa8453a-e1ab-416c-b40d-5d8874d5ca11&subId=512170> (accessed 23 October 2018).

<sup>12</sup> *Ibid* p. 10

indicated that international trade rules and free trade agreements are often cited as reasons to exclude any consideration of broader interpretations of value for money or preference for local SMEs in the tender process; these organisations contend that the Australian Government does in fact possess a significant policy scope to discriminate in favour of locally produced goods and services<sup>13 14 15 16 17</sup>

### Delayed payment

Late payment adversely affects small businesses, especially when payment terms are not aligned with completion of work. The size of final withholding payments at completion needs to be considered to preserve business cash-flow. It should be noted that businesses often refer to private contracts being better optimised from a cash-flow and risk profile perspective.<sup>18</sup>

### Sub-contractor exposure to head contractor failure

This issue is mostly encountered in the building and construction industries, where subcontractors assert some head contractors impose onerous and unfair contract conditions despite government requirements to the contrary (government expects sub-contractors to receive contract terms consistent with the head contract terms and conditions, and agencies are to undertake financial checks before the letting of the contract and during its operation).

### Requirements of local industry participation policies

Businesses express support for the objectives and intent of the Industry Participation Policy. Some have however reported difficulty in fulfilling the requirements associated with that policy (especially in measuring the benefit of local content), which can add unnecessary burden or complexity for small businesses, government departments and procurement officers.

Several businesses have also indicated a lack of compliance by government agencies with the Policy.

### Absence of mutual recognition with Commonwealth, States and Territories

Products sometimes go through a standards committee for approval before being supplied to government. Some businesses indicated, particularly in the health sector, that a product can be approved in one state, but not be recognised in another state.

## Changes to the South Australian procurement system in response to criticisms

To address the concerns relating to the procurement system, the State Procurement Board has implemented several reforms:

<sup>13</sup> The Senate, *Finance and Public Administration References Committee Report on the Inquiry into Commonwealth Procurement Procedures*, Canberra, Senate Printing Unit, Parliament House, July 2014, [http://www.aph.gov.au/Parliamentary\\_Business/Committees/Senate/Finance\\_and\\_Public\\_Administration/Commonwealth\\_procurement\\_procedures/Report/index](http://www.aph.gov.au/Parliamentary_Business/Committees/Senate/Finance_and_Public_Administration/Commonwealth_procurement_procedures/Report/index) (accessed 30 October 2018).

<sup>14</sup> Australian Fair Trade and Investment Network Submission into the Commonwealth Procurement Framework, *Submission 10*.  
<sup>15</sup> Australian Manufacturing Workers' Union, *Submission into the Commonwealth Procurement Framework*, March 2017, <https://www.aph.gov.au/DocumentStore.ashx?id=34c7fb2e-df51-450d-8074-1e2e0acdef76&subId=509810> (accessed on 31 October 2018).

<sup>16</sup> E. Thurbon, *The abandonment of procurement-linked strategic activism in Australia: standing still with room to move*, Sydney, Australian Journal of International Affairs. 69(5), 2015, p.582. <http://dx.doi.org/10.1080/10357718.2015.1048780> (accessed on 31 October 2018).

<sup>17</sup> E. Thurbon, *Trade agreements and the myth of policy constraint in Australia*, Australian Journal of Political Science, 51:4, 2016, pp. 636-651, <http://dx.doi.org/10.1080/10361146.2016.1239569> (accessed on 31 October 2018)

<sup>18</sup> Office of the Industry Participation Advocate, *Suppliers as Partners – How procurement can generate better results; more value-for-money and enhanced economic growth*, Adelaide, March 2015, p17.

- The board’s procurement practices and documents have now been standardised across government, including for Not for Profit funded services for which further improvements will be available for use by late 2018
- One “Invitation to supply” has now replaced two previous bidding documents (Request for Tender and Request for Proposal documents) and includes provision for alternative offers to encourage innovation
- The threshold for a simpler procurement process has been increased to \$550,000 from \$220,000
- The threshold has been lowered from \$550,000 to \$220,000 for mandatory publication of procurement plans to businesses
- In low and medium risk procurements, suppliers are no longer required to provide indemnities, the state is not required to be named on insurance policies or be provided with a copy of the insurance certificate, and a default liability cap has been placed for low to medium risk contracts (between one and five times the value of the contract)
- The Board’s 2019 training calendar now includes a course on ‘communication and debriefing suppliers’

To reduce red tape, the Industry Participation Advocate increased the threshold for the industry participation policy to \$33,000 in October 2016.<sup>19</sup> The weighting for local SMEs was also increased to “a minimum of 15% for procurements above \$220,000” in recognition of their role in stimulating the economy.

Feedback Request

2.1 *To what extent are the issues and examples mentioned in this paper relevant to your experience of public procurement?*

2.2 *Have you encountered other issues not covered by this section and, if yes, what are they?*

2.3 *What improvements can you suggest to cut red tape and unnecessary costs?*

*We would appreciate relevant examples, case studies and other evidence demonstrating your views and experiences.*

<sup>19</sup> Office of the Industry Participation Advocate, *South Australian Industry Participation Policy: Measuring Economic Benefit from Procurement through Labour, Capital Investment and Supply Inputs*, October 2016, p3.

### 3. The South Australian government procurement system

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#### Objectives

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

- obtaining value in the spend of public money
- providing for ethical and fair treatment of participants
- ensuring probity, accountability and transparency in procurement operations

#### Delegation and thresholds (accountability for performance) for public authorities

As with most jurisdictions in Australia, the procurement system in operation is a hybrid model with a central procurement board with procurement governance and process delegated to public authorities.

The State Procurement Board (the Board) administers the Act. The operations of the Board are overseen by the Minister for Finance. 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
- 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
- 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 the Act

The Board delegates authority to the principal officer of a public authority that is appropriate to the size and complexity of the public authority's procurement operations. Based on its assessment, the Board provides a Tier 1, Tier 2 or Tier 3 procurement authority to each public authority. The tiers will be (GST Inclusive) one of: Tier 1: \$15,000,000; Tier 2: \$1,500,000; or Tier 3: \$220,000.<sup>20</sup>

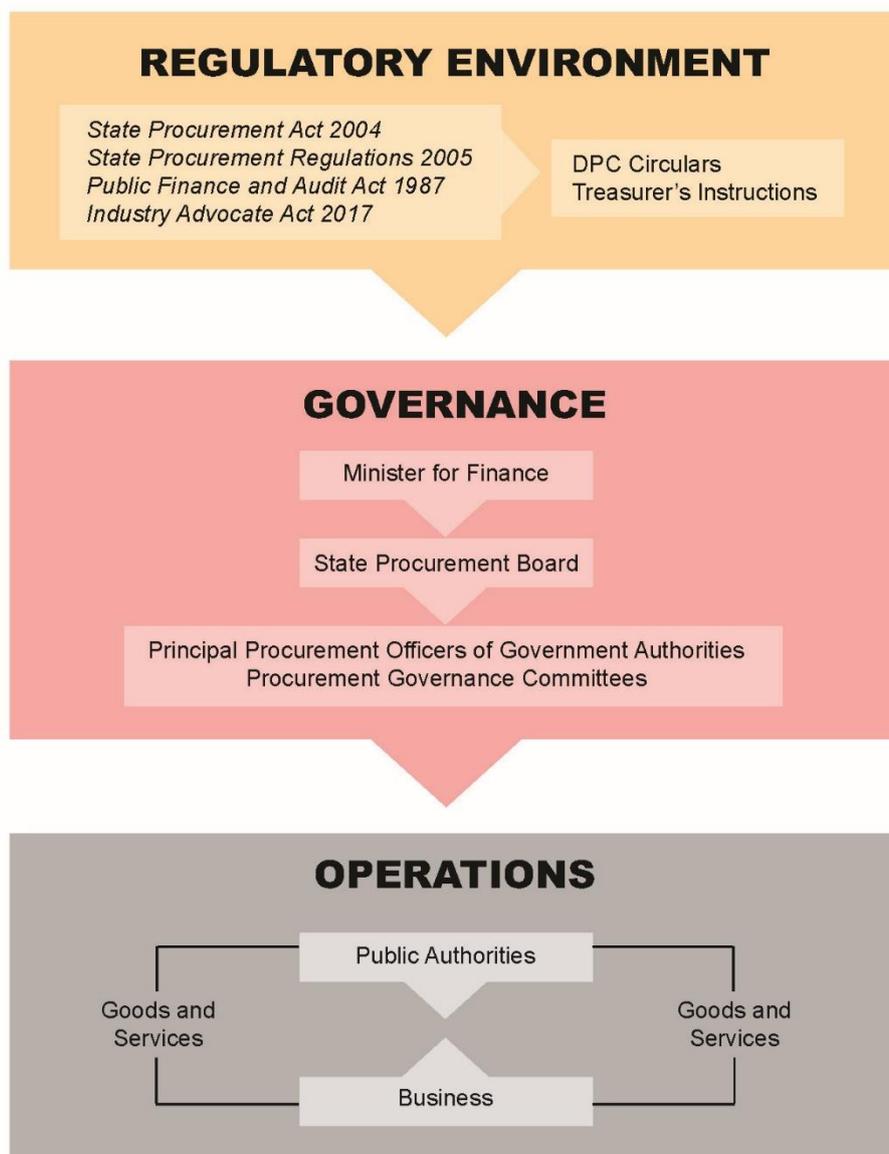
The principal officer of a public authority is responsible for the management of the procurement operations of the authority, subject to and in accordance with the policies, principles,

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<sup>20</sup> State Procurement Board of South Australia, *Procurement Authority and Governance Policy*, July 2018, p2.

guidelines, standards and directions of the Board. This responsibility also extends to delegates of the principal officer.

Figure 1: Procurement System in South Australia (High Level Design)



A Procurement Governance Committee (PGC) is a key element of the procurement governance framework. The PGC's role is to support the principal officer's responsibility for the efficient and effective management of the procurement operations of the public authority in accordance with State Procurement Board objectives. In practice, PGCs are established to as Accredited Purchasing Units.

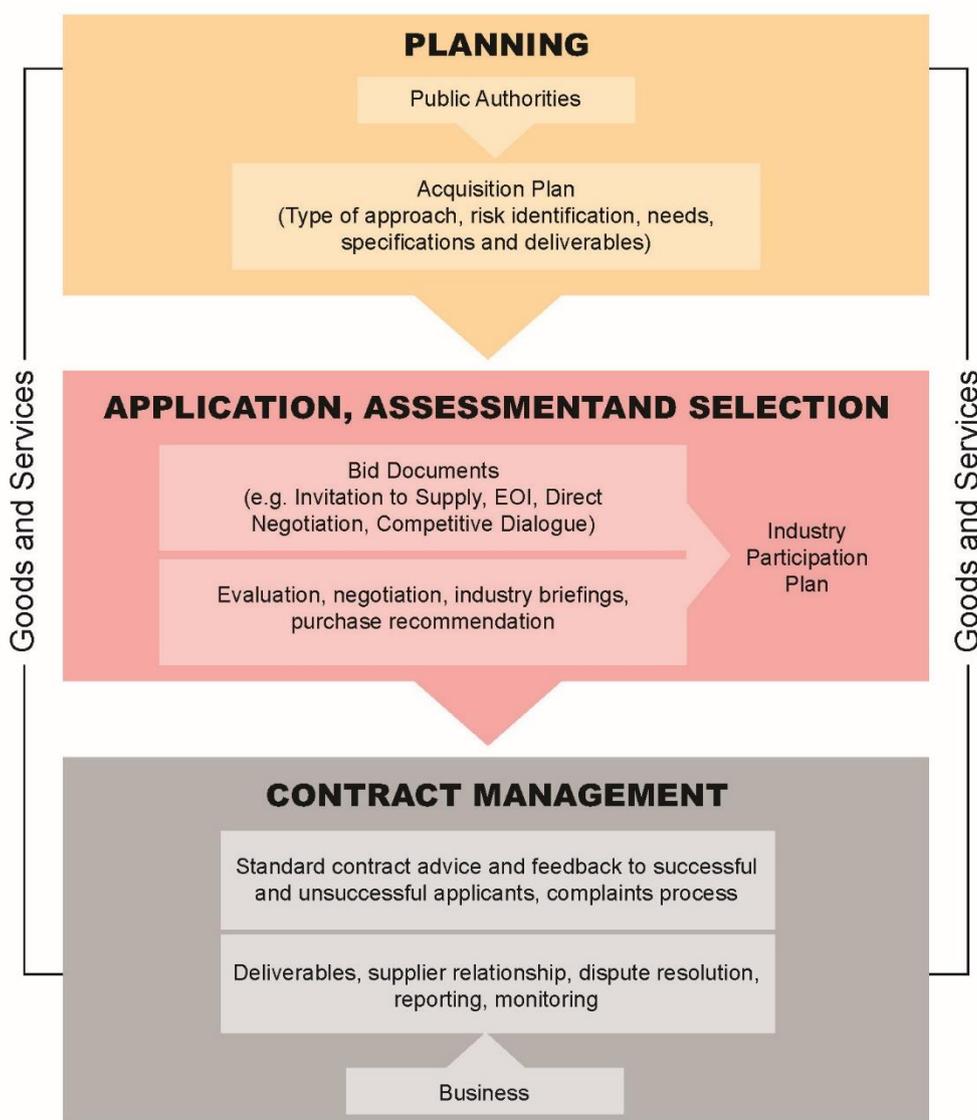
The PGC is required to have terms of reference that give it the authority to operate. Discussions and decisions are to be documented in PGC minutes to ensure transparency and accountability in the procurement process. Public authorities can establish one or more sub-committees to assist in undertaking some PGC responsibilities. The membership of a PGC of

Tier 1 public authorities must comprise:

- representation of executive and senior level officers that can contribute appropriate management and subject expertise such as risk, financial management, strategic planning, project management, and information systems
- at least one external commercial advisory representative with relevant experience
- the Industry Participation Advocate or delegate

The appointment of the external commercial advisory representative(s) is determined by each public authority based on the current membership skills mix. Processes to manage any actual or potential conflicts of interest are to be established and external members will be required to sign a confidentiality agreement, as appropriate.<sup>21</sup>

Figure 2: Procurement Process



<sup>21</sup> State Procurement Board of South Australia. *Procurement Authority and Governance Policy*, July 2018, pp5-6.

## The procurement process

The procurement process involves three stages<sup>22</sup>:

- Acquisition planning
- Supplier selection
- Contract management

### Acquisition planning

Public authorities need to determine which goods and services are required and the specifications of those goods and services. Once this is completed, the most appropriate strategy for acquiring the goods and services either through one supplier or multiple suppliers can be determined. In the case of social, community or health services the not-for-profit sector would need to be considered (which has its own guidelines and DPC Circular).

Public authorities can approach their procurement using either an open market approach, a restricted approach or by negotiation.

#### *Open market approach*

Open market approaches are publicly advertised invitations for suppliers to submit offers to supply goods and services. This approach is favoured where:

- there are many suppliers able to offer competitive solutions and the complexity of the requirement is not at the level where a multi stage approach would be warranted
- the supply market is subject to continuous change
- the procurement is subject to a high level of market interest and a selective approach would involve a high degree of risk

#### *Restricted approaches*

##### i) *Pre-qualification*

A pre-qualification list is used as a basis for undertaking further open or selective procurement processes (including establishing a panel contract). A panel contract differs from a pre-qualified list (also referred to as a multi-use list) as the pre-qualified list contains nothing that can be interpreted as a contract between the public authority and the suppliers.

##### ii) *Panel arrangements*

A panel contract (also referred to as a panel arrangement) is a contractual arrangement established with at least two suppliers for the anticipated provision of goods or services, as and when required over a specified period. A panel contract may be established at the public authority, lead agency or across government level. This type of contractual arrangement is used to procure goods and services of a common type or category such as stationery supplies.

##### iii) *Negotiated approach*

A direct negotiation is defined as an exclusive negotiation between an agency and a supplier (or a limited number of suppliers) without a competitive tendering process. This

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<sup>22</sup> State Procurement Board of South Australia. *Market Approaches and Contracts Guideline, March 2018*, pp.3-6.

process tends to occur: with the supply of specialised goods and services; where the number of suppliers in the market is low (or requisite capability is low); where an incumbent supplier is in place; or where special circumstances dictate this approach (such as a time-critical public need). The documentation of the process still must follow market approach guidelines.

### Supplier selection

The supplier selection process is designed not only to be used by public authorities to determine the winner of the bid but also to engage with other bidders to provide feedback on unsuccessful bids. This is a critical part of the process to help business improve their capability for winning and fulfilling government contracts.

In the case of small to medium value contracts, less than \$550,000, the simple procurement process is followed, which requires a reduced number of documents in support of the bid. For very small value contracts, less than \$33,000, only one written quote is required. Medium to large value contracts (larger than \$550,000) require more documentation and more interaction with business. The additional documentation cover expression of interest, contract management and risk management.

Almost all public authorities develop internal procurement policies to give effect to the policies and guidelines set by the State Procurement Board. These public authority policies are intended to augment rather than duplicate or supersede Board policies and reflect the business need of public authorities. They provide guidance and instruction to staff in carrying out procurement processes specific to that authority. This, however, can add to the number of policies to be dealt with by business and to the complexity of the process.

### Requirements for private business participants

During the procurement process, business (including sole traders) may be required to comply with other government policies and procurement-related objectives including:

- Industry Participation Policy
- Insurance
- Intellectual Property
- Code of Ethics for Public Sector Employees
- Sustainable Procurement

In addition, in meeting requirements of tenders and other approaches by government to determine the suitability and experience in performing the desired type of work, business will be required to provide information on:

- Financial health and operating history of a business
- Employee capability and skills
- Quality assurance certificates
- Work Health and Safety compliance
- Environmental or planning standards compliance

## Contract management

The achievement of the deliverables that are required, the management of the relationship between public authority and the business during the entire process, as well as demonstrable review or evaluation, are critical aspects of this phase of the process.

### Feedback Request

- 3.1 *Do the guidelines, rules and other procedures of the State Procurement Board provide reasonable guidance on the requirements of the procurement process? If not, how could they be improved?*
- 3.2 *Is the application of those guidelines, rules and other procedures by agencies reasonable? If not, how could they be improved?*
- 3.3 *Are the thresholds for small medium and large tenders reasonable? If not, are there more reasonable thresholds?*
- 3.4 *Do you receive reasonable feedback on the outcomes of the tender process? If not, what additional feedback is required?*
- 3.5 *How can agencies improve how they manage contracts?*

*We would appreciate relevant examples, case studies and other evidence demonstrating your views and experiences.*

## Complaints process and statistics

The Board has a Supplier Complaint Policy. According to that policy, in the first instance, a supplier is to refer complaints to the public authority for investigation in accordance with the public authority's internal review process. Any complaints or allegations of a criminal nature are to be referred to South Australia Police. Formal complaints are those which are submitted in writing, providing sufficient detail to enable adequate consideration of the issue.

Through the Board's annual reporting process, public authorities report on the number of complaints received for the period. Recording supplier complaints provides a means for public authorities to identify systemic problems occurring in its procurement practices. Table 1 includes the number of supplier complaints received by agencies, as well as complaints received by the State Procurement Board relating to agency procurement processes.

**Table 1: Number of supplier complaints<sup>23</sup>**

	2012-13	2013-14	2014-15	2015-16	2016-17
To the State Procurement Board	2	2	1	2	0
To the agency	4	3	4	12	3

**Feedback Request**

3.6 *Do the current guidelines, rules, procedures and the operation of the complaints process work satisfactorily? How can they be improved?*

3.7 *Why are complaints infrequent?*

*We would appreciate relevant examples, case studies and other evidence demonstrating your views and experiences.*

## Industry Participation Policy

### Purpose

The Industry Participation Policy is the framework designed to deliver the requirements of section 4 of the *Industry Advocate Act 2017* which include promoting:

- government spend that results in economic development for South Australia
- value for money in public spend
- the economic development of the steel industry and other strategically important industries for South Australia
- capable businesses based in South Australia being given full, fair and reasonable opportunity to tender and participate in government contracts<sup>24</sup>

### Design and operation

The Policy applies to the following:

- Procurement of goods and services including infrastructure and construction
- Public Private Partnership projects to which the Government of South Australia is a party
- Federally-funded infrastructure and construction projects managed by the Government of South Australia
- Private sector projects receiving significant Government of South Australia monetary support or value-in-kind
- Grants to the private sector

<sup>23</sup> State Procurement Board, 'Submission to the Statutory Authorities Review Committee', October 2018, [www.parliament.sa.gov.au](http://www.parliament.sa.gov.au), (accessed 14 November 2018).

<sup>24</sup> Department for Industry and Skills, *South Australian Industry Participation Policy*, March 2018, p3.

## Thresholds

The Economic Contribution Test (ECT) is intended to be used by public authorities to assess the impact of procurements between \$33,000 and \$4 million (\$1 million in Regional South Australia) on employment and the supply-chain in the economy of South Australia.

For procurements between \$33,000 and \$220,000, the ECT is part of the assessment process and is used to differentiate among competing bids that have been assessed as value-for-money. For procurements between \$220,000 and \$4 million (\$1 million in Regional South Australia), a minimum 15 per cent weighting applies as a component of scores given during the tender evaluation process. A 20 per cent weighting applies in the special cases where the procurement project involves purchase of steel certified to Australian-New Zealand standards as well pre-fabrication of steel structures.

The Industry Participation Plan (IPP) requirements apply for procurements of goods and services including infrastructure and construction with:

- a quoted value above \$4 million and over in metropolitan Adelaide
- a quoted value of \$1 million and over in regional South Australia
- any private public partnership or federally funded project above these thresholds
- private sector projects or grants receiving state government contribution above a value of \$2.5 million<sup>25</sup>

All contracts over \$50 million are required to have a 'Tailored' IPP, which is a far more comprehensive version of an IPP with additional factors such as regional and indigenous business participation, investment attraction and industry development. Some examples are:

- Contracts for the Northern Economic Plan region
- Health Industries
- Information Economy and Advanced Technology
- Major Infrastructure
- Design and Architectural Services
- Contracts delivered in APY Lands

## Operation

The ECT is designed to calculate the employment, investment and supply-chain impacts of a procurement project bid based on the total value of the project and the category of activity that the project falls within. The components of the test are:

- The location of production
- Whether the procurement is goods or services.
- Whether locally sourced labour or physical inputs are involved and the price of labour
- The type of activity (i.e. manufacturing, assembly, supply or distribution, installation, no supply-chain)

The assessed impacts of these activities vary from high (e.g. manufacturing a product entirely within South Australia) to nil (e.g. where no South Australian supply-chain element exists).

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<sup>25</sup> Department for Industry and Skills, *South Australian Industry Participation Policy Procedural Guidelines*, January 2018, p11.

Each type of activity carries with it a pre-determined multiplier which is incorporated in the calculation.

The IPP requirements are designed to assess the economic impacts on South Australia based on the aggregated value of individual components of a procurement project at industry level. As with the ECT, the individual components of the IPP range from very strong, with a 100 per cent score to no impact resulting in a nil economic benefit.

Value for money remains the prime consideration in evaluating tender bids. However, when assessing value for money, the broader impact of the contract to South Australia on a whole of life basis, including the benefits to local industry, as well as fitness for purpose and contribution to government priorities, can be considered.

**Feedback Request**

3.8 *Has the balance between value for money objectives, meeting the objectives of government and growing the local economy been achieved by the current arrangements? If not, how can it be improved?*

3.9 *Is the economic contribution test a useful tool in the supplier selection process? If not, how could it be improved?*

3.10 *Is the level of reporting and compliance required under the IPP effective? If not, are there suggestions for making it more effective?*

*We would appreciate relevant examples, case studies and other evidence demonstrating your views and experiences*

**Public authorities risk management framework for evaluating supplier bids**

**Purpose and design**

The South Australia Government’s Risk Management Policy assigns accountability to principal officers for the development and implementation of risk management frameworks specific to their authority’s business and context, in accordance with *the Australian/New Zealand Standard AS/NZS ISO 31000:2009, Risk management – Principles and guidelines*.

The Board publishes a risk management guideline for use by public authorities. The guideline provides information and practical advice regarding risk management in the procurement of goods and services and describes what risk management in procurement is; the requirements of the across-government risk management framework; the risk management process; and the risk management plan.<sup>26</sup>

The risk management guideline does not specify the application of the framework in either specific instances or for broad procurement processes of a public authority.

<sup>26</sup> South Australian State Procurement Board. *Risk Management Guideline*, July 2018, p3

Feedback Request

3.11 Does the State Procurement Board risk management framework provide sufficient guidance to agencies? If not, how could it be improved?

3.12 Can the application of the risk management framework by public authorities be improved? How might this be done?

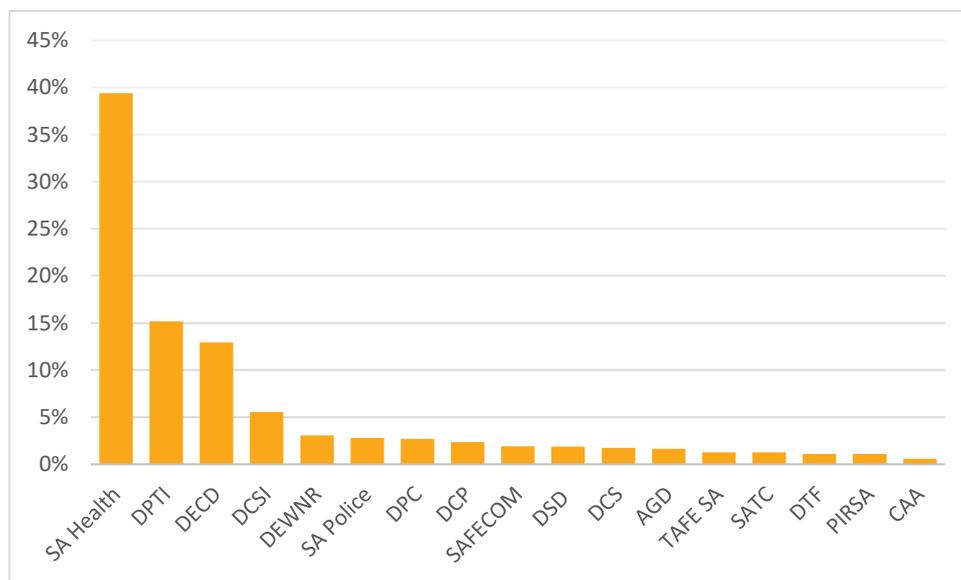
We would appreciate relevant examples, case studies and other evidence demonstrating your views and experiences.

### Performance of system in practice

#### Agency spend – Size and Features

In 2016-17, total spend reported by public authorities on goods and services was approximately \$4.86 billion. This figure has grown from \$3.97 billion in 2012-13. In terms of each public authority’s spend, SA Health incurred the most with 39 per cent, followed by the Department of Planning, Transport and Infrastructure (DPTI) with 15 per cent and the Department of Education and Child Development (DECD) at 13 per cent.<sup>27</sup>

Figure 3: Agencies’ share of procurement spend



Based on contracts reported from 2000-01 to 2016-17:

- approximately 75 per cent of the number of contracts and 65 per cent of the value of contracts were awarded to South Australian suppliers
- over 98 per cent of the number of contracts and 98 per cent of the value of contracts were awarded to Australian and New Zealand suppliers (including South Australian suppliers)<sup>28</sup>

<sup>27</sup> Ibid, p 2.

<sup>28</sup> Ibid, pp 6-7

### Key performance measures

Typically, performance measures of a procurement system relate to:

- Value for money: A number of price and non-price factors can be measured including, but not limited to: fitness for purpose, whole-of-life costs, fair market prices, timely delivery and post-delivery support
- Competition: Government procurement is required to be visible and accessible to all potential suppliers
- Ethical standards and fair dealing: Measures are developed to ensure that procurement is conducted in a fair and reasonable manner with decisions able to stand up to scrutiny

The timeliness and adequacy of information, independent action, absence of bias or favouritism, and ease of market entry for new or small suppliers are also key aspects that inform the efficiency and effectiveness of a procurement system.

The Board can undertake: post-sourcing reviews for procurements exceeding \$4.4 million; or post-sourcing reviews for other procurements at the discretion of the board.<sup>29</sup> Public authorities are also required to report specific milestone dates for contracts valued over \$220,000 (GST inclusive); these include dates of purchase recommendation, contract award and execution. The Board monitors reported timelines to quantify the typical duration of procurement processes undertaken across government.

In 2016-17, the median time taken to progress a procurement project from the formal approach to market (e.g. when tender advertised or negotiations commenced) to the contract award date was 56 days. Trend analysis indicates the typical time taken to undertake procurement processes has significantly decreased over the past five years.<sup>30</sup> This performance indicator is not published by other jurisdictions in Australia.

**Table 2: Median Days Lapsed from Formal Market Approach to Contract Award**

2012-13	2013-14	2014-15	2015-16	2016-17
87	79	56	55	56

As part of the Board’s annual reporting regime, public authority principal procurement officers are required to complete a Certificate of Compliance. The certificate indicates the extent to which the Board’s policies and guidelines have been adhered to by the public authority during the reporting period.<sup>31</sup>

The Auditor General of South Australia publishes detailed reports assessing public authority financial performance on an annual basis; these reports often include an assessment of procurement issues. The objective of these reports is not only to assess the procurement process for individual projects but also to assess adherence to procurement policies.

<sup>29</sup> KPMG. *Procurement Operating Model Comparison, Report prepared for the State Procurement Board of South Australia*, p12.

<sup>30</sup> South Australian State Procurement Board. *Public Authority Procurement Activity 2016-17*, p4.

<sup>31</sup> *Ibid.* p12.

Feedback Request

3.13 *Are the South Australian procurement system's key performance measures adequate? If not, are there other measures that could be used?*

*We would appreciate relevant examples, case studies and other evidence demonstrating your views and experiences.*

## 4. Insights from other jurisdictions

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The Commission has identified select procurement regulations, practices and processes in other jurisdictions to generate discussion and debate about how South Australian Government procurement can be further improved. The examples provided are not intended to be an exhaustive list and interested parties are encouraged to bring known best practices to the Commission's attention.

### Supporting business to tender to government

The Victorian Government Purchasing Board requires public sector agencies to publish their expected procurement activity over a 24-month period. These Procurement Activity Plans make upcoming opportunities and associated government contacts visible to businesses, supporting better market engagement.<sup>32</sup>

The New Zealand government has cut the time to apply for tenders through the New Zealand Business Number. This unique identifier stores all core data of a business, removing the need for it to repeat this information for every transaction or tender.<sup>33</sup>

In the United Kingdom (UK) the Crown Commercial Service (CCS) is responsible for the development and implementation of the government's commercial policy priorities.<sup>34</sup> It reports against the British Government's target of 33 per cent of Central Government procurement spend going to SMEs, directly or via the supply chain, by 2022.<sup>35</sup>

The United States *Small Business Act* mandates 'not less than 23 per cent of the total value of all prime [government] contracts for each fiscal year' to be awarded to small businesses.<sup>36</sup> The Small Business Administration supports this by assisting "...agencies in their acquisition planning efforts [including through] the launch of new contracting initiatives, providing training, sharing best practices, publishing data on contracting and hosting matchmaking events."<sup>37</sup>

The Queensland Government targets SME engagement through its ICT SME participation scheme policy. This policy provides that "...at least one responding SME capable of delivering will automatically be short listed in the evaluation of ICT offers", and that "...government can directly engage SMEs in the provision of innovative solutions up to \$500,000 which demonstrates value for Queensland in addressing government priorities."<sup>38</sup>

SMEs need to be paid on time as they can be particularly susceptible to cash flow-related risks. The UK's CCS reports that all 32 of the British Government's biggest suppliers have signed up to the Prompt Payment Code, accounting for 10 billion pounds of total government

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<sup>32</sup> Victorian Government Purchasing Board, *Organisations Procurement Activity Plans* [website] <http://www.procurement.vic.gov.au/Suppliers/Organisations-Procurement-Activity-Plans>, (accessed 24 October 2018).

<sup>33</sup> New Zealand Business Number, *More Business Less Work* [website], <https://www.nzbn.govt.nz/>, (accessed 26 October 2018).

<sup>34</sup> Crown Commercial Service, *Annual Report and Accounts 2017/18*, p. 18.

<sup>35</sup> Crown Commercial Service, *Transparency Data - Central Government spend with SMEs 2016 – 2017*, [website], <https://www.gov.uk/government/publications/central-government-spend-with-smes-2016-to-2017> (accessed 9 October 2018).

<sup>36</sup> Parliament of the Commonwealth of Australia, *Buying our Future – Review of amendments to the Commonwealth Procurement Rules*, Joint Select Committee on Government Procurement, Canberra, June 2017, p. 104-105.

<sup>37</sup> U.S. Small Business Administration, *FY2015 Congressional Budget Justification and FY2013 Annual Performance Report*, [website], [https://www.sba.gov/sites/default/files/files/FY%202015%20CBJ%20FY%202013%20APR%20FINAL%20508\(1\).pdf](https://www.sba.gov/sites/default/files/files/FY%202015%20CBJ%20FY%202013%20APR%20FINAL%20508(1).pdf), (accessed 1 November 2018).

<sup>38</sup> Queensland Government, *Guidelines for working with SMEs*, [website], <https://www.forgov.qld.gov.au/guidelines-working-smes>, (accessed 26 October 2018).

spend.<sup>39</sup> Signatories to the Code undertake to “...pay suppliers within a maximum of 60 days, to work towards adopting 30 days as the norm, and to avoid any practices that adversely affect the supply chain.”<sup>40</sup>

The CCS recently consulted on whether it would be appropriate to exclude suppliers from major government procurements that cannot demonstrate a fair, effective and responsible approach to payment in their supply chain management.<sup>41</sup>

Feedback request

4.1 *To what extent would any of these approaches improve procurement process for small business in South Australia? Why?*

4.2 *What other policies supporting SME procurement in other jurisdictions should be considered in South Australia?*

*We would appreciate relevant examples, case studies and other evidence demonstrating your views and experiences.*

### Supporting local output and employment

The *Buy American Act 1933* requires US agencies to preference US made products in its purchases. When the cheapest supplier bid for a government procurement is deemed not to be “domestic”, the procuring agency must add a certain percentage to the lowest tender price before determining which offer is the lowest priced or “best value” for the government.<sup>42</sup> This regime has been widely reported as problematic for businesses to comply with. Complicated legal and factual questions have arisen in terms of determining the scope of the regime and its application to products and their origins.<sup>43 44</sup>

The mining company Rio Tinto identifies and reports on procurement as part of their sustainability indicators including Communities, Economic Contributions, and Value Chain.<sup>45</sup> Rio Tinto supports local communities by procuring goods locally, or in cases where required goods and services are not available locally, by offering “...training and development programmes to help local communities take advantage of employment and procurement opportunities” and in remote and less-developed parts of the world “...share tools and knowledge with local suppliers to increase supply chain reliability and encourage good social and environmental practices.”<sup>46 47</sup>

The Queensland Government’s Charter for Local Content “...has the core objective of

<sup>39</sup> Crown Commercial Service, *Transparency data - Prompt Payment Code Signatories*, [website], <https://www.gov.uk/government/publications/prompt-payment-code-signatories>, (accessed 2 November 2018).

<sup>40</sup> Department for Business, Energy and Industrial Strategy, *Prompt Payment Code*, [website], <http://www.promptpaymentcode.org.uk/>, (accessed 2 November 2018).

<sup>41</sup> Crown Commercial Service, *Prompt payment by government suppliers*, [website] <https://www.gov.uk/government/consultations/prompt-payment-by-government-suppliers>, (accessed 13 November 2018). Analysis underway and report pending at time of writing.

<sup>42</sup> Kate M. Manuel, Legislative Attorney, *The Buy American Act - Preferences for “Domestic” Supplies: In Brief*, Congressional Research Service, 26 April 2016, p. 2.

<sup>43</sup> *Ibid.*

<sup>44</sup> Deloitte, *The Buy American Act – New focus on government contract compliance*, [website], 19 July 2017, <https://www2.deloitte.com/us/en/pages/regulatory/articles/2017-the-buy-american-act-new-focus-on-government-contract-compliance.html>, (accessed 17 October 2018).

<sup>45</sup> Rio Tinto 2017, *Partnering for progress - Sustainable development report*, [website], [http://www.riotinto.com/documents/RT\\_SD2017.pdf](http://www.riotinto.com/documents/RT_SD2017.pdf) (accessed 25 October 2018), pp. 13-14.

<sup>46</sup> *Ibid.*, pp. 51-53.

<sup>47</sup> Rio Tinto, Annual Report 2017, p. 33.

maximising local content through greater participation of capable local industry in major government procurement activities.”<sup>48</sup> The Charter retains value for money as a primary driver for procurement, indicating that the Charter is consistent with the Queensland Government Procurement Policy, but adding that it is:

*...not a matter of mandating that government agencies use local suppliers. Rather, it is about providing a mechanism for government agencies to effectively and efficiently consider a wide range of potential suppliers when making decisions relating to major procurements.*<sup>49</sup>

Feedback request

4.3 *How could government and business benefit from a more targeted or industry specific approach to procurement and industry participation policies?*

4.4 *What policies would be most beneficial?*

*We would appreciate relevant examples, case studies and other evidence demonstrating your views and experiences.*

### Improving organisational procurement efficiency and effectiveness

The UK’s CCS report savings from optimised commercial agreements for common goods and services across the public sector. The CCS put in place 28 new agreements in 2017/18, reporting that this approach achieved better rates (compared to market rates), and administrative efficiencies to the value of 601 million pounds in in 2017/18.<sup>50</sup>

In Victoria, State Purchase Contracts (SPCs) are used for the purchase of common use goods and services. These agreements reportedly achieve value for money by aggregating demand. These SPCs are constituted as either sole or multiple panel suppliers which may be either open to new providers or closed (confined to suppliers engaged at commencement of the contract).<sup>51</sup>

### Investing in organisation and procurement capability

The UK Commissioning Academy runs programs to equip public sector leaders to tackle procurement challenges. It takes a broad approach to “...challenge the status quo, take on radical change, collaborate effectively with external stakeholders, gain a deep understanding of the need and target resources effectively to meet those needs.” Participants’ reflections indicate that the program drives efficiencies, innovation and improved outcomes for the community.<sup>52</sup>

In 2016 the Victorian Government Purchasing Board launched its Procurement Capability

<sup>48</sup> Department of State Development, Manufacturing, Infrastructure and Planning, *Queensland Charter for Local Content*, [website] <http://www.statedevelopment.qld.gov.au/resources/policy/queensland-charter-for-local-content.pdf> (accessed 26 October 2018).

<sup>49</sup> Ibid.

<sup>50</sup> Crown Commercial Service, *Annual Report and Accounts 2017/18*, p. 19.

<sup>51</sup> Victorian Government Purchasing Board, *State Purchase Contracts*, [website], <http://www.procurement.vic.gov.au/state-purchase-contracts> (accessed 25 October 2018).

<sup>52</sup> Cabinet Office (UK), *Guidance - Commissioning Academy: 2016 brochure*, [website], <https://www.gov.uk/government/publications/the-commissioning-academy-brochure/commissioning-academy-brochure-2016#the-academy-programme>, (accessed 22 October 2018).

Framework to provide a consistent baseline of skills and attributes for procurement practitioners to ensure the Board’s policy objectives are met. This Framework recognises each organisation has a unique procurement profile and can be applied flexibly. The Framework is not mandatory.<sup>53</sup>

The New Zealand Government upgraded its Procurement Capability Index (PCI) in 2018 to an online tool, providing for a faster and easier to use solution with improved reporting capabilities. The PCI is an agency self-assessment tool that supports organisations to develop excellence in procurement practice through monitoring and evaluation functions, and supporting development pathways in strategy, systems, delivery and talent.<sup>54</sup>

Feedback Request

4.5 *To what extent could these types of programs and policies improve the efficiency and effectiveness of the South Australia procurement system? Why?*

4.6 *What other overseas, public and private sector examples are you aware of that would improve South Australia’s procurement system?*

*We would appreciate relevant examples, case studies and other evidence demonstrating your views and experiences.*

**Promoting innovation, inclusion and ecological sustainability**

The Australian Government Competition Policy Review found scope for encouraging innovation through procurement by “...tendering with a focus on outcomes, rather than outputs, and trials of less prescriptive tender documents could encourage bidders to suggest new and innovative methods for achieving a government’s desired result.”<sup>55</sup>

The *Public Services (Social Value) Act 2012* requires UK officials to consider the economic, environmental and social benefits that can be secured through procurement before a procurement process commences. A review of that Act after its first two years found that although it had a positive effect where it had been taken up, “...the incorporation of social value in actual procurements appears to be relatively low when considered against the number and value of procurements across the whole public sector.”<sup>56</sup>

Victoria’s new Social Procurement Framework 2018 is structured around 10 social procurement objectives that “...generate social value above and beyond the value of the goods, services, or construction being procured”.<sup>57</sup> The Framework prescribes specified “activity requirements” based on spend thresholds, effectively increasing the obligation to achieve social procurement objectives the higher the spend.<sup>58</sup>

<sup>53</sup> Victorian Government Purchasing Board, VPS procurement capability framework, [website], <http://www.procurement.vic.gov.au/files/f57852e9-a0f8-422e-aa7c-a60f00bf4438/VGPB-VPSC-capability-framework.pdf>, (accessed 25 October 2018).

<sup>54</sup> New Zealand Government Procurement, Government Property Group, News, *New online tool opens doors for data analysis*, [website], <https://www.procurement.govt.nz/about-us/news/new-online-tool-opens-doors-for-data-analysis/> (accessed 25 October 2018).

<sup>55</sup> Professor Ian Harper, Peter Anderson, Su McCluskey, Michael O’Byrne QC, *Australian Government Competition Policy Review Final Report March 2015*, p. 52.

<sup>56</sup> Cabinet Office (UK), *Social Value Act Review - report*, February 2015, p. 4.

<sup>57</sup> Victorian State Government, *Victoria’s social procurement framework*, [website], <https://www.content.vic.gov.au/sites/default/files/2018-08/Victorias-Social-Procurement-Framework.PDF>, (accessed 13 November 2018), p. 11.

<sup>58</sup> *Ibid*, p. 8.

The first annual report against the Framework by government agencies will commence in July 2019, but the Victorian Government is reporting examples of social procurement as the Framework is being implemented. These case studies include sub-contracting opportunities for a construction company majority owned by Traditional Owners, nursery services from a nursery providing employment to people with a disability, and construction employment opportunities for service veterans and women.<sup>59</sup>

Feedback request

4.7 *To what extent can value for money can be achieved through innovative, socially inclusive and/or ecologically sustainable procurement approaches?*

4.8 *What other programs or policies should be considered? Why?*

*We would appreciate relevant examples, case studies and other evidence demonstrating your views and experiences.*

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<sup>59</sup> Victorian State Government, *Victoria's social procurement framework case studies and highlights*, [website], [https://www.content.vic.gov.au/sites/default/files/2018-08/Case-Studies-and-Highlights-report\\_0.PDF](https://www.content.vic.gov.au/sites/default/files/2018-08/Case-Studies-and-Highlights-report_0.PDF) (accessed 25 October 2018).