

Sourcing Policy

Purpose

This policy outlines the requirements for sourcing goods and services on behalf of the South Australian Government ('government').

South Australian public authorities ('public authorities') will follow the sourcing strategy that was approved during the planning stage of the procurement process.

Preparing to Approach the Market

Market approach templates

Public authorities will use the Department of Treasury and Finance (DTF), Procurement Services SA's standard market approach templates for all goods and services procurements with an estimated cost above \$55,000. The table below provides a summary of the market approach templates that are suitable for use depending on the applicable complexity classification / level of risk.

Market Approach Templates	Transactional (low risk)	Routine (low/med risk)	Complex (med risk)	Strategic (high risk)
Request for Quotation (RFQ)	Suitable	Suitable	Not Suitable	Not Suitable
Invitation to Supply (ITS) Parts A, B, C and D	Suitable	Suitable for procurements with an estimated cost above \$550,000 only	Suitable	Suitable
Invitation for Expression of Interest (EOI) Parts A, B and C	Suitable	Suitable	Suitable	Suitable

Public authorities will tailor the standard market approach documents in accordance with the instructions in each template to ensure they are fit-for-purpose and will achieve the procurement objectives.

Public authorities will only seek the minimum information required from suppliers to fairly evaluate quotes/offers received. However:

- where the RFQ document is used, public authorities will in every case apply all the response questions set out in Part C Section 1 of the RFQ template
- where the ITS documents are used, public authorities will in every case apply all the response questions set out in Part D Section 1 of the ITS template



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- where the EOI documents are used, public authorities will in every case apply all the response questions set out in Part C Section 1 of the EOI template.

Public authorities must not make any changes to the ITS or EOI Part A Process Guidelines without first seeking legal advice from the Crown Solicitor’s Office (CSO).

Standard Government Contracts

Public authorities will use the government’s standard government agreements, as far as practicable, for procuring all goods and services, and minor construction projects valued up to \$165,000, unless recommended or supported by CSO. CSO advice must be sought prior to the public authority negotiating an agreement to use a supplier’s own contract template/documentation.

The table below provides a summary of the standard government templates that are suitable for use based on the applicable complexity classification/level of risk.

Contract Templates	Transactional (low risk)	Routine (low/med risk)	Complex (med risk)	Strategic (high risk)
Standard Purchase Order	Suitable	Not suitable	Not suitable	Not suitable
Standard Goods and Services Agreement	Suitable	Suitable	Suitable	Not suitable
Standard Not-For-Profit Sector Funded Services Agreement <i>(for use only where up-front block funding is provided to an NFP organisation)</i>	Suitable	Suitable	Suitable	Not suitable
Bespoke contract <i>(to be developed by CSO)</i>	Not Suitable	Not Suitable	Suitable	Suitable
Minor Works Agreement	Suitable	Suitable for construction projects valued up to \$165,000 only	Not Suitable	Not Suitable

Public authorities will assess whether a *Standard Goods and Services Agreement* is required for a transactional (low risk) good or service and will utilise this agreement as required. A *Standard Purchase Order* can be used for transactional procurements.



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Public authorities will use the *Standard Goods and Services Agreement* for all routine (low/medium risk) goods and services procurements, as far as practicable. This includes procurements of consultancy services and for establishing panel contracts.

Public authorities will use the *Standard Goods and Services Agreement* for all complex (medium risk) goods and services procurements, except where a bespoke contract may be required; for example, where there is contractual complexity, an innovative delivery methodology, or very active contract management is required.

Public authorities will use the *Standard Not-for-Profit (NFP) Sector Funded Services Agreement* for all transactional (low risk), routine (low/medium risk) and complex (medium risk) procurements where up-front block funding is provided to an NFP organisation to deliver a service. Where payment is based on price schedules and is paid in arrears, the *Standard Goods and Services Agreement* will be used, as far as practicable.

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

Public authorities will consult the CSO regarding the drafting of a bespoke contract with appropriate provisions for all strategic (high risk) procurements, and procurements where it is not considered appropriate to use the *Standard Goods and Services Agreement* or *Standard Not-for-Profit (NFP) Sector Funded Services Agreement*. For routine, commercial-off-the-shelf procurements of Information Technology products and services (for example), the CSO may recommend the use of the supplier's contract, amended where possible to reflect the public authority's specific requirements.

The standard terms and conditions of the government's standard contracts must not be amended unless there is a compelling reason. Legal advice must be sought from the CSO prior to changing or adding to the standard terms and conditions.

All contracts will be approved and executed in line with Treasurer's Instruction 8.

Disclosure of evaluation criteria to the market

Public authorities will ensure that invitation/market approach documents (*including* EOIs but *excluding* market sounding processes such as a Request for Information (RFI)) identify the evaluation criteria that will be used to evaluate supplier responses, including applicable mandatory, weighted and non-weighted criteria.

The evaluation criteria used by the public authority to evaluate supplier responses (including applicable mandatory, weighted and non-weighted criteria) must be the same as those that were approved during the planning phase in the Acquisition Plan or Evaluation Plan (as part of the Acquisition Plan). In the event that changes are

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required to the evaluation criteria, the market must be immediately notified of the change and provided the opportunity where applicable to amend any offer/quote.¹⁰

Approaching the Market

Opening and advertising a tender

All tenders will be opened and advertised for a period that is sufficient for suppliers to prepare and electronically submit a high-quality quote/offer.

At a minimum, open market approaches with an estimated cost above \$550,000 will be released and advertised in electronic form on the [SA Tenders and Contracts](#) website, and will remain open for a minimum period of 25 calendar days in accordance with the government's international obligations for all covered procurements.

The tender close date and time will be clearly specified on the market documentation and advertisement.

All procurements will allow for electronic lodgement of tender submissions. Where print advertising or hard copy tender submissions are required in exceptional circumstances, public authorities will, at a minimum, notify the market of the tender electronically via [SA Tenders and Contracts](#) and ensure it is compliant with the government's international obligations for all covered procurements.

Engagement with suppliers during tender open period

Public authorities will only communicate with potential suppliers regarding the tender, outside of an industry briefing, through the identified Contact Officer during the tender open period.

Clarifications and Addenda

Public authorities will prepare and release addenda via [SA Tenders and Contracts](#), as soon as practicable, whenever changes are made to market documents after the tender has been opened.

If a supplier asks for clarification or further information regarding the market documentation or procurement process, where appropriate, the Contact Officer will promptly make the response available to all potential suppliers at the same time by way of an addenda released on [SA Tenders and Contracts](#).

Extension to tender periods

Public authorities can only extend the tender open period where late addenda or some other exceptional circumstance impacts suppliers' ability to meet the initial

¹¹ An across-government contract must not be established without approval from an appropriate authority (e.g. Cabinet).

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closing time that is outside of the supplier's control.

If an extension is issued, the extension will apply equally to all suppliers. Approval to extend a tender will be at the discretion of the Chief Executive (or authorised person). An extension must not be given if doing so will compromise the integrity of the procurement process.

Advertising an across-government¹¹, multi-agency or panel arrangement

During the sourcing stage, public authorities establishing an across-government, multi-agency or panel arrangement (contract) will:

- not raise supplier expectations of a higher volume of work than is available and make no commitment to undertake a specified volume of purchases during the contract period
- inform all relevant users and panel members of the secondary procurement process to be followed, if applicable
- inform all relevant users and panel members that the public authority may add panel members if they meet the prequalification criteria or remove panel members if they fail to meet performance requirements or due to insolvency
- inform all relevant users and panel members that the public authority may add or remove goods or services as circumstances arise (e.g. discontinuance of a product)
- ensure that any exemptions from using the contract do not infringe the contractual and legal obligations of the contract
- ensure that controls are in place to prevent unauthorised access to, and divulging of, commercial-in-confidence contract information (except where allowed for by government policy or legislation).

Evaluating Offers and Supplier Selection

Value for Money

Obtaining value for money (VFM) in the expenditure of public money is a key principle of the SA Government Procurement Framework and must be considered from the very beginning of the procurement process, from planning through to supplier selection and contract management. VFM is achieved by assessing the optimum balance of whole-of-life cost and quality for the goods and/or services being procured.

Receiving and opening supplier offers

The process of receiving, receipting, opening and registering supplier offers will be

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secure and ensure confidentiality, whether offers are physically or electronically received.

Late offers

An offer received after the tender has closed is a “late offer”. A late offer cannot be accepted, unless:

- a) the public authority determines in its sole discretion that it has caused or contributed to the failure to lodge by the Closing Date and Time; or
- b) the public authority decides that exceptional circumstances exist which warrant consideration of the late offer.

Approval to accept a late offer must be authorised by the Chief Executive (or authorised person). A late offer must not be accepted, if doing so will compromise the integrity of the procurement process.

Evaluation Conflict of Interest Declaration

All participants in the procurement evaluation process (i.e. public authority employees, project consultants and probity advisers) must complete a conflict of interest declaration and confidentiality agreement prior to commencing the evaluation.

Any actual, potential or perceived conflict of interest identified before, during or at the conclusion of the evaluation process must be documented and actioned appropriately by the Chair of the evaluation panel. A conflict of interest declaration must be completed even where there are no conflicts to declare.

Evaluation methodology

The evaluation of suppliers’ offers will follow the evaluation methodology approved in the Acquisition Plan or Evaluation Plan (as part of the Acquisition Plan).

Where a public authority proposes to depart from the approved Acquisition Plan or Evaluation Plan, it must follow the provisions set out in the “Departure from approved Acquisition Plan or Evaluation Plan” section of this policy.

Engagement with suppliers during tender evaluation period

Suppliers will be kept informed of the progress of the tender evaluation, particularly if there are delays.

Unsolicited proposals

The public authority will manage unsolicited proposals in accordance with the *Unsolicited Proposals Schedule* (for proposals valued less than \$1.1million) and [DPC Circular 038 Unsolicited Proposals](#) (for proposals valued at \$1.1million and above).

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Emergency situation procurements

The public authority will manage the procurement of goods and services under an emergency in accordance with the provisions of emergency-related legislation and the *Emergency Situations Procurement Schedule*.

Contract Negotiation and Award

Negotiations

During contract negotiations, public authorities will ensure:

- the negotiation process is transparent, documented and conducted in a manner that is fair and equitable for all shortlisted suppliers
- requests seeking further information, improvements to a supplier's offer or a best and final offer are conducted in a consistent manner and that any accepted improvements are within scope of the market approach
- the negotiation is undertaken by persons with the appropriate skills and capability required to adequately represent, and advocate on behalf of, the public authority.

A formal negotiation plan will be prepared for all contract negotiations undertaken in a complex and strategic procurements. Public authorities will assess whether a formal negotiation plan is required for contract negotiations undertaken in a transactional or routine procurement and will prepare a negotiation plan as required.

Evaluation Report and Purchase Recommendation

An evaluation report and purchase recommendation will be prepared for all procurements with a cost above \$55,000, once the evaluation process is complete. The evaluation report may form part of, or be attached to, the purchase recommendation.

The purchase recommendation or evaluation report (as part of the purchase recommendations) will, at a minimum, detail:

- the evaluation process undertaken
- any identified conflict/s of interest
- negotiations (if any)
- the evaluation outcome and recommended supplier/s
- any departures from the approved Acquisition Plan or Evaluation Plan (including approvals sought to depart)
- final contract details
- lessons learnt for the purpose of continuous improvement.

A supplier cannot be recommended if it is assessed that their offer will not achieve the desired outcome or value for money. This may result in no contract being awarded.

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The evaluation report and/or purchase recommendation will be signed by all members of the evaluation panel to:

- demonstrate it is a true reflection of the sourcing process, and
- confirm the conflict of interest declarations.

The purchase recommendation will be approved prior to awarding the contract by the authorised person identified in the approved acquisition plan.

Contract development and execution

The public authority will, wherever possible, include a contract with the market approach documents.

Contract performance measures will, where appropriate, be informed by the original procurement objectives as documented in the Acquisition Plan. Effective performance measures will be outcome focused (as far as practicable), able to be measured objectively, understood by all parties and reflect the key aspects of the contract.

All contracts will be approved and executed in line with [Treasurer's Instruction 8](#).

Notifications of Outcome and Tender Debriefs

All suppliers that submitted an offer will be advised in writing of the outcome of their offer and given the opportunity to receive feedback on their offer.

The public authority will prepare and conduct a formal tender debrief as requested. Tender debriefs will provide constructive feedback to suppliers.

Contract Recording and Disclosure

Contract details will be entered in the public authority's contract register and will be disclosed in accordance with [PC027 Disclosure of Government Contracts](#).

Continuous Improvement

Within 60 days of purchase recommendation approval, public authorities will undertake a documented Post Sourcing Review for all complex and strategic procurements to inform and improve future procurement processes and strengthen procurement capability.

The public authority will consider the extent to which the intended procurement outcome was met and will identify and record the procurement strategies that helped to achieve the outcome and what could help to achieve a better outcome in the future. For all other procurements, this information will be captured in the Purchase Recommendation as 'lessons learned'.

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Departure from approved Acquisition Plan or Evaluation Plan

Where there is a material departure from the sourcing strategy approved in the Acquisition Plan or Evaluation Plan that occurs prior to contract execution, public authorities must assess whether these departures are material and require further approval by the appropriate approving authority (refer to level of departure matrix below for further details on the approving authority).

The public authority will assess the level of departure by considering:

1. the measure of impact on the sourcing strategy, time and effort of supplier to respond, probity and/or the procurement outcome; and
2. stage in the procurement process.

The *measures of impact* for departures are categorised as follows:

Measure	Description
Insignificant	No potential to impact the sourcing strategy and/or the outcome. No risk to perceived or actual probity of the process from the departure. No potential to impact the time and effort of suppliers to respond.
Minor	Limited potential to impact the sourcing strategy and/or the outcome. Limited risk to perceived or actual probity of the process from the departure. Limited potential to impact the time and effort of suppliers to respond.
Moderate	Moderate potential to impact the sourcing strategy and/or the outcome. Moderate level of risk to perceived or actual probity of the process from the departure. Moderate potential to impact the time and effort of suppliers to respond.
Major	High potential to impact the sourcing strategy and/or the outcome. Major risk to perceived or actual probity of the process from the departure. Major potential to impact the time and effort of suppliers to respond.

The *stage in the procurement process* when the departure might occur includes:

Stage	Description of when the departure occurs
Prior to Market Approach	After approval of the acquisition plan but prior to approaching the market.
During Market Approach	During market approach but prior to opening offers.
During Evaluation	During the evaluation period but prior to the purchase recommendation.

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Post Purchase Recommendation	After purchase recommendation approval but prior to contract execution.
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The *level of departure* can be determined by using the following matrix:

		Stage in the Process			
		Prior Market Approach	During Market Approach	During Evaluation	Post Purchase Recommendation
Measure of Impact	Major	High	Extreme	Extreme	Extreme
	Moderate	Medium	High	Extreme	Extreme
	Minor	Low	Medium	High	High
	Insignificant	Low	Low	Medium	Medium

For each level of departure, the following action is required:

Departure Level	Description
Low	Maintain a record of the departure. ¹²
Medium	Maintain record of departure and report the departure to the approving authority in the final purchase recommendation. ¹³ Where the approved departure involves a change to the evaluation criteria (including weightings) during the market approach, the public authority must issue an addendum notifying the market of the change as soon as practicable.
High / Extreme	Approval of the departure is to be obtained from the approving authority of the acquisition plan prior to progressing further. Where the approved departure involves a change to the evaluation criteria (including weightings) during the market approach, the public authority must issue an addendum notifying the market of the change as soon as practicable.

¹² For low and medium level departures, approval requirements are at the discretion of the public authority, depending on the type of procurement and the approval processes outlined in the acquisition plan.

¹³ As above.