

Procurement Governance Policy

Introduction

Government procurement has a powerful role in shaping South Australia's economy, business opportunities and labour market.

The South Australian government is committed to ensuring maximum benefit to the community of South Australia is realised through government spending.

Procurement Services SA, a branch of the Department of Treasury and Finance (DTF) is responsible for overseeing and maintaining a streamlined procurement framework that:

- reduces complexity and red tape for suppliers and government
- covers all South Australian public authorities
- maintains an outcomes-based focus, supported by enhanced performance reporting and data analytics
- improves engagement with industry, clients and communities
- maximises the opportunity for South Australian business participation and creating South Australian jobs
- provides Chief Executives with clear accountability and responsibility to establish local procurement governance arrangements and processes suitable to their requirements.

The South Australian Government Procurement Framework ('the Framework') consists of *Treasurer's Instructions 18 Procurement*, this *Procurement Governance Policy*, and supporting policies that set the minimum requirements for each key procurement activity (planning, sourcing and contract management). A range of best practice guidelines, process guides, tools and templates are also available to support public authorities design fit-for-purpose procurement processes.

The Framework is designed to empower public authorities to engage with industry, clients and communities to innovate and take balanced risks to pursue better outcomes. It will continue to be developed and refined through partnership with public authorities, suppliers, clients and communities to reflect lessons learnt and continuous improvement.

Scope and Application of the Framework

The Framework applies to South Australian public authorities, as defined by the *Public Finance and Audit Act 1987*, that buy goods and services, including construction projects valued up to \$165,000.

The Framework does not apply to grants as defined in *Treasurer's Instructions 15 Grant Funding* or construction projects valued above \$165,000.

Procurement Governance Policy

All values identified in the Framework are in Australian Dollars and GST inclusive.

About the Procurement Governance Policy

This *Procurement Governance Policy* is divided into five Parts:

Part 1: Key Procurement Principles

Part 2: Procurement Governance

Part 3: Public Authority Procurement Frameworks

Part 4: Procurement Activity Planning and Reporting

Part 5: Procurement Policy and Process

Each Part contains key information about the across government approach to procurement.

Procurement Governance Policy

Part 1: Key Procurement Principles

South Australian government procurement centres on five key principles. The government's commitments to those principles are summarised below and are reflected throughout the Framework.

Principle 1 - Value for Money

Value for money is achieved in procurement by finding the optimum balance between whole-of-life cost and quality. Public authorities will seek to achieve value for money in every procurement they undertake. Appendix 1 provides further details about how the government defines and achieves value for money in procurement.

Principle 2 – Creating South Australian Jobs

It is business that creates opportunity and provides the chance for people to get jobs and be in work. Public authorities will consider the economic benefit of each procurement to the South Australian economy, including the creation of new jobs, in the pursuit of value for money.

Public authorities will maximise opportunities for South Australian businesses by developing annual industry engagement plans and through the application of the *South Australian Industry Participation Policy* ('SAIPP') and *SAIPP Procedural Guidelines*. This includes considering the capacity of the local supply market and supply chain and the benefits and opportunities to be achieved through:

- open and competitive procurement processes, where appropriate
- effective communication and consistent provision of information to suppliers
- clear and proportionate market approach documents
- disaggregating supply for large projects
- fair and transparent sourcing strategies
- constructive feedback to suppliers on decision-making processes
- effective complaints management processes.

Principle 3 – Increasing the number of apprentices and trainees

Public authorities will seek to leverage their purchasing power to increase the number of apprentices and trainees involved in projects supplying to government. This includes creating opportunities through the type of market approach, evaluation of value for money and establishing performance measures in contracts.

Principle 4 – Stimulating innovation and new businesses

Innovation and new business will be encouraged wherever the opportunity exists to improve the way the goods or services are delivered. Public authorities will promote this through effective industry engagement, market research, outcome-based

Procurement Governance Policy

procurement practices and the adoption of a continuous improvement mindset in the procurement community.

Principle 5 – Achieving environmentally sensitive, low-carbon, socially-just outcomes

To help build a strong, climate smart economy and support South Australia to adapt to a changing environment, public authorities will seek to achieve environmental and social procurement outcomes and promote and encourage suppliers to improve practices and minimise environmental impacts.

Public authorities will engage with communities and key stakeholders at the earliest stages of the procurement process and endeavour to put the needs of their clients and communities at the centre of procurement and contracting practices. Public authorities will be guided by the principles of *Premier's Circular 044*, the Funding Policy for the Not-For-Profit (NFP) sector, to support and strengthen these collaborative partnerships and improve the lives of South Australians.

All procurement activities will be undertaken in a manner that ensures probity is upheld at every stage and that suppliers are treated fairly and ethically throughout the procurement and contract management process.

Procurement Governance Policy

Part 2: Procurement Governance

Legal Framework

Government procurements will adhere to applicable legislation, government policies, instructions and agreements. These include:

- State and Commonwealth legislation
- International Free Trade Agreements (FTAs)
- Treasurer's Instructions
- Department of the Premier and Cabinet Circulars including but not limited to:
 - *PC027 Disclosure of Government Contracts*
 - *PC044 Funding Policy for the Not-for-Profit Sector*
- *Industry Advocate Act 2017*
- *South Australian Industry Participation Policy*

Public authorities will know and understand their obligations before undertaking any procurement activities. It is also essential to understand the consequences of any non-compliance. If the Treasurer determines that a public authority is non-compliant with its obligations, the Treasurer may direct that the public authority:

- a) terminate or suspend the non-compliant procurement process; and/or
- b) align with the existing internal procurement framework of another public authority, until further notice.

New Policies and Policy updates

From time to time the Treasurer may introduce new policies or make changes to existing Framework documents. Public authorities will ensure implementation and adherence with any changes to the Framework.

Exemptions from policy

Where the Chief Executive of a public authority identifies that there are justifiable reasons why a requirement set out in this *Procurement Governance Policy*, the *Procurement Planning Policy*, *Sourcing Policy* or *Contract Management Policy* cannot feasibly be applied to the public authority or a particular procurement process, the Chief Executive may request an exemption that varies the effect of that policy's application to that public authority or process by making a submission to the Treasurer.

Procurement Governance Policy

Strategic Oversight

A brief overview of the governance framework is provided below. Appendix 2 provides a detailed list of roles and responsibilities.

The **Treasurer** is responsible for setting the rules and policy direction for all government procurement. This includes the approval of any new policies and future policy updates.

Procurement Services SA is the government's central procurement branch. Procurement Services SA oversees and maintains the Framework including the introduction of any new or revised Framework documents.

The purpose of Procurement Services SA is to create additional value to South Australia as the government's chief advisor on government procurement and to lead the procurement profession in the South Australian public sector.

The following **governance arrangements** have been established to complement the roles and functions of Procurement Services SA:

- **Procurement Review Committee (PRC):** The PRC comprises a small number of senior public officers and provides strategic oversight and reviews of public authority procurements that are high-risk, high value or of public interest. Cabinet, the Treasurer, a Minister or Chief Executive of a public authority may request the PRC to undertake a review of any procurement activities or related matters. The PRC also acts as Review Authority for unresolved supplier complaints.

The PRC is not a decision-making body. However, it will endorse submissions or make recommendations in line with the functions outlined in Appendix 2.

- **Heads of Procurement (HoP):** HoP comprises a group of public authority procurement leaders that gather regularly to discuss emerging issues relating to government procurement. HoP have a strategic role in assisting the delivery of improved procurement outcomes across the public sector.
- **Communities of Practice (CoP):** CoP have been established to assist public authorities to improve their procurement capability and practice. They are established by Procurement Services SA and deliver through:
 - sharing good practice in procurement
 - identifying lessons learned on matters of common concern
 - identifying opportunities for public authorities to share capability and expertise, including areas where experienced and specialist procurement professionals could partner with other public authorities to improve procurement outcomes.

Procurement Governance Policy

- **Industry Advisory Group (IAG):** The IAG comprises representatives from various industry sector bodies and the Industry Advocate. The IAG's role is to improve government's engagement with industry, drive innovation and identify ongoing opportunities to reduce the complexity and costs of tendering for government work.

Procurement Operational Governance

Each public authority has a **Chief Executive** (or equivalent), who is responsible for implementation of and compliance with the Framework. The Chief Executive of a public authority is ultimately responsible for the efficient and effective management of procurements of their public authority, regardless of the value.

The Chief Executive can choose to be supported by a **Procurement Governance Committee** (PGC) and/or **Central Procurement Unit** (CPU) to govern the public authority's key procurement functions. Each Chief Executive will review its public authority's procurement profile to determine whether the value or risk associated with its procurement activities requires a PGC and/or a CPU to be established.

DTF Client Services Procurement

DTF Client Services Procurement, part of Procurement Services SA, provides expert support and management of goods and service procurement processes (under a fee-for-service arrangement) for public authorities that have determined they have insufficient internal procurement capability for certain procurements.

Procurement Governance Policy

Part 3: Public Authority Procurement Frameworks

Internal Procurement Framework

In accordance with *Treasurer's Instructions 18 Procurement*, Chief Executives are responsible for ensuring their public authority has an appropriate internal procurement framework and governance in place to satisfy the requirements of the Framework.

To meet this requirement, the Chief Executive can choose to develop and maintain an internal procurement framework specific to its own public authority or elect to use the existing internal procurement framework of another public authority (as agreed in writing between the Chief Executives of the two public authorities or as directed by the respective Minister).

The internal procurement framework will, at a minimum, detail the public authority's:

- procurement governance structure (including establishment of a CPU and/or PGC membership, and the alignment of public authorities, if applicable)
- procurement processes and performance standards
- compliance with the *SAIPP* and *SAIPP Procedural Guidelines*
- contract management processes and performance standards (linked to public authority's contract management framework)
- system of authorisations to issue procurement approvals (i.e. approval to approach the market and of a procurement outcome)
- roles and responsibilities of its staff in the procurement process, and CPU and PGC (where applicable)
- annual industry engagement plan requirements
- annual capability assessment and capability development plan requirements
- internal assessment and review requirements.

A review of the internal procurement framework will be triggered if the public authority undergoes significant restructuring, including but not limited to:

- changes in Machinery of Government
- significant change to public authority roles and responsibilities
- changes to key senior staff.

Before a public authority undertakes any procurements, the public authority will provide Procurement Services SA with a copy of its internal procurement framework for review and feedback.

Procurement Services SA will provide advice and support to public authorities if any

Procurement Governance Policy

areas of the internal procurement framework are identified as requiring improvement.

Establishment of a Procurement Governance Committee (PGC)

Where a PGC is established, the PGC will have a written Terms of Reference that describe how it will assist the public authority to achieve its objectives. PGCs will comprise representatives from executive level, senior level officers and public authority technical staff. Those officers will have the capability to contribute appropriate management and subject expertise in areas such as risk, financial management, strategic planning, project management, and/or information systems.

PGC members will undertake training, from time to time, as required by the Treasurer.

Public Authority Central Procurement Unit (CPU)

The Chief Executive will decide whether to establish a CPU for their public authority based on the public authority's procurement governance structure and procurement profile.

If the Chief Executive chooses to establish a CPU, the Chief Executive will ensure that:

- the expertise and experience of all staff undertaking procurement functions are appropriate for the scope, nature and complexity of those functions
- appropriate procurement governance arrangements are established within the public authority to ensure that the CPU has the requisite authority to deliver its objectives.

Internal Biennial Review

Every two years, the Chief Executive will undertake an internal review to assess the suitability of the public authority's internal procurement framework and the extent to which the public authority's procurement and contract management processes have been undertaken in line with its internal procurement framework. The internal review will consider whether procurement policies, procedures and operational practice are effectively implemented and followed by the public authority.

The internal review will be supported by the public authority's internal audit function or similar, independent from the procurement function. The completion date and any significant findings will be recorded via the Procurement Activity and Reporting System¹ (PARS) by 31 October of that year.

¹ Refer to Part 4 for further details on the Procurement Activity and Reporting System (PARS), managed by Procurement Services SA

Procurement Governance Policy

Record keeping

Accurate records are to be kept for all stages of the procurement process, including planning, sourcing and contract management. Decision making needs to be documented, including the process followed to arrive at that decision. Such documentation serves to provide enough information for audit or other review.

Public authorities will document all relevant communication with prospective suppliers and ensure that appropriate record keeping is maintained and auditable. This includes both written communications, along with appropriate records of relevant verbal discussions throughout the procurement process (e.g. minutes of a meeting, file notes of telephone discussions).

Complaints Management Framework

Chief Executives will ensure their public authority has effective systems, practices and processes in place to manage supplier complaints at any stage of the procurement process, in accordance with the *Supplier Complaints Schedule*.

Contract disputes will be managed in accordance with the *Contract Management Policy*.

Review Authority

The Chief Executive of the public authority will inform the PRC within seven calendar days of any complaint that could not be resolved to the satisfaction of both parties. Public authorities will provide all relevant documentation to the PRC, via Procurement Services SA.

The complainant will be provided with the opportunity to reply to the public authority's response before the PRC has made recommendations relating to the complaint.

The PRC:

- will provide its recommendations in a timely fashion, in writing, with reasons
- will engage (through Procurement Services SA) an independent third party to investigate and review complaints;
- will not participate in a complaint management process until the complaint has been investigated by the public authority and/or independent investigation – unless the Treasurer considers that the circumstances warrant an earlier intervention
- may recommend to the Treasurer to direct that a public authority suspend or reconduct all or any part of the procurement process if required
- will refer matters to the appropriate authority as required.

Procurement Governance Policy

Contract Management Framework

Organisational and Operational Level Requirements

The Chief Executive will ensure their public authority has an effective contract management framework in place that details organisational and operational requirements aligned with the *Contract Management Policy* and the public authority's strategic objectives.

Contract Register

The Chief Executive will ensure their public authority maintains a contract register to record details of all goods and services contracts valued above \$55,000, including secondary contracts under established panel contracts.

Risk Management Framework

The Chief Executive will ensure that an appropriate risk management framework is developed to safeguard the integrity of the procurement process.

Procurement Governance Policy

Part 4: Procurement Activity Planning and Reporting

Forward Procurement Plan

Public authorities will use the PARS to inform Procurement Services SA and suppliers of their intentions to undertake a procurement (valued above \$55,000) and indicative timing in the coming 24-month period. This includes a forecast of total secondary procurements from across-government panel contracts, as well as contracts due for expiry and/or renewal within this period.

Public authorities will include as much information about the planned activity as possible as well as indicate the likelihood that the procurement activity will proceed at the date specified. Public authorities will endeavour to keep the information up-to-date and provide updates in a timely manner.

Where more than one public authority is involved in the delivery of a procurement the public authority that will approve the market approach is responsible for recording the procurement activity details in the PARS for the purposes of the Forward Procurement Plan.

The PARS will enable public authorities where appropriate to withhold certain procurements from public disclosure in the Forward Procurement Plan where the following conditions exist:

- the procurement relates to the care or support of a member of the community, for instance in the case of child protection; or
- the procurement is considered sensitive, for instance in relation to special projects undertaken by the government, for example feasibility of commercial projects; or
- the procurement relates to an investigation of misconduct or fraud; and
- the Chief Executive (or authorised person) has provided approval for the procurement to be withheld from public disclosure.

Procurements above \$55,000 will be recorded on the Forward Procurement Plan (through the PARS) prior to approaching the market.

At a minimum, a procurement will be added to the PARS and published on the Forward Procurement Plan for a period of three months before an approach to market is made, unless the procurement is an urgent pressing need that could not have been foreseen. In this case, the public authority is required to record the details of the procurement in the PARS as soon as practicable once the public authority becomes aware of the need.

Procurement Services SA will use this information to publish a Forward Procurement Plan on behalf of all public authorities to inform prospective suppliers about future procurement opportunities. The Forward Procurement Plan will be

Procurement Governance Policy

published on the [Procurement Services SA Website](#).

Public Authority Reporting Requirements

All public authorities will report in line with the Procurement Services SA *Reporting Schedule*. The reporting requirements detailed in the *Reporting Schedule* will enable Procurement Services SA to monitor, review, analyse and share insights of the procurement and contracting activity of government and identify opportunities for greater outcomes to be achieved.

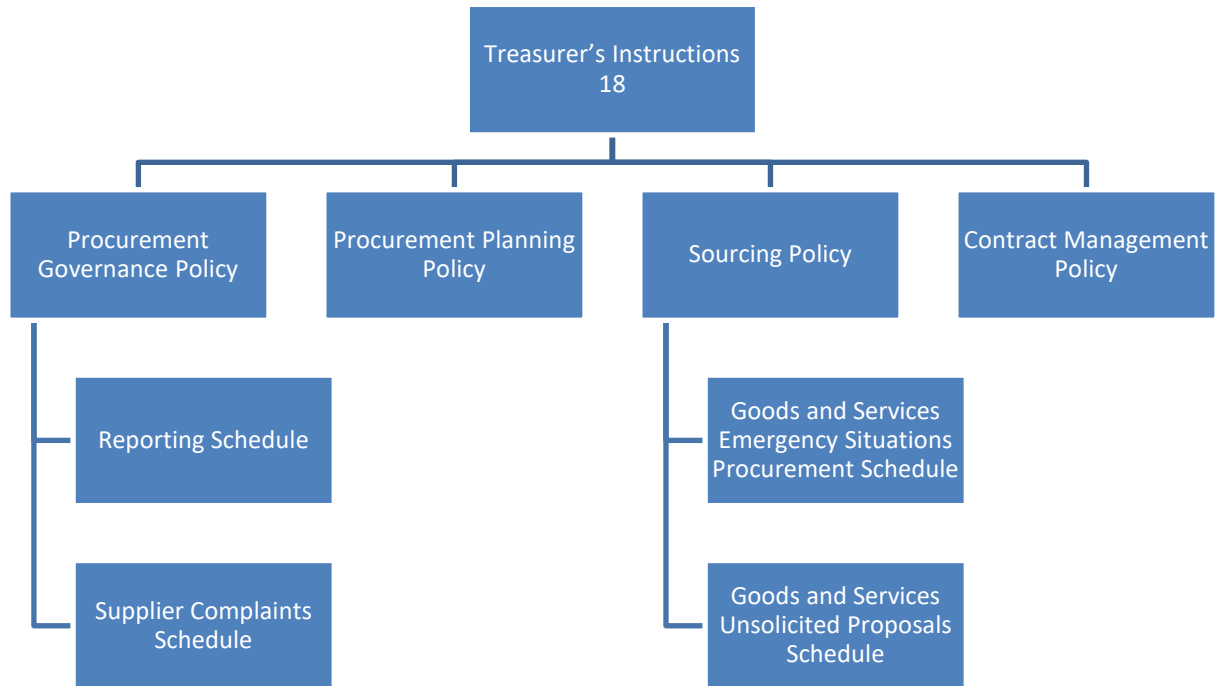
Public authorities will use the PARS to submit information as detailed in the *Reporting Schedule* unless the public authority's procurement reporting system is integrated with the PARS.

Procurement Governance Policy

Part 5: Procurement Policy and Process

Procurement Process

Treasurer's Instructions 18 Procurement is supported by the following policies and schedules which set the minimum requirements a public authority will meet when planning for and undertaking a procurement and contract management. Minimum requirements are based on the type and complexity of the procurement or contract.



Complexity and Capability Assessments

Public authorities will undertake a complexity and capability assessment during procurement activity planning, and before commencing an individual procurement process or managing a contract.

Procurement and Contract Complexity

Procurement complexity refers to the level of complexity involved in procuring a good or service. Contract complexity refers to the level of complexity involved in managing the contract.

An assessment of complexity considers a broad range of factors such as risk, whole-of-life cost and market dynamics associated with the procurement or contract.

The complexity assessment will classify the procurement and contract management process as either:

- Transactional – low risk procurements/contracts with a value up to and including \$55,000.

Procurement Governance Policy

- Routine – generally low/medium risk procurements/contracts valued above \$55,000.
- Complex – generally medium risk and higher value (valued above \$550,000) procurements/contracts.
- Strategic – generally high value, high risk procurements/contracts with a high complexity; but some lower value procurements or contracts may be strategic for reasons other than price.

The procurement complexity, and subsequent contract complexity, will determine the requirements of the individual procurement and contract management processes.

Capability

Capability is about matching the persons, resources, systems and processes to the requirements of a procurement or contract management activity - ensuring sufficient expertise is in place to carry out those activities successfully.

Chief Executives will ensure the public authority has appropriate levels of expertise, resources, systems and processes to achieve procurement objectives and manage risks appropriately by:

- annually assessing the public authority's capability
- developing a Capability Development Plan (to be reviewed yearly)
- conducting its procurements and contract management through appropriately skilled staff.

These will be addressed in the public authority's internal procurement framework.

If it is determined that a public authority does not have sufficient capability, before proceeding the public authority will seek advice from Procurement Services SA. This may include referring a procurement to Procurement Services SA for oversight and management, or engaging external support and expertise.

Procurements may be referred to Procurement Services SA by the respective CPU, PGC, Chief Executive, a Minister or Cabinet.

Procurement Governance Policy

Appendix 1: Value for Money in Procurement

Obtaining value for money in the expenditure of public money is a key principle of the Framework.

Value for money will be considered from the very beginning of the procurement process, from planning through to sourcing and contract management. If a procurement or contract cannot achieve value for money and deliver the intended outcomes, then that procurement or contract should not continue.

What is Value for Money?

Value for money is the achievement of a desired procurement outcome at the best possible price based on a balanced judgement of financial and non-financial factors relevant to the procurement.

Value for money is achieved in procurement by finding the optimum balance of:

- whole-of-life cost
- quality.

In addition to the value for money considerations above, public authorities will consider the economic benefit of the procurement to the South Australian economy, in line with the *SAIPP* and *SAIPP Procedural Guidelines*.

Whole-of-Life Cost

Whole-of-life cost (also known as life cycle cost or total cost of ownership) will also be considered at the planning stage, where applicable.

Whole-of-life cost identifies and estimates the total costs associated with the good or service, from planning, supply/usage (which may include capital, maintenance, operating and management costs) through to decommissioning and disposal (including any revenue from disposal).

Whole-of-life cost may also be used to assess and compare the total cost of a supplier's offer, where appropriate.

Quality

The quality of an offer to supply considers:

- the capability of the good or service to achieve the intended outcome(s) of the procurement
- the capacity (including previous experience and availability/timeliness) of the supplier to deliver the intended outcome(s)
- compliance with specifications and/or standards
- flexibility and adaptability to foster continuous improvement and innovation

Procurement Governance Policy

(where appropriate) over its life cycle

- the economic contribution made to South Australia (assessed through the *SAIPP*).

Public authorities can also use their buying power to generate additional outcomes above and beyond the value of the good or service procured, for example, targeted employment or training opportunities.



Procurement Governance Policy

Appendix 2: Procurement Governance Functions

Strategic Oversight and Performance Management

Role	Overview of Functions / Responsibilities
Procurement Services SA	<p>Procurement Services SA will create additional value to South Australia as the government’s chief advisor on all government procurement by:</p> <ul style="list-style-type: none"> • setting the strategic direction for procurement across government • leading the procurement profession in the South Australian public sector • developing and maintaining a framework for the procurement of public authorities, including policies, schedules, guidelines, tools and templates • continuing policy reform • reviewing the internal goods and services procurement framework of public authorities • reviewing high-value, high-risk or other procurement processes as requested by a public authority, Procurement Review Committee, Minister or Cabinet • providing advice to responsible Ministers and Chief Executives on any matters relevant to the procurements of public authorities • supporting the development and delivery of general training and professional development activities for public sector procurement practitioners • providing goods and services procurement advice and support to public authorities with limited internal procurement capability • undertaking procurement processes on behalf of public authorities, as requested • monitoring and reviewing public authority procurements and the findings/outcomes of reporting and biennial internal reviews, and identifying opportunities for greater outcomes to be achieved • acting as a referral point for unresolved supplier complaints • reviewing challenges or complaints by a supplier that there has been a breach of the government’s international obligations • publishing forward procurement plans on behalf of public authorities • measure and benchmark public authority procurement performance and identify opportunities for additional value to be obtained and sharing findings of the data analysis.



Procurement Governance Policy

Heads of Procurement (HoP)	<p>The HoP will deliver improved procurement outcomes across the public sector by:</p> <ul style="list-style-type: none"> • sharing information and collaborating on shared resources • discussing emerging issues and changes relating to government procurement • driving and showcasing better practices • identifying emerging trends in procurement and contract management • assisting Procurement Services SA with policy reform, capability development and guidance to public authorities • facilitating Communities of Practice in specific subject matter areas • identifying opportunities to enhance the procurement planning, sourcing and contract management function • raising awareness of procurement and contract management requirements in their public authority business areas • driving a culture of continuous improvement.
Industry Advisory Group (IAG)	<p>The IAG will improve government’s engagement with industry, drive innovation and identify ongoing opportunities to reduce the complexity and costs of tendering for government work by:</p> <ul style="list-style-type: none"> • providing industry expertise on procurement policy development, emergent trends and opportunities for improvement relating to procurement activities • advising on the future needs of industry as part of forward procurement planning • advising Procurement Services SA of any issues between Government and industry • advising on sector-wide procurement matters, including industry standards, future directions, strategy, and the impact of the Government’s procurement decisions on industry and the non-government sector.



Procurement Governance Policy

<p>Procurement Review Committee (PRC)</p>	<p>The PRC will provide strategic oversight of high-risk and/or high-value procurements by:</p> <ul style="list-style-type: none"> • reviewing the procurement activity of public authorities to identify procurements that require the oversight and review by Procurement Services SA (for example procurements that are high risk, high value or of public interest) • reviewing any procurement activities or related matters and make recommendations based on the outcomes of the review at the request of Cabinet, the Treasurer, a Minister, or a Chief Executive of a public authority • reviewing and endorsing acquisition strategies and documentation for the establishment of across-government contracts by Procurement Services SA • reviewing supplier complaints relating to procurement processes and make recommendations to the Treasurer in accordance with the <i>Supplier Complaints Schedule</i>. <p>The PRC is not a decision-making body; however, it will endorse or make recommendations in line with the above functions.</p>
--	---