The Hon Rob Lucas MLC

TRS19D1363

Government
of South Australia

Treasurer
Level 8
State Administration Centre
200 Victoria Square
Adelaide SA 5000
GPO Box 2264
Adelaide SA 5001
DX 56203 Victoria Square
Tel 08 8226 1866
treasurer.dtf@sa.gov.au

Hon Stephen Mullighan MP
Member for Lee
Unit 1, 62 Semaphore Road
SEMAPHORE SA 5019

lee@parliament.sa.gov.au

Dear Mr ~~Mullighan~~ Stephen

APPLICATION UNDER THE *FREEDOM OF INFORMATION ACT 1991*

I refer to your application made under the *Freedom of Information Act 1991* (the Act), dated 21 May 2019.

Your application seeks access to:

> *"All minutes, briefings and correspondence titled 'Renewal of the Insurance Cover for the Principal Arranged Contract works insurance for 2018/19 – PACWI – SAIcorp' as described on the Objective document management system, between 12 July 2018 and 21 May 2019."*

The legislative prescribed timeframe to determine this application has expired and is now deemed to have refused you access to all documents relevant to your application. I refer to my letter dated 26 May 2019 where I sought additional time to make my determination.

The purpose of this letter is to advise you of my determination. An extensive search was conducted within this office. A total of 1 document was identified as answering the terms of your application.

I grant you access in part to 1 document; a copy of which is enclosed.

This document is released in part as it contains monetary values and includes the procurement strategy which, if disclosed, could be advantageous to existing suppliers or other suppliers when the state approaches the market again. I therefore determine this information exempt pursuant to clause 7(1)(c) to the Act.

Exemption

Clause 7 – Documents affecting business affairs concerning

(1) A document is an exempt document—

(b) if it contains matter—

(i) consisting of information (other than trade secrets) that has a commercial value to any agency or any other person; and

(ii) the disclosure of which—

(A) could reasonably be expected to have an adverse effect on those affairs or to prejudice the future supply of such information to the Government or to an agency; and

(B) would, on balance, be contrary to the public interest; or

(c) if it contains matter—

(i) consisting of information (other than trade secrets or information referred to in paragraph (b)) concerning the business, professional, commercial or financial affairs of any agency or any other person; and

(ii) the disclosure of which—

(A) could reasonably be expected to have an adverse effect on those affairs or to prejudice the future supply of such information to the Government or to an agency; and

(B) would, on balance, be contrary to the public interest.

Please note, in compliance with Premier and Cabinet Circular PC045 - *Disclosure Logs for Non-Personal Information Released through Freedom of Information* (PC045), The Department of Treasury and Finance is now required to publish a log of all non-personal information released under the Act.

In accordance with this Circular, any non-personal information determined for release as part of this application, may be published on the DTF website. A copy of PC045 can be found at the following address: https://dpc.sa.gov.au/resources-and-publications/premier-and-cabinet-circulars. Please visit the website for further information.

No fees and charges are payable for this application.

As I am determining this application as Principal Officer, section 29(6) of the Act does not provide for an internal review. If you are dissatisfied with my determination you are entitled to exercise your rights of external review with the Ombudsman.

Alternatively, you can apply to the South Australian Civil and Administrative Tribunal. If you wish to seek a review, section 39(3) of the Act states you must do so within 30 calendar days of receiving the determination.

If you require any further information, please contact Vicky Cathro on (08) 8226 1866.

Yours sincerely

Rob Lucas

Hon Rob Lucas MLC
Principal Officer

14 July 2020

RELEASE IN PART

24/10/18
T18/028
TRS18D2126

MINUTE

Government of South Australia

Department of Treasury and Finance

MINUTES forming ENCLOSURE

File SAF18/1032

Doc No A918646

To The Treasurer

RENEWAL OF THE INSURANCE COVER FOR THE PRINCIPAL ARRANGED CONTRACT WORKS INSURANCE FOR 2018/19

Timing: URGENT — A decision is required before 29/10/2018

Recommendations/Issues: It is recommended that you:

- note that the Principal Arranged Contract Works Insurance (PACWI) program expires on 31 October 2018;
- note the PACWI program provides material damage and liability insurance for government construction projects and maintenance works performed on government owned assets;
- note SAIcorp facilitates the placement of the PACWI in the commercial insurance market through its broker, Aon Risk Services, and insured agencies include the Department for Planning, Transport and Infrastructure, SA Water and Housing SA;
- note the premium for the PACWI cover is ultimately borne by the insured agencies, all of which have confirmed their agreement with the terms of cover and premium rates offered by the insurers for renewal of the 2018/19 period of insurance; and
- approve SAIcorp incurring the renewal premium for the 2018/19 PACWI program in the amount of [redacted] inclusive of GST and Stamp Duty, noting that the expense will be recovered in full from the insured agencies.

Noted and Approved/~~Not Approved~~

Rob Lucas

Hon Rob Lucas MLC
Treasurer

28/10/18

Key points:

- To ensure the State is adequately protected against losses incurred during the construction and maintenance of State assets, SAicorp facilitates the placement of a Principal Arranged Contact Works Insurance (PACWI) program in the commercial insurance market annually.

- The placement is facilitated through SAicorp's appointed insurance broker, Aon Risk Services and agencies currently participating on the program include the Department of Planning, Transport and Infrastructure (DPTI), SA Water and Housing SA.

- The PACWI program provides agencies (in their capacity as contract Principals) and their Contractors and Subcontractors with comprehensive Material Damage (similar to commercial property insurance) and Liability insurance for construction and maintenance works.

- As insured parties and insured property includes Contractors to government and their property used in the construction process, it is not appropriate for the risks to be insured under SAicorp's Agency Agreement. A more detailed summary of the PACWI program is provided in the attached Briefing Note.

- [redacted]s the current lead insurer on the Material Damage component of the PACWI program, taking on [redacted] of all risks insured. The balance of the cover is held by various Australian and overseas insurers.

- The Liability component of the PACWI program is split into three layers. The Primary layer has a limit of $50 million, the First Excess layer, provides a further $50 million of cover in excess of the Primary layer and the Second Excess layer provides $150 million of cover in excess of the Primary and first Excess layers. There is $250 million of Liability cover available to agencies.

- [redacted] is the lead on the Liability portion of the [redacted] program, taking [redacted] of the risks insured under the Primary layer. [redacted] the First Excess layer in full and lead the cover for the Second Excess layer [redacted] with [redacted] taking up a [redacted] share of the risk respectively.

- Most other State government insurers have some form of PACWI program in place to cover construction and maintenance works. A summary of Government insurance arrangements for construction risks by state is attached for your reference.

- The period of insurance for the PACWI program has, until recently, been 31 August to 31 August. In light of hardening insurance markets, for property insurance in particular, SAicorp has recently amended the period of insurance to coincide with the renewal of its catastrophe reinsurance program (31 October) and to bring it closer to the renewal of other large whole of government commercially placed insurance policies (30 November).

- This is because many of the same insurers, [redacted] in particular, are active across a number of SAicorp's commercial insurance placements and alignment of the renewal dates provides SAicorp with the best opportunity to achieve favourable placement outcomes.

- [redacted]

Renewal 2018/19

- [redacted]
- The value of projects declared for the 2018/19 period of insurance was considerably higher than in previous years, with $1.906 billion declared under the Material Damage component and $2.042 billion declared under the Liability component.
- The reason for the difference in values declared under each component of cover is because Housing SA and the Facilities Services division of DPTI undertake minor construction works and maintenance works that have no Material Damage exposure.
- As noted previously, Aon achieved [redacted] for the Primary Liability cover. Taking into account the increased declared values renewal premium for the Primary Liability layer is [redacted] inclusive of GST and Stamp Duty.
- The premiums of the First and Second Excess layers of the Liability cover were also achieved at a roll-over of the expiring rates. These premiums are $85,470 and $91,575 inclusive of GST and Stamp Duty respectively.
- The total renewal premium for the 2018/19 Liability component of the PACWI program is [redacted] inclusive of GST and Stamp Duty.
- For the Material Damage component of the program, lead terms were provided by [redacted] insurers being [redacted]
- [redacted]
- [redacted]

- [redacted]
- [redacted]
- [redacted]
- [redacted]
- [redacted]
- Note that all of the insured agencies have agreed to renew the PACWI program for 2018/19 with [redacted] leading the Material Damage component and [redacted] leading the Liability component, and have agreed to incur their allocated percentage of the total renewal premium expense in accordance with the value of projects each has declared.
- While there is no budget impact for SAicorp associated with the premium expense for the PACWI placement, your approval to incur the overall renewal expense is required so that SAicorp can settle the invoices raised by the insurers.
- Once this has been completed, SAicorp recovers the renewal premium expense in full from the insured agencies. This arrangement mitigates the risk of the cover lapsing due to non-payment of the insurance premium by agencies.
- Your approval is therefore sought for SAicorp to incur a total of [redacted] (inclusive of GST and Stamp Duty) in renewal premium expenses against [redacted] in construction and maintenance works across the three agencies insured under the 2018/19 PACWI program. The supporting calculation for this expense is detailed in the table below:

Renewal Premium Calculation for 2018/19 PACWI Program

[redacted]

- [redacted]

- Note that 75% of the renewal premium for the Material Damage and Primary Liability cover will be invoiced upon confirmation of the placement, with the remaining 25% billed at the expiry of the period of insurance.

- Note 100% of the First and Second Excess Liability layers will be invoiced at the commencement of the period of insurance.

Kevin Cantley

Kevin Cantley
GENERAL MANAGER, SAFA

24 October 2018

Supported,

D. Reynolds, CE DTF

Contact Officer:	Tim Burfield
Telephone:	72362
Email address:	tim.burfield@sa.gov.au

Attachments

- *Principal Arranged Contract Works Insurance Briefing Note*
- *Government Construction Risk Insurance Summary by State*

Principal Arranged Contract Works Insurance Briefing Note

Background

- The Government of South Australia has purchased Principal Arranged Contract Works Insurance (PACWI) since the late 1990s, with various agencies purchasing individual insurance programs as required. In 2010 Aon Risk Services, SAicorp's appointed insurance broker, and SAicorp collaborated to consolidate the various covers across government. This resulted in significant premium savings.

- In 2012, SA Water, who had maintained an individual PACWI program, agreed to join the consolidated program, which now also covers contracted construction and maintenance works of Housing SA and the Department of Planning, Transport and Infrastructure (DPTI).

- The PACWI program provides agencies (in their capacity as contract Principals) and their Contractors and Subcontractors with comprehensive Material Damage and Liability Insurance for construction and maintenance works.

- Material Damage insurance is similar to property insurance. Broadly, for construction and maintenance works it will cover the works and the worksite against loss or damage arising from an insured event, as well as loss or damage to the construction materials, equipment, tools and fittings of the worksite. It also covers the costs associated with removal of debris arising from the same.

- The policy limits on the Material Damage component of the PACWI program are considerable and provide up to $250 million per event, per worksite. For example, this means that in the event of an earthquake each construction worksite insured under the policy can access up to $250 million in insurance cover.

- The Liability Insurance component of the PACWI program provides cover for liability to third parties for physical loss, damage or injury resulting from the construction process. There are three layers of cover, being the Primary layer with a limit of $50 million, the First Excess layer, providing $50 million cover in excess of the primary layer and the Second Excess layer, providing $150 million cover in excess of the Primary and Second Excess layers of insurance.

- Agencies 'opt-in' to participation in the First and Second Excess Liability layers, based on the type and value of construction work being undertaken and their risk appetite. An example of works where the taking of a high limit of liability may be good practice is the construction of a dam in an urban or semi urban area, where there is a risk of significant damage to third parties if something went wrong during the construction process.

- Both SA Water and DPTI participate in all layers under the liability cover. Housing SA participates only up to the First Excess layer.

- Claims on both insurance components under the PACWI program can be made by either the Contractor or the Principal. As the insurance is managed by the Principal and attached to the worksite, it provides a very efficient way of ensuring continuity of cover over construction, where a Contractor is unable to complete the works. For example, if a Contractor becomes insolvent, such as occurred with [redacted]

- Other benefits of PACWI include harnessing economies of scale to ensure the broadest cover in the market is available for the construction of major infrastructure projects, greater oversight of the claims process for the Principal and more transparent and efficient methods of managing the insurance risks of contracted works.

- The alternative is for Principals to ensure Contractors and Sub-contractors have appropriate insurance cover in place for the term of the construction and maintenance works and for any run-off liability period. It is generally accepted that there are higher risks associated with this model and that it is also more onerous to manage and less cost efficient.

Premium Calculation

- Under the PACWI program, agencies provide an estimate of the value and type of contracts expected to commence during the period of insurance and the premium is calculated using the estimated declared values.

- For projects that meet the general criteria of cover (including, but not limited to, projects with a value of $250 million or less and a construction period of 36 months or less) there is automatic cover under the annual PACWI program, even if the project was not declared at the commencement of the period of insurance.

- Projects outside the general criteria of cover can be insured under the annual PACWI program, but must be first referred to the insurer panel for acceptance and a separate premium charge may apply.

- In some instances one off project insurance may be considered a more appropriate option for cover. This might be a function of the size, type and value of the project or the type of contract or contracts involved in the works. These projects are considered outside the PACWI program and its premium arrangements.

- For all projects falling under the annual PACWI program, a 75% deposit premium is charged against the estimated value of works for the Material Damage and the Primary Liability layer at the commencement of the period of insurance.

- The remaining 25% of the premium is charged upon expiry of the period of insurance, which is adjusted for changes in project values or the inclusions of previously undeclared projects.

- The first and second excess Liability layers are charged on a minimum premium basis and are not adjusted at the end of the period of insurance.

- The entire premium expense is allocated to agencies, based on the value of projects each has declared. The premium is transacted through SAicorp and recovered from the insured agencies in full to ensure the cover does not lapse due to non-payment of the insurance.

Government Construction Risk Insurance Summary by State

State	Coverage Summary
NSW	In accordance with NSW Treasury Circular TC16/11, all government agencies choosing to insure on a Principal Arranged Contract Works Insurance (PACWI) basis must procure their insurance through Icare's Construction Risk Insurance Fund (CRIF) and all NSW government capital works valued $10 million or above must be insured on a PAWCI basis. Note, Icare is SAIcorp's equivalent in NSW. State-Owned Corporations must prove they can obtain better value for money elsewhere if seeking PAWCI outside the ICare CRIF. The CRIF runs two annual programs aligned with small and large contract values, as well as project specific insurances as required. The program covers works performed under Design and Construction contracts, Alliance contracts and Public and Private Partnerships.
VIC	There is a mandate in place requiring all government agencies to insure all risks through the Victorian Managed Insurance Authority (VMIA), including construction risks. The VMIA arranges PAWCI for government agencies undertaking construction works under an annual program, as well as project specific covers as required. The program covers works performed under Design and Construction contracts, Alliance contracts and Public and Private Partnerships.
QLD	The Queensland Government Insurance Fund (QGIF) does not arrange PACWI for government agencies. However, the agencies responsible for Main Roads, Rail Infrastructure and Water Infrastructure do place PACWI across major projects.
WA	The Insurance Corporation of Western Australia (ICWA) does not arrange contract works for government agencies. However, the agencies responsible for Main Roads, Rail Infrastructure and Water Infrastructure do place PACWI across major projects.
ACT	The Australian Capital Territory Insurance Authority arranges PACWI for government agencies through an annual program and project specific covers, where required.
TAS	No involvement from government in PACWI.