



**Government
of South Australia**

TRS19D0369

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

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

lee@parliament.sa.gov.au


Dear Mr Mullighan

APPLICATION UNDER THE *FREEDOM OF INFORMATION ACT 1991*

I refer to your application made under the *Freedom of Information Act 1991* (FOI Act), dated 20 February 2019.

Your application seeks access to:

"All minutes, briefings, notes, documents, emails and correspondence held by the Treasurer, the Hon Rob Lucas MLC and Treasurer's office in relation to inquiries or potential inquiries of the South Australian Productivity Commission, between 4 September 2019 and 20 February 2019."

Determination under review

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.

Outcome of internal review

A total of 8 documents were identified as answering the terms of your application and I have determined as follows:

I grant you access in full to 2 documents, copies of which are enclosed.

I grant you access in part to 5 documents.

I refuse you access to 1 document.

Documents released in full

Documents 6, 7

Documents released in part

Documents 1 – 4, 5

Documents refused in full

Document 8

Documents released in part

Documents 1 and 2 relates to correspondence written to my office from Master Builders Association. Out of scope information has been redacted.

Document 3 is a briefing which was prepared by DTF in relation to the review of prescribed public authorities under the *State Procurement Act 2004*. The briefing has been redacted as it contains information relating to Cabinet and legal advice. I therefore determine this exempt, pursuant to clauses 1(1)(c) and 10(1) to the FOI Act.

Document 4 is an email trail between my office and Minister van Holst Pellekaan's office concerning an email from a member of the general public about a review into SA Government contracts. Out of scope information has been redacted, as has also the name and contact details of the author. I therefore determine this exempt, pursuant to clause 6(1) to the FOI Act.

Document 5 is a briefing prepared by DTF providing a copy of the State Procurement Board's proposed response to the South Australian Productivity Commission regarding the efficiency and effectiveness of current State Government procurement policies and practices. I determine the briefing and Attachments 1 and 2 can be released in full. Attachment 3 are letters from prescribed public authorities in response to letters sent out by the Chief Procurement Officer, DPC. This attachment I deem as being out of scope.

Documents refused in full

I refuse access in full to Document 8, as this is a submission prepared for the consideration of Cabinet. I therefore determine this information exempt, pursuant to clause 1(1)(a) to the FOI Act.

Exemptions

Clause 1 – Cabinet Documents

- (1) *A document is an exempt document—*
- (a) *if it is a document that has been specifically prepared for submission to Cabinet (whether or not it has been so submitted); or*
 - (b) *if it is a preliminary draft of a document referred to in paragraph (a); or*
 - (c) *if it is a document that is a copy of or part of, or contains an extract from, a document referred to in paragraph (a) or (b).*

Clause 6 – Documents affecting personal affairs

- (1) *A document is an exempt document if it contains matter the disclosure of which would involve the unreasonable disclosure of information concerning the personal affairs of any person.*

Clause 10 – Documents subject to legal professional privilege

- (1) *A document is an exempt document if it contain matter that would be privileged from production in legal proceedings on the ground of legal professional privilege.*

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 *Freedom of Information Act 1991*.

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: <http://dpc.sa.gov.au/what-we-do/services-for-government/premier-and-cabinet-circulars>. Please visit the website for further information.

No fees and charges are payable for this application.

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 9769.

Yours sincerely



Hon Rob Lucas MLC
Principal Officer

19 April 2019

Att.

Schedule of Documents

TRS19D0369

Doc. No.	Date	Description of Document	# of pages	Determination Recommendation	Exemption Clause	Reason
1	7/11/2018	Briefing from DTF to Treasurer	4	Released in part		Out of scope information removed
2	18/11/2018	Letter from Treasurer to Mr Ian Markos, Master Builders Association	3	Released in part		Out of scope information removed
3	7/12/2018	Briefing from DTF to Treasurer re: review of prescribed public authorities	4	Released in part	1(1)(c) - Copy, part or extract of document prepared for Cabinet or Cabinet committee	
					10(1) - Subject to legal professional privilege	
4	9/01/2019	Email	6	Released in part	6(1) - Unreasonable disclosure of personal affairs	Out of scope information removed
5	24/01/2019	Briefing from DTF to Treasurer re: South Australian Productivity Commission - request for information	2	Released in full		
		Attachment 1	11	Released in full		
		Attachment 2	2	Released in full		
		Attachment 3	54	Refused in full		Out of scope
6	31/01/2019	Email	2	Released in full		
7	4/12/2018	Email and attachment	6	Released in full		
8		Cabinet Submission		Refused in full	1(1)(a) - Prepared for Cabinet or Cabinet committee	

RELEASE

Lees, Sue (DTF)

From: Lees, Sue (DTF)
Sent: Thursday, 31 January 2019 1:19 PM
To: Lambetis, Athena (DTF)
Subject: FW: SAPC Response

Hi Athena I think the treasurer signed this off? Are you able to advise Roger please?

Regards,

Sue Lees
Ministerial Adviser to
the Hon Rob Lucas MLC, Treasurer
Ph 8226 1925
M 0447 619 925
Sue.lees@sa.gov.au
Level 8, State Administration Centre
200 Victoria Square, Adelaide SA 5000

From: Horstmann, Roger (DTF)
Sent: Thursday, 31 January 2019 12:28 PM
To: Lees, Sue (DTF) <Sue.Lees@sa.gov.au>
Cc: May, Selena (DTF) <Selena.May@sa.gov.au>
Subject: FW: SAPC Response

Hi Sue

I understand a briefing note received in the Treasurer's Office last week providing the proposed State Procurement Board response to the SA Productivity Commission Inquiry into Government Procurement. Are you able to advise on the timeframe for its consideration?

Regards

Roger Horstmann
Manager, Procurement Policy & Governance
Policy, Standards & Governance | Government Services

Westpac House, Level 7, 91 King William Street ADELAIDE SA 5000
t 822 65748 | e roger.horstmann@sa.gov.au | w spb.sa.gov.au



Government of South Australia
Department of Treasury
and Finance



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From: Carey, Mark (DTF) <Mark.Carey@sa.gov.au>
Sent: Thursday, January 31, 2019 12:13 PM
To: Horstmann, Roger (DTF) <Roger.Horstmann@sa.gov.au>
Subject: RE: SAPC Response

Hi Roger,

No, I haven't heard anything as yet.

Regards, Mark

From: Horstmann, Roger (DTF)
Sent: Thursday, 31 January 2019 10:30 AM
To: Carey, Mark (DTF) <Mark.Carey@sa.gov.au>
Subject: SAPC Response

Hi Mark

Any word on the Treasurer noting the Board's SAPC response or anticipated time this will likely occur?

If not, I can follow up.

Regards

Roger Horstmann

Manager, Procurement Policy & Governance

Policy, Standards & Governance | Government Services

Westpac House, Level 7, 91 King William Street ADELAIDE SA 5000
t 822 65748 | e roger.horstmann@sa.gov.au | w spb.sa.gov.au



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Tonkin, Kate (DTF)

From: DPC:PCU
Sent: Tuesday, 4 December 2018 3:29 PM
To: Tonkin, Kate (DTF)
Subject: RE: PREM - B277418 - Correspondence - Consult Australia - Productivity Commission Government Procurement Inquiry (B277418)

Ok thank you Kate much appreciated.

From: Tonkin, Kate (DTF) <Kate.Tonkin2@sa.gov.au>
Sent: Tuesday, 4 December 2018 2:36 PM
To: DPC:PCU <DPCPCU@sa.gov.au>
Subject: RE: PREM - B277418 - Correspondence - Consult Australia - Productivity Commission Government Procurement Inquiry (B277418)

Hi Vince,

I have been advised by my MLO that this matter better fits under the Premier's portfolio, as the Productivity Commission is currently undertaking a Procurement inquiry – you could contact Gerard Macdonald or Matthew Butlin to confirm if this matter is within the current inquiry.

Thank you

Kate Tonkin

Correspondence Officer to the
Hon Rob Lucas MLC
Treasurer

Phone: 8226 1866
Department of Treasury & Finance
Level 8, 200 Victoria Square | ADELAIDE SA 5000



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From: DPC:PCU
Sent: Tuesday, 4 December 2018 11:43 AM
To: Tonkin, Kate (DTF) <Kate.Tonkin2@sa.gov.au>
Subject: PREM - B277418 - Correspondence - Consult Australia - Productivity Commission Government Procurement Inquiry (B277418)

Hi Kate,

Is the attached item of correspondence something the Treasurer should respond to on behalf of the Premier?

Regards,

Vince Tripodi

Executive Officer

Office of the Premier

Department of the Premier and Cabinet

T +61 (8) 8429 2325

E Vince.Tripodi@sa.gov.au | **W** dpc.sa.gov.au

Level 15, State Administration Centre

200 Victoria Square (Tarntanyangga)

ADELAIDE SA 5001



Government of South Australia

Department of the Premier
and Cabinet

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3 December 2018

The Honourable Steven Marshall MP
Premier of South Australia
GPO Box 2343,
ADELAIDE SA 5001

Dear Premier,

RE: South Australian Productivity Commission – Government Procurement Inquiry

Consult Australia is the industry association representing consulting firms operating in the built and natural environment sector. These services include design, engineering, architecture, technology, surveying, and project management solutions for individual consumers through to major companies in the private and public sector including local, state and federal governments. We represent an industry comprising some 48,000 firms across Australia, ranging from sole practitioners through to some of Australia's top 500 firms with combined revenue exceeding \$42 billion a year.

Consult Australia strongly supports standardisation of procurement practices and documents, alongside simplified, fair liability and insurance requirements – with the inclusion of contractual limits to liability as a measure to provide certainty to industry contracting with government, and one that also will drive efficiency and result in better project outcomes for public sector clients.

In September 2016, the then South Australian Government implemented a major procurement reform strategy aimed at reducing red tape and costs to suppliers by adopting a less complex, more agile procurement framework.

The State Procurement Board played a significant role in developing the policy framework that underpinned the reform strategy, which increased the standardisation of procurement practices and documents across government and simplified the liability and insurance requirements. However, under the current South Australian State Procurement Regulations 2005 (under the State Procurement Act 2004) there is an exemption of building and construction projects above \$165K. This means those procurement reforms adopted by the State Procurement Board do not affect those agencies/authorities predominately focused on building and construction projects. This situation sees businesses having to factor in disproportionate levels of project risk, purchase additional insurance and waste time and cost on protected contract negotiations. This benefits neither the health of our sector nor the project objectives of clients and Government.

The exemption of capital projects from the current Government Procurement Inquiry once again denies our sector opportunity to access:

- Collaborative-based approaches to procurement, project management and risk allocation;
- Promotion of safer and more productive delivery;
- best practice on bidding, contracting and procurement streamlined processes and;
- reduced costs.

Consult Australia's recent Model Client Policy calls on all political parties to ensure the governments they lead, or support, will behave ethically, fairly, and honestly in their dealings with the private sector. That is, for them to adopt a Model Client Policy, in line with governments' Model Litigant Policy.

A 'Model Client' works collaboratively with industry to achieve mutually beneficial outcomes and does not use their market power to the disadvantage of local businesses and their employees.

The Model Client Proposal sets out a number of principals including:

Appropriate Risk Allocation

Some public and private sector clients are using their market power to adopt a position that presents systemic risks to the economy and business confidence. When acting as a purchaser, government entities hold significant market power, therefore it is important that their conduct demonstrates Model Client behaviour. This is particularly important given the application of the Competition and Consumer Act to government procurement remains unresolved. A similar position is often adopted by the financial institutions and contractors, reinforcing a culture of inappropriate risk allocation where the burden is placed on professional services firms.

It is important here to highlight that technical capability and risk (e.g. is something designed correctly) is different from project risk. A firm's commercial capacity to cover that risk (e.g. having sufficient assets or capital) is driven by the extent to which the firm has control of the risk.

This culture can make a wide range of consultants liable for the entirety of the losses associated with the project, including in some instances, economic loss which a court may not normally ascribe to professional liability. This may have been a reluctantly tolerated business practice in the past when insurance costs were moderate and availability relatively unrestricted.

Today, and particularly in tougher insurance environments, this inappropriate transfer of risk drives the cost and availability of professional indemnity insurance beyond the capacity of some consulting firms to afford, obtain, and retain cover over the often long-life of the liability exposure. As a result, some professional services firms now choose to avoid government and public sector work where a poor procurement culture persists (such as the contracting out of proportionate liability legislation).

Fairness in Contracting

Onerous contracting is more likely to lead to disputation, as well as lengthier negotiations in the initial phase. Should a risk be realised and liability eventuate, an onerous contract means there will be less incentive for the parties to settle instead of pursuing costly litigation.

The cost of lengthy negotiations and managing onerous contracts, or indeed the cost of disputation and litigation is significant. A 2009 study by the Cooperative Research Centre for Construction Innovation¹ found the cost of disputation to be worth around \$7 billion in that year in Australia, adding around 6 per cent to the overall cost of work done. In addition, delays to project delivery could be reduced by 7 per cent through better procurement, according to The Economic Benefits of Better Procurement report.

Onerous and unfair terms such as these should be prohibited from use in government contracts. Governments should adopt a more appropriate approach to risk allocation and liability management. Setting an appropriate limit of liability allows business to properly insure themselves, and makes government a more attractive client to do business with.

This Principle, within the Model, would prohibit the use of such clauses in contracts for consulting services, and prohibit government agencies from using their market power to introduce such terms.

Accessibility and Affordability of Professional Indemnity Insurance

Affordability and accessibility of professional indemnity insurance is critical because unlike other parties involved in infrastructure development, professional service firms are generally an asset poor class of business, with a majority being small and medium enterprises.

Like other professional groups, they provide intellectual services (as opposed to a tangible good), they depend on professional indemnity insurance to cover their common law liability. Indeed, consulting firms generally take

¹ Cooperative Research Centre for Construction Innovation, Guide to Leading Practice for Dispute Avoidance and Resolution, www.construction-innovation.info, 2009, p8

out broad ranging and often expensive insurance policies to cover liabilities arising from their work, and to protect their business and personal assets. For professional services firms, the professional indemnity insurance premium is one of their largest expenses.

In recent contracts, requirements for professional indemnity insurance and public liability insurance amounts are unreasonably high and bear little relationship to the risk profile of the project. This has the effect of increasing costs for consultants when bidding for projects in order to increase the amount of insurance they hold. This again reduces competition because few consultants are able to absorb the cost given that attempts to pass on the additional cost to the potential client renders their bid unattractive.

Adoption of Standard Contracts

The use of standard contracts fairly negotiated between industry and government, with input from relevant stakeholders, reduces the need for costly legal review or negotiations. Such contracts give all parties the comfort of knowing that risk and reward is allocated fairly to avoid many of the negative outcomes described above.

This was the driver behind the development of the Australian Standard Conditions for Consultants AS4122-2010. The negotiation of AS4122-2010 was developed by government and industry representatives who invested significant resources. The objective was to negotiate and agree a fair and balanced contract that would reduce the need for bespoke contracts, and achieve significant cost savings by reducing the need for protracted contract negotiations.

AS4122-2010 has been adopted to some extent, but has yet to achieve its full potential. Regrettably an issue frequently encountered with the use of standard contracts, like AS4122-2010 is the attachment of special conditions. Where agencies do attach special conditions, they need to be aware that they are undermining the benefits of using a standard contract. This is because it re-introduces the need for extended negotiation of the new terms.

While we acknowledge that standard contracts will not be appropriate on all projects (such as, for example, unique major infrastructure projects), we strongly recommend that government agencies use standard contracts on an 'if not, why not' basis, whereby the public service is required to use them unless there is an appropriate reason not to do so that is explained to their industry partners and recorded publicly.

Adoption of Proportionate Liability

In response to the insurance crisis of 2001, a package of reforms including Proportionate Liability Legislation was enacted to replace the doctrine of 'joint and several' liability. Under this old regime, multiple parties may have contributed to the loss suffered by a plaintiff, but any one of them could have been held liable for the total loss, and be required to bear the full cost irrespective of their individual contribution to the loss. Proportionate liability was introduced on the principle that any loss is divided among the parties according to their share of responsibility, as determined by a court. Ensuring that all the parties retain their rights under the Proportionate Liability Legislation will keep the cost of insurance down and maintain stability of access to professional indemnity insurance for professionals.

The persistence of contracting out of proportionate liability creates a significant systemic risk to the procurement of the professional services required to deliver government infrastructure. It also perpetuates a culture of poor risk management resulting in governments:

- Paying higher fees for professional services
- Forcing many businesses to pay expensive additional insurance premiums, if available
- Reducing competition from firms unable to obtain or afford insurance
- Creating an situation where some firms proceed without insurance, often unknowingly
- Reinforcing a culture of poor risk and contractor management, and of inappropriate offloading of risk
- Unnecessarily exposing the economy to future tightening in local and global insurance markets

A copy of the full Model Client Policy is attached to this submission and available for download [HERE](#)

Consult Australia would argue that the scope of the South Australian Productivity Commission – Government Procurement Inquiry be expanded to include capital projects as the issues raised in the paper are as relevant in capital works projects as they are general goods and services.

Consult Australia would welcome the opportunity to further discuss any issue raised within this letter, and to discuss how South Australian procurement can be generally improved. Should you wish to contact me, my contact points are below.

Yours sincerely,



Jan Irvine

Director State Operations | State Manager, South Australia & Northern Territory

P: (08) 8213 2131; M: 0408 845 975; E: jan@consultaaustralia.com.au

RELEASE IN PART

MINUTE



MINUTES forming ENCLOSURE

File T&F18/0349

Doc No A956944

To The Treasurer

(Ref: TRS18D2030)

CORRESPONDENCE FROM MASTER BUILDERS SOUTH AUSTRALIA

Timing: ROUTINE — For information only

Recommendations/Issues: It is recommended that you:

1. Consider and sign the attached draft reply to correspondence from Mr Ian Markos, Chief Executive Officer of Master Builders South Australia.
2. Discuss with the Premier the potential for a future inquiry by the South Australian Productivity Commission into the cost of building regulations.

Approved / Not-Approved

A handwritten signature in black ink, appearing to read 'Rob Lucas'.

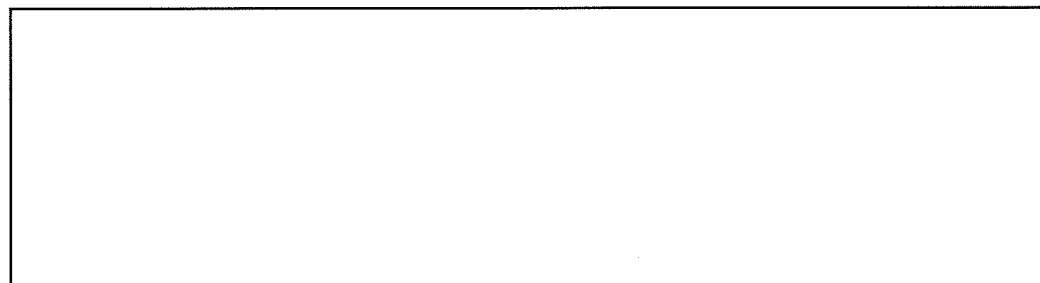
Hon Rob Lucas MLC
Treasurer

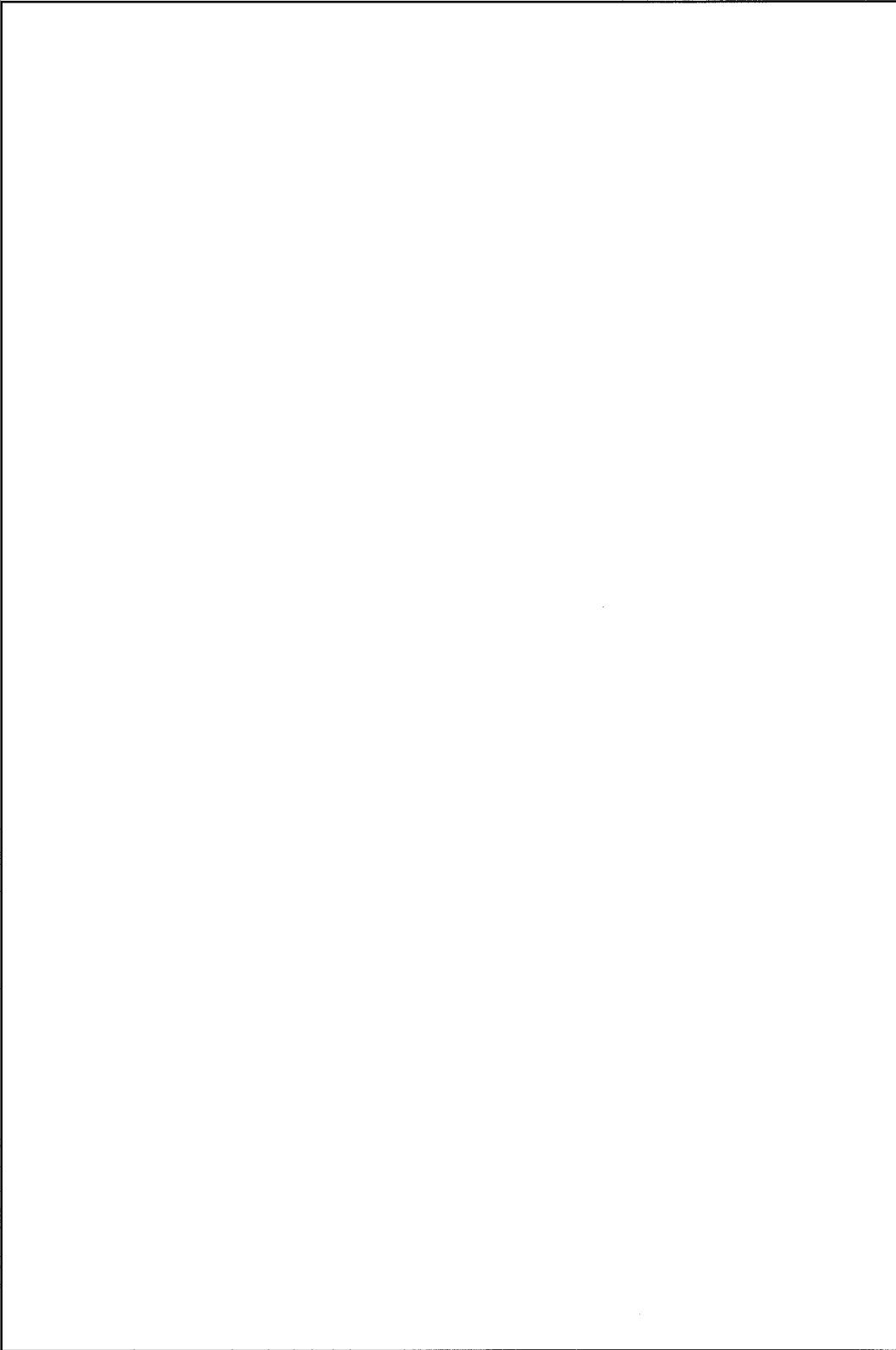
18/11/18

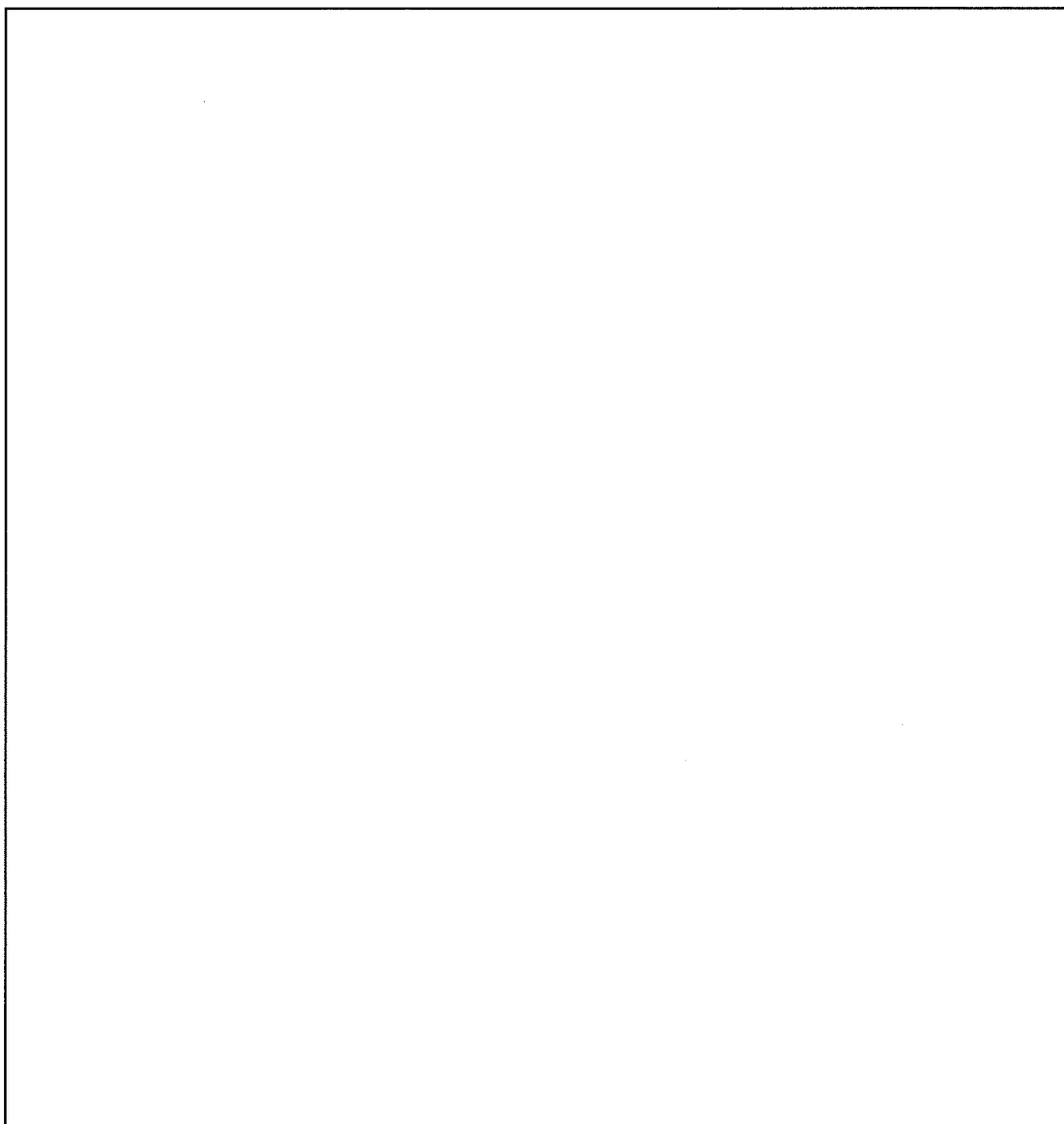
BACKGROUND

On 15 October 2018 the Chief Executive Officer of Master Builders South Australia (MBSA) wrote to you expressing concern around declining building approvals for private sector houses.

MBSA also made representations about the economic impact of the residential construction industry, population growth and interstate migration, housing affordability and labour market conditions.



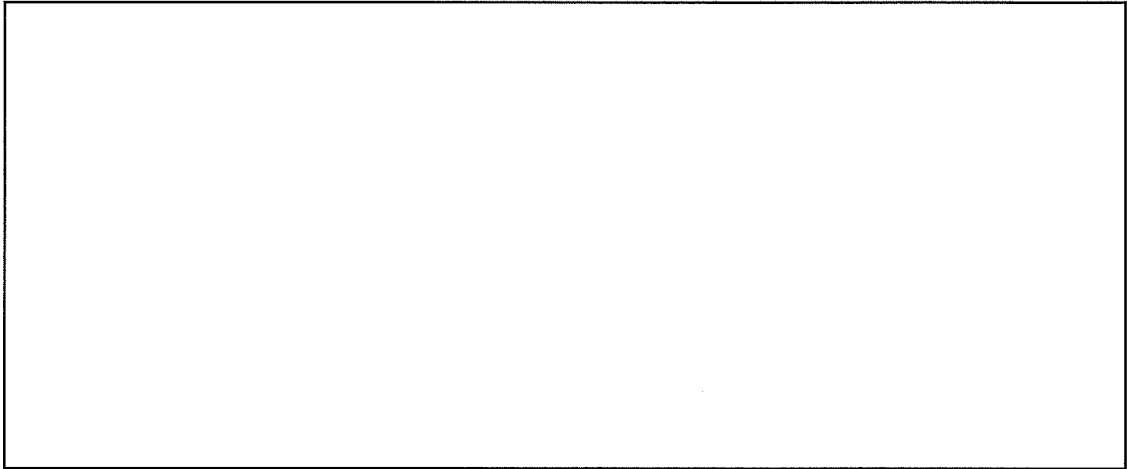




Proposal 3: A South Australian Productivity Commission Investigation

MBSA has proposed an inquiry into building costs by the South Australian Productivity Commission, including taxes. The scope of any Productivity Commission inquiry should be limited to regulatory costs, not extended to taxes. An inquiry would provide an opportunity for a rigorous evaluation of the benefits and costs of a range of building regulations, including the requirement for rainwater tanks (which is a requirement specific to South Australia).





David Reynolds
CHIEF EXECUTIVE

71/1/2018

Contact Officer:	Matthew Winefield
Telephone:	8429 3495
Email address:	matthew.winefield@sa.gov.au

¹ Productivity Commission (2011), *Performance Benchmarking of Australian Business Regulation: Planning, Zoning and Development Assessments*, Research Report, Canberra (p. xxii)

The Hon Rob Lucas MLC



Government
of South Australia

TRS18D2030

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

Mr Ian Markos
Chief Executive Officer
Master Builders South Australia
PO Box 10014
ADELAIDE BC SA 5000

lan
Dear Mr Markos

Thank you for your letter dated 15 October 2018, about the level of dwelling approvals and construction activity in South Australia.

OUT OF
SCOPE

OUT OF
SCOPE

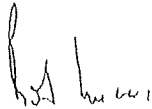
OUT OF SCOPE

[REDACTED]. I will raise with the Premier the possibility of a broader examination into the cost impacts of construction regulation, as a potential future inquiry for the South Australian Productivity Commission (which formally commenced

operating in October). I am not inclined to include taxation within the scope of such an inquiry.

OUT OF SCOPE

Yours sincerely



Hon Rob Lucas MLC
Treasurer

18 November 2018

cc Hon Stephan Knoll MP, Minister for Planning

MINUTE

16/12/2018
T18/040
TR518D2535



Government
of South Australia
Department of Treasury
and Finance

MINUTES forming ENCLOSURE

File DPC18/1535
Doc No DPC18D01389

To The Treasurer

REVIEW OF PRESCRIBED PUBLIC AUTHORITIES UNDER THE STATE
PROCUREMENT ACT 2004

Timing: ROUTINE for approval

Recommendations/Issues:

- Note the activities undertaken regarding the Government's election commitment to "review the status of prescribed public authorities to ensure authorities currently operating outside government procurement rules are brought into line with other public sector agencies".
- Note the synergies between this review of prescribed public authorities and the current inquiry into Government procurement being undertaken by the South Australian Productivity Commission (SAPC).

Noted

- Request that the terms of reference for the SAPC's inquiry be expanded to include a review of prescribed public authorities.

Endorsed/Not Endorsed

- Should it not be considered appropriate to expand the SAPC's terms of reference, approve that a briefing be prepared to the responsible Minister for each prescribed public authority, outlining the authority's response to the review and requesting the Minister's views on continuation of the prescribed status.

Also note - need to expand TOR
to include construction as well


Approved/Not Approved


Rob Lucas

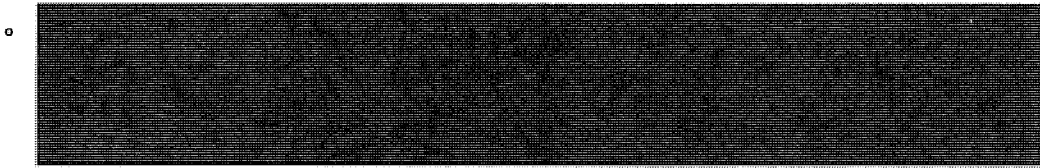
Hon Rob Lucas MLC
Treasurer

16/12/2018

Key Points:

- Government Services within the Department of Treasury and Finance has responsibility for overseeing the following election commitment: *"Review the status of prescribed public authorities to ensure authorities currently operating outside government procurement rules are brought into line with other public sector agencies"*.
- The following prescribed public authorities are currently listed in the *State Procurement Regulations 2005*:
 - 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 (to be dissolved July 2019);
 - 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.
- 
- In June 2018, the (former) Chief Procurement Officer wrote to each prescribed public authority, advising of the review, and seeking the following information:
 - An understanding of the nature of each entity's operations, including commercial basis (where relevant);
 - The structure of each entity's procurement function, governance frameworks and mechanisms in place to support the intent/objectives of the *State Procurement Act 2004* (the Act);
 - Any significant issues relating to the entity's procurement function in the past five years, including Auditor-General's findings, other investigations or significant supplier complaints, and a brief description of the outcome;
 - Any commercial or other disadvantage of requiring compliance with the Act; and
 - Whether the entity considers it appropriate to remain a prescribed public authority for the purpose the Act.
- Since the time of that correspondence, the Riverbank Authority has been abolished (and removed from the Regulations), and an announcement has been made that the Motor Accident Commission will be abolished (effective July 2019).
- Responses were received from all prescribed public authorities. Not surprisingly, each authority has requested to continue its prescribed status under the *State Procurement Regulations 2005*.

- While justification varied between the public authorities, some of the common reasons provided include:
 - The commercial nature of operations, where additional administrative and approval requirements may hinder commercial opportunities;
 - Small public authorities need to manage finance and operations with minimal overhead structure and as such additional resources would be required and costs incurred; and
 - Public authorities are subject to ongoing audits by the Auditor-General, and have effective governance mechanisms in place that provide equivalent procurement outcomes to those stipulated in the Act.
- None of the responses received indicated any significant issues or audit findings relating to their respective procurement functions over the past five years.
- To further inform the assessment of the responses provided by public authorities, the opinion of the State Procurement Board (SPB) was sought. In its deliberations the Board noted that:
 - These bodies range from large procuring entities down to small public authorities with low levels of procurement activity;
 - Whilst the larger authorities have their own Board in place to provide oversight of major procurement transactions, this is not substantially different from Government departments who have procurement governance committees in place with similar functions;
 - For small entities, the Board's policies have been streamlined in recent years to simplify lower value procurement processes; and
 - The reasons provided by the public authorities for retaining their prescribed status were not compelling.
- In considering the above points, and the advice received from the Crown Solicitor's Office,

- As you would be aware, the SAPC has recently commenced an inquiry into the efficiency and effectiveness of Government procurement processes and practices. The SAPC's current terms of reference limit the scope to public authorities subject to the Act, however there may be the opportunity to expand these terms of reference to include review of prescribed public authorities.
- Given the nature of the SAPC's review, there are potential benefits in considering the status of prescribed public authorities as part of its enquiry, rather than pursuing the proposed policy change separately (i.e. it enables this decision to be considered in the context of a likely broader range of recommendations). Commissioner Butlin has himself raised this issue in discussions and advised that he would welcome the broadening of his terms of reference to include consideration of the future status of prescribed public authorities, if the Government wished to do so.
- Should it not be considered viable to expand the SAPC's inquiry, it is proposed that a briefing be prepared to the Minister responsible for each prescribed public authority, outlining the authority's response to the review requesting the Minister's views on continuation of the prescribed status.



A handwritten signature in ink, appearing to read 'D. Reynolds'.

David Reynolds
CHIEF EXECUTIVE

7 December 2018

Contact Officer:	Mark Carey
Telephone:	0402 749 607
Email address:	mark.carey@sa.gov.au

Borlase, Trish (DTF)

From: Borlase, Trish (DTF)
Sent: Wednesday, 9 January 2019 3:19 PM
To: Booth, Yvette (DEM)
Subject: [REDACTED] major SA Government Contracts
Attachments: [REDACTED]

Hi

As discussed I have checked with various people and we think this is the review [REDACTED] is referring to.

For your information I have also been advised that the Productivity Commission are undertaking a review of procurement, what this review entails I'm not sure.

Regards
 Trish

From: Booth, Yvette (DEM)
Sent: Wednesday, 9 January 2019 2:51 PM
To: Borlase, Trish (DTF) <Trish.Borlase@sa.gov.au>
Subject: [REDACTED] major SA Government Contracts

Thanks Trish

I appreciate that ☺

Yvette

From: Borlase, Trish (DTF) <Trish.Borlase@sa.gov.au>
Sent: Wednesday, 9 January 2019 2:44 PM
To: Booth, Yvette (DEM) <Yvette.Booth3@sa.gov.au>
Subject: [REDACTED] major SA Government Contracts

Hi Yvette
 I'm waiting to speak to the Chief of Staff, I'll try again this afternoon.

Trish

From: Booth, Yvette (DEM)
Sent: Wednesday, 9 January 2019 2:38 PM
To: Borlase, Trish (DTF) <Trish.Borlase@sa.gov.au>
Subject: [REDACTED] major SA Government Contracts

Hi Trish

Just wondering if you have an ETA on providing any info re my enquiry below? [REDACTED]

Cheers,
 Yvette

From: Booth, Yvette (DEM)
Sent: Monday, 7 January 2019 3:53 PM
To: Borlase, Trish (DTF) <Trish.Borlase@sa.gov.au>
Subject: [REDACTED] major SA Government Contracts

Hi Trish

[REDACTED] is not part of the major SA Government contracts review. However, she was certain that such a review is underway by Hon Rob Lucas.

Accordingly, if you could provide some advice about that review it would be great, namely:

- Progress of review
- Anticipated completion date
- Whether results will be publicly available

Our Adviser will contact [REDACTED] to provide this advice, as well as an update on [REDACTED]

Kind regards,
Yvette

From: Booth, Yvette (DEM)
Sent: Monday, 7 January 2019 3:33 PM
To: Borlase, Trish (DTF) <Trish.Borlase@sa.gov.au>
Subject: [REDACTED] major SA Government Contracts

Good afternoon Trish

As discussed, if you could confirm whether there's a 'current review of major SA Government Contracts' underway that would capture [REDACTED] it would be most appreciated. Including an anticipated completion date, if relevant.

Attached is the correspondence from [REDACTED] first paragraph relevant to you, and towards the end of the corro where he mentions Hon Rob Lucas MP as "instrumental in the fate of SA's energy systems".

I'll also follow up with relevant DEM officers.

Kind regards,

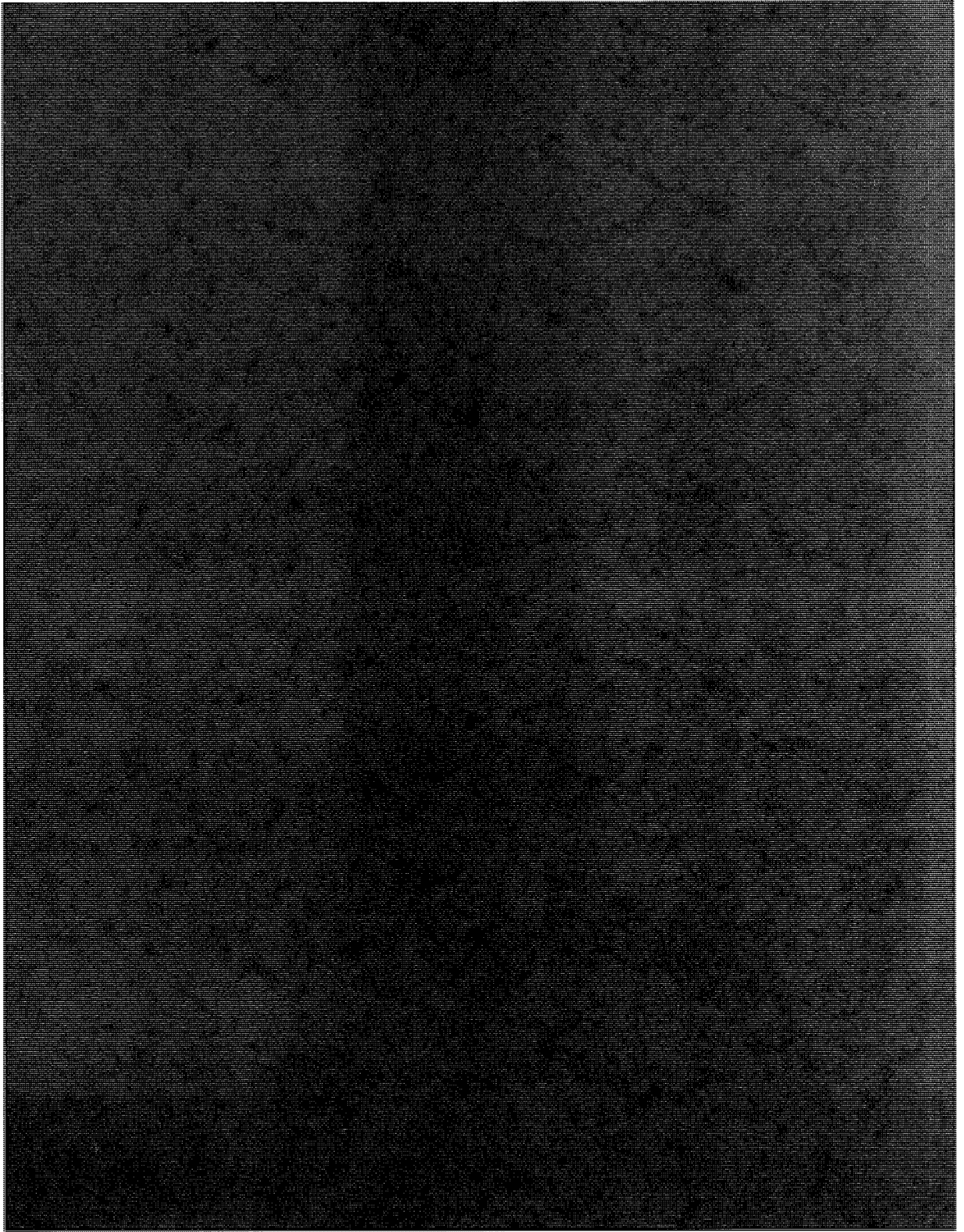
Yvette Booth
Ministerial Liaison - Energy
Office of the Minister for Energy and Mining

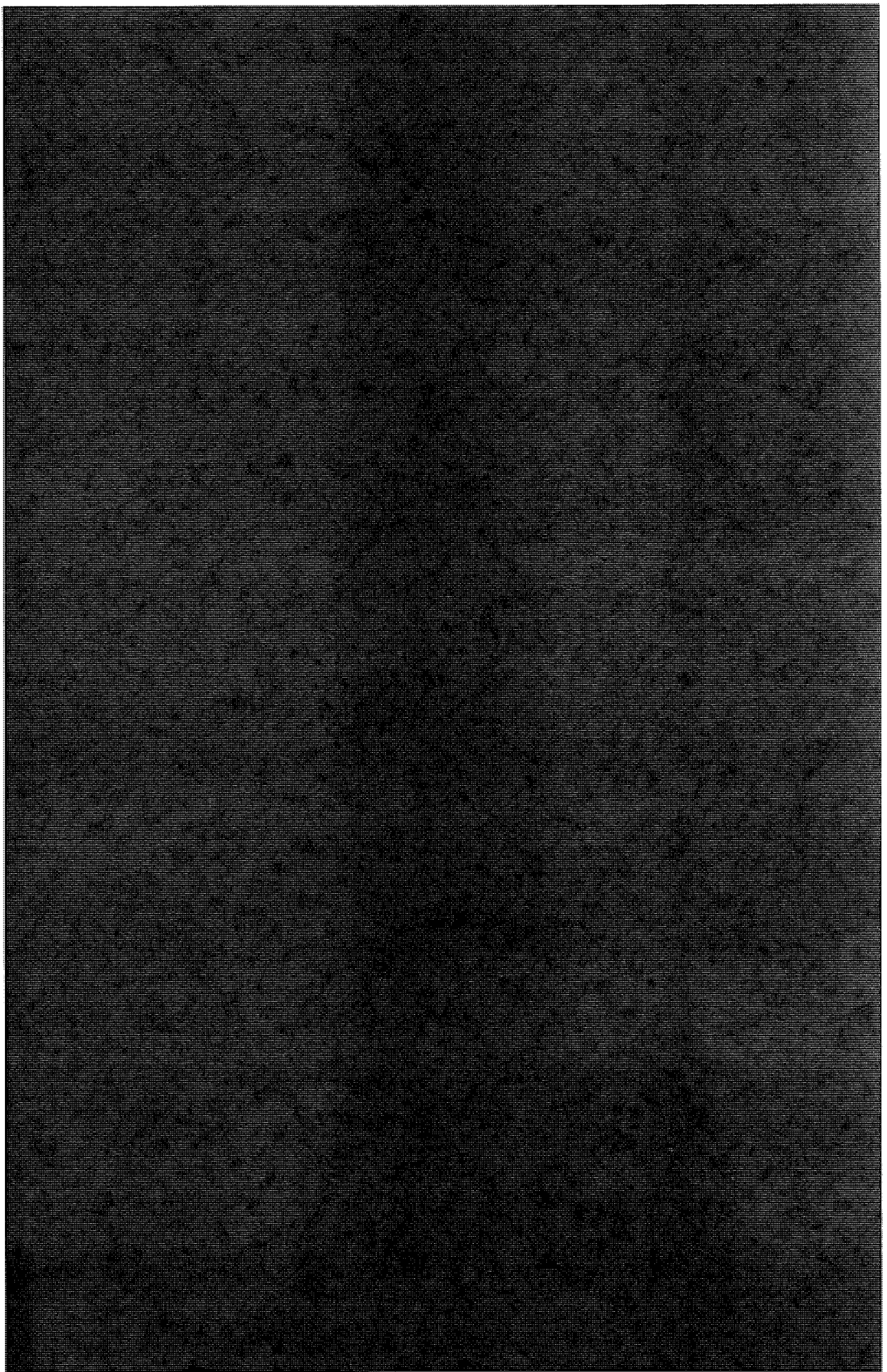
T +61 (08) 8429 2646
E Yvette.Booth3@sa.gov.au

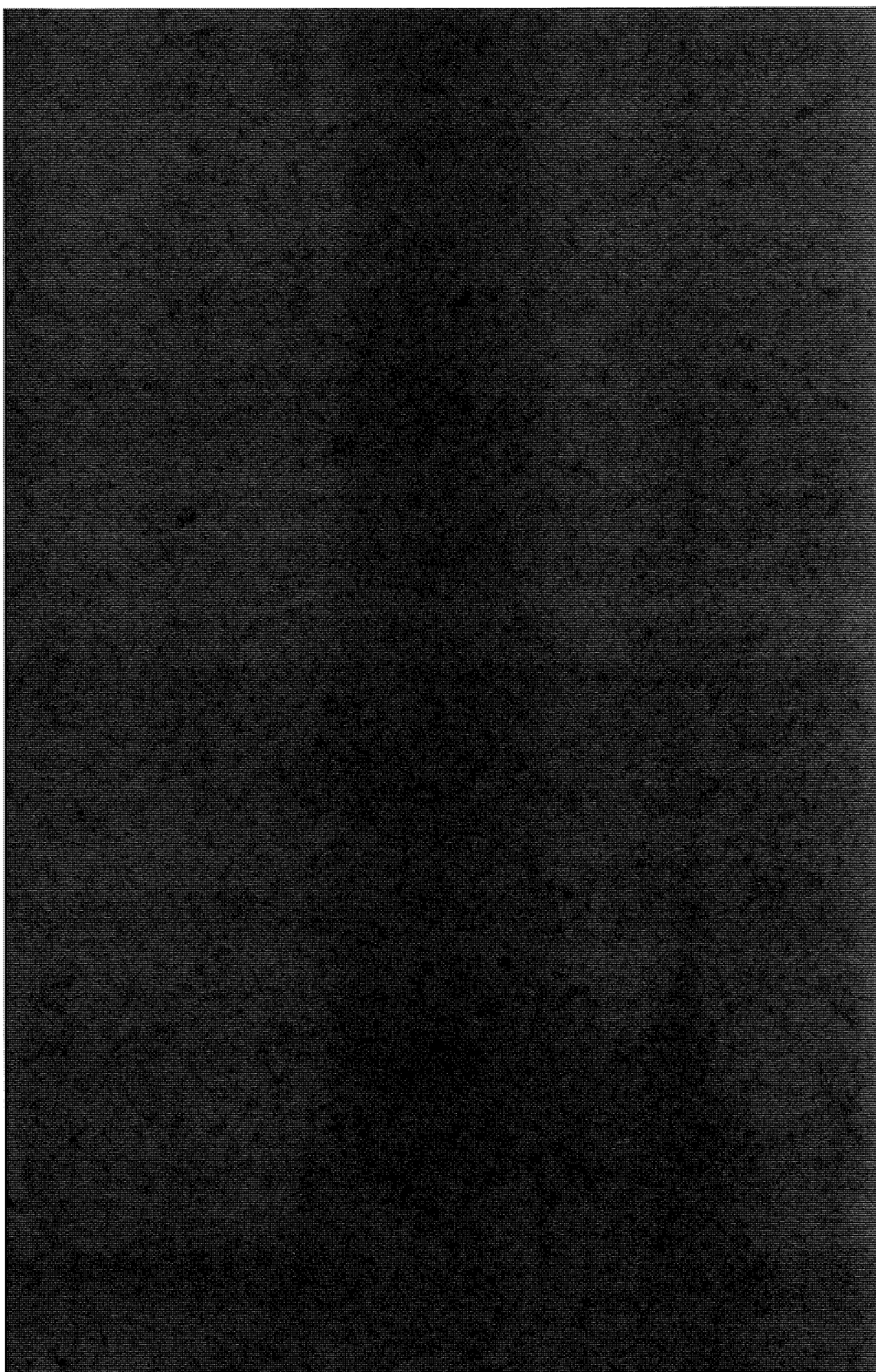
Level 17, 25 Grenfell Street, Adelaide, South Australia 5000
GPO Box 974, Adelaide, South Australia 5001 | DX 114



**Government of
South Australia**







Borlase, Trish (DTF)

From: no-reply.egigate@sa.gov.au on behalf of Contact Form Submissoin <no-reply.egigate@sa.gov.au>
Sent: Thursday, 20 December 2018 2:01 PM
To: DPC:Premier
Subject: Premier's Website - Contact Form Submission

A contact submission has been received from the Premier's website.

Submitted on Thursday, December 20, 2018 - 14:01

Submitted values are:

==Form Group==

Name: [REDACTED]

Email: [REDACTED]

Message:

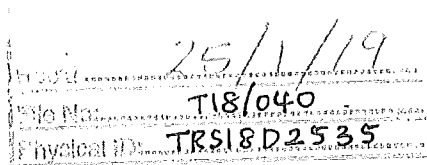
The Hon. Steven Marshall, SA Premier

Hello, I was wondering what the progress was and the expected completion date is for the current review of major SA Government Contracts. Specifically I am interested in the SA Government Energy Procurement contract, which as you know, was awarded to Solar Reserve to construct the Aurora solar thermal with storage facility, bringing a \$650 million investment to SA and 650 jobs with a good level of SA involvement. I am sure you are aware that the review is impeding progression of that project. I am sure you can appreciate too the dampening of investor confidence that may harm this (and other) contracts. [REDACTED]

[REDACTED] I have a keen interest in seeing this project reach construction. Rob Lucas was instrumental in initiating handing over major state infrastructure into private hands, the root cause of the early closure of Northern Power Station, where I worked for over 17 years. I can't say knowing he is again instrumental in the fate of SA's energy systems gives me much optimism. But I am happy to be proven wrong. As I pointed out to the SA Energy Minister recently, Solar Thermal with storage has all of the attributes needed, now, in SA's energy system. But I know he would be aware of that. And I think I have already mentioned the jobs.

Apart from the progress of this review, and its expected completion date, I would like to further ask if the results of the review will be made public in some detail.

[REDACTED]



MINUTES forming ENCLOSURE to

File: DPC18/4093
Doc No: DPC19D00143

To: The Treasurer

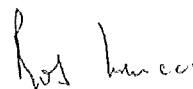
SOUTH AUSTRALIAN PRODUCTIVITY COMMISSION - REQUEST FOR INFORMATION

Timing: ROUTINE for noting

Recommendations: It is recommended that you:

- Note the State Procurement Board's proposed response to the South Australian Productivity Commission (SAPC) regarding the efficiency and effectiveness of current State Government procurement policies and practices.

Noted



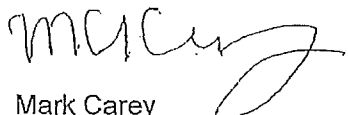
Hon Rob Lucas MLC
Treasurer

27/1/2019

Key Points

- The SAPC has been asked to evaluate the efficiency and effectiveness of State Government policies and practices for the procurement of goods and services, and to identify opportunities to improve these practices including the associated impacts on local industry.
- As part of its inquiry, the SAPC is gathering information from public sector agencies and specialist units such as Strategic Procurement within the Department of the Treasury and Finance and the State Procurement Board (Board).
- To facilitate this process, the SAPC has issued information requests setting out its key areas of interest and seeking detailed responses and evidence to illustrate the current issues.
- The Board's proposed response to the SAPC is attached for your information.

- The Chair of the SAPC has accepted an offer from the Board to attend its meeting on 11 February 2019.




Mark Carey
A/EXECUTIVE DIRECTOR
GOVERNMENT SERVICES

24 January 2018

Attachments:

- Draft Response to SAPC information request

Contact Officer:	Roger Horstmann
Telephone:	0401 122 741
Email address:	roger.horstmann@sa.gov.au

<p><u>Supported / Not Supported</u></p> <p></p> <p>David Reynolds <u>CHIEF EXECUTIVE</u> Department of Treasury and Finance Date <u>29</u> / <u>1</u> / <u>19</u></p>
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Inquiry: Government Procurement

Agency Information Request: State Procurement Board

Agency Guidance

Agencies are requested to respond to as many of the questions as possible, in as much detail as possible. The Commission acknowledges that not all agencies will be able to respond to all questions having regard to the agency's procurement experience, or the availability of relevant data or information.

The Commission staff dedicated to liaising with your agency are available to work through how your agency can best respond to questions, and to discuss and indicate why some questions can't be responded to (if applicable).

"Guidance notes" are offered for most questions to make suggestions about how agency representatives can best respond to that question, and to specify the types of information of particular interest to the Commission.

Where separate documents (e.g. spreadsheets, images, PDFs etc) are being provided please indicate the file name in the relevant section of this request and forward when responding to the Commission. Hyperlinks to online documents are a preferred method of response.

Data provided should be more than single year (but no more than five years, unless indicated) and be consistently measured over time.

Data that is sensitive or classified should be clearly identified and will be managed in accordance with the Commission's *Guideline: Use of Agency Information – Public Sector Agencies*. Where any ambiguity or doubt exists about a documents' relevance to this request and/or whether it can or should be provided please liaise with your dedicated Commission staff member.

Where available, case studies should be provided to illustrate responses and support views. Please endeavour to ensure that these have instructive qualities to help inform the Commission's inquiry.

Information Request Questions

1. Procurement Process

1.1. How is the procurement process duration measured and validated? Are there aspects, currently not measured that should be?

The Board has an established policy which requires agencies to quantify and report on the process duration for procurements valued in excess of \$220,000 (GST inclusive).

Agencies with a procurement authority greater than \$220,000 must report dates for the following key milestones, for contracts valued over \$220,000 in each financial year:

Table 1: Key Milestones

AP – Acquisition Plan Approval Received	Record the date the Acquisition Plan was approved by the delegated authority or the date approval was provided to proceed with the procurement process.
FAM1 – Formal Approach to Market Date	Record the start date of the formal approach to market. This may include: <ul style="list-style-type: none"> the date the invitation documentation was issued to the market seeking responses or the date of the commencement of formal negotiations (such as for single source procurements or for direct negotiations) or the date an Expression of Interest (EOI) was issued to the market. Date must be equal to, or after, AP.
FAM2 – Market Approach Closed Date	Record the date the formal market approach was closed. This may include: <ul style="list-style-type: none"> the date the invitation was closed (closing date for responses) or the date of the final receipt of offer from a supplier – such as for a single source or direct negotiation approach or the closing date of the second stage (for multi-stage processes). Date must be equal to, or after, FAM1 date.
PR – Purchase Recommendation Approved	Record the date the purchase recommendation was approved. Date must be equal to, or after, FAM2 date.
CA – Contract Awarded	Record the date the supplier was formally notified that they would be awarded the contract. Date must be equal to, or after, PR date.
CE – Contract Executed	Record the date the Purchase Order was issued or the contract was executed (signed by all parties). Date must be equal to, or after, CA date. This date must be within the reporting period.
Acquisition Plan Approval Received to Contract Executed (days lapsed)	This column is automatically calculated based on the number of calendar days lapsed between AP (acquisition plan approval received) to CE (contract execution date).

The Board collects agency data on all of the above milestones as part of its annual reporting requirements, but only publishes the data from FAM1 to CA, which provides the total median days lapsed from formal approach to market to contract awarded (i.e. the timeframe during which suppliers were engaged in the procurement process).

By using these milestones, the Board can measure how long any stage of the procurement process typically takes, e.g. a longer period between contract award and contract execution

may signify delays in the negotiation of contract terms and/or contract preparation. FAM1 to FAM2 indicates how long a tender is typically open for response, etc.

Prior to the 2017/18 financial year, the Board also collected data on the time spent undertaking procurement planning (e.g. conducting market research), developing acquisition plans and attaining internal agency or other approvals, up to the acquisition plan approval stage. However, planning time is very difficult to define and can vary considerably depending on the good or service being procured, and the amount of resources invested. Also, given the vital importance of sound upfront planning to the success of a procurement, the Board would generally encourage a longer planning process. Measuring the duration of procurement planning activities with a view to finding ways to reduce the time taken could be counterintuitive to achieving the optimal procurement outcomes.

The Board ensures agencies collect the required data fields on an ongoing basis through its *'Contract Register Policy'*. Through recording the milestone dates above, the Board can measure key process timeframes of interest at different points throughout the procurement process.

The milestone data collected by the Board can be used to identify trends over time, however it is impacted by a number of factors that need to be taken into consideration when analysing the data, including:

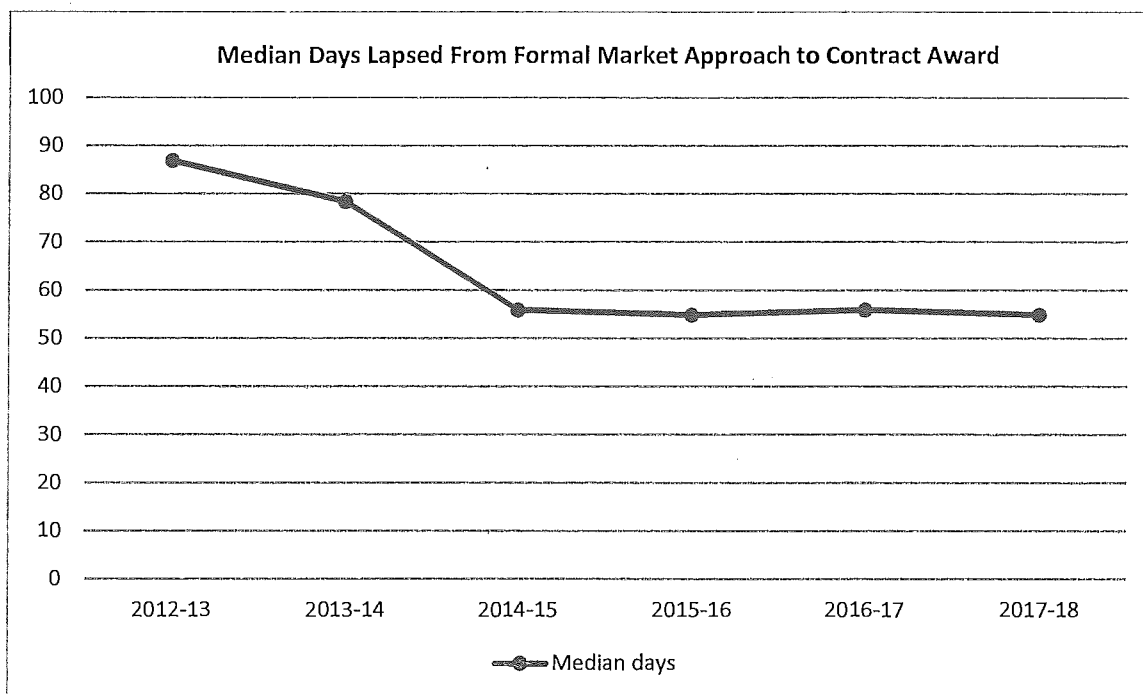
- There is no data collected that measures the efficiency of agencies in completing each milestone (e.g. the number of staff hours applied to a particular activity)
- Market approach timeframes will be impacted by the nature of the goods/services being procured and the type of market approach being undertaken. For instance, multi-stage processes will generally take longer than single stage processes, as will procurements of complex requirements where a longer market call may be needed to enable suppliers sufficient time to provide comprehensive bids
- The time taken to complete evaluations will also be affected by the nature of the good or service being procured, and potentially by the number of bids received. For example, a tender for an off the shelf software product will likely take less time to evaluate than one requiring a customised solution. Certain goods such as medical equipment may also be subject to months of clinical trials before the evaluation team can make a preferred supplier recommendation
- As the type of goods and services that are purchased in any given year can vary significantly, no two contract data sets are identical, and therefore there are validity issues when making comparisons of timeframe results across periods.

In 2017-18, the typical time taken¹ to progress a procurement project from the formal approach to market (tender advertised, or negotiations commenced) to the contract award date was 55 days. Trend analysis in Figure 1 indicates the typical time taken to undertake procurement processes has remained relatively steady since 2014/15 following a significant decrease in the previous two years. For the reasons stated above, it is difficult to pinpoint the drivers of the decrease in 2014/15, however increased practitioner awareness of government initiatives to reduce red tape, and the Board's capability development

¹ The measure of the typical time taken to establish a contract was determined using the median contract in the dataset (i.e the middle value when all contracts were arranged in order.) The mean (average) is an unfavourable indicator of the typical time taken to undertake a procurement process, as the contract data is skewed by very short and/or lengthy processes ("outliers").

initiatives, improved market approach documents, and standardised contracts are potential variables that improved results over time.

Figure 1 - Days Lapsed (median) from Formal Market Approach to Contract Award



2. Costs to Business

2.1. How often are tenders withdrawn? Why are they withdrawn?

When approving agency acquisition plans, the State Procurement Board generally delegates purchase recommendation approval authority to the agency Chief Executive or their delegate. As a result, the Board only becomes aware that a tender has been withdrawn if it receives a briefing, a new acquisition plan, a deviation proposal, or has requested a post-sourcing review and annual contract review of a particular procurement.

There are a number of reasons why a tender may be withdrawn, including the identification of probity issues, a change in government/agency policy, or a change in agency requirements.

In the years 2017 and 2018, there were three occasions where the Board received notification that a tender had been withdrawn. All three had been open market approaches.

Procurement 1 - the agency identified several probity issues during the evaluation, and the independent probity advisor recommended that the agency cancel the procurement process and reapproach the market with a revised specification and amended evaluation team membership. The specific issues identified were:

- the specification was closely linked to the incumbent supplier's product
- there was a perceived conflict of interest in relation to the evaluation team chair's attendance at an industry function

- parts of the evaluation appeared to have not been undertaken in accordance with the approved evaluation plan

Procurement 2 – two separate procurements commenced simultaneously, and one was terminated in order to pursue an opportunity that presented itself during the other procurement process.

Procurement 3 – the agency had undertaken the evaluation of tenders, but, following the change of government and a subsequent change in priorities, the process was terminated, and a new acquisition plan was developed.

2.2. Has the SPB received feedback (in the last five years) from business about the fairness or costs of procuring to public sector agencies more broadly?

The Board has not received direct feedback from business about the fairness or costs of the Government's procurement process. Feedback has largely been received indirectly through the Small Business Commissioner, Industry Advocate and other mechanisms including the Statutory Authority Review Committee's current *Inquiry into the State Procurement Board*. Examples of Board policy changes in the last three years, made as a result of indirect feedback received include:

- increased thresholds for 'simple procurement', to deliver a less complex, more agile framework
- simplified indemnity, liability and insurance requirements under low to medium risk Government goods and services contracts
- reduced dollar threshold at which forward procurement plans are published, providing greater visibility and opportunities for business to participate in government procurement
- review of contracts to ensure consistency with federal legislation on unfair contract terms (although this legislation does not apply to SA Government agencies)
- adding particular procurement considerations specific to the Not-for-Profit sector.

3. Panel Contracts & Pre-Qualification

3.1. Are panels and pre-qualification arrangements meeting their strategic objectives?

The Board does not currently receive reporting or other evidence which would enable it to quantify whether agency panel contracts are meeting their strategic objectives.

Agencies are expected to document the rationale and key objectives for establishing a panel contract in their acquisition plan, and provide information on the proposed contract model, the operation of the panel (including secondary procurement processes, and the processes for adding/removing panellists where applicable), and any reporting or data collection requirements.

Like all procurement contracts, panel arrangements need to be effectively managed to ensure that the objectives and intended benefits are realised during the contract period. This can include monitoring of usage data (including details of any leakage), obtaining user feedback, and reporting back to panellists on reasons for their non-selection following a secondary procurement process.

Reasons for establishing a panel contract could include:

- leveraging purchasing to seek improved quality, service and pricing (were a panel is planned to replace ad-hoc/disaggregated purchasing activity)
- attaining cost savings by avoiding duplication across agencies (in the case of across government panels)
- obtaining greater choice through access to multiple suppliers
- providing greater opportunity for the inclusion of local businesses
- streamlining the procurement process for both agencies and suppliers
- maintaining competitive tension.

The Board's policies require agencies to complete post-sourcing reviews, annual contract reviews, and post-contract reviews (at contract closure) for all contracts valued above \$4.4m or deemed by the agency to be a significant contract below \$4.4m.

Post-sourcing reviews are undertaken on completion of the supplier selection process to confirm if the objectives of the procurement were achieved, to identify strengths and weaknesses, and to make any recommendations for improvement in the process.

The annual contract reviews can be used by agencies to assess:

- whether the contract key performance indicators been met
- the status of contract milestones or agreed outcomes
- the areas where implementation has not been completed
- the status of risk management strategies
- any unresolved performance issues, problems or contractual matters which need to be addressed with the supplier/s
- the learnings to date
- opportunities to improve contract outcomes
- any relevant issues for future procurements.

Post-contract reviews can provide valuable lessons - positive outcomes can be shared across the agency to inform future procurements, and any negative outcomes can be used to raise awareness to avoid risk in future projects.

In the course of considering acquisition plans valued above agency procurement authorities, the Board sometimes selects significant procurements and requests to see an annual contract review report and a post-sourcing review report at the end of the first year of contract operation. Since 2016, the Board has requested 23 annual contract review reports and post-sourcing review reports, mostly from larger agencies, such as DPC (now DTF), SA Health and DPTI. The Board has received four reports involving panel arrangements to date which indicate positive outcomes against the stated procurement objectives.

The Board is proposing to establish agency reporting against a regime of performance measures for government procurement under its next strategic plan, which may include demonstrated achievement of procurement objectives.

3.2. Do the members of panel contracts receive the same amount of business? If not, what are the factors that influence this outcome?

Apportionment of business to panellists is dependent on the agency's objectives in establishing the panel arrangement. These will be influenced by the nature of the market and the volume of work available. At present the Board does not receive data from agencies to determine whether members under panel contracts receive the same amount of business and therefore cannot quantify the factors that may influence this outcome. It is understood however that under most current panel arrangement, there is no intention for panel members to receive the same amount of business.

Anecdotally, some of the factors which may influence the apportionment of business across various panel members include:

- Secondary procurement processes (generally under across government arrangements), where an agency selects a particular panellist to procure goods or services from over a defined period
- The breadth of goods or services offered by a particular panellist (i.e. some panel members may be niche suppliers and not offer the full scope of goods or services offered by other panellists)
- Differences in pricing between panel members
- Differences in the actual or perceived quality of particular goods or services between panel members
- The size and nature of particular agency requirements (e.g. some panel members may not have scale/capacity to support larger agencies).

Any secondary procurement processes under a panel arrangement should support the stated objectives and could be:

- non-competitive (e.g. directly obtaining a quote from any one panel member)
- competitive (e.g. obtaining a quote or assessing technical/commercial characteristics from several or all panel members)
- an equal division of work
- a monetary basis (e.g. obtaining three quotes for higher level values)
- a rotational basis
- a geographic basis
- a preferred supplier basis (e.g. one supplier is given the opportunity to undertake the procurement first, then other suppliers approached only if required).

Board policy requires that, in establishing panel contracts, no commitment is made to undertake a specific volume of business activity during the contract period. However, there is an expectation that all parties will act in good faith and that agencies will not raise supplier expectations of a higher volume of work than is actually anticipated.

Effective contract management by agencies, including tracking usage against each panellist, ensures that the objectives are being met, and the panel is operating as intended. The usage data collected can be used by the agency to manage the contract and also to inform future procurement processes, either in applying secondary purchasing rules, or when approaching the market to establish a new panel arrangement.

4. Compliance

4.1. How do agencies ensure compliance with the relevant procurement legislation, policy and practices?

The State Procurement Board undertakes an Assurance Program to review whether procurement policies, procedures and operational practice are effectively implemented and maintained in agencies. The Assurance Program also identifies areas for improvement in agency procurement operations.

The Assurance Program requires onsite evaluation of the compliance of agencies with the mandated requirements of Board policies, principles, guidelines, standards or directions. These mandated requirements are summarised in the State Procurement Board Assurance Program Document 1: Mandated Requirements in Board Policies and Guidelines – available at:

<http://www.spb.sa.gov.au/sites/default/files/Assurance%20Doc%201%20-%20Mandated%20Requirements%20V%203.1%20Final%20December%202018.pdf>

The revised Assurance Program for the period 2018 – 2022 also includes an assessment of Tier 2 (procurement authority of \$1.5m) and Tier 3 (procurement authority of \$220,000) procurement operations to ensure that fundamental organisational requirements are in place for an effective procurement operation. Tier 1 agencies have a procurement authority of \$15m and comprise the 6 major procuring agencies (SA Health, Department of Education, Department of Human Services, Department of Planning Transport and Infrastructure, SAPOL and Department of Treasury and Finance). Tier 1 agencies are not required to undertake an assurance review as they undertake an accreditation review in line with the Board's Procurement Accreditation Guideline.

When undertaking the Assurance Program, the Board requests:

- a copy of procurement related internal audit reports issued in the preceding two years
- any procurement related findings raised by the Auditor-General for the preceding two financial years, including the status of actions taken in response to these findings.

Audit reports provided by the agencies are taken into account to ensure the sample of contracts to be reviewed is appropriate and to focus the assurance review on high priority and high-risk matters.

How each agency ensures compliance with the relevant procurement legislation, policy and practices is a matter for the agency. As part of the Board's annual reporting requirements, agencies submit a certificate of compliance in which they report any instances of non-compliance that may have occurred during the year.

The Board undertakes the Assurance Program to meet one of the functions of the State Procurement Act (section 12 (e) of the Act), namely: "to investigate and keep under review levels of compliance with the Board's procurement policies, principles, guidelines, standards and directions."

4.2. What are the most common areas for improvement in agency compliance reports?

A new round of assurance reviews commenced in December 2018. The previous assurance review program ran from 2012 to 2016 and was largely undertaken by an external provider, with an internal Board secretariat auditor reviewing some of the smaller agencies. During this period the following assurance reviews were completed:

Table 2: Listing of Agency Assurance Reviews (2012-2016)

Agency	Board Meeting Noting
1. West Beach Trust (WBT)	July 2012
2. Department for Education and Child Development (DECD)	July 2012
3. Essential Services Commission for South Australia (ESCOSA)	March 2013
4. SACE Board	June 2013
5. Department for Manufacturing, Innovation, Trade, Resources and Energy (DMITRE)	August 2013
6. History Trust of South Australia	September 2013
7. SA Motorsport Board	September 2013
8. Department of the Premier and Cabinet (DPC)	October 2013
9. Department for Communities and Social Inclusion (DCSI)	October 2013
10. Primary Industries and Regions SA (PIRSA)	January 2014
11. SA Health	February 2014
12. Attorney-General's Department (AGD)	May 2014
13. Courts Administration Authority (CAA)	August 2014
14. Department of Environment, Water and Natural Resources (DEWNR)	August 2014
15. Defence SA	September 2014
16. Independent Gambling Authority (IGA)	September 2014
17. Teachers Registration Board (TRB)	December 2014
18. Aboriginal Lands Trust (ALT)	January 2015
19. SAPOL	August 2015
20. Department of Correctional Services (DCS)	August 2015
21. SA Fire and Emergency Services Commission (SAFECOM)	August 2015
22. SA Lotteries Commission	September 2015
23. Legal Services Commission (LSC)	December 2015
24. SA Tourism Commission (SATC)	December 2015
25. TAFE SA	December 2015
26. Department of Treasury and Finance (DTF)	December 2015
27. Department of Planning, Transport and Infrastructure (DPTI)	February 2016
28. Department of State Development (DSD)	March 2016
29. Adelaide Cemeteries Authority (ACA)	March 2016

Findings and recommendations for improvement were reviewed and classified as either a policy issue that may require an update or clarification in the Board's policy framework or an application issue where the policy guidance is sufficient, but it has not been followed.

The most common areas for agency improvement identified were in the following three issue categories:

- Acquisition Planning – inclusion of requisite detail in acquisition plans and related documentation
- Simple Procurement – inclusion of all required elements in simple acquisition plans and procurement reports
- Administration – better alignment of local guidance templates with Board policy.

All findings are followed up to ensure the agency implements the required actions to minimise the potential for the issue reoccur. A quarterly update is also provided to the State Procurement Board during the Assurance Program which summarises all the findings and the actions undertaken to address these findings.

This information is provided in ***Attachment One***.

4.3. What are the compliance rates by agency, size of tender, category of procurement?

The number of findings by each agency for the 2012-2017 assurance reviews are provided in the table below:

Table 3: Assurance Review Findings by Agency

Agency	No of findings
West Beach Trust	7
DECD	2
ESCOSA	2
SACE Board SA	6
History Trust of SA	5
SAMSB	10
DPC	12
DCSI	4
PIRSA	10
SA Health	15
AGD	7
CAA	11
DEWNR	7
Defence SA	9
IGA	3
TRB	2
ALT	4
SAPOL	1
DCS	2
SAFECOM	6
SATC	2
SALC	1
DTF	3
TAFESA	1

Agency	No of findings
LSC	5
DPTI	10
DSD	9
ACA	4
BioSA	3
Country Arts SA	4
AFCT	2
APY	16
MT	8
South Australian Film Corporation	5
Adelaide Festival Corporation	6
TOTAL	204

The types of findings identified in **Attachment One** are split between simple procurement and larger procurements, and findings that do not relate to individual procurements but to other general matters such as record keeping, disposals and use of contract registers etc. Further detailed review is required to specifically identify issues – i.e. reviewing the 29 individual assurance reports. These were provided to the Commission earlier on request.

The current process does not currently apply a risk rating against the individual findings, but this could be considered in future programs.

4.4. How were instances of non-compliance responded to and what outcomes did the corrective actions have? Is the compliance regime effective?

Details on each assurance finding is provided in **Attachment One**. Each of these findings has been adequately responded to as evidenced by updates provided by agencies to the Board secretariat.

In terms of whether the compliance regime is effective, the Board's Assurance Program is one aspect of ensuring compliance to Board policies, guidelines etc. Each agency also needs to assess its governance framework and ensure it has appropriate controls and processes in place. This requirement is further defined in the Board's *Procurement Authority and Governance Policy* available at:

<http://www.spb.sa.gov.au/sites/default/files/Procurement%20Authority%20and%20Governance%20Policy%20July%202018%20v%202.0.pdf>

The purpose of this policy is to:

- define the approach for determining the level of procurement authority to be provided to principal officers subject to the *State Procurement Act 2004* (Act)
- outline the requirement for the principal officer to establish an effective procurement governance framework, including, where appropriate, a Procurement Governance Committee
- explain the State Procurement Board's Assurance Program which provides the Board with independent assurance on compliance by agencies with the mandated requirements of Board procurement policies and guidelines.

Completion of the new round of assurance reviews will provide the opportunity to measure the progress within agencies since the last round of reviews and identify any areas for improvement. This may result in updated Board policies and additional training programs.

As occurs at the end of each review cycle, the Board will review the effectiveness of the compliance regime, which will include an independent assessment.

5. Governance

5.1. Should procurement support other policy objectives within the current procurement framework e.g. social inclusion and/or ecologically sustainable practices? If yes, what could be done to provide more support in achieving other policy outcomes through the procurement process?

Whilst the decision to support other policy objectives within the current framework sits with the Government, the State Procurement Board recognises the opportunity to use Government procurement policies and buying power as a means to support social outcomes. A number of "procurement-connected" policies are already in place, for example the *Industry Participation Policy*, designed to deliver greater economic benefit through jobs, supply opportunities and investment, and contributing to the sustainability and development of Aboriginal owned business enterprises.

The Board's policy framework takes a flexible and broad approach to the definition of what constitutes 'value' in a procurement process, in recognition of the need to contribute to government's priorities (which reflect public needs), rather than a 'lowest price' approach. The optimum balance of financial, social and environmental value is unique to every procurement, and agencies can set procurement objectives that align with the objectives of Government.

Rather than establish social policy, the Board ensures its policies reflect the procurement-connected policies set by agencies responsible for targets relating to the Government's social and economic objectives. Should Cabinet endorse procurement-connected policies, the Board will ensure its policies are updated to reflect this. The flexibility of the Board's policy framework allows the implementation of agency-led social policies such as the aforementioned *Industry Participation Policy*.

5.2. Do Accredited Purchasing Units within agencies meet their objectives?

The Board is currently unable to determine if APU's are meeting all of their objectives. Agency principal officers are required to establish an effective procurement governance framework in accordance with the Board's Procurement Authority and Governance Policy. This includes the mandatory requirement for Tier 1 agencies to establish a Procurement Governance Committee (PGC), referred to by some agencies as an Accredited Purchasing Unit (APU).

Although not mandated, it is understood that most, if not all, Tier 2 agencies have some form of a PGC in place.

The Board's principal interactions with agencies (through their PGC where applicable) are submissions for approval or noting, including accreditation and assurance reports.

Procurement proposals/reports from agencies are reviewed by Board secretariat staff to ensure that there is sufficient information provided for the Board to be able to make its decision. Most of these submissions are acquisition plans.

Clarification questions are submitted in writing to the agencies, and the questions and answers are attached to the subsequent review paper that is provided to the Board along with the agency submission. It is understood that some agencies undertake a similar clarification process through their governance committees.

The Board support staff maintains a record of acquisition plan clarification questions in order to track the areas where there are regular queries. This information can be used to provide feedback to agencies, and to inform the Board's policy development and capability development programs.

The table below shows the number of clarification requests made on behalf of the Board, separated into acquisition plan elements.

Table 4: Acquisition Plan Clarification Requests

Nature of Clarification Information Sought	2014	%	2015	%	2016	%	2017	%	2018	%
General	3	1.4	8	6	5	5	2	2.4	1	0.6
Acquisition Details	29	13.4	24	18	26	26	19	23.1	36	20.8
Governance	14	6.5	7	5.3	8	8	9	11	3	1.7
Market Analysis	56	26	38	28.6	19	19	14	17	30	17.3
Risk Analysis	10	4.6	1	0.7	0	0	3	3.7	10	5.8
Liability and Insurance	-	-	-	-	-	-	3	3.7	5	2.9
Acquisition Strategy	39	18	27	20.3	21	21	18	22	35	20.2
Probity	5	2.3	2	1.5	0	0	0	0	1	0.6
Evaluation	50	23	26	19.5	20	20	8	9.8	46	26.6
Timeframes	4	1.8	0	0	1	1	5	6.1	4	2.3
Approvals	6	2.8	0	0	0	0	1	1.2	2	1.2
Total Queries	216		133		100		82		173	
Total Number of Acquisition Plans	50		45		50		49		60	
Number of Acquisition Plans with Queries	40		32		25		28		43	
% of Acquisition Plans with Queries	80%		71%		50%		57%		72%	
Ave. Queries Per Acquisition Plan with Queries	5.4		4.2		4		2.9		4	
Ave. Queries Per Total Acquisition Plans	4.3		2.9		2		1.7		2.9	

The Board only sees acquisition plans valued above an agency's procurement authority. The Board secretariat notes that those agencies that engage with the secretariat early in the process (i.e. provide drafts for comment) have fewer queries on their final submissions.

Whilst the Board's interactions with agencies may be an indication of APU/PGC effectiveness (where these committees exist), their role is guided by terms of reference specific to the agency.

PGCs, particularly in larger agencies, may benefit from having an internal review process to ensure they are meeting their objectives.

5.3. Is the agency accreditation process adequate?

The objective of the Board's Accreditation Program is to ensure that Tier 1 agencies have the capacity and capability to perform procurement in an effective manner. In supporting the aim of agencies continuing to develop their strategic procurement capability and thinking, the approach taken in the Accreditation Program is on developing sustainable improvements and enhanced procurement practice and capability in Tier 1 agencies, which account for 78% of goods and services expenditure in the public sector (refer Table 5).

As such it was agreed by the Board to undertake a thorough accreditation program for the Tier 1 agencies and a simplified 'capability and organisational review' program as part of the Board's assurance review for the Tier 2 and 3 agencies.

Table 5: Agency Goods and Services Expenditure by Tier

Agency*	Goods & Services Expenditure 2017/2018 \$	% of total spend
SA Health	1,966,584,014	38%
Department of Planning, Transport and Infrastructure	754,374,000	15%
Department for Education and Child Development	581,571,111	11%
Department for Communities and Social inclusion	399,734,129	8%
South Australia Police	41,040,860	3%
Department of the Premier and Cabinet**	236,096,571	5%
Tier 1 total	4,079,400,685	79%
Department of Environment, Water and Natural Resources	120,021,360	2%
Department for Child Protection	99,452,084	2%
SAFECOM	102,596,396	2%
Department of State Development	40,741,926	1%
Department of Correctional Services	87,490,654	2%
Attorney General's Department	86,389,189	2%
TAFE SA	66,144,316	1%
South Australian Tourism Commission	66,453,144	1%
Department of Treasury and Finance**	106,653,958	2%
Primary Industries and Regions SA	48,400,268	1%
Courts Administration Authority	27,071,305	1%
Tier 2 total	851,414,601	17%
Tier 3 total	201,154,439	4%
TOTAL	5,131,969,725	100%

* The agency names listed are those that were in operation prior to the machinery of government changes that were announced in May 2018

** Because of machinery of government changes, Strategic Procurement was moved from the Department of the Premier and Cabinet to the Department of Treasury and Finance. As a result, DTF is now a tier 1 agency, and DPC is a tier 2 agency.

The accreditation framework is based on procurement performance categories and principles that describe the characteristics of high performance procurement operations and are appropriate in terms of the Board's objective of improving the quality of procurement practices across government. This principles-based approach also provides a flexible framework that can be tailored to meet the specific needs of agencies.

The current principles are provided as **Attachment Two**. These are also available in the Board's Accreditation Guideline available at:

<http://www.spb.sa.gov.au/sites/default/files/Procurement%20Accreditation%20Guideline%20Mar%2018%20v%202.0.pdf>

The Accreditation Program consists of a four-year Accreditation Cycle with Tier 1 agencies being reviewed and accredited on a four yearly basis. At the end of each cycle the accreditation process will be replicated, subject to an independent review for the Board on the program's effectiveness.

The Accreditation Program requires Tier 1 agencies to undertake a self-assessment of their procurement capability by completing an Accreditation Assessment Report. This assessment is validated by a Lead Reviewer.

Upon completion of the accreditation process, the Board will award agencies an accreditation status of "accredited", or "accredited subject to conditions being met". These conditions will be linked to the Development Plan agreed between the agency and the Board. It is at the Board's discretion to determine the accreditation status and the timeframes required for an agency to address any developmental requirements that prevent an unconditional accreditation.

For agencies, the accreditation program provides an opportunity to discuss their procurement function with an expert procurement Lead Reviewer and prepare a Development Plan to improve their procurement operations and address any areas that need improvement as identified by the Lead Reviewer and the agency.

The accreditation program could be improved by greater data availability and metrics so that information on each agencies' procurement function and key metrics are collected and available for the review. This would require agreement as to what these metrics are and the implementation of systems to ensure efficient data collection across agencies. These metrics, including a greater focus on outcomes, will be considered as part of the proposed performance measurement activity under the Board's next strategic plan.

5.4. Is the complaint mechanism used in state government effective?

As part of the Board's annual reporting requirements, agencies provide information on the formal complaints they have received throughout the reporting period. A formal complaint is defined as 'one that has been made in writing and referred to a nominated agency officer for investigation.'

Over the five-year period from 2012/13 to 2017/18, agencies reported a total of 31 complaints. Over the same period, the Board received:

- four complaints directly to the Board which were forwarded to agencies to manage in the first instance in line with the Supplier Complaints Policy, and which were not referred back to the Board
- six complaints which were investigated by the Board.

The Board's *Supplier Complaints Policy* aims to provide direction and guidance to establish an effective supplier complaints management and resolution process. A recent review of the policy involved analysing a range of leading practice complaints policies and practices, incorporating expert advice, and consideration of recent complaints outcomes.

The review identified several concerns with the current policy and a revised draft policy is being developed together with supporting guidance material. Some of the key issues identified include:

- a lack of ongoing, timely and clear communication with suppliers on the process and timeframes
- misunderstanding of the supplier complaints process – when, why and how a complaint may be escalated
- confusion over the different roles and responsibilities of the key stakeholders including the Board's role.

The revised policy will be more effective and improve and streamline the complaint process for suppliers.

Given that complaining suppliers frequently cite poor agency communication, particularly in the debriefing process, the Board has scheduled new supplier communication and debriefing training in its 2019 Capability Development Program.

5.5. Are the contract value thresholds appropriate?

The Board revised its contract value thresholds in 2016. The levels established seek to find a balance between supporting simplified and agile procurement processes, while also managing risk, and providing suppliers with the opportunity to bid for work. Regular review of the thresholds, and consideration of supplier and agency feedback, should help to maintain that balance.

Board policy is aimed at ensuring that the process and level of effort is commensurate with the nature and value of the procurement, recognising that unnecessary process creates cost and resource burden for both agencies and suppliers.

6. Probity

6.1. How well do agencies understand and apply probity requirements?

The Board requires agencies to include in their acquisition plans details of how probity will be managed.

Based on transactions seen by the Board, and on the outcome of complaints investigated by the Board, there appears to be a good understanding of probity requirements in agencies, with few incidents of probity breaches (or perceived probity breaches) reported.

While the 2012-2016 assurance program did identify some instances of probity non-compliance across a number of agencies, they generally relate to deficiencies in record keeping.

7. Procurement Framework Exemptions

7.1. What are the prescribed authorities? On what basis were they prescribed and does that rationale continue to apply?

Section 4 of the State Procurement Act 2004 contains provision for agencies to be declared by regulation as a “prescribed authority” and thereby be exempt from the provisions of the legislation.

The following prescribed agencies are currently listed in the State Procurement Regulations 2005:

- 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 (to be dissolved July 2019)
- 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
- Urban Renewal Authority.

Historically, at the time that each entity was declared a prescribed authority the process required them to seek the support of the responsible Minister prior to Cabinet approval. While each agency developed their own justification to support exemption, the following criteria were typically provided to guide their decision-making processes:

- Does the entity operate as a commercial enterprise and on a commercial basis
- Can the entity demonstrate the existence of an effective, well-structured internal procurement operation
- Would the entity be disadvantaged if required to comply with the Act.

Government Services, Department of Treasury and Finance has approached all prescribed public authorities and received written submissions from each, and each agency has requested to continue its prescribed status under the *State Procurement Regulations 2005*. A copy of these responses is provided as attachments to this submission (refer **Attachment 3**).

7.2. Do you agree with the current exemptions from the existing procurement framework?

To further inform the review commenced by the Department of Treasury and Finance, the views of the Board were sought on the requests for continuation as prescribed public authorities. The Board formed a view that while larger organisations had their own board in place to provide oversight of major procurement transactions, this was not substantially different from Government departments that have procurement governance committees in

place to oversee procurement operations. For the smaller agencies, the Board's policies have been streamlined in recent years to simplify low value procurements.

The prima facie position of the Board is that these agencies should be subject to the Board's policies, principles and guidelines to facilitate greater consistency in the process for procurement operations, as defined under the Act.

8. Risk Management

8.1. What risk management framework applies to government procurement?

The Government of South Australia Risk Management Policy Statement gives accountability to principal officers of agencies for the development and implementation of risk management frameworks specific to their organisation's business and context, in accordance with the Australian/New Zealand Standard AS/NZS ISO 31000:2009.

The Government of South Australia Risk Management Policy Statement recognises that risk management contributes to the creation of sustainable value and requires that agencies integrate risk assessment into planning and all activities of the agency, including significant proposals and cabinet submissions.

The Board's Risk Management Guideline and template are designed to assist agencies to consider and document risks in a procurement context.

8.2. Could the procurement risk management framework be improved to provide more flexibility?

Risk management is an essential part of good procurement. Where procurement risk is well managed, project outcomes and objectives are more likely to be achieved.

The Board's Risk Management Guideline allows for flexibility, with the level of detail required commensurate with the value and risk of the procurement. Agencies can apply their own risk management frameworks in accordance with their departmental requirements.

The main objective of evaluating risks is to make decisions on which risks require treatment and the priority for treatment. For risks that fall into a relatively low risk category, these may be accepted with no or minimal further treatment. However, for risks that fall into higher categories, an assessment needs to be made on what is an acceptable risk level within the overall risk management context of the agency.

There may be the opportunity to review the Board's policy to provide clearer guidance on risk considerations in procurement frameworks, including the fair apportioning of risk between suppliers and government.

9. Innovation

9.1. What are the existing procurement tools or practices to encourage innovation?

The Board's Acquisition Planning Policy encourages interaction with potential suppliers to create an environment of open engagement to identify potential improvements to public value outcomes through the implementation of innovative solutions. Other Board policies

and guidelines encourage agencies to consider alternative approaches and innovative solutions (see 9.2 below)

The State Procurement Board's procurement forums are an integral part of the Board's Capability Development Strategy. These events provide a valuable opportunity for procurement and contract management personnel across the South Australian government to hear the latest thinking on procurement 'hot topics', gain insights from other sectors and facilitate networking.

In 2016 the Board hosted a forum specifically on the topic of "procurement innovation". The key note speaker was Professor Danny Samson who spoke on the topic of innovation in procurement. Other speakers were Peter Mason from the South Australian Metropolitan Fire Service, who discussed the procurement of a unique fire appliance, and Steve Moro from SA Health, who talked about the innovative procurement of equipment for the new Royal Adelaide Hospital.

The event was promoted to staff, including via the State Procurement Board's website.

The next procurement forum will be held in Autumn 2019. The forum focus will align to the innovation theme, discussing future procurement, and how technologies such as AI can drive efficiencies.

9.2. Do the state procurement board guidelines encourage innovative purchasing outcomes?

The Board has sought to embed the principle of innovation in the policy framework:

- The 'Market Approaches and Contracts Guideline' encourages functional and performance (i.e. outcome based) specifications which have the advantage over technical specifications of allowing suppliers to offer innovative and technologically advanced solutions that can achieve improved value for money outcomes. Technical specifications that are too prescriptive can limit innovative solutions from the market. The Guideline references more innovative market approaches, such as reverse auctions, and competitive dialogue, where buyers focus on outcomes and working with individual suppliers to develop innovative solutions that create optimal value.
- The 'Supplier Selection Policy' recognises that where innovative solutions are sought, it may be difficult to use a quantitative evaluation method, to make a like for like comparison of very different solutions. When looking for innovative solutions, a qualitative evaluation may be more effective than quantitative evaluation.
- The 'Acquisition Planning Policy' promotes discussions with key stakeholders as a means by which to create opportunity for innovation through exploration of improved ways of meeting the procurement need, and emerging supply market trends and practices.
- The Board's market approach documents provide a key interface between the supply market and government, providing an important channel to encourage supplier innovation. Reformed market approach documents introduced in 2016 shifted away from defining procurement needs as a 'Request for tender' or a 'Request for Proposal', and were replaced by an 'Invitation to Supply'. Removing the focus from 'tender' and 'proposal' terminology was aimed at encouraging procurement practitioners to think more openly about how procurement specifications could be developed to achieve the best solution, i.e. through seeking outcomes, rather than request a tender or a proposal.

- The Invitation to Supply requires practitioners to identify in the document whether 'alternative offers' will be accepted, encouraging greater consideration of the suitability of alternative, innovative offers in each procurement.

"Innovation" is hard to put in a document/guideline. There have been several recent cases where taking an innovative approach has resulted in long-term contractual difficulties and as such, the Board is conscious that there should be an ongoing risk-based discussion with any innovative procurement solutions.

Other Comments

- The Board is considering undertaking a self-assessment in 2019.
- The appointment of future Board members should consider any perceived skills gaps in the current membership as a result of recent resignations.

Attachment One – Assurance Program Findings

The following table provides a summary of the issues identified from the completed assurance reviews. Recommended Board actions were selected from one of the following options:

Recommended Action	Description
Policy Update	a policy update to a Board policy or guideline is recommended to provide greater guidance
Application Issue	policy guidance is sufficient but it has not been followed
Nil	other miscellaneous issues with no further action required

Issue Category	Agency	Date of Review	Description	Recommended Board action
Acquisition Planning	DECD	June 2012	Acquisition strategy for category of spend (cleaning) not updated on regular basis	Policy Update - Ensure all acquisition plans have a start and finish date.
	WBT	June 2012	Preferred Service Providers – no formal approval of lists	Policy Update - Update acquisition planning guideline to provide some advice on how to manage preferred supplier lists
	DMITRE	August 2013	Acquisition Plans not completed	Application Issue
	DMITRE	August 2013	Assessment of procurement complexity not completed	Application Issue
	DPC	October 2013	Lack of Evaluation/Negotiation Plan	Application Issue
	DPC-OCIO	October 2013	Lack of evidence to confirm CSO reviews all acquisition plans	Application Issue
	DPC-OCIO	October 2013	Acquisition plan does not contain all minimum requirements of the panel contract guideline	Application Issue
	PIRSA	Sept 2013	Acquisition Plan not on file	Application Issue
	PIRSA	Sept 2013	Acquisition Plan template does not comply with Board probity requirements	Application Issue
	SA Health	Feb 2014	Evaluation Plans incomplete	Application Issue
	SA Health	Feb 2014	Deviation from Acquisition Plans	Application Issue
	AGD	May 2014	Incorrect Acquisition Plan template used	Application Issue
	CAA	August 2014	Acquisition plan not completed	Application Issue
	CAA	August 2014	Use of unapproved evaluation criteria	Application Issue
	SAFECOM	August 2015	Incorrect Acquisition Planning template completed	Application Issue
	SAFECOM	August 2015	Acquisition Plan not on file	Nil
	LSC	December 2015	LSC to develop a procurement strategy for the legal services panel	Nil

Issue Category	Agency	Date of Review	Description	Recommended Board action
	DSD	March 2016	DSD's authority exceeded without Board approval	Application Issue
	DSD	March 2016	Procurement incorrectly treated as "Simple" procurement rather than a "major" procurement	Application Issue
Contract Management	DECD	June 2012	No Contract Management Plans in place	Policy Update Completed- Ensure clear guidance on when Contract Management Plans should be developed
	SACE	June 2013	No Contract Management Plans in place	Policy Update Completed - Ensure clear guidance on when Contract Management Plans should be developed
	DMITRE	August 2013	Contract Management requirements not reflected within DMITRE policies	Application Issue
	DMITRE	August 2013	'Contract Closure Report' not reflected in DMITRE's policies	Policy Update Completed - Ensure clear guidance on when Contract closure report should be developed
	SAMSB	Sept 2013	Lack of contract management plan	Application Issue
	SAMSB	Sept 2013	Debrief not completed as part of contract management	Application Issue
	DPC-SSSA	October 2013	Contract management plan not reviewed in line with requirements	Application Issue
	SA Health	Feb 2014	Lack of evidence contract management plans being completed	Application Issue
	AGD	May 2014	Lack of evidence contract management plans have been completed	nil
	DEWNR	August 2014	Contract Management Plan deemed unnecessary for purchases above \$220K	Application Issue
	DEWNR	August 2014	Contract closure report not on file	Application Issue
	Defence SA	September 2014	Unsuccessful respondents not advised in writing	nil
	SAFECOM	August 2015	Contract management plan not completed	Application Issue
Procurement Authority Delegation	WBT	June 2012	incorrect amount quoted – confusion as to what a procurement authority is	nil
	WBT	June 2012	Incorrect approvals of purchase orders by staff without appropriate delegation	nil
	SACE	June 2013	SACE Board ensures that all Acquisition Plans and Purchase Recommendations are appropriately approved.	Nil
	ALT	September 2014	ALT to update Delegation of Authority to reflect the delegation for procurement	nil

Issue Category	Agency	Date of Review	Description	Recommended Board action
	Defence SA	September 2014	Delegations do not include procurement delegation	nil
	Defence SA	September 2014	Approval of a procurement with a value greater than Defence SA's procurement authority	nil
	LSC	December 2015	LSC to update and approve the LSC Financial Authorisation document for procurement	nil
	ACA	March 2016	ACA to update it delegation matrix	nil
	BioSA	May 2016	BioSA to update its disposal delegation	nil
	CASA	August 2016	CASA to update it delegation matrix	nil
	AFC	November 16	AFC to update its Delegated Authorities policy to reflect the delegation for procurement	nil
	MT	December 2016	MT to develop a delegation for procurement	nil
	SAFC	January 2017	SAFC to update its Delegation Policy	nil
Simple Procurement	WBT	June 2012	incomplete documentation; unclear internal process	Application Issue
	ESCOSA	March 2013	Non compliance with Simple Procurement Guideline	Application Issue
	SACE	June 2013	acquisition plans and purchase recommendations not approved appropriately	Application Issue
	History SA	Sept 2013	Inconsistency between the History SA's Simple Procurement templates and the Board's Simple Procurement guideline and templates	Application Issue
	History SA	Sept 2013	Justification not provided for not obtaining a minimum of three quotes	Application Issue
	PIRSA	Sept 2013	Summary Procurement Report not aligned to Board threshold	Application Issue
	PIRSA	Sept 2013	No Simple Procurement Plan or Summary Procurement report completed	Application Issue
	SA Health	Feb 2014	Approval sign off of Simple Procurement Plan not completed	Application Issue
	SA Health	Feb 2014	Evaluation criteria for simple procurement not developed	Application Issue
	CAA	August 2014	Evaluation criteria not documented in the simple acquisition plan	Application Issue
	ALT	September 2014	Principal Officer to ensure Board's requirements for simple procurements are communicated to all ALT staff and Board Members.	Application Issue
	Defence SA	September 2014	Lack of documentation of project risk in acquisition plans	nil

Issue Category	Agency	Date of Review	Description	Recommended Board action
	Defence SA	September 2014	Defence SA to maintain one set of simple procurement templates	nil
	Defence SA	September 2014	Lack of justification for not obtaining a minimum of three quotes	nil
	Defence SA	September 2014	Lack of documentation of the total value of a procurement in the combined report	nil
	DTF	December 2015	Incomplete documentation for Simple Procurement	Application Issue
	DPTI	February 2016	Risk assessments not completed for simple procurements	Application Issue
	DSD	March 2016	Simple Procurement Report incomplete	Application Issue
	BioSA	May 2016	BioSA to updates its Simple Procurement templates	Application Issue
	CASA	August 2016	CASA to update its summary acquisition procurement/purchase recommendation template or adopts the Board's template	nil
	APY	October 2016	APY management develop and implement Acquisition Plan and Purchase Recommendation templates, based on the Board's mandated requirements, for procurements that exceed \$33,000.	Nil
	AFCT	November 2016	Acquisition Plan and Purchase Recommendation not on file or incomplete	Nil
	AFC	November 2016	Simple Acquisition Plans not completed	nil
Disposals	WBT	June 2012	disposal methods and approvals not documented	Application Issue
	History SA	Sept 2013	Incorrect preferred contractor for the provisioning of auctioneering services for general goods for the SA government	Application issue
	PIRSA	January 2014	Asset Disposal Procedure is inconsistent with Board requirements	Application Issue
	CAA	August 2014	No formal guidelines on disposal and sustainability	Application Issue
	DSD	March 2016	Disposal Register not available	Nil
Sustainability	WBT	June 2012	WBT requirements state that sustainable procurement is an evaluation criterion on all high value procurement. This was not applied on 2 procurements	Application Issue
	SACE	June 2013	SACE Board "Procurement Framework" to include compliance with SPB "Sustainable Procurement Policy".	Application Issue
	DMITRE	August 2013	Sustainability not considered during procurements	Policy updated in May 2015

Issue Category	Agency	Date of Review	Description	Recommended Board action
	SAMSB	Sept 2013	Sustainability not considered during procurement	Policy updated in May 2015
	DPC	October 2013	Sustainability not considered during procurement	Policy updated in May 2015
	DPC-SSSA	October 2013	No evidence that sustainability has been considered if not included as part of the evaluation	Policy updated in May 2015
	CAA	August 2014	Acquisition planning templates do not consider sustainability	Policy update completed – Sustainability is now incorporated in to the Acquisition Planning template.
	AGD	May 2014	No evidence sustainability has been considered or included as part of the evaluation criteria	nil
Supplier Complaints	WBT	June 2012	WBT does not have a formal supplier complaints policy in place.	Application Issue
	DMITRE	August 2013	Lack of a Supplier Complaints policy, procedure and register	Application Issue
	SAMSB	Sept 2013	Lack of a Supplier Complaints policy, procedure and register	Application Issue
Panel Contract	WBT	June 2012	WBT to review preferred supplier list	Nil
	ESCOSA	March 2013	Currency of ESCOSA Panel of Consultants	nil
	APY	October 2016	Once the preferred supplier listing is established, APY management should explore the option of introducing purchase cards, together with the appropriate procedures, to employees who frequently make small purchases.	nil
Purchase Recommendation	SACE	June 2013	Purchase Recommendation to document final outcome.	Application Issue
	DMITRE	August 2013	Conflict of interest declaration not signed	Application Issue
	DMITRE	August 2013	Lack of evidence of notification to unsuccessful tenders	Application Issue
	DMITRE	August 2013	Lack of Purchase Recommendations	Application Issue
	DEWNR	August 2013	Incorrect purchase recommendation template used	Application Issue
	SA Health	February 2014	Purchase Recommendations not completed	Application Issue
	CAA	August 2014	Purchase recommendation not prepared	Application Issue
	CAA	August 2014	Purchase recommendation not reviewed by Senior Procurement officer	Application Issue
	AFC	November 2016	Purchase recommendation to document evaluation and responses	Application Issue
Probity	SACE	June 2013	Internal procedure to limit EDRMS user access to contract files required	Application Issue

Issue Category	Agency	Date of Review	Description	Recommended Board action
	DPC	October 2013	Lack of conflict of interest declaration	Application Issue
	DPC	October 2013	Lack of evidence to notify unsuccessful tenders	Application Issue
	DCSI	October 2013	Lack of evidence to notify unsuccessful tenders	Application Issue
	DCSI	October 2013	Lack of comprehensive probity plan	Application Issue
	PIRSA	Sept 2013	No conflict of interest form	Application Issue
	SA Health	February 2014	Probity plans not completed and signed	Application Issue
	SA Health	February 2014	Procurement evaluation meetings not documented and conflict of interests forms completed	Application Issue
	DEWNR	August 2014	Conflict of Interest declaration forms not on file	Application Issue
	CAA	August 2014	Conflict of Interest forms not completed, or could not be located	Application Issue
	CAA	August 2014	No formal guidelines on probity requirements	Application Issue
	DPTI	February 2016	Conflict of interest forms not completed	Application Issue
	BioSA	May 2016	BioSA to develop a gift register and a gift and benefits policy	Nil
	CASA	August 2016	CASA to develop a gift register and a gift and benefits policy	Nil
	APY	October 2016	APY management establish a list of preferred suppliers and develop formal supplier feedback processes, as the foundation for the development of transparent and ethical relationships with key suppliers.	Nil
	APY	October 2016	APY management develop and implement a gift and benefit register and policy, linked to the Code of Conduct.	Nil
	APY	October 2016	Each employee and Executive Board member signs the Code of Conduct as evidence of their understanding and agreement to abide by it.	Nil
	MT	December 2016	MT to develop and implement a gift and benefit register and policy.	Nil
Contract Disclosure	DMITRE	August 2013	Lack of contract disclosure on the SA Tenders and Contracts Website	Application Issue
	SAMSB	Sept 2013	Lack of contract disclosure on the SA Tenders and Contracts Website	Application Issue
	DCSI	October 2013	Lack of compliance disclosing contracts in accordance with PC027	Application Issue
	SA Health	Feb 2014	Lack of contract disclosure on the SA Tenders and Contracts Website	Application Issue

Issue Category	Agency	Date of Review	Description	Recommended Board action
	AGD	May 2014	Eligible contract not disclosed on the SA Tenders and Contracts Website	Application Issue
	Defence SA	September 2014	Non disclosure of contract	Nil
	SAPOL	August 2015	Lack of contract disclosure on the SA Tenders and Contracts Website	Application Issue
	DTF	December 2015	Contracts not disclosed on SA Tenders and Contracts website	Application Issue
	DPTI	February 2016	Lack of contract disclosure on the SA Tenders and Contracts Website	Application Issue
	DSD	March 2016	Contracts not disclosed on SA Tenders and Contracts website	Application Issue
	DTF	December 2015	Contracts not disclosed on SA Tenders and Contracts website	Application Issue
	AFCT	November 16	AFCT disclose contract as required by DPC circular PC027	Application Issue
Records Management	DMITRE	August 2013	Records management processes	Application Issue
	SA Health	Feb 2014	Records management processes	Application Issue
	CAA	August 2014	Objective document management system not used throughout CAA	Application Issue
	SAFECOM	August 2015	Records Management and Testing the Market	Application Issue
	SATC	August 2015	Simple Procurement documentation not on file	Application Issue
	DPTI	February 2016	Acquisition Plan not on file	Application Issue
	DPTI	February 2016	Purchase Recommendation not on file	Application Issue
	DSD	March 2016	Acquisition Plan not on file	Application Issue
	DSD	March 2016	Purchase Recommendation not on file or incomplete	Application Issue
	APY	October 2016	APY management develop and implement a records management framework/process.	Nil
	APY	October 2016	APY management explore the option of seeking corporate assistance (potentially a Records Clerk) to improve records management (including filing and storage) and consider the implementation of an electronic records management system.	Nil
Administration	DMITRE	August 2013	Board Policy not communicated within DMITRE	Application Issue
	DMITRE	August 2013	Lack of evidence of Policy reviews	Application Issue
	SAMSB	Sept 2013	Not all Board policies are available to SAMSB procurement staff	Application Issue
	SAMSB	Sept 2013	Lack of Policy Changes register	Application Issue

Issue Category	Agency	Date of Review	Description	Recommended Board action
	SAMSB	Sept 2013	Timely policy reviews are not completed	Application Issue
	DPC-SSSA	October 2013	Document register not current	Nil
	DPC-SSSA	October 2013	Board policy changes not updated within SSSA strategic contracts document	Application Issue
	DCSI	October 2013	Timely policy reviews not completed	Application Issue
	PIRSA	Sept 2013	Monitoring of policy changes inadequate	Application Issue
	PIRSA	Sept 2013	Policies and guidelines do not reflect all Board policy changes	Application Issue
	SA Health	Feb 2014	Monitoring of Board policy changes informal	Application Issue
	SA Health	Feb 2014	Terminated employee access to PCMS	Application Issue
	AGD	May 2014	Monitoring of Board policy changes is informal	Application
	DEWNR	August 2014	Approval of procurements not clearly defined in templates	Application Issue
	CAA	August 2014	CAA does not maintain a register of Board policy changes	Application Issue
	ALT	September 2014	ALT to assign and document procurement roles and responsibilities in Job and Person Specifications.	Application Issue
	DPTI	February 2016	Update contract management policies and procedures	Application Issue
	DPTI	February 2016	Align disposal process and documentation	Nil
	DPTI	February 2016	Lack of awareness of procurement policies and procedures at Office for Recreation and Sport	Nil
	ACA	March 2016	ACA to assign and document procurement roles and responsibilities in Job and Person Specifications	Nil
	APY	October 2016	Employee's Job and Person Specifications are updated to reflect specific procurement responsibilities.	Nil
	APY	October 2016	APY management develop and implement a policy review schedule to ensure the FMS policy and supporting procurement procedures continue to meet stakeholder (including the Board's) requirements and business needs.	Nil
	APY	October 2016	APY management give specific consideration to how procurement and expenditure approval processes could be streamlined through the implementation of a technology	Nil

Issue Category	Agency	Date of Review	Description	Recommended Board action
			solution (including the automation of established Delegations of Authority and approval routing)	
	MT	December 2016	MT to update job and person specifications	Nil
	SAFC	January 2017	SAFC to table its gift register at its Board meeting on a regular basis.	Nil
	SAFC	January 2017	SAFC to attach terms and conditions to its purchase order	Nil
Contract Execution	DMITRE	August 2013	Procurement Contracts not signed with correct delegation of authority	Application Issue
	AFC	November 2016	AFC to develop and execute contract for sponsorship agreement	Application Issue
	MT	December 2016	MT to update its purchase order book	Nil
Procurement Policy Framework	History SA	Sept 2013	Lack of procurement framework	Nil
	IGA	Sept 2014	Lack of procurement framework	Nil
	Defence SA	Sept 2014	Inconsistency between the Board's acquisition planning guideline and Defence SA's guideline	Nil
	TRB	Dec 2014	TRB to update its Procurement Framework	Nil
	SALC	September 2015	SA Lotteries to update its procurement framework for risk management and supplier complaints	Nil
	LSC	Dec 2015	LSC to update and approve its Procurement Governance Policy	Nil
	ACA	March 2016	ACA to update its Procurement Framework	Nil
	CASA	August 2016	CASA to update its procurement directive	Nil
	AFC	November 2016	AFC to update its Procurement Policy	Nil
	SAFC	January 2017	SAFC to update its procurement policy for simple procurement threshold	Nil
	MT	December 16	MT to develop procurement framework	Nil
Employee Induction/ Training	DMITRE	August 2013	Lack of consistent procurement induction process for new employees	Nil
	SAMSB	Sept 2013	Lack of record management for inducted employees	Nil
	History SA	Sept 2013	History SA Staff attends refresher training on a periodic basis to reinforce the Board's requirements	Nil
	SA Health	Feb 2014	Procurement employees have not attended procurement induction	Nil
	AGD	May 2014	Employees with procurement authority have not attended procurement induction	nil

Issue Category	Agency	Date of Review	Description	Recommended Board action
	IGA	Sept 2014	Key responsible procurement officer (Director,) to attend relevant State Procurement Board training.	Nil
	TRB	Dec 2014	Personnel involved in procurement to attend SPB Targeted Training	Nil
	ALT	Sept 2014	Principal Officer to attend SPB training	Nil
	LSC	DEC 2015	Procurement staff to attend Board's Procurement Fundamentals training	Nil
	DPTI	February 2016	No formal documentation of staff procurement training	Nil
	ACA	March 2016	Executive management team to attend SPB Training	Nil
	APY	October 2016	Regular procurement training, tailored for APY's operating environment is implemented for all APY employees who undertakes procurement.	Nil
	APY	October 2016	The General Manager, Office Manager and the APY accountant at ATS attend the Board's Procurement Fundamentals training	Nil
	APY	October 2016	After attending the training, the General Manager, the Office Manager and the APY Accountant at ATS conduct regular procurement training sessions for all APY employees who undertake procurement	Nil
	APY	October 2016	Notify all employees of the process and provide training as appropriate	Nil
	MT	December 2016	MT staff to attend procurement training	Nil
	MT	December 2016	MT staff to sign code of ethics as part of their induction program.	Nil
	SAFC	January 2017	HCSF to attend Board's training	Nil
Contract Register	DMITRE	August 2013	Contract register not including all minimum requirements	Completed. Contract Register Policy in place.
	DPC-OCIO	October 2013	Contract register not including all minimum requirements	Completed. Contract Register Policy in place.
	DPC-SSSA	October 2013	Contract register does not include all minimum requirements	Completed. Contract Register Policy in place.
	PIRSA	Sept 2013	Incorrect contract value entered into contract register	Application Issue
	PIRSA	Sept 2013	United Nations Standard Products and Services Code (UNSPSC) field not completed for sampled contracts	Completed. Contract Register Policy in place.
	AGD	May 2014	Contract register does not include all minimum requirements	Nil
	DPTI	February 2016	Contract register is incomplete	Nil

Issue Category	Agency	Date of Review	Description	Recommended Board action
	DSD	March 2016	Contract Register is incomplete	Nil
	APY	October 2016	APY develop a contract register in accordance with the requirements of the Board's contract register policy.	Nil
	AFC	November 2016	Contract register does not include all minimum requirements	Nil
International Obligation	SA Health	Feb 2014	SA Health policy inconsistent with Australian Government Free Trade Agreement requirements	Application Issue
Risk Management	IGA	Sept 2014	Lack of risk management framework for procurement	Nil
	DCS	August 2015	Risk management plan not on file	Nil
	LSC	December 2015	LSC to consider developing a risk management document for procurement.	Nil
	APY	October 2016	Develop and implement an enterprise wide risk management process	Nil
	MT	December 2016	MT to develop a risk management framework	Nil
Default Liability Cap	DCS	August 2015	Risk assessment and calculation of default liability cap not completed for simple procurement	Application Issue
	DTF	December 2015	Risk assessments and calculation of default liability cap not completed	Application Issue
	DSD	March 2016	Risk assessments and calculation of default liability cap not completed	Application Issue
	DTF	December 2015	Risk assessments and calculation of default liability cap not completed	Application Issue
Negotiation Plan	SATC	December 2015	Negotiation plan and results of negotiations not documented	Application Issue

Attachment Two – Accreditation Principles

1. Leadership and Strategy

This category is concerned with ensuring high level leadership exists and that the profile and influence of procurement is high in the agency with strategies in place that enable the agency's procurement objectives to be achieved. This category includes the following principles:

1. The agency provides clear leadership of the procurement function with high level support by senior management.
2. A procurement function / designated personnel are responsible for procurement spend for the agency.
3. The procurement strategy supports the agency's strategic priorities and core business objectives in alignment with government priorities.
4. Key internal stakeholders have a good understanding of the role of procurement together with its strategy and policies.
5. There is a clear, methodical and comprehensive framework to guide the agency's procurement operations.
6. A procurement expenditure profile is prepared regularly to enable the identification of uncontracted spend, leveraging and cost saving opportunities.
7. A procurement business plan including a forward procurement plan is prepared annually to guide the procurement function.

2. Organisation and People

The organisational framework within which procurement operates can have a profound effect on its effectiveness. No procurement operation can be effective unless it has high quality professionals who are continually updating their knowledge and skills and who can promote procurement within their agency. This category includes the following principles:

1. An appropriate organisational structure (centralised, decentralised or centre led) is in place to maximise procurement effectiveness and efficiency.
2. Specific responsibilities are assigned for key market sectors (category management) where appropriate.
3. The agency has people with sufficient procurement capability and skills (including procurement planning, market research, negotiation, contract management, project management and risk management) to ensure effective performance for the agency's complexity and expenditure.
4. There is a clear workforce strategy (including effective people management and development processes, appropriate job and person specifications) in place for resourcing the procurement function.
5. There is a process in place for ensuring that all staff that have authority to approve procurements have the appropriate capability and skills.

3. Governance and Performance Management

An effective governance framework is important for effective management, including the establishment of user friendly policies and procedures aligned to State Procurement Board

policies and guidelines. Such a framework includes measuring performance and the provision of adequate controls. This category includes the following principles:

1. The agency has appropriate governance processes in place to ensure procurement achieves the outcomes required, including a clear and effective system of delegation and authority for procurement.
2. The procurement risk management process is incorporated into the agency's overall risk management process and systems.
3. Procurement policies, guidelines and templates are standardised and sufficient to meet organisational needs and are updated regularly including when changes are made to State Procurement Board policies and guidelines.
4. Ethical behaviour standards, probity, accountability and transparency receive prominence in procurement policy documents.
5. Other agency policies that support procurement (e.g. fleet, travel and Information Technology guidelines) are consistent with the procurement framework.
6. Demand management (consumption and compliance) procedures for goods and services expenditure are defined and applied.
7. Performance measures are developed and monitored to ensure continuous improvement of the procurement function.

4. Processes and Systems

Appropriate processes and systems are in place to ensure that procurement activities are efficient and effective. They also contribute to maintaining an appropriate internal control environment. This category includes the following principles:

1. There are efficient and robust systems and processes to support procurement activity including purchasing, sourcing and contract management.
2. There are rigorous quality processes for developing and managing category/commodity/project strategies for significant procurement spend within the agency.
3. Procurement structures and people are integrated into the overall procurement and financial management processes to ensure end-to-end process effectiveness and oversight.
4. The supply positioning tool or a similar matrix based approach is utilised to segment the supply market and to develop appropriate procurement strategies.
5. Systems are in place to ensure procurement processes are commenced and contracts are established prior to existing contracts expiring.
6. Effective contract management processes are established and monitored.

5. Relationships – Internal and External

Procurement is not an isolated function. It is important for procurement to be involved early in the business decision process and to build effective relationships with suppliers and internal stakeholders. Strategies specific to a supplier or category of supply need to be developed as opposed to a uniform approach to all suppliers. This category includes the following principles:

1. Relationships with internal stakeholders are managed to ensure an effective procurement process.
2. Key suppliers are identified and relationships between these suppliers and the agency are managed in an ethical and professional manner.
3. Supplier development strategies are planned for and implemented as appropriate.