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16 October 2018

Hon Terry Stephens MLC  
Presiding Member  
Parliament of South Australia  
Statutory Authorities Review Committee  
Parliament House  
North Terrace  
ADELAIDE SA 5000

Dear Mr Stephens

Thank you for your letter of 10 September 2018, regarding the inquiry into the State Procurement Board (Board) by the Statutory Authorities Review Committee (Committee).

In accordance with your public invitation, I have attached a submission to the Committee which provides information on the Board's role in the context of the Committee's Terms of Reference for the inquiry.

I trust that this information is of assistance to the Committee and look forward to further discussions during your Committee's deliberations.

A handwritten signature in black ink, appearing to read 'Nicolle Rantanen'.

Nicolle Rantanen  
PRESIDING MEMBER



**Government  
of South Australia**

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State Procurement  
Board

# Submission to the Statutory Authorities Review Committee

October 2018

## Introduction

This submission to the Statutory Authorities Review Committee (Committee) has been prepared in response to the Committee's intention to inquire into the State Procurement Board as advised on 10 September 2018. The submission provides the Committee with information on the scope of the *State Procurement Act 2004*, current State procurement processes and practices, small and medium-sized business participation in government procurement, and other relevant matters.

## Background

The *State Procurement Act 2004* (the Act) establishes the State Procurement Board (the Board) to provide the Government of South Australia with independent oversight of public sector procurement.

### *i. Membership*

The Board, which meets monthly, comprises a Presiding Member and up to eight members, four drawn from the public sector and four from the private sector, bringing a diversity of experience, skills and professional backgrounds.

The Act requires that the Presiding Member of the Board be the Chief Executive of the public authority charged with the administration of the Act (currently the Department of Treasury and Finance), or their nominee.

### *ii. Functions*

Under the Act, the Board must have regard for, and seek to further, the object of the Act by advancing government priorities and objectives by a system of procurement for public authorities directed towards:

- Obtaining value in the expenditure of government funds on goods and services
- Providing for ethical and fair treatment of participants
- Ensuring probity, accountability and transparency in procurement operations.

The Board's functions are set out in section 12 of the Act and are summarised as:

- to facilitate strategic procurement by public authorities by setting the strategic direction of procurement practices across government;
- to develop, issue and keep under review policies, principles and guidelines relating to the procurement operations of public authorities;
- to develop, issue and keep under review standards for procurement by public authorities using electronic procurement systems;
- to investigate and keep under review levels of compliance with the Board's procurement policies, principles, guidelines, standards and directions;
- to assist in the development and delivery of training and development courses; and
- activities relevant to the procurement operations of public authorities.

The Board's ongoing business activities include the review of public authority submissions to the Board (refer to Appendix 1 for summary statistics on agency submissions considered by the Board), the development and review of the procurement policy framework, capability development and training, secretariat support, complaint investigation and resolution, issuing procurement authority to newly established public authorities, and reviewing compliance with the procurement framework.

### *iii. Accountability for procurement transactions*

The Board undertakes a strategic role in overseeing the Government's system of procurement and limits its involvement in operational public authority matters, focusing more on fostering efficient and effective procurement practices across government. Accountability for procurement transactions and outcomes rests with Chief Executives who are issued with a

procurement authority by the Board through an Accreditation Program. Risks related to the procurement are managed by the public authority as an integrated part of the acquisition planning process.

The Board reviews public authority acquisition plans where the value exceeds the public authority's procurement authority. For the following 6 agencies, the procurement authority threshold value is \$15 million: Department of Human Services; Department for Education; SA Health; Department of Planning, Transport and Infrastructure; Department of Treasury and Finance; and South Australia Police. All other larger agencies have a procurement authority threshold value of \$1.5 million, and smaller agencies have a procurement authority threshold of \$220,000.

#### *iv. Scope of the State Procurement Act 2004*

The *State Procurement Act 2004* is "An Act to regulate the procurement operations of public authorities; and for other purposes."

Generally, the Act covers the procurement of goods and services (including minor construction) by public authorities.

In terms of the government bodies and procurement activities covered, the scope of the Act is limited by certain definitions and requirements within the Act and supporting *State Procurement Regulations 2005*. These relevant definitions and exclusions are detailed in Appendix 2.

In summary, key limitations to the scope of the Act, include:

- construction procurements exceeding \$150 000 (\$165,000 GST inclusive) are prescribed (excluded) by Regulations
- certain public authorities are prescribed (excluded) by Regulations.

Under Premier and Cabinet Circular *PC028 – Construction Procurement Policy Project Implementation Process*, the Minister for Transport, Infrastructure and Local Government, supported by the Department of Planning, Transport and Infrastructure (DPTI) has responsibility for construction policy development and implementation.

Historically, Cabinet has approved the declaration of prescribed public authorities, based on justification provided by the entities at that time.

The *State Procurement Act 2004* does not mandate any role for the Board to take with respect to the designation of public authorities as "prescribed". Accordingly, the Board has not had any involvement or influence in the decision-making processes to declare prescribed public authorities. The Board has remained impartial from the justification provided by prescribed public authorities and resulting Cabinet decisions to exempt prescribed public authorities from its policy framework.

Currently, the Department of Treasury and Finance is overseeing a review of prescribed public authorities, consistent with 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.*'

In addition to prescribed public authorities, the Act does not apply to local government bodies and universities.

Whilst effectively the Act provides exemption from the Board's policy framework for prescribed public authorities, local government and universities, section 18 of the Act allows the Board, with approval of the Minister, to undertake or make arrangements for the procurement operations of these bodies.

## Discussion

### State Procurement Board processes and practices

The Board has developed a comprehensive set of policies, guidelines and tools that Chief Executives are required to adhere to and consider in the procurement of goods and services. These requirements are designed to provide a balance between process rigour and efficiency in accordance with the objective of ensuring value for money, the fair treatment of all suppliers, probity and transparency.

The Board's Accreditation and Assurance Programs are undertaken every four years and provide key mechanisms by which the effectiveness of the government's system of procurement can be assessed and overall capability improved. The two programs complement each other. The Accreditation program sets a high-performance framework and allocates a limited approval value ("procurement authority") to a public authority Chief Executive. The Assurance Program reviews public authority procurement to ensure that Board policies and guidelines are being applied.

#### *i. Accreditation*

Accreditation provides public authority Chief Executives with the authority to undertake procurements up to a specified dollar value without reference to the Board, with transactions greater than the accredited level to be considered by the Board for approval. Public authorities are required to complete a self-assessment against key principles that together describe good procurement practice.

The Accreditation Program is focused on the six largest public authorities (Tier 1) which account for approximately 80% of the goods and services procurement spend across government. The table below identifies the goods and services spend across these Tier 1 public authorities. As a result of recent machinery of government changes, the Department of Treasury and Finance (DTF) has replaced the Department of the Premier and Cabinet as a Tier 1 public authority as DTF now manages cross-Government contracts.

Public Authorities	Total Reported Goods and Services Spend 2016-2017*	No. of submissions requiring Board approval**
<b>Tier 1 Public Authorities</b>		
SA Health	\$1,912,553,457 (39%)	17
Department of Planning, Transport and Infrastructure	\$736,078,000 (15%)	3
Department for Education and Child Development	\$627,978,197 (13%)	2
Department for Communities and Social Inclusion	\$268,905,269 (5%)	6
South Australia Police	\$135,135,941 (3%)	1
Department of the Premier and Cabinet – now replaced by Department of Treasury and Finance due to recent portfolio changes affecting procurement profile.	\$130,083,717 (3%)	9
<b>Tier 1 (accredited to \$15M) total goods and services spend</b>	<b>\$3,810,734,581 (78%)</b>	<b>37</b>
<b>Tier 2 (accredited to \$1.5M) total goods and services spend</b>	<b>\$867,611,190 (18%)</b>	<b>21</b>
<b>Tier 3 total (accredited to \$220,000) total goods and services spend</b>	<b>\$176,994,257 (4%)</b>	<b>8</b>
<b>Total spend across agencies covered by the State Procurement Act 2004</b>	<b>\$4,855,340,028</b>	

\* Note 2016-17 spend data is used as 2017-18 data is currently being collated and reported by public authorities across Government.

\*\* Based on 2016-17 to correlate with the reported spend data. 2017-18 submission statistics are available in Appendix 1

Tier 1 public authorities are accredited to a value threshold of \$15 million. This gives Chief Executives authority to approve procurement transactions up to this value without the need for State Procurement Board approval, promoting good governance and managerial effectiveness at the local level, and providing greater accountability to public authority Chief Executives.

The objective of the Accreditation Program is to ensure that these public authorities have the capacity and capability to perform procurement in an effective manner. In supporting the aim of public authorities 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 these public authorities who account for the majority of goods and services expenditure in the public sector. The Accreditation Program reviews the six public authorities across 28 better practice procurement principles in the following areas:

- Leadership and Strategy
- Organisation and People
- Governance and Performance Management
- Processes and Systems
- Relationships – Internal and External.

The Board engages an independent Lead Reviewer (Accreditation) with strategic and high-level procurement expertise and experience to undertake Accreditation Program reviews. The Lead Reviewer reviews public authorities and reports findings to the public authority and Board.

If significant issues are identified during the accreditation reviews in areas such as governance, risk or any of the procurement principles, the Board can implement strategies to reduce risk to government, such as reducing the procurement authority of public authorities or implementing strategies to increase oversight of procurement operations.

#### *ii. Assurance Program*

The Assurance Program reviews all public authorities with a procurement authority. The Assurance Program enables the Board to meet its legislative obligations by ensuring that public authorities comply with the mandated requirements of Board procurement policies, principles, guidelines, standards or directions.

The Board engages an independent Lead Reviewer (Assurance) with audit and risk experience and procurement knowledge to undertake Assurance Program.

All public authorities are reviewed for compliance to the Board's policies every four years. 13 public authorities with a lower level of procurement authority (Tier 2 - \$1.5 million) are also reviewed every four years across a basic set of 12 better practice procurement principles as part of the Board's Assurance Program.

#### *iii. Capability Development*

The Procurement Capability Development Strategy 2017-19 is aimed at assisting public authorities with training and development courses and activities as required under Section 12 of the Act to improve the procurement and contract management skills of their staff, to contribute to value for money outcomes and improved government services.

A skills gap analysis was undertaken in late 2016 to assess procurement and contract management capability in the SA Government on both a whole of government and individual practitioner level. Individuals received a customised report including training recommendations. As part of the Board's 2017-19 Capability Development Strategy a range of targeted training was piloted in the second half of 2017 and an expanded range of training products and solutions implemented in 2018 to assist in uplifting capability in the identified areas. In early 2018, the Board engaged an external independent contractor, Comprara, to undertake a follow up whole of government capability assessment. This provided an

opportunity to assess the overall capability of the workforce as a 'snap shot' in time (i.e. 18 months later). The comparative data of 2018 versus 2016 also provided an indicative measure of the effectiveness of the training offered the year before. The comparative results show an overall increase in knowledge across the various dimensions of procurement and contract management. For example, based on the assessment sample, the 2018 workforce is 30% more knowledgeable in measuring and reviewing contract performance than in 2016. The 2018 results for the SA Government compare favourably against interstate jurisdictional benchmarks. For both procurement and contract management, knowledge is higher than other government jurisdictions on five of the eight dimensions measured.

A Diploma of Procurement and Contracting will commence in October 2018; and expressions of interest are being sought for future participants across a range of procurement qualification levels. The Board's Procurement Qualification Support Fund provides a financial contribution to procurement personnel who have self-funded and successfully completed a procurement/contract management qualification. The Board has also established an Academic Excellence Recognition Initiative to recognise individuals who have excelled academically in achieving a procurement qualification. Together, these schemes, providing funding valued at \$30,000 per annum, aim to build a highly qualified workforce. Procurement forums provide an opportunity for procurement practitioners to hear from keynote private and public sector speakers on procurement 'hot topics'. These bi-annual events build technical capability, provide fresh perspectives as well as networking opportunities.

### **Small and medium-sized business participation in government procurement**

In 2017, the *Industry Advocate Act 2017* established the South Australian Industry Participation Policy (SAIPP), and Industry Advocate. The Industry Advocate's functions include (but are not limited to) encouraging the adoption of industry participation policies and furthering the objectives of the SAIPP.

Broadly, the SAIPP requires all procurements to consider opportunities for small, start-up and Aboriginal businesses operating in South Australia with a view to involving South Australian business in the opportunity through provision of a quote or tender. The policy identifies minimum mandatory weightings for economic contribution criteria to be applied in evaluations for procurements valued from \$220,000 and above (the minimum weighting is 15%).

The policy sets out requirements for public authorities to implement Regional Economic Contribution Tests, Economic Contribution Tests and Industry Participation Plans across Government procurements of various value thresholds.

The Board has worked closely with the Department of Industry and Skills (the administering agency of the SAIPP) to ensure all policy requirements relevant to the scope of the Act are incorporated into the Board's policy framework. The Board has introduced the *Procurement Governance Policy*, which requires that major agency procurement governance committees include at least one external commercial advisory representative with relevant experience, and the Industry Advocate (or delegate).

### **Major Procurement Reform 2016/17**

The Board has worked together with Government agencies and the Industry Advocate to listen to the needs of the small business community. In late 2016, the Board supported the delivery of a major procurement reform strategy to:

- Send a strong signal that Government will be a better customer by reducing red tape and finalising procurements expeditiously
- Deliver a less complex, more agile procurement framework, including simplifying procurement to a higher value and standardising procurement practices and documents across government
- Increase the commercial acumen available to agencies through the Board's capability program.

Recent specific initiatives implemented by the Board that support small and medium-size business participation in government procurement include:

#### 1. Changing Procurement Thresholds

- increasing the simple procurement threshold from \$220,000 to \$550,000, to reduce effort, cost and time required by suppliers and agencies to undertake simple procurements

#### 2. Simplifying the Process

- simplifying the procurement process for procurements up to and including \$550,000, with public authorities now able to seek:
  - a minimum of one quote up to \$33,000
  - a minimum of three written quotes to be sought from \$33,000 to \$220,000
  - a minimum of five written quotes to be sought from \$220,000 to \$550,000

#### 3. Reducing Insurance Requirements

- removing red tape and contracting costs for suppliers through reduced indemnity, liability and insurance requirements for suppliers in low to medium risk procurements (as assessed by the public authority). Suppliers are no longer required to provide indemnities, and the State is not required to be named on insurance policies, or be provided with a copy of the insurance certificate
- the introduction of a default liability cap for low to medium risk contracts, set between one and five times the value of the contract, reduces insurance costs and barriers to participation for small businesses, and costs previously associated with negotiation of liability clauses

#### 4. Introducing simpler, standard bid and contract templates

- simplification of the Board's suite of standard bid and contract documentation, to better standardise procurement practices and documents across government, improving the market approach process for public authorities and suppliers
- a new Invitation to Supply template which includes provision for alternative offers to encourage innovation

#### 5. Improving visibility in Government's planned procurement activity

- lowering the dollar threshold at which forward procurement plans are published on the SA Tenders and Contract website to \$220,000, providing greater visibility and opportunities for business to participate in government procurement

The Board's website includes a "Better Customer Charter for Business" with key charter requirements incorporated into Board procurement policies.

These reforms were introduced in consultation with, and support from, relevant stakeholders including the Industry Advocate and Small Business Commissioner.

## Key Data on Agency Procurement Activity

### *i. South Australian Suppliers*

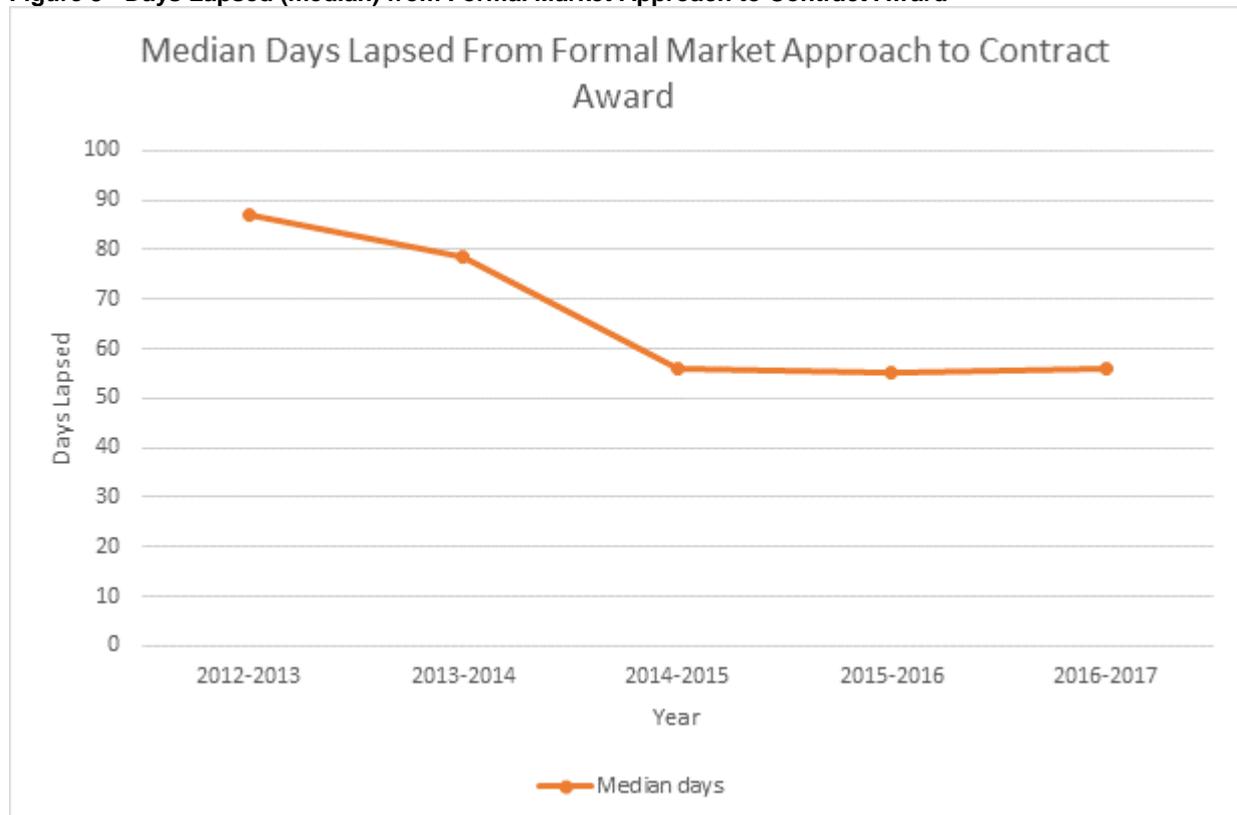
The Board collects annual reporting data from public authorities subject to the Act, including data on supplier location for contracts executed in any financial year. In 2016-17, 73% of reported contracts executed were serviced by South Australian suppliers (metropolitan and regional) and 66% of the total value of contracts entered into was contracted with suppliers located in South Australia (metropolitan and regional).

### *ii. Reduced Procurement Timeframes*

Public authorities also report on timelines to quantify the typical duration of a procurement process. In 2016-17 (the latest data available), the median time taken to progress a procurement project from the formal approach to market (i.e. tender advertised or formal negotiations commenced) to the contract award date was 56 days. Trend analysis indicate that the typical time taken to undertake a procurement has significantly decreased over the past five years and remains steady in recent years (refer below).

A significant amount of procurements that impact small to medium size business are approved at the local agency level. A key principle of the Board's policy framework is to issue a level of procurement authority to Chief Executives that is suitable to the procurement profile of the agency, to facilitate timely government decision making, and improve supplier experience with government processes.

Figure 3 - Days Lapsed (median) from Formal Market Approach to Contract Award



### *iii. Complaints*

The Board requires that public authorities annually report on formal supplier complaints. A 'formal' complaint is one that has been submitted in writing and referred to the nominated public authority officer for investigation. There have been 30 formal supplier complaints reported to the Board by public authorities over the past five years from 2012-13 to 2016-17 (2017-18 data is not yet available). This represents 1% of the volume of contracts reported during that period (valued over \$110,000). Refer to Appendix 3 for summary statistics on supplier complaints listed by agency.

The Board's *Supplier Complaints Policy* requires public authorities to have effective systems, practices and processes in place to manage supplier complaints within their public authority.

Under the policy, a supplier is to refer complaints to the public authority for investigation in accordance with the public authority's internal review process. The policy enables suppliers to escalate complaints to the State Procurement Board where they are dissatisfied with the outcome of the investigation undertaken by public authority.

A review of the *Supplier Complaints Policy* is underway following consideration of recent complaints and to ensure the policy is effective and relevant. The review takes into consideration a range of leading practice complaints policies and practices (including the SA Ombudsman's Complaint Management Process), expert advice, consultation with key public authorities, and recent complaint outcomes. A revised policy is expected to be available by late 2018.

A new course(s) is expected to be included in the Board's new targeted training calendar for 2019 on 'communication and debriefing suppliers' which will reference the updated Board *Supplier Complaints Policy*.

## **Other Relevant matters**

### *i. Supplier experiences with the Government procurement framework*

In recent years, the Board has become aware of a number of instances of supplier failure, significantly affecting subcontractors, arising out of Government contracts. The Board recognises the gravity of this issue and will continue to liaise with the Small Business Commissioner, to ensure that any findings and recommendations relating to deficiencies in contracting activities of public authorities that are relevant to the scope of the Act are reflected in the Board's policy framework. The Board, however, notes that the key area of risk for Government arising from supplier financial failure sits with the building and construction sector (largely outside of the Board's legislated purview). This risk is magnified by the fact that there is significant spend in this sector and the use of subcontractors is common.

To the extent that any contracts approved by the Board involve the use of subcontractors, the Board will continue to require the relevant agencies to undertake financial checks before the letting of the contract and during its operation.

In considering supplier failure risk, the Office of the Chief Procurement Officer, Department of Treasury and Finance, commissioned PWC to investigate procurement policy mechanisms in other jurisdictions. PWC has provided a draft presentation and the Office of the Chief Procurement Officer is currently consulting on the draft with relevant agencies, including the Small Business Commissioner.

### *ii. Development of Not for Profit Funding Guidelines*

The Department of the Premier and Cabinet (DPC) *Circular 044 – SA Funding Policy for the Not for Profit (NFP) Sector* (circular) was made effective 1 July 2017. The circular aims to support and strengthen collaborative partnership between government and the NFP sector. It provides a consistent approach to all aspects of SA Government funding, sets clear

requirements for public authorities, and reduces the administrative burden on NFPs whilst maintaining their independence.

Following extensive consultation with the NFP sector and key public authorities, the Board has updated a number of policies to incorporate the principles contained in the circular. In addition, a standard NFP funded services agreement has been developed that will simplify the contracting process for NFP funded services by ensuring a standardised and consistent approach across the SA government. The agreement will be available to use by late 2018.

*iii. Previous review of the State Procurement Board by the Statutory Authorities Review Committee*

In 2013, the Statutory Authorities Review Committee commenced an inquiry into the State Procurement Board.

The Committee's final report, *Inquiry into the State Procurement Board of South Australia* was tabled in the Legislative Council on 1 December 2015.

There were five recommendations contained in the Report:

Recommendation 1: The Chair of the Board should not be a member of the South Australian Executive Service (not complete).

The Board's Presiding Member is currently a member of the South Australian Executive Service (SAES). Consideration was given to the abolition of the Board during 2016/17 as part of the former government's review of Boards and Committees. As a result, it was considered appropriate to not appoint a non-SAES Chair at that time.

Recommendation 2: Amend s7(2) of the State Procurement Act 2004 (the Act) to require the skill mix of the Board to have practical knowledge, experience or expertise in small business.

While s7(2) of the Act was not amended, half of the existing Board have private sector and small business experience. Two private sector vacancies currently exist and could be used to enhance the Board's skill mix in small business.

Recommendation 3: Conduct a jurisdictional review to assess the policy mechanisms that other jurisdictions use to facilitate small and medium sized business participation in government procurement.

A jurisdictional review was conducted in early 2016 to address this recommendation. As a result of the review, the following changes were made to facilitate small and medium sized business participation:

- Creation of a better Customer Charter for Business;
- Simplified liability and insurance requirements;
- Simplification of procurement processes and increased dollar thresholds; and
- Contract simplification.

Recommendation 4: Ensure that procurement processes include evaluation criteria for industry participation and successful suppliers be required to report against commitments.

The statutory Office of the Industry Advocate was created in 2017 with a greater focus on reporting and monitoring suppliers against their industry participation commitments.

Recommendation 5: Provide an update to SARC on the matters raised in the Report.

Representatives from the Board attended the SARC on 3 April 2017.

## Conclusion

Under the *State Procurement Act 2004*, the Board has legislative oversight of the procurement operations (goods, services, and minor works) of public authorities. Notably, through the Act and Regulations, certain types of procurements and prescribed public authorities are exempted from the Board's policy framework:

- Construction procurements valued greater than \$165,000 (GST inclusive)
- Prescribed public authorities
- Local government and universities.

The Board's accreditation and assurance activities provide rigorous oversight of public authorities and major government contracts. The Board's focus on its ongoing capability development program is aimed at driving improved procurement outcomes across Government.

Through recent procurement reform, the Board has introduced or supported a number of important initiatives aimed at improving and simplifying the experiences of SMEs and local suppliers when contracting with Government. A highlight is the Board's simplified contracting suite, with a minimalist approach to standard terms and conditions, a default liability cap for low to medium risk contracts, reducing insurance costs and barriers to participation for small businesses, and lowering costs previously associated with negotiation of liability clauses. The Board's contracting suite is a leading model when compared with other jurisdictions.

The Board is continuing its work to improve and simplify contracting with the Not-for-Profit sector.

A copy of the Board's annual reports, agency reporting data and other policies are available from the Board's web site at <http://www.spb.sa.gov.au>.

## APPENDIX 1 – PROCUREMENT SUBMISSIONS TO THE STATE PROCUREMENT BOARD BY AGENCY

AGENCY <sup>1</sup>	2017/2018				2016/2017				2015/2016				Total over 3 years
	AP <sup>2</sup>	PR <sup>3</sup>	Variations <sup>4</sup>	Total	AP	PR	Variations	Total	AP	PR	Variations	Total	
Adelaide Cemeteries Authority				0				0	1			1	1
Adelaide Festival Centre Trust				0	2			2	1	1		2	4
APY Lands	1			1									1
Attorney General's Department	2			2	1			1				0	3
Dept for Child Protection	3	1		4									4
Dept for Communities Social Inclusion		1		1	2		1	3	4			4	8
Correctional Services	3			3	2			2		1		1	6
Courts Administration Authority				0	1			1	1			1	2
Defence SA	1			1		1		1	1			1	3
Dept for Education & Child Development	1			1	2			2	4			4	7
Essential Services Commission of SA				0				0	1			1	1
Dept for Environment, Water, Natural Resources	3			3	3	1		4	1			1	8
Legal Services Commission				0				0	2			2	2
Dept for the Premier & Cabinet	9		2	11	7		2	9	4		2	6	26
Primary Industries & Resources				0				0				0	0
SACE Board	2			2	4		1	5	2			2	9
SA Health	9		2	11	12		5	17	2		5	7	35
SA Tourism Commission	4			4	1			1	4	2		6	11
SAFECOM	5			5	3			3	5		1	6	14
SAPOL				0	3			3	1			1	4
TAFE SA	1			1				0				0	1
Department of State Development	1			1	7		1	8	1			1	10
State Procurement Board	1	1		2									2
Teachers Registration Board				0				0	1			1	1
Dept of Planning, Transport and Infrastructure	4			4	3			3	2			2	9
Dept of Treasury & Finance	1			1	1			1	4			4	6
West Beach Trust	1			1				0	1			1	2
				<b>59</b>				<b>66</b>				<b>55</b>	<b>180</b>

<sup>1</sup> Note Department names are not updated to reflect Machinery of Government changes as the data relates to former portfolios.

<sup>2</sup> 'AP' denotes Acquisition Plans

<sup>3</sup> 'PR' denotes Purchase Recommendations

<sup>4</sup> 'Variations' denotes contract variations

## **APPENDIX 2 THE SCOPE OF THE STATE PROCUREMENT ACT 2004 AND STATE PROCUREMENT REGULATIONS 2005**

### **Covered operations**

The definition of “procurement operations” under the Act, means:

- (a) The procurement of goods or services required by the authority for its operations, including (without limitation) the procurement of –
  - i. supply of electricity, gas or any other form of energy; or
  - ii. intellectual property; or
- (b) the management of goods of the authority, including (without limitation) the care, custody, storage, inspection, stocktaking or distribution of goods of the authority; or
- (c) the management of the authority’s contracts for services; or
- (d) the disposal of goods surplus to the authority’s requirements,

but does not include operations excluded from this definition by the Regulations.

Under the Regulations, for the purposes of the definition of *procurement operations* above, a prescribed construction project of a cost exceeding \$150 000 (\$165,000 GST inclusive) is excluded from the definition.

*A prescribed construction project—*

is a project that primarily involves the procurement of construction work; and encompasses—

- i. the acquisition and installation of fixtures, plant, equipment, appliances and fittings in conjunction with the construction work; and
- ii. the acquisition of survey, planning, design and other services in conjunction with the construction work; and
- iii. does not encompass the acquisition of goods and services for the ongoing maintenance of a building or structure.

### **Covered entities**

The Act applies to a broad range of public authorities, in accordance with the following definition:

*public authority means—*

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

but does not include a prescribed public authority.

The Act recognises that there may be circumstances where it is appropriate for certain public authorities to operate outside the procurement framework established under the Act. Public

authorities may be prescribed by Regulations, and once so prescribed are not bound to comply with the Board's policies.

Through Regulations, the following bodies are currently listed as "prescribed public authorities" and are outside the procurement framework established under the Act:

- Adelaide Venue Management Corporation
- Architectural Practice Board of South Australia
- Construction Industry Training Board
- Health Services Charitable Gifts Board
- Legal Profession Conduct Commissioner
- Local Government Finance Authority of South Australia
- Motor Accident Commission
- Return to Work Corporation of South Australia
- South Australian Forestry Corporation
- South Australian Housing Trust
- South Australian Water Corporation
- Superannuation Funds Management Corporation of South Australia
- Urban Renewal Authority

### APPENDIX 3 – FORMAL SUPPLIER COMPLAINTS BY AGENCY

	2016/17		2015/16		2014/15		2013/14		2012/13		Total Five Years	
	Agency	SPB	Agency	SPB	Agency	SPB	Agency	SPB	Agency	SPB	Agency	SPB
Attorney General's Department	0		0		0		0	1	0		0	1
SA Health	0		3	1	1		1		1	1	7	2
Department of Planning, Transport and Infrastructure	1		0		0		0		0		1	0
Department for Communities and Social Inclusion (Now DHS)	1		7	1	1		0		0		10	1
Department of Environment, Water and Natural Resources	0		0		0		0		1	1	1	1
Department of the Premier and Cabinet	1		2		0		0		0		3	0
SAFECOM	0		0		1		0		0		1	0
Department for Manufacturing, Innovation, Trade and Energy	0		0		0		2		1		3	0
SA Tourism Commission	0		0		1	1	0		0		2	1
SA Motor Sport Board (Now SA Tourism Commission)	0		0		0		0	1	1		2	1
<b>TOTAL</b>	<b>3</b>		<b>12</b>		<b>4</b>		<b>3</b>		<b>4</b>		<b>30</b>	<b>4</b>

Referred to Agency with no Board Investigation Required

Board Investigation Conducted