



**Government
of South Australia**

State Procurement
Board

Submission to the Statutory Authorities Review Committee

May 2013

Introduction

This submission to the Statutory Authorities Review Committee (Committee) has been prepared to provide the Committee with information on the role and objectives of the State Procurement Board, its achievements to date and the issues and challenges it faces.

Background

One of the key principles adopted by the South Australian Government since the early 1990's to promote good governance and managerial effectiveness has been to provide greater accountability to public authority chief executives and to allow for more decision making at the local level.

In 2004, the Government built on this approach by commencing an across government procurement reform strategy aimed at improving the efficiency and effectiveness of government procurement processes and moving towards a more devolved approach to government procurement.

The Government enacted the *State Procurement Act 2004* (the Act) which established the State Procurement Board (the Board) to provide it with independent oversight of the procurement operations of public authorities.

Role and Structure of the Board

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

- obtaining value in the expenditure of Government funds;
- providing for ethical and fair treatment of participants; and
- ensuring probity, accountability and transparency in procurement operations.

The Act defines the Board's scope to include goods and services procurement with the *State Procurement Regulations 2005* excluding construction projects over \$150,000.

The primary functions of the Board are to:

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

The Board, which meets monthly, comprises a Chair and eight members, four drawn from the public sector and four from the private sector, bringing a diversity of experience, skills and professional backgrounds. At least one member of the Board must be female.

The Act requires that the Chair 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.

Board Strategic Plan

The Board's Strategic Plan 2011-13 outlines four key result areas:

- Provide support to public authorities, in the form of improved policies and guidelines, tools and information, to assist them to improve their procurement operations;
- Establish a capability development program, from basic procurement induction, through to specific policy and technical training sessions for practitioners, and higher educational opportunities for those seeking formal qualifications;
- Ensure the most effective governance model is in place that best facilitates the Board's future direction in line with the Board's obligations under the Act; and
- Continue the Board's ongoing business activities including reviews of public authority submissions to the Board and complaint investigation and resolution processes.

Strategic Versus Operational Role

The Board undertakes a strategic role in overseeing the Government system of procurement and limits, to the extent possible, its involvement in operational public authority matters, focusing more on fostering and ensuring good procurement process, policy and practice across government.

As such, accountability for procurement transactions and outcomes rests with chief executives who are issued with significant procurement authority by the Board through an accreditation process. This allows public authority chief executives to undertake procurements up to a specified dollar value without reference to the Board.

The Board reviews public authority acquisition plans that are greater than the public authority's procurement authority to ensure that a fair, effective and ethical process is in place to procure the requirement and deliver the best value for money. Risks related to the procurement are managed by the public authority as an integrated part of the acquisition planning process.

In reviewing these acquisition plans, the Board is cognisant that ensuring a good process is only one part of achieving value for money, with responsibility for addressing the business requirements and business risks best managed by public authorities. Ultimately, it is public authorities that are best placed to assess whether goods and services procured meet their requirements and policy goals and to determine the delivery risks associated with procurement projects.

As such, the Board has developed a comprehensive set of policies, guidelines and tools which chief executives are required to adhere to and consider in the procurement of goods and services. These requirements have been 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 bidders, probity and transparency.

Other activities that support the Board's strategic oversight role include:

- monitoring across government and high value/high complexity public authority contracts;
- requesting regular reports as to how these contracts are progressing against their intended procurement objectives;
- ensuring chief executives approve the use of all direct negotiations (for procurements greater than \$220,000), as supported by sound justification;
- ensuring public authority submissions to the Board are developed at an appropriate standard before approval is provided;

- actively following up and addressing issues or concerns identified across multiple agencies on a whole of government basis; and
- investigating complaints from suppliers that are not resolved at the public authority level in accordance with its *Supplier Complaints Policy*.

Initiatives Undertaken by the Board

Specific initiatives undertaken by the Board to date include:

- devolving accountability and authority to the public authority chief executive increasing procurement responsiveness and facilitating better local decision making;
- developing standard tender and contract documents that public authorities are required to use;
- streamlining procurement processes for simple procurements up to \$220,000;
- developing and implementing the Board's accreditation process;
- promoting a broader range of market approaches for agencies to consider, without the requirement of a mandatory public tender threshold;
- developing and implementing the Board's compliance review program;
- implementing various professional development programs including VET sector procurement qualifications (Certificate IV, Diploma, Advanced Diploma) and funded places in a Masters in Management (Strategic Procurement) course;
- developing an Ethical Procurement Guideline and incorporating the Government's Code of Ethics into appropriate Board targeted training courses; and
- developing guidance on supplier evaluation and value for money outcomes.

Key Issues

Several key Board activities and issues are discussed in more detail below.

Compliance Review and Accreditation Programs

The Board's compliance review and accreditation programs are key mechanisms for assessing the effectiveness of the Government system of procurement and to raise overall procurement capability across government.

These two programs provide confidence that controls exist to effectively manage risk and key processes, to ensure that capability improvement opportunities are identified and pursued by public authorities and to ensure that all public authorities are operating in accordance with Board policies and guidelines and the object of the Act.

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 Board's compliance review program places emphasis on reviewing controls and managing risk, on achieving value for money and procurement outcomes, and on ensuring that public authorities are complying with the Board's policy framework.

The Auditor-General has indicated that the Board's compliance review program plays an important role in examining public authority procurement processes and practices and that his office monitors how agencies respond to the issues raised through the Board's reviews.

Capability Development

The Board recognises the need to improve procurement capability within public authorities and understands that this is an incremental process.

South Australia is not alone in this regard as procurement capability is an issue that is regularly discussed by all state and federal jurisdictions.

The Board has a multi-tiered approach to addressing procurement capability in line with its obligations under the Act. Activities undertaken to date include:

- engaging (at no cost) Government Skills Australia (GSA) to undertake a procurement skills and qualifications audit in 2009. A follow-up audit was completed in 2013;
- driving the review and redrafting of the public sector national procurement vocational qualifications through GSA;
- securing Commonwealth funds through the Productivity Places Program to fund 100 places for public authority staff to attain VET sector procurement qualifications (Certificate IV and Diploma);
- developing a suite of targeted procurement workshops providing officers with specific training in Board policy and procurement practice;
- successfully seeking funding from the Commonwealth for the development of an e-learning pilot;
- working closely with UniSA to establish a Masters in Management (Strategic Procurement), which commenced in 2011; and
- participating as a member of the national Australasian Procurement and Construction Council Procurement Capability Development Working Group, on a raft of national projects associated with procurement training and development, qualifications and professionalisation of the procurement function.

Inappropriate Purchase of Toner Cartridges

As a result of inappropriate purchases of toner cartridges, the Board has played a key role in improving good procurement and financial management processes across government by:

- taking a leadership role in co-ordinating responses to future issues that negatively impact on the Government achieving the objectives of the Act;
- reminding all public authority chief executives of their responsibilities in complying with the Board's policies and guidelines;
- communicating with public authority chief executives to raise awareness of their obligations in relation to the Government's *Code of Conduct for Public Sector Employees*; and
- including a statement in all government purchase orders and standard contract documents seeking a commitment to ethical practices by the supplier and allowing for the possible termination of the contract, without notice, for any breaches.

Conclusion

With the establishment of the Act and the Board in 2004, public authorities now undertake procurements more effectively, with greater responsiveness and with a greater emphasis on managing risk.

Public authorities now approve the overwhelming majority of their procurement transactions, with a significant reduction in procurement transactions requiring Board approval. The introduction of standard tender and contract documentation and a focus on cutting red tape

have reduced the time taken to complete procurements whilst making it easier and more efficient for suppliers to do business with government.

The Board's compliance review program, accreditation process, rigorous oversight of public authorities and major government contracts and a continuing focus on capability development are key elements of the Board's contribution to effective government administration and the drive to improve procurement outcomes across government.

The Board remains committed to playing a proactive role in ensuring public authorities achieve value in the expenditure of Government funds, undertake ethical practices and are transparent and accountable in their procurement operations.

Nevertheless, there remain improvements and challenges to be addressed.

Among these are to bring greater consistency and rigor to public authority procurement operations by developing additional standard templates (for example acquisition planning, supplier evaluation plans and contract management plans) and by providing more detailed practical guidance in areas such as value for money, market research and procurement strategy development.

In addition, several recent high profile cases demonstrate that there continues to be a need to focus on ethical behaviour and probity practices in procurement across government.

The ongoing work of the Board will therefore ensure that all public authorities operate in accordance with the object of the Act and the expectations of government.

A copy of the Board's 2012 Annual Report and an overview of the Board's Procurement Policy Framework are attached for your information. Other policies are available from the Board's web site at <http://www.spb.sa.gov.au>.

Appendix 2 – State Government Procurement Policy Framework

