



Issues Paper

Inquiry into Government Procurement Stage 2

05 June 2019

The South Australian Government has directed the South Australian Productivity Commission (the Commission) to:

- inquire into the efficiency and effectiveness of South Australia's government procurement processes and practices, considering insights from other jurisdictions; and
- identify reform options that improve procurement practices to positively impact on business and employment.

In stage 1, the Commission focused on goods and services. A final report was submitted to Government on 17 May 2019. It will be published on the SAPC website within 90 days.

In response to the feedback received by the Commission, in February 2019, the Government has asked the Commission to broaden its scope to:

- capital projects (construction procurement) valued over \$165,000 (GST inclusive), as defined in Appendix 1 of PC028 - Premier and Cabinet circular 028 (construction procurement policy project implementation process); and
- prescribed public authorities¹, as prescribed by the *State Procurement Regulations 2005*.

The expanded terms of reference can be found on the Commission's website at www.sapc.sa.gov.au/inquiries. A draft report will be published and open to consultation in August 2019 and a final report completed by 31 October 2019 and made public 90 days later.

In stage 2, the Commission will address capital projects and prescribed authorities, and the issues specific to them. In addition, based on the findings from stage 1 and the evidence collected in stage 2, the Commission will make recommendations on a more coherent and streamlined framework for the future operation of South Australia's government procurement system.

The following sections set out the Commission's understanding of the matters relevant to the inquiry based on its review of selected reports and papers on the topic to date.

Issues specific to Capital Projects

The general government capital investing expenditure is around \$2 billion per year (\$1.8b in 2017-18, \$2.2b in 2018-19), with public non-financial corporations (e.g. SA Water) adding another \$1 billion per year (\$0.8b in 2017-18, \$0.9b in 2018-19)². This represents a significant portion of government procurement expenditure, where multiple opportunities for improvement exist.

¹ The 13 public authorities are: 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 and Urban Renewal Authority

² South Australia's 2018-19 Budget Statement

From stage 1 of the inquiry and other sources, the Commission's initial understanding of business' views of government procurement for construction projects includes the following:

- Cost and time to tender for government work;
- Contract management (specifically from the point of view of poor performance and sub-contractors' exposure to head contractors' unfair contract terms or failure);
- Risk management framework including inefficient allocation of risks (public liability and other contract clauses that create potentially avoidable costs);
- Capabilities of public authorities resulting in issues such as poor quality of tenders, lack of capacity to evaluate tenders and inadequate engagement with the market;
- Opportunities to streamline the procurement process;
- SMEs' access to and participation in government work (aggregated contracts and other barriers); and
- Lack of support for innovation in the current procurement system.

There may be others that have not yet been raised by stakeholders.

The Commission will also consider in relation to infrastructure spending:

- the achievement of value for money (including incorporating broader policy objectives into the value for money assessment of procurement, including environmental and social outcomes);
- the level of performance, reporting and accountability of public authorities;
- the level of compliance of public authorities with the government procurement framework; and
- the performance and impact of the Industry Participation Policy.

Prescribed Public Authorities

The Commission will consider the criteria and legal framework used to determine which public authorities are prescribed under (exempt from) the *State Procurement Act 2004*. It will also gain an understanding of the procurement design, practices and performances of those entities and consider other jurisdictions' practices.

Other matters

While South Australia's government procurement system serves the state reasonably well, the capacity to drive the whole-of-government system with authority, accountability and human resources is very limited. Overall, the Commission considers the system is prescriptive, unnecessarily risk averse, and lacks transparency and guidance in key areas. The Commission will be interested in further evidence in these matters.

The Commission invites submissions on this issues paper by 1 July 2019. Submissions provide evidence and experience, as well as views, on the matters highlighted in the issues paper, or on other matters relevant to the terms of reference. They will assist the development of a draft report.

Make a submission

An electronic submission in Word or PDF format is preferred, along with any supporting documentation containing facts, figures, data or examples:

- through our website www.sapc.sa.gov.au
- via email at sapc@sa.gov.au or
- via post at:
SA Productivity Commission
 GPO Box 2343, ADELAIDE SA 5001

For more information, please contact our office at: 08 8226 7828.

Confidentiality

Transparency is an important part of the Commission's independent process for gathering evidence. It provides confidence to stakeholders that their views have been heard and accurately shows to the wider public the breadth of views and information that have been put to the Commission in reaching its independent conclusions and recommendations. To that end, the Commission publishes all submissions that it receives on its website unless the Commission considers the material to be offensive, potentially defamatory, beyond the scope of the inquiry's terms of reference, or an abuse of process. Submissions remain available on the Commission's website after the conclusion of an inquiry, for an extended period, under Past Inquiries.

If you wish to submit material in confidence, please advise us why your submission should remain confidential and we will contact you to discuss.

We reserve the right to decline your submission if we do not agree with the rationale provided for it to be confidential. Material accepted as confidential will be read only by our Commissioners and staff and will not be referred to in our reports. Later, if we consider the confidential information to be important for conclusions drawn by the Commission, we will seek your permission to refer to it in a form that is acceptable to you, unless there is a significant reason why those views should not be shared beyond the Commission.

Confidential submissions may be subject to the Freedom of Information Act 1991. That Act gives applicants the right, subject to some restrictions, to access documents created and held by the government.

Personal or identifying information should not be included in submissions, e.g. contact details or names of people referred to in submissions. The Commission will try to ensure that all personal contact details are removed from submissions before they are published on our website.

Key dates

6 June 2019: Issues Paper

1 July 2019: Submissions to issues paper due

August 2019: Draft report

16 September 2019: Submissions to draft report due

31 October 2019: Final report presented to the Premier

29 December 2019: Due date for the report being available to the public

About us

The South Australian Productivity Commission examines and makes recommendations on matters referred to it by government that facilitate productivity growth, unlock new economic opportunities, support job creation and remove existing regulatory barriers.

Our findings and recommendations to government are the primary outcomes of the [Inquiry Process](#).