



SUBMISSION

Government Procurement Inquiry

18 December 2018

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2. About Us

The Motor Trade Association of South Australia is the only employer organisation representing the interests of automotive retail, service and repair businesses in the state.

The MTA Training and Employment Centre comprises of both our Registered Training and Group Training Organisations. It is the automotive industry's training provider of choice and is the largest employer of automotive apprentices in South Australia.



We currently have
over **800** apprentices
in training

We also directly employ
500 apprentices
through **240** host businesses

DIVISIONS



3. Industry Consultation

This submission summarises the views of the MTA's members. In developing this submission, the MTA has consulted with all members via an association wide survey, as well as direct engagement with members who have accessed state government procurement processes.

4. Executive Summary

The South Australian Productivity Commission (the Commission) has been asked to evaluate the effectiveness and efficiency of State Government policies and practices for the procurement of goods and services.

The MTA applauds both the creation of the commission as well as its choice to undertake a comprehensive inquiry into State Government procurement practices.

In 2016-17, the purchase of goods and services by the South Australian Government totalled \$4.9 billion on a whole of government basis, comprising 24 per cent of total government expenses.

Goods and services procured from businesses operating in South Australia underpin employment, business activity and investment in the State. Procurement reform offers an opportunity to increase the benefits of public spend through better value for money, improved productivity, and supporting local jobs and industry.

The MTA has advocated for the reform of State Government procurement practices for a significant period of time, to ensure the process addresses the apparent contradictions between the government's desire to achieve value for money and industry's desire to maximise its participation in the local economy.

While these would appear to be conflicting objectives, the MTA contends that they are not. In our view, the fundamental issue that must be addressed is how government defines value for money.

Expanding business opportunities for locally headquartered businesses, sustaining existing businesses and increasing local employment opportunities should be at the centre of government's decision making when procuring goods and services.

However, too often, the final determination of a tender's success is based on achieving the lowest cost to government.

We accept that the cost to taxpayers is a critical component of the evaluation process. However, these same taxpayers will benefit from a broader interpretation of 'value for money', both financially as well as socially, with greater local employment outcomes.

This submission outlines the common issues identified by members through their participation in State Government procurement processes. These predominantly involve their preclusion from procurement and the need to increase local industry participation and sustainability through procurement mechanisms.

5. Key Recommendations

The Motor Trade Association of South Australia makes seven recommendations in relation to government procurement as follows:

1. Document access fees should be removed to increase the number of South Australian small businesses participating in the State Government procurement program.
2. Future procurement processes should include the assignment of a tender liaison person to participants from within the department but who is not involved in contract management to facilitate improved access to the procurement program, and enhance the flow of information between purchasers and tenderers so as to improve the timeliness and quality of procurement outcomes.
3. Responsibility for procurement and contract management to be separated from market regulator and policy functions where government has an operational interest.
4. Tender evaluations against government service delivery should include the full cost of Return on Investment, cross subsidisation, amortisation and public subsidies, as well as regard being had to differences in regulatory compliance costs to government when comparing to non-government tenders.
5. Template procurement applications to be developed for small businesses that can be completed online and without the need to seek expert specialist advisory services.
6. Industry participation policy should include a definition of local content to reflect the desire for small business to recruit their staff from, and retain their profits within South Australia.
7. 'Value for money' criteria in government procurement to be redefined to identify local economic and social benefits associated with tenders, and should take into account the opportunity cost of not procuring from local suppliers.

6. Issues with Government Procurement

The cost of the tender process

MTA members have identified two predominant issues relating to the cost of accessing the government procurement process.

First, the preparation of tender bids, including the seeking of specialist advice, bid preparation, opportunity costs associated with managing the bid process in the context of competing core work, and the lack of certainty in relation to a positive outcome are significant issues. This is particularly so for small businesses who do not have the in house capacity, nor often the ability, to develop tender responses.

“The cost of advice on how to calculate the actual tender was extremely high.”

- MTA Member Comment

The bid development process can cost small business tens of thousands of dollars. This is a sunk cost is with limited opportunity to refine, review or collaborate on tender bids throughout the process. This has led to risk averse decision making when determining whether or not to participate in procurement processes.

Second, the barriers to entry are equally high in terms of the minimum thresholds that have to be met in order to participate in the process. This limits both the creation of innovative service delivery models and precludes many local businesses from participation.

For example, we are aware that in one State Government Request for Tender, there was a requirement to provide an ‘unlimited in aggregate’ level of public liability insurance. In actual fact this level of insurance is not available in the market place.

In another example, we are aware that a document access fee of \$10,000 was required in order to be able to view the tender requirements, let alone begin to assess whether it would be worthwhile to make a bid. This expense cannot be recouped.

The MTA recommends that document access fees be removed to increase the number of South Australian small businesses participating in the State Government procurement program.

The MTA recommends that future procurement processes include the assignment to participants of a tender liaison person who is not involved in contract management within the department to facilitate improved access to the procurement program, the flow of information between purchasers and tenderers so as to improve the timeliness and quality of procurement outcomes.

Delays and lack of transparency of the tender process

In each tender that the MTA has been involved in, we have found that there are both significant delays in terms of receiving information regarding the evaluation process and implementation timelines as well as a lack of transparency around the causes of these delays.

This is also true of our members who have participated in procurement processes.

This has led to considerable frustration and financial risk for members who have undertaken investment in good faith, in order to meet the original delivery timelines set out by the tender. This investment, in many cases, has been in the order of hundreds of thousands of dollars.

Members have also indicated strongly that they are concerned with the transparency of the procurement process in relation to understanding the tender documents themselves.

Documentation uses highly technical and often confusing information and direction to tenderers. Many of the Requests for Tender appear to be designed for large procurements, which in many cases is excessive for most small business procurements. However, inadvertent failure to comply with the administrative aspects of a tender's requirements results in applicants being excluded from the evaluation of their substantive bid.

A business' ability to comply with the Request for Tender is often impacted by their inability to access a liaison officer within the process who can assist and guide them. This has created a perception that government procurement process are deliberately designed to exclude all but a few preferred applicants.

“The Government is not always forthright with the information that is given out and keeps shifting the goal posts to get the end result that they want - namely the cheapest price that is possible but not always the best result in the end product.”

- MTA Member Comment

A related issue in this context is that where advice has been provided, typically in market information sessions prior to the commencement of a procurement process, the quality and consistency of the information supplied varies significantly depending on which government department is procuring goods or services.

An example of this is in the DECD school bus tender process as it relates to the current contract period. A number of issues have been identified by members in relation to this tender:

- The use of school bus contract clusters distorted the level of market interest in bidding for the clusters, and failed to take into account higher vehicle maintenance and operational costs for unsealed rural roads and regional fuel prices.
- Stipulations as to the manufacturer of the vehicles that would be required to deliver the contract, which subsequently no longer supplies to the Australian market and was at a higher cost than other manufacturers.
- The apparent length of contracts for service delivery not being adhered to, thus severely impacting on the Return on Investment period for the purchasers of the vehicles.
- Inadequate access to benchmarking data and an unfair and inappropriate comparison to government operated fleets which are highly subsidised through passenger transport operations.

The MTA notes that applicants to the Skilling South Australia fund were assigned such a liaison person. This is a significant improvement on past processes and allowed for refinement and guidance to be provided that significantly improved the quality of the application and the speed of assessment.

The MTA recommends that future procurement processes include the assignment to participants of a tender liaison person who is not involved in contract management within the department to facilitate improved timeliness, access to and quality of procurement processes.

The MTA recommends that template procurement applications be developed for small businesses that can be completed online and can be completed without the requirement to seek expert specialist advisory services.

Capacity of public authorities to evaluate tenders

In the context of the MTA's members, issues around capacity is best framed as a question of *whether* a public authority should evaluate tenders, rather than if an authority *can* evaluate tenders.

In many procurement scenarios that the MTA is aware of, a non-government bid is tendering for a service that is either currently performed wholly by government, or where government is a competitor in the same market.

In many cases, the procurement process is being conducted by a public authority that is simultaneously the market regulator, a market participant as well as the purchaser and contract manager.

This has created situations whereby tenders may, and indeed are likely to, have been evaluated on unequal terms against information known only to government, influencing the capacity for a fair and equal determination. In addition, government purchasing decisions and the need for a return on public investment are most probably influencing the management of some contracts over the medium to long term to the detriment of non-government providers.

In these scenarios, rather than considering the actual cost to deliver, or to sustainability of non-government service providers, tenders are measured against the cost to government for the provision of service. This fails to take into account the fundamentally different costs structures and financial implications associated with non - government service delivery, such as Return on Investment, cross subsidisation, amortisation and public subsidies, and differences in regulatory compliance costs.

Members have indicated that there is a significant perception of a conflict of interest in being regulator, purchaser, competitor and contract manager which undermines their confidence that fair and equitable outcomes can be achieved in instances where disputes arise.

The MTA recommends that responsibility for procurement and contract management be separated from market regulator and policy functions where government has an operational interest.

The MTA recommends that tender evaluations against government service delivery include the full cost of Return on Investment, cross subsidisation, amortisation and public subsidies, as well as differences in regulatory compliance costs to government when comparing to non-government tenders.

Delayed payment

The MTA is aware that some businesses have experienced difficulties in having their payments processed and accepted within agreed timeframes. For example, we have received numerous representations from member businesses who fulfilled their Job Accelerator Grants obligations but have found their grant payments yet to be processed by the Department of Treasury and Finance some six months after lodgement of their claim.

The MTA considers that businesses who comply with the requirements of the tender or grant program, and who have made the decision to take the risk of additional employment as a direct result of this grant, are being denied access to reasonably anticipated cash flows and therefore have been negatively impacted as a result of this delay.

Requirements of local industry participation policies

Members have indicated that procurement processes do not recognise local operators who not only employ staff locally but also retain their profits locally.

Additional weighting to bids can be awarded simply for employing local staff even if profits are returned interstate or overseas and a business is headquartered in another jurisdiction.

While seeking to increase local employment outcomes is an important consideration, the MTA believes this is not the sole intent of industry participation policies.

Many small business owners are in practice also the only employee of that business. Likewise should the small business be forced out of a market or unable to access it, that business and its small number of employees are highly unlikely to find replacement work.

Members also commented that small businesses often have difficulty in securing work that does not exceed their physical capacity and staff size, in the face of government subsidised competition.

An example of this is where 'start-up businesses' are funded to build market share and increase capacity but once the funding ceases, the business folds.

Members have questioned whether a better value for money proposition for government would be a more even dispersal of government spending across existing and start-ups as a way to manage risk.

The MTA recommends that industry participation policy includes a definition of local content to reflect the need to sustain small business that employ their staff from, and retain their profits within, South Australia.

The MTA recommends that 'value for money' criteria in government procurement be redefined to identify local economic and social benefits associated with bids, and take into account the opportunity cost of not procuring from local suppliers.

7. Next Steps

The MTA is available to provide further information in relation to this submission and to clarify any aspect of it.

This includes meeting with agency representatives and facilitating further consultations with industry on proposed changes.

8. Submission Contact

For further information relating to this submission please contact:

Nathan Robinson
Industry Policy Specialist
nrobinson@mtaofsa.com.au
08 8291 2000 or 0418 829 918