

**MEMORANDUM TO: Dr Matthew Butlin, Presiding Commissioner**

**FROM: Graham Brown, CEO, Baptist Care SA**

**DATE: 24<sup>th</sup> December 2018**

**RE: Submission to South Australian Productivity Commission Inquiry into Government Procurement in the Social Services Sector**

I write in response to your invitation to make a submission on the SA Productivity Commission (SAPC) Government Procurement Inquiry Issues Paper.

### Introduction

Baptist Care SA began in 1913 as the West End Baptist Mission and is now among the ten largest providers of community services in South Australia with a reputation for excellence and a commitment to working with the State's most vulnerable people. It is an incorporated agency governed by an elected Board of Directors and employs over 1,000 people in South Australia.

Baptist Care SA delivers services in metropolitan Adelaide (including Inner City, Hallett Cove, Melrose Park, Salisbury and Wayville), the Adelaide Hills, Murray Bridge, Mt. Gambier and Port Lincoln. It offers a comprehensive suite of programs including:

- Disability services
- Specialist Homelessness services
- Aboriginal services
- Out of home care services for Children under State Guardianship
- Mental health services
- Youth, education and training services
- Refugee services
- Employment programs
- Adventure therapy programs with an AOD and employment focus
- Chaplaincy Services to major government institutions including RAH and Adelaide Remand Centre.

### Discussion

Whilst many of the issues and examples outlined in this paper are relevant to Baptist Care SA's experience of public procurement, we believe they may also apply to other non-government organisations who seek to deliver complex human and community services on behalf of government.

In particular, Baptist Care SA concurs that there are issues around:

- **Limited scope for creativity, innovation and capacity for genuine co-design**
  - Complex and deeply entrenched social issues often require integrated, well-coordinated and multi-dimensional responses that are applied by skilled collaborating agencies over a protracted period of time
  - Current State procurement practices are often too limited and rigid in nature and too closed in process to enable collaborating agencies sufficient scope to effectively address the issues at hand

- **Cost of tender process including:**
  - large amount of information and associated investment of resources required to submit a comprehensive tender; often not congruent with the value of the contract
  - High administrative burden of managing multiple small contracts and short extensions to small contracts
  - Short contract time periods that are blind to the time and effort associated with recruitment and establishment of a quality service
  - Organisational sustainability is undermined when limited or no provision is allowed for agencies to 'claw back' tender and establishment costs
  - Unwillingness to invest in service evaluations, which should be integral to service design at the outset not 'tacked on' at the end
- **Establishment of Preferred Provider Panel(s)** that pre-qualify providers for different types/clusters of services to Government
  - Conduct open calls for Expressions of Interest to pre-identify organisations that can demonstrate that they have the required corporate capacity and expertise. Such EoI processes should meet the State Government's requirement to test the market and may be seen to address competitive entry requirements.
  - Having completed the competitive process to win a place on the panel, Government agencies can then enter into direct negotiations with pre-selected NGO's and these organisations can also present innovative responses to government without having to surrender their intellectual property.

*Example of Good Practice: I believe the procurement process conducted by Renewal SA with Tier One Community Housing Providers for the transfer of public housing (second round) clearly demonstrated the mutual benefits of having an established provider panel that could work with Government to resolve and/or avert multiple issues, including the risk of adverse media and public backlash.*

- **Need for layered approaches to procurement** that allows non-government agencies to manage their level of investment in procurement in phases that correlate to the likelihood of securing a contract for provision of services.
  - Calls for Expression of Interest that outline the desired outputs and clearly specify the available inputs, e.g. access to pertinent information, available funding/budget, and other in-kind contributions or resources that can be made available to the successful tenderer.
  - Allow direct negotiation with selected providers to clarify the issues and explore and evaluate alternative approaches and modules of service, i.e. allow the government agency and community service provider to co-design the most appropriate and cost effective service response.
  - Use of a "Tight-Loose-Tight" approach<sup>1</sup> is proposed to have merit in the journey from contracting to compacting:
    - "Tight" has to do with clearly defining the problem or project which is to put out to tender via procurement process. If the Gov't Dept and the Contracted Service Provider don't agree on and understand the problem to be solved, it's easy for the provider to develop a great solution to the wrong

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<sup>1</sup> An approach adopted by Health Service provider South Central Foundation in Alaska Online 24-12/2018 at <http://www.pauldechantmd.com/tight-loose-tight-leadership-a3-thinking/> This approach was commended as a journey from contracting to compacting by a Senior Executive of Fonuaola Pasifika Providers Network NZ.

problem. The risk of this occurring increases the more complex the problem and the larger the number of people on the team.

- *“Get Loose”* - The “Loose” in the middle is seen as a key to tapping into the Contracted Service Provider’s creativity in coming up with the best possible solutions. Here is the opportunity for the Service Provider to develop and demonstrate a deep understanding of causes of the problem and brainstorm creative solutions that work. Co-design processes may also be a useful approach for the Gov’t Dept works closely with one or more members of the Preferred Provider Panel to consider, and potentially to trial, various approaches.
- Then *“Do the Tighten-Up”* - The last “Tight” drives success of the services provided under contract to Government by ensuring accountability – setting clear expectations about what is to be done and what the results/outcomes should be that result from making those changes.

- **Delays and lack of transparency of the tender process**

- Service Providers often experience disrespect when Government Procurement process administrators fail to keep them informed if changes or delays occur.
- The lack of transparency associated with ‘black box’ procurement processes can place Service Providers in a difficult state of uncertainty, particularly when the original tender required that service commence on specified date, or within a contractual timeframe. Sometimes valued staff are lost due to delays and/or costs are incurred to hold staff for protracted periods whilst awaiting tender outcomes.

- **Limited information on forward pipeline of future work**

- Short timeframes between tender release and submission dates does not allow sufficient time for development of well defined, evidence based service models or the forming of consortiums or partnerships
- Limited knowledge of future tenders discourages agencies from factoring in increased economies of scale. Subsequently, every tender response is designed to operate independently of all current and future service responses, thus discounting the benefits of cross-subsidisation that may be possible in a more portfolio-based approach

- **Poor quality of tenders**

- Relevant underpinning research, evidence supporting service specifications and/or data relevant to service provision is not always provided
- Contract Key Performance Indicators (KPIs) are often not outcome focused.
- KPI’s are sometimes not realistic for the target group and/or timeframe of the service and/or level of resources available. For example it is flawed to expect that complex and entrenched intergenerational issues can be meaningfully addressed within a 3 year contract period
- The duration and value of the tender needs to recognise the level of the social issues to be addressed. Complex social change may require a 5+ 5 + 5 year contract period that intentionally spans multiple electoral cycles
- Government probity and capacity limits opportunities for true co-design or meaningful collaboration or innovation.

- **Capacity of public authorities to evaluate tenders.**

- A tendency to prioritise rigid procurement processes over achieving improved outcomes for target groups

- Lack of experience and understanding of community service delivery in government results in disconnect between the policy development and understanding the costs and complexities of implementing and operationalizing policy in the form of services to the community.
- Limited recognition that the establishment and maintenance of TRUST is a critical precursor, and essential ingredient of enduring effectiveness, of services that requires investment and ongoing relational effort to sustain with difficult to reach client groups. The conduit of relational trust, with both clients and staff, cannot be simply turned on and off at will to suit contract requirements

*Example of Procurement Practice Stumbling: Appendix 1 to this submission (below) provides an example of a protracted tender process Baptist Care SA recently experienced which may be viewed as a failed procurement process. This overview is intended to provide insights into the challenges of a procurement process that required innovative service design, interagency collaboration, negotiating price, managing risk, providing quality assurances and achieving sustainable outcomes in complex service provision situations.*

More broadly, Government procurement of complex human services needs to be considered in a context of unprecedented government policy and funding reforms having a significant impact on the non-government sector. These include:

- Marketization of some human services characterised by the move to consumer driven services through NDIS and aged care reform where block funded programs are transitioning to individualised funding putting choice and control in the hands of the consumer.
- Increasing trend toward results-based contracting, funding and investment approaches, even in areas of social complexity, whilst government reduces funding levels. There is a disparity between government outsourcing risk to non-government service providers without acceptance of the need for providers to price for risk, that places all ultimately all parties at risk of failure and potentially sector collapse.
- Much greater emphasis on outcomes being achieved from a given level of investment and providers will increasingly need to demonstrate how they are making a difference to the lives of the people and communities they work with.

Gary Sturgess' 2017 report<sup>2</sup> considers problems that have emerged in the commissioning of complex services in the UK, including a noticeable decline of trust between government and providers of complex public services. A major cause is the government's focus on driving down price to the point that it comprises quality of service, workforce conditions, safety and sustainability, corporate profits and potentially the sustainability of the (sector) market. He states that "Government must formally acknowledge at the highest level that the procurement and contract management tools appropriate for buying 'paperclips' – highly commoditised, easily specified goods and services – are not appropriate for commissioning complex support services and front-line human services".

We assert that the challenges of provision of complex human services warrants a shift in procurement from a 'highly transactional approach'<sup>3</sup> toward a more relational form of contracting

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<sup>2</sup> Gary L. Sturgess, 'Just Another Paperclip? Rethinking the Market for Complex Public Services: A Report to the Business Services Association', (2017) p6 accessed at <http://www.bsa-org.com/wp-content/uploads/2017/04/Just-Another-Paperclip-FINAL.pdf>

<sup>3</sup> Gary L. Sturgess, 'Just Another Paperclip? Rethinking the Market for Complex Public Services: A Report to the Business Services Association', (2017) p11 accessed at <http://www.bsa-org.com/wp-content/uploads/2017/04/Just-Another-Paperclip-FINAL.pdf>

based upon 'personal relationships and institutional trust'. This trust can be sustained through regular performance monitoring and open constructive dialogue. 'Trust is a form of social capital'<sup>4</sup>.

Government procurement processes need to effectively balance:

- Cost of service
- Quality and appropriateness of service
- Value Adds o service, e.g. existing relationships with or relationship/experience with client group
- Sustainability of a healthy non-government service sector

## Summary of Procurement Recommendations

With this broader context in mind, Baptist Care SA proposes the following opportunities for improvement. Including:

- Conduct open processes to establish and review Preferred Provider Panels (PPP) for different service types/clusters.
  - Competitive entry to a PPP can result in an attuned group of quality providers that are then empowered and enabled to share information without fear of losing their hard-won place on the panel. This then creates an environment whereby Contracted Service Providers can collaborate more freely and even develop sector
- Building the capacity and capability of government and non-government providers to:
  - Work together to review available data and analyse the factors underpinning and contributing to complex social issues
  - co-design the program logical and service specifications, recognising that effective intervention for target group may require multiple concurrent and well-coordinated services delivered simultaneously by collaborating government and non-government agencies
- Foster layered approaches to specification of tenders for complex service contracts:
  - Outline the desired outputs and clearly specify the available inputs
  - Allow tendering agencies to develop and demonstrate their own innovative methodologies to produce the required service outcomes
- Providing incentives for effective risk management and rewards for innovation
- Lengthening the duration of contracts
  - 3+3+3 years as a default for human services or
  - 5+5+5 years in areas where high levels of complexity is acknowledged
- Continuous service monitoring, promoting continuous quality improvement and enabling contract extensions based on a ratings system, For example:
  - 4-5 Staff = Automatic Contract Rollover,
  - 3 = Conduct Formal Review prior to rollover Contract
  - 1-2 = Contract will be Re-tendered

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<sup>4</sup> Gary L. Sturgess, 'Just Another Paperclip? Rethinking the Market for Complex Public Services: A Report to the Business Services Association', (2017) p12 accessed at <http://www.bsa-org.com/wp-content/uploads/2017/04/Just-Another-Paperclip-FINAL.pdf>

### Appendix 1 - Example of Procurement Practice Stumbling

In 2017 a South Australian Government Department tendered for a large and complex service for a ten year contract period and possible five year extension.

The following table provides a timeline of the subsequent tender process.

Month 1	Department tenders for a single provider to deliver a complex service to a high risk and complex target group. Baptist Care SA seeks a partner to sub-contract a component of the service model.
Month 2	Baptist Care SA and partner lodge a “non-complying” Alternative Offer, with supporting evidence to support concerns regarding unrealistic KPI requirements and risk in the tender service specification.
Month 2	Baptist Care SA and partner are the only respondents to the tender. Department invites partners to re-submit as a conforming bid, agreeing to a change the service specifications in response to concerns raised.
Month 4	Baptist Care SA and partner advise the Department a non-compliant bid will be submitted due to ongoing concerns around risk.
Month 5 – 7	Department invites the partners to enter into a ‘co-design’ process. The Terms of Reference for the co-design process states the purpose is to ‘Enhance alignment of the received offer with the Procurement Objectives, Program outcomes and the Service Requirements as set out in the Invitation To Supply’. Meetings proceed under strict probity conditions. Requests to the Department for confirmation of program budget, data and evidence supporting aspects of the service model and KPI’s in the service specification are not provided.
Month 9	The Department formally withdraw from the co-design process and invites partners to submit a “Best & Final Offer” (BAFO).
Month 10	The partner formally advises Baptist Care SA of their withdrawal from the BAFO process due to unaddressed concerns about risk transfer and unachievable KPIs. Baptist Care SA seeks Departmental agreement to extend the BAFO deadline to enable time to develop a revised model.
Month 11	Department confirm BAFO deadline for submission extended to 13 July 2018. Baptist Care SA engage external consultant to assist model development.
Month 12	Final BAFO submitted.
Month 12	Dept advises Baptist Care SA the BAFO submission was not successful, primarily because the proposal exceeded budget.
Month 13	Baptist Care SA attends a supplier debriefing session and offers to enter into further dialogue about KPI’s and budget. Baptist Care offers reflect upon feedback and learnings from the recent process to resubmit if a subsequent tender call is issued. The program was withdrawn from State Budget after election.

At the debriefing, the Department advised the submission shortcomings included:

- The need for more detail of how services would be delivered and how program outcomes would be achieved.
- Concerns the support model would 'over-service' participants
- Gender and culturally specific responses were not included
- The regional service delivery component (not required by tender to commence until year 4) was not sufficiently detailed
- Insufficient evidence / data to support model assumptions
- Innovation response did not consider innovative approaches to addressing key client behaviours beyond the specification and the use of payment by results / incentive payments
- The total cost across the forward estimates exceeded the budget allowed for the project before taking departmental program administration costs.

The overall evaluation was that the submission did not provide value for money after considering in aggregate the service model, degree of innovation over and above the specification and the 10 year commercial proposition.

The Department advised that while the co-design approach did not turn out as envisaged, and took more time than expected, it contributed to a better outcome than if it wasn't in place. This included providing understanding of the market and what it can deliver.

The following summary outlines Baptist Care SA's reflection on the tender process and evaluation panel feedback:

- While the Department instigated a co-design process, the approach was quite rigid and the stated intent was to 're-align Baptist Care SA's non-compliant bid to the original service requirements'.
- Using the term 'co-design' contributed to the partner's unrealistic expectations that a collaborative approach would be taken to refine the model, service approach to deliver intended program outcomes and key performance indicators.
- Despite the fact that there were of no other competitors, the degree of probity and strictness of the co-design process, hindered genuine two-way discussion and transparency.
- Lack of transparency and the Department's unexpected withdrawal from the co-design process in favour of a BAFO submission 'blind-sided' the partners, ultimately leading to one partner's withdrawal.
- The co-design ended when there was still uncertainty around delivery timeframes, responsibilities, transfer of risk, budget and outcomes.
- The risk profile of the client cohort was unclear and no evidence was provided to Baptist Care SA either publicly or upon specific request to the Department.
- Lack of data and relevant research in general, despite several requests to the Department, left Baptist Care with no option but to take a conservative approach to service levels and financial modelling. It appears that this conservative approach in turn, led to a perceived lack of innovation being noted by the evaluation panel.

- There was an apparent disconnect between the person-centred service delivery approach requested in the tender and proposed by Baptist Care SA, and the Department's view the support model would result in 'over servicing'.
- While the Department engaged external commercial and probity advisors, the process may also have benefited from engaging an external not-for-profit sector advisor or evaluation team member as described in the government's *Supplier Selection Policy* in line with funding policy for the not-for-profit sector as described in DPC Circular 044<sup>5</sup>.
- The tender writing team considered the level of detail in the submission suitable and consistent with similar submissions, but agree specific responses for gender and culture were an omission and there were other areas for general improvement.
- The submission included minimal detail on the regional component from year 4, as there appeared to be consensus during co-design discussions that there was insufficient data to inform a detailed response in the early developmental stage of the program. There had been acceptance that learning gleaned from the metro roll-out would inform refinement of model prior to regional roll-out. The feedback appear to discount this earlier understanding.

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<sup>5</sup> [DPC Circular 044 – South Australian Funding Policy for the Not-for-Profit Sector](#)