Treasurer's Instructions 18 — Procurement

under the *Public Finance and Audit Act 1987*

Contents

1—Short title

These instructions form part of the *Treasurer's Instructions (General)* and may be referred to as the *Treasurer's Instructions 18 — Procurement*.

2—Commencement

These instructions come into operation on 1 September 2026.

3—Objects

The objects of these instructions are to—

(a) promote good governance, contract management, transparency and record keeping by public authorities in the course of planning and undertaking procurements which create liabilities or potential liabilities for expenditure by public authorities; and

(b) promote compliance with whole-of-government procurement policies; and

(c) provide for reporting to the Department of Treasury and Finance about procurements by public authorities; and

(d) make Chief Executives of public authorities responsible for procurements by the public authority and for determining public authority-specific procurement arrangements.

4—Definitions

(1) Terms defined in the *Public Finance and Audit Act 1987* will have the same meaning in these instructions as they have under the Act.

(2) In these instructions—

approach to market means the formal process of notifying 1 or more potential suppliers of a procurement opportunity and inviting them to submit a response, quote, proposal or offer;

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

(a) the acquisition and installation of fixtures, plant, equipment, appliances and fittings in conjunction with the construction work; and

(b) the acquisition of survey, planning, design and other services in conjunction with the construction work,

but does not include the acquisition of goods and services for the ongoing maintenance of a building or structure;

construction work means—

(a) building work (which has the same meaning as in the *Building Work Contractors Act 1995*); or

(b) the whole or part of the work of excavating, filling or remediation of land not constituting building work; or

(c) civil work, which may include (but is not limited to) roads, bridges, sewers, pipelines, railways, industrial plant, bores, dredging and retaining walls;

Contract Management Policy means the policy by that name approved by the Treasurer and administered by Procurement SA, establishing the requirements for effective contract management;

Contract Reporting Schedule means the schedule by that name approved by the Treasurer and administered by Procurement SA, establishing the requirements for effective contract reporting;

direct market approach means a sourcing strategy for a procurement where only 1 supplier is invited to submit an offer;

expenditure means any outflow from the resources of a public authority and may include such things as the payment of money, the transfer of assets, the provision of services, the replacement of an obligation with another obligation, or the conversion of an obligation to equity;

major project means a construction project valued at more than $50 000 000;

Procurement Activity and Reporting System or ***PARS*** means the software platforms and associated systems and databases administered by Procurement SA for the collection, analysis and disclosure of data relating to procurement by public authorities;

procurement—see instruction 5;

Procurement Forecasting Schedule means the policy by that name approved by the Treasurer and administered by Procurement SA, establishing the requirements for effective procurement forecasting;

Procurement Governance Policy means the policy by that name approved by the Treasurer and administered by Procurement SA, establishing the governance requirements applying to procurement by public authorities;

Procurement Planning Policy means the policy by that name approved by the Treasurer and administered by Procurement SA, establishing the requirements for planning procurements;

Procurement SA means the branch within the Department of Treasury and Finance responsible for strategic advice to government relating to procurement, and administering the procurement policies and guidelines applicable to public authorities;

secondary procurement means the procurement which results in a purchase from a standing offer established following a market approach and conducted in accordance with the approved contract rules;

Sourcing Policy means the policy by that name approved by the Treasurer and administered by Procurement SA, establishing the requirements for an approach to market, evaluating a supplier offer, awarding contracts and undertaking post-sourcing reviews;

South Australian business—a business is a South Australian business in relation to a procurement if the business operates in South Australia and more than 50% of the workforce delivering the contract resulting from the procurement on behalf of the business are residents of South Australia;

sponsorship arrangement means—

(a) an arrangement under which a public authority receives sponsorship monies from a non-government party for an event, project or program if the arrangement involves expenditure by a public authority (for example, where the public authority undertakes to purchase goods or services from the sponsor); or

(b) an arrangement under which a public authority pays money to a non-government party for an event, project or program in exchange for some negotiated benefit in the nature of co-branding or promotion;

standing offer means an arrangement setting out the terms and conditions, including a basis for pricing, under which a supplier agrees to supply specified goods, services, and construction projects to a relevant entity for a specified period;

Note—

A standing offer can be with a single supplier or with multiple suppliers (a panel).

5—Meaning of procurement

(1) In these instructions, ***procurement*** means the process undertaken by a public authority—

(a) for acquiring goods or services for the public authority, including the acquisition of goods or services on behalf of another public authority or third party (including members of the public); or

(b) for engaging in a construction project; or

(c) for the disposal of goods surplus to the public authority's requirements,

which involves expenditure by a public authority, and does not include the matters set out in subclause (2).

(2) These instructions do not apply to—

(a) the provision of funding to a third party by a public authority that is a 'grant' as that term is defined by *Treasurer's Instructions 15 - Grant Funding*; or

(b) the engagement of a legal practitioner to provide legal services to government; or

Note—

Public authorities must comply with *Treasurer's Instructions 10 - Engagement of Legal Practitioners* in relation to the engagement of legal practitioners.

(c) purchase, licence, or lease of real property; or

(d) a sponsorship arrangement; or

(e) non-legally binding intragovernmental arrangements; or

(f) any activity or class of activities determined by the Treasurer to not be a procurement for the purposes of this instruction.

6—Determining the value of a procurement

The value of a procurement for the purposes of these instructions is to be determined by reference to—

(a) if the procurement consists of the disposal of goods—the estimated total value of the goods determined in accordance with any guidance issued by Procurement SA, and any costs associated with the disposal (for example, valuation, consignment, auction costs or consultancy fees); or

(b) in any other case—the budget required by the public authority to meet the estimated total value of any expenditure commitments that may directly result from the proposed procurement (inclusive of GST).

7—Dividing procurements

(1) Subject to subclause (2), a person must not take any action to divide a procurement into separate procurements for the purpose of avoiding any value or complexity thresholds applicable under the Procurement Planning Policy or the Sourcing Policy.

(2) A major project above $500 000 000 must be divided into stages or components for procurement purposes unless an approval is given under instruction 11(5).

8—Public authorities must have a procurement framework

The Chief Executive of a public authority must ensure that—

(a) a robust and transparent procurement framework for the public authority, prepared in accordance with the Procurement Governance Policy, is developed, documented, implemented and maintained; and

(b) an internal review of the suitability of the public authority's procurement framework is conducted at least once in each financial year of the public authority; and

(c) resources, systems, processes and procedures are put in place to maximise compliance with the Procurement Governance Policy, the Procurement Planning Policy, the Sourcing Policy and the Contract Management Policy; and

(d) any failure to comply with these instructions or the requirements of the public authority's procurement framework is dealt with appropriately, documented and addressed in a reasonable manner and within a reasonable time.

9—Alignment of public authorities

(1) A Chief Executive of a public authority (the ***Aligned Public Authority***) may agree, by written instrument, with the Chief Executive of another public authority (the ***Host Public Authority***) to use the procurement framework of the Host Public Authority.

(2) A Minister may, by written instrument, direct a public authority (the ***Aligned Public Authority***) to use the procurement framework of another public authority (the ***Host Public Authority***).

(3) Where 2 public authorities become aligned under subclause (1) or (2)—

(a) the Chief Executive of the Aligned Public Authority—

(i) must notify Procurement SA of the alignment within 60 calendar days of the alignment taking effect; and

(ii) will be taken to comply with the Chief Executive's obligations under instructions 8(a) and 8(b); and

(iii) remains responsible for compliance with instructions 10(5), 11(3) and 12(1)(a);

(b) the written instrument of alignment—

(i) must set out the respective responsibilities of the Chief Executives of the Host and Aligned Public Authorities for compliance with all other obligations contained in these instructions; and

(ii) may assign responsibility for any other matters related to procurement agreed between the Chief Executives of the Host and Aligned Public Authorities.

(c) the Chief Executives of the Host and Aligned Public Authorities must, and must ensure that their public authorities, comply with their respective obligations under these instructions as set out in the written instrument of alignment; and

(d) subject to this subclause, and the written instrument of alignment, an alignment under subclause (1) or (2) does not relieve the Aligned Public Authority or its Chief Executive from the obligations contained in these instructions.

10—Procurement reporting

(1) Public authorities must, by 1 July of each calendar year, provide to Procurement SA, through the PARS, the details specified in the *Procurement Forecasting Schedule* of all known forecast procurements—

(a) above $55 000 for the next 24 month period excluding secondary procurements and procurements for the disposal of goods; and

(b) for construction projects above $10 000 000 for the next 36 month period.

(2) Public authorities must ensure that the forecast procurements of the public authority reported in PARS remain accurate and up-to-date.

(3) A procurement above $55,000, other than a secondary procurement or procurement for the disposal of goods, must be reported to Procurement SA through the PARS at least 3 months before an approach to market is made for the procurement, unless the Chief Executive (or authorised person) approves that the procurement is an urgent pressing need that could not have been foreseen.

(4) Public authorities must, by 1 August of each year, provide to Procurement SA, through the PARS, the details specified in the *Contract Reporting Schedule* in respect of all contracted expenditure arising from procurements conducted in the previous financial year with a value exceeding $55 000.

(5) By 1 August of each calendar year, public authorities must provide to Procurement SA a certificate signed by the Chief Executive (or authorised person) of the public authority confirming that all information provided under subsection (4) is true, correct and complete.

(6) Public authorities must provide the information required under this instruction in the manner and form required by Procurement SA.

11—Approval for approach to market

(1) A person must not make an approach to market, or cause an approach to market, for any procurement above $55 000 unless—

(a) the procurement has been reported to Procurement SA through the PARS in accordance with instruction 10; and

(b) the approach to market has been approved by either the Chief Executive of the public authority or a person acting under an authorisation under subclause (2) (up to the limit identified in the authorisation); and

(c) the person approving an approach to market under paragraph (b) certifies that the Procurement Planning Policy and the Sourcing Policy have been complied with or that any departures from either of those policies have been sufficiently detailed on the departure register in accordance with instruction 12(1)(b).

(2) Subject to subclauses (3) and (5), the Chief Executive of a public authority may, by written instrument, authorise a person or the holder of a specified position to approve an approach to market under subclause (1) subject to such financial limits and other conditions as the Chief Executive specifies in the written instrument.

(3) Only the Chief Executive of a public authority can approve an approach to market for a procurement above $55 000 that involves a direct market approach to a supplier where the supplier that is proposed to be the subject of the direct market approach is not a South Australian business in relation to the procurement.

(4) However, subclause (3) does not apply to a secondary procurement.

(5) Only the Chief Executive of a public authority can approve an approach to market for a procurement for a major project above $500 000 000 (and such an approval may only be given if the Chief Executive is satisfied that it is not feasible to divide the project up into stages or components).

(6) The Chief Executive of a public authority that is undertaking a major project must ensure that the project is released (in accordance with any guidance issued by Procurement SA) within 30 days of funding being available for the project, as far as practicable.

12—Registers

(1) The Chief Executive of a public authority must ensure that the following registers are maintained:

(a) an ***authorisation register*** that sets out—

(i) the persons, or the holders of specified positions, who are authorised under instruction 11(2); and

(ii) the particulars of any limits, and any conditions, that apply in relation to each such person or position.

Note—

This register does not need to be stand-alone and can, for example, be kept together with or form part of the schedule of authorisations granted under the provisions of *Treasurer's Instructions 8 - Financial Authorisation*.

(b) a ***departure register*** that sets out—

(i) all procurements above $55 000 where there has been a departure from the Procurement Planning Policy or the Sourcing Policy; and

(ii) the particulars of and reasons for those departures.

Note—

This register does not need to be stand-alone and can, for example, be kept through reporting all relevant departure information into the PARS.

(2) The Chief Executive of a public authority must make the registers required by subclause (1) available to Procurement SA on request.

13—Interpretation

(1) These instructions should be interpreted and applied in accordance with *Treasurer's Instructions 1 - Interpretation and Application*.

(2) Additional guidance, forms and resources are available from the Department of Treasury and Finance's DTF Extra and procurement platforms.

14—Transitional

(1) Instruction 11(1)(c) does not apply in relation to construction projects above $165 000.

(2) The certificate required under instruction 10(5) must, for the year 2026, be provided by 1 October 2026.