

GOVERNMENT OF WESTERN AUSTRALIA

Procurement Act 2020 (WA)

‘Transitional Arrangements and Related Information Associated with the Repeal of the State Supply Commission Act 1991 (WA)’

Purpose¹:

The *Procurement Act 2020 Commencement Proclamation (No. 2) 2020* (**Proclamation**) was published in the *Government Gazette* of 18 December 2020.

The Proclamation will enable the *Procurement Act 2020 (WA)* (**Procurement Act**) to commence in full on 1 June 2021 (**Transition Day**) and it will also result in the repeal of the *State Supply Commission Act 1991 (WA)* (**SSC Act**) in accordance to section 41 of the Procurement Act.

Also on the Transition Day, the *Western Australian Procurement Rules* will come into operation under [*General Procurement Direction 2021/02 – Western Australian Procurement Rules*].

This General Procurement Direction provides clarity on transitional arrangements for active procurements being undertaken by State agencies which have not progressed to contract award prior to the Transition Day. It is accompanied by related information associated with the repeal of the SSC Act.

General Procurement Direction: 2021 / 01

Scope of Operation and Timing:

This procurement direction is issued under the Procurement Act by the Deputy Director General, Advisory Services, Department of Finance, as delegate of the Minister administering the Procurement Act.

This procurement direction is issued to all State agencies and applies on and from 1 June 2021.

¹ Purpose: the contextual information under this heading does not form part of the direction.

TRANSITIONAL ARRANGEMENTS FOR ACTIVE PROCUREMENTS

Effect of State Supply Commission policies on active procurements on the transition day

This Procurement Direction deals with the circumstance where, on the Transition Day, a State agency is undertaking a procurement through a process which:

- (a) has commenced and uses a request based on a Department of Finance template Request document included in the following list (**Template Request**) –
 - Template – Request*
 - Template - Request – ICT CUA Group Buy and or Panel Arrangement*
 - Template - Request – Cleaning*
 - Template – Request for Quote – Cleaning; and*

- (b) has not yet progressed to contract award,

(an **Active Procurement**). This includes a procurement advertised where the date for submission of offers has not yet passed and a procurement for which offers have been received and which are under evaluation by the State agency.

Each Template Request provides that, in determining value for money, the State agency will apply relevant State Supply Commission policies to the assessment of offers. Each Template Request (other than the *Request for Quote – Cleaning*) also provides that certain State Supply Commission policies apply to the request. For the purposes of this Procurement Direction, those provisions in the Template Request are the **SSC Provisions** and the State Supply Commission policies they reference are the **Relevant SSC Policies**.

Where a State agency is undertaking an Active Procurement using a request which contains SSC Provisions, then from the Transition Day until contract award occurs for that Active Procurement:

- (a) the Relevant SSC Policies continue under this Procurement Direction for the purposes of the SSC Provisions as they apply in that Active Procurement, so that the SSC Provisions will apply as if the Relevant SSC Policies are still in place; and
- (b) to the extent that the Procurement Rules require a State agency to do anything inconsistent with the SSC Provisions as they apply in that Active Procurement, the Procurement Rules will not apply.

Functionally, the State agency should apply the SSC Provisions in the Active Procurement.

For the avoidance of doubt, the Procurement Rules will apply to the Active Procurement after contract award.

Relevant State Supply Commission policies

The Relevant SSC Policies are:

- (a) *Value for Money;*

- (b) *Probity and Accountability;*
- (c) *Open and Effective Competition;*
- (d) *Sustainable Procurement;*
- (e) *Procurement Planning, Evaluation Reports and Contract Management;* and
- (f) *Disposal of Goods.*

They can be found at wa.gov.au.

END OF DIRECTION

RELATED INFORMATION FOR STATE AGENCIES

Changes to existing Common Use Arrangements on the transition day

On the Transition Day, each existing common use arrangement (**CUA**) established under the *SSC Act* is taken to be a CUA under section 25 of the *Procurement Act*.

Existing common use arrangements means an arrangement entered into by the State Supply Commission (**SSC**).

These following changes will occur to existing CUAs on transition day:

1.0 Procurement Executive Body

The SSC will be abolished by the Procurement Act. A new body corporate called the Procurement Executive Body (**PEB**) has been established under section 18 of the *Procurement Act*.

There will be a transfer of ownership of all existing CUAs from the SSC to the PEB.

The Department of Finance will still administer all CUAs, so there will be little practical change to the current method of doing business.

2.0 Potential Customer

As per regulation 4(3) of the *Procurement Regulations 2020*, a reference to "Potential Customer" in an existing CUA, is taken to be a reference to each State agency and "authorised body", as those terms are defined in section 4(1) of the *Procurement Act*.

The Department of Finance will maintain a list of "authorised bodies" able to access CUAs – a public 'Approved CUA Users List' (the **List**). The List will be published on wa.gov.au.

Authorised bodies on the List may access CUAs in accordance with the terms and conditions of each CUA.

3.0 Head Agreement and Customer Contract Details

All existing Head Agreement Details and Customer Contract Details previously agreed prior to the transition day remain unchanged on the transition day.

If you are a party to a Customer Contract under a CUA you do not have to take any action.

Further information and support from the Department of Finance can be obtained from:

Website: wa.gov.au

Email: procurementadvice@finance.wa.gov.au

Promotion within State agencies

This procurement direction will be published on the wa.gov.au website. State agencies are required to bring the matters contained therein to the attention of the relevant staff within their agency.