



## **OPEN AND EFFECTIVE COMPETITION**

Applying open and effective competition provides suppliers with fair and equitable access to government supply opportunities, while maintaining the transparency and integrity of government procurement.

### **Procurement Methods**

The following table sets out the minimum requirements that a public authority must use to procure goods and services, unless using a common use arrangement or a specific exemption is approved.

Temporary monetary thresholds have been introduced to support economic recovery following the COVID-19 pandemic. These changes aim to maximise opportunities for local businesses and will apply until 31 December 2020 unless otherwise revised.

| <b>Original Monetary Threshold<sup>1</sup></b> | <b>Temporary Monetary Thresholds*</b> | <b>Minimum Requirements</b>   |
|--|---------------------------------------|---|
| Up to \$50,000                                 | <b>Up to \$250,000</b>                | Public authorities may determine the most appropriate procurement method including direct sourcing, verbal quotations (up to \$50,000) or written quotations based on assessment of the |



### **Exemptions from Minimum Requirements**

A public authority is not required to comply with the minimum requirements in the table above if:

the Accountable Authority or delegate considers that circumstances exist which support the minimum requirements not applying; or

an emergency situation arises; and

justification for the decision is documented.

Circumstances where the minimum requirements may not apply include, but are not limited to, the following:

there is a bona fide sole source of supply;

a public authority has awarded a contract for a similar requirement through a competitive process within the previous 12 months and there is a reasonable expectation that the market has not changed;

a public authority requires the use of goods and services from a particular supplier that must be integrated within an existing contractual arrangement, project or ICT standard operating environment and an alternative product is not suitable; and

where direct negotiations or the preferred service provider provisions of the Delivering Community Services in Partnership Policy (DCSP Policy) are applied.

Where the total estimated value of the proposed procurement exceeds the covered procurement<sup>2</sup> threshold under any of the Free Trade Agreements (FTAs) held by the



advice from the Department of Finance when procuring from Australian Disability Enterprises or Aboriginal businesses.

### **Involvement of the Department of Finance**

A partially exempt public authority<sup>5</sup> must involve the Department of Finance where the total estimated value of the proposed procurement or variation<sup>6</sup> is \$250,000 or above<sup>7</sup>, in accordance with the terms and conditions of its partial exemption.

A partially exempt public authority is not required to comply with this requirement if the procurement is undertaken under the DCSP Policy. In this circumstance, the Department of Finance may agree to provide support on a case-by-case basis.

COVID-19 Special Contract Variations do not require the involvement of the Department of Finance, regardless of value.<sup>8</sup>

### **Avoiding Bias**

A public authority must ensure that Request specifications promote open and fair competition. Adequate and consistent information must be provided to all potential bidders. Proprietary products must not be specified unless there are no suitable alternatives or there are sound technical or operational reasons for doing so. Where naming a proprietary product is necessary, the Accountable Authority must approve the naming.

### **Contract Period**

When procuring goods or services that will be delivered over a period of time rather than as a one-off purchase, a contract term or timeframe for completion must be specified. For contracts that are intended to exceed five years, a public authority must demonstrate there are sound technical, commercial or operational reasons for doing so, or that significant benefits will be delivered to the State. Where the period of the contract exceeds five years, the Accountable Authority must approve the proposed term.

### **Advertising Open Tenders**

Where the applicable monetary threshold requires an open tender, the public authority must publicly advertise the open tender on *Tenders WA*<sup>9,10</sup>. The tender advertising period must be for a minimum of 10 working days, except where the proposed procurement is covered under a FTA.

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<sup>5</sup> This refers to a public authority with a partial exemption from section 19(1) of the *State Supply Commission Act 1991*.

<sup>6</sup> A "variation" is defined as any variation in contract spend that exceeds the total contract value or estimated contract value recorded on *TendersWA* at the point of the award of the contract.

<sup>7</sup> Upon application by the public authority, the State Supply Commission may accredit the partially exempt public authority to procure independently to a higher value. If so accredited, the public authority would be issued with a partial exemption that reflects this higher value.

<sup>8</sup> Requirements for the COVID-19 Special Contract Variation are contained in the *Procurement Planning, Evaluation Reports and Contract Management* policy.

<sup>9</sup> *Tenders WA* is the central on-line source of information on government tenders and awarded contracts, and is available at <http://www.tenders.wa.gov.au>.

<sup>10</sup> Unless the accountable authority has directly engaged a supplier(s) in accordance with this policy.





All other requirements of this policy do not apply.

*Justification for Exclusive Negotiations Characteristics are **Not Met***

When procuring pursuant to the Market-Led Proposals policy and Justification for Exclusive Negotiation characteristics are not met, public authorities must comply with all requirements of this Open and Effective Competition policy.

CHAIRPERSON  
STATE SUPPLY COMMISSION  
GAZETTAL DATE: 29 May 2020  
EFFECTIVE DATE: 2 June 2020