



ACCI POLICY STATEMENT

GOVERNMENT PROCUREMENT POLICY

The term 'government procurement' refers to purchases of goods or services, including consultancies and professional services; construction; maintenance and material supply contracts; facilities contracts; capital equipment and property and leasing arrangements, undertaken by governments for their own consumption.

Government procurement is a significant component of commercial activity in many market-oriented economies around the world, including Australia. According to departmental figures, for 2003-04, total contracts notified by all agencies, including defence, totalled around \$17 billion dollars. The commencement of the Australia-United States Free Trade Agreement on 1 January 2005 has opened up the \$200 billion United States procurement market for the first time, which may add substantially to the value of procurement for many Australian businesses. Currently, and for the foreseeable future, procurement is a major marketplace for many Australian businesses.

Consequently, government purchasing policy and practice is of major ongoing concern for Australian business, particular for small and medium sized enterprises.

PRINCIPLES OF GOVERNMENT PROCUREMENT POLICY

The overarching principles for ACCI on government procurement are as follows:

- government should maximise the efficiency and effectiveness of its spending on goods and services;
- there should be non-discriminatory open competition, that is, unrestricted, universal access and the procurement process itself should be transparent;
- purchasing decisions should be made on the basis of value for money, incorporating price, quality of service and whole of life; and
- where appropriate the Government should contract out its goods and services requirements to industry.

POLICY OBJECTIVES

ACCI believes the fundamental policy objective is to ensure that the process of public consumption of goods and services provides net gains to the economy, not only in terms of the efficient satisfaction of public needs, but also the continued development and expansion of small businesses as drivers of innovation, employment and economic growth.

This requires a business-friendly purchasing culture to underpin the Government's approach to purchasing. In order for this to be achieved, the purchasing process should have efficiency and effectiveness; probity and equity; and effective competition as central objectives, this includes application of the Trade Practices Act to Government procurement activities.

The *Commonwealth Procurement Guidelines* state that the fundamental objective of Commonwealth procurement is to provide the means to efficiently and effectively deliver the Government's programs. This objective is supported by the following core principles:

- value for money;
- encouraging competition;
- accountability and transparency; and
- efficient, effective and ethical use of resources.

While ACCI supports the core principles that government says underpins its purchasing policy, ACCI believes in practice the principles are not fully adhered to and do not result in maximum outcomes.

A systemic approach should be built and implemented that:

- has a legal and administrative framework that facilitates the integration of procurement entities in the public sector into a functional and coherent network with high professional standards that is consistent with international obligations. Such a framework should define the financial and legal responsibilities of all participants in the procurement process;
- ensures that government procurement entities employ personnel who have received consistent, mandatory training and who understand the need for efficient procurement systems. Creating these systems generates significant training costs but advanced industrial economies with well developed procurement systems, like the OECD countries, commit more resources to procurement training than Australia;
- invests in information technology systems which provide adequate access to data and information, and which facilitate professional networking within the public sector;
- gives suppliers access to training and information that promotes their competitiveness, with information provided on both the Australian and other eligible procurement markets, such as the United States;
- designs and implements effective mechanisms to curb fraud, waste, abuse and corruption which impedes competition; and
- recognises that the role of governments as major purchasers of goods and services can have substantial impacts on competition within markets and therefore must ensure that government procurement activities are subject to the Trade Practices Act.

Government and industry will benefit from government agencies implementing a procurement planning process within their organisations that addresses:

- providing data on past and projected procurement expenditure;
- reviewing procurement expenditure targeted at achieving best value for money;
- opportunities for continuous improvement of the procurement function, systems and procedures including increasing the use of electronic commerce in procurement; and
- reporting annually on planned outcomes, including industry and social benefits.

Electronic commerce has the potential to contribute to the efficiency of the buying process, with costs and benefits accruing to both buyers and suppliers. The take up of electronic commerce in the procurement process should be a key government initiative.

Recognising the lack of capacity in SMEs as compared to larger companies and the public sector, there is a need to assist in access to information, restrict bundling of contracts, protect against unconscionable contract terms, mitigate the high cost of tendering and develop uniform bidding processes. At the same time, small business should be encouraged to be innovative in the way it takes advantage of the vast opportunities offered by the government market.

A business-friendly purchasing culture should pervade government procurement guidelines. A prime example of the lack of the required culture is the manner in which businesses are charged for tendering documents, the proportionate impact of which increases as the size of the firm decreases. To assist in achieving this business friendly purchasing culture the following principles should be applied:

- where Australian products and services are equal to overseas items in terms of value for money and other principles, then Australian products ought to be purchased;
- government should commit to sourcing at least 25 per cent of its purchases from SMEs;
- government enterprises should not enjoy net competitive advantages over their private sector competitors simply by virtue of public sector ownership;
- application of the Trade Practices Act to all government procurement activities;
- Commonwealth agencies should work with the Industry Capability Network and commit to maximising Industry Capability Network involvement in the purchasing process; and
- formal performance reporting measures for purchasing administration including:
 - CEOs to report annually on how effectively they and their agency have performed against key objectives in the *Commonwealth Procurement Guidelines*, including whether they have met the SME target; and
 - CEOs to report annually on how successfully they and their agencies have been in involving the Industry Capability Network and consequently in using Australian suppliers. A policy for reporting against clearly identified target dates should be implemented.

Government procurement policy should not seek to integrate broader government policy objectives on environment, Aboriginal and Torres Strait Islander or affirmative action issues. The primary objective of procurement must be to achieve the highest level of efficiency and value for money in government purchasing. Initiatives to achieve environmental or social objectives should not be pursued through government purchasing processes.

The Commonwealth *Environmental Purchasing Guide* and *Checklists* attempt to achieve environmental objectives that should not be pursued through the government purchasing process.

ACCI is not opposed to the concept of assessing tenderers in terms of environmental performance when ascertaining 'value for money'.

However, ACCI is strongly opposed to the *Environmental Purchasing Guide* and *Checklists* as they place onerous demands on business. They also place a disproportionate and adverse burden on SMEs due to their lack of relative resources (as compared to large businesses) and may prevent SMEs from accessing the procurement market. SMEs find it more difficult to meet the tendering requirements. On this basis:

- the *Environmental Purchasing Guide* and *Checklists* should be withdrawn; and
- environmental considerations should not be a compulsory or prescribed consideration in any tender

THE POLICY FRAMEWORK

Procurement should apply on a whole of government basis, involving all public sector agencies and enterprises. Coordinating procurement across government creates opportunities to assess the benefits of consolidated purchasing and identify innovative and alternative solutions so government may achieve efficiencies and greater value for money. At the same time this should not detract from flexible and creative approaches which the bundling of contracts often precludes.

The responsibility and accountability of chief executive officers for purchasing activities is a key element of achieving an effective purchasing framework. Government purchasing and its associated multiplier effects are a significant factor in our economy, however there does not appear to be appropriate measures of accountability and performance assessment consistent with this responsibility. There is merit in the creation of formal performance measures regarding purchasing administration. These should include indicators for how effectively CEOs have performed against the key objectives in the *Commonwealth Procurement Guidelines*. These performance measures should report fully on the engagement of small business in all aspects of the procurement process.

Outsourcing

While ACCI agrees in principle with the outsourcing of the supply of goods and services, the implementation of purchasing policies at management and operational level is of critical importance. The success of current and future policy initiatives depends largely on:

- the creation of efficient contracting and purchasing procedures;
- recognition at both policy and implementation level of the strategic value of active purchasing policies in industry development; and
- transparent and user-friendly methods of informing potential suppliers about purchasing practices and opportunities.

Whole of Government

Significant benefits can be gained if agencies work together and interact with industry consistently. The Government can benefit by direct savings resulting from consolidating purchasing power through a centralised purchasing system and by achieving environmental and economic goals. There are indirect benefits as well, such as savings from less duplication for agencies and improved efficiency across the board.

Coordinating procurement across government creates opportunities to assess the benefits of consolidated purchasing and identify innovative and alternative solutions so government and agencies may achieve efficiencies and greater value for money.

Government will benefit from agencies implementing a procurement planning process within their organisation that addresses:

- providing data on past and projected procurement expenditure;
- reviewing procurement expenditure targeted at achieving best value for money;
- opportunities for continuous improvement of the procurement function, systems and procedures including increasing the use of electronic commerce in procurement; and
- reporting on planned outcomes including industry and social benefits.

This information will assist the Government to target and structure contracts for the benefit of all user agencies. The information will also help to identify organisations that have implemented best practices in procurement that could be adopted across the whole of government.

Opportunities for Small Business

An area of particular concern is the practice of “mega-contracting” by Commonwealth agencies which is creating a barrier to many small enterprises taking advantage of new opportunities created by public sector demand for goods and services. While it may in the short term create cost savings for agencies, it means that they become entirely captive of a single large supplier with little or no technical purchasing expertise housed in the client agency. This reduces the ability of the Commonwealth to make strategic purchasing decisions, especially in relation to developing or regional industries. Further, this practice will result more generally in Commonwealth purchasing that does not maximise efficiency and effectiveness in the long run as the relative bargaining position of agencies will be weakened.

Another result of “mega-contracting” is that many small enterprises are almost entirely reliant on sub-contracting as a source of business. Many contracts are being won by consortiums dominated by multinational enterprises that have no connection with, or interest in, smaller Australian enterprises looking for sub-contracts, particularly in regional areas. Ensuring that the Government’s core principles for purchasing, particularly ethics and fair dealing, are part of the sub-contracting arrangement is important.

A more balanced and considered approach to contracting out is required to ensure that separate goods and service requirements are met efficiently and with regard to the impact of spending decisions on small businesses and regional industries. Given the decentralising of purchasing responsibility, this approach needs to be applied across all Commonwealth agencies.

It is imperative that relevant agencies continue to identify improved methods of achieving an efficient system of information dissemination to complement policies dealing with optimum purchasing practices by the public sector, especially for SMEs. Value for money criteria must be applied in a manner which recognises product life cycle, continuity of service and reliability. This includes the building up of locally available capacity and enduring commercial relationships. Simply focusing on the lowest price ignores many elements of inherent “value”.

For further information:

Greg Evans
Director, Industry Policy and Innovation
Telephone: (02) 6273 2311
Facsimile: (02) 6273 3286
Email: greg.evans@acci.asn.au