

# **Procurement Policy**

## Policy Document Management

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# 1 Executive Summary

## 1.1 Objective

This policy and associated guidelines are designed to ensure that Sydney Opera House (SOH) procurement:

- is aligned to organisational objectives;
- delivers value for money over the procurement life cycle; and
- is conducted with probity and fairness, and meets standards and requirements for the procurement of goods and services in compliance with NSW Government Policies and legislation.

## 1.2 Scope

This policy applies to all procurement undertaken at Sydney Opera House. The engagement of artists and other performance related costs are also subject to conditions as outlined in the *Event Case Policy*. The procurement of capital works and building maintenance services by Building Development & Maintenance are also subject to the BD&M Procurement Manual.

# 2 Definitions

**Consultant** – as per NSW Premier’s Department Guidelines, a consultant is defined as “a person or organisation engaged under contract on a temporary basis to provide recommendations or high level specialist or professional advice to assist decision making by management”.

**Expression of Interest (EOI)** - Expression of Interest – usually used as a preliminary round for short-listing prospective suppliers. An EOI may have an abbreviated specification similar to a Request for Tender.

**Procurement Review Panel (PRP)** – the strategic leadership group for procurement at SOH. The Panel is responsible for managing SOH Procurement Policy and focuses on procurement processes and/or high risk procurements and issues with potentially significant impact upon procurement policy, processes, systems and principles. The PRP is also accountable for supporting the iPOS electronic purchasing system.

**State Contracts Control Board (SCCB)** – a statutory board established under the Public Sector Employment and Management Act (NSW) 2002 to arrange for the supply and disposal of goods and services on behalf of the public sector through contracts with suppliers.

**State Contracts** – a system of contracts with suppliers administered by the SCCB for the purchase of goods and services.

**Tender** – sealed bid for purchasing submitted in response to a request for tender.

A full Glossary of Terms is provided in the *Purchasing Guidelines* and *Request for Quotations and Tendering Guidelines*.

## 3 Policy Conditions

### 3.1 Procurement Principles & Ethical Standards

- 3.1.1 Sydney Opera House is committed to maintaining NSW Government standards and probity for the procurement of all goods and services and ensuring all procurement activity is conducted within the NSW Government Procurement Framework and Procurement Policy.
- 3.1.2 The key principles applying to purchasing SOH is value for money and probity. Value for money can be enhanced by ensuring that procurement processes have regard to the supporting principles of impartiality, accountability, transparency, confidentiality and fairness.
- 3.1.3 Procurement practices shall be structured to minimise costs for all parties. Business relationships with prospective providers are to be non-adversarial and based on open communication and mutual respect.
- 3.1.4 Sydney Opera House expects all parties to procurement to identify potential environmental opportunities, risks and impacts. Service providers shall have a demonstrated commitment to, acceptable performance with, and systematic approach to, environmental management. Refer to NSW Government *Code of Practice for Procurement* (2005).
- 3.1.5 For each procurement staff will strive to obtain the best business outcome for Sydney Opera House based on best fit for Sydney Opera House, quality, price and availability. To achieve these objectives staff and contractors will abide by the following eight points of ethical procurement.

#### **Eight Points of Ethical Procurement**

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<b><i>Honesty and fairness</i></b>	<i>All procurement and business relationships shall be conducted with honesty and fairness.</i>
<b><i>Commitment to best practice and continuous improvement</i></b>	<i>Staff should continually seek to improve practices and produce better procurement outcomes.</i>
<b><i>Accountability and transparency</i></b>	<i>The process for awarding contracts will be open, clear and defensible.</i>
<b><i>Unbiased decision making</i></b>	<i>Potential conflicts of interest should be declared and addressed as soon as they become known.</i>
<b><i>Legislative compliance</i></b>	<i>SOH staff shall comply with all legal obligations</i>
<b><i>No anti-competitive practices</i></b>	<i>SOH staff shall not engage in practices that are anti-competitive.</i>
<b><i>Intention to proceed</i></b>	<i>SOH staff shall not seek quotations or tenders without a firm intention and capacity to proceed with a contract.</i>
<b><i>Equal opportunity</i></b>	<i>SOH staff shall not engage in practices that aim to give one party an improper advantage over another.</i>

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### **3.2 Use of Funds & Procurement Method**

- 3.2.1 Procurement methods and approvals are largely driven by the total value threshold of the procurement. Only approved procurement methods set out in this policy and associated guidelines may be used for purchasing for SOH. Purchasers are not permitted to use any procurement method or Sydney Opera House funds for personal expenses or advantage.
- 3.2.2 Where value thresholds alter during the course of a procurement action (e.g. quotes indicate the procurement falls into a higher value threshold), the procurement must be completed in line with requirements for the new procurement threshold.

### **3.3 Sponsorship**

- 3.3.1 All arrangements where contra goods and/or services are provided in return for sponsorship benefits fall within the Procurement Policy and must comply with the Procurement Principles and Ethical Guidelines. It must be made clear in such circumstances that no privilege or preferential treatment will be afforded to any sponsor of Sydney Opera House (see *Budget Relieving Contra Sponsorship Policy* and standard Sponsorship Agreement).

### **3.4 Authority to Procure**

- 3.4.1 Authority to commit funds and approve expenditure is subject Sydney Opera House Financial Delegations and confirmation that funds are available in the allocated budget. Staff must not exceed their financial delegation or enter into a procurement contract without appropriate authority.
- 3.4.2 The Procurement Review Panel (PRP) is responsible for ensuring processes supporting procurement at SOH are undertaken with probity and deliver value for money. All procurement actions which exceed \$250,000 or which are sensitive or high risk are to be submitted to the PRP for their review and endorsement.

### **3.5 Special Permissions**

- 3.5.1 The engagement of consultants or contractors is subject to approval of the relevant Executive Director/Manager, regardless of the contract value.
- 3.5.2 Procurement of Information Technology (IT) equipment must be referred to Information Systems, regardless of the value. Approvals for IT procurement vary depending on the nature and purpose of the purchase (see *Purchasing Guidelines* and *Request for Quotations and Tendering Guidelines*).
- 3.5.3 Special conditions apply to the procurement of furniture for offices, meeting rooms and public spaces. All furniture procurement must be undertaken as described in the *Purchasing Guidelines* and *Request for Quotations and Tendering Guidelines*).

### **3.6 State (SCCB) Contracts**

- 3.6.1 State Contracts is the preferred purchasing channel for relevant goods and services.
- 3.6.2 Goods and services purchased from suppliers under State Contracts require no additional procurement process approvals, other than relevant SOH delegations and authority.

### **3.7 Contract Terms**

- 3.7.1 For general and smaller value purchases, the 'General Conditions of Contract for the Supply of Goods and/or Services /Installation Work' are referenced on the SOH Purchase Order and are available from the SOH website and the Intranet. Staff should ensure that standard contract terms and a purchase order is used.
- 3.7.2 For higher value procurement or more complex contract requirements, specific 'Conditions for Request for Quotation', 'General Conditions of Contract' and 'Brief' or 'Scope of Goods and

Services' will be appropriate and issued formally together with a 'Letter of Acceptance' to establish a contract.

Refer to BDM Procurement Manual and standard templates for construction and building maintenance procurement and to SOH Legal for complex goods & services procurement.

3.7.3 Where variations to a standard contract are sought, the procurement must be referred to SOH Legal. All variations to contract are subject to relevant Delegated Authority approval.

### **3.8 Exceptions to Quotation/Tender Process**

3.8.1 Provision is made in the *Request for Quotation and Tendering Guidelines* to meet contingencies that arise in exceptional circumstances and that may justify use of 'direct sourcing' from a preferred supplier and entry into 'direct negotiations'. This includes specialist provider markets and genuine urgent business requirements. Please note that inadequate time to complete the required tender process is not necessarily considered an urgent business requirement.

3.8.2 In such cases the endorsement of the Procurement Review Panel is required through formal endorsement of a Procurement Plan.

3.8.3 Circumstances where exceptions to competitive procurement may be permitted are outlined in the *Request for Quotations and Tendering Guidelines* (see sections on *Direct Sourcing in Limited Circumstances*, and *Direct Negotiations with Existing Suppliers*).

### **3.9 Reporting and Disclosure**

3.9.1 All contracts must be appropriately registered in TRIM and added to the Sydney Opera House Contracts Register.

3.9.2 For contracts with a value of \$150,000 and over, the requirements of Government reporting may apply in accordance with the *Government Information (Public Access) Act 2009* (GIPAA). The business unit undertaking the procurement is responsible for compliance with GIPAA reporting requirements. Legal will provide support to business units needing to report under GIPAA. Also refer to *Request for Quotations and Tendering Guidelines* and *GIPAA FAQs and Policy*.

3.9.3 Variations to contracts other than construction and building maintenance, with external companies will be reported to the Audit and Risk Committee on a six monthly basis for each variation with an amount over \$50,000 (excluding GST).

Variations outside of approved delegations on construction and maintenance contracts are also reported to the Building Committee.

Please note:

- a) A variation to a contract will be evident by the difference in amount between original contract sum or single purchase order amount, and the final contract sum or purchase order amount.
- b) Reporting is not required for collective variations that total \$50,000 or more.

## **4 Practices and Procedures**

4.1 Processes and procedures for procurement at Sydney Opera House are outlined in the *Purchasing Guidelines* (goods and services up to \$30,000) and *Request for Quotations and Tendering Guidelines* (goods and services \$30,000 and above).

4.2 Processes and procedures for the procurement of building maintenance and construction are outlined in the BDM Procurement Manual.

- 4.3 Where implemented, business units are to use the electronic procurement system (iPOS) for all procurement activities.
- 4.4 Whenever possible, all procurement should be undertaken in Australian dollars. Where this is not possible then any procurement in foreign currencies must comply with the *SOH Treasury Risk Management Policy*.

## 5 Accountabilities

- 5.1 All Sydney Opera House staff (including contractors and consultants where relevant) involved in procurement are required to act in accordance with this policy and guidelines which outline our values and responsibilities.
- 5.2 Heads of business units are responsible for ensuring that all procurement activities within their department are conducted in accordance with this policy and guidelines.
- 5.3 Assets and Procurement are responsible for facilitating sound procurement practices through support for business units, maintaining policy, guidelines and templates and associated forms, and monitoring policy and procedure compliance.
- 5.4 The Legal department are responsible for providing information and assistance to business units regarding *Government Information (Public Access) Act 2009* (GIPAA) reporting requirements, contract terms and conditions and variations to contract.

## 6 References

*Public Sector Employment and Management Act 2002*

*Public Finance and Audit Act 1983*

*NSW Government Procurement Policy – NSW Treasury TPP04 – July 2004*

*NSW Code of Practice for Procurement January 2005*

*NSW Procurement Reforms – Premier and Cabinet Memorandum 2006-11*

*NSW Government Procurement System for Construction*

Purchasing Guidelines

Request for Quotations and Tendering Guidelines

BD&M Procurement Manual

SOHT Purchase Order General Conditions of Contract

Sydney Opera House Financial Delegations

Sydney Opera House GIPAA FAQs and Policy

SOH Sponsorship Policy

SOH Budget Relieving Contra Sponsorship Policy (SOH108)

SOH Treasury Risk Management Policy (SOH106)

**APPROVED**



Chief Executive

Date: 29 March 2011