

# **Procurement Policy**

## Policy Document Management

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## Policy Statement

Authority to commit funds and approve expenditure is subject to 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.

Procurement methods and approvals are largely driven by the total value threshold of the procurement. If the total contract value is \$30,000 or less, procurement methods and approvals are set out in the *SOH Purchasing Guidelines (up to \$30,000 in total contract value)*. If the total contract value is over \$30,000, procurement methods and approvals are set out in the *SOH Procurement Guidelines (over \$30,000 in total contract value)*. Only approved procurement methods set out in this policy and associated guidelines may be used for purchasing for SOH.

The approved procurement methods are outlined in the policies, guidelines and manual referred to in the following table:

Contract value <i>(including GST)</i>	Procurement			
	All procurements <i>(incl. BD&amp;M, artists &amp; sponsorship contracts)</i>	Building Development & Management	Artists & other performance related costs	Sponsorships
Total contract value \$30,000 or less	<i>Purchasing Guidelines (Purchases up to \$30,000 in Total Contract Value)</i>	<i>BD&amp;M Procurement Manual</i>	<i>Event Approval Policy</i>	<i>Budget Relieving Contra Sponsorship Policy</i> <i>Sponsorship Policy</i>
Total contract value over \$30,000	<i>Procurement Guidelines (Procurement over \$30,000 in Total Contract Value)</i>	<i>BD&amp;M Procurement Manual</i>	<i>Event Approval Policy</i>	<i>Budget Relieving Contra Sponsorship Policy</i> <i>Sponsorship Policy</i>

## 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 legislation and policies.

### 1.2 Scope

The policy applies to all procurement undertaken at Sydney Opera House. In addition:

- the engagement of artists and other performance related costs are also subject to conditions as outlined in the *Event Approval Policy*; and
- the procurement of capital works and building maintenance services by Building Development & Maintenance (BD&M) are also subject to the *BD&M Procurement Manual*.

## 2 Definitions

**Consultant** – as per the NSW Department of Finance and Services' *Prequalification Scheme: Performance and Management Services – Guidelines for Agencies* (2012), 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”.

**Procurement Review Panel (PRP)** – the strategic leadership group for procurement at SOH. The PRP is responsible for managing the *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 Internet Purchasing Ordering System (iPOS).

**NSW Procurement Board** – a statutory board established under the *Public Sector Employment and Management Act 2002* (NSW) responsible for overseeing the Government's procurement system, setting policy and ensuring compliance. It has the statutory power to issue directions to agencies, and make decisions and monitor the progress of agency compliance. It accredits agencies to undertake their own procurement of goods and services.

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

A full Glossary of Terms is provided in the *Procurement Definitions Guide*.

## 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 Policy*.
- 3.1.2 The key principles applying to purchasing for SOH are 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 the *NSW Government Code of Practice for Procurement*.
- 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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***Honesty and fairness***

*All procurement and business relationships shall be conducted with honesty and fairness.*

***Commitment to best practice and continuous improvement***

*Staff should continually seek to improve practices and produce better procurement outcomes.*

***Accountability and transparency***

*The process for awarding contracts will be open, clear and defensible.*

<b>Unbiased decision making</b>	<i>Potential conflicts of interest should be declared and addressed as soon as they become known.</i>
<b>Legislative compliance</b>	<i>Staff shall comply with all legal obligations.</i>
<b>No anti-competitive practices</b>	<i>Staff shall not engage in practices that are anti-competitive.</i>
<b>Intention to proceed</b>	<i>Staff shall not seek quotations or tenders without a firm intention and capacity to proceed with a contract.</i>
<b>Equal opportunity</b>	<i>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. If the total contract value is \$30,000 or less, procurement methods and approvals are set out in the *SOH Purchasing Guidelines (up to \$30,000 in total contract value)*. If the total contract value is over \$30,000, procurement methods and approvals are set out in the *SOH Procurement Guidelines (over \$30,000 in total contract value)*. 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 Standards. It must be made clear in such circumstances that no privilege or preferential treatment will be afforded to any sponsor of SOH (see *Budget Relieving Contra Sponsorship Policy* and *SOH Sponsorship Policy*).

### **3.4 Authority to Procure**

- 3.4.1 Authority to commit funds and approve expenditure is subject to SOH Financial Delegations and confirmation that funds are available in the allocated budget. Staff must not exceed their financial delegation set out in the SOH Delegations of Authority Schedules - Financial Delegations or enter into a procurement contract without appropriate authority.
- 3.4.2 The 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. Guidance on whether a proposed procurement is sensitive or high risk can be obtained from the relevant Executive Director.

### **3.5 Special Permissions**

- 3.5.1 The engagement of consultants or contractors is subject to approval of the relevant Executive Director or 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.
- 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 and Procurement Guidelines*.

### **3.6 State Contracts**

- 3.6.1 State Contracts are 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 Aboriginal and Torres Strait Islander Participation**

- 3.7.1 SOH is committed to increasing the opportunities available to Aboriginal and Torres Strait Islander businesses, exploring options for Aboriginal and Torres Strait Islander businesses to increase their share of SOH procurement, and assisting relationship building with Aboriginal and Torres Strait Islander suppliers in both goods and services and construction procurement.

### **3.8 Contract Terms**

- 3.8.1 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 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. There should be no supply activity until a contract is entered into or a purchase order has been accepted.
- 3.8.2 For all other procurement, the proposal must be referred to the Legal Department to assist in developing appropriate contract terms and conditions. All variations to contract are subject to relevant Delegated Authority approval.

### **3.9 Contract Management**

- 3.9.1 Contract Management encompasses the systematic and efficient management of contract creation, execution, and analysis for the purpose of maximising financial and operational performance, and minimising risk.
- 3.9.2 All procurement actions requiring a *SOH Procurement and Evaluation Plan* to be submitted to the PRP should also have a *SOH Contract Management Plan* developed in order to systematically ensure that the contractual obligations of both SOH and the supplier are met, deliverables are achieved in the most efficient and effective manner, and risks minimised in delivering the contractual outcomes.

### **3.10 Urgent Procurement**

- 3.10.1 Provision is made in the *SOH Procurement Guidelines* to meet cases of genuinely urgent procurement. Before proceeding, staff should obtain their manager's approval that the procurement is urgent. In addition, endorsement from the Procurement Review Panel will need to be obtained as soon as possible. Please note that inadequate time to complete the required tender process is not necessarily considered an urgent business requirement.
- 3.10.2 In all cases where it is proposed to adopt procurement processes not consistent with the *Procurement Policy* and *SOH Procurement Guidelines*, the endorsement of the PRP is required through a *SOH Procurement and Evaluation Plan*.

### **3.11 Reporting and Disclosure**

- 3.11.1 All contracts must be appropriately registered in TRIM and added to the Sydney Opera House Contracts Register.
- 3.11.2 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 (NSW)* (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 *GIPAA FAQs and Policy*.

3.11.3 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 required for collective variations that total \$50,000 or more.

In relation to non-financial variations to any contract, the variations must be approved by the position authorised to approve that contract.

## **4 Practices and Procedures**

4.1.1 Processes and procedures for procurement of goods and services at Sydney Opera House are outlined in the *SOH Purchasing Guidelines (up to \$30,000 in total contract value)* and *SOH Procurement Guidelines (over \$30,000 in total contract value)*. Processes and procedures for the procurement of building maintenance and construction are outlined in the *BD&M Procurement Manual*.

4.1.2 All business units are to use iPOS.

4.1.3 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**

5.1.1 All Sydney Opera House staff (including contractors and consultants where relevant) involved in procurement are required to act in accordance with this Policy and the Guidelines which outline our values and responsibilities.

4.1.2 Heads of business units are responsible for ensuring that all procurement activities within their department are conducted in accordance with this Policy and the Guidelines.

4.1.3 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.

4.1.4 The Legal Department is responsible for providing information and assistance to business units regarding GIPAA reporting requirements, contract terms and conditions and variations to contract.

## **6 References**

*Public Sector Employment and Management Act 2002 (NSW)*

*Public Finance and Audit Act 1983 (NSW)*

*Public Sector Employment and Management Amendment (Procurement of Goods and Services) Regulation 2012 (NSW)*

*NSW Government Procurement Policy – NSW Treasury TPP 04-1 – July 2004*

*NSW Government Code of Practice for Procurement January 2005*

*NSW Procurement Reforms – Premier and Cabinet Memorandum M2006-11*

*NSW Government Procurement System for Construction*

*SOH Purchasing Guidelines (Purchases up to \$30,000 in total contract value)*



SOH Procurement Guidelines (Procurement over \$30,000 in total contract value)

SOH BD&M Procurement Manual

SOH Event Approval Policy

SOHT Purchase Order General Conditions of Contract

SOH Delegations of Authority Schedules - Financial Delegations

SOH GIPAA FAQs and Policy

SOH Sponsorship Policy

SOH Budget Relieving Contra Sponsorship Policy (SOH108)

SOH Treasury Risk Management Policy (SOH106)

**APPROVED**

A handwritten signature in cursive script that reads "Claire Spencer". The signature is written in black ink and is underlined with a single horizontal line.

Acting Chief Executive Officer

Date: 6 May 2013