

PROCUREMENT POLICY

SCOPE

This policy applies to all Tourism Australia staff members in all markets when procuring goods or services or making any commitment of money.

POLICY

This policy sets out the requirements for planning, implementing, approving and documenting procurements, which is the purchase of goods and services and commitment of money. It is an essential part of Tourism Australia's corporate governance and risk management strategy, aiming to promote the efficient, effective, economical and ethical use of public resources.

As a corporate Commonwealth entity funded by the Australian Government, Tourism Australia must comply with the *Public Governance, Performance and Accountability Act 2013*, the *Tourism Australia Act 2004* and the Commonwealth Procurement Rules (CPRs). That legislation forms the primary basis for this policy.

In practice, this policy closely interacts with other policies referenced throughout and detailed in the appendix. One of Tourism Australia's core values, Commercial, is also particularly relevant to procurement.

For further guidance on the policy framework or its operation, contact the Procurement team in Corporate Services.

PRINCIPLES

Value for money

Achieving value for money is the core rule of the CPRs and of this policy. Staff responsible for procurements must be satisfied, after reasonable enquiries, that the procurement achieves a value for money outcome for Tourism Australia. Procurements should:

- encourage competition and be non-discriminatory
- use public resources in an efficient, effective, economical and ethical manner that is not inconsistent with the policies of the Commonwealth
- facilitate accountable and transparent decision-making
- encourage appropriate engagement with risk
- be commensurate with the scale and scope of the business requirement.

Price is not the sole factor when assessing value for money. When conducting a procurement, staff must consider not only the relevant financial costs and benefits, but also relevant non-financial costs and benefits to Tourism Australia. These could include (without limitation):

- the quality of the goods and services
- fitness for purpose of the proposal
- the potential supplier's relevant experience and performance history
- flexibility of the proposal (including innovation and adaptability over the lifecycle of the procurement)
- environmental sustainability of the proposed goods and services (such as energy efficiency, environmental impact and use of recycled products)
- whole-of-life costs (as defined in line with the guidance in and referenced within this policy).

Efficient, Effective, Economical and Ethical Procurement

Tourism Australia promotes the proper use and management of public resources. Proper means efficient, effective, economical and ethical:

- Efficient relates to the achievement of the maximum value for the resources used. In procurement, it includes the selection of a procurement method that is the most appropriate for the procurement activity, given the scale, scope and risk of the procurement.
- Effective relates to the extent to which intended outcomes or results are achieved. It concerns the immediate characteristics, especially price, quality and quantity, and the degree to which these contribute to specified outcomes.
- Economical relates to minimising cost. It emphasises the requirement to avoid waste and sharpens the focus on the level of resources that the Commonwealth applies to achieve outcomes.
- Ethical relates to honesty, integrity, probity, diligence, fairness and consistency. Ethical behaviour identifies and manages conflicts of interests, and does not make improper use of an individual's position.

Accountability and Transparency

Tourism Australia is committed to ensuring accountability and transparency in its procurement activities:

- Accountability means that officials are responsible for the actions and decisions that they take in relation to procurement and for the resulting outcomes.
- Transparency involves staff members taking steps to enable appropriate scrutiny of their procurement activity.

For Tourism Australia, this includes maintaining records through Dynamics 365 Finance & Operations (D365 F&O) and using the AusTender website to publish relevant tenders, as detailed in the *Reporting Requirements Policy*. For low-value and low-risk procurements, relevant records should be kept in line with the *Corporate Credit Card Policy*.

Risk Management

Risk is the effect of uncertainty on objectives. An effect is a deviation from the expected—positive, negative or both. Risk is often expressed in terms of a combination of the consequences of an event (including changes in circumstances or knowledge) and the associated likelihood of occurrence.

Tourism Australia has established processes to identify, analyse, allocate and treat risk when conducting procurements. The effort directed to risk assessment and management should be in line with the scale, scope and inherent risk. Staff members should consider risks and their potential impact—particularly in higher-risk areas like cyber-security—when making decisions relating to procurement approaches, value for money assessments, approvals of proposals to spend money and the terms of the contract.

As a general principle, risks should be borne by the party best placed to manage them—that is, Tourism Australia should generally not accept risk which another party is better placed to manage. Similarly, when Tourism Australia is best placed to manage a particular risk, it should not seek to inappropriately transfer that risk to the supplier.

REQUIREMENTS

Standard Procurements of Goods and Services

This section provides a high-level summary of the processes for standard procurements, where Tourism Australia alone is purchasing goods or services and committing money.

Each procurement will require either an open tender, which means inviting all potential suppliers to respond as part of an approach to market, or a limited tender, which means inviting one or more potential suppliers to respond. The processes will vary depending on the procurement's whole-of-life value (in Australian dollars, including applicable taxes) and inherent risk profile.

Staff members should note that not all procurements will fit neatly into these categories, particularly in relation to risk profiles. If a low value procurement has a high risk profile, for example, a more robust process for procurement and contracting should be put in place. Staff members in business areas will be best placed to assess and manage risks in line with Tourism Australia's *Risk Management Policy*.

| Value | Inherent Risk Profile | Requirements |
|------------------------------|---|---|
| < \$10,000 | Extremely low <i>(see Corporate Credit Card Policy for categories)</i> | Sourcing multiple quotes is encouraged to ensure a value for money outcome, where appropriate, but not required. Staff members should arrange payment with a corporate credit card wherever possible, which is reconciled at the end of each month. |
| ≥ \$10,000 to < \$25,000 | Low | Multiple quotes are encouraged but not required. The outcome must be detailed in a purchase requisition in D365 F&O. |
| ≥ \$25,000 to < \$400,000 | Low to high | Generally, multiple quotes (three or more) must be sourced, following the approval of a procurement plan at the start of a Request for Quote process. Proposed limited tenders with fewer than three quotes must be discussed and agreed with the Procurement team. The outcome must be approved in an evaluation report and purchase requisition in D365 F&O. |
| ≥ \$400,000 | Medium to high | Publishing an open tender on AusTender is the default approach, following the approval of a procurement plan at the start of a Request for Tender process. Proposed limited tenders valued at \$400,000 or more must be discussed and agreed with the Procurement team. An external probity adviser must be engaged to review. The outcome must be approved in an evaluation report and purchase requisition in D365 F&O. Procurements in this category generally need to be approved by the Executive Leadership Team. In addition, procurements valued at \$1.5 million or more must be approved by the board prior to selection of preferred tenderer. Individual contracts valued at \$3 million or more must also be approved by the Minister prior to selection of preferred tenderer, immediately following the Board's approval. |

The procurement approach can also vary for certain categories of goods and services. For example, the CPRs provide exemptions from some requirements when procuring: land or existing buildings, including leasing; research and development services; advertising services; and goods and services from businesses that primarily exist to provide the services of persons with a disability; and from small to medium enterprises (SMEs) up to the value of \$200,000 and from SMEs that are at least 50 per cent owned by Indigenous Australians more broadly.

The procurement of talent to appear in advertising or participate in other promotional work would generally be covered by another exemption for labour hire. This includes when the individual is engaged either directly or through a firm which primarily exists to provide the services of only that individual. The exemption removes the requirement for an open tender for procurements valued at \$400,000 or higher. However, purchase requisitions must still be submitted through D365 F&O and delegates must satisfy themselves, after reasonable enquiries, that the procurement achieves a value for money outcome for Tourism Australia, as well as meeting other policy requirements (e.g. the ESPI Framework).

The relevance and practical implications of those various exemptions should be discussed with the Procurement team and documented in a procurement plan at the start of a procurement process.

Tourism Australia can access a range of coordinated procurement arrangements, like panels, administered by other entities that are part of the Australian Government and other jurisdictions. The use of these arrangements is strongly encouraged to reduce direct costs and can streamline procurement processes, as it removes the requirement to publish an open tender. The Procurement team can assist with identifying relevant arrangements.

Partnership Marketing, Sponsorship and Cooperative Broadcast Agreements

Partnership Marketing Agreements (PMAs), Sponsorship Agreements and Cooperative Broadcast Agreements all involve a third party, typically in a joint marketing effort with Tourism Australia.

PMAs must be developed and implemented in line with the *Partnership Strategy and Guidelines*, as updated from time to time. Sponsorship Agreements and Cooperative Broadcast Agreements must be discussed with the Procurement and Legal teams to determine the most appropriate procurement approach.

Like standard procurements, these agreements must be approved in D365 F&O by staff members with the appropriate delegation. Following evaluation and prior to executing an agreement, staff members must satisfy themselves, after reasonable enquiries, that they achieve a value for money outcome for Tourism Australia.

Media Buys

As with standard procurements, media buys need to be approved in D365 F&O by staff members with the appropriate delegation, although no approval by the Procurement team or the Chief Financial Officer is required. This internal approval must be secured before signing a media buying authority with Tourism Australia's media agency.

Memoranda of Understanding

Typically, Memoranda of Understanding are preliminary documents that show an intention to negotiate and execute a more formal contract in the future, with no immediate obligations (financial or otherwise) created for either party. They do not need to be approved in D365 F&O.

ADMINISTRATIVE MATTERS

Risk Assessments

The processes for assessing and managing risks are detailed in D365 F&O and procurement document templates. For further guidance, refer to the *Risk Management Policy*.

Conflicts of Interest

A conflict of interest can be defined as a conflict between the public duties and private interests of a public official, in which the public official has private-capacity interests which could improperly influence the performance of their official duties and responsibilities. Even the appearance of a conflict can undermine credibility and result in a loss of public confidence.

This is particularly relevant to procurements. Any potential or actual conflict of interest, involving either a staff member or their immediate family member, must be disclosed promptly in writing to your manager. As part of procurements valued at \$100,000 or more, staff members are required to complete a conflict of interest declaration.

Delegations Instrument and Instructions

Staff members must comply with the *Delegations Instrument and Instructions*, which specifies the limit of authority of each staff member to make any financial commitment on behalf of Tourism Australia.

Calculating Whole-of-Life Values

All whole-of-life values must be in Australian dollars and, if necessary, converted from foreign currencies using the annual budget parameter rate. Taxes, options to extend, charges and contingencies must be factored into the total sum. In determining the value of a direct procurement, the total contribution of all parties should be used. In determining the value of a PMA, only Tourism Australia's contribution should be used.

Invoicing

Prior to suppliers invoicing Tourism Australia for relevant goods or services—that is, those that cannot be paid by credit card—staff members must have an approved purchase order. Suppliers must include the approved purchase order number on the invoice, as well as a contact name.

Contracts and Variations

Staff members must follow the approval processes specified in the *Legal Services Policy*. Any contract valued at or over \$100,000 must be electronically signed (unless otherwise agreed) by all relevant staff members using Docusign and approved by the Chief Financial Officer. These requirements also apply to any variation that increases the whole-of-life value to or beyond that \$100,000 threshold.

As a general rule, staff members should liaise with the Legal team to develop draft contracts—reflecting what they intend to be executed with the successful supplier, rather than a template—to be distributed to potential suppliers as part of the procurement documentation. This practice ensures that:

- potential suppliers are fully aware of the proposed terms and can identify any proposed changes
- Tourism Australia can consider any proposed changes as part of the evaluation process and move to execution of a contract with the successful supplier in a more streamlined manner.

Staff members must upload contracts at the end of the purchase requisition process in D365 F&O.

Legal and Ethical Procurement

Tourism Australia must ensure that its suppliers do not engage in human trafficking, slavery and slavery-like practices such as forced labour and child labour, including within their supply chains.

A supplier must have good legal and ethical standing and a high quality of workplace standards and practices. These matters should be addressed as part of risk assessments—which may be documented in procurement plans, evaluation reports and/or other documentation—and additional due diligence may be required. This may include providing potential suppliers with a questionnaire to assess their policies and practices to identify, assess and mitigate modern slavery risks in their supply chains and operations, either during the procurement or as part of the engagement.

Under the *Modern Slavery Act 2018*, Tourism Australia must also report on the risks of modern slavery in its operations and supply chains and actions to address those risks. The Act was introduced to increase consideration, transparency and accountability in this area.

Rights of Suppliers

The *Government Procurement (Judicial Review) Act 2018* grants rights to suppliers, including potential suppliers, of Tourism Australia for procurements valued at \$400,000 or more. Where the CPRs are breached, suppliers can seek an injunction from the Federal Circuit Court to suspend the procurement and/or compensation for the costs of tendering.

To reduce the associated risks to Tourism Australia, staff members must:

- conduct procurements in accordance with the CPRs and this policy
- consider and account for potential delays or compensation with their procurements.

These rights do not replace any other forms of legal redress available to suppliers, including potential suppliers.

APPENDIX

DEFINITIONS

- *Approach to market* means any notice inviting potential suppliers to participate in a procurement which may include a request for tender and request for quote (most typical for Tourism Australia, as well as a request for expression of interest, request for information and request for proposal)
- *Limited tender* means inviting one or more potential suppliers to respond as part of an approach to market
- *Open tender* means inviting all potential suppliers to respond as part of an approach to market
- *Request for quote, or RFQ*, means a process involving less detailed documentation by Tourism Australia as part of its approach to market and a less detailed submission from tenderers
- *Request for tender, or RFT*, means a process involving more detailed documentation by Tourism Australia as part of its approach to market and a more detailed submission from tenderers
- *Whole-of-life value* means the total value in Australian dollars, including taxes, options to extend, charges and contingencies, including the initial purchase price, maintenance and operating costs, transition-out costs, licensing costs (where applicable), the cost of additional features, consumable costs (including environmental sustainability) and disposal costs.

TEMPLATES

A comprehensive suite of templates to support procurements is available on myTA.

ASSOCIATED POLICIES

Policies specific to Tourism Australia include the:

- *Code of Conduct*, which establishes *values* and details expectations for ethical conduct and decision-making at Tourism Australia
- *Corporate Credit Cards Policy*, which sets out responsibilities for managing and using corporate credit cards in a transparent, efficient and legitimate manner
- *Delegations Instrument and Instructions*, which specifies the limit of authority of each staff member at Tourism Australia in making any financial commitment on behalf of Tourism Australia
- *Fraud and Corruption Policy*, which specifies how staff members should take reasonable measures to prevent, detect and deal with fraud and corruption
- *Gifts and Benefits Policy*, which specifies how staff members should deal with giving or accepting gifts and benefits
- *Legal Services Policy*, which specifies when and how staff members should develop and execute contracts with suppliers, in partnership with the Legal team
- *Partnership Strategy and Guidelines*, which guide the approach for selecting and working with partners
- *Privacy Policy*, which specifies how Tourism Australia collects, stores and uses personal information
- *Risk Management Policy*, which establishes consistent processes to ensure that risk is managed effectively, efficiently and coherently across Tourism Australia
- *Sustainability Policy*, which details Tourism Australia's commitment to implement environmental and social sustainability measures, including in relation to procurement.

FLOWCHART FOR PROCUREMENT PROCESSES

