

Procurement policy

POL-C-030

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1. Title

Procurement policy

2. Introduction

The National Museum of Australia (the Museum) is a major cultural institution charged with researching, collecting, preserving and exhibiting historical material of the Australian nation. The Museum focuses on the three interrelated areas of Aboriginal and Torres Strait Islander history and culture, Australia's history and society since European settlement in 1788 and the interaction of people with the environment.

Established in 1980, the Museum is a publicly funded institution governed as a statutory authority in the Commonwealth Arts portfolio. The Museum's building on Acton Peninsula, Canberra opened in March 2001.

3. Scope

3.1 Description

This policy covers the procurement of property and services by the National Museum of Australia from external sources for its own use or for use by third parties.

3.2 Purpose

The principal outcomes include:

- procurement processes which meet the Museum's legal obligations under Commonwealth laws, regulations, directions and Australia's obligations under international trade agreements
- efficient and transparent procurement processes which result in the sound management of public resources
- procurement outcomes which meet the Government's principal objectives of value for money, encouraging competition, efficient, effective and ethical use of resources and accountability and transparency
- consistency of procurement practices and knowledge of processes across the Museum.

3.3 Rationale

A clear and effective policy for the procurement of property and services by the Museum is essential for the efficient operation of the Museum and for the discharge of the Museum's responsibility for the management of public resources.

The Finance Minister has required the Museum, via the Finance Minister's (*CAC Act* Procurement) Directions 2009, to apply the Commonwealth Procurement Guidelines (CPGs) when the Museum is undertaking a covered procurement.

4. Principles and guidelines

4.1 General

Staff must ensure that all procurement is undertaken in accordance with the Commonwealth's and Museum's procurement framework. At a minimum staff must comply with requirements set out in:

- the Commonwealth Procurement Guidelines (CPGs), as applied to the Museum by the Finance Minister
- any relevant Finance Circulars or Guidance notes on procurement issued by the Department of Finance
- this procurement policy
- any procurement procedures or instructions issued by the Museum's Director or Council.

4.2 Objectives and principles

The primary principles of procurement, as described in the CPGs, are:

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

All procurement activity by the Museum must be in accordance with the primary principles.

4.3 Valuing a procurement

The procurement value is the maximum anticipated value of a contract, including options, extensions, renewals or other mechanisms that may be executed over the life of a contract, inclusive of any taxes or charges (such as GST).

Where the procurement is to be conducted in multiple parts with contracts awarded either at the same time or over a period of time, with one or more suppliers, the estimated value must include the estimated total maximum value of all of the contracts. A procurement must not be divided into separate parts for the purpose of avoiding a procurement threshold.

4.4 Risk management in procurement

Public sector risk management involves making decisions that are capable of standing up to public scrutiny and Commonwealth accountability mechanisms. This requires that decisions are documented and that the processes for arriving at decisions are both transparent and visible. Staff undertaking procurement need to manage risk through all stages of the procurement cycle.

If procurement is conducted in a high-risk environment, this may compromise the achievement of value for money, both in terms of contract cost and the Museum's resources needed to manage the risk. The resources expended in managing risk should be commensurate with the likelihood of a loss or benefit. In contracts, the risk should lie with the party best able to manage that risk. This may be the Museum, the supplier or both.

4.5 Application of the Commonwealth Procurement Guidelines (CPGs)

The Finance Minister has required the Museum, via the Finance Minister's (CAC Act Procurement) Directions, 2009, to apply the CPGs where the Museum is undertaking a covered procurement.

For the Museum and other CAC bodies a 'covered procurement' is defined as:

- the procurement of property and services other than construction services – procurement valued over \$400,000; and
- the procurement of construction services – procurement valued over \$9,000,000.

4.6 Mandatory Procurement Procedures (MPPs)

The consequence of the Museum engaging in a covered procurement is that the Museum must comply with the CPGs, including the Mandatory Procurement Procedures (MPPs) in Division 2 of the CPGs. It is essential that staff managing covered procurements familiarise themselves with the CPGs/MPPs since non-compliance with the CPGs, including the reporting requirements, will be noted in the annual Certificate of Compliance report to the Minister.

The MPPs specify how an approach to the market must be made, requirements for the format and availability of request documentation, minimum time limits, handling of late submissions, awarding of contracts and notification of decisions.

4.7 Approaching the market – procurement methods and documentation

4.1 Knowledge of the market is a critical factor in determining the appropriate procurement method and will assist the delegate to make an informed decision. The procurement method selected should ensure that sufficient information about the market is available to the delegate to make informed decisions on value for money and promote efficient and effective competition. Museum staff are expected to use the procurement precedents developed by the Manager, Legal Services and the Finance section and to seek advice as necessary.

4.2 Where a complex procurement is to be undertaken, staff should consider developing a procurement plan for consideration by the relevant Assistant Director/Chief Operating Officer. The procurement plan should set out the different options available, including using an existing panel, setting up a new panel of providers, piggy-backing on other agencies' procurements, accessing coordinated (or whole-of-government) procurements and so on. The procurement plan also needs to take into account the requirements of the CPGs.

Under the CPGs as applied to the Museum, all covered procurements (i.e. procurements over \$400,000) are subject to an open tender process unless the CPGs permit otherwise. The CPGs permit select tendering or direct sourcing in limited circumstances (for example, leasing of accommodation).

Museum staff must seek advice from the Manager, Legal Services where they are considering not using an open tender process for a covered procurement.

4.8 Reporting

All contracts with a value greater than \$400,000 (other than contracts for construction services where the value is \$9 million or more), irrespective of procurement method, must be published on AusTender within six weeks of entering the contract. All contracts for which the procurement method was by open tender must be published on AusTender within six weeks of entering the contract. Museum staff are responsible for

providing the Finance section with the necessary reporting information in order to meet the deadline for reporting.

4.9 Application of the CPGs to acquisitions of historical objects

The application of the CPGs to the acquisition of an historical object (whether or not the object is intended for the National Historical Collection) should be considered on a case-by-case basis. The following aspects of the CPGs should be noted:

- they only apply to the purchase of objects by the Museum and not to donations or gifts;
- they will only apply to covered procurements (i.e. procurements over \$400,000);
- nothing in the CPGs is intended to prevent an agency from applying measures determined by the Director to be necessary to protect national treasures of artistic, historic or archeological value; and
- direct sourcing may occur where the procurement is for works of art that can only be supplied by a particular business.

Any procurement/purchase of objects, irrespective of value or application of the CPGs, must be assessed against criteria in the Collections Development policy approved by Council.

4.10 Decision making and delegations

The Council has delegated to the Director and some Museum employees its powers under the *National Museum of Australia Act 1980*. The procurement of property or services may involve several distinct decision points (e.g. the approval of expenditure and the entering into contracts) which must be approved by an appropriate delegate.

4.11 Documentation

Assistance should be sought in the preparation of tender and contract documents from the Manager, Legal Services. Most procurements, other than routine low-value purchases, should result in a written contract with the successful tenderer.

All contracts must have a Museum-issued contract number. All procurements with a Museum-issued contract number must have a purchase order. All procurements valued at over \$5,000 including GST must have a purchase order.

A copy of all contracts should be provided to the procurement officer in Finance immediately after entering the contract.

4.12 Procurement awareness

To enable employees to conduct procurement in accordance with the principles set out in this policy, the Museum will conduct, as required, appropriate training programs.

5. Definition of terms

Commonwealth Procurement Guidelines (CPGs)

The Commonwealth Procurement Guidelines issued by the Finance Minister and applied to the Museum by the Finance Minister's (CAC Act Procurement) Directions, 2009.

Construction services

Construction services are procurements related to construction of buildings and all procurements covered by the *Public Works Committee Act 1969*.

Covered procurements

Covered procurements are procurements, other than one that is specifically exempt, where the value of the property or services exceeds \$400,000 and for construction services over \$9 million.

Delegate

A delegate is a person occupying a position listed in the Council approved delegations schedule.

Mandatory procurement procedures

Mandatory procurement procedures are a set of rules and procedures, outlined in division 2 of the Commonwealth Procurement Guidelines, which must be followed when conducting a covered procurement.

6. Definition of responsibilities

Director

The Director is responsible for:

- issuing procurement procedures and National Historical Collection acquisition procedures consistent with this policy; and
- reporting non-compliance to the Minister through the annual Certificate of Compliance.

Chief Finance Officer

The Chief Finance Officer is responsible for:

- developing and implementing the procurement policy and procurement procedures in accordance with Council directives;
- maintaining the tender and contract register;
- staff training and ongoing procurement awareness updates; and
- acting as the Museum point of contact for the Department of Finance and Deregulation.

Manager, Legal Services

Manager, Legal Services are responsible for:

- approving all tender documentation; and
- providing advice on procurement and contractual issues.

Assistant Directors/Chief Operating Officer

- Assistant Directors/Chief Operating Officer are responsible for the conduct of their respective staff in connection with the procurement of property and services.

Business unit managers and project managers

Business unit managers and project managers are responsible for:

- developing business cases, procurement plans and tender documents;
- evaluating submissions and preparing recommendations;
- complying with the requirements of the Commonwealth Procurement Guidelines and Museum procurement procedures; and
- negotiating and managing contracts on behalf of the Museum.

7. References

The legislation, regulations and guidelines relevant to this policy include:

Commonwealth Authorities and Companies Act 1997

Commonwealth Procurement Guidelines, December 2008

Finance Minister's (CAC Act Procurement) Direction, 2009

8. Implementation

8.1 Coverage

This policy covers all procurements of goods and services.

8.2 Other related policies and procedures

- collections development policies
- risk management policies
- procurement procedures manual
- National Historical Collection acquisition procedures

8.3 Exclusions

This policy excludes the acquisition of land, including leasing.

8.4 Monitoring

This policy will be administered by the Chief Finance Officer in association with business unit managers.

Procurement practices will be included in internal audit coverage.

This policy will be reviewed in September 2012.