



Hon Colin Ticknell asked:

- A2) Can the minister advise on the likelihood of any contracts that will be exempted from the public listing on Tenders WA to be entered into by the department in the next 12 months? I refer to the contracts that for various reasons are listed by the Department of Finance, are not required to be advertised or listed publicly but must be recorded on each agency's exemption register and must receive an approved request for exemption. How much will these contracts cost approximately and what service or goods will be provided?

Answer:

As the Minister for Racing and Gaming, I have no legislative authority over the tender and contract processes of RWWA; and given RWWA is not a Public Authority and as such is not required to comply with the *State Supply Commission Act 1991* (as per the following explanation), I am unable to advise on the likelihood of any contracts that will be exempted from listing on Tenders WA over the next 12 months:

Section 17 of the *State Supply Commission Act 1991* states that all Public Authorities must comply with the Act:

State Supply Commission Act 1991
Supply of goods and services Part 3
General Division 1
s. 17

Part 3 — Supply of goods and services

Division 1 — General

[Heading inserted by No. 15 of 2008 s. 5.]

17. **Public authorities to comply with supply policies**
- (1) Subject to this Act, all public authorities, including all employees, members and officers of public authorities and all officers of the Public Service of the State, shall comply with supply policies.
- (2) Subsection (1) applies notwithstanding any exemption granted under section 20 or 21.

Part 1 of the *State Supply Commission Act 1991* further defines public authorities as those defined in the *Public Sector Management Act 1994*.

Part 1 — Preliminary

1. Short title

This Act may be cited as the *State Supply Commission Act 1991*¹.

2. Commencement

This Act shall come into operation on such day as is fixed by proclamation¹.

3. Terms used in this Act

(1) In this Act, unless the contrary intention appears —

chief executive officer means the chief executive officer of the Commission;

Commission means the State Supply Commission established under section 4(1);

efficient, in relation to the supply or disposal of goods or services, means efficient having regard to considerations of time, economy and quality;

member means a member of the Commission;

public authority means —

- (a) a department of the Public Service of the State established or deemed to have been established under the *Public Sector Management Act 1994*²; and
- (b) an agency, authority or instrumentality of the Crown in right of the State;

Under the *State Supply Commission Act 1991*, a “Public Authority” under the act is defined as being:

- 1. A department of the Public Service under the *Public Sector Management Act (SPMA) 1994* AND
- 2. An Agency, authority or instrumentality of the Crown.

Under the *Public Sector Management Act 1994*, a department is defined as a “department established under section 35”, which RWWA was not.

Despite the exemption, if RWWA is using government money for racing industry infrastructure grants (such as money provided through the Royalties for Regions fund), the organisation complies with government purchasing guidelines. However, in many cases it is conducted through commercial negotiation like the private sector.

i) Can I ask that we provide a copy of that protocol to Mr Ticknell?

Answer:

The relevant extract from the RWWA Procurement Policy Framework states the following:

Principles Governing the Policy

The key principles that govern RWWA's procurement policy are:

(1) Value for Money

RWWA has identified that a 'value for money' outcome is crucial in its procurement activities and has adopted this key principle into its procurement policy.

RWWA is committed to embedding this principle into all its procurement processes to ensure it achieves maximum financial and efficiency savings.

Low risk acquisitions

All purchases are to be made from the supplier offering the lowest price at the acceptable level of quality and service delivery.

High risk acquisitions

All quotations/tenders are to be awarded to the lowest price bidder unless, in determining the lowest bidder, the conformance with specifications, risk factors and the bidder's ability to perform and deliver make this an unacceptable option.

The evaluation of high risk procurement is to be carried out by the person seeking the goods or services, in conjunction with the Procurement Manager.

If other than the lowest bidder is selected, an explanation and justification why the lowest price supplier(s) is not acceptable shall be detailed on the [Recommendation Report CMT-006](#) and submitted to the Executive Committee.

(2) Open and Effective Competition

Applying open and effective competition provides suppliers with fair and equitable access to RWWA's supply opportunities whilst maintaining the transparency and probity of RWWA's procurement processes.

Accordingly, to give effect to this principle:

- The process for selecting respondents, evaluating and awarding the contract to the vendor that demonstrates best value for money must be fair, ethical and transparent.
- All potential suppliers are provided with the same specification information and evaluation criteria, and that those suppliers have the same opportunity to compete.
- Personnel involved in key procurement activities shall have knowledge of market trends and conduct assessment and benchmarking analysis of the products required, and support product innovation.

(3) Probity and Ethical Behaviour

All personnel engaged in the procurement cycle shall comply with the standards of integrity, probity, professional conduct and ethical behavior as below:

- Suppliers shall be given the opportunity to compete for its business in an open and transparent manner.
- RWWA shall maintain a reputation for fair dealing in its arrangements with suppliers.
- Keep confidential all sensitive information obtained during the procurement process.
- Declare any potential conflict of interest prior to the commencement of a procurement activity.
- RWWA's relevant policies and procedures are clearly followed and adhered to.

(4) Risk Management

Risks associated with any procurement activity shall be identified, assessed and risk mitigation strategies put in place to manage these risks.

(5) Responsible Financial Management

To give effect to this principle:

- The availability of funds within an approved budget, or source of funds, shall be established prior to acquisition of any goods or services;
- Personnel shall not authorise expenditure in excess of their delegated authority.
- RWWA funds shall be used efficiently and effectively to procure goods and services and every attempt shall be made to contain costs of the procurement process without compromising any of the procurement principles regardless of monies in approved budgets.

Government Grant Programs

There are two categories of grant programs. One for RWWA infrastructure and the other for Race Club infrastructure.

- (i) For RWWA – The Procurement Policy and Procedures needs to be adhered to for all expenditure.
- (ii) For Race Clubs – Where possible, with the agreement of the race club, RWWA Preferred Suppliers and WA Government CUA Suppliers should be used, in accordance with purchasing thresholds and limits.

Grant funding procedures are outlined in Business Case for Racecourse Infrastructure Grant Program matching Royalties for Regions funding, which can be obtained from Manager, Racing Grant Programs.

