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SA Health

# Policy

## Panel Contracts

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Government  
of South Australia

SA Health

## 1. Name of Policy

Panel Contracts

## 2. Policy statement

This Policy provides the mandatory requirements when establishing panel contracts and when engaging a supplier by using an existing panel contract.

## 3. Applicability

This policy applies to all employees and contracted staff of SA Health; that is all employees and contracted staff of the Department for Health and Wellbeing (DHW), Local Health Networks (LHNs) including state-wide services aligned with those Networks and SA Ambulance Service (SAAS).

### Out of Scope

Multi-use lists, also known as pre-qualification lists, are out of the scope of this policy.

## 4. Policy principles

SA Health's approach to Panel Contracts and procurements using Panel Contracts is underpinned by the following principles:

- > We will comply with state and regulatory requirements issued by Procurement SA (PSA) and the Office of the Industry Advocate.
- > We will deliver value for money and the best possible outcomes for government procurement activities.
- > We will uphold accountability, transparency and fairness in the establishment and maintenance of supplier relationships.

## 5. Policy requirements

When establishing a new or using an existing Panel Contract SA Health must ensure:

- > Compliance with the following:
  - [PSA Procurement Planning Policy](#)
  - [PSA Sourcing Policy](#)
  - [SA Health Internal Procurement Framework](#).
- > Probity is upheld in all dealings with panel-related procurements and contracts.
- > Consideration of the advice in the [PSA Panel Contracts Guideline](#), as applicable.
- > [Appendix 1: Developing Contracts for Panels and Contract Management Mandatory Instruction](#) is followed when developing and managing Panel Contracts.

### Establishing a New Panel Contract

When establishing a new Panel Contract, SA Health must ensure that:

- > The decision to establish a new Panel Contract is undertaken early in the acquisition planning process.
- > It is identified if any existing across-government or lead agency panel, that SA Health has access to address the business need, is utilised to avoid unnecessarily establishing a new panel.

- > A formal procurement process occurs, and the procurement strategy be based on:
  - the business need,
  - outcome of the procurement complexity assessment,
  - value, and
  - market characteristics.
- > Any departure from PSA policy or any approved procurement strategy must comply with the SA Health [Procurement Departure Policy](#).

### Procurement Approval and Value

SA Health must ensure that:

- > The total estimated *procurement value* of all potential purchases under the proposed Panel Contract is determined and documented
- > Procurement approval is obtained prior to approaching the market from a delegate with the appropriate level of procurement authorisation.

### Financial Approval and Value

SA Health must ensure that:

- > Financial approval to *enter into an agreement with the potential to lead to expenditure* is obtained in accordance with [Treasurer's Instruction 8 – Financial Authorisations](#) and is:
  - in written form
  - based on the estimated total value of goods or services that are expected to be acquired from all suppliers on the panel during the life of the Panel Contract
  - obtained from a delegate with the appropriate level of financial authorisation prior to executing a contract with successful suppliers.
- > The total dollar value of Secondary Procurements is monitored and managed throughout the life of the Panel Contract to ensure that the total expenditure amount does not exceed the financial approval granted.
- > If additional financial approval is required, it is requested in a timely manner to ensure that the amount previously authorised is not exceeded.

### New Mandated and Across-Government Panel Contracts

For any new mandated SA Health or SA Health-created Across Government Panel Contract, SA Health must ensure that:

- > The decision to mandate the use of a Panel Contract is recorded in the respective [Low Value Acquisition Plan template](#) or [Acquisition Plan template](#), including the Panel Rules for approval by the delegate.
- > Approval for an across-government Panel Contract is obtained from the Treasurer or Cabinet in accordance with the [PSA Procurement Planning Policy](#).

### SA Industry Participation Policy

- > When establishing a new Panel Contract, SA Health must ensure that a Statement of Intent, approved by the Industry Advocate, as per the [South Australian Industry Participation Policy Procedural Guidelines](#) (SA IPP Procedural Guidelines) is included in the invitation documents for respondents to complete.

### Developing Secondary Procurement Process Panel Rules

- > SA Health must ensure that when developing Panel Rules, [Appendix 2: Developing Panel Rules Including Secondary Procurement Process and Exemption Mandatory Instruction](#) is complied with and panel rules are included for approval of the procurement outcome.

### Non-competitive Panel Arrangement

- > SA Health must ensure that the panel rules explain the rationale and the non-competitive Secondary Procurement process when geographical, product supply or other market segmentation justifies establishing the non-competitive Panel Contract.

### Free Trade Agreements

- > SA Health must comply with the requirements of all Free Trade and Government Procurement Agreements.

### Contract Development and Contract Management

SA Health must comply with [Appendix 1: Developing Contracts for Panels and Contract Management](#) regarding:

- > Considerations when developing contracts for new Panel Contracts and associated secondary contracts.
- > Appointment of a contract manager and contract management requirements.

### Awarding New Panel Contract to non-SA Business

When the procurement outcome for a new Panel Contract recommends one or more non-SA Business suppliers, SA Health must obtain approval from the Chief Executive DHW (or Chief Executive Officer LHNs and SAAS up to \$550,000 (including GST)) unless there are reasonable grounds to believe that there is no SA Business that could supply the required good or service, approval may be obtained from an appropriate delegate in compliance with the [SA Health Internal Procurement Framework](#).

### Purchasing from an Established Panel

- > Before developing any acquisition strategy, SA Health must ensure to identify whether there is an applicable existing Panel Contract (or other contract) that can be used to meet the need.

### **Mandated Panel Contracts**

- > Where an existing panel contract is mandated, SA Health must ensure purchases are from the Panel Contract unless a specifically granted exemption is obtained from the approving authority (or delegated authority, where applicable) in accordance with [Appendix 2: Developing Panel Rules Including Secondary Procurement Process and Exemption Mandatory Instruction](#).

### **Using Secondary Procurement Process Panel Rules**

SA Health must ensure that:

- > Panel rules are created in accordance with [Appendix 2: Developing Panel Rules Including Secondary Procurement Process and Exemption Mandatory Instruction](#).
- > The process to purchase goods and/or services under a Panel Contract is in accordance with the specified Secondary Procurement Process panel rules, where applicable.
- > Where Secondary Procurement Process panel rules do not exist or when there is justification to not follow the panel rules for a Secondary Procurement Process, the standard procurement processes, documentation and approvals (including limiting the market approach and non-SA Business outcome approval requirements) must be followed.

### **Secondary Procurement Report**

- > The SA Health [Secondary Procurement Report](#) must only be used where the approved Secondary Procurement Process panel rules permit.

### **Procurement Approval and Value**

SA Health must ensure that:

- > Procurement approval, based on the value of the individual Secondary Procurement must be obtained from an appropriate delegate prior to approaching the market, unless the approved panel rules:
  - permit a one-stage approval process where approval is required at the outcome stage, or
  - do not require procurement approval.

### **Financial Approval and Value**

SA Health must ensure that financial approval for Secondary Procurements to *incur expenditure through contractual arrangements* is obtained in accordance with [Treasurer's Instruction 8 – Financial Authorisations](#) and is:

- > Based on the value of each individual Secondary Procurement contract for the goods or services being purchased.
- > Obtained from a delegate with the appropriate level of financial authorisation:
  - in writing prior to executing a secondary contract agreement, or
  - via approval of the Oracle requisition where a purchase order is the only form of contractual arrangement.

### **SA Industry Participation Policy**

- > When performing Secondary Procurements using an existing Panel Contract SA Health must ensure compliance with the [SA IPP Procedural Guidelines](#).

- > For amounts between \$55,000 up to and including \$550,000 (including GST) the procurement owner must complete and save an [Industry Advocate Outcome Checklist](#). A copy must be supplied to the Industry Advocate, upon request.
- > For amounts greater than \$550,000 (including GST) an Industry Participation Plan (IPP) must be requested as part of the invitation and submitted by respondents. This is included as contractual arrangements for successful suppliers.
- > All Secondary procurements above \$220,000, within the Whyalla Special Economic Zone (WSEZ), or that can deliver direct economic benefits to the WSEZ, must:
  - include consultation with the Office of the Industry Advocate (OIA) early in the procurement process to incorporate OIA requirements, and
  - include a Whyalla Special Economic Zone Tailored Industry Participation Plan (WTIPP), approved by the Industry Advocate, and
  - ensure a minimum 30% weighting is applied to the WTIPP in the evaluation process.

### Records Management and Reporting

SA Health must ensure:

- > Compliance with the [Procurement and Contract Management System Policy](#) and [Corporate Records Management Policy](#).
- > The Procurement Activity Reporting System (PARS) is updated for procurements and contracts that are greater than \$55,000 (including GST) including:
  - new SA Health Panel Contracts, and
  - Secondary Contracts, except where they relate to an across-government contract where PSA indicates that PARS reporting is not required.
- > New procurements for establishing SA Health panels be entered on the Forward Procurement Plan in PARS, with forecast and actual expenditure (as applicable), in accordance with the [Reporting on Standing Offers and Secondary Procurements - Fact Sheet](#) issued by PSA. Entry of Secondary Procurements on the Forward Procurement Plan is not required.
- > PARS is updated with the total expected expenditure for across-government panels in accordance with the [Responsibilities for Reporting on Across-Government Standing Offers and Secondary Procurements – Fact Sheet](#) issued by PSA.

### Disclosure of Government Contracts

SA Health must ensure compliance with the [Department of Premier and Cabinet Circular 027: Disclosure of Government Contracts](#) by disclosing 'Eligible' or 'Significant' Panel Contracts or contracts from Secondary Processes specified in the SA Health [Contracts Disclosure Frequently Asked Questions](#) and [Disclosure of Government Contracts Fact Sheet](#).

### Ethical Practices

SA Health must ensure:

- > Access to commercial-in-confidence contract information only be given to authorised personnel.
- > Information from a Panel Contract is not used as a negotiating point with another panellist or other supplier.

- > Special offers from panellists for value-added services, which fall outside the scope of the invitation/contract, are considered on their own merits as an unsolicited proposal in line with [PSA's Unsolicited Proposals Schedule](#).

## 6. Mandatory related documents

The following documents are either referenced or related to this document:

### Whole of Government – Policy and Guidelines

- > [Department of Premier and Cabinet Circular 027: Disclosure of Government Contracts](#)
- > [Industry Advocate Outcomes Checklist](#)
- > [Treasurer's Instruction 8: Financial Authorisations](#)
- > [Treasurer's Instruction 18: Procurement](#)
- > [PSA Contract Management General Requirements Guideline](#)
- > [PSA Contract Management Policy](#)
- > [PSA International Obligations Guideline](#)
- > [PSA Panel Contracts Guideline](#)
- > [PSA Procurement Planning Policy](#)
- > [PSA Sourcing Policy](#)
- > [PSA Unsolicited Proposals Schedule](#)
- > [SA Industry Participation Policy Procedural Guidelines](#)

### SA Health – Policy & Frameworks

- > [Contract Management Framework](#)
- > [Contract Variation Policy](#)
- > [Corporate Records Management Policy](#)
- > [Procurement and Contract Management System Policy](#)
- > [Procurement Departure Policy](#)
- > [SA Health Internal Procurement Framework](#)

## 7. Supporting information

- > [Contracts Disclosure Frequently Asked Questions](#)
- > [Disclosure of Government Contracts Fact Sheet](#)
- > [Limiting the Market Approach Fact Sheet](#)
- > [PSA and SA Health Special Condition Clause Banks](#)
- > [PSA Reporting of Standing Offers and Secondary Procurements - Fact Sheet](#)
- > [PSA Responsibilities for Reporting on Across-Government Standing Offers and Secondary Procurements – Fact Sheet](#)
- > SAIPP – Whyalla Special Economic Zone Fact Sheet
- > [SA Industry Participation Policy – Responsibilities Fact Sheet](#)
- > [SA Industry Participation Policy – Quick Guide](#)
- > [SA Health Free Trade Agreement Fact Sheet](#)
- > [Secondary Procurement Report Template](#)

## 8. Definitions

- > **Across-Government Contract:** means a form of standing offer developed by a central public authority. The objective of these contracts is to achieve strategic outcomes for the public sector through procurement activity and centralise the evaluation of offers to determine technical compliance; the negotiation of terms and conditions; and contract development.
- > **Lead Agency Contract:** means an arrangement where a public authority is the prime user of the good or service and where one or more other public authorities may also utilise the arrangement.
- > **Non-competitive panel arrangement:** means a form of Panel Contract where panel members do not provide the same product or service, or each panel member's products or services are segmented by geographical regions (or other segmentation criteria).
- > **Panel Contract:** means a contractual arrangement established between a public authority and at least two suppliers for the anticipated provision of goods or services, as and when required, over a specified period of time. Panel Contracts are different to multiple suppliers contracted to provide goods and/or services where SA Health is committed to purchasing from each, with a defined contract value for each contract.
- > **Panel Rules:** means the combination of the approved rules and requirements including the operational aspects, conduct obligations, respective processes (e.g. Secondary Procurement Process), secondary contract type and ordering arrangements related to the panel.
- > **Respondents:** means suppliers who respond to a quote request or tender invitation.
- > **SA Business:** means the same definition as *Treasurer's Instruction 18: Procurement* which is, "a business is a South Australian business in relation to a procurement if the business operates in South Australia and more than 50% of the workforce delivering the contract resulting from the procurement on behalf of the business are residents of South Australia".
- > **Secondary Procurement Process:** means the definition from *Treasurer's Instruction 18: Procurement* which is a purchase from an established panel of suppliers in accordance with approved panel rules.
- > **Statewide services:** means Statewide Clinical Support Services, Prison Health, SA Dental Service, BreastScreen SA and any other state-wide services that fall under the governance of the Local Health Networks.

## 9. Compliance

This Policy is binding on those to whom it applies or relates. Implementation at a local level may be subject to audit/assessment. The Domain Custodian must work towards the establishment of systems which demonstrate compliance with this policy, in accordance with the requirements of the [Risk Management, Integrated Compliance, and Internal Audit Policy](#).

Any instance of non-compliance with this policy should be reported to the Domain Custodian for the Procurement Policy Domain and the Domain Custodian for the Risk, Compliance and Audit Policy Domain.



## 10. Document ownership

Policy owner: Domain Custodian for the Procurement Policy Domain.

Title: Panel Contracts Policy

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Contact for enquiries: [Health.PSCMPolicyandCompliance@sa.gov.au](mailto:Health.PSCMPolicyandCompliance@sa.gov.au)

## 11. Document history

Version	Date	Approved by	Amendment notes
V1	7/10/2010	Senior Manager, Policy and Compliance, Procurement and Supply Chain Management	PE Approved version.
V2	10/9/2013	Senior Manager, Policy and Compliance, Procurement and Supply Chain Management	Update references, types of panels
V3	1/7/2015	Senior Manager, Policy and Compliance, Procurement and Supply Chain Management	Changes to thresholds and wording to parallel SPB documents, new template.
V3.1	26/2/2016	Senior Manager, Policy and Compliance, Procurement and Supply Chain Management	Amended principles, Secondary Procurement approach thresholds, number of quotes and documentation type. Added Non-competitive Panel Contracts.
V3.2	8/12/2016	Senior Manager, Policy and Compliance, Procurement and Supply Chain Management	Aligned to SPB Procurement Reform Changes
V4.0	21/06/2021	Senior Manager, Policy and Compliance, Procurement and Supply Chain Management	Amendments related to the new SA Government Procurement Policy Framework, including Treasurer's Instruction 18 Procurement.
V5.0	27/07/2022	Deputy Chief Executive, Corporate & System Support Services	Update policy to new Policy Framework with essential information only, non-essential information will be covered by a guideline.
V6.0	18/06/2025	Chief Executive	Incorporated requirements of <i>T/18: Procurement</i> , PSA policy and SA Industry Participation Policy requirements and other amendments including: <ul style="list-style-type: none"> <li>reference to SA Health Internal Procurement Framework, Contract Management Framework and Contract Variation Policy</li> </ul>

			<ul style="list-style-type: none"> <li>• removal of SA Health default Secondary Procurement process</li> <li>• Whyalla Special Economic Zone</li> </ul> <p>Added:</p> <ul style="list-style-type: none"> <li>• instructions for when no panel rules exist</li> <li>• reference to 'Secondary Procurement Report'</li> <li>• approval required when awarding to non-SA Business</li> <li>• reporting and disclosure requirements</li> <li>• New appendices</li> </ul>
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## 12. Appendices

*Appendix 1: Developing Contracts for Panels and Contract Management Mandatory Instruction*

*Appendix 2: Developing Panel Rules Including Secondary Procurement Process and Exemption Mandatory Instruction*

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## Appendix 1: Developing Contracts for Panels and Contract Management Mandatory Instruction

The following Instruction must be complied with to meet the requirements of this policy.

### Developing Panel Contract Agreements for New Panels

- > It must be ascertained if a bespoke overarching “head agreement” is required for new panels.
- > All Panel Contracts must include, as appropriate/relevant:
  - the nature, description and details of the goods or services
  - the period of the panel arrangement
  - list of the public authorities covered or exempted by the Panel Contract
  - whether the contract is mandatory or optional
  - price and price review mechanisms
  - insurance and security requirements
  - contract terms and conditions
  - key performance indicators
  - supplier complaint and dispute resolution processes
  - reporting requirements
  - description of the Secondary Procurement process for buying from the panel suppliers
  - exemption approval process
  - right to remove panel members or goods/services as circumstances arise
  - right to add panel members
  - relevant miscellaneous issues.

### Developing Contract Agreements for Secondary Procurement Processes

- > The contract type, which may be unique, must be documented and included in the new panel's Secondary Procurement process panel rules and approved.
- > The approved contract type must be used when purchasing goods and/or services via the panel.

### Considerations when Developing Contracts

- > The most appropriate contract type must be used for procuring all goods and/or services through panel arrangements - the suitability must be based on the applicable complexity, value and level of risk.
- > Where there is high complexity or specific contractual complexities, the Crown Solicitor's Office must be consulted regarding the drafting of a bespoke Contract.
- > Consideration must be given to including any relevant special condition clauses from the [PSA Special Conditions Clause Bank](#) and the [SA Health Special Condition Clause Bank](#).

### Panel Contract Management

- > The [PSA Contract Management Policy](#) and the SA Health [Contract Management Framework](#) must be complied with in relation to the management of Panel Contracts and Secondary contracts.

- > A Contract Manager must be allocated to each panel to manage the contract management activities such as conducting meetings, supplier performance reviews, dispute resolutions, contract reporting and processing of contract variations.
- > Contract Managers must monitor the expenditure related to the Panel Contract and must seek any necessary further approvals as and when required.
- > Contract variations related to Panel Contracts or Secondary Procurement Contracts must comply with the [Contract Variation Policy](#).

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## Appendix 2: Developing Panel Rules Including Secondary Procurement Process and Exemption Mandatory Instruction

The following Instruction must be complied with to meet the requirements of this policy.

### Developing Panel Rules

- > Panel rules must provide clear, comprehensive guidance to end-users so consideration must be given to the following for inclusion:
  - scope, coverage and mandate of the panel, including what is covered or exempted by the Panel Contract
  - how to access the Panel Contract
  - the Secondary Procurement Process rules
  - whether the panel is 'open' or 'closed'
  - if/how new suppliers can be added after the establishment of the panel
  - evaluation process for adding new panel members, where applicable
  - how to apply for an exemption and who can approve an exemption
  - requirements of the Whyalla Special Economic Zone, if applicable.

### Secondary Procurement Process Rules

- > When establishing a new SA Health Panel Contract, the proposed Secondary Procurement Process rules for selecting suppliers when performing Secondary Procurements must be documented and approved as part of the approval of the procurement outcome.
- > The Secondary Procurement Process panel rules, including any exemption process, must also be included and clearly documented in the Buyer's Guide (may also be referred to as the Contract User Guide).
- > The Secondary Procurement Process panel rules must consider and document:
  - the minimum number of panel members required to be approached (based on the outcome of the Panel Contract complexity assessment, value threshold and risk)
  - how panel members will be selected to be approached and given the opportunity to provide goods or services on a fair and reasonable basis
  - market approach documentation requirements
  - approval requirements to approach and engage panel members to purchase the required goods and services.
- > Consideration must be given to the more unique or unusual aspects desired when determining the panel rules for Secondary Procurement and these must be carefully articulated for clarity and to avoid ambiguity. Such considerations include:
  - market approach exceptions/exemptions
  - the use of the [Secondary Procurement Report](#) for a one-stage procurement approval
  - no requirement for additional Chief Executive or delegate approval
  - specific designed customer orders or individual supply contracts
  - PARS exemptions.

**Creating or Amending Existing Secondary Procurement Process Panel Rules**

- > If there are existing Secondary Procurement Process panel rules, previously included in the approval of the procurement outcome, the amended rules must be approved by the approver of the procurement outcome.
- > Where the Secondary Procurement Process rules have formed part of the contractual arrangement, amendments to the Secondary Procurement Process rules constitute a contract variation and must comply with contract variation requirements.

**Exemption from Using Mandated Contract**

- > Exemption from using a mandated Panel Contract must only be granted where it can be clearly demonstrated there is a significant need and there is no infringement on the contractual or legal obligations of the Panel Contract.
- > Standard procurement processes and approvals must be used if an exemption from using a mandated contract is granted.
- > Exemptions from using mandated Panel Contracts:
  - apply to the contract in its entirety and must not be granted for only part of the Secondary Procurement Process
  - must follow the panel rules for the approval of the exemption, where rules exist. Where there are no exemption approval rules, the person responsible for management of the contract may approve the exemption.

**Contract Guide (Buyer's Guide)**

- > The Contract Guide/Buyer's Guide must be updated when applicable changes occur.