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SA Health

Policy

Probity in SA Health Procurement

Version 4.0

Approval date: 27 August 2024

PDS Reference No: D0245



Government
of South Australia

SA Health

1. Name of Policy

Probity in SA Health Procurement

2. Policy statement

This policy provides the mandatory requirements to ensure probity in SA Health procurement to maintain the integrity and honesty of the public sector, promote ethical procurement practices, achieve value for money and good public outcomes, reduce financial and legal risk to the government, and provide potential suppliers with the confidence that they will be treated fairly and equally.

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).

4. Policy principles

SA Health's approach to probity in procurement is underpinned by the following principles:

- > We will uphold the highest standards of ethics and probity at every procurement stage.
- > We will uphold impartiality and accountability in the procurement process.
- > We will ensure the procurement decision process is transparent and subject to scrutiny.
- > We will ensure that all suppliers are treated equitably and respectfully.

5. Policy requirements

- > DHW, LHNs and SAAS must ensure probity is practised when undertaking any duties, processes, activities and/or interaction with suppliers related to performing procurement, including contract management.
- > SA Health employees and contracted staff must:
 - o comply with the [Declaration and Management of Interests Policy](#) and the [Code of Ethics for the South Australian Public Sector](#).
 - o behave with integrity, honesty and transparency at all times when undertaking their procurement duties.
- > Line managers and chairs of procurement evaluation teams must ensure:
 - o all participants in an evaluation of a procurement are made fully aware of their probity obligations.
 - o when engaging with suppliers the requirements of [Appendix 1: Supplier Interaction and Engagement Mandatory Instruction](#) must be complied with.

Conflict of Interest

- > All conflicts of interest must be identified, disclosed and managed whenever they arise at any stage of a procurement and contract management, whether they be:
 - o actual, potential or perceived; and
 - o pecuniary (financial) or non-pecuniary (non-financial).

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- > Line managers and chairs of procurement evaluation teams must ensure:
 - all participants in an evaluation of a procurement have completed a [Declaration – Conflict of Interest Form](#) prior to commencing the evaluation process, even when there is no conflict to declare. This includes:
 - public authority employees (from SA Health and/or other SA Government Agencies) and contracted staff
 - contractors and consultants
 - project advisors, and
 - probity advisors.
 - Where a conflict of interest is declared, either actual, potential or perceived, a management plan is developed and submitted for approval by the Chief Procurement Officer (CPO), Procurement and Supply Chain Management (PSCM).
 - In situations where the declarer does not agree to the approved management plan or the CPO declines a management plan, the declarer is removed from the evaluation process.
 - Every declaration of a conflict of interest, whether the management plan is approved or declined by the CPO is reported to the Chief Executive, DHW by briefing.
 - All completed Conflict of Interest Declaration Forms are filed in Objective, the SA Health official records management system, for the procurement.

Confidentiality

- > Line managers and chairs of procurement evaluation teams must ensure:
 - all participants in an evaluation of a procurement complete and submit a [Confidentiality Undertaking](#) (except where evaluation team members have signed the evaluation plan which contains a confidentiality acknowledgement) prior to commencing any evaluation process. This includes:
 - public authority employees (from SA Health and other SA Government Agencies) and contracted staff
 - contractors and consultants
 - project advisors
 - probity advisors.
 - documents and copies of documents containing offer-related, commercially sensitive information are stored under secure conditions at all times with access authorised for SA Health employees and contracted staff only on a 'need to know' basis.
 - all completed Confidentiality Undertakings are filed in the Procurement and Contract Management System (PCMS), the SA Health official procurement records management system, for the procurement.

Gifts and Benefits

- > In accordance with the [Gifts and Benefits Policy](#), SA Health employees and contracted staff and all other procurement participants must not, for themselves or others, seek or accept gifts or benefits that could be reasonably perceived as influencing them or compromising neutrality and integrity.
- > SA Health employees and contracted staff involved in a procurement must refuse offers of gifts during the evaluation or at any other point in the decision-making process. Offers of gifts must be documented and reported to the chair of the evaluation panel.

Probity Plan

- > A [Probity Plan](#) must be considered for Complex and Strategic procurements to manage potential or emerging probity issues throughout the procurement process and any mitigating actions undertaken.
- > Probity considerations must be revisited throughout all stages of the procurement and addressed as necessary.

Probity Practitioners

- > Procurement officers, evaluation teams and contract managers must effectively manage probity issues and revisit probity considerations, as required.
- > For Complex and Strategic procurements, consideration must be given regarding the use of:
 - o a probity advisor for provision of advice during the procurement process, and/or
 - o a probity auditor for review of the procurement after its conclusion.
- > Where an external probity advisor or auditor is appointed to provide advice, it must be in accordance with established SA Health procurement process requirements.
- > The business unit that is the owner of the procurement must meet the costs of the external probity practitioner services.

Records Management

- > Documentation, decisions and communications relating to a procurement process must be documented and stored in PCMS, in accordance with the [Procurement and Contract Management System Policy](#).
- > Sensitive probity related information such as conflict of interest declarations must be recorded in Objective.

Reporting a Breach of Probity

- > SA Health employees and contracted staff that become aware of any breach of probity must report to their line manager, the procurement manager, the chair of the evaluation team for the procurement, the Executive Director, PSCM and/or the Office for Public Integrity, as appropriate, in accordance with the [Corruption Control Policy](#).
- > The line manager, procurement manager, or chair of the evaluation team must seek advice from PSCM to address the identified breach of probity.

6. Mandatory related documents

- > [Code of Ethics for the South Australian Public Sector](#)
- > [Corporate Records Management Policy](#)
- > [Corruption Control Policy](#)
- > [Declaration and Management of Interest Policy](#)
- > [Gifts and Benefits Policy](#)
- > [Health Care Act 2008](#)
- > [Independent Commissioner Against Corruption Act 2012 \(SA\) \(ICAC Act\)](#)
- > [Interaction between SA Health and the Therapeutic Goods Industry Policy](#)
- > [PSSA Gifts, Entertainment and Benefits Guideline](#)
- > [PSSA Probity and Ethical Procurement Guideline](#)

- > [Public Sector Act 2009](#)
- > [Public Sector \(Honesty and Accountability\) Act 1995](#)

7. Supporting information

- > [Confidentiality in Evaluation Processes Quick Guide](#)
- > [Commissioner for Public Sector Employment – Guideline on Gifts and Benefits](#)
- > [Confidentiality Undertaking – Evaluation Team](#)
- > [Confidentiality Undertaking – External Providers](#)
- > [Declaration – Conflict of Interest](#)
- > [Gifts and Benefits Register Template](#)
- > [Guide to Evaluation](#)
- > [Invitation Administration Procedures](#)
- > [Probity Plan Template](#)
- > [Procurement Records Management Fact Sheet](#)
- > [Procurement Records Management Checklist](#)
- > [Procurement Related Conflict of Interest Fact Sheet](#)

8. Definitions

- > **Accountability:** means having responsibility and being able to give satisfactory reasons to support actions and justify decisions and signifies a willingness for transparency.
- > **Complex Procurement:** means a procurement process that is generally of medium risk and higher value (valued above \$550,000), determined by the complexity assessment in accordance with the SA Health Complexity Assessment Matrix.
- > **Conflict of Interest:** means a situation that occurs when a public officer's interests or the interests of someone close to that public officer (whether financial or otherwise) influences, may influence or could be perceived to influence, the public officer's actions and the proper outcome of a decision or process. Conflicts of interest can be direct, indirect, financial, or non-financial.
- > **Ethical procurement:** means the ethical conduct (e.g., moral, honest, just and proper) of all participants in undertaking and managing procurement. It also encompasses the expectation by government that suppliers ensure ethical practices in the conduct of their business and the actions of key providers in their supply chain.
- > **Probity:** means the evidence of ethical behaviour commonly associated with the practice of adopting and following well-considered procedures and processes to ensure that procurement decisions are fair, transparent and defensible. Accountability and transparency are integral aspects of probity.
- > **Probity advisor:** means someone engaged to provide independent advice on issues which may arise before and during the procurement. While probity advisors cannot act as decision makers, they are involved to ensure that the integrity of the process is maintained and key probity issues are considered and actioned in real-time. They are likely engaged under broad direction and may be internal or external to SA Health, depending on requirements.
- > **Probity auditor:** means someone engaged to provide a review of the procurement process, or a review of key phases, after completion to determine if a procurement process has been conducted fairly and in accordance with probity principles. A probity auditor should be largely self-directing and, as a result, should have a higher degree of independence than a probity advisor.

- > **State-wide services:** means State-wide Clinical Support Services, Prison Health, SA Dental Service, Breast Screen SA and any other state-wide service that fall under the governance of the Local Health Networks.
- > **Strategic Procurement:** means a procurement process that is generally of high value, high risk and high complexity, determined by the complexity assessment in accordance with the SA Health Complexity Assessment Matrix. However, some lower value procurements may also be classified as strategic procurement for reasons other than price.
- > **Transparency:** means public authorities taking steps to enable appropriate scrutiny of their procurement activity.

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 [Risk Management, Integrated Compliance and Internal Audit Policy](#).

Any instance of non-compliance with this policy must 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: Probity in SA Health Procurement Policy

Objective reference number: A1400861

Next review date: 31 October 2027

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11. Document history

Version	Date Approved	Approved by	Amendment notes
1.0	01/11/2011	PE Approved	PE Approved version.
2.0	31/07/2014	PE Approved	Conflict of interest declarations to be reported to the CE, SA Health. Requirements for Confidentiality Undertakings and Conflict of Interest Declaration Forms to be completed for all members of Procurement Evaluation Teams. Copies of forms to be loaded to PCMS and originals kept on the official file.
2.1	21/08/2014	Executive Director, Procurement and Supply Chain Management	Probity Plan requirements amended. Evaluation plan requirements for all procurements valued above \$220,000.
2.2	8/12/2016	Executive Director, Procurement and Supply Chain Management	Document links updated/added for the following sections:

2.3	27/09/2017	Executive Director, Procurement and Supply Chain Management	Incorporated reference to the Gifts and Benefits Policy Directive and Gifts and Benefits Procedures.
2.4	23/04/2019	Acting Executive Director, Procurement and Supply Chain Management	Minor update. Fixed broken links and corrected CPO approves conflict of interest Management Plans at Sections 2.2 and 4.
3.0	07/07/2021	Deputy Chief Executive, Corporate and System Support Services	Amendments related to the new SA Government Procurement Policy Framework, including Treasurer's Instruction 18 Procurement.
4.0	27/08/2024	Deputy Chief Executive, Corporate and Infrastructure	Updated requirements for Complex and Strategic procurements in accordance with PSSA policies / guide. Updated the records management requirement for conflict of interest and confidentiality declarations. Transition to new corporate policy template.

12. Appendices

Appendix 1: Supplier Interaction and Engagement Mandatory Instruction

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

Requirements	Fair Treatment, Supplier Interaction and Engagement
Equitable Treatment Consistency	<ul style="list-style-type: none"> > All potential suppliers must be treated equitably with equal access to relevant information. > Specifications must be generic; outcome focussed and not favour any particular product or supplier. > Any communication that may give advantage to a supplier must be sent to all potential respondents. > There must be no discrimination between respondents in the provision of information. > All respondents must have the same opportunities to access offer-related information provided by the agency.
Evaluation Process Integrity	<ul style="list-style-type: none"> > All invitation submissions must be evaluated with neutrality and integrity. > The evaluation methodology must be applied consistently throughout the evaluation process so that all invitations are considered on the same basis. > The evaluation criteria must be based on objective measures that do not unfairly advantage or disadvantage any particular supplier and cannot be changed following the release of invitation documents. > An Evaluation Plan outlining the evaluation method must be in place for Complex and Strategic procurements prior to approaching the market. > The evaluation process must pause upon receiving a late offer and resume only after a decision regarding the acceptance (or rejection) of the late offer has been made.
Communication and Continuity	<ul style="list-style-type: none"> > Clear protocols must be developed for communication with suppliers to ensure a uniform approach and consistent message. > All communication with suppliers during an invitation process must be in writing and directed through the nominated contact officer. > Communications must be clear, complete, formal, and every effort must be made to avoid ambiguity. > Informal communications, such as very brief email responses, must not be permitted. > Appropriate records of all communications (written or verbal) must be placed on the official file and also loaded on to PCMS, i.e., minutes, briefings, file notes, emails.
Tender Invitation Management	<ul style="list-style-type: none"> > SA Health employees involved in an invitation administration process must follow procedures detailed in the SA Health Invitation Administration Procedures.