

**PUBLIC SECTOR EMPLOYMENT AND MANAGEMENT AMENDMENT
(PROCUREMENT OF GOODS AND SERVICES) BILL 2012**

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Bill introduced, and read a first time and ordered to be printed on motion by the Hon. Greg Pearce.

Second Reading

The Hon. GREG PEARCE (Minister for Finance and Services, and Minister for the Illawarra) [11.15 a.m.]: I move:

That this bill be now read a second time.

I am pleased to introduce the Public Sector Employment and Management Amendment (Procurement of Goods and Services) Bill 2012. The New South Wales Government is overhauling its system for purchasing goods and services. The current system is old and much modified. Government procurement structures have become overly complex. Mounting red tape is discouraging business from seeking government procurement opportunities. Over the last two months I have been keeping members informed of the Government's procurement reforms.

The PRESIDENT: Order! The Minister is speaking softly, which makes it difficult for members to hear him. However, there is far too much interjection in the Chamber.

The Hon. GREG PEARCE: We have consulted on our proposed reforms through the release of a procurement discussion paper, which sought public comment on a proposed new operating model for government procurement and better and more flexible ways for government to source goods and services from the market. The paper also sought comment on opportunities for small to medium enterprises to more effectively access government business, and ways that innovation can be fostered during the procurement process. Respondents to the discussion paper confirm that improving the governance structure and operating framework for government procurement, together with improving government policies and processes, is critical for both buyers and suppliers. Other key response themes included a strong desire to see government procurement processes simplified and a focus on improved engagement with industry prior to the commencement of a sourcing process. I am pleased to now inform the House that we are delivering on that commitment.

Critical actions taken so far include removing the supply management fee on government contracts, which has been a significant impediment to a sound procurement system; simplifying the mechanisms for businesses to provide services; and allowing school principals to buy locally for goods and services up to \$5,000. The bill before the House is the next step. It is the centrepiece of the Government's procurement reforms. The Government reviewed its existing procurement operating model in consultation with agencies and other key stakeholders having regard to contemporary practice in other jurisdictions, both in the public and private sectors.

At the outset, four principles for building the model were established. First, sourcing and procurement of goods and services is more efficient and effective if it is devolved to agencies that have specialist knowledge of the category supply chain and supply sector and that have proximity to both business requirements and the end point of the supply chain. Second, sourcing strategies for procuring goods and services are more effective if developed by those

with direct interests in the service delivery and financial outcomes. Third, the profile of procurement should continue to be raised within the Government and, thereby, contribute further to achieving the Government's goals for service delivery and value for money. Fourth, procurement capability development should be treated as a priority, with emphasis on procurement policy and strategy.

The provisions in the bill provide for achieving these principles. I would like to inform members about the main features of the Public Sector Employment and Management Amendment (Procurement of Goods and Services) Bill 2012. The bill contains new definitions of which three are essential to the working of the new procurements scheme. First, the bill provides a new definition for "government agency". Unlike the current statutory arrangement the bill establishes a scheme embracing all government agencies. "Government agency" is defined to mean any of the following: a public sector agency within the meaning of the principal Act; a New South Wales government agency, any other public authority that is constituted by or under an Act or that exercises public functions other than a State-owned corporation; and any State-owned corporation prescribed by the regulations.

Second, the bill establishes a new definition for "procurement" for the purposes of the Act. The definition aligns with the breadth of meaning in current procurement practice. It encompasses procurements undertaken by New South Wales government agencies whether they are under this Act or any other New South Wales legislation. The definition does not include the procurement of infrastructure or construction or procurement by local government. Under the bill, procurement of goods and services means the process of acquiring goods and services by identifying the need to purchase goods and services, selecting suppliers for goods and services, and contracting and placing orders for goods and services. It also includes the disposal of goods that are unserviceable or no longer required. Third, the Act will apply to the procurement of goods and services by or for a government agency, including the procurement of goods and services required by a government agency to exercise its statutory functions and the procurement of goods and services by a government agency pursuant to the agency's specific powers of procurement.

In place of the State Contracts Control Board the bill establishes the New South Wales Procurement Board. The board will consist of the Director General of the Department of Finance and Services as the chairperson, and at least six directors general of the principal departments appointed by the Minister for Finance and Services. A board of this high calibre is essential to lead the level of reforms that I envisage. It also places responsibility for procurement with those responsible for the delivery of government services. The board's objectives are to develop and implement a government-wide strategic approach to procurement; to ensure best value for money in the procurement of goods and services by and for government agencies; to improve competition and facilitate access to government procurement business by the private sector, especially by small and medium enterprises and regional enterprises; to reduce administrative costs for government agencies associated with procurement; and to simplify procurement processes while ensuring probity and fairness.

The board's functions are to oversee the procurement of goods and services by and for government agencies; to develop and implement procurement policies; to issue directions to government agencies; to monitor compliance by government agencies with the requirements of the new legislation, including board directions; to investigate and deal with complaints about the procurement activities of government agencies; to develop appropriate procurement and business intelligence systems for use by government agencies; to collect, analyse and publish data and statistics in relation to the procurement of goods and services by and for government agencies; and such other functions as are conferred or imposed on the board by or under the principal Act or any other Act.

The board is to be subject to ministerial direction and control in the exercise of its functions. The New South Wales Procurement Board will be able to establish subcommittees and advisory groups to assist the board. The Government has already indicated that the board will be supported by the Procurement Leadership Group and the Industry Advisory Group and procurement category working groups. The bill sets out the new New South Wales Government procurement scheme. It does away with the current arrangement whereby the State Contracts Control Board is responsible for the procurement of goods and services for public sector agencies. While giving the board overarching responsibility for the government procurement framework, the New South Wales Procurement Board will not in itself be a contracting body. The board may establish a scheme under which government agencies accredited by the board may procure goods and services for that agency or for other government agencies, subject to any terms and conditions of its accreditation. Government agencies also may be authorised by the board to carry out specified procurement of goods and services without board accreditation.

The PRESIDENT: Order! The level of conversation in the Chamber is becoming audible. The Minister is having difficulty with his voice. I ask members to keep conversation to a minimum. Hansard cannot hear the Minister because of the level of audible conversation. I am sure the Minister will make every effort to ensure that he is audible.

The Hon. GREG PEARCE: The New South Wales Procurement Board will be able to issue directions to government agencies regarding the procurement of goods and services by and for government agencies. Government agencies will be obliged to exercise procurement functions in accordance with any applicable board policies and directions, the terms of any board accreditation and the principles of probity and fairness. The bill repeals the Public Sector Employment and Management (Goods and Services) Regulation 2010 and makes consequential amendments to the Public Sector Employment and Management Regulation 2009 and other legislation.

The main effects of the repeal of the regulation are to the current regulatory requirements: tendering will no longer be the prescribed means for acquiring government goods and services in every case, and complex approval processes for methods other than tenders for the supply of government goods and services will no longer be required. These provisions will be replaced with approved methods of sourcing goods and services, which will be set out in New South Wales Procurement Board directions. While tendering will still be used relatively frequently, more flexible approaches to sourcing goods and services will also be possible. These approaches include such mechanisms as greater engagement with the market prior to tendering. Such outcome-based procurements will allow agencies opportunities to identify what is currently being offered in the market, to access current research and to see what the private sector may be capable of designing or offering. This will be done within an overarching framework of probity and fairness.

The Government is undertaking the single greatest reform of procurement in decades. Our goals are to achieve better value for money and budgetary outcomes from government procurement and a government-wide strategic approach to procurement, and to foster procurement as a business enabler. We also must reduce administrative costs and duplication of the procurement function across government. We are reducing red tape, improving competition and simplifying access to government business, especially small and regional enterprises. Our goal is also to simplify the regulatory framework, with an increased focus on

compliance, probity and equity. We must build procurement competence within government. I believe the provisions in this bill provide the structure to achieve these goals. I commend the bill to the House.

Debate adjourned on motion by the Hon. Adam Searle and set down as an order of the day for a future day.