Procurement Advisory Notice 22/2020

For buyers – Caretaker conventions

Caretaker conventions are special arrangements that apply immediately before an election to ensure that decisions are not made which would bind an incoming government and limit its freedom of action. These include things like new major contracts, policy, or undertakings; or significant appointments. ‘Business as usual’ for government must continue during the caretaker period.

While the conventions are not legally binding, agency accountable officers (Directors-General, or Chief Executive Officers) have ultimate responsibility for ensuring conventions are observed.

It is important that the public sector remains apolitical and is not seen as promoting electoral or political issues, and avoiding the use of public resources to advantage a particular party.

When will caretaker conventions commence and end?

Caretaker conventions commence on 6 October 2020.

The caretaker period concludes:

- if there is a returned government - once the election result is clear, or
- if there is a change of government - when the Governor swears in the new Cabinet.

What do the caretaker conventions mean for government buyers?

As noted in the 2020 State General Election Guidelines on the Caretaker Conventions (Guidelines), the circumstances of an election campaign require special attention to the need to ensure the impartiality of the public service and its ability to serve whatever government is elected. Procurement activities during this period which are not business as usual, should be viewed through this lens.

Major contracts or undertakings

Generally, buyers should avoid entering into new major contracts or undertakings during the caretaker period. Consistent with this requirement, major project approvals within government programs are normally deferred by Ministers.

Care should also be taken in approving significant extensions to existing major contracts or arrangements, which likewise may bind an incoming government.

Agencies may decide to define what constitutes a ‘major’ procurement in their procurement procedures. Examples of considerations which may assist in defining ‘major’ are:

- nature (including whether it is business-as-usual, routine or significant)
- value
- contentious or politically sensitive
- level of bipartisan support
- requirement for Ministerial approval.

During the caretaker period

During this period, the broad rule set out in the Guidelines is that government avoid entering into new major contracts, and major project approvals are likewise normally deferred. Considerations in applying this broad rule may include:

- Is the proposed ‘major’ procurement part of an already approved program of works?
- Will signing a contract bind the state, into the term of the next government?
If a 'major' procurement needs to proceed during the caretaker period, and is not part of an already-approved program of works:

- undertake a risk assessment to understand the ramifications of not proceeding with the project (e.g. is it detrimental to the health and safety of Queenslanders?)
- obtain approvals from the appropriate high-level delegate – this may be the Director-General or Chief Executive of your agency
- inform potential tenderers about the possibility that the procurement may not proceed or be completed – this must be outlined in the tender documents
- include contractual clauses providing for termination in the event of an incoming government not wishing to proceed.

Ensure documentation exists, including evidence of the exercising of the appropriate delegations.

What are the other implications from the caretaker conventions?

The following list sets out some other key considerations during the caretaker period. For more information, please refer to the Guidelines.

- The caretaker conventions do not apply to new policy promises which a government may announce as part of its election campaign.
- Cabinet document confidentiality is maintained.
- Requests for factual information from the Minister’s office can still occur but protocols through the usual official channels must be observed. If there are any direct approaches, do not take any action and escalate to your supervisor.
- Briefings from the Opposition may be requested. The process for this will be advised by your senior agency executives. If the request comes directly, do not take any action and escalate to your supervisor.

What if you are unsure what to do?

Common sense and professional judgement must be applied in the application of conventions. There may be situations you are faced with during the caretaker period, where there is no straightforward answer. In these situations you should consider all the facts and seek advice.

The first thing to do is to check if your agency has set out policies and procedures around procurement approvals during the caretaker period. If they do not exist, escalate to your supervisor, and consider avenues like:

- your agency may have a major contracts committee or similar function in place, that you can consult
- talk to your agency’s strategic procurement unit or Chief Procurement Officer
- contact your Cabinet Legislation and Liaison Officer
- speak to your agency’s legal services team
- for complex or high-risk matters, you can seek advice, with the approval of your Director-General or Chief Executive, from the Caretaker Advisory Group by emailing caretaker@premiers.qld.gov.au.

Where to go for more information

Additional information can be found here:

- Queensland Government - [2020 State General Election Guidelines on the Caretaker Conventions](#).