

WA SUPPLY POLICY EXEMPTION – CREATING EMPLOYMENT OPPORTUNITIES FOR PEOPLE WITH A DISABILITY

In 2009, in recognition of the potential for government procurement to improve the employment prospects of people with a disability, the WA Government Supply Policy was amended to include an exemption from minimum requirements to allow agencies to contract directly with an Australian Disability Enterprise (ADE), without following a competitive quote or open tender processes. The announcement was appropriately made on 3 December, International Day of People with Disability. However, despite Ministerial support and advocacy across the Cabinet, over the next three years there was very little uptake of the exemption clause and therefore the potential of this **direct** social procurement strategy (see p.3) was not being realised.

In 2012, in a first attempt to collaborate strategically, the seven ADE's in WA made a joint submission for a *WA Social Innovation Grant*. Western Australian Disability Enterprise (WADE) was awarded two years funding for a project manager, whose role is to facilitate the members' collaboration around government contracting, 'broker' negotiations with government agencies, and assist them with tendering. The Department of Finance's Client Procurement Services team restructured one of its positions to focus on ADE procurement and to 'match' the WADE role. This internal position raises awareness of the opportunities available through the exemption clause, assists agencies interpret these into their own context, and 'brokers' negotiations with WADE members. Subsequently, the incoming WA Government committed to the continuation of the internal dedicated position and, through the Disability Services Commission, awarded WADE an additional four years funding for its project manager.

An early focus was to generate quality promotional materials that showcased the range of services the seven WADE members' could jointly offer. This promotional material has been invaluable in helping agencies understand where their business needs might intersect with the service offerings.

The two matching 'broker' roles work closely together, and since their establishment the uptake of the ADE exemption clause has increased significantly. Seventy three contracts, with a value of over \$21 million, across 27 agencies and supporting 2100 employees with a disability have now awarded. The ADE's haven't been successful with every contract they've tendered for but, in addition to those awarded under the exemption clause, a number of open tenders have also been won and as WADE members become more experienced with government contracting an increase in these is evident.

"It couldn't have been done without a dedicated position. . . a go-to person, a coordinating person. What I call the marriage broking role . . . you need that to get traction, to actually put the rubber on the road".

Proactively identifying and securing opportunities

The internal role initially focused on understanding the core business of each agency and what types of contracts each lets, to identify where potential matches may lie. Whilst all agencies are required to produce a forward procurement plan, it was often more useful to focus on creating a list of contracts coming up for re-tender over the coming twelve months. Agencies purchase regularly, but they don't purchase different goods or services very often, so the strongest opportunities for ADEs lie in the renewal of existing contracts.

A critical issue in social procurement is ensuring there is enough lead time to act on the opportunity. For Client Procurement Services, the ability to do this is dependent on its relationships. Its central team includes staff members based within each agency and these positions have been critical in helping to form relationships with the relevant contract managers, and for monitoring the re-tender list for opportunities coming up. As well as openings that result from

“. . . getting in early enough is really important . . . identifying contracts that are going to expire six to twelve months in advance and at least starting a conversation with the right person. . .”

a scheduled re-tender, opportunities can present where a contract manager isn't particularly happy with the incumbent supplier (or in one case where the supplier went into liquidation) and so are open to considering other possibilities. In these cases, the added benefit of avoiding a full tender process and going to direct negotiation with a potential supplier, through accessing the ADE exemption, can also be attractive.

Client Procurement Services advises that having a position dedicated to identifying specific contract opportunities, and then fostering the relevant internal relationships, has been central to the more recent uptake of the ADE exemption. Through these relationships it has been possible to expose contract managers to the operational capacity and integrity of ADE service offerings, thereby building trust. This has included activities like site tours for procurement staff, and in some cases has involved conducting trial contracts. This involves offering a short term opportunity (eg. three months) as a way to test out delivery capacity, allow relationships to be formed, and build understanding around the potential of social procurement strategies. Once an ADE wins a contract, with quality service delivery and social outcomes performance over time, there is strong potential it could retain the business into the longer term. The list of contracts let to ADEs also shows that once confidence is built and the benefits of social procurement witnessed, agencies then often start to seek out further opportunities within their portfolios. It is these types of 'repeat business' that will sustain the ADEs and generate sustainable jobs for people with disabilities.

Of course, social outcomes are often generated as a by-product of contracting activity, but increasingly the public sector is seeking a more strategic orientation. For WA, where the economic climate is currently shifting, value for money is beginning to be considered more broadly and effective allocation of

“. . . social procurement is about defining things up front, before you buy something . . . our push is to say spend more time in planning . . .”

expenditure is likely to become closely scrutinised. As outcomes-based procurement increases in the public sector generally, being clear about the social outcomes that could be generated by a specific contract and then systematically integrating these into the contracting process will become key capabilities for procurement staff.

Demonstrating outcomes

Even with a social outcome that sounds relatively straightforward - like 'employment for people with a disability' – there a multitude of complexities to navigate in determining how achievement could best be demonstrated. For example, to raise just a few issues: do you include additional hours for people who already have a job, or only new 'jobs' created, and how many hours of work constitutes 'employment'; or do you use increased income as a measure; and what about the perhaps more intangible benefits like improved mental health; and should flow on benefits, like more respite for families and carers (and potentially their increased economic participation in other areas as a result), be captured and if so how.

Reflecting the complexity of these issues, approaches to monitoring and reporting on social outcomes are being progressed around the world, with some receiving greater profile than others. Client Procurement

Services suggests that public sector social procurement initiatives could perhaps learn from colleagues in a range of Community Services oriented departments, where outcomes-based contracting has been evolving for some time. Aligning approaches with other departments within the same government would make sense also.

These broader issues notwithstanding, Client Procurement Services continues to work on how it approaches these issues within the ADE initiative. Currently, contract management includes regular reporting by suppliers against the outcomes negotiated through the tendering process – although the extent of this varies depending on the contracting agency, as information collected needs to have some benefit for their purposes also. An approach that makes the overall numbers and value of contracts meaningful, in terms of the actual outcomes generated, is the longer term goal. In the shorter term, there are opportunities to look at how data already collected (eg. training people have completed, hours worked, sick days, employee postcode data, etc) could be re-purposed and this is being explored with WADE members. There is also a strong interest in gathering more stories about the impact on people's lives as these have proven to be powerful tools for engaging people, including elected representatives.

There are ADE's all over Australia, and collaboration would ensure developments on this critical issue are moving in directions the sector considers relevant and appropriate. The benefits of being able to demonstrate to government that broader returns on investment are being achieved would be felt across the sector. And this would have a cyclic effect, as governments would respond to the availability of this evidence and continue to fine tune their approaches to social procurement accordingly.

Your success is my success

The approach taken by WADE members in their collaboration, and by the WA Government in supporting their growth and stability, revolves around raising the profile and performance of the group as a whole. The small number of ADEs in WA has certainly helped in this regard, but the ability of all involved to act not just in their own organisational interests to achieve progress as a whole is an important factor in the success of the initiative. This has been particularly promising where opportunities have arisen in areas where members have overlaps in the services they offer. In one case, for a very large contract that was a good fit for several members, they were able to commence discussions on putting forward a joint offer to demonstrate a broader capacity overall, strengthening the bid for all of them. In another example, a more established member stepped aside from a small contract so one of the newer enterprises could generate a track record around a particular service area. In another area, where one of the members is at an early stage of establishing a new service, a member offered to take a lead contractor role; providing a sub-contract opportunity that would see them gain experience and exposure. Whilst this tender was unsuccessful, these types of negotiations are building trust, fine tuning how the members work together, and improving their offer in the market.

Partnering with commercial suppliers

A recent example points to what could become an interesting area of development. A commercial supplier took a sub-contractor role for a grounds maintenance contract, with the ADE acting as the principal. Through this arrangement the contracting agency was able to access the exemption clause, thereby avoiding the requirement to go to open tender. The commercial supplier brought greater capacity to the partnership, including large mowing equipment and the like, and is delivering the majority of the work. The ADE handles all the trimmings and other 'fiddly' tasks, gaining access to a contract it couldn't have handled on its own, whilst also gaining experience as a lead contractor.

The exemption clause does not include any threshold rules around portion of contract performed by an ADE, but the ADE is commercially liable for the delivery of the contract, so entering into a partnership of this type is a significant decision for them to make. There is an expectation amongst contracting agencies that work for people with a disability will be generated through contracts where the exemption clause has been used. The two 'broker' roles therefore advise ADEs to ensure they are completely transparent with

“. . . be careful when doing commercial type contracts [with for-profit lead or subcontractors]. Be upfront with the client agency as to what it will deliver for people with a disability specifically . . .”

the contracting agency about arrangements with for-profit partners. Of course, it is understood that people without disabilities will also be involved in delivering the contract, but it is important that all parties are clear about what portion of the work will be undertaken by people with a disability. It's important for the initiative as a whole, and for the reputation of all the WADE members, that developments in this area are handled with integrity.

Just the beginning

The WA Supply Policy also includes an exemption for procuring from a registered Aboriginal Business, where the contract value does not exceed \$250 000 (although this cap can be raised, through delegated approval processes) and the experience with the ADE exemption is now informing Client Procurement Services' approach to implementing this. With the ADEs capacity to tender and to deliver on contracts improving all the time, the ADE dedicated role is now expanding into working with registered Aboriginal Businesses also, and over time the focus could grow to include other types of for-social-benefit suppliers.

The WA Government initiative has provided an important capacity building platform that is strengthening the tendering and service delivery capabilities of WADE members. They are now expanding their efforts and beginning to turn their attention to Local Government and the private sector. The WADE project manager is working closely with them to identify appropriate contract opportunities and develop strategic relationships in these sectors.

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