



23 February 2012

The Hon. Greg Pearce
Minister for Finance and Services

Review of NSW Government Procurement,
Government Services Division,
Department of Finance and Services,
McKell Building,
2-24 Rawson Place,
Sydney, NSW, 2000.

Dear Minister Pearce,

Review of NSW Government Procurement Discussion Paper

The Public Interest Advocacy Centre (PIAC) welcomes the opportunity to provide comment on the NSW Government's *Procurement Discussion Paper* (the discussion paper).

PIAC is an independent, non-profit, law and policy organisation. PIAC works for a just and democratic society by taking strategic action on public interest issues. PIAC's comments in relation to the discussion paper concentrate on the area of legal firms tendering for government work.

Procurement of legal services and pro bono

PIAC notes that the discussion paper does not consider specifically the procurement of legal services, and in particular omits mention of the development of provisions in the process for assessing tenders for legal services on the basis of a firm's commitment to pro bono.

Both the Victorian and Commonwealth Governments have encouraged pro bono legal practice through their procurement processes. In considering the design of a NSW scheme, PIAC refers the NSW Government to the operation of the Victorian Government's Legal Services Panel Arrangement scheme (the Victorian Scheme) and the Commonwealth Legal Services Direction scheme (the Commonwealth Scheme)

Victorian and Commonwealth legal procurement schemes

The Victorian Scheme was established in 2002 to complement the work of the Victorian Government Solicitor's Office. Two panels consisting of general and specialist law firms were established. All Victorian government departments are required to select legal services from either of these two panels or from the Victorian Government Solicitor's Office. In turn, members of the general and specialist law firms must commit to the provision of at least five per cent of value of total hours billed under any contract to pro bono work, and can nominate up to 15 per cent. Firms that do not meet the pro bono requirement are not considered for government tenders.

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The Commonwealth Scheme similarly promotes pro bono work in the procurement process but unlike the Victorian model, is voluntary. The Commonwealth Scheme was established in 2008 under amendments made to section 55ZF of the *Judiciary Act (Cth) 1903*.

The Scheme requires Commonwealth agencies tendering for legal services to consider whether the potentially contracted law firm conducts pro-bono work and whether it is a signatory to the National Pro Bono Aspirational Target.

PIAC recommends that the NSW Government consider the operation of the Commonwealth and Victorian schemes as potential models for procurement of legal services in NSW. PIAC considers that such a scheme is an excellent way to encourage and promote pro bono legal services.

Once again, PIAC thanks the NSW Government for the opportunity to provide comment on its discussion paper. Should you require any further information, please contact Chris Hartley, Senior Policy Officer, on (02) 8898 6522.

Yours sincerely



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