



MINUTE TO THE SECRETARY

To: Caroline Edwards

SUBJECT Approval to apply the human health protection exemption of the Commonwealth Procurement Rules for COVID-19 related procurement expenditure

Purpose

To provide you the opportunity to determine that the human health protection exemption (paragraph 2.6) in the Commonwealth Procurement Rules (CPRs) is necessary for procurements under the COVID-19 response.

Issues/Sensitivities

CPR paragraph 2.6 provides a range of broad exemptions from the CPRs. It states relevantly:

These CPRs do not apply to the extent that an *official* applies measures determined by their *Accountable Authority* to be necessary... to protect human health...

This exemption is necessary and appropriate, given the rapidly evolving situation and the Department's requirement to respond, particularly to supply constraints of medical equipment. It would enable officials to secure supplies of goods and services as necessary to ensure human health protection. It would provide coverage to undertake and continue these activities as long as is appropriate.

Departmental officials who undertake exempt procurement activities are still required to meet *Public Governance Performance and Accountability Act 2013* (PGPA Act) obligations to document the process, as well as obtaining the necessary financial approvals, and meet reporting obligations outside the CPRs such as Senate Orders (e.g. Senate Order 13, also known as the "Murray Motion").

The CPRs provide a range of other options through panel or WoAG arrangements, or exemptions for extreme urgency to allow for limited tenders (including single sourcing). The exemption for extreme urgency (CPR Para 10.3 (b.)) sets out:

when, for reasons of extreme urgency brought about by events unforeseen by the relevant entity, the goods and services could not be obtained in time under open tender;

This exemption, when considered with panel arrangements, would cover a large range of procurements. The department has already undertaken a number of CPR compliant procurements in relation to COVID-19. As the situation continues however, it may become more difficult to rely on the extreme urgency exemption.

Should you agree, Financial Management Division (FMD) would work with relevant divisions to prioritise expedient and effective procurement for the protection of human health, whilst promoting other procurement options to ensure CPR compliance, good governance and robust public administration.

FMD will monitor this exemption's use through SAP reporting functionality, and report back to you through the Chief Operating Officer. This will ensure officials are relying on this CPR exemption only when appropriate.

Consultation

The Department's Chief Financial Officer, and the Department of Finance (Finance). Finance advised there is no specific notification requirement to them. Finance recommended the Department maintain clear documentation around the exemption process and procurements relying on exemptions.

Recommendation

Financial Management Division seeks your determination under paragraph 2.6 of the Commonwealth Procurement Rules to exempt procurements to protect human health related to the COVID-19 response.

Approved / Not Approved / Please Discuss / Noted

Caroline Edwards

18/03/2020

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[Handwritten signature and date 12/3/20]