



Australian Capital Territory

Government Procurement Regulation 2007

SL2007-29

made under the

Government Procurement Act 2001

Republication No 3

Effective: 5 April 2012 – 30 June 2012

Republication date: 5 April 2012

Last amendment made by SL2012-10

Authorised by the ACT Parliamentary Counsel

About this republication

The republished law

This is a republication of the *Government Procurement Regulation 2007*, made under the *Government Procurement Act 2001* (including any amendment made under the *Legislation Act 2001*, part 11.3 (Editorial changes)) as in force on 5 April 2012. It also includes any commencement, amendment, repeal or expiry affecting this republished law to 5 April 2012.

The legislation history and amendment history of the republished law are set out in endnotes 3 and 4.

Kinds of republications

The Parliamentary Counsel's Office prepares 2 kinds of republications of ACT laws (see the ACT legislation register at www.legislation.act.gov.au):

- authorised republications to which the *Legislation Act 2001* applies
- unauthorised republications.

The status of this republication appears on the bottom of each page.

Editorial changes

The *Legislation Act 2001*, part 11.3 authorises the Parliamentary Counsel to make editorial amendments and other changes of a formal nature when preparing a law for republication. Editorial changes do not change the effect of the law, but have effect as if they had been made by an Act commencing on the republication date (see *Legislation Act 2001*, s 115 and s 117). The changes are made if the Parliamentary Counsel considers they are desirable to bring the law into line, or more closely into line, with current legislative drafting practice.

This republication does not include amendments made under part 11.3 (see endnote 1).

Uncommenced provisions and amendments

If a provision of the republished law has not commenced, the symbol **U** appears immediately before the provision heading. Any uncommenced amendments that affect this republished law are accessible on the ACT legislation register (www.legislation.act.gov.au). For more information, see the home page for this law on the register.

Modifications

If a provision of the republished law is affected by a current modification, the symbol **M** appears immediately before the provision heading. The text of the modifying provision appears in the endnotes. For the legal status of modifications, see the *Legislation Act 2001*, section 95.

Penalties

At the republication date, the value of a penalty unit for an offence against this law is \$110 for an individual and \$550 for a corporation (see *Legislation Act 2001*, s 133).



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R3
05/04/12

Government Procurement Regulation 2007
Effective: 05/04/12-30/06/12

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Part 1 Preliminary

1 Name of regulation

This regulation is the *Government Procurement Regulation 2007*.

3 Notes

A note included in this regulation is explanatory and is not part of this regulation.

Note See the Legislation Act, s 127 (1), (4) and (5) for the legal status of notes.

Part 2 Government procurement— quotation and tender thresholds

4 Application—pt 2

(1) This part does not apply to procurement by the Territory or a territory entity under a standing-offer contract.

(2) In this section:

standing-offer contract means a contract to supply goods, services or works or a common-use contract that the Territory or a territory entity may procure from time to time during a stated period.

5 Procurement of goods, services or works less than \$25 000

A territory entity must seek at least 1 oral quotation from a supplier for the procurement of goods, services or works if the total estimated value of the procurement is less than \$25 000.

6 Procurement of goods, services or works for \$25 000 or more and less than \$200 000

A territory entity must seek at least 3 written quotations from suppliers for the procurement of goods, services or works if the total estimated value of the procurement is \$25 000 or more and less than \$200 000.

9 Procurement of goods, services or works for \$200 000 or more

A territory entity must invite public tenders for the procurement of goods, services or works if the total estimated value of the procurement is \$200 000 or more.

10 Procurement of goods, services or works—exemption from quotation and tender requirements

- (1) The responsible chief executive officer for a territory entity may, in writing, exempt the entity from a requirement mentioned in section 6 or section 9 for a particular procurement proposal.

Note 1 **Responsible chief executive officer**—see the Act, dictionary.

Note 2 For a chief executive officer's power of delegation, see the *Public Sector Management Act 1994*, div 3.5.

- (2) However, the responsible chief executive officer may exempt the entity only if satisfied, on reasonable grounds, that the benefit of the exemption outweighs the benefit of compliance with the requirement.

Examples—when exemption may be given

- 1 only 1, or a limited number of, suppliers is available because of a need to buy equipment that is compatible with existing equipment, or because of a supplier's specialist knowledge
- 2 only 1 supplier can supply a particular good or service
- 3 standardisation of a product is agreed after public tenders are called for the original equipment
- 4 the time within which a particular procurement activity must be completed prevents public tenders being called
- 5 where a secondary objective of the procurement is to achieve an appreciable social or community benefit
- 6 the procurement is through a common use agreement established in another jurisdiction.

Note An example is part of the regulation, is not exhaustive and may extend, but does not limit, the meaning of the provision in which it appears (see Legislation Act, s 126 and s 132).

- (3) If the responsible chief executive officer exempts an entity, the chief executive officer may, in writing, direct the entity to do 1 or more of the following:
- (a) seek a stated kind or number of quotations for the procurement;
 - (b) invite a tender from a stated supplier for the procurement.
- (4) An exemption must state—
- (a) the procurement proposal to which it applies; and
 - (b) the responsible chief executive officer's reasons for giving the exemption; and
 - (c) any direction to which it is subject under subsection (3).

Part 3 Miscellaneous

11 Procurement proposals of territory entities—Act, s 6 (c)

- (1) The following procurement proposals of territory entities must be reviewed by the board:
 - (a) a procurement proposal that has a total estimated value of \$5 million or more, unless the proposal is covered by an endorsed strategic procurement plan;
 - (b) a procurement proposal of a territory entity (other than an administrative unit) that has a total estimated value of \$1 million or more, unless the proposal is covered by an endorsed strategic procurement plan;
 - (c) a procurement proposal in relation to information and communications technology that includes an element of system development or redesign and has a total estimated value of \$1 million or more;
 - (d) a disposal that has a total estimated value of \$1 million or more.

- (2) In this section:

endorsed strategic procurement plan means a procurement plan that—

- (a) states that it applies to separate procurement proposals, or activities, of a stated kind; and
- (b) has been endorsed by the board as a strategic procurement plan.

12 Procurement proposals—minimum requirements

- (1) This section applies to a procurement proposal that may be reviewed by the board.
- (2) The procurement proposal must—
 - (a) address the matters the entity must have regard to under the Act, section 22A (3) (Procurement principle—value for money); and
 - (b) include—
 - (i) the evaluation methodology to be used to decide the successful supplier; and
 - (ii) the evaluation criteria to be applied to the procurement; and
 - (iii) the contract management arrangements to be applied to the procurement.

12A Notifiable contract threshold—Act, s 25 (2) (a)

The prescribed amount is \$25 000.

12B Notifiable amendment threshold—Act, s 26 (a) (ii)

The prescribed amount is \$25 000.

13 Procurement procedure

- (1) The Minister may give directions about the management of the procurement activities of territory entities.
- (2) A direction is a notifiable instrument.

Note A notifiable instrument must be notified under the Legislation Act.

14 Confidentiality of information—Act, s 35 (1) (a) (vi)

The following information is prescribed:

- (a) information that, if disclosed, would have a significant adverse effect on the financial or property interests of the Territory or of a territory entity;
- (b) information that, if disclosed, would unreasonably constrain the development or consideration of policy alternatives by government.

Endnotes

1 About the endnotes

Amending and modifying laws are annotated in the legislation history and the amendment history. Current modifications are not included in the republished law but are set out in the endnotes.

Not all editorial amendments made under the *Legislation Act 2001*, part 11.3 are annotated in the amendment history. Full details of any amendments can be obtained from the Parliamentary Counsel's Office.

Uncommenced amending laws are not included in the republished law. The details of these laws are underlined in the legislation history. Uncommenced expiries are underlined in the legislation history and amendment history.

If all the provisions of the law have been renumbered, a table of renumbered provisions gives details of previous and current numbering.

The endnotes also include a table of earlier republications.

2 Abbreviation key

A = Act	NI = Notifiable instrument
AF = Approved form	o = order
am = amended	om = omitted/repealed
amdt = amendment	ord = ordinance
AR = Assembly resolution	orig = original
ch = chapter	par = paragraph/subparagraph
CN = Commencement notice	pres = present
def = definition	prev = previous
DI = Disallowable instrument	(prev...) = previously
dict = dictionary	pt = part
disallowed = disallowed by the Legislative Assembly	r = rule/subrule
div = division	reloc = relocated
exp = expires/expired	renum = renumbered
Gaz = gazette	R[X] = Republication No
hdg = heading	RI = reissue
IA = Interpretation Act 1967	s = section/subsection
ins = inserted/added	sch = schedule
LA = Legislation Act 2001	sdiv = subdivision
LR = legislation register	SL = Subordinate law
LRA = Legislation (Republication) Act 1996	sub = substituted
mod = modified/modification	<u>underlining</u> = whole or part not commenced or to be expired

Endnotes

3 Legislation history

3 Legislation history

Government Procurement Regulation 2007 SL2007-29

notified LR 28 September 2007

s 1, s 2 commenced 28 September 2007 (LA s 75 (1))

remainder commenced 1 October 2007 (s 2 and see Government Procurement Amendment Act 2007 A2007-11, s 2 and CN2007-14)

as amended by

Government Procurement Amendment Regulation 2009 (No 1) SL2009-17

notified LR 30 April 2009

s 1, s 2 commenced 30 April 2009 (LA s 75 (1))

remainder commenced 1 May 2009 (s 2)

Government Procurement Amendment Regulation 2012 (No 1) SL2012-10

notified LR 26 March 2012

s 1, s 2 commenced 26 March 2012 (LA s 75 (1))

remainder commenced 5 April 2012 (s 2 and see Government Procurement Amendment Act 2012 A2012-11 s 2)

4 Amendment history

Commencement

s 2 om R1 LA s 89 (4)

Procurement of goods, services or works less than \$25 000

s 5 sub SL2009-17 s 4

Procurement of goods, services or works for \$25 000 or more and less than \$200 000

s 6 sub SL2009-17 s 5

Procurement of works less than \$20 000

s 7 om SL2009-17 s 6

Procurement of works for \$20 000 or more and less than \$100 000

s 8 om SL2009-17 s 6

Procurement of goods, services or works for \$200 000 or more

s 9 hdg am SL2009-17 s 7

s 9 am SL2009-17 s 7

Procurement of goods, services or works—exemption from quotation and tender requirements

s 10 am SL2009-17 s 8; SL2012-10 s 4

Notifiable contract threshold—Act, s 25 (2) (a)

s 12A ins SL2012-10 s 5

Notifiable amendment threshold—Act, s 26 (a) (ii)

s 12B ins SL2012-10 s 5

Regulation repealed

s 15 om R1 LA s 89 (3)

Endnotes

5 Earlier republications

5 Earlier republications

Some earlier republications were not numbered. The number in column 1 refers to the publication order.

Since 12 September 2001 every authorised republication has been published in electronic pdf format on the ACT legislation register. A selection of authorised republications have also been published in printed format. These republications are marked with an asterisk (*) in column 1. Electronic and printed versions of an authorised republication are identical.

Republication No and date	Effective	Last amendment made by	Republication for
R1 1 Oct 2007	1 Oct 2007– 30 Apr 2009	not amended	new regulation
R2 1 May 2009	1 May 2009– 4 Apr 2012	SL2009-17	amendments by SL2009-17

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