



Australian Capital Territory

Government Procurement Regulation 2007

Subordinate Law SL2007-29

The Australian Capital Territory Executive makes the following regulation under the *Government Procurement Act 2001*.

Dated 26 September 2007.

JON STANHOPE
Minister

ANDREW BARR
Minister



Australian Capital Territory

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Part 1 Preliminary

1 Name of regulation

This regulation is the *Government Procurement Regulation 2007*.

2 Commencement

This regulation commences on the day the *Government Procurement Amendment Act 2007* commences.

Note The naming and commencement provisions automatically commence on the notification day (see Legislation Act, s 75 (1)).

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 or services less than \$5 000

A territory entity must seek at least 1 oral quotation from a supplier for the procurement of goods or services if the total estimated value of the procurement is less than \$5 000.

6 Procurement of goods or services for \$5 000 or more and less than \$100 000

A territory entity must seek at least 3 written quotations from suppliers for the procurement of goods or services if the total estimated value of the procurement is \$5 000 or more and less than \$100 000.

7 Procurement of works less than \$20 000

A territory entity must seek at least 1 oral quotation from a supplier for the procurement of works if the total estimated value of the procurement is less than \$20 000.

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

A territory entity must seek at least 3 written quotations from suppliers for the procurement of works if the total estimated value of the procurement is \$20 000 or more and less than \$100 000.

9 Procurement of goods, services or works for \$100 000 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 \$100 000 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, 7, 8 or 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.

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.

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.

15 Regulation repealed

The *Government Procurement (Quotation and Tender Thresholds) Guideline 2003 (No 1)*, to which the Act, section 100 (Procurement guideline) applies, is repealed.

Note Under the Act, s 100 the *Government Procurement (Quotation and Tender Thresholds) Guideline 2003 (No 1)* is taken to be a regulation made under the Act and may be repealed as if it had been made as a regulation by the Executive under the Act, s 52.

Endnotes**1 Notification**

Notified under the Legislation Act on 28 September 2007.

2 Republications of amended laws

For the latest republication of amended laws, see www.legislation.act.gov.au.
