



Australian Capital Territory

# **Government Procurement Regulation 2007**

**SL2007-29**

made under the

**Government Procurement Act 2001**

**Republication No 11**

**Effective: 1 July 2024 – 30 June 2026**

Republication date: 1 July 2024

Last amendment made by [A2024-2](#)

## 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 1 July 2024. It also includes any commencement, amendment, repeal or expiry affecting this republished law to 1 July 2024.

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](http://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](http://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 \$160 for an individual and \$810 for a corporation (see *Legislation Act 2001*, s 133).



Australian Capital Territory

# Government Procurement Regulation 2007

made under the

**Government Procurement Act 2001**

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Australian Capital Territory

# Government Procurement Regulation 2007

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made under the

**Government Procurement Act 2001**

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## Part 1 Preliminary

### 1 Name of regulation

This regulation is the *Government Procurement Regulation 2007*.

### 2 Dictionary

The dictionary at the end of this regulation is part of this regulation.

*Note 1* The dictionary at the end of this regulation defines certain terms used in this regulation, and includes references (*signpost definitions*) to other terms defined elsewhere.

For example, the signpost definition ‘*supplier*—see section 6 (2).’ means that the term ‘supplier’ is defined in that section.

*Note 2* A definition in the dictionary (including a signpost definition) applies to the entire regulation unless the definition, or another provision of the regulation, provides otherwise or the contrary intention otherwise appears (see [Legislation Act](#), s 155 and s 156 (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 1A                      Important concepts

### 3A            Meaning of *procurement*—Act, s 5 (4)

(1) The following are not *procurement*:

- (a) a grant;
- (b) an investment or borrowing under the *Financial Management Act 1996*;
- (c) a loan or a rebate to, or provided by, a Territory entity;

**Example**

a concessional loan from the Australian Government to the Territory for loose-fill asbestos removal in the ACT

- (d) an acquisition or disposal by a Territory entity under another territory law.

**Example**

an acquisition under the *Lands Acquisition Act 1994*

(2) In this section:

***grant***—

- (a) means a payment of public money to a person by the Territory, or on behalf of the Territory, to—
  - (i) achieve a stated government policy outcome; and
  - (ii) assist the person achieve a stated objective; and
- (b) includes a payment—
  - (i) made as a result of a selection process; or
  - (ii) made because stated criteria are satisfied; or

(iii) that is a one-off or ad hoc payment.

**Examples—grants**

- 1 a research grant
- 2 a community support grant
- 3 a grant for arts activities

*public money*—see the *Financial Management Act 1996*, dictionary.

**3B Prescribed territory authorities—Act, s 6 (1), def Territory entity, par (d)**

- (1) The following territory authorities are prescribed:
  - (a) the ACT Teacher Quality Institute;
  - (b) the Australian Capital Territory Insurance Authority;
  - (c) the Building and Construction Industry Training Fund Authority;
  - (d) the Cemeteries and Crematoria Authority;
  - (e) the Canberra Institute of Technology;
  - (f) the city renewal authority;
  - (g) the Cultural Facilities Corporation;
  - (h) the electoral commission;
  - (i) the gambling and racing commission;
  - (j) the independent competition and regulatory commission;
  - (k) the integrity commission;
  - (l) the legal aid commission;
  - (m) the Long Service Leave Authority;
  - (n) the Motor Accident Injuries Commission;
  - (o) the Office of the Auditor-General;

- (p) the Office of the Work Health and Safety Commissioner;
  - (q) the public trustee and guardian;
  - (r) the suburban land agency.
- (2) In this section:

***ACT Teacher Quality Institute*** means the institute established under the *ACT Teacher Quality Institute Act 2010*, section 10.

***Australian Capital Territory Insurance Authority*** means the authority established under the *Insurance Authority Act 2005*, section 7.

***Building and Construction Industry Training Fund Authority*** means the authority established under the *Building and Construction Industry Training Levy Act 1999*, section 4.

***Cemeteries and Crematoria Authority*** means the authority established under the *Cemeteries and Crematoria Act 2020*, section 113.

***Cultural Facilities Corporation*** means the corporation established under the *Cultural Facilities Corporation Act 1997*, section 5.

***Long Service Leave Authority*** means the authority established under the *Long Service Leave (Portable Schemes) Act 2009*, section 79A.

***Motor Accident Injuries Commission*** means the commission established under the *Motor Accident Injuries Act 2019*, section 22.

***Office of the Auditor-General*** means the office established under the *Auditor-General Act 1996*, division 2.4.

***Office of the Work Health and Safety Commissioner*** means the office established under the *Work Health and Safety Act 2011*, schedule 2, section 2.18.

**3C Meaning of *procurement contract*—Act, s 9,  
def *procurement contract*, par (b)**

- (1) The following documents are prescribed:
- (a) a labour relations, training and workplace equity plan;
  - (b) a plan—
    - (i) made in relation to local industry participation; and
    - (ii) submitted by a tenderer in relation to an open tender procurement if the estimated total consideration of the procurement is \$5 million or more.

*Note* The Canberra Region Local Industry Participation Policy is accessible at [www.procurement.act.gov.au](http://www.procurement.act.gov.au).

## **Part 2**                      **Quotation and tender thresholds and exemptions**

### **Division 2.1**              **Preliminary**

#### **4**              **Application—pt 2**

- (1) This part does not apply to a procurement by a Territory entity if the procurement is—

- (a) under a standing-offer arrangement; or

*Note*      Par (a) does not include a new standing-offer arrangement (see s (2)).

- (b) of a sublease or licence over land, or part of land, in which the Territory or the Territory entity is the sublessee or licensee; or

**Example**

the sublease of part of a building by the Territory for Territory use

- (c) of goods or services from the Commonwealth, a State or a local government, or an entity of the Commonwealth, a State or a local government; or

*Note*      **State** includes the Northern Territory (see [Legislation Act](#), dict, pt 1).

- (d) of research and development services, other than in relation to the planning of research and development services; or

**Examples—research and development services**

surveys, market research, product design, production of prototypes

**Example—planning of research and development services**

consulting as to what should be surveyed, researched, designed or produced

- (e) of Territory banking, borrowing or investment services; or

**Examples—borrowing services**

sale and distribution, settlement and clearing house, registry, issuing and paying agency and credit rating services

**Examples—investment services**

investment management, master custody and safekeeping, investment advisory, financial market data, indices, subscriptions and licensing and research services

- (f) for engaging a person in relation to any current or anticipated litigation or legal dispute; or

**Example**

engaging counsel, a barrister or an expert witness

- (g) for emergency works—

(i) to critical services that have been disrupted; or

(ii) to prevent an imminent danger to health and safety; or

- (h) of goods or services from outside of Australia, for use outside of Australia; or

(i) a disposal.

- (2) In this section:

*entity of the Commonwealth, a State or a local government* means an entity of the Commonwealth, a State or a local government that exercises functions that correspond, or substantially correspond, to the functions of—

- (a) an entity mentioned in the [Act](#), section 6, definition of *Territory entity*; or
- (b) a territory-owned corporation; or
- (c) a territory authority that is not a Territory entity; or
- (d) a territory instrumentality.

*standing-offer arrangement* does not include a new standing-offer arrangement.

*sublease* includes an underlease.

## **5 Delegation by responsible chief executive officer**

The responsible chief executive officer for a Territory entity may delegate the officer's functions under this part to a public employee.

*Note* For laws about delegations, see the [Legislation Act](#), pt 19.4.

## **Division 2.2 Quotation and tender thresholds**

### **6 Low-value procurement**

- (1) This section applies to a procurement by a Territory entity if the estimated total consideration of the procurement is less than \$25 000.
- (2) The Territory entity must seek at least 1 written quotation from an entity that can supply the goods or services (a *supplier*) for the procurement.

### **7 Limited tender procurement**

- (1) This section applies to a procurement by a Territory entity (a *limited tender procurement*) if the estimated total consideration of the procurement is—
  - (a) for goods or services that are not related to construction work—at least \$25 000 but less than \$500 000; and
  - (b) for goods or services related to construction work—at least \$25 000 but less than \$1 million.
- (2) The Territory entity must seek at least 3 written quotations from suppliers for the procurement.

## 8 Open tender procurement

- (1) This section applies to a procurement by a Territory entity (an *open tender procurement*) if the estimated total consideration of the procurement is—
  - (a) for goods or services that are not related to construction work—at least \$500 000; and
  - (b) for goods or services related to construction work—at least \$1 million.
- (2) The Territory entity must—
  - (a) invite tenders for the procurement; and
  - (b) advertise the invitation electronically for at least—
    - (i) 25 days; or
    - (ii) 10 days if—
      - (A) the Territory entity has published notice of the procurement electronically for at least 40 days, but not more than 12 months, before the first day the invitation is advertised; or
      - (B) exceptional circumstances mean that an advertising period of 25 days is impracticable.
- (3) If there are 2 or more invitations for tenders for the procurement, each invitation must comply with the requirements mentioned in subsection (2) (b).

## **Division 2.3 Exemptions**

### **9 Exemption reasons—limited and open tender procurement**

- (1) The responsible chief executive officer for a Territory entity may exempt the Territory entity under section 10 or section 10A for any of the following reasons (the *exemption reasons*):
  - (a) for a procurement that includes 2 or more approaches to market—in response to the first approach to market, the Territory entity did not receive—
    - (i) any written quotations or tenders; or
    - (ii) any written quotations or tenders that would achieve value for money; or
    - (iii) any written quotations or tenders that met the minimum requirements for content and format; or
    - (iv) any written quotations or tenders that satisfy the conditions for participation;
  - (b) the goods or services to be procured are needed urgently as a result of an unforeseen event outside of the Territory’s control;
  - (c) the need for a procurement has arisen unexpectedly and is not routine;

#### **Examples**

unusual disposals, unsolicited innovative proposals, liquidation, bankruptcy, receivership

- (d) only 1 supplier, or a limited number of suppliers, can supply a particular good or service because—
  - (i) the good or service to be procured is artwork; or
  - (ii) there is a need to protect patents, copyrights or other exclusive rights or proprietary information; or

- (iii) a supplier with specialist knowledge or equipment is required;
- (e) the procurement is for another procurement from an existing supplier and a new supplier is not feasible—
  - (i) for technical reasons; or

**Examples**

- 1 compatibility with existing equipment, software or services
- 2 a condition under a warranty

- (ii) because it would cause significant inconvenience or substantial duplication of costs for the Territory entity;
- (f) the good or service to be procured is a commodity;
- (g) the good or service to be procured is—
  - (i) a prototype; or
  - (ii) an original good or service intended for limited initial release; or
  - (iii) developed at the Territory entity's request for research or development purposes;
- (h) the procurement is from a winner of a design contest, if—
  - (i) the contest was held to award the winner with a design contract; and
  - (ii) the contest is conducted in a way that complies with the Act; and
  - (iii) the contest judges are independent;

- (i) there is an existing procurement contract (the *initial procurement contract*) for goods or services related to construction work and the procurement is for additional goods or services that—
  - (i) were not included in the initial procurement contract but were within the objectives of the written quotation or tender process for the initial procurement contract; and
  - (ii) have become necessary, as a result of an unforeseen event, to complete the construction work under the initial procurement contract; and
  - (iii) the total value of any contract awarded for procurement of the additional goods or services will not exceed 50% of the value of the initial procurement contract.

- (2) In this section:

*approach to market*, in relation to a procurement, means to seek written quotations or invite tenders for the procurement.

*conditions for participation* means any conditions that a potential supplier must comply with in order for the supplier's written quotation or tender to be considered or to otherwise participate in the procurement process.

**Example—condition**

a requirement to undertake an accreditation or validation procedure

## **10 Exemptions—limited tender procurement**

- (1) The responsible chief executive officer for a Territory entity may, in writing, exempt the Territory entity from the requirement under section 7 (2) to seek at least 3 written quotations from suppliers for a limited tender procurement.

- (2) However, the responsible chief executive officer may exempt the Territory entity only if satisfied on reasonable grounds that—
- (a) at least 1 of the exemption reasons applies in relation to the procurement; or
  - (b) the Territory entity intends to seek a written quotation from—
    - (i) a supplier that is a certified Aboriginal or Torres Strait Islander entity; or
    - (ii) both of the following:
      - (A) a supplier that is an entity based in the ACT or surrounding region;
      - (B) a supplier that is a small or medium business entity.

- (3) In this section:

***Aboriginal or Torres Strait Islander person***—see the *Aboriginal and Torres Strait Islander Children and Young People Commissioner Act 2022*, dictionary.

***certified Aboriginal or Torres Strait Islander entity*** means an entity that—

- (a) is at least 50% owned and operated by an Aboriginal or Torres Strait Islander person; and
- (b) has been certified by another entity to be owned and operated by an Aboriginal or Torres Strait Islander person.

**Examples—certifying entities**

- 1 Supply Nation
- 2 National Aboriginal Community Controlled Health Organisation (NACCHO)
- 3 Office of the Registrar of Indigenous Corporations

***entity based in the ACT or surrounding region*** means an entity that is permanently and primarily located in the ACT or an area surrounding the ACT, including the following shires:

- (a) Bombala;
- (b) Boorowa;
- (c) Cooma-Monaro;
- (d) Eurobodalla;
- (e) Goulburn-Mulwaree;
- (f) Harden;
- (g) Palerang;
- (h) Queanbeyan;
- (i) Snowy River;
- (j) Upper Lachlan;
- (k) Yass Valley;
- (l) Young.

***small or medium business entity*** means an entity that employs less than 200 people.

#### **10A Exemptions—open tender procurement**

- (1) The responsible chief executive officer for a Territory entity may, in writing, exempt the Territory entity from the requirements mentioned in section 8 (2) to invite tenders and advertise electronically for an open tender procurement.
- (2) However, the responsible chief executive officer may exempt the Territory entity only if satisfied on reasonable grounds that at least 1 of the exemption reasons applies in relation to the procurement.

## **10B Exemptions—directions**

If the responsible chief executive officer for a Territory entity exempts the Territory entity under section 10 or section 10A for a procurement, the officer may, in writing, direct the Territory entity to do 1 or more of the following:

- (a) seek a stated kind or number of written quotations for the procurement;
- (b) seek a written quotation or invite a tender from a stated supplier for the procurement.

## **Division 2.4 Open tender procurement**

### **10C Notice of procurements for open tender procurements**

- (1) If a Territory entity proposes to undertake an open tender procurement, the Territory entity must, as soon as practicable, publish notice of the procurement electronically.

**Example—public notice electronically**

on the TendersACT website

- (2) A notice must include—
  - (a) the subject matter of the procurement; and
  - (b) the date the Territory entity intends to invite tenders for the procurement and advertise electronically.
- (3) If any of the details included in the notice change, the Territory entity must, as soon as practicable, update the notice.

### **10D Late tenders**

- (1) This section applies if—
  - (a) a Territory entity invites tenders for an open tender procurement; and
  - (b) a supplier submits a tender in relation to the procurement; but

- (c) the tender was submitted after the last day of the period during which the Territory entity was accepting tenders.
- (2) The Territory entity must not accept the supplier's tender in relation to the procurement, unless the tender was submitted late due to an act or omission by the Territory entity.

## **Part 3 Notifiable contracts and notifiable invoices**

### **11 Notifiable contract threshold—Act, s 12 (2) (b)**

The prescribed amount is \$25 000.

### **12 Notifiable invoice threshold—Act, s 13 (a) (ii)**

The prescribed amount is \$25 000.

### **12A Contents of register—Act, s 15 (1)**

- (1) The following information is prescribed for each notifiable contract:
  - (a) the parties to the contract;
  - (b) the responsible Territory entity for the contract and any change in the responsible Territory entity for the contract;
  - (c) the title of the contract;
  - (d) a brief description of what the contract is for;
  - (e) the type of contract;
  - (f) a unique identifying number for the contract;
  - (g) the date the contract was made;
  - (h) the date the contract ends;
  - (i) if the date the contract ends may be extended—the circumstances under, and the period for which, the date may be extended;
  - (j) the value of the total consideration, or estimated total consideration, for the contract;

- (k) whether the responsible Territory entity was exempted from any requirement for the procurement to which the contract relates;

**Example**

a Territory entity was exempted from quotation and tender requirements for a procurement under pt 2

- (l) if the contract is amended—
- (i) a brief description of the amendment; and
  - (iii) the date the amendment was made;
- (m) whether any part of the contract is confidential text;

*Note* **Contract** includes a contract as amended (see dict)

- (n) if any part of the contract is confidential text—a brief indication of what the confidential text relates to;

**Examples**

see examples for the [Act](#), s 18 (2) (b)

- (o) whether the secure local jobs code applies to the contract;
- (p) any other information about the contract required to be included in the register in any direction given by the Minister under the [Act](#), section 43 (Government procurement practices);
- (q) an electronic copy of the public text (if any) of the contract as made and of any amendment of the contract;
- (r) where anyone can obtain a printed copy of the public text (if any) of the contract as made and of any amendment of the contract.
- (2) The following information is prescribed for each notifiable invoice:
- (a) the name of the entity invoicing the responsible Territory entity;
  - (b) if the entity invoicing the responsible Territory entity has an ABN—the ABN;
  - (c) the name of the responsible Territory entity for the invoice;

- (d) a brief description of what the invoice is for;
  - (e) if the invoice relates to a notifiable contract—the contract’s unique identifying number;
  - (f) the date the invoice was received;
  - (g) the date the invoice was paid;
  - (h) the value of the good or service charged for under the invoice.
- (3) In this section:
- public text**, of a notifiable contract, means—
- (a) the text (if any) of the contract that is not confidential text; and
  - (b) any confidential text of the contract—
    - (i) that ceases to be confidential in accordance with the contract or by the agreement of the parties to the contract; or
    - (ii) the substance of which has become public knowledge.

**12B Public access to information on register**

- (1) The director-general must ensure, as far as practicable, that a copy of the following information is accessible on a website approved by the director-general at all times and—
  - (a) for information mentioned in section 12A (1) for a notifiable contract—for at least 2 years after the day the notifiable contract ends; and
  - (b) for information mentioned in section 12A (2) for a notifiable invoice—for at least 2 years.
- (2) Access is to be provided without charge by the Territory.

**12C Territory entities to enter information in register**

- (1) The responsible Territory entity for a notifiable contract must, within 21 days after the day the contract is made, enter any information mentioned in section 12A (1) for the contract in the register.
- (2) The responsible Territory entity for a notifiable invoice must, within 21 days after the end of the month in which the invoice was paid, enter any information mentioned in section 12A (2) for the invoice in the register.
- (3) The Territory entity must also, within 21 days after the day a change in any information mentioned in section 12A happens, update the information in the register.

*Note*     **Contract** includes a contract as amended (see dict).

## Part 4 Secure local jobs code

### 12AA Prescribed value of services—Act, s 22F (1) (a) (ii)

The prescribed amount is \$200 000.

### 12AB Excluded services—Act, s 22F (3)

- (1) The following services are prescribed:
  - (a) information media and telecommunications services within the meaning of the ANZSIC, Division J;
  - (b) rental, hiring and real estate services within the meaning of the ANZSIC, Division L;
  - (c) financial and insurance services within the meaning of the ANZSIC, Division K;
  - (d) professional, scientific and technical services within the meaning of the ANZSIC, Division M;
  - (e) hospital services within the meaning of the ANZSIC, Subdivision 84;
  - (f) medical and other health care services within the meaning of the ANZSIC, Subdivision 85.
- (2) In this section:

*ANZSIC* means the Australian and New Zealand Standard Industrial Classification 2006 as in force from time to time.

*Note* The ANZSIC is available free of charge at [www.abs.gov.au](http://www.abs.gov.au).

**12AC Labour relations, training and workplace equity plan—  
Act, s 22G (6) (b)**

- (1) A tenderer's labour relations, training and workplace equity plan must state the following:
- (a) how the tenderer will incorporate compliance with the code into its systems of work, operating procedures and policies;
  - (b) how the tenderer will ensure that all the tenderer's directors, executive managers and employees understand the tenderer's obligations under the code;
  - (c) how the tenderer will ensure that its subcontractors comply with the code;
  - (d) whether and how the tenderer will minimise insecure work arrangements, including the use of insecure work arrangements by any of its subcontractors;

**Examples—insecure work arrangements**

- temporary employment arrangements
- casual employment arrangements

- (e) how the tenderer will support the physical and mental health of its employees, including with any health and well-being activities, to reduce the impact and incidence of impairment in the workplace;
- (f) how the tenderer will promote and support diversity in the tenderer's workforce;

**Examples—promoting and supporting diversity**

policies or strategies to address barriers to employment, or career development, for Aboriginal or Torres Strait Islander people, women, people with disability and people from culturally and linguistically diverse backgrounds

- (g) if the plan is submitted in relation to a procurement for services being provided by an existing contractor—whether and how the tenderer will support transmission of the existing contractor’s employees to the tenderer;
  - (h) if the plan is submitted in relation to a procurement valued at \$5 million or more—
    - (i) how the tenderer will provide workers in the ACT and surrounding region with the opportunity to apply for employment before undertaking recruitment outside the region; and
    - (ii) what training will be available to the tenderer’s employees for their career development and to help them attain externally-recognised qualifications; and
    - (iii) whether the tenderer will provide internships, traineeships, cadetships or apprenticeships;
  - (i) if the tenderer was previously engaged with a Territory entity under a contract for procurement for territory-funded work—how the tenderer complied with the code and the tenderer’s commitments in the labour relations, training and workplace equity plan in relation to the contract.
- (2) The plan must be developed in consultation with the tenderer’s employees and include a statement about how this has been done.

**12AD Details for secure local jobs code register—Act, s 22N (1) (c)**

The following details are prescribed for each secure local jobs code certificate:

- (a) the identifying number for the certificate;
- (b) the period for which the certificate has been granted under the [Act](#), section 22J;

- (c) the name of the approved auditor that completed the report under the [Act](#), section 22I (2) (a) that was included with the application for the certificate;
- (d) if the secure local jobs code certificate is held by an entity other than an individual—the entity’s business address, phone number and email address.

## Part 5 Procurement board

### Division 5.1 Board review of procurements

#### 13 Application—div 5.1

This division—

- (a) applies to a procurement by a Territory entity to enter into a standing-offer arrangement (a *new standing-offer arrangement*); but
- (b) does not apply to procurement by a Territory entity under—
  - (i) a standing-offer arrangement; or
  - (ii) a contract entered into under a standing-offer arrangement.

#### 14 Procurements to be reviewed by board—Act, s 29 (2) (a) (i)

- (1) The following procurements by Territory entities must be reviewed by the board:
  - (a) a procurement, including an acquisition or a disposal, that is in the planning period and has an estimated total consideration of \$7 million or more;
  - (b) a procurement that is in the planning period and for which at least 1 of the following applies:
    - (i) there are significant concerns about probity;

**Example**

there is a high or extreme probity risk rating in relation to the procurement

- (ii) the procurement relates to information and communications technology that includes an element of system development or redesign;

- (iii) the procurement is a new a standing-offer arrangement;
- (iv) the procurement proposes to substantially change the scope or nature of an existing procurement contract;

**Examples—substantially change**

- 1 extending the date an existing procurement contract ends, but this was not considered when undertaking the procurement and the contract does not provide for any extension
- 2 changing the nature or volume of goods or services provided
- 3 changing a delivery schedule or completion date
- 4 changing the total consideration of an existing procurement contract
- 5 multiple small changes that, taken together, represent a substantial change to an existing procurement contract

- (c) a procurement—
  - (i) that has been undertaken but a procurement contract has not yet been entered into; and
  - (ii) for which there are significant concerns about probity;

**Example**

a Territory entity has not addressed a recommendation in relation to probity

- (d) a procurement that is referred to the board by any of the following entities:
  - (i) the Minister;
  - (ii) a responsible chief executive officer for a Territory entity;
  - (iii) the administrative unit responsible for administering the Act;
  - (iv) Major Projects Canberra;
  - (v) a person who has been engaged by a Territory entity to investigate whether the procurement was undertaken with probity;

(e) a procurement, other than a procurement mentioned in paragraphs (a) to (d), that the board considers should be reviewed.

(2) In this section:

*planning period*, in relation to a procurement, means the period before a Territory entity seeks quotations or invites tenders for the procurement.

## **Division 5.2 Board members—conditions of appointment**

### **15 Board members—term of appointment—Act, s 34 (a)**

- (1) A board member must be appointed for a term of not more than 3 years.
- (2) A person who has been a member for 2 consecutive terms is not eligible for reappointment.

### **16 Board members—honesty, care and diligence—Act, s 34 (b)**

In exercising the functions of a board member, the member must exercise the degree of honesty, care and diligence required to be exercised by a director of a company in relation to the affairs of the company.

### **17 Board members—disclosure of interests—Act, s 34 (b)**

- (1) This section applies to a board member if—
  - (a) the member has a direct or indirect financial interest, or a direct or indirect interest of any other kind, in an issue being considered, or about to be considered, by the board; and

- (b) the interest could conflict with the proper exercise of the member's functions in relation to the board's consideration of the issue.
- (2) As soon as practicable after the relevant facts come to the member's knowledge, the member must disclose the nature of the interest to a meeting of the board.
- (3) The disclosure must be recorded in the board's minutes and, unless the board otherwise decides, the member must not—
  - (a) be present when the board considers the issue; or
  - (b) take part in a decision of the board on the issue.
- (4) Any other member who also has a direct or indirect financial interest in the issue must not—
  - (a) be present when the board is considering its decision under subsection (3); or
  - (b) take part in making the decision.

**18 Board members—ending appointment—Act, s 36 (3) (c)**

Contravening either section 16 or section 17 without reasonable excuse is prescribed.

**Division 5.3 Board proceedings and reporting**

**19 Annual board meeting**

The board must meet at least once each financial year to discuss how the board proposes to improve the processes and management of procurements undertaken by Territory entities under the Act.

## **20 Board annual report**

- (1) The board must, within 30 days of the start of each financial year, give a report to the Minister (an *annual report*).
- (2) An annual report for a financial year must include the following in relation to the previous financial year:
  - (a) the board's performance during the year in relation to providing strategic direction in relation to procurement for the Territory;
  - (b) whether, during the year, any member disclosed an interest under section 17, and if so, how the disclosure was dealt with;
  - (c) details about each procurement reviewed by the board during the year, including—
    - (i) the reason for review under section 14; and
    - (ii) whether the board made any recommendations; and
    - (iii) if the board did make a recommendation—whether the board dealt with the matter in accordance with any government procurement rules, and if so, how the matter was dealt with;
  - (d) details about—
    - (i) any procurement practices reviewed and endorsed by the board during the year; and
    - (ii) any recommendations made by the board during the year in relation to any anticipated government procurement practices;
  - (e) details about any advice the board provided during the year about any practices, policies or procedures used by Territory entities in relation to undertaking procurements;
  - (f) any other matter that the Minister reasonably requires.

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## Dictionary

(see s 2)

*Note 1* The [Legislation Act](#) contains definitions relevant to this Act. For example:

- Canberra Institute of Technology
- city renewal authority
- electoral commission
- entity
- function
- gambling and racing commission
- independent competition and regulatory commission
- integrity commission
- legal aid commission
- public employee
- public trustee and guardian
- suburban land agency
- work health and safety commissioner.

*Note 2* Terms used in this regulation have the same meaning that they have in the [Government Procurement Act 2001](#). For example, the following terms are defined in the [Act](#), dict:

- approved auditor
- board
- code
- construction work
- government procurement practices (see s 43 (1))
- notifiable contract
- notifiable invoice
- probity (see s 7)
- procurement (see s 5)
- responsible chief executive officer
- secure local jobs code
- secure local jobs code certificate

- secure local jobs code register
- tenderer
- Territory entity (see s 6)
- territory-funded work
- value for money (see s 8 (1)).

***exemption reasons***—see section 9 (1).

***limited tender procurement***—see section 7 (1).

***new standing-offer arrangement***—see section 13 (a).

***open tender procurement***—see section 8 (1).

***supplier***—see section 6 (2).

## 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

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### 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)

#### **[Legislative Assembly \(Office of the Legislative Assembly\) Act 2012](#) A2012-26 sch 1 pt 1.5**

notified LR 24 May 2012

s 1, s 2 commenced 24 May 2012 (LA s 75 (1))

sch 1 pt 1.5 commenced 1 July 2012 (s 2)

#### **[Officers of the Assembly Legislation Amendment Act 2013](#) A2013-41 sch 1 pt 1.4**

notified LR 7 November 2013

s 1, s 2 commenced 7 November 2013 (LA s 75 (1))

sch 1 pt 1.4 commenced 1 July 2014 (s 2)

#### **[Government Procurement \(Transparency in Spending\) Amendment Act 2015](#) A2015-14 pt 3**

notified LR 20 May 2015

s 1, s 2 commenced 20 May 2015 (LA s 75 (1))

pt 3 commenced 1 July 2015 (s 2 (1))

**Public Sector Management Amendment Act 2016 A2016-52 sch 1 pt 1.33**

notified LR 25 August 2016  
s 1, s 2 commenced 25 August 2016 (LA s 75 (1))  
sch 1 pt 1.33 commenced 1 September 2016 (s 2)

**Government Procurement (Secure Local Jobs) Amendment Regulation 2018 (No 1) SL2018-22**

notified LR 22 November 2018  
s 1, s 2 commenced 22 November 2018 (LA s 75 (1))  
sch 1 commenced 7 November 2019 (s 2 (2) and see [Government Procurement \(Secure Local Jobs\) Amendment Act 2018 A2018-41, s 2 \(3\)](#))  
remainder commenced 15 January 2019 (s 2 (1))

**Government Procurement (Secure Local Jobs) Amendment Regulation 2019 (No 1) SL2019-24**

notified LR 12 September 2019  
s 1, s 2 commenced 12 September 2019 (LA s 75 (1))  
remainder commenced 7 November 2019 (s 2 and see [Government Procurement \(Secure Local Jobs\) Amendment Regulation 2018 \(No 1\) SL2018-22, s 2 \(2\)](#))

**Government Procurement Amendment Act 2022 A2022-1 pt 3**

notified LR 16 February 2022  
s 1, s 2 commenced 16 February 2022 (LA s 75 (1))  
pt 3 commenced 1 March 2022 (s 2)

**Government Procurement Amendment Act 2024 A2024-2 pt 3**

notified LR 19 February 2024  
s 1, s 2 commenced 19 February 2024 (LA s 75 (1))  
pt 3 commenced 1 July 2024 (s 2)

## Endnotes

4 Amendment history

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### 4 Amendment history

#### Dictionary

s 2 om R1 LA s 89 (4)  
ins [A2024-2](#) s 75

#### Important concepts

pt 1A hdg ins [A2024-2](#) s 76

#### Meaning of *procurement*—Act, s 5 (4)

s 3A ins [A2024-2](#) s 76

#### Prescribed territory authorities—Act, s 6 (1), def *Territory entity*, par (d)

s 3B ins [A2024-2](#) s 76

#### Meaning of *procurement contract*—Act, s 9, def *procurement contract*, par (b)

s 3C ins [A2024-2](#) s 76

#### Quotation and tender thresholds and exemptions

pt 2 hdg sub [A2024-2](#) s 77

#### Preliminary

div 2.1 hdg ins [A2024-2](#) s 77

#### Application—pt 2

s 4 sub [A2024-2](#) s 77

#### Delegation by responsible chief executive officer

s 5 sub [SL2009-17](#) s 4; [A2024-2](#) s 77

#### Quotation and tender thresholds

div 2.2 hdg ins [A2024-2](#) s 77

#### Low-value procurement

s 6 sub [SL2009-17](#) s 5; [A2024-2](#) s 77

#### Limited tender procurement

s 7 om [SL2009-17](#) s 6  
ins [A2024-2](#) s 77

#### Open tender procurement

s 8 om [SL2009-17](#) s 6  
ins [A2024-2](#) s 77

#### Exemptions

div 2.3 hdg ins [A2024-2](#) s 77

#### Exemption reasons—limited and open tender procurement

s 9 hdg am [SL2009-17](#) s 7  
s 9 am [SL2009-17](#) s 7  
sub [A2024-2](#) s 77

**Exemptions—limited tender procurement**

s 10 am [SL2009-17](#) s 8; [SL2012-10](#) s 4; [A2016-52](#) amdt 1.98  
sub [A2024-2](#) s 77

**Exemptions—open tender procurement**

s 10A ins [A2024-2](#) s 77

**Exemptions—directions**

s 10B ins [A2024-2](#) s 77

**Open tender procurement**

div 2.4 hdg ins [A2024-2](#) s 77

**Notice of procurements for open tender procurements**

s 10C ins [A2024-2](#) s 77

**Late tenders**

s 10D ins [A2024-2](#) s 77

**Notifiable contracts and notifiable invoices**

pt 3 hdg sub [SL2018-22](#) s 4; [A2024-2](#) s 77

**Notifiable contract threshold—Act, s 12 (2) (b)**

s 11 sub [A2024-2](#) s 77

**Notifiable invoice threshold—Act, s 13 (a) (ii)**

s 12 sub [A2024-2](#) s 77

**Contents of register—Act, s 15 (1)**

s 12A ins [SL2012-10](#) s 5  
om [A2024-2](#) s 81  
ins [A2024-2](#) s 77

**Public access to information on register**

s 12B ins [SL2012-10](#) s 5  
om [A2024-2](#) s 81  
ins [A2024-2](#) s 77

**Territory entities to enter information in register**

s 12C ins [A2015-14](#) s 6  
om [A2024-2](#) s 81  
ins [A2024-2](#) s 77

**Secure local jobs code**

pt 4 hdg ins [SL2018-22](#) s 5

**Prescribed value of services—Act, s 22F (1) (a) (ii)**

s 12AA hdg sub [A2024-2](#) s 78  
s 12AA ins [SL2018-22](#) amdt 1.1

## Endnotes

### 4 Amendment history

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**Excluded services—Act, s 22F (3)**

s 12AB hdg sub [A2024-2](#) s 78  
s 12AB ins [SL2018-22](#) amdt 1.1  
am [SL2019-24](#) s 4

**Labour relations, training and workplace equity plan—Act, s 22G (6) (b)**

s 12AC ins [SL2018-22](#) s 5  
am [A2022-1](#) s 19; [A2024-2](#) s 79, s 80

**Details for secure local jobs code register—Act, s 22N (1) (c)**

s12AD ins [SL2018-22](#) s 5

**Procurement board**

pt 5 hdg ins [SL2018-22](#) s 5  
sub [A2024-2](#) s 81

**Board review of procurements**

div 5.1 hdg ins [A2024-2](#) s 81

**Application—div 5.1**

s 13 am [A2012-26](#) amdt 1.30; [A2013-41](#) amdt 1.26  
sub [A2024-2](#) s 81

**Procurements to be reviewed by board—Act, s 29 (2) (a) (i)**

s 14 sub [A2024-2](#) s 81

**Board members—conditions of appointment**

div 5.2 hdg ins [A2024-2](#) s 81

**Board members—term of appointment—Act, s 34 (a)**

s 15 om R1 LA s 89 (3)  
ins [A2024-2](#) s 81

**Board members—honesty, care and diligence—Act, s 34 (b)**

s 16 ins [A2024-2](#) s 81

**Board members—disclosure of interests—Act, s 34 (b)**

s 17 ins [A2024-2](#) s 81

**Board members—ending appointment—Act, s 36 (3) (c)**

s 18 ins [A2024-2](#) s 81

**Board proceedings and reporting**

div 5.3 hdg ins [A2024-2](#) s 81

**Annual board meeting**

s 19 ins [A2024-2](#) s 81

**Board annual report**

s 20 ins [A2024-2](#) s 81

**Miscellaneous**

pt 6 hdg ins [SL2018-22](#) s 6  
om [A2024-2](#) s 81

**Dictionary**

dict ins [A2024-2](#) s 82  
def **exemption reasons** ins [A2024-2](#) s 82  
def **limited tender procurement** ins [A2024-2](#) s 82  
def **new standing-offer arrangement** ins [A2024-2](#) s 82  
def **open tender procurement** ins [A2024-2](#) s 82  
def **supplier** ins [A2024-2](#) s 82

## Endnotes

### 5 Earlier republications

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#### 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.

<b>Republication No and date</b>	<b>Effective</b>	<b>Last amendment made by</b>	<b>Republication for</b>
R1 1 Oct 2007	1 Oct 2007– 30 Apr 2009	not amended	new regulation
R2 1 May 2009	1 May 2009– 4 Apr 2012	<a href="#">SL2009-17</a>	amendments by <a href="#">SL2009-17</a>
R3 5 Apr 2012	5 Apr 2012– 30 June 2012	<a href="#">SL2012-10</a>	amendments by <a href="#">SL2012-10</a>
R4 1 July 2012	1 July 2012– 30 June 2014	<a href="#">A2012-26</a>	amendments by <a href="#">A2012-26</a>
R5 1 July 2014	1 July 2014– 30 June 2015	<a href="#">A2013-41</a>	amendments by <a href="#">A2013-41</a>
R6 1 July 2015	1 July 2015– 31 Aug 2016	<a href="#">A2015-14</a>	amendments by <a href="#">A2015-14</a>
R7 1 Sept 2016	1 Sept 2016– 14 Jan 2019	<a href="#">A2016-52</a>	amendments by <a href="#">A2016-52</a>
R8 15 Jan 2019	15 Jan 2019– 6 Nov 2019	<a href="#">SL2018-22</a>	amendments by <a href="#">SL2018-22</a>
R9 7 Nov 2019	7 Nov 2019– 28 Feb 2022	<a href="#">SL2019-24</a>	amendments by <a href="#">SL2018-22</a> and <a href="#">SL2019-24</a>
R10 1 Mar 2022	1 Mar 2022– 30 June 2024	<a href="#">A2022-1</a>	amendments by <a href="#">A2022-1</a>

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