

# Aboriginal Procurement Policy Guidelines

Advancing Aboriginal Business

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1.0	10/12/2021	Procurement Strategy and Capability	Penultimate draft
	11/03/2022	Procurement Strategy and Capability	Updated draft - Transitional arrangements
	18/03/2022	Procurement Strategy and Capability	Updated draft – transitional arrangements from DIPL and NTIBN feedback
	08/04/2022	Procurement Strategy and Policy	Updated to 18 month transition in response to NTIBN feedback
2.0	03/02/2023	Procurement Strategy and Policy	Update to 4.1 Transitioning arrangements
2.1	25/03/2025	Procurement Policy	Removal of 4.1 Transitional Arrangements and 4.1.1 Requirements for provisional recognition

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# 1. Purpose

The purpose of the Aboriginal Procurement Policy Guidelines is to assist NTG agencies, their personnel, and any NTG body that is required to comply with the *Procurement Act 1995* (refer [agencies and entities covered by the NT Government procurement framework](#)) to meet the mandated targets established in the Aboriginal Procurement Policy.

The Aboriginal Procurement Policy mandates whole-of-government targets for the award of NT Government contracts to registered Aboriginal Business Enterprises and applies to all contracts with an estimated value of \$15,000 or greater (including GST). The targets are to be realised from 2022-23.

Financial year	Target
2022-23	5 per cent of the total number of NT Government contracts awarded to Aboriginal Business Enterprises
	5 per cent of the annual total NT Government contract value awarded to Aboriginal Business Enterprises

Implementation of the Aboriginal Procurement Policy is in accordance with the [Procurement Framework](#) and the Buy Local Plan.

There are no new contractual requirements currently being implemented as part of the Aboriginal Procurement Policy. Existing obligations remain unchanged under:

- [Indigenous Participation on Construction Projects Policy](#)
- Indigenous development plan
- [Our communities. Our future. Our Homes](#) – Remote Housing Framework

This Guide should be read in conjunction with the Aboriginal Procurement Policy.

# 2. Best practice

NT agency delegates can demonstrate best practice by:

- supporting cultural awareness training as part of their organisational culture
- actively championing the Aboriginal Procurement Policy throughout their agency and with stakeholders and partners
- ensuring relevant staff undertake procurement training programs and information sessions
- driving [Value for Territory](#) outcomes including increasing recognition of Aboriginal Business Enterprises as a critical component of the NT's economy across their procurement activity
- fostering, encouraging and supporting an increase of Aboriginal Business Enterprises responding to procurement activities
- through including targeted measures as part of their [Agency Procurement Management Plans](#),
- encouraging clearly written request for offer documents to increase Aboriginal Business Enterprise opportunities

- considering increasing the minimum advertising period times to allow Aboriginal Business Enterprise sufficient time to consider and prepare quality responses
- mitigating instances where financial burdens of a procurement unnecessarily create barriers for Aboriginal Business Enterprise engagement, including:
  - considering the ability to hire required equipment as opposed to needing to own equipment
  - ensuring invoices are paid in accordance with the NT Government payment policy
  - implementing payment milestones that are proportionate to completed work
  - accepting alternatives to risk management security, including retentions, insurance bonds, effective contract management, and performance management.

### 3. Aboriginal Business Enterprise

As established in [Closing the Gap](#), for a business to be recognised as an Aboriginal Business Enterprise, it must have certification that confirms all the below criteria to be met:

- 51% or more Aboriginal owned
- is operating as a business, including companies, incorporated associations, sole traders, partnerships, trusts and social enterprises or registered charities
- can demonstrate that Aboriginal and Torres Strait Islander people are involved in the daily operation of the enterprise and have effective control at least equal to the degree of ownership
- is certified with a certifying authority (or registered with ORIC).

### 4. Confirming Aboriginal Business Enterprise status

NT agencies can seek confirmation of Aboriginal Business Enterprise status from the Aboriginal Business Register which is maintained by the NT Indigenous Business Network (NTIBN).

Agencies can also check status from the other recognised certifying authorities, being:

- [Supply Nation \(must be on their certified list\)](#)
- [Office of the Registrar of Indigenous Corporations](#) (ORIC)

The Department of Trade, Business and Asian Relations (DTBAR) can advise whether other interstate certifying authorities are recognised by the NT Government via [procurement.nt@nt.gov.au](mailto:procurement.nt@nt.gov.au).

### 5. Achievement of targets

NT agencies are accountable for achieving the above targets as of 1 July 2022.

Aboriginal entities that are recognised under the transitioning arrangements are included in the calculation and achievement of targets.

#### 5.1. Calculating the achievement of targets

##### 5.1.1. Percentage of the total number of agency contracts awarded to Aboriginal Business Enterprises

**Example:** if the total number of awarded contracts by an NT agency was 150, of which three were

awarded to Aboriginal Business Enterprises, the calculation would be:

$$(3 \div 150) \times 100 = 2\%$$

In the above example, 2% of the total number of the agency's contracts were awarded to Aboriginal Business Enterprises.

### 5.1.2. Percentage of the annual total agency contract value awarded to Aboriginal Business Enterprises

**Example:** if the total value of awarded contracts by an agency was \$1,000,000 of which the total value of Aboriginal Business Enterprise awarded contracts was \$50,000, the calculation would be:

$$(50,000 \div 1,000,000) \times 100 = 5\%$$

In the above example, 5% of the total value of an agency's contracts were awarded to Aboriginal Business Enterprises.

Regardless of the length of a contract, a contract variation, or a contract extension a contract can only be included in the target calculation in the financial year the contract was awarded. For example, a four-year contract can only be included once in target calculations, not four times.

## 5.2. Contracts that are not included in the target

The following contract types that are not included in the target:

- Contracts with an estimated value of less than \$15,000 including GST
- Contracts with Aboriginal businesses and organisations that do not meet the definition of an Aboriginal Business Enterprise unless they are identified as transitioning as per 4.1.

While not recognised in the Aboriginal Procurement Policy targets, the above contract types remain important elements of the NT economy and may be included in counts for other reporting requirements, for example National Partnerships.

## 6. Frequency of target reporting

NT agencies are required to report annually against the Aboriginal Procurement Policy targets in:

- annual reports
- [Closing the Gap](#)
- [Everyone Together - Aboriginal Affairs Strategy](#)

This information may also be useful for other whole-of-government reporting.

DTBAR will aggregate individual agency totals to publicly report against whole-of-government Aboriginal Procurement Policy target achievements.

## 7. Discretionary supplementary reporting

While not mandated, NT agencies are encouraged to provide supplementary reports for contracts with an estimated value of less than \$15,000 (including GST) awarded to Aboriginal Business Enterprises. The additional data will provide useful information to inform Aboriginal Procurement Policy reviews and evaluations. NT agencies are to use the same calculations provided at (5).

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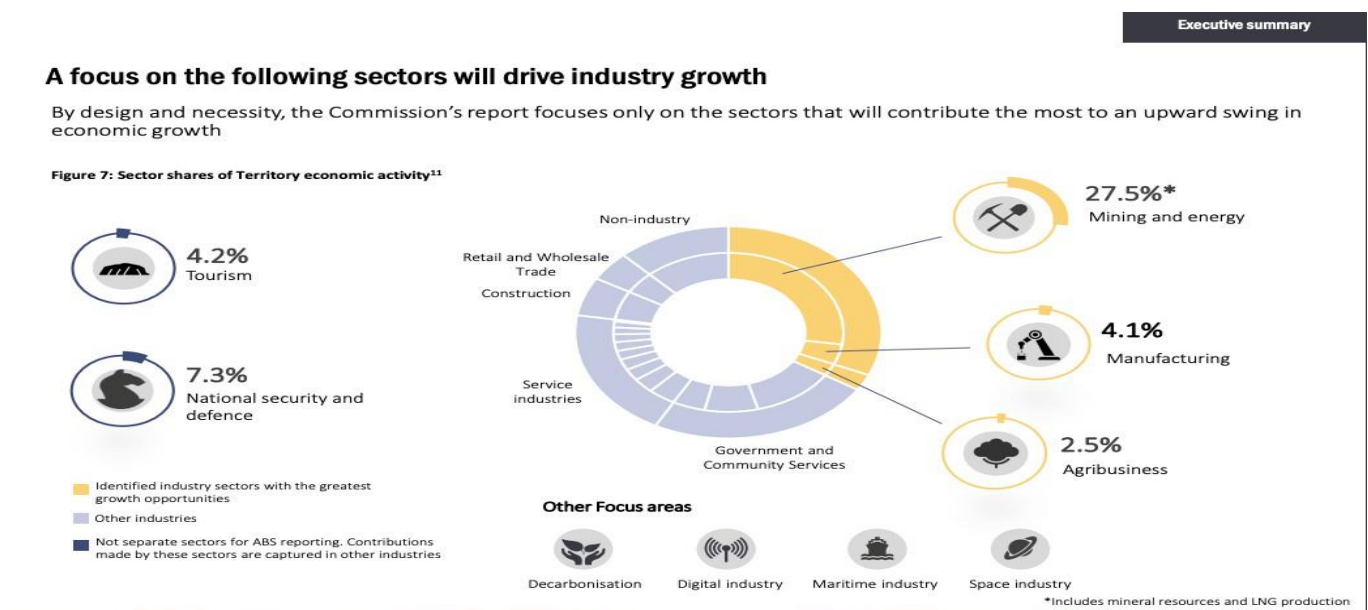
## 8. Independent monitoring

The Procurement Review Board (PRB) will monitor:

- government's progress against the Aboriginal Procurement Policy targets
- reporting on performance of procurement opportunities identified in Agency Procurement Management Plans versus contracts awarded to Aboriginal Business Enterprises.

## 9. Alignment to the Territory Economic Reconstruction Commission Final Report

Aggregated whole-of-government annual target achievements will be classified by the Australian New Zealand Standard Industry Classification (ANZSIC) and aligned to the Territory Economic Reconstruction Commission Final Report growth, focus and other industry sectors as per the below infographic.



## 10. Agency Procurement Management Plans

From the 2022-23 financial year, NT agencies are required to identify Aboriginal Business Enterprise procurement opportunities in their [Agency Procurement Management Plans](#).

A guide and updated templates will be provided.

## 11. Procurement Process

Opportunities to support Aboriginal Business Enterprises in procurement should be considered from the early planning stage and flow throughout the entire procurement process. While there are opportunities to integrate Aboriginal Business Enterprises at each stage, consideration during planning will maximize results.

The procurement approaches in this section do not remove or dilute the requirements to assess business capacity and capability as part of their procurement assessment process. Nor do they remove or dilute the importance of meeting all contractual requirements, for example on-site safety, work health and safety, and applicable industry/sector accreditations, licensing, and standards.

The NT Government will continue to honour existing commitments or obligations, for example under a Local Decision Making agreement. Where these have been made with Aboriginal organisations that do not meet the definition of an Aboriginal Business Enterprise, those organisations will be assisted to transition to certified status.

## 11.1. Set-asides

A set-aside is a procurement activity identified for a particular cohort or sector, for example the disability and aged-care sectors. Set-asides enable NT agencies to give providers within a particular cohort or sector first preference.

Set-asides do not however, remove the procurement requirement for a competitive process. This means that while a sector may be identified as a set-aside, it does not automatically result in providers from the sector being awarded a contract.

The [Procurement Framework](#) also recognises the importance of set-asides for Aboriginal Business Enterprises in relation to NT Government agreements, including:

- [National Partnership Agreements](#) (NPA) with the Commonwealth Government
- Bi-lateral agreements with other Australian states or territories
- [Local Decision Making](#) (LDM) agreements
- [Indigenous Land Use Agreements](#) (ILUA)
- Other multi-agency and multi-jurisdictional agreements.

## 11.2. Preferencing

Where applicable in open and competitive tenders, agencies will determine whether preferencing Aboriginal participation and/or remote community participation is a desired outcome of the procurement activity. Preferencing is achieved by tailoring the local content assessment under the [Buy Local Plan](#) and is designed to determine the resulting local benefits that will be provided to the Territory economy and community if the respondent is awarded a contract.

Preferencing Aboriginal participation in tenders may consider the following:

- Training and development opportunities for Aboriginal Territorians
- Work performed by Aboriginal Territorians
- Aboriginal Business Enterprise involvement as subcontractors and supply chain

## 11.3. Carve-outs

NT agencies can designate components of a tender for Aboriginal Business Enterprise involvement to maximise opportunities to build sector capacity, capability and experience of tendering for government contracts.

NT agencies are not required to apply a carve-out when an Aboriginal Business Enterprise has not been identified during market analysis. A carve-out is also not required when an Aboriginal Business Enterprise does not have the necessary capability or capacity, or is unable to meet [Value for Territory](#) criteria.

## 11.4. Select offer processes

NT agencies can apply a select offer process for a procurement activity. Select offers are part of a

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procurement activity whereby suppliers have met pre-established criteria and are selectively invited to respond to a procurement opportunity.

NT agencies can identify Aboriginal Business Enterprise certification as a pre-established criteria for a select offer.

NT agencies must ensure a decision to apply a select offer process is justifiable and defensible by:

- demonstrating a competitive supply market, relative to the value and risk associated with the procurement, does not exist; and
- a [Value for Territory](#) outcome(s) is achieved.

## 12. Advice

All enquires on the Aboriginal Procurement Policy, the Guidelines or factsheet are to be sent to [procurement.NT@nt.gov.au](mailto:procurement.NT@nt.gov.au)

## 13. Definitions

Aboriginal Business Enterprise	<p>A business or community organisation that meets all of the following criteria:</p> <ul style="list-style-type: none"> <li>• 51% or more Aboriginal owned</li> <li>• is operating as a business, including companies, incorporated associations, sole traders, partnerships, trusts and social enterprises or registered charities if they are operating as a business</li> <li>• can demonstrate that the Aboriginal and Torres Strait Islander people are involved in the daily operation of the enterprise and have effective control at least equal to the degree of ownership</li> <li>• is certified with a certifying authority (or registered with ORIC).</li> </ul>
Certifying authority	<p>A certifying authority is an organisation that provides services to confirm the Aboriginal and Torres Strait Islander ownership and control of Aboriginal and Torres Strait Islander enterprises. The certifying authority's processes are recognised by the NT Government as suitably robust to assure the Territory of the integrity of its certified Aboriginal and Torres Strait Islander enterprise list.</p> <p>The NT Indigenous Business Network is recognised by the NT Government as the peak body for Aboriginal Business Enterprises in the Northern Territory and the primary certifying body.</p> <p>Other approved certifying authorities are:</p> <ul style="list-style-type: none"> <li>• Supply Nation</li> <li>• Office of the Registrar of Indigenous Corporations (ORIC).</li> </ul>

Aboriginal Business Register	A formal register of Aboriginal Business Enterprises maintained by an independent certifying authority as approved by the NT Government. The NT Indigenous Business Network, will be the independent certifying authority responsible for maintaining the register ongoing.
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## 14. Associated documentation

The Aboriginal Procurement Policy is closely aligned to and will complement investments in and enhance outcomes of:

- [Buy Local Plan](#)
- [Closing the Gap](#)
- [Everyone Together – Aboriginal Affairs Strategy](#)
- [Local Decision Making](#)
- [Whole of Government Procurement Framework](#).

## 15. Review

A review of the Aboriginal Procurement Policy targets will commence on 1 January 2023 to inform new targets for 2023-24.

A review of the Aboriginal Procurement Policy in its entirety will commence 1 July 2023.

An evaluation of the Aboriginal Procurement Policy will commence 1 July 2024.

The review and evaluation processes will be co-designed and agreed with the Aboriginal sector peaks and the Procurement Board.