

**BUY LOCAL INDUSTRY ADVOCATE
OF THE NORTHERN TERRITORY**

**1ST BUY LOCAL PLAN
COMPLIANCE REPORT**

DECEMBER 2018

BUY LOCAL

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TABLE OF CONTENTS

1. EXECUTIVE SUMMARY.....	3
2. BACKGROUND	4
3. ADVOCACY.....	5
4. PROMOTING BUY LOCAL PRINCIPLES TO INDUSTRY & GOVERNMENT	6
5. VALUE FOR TERRITORY ASSURANCE PROGRAM	7
Opportunities For Improvement.....	8
6. THE BUY LOCAL PLAN	12
Effectiveness of The Buy Local Plan	12
Investigation of Complaints.....	14
Unintended Consequences	15
7. CONCLUSION	16

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1. EXECUTIVE SUMMARY

I am unable to conclude whether the Buy Local Plan has had a positive effect in increasing spending by the Northern Territory Government with Territory Enterprises.

I conclude that the optimisation of Value For Territory outcomes in individual procurement transactions has been inconsistent.

The following issues need attention to maximise and enable measurement of the effectiveness of the Buy Local Plan, and to maximise Value For Territory procurement outcomes;

- The establishment of an integrated whole of government procurement management and reporting system to facilitate, monitor and report on both agency and whole of government procurement activities at all procurement Tier levels;
- Increased effort by agencies to undertake more effective contract management and reporting as required under procurement rules and policy;
- More consistent and appropriate use of Industry Capability Network NT by NTG procurement staff;
- Better structured and improved career development pathways for procurement staff within the NTG;
- Appropriate use of alternate tenders;
- Improved accuracy and relevance of tender scoping specifications and information;
- More transparent and instructive tender debriefs including disclosing to tenderers their scores for each scoring criteria;
- Adequate agency resourcing to properly implement correct procurement processes and policies, particularly at peak times with time sensitive delivery time frames, and also for appropriate and timely contract management of awarded contracts;
- Increased consistency and transparency of Local Content assessment and scoring;
- Development of clear guidelines for procurement staff when making individual procurement choices under across government and panel contracts;
- Clear direction to grant recipients of how Buy Local policy intent is to be applied, assessed and enforced in respect to all NTG grant funding;
- Clear direction to all Statutory Authorities of how Buy Local policy intent is to be applied, assessed and enforced in respect to NTG funding provided to these bodies;
- Clarification and formalisation of the role of the Buy Local Industry Advocate in respect to procurement activities undertaken by GOC's;
- Wider and more detailed education of both industry and NTG staff of the concept of Value For Territory, its benefits, how it is assessed, and its impact on procurement decision making;
- Development of guidance for NTG staff on how to assess Value For Territory in Tier 1 & 2 procurement activities;
- Determination of accurate across government baseline data to inform the assessment of the effectiveness of the Buy Local Plan.

In addition, to illustrate and enhance the value of the Buy Local Plan, I recommend that the government undertake an economic impact assessment on the value and impact on the NT economy of spending of the NTG with Territory Enterprises.

2. BACKGROUND

The position of the Buy Local Industry Advocate was established as part of a series of major procurement reforms announced by the Northern Territory Government (NTG) in February 2017, and which came into force on 1st July 2017. The role officially commenced in July 2017, and was filled in an acting capacity by Mr Doug Phillips (Chair of the Procurement Review Board) until December 2017. I would like to take this opportunity to thank Doug for his assistance in fulfilling that role until I was able to commence in January 2018.

Under the terms of my appointment my responsibilities are:

1. Advocacy.
 - Acting as an independent link between local business and the Northern Territory Government;
 - Providing information and assistance to local businesses to strengthen their capability and competitiveness in the NT Government procurement system;
 - Representing the interests of local business and industry as a member of the Procurement Review Board;
2. Promoting the adoption of Buy Local principles to industry and government.
3. Undertaking a Value for Territory Assurance Program, comprised of internal and external audits, designed to measure the effectiveness of agency implementation of the Buy Local Plan.
4. The Buy Local Plan.
 - With the assistance of the Buy Local Subcommittee of the Procurement Review Board:
 - overseeing agency and industry compliance with the Buy Local Plan; and
 - monitoring the overall effectiveness and impact of the Buy Local Plan, including monitoring for unintended consequences;
 - Preparing reports for public release on Buy Local Plan compliance;
 - Investigating complaints relating to adherence to the Buy Local Plan;
 - Making recommendations to government on ways to improve the Buy Local Plan.

In this, my first Annual Report, I outline my findings and observations insofar as they are relevant to the performance of each of my responsibilities.

3. ADVOCACY

My role as an independent advocate on behalf of industry covers many aspects and involves a considerable amount of discussion and listening to understand the matters that concern industry participants.

At times, discussions will result in identification of a misconception held by industry in respect to NTG procurement policy or process, which I then clarify for industry to enable them to better understand how the government procurement process works, and therefore why a particular procurement decision was reached.

However, there are also matters raised by industry which do not result from misconception and which do not appear to align with governments stated policy intent, or simply do not work in practice from industry's perspective. These are issues I take forward to government to consider changes and possible solutions to make the procurement process work more effectively from both an industry and government perspective.

Specific issues that have been raised with me by industry and industry bodies cover many aspects such as;

- Inconsistent scoring of Local Content criteria by tender assessment panels;
- Lack of transparency around the tender assessment process, including tenderers inability to obtain scoring of their tender responses;
- Poor scoping and description of goods/services within tender documentation;
- Perceived lack of technical experience or expertise of tender assessment panel members;
- Poor tender debriefs which do not provide sufficient information for tenderers to improve future responses;
- Poor contract management processes and performance reporting by procuring agencies;
- Substitution of suppliers and subcontractors by successful tenderers post tender award;
- Lack of clarity around how individual procurement decisions have been/will be made under Panel Contract arrangements;
- The lack of understanding and clarity around why one business is considered to be more "local" than another;
- What exactly is a "Territory Enterprise";
- Why is the NTG still procuring from interstate business when a local alternative exists;
- Why a Local Content assessment in one tender response results in a different score than another tender response, both within the one agency and across various government agencies;
- Allowance for alternate tenders where it is perceived that there was never any intention for alternate tenders to be properly considered and assessed;

Specific matters that I have advocated to government for change include;

- Changes to the Tier 2 procurement process to ensure a minimum of 2 Territory Enterprises (where available) are approached – currently the requirement sits at a minimum of 1;
- More detailed post tender award feedback for both successful and unsuccessful tenderers;
- Disclosure to tenderers of their individual scores for each tender criteria;
- Increased consistency and transparency around local content assessment and scoring;

Change to government policy and process involves considerable time and effort, and is often not achieved as quickly as industry would like. The effectiveness of my advocacy efforts to date I leave to industry to determine.

4. PROMOTING BUY LOCAL PRINCIPLES TO INDUSTRY & GOVERNMENT

Since my appointment I have had 148 formal industry consultations in which the Buy Local Plan, Value For Territory and NTG Procurement more generally were the topic of conversation. In addition there have been numerous informal consultations.

In that same period I have had 67 formal government consultations to speak with agency staff and representatives about the Buy Local Plan, Value For Territory and government procurement.

In addition I have provided input to government agencies relating to the development of Local Content assessment criteria and industry participation plans for specific procurements.

As part of my role I regularly take the opportunity to remind business that their commitment to supporting the concept of “Buy Local” does have a significant impact on the NT economy, over and above the impact resulting from the Buy Local Plan. I continually remind people that every \$1 spent with NT business circulates through the NT economy many times before it leaves the NT. This has a significant multiplying effect and I believe it is a major contributor to the economic growth of the NT.

The support given to local Territory businesses has a greater effect than just the economic multiplier referred to above. The continued prosperity of local NT business underpins the support that those businesses are able to make not only to their industry and the wider population of the NT, but also to the provision of broader community benefits. Successful local businesses provide a significant amount of support to community groups and projects, which without that support, would have to be provided and funded by government. These community benefits take many forms but are traditionally financial, in kind, and volunteer hours. This kind of support would not in the normal course of events be provided by businesses without a presence in, and commitment to the development of the NT. This is a vital part of our NT culture and contributes to the future prosperity of all Territorians.

Without exception every Territory business I have spoken with acknowledges and supports the concept of buying locally and supporting other NT businesses. It needs to be recognised however, that business will not support other local business at all costs – neither will the NTG, that is why the concept of best Value For Territory has been introduced.

In our small economy, and in tough economic times, business has an expectation that the NTG will not only continue to support NT business, but in fact increase its support of NT business to help it weather the storms of those tough economic times.

5. VALUE FOR TERRITORY ASSURANCE PROGRAM

The Buy Local Industry Advocate has overall responsibility for the Value For Territory Assurance Program. The Value For Territory Assurance Program is not described by legislation or regulation. As a result it has been left to me to determine what aspects the Value For Territory Assurance Program will cover.

As part of the Procurement reforms introduced by the government in July 2017 the procurement framework used by government to support its procurement decision making underwent a major re-write to enable it to deal with the changed government priorities which resulted from the Buy Local Plan, and in particular the changed focus from delivering Value for Money to delivering Value for Territory.

These changes established 5 key principles that must be applied to every NTG procurement activity. They are:

1. Value For Territory
2. Ethical Behaviour and Fair Dealing
3. Open & Effective Communication
4. Enhancing the Capabilities of Territory Enterprises and Industries
5. Environmental Protection

The resulting procurement framework, if followed, should as a matter of course deliver the best Value For Territory outcome for each single procurement activity undertaken by the government. It therefore follows that an effective Value For Territory Assurance Program must focus on all aspects of compliance with the procurement framework, not just those aspects relating to the Buy Local Plan and Local Content. This is the approach I have used in designing the model which I use to undertake the Value For Territory Assurance Program.

The program aims to measure the effectiveness of agency compliance with procurement rules and policies, which is achieved through;

- Monitoring and providing feedback on the results of regular Value For Territory audits undertaken by procuring agencies. These audits test agency compliance with all mandatory procurement rules and procedures;
- Review of specific Procurement activities as directed by me;
- Review of procurement complaints referred to me for investigation;
- Industry consultation and feedback;
- Agency consultation and feedback.

The Value For Territory Assurance Program aims to provide me with the information to determine if Value For Territory has been delivered by the government during the period since my previous report, or in this instance since commencement of my role.

Through the above process I have determined that the procurement processes used by the following agencies during the review period have not delivered satisfactory Value For Territory:

- NT Police Fire & Emergency Services (NTPFES);
- Department of Housing and Community Development (DHCD).

I note that NTPFES have acknowledged the deficiencies within their procurement processes and are currently working to address them, and I look forward with working with them to assist in the delivery of better Value For Territory procurement outcomes in the future.

Likewise, I note that DHCD have acknowledged the deficiencies within their procurement processes and have already implemented a series of structural changes within their procurement group to address these deficiencies, and I look forward with working with them to assist in the delivery of better Value For Territory procurement outcomes in the future.

Opportunities For Improvement

There are a number of matters that are worthy of note, and should be considered worthy of attention by government to improve the effectiveness of agencies to deliver Value For Territory in all procurement activities.

These matters are:

1. *Contract Management*

I have been able to find many more examples of ineffective contract management than effective examples. Poor contract management is also a consistent non-compliance finding in the majority of Value For Territory audit reports which I have reviewed.

I am particularly concerned with respect to the number of instances identified where suppliers and subcontractors nominated in tender responses are substituted with others after tender award without the consent of the procuring agency.

I am aware that the NT government is committed to improvement in this area through the introduction of a new contract management IT system (Contrax), however I am concerned that there does not appear to be enough urgency by some government agencies to embrace its adoption.

I am also concerned that some agencies also see Contrax as the answer to all of their contract management problems, but in reality it is only an IT system to help agencies manage the process – agencies must commit their own resources to making cultural change to fully embrace effective contract management processes.

Assessing future procurement activities with reference to a tenderers past performance, where effective contract management and reporting has not occurred, can and will lead to future procurement decisions being based on incorrect and out of date information, and therefore run the risk of not delivering best Value For Territory.

2. *Pre tender market assessment*

I have seen several instances of poor market assessment prior to going to market for specific procurement activities. This has, on occasions, left me with the impression that the person responsible for the procurement rather than properly identifying all potential suppliers and looking to deliver optimum Value For Territory, was just taking the easiest option of using the suppliers identified from a previous procurement.

Some of the examples I have seen also show that proper procurement process and rules have not been followed as required. Retention of evidence to support actions taken is often non-existent. Instances of this are also highlighted as non-compliance findings in the results of many of the Value Territory Audit reports provided to me by agencies.

3. *Industry Capability Network NT*

The use of the Industry Capability Network NT (ICNNT) by government procurement staff as an effective tool to seek out and maximise Value For Territory opportunities in the procurement process is at times undermined by what appears to be agencies deliberately defining their procurement activity in such a way as to pre-empt a result of few or no potential NT based suppliers, which supports their preference to procure from interstate or overseas. This does little, if anything, to support the two key procurement principles of Value For Territory and Enhancing the Capabilities of Territory Enterprises and Industries.

In my opinion this also breaches Procurement Rule 2.1, and agencies who identify staff who engage in this behaviour need to ensure their internal processes are updated and enforced to ensure it is both identified and corrected before it becomes part of the culture embedded within the agencies procurement process.

There are also many examples of ICNNT not being consulted at the beginning of the procurement process for Tier1 and Tier 2 procurement activities, or in fact not being engaged at all. This is a breach of Procurement Rule 15, and gives the impression that some procurers are either unaware of the mandated

procurement process, or at the least they are not concerned about maximising Value For Territory outcomes.

ICNNT has an important role to fulfil in ensuring that Value For Territory is maximised in procurement activities. This will only occur if it is used in accordance with the requirements of the procurement framework and rules.

4. *Defensible decision making*

I have seen several examples where the reasons for decisions that have been made have not been adequately documented in the procurement files compiled by an agency. This has also been a consistent non-compliance finding of the Value For Territory audit reports I have reviewed to date.

The lack of properly documented decision making can lead to the perception that the procurement decision may have been influenced by factors which it is not proper to consider. This perception leads to a reduced level of confidence that the final procurement outcome was reached through proper due process, and therefore that optimum Value For Territory has been delivered.

5. *Alternate Tenders*

Acceptance of alternate tenders can be a useful way of identifying innovative new processes and products to be embraced in a procurement activity. Industry tells me that in recent times the use of alternate tenders is increasing, however they also tell me that at times they feel that there is little or no genuine intention by the agency to consider alternate options.

I am aware of a case of a tenderer being told that their alternate offer was unsuccessful because if their proposal was accepted that an extra round of stakeholder consultation would need to occur and that the agency had neither the time nor the appetite to undertake that engagement. This was also corroborated in the agencies tender assessment records. This to me appears to support the assertion that consideration of alternate tenders was never really intended in the first place, in which case they should not have been encouraged.

Alternate tenders place significant time and cost imposts on both the tenderer and the agency, and their use should be carefully considered prior to going to market to avoid unnecessarily incurring these additional costs.

6. *Tender Scoping*

I regularly receive industry complaints about the quality and accuracy of scoping in Requests For Tender/Quote. These cover things such as technical specifications for items which are no longer available, the suitability for purpose of the items identified for procurement, the lack of opportunity to provide reasonable alternatives, and references to services to be provided for assets that no longer exist. Inevitably this leads to a perception by industry that the government does not know what it wants.

While a significant proportion of what I hear in respect to this issue is anecdotal, I am aware of one significant contract that went to market, and after much delay was withdrawn due to inaccuracies in the tender documents, and which was then subsequently reissued to market. I have received feedback from industry that the reissued documents still contained inaccuracies. Instances such as this involve a significant amount of double effort for both the agency and the responders, and must call into question how this process delivers Value For Territory. Agencies must ensure RFT's/RFQ's are accurate and appropriate before they go to market if they are to deliver Value For Territory through the procurement process.

This matter also raises concerns about the technical skills and abilities of those within government who are writing tender specifications. Government must ensure that those charged with this task are both technically qualified, suitably trained and adequately resourced to undertake this task.

7. *Career Development*

Many procurement staff within the NT public service are in their role as a result of circumstance, rather than as a reflection of a desire to develop a career in procurement. Given the transient nature of many of those staff into and out of procurement roles, the development of procurement specialists who are fully

conversant with the Buy Local Plan and proper procurement process and policy, is at times below what it needs to be to deliver the best Value For Territory procurement outcomes. Further, the considerable loss of value of intellectual property in respect to procurement expertise occasioned by this movement of staff cannot be understated.

If the NTG's intention is to deliver the best Value For Territory outcomes through procurement it must recognise, reward, train and retain properly experienced and qualified people in procurement roles. Procurement positions within the NTG must be developed into steps on the path to the achievement of a rewarding career in procurement. Over a period of time this will lead to more consistent and improved Value For Territory outcomes across government procurement.

Industry also recognises the value of improving this outcome, and there is industry support available to assist in the development of a model with government that strengthens the career development and advancement of committed and capable government procurement personnel.

8. *Tender Debriefs*

The quality of tender debriefs undertaken by unsuccessful tenderers is a matter that is raised with me on a regular basis. The issue is raised substantially in terms of the perception that debriefs are a waste of time as the agency representatives rarely, if ever, give feedback that is constructive to the tenderer and able to be used by them to improve their next tender submission.

Tenderers often feel that they are not told the real reasons for their inability to secure the contract, as the deliverer is unwilling to upset them, or worse still, that they cannot justify why the contract was not awarded to them. This needs to be considered in light of the fact that most unsuccessful tenderers start from a position of not knowing how someone else's response could have been better than theirs. While some tenderers are looking for someone to blame for their inability to secure the work, the vast majority of tender debriefs are requested to gain an understanding of how they may do things better next time around.

A graphical representation of post tender scoring has been developed by government to assist in this respect, however I note that this is not used in all cases, and that industry opinion is divided on its value.

The policy of some agencies is that they will not disclose to a tenderer their overall score, or their score for each assessed criteria. Due to this lack of transparency, this leads to an element of mistrust by the tenderer, and in my opinion is the wrong approach to be adopted by those agencies. I suggest that the government review this policy and make changes to allow for mandatory disclosure to tenderers of their scores for each assessment criteria. This will help restore some transparency to the process, and also provide a useful yard stick for unsuccessful tenderers to determine the quantum of improvement they need to make on any particular criteria for future tenders.

9. *Unbudgeted Procurement Activity*

From time to time the NTG announces major spending measures which have not been anticipated in annual agency budgets. For example, these measures may be designed to stimulate the economy through accelerated project delivery, or provide specific policy outcomes such as improved remote housing. The measures often have delivery timeframes which are very tight.

Whilst it is government's prerogative to make these decisions it needs to be remembered that compressed delivery time frames need adequate agency resourcing to deliver them.

Agencies determine their procurement resourcing at the commencement of each financial year based on their budgeted procurement activity. It is therefore vital that if additional unbudgeted procurement is to be undertaken by an agency that adequate additional resourcing is allocated to it. If this is not done then effective delivery of existing procurement activities will be compromised, and therefore compliance with the Buy Local Plan and delivery of Value For Territory will suffer.

I urge government to carefully assess the potential impacts on agencies and the delivery of Value For Territory before they commit to unbudgeted procurement initiatives, and that they provide adequate funding for additional agency resourcing to deliver both budgeted and unbudgeted procurement objectives in accordance with the proper procurement process.

10. Across Government/Panel Contracts

It is common practice for government and agencies to establish panels of suppliers to deliver goods and services identified under that contract. This will generally involve nominating several potential suppliers who can then be directly approached to supply under the contract, rather than going through the full procurement process for each individual procurement. This is common practice for things such as personal protective equipment, consumables and some professional services.

The assessment of Local Content and Value For Territory is made at the point in time that a tenderer is accepted onto the panel. After that time agency or government staff are free to choose any supplier from the panel to provide the goods or service they require at the rates as determined under the contract.

Agencies do not always give their staff direction on how to make the decision on which supplier to select. The staff member is left to make the decision however they think is most appropriate. This has led to behaviours where individual procurements are made based on measures such as an assessment of the ease of the procurement or the quality of the relationship with the supplier, rather than the best Value For Territory outcome.

This is a matter that needs to have a clear policy developed to enable both industry and NTG staff to have a consistent and clear understanding on how individual procurement decisions will be made. Until this can be achieved delivery of Value For Territory under panel contracts cannot be maximised.

6. THE BUY LOCAL PLAN

The Buy Local Plan is the overarching policy document released by the government which sets out a broad framework for how it intends to meet its primary objective of ensuring that the largest possible proportion of every dollar spent by the NTG is retained within, and delivers benefit for, the Territory economy and community.

The Buy Local Subcommittee was established at the same time as the role of the Buy Local Industry Advocate, and at the time of writing has met on 4 occasions. The members of that subcommittee are;

- Kevin Peters – ICNNT representative
- Greg Bicknell – NT Chamber of Commerce representative
- Andrea Moriaty – Killarney Homes – industry representative
- Margaret Michaels – Clayton Utz – industry representative

In addition, the chair of the Procurement Review Board, Mr Doug Phillips, has been invited to attend as an observer at the sub-committee meetings.

I would like to thank the members for their input and counsel in respect to matters which the Sub Committee has considered, and for their ability to bring an industry related focus to our discussions.

Effectiveness of The Buy Local Plan

Measuring the effectiveness of the Buy Local Plan is subjective in its nature. What I may consider as effective others may not. I make the following observations in respect to assessing the overall effectiveness of the Buy Local Plan;

1. Year on Year Spending Comparison

A useful guide to assessing the effectiveness of the Buy Local Plan would be to make a year on year comparative assessment of the percentage of government expenditure on goods and services that has been spent with Local Business (Territory Enterprises).

Procurement NT advise NTG spending for Tier 2 to 5 procurements (excluding government owned corporations and pre-existing period contracts) for the last two full financial 2 years is as follows:

FINANCIAL YEAR	Total Contracts Awarded		Contracts awarded to Territory Enterprises			
	Number of Contracts	Value of Contracts	Number of Contracts	% of Total	Value of Contracts	% of Total
2016/17	1860	\$657,297,081	1493	80.27%	\$536,519,272	81.63%
2017/18	2319	\$1,492,627,918	1892	81.59%	\$1,134,262,795	75.99%

As the table shows while the number of contracts awarded to Territory Enterprises has increased, the value awarded to Territory Enterprises has decreased in percentage terms.

Procurement NT is unable to provide annual spending data for Tier 1 procurements. Management of Tier 1 procurement systems is left to each agency to determine based on their specific requirements, and the extraction and reporting of Tier 1 expenditure by each agency is not always available, or in a form to be consolidated into whole of government reporting.

I am both disappointed and dismayed that in this day and age of sophisticated IT systems that reporting at a whole of government level is not possible across all procurement tier levels. I urge the NT government to urgently commit the required resources to the development of a single procurement management and reporting system to be used by all agencies which is capable of being reported on at both an agency and whole of government level across ALL procurement Tiers. It is only then that we will be able to accurately measure how much progress we are making at delivering increased Local Content through procurement activities year on year.

2. *Territory Enterprise*

The Buy Local Plan introduced the concept of a “Territory Enterprise”. This has led to a considerable amount of discussion by industry around what is local and how should it be defined.

When I first commenced in my role I was concerned that the definition of Territory Enterprise was too broad, which is a view shared by many both in industry and government. Since that time I have changed my thinking and believe that the current definition of Territory Enterprise reflects the intent of the Buy Local Plan, as it really gets to the heart of establishing a business’ true commitment to the NT through the provision of jobs for NT residents and the permanent establishment of a physical NT presence. I have been unable to come up with a better definition.

Inevitably, discussion around Territory Enterprise leads to a question of how local do you have to be to be local, and then there are comparisons by business of how local they are compared to others. These discussions often revolve around very simple comparisons of things such as; I was born here; I have lived here 10 years longer than you; I’ve been in business in the NT 5 years longer than you have; etc etc. While these are valid points of view they are not the sole determining factor in deciding how local your business is. There are many national businesses with a permanent presence in the NT who would rightly be considered to be local businesses.

The assessment of Local Content however is a critical factor when tender assessment panel’s score tender responses. The process of how Local Content is assessed and scored lacks transparency and consistency with many tenderers left wondering why they scored so much more or less for Local Content on a tender response than for their previous response. The lack of transparency around this aspect also leads to a perception by industry that the process of evaluating Local Content is open for manipulation. This perception if allowed to continue will lead to further reductions in the effectiveness of the Buy Local Plan, and the concept of Value For Territory.

I have also received feedback from procurement staff within government about the lack of clarity and direction as to how to elicit and score the right information to determine Local Content. They are seeking this clarity and direction to support defensible decision making.

This is a matter that the Buy Local sub-committee has discussed at length, and with input from industry, it has developed a Local Content scoring framework to standardise the assessment and scoring of Local Content. This framework is designed to deliver more consistency and transparency to industry in relation to Local Content assessment. I am currently seeking approval from the Procurement Review Board to trial this within government over the next 12 months.

3. *Grants*

The NTG provides a significant amount of Grants to community and other organisation each year. The decision as to where these funds will be spent is largely uncontrolled by government and is left to the recipient organisation. This has led to the situation where business believes a significant amount of money is spent interstate each year without any regard for directing spending to NT business. This is a cause of concern for many NT small businesses.

The government has introduced requirements in its funding agreements for Capital Grants in an attempt to encourage recipients to consider local content when making their procurement decisions. I would argue that this has largely been unsuccessful and I question whether the current grant framework adequately emphasises the government’s policy intent in respect to local content. In addition I am concerned whether the current framework allows for adequate monitoring of recipients spending with local business, and also whether there are appropriate consequences applied to organisations who do not adequately address local content in their procurement decisions.

The government needs to further clarify its policy intent in relation to spending of all grant monies, not just Capital Grants, and define a clear process and consequences for breach for all recipient organisations to comply with.

The current “leakage” of NTG money to business outside the NT through this avenue serves to further undermine the effectiveness of the Buy Local Plan.

4. *Government Owned Corporations (GOC's)*

The three NTG owned corporations, Jacana Energy, Territory Generation and PowerWater Corporation, are not subject to the same Procurement Rules and processes as the rest of the NTG. These corporations have their own procurement processes which have a Buy Local element to them, but are not subject to the same oversight and monitoring role by the Buy Local Industry Advocate as the rest of the NTG is.

From a procurement perspective, industry does not see GOC's as any different to the rest of the NTG, and therefore it does not understand why they have different procurement rules, particularly in respect to Local Content. Every time that a GOC undertakes a procurement which is perceived to contradict the policy intent of the Buy Local Plan it undermines industry's perception of the value of the Buy Local Plan.

This matter has been raised with the GOC's and they have indicated positive intent to bring the GOC's in line with the Buy Local principles and processes as outlined in the Buy Local Plan. However, given their procurement frameworks are specific to their corporation, work needs to be undertaken to amend and refine them to be able to deliver the full policy intent of the Buy Local Plan.

I am currently working with PowerWater Corporation to establish how this will be achieved and anticipate that this will be formalised within the first six months of next calendar year. This is also a task which needs to be undertaken in respect to both Jacana Energy and Territory Generation.

5. *Statutory Authorities*

The spending of statutory authorities funded by the NT government, in whole or in part, has also been questioned from time to time, with many examples of procurement activities having occurred with interstate suppliers with little or no consideration of NT based options. Compliance with Buy Local principles by some statutory authorities appears at best to be haphazard.

Again, every time an instance of procurement by a statutory authority is identified that appears to either contradict or ignore the policy intent of the Buy Local Plan, then industry's perception of the value of the Buy Local Plan is further diminished.

A co-ordinated and well thought out policy needs to be urgently developed around how procurement by statutory authorities using NTG funds should be managed in light of the policy intent and requirements of the Buy Local Plan.

6. *Education*

A considerable amount of my time is taken up in explaining to both industry and government agencies the intent of the Buy Local Plan, and the concept of Value For Territory. While the promotion of Buy Local principles is part of my role, I feel that the introduction of the Buy Local Plan and the supporting procurement framework was not adequately explained to industry or government employees prior to its introduction. I acknowledge that at its commencement the Buy Local Plan was new to everyone and that a steep learning curve was required to gain a proper understanding of it, but I am critical that the concept of Value For Territory was not better emphasised and explained.

I still see instances of both industry and government employees referring to Value For Money rather than Value For Territory. Until all involved understand the distinction between the two then the cheapest priced tenderer will still be confused why they have missed out on the work, and some contracts will be awarded to the cheapest tendered price rather than to those who demonstrate best Value For Territory.

The government needs to devote further resourcing to educate both industry and government as to how to deliver and assess the best Value For Territory if we are to achieve more consistent and equitable Value For Territory procurement outcomes.

Investigation of Complaints

There are often initial complaints made to me that do not lead to investigation or review once further clarification of the procurement activity has occurred. Up to the date of writing this report I have received 33 formal complaints in respect to specific procurement activities which have resulted in the instigation of a formal

review by my office. The results of the reviews undertaken have revealed many issues which have been identified elsewhere in this report.

At the outset of any formal review I make it clear to the complainant that I do not have the authority to overturn a procurement award regardless of the merits of their case, or based on what my review may determine.

All formal reviews undertaken by my office result in the provision of feedback to the complainant on whether the correct procurement process has been followed and therefore a defensible decision has been made by the agency, together with suggestions for improvement of the tenderers future tender submissions, if applicable. In addition, agencies are debriefed on the findings of the review insofar as they relate to the application of proper procurement process, and where it is found that proper process has not been followed agreement is reached with the agency as how this will be better managed into the future.

I often hear complaints from industry of improper dealings or fraudulent behaviour by agency staff. I have not identified any instances of this having occurred in the procurement activities I have reviewed as a result of receiving complaints.

Unintended Consequences

There have been two unintended consequences from the introduction of the Buy Local Plan that I have been able to identify to date:

1. *Business to Business dealings*

In my opinion, the introduction of the Buy Local Plan has elevated conversation in industry around supporting of local business to a point where local businesses are considering using local suppliers more than in the past. This observation is not based on any empirical evidence just the anecdotal feedback that I receive during my various discussions with industry and businesses.

I should add also, that perhaps this is not an unintended consequence but that it is a deliberate outcome built into the intent of the Buy Local Plan.

2. *Local Content Weighting*

The minimum weighting of 30% assessment criteria for Local Content has led to a perception by some government personnel and agencies, particularly in respect to Tier 1 and 2 transactions, that you must always choose a Territory Enterprise where their price is no more than 30% above an interstate competitor.

There is evidence to suggest that some local suppliers who know the price of goods obtainable from interstate are pricing their goods at just under 30% more than the interstate supplier in order to secure the procurement activity. The outcome of this is that some inflation of prices may have resulted, which in all probability did not lead to the best Value For Territory outcome for those procurements.

This approach shows a clear misunderstanding of the procurement rules as ALL procurement decisions must be able to demonstrate delivery of the best Value For Territory outcome. The lack of guidance for procurers around how to make a proper assessment for Tier 1 & 2 transactions needs to be addressed as soon as possible to deliver more consistent across government procurement decisions and better Value For Territory outcomes.

7. CONCLUSION

Measurement of the effectiveness of the Buy Local Plan is difficult due to the lack of whole of government spending data at the inception of the Buy Local Plan, and also at any time since its inception.

The data currently available which relates to Tier 2 through 5 procurements only, and which excludes spending by GOC's, indicates that the amount of contracts awarded by the NTG to Territory Enterprises has increased from 80.27% of all contracts awarded in 2016/17 to 81.59% in 2017/18. This would indicate that the Buy Local Plan has had a positive impact for Territory businesses.

However, a comparison of the value of those contracts reveals a different picture for the same period, showing that the NTG's spending with Territory Enterprises has decreased from 81.63 cents in every dollar spent by the NTG to 75.99 cents in the dollar. This would indicate that the Buy Local Plan has not had a positive impact for Territory businesses. It should also be noted however that in terms of the total value of contracts awarded to Territory Enterprises this amount was more than double the same amount from the previous year (\$536M in 2016/17 to \$1,134M in 2017/18).

Due to the incomplete nature of the data referred to above, and the conflicting comparisons which can be drawn from it, its use in assessing the effectiveness of the Buy Local Plan is limited. In addition whether these changes in spending patterns are wholly due to the Buy Local Plan and not some other outside influence is unknown.

Anecdotally, industries views about the effectiveness of the Buy Local Plan are mixed, with views ranging from totally ineffective through to the plan is providing the right framework to increase NTG spend with local business. Individual business' views about the effectiveness of the plan are generally based on their recent procurement outcomes, or those of other businesses with which they deal.

Another issue when attempting to quantify if the plan has been effective is that when the Buy Local Plan was introduced there was no measure established to define what "effective" would look like. For example, is an effective outcome an increase in spend with NT business of one cent in the dollar per annum, or is it some other amount? In the absence of this guidance any subsequent measurement of effectiveness will be subjective and open to challenge.

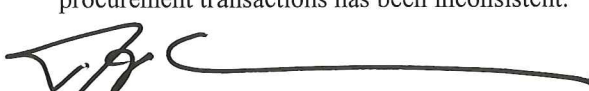
Effectiveness is not only assessed on a comparison of NTG spend with local business over a period of time. Effectiveness can also be assessed based on whether the Buy Local Plan has been a catalyst for change in the behaviour of others in relation to spending with local business. Unfortunately there are no statistics available which would indicate whether this change in behaviour has occurred, so again I must rely on anecdotal evidence to form a view around this. My discussions with industry and business indicates that the topic of local business supporting other local business is something that has gained some traction since the introduction of the Buy Local Plan, and that it is likely that this kind of business to business spending has increased.

Effectiveness of the Buy Local Plan

Based on the above I am unable conclude whether the Buy Local Plan has had a positive effect in increasing spending by the NTG with Territory Enterprises.

Delivery of Value For Territory

Delivery of optimum Value For Territory across government in my opinion is not always front of mind when agencies are going to market to procure goods and services. For this reason, and the various other reasons outlined elsewhere in this report, I conclude that the optimisation of Value For Territory outcomes in individual procurement transactions has been inconsistent.



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