# Procurement Rules

## Document details

<table>
<thead>
<tr>
<th>Document title</th>
<th>Procurement Rules</th>
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<tbody>
<tr>
<td>Contact details</td>
<td><a href="mailto:procurement.policy@nt.gov.au">procurement.policy@nt.gov.au</a></td>
</tr>
</tbody>
</table>
| Date and version | 1 August 2019  
Version 1.4 |
| Approved by | Minister responsible for Procurement Act |
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## Change history

<table>
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<th>Version</th>
<th>Date</th>
<th>Author</th>
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<td>1</td>
<td>1 July 2017</td>
<td>Procurement Policy</td>
<td>1st version</td>
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<td>1.1</td>
<td>1 September 2017</td>
<td>Procurement Policy</td>
<td>2nd version</td>
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<td>1.2</td>
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<td>1.3</td>
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<td>Changes to Rule 4 and other minor corrections</td>
</tr>
<tr>
<td>1.4</td>
<td>1 August 2019</td>
<td>Procurement Policy</td>
<td>Incorporation of international trade obligations</td>
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## Acronyms

The following acronyms are used in this document

<table>
<thead>
<tr>
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<th>Full form</th>
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<tbody>
<tr>
<td>NT</td>
<td>Northern Territory</td>
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<tr>
<td>NTG</td>
<td>Northern Territory Government</td>
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1 Introduction

This document describes the Procurement Rules outlining the mandatory requirements, exemptions, exceptions and process options for all Northern Territory Government (NTG) agencies and their personnel when undertaking procurement activities.

Section 11.1 of the Procurement Act provides for the Minister responsible for Procurement to ‘issue directions with respect to the principles, practices and procedures to be observed in the procurement of supplies by and on behalf of the Territory and Agencies’. The Minister responsible for Procurement has issued two documents that form these directions:

1. Procurement Governance Policy
2. Procurement Rules (this document)

The Procurement Governance Policy describes the Procurement Framework which includes the Procurement Principles, Procurement Lifecycle approach, Procurement Governance Model and definitions that governs and guides NTG procurement activities.

In addition to the directions issued by the Minister responsible for Procurement, Procurement Circulars are issued from time to time by the Agency responsible for procurement policy, providing further guidance to be observed by agencies.

The Rules should be read in conjunction with the Procurement Governance Policy and current Procurement Circulars to ensure agencies are compliant in the conduct of their procurement activities.
2 Components of the Procurement Rules

The Rules consists of four components:

1. **Procurement Principles** (Section 3) – these are the core values that guide the interpretation and implementation of the Rules to achieve the desired outcomes, irrespective of the value and risk.

2. **Procurement Lifecycle** (Section 4) – outlines the key stages of the procurement process, providing a context for the Rules.

3. **Procurement Rules** (Section 5) – these describe the mandatory requirements that agencies must (should by exception) follow when undertaking procurement activities.

4. **Procurement Rules Exceptions and Exemptions** (Section 6) – provides limited exceptions and exemptions from specific rule requirements that may be approved where their use is defensible.

Definitions of terms used within the Rules can be found in the *Procurement Governance Policy*. 
### 3 Procurement Principles

The five Procurement Principles that must be applied to every procurement activity, irrespective of value and risk, are summarised below.

For further information about behaviours associated with each principle, refer to the *Procurement Governance Policy*.

<table>
<thead>
<tr>
<th>Principle</th>
<th>Objective</th>
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<tr>
<td>1. VALUE FOR TERRITORY</td>
<td>Procurement expenditure that delivers procurement outcomes while meeting the NTG economic, social, environmental and cultural objectives.</td>
</tr>
<tr>
<td>2. ETHICAL BEHAVIOUR AND FAIR DEALING</td>
<td>Procurement activities instil confidence in business, industry and the public as to the probity, accountability and efficacy of NTG Procurement Framework.</td>
</tr>
<tr>
<td>3. OPEN AND EFFECTIVE COMPETITION</td>
<td>Procurement activities foster a competitive and innovative business environment to drive opportunities for the NT.</td>
</tr>
<tr>
<td>4. ENHANCING THE CAPABILITIES OF TERRITORY ENTERPRISES AND INDUSTRIES</td>
<td>Procurement activities support the growth, development, and sustainability of Territory enterprises and industries.</td>
</tr>
<tr>
<td>5. ENVIRONMENTAL PROTECTION</td>
<td>Procurement activities promote the protection of the environment through harm minimisation and sustainable practices.</td>
</tr>
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</table>
4 Procurement Lifecycle

The Procurement Lifecycle has three stages and accompanying activities as shown in Figure 1 below:

- **Planning** – agency strategic procurement planning, defining specific procurement needs and planning specific procurement approaches.

- **Sourcing** – the process of inviting businesses and industry to submit offers, and the steps associated with assessing, negotiating and awarding contracts.

- **Contract Management** – systematically and effectively managing contract establishment, execution and closure, including a review of contractor performance and the recording of lessons learnt.

For further information about the activities at each stage of the Procurement Lifecycle, refer to the *Procurement Governance Policy*.

![Figure 1. Procurement Lifecycle](image-url)
5 Procurement Rules

Procurement Rules are requirements for agencies and their personnel when undertaking procurement activities. Although compliance with the Procurement Rules is compulsory, the Rules allow discretion in many instances, providing a level of flexibility that is essential across the diverse range of business needs of NTG agencies.

Where the Rules use the term ‘must’, the Rule is mandatory and non-compliance is a breach.

Where the Rules use the term ‘should’, this indicates that careful consideration of factors relevant to each activity is required.

Agencies must observe the role and responsibilities of the following authorities to ensure compliance with the Procurement Rules:

- Where the Rules use the term ‘Accountable Officer’, the approval of that action rests solely with the person fulfilling the role or duties of the Chief Executive (or equivalent) and cannot be further delegated.
- Where the rules use the term ‘Delegate’, that action may be approved by the Accountable Officer or an authorised delegate of the Accountable Officer.

Procurement Rules are structured to align with the three stages of the Procurement Lifecycle, with the addition of General Rules and a Supplementary Rule Detail Table.

The Procurement Rules must be read in conjunction with the Procurement Governance Policy and current Procurement Circulars to ensure agencies are compliant in the conduct of their procurement activities.
5.1 General Rules

Rule 1. Governance and Accountability

1.1 Procurement Circulars may be issued by the Agency responsible for procurement policy from time to time, and these must be complied with by NTG agencies.

1.2 The Accountable Officer should establish procurement delegations for their agency that considers appropriate segregation of duties.

1.3 The Accountable Officer may establish additional procurement processes and procedures for their agency provided they are consistent with the requirements of the Procurement Act.

1.4 Personnel must ensure they are operating within the agency’s procurement procedures.

1.5 The agency and its personnel must ensure that all procurement recommendations, decisions and actions are defensible.

1.6 The Accountable Officer must establish an internal audit program for their agency that incorporates the requirements of the Value for Territory Assurance Program.

1.7 If requested by the agency responsible for procurement policy or the Buy Local Industry Advocate, the Accountable Officer must provide full details of requested procurement activities.

‘Defensible’ means:
Defensible means based on proper consideration of the situation and information available at the time (including information that is reasonable to obtain), free from real or perceived bias, and procedurally fair.

‘Probity’ means:
Probity aims to maintain the integrity of the public sector by adopting and following well-considered procedures and processes to ensure that procurement decisions are fair, transparent and defensible.

Rule 2. Local Content and Aboriginal Participation

2.1 The agency must consider opportunities to maximise local content throughout the Procurement Lifecycle.

2.2 The agency must consider opportunities to maximise Aboriginal participation and employment throughout the Procurement Lifecycle.

Rule 3. Conflict of Interest

3.1 All personnel involved in a procurement activity must declare any actual interest and any actual, potential or perceived conflict of interest to the Delegate.

3.2 If a declaration is made, the Delegate must determine any actions arising from identified conflicts with due regard to probity.

Rule 4. Complaints

4.1 The Accountable Officer must have a procurement complaints management procedure for their agency.

4.2 All procurement complaints must be investigated.

4.3 Subject to Rule 4.4, all procurement complaints must be reported to the agency responsible for procurement policy within 1 week of being received.

4.4 A procurement complaint, or part thereof, should not be reported to the agency responsible for procurement policy where:

i. the complainant has specifically stipulated that a detail of the complaint is not to be referred to any other parties; or
ii. it contains specific allegations of criminal activity, breaches of the PSEMA Code of Conduct or anti-competitive trade practices where the further distribution or referral of information may unfairly prejudice the subject of the complaint or breach NT or Commonwealth legislation.

4.5 Where only minor elements of a procurement complaint satisfies the above reporting exclusions, the remaining elements should be treated as a reportable procurement complaint.

4.6 The agency should manage complaints made about its procurement activities.

4.7 A procurement complaint relating to the NT Government implementation of or adherence with the Buy Local Plan, including an agency’s assessment or measurement of Local Content, must be referred to the Buy Local Industry Advocate through the agency responsible for procurement policy.

4.8 Complaints received by an agency regarding procurement policy or the Procurement Review Board must be referred to and managed by the agency responsible for procurement policy.

4.9 All procurement complaint outcomes and resolutions must be reported to the agency responsible for procurement policy within 1 week.

4.10 The agency must ensure that the receipt or investigation of a procurement complaint does not prejudice a complainant’s participation in procurement activities.

Rule 5. Maintaining Records

5.1 The agency must maintain appropriate records of procurement activities in accordance with NTG records management standards and guidelines for a period of at least three years after contract award.

Rule 6. Procurement Information Systems

6.1 The agency must use the Agency Purchase Requisitions Online system, including associated systems and services provided by Contract and Procurement Services, for all procurement activity over $15,000 (refer Section 5.5).

Rule 7. Exceptions and Exemptions

7.1 The Accountable Officer and Delegate may approve the use of exceptions or exemptions in accordance with Section 6 – Procurement Exceptions and Exemptions.

7.2 Exceptions and exemptions apply only to the specific requirements approved; agencies must comply with all other requirements of the Rules.
5.2 Planning Rules

Rule 8. Agency Planning

8.1 The agency must develop an Agency Procurement Management Plan, to be approved by the Accountable Officer annually.

8.2 The Agency Procurement Management Plan must be submitted to the Procurement Review Board by 1 August each year.

8.3 As part of their Agency Procurement Management Plan, the agency must include the following details:
   i. significant procurement activity planned for the next five years. The next 12 months must include details of the purpose, region, estimated release date, proposed procurement method and estimated value of each procurement activity
   ii. consideration of ways to maximise local content and Aboriginal participation when undertaking procurement activities
   iii. industry engagement strategies, including consideration of opportunities to provide industry briefings
   iv. reporting on performance against planned procurement activities, including significant departures from the Agency Procurement Management Plan of previous years
   v. reporting on procurement related complaints for the preceding 12 months
   vi. internal audit and assurance programs
   vii. procurement related training, organisational learning and development.

Rule 9. Project Specific Procurement Planning

9.1 Delegate approval should be obtained before commencing project specific procurement planning.

9.2 Prior to commencing project specific sourcing activities, the agency must undertake appropriate planning, including:
   i. clearly defining the scope
   ii. estimating the value of the procurement, inclusive of all applicable taxes
   iii. setting appropriate assessment criteria.

9.3 The agency must consider the value and risk of a procurement activity when determining the level of planning required.

9.4 Where specified as a requirement in Section 5.5, the Delegate must approve a Project Specific Procurement Plan, which must include:
   i. capability and capacity of local industry and businesses to meet supply requirements
   ii. consideration of opportunities to maximise local content
   iii. consideration of opportunities to maximise Aboriginal participation
   iv. identifying the appropriate procurement method to be used in consideration of the value and risk
   v. identifying assessment criteria and associated weightings
   vi. negotiation protocol or plan where negotiations are anticipated or planned.

9.5 Where specified as a requirement in Section 5.5, the agency must ensure the local content assessment criteria are designed to elicit local benefit commitments from respondents.

9.6 The agency must not divide or design a procurement activity into separate phases or parts to artificially reduce the total estimated value for the purpose of reducing the procedural requirements of a procurement activity.

9.7 The Delegate must provide approval before commencing sourcing activities.
Rule 10. Future Tender Opportunities

10.1 Where specified as a requirement in Section 5.5, the agency must advertise a future tender opportunity between 40 calendar days and 12 months prior to the release of the request for offer.

Rule 11. Assessment Criteria and Weightings

11.1 Assessment criteria weighting must include:
   i. a minimum 30% weighting for local content
   ii. up to a maximum 30% weighting for price.

Rule 12. Procurement Method

12.1 The agency should use an open and competitive approach, to give businesses equal opportunity to participate in a procurement activity (refer Section 5.5).
12.2 Where supplies are available under an existing agency contract or across government contract, the supplies must be obtained under that contract unless otherwise provided for in the contract.
12.3 Where supplies are available under an existing period contract with the Australian Government, a state or another territory, the agency must obtain approval from the Procurement Review Board, the Delegates of both agencies and subsequently the supplier prior to obtaining supplies in accordance with the existing contract.
12.4 Where supplies are available under an existing period contract of another agency, the agency must obtain approval from the Delegates of both agencies and subsequently the supplier prior to obtaining supplies in accordance with the existing contract.
12.5 The agency must use a preferred procurement method (refer Section 5.5) unless otherwise approved by the Delegate (refer Section 6).

Rule 13. Territory Enterprise

13.1 The agency must ensure that at least one Territory enterprise is invited to provide an offer for Tier 1 supplies (refer Section 5.5).
13.2 The agency must ensure that at least two Territory enterprises are invited to provide an offer for Tier 2 supplies (refer Section 5.5).
13.3 The agency should design procurement activities to maximise the ability of Territory enterprises to participate.

Rule 14. Contractor Accreditation Limited

14.1 Where specified as a requirement in Section 5.5, the agency must use the prequalification assessment provided by Contractor Accreditation Limited where there is an applicable category and group.
14.2 In the case of period contracts, the agency must ensure the financial threshold for mandatory Contractor Accreditation Limited accreditation is based on the annual estimated value of the supplies.

Rule 15. Industry Capability Network NT

15.1 The agency must consult Industry Capability Network NT to identify potential Territory enterprises prior to inviting offers from outside of the NT for Tier 1 and Tier 2 procurement activities (refer Section 5.5).
5.3 Sourcing Rules

Rule 16. Procurement Documentation

16.1 The agency should use standard conditions of offer and conditions of contract in the request for offer.

16.2 Where the agency determines that the standard conditions of offer or conditions of contract are inappropriate or insufficient for a specific procurement activity, approval must be obtained from the agency responsible for procurement policy to use alternative or additional clauses.

16.3 The agency should allow alternative offers and changes to conditions of contract.

16.4 Where specified as a requirement in Section 5.5, the assessment criteria and percentage weightings must be included in the request for offer.

16.5 The agency must require Industry Participation Plans for procurement activities with an individual contract value estimated to be greater than $5 million.

Rule 17. Advertising

17.1 The agency must ensure the release and closure of request for offers as specified in Section 5.5.

17.2 The agency must ensure respondents are provided with at least the minimum advertising period to respond to a request for offer as specified in Section 5.5.

17.3 The agency must ensure it has appropriate processes and procedures in place to respond to queries during and after the advertising period.

17.4 Changes to assessment criteria weightings during the advertising period must be approved by the Accountable Officer.

17.5 The agency should issue addenda to address significant issues identified during the advertising period. Addenda must only be issued with the approval of the Delegate.

Rule 18. Admissibility

18.1 The Delegate must determine the admissibility of all offers that do not comply with the requirements of the conditions of offer.

18.2 Offers that do not comply with the mandatory requirements of the conditions of offer must be deemed inadmissible by the Delegate.

18.3 Where specified as a requirement in Section 5.5, respondents must be provided an appeal right to the Procurement Review Board if their offer is deemed inadmissible.

18.4 Respondents must be advised if their offer is deemed inadmissible, including appeal rights.

18.5 Offers received that are deemed inadmissible must not be assessed unless the Procurement Review Board approves their admissibility.

Rule 19. Assessment of Offers

19.1 Assessments must be undertaken by personnel with relevant skills and knowledge appropriate to the value and risk of the procurement activity.

19.2 The agency must ensure an appropriate membership size for the assessment panel as specified in Section 5.5.

19.3 The agency must not shortlist responses based on price only.

19.4 The assessment must be conducted on the approved assessment criteria and weightings.

19.5 All admissible offers must be assessed against the assessment criteria using a consistent scoring scale.

19.6 To the extent an alternative offer is comparable, the assessment must be on the same basis as other offers, and as allowed in the request for offer.

19.7 The assessment should identify, assess and document any risks in the offers.
19.8 At the end of the assessment, offers must be ranked from highest to lowest (based on total scores).

19.9 Procurement assessment outcomes, including declining all offers, must be approved by the Delegate.

19.10 Higher ranked offers must be accepted in preference to lower ranked offers unless approved otherwise by the Accountable Officer.

Rule 20. Offer Validity Period

20.1 Assessment of offers must be completed within the validity period.

20.2 Any extensions to the validity period must be agreed to in writing with respondents prior to the expiry date.

Rule 21. Clarifications and Verification

21.1 The agency must undertake reasonable due diligence, commensurate with the nature of the claims made and level of risk, to verify claims made by respondents.

21.2 Where an offer contains information that is open to interpretation or is not readily understood, clarification should be obtained from the respondent.

21.3 Where an offer contains an obvious typographical error that will impact the outcome of the assessment, clarification must be obtained from the respondent.

21.4 Obvious typographical errors must only be corrected with written confirmation from the respondent and approval from the Delegate.

21.5 All clarifications must be framed in a manner that does not result in the respondent gaining an unfair advantage over other respondents.

21.6 Any discussion or contact with the respondent during the assessment process must be done with due regard to probity.

21.7 Clarifications that introduce new material or substantially change an offer, beyond correcting an obvious typographical error, must be treated as a negotiation.

Rule 22. Negotiations

22.1 Approval must be obtained from the Delegate to conduct non-price negotiations.

22.2 Approval must be obtained from the Accountable Officer to conduct price negotiations.

22.3 The negotiation process must be clearly communicated to relevant respondents, conducted in a manner that is fair and equitable, and documented.

Rule 23. Contract Award and Notification of Outcome

23.1 Where specified as a requirement in Section 5.5, respondents must be notified of the outcome of the assessment in writing.

Rule 24. Contract Disclosure

24.1 Where specified as a requirement in Section 5.5, details of contracts awarded must be published on the NTG website unless otherwise approved by the Minister responsible for Procurement.

Rule 25. Debriefing Respondents

25.1 The agency must provide all respondents the opportunity to be debriefed following a sourcing activity.

25.2 Debriefings must not disclose information that could compromise the commercial confidentiality (excluding contract award price) of other offers.

25.3 The agency must provide information at the debrief that assists respondents to identify opportunities to improve future offers.
25.4 A record of the debrief must be prepared by the agency and be made available to the respondent.

5.4 Contract Management Rules


26.1 The agency must develop Contract Management Plans commensurate with the value and risk of a contract.
26.2 The agency must ensure it has systems, processes and resources assigned to adequately manage the agency's contracts.
26.3 The agency must ensure that personnel who have a role in contract management have the necessary skills and training.

Rule 27. Industry Participation Plan

27.1 Industry Participation Plans must be established for individual contracts with an estimated value of $5 million or greater.
27.2 The agency must monitor the contractor’s performance against the Industry Participation Plan.

Rule 28. Performance Reporting

28.1 Where specified as a requirement in Section 5.5, the agency must complete contractor performance reports commensurate to the value and risk of a specific contract.
28.2 The agency must report on the contractor’s performance against local benefit commitments.
28.3 The contractor must be provided with performance feedback and given the opportunity to respond.
28.4 The agency must retain performance reports commensurate to the value and risk of the contract and on request, provide a copy of the performance reports to other agencies to assist in assessments.
28.5 Where contractor accreditation applies, the agency must provide Contractor Accreditation Limited with performance reports every 12 months and at the completion of each contract.

Rule 29. Contract Variations

29.1 Contract variations must only be made with the approval of the Delegate.
29.2 Contract variations should only be made where the variations do not change the scope of the original contract.
5.5 Supplementary Rule Detail Table

The following table provides additional detail regarding the Procurement Rules agencies must adhere to when undertaking procurement activities. Where optional is specified, agencies may consider applying the requirement based on the profile of the procurement. For further information and terminology, please refer to the *Procurement Governance Policy*.

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<thead>
<tr>
<th>Procurement Rule</th>
<th>Rule Number</th>
<th>Preferred and Alternative Procurement Methods</th>
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## Procurement Rules

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<tr>
<th>Procurement Rule</th>
<th>Rule Number</th>
<th>Preferred and Alternative Procurement Methods</th>
<th>Sourcing Rules</th>
<th>Contract Management Rules</th>
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<td></td>
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<td>Assessment criteria weighting disclosed</td>
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<td>Responsibility for releasing and closing Request for Offers</td>
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<td>Advertising Period with Exception</td>
<td>Exception 6.1.5</td>
<td>Agency discretion</td>
<td>Agency discretion</td>
<td>2 business days</td>
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<td>Admissibility Appeal Right to the Procurement Review Board</td>
<td>18.3</td>
<td>No</td>
<td>No</td>
<td>Yes</td>
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<tr>
<td>Minimum Assessment Panel size</td>
<td>19.2</td>
<td>1</td>
<td>2</td>
<td>3</td>
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<tr>
<td>Notification of Outcome</td>
<td>23.1</td>
<td>If requested</td>
<td>Yes</td>
<td>Yes</td>
</tr>
<tr>
<td>Contract Disclosure</td>
<td>24.1</td>
<td>No</td>
<td>Yes</td>
<td>Yes</td>
</tr>
<tr>
<td>Performance Reporting</td>
<td>28.1</td>
<td>Agency discretion</td>
<td>Agency discretion</td>
<td>Yes</td>
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6 Procurement Rules Exceptions and Exemptions

6.1 Procurement Exceptions

a) Procurement exceptions are established to provide flexibility to the agency where it is impractical or impossible to comply with specific requirements of the Rules.

6.1.1 E1 Territory Enterprise

a) The agency must obtain the approval of the Delegate to exclude a procurement activity from the requirement to:-
   i) for a Tier 1 supply, invite an offer from at least one Territory enterprise, where the agency determines that there are no Territory enterprises capable of providing the supplies; or
   ii) for a Tier 2 supply, invite an offer from at least two Territory enterprises, where the agency determines that there is only a single Territory enterprise or there are no Territory enterprises capable of providing the supplies.

6.1.2 E2 Future Tender Opportunities

a) The agency must obtain the approval of the Delegate to exclude a procurement activity from the requirement to advertise a future tender opportunity.
   b) The Delegate must only issue an exemption where the procurement activity is to a single, sole supplier.

6.1.3 E3 Contractor Accreditation Limited

a) The agency must obtain the approval of the Delegate to exclude a procurement activity from the requirement to use Contractor Accreditation Limited’s pre-qualification service.

6.1.4 E4 Industry Participation Plans

a) The agency must obtain the approval of the Delegate to exclude a procurement activity from the Industry Participation Plan requirements.

6.1.5 E5 Advertising Period

a) The agency must obtain the approval of the Delegate to exclude a procurement activity from the required advertising period (refer Section 5.5).
   b) The Delegate may grant an exemption where the agency:
      i. demonstrates a state of urgency which makes the advertising period impractical; or
      ii. is procuring goods or services available in the commercial marketplace.

6.2 E6 Agency Issued Certificate of Exemption

Agency issued certificates of exemptions, issued under Regulation 8 of the Procurement Regulations, allow the agency to use alternative or restricted procurement methods with the approval of the Delegate.

The agency must only use an alternative procurement method where it can be demonstrated that it will result in improved Value for Territory or is in the best interest of government and industry. This may include:

- where it is confirmed that a limited or sole supply market exists
• where works can be performed by a regional council within its council boundary and achieve a minimum 30% Aboriginal employment in the delivery of the contract
• for goods or services to be delivered in a remote area from a legal entity which has a minimum of 30% of its full-time personnel who are Aboriginal as per exemption 6.3.4 E10 O. Remote Procurements;
• where the requirement is urgent in nature and could not reasonably be obtained through the preferred procurement method.

The agency must only use direct purchasing for freely available supplies that are low risk and can be purchased locally.

The agency must only use direct contracting with the approval of the Delegate where there is a single supplier capable of meeting the requirements or clause 6.3.4 E10 H. Government Occupied Buildings applies, and:

• there is evidence that it is the most effective manner to deliver best Value for Territory, or
• it is impractical or impossible to use an open procurement process,

and the contract awarded will be:

• in the form of lease, licence agreement or substantially nonstandard contract, or
• an extension or renewal of an existing contract, or
• for the support or maintenance of existing software, systems or assets, or
• for goods or services to be delivered in a remote area from a legal entity which has a minimum of 30% of its full-time personnel who are Aboriginal as per exemption 6.3.4 E10 O. Remote Procurements.

6.3 Standing Exemptions Issued by the Minister

a) The Minister responsible for Procurement has issued exemptions under Section 5 and Section 9 of the Procurement Act to allow agencies discretion to dispense with specific requirements.

6.3.1 E7 Delegations

a) With the exception of the power to delegate, the Accountable Officer of the following agencies may delegate the powers and functions of the Accountable Officer to the class of personnel identified.

• Department of Infrastructure, Planning and Logistics to each personnel from time to time holding, acting or performing the duties of General Manager
• Department of Health to each personnel from time to time holding, acting or performing the duties in each of the positions specified as follows:
  o Chief Operating Officer of Health Services as defined in the Health Services Act
  o Deputy Chief Executive and Chief Operating Officer.

6.3.2 E8 Emergency Exemption

a) The agency must only use the emergency exemption for supplies that are urgently required in response to an emergency situation, as defined in Section 18(1) of the Emergency Management Act, and cannot be practicably obtained through an open and competitive process. These supplies are exempt from the requirement to:

• consult with Industry Capability Network NT
• use Contract and Procurement Services quotation and tendering service
• undertake a quotation or tender process, including the requirement to invite a Territory enterprise to quote.

b) Supplies must be purchased locally from a Territory enterprise, where practical and appropriate.

c) The agency must provide quarterly reporting to the Procurement Review Board detailing the nature of supplies purchased, value of supplies and reason for using the emergency exemption.

6.3.3 E9 Supplies Consumed Outside of the Northern Territory

a) Supplies delivered and consumed outside of the NT are exempt from the requirement to invite an offer from a Territory enterprise and consult with Industry Capability Network NT where:
   • it is impractical or impossible to source the supplies from a Territory enterprise
   • the use of the exemption is defensible and approved by the Delegate.

6.3.4 E10 Public Procurement Exemption

a) Classes of supplies listed below may be procured using an alternative procurement method and are exempt from the requirement to:
   • use the preferred procurement process
   • invite an offer from Territory enterprises
   • consult with Industry Capability Network NT
   • publish a Future Tender Opportunity.

b) The agency must only use direct contracting with the approval of the Delegate in accordance with the procurement method exemption requirements.

A. Library Subscription Services

Includes journal subscriptions including technical publications, article access costs, standardised finding fees and delivery fees where the supplies are unique and only available from a sole supplier.

B. Travel and Freight on Scheduled Services

Includes the purchase of official and other travel and freight on scheduled services:
   • the purchase of airfares, car hire and accommodation required in association with travel in accordance with the NTG travel policy, obtained via the Corporate Travel Services Provider
   • the use of removalists when arranging the uplift of personal effects of staff, obtained via the staff relocation contract
   • freight on scheduled services where freight is not otherwise explicitly provided for in a specific contract e.g. excess baggage in conjunction with official travel.

C. Works of Art

Includes permanent acquisitions including paintings, photographs, statues digital images, carvings, pottery, craft work, literature or ephemeral activity such as specific exhibitions, performances, films and special events etc.

D. Membership of Professional Organisations or Associations and National Peak Bodies

Includes memberships required in relation to the agency's core business.
E. Curriculum Materials
Includes materials only available from sole suppliers or licensors.

F. Copyright and Licensed Supplies
Includes copyright, licensed supplies (such as software where those materials are available only from sole suppliers or licensors) and licences only available from government agencies and statutory authorities.

G. Infrastructure Network
Includes works undertaken on, or required in connection to, an existing infrastructure network, where the network owner is the sole supplier able to undertake those works for technical, legislative or proprietary reasons.

H. Government Occupied Buildings
Includes:

I. renewal of an existing government office and commercial accommodation lease and/or a variation where the area to be leased is an addition to the area currently within lease (adjoining car parks can be included in the lease arrangements at the sole discretion of the agency).

II. building owners who undertake building alterations, renovations and/or fit out of their own property on behalf of government tenants. (Building owners undertaking such work will be exempt from the requirement to be accredited with Contractor Accreditation Limited.)

III. a new government office and commercial accommodation lease that is less than or equal to 1000 square metres net lettable area where an agency identifies specific business and/or facility requirements which necessarily restrict procurement to a limited number of properties or to a single property.

For clarity, references to lease in this exemption includes all forms of tenancy agreement; including licence to occupy.

I. Legal Practitioners and Expert Witnesses
Includes providing legal advice and expertise, and appearance before courts and tribunals.

J. Labouring Services and Remote Locality Police Stations
Includes cleaning and ground-maintenance (labouring services) at remote locality police stations.

K. Cattle and buffalo for research purposes
Includes purchases through stock and station agents.

L. Lease of equipment, display space and other conference services
Includes forwarding of freight through interstate and overseas exhibition and conference organisers and their nominated subcontractors. This exemption allows agencies attending an interstate or overseas exhibition or conference to pay the conference fees, to acquire display space through the organising body, send freight through the nominated freight forwarder, rent TV, lighting, pot plants etc. through whichever subcontractor has been appointed to provide these requirements.
M. Specialist Police, Fire and Emergency Services Equipment

Includes purchase, from interstate and overseas, of specialist tactical equipment available from a sole supplier, defined as:

- lethal and non-lethal weapons and sighting systems
- specialist chemical, biological, nuclear and radiological equipment (CBN-RE) of a restricted nature
- protective clothing including specialist ballistic armour, helmets, webbing and load bearing equipment.
- information communication technology, including digital communication systems, not available to the general public or those operating as part of a secure network, including the installation and repair of hardware components of a proprietary nature relating to the original equipment manufacturer’s warranty and intellectual property provisions, where the upgrade of software necessitates hardware and peripheral component replacement
- intelligence gathering systems
- vision enhancing and electronic listening systems
- specialist method of entry and extraction equipment
- bomb response capability specialist equipment.

The exemption should only be used where the supplies are only available from a sole supplier due to proprietary reasons resulting from their specialist nature or where it is not in the public interest to advertise the supplies publicly. Where the exemption is used agencies must be able to reasonably demonstrate its compliance with this requirement. For example:

- any equipment or service where disclosure may compromise operations of a sensitive or classified nature with the approval of the Accountable Officer
- rapid acquisitions of an operational nature in support of a defined declaration of emergency, or in support of national contingency plans such as the NT’s contribution to National Counter Terrorism Operations and Border Security
- any supplies that are of a covert nature where it is not in the public interest to use the services provided by Contracts and Procurement Services and purchases are handled by NT Police, Fire and Emergency Services Procurement Unit with the approval of the Accountable Officer
- the requirement to advertise such purchases is waived where an exemption has been granted by the Minister.

N. Attendance and Participation Fees for non-NT Government instigated and hosted Training, Seminars and Conferences

- Participation in the event must be available to the general public or selected network that includes private or non-NTG participants.
- Establishment of the event must not be instigated by NTG, including via funding arrangements.

O. Remote Procurements

Procurement activities for supplies to be delivered in a remote area from a legal entity which has a minimum of 30% of its full-time personnel who are Aboriginal are exempt from the public offer requirements.
A remote area is any of the following remote Aboriginal communities, homelands or outstations:

- Acacia Larrakia
- Ali Curung
- Alpurrurrulam
- Amanbidji
- Amoonguna
- Ampilatwatja
- Angurugu
- Apatula (Finke)
- Areyonga
- Atijere
- Barunga
- Belyuen
- Beswick
- Binjari
- Bulla
- Bulman
- Daguragu
- Engawala
- Galwinku
- Gapuwiyak
- Gunbalanya
- Gunyangara
- Haasts Bluff
- Imangara
- Imanpa
- Jilkminggan
- Kalkarindji
- Kaltukatjara
- Kintore
  (Walungurru)
- Kybrook Farm
- Lajamanu
- Laramba
- Maningrida
- Manyallaluk
- Milikapiti
- Milingimbi
- Milyakburra
- Minjilang
- Minyerri
- Mt Liebig
- Mutitjulu
- Nauiyu (Daly River)
- Nguiu
- Ngukurr
- Nturiya (Ti Tree)
- Ntaria
  (Hermannsburg)
- Numbulwar
- Nyirripi
- Owatilla (Canteen Creek)
- Palumpa
- Papunya
- Peppimenarti
- Pigeon Hole
- Pirlangimpi
- Pmara Jutunta (Ti Tree 6 Mile)
- Ramingining
- Rittarangu
- Robinson River
- Santa Teresa
- Tara
- Titjikala
- Umbakumba
- Wadeye
- Wallace Rockhole
- Warruwi
- Weemol
- Willowra
- Wilora
- Wutunugurra
  (Epenarra)
- Yarralin
- Yirrkala
- Yuelamu
- Yuendumu

P. Partnership Agreement with Charles Darwin University

The Partnership Agreement covers the period 3 November 2017 to 2 November 2024 and this exemption applies for the duration of the agreement.

The Partnership Agreement’s objective is that the economic, social and environmental development of the Northern Territory is supported by a robust and resilient University working in partnership with government Agencies and the wider community.

This exemption may be used where the services required fall under the core outcomes in the Partnership Agreement and following the procurement process specified in the Partnership Agreement.