

# 6th Annual Buy Local Plan Compliance Report of the Buy Local Industry Advocate of the Northern Territory



December 2023

## Contents

<b>1. Executive Summary.....</b>	<b>4</b>
<b>2. Background.....</b>	<b>6</b>
<b>3. NT Government's response to the 5th Annual Buy Local Plan Compliance Report .....</b>	<b>7</b>
<b>4. Advocacy .....</b>	<b>10</b>
4.1. Tender Assessment and Award Times.....	11
4.2. The Pace of Change.....	12
4.3. Review of Northern Territory Government Procurement Framework and Practice .....	12
<b>5. Promoting Buy Local Principles to Industry and Government.....</b>	<b>13</b>
<b>6. Value for Territory Assurance Program.....</b>	<b>15</b>
6.1. What is Value for Territory .....	15
6.2. Value for Territory Assurance Program Framework.....	15
6.3. Outcome of Value for Territory audit reviews.....	17
6.4. Compliance with Procurement Rules 26 and 28. ....	18
6.5. Auditor General of the NT.....	19
6.6. Use of Certificates of Exemption.....	21
6.7. Has Value for Territory been delivered? .....	21
<b>7. The Buy Local Plan.....</b>	<b>23</b>
7.1. Effectiveness of the Buy Local Plan .....	24
7.2. Year on Year Comparison of Contracts Awarded.....	24
7.3. Investigation of Complaints.....	27
7.4. Independent Commissioner Against Corruption (ICAC).....	28
7.5. Authority of the Buy Local Industry Advocate.....	30
7.6. Unintended Consequences .....	30
<b>8. Recommendations For Improvement .....</b>	<b>31</b>
8.1. Whole of Government Procurement and Reporting System .....	31
8.2. Contract Management .....	31
8.3. Procurement Staff Career Development.....	34
8.4. Alternative Tenders .....	35
8.5. Tender Specifications .....	35
8.6. Local Content Assessment and scoring .....	35
8.7. Grants .....	37
8.8. Value for Territory.....	37
8.9. Assessment of VFT in Tier 1 & 2 procurement activities.....	37
8.10. Across Government Baseline Spending Data.....	37
8.11. Defensible Decision Making.....	38
8.12. Territory Enterprise .....	39
8.13. Pre-Tender Market Assessment .....	39
8.14. Improved Consistency in Scoring of Past Performance, Timeliness and Capacity.....	39

8.15. Referee Checking.....	39
8.16. Past Experience.....	40
8.17. Contractor Performance Reporting.....	40
8.18. Use of Alternative Procurement methods.....	40
8.19. Tier 1 Procurement Process and Procurement Tier levels.....	41
8.20. Tender Revalidation .....	41
8.21. Territory Enterprise Awarded Contracts Benchmarks .....	42
<b>9. Other Matters .....</b>	<b>44</b>
9.1. Procurement Framework Review .....	44
9.2. BLIA Office Staffing.....	44
9.3. ICNNT Dashboard.....	44
9.4. Territory Benefit Policy .....	44
9.5. Northern Territory Chamber of Commerce Survey .....	45
9.6. Perceptions of the Buy Local Industry Advocate's role.....	47
<b>10. Conclusion .....</b>	<b>48</b>
10.1. Effectiveness of the Buy Local Plan.....	48
10.2. Delivery of Value for Territory.....	49



# 1. Executive Summary

This is the sixth Annual Report I have published outlining my assessment of the Northern Territory Governments compliance with the Buy Local Plan, my first having been released in December 2018.

The reliability of information and statistics available from the Government's procurement systems remains a concern for me. Despite my calls for improvement in every Annual Report I have issued, this has still not been adequately addressed by Government.

The 2022/23 financial year procurement statistics reported in [Section 7.2](#) show that the NT Government undertook the lowest number of procurement activities it has in the last seven years, with the value of the contracts awarded being the fourth lowest amount over the same period. These statistics also show that the number of contracts awarded to Territory Enterprises last financial year was the lowest percentage over the last seven years, while the value of contracts awarded to Territory Enterprises was the fourth lowest amount over the same period. These statistics would indicate that the Buy Local Plan did not, this past year, have the desired effect of increasing procurement spending by the NT Government with Territory Enterprises. From an anecdotal perspective however, I believe that across Government there continues to be improved focus on buying local and delivery of best Value for Territory through agency procurement processes. This view is supported again this year by the findings of the Value for Territory Assurance Program (refer [Section 6.3](#))

Contractors need to be held accountable for their performance and delivery. Contract Management Planning and Contractor Performance Reporting obligations remains a weakness for Government and requires greater focus and commitment from agencies to ensure that what was contracted for is actually what is delivered. Mandating the use of Trax (or an equivalent system) is a step in the right direction to support an improved outcome (refer [Section 8.2.3](#)), as is an improved focus on appropriate training of agency staff (refer [Section 8.2.4](#)), and I acknowledge the Government's commitment to improvement in these areas. As a result I look forward to seeing increasing compliance as a result of these initiatives. I still hold the view that there needs to be a single point of reference within Government for procurement staff from every agency to access contractors past performance information.

My previous Annual Report identified 19 incomplete Recommendations For Improvement for the NT Government to consider to improve its ability to maximise the effectiveness of the Buy Local Plan, enable its measurement, and maximise best Value for Territory procurement outcomes. In [Section 3](#) of this report I summarise those matters and my understanding of the current status of the actions (if any) taken to address them, together with my assessment of the effectiveness of the Government's response over the past year to each of these matters. I remain disappointed with Governments slow progress in actioning many of my recommendations.

[Section 8](#) of this report contains the Recommendations For Improvement that I believe would contribute to a further improved procurement framework, more effective Buy Local Plan and more consistent delivery of Value for Territory procurement outcomes. Most recommendations remain from last year and some have not been addressed and others only partially addressed.

[Section 5](#) of this report sets out the engagement activities I have undertaken over the last year. It shows that I have continued to undertake a high level of engagement with NT Government agencies, with the total number of agency engagements again exceeding the number of



industry engagements. The overall level of engagements remains similar to the previous two years.

The timely delivery of the Value for Territory Assessment Framework continues to be frustratingly slow, and has again been disappointing to both industry and myself this year. The rollout of the Local Content component of the framework on 4th October 2022 was much anticipated, and initially warmly embraced by both industry and agencies. The rollout also had the effect of re-building some industry trust in the procurement process, however the initial enthusiasm for it was unable to be sustained with several system issues having been identified post rollout, causing concerns from both industry and agency perspectives, and leading to erosion of some of the newly built industry trust. These issues necessitated lengthy process changes, which also then had a flow on effect of delaying the rollout of stage 2 of the framework, which still has no committed rollout date. The rollout of the framework has, in my opinion, been poorly handled with inadequate user testing, training and communication, which to me is surprising given the length of time taken to get it to the stage of being rolled out. The effective and timely delivery of the framework remains my biggest disappointment.

The continued lack of reliable procurement data makes the task of measuring the effectiveness of the Buy Local Plan difficult. Data provided for the last year shows a significant reduction in the percentage of procurement undertaken with Territory Enterprises, resulting in the lowest level since the introduction of the Buy local Plan. On that basis I have concluded that over the last year the Buy Local Plan has not been effective in ensuring the largest possible proportion of every dollar spent by the NTG was retained within and delivered benefits for the Northern Territory economy and community.

Delivery of best Value for Territory outcomes in individual procurement transactions remains inconsistent both within agencies and across Government, but at a reducing level over time. I have therefore concluded that delivery of Value for Territory procurement outcomes over the last year remains at its highest level since the introduction of the Buy local Plan.



## 2. Background

The position of the Buy Local Industry Advocate was established as part of a series of major procurement reforms announced by the NT Government in February 2017. These reforms came into force on 1<sup>st</sup> July 2017.

Under the terms of my appointment my responsibilities are:

1. Advocacy.
  - Acting as an independent link between local business and the NT 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.

The following sections of this report outline my findings and observations relevant to the performance of each of my responsibilities.



### 3. NT Government's response to the 5th Annual Buy Local Plan Compliance Report

My fifth Annual Report was released on 7 February 2023. In accordance with my responsibility to *"Make recommendations to Government on ways to improve the Buy Local Plan"*, Section 8 of that report identified 19 incomplete Recommendations For Improvement that I suggested should be addressed by the NT Government to maximise and enable measurement of the effectiveness of the Buy Local Plan, and to maximise Value for Territory procurement outcomes.

I received formal acknowledgement of my fifth Annual Report in a letter from the Hon. Paul Kirby MLA, Minister for Small Business on 24 March 2023. In the Ministers letter he reiterated that *"The NT Government remains committed to delivering value for Territory businesses and the Buy Local Plan"*.

I have again this year attempted to assess the progress made by Government over the past year in responding to my previous Recommendations For Improvement. To do this I have selected a rating for each recommendation from the following table;

Rating	Description
No Rating Assigned	Recommendation not adopted by Government
No Progress	No commitment and/or evidence of implementation
Limited Progress	Minimal commitment and/or implementation progress
In Progress	Noticeable commitment and/or implementation progress
Significant Progress	Implementation nearing completion
Complete	Implementation completed

My assessment has been made after due consideration of:

- Feedback received from industry;
- Feedback received from Government;
- Discussions with agency procurement staff and management;
- Comments and observations of the members of the Buy Local Sub-Committee;
- Observations made by me from procurement file reviews;
- Observations made by me from complaint review investigations;
- Results of Value for Territory Audits undertaken by agencies;
- Results of a survey undertaken by the Northern Territory Chamber of Commerce (NTCC Survey).<sup>1</sup>
- Published comments and observations made by The Auditor General of the NT;
- Published comments and observations made by the Independent Commissioner Against Corruption; and

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<sup>1</sup> Northern Territory Chamber of Commerce - "NT Government Procurement Industry Survey" September 2023 (refer [Section 9.5](#) for further detail).



- Anecdotal evidence.

**Table 3-1 – Progress Report** identifies each of the 19 incomplete Recommendations For Improvement referred to in my last Annual Report and provides my rating of the progress taken by Government to address each item since then.

Identified Opportunity For Improvement	Rating
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 <b>Refer Section 8.1 - Whole of Government Procurement and Reporting System of this report for further detail</b>	No Progress
Increased effort by agencies to undertake more effective contract management and reporting as required under procurement rules and policy <b>Refer Section 8.2 - Contract Management of this report for further detail</b>	In Progress
Better structured and improved career development pathways for procurement staff within the NT Government <b>Refer Section 8.3 - Procurement Staff Career Development of this report for further detail</b>	Significant Progress
Appropriate use of alternate tenders <b>Refer Section 8.4 - Alternative Tenders of this report for further detail</b>	Limited Progress
Improved accuracy and relevance of tender scoping specifications and information <b>Refer Section 8.5 - Tender Specifications of this report for further detail</b>	In Progress
Increased consistency and transparency of Local Content assessment and scoring <b>Refer Section 8.6 - Local Content Assessment and scoring of this report for further detail</b>	Limited Progress
Clear direction to grant recipients of how Buy Local policy intent is to be applied, assessed and enforced in respect to all NT Government grant funding <b>Refer Section 8.7 - Grants of this report for further detail</b>	No Rating Assigned
Wider and more detailed education of both industry and NT Government staff of the concept of Value for Territory, its benefits, how it is assessed, and its impact on procurement decision making <b>Refer Section 8.8 - Value for Territory of this report for further detail</b>	In Progress
Development of guidance for NT Government staff on how to assess Value for Territory in Tier 1 & 2 procurement activities <b>Refer Section 8.9 - Assessment of VFT in Tier 1 &amp; 2 procurement activities of this report for further detail</b>	Limited Progress
Determination of accurate across Government baseline data to inform the assessment of the effectiveness of the Buy Local Plan <b>Refer Section 8.10 - Across Government Baseline Spending Data of this report for further detail</b>	No Progress



Identified Opportunity For Improvement	Rating
Improvement in the production and retention of relevant documentation to support defensible decision making Refer <a href="#">Section 8.11 - Defensible Decision Making</a> of this report for further detail	In Progress
Consistent interpretation and application of the definition of a Territory Enterprise by procurement staff Refer <a href="#">Section 8.12 - Territory Enterprise</a> of this report for further detail	Complete
Improved pre tender market assessment and research by procuring agencies Refer <a href="#">Section 8.13 - Pre-Tender Market Assessment</a> of this report for further detail	Significant Progress
Improved consistency in scoring of Past Performance, Timeliness and Capacity Refer <a href="#">Section 8.14 - Improved Consistency in Scoring of Past Performance, Timeliness and Capacity</a> of this report for further detail	No Progress
Development of clear policy on when and to what level reference checks are required Refer <a href="#">Section 8.15 - Referee Checking</a> of this report for further detail	In Progress
Development of clear policy on how non NT Government past performance is to be assessed when assessing Past Performance and Capacity Refer <a href="#">Section 8.16 - Past Experience</a> of this report for further detail	Limited Progress
Improved compliance with Performance Reporting rules and contractor performance reporting Refer <a href="#">Section 8.17 - Contractor Performance Reporting</a> of this report for further detail	Significant Progress
Review of Section 6.2 of the Procurement Rules Refer <a href="#">Section 8.18 - Use of Alternative Procurement methods</a> of this report for further detail	No Progress
Review of Tier 1 procurement process and Tier level thresholds Refer <a href="#">Section 8.19 - Tier 1 Procurement Process and Procurement Tier levels</a> of this report for further detail	Limited Progress

Table 3-1 – Progress Report



## 4. Advocacy

I regularly engage one on one with industry participants, and more generally through industry bodies, seminars and conferences whenever opportunities arise. The number of consultations that took place are set out in [Table 5-1 – Consultations Undertaken by year](#).

My intention was to visit the regions twice this year, however I was only able to undertake one round of visits since the issue of my previous Annual Report. These visits occurred in April 2023 when I visited Alice Springs, Katherine, Nhulunbuy and Tennant Creek. I met with businesses and Government agencies in each location.



Engagement levels with industry vary in each region, depending upon the industry profile and level of economic activity within the region at the time, with higher engagement levels seen at the larger centres. Engagement is offered as either group forums or individual meetings, and is undertaken based on the regions requirements.

I note that in the results of the Northern Territory Chamber of Commerce Survey (refer [Section 9.5](#)) there is a comment

that is critical of my industry engagement efforts. The comment posed a question which asked “Does the BLIA visit businesses, or only industry groups where their own self interests bias any discussion?” Based on this comment it is apparent that I have more work to do in getting the message out that I am available for individual confidential business consultation opportunities. This is something that I intend to address this coming year.

Engagement levels with agencies varies depending upon regional agency presence and requirements.

The primary purposes of both industry and agency consultations are as follows:

- To facilitate improved education and awareness of the Government’s procurement policy position as articulated in the Buy Local Plan;
- To facilitate education and awareness of the concept of Value for Territory as envisaged under the Buy Local Plan;
- To provide opportunities to receive industry and agency feedback in relation to procurement related issues that affect them;
- To better understand factors that impact on industry’s ability to adequately comply with tender requirements;
- To provide an opportunity to present relevant procurement examples and observations to both industry and agencies, to assist in improving ongoing process management and tender submissions;
- To provide an opportunity to explain why the procurement process requires something to be done in a particular manner, and to receive suggestions for improvement to the process.

It is difficult to articulate the outcome of consultations as it is often the case that the parties will have a different perception of the value of the discussion. I assume that my engagements are generally seen as valuable as I continue to be used as a referral source and also to be invited to attend engagement opportunities by both industry bodies and Government agencies.

4.1. Tender Assessment and Award Times.

My own observations and industry feedback has highlighted that the lengthening time for agency assessment and awarding of tenders is an issue that is becoming extremely difficult for business to manage. This is measured by Government as the Tender Evaluation Cycle Time (TECT).

Government statistics are compiled on a quarterly basis for all Tier 3 and above contracts and are expressed as a multiplier of the time allowed for submission of tenders. For example if the tender response time is 14 days, and it takes an agency 42 days to assess and award the tender, then the TECT is expressed as 3.0 times. [Table 4-1 – WOG Tender Evaluation Cycle Time](#) shows the Whole of Government TECT for the last 24 months to September 2023;

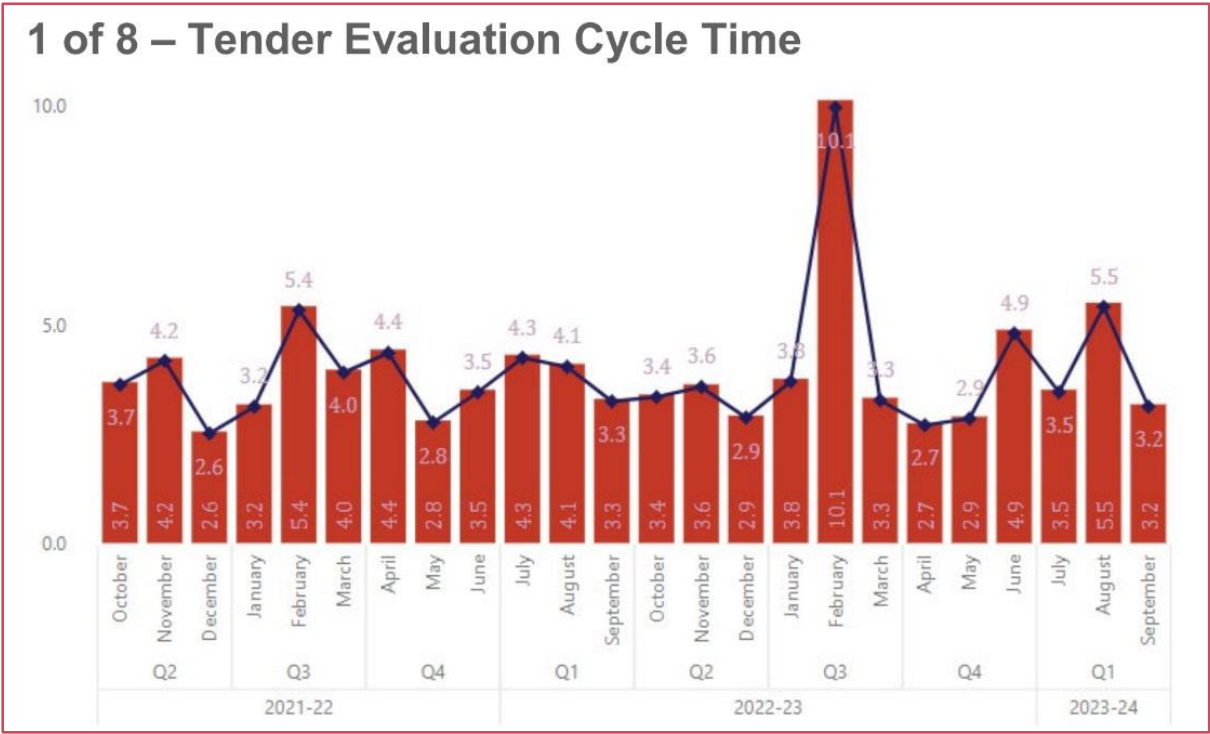


Table 4-1 – WOG Tender Evaluation Cycle Time

The annual average TECT for October 2021 to September 2022 was 3.8 times. The same average for October 2022 to September 2023 was 4.2. This is an increase (or deterioration) of 0.4 times, or approximately 10% from last year to this year.

The increased assessment and award times are placing undue pressure on business with the scheduling of resources to complete works (if awarded). Awards are occurring at later times not initially anticipated by the successful tenderer. There is also the issue of the rising cost and availability of inputs in a time of low labour capacity and rising inflation, where these costs may have been estimated up to twelve or eighteen months earlier. Tenderers are generally given the opportunity to revalidate their pricing, however there is a lack of understanding within industry that this presents both an opportunity to amend their pricing to allow for increasing

costs as well as amend the other components of their tender to update for current circumstances.

An added impact on tenderers is that where in the past they may have only tendered on a select number of contracts to lock away a forward works program, the delay in awarding contracts has meant they are now tendering for many more jobs in the hope that if they tender for more work it may fill gaps created by long award times. Due to the increased number of tenders being submitted this has increased the costs of tendering significantly, not to mention the additional resourcing required by agencies to assess an increased volume of tender responses.

## 4.2. The Pace of Change

I continue to feel the frustration that matters I advocate on behalf of industry are often dealt with too slowly by Government.

For example;

1. I have been recommending the establishment of an integrated whole of Government procurement management and reporting system since my initial Annual Report in 2018. This recommendation has only progressed to being referred to Department of Corporate and Digital Development for consideration this year.
2. The Value for Territory Assessment Framework was developed from industry input first considered in 2018. The Government announced the development and implementation of the framework in January 2020. It is now late 2023 and the finalisation of the rollout of Stage 1 of the framework is still not complete, with no firm commitment as to when Stage 2 will be rolled out.

Perhaps my expectations are unrealistic, but if Government is serious about ensuring the best Value for Territory outcomes, then I would have thought their appetite for the timely implementation of change would be greater.

## 4.3. Review of Northern Territory Government Procurement Framework and Practice

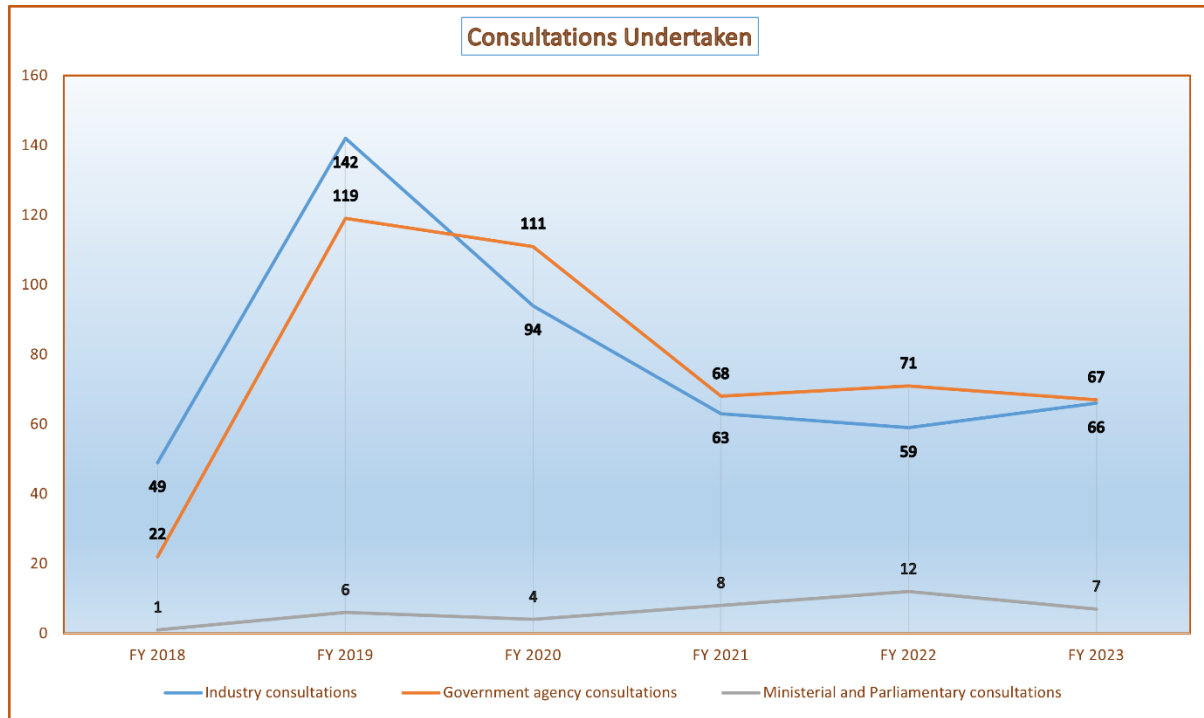
A contract was awarded to an external consultant in November 2022 to undertake a Review of the Northern Territory Government Procurement Framework and Practice.

I am aware that a final report has been delivered by the consultant and is currently being considered by Government. There is currently no indication from Government of which recommendations will be accepted and implemented. I hold concerns that the recommendations will deliver the stated objectives of the review.



## 5. Promoting Buy Local Principles to Industry and Government

The number of formal consultation activities undertaken by my office over the last 6 financial years are shown in [Table 5-1 – Consultations Undertaken by year](#).



**Table 5-1 – Consultations Undertaken by year**

The table shows that after an initial spike in formal consultation in 2019 and 2020, the level of ongoing consultations has subsequently settled to around 70 industry, and 70 agency consultations per year.

In addition to formal consultations I also regularly engage in informal consultation opportunities. During the 2023 financial year I undertook 92 recorded informal consultations. The promotion of both the Value for Territory and Buy Local principles remains at the core of all of these consultations.

The recent NTCC Survey ([Section 9.5](#)) asked respondents if they thought “*The Buy Local Plan has been effective in increasing the value of work awarded to local businesses*”. Of the 90 survey responses received, 34 (37.77%) agreed with the statement, 28 (31.12%) disagreed, and the remaining 28 (31.11%) neither agreed, disagreed, or did not know. It is encouraging to think that nearly 40% of respondents think the Buy Local Plan has been effective, however it is also concerning that just over 30% think it has not.

There is no statistical evidence available from either industry or Government to indicate if sourcing from NT businesses is growing year on year. Based on anecdotal evidence I believe that awareness of the value of buying locally continues to build both within the business community and Government agencies. I have no statistical evidence to support my conclusion, so I encourage both industry and agencies to continue to share their perspectives on this issue with me at any time.

I acknowledge the continuing efforts of both the NT Government and industry bodies to focus efforts around educating everyone on the benefits of supporting other local businesses, but as the survey results outlined above indicate, there is still more work to be done.

As the Buy Local Plan and delivery of best Value for Territory relates to all Government agencies, I would like to remind all Ministers and agency heads that I am available to discuss with them at any time the impact of the Buy Local Plan and Value for Territory on their agencies procurement process and activities. This is particularly important when consideration is given to going to market for significant procurements and projects.

My office is always available to assist and support agency staff with procurement related matters where appropriate.



## 6. Value for Territory Assurance Program

### 6.1. What is Value for Territory

The Buy Local Plan states:

***The primary goal of any NT Government procurement activity is to achieve the best Value for Territory outcome.***

The definition of Value for Territory is:

***Achieving Value for Territory involves determining the extent to which a response will deliver the best combination of whole-of-life costs and quality (non-cost) factors.***

***Factors that may be considered in assessing Value for Territory include:***

- ***fit for purpose and quality***
- ***whole of life costs (including support, warranty, licensing and disposal)***
- ***efficiency and effectiveness***
- ***timeliness***
- ***flexibility***
- ***innovation***
- ***local benefit***
- ***intangible costs and benefits***
- ***contribution to NTG priorities***

The Buy Local Plan provides further context to the concept of Value for Territory, wherein it states:

***Value for Territory does not just entail the lowest price, but broader considerations such as whole of life costs, support capabilities, past performance, commercial risk and local factors. NT Government's assessment of the local content criteria – and indeed all criteria – occurs with the overarching goal of achieving best Value for Territory.***

### 6.2. Value for Territory Assurance Program Framework

The Buy Local Plan tasks the Buy Local Industry Advocate with the responsibility to provide an independent audit and assurance role with respect to Government procurement (the Value for Territory Assurance Program). The Value for Territory Assurance Program is described in the NT Procurement Governance Policy as:

***The Value for Territory Assurance Program is an overarching program of audit and assurance activities that evaluates:***

- ***Internal Government compliance with the Procurement Framework (including the Procurement Act, Procurement Regulations, Procurement Governance Policy and Procurement Rules)***
- ***Internal Government and external industry compliance with the Buy Local Plan***
- ***The effectiveness of the Buy Local Plan***
- ***The impact of the Buy local Plan (including unintended impacts)***

All NT Government agencies currently undertake an annual Value for Territory Audit. A copy of the resulting internal Audit Report for the previous calendar year is required to be provided to my office by the 31st of March each year. The audits are designed to test the ability of agencies internal processes to deliver procurement activities that comply with **all** of the NT Governments Procurement Rules.

It is said by some agencies that Value for Territory Audits are time consuming, resource hungry, and deliver little value to the agency, and therefore should be discontinued. I understand the basis of this view, however, I believe that if these audits are curtailed or softened, there will be little or no appetite for providing ongoing scrutiny to oversee compliance with all Procurement Rules. If it is left to the agencies themselves, and/or the Auditor-General of the Northern Territory (who also has limited resources), then I fear agency non-compliance with the Procurement Rules will return to the high levels experienced prior to the introduction of the Buy Local Plan. This is not a desirable outcome.

Reliance on the Auditor-General of the Northern Territory to oversee whole of Government compliance with the Procurement Framework is unrealistic. An examination of the NT Auditor Generals reports to the Legislative Assembly dated February 2023 and August 2023 show that compliance with the Procurement Framework was only tested for a small sample of transactions for the periods covered by the reports, and that it did not cover all Government agencies.

Question 7 of the NTCC Survey (refer [Section 9.5](#)) asked respondents to respond to the following statement– “*The audit and assurance role of the BLIA is a vital component in maintaining confidence in the fairness of the NT Government procurement framework*”. Of the 90 responses, 59 (65.56%) agreed with this statement, with only 13 (14.45%) disagreeing. These responses reinforce the importance of independent oversight.

There are 5 key principles that must be applied in every NT Government 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; and
5. Environmental Protection

The procurement framework used by the NT Government is a Value for Territory procurement framework, which if followed should deliver the best Value for Territory outcome for every procurement activity undertaken. As a result, an effective Value for Territory Assurance Program focuses on all aspects of compliance with the procurement framework, not just those aspects relating to Local Content. Assessing agency compliance with all aspects of the procurement framework is therefore required.

My overall assessment on the delivery of Value for Territory is based upon information gathered by me through;

- Monitoring, reviewing and providing feedback on the results of the annual Value for Territory Audits undertaken by agencies;
  - Review of agency specific procurement activities;
  - Review of agency compliance with specific procurement rules;
  - Review of procurement complaints referred to me for investigation;
  - Observations made by the Auditor-General of the Northern Territory;
-



- Observations made by the Independent Commissioner Against Corruption;
- Industry consultation and feedback; and
- Agency consultation and feedback.

### 6.3. Outcome of Value for Territory audit reviews

19 NT Government agencies provided Value for Territory Audit Reports for the period 1 January 2022 to 31 December 2022 for my review and consideration. As outlined above, these reports are used by me as an integral part in my determination of whether agency



procurement processes are being adequately complied with to deliver best Value for Territory procurement outcomes.

The reports were due for submission to me by 31 March 2023. Some agencies requested, and were granted, extensions of time for lodgement of their reports.

Of the 19 Value for Territory Audit reports received by me, four agencies were unable to submit their reports by their due date, or the agreed extended due date. They were:

- Ombudsman's Office (due 31/03/23, received 11/05/23)
- Department of Education (due 28/04/23, received 02/05/23)
- Aboriginal Areas Protection Authority (due 31/03/23, received 31/05/23)
- Department of Infrastructure, Planning & Logistics (due 30/04/23, received 02/05/23)

Of the four late submissions this year the Department of Education, Aboriginal Areas Protection Authority, and Department of Infrastructure, Planning & Logistics, were noted as also being late in submitting their audits in the previous year. While there are often good reasons for not being able to meet deadlines, these agencies must improve their performance this coming year. It is unlikely that any extension of time to provide the reports past 31 March 2024 will be granted for these agencies.

For the second year running I have been able to conclude that all 19 agencies were likely to have delivered satisfactory Value for Territory through their procurement process during the period 1 January 2022 to 31 December 2022.

This past year I have been able to compile statistics of agency and whole of Government non-compliance rates for each individual Procurement Rule for the calendar years 2019 to 2022. [Table 6-1 – WOG Procurement Rule Non Compliance Rates](#) illustrates those rates over that four year period.

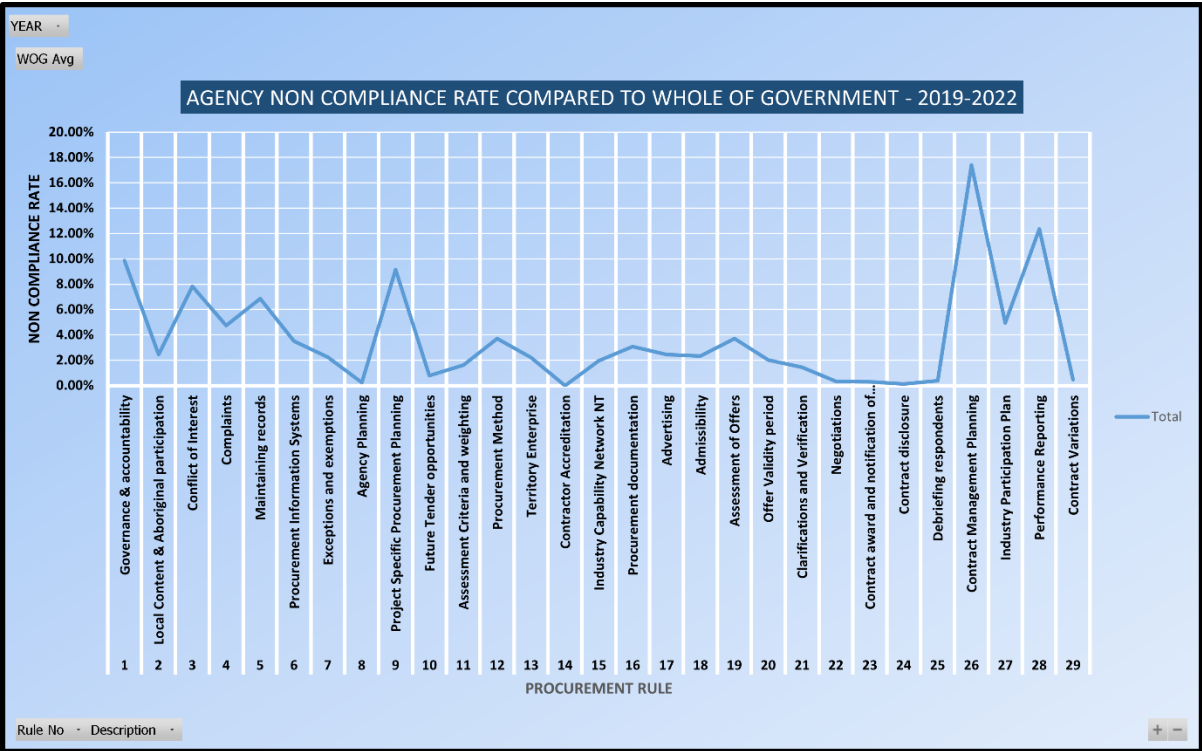


Table 6-1 – WOG Procurement Rule Non Compliance Rates

An examination of [Table 6-1](#) reveals that non-compliance rates are below 10% for all Procurement Rules except Rules 26 and 28. An examination of the annual data shows much higher non-compliance rates in the first year (2019), when non-compliance with Rule 26 was 27.78% and Rule 28, 26.04%. The current situation is a clear improvement, but there is still much work to be done. There is further discussion on this at [Section 6.4](#) of this report.

It is unrealistic to assume that non-compliance rates would ever be zero for all Procurement Rules, however I am encouraged by the ongoing reduction in non-compliance rates over time. I thank all agencies for the efforts that they have put into delivering this result and ask them all to remain focused on further improvement.

### 6.4. Compliance with Procurement Rules 26 and 28.

Breaches of Contract Management Planning (Procurement Rule 26) and Performance Reporting (Procurement Rule 28) remains an issue in Value for Territory Audits for nearly every NT Government agency. While the non-compliance rates identified are slowly decreasing, in my opinion they are still far too high.

Agencies often tell me that the non-compliance rates are high due to insufficient agency resources to ensure adequate compliance. While this may be a reason for the high non-compliance rates, it is not an excuse. When poor contract management planning occurs and ineffective or non-existent performance reporting is the result, the Government cannot just assume that they have received the best Value for Territory for the contract deliverable. Continued training and education for contract management staff is vital in addressing this issue.

Contractor Performance Reports are often not done or are done without sufficient thought and candour that reflect the agencies true assessment of performance. Sometimes this occurs

as the person preparing the report does not feel comfortable to record things which may lead to conflict with the supplier. While this is understandable, it is not excusable. Contractors need candid feedback to be able to identify areas for future improvement.

Poorly documented evidence of past underperformance by contractors may also lead to them being rewarded with future works. This is unlikely to lead to the best Value for Territory procurement outcome on both the current and the next procurement deliverable. In addition it will potentially make the next contract manager's job even more arduous.

## 6.5. Auditor General of the NT

The Auditor-General of the Northern Territory, in her most recent report to the Legislative Assembly<sup>2</sup> published the results of Agency Compliance Audits that were undertaken in respect to 16 agencies.

The following is an extract from the report.

*When spending public money, an NTG agency's role goes beyond reporting accurate accounts of how they have used public funds. No matter the size or complexity of transactions, spending of public money requires:*

*Accountability: Ensure public funds are used for the mandated role and the expected performance has been achieved. Aligning public spending to the agency objectives helps the public and Parliament to understand why money has been spent and what has been achieved.*

*Transparency: Reasons for awarding funding should be clearly explained and well documented. Without clear records about reasons for decisions, decision-makers may not be able to provide sufficient confidence that they are acting impartially, are effectively managing public funds, and that project benefits will be delivered.*

*Unbiased Approach: Applying a consistent procurement approach with clear criteria. Applicants should go through the same process and the criteria should be applied consistently across all applications.*

*Rather than being seen as an administrative burden, appropriate procurement processes and records help to support the quality of the decisions made and public's confidence in those decisions.*

*Procurement Rules (Section 5) describe the mandatory requirements that agencies must (should by exception) follow when undertaking procurement activities. Procurement Rules Exceptions and Exemptions (Rule 7 and Section 6) provides limited exceptions and exemptions from specific rule requirements that may be approved where their use is defensible.*

*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 the contract award.*

*Audits undertaken through my Office have identified non-compliance based on a small sample of transactions.*

### **Non-compliance with legislated procurement requirements.**

*At one agency, of a sample of 25 procurement related transactions tested:*

*Seven Tier 1 transactions for which approval to invite quotes was unable to be provided.*

- *Two Tier 1 transactions for which evidence of one quotation being obtained was unable to be provided.*
- *Two Tier 2 transactions for which evidence of authority to invite quotations was unable to be provided.*
- *Two Tier 2 transactions for which evidence of minimum quotations obtained was unable to be provided.*
- *One Tier 2 transaction for which evidence of notification of outcome was unable to be provided.*
- *One Tier 2 transaction for which a conflict of interest declaration form was unable to be provided.*

*At another agency, of a sample of 25 procurement related transactions tested:*

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<sup>2</sup> Northern Territory Auditor General's Office – Report to the Legislative Assembly – August 2023

- Two Tier 1 transactions had not been paid in accordance with the 20 day payment policy.
- The approvals to obtain a quote for four Tier 1 transactions were unable to be provided.
- One Tier 1 transaction was identified where no evidence was able to be provided that a minimum of one quote was obtained nor approval for direct purchasing was received.
- The approval to accept a quote was unable to be provided for two Tier 1 transactions.
- Five transactions were identified to have a total value of more than \$15,000 however were incorrectly procured as Tier 1 transactions. These procurements do not comply with the Tier 2 procurement requirements, specifically:
  - Agency Purchase Requisitions Online was not used;
  - A Procurement Specific Project Plan was not prepared;
  - Three quotes were not obtained;
  - A procurement assessment recommendation was not prepared;
  - The minimum assessment panel size of two was not met; and
  - The contract was not gazetted.
- The Procurement Specific Project Plans for two Tier 2 transactions were not endorsed by the Chief Financial Officer as required by the Agency's procurement delegations.
- Two Tier 2 transactions were identified where the approval for the alternative procurement method exemption was obtained from a delegate with insufficient authority.
- The conflict of interest form was not submitted by members of the assessment panel for one Tier 2 transaction. The agency advised that conflict of interest forms were not submitted as there was no conflict of interest. This is not consistent with the practice observed for other transactions where conflict of interest forms were submitted to declare no conflict of interest exists.
- The End User License Agreement of one Tier 2 transaction contained five indemnities, however the following requirements of Treasurer's Direction Guarantees and Indemnities had not been complied with:
  - An indemnity approval form was not prepared;
  - A risk assessment was not conducted;
  - Approval from the relevant delegate was not obtained; and
  - The indemnities were not recorded in the agency's Register of Contingent Liabilities, Guarantees and Indemnities.
- The notification of outcome was unable to be provided for one Tier 2 transaction..
- The approval for an addendum issued for one Tier 4 transaction was unable to be provided.

At a third agency:

- In three instances out of ten Tier 1 samples, there was no evidence that the requirement of obtaining at least one quotation was met (Procurement Rule 12.1). One out of the three instances had no documentary evidence to support the procurement.
- In three instances out of eight combined Tier 3 and 4 samples, there was no evidence of contract management plans in place (Procurement Rule 26.1). Further, in one instance there was no evidence that a performance report was completed for a Tier 3 procurement.

### **Procurement recommendations**

*I recommended management consider the root cause of non-compliance with mandated NTG policies and agency procedures. I further recommended management consider what additional processes are needed to strengthen procurement practices:*

1. Policies and procedures need to be accessible and pragmatic.
2. Policies and procedures need to be implemented from the top down and applied consistently within the agency.
3. Policies and procedures need to be reviewed and updated regularly and kept front of mind by referring to them often.
4. Policies and procedures need to be reinforced with regular training or knowledge sharing sessions. The more familiar personnel are with the requirements, the less likely they will be to make mistakes.
5. Compliance with policies and procedures needs to be checked.
6. Action needs to be taken to address non-compliance where non-compliance is detected.

The above non-compliance instances identified by the Auditor-General of the Northern Territory are consistent with the types of non-compliance instances noted by my office during my procurement activity reviews, as well as those identified in agency Value for Territory Audits.

The volume of non-compliance instances noted in respect to Tier 1 procurements (value less than \$15,000) continues to support my view that the Tier 1 procurement is too complex and not fit for purpose. I make further comment on this in [Section 8.19](#) of this report.



## 6.6. Use of Certificates of Exemption

The Procurement Rules permit agencies to utilise Agency Issued Certificates of Exemption to allow the use of alternate or restricted (non-standard) procurement methods.

On a monthly basis, my office reviews all contracts awarded in the previous month as recorded on Quotes and Tenders Online (QTOL). The appropriate use of Certificates of Exemption are considered during these reviews. The enquiries that I have made with agencies during the past year have shown an improvement in the quality of documentation for the reasons to support the use of certificates. I believe there are still instances where the use of certificates to support the selection of pre-determined suppliers occurs, however I believe that these instances continue to reduce.

I will continue to monitor the use of alternate procurement methods through the use of Agency Issued Certificates of Exemption to ensure that their use is justifiable and defensible.

## 6.7. Has Value for Territory been delivered?

The first stage of the Value for Territory Assessment Framework (Local Content assessment) was rolled out for use by all Government agencies in all procurements undertaken after the 4 October 2022. While this step was a long time coming, it has not been smooth. Not too long after rollout systemic problems were identified that required remedial rectification. These problems were identified by both industry and agencies, and have taken a considerable time to address, and led to some agencies having to develop system workarounds to be able to use the system.

The initial feedback on the framework was positive, however the enthusiasm for it dissipated as each new problem was identified. The second stage of the framework was initially planned for rollout by the end of March 2023. This rollout was subsequently postponed while the issues identified in Stage 1 were rectified.

At the time of writing this report there is still uncertainty if all problems in Stage 1 have been satisfactorily rectified, and there is still no firm commitment from Government as to when Stage 2 will be rolled out, but I believe it is unlikely to be before the end of June 2024.

Notwithstanding the above, the bulk of industry feedback I have received has been supportive of the new Local Content questions and scoring, as it is considered to be easier to understand and fairer to score than the previous scoring regime.

I review only a very small percentage of the total Government procurement activities each year. However, once again this year I have seen instances of procurement activities where I do not believe that the selection of the successful tenderer has delivered the best Value for Territory outcome. This number remains low however, and gives me sufficient confidence to conclude overall that agencies are focused on delivering Value for Territory through their procurement activities.

As noted in [Section 6.3](#) of this report I was able to conclude of the 19 agency Value for Territory Audit Reports I reviewed, all were likely to have delivered satisfactory Value for Territory through their procurement process during the period 1 January 2022 to 31 December 2022.

As stated in [Section 6.4](#) of this report I remain concerned about the high level of non-compliance with procurement Rules 26 and 28. These concerns continue to reduce my confidence that the NT Government is receiving the level of goods or services it has contracted

and paid for, and that due to the poor level of performance reporting, that it continues to deal with businesses that have not met an adequate level of service delivery in past contracts.

The continued poor contract management and performance reporting practices undermines my confidence that best Value for Territory is what is being delivered in all procurements. Notwithstanding this reservation, I have concluded that a very high percentage of procurement awards made by the NT Government in the past year are likely to have been determined based on the selection of the best Value for Territory outcome as anticipated under the procurement framework.

The assessment of whether or not Value for Territory has been delivered is subjective. In my view the optimisation of the delivery of Value for Territory by the NT Government through its procurement processes in the period since my last Annual Report remains at a high level.



## 7. The Buy Local Plan

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

The Buy Local Subcommittee was established under the Buy Local Plan, and is a subcommittee of the Northern Territory Procurement Review Board. It was established at the same time as the role of the Buy Local Industry Advocate.

Since publishing my fifth Annual Report the subcommittee has met on 3 occasions. The members of that subcommittee during the past year were;

- Denys Stedman – Buy Local Industry Advocate (chair)
- Andrea Moriarty – Kalo Real Estate – industry representative
- Kevin Peters/Daniel McCormick – ICNNT representative
- Greg Ireland – NT Chamber of Commerce representative
- Tom Harris – Civil Contractors Federation of NT – industry representative (part year only)

In addition, the chair of the Procurement Review Board, Mr Doug Phillips, has a standing invitation to attend as an observer at the subcommittee meetings, as does a representative from Procurement NT.

I thank the members for their input and counsel in respect to matters which the subcommittee has considered, and for their ability to bring a balanced industry related focus to our discussions.

I also thank the individuals, businesses and business groups who have been my eyes and ears in the business community, providing me with feedback and perspectives on procurement related matters that impact them. Without these perspectives I would be unable to undertake my role effectively.



## 7.1. Effectiveness of the Buy Local Plan

The measurement of the effectiveness of the Buy Local Plan is subjective in nature and continues to remain a challenge due to the reliability of whole of Government procurement data.

The ability to measure the effectiveness of the Buy Local Plan would be strengthened by incorporating a number of recommended changes into the procurement framework, as discussed in [Section 8](#) and elsewhere in this report.

The principles contained in the Buy Local Plan continue to receive support both from Government and industry regarding the importance of supporting Territory Enterprises and buying local.

## 7.2. Year on Year Comparison of Contracts Awarded

The reporting of agency and whole of Government spending covering all procurement Tier levels is still not available.

For the sixth consecutive year I urge the Government to commit the resources required to introduce a procurement management and recording system capable of capturing and accurately reporting this information at both an agency and whole of Government level.

The current NT Government systems can only provide NT Government contract award data for Tier 2 to 5 procurements (\$15,000 and above). The data does not include Government owned corporations and purchases made under pre-existing period/panel contracts during the reporting period.

**Table 7-1 – Annual WOG Awarded Contract Statistics** shows the number and value of Tier 2 to Tier 5 contracts awarded by the NT Government for the past 7 financial years to 2022/23, as provided to me by Procurement NT.

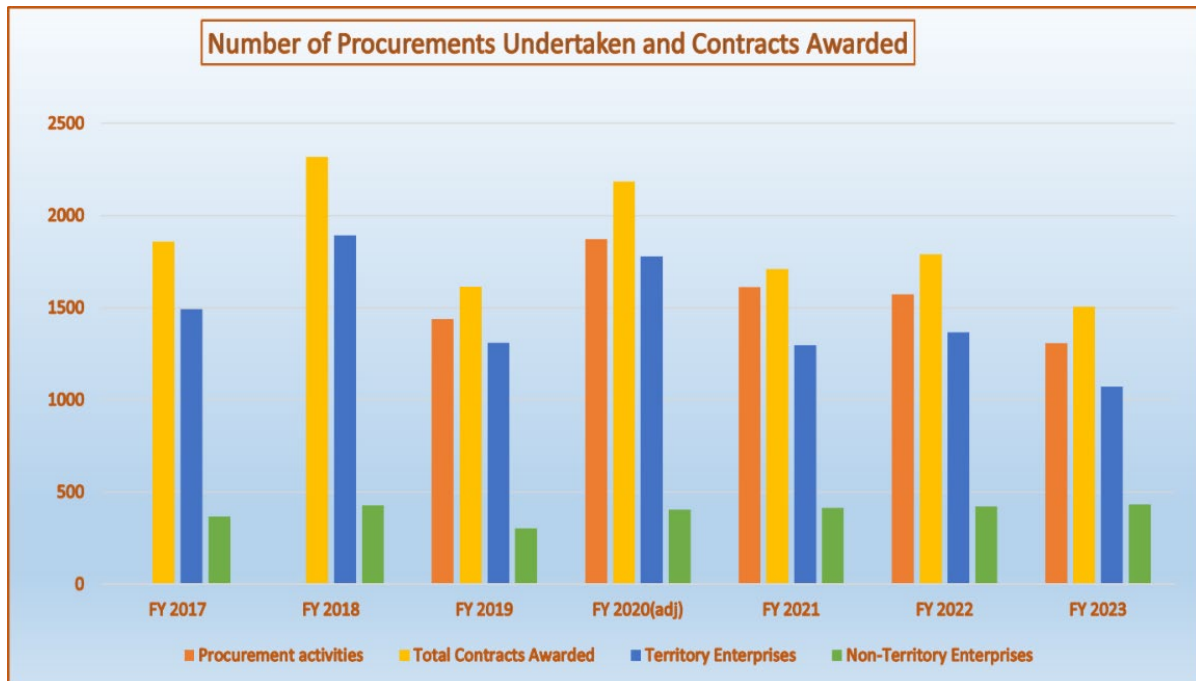
Financial Year	Total no. of procurement activities	Total Contracts Awarded		Contracts awarded to Territory Enterprises			
		No of contracts	Awarded Value of contracts	No of contracts	% of Total	Value of contracts	% of Total
2016/17	Not available	1860	\$657,297,081	1493	80.3%	\$536,519,272	81.6%
2017/18	Not available	2319	\$1,492,627,918	1892	81.6%	\$1,134,262,795	76.0%
2018/19	1439	1614	\$820,354,293	1310	81.2%	\$741,712,713	90.4%
2019/20	1872	2183	\$1,405,299,198	1771	81.1%	\$1,045,325,097	74.4%
2019/20 adjusted *	1872	2183	\$1,405,299,198	1780	81.5%	\$1,154,416,096	82.1%
2020/21	1610	1710	\$1,163,642,949	1297	75.9%	\$939,984,425	80.8%
2021/22	1573	1788	\$1,636,746,587	1367	76.6%	\$1,482,610,930	90.6%
2022/23	1307	1505	\$1,226,374,282	1073	71.3%	\$1,003,740,747	81.9%

\* The 2019/20 figures were significantly impacted as a result of the awarding of a 5 year panel contract for the provision of passenger and light commercial vehicles. The value of this contract was estimated to be \$150,000,000 over a five year period, and due to the contractual requirements of the vehicle manufacturers, 8 of the 11 awarded panel contractors are the manufacturers of the vehicles, which are reported for procurement purposes as not being Territory Enterprises. This is despite the fact that the sale and supply of all vehicles will be through NT based dealers associated with those manufacturers. When the figures for 2019/20 are adjusted to recognise all suppliers as Territory Enterprises (given the vehicle sales and delivery will all be through NT dealers) then the total value and percentage of contracts awarded to Territory Enterprises changes to the adjusted amounts shown in the above table.

**Table 7-1 – Annual WOG Awarded Contract Statistics**

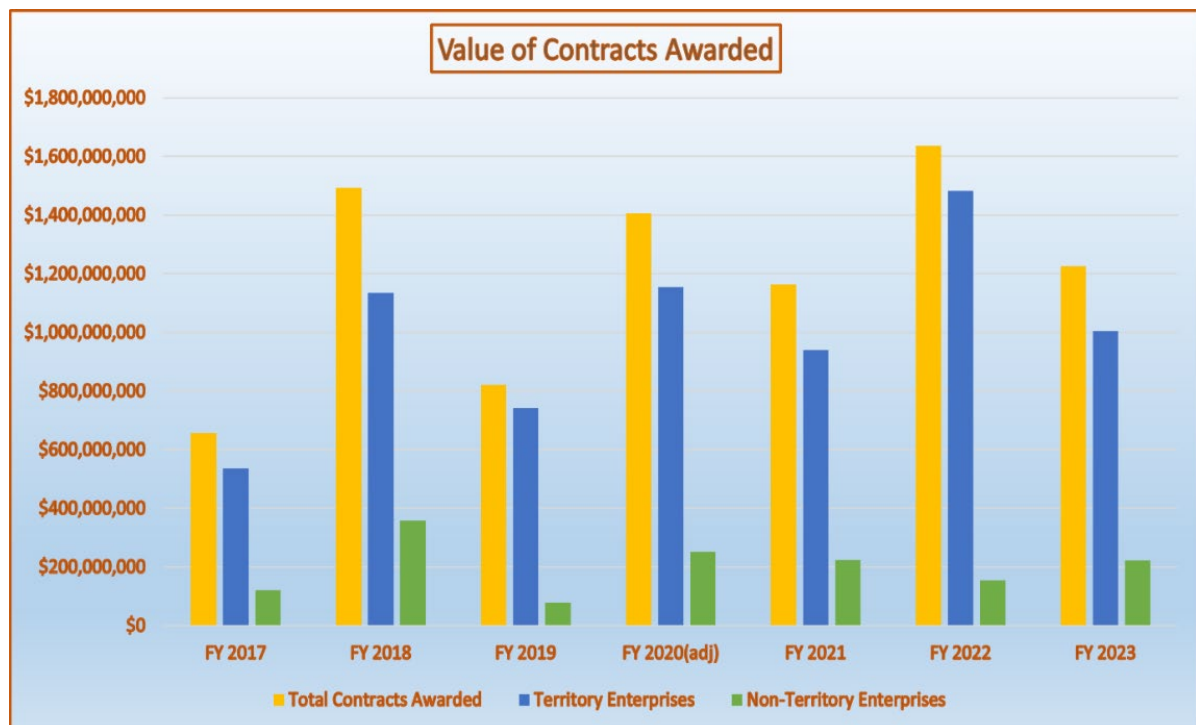


A yearly comparison of the number of procurement activities undertaken, and procurement awards to Territory Enterprises and Non-Territory Enterprises is provided at [Table 7-2 – Number of Procurements Undertaken and Awarded 2017-2023](#).



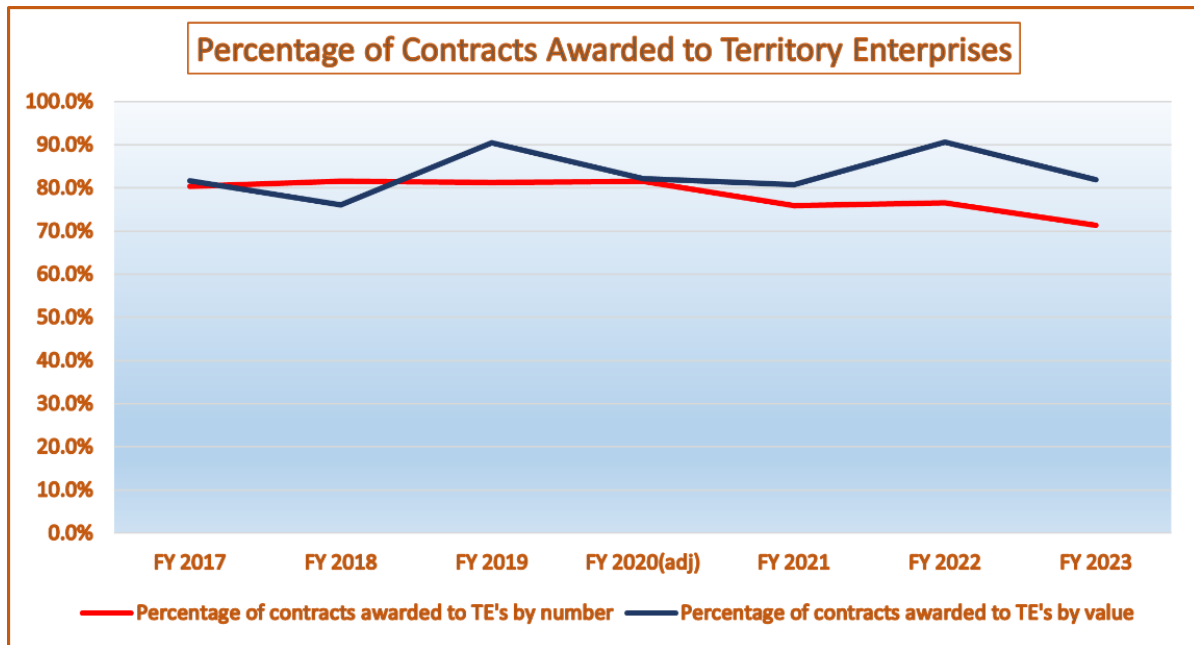
**Table 7-2 – Number of Procurements Undertaken and Awarded 2017-2023**

A yearly comparison of the value of procurement awards to Territory Enterprises and Non-Territory Enterprises is provided at [Table 7-3 – Value of Contracts Awarded 2017-2023](#)



**Table 7-3 – Value of Contracts Awarded 2017-2023**

A yearly comparison of the percentage of procurement awards to Territory Enterprises by both number and value is provided at [Table 7-4 – Percentage of Contracts Awarded to Territory Enterprises 2017-2023](#)



**Table 7-4 – Percentage of Contracts Awarded to Territory Enterprises 2017-2023**

The data provided to me by Procurement NT this year, which includes the comparative data for previous years, has again altered when compared to the data provided to me for these same periods last year. This is an example of why I continue to be uncomfortable to rely on statistical information extracted from the current Government procurement recording systems.

It should be noted that the total number of procurement activities per [Table 7-1](#) does not equate to the number of contracts awarded due to some procurement activities being awarded to multiple providers.

The procurement profile of the Government last financial year shows the following:

- The total number of procurement activities undertaken and contracts awarded are at their lowest level in the last seven years, albeit the value of the total contracts awarded last year was the fourth highest amount over the same period.
- Total value of contracts awarded to Territory Enterprises has also reduced significantly from the previous year, and reflects the same pattern as total procurement spend, being the fourth highest amount over the past seven years.
- The percentage of total contracts awarded to Territory Enterprises in 2022/23 has decreased significantly from previous years to a level of 71.3%, which is the lowest percentage since the introduction of the Buy Local Plan.
- The value of contracts awarded to Territory Enterprises of 81.9% has also shown a significant decrease when compared to the previous year's rate of 90.6% (which is the highest year on record), and is the fourth highest percentage over the past seven years.

The Buy Local Plan has been designed to ensure that the largest possible proportion of every dollar spent by the NT Government is retained within and delivers benefits for the Northern Territory economy and community. The above figures suggest that for the last financial year (2022/23) this objective has not been met when compared to results obtained in previous years.



Sustained benefit for the Northern Territory will only be achieved when spending is maintained at a consistent level, year on year, over a significant period.

### 7.3. Investigation of Complaints

The initial introduction of the Buy Local Plan produced a high proportion of complaints that focused on understanding why the cheapest tender did not get awarded the work, or how one tenderer was considered to be more local than another. While these topics are still a cause for concern for some industry participants the nature of recent complaints being reviewed has changed and now relate to more complex procurements and the nature of how they are being undertaken and assessed.

My last Annual Report noted a total of 17 formal complaints which were investigated in the year covered by the report. This year I have received a reduced number of 10 formal complaints which required review. This is a 41% year on year reduction from last year.

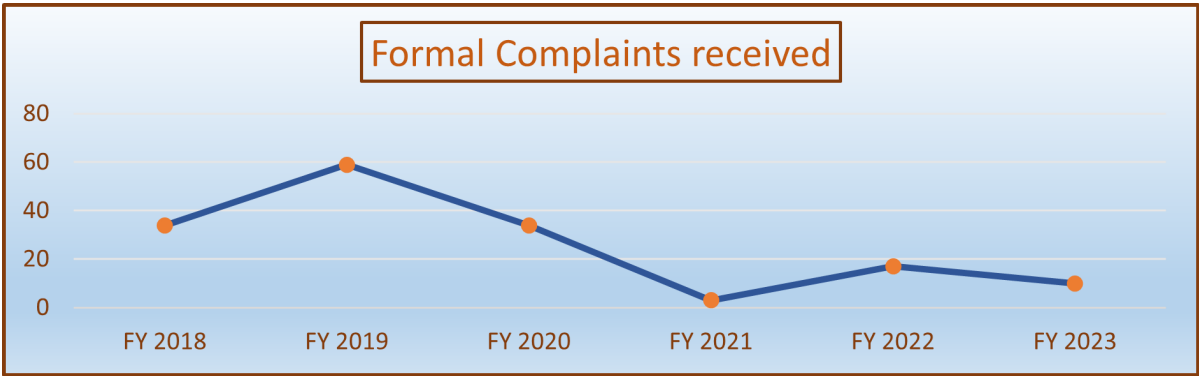
General economic activity has continued to remain at high levels throughout the Northern Territory over the past year, with demand for labour, goods and services often outstripping supply. This has resulted in industry activity remaining high. I believe that when industry is busy they tend not to complain as much as when they are not busy.

**Table 7-5 – Annual Summary of Complaints** sets out the number of formal complaints received and actioned by my office for the past 6 financial years.

Formal Complaints	FY 17/18	FY 18/19	FY 19/20	FY 20/21	FY 21/22	FY 22/23
Open complaints bought forward	-	8	18	6	2	5
Complaints received	34	59	34	3	17	10
Complaints closed	26	49	46	7	14	11
Open complaints carried forward	8	18	6	2	5	4

**Table 7-5 – Annual Summary of Complaints**

**Table 7-6 - Complaints Received by year** provides a graphical representation of the number of formal complaints received each year.



**Table 7-6 - Complaints Received by year**

In addition to the formal complaints I receive, I have also been involved in many other discussions with business owners in respect to concerns relating to specific procurement activities. These concerns have led me to undertake initial investigation into the matters to obtain further context which has then enabled me to provide the business with additional detail, context and options (such as debriefs or referral direct to ICAC), and therefore removed the requirement for the matter to be escalated to a complaint requiring formal review by my office.

## 7.4. Independent Commissioner Against Corruption (ICAC)

As a Public Officer as defined under the ICAC Act I have a mandatory obligation to report improper conduct, whether real or suspected. Improper conduct includes Corrupt Conduct, Misconduct and Unsatisfactory Conduct.

### 7.4.1. Matters referred to ICAC

Since the release of my last Annual Report I have referred 1 matter to ICAC.

### 7.4.2. Status of matters referred to ICAC

The status of the matter that I had previously referred and was unresolved at the date of my last Annual Report, and the matter I have referred in the last year, is as follows:

- That for the matter I referred in 2022, I was advised the evidence did not tend to show improper conduct had occurred and as such the matter was closed; and
- That for the matter I referred this year, that there was insufficient evidence of improper conduct, and therefore no further action was to be taken by the ICAC and the file was closed.

### 7.4.3. ICAC Agency Procurement Review of DIPL Katherine

On 16 October 2023 the ICAC, Mr Michael Riches, provided a Final Report to the Chief Executive Officer of the Department of Infrastructure, Planning and Logistics (DIPL), in relation to his *“Review of practices, policies and procedures of DIPL Katherine – Operation Southern”*.



The following is an excerpt from the Final Report:

#### Red flags in procurement

As I have said, government procurement activities are universally recognised to be a high integrity risk activity. There are a number of 'red flags' in procurement which might indicate wrongdoing. The Independent Broad-based Anti-Corruption Commission in Victoria helpfully summarised those red-flags as follows:

- tender specifications written to favour a particular supplier
- frequent use of exemptions, contract extensions, and quicker procurement processes to avoid competitive processes
- undeclared connections, relationships or interests with, and the acceptance of gifts and benefits from suppliers
- incorrect paperwork, incomplete records and minimalistic selection reports
- inadequate segregation of duties allowing a single person to request, award and pay for a service
- varying contracts after award to well over the procurement tier threshold, or to expand supply outside of the initial scope
- invoice splitting to avoid open process or to accommodate an individual's financial delegation limit.<sup>6</sup>

With those red flags in mind, I turn now to the feedback received from suppliers during the course of this review.

The Final Report summarised what the ICAC considered to be the overarching themes emerging from the review as follows;

1. Managing conflicts of interest in respect of procurement activities
2. Procurement tier splitting
3. Adherence to procurement rules, variations and extensions
4. Panel Assessments, Shortlisting and Delegations
5. Recordkeeping
6. Training
7. Internal audit and policy review

The Final Report outlined in detail the findings relative to each of the above themes, as well as making recommendations for DIPL's consideration in respect to each theme. There were 18 recommendations in total, and in principle support for adoption of each recommendation has been received from DIPL by the ICAC.

I note the ICAC will be providing a General Report about the review to Parliament in due course.

The above themes mirror matters that have previously been observed and commented on by my office, not just in respect to DIPL, but more broadly all Government agencies.

A copy of the Final Report has recently been published by DIPL on its website – it can be found at <https://dipl.nt.gov.au/strategies>.

I applaud DIPL's action in voluntarily publishing the Final Report.

#### 7.4.4. ICAC Procurement Investigations

Table 6 of the Office of the Independent Commissioner Against Corruption NT Annual Report 2022-23 shows that of the 10 investigations commenced by the ICAC during the year, two were in respect to improper procurement processes. This was the same number of procurement related investigations that were commenced by the ICAC during 2021-22.

In his 2022-23 Annual Report the ICAC Commissioner observed the following;

*"I have observed, amongst a range of public bodies, repeated instances of failures to abide by proper process, a lack of clear policies and systems, and a lack of effective management and audit processes. Much of what I have observed is not the consequence of intentional wrongdoing, but rather what I think is a lackadaisical approach to good governance, effective management and robust process."*

My observations are consistent with the Commissioners'.

The ICAC Commissioner also made the following comments specifically in relation to procurement;

*"Allegations of impropriety in procurement figure prominently in reports to my office. Procurement activity is universally acknowledged to be a high corruption-risk activity. Significant sums of public money are expended in procurement activities and members of industry who bid for Government work are entitled to expect a level playing field free of improper influence or motives. Public bodies engaged in procurement activities must have in place processes to minimise the risk of impropriety and to maximise the chance of detecting impropriety if it occurs."*

*Procurement risks are amplified in the NT because of its small population size, and relatively low numbers of potential suppliers. While buying local is to be applauded, it can create a circumstance where suppliers, and Government decision makers, become so well known to one another that risks of improper decision making are heightened. That risk is enlarged even further in regional and remote locations, where decision makers and suppliers are part of the same small community. Over the coming year I intend to prepare some educational material as to how such challenges can be addressed in a way that does not stifle Government decision making and the advancement of economic development."*

I look forward to seeing the Commissioners educational materials when they are released.

## 7.5. Authority of the Buy Local Industry Advocate

The authority to undertake my role is not defined by any specific statute.

My role is outlined in Section 7 of the Buy Local Plan, which states;

*"The Buy Local Industry Advocate ensures that Territory enterprises are provided full, fair and reasonable opportunity to compete for Government contracts, that Value for Territory is considered in all aspects of Government contracting, and promotes the adoption of Buy Local principles by industry".*

My authority to request information from agencies is contained in Procurement Rule 1.7. In addition Procurement Rule 4.7 requires complaints received by agencies relating to the implementation or adherence with the Buy Local Plan to be referred to me.

As local content is only one component of Value for Territory, I will continue to ensure I consider all aspects of procurement policy and process to ensure that the best Value for Territory outcomes are being delivered in all procurement activities I review.

## 7.6. Unintended Consequences

This year I have not identified any new unintended consequences from the application of the Buy Local Plan.

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## 8. Recommendations For Improvement

All of my previous Annual Reports have identified matters that in my opinion presented opportunities for the NT Government to strengthen and improve the procurement framework to deliver more consistent Value for Territory outcomes, strengthen the intent of the Buy Local Plan, and enable meaningful measurement of the effectiveness of the Buy Local Plan.

I now receive six monthly progress updates from Procurement NT to advise the status of the progress of the Government's response to all outstanding recommendations made by me. These updates occurred in May and November of this year.

### 8.1. Whole of Government Procurement and Reporting System

There still does not exist one single whole of Government procurement management system that collects, collates and reports all procurement information.

For any reliable assessment of the effectiveness of the Buy Local Plan to occur reliable baseline and ongoing spending data needs to be captured and reported at an agency level which can then be consolidated into whole of Government data. I continue to hold the view that this information would also provide significant benefit to agencies in monitoring and controlling their entire procurement spend.

I have been advised that this recommendation has been referred to the Department of corporate and Digital Development "for consideration". I have received no indication of what consideration has been given to it. I still do not understand why the NT Government does not see the benefits in having a single integrated procurement management and reporting system for use right across the Government.

The development of standalone agency led initiatives to address this matter is not a sustainable or sensible solution from a whole of Government perspective. I again call on the Government to establish 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, before the investment into agency led specific solutions becomes any greater.

Due to the Governments continuing lack of commitment to address this recommendation I consider the progress of advancing the recommendation over the past twelve months as **No Progress**.

### 8.2. Contract Management

The importance of effective contract management cannot be understated.

Poor contract management can lead to paying for goods and services which are not delivered on the terms anticipated in the original contract. It can also lead to continuing to engage with poor performing contractors who continue to deliver sub-standard results.

#### 8.2.1. Contract Management Planning

My review of Value for Territory Audit Reports this year indicated that instances of non-compliance in the application of procurement rules relating to contract management planning has improved markedly in some agencies, while across the whole of the NT Government it

continues to slowly improve. The non-compliance rate as per [Table 8-1](#) shows that it has improved from 16% last year to 11% this year, having come from a non-compliance rate of 28% back in 2019.

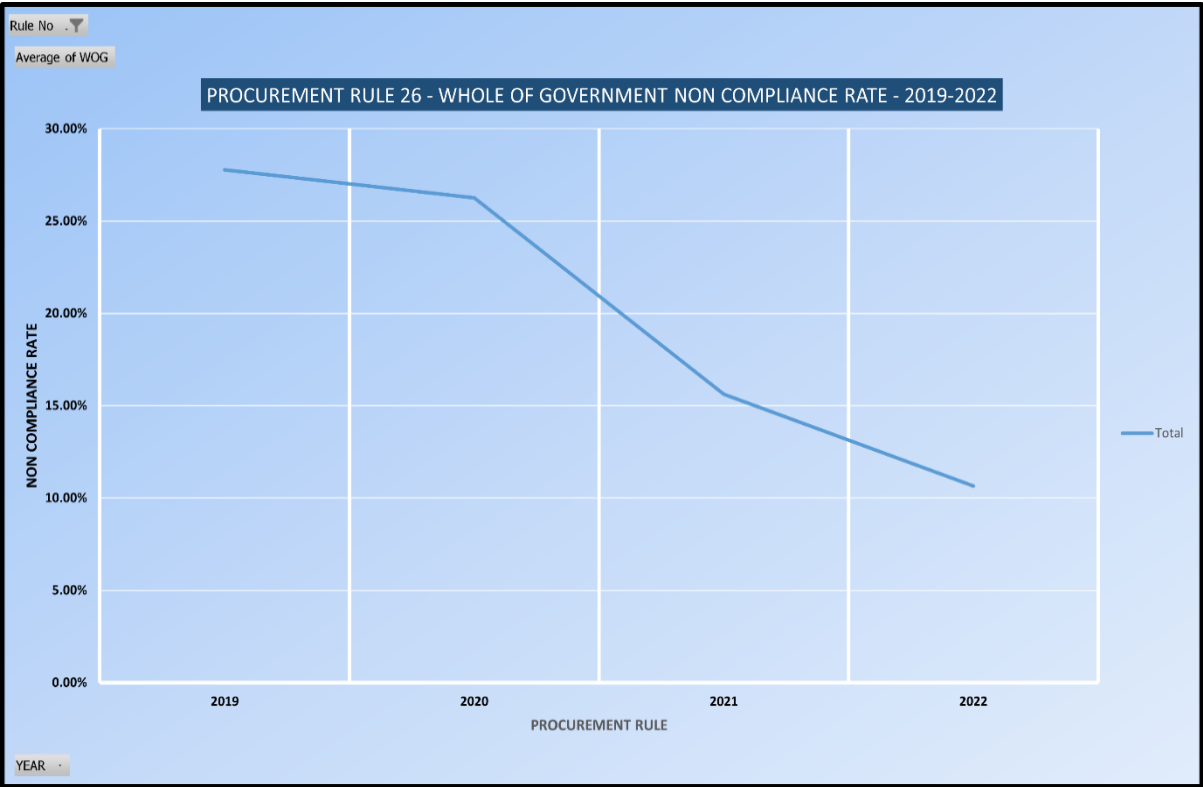


Table 8-1 – WOG Non-Compliance Rate for Procurement Rule 26 – 2019-2022

There has been an increased focus by agencies over the past year to increase staff capability in Contract Management Planning, with additional internal training resources becoming available. This has no doubt had a positive effect in the improvement shown.

The progress made is admirable and should be acknowledged, however with a non-compliance rate above 10% there is clearly still more work required. I consider the improvement of compliance with the Contract Management Planning rules across the whole of Government remains **In Progress**.

8.2.2. Contract Management

The Value for Territory Audit Reports provided to me by agencies this year again identified that poor contract management practices continue to be an ongoing non-compliance issue for many agencies. They also identified that some agencies have made significant effort to improve their practices, and I recognise and thank them for the effort they have made.

Unfortunately this is not the case with all agencies, and there are some who still need to do a considerable amount of work in this area to bring themselves in line with best practice.

As a Government the overall non-compliance rate for Procurement Rule 28 – Performance Reporting, has worsened from the previous year, 7% non-compliance up from 3.5% the previous year. [Table 8-2](#) illustrates the non-compliance rate across the whole of Government for the last four years, which shows an overall encouraging downward trend from a high of 26% four years ago.



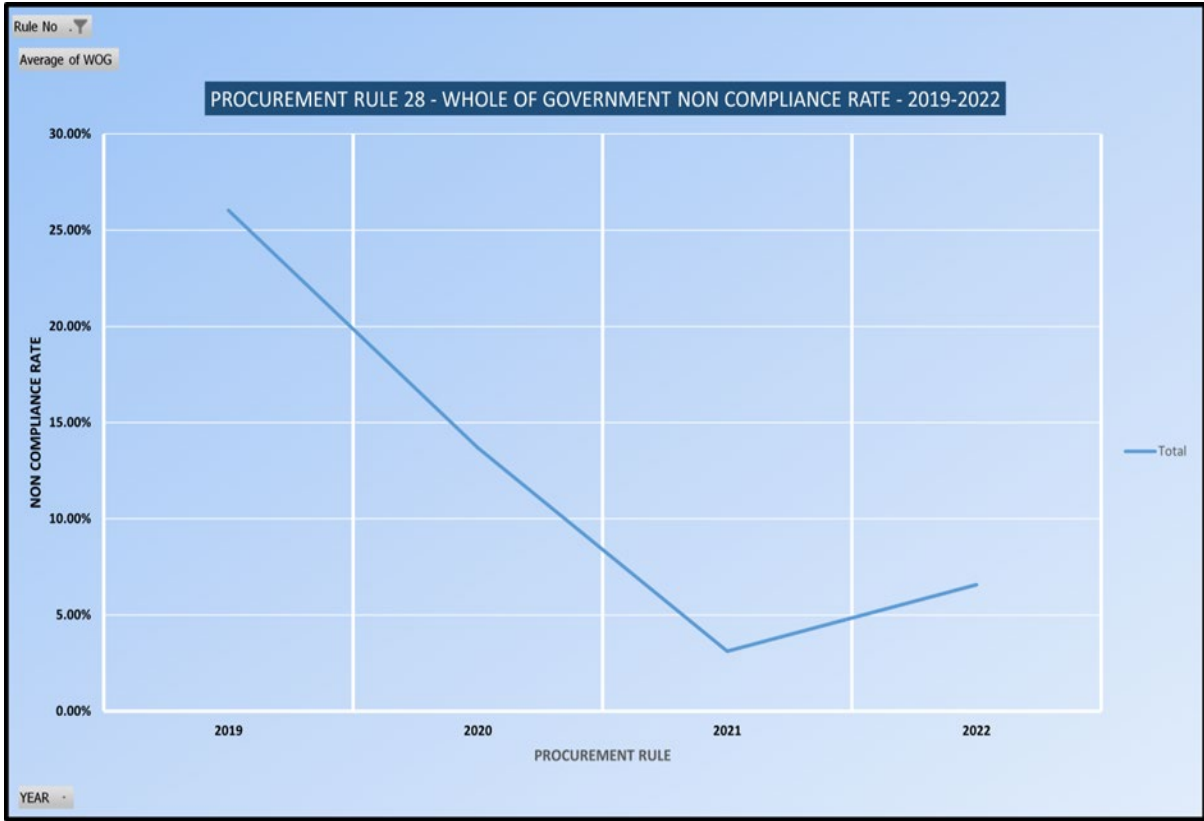


Table 8-2 - WOG Non-Compliance Rate for Procurement Rule 28 – 2019-2022

Changes in contract management practices and training have occurred. What has not yet occurred is a subsequent improvement in non-compliance rates. I consider improvement in effective contract management processes remains **In Progress**.

8.2.3. Trax

The Government have now mandated that all agencies must commence to use Trax (or another approved Contract Management System) for contract management. The mandatory use of this system is something I have been advocating for some time now.

- Agency implementation of Trax has been mandated as follows:
- Stage 1 – All new Tier 3 and above contracts – from 1 January 2024
  - Stage 2 – All current Tier 3 and above contracts – from 1 July 2024

I note that there are several agencies who have already commenced implementing the use of Trax (or other approved systems) well in advance of the mandated timeframes, and I acknowledge the commitment they have shown.

The use of Trax has been the subject of some criticism by users, however I understand that over the last year there has been a significant amount of work undertaken to rectify the issues identified by the users. The standardisation of the contract management system using Trax should lead to further improvements in compliance with both Procurement Rules 26 and 28.

The use of Trax is not yet fully implemented and will not be until 1 July 2024, however I consider that implementation of this recommendation has made **Significant Progress**.

### 8.2.4. Training

There has been increased education and training in respect to Contract Management available to NT Government staff this last year, coming off the back of nearly two years when there was limited or no training available.

I am advised that 675 staff completed the “Introduction to Contract Management” module of the internal training program for the 2022/23 financial year, and that 75 staff attended a 2 day advanced contract management course. In addition, there were 15 staff who completed a Certificate IV in Procurement and Contracting in October 2023.

Internal across Government communications have also been issued reminding staff about the importance of contract management.

These are pleasing developments, the impact of which are unfortunately not reflected in this year’s non-compliance rate. Hopefully significant improvement will be noted next year.

Last year I considered the matter to be complete, subject to ongoing use. The level of training completed indicates that the training is being well supported. I now consider the matter **Complete**.

### 8.2.5. Conclusion

My assessment of the progress on each of the four components of this recommendation varies between In Progress to Complete.

Progress has been made in respect to all of the above areas, some of it significant. Overall, I consider the progress of advancing this recommendation over the past twelve months remains **In Progress**, and I look forward to seeing further positive results in this area next year.

## 8.3. Procurement Staff Career Development

An accredited procurement training contract was awarded to an external training provider in April 2023, with the first Certificate IV course being successfully completed by 15 staff in October 2023. Additional Certificate IV courses are planned or underway, and Diploma and Advanced Diploma courses are scheduled for next year.

I am advised that for the 2022/2023 financial year a total of 4,648 internal eLearning procurement modules were completed by agency staff. This number is consistent with the previous year.

In addition to the above training opportunities, the Department of Infrastructure, Planning and Logistics has developed and implemented agency specific contract management training for construction contracts, and other agencies have developed their own agency specific contract management training.

As I have stated before, training is an ongoing requirement if Government is to ensure that new staff are adequately trained, and existing staff are kept up to date with changes. The progress to re-establish training was slow, but the staff engagement levels reported over the last year demonstrate solid support for the training. The progress that has been made in this area is commendable.

The commitment to deliver this framework has now moved into delivery. I consider the progress of advancing this recommendation over the past twelve months as **Significant Progress**, and note that next year this recommendation may be considered to be complete.

## 8.4. Alternative Tenders

In April 2020 Procurement NT undertook to develop a process to identify ways to strengthen guidance for agencies on how to consistently assess alternate tenders.

In May 2023 Procurement NT prepared a draft guide which was provided to the Government's Procurement Reference Group for consideration and feedback. Some concerns about the draft were raised, and I am advised that the guide should be completed by the end of March 2024.

Due to the limited progress that has been made in respect to this recommendation I consider the progress of advancing this recommendation over the past twelve months as **Limited Progress**.

## 8.5. Tender Specifications

The accuracy and relevance of tender scoping specifications and information remains an area where I continue to receive negative feedback from industry.

During the 2022/23 financial year the following training was undertaken;

- 83 staff completed an externally run Scope Training course; and
- 601 staff completed the internal online course – How to Write a Scope of Requirement Document

I acknowledge the Government's progress in providing appropriate training for staff.

The Department of Corporate and Digital Developments' procurement services group continue to support agency staff to develop scopes, however they also rely on subject matter experts to ensure specifications are appropriate.

Previously I have commented that procurement is sometimes tasked to agency staff who have neither the technical expertise nor the experience to understand the full nature of the specific procurement requirements. I have also commented that this was not a criticism of these staff, but an acknowledgement of the fact that expertise and experience is not always available when needed. I believe this is still the case.

I acknowledge the Government's efforts made over the last year to ensure agency staff have been able to access appropriate training.

While negative industry feedback on this issue remains, I consider there has been progress made by the Government in advancing this recommendation over the past twelve months. The availability to access the necessary technical and professional skills within the NT will continue to hamper the Government's ability to deliver this recommendation for the foreseeable future, and therefore I consider it remains **In Progress**.

## 8.6. Local Content Assessment and scoring

I believe the consistent and defensible assessment of Local Content has improved this year, due largely to the (incomplete) rollout of Stage 1 of the Value for Territory Assessment Framework, however there is still work to be done.

Initial feedback towards the framework from both industry and agencies was positive, however this positive reaction diminished as system and process issues began to cause user issues for both industry and Government.

Stage 1 of the Value for Territory Assessment Framework was mandated for use by all Government agencies from 4 October 2022, however some agencies ceased using it part way through the year due to some of the user problems experienced.



Agency issues predominantly stemmed from inadequate user training and guidance, and back-end systems not working correctly. Industry issues related to inadequate understanding of how the new framework worked in practice, and changes to the process to complete Tender responses which either did not work correctly or caused additional reworking.

I am advised by Procurement NT that all system issues will be rectified by 31 December 2023 and that internal guidance materials are now available for agency staff. In addition, an industry facing “Terminology Guide” is currently being developed for tenderers, and should also be available by 31 December 2023.

The resolution of the problems referred to above has also delayed the proposed Stage 2 rollout, which was originally scheduled for March 2023. Stage 2 has been deferred until all issues with Stage 1 are satisfactorily resolved. I believe it is unlikely that this will occur before the end of June 2024.

Despite the problems encountered I have received some positive feedback from industry in relation to the nature and relevance of Local Content questions being asked, and the transparency and consistency around the scoring of responses to those questions. I have received more positive feedback than negative.

In my opinion, the delivery of the Value for Territory Assessment Framework has been poorly handled by the Government, with significant delays and many missed timeframes. In my last Annual Report I considered that the Government had made significant progress in implementing the framework, however due to the problems encountered post rollout of Stage 1, and the subsequent delay in the rollout of Stage 2, I consider that there has been **Limited Progress** on implementing the framework this year.



## 8.7. Grants

I am regularly reminded that Grants are not covered under the Procurement Act 1995, and that the Grants Framework is administered by the Department of Chief Minister and Cabinet.

I am also reminded that I have no remit to oversight and review grant spending to ensure it is delivering the best Value for Territory outcomes.

It is apparent to me that the Government has no interest in engaging with me in respect to the application of the Buy Local Plan to the appropriation of grant funding by recipients.

Given the Government's reluctance to engage with me on this matter I have no choice other than to determine **No Rating Assigned** on whether any progress has been made on this recommendation during the past year.

## 8.8. Value for Territory

The concept of Value for Territory remains open to interpretation, however the previously wide divergence of views continues to narrow.

During the past year the Government released a guidance note titled "*Value for Territory Assessment – A guide for tendering with the Northern Territory Government*". This positive step could be further strengthened by development and inclusion of an additional eLearning module for procurement staff which covers the concept of Value for Territory and the Buy Local Plan.

I consider that this recommendation remains **In Progress**, and will remain so at least until the Value for Territory Assessment Framework is fully implemented.

## 8.9. Assessment of VFT in Tier 1 & 2 procurement activities

In my 2<sup>nd</sup> Annual Report released in December 2019 I first raised the matter of the development of guidance for consistent approaches to the assessment of Local Content and Value for Territory in Tier 1 & 2 procurements.

I am advised that Procurement NT, Department of Corporate & Digital Development, and Department of Infrastructure, Planning & Logistics have agreed to simplify the assessment approach for Tier 2 procurements, however this has not yet been finalised. In addition, the Government is relying on the Value for Territory Assessment Framework to provide further clarity, however due to its delayed rollout this had not yet had any impact on Tier 2 procurements.

In respect to providing guidance for Tier 1 procurements the Government is relying on the outsourced Procurement Framework Review to address the matter, however I hold reservations that this matter will be addressed.

Like many other procurement related matters, progress remains slow. I consider that there has only been **Limited Progress** in implementing this recommendation this year.

## 8.10. Across Government Baseline Spending Data

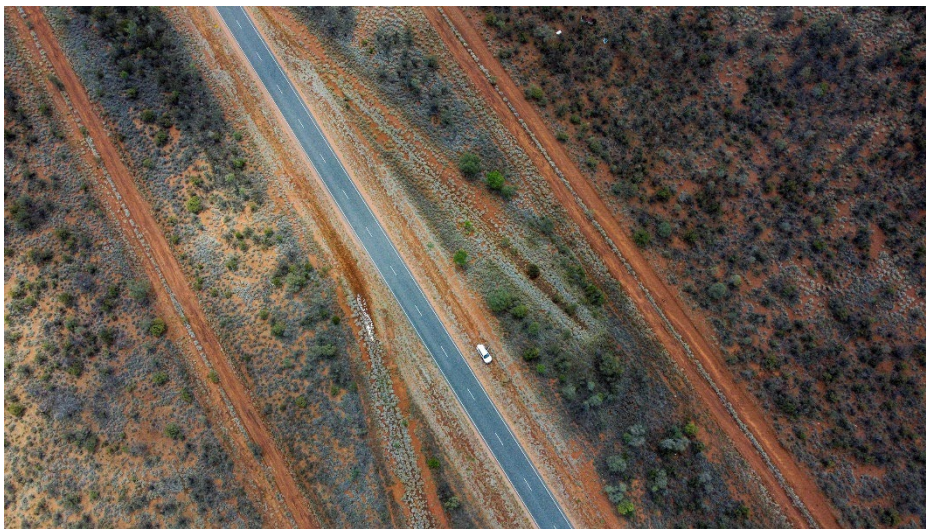
All of my previous Annual Reports have identified that there was no accurate across Government baseline spending data established at the introduction of the Buy local Plan, upon

which subsequent periodic comparisons could be made to measure changes. The lack of accurate baseline information remains.

Similar to the recommendation contained in [Section 8.1](#), I have been advised that this recommendation has been referred to the Department of Corporate and Digital Development “for consideration”. I have received no indication of what consideration has been given to it.

The absence of this information continues to leave me unable to make a quantifiable year on year comparative assessment of the effectiveness of the Buy Local Plan based on verifiable data.

I remain unable to reliably report on the effectiveness of the Buy Local Plan and will continue to do so until accurate baseline information is available. Given that the Government has done nothing this past year to address this matter I consider that **No Progress** has been made on this recommendation this year.



## 8.11. Defensible Decision Making

In early October 2023 Procurement NT updated their internal guidance template “P01 - Defensible Decision Making”. The updating of the template will assist procurement staff in understanding the basis of what a defensible decision is, however it should not be assumed that all procurement staff are aware of the existence of the template, let alone its content.

Proper consideration and documentation of decisions remains an issue. I acknowledge that instances that come to my attention of poorly constructed procurement files which do not contain adequate evidence to support defensible decision making or the procurement outcome reached are reducing.

The importance of adequate and relevant record keeping should remain a priority for all procurement staff regardless of the system used to manage the process. Properly documented defensible decisions protect the decision maker, the agency and the Government from criticism and potential further action.

I consider that due to the improvements noted this year, when considered with the further improvements that can still be made through the rollout of the remaining components of the Value for Territory Assessment Framework, that this recommendation remains **In Progress**.

## 8.12. Territory Enterprise

The definition of a Territory Enterprise has not changed since the inception of the Buy Local Plan. It is as follows:

***A Territory Enterprise is an enterprise operating in the Northern Territory, with a significant permanent presence in the NT and employing NT residents.***

My previous Annual Reports have noted that the instances of incorrect classification of Territory Enterprise status has significantly diminished. This continues and is now something that rarely occurs.

The determination of the Territory Enterprise status of a business will at times remain difficult, however I am pleased by the improved understanding of Government procurement staff.

Due to the low volume of incorrectly recorded Territory Enterprise status of awarded tenderers noted by me over the past year I consider that the system is largely operating to deliver the correct outcomes. I therefore consider that this recommendation is now **Complete**, however I will maintain a watching brief through my monthly review of awarded contracts.

## 8.13. Pre-Tender Market Assessment

Procurement NT has made Certificate IV and Diploma procurement courses (including modules on procurement planning) available to procurement staff over the past year.

In addition to the above training opportunities ICNNT have delivered individual agency training on market assessment and engagement with ICNNT. Further ICNNT and Procurement NT knowledge share sessions are planned for 2024.

Situations where procurement planning tends to default to a known supplier (either within or outside the NT) without consideration of other potential providers capabilities or products available in the NT still occurs, but I believe has further diminished this year.

In order to optimise Value for Territory outcomes proper pre-tender market assessment must occur. I consider there has been **Significant Progress** made on this recommendation this year.

## 8.14. Improved Consistency in Scoring of Past Performance, Timeliness and Capacity

The introduction of the Value for Territory Assessment Framework is Government's response to addressing the issue of inconsistent scoring of Past Performance, Timeliness and Capacity.

This remains Governments response. Nothing has changed as the Value for Territory Assessment Framework has still not been delivered.

Due the inability to deliver the Value for Territory Assessment Framework this year, I consider that **No Progress** has been made on the implementation of this recommendation.

## 8.15. Referee Checking

The introduction of the Value for Territory Assessment Framework was Government's initial response to addressing the development of consistent guidelines for checking of referee's.

In October this year the Government also released an internal guide for procurement staff titled “A Guide to Reference Checks”. Given its recent release it is unlikely to have yet had any positive impact on improving consistency of reference checking.

The introduction of the Guide for internal use was a positive step forward on this matter, however the delayed delivery of the Value for Territory Assessment Framework is a continuing disappointment. Due to the mixed results in delivering these two measures I consider the implementation of this recommendation to remain **In Progress**.

## 8.16. Past Experience

Non NT Government past performance was to be addressed when assessing Past Performance and Capacity through the Value for Territory Assessment Framework. As stated elsewhere in this report the Value for Territory Assessment Framework has still not been delivered.

I note that “A Guide to Reference Checks” provides some guidance on how non NT Government past performance can be checked and recorded by procurement staff, however it does not provide guidance on what weight should be applied to this past experience for assessment purposes. In addition, given its recent release it is unlikely to have yet had any positive impact on improving consistency of the assessment of non NT Government past performance.

I consider the implementation of this recommendation to have made **Limited Progress**.

## 8.17. Contractor Performance Reporting

Poor contract performance reporting continues to be a significant risk to Government as it contributes to inaccurate perceptions of suppliers’ abilities, poor delivery outcomes and inaccurate assessment of past performance in future tender assessments. It also does not provide the contractor with appropriate and measured feedback to enable them to improve performance, where necessary. These outcomes do not support delivery of best Value for Territory procurement outcomes.

The mandating of the use of Trax across the whole of the Government, with phased implementation from 1 January 2024, is Governments response to this recommendation.

See [Section 8.2.3](#) of this report for more detail.

The progress on this recommendation is encouraging and leads me to conclude that there has been **Significant Progress** in implementing this recommendation.

## 8.18. Use of Alternative Procurement methods

I have previously raised concerns that Clauses 6.2 a) and 6.2.1 of Section 6.2 of the Procurement Rules appear to be ambiguous in respect to their application.

I was recently approached by Procurement NT to provide further clarity on what I considered the inconsistencies to be. These inconsistencies relate to:

- The application of an *E6.1 Alternative Procurement Method* under 6.2.1 a) and 6.2.1 b)ii are contradictory in intent and cumbersome in an instance where there is only a sole source supplier of Tier 1 goods or services, where that supplier is not a Territory Enterprise.



- The application of an *E6 Agency Issued Certificate of Exemption* under 6.2 can be applied where it is approved by the delegate, and it can be demonstrated that it will result in improved Value for Territory or is in the best interest of Government and industry. However, 6.2.1 c) provides that for Tier 4 and 5 procurements, agencies must only issue certificates of exemption for reasons detailed in table 6.2. It is conceivable that there are circumstances where agencies could justifiably issue a certificate of exemption in accordance with 6.2, but are prevented from doing so because of the operation of 6.2.1 c).

Given that I was not approached until very recently to provide clarity on this recommendation, I consider that there has been **No Progress** in implementing this recommendation.

## 8.19. Tier 1 Procurement Process and Procurement Tier levels

The scope of works contained in the Procurement Framework review recently undertaken by the Government (refer [Section 9.1](#) of this report) requested the successful consultant to consider this matter in its review.

The Government is yet to make a decision on which report recommendations (if any) are to be adopted.

I am therefore unaware how much progress has been made on the matter and I consider that there has only been **Limited Progress** in implementing this recommendation.



## 8.20. Tender Revalidation

When a Request for Tender/Quote is issued it includes a validity period during which time the tenderers response will be assessed. Generally this period will be a number of weeks or months as determined by the agency after consideration of how long they believe it will take to assess

and award the tender/quote, and also what period of time it is fair and reasonable for tenderers to be held to their commitments.

If a tender cannot be awarded before the expiration of the validity period, agencies are required to request tenderers to revalidate their tender response for a further period of time to enable completion of the tender assessment process. This also provides tenders with an opportunity to withdraw their response.

Some businesses believe that revalidation requires them to confirm that the pricing of their response has not changed, and others believe that revalidation presents an opportunity for pricing to be reviewed and altered. Neither of these positions are entirely correct.

Revalidation presents an opportunity for tenderers to either confirm their original response for the additional period, or revisit and change their pricing, as well as any other aspect of their tender - for example current capacity and commitments, suppliers, employees, and subcontractors. Any changes will then be considered by the tender assessment panel, and rescoring of the updated tender response will occur if appropriate.

The current trend of increasing tender assessment and award times has increased the instances where revalidation is required.

Tenderers should be fully aware of their options for revalidation prior to submitting a tender response. I recommend that industry training/guidance be prepared by Government to ensure all tenderers are given the opportunity to be fully aware of their rights if they are asked to revalidate an offer. In addition, I recommend that the Government standardise the wording of revalidation requests to provide consistent advice to tenderers of their revalidation options.

## 8.21. Territory Enterprise Awarded Contracts Benchmarks

Government has a history of establishing benchmarks, targets or key performance indicators to measure the effectiveness of policy delivery. For example, benchmarks are set by Government in respect to the profile of public sector employment numbers which cover among other things, gender diversity and ethnicity.

The Northern Territory Government established whole of government procurement targets under the Aboriginal Procurement Policy as follows:

- 5% of the total number of NT Government contracts awarded to Aboriginal Business Enterprises; and
- 5% of the annual total of NT Government contract value awarded to Aboriginal Business Enterprises

The data contained in [Table 7-1 – Annual WOG Awarded Contract Statistics](#) shows the split of awarded contracts between Territory Enterprises and Non-Territory Enterprises over the past seven years has ranged as follows:

- Number of contracts awarded to Territory Enterprises – low of 71.3% to a high of 81.6%; and
- Value of contracts awarded to Territory Enterprises - low of 74.4% to a high of 90.6%.

It is unrealistic and impractical to assume that the Northern Territory Government will ever be able to commit to undertaking 100% of its procurement requirements with Territory



Enterprises. There are many products and services that are just not available from Territory Enterprises.

It would however be useful for Government and agencies to have organisational targets to aim for to encourage deeper commitment to the Buy Local Plan and the ongoing economic and social development of the Northern Territory.

In a similar vein to the Aboriginal Procurement Policy, I recommend that Government establish annual Territory Enterprise procurement benchmarks for Government procurement awards, as follows:

- 76.5% of the number of all contracts awarded to be awarded to Territory Enterprises (approximate mid-point of last seven years);
- 82.5% of the value of all contracts awarded to be awarded to Territory Enterprises (approximate mid-point of last seven years).

The annual reporting of performance against targets can be undertaken as part of the role of the Buy Local Industry Advocate, as well as the annual review and adjustment of the targets to ensure they remain relevant, achievable and in line with current Government priorities.



## 9. Other Matters

### 9.1. Procurement Framework Review

On the 22 November 2022 contract Q22-0222 was awarded to ArcBlue Consulting (Aust) Pty Ltd to undertake a review of the Northern Territory Government Procurement Framework and Practice.

Under the terms of their engagement ArcBlue Consulting (Aust) Pty Ltd delivered their final report to Government on 27 April 2023.

At the time of writing this report the consultants final report remains “Cabinet in Confidence”, and it is unknown which recommendations, if any, will be adopted by the Government.

### 9.2. BLIA Office Staffing

I have been ably assisted this year by my Executive Officer, Margi Peet. Thank you Margi.

If the Government is committed to the continuation of the Buy Local Industry Advocate’s role, regardless of the tenure of the person appointed to the role, then employment of a permanent full time Executive Officer would provide a clear demonstration of that commitment. Aligning the Executive Officer’s tenure with the Advocate’s tenure does not demonstrate such a commitment.

### 9.3. ICNNT Dashboard

In 2022 the Industry Capability Network of the NT (ICNNT) developed an NT Government Procurement Dashboard based on publicly available procurement information. During the past year ICNNT have been in discussions with the NT Government to determine if the dashboard would be suitable for Government’s use.



Unfortunately the Government has decided not to adopt ICNNT’s dashboard, having developed one of their own for internal use. I look forward to reviewing the Government developed dashboard once I have been granted access to it. Until then I will continue to use ICNNT’s dashboard.

I acknowledge and thank the ICNNT for its commitment in producing an excellent dashboard, and express my disappointment that it was not able to be adopted for Government use.

### 9.4. Territory Benefit Policy

I noted in my previous Annual Report the similarities between the Buy Local Plan and the Territory Benefit Policy, insofar as they relate to the maximisation of contributions and benefits for the Northern Territory.

I play a significant role in the delivery of the Buy Local Plan objective, yet no role in the delivery of the Territory Benefit Policy objective.



I am disappointed that the Government does not believe that the Buy Local Industry Advocate should have an active role in supporting the Territory Benefit Policy and the delivery of its intended benefits.

## 9.5. Northern Territory Chamber of Commerce Survey

In September 2023 the Northern Territory Chamber of Commerce (NTCC) distributed a survey to its members entitled "NT Government Procurement Industry Survey".

In addition, the NT Civil Contractors Federation and the NT Industry Capability Network distributed a link to the survey to all members on their mailing lists.

A total of 90 responses to the survey were received.

The survey questions and responses are summarised in [Table 9-1](#).



Question	Strongly Agree	Agree	Neither agree nor disagree	Disagree	Strongly disagree	Don't know
The Buy Local Plan has been effective in providing opportunity for local business to compete for and win business	10	24	18	20	12	6
	11.11%	26.67%	20.00%	22.22%	13.33%	6.67%
The Buy Local Plan has been effective in increasing the value of work awarded to local businesses	12	22	23	14	14	5
	13.33%	24.44%	25.56%	15.56%	15.56%	5.56%
The NT Government procurement process has improved over the past 5 years	2	15	18	22	25	7
	2.25%	16.85%	20.22%	24.72%	28.09%	7.87%
An independent chair of the PRB increases confidence that the board is effectively reviewing government activity to ensure compliance to procurement policy	11	35	17	14	8	5
	12.22%	38.89%	18.89%	15.56%	8.99%	5.56%
Industry should have equal representation with Government on the PRB	43	35	9	1	1	1
	47.78%	38.89%	10.00%	1.11%	1.11%	1.11%
Having an independent BLIA increases confidence in the NT Government procurement process	16	36	22	8	6	1
	17.98%	40.45%	24.72%	8.99%	6.74%	1.12%
The audit and assurance role of the BLIA is a vital component in maintaining confidence in the fairness of the NT Government procurement framework	26	33	17	6	7	1
	28.89%	36.67%	18.89%	6.67%	7.78%	1.11%
Transparency of procurement process has improved since the establishment of the Buy local Plan	6	23	20	21	15	5
	6.67%	25.56%	22.22%	23.33%	16.67%	5.56%
The publication of the BLIA Annual Report is an important aspect of maintaining industry confidence that the NT Government is being held accountable for its procurement process	13	33	31	5	2	6
	14.44%	36.67%	34.44%	5.56%	2.22%	6.67%
If you have any other comments you would like to make in respect to NT Government procurement practices and processes, please make them here	Not Applicable					

**Table 9-1 – CCNT NTG Procurement Industry Survey - Questions and Responses**

I am encouraged to see that industry thinks there has been some positive improvement in procurement due to the application of the Buy Local Plan requirements. Specifically:

- 37.78 of respondents agreed that the Buy Local Plan has been effective in providing opportunity for local business to compete for and win business, with 35.55% disagreeing;
- 37.77% of respondents agreed that the Buy Local Plan has been effective in increasing the value of work awarded to local businesses, with 31.12% disagreeing;
- 58.43% of respondents agreed that having an independent BLIA increases confidence in the NT Government procurement process, with 15.73% disagreeing;
- 65.56% of respondents agreed that the audit and assurance role of the BLIA is a vital component in maintaining confidence in the fairness of the NT Government procurement framework, with 14.45% disagreeing;
- 51.11% of respondents agreed that the publication of the BLIA Annual Report is an important aspect of maintaining industry confidence that the NT Government is being held accountable for its procurement process, with 7.78% disagreeing.

At the same time I am also disappointed that the results show that 52.81% of respondents did not agree that the NT Government procurement process has improved over the past 5 years, and that 40.00% did not agree that the transparency of procurement process has improved since the establishment of the Buy local Plan.

There were 50 respondents who took the opportunity to provide comments in response to the last question. These responses were largely critical of the procurement process, which is no surprise given that most people when given the opportunity to be critical anonymously will take the chance to do so. That said, the comments should not be discounted or ignored as they are a reflection of what industry feels about the current state of NT Government procurement.

The following is a selection of some of the feedback.

- *Lack of consultation with industry stifles innovation.*
- *Procurement in NTG is terrible and getting worse.*
- *The policy means people of the Territory do not get best value.*
- *Waste of time tendering for Government work.*
- *At ministerial level there is no responsibility taken and no policy improvement happening.*
- *Awarding tenders is taking far too long (5 similar comments to this effect were made).*
- *While the creation of the BLIA and the Buy Local Plan certainly gives the illusion that there is improved governance and oversight of the process, it is our experience that they have made little overall difference. Our perception is that while well meaning the buy local impact on the procurement process is minimal.*
- *The buy local policy is effectively a "tariff" that is a barrier to entry for competition.*
- *The BLIA is a sound initiative however, sadly it has not improved NTG procurement processes, transparency or accountability. This is not a reflection of the BLIA, it's a reflection of the NTG procurement process.*
- *Unfortunately the intended outcome of this Buy local initiative hasn't been reflective in the outcomes.*

- *Government ask the wrong questions in assessing capability.*
- *Government departments should always be encouraged to first use local businesses and they need to be held accountable if they don't.*

The breakdown of responses by region was as follows:

Darwin, West Arnhem and Top End	74	(82.23%)
Alice Springs and Central Australia	9	(10.00%)
Katherine and Big Rivers	3	(3.33%)
Tennant Creek and Barkley	2	(2.22%)
Nhulunbuy and East Arnhem	1	(1.11%)
Unknown	1	(1.11%)

As with any survey, every reader will have a different perspective on interpreting the results. My view is that industry thinks that the introduction of the Buy Local Plan has had a positive effect however there are still many issues to be addressed to make sure the procurement process delivers all the objectives of the Buy Local Plan. This will continue to take time and effort by the Government, Industry and the Buy Local Industry Advocate.

I would like to remind businesses that I am always available to listen to their concerns in a confidential manner. Please feel free to contact me at any time.

I thank the NTCC for its foresight in issuing this survey and for sharing its results with me.

## 9.6. Perceptions of the Buy Local Industry Advocate's role

The NTCC survey referred to in [Section 9.5](#) provides some insight into industry's perception of the Advocate's role. Not everyone in industry is supportive of the role.

Within Government there continues to be resistance to the Advocate's role from agencies that feel the Advocate is an encumbrance to them performing their roles.

The Auditor General of the NT does not have the resources to oversight compliance with the Procurement Rules by all agencies on a regular basis or to any significant degree. This has not changed since last year.

The ICAC recognises that public procurement activities are universally recognised as a high corruption risk activity. The ICAC does not have the remit or resources to oversight agency compliance with the Procurement Rules on a regular basis.

In addition, individual agencies are not always adequately resourced to monitor and ensure compliance with the Procurement Rules, and I would argue some do not always have the commitment to do so.

The NT Governments' Procurement Governance Policy clearly sets out the Assurance role that the Buy Local Industry Advocate has within the procurement framework.

One of the NTCC survey respondents stated *"Government departments should always be encouraged to first use local businesses and they need to be held accountable if they don't"*. For those who do not support the role of the Buy Local Industry Advocate, I ask;

If the Buy Local Industry Advocate was not here to hold Government and industry to account to Buy Local and deliver the best Value for Territory, who will?

## 10. Conclusion

The lack of an agreed benchmark and unreliable procurement reporting systems continues to hamper the measurement of the effectiveness of the Buy local Plan. The establishment of a benchmark and the development of a reliable reporting system will enable proper ongoing measurement and evaluation.

The contracts awarded data contained in [Table 7-1](#) of this report highlight;

- The total number of procurement activities declined from the previous year, and was the lowest since the introduction of the Buy Local Plan;
- The total value of all procurements declined from the previous year, however it was the fourth highest since the introduction of the Buy Local Plan;
- The total value of all contracts awarded to Territory Enterprises declined from the previous year, however it was the fourth highest since the introduction of the Buy Local Plan;
- The percentage of the value of contracts awarded to Territory Enterprises (71.3%) is the lowest level recorded since the introduction of the Buy Local Plan.

These year on year declining results indicate that the primary objective of the Buy Local Plan, *“to ensure that the largest possible proportion of every dollar spent by the NTG is retained within and delivers benefits for the Territory economy and community”* was not delivered over the last financial year.

It should be noted that the data upon which this conclusion was reached does not cover all NT Government procurement spending, and for reasons outlined in [Section 7.1](#) of this report care needs to be exercised when drawing this conclusion.

The results from the past year are very disappointing given the progress that had been made over previous years. Sustained benefit for the Northern Territory will only be attained where the focus by Government on the application of the Buy Local Plan and its policy intent delivers consistent year on year spending with Territory Enterprises.

### 10.1. Effectiveness of the Buy Local Plan

In my previous Annual Report I advised I was not prepared to draw a conclusion on the effectiveness of the Buy Local Plan while the incomplete and unreliable nature of the currently available procurement information remained. As I have stated elsewhere in this report this situation still remains.

For the above reasons I have been reluctant in the past to form a view on whether the Buy Local Plan has delivered an increased amount of procurement outcomes to Territory Enterprises. However, this year the data that is available clearly shows that the percentage of Government procurement spending with Territory Enterprises has reached its fourth lowest level since the introduction of the Buy Local Plan. This is not a desirable outcome.

Notwithstanding the positive progress I believe that has been made by Government in improving its procurement processes, the procurement data reveals that spending with Territory Enterprises has declined this year. On that basis I must conclude that that over the past year the Buy Local Plan has not been effective in ensuring the largest possible proportion



of every dollar spent by the NTG was retained within and delivered benefits for the Territory economy and community.

## 10.2. Delivery of Value for Territory

Industry feedback suggests that delivery of Value for Territory remains inconsistent.

The results of the Value for Territory Assurance Program, observations I have made from my reviews of procurement files, and discussions with agency staff lead me to believe that delivery of best Value for Territory continues to improve.

That is not to say that all procurements deliver best Value for Territory and that further effort is not required to improve the situation – it is. This will remain a constant challenge for Government each year regardless of what progress may have been made in previous years.

The delivery of best Value for Territory remains inconsistent at times, however in my view the inconsistency remains at a level where I believe that across the NT Government as a whole the delivery of Value for Territory remains at its highest level since the introduction of the Buy Local Plan.



Denys Stedman

Buy Local Industry Advocate

19 December 2023

