4th Annual Buy Local Plan Compliance   
Report of the Buy Local Industry Advocate of the Northern Territory

December 2021





Contents

[1. Executive Summary 4](#_Toc90380553)

[2. Background 6](#_Toc90380554)

[3. NT Government’s response to the 3rd Buy Local Plan Compliance Report 7](#_Toc90380555)

[4. Advocacy 10](#_Toc90380556)

[5. Promoting Buy Local Principles to Industry and Government 12](#_Toc90380557)

[6. Value for Territory Assurance Program 13](#_Toc90380558)

[6.1. What is Value for Territory 13](#_Toc90380559)

[6.2. Value for Territory Assurance Program Framework 13](#_Toc90380560)

[6.3. Outcome of Value for Territory audit reviews 14](#_Toc90380561)

[6.4. Compliance with Procurement Rules 26 and 28. 15](#_Toc90380562)

[6.5. Auditor General of the NT 16](#_Toc90380563)

[6.6. Use of Certificates of Exemption 17](#_Toc90380564)

[6.7. Has Value for Territory been delivered? 18](#_Toc90380565)

[7. The Buy Local Plan 20](#_Toc90380566)

[7.1. Effectiveness of the Buy Local Plan 20](#_Toc90380567)

[7.2. Investigation of Complaints 22](#_Toc90380568)

[7.3. ICAC 24](#_Toc90380569)

[7.3.1. Matters referred to ICAC 24](#_Toc90380570)

[7.3.2. Status of matters previously referred to ICAC 24](#_Toc90380571)

[7.3.3. ICAC Public Statement titled “Investigation into a Northern Territory Government procurement process” 24](#_Toc90380572)

[7.4. Authority of the Buy Local Industry Advocate 25](#_Toc90380573)

[7.5. Unintended Consequences 25](#_Toc90380574)

[8. Recommendations For Improvement 26](#_Toc90380575)

[8.1. Whole of Government Procurement and Reporting System 26](#_Toc90380576)

[8.2. Contract Management 27](#_Toc90380577)

[8.2.1. Contract Management Planning 27](#_Toc90380578)

[8.2.2. Contract Management 27](#_Toc90380579)

[8.2.3. Contrax 28](#_Toc90380580)

[8.2.4. Training 28](#_Toc90380581)

[8.2.5. Conclusion 28](#_Toc90380582)

[8.3. Use of ICNNT 29](#_Toc90380583)

[8.4. Procurement Staff Career Development 29](#_Toc90380584)

[8.5. Alternative Tenders 29](#_Toc90380585)

[8.6. Tender Specifications 30](#_Toc90380586)

[8.7. Tender Debriefs 30](#_Toc90380587)

[8.8. Agency Procurement Resourcing 31](#_Toc90380588)

[8.9. Local Content Assessment and scoring 31](#_Toc90380589)

[8.10. Grants 33](#_Toc90380590)

[8.11. Statutory Authorities 33](#_Toc90380591)

[8.12. Value for Territory 34](#_Toc90380592)

[8.13. Assessment of VFT in Tier 1 & 2 procurement activities 34](#_Toc90380593)

[8.14. Across Government Baseline Spending Data 34](#_Toc90380594)

[8.15. Value to the NT economy of the NT Government spend with Territory Enterprises 35](#_Toc90380595)

[8.16. Defensible Decision Making 35](#_Toc90380596)

[8.17. Territory Enterprise 36](#_Toc90380597)

[8.18. Pre Tender Market Assessment 36](#_Toc90380598)

[8.19. Improved Consistency in Scoring of Past Performance, Timeliness and Capacity 37](#_Toc90380599)

[8.20. Referee Checking 37](#_Toc90380600)

[8.21. Past Experience 38](#_Toc90380601)

[8.22. Contractor Performance Reporting 38](#_Toc90380602)

[8.23. Use of Alternative Procurement methods 38](#_Toc90380603)

[8.24. Conflicts of Interest 39](#_Toc90380604)

[8.25. Tier 1 Procurement Process and Procurement Tier levels 39](#_Toc90380605)

[8.26. Oversight of Agency Issued Certificates of Exemption 40](#_Toc90380606)

[9. Conclusion 41](#_Toc90380607)

[9.1. Effectiveness of the Buy Local Plan 41](#_Toc90380608)

[9.2. Delivery of Value for Territory 42](#_Toc90380609)

# Executive Summary

This is my fourth Annual Report on my assessment of the Northern Territory Governments compliance with the Buy Local Plan.

I continue to suffer the frustration of having to deal with unreliable and incomplete procurement information and statistics, which reaffirms my concerns about the government’s ability to accurately record and analyse all of its procurement transactions from the procurement recording systems it currently has in place. For this and the many other reasons mentioned throughout my report, I am again for the fourth year running unable to conclude whether the Buy Local Plan has had a positive effect in increasing procurement spending by the NT Government with Territory Enterprises.

The concept of Value for Territory continues to mean different things to different people in both industry and government. Due to this variability in its interpretation the assessment of the successful delivery of Value For Territory in individual procurement activities remains open to conjecture.

Continued poor compliance by agencies with Contract Management Planning and Contractor Performance Reporting obligations remains a concern. This matter still requires a greater focus and commitment across government to ensure that what was contracted for is actually what is delivered. In addition contractors need to be aware of, and held accountable for, their performance delivery. In addition I still hold the view that there needs to be a single point of reference within government for procurement staff to access contractors past performance information.

The use of Agency Issued Certificates of Exemption is increasing. There is a perception held by industry that exemptions are at times being used to enable a preferred provider to be awarded a contract without the usual scrutiny of the proper procurement process. Improved oversight and accountability for the number of Agency Issued Certificates of Exemption, and the justification for their use, needs to occur.

In my previous Annual Report I identified 24 Opportunities 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 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 government’s response to each of these matters. While it is pleasing to see progress in some areas it is also disappointing to note a lack of progress, or slow progress, on others.

Again this year, **Section 8** of this report contains 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 outcomes. Some of these recommendations remain from last year or in my view remain only partly addressed.

I have continued to undertake a high level of engagement with agencies, with the total number of agency engagements again exceeding the number of industry engagements this year. The overall level of engagements decreased this year when compared to previous years, primarily I believe due to the impacts of COVID-19 on both business and industry.

The timely delivery of the Value for Territory Assessment Framework has been a particular disappointment this year to both industry and myself. In July 2021 Cabinet endorsed the rollout of the Local Content component of the framework for use in all government procurements going to market from October 2021, with the remaining components to be rolled out by January 2022. I expressed concerns in my previous Annual Report that the framework would not be delivered in the announced timeframe of 2021. Sadly, my concerns were well founded, as at the date of writing this report the Local Content Assessment component of the framework is yet to be fully rolled out across government, and I again have serious concerns whether it and the remaining components will be rolled out by January 2022.

Due to the continued lack of reliable information, the task of measuring the effectiveness of the Buy Local Plan is one that I still remain unable to undertake with confidence.

Optimisation of Value for Territory outcomes in individual procurement transactions remains a challenge, and its delivery remains inconsistent both within agencies and across government. I therefore have concluded that again this year delivery of Value For Territory procurement outcomes continues to be inconsistent.



# 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, and which came into force on 1st 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;

1. Promoting the adoption of Buy Local principles to industry and government.
2. 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.
3. 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 insofar as they are relevant to the performance of each of my responsibilities.



# NT Government’s response to the 3rd Buy Local Plan Compliance Report

My third Annual Report was released on 8 December 2020. In accordance with my responsibility to *“Make recommendations to government on ways to improve the Buy Local Plan”,* Section 8 of that report identified 24 Opportunities 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 third Annual Report in a letter from the Hon. Paul Kirby MLA, Minister for Small Business on 16 February 2021, together with an undertaking to be provided with quarterly updates by the Department of Industry, Tourism and Trade on the government’s progress in responding to the Opportunities for Improvement I had identified. I have received 2 quarterly updates (March and August) at the time of preparation of this report, noting the third update is overdue.

In the Ministers letter he noted that some progress had been made in respect to addressing the Opportunities for Improvement I had previously identified, and acknowledged that *“there is more that can be done”*. He went on state that “*The Northern Territory Government acknowledges* *and values public procurement as an important lever to drive economic growth, and we continue to commit to the Buy Local Plan and the delivery of Value for Territory*”. I acknowledge and thank the government for its restated commitment to the Buy Local Plan and delivery of Value for Territory.

This year I have attempted to assess the progress made over the last year by government in responding to my 24 Opportunities For Improvement. To do this I have assigned a rating to each of the opportunities based on the following scale;

|  |  |
| --- | --- |
| 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:

* Information contained in the quarterly updates I have received from the Department of Industry, Tourism and Trade;
* Feedback received from government;
* Feedback received from industry;
* 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;
* Published comments and observations made by The Auditor General of the NT;
* Published comments and observations made by Independent Commissioner Against Corruption; and
* Anecdotal evidence.

The following table identifies each of the 24 Opportunities For Improvement referred to in my previous Annual Report and provides my rating of the progress taken by government to address each item over the past year.

| 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  **Refer Section 8.1 of this report for further detail** | **No Progress** |
| Increased effort by agencies to undertake more effective contract management and reporting as required under procurement rules and policy  **Refer Section 8.2 of this report for further detail** | **In Progress** |
| More consistent and appropriate use of the Industry Capability Network NT by NT Government procurement staff  **Refer Section 8.3 of this report for further detail** | **Complete** |
| Better structured and improved career development pathways for procurement staff within the NT Government  **Refer Section 8.4 of this report for further detail** | **Significant Progress** |
| Appropriate use of alternate tenders  **Refer Section 8.5 of this report for further detail** | **No Progress** |
| Improved accuracy and relevance of tender scoping specifications and information  **Refer Section 8.6 of this report for further detail** | **Limited Progress** |
| More transparent and instructive tender debriefs including disclosing to tenderers their scores for each scoring criteria  **Refer Section 8.7 of this report for further detail** | **Significant Progress** |
| Adequate agency resourcing to properly implement correct procurement processes and policies, particularly at peak times with time sensitive delivery time frames, and also for appropriate and timely contract management of awarded contracts  **Refer Section 8.8 of this report for further detail** | **Complete** |
| Increased consistency and transparency of Local Content assessment and scoring  **Refer Section 8.9 of this report for further detail** | **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 grant funding government  **Refer Section 8.10 of this report for further detail** | **Limited Progress** |
| Clear direction to all Statutory Authorities of how Buy Local policy intent is to be applied, assessed and enforced in respect to NT Government funding provided to these bodies  **Refer Section 8.11 of this report for further detail** | **Complete** |
| 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  **Refer Section 8.12 of this report for further detail** | **In Progress** |
| Development of guidance for NT Government staff on how to assess Value for Territory in Tier 1 & 2 procurement activities  **Refer Section 8.13 of this report for further detail** | **In Progress** |
| Determination of accurate across government baseline data to inform the assessment of the effectiveness of the Buy Local Plan  **Refer Section 8.14 of this report for further detail** | **No Progress** |
| Undertake an economic impact assessment on the value and impact on the NT economy of spending by the NT Government with Territory Enterprises  **Refer Section 8.15 of this report for further detail** | **Not Adopted** |
| Improvement in the production and retention of relevant documentation to support defensible decision making  **Refer Section 8.16 of this report for further detail** | **In Progress** |
| Consistent interpretation and application of the definition of a Territory Enterprise by procurement staff  **Refer Section 8.17 of this report for further detail** | **Significant Progress** |
| Improved pre tender market assessment and research by procuring agencies  **Refer Section 8.18 of this report for further detail** | **Limited Progress** |
| Improved consistency in scoring of Past Performance, Timeliness and Capacity  **Refer Section 8.19 of this report for further detail** | **No Progress** |
| Development of clear policy on when and to what level reference checks are required  **Refer Section 8.20 of this report for further detail** | **Limited Progress** |
| Development of clear policy on how non NT Government past performance is to be assessed when assessing Past Performance and Capacity  **Refer Section 8.21 of this report for further detail** | **Limited Progress** |
| Improved compliance with Performance Reporting rules and contractor performance reporting  **Refer Section 8.22 of this report for further detail** | **No Progress** |
| Review of Section 6.2 of the Procurement Rules  **Refer Section 8.23 of this report for further detail** | **Limited Progress** |
| Development of a whole of government Conflict of Interest framework  **Refer Section 8.24 of this report for further detail** | **Not Adopted** |

# Advocacy

I have continued to engage one on one with industry participants, and more generally through industry bodies, seminars and conferences whenever the opportunity has presented itself.

I identified during the year that my engagement with industry outside of the Darwin region was not sufficient to provide the best representation of its interests. As a result I made a commitment to industry to visit regional areas on a more regular basis to undertake industry procurement forums and provide one on one industry consultation opportunities.



I visited Katherine, Tennant Creek and Alice Springs in September and October of this year, however I was unable to visit Nhulunbuy. I have provided an ongoing commitment to industry in regional centres to visit them at least twice a year. I am currently planning these visits for March and September next year.

Engagement with NT Government agencies continues to occur and provides me with the opportunity to deliver industry feedback, assist with and support education and development of agency staff, and deal with agency specific procurement issues.

In general, agencies continue to demonstrate a willingness to acknowledge and consider industry views and my perspectives on procurement related matters.

The issues raised by industry remain many and varied, with some of them dating back to the commencement of the Buy Local Industry Advocate role in 2017. Matters that I continue to raise with the government whenever the opportunity presents itself, cover topics such as:

* The inconsistent scoring of Local Content criteria by tender assessment panels;
* Poor tender scoping and documentation;
* The adequacy of technical experience or expertise of tender assessment panel members;
* The quality of tender debriefs and tenderers ability to obtain sufficient information to improve future responses;
* Inadequate contract management and performance reporting by procuring agencies;
* The lack of clarity around what is a Territory Enterprise;
* Inappropriate allowance and consideration of alternative tenders;
* The lack of clarity and consistency of how Past Performance, Capacity and Timeliness is assessed;
* Appropriate and consistent checking of referees;
* Proper identification and management of conflicts of interest;
* Incorrect classification of Territory Enterprises;
* Appropriate use of Agency Issued Certificate of Exemptions.

My efforts this past year in advocating to the government on behalf of industry have related to all of the above matters, with added emphasis on:

* Effective contract management.
* Effective contractor performance reporting.
* The timely implementation of a Local Content Assessment Framework as part of the wider Value For Territory Assessment Framework. Further details are provided at **Section 8.9** of this report.
* Appropriate classification of Territory Enterprises by procurement staff when going to market and in describing the correct status of successful tenderers.
* The appropriate use of alternative procurement methods and Agency Issued Exemption Certificates.

There are times when changes to government policy and/or process occur at an almost lightning speed. Conversely there are times when such change occurs at glacial speed. I feel a growing sense of frustration that matters I advocate on behalf of industry are often dealt with too slowly, which gives rise to a perception of government that they are unwilling to implement change. I hope that the forthcoming year ahead will see sufficient commitment to action to relieve industry’s sense of frustration in this respect.

I do acknowledge the co-operation and willingness of parts of government to support the changes that have been planned to date, but request that more resourcing and effort is devoted to their timely delivery.



# Promoting Buy Local Principles to Industry and Government

The following Table contains details of the number of formal consultation activities undertaken by my office over the last 4 financial years.

|  |  |  |  |  |
| --- | --- | --- | --- | --- |
|  | FY 2018 | FY 2019 | FY 2020 | FY 2021 |
| Industry consultations | 49 | 142 | 94 | 63 |
| Government agency consultations | 22 | 119 | 111 | 68 |
| Ministerial and Parliamentary consultations | 1 | 6 | 4 | 8 |

In addition to these formal consultations I continue to engage in informal consultation opportunities whenever the opportunity presents itself. The promotion of Value for Territory and Buy Local principles is at the core of all of these consultations.

I have no reliable statistical evidence from which to form a conclusion as to whether either government to business, or business to business support is growing in favour of NT businesses. I can only form my view based on anecdotal evidence gathered through my various consultations.



I believe that awareness of the value of buying locally continues to gain momentum within the business community, and I again must acknowledge the efforts of both the NT Government and industry bodies in continuing to focus efforts around educating business on the benefits of supporting other local businesses.

My increased commitment to having a physical regional presence at least twice a year from now on will provide me with additional opportunities to increase the promotion of Buy Local principles to both industry and government across those regions.

I hope that the sustained focus of industry and government, combined with my increased efforts regionally, will help support growth in the adoption and recognition of the benefits of Buying Local.

In conclusion, as the Buy Local Plan and delivery of Value For Territory relates to all government agencies I would like to take this opportunity to remind all Ministers that I am available to discuss with them at any time the impact of the Buy Local Plan and Value For Territory on their portfolios.

# Value for Territory Assurance Program

## What is Value for Territory

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:

***The primary objective of the Buy Local Plan is 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. With an effective value-for-Territory procurement framework in place, local content inputs such as employment, industry development, up-skilling, regional and indigenous development can be converted into tangible, long lasting local benefits for the Territory.***

***There are a broad range of benefits to be realised through the Buy Local Plan. These include the direct, immediate benefits of local content to the goods, services or works delivered under a given contract. This also extends to indirect benefits which may not necessarily be realised during the term of the contract, such as economic stimulation, local industry development and infrastructure development.***

## Value for Territory Assurance Program Framework

The Buy Local Plan requires the Buy Local Industry Advocate to have overall responsibility for the Value for Territory Assurance Program. The Value for Territory Assurance Program is not described by legislation or regulation. It has therefore been left to me to determine what aspects the Value for Territory Assurance Program will cover.

The Value for Territory Assurance Program contains a requirement that all agencies undertake an annual internal Value for Territory Audit. A copy of the resulting Audit Report is required to be provided to my office by the following 31st of March. 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.

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 described as a Value for Territory procurement framework, which if followed should deliver the best Value for Territory outcome for every procurement activity undertaken. As a consequence an effective Value for Territory Assurance Program must focus 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 therefore continues to be the cornerstone of the Value for Territory Assurance Program.

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 Value for Territory Audits undertaken by procuring 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 NT;
* Observations made by the Independent Commissioner Against Corruption;
* Industry consultation and feedback; and
* Agency consultation and feedback.

## Outcome of Value for Territory audit reviews

This year there were 19 NT Government agencies that were required to provide Value for Territory Audit Reports to me for 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 Value for Territory.

The reports covered the calendar year ending 31 December 2020, and were due for submission to me by 31 March 2021. Due to the impacts of COVID-19 a number of agencies requested, and were granted, extensions of time for lodgement of their reports.

All 19 agencies have submitted to me their Value for Territory Audit reports for the year ended 31 December 2020, however seven agencies were unable to submit their reports by their due date, or the agreed extended due date. They were:

* Department of Industry, Tourism and Trade (due 30/04/21, received 04/05/21);
* Department of the Legislative Assembly (received 09/04/21);
* Department of Treasury and Finance (due 30/04/21, received 05/05/21);
* Department of Education (received 08/04/21);
* Ombudsman’s Office (due 07/05/21, received 10/05/21);
* Aboriginal Areas Protection Authority (due 07/05/21, received 09/06/21);
* Office of the Independent Commissioner Against Corruption (received 03/06/21);

Based on my reviews of the information available to me for each of the 19 agencies, I concluded that 16 agencies were likely to have delivered satisfactory Value for Territory through their procurement process during the period 1 January 2020 to 31 December 2020.

I was unable to conclude that the following 3 agencies delivered satisfactory Value for Territory during the same period:

* *Department of Health (DoH)*

In my previous two Annual Reports I considered that DoH had not delivered satisfactory Value for Territory through its procurement process. I went on to acknowledge that the agency had commenced implementation of a series of structural changes within their procurement group to address these deficiencies. I consider that these changes have not yet delivered the desired results.

I acknowledge the progress made by the agency in improving their procurement process, and their willingness to engage with me to assist in those improvements, however I consider that satisfactory Value for Territory has not been delivered by DoH during the period 1 January 2020 to 31 December 2020,

* *NT Police, Fire and Emergency Services (NTPFES)*

In my previous three Annual Reports I considered that NTPFES had not delivered satisfactory Value for Territory. I went on to acknowledge that NTPFES had recognised the deficiencies in their procurement processes, and had implemented of a series of structural changes within their procurement group to address them. These changes by the agency have led to a substantial improvement in compliance levels, however I considered that they fell just short of having improved compliance rates to a satisfactory level.

I acknowledge the progress made by the agency in improving their procurement process, and their willingness to continue to engage with me to participate in staff procurement forums to assist in those improvements, however I consider that satisfactory Value for Territory has not been delivered by NTPFES during the period 1 January 2020 to 31 December 2020.

* *Department of Attorney General and Justice (DAGJ)*

I note that in their response to their Value For Territory Audit Report, and subsequent correspondence with my office, DAGJ have acknowledged the deficiencies within their procurement process, and they have committed to implementing changes to update their procurement process to address them. I look forward to working with them to assist improved compliance with the procurement rules, and therefore improved delivery of Value For Territory.

I consider that satisfactory Value for Territory has not been delivered by DAGJ during the period 1 January 2020 to 31 December 2020.

## Compliance with Procurement Rules 26 and 28.

I remain concerned about the ability of some agencies to undertake effective Contract Management Planning (Procurement Rule 26) and Performance Reporting (Procurement Rule 28). These concerns stem from observations made by me when reviewing procurement activities, feedback provided by industry, concerns expressed by the Auditor General of the NT, and non-compliance instances identified in agency Value For Territory Audits.

In my previous Annual Report I advised that I had decided to continue my program of reviews of compliance rates with Procurement Rules 26 & 28 during the 2021 calendar year. These reviews were to have been be completed in addition to the normal Value for Territory Audits to be undertaken by agencies. Unfortunately due to a number of factors I was unable to undertake these reviews during this past year. It is my intention to reactivate these reviews in the forthcoming year.

## Auditor General of the NT

The Auditor-General of the Northern Territory tabled a Report to the Legislative Assembly in August 2021. Within that report the Auditor-General published the results of Agency Compliance Audits that were undertaken in respect to 16 agencies.

The scope of these audits related to a number of focus areas. One of the focus areas was “*the extent to which agencies had complied with promulgated requirements with respect to compliance with the Procurement Act 1995, Regulations made under that Act and Procurement Rules”*.

The audit Observations across the agencies reviewed identified instances of non-compliance with Procurement Rules where;

* procurements were awarded at values exceeding the tier in which they were assessed;
* documentary evidence was **not** provided to demonstrate:
* conflict of interest declarations had been made;
* approval had been given for the use of special conditions of contract;
* approval had been given for the issuing of an addendum;
* approval had been appropriately sought prior to obtaining quotations from suppliers;
* prior approval had been granted for a variation to the approved quote;
* that a quotation was obtained; and
* support for the cost incurred.
* an instance where the conflict of interest declaration form was retained but the form did not indicate whether or not there was a conflict of interest;
* the ‘Authority to Invite Offer Form’ did not indicate whether, or not, approval was granted;
* the acceptance and approval of an indemnity clause was not recorded in the Register of Guarantees and Indemnities;
* the contract value disclosed in the ‘Notification of Acceptance’ was different to the awarded value gazetted and updated in APRO;
* the estimated cost updated in APRO was different from the estimated cost in the approved ‘Authority to Invite Quotations’;
* key sections in a ‘Certificate of Exemption’ were not completed;
* approval for a procurement process was given by a delegate with insufficient delegated authority; and
* payment of the invoice was approved and made prior to goods being received.

Given the volume of procurements undertaken by the NT government each year, it would be unrealistic to expect that every single procurement activity would comply in every respect to the Procurement Act 1995, the Regulations under that Act, and all Procurement Rules. It is therefore no surprise to me that the Auditor General’s review identified the above non-compliance instances, which 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.

## Use of Certificates of Exemption

The Procurement Rules contain “Procurement Rules Exceptions and Exemptions” (Section 6).

Subsection 6.2 is tilted “E6 Agency Issued Certificate of Exemption”.

Subsection 6.2 states:

*Agency issued certificates of exemptions allow the agency to use alternative or restricted procurement methods*.

The intention of this subsection is to allow agencies the flexibility to undertake an alternative procurement method to what is prescribed in the Procurement Rules, where it can be demonstrated that the application of an Agency Issued Certificate of Exemption will result in improved Value For Territory, or is in the best interest of government and industry.

The ability to have the flexibility to use an alternative procurement method is both sensible and necessary. For example the ability to expedite a procurement activity in response to a natural disaster or emergency situation (eg flood, cyclone or COIVD-19,) allows the government to be able to act in a timely and appropriate manner. There are also times when the use of a Certificate of Exemption can save both the government and industry considerable time, effort and cost, where for example there exists a sole or limited supply market.



My monthly review of awarded contracts over the past year has shown that there has been an increase in instances where Certificates of Exemption are being used to support alternative procurement methods. Some of this increase has, rightly, been as a result of procurements required to respond to COVID-19. There are however, in my opinion, instances where certificates have been issued using COVID-19 as the justification where the procurement is either not needed urgently or is not directly related to COVID-19.

In addition I have seen instances of the use of certificates to justify approaches to limited or sole source procurement of consultancy services, where in my opinion, the procurement activity has been documented to support selection of a pre-determined preferred supplier rather than putting the work to market to test for other alternative providers.

The documentation of the reasons for the issue of Certificates of Exemption which are recorded in the files are at times too brief and/or restrictive, and in my opinion are not sufficiently defensible. In addition I have noted (as has the Auditor General per 6.5 above) where parts of the Certificate have not even been completed.

## Has Value for Territory been delivered?

In circumstances where subjectivity forms part of the decision making process to determine the best Value for Territory across a number of offers, different people will have conflicting views as to which offer, in their opinion, delivers the best Value for Territory.

The current framework for assessment of Value for Territory continues to contain several elements which require subjective evaluation to be made by those undertaking assessment of offers. The government has previously undertaken to address this issue through the rollout of the Value For Territory Assessment Framework. This was meant to occur this year, however at the time of writing this report this had still not been implemented. My disappointment, and that of industry, in the failure of the government to deliver this very important initiative cannot be understated.

If the government is serious about improving the delivery of best Value For Territory in procurements, the Value For Territory Assessment Framework **must be delivered as a matter of urgency**.

I have spent considerable time and effort to champion the implementation of the framework, as well as providing input into its development and constant monitoring of its implementation progress. The continued inability of the government to either deliver the framework, or at the least commit to a fixed timeline for its delivery across the whole of government continues to frustrate both industry and myself. The time for promises that fail to be delivered has well past. Effective and urgent commitment to the implementation of this framework across the whole of government is what is needed. It will not only deliver more consistent and defensible procurement outcomes, it will also provide a strengthened defensible decision making framework for those undertaking assessment of offers.

This year I have again seen instances of procurement activities where I do not believe that the selection of the successful tenderer has delivered the best potential Value for Territory outcome due to departures from the procurement framework. While this number has diminished comparatively to previous years, the number of procurement activities I have reviewed has also reduced. On a proportional basis I believe the previous two years are similar.

I review only a very small percentage of the total government procurement activities each year. Of those activities I review, I regularly find departures from the Procurement Rules, some of which may be considered minor and which do not affect the overall assessment outcome. There are however some departures from the Procurement Rules which lead me to conclude that the best Value for Territory tender response may not have been selected.

As stated in **Section 6.4** of this report, I remain concerned about the high level of non-compliance with the procurement rules that govern contract management planning and performance reporting. 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.

In light of the above I have concluded that the majority of procurement awards made by the NT Government in the last 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 continued poor contract management and performance reporting practices, at times inappropriate use of Agency Issued Certificate of Exemptions, and identified departures from the Procurement Rules undermines my confidence that best Value for Territory is what is being delivered by all procurements. As a consequence I am unable to form the conclusion that optimal Value for Territory has been delivered by the NT Government through its procurement processes in the period since my last Annual Report.



# 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 third Annual Report the subcommittee has met on 4 occasions. The members of that subcommittee are;

* + Denys Stedman – Buy Local Industry Advocate (chair)
  + Andrea Moriaty – Kalo Real Estate – industry representative
  + Margaret Michaels – Clayton Utz – industry representative
  + Kevin Peters – ICNNT representative
  + Greg Ireland – NT Chamber of Commerce representative

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 is 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 an industry related focus to our discussions.

## Effectiveness of the Buy Local Plan

Measuring the effectiveness of the Buy Local Plan is subjective in nature and remains 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.

**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.

Yet again I urge the government to commit the resources required to introduce a procurement management and recording system capable of capturing and accurately reporting all of this information.

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 pre-existing period contracts.

The data provided to me last year showed the number and value of contracts awarded by the NT Government for the 4 years to 2019/20 was as follows:

***Table 2019/20***

|  |  |  |  |  |  |  |
| --- | --- | --- | --- | --- | --- | --- |
| Financial Year | 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 | 1860 | $657,297,081 | 1493 | 80.3% | $536,519,272 | 81.6% |
| 2017/18 | 2319 | $1,492,627,918 | 1892 | 81.6% | $1,134,262,795 | 76.0% |
| 2018/19 | 1645 | $935,873,098 | 1497 | 81.9% | $848,667,326 | 90.7% |
| 2019/20 | 2070 | $1,239,912,900 | 1683 | 81.3% | $911,821,986 | 73.5% |
| 2019/20 adjusted\* | 2070 | $1,239,912,900 | 1691 | 81.7% | $1,020,912,985 | 82.3% |

The data provided to me this year shows the number and value of Tier 2 to Tier 5 contracts awarded by the NT Government for the past 3 years to 2020/21 is as follows:

***Table 2020/21***

|  |  |  |  |  |  |  |  |
| --- | --- | --- | --- | --- | --- | --- | --- |
| 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 |
| 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 | 1558 | 1658 | $1,158,018,063 | 1245 | 75.1% | $934,957,505 | 80.7% |

*\* As outlined in my third Annual Report 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 change to the adjusted amounts shown in the above tables.*

The data provided to me this year, which included comparative data for the 2018/19 and 2019/20 years, has significantly 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 government procurement recording systems.

I have included an additional column to *Table 2020/21* to illustrate the total number of procurement activities undertaken during each year. This will not equate to the number of contracts awarded due to some procurement activities being awarded to multiple providers.

As can be seen from *Table 2020/21* above, the total number of procurements, total contracts awarded, and contracts awarded to Territory Enterprises for the 2021 financial year have significantly decreased in comparison to the previous year (adjusted).

In addition the percentage of total contracts awarded to Territory Enterprises has also significantly decreased to a level of 75.1%. This is the lowest percentage to be reported since the commencement of the Buy Local Plan.

The value of contracts awarded to Territory Enterprises also shows a significant decrease when compared to the adjusted value from the previous year, with a corresponding reduction in the percentage value of the total contracts awarded to Territory Enterprises.

In summary, when compared to the adjusted figures of the previous year all indicators show a reduction in both the overall procurement profile, and the Territory Enterprise procurement profile.

The primary objective of the Buy Local Plan is to ensure that the largest possible proportion of every dollar spent by the NT Government is retained within and delivers benefits for the Territory economy and community. The above figures suggest that this objective has not been met over the 2020/21 financial year, when compared to results obtained in previous years.



## Investigation of Complaints

As I noted in my previous Annual Report the emergence of COVID-19 coincided with a significant drop in the number of complaints. Despite my previous expectation that complaints would increase in the 2021 calendar year, the level of complaints has in fact declined further to the lowest rate ever. I believe that this reduction in complaints is a result of the following factors;

1. In general, economic activity has remained at a high level throughout the Northern Territory over the past year, causing most industry sectors to remain busy, noting that this has not necessarily been the case with hospitality and tourism businesses. The level of activity has led to challenges for many businesses in securing and retaining suitably trained workers, particularly in light of various COVID-19 imposed restrictions that have occurred from time to time. Management of resourcing at both busy and quiet times when coupled with COVID-19 lockdowns, lockouts and vaccination mandates has perhaps directed business owners to focus on these issues, rather than considering why they may have missed out on a government contract.
2. Further focus of businesses has been directed at what steps they need to take to ensure the ongoing viability and survival of their business, including restructuring their business models and accessing the various government support programs available to them and their employees;
3. The continued stimulation of economic activity by governments through accelerating spending on procurement activities planned for later periods as well as the continued rollout of economic stimulus initiatives such as the Tourism Voucher Scheme, The Home Improvement Scheme and Business Improvement Grants have also helped to encourage and stimulate economic activity and keep business busy;
4. The COVID-19 quarantine and travel restrictions placed on every part of the country and in particular the Northern Territory continues to compel both business and government to find non-traditional supply options and products which can be sourced closer to home to be able to meet realistic delivery time frames. The severe restrictions on the ability to access interstate labour at various times, and slow delivery times for products, has also helped stimulate the development of innovative processes and products by NT businesses, which has helped to keep them engaged and busy; and
5. It is possible that the level of complaints has diminished due to the improved level of agency compliance with the procurement rules, and therefore less business dissatisfaction with the award outcomes. There is anecdotal evidence to suggest that this is perhaps true in some circumstances, however there is also contrary anecdotal evidence to suggest that some businesses are simply not complaining as they are scared about missing out on future works, and/or they have a perception that past complaints have led to little or no compliance improvement by agencies and therefore they do not wish to “waste their time” by complaining.

The following table sets out on an annual basis the number of formal complaints received and actioned by my office for the past 4 financial years.

|  |  |  |  |  |
| --- | --- | --- | --- | --- |
| Formal Complaints | FY 17/18 | FY 18/19 | FY 19/20 | FY 20/21 |
| Open complaints b/f | - | 8 | 18 | 6 |
| Complaints raised | 34 | 59 | 34 | 3 |
| Complaints closed | 26 | 49 | 46 | 7 |
| Open complaints c/f | 8 | 18 | 6 | 2 |

In addition to the above formal complaints 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 brief the business with additional detail and removed the requirement for the matter to be escalated to a formal complaint requiring review by my office.

## 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.

### Matters referred to ICAC

Since my previous Annual Report I have not referred any matters to ICAC.

### Status of matters previously referred to ICAC

I have to date referred four matters to ICAC. ICAC does not always provide me with details as to the status of matters referred, however, of the matters referred, I understand the current status of each is as follows:

* One matter has been investigated and a public report issued by ICAC (refer **Section 7.3.3** below). No further action will be taken by ICAC;
* One matter was reviewed by ICAC and referred back to the agency for investigation. ICAC subsequently advised me that based on the actions taken by the agency that the matter has been adequately addressed. As a result ICAC have further advised me that no further action would be taken in respect to the matter;
* One matter has been investigated and I have been advised that there is insufficient evidence that the action taken by the agency was improper conduct, and that no further action will be taken by ICAC; and
* I am unaware of the status of the remaining matter.

### ICAC Public Statement titled “Investigation into a Northern Territory Government procurement process”

In April 2021 the ICAC released a Public Statement titled “Investigation into a Northern Territory Government procurement process”. The procurement process to which this report relates was one which had previously been referred by me to ICAC.

The OICAC NT Annual Report 2020-21 refers to this matter on page 13, and states;

*This investigation concerned allegations that public officers in an NTPS department may have engaged in unsatisfactory conduct while undertaking a select procurement.*

*The investigation found that there was insufficient evidence of unsatisfactory conduct but that the public officers failed to adhere to best practice. It also found that the NTPS procurement guidelines were not fit for purpose and/or poorly understood.*

*Procurement is a significant corruption risk for the Northern Territory Government. As such, the OICAC made a number of corruption-prevention recommendations to NTPS agencies around procurement reform, capability development, and awareness and training.*

While no findings of unsatisfactory conduct were made in this instance, the ICAC recommendations supports the view that further procurement reform and refinement, staff upskilling and training needs to be undertaken by the NT Government.

I support the recommendations made by the ICAC.

## 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 6 of the Buy Local Plan.

Section 6 of the Buy Local Plan makes it quite clear that part of my role is to ensure that “… Value for Territory is considered in all aspects of government contracting…”

My authority to request information is contained in Procurement Rule 1.7.

The instances where my authority to request access to information is called into question by agency staff has diminished in comparison with previous years. While this may be as a result of the reduced level of formal complaints lodged with my office over the last year, I also believe that recognition and acceptance of my authority by agency staff continues to grow.

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 best Value for Territory is being delivered in all procurement activities I review.

## Unintended Consequences

I continue to see an increase in the number of businesses who have developed and actively implemented their own “Buy Local” policies which are aimed at supporting regional and other NT based businesses, in preference to interstate or overseas options.

Coupled with this I continue to see through engagement with industry peak bodies a sustained and increasing focus at an industry level on the value of local business supporting local business. I see this as a positive outcome of the Buy Local Plan.

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



# Recommendations For Improvement

In each of my previous Annual Reports I identified matters that in my opinion presented opportunities (previously referred to as Opportunities For Improvement) 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.

In his response to my previous Annual Report the Minister for Small Business undertook to provide me with quarterly progress updates on the government’s response to the 24 recommendations made by me. To date I have received two progress updates, one in March and one in August. At the time of writing this report I am waiting on the third update.

## 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.

As I have stated previously, in order for any valid 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 believe that this information would provide significant benefit to agencies in monitoring and controlling their entire procurement spend.



I have been advised by both the Department of Corporate and Digital Development and the office of the Minister for Small Business that this recommendation does not currently fit within the governments data strategy priorities.

Notwithstanding that this is not currently part of the governments data strategy priorities, I note that during the last year two agencies have implemented “off the shelf” procurement management systems to support management of parts of their procurement process. What is needed is commitment to a whole of government solution, not an agency by agency based solution.

I therefore 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.

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**.

## Contract Management

Poor contract management continues to be an area that causes me concern.

It was my intention this year to undertake further agency specific reviews of their contract management compliance. These reviews did not proceed as I had previously planned. I now propose to undertake these reviews in the forthcoming year.

My examination of the Value For Territory Audit Reports provided to me by agencies identified poor contract management was an ongoing non-compliance issue for many agencies. I also noted that some agencies had shown improved results when compared to previous years, and I would like to recognise their willingness to take on my feedback, and their commitment to improving their ongoing processes and practices.

### 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 generally improved.

The Department of Industry, Tourism and Trade have advised me that The Department of Corporate and Digital Development is investigating improvements to business processes with the use of enterprise systems and developing a Contract Management Framework to guide staff.

As noted above there has been some improvement by agencies that have positively committed to improve their contract management practices. These agencies tend to be the larger procuring agencies, however I remind all agencies of their obligation to comply with the contract management planning requirements.

I consider the improvement of compliance with the Contract Management Planning rules across the whole of government is **In Progress**.

### Contract Management

The “substitution” of nominated sub-contractors and suppliers post tender award remains an area of industry concern, but less so than in previous years. Most instances bought to my attention tend to be from the Building and Construction Industry.

During the year the Department of Infrastructure, Planning and Logistics developed a process for staff to follow when contractors request to substitute alternative sub-contractors or suppliers.

There has been a significant reduction in the instances of complaints relating to “substitution” bought to my attention this year.

I consider the effective management of sub-contractor and supplier “substitution” has improved significantly this year and therefore I consider there has been **Significant Progress**.

### Contrax

I have previously recommended that the adoption and use of the Contrax contract management and reporting platform be made mandatory for all agencies.

The Department of Industry, Tourism and Trade has advised that Contrax is not currently one of the mandatory whole of government systems, and that adoption is at the discretion of each agency. I am also advised that “uptake is slow but is increasing”.

Contrax has been available for agency use for approximately 3 years. I find it difficult to understand why after this period of time only a small number of agencies have embraced it. I again call on the government to either make its use mandatory for all agencies or replace it with another system that better fulfils the needs of all agencies.

Uptake in the use of Contrax across government is by its own admission “slow but increasing”. I consider that implementation of this recommendation has only made **Limited Progress.**

### Training

As noted in my previous Annual Report the government had engaged a training provider and made online Contract Management Training available for all agencies to provide to their staff.

Overall I consider that the instances of poor contract management have slightly diminished from previous years, however, as it contributes to poor contract outcomes, cost overruns, subcontractor/supplier substitution, increased whole of life costs and ineffective relationships between the agency and supplier, this is a matter that requires continued focus and improvement.

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. I commend the government for the progress to date, and urge it to ensure its commitment remains into the future.

While it may be argued that training is never complete due to the requirement to ensure staff remain up to date at all times, I consider the progress on this matter to be **Complete** from my perspective, subject to its ongoing use.

### Conclusion

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

Progress has been made in respect to Contract Management and Contract Management Planning, as well as a demonstrated commitment to improved training, however there has been no real progress on the implementation of Contrax. Overall, I consider the progress of advancing this recommendation over the past twelve months as **In Progress**, but note that it still requires increased commitment and action.

## Use of ICNNT

Appropriate engagement by agencies with ICNNT continues to improve.

Procurement NT and ICNNT have issued guidance material for procurement staff, and have also commenced a rolling program of staff information sessions to ensure proper understanding and use of the ICNNT process.

It appears to me that procurement staff are becoming increasingly aware of their obligations to engage ICNNT in Tier 1 & 2 procurements. In addition there seems to be an increased willingness for staff to use ICNNT as a tool in identifying potential suppliers during the pre-tender market assessment phase of their procurement activity.

While I think it is important that appropriate engagement with ICNNT by government procurement staff needs to be monitored and reinforced on an ongoing basis, I consider that the progress on this recommendation has reached a point where it is becoming “business as usual” for procurement staff. I consider the progress on this matter to be **Complete** from my perspective, however I will continue to monitor its ongoing use.

## Procurement Staff Career Development

The government introduced a Procurement Capability Development Framework for procurement staff in 2019/20. Full implementation of this framework continues and will take 3 years to complete.

The Department of Industry, Tourism and Trade has advised me that the framework includes both accredited and non-accredited training opportunities in procurement specific skills. Further I note that annual Agency Procurement Management Plans (APMP) now require specific commitments to capability improvement, and subsequent reporting on delivery of commitments. APMP’s are provided to the Procurement Review Board for review and feedback.

I again commend the government for its ongoing commitment to develop and deliver this framework, and urge it to ensure the completion of its implementation this coming year. I consider the progress of advancing this recommendation over the past twelve months as **Significant Progress**, but note that it still requires increased ongoing commitment and action.

## Alternative Tenders

In my two previous Annual Reports I have raised the issue of how the use of alternate tenders is managed, and how they are assessed.

In April 2020 Procurement NT undertook to develop a process to identify ways to strengthen guidance for agencies on how to assess alternate tenders. This work is yet to be progressed by Procurement NT as it has been deferred for consideration as part of the Value For Territory Assessment Framework. Procurement NT have advised that due to other priorities this matter will not be considered before March 2022.

This recommendation has not changed since my previous Annual Report, and therefore I consider the progress of advancing this recommendation over the past twelve months as **No Progress**.

## Tender Specifications

The accuracy and relevance of tender scoping specifications and information continues to be raised with me by industry on a regular basis.

This issue has been acknowledged by some agencies who have made changes to internal processes to address the problem, however they have also acknowledged to me that the changes to date have only had limited positive impact.

Scope writing training was made available to all agency staff in August 2020. In addition The Department of Corporate and Digital Developments’ procurement services group support agency staff to develop scopes, however they also rely on subject matter experts to ensure specifications are appropriate.

Procurement is often tasked to agency staff who have neither the technical expertise nor the experience to understand the full nature of the specific procurement requirements. This is not a criticism of these staff, but an acknowledgement of the fact that expertise and experience is not always available when needed. This is an issue that is also faced by industry at times, and is not one that is easily solved by either government or industry.

Government needs to ensure agencies remain focused on appropriate training of staff and that they are provided with the necessary resources to allow training and product evaluation to occur.

Due to the continued high level of industry feedback on this issue I consider the progress of advancing this recommendation over the past twelve months as **Limited Progress**.

## Tender Debriefs

In February 2021 the CEO Coord group of the NT Government agreed that individual assessment of scores would be provided to tenderers at debrief, noting that delegates would reserve the right not to release scores in certain circumstances.

The adoption of this policy means that all NT Government agencies now provide tenderers with their scores during a tender debrief. Procurement NT have also updated internal sourcing guides and templates to assist agency staff with releasing of scores, and is also developing a training package to support staff.

The commitment to releasing scores has meant that agencies have been required to better document the reasons for the scores awarded, with the consequent disclosure of those reasons together with the scores generally leading to better quality debriefs.

Industry feedback indicates that this change in approach by the government has been well received. I have also noted that tenderers are generally more positive about the quality of debriefs received, particularly with those delivered by Department of Infrastructure Planning and Logistics. That is not to say that all debriefs are well received, but there has been a clear improvement.

I understand that it is unlikely that every tenderer will be happy with either the outcome or quality of debriefs. I believe the release of their scores has enabled some tenderers to more easily understand the reasons they were unsuccessful. I will continue to monitor industry feedback on this matter, however I consider the progress of advancing this recommendation over the past twelve months as **Significant Progress**.

## Agency Procurement Resourcing

The centralisation of procurement services under Corporate Services Reform 3 (CSR3) does not remove the responsibility of individual agencies to ensure proper identification and scoping of procurement activities. Nor does it relieve them of the responsibility to undertake appropriate contract management planning and performance reporting. It is therefore very important that the government remains vigilant to ensure that individual agencies are adequately resourced to support their day to day procurement activities, and in particular their contract management and reporting obligations.

I am advised by government that the centralisation of procurement resources into DCDD under CSR3 has provided improved flexibility for procurement support to client agencies during peak procurement activity, and that a range of reform actions are in progress to support client agencies and improve procurement and contract management outcomes. As I understand it the implementation of these changes are now complete.

The provision of adequate resourcing by government for its procurement functions will always be a point of conjecture, however, as the government considers the structural changes required to accommodate CSR3 complete, I consider the progress on this matter to be **Complete,** subject to the continued provision of adequate resourcing to agencies to meet their obligations under the Procurement Rules.

## Local Content Assessment and scoring

In my previous Annual Report I outlined the history of the development of the Value For Territory Assessment Framework (VFTAF) including the proposed implementation dates. I also raised the concerns I held about whether the delivery timeframes would be met.



Under the framework the formation of the questions asked in response documents will be more appropriately considered and explained. In addition guidance will also be given as to the weight allocated for scoring of the questions, which will not only help tenderers in formulating their responses, but also provide better guidance to assessors in determining the scores awarded. This should give rise to more targeted responses from tenderers which will also enable more consistent evaluation of all responses.

The Local Content scoring component of the framework was to have been in use by all government agencies by the end of March 2021, with the rest of the framework in use by all government agencies by the end of December 2021. The first of these delivery time frames has not been met and the second timeframe will also not be met.

Due to the inability to meet the initial implementation timeframe of March 2021, in July this year Cabinet directed that the Local Content Component of the framework was to be rolled out effective almost immediately, with all agencies to be using this component in all of their procurements (where appropriate) from the commencement of October 2021. Further, the balance of the framework was to be rolled out for use by all agencies in all procurements from 1 January 2022. At the time of writing this report the first timeframe (October 2021) has again not been met, and the second will also not be met.

In The Department of Industry, Tourism and Trade’s 2nd quarterly update to my previous Annual Report (which I received in August 2021) the department stated (in part) *“A fast tracked project timeline was endorsed by the Minister responsible for Procurement with full framework to be rolled out in July 2021.”* This response was nonsense as at the time it was prepared (August) it was well known to the department that the July implementation date had not been met.

The Department of Industry, Tourism and Trade has advised me that as of the last week of November there are 16 tenders currently being tested across government using the Local Content component of the framework.

I regularly press for stronger commitment to the delivery timeframe. The most recent request I made was in late November this year. The Department of Industry, Tourism and Trade is responsible for the implementation of the framework but have been unwilling to commit to a timeframe. They claim there have been delays due to significant technical issues.

This project was originally announced and committed to by the government in January 2020, allowing a 23 month timeframe for delivery by the end of December 2021. It was not as though at the time of announcement no work had been done on the project – it was well progressed. I understand that delays can occur, however I do wonder whether the appetite for the delivery of the project by the implementing agency is as strong as that of government and industry.

It appears to me that the delivery of the framework by the department has been poorly co-ordinated and resourced. There have been several people working on the framework, but there is no “champion” within the agency that has taken overall responsibility for its timely delivery. Government needs to hold the delivering agency accountable to have this project completed in a reasonable time frame.

Industry is growing more impatient every day to see this framework delivered. They can see the value it will bring in not only delivering more consistent and transparent assessment outcomes, but also in ultimately providing better Value For Territory procurement outcomes. I believe the VFTAF will also give more confidence to industry to tender with the NT Government.

I acknowledge that some progress has been made on this recommendation during this last year, however progress had been painfully slow with many missed timeframes. Given the governments stated commitment to its rollout, and industry’s desire to see it implemented, in my opinion its implementation progress is totally unacceptable, therefore I consider that there has only been **Limited Progress** on implementing the framework this year.

## Grants

The Department of Industry, Tourism and Trade estimates that of the approximately $3B spent by the Northern Territory Government on procurement each year, about $1.5B is expended as grant funding. This means that nearly half of the government procurement spend is not subject to the accountability for compliance with the Buy local Plan as non-grant procurements are.

In my previous Annual Report I advised that grant policy was about to be reviewed by government. An updated version of the policy was released by the government on 5 January 2021.

The updated policy states (in part) that *“The NT government needs to ensure public funds achieve the best value for Territory, ...”.*

It also states the following at paragraph 2.1.1:

*Buy Local*

*The NT Government’s commitment to local business is the Buy Local Plan. The Buy Local Plan does not apply to grant funding other than capital grants. Recipients of capital grants must buy from a Territory enterprise, unless it can be proven, through a competitive process there are no suitable Territory enterprises able to supply the item or service. Organisations that receive other NT Government grants should be encouraged to purchase local goods and services wherever possible.*

The last quarterly update received by me in respect to my previous Annual Report clearly stated that *“Grants are not covered under the Procurement Act 1995.”* This statement is factually correct, and signals clearly to me that the government has no appetite to further change its policy in respect to how grant funds are to be managed to support delivery of best Value For Territory.

I understand that the enforcement of the Buy Local Plan principles on grant recipients is complex, and I also acknowledge the requirements of the current Grants Policy. I do not however believe that the current policy is strong enough to ensure the maximum spending of grant funds with Territory Enterprises, and nor do I believe that oversight of spending of grant recipients is sufficient to ensure best Value For Territory spending outcomes occur.

I remain of the view again this year, that if the NT is to gain more Buy Local benefit from the spending of grant funds the Grant provisions need to be further strengthened to reflect the policy intent of the Buy Local Plan (including oversight and reporting requirements), and therefore I consider that only **Limited Progress** has been made on this recommendation during the past year.

## Statutory Authorities

A list of government bodies required to comply with the Procurement Act 1995 was published by the government on its website in April 2021. The link to the list is:

<https://nt.gov.au/industry/procurement/how-procurement-works/procurement-framework/agencies-covered-by-procurement-framework>

With the above list having been published during the year I consider the progress on this recommendation is now **Complete**.

## Value for Territory

The concept of Value for Territory continues to be misinterpreted and misunderstood by both industry and government, however I believe to a lessening degree as time passes.

In my previous Annual Report I advised that one of the government’s stated outcomes from the introduction of the Value for Territory Assessment Framework (VFTAF) was that it will deliver *“increased understanding and capability associated with the practical application of Value for Territory”*. I further advised that the government intends to develop communication/guidance on the concept of Value for Territory, which will be rolled out in conjunction with the VFTAF.

The Department of Industry, Tourism and Trade published an industry guide on 16 July 2021, titled *“Value For Territory Assessment – A guide for tendering with the Northern Territory Government”.* I believe that the content of the guide provides good context around what Value For Territory is considered to be from a procurement perspective, and will be useful to both industry and government.

The publication of the guide was meant to coincide with and support the implementation of the VFTAF. As I have outlined in **Section 8.9** of this report the VFTAF is yet to be delivered.

The publication of the guide was a step forward to addressing this recommendation. The delayed implementation of the VFTAF has not been helpful, however I consider that this recommendation is **In Progress**, and will remain so until at least the VFTAF is implemented.

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

In its 2nd quarterly update to my previous Annual Report, The Department of Industry, Tourism and Trade advised in respect to this recommendation that Procurement NT had commenced working with other agencies to progress the following projects;

* Review of Tier 1 process and guidance material
* Review of Tier 2 terms and conditions and templates to provide more consistency with other tiers in the look and feel of requests for other documents.

I acknowledge the government’s commitment to actioning this recommendation, however as I am unaware as to either its content or state of completion I consider that implementation of the recommendation this year remains **In Progress**.

## Across Government Baseline Spending Data

I have highlighted in all of my previous Annual Reports 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.

In addition, for the reasons outlined in **Section 8.1** of this report**,** the government also remains unable to establish reliable baseline data for any of the years since the introduction of the Buy Local Plan.

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

The requirement for me to report on the effectiveness of the Buy Local Plan when the lack of reliable information exists is unreasonable. I will not be able to report on this until reliable information is available, and 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.

## Value to the NT economy of the NT Government spend with Territory Enterprises

As outlined in my previous Annual Report, the government advised that the availability and cost of obtaining data to undertake calculation of an economic multiplier is impractical.

While I still believe that the economic multiplier value and impact on the NT economy of spending by the NT Government with Territory Enterprises would be useful for both industry and government to know, I acknowledge that the government has no appetite to undertake this exercise.

As a result I have concluded that I should stop asking for it, and therefore I have determined that this recommendation is **Not Adopted** by government.

## Defensible Decision Making

I still see instances of poorly constructed procurement files which do not contain adequate evidence to support defensible decision making or the procurement outcome reached. This weakness undermines confidence that the procurement outcome was reached through proper due process and that optimal Value for Territory was delivered.

A new systemised dataset called NTGPROCURE was introduced during the year to support improved record keeping for Tiers 2 through 5 procurements of The Department of Corporate and Digital Development client agencies. The system is not mandated for use by other agencies that undertake their own procurement – perhaps this should be considered. In addition an internal government working group has been established to consider how the process can be improved for Tier 1 procurements.

I commend the government for these initiatives, however point out that defensible decision making is not just about being able to locate documents. It is also about the quality of the information that is recorded within those documents. A document to support a decision without reasonable justification noted is of a similar value to a document that cannot be located.

I have noted a general improvement in the quality of the reasons for decisions and scoring recorded in some of the procurement files I have reviewed this year. Across government there is still considerable room for further improvement.

One of the benefits of the Value for Territory Assessment Framework (VFTAF) is that it will support procurement staff to make and properly document defensible decisions. The delay of the implementation of VFTAF has not helped deliver this benefit this year.

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.

I consider that due to the improvements noted this year, when considered with the further substantial improvements that can still be made, this recommendation remains **In Progress**.

## 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.***

During this past year I have undertaken monthly reviews of all Tier 2 through 5 awarded contracts to consider (among other things) if the Territory Enterprise status of awarded tenderers has been properly assessed and recorded by awarding agencies. Initially these reviews disclosed that across the whole of government there were several incorrect classifications each month. I am pleased to say that more attention is now being paid to this matter by procurers and that generally I find no more than one incorrect classification a month, and some months none.

The proper identification of a Territory Enterprise is important in respect to the statistics recorded by the government (see **Section 7.1** of this report). Any misrepresentation or misreporting of this information can have a significant impact on both agency and whole of government reported statistics in the case of large value procurement activities.

While I still have regular conversations with industry about the Territory Enterprise status of businesses, I am encouraged by the diminishing amount of similar conversations with government staff.

The implementation of the Value For Territory Assessment Framework will also assist in standardising the assessment of a business’ Territory Enterprise status.

The reduced level of incorrectly recorded Territory Enterprise status of awarded contractors signifies that there has been **Significant Progress** in addressing this recommendation over the past year.

## Pre Tender Market Assessment

Examples of poorly researched and constructed procurement planning where one or more of the five key procurement principles are not considered still occurs.

This is most obvious in situations when 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.

In the governments 2nd quarterly update to my previous Annual Report it is noted that various agencies have taken steps improve their own processes, however no whole of government solution has been put forward. The response also advises that *“Procurement NT are considering developing training in this area*”.

In order to optimise Value for Territory outcomes proper pre tender market assessment must occur. While I acknowledge the efforts of some agencies to improve this aspect of their procurement process, including increased use of the ICNNT database, I am disappointed that from a whole of government perspective the response to my recommendation is limited to the consideration of “developing training”. I consider the progress made on this recommendation during the year is **Limited Progress**.

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

As indicated in my previous Annual Report, the introduction of the Value for Territory Assessment Framework (VFTAF) is government’s response to addressing the issue of inconsistent scoring of Past Performance, Timeliness and Capacity.

Due to the government’s inability to implement the VFTAF this year this issue has not been addressed. I consider there has been **No Progress** in progressing this recommendation this year.



## Referee Checking

Inconsistent checking of referees remains a concern, as it has done throughout my past two Annual Reports.

The matter was referred to the NT Governments’ Procurement Reference Group for its views, and feedback was provided by them to Procurement NT.

Procurement NT have advised that the matter is now being considered as part of the Value for Territory Assessment Framework (VFTAF) implementation.

Given that the VFTAF is yet to be delivered I consider that there has only been **Limited Progress** on this recommendation during this past year.

## Past Experience

Development of a clear policy on how non NT Government past performance is to be assessed when assessing Past Performance and Capacity is still needed.

The Department of Industry, Tourism and Trade have advised that the matter will be now addressed and rolled out through the Value for Territory Assessment Framework (VFTAF).

Given that the VFTAF is yet to be delivered I consider that there has only been **Limited Progress** on this recommendation during this past year.

## Contractor Performance Reporting

Poor contract performance reporting is 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 optimal Value for Territory.

In my previous Annual Report I recommended that the government introduce a whole of government database system to provide for storage of, and access to, contractor performance reports produced by all government agencies.

The Department of Industry, Tourism and Trade’s 2nd quarterly response to my previous Annual Report notes that the Department of Corporate and Digital Development are promoting the use of the Contrax contract management platform as a whole of government system to capture performance reporting.

As stated is **Section 8.2.3** of this report the use of Contrax by government agencies is not mandatory. As a result the agency uptake for its use has to date been poor. For the government to suggest to me that Contrax will address this recommendation is nonsense and disappointing. Contrax will never address this issue unless and until it is mandatory for **all** agencies to use it. Until that happens another centralised database system needs to be implemented.

The lack of genuine engagement by government over this recommendation leads me to conclude that there has really been **No Progress** on it this year. I am also concerned that this lack of engagement will continue into the future.

## Use of Alternative Procurement methods

Section 6.2 of the Procurement Rules allow an agency Delegate to authorise the issue of a Certificate of Exemption to use an alternative or restricted procurement method where it can be demonstrated that it will result in improved Value for Territory, or is in the best interest of government and industry.

There are instances where the strict application of preferred procurement methods does not deliver best Value for Territory or are in the best interest of government and industry. The use of agency issued Certificates of Exemption is a necessary mechanism whereby these situations can be managed for specific procurements.

As stated in my previous Annual Report I hold 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.

In its 2nd quarterly update to my previous Annual Report The Department of Industry, Tourism and Trade advised that Procurement NT would work with the NT Government’s Procurement Reference Group to identify the ambiguities. It is encouraging to note that the government recognises that there are ambiguities, however I am unaware if this task has yet been undertaken.

Based on the commitment made to identify the ambiguities I consider the recommendation to be **Limited Progress**, however I also note the lack of any other progress of which I am aware in addressing the issue.

## Conflicts of Interest

The Auditor-General of the NT, The Independent Commissioner Against Corruption and myself have all previously raised concerns about the differing agency policies in respect to the identification and management of Conflicts of Interest throughout the procurement process.

Based on the concerns raised in my previous Annual Report I referred this matter to the Buy Local Sub-Committee who determined that it should be referred to the Procurement Review Board (PRB) for further consideration.

The PRB resolved to request advice from the Commissioner for Public Employment as to whether a whole of government Conflict of Interest policy was preferred to individual agency developed policies. The Commissioner subsequently advised that having a separate whole of government policy on Conflict of Interest is not required as it is covered under the Code of Conduct, and that the PSEMA is the authority on disciplinary action. Given this response the PRB considered that no further should be taken on the matter.

The Auditor-General’s previously stated view that *“It would be prudent to consider developing and implementing a conflict of interest framework at an across-government level*.” has effectively been rejected by the Commissioner for Public Employment and the government, as has my previous recommendation.

Based on the above I have determined that this recommendation was **Not Adopted** by the government. This will not deter me from monitoring and reporting on this matter into the future.

## Tier 1 Procurement Process and Procurement Tier levels

In his public statement “Investigation into a Northern Territory Government procurement process”, the ICAC Commissioner stated that *“This procurement demonstrated that the NTG procurement guidelines and related documents are either not fit for purpose or poorly understood by public officers – or both.”* As a consequence of the findings of his review and noting that the NT Government was undertaking a review of procurement at that time, the Commissioner made 7 Recommendations for the government to consider in relation to the procurement framework.

Recommendation 4 stated *“The review should focus on simplifying the existing procurement processes to achieve workability and compliance by public officers undertaking ‘casual’ or ‘occasional’ procurement.”* I broadly concur with this view.

For some time now it has been apparent to me that particularly in relation to Tier 1 procurements (up to $15,000) the process required by the current Procurement Rules is too complex. Traditionally a large volume of Tier 1 procurements are undertaken by casual or occasional procurers, some of whom may have no procurement training or experience. This has led to many instances of non-compliance identified through both my procurement reviews and agency initiated internal audits of Tier 1 procurements. This has subsequently led to considerable time and effort being spent by some agencies to strengthen internal processes to avoid minor non-compliance breaches, which at times has also introduced additional complexity into the process. The cost of this approach has potentially been significantly higher than the benefits derived.

A significant proportion of Tier 1 procurements would be classed as high volume and low risk, yet the procurement process required to be used is at times more suited to low volume high risk procurements.

In line with the ICAC Commissioners recommendation, I recommend that the current procurement process for Tier 1 procurements be streamlined to reduce the amount of steps required to be completed to undertake these procurements. In addition I suggest that it may be appropriate for the current Tier level thresholds to be reviewed, and raised, and even a “de-minimis” rule introduced for low value procurements, say less than $500, to be exempted from the procurement rules.

## Oversight of Agency Issued Certificates of Exemption

Currently there is no oversight of the use of Agency Issued Certificates of Exemption. The Procurement Review Board (PRB) is responsible for the oversight of Emergency and COVID-19 Exemptions.

The PRB is provided quarterly with high level summary information of all certificates issued under the Emergency and COVID-19 Exemption provisions.

There are many Agency Issued Certificates of Exemption that are not issued under the Emergency or COVID-119 Exemptions, and currently these are not subject to a formal reporting and oversight process. I believe additional scrutiny of this information is needed to ensure that reasons for the issue of these certificates are properly recorded, justifiable and defensible.

While the current situation remains largely unscrutinised the perception that agency issued exemption certificates are being used to get around the proper procurement process will remain.

I recommend that the government take steps to put in place a formal monitoring framework to ensure that all certificates of exemption are recorded and reported by agencies on a monthly basis, and that they are reviewed by a person or body who can formally report to the PRB as to the validity of the certificates issued. My office would be happy to assume this role if both the government and the PRB thought it fit for me to do so.

# Conclusion

Measurement of the effectiveness of the Buy local Plan will remain a challenge until such time as the government commits to the adoption of a whole of government procurement management and reporting system that captures all procurement transactions. Once such a system is implemented and working it will be able to provide reliable statistical information upon which measurements can be taken.

The government is yet to establish a benchmark which it considers to be “effective” for comparison purposes. For example, if 80% of the value of all contracts awarded are awarded to Territory Enterprises is this considered to be effective, or should this be some other amount – say 75% or 90%?

Once a benchmark is established and reliable reporting systems are in place then this can be properly measured and evaluated.

The contracts awarded data shown in the table at **Section 7.1** of this report highlights that the number and value of contracts awarded to Territory Enterprises both decreased when compared to the previous year. This data suggests that the primary objective of the Buy Local Plan, being; **“*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”***, has not been delivered when compared to the previous year. It should however be noted that this data 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 conclusions.

Anecdotally it appears to me that government agencies are applying the Buy Local Plan principles on a more consistent basis than in past years, however this is not reflected in the above figures.

There are still too many instances bought to my attention where I do not believe the Buy Local Plan principles have been properly applied, so I encourage those within government to keep their focus on further improvement.

The timely implementation of the Value for Territory Assessment Framework (VFTAF) was keenly anticipated by industry. The delayed implementation of VFTAF has eroded industry’s confidence in the government’s commitment to improving the procurement process to deliver more consistent delivery of optimal Value for Territory.

VFTAF must be delivered in its entirety within the next six months to restore industry confidence.

## Effectiveness of the Buy Local Plan

The incomplete and unreliable nature of the currently available procurement information is an ongoing concern which I have raised throughout this report, and my previous Annual Reports.

I am not prepared to make conclusions on the effectiveness of the Buy Local Plan while this situation remains.

I am therefore unable to form a view on whether the Buy Local Plan has delivered an increased amount of procurement outcomes to Territory Enterprises over the last year.

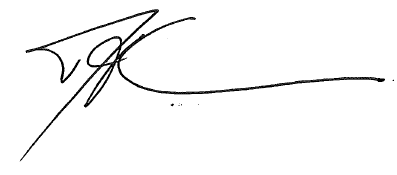
Until I have reliable information I will remain unable to form a view.

## Delivery of Value for Territory

Delivery of Value for Territory procurement outcomes still remains challenging for some agencies and staff, but I think to a lesser degree than in past years. That is not to say that further effort is not required to improve the situation – it is. This will be a constant challenge for government each year regardless of what progress may have been made in previous years.

There are still too many procurement transactions of which I am aware where I consider that optimal Value for Territory has not been delivered. As a result I again consider this year that maximisation of Value for Territory outcomes in individual procurement transactions remains inconsistent.

The long awaited introduction of the Value for Territory Assessment Framework may enable me to conclude otherwise in future, but given that it will not be fully implemented until 2022 at the earliest, it is unlikely I will be able to form a different conclusion next year.



Denys Stedman

Buy Local Industry Advocate

8th December 2021

