

**NORTHERN TERRITORY OF AUSTRALIA**

**PROCUREMENT REGULATIONS 1995**

As in force at 27 November 2019

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# NORTHERN TERRITORY OF AUSTRALIA

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As in force at 27 November 2019

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## PROCUREMENT REGULATIONS 1995

### Regulations under the *Procurement Act 1995*

#### 1 Citation

These Regulations may be cited as the *Procurement Regulations 1995*.

#### 2 Definitions

In these Regulations:

***across government contract*** means a whole of government or common use period contract established for supplies used commonly across Agencies.

***Agency Minister***, for an Accountable Officer, means the Minister administering the Agency of the Accountable Officer.

***certificate of exemption*** means a certificate of exemption issued under regulation 8.

***order*** means an order issued under regulation 9.

***public tender*** means a tender submitted as the result of a public invitation for the submission of tenders.

***tier one, tier two, tier three, tier four*** or ***tier five***, for supplies, means supplies with an estimated total value within the range specified in the definition of ***Tier One, Tier Two, Tier Three, Tier Four*** or ***Tier Five*** respectively in the procurement directions.

#### 3 Requisitions for supplies

- (1) A person shall requisition supplies for the Territory on a form approved by the Accountable Officer.
- (2) A requisition under subregulation (1) shall be approved by the Accountable Officer.

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- (3) Before the Accountable Officer approves a requisition under subregulation (2), the requisition shall be endorsed as to the availability of funds sufficient to procure the supplies specified in the requisition.

#### **4 Requirements for tier two supplies**

Before incurring expenditure on tier two supplies, the Accountable Officer must obtain written quotes for the supplies from at least 3 established suppliers unless a certification of exemption under regulation 8 authorises otherwise.

#### **5 Requirements for tier three, tier four and tier five supplies**

- (1) Before incurring expenditure on tier three, tier four or tier five supplies, the Accountable Officer must invite tenders for the supplies.
- (2) The tenders must be public tenders unless a certificate of exemption under regulation 8 authorises otherwise.

#### **6 Procurement Review Board**

- (1) A Procurement Review Board established under section 6 of the Act shall consist of not less than 3 members appointed by the Minister.
- (2) The Minister may appoint a member of a Procurement Review Board to be the Chairperson of the Board.
- (3) An appointment under subregulation (1) or (2) may be by reference to a particular statutory office or an office under the *Public Sector Employment and Management Act 1993* and, where such an appointment is made, a person holding for the time being or from time to time that office or performing the duties of that office shall be the member or the Chairperson, as the case may be, accordingly.
- (4) An appointment:
  - (a) under subregulation (1) may allow the member to nominate another person, being a person of a class that is specified in the instrument of appointment, to be a member in the place of the member; or
  - (b) under subregulation (2) may allow the Chairperson to nominate another person, being a person of a class that is specified in the Chairperson's instrument of appointment, to be the Chairperson in the place of the Chairperson,

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and a person so nominated shall be the member or the Chairperson, as the case may be, accordingly, for the period for which the person was nominated.

- (5) At a meeting of a Procurement Review Board 3 members shall constitute a quorum.
- (6) Except to the extent specified in an instrument of appointment under subregulation (1) or (2), the procedures of the Procurement Review Board shall be as determined by the Chairperson.

#### **6A Functions and powers of Procurement Review Board**

- (1) The functions of a Procurement Review Board are:
  - (a) to determine appeals in relation to the eligibility or admissibility of a quote or tender in accordance with the procurement directions; and
  - (b) to review or audit an Agency's procurement procedures or procurement activity; and
  - (c) to advise the Minister, the Agency or any other person in relation to procurement procedures or procurement activity in an Agency.
- (2) The Procurement Review Board has the powers necessary or convenient to perform its functions.

#### **7 Government contracts**

- (1) If supplies are available to the Territory under an across government contract, the supplies must be obtained under the contract unless the Accountable Officer otherwise directs.
- (2) Where supplies are available to the Territory under an existing contract between a supplier and the Commonwealth, a State or another Territory of the Commonwealth, the supplies may be obtained subject to Procurement Review Board approval.

#### **8 Certificate of exemption**

- (1) The Minister may issue a certificate of exemption for specified supplies or supplies of a specified class, irrespective of the value of the supplies.
- (2) An Accountable Officer may issue a certificate of exemption for tier two, tier three, tier four or tier five supplies.

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(4) In this regulation:

***certificate of exemption*** means an exemption from a requirement under regulation 4 or 5.

## **9 Orders**

An order for supplies shall:

- (a) be in the form approved by the Accountable Officer;
- (b) be signed by the Accountable Officer; and
- (c) contain details of the supplies specified in the requisition made under regulation 3.

## **10 Details of certain contracts to be published**

- (1) The Accountable Officer must publish details of a contract for a supply on the Territory Government website.
- (2) However, publication is not required if:
  - (a) the supply is a tier one supply; or
  - (b) the supply is provided by the Territory, Commonwealth or a State or another Territory; or
  - (c) the supply is obtained under an existing contract; or
  - (d) the Minister is satisfied publication is contrary to the public interest.

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**ENDNOTES**
**1 KEY**

Key to abbreviations

<b>amd = amended</b>	<b>od = order</b>
<b>app = appendix</b>	<b>om = omitted</b>
<b>bl = by-law</b>	<b>pt = Part</b>
<b>ch = Chapter</b>	<b>r = regulation/rule</b>
<b>cl = clause</b>	<b>rem = remainder</b>
<b>div = Division</b>	<b>renum = renumbered</b>
<b>exp = expires/expired</b>	<b>rep = repealed</b>
<b>f = forms</b>	<b>s = section</b>
<b>Gaz = Gazette</b>	<b>sch = Schedule</b>
<b>hdg = heading</b>	<b>sdiv = Subdivision</b>
<b>ins = inserted</b>	<b>SL = Subordinate Legislation</b>
<b>lt = long title</b>	<b>sub = substituted</b>
<b>nc = not commenced</b>	

**2 LIST OF LEGISLATION*****Procurement Regulations (SL No. 14, 1995)***

Notified	10 May 1995
Commenced	10 May 1995

***Amendments of Procurement Regulations (SL No. 24, 2000)***

Notified	21 June 2000
Commenced	21 June 2000

***Amendments of Procurement Regulations (SL No. 40, 2001)***

Notified	8 August 2001
Commenced	8 August 2001

***Procurement Amendment Regulations 2006 (SL No. 9, 2006)***

Notified	1 March 2006
Commenced	1 March 2006 (r 3)

***Procurement Amendment Regulations (No. 2) 2006 (SL No. 32, 2006)***

Notified	18 October 2006
Commenced	18 October 2006

***Procurement Amendment Regulations 2007 (SL No. 34, 2007)***

Notified	31 October 2007
Commenced	31 October 2007

***Procurement Amendment (Quotes for Supplies) Regulations 2009 (SL No. 7, 2009)***

Notified	30 March 2009
Commenced	30 March 2009

***Procurement Amendment Regulations 2012 (SL No. 26, 2012)***

Notified	28 June 2012
Commenced	1 July 2012 (r 2)

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**Procurement Amendment Regulations 2013 (SL No. 4, 2013)**

Notified 20 March 2013  
 Commenced 20 March 2013

**Procurement Amendment Regulations 2014 (SL No. 18, 2014)**

Notified 1 July 2014  
 Commenced 1 July 2014

**Procurement Amendment Regulations 2019 (SL No. 28, 2019)**

Notified 27 November 2019  
 Commenced 27 November 2019

**3 GENERAL AMENDMENTS**

General amendments of a formal nature (which are not referred to in the table of amendments to this reprint) are made by the *Interpretation Legislation Amendment Act 2018* (Act No. 22, 2018) to: rr 1 and 6.

**4 LIST OF AMENDMENTS**

- r 2 amd No. 40, 2001, r 1; No. 9, 2006, r 4; No. 7, 2009, r 3; No. 26, 2012, r 4; No. 18, 2014, r 3; No. 28, 2019, r 4
- r 4 sub No. 24, 2000, r 1  
 amd No. 9, 2006, r 5; No. 32, 2006, r 3  
 sub No. 7, 2009, r 4  
 amd No. 26, 2012, r 5; No. 18, 2014, r 4  
 sub No. 28, 2019, r 5
- r 5 sub No. 9, 2006, r 6  
 amd No. 32, 2006, r 4  
 sub No. 34, 2007, r 3  
 amd No. 7, 2009, r 5; No. 26, 2012, r 6; No. 18, 2014, r 5; No. 28, 2019, r 6
- r 6 amd No. 40, 2001, r 2; No. 9, 2006, r 7; No. 26, 2012, r 7; No. 18, 2014, r 6; No. 28, 2019, r 7
- r 6A ins No. 18, 2014, r 7
- r 7 amd No. 9, 2006, r 8
- r 8 amd No. 24, 2000, r 2  
 sub No. 9, 2006, r 9  
 amd No. 32, 2006, r 5  
 sub No. 34, 2007, r 4  
 amd No. 7, 2009, r 6; No. 26, 2012, r 8; No. 18, 2014, r 8; No. 28, 2019, r 8
- r 10 amd No. 9, 2006, r 10  
 sub No. 7, 2009, r 7  
 amd No. 4, 2013, r 3