

NORTHERN TERRITORY OF AUSTRALIA

PROCUREMENT REGULATIONS

As in force at 10 May 1992

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PROCUREMENT REGULATIONS

Regulations under the *Procurement Act*

1 Citation

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

2 Definitions

In these Regulations, unless the contrary intention appears:

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 an advertisement placed in a daily or weekly newspaper inviting the submission of tenders.

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.
- (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 Tenders required in certain circumstances

- (1) Subject to these Regulations, where the amount to be expended in an order for supplies is more than \$1,000 but not more than \$10,000, the Accountable Officer shall invite tenders from not less than 3 established suppliers.
- (2) Where, in the opinion of the Accountable Officer, it is not practicable to obtain tenders from 3 established suppliers, the

Accountable Officer may, for the purposes of subregulation (1), invite such lesser number of tenders as is practicable and shall record in writing the reason for not obtaining 3 tenders.

- (3) The Accountable Officer:
 - (a) may, where the amount to be expended in an order for supplies is not more than \$5,000, invite oral tenders; or
 - (b) shall, where the amount to be expended in an order for supplies is more than \$5,000, obtain written tenders,for the purposes of subregulation (1).
- (4) The Accountable Officer shall record in writing full details of an oral tender received as the result of an invitation under subregulation (3)(a) and shall obtain a written tender from the supplier whose tender the Accountable Officer intends to accept before accepting the tender.
- (5) An Accountable Officer shall, if required by a Procurement Review Board, give the Board full details of any contract arranged as the result of a tender.

5 Public tenders required in certain circumstances

- (1) Where the amount to be expended in an order for supplies is more than \$10,000, public tenders shall be invited, unless a certificate of exemption is obtained under regulation 8.
- (2) A tender to provide supplies to a value of more than \$50,000 shall not be accepted or be capable of being accepted except with the prior approval in writing of the relevant Procurement Review Board.
- (3) Notwithstanding subregulation (2), a tender to provide supplies to a value of more than \$10,000 from a supplier whose place or places of business is or are outside the Territory shall not be accepted or be capable of being accepted except with the prior approval in writing of the relevant Procurement Review Board.

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 Chairman of the Board.

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- (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* 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 Chairman, 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 Chairman to nominate another person, being a person of a class that is specified in the Chairman's instrument of appointment, to be the Chairman in the place of the Chairman,
- and a person so nominated shall be the member or the Chairman, 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 Chairman.
- (7) The functions of a Procurement Review Board are, subject to section 11 of the Act:
- (a) to review all requests for the calling of public tenders for the provision of supplies to a value of more than \$50,000;
 - (b) to review all tenders and public tender recommendations referred to it;
 - (c) to review all requests for exemption from the requirement to publicly advertise for tenders for the provision of supplies to a value of more than \$50,000;
 - (d) to review all recommendations for prequalifying and preselecting suppliers;
 - (e) to consider and, where it thinks appropriate or as directed by the Minister, give its approval for the acceptance of tenders referred to in regulations 5(2) and (3);

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- (f) to approve invitations to suppliers outside the Territory to submit tenders or to approve the advertising of public tenders outside the Territory;
 - (g) to approve the obtaining of supplies under an existing contract between a supplier and the Commonwealth, a State or another Territory of the Commonwealth; and
 - (h) to determine the eligibility of suppliers to enter into contracts with the Territory.
- (8) A Procurement Review Board has such powers as are necessary to enable it to carry out its functions.

7 Existing contracts

- (1) Where supplies are available to the Territory under an existing contract to which the Territory is a party, the supplies shall be obtained under the existing 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 from inviting tenders

- (1) Where:
 - (a) in relation to supplies to a value of more than \$10,000 but not more than \$50,000 – the Accountable Officer; and
 - (b) in relation to supplies to a value of more than \$50,000 – the Minister,

is satisfied that it is inexpedient to invite public tenders in relation to an order for supplies, the Accountable Officer or Minister as the case may be, may, in writing, dispense with the need to invite tenders generally, or public tenders, as the case may be, by issuing a certificate of exemption in respect of those supplies.

- (2) Notwithstanding subregulation (1), the Minister may issue a certificate of exemption in respect of particular supplies or supplies of a particular class irrespective of the value of those supplies.

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) Subject to subregulation (2), where the amount to be expended under a contract for supplies is in excess of \$5,000, the Accountable Officer shall cause details of the contract to be published in the *Gazette*.
- (2) Publication under subregulation (1) shall not be made where:
 - (a) the supplies are provided by the Territory, the Commonwealth or a State or another Territory of the Commonwealth;
 - (b) the supplies are obtained under an existing contract; or
 - (c) publication of the details is, in the opinion of the Minister, contrary to the public interest.

ENDNOTES

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KEY

Key to abbreviations

amd = amended

app = appendix

bl = by-law

ch = Chapter

cl = clause

div = Division

exp = expires/expired

f = forms

Gaz = *Gazette*

hdg = heading

ins = inserted

lt = long title

nc = not commenced

od = order

om = omitted

pt = Part

r = regulation/rule

rem = remainder

renum = renumbered

rep = repealed

s = section

sch = Schedule

sdiv = Subdivision

SL = Subordinate Legislation

sub = substituted

2

LIST OF LEGISLATION

Procurement Regulations (SL No. 15, 1995)

Notified 10 May 1992

Commenced 10 May 1992