

**NORTHERN TERRITORY OF AUSTRALIA**

**PROCUREMENT REGULATIONS**

As in force at 8 August 2001

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# NORTHERN TERRITORY OF AUSTRALIA

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As in force at 8 August 2001

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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 a public invitation for 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, if the amount to be expended in an order for supplies is:
  - (a) not more than \$3,000 – the Accountable Officer must invite verbal tenders from 3 established suppliers or, if that is not reasonably practicable, from a lesser number of suppliers as is reasonably practicable in the circumstances; or

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- (b) more than \$3,000 but not more than \$10,000 – the Accountable Officer must obtain written tenders from not less than 3 established suppliers.
  - (2) The Accountable Officer must record in writing full details of a verbal tender received as the result of an invitation under subregulation (1)(a) and must obtain a written tender from the supplier whose tender the Accountable Officer intends to accept before accepting the tender.
  - (3) For the purposes of subregulation (1)(b), if the Accountable Officer is of the opinion that it is not practicable to obtain tenders from 3 established suppliers, the Accountable Officer must invite the lesser number of tenders that is practicable and must record in writing the reason for not obtaining 3 tenders.
  - (4) An Accountable Officer must, 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.
- (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

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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 invite 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);
  - (f) to approve invitations to suppliers outside the Territory to submit tenders or to approve the advertising of invitations for public tenders outside the Territory;

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- (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 \$250,000 – the Accountable Officer; and
  - (b) in relation to supplies to a value of more than \$250,000 – 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

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- (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.

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## ENDNOTES

### 1 KEY

Key to abbreviations

<p>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</p>	<p>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</p>
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### 2 LIST OF LEGISLATION

***Procurement Regulations (SL No. 15, 1995)***

Notified	10 May 1992
Commenced	10 May 1992

***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

### 3 LIST OF AMENDMENTS

r 2	amd No. 40, 2001, r 1
r 4	sub No. 24, 2000, r 1
r 6	amd No. 40, 2001, r 2
r 8	amd No. 24, 2000, r 2