






Canberra Office




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Procurement connected policies

(current as at 20 September 2020)

ACT / RULE / POLICY	DESCRIPTION	DOES IT APPLY?	WHAT YOU NEED TO DO
 Commonwealth Procurement Rules (CPRs)—Division 1	<p>Procurement is the process of acquiring goods and services and includes the acquisition of goods and services by a relevant entity on behalf of another relevant entity or a third party.</p> <p>Division 1 of the CPRs contains the core principles, applicable to all Commonwealth procurement activities.</p>	<p>Yes, to all procurements.</p> <p>Relevant entities (officials from non-corporate Commonwealth entities and prescribed corporate Commonwealth entities listed in s 30 of the <i>Public Governance, Performance and Accountability Rule 2014</i> (Cth) must comply with the CPRs when performing duties related to procurement [clause 2.2 of the CPRs].</p>	<p>Incorporate the principles of Division 1 in internal agency procurement guidance and Accountable Authority Instructions (AAIs).</p> <p>Use Division 1 as a reference point when planning and conducting procurement activities.</p>
 Benefits to the Australian Economy (paragraphs 4.7 and 4.8 of CPRs)	<p>When considering value for money, agencies must consider benefits to the Australian economy.</p>	<p>Yes, if:</p> <ul style="list-style-type: none">the procurement value is above \$4 million for goods and services (not via an existing standing offer or panel), orthe procurement value is above \$7.5 million for construction services, andit is not covered by an exemption in Appendix A to the CPRs.	<p>During planning, consider how the Australian economy may benefit from the procurement activity.</p> <p>Include the requirement to demonstrate economic benefit in the evaluation criteria in the request documentation.</p>

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 <p>Commonwealth Procurement Rules (CPRs)—Division 2</p>	<p>Division 2 of the CPRs contains the additional rules applicable to covered procurements, that is, those exceeding the relevant procurement thresholds in paragraph 9.7 of the CPRs (and set out in the next column).</p>	<p>Yes, if:</p> <ul style="list-style-type: none"> it is a covered procurement, that is: <ul style="list-style-type: none"> for non-corporate Commonwealth entities procuring non-construction related services, procurement value is \$80,000+ for corporate Commonwealth entities procuring non-construction related services, \$400,000+ for construction related services, \$7.5 million+, and it is not covered by an exemption in Appendix A to the CPRs. 	<p>Comply with the mandatory requirements in Division 2, including the minimum response times, except where Division 2 specifically allows a departure from these arrangements (such as clause 10.4 regarding limited tender conditions and clause 10.24 regarding minimum response times).</p> <p>Note that the Government Procurement (<i>Judicial Review</i>) (GPJR) Act will also apply to covered procurements (see below).</p>
 <p>Government Procurement (Judicial Review) Act 2018 (Cth) (GPJR) Act</p>	<p>The GPJR) Act enables affected suppliers to lodge a complaint about, and seek an injunction or compensation for, a breach of a relevant provision of the CPRs.</p>	<p>Yes, if:</p> <ul style="list-style-type: none"> it is a covered procurement, that is Divisions 1 and 2 of CPRs apply (see the procurement thresholds above), and the procurement is not included in a class of procurements specified in a Minister's determination issued under s 5(2) of the Act. 	<p>Consider whether a Public Interest Certificate (PIC) needs to be issued as per Resource Management Guide (RMG) 422.</p> <p>Ensure the procurement is conducted in accordance with both Division 1 and 2 of the CPRs.</p> <p>Consider seeking external legal or probity advice regarding any suspected breaches of the CPRs.</p>
 <p>Black Economy Policy—increasing the integrity of government procurement</p>	<p>From 1 July 2019, the policy requires businesses seeking to tender for Australian Government procurement contracts over \$4 million (including GST) to provide a statement from the Australian Taxation Office showing they have a satisfactory tax record.</p> <p>All non-corporate Commonwealth entities must comply with the policy.</p>	<p>Yes, if:</p> <ul style="list-style-type: none"> it is an open market procurement, and it has an estimated value > \$4 million inclusive of GST. 	<p>Request documentation must require that tenderers:</p> <ol style="list-style-type: none"> provide a satisfactory Statement of Tax Record (STR) that is valid at the time of the tender closing, or provide a STR receipt and provide the satisfactory STR no later than four business days from the close of tender and before the awarding of the contract, and meets STR obligations in relation to any first-tier subcontractors with sub-contracts valued over \$4 million incl. GST, if known at the time of submission.

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 <p>Indigenous Procurement Policy (IPP)—Part 1 (Mandatory Set-Aside)</p>	<p>The IPP aims to stimulate Indigenous entrepreneurship and business development, providing indigenous Australians with more opportunities to participate in the economy.</p> <p>The mandatory set-aside provisions allow agencies to engage indigenous businesses simply and directly for lower value covered procurements.</p>	<p>Yes, if:</p> <ul style="list-style-type: none"> it is an open market procurement, and it has an estimated value between \$80,000-\$200,000. 	<p>Must attempt to identify an Indigenous business(es) that can meet the requirement, before approaching the broader market. Check https://supplynation.org.au/</p> <p>If a supplier is found, and is judged to offer value for money, it can be engaged directly using Exemption 16 in Appendix A to the CPRs.</p>
 <p>Indigenous Procurement Policy (IPP)—Part 2 (Minimum Indigenous Participation Requirements)</p>	<p>The IPP, intended to stimulate indigenous entrepreneurship and business development, providing indigenous Australians with more opportunities to participate in the economy.</p> <p>The minimum requirements ensure indigenous participation in all high value contracts in the construction sector and other specified industries.</p>	<p>Yes, if:</p> <ul style="list-style-type: none"> the value of the procurement is estimated to be \$7.5 million or more (inclusive GST) including options all the goods and services will be delivered wholly within Australia, and more than half the value of the contract falls within one of the 19 specified industry categories listed in Appendix B of the IPP. 	<p>Specify whether a component is to be delivered in a remote area. If so, include relevant evaluation criterion in the request documentation as during the evaluation you will need to consider the tenderers':</p> <ol style="list-style-type: none"> past compliance with the Mandatory Minimum Requirements (MMR) requirements plans to increase indigenous participation (as outlined in the tenderer's proposed IPP), and ability to achieve significant indigenous participation outcomes in remote Australia (as appropriate, for contracts with a remote component).
 <p>Workplace Gender Equality Procurement Principles (the Principles)</p>	<p>To be considered for Australian Government procurement contracts valued at or above the relevant procurement thresholds, all relevant employers must be able to demonstrate they are compliant with the <i>Workplace Gender Equality Act 2012</i> (Cth) by supplying a letter of compliance either with their submission to an approach to market or before entering into a contract.</p>	<p>Yes, if:</p> <ul style="list-style-type: none"> it is a covered procurement, that is Divisions 1 and 2 of CPRs apply (see the procurement thresholds above), and the tenderer is a relevant employer that employs a total of 100+ employees in Australia (incl. subsidiaries). 	<p>Request documentation and contract must include appropriate clauses—draft clauses are available in s 8 of the Principles.</p> <p>Tenderers that are a relevant employer must submit the required evidence of compliance.</p>

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 <p>Australian Industry Participation</p>	<p>The Australian Industry Participation (AIP) National Framework applies to major Commonwealth Government procurements (\$20 million and more).</p> <p>Note: The value threshold and compliance requirements for AIP are slightly different for procurements undertaken by the Department of Defence. Please check Defence-specific guidance material for the relevant obligations.</p>	<p>Yes, if:</p> <ul style="list-style-type: none"> major public and private projects with capital expenditure of \$500 million or more Australian Government procurements of \$20 million or more Australian Government grants of \$20 million or more Australian Government payments of \$20 million or more to state and territory governments for large infrastructure projects, or investments from the Clean Energy Finance Corporation and Northern Australia Infrastructure Facility of \$20 million or more. 	<p>Successful tenderers for certain Commonwealth procurements may be required to prepare and implement an AIP Plan.</p> <p>Call the Australian Industry Participation Authority (AIPA) on 02 6213 6404 or email aip@industry.gov.au to discuss whether an AIP plan is required.</p> <p>If an AIP plan is required, AIPA can provide model clauses to include in the request documentation.</p> <p>Once an AIP plan is approved, you will need to review implementation report(s) and evaluate the actions against the AIP plan. You will then need to approve the reports and provide copies to AIPA.</p>
 <p>Code for the Tendering and Performance of Building Work 2016 (Building Code 2016)</p>	<p>Relevant Commonwealth entities are required to apply the Building Code 2016 to all Commonwealth funded building work undertaken for, or on behalf of, Commonwealth government entities.</p> <p>The Building Code 2016 also applies to building work that is indirectly funded where the Commonwealth's contribution is:</p> <ul style="list-style-type: none"> at least \$5 million and represents at least 50% of the total construction project value, or at least \$10 million (irrespective of its proportion of the total construction project value). 	<p>Yes, if:</p> <ul style="list-style-type: none"> the funding entity is a non-corporate Commonwealth entity or a corporate Commonwealth entity the work is directly or indirectly Commonwealth funded building work which means building work described in any of items 1 to 8 of s 1, other than building work to which item 10 of that section applies no exemption has been granted by the ABC Commissioner under clause 6A (essential service providers) or 6B (essential services infrastructure), and the request documentation is issued by the funding entity on or after 2 December 2016. <p>For indirectly funded Commonwealth building work, separate thresholds apply.</p>	<p>Ensure procurements in respect of Commonwealth funded building work are conducted in a manner consistent with the Building Code 2016 and that respondents are only permitted to participate in the procurement where the respondent meets the eligibility requirements set out in s 23.</p> <p><i>S 24(2) of the Code</i> sets out the specific requirements which must be included in the request documentation.</p>

Key contacts

For more information, or for help with your procurement activities, please contact:



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