

<b>Treasurer's Instruction No</b>	<b>1102</b>
Title	<b>International Obligations: goods and services</b>
Effective date	<b>1 January 2008</b>
Objective and Background	<b>Provides instruction and guidance on the <i>Australian and New Zealand Government Procurement Agreement (ANZGPA)</i> and the <i>Australia - United States Free Trade Agreement (AUSFTA)</i>.</b>
Version Number	<b>7</b>
Last Reviewed Date	<b>January 2008</b>

*Black letter (or bold) items within these Instructions are mandatory and other plain font items are instructional or for the purpose of providing guidance only.*

- (1) This instruction applies only to the procurement of goods and services and is to be read in conjunction with Instructions 1101 to 1124.**

Further information, including a definition of “goods and services”, can be found on the Buying for Government section of [www.purchasing.tas.gov.au](http://www.purchasing.tas.gov.au).

Refer to Instructions 1201 to 1229 for information in relation to procurement of building and construction and roads and bridges.

Australia is a signatory to a range of bilateral free trade arrangements. As of 1 January 2005, those arrangements which include specific Government procurement commitments include:

- (1) The *Australian and New Zealand Government Procurement Agreement (ANZGPA)*; and
- (2) The *Australia - United States Free Trade Agreement (AUSFTA)*.

The Tasmanian Government, together with the Commonwealth and all other States and Territories, is a signatory to the ANZGPA.

The Tasmanian Government, together with the Commonwealth and all other States and Territories, has confirmed that it will participate in the Government Procurement Chapter of the AUSFTA.

All relevant international obligations are incorporated into the procurement policy framework as expressed in this and related Treasurer's Instructions.

- (2) In accordance with the *Australian and New Zealand Government Procurement Agreement (ANZGPA)*, agencies must not give preference to Tasmanian suppliers over those from another Australian jurisdiction or New Zealand. Australian and New Zealand suppliers must be given equal consideration and opportunities to contract for the supply of goods and services to the State Government in relation to all procurements.**

Further information on the ANZGPA can be found in the Buying for Government section of [www.purchasing.tas.gov.au](http://www.purchasing.tas.gov.au), under Purchasing Framework (Purchasing Policies). A copy of the ANZGPA can be obtained from the Australian Procurement and Construction Council Web site, at [www.apcc.gov.au](http://www.apcc.gov.au).

- (3) **In accordance with Chapter 15 of the *Australia - United States Free Trade Agreement* (AUSFTA), in any procurement governed by the Agreement:**
- (a) **agencies must treat goods and services of the United States and the suppliers of goods and services of the United States on a basis which is no less favourable than the most favourable treatment provided by the agency to goods and services or suppliers of goods and services from Tasmania, Australia or New Zealand; and**
  - (b) **an agency must not treat a locally established supplier less favourably than other locally established suppliers on the basis of degree of United States affiliation or ownership nor discriminate against a locally established supplier on the basis that the goods or services offered by that supplier for a particular procurement are goods and services of the United States.**
- (4) **If it is determined that a procurement falls within the scope of the AUSFTA, then, in addition to the requirements under the Treasurer's Instructions, the requirements in the *Australia - United States Free Trade Agreement (AUSFTA) Guidelines* must also be followed.**

The requirements set out in the *Australia - United States Free Trade Agreement (AUSFTA) Guidelines* relate to matters such as the length of time a tender is advertised, the information to be provided to tenderers etc, and generally accords with good practice procurement. The Guidelines can be found in the Buying for Government section of [www.purchasing.tas.gov.au](http://www.purchasing.tas.gov.au) under Resources (Publications).

A procurement is covered by the AUSFTA if it is:

- a procurement by any contractual means, including purchase, rental or lease, with or without an option to buy, build-operate-transfer contract and public works concession contract;
- for which the estimated dollar value of the procurement is equal to or in excess of the specified thresholds set out below;
- conducted by an inner-Budget agency; and
- the procurement is not an excluded procurement.

From 1 January 2008 to 31 December 2009, the AUSFTA applies to goods and services procurement where the procurement has an estimated dollar value equal to or in excess of \$679 000 (inclusive of GST). If information on threshold values prior to 1 January 2008 is required, please contact the Department of Treasury and Finance, Procurement and Property Branch.

The AUSFTA does not apply to (excluded procurements):

- non-contractual agreements or any form of assistance including grants, loans, equity infusions, fiscal incentives, subsidies, guarantees, cooperative agreements and sponsorship arrangements;
- procurement of goods and services by an agency from other Tasmanian Government entities and provision of goods or services by or between a Tasmanian inner-Budget agency and Tasmanian local government;
- purchases funded by international grants, loans, or other assistance, where the provision of such assistance is subject to conditions inconsistent with the AUSFTA;
- purchases funded by grants and sponsorship payments from persons not listed in the AUSFTA;
- procurement for the direct purpose of providing foreign assistance;
- procurement of research and development services;
- procurement of goods and services (including construction) outside the territory of Australia, for consumption outside the territory of Australia;
- acquisition of fiscal agency or depository services, liquidation and management services for regulated financial institutions, and sale and distribution services for government debt;
- procurement of health and welfare services;
- procurement of education services;
- procurement of advertising services; and
- procurement of plasma fractionation services.

In addition, the provisions of the Procurement Chapter of the Agreement do not apply to:

- any form of preference to benefit small and medium enterprises;
- measures to protect national treasures of artistic, historic or archaeological value;
- measures for the health and welfare of indigenous people; and
- measures for the economic and social advancement of indigenous people.

The estimated dollar value of a procurement is to be ascertained in accordance with Instruction 1104.