

TREASURER'S INSTRUCTION
FINANCIAL MANAGEMENT ACT 2016
PROCUREMENT FRAMEWORK - POLICIES IMPACTING ON
PROCUREMENT: ALL PROCUREMENT

EFFECTIVE DATE

1 July 2019

SCOPE

This Treasurer's Instruction applies to all Agencies listed in Column 1 of Schedule 1, Part 1 in the *Financial Management Act 2016*.

APPLICATION

At all times.

OBJECTIVE

To detail Government policies that impact all *procurement* of goods and services, and building and construction / roads and bridges.

INSTRUCTION**Interpretation and Definitions**

Refer to Treasurer's Instruction PF-6 for general definitions. Variations specific to this Treasurer's Instruction are set out below.

Australia and New Zealand Government Procurement Agreement (ANZGPA)

2.1 Agencies must conduct *procurement* in accordance with the obligations and requirements set out in the *Australia and New Zealand Government Procurement Agreement*.

International Procurement Obligations - international procurement and free trade agreements

2.2 Where the Tasmanian Government has agreed to be bound by procurement obligations in an international agreement, Agencies must comply with those obligations when undertaking *covered procurement*.

2.3 Where a *procurement* is a *covered procurement* Agencies must:

- 2.3.1 ensure that the obligations contained in the publication, *International Procurement Obligations* are met in addition to the requirements of the Treasurer's Instructions; and
- 2.3.2 not prepare, design, or otherwise structure or divide a *procurement*, at any stage, for the purposes of avoiding required international procurement obligations.
- 2.4 In the event of conflict between the requirements of the Treasurer's Instructions and the provisions contained in the *International Procurement Obligations*, the *provisions* contained in the *International Procurement Obligations* publication prevail.

Buy Local Policy

Disaggregation

- 2.5 Except for the establishment of the common use *contracts* referred to in Treasurer's Instruction PF-3, clauses 3.3-3.5 or as set out in clauses 2.6 or 2.7 below, all *substantial procurement opportunities* must be disaggregated.
- 2.6 The Accountable Authority is permitted to approve, on a case by case basis, an exemption from the requirement to disaggregate where the benefits of aggregation clearly outweigh any potential negative impact on *local SME suppliers* or the local economy. Approval must be granted in writing prior to the commencement of the *procurement* and appropriate and auditable documentation regarding the approval must be maintained.
- 2.7 The Secretary of the Department of Treasury and Finance is permitted to approve a class exemption from the requirement to disaggregate, applicable to all Agencies or an identified sub-set of Agencies, where satisfied that the benefits of aggregation clearly outweigh any potential negative impact on local SME suppliers or the local economy.

Pre-procurement Local Impact Assessments

- 2.8 Except as set out in clause 2.9, for:
- roads and bridges works *procurement processes* valued at \$500 000 or more; and
 - all other *procurement processes* valued at \$250 000 or more,

Agencies must prepare a formal pre-procurement local impact assessment to ensure Tasmanian suppliers are given every opportunity to participate in a *procurement* and be successful. The assessment must be approved by the Accountable Authority prior to the commencement of the *procurement*. Appropriate and auditable documentation regarding the approval must be maintained.

- 2.9 A formal pre-procurement local impact assessment is not required where direct sourcing has been approved due to sole supplier circumstances arising in accordance with Treasurer's Instruction PP-2, clause 2.18.2 or 2.18.3 or due to any other Limited

Tendering circumstance set out in Treasurer's Instruction PP-2 where all the suppliers to be approached are *Tasmanian businesses*.

Approaching Tasmanian Businesses

- 2.10 For all *competitive procurement processes* with a value of \$50 000 or more, at least two submissions must be sought from *Tasmanian businesses* where Tasmanian capability exists. For the purposes of this clause, *competitive procurement process* includes seeking expressions of interest, requesting proposals, *open tendering*, *quotation process* and seeking submissions from suppliers on a *multi-use list*.

Local SME Industry Impact / Local Benefits Test

- 2.11 For all *competitive procurement processes* with a value of \$50 000 or more, the evaluation criteria for the *procurement* must include a specific local SME industry impact criterion with the weighting to be applied to the criterion to be at least 20 per cent (20%). The weighting of 20 per cent is to apply to the qualitative and quantitative criteria combined and not just to the qualitative component.
- 2.12 For all *procurement* other than roads and bridges works procurement, information must be requested from suppliers to enable assessment of the criterion referred to in clause 2.11 through the completion of the whole-of-government Local SME Industry Impact Statement as part of the supplier's response to an approach to the market.

Tasmanian Industry Participation Plans

- 2.13 Agencies must ensure that for:
- 2.13.1 procurement *contracts* valued at more than \$5 million; or
 - 2.13.2 projects valued at more than \$5 million that receive support, including in-kind support from the Government, valued at or more than \$500 000, or for projects valued at more than \$5 million that receive a grant valued at or more than \$500 000;
- the preferred supplier, project proponent or grantee prepares a Tasmanian Industry Participation Plan (TIPP) and that the *procurement*, *contract* or grant documentation includes the requirement for the TIPP and agreement as to its publication.
- 2.14 For the purposes of clause 2.13, TIPP's must be approved by the Accountable Authority before the *contract*, funding agreement or grant deed is finalised and before the supplier, project proponent or grantee enters into sub-contracting or *procurement* arrangements in relation to the project.
- 2.15 The approved TIPP (or at the Agency's discretion, an Executive Summary) must be provided to the Department of Treasury and Finance, within 10 days of the execution of the *contract*, agreement or grant deed, for publication.

- 2.16 The Accountable Authority is permitted to extend the requirement for a TIPP to *procurement contracts* valued at more than \$2 million up to, and including, \$5 million.

Full cost attribution policy on submissions from Government entities

- 2.17 Unless no private sector supplier responds to a *competitive procurement process*, offers from other Agencies, statutory authorities, Government Business Enterprises, State-owned Companies or local government must be rejected if the price submitted does not reflect full cost attribution.

Pre-procurement Industry Consultation

- 2.18 Unless exempted in accordance with clause 2.20, a report summarising the outcomes of consultation with industry and local business representatives in relation to an intended *procurement process* must be prepared where the following thresholds are met:

2.18.1 for all services (including building and construction / roads and bridges consultancies) - more than \$5 million;

2.18.2 for all goods - more than \$5 million;

2.18.3 for all building and construction works - more than \$10 million; and

2.18.4 for all roads and bridges construction works - more than \$15 million.

- 2.19 The report must be approved by the Accountable Authority prior to advertising the *procurement* on the Tenders website or issuing a request directly to potential suppliers.

- 2.20 The Secretary of the Department of Treasury and Finance is permitted to approve class exemptions from the requirement to prepare a Pre-procurement Industry Consultation Report.

Tasmanian Wood Encouragement Policy

- 2.21 Agencies must comply with the requirements of the *Tasmanian Wood Encouragement Policy* when procuring and when engaging with proponents of private sector or local government building projects that receive Government funding or that are to be leased by Government.

ADDITIONAL GUIDANCE

Further information in support of this Treasurer's Instruction can be found in the Procurement Framework Better Practice Guidelines.