

Treasurer's Instruction No	1201
Title	Procurement Principles: building and construction/roads and bridges
Effective date	18 September 2017
Objective and Background	Details the principles and codes upon which government building and construction and roads and bridges procurement is based, and provides instruction on how they are to be applied.
Version Number	12

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

- (1) **This Instruction applies to the procurement of building and construction and roads and bridges and is to be read in conjunction with other Instructions relating to such procurements which are contained in the 1200 series of the Treasurer's Instructions.**

Further information on building and construction procurement, including a definition of "building and construction" and "roads and bridges" and information on the types of services that fall under these categories is located on the [Purchasing website - Buying for Government](http://www.purchasing.tas.gov.au) (www.purchasing.tas.gov.au).

For information in relation to procurement of goods and non-construction related services, refer to the 1100 series of the Treasurer's Instructions.

- (2) **Government procurement must be undertaken in a manner that is consistent with the following four principles:**

VALUE FOR MONEY

- (a) **Agencies must pursue value for money purchasing outcomes in accordance with the guidance information contained in the publication *How to Assess Value for Money*.**

Value for money means achieving the desired outcome at the best possible price. In practice this means weighing up the benefits against the cost. The assessment of value for money includes consideration of the following factors:

- the contribution to the achievement of government policy objectives that support local and regional business, such as industry development and employment creation;
- the advantages of engaging local and regional suppliers;
- fitness for purpose;
- weighing up the benefits of the construction against the cost of purchase;
- maintenance costs;
- climate change and environmental considerations (including energy conservation); and
- risks.

The publication *How to Assess Value for Money* can be located at on the [Purchasing website - Buying for Government \(Publications\)](#).

OPEN AND EFFECTIVE COMPETITION

- (b) Agencies must ensure that the purchasing process is impartial, open and encourages competitive offers.**

Open and effective competition means using transparent, open purchasing processes, adequately testing the market (whether by open tender or by seeking quotations, whichever process is applicable) avoiding biased specifications and treating all suppliers consistently and equitably, so that potential contractors and the public can have confidence in the outcomes.

COMPLIANCE WITH ETHICAL STANDARDS, OBSERVING THE PROCUREMENT CODE OF CONDUCT AND THE CODE OF TENDERING

Agencies/Government Buyers

- (c) Government buyers must observe the Procurement Ethical Standards and the Procurement Code of Conduct. An agency must also ensure that its representatives (consultants etc) and agency officers act in accordance with Australian Standard Code of Tendering AS 4120-1994, clause 6 “Obligations of the Principal” for all procurement valued at \$10 000 or more.**

AS 4120-1994 Code of Tendering sets out the ethics and the obligations of the Principal and Tenderers in tendering in the construction industry.

AS 4120-1994 Code of Tendering is available to download from the SAI Global website located at www.saiglobal.com/.

Information on the Procurement Ethical Standards and the Procurement Code of Conduct is set out below.

Procurement Ethical Standards

- (i) All business must be conducted in the best interests of the State, avoiding any situation which may impinge, or might be deemed to impinge, on impartiality;**
- (ii) Public money must be spent efficiently and effectively and in accordance with Government policies;**

"public money" means money, negotiable instruments or securities of any kind for the payment of money collected, received or held by a person for or on behalf of the Crown in right of the State and includes all money forming part of, or payable to, the Public Account. (*Financial Management and Audit Act 1990*)

- (iii) Agencies must purchase without favour or prejudice and maximise value in all transactions;**
- (iv) Agencies must maintain confidentiality in all dealings; and**
- (v) Government buyers must decline gifts, gratuities, or any other benefits which may influence, or might be perceived to influence, equity or impartiality in procurement decisions. Requirements are contained in the whole of *Government Gifts, Benefits and***

Hospitality Policy which can be located on the Department of Premier and Cabinet website at www.dpac.tas.gov.au > **Divisions** > **State Service Management Office** > **Employment Policy** > **Whole of Government Gifts, Benefits and Hospitality**.

Procurement Code of Conduct

Buyers must:

- (vi) ensure that all potential suppliers are provided with identical information upon which to base tenders and quotations and are given equal opportunity to meet the requirements;
- (vii) establish and maintain procedures to ensure that fair and equal consideration is given to all tenders and quotations received;
- (viii) offer a prompt and courteous response to all reasonable requests for advice and information from potential or existing suppliers;
- (ix) promote fair and open competition and seek value for money for the Government;
- (x) be equitable in the treatment of all suppliers;
- (xi) seek to minimise the cost to suppliers of participation in the procurement process;
- (xii) protect confidential information;
- (xiii) deal honestly with suppliers;
- (xiv) keep accurate records to justify the process and any decisions made;
- (xv) complete a conflict of interest declaration and take steps to avoid involvement in any procurement activity where any conflict of interest (actual or perceived) may arise; and
- (xvi) abstain from soliciting or accepting remuneration or other benefits from a supplier for the discharge of official duties.

For all purchases, agencies must ensure that the procurement process meets public sector probity requirements, that value for money is obtained and that the separation of roles and responsibilities between the contractor and agency staff is maintained for the duration of the contract.

Probity issues are dealt with in the Department of Treasury and Finance publication *Probity Guidelines for Procurement* located on the [Purchasing website - Buying for Government \(Publications\)](#).

- (d) **Agencies must develop and maintain a process for the recording of conflict of interest declarations. Records kept must:**
 - include details of the action taken to manage the conflict of interest; and
 - be auditable.

Information to assist agencies in establishing a suitable process is contained in the Department of Treasury and Finance publication *Recording Conflict of Interest Declarations - Guidelines for Agencies* which can be located on the [Purchasing website - Buying for Government \(Publications\)](#).

Suppliers

- (e) **Agencies must require suppliers to comply with the National Code of Practice for the Construction Industry, 1997 Edition, the Tasmanian Annexure to the National Code of Practice for the Construction Industry and with the Australian Standard Code of Tendering AS 4120-1994 for all procurement valued at \$10 000 or more.**

Additional information relating to the Tasmanian Annexure to the National Code of Practice for the Construction Industry can be found in the *Tasmanian Annexure to the National Code of Practice for the Construction Industry*, which is located on the [Purchasing website - Buying for Government \(Publications\)](#).

Where the Australian Government provides funding to projects that meet its contribution value thresholds, agencies may be required by the funding arrangement/agreement to conform with the *Code for the Tendering and Performance of Building Work 2016*. Further information is located on the [Purchasing website - Buying for Government \(Ethical Standards and Codes\)](#).

AS 4120-1994 – *Code of Tendering* is available to download from the SAI Global website located at www.saiglobal.com/.

- (f) **Agencies must also require suppliers to act ethically and in accordance with relevant industrial relations and occupational health and safety legislation.**

Where the Australian Government provides funding to projects that meet its contribution value thresholds, agencies may be required by the funding arrangement/agreement to conform with the Australian Government building and construction industry WHS Accreditation Scheme. Further information is located on the [Purchasing website - Buying for Government \(Ethical Standards and Codes\)](#).

ENHANCING OPPORTUNITIES FOR LOCAL BUSINESS

- (g) **Agencies must ensure that local businesses that wish to do business with Government are given the opportunity to do so and that the Government's Buy Local Policy requirements detailed in the publication *Buy Local Policy* and in Instruction 1225, are adopted as required.**

Enhancing opportunities for local business does not mean giving preference to local businesses, however it does require Government buyers to actively seek bids from local businesses, particularly from those that have previously requested the opportunity to compete for agency business and to also ensure that agency requirements do not unnecessarily preclude local businesses from bidding or disadvantage local suppliers.

Further information can be located at on the [Purchasing website - Buying for Government \(Buy Local Policy\)](#).