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# **Aboriginal and Torres Strait Islander Procurement Policy**

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## **Objectives**

The Government's aim for the Aboriginal and Torres Strait Islander Procurement Policy (ATSIPP) is to support the objectives of the Government's current and future agreements with Aboriginal and Torres Strait Islander peoples. The Agreement includes the focus area of employment and economic independence for Aboriginal and Torres Strait Islander peoples in the Canberra Region.

There are significant multiplier effects from supporting the growth of Aboriginal and Torres Strait Islander Enterprises through capability and skills development; the attraction of investment and employment opportunities, with Aboriginal and Torres Strait Islander companies generally demonstrating significantly higher proportions of Aboriginal and Torres Strait Islander employment.

The Government has identified two target areas that offer the greatest opportunity for Aboriginal and Torres Strait Islander enterprises;

- Opportunities that Aboriginal and Torres Strait Islander small to medium enterprises (SMEs) have the capacity and capability to deliver individually.
- Opportunities for Aboriginal and Torres Strait Islander enterprises as sub-contractors on large projects.

## **Desired Behaviours**

The Government wants to instigate a cultural change within the Territory to reduce some of the barriers to government procurement encountered by Aboriginal and Torres Strait Islander Enterprises. As a guide for Territory Entities, the following behaviours are desirable to cultivate in support of the ATSIPP.

### **Address bias and barriers**

Territory Entities are encouraged to:

- assist its delegates in recognising and addressing any biases against Aboriginal and Torres Strait Islander Enterprises in procurement processes; and
- support and empower its delegates so that they may make value for money decisions that include supplier diversity reasons.

### **Be clear about your requirements**

Territory Entities are encouraged to conduct a comprehensive analysis of their requirements so that they may be expressed as simply, clearly and concisely as possible for suppliers. Long and overly prescriptive requirements can be a barrier for Aboriginal and Torres Strait Islander Enterprises and SMEs, which do have scarce time and resources to dedicate to tender responses.

## **Allow for time**

Territory Entities are encouraged to plan their future procurements so that time is available to act upon any opportunities for Aboriginal and Torres Strait Islander Enterprises. Timeframes should permit the quotation and tender open periods to be sufficient to allow Aboriginal and Torres Strait Islander Enterprises to prepare a considered response.

## **Consider financial burdens**

Territory Entities are encouraged to recognise and mitigate instances where the financial requirements of a procurement are a barrier for Aboriginal and Torres Strait Islander Enterprises. Some situations where issues may occur are when:

- the procurement requires the supplier to use expensive equipment to complete the project. The Territory Entity may consider allowing options for the supplier to hire that equipment or for the supplier to sub-contract that section of the work.
- the work is to be completed over a significant length of time, payment should be frequent and proportionate to the amount of work completed. This is to assist Aboriginal and Torres Strait Islander Enterprises maintain a healthy cash flow. Territory Entities should prompt payments in accordance with the payment terms of the agreement. In the event of an overdue invoices, Territory Entities should resolve these as a matter of priority.
- the Territory Entity requires the supplier to attain security as part of the entity's risk management for the project. Where appropriate these should be avoided in favour of alternatives such as retentions, accepting insurance bonds and effective contract management and performance frameworks.

## **Alignment with Existing Policy**

### **Aboriginal and Torres Strait Islander Agreement**

The Agreement sets the long term direction in Aboriginal and Torres Strait Islander Affairs in the ACT. The Aboriginal and Torres Strait Islander Procurement Policy aligns with the Agreement focus area of employment and economic independence.

The policy will enable Aboriginal and Torres Strait Islander people to enjoy meaningful employment opportunities by increased employment and private enterprise for Aboriginal and Torres Strait Islander peoples in the ACT. This will be achieved through supporting the growth of Aboriginal and Torres Strait Islander enterprises including community services sector organisations and through capability and skills development that will support Aboriginal and Torres Strait Islander enterprises to provide increased employment opportunities.

### **Business Development**

The ATSIPP is working in line with the Territory's *Confident & Business Ready* Business Development Strategy which supports a range of successful programs tailored to the needs of business development. In May 2015 the Territory launched the successful Canberra Business Yarning Circle in collaboration with the Canberra Innovation Network and the

Aboriginal and Torres Strait Islander Elected Body. In December 2017, the Territory launched Business Development and Entrepreneurship Program to be delivered over two years which involves:

- Targeted business, product and finance workshops;
- An Aboriginal and Torres Strait Islander Business Trade Show (in the second year);
- Individual business mentoring;
- Specialist business advices sessions;
- Employability training sessions; and
- Identifying and linking participants to internship opportunities.

For further information about Business Development opportunities please refer to the contact details below.

## **Core Policy Components**

In summary the Policy is comprised of three core components:

- Eligibility and Certification,
- Opportunity and Exemption, and
- Measurements and Targets.

### **Eligibility and Certification**

An enterprise's eligibility for opportunities under the Policy is determined through a certification process. Certification of an enterprise is completed by "Certifying Authorities" (See Core Concepts below), which is then passed to the Territory's Aboriginal and Torres Strait Islander Supplier List, for Territory Entities to refer to in for their procurements.

### **Opportunity and Exemption**

Territory Entities identify opportunities for Aboriginal and Torres Strait Enterprises in their procurement requirements. An Entity may utilise an exemption from the quotation threshold to seek a quote directly from an Aboriginal and Torres Strait Enterprise.

### **Measurements and Targets**

The measures and reporting tracks whether Territory Entities are achieving the Policy's objectives. The three measures capture both the scale and scope of the work going to Aboriginal and Torres Strait Islander Enterprises, as well as the number of suppliers submitting quotations. The Territory's performance then is published to drive change.

## **Core Concepts**

### **Aboriginal and Torres Strait Islander Enterprise**

An Aboriginal and Torres Strait Islander Enterprise under the ATSIPP is defined as an organisation which;

- has an office registered in the Canberra Region against its ABN, and
- is at least 51% Aboriginal and Torres Strait Islander owned.

In order to maintain the integrity of the Aboriginal and Torres Strait Islander Procurement Policy, Enterprises are required to obtain certification from one of the Certifying Authorities in order to access opportunities under the policy. As part of the certification a Confirmation of Aboriginality is required for each Aboriginal and Torres Strait Islander owner.

### **Certifying Authority**

A Certifying Authority is an organisation which provides services to confirm the Aboriginal and Torres Strait Islander ownership and control of Aboriginal and Torres Strait Islander enterprises. The Certifying Authority's processes are recognised by the Territory as suitably robust to assure the Territory of the integrity of its certified Aboriginal and Torres Strait Islander Enterprise list. The following organisations are recognised by the Territory as being suitable Certifying Authorities.

- Supply Nation;
- NSW Indigenous Chamber of Commerce (NSWICC);
- National Aboriginal Community Controlled Health Organisation (NACCHO); or
- Office of the Registrar of Indigenous Corporations (ORIC).

The Territory will consider additional Certifying Authorities on a case by case basis.

### **Chief Executive Officer**

As defined in the *Government Procurement Act 2001*.

### **Territory Entity**

As defined under the *Government Procurement Act 2001*.







The exemption must be approved in writing by the Chief Executive Officer or the officer delegated power under section 10 of the *Government Procurement Regulations 2007* (Regulation) to exempt the particular procurement activity from the requirement mentioned in section 6 or 9 of the Regulation. To assist with ease of use an Exemption for Aboriginal and Torres Strait Islander Procurement minute template will be developed to facilitate efficient procurement process.

Territory Entities must register all uses of the exemption as per this policy's reporting requirements.

To strengthen the current exemption arrangements available to Territory Entities, the Territory will seek an amendment to the *Government Procurement Regulations 2007* permitting a blanket exemption similar to other Australian Jurisdictions.

## **Performance**

To effectively measure Government's performance against the ATSIPP's objectives it must measure both the number of unique Aboriginal and Torres Strait Islander Enterprises receiving opportunities as well as the volume of procurement activity.

### **Addressable Spend**

The Territory spends its money on a vast range of items including wages, grants, subsidies and depreciation costs. Addressable Spend is defined as only the Territory's purchases of goods, services and works. This spend is identified through a defined set of invoice categorisation codes (GL Codes). The list of applicable codes is at [Appendix A](#).

### **Approved Systems**

An Approved System means a system capable of capturing information required to determine a Territory Entity's performance against Measure 1 in the ATSIPP.

These systems are:

- The Goods and Services Simple Procurement Tool; and
- Tenders ACT.

In order for an Aboriginal and Torres Strait Islander Enterprise to access the full opportunities under the ATSIPP, some Approved Systems may require Aboriginal and Torres Strait Islander Enterprises to register as a supplier account. An account with Tenders ACT is needed to access tender opportunities. Notifications about opportunities are then emailed to enterprises as part of the Approved Systems' operations.

## Measure 1

Measure	The number of unique Aboriginal and Torres Strait Islander Enterprises, which respond to Territory tender and quotation opportunities issued from the Approved Systems.
Formula	Cross reference the ABN of Aboriginal and Torres Strait Islander Enterprises against the ABNs of suppliers who have submitted quotations and tenders to Territory opportunities issued from the Approved Systems
Frequency	The measure is recorded at each response. The measure is reported annually as part of each Territory Entity's annual report.
Source Data	<p>The source data for the number of unique Aboriginal and Torres Strait Islander Enterprises which respond to Territory tender and quotation opportunities will be from the Approved Systems.</p> <p>Territory Entities must conduct their procurements through an Approved System in order for it to be considered against this measure.</p> <p>The CBRJO Aboriginal and Torres Strait Islander Supplier List will be compiled by Procurement ACT from information provided by the Certifying Authorities.</p>

## Measure 2

Measure	The number of unique Aboriginal and Torres Strait Islander Enterprises, attributed a value of addressable spend in the financial year.
Formula	Cross reference the ABN of Aboriginal and Torres Strait Islander Enterprises against the ABNs of suppliers issuing invoices which include addressable spend items. Where there are multiple invoices against a single Aboriginal and Torres Strait Islander Enterprise duplicate matches are removed and the resulting list is then counted.
Frequency	The measure is recorded at each invoice with an Aboriginal and Torres Strait Islander Enterprise. The measure is reported annually as part of each Territory Entity's annual report.
Source Data	<p>The primarily source data for the number of unique Aboriginal and Torres Strait Islander Enterprises of the financial year's addressable spend is the Territory's accounts payable invoice system.</p> <p>The discretionary secondary source data may be taken from reports made under Local Industry Participation Plans outlining any spend with Aboriginal and Torres Strait Islander sub-contractors. Such reports will be collated manually by the responsible Territory Entity.</p> <p>The CBRJO Aboriginal and Torres Strait Islander Supplier List will be compiled by Procurement ACT from information provided by the Certifying Authorities.</p>

### Measure 3

Measure	Percentage of the financial year's addressable spend, which is spent with Aboriginal and Torres Strait Islander Enterprises.		
Formula	Dollar value of the financial year's addressable spend, which is spent with Aboriginal and Torres Strait Islander Enterprises.	<i>Divided by the</i>	Total dollar value of the financial year's addressable spend.
Frequency	The measure is recorded at each invoice with an Aboriginal and Torres Strait Islander Enterprise. The measure is reported annually as part of each Territory Entity's annual report.		
Source Data	<p>The primarily source data for the dollar value of the financial year's addressable spend is the Territory's accounts payable invoice system.</p> <p>The discretionary secondary source data may be taken from reports made under Local Industry Participation Plans outlining any spend with Aboriginal and Torres Strait Islander sub-contractors. Such reports will be collated manually by the responsible Territory Entity.</p> <p>The CBRJO Aboriginal and Torres Strait Islander Supplier List will be compiled by Procurement ACT from information provided by the Certifying Authorities.</p>		

### Targets

The ACT Government recognises that as the majority of Aboriginal and Torres Strait Islander Enterprises are small to medium enterprises (SMEs) and concentrated in certain industries, there is presently a natural limit to the opportunities for the Territory to engage Aboriginal and Torres Strait Islander Enterprises. However, to commit each Territory Entity to delivering tangible improvements against the ATSIPP objectives the Territory will commence the ATSIPP by setting realistic targets with the view to increase them as the policy matures and Aboriginal and Torres Strait Islander Enterprise capability increases. The targets will consider an analysis of:

- Number, size and capability of Aboriginal and Torres Strait Islander Enterprises;
- Spread of Aboriginal and Torres Strait Islander Enterprises across the industries from which the Territory purchases; and
- Total value of the Territory's addressable spend.

### Target Number Unique Aboriginal and Torres Strait Islander Enterprises

A Target for the number of unique Aboriginal and Torres Strait Islander Enterprises responding to opportunities and engaged is not appropriate at this stage because it may generate unintended outcomes for the ATSIPP. The CBRJO Aboriginal and Torres Strait Islander Enterprise list does not currently provide any assurance of capability. Therefore a measure driving Territory Entities to meet a target number of enterprises may cause the entity to engage with an enterprise not capable of delivering acceptable value for money, purely to meet the ATSIPP.

This being the case, Territory Entities are expected to act in the spirit of the ATSIPP and increase the number of unique Aboriginal and Torres Strait Islander Enterprises to seek a quotation from and then engage in work where value for money can be attained.

For Aboriginal and Torres Strait Islander Enterprises that are assessed as not capable, Territory Entities are encouraged to provide feedback and/or refer the enterprise to the business development services provided by the Territory and Indigenous Business Australia. Useful contact details are available in the Contacts section of the ATSIPP.

### Target Addressable Spend

Financial Year	Target Addressable Spend
	Target addressable spend is expressed as a dollar value estimation calculated from the previous year's addressable spend.
2019-20	<ul style="list-style-type: none"><li>• 1.0% of the financial year's addressable spend.</li></ul>
2020-21	<ul style="list-style-type: none"><li>• 1.5% of the financial year's addressable spend.</li></ul>
2021-22	<ul style="list-style-type: none"><li>• 2.0% of the financial year's addressable spend.</li></ul>

### Reporting

Procurement ACT will maintain the Territory's memberships with the Certifying Authorities and provide each Territory Entity with the list of registered Aboriginal and Torres Strait Islander Enterprises.

Procurement ACT will publish a list of each Territory Entity's target Addressable Spend with Aboriginal and Torres Strait Islander Enterprises within the first month of each new financial year on the Procurement ACT Website.

Territory Entities are required to:

- Maintain and monitor a register of their uses of the Aboriginal and Torres Strait Islander Procurement Exemption including (Aboriginal and Torres Strait Islander Procurement Exemption Register):
  - the value of the procurement;
  - the legal name and ABN of the successful Aboriginal and Torres Strait Islander Enterprise;
  - the execution and expiry dates of the agreement; and
  - the business area conducting the procurement;
- Include their performance against the policy's performance measures as part of their annual report.

## Compliance

Territory Entities that the Government does not consider to have delivered acceptable results against their performance measures under the ATSIPP may be required to deliver a plan to the Minister for Government Services and Procurement and the Minister for Aboriginal and Torres Strait Islander Affairs outlining:

- Why the Territory Entity did not meet the performance measure; and
- Where it plans improve opportunities to Aboriginal and Torres Strait Islander Enterprises.

## Review

### Policy administration

The ATSIPP is administered by Procurement ACT within the Commercial Services and Infrastructure Group of the Chief Minister, Treasury and Economic Development Directorate. In this role the Procurement ACT is responsible for:

- Leading policy implementation;
- Setting the annual targets for the Territory; and
- Supporting the Aboriginal and Torres Strait Islander Procurement Policy Committee (ATSIPPC) in conducting reviews of the Policy.

### Aboriginal and Torres Strait Islander Procurement Policy Committee (ATSIPPC)

The Aboriginal and Torres Strait Islander Procurement Policy Committee (ATSIPPC) will take a leading role in reviewing the ATSIPP and will reconvene as necessary to deliver the reviews stated below. The ATSI PPC membership is to be comprised of the following representatives;

Role	Position	Organisation
TBD		

### Reviews

An initial review of the ATSIPP will be conducted after its one year anniversary. The initial review will address the success of the implementation and raise any key issues with the ATSIPP for correction.

A comprehensive review will be conducted after its three year anniversary. The comprehensive review will address the success of the ATSIPP to date and provide recommendations for improving the ATSIPP.

## Contacts

For further information or assistance regarding the ATSIPP or related services please see the following contacts.

### ACT Government Contacts

Contact	Service	Details
<b>Procurement ACT (TendersACT)</b>	<ul style="list-style-type: none"><li>Aboriginal and Torres Strait Islander Procurement Policy</li><li>Assistance with Tendering for Government Contracts</li></ul>	<b>Website</b> <a href="https://tenders.act.gov.au">https://tenders.act.gov.au</a> <b>Email:</b> <a href="mailto:tendersACT@act.gov.au">tendersACT@act.gov.au</a> <b>Phone:</b> 02 6207 7377
<b>Innovation, Industry and Investment</b>	<ul style="list-style-type: none"><li>Business Development</li><li>Business Grants, assistance and advice</li></ul>	<b>Website</b> <a href="https://www.business.act.gov.au/home">https://www.business.act.gov.au/home</a> <b>Email:</b> <a href="mailto:business.mailbox@act.gov.au">business.mailbox@act.gov.au</a> <b>Phone:</b> 13 22 81
<b>The Office of Aboriginal and Torres Strait Islander Affairs</b>	<ul style="list-style-type: none"><li>Provides strategic advice to government on issues affecting Aboriginal and Torres Strait Islander people living in the ACT.</li></ul>	<b>Website</b> <a href="http://www.communityservices.act.gov.au/atsia">http://www.communityservices.act.gov.au/atsia</a> <b>Email:</b> <a href="mailto:CulturalCentre@act.gov.au">CulturalCentre@act.gov.au</a> <b>Phone:</b> 02 6207 1110

## External Services

Contact	Service	Details
Supply Nation	<ul style="list-style-type: none"> <li>• Certifying Authority</li> </ul>	<b>Website</b> <a href="https://supplynation.org.au/">https://supplynation.org.au/</a> <b>Email:</b> info@supplynation.org.au <b>Phone:</b> 1300 055 298
NSW Indigenous Chamber of Commerce (NSWICC)	<ul style="list-style-type: none"> <li>• Certifying Authority</li> </ul>	<b>Website</b> <a href="https://nswicc.com.au/">https://nswicc.com.au/</a> <b>Contact Page</b> <a href="https://nswicc.com.au/contact/">https://nswicc.com.au/contact/</a> <b>Phone:</b> 02 4932 7722
National Aboriginal Community Controlled Health Organisation (NACCHO)	<ul style="list-style-type: none"> <li>• Certifying Authority</li> </ul>	<b>Website</b> <a href="https://www.naccho.org.au/">https://www.naccho.org.au/</a> <b>Contact Page</b> <a href="https://www.naccho.org.au/contact-us/">https://www.naccho.org.au/contact-us/</a> <b>Phone:</b> 02 6246 9300
Office of the Registrar of Indigenous Corporations (ORIC).	<ul style="list-style-type: none"> <li>• Certifying Authority</li> </ul>	<b>Website</b> <a href="http://www.oric.gov.au/">http://www.oric.gov.au/</a> <b>Contact Page</b> <a href="mailto:info@oric.gov.au">info@oric.gov.au</a> <b>Phone:</b> 1800 622 431
Aboriginal and Torres Strait Islander Elected Body	<ul style="list-style-type: none"> <li>• Advocacy and holding Government to account on Aboriginal and Torres Strait Islander issues.</li> </ul>	<b>Email:</b> atsieb@act.gov.au <b>Phone:</b> 02 6205 2551
Indigenous Business Australia	<ul style="list-style-type: none"> <li>• Business Development Support</li> </ul>	<b>Website:</b> <a href="http://www.iba.gov.au/">http://www.iba.gov.au/</a> <b>Contact Page:</b> <a href="http://www.iba.gov.au/email-us/">http://www.iba.gov.au/email-us/</a> <b>Phone:</b> 1800 107 107



## Appendix A

### Addressable Spend COA Codes

Invoices captured by the Territory's invoice payable system are categorised by GL Code, which are then normalised to meet the whole of government chart of accounts (CoA)

GL Codes that fall within the remit of the following CoA codes will be deemed as Addressable Spend for the purposes of the ATSIPP. These codes capture the Territory's spend on external goods, services, and works. Payments unrelated to purchasing such as wages, grants, compensation and internal transfers are excluded from the ATSIPP.

COA Code	COA Description
702101	Supplies and Services - Expense
702104	Repairs and Maintenance
702114	Utility Payments (ie. ACTEW, ACTEWAGL)
702119	Other Supplies and Services
702108	Rental Payments to ACT Govt - GGS
702113	Materials, Equipment and Supplies
702111	Travel, Accommodation and Transport Expenses
702115	Staff Development and Recruitment
702112	Printing and Stationery
702117	Insurance Payments
702105	Consultants, Contractors and Professional Services
702102	ICT Activities
702108	Rental Payments - ACT Government
702110	Communication and Computer Expenses
702120	Audit Fees
703311	Other Expenses - Expense
703101	Cost of Goods Sold - Expense
703303	Expenses of Associates and Joint Ventures -
703302	Schools Account (DET Only)
703310	Payments to CFU

## Appendix B

### Approved Exemption for Aboriginal and Torres Strait Islander Procurement Methodology

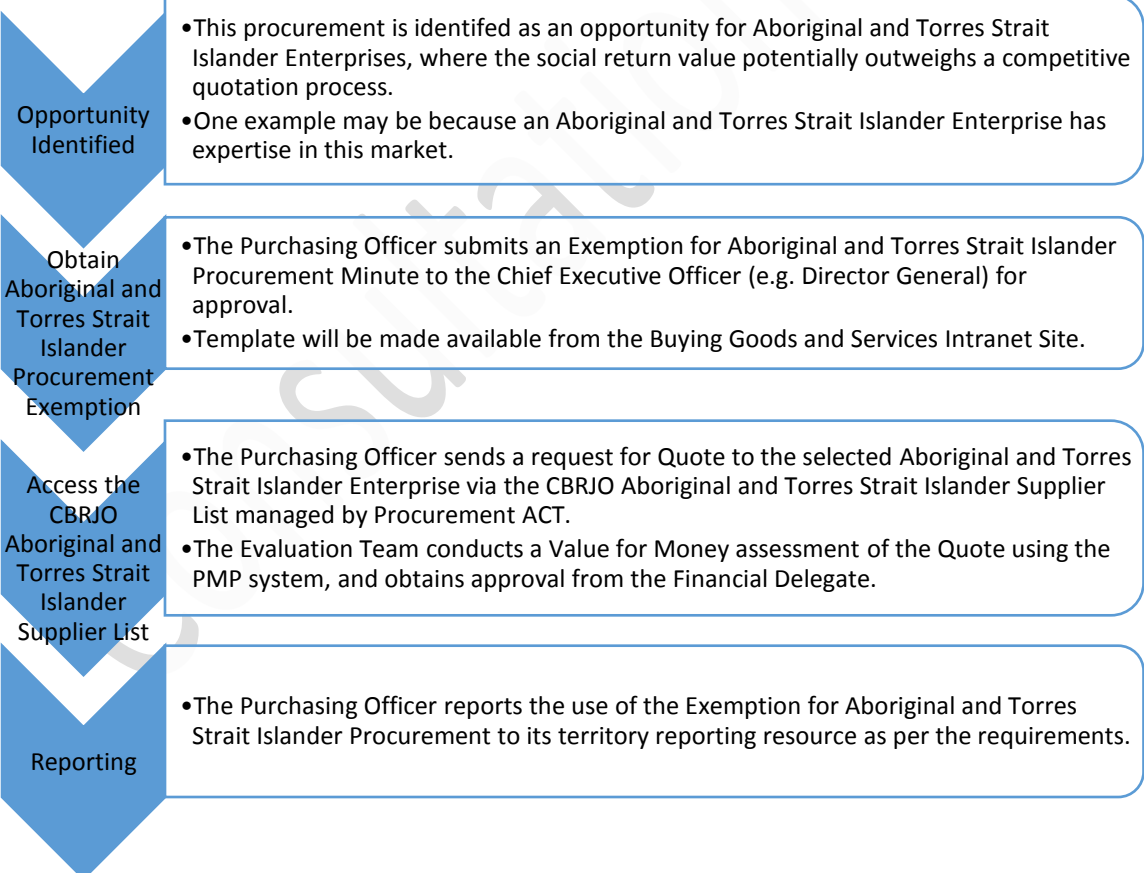
Procurements conducted under the Exemption for Aboriginal and Torres Strait Islander Procurement can only occur through the following methodology. This methodology is to be read in conjunction with general procurement process and advice.

#### Preparation

A Territory Entity commences the Exemption for Aboriginal and Torres Strait Islander Procurement Methodology after completing the planning tasks that they would for any procurement, in accordance with procurement best practice.

These tasks involve:

- Reviewing lessons learnt from any previous contracts;
- Defining Need(s);
- Researching the Market;
- Developing a Business Case;
- Securing Funding;
- Assessing the risks; and
- Developing a Statement of Requirements.



#### Completion

The Purchasing Officer finalises the agreement by using the Short Form Contract template, which is then signed by Financial Delegate. The Purchasing Officer then notifies the contract on the ACT Government Contracts Register as per normal.

