

Procurement Annual Reporting Guide

for Tasmanian Budget Agencies

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INTRODUCTION

Government agencies are required to provide information in relation to their procurement activities as part of their annual report, in accordance with Treasurer's Instructions 1111 and 1213.

The purpose of the *Procurement Annual Reporting Guide* is to assist agencies in complying with the reporting requirements and at the same time providing a mechanism to assist agencies in checking that the information published on the Tenders website throughout the year is consistent.

This Guide also aims to assist agencies in identifying and distinguishing between consultants and contractors for the purpose of reporting.

GENERAL ANNUAL REPORTING REQUIREMENTS

Instructions 1111 and 1213 set out the basic information that agencies need to report in their annual report in regard to their procurement activity for the financial year in question. In summary, agencies must report the following information in their annual reports:

1. a statement of support for local businesses;
2. a statement of compliance with the Treasurer's Instructions including a summary of major issues;
3. a table summarising the level of participation by local businesses for procurements valued at \$50 000 and over;
4. details of each contract valued at \$50 000 and over, listing consultancy contracts and all other contracts separately as well as clearly identifying any contracts awarded under Instructions 1127 and 1231 *Procurement from businesses that provide employment to persons with disabilities*;
5. details of each contract, regardless of value, entered into as a result of an approval by their Head of Agency pursuant to Instructions 1114, 1217 or 1115(2¹); and
6. details of all contracts where an exemption from the requirement to disaggregate has been approved in accordance with Instructions 1119 or 1225. This information will have been provided by your agency to Treasury on a quarterly basis and therefore reference to those reports will assist in compiling the relevant information.

Examples of how information may be reported are provided in Instructions 1111 and 1213. The Instructions may be located on the [Treasury website](#).

The following sections of this Guide are designed to assist agencies in reporting the information in points four (4) and (5) above.

¹ This reference is to version 10 of Instruction 1115. For the financial years prior to 2015-16, the reference to 1115(2) should be read as a reference to 1115(4) in the earlier versions of the Instruction.

DISTINGUISHING BETWEEN A CONSULTANT AND A CONTRACTOR

It is sometimes a tricky exercise to determine what a consultant is as compared to a contractor for the purposes of annual reporting.

For goods and services procurement, Instruction 1113 provides the following definitions:

Contractor - is an individual or organisation engaged under a contract (other than as an employee) to provide goods and/or services to an agency. A contractor will usually work under the supervision of an agency manager.

Consultant - is a particular type of contractor who is engaged to provide recommendations or specialist or professional advice (or more generally non-manual services) to assist or influence agency decision making.

For building and construction, Instruction 1216 provides that a consultant is “an individual or organisation engaged temporarily to give advice or provide a professional, technical or general management service in relation to any building and construction or roads and bridges works matter”.

In most cases, identifying consultants involved in building and construction is relatively simple. However, when dealing with goods and services, it is sometimes more problematic. To further assist, the following information has been taken from the Australian Government’s Department of Finance and Administration publication *Guidance on Procurement Publishing Obligations – July 2007*, (copyright Commonwealth of Australia reproduced by permission).

To determine whether a procurement is a consultancy, the following two questions can be applied:

1. Do the services involve the development of an intellectual output that assists with agency decision-making?

Examples of outputs of this nature include, but are not limited to, the expression of an original concept, research, findings, analysis, advice and/or recommendations.

2. Will the output of the contract reflect the independent views of the service provider?

In considering this issue, the emphasis should be on whether the agency has control over the views expressed, regardless of the level of direction and supervision that the agency actually provides in performance of the services. In other words, is the output being produced for the agency (consultancy contract), or on behalf of the agency (non-consultancy contract).

In the event that the answer to both questions is ‘yes’, the arrangement is a consultancy. If, however, the answer to one or both questions is ‘no’, the service may be classified as that provided by a contractor.

A list of consultancy type services and non-consultancy type services is provided at Attachment I, together with a process chart for identifying consultancies that has been taken from the aforementioned *Guidance on Procurement Publishing Obligations – July 2007*.

REPORTING CONTRACTS VALUED AT \$50 000 OR MORE

The Instructions in relation to procurement require that all contracts **valued at \$50 000** or more are reported on the Tenders website. As a result, the Tenders website may be used as a resource to assist in identifying the contracts that are required to be reported in your annual report.

The following steps outline a suggested process for identifying and then cross checking information relating to reportable contracts.

1. Print out all of your Agency's information from the Tenders website for the financial year in question. Print out both the Awarded Contracts and Closed for Bids information (as some tenders may be awarded but, due to not being updated correctly through the website, are sitting in the Closed for Bids section). If your Agency has any difficulties in accessing this information, send an email to tenders@treasury.tas.gov.au requesting Treasury to provide you with this information.
2. Identify reported contracts, valued at \$50 000 or more, resulting from approval of: a direct/limited submission sourcing process (Instructions 1114 or 1217); a contract extension (Instruction 1115(2²)); or a direct purchase from a disability enterprise (Instructions 1127 or 1231). Locate the list of exemptions pursuant to Instructions 1118 or 1224 (Procurement of Legal Services) that the Secretary of Treasury granted to your Agency during the relevant financial year. This will have been provided to you by Treasury at the end of the financial year. (Note: Where the value of a contact resulting from an exemption is \$50 000 or more, the contract should have been reported on the Tenders website by your Agency at the time it was entered into.)
3. Print out relevant reports from your finance system that list creditors that have been paid \$50 000 or more for the financial year. This report will help you cross check the accuracy of the figures found from investigations under steps (1), (2), (3) and (4) above. In looking at this report, only focus on the procurements undertaken in the last financial year as the Instruction reporting requirements do not relate to contract and related payments from previous financial years.
4. Compare the information from these steps to identify the contracts that are required to be reported pursuant to Instructions 1111(3)(b)(ii); 1111(3)(b)(iii); 1213(3)(b)(ii) and 1213(3)(b)(iii).

While all information available in the public domain regarding your Agency's procurement should be consistent, it is recognised that there may be valid reasons why the information reported on the Tenders website at the time the contract was awarded may vary from the

² This reference is to version 10 of Instruction 1115. For the financial years prior to 2015-16, the reference to 1115(2) should be read as a reference to 1115(4) in the earlier versions of the Instruction.

information you prepare for your annual report. If in undertaking the cross-check you discover significant inconsistencies, these should either be corrected or explained appropriately in your annual report.

If you have queries about meeting the requirements of Instructions 1111 and/or 1213, contact the Procurement and Property Branch for advice. See Attachment 2 for contact details.

REPORTING CONTRACTS AWARDED AS A RESULT OF INSTRUCTIONS 1114, 1217 OR 1115(2³)

The following steps outline a suggested process for identifying contracts awarded as a result of Instructions 1114, 1217 and contract extensions pursuant to 1115(2).

1. Identify contracts, valued at \$50 000 or more, resulting from approval of either a direct/limited submission sourcing process (Instructions 1114 or 1217) or a contract extension (Instruction 1115(2)). The list of Agency awarded contracts provided by Treasury at step (2) above contains details of the procurement method used for each awarded contract.
2. Identify, from agency records, all contracts valued at less than \$50 000 resulting from approval of either a direct/limited submission sourcing process (Instructions 1114 or 1217) or a contract extension (Instruction 1115(2)).
3. Collate the information on the contracts that are required to be reported pursuant to Instructions 1111(3)(b)(iv) and (v) and 1213(3)(b)(iv).

Please note that as contracts valued at less than \$50 000 are not required to be reported on the Tenders website, agencies will need to set up their own internal processes for ensuring that information on contracts awarded pursuant to Instructions 1114, 1217 or 1115(2) which do not meet that threshold are accurately captured.

³ This reference is to version 10 of Instruction 1115. For the financial years prior to 2015-16, the reference to 1115(2) should be read as a reference to 1115(4) in the earlier versions of the Instruction.

Indicative listing of consultancy and non-consultancy contracts

This information and the following table have been sourced from the Australian Government's Department of Finance and Administration publication *Guidance on Procurement Publishing Obligations – July 2007*, (copyright Commonwealth of Australia reproduced by permission). The full document can be found on the Department of Finance and Administration's website at <http://www.finance.gov.au/archive/archive-of-publications/fmg-series/I5-guidance-on-procurement-publishing.html>

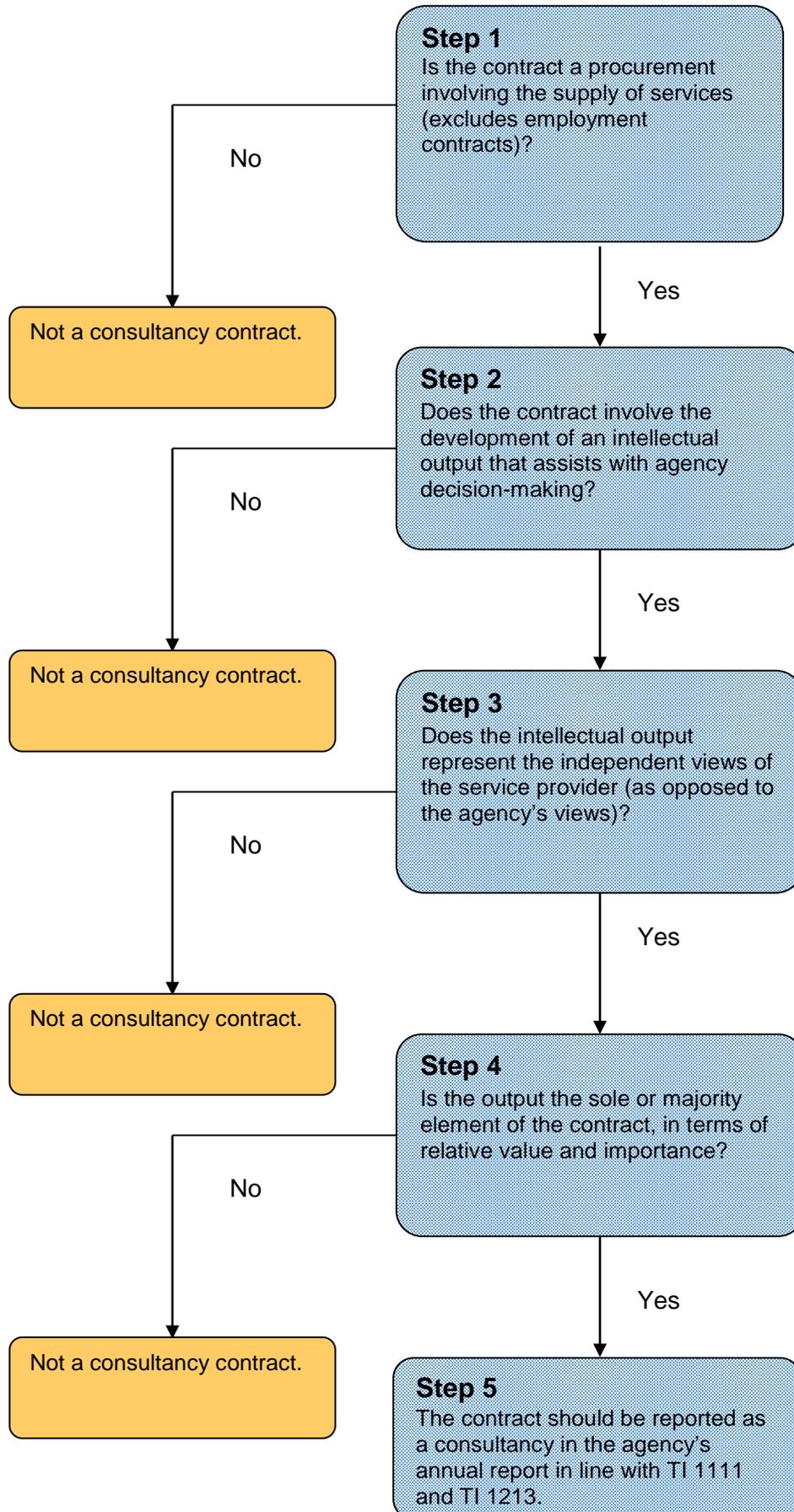
Services that would generally be considered to involve a consultancy include:

- advice on training needs and development of training plans;
- legal services, such as:
 - general legal advice (not related to litigation or potential litigation or given incidentally in connection with the development of contracts or other legal documents);
 - advice on the application of legislation, and on development of new legislation; and
 - legal audit, probity and process advice, in relation to contracting out or tendering;
- design, analysis and reporting of formal market research studies;
- development of advertising and marketing campaigns;
- analysis of technology needs and development of software and hardware specifications;
- development of a framework for benchmarking;
- change facilitation advice;
- business process analysis, design and other advice;
- occupational, health and safety advice and recommendations;
- evaluation of programme performance and recommendations regarding changes;
- probity adviser and audit services; and
- risk assessments.

Services that would generally be regarded as involving **non-consultancy** contracts include:

- delivery of training;
- conduct of recruitment activity;
- legal services, such as:
 - conveyancing and development of contracts or other legal documents (and any incidental advice given relating to such work);
 - litigation services (including any drafting or advice connected with litigation or potential litigation); and
 - drafting of legislation and legislative instruments;
- travel booking services;
- scribe services;
- development of software in line with already developed specifications;
- information technology support services;
- data processing;
- printing and copying services;
- communication – for example, telephone services;
- individuals undertaking operational work within the agency under temporary external labour hire arrangements;
- indoor plant maintenance services;
- cleaning and waste removal services;
- preparation of manuals covering existing processes;
- project management;
- security services; and
- delivery of government programmes – for example, provision of translation and interpreting services in relation to migrants, job network services and construction of buildings.

Process chart for identifying consultancies for annual reporting purposes



Procurement and Property Branch – Contacts

For advice relating to procurement reporting requirements under Instructions 1111 and 1213, contact:

Procurement and Risk Management Unit
Department of Treasury and Finance
Deeds Building
21 Murray Street
HOBART TAS 7000
(GPO Box 147, Hobart, Tas. 7001)



(03) 6166 4224 or (03) 6166 4221



purchasing@treasury.tas.gov.au

For advice relating to the Tenders website and the Purchasing website, contact:



(03) 6166 4100



tenders@treasury.tas.gov.au