Procurement
Better Practice Guidelines
(Principles and Policies)
Contents

INTRODUCTION ...................................................................................................................................................... 5

PROCUREMENT PRINCIPLES ............................................................................................................................ 6

VALUE FOR MONEY .................................................................................................................................................. 6

OPEN, IMPARTIAL AND EFFECTIVE COMPETITION ........................................................................................... 6

PROVIDING OPPORTUNITIES TO LOCAL SUPPLIERS AND ADOPTION OF THE BUY LOCAL POLICY REQUIREMENTS ........................................................................................................ 7

OBSERVATION OF ETHICAL PROCUREMENT STANDARDS ............................................................................. 7

State Service Code: conflicts of interest and confidentiality .............................................................................. 8

Probity ..................................................................................................................................................................... 8

MAINTAINING ACCURATE RECORDS ................................................................................................................... 8

PROCUREMENT POLICIES .................................................................................................................................... 9

BUY LOCAL POLICY .............................................................................................................................................. 9

Disaggregation ......................................................................................................................................................... 9

Pre-procurement local impact assessment ......................................................................................................... 9

Approaching Tasmanian Businesses .................................................................................................................. 9

Economic and Social Benefits ................................................................................................................................ 10

Tasmanian Industry Participation Plans ........................................................................................................... 11

CLIMATE CHANGE AND ENVIRONMENTAL CONSIDERATIONS ........................................................................ 13

CONFIDENTIALITY .................................................................................................................................................. 14

ENGAGEMENT OF GOODS AND SERVICES CONTRACTORS (INCLUDING GOODS AND SERVICES CONSULTANTS) ....................................................................................................................... 14

FULL COST ATTRIBUTION POLICY ON SUBMISSIONS FROM GOVERNMENT ENTITIES ........................................ 14

INSURANCE REQUIREMENTS - BUILDING AND CONSTRUCTION/ROADS AND BRIDGES .................................... 14

Building and Construction Works - Principal Nominated Insurance ................................................................ 15

Consultancies ......................................................................................................................................................... 16

Professional Indemnity Insurance ...................................................................................................................... 16

Insurance of Employees ....................................................................................................................................... 17

Roads and bridges works insurance ................................................................................................................ 17

INTERNATIONAL PROCUREMENT OBLIGATIONS ............................................................................................. 17

Australia and New Zealand Government Procurement Agreement .................................................................. 17

Free Trade and World Trade Agreements ........................................................................................................ 18

NATIONAL CODE OF PRACTICE FOR THE CONSTRUCTION INDUSTRY .................................................................. 18

PARLIAMENTARY STANDING COMMITTEE ON PUBLIC WORKS ...................................................................... 19

The submission ....................................................................................................................................................... 19

PERFORMANCE SECURITY - BUILDING AND CONSTRUCTION / ROADS AND BRIDGES ......................................... 19

Unconditional undertakings issued by an insurer (unconditional insurance bonds or unconditional performance bonds) ........................................................................................................................................... 20

Retention monies .................................................................................................................................................... 20

PRE-PROCUREMENT INDUSTRY CONSULTATION ............................................................................................ 21

PREQUALIFIED CONTRACTORS AND CONSULTANTS - BUILDING AND CONSTRUCTION / ROADS AND BRIDGES ......................................................................................................................... 21

National Prequalification System for Non-residential Building (the NPS) - additional requirements ................ 23
<table>
<thead>
<tr>
<th>Section</th>
<th>Page</th>
</tr>
</thead>
<tbody>
<tr>
<td>Qualified Suppliers - Building and Construction / Roads and Bridges</td>
<td>24</td>
</tr>
<tr>
<td>Standards and Codes</td>
<td>24</td>
</tr>
<tr>
<td>Australian Government requirements</td>
<td>25</td>
</tr>
<tr>
<td>Tasmanian Government Art Site Scheme</td>
<td>25</td>
</tr>
<tr>
<td>Tasmanian Wood Encouragement Policy</td>
<td>25</td>
</tr>
<tr>
<td>Training Policy - Building and Construction</td>
<td>25</td>
</tr>
<tr>
<td>Vehicles - Requirement to meet minimum greenhouse CO2 emission</td>
<td>26</td>
</tr>
<tr>
<td>Whole-of-Government Common-use contracts, Panels and Multi-use Lists</td>
<td>26</td>
</tr>
<tr>
<td>Department of Treasury and Finance contracts and panels</td>
<td>26</td>
</tr>
<tr>
<td>Department of Premier and Cabinet contracts</td>
<td>27</td>
</tr>
<tr>
<td>Department of Treasury and Finance multi-use lists</td>
<td>27</td>
</tr>
<tr>
<td>Department of State Growth multi-use lists</td>
<td>28</td>
</tr>
<tr>
<td>Annexes</td>
<td>29</td>
</tr>
</tbody>
</table>
Introduction

The *Financial Management Act 2016* provides for the management of the public finances of Tasmania in an economical, efficient and effective manner consistent with contemporary accounting standards and financial practices.

Treasurer’s Instructions are issued under section 51 of the Financial Management Act in respect of the principles, practices and procedures to be observed in the financial management of all agencies.

*Better Practice Guidelines* are intended to assist Accountable Authorities and responsible officers with their financial management responsibilities in the area of procurement. The Guidelines should be read in conjunction with the Treasurer’s Instructions.

This *Better Practice Guideline* provides information to assist in understanding Treasurer’s Instructions PF-1 to PF-6, which set out the principles and policies that apply to the government procurement framework in Tasmania.

Further information, forms, templates, checklists and publications are available from [www.purchasing.tas.gov.au](http://www.purchasing.tas.gov.au) (the Purchasing website) and [www.tenders.tas.gov.au](http://www.tenders.tas.gov.au) (the Tenders website). All queries in relation to the Treasurer’s Instructions, this document and the website contents should be directed to purchasing@treasury.tas.gov.au (unless otherwise specified).

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**International Procurement Obligations**

Tasmanian Government agencies are required to comply with procurement obligations set out in a number of international agreements. The *International Procurement Obligations* publication, available on the Purchasing website, sets out the mandatory requirements that relate to procurements covered by the international agreements. Please note that the *International Procurement Obligations* should be read in conjunction with the Treasurer’s Instructions and *Better Practice Guidelines*, as they impose additional requirements agencies need to be aware of when undertaking covered procurements.
Procurement Principles

Treasurer’s Instruction PF-1 Procurement Framework - Procurement Principles applies.

Value for money

Value for money means achieving the desired outcome at the best possible price by weighing up the benefits of the purchase against the cost of the purchase. It does not necessarily mean purchasing the cheapest product or at the lowest price.

When undertaking procurement, value for money factors should be included in the specification and the evaluation criteria. The factors should therefore be considered at the beginning of a procurement.

The purpose of the specification is to communicate the buyer’s requirements and to guide supplier responses.

Evaluation criteria are the standards that are used to assess how well an offer meets a buyer’s requirements. They provide a mechanism for comparing offers by assessing the relative worth of different offers. The criteria should also be weighted to ensure that the matters that are considered most important are given a higher ranking.

Examples of value for money factors are:
- contribution to the achievement of Government policy objectives (including policies aimed at supporting local and regional business, industry development and employment creation);
- fitness for purpose and quality;
- service and support;
- the advantages of buying from or engaging local and regional suppliers (for example, shorter delivery times, local backup and servicing, the availability of spare parts and the potential for creating strategic partnerships and cooperative product development);
- risk;
- climate change and environmental considerations including energy conservation (refer page 13); and
- end of use disposal value.

Open, impartial and effective competition

Open, impartial and effective competition in procurement encourages competitive offers and ensures that suppliers and the public can have confidence in the procurement. Agencies should:
- adequately test the market using an appropriate process based on value, type, the market and risk;
- use transparent and appropriate purchasing processes;
- avoid biased specifications; and
- treat all suppliers consistently and equitably.
Providing opportunities to local suppliers and adoption of the Buy Local Policy requirements

Agencies should:

- ensure procurements are planned taking into consideration the impact on local suppliers;
- actively seek bids from local businesses, particularly from those that have previously requested the opportunity to participate;
- ensure that requirements do not unnecessarily preclude local businesses from bidding or disadvantage local suppliers; and
- comply with the Buy Local Policy (refer page 10).

Observation of ethical procurement standards

Acting ethically and applying appropriate standards ensures that:

- procurement is undertaken consistent with public expectations and can withstand public scrutiny;
- taxpayer money is appropriately spent;
- suppliers are treated fairly; and
- there is accountability for decisions.

Elements that promote and demonstrate ethical behaviour and high standards include:

- conducting business in the best interests of the State, avoiding situations that may impinge, or might be deemed to impinge, on impartiality;
- avoiding conflicts of interest and having agency processes in place to identify and deal with conflicts of interest. It is recommended that external participants in procurement activities be requested to declare conflicts and complete appropriate documentation where potential conflicts arise;
- spending public monies efficiently, effectively and in accordance with relevant policies;
- purchasing without favour or prejudice and maximising value in all transactions;
- establishing and maintaining procedures to ensure that fair and equal treatment and consideration is given to all suppliers or interested parties;
- ensuring communication with suppliers is prompt and courteous;
- minimising the cost to suppliers of participation in the procurement;
- dealing honestly with suppliers;
- ensuring that the separation of roles and responsibilities between contractor and agency staff is maintained for the duration of the contract;
- complying with relevant policies that impact on purchasing activities, for example the Gifts, Benefits and Hospitality Policy and dealing with conflicts of interest;
- having agency processes in place to ensure that non-state servant participants in the procurement, for example, members of the evaluation committee or acting on behalf of the agency) meet the same standards as agency officers;
- ensuring that public sector probity requirements are met;
- where necessary, complying with the National Code of Practice for the Construction Industry (and the Tasmanian Annexure to the National Code of Practice for the Construction Industry) (refer to page 19); and
complying with *State Service Code of Conduct* requirements.

**State Service Code: conflicts of interest and confidentiality**

The *State Service Code of Conduct* (refer section 9 of the *State Service Act 2000*) establishes standards of behaviour and conduct that apply to all employees. Of particular relevance to procurement activity are the requirements for employees to “disclose, and take reasonable steps to avoid, any conflict of interest in connection with the employee’s State Service employment” and “maintain appropriate confidentiality about dealings of, and information acquired by, the employee in the course of that employee's State Service employment”.

**Probity**

Procurement activity should conform to the expected standards of probity. The process should have clear procedures and be consistent with the Government’s principles, policies and guidelines. The legitimate interests of bidders should be established, understood and observed throughout the procurement.

The *Probity Guidelines for Procurement* publication provides information on probity in procurement, including an outline of the five essential principles to promote probity in procurement. The publication is available on the Purchasing website, further details are in the Annexes.

**Maintaining accurate records**

The level of records required to be maintained should be commensurate with the risk, value and complexity of the procurement.

Records should include information on:

- the reason for the procurement;
- the procurement method chosen;
- submissions received including the time and date of receipt (where relevant) and where specific suppliers have been requested to submit a response, information on those that have declined;
- evaluation criteria, weightings and scoring (where relevant);
- decisions made and the reasoning behind the decisions; and
- exemptions or approvals obtained.

During the procurement, agencies should:

- document what questions were asked by suppliers and what information was provided;
- where possible, require questions from suppliers to be put in writing and respond in the same manner;
- ensure information provided to suppliers is limited to clarification of procedural issues or documentation; and
- ensure that any additional information provided to one prospective supplier is provided to all through the addenda process.
Records relating to procurement should be maintained in accordance with the *Archives Act 1983*.
Other legislation which may impact on record keeping includes the *Evidence Act 2001*, the *Electronic Transactions Act 2000* and the *Libraries Act 1984*.

**Procurement Policies**

**Buy Local Policy**

Treasurer’s Instruction PF-2 *Procurement Framework - Policies Impacting on Procurement: All Procurement* (clauses 2.5 - 2.17) applies.

The Government’s policy is available in the *Buy Local Policy* publication, located on the Purchasing website.

**Disaggregation**

Approved class exemptions from the requirement to disaggregate are listed on the *Purchasing website*.

**Pre-procurement local impact assessment**

A non-mandatory template for formal assessments is available on the *Purchasing website*, further details are in the *Annexes*.

Where a formal assessment is not mandated, an informal assessment of the impact of the procurement on Tasmanian businesses, to ensure that those businesses are given every opportunity to participate and be successful, is recommended. The form and content of the informal assessment is at the discretion and direction of the Accountable Authority.

**Approaching Tasmanian Businesses**

*Low value procurements*

PP-2 provides that for procurements valued at less than $100,000, the Accountable Authority has discretion about the nature of the market approach, and may directly approach suppliers.

Agencies should consider approaching Tasmanian businesses first, where there is local capacity, capability and value for money in local offerings.

*Competitive procurements*

For competitive procurement processes valued at $100,000 or more, a minimum of two Tasmanian businesses should be approached where there is local capacity, capability and value for money in local offerings.

To ensure that Tasmanian businesses are given every opportunity to compete when a competitive selection process is undertaken using a panel, while it is not mandatory, agencies should consider
approaching at least two Tasmanian businesses where appropriate businesses are contained on the panel.

A procurement can proceed irrespective of whether any Tasmanian businesses respond to the market approach.

Economic and Social Benefits

The Economic and Social Benefits criterion is used to assess the benefits of the procurement to the Tasmanian community and is weighted at a minimum of 25 per cent of the qualitative and quantitative criteria combined.

Applying the criteria to a procurement

For all competitive procurement processes, other than roads and bridges, the Economic and Social Benefits Statement template should be used to seek information for this criterion from suppliers.

The Economic and Social Benefits criterion contributes a significant weighting to the overall evaluation criteria and is designed to allow for flexibility in terms of how it applies to individual procurements. Sub-weightings can be applied to the individual components (ie questions in the Statement) within this criterion to better reflect the nature of the procurement.

There are five questions within the Statement. An agency may choose to weight these equally in terms of their contribution to the overall 25 percent. Alternatively, the weightings could be adjusted, to suit the procurement.

An example

Where it is considered that there will be opportunity for Tasmanian job creation and for the involvement of other Tasmanian SMEs, the sub-weightings for this criterion could be as follows:

<table>
<thead>
<tr>
<th>Economic and Social Benefits Criteria - Sub-weightings</th>
</tr>
</thead>
<tbody>
<tr>
<td>Are you a Tasmanian SME? Do you employ Tasmanians?</td>
</tr>
<tr>
<td>Where are the goods or services to be used in the contract sourced from?</td>
</tr>
<tr>
<td>Opportunity for Tasmanian SME involvement.</td>
</tr>
<tr>
<td>Broader social and economic opportunities.</td>
</tr>
<tr>
<td>Local innovative solutions.</td>
</tr>
<tr>
<td><strong>TOTAL</strong></td>
</tr>
</tbody>
</table>
Where it is intended that the questions within the Statement will be weighted individually, this information should be clearly identified within the relevant procurement documentation so that a supplier can respond appropriately.

Agencies should assess suppliers against the criterion by rating the degree to which each supplier’s response has satisfied the criterion (that is, not treated as ‘met or not met’). The test evaluates how the procurement will bring positive economic and social benefits to the Tasmanian community. Any business, regardless of size or locale, is able to respond to the criterion by demonstrating how its submission, and ultimately how any contract awarded to it, will benefit the Tasmanian community. It is also important to note that this criterion is not designed to allow suppliers to be given the full weighting of this criterion based solely on the fact that they are a Tasmanian company, to do so would risk a breach of international procurement obligations.

The template is available on the Purchasing website, further details are in the Annexes.

Submission of the statement is voluntary. However, no score can be applied where suppliers fail to submit the information.

For procurement with a value of less than $100,000, for non-competitive processes where an assessment of formal evaluation criterion is not undertaken, eg an approved direct selection and for purchases from panel arrangements, agencies should consider the objectives of the Buy Local Policy as a whole in the course of developing appropriate evaluation criteria.

Tasmanian Industry Participation Plans

Where a competitive process has been undertaken, information provided by the supplier in response to the Economic and Social Benefits criterion may be used as the basis for the development of the Tasmanian Industry Participation Plan (TIPP).

Where a competitive process has not been undertaken, or the preferred supplier has not provided an Economic and Social Benefits Statement as part of their submission, a TIPP will need to be separately prepared.

For panel arrangements, where the total panel value is unable to be estimated (to determine whether the $5 million threshold will be met), it is recommended that agencies adopt a conservative approach and obtain TIPPs from all panel members.

For grants and private sector projects, the TIPP Executive Summary template and TIPP template should be adapted to suit the specific circumstances of the project. The templates are available on the Purchasing website, further details are in the Annexes.

Approved TIPPs are published on the Purchasing website.
## Tips

Agencies are encouraged to:

- provide advance notice of future procurement opportunities on the Tenders website;
- provide pre-procurement briefings, where appropriate;
- ensure that agency requirements and purchasing documentation does not disadvantage or exclude Tasmanian SMEs from competition, for example:
  - produce specifications that are appropriate for the purpose and which are readily understood by suppliers and contractors;
  - avoid non-standard specifications; and
  - avoid restrictive cash flow requirements, for example payment quarterly in arrears and the imposition of substantial bank guarantees where they are not essential requirements;
- consider incorporating into evaluation criteria matters such as:
  - delivery times;
  - timeliness of backup and maintenance/servicing;
  - timely availability of spare parts/materials/key personnel;
  - transportation costs;
  - travel and out-of-pocket expenses; and
  - the potential for creating strategic partnerships and cooperative product development.
- encourage Tasmanian providers to become prequalified with the Department of Treasury and Finance for building and construction works and for building and construction/roads and bridges consultancy work;
- encourage Tasmanian suppliers to register on the Tenders website and to visit the supplier information website (Winning Government Business);
- encourage Tasmanian suppliers to adopt modern technological solutions so as to enhance their prospects of successfully competing for Government business;
- provide information on readily accessible agency websites about what the agency buys;
- encourage and develop good relationships with local businesses and industry bodies;
- actively seek bids from as many capable Tasmanian businesses as is appropriate to the process, particularly from those that have previous requested the opportunity to do so;
- encourage prime contractors to give Tasmanian suppliers opportunities, as partners or subcontractors, to participate in major projects; and
- meet with existing service providers regularly to provide regular and constructive feedback on current performance.
Climate change and environmental considerations

Climate change and other environmental considerations should be considered in the planning design and documentation stages of a procurement. Relevant climate change considerations and criteria for inclusion in procurement documentation include:

- opportunities to reduce energy and fuel consumption;
- transport and waste disposal implications;
- environmental certifications;
- the supplier’s level of commitment and/or capacity to deliver positive climate change outcomes;
- carbon emissions in the production; and/or
- utilisation of a product or in the delivery of a service.

Consultants engaged by agencies should be made aware of the Government’s commitment to minimise climate change impacts and the commission brief should incorporate climate change related requirements where appropriate.

So long as they represent value for money, are of appropriate quality and functionality, and there are no technical reasons for not doing so, agencies should consider purchasing goods and services with the following attributes and options:

- efficient goods and mechanical services, for example vehicles, low energy light bulbs and low energy appliances;
- goods manufactured using energy efficient practices and processes which will contribute to minimal greenhouse gas emissions;
- goods which will contribute to minimal greenhouse gas emissions during operation;
- video or telephone conferencing as an alternative to vehicle and air travel;
- 'green power' (energy sourced from renewable sources) such as battery recharging systems;
- recycled or recyclable goods with recycled composition or components, for example recycled paper, remanufactured copier and printer cartridges, recycled tyre products and recycled plastic parks furniture, posts and signage;
- reclaimed materials, for example, crushed concrete aggregate, recycled building materials and recycled compost and mulch;
- goods which have less packaging than alternatives;
- goods with a take-back scheme at end-of-life;
- goods which guarantee longevity or are reusable, for example electronic goods designed to be recycled and refillable whiteboard markers;
- equipment that can use consumables made from recycled/recyclable materials;
- water efficient goods;
- goods manufactured with water efficient practices and processes which do not contribute to water pollution;
- goods such as refrigerants that do not involve the use of ozone depleting substances; and
- goods manufactured with water efficient practices and processes that do not contribute to decreased environmental flows.

Information on climate change is available from the [Tasmanian Climate Change Office website](https://www.tas.gov.au). Helpful guides and examples of environmentally sustainable specifications for a number of products are available on the [Australasian Procurement and Construction Council website](https://www.apcc.com.au).
Confidentiality

Information on confidentiality is contained in Treasurer’s Instruction C-I Contracts - Disclosure and Confidentiality in Government Contracts and the associated Contracts Better Practice Guidelines.

Engagement of goods and services contractors (including goods and services consultants)

Treasurer’s Instruction PF-3 Procurement Framework - Policies Impacting on Procurement: Goods and Services (clauses 3.1 - 3.2) applies.

Reasons for engaging a consultant may include:

- the work is essential and the skills and expertise required are not currently available within the agency;
- the cost of undertaking the work "in-house" would exceed the cost of having the work performed by a consultant;
- the work is intermittent or “once-off” in nature;
- the experience of an external organisation is required; or
- there is a need for an objective, independent opinion.

Agencies are encouraged to:

- wherever possible, take the opportunity to use internal expertise, or to develop and retain skills in the Tasmanian State Service as an alternative to engaging a consultant or contractor; and
- where external expertise is required, take every opportunity to improve the knowledge and skills base of agency personnel during the period of the consultancy or contract and, where appropriate, facilitate skill transfer.

Full cost attribution policy on submissions from Government entities

Treasurer’s Instruction PF-2 Procurement Framework - Policies Impacting on Procurement: All Procurement (clause 2.18) applies.

A checklist for determining full cost attribution is available on the Purchasing website, further details are in the Annexes. Further guidance in relation to full cost attribution requirements is available from economic.reform@treasury.tas.gov.au.

Insurance requirements - building and construction/roads and bridges

Agencies should consider insurance issues as early as possible before any steps to undertake a procurement process or to engage a supplier are taken. Where a claim arises, or circumstances
arise that could give rise to a claim, the Office of the Crown Solicitor (OCS) should be advised immediately or as soon as practicable.

Building and Construction Works - Principal Nominated Insurance

Treasurer’s Instruction PF-4 Procurement Framework - Policies Impacting on Procurement: Building and Construction/Roads and Bridges (clause 4.15) applies.

Information on the current policy, sub-limits and exclusions is available from the Purchasing website.

A contractor should not be allowed to commence work until evidence has been received, by the superintendent or the agency that the Principal-nominated insurance is in place. Advice can be provided either through the Tenders website (for contracts above $50,000) or by emailing the Building and Construction Contract Award Advice pro forma to the Government’s insurance broker. The pro forma is available on the Purchasing website, further details are in the Annexes.

Contact details for the Government’s insurance broker are:

Jardine Lloyd Thompson (JLT)
GPO Box 126
Hobart Tasmania 7001
ph: (03) 6220 7401
email: Andrew.Ralph@jlta.com.au

The Government broker will issue an invoice for the premium to the person nominated by the agency in the form of advice (this is usually the contractor). The broker can also provide a brief summary of the policy and premium payable directly to the contractor if required. At the same time the Government broker issues the invoice for the premium, a copy will be emailed to the agency contact officer. This email will operate as evidence that cover has been placed.

Cover will generally run from the date of advice provided to the Government broker.

Failure by the contractor to pay the premium on any Principal-nominated insurance will not invalidate the cover. If, after initial follow-up by the Government broker, a contractor fails to pay the premium, the Government broker will advise the agency designated contact officer to enable the agency to arrange for payment of the outstanding premium by the agency in lieu of the contractor.

The contract entered into with the contractor should enable the agency to recover the premium paid by it (where the contractor has failed to do so), plus an amount to cover the agency’s incurred costs, as a debt due to the Crown. Reference to the requirement to use the policy and information on premiums payable is included in the RFT major works building and construction templates prepared by the OCS.

Where the policy is required for minor works or in circumstances where the template RFT is not used, the agency should consult the OCS to ensure that the procurement documentation issued, as well as the ultimate contract with the contractor, will reflect the need for the contractor to use the Principal-nominated insurance policy.
When either the scope or cost of a contract is varied, the Government’s insurance provider should be advised of any changes that may affect the insurance requirements. The Government’s insurance broker has advised that it should be notified if:

- a contract is to be extended beyond that originally advised AND the contract period is likely to exceed 18 months from the date that the cover becomes effective (this the date of notification that the cover needs to be placed); and
- if there is a material change in risk in relation to the contract. Generally, this means a change to the contract outside of the original scope or specifications.

If in doubt, the agency should contact the Government broker for advice.

For works contracts which fall outside the policy coverage, agencies should contact the Government’s broker, prior to the release of the procurement, to ensure cover can be agreed and will be in place in a timely manner following the awarding of the contract.

Consultancies

Treasurer’s Instruction PP-5 Procurement Processes - Engagement of Civil and Civic Consultants (clauses 5.19.4) applies.

The level of insurance required by consultants should be appropriate to the identified risk exposure and be current at the time of the engagement.

The Department of Treasury and Finance will ensure that consultants registered with its Prequalification Scheme for Consultants have a minimum level of acceptable insurance cover at the time of registration. However, this minimum level may not be sufficient to appropriately cover the contract work being undertaken. Agencies should assess the risk associated with each project and adjust the level of cover required in the contract if necessary.

The current minimum levels of insurance required for registration under the Treasury Prequalification Scheme for consultants are:

- Professional Indemnity Insurance - $1 million; and
- Public Liability Insurance - $5 million.

Secondary and sub-consultants should have the same insurance requirements as the prime consultant.

Information in relation to risk assessment, suggested minimum levels of insurance per contract value and explanatory information in relation to the insurance types is available in the publication Guidelines: Professional Indemnity and Public Liability Insurance, located on the Purchasing website.

Professional Indemnity Insurance

Professional indemnity insurance applies only to ‘Design and Construct’ and ‘Design Develop and Construct’ contracts and is to cover any design or documentation of the works by the contractor or sub-contractor.
The policy should cover the contractor for liability to the principal for loss (whether economic loss or other) in a single occurrence arising from errors or omissions in design or documentation of the works carried out by the contractor or any subcontractor, as detailed in the table below:

<table>
<thead>
<tr>
<th>Minimum amount</th>
<th>Maximum amount</th>
</tr>
</thead>
<tbody>
<tr>
<td>$1 000 000 or 20 per cent of the contract sum, whichever is the greater</td>
<td>$5 000 000</td>
</tr>
</tbody>
</table>

The policy should include at least one automatic reinstatement after claims have been paid.

The policy should be effected in terms approved in writing by the principal, before commencing work covered by the policies and should be maintained until the final payment certificate is issued. Before commencing work under the contract, agencies should require proof that the contractor has effected a professional indemnity insurance policy.

Insurance of Employees

Before commencing work, a contractor is obliged, under Australian Standard AS 2124-1992, Clause 20, to insure against liability for death of or injury of any persons employed by the contractor, including liability by statute or common law.

As soon as possible after the award of the contract and before any contract work commences, the project superintendent should seek proof of insurance cover from the contractor.

Roads and bridges works insurance

Insurance for roads and bridges works is managed and paid for by the Department of State Growth.

International Procurement Obligations

Treasurer’s Instruction PF-2 Procurement Framework - Policies Impacting on Procurement: All Procurement (clauses 2.1 - 2.4) applies.

Australia and New Zealand Government Procurement Agreement

The Australia and New Zealand Government Procurement Agreement (ANZGPA) is a cooperative arrangement between the Australian Government, the New Zealand Government and Australian state and territory governments (the ANZ jurisdictions). It applies to the procurement of goods, services and construction, irrespective of value, where undertaken by Government bodies (including statutory authorities) from the ANZ jurisdictions.

In order to ensure compliance with the Agreement, agencies should:

- conduct procurement activities in accordance with the spirit and intent of the agreement;
- not preference Tasmanian suppliers over those from another ANZ jurisdiction or discriminate against, be biased against or deny equal access or opportunity to any ANZ jurisdiction supplier;
• provide equal opportunities to all ANZ jurisdiction suppliers;
• use value for money as the primary determination in all procurement decisions;
• achieve maximum practical simplicity and consistency in the application of procurement policies, practices and procedures; and
• debrief unsuccessful suppliers on request.

Exemptions

Although the circumstances are limited, some activities are exempted from the ANZGPA.
The ANZGPA is available from the Australasian Procurement and Construction Council website.

Free Trade and World Trade Agreements

The Tasmanian Government is bound by procurement requirements in a number of international procurement agreements. The publication International Procurement Obligations (IPO) is available on the Purchasing website, and details the requirements that apply to procurement impacted by an international procurement agreement.

Exemptions

Specified purchases and goods or services are excluded from the international requirements. These are listed in the IPO. In addition, circumstances where limited tendering may occur are set out in the IPO.

National Code of Practice for the Construction Industry

Treasurer’s Instruction PF-1 Procurement Framework - Procurement Principles (clause 1.2.5), Treasurer’s Instruction PF-4 Procurement Framework - Policies Impacting on Procurement: Building and Construction/Roads and Bridges (clause 4.25), Treasurer’s Instruction PP-4 Procurement Processes - Works Procurement (clause 4.3) and Treasurer’s Instruction PP-5 Procurement Processes - Engagement of Civil and Civic Consultants (clause 5.3) apply.

The Tasmanian Government has committed to the application of the National Code of Practice for the Construction Industry. The National Code expresses the principles which Commonwealth, state and territory governments agree should underpin the future development of the construction industry in Australia and imposes requirements on both the agencies and suppliers. The Tasmanian Annexure details Tasmanian requirements including compliance and sanction mechanisms.

The Code and the Tasmanian Annexure are available from the Purchasing website.
Parliamentary Standing Committee on Public Works

Treasurer's Instruction PF-4 Procurement Framework - Policies Impacting on Procurement: Building and Construction/Roads and Bridges (clause 4.26) applies.

The Parliamentary Standing Committee on Public Works is required to scrutinise all major Government public works projects above a certain value, as detailed in the Public Works Committee Act 1914.

The value of a project should be determined taking into account the construction costs together with all consultant fees, equipment and fixed fit out costs. Where a project is to be constructed in stages spread over a period of several years and where the sum cost of the stages is expected to exceed the threshold, all stages should be considered by the Committee before construction commences on the first stage.

It is advisable to prepare for a Committee submission if the project budget (including consultant fees) is close to the relevant threshold.

A decision, in 1989, by both Tasmanian Houses of Parliament, has excluded Australian Government funded roads and bridges projects from the operations of the Act. In 1996, both Houses of Parliament also agreed to exclude road reinstatement projects that are generally contained within the road reservation from the operations of the Act. However, roads and bridges projects that are jointly funded by the Australian Government and the State Government are required to be referred in circumstances where the State Government's component is greater than the threshold above which works are to be referred to the Committee.

The submission

The information to be provided in the submission is determined by the Committee. Information on current requirements is located on the Purchasing website. Once a project has been approved, a copy of the approval should be placed on the procurement file.

Performance Security - building and construction / roads and bridges

Treasurer's Instruction PF-4 Procurement Framework - Policies Impacting on Procurement: Building and Construction/Roads and Bridges (clauses 4.16 - 4.22) applies.

The form of performance security should be considered during the agency’s risk assessment in relation to the project. The OCS has advised that unconditional undertakings issued by an approved financial institution (unconditional bank guarantees) are the preferred form of performance security. An agency may choose to apply performance security requirements to works contracts valued at less than $250 000, at its discretion.
Unconditional undertakings issued by an insurer (unconditional insurance bonds or unconditional performance bonds)

Unconditional undertakings issued by an insurer should only be considered in limited circumstances when performance security in the form of a bank guarantee is not possible, and only when the Accountable Authority is satisfied that all the relevant conditions in clauses 4.20 and 4.21 have been met. The OCS has advised that greater uncertainties and enforcement risks may arise in relation to insurance bonds or performance bonds.

Form of an unconditional undertaking issued by an insurer (clause 4.20)

The Crown has the discretion to approve or disapprove the form of an unconditional undertaking. Acceptable form and terms are contained in the Government's approved bond template. The template is available on the Purchasing website (Annex G).

Agency approved security providers (clause 4.21)

The Accountable Authority of the engaging agency may approve the use of an insurance provider only when satisfied that all requirements have been met and the agency has carried out due diligence (through the use of consultant advice where necessary) to avoid undue risks. The agency should consider factors such as the security provider's exposure across other agencies and whether the contractor's risk exposure is relative to the size of the security provider.

A list of security providers subject to APRA regulation along with further general information is available from the APRA website.

Time for Lodgement of Security

If a contractor fails to lodge the required security within the period allowed by the contract, the matter should be dealt with immediately and advice obtained from the OCS.

Retention monies

When allowing retention moneys as an option, agencies should consider the risks associated with the project and whether a proportion of upfront security should be required (in addition to retention) to mitigate those risks. Agencies should also consider other factors to avoid undue risk, such as whether a potential contractor has sufficient cash flow to allow retention amounts to be deducted from progress payments without causing adverse financial pressure.

Where security is in the form of retained receipts or deferral of payments, agencies must update the nature and timing of the financial impact of that security in their Budget estimates. For example, where funds are held until the end of a defects period, the agency should:

- Include this as part of annual Budget estimates (including updates to timing) through the annual Budget Development process in the first instance.
- If this is not possible, due to the receipt of necessary information after this process, an agency must:
  - request a rollover in accordance with section 23(1) of the Financial Management Act for capital projects funded through appropriation; or
– adjust SPA receipts/expenditure in accordance with section 17 of the Financial Management Act for the timing differences for capital projects funded through agency own source revenue.

**Pre-procurement industry consultation**

Treasurer’s Instruction PF-2 *Procurement Framework - Policies Impacting on Procurement: All Procurement* (clauses 2.19 - 2.21) applies.

The requirement for a pre-procurement industry impact statement applies to all procurement (unless otherwise excluded by the TIs), including limited tendering and direct selections, where the value of the procurement reaches the thresholds contained in the Treasurer’s Instruction.

Where pre-procurement industry consultation is required, the details of this can be combined with the pre-procurement local industry impact assessment. A template accommodating both is available on the Purchasing website, further details are in the Annexes.

The Secretary of the Department of Treasury and Finance will only approve class exemptions where satisfied that no local market exists or where the provision of such a report serves no useful purpose in relation to improving access for local suppliers. It is expected that such circumstances will rarely arise. Approved exemptions are listed on the Purchasing website.

**Prequalified contractors and consultants - building and construction / roads and bridges**

Treasurer’s Instruction PF-4 *Procurement Framework - Policies Impacting on Procurement: Building and Construction/Roads and Bridges* (clauses 4.3 - 4.14) applies.

The aim of prequalification is to classify contractors and consultants according to their expertise and capability in specific work categories and to prequalify those contractors or consultants for works up to a specific financial level. This enables streamlining of procurement for both agencies and suppliers.

To ensure contractors or consultants are not put to unnecessary effort and expense in preparing submissions, agencies should identify the relevant *prequalification category* and anticipated prequalification financial level as a guide and include this in procurement documentation and any advertisements and notices. The financial level nominated should be appropriate to the project, taking into account pre-tender estimates, but without unduly influencing costs or unnecessarily restricting participation by contractors or consultants.
For building and construction works and for consultancies, the list of the categories and maximum financial levels at which contractors or consultants is set out below.

**Department of Treasury and Finance Prequalification Scheme (Consultants)**

<table>
<thead>
<tr>
<th>Category</th>
<th>Maximum Financial Level</th>
</tr>
</thead>
<tbody>
<tr>
<td>Strategic Services</td>
<td>Strategic Asset Management $500 000 commission fee</td>
</tr>
<tr>
<td>Management of Projects</td>
<td>$500 000 commission fee</td>
</tr>
<tr>
<td>Management of Maintenance</td>
<td>$500 000 commission fee</td>
</tr>
<tr>
<td>Heritage Conservation Planning</td>
<td>$250 000 commission fee</td>
</tr>
<tr>
<td>Project Services</td>
<td></td>
</tr>
<tr>
<td>Architecture</td>
<td>$50 million project cost</td>
</tr>
<tr>
<td>Civil Engineering</td>
<td>$10 million component cost</td>
</tr>
<tr>
<td>Mechanical Engineering</td>
<td>$7 million component cost</td>
</tr>
<tr>
<td>Electrical Engineering</td>
<td>$5 million component cost</td>
</tr>
</tbody>
</table>

**Department of Treasury and Finance Prequalification Scheme (Contractors)**

<table>
<thead>
<tr>
<th>Category</th>
<th>Maximum Financial Level</th>
</tr>
</thead>
<tbody>
<tr>
<td>Building works - institutional</td>
<td>$50 million project cost</td>
</tr>
<tr>
<td>Building works - residential</td>
<td>$25 million project cost</td>
</tr>
<tr>
<td>Mechanical Services</td>
<td>$5 million component cost</td>
</tr>
<tr>
<td>Electrical Services</td>
<td>$3 million component cost</td>
</tr>
<tr>
<td>Building Systems - Monitoring and Control</td>
<td>$3 million component cost</td>
</tr>
<tr>
<td>Fire Services</td>
<td>$2 million component cost</td>
</tr>
<tr>
<td>Facilities Management and Maintenance</td>
<td>$5 million annual cost</td>
</tr>
</tbody>
</table>

A list of prequalified suppliers is available on the Tenders website (a Tenders website login is required to access the list) or on the Purchasing website.

Procurement documentation may be provided to a contractor or consultant that is not prequalified (or is not prequalified in the relevant prequalification category or to the required financial level) to enable the supplier to make an informed decision on whether to apply for prequalification or a change to existing prequalification levels. It will then be a matter for the supplier to ensure that they
submit all relevant paper work, allowing sufficient time for the application to be assessed prior to the closing date of the procurement.

Where relevant prequalification categories do not exist, the standard procurement processes are to be adopted.

An agency is able to seek an exemption from the requirement to use prequalified contractors and consultants:

- from the Secretary of the Department of Treasury and Finance;
- prior to a supplier being sought (that is, not retrospectively);
- in exceptional circumstances; and
- by providing conclusive justification of the request.

All exemptions from the requirement to use a prequalified supplier, including the justification for the exemption, will be disclosed in the Department of Treasury and Finance annual report.

While it is only mandatory for an agency to use the Treasury Prequalification Scheme (contractors) for building and construction major works, this scheme may be used by an agency for minor works at its discretion.

**National Prequalification System for Non-residential Building (the NPS) - additional requirements**

The NPS aims to create certainty and consistency and streamline the process of prequalification for contractors working in multiple jurisdictions. It applies to non-residential government building contracts where the construction cost estimate is $50 million and over in participating states and territories.

As the NPS is a national scheme, not all of the checks and approvals required for the Tasmanian prequalification scheme are encompassed by the NPS. To ensure that suppliers prequalified under the NPS meet Tasmanian standards, the following additional requirements should be applied:

- procurement documentation should include clauses relevant to the use of the NPS and Tasmanian specific requirements (refer to the publication *Procurement Better Practice Guidelines (Procurement Processes and Documentation)*);
- evidence of compliance with the registration requirements of the Building Act 2016 should be sought and obtained from contractors as part of the tender response;
- a copy of the supplier’s NPS prequalification approval or a copy of their NPS Mutual Recognition certificate in Tasmania should be obtained as part of the tender response. Information on the currency of the certificates can be confirmed prior to evaluating tenders by contacting prequalified@treasury.tas.gov.au;
- an assessment of the financial capacity of the preferred contractor should be undertaken (refer to Treasurer’s Instruction PP-4 *Procurement Processes - Works*, clause 4.19.2); and
- ensure completion of a contractor performance report when the contract is completed or when it is terminated due to unsatisfactory performance.
A pro forma report and information on how to prepare the contractor performance report is available from the Australasian Procurement and Construction Council website.

Copies of completed reports should be forwarded to prequalified@treasury.tas.gov.au.

Reports will be available to Tasmanian agencies and to entities in other jurisdictions in accordance with the requirements of the NPS. For information on accessing reports, contact the Manager, Contracts at the Procurement, Risk and Contract Management Branch via email, as detailed above.

**Qualified suppliers - building and construction / roads and bridges**

Treasurer’s Instruction PF-4 Procurement Framework - Policies Impacting on Procurement: Building and Construction/Roads and Bridges (clauses 4.1 - 4.2) applies.

Information on relevant requirements may be obtained from the Director of Building Standards and Administrator of Occupational Licensing, Department of Justice. For clarity, the requirement does not apply to specific permits that may be required in order to undertake the project such as plumbing or building permits.

The requirement for the declaration is included in the OCS building and construction template procurement documentation. When not using those templates, it is recommended that agencies liaise with the OCS for assistance with the inclusion of relevant provisions in the procurement documentation.

**Standards and Codes**

Treasurer’s Instruction PF-1 Procurement Framework - Procurement Principles (clause 1.2.5), Treasurer’s Instruction PF-4 Procurement Framework - Policies Impacting on Procurement: Building and Construction/Roads and Bridges (clause 4.25), Treasurer’s Instruction PP-4 Procurement Processes - Works Procurement (clause 4.3) and Treasurer’s Instruction PP-5 Procurement Processes - Engagement of Civil and Civic Consultants (clause 5.3) apply.


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1 Performance reporting is not required in relation to suppliers prequalified with Treasury’s Prequalification Scheme (Contactors) and Treasury’s Prequalification Scheme (Consultants).
Australian Government requirements

Where the Australian Government provides funding to projects that meet its contribution value thresholds, agencies may be required by the funding arrangement to comply with the Australian Government Code for the Tendering and Performance of Building Work 2016 and the Australian Government building and construction industry WHS Accreditation Scheme. Information on these requirements is located on the Purchasing website.

**Tasmanian Government Art Site Scheme**

Treasurer’s Instruction PF-4 Procurement Framework - Policies Impacting on Procurement: Building and Construction/Roads and Bridges (clause 4.24) applies.

The Tasmanian Government Art Site Scheme is administered by Arts Tasmania and requires that a percentage of the project capital works estimate for relevant Government construction and refurbishment projects is allocated to the purchase or commissioning of artworks. The scheme does not apply to building maintenance works, residential housing works, roads and bridges projects nor to the procurement of goods or services.

The architect, the agency, the building user and the Public Art Officer develop the artist’s brief. The best results are achieved from the scheme when artworks are integrated into the building design or fabric. To achieve this outcome Arts Tasmania should be consulted early in the project planning stage.

Background information on the Scheme is available at Arts Tasmania.

**Tasmanian Wood Encouragement Policy**

Treasurer’s Instruction PF-2 Procurement Framework - Policies Impacting on Procurement: All Procurement (clause 2.22) applies.

This policy is administered by the Department of State Growth. A copy of the policy is available from the Purchasing website or from forests@stategrowth.tas.gov.au. All queries in relation to the policy are to be directed to the Department of State Growth.

**Training Policy - Building and Construction**

Treasurer's Instruction PF-4 Procurement Framework - Policies Impacting on Procurement: Building and Construction/Roads and Bridges (clause 4.23) applies.

This policy is administered by the Department of State Growth. Details of the policy requirements are available from the Skills Tasmania website. All queries in relation to the policy are to be referred to Skills Tasmania.
Vehicles - requirement to meet minimum greenhouse CO₂ emission requirements

Treasurer’s Instruction PF-3 Procurement Framework - Policies Impacting on Procurement: Goods and Services (clauses 3.8 - 3.9) applies.

Information on the minimum Greenhouse CO₂ emissions that apply to Government vehicles is available at Government Vehicle Emissions Policy - Frequently Asked Questions, or from the Tasmanian Climate Change Office.

Whole-of-government common-use contracts, panels and multi-use lists

Department of Treasury and Finance contracts and panels

Treasurer’s Instruction PF-3 Procurement Framework - Policies Impacting on Procurement: Goods and Services (clauses 3.3 - 3.4) applies in relation to Treasury established whole-of-government common use contracts and panels.

Goods and services common-use contracts and panel arrangements established by the Department of Treasury and Finance are set out below. Detailed information on the goods and services encompassed by these is available in the Contracts section of the Purchasing website.

<table>
<thead>
<tr>
<th>ID</th>
<th>Title</th>
<th>Mandatory</th>
</tr>
</thead>
<tbody>
<tr>
<td>A001</td>
<td>Advertising - Television (Master Ordering Arrangement)</td>
<td>Yes</td>
</tr>
<tr>
<td>A003</td>
<td>Advertising - Print Media Services for Vacancy Notices, Tenders and Public Notices</td>
<td>Yes</td>
</tr>
<tr>
<td>A004</td>
<td>Advertising - Radio (Master Ordering Arrangement)</td>
<td>Yes</td>
</tr>
<tr>
<td>Actuarist</td>
<td>Tasmanian Risk Management Fund and Public Sector Superannuation - Actuary</td>
<td>No</td>
</tr>
<tr>
<td>BK04</td>
<td>Government Banking Services</td>
<td>Yes</td>
</tr>
<tr>
<td>C106</td>
<td>Cartage, Interstate Air Freight</td>
<td>Yes</td>
</tr>
<tr>
<td>C150</td>
<td>Information and Communications Technology Hardware Contract</td>
<td>Yes</td>
</tr>
<tr>
<td>DRS</td>
<td>External Debt Recovery Panel</td>
<td>Yes</td>
</tr>
<tr>
<td>F200</td>
<td>Fleet Management Agreement</td>
<td>Yes</td>
</tr>
<tr>
<td>FAA</td>
<td>Tasmanian Risk Management Fund - Fund Administration Agent</td>
<td>Yes</td>
</tr>
<tr>
<td>L300</td>
<td>Leasing Finance Facility</td>
<td>Yes</td>
</tr>
<tr>
<td>NDS</td>
<td>National Disability Services Ltd Head Deed</td>
<td>No</td>
</tr>
<tr>
<td>P450</td>
<td>Petroleum Products</td>
<td>Yes</td>
</tr>
<tr>
<td>TRMF 2017-1</td>
<td>Tasmanian Risk Management Fund - Rehabilitation Service Provider Panel</td>
<td>Yes</td>
</tr>
<tr>
<td>V672</td>
<td>Vehicles</td>
<td>Yes</td>
</tr>
<tr>
<td>V675</td>
<td>Vehicles Hire</td>
<td>Yes</td>
</tr>
</tbody>
</table>
Department of Premier and Cabinet contracts

Treasurer’s Instruction PF-3 *Procurement Framework - Policies Impacting on Procurement: Goods and Services* (clause 3.5) applies in relation to DPAC established whole-of-government common use contracts and panels.

Goods and services common-use contracts and panel arrangements established by the Department of Premier and Cabinet for use by all agencies are set out below.

<table>
<thead>
<tr>
<th>Title</th>
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</tr>
</thead>
<tbody>
<tr>
<td>Networking Tasmania</td>
<td>Yes</td>
</tr>
<tr>
<td>Integrated Communication Services</td>
<td>Yes</td>
</tr>
</tbody>
</table>

**Networking Tasmania whole-of-government contracts**

These contracts are to be used for data communications, hosting, internet and related services. These contracts cover core services (including central switching, security, gateway and filtering services), connection services, data centre as a service, infrastructure as a service, internet services and Government directory services.

Agencies may also purchase a number of optional services under the contracts including local area network as a service (both fixed and wireless).

**Integrated Communications Services contracts**

For these contracts, depending on the component, the Department of Premier and Cabinet (Digital Strategy and Services Unit) may provide the services, establish agreements under which the services may be purchased, or establish technical standards relating to the services. If an agency has a niche requirement, for example in relation to security or interconnection with a system maintained by another jurisdiction or third party, DSS can assist the agency to meet that requirement while using the Government’s integrated communications services and arrangements.

Information on both the Networking Tasmania contract and Integrated Communication Services arrangements is available from DSS at digital@dpac.tas.gov.au.

**Department of Treasury and Finance multi-use lists**

Treasurer’s Instruction PF-3 *Procurement Framework - Policies Impacting on Procurement: Goods and Services* (clauses 3.6 - 3.7) applies in relation to the Technology Services List.

Whole-of-government multi-use lists established by the Treasury and Finance are set out below.

<table>
<thead>
<tr>
<th>ID</th>
<th>Title</th>
<th>Mandatory</th>
</tr>
</thead>
<tbody>
<tr>
<td>ROI-PPB-2010-01</td>
<td>Tasmanian Government Probity Adviser Directory</td>
<td>No</td>
</tr>
<tr>
<td>TSL</td>
<td>Technology Services Multi-Use List</td>
<td>Yes</td>
</tr>
<tr>
<td>PQ 2</td>
<td>Treasury Prequalification Scheme (Registration of Consultants Building and Construction and Maintenance Services)</td>
<td>Yes (where appropriate categories exist)</td>
</tr>
<tr>
<td>PQ 1</td>
<td>Treasury Prequalification Scheme (Registration of Contractors Building and Construction and Maintenance Services)</td>
<td>Yes (where appropriate categories exist)</td>
</tr>
<tr>
<td>TRMF-2017-2</td>
<td>TRMF Vehicle Bodywork Repairers</td>
<td>Yes</td>
</tr>
</tbody>
</table>

Department of State Growth multi-use lists

Treasurer’s Instruction PF-4 Procurement Framework - Policies Impacting on Procurement: Building and Construction/Roads and Bridges (clauses 4.7 - 4.8) applies in relation to the State Growth Prequalification Schemes for Roads and Bridges Contracts.

Whole-of-government multi-use lists established by State Growth are set out below.

<table>
<thead>
<tr>
<th>Title</th>
<th>Mandatory</th>
</tr>
</thead>
<tbody>
<tr>
<td>National Prequalification System for Civil (Road and Bridge) Construction Contracts</td>
<td>Yes (where appropriate categories exist)</td>
</tr>
</tbody>
</table>
Annexes

The following annexures to this Better Practice Guideline are available on the Purchasing website under *Buying for Government > Purchasing Framework > Better Practice Guidelines.*

- Annex A - Probity Guidelines for Government
- Annex B - Pre-procurement Local Impact Assessment and Industry Consultation template
- Annex C - Economic and Social Benefits Statement template
- Annex D - Tasmanian Industry Participation Plan (Executive Summary) template
- Annex E - Tasmanian Industry Participation Plan template
- Annex F - Building and Construction Contract Award Advice pro forma
- Annex G - Unconditional Performance Bond template
- Annex H - Full Cost Attribution checklist template